2025

DIGEST OF CASE LAWS

DIRECT TAXES



Income Tax Appellate Tribunal
Bar Association, Mumbai
(Estd. 1965)

Celebrates 61 years of service

2025

Digest of

CASE LAWS

Direct Taxes

(For Private Circulation)

Income Tax Appellate
Tribunal Bar Association, Mumbai
(Estd. 1965)

Celebrates 61 years of service

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While **due care, diligence and sincere efforts** have been undertaken by the Research Team and Editorial Team in compiling, verifying and presenting the material, the possibility of inadvertent errors, omissions or inaccuracies cannot be completely ruled out. Any such errors or discrepancies brought to our notice will be examined and, where appropriate, considered for correction in subsequent updates or editions.

The Digest is compiled from case laws and materials reported in various recognised legal and professional publications and online databases, including **AIR, BCAJ, CTC, CTR, DTR, ITD, ITR, ITR (Trib.), SCC, TTJ, Taxman, itatonline.org, taxmann.com, SCC Online and Manupatra.com.**

Readers are strongly advised to **refer to and independently verify the original judgments, statutory provisions, circulars, notifications and other primary sources** before relying upon any material contained in this Digest for professional, advisory or litigation purposes.

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The Digest represents the **collective contribution and teamwork of the Research Team and Editorial Team**, comprising professionals who have voluntarily and honorarily contributed their knowledge, experience and valuable time towards creating a comprehensive and practical reference resource for the tax fraternity and supporting tax professionals in their day-to-day practice.

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All disputes shall be subject to the jurisdiction of the courts at Mumbai.

Compiled by:
Research Team of ITAT Bar Association, Mumbai
All India Federation of Tax Practitioners
KSA Legal Chambers
For the Editorial Board
September 2026

Salient features

- The cases are digested section-wise very briefly, carving the ratio of the decision without discussing the facts, in descending order, i.e., Supreme Court, High Courts, and Tribunal
- Most of the cases reported in the year 2025 are digested
- SLP is admitted or rejected, the reference is provided as editorial.
- Interpretations of taxing statutes are digested in a separate chapter.
- Allied laws are arranged in alphabetical order.
- References to circulars and notifications are arranged number-wise and date-wise.
- References to Articles are arranged section-wise and also subject-wise.
- Case law index is provided in alphabetical order.

Acknowledgments

This publication has been generously sponsored through the **Dr. Y.P. Trivedi Library Fund.** We place on record our sincere gratitude to **Dr. Y.P. Trivedi, Senior Advocate and Past President of the ITAT Bar Association, Mumbai,** for his continued encouragement and support towards the Association's educational and research initiatives.

We also express our appreciation to **Shri K.G. Gopal, Advocate, President of the ITAT Bar Association, Mumbai,** the office-bearers and members of the Managing Committee for their wholehearted support in bringing out this annual publication.

Our special appreciation goes to the **Research and Editorial Teams**, who have devoted their valuable time, knowledge and expertise on an honorary basis to ensure that the Digest maintains the standards of accuracy, usefulness and reliability associated with this publication. We also acknowledge with gratitude the support extended by the Editor, Mr . Ajay Singh and the Editorial Team of the AIFTP Journal, the AIFTP Journal Committee and KSA Legal Chambers.

The Digest represents a unique effort to bring together significant reported and unreported judicial decisions in a single, systematically arranged publication. Although primarily intended for professional reference and private circulation, we hope it will continue to serve as a **quick, reliable and practical reference tool for the entire tax fraternity.**

Every effort has been made to ensure the accuracy and completeness of the material. Nevertheless, inadvertent errors or omissions may occur. Readers are requested to bring any such instances to our notice so that appropriate corrections may be considered in subsequent editions.

We sincerely hope that the **2025 Yearly Digest of Case Laws on Direct Taxes** will continue the tradition established by the Association and prove to be a useful and enduring resource for members of the Bar, the Bench, tax professionals, the Revenue and all those engaged in the study and practice of taxation.

Unique compilation
This publication uniquely compiles significant reported and unreported case law in one place. Intended for **private circulation in print**, it serves as a quick and reliable reference tool for professionals.

While every effort has been made to ensure accuracy, inadvertent errors or omissions may occur. We request readers to kindly bring such instances to our notice so that corrections may be incorporated in future editions. We sincerely hope this Digest proves to be a valuable resource for the tax fraternity. Suggestions may be sent to: **itatonline.org@gmail.com or publications.itat@gmail.com.**

For the Editorial and Research Team
Yours sincerely,

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MESSAGE

The good work done by Dr. K. Shivaram, Senior Advocate and his team does not believe in stopping. The tremendous work done in the 2013 digest of case laws is relentlessly continued. This edition of the digest again shows tremendous effort which has gone into this momentous compilation.

This digest will be of tremendous help to Lawyer and Chartered Accountants to go into the dark labyrinths of the various amendments made from time to time and the interpretations made by various courts to fathom the real meaning of the clauses.

I had suggested that, to avoid the multiplicity of different judgements by different high courts for this important legislation which affects the economy of our country unfortunately, it has fallen on deaf ears and we are faced by various interpretation

This digest with its methodical arrangement of topics and statutory provisions will go a long way in redressing the efforts of tax lawyers

I again congratulate the entire team of Dr. K. Shivaram for this publication.

(Dr.Y.P.Trivedi)

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Preface

3028 Digest of Tax Case Laws on Direct Taxes – Reference to Circulars and Articles: Key Resources for the Tax Fraternity

It gives us immense pleasure to present the **"2025 Yearly Digest of Case Laws on Direct Taxes",** the fifteenth consecutive edition of this annual publication brought out by the **ITAT Bar Association, Mumbai.**

Over the years, this Digest has evolved into a valuable reference resource for members of the tax fraternity, particularly professionals practising before the Supreme Court, High Courts, Income Tax Appellate Tribunal and other tax authorities. The present edition endeavours to provide a comprehensive and convenient compilation of important developments in the field of direct taxation during the year 2025.

Our Research and Editorial Teams have meticulously compiled and digested **more than 3,028 reported and unreported cases** appearing during 2025 in leading tax journals, professional publications and online resources. The Digest draws upon decisions reported in ITR, Taxman, CTR, ITD, ITR (Trib.), TTJ, AIFTP Journal, BCAJ, Chamber's Journal and other recognised publications, as well as important online resources including itatonline.org and taxmann.com.

The case laws have been arranged **section-wise and in the order of judicial hierarchy,** commencing with the Supreme Court, followed by the High Courts and the Income Tax Appellate Tribunal. Editorial notes have also been incorporated, wherever appropriate, particularly in cases where Tribunal decisions have subsequently been affirmed or reversed by the High Courts, or where the Supreme Court has dealt with Special Leave Petitions. Allied legal developments and a separate compilation of important circulars and articles have also been included for ready reference.

The Index has been prepared alphabetically with reference to the name of the assessee or respondent. This methodology is intended to enable practitioners to locate a particular decision quickly and conveniently, especially when searching for authorities by the name of a party. For example:

- British Agro Products (India) (P.) Ltd. v. PCIT → British Agro Products (India) (P.) Ltd. v. PCIT
- CIT v. Pandit Vettrivel → Pandit Vettrivel; CIT .*
- Dy. CIT v. A.P. Knit Fab → A.P. Knit Fab; Dy. CIT v. *

- PCIT (Central) v. Dwarka Prasad Aggarwal → Dwarka Prasad Aggarwal; PCIT (Central) v. *
- UOI v. Rajeev Bansal → Rajeev Bansal; UOI v.*

The Digest as a Tool for Reducing Litigation
The Digest is intended not merely as a compilation of judicial decisions, but also as a **research and reference tool for tax professionals and the Revenue.** A study of judicial decisions over a period of time can reveal recurring areas of litigation and the reasons which frequently lead to avoidable disputes.

There has been a substantial increase in tax litigation, including writ proceedings before the High Courts. It has also been observed that a significant number of Revenue appeals and Special Leave Petitions are dismissed on account of delay or procedural lapses. An analysis of the cases reported during the year indicates recurring litigation in areas such as **reassessment proceedings under sections 148 and 148A, charitable trusts and renewal of registration, non-compliance with due process during assessment proceedings, cash credits under section 68, and income assessable under section 56.**

It would therefore be useful for both taxpayers and the Revenue to study the judicial trends emerging from the Digests published by the ITAT Bar Association, Mumbai over the past five years. Such an exercise may assist in identifying recurring causes of litigation and in formulating appropriate guidance for tax authorities. Better understanding of judicial principles and adherence to due process can contribute substantially towards reducing avoidable litigation, improving tax administration and promoting greater certainty and simplicity in the administration of tax laws.

A Continuing Initiative
The Association commenced this initiative in 2012 with the publication of **"Digest of Case Laws – Direct Taxes (2003–2011): A Tax Companion",** brought out to commemorate 150 years of the Bombay High Court. Since then, annual Digests have been published consistently, and the editions from 2012 onwards have also been made freely available on **itatonline.org,** enabling access through desktops, laptops, mobile phones and tablets.

The continued publication of this Digest is a reflection of the Association's commitment to legal research, professional education and the dissemination of knowledge in the field of taxation. We hope that the present edition will serve as a dependable companion for practitioners in their day-to-day professional work as well as for researchers, tax administrators and all those interested in the development of tax jurisprudence.

For Editorial and Research Team,

Yours sincerely,
Dr. K. Shivaram
Senior Advocate
10-10-2026

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President's Message

It gives me immense pleasure to present the fifteenth edition of the "Digest of Case Laws on Direct Taxes – 2025", an endeavour of the Income Tax Appellate Tribunal Bar Association, Mumbai.

The practice of law is not confined to the arguments advanced in courtrooms. It is equally enriched by scholarship, reflection, and the systematic organisation of legal knowledge. This Digest embodies that spirit. It brings together a carefully curated collection of significant rulings of Tribunals across the country, distilled with clarity and precision. Each case has been presented with concise headings, citations, and editorial observations that make complex legal principles accessible, while the comprehensive index provides a ready reference for efficient research.

The true value of such a publication lies not merely in the information it compiles, but also in the values it represents—the belief that knowledge must be shared, that the administration of justice is strengthened when the law is transparent and accessible, and that the Bar has a continuing responsibility to contribute to the intellectual resources of the legal profession. In this regard, the Digest stands as both a tribute to the dedicated efforts of its compilers and a lasting resource for generations of legal professionals.

I extend my deepest gratitude to Dr. K. Shivaram, Senior Advocate, and his team, whose tireless commitment and meticulous efforts over the years have sustained and strengthened this valuable project. Their endeavour reflects a selfless dedication to the advancement of legal scholarship and learning.

I also acknowledge, with sincere appreciation, the generous support and patronage of Dy. Y. P. Trivedi, whose encouragement has enabled this initiative to flourish and continue its valuable contribution to the profession.

Over the years, this Digest has earned recognition within the professional community as a valuable aid in day-to-day legal practice and research. As we present this fifteenth edition, I am confident that it will continue to enrich the practice of tax law, deepen the understanding of evolving jurisprudence, and contribute to the larger mission of our legal system ensuring that justice is not only done, but is also accessible, intelligible, and fair.

Mr. K. Gopal



President
ITAT Bar Association, Mumbai



ITAT Bar Association Mumbai

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Abbreviations

Journals, Reports, Magazines and online

All India Federation of Tax Practitioners Journal	–	AIFTPJ
All India Tax Tribunal judgements	–	TTJ
All India Reporter	–	AIR
The Bombay Chartered Accountant Journal	–	BCAJ
The Chamber of Tax Consultants	–	The Chamber's Journal
Company Cases	–	Comp-Cas
Current Tax Reporter	–	CTR
Direct Taxes Reporter	–	DTR
GST Law Times	–	GSTL
Income-tax Tribunal Decisions	–	ITD
ITR's Tribunal – Tax Reports (ITR (Trib.))	–	ITR (Trib)
Income-tax Reports	–	ITR
Supreme Court Cases	–	SCC
Taxman	–	Taxman

Online

www.ctconline.org

www.itatonline.org

www.manupatra.com

www.taxlawsonline.com

www.taxmann.com

www.scconline.com

Abbreviations – Authorities

Additional Commissioners of Income-tax	–	Addl. CIT
Additional Directors of Income -tax	–	ADIT
Additional Commissioners of Income-tax	–	ACIT
Authority for Advance Rulings	–	AAR
Assistant Commissioner of Income-tax	–	ACIT
Assistant Commissioner of Income-tax (Exemption)	–	ACIT(E)
Assistant Directors of Income-tax	–	ADIT
Assistant Director of (Exemption)	–	ADIT(E)
Assessing Officer	–	AO
Appellate Tribunal	–	ITAT
Central Board of Direct Taxes	–	CBDT
Central Bureau of Investigation	–	CBI
Central Processing Center	–	CPC
Chief Commissioner of Income-tax	–	CCIT
Commissioner of Income-tax	–	CIT
Commissioner of Income-tax (Appeals)	–	CIT(A)
Central Processing Centre	–	CPC
Deputy Commissioners of Income-tax	–	Dy. CIT
Deputy Commissioners of Income-tax (Appeals)	–	Dy.CIT(A)
Deputy Director of Exemption	–	DD.(E)
Deputy Directors of Income-tax	–	DDIT
Director of Income-tax	–	DIT
Director General of Income-tax	–	DGI
Dispute Resolution Panel	–	DRP
High Court	–	HC
Income-tax Department	–	ITD
Income-tax Officer	–	ITO
Income-tax Settlement Commission	–	ITSC
Joint Commissioners of Income-tax (Appeals)	–	JCIT(A)
Joint Commissioner of Income-tax	–	JCIT
Joint Directors of Income-tax	–	JDIT
National Faceless Assessment Centre	–	NFAC
Principal Commissioner of Income-tax	–	PCIT

Abbreviations

Principal Chief Commissioner of Income-Tax	–	PCIT
Principal Director General of Income-Tax	–	PDGI
Principal Directors of Income-tax	–	PDIT
Principal Director of Income -tax (Investigation)	–	PDIT (Inv)
Supreme Court	–	SC
Tax Recovery Officer	–	TRO
Transfer Pricing Officer	–	TPO
Union of India	–	UOI

Courts

Supreme Court	–	(SC)
High Court	–	(HC)
Allahabad	–	(All.)
Andhra Pradesh	–	(AP)
Bombay	–	(Bom.)
Calcutta	–	(Cal.)
Chhattisgarh	–	(Chhattisgarh)
Delhi	–	(Delhi)
Gauhati	–	(Gauhati)
Gujarat	–	(Guj.)
Himachal Pradesh	–	(HP)
Jammu & Kashmir	–	(J&K)
Jharkhand	–	(Jharkhand)
Karnataka	–	(Karn.)
Kerala	–	(Ker.)
Madhya Pradesh	–	(MP)
Madras	–	(Mad.)
Manipur	–	(Manipur)
Meghalaya	–	(Meghalaya)
Orissa	–	(Orissa)
Patna	–	(Patna)
Punjab & Haryana	–	(P&H)
Rajasthan	–	(Raj.)
Sikkim	–	(Sikkim)

Telangana	–	(Telangana)
Tripura	–	(Tripura)
Uttarakhand	–	(Uttarakhand)
Uttar Pradesh	–	(UP)
Tribunal Benches		
Agra	–	(Agra)
Ahmedabad	–	(Ahd.)
Allahabad	–	(All.)
Amritsar	–	(Amritsar)
Bangalore	–	(Bang.)
Bilaspur	–	(Bilaspur)
Calcutta	–	(Kol.)
Chandigarh	–	(Chd.)
Chennai	–	(Chennai)
Cochin	–	(Cochin)
Cuttack	–	(Cuttack)
Delhi	–	(Delhi)
Gauhati	–	(Gauhati.)
Hyderabad	–	(Hyd.)
Indore	–	(Indore)
Jabalpur	–	(Jabalpur)
Jaipur	–	(Jaipur.)
Jodhpur	–	(Jodhpur)
Lucknow	–	(Lucknow)
Mumbai	–	(Mum.)
Nagpur	–	(Nag.)
Panaji	–	(Panaji)
Patna	–	(Patna)
Pune	–	(Pune)
Raipur	–	(Raipur)
Rajkot	–	(Rajkot)
Ranchi	–	(Ranchi)
Surat	–	(Surat)
Vishakhapatnam	–	(Visakha)

Income Tax Appellate Tribunal Bar Association, Mumbai

The Income Tax Appellate Tribunal Bar Association, Mumbai, was established on 18th November 1965. Over the years, the Association has been led by eminent legal luminaries, including Shri G. A. Gaitonde, erstwhile President of the Income Tax Appellate Tribunal; Padma Bhushan Dr. N. A. Palkhivala, Senior Advocate (1967–2002); Dr. Y. P. Trivedi, Senior Advocate (2003–06); Shri S. E. Dastur, Senior Advocate (2007–08); Shri Dinesh Vyas, Senior Advocate (2009–10); Dr. K. Shivaram, Senior Advocate (2011–12); Shri Arun P. Sathe, Senior Advocate (2013–14); Shri Subhash S. Shetty, Advocate (2015–16); Mrs. Arati Vissanji, Advocate (2017–18); Shri Hiro Rai, Advocate (2019–20); Shri Vipul Joshi, Advocate (2021–22); and Shri Porus Kaka, Senior Advocate (2022–23). Currently, Shri K. Gopal, Advocate, has been elected President for the term 2025–26.

The members of the ITAT Bar Association include Senior Advocates, Advocates, Chartered Accountants and Tax Practitioners practising before the Income Tax Appellate Tribunal.

The ITAT Bar Association has one of the best-equipped tax law libraries in Mumbai. More than 25 magazines and journals covering tax and allied subjects are available. The journals subscribed to include virtually every journal in the field of taxation published in India, as well as international tax journals and journals covering specialised areas such as company law, excise, sales tax and service tax. The library also subscribes to AIR and SCC, enabling members to keep abreast of developments in non-tax areas of law. The ITAT Bar Association Library is considered one of the finest libraries in India in the field of taxation, covering both domestic and international tax law. The library is fully air-conditioned. It was initially funded by Shri Chunilal Karsandas, a former member, and has subsequently been supported by the D. M. Harish Foundation. A magnanimous contribution from Shri S. E. Dastur, Senior Advocate and Past President of the ITAT Bar Association, enabled the Association to establish a separate section in the International Law Library dedicated to Late Shri R. J. Kolah, Advocate. Dr. Y. P. Trivedi, Senior Advocate and Past President of the ITAT Bar Association, has contributed a substantial amount towards the corpus for conducting various educational activities

of the Association. Shri Dinesh Vyas, Senior Advocate and Past President of the ITAT Bar Association, has made a magnanimous contribution towards the renovation of the library.

The ITAT Bar Association plays an active role in matters of vital importance to the Tribunal. It makes representations to the concerned authorities from time to time.

The Income Tax Appellate Tribunal has always enjoyed judicial independence. When there was a threat of interference by the Executive in the administration of justice, the ITAT Bar Association filed a public interest petition before the Bombay High Court. The judgment of the Supreme Court in ITAT v. V. K. Agarwal (1999) 235 ITR 175 (SC) dealt with the scope of administrative supervision by the Ministry of Law over the functioning of the ITAT. On another occasion, there was a move to shift the headquarters of the ITAT to Delhi. It was mainly due to the representations and efforts of the ITAT Bar Association that the Government was persuaded not to take this step, and the headquarters continued to be in Mumbai. Again, when there was a proposal to constitute five additional Benches of the Income Tax Appellate Tribunal at Navi Mumbai, the ITAT Bar Association strongly opposed the move and convinced the Government that setting up additional Benches at Navi Mumbai was not in the interest of taxpayers or the Government. This would not have been possible but for the PIL filed by the ITAT Bar Association before the Bombay High Court in ITAT Bar Association & Anr. v. Secretary of I&B & Ors. (WP 624 of 1999 dated 3 July 2025) (Bom.)(HC), available at www.itatonline.org.

It is significant that the Government not only accepted this suggestion but also allotted additional space, previously occupied by All India Radio, to the Income Tax Appellate Tribunal, so that the additional Benches could function alongside the then-existing five Benches on the same floor.

The ITAT Bar Association, Mumbai, has intervened in the petition filed by the Madras Bar Association v. UOI (2025) 180 taxmann.com 608 (SC) before the Hon'ble Supreme Court regarding the continuation of ITAT Members who had been appointed on a tenure basis. The Government of India, by orders dated 22nd December 2025 and 23rd December 2025, stated that the Hon'ble Members of the ITAT who had assumed charge as stipulated in the notification dated 15 July 2022 should continue to discharge their duties beyond the date of their tenure until further orders.

Hon'ble Justice Shri V. N. Khare, the then Chief Justice of India, visited the premises of the ITAT on 11 January 2004, at the invitation of the ITAT Bar Association, Mumbai, and unveiled the portrait of Padma Bhushan Late Dr. N. A. Palkhivala, Senior Advocate. This was the first visit by a Chief Justice of India to the ITAT premises. On the occasion, three Hon'ble Judges of the Supreme Court, the Chief Justice of the Bombay High Court and a large number of Judges of the Bombay High Court graced the function.

For the development of the Tax Bar, the ITAT Bar Association, in association with the All India Federation of Tax Practitioners and Government Law College, has, since 2004, conducted the "Padma Bhushan Dr. N. A. Palkhivala, Senior Advocate Memorial National Tax Moot Court Competition" and "Research in Tax Law". The Moot Court Competition is now organised in virtual mode in association with the All India Federation of Tax Practitioners and National Law College, Mumbai. More than 100 law colleges participate in the Moot Court Competition, and more than 300 law students participate by presenting research papers on tax law.

On the occasion of the 75th year of India's independence, as part of the celebrations of Azadi Ka Amrit Mahotsav, the ITAT Bar Association, in association with the All India Federation of Tax Practitioners and Maharashtra National Law University, Mumbai, initiated the "Padma Vibhushan Dr. N. A. Palkhivala Memorial National (Virtual) Tax Moot Court and Research Paper Competition".

The Income Tax Appellate Tribunal Bar Association, in association with the All India Federation of Tax Practitioners, has published the "Digest of Case Laws — Direct Taxes (including allied laws) (2003–2011)", dedicated to commemorating the 150th anniversary of the Bombay High Court. Annual Digests of Case Laws reported in various journals are also published and hosted on www.itatonline.org for the benefit of professionals and taxpayers.

The Income Tax Appellate Tribunal Bar Association, in association with the All India Federation of Tax Practitioners, published, in 2016, a publication dedicated to the Hon'ble Mr. Justice S. H. Kapadia, former Chief Justice of India, titled "Interpretation of Taxing Statutes – Frequently Asked Questions".

The Income Tax Appellate Tribunal Bar Association, in association with the All India Federation of Tax Practitioners, published, in 2017, a publication dedicated to Padma Vibhushan Late Dr. N. A. Palkhivala, Senior Advocate, titled "Income Tax Appellate Tribunal – Fine Balance – Law, Practice, Procedure and Conventions – Frequently Asked Questions".

The members of the Association follow a Code of Ethics, enforced by a Disciplinary Committee headed by eminent professionals.

The website www.itatonline.org enables professional members and guests to access the latest news, judgments, cause lists and other information. It has a lively interactive forum where members can post queries for discussion and response. For the benefit of its members, the Research Team prepares digests of important case law, which are regularly hosted on the website. We are pleased to state that www.itatonline.org has more than 25,000 subscribers.

The members of the ITAT Bar Association share a very healthy and cordial relationship. The logo of the ITAT Bar Association is "Justice Be Our Goal".

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S. 2(1A) : Agricultural income-Cultivation and sale of white button mushrooms-High Court held that the assessee is not entitled to exemption-Notice was issued in SLP filed by assessee against the order of High Court. [S. 10(1)] 1

On appeal, the High Court held that income from the sale of button mushrooms from a factory under controlled conditions would not come within the purview of the definition of "agricultural income" within the meaning of section 2(1A) for section 10(1) of the Act. Notice was issued in the SLP filed by the assessee against the order of the High Court. (AY. 2017-18, 2018-19)

British Agro Products (India) (P.) Ltd. v. PCIT (2025) 307 Taxman 1 (SC)

Editorial : Notice issued in SLP filed by the assessee, PCIT v. British Agro Products (India) (P.) Ltd (2025) 175 taxmann.com 618 (Mad)(HC)

S. 2(14)(iii) : Capital asset-Agricultural land-Land not used for agricultural purposes-Self serving ledger entries-Property sold before starting agricultural activity-Failure to file affidavit under Rule 10 of the Income tax (Appellate Tribunal) Rules, 1963-High Court affirmed the order of Tribunal-SLP dismissed. [S. 45, Art. 136] 2

The assessee sold agricultural land and claimed the sale consideration was exempt from tax as the property was used for agricultural purposes. The assessee contended that the 7/12 extract (land revenue record) indicated agricultural use. The Assessing Officer, CIT(A), and the Income tax Appellate Tribunal, however, recorded concurrent findings that the land was not used for any agricultural purpose and the sale proceeds were taxable. The Court held that self serving ledger entries alone cannot prove agricultural use. On the facts, the property was sold before any agricultural activity began. The assessee also failed to file an affidavit under Rule 10 of the ITAT Rules pointing out errors or misreading of evidence by the lower authorities. Accordingly, the High Court held there was no substantial question of law and affirmed the Tribunal's order. SLP of assessee dismissed. (AY. 2011-12)

Prashant Jaipal Reddy v. ITO (2025) 306 Taxman 168 /481 ITR 555 (SC)

Editorial : Prashant Jaipal Reddy v. ITO (2025) 304 Taxman 39/481 ITR 547 (Bom) (HC)

S. 2(14)(iii) : Capital asset-Agricultural land-adventure in nature of trade-Capital gains-Business income-[S. 10(37), 28(i), 45, 260A] 3

Assessee purchased a parcel of land. Assessing Officer held that land was barren and could not be used for raising any crops or trees. He also held that the land had been purchased with an intention to resell, considering business potential of the surrounding area, and treated the transaction as an adventure in nature of trade as assessed as

business income. On appeal the Tribunal held that the land in question had always been classified as agricultural land in revenue records. It further noted that as per revenue records, agricultural activities were being carried out on said land. It also noted that assessee had produced Electricity Board receipts, which showed that assessee had been granted subsidy on electricity charges. It also noted that land test report was also furnished mentioning soil content and nature of crop which could be grown on land. It further noted that agricultural income receipts and ploughing expense receipts were also placed on record. The Assessing Officer had not placed on record any document to rebut evidence placed on record by assessee and, have assumed that land was acquired as a part of real-estate business to reap benefits of commercialisation. Tribunal held that the assessee had rightly shown the sale consideration as exempt. On appeal, the order of the Tribunal is affirmed. (AY. 2007-08)
CIT v. Pandit Vettrivel (2025) 305 Taxman 645 (Mad)(HC)

4 **S. 2(14)(iii) : Capital asset-Agricultural land-Land not used for agricultural purposes-Self serving ledger entries-Property sold before starting agricultural activity-Failure to file affidavit under Rule 10 of the Income tax (Appellate Tribunal) Rules, 1963-No substantial question of law-Tribunal order affirmed. [S. 45, 260A, ITAT Rules, 1963 R. 10]**
The assessee sold agricultural land and claimed the sale consideration was exempt from tax as the property was used for agricultural purposes. The assessee contended that the 7/12 extract (land revenue record) indicated agricultural use. The Assessing Officer, CIT(A), and the Income tax Appellate Tribunal, however, recorded concurrent findings that the land was not used for any agricultural purpose and the sale proceeds were taxable. The Court held that self serving ledger entries alone cannot prove agricultural use. On the facts, the property was sold before any agricultural activity began. The assessee also failed to file an affidavit under Rule 10 of the ITAT Rules pointing out errors or misreading of evidence by the lower authorities. Accordingly, the High Court held there was no substantial question of law and affirmed the Tribunal's order. AY. 2011-12)
Prashant Jaipal Reddy v. ITO (2025) 304 Taxman 39 /481 ITR 547 (Bom)(HC)
Editorial : SLP dismissed Prashant Jaipal Reddy v. ITO (2025) 306 Taxman 168 /481 ITR 555 (SC)

5 **S. 2(14)(iii): Capital asset-Agricultural land-Capital gains-Land beyond 8 km from municipal limits-Held, not a capital asset-Agricultural income supported by records-Additions deleted. [S. 10(1), 153A]**
The Hon'ble ITAT held that the land sold by the assessee was not a capital asset under S. 2(14)(iii), as it was located in a rural area beyond the municipal limits of Kota. The assessee substantiated her claim with supporting evidence, including Khasra, Girdawari, and Google Maps showing the land was more than 8 km from the municipal boundary. Capital gains addition was deleted. On the issue of agricultural income, the Hon'ble ITAT held that it was reasonable, consistent, and supported by landholding and crop cultivation records. In the absence of any contrary evidence from the Revenue, the claim was accepted as genuine. (AY. 2015-16)
Vinaya Sharma v. ACIT (2025) 234 TTJ 417 (Jaipur)(Trib)

S. 2(14)(iii): Capital asset-Agricultural land-Capital gains-Failed to prove that distance from municipal limits exceeded 8 kms-land constituted capital asset under section 2(14) and liable to capital gains tax.[S. 2(14), 2(14)(iii)(b), 45] 6

Assessee sold a parcel of land to a company through a power of attorney (POA) and received sale consideration of a certain amount-Assessing Officer held that the land sold by assessee was a capital asset within the meaning of section 2(14) and, accordingly, brought the sale consideration to tax as capital gains. CIT(A) upheld the order of the Assessing Officer. On appeal, the Tribunal held that by virtue of the 2011 expansion of Greater Chennai Corporation, a village was included within corporation limits, and the distance between said village and the land was less than 8 kms. Consequently, in view of the statutory prescription of section 2(14)(iii)(b), land was to be regarded as a capital asset. Since assessee had not been able to establish, with cogent evidence, that the distance between said village and impugned land exceeded 8 kms, the land constituted a 'capital asset' within the meaning of section 2(14) and that transfer thereof during the assessment year was liable to capital gains tax. (AY. 2014-15)

Natesan Ekambaram v. DCIT (2025) 214 ITD 615 (Chennai) (Trib.)

S. 2(14)(iii) : Capital asset-Agricultural land -Capital gains-16 kms from municipality-Cultivation of groundnut-certificate from Village Administrative Officer-Exempt from taxation. [S. 45] 7

Assessee sold a piece of land and claimed that it was agricultural land, thus exempt from capital gains tax. Assessing Officer classified the land as non-agricultural based on factors such as classification by the Registration Department and absence of agricultural activities. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that the land was situated 16 kms from the municipality, thus agricultural. Further, a certificate from the Village Administrative Officer confirmed it as agricultural land. Additionally, cultivation of groundnut was recorded in the land records. Held capital gains exempt from taxation. (AY. 2016-17)

Parasmal Ravindra Kumar v. ITO (2025) 213 ITD 276 (Chennai) (Trib.)

S. 2(14)(iii) : Capital asset-Agricultural land-Beyond 8 kms from municipal limits of Gurgaon and filed certificate from Nayab Tehsildar-Land could not be treated as a capital asset under section 2(14)-Accepted in co-owner-Not assessable as capital gains. [S. 2(14), 45] 8

Tribunal held that the same certificate was accepted by the Assessing Officer in the case of the co-owner and allowed the exemption. The Tribunal held that there cannot be two reasons to evaluate the same set of facts of the same transaction in the hands of two assessees. Addition was set aside and allowed the exemption. (AY. 2012-13)

Balbir Singh Saini v. ITO (2025) 213 ITD 669 (Delhi) (Trib.)

9 **S.2(14)(iii): Capital asset-Agricultural land-Distance between municipal limit and agricultural land was to be measured having regard to shortest road distance and not aerial distance-Agricultural land was situated beyond 8 kilometres of municipal limit-Not capital asset eligible for exemption-land sold was not a capital asset under section 2(14), provisions of section 50C would not apply.[S.2(14)(iiib), 45, 50C]**

Held that distance between municipal limit and agricultural land was to be measured having regard to shortest road distance and not arial distance. As per certificate issued by Dy. Executive Engineer (Road and Building) distance between municipal limit and agricultural land was 8.5 kilometres, agricultural land was situated beyond 8 kilometres of municipal limit and thus, it was not a capital asset within meaning of section 2(14)(iii)(b) not liable to capital gains tax. Tribunal also held that agricultural land was not a capital asset under section 2(14), application of provisions of section 50C were not applicable. Addition is deleted. (AY. 2012-13)

Kanchanben Maheshbhai Patel v. ITO (2025) 212 ITD 133 (Surat) (Trib.)

10 **S. 2(22)(e): Deemed dividend-Accumulated profits-Profits disclosed must be adjusted for depreciation as per prescribed rates before ascertaining accumulated profits. [S. 32, 143(1), 148]**

On appeal, the Commissioner (Appeals) held that profits disclosed must be adjusted for depreciation as per the Income tax Rules when computing accumulated profits. The Tribunal allowed the Revenue's appeal. The High Court set aside the Tribunal's order, holding that accumulated profits must be computed after deducting depreciation at the rates prescribed under the Income tax Act. (AY. 2000-01)

Babulal Jain v. ITO (2025) 302 Taxman 392 / 345 CTR 95 / 251 DTR 101 (Telangana)(HC)

11 **S. 2(22)(e) : Deemed dividend-Loan received from third parties not related to the company in which the assessee had a substantial interest-Difficult to presume that there was an arrangement or colourable device in respect of the transactions-loans received by the assessee from Sunil Jain and Heera Lal Modi cannot be treated as deemed dividend.**

Tribunal held that the Assessee-shareholder having received interest-bearing loans from third parties who are not shareholders in the company in which the assessee has substantial interest, the transactions cannot be deemed to be loan transactions between the assessee and the company and dubbed as an arrangement or colourable device for the reason that loans of similar amounts were extended to the said parties by the said company; therefore, the loans received by the assessee cannot be treated as deemed dividend under S. 2(22)(e).(AY. 2018-19)

ACIT v. Gopi Kishan Malani (2025) 236 TTJ 904 (Jodhpur)(Trib)

12 **S. 2(22)(e) : Deemed dividend-Loan-More than 10% shares only on the first day of the previous year, and after transferring a substantial number of shares, its shareholding fell below 10% and continued below the 10% threshold for the remainder of the year-Addition as deemed dividend was deleted. [S 2(22)(e), Expln. 3(b)]**

Where the assessee held more than 10% shares only on the first day of the previous year and, after transferring a substantial number of shares, its shareholding fell below

10% and continued below that threshold for the remainder of the year, the loan received from the company could not be assessed as a deemed dividend under section 2(22)(e). The Assessing Officer erred in applying the expression "at any time during the previous year" to determine the shareholder's eligibility, as Explanation 3(b) applies only to a concern other than a company. Since the assessee's shareholding at the relevant year-end was below 10%, the provisions of section 2(22)(e) were not attracted, and the addition was directed to be deleted. (AY. 2013-14)
Vinita Pawankumar Saraf v. ITO (2025) 238 TTJ 34 / 177 taxmann.com 548 (Mum.)(Trib)

S. 2(22)(e) : Deemed dividend-Inter-corporate deposits-Commercial transaction carrying interest-Not deemed dividend-CBDT Circular No. 19 of 2017, dt. 12-6-2017. [S. 119] 13
The assessee was a substantial shareholder in two companies, one of which advanced inter-corporate deposits to the other on payment of interest. The Assessing Officer treated the deposits as deemed dividend under section 2(22)(e). The Tribunal held that inter-corporate deposits constituted commercial transactions and the recipient company had paid interest on the deposits. In view of CBDT Circular No. 19 of 2017 and the commercial nature of the transaction, the provisions of section 2(22)(e) were not attracted. The addition was deleted. (AY. 2013-14).
Sudesh Gupta v. Asst. CIT (2025) 126 ITR 237 / 178 taxmann.com 476 (Delhi)(Trib.)

S. 2(22)(e): Deemed dividend-Refundable rental security deposit from tenant-Cannot be assessed as deemed dividend-Matter remanded. 14
Assessee received a refundable rental security deposit from the tenant in respect of the property actually let out. The Assessing Officer assessed the deposit as a deemed dividend. CIT(A) affirmed the addition. On appeal, the Tribunal held that such a deposit cannot be treated as a deemed dividend. Matter was remanded to the Assessing Officer. (AY. 2012-13 to 2017-18)
Asha Burman v. ACIT (2025) 215 ITD 612 (Delhi)(Trib.)

S. 2(22)(e): Deemed dividend-Loan to firm where partners held substantial interest in lender company-Assessee not a shareholder-Advances are not chargeable as deemed dividend. 15
Assessee's LLP was converted into a partnership. Prior to conversion, the Assessee had taken loans or had business with another company where he was a shareholder of more than 20%. The AO made an addition considering the said transactions as deemed dividend u/s. 2(22)(e). The ITAT observed that Clause (ii) of S. 2(22) includes any transaction with the other entity in which the shareholders having a controlling interest may enter into business transactions which may fall under the category of ordinary course of business transactions. The above exclusion has two parts, containing ordinary course of its business, and the other part, which involves lending of money, is a substantial part of the business. The first part of the clause ends with and starts with the other part. It is widely interpreted to include trade advances, which are like commercial transactions. Therefore, the AO should not have only seen the transaction but also investigated how the money was being used for the individual benefit of the shareholder. Moreover, the deeming fiction is only attracted to payments made directly

to the shareholders. The ITAT upheld the order of the CIT(A) deleting the addition. (AY. 2014-15)
ACIT v. Windlass Steel Crafts LLP (2025) 172 taxmann.com 350/234 TTJ 482 (Delhi)(Trib)

16 **S. 2(22)(e): Deemed dividend-Advance salary to director-Disallowance cannot be made.** Held that the advance salary to director provision of section 2(22)(e) cannot be made. (AY. 2011-12)
Patidar Builder (P.) Ltd. v. Assessing Officer (2025) 214 ITD 77 (Indore) (Trib.)

17 **S. 2(22)(e): Deemed dividend-Advance received from closely held company by its shareholder-Holding more than 10%-Commercial transaction-Not assessable as deemed dividend.**
Assessee was holding 35% shares in the company, which had two subsidiary companies. A foreign entity wanted to purchase stake in the company but was not interested to take any stake in the subsidiary companies. Therefore, shareholders of the company decided to give advance to assessee's firm to purchase share of said subsidiary companies to facilitate the completion of transaction with foreign entity. Thereafter, 70% stake in the company was sold to foreign entity and assessee returned the amount of advance from sale consideration received to him. Thus, the transaction was commercial in nature and the advance was made for the advantage of the company. Hence, such transaction would not fall within the ambit of the provisions of section 2(22)(e). [AY. 2014-15]
Subhash Chander Oberoi v. ACIT (2025) 233 TTJ 628 / 245 DTR 417 (Mum)(Trib)

18 **S. 2(42A) : Short-term capital asset-Capital gains-land received consequent to liquidation of company-Period of holding of land-from date of previous owner i.e., company-Assessable as long term capital gains-The land received as a result of liquidation of company-Does not amount to transfer of any capital asset within meaning of S. 50C of the Act.[S. 45,46(2), 50C, 54F]**
Assessee was a shareholder in a company which went into liquidation, and assets were distributed to its shareholders, whereby the Assessee received land owned by the company and sold the same to third parties. Assessee had disclosed the said land as long-term capital asset and declared profit on sale of the same as LTCG. The AO treated the said sale of land as STCG as it was sold within one year by the assessee. Held, Explanation to S. 2(42A) clearly explains that when a person receive a property consequent to liquidation of company, period of holding of asset had to be taken from date of previous owner i.e., the company, so as to determine whether the asset was a short term capital asset or long term capital asset. Since, admittedly, the land was held by the company for more than 36 months, it was correctly treated as a long-term capital asset, and profit therefrom was correctly charged as LTCG. It was further held that as the Assessee received land as a result of the liquidation of the company and disclosed this as a long-term asset and declared profit as LTCG u/s 46(2) same could not result in transfer of any capital asset within the meaning of section 50C of the Act. (AY. 2014-15)
ACIT v. Venkatesh Meghraj Kathare (2025) 210 ITD 140 (Chennai) (Trib.)

S. 2(47) : Transfer-Suit for declaration of ownership and possession of immovable property-General Power of Attorney-Sale deed executed by GPA holder after death of principal-GPA was general in nature and not coupled with interest-Agreement to sell does not convey title or ownership-Transfer of immovable property can be only by registered conveyance-Contemporaneous GPA and agreement to sell in favour of same person not sufficient to infer interest in property-In absence of registration of documents under section 17(1)(b) of Registration Act, GPA holder had no valid right, title or interest to execute sale deed-Sale deed executed by GPA holder after death of principal held invalid-Subsequent registered conveyances by legal heirs upheld. [Transfer of Property Act, 1882, S, 54, 55, Indian Registration Act, 1908, S. 17(1)(b), 49, Indian Contract Act, 1872, S. 201, 202] 19

The original owner had executed a GPA and an agreement to sell in favour of one person. After his death, the GPA holder executed a registered sale deed in favour of her son. The legal heirs of the original owner thereafter sold the property through registered sale deeds, culminating in a registered gift deed in favour of the respondent. The Trial Court decreed the respondent's suit for injunction and dismissed the appellants' suit for declaration and possession; the High Court affirmed. On appeal, the Supreme Court held that a power of attorney creates only a principal-agent relationship and, unless coupled with interest within the meaning of section 202 of the Contract Act, the authority stands terminated on the death of the principal under section 201. On facts, the GPA was only general in nature, merely authorising management and dealing with the property, and did not secure any proprietary interest of the agent in the subject-matter; mere use of the word "irrevocable" was not decisive. The contemporaneous agreement to sell also did not confer ownership, as an agreement to sell is not a conveyance and does not transfer title in immovable property. Even if the GPA and agreement to sell were read together, any claimed interest in immovable property required compulsory registration under section 17(1)(b) of the Registration Act; in the absence of registration, no right, title or interest could be asserted on that basis. Therefore, the GPA holder had no authority to execute the sale deed after the death of the principal, and the sale deed in favour of appellant No. 2 was invalid. The Supreme Court accordingly upheld the order of High Court and dismissed the appeals. Referred *Suraj Lamp & Industries Pvt. Ltd. v. State of Haryana (2012) 1 SCC 656, Timblo Irmaos Ltd. v. Jorge Anibal Matos Sequeira (1977) 3 SCC 474.*

M. S. Ananthamurthy v. J. Manjula (2025) 304 Taxman 81 (SC).

Editorial : M. S. Ananthamurthy v. J. Manjula (RFA No. 1318 /2004 c/w R.F.A No. 1317/2014 dt 16-10-2019(Karn)(HC)

S. 2(47): Transfer-Extinguishment of any right there in-Reduction of share capital by company amounts to reduction of rights of shareholder to share in distribution of net assets upon liquidation extinguished proportionately-Such reduction of rights is Transfer within the meaning of section 2(47) of the Act.[S. 45] 20

Hon'ble Supreme Court held that as a result of reducing the face value of the shares the share capital is reduced and the right of preferential shareholder to the dividend or his share capital and the right to share in the distribution of the net assets upon liquidation is extinguished proportionately to the extent of reduction in the capital.

Such a reduction of the right of the capital asset clearly amounts to a "transfer" under section 2(47) of the Act and any profit or gain which arises from the transfer of such capital asset is taxable under section 45 of the Act. *Karthikeya v. Sarabahi v. CIT (1997) 228 ITR 163 (SC), explained. CIT v. Vania Silk Mills Pvt Ltd (1977) 107 ITR 300 (Guj) (HC)* is approved. (AY. 2014-15)

PCIT v. Jupiter Capital Pvt. Ltd. (2025) 472 ITR 616 /303 Taxman 95/342 CTR 552 / 246 DTR 1 (SC)

Editorial : Pr CIT v. Jupiter Capital (P.) Ltd. [IT Appeal No. 299 of 2019 dated 20-2-2023] (para 10) affirmed. (2025) 472 ITR 561 (Karn.) (HC)

21 **S. 2(47): Transfer-Capital loss-Reduction of share capital-loss due to reduction in number of shares pursuant to the court order-Change in redeemable value of shares amounts to extinguishment of rights in shares-No transfer within meaning of Section 2(47) of the Act. [S 45, 260A 1]**

The assessee carrying on the business of investment activity purchased 14,95,44,130 shares of Asianet Pvt Ltd, having face value of Rs.10. By an order of Hon'ble Bombay High Court, share capital of Asianet Pvt. Ltd was reduced to 9,988. However, the face value of the shares remained as Rs.10 even after reduction of the shares. Thus, the assessee had claimed the loss of Rs.1,64,48,55,840. However, the AO disallowed the same on the ground that though the number of shares reduced, the assessee continued to hold 99.88 per cent of shares and there is no effective transfer of shares and transaction did not result in relinquishment of rights. The Tribunal allowed the claim. On appeal dismissing the appeal of the Revenue the Court held that the AO's view that the voting power had not changes as the percentage of the assessee's shares had remained unchanged is untenable as the shares were transferred at face value, the redeemable valued would be Rs.99,880 whereas the value of 14,95,44,130 shares would have been Rs.1,49,54,41,300. Thus, there is extinguishment of rights of shares. However, there is no transfer within the meaning of the expression "transfer" as contained in section 2(47) of the Act.(AY. 2014-15)

PCIT v. Jupiter Capital Pvt. Ltd. (2025) 472 ITR 561 (Karn.) (HC)

Editorial : PCIT v. Jupiter Capital Pvt. Ltd. (2025) 472 ITR 616 /303 Taxman 95 (SC)

22 **S. 4 : Charge of income-tax-Sales tax exemption from State Government-Subsidy held to be capital receipt, and High Court order on that issue affirmed-Income accrual-Duty drawback-Income does not accrue merely on export; Tribunal was justified in remanding matter for limited verification whether claim was accepted by authorities in relevant year-High Court erred in interfering with remand-Tribunal's order restored. [S. 5, Art. 136]**

The Assessing Officer made an addition on account of duty drawback. On appeal, the Tribunal held that no amount of duty drawback could be said to accrue to the assessee until such claim was accepted by the concerned authorities. Tribunal restored the matter to the file of Assessing Officer for verification as to when the claim of assessee was accepted. On appeal, the High Court opined that matter was not required to be remanded and held that income accrues when it becomes due, but it must also be accompanied by a corresponding liability of the other party to pay the amount. On

appeal the Supreme Court held that the order of remand has been made only for the purposes of ascertaining whether the claim of assessee for duty drawback was accepted in the year under consideration. There was no reason for the High Court to interfere with the order of remand as it was passed only for the purposes of limited factual verification by the Assessing Officer. Accordingly, the appeal is partly allowed. (AY. 1999-2000)

CIT v. Maruti Suzuki India Ltd. (2025) 305 Taxman 4 / 347 CTR 109 (SC)

Editorial : CIT v. Maruti Suzuki India Ltd.(IT Appeal No. 250 of 2005 dt. 7-12-2017) (Delhi)(HC)

S. 4 : Charge of income-tax-Forfeiture of earnest money arising out of agreement to sale a property is not liable to tax-Income from other sources-Capital receipt-Advance received under agreement to sell-Forfeited-Receipt would go to reduce cost of acquisition of asset-Cannot be assessed as income from other sources-Appeal of revenue dismissed. [S. 51, 56(2)(vi), Art. 136] 23

The assessee entered into an agreement to sell certain property and received certain amount as earnest money. Subsequently, the earnest money was forfeited by the assessee and the amount was claimed as capital receipt. The Tribunal held that the amount received cannot assessed under section 56(2)(vi) of the Act. High Court affirmed the order of the Tribunal. Appeal of revenue dismissed. (AY. 2007-08)

CIT v. Meera Goyal (2025) 476 ITR 152 / 345 CTR 415 / 305 Taxman 566 (SC)

Editorial : Order of High Court affirmed, CIT v. Meera Goyal (2013] 214 Taxman 298 / (2014) 360 ITR 346/267 CTR 265 (Delhi)(HC)

S. 4 : Charge of income-tax-Foreign ECB loan for purpose of acquisition of a capital asset-Construction period-Temporarily parked ECB loan in FDRs-Interest income is allowed to be capitalised-Not assessable as income from other sources-SLP of Revenue is dismissed. [S.56] 24

Assessee had taken foreign ECB loan for purpose of acquisition of a capital asset i.e. renovation and refurbishment of hotel acquired by it. Entire ECB loan was disbursed in a single trench. Therefore, assessee had temporarily parked ECB loan in FDRs. During construction period, assessee earned interest on FDRs made out of ECB funds. Assessing Officer held that interest income earned on FDRs was taxable as income from other sources. Tribunal allowed capitalisation of interest on FDRs. On appeal by the Revenue the Court held that the funds were inextricably linked with setting up of plant and interest earned by assessee could not be treated as income from other sources. High Court affirmed the order of the Tribunal. SLP of Revenue is dismissed. (AY. 2013-14)

PCIT v. Triumph Realty (P.) Ltd. (2025) 303 Taxman 108 (SC)

Editorial : PCIT v. Triumph Realty (P.) Ltd. (2025) 170 taxmann.com 286 (Delhi)(HC)

S.4: Charge of income-tax-Capital or revenue receipt-Relinquishment of trade mark user right and interest and termination of ice-cream manufacturing facilities under brand name Valuation of goodwill not done by Department at time of surrender-Re-determination of value of goodwill by Tribunal to avoid multiplicity of litigation-Tribunal valuing goodwill at 30 per cent. and balance on account of relinquishment 25

of manufacturing rights Tribunal order based on appreciation of facts in right perspective-No substantial question of law.[S. 260A]
Dismissing the appeal, the Tribunal had observed that the Revenue authorities did not undertake the exercise of determining the value of goodwill of the assessee at the time of surrender. The assessee had not given any basis for valuation of its goodwill for the manufacture of ice-cream at Rs. 10 lakhs. The Tribunal, instead of remanding the matter to the Assessing Officer for redetermination of the value of goodwill, had proceeded to decide this issue at its own level to avoid multiplicity of litigation. The Tribunal had rightly come to a conclusion that the ratio of all goodwill worked out to 30 per cent. In this backdrop, out of Rs. 55 lakhs, Rs. 15 lakhs were taken towards goodwill and trade marks and the remaining amount on account of the surrender of the right to manufacture ice-creams and other allied products under the brand name "Kwality." This was based on a correct appreciation of facts. There was no ground made out to interfere with the order of the Tribunal as it had been passed by appreciating the facts in the right perspective. No substantial question of law arose for consideration.(AY.1995-96 to 1997-98)
Kwality Cafe and Restaurant Pvt. Ltd. v. CIT (2025) 482 ITR 777 (P&H)(HC)

26 **S. 4: Charge of income-tax-Principles of mutual association-Matter remanded. [S. 260A]**
The assessee was a recreational club. In each of the assessment years 2008-2009 to 2012-2013, the assessee received on account of rent sums of money from a company for occupation of a portion of the club premises. The Assessing Officer held that the amounts were taxable but the Commissioner (Appeals) reversed the order. However, the Tribunal affirmed the order of the Assessing Officer. On appeal to the High Court: Held, that in the orders of the Assessing Officer, Commissioner (Appeals) and the Tribunal there was no analysis of the facts, which would go to show whether the principle of mutuality was being maintained in the subject transaction between the club and the company. Only conclusions were made with regard to the status and the transaction between the parties. Matter remanded.
Saturday Club Ltd. v. PCIT (2025) 482 ITR 990 (Cal)(HC)

27 **S. 4 : Charge of income-tax-Non-refundable one time life membership fee received by club from members-Capital receipt.[S.28(i)]**
Assessee-company was engaged in club activities. It collected life membership fee from those who wanted to become its members-Assessee claimed that one time non-transferable and non-refundable sum paid by a member to acquire rights of club was a capital receipt. Assessing Officer treated said amount as revenue receipt. Tribunal confirmed order of Assessing Officer. On appeal the Court held that any sum paid by a member to acquire rights of club is a capital receipt, therefore, one time life membership fee received by assessee-club was to be treated as capital receipt and not taxable as income.(AY. 2001-02 to 2005-06)
Chennai Corporate Club (P) Ltd. v. ACIT (2025) 305 Taxman 433 (Mad)(HC).

S. 4 : Charge of income-tax-Exemption-Compensation paid for compulsory acquisition of land under the National Highways Act, 1956-Though acquisition under National Highways Act is covered by Fourth Schedule to 2013 Act, by virtue of s. 105(3) read with Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015, provisions relating to determination of compensation under 2013 Act apply-Consequently, exemption under s. 96 also applies-Compensation received from NHAI on compulsory acquisition of land is not chargeable to tax-Rejection of rectification application and refund claim held not justified. [S. 10(37), 260A; Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, S. 96, 103, 105(1), 105(3), 113(1), Sch. IV Entry 7] 28

The assessee's land was compulsorily acquired by the National Highways Authority of India under the National Highways Act, 1956. In the return for A.Y. 2017-18, the assessee offered to tax the compensation received on such acquisition as short-term capital gains and paid tax thereon. Subsequently, he filed a rectification application seeking refund on the ground that compensation received on compulsory acquisition of land was exempt from tax under s. 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The Assessing Officer rejected the claim holding that the National Highways Act, 1956 was included in the Fourth Schedule to the 2013 Act and, therefore, by virtue of s. 105(1), the provisions of the 2013 Act, including s. 96, were not applicable. The Commissioner (Appeals) and the Tribunal affirmed the rejection. On appeal, the High Court held that though acquisitions under the National Highways Act, 1956 were initially excluded by s. 105(1), s. 105(3) empowered the Central Government to extend the beneficial provisions of the 2013 Act to enactments specified in the Fourth Schedule. Pursuant thereto, the Central Government issued the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015, making the provisions relating to determination of compensation, rehabilitation and resettlement applicable to acquisitions under the enactments in the Fourth Schedule. Once compensation is determined under the beneficial regime of the 2013 Act, the consequential benefits flowing therefrom, including exemption from income-tax under s. 96, must also apply. Denial of exemption to land acquired under the National Highways Act would defeat the object of the 2015 Order and result in discrimination. Accordingly, the Court held that compensation paid by NHAI for compulsory acquisition of land under the National Highways Act, 1956 was exempt from income-tax and the assessee was entitled to consequential relief/refund. The appeal was allowed. (AY. 2017-18)

Sanjay Kumar Baid v. ITO (2025) 480 ITR 259 / 178 taxmann.com 446 /347 CTR 417 / 254 DTR 137 (Chhattisgarh)(HC)

S. 4: Charge of income-tax-Accrual-Sale of fly ash-Did not belong to assessee-A separate utilization account as mandated, and used funds solely for specified purposes without deriving any benefit or ownership-Income not accrued to assessee-Sale proceeds were not taxable.[S. 5, 260A] 29

Dismissing the appeal of the assessee the Court held that Fly ash did not belong to the assessee, but to its holding company-NTPC; assessee had only sold the fly ash and

utilized part of the funds as mandated and made over the balance funds to NTPC; there is no infirmity in the decision of the Tribunal that the assessee had not earned any income on account of sale of fly ash, which was provided by NTPC. (AY. 2015-16)
PCIT v. NTPC Vidyut Vyapar Nigam Ltd. (2025) 174 taxmann.com 20 / 345 CTR 673 / 251 DTR 369 (Delhi)(HC)

30 **S. 4 : Charge of income-tax-Income or capital-Sales tax incentive received from State Government under West Bengal Industrial Promotion Scheme-Capital receipt-Appellate Tribunal-Power-The Tribunal has the power to entertain a claim of deduction not claimed before the Assessing Officer by filing revised return. [S. 139, 254(1)]**
Held that the sales tax incentive received from the State Government under the West Bengal Industrial Promotion (Assistance co Industrial Units) Scheme, 2010 is a capital receipt. The Tribunal has the power to entertain a claim of deduction not claimed before the Assessing Officer by filing a revised return.(AY. 2015-16)
PCIT v. Ritum Jain (2025) 476 ITR 69 (Cal)(HC)

31 **S. 4 : Charge of income-tax-Capital or revenue-Excise duty exemption Purpose test formulated by Supreme Court Excise duty exemption granted for purpose of industrialisation and generation of employment in States-Excise duty exemption capital receipt-Book profit-Excise duty exemption availed being in nature of capital receipt and not chargeable to tax under normal provisions cannot be added in book profit. [S.115JB]**
Dismissing the appeal the Court held that excise duty exemption purpose test formulated by Supreme Court Excise duty exemption granted for purpose of industrialisation and generation of employment in States is capital receipt. Excise duty exemption availed being in nature of capital receipt and not chargeable to tax under normal provisions cannot be added in book profit. (AY. 2014-15)
PCIT v. Greenply Industries Ltd (2025) 476 ITR 347 /304 Taxman 192 / 344 CTR 638 / 249 DTR 312 (Gauhati)(HC)

32 **S. 4 : Charge of income-tax-Capital or revenue-Sales Tax Incentive-Purpose test-Incentive for setting up industrial unit in backward area-Sales tax incentive under 1979 and 1983 Schemes is capital receipt, not chargeable to tax.[S. 28(i), 43B, 1979 Scheme. 1983 Scheme]**
For the assessment year 1987-88, Bajaj Auto Ltd. set up a new industrial unit in Waluj, Aurangabad, a backward area designated by the Maharashtra Government. To promote industrial growth in such regions, the State had introduced the 1983 Sales Tax Incentive Scheme, offering eligible businesses either a sales tax exemption or deferral. Bajaj Auto chose the exemption and received an eligibility certificate from SIICOM, granting it benefits worth Rs.31.56 crores for a three-year period starting 1 February 1986. In its tax return, the company treated the incentive as a capital receipt, arguing it subsidized the cost of setting up the unit and was not taxable. However, the Assessing Officer treated

it as a revenue receipt, as it became applicable only after production began. This view was upheld by the CIT(A), and although the ITAT provided partial relief, it maintained the incentive was taxable. Bajaj Auto subsequently appealed to the Bombay High Court under Section 260A of the Income Tax Act, 1961. The Bombay High Court allowed Bajaj Auto's appeal, holding that the sales tax exemption received under the state's incentive scheme qualified as a capital receipt and was not subject to income tax. The Court relied on the "purpose test" established by the Supreme Court in cases in *Sahney Steel and Press Works Ltd (1997) 228 ITR 253 (SC), CIT v. Ponni Sugars and Chemicals Ltd (2008) 174 Taxman 87 /306 ITR 392 (SC) and CIT v. Chaphalkar Brothers (2018) 400 ITR 279 / 252 Taxman 360 (SC)* stating that the key to determining the nature of a subsidy lies in its purpose. Since the scheme aimed to promote industrial development in backward areas by supporting the setup of new units, the Court concluded that the incentive was capital in nature, regardless of how or when it was disbursed. Applying the purpose test, the Court found that the 1983 Sales Tax Incentive Scheme was primarily aimed at encouraging industrial development in underdeveloped regions of Maharashtra by promoting capital investment. The Court ruled that although the sales tax exemption was granted after production began, its true purpose was to support the establishment of new industrial units, not regular business operations. Therefore, the method of benefit delivery didn't alter its nature as a capital receipt. Citing Supreme Court precedents, the Court held that such subsidies tied to starting production qualify as capital receipts. Accordingly, Bajaj Auto's Rs.31.56 crore sales tax incentive was deemed a capital receipt and not taxable income. (AY. 1985-86, 1987-88)
Bajaj Auto Ltd v. Dy. CIT (2025) 477 ITR 611/176 taxmann.com 104 (Bom)(HC).
CIT v. Reliance Industries Ltd. (2025) 477 ITR 611/176 taxmann.com 104 (Bom)(HC)

S. 4 : Charge of income-tax-Amount received for surrender of right in patent and trademark/negative covenant-Capital receipt.[S.28(i)] 33
Affirming the order of the Tribunal the Court held that amount received on surrender of granted the right to market and sale of patent product of the assessee under the brand name of Pfizer. Court held that surrender of the rights results in impairment of profit making apparatus of the assessee and therefore, is a capital receipt. (AY. 2000-01)
CIT v. Sanofi Healthcare India (P) LTD. (2025) 342 CTR 326 / 245 DTR 17 (Telangana) (HC)

S. 4 : Charge of income-tax-Capital or revenue-Income-Exemption from excise duty not under the purview of definition of income envisaged under S. 2(24)(xviii)-Such amount is thus not an income but capital receipt, not taxable under the Act-Entries in books of accounts not conclusive to determine income-No tax can be charged on an amount not actually earned.[S. 2(24)(xviii), 5, 10, 145] 34
The Hon'ble J&K High Court deciding an appeal, observed that income tax cannot be levied on hypothetical income but only on real income. Resultantly it was held that no tax can be charged on an amount which is not actually earned and that the Ld. Tribunal was right, in deleting the addition of Rs. 3,29,76,575/-as hypothetical income which has not actually accrued, which was otherwise 64% of the excise duty recognized by the assessee in its books of accounts. On the second issue, the Court observed that excise

duty does not fall in the definition of income as envisaged under Section 2(24)(xviii) of the Act and that the amount of Rs.1,85,49,324/-is not an income but a capital receipt not taxable under the provisions of the Act. (AY. 2016-17)
PCIT v. Gravita Metal Inc. [2025] 302 Taxman 91/343 CTR 630 (J & K & L)(HC)

35 **S. 4 : Charge of income-tax-Capital or revenue-Amount received under non-compete agreement is capital receipt.[S. 28(i)]**
Dismissing the appeal of the Revenue the Court held that the assessee had been restrained both directly and indirectly from undertaking any business which would compete with the business of WSIL. Clearly, for the period in which the non-compete agreement was to operate, which in this case was ten years, the assessee's source of income had been clamped and, therefore, the compensation received by him is a capital receipt. No substantial question of law. (AY. 1999-20)
CIT v. Saeed Mustafa Shervani (2024) 471 ITR 777 (Delhi) (HC)

36 **S. 4 : Charge of income-tax-Excise duty refund-Capital or revenue receipt-The refund received was a capital receipt not chargeable to tax. [S.5]**
The assessee, in 2003, had set up pipe coating unit at Mundra, Gujarat. Thereafter, in 2005, the assessee also set up another unit for pipe manufacturing at Mundra, Gujarat. The said new units had been set up in compliance with the relevant Notifications within the stipulated time limits therein, and the Certificate issued by the Customs and Central Excise, Ahmedabad, certifying that the said new units have been established during the period prescribed in the said Notifications. The assessee received excise duty refund of Rs 163,15,661/-, which was offered to tax as a revenue receipt in the return of income and assessed as such by the AO. The CIT(A) upheld the order of the AO in treating the excise duty refund received by the assessee as a revenue receipt. On appeal, ITAT held that the excise duty refund received by assessee under an incentive scheme issued by the Central Government was a capital receipt not chargeable to tax. The appeal was allowed. [AY. 2004-05]
Jindal Saw Ltd. v. DCIT (2025) 128 ITR 476 (Delhi)(Trib.)

37 **S. 4: Charge of income-tax-Premium on issue of tax-free bonds-Capital or revenue-Revenue receipt chargeable to tax. [S. 28(i)**
Held that the premium received on bonds did not result in expansion of share capital or capital base of assessee. Such receipts formed part of floating capital and therefore constituted revenue receipts chargeable to tax (AY. 2012-13, 2014-15, 2015-16)
Housing & Urban Development Corporation Ltd. v. DCIT [2025] 128 ITR387 (Delhi) (Trib.)

38 **S. 4: Charge of income-tax-Capital receipt-Government subsidy-Subsidy received for capital purposes is not taxable as a revenue receipt.[S.28(i)**
The Assessing Officer treated the Government subsidy received by the assessee as a revenue receipt. The Tribunal, following its decision in the assessee's own case for the earlier assessment year, held that the subsidy was a Government grant of a capital nature and therefore constituted a capital receipt not chargeable to tax as revenue income. (AY. 2011-12)
Capgemini India P. Ltd. v. Dy. CIT (2025) 130 ITR 431 (Mum.)(Trib.)

S. 4: Charge of income-tax-Capital or revenue receipt-Compensation received from supplier on account of failure of performance guarantee parameters of wind turbine generator-Capital receipt. 39

Held that the compensation received by the assessee from the supplier on account of failure of performance guarantee parameters of the capital assets, namely, wind turbine generators, was a capital receipt outside the purview of taxation. (AY.2008-09)

Essel Mining & Industries Ltd. v. Add.CIT (2025) 235 TTJ 329/ 174 taxmann.com 866 (Kol)(Trib)

S. 4: Charge of income-tax-Accrual-Interest receivable from foreign subsidiaries-Financial year-Failed to reconcile-Addition is affirmed.[S. 5, 145] 40

Held that the assessee failed to reconcile the difference between the interest received by it from the foreign subsidiary and the amount offered to tax, except stating that the difference is on account of the difference in the accounting year followed by the two companies; the addition towards the differential amount is sustained. (AY.2011-12)

Dr Reddy's Laboratories Ltd. v. DCIT (2025) 236 TTJ 699 / 174 taxmann.com 238 (Hyd) Trib)

S. 4: Charge of income-tax-Capital or revenue receipt-Redevelopment of property-Compensation for hardship on vacating flat-Capital receipt not chargeable to tax-Appellate Tribunal-Delay of 1566 days-wrong legal advice-Delay was condoned. [S. 253, 254(1)] 41

The assessee received monthly compensation from the developer on redevelopment of his residential flat. Although the amount was described as compensation for alternate accommodation, the assessee stayed with his parents instead of taking rented premises. The Tribunal held that the receipt compensated the assessee for the hardship and inconvenience suffered in vacating his premises and was therefore a capital receipt not chargeable to tax. The addition made under the head "Income from other sources" was deleted. The Tribunal found that the extraordinary delay in filing the appeal occurred because the assessee had not been properly advised by his earlier counsel. Holding that the assessee should not suffer for the mistake of his legal adviser and that sufficient cause had been shown, the Tribunal condoned the delay of 1,566 days and admitted the appeal. (AY. 2013-14).

Ajay Parasmal Kothari v. ITO [2024] 159 taxmann.com 570 / (2025) 126 ITR 511 (Mum.) (Trib.)

Editorial: Affirmed in Sarfaraz S. Furniturewalla v. Afshan Sharfali Ashok Kumar (2024) 467 ITR 230 (Bom.)(HC).

S. 4: Charge of income-tax-Income-Time-share membership fees-Consistent method of recognising income over membership period-Entire receipts not taxable in year of receipt.[S. 145] 42

The assessee recognised only the proportionate time-share membership income in the year in which the member became entitled to holiday facilities and spread the balance over the membership period. Following its earlier decisions in the assessee's own case, the Tribunal held that the consistently followed method of revenue recognition was

proper and that the entire membership fee could not be taxed in the year of receipt. (AY. 2018-19).
Sterling Holiday Resorts Ltd. v. Dy. CIT (2025) 127 ITR 284 / 180 taxmann.com 310 (Mum.)(Trib.)

43 **S. 4 : Charge of income-tax-Capital receipt-Market Linked Focus Product Scheme-Merchandise Exports from India Scheme (MEIS)-Reward under Foreign Trade Policy-Not a subsidy, grant or cash incentive-Sale proceeds of MEIS scrips not taxable.[S. 2(24)(xviii), 28(iiib), 56]**
The assessee claimed that the sale proceeds of MEIS licences constituted capital receipts not chargeable to tax. The Tribunal held that the benefit under the Merchandise Exports from India Scheme was a "reward" under the Foreign Trade Policy, 2015 and not a subsidy, grant, cash incentive, duty drawback, waiver, concession or reimbursement within the meaning of section 2(24)(xviii). Applying the purpose test, the Tribunal observed that the object of the scheme was to offset infrastructural inefficiencies and enhance export competitiveness rather than to supplement trading profits. Accordingly, the sale proceeds of MEIS licences were held to be capital receipts not chargeable to tax. The Assessing Officer was directed to verify the quantum before granting relief. (AY. 2017-18, 2018-19 & 2020-21).
Asst. CIT v. Eastman Exports Global Clothing (P.) Ltd. [2024] 167 taxmann.com 434 / (2025) 122 ITR 243 (Chennai)(Trib.)

44 **S. 4: Charge of income-tax-Capital or revenue-Grants-Capital reserve account-Road project-Infrastructure development-Grants/contributions from State Government for completion of road projects undertaken by it on BOT basis-Grants/contributions were a capital contribution by State Government towards the cost of projects-Not taxable as revenue receipts. [S. 28(i), 145]**
Assessee treated grants as capital receipts and credited them to capital reserve account. Assessing Officer treated grants/contributions received during the year and accrued but not received as revenue receipts and added them to total income. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that the assessee was a contractor executing projects handed over by the State Government via Government Resolutions (GRs) and grants/contributions were in the nature of investments made by the State Government, i.e., promoter, for infrastructure development. Further, assessee credited depreciation of projects to the capital reserve since assessee was not owner of the projects. Tribunal held that since grants/contributions by State Government could not be considered as a support extended for day-to-day business activities of assessee, but was a capital contribution by State Government towards cost of projects to be incurred by assessee, grants/contributions received by assessee and accrued but not received were capital in nature being a promoter's contribution and, therefore, could not be treated as income of assessee. (AY. 2006-07)
Maharashtra State Road Development Corporation Ltd. v. ITO (2025) 215 ITD 532 (Mum) (Trib.)

S. 4: Charge of income-tax-Capital or revenue-Compensation received for under performance of wind turbine generators (WTGs)-Capital receipt. [S.28(i)] 45

Assessee, engaged in mining and power generation, purchased wind turbine generators (WTGs) from Suzlon Energy Limited (SEL) under contracts that included a performance guarantee clause. The WTGs failed to meet the guaranteed generation levels, and SEL compensated the assessee for the shortfall. Assessee claimed this compensation as a capital receipt, arguing it was for the impairment of a capital asset. AO, however, treated it as a revenue receipt, pleading that the same compensated for lost power generation (business income). On appeal, the Tribunal held that the WTGs' under-performance impaired the capital asset's utility, making the compensation akin to damages for sterilization of a capital asset. Accordingly, the compensation was a capital receipt, not chargeable to tax. (AY. 2008-09)

Essel Mining & Industries Ltd. v. Addl.CIT [2025] 174 taxmann.com 866 (Kol.)(Trib)

S. 4: Charge of income-tax-Capital or revenue-Subsidy-Income received on sale of Market Linked Focus Product Scheme (MLFPS) scrips was a capital receipt.[S. 2(24)(xviii), 28(i)] 46

Assessee was a firm engaged in the business of manufacturing and exporting knitted hosiery garments. It received income on the sale of Market Linked Focus Product Scheme (MLFPS) scrips. Assessing Officer treated said income as revenue receipts and added the same to the total income of the assessee. CIT(A) held that even after the amendment by the Finance Act, 2015, with effect from 1-4-2016 to section (2(24)(xviii), the receipts from sale of MLEPS licence would be capital receipts and not taxable. On appeal by revenue, the Tribunal held that, in view of the order of the Chennai Bench of the Tribunal in *ACIT v. Eastman Exports Global Clothing (P.) Ltd (2024) 167 taxmann.com 434 (Chennai) (Trib),* the amount received on sale of MLFPS scrips was a capital receipt. (AY. 2018-19)

DCIT v. Armstrong Knitting Mills. (2025) 214 ITD 219 (Chennai) (Trib.)

S. 4: Charge of income-tax-Subsidy-Industrial Promotional Subsidy from State Government-Matter remanded to the file of CIT(A) for adjudication afresh.[S. 2(24)(viii)] 47

Tribunal held that since the assessee's claim was more in respect of the amended definition of income in terms of section 2(24)(viii), however, the same was not elaborately discussed and dealt with by the CIT(A), the matter was remanded for adjudication afresh.(AY. 2016-17)

Mahindra and Mahindra Ltd. v. ACIT (2025) 214 ITD 193 (Mum) (Trib.)

S. 4 : Charge of income-tax-Reimbursement of expenses incurred by JV firm-Order of CIT(A) deleting the addition is affirmed. 48

Assessee received certain amount from its Joint Venture (JV) partner on account of reimbursement of expenses incurred by JV firm. The AO made the addition. CIT(A) deleted the addition. On appeal the Tribunal held that since identical issue was involved in case of other partner of JV firm and revenue had not challenged deletion of addition made in hands of other partner, on similar fact situation, revenue could not take

different stand in case of assessee which would be detrimental to assesse. (AY. 2012-13 & 2016-17)
ACIT v. Pavani Structurals (P.) Ltd. (2025) 211 ITD 415 (Hyd) (Trib.)

49 **S. 4: Charge of income-tax-Capital or revenue-Compensation received for under performance of wind turbine generators (WTGs)-Capital receipt. [S.28(i)]**
Assessee, engaged in mining and power generation, purchased wind turbine generators (WTGs) from Suzlon Energy Limited (SEL) under contracts that included a performance guarantee clause. The WTGs failed to meet the guaranteed generation levels, and SEL compensated the assessee for the shortfall. Assessee claimed this compensation as a capital receipt, arguing it was for the impairment of a capital asset. AO, however, treated it as a revenue receipt pleading that the same compensated for lost power generation (business income). On appeal the Tribunal held that the WTGs' under-performance impaired the capital asset's utility, making the compensation akin to damages for sterilization of a capital asset. Accordingly, the compensation was a capital receipt, not chargeable to tax.(AY. 2008-09)
Essel Mining & Industries Ltd. v. Addl.CIT [2025] 174 taxmann.com 866 (Kol.)(Trib)

50 **S. 4 : Charge of income-tax-Joint development agreement-Income offered to tax-Making once again addition is lead to double addition-Order of CIT(A) deleting the addition is affirmed.**
Assessee entered into a joint development agreement with a firm (YKH) and formed a joint venture firm (JV firm) exclusively for construction of a commercial complex. Assessee had received Rs.83 lakhs from YKH on account of out of court settlement of their dispute and offered same as income in their books of account. Assessing Officer added same to total income of assessee, as assessee could not produce necessary explanation / evidence in support of their claim that they have already offered Rs.83 lakhs in their books of account. CIT(A) deleted addition. On appeal the Tribunal held that since statement of P&L account and schedule of revenue from other sources had showed that assessee had taken said sum as income of assessee, addition made by Assessing Officer would lead to double taxation in hands of assessee. Order of CIT(A) is affirmed. (AY. 2012-13 & 2016-17)
ACIT v. Pavani Structurals (P.) Ltd. (2025) 211 ITD 415 (Hyd) (Trib.)

51 **S. 4 : Charge of income-tax-Compensation-Surrender of premises-Allocated flat as compensation to remove illegal occupant-The value of flat received by the assessee as compensation for removing nuisance shall constitute capital receipt-Not taxable. [S. 2(24), 54F, 56(2)(vii)(b)]**
The assessee was an illegal occupant of land, who was allotted a flat worth ₹ 2.59 crores as part of a court settlement after filing a suit against the developer. The AO treated this allotment as taxable income and denied the Section 54F deduction. The assessee argued that the compensation was for surrendering long-occupied premises and thus should be treated as a capital receipt. The ITAT held that the compensation for removing a nuisance is a capital receipt which is outside the scope of section 2(24) and thus the flat's value was recognised as a non-taxable capital receipt. Relied on *Shri Kishre D.P.*

v. ITO (ITA No. 3796/Mum/2014 dt.17-2-2017) (AY. 2018-19) (ITA No.6153 / Mum/2024 dt. 7-4-2025) (AY.2016-17)
Mohammed Fakhre Alam Shaikh v. The Assessing Officer. (Mum) (Trib) www.itatonline.org

S. 4: Charge of income-tax-Receipt of certain amount from Government-credited to Income and Expenditure Statement under head 'grant-in-aid' for establishment expenses-issue of specific Accounting Standard was not dealt with by the AO, matter was to be remanded back to inter alia verify receipt of income and method of accounting adopted for the same-Form No 10-Condonation of delay-If CBDT condone delay in filing Form No 10, the assessee would get consequential benefits under section 11(2) read with section 139(9) of the Act.[S. 11,(2), 139(9), 145] 52
Assessee-trust was in receipt of a certain amount from the Government which was credited to Income and Expenditure Statement under head 'grant-in-aid' for establishment expenses. A.O. added the said amount to the income of the assessee. It was noted that for recognition of an amount as a receipt under Accounting Standard-12, two conditions were required to be present, viz. (a) if Government grant was expected to be realised or its collection was reasonably certain; (b) conditions pertaining to said Government grant had been complied with. Since the issue of specific Accounting Standard was not dealt with by the AO, matter was remanded back for verification as to whether the said amount was actually receivable, whether assessee had been accounting for such grants on receipt or mercantile basis in past and whether there were any terms and conditions pertaining to said arrangement between assessee and Government regarding receipt of such amounts. AO was directed to analyse these issues and thereafter come to conclusion as to whether the impugned amount would be treated as income for year under consideration or in the year of actual receipt. If CBDT condone delay in filing Form No 10, the assessee would get consequential benefits under section 11(2) read with section 139(9) of the Act. (AY. 2016-17)
ACIT (E) v. Chanakya National Law University (2025) 210 ITD 333 (Patna) (Trib.)

S. 5 : Scope of total income-Accrual of income-High Court held that interest can be said to have accrued only on date on which it was due as per terms and conditions of security-Interest income on securities is to be taxed on due basis and not on accrual basis-Delay of 220 days-SLP dismissed on the ground that reasons assigned for condonation of delay are neither satisfactory nor sufficient. [S. 145, Art. 136] 53
Assessing Officer held that interest income was liable to be taxed on accrual basis. High Court held that interest can be said to have accrued only on date on which it was due as per terms and conditions of security and, when instrument or agreement stipulates interest to be payable at specified date, interest does not accrue to holder thereof on any date prior thereto and, therefore, interest would accrue or arise only on date specified in instrument and thus, interest income on securities was to be taxed on due basis and not on accrual basis. Department has filed SLP which was delayed of 220 days. SLP is rejected on the ground that since reasons assigned for seeking condonation of delay were neither satisfactory nor sufficient in law to be condoned. (AY. 1994-95)
Jt. CIT v. State Bank of Hyderabad (2025) 302 Taxman 417 (SC)
Editorial : State Bank of Hyderabad v. JCIT (2024) 169 taxmann.com 416 (Telangana) (HC)

54 **S. 5 : Scope of total income-Interest on Government Securities-Right to receive interest on Government securities vested in assessee only on due date mentioned in securities and could not be said to have accrued to assessee on any date other than dates stipulated therein-SLP of Revenue is dismissed.[S. 145, 245C, 245D, Art. 136]**

Assessee filed an application under section 245C for settlement of its cases in respect of assessment year 1997-98. Commissioner, prayed for addition of amount being net amount of interest accrued to be brought to tax. Settlement Commission agreed with Commissioner's view and held that income having accrued and corresponding expenditure having been reckoned on mercantile basis, interest income would be taxed on accrual basis for both years under consideration. On writ High Court held that right to receive interest on Government securities vested in assessee only on due date mentioned in securities and could not be said to have accrued to assessee on any date other than dates stipulated therein SLP of the Revenue is dismissed. Filed by revenue against said impugned order was to be dismissed.(AY. 1997-98)

ITSC v. Indusind Bank Ltd. (2025) 302 Taxman 423 (SC)

Editorial : Indusind Bank Ltd v. ITSC (2024) 169 taxmann.com 588 (Bom)(HC)

55 **S. 5 : Scope of total income-Interest on Government Securities-Right to receive interest on Government securities vested in assessee only on due date mentioned in securities and could not be said to have accrued to assessee on any date other than dates stipulated therein-Delay of 364 days-SLP of Revenue is dismissed on account of delay and also on merits. [S. 145, 245C, 245D, Art. 136]**

Assessee filed an application under section 245C for settlement of its cases. Commissioner, prayed for addition of amount being net amount of interest accrued be brought to tax. Settlement Commission agreed with Commissioner's view and held that income having accrued and corresponding expenditure having been reckoned on mercantile basis, interest income would be taxed on accrual basis for both years under consideration. High Court held that right to receive interest on Government securities vested in assessee only on due date mentioned in securities and consequently, interest accrued on securities only on due dates and could not be said to have accrued to assessee on any date other than dates stipulated therein, therefore, conclusion arrived at by Settlement Commission under this head was not in confirmity with provisions of law and the order to this extent was set aside. SLP of Revenue is dismissed on account of delay of 364 days and also on merits. (AY. 1997-98)

ITSC v. Indusind Bank Ltd. (2025) 302 Taxman 270 /477 ITR 593 (SC)

Editorial : Indusind Bank Ltd v. ITSC (2023) 152 taxmann.com 489/ 456 ITR 376(Bom) (HC)

56 **S. 5 : Scope of total income-Inter-Corporate Deposits (ICDs)-Non-Performing Assets (NPAs) as per Prudential Norms issued by RBI-Possibility of recovery is almost nil-Cannot not be treated to have accrued to assesse. [S.4 43D]**

Held that Inter-Corporate Deposits (ICDs) had become Non-Performing Assets (NPAs) as per Prudential Norms issued by RBI, on which no interest was received and possibility of recovery was almost nil, it could not be treated to have accrued to assessee. (AY. 2019-20)

Kotak Mahindra Bank Ltd. v. DCIT (2025) 211 ITD 608 (Mum) (Trib.)

S. 5 : Scope of total income-Accrual-Notional interest-Waiver of interest on Compulsorily Convertible Debentures-Interest waived before the end of financial year-Commercial expediency-No addition can be made on account of interest income on notional basis. [S. 4, 143(3), 145] 57

On request from the borrower Le. DJ (P) Ltd., the assessee waived off its right of interest on CCDs on 31st March, 2015 for bona fide commercial expediency. DJ (P) Ltd. did not have the income or financial capacity to pay the interest and there was no hope of recovery which is evident from its audited financial statements as on 31st March, 2015. The AO assessed the interest on notional basis. CIT(A), affirmed the order of the AO. On appeal the Tribunal held that the interest so waived cannot be said to be accrued to the assessee warranting taxation of the same-In any event, there is no provision in the Act to bring to tax notional interest income. Addition is deleted. Followed, *CIT v. Shoorj Vallabhdas & Co. (1962) 46 ITR 144 (SC), Shivlaxmi Exports Ltd. vs. CIT (2017) 81 taxmann.com 262 (Cal)(HC) and Shiv Nandan Build Con (P) Ltd. vs. CIT (2015) 60 taxmann.com 347 (Delhi)(HC)*. (AY.2015-16)

Sitac Re (P) Ltd. v. Dy.CIT (2025) 233 TTJ 971/ 174 taxmann.com 428 (Delhi)(Trib)

S. 5 : Scope of total income-Non-resident employee of an Indian company-Income from employment-Foreign assignment allowances for services rendered in Indonesia-Services were rendered outside India-Allowances were not taxable in India-DTAA-India-Indonesia [S. 5(2)(b), 9(1)(i), Art. 15] 58

Assessee is an employee of an Indian company. He was sent to abroad to Indonesia for rendering services there. He received remuneration and other allowances from foreign assignment in Indonesia. In the return of income the assessee claimed that income received and accrued in Indonesia for rendering service outside India, was not taxable in India. Assessing Officer rejected claim of assessee holding that said income was taxable in India as assessee had failed to produce valid tax residency certificate (TRC) from Indonesia. CIT(A) dismissed the appeal. On appeal the Tribunal held that failure to produce TRC before Assessing Officer was a procedural lapse and did not negate substantive compliance. Since assessee was a non-resident employee and services were rendered in Indonesia, income related to services rendered received outside India was not taxable in India. Claim of the assesse is allowed. (AY. 2016-17)

Manab Chandra Ghosh v. ACIT [2025] 210 ITD 310 (Kol)(Trib.)

S. 6(1) : Residence in India-Individual-Stayed more than 60 days in each year-More than 365 days in India for a period or periods amounting to all to 365 days or more-More than 183 days for AY. 2013-14 & 2014-15-Control and management office is located in Chennai, India-Foreigners Regional Registration Office (FRRO) data and travelling on a social/tourist visa-Business not the purpose of the travel interest-Resident-Global income taxable and credit available to assessee-Credit for Foreign taxes paid is directed to be allowed, subject to verification-DTAA-India-UAE [S. 6(1)(a), 6(1)(c), 6(4), 90, 91, 132, Art. 4] 59

The assessee is a well-known restaurateur with business interests in India and abroad. During a search and seizure conducted by tax authorities, it was revealed that the assessee had been declaring himself as a non-resident and was not reporting his global

income in India. The ITAT accepted the reliance placed by AO on the data from the Foreigners Regional Registration Office (FRRO), to show that the assessee was staying for more than 182 days and thus was a resident of India u/s 6. It also accepted that the nature of his overseas travel, which was mostly on tourist or social visas was not for employment purposes. As a result, the lower threshold of 60 days for determining residency applied instead of the 182 day rule. The ITAT also clarified that merely having business interests or frequently travelling abroad does not confer non-resident status if the travel is not for employment, and the India-UAE DTAA would not be applicable if the requirements of section 6 are fulfilled. Therefore, the assessee's global income was liable to be taxed in India, though he was allowed foreign tax credit for taxes paid abroad. AY. 2013-14, 2014-15, 2019-20)
DCIT v. M. Mahadevan [2025] 175 taxmann.com 383 (Chennai)(Trib)

60 **S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Liaison Office-Non-Resident company-Did not finalize and transact a business deal and activities-Liaison Office could not be said to be preparatory or auxiliary in nature, LO did not constitute Permanent Establishment of assessee-MIPL was not performing additional function, in absence of material, it could not be taken as dependant agency PE to assessee, a non-resident company-Delay of 569 days-SLP of Revenue is dismissed on account of delay as well as on merits-DTAA-India-Japan. [Art. 5, Art. 136]**
High Court held that where Liaison Office (LO) of assessee, a non-resident company, did not finalize and transact a business deals and activities carried out by LO could not be said to be preparatory or auxiliary in nature, LO did not constitute a Permanent Establishment, liable to tax in India.. High Court also held that where MIPL was not performing additional function, in absence of material, it could not be taken as dependant agency PE to assessee liable to tax in India. There being gross delay of 569 days in filing this SLP, instant SLP was to be dismissed on ground of delay as well as on merits. Followed, *DIT, (IT) v. Mitsui & Co. (2019) 111 taxmann.com 215 (SC), CIT v. Mitsui & Co. Ltd. (2024) 299 Taxman 365 (SC)*(AY. 2009-10)
CIT v. Mitsui and Co (2025) 303 Taxman 331 (SC)
Editorial : CIT (IT) v. Mitsui & Co. (2025) 170 taxmann.com 827 (Delhi)(HC)

61 **S. 9(1)(i) : Income deemed to accrue or arise in India-Business connection-Non-resident-Permanent establishment-Disposal test-Fixed place PE-High Court correct in concluding that assessee's ability to enforce compliance, oversee operations, and derive profit-linked fees from hotel's earnings demonstrated clear and continuous commercial nexus and control with hotel's core functions which satisfied conditions necessary for constitution of fixed place permanent establishment Income received under strategic oversight services agreement attributable to such permanent establishment and taxable in India-DTAA-India-United Arab Emirates (1994) 205 ITR 49 (St). [S. 9(1)(iv), 9(1)(vi), 9(1)(vii), Art.4, 5(1), 12]**
The Supreme Court upheld the High Court's finding that the UAE assessee had a fixed place permanent establishment in India, as the hotel premises were effectively at its disposal and it exercised continuous operational control, oversight and compliance powers under the strategic oversight services agreement, coupled with profit-linked

remuneration. The clear and enduring commercial nexus with the hotel's core functions satisfied the disposal test under Article 5(1), and income attributable to such PE was taxable in India, irrespective of the assessee's overall losses. (AY. 2009-10 to 2014-15, 2016-17, 2017-18).

Hyatt International Southwest Asia Ltd v. Addl. CIT (2025) 478 ITR 238 / 306 Taxman 241/ 345 CTR 755 / 252 DTR 185 (SC)

Editorial : Hyatt International Southwest Asia Ltd v. Add. CIT(2024) 464 ITR 508/297 Taxman 497 / 337 CTR 39 (Delhi)(HC), affirmed.

S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Shipping agent-Benefit of Article 8 of DTAA to profits derived from operation of ships in international traffic at Indian ports would be governed by Article 8 and not Article 24-Tribunal could not have been restored to Assessing Officer to give a second inning to Revenue to verify certificate issued way back in 2013-Order of Tribunal set aside-DTAA-India-Singapore [S. 172(3), 254(1), Art, 8,24, Art. 226] 62

Assessee, an Indian company, acted as shipping agent for a Singapore-resident enterprise (ST Shipping) engaged in operating owned/chartered ships in international waters. During relevant year, ST Shipping's ships performed voyages from Indian ports, and assessee filed vessel voyage returns under section 172(3), declaring Nil income in India by claiming exemption under Article 8 of the India-Singapore DTAA. Assessing Officer invoked Article 24 (Limitation of Relief), denied Article 8 exemption, and held assessee liable to tax under section 172 on the ground that freight amounts were remitted to a bank account in London, not to Singapore. Assessee tendered a certificate issued by the Inland Revenue Authority of Singapore (IRAS) asserting non-applicability of Article 24. Tribunal restored the matter to the Assessing Officer to verify the contents of said certificate. On appeal the Court held that Tribunal could not have restored matter back to Assessing Officer only on mere suspicion and doubts contrary to findings arrived at by High Court regarding same certificate issued by IRAS, Tribunal ought not to have further deliberated upon contents of certificate which was already held to be applicable in facts of case in absence of any other material on record to demonstrate that veracity of certificate issued by IRAS was doubtful. Therefore, the benefit of Article 8 of DTAA to profits derived from the operation of ships in international traffic at Indian ports would be governed by Article 8, and not Article 24 and the matter could not have been restored to the Assessing Officer to give a second inning to the Revenue to verify the certificate issued way back in 2013. Assessment order passed by the Assessing Officer after the order of remand was rendered infructuous. (AY. 2012-13)

Atlantic Shipping (P.) Ltd. v. ITO (IT) (2025) 307 Taxman 469(2026) 485 ITR 717 (Guj.) (HC)

S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Shipping business-Freight charges collected in India-Certificate from tax authorities that amount was assessable in Singapore-Earning not taxable in India-DTAA-India-Singapore-(1994) 209 ITR (St.) (1) [S.44B, Art. 24] 63

Dismissing the appeal of the revenue the Court held that the Tribunal, on the issue of applicability of article 24, held that the limitation of benefit provided under article

24 would not be applicable in the case at hand and primarily relied upon a certificate or confirmation dated February 21, 2013 given by the Inland Revenue Authority of Singapore. The Tribunal was right, and no question of law arose from its order. The Department raised the question whether the Tribunal was right in allowing the benefit in respect of freight receipts from 97 ships under article 8 of the Double Taxation Avoidance Agreement even though article 8(4) of the Double Taxation Avoidance Agreement required the assessee to be the owner, lessee or charterer of the ship. Held that no substantial question of law arose.(AY. 2008-09, 2012-13)
CIT (IT) v. APL Co. Pte. Ltd [2023] 156 taxmann.com 530 / (2025) 483 ITR 150 (Bom)(HC)

64 **S. 9(1)(i) : Income deemed to accrue or arise in India-Business connection-Permanent establishment-Test of "virtual projection" cannot be applied on perception or theory-Liaison office and wholly-owned subsidiary do not constitute PE in absence of evidence of disposal, control or authority to conclude contracts-Onus on Revenue to establish existence of PE-Subsidiary carrying on independent business on principal-to-principal basis-No fixed place or dependent agent PE-Interest on delayed consideration taxable-Supply of software not royalty or FTS under-DTAA-India-Finland.(1985) 152 ITR (St.) 57). [S. 90(2), Art. 5(8)]**

The assessee, a non-resident engaged in manufacture and supply of telecommunication equipment, had set up a liaison office in India and thereafter incorporated a wholly-owned subsidiary to undertake installation activities under independent contracts. The Assessing Officer held that the assessee had a permanent establishment in India and attributed profits from offshore supply, software licensing and interest income. While the Tribunal initially applied the test of "virtual projection" to hold that the subsidiary constituted a permanent establishment, the High Court, in the second round, affirmed the Tribunal's ultimate conclusion that neither the liaison office nor the subsidiary constituted a fixed place or dependent agent permanent establishment. The Court held that the existence of a permanent establishment must be founded on objective, evidence-based standards under Article 5 of the DTAA, such as disposal of premises, control, authority to conclude contracts or functional integration, and cannot rest on perception, surmise or theory. Mere ownership or control of a subsidiary does not, by itself, create a permanent establishment, as expressly clarified by Article 5(8) of the DTAA. The Revenue failed to establish that the subsidiary acted on behalf of the assessee or had authority to bind it, and the subsidiary's income was independently taxed at arm's length. The Court further held that interest on delayed receipts from supply of equipment and software was taxable as interest income, while receipts from supply of software were neither royalty nor fees for technical services under the Act or the India-Finland DTAA. Accordingly, the appeals of the Revenue were dismissed. (AY.1997-98 to 2007-08)
CIT(IT) v. Nokia Network OY (2025) 479 ITR 515/171 taxmann.com 757 / 345 CTR 249 / 250 DTR 1 (Delhi)(HC).

S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Permanent Establishment-Service PE-Seconded employees in India-Objective of facilitating activities of Indian subsidiary-Employees would not meet qualifying benchmarks of a PE-Order of Tribunal deleting the addition affirmed-DTAA-India-South Korea [S. 260A, Art. 5] 65

The assessee, a South Korean company engaged in manufacturing and selling electronic goods, had two wholly owned subsidiaries in India. The Assessing Officer held that the Indian subsidiary constituted a PE per se and also met the tests of DAPE as well as Service PE. On appeal, the Tribunal held that the seconded employees were not performing functions connected with the global enterprise of the assessee. Their placement in India was intended to facilitate the activities of the Indian subsidiary. Activities such as collecting market information, collating data for product development, studying market trends, or exchanging information would not meet the qualifying benchmarks of a PE. The addition was therefore deleted. On Revenue's appeal, the Court affirmed the Tribunal's order. (AYs. 2007-08 to 2009-10, 2011-12 to 2015-16)

PCIT (IT) v. Samsung Electronics Co. Ltd. (2025) 303 Taxman 212 /478 ITR 271/344 CTR 747 / 247 DTR 521 (Delhi)(HC)

S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Scope of total income-Taxation of income from permanent establishment-Effect of article 7 of India-United Arab Emirates Double Taxation Avoidance Agreement-Global income or profit irrelevant and not determinative-Article 7 does not expand its gaze or reach to overall operations or profitability of transnational enterprise-Activities of permanent establishment liable to be independently evaluated and ascertained-Article 7 does not restrict right of source State to allocate or attribute income to permanent establishment based on global income earned or loss incurred by cross border entity-DTAA-India-United Arab Emirates. [S. 5, Art. 5, 7] 66

Hon'ble High Court held that the activities of a permanent establishment are liable to be independently evaluated and ascertained in the light of the plain language in which article 7 stands couched. The fact that a permanent establishment is conceived to be an independent taxable entity cannot possibly be doubted or questioned. Bearing in mind the well-established rule of source which applies and informs the underlying theory of taxation, we find ourselves unable to countenance the submission of the source State being deprived of its right to tax a permanent establishment or that right being dependent upon the overall and global financials of an entity.

Hyatt International Southwest Asia Ltd. v. Addl. DIT(2024) 166 taxmann.com 466 / (2025) 472 ITR 53 [FB] (Delhi) (HC)

S. 9(1)(i) : Income deemed to accrue or arise in India-Permanent Establishment-Liaison Office-India-Korea DTAA-Liaison Office not a Permanent Establishment-No income attributable to India-Non-resident-Offshore supplies-Divisible contracts-No business connection or Permanent Establishment in India-Receipts not taxable-Interest on delayed payments-India-Korea DTAA-Taxable under Article 12-Permanent Establishment not established.[S. 9(1),(v), Art. 5, 12] 67

Following the decision of the High Court in the assessee's own case, the Tribunal held that the Liaison Office in India carried on only preparatory and auxiliary activities and

did not constitute a Permanent Establishment under Article 5(4)(e) of the India-Korea DTAA. Accordingly, the income earned by the assessee outside India could not be attributed to the Liaison Office and was not taxable in India. The assessee, a Korean company, supplied equipment to Indian customers under divisible contracts, with offshore supplies being completed outside India. The Tribunal held that the offshore supplies had no nexus with any Permanent Establishment or business connection in India and could not be characterised as Fees for Technical Services. The receipts from offshore supplies were therefore not chargeable to tax in India. The Tribunal held that interest received by the assessee from its associated enterprise on delayed payments was governed by Article 12 of the India-Korea DTAA. Since the assessee did not have a Permanent Establishment in India, the exclusion contained in Article 12(6) was inapplicable, and the interest was taxable only in accordance with the provisions of Article 12. (AY. 2009-10 to 2011-12).

Dy. CIT v. Hyundai Heavy Industries Ltd. [2025] 179 taxmann.com 438 / 128 ITR 24 (SN) (Delhi)(Trib.)

68 **S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Permanent Establishment-Dependent Agent Permanent Establishment-Construction Permanent Establishment-Offshore supply-Attribution of profits-Artificial splitting of contracts-Fees for Technical Services-"Make available" clause-Additions were deleted-DTAA-India-UK. [S.44BB, 90, Art. 5, 13(4)(c)]**

The AO treated receipts from offshore supplies under a turnkey project as taxable in India by alleging existence of Permanent Establishment (PE), artificial splitting of contracts and applicability of section 44BBB. Global operation fees were also taxed as Fees for Technical Services. The Tribunal held that section 44BBB presupposes activities like construction, erection, testing or commissioning in India and is inapplicable where the income arises from offshore supply and title to goods passed outside India. Since the existence of a PE was not established and the receipts arose from offshore supplies, section 44BBB could not be invoked. The Tribunal held that the contracts were independent arrangements and offshore supplies completed outside India were not taxable in India. Revenue failed to establish the existence of Dependent Agent PE or Construction PE, and therefore attribution of profits was not sustainable. Global operation fees were also held not taxable as the "make available" condition under the India-UK DTAA was not satisfied. Accordingly, additions were deleted, and the appeal of the assessee was allowed. (AY. 2009-10)

UK Grid Solution Ltd. v. Dy. CIT (IT) (2025) 131 ITR 147 (Delhi)(Trib.)

69 **S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Shipping business-Place of effective management-Permanent Establishment-FCIPL is functionally independent of the assessee-FCIPL was doing business for other enterprises also and more than 77.60 per cent of its revenue or the income was from other independent parties and only 22.32 per cent revenue was derived from assessee-FCIPL was an independent agent and not carrying out any work wholly and almost wholly for the assessee-company-Assessee has no agency PE in India-Income from operation of ships is not taxable in India-DTAA-India-Mauritius [S.90, Art. 5, 7,8]**

Held that since the effective place of management of the assessee was not in Mauritius, treaty benefit of art. 8 of India-Mauritius DTAA is not available to the assessee; as regards PE in view of the fact that FCIPL is only an agent for booking cargo for the assessee shipping company as per the tariff fixed by it and has no capacity to conclude contracts of any nature and has derived only 22.32 per cent of its revenue from the assessee, FCIPL was an independent agent not carrying out any work wholly and almost wholly for the assessee-company; assessee has thus no PE in India and therefore, income from operation of ships is not taxable in India. (AY. 2013-14 & 2014-15)
DCIT (IT) v. Bay Lines (Mauritius) (2025) 235 TTJ 435/172 taxmann.com 857 (Mum) (Trib)

S. 9(1)(i) : Income deemed to accrue or arise in India-Business connection-Non-resident-Accrual of income-Credit amount standing in foreign bank account of non-resident assessee-Bank accounts with HSBC, Geneva-Merely having a property in India or for that matter, an address in India is too simplistic a basis to hold that deposits placed outside India can be brought to tax in India-DRP acknowledges the fact that there is no direct evidence of any business activity in India-No justifiable basis for bringing to tax the amount standing credit in the name of the non-resident assessee in the foreign bank account-Addition was deleted. [S.5(2), 147, 148] 70
Tribunal held that the AO having brought no material on record which can reasonably establish that the credit amount standing in the foreign bank account of the non-resident assessee represents income which has accreted or arisen in India or deemed to accrue or arise in India and there being no direct evidence of any business activity of the assessee in India, there is no justifiable basis for bringing to tax the amount standing credit in the name of the non-resident assessee in the foreign bank account; merely having a property in India or for that matter, an address in India is too simplistic a basis to hold that deposits placed outside India can be brought to tax. Addition was deleted. (AY. 2006-07 & 2007-08)
Pratab Gulabrai Tulsiani & Ors. v. ACIT (IT) (2025) 237 TTJ 388/177 taxmann.com 151 (Mum)(Trib)

S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Permanent Establishment-Attribution of Profits-Once transactions between the foreign enterprise and its Indian affiliate are accepted at Arm's Length, no further attribution of profits is warranted, even assuming the existence of a Dependent Agent PE. (Articles 5(4), 5(5), 7 of India-USA DTAA [S.90, 92CA, Art. 5(4), 5(5), 7] 71
The Tribunal held that the Revenue failed to examine whether the contracts entered into by Warner Bros. India (WBI) with third parties were entered into on behalf of the assessee and whether the conduct of the parties established a Dependent Agent Permanent Establishment (DAPE). Further, the distribution arrangement and royalty model had remained unchanged since 1-4-2009 and the Transfer Pricing Officer had accepted the international transactions between the assessee and WBI to be at arm's length in the preceding as well as subsequent assessment years. Following the ratio of DIT v. Morgan Stanley & Co. (292 ITR 416)(SC), the Tribunal held that once the transactions are accepted at ALP, no further profit can be attributed to the alleged PE. It

also held that interest on an income-tax refund is taxable at 15% under the India-USA DTAA. (AY.2020-21)
Warner Bros. Distributing Inc. v. ACIT (IT) (2025) 238 TTJ 403 / 179 taxmann.com 372 (Mum.)(Trib.)

72 **S. 9(1)(i) : Income deemed to accrue or arise in India-Business connection-Non-resident-Permanent establishment-Liaison office treated as permanent establishment in earlier years-Assessee closing liaison office, no expatriate employees, evidence produced-Burden shifting on Revenue to rebut-No material brought by Department despite remand opportunity-No permanent establishment in India-No profits attributable-Royalty-Supply of software embedded in hardware-Facts same as earlier years where addition deleted following Engineering Analysis Centre of Excellence (SC)-Royalty not taxable-DTAA-India-USA [S. 9(1)(vii), 144C art.5, 12]**
The assessee, a US-based company having a liaison office in India earlier treated as a permanent establishment for AY 2001-02 to 2006-07, contended for AY 2017-18 to 2020-21 that it had closed its liaison office and stopped sending expatriate employees to India, furnishing Form 49C under section 285, Form 52 filed with the ROC and notes to financial statements in support, yet AO, following earlier findings, continued to treat it as having a permanent establishment and taxed attributable profits, which was affirmed by the DRP; separately, AO treated receipts from sale of software as royalty despite DRP directions to verify if the software was embedded in hardware. On appeal, the Tribunal held that once the assessee had placed material evidencing closure of the liaison office and absence of expatriate employees, the onus shifted to the Revenue to rebut the same, and since AO, despite being granted a remand opportunity, failed to bring any material to show continued existence of a permanent establishment or dependent agent permanent establishment, the assessee could not be held to have any permanent establishment in India during the relevant years, and consequently no profits could be attributed to it in India; it further held that since the facts regarding software embedded in hardware were identical to earlier years where the addition on account of royalty was deleted following the Supreme Court's ruling in *Engineering Analysis Centre of Excellence P. Ltd. v. CIT,* there was no reason to take a different view, and the royalty addition was deleted. (AY. 2017-18 to 2020-21)
Bently Nevada LLC v. ACIT (IT) (2025) 132 ITR 260 (Delhi) (Trib.)

73 **S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Non-resident-Permanent establishment-Service permanent establishment-Employees required to be physically present and furnish services in India exceeding 90 days (or 30 days for related enterprises) in a fiscal year-Services furnished only for 44 days after excluding vacation, business development and common days-No service permanent establishment-Business profits not taxable in India.-Virtual service permanent establishment-Concept not provided under Double Taxation Avoidance Agreement or officially endorsed in India-Requirement of physical rendition of service alone to be applied-Return-Delay in filing-Interest-Assessee contending return filed within extended due date-Matter remanded for verification-Interest-Advance tax-Income received after deduction of tax at source-Levy of interest for failure to pay advance tax not called**

for-Income-Accrual-Amounts appearing in Form 26AS cannot automatically be treated as income-Assessing Officer to verify and grant corresponding credit of tax deducted at source if payments not actually received. DTAA-India-Singapore. [S. 4, 5, 234A, 234B Art. 5(6), Form No 26AS]

The assessee, a Singapore tax resident providing legal advisory services, had its business profits taxed in India on the ground of having a service and virtual service PE in India based on physical presence of its employees, with 100 per cent. of gross receipts attributed thereto. On appeal, the Tribunal held that, applying article 5(6)(a) of the India-Singapore DTAA, actual physical rendition of service in India is essential for constituting a service PE, and after excluding vacation days, business development days and common days from the employees' presence of 120 days in the first year (with no employees present in the second year), services were furnished for only 44 days, well below the 90-day threshold, so that no service PE existed in either year; it further held that the concept of a virtual service PE, though discussed in the OECD's 2018 interim report, finds no place in the India-Singapore Agreement and has not been officially endorsed in India, so that the existing treaty requirement of physical rendition of service alone applies, and consequently the business profits were not taxable in India in the absence of any PE. On ancillary issues, the Tribunal remanded the levy of interest under section 234A for verification of the actual date of filing of return against the extended due date; deleted the interest levied under section 234B since the income was received after TDS; and directed AO to verify the assessee's claim of non-receipt of certain amounts reflected in Form 26AS and grant corresponding credit for TDS if the claim was found correct. (AY. 2020-21 & 2021-22)

Clifford Chance Pte. Ltd. v. ACIT (2025) 132 ITR 470 (Delhi) (Trib.)

S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Non-resident-Permanent establishment-Assessee acquiring group in May 2016, falling in financial year relevant to assessment year 2017-18-No transaction or business connection between assessee and Indian entity during relevant assessment year 2016-17, prior to date of acquisition-Indian entity not associated enterprise at relevant time-No agency permanent establishment-Assessment of attributed profits quashed-DTAA-India-USA. [Art. 5(4)] 74

The assessee, a non-resident provider of data storage devices, acquired SD, USA on May 12, 2016, thereby becoming the ultimate holding company of SD India from that date, but the Assessing Officer, based on a survey conducted at SD India in January 2019, initiated reassessment for AY 2016-17 alleging that SD India constituted an agency PE of the assessee, treated salary reimbursements for seconded employees as fees for technical services, and attributed 30% of SD India's revenue as business income of the assessee, which was upheld in the final order passed pursuant to the DRP's directions. On appeal, the Tribunal held that since the date of acquisition fell outside FY 2015-16 relevant to the assessment year under consideration, and the transfer pricing reports, financials and party-wise sales details established no transaction or business connection between the assessee and SD India prior to the acquisition, the Revenue's reliance on post-acquisition survey material to impute an agency PE for a period before the assessee and SD India even became group entities reflected non-application of mind; accordingly, there was no

basis for treating SD India as a PE of the assessee or for attributing any business profits or fees for technical services to it for the year under consideration, and the assessment was quashed.(AY. 2016-17)
Western Digital Technologies Inc. v. DCIT (2025) 132 ITR 664(Bang) (Trib.)

75 **S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Shipping, Inland waterways transport and air transport-International traffic-Operation of ships in international traffic-Multiple ports in India-Benefit of Article 8 of India-UAE DTAA was to be extended to entire freight receipts irrespective of whether earnings were relating to feeder vessels or by ships in international traffic-Profit derived from shipping business as envisaged under article 8 of India-UAE DTAA and was not taxable as business profit in India-DTAA-India-UAE. [Art 8]**
Assessee, a UAE-based company, was engaged in business of operating ships in international traffic. During the relevant year, assessee received an amount in the form of freight income and other related charges in India. Assessing Officer held that said incomes were earned from multiple ports in India involving hundreds of ship voyages with ships of different names and charterers. He thus denied the benefit of Article 8 of the India-UAE DTAA to assessee with respect to said income. DRP followed the directions of the assessment year 2017-18. On appeal, the Tribunal held that in assessee's own case, Tribunal held that benefit of Article 8 was to be extended to entire freight receipts irrespective of whether earnings related to feeder vessels or by ships in international traffic. Since material facts remained the same, following decision of Tribunal in assessee's own case for earlier years, the addition made by the Assessing Officer was deleted. Tribunal also held that income earned freight income, including inland haulage charges (IHC), since IHC were inextricably linked to the operation of ships in international traffic, could not be disintegrated from the profit derived from the shipping business as envisaged under Article 8 of the India-UAE DTAA and was not taxable as business profit in India. (AY. 2022-23)
Avana Global FZCO. v. DCIT (2025) 215 ITD 118 (Mum)(Trib.)

76 **S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Shipping, Inland waterways transport and air transport-International traffic-UK tax resident airline-Received delivery order charges in connection with transportation of passengers, mail, livestock and goods by air in international traffic-Considered directly connected with operation of aircraft under Article 8(3) of India-UK DTAA and thus, would not be taxable in India-DTAA-India-UK [Art. 8]**
Assessee, a UK tax resident airline, had a branch office in India. Assessee was engaged in business of transportation of passengers, mail, livestock and goods by air through aircraft in international traffic and received delivery order charges. Assessing Officer held that said charges were taxable in India as same were derived from an activity subsequent to the transportation of goods in international traffic. Tribunal held that expression 'operation of aircraft' in clause (3) of article 8 not only includes transportation by air, but it also includes the sale of tickets for such transportation, the incidental lease of aircraft on a charter basis, and any other activity directly connected with such transportation. Since the assessee was complying with delivery orders which

were inextricably linked to the main activity of transportation by air of goods or mail in international traffic, the delivery order charges received by the assessee would not be taxable in India. (AY. 2020-21, 2021-22)
Virgin Atlantic Airways Ltd. v. DCIT. IT (2025) 215 ITD 683 (Delhi) (Trib.)

S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Capital gains-Shares/Units-Pass through entity-TRC-Entitled to benefits of DTAA-India-Cyprus. [S. 45, Art. 13] 77

Assessee was a Cyprus-based company. It acquired equity shares of an Indian company (NSEIL) from its holding company, GA Global (also Cyprus based). Assessee sold shares of NSEIL to unrelated independent third-party buyers and claimed benefit under Article 13 of the India-Cyprus DTAA. Assessing Officer after examining the ownership structure of assessee, the list of Directors of company and beneficiary of transactions of sale of shares, came to conclusion that the ultimate beneficiary of the transaction of sale of shares on NSEIL was General Atlantic Company based in USA and concluded that assessee was merely a shell company established in Cyprus with an intention of circumventing Indian tax laws using India-Cyprus DTAA as a tool. The Assessing Officer denied the benefit of DTAA to assessee. On appeal, the Tribunal held that the investment made by holding company 'GA Global' in the Indian company was scrutinised by Indian regulatory authorities and thereafter, approved. Further, assessee had placed on record minutes of Board meetings held during the relevant financial year, and it was evident that assessee company was managed in Cyprus and not in the USA and decisions of investment/disinvestment for assessee were carried out in Cyprus. Only one Director from the USA was present in the Board meeting, wherein the issue regarding transfers of shares of NSEIL was discussed. Tribunal held that once assessee held a valid TRC, it proved the residential status of the assessee as a resident of Cyprus and, hence, it would be eligible to benefit under the India-Cyprus DTAA. (AY. 2021-22)
Gagil FDI Ltd. v. ACIT, IT (2025) 213 ITD 106 (Delhi) (Trib.)

S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Service fee-Service agreement of infrastructure services, Web EDI system maintenance agreement, etc.-DRP should revisit the issue upon examining documents which were not placed before it-Matter remanded-DTAA-India-Thailand.[Art. 7, 22] 78

Assessee, a Thailand-based company, was engaged in the business of the sale of cars, spare parts, etc. and was also responsible for exporting Honda motorcycles, automobiles, power products and components manufactured in Thailand to over 80 countries. During the year, assessee received certain payments in the nature of service receipts from the company, namely, HMSI in respect of certain services viz, infrastructure fee related to IT Services, software service and licence fees, etc. Assessing Officer held that services rendered by assessee to HMSI were not directly connected to the business activities of assessee company and, thus, service receipts were taxable as 'Other Income' as per Article 22 of DTAA. DRP upheld the same. On appeal, the Tribunal held that DRP had observed that assessee had not produced certain relevant portions of the agreement, specifically annexure defining services rendered under agreements, namely, service agreement of infrastructure services, Web EDI system maintenance agreement, etc., which were germane

to the issue involved. Tribunal held that DRP should revisit the issue upon examining documents which were not placed before it. Matter remanded. (AY. 2022-23)
Asian Honda Motor Co. Ltd. v. DCIT (2025) 213 ITD 484 (Delhi) (Trib.)

79 **S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-AO considered assessee as supervisory PE-Estimated profit of 10% as profit rate on income earned and 25% as attributable towards PE-Held profits were taxable in India-ad-hoc percentage cannot be applied-matter set-aside to the Assessing Officer-DTAA-India-Germany.[Art. 5, 7]**

Assessee a non-resident of India entered into four contracts with Indian entities for design, manufacture, supply, installation, commissioning etc of paper machines. Amount received from Indian customers was taxed as FTS and Royalty but income on these contracts was not offered to tax in India. The AO added the attributable profits based on assumed 25%. It was held by ITAT that from overall reading of the agreements, reveals that the assessee was given one integrated end-to-end activity of setting up state-of the art plant on turnkey basis, which is otherwise known as the mill. The end-to-end activity covers design, supply, erection, commissioning, performance run of the entire paper mill. The contract between the assessee and the contractee is not for purchase of plant and equipment simpliciter, but a complete paper mill to be installed and commissioned at deliverable stage. Therefore, the assessee's contention that the income received from supply of plants and equipment is not chargeable to tax in India, as the supplies were made from outside India, is not acceptable. The matter was set aside as, without analysing the role of PE in India, an ad-hoc profit percentage was added. (AY.2013-14)
J.M. Voith SE & Co. KG v. DCIT (IT) 2024) 161 taxmann.com 734 / [2025] 121 ITR 402((Delhi)(Trib)

80 **S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Assessee, US based company, had closed its Liaison Office (LO) operations in India and no business activity was carried out through the LO-Held, since assessee had no PE in India-Question of attribution of profits to PE in India did not arise-therefore, amounts paid by resident Indian end-users/distributions to the Assessee as consideration for resale/use of computer software through EULAs/distribution agreements, is not payment of royalty for use of copyright in computer software-DTAA-India-USA.[Art.5]**

period, the Assessee, a US-based company, made offshore sales of goods and offshore sales of software and related support services to its various customers in India. The AO failed to appreciate that though the Assessee had a Liaison Office (LO), the Assessee had closed its LO operations and no expat employees were engaged by the Assessee at the LO. Revenue could not place on record any material to show that even after the closure of LO operations, the assessee still had a business connection that could be termed as PE in India. Held, since no business activity was carried out by the assessee during the relevant period through LO, the assessee had no PE in India during the impugned AY and, hence, the question of attribution of profits to PE in India did not arise. Accordingly, it was further held that the amounts paid by resident Indian end-users/distributions to the Assessee, a non-resident computer software manufacturer/supplier, as consideration for resale/use of computer software through EULAs/distribution

agreements, is not payment of royalty for use of copyright in computer software, and thus, the same does not give rise to any income taxable in India. (AY. 2017-18 to 2020-21)

Bently Nevada LLC v. ACIT, IT (2025) 210 ITD 191 (Delhi) (Trib.)

S. 9(1)(i): Income deemed to accrue or arise in India-Business connection-Not dependent agent-No substantial transaction-Income is not chargeable to tax in India-Fees for technical services-Reimbursement of salaries of seconded employees—Tax deducted at source-issue is remitted to the AO for fresh adjudication as per law-DTAA-India-USA.[S.90, Art, 12(4)] 81

Tribunal held that there is no material on record to prove that there was any transaction or substantial transaction between the assessee, a US company and San Disk India in the nature of sales and market support or that SD was involved in any manner in sales made by the assessee-company in India which can be made a basis for treating San Disk India as DAPE of the assessee-company and, therefore, San Disk India cannot be treated as dependent agency PE and consequently, assessee's income is not chargeable to tax in India. As regards the payments received by the assessee-company from San Disk India by way of reimbursement of salaries of the seconded employees are unlikely to qualify as fees for technical services under the make available clause in art. 12(4) of the Indo-US DTAA. Tribunal held that since the relevant agreement is not on record, the issue is remitted to the AO for fresh adjudication as per law.(AY.2017-18)

Western Digital Technologies Inc. v. Dy.CIT (IT) (2025) 233 TTJ 399 / 245 DTR 289/ 170 taxmann.com 14 (Bang)(Trib)

S. 9(1)(ii) : Income deemed to accrue or arise in India-Salaries-Non-resident-Salary income-Services rendered outside India while on deputation from Indian company-Assessee non-resident in India and tax resident of Australia-Salary received in India for employment exercised in Australia-Australian tax return accepted as evidence of residency-Tax residency certificate filed at appellate stage accepted-Exemption allowable-Scope of total income-Salary received in India for services rendered abroad-Not taxable in India when employment exercised outside India-DTAA-India-Australia. [S. 9(1)(ii), 15, 90, Art 15] 82

The assessee, deputed on an overseas assignment to Australia, qualified as a non-resident in India and a resident of Australia under the DTAA, and received salary of Rs. 55,37,591 in India for services rendered in Australia, claiming exemption under article 15(1) of the Agreement; AO disallowed the exemption for want of a TRC during assessment, and the DRP rejected the objections despite the certificate being filed as additional evidence. On appeal, the Tribunal held that AO had ignored alternate evidence of Australian residency, namely the Australian tax return evidencing residency and payment of taxes, and since the assessee had subsequently obtained and filed a valid TRC, the same was to be accepted; further, since the assessee had rendered services outside India without any rest or leave period preceding or succeeding such services, a conjoint reading of sections 5, 9 and 15 showed that the salary was not taxable in India, and the assessee was entitled to exemption on the salary received for services rendered in Australia. (AY. 2020-21)

Yogesh Kotiyal v. ACIT (IT) (2025) 132 ITR 419 (Delhi) (Trib.)

83 **S. 9(1)(ii): Income deemed to accrue or arise in India-Salaries-Non-resident-Employed with TCS Malaysia-Rendered his services in Malaysia-Taxable in Malaysia even though the same was received in India-DTAA-India-Malaysia. [S.5(2) Art. 16]**

Assessee, a non-resident Indian, was an employee of TCS Malaysia-For administrative convenience, a part of his salary for his services in Malaysia was paid in India by TCS India and TDS was deducted-Assessee filed his return claiming exemption for salary earned in Malaysia under article 16 of DTAA between India and Malaysia. Assessing Officer rejected claim of exemption on ground that since assessee was a resident of Malaysia and a non-resident of India, he was not eligible to claim exemption under Article 16.CIT (A) held that the salary was received in India, hence taxable under section 5(2) of the Act. On appeal, the Tribunal held that income will not be treated as being received in India solely on the basis that such income was received or deemed to be received in India. To determine the point of taxability, it is necessary to find where the income to the person concerned has accrued, which is equated to the place where services were rendered. Therefore, salary received in India by a Non-Resident employee in respect of services rendered outside India is said to be accrued outside India and cannot be taxable in India and is exempt under Article 16. (AY. 2020-21)

Arumugam Rajasekar v. ITO (2025) 214 ITD 234 (Chennai) (Trib.)

84 **S. 9(1)(iv) : Income deemed to accrue or arise in India-Dividend by Indian company-Domestic company paying dividend distribution tax, only then, domestic company can claim benefit of DTAA, if any-Claim for first time before DRP-Claim cannot be rejected-DTAA-India-UK. [S.115O, 144C, Art. 11]**

When a domestic company distributes dividend to a non-resident shareholder, the additional tax on distributed profits levied under section 115-O is a liability of the company itself and not of the shareholder. The rate prescribed in section 115-O applies and the treaty rate under Article 11 of the DTAA cannot override it unless the treaty specifically extends relief to the domestic company. Thus, DTAA protection does not reduce DDT liability. However, the Tribunal clarified that a fresh legal claim raised for the first time before the DRP cannot be rejected merely because it was not made before the AO, since the DRP has full jurisdiction to consider such grounds. Held, levy of DDT under section 115-O is valid, but claim before DRP is maintainable. (AY. 2017-18)

JC Bamford Excavators Ltd. v. ACIT (IT) (2025) 212 ITD 321 (Delhi) (Trib.)

85 **S. 9(1)(v) : Income deemed to accrue or arise in India-Interest-Business income-Double taxation avoidance-Business profits-Branch offices are not separate personalities or juridical entities and that one person cannot thus profit from itself-DTAA-India-Japan ((1990) 182 ITR (St) 380).[S. 9(1)(v), 28(i), Art. 7 (2), 7(3)]**

Dismissing the appeal, that the Explanation to section 9(1)(v) of the Income-tax Act, 1961 introduced a statutory fiction that a permanent establishment of a banking enterprise in India would be deemed to be a person separate and independent of the non-resident person of which it was a permanent establishment but the Explanation would have no application since it came into effect only from April 1, 2016. The assessee's challenge was based on the well settled position of the law clearly not contemplating a person profiting out of itself. Once it was the conclusion that the branch office would not partake of the character or attribute of a separate legal

personality, the view as taken by the Tribunal was unexceptional. The interest received by the Indian permanent establishment on deposit maintained with the head office or overseas branches was not taxable in India. (AY. 2003-04)
CIT (IT) v. Bank of Tokyo-Mitsubishi UFJ Ltd. [2024] 162 taxmann.com 872 /(2025) 482 ITR 312 (Delhi)(HC)

S. 9(1)(v): Income deemed to accrue or arise in India-Interest-advanced External Commercial Borrowing (ECB)-Assessee could claim set-off of current year business loss of PE against interest income earned from Indian customers on ECB loans-Treaty itself provided for taxability of income in terms with domestic law provisions-Interest income would be covered under section 115A(1)(a)(iiaa), hence, subject to concessional rate of tax at 5 per cent with applicable cess and surcharge-DTAA-India-UAE. [S. 9(1)(i),115A, Art. 11] 86

Assessee, a UAE-based bank, advanced External Commercial Borrowing (ECB) loans to Indian customers directly through its head office without the involvement of Indian branches, which constituted its PE in India. Assessee earned interest income from Indian customers on ECB loans advanced to them and claimed that interest income so earned would fall within the ambit of Article 11(2) and, being the beneficial owner of such interest income, would be subject to tax on a gross basis at a concessional rate of 5 per cent. Assessee set off business losses of PE against interest income and on balance interest income, computed tax at 5 per cent. Assessing Officer disallowed assessee's claim of set-off of business losses of PE against interest income and computed tax liability at applicable rate of 5 per cent on entire interest income earned by assessee from Indian customers. DRP upheld the order of the Assessing Officer. On appeal, the Tribunal held that the assessee could claim set-off of current year business loss of PE against interest income, since the treaty itself provided for taxability of income in terms of domestic law provisions. Therefore, assessee's claim of set off of loss of PE against interest income was allowable. Further, since there was no allegation by Departmental Authorities that ECB loans violated RBI guidelines, interest income would be covered under section 115A(1)(a)(iiaa), hence, subject to a concessional rate of tax at 5 per cent with applicable cess and surcharge. (AY. 2020-21)
Abu Dhabi Commercial Bank PJSC Wework India Management (P.) Ltd. v. DCIT (IT) (2025) 213 ITD 313 /236 TTJ 273 (Mum) (Trib)

S. 9(1)(vi): Income deemed to accrue or arise in India-Royalty-Telecom or transmission services-Interconnect service charges paid to a non-resident telecom operator-Not royalty-Not liable to deduct tax at source-SLP of revenue dismissed on account of delay of 240 and 249 days, as also on merits. [Art. 136] 87

High Court held that interconnect service charges paid by assessee to a non-resident telecom operator company would not amount to 'royalty', hence not liable to deduct tax at source. SLP of revenue was dismissed on account of delay of 240 and 249 and also on merits.
Dy. CIT (IT) v. Orange (2025) 307 Taxman 526 (SC)
Editorial : Dy.CIT(IT) v. Orange 78 Rue Olivairer De Serris (France) (2025) 179 taxmann.com 82 (Karn)(HC)

88 **S. 9(1)(vi): Income deemed to accrue or arise in India-Royalty-Telecom or transmission services-Interconnect service charges paid to a non-resident telecom operator-Not royalty-Not liable to deduct tax at source-SLP of revenue dismissed on account of delay of 256 days as also on merits. [Art. 136]**

High Court held that interconnect service charges paid by the assessee to a non-resident telecom operator company would not amount to 'royalty', hence not liable to deduct tax at source. SLP of revenue was dismissed on account of a delay of 256 days and also on the merits.

Dy. CIT (IT) v. Orange (2025) 307 Taxman 616 (SC)

Editorial : Dy.CIT (IT) v. Orange (2025) 180 taxmann.com 108 (Karn)(HC).

89 **S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Payments to non-resident telecom operators for offshore interconnect/capacity are not "royalty"-Not liable to deduct tax at source-DTAA-India-Belgium. [S.201, Art. 12, Art. 136]**

The Revenue treated assessee as "Assessee in default" for failure to deduct TDS on payments to NTOs/capacity providers, alleging chargeability in India as royalty/ FTS. High Court held that the DTAA must be considered in Sec. 201 proceedings; Explanation 4 to Sec. 9(1)(vi) is not merely clarificatory, and that the payments for foreign interconnect/capacity are not taxable as royalty. Further, Indian authorities lack jurisdiction over extra-territorial income from foreign companies with equipment abroad and no Permanent Establishment. The Hon'ble Supreme Court dismissed SLP of revenue. (AY. 2008-09 to 2015-16)

DCIT, IT v. Vodafone Idea Ltd. (2025) 306 Taxman 267 (SC)

Editorial : Dy. DIT v. Vodafone Idea Ltd.[2023] 152 taxmann.com 575/457 ITR 189 (Karn)(HC)

90 **S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Consideration paid for transponder services-whether Royalty under Section 9(1)(vi) of the Act and/or Article 12 of the India-USA DTAA-Notice issued under SLP-Supreme could also ordered for stay of the order of Hon. Bombay High Court-DTAA-India-USA. [S.195 Art. 12, Art. 136]**

The Supreme Court allowed to issue notice under SLP filed by the assessee challenging the order of the Hon. Bombay High which held that since the payment made for transponder services post Finance Act,2012 and neither the Assessing officer, CIT(A) or Hon. ITAT have examined and analysed the nature of services as agreed upon by the parties in the agreement and have not given finding on the facts on the issue involved nor has discussed how the said payment is under Article 12(3) of the Treaty and orders were non-speaking orders the matter is remanded back to CIT(A) for finding the facts. Hon. Supreme could also ordered for stay of the order of Hon. Bombay High Court. (AY. 2009-10 to 2013-14)

Viacom 18 Media (P.) Ltd. v. DCIT (IT) (2025) 306 Taxman 333 (SC)

Editorial: Viacom 18 Media (P.) Ltd. v. DCIT (IT) (2025) 174 taxmann.com 389/476 ITR 781 (Bom)(HC)

S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Subscription fees for remote access to CRM application without any transfer of copyright are not "royalty" under Sec. 9(1)(vi) and not taxable-SLP dismissed-DTAA-India-Singapore. [Art. 12, Art. 136] 91

High Court held that the Subscribers only used services; no equipment/software rights were granted; hence, fees are not taxable in India as royalty/FTS. The Supreme Court dismissed the SLP filed by the Revenue (AY.2010-11 to 2016-17)

CIT (Int) v. Salesforce.com Singapore Pte Ltd (2025) 306 Taxman 95 (SC)

Editorial : CIT (Int) v. Salesforce.com Singapore Pte Ltd (2024)165 taxmann.com 580 (Delhi)(HC)

S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Payments made to non-resident telecom operators-Telecommunication service provider, for providing interconnect services and transfer of capacity in foreign countries-Not chargeable to tax as royalty-Not liable to deduct tax at source-SLP of revenue dismissed-OECD Model Convention, Art 12. [S.195] 92

On appeal by the revenue High Court held that payments made to non-resident telecom operators by assessee, telecommunication service provider, for providing interconnect services and transfer of capacity in foreign countries was not chargeable to tax as royalty and thus tax was not deductible when payment was made to non-resident telecom operator. Followed *Dy CIT (IT) v. Vodafone Idea Ltd (2025) 173 taxmann.com 695(SC).* SLP of revenue was dismissed.

CIT (IT) v. Communication Global Network Services Ltd.(2025) 305 Taxman 559 (SC)

Editorial : CIT (IT) v. Communication Global Network Services Ltd.(2025) 175 taxmann.com 745 (Karn)(HC)

S. 9(1)(vi) : Income deemed to accrue or arise in India-Non-resident-Royalty-or technical fees-Customer relationship management related services-Copyright in application not transferred to subscriber-SLP of revenue dismissed-(1994) 209 ITR (St.) 1)-DTAA-India-Singapore. [S.9(1)(vii), Art. 12(4)(b)] 93

The assessee, a tax resident of Singapore, provided customer relationship management related services through a business application. The Tribunal held that the income derived from the subscription fee which the assessee received from customers in India for these services was not assessable in India. The High Court held that since the copyright in the application was never transferred nor vested in a subscriber, the fees were not assessable under section 9 of the Income-tax Act, 1961 and that since the customer was merely accorded access to the application and it was the subscriber which thereafter input the requisite data and took advantage of the analytical attributes of the software, this would not fall within the ambit of article 12(4)(b) of the Double Taxation Avoidance Agreement between Singapore and India ((1994) 209 ITR (St.) 1) and that therefore, the amount was not assessable in India. SLP of revenue dismissed. (AY. 2014-15)

CIT v. Salesforce.Com Singapore Pte. Ltd. (2025) 479 ITR 219/177 taxmann.com 201 (SC)

Editorial : CIT (IT) v. Salesforce.com Singapore Pte. Ltd., (2024) 465 ITR 257 / 165 taxmann.com 580(Delhi)(HC)

94 **S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Non-resident-Copy right-Subscription fees-SLP of revenue dismissed-DTAA-India-Singapore. [Art. 12(4)(b). Art. 136]]**

High Court held that since the copyright in the application was never transferred nor vested in the subscriber, the fees were not assessable under section 9(1)(vi) of the Act and that since the customer was merely accorded access to the application and it was the subscriber which thereafter input the requisite data and took advantage of the analytical attributes of the software, this would clearly not fall within the ambit of article 12(4)(b) of the Double Taxation Avoidance Agreement between Singapore and India, and that therefore, the amount was not assessable in India. SLP of revenue dismissed. (AY. 2011-12 to 2017-18)

CIT (IT) v. Salesforce.Com Singapore Pte. Ltd (2025) 476 ITR 8 (SC)

Editorial : CIT (IT) v. Salesforce.com Singapore Pte. Ltd., (2024) 465 ITR 257 (Delhi) (HC)

95 **S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Payment to Non-Resident telecommunication operators for provision of bandwidth and inter-connectivity usage-Not royalty-Not liable to deduct tax at source-Expansion of definition of royalty inserted later-Assessee cannot be expected to foresee future amendment at time of payment in earlier assessment years-Jurisdiction-No jurisdiction to tax income arising from extra-territorial source-Double Taxation Avoidance Agreement-Sovereign document between two countries-Applicable in Proceedings under Section 201 of the Act-DTAA-India-Belgium-SLP of revenue dismissed. [S. 195, 201, Art, 136]**

High Court held that a Double Taxation Avoidance Agreement being a sovereign document between two countries the assessee was entitled to take the benefit thereunder. Therefore, the Tribunal's view that the Double Taxation Avoidance Agreement cannot be considered in proceedings under section 201 was untenable. Held that amendment to the provisions of section 9(1)(vi) inserting the Explanations would not result in amendment of the Double Taxation Avoidance Agreements. The Supreme Court had held that Explanation 4 to section 9(1)(vi) was not clarificatory of the position as on June 1, 1976 and had expanded that position to include what was stated therein by the Finance Act, 2012. Explanations 5 and 6 to section 9(1)(vi) had been inserted with effect from June 1, 1976. Held that the fact that for the subsequent years in the assessee's own case, the Tribunal had held that tax was not deductible under section 195 when payment was made to non-resident telecommunications operators was not refuted. Therefore, the payments made to non-resident telecommunications operators for providing inter-connectivity services and transfer of capacity in foreign countries was not chargeable to tax as royalty under section 9(1)(vi). Held that the Department had no jurisdiction to bring to tax income that arose from extra-territorial sources. The non-resident telecommunications operators to whom the assessee had made payments had no presence in India. The assessee's contract was with B, a Belgium entity which had made certain arrangement with OMT for utilisation of bandwidth and B had permitted the assessee to utilise a portion of the bandwidth which it had acquired from OMT. The facilities were situated outside India and the agreement was with B, a foreign entity

which did not have any permanent establishment in India. Therefore, the assessee was not liable to deduct tax at source under section 195 on the payments made to the non-resident telecommunications operators. Held that Deputy Director (International Transaction) was not right in holding that for the assessment years 2013-14 to 2015-16 the withholding of tax liability could be levied at a higher rate at 20 per cent. Held that as a deductor the assessee was not liable for deduction of tax at source for payments made for the assessment years 2008-09 to 2012-13 on the basis of a subsequent amendment to section 9(1)(vi) whereby Explanations 5 and 6 were introduced. SLP of revenue dismissed. Followed, *DIT v. Vodafone Idea Ltd. [2024] 165 taxmann.com 392/300 Taxman 364/469 ITR 391 (SC)*, (AY.2008-09 to 2012-13, 2013-14 to 2015-16)
Dy. CIT (IT) v. Vodafone Idea Ltd. (2025) 304 Taxman 594 (SC)
Editorial : Vodafone Idea Ltd v. Dy.CIT(2023) 152 taxmann.com 575/457 ITR 189 (Karn)(HC)

S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Distribution fee-Receipt on transfer of non-exclusive global rights for distribution of channel-Finding that assessee did not receive distribution fee in assessment year in question-Order of Tribunal not treating distribution fee as royalty is affirmed. [S. 260A] 96
Dismissing the appeal of the Revenue the Court held that finding of fact by the Tribunal that the assessee did not receive any distribution fee in the assessment year 2008-2009 and therefore, no profit could be attributed to it, the order of the Tribunal holding that the distribution fee could not be construed as royalty. Order of Tribunal affirmed. (AY. 2008-09)
CIT v. BBC World Distribution Ltd [2024] 158 taxmann.com 4 / (2025) 482 ITR 36 (Delhi) (HC)

S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Non-resident-Providing registration for a domain name-Fees received not assessable as royalty-DTAA-India-USA, (1991) 187 ITR (St.) 102). [S.260A, Art. 12(3)(a)] 97
Held that providing domain registration services to its customers did not have any proprietary rights in the domain name. What was agreed between the assessee and its customers was that mere registration of a domain name did not create any proprietary rights in the name used as the domain name or in the domain name registration, either in the assessee or the customers or even any other third party. The assessee was only acting as a registrar and thus offering its services to its customers for having their domain names registered. The fees received by the assessee for registration of domain names of third parties, i.e., its customers, could not be treated as royalty (AY. 2013-14 to 2015-16)
GoDaddy.com LLC v. ACIT [2023] 157 taxmann.com 256 / (2025) 483 ITR 515 (Delhi)(HC)

S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Non-resident-Use of equipment-Right to use-Source code of licensed software not provided to customers who had no right to exploit assessee's intellectual property rights-Receipts not royalty or fees for included services-DTAA-India-United States of America [S. 144C(13), 147, Art. 12(3), 12(4)(b)] 98
Dismissing the appeal of the revenue the Court held that the assessee lent certain support and assistance to its customers for availing of the automated cloud

computing services did not in any manner support the view that the assessee made available technology or technical skills, know-how or the other processes to its customers within the scope of article 12(4)(b) of the India-USA Double Taxation Avoidance Agreement. That the explanation offered by the assessee regarding the services rendered indicated that the services offered did not entail transferring of any skill, knowledge, technology or process to its customers. The cloud computing models indicated that the assessee had developed an infrastructure and permitted the customers to access the hardware and software for developing their own content. The customers did not control the cloud computing hardware or software and had no right to commercially exploit it. The Tribunal had after examining the agreement between the assessee and its customers and on appreciation of the scope of services, found that the assessee's customers were granted only a non-exclusive and non-transferable licence to access the standard automated services offered by the assessee. The assessee did not provide the source code of the licensed software to the customers. The customers had no right to exploit the assessee's intellectual property rights. The receipts not royalty or fees for included services. Order of Tribunal deleting the addition was affirmed. (AY. 2014-15, 2016-17)
CIT v. Amazon Web Services, Inc. (and another appeal) (2025) 478 ITR 44 / 174 taxmann.com 1188 (Delhi)(HC)

99 **S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Deduction of tax at source-Transactions entered into pertaining to assessment years prior to introduction of Explanation in section 9(1)(vi)-Explanation 4 introduced in section 9(1)(iv) by Finance Act, 20121 cannot have retrospective effect and payment not royalty liable to deduction of tax-Appeal of revenue was dismissed. [S. 9(1)(vi), Expln. 4, 37, 40(a)(ia), 195(2).**
The Supreme Court in *Sedco Forex International Drill Inc v. CIT, (2005) 279 ITR 310 (SC)* while interpreting on the retrospective application of the Explanation, had held that the Explanation in section 9(1)(vi) of the Income-tax Act, 1961, as introduced by the Finance Act, 1999 ((1999) 237 ITR (St) 49) that the mere fact that the assessments remained pending could not be a cogent reason to make an Explanation retrospectively applicable, as it would be a fortuitous circumstance, which cannot take away the vested rights of the assessees and that there was a consistent judicial opinion that Explanation as inserted in a provision was not declaratory, but widened the scope of the original provision and as such, the Explanation could not be relied on for any purpose for an anterior period. Appeal of revenue was dismissed. (AY. 2003-04, 2004-05, 2007-08)
CIT v. Reliance Industries Ltd (2024) 165 taxmann.com 653 / (2025) 476 ITR 769 (Bom) (HC)

100 **S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Payments for purchase of licensed software not taxable as royalty. [S. 260A]**
The assessee made payments to foreign companies towards purchase of licensed software. The Assessing Officer treated the payments as "royalty" under section 9(1)(vi). The Commissioner (Appeals) and the Tribunal confirmed. On further appeal, the High Court, following *Engineering Analysis Centre of Excellence Pvt. Ltd. v. CIT (2021) 432 ITR*

471 (SC); (2022) 3 SCC 321, held that such payments do not constitute royalty under section 9(1)(vi). Liberty was granted to the Department to seek review if the review petition in Engineering Analysis succeeds. Order quashed to that extent.
Sasken Communication Technologies Ltd. v. ITO (IT) (2025) 475 ITR 516 (Karn)(HC)

S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Sub-licensed sports broadcasting rights in relation to live feeds to Indian company-live feed cannot constitute a scientific work-Fees received cannot be considered as royalty-DTAA-India-Singapore.[Art. 12] 101

Income arising from sub-licensing of non-live feed had been offered to tax as royalty and assessee contended that consideration received in relation to live feeds did not constitute royalty either under Income-tax Act or under India-Singapore Treaty. Assessing Officer held that entire license fee was taxable as royalty, because it was covered by expression process which included transmission by satellite cable, optic fibre etc. Dismissing the appeal of the Revenue the Court held that in view of the decision of High Court in *CIT v. Delhi Race Club (1940) Ltd (2015) 228 Taxman 185 (Delhi)(HC)* that a live telecast would not fall within the ambit of expression Scientific work. Order of Tribunal is affirmed. (AY.2015-16)
CIT (IT) v. Fox Network Group Singapore Pte. Ltd. (2024) 158 Taxmann.com 434 (2025) 473 ITR 528 (Delhi)(HC)
CIT (IT) v. ESS (2024) 158 Taxmann.com 434 (2025) 473 ITR 528 (Delhi)(HC)

S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Transfer of off-the-shelf Software-Not assessable in India as royalty-DTAA-India-Israel. [S.260A, Art. 12(3)] 102

Held: Dismissing the appeal, the Court held that the Tribunal was right in concluding that the consideration received by the assessee did not constitute royalty and was not assessable in India.(AY.2011-12)
CIT (IT) v. Cognyte Technologies Israel Ltd. [2023] 155 taxmann.com 292 / (2025)472 ITR 476 (Delhi)(HC)

S. 9(1)(vi): Income deemed to accrue or arise in India-Royalty-Live sports telecast fees not royalty-No copyright in live feed-DTAA overrides domestic law-Income from live telecast is not assessable as royalty-DTAA-India-Singapore-Thailand. [Copyright Act, 1957, 2(y), 13, Art. 3] 103

The assessee, a Singapore-based company, entered into a licensing arrangement to sublicense sports broadcasting rights of live feeds to an Indian company. It claimed that the income related to live feed was not taxable as royalty under either Section 9(1)(vi) of the Act or the India-Singapore DTAA, arguing that live telecasts do not involve transfer of copyright. The Assessing Officer disagreed and taxed the entire license fee as royalty, treating live transmission as a "process" covered under Explanation 6 to Section 9(1)(vi). The Court ruled that live telecasts are not "works" under the Copyright Act and therefore cannot attract copyright-based royalty taxation. It also held that Explanation 6, which deems transmission to be a "process," was inapplicable since the actual transmission was carried out by the Indian Company and not the assessee. Furthermore, the Court emphasized that domestic law cannot override DTAA provisions, and the

payment for live feed did not qualify as royalty under the treaty. Thus, the income was not taxable in India.(AY. 2015-16)
CIT (IT) v. Fox Network Group Singapore Pte Ltd. (2024) 473 ITR 528 (Delhi) (HC)

104 **S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Non-resident-Technology and strategic information system services rendered outside India-No right to use software or intellectual property granted-Receipts not taxable as royalty-Management service fees-General management services rendered to group companies-Neither royalty nor Fees for Technical Services-Not taxable in India-DTAA-India-France. [S. 9(1)(vii), Art. 12]**
The assessee, a French company, received technology and strategic information system service fees from its Indian group companies. The services were rendered by the assessee's own personnel outside India and the Indian entities were merely recipients of standard services without being granted any licence or right to use any software or intellectual property. The Tribunal held that the receipts did not constitute royalty either under the Act or Article 12 of the India-France DTAA and were, therefore, not chargeable to tax in India. The assessee received management service fees for providing recurring general management services to its Indian group companies. No intellectual property, confidential information or technical know-how was made available to the recipients. The Tribunal held that the payments were neither royalty nor fees for technical services under the Act or the India-France DTAA and accordingly deleted the addition (AY. 2019-20).
Edenred SE (formerly known as Edenred SA) v. Dy. CIT [2023] 153 taxmann.com 161 / (2025) 129 ITR 603 (Mum.)(Trib.)

105 **S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Software licence fee-Not royalty-Receipts for services, not fees for technical services or included services-Addition was deleted-DTAA-India-USA [Art. 7, 12(4)(b)]**
Held that the amount earned from supply of software by assessee, a tax resident of USA, on a non-transferable, non-exclusive basis to Indian customers was not taxable as royalty income under provisions of article 12 of India-USA DTAA as same was consideration for sale of a copyrighted software and not for use of any copyright. Tribunal also held that the receipts from annual maintenance contract were inextricably linked to the licence granted by the assessee to its licensees and no human intervention was required in provision of AMC services; said receipts were not taxable as FTS in India; the same were business profits of assessee not taxable in India in absence of a permanent establishment (PE) of the assessee in India. Additions were deleted. (AY. 2019-20)
Openwave Mobility, Inc. v. Dy. CIT [2024] 162 taxmann.com 434 /128 ITR 617 (Delhi) (Trib.)

106 **S. 9(1)(vi): Income deemed to accrue or arise in India-Royalty-Non-resident-Receipts from sale of online advertisement space not taxable as royalty or fees for technical services in absence of Permanent Establishment in India-DTAA-India-Ireland [S. 9(1)(1), 9(1)(vii) 195, Art.7(1)]**
The assessee, a tax resident of Ireland, received consideration from its Indian subsidiary towards the sale of online advertisement space. The Revenue sought to tax the receipts

as royalty/fees for technical services pursuant to reassessment proceedings. Following its earlier decision in the assessee's own case, the Tribunal held that in the absence of a Permanent Establishment in India, the receipts from sale of online advertisement space were not taxable in India under the Act or the India-Ireland DTAA. Consequently, the payments could not be characterised as royalty or fees for technical services, and the additions were deleted. (AY. 2013-14 to 2016-17)
Google Ireland Ltd. v. Dy. CIT (2025) 130 ITR 149 (Bang.)(Trib.)

S. 9(1)(vi): Income deemed to accrue or arise in India-Royalty-Fees for technical services-Non-resident-Cloud computing services-Receipts not chargeable as royalty or fees for technical services-Not liable to deduct tax at source-DTAA India-USA. [S. 9(1)(vii), 195, Art. 12(3), 12(4)] 107

Amounts received by a US company for providing standard cloud computing services to Indian customers were held not taxable in India either as royalty or as fees for technical/included services. The Tribunal held that customers merely obtained a non-exclusive and non-transferable right to access automated cloud services without any right to use or exploit the underlying copyright or intellectual property and, therefore, the receipts did not constitute royalty. Further, the support and technical services rendered were standard and incidental in nature and did not "make available" any technical knowledge, experience, skill or know-how enabling customers to apply the technology independently in future. Accordingly, the receipts were not chargeable to tax in India, and no tax was deductible at source. (AY. 2014-15, 2016-17).
Amazon Web Services, Inc. v. ACIT (2025) 130 ITR 591 (Delhi)(Trib.)

S. 9(1)(vi): Income deemed to accrue or arise in India-Royalty-Non-resident-Software licence-Grant of licence to use copyrighted software-No transfer of copyright or copyright rights-Receipts not taxable as royalty under India-Fees for technical services-Non-resident-Software support services-"Make available" condition not satisfied-Receipts not taxable as fees for technical services under India-Netherlands DTAA. [S.9(1)(vii),Art. 12] 108

The assessee, a tax resident of the Netherlands, provided software-based support services to support service specialists in India under licence agreements. The Assessing Officer treated the receipts as royalty on the ground that the software constituted a literary work and the payments were for use of copyright. The Tribunal held that the agreements merely granted a non-exclusive right to use the copyrighted software without transferring any right, title or interest in the copyright. The licensees had no right to reproduce, modify, translate or commercially exploit the software. The payments were for the use of a copyrighted article and not for the use of, or the right to use, any copyright. Further, the India-Netherlands DTAA does not specifically include software payments within the definition of royalty. Accordingly, the receipts were not taxable as royalty in India. The assessee rendered software support and troubleshooting services to support service specialists in India. The Revenue sought to tax the receipts as fees for technical services. The Tribunal held that under Article 12 of the India-Netherlands DTAA, technical services are taxable only if they "make available" technical knowledge, experience, skill, know-how or processes enabling the recipient to perform the services

independently in future. The support services were rendered on a recurring annual basis and the recipients continued to depend upon the assessee even for routine and critical technical issues. As no enduring technical knowledge or capability was made available to the recipients, the "make available" test was not satisfied. Accordingly, the receipts were not taxable as fees for technical services in India. (AY. 2013-14, 2015-16 & 2016-17).
Asst. CIT (IT) v. Juniper Networks International B.V. [2023] 154 taxmann.com 563 / (2025) 130 ITR 785 (Mum.)(Trib.)

109 **S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Effect of Supreme Court decision in Engineering Analysis Centre of Excellence P. Ltd. v. CIT (2021) 432 ITR 471 (SC)-Software licence fees, global wide area network connectivity, and global technology charges not royalty-Order of Commissioner (Appeals) upheld-DTAA-India-UK.**
The assessee, a non-profit central service provider recovering costs incurred in providing centralised services from its Indian group entities, had such receipts, including software licence and maintenance charges, global technology charges, and global wide area network connectivity charges, assessed as royalty for the assessment years 2017-18 to 2019-20 following an adverse ruling of the AAR, though the CIT(A) ruled in the assessee's favour based on a subsequent HC decision in the assessee's own case holding such receipts not to be royalty either under the Act or under the India-UK DTAA. On appeal, the Tribunal upheld the order of the CIT(A), holding that there was no infirmity in treating the software licence and maintenance charges, global technology charges, and global wide area network connectivity charges as not constituting royalty, consistent with the principles laid down by the SC in *Engineering Analysis Centre of Excellence P. Ltd. v. CIT (2021) 432 ITR 471 (SC)* (AY. 2017-18 to 2019-20)
Dy. CIT v. EY Global Services Ltd. (2025) 131 ITR 467(Delhi) (Trib)

110 **S. 9(1)(vi): Income deemed to accrue or arise in India-Royalty-license fee for granting broadcasting right-Not royalty-Apportionment of license fee-' live coverage' of the event has very large viewership as compared to a recorded broadcast and, therefore, it is appropriate to allocate 10 per cent of the license fee for broadcasting rights towards recorded events and 90 per cent towards 'live coverage-DTAA-India-USA.[S.90, Art. 12(3)]**
Tribunal held that the amendment by way of insertion of Expln. 6 to s. 9(1)(vi) defining 'process' to include transmission by satellite cannot be read in the definition of royalty in art. 12(3) of the DTAA between India and the USA as there is no similar change in the definition of royalty under the India-USA tax treaty and, therefore, license fees received by the assessee for telecast of live matches did not constitute royalty. Tribunal also held that in any sporting event, 'live coverage' of the event has a very large viewership as compared to a recorded broadcast and, therefore, it is appropriate to allocate 10 per cent of the license fee for broadcasting rights towards recorded events and 90 per cent towards 'live coverage'. (AY. 2013-14 to 2015-16)
Trans World International LLC v. DCIT (IT) (2025) 236 TTJ 385 / 175 taxmann.com 703 (Delhi) (Trib)

S. 9(1)(vi): Income deemed to accrue or arise in India-Royalty-supply of software and related services-Not royalty-Not liable to deduct tax at source-DTAA-India-Ireland. [S.90, 195, Art. 12(3)] 111

Held that the assessee provided only standard software and related support services and not any tailor-made software to the Indian customer and not transferred the copyright in the software to the latter, neither the payments received for licensing of software nor the payments for the services fall within the definition of royalty as per art. 12(3) of India-Ireland DTAA. Not liable to deduct tax at source. (AY. 2021-22)

Munich Re Automation Solutions Ltd. v. ACIT (2025) 237 TTJ 928 / 178 taxmann.com 500 (Delhi) Trib)

S. 9(1)(vi): Income deemed to accrue or arise in India-Royalty-Managerial and administrative support services are not royalty where no know-how or intellectual property is transferred-DTAA-India-India Singapore.[Art. 7, 12] 112

The assessee, a Singapore company, rendered regional managerial and administrative services to its Indian affiliate under a Regional Services Agreement on a cost-sharing basis. The Tribunal held that the services involved the application of expertise and not the transfer of know-how or intellectual property. The receipts constituted business profits under Article 7 and, in the absence of a permanent establishment in India, were not taxable as royalty under Article 12. (AY. 2017-18 to 2020-21).

ACIT (IT) v. BCD Travel Asia Pacific Pte. Ltd. (2025) 238 TTJ 721 / 180 taxmann.com 46 (Mum.)(Trib.)

S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Double Taxation Avoidance Agreement not affected by amendments in Act-Assessee entitled to advantage of provisions under Agreement-Assessee a non-resident telecommunication operator providing international carriage and connectivity services in Sri Lanka-Interconnect user charges not royalty-Not taxable in India-DTAA-India-Sri Lanka.[S. 9(1)(vi), Explns. 2, 5, 6, 147, Arts. 7, 12] 113

The assessee, a non-resident telecom operator in Sri Lanka, received Rs. 4,16,80,240 as interconnect usage charges from an Indian entity, VSL, which the AO, relying on Explanations 5 and 6 to section 9(1)(vi), taxed as "royalty", a view upheld by the DRP. On appeal, the Tribunal held that the amendment inserting the Explanations to section 9(1)(vi) could not be read into the DTAA, which can be altered only through bilateral renegotiation, and the assessee was entitled to the more beneficial treaty provisions. It was further held that the interconnect usage charges did not accrue or arise in India, and in the absence of a permanent establishment in India, could not be taxed under article 7 of the Agreement. The addition was accordingly deleted.(AY. 2012-13)

Dialog Axiata PLC v. DCIT (2025) 132 ITR 43(Mum) (Trib.)

114 **S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Non-resident-Domain name registration services-Registrar not owner of domain names-Receipts not taxable as royalty-Web hosting and allied services-Independent services-Not Fees for Technical Services-"Make available" test-Web hosting and related services-No transfer of technical knowledge-Not Fees for Included Services. DTAA-India-USA.[S.9(1)(vii), Art. 12(3), 12(4)(a), 12(4)(b)]**

The assessee, an accredited domain name registrar in the United States, facilitated registration of domain names but neither owned nor possessed proprietary rights in the domain names. The Tribunal held that the assessee merely acted as a registrar and could not grant any right to use the domain names. Accordingly, the receipts from domain name registration services did not constitute royalty under section 9(1)(vi) of the Act or Article 12(3) of the India-USA DTAA. The Tribunal held that web hosting, web designing and other non-domain services are independent of domain name registration services. Merely because such services may be purchased together or utilise the same server does not make them ancillary or subsidiary to domain name registration. The receipts were therefore not taxable as Fees for Technical Services under the India-USA DTAA.(The Tribunal held that the services rendered by the assessee did not "make available" any technical knowledge, skill, know-how or process enabling the customers to perform such functions independently. The services merely enabled customers to use the facilities provided by the assessee and involved no transfer of technical knowledge or enduring benefit. Accordingly, the receipts were not taxable as Fees for Included Services under Article 12(4)(b) of the India-USA DTAA AY. 2016-17 to 2019-20 & 2021-22).

GoDaddy.com, LLC v. ACIT (IT) (2025) 123 ITR 29 / 170 taxmann.com 408 (Delhi)(Trib.)

115 **S. 9(1)(vi): Income deemed to accrue or arise in India-Royalty-Screening and investigation services to its customers in India-Not royalty-Addition was deleted-India-UK. [Art. 5, 13]**

On appeal, the Tribunal held that where the assessee, a UK-based company, provided background screening and investigation services to its customers in India, since said services did not qualify as royalty under provisions of Explanation 2 to section 9(1)(vi) and article 13 of the India-UK DTAA, no addition on account of royalty was warranted. (AY. 2022-23)

Hireright Ltd. v. ACIT (2025) 213 ITD 138 (Delhi) (Trib.)

116 **S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Subscription revenue from Indian customers for providing access to online chemistry databases and from sale of online journals-Not assessable as royalty-DTAA-India-USA.[S. 9(1)(vii), 147, 148, Art. 12(3)]**

Assessee, US based company, received subscription revenue from Indian customers for providing access to online chemistry databases (CASS division) and from sale of online journals (PUBS division). It filed its return of income declaring nil income. Assessing Officer issued reopening notice on ground that subscription revenue received by assessee was taxable as royalty under section 9(1)(vi) and article 12(3) of DTAA between India and USA as it fell under ambit of use of copyrights of artistic, literally or scientific work as well as within ambit of payment for information concerning industrial commercial or

scientific experience. DRP dismissed the appeal. On appeal the Tribunal held that Co-ordinate Bench of Tribunal in assessee's own case for earlier assessment years held that said subscription revenue did not qualify as royalty in terms of section 9(1)(vi) as well as article 12(3) of India-US DTAA.In absence of any change in circumstances, following aforesaid order of Co-ordinate Bench, assessment order was set aside. (AY. 2013-14)
American Chemical Society v. DCIT (IT) (2025) 212 ITD 599 (Mum) (Trib.)

S. 9(1)(vi): Income deemed to accrue or arise in India-Aircraft leasing-Multilateral Instrument (MLI)-Principal Purpose Test (PPT) cannot be applied in absence of specific Sec. 90(1) notification-Lease rentals not taxable as royalty-No Permanent establishment in India-Entitled to treaty benefit-DTAA-India-Ireland.[S. 9(1)(i), 90(1), 143(3), 144C(13), 234A, 234B, 270A, Art. 5, 6, 7, 8(1), 12(3)(a)] 117

The assessee, an Irish tax resident engaged in aircraft leasing, leased three aircraft to Inter Globe Aviation Ltd. (IndiGo) under dry operating lease agreements. It claimed that lease rentals were not "royalty" under Art. 12(3)(a) of the India-Ireland DTAA, that no Permanent Establishment ("PE") existed in India under Art. 5, and alternatively that income was exempt under Art. 8(1) as income from international traffic. The AO, invoking the Principal Purpose Test (PPT) under Arts. 6 & 7 of the MLI, denied treaty benefits, re-characterised the leases as finance leases, and held that a fixed place PE existed in India. The DRP upheld the AO, attributing 25% of gross rentals to PE at 40% tax, effectively taxing 10% of receipts. On appeal, the Tribunal held that as per ruling in *Assessing Officer (IT) v. Nestlé SA (2023) 458 ITR 756(SC)* MLI provisions cannot be enforced unless separately notified under Sec. 90(1). Since no notification incorporating Arts. 6 & 7 of the MLI into the India-Ireland DTAA exists, the PPT could not be invoked. Lease rentals from dry operating leases are excluded from "royalty" under the DTAA, and outsourcing management functions in Ireland did not create a PE in India. Article 8 exemption for international traffic was also applicable. Hence, the lease income was not taxable in India. (AY. 2022-23)
Sky High Leasing Company Ltd. v. ACIT (IT) [2025] 177 taxmann.com 579 (Mum)(Trib)

S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-Amount received by assessee from Indian customers on account of sale of software solutions could not be treated as royalty-DTAA-India-USA. [Art. 12] 118

Assessee, a US based company, is engaged in business of developing and marketing 3D mechanical design solutions. It entered into software distribution agreements with resellers in India, who bought shrink wrapped software from assessee and in turn sold to customers in India. During relevant assessment year, assessee received certain amount on account of sale of software solutions which had not been offered for taxation. Assessing Officer treated said receipts as royalty and taxed at rate of 15 per cent as per DTAA. DRP rejected the objection. On appeal the Tribunal held that amounts paid by resident Indian end-users/distributors to non-resident computer software manufacturers/ suppliers, as consideration for resale/use of computer software through EULAs/ distribution agreements, is not payment of royalty for use of copyright in computer software.(AY. 2021-22)
Dassault Systemes SolidWorks Corporations v. ACIT (IT) (2025) 210 ITD 476 (Mum) (Trib.)

119 **S. 9(1)(vi) : Income deemed to accrue or arise in India-Royalty-US based company-Amount received by assessee from Indian customers on account of sale of software solutions-Not royalty income-DTAA-India-USA. [Art. 12]**

Assessee, a US based company, was engaged in the business of developing and marketing 3D mechanical design solutions. It entered into software distribution agreements with resellers in India, who bought shrink wrapped software from the Assessee and in turn sold to customers in India. During the relevant AY, Assessee received a certain amount on account of sale of software solutions which had not been offered for taxation. AO treated the said receipts as royalty and taxed it at the rate of 15% as per the DTAA. It was held that the issue was squarely covered in favour of the Assessee by the Supreme Court ruling in *Engineering Analysis Centre of Excellence (P.) Ltd. v. CIT [2021] 125 taxmann.com 42/281 Taxman 19/432 ITR 471 (SC)* wherein it was held that amounts paid by resident Indian end-users/distributors to non-resident computer software manufacturers/suppliers, as consideration for resale/use of computer software through EULAs/distribution agreements, is not payment of royalty for use of copyright in computer software. Accordingly, the AO was directed to delete the impugned addition. (AY.2021-22)

Dassault Systems Solid Works Corporations v. ACIT (IT) (2025) 210 ITD 476 (Mum.) (Trib.)

120 **S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Global online learing platform-Online courses and degrees from universities, companies-Receipts are not taxable as fees for included serices (FIS)-DTAA-India-USA. [Art. 12]**

Assessee, a US based company, operated a global online learning platform providing online courses and degrees from leading universities and companies. Assessing Officer assessed receipts from provision of said services as fees for technical services (FTS) within meaning of section 9(1)(vii) and fees for included services (FIS) within meaning of paragraph 4 of article 12 of India USA DTAA. Tribunal accepted the contention of the assessee that receipts from services were neither in the nature of royalty nor FTS, as it did not entail any included services which are taxable to tax. On appeal by revenue the Court held that assessee merely provided access to contents of universities/companies through platform on receipt of fees and Assessing Officer had not brought on record any material to establish fact that assessee provided technical services through its online platform and further make available condition was not satisfied. Since services provided by the assessee did not include any element of included services, receipts of assessee could not be taxed as FTS or FIS under the provisions of Act as well as the DTAA. (AY. 2020-21)

CIT (IT) v. Coursera Inc (2025) 305 Taxman 269 (Delhi)(HC)

121 **S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Repair and maintenance services of aircraft equipment to Indian airline operators-Services did not involve any transfer of technology, know or skill-Receipts are not taxable as FTS-DTAA-India-USA [Art. 12(4)]**

Assessee, a US company, was engaged in the business of providing repair and maintenance services of aircraft equipment. During the relevant year, the assessee

received a certain amount towards repair and maintenance services from Indian airline operators. Assessing Officer held that said receipts were chargeable to tax as fees for technical services (FTS) under the Act as well as the India-USA DTAA. DRP affirmed the order of the Assessing Officer. On appeal Tribunal held that services rendered by assessee did not involve any transfer of technology, know-how or skill hence receipts from repair and maintenance services were not taxable as FIS under article 12(4) of India-USA DTAA. High Court affirmed the order of the Tribunal. (AY. 2018-19)
CIT (IT) v. Goodrich Corporation (2025) 305 Taxman 518 (Delhi)(HC)

S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Centralised marketing and reservation services provided to Indian affiliate-"Make available" condition not satisfied-Not taxable as FTS / FIS under India-USA DTAA-Revenue's appeal dismissed. [S. 144C, 260A; Art. 12(4)(a), (b)] 122

The assessee, a non-resident company and a tax resident of the USA, received payments from its Indian affiliate towards centralized marketing and reservation services relating to hotel operations. Pursuant to a change in business model from April 2019, the Indian entity assumed a greater entrepreneurial role and entered into agreements with the assessee for support in marketing and reservation services. The Assessing Officer held that the amounts received towards marketing contribution and reservation fees were taxable as royalty/fees for technical services under section 9(1)(vii) and alternatively as fees for included services under Article 12(4)(a) and (b) of the India-USA DTAA. The Dispute Resolution Panel upheld the view of the Assessing Officer holding that the receipts were connected with the grant of licence of the brand and that the change in business model did not alter the character of the receipts. The Tribunal, following its orders in earlier years, held that the payments were for centralized services and did not "make available" any technical knowledge, experience, skill, know-how or processes to the Indian entity and therefore could not be taxed as fees for technical services or fees for included services under the Act or the DTAA. On appeal by the Revenue, the High Court affirmed the Tribunal's view and held that the payments received for centralized marketing and reservation services could not be construed as fees for technical services under section 9(1)(vii) or as fees for included services under Article 12(4)(a) of the India-USA DTAA. Accordingly, the appeal of the Revenue was dismissed.
CIT v. Six Continents Hotels Inc. (2025) 480 ITR 14 / 174 taxmann.com 658 (Delhi)(HC).

S. 9(1)(vii) : Income deemed to accrue or arise in India-Fees for technical services-"Make available" condition not satisfied-Services relating to customs brokerage support, destination services and training for developing global work culture did not involve transfer of specialised knowledge or skill-No income accrued or arose in India from business connection-Payment not taxable as fees for technical services under Act or Article 12 of India-USA DTAA. [S. 9(1)(i), Art. 12(5)] 123

The assessee, a US resident, had rendered services to its Indian affiliate in relation to customs brokerage support, destination services, assistance in shipment clearance and personnel training. The Tribunal held that the services were neither managerial, technical nor consultancy in nature and that no part of the assessee's income had

accrued or arisen in India under section 9(1)(i), since no operations giving rise to income were carried out in India. On appeal by the Revenue, the Delhi High Court affirmed the Tribunal's view and held that for a receipt to qualify as fees for technical services, there must not only be rendition of specialised knowledge, skill, expertise or know-how, but also satisfaction of the "make available" condition, i.e., the recipient must be enabled to apply such knowledge independently in future. Mere assistance in complying with customs rules and regulations, which are in the public domain, or training aimed at creating a common global work culture, did not amount to transfer of specialised technical knowledge or skill. Accordingly, the payment received by the assessee was held not taxable either under section 9(1)(vii) or section 9(1)(i), and the Revenue's appeal was dismissed.
CIT (IT) v. Expeditors International of Washington Inc. (2025) 480 ITR 30 / 171 taxmann.com 576 (Delhi)(HC).

124 **S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-E-invoicing services-Licence only to use platform/software and not transfer of technology or IPR-Training for use of software did not "make available" technical know-how-Under India-UK DTAA, treaty definition prevails over Act-Receipts not taxable as FTS. [S.144C(13), 147, 148, 260A, Art. 13(4)(c)]**
The assessee, a UK resident, provided electronic invoicing and related services through its proprietary e-platform/software and granted only a limited, non-exclusive licence to its Indian affiliate to use the platform for availing such services. No right in the source code, technology, or intellectual property was transferred. The Delhi High Court held that for Article 13(4)(c) of the India-UK DTAA, mere rendering of technical services is insufficient unless the services "make available" technical knowledge, experience, skill, know-how or process enabling the recipient to perform the services independently in future. The training provided was only to enable use/promote the e-invoicing platform and did not transfer the underlying technology or know-how. Accordingly, the receipts were not "fees for technical services" under the DTAA; hence the treaty definition prevailed over section 9(1)(vii), and the receipts were not chargeable to tax in India. Tribunal and reassessment orders were set aside. (AY. 2016-17, 2017-18).
Tungsten Automation England Ltd. v. Dy. CIT (IT) (2025) 480 ITR 93 / 176 taxmann.com 497 (Delhi)(HC)

125 **S. 9(1)(vii):Income deemed to accrue or arise in India-Fees for technical services-Non-resident company-Sales commission-Not in the nature of Fee for Included Services (FIS)-DTAA-India-USA. [S.260A, Art. 12]**
Assessee, non-resident US company, entered into a marketing agreement with its holding company SPITL, situated in India. The assessee received sales commission as a consideration for marketing services. The Assessing Officer held that the amount received by assessee was in nature of fee for included services (FIS) as per terms of the India-US DTAA. Tribunal held that sales commission received by assessee was not in nature of FIS. On appeal High Court affirmed the order of the Tribunal. (AY. 2017-18)
CIT v. Laserwords US Inc. (2025) 302 Taxman 216 (Mad)(HC)

S. 9(1)(vii) : Income deemed to accrue or arise in India-Non-resident-Reimbursement of travel agent and other expenses-No services rendered by assessee-Not Fees for Technical Services or Fees for Included Services-Marketing and Reservation Contribution-India-USA DTAA-Not Fees for Technical Services or Fees for Included Services-Not taxable in India-DTAA-India-USA.[Art. 12.] 126

The assessee received reimbursements from Indian hotels towards Travel Agent Commission Programme (TACP) expenses and other miscellaneous expenses. The Tribunal held that the services were actually rendered by independent travel agents to the Indian hotels and not by the assessee. As the assessee itself rendered no technical or managerial services, the reimbursements could not be characterised as Fees for Technical Services under the Act or Fees for Included Services under the India-USA DTAA. Accordingly, the receipts were held not taxable in India. The assessee, a tax resident of the USA and owner of trademarks relating to the InterContinental Hotel Group, received Marketing and Reservation Contribution (MRC) from Indian hotels under franchise agreements. Following its earlier decisions in the assessee's own case, the Tribunal held that the MRC receipts did not constitute Fees for Technical Services under the Act or Fees for Included Services under Article 12 of the India-USA DTAA. The receipts were therefore not chargeable to tax in India. (AY. 2017-18, 2018-19).

Six Continents Hotels Inc. v. Asst. CIT [2025] 179 taxmann.com 559 / 128 ITR 67 (SN) (Delhi)(Trib.)

S. 9(1)(vii) : Income deemed to accrue or arise in India-Non-resident-Marketing services-Sales commission-Not Fees for Included Services under India-USA DTAA-Not taxable in India-DTAA-India-USA-Delay of 89 days was condoned. [S. 254(1) Art. 12(4)(b)] 127

The assessee, a US resident company engaged in e-publishing services, received commission from its Indian holding company for marketing services rendered in relation to customers in the United States. The Tribunal held that the assessee merely acted as the front-end liaison between customers and the Indian company by understanding customer requirements and communicating them for execution. The activities did not "make available" any technical knowledge, skill or know-how and could not be characterised as Fees for Included Services under Article 12(4)(b) of the India-USA DTAA. The receipts were taxable only as sales commission and were not chargeable to tax in India. Delay of 89 days in filing the appeal was condoned. (AY. 2017-18).

Laserwords US Inc. v. Dy. CIT [2024] 162 taxmann.com 543 / (2025) 129 ITR 39 (Trib.)

Editorial : Affirmed in CIT v. Laserwords US Inc. (2025) 302 Taxman 216 (Mad.)(HC)

S. 9(1)(vii): Income deemed to accrue or arise in India-Non-resident-Warehousing charges paid outside India-Not Fees for Technical Services-No liability to deduct tax at source-DTAA-India-USA. [S. 195, Art. 12] 128

The assessee made payments to a US-based warehouse service provider having no business operations in India for warehousing facilities utilised outside India in connection with its overseas business. The Tribunal held that the payments were not chargeable to tax in India as the services did not fall within the scope of "fees for technical services" under Article 12 of the India-USA DTAA, which does not include

managerial services and the "make available" condition was not satisfied. Consequently, the payments were not chargeable to tax in India, and no tax was deductible at source under section 195. (AY. 2011-12 to 2016-17).
AVTEC Ltd. v. Asst. CIT [2024] 168 taxmann.com 692 / (2025) 129 ITR 483 (Delhi)(Trib.)

129 **S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Non-resident-Revenue sharing arrangement-Payments received by foreign associated enterprise from Indian parent under Master Service Agreement not taxable as fees for technical services-Revenue sharing for services jointly rendered to customers-Additions were deleted. [S. 147, 148]**
The assessee, a tax resident of Malaysia, received payments from HCL Technologies Ltd. pursuant to a Master Service Agreement under which the parent and its foreign subsidiaries jointly rendered services to overseas customers and shared revenue in proportion to the services performed. The Assessing Officer treated the receipts as fees for technical services taxable in India and reopened the assessments. Following its decision in the assessee's own case for earlier years, the Tribunal held that the arrangement was merely a revenue-sharing mechanism and not one involving the provision of technical services by the assessee to the Indian parent. Accordingly, the receipts were not taxable as fees for technical services under section 9(1)(vii), and the additions were deleted. (AY. 2012-13, 2013-14 to 2017-18)
HCL Technologies Malaysia SDN BHD v. Asst. CIT (IT) (2025) 121 ITR 466 (Delhi)(Trib)

130 **S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Non-resident-Make available-Cloud-based software-Tax Residency Certificate-The receipts were not chargeable to tax in India as fees for technical services-DTAA-India-USA. [Art. 12(4)]**
Receipts earned by a US company from providing a cloud-native machine data analytics platform to Indian customers were held not taxable as fees for technical services under Article 12(4) of the India-USA DTAA. The Tribunal held that the assessee neither made available any technical knowledge, experience or skill nor transferred technology to its customers. Once the assessee furnished a valid Tax Residency Certificate and offered the Indian-source income as business income in the USA, the fact that its global tax computation resulted in a loss was irrelevant. Accordingly, the receipts were not chargeable to tax in India as fees for technical services. (AY. 2021-22)
Sumo Logic Inc. v. Asst. CIT (IT) (2025) 170 taxmann.com 756 / 121 ITR 78 (SN) (Delhi) (Trib.)

131 **S. 9(1)(vii) : Income deemed to accrue or arise in India-Fees for technical services-Intra-group advisory and management support services do not constitute FTS where they do not 'make available' technical knowledge, know-how or skill to the recipient-Not taxable in India-DTAA-India-UK. [Art. 13(4)(c)]**
The assessee, a UK tax resident, provided intra-group services to its Indian AE relating to human resources, finance, legal and compliance, internal audit, global planning and marketing support on a cost-plus 5% basis. The Assessing Officer treated the receipts as Fees for Technical Services (FTS) under Article 13 of the India-UK DTAA on the

ground that the services were technical/consultancy in nature. The Hon'ble Tribunal held that the services were merely advisory and managerial in nature, intended to assist the Indian AE in making informed business decisions, and did not result in the transfer of any technical knowledge, experience, know-how or skill enabling the AE to perform such functions independently in future. Since the "make available" condition under Article 13(4)(c) was not satisfied, the receipts did not qualify as FTS and were not taxable in India. The appeals were allowed. [AY.2018-19, 2019-20]
N. M. Rothchild and Sons Ltd. v. Dy. CIT (IT) (2025) 130 ITR 384 (Delhi)(Trib.)

S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Non-resident-Fees for included services-Assessee engaged to provide concept drawings and design for statue of Sardar Vallabhbhai Patel-No development of technical design or transfer of technical plan-Drawings project-specific, not usable elsewhere-No technical know-how made available-Consideration not taxable as fees for included services in India-DTAA-India-USA [S.90, Art. 14(4)(b)] 132

The assessee, a US tax resident providing design services, received consideration from an association of persons engaged as project manager for construction of the statue of Sardar Vallabhbhai Patel, for providing architectural design, drawings and the master plan from the USA, which the AO treated as fees for included services under article 12(4)(b) of the India-USA DTAA on the ground that technology and skill were made available, a view upheld by the DRP. On appeal, the Tribunal first admitted the assessee's additional legal ground as it went to the root of the matter and arose from facts already on record, exercising its powers under rule 29 of the Income-tax (Appellate Tribunal) Rules, 1963; on merits, it held that the assessee had provided only conceptual and aesthetic design services specific to the project, without developing any technical design or transferring any technical plan capable of independent future use, the actual technical and construction design having been undertaken by the EPC contractor, and since no technical knowledge, skill or know-how was made available to the association of persons for independent utilisation, the consideration received did not satisfy the "make available" test and was not taxable as fees for included services in India.(AY. 2014-15, 2015-16)
Michael Graves Design Group Inc. v. Dy. CIT (2025) 131 ITR 352 (Delhi)(Trib)

S. 9(1)(vii) : Income deemed to accrue or arise in India-Fees for technical services-Non-resident-"Make available"-Receipts for centralised information technology support, data management and maintenance services-No technical knowledge, skill or process made available-Recipient unable to independently manage IT environment without continuous recourse to service provider-Not fees for included services-Not taxable in India-Remittances to India-Discrepancy between figures in Forms 15CA and 26AS-Matter remanded for verification.-DTAA-India-USA.[S. 9(1)(vii)(b), 115A, 263, Art. 12(4)] 133

The assessee, a foreign company providing information technology support and maintenance services to its sister concerns in India, had remittances received for such services treated by AO as fees for technical services under section 9(1)(vii)(b) and taxed as "fees for included services" under article 12(4) of the DTAA between India and the USA, which was affirmed by the DRP. On appeal, the Tribunal held that for a receipt to

constitute "fees for included services" under article 12, the services must make available technical knowledge, skill or process that remains with the recipient even after the contract ends, and since the assessee merely centralised information technology services such as access to standard applications, data management, disaster recovery, helpdesk support and infrastructure maintenance, without enabling the recipient to independently manage its IT environment without continuous recourse to the assessee, the payments did not qualify as fees for included services and were not taxable in India; it was further held that the amount could not be treated as royalty or technical services under section 9(1)(vii) either, as the assessee had no permanent establishment in India and was covered by the beneficial provisions of the Agreement. The issue of discrepancy between the figures reported in Form 15CA, filed by the banker, and Form 26AS was remanded to AO for limited verification after providing the assessee the relevant details to enable reconciliation.(AY. 2014-15, to 2017-18)
Visteon Corporation v. DCIT (2025) 132 ITR 279 (Chennai) (Trib.)

134 **S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Non-resident-India-Singapore DTAA-Management services-"Make available" test not satisfied-Receipts not taxable as Fees for Technical Services-Sale of software licences-Licence agreement transferring only right to use software-No services rendered-Receipts not taxable as Fees for Technical Services-DTAA-India-Singapore [Art. 12(4)(b)]**
The assessee, a Singapore tax resident, received management fees from its Indian subsidiary. The Assessing Officer treated the receipts as Fees for Technical Services under Article 12(4)(b) of the India-Singapore DTAA. The Tribunal held that the Department failed to establish that the assessee had made available any technical knowledge, experience, skill or know-how enabling the Indian subsidiary to perform the services independently. Mere rendering of managerial services did not satisfy the "make available" condition. Accordingly, the receipts were held not taxable in India as Fees for Technical Services. The assessee received consideration for sale of software licences to an Indian bank. The Tribunal held that the licence agreement merely granted a non-exclusive, non-transferable right to install and use the software and did not involve rendering of any technical or consultancy services. Since the receipts represented consideration for sale of software licences and not for rendering services, they could not be characterised as Fees for Technical Services. The addition was accordingly deleted. (AY. 2019-20).
Tagit Pte. Ltd. v. Dy. CIT [2024] 159 taxmann.com 93 / (2025) 122 ITR 717 (Delhi)(Trib.)

135 **S. 9(1)(vii) : Income deemed to accrue or arise in India-Fees for technical services-Non-resident-Composite contract-Supply of drawings and designs-Inextricably linked with offshore supply of plant and equipment-Not Fees for Technical Services-Supervisory services-Permanent Establishment-Receipts connected with supervisory PE-Taxable as business profits on net basis-Matter remanded-Supervisory services-Technical services-Supervisory fee taxable as Fees for Technical Services notwithstanding existence of Permanent Establishment-Reimbursement of expenses-Cost contribution arrangement without mark-up-No profit element-Not Fees for Technical Services-DTAA-India-Austria. [S.9(1)(i), 195, Art.5, 7(4), 12]**

The assessee, an Austrian company, entered into composite contracts for offshore supply of plant and equipment together with drawings and designs. Since the Tribunal had accepted that the offshore supply was not taxable in India, it held that the consideration received for supply of drawings and designs, being inseparable from the offshore supply contract, could not be taxed separately as Fees for Technical Services under section 9(1)(vii) or Article 12 of the India-Austria DTAA. The Assessing Officer taxed receipts from onshore supervisory services as Fees for Technical Services on a gross basis under Article 12. The Tribunal held that where the receipts were effectively connected with the assessee's supervisory Permanent Establishment in India, they were taxable as business profits under Article 7 on a net basis. The matter was restored to the Assessing Officer to verify whether the receipts had already been offered to tax in the year of completion in accordance with the assessee's method of accounting. The Tribunal held that supervisory services rendered by the assessee under composite contracts involving erection, commissioning and technical supervision were technical services within the meaning of Article 12(4) of the India-Austria DTAA. Accordingly, the supervisory fee was taxable as Fees for Technical Services, irrespective of the existence of a Permanent Establishment. The assessee recovered from its Indian group entities their share of common business and information service expenses without any mark-up under a cost contribution arrangement. The Tribunal held that the reimbursements contained no profit element and, therefore, could not be characterised as Fees for Technical Services taxable in India (AY. 2011-12, 2012-13 & 2014-15).

Andritz AG v. Dy. CIT (IT) [2024] 165 taxmann.com 76 / (2025) 122 ITR 479 (Delhi)(Trib.)

S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Non-resident-DTAA-Most Favoured Nation clause-Relevant date is date of treaty and not subsequent OECD membership-Treaty benefit denied-Corporate guarantee fee-Not managerial, technical or consultancy service-Not Fees for Technical Services-Reimbursement of social security contribution of seconded employees-Fees for Technical Services-Surcharge and education cess-Not leviable where treaty prescribes tax rate-India-France.[S.90, Art. 12, 13] 136

The assessee, a French tax resident, claimed the benefit of the Most Favoured Nation clause by relying upon a treaty entered into by India with another country which became an OECD member after execution of the India-France DTAA. The Tribunal held that, in view of the applicable protocol and the notification requirement under section 90, the relevant date for determining eligibility under the Most Favoured Nation clause is the date on which the treaty was entered into with India and not the later date on which the other country became an OECD member. Accordingly, the treaty benefit claimed by the assessee was rejected. The Tribunal, following its earlier decisions in the assessee's own case, held that consideration received for providing a corporate guarantee to banks did not involve rendering managerial, technical or consultancy services. Consequently, the corporate guarantee fee was held not to constitute Fees for Technical Services either under section 9(1)(vii) or Article 13 of the India-France DTAA. The Tribunal held that the seconded employees rendered specialised services to the Indian entity and were not merely performing stewardship functions. The overseas entity continued to be the real employer, and the reimbursement of social security

contributions formed part of the consideration for technical services. Accordingly, the reimbursement was held taxable as Fees for Technical Services. The Tribunal held that the tax rate prescribed under Article 13 of the India-France DTAA is inclusive of surcharge. Since education cess is in the nature of an additional surcharge, it also stands subsumed within the treaty rate. Accordingly, surcharge and education cess could not be levied over and above the tax rate prescribed under the DTAA. (AY. 2018-19).
JC Decaux S.A. v. Asst. CIT (2025) 125 ITR 430 (Delhi)(Trib.)

137 **S. 9(1)(vii) : Income deemed to accrue or arise in India-Fees for technical services-Sale of software products to Indian distributors for onward resale to end-users-Product simpliciter facilitating digital security and not for rendering technical services, such income was not taxable in India as FTS-DTAA-India-Ireland [Art. 12(3)(b)]**

Held that assessee, an Irish company, sold software products to Indian distributors for onward resale to end-users, since receipts were only for acquisition of software product simpliciter, facilitating digital security and not for rendering technical services, such income was not taxable in India as FTS. (AY. 2020-21)
Forcepoint International Technology Ltd. v. ACIT, IT (2025) 215 ITD 165 (Delhi) (Trib.)

138 **S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Make available-IT support services to its Indian AE-Non support services-Amount received was not taxable as FTS-DTAA-India-UK [Art. 13]**

Held that the assessee, a UK-based company, provided IT support services to its Indian AE, since there was no transfer of any technical knowledge, experience, skill, know-how or process that would enable AE to use them and thus, the 'make available' clause was not satisfied, the amount received by assessee was not taxable as FTS. Assessee, a UK resident, rendered non-IT support services to its Indian AE, and there was no transfer of technical knowledge, skill or process enabling AE to use them and, thus, the 'make available' clause under Article 13 of India-UK DTAA was not satisfied, receipts could not be taxed as FTS. (AY. 2022-23)
CPPGROUP Services Ltd. v. ACIT (2025) 215 ITD 482 (Delhi) (Trib.)

139 **S. 9(1)(vii) : Income deemed to accrue or arise in India-Fees for technical services-Income from providing centralized group services such as communication, marketing, strategy, HR, treasury, finance-Taxable in India as fees for technical services-Guarantee fee from its Indian subsidiaries for providing corporate and performance guarantees, since providing guarantees was not a regular business activity but an obligation arising from parent-subsidiary relationship, such fee was taxable in India as other income-DTAA-India-Finland.[Art. 7, 12, 21]**

Held that assessee, a resident of Finland, earned income from providing centralised group services such as communication, marketing, strategy, HR, treasury, finance and tax to its Indian subsidiaries; such income was taxable in India as a fee for technical services under Article 12 of the India-Finland DTAA. Tribunal also held that the guarantee fee from its Indian subsidiaries for providing corporate and performance guarantees, since providing guarantees was not a regular business activity but an

obligation arising from the parent-subsidiary relationship, such fee was taxable in India as other income. (AY. 2022-23)
Metso OYJ. v. ACIT (IT) (2025) 214 ITD 533 (Kol) (Trib.)

S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Royalties-Consideration from licensing of software and support services-No permanent establishment-Non-taxable business income in the absence of any Permanent Establishment-Addition as FTS/FIS was deleted-DTAA-India-France.[S.9(1)(i), 9(1)(vi, 90, Art. 12] 140

Assessee, a tax resident of the USA, received consideration from licensing of software to RJIL and support and maintenance services. Assessee claimed that these were business income not chargeable to tax in India in the absence of any PE. Assessing Officer held that the right imparted was to use a proprietary process taxable as process/copyright royalty, and that support and maintenance were inextricably linked to the license and constituted FTS with 'make available' test satisfied. Accordingly, the Assessing Officer assessed the entire receipts as FTS taxable at 10 per cent under Article 12 of DTAA. On appeal, the Tribunal held that consideration for both software licensing and support services (AMC) was not taxable in India as 'Royalty' or 'Fees for Technical/Included Services' under Article 12 of India-USA DTAA, but constituted non-taxable business income in the absence of a Permanent Establishment. Addition was deleted.(AY. 2022-23)
Enea Software Inc. v. DCIT (2025) 215 ITD 542 (Delhi) (Trib.)

S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-AO taxed the services of the Assessee as FTS-Held, AO did not clarify what information was required from Assessee-Addition is deleted-DTAA-India-Singapore.[Art. 12(4)(b)] 141

Assessee, a Singaporean entity, offered management services and received money from its Indian subsidiary. AO observed that the Assessee did not demonstrate the nature of the services or the mode or manner in which they were added. The AO taxed them as Financial Technical Services u/s. 9(1)(vii) of the Act. The ITAT observed that though the AO has alleged that the Assessee has failed to furnish necessary details/documents, however, he has not elaborated what were the information required from the Assessee. The ITAT held that the view taken by the AO and the Ld. DRP was contrary to the facts of the case and hence deleted the addition.
(AY. 2019-20)
Tagit Pte Ltd. v. DCIT (2024) 159 taxmann.com 93/122 ITR 717 (Delhi) (Trib.)

S. 9(1)(vii): Income deemed to accrue or arise in India-Royalty/FTS-Foreign company-Taxability of (i) receipt from sale of designs and drawings and (ii) Offshore supply of plants and equipment-Reimbursement for SAP installation-No PE-Not taxable as FTS or royalty-DTAA-India-Germany.[Art. 12] 142

The assessee, a German company, engaged in supply of plants, equipment and technical services in the metallurgical sector, had entered into contracts with Indian clients. The AO treated the consideration received for (i) drawings and designs, and (ii) offshore supply of plant and equipment, as taxable in India under S. 9(1)(vii), treating it as "fees for technical services" (FTS). A reimbursement towards SAP installation was also

brought to tax. The Tribunal noted that these issues had already been decided in favour of the assessee for earlier years (A.Ys. 2005-06, 2014-15 and 2017-18) in ITA No. 1073/Del/2014. Relying on principles of judicial consistency and following the decision in *SMS Concast AG v. DDIT (ITA No. 1361/Del/2012)*, the Tribunal held that sale of drawings and designs is inextricably linked to offshore supply of equipment and is not a separate service. Further, offshore supply of equipment is a sale completely outside India and could not be taxed as FTS or royalty in the absence of a PE. The reimbursement for SAP installation was also held as not taxable in absence of rendering any technical service. However, the Tribunal remanded the matter to the AO for limited verification and reconciliation of the drawings and designs with the relevant projects, giving three effective opportunities to the assessee to explain and prove the linkage. (AY. 2005-06 2014-15 to 2017-18)

SMS Siemag AG v. Deputy DIT (2025) 122 ITR 534 / 211 ITD 119 (Delhi.)(Trib.)

143 **S. 9(1)(vii) : Income deemed to accrue or arise in India-Fees for technical services (FTS)-Functional Service Agreement-Standardized support services-No managerial, technical or consultancy element-Not taxable as FTS-DTAA-India-Belgium. [S.9(1)(vi)), Art. 12(3)(a), 12(3)(b)]**

The assessee, Solvay S.A. (Belgium), received Rs.109.72 crore from its Indian affiliates, Solvay Specialties India Pvt. Ltd. and Sunshine Chemicals, towards centralized functional support services rendered under a Functional Service Agreement. The Assessing Officer held the receipts taxable as "royalty" u/s 9(1)(vi) and under Art.12(3)(a) of the India-Belgium DTAA, while the DRP alternatively treated them as "fees for technical services" under S..9(1)(vii) and Art.12(3)(b), holding that the services were managerial, technical, and consultancy in nature. The Tribunal observed that the services rendered relating to IT, procurement, shared business, HR, finance, communication, legal, industrial and other administrative support were routine, standardized, and provided to group entities on a global scale to ensure operational uniformity and efficiency. They did not involve any control or management of the Indian entities' business, nor any human interface imparting technical expertise or specialized advice. Referring to *GVK Industries Ltd. v. ITO (2015) 371 ITR 453)(SC), DIT (IT) v. Panalfa Autoelektrik Ltd. (2014) 227 Taxman 351)(Delhi)(HC), Springer Verlag GmbH v. DCIT (2022) 197 ITD 173 (Delhi) (Trib)* and the OECD e-commerce report (2001), the Tribunal held that "managerial services" require control of management, "technical services" require application of specialized knowledge in a technical field, and "consultancy services" require human interface and advice. The centralized group services were merely support and coordination functions without these characteristics. Applying the rule of consistency as similar receipts were accepted in earlier years, the Tribunal held that the payments could not be characterized as FTS under Art.12(3)(b) of the India-Belgium DTAA or u/s 9(1)(vii). Accordingly, the addition was deleted. (AY. 2022-23) (ITA No. 2071/Mum/2025, dated 27.10.2025)

Solvay S.A. v. DCIT (IT) (Mum)(Trib) www.itatonline.org

S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Singapore based company-Business of providing/sub-licensing software and earned revenue from maintenance services and training services provided to its Indian customers-Income of assessee from rendering said services would not fall within the ambit of FTS and was not taxable in India-DTAA-India-Singapore. [S. 9(1)(vi), Art. 12] 144

Assessee, a Singapore based company, was engaged in the business of providing/ sub-licensing software to entities in financial service sector. It earned revenue from maintenance services and training services provided to its Indian customers-Assessing Officer held that assessee provided training services related to the basic use of its company's software. CIT(A) deleted the addition. On appeal the Tribunal held that income earned was FTS as per DTAA on the ground that technical knowledge, experience, and skill possessed by the assessee with regard to various aspects were made available in form of advice or services, which were finally used by Indian customers. It was noted that Tribunal in assessee's own case for assessment year 2018-19, held that maintenance services and training services provided by assessee to Indian customers did not fall within ambit of FTS under article 12 of India-Singapore DTAA as services did not make available any technical skills, knowledge, or expertise etc., which enabled Indian customers to apply technology contained therein, and therefore income of assessee from rendering services was not taxable in India. Following same, income earned by assessee from maintenance services and training services was not taxable in India. (AY. 2015-16 2016-17, 2017-18)

DCIT (IT) v. Murex Southeast Asia (P.) Ltd. (2025) 212 ITD 592 (Mum) (Trib.)

S. 9(1)(vii):Income deemed to accrue or arise in India-Fees for technical services-Fabrication charges-From its Indian AE for manufacturing glass-Not fees for technical services-DTAA-India-Singapore [Art. 12(4)] 145

Assessee, a Singapore based company, engaged in business of manufacturing and sale of glass fibers in India. It had provided bushing and fabrication services to an Indian AE. The AO treated the said receipts as fees for technical services. DRP sustained the addition. On appeal the Tribunal held that fabrication charges received by assessee from its Indian AE for manufacturing glass are not FTS under the India-Singapore DTAA. (AY. 2021-22)

Owens Corning (Singapore) (P.) Ltd. v. DCIT (IT) (2025) 212 ITD 110 (Mum) (Trib.)

S. 9(1)(vii) : Income deemed to accrue or arise in India-Fees for technical services-IT support services, maintenance services, etc. to Indian sister concern-Services did not make available technical knowledge, experience, skills, etc.-Not taxable in India-DTAA-India-USA. [S. 9(1)(viib), Art. 12(4)] 146

The assessee, a US-based company, received income from its Indian sister concern for providing IT support and maintenance services. The AO treated the receipts as fees for technical services under section 9(1)(vii)(b) and as fees for included services (FIS) under Article 12(4) of the India-US DTAA, which was upheld by the DRP. On appeal, the Tribunal held that the services rendered did not fall within the scope of 'making available' technical knowledge, experience, or skill as per Article 12. Since the Indian entity could not manage the IT environment independently and needed continuous

recourse to the assessee, the services were not taxable in India as FIS under the DTAA. (AY. 2015-16)
Visteon Corporation v. ACIT (2025) 212 ITD 423 (Chennai)(Trib.)

147 **S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Fees for provisions for other related services-Software itself is not taxable-Addition made for other related services is deleted-DTAA-India-UK.[S. 9(1)(vi), Art. 13]**
Assessee, a UK based company, which is engaged in business of providing information technology related services to financial payments industry. During year, assessee had earned revenue from Indian customers on account of sale of software (Prime) license fee and fee for provision for other related services. Assessing Officer held that receipts on account of fee for provision for other related services constituted fees for technical services (FTS) within meaning and scope of article 13(4)(c) of India-UK DTAA. Department had not brought any evidence on record to substantiate that make available condition was satisfied in case of assessee. Tribunal held that software itself was not taxable, 'Fees for provisions for other related services' will also not be taxable. Addition is deleted. (AY. 2020-21)
TSYS Card Tech Ltd. v. DCIT (2025) 211 ITD 201 (Delhi) (Trib.)

148 **S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Supply of drawings and designs-Not assessable as fees for technical services-Supervisory services-Contract competition method-Remanded to the Assessing Officer-DTAA-India-Germany. [S.9(1)(vi, 147, Art. 7, 12]**
Assessee, a German company, is engaged in the business of supply of plant, equipment, drawings and rendering of technical services to customers in metallurgical sector. During year under consideration, assessee entered into various contracts with Indian clients for supply of drawings and designs in relation to plant from Germany and rendering of technical services. Assessee offered receipts from drawings and designs and technical services as fees for technical services' (FTS) at rate of 10 per cent as per DTAA between India and Germany. Assessing Officer held that the assessee had not offered to tax receipts from one Indian company (JSPL). Accordingly, he proceeded to reopen assessment and brought to tax receipts from one Indian company at 10 per cent as FTS. On appeal, following the order of the sister concern since the provisions of royalties and FTS are similar in nature, Assessing Officer was to be directed to delete addition. As regards supervisory services, the assessee, following the contract competition method the issue is remanded to the Assessing Officer. (AY. 2005-06, 2014-15, to 2017-18)
DCIT v. SMS Siemag AG. (2025) 211 ITD 119 (Delhi) (Trib.)

149 **S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Make available-Provided/sublicensed software to entities in financial service sector and also provided maintenance, support and training services and received fees towards same-No PE in India-Recipient, fees received by assessee could not be taxed in India-Additional services related to implementation and migration of software to its Indian customers-Business receipts-No PE in India-Not taxable-DTAA-India-Singapore. [S.9(1)(i), Art. 12(4)(b)]**
Assessee, a Singapore based company, which is engaged in business of providing/sublicensing software to entities in financial service sector and also provided

maintenance, support and training services Assessee received fees towards maintenance, other support and training services provided to its Indian customers. Assessee claimed that it did not have any permanent establishment (PE) in India and, thus, said receipts could not be taxed in India. Assessing Officer held that assessee had made available technical knowledge, know-how, skill etc. to service recipient and, thus, fees received would qualify as FTS under article 12(4)(b) of DTAA as well as section 9(1)(vii). DRP up held the order of the AO. On appeal the Tribunal held that the assessee was providing identical nature of services year on year basis and had not made available technical knowledge, know-how, skill etc. to the service recipient. Since the assessee did not have any PE in India, fees received by it for providing maintenance, support and training services could not be taxed in India. As regards additional services related to implementation and migration of software to its Indian customers is business receipts as there is no PE in India, the receipt is not taxable.(AY. 2019-20, 2021-22)
Murex Southeast Asia (P.) Ltd. v. DCIT, IT (2025) 211 ITD 106 (Mum) (Trib.)

S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Cost Contribution Agreement (CCA) with group company, incorporated in UK, for provision of Business Support Services (BSS)-Services were in nature of managerial services and not technical services-Not taxable as fee for technical services (FTS)-The amount received by assessee, a UK based company, towards usage charges of software was not payment of royalty for use of copyright in computer software, and same did not give rise to any income taxable in India-DTAA-India-UK. [S. 9(1)(vi), Art. 13] 150

Held that the amount received in respect of Cost Contribution Agreement (CCA) with group company, incorporated in UK, for provision of Business Support Services (BSS), since services were in nature of managerial services and not technical services which made available, same were not taxable as fee for technical services (FTS) in hands of assessee. Similarly the amount received by assessee, a UK based company, towards usage charges of software was not payment of royalty for use of copyright in computer software, and same did not give rise to any income taxable in India. (AY. 2011-12)
Shell international petroleum company Ltd. v. ACIT (IT) (2025) 211 ITD 302 (Mum) (Trib)

S. 9(1)(vii): Income deemed to accrue or arise in India-Fees for technical services-Sales commission received by USA Company from Indian company-marketing services provided outside India-Cannot be considered as FTS under 9(1)(vii) and Article 12 of DTAA-Not taxable in India-DTAA-India-USA. [Art. 12] 151

Assessee is a USA company and a subsidiary of Indian company. The company provides sales and marketing services to the holding company for the product/services in the global market. AO treated the sales commission received by the company from the Indian company as Fees for Technical services. The Tribunal held the matter as covered by the earlier order of same ITAT in the case of assessee based on the reasoning that the assessee is not providing any technical, managerial or consultancy services rather has been engaged to act as authorized business partner to market and promote the products or services of Holding company outside India. The decision regarding what are the products/services that are to be developed or provided, the price to be charged to the customer etc. are solely taken by Indian Co. The assessee does not play any role in the decision-making process. Further, once the assessee procures the orders, it is at

the discretion of Indian Co. whether to sell the product or render services to identified customers. Further, it was held that the payments towards sales and marketing services provided by the assessee is not covered under sub-clause (a) to Article 12(4) of India-USA DTAA, as it is not ancillary to application or enjoyment of any right. Further, clause (b) to Article 12(4) of India-USA DTAA is only applicable if the services are in the nature of technical or consultancy services. The sales and marketing services rendered by assessee is not in the nature of technical or consultancy services. Therefore, it was held that income can neither be considered as FTS under the Act nor under the DTAA provisions. Not taxable in India. (AY.2013-14 to 2016-17)
Manthan System Inc v. DCIT (IT). [2025] 121 ITR 198/172 taxmann.com 8 (Bang)(Trib)

152 **S. 10(1): Agricultural income-Hybrid seeds-Assessee not owner of agricultural land-Agricultural operations carried out jointly with farmers-Exemption allowable.**
The assessee, engaged in the business of producing and marketing hybrid seeds through agreements with farmers, claimed exemption under section 10(1). The Assessing Officer denied the claim on the ground that the assessee neither owned nor leased the agricultural land and merely supervised the activities. The Tribunal held that ownership or possession of land is not a pre-condition for claiming agricultural income. The agreements with the farmers, coupled with their statements, established that the assessee actively participated in all stages of cultivation, including sowing, germination, detasseling and harvesting, and compensated the farmers based on production. As the facts were identical to earlier years in which the assessee's claim had been accepted by the Tribunal and the High Court, the exemption under section 10(1) was held to be allowable. (AY. 2009-10, 2012-13).
Bayer Crop Science Ltd. (Successor to Monsanto India Ltd.) v. Dy. CIT (2025) 130 ITR 679 (Mum.)(Trib.)

153 **S.10 (1) : Agricultural income-Capital asset-Agricultural land-Land situated within Gram Panchayat-Population below prescribed limit-Rural agricultural land not a capital asset-Estimation-Agricultural operations established by revenue records-Absence of regular books-Fair estimation of income justified.[S. 2(14)(iii), 132(4), 153A]**
The assessee claimed that the land sold during the year was rural agricultural land and, therefore, not a capital asset. The lower authorities rejected the claim on the ground that the land was situated within a specified distance from the municipal limits. The Tribunal held that the land was situated within the jurisdiction of a Gram Panchayat having a population of only 382 persons and not within the jurisdiction of any municipality or municipal corporation. Since the conditions prescribed under section 2(14) were not satisfied, the land did not constitute a capital asset and the capital gains arising from its transfer were not chargeable to tax. The Assessing Officer treated the agricultural income declared by the assessee as income from other sources for want of supporting vouchers and records. The Tribunal held that agricultural operations were duly established by Khasra Girdawari and other revenue records showing cultivation of crops on the land. Since maintenance of regular books is not statutorily required for agricultural activities, agricultural income has to be fairly estimated where complete vouchers are not available. Considering the irrigated land and crops cultivated, the

Tribunal estimated the agricultural income at ₹ 1.50 lakh and deleted the addition made by the Assessing Officer (AY. 2015-16).
Vinaya Sharma v. Asst. CIT (2025) 130 ITR 738 (Jaipur)(Trib.)

S. 10(10AA) : Leave salary-Employee of the Central Government or State Government-State Bank of India-Retired employee of State Bank of India-Not violative of Article 14 of the Constitution of India.[Art. 14, 15, 226, Central Civil Services (Leave)Rules 1972] 154
Assessee retired from the services of State Bank of India and claimed exemption u/s10(10AA) of the Act. The exemption is denied. The assessee contended that the law discriminating between Central or State services, in case of employees of other establishments, period of leave was capped at 10 months and maximum amount exempted from income tax was subject to such limit as Central Government might notify in Official Gazette, that same being in year 2017 to be Rs. 3 lakhs was discriminatory and hence be declared ultra vires. On writ, the Court held that the State has wide discretion in the matter of classification for taxation purposes. Accordingly, the differentiation made by the State between employees of Central and State Governments on one hand and employees of other establishments on the other in section 10 (10AA) was neither discriminatory nor violative of Article 14 of the Constitution. Therefore, a retired employee of State Bank of India could not claim parity with employees of the Central and State Government. Writ petition is dismissed.
Purnendu Shekhar Sinha v. UOI (2024) 471 ITR 186 /159 taxmann.com 746 (Patna) (HC)

S. 10(10AA): Leave salary-Employee of the Central Government or State Government-Allowed only partial exemption-Matter was remanded for fresh adjudication in light of said notification and related judicial pronouncements. [S.10AA(ii)] 155
Assessee received leave encashment on retirement, claimed full exemption under section 10(10AA)(ii), but was allowed only partial exemption. Tribunal held that since CBDT vide Notification No. 31/2023 dt 24-5 2023, had enhanced limit of exemption under section 10(10AA)(ii), matter was remanded for fresh adjudication in light of said notification and related judicial pronouncements. (AY. 2020-21)
Sunil Kumar Bhilare v. ITO (2025) 215 ITD 476(SMC) (Pune) (Trib.)

S. 10(10B) : Compensation-Workmen-Voluntary Retirement Scheme on closure of the company-Entitled to exemption-Gratuity-Salary includes gratuity-Relief to be provided under section 89 in taking net gratuity amount. [S 10(10)(C), 17(iii), 89] 156
The Assessee was an employee in the company. The Assessee received monetary benefits such as salary, compensation, gratuity and leave encashment under the Voluntary Retirement Scheme on closure of the company. The Assessee filed the original return of income, and subsequently the same was revised wherein the Assessee claimed exemption under section 10(10C) of the Act, apart from claiming exemption against Gratuity and Leave Encashment under section 10 as per Form 16. The Assessee also claimed rebate under section 89 on gratuity and VRS compensation. The AO passed the assessment order by allowing exemption under section 10(10C) of the Act and rejecting the claim under section 89 by holding that the Assessee is not entitled to both the exemption under section 10(10C) and benefit under section 89 of the Act. Being aggrieved, the appeal was filed before CIT(A). In the appellate proceedings, the Assessee challenged the disallowance

of claim under section 89 and also raised a new claim that, the Assessee is entitled for the exemption under section 10(10B) instead of 10(10C) against VRS compensation. However, the CIT(A) did not allow any relief as claimed. Thus, being aggrieved by the order of the CIT(A), the appeal was preferred before the ITAT. The ITAT observed that, in the case of other employees, the CIT(A) has consistently allowed the claim of exemption under section 10(10B) of the Act. In case of some of the employees, the AO at the assessment level has allowed the claim of the Assessee. Thus, it is a classic case of unnecessary litigation which has left the Assessee l with no option but to seek necessary redressal. Further, this issue has been examined by the Hon'ble Madras High Court in the case of Hindustan Photo Film Workers decision dated 17/03/2017 in writ petition no. 18566 of 2015 and thereafter has attained finality in view of the dismissal of the SLP by the Hon'ble Supreme Court. Thus, the appeal of the Assessee was allowed by the ITAT. Tribunal also held that salary includes gratuity; therefore, relief is to be provided under section 89 in taking the net gratuity amount. [AY. 2017-18]
Bhup Singh v. ITO (2025) 131 ITR 370 (Chd)(Trib.)
Kishori Lal Batra v. ITO (2025) 131 ITR 370 (Chd)(Trib.)
Suresh Pal Chauhan v. ITO (2025) 131 ITR 370 (Chd)(Trib.)
Surinder Singh v. ITO (2025) 131 ITR 370 (Chd)(Trib.)
Mehara Singh Saini v. ITO (2025) 131 ITR 370 (Chd)(Trib.)

157 **S. 10(20) : Local authority-Not claimed the benefit-Order of High Court is set a side and the matters are remanded to the High Court for consideration afresh in accordance with law and on their own merits.[S. 11, 12, Art. 136]**
Held that the assessee has not claimed benefit under s. 10(20), the High Court was not justified in considering the matter under s. 10(20); impugned orders are set aside and the matters are remanded to the High Court for consideration afresh in accordance with law and on their own merits. Followed, *CIT (E) v. Jaipur Development Authority (2022) 329 CTR (SC) 222 : (2022) 218 DTR 530 (SC).*
CIT (E) v. Jaipur Development Authority (2025) 342 CTR 236 / 245 DTR 14 (SC)
Editorial : CIT (E) v. Jaipur Development Authority (ITA Nos. 218 of 2017 and 113 of 2016 dt. 6-9-2017 (Raj)(HC)

158 **S. 10(23AAA): Funds established for the welfare of employees-Army school established and funded by the regimental fund of the Indian Army-Welfare of defence personnel-The matter was remanded to the Assessing Officer for fresh consideration.**
Held that the assessee, an Army school established and funded by the regimental fund of the Indian Army for the welfare of defence personnel, claimed exemption under section 10(23AA of the Act. Tribunal remanded the matter to the Assessing Officer for fresh consideration. (AY. 2019-20)
Army Base Workshop High School v. ITO (2025) 215 ITD 142 (SMC) (Bang) (Trib.)

159 **S. 10 (23C) : Hospital-Profit motive-Exemption rightly denied-Permitted to withdraw the appeal-Appeal was dismissed as withdrawn. [S.10(23C)(via), Art. 136]**
The assessee-trust was running a hospital and applied for approval under section 10(23C). The Chief Commissioner rejected the application on the ground that the hospital was being run with a profit motive. On examination of the annual accounts of earlier years, it

was found that the assessee was consistently generating surplus, its assets were increasing, and only a very small amount was spent on the weaker sections of society. The High Court held that an institution which appears charitable but is in fact run for profit does not qualify for exemption under section 10(23C), and therefore the rejection of approval was justified. The assessee's application for withdrawal of appeal against the said high court order was allowed by the Hon. Supreme Court.(AY. 2009-10)
Yash Society v. Chief CIT (2025) 306 Taxman 355 (SC)
Editorial: Affirmed, Yash Society v. CCIT (2015) 231 Taxman 256/375 ITR 152/275 CTR 510 (Bom)(HC)

S. 10 (23C): Educational institution-Ancillary activities were connected with the main activity of imparting education-Nominal profit earned was again utilised for the main object of education-Entitled to exemption. [S. 10(23C)(vi), 260A] 160
From the trust-deed translated and reproduced in English, the Tribunal found that the assessee carried out all other ancillary activities, such as promotion of cultural, social and sports necessary for building the character of students, and that these were co-related to the main activity of education. It further found that the nominal profit earned by the assessee while it carried out the charitable activities were not with a profit motive and the profit so earned was again utilised for charitable activities by it. Accordingly, the Tribunal held that the other ancillary activities were only to promote the main activity of education, and the nominal profit earned did not mean that the assessee was engaged in commercial activities. On appeal. Order of Tribunal affirmed. (AY. 2019-20)
CIT (E) v. Star Education Trust (2025) 483 ITR 268 (Guj)(HC)

S. 10 (23C): Educational institution-Hospital or medical institution Grand-in-aid from Government Effect of section 10(23C) (iiiac)-Interest on grants-in-aid-To be added to grants-in-aid or returned to Government-Interest entitled to exemption [S. 10(23C) (iiiac)] 161
Held, dismissing the appeal, that the issue raised was for the assessment year 2013-2014. Upon reading the provisions of section 10(23C)(iiiac) of the Act and rule 2BBB of the Income-tax Rules, 1962 it was clear that in the given period, the Government had to either directly fund the concerned hospital or institute or seek adjustment by factoring in the interest earned on previous grants. In case there was no adjustment, the interest, would have to be returned to the concerned Government for being credited to the Consolidated Fund of India. That being the position, no interference was called for with the order. No substantial question of law arose for consideration. Finance (No. 2) Act, 2014, with effect from April 1, 2015 ((2014) 366 ITR (St) 21).
CIT (E). v. Institute of Liver and Biliary Sciences (2025) 482 ITR 1004 (Delhi)(HC)

S. 10 (23C): Educational institution-Multiple objectives beyond educational purposes-Not founded and existed solely for educational purposes-Denial of exemption is affirmed. [S. 10(23C)(vi), Art. 226] 162
The Commissioner rejected the application on the ground that the assessee did not exist solely for educational purposes. On writ dismissing the petition the Court held that order of the Commissioner rejecting the application is justified. (AY. 2012-13)
Shri Guru Hargobind Sahib Charitable Trust v. CBDT (2025) 473 ITR 580 (P&H)(HC)

163 **S. 10 (23C): Educational institution-Exemption-Registration under S. 12A not mandatory-Addition was deleted.(S. 10(23C)(iiiad), 12A, 144)**

An educational institution whose annual receipts were below the prescribed monetary limit was entitled to exemption under section 10(23C)(iiiad) notwithstanding the absence of registration under section 12A. Cash deposits made during the demonetisation period, being lower than the fees received from students, were rightly treated as educational receipts and not business income. In the absence of any material to show that the institution did not exist solely for educational purposes, the addition was deleted. (AY. 2017-18)

National Institute for Teacher Education v. ITO (2025) 121 ITR 72 (SN) (Guwahati)(Trib.)

164 **S. 10 (23C): Educational institution-Exemption-Substantially financed by Government-CPC-Processing of return-Interest on Government grant-Public-private partnership-Denial of exemption was not justified. [S.10(23C(iiiab), 143(1)]**

An educational institution established under the Ministry of Labour and Employment was held entitled to exemption under section 10(23C)(iiiab). The Tribunal held that Government grants received in earlier years and invested in fixed deposits continued to constitute Government funding, and the interest earned thereon, being utilised solely for the objects of the institution, retained the character of Government financing. As the institution was substantially financed by the Central Government, denial of exemption by the CPC and the Commissioner (Appeals) was not justified. (AY. 2022-23)

Institute Management Committee of Government ITI Peth v. ITO (2025) 121 ITR 76 (SN) (Pune)(Trib.)

165 **S. 10(23C): Educational institution-Registration-Wrong provision mentioned in application-Technical mistake by counsel-Genuine institution already in existence-Final approval cannot be denied on hyper-technical ground. (First proviso cls. (iii), (iv))**

The assessee, an Indian Institute of Management established by the Government of India and declared an institution of national importance, obtained provisional approval under an incorrect sub-clause due to an inadvertent error while filing Form No. 10A. Though the CIT(E) accepted the genuineness of the activities, final approval under section 10(23C) was rejected on the ground that provisional approval itself was wrongly granted as the institution had already commenced its activities. The Tribunal held that the error was purely technical and attributable to the incorrect selection of the relevant provision. Since there was no dispute regarding the objects or genuineness of the institution, the CIT(E) was directed to grant approval by treating the assessee as an institution existing prior to 1-4-2021. (AY. 2024-25)

Indian Institute of Management v. CIT (2025) 128 ITR 23 (Chd.)(Trib).

166 **S. 10 (23C): Educational institution-Filing of return-total income of the assessee without giving effect to the provisions of s. 10(23C)(iiiad)] exceeded the maximum amount not chargeable to income-tax-Not required to file return of income either under section 139(1) or under section 139(4C)-Return filed in response to section 148 cannot be treated as invalid-Disallowance of claim was not justified. [S. 10(23C)(iiiad), 139(1) 139(4C), 148]**

Tribunal held that there is nothing on record to show that the total income of the assessee without giving effect to the provisions of s. 10(23C)(iiiad) exceeded the

maximum amount not chargeable to income-tax. The assessee was not required to furnish a return of income either under s. 139(1) or s. 139(4C). The assessee having complied with the notices issued under s. 148 and filed returns within the specified period, said returns could not be treated as invalid returns on the ground that the same were not filed within the time prescribed under s. 139(1) and, therefore, claim of exemption under s. 10(23C)(iiiad) could not be denied on that ground.(AY. 2013-14, 2014-15)

Institute Management Committee ITI Jhalawar v. ITO (2025) 236 TTJ 420 / 174 taxmann.com 1071 (Jaipur)(Trib)

S. 10 (23C): Educational institution-Exemption-Return-Wrong ITR Form cannot defeat exemption [S. 139, 10(23C)(iiiad)] 167

The assessee claimed exemption under section 10(23C)(iiiad) but filed the return in the wrong ITR Form. The Tribunal held that filing an incorrect return form is only a procedural lapse and cannot deprive the assessee of a substantive exemption. The matter was restored to the Assessing Officer to examine the eligibility of the exemption on merits. (AY. 2018-19)

Sree Vishwabharathi Charitable Trust v. ITO (2025) 238 TTJ 828 / 178 taxmann.com 544 (Bang.)(Trib.)

S. 10(23C): Educational institution-Wrong sub-clause mentioned in return-Institution otherwise eligible-Exemption allowable-Appeal to Appellate Tribunal-Delay of 691 days and 706 days-Delay caused by Chartered Accountant's misrepresentation-Sufficient cause-Delay condoned. [S. 10(23C)(iiiab), 254(1)] 168

The assessee claimed exemption under an incorrect sub-clause of section 10(23C) due to an error committed by its Chartered Accountant. The Tribunal held that the assessee was substantially financed by the Government and otherwise fulfilled all the conditions of section 10(23C)(iiiab). A mere mistake in quoting the wrong provision could not deprive the assessee of the statutory exemption. The assessee, an agricultural university, explained that its Chartered Accountant had misrepresented that the appeals had already been filed and it became aware of the default only upon receipt of recovery notices. Considering that the university officials had no specialised tax knowledge and had acted bona fide, the Tribunal condoned the delays of 691 days and 706 days in filing the appeals. (AY. 2018-19 & 2019-20).

Punjab Agricultural University v. Dy. CIT (2025) 124 ITR 134 / 170 taxmann.com 86 (Chd.) (Trib.)

S. 10 (23C): Educational institution-Approval-Exemption claimed u/s 10(23C)(iiiad)-Only after receipt of approval u/s 10(23C)(i) r.w.s. 10(23C)(vi) for the relevant year-held, it was entitled to claim exemption u/s 10(23C) even though it was not registered u/s 12A[S. 10(23C(1), 10(23C)(vi), 12A] 169

The only issue involved is whether the adjustment can be done u/s 143(1), only on the basis of approval received u/s 10(23C)(i) r.w.s. 10(23C)(vi) but in the absence of approval u/s 12A. It was held that, in principle, the findings of the Commissioner (Appeals) in the impugned order were well-reasoned. But the anomaly arose after the approval u/s

10(23C)(i) r.w.s. 10(23C)(vi) was received, as the assessee's entire income having derived from the educational institution, was fully exempted even after the said adjustment, as the tax cannot be levied on the exempted income. In such facts and circumstances, the matter was restored back to the AO to give effect to the order passed u/s 10(23C)(i) r.w.s. 10(23C)(vi) for the relevant year as the assessee was entitled to claim exemption u/s 10(23C). Therefore, the AO was directed to allow the benefit of S. 10(23C) and allow consequential relief to the assessee. (AY. 2022-23)

Ashrafi Devi Shikha Samiti (Smt.) v. ITO (E) (2025) 172 taxmann.com 568 / 123 ITR 23 (Delhi)(Trib.)

170 **S. 10 (23C): Educational institution-Delay in filing application-No mala fide conduct or gross negligence-Delay was condoned-Matter was remanded to the file of CIT (E). [S.10(23C)(5)]**

CIT(E) rejected assessee's application on the ground of delayed filing. On appeal, the Tribunal held that procedural delay should not defeat substantive rights in the absence of mala fide conduct or gross negligence. The delay was condoned, and the matter was remanded to CIT E) to decide on the merits.

Chetana v. CIT (E) (2025) 214 ITD 91 (Mum) (Trib.)

171 **S. 10 (23C): Educational institution-Clerical omission, deduction was claimed under section 10(23C)(iiiad) instead of the correct section 10(23C)(vi)-Order of Assessing Officer rejecting the request for rectification was set aside. [S. 10(23C)(iiiad), 10(23C)(vi), 11, 12, 12AA Form No.10B]**

Assessee-trust, running an educational institution, was registered under section 12AA and also under section 10(23C)(vi). In return for income, assessee had claimed exemption under section 10(23C)(iiiad). Assessing Officer held that assessee was neither entitled to claim exemption under section 10(23C)(iiiad) as it could be given only up to annual receipts of Rs. 1 crore in view of rule 2BC nor under section 11, due to non-submission of Form 10B along with return, which was required to be filed online in accordance with section 12A(b). The Assessing Officer rejected the request for rectification of mistake. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that the assessee had mentioned that due to a clerical omission, deduction was claimed under section 10(23C)(iiiad) instead of the correct section 10(23C)(vi) and had submitted a rectification request to substitute section 10(23C)(vi) in place of section 10(23C)(iiiad), which was rejected. Further, required Form No. 10B could not be submitted in electronic mode despite best efforts but was submitted in physical form by assessee's Chartered Accountant and the same was accepted by the Assessing Officer. Tribunal held that since such a clerical mistake should have been rectified by the revenue authorities, the rejection order was set aside. Since Form No. 10B was submitted in physical form before the prescribed date of filing of return, the Assessing Officer should not have denied the rightful claim of assessee merely on the basis that Form No. 10B was not filed along with return in electronic form.(AY. 2017-18)

Om Charitable Chikitsa Samiti v. Assessing Officer (E) (2025) 214 ITD 633 (Agra) (Trib.)

S. 10 (23C): Educational institution-University was established by State Legislature Act-Substantially financed by Government to the extent of 31.76 per cent-Eligible for exemption under section 10(23C)(iiiab) [S. 10(23C)(iiab)] 172

Assessee-university was established by the State Legislature Act. It claimed exemption under section 10(23C)(iiiab). Assessing Officer held that the government grant as a percentage of total receipts was computed by assessee at 47 per cent; however, he recomputed it at 31.76 per cent. Assessing Officer held that the expression 'substantially financed' required a government grant to exceed 50 per cent of total receipts and, accordingly, denied exemption. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that financing to the extent of 37.85 per cent and even 25 per cent could constitute substantial financing as held by High Courts;,therefore, the assessee was substantially financed by the Government in the relevant year and was eligible for exemption under section 10(23C)(iiiab) of the Act. (AY. 2012-13)

Guru Nanak Dev University v. DCIT (2025) 213 ITD 410 (Chd) (Trib.)

S. 10 (23C): Educational institution-Cash deposits in bank-Denial of exemption-Entire deposits cannot be added-Income has to be computed on a commercial basis after allowing the expenditure-Matter remanded to the file of the Assessing Officer. [S. 10(23C)(iiiab), 148] 173

Assessee university claimed that its income was exempt under section 10(23C)(iiiab). Accordingly, it did not file a return of income. However, no return of income was filed. The Assessing Officer added the entire cash deposits in the bank account, interest income and payments to hotel and restaurant bills to the income of the assessee without allowing any expenditure. CIT(A) dismissed the appeal on account of delay in filing of the appeal. On appeal, the Tribunal held that even if exemption under section 10(23C) (iiiab) was not allowed, entire deposits which were claimed to be out of fee received and grants from Government could not have been added without considering income on a commercial basis and after allowing expenditure. Therefore, the order of the Assessing Officer was to be set aside, and the issue was to be remitted to file of Assessing Officer for framing the assessment afresh after considering submissions which might be filed by the assessee in support of its claim for exemption under section 10(23C)(iiiab). (AY. 2015-16)

University of North Bengal v. DCIT(E) (2025) 213 ITD 415 (Kol) (Trib)

S. 10 (23C): Educational institution-Two educational institutions-Each educational institution had earned gross receipts of less than Rs. 1 crore from each school-Income is exempted from tax as per provisions of section 10(23C)(iiiad) of the Act.[S. 10(23C) (iiiad)] 174

Assessee-society was running two educational institutions. It had earned gross receipts of less than Rs. 1 crore from each school. Assessee claimed that since it was existing solely for educational purpose, income earned by it would be exempted from tax as per provisions of section 10(23C)(iiiad) read with rule 2BC of Income-tax Rules, 1962. Assessing Officer denied exemption on ground that assessee had received total receipts of Rs. 1.25 crore which was more than Rs. 1 crore. CIT(A) up held the order of the AO. On appeal the Tribunal held that since annual income was less than Rs. 1 crore from

each school and existing solely for educational purposes, income of assessee is exempt from tax.(AY. 2018-19)
ICF Silver Jubilee Nursery & Primary School v. DCIT (2025) 212 ITD 72 (Chennai) (Trib.)

175 **S. 10(23C): Educational institution-Provisional registration-Rejection of final registration on technical mistake was set aside-Commissioner (E) was to be directed to grant approval as if it was an old Institute, which came into existence prior to 1-4-2021 and was entitled to get approval under clause (iii) of first proviso to clause (23C) of section 10. [S.10(23C) (iii)]**
Assessee was a Centrally Funded Institution of National Importance set up by Government of India in 2015. Assessee applied for provisional registration in Form 10A and said provisional registration was granted in Form 10AC under sub-clause (A) of clause (iv) of first proviso to clause (23C) of section 10. Thereafter, assessee applied for final registration under clause (iii) of first proviso to clause (23C) of section 10. Commissioner (E) denied approval on ground that provisional approval could not have been granted to assessee as assessee had already commenced its activities in 2015 and, thus, provisional approval being bad in law was rejected.On appeal the Tribunal held that since approval was refused only on account of technical mistake on part of assessee, who inadvertently had chosen wrong sub-section while moving application for approval, Commissioner (E) was to be directed to grant approval to assessee as if it was an old Institute, which came into existence prior to 1-4-2021 and was entitled to get approval under clause (iii) of first proviso to clause (23C) of section 10.
Indian Institute of Management v. CIT (E) (2025) 212 ITD 485 (Chd.) (Trib.)

176 **S. 10(23C): Educational institution-Wrong sub section is mentioned in the return-Mistake of counsel-Exemption is allowed-Non filing of audit report-Not applicable to university-Entitle to exemption-Delay of 691 and 706 days-Mistake of counsel-Delay is condoned. [S. 10(23C)(iiiab), 12A, 44AB, 253(5), 254(1)]**
Delay of 691 days and 706 days in filing the appeal was due to mistake of counsel. Delay is condoned. Held that claim for exemption cannot be disallowed simply because while filing the return of income, wrong sub-clause of S. 10(23C) has been mentioned by mistake. Tribunal also held that non-filing of audit report-Condition of filing audit report under s. 44AB and registration under s. 12A is not applicable to assessee university. It was merely a mistake on the part of the counsel in claiming the exemption by mentioning wrong sub-clause of s. 10(23C). Entitle to exemption. (AY. 2018-19, 2019-20)
Punjab Agriculture University v. Dy.CIT (E) (2025) 170 taxmann.com 86/ 124 ITR 134 / 233 TTJ 58 (UO)(Chd)(Trib)

177 **S. 10(23C): Educational institution-Grants-Interest from fixed deposits-Interest received on fixed deposits made out of unspent grants would be treated as a grant and if said interest amount was added to total grants received during year-Excess of 50 per cent-Entitled to exemption.[S. 10(23C)(iiiac)]**
Assessee-trust is running an educational institution. It claimed exemption under section 10(23C)(iiiac). Assessing Officer denied exemption on ground that assessee had received less than 50 per cent of total receipts as grant from Government. On appeal the CIT(A)

allowed the exemption. On appeal the Tribunal held that the assessee had received a grant of certain amount and apart from said grants, assessee had also received interest on term deposits made by assessee out of excess credits of unspent grant. Interest received on fixed deposits made out of unspent grants would be treated as a grant and if said interest amount was added to total grants received during year, it would exceed 50 per cent prescribed under section 10(23C)(iiiac). Eligible exemption. (AY. 2017-18, 2018-19)

ACIT v. Karnataka Institute of Diabetology (2025) 211 ITD 210 /235 TTJ 874 (Bang) (Trib.)

S. 10(23C): Educational institution-Objectionable clause-Not carried out any activities as per objectionable clauses-Exemption cannot be denied-Modified the objectionable objects-Matter remanded to Commissioner (E). [S.10(23C)(iv), Companies Act, S.8] 178

Assessee-society is an approved educational institution under section 10(23C)(vi). It has converted into a section 8 company Since status of assessee changed from society to section 8 company, it filed an application seeking grant of fresh approval under section 10(23C)(vi) of the Act. Commissioner (E) rejected application on ground that assessee-company's objects included running rehabilitation centres, medical centres, clinics, providing free medical services to poor people which were not solely for educational or incidental to educational activities. On appeal the Tribunal held that mere mention of fact that certain activities were authorized to be undertaken by assessee could not in any manner prove to be a hindrance without said activities having actually been undertaken by assessee and, therefore, assessee could not be penalized or faulted for any activity which it had not yet undertaken solely on ground that it might, on some future uncertain date, undertake those activities which in opinion of Commissioner (E) might not be held to be wholly attributable to purpose of imparting education. The Tribunal also held that the assessee had already modified its objects by removing objectionable objects referred to Commissioner (E) hence the matter is remitted back to Commissioner (E).

G.H.R. Educational Foundation v. CIT(E) (2025) 211 ITD 684 / 125 ITR 164 (Nagpur) (Trib.)

S. 10(23D) : Mutual Fund-Income-Exemption-Scheme vested in UTI Mutual Fund-Separate SEBI registration for each scheme not necessary-Exemption allowable. [Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, Sch. II, Entry 37] 179

The Assessing Officer denied exemption under section 10(23D) on the ground that the assessee-trust did not possess a separate registration from the Securities and Exchange Board of India. The Tribunal held that the assessee's scheme had vested in UTI Mutual Fund under the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 and was one of the schemes approved by SEBI through the registration granted to UTI Mutual Fund. Separate registration of each scheme was not a statutory requirement. Accordingly, the exemption under section 10(23D) was held to be allowable. (AY. 2014-15, 2016-17, 2017-18 & 2018-19).

Dy. CIT v. UTI India Fund Unit Scheme 1986 (2025) 129 ITR 207 (Mum.)(Trib.)

180 **S.10(23G): Infrastructure undertaking-Banking company-Made investments or had advanced loans to companies engaged in business of infrastructure development-Eligible for claiming exemption.**

Assessee banking company claimed exemption under section 10(23G)-Assessing Officer was of view that exemption under section 10(23G) was available to any infrastructure capital fund or infrastructure capital company and since assessee was a financial institution engaged in business of banking, therefore, was neither an infrastructure capital company nor an infrastructure fund and therefore, assessee was not eligible for claim of exemption under section 10(23G). CIT(A) allowed the claim of the assessee. On appeal the Tribunal held that CBDT circular no. 762 dated 18th February 1998, makes it clear that even a company which is directly not carrying out development of infrastructure facilities would also be eligible for exemption if it invests in shares or providing long term finance to an enterprise engaged in business of providing infrastructure would be treated as infrastructure capital company, therefore, since assessee had made investments or had advanced loans to companies engaged in business of infrastructure development, assessee was eligible for claiming exemption under section 10(23G). Order of the CIT(A) is affirmed.](AY. 2006-07)

DCIT v. ICICI Bank Ltd. (2025) 210 ITD 643 (Mum(Trib.)

181 **S. 10(25): Recognised Provident Fund-Exemption-Income of recognised PF not taxable. [S.10(23AAA), 10(25)(ii), 139]**

Assessee, a recognised Provident Fund, claimed exemption on interest income under S. 10(23AAA), which was denied by the AO and CIT(A). Before the Tribunal, the assessee raised an additional ground claiming exemption under S. 10(25)(ii). The Tribunal accepted the contention and held that the income of a recognised provident fund is unconditionally exempt under S. 10(25)(ii) and such assessee is not required to file a return of income, as clarified by CBDT Circular No. 4/2002.

Mayurakshi Gramin Bank Employees Provident Fund v. DCIT (2025) 122 ITR 50 (SN) (Kol.) (Trib.)

182 **S.10(26): Schedule Tribes-Member of Scheduled Tribe community of Rajasthan, was posted at Agartala, Tripura, a specified area-Entitled to benefits of exemption from income tax flowing from provisions of section 10(26) of the Act.[Art. 226]**

Assessee belonged to Meena community, which was considered a Scheduled Tribe under the Constitution Scheduled Tribe State Order, 1951, in State of Rajasthan. He was recruited in Border Security Force in year 1991 as an Assistant Commandant. Assessee claimed exemption under section 10(26) and sought refund of income tax deducted from his salary. On writ the Court held assessee claimed exemption of income tax for period he was posted in Agartala, Tripura. Since Agartala, Tripura is a specified area under the provisions of section 10(26), assessee would be entitled to the benefits of exemption from income tax flowing from the provisions of section 10(26) of the Act.

UOI v. Chyawan Prakash Meena B (2025) (2025) 481 ITR 758 / 174 taxmann.com 271 (Gauhati) (HC)

S. 10(26) : Schedule Tribes-Residing in Ladakh-Failure to prove residence in specified area and income derived from such area-Mere production of ST certificate not sufficient-Concurrent findings of fact not interfered with in writ jurisdiction-Writ petition dismissed. [S. 144, 264, Art. 226] 183

The assessee claimed exemption under s. 10(26) for AY 2016-17. He had not filed his return of income despite being allotted PAN wherein his address was shown as Mumbai. In proceedings initiated under s. 144, the assessee failed to produce material to establish that he satisfied the three statutory conditions under s. 10(26), namely (i) that he belonged to a Scheduled Tribe, (ii) that he was residing in the specified area (Ladakh region), and (iii) that the income claimed as exempt was derived from a source in such specified area. Though an ST certificate dated 17-5-2019 was furnished, no evidence was produced to prove residence in Ladakh during the relevant year or that the bank deposits represented income derived from sources in the specified area. A resident certificate issued subsequently in February 2022 was held insufficient to establish residence during the relevant assessment years. The AO completed the assessment denying exemption; the revision petition under s. 264 was dismissed by the PCIT concurring with the AO's factual findings. On writ, the High Court held that satisfaction of the conditions under s. 10(26) is a question of fact to be determined on evidence. The assessee, having failed to prove residence in the specified area and nexus of income with such area, was not entitled to exemption. In view of concurrent findings of fact by two authorities, no interference was warranted under Art. 226. Writ petition dismissed. (AY. 2016-17)

Mehmood Askari v. UOI (2025) 305 Taxman 528 / 345 CTR 227 / 251 DTR 114 (J&K)(HC)

S. 10(26AAA): Income of Sikkimese-Individual-Income not included-Definition of 'Sikkimese' as amended by Finance Act, 2023-Definition limited to Income-tax Act only-Does not affect rights under Article 371F(k) of Constitution of India-PIL dismissed-SLP dismissed.[Art. 136, 371F(k)] 184

A PIL was filed challenging the constitutional validity of Explanation (v) to section 10(26AAA) of the Income-tax Act, 1961, as amended by the Finance Act, 2023. The amendment expanded the definition of 'Sikkimese' to include individuals not domiciled in Sikkim before 26.04.1975, based on familial connections. The petitioner argued that this violated Article 371F(k), which protects the rights of the indigenous Sikkimese. The Court dismissed the PIL, stating the amendment followed the Supreme Court's directive in Association of Old Settlers of Sikkim v. Union of India. The Court clarified that the definition of 'Sikkimese' pertains only to taxation and does not affect the rights of indigenous Sikkimese under the Constitution. High Court held that the PIL was not justifiable. On SLP the Court observed that the expression "Sikkimese" was expanded only for the purpose of grant of benefit to such persons who came within the scope of the Explanation to section 10(26AAA) of the Act and not for any other purposes as such. The Union of India may also issue a formal notification with regard to what has been stated in the press release, if not already so issued. SLP of assessee dismissed.

Dr. Doma T. Bhutia v. UOI (2025) 481 ITR 501/307 Taxman 4 /347 CTR 114 (SC)

Editorial : Dr. Doma T. Bhutia v. UOI (2025) 481 ITR 495 /172 taxmann.com 293/343 CTR 652 (Sikkim)(HC)

185 **S. 10(26AAA): Income of Sikkimese-Individual-Income not included-Definition of 'Sikkimese' as amended by Finance Act, 2023-Definition limited to Income-tax Act only-Does not affect rights under Article 371F(k) of Constitution of India-PIL dismissed. [Art. 226, 371F(k)]**

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Dr. Doma T. Bhutia v. UOI (2025) 481 ITR 495 /172 taxmann.com 293 / 343 CTR 652 / 247 DTR 580 (Sikkim) (HC)

Editorial : Dr. Doma T. Bhutia v. UOI (2025) 481 ITR 505 /307 Taxman 4 /347 CTR 114 (SC), SLP dismissed.

186 **S.10(34A):Share holder-Buy back of shares-No difference in value-No liability under section 11QA-Not a colourable device-Eligible for exemption. [S.115QA]**

Assessee earned distributed profits by virtue of offering shares of unlisted companies in a buyback scheme floated by such companies. Assessee claimed exemption under section 10(34A) on such profits arising from buyback scheme. Assessing Officer denied exemption on ground that buyback companies did not pay any tax under section 115QA and assessee claimed exemption under section 10(34A).CIT(A) allowed the exemption. On appeal the Tribunal held that in absence of any differential value arising to issuer companies between issue price to original allottees and buy back price, liability under section 115QA to buy back companies did not arise. Exemption cannot be denied. (AY. 2016-17)

ACIT v. Magical Enterprises L.L.P. (2025) 211 ITD 46 (Delhi) (Trib.)

187 **S. 10A: Free trade zone-Liquidation-Matter remanded to avail appropriate legal remedy in accordance with law. [Art. 136]**

High Court dismissed the appeal of the revenue. On appeal, it was found that the assessee-company had gone under liquidation. The appeal was disposed of with liberty to avail appropriate legal remedy before the appropriate forum in accordance with law. (AY. 2009-10)

CIT v. ICSA (India) Ltd. (2025) 307 Taxman 387 (SC)

188 **S. 10A : Free trade zone-Transfer to units outside India-Export sales Tribunal finding they were export sales and allowing exemption-High Court holding no question of law-Assessee-company going into liquidation and unable to pay demand-Matter disposed of leaving question of law open. [S. 10B, Art. 136]**

The Assessing Officer denied the assessee's claim to the exemptions under section 10A or 10B of the Act, since its direct exports were less than 75 per cent. of the total sales

made during the year under consideration. The Commissioner (Appeals) allowed the exemptions. The Tribunal was of the view that the stocks transferred during the year which had actually been sold by the Rotterdam unit would have to be construed as actual exports by the units of the assessee, recorded a finding that 75 per cent. of the assessee's total sales by the eligible units comprised exports and confirmed the order of the Commissioner (Appeals) allowing the exemption claimed by the assessee. The High Court held that the finding recorded by the Tribunal was a pure finding of fact and holding that no substantial question of law arose, dismissed the Department's appeal. On further appeal the Court held that in view of the official liquidator's report that the assessee-company was under liquidation and that there were no funds to satisfy the demand, and this fact having been considered by the court in the appeal dated July 21, 2020 between the parties, the court disposed of the appeal, leaving the question of law open.(AY. 2000-01)

CIT v. Moser Baer India Ltd (2025) 479 ITR 449/177 taxmann.com 281 (SC)

Editorial : CIT v. Moser Baer India Ltd (2009) 177 Taxman 42 /(2025) 479 ITR 446 (Delhi)(HC)

S. 10A : Free trade zone-Export-Hundred per cent. export oriented unit-Transfer of stocks from assessee's eligible unit to foreign unit-Finding by Tribunal that transferred stock sold by foreign unit and which constituted more than 75 per cent. of total sales-Entitled to exemption-Order of Tribunal affirmed. [S.10B, 260A] 189

On appeal by revenue dismissing the appeal the Court held that the provisions as they stood in the assessment year 2000-2001 permitted export-oriented undertakings to claim exemption provided 75 per cent. of the total sales comprised exports. The Tribunal had found that 75 per cent. of the assessee's total sales by the eligible units comprised exports and based on that had confirmed the order of the Commissioner (Appeals) allowing the assessee's claim for exemption in respect of its units under section 10A or 10B.Order of Tribunal affirmed. (AY.2000-01)

CIT v. Moser Baer India Ltd (2009) 177 Taxman 42 /(2025) 479 ITR 446 (Delhi)(HC)

Editorial : CIT v. Moser Baer India Ltd (2025) 479 ITR 449/177 taxmann.com 281 (SC), disposed of the appeal, leaving the question of law open.

S. 10A : Free trade zone-Export profits-Deduction-Export proceeds realised in convertible foreign exchange-Matter remanded for verification-Communication expenses to be excluded from both export turnover and total turnover-Foreign exchange fluctuation gain-Already offered to tax-Matter remanded to avoid double taxation.[S. 144C] 190

The Assessing Officer reduced the deduction under section 10A on the ground that the assessee had not established realisation of export proceeds within the prescribed period and had excluded communication expenses only from export turnover. The Tribunal restored the issue of export realisation and on-site development charges to the Assessing Officer for verification with reference to the Foreign Inward Remittance Certificates and directed that communication expenses should be reduced from both export turnover and total turnover while computing the deduction under section 10A. The assessee contended that the foreign exchange fluctuation gain had already been offered to tax as

"other income" and that a further addition would result in double taxation. The Tribunal restored the issue to the Assessing Officer to verify the claim and ensure that the same amount was not taxed twice. (AY. 2010-11 & 2011-12).
Brightcom Group Ltd. v. Dy. CIT [2023] 149 taxmann.com 450 / (2025) 129 ITR 645 (Hyd.) (Trib.)

191 **S. 10A: Free trade zone-Telecommunication expenses excluded from export turnover must also be excluded from total turnover. [S. 10A]**
The Assessing Officer excluded telecommunication expenses only from the export turnover while computing deduction under section 10A. The Tribunal held that the issue was squarely covered by the jurisdictional High Court and, therefore, telecommunication expenses excluded from export turnover were also required to be excluded from total turnover while computing the deduction under section 10A. The assessee was accordingly held entitled to the deduction. (AY. 2011-12)
Capgemini India P. Ltd. v. Dy. CIT (2025) 130 ITR 431 (Mum.)(Trib.)

192 **S. 10A: Free trade zone-Export-oriented units-Condition that exports not less than 75% of total sales-"Export turnover" and "total turnover"-Expenses incurred in foreign exchange in providing technical services outside India excluded from both-75% of total sales to be computed on gross receipts. [S. 10A(2)(ia), 80HHC, 80HHE]**
Assessee, engaged in export of software solutions and maintenance services, was denied exemption under section 10A on the ground that export turnover brought into India was less than 75% of the total turnover of the software technology park unit, since AO considered only net inward remittances after deducting onsite expenses and sub-contractor payments, though CIT(A) held that payments to sub-contractors outside India did not affect the exemption claim and allowed the exemption. On appeal, the Tribunal held that in the absence of a definition of "export turnover" in section 10A for the relevant year, AO had erroneously borrowed the definition of "export turnover" from section 80HHE while ignoring the corresponding definition of "total turnover" therein, whereas expenditure incurred in foreign exchange in providing technical services outside India, being excluded from "total turnover", must equally be excluded from "export turnover" so that both bear a consistent meaning; since section 10A is a beneficial provision intended to promote exports and confer a larger benefit than section 80HHE, AO was directed to compute the 75% of total sales on gross receipts under section 10A(2)(ia). (AY.2000-01)
IBM Global Services India P. Ltd. v. DCIT (2025) 132 ITR 217 (Bang) (Trib.)

193 **S. 10A: Free trade zone-Software Technology Park unit-Brought-forward losses and unabsorbed depreciation of non-eligible unit not adjustable before allowing deduction. [S. 72]**
The assessee had one Software Technology Park (STPI) unit eligible for deduction under section 10A and another non-STPI unit. The Assessing Officer adjusted the brought-forward losses and unabsorbed depreciation of the non-eligible unit before granting deduction under section 10A. The Tribunal held that the eligible undertaking had to be treated separately and the losses and depreciation of the non-eligible unit could not be

adjusted while computing deduction under section 10A. The order of the Commissioner (Appeals) was upheld. (AY. 2011-12).
ITO v. Magic Software (P.) Ltd. (2025) 124 ITR 34 / 173 taxmann.com 59 (Delhi)(Trib)

S. 10A : Free trade zone-Form signed by Deloitte Haskins and Sells-Form 56F was not signed by an Accountant, as referred in sub-section (5) to section 10A-Defective form-Not entitle to deduction.[S. 10A(5), 10AA, 44AB, 288(2), Form 56F, Chartered Accountant Act, 1949, 2(1), 6(1)] 194
Assessee is engaged in business of production and export of computer software. Assessee claimed deduction under section 10A. Assessing Officer held that Form 56F was not signed by a Chartered Accountant as mandated by the provisions of Act, held the report signed by Deloitte Haskins and Sells was not a valid verification of the report in Form 56F and treated it as defective. Commissioner (Appeals) held said Form 56F was valid as far as it was signed by 'Deloitte Haskins and Sells', which was a multi-national Chartered Accountant firm. On appeal the Tribunal held that in order to certify correct claim under the provisions of section 10A, an Accountant as referred in sub-section (5) to section 10A and definition of which is provided in the Explanation below to sub-section (2) to section 288 is required. Since assessee could not provide any material supporting the order of Commissioner (Appeals) showing that Deloitte Haskins and Sells was an 'Accountant' as referred to in sub-section 5 of section 10A, the assessee is not entitled to a deduction under section 10A of the Act. (AY. 2006-07)
ACIT v. Future Software (P.) Ltd. (2025) 211 ITD 148 (Chennai) (Trib)

S. 10AA: Special Economic Zones-Failure to file audit report in Form 56F along with the return-Rectification application-Assessee had duly fulfilled substantial requirement as well as procedural requirement, though there was a minor technical breach in fulfilment of procedural requirement; delay in filing Form 56F would not be fatal to substantive claim of assessee-Order of tribunal affirmed.[S. 143(1), 154, 260A, Form 56F] 195
Assessee had claimed deduction under section 10AA. While processing return under section 143(1), the deduction claimed by assessee was disallowed since audit report in Form 56F, which is to be filed along with the return, was not filed by assessee. Assessee had filed a rectification application and a rectification order was passed rejecting claim of assessee. Commissioner (Appeals) held that delay in filing Form 56F was only a procedural lapse, and that could not be a ground for not granting the deduction claimed under section 10AA. Tribunal affirmed the order of the CIT(A). On appeal the Court held that since assessee had duly fulfilled the substantial requirement as well as the procedural requirement, though there was a minor technical breach in fulfilment of procedural requirement, delay in filing Form 56F would not be fatal to the substantive claim of assessee. Order of Tribunal is affirmed. (AY. 2018-19)
PCIT v. Astrotech Steels (P.) Ltd. (2025) 305 Taxman 429 (Mad)(HC)

S. 10AA : Special Economic Zones-Export-Interest income forming part of business profits-Eligible for deduction. 196
The Assessing Officer excluded interest income from the profits eligible for deduction under section 10AA. The Tribunal held that since the interest income formed part of

the business profits of the eligible undertaking, it was required to be included while computing the deduction under section 10AA. (AY. 2014-15).
Tata Consultancy Services Ltd. v. Dy. CIT [2023] 154 taxmann.com 372 / (2025) 129 ITR 667 (Mum.)(Trib.)

197 **S. 10AA : Special Economic Zones-Newly established units-Allocation of head office expenses-Common expenses having direct nexus with eligible unit-Allocation in ratio of turnover held justified-Transfer of goods to eligible unit-Market value-Notional gross profit adopted by Assessing Officer-Matter remanded [S.10AA(9), 80-IA(8)]**
The assessee claimed deduction under section 10AA in respect of its Special Economic Zone unit. The Assessing Officer allocated common head office expenses, including directors' commission, directors' fees, audit and certification charges, and bank and loan processing charges, to the eligible unit in the ratio of turnover. The Tribunal held that common expenditure having a direct nexus with the activities of the eligible unit had to be allocated on a reasonable and scientific basis for determining the correct profits of the eligible undertaking. Since the eligible unit had not incurred any loss during the relevant years, the allocation made by the Assessing Officer was justified. The Assessing Officer recomputed the profits of the eligible unit by adopting a notional gross profit rate in respect of goods transferred from the non-eligible units. The Commissioner (Appeals) reduced the addition without examining whether the goods had been transferred at their market value. The Tribunal restored the matter to the Assessing Officer to determine the fair market value of the goods transferred for computing the profits of the eligible unit. (AY. 2011-12 to 2016-17).
AVTEC Ltd. v. Asst. CIT [2024] 168 taxmann.com 692 / (2025) 129 ITR 483 (Delhi)(Trib.)

198 **S. 10AA: Special Economic Zones-Non-submission of audit report along with return-Audit report was filed during assessment proceedings-Exemption cannot be denied merely on account of delay in furnishing the audit report.[Form No 56F]**
Held that the assessee filed the audit report in Form No. 56F during the assessment proceedings, benefit of exemption under s. 10AA cannot be denied merely on account of delay in furnishing the same (AY. 2017-18)
Ganpati Gems & Jewellers v. ACIT (2025) 236 TTJ 100 (Jaipur) Trib)

199 **S. 10AA: Special Economic Zones-Computation of export turnover-Foreign currency expenditure not to be excluded from export turnover for computing deduction-Appeal to Appellate Tribunal-Failure by Commissioner (Appeals) to render finding on certain issues-Application pending before Commissioner (Appeals)-Direction to dispose of application.-Rectification of mistake-Order giving effect to Tribunal's order-Assessing Officer's failure to grant relief on several issues-Direction to dispose of pending rectification applications-Deduction of tax at source-Credit for-Credit granted in original proceedings but not fully given in order giving effect to Tribunal's order-Assessing Officer directed to verify and grant full credit.[S. 154,199, 254(1)]**
In remand proceedings pursuant to the Tribunal's earlier order, AO recomputed the deduction under section 10AA by excluding foreign currency expenditure from export turnover and disallowing certain costs written off and interest from fixed

deposits, which was confirmed by CIT(A) without rendering a finding on the issue of deposits and other costs written off. On appeal, the Tribunal held that, following the jurisdictional HC's decision in the assessee's own case for an earlier year on identical facts, foreign currency expenditure was not to be excluded from export turnover for computing deduction under section 10AA; directed CIT(A) to dispose of the assessee's pending application regarding inclusion of disallowance/addition as business profits for section 10AA computation after affording a hearing; directed AO to dispose of the assessee's rectification applications under section 154 relating to double addition of interest from fixed deposits and exclusion of other income from SEZ unit profits; and directed AO to verify and grant full credit for TDS as had been given in the original assessment proceedings. (AY. 2010-11 & 2011-12)
Renault Nissan Technology and Business Centre India P. Ltd. v. ACIT (2025) 132 ITR 395 (Chennai) (Trib.)

S. 10AA : Special Economic Zones-Transfer pricing adjustment-Eligible for deduction under section 10AA in respect of voluntary adjustment made by it-Transfer Pricing adjustment made by it [S.92C] 200

Held that the assessee voluntarily made a transfer pricing adjustment of Rs. 9.50 and added the same to total income, assessee would be eligible for deduction under section 10AA in respect of voluntary Transfer Pricing adjustment made by it. (AY. 2017-18)
DCIT v. EYGBS (India) (P.) Ltd. (2025) 210 ITD 686 (Bang) (Trib.)

S. 10B: Export-oriented undertakings-Export of computer software-Transmission of customised electronic data-Entitled to exemption.[S. 260A] 201

Held that the services provided by the assessee-firm were "customised electronic data transmission" and were user or client specific. Further, the legal services provided by the assessee-firm were rendered by use of a legal database created by the assessee-firm over a period of more than 60 years of its professional experience. The legal services were rendered by the assessee to its foreign clients by use of electronic mode of communications, i.e., by exchange of legal information and documents via e-mails and internet services. In addition, the assessee had complied with the other conditions in Form 56G, realisation of service charges within the permitted time, exporting legal services to its clients outside India and receiving the service charges therefor in the foreign currency in India. Therefore, the claim of the assessee was fully justified. Any transmission of "customised electronic data" falls within the expression of "computer software" as per Explanation 2(i)(b) to section 10B of the Act. Therefore, the assessee was entitled to claim a deduction under section 10B of the Act in respect of its 100 per cent. Export-oriented unit. The entire issue being fact-based and the Tribunal having come to the factual conclusion on the basis of materials on record while upholding the order of the Commissioner (Appeals), no question of law arose. (AY. 2010-11)
PCIT v. Majumdar and Co (2025) 482 ITR 824(Bom)(HC)

202 **S. 10B: Export oriented undertakings-Site transfer income-Derived from-Appellate Tribunal-Duties-Tribunal had not given any reasons as to how 'Site Transfer Income' constituted income derived from business of undertaking, matter was remanded back to the Tribunal for deciding the ground of deduction under section 10B qua 'Site Transfer Income'.[S. 254(1)]**

Assessee claimed deduction under section 10B on 'Site Transfer Income' with respect to two units. Assessing Officer denied deduction on ground that same did not represent income derived from the business of eligible unit. Tribunal allowed the claim. On appeal, the Court held that since the Tribunal had not given any reasons as to how 'Site Transfer Income' constituted income derived from business of the undertaking, the matter was remanded back to the Tribunal for deciding the ground of deduction under section 10B qua 'Site Transfer Income' (AY. 2010-11)

PCIT v. Watson Pharma (P) Ltd. (2025) 173 taxmann.com 957/346 CTR 82 / 249 DTR 25 (Bom)(HC)

203 **S. 10B: Export oriented undertakings-Interest income on fixed deposits-Derived from business-Appellate Tribunal-Duty to pass speaking order-Matter remanded back for fresh adjudication.[S. 254(1), 260A]**

Court held that the Tribunal without giving any reasons had come to conclusion that interest income on fixed deposit constituted income derived from business of eligible undertaking and thus was eligible for deduction under section 10B. Court held that, it is well settled that the duty to give reasons in support of adverse orders is a facet of the principles of natural justice and fair play. In several cases, the necessity of providing reasons by a body or authority to support its decision was considered before the Hon'ble Supreme Court in *Santosh Hazari v. Purushottam Tiwari (2001) 3 SCC 179* (Deceased) by LRs. The Hon'ble Supreme Court held that on the face of an order passed by a quasi-judicial authority affecting the parties' rights must speak for itself. Matter remanded back for fresh adjudication [ITXA No. 1770 OF 2017, Dated: 26/03/2025, (AY 2010-11)

PCIT v. Watson Pharma Pvt. Ltd [2025] 173 taxmann.com 886 (Bom) (HC)

204 **S. 11: Property held for charitable purposes-Registration-Matter remanded to the High Court for reconsideration [S. 2(15), 12 Art, 136]**

High Court dismissed the Revenue's appeal. On appeal, referring to the decision in *CIT(E) v. Ahmedabad Urban Development Authority [2022]449 ITR 1/[2023] 291 Taxman 11 (SC),* matter remanded to the High Court for fresh consideration.

CIT (E) v. Khurja Development Authority (2025) 307 Taxman 382 (SC)

Editorial : CIT (E) v. Khurja Development Authority (All)(HC), (ITA No. 550 of 2008 dt 12-1-2015, 154 of 2015 dt. 7-1-2019)

205 **S. 11 : Property held for charitable purposes-Activities charitable in nature-Entitle for exemption-SLP of revenue dismissed. [S. 2(15), 12AA, Art. 136]**

Assessee was a urban development authority constituted with object of development of areas according to a plan. Assessing Officer disallowed same on ground that registration granted to assessee under section 12AA was cancelled by Commissioner and also disputed charitable nature of activities carried out by assessee in terms of section 2(15).

Tribunal had set aside order of cancellation of registration of assessee under section 12AA and restored same and also recorded that nature of activity of assessee was charitable and was not hit by proviso of section 2(15). Appeal filed against said order of Tribunal was dismissed. SLP dismissed following *ACIT (E) v. Ahmedabad Urban Development Authority (2023) 4 SCC 561/143 taxmann.com 278 (SC)* and as corrected by order dated 3rd November, 2022 in MA No.1849 of 2022 in Civil Appeal No.21762 of 2017. (AY. 2012-13)

CIT (E) v. Ghaziabad Development Authority (2025) 304 Taxman 274 (SC)

Editorial : CIT (E) v. Ghaziabad Development Authority (2022) 448 ITR 342 / (2023) 146 taxmann.com 549 (All)(HC)

S. 11 : Property held for charitable purposes-Dominant object was not only preservation of environment, but also one of general public utility-liquid and solid industrial waste generated by polluting industries in Common Effluent Treatment Plant and Total Suspended Disposal Facility and did anciliary activities for purpose of curbing pollution-Entitled to exemption-Monetary limits-SLP dismissed due to low tax effects. [S. 2(15), 268A, Art, 136] 206

High Court held that assessee was carrying out activity main or primary purpose of which was charitable and just because members of assessee-company were benefitted and their statutory liability was discharged by assessee-company, same by itself, would not be sufficient to hold that assessee had not been set up for charitable purpose. Court also held that since the dominant object of assessee was not only preservation of environment, but also one of general public utility, assessee was entitled to seek exemption under section 11. SLP filed by revenue was dismissed in view of low tax effects. (AY. 2009-10)

CIT (E) v. Naroda Enviro Projects Ltd. (2025) 304 Taxman 186 (SC)

Editorial : CIT (E) v. Naroda Enviro Projects Ltd (2019)419 ITR 482 / (2020) 118 taxmann.com 378 (Guj)(HC)

S. 11 : Property held for charitable purposes-Organising cultural event-Income from ticket sales by organising dance events and food stalls-Not business activity-Denial of exemption was not justified-SLP of revenue dismissed.[S. 2(15), 12, 13(8), Art. 136] 207

Dismissing the appeal of the revenue the Court held that that the assessee's own case for the assessment year 2014-2015, on identical facts and circumstances concurrently found by the appellate authorities, had already been dismissed by the court in the appeal of the Department under section 260A holding, inter alia, that organizing dance events could not be termed as a business there were no distinguishing facts to take a different view for the subsequent assessment year 2015-2016. SLP of revenue dismissed. (AY. 2015-16)

CIT v. United Way of Baroda (2025) 478 ITR 535/306 Taxman 269 (SC)

Editorial : CIT(E) v. United Way of Baroda (2025) 478 ITR 530/176 taxmann.com 358 (Guj)(HC)

S. 11: Property held for charitable purposes-Delay of 1290 days in uploading to the portal-Oversight on the part of the chartered accountant-Delay was condoned-CIT(E) was directed to grant the relief.[S. 12A, Form No 10B, Art. 226] 208

The assessee filed and verified the audit report in Form 10B with a delay of 1,290 days. Assessee filed an application before the Commissioner (E) for condonation of delay in

filing Form 10B. Commissioner (E) rejected on the ground that the reason of oversight cited by assessee did not constitute reasonable cause warranting condonation of delay in filing of Form 10B. On writ, the Court held that the assessee had been filing its returns and verifying Form 10B for all years before the subject assessment year within due dates. Further, non-filing/verification of Form 10B was due to oversight on the part of the chartered accountant responsible for the same and said chartered accountant left the employment of the assessee abruptly, due to which non-filing/verification did not come to the notice of assessee till issuance of intimation. Court held that since failure to file and verify the audit report prior to filing of return, despite obtaining the same from the auditors within time, could be only due to human error and beyond the control of assessee, delay in filing Form 10B (AY. 2015-16)
International Resources for Fairer Trade v. UOI (2025) 307 Taxman 641 (Bom.)(HC)

209 **S. 11: Property held for charitable purposes-Delay of 447 days while uploading Form No 10B-Oversight on the part of the chartered accountant-Delay was condoned-CIT(E) was directed to grant the relief.[S. 12A, Form No 10B, Art. 226]**
The Assessing Officer denied the exemption on the ground that assessee had not e-verified the audit report in Form No. 10B within the prescribed time. The assessee filed an application seeking condonation of a delay of 447 days in uploading/e-verifying Form No.10B. CIT (E) rejected the application for condonation of delay. On writ the Court held that the assessee-trust, established more than 25 years ago, had been filing its returns and Form No.10B for all years before Assessment Year 2015-16 within due dates, delay condonation application should have been allowed because failure to upload audit report prior to filing the return, despite obtaining same from auditors well within time, could only be due to human error. Accordingly, the order passed by Commissioner quashed, and the delay in filing Form No.10B was condoned. Circular No. 10/2019, dated 22-5-2019.(AY. 2017-18)
International Resources for Fairer Trade v. UOI (2025) 307 Taxman 271 (Bom.)(HC)

210 **S. 11: Property held for charitable purposes-Failure to file Form No 10 on due date-Delay of 2154 days-Accumulation of income-Delay was condoned-CIT(E) was directed to grant exemption. [S.11(2), 12A, Form No.9A, Form No.10, Art. 226]**
The assessee filed Form No. 9A exercising the option in terms of Explanation 1 to section 11(1) on the ground that the amount received in December could not be spent in the last quarter and, therefore, the same was being accumulated. However, Form No. 10 was not filed by assessee within the specified due date as required under the Act. The assessee filed Form No. 10 along with an application for condonation of delay. Commissioner (E) rejected the application for condonation of delay. On writ the Court held that since the assessment year 2016-17 was the first year wherein Form No.10 was to be filed electronically, hence possibility of the assessee having faced technical glitches while filing requisite forms could not be ruled out. Further, the benefit of accumulation under section 11(2) ought not to be denied to assessee since the entire accumulated amount had actually been applied to charitable purposes well within the time allowed under the Act, and the activities of the assessee-trust were genuine. The delay was

condoned, and the order rejecting condonation of delay in filing Form No.10 was set aside. Circular No. 3/2020 dated 3-1-2020. (AY. 2016-17)
KSB Care Charitable Trust v. CIT (E) (2025) 307 Taxman 277 (Bom.)(HC)

S. 11 : Property held for charitable purposes-Audit report-Filed at the time of assessment-Denial of exemption is not valid-Circular No. 7 of 2018 dated December 20, 2018 ((2020) 420 ITR (St.) 389) issued under section 119 of the Act could not be, therefore said to have taken away the appellate remedy. [S. 11(2), 12A, 119(2b), 143(1), 260A, Rule 12(2), Form No. 10B] 211

Assessee, a charitable trust registered under section 12AA, filed return of income claiming exemption under section 11(1) and (2) of the Act. It did not file audit report in Form No. 10B along with return of income and filed same electronically at a later stage. Assessing Officer processed return under section 143(1) and denied exemption on ground that along with return of income audit report was not filed. The order of the Assessing Officer was affirmed by Tribunal. On appeal the Court held that since audit report was available with Assessing Officer when he processed return under section 143(1), requirement of law was satisfied. Exemption was allowed. Court observed that The Finance Act, 2015 ((2015) 373 ITR (St.) 25), with effect from April 1, 2016, that is from the assessment year 2016-2017, did not effect any change which could be said to have altered the legal position. The only change was with regard to compulsory filing of the audit report in form 10B in electronic form which is made mandatory under rule 12(2) of the Income-tax Rules, 1962 but there is no change with regard to the substantive law about filing of the audit report. Court also observed that the application contemplated under section 119(2)(b) of the Act is only an additional remedy for the assessee which could not be said to be compulsorily resorted to by the assessee. Circular No. 7 of 2018 dated December 20, 2018 ((2020) 420 ITR (St.) 389) issued under section 119 of the Act could not be, therefore said to have taken away the appellate remedy. (AY. 2018-19)
Association of Indian Panelboard Manufacturer v. Dy. CIT [2023] 157 taxmann.com 550 / (2025) 482 ITR 54 (Guj)(HC)

S. 11 : Property held for charitable purposes-Rule of consistency-No change in facts-Exemption under section 10(23C)(iv) / sections 11 and 12 allowed in earlier years-Additional claim before CIT(A) maintainable-No violation of section 13(2)(b) / 13(3) in respect of residential accommodation given to trustees as employees-Tribunal order affirmed. [S. 2(15), 10(23C)(iv), 12, 13(2)(b), 13(3), 246A, 251(1)(a), 260A] 212

Dismissing the appeal of the revenue the Court held that exemption under section 10(23C)(iv) / sections 11 and 12 could not be denied when identical benefit had been granted in earlier years and no distinguishing feature was shown. Additional claim before CIT(A) was maintainable and could be adjudicated by appellate authority Residential accommodation provided to trustees in their capacity as long-serving employees on payment of licence fee / on compassionate grounds did not amount to undue benefit so as to attract section 13(2)(b) read with section 13(3).No infirmity in Tribunal's order upholding CIT(A). (AY. 2016-17)
CIT v. Hamdard Laboratories (India) (2025) 480 ITR 498 (Delhi)(HC).

213 **S. 11 : Property held for charitable purposes-Cricket association- Applicability of proviso to S. 2(15)-Matter is remitted to the authority concerned to decide the same afresh in view of the ratio decided by the apex Court in *Asstt. CIT (E) v. Ahmedabad Urban Development Authority (2022) 329 CTR 297 (SC)*.[S. 2(15), 260A]**

Matter is remitted to the authority concerned to decide the same afresh in view of the ratio decided by the apex Court in *Asstt. CIT (E) v. Ahmedabad Urban Development Authority (2022) 329 CTR 297/ (2023) 4 SCC 561.* (AY. 2014-15)

CIT (E) v. Jharkhand State Cricket Association (2025) 344 CTR 547 / 249 DTR 240 (Jharkhand)(HC)

214 **S. 11 : Property held for charitable purposes-Educational trust-Trust not registered under section 12AA at time of filing return-Registration obtained subsequently after assessment-Rectification application under section 154 rejected-Assessee cannot be denied legitimate deductions otherwise available as regular assessee-Purpose of assessment to recover legitimate tax and not unjust tax Assessing Officer not expected to act mechanically to fasten unjust tax liability-Matter remitted to Assessing Officer for fresh assessment order. [S.12, 12A, 12AA, 139, 143(1), 154]**

For the assessment year 2013-2014, the assessee, an educational trust, without holding a valid registration under section 12AA of the Income-tax Act, 1961, at the time of filing the return of income under section 139(1), claimed exemption under section 11. The assessment was completed under section 143(1). Subsequently, the assessee was granted registration under section 12A(a). The assessee filed an application under section 154 for rectification of the assessment order, which was rejected. The Commissioner (Appeals) and the Tribunal rejected the assessee's appeals. The Tribunal held that the assessee could not claim exemption as a trust for the assessment year 2013-2014, since it was not registered under section 12AA, and should have filed a revised return to claim deductions as a regular assessee or as an association of persons. On appeal, the Court held that the benefit of registration would not ensure in favour of the assessee after registration for the assessment year prior to the registration as trust. But the assessee could not be denied all the legitimate deductions that would have been available, if the returns were filed either as a regular assessee or as an association of persons. The purpose of assessment was to recover just tax and not subject the assessee to unjust tax by holding that no return was filed either as a regular assessee or as an association of persons merely because revised return was not filed under section 139(4), within the specified time. The last date for filing the returns under section 139(4) would have expired on March 31, 2015 which was just few days before the return was processed on March 12, 2015 under section 143(1). If assessments are to be completed, deductions and applicable exemptions that are otherwise available to an assessee ought to have been extended by the Assessing Officer to an assessee before finalising the assessment. Since the assessee was not entitled to exemption as a trust under sections 11, 12 and 12A in the absence of registration under the Act as it stood section 12AA, the benefit of other deductions under the Act ought to have been given. The Assessing Officer was not expected to act mechanically to confirm the liability to fasten an unjust tax liability on the assessee.

The matter was remitted to the Assessing Officer to pass a fresh order. *Goeitze (India) Ltd v. CIT (2006) 284 ITR 323 (SC),* distinguished. (AY. 2013-14)
Sree Venkateswara Educational Trust v. ITO [2024] 167 taxmann.com 366 / (2025) 479 ITR 687 (Mad)(HC)

S. 11 : Property held for charitable purposes-Organising cultural event-Income from ticket sales by organising dance events and food stalls-Not business activity-Denial of exemption was not justified.[S. 2(15), 12, 13(8), 260A] 215
Dismissing the appeal the Court held that the assessee's own case for the assessment year 2014-2015, on identical facts and circumstances concurrently found by the appellate authorities, had already been dismissed by the court in the appeal of the Department under section 260A holding, inter alia, that organizing dance events could not be termed as a business there were no distinguishing facts to take a different view for the subsequent assessment year 2015-2016.(AY. 2015-16)
CIT(E) v. United Way of Baroda (2025) 478 ITR 530/176 taxmann.com 358 (Guj)(HC)
Editorial : SLP rejected, CIT(E) v. United Way of Baroda (2025) 306 Taxman 269/ 478 ITR 535 (SC)

S. 11 : Property held for charitable purposes-Investment-Exemption-Purchase of shares of subsidiary-Non-profit entity-Pursuant to Government policy and TRAI recommendations-No violation Exemption allowable. [S. 11(5), 12, 13(1)(d), 260A, Companies Act, 1956, S. 25] 216
The assessee, a non-profit company registered u/s 25 of Companies Act and under S. 12A, invested in shares of its wholly owned subsidiary BARC, also a non-profit entity. AO denied exemption under S 11 & 12 alleging violation of S. 11(5) r.w.s. 13(1)(d). CIT(A) and Tribunal allowed exemption, holding the deployment of funds was mandated by Government policy and TRAI recommendations, not for profit. Dismissing Revenue's appeal, the High Court held that deployment of funds was not an "investment" but an application in furtherance of assessee's charitable objects. BARC, being a s. 25 company, could not distribute profits. Hence, no violation of s. 11(5) or s. 13(1)(d); exemption rightly allowed.(AY. 2014-15)
CIT v. Indian Broadcasting Foundation (2025) 475 ITR 580 / 173 taxmann.com 311 (Delhi) (HC)

S. 11 : Property held for charitable purposes-Carry forward of deficit-Excess expenditure incurred by trust in earlier years-Set off against income of subsequent years-Permissible-Appeal of Revenue dismissed. [S. 11(1)(a), 11(1)(d), 260A] 217
The Revenue challenged the Tribunal's order allowing the assessee-trust to carry forward the deficit and set it off against income of subsequent years. The Revenue contended that there was no express provision in the Act permitting such set off and that this amounted to double deduction. The Tribunal, following the jurisdictional High Court ruling in *CIT v. Institute of Banking Personnel Selection (2003) 264 ITR 110) (Bom) (HC)* upheld the assessee's claim. The High Court noted that the issue stood squarely covered by the said judgment as well as the Supreme Court decision in *CIT (E) v. Subros Educational Society (2018) 7 SCC 548 / (2022) 136 taxmann.com 236 (SC)*, wherein it

was held that excess expenditure of earlier years can be adjusted against income of subsequent years. As the question was already settled against the Revenue, the appeal was dismissed. (ITA No. 40 of 2022, dt. 12-09-2025, (AY. 2012-13)
CIT (E) v. Tata Education and Development Trust (Bom)(HC) www.itatonline.org.

218 **S. 11 : Property held for charitable purposes-Organic farming research-relief of poor-Eligible for exemption-Order of Tribunal is set aside. [S. 2(15), 12A, 260A, Companies Act,2013, S.8.]**
Assessee, established as a charitable company under Section 8 of Companies Act and registered under Section 12A, aimed to set up a research centre for organic farming, promote skill development, and engage in domestic and international agro-product trade. Assessing Officer held that assessee's activities were primarily business-oriented with a profit motive, and charitable aspects were merely incidental hence denied the exemption under section 11 of the Act. First appellate Authority and Tribunal affirmed the order of the Assessing Officer. On appeal the Court held that the assessee procured agricultural produce from poor and marginal farmers, prevented exploitation by middlemen, and provided assistance through crop saplings and awareness programs and it's business activities, including buying, selling, and trading agro-products, were incidental to its main objectives of establishing a research centre in organic farming. Court also held that the Authorities overlooked evidence that a significant portion of income was given to poor farmers, which, if considered, would have shown that assessee's activities were primarily aimed at providing relief to poor, aligning with its charitable objectives. Accordingly the exemption claimed by the assessee is up held and order of the Tribunal is set aside. (AY. 2017-18 & 2018-19)
Biowin Agro Research v. ITO(E) (2025) 303 Taxman 540 (Ker.)(HC)
Editorial : Order of Cochin Bench in Biowin Agro Research v. ITO(E)(ITA Nos 2 and 3 of 2022 dt. 25-4-2023 is set aside.

219 **S. 11 : Property held for charitable purposes-Charitable purpose Objects of general public utility-Construction of flats for its members-Transfer fees from new members-Interest on investment-No commercial activity-No violation of section 13(2)-Question of fact-No substantial question of law. [S. 2(15), 12A, 13(2), 260A]**
The Assessee is a Trust registered with Director of Income Tax (E), Mumbai under Section 12A of the Act. The Assessee, Trust was constructing houses for its members and this was the only activity of the Trust for the last 50 years. The Assessing Officer held that the Assessee had collected Rs.1.15 crores as transfer fees from new members and the Assessee-Trust was also in receipt of interest on investment amounting to Rs.1,07,67,876/-. The Assessing Officer was, therefore, of the view that the Assessee was engaged in a commercial activity by constructing houses on the property of the Assessee Trust and was selling the same to the members. The members and the Assessee Trust were alienating the flat along with the membership, and for this alienation, the Trust had collected a sum of Rs.6.35 crores as transfer fees from its members till date. Therefore, the Assessing Officer held that the activity of the Trust was not found charitable in nature and was found commercial in nature. The CIT(A) held that there is no case of sale consideration, or sale of houses in the market, and there is no

transaction of sale or purchase in the admission of the new member in place of the defaulting member, who is admitted only after specifying the eligibility conditions in that behalf and confirming the Deed of the Trust and its objects. Tribunal affirmed the order of the CIT(A). The Hon High Court held that the entire case has been decided purely on facts. The ITAT is the last fact finding authority which has came to the conclusion that the Assessee Trust is not carrying on any commercial activity and, therefore, is entitled to the exemption under Section 11 of the Act. This finding of the ITAT is purely based on the facts of the case, and which facts were also analyzed by the CIT(A) before he partly allowed the Appeal of the Assessee Trust.
CIT (E) Mumbai v. Kutchi Sarvodaya Nagar [2025]305 Taxman 572 (Bom)(HC)

S. 11 : Income from property held for charitable or religious purposes-Delay in e-verification of audit report-Audit report in Form 10B filed in time-E-verification delayed due to COVID-Delay is not intentional-Delay of 101 or 254 days within permissible limit-Rejection of condonation against principles of substantive justice-Procedural lapses should not override substantive justice, especially when there was no mala fide intent or negligence by the petitioner-Rejection order is quashed-Delay condoned. [S. 12A, 12AA, 80G, Form No 9A, form No 10B, Art.226] 220

Kotak Family Foundation, a charitable trust registered under Sections 12A/12AA and 80G of the Income-Tax Act, 1961, filed its return for AY 2021-22 on 30th December 2021, within the extended COVID-19 timeline. Form 9A was filed and the audit report in Form 10B was uploaded by the auditor on 29th December 2021. However, due to oversight caused by remote working conditions during the pandemic, the Trust failed to e-verify the audit report within the prescribed time. After receiving an intimation under Section 143(1)(a) on 8th September 2022 denying exemption of ₹ 58,02,006/-, the Trust completed e-verification the next day. Although a revised intimation accepted the return, the exemption was again denied by a rectification order under Section 154 dated 7th March 2023. The Trust's request for condonation of delay was rejected by the Commissioner of Income Tax (E) on 10th February 2025. On writ the Hon'ble Bombay High Court held that the rejection of the petitioner's application for condonation of delay in e-verifying Form 10B was unjustified and contrary to the principles of justice, equity, and fair play, particularly considering the petitioner is a registered charitable trust. The delay occurred due to genuine inadvertence during the COVID-19 pandemic, when the trustees and staff were operating remotely, and was neither intentional nor negligent. The Court further observed that CBDT Circulars No. 16/2022 and 16/2024 authorize the Commissioner of Income Tax to condone delays of up to 365 days in filing Forms 10B, 9A, 10, and 10BB for AY 2018-19 onwards. In the present case, the delay—whether considered as 254 days or 101 days after applying the benefit of the Supreme Court's COVID-related extension in In Re: Cognizance for Extension of Limitation,was well within the condonable limit. Therefore, the authorities were expected to adopt a pragmatic and justice-oriented approach rather than a technical one. The Court held that procedural lapses should not override substantive justice, especially when there was no mala fide intent or negligence by the petitioner. As the audit report was filed on time and only the e-verification was delayed due to COVID-related issues, the authorities should have adopted a fair and practical approach. Denial of exemption

under Sections 11 and 12A on such technical grounds was deemed unjust. Referring to its earlier decision in *Sau Dwarkabai Tai Karwa Charitable Public Trust v. CIT (E), [2025] 174 taxmann.com 245 (Bom)(HC)*, where a similar delay was condoned for the same assessment year, the Court quashed the order dated 10th February 2025, condoned the delay, allowed the writ petition, and made the rule absolute (W.P. (L) No. 17883 of 2025, decided on 24-06-2025) (AY. 2021-22)
Kotak Family Foundation v. CIT(E) [2025] 306 Taxman 57 (Bom)(HC) www.itatonline.org

221 **S. 11 : Property held for charitable purposes-Accumulation of income-Investment in prescribed mode-Delay of a few days in converting bank balance into fixed deposit does not disentitle exemption. [S. 11(2),11(5), 12AA, Form No.10, Rule 17]**
The assessee-society, registered under section 12AA, accumulated income for charitable purposes and filed Form No. 10 within the prescribed time. The accumulated amount remained throughout in its account with a scheduled bank and was invested in fixed deposits with the same bank a few days after the close of the financial year. The Assessing Officer denied exemption under section 11(2) on the ground that the investment was not made during the relevant financial year. The Tribunal held that there was no diversion or misapplication of funds and the amount had throughout remained invested in a prescribed mode under section 11(5). Since the assessee had substantially complied with all the statutory conditions, a mere procedural delay in converting the bank balance into fixed deposits could not defeat the exemption. (AY. 2018-19)
Rajasthan Ophthalmological Society v. ITO (2025) 128 ITR 525 (Jaipur)(Trib.).

222 **S. 11: Property held for charitable purposes-Development of industrial estates constitutes advancement of an object of general public utility-Exemption cannot be denied. [S. 2(15), 12]**
The assessee, a statutory corporation constituted for development of industrial estates and infrastructure, was denied exemption under sections 11 and 12 on the ground that sale of plots amounted to carrying on business in view of the proviso to section 2(15). The Tribunal held that the issue already stood concluded in favour of the assessee by the jurisdictional High Court for earlier as well as subsequent assessment years and there was no change in the nature of its activities. Accordingly, the assessee continued to be engaged in advancement of an object of general public utility and was entitled to exemption under sections 11 and 12. (AY. 2012-13, 2013-14 & 2016-17)
Asst. CIT v. Gujarat Industrial Development Corporation (2025) 130 ITR 108 (Ahd.)(Trib.)

223 **S. 11: Property held for charitable purposes-Principle of mutuality-Participation in the annual meet for which the sponsorship fees are received is free of cost-It cannot be held to be a service for a fee for rendering service-Proviso to section 2(15) is not applicable-AO is not correct in denying the benefit of exemption. [S. 2(15)]**
Allowing the appeal of the assessee the Tribunal held that it cannot be said that the assessee is exclusively engaged in the activities beneficial only to its members; therefore, the action of the AO in applying the principle of mutuality is not sustainable; income of the assessee does not include any revenue from any activity like trade, commerce or

business and, therefore, AO is not correct in denying the benefit of s. 11 to the assessee by invoking the proviso to s. 2(15). (AY. 2016-17 & 2018-19)
Insurance Brokers Association of India v. ITO (E) (2025) 235 TTJ 22 / 175 taxmann.com 580 (Mum) Trib)

S. 11: Property held for charitable purposes-contribution of Rs. 50,000 to the trustees of ABET for creating that trust-Not specified person-Lease rent paid by the assessee for a building which was provided free of charge to ABET to enable it to start a school-No disallowance can be made-Income from house property-Deduction is not allowable-Method of accounting-Cash system-Interest income-Addition on account of interest accrued and not received was deleted. [S. 13(2)(a), 13(2(b), 13(2)(g), 24(a), 145] 224

ABET is a charitable trust registered under s. 12A, and there is no material available on the record to infer that it exists for the purpose of profit. Therefore, the question of entitlement to any profit of ABET does not arise.. Hence, the provisions of s. 13(3)(e) is also not applicable to the facts of the present case. Tribunal also held that the disallowance of lease rent paid by the assessee for a building which was provided free of charge to ABET to enable it to start a school, which was deleted by the CIT A), was upheld. Deduction under section 24 claimed by the trust on income declared under the head income from house property is not allowable. The Tribunal also held that the assessee has followed the cash basis of accounting since inception for the purpose of income tax returns, even though it is following the mercantile system of accounting; accordingly, the addition made by the Assessing Officer on account of interest accrued but not received is not sustainable. (AY.2011-12)
ITO (E) v. Vaibhav Medical & Education Foundation (2025) 235 TTJ 234 (Mum)(Trib)

S. 11: Property held for charitable purposes-Change of name-Not applied for fresh registration-Assessed under the normal provisions of the Act-All permissible deductions, including expenditure incurred out of said income, allowable as deduction-Matter restored to the file of the Assessing Officer. [S. 12A, 37(1)] 225

Held that when the Trust is assessed under the normal provisions of the Act, all permissible deductions, including expenditure incurred out of said income, are allowable as deductions. Matter restored to the file of the Assessing Officer. (AY 2016-17 to 2021-22)
The Zoos & Parks Authority of Telangana v. Dy.CIT (E) (2025) 236 TTJ 117/ 174 taxmann.com 1136 (Hyd) (Trib)

S. 11: Property held for charitable purposes-Omission to show application of funds in the IT return-Denial of exemption was not justified.[S. 12, 139] 226

Held that the exemption cannot be denied merely because the assessee's counsel inadvertently omitted to fill the column relating to application of income for charitable purposes in the IT return (AY. 2013-14)
Bright Land College v. ITO (E) (2025) 236 TTJ 125 / 174 taxmann.com 743 (Lucknow)(Trib)

227 **S. 11 : Property held for charitable purposes-Accumulation of income-Belated exercise of option during assessment proceedings-The Assessing Officer was directed to allow the claim of deemed application of income. [S. 11(1), 12A, 12B, 143(3)]**

Held that even if the assessee has delayed exercise of its option under s. 11(1), Expln. 2 for deemed application of its income, as long as the option is exercised during the assessment itself, assessee is entitled to claim deemed application of its income; contention that since the assessee's application for condonation of delay in exercising the option under s. 11(1)(a), Expln. 2 has not been approved by the specified authority; the assessee is not entitled to the benefit of deemed application of its income, which is not sustainable. (AY. 2013-14)

Shri Mahavir Gopalan Charitable Trust v. ITO (E) (2025) 236 TTJ 363 (Ahd) Trib)

228 **S. 11: Property held for charitable purposes-Belated filing of Form No. 10B-Revenue was not justified in denying the benefit of exemption-AO is directed to take on record both the audit reports filed for respective assessment years, treat them as filed in compliance with provisions of s. 12A(1)(b) and then assess the total income of the assessee after giving effect to the provisions of ss. 11 and 12.[S. 12, 12A, 139(4A), Form No 10B]**

Held that the condition of filing an audit report is merely procedural and therefore, directory in nature for the purpose of claiming exemption under ss. 11 and 12. The Tribunal directed the AO to take on record the audit reports filed for the respective assessment years and then assess the total income of the assessee trust after giving effect to the provision of s. 11 and 12. (AY. 2017-18 & 2018-19)

Chinmaya Seva Trust v. DCIT (2025) 237 TTJ 349 / 174 taxmann.com 214 (Panaji)(Trib)

229 **S. 11: Property held for charitable purposes-Accumulation of income-Benefit of accumulation cannot be denied where 85% of income is applied-Form No 9A-Justified in refusing accumulation as the specified purpose of accumulation was not specified. [S. 11(1)(a), 11(2)]**

The Tribunal held that filing of Form No. 9A is required only where the trust seeks to accumulate income because it could not apply 85% of its income during the year. Where the assessee had already applied the prescribed percentage of income towards charitable purposes, non-filing of Form No. 9A did not disentitle it from the statutory accumulation under section 11(1)(a). Tribunal also held that the CIT(A) was justified in refusing accumulation as the specified purpose of accumulation was not specified. (AY. 2017-18, 2018-19).

Rohilkhand Educational Charitable Trust v. DCIT (2025) 238 TTJ 173 / 178 taxmann.com 672 (Lucknow)(Trib.)

230 **S. 11: Property held for charitable purposes-Donation to another charitable trust having common trustees-Exemption cannot be denied-Matter remanded. [S. 13(1)(c), 13(3)]**

The Tribunal held that a public charitable trust cannot be regarded as a concern in which common trustees have a substantial interest merely because the donor and donee trusts have common trustees. Unless it is established that the funds of the donee trust

were utilised for the personal benefit of the trustees, exemption under section 11 cannot be denied. While donation to one trust was allowed, the issue relating to another donee trust was restored to the Assessing Officer to examine whether the donation furthered the assessee's charitable objects. (AY. 2017-18 & 2018-19).
Rohilkhand Educational Charitable Trust v. DCIT (2025) 238 TTJ 173 / 178 taxmann.com 672 (Lucknow)(Trib.)

S. 11: Property held for charitable purposes-Exemption-Capital gains-Sale proceeds reinvested in fixed deposit with scheduled bank-Deemed acquisition of new capital asset-Assessee eligible for exemption on capital gains-Interest earned on fixed deposits retained in bank account and applied for charitable purposes-Qualifies for exemption. [S. 11(5), 11(IA)] 231

The assessee, a charitable trust, sold immovable property for Rs. 75 lakhs and reinvested the proceeds in fixed deposits with a nationalised bank, later converted into a capital gains account, but the AO treated the entire sale proceeds as taxable business income, denied exemption under section 11(1A), and separately added Rs. 4,41,961 as taxable interest income, which CIT(A) partly sustained. On appeal, the Tribunal held that the assessee had furnished sufficient evidence of deposit of the sale consideration in fixed deposits, which as per CBDT Instruction No. 883 of 1975 amounted to utilisation of net consideration for acquiring another capital asset under section 11(1A), and since the assessee had also shown that the capital gains were ultimately utilised for purchasing another immovable property, the AO was directed to verify the facts and allow relief; it further held that the interest income, having been retained in the bank savings account, duly reflected in the audited balance-sheet, and invested in a mode specified under section 11(5), qualified for exemption under section 11(1).(AY. 2016-17)
Vaishnav Samaj Trust v. ITO (2025) 132 ITR 169 (Surat)(Trib.)

S. 11: Property held for charitable purposes-Registration granted subsequently-Audit report in Form No. 10B filed thereafter-Substantial compliance-Exemption allowable-Return filed within time under section 139-Amendment by section 12A(1)(ba) prospective-Exemption not to be denied. [S. 12, 12AA, 139(4A), 143(1)] 232

The assessee's application for registration under section 12AA was initially rejected but was subsequently allowed pursuant to the Tribunal's directions with effect from the relevant assessment year. After obtaining registration, the assessee filed the audit report in Form No. 10B. The Tribunal held that when the return was originally filed the assessee was not a registered trust and therefore could not have complied with the requirement of filing Form No. 10B. Filing the audit report after grant of registration constituted substantial compliance and exemption under sections 11 and 12 could not be denied on that ground. The Revenue denied exemption on the ground that the return was not filed within the time prescribed under section 139(4A). The Tribunal held that the requirement inserted by section 12A(1)(ba) applies only from assessment year 2018-19 onwards. For the year under consideration, the assessee having filed the return within the period prescribed under section 139 was entitled to exemption. The denial of exemption was therefore held to be unsustainable. (AY. 2017-18).
Shri Panchmurti Education Society v. ITO (2025) 126 ITR 523 / 171 taxmann.com 546 (Nagpur)(Trib.)

233 **S. 11: Property held for charitable purposes-Form No. 9A-Revised Form filed before completion of assessment-Correct taxable income to be determined-Matter remanded. [S. 143(3)]**

The assessee, a charitable trust, inadvertently claimed double deduction by claiming both depreciation and capital expenditure. Before completion of the assessment, it filed a revised Form No. 9A to increase the amount to be accumulated and carried forward. The Tribunal held that the tax authorities failed to ascertain the correct taxable income merely because the revised Form No. 9A was filed after the prescribed due date. Since the revised Form had been filed before completion of the assessment and could materially affect the computation of taxable income, the matter was restored to the Assessing Officer for fresh adjudication. (AY. 2020-21).

Deendayal Seva Pratishthan v. ITO (2025) 126 ITR 368 / 179 taxmann.com 88 (Nagpur) (Trib.)

234 **S. 11: Property held for charitable purposes-Charitable purpose-Advancement of object of general public utility-Business-Microfinance activities carried on with predominant profit motive-Exemption denied.[S. 2(15), 12, 12AA]**

The assessee-trust, registered under section 12AA, advanced loans through self-help groups and non-governmental organisations to economically weaker sections while charging interest substantially higher than prevailing market rates. The Tribunal held that the assessee was engaged in organised commercial microfinance activities with the predominant object of earning profit and that its activities were no different from those of commercial financial institutions. In the absence of any real element of charity, the assessee's activities were hit by the proviso to section 2(15), and it was not entitled to exemption under section 11. (AY. 2013-14).

Innovative Microfinance for Poverty Alleviation and Community Transformation v. Dy. CIT (E) (2025) 123 ITR 188 / 174 taxmann.com 502 (Chennai)(Trib.)

235 **S. 11: Property held for charitable purposes-Revised return-Break-up of foreign contribution as 'corpus fund donation' or 'other than corpus fund donation'-Failure to upload revised return-Revised return which assessee could not file due to technical glitches was to be considered by Assessing Officer subject to verification of donations and to allow claim for exemption under section 11 to assessee-trust [S. 12, 139(5), 143(1), 154]**

Assessee, a society registered under section 12, filed its return declaring nil surplus from its charitable activities. Return was processed by CPC wherein foreign contribution of certain amount received by assessee-trust was treated as income of assessee Assessee filed a rectification petition under section 154 whereby it sought exemption for said amount on ground that it was a voluntary contribution from foreign sources which could not be exigible to tax. However, CPC passed an order under section 154 wherein it had stated that amount of foreign contribution was not consistent with the total contribution and suggested assessee to file a revised return providing correct break-up of foreign contribution as 'corpus fund donation' or 'other than corpus fund donation'. It was also stated in the Section 154 order that in case revised return was not filed, the difference amount between schedules would be treated as other than corpus fund

donation and would be taxed accordingly. Assessee attempted to file a revised return as suggested by CPC, but due to technical glitches, assessee could not upload the revised return. Assessee submitted that since the time for filing the revised return under section 139(5) had supervened, assessee failed to upload the return as the system did not accept it. Tribunal held that the revised return, which the assessee could not file due to technical glitches, was to be considered by the Assessing Officer, subject to verification of donations, and to allow a claim for exemption under section 11 to the assessee-trust. Matter remanded. (AY. 2021-22)
St. Joseph Capuchin Service Society v. ACIT (E) Uttar Pradesh. (2025) 215 ITD 137 (Delhi) (Trib.)

S. 11: Property held for charitable purposes-Delay in filing Audit report-Uploaded Form No. 10B within time allowed by CPC-Exemption cannot be denied merely for delay in filing audit report. [S.12, Form No 10B] 236
Held that since the audit report was filed much prior to the passing of the order as well as the passing of the intimation under section 143(1)(a) by CPC, the Commissioner (Appeals) erred in not allowing the claim of the assessee.(AY. 2018-19)
Masoomeen Education Society v. CIT(A) (2025) 215 ITD 311 (Pune) (Trib.)

S. 11: Property held for charitable purposes-Delay in filing return of income along with audit report in Form No 10B-Form was submitted before completion of assessment proceedings-Procedural irregularity-Denial of exemption was not justified-Accumulation of income-Specified purpose-Donated to other trust-Constituted a violation of provisions of section 11(3)-Addition under section 11(3)(d) was justified. [S.11(2), 11(3)(d)] 237
Tribunal held that though the assessee-trust belatedly filed its return claiming exemption under section 11 along with an audit report in Form No. 10B, since said form was duly submitted before completion of assessment proceedings, the delay in filing said form was a procedural irregularity and exemption under section 11(2) could not be denied to the assessee. Tribunal also held that the assessee-trust failed to utilise accumulated income for the specified purpose within the permissible period and was instead donated to other trusts, which constituted a violation of provisions of section 11(3), thus, addition under section 11(3)(d) for such amount was justified. (AY. 2017-18)
ITO (E) v. Seth Damji Laxmichand Jain Dharma Sthanak (2025) 215 ITD 415 (Mum) (Trib.)

S. 11: Property held for charitable purposes-General public utility-Sports-Applicability of proviso to section 2(15)-Specified person-Mutual Association-Association of persons-Sports facilities and charging members and non-members at differential rates-Orders were set aside and restored to the file of the Assessing Officer for de novo assessment after applying provisions of section 2(15) in light of the decision of the Supreme Court. [S. 2(15), 2(31)(v), 4, 12A, 13(1)] 238
Assessee trust was providing general public utility (GPU) services by conducting sports facilities and coaching for various sports on a ground given to it on lease by the government. It was collecting charges at differential rates for these facilities from its

members and non-members. Assessing Officer held that assessee had violated provisions of section 13 by conferring undue benefit to 'specified persons' as per section 13(1) and, therefore, passed assessment order treating it as a mutual concern. CIT (A) directed the Assessing Officer to treat assessee as an AOP and allow expenses claimed after due examination. On an appeal by the revenue, the Tribunal held that in *Asstt. CIT (E) v. Ahmedabad Urban Development Authority (2023) 291 Taxman 11/ (2022) 449 ITR 1 (SC)* gave a correct interpretation of the proviso to section 2(15) in the context of the GPU category of cases of charitable entities. Since the assessee was covered under the GPU clause of section 2(15), while considering the assessee's claim of exemption under section 11, the proviso to section 2(15) had to be considered in light of the decision of the Supreme Court in AUDA (supra). The matter was restored to the file of the Assessing Officer for de novo assessment after applying provisions of section 2(15) in light of the decision of the Supreme Court (AY. 2013-14 to 2018-19)
ITO (E) v. Chembur Gymkhana. (2025) 215 ITD 433 (Mum)(Trib.)

239 **S. 11: Property held for charitable purposes-Filing of audit report-Delayed filing of audit reports-Merely a technical or procedural lapse-Denial of exemption was not justified.[S. 10(23C), 12 143(1)]**
Assessee-trust filed its return of income for Assessment Year 2020-2021 claiming exemption under Section 11. Audit report in Form 10B was filed along with the return. Similarly, for Assessment Year 2023-2024, assessee claimed exemption under Section 10(23C) and filed an audit report in Form 10BB along with the return. CPC processed returns under Section 143(1) and denied exemption on the grounds that the audit reports were filed belatedly with reference to timelines under Section 139. CIT(A) confirmed the denial of exemption, observing that conditions for claiming exemption were not fulfilled due to the late filing of audit reports. Tribunal held that audit reports were very much available on record when returns were processed, hence such technical/ procedural breach could not lead to denial of exemption under Sections 11 and 12 or under Section 10(23C) at the stage of intimation under Section 143(1). Therefore, intimation under Section 143(1) was quashed. (AY. 2020-21, 2022-23)
Saraswati Devi Educational and Social Trust. v. ITO (E) (2025) 215 ITD 658 (Kol) (Trib.)

240 **S. 11: Property held for charitable purposes-Denial of exemption-Trust or institution-Investment restrictions-Assessee gave interest free loan advances-Held, Charitable cannot hold surplus except in the prescribed mode in S. 11(5)-Held, AO cannot change status of the Asseessee from 'charitable' to 'non-charitable' for minor violation-CIT(A) should see where the surplus funds was applied-matter remanded. [S.11(5), 12, 13]**
The AO observed that the Assessee charitable trust gave interest free Advances to related parties in violation of the S. 11 and S. 13 of the Act and Computed Notional Interest on the interest free advances. The AO also made addition for application of funds towards charitable activities even though it had surplus funds. The ITAT held that surplus funds of a charitable Institution who enjoys benefit of S. 11 and 12, are not akin to surplus funds of a business house. The Trust is not enjoying those funds as its own funds. It is being held in a fiduciary capacity In other words, in a representative capacity of charitable Institution. If it is surplus, then it is to be accumulated under S. 11(5) in a

prescribed mode and if not applied in future years, it has to suffer tax. Although, the ITAT observed that the status of the Institution cannot be changed from 'charitable' to 'non-charitable' Institution if a minor violation is present. Sub-clause (3) of S. 13 would provide that if undue benefit is being provided to any Institution or individual because of its proximity to the Management, then that undue benefit is to be brought to tax, but S. 11 and 12 would not be denied to the overall Society/Institution. Therefore, the Id. CIT(A) has erred in not analytically examining the issue, and the AO has erred in denying the exemption as a whole to the Assessee. The ITAT remanded both matters for fresh consideration. (AY. 2014-15)

ACIT (E) v. K.C Social Welfare Trust (2025) 175 taxmann.com 63 /234 TTJ 792 (Chd) (Trib)

S. 11 : Property held for charitable purposes-Excess expenditure over income-Accumulation of income-Applied charitable purpose-Denial of exemption is not valid. [S.11(1)(a), 12A] 241

Assessee, a charitable trust registered under section 12A, claimed exemption under section 11(1)(a) for ₹ 27,05,219 [15% of total income] as accumulated/set-apart funds, despite incurring total expenditure of ` 4,88,80,927 against receipts of ` 1,80,34,791. AO disallowed the claim, reasoning that the assessee had no surplus to justify accumulation. Assessee argued that the excess expenditure was met from accumulated funds of earlier years and the 15% set-apart under section 11(1)(a) was unconditional. Section 11(1)(a) permits accumulation of up to 15% of income irrespective of whether current-year expenditure exceeds receipts. A charitable trust cannot be denied exemption under section 11(1)(a) merely because it utilised accumulated funds to cover excess expenditure. The provision is unambiguous and does not require a surplus in the relevant year for the 15% set-apart. Accordingly, the assessee's claim was valid. (AY. 2016-17)

Rajasthan Cricket Association v. ITO(E) [2025] 174 taxmann.com 346 (Jaipur)(Trib)

S. 11: Property held for charitable purposes-Accumulation of income-Amendment brought in by Finance Act, 2022, did not debar assessee from availing said time window in respect of existing accumulations and amendment had to be read prospectively in respect of fresh accumulations for the period pertaining to previous year starting from 1-4-2022 onwards. [S.11(3)(c)] 242

Assessee, a charitable trust, filed its return of income claiming exemption under section 11. During the relevant year, assessee utilised accumulated income pertaining to financial years 2016-17. Assessing Officer held that as per amended provisions of section 11(3)(c), the accumulation period was limited to five years and, thus, he brought said amount to tax as income of assessee. CIT(A) up held the adjustment made by the Assessing Officer. On appeal the Tribunal held that amendment to section 11(3)(c) by Finance Act, 2022 with effect from 1-4-2023 which omitted extra period of one year following expiry of initial period of accumulation of five years was prospective in nature and, thus, same would be applicable only to fresh accumulations from assessment year 2023-24 onwards. As far as accumulation relating to financial years 2016-17 was concerned, assessee had time window till 31-3-2023 by which it could utilize accumulated income and in that view of matter, amendment brought in by

Finance Act, 2022, did not debar assessee from availing said time window in respect of existing accumulations and amendment had to be read prospectively in respect of fresh accumulations for period pertaining to previous year starting from 1-4-2022 onwards. Further, as far as the assessment year was concerned, no addition could be made for the accumulation of income pertaining to the financial year 2017-18 as the assessee continued to be guided by provisions as existed at the relevant point in time and the time window of six years as provided. The amendment made by the Finance Act, 2022, could not curtail said time window and had to be applied prospectively in respect of fresh accumulations. (AY. 2023-24)
Meshri Mahajan Vanda v. ITO (2025) 214 ITD 638 (Ahd) (Trib.)

243 **S. 11: Property held for charitable purposes-Accumulation of income-Educational purpose-Board resolution-Providing scholarship-Form No 10B-Entitled to claim benefit of section 11(2).[S.11(2), Form No 10.]**
Assessee, a charitable trust engaged in educational activities which included granting of scholarships to students, filed Form No. 10 for accumulation of income under section 11(2). Assessing Officer disallowed income accumulated under section 11(2), holding that the purpose stated for accumulation i.e. 'towards object of trust ', was generic and it was a mandatory requirement that the purpose stated for accumulation should be specific. CIT(A) confirmed the disallowances. On appeal, the Tribunal held that Form No. 10 filed by assessee stated the purpose of accumulation as 'for objects of trust'. It was also noted that said Form No. 10 was supported by a board resolution passed by the board of directors of the assessee-company wherein it was clearly mentioned that the accumulated amount was to be utilised for providing scholarship (educational purpose). Vagueness of purpose of accumulation as stated in Form 10 would not be fatal, and assessee would be entitled to claim benefit of section 11(2) in respect of the same. The matter was to be remanded to the Assessing Officer, and disallowance to the extent the accumulated amount had been utilised for the aforesaid purpose was to be deleted by the Assessing Officer. (AY. 2016-17)
Imperial College India Foundation v. Income-tax Officer (E) (2025) 214 ITD 761 (Mum) (Trib.)

244 **S. 11: Property held for charitable purposes-Delay in filing Form No 10 and 10B-Procedural lapse-Exemption cannot be denied. [Form No 10, 10B]**
Held that the delay in filing Form No 10 and 10B was a procedural lapse; hence, exemption cannot be denied.(AY. 2019-20)
Gujarat Technological University v. Dy. CIT(2025) 214 ITD 475 (Ahd)(Trib)

245 **S. 11: Property held for charitable purposes-Application of funds-Gross receipts-Revenue and capital expenditure-Income was to be assessed as nil. [S.12A, 143(1)]**
Allowing the appeal, the Tribunal held that the income of the trust at gross receipts, since the gross receipts of the assessee were ₹ 1.41 crores and application of funds was also to the tune of ₹ 1.41 crores, comprising revenue expenditure of ₹ 1.35 crores and capital expenditure of ₹ 6.10 lakhs, income of the assessee was to be assessed as nil (AY. 2022-23)
Cossimbazar Social Welfare and Development Trust v. ITO (2025) 213 ITD 54 (Kol) (Trib)

S. 11: Property held for charitable purposes-The requirement of filing an audit report in Form 10B before the due date as per rule 12A(1)(b) is directory in nature and not mandatory-Directed to allow exemption. [S. 12, 12A(1)(b), Form No 10B] 246

Allowing the appeal of the assessee, the Tribunal held that the requirement of filing an audit report in Form 10B before the due date as per rule 12A(1)(b) is directory in nature and not mandatory. Accordingly, the Assessing Officer was directed to allow the exemption. (AY. 2017-18, 2019-20)

Trilok Singh Bhandari Charitable Trust v. TIO (2025) 213 ITD 63 (SMC) (Delhi) (Trib.)

S. 11: Property held for charitable purposes-Belated filing of Form No.10B-Filed in appeal proceedings-Directory and not mandatory-Directed to allow the exemption. [S. 12, 12A, Form No.10B] 247

Assessing Officer denied the exemption on the ground that assessee had not filed Form No. 10B, audit report, within the prescribed time limit. CIT(A) did not accept the audit report filed in the appeal proceedings. On appeal, the Tribunal held that since the filing of Form No. 10B is directory and not mandatory and the assessee had filed Form No. 10B belatedly but during appeal proceedings itself, the benefit of sections 11 and 12 claimed by the assessee in its income-tax return was directed to be allowed. (AY. 2014-15)

Sahaj Seva Trust v. ITO (E) (2025) 213 ITD 122 (Pune) (Trib.)

S. 11: Property held for charitable purposes-Failure to file an audit report in Form No 10B along with the return-Report was filed in the course of assessment proceedings-Exemption could not be denied solely on the ground of belated filing of audit report-Delay was condoned, and the Assessing Officer was directed to grant the exemption. [S. 12, 12A, Form No.10B] 248

Assessing Officer denied exemption under section 11 on the ground that the audit report in Form No. 10B was not furnished along with the return or subsequently up to the time of assessment. CIT(A) dismissed the appeal. On appeal, the Tribunal held that the audit was completed on 29-7-2019 and the audit report was signed on 27-7-2019. However, said audit report was e-filed belatedly on 7-12-2019. Since audit was completed in time and there was no adverse finding by Assessing Officer on merits of exemption, exemption could not be denied solely on ground of belated filing of audit report in Form No. 10B. Delay in filing Form No. 10B and delay in filing appeal before Commissioner (Appeals) was condoned in interest of justice and Assessing Officer was directed to grant benefit of exemption under sections 11 and 12. (AY. 2017-18)

Health Foundation and Research Centre v. ACIT (2025) 213 ITD 326 (Ahd) (Trib)

S. 11: Property held for charitable purposes-Filing of auditor's report-Directory and not mandatory-Audit report in Form No. 10B was not uploaded within the due date of filing return under section 139(1)-Filed before processing of return-Exemption allowed. [S.12A, 143(1), Form No 10B] 249

Assessee-trust filed return claiming exemption under section 11. However, Form No. 10B was duly filed within 1 month prior to the due date for furnishing the return under section 139(1) by CA in practice (duly e-signed), but inadvertently, the assessee missed

accepting it. Assessing Officer denied the exemption claimed under section 11. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that the filing of an audit report in Form No.10B had been held to be a procedural requirement and directive in nature and not mandatory. Since the audit report was available before the Assessing Officer at the time of processing of the return, the matter was remitted back to the Assessing Officer for considering the assessee's claim afresh and claim of exemption under section 11 had to be allowed.(AY. 2022-23)
AMPI Foundation v. DDIT CPC (2025) 213 ITD 529 (Kol) (Trib.)

250 **S. 11: Property held for charitable purposes-Filing of audit report in correct form-Filed Audit report in Form 10B-Filed Form 10BB on 05-01-2024, before intimation under section 143(1) was passed-CBDT Circular No. 2/2024 dated 5-3-2024, audit report filed in Form 10BB was within due date-The Assessing Officer was directed to consider Form 10BB.[S. 12A, 119 R. 16CC, 17B]**
Assessee-trust filed its audit report in Form No. 10B. Subsequently, assessee came to know that Form No. 10BB was required to be filed. Assessee, thereafter, filed an audit report in the correct form, i.e. Form No. 10BB on 5-1-2024. Assessing Officer held that the total income of the trust claiming exemption under section 11 exceeded the maximum amount which was not chargeable to tax under the Act but less than or equal to Rs.5 crores; thus, the assessee was required to file an audit report in Form 10BB at least one month prior to the due date of furnishing the return under section 139(1). However, assessee failed to e-file the audit report in Form 10BB.He, thus, processed the return and recomputed income as per section 13(10). CIT(A) affirmed the order of the Assessing Officer. On appeal the Tribunal held that the assessee had filed an audit report in Form No. 10B on 28-10-2023 and extended due date for filing an audit report as per CBDT circular for assessment year 2023-24 was 31-10-2023. Further, the audit report in correct Form No. 10BB was filed on 5-1-2024, i.e. before passing of intimation under section 143(1). While passing intimation under section 143(1), the Assessing Officer should have considered the correct Form No. 10BB filed on 5-1-2024. In view of CBDT Circular No. 2/2024, dated 5-3-2024, the audit report filed in Form 10BB on 5-1-2024 was within the due date. Accordingly, the Assessing Officer was directed to delete additions made in income of assessee. (AY. 2023-24)
Ashwini's Sports Foundation v. ITO (E) (2025) 13 ITD 502 (Bang) (Trib.)

251 **S. 11: Property held for charitable purposes-Delay in filing Form 10B, which was filed before the issue of notice u/s 143(1)-Mismatch in details of registration under section 12A provided in ITR and Form 10AC-Matter remanded [S. 12A, Form 10B, 10AC]**
Held that the assessee-trust filed Form 10B with a minor delay, grant of exemption could not be denied only on account of said delay if said Form was available with the Assessing Officer before the issue of notice under section 143(1). The Tribunal also held that exemption cannot be denied on account of a mismatch in details of registration under section 12A provided in ITR and Form 10AC. Matter remanded for verification. AY. 2022-23)
Barwala Panjrapole v. ITO (2025) 213 ITD 523 (Ahd) (Trib.)

S. 11: Property held for charitable purposes-Delay in filing Audit report in Form No 10B-Directory and not mandatory-Audit report was filed before processing of return-Denial of exemption was not justified.[S. 12, 143(1), Form No.10B] 252

The assesse filed its return of income claiming exemption under section 11. The return was processed under section 143(1) by denying the claim of exemption on the ground that the assessee had filed an audit report in Form No. 10B along with the return of income but the same was required to be filed one month before the due date of filing the return of income, and since the audit report was filed late, the claim of exemption was denied. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that the filing of the auditor's report along with the return of income has to be treated as a procedural requirement and, therefore, it is directory in nature and not mandatory. Audit report was available at the time of processing of return, claim under section 11 could not be denied. The Assessing Officer was directed to allow the claim under section 11 as per law and after considering the audit report filed in Form No. 10B (AY. 2020-21)

Riddhi Seva Kendra v. ADIT (2025) 213 ITD 535 (Kol) (Trib.)

S. 11: Property held for charitable purposes-Delay in filing Audit report in Form No 10B-Directory and not mandatory-Directed to allow the exemption. [S. 12, 12A, Form No 10B] 253

Assessee filed its return of income declaring total income at nil and claiming exemption under section 11.Centralized Processing Centre (CPC), on the basis of alleged non-availability of TAR in Form 10B, disallowed the exemption claimed by assessee. CIT(A) affirmed the order of the Assessing Officer. On appeal, the assessee contended that TAR was filed before return, though with a delay of one day and that too solely because of technical slags that frequently occur on the last dates of furnishing such particulars. Further, assessee filed the same Form 10B before the appellate authority as well. Tribunal held that the conditions of filing Form 10B for availing benefit under section 11 are directory in nature and not mandatory; hence, denial of exemption was not justified. (AY. 2022-23)

Sampoorna Seva Charitable Trust v. ITO (2025) 213 ITD 550 (Delhi) (Trib.)

S. 11: Property held for charitable purposes-Delay in filing Form 10B, which was made available before passing of intimation u/s 143(1)-Denial of exemption was not valid. [S.12, 143(1)] 254

Held that assessee trust had filed Form 10B and the same was available with the Department before the passing of the order/intimation under section 143(1), claim of exemption under section 11 could not be denied only on account of delay in filing of Form No 10B before due date. (AY. 2021-22)

Shree Bhakt Samaj Vikas Education Trust v. CIT(E) (2025) 213 ITD 639 (Ahd) (Trib.)

S. 11 : Property held for charitable purposes-Excess expenditure over income-Accumulation of income-Applied charitable purpose-Denial of exemption is not valid. [S.11(1)(a), 12A] 255

Assessee, a charitable trust registered under section 12A, claimed exemption under section 11(1)(a) for ₹ Rs.27,05,219 [15% of total income] as accumulated/set-apart

funds, despite incurring total expenditure of ₹ Rs.4,88,80,927 against receipts of `Rs. 1,80,34,791. AO disallowed the claim, reasoning that assessee had no surplus to justify accumulation. Assessee argued that the excess expenditure was met from accumulated funds of earlier years and the 15% set-apart under section 11(1)(a) was unconditional. Section 11(1)(a) permits accumulation of up to 15% of income irrespective of whether current-year expenditure exceeds receipts or not. A charitable trust cannot be denied exemption under section 11(1)(a) merely because it utilized accumulated funds to cover excess expenditure. The provision is unambiguous and does not require a surplus in the relevant year for the 15% set-apart. Accordingly, assessee's claim was valid. (AY. 2016-17)
Rajasthan Cricket Association v. ITO(E) [2025] 174 taxmann.com 346 (Jaipur)(Trib)

256 **S. 11 : Property held for charitable purposes-Accumulation of income-Object of trust-Exemption allowed. [S. 11(2), Form 10]**
The assessee-trust claimed accumulation of income under section 11(2). The AO denied exemption on the ground that the purpose of accumulation was not specified. The CIT(A) allowed the claim. On appeal, the Tribunal held that Form 10 contained specific reasons for accumulation, which were within the objects of the trust. Accordingly, exemption under section 11 was rightly allowed. (AY. 2018-19)
ITO v. Yogakshema Trust (2025) 212 ITD 408 (Cochin)(Trib.)

257 **S. 11 : Property held for charitable purposes-Accumulation-Deduction was not allowed-Benefit of section 12A in previous and subsequent years, claim of assessee was allowable-Delay of 1672 days in filing appeal before CIT(A) was condoned. [S.11(1)(a), 11(5), 12A, 143(1)(a), 254(1), R. 17]**
Assessee, charitable trust, claimed deduction under section 11(1)(a) However, same was not allowed by Assessing Officer on ground that assessee while filling ITR did not mention section 12A details. Assessee submitted that denial of deduction merely due to bona fide error in ITR was unjust. Tribunal held that since audit report filed by assessee suggested that assessee was a trust and assessee had been allowed benefit of section 12A in previous and subsequent years, claim of assessee for deduction as claimed in ITR was allowable. Delay of 1672 days in filing appeal before the CIT(A) was condoned. Relied on *Pathapati Subba Reddy v. Special Deputy Collector (LA)(2024) SCC Online SC 513* (AY. 2013-14)
Seth RB Moondhra Memorial Charitable Trust v. CIT (2025) 212 ITD 567 (Jaipur) (Trib.)

258 **S. 11 : Property held for charitable purposes-Objects of general public utility-Eye hospital-Commercial activities-85 per cent of its gross receipts were applied for charitable activities-Eligible for exemption.[S. 2(15), 12A, 12AA]**
Assessee eye hospital society was registered as a charitable institution under section 12AA It filed its return declaring nil income Assessing Officer held that surplus of assessee was 31.29 per cent of gross receipts. He held that the assessee was involved in commercial activities which was a clear violation of provisions of section 2(15) and, thus, he treated net surplus as taxable income for year under consideration. CIT(A) held that the assessee had applied 85 per cent of its surplus, hence eligible for exemption.

On appeal the Tribunal held that once assessee was registered as a charitable institution under section 12AA, then it was to be seen whether income derived from property of society or activities of society were being applied to extent of 85 per cent on its objectivity or not. It had not been provided that if charitable institution was generating higher percentage of surplus, then it would be disqualified as a charitable institution and requirement of law was that 85 per cent of gross receipts were required to be applied for charitable activities, which had been fulfilled by assessee. Order of CIT(A) allowing the exemption was affirmed. (AY. 2017-18)
ACIT (E) v. Palampur Rotary Eye Foundation (2025) 212 ITD 491 (Chd) (Trib.)

S. 11 : Property held for charitable purposes-Education-Donation to other educational trusts-Application of income-Allowed exemption.[S.12A] 259
The assessee-trust, registered under section 12AA, was engaged in education and made donations to other educational trusts which were also registered u/s 12A. The AO denied exemption alleging diversion of funds and misuse. The Tribunal observed that once both donor and donee trusts are registered and the object of imparting education is fulfilled, the donation qualifies as application of income u/s 11. It further noted that in earlier scrutiny assessments such donations were accepted in the case of donee trusts. Hence, exemption could not be denied. Held, donations to other registered trusts for educational purposes amount to valid application of income. (AY. 2012-13, 2014-15)
DCIT (E) v. Indo Global Education Foundation (2025) 212 ITD 341 (Chd) (Trib.)

S. 11 : Property held for charitable purposes-Public welfare and developmental activities-Charitable in nature-Entitle to exemption. [S. 2(15), 12] 260
The assessee, a statutory Town Planning Authority under the Karnataka Town and Country Planning Act, 1961, undertook public welfare and development activities. The AO denied exemption u/ss. 11 and 12 holding that activities were commercial in nature under the proviso to section 2(15). The Tribunal held that the assessee was functioning under strict Government control, its accounts were audited by Government, its budget was approved by the State and any surplus or assets reverted to the State upon dissolution. These facts showed that the activities were not profit-motivated but for public utility. Held, exemption u/ss. 11 and 12 allowable, proviso to section 2(15) not attracted. (AY. 2012-13, 2013-14, 2015-16, 2018-19)
Magadi Planning Authority v. ITO (2025) 212 ITD 363 (Bang) (Trib.)

S. 11 : Property held for charitable purposes-Claimed exemption under section 11 and section 10(23C)(iiiad)-Failure to file Form 10B-Matter is set aside to file of Assessing Officer with a direction to verify whether assessee is eligible for claim of exemption under section 10(23C)(iiiad) of the Act.[S. 10(23C)(iiiad)] 261
Assessee is a public charitable trust established with main object of facilitating education by starting, acquiring, affiliating or incorporating schools and boarding houses. Assessee filed its return of income claiming exemption under section 11. Assessee also claimed exemption under section 10(23C)(iiiad). Assessing Officer disallowed claim of exemption under section 11. On appeal, Commissioner (Appeals) upheld denial. On appeal before the Tribunal held that Assessee contended that entire expenditure incurred

by trust was for educational purposes and thus entire income of trust was otherwise exempt, if not under section 11 but under section 10(23C)(iiiad). Tribunal remanded the matter before the AO to decide in accordance with law. (AY. 2020-21)
Muslim Education Society v. ITO (2025) 212 ITD 124 (Pune) (Trib.)

262 **S. 11 : Property held for charitable purposes-Not claimed as application of income-Depreciation cannot be disallowed-Matter remanded. [S.11(6), 32]**
Held that when the assessee-trust had not claimed cost of acquisition of assets as 'application of income' either in the current or any previous assessment year, Assessing Officer could not disallow depreciation on fixed assets under section 11(6). Matter remanded. (AY. 2017-18)
Indian Institute of Information Technology Society, Vadodara v. DCIT (2025) 212 ITD 163 (Trib.)

263 **S. 11 : Property held for charitable purposes-Revised claim by rectification application-Filed within the time prescribed u/s 139(5)-No intimation was issued u/s 143(1)-Denial of exemption is not valid.[S. 139(5), 143(1), 154(8)]**
Held that the assessee-society having inadvertently shown its income under the head business income instead of income from other sources in its return and later filed a rectification application, it was actually a revised return revising the head of income disclosing the income under the correct head of income and not a rectification application simpliciter; such return of income is deemed to be accepted by the Revenue and, therefore, there is no justification in denying the claim of exemption under s. 11 to the assessee-society. (AY.2016-17)
Jan Shikshan Sansathan v. ITO (E) (2025) 233 TTJ 769 / 246 DTR 25 (Chd)(Trib)

264 **S. 11 : Property held for charitable purposes-Non-filing of Form 10B-Directory-Exemption cannot be denied. [S. 143(1), Form No. 10B]**
Held that the assessee had obtained audit report in Form 10B before filing return of income, however filed same belatedly but before completion of assessment under section 143(1), it being a procedural lapse on part of assessee, benefit of exemption under section 11 could not be denied to assessee-trust, as filing of Form 10B is directory and not mandatory in nature. (AY. 2016-17)
Puran Chand Arora Charitable Trust. v. ITO (E) (2025) 211 ITD 678 /122 ITR 59 (Delhi) (Trib.)

265 **S. 11 : Property held for charitable purposes-Imparting first aid training to students, schools, companies and institutions etc-Advancement of any other object of public utility-Charitable activity-Matter remanded to the AO. [S. 2(15), 12]**
Assessee-society is involved in imparting first aid training to students, schools, companies and institutions etc., and earning training fees and also membership fee. Assessee had earned income on account of fee for certification and protection awards. Assessing Officer held that assessee was running full fledged business activities which was commercial in nature and activity carried on by assessee fell under advancement of any other object of public utility. Accordingly, he held that assessee was not entitled

to claim benefits of exemption under sections 11 and 12. CIT(A) held that the assessee is entitle for exemption. On appeal by Revenue the Tribunal held that neither the Assessing Officer nor the Commissioner (Appeals) had considered activities of assessee as to whether the aim of trust or general public utility was charitable or not; the matter is remanded to the AO.(AY. 2014-15)
ITO v. St. John Ambulance Association (2025) 211 ITD 542 (Delhi) (Trib.)

S. 11 : Property held for charitable purposes-Form No 10-Audit report filed belatedly-Procedural requirement-Entitle to exemption. [S. S. 10(23C)(iiia), Form No 10] 266
Held that requirement of filing audit report along with return of income is only a procedural requirement and, therefore, exemption would not be denied when said audit report was available with Assessing Officer before completion of assessment even if said audit report was filed belatedly by assessee. *CIT v. Rai Bahadur Bissesswarlal Motilal Malwasie Trust [1992] 195 ITR 825 (Cal) (HC)* followed.(AY. 2017-18, 2018-19)
ACIT v. Karnataka Institute of Diabetology (2025) 211 ITD 210 /235 TTJ 874 (Bang) (Trib.),

S. 11 : Property held for charitable purposes-Failure to get accounts audited and audit report-Not entitle to exemption. [S. 12, 12A(1)(b)] 267
Held that for claiming exemption under sections 11 or 12, section 12A(b), the Trust has to get its accounts audited by an accountant defined in Explanation below sub-section (2) of section 288; and to furnish, along with return of income for relevant assessment year, a report of audit in prescribed form. On facts, the assessee society had not filed any return of income for the year under consideration as per the required mandate of section 12A(1)(b), hence not entitled to claim exemption under section 11,and 12 of the Act. (AY. 2017-18)
Vidya Kunj School v. ITO (2025) 211 ITD 11 (SMC) (Raipur) (Trib.)

S. 11 : Property held for charitable purposes-Town planning authority created under Karnataka Town and Country Planning Act, 1961-Public welfare and developmental activities-Town planning, water conservation and lake rejuvenation for town and its adjacent areas-Activities were charitable in nature-Entitled to exemption.[S. 2(15), 12, Karnataka Town and Country Planning Act, 1961] 268
Assessee is a town planning authority created under Karnataka Town and Country Planning Act, 1961. It undertook public welfare and developmental activities such as town planning, water conservation, and lake rejuvenation for town and its adjacent areas. The assessee operated under stringent Government regulation. All its receipts and expenditures were deposited into Town Planning Authority Fund, and the budget was subject to approval by State Government. Assessee's accounts were audited annually by Government agencies, and any surplus or assets, upon dissolution, reverted to State Government-These factors unequivocally demonstrated non-commercial character of assessee's activities. Functions of assessee aligned with definition of charitable purposes under section 2(15) as they were oriented towards advancement of public utility without any profit motive, and would be entitled to exemption under sections 11 and 12 of the Act. (AY. 2014-15 to 2017-18)
Magadi Planning Authority v. ITO (2025) 211 ITD 552 (Bang) (Trib.)

269 **S. 11 : Property held for charitable purposes-Accumulation of Income-Rehabilitation and medical care of poor and weaker section-Order of CIT(A) allowing the exemption is affirmed-Administrative and establishment expenses incurred by assessee, a charitable institution, were part of application of income for charitable activities. [S.11(2), Form 10]**

Assessee is a charitable institution, engaged in business of micro-financing. During year, assessee claimed accumulation under section 11(2). Assessing Officer denied assessee's claim on ground that purposes mentioned in Form No. 10 were general in nature and did not satisfy requirement of section 11(2). Commissioner (Appeals) held that the assessee had provided specific objective for utilization of accumulated amount which is for relief, rehabilitation and medical care of poor and weaker section and he held that assessee had made clear statement and set out purpose for which income was to be set apart. Order passed by Commissioner (Appeals) is upheld. Tribunal also held that administrative and establishment expenses incurred by the assessee, a charitable institution, were part of application of income for charitable activities, accumulation was to be worked out by taking gross receipts in place of net receipts. (AY. 2014-15)

ACIT v. Bandhan Konnagar (2025) 211 ITD 743 (Kol) (Trib.)

270 **S. 11 : Property held for charitable purposes-Late filing of return-CBDT Circular clarifies that trusts are eligible for exemption u/s.11 even if the return is filed belatedly, provided it is filed within the time permitted u/s.139 (4A) [S. 139(4A)]**

The assessee-trust filed its return of income belatedly but within the time allowed under Section 139(4A). The AO denied the exemption claimed u/s. 11, stating that the return was not filed within the time limit prescribed u/s.139 (1). However, as per CBDT Circular No. 173/193/2019-ITA-I dated 23-4-2019, if a trust files its return belatedly but within the time permitted u/s 139(4A), the AO/CPC must allow the exemption claim under Section 11. Held that the assessee had filed its return well within the time allowed under Section 139(4A), making it eligible for exemption under Section 11. The impugned order was set aside, and the matter was restored to the Commissioner (Appeals) with a direction to pass a rectification order in line with the CBDT Circular. The assessee-trust is entitled to exemption under Section 11 despite filing a belated return, as it was filed within the permissible time under Section 139(4A). (AY. 2018-19)

K. M. Educational & Rural-Development Trust v. ITO [2025] 210 ITD 574 (Chennai)(Trib.)

271 **S. 11: Property held for charitable purposes-Charitable purpose-Provision of credit guarantee for loans to micro and small enterprises-Entitled to exemption-Provision for guarantee claim-Allowable as deduction [S. 37(1)]**

Assessee-trust was engaged in providing credit guarantee for loans and advances to new or existing micro and small enterprises or such other enterprises, as may be decided by the settlers from time to time. Thus, it was an ameliorating credit guarantee to small ventures and supported the development of businesses/livelihoods. Against such outstanding guarantee, the Assessee created a provision for guarantee claims. As the Assessee was not contravening provisions of S. 2(15) it was entitled to claim exemption under S. 11. It was further held that the deduction claimed by the Assessee under the 'provision for guarantee claims' was an allowable expenses u/s 37 (1) of the

Act. Accordingly, the impugned assessment order rejecting the exemption claimed by the assessee u/s 11 by invoking the provisions of Section 2(15) on the ground that the activity of the assessee was contrary to S. 2(15) was to be set aside. (AY. 2019-20)
Credit Guarantee Fund Trust for Micro and Small Enterprises v. Dy. CIT (E) (2025) 210 ITD 429 /236 TTJ 296 / 124 ITR 307 (Mum.) (Trib.)

S. 11: Property held for charitable purposes- kuri and finance-Amount spent for the object of the Trust-entitled to exemption.[S.2(15)] 272
Assessing Officer treated income earned by assessee through kuri and finance business as business income on ground that this was against section 2(15), i.e., advancement of any other object of general public utility and on that basis denied exemption under section 11. Since assessee was not doing kuri and finance business solely for purpose of earning income like various other corporate entities doing and income earned through kuri and finance business was spent towards achieving objects mentioned in bye-laws of trust, assessee was entitled for exemption under section 11 (AY.2012-13,2013-14, 2015-16, 2016-17, 2018-19)
Sree Narayana Dharma Sabha Kodungallur v. ITO(E) (2025) 210 ITD 227 (Cochin) (Trib.)

S. 11 : Property held for charitable purposes-Failure to file Form No 9A along with the return-Filed later on-Denial of exemption is not justified. [S.11(2)(ii), 139, Form No 9A] 273
Assessee did not file Form-9A along with the return. However, it had filed the prescribed form at a later date. The Assessing Officer denied exemption under section 11(2)(ii) on the ground that Form 9A was not filed along with the return of income. Assessee submitted that the trustee responsible for handling tax-related matters of assesse was hospitalized. It was noted that a copy of the discharge certificate and doctor's prescription regarding said trustee of the assessee had been filed by assessee. The Object of the trust in carrying out charitable activities were also not in dispute. Held that the assessee's claim for exemption could not be denied only on regard that Form-9A had been filed later on, not with the return of income. (AY. 2019-20)
Seth Chagan Mall Hira Lakll Dugar Charitable Trust v. ITO, (E) (2025) 210 ITD 266 (SMC) (Kol.)(Trib.)

S. 11 : Property held for charitable purposes-If past-year discrepancies, if resolved, do not justify denying exemption in subsequent years. [Form 10B] 274
The AO denied the exemption under s. 11 to the assessee due to non-audited books for preceding years, late filing of Form 10B audit report, amongst other things. Meanwhile, the Madras High Court order appointed a Managing Trustee to resolve internal disputes. For prior AYs, initial assessments denying exemptions were set aside by the Tribunal and remanded. On re-assessment, AO allowed exemptions but disallowed certain expenses. The trust provided full details (e.g., ledger extracts for hostel rent) to the CIT (A), with no adverse remand report from the AO. The ITAT prioritized substantive compliance and continuity of the trust's charitable objectives, ruling that procedural delays or resolved past issues could not bar exemption for the year in question.(AY. 2017-18)
ACIT (E) v. Mazdoor Welfare Trust [2024] 169 taxmann.com 733 / (2025) 233 TTJ 49 (UO) (Chennai)(Trib)

275 **S. 11 : Property held for charitable purposes-Belated filing of return-Denial of exemption is not justified-Addition made under Section 143(1)(a)(ii) of the Act is deleted-Directed to accept the returned income-Circular of CBDT is binding on Revenue.[S. 12, 12A(1)(b), 119, 139(1), 139(4), 143(1)(a)(ii)]**

Allowing the appeal of the assessee the Tribunal held that there is no cavil or doubt that the assessee trust has filed the return of income. Tribunal held that section 12A(1)(b) of the Act has been amended w.e.f. 01/04/2023, by Finance Act, 2023, to encompass that return of income filed under section 139(1) or 139(4) of the Act will satisfy compliance of section 139(4A) of the Act. The amendment is a beneficial one and only clarifies the intention of the legislature. Further, there is no further reason to deep dive into the non-furnishing of audit report along with the return of income since the registration was granted belatedly with retrospective effect at the behest of the directions from this forum. It is excruciating to note that a demand has been created on flimsy grounds as against the assessee which is in existence since 1965. For the sake of clarity it is clarified that the assessee trust is successful in assailing the order on twin grounds of submission of return of income as well as submissions of the audit report in tandem with the provisions for the impugned assessment year. It is surprising that the learned CIT(A) had traversed in an altogether different route to sustain the addition, which is also perverse and has been noted cryptically by this forum. Upon conspectus of the entire gamut of the facts and circumstances of the disputes in question, the entire addition of ₹ 11,26,85,825, merits full relief and hence the returned income be accepted. The Tribunal also held that the Circular of CBDT is binding on the Revenue. (AY. 2017-18)

Shri Panchmurti Education Society v. ITO [2025] 171 taxmann.com 546 / 126 ITR 523 (Nag)(Trib),

276 **S. 12: Voluntary contributions-Trust or institution-Corpus Donations-Voluntary corpus donations cannot be denied merely because the trust requested donors to contribute towards the corpus. [S. 11, 132]**

The Tribunal held that corpus donations retain their voluntary character merely because the assessee requested donors to contribute towards the corpus. In the absence of any evidence found during the search suggesting that the donations were not genuine, the Revenue was not justified in treating them as non-voluntary. However, in respect of five donors whose confirmations were not produced, the issue was restored to the Assessing Officer for verification, while the remaining additions were deleted. (AY. 2017-18, 2018-19)

Rohilkhand Educational Charitable Trust v. DCIT (2025) 238 TTJ 173 / 178 taxmann.com 672 (Lucknow)(Trib.)

277 **S. 12A: Registration-Trust or institution-Benefit of a particular religious community or caste, i.e., 'Leuva Patel' community-Provisions of section 13 could be invoked only at the time of assessment and not at the time of grant of registration-Remanded matter back to Commissioner (E) for reconsideration-Order of Tribunal affirmed. [S.12AB, 13, 260A]**

Assessee trust filed an application for grant of registration under section 12AB. Commissioner (E) rejected the same on the ground that the objects of trust were

restricted to the benefit of a particular religious community or caste, i.e., 'Leuva Patel' community. Tribunal held that provisions of section 13 could be invoked only at the time of assessment and not at the time of grant of registration and, thus, remanded the matter back to Commissioner (E) for reconsideration. On appeal dismissing the appeal of the revenue, the Court affirmed the order of the Tribunal.
CIT (E) v. Bhojaram Leuva Patel Seva Samaj Trust (2025) 307 Taxman 86 (Guj.)(HC)

S. 12A: Registration-Trust or institution-Cancellation of registration-Treating donation as corpus and later treating as general donation and paying tax as per order of Settlement Commission under section 245C-Cancellation of registration not valid.[S. 12AA(3), 245C, 260A] 278

Held, dismissing the appeal, that though the amount received from the donor SHGPH was initially claimed as donation towards corpus by the assessee, subsequently, it was admitted by the assessee to be general donation. The Department had not disputed that the amount so received by the assessee was general donation, which was subjected to tax as per the order of the Settlement Commission under section 245C. The Commissioner (E) had not recorded any finding disbelieving the application of fund by the assessee towards its objects. The details of application of fund and receipt of donations were furnished by the assessee, which had been reproduced by the Tribunal in its order. The alleged brokers were not examined by the Department so as to disbelieve the donations received by the assessee. Instead, the donations received by the assessee were treated as general donations and accordingly it was subjected to tax in the hands of the assessee. The findings recorded by the Tribunal were findings of fact based on consideration of relevant evidence on record. Therefore, there was no illegality or perversity in the order of the Tribunal setting aside the order of the Commissioner (E) cancelling registration of the assessee-trust under section 12A of the Act.(AY. 2013-14)
CIT v. Gobind Ram Goel Charitable Trust (2025) 474 ITR 568 (Cal)(HC)

S. 12A : Registration-Non-disposal within six months-No deemed registration-Tribunal order set aside-Appeal of revenue was allowed. [S. 12AA(2), 260A, Art. 141, 142] 279

The Court held that non-disposal of an application for registration within six months does not lead to a deemed grant of registration, as there is no deeming fiction in law under S. 12AA(2). Relying on *Harshit Foundation Sehmalpur v. CIT (2022) 328 CTR 609(SC) and CIT v. Muzafar Nagar Development Authority (2015) 275 CTR 233 (FB) (All) (HC)*, it was clarified that the law declared by the Supreme Court is binding under Art. 141 and that both *CIT v. Society for Promotion of Education Adventures Sport (2016) 282 CTR 207/ 382 ITR 6 (SC) and CIT v. Harshit Foundation Sehmalpur (2022) 139 taxmann.com 55 (All(HC)* are reconcilable. Accordingly, the Tribunal's order granting deemed registration was set aside. Section 12AA(2) does not recognise any deeming fiction that an application for registration is deemed to be granted, if it is not disposed of within six months. The appeal of revenue was allowed.
CIT v. Dr. Kasliwal Medical Care & Research Foundation (2024) 168 Taxmann.com 91 / (2025) 343 CTR 295 (Bom)(HC)

280 **S. 12A: Registration-Trust or institution-Delay in filing audit report-Condonation of delay in filing Form 10 B- Justice-oriented approach should prevail over a pedantic one-Delay of 27 days condoned-Order of Commissioner (E) was set aside. [S.11, 12, 119, Form No. 10B, Art. 226]**

The assessee, Damani Research Foundation of Medical Sciences, filed a writ petition against the order of the Commissioner of Income-Tax (E) refusing to condone a 27-day delay in filing Form 10B. The CIT(E) rejected condonation on the ground that the delay was not sufficiently explained. On writ, the Bombay High Court observed that the delay was minimal, and refusal to condone would cause serious prejudice and hardship to the trust. The Court emphasised that a justice-oriented approach should prevail over a pedantic one. Referring to rulings in *Sau Dwarkabai Tai Karwa Charitable Public Trust v. CIT (E) [2025] 174 taxmann.com 245 (Bom.)(HC)* and *Kotak Family Foundation v. CIT (E) [2025] 176 taxmann.com 56 (Bom.)(HC)*, where similar delays were condoned, the Court held that the Commissioner (E) erred in rejecting the application. Accordingly, the Court set aside the order of the CIT(E) and condoned the delay of 27 days in filing Form 10B. The writ petition was allowed. (WP No. 1583 of 2025, dt.11-8-2025)

Damani Research Foundation of Medical Sciences v. CIT (E) (Bom)(HC) www.itatonlie.org-

281 **S. 12A: Registration-Trust or institution-Retrospective registration-Delay in application-Assessee having claimed exemption under section 10(23C)(iiiad) from inception, being aware of statutory requirements, but not seeking registration under section 12A and failing to furnish cogent and justifiable reasons for delay-Denial of retrospective registration held justified. [S. 10(23C)(iiiad), 260A]**

The assessee, an educational society, sought condonation of delay and grant of registration under section 12A with effect from 15-5-1989. The grounds urged were (i) inadvertence on the part of its accountant, and (ii) that its gross receipts exceeded Rs. 1 crore only from AY 2003-04 and, therefore, it did not consider it necessary to apply earlier. The Court held that both grounds were self-contradictory. If there was bona fide ignorance, the second ground would not arise; conversely, if the assessee consciously did not apply because its income was below Rs. 1 crore, the plea of inadvertence was untenable and an afterthought. The fact that the assessee had been claiming exemption under section 10(23C)(iiiad) from the beginning demonstrated its awareness of statutory requirements. Despite such awareness, it deliberately chose not to seek registration under section 12A. In the absence of cogent and justifiable reasons explaining the inordinate delay, the authorities were justified in refusing retrospective registration. The findings of the Director of Income-tax (Exemptions) and the Tribunal were neither erroneous nor contrary to law.

Maheswara Educational Society v. DCIT (E) (2025) 345 CTR 391 / 251 DTR 265 / 175 taxmann.com 74 (Telangana)(HC).

282 **S. 12A : Registration-Trust or institution-No activities had been carried on-Rejection of application is not justified-Order Tribunal is affirmed. [S. 11, 12AA, 260A]**

Assessee-trust was established on 1-1-2008, and it had filed an application in Form No. 10A on 18-2-2008 seeking registration under section 12A(a)-Commissioner rejected the application on the ground that no charitable activity was ever carried out by the trust

up to 31-3-2008. Tribunal held that since no activities had been carried out by the assessee, it would be premature to decide that activities were not charitable in nature. Tribunal further held that the Commissioner was required to restrict himself to the objects of trust. Accordingly, the Commissioner was to grant registration on the ground that no defect was pointed out in the clauses of the trust deed. On appeal, the High Court affirmed the order of the Tribunal. (1999-2000 to 2005-06)

CIT v. International Health Care Education and Research Institute (2025) 473 ITR 753 /171 taxmann.com 578 (Raj)(HC)

Editorial: SLP of Revenue is dismissed, CIT v. International Health Care Education and Research Institute (2025) 304 Taxman 265/ 482 ITR287(SC)

S. 12A: Registration-Trust or institution-Education-Providing vocational training-Eligible for registration. [S. 2(15), 12AA] 283

Dismissing the appeal of the Revenue, the Court held that vocational education is a form of education which is necessary for the development of an individual for the purpose of earning his living; as the institute is duly approved by the NCVT, it cannot be said that the institute is not imparting education. The order of the Tribunal is affirmed.

CIT (E) v. Unique Educational Society [2024] 168 taxmann.com 448 / (2025) 342 CTR 435 / 245 DTR 211 (P&H)(HC)

S. 12A: Registration-Trust or institution-Procedure for fresh registration-Opportunity of being heard-Assessee trust did not reply to 3 Notices of hearing-Registration application rejected-No adjournment filed-No justifiable reasons-In Appeal, the Tribunal dismissed the appeal and upheld the S. 12AB and 80G Rejection Order. [S.12AB, 80G (5)(iii)] 284

Assessee filed applications for renewal of registration u/s 12A(1)(ac)(iii) and S. 80G(5)(iii) in Form No. 10AB. 3 Notices providing an opportunity of hearing were issued to the assessee, which remained uncomplied with. No adjournment applications were filed. In appeal, no justifiable reasons were submitted. Tribunal held that the Tribunal cannot be used as a forum for seeking restoration of the matter and allowing another innings before the CIT(E). The assessee's appeals were dismissed, and the 12AB and 80G Rejection orders were upheld.

Bijapur Jan Shikshan Sansthan v. CIT (E) (2025) 171 taxmann.com 690 / 234 TTJ 30 (UO)/ 121 ITR 94 (SN) (Raipur)(Trib)

S. 12A : Registration-Trust or institution-Rental income from trust property-Proviso to S. 2(15) not attracted-The order of the CIT(E) was set aside with a direction to grant registration under section 12A and restore the provisional registration. [S.2(15), 12AB] 285

The CIT(E) rejected the assessee's application for registration under section 12A and cancelled its provisional registration on the ground that it earned substantial rental income and incurred only nominal expenditure on charitable activities. The Tribunal held that the factual finding of the CIT(E) was incorrect, as the trust had incurred substantial expenditure towards its charitable objects. Further, rental income derived from letting out a part of the trust property, which was utilised for achieving its charitable objects, does not attract the proviso to section 2(15). The order of the CIT(E)

was set aside with a direction to grant registration under section 12A and restore the provisional registration.
Marwadina Vyuvak Vachanalaya v. CIT(E) (2025) 238 TTJ 543 (Pune)(Trib).

286 **S. 12A: Registration-Trust or institution-Selected wrong clause in Form No. 10AB-Rejection of application was set aside-CIT(E) directed to consider rectified application under section 12A(1)(ac)(iii) of the Act. [S. 11, 12A(1)(ac)(vi), 12AB]**
CIT(E) rejected the application on the ground that assessee made an application under section 12A(1)(ac)(vi), which applies only to new trust; however, the assessee trust had claimed exemption under section 11. On appeal the Tribunal held that since assessee-trust filed application in Form No. 10AB on 29-6-2024 for final registration, however, inadvertently chosen section 12A(1)(ac)(vi), which was not applicable to assessee-trust, matter was to be remitted back to file of CIT (E) with a direction to consider rectified application of assessee under section 12A(1)(ac)(iii) and grant approval.
Ananya Education and Charitable Trust v. CIT (2025) 214 ITD 321 (Ahd) (Trib.)
Sainath Education Charitable Trust v. CIT (E) (2025) 214 ITD 465 (Ahd) (Trib.)

287 **S. 12A: Registration-Trust or institution-Change in management and lack of time-Rejection of application was restored to the file of CIT(E) for fresh adjudication.[S. 12A(1)(ac)(iii), 80G(5)]**
Application for registration under section 12A(1)(ac)(iii) and approval under section 80G(5) was rejected for non-furnishing of donation details. Tribunal held that the assessee pleaded lack of time and change in management and expressed readiness to furnish evidence of charitable activities. The matter was restored to the file of CIT(E) for re-adjudication.
Martand Khadoba Deosthan Trust v. CIT (2025) 214 ITD 497 (Pune) (Trib.)

288 **S. 12A : Registration-Trust or institution-Rejection of application was set aside with the direction to grant one final opportunity [S. 12AB]**
Commissioner (E) rejected assessee-trust's application for registration under section 12A on the ground that assessee did not comply with the notice issued to it, seeking clarifications and details (bills, vouchers, etc.) to verify the genuineness of charitable activities. Tribunal set aside the order of rejection and directed that one final opportunity be granted to the assessee and that the issue be decided as per fact and law.
Bhai Vaidya Foundation v. CIT (E) (2025) 213 ITD 41 (Pune) (Trib)

289 **S. 12A: Registration-Trust or institution-Additional evidence filed-The matter was remanded back to the Commissioner (E) with a direction to grant an opportunity to the assessee to substantiate its case by filing requisite details/explanation to his satisfaction and adjudicate the issue afresh on merits as per fact and law.[S.11, 12AB]**
Commissioner (E) rejected the application for registration filed by assessee-trust on the ground that assessee had failed to submit documentary evidence in support of charitable activities carried out by assessee. On appeal, the Tribunal held that since additional evidence filed by assessee went to the root of the matter, the matter was remanded back to the Commissioner (E) with a direction to grant an opportunity to assessee

to substantiate its case by filing requisite details/explanation to his satisfaction and adjudicate the issue afresh on merits as per fact and law.
Mahaveer (I) Foundation Trust v. CIT (2025) 213 ITD 21 (Pune) (Trib.)

S. 12A: Registration-Trust or institution-CIT(E) does not have any jurisdiction to reject the application for grant of registration on the premise that a play school run by the assessee-trust is not registered/affiliated by any State or Central Government authority. [S.80G] 290
The assessee-trust was running a playschool. CIT (E) rejected assessee's application for grant of registration on the ground that the play school run by assessee was not registered or affiliated with any State or Central Government authority. On appeal, the Tribunal held that CIT (E) did not have any jurisdiction to reject the application for grant of registration on the premise that the play school was not registered/affiliated by any State or Central Government authority. Tribunal remanded the matter to CIT (E) for adjudication of the issue of granting registration under section 12A of the Act.
Lakharaji Dadima Child Care Foundation v. CIT (2025) 213 ITD 476 (Delhi) (Trib.)

S. 12A: Registration-Trust or institution-Failure to respond to notices-Rural location and lack of access to digital infrastructure-Delay and default were neither deliberate nor contumacious-The matter was remanded back to the CIT (E) for a fresh decision.[80G] 291
Assessee, a public charitable trust, filed an application for registration under section 12A.CIT(E) rejected the application on the ground that assessee had failed to respond to notices of hearing issued earlier and also rejected the assessee's application for approval under section 80G on the identical ground of non-response and failure to establish the genuineness of activities and compliance with statutory conditions. Tribunal held that the delay and default, as demonstrated, were neither deliberate nor contumacious. Considering overall circumstances and in the interest of justice, the matter was remanded to the file of CIT E) to decide in accordance with law.
Shenalma Gaushala Trust v. CIT (E) (2025) 213 ITD 443 (Ahd) (Trib)

S. 12A: Registration-Trust or institution-Genuineness of activities-Non-compliance-Cancellation of provisional registration-Order of CIT(E) was set aside and the matter was remanded for deciding the application afresh. [S. 12A(1)(ac)(iii), 12AB] 292
Assessee-trust filed an application for registration under section 12A(1)(ac)(iii).CIT(E) issued a notice to assessee calling for certain information. Since no reply from the assessee was received, CIT (E) rejected the assessee's application under section 12A(1)(ac)(iii) and cancelled the provisional certificate issued to assessee, observing that the assessee had failed to establish the genuineness of its activities. On appeal, the Tribunal held that since the rejection of the application was made on account of non-compliance made by assessee, another opportunity may be provided to assessee. Accordingly, the order of CIT(E) cancelling provisional registration and denying final registration was set aside, and the matter was remanded back for deciding the application afresh after granting another opportunity of being heard.
Sri Maheswari Dharmsala v. CIT(E) (2025) 213 ITD 439 (Kol) (Trib)

293 **S. 12A: Registration-Trust or institution-Mistake in filing application for provisional registration-Rejection of application was set aside by the CIT (E) to allow an opportunity to assessee to rectify application, if permissible as per provisions of law. [S.12A(1)(ac)(vi)(B)]**

CIT(E) rejected the application filed by the assessee-trust under section 12A(1)(ac)(vi) for the reason that the conditions for such approval were not found satisfied. Assessee submitted that while filing the application in Form 10AB, there was an inadvertent error as incorrect section code-item (B) of sub-clause (vi) of clause (ac) of sub-section (1) of section 12A was selected in place of the correct code, which was sub-clause (iii) of clause ac of sub-section (1) of section 12A. On appeal the Tribunal held that since assessee was allowed provisional registration under sub-section (vi) of clause (ac) of sub-section (1) of section 12A and when provisional registration was allowed under sub-section (vi) of clause (ac) of sub-section (1) of section 12A, assessee had rightly applied for regular registration under this provision only, mistake on part of assessee, if any, had occurred in application for provisional registration and not in application for regular registration. Accordingly, the matter was remanded to the file of CIT(E) for giving an opportunity to the assessee to rectify the application, if permissible as per the provisions of law.

Gayatri Parivar Shodash Sanskar Kendra v. CIT (E) (2025) 213 ITD 665 (Ahd) (Trib.)

294 **S. 12A: Registration-Trust or institution-Commissioner (E) had summarily rejected the application without discussing any of the merits. The matter is remitted to the file of the Commissioner (E) for consideration afresh. [S.12AB, 80G]**

Held that the Commissioner (E) rejected the application for grant of registration summarily without discussing any of the merits, as well as even without discussing the details of the questionnaire which he wanted to be supplied by the assessee. The matter is remitted to the file of the Commissioner (E) for consideration afresh.

IIMCAA Care Fund v. CIT (2025) 212 ITD 195 (Delhi) (Trib.)

295 **S. 12A : Registration-Trust or institution-Failure to respond show cause notice-Matter is restored to Commissioner (E) to grant one final opportunity to assessee to substantiate its case.[S. 12AB]**

Assessee filed an application for registration under section 12A of the Act. Commissioner (E) issued a notice the assessee failed to respond to the said notice. Commissioner (E) rejected the application for grant of registration. On appeal, the Tribunal remanded the matter back to the file of CIT(E) to grant one more opportunity of hearing. (AY. 2023-24)

Datar Kulmandal v. CIT (E) (2025) 212 ITD 85 (Pune) (Trib.)

296 **S. 12A: Registration-Trust or institution-Non-compliance of notices-Mistake of employee-Matter restored to CIT(E) for one final opportunity [S. 12AB, 80G]**

CIT(E) cancelled provisional registration under section 12AB and denied approval under section 80G due to non-compliance with notices. The assessee explained that the lapse occurred due to an employee's mistake in not communicating the notice. The Tribunal restored the matter to the file of CIT(E), directing one final opportunity to substantiate the case with requisite details, and to decide as per law.

Priyadarshini Gymkhana v. CIT (2025) 212 ITD 452 (Pune)(Trib.)

S. 12A: Registration-Trust or institution-Provisional registration-Provision of section 12A(1)(ac)(iii) had been amended with effect from 1-10-2024-Registration under section 12A could be allowed on the basis of provisional approval under section 10(23C)(vi)-Application is maintainable.[S.10(23C)(vi), 12A(1)(ac)(iii), Form No 10AC] 297

Assessee-trust filed an application for registration under section 12A(1)(ac)(iii). Commissioner (E) rejected the said application on the ground that in the absence of copy of the provisional registration granted under section 12A(1)(ac)(vi), the application is non-maintainable. On appeal, the Tribunal held that the assessee had enclosed provisional registration granted under section 10(23C)(vi) in Form No. 10AC along with the application. Provision of section 12A(1)(ac)(iii) had since been amended with effect from 1-10-2024 as per which registration under section 12A could be allowed based on provisional approval under section 10(23C)(vi). The matter is set aside to the file of the Commissioner (E) with a direction to allow another opportunity of being heard to the assessee to rectify the defect in the application and consider the application on the basis of provisional approval under section 10(23C)(vi) of the Act.

Infinite Happiness Spiritual Foundation v. CIT (2025) 212 ITD 158 (Ahd) (Trib.)

S. 12A: Registration-Trust or institution-Cancellation of provisional registration-Rejected application for final registration-Failure to address evidence already on record-Matter is restored for fresh consideration.[S.12A(1)(ac)(iii), 12A(1)(ac)(vi)] 298

Assessee-trust was granted provisional registration under section 12A(1)(ac)(vi). Assessee filed application for final registration under section 12A(1)(ac)(iii). Commissioner (E) issued notices seeking details and documents regarding the establishment and activities of the trust. Assessee failed to respond to these notices. Commissioner (E), rejected the application for registration and also cancelled the provisional registration, citing non-compliance. On appeal, the Tribunal held that Commissioner (E) had committed a procedural lapse by not addressing evidence that was already on record before rejecting the application. Mere non-response to notices could not be the sole basis for rejection if relevant documents were available in the assessment file. Order of Commissioner (E) is set aside, and matter is restored to him for fresh consideration.

Vardhman Charitable Trust v. CIT (2025) 212 ITD 106 (Ahd) (Trib.)

S. 12A: Registration-Trust or institution-Mistakenly filed fresh application under section 12AB-Failure to respond to CIT(E)'s notices-Rejection of application under section 12AB is justified.[S. 12AB] 299

Assessee, registered under section 12A, held valid registration from Assessment Year 2022-23 to 2026-27 but mistakenly filed a fresh application under section 12AB on 30.06.2023 instead of applying for renewal within prescribed timeline. CIT(E) issued multiple notices seeking documents, but assessee failed to respond. CIT(E) rejected application and passed order under Form No. 10AD dated 20.12.2023. On appeal the Tribunal held that since the assessee on its own applied for Renewal / Registration, which was rejected by CIT(E), therefore, pleading regarding ignorance of assessee in understanding the technicalities of the provisions of the Act could not be accepted. Tribunal also held that it is not the duty of CIT(E) to guide the assessee with regard to the application filed and, moreover, the assessee had also not appeared before CIT(E)

with respect to opportunities provided for calling for details; in those circumstances, CIT(E) had rightly rejected the application for registration. Order passed by CIT(E) in Form No. 10AD dated 20.12.2023 is upheld.
Mathrusri Mahila Mandali Tetali v. CIT (2025) 212 ITD 244 (Visakha) (Trib.)

300 **S. 12A: Registration-Trust or institution-Natural justice-Activities of the Trust-Directed to pass an order after giving an opportunity of hearing to the assessee. [S.80G]**
Assessee-trust filed an application for registration under section 12A. Commissioner(E) issued a show cause notice to verify the genuineness of activities of the assessee. After considering submissions of the assessee, he rejected the application on the ground that charitable activities carried out by the assessee-trust did not synchronise with the financial statements and no credible evidence was furnished in support of charitable activities claimed. On appeal, the Tribunal held that, considering the totality of facts of the case and in the interest of justice, the assessee should be given one final opportunity to substantiate its case by filing requisite details to the satisfaction of the Commissioner (E). Matter remanded.
Aress Foundation v. CIT (E) (2025) 211 ITD 732 (Pune) (Trib.)

301 **S. 12A : Registration-Trust or institution-Pendency of proceedings before CIT(A)-Considered as assessment proceedings pending before Assessing Officer for purpose of extending benefit of sections 11 and 12-Directed to grant exemption. [S. 2(15) 11, 12, 12AA (2)]**
Tribunal held that proviso to sub-section (2) of section 12A provides that if a trust is granted registration under section 12AA, benefits of sections 11 and 12 shall be extended to such a trust for any previous assessment year for which assessment proceedings were pending before the Assessing Officer on the date of granting registration, provided objects and activities of trust remain unchanged during such previous years. Appeal pending before Commissioner (Appeals) can be considered as assessment proceedings pending before Assessing Officer. Accordingly, where registration under section 12AA was granted to the assessee while an appeal for the year under consideration was pending before the Commissioner (Appeals) the assessee is entitled to the benefit of section 11 of the Act. (AY. 2016 17)
Magadi Planning Authority v. ITO (2025) 211 ITD 552 (Bang) (Trib.)

302 **S. 12A: Registration-Trust or institution-Application for renewal of registration-Natural justice-Rejected on ground of non-compliance with notices without considering the responses within the due date mentioned in notice-Matter is remanded to the Commissioner (E) for fresh adjudication. [S. 12A(1)(ac)(iii), 80G(5)(iii)]**
Assessee, a public charitable trust, filed an application for renewal of registration under section 12A(1)(ac)(iii) and approval under section 80G(5)(iii). Commissioner (E) issued notices to assessee requiring it to furnish certain details. Assessee submitted all required information and documents. Commissioner (E) rejected the assessee's applications on the ground of non-compliance with the notices. On appeal, the Tribunal held that since Commissioner (E) did not examine documents submitted and rejected the application

on incorrect factual grounds, such an approach violated natural justice. Accordingly, the matter is remanded to Commissioner (E) for fresh adjudication. (AY. 2024-25)
Apna Charitable Trust v. CIT (E) (2025) 211 ITD 445 (Ahd) (Trib.)

S. 12A: Registration-Trust or institution-Failure to file details and clarification-Matter is remanded with a direction to decide the issue afresh after providing a reasonable opportunity of hearing to the assessee as regards the registration and also the claim under section 8OG. [S. 12AB, 80G(5)] 303

The assessee is a company registered under the provisions of the Companies Act, 2013 with an object to working towards education and betterment of kids. It ran educational cafes at multiple locations wherein kids could walk into cafes and study using resources and free app access for standards 6 to 10. Commissioner (E) found certain discrepancies in details furnished by the assessee and asked for their clarification; the assessee had not complied with this notice. Commissioner (E) rejected the application filed by the assessee and also cancelled the provisional registration granted under section 12AB. On appeal the Tribunal held that since application for registration was decided ex-parte i.e. for want of prosecution, order passed by Commissioner (E) is set-aside and matter was to be remanded back to him with a direction to decide issue afresh as per fact and law after providing reasonable opportunity of hearing to assessee as regards registration and also claim u/s 80G of the Act.
Avileen Education Foundation. v. CIT (2025) 211 ITD 56 (Pune) (Trib.)

S. 12A : Registration-Trust or institution-Provisional registration-CBDT Circular No. 11 of 2022-Provisional registration will be construed as regular registration under section 12A(1)(ac)(i) read with section 12AB(1)(a)-No requirement of applying for final registration under section 12A(1)(ac)(iii)-Miscellaneous application of Revenue is allowed. [S. 12AB, 254(2)] 304

Assessee is registered under section 12A as a charitable institution. An amendment was brought into relevant provisions, whereby, institution which stood already registered under section 12A on or before 1-4-2021, had to apply for fresh registration under provisions of section 12A(1)(ac)(i). Assessee accordingly applied for registration under section 12A(1)(ac)(i) and said application was allowed. However, both assessee as well as Commissioner (E) were of view that said registration was a provisional registration and that assessee was supposed to apply for final registration. Accordingly, assessee applied for final registration under section 12A(1)(ac)(iii)-Commissioner (E) rejected application of assessee stating therein that earlier order in Form No. 10AC was still valid till assessment year 2026-27 and application of assessee was premature. On appeal the Tribunal set aside the order of the CIT (E) and restored the matter to the CIT(E) to consider the application for final registration. Revenue has filed a miscellaneous application of the assessee for final registration. Allowing the petition, the Tribunal held that CBDT Circular No. 11 of 2022 had clarified that provisional registration will be construed as regular registration under section 12A(1)(ac)(i) read with section 12AB(1)(a). Therefore, there was no requirement to apply for final registration under section 12A(1)(ac)(iii).
CIT (E) v. Indira Trust (2025) 211 ITD 229 (Kol) (Trib.)

305 **S. 12A: Registration-Trust or institution-Rejection of application-Matter is remanded to the Commissioner (E) with a direction to decide the application for registration afresh after providing a reasonable opportunity of hearing to the assessee. [S. 12AB]**
Commissioner (E) issued notices to the assessee and after considering reply of assessee, he was not satisfied about the charitable nature and genuineness of the activities of the assessee. Accordingly, he rejected the application for registration filed by the assessee and cancelled the provisional registration granted to the assessee under section 12AB read with section 12A. On appeal, the assessee contended that it had complied with notices issued by the Commissioner (E) and if he was not satisfied, he should have provided one more opportunity to the assessee to explain its case. Tribunal remanded the matter to the Commissioner (E) to decide the application for registration afresh as per fact and law after providing a reasonable opportunity of hearing to the assessee.
Chandragupt Shephards Welfare Association v. CIT (2025) 211 ITD 576 (Pune) (Trib.)

306 **S. 12A: Registration-Trust or institution-Procedure for fresh registration-Failure to reply to show cause notice-Matter remanded to Commissioner (E) with a direction to grant one final opportunity to assessee to substantiate its case by filing requisite details. [S.12AB]**
Assessee-trust filed an application for registration under section 12A of the Act. Commissioner (E) noticed various discrepancies in the same and issued a show-cause notice to the assessee. The assessee could not reply. Commissioner (E) rejected the application filed for grant of registration under section 12A and also rejected provisional registration granted earlier under section 12AB. On appeal before the Tribunal, the Assessee submitted that, given an opportunity, it would be in a position to explain the case properly before the Commissioner (E).In the interest of justice, the matter is remanded back to the Commissioner (E) with a direction to grant one final opportunity to the assessee to substantiate its case by filing requisite details.
Jalna Maheshwari Charitable Foundation v. CIT (E) (2025)210 ITD 665 (Pune)(Trib.)

307 **S. 12AA: Procedure for registration-Trust or institution-While deciding application for registration, the Commissioner cannot comment on genuineness of activities of trust-Required to restrict to object of trust-SLP of revenue dismissed.[S.12A, Art. 136]-**
Assessee-trust was established on 1-1-2008 and it had filed an application in Form No. 10A on 18-2-2008 seeking registration under section 12A(a). Commissioner rejected the application on the ground that no charitable activity was ever carried out by the trust up to 31-3-2008. Tribunal held that since no activities had been carried out by the assessee, it would be premature to decide that activities were not charitable in nature. Tribunal further held that the Commissioner was required to restrict himself to the objects of the trust. Accordingly, the Tribunal directed the Commissioner to grant registration on the ground that no defect was pointed out in the clauses of the trust deed. High Court affirmed the order of the Tribunal. SLP of revenue dismissed.
CIT (E) v. International Health Care Education and Research Institute (2025) 304 Taxman 265 / 482 ITR 287 (SC)
Editorial: CIT (E) v. International Health Care Education and Research Institute (2025) 171 tamannn.com 578(Raj)(HC)

S. 12AA: Procedure for registration-Mere registration under S. 12AA automatically does not entitle a charitable trust to claim exemption under ss. 10 and 11-AO has to verify genuineness of claim-Reference to Larger Bench declined-SLP of Revenue dismissed [S. 10, 11, Art. 136] 308

The Court held that the very purpose of registration u/s 12AA is to enable a trust to claim exemption u/ss 10 and 11, but mere registration does not automatically entitle the trust to such exemption; the assessee must adduce cogent material before the CIT to establish that its activities are genuinely charitable, and the AO must verify such claim while assessing. The Court refused to doubt the correctness of *Ananda Social & Educational Trust v. CIT (2020) 313 CTR (SC) 369* and declined reference to a Larger Bench.

CIT (E) v. International Health Care Education & Research Institute (2025) 343 CTR 273 / 247 DTR 273 / 304 Taxman 265 / 482 ITR 287 (SC)

Editorial: CIT v. International Health Care Education and Research Institute (2025) 171 Taxmann.com 578 (Raj) (HC) affirmed.

S. 12AA: Procedure for registration-Trust or institution-Finding of Tribunal that surplus funds utilised for the purpose of educational activities of the institution-Application for registration cannot be rejected. [S.260A] 309

Held that the Tribunal held that there was nothing brought on record by the Commissioner to show that the fee structure was not genuine or against the accepted norms, that the activities of the assessee were either not for charitable purposes or for personal purposes of the trustees. It further held that whatever funds were acquired by the assessee had been utilised for the purpose of educational activities of the institution and, in the absence of any adverse material brought on record by the Commissioner, the application for registration could not be rejected and accordingly granted registration. Order of Tribunal affirmed.

CIT v. D.N. Memorial Trust (2023) 293 Taxman 735 / (2025) 482 ITR 831(J & K) (HC)

S. 12AA: Procedure for registration-Trust or institution-Rejection of registration after prescribed period of six months-Cannot result in deemed grant of registration-Tribunal not justified in granting assessee deemed registration.[S. 12A, 12AA(2)(iii), 260A] 310

Allowing the appeal of the revenue, the Court held that section 12AA(2) does not recognise any deeming fiction that an application for registration under section 12A is deemed to be granted if it is not disposed of within six months. Therefore, the Tribunal's order granting registration to assessee on the ground that the Commissioner had not passed an order within the stipulated period of six months was not valid. Appeal of revenue was allowed.(AY. 2005-06)

CIT v. Dr. Kasliwal Medical Care and Research Foundation [2024] 168 taxmann.com 91 / (2025) 481 ITR 392 (Bom) (HC)

S. 12AA: Procedure for registration-Trust or institution-Registration of Educational Trust-Delay in Application, Family Trustee Clause, Supplementary Deed, and Surplus Income-Registration cannot be denied.[S.11, 12, 260A] 311

The assessee, Trinity Educational Trust, formed in the year 1991 for the charitable purpose of education and running a school, filed an application for registration under

section 12AA of the Income-tax Act in the year 2012. The Commissioner (Exemptions) rejected the application on four grounds: (i) the application was filed over twenty years after execution of the trust deed; (ii) a clause in the deed allowed lineal descendants of the founder trustee to become life trustees and one among them to be managing trustee; (iii) additional powers were given to trustees through a supplementary deed executed in 2009; and (iv) surplus income indicated the trust was being run on commercial lines.
On appeal, the Tribunal directed the grant of registration. The revenue filed an appeal with the High Court, which in turn upheld the Tribunal's order, observing that a gap in applying for registration is not a bar as there is no statutory time limit stipulated under the Act. The clause regarding family trusteeship did not negate the public charitable nature of the trust. The supplementary deed issued by the original trustees should be read as part of the original deed as there was no amendment to the original deed as a result, no prior approval of the Commissioner was required. Further, there is no provision requiring a trust to spend over 50% of its income to qualify for registration, and mere surplus does not imply commercial intent, especially when charitable activities are undisputed, and no diversion of funds to trustees was shown. Accordingly, the High Court dismissed the Revenue's appeal and directed that registration under section 12AA be granted.
DIT (E) v. Trinity Educational Trust (2025) 306 Taxman 207 (Mad) (HC)

312 **S. 12AA: Procedure for registration-Trust or institution-Objects of the assessee trust are both charitable as well as religious in nature-Entitled to registration-Order of Tribunal affirmed.[S.260A]**
Held that the Tribunal, after considering the submissions of the parties, recorded a categorical finding that the objects of the assessee Trust are both charitable as well as religious in nature; the Tribunal is absolutely justified in holding that the assessee Trust is entitled to registration under S. 12AA.
CIT (E) v. Shree Vimalnath Jain Swetamber Mandir Trust (2025) 174 taxmann.com 63/ 345 CTR 868 / 250 DTR 272 (Chhattisgarh)(HC)

313 **S. 12AA: Procedure for registration-Trust or institution-Cancellation of registration-Principal CIT need not await a decision of the assessing authority concerned before passing an order cancelling the registration-Order of the Tribunal is set aside and appeals are remanded to the Tribunal for a fresh consideration. [S 12A, 254(1)]**
Allowing the appeal of the revenue, the Court held that statutory provisions do not require the Principal CIT to await a decision of the assessing authority concerned before passing an order cancelling the registration. The order of the Tribunal is set aside, and appeals are remanded back to the Tribunal for fresh consideration
PCIT v. Last Hour Ministry (2025) 344 CTR 173 / 248 DTR 274 / 172 taxmann.com 695 (Ker)(HC)

314 **S. 12AA: Procedure for registration-Trust or institution-Cancellation-Reference by Assessing Officer after conclusion of assessment proceedings-Reference to Principal Commissioner without jurisdiction-Cancellation of registration held invalid-Provision inserted with effect from 1-4-2022-Not applicable to earlier assessment years-Show-**

cause notices and cancellation order quashed-Direction that cancellation would survive irrespective of finding on specified violation-Colourable exercise of power-Order quashed. [S. 12AB(4), 127(2), 143(3)]

The Assessing Officer, after completion of the assessment proceedings, made a reference to the Principal Commissioner for cancellation of the assessee's registration under section 12AB(4) on the basis of incriminating material found during search. The Tribunal held that the reference contemplated under the second proviso to section 143(3) could be made only during the pendency of the assessment proceedings and to the competent Commissioner (E). The reference made after completion of assessment to the Principal Commissioner was without jurisdiction. Accordingly, the order cancelling the registration was held to be invalid. The Principal Commissioner invoked section 12AB(4) to cancel the assessee's registration for alleged specified violations pertaining to assessment years 2015-16 to 2021-22. The Tribunal held that section 12AB(4), inserted with effect from 1-4-2022, operates prospectively and could not be invoked in respect of earlier assessment years. Consequently, the show-cause notices and the cancellation order passed under the provision were held to be without authority of law and were quashed. While cancelling the assessee's registration, the Principal Commissioner directed that the cancellation would continue to operate even if the alleged specified violations were ultimately found not to exist. The Tribunal held that such a direction amounted to a colourable and arbitrary exercise of power and disclosed complete non-application of mind. The cancellation order was, therefore, held to be unsustainable and was quashed. (AY. 2015-16 to 2021-22).

Lakhmi Chand Charitable Society v. Pr. CIT [2024] 166 taxmann.com 324 / (2025) 129 ITR 450 (Delhi)(Trib.)

S. 12AA: Procedure for registration-Trust or institution-Cancellation of registration-Registration cannot be cancelled on issues already decided by the Tribunal.[S.11, 12AB(4), 13] 315

The Tribunal held that the CIT (E) was not justified in cancelling the assessee's registration under section 12AB(4) by relying upon findings recorded in assessment orders which had already been disapproved by the Tribunal. Mere confirmation of a limited addition relating to an alleged benefit to the chairman did not justify cancellation of the trust's registration. Further, section 12AB(4), introduced by the Finance Act, 2022, could not be retrospectively invoked on old facts that were already available when fresh registration had been granted. The registration granted under section 12A/12AA was directed to be restored. (AY. 2025-26)

Aryans Educational & Charitable Trust v. CIT (E) (2025) 238 TTJ 142 / 178 taxmann.com 731 (Chd.)(Trib.)

S. 12AA: Procedure for registration-Trust or institution-Charitable Trust-Amendments to the trust deed-Delay in filing return-Cancellation of registration unjustified.[S. 12AA(4), 13, 139] 316

Registration under section 12AA could not be cancelled merely because of amendments to the trust deed, delay in filing the return, borrowings by trustees for the benefit of the trust, survey statements without corroborative evidence or allegations of benefit to

trustees unsupported by evidence. The Tribunal held that the trust continued to carry out genuine charitable activities in accordance with its objects and quashed the order cancelling registration. (AY. 2019-20)
Vijayanagar Educational Trust v. CIT (E) (2025) 238 TTJ 833 / 179 taxmann.com 678 (Bang.)(Trib.)

317 **S. 12AA: Procedure for registration-Trust or institution-Defects curable-Matter remanded for fresh consideration. [S. 80G, Rajasthan Public Trust Act, 1959, S. 17]**
The Commissioner (E) rejected registration under section 12AA on the ground that the assessee had not established the genuineness of its activities and had not obtained registration under the Rajasthan Public Trust Act. The Tribunal held that the defects pointed out were curable and the assessee was willing to furnish the requisite registration and other documents. Taking a liberal view, the matter was restored to the Commissioner (E) to provide a reasonable opportunity to cure the defects and simultaneously consider the application under section 80G. (AY. 2019-20).
Arya Samaj Mandir v. CIT (2025) 126 ITR 37 / 178 taxmann.com 147 (Jaipur)(Trib.)

318 **S. 12AA : Procedure for registration-Trust or institution-Promote environmental sustainability by encouraging the use of electric vehicles, reducing carbon emissions and supporting scalable and climate-resilient transportation solutions as part of CSR vision-Rejection of application by CIT(E) was set aside and directed him to grant registration under sections 12AA and 80G. [S.80G]**
Assessee-trust, engaged in the business of promoting environmental sustainability by encouraging the use of electric vehicles, reducing carbon emissions and supporting scalable and climate-resilient transportation solutions as part of its CSR vision. CIT(E) denied grant of registration under section 12AA and 80G, stating that rental activity of assessee showed that it was commercial in nature and assessee was engaged in commercial activities. On appeal, the Tribunal held that there was no profit motive involved in projects undertaken by the assessee and activities undertaken by the assessee aligned with the object of trust, which was to ensure empowerment of marginalised sections of society, such as women over tribal schedule caste persons, etc. Since activities of assessee-trust were charitable in nature and had been undertaken in a professional manner, where each activity was governed by agreements entered into with various parties, including beneficiaries, to ensure that desired activities were performed and accomplished, right from raising funds to deployment of funds, CIT(E) was directed to grant registration under sections 12AA and 80G. (AY. 2024-25)
Rasha Welfare Foundation v. CIT (2025) 213 ITD 687 (Delhi) (Trib)

319 **S. 12AA: Procedure for registration-Trust or institution-Not given finding on merits-Order of CIT(E) is set aside. [S.11, 12A(1)(ac)(vi)]**
Assessee-company, a non-profit company, applied for registration under section 12AA. Commissioner (E) rejected the application filed by assessee. On appeal, the Assessee submitted that, due to a typographical/inadvertent error, the application was filed under section 12A(1)(ac)(vi) whereas assessee was required to file an application under section 12A(1)(ac)(iii). Tribunal held that since the Commissioner (E) had not given any adverse

finding on the merits of the case against the assessee, the application was to be treated as filed under section 12A(1)(ac)(iii), and the order rejecting the application was to be set aside.
Inclusive Recycling Foundation v. CIT (2025) 211 ITD 385 (Pune) (Trib.)

S. 12AB: Procedure for fresh registration-Reasonable opportunity-Violation of principle of natural justice-Alternative remedy-Writ petition is dismissed. [S. 12AB(4), Art. 226] 320
Dismissing the petition, the Court held that the assessee has an alternative remedy; hence the writ petition is dismissed.
Myadam Kishan Rao Charitable Trust v. CIT (E) (2024) 471 ITR 334 (Telangana) (HC)

S. 12AB: Procedure for fresh registration-Clause permitting buy-back of shares in Articles of Association-Matter remanded-Commissioner exceeded scope of enquiry by examining past claim of exemption under sections 11 and 12-Payments to specified persons-One more opportunity to explain-Matter remanded.[S. 11, 12, 13] 321
The Commissioner (E) rejected the assessee's application for registration under section 12AB on the ground that its Articles of Association contained a clause permitting buy-back of its own shares, which was considered inconsistent with charitable objects. The Tribunal noted that the assessee had already initiated steps to amend the Articles of Association. The matter was therefore restored to the Commissioner (Exemption) for fresh consideration after granting adequate opportunity of hearing. The Tribunal held that while considering an application for registration under section 12AB, the Commissioner (E) is required to examine the genuineness of the activities and compliance with the statutory conditions. The Commissioner exceeded the permissible scope of enquiry by examining whether the assessee had wrongly availed exemption under sections 11 and 12 in earlier years. Such consideration was irrelevant for deciding the application for registration. The Commissioner (Exemption) rejected the application for registration on the ground that payments had been made to trustees specified under section 13(3), but the assessee had failed to furnish the necessary explanations and supporting documents. The Tribunal held that, in the interest of justice, the assessee should be granted one further opportunity to explain the nature of the payments and produce all relevant evidence. The matter was accordingly restored to the Commissioner (Exemption) for fresh adjudication
Careleavers Inner Circle Forum v. CIT (E) (2025) 172 taxmann.com 309 / 235 TTJ 85 (UO) (Jaipur)(Trib.)

S. 12AB: Procedure for fresh registration-Delay of 338 days in filing the appeal was condoned-Matter was remanded to the file of CIT(E) for passing a fresh order in accordance with law. [S. 11, 12, 253] 322
The assessee-trust filed its appeal with a delay of 338 days, explaining that the author of the trust was an aged person having limited access to e-mail communication and no administrative staff, resulting in failure to respond to notices and to file the appeal within time. The Tribunal held that the explanation was bona fide and that substantial justice should prevail over technical considerations. Since there was no deliberate or mala fide delay, the delay was condoned. On merits, the Tribunal observed that the trust could not effectively represent its case before the CIT(E)and, therefore, restored

the matter to the CIT (E) with a direction to grant a fresh opportunity to the assessee to produce all relevant documents, audit reports, financial statements and other evidence before passing a fresh order in accordance with law. (AY. 2024-25)
M. V. Karmari Charitable Trust v. CIT (E) (2025) 121 ITR 3 (SN) (Bang.)(Trib.)

323 **S. 12AB: Procedure for fresh registration-Trust for benefit of particular religious community-Registration rightly denied where objects are confined to the Jain community. [S. 11, 12, 12A, 12AA, 12AB(4), 13(1)(b)]**
The assessee-trust, constituted after the amendment effective from 1-4-2021, applied for registration under section 12AB. The Commissioner (Exemption) rejected the application on the ground that its objects were confined to promoting religious activities of the Jain community. The Tribunal held that registration under sections 12A/12AB is a condition precedent for claiming exemption under sections 11 and 12. In view of the amended provisions of section 12AB(4) read with section 13(1)(b), a trust created after the commencement of the Act for the benefit of a particular religious community or caste is not entitled to registration. Since all the objects of the assessee-trust were exclusively for the benefit of the Jain community, the CIT(E) was justified in refusing registration.
Shri Soudharma Brihad Tapogachchiya Tristutik Jain Sangha Samarpanam v. CIT (E) (2025) 170 taxmann.com 590 / 121 ITR 47 (SN) (Ahd.)(Trib.)

324 **S. 12AB: Procedure for fresh registration-Trust for the benefit of residents of a particular housing society-Denial of registration was affirmed. [S.11, 12, 12AB(4), 13(1(b)]**
Held that all the objects of the assessee-trust are for the benefit of the residents of a particular society, which is a specific violation of cls. (c) and (d) of Explanation to S 12AB(4) and therefore, denial of registration under S.. 12AB was justified.
Dwarika Greens Foundation v. CIT (E) (2025) 235 TTJ 821 / 173 taxmann.com 744 (Ahd) Trib)

325 **S. 12AB: Procedure for fresh registration-Wrong mentioning of religious-cum-charitable in Form No. 10AB-rejection of application was set aside-CIT(E) is also directed to examine the grant of approval under s. 80G after deciding the application for grant of registration under s. 12AB. [S.80G]**
Tribunal held that the wrong mention of religion in Form No. 10B cannot be grounds for rejection of the application. CIT(E) is directed to consider the application in accordance with the law after allowing an opportunity to rectify the mistake.
Kasi Visvanathar Koviloor-Foundation v. DCIT (E) (2025) 235 TTJ 827 / 174 taxmann.com 489 (Chennai) (Trib.)

326 **S. 12AB: Procedure for fresh registration-Time limit-Existing society-Rejection of the application on the ground that the assessee was required to apply in Form No. 10AB within six months from the start of its activities is not justified-Failure to file proper replies-Matter remanded to the file of CIT(E) to decide in accordance with law. [S.80G(5), Form No.10AB]**
Held that since the assessee-society was already functioning as on the date of provisional approval, it had to make its application for registration to the CIT(E) at least

six months prior to the expiry of period of provisional approval; CIT(E) was not justified in rejecting the application on the ground that the assessee was required to apply in Form No. 10AB within six months from the start of its activities. The Tribunal also held that the rejection of the application for failure to file proper replies is not justified. Matter remanded to the file of CIT(E) to decide in accordance with law.
Katni Blood Donor & Welfare Society v. CIT (E) (2025) 236 TTJ 267 (Jabalpur)(Trib)

S. 12AB: Procedure for fresh registration-Application filed under wrong provision-Old trust-Inadvertent mistake in filing the application under wrong sub-cl. (iv) of s. 12A(1)(ac), which cannot be said to be intentional/ deliberate and done with mala fide intention-CIT(E) was directed to grant the exemption. [S.12A] 327

Held that the Assessee trust enjoying registration under s. 12A, having inadvertently applied for registration under sub-cl. (iv) of s. 12(A)(ac) instead of sub-cl. (i), the order passed by the CIT(E) rejecting the application is set aside, and the assessee's application is restored to his file, and the CIT(E) is directed to treat the application as if filed under s. 12A(1)(ac)(i), instead of cl. (iv) and consider grant of provisional registration under s. 12AB for five years from AY. 2022-23 onwards.
Prem Educational Trust v. ITO (E) (2025) 237 TTJ 373 / 176 taxmann.com 672 (Chennai) Trib)

S. 12AB: Procedure for fresh registration-Alleged violation of section 13(1)(c) not relevant at the registration stage-CIT(E) was directed to grant the exemption. [S. 11, 13(1)(c)] 328

The Tribunal held that while considering an application for registration under section 12AB, the Commissioner (Exemptions) is required only to examine the genuineness of the trust's activities and whether they are in accordance with its stated charitable objects. Questions relating to violation of section 13(1)(c) or eligibility for exemption under section 11 fall within the jurisdiction of the Assessing Officer during assessment proceedings. Since the charitable objects and genuineness of the assessee were never doubted, rejection of registration solely on the basis of alleged violation of section 13(1)(c) was unsustainable, and registration was directed to be granted. (AY. 2023-24)
CLG Universal Foundation v. CIT (E) (2025) 238 TTJ 233 (Jodhpur)(Trib.)

S. 12AB: Procedure for fresh registration-Charitable trust-Final registration-Rejection on technical ground not justified. [S. 11, 12, 12A(1)(ac)(vi)] 329

The assessee, having valid provisional registration under section 12A(1)(ac)(vi), applied for regular registration in Form No. 10AB. The Commissioner (Exemption) rejected the application on the ground that the trust had already commenced its activities and claimed exemption under sections 11 and 12 before filing the application. The Tribunal held that there was no prohibition against claiming exemption during the period of provisional registration. As the Commissioner had not doubted the genuineness of the objects or activities or pointed out any violation of law, rejection merely on quoting an incorrect provision was unjustified. The authorities were directed to grant registration. (AY. 2022-23).
Gospel India Ministries v. CIT (E) (2025) 127 ITR 296 (Nagpur)(Trib.)

330 **S. 12AB: Procedure for fresh registration-Quoting a wrong provision-Order of CIT(E) refusing the registration was set aside.[S. 11, 12]**

Held that the registration under s. 12AB could not be denied to the assessee on the ground that it had already claimed exemption under s. 11 for the previous year when it was enjoying provisional registration.

Gospel India Ministries v. CIT (2025) 234 TTJ 684 (Nagpur)(Trib)

331 **S. 12AB: Procedure for fresh registration-Engaged in training students without a systematic curriculum and collecting fees-Not conducting a formal education/scholastic education-Rejection of application was affirmed.[S. 2(15), 11]**

Assessee-trust filed an application for seeking registration under section 12AB. The objects of trust were "relief of the poor" and "education". CIT(E)held that the trust was not conducting a formal education/scholastic education and was only engaged in training students without systematic curriculum, as approved and was not engaged in process of providing training and development of students' knowledge, mind and character in a normal schooling way. CIT(E) denied registration on ground that activities of trust could not be held as education and in turn a charitable one under section 2(15) On appeal the Tribunal held that Supreme Court in case similar to assessee held that education imparting formal scholastic learning, is what Income-tax Act provides for under head of "charitable" purposes, under section 2(15) and education would continue to have a narrow scope covering only formal education. Even though, objectives of assessee-trust had been claimed as to pursue "relief of poor" and "education", activities being carried out by assessee-trust failed to satisfy conditions laid down by Supreme Court in *Sole Trustee, Loka Shikshana Trust v. CIT (1975) 101 ITR 234 (SC) and New Noble Educational Society v. Chief CIT (2022) 448 ITR 594 / (2023) 290 Taxman 206 (SC)* thus, CIT(E) was right in rejecting application of trust denying registration of assessee-trust under section 12AB of the Act.

Agastya Gurukulam Public Charitable Trust v. CIT (E) (2025) 215 ITD 189 (Chennai) (Trib.)

332 **S. 12AB: Procedure for fresh registration-Commercial activities and non-charitable application of income-Rejection of application-Enquiry at registration stage is limited to examining genuineness of charitable objects and activities, and as assessee's objects and activities were found charitable, CIT(E) was required to grant registration-Order of CIT(E) was set aside. [S.2(15), 11, 12]**

Assessee-trust's application for registration under section 12AB was rejected by CIT(E) on allegations of commercial activities and non-charitable application of income. Tribunal held that enquiry at the registration stage is limited to examining the genuineness of charitable objects and activities, and as the assessee's objects and activities were found charitable, CIT(E) was required to grant registration under section 12AB. The order of CIT(E) was set aside.

Sree Raja Rajeswari Educational Trust v. CIT (E) (2025) 215 ITD 389 (Chennai) (Trib.)

S. 12AB: Procedure for fresh registration-Incomplete application-No registration under the Rajasthan Public Trust Act, 1959. Cancellation of provisional registration-Order of cancellation of registration was set aside to the file of CIT(E) and also held that provisional registration shall continue to remain valid till such decision.[S.12A] 333

Assessee filed an online application in Form No. 10AB seeking registration under section 12AB. A letter/notice was issued at the e-mail/address provided in the application, requiring the assessee to submit certain documents/explanations, but no compliance was made by assessee. Thereafter, a reminder letter was issued vide notice fixing the date of hearing, but no compliance had been made by the assessee. However, one more opportunity was given to the assessee vide letter fixing the date of hearing, but the assessee had not provided any details/documents on this date of hearing. CIT(E) rejected the provisional registration on the ground that Form 10AB was incomplete, the assessee was registered under the Rajasthan Public Trust Act, 1959, and there was non-genuineness of activities and non-compliance. On appeal before the Tribunal, the assessee contended that the Trust had already placed on record a certificate of registration under the Public Trust Act, and two other reasons, as mentioned by CIT(E), being curable in nature, the assessee should be provided one more opportunity to adduce the required documents before CIT(E). Tribunal held that since the dispute required adjudication on merits after affording a proper opportunity of being heard in consonance with principles of natural justice, the matter was to be restored to the file of CIT(E) for fresh adjudication and, in meanwhile, provisional registration shall continue to remain valid till such decision. (AY. 2023-24)

Maharishi Markendeya Sushrut Sewa Sansthan v. CIT(E) (2025] 215 ITD 458 (Jaipur) (Trib.)

S. 12AB: Procedure for fresh registration-Non-profit organisation-Order of CIT(E) rejecting the application for renewal of registration was set aside and directed to grant the exemption. [S.11, 12] 334

CIT(E) rejected the application for renewal of registration under section 12AB on the ground that the assessee-society had not justified its charitable activities with verifiable documentary evidence. On appeal, the Tribunal held that since the assessee had filed all details, including relevant evidence, for carrying out charitable activities, and also filed annual reports for financial years 2022-23 and 2023-24, the order of CIT(E) was set aside and the matter was to be remanded back with a direction to consider granting the registration. (AY. 2025-26)

Animal Warriors Conservation Society v. CIT (E) (2025) 214 ITD 7 (Hyd) (Trib.),

S. 12AB: Procedure for fresh registration-Rejection of application without considering the explanation for delay in filing application-Order of CIT(E) rejecting the application was set aside and directed to decide the issue in accordance with law. [S.80G, Form No.10AB] 335

CIT (E) rejected the application filed by assessee-trust for registration under section 12AB and section 80G on the ground that assessee had not filed its application within the time prescribed under the Finance Act, 2020. Tribunal held that since CIT(E) had rejected the application routinely without even considering the explanation for delay in

filing of application, the issue was set aside to file of CIT(E) to give another opportunity of hearing to the assessee. (AY. 2025-26)
Maharanyam Muralidhara Swamiji Vedha Ashram v. CIT(E) (2025) 214 ITD 1 (Hyd) (Trib.)

336 **S. 12AB: Procedure for fresh registration-Second application-Rejection of application by CIT E) was set aside with a direction to decide the application for registration afresh.[S. 12A(1(ac)]**
CIT(E) rejected the second application on the ground that since provisional registration was already cancelled, the assessee was not entitled to registration. Tribunal held that, as per Circular No. 7/2024, dated 25-4-2024, another opportunity was provided to all assessees to reapply for registration by filing a fresh application for registration under section 12AB, whose application was rejected earlier. Accordingly, the matter was remanded and directed to approve.
Bethany Tamil Congregation Trust v. CIT (2025) 214 ITD 312 (Pune) (Trib.)
Kutchi Dasa Oswal v. CIT (2025) 214 ITD 272 (Pune) (Trib.)

337 **S. 12AB: Procedure for fresh registration-Specified violation-Religious trust-Objects were confined to the benefit of members of a particular community-Not for the benefit of the public at large-Not entitled to registration.[S.12AB(4)]**
Assessee-trust filed an application for registration under section 12AB. CIT(E) held that the objects of the assessee-trust were confined to the benefit of members/families of Sanand Jamaliya Patidar Samaj/Community and not for the benefit of the public at large. He held that this amounted to a specified violation under clause (d) of the Explanation of section 12AB(4). Accordingly, the application for registration was rejected. On appeal, the Tribunal held that since the objects of the assessee-trust were confined to the benefit of a particular community, it would not be entitled to registration under section 12AB. The order of CIT E) was affirmed.
Shree Sanand Jamaliya Patidar Panch v. CIT (E) (2025) 214 ITD 262 (Ahd) (Trib.)

338 **S. 12AB: Procedure for fresh registration-Rejection of application for non-furnishing of certain details-The matter was restored to the file of CIT (E) to examine evidence and decide the application afresh. [S.80G (5), Form 10AB, R. 17A(2)]**
CIT (E) rejected registration on the ground of non-furnishing of certain details called for under rule 17A(2). On appeal, the Tribunal held that the assessee had now placed on record audited accounts, ledger extracts, and details of donations, which were relevant to examine the genuineness of its activities. The matter was remanded to the file of CIT E) to decide in accordance with law as regards registration and also approval under section 80 G(5) of the Act.
Darul Uloom Fatimatuz-Zahra v. CIT (2025) 214 ITD 376 (Ahd) (Trib.)

339 **S. 12AB: Procedure for fresh registration-Charitable activities-Object of general public utility-Rejection application was set aside and directed CIT(E) to decide the issue in accordance with law.[S. 2(15), 11]**
CIT (E) rejected the application of the assessee, a section 8 company, for registration under section 12AB on the ground that the assessee was not actually engaged in

charitable activities as defined under section 2(15). On appeal, the Tribunal held that since there was no evidence to draw such conclusions by CIT(E) and it was merely based on suspicion and surmises, CIT(E) was directed to re-examine the activities of the assessee and decide the issue in accordance with law.(AY. 2025-26)
RKM Social Welfare Foundation v. CIT (2025) 214 ITD 368 (Chennai) (Trib.)

S. 12AB: Procedure for fresh registration-Delay in filing application-Rejection of application was set aside and remanded to the file of CIT(E) to give another opportunity of hearing to assessee.[S. 11, 12] 340
Assessee had filed an application beyond the time limit prescribed vide Circular No. 7 of 2024 dated 25-4-2024. CIT(E) rejected the application in a routine manner without even considering the explanation for the delay in filing the application. Tribunal remanded the matter to the file of the CIT(E) to give another opportunity of hearing to the assessee. (AY. 2025-26)
Viswa Veda Parayan Brindam v. CIT (2025) 214 ITD 415 (Hyd) (Trib.)

S. 12AB: Procedure for fresh registration-Wrong selection of code while filing Form No. 10A-Rejection of application was set aside and the matter was remanded to allow assessee an opportunity to file a fresh application in the correct section code under section 12A.[S.12A(1)(ac)(vi), Form 10A] 341
Assessee, a charitable trust, inadvertently selected the wrong section code while filing Form No. 10A and revenue granted provisional registration. CIT€ rejected the application for conversion of provisional registration into final registration under section 12AB solely on ground that the assessee had originally selected an incorrect section code. Tribunal held that since the mistake of selecting the wrong section code was purely technical in nature, the matter was remanded to allow assessee an opportunity to file a fresh application in the correct section code under section 12A. (AY. 2023-24)
Divyavani Trust v. CIT(E) (2025) 214 ITD 471 (Hyd) (Trib.)

S. 12AB: Procedure for fresh registration-Registration was cancelled on the ground that activities were confined to a specific Samaj. Tribunal held that 'Samaj', being a sociological term, could not automatically be equated with a religious community or caste, and without deeper enquiry into its legal character and actual activities. Cancellation was not justified. Matter remanded. [S. 13(1)(b)] 342
Assessee-trust was granted provisional registration under section 12AB and it later applied for regular registration. CIT(E) held that objects and activities of assessee-trust were confined to members of Aath Paragana Gurjar Prajapati Samaj. He therefore, treated it as a specific caste or religious community, and by invoking section 13(1)(b) rejected application for regular registration and cancelled provisional registration. On appeal the Tribunal held that term 'Samaj' was a sociological term and could not ipso facto be equated with a 'religious community or caste' as per section 13(1)(b). Further, question of applicability of section 13(1)(b) was to be examined only at stage of assessment and not at stage of registration Merely because trust had emerged from a specific community platform and its area of operation was defined with reference to members of a Samaj, it could not be concluded that trust was for benefit of a 'particular religious community

or caste' without a deeper enquiry into whether such community constituted a religious denomination under law, and whether activities were in fact exclusionary in practice. In absence of any such inquiry, and in the face of financial statements evidencing expenditure on public welfare activities, summary rejection of registration by invoking section 13(1)(b) was unsustainable in law. The matter was remanded to the file of CIT E) to decide in accordance with law.
Shree Aath Paragana Gurjar Prajapati Samaj Trust v. CIT (2025) 214 ITD 509 (Ahd) (Trib.)

343 **S. 12AB: Procedure for fresh registration-Specific violation-Religious community-Rejection of application-No inquiry of violation was made-Tribunal held that CIT(E) finding of specified violation was incorrect-Denial of registration was unjustified-Directed to grant the exemption.[S. 12A (1)(ac)(iii), 12AB(4)]**
Assessee-trust applied for registration under section 12A(1)(ac)(iii) CIT(E) rejected the application on the ground that trust's objects catered to the benefit of a particular religious community or caste and thus amounted to a "specified violation" under the Explanation to section 12AB(4). On appeal, the Tribunal held that, as per the Explanation to section 12AB(4), the specified violation occurs only when the income of the trust is actually 'applied' for the benefit of a particular religious caste or community. On facts, CIT(E) had not found any application of income of trust for the benefit of any particular religious caste or community and had not conducted any inquiry regarding the occurrence of specified violation but merely relied on trust's objects; his finding of specified violation under section 12AB(4) was incorrect, and denial of registration was not in accordance with law. Accordingly, the CIT(E) was directed to grant registration to the assessee trust.
Hatkeshwar Mahadev Trust v. CIT (2025) 214 ITD 608 (Ahd) (Trib.)

344 **S. 12AB: Procedure for fresh registration-Delay of 33 days-Failure to check email-Delay was condoned-Rejection of application-Curable defects-Matter was restored to the file of CIT (E) for afresh adjudication by providing adequate opportunities of being heard. [S. 11, 80G]**
Tribunal condoned the delay of 33 days in the filing of an appeal. CIT(E) rejected the application of the assessee-trust for registration under section 12AB on account of four reasons, namely, (i) non-submission of a legible copy of the trust deed; (ii) incomplete details in Form No. 10AB; (iii) assessee was not registered under the Rajasthan Public Trust Act, 1959; and (iv) assessee could not establish genuineness of its activities. Allowing the appeal, the Tribunal held that since the reasons advanced were curable in nature, the matter was restored to the file of CIT (E) for afresh adjudication.
Shriram Paropkari Trust v. CIT (2025) 213 ITD 46 (Jaipur) (Trib.)

345 **S. 12AB: Procedure for fresh registration-Loan taken from trustees-Sanction of Charity Commissioner-Opportunity of hearing was not afforded for furnishing any clarification on the issue of temporary loan taken by it-Matter was remitted back for decision afresh. [S. 11, 80G (5)]**
Assessee-trust was engaged in family welfare and medical relief. It applied for registration under section 12AB and approval under section 80G(5). CIT(E) rejected the same on the ground that the assessee had not received sanction of the Charity

Commissioner for loans taken from the trustee during the year. On appeal, it was contended that the unsecured loan taken from the trustee was a temporary loan. Tribunal held that since a proper opportunity of hearing was not afforded to the assessee-trust for furnishing any clarification on the issue of the loan taken by it, the matter was remitted back to CIT(E) for deciding the same afresh.
Snehbandh Foundation v. CIT (2025) 213 ITD 125 (Pune) (Trib.)

S. 12AB: Procedure for fresh registration-Provisional registration-Genuineness of donations has to be seen at the time of assessment and not at the time of registration of trust-Rejection of application for regularisation on questioning genuineness of donation by recourse to section 115BBC was beyond scope of enquiry-Matter remanded to the file of CIT(E) to decide the issue in accordance with law. [S. 12A(1)(ac)(iii), 115BBC] 346

Assessee-trust applied for registration under section 12AB, claiming to be engaged in charitable activities. It was granted provisional registration. Thereafter, the assessee applied for regularisation of provisional registration. CIT (E) rejected the application for regularisation on the ground that the assessee failed to furnish complete and satisfactory details of donors and their confirmations, including PAN and identity proof, as mandated under the Act. He further held that the genuineness of donations was not proved. On appeal, the Tribunal held that the genuineness of donations has to be seen at the time of assessment and not at the time of registration of the trust. Therefore, rejection of regularisation of provisional registration on the ground that conditions of section 12AB(1)(b) were not met by questioning the genuineness of donation by recourse to section 115BBC was held to be beyond the scope of enquiry. Matter remanded to the file of CIT E) to decide in accordance with law.
Ideal Relief Trust v. CIT (E) (2025) 213 ITD 303 (Delhi) (Trib.)

S. 12AB: Procedure for fresh registration-Cancellation of provisional registration-Benefit of particular religion-CIT(E) neither examined financial statements nor recorded any findings on actual application of income in support of alleged violation under clause (d) of Explanation to section 12AB-Matter was to be remanded to him to decide the issue afresh.[S. 12B(1)(ac)(vi), 13] 347

Assessee-trust was granted provisional registration under section 12AB(1)(ac)(vi). Assessee filed an application seeking final registration under section 12AB(1)(ac)(iii). CIT(E), after examining objects of the trust concluded that the trust was created for the benefit of a particular religious community or caste and, therefore, invoked section 13(1)(b) to reject the application for final registration. Further, CIT (E) cancelled provisional registration on the ground that trust was created for the benefit of a particular religious community or caste. On appeal the Tribunal held that since CIT(E) had neither examined financial statements nor recorded any findings on actual application of income in support of alleged violation under clause (d) of Explanation to section 12AB, impugned order passed by CIT(E) suffered from legal infirmity and procedural inadequacy and, therefore, same was to be set aside and matter was to be restored to file of CIT(E) with a direction to decide issue afresh. Matter remanded.
Leuva Patidar Samaj Seva Trust Ode v. CIT (E) (2025) 213 ITD 233 (Ahd) (Trib.)

348 **S. 12AB: Procedure for fresh registration-Non-commencement of activities-Registration cannot be denied without considering the proposed activities. [S. 11, 12, 12A]**
CIT (E) rejected the application on the grounds of non-commencement of activities. On appeal, the Tribunal held that non-commencement of activities at the time of filing the application or at the time of passing the order for grant of registration under section 12AB cannot be the sole reason for denial of registration without considering the proposed activities of the assessee trust. Matter remanded to the file of CIT E) to decide in accordance with law. (AY. 2025-26)
Ujwal Foundation v. CIT (E) (2025) 213 ITD 227 (Hyd) (Trib.)

349 **S. 12AB: Procedure for fresh registration-Failure to give reasonable opportunity of hearing-Natural justice- Matter remanded to the file of CIT (E) for giving an opportunity of hearing and in accordance with law. [S.12AB(1)(b)(ii), 80G]**
CIT(E) rejected the application for registration under section 12AB on the ground that the assessee failed to satisfy the conditions laid down under section 12AB(1)(b)(ii). On appeal, the Tribunal held the application was rejected without giving a reasonable opportunity of hearing. The matter was remanded to the file of the CIT (E) to decide in accordance with law and also the application under section 80G of the Act.
Baroda Lakkad Pitha Punch Property Baroda v. CIT (E) 213 ITD 345 / 236 TTJ 1 (Ahd) (Trib)

350 **S. 12AB: Procedure for fresh registration-Commencement of activities-Invested in fixed deposits-Entitled to registration and also approval under section 80G(5) of the Act. [S.80G (5), Form No 10.]**
Assessee-trust was engaged in charitable activities of providing medical aid to underprivileged sections of society. It applied for registration under section 12AB. CIT(E) rejected application for registration on the ground that the assessee had not commenced its activities and a substantial portion of donations was invested in fixed deposits and only a small amount was spent on medical relief. On appeal, the Tribunal held that the assessee had already commenced its activities by incurring medical relief expenses towards attainment of its objects. Further, the assessee had filed Form No. 10 for accumulation of a certain amount for a proposed charitable project in line with the objects of the trust. Since it was the first year of operation, the assessee was not able to spend on large-scale activity and hence invested a certain amount in a fixed deposit as per the prescribed mode. Therefore, it was only the genuineness of activity and not a substantial amount of expenditure that was relevant for granting registration under section 12AB. The CIT(E) was directed to grant the exemption. The Tribunal also held that CIT(E) had not brought any material on record to show that the assessee-trust's activities were not genuine or that conditions as specified under section 80G(5) were not fulfilled; approval under section 80G could not be denied.
Dhwani Shristi Foundation v. CIT (E) (2025) 213 ITD 334 (Bang) (Trib)

S. 12AB: Procedure for fresh registration-Formed to serve the community of serving and retired military personnel and their families-Entitled to registration and approval under section 80G of the Act. [S. 11, 12, 80G] 351

Assessee-trust was registered under the Societies Registration Act with the objective of serving the community of serving and retired personnel and their families of First Battalion, Mechanised Infantry Regiment, Madras of the Indian Army, irrespective of religion, caste or creed. Assessee filed an application in Form No. 10AB seeking registration under section 12AB and approval under section 80G along with all relevant supporting documentary evidence. CIT(E) rejected both applications on the ground that no substantial charitable activities were carried out by assessee-trust, which was in violation of sections 11 and 12. On appeal, the Tribunal held that the Assessee-trust was incorporated for a noble cause to provide services to retired military personnel, who were unable to meet the requirements of their dependent family members. Accordingly, the assessee-trust was entitled to be granted registration under section 12AB and approval under section 80G and, therefore, CIT(E) was directed to grant registration and approval accordingly. (AY. 2024-25)

Fighting First Trust v. CIT (2025) 213 ITD 458 (Hyd) (Trib.)

S. 12AB: Procedure for fresh registration-Genuineness of activities-Rejection of the application was set aside to CIT(E). [S.11, 12] 352

CIT (E) rejected the application for registration. On appeal, the Tribunal held that the assessee had submitted various details that needed to be examined afresh by CIT(E). The matter was remanded to the file of CIT(E).

Indian Women Impact v. CIT (2025) 213 ITD 519 (Agra) (Trib.)

S. 12AB: Procedure for fresh registration-Cancellation of provisional registration-Failure to give reasonable opportunity-Order of rejection was set aside-Matter remanded to the CIT (E) to decide the issue afresh by providing one more opportunity of being heard to the assessee.[S.11, 12, 12A(1)(ac)(iii)] 353

Assessee filed an application in Form No. 10AB seeking registration under section 12A(1)(ac)(iii). CIT(E) cancelled the registration without providing a reasonable opportunity for a hearing. Tribunal remanded the matter to the CIT(E) to pass an order giving a reasonable opportunity of hearing.

Gaushala Sewa Samiti v. CIT(E) (2025) 213 ITD 650 (Jaipur) (Trib)

S. 12AB: Procedure for fresh registration-Cancellation of registration-Failure to comply with notices and to file supporting documents-Rejection of application by CIT(E) was set aside and directed to decide the application as per law.[S.11, 12] 354

Assessee-trust filed an application for permanent registration under section 12AB. CIT (E) issued notices requesting to furnish details or documents in support of the application. However, the assessee neither filed any submission nor sought any adjournment. CIT (E) rejected the application and cancelled provisional registration. On appeal, the Tribunal held that since the assessee had not complied with the notice issued by CIT(E), as a negligent act, a cost was to be imposed on the assessee and the

matter was to be remitted back to the file of CIT (E) with a direction to decide the application of the assessee as per law. (AY. 2024-25)
Ladhabapa Charitable and Welf Trust v. CIT (E) (2025) 213 ITD 601 (Rajkot) (Trib.)

355 **S. 12AB: Procedure for fresh registration-Promote skill development-Charging 10 per cent management fee-Eligible for registration and exemption under section 80G of the Act.[S.80G]**
Assessee-trust, established on 31-5-2022 by NSDC, filed an application in Form No. 10AB for registration under section 12AB. Assessee acted as an approved training partner under the National Skill Development Programme of the Ministry of Skill Development and Entrepreneurship, with objectives focused on promoting skill development, employability, entrepreneurship, and public outreach. CIT (E) rejected the application, holding that assessee was merely rendering services and charging a 10% management fee, which was commercial in nature. On appeal, the Tribunal held that the activity carried out as mentioned in the trust deed or the activity proposed to be carried out was charitable in nature and hence directed to grant registration under section 12A and consequently grant claim of exemption under section 80G.
NSDC Skill Impact Trust v. CIT(E) (2025) 213 ITD 629 (Delhi) (Trib.)

356 **S. 12AB: Procedure for fresh registration-Denial of registration-Application was filed beyond the date specified in law-Rejection of application was affirmed.[S. 11]**
The assessee filed an application seeking final registration of the assessee-trust under section 12AB, which was rejected on the ground that it was filed beyond the time limit specified by law. The order of the CIT (E) rejecting the application was affirmed.
Aareev Foundation v. CIT (E) (2025) 213 ITD 661 (Ahd) (Trib.)

357 **S. 12AB: Procedure for fresh registration-Violation of the principle of natural justice-Rejection of application without giving specific reasons-Order of CIT(E) was set aside, and the matter was remanded to adjudicate the application afresh. [S. 12A]**
Tribunal held that the CIT(E) rejected the application without giving any specific reason, rejecting the application on the ground that the assessee society had only filed a partial reply to queries that were raised by him. Tribunal set aside the order, and matter was remanded to him with a direction to adjudicate the application afresh in accordance with law.
Medeng Unicus Society v. ITO (E) (2025) 213 ITD 699 (Visakha) (Trib.)

358 **S. 12AB: Procedure for fresh registration-Activities were not genuine-Siphoning off funds-Matter remanded to CIT(E) for granting one more opportunity of hearing. [S. 11, 12]**
Commissioner (E) rejected the same on the ground that activities of the assessee-trust were not genuine and trustees were siphoning off funds. On appeal the Tribunal held that all documents demanded by him were supplied but same had not been properly examined by him. The assessee submitted that genuineness of activities of the trust and also its objects were proved and there was no room for siphoning off funds and all funds had been utilized for the object of trust. The Tribunal held that the assessee

should be given one more opportunity to advance documents before the Commissioner (E) as to registration of trust under section 12AB of the Act.
Samajik Prerna Avam Gramin Vikas Sansthan Laporiya v. CIT (E) (2025) 212 ITD 623 (Jaipur) (Trib)

S. 12AB: Procedure for fresh registration-Educational welfare for under-privileged-Registration denied for alleged malpractices and fraudulent activities as non-genuine purchases of school uniform and computers were made-Genuineness of activities were not doubted-Matter remanded to Commissioner (E). [S. 11, 12] 359
Assessee-trust was engaged in educational welfare for under-privileged section of society. It filed an application for registration under section 12AB. Commissioner (E) doubted the purchase of uniforms and computer systems, etc. Hence, denied registration under section 12AB on the ground that funds received were not used towards the objects of the trust. On appeal, the Tribunal held that the assessee had produced evidence in the form of photographs of distribution of computers, school uniforms, as well as relief to poverty. The assessee had also submitted receipts of computers by various associations and utilisation certificates. The Tribunal remanded back to the Commissioner (E) with a direction to the assessee to substantiate its transactions and comply with notices of the Commissioner (E) if any further details were required. (AY. 2024-25)
Happiness Acts Trust v. CIT (2025) 212 ITD 509 (Bang) (Trib.)

S. 12AB: Procedure for fresh registration-Pendency of registration under Rajasthan Public Trust Act, 1959-Matter is restored to the Commissioner (E) with a direction that, as and when the assessee-trust produces a copy of its registration under RPT Act, the application of the assessee-trust for registration under section 12AA be decided afresh in accordance with law.[S. 12AA, Rajasthan Public Trust Act, 1959] 360
Assessee-trust filed its application for registration under section 12AB of the Act. Commissioner (E) rejected assessee's claim of registration on the grounds that Form 10AB, non-registration under Rajasthan Public Trusts Act, 1959, and Genuineness of activities. On appeal, the Tribunal held that the assessee was in the process of applying for registration under the RPT Act, 1959 before competent authority, and it was likely to get same. Tribunal directed the CIT(E) that as and when the assessee-trust produced a copy of its registration under the RPT Act, 1959, the application of the assessee-trust for registration under section 12AA be decided afresh in accordance with law.
Krishna Nandini Gaudham Charitable Trust v. ITO (2025) 212 ITD 67 (Jaipur) (Trib.)

S. 12AB: Procedure for fresh registration-Religious trust-Trust for the benefit of particular community-Jain community and to propagate Jainism-Order rejecting the application is affirmed. [S. 11, 12, 12AB(4), 13(1)(b)] 361
Commissioner (E) rejected the application for registration on the ground that all the objects of the assessee-trust are related to religious activities, more particularly the Jain community, and to propagate Jainism. On appeal, the Tribunal held that as per cl. (d) of Explanation to s. 12AB(4), registration of the trust or institution established for charitable purpose created or established after the commencement of the Act, which has applied any part of its income for the benefit of any particular religious

community or caste can be cancelled. All the objects of the assessee-trust are related to religious activities, more particularly Jain community, and to propagate Jainism, which is a specific violation under cls. (c) and (d) of Explanation to s. 12AB(4). The Tribunal also held that S. 13(1)(b) excludes the benefit of ss. 11 and 12 to a charitable institution created or established after commencement of the Act, income whereof is for the benefit of any particular religious community or caste. The Tribunal held that section is required to be read in conjunction with the provisions of ss. 11 and 12 for determination of eligibility of a trust to claim exemption under the aforesaid provisions, while granting registration. Order of CIT(E) denying the exemption is affirmed. Followed, *CIT v. Dawoodi Bohara Jamat (2014) 268 CTR 1/ 102 DTR 361 (SC), CIT(E) v. Bayath Kutchhi Dasha Oswal Jain Mahajan Trust (2016) 74 taxmann.com 199 (Guj)(HC) and CIT v. Leuva Patel Seva Samaj Trust (2014) 42 taxmann.com 181 (Guj)(HC) (HC)* distinguished.
Soudharma Brihad Tapogachchiya Tristutik Jain Sangha Samarpanam v. CIT (E) (2025) 233 TTJ 606 / 170 taxmann.com 590 (Ahd)(Trib)

362 **S. 12AB: Procedure for fresh registration-Natural justice-Failure to issue show-cause notice- Matter is remanded to Commissioner (E).[S. 11, 12AA, R.11AA]**
Assessee-trust filed application for registration under section 12AB of the Act. Commissioner (E) rejected said application on ground that assessee did not conclusively prove the genuineness of the activities of Trust; in absence of such documents, it could not be determined whether the assessee was genuinely carrying out activities as per its objects. On appeal the Tribunal held that Commissioner (E) had not issued any show-cause notice before passing order of rejection of assessee's application. Since the order is in violation of principles of natural justice, matter is remanded to the Commissioner (E) to examine issues of genuineness of activities of trust in consonance to objects of assessee and to grant a reasonable opportunity of being heard to assessee.
Ram Phool Hooda Charitable Trust v. CIT (2025) 211 ITD 411 (Delhi) (Trib.)

363 **S. 12AB: Procedure for fresh registration-Failure to file details-Provisional registration was cancelled-Matter remanded subject to cost of Rs 10000 imposed on the assessee. [S. 12A, 80G, Form No.10AB]**
Assessee-trust had filed an application for registration under section 12A. CIT(E)issued two notices to the assessee-trust to file details/documents. Assessee-trust did not file any submission nor seek any adjournment in response to said notices. CIT(E) has rejected the provisional exemption granted. On appeal, the Tribunal matter remanded to CIT(E), subject to costs of Rs 10000.
Surat Diamond Cutting & Polishing Cluster SPV Trust v. CIT (2025) 211 ITD 143 (Surat) (Trib.)

364 **S. 12AB: Procedure for fresh registration-Selecting the wrong selection code-Delay is condoned-CIT(E) is directed to hear the assessee by allowing it to apply under Form 10A. [S. 12A(1)(ac)(iii) Form No 10A/10B]**
Assessee filed an application for registration in Form No. 10AB under section 12A (1)(ac)(iii). The Commissioner (Exemption) rejected the application on the ground that the

assessee was not registered under section 12AB; therefore, the application was premature and not maintainable. Assessee contended that it had inadvertently filed the application under section 12A(1)(ac)(iii) when it should have been filed under clause (i) of section 12A(1)(ac). Since the application was inadvertently filed by the assessee under an incorrect provision, the Commissioner (E) was to be directed to treat application filed as per applicable provision and consider the case on merits. (AY. 2024-25)
Seven Hills Educational Society v. ITO (E) (2025) 210 ITD 234 (Hyd.) (Trib.)

S. 12AB: Procedure for fresh registration-Charitable purpose-Procedure for fresh registration-Objects of general public utility-Directed to grant the registration [S. 2(15)] 365
Assessee was an association of steel re-rollers. It had filed an application for registration u/s 12AB. However, the CIT (E) rejected the same on the ground that activities of the Assessee were in the nature of trade and commerce and not for charitable purposes. It was observed that the Assessee was established in order to organize and unite manufacturers of steel Re-Rollers and people of similar business and certain other connected/incidental/ancillary objects. Further, there was no observation by the CIT (E) that any activity of the Assessee was in the nature of trade or commerce. Therefore, since the Assessee fulfilled the stipulated conditions to fall within the definition of charitable purpose as defined in S. 2(15) of the Act, registration u/s 12AB was to be granted to the assessee.
Chhattisgarh Re-Rollers Association v. CIT (E) (2025) 210 ITD 127 (Raipur) (Trib.)

S. 12AB: Procedure for fresh registration-The object of the company is to promote Indian heritage art such as Indian Classical music, organize regular concerts and performances by renowned and emerging Indian etc-Renewal of registration cannot be denied on the ground that the objects of the trust may contain clauses, which may enable a charitable trust or institution to apply its income for activities carried outside India-Denial of registration and 80G exemption is set aside-On merit the matter is remanded to the CIT(E) to examine the genuineness of the activists. [S. 2(15), 11(1)(c), 12A, 12AB, 80G, Companies Act, 2013, S.8] 366
The assessee is a non-profit organization, incorporated u/s. 8 of the Companies Act, 2013. The object of the company is to promote Indian heritage art such as Indian Classical music, Organize regular concerts and performances by renowned and emerging Indian classical musicians, Establish or support training school or institute to teach Indian classical music to students of all ages and skill levels, to Indian classical musicians to cover the costs of performance, travel, and recording, Organize festivals and conferences that bring together Indian classical musicians and scholars from around the world. The assessee was initially granted provisional registration u/s. 12AB as well as u/s 80G of the Act on 29-01-2024 from AYs. 2024-25 to 2026-27. The assessee filed prescribed applications seeking permanent registration u/s.12AB and 80G of the Act. Both the applications filed by the assessee were rejected by the Ld. CIT(E) on the ground that the objects of the assessee leave room for any future potential endeavour that may result in incurring expenditure outside India, which is in violation of S.11 of the Income tax Act, secondly the activities claimed to have been done are not justified by the expenses incurred by the assessee. On appeal the Tribunal held that the objects

of the trust may contain clauses, which may enable a charitable trust or institution to apply its income for activities carried outside India, however such objects, if any, would not enable the Ld CIT(E) to deny registration u/s 12AB of the Act Followed, *Sarbat The Bhala Gurmat Mission Charitable Trust v. CIT(E) [2021] 127 taxmann.com 816 /189 ITD 353 (Chd)(Trib.).* The Tribunal also held that the provisions of Section. 12AA is identical with the provisions of section. 12AB of the Act. Accordingly, the application of income of a charitable trust or institution outside India for carrying out its objects will not fall under any of the categories of "specified violation" as mentioned in the Explanation to S.12AB(4) of the Act. Honourable Tribunal following the ratio in *MK Nambyar SAARF Law Charitable Trust v. UOI (2004) 269 ITR 556/ 140 Taxman 616 (Delhi)(HC)* held that section 12AB does not refer the activities carried on in India or out side India. The order of CIT(E) denying the exemption and denial of exemption under Section 8OG is set aside. As regards the genuineness of the activities, the Tribunal admitted the additional evidence and remanded to the CIT(E) to examine the issue in accordance with law.

Dedhia Music Foundation v. CIT(E) [2025] 173 taxmann.com 394 (Mum)(Trib)

367 **S. 13 : Denial of exemption-Trust or institution-Investment restrictions-Salary paid to chairperson-Considered reasonable considering qualifications and services rendered-No violation of section 13(1)(c)-Trust entitled to exemption. [Ss. 11, 12, 12A, 13(1)(c), 13(2)(c), 40A(2)]**

The assessee, a charitable trust registered under section 12A and engaged in imparting education through various educational institutions, paid salary to its chairperson. The Assessing Officer held that the remuneration was excessive and not commensurate with her qualifications and duties and, treating her as a related person, disallowed 30 per cent of the payment under section 40A(2)(a). The Commissioner (Appeals) deleted the addition, holding that the salary was reasonable and also noting consistency with the earlier assessment year. The Tribunal, after considering additional evidence regarding the chairperson's qualifications and contribution to the institution, upheld the order of the Commissioner (A) and held that reasonable remuneration paid for services rendered to a person specified under section 13(3) would not attract the provisions of section 13(1)(c). On appeal, the High Court held that section 13(1)(c) denies exemption only where income of the trust is applied directly or indirectly for the benefit of specified persons. Under section 13(2)(c), payment of salary or allowance to such persons would be deemed to be for their benefit only where it is in excess of what may reasonably be paid for the services rendered. If the remuneration is reasonable, it cannot be regarded as diversion of income for the benefit of the specified person. Since the Tribunal had recorded a finding of fact that the salary paid to the chairperson was reasonable having regard to her qualifications and services, there was no violation of section 13(1)(c) and the trust was entitled to exemption. The finding of the Tribunal was not perverse. (AY. 2009-10 to 2011-12)

CIT v. IILM Foundation (2025) 480 ITR 1 / 174 taxmann.com 605 /(2026) 349 CTR 792 (Delhi) (HC).

S. 13 : Denial of exemption-Trust or institution-Investment restrictions-Invested funds in shares of joint venture companies-Not entitle to claim exemption-Only income from such an investment made in violation of section 13(1)(d) was liable to tax and not entire income accrued to assessee.[S. 2(15), 11(5), 13(1)(d)] 368

Assessee, a charitable institution, was engaged in distribution of essential commodities provided by State Government, on subsidy. It had invested funds in shares of joint venture companies. The AO denied the exemption on the entire income of the institution, and the same was affirmed by the CIT(A). On appeal the Tribunal held that investment made by assessee in its joint venture companies was an investment made in violation of section 11 (5) read with section 13(1)(d) and, therefore, assessee was not entitled to claim benefit of exemption under section 11, however, only income from such an investment made in violation of section 13(1)(d) was liable to tax and not entire income accrued to assessee. (AY. 1994-95 to 2001-02)

A.P. State Civil Supplies Corporation Ltd. v. ITO (2025) 303 Taxman 176 /343 CTR 394 / 247 DTR 106 (Telangana)(HC)

S. 13 : Denial of exemption-Trust or institution-Investment restrictions-Tribunal right in holding that disqualification would apply only to that part of income which was in violation of conditions-No substantial question of law-Circular No. 387 Dated 6-7-1984 (1985) 152 ITR 1 (St)-Search and seizure-Documents found in the course of search-Question of law admitted. [S. 13(1)(c), 260A] 369

Held that the court declined to admit the appeal on the second question of law on the premise that it was covered by Circular No. 387 dated July 6, 1984 ([1985] 152 ITR (St.) 1) issued by the Central Board of Direct Taxes, to the effect that where a trust contravenes the provisions of section 13(1)(c) or (d) of the Act, the maximum marginal rate of Income-tax will apply only to that part of the income which had forfeited exemption under the said provisions, but admitted the first question reframed as "whether the Tribunal was right in deleting the addition of Rs. 22,45,06,500 that was added by the Assessing Officer relying on documents found during the search at the residence of the principal trustee of the respondent-society".

PCIT v. Sinhagad Technical Education Society (2025)472 ITR 15 (Bom)(HC)

Editorial: PCIT v. Sinhagad Technical Education Society (2025) 472 ITR 18 (SC), High Court is directed to consider second question of law along with other questions admitted.

S. 13 : Denial of exemption-Trust or institution-Investment restrictions-Exemption cannot be denied on entire income-Disallowance restricted to income from impermissible investment. [S. 11, 12, 13(1)(d)] 370

The Revenue denied exemption under sections 11 and 12 on the ground that the assessee had investments attracting section 13(1)(d). The Tribunal held that there was no fresh investment during the relevant assessment year and only dividend income had been received. Even otherwise, violation of section 13(1)(d) does not result in denial of exemption on the entire income of the trust; the denial is restricted only to the income arising from the impermissible investment. Accordingly, the order restricting the disallowance to the dividend income was upheld. (AY. 2012-13, 2013-14 & 2016-17)

Asst. CIT v. Gujarat Industrial Development Corporation (2025) 130 ITR 108 (Ahd.)(Trib.)

371 **S. 13 : Denial of exemption-Trust or institution-Investment restrictions-Own case for earlier assessment years, exemption under section 11 was allowed-No change of facts-Exemption is allowed. [S.11, 13(1)(c)]**

Assessee-trust, engaged in educational activities, filed its return of income declaring nil income after claiming exemption under section 11. Assessing Officer held that the assessee had made certain payments to specified persons and, thus, had extended benefits to specified persons and, consequently, the provisions of section 13(1)(c) had been violated hence he denied exemption. CIT(A) allowed the claim. On appeal the Tribunal affirmed the order of the CIT(A).(AY. 2017-18,2018-19, 2021-22)

DCIT v. CMR Jnanadhara Trust (2025) 210 ITD 519 (Bang) (Trib.)

372 **S. 13A: Political parties-Income of political party-Non-filing of return within the due date-Not entitled to exemption-Claim for netting is also not allowed. [S.139(1), 139(4B]**

Held that section 139(4B) stipulates filing of return within the "due" date, i.e., return is required to be furnished under S. 139(1). Return for AY. 2018-19 filed by the assessee on 2nd Feb., 2019, is not within the due date and, consequently, it is not entitled to exemption under S 13A. Tribunal also held that since the assessee has violated the third proviso to s. 13A, its claim for netting is also declined. (AY. 2018-19)

Indian National Congress All India Congress Committee v. DCIT (2025) 236 TTJ 633 / 176 taxmann.com 688 (Delhi)(Trib)

373 **S. 13A : Political parties-Delay in filing return-Cash donations exceeding limit-Strict compliance required-Not entitle to exemption if the return is filed after the due date-Exemption denied-Appeal dismissed. [S. 13A(d), 139(1), 139(4), 139(4B), 143(3), Representation of People Act, 1951, S. 29A]**

The assessee, Indian National Congress (INC), a recognised national political party registered under Section 29A of the Representation of the People Act, 1951, filed its income tax return for AY 2018-19 on 02.02.2019, declaring nil income and claiming exemption of ₹ 199.15 crores under Section 13A of the Income-Tax Act, 1961. The return was filed after the extended due date of 31.12.2018. The Assessing Officer completed scrutiny under Section 143(3), disallowed the exemption, and treated the entire amount as taxable income on two main grounds: (i) the return was filed beyond the time limit prescribed under Section 139(4B); and (ii) INC received cash donations exceeding ₹ 2,000, amounting to ₹14.49 lakhs, in violation of the first proviso (clause d) to Section 13A. On appeal the assessee contended that the return was validly filed within the extended time under Section 139(4), and that the donations were voluntary contributions from identifiable individuals, mostly elected representatives, with complete PAN and address details, thereby defeating the mischief of anonymity which the law intended to curb. It further relied on CBDT clarification dated 23.04.2019 and judicial precedents to argue that the term "due date" under Section 13A includes the timeline under Section 139(4). It also claimed that even if the exemption was to be denied, only the net surplus after expenditure (₹1.71 Cr) should be taxed, and not the gross amount. The CIT(A) upheld the AO's findings, holding that the provisions of Section 13A require strict compliance, and failure to meet even one condition disentitles the assessee from exemption. On appeal the Tribunal dismissed the appeal, affirming that both the delay

in filing the return and the acceptance of cash donations above the permissible limit constituted breaches of mandatory conditions under Section 13A. It noted that the exemption under this provision is a special benefit, not a matter of right, and must be strictly construed. The Tribunal also rejected the distinction sought to be made between donations and voluntary contributions, noting that the assessee's own records and submissions used the terms interchangeably. Citing prior judgments including *CIT v. Indian National Congress (ITA No. 145 of 2001) (Delhi)(HC), CIT v. Indian National Congress(ITA 180 of 2001) (Delhi)(HC), CIT v. Janata Party (ITA No. 188 of 2002) (Delhi) (HC)*, the Tribunal concluded that once the statutory preconditions were violated, the full exemption had to be denied, and the total receipt was rightly brought to tax under "income from other sources." (ITA No. 1609/Del/2023,dt. 21.07.2025,) (AY. 2018-19)
Indian National Congress v. DCIT (2025) 176 taxmann.com 688 (Delhi) (Trib)

S. 14A : Disallowance of expenditure-Exempt income-Where no exempt income is received or receivable during the relevant previous year-SLP of the revenue dismissed on account of failure to explain 597 days of delay. [Art. 136] 374
High Court held that section 14A envisages that there should be an actual receipt of income which is not includible in total income; hence, section 14A will not apply where no exempt income is received or receivable during the relevant previous year. There being a gross delay of 597 days in filing the SLP by revenue, which had not been explained, the SLP was dismissed on the ground of delay. (AY. 2012-13, 2013-14),
PCIT v. Amadeus India (P.) Ltd. (2025) 304 Taxman 276 (SC)
Editorial : PCIT v. Amadeus India (P.) Ltd(2022) 145 taxmann.com 311 (Delhi)(HC)

S.14A : Disallowance of expenditure-Exempt income-No borrowed funds utilised for investment-Order of Tribunal deleting the disallowance affirmed.[R.8D(2)(iii)] 375
Court held that the Tribunal had examined the balance sheets of the assessee and had concluded that the investments were made in mutual funds in a liquidity plan wherein the dividend was automatically reinvested with weekly frequency without any efforts for earning dividend income, and that no borrowed funds were utilised, and had consequently held that the disallowance under section 14A was unwarranted. (AY.2012-13)
PCIT v. Inductis India Pvt. Ltd. (2023) 157 taxmann.com 87 / (2025) 483 ITR 492 (Delhi) (HC)
Editorial: PCIT v. Inductis India Pvt. Ltd [2025] 175 Taxmann.com 423 (SC), SLP dismissed on account of delay of 387 days.

S.14A : Disallowance of expenditure-Exempt income-Amendment by Finance Act, 2021, inserting non obstante clause and Explanation in provision with effect from 1-4-2022-Not retrospective. [R.8D, 260A] 376
Held that the Tribunal had considered the decision in *Pr. CIT v. Era Infrastructure (India) Ltd., (2022) 448 ITR 674 (Delhi)(HC)*, wherein it was held that amendment by the Finance Act, 2022 ((2022) 442 ITR (St) 91) of section 14A by inserting a non obstante clause and an explanation would take effect from April 1, 2022 and could not be presumed to have retrospective effect. (AY.2004-05)
PCIT v. Avantha Realty Ltd (2025) 482 ITR 599 (Cal)(HC)

377 **S.14A : Disallowance of expenditure-Exempt income-Restriction of disallowance to the extent of two per cent. of dividend income Proper-Reserves and surplus amount exceeding investment-Presumption that investments out of own interest-bearing funds Disallowance not attracted.[S. 36(1)(iii) R.8D, 260A]**

Held that the Tribunal in the order had relied upon the order of the Tribunal for the assessment year 2006-2007, in the assessee's own case wherein disallowance under section 14A was confirmed at two per cent. of the dividend income. The Tribunal also clarified that the disallowance with regard to interest should be made after excluding those mutual funds that were debt funds. Court also held that when interest-free own funds available with the assessee exceeded their investments, it would be presumed that the investments were made out of the assessee's own funds and proportionate disallowance was not warranted under section 14A of the Act. Therefore, there was no fault found with the order of the Tribunal. The entire issue was fact based. The Tribunal having come to the factual conclusion on the basis of the materials on record, no question of law arises. (AY. 2007-08, 2009-10)

CIT v. Grindwell Norton Ltd (2025) 483 ITR 651 (Bom)(HC)

378 **S.14A: Disallowance of expenditure-Exempt income-Rule 8D-Applied prospectively from AY 2008-09.[R.8D]**

The Bombay High Court reiterated that Rule 8D would apply only from Assessment Year 2008-09, following the decision of the jurisdictional High Court in *Godrej & Boyce Manufacturing Co. Ltd. (2010) 328 ITR 81 / 4 Taxman 203) (Bom).* The High Court further noted that the issue had also come before the Hon'ble Supreme Court in *CIT v. Essar Teleholdings Ltd. [2018] 90 taxmann.com 2 / 253 Taxman 321 / 401 ITR 445 (SC)*, which affirmed that Rule 8D is prospective in operation and cannot be applied to assessments prior to AY 2008-09. (AY. 2007-08)

Pr. CIT v. Kumar Housing Corporation Ltd. (2025) 306 Taxman 23 (Bom.) (HC)

379 **S.14A : Disallowance of expenditure-Exempt income-Investments made and liquidated within year resulting in no opening or closing balances-Order of Tribunal deleting the ad hoc disallowance under section 14A at 10 percent of exempt income was affirmed. [S. 260A, R.8D]**

Assessee-company earned exempt dividend income from mutual funds and claimed that no expenditure was incurred to earn such exempt income as investments were made and liquidated within year with no opening or closing balances in balance sheet. Assessing Officer made an ad-hoc disallowance under section 14A at 10% of exempt dividend income. Commissioner (Appeals) deleted disallowance noting that there were no opening or closing balances of mutual fund investments and Rule 8D was inapplicable on these facts. Tribunal dismissed revenue's appeal. On appeal by revenue the Court held that since Assessing Officer had not provided any tangible basis for making an ad hoc disallowance of 10% of dividend income from mutual funds, no substantial question of law arose from Tribunal's order. (AY.2015-16, 2016-17)

PCIT v. Eygbs (India) (P) Ltd. (2025) 180 taxmann.com 681 / 347 CTR 280 / 254 DTR 385 (Karn)(HC)

S.14A : Disallowance of expenditure-Exempt income-No exempt income-No disallowance can be made-Amendment in law will be applicable prospectively from 1-4-2022. [S. 260A, R.8D] 380

Held that when there is no exempt income, no disallowance can be made. Amendment in law will be applicable prospectively from 1-4-2022. (AY. 2013-14)

PCIT v. Keti Construction Ltd [2024] 162 taxmann.com 278 / (2025) 475 ITR 182 (MP) (HC)

S.14A : Disallowance of expenditure-Exempt income-Disallowance cannot exceed the exempt income-No substantial question of law.[S. 260A] 381

Dismissing the appeal of the Revenue, the Court held that disallowance cannot exceed the exempt income. No substantial question of law. (AY. 2015-16)

PCIT(Central) v. Affluence Commodities (P.) Ltd. (2024) 471 ITR 252 /161 taxmann.com 476 (Guj) (HC)

S.14A : Disallowance of expenditure-Exempt income-Disallowance under Section14A cannot exceed the exempt income-No substantial question of law.[S.260A] 382

Dismissing the appeal of the Revenue, the Court held that Disallowance under Section14A cannot exceed the exempt income. (AY.2004-05) (ITA NO.661 of 2018 dt.8-1-2025)

PCIT v. Tata Industries Ltd (Bom)(HC) www.itatonline.org

S.14A : Disallowance of expenditure-Exempt income-Dissatisfaction of Assessing Officer must be based on cogent reasons-Mere observation that disallowance is meagre is insufficient. [R. 8D] 383

The Assessing Officer invoked rule 8D merely on the ground that the suo motu disallowance offered by the assessee was insignificant compared to the exempt income earned. The Tribunal held that, in the absence of proper satisfaction recorded with cogent reasons regarding the incorrectness of the assessee's claim, invocation of section 14A read with rule 8D was invalid. The deletion of the disallowance was upheld. (AY. 2014-15).

Tata Consultancy Services Ltd. v. Dy. CIT [2023] 154 taxmann.com 372 / (2025) 129 ITR 667 (Mum.)(Trib.)

S. 14A : Disallowance of expenditure-Exempt income-Sufficient interest-free funds available-No disallowance warranted. [R. 8D] 384

The Assessing Officer made a further disallowance under section 14A read with rule 8D in respect of exempt dividend income. The Tribunal held that the assessee possessed sufficient non-interest-bearing funds to make the investments and, following the jurisdictional High Court as well as the orders passed in the assessee's own case for earlier years, upheld the deletion of the disallowance. (AY. 2015-16).

ITO v. V. R. Surat P. Ltd. [2023] 152 taxmann.com 679 / (2025) 129 ITR 626 (Surat)(Trib.)

385 **S.14A: Disallowance of expenditure-Exempt income-Expenditure incurred in relation to income not includible in total income-Assessee's own funds were much higher than investments that yield exempt income-Addition was deleted. [S.10(34), R.8D(2)(ii)]**
The assessee received a dividend which was claimed exempt under section 10(34). The AO had made an addition under section 14A on account of interest expenditure by resorting to rule 8D(2)(ii). On the revenue's appeal, ITAT held that as the assessee's own funds were much higher than investments that yield exempt income, CIT(A) had rightly deleted the addition on account of interest expenditure under section 14A read with rule 8D(2)(ii). [AY. 2009-10, 2012-13]
ACIT v. Doshion Veolia Water Solution (P.) Ltd. (2025) 128 ITR 128 (Mum) (Trib.)
ACIT v. Doshion Water Solution P. Ltd (2025) 128 ITR 128 (Mum) (Trib.)

386 **S.14A: Disallowance of expenditure-Exempt income-Disallowance cannot exceed exempt income. [R.8D]**
Held that the disallowance under section 14A cannot exceed exempt income earned during the year. Following precedents in assessee's own case and the judgment of the jurisdictional High Court, disallowance was required to be restricted to the amount of exempt income earned. (AY. 2012-13, 2014-15, 2015-16)
Housing & Urban Development Corporation Ltd. v. DCIT [2025] 128 ITR 387 (Delhi) (Trib.)

387 **S. 14A: Disallowance of expenditure - Exempt income-Recording of satisfaction by Assessing Officer is mandatory-Business loss-Allowable as deduction. [S. 28(i), 37(1)]**
The Assessing Officer invoked section 14A without recording any dissatisfaction regarding the correctness of the assessee's computation of expenditure relatable to exempt income. The Tribunal held that recording of satisfaction under section 14A(2) is a mandatory jurisdictional requirement and there can be no deemed or implied satisfaction. Since the Assessing Officer had failed to comply with this statutory requirement, the disallowance under section 14A was rightly deleted. The Tribunal further held that loss arising in the ordinary course of business is deductible as a business loss under section 28 and is distinct from business expenditure governed by sections 30 to 37. Where the loss has a direct nexus with business operations, it is allowable notwithstanding that it is not covered by the provisions relating to business expenditure. (AY. 2014-15)
Asst. CIT v. Span India (P.) Ltd. (2025) 128 ITR 536 (Delhi)(Trib.).

388 **S.14A: Disallowance of expenditure-Exempt income-Disallowance under section 14A cannot exceed the exempt income earned during the year-Book profit-Minimum Alternate Tax-Disallowance computed under section 14A read with rule 8D cannot be added while computing book profit under section 115JB. [S. 11JB, R. 8D]**
The Assessing Officer made disallowance under section 14A read with rule 8D in excess of the exempt income earned by the assessee. The Commissioner (Appeals) restricted the disallowance to the amount of exempt income. The Tribunal upheld the order of the Commissioner (Appeals) holding that disallowance under section 14A cannot exceed the exempt income earned during the relevant previous year. The Assessing Officer added the disallowance computed under section 14A while determining the book profit under

section 115JB. The Tribunal held that computation under section 115JB is governed by the specific provisions contained therein and book profit cannot be adjusted by importing the disallowance computed under section 14A read with rule 8D. Accordingly, deletion of the addition by the Commissioner (Appeals) was upheld. (AY. 2010-11 to 2012-13)
Anil Ltd. (formerly Anil Products Ltd.) v. Dy. CIT (2025) 130 ITR 351 (Ahd.)(Trib.)

S.14A: Disallowance of expenditure-Exempt income-No exempt income earned-No disallowance permissible.[R. 8D] 389
The Assessing Officer invoked section 14A read with Rule 8D although the assessee had not earned any exempt income during the relevant previous year. The Tribunal held that in the absence of exempt income and any claim for exemption, no disallowance under section 14A could be made. Accordingly, the addition was deleted. (AY. 2011-12)
Capgemini India P. Ltd. v. Dy. CIT (2025) 130 ITR 431 (Mum.)(Trib.)

S. 14A: Disallowance of expenditure-Exempt income-Administrative expenses-Rule 8D-Disallowance computed by Assessing Officer upheld. [R. 8D(2)(iii)] 390
The assessee computed disallowance under section 14A on an ad hoc basis by allocating a portion of treasury department expenses. The Assessing Officer applied Rule 8D(2)(iii) and computed disallowance at 0.5 per cent. of the average value of investments after observing that administrative resources, including the Board of Directors, were involved in investment decisions. The Tribunal held that the assessee had failed to demonstrate that no administrative expenditure was attributable to earning exempt income. Accordingly, the disallowance computed by the Assessing Officer under Rule 8D was upheld. (AY. 2009-10, 2012-13).
Bayer Crop Science Ltd. (Successor to Monsanto India Ltd.) v. Dy. CIT (2025) 130 ITR 679 (Mum.)(Trib.)

S. 14A: Disallowance of expenditure-Exempt income-Investment being share of profit in joint venture, current account transaction for loans given-Provision in applicable-Disallowance rightly deleted. [R. 8D] 391
Held that since the investment represented a current account transaction of loans to the joint venture and not an investment yielding exempt income, section 14A did not apply. (AY. 2017-18)
ITD Cementation India Ltd v. Dy. CIT (2025) 131 ITR 74 (Delhi) (Trib)

S.14A: Disallowance of expenditure-Exempt income-Book profits-Computation-Assessee's suo motu disallowance-Further disallowance in computation of book profits under section 115JB unjustified-Addition deleted-Disallowance where entire investment made out of interest-free own funds-No disallowance warranted-CBDT Circular No. 5 of 2014 cannot override express provisions of section 14A-Disallowance not legally tenable-Effect of Explanation inserted by Finance Act, 2022 with effect from 1-4-2022-Amendment prospective, not retrospective-Disallowance for earlier year not tenable-Suo motu disallowance-Assessee's own interest-free funds in excess of investment-No disallowance warranted-Assessing Officer required to record 392

dissatisfaction with correctness of suo motu disallowance-Non-recording of satisfaction precluding recourse to rule 8D-No further disallowance warranted. [S. 115JB, R. 8D]
The assessee, engaged in manufacturing wind turbine generators, gave effect to a scheme of amalgamation of three subsidiaries approved by the NCLT, recorded the excess of purchase consideration over net assets as goodwill and claimed depreciation thereon, and made a suo motu disallowance under section 14A on account of exempt income from investments; the AO denied depreciation on goodwill relying on various statutory provisions relating to transfer of assets in amalgamation, and also made a further disallowance under section 14A read with rule 8D, applying it to the computation of book profits under section 115JB by treating the amendment introduced by the Finance Act, 2022 as retrospective, both of which were confirmed by the CIT(A) except in relation to the NCLT issue. On appeal, the Tribunal held that since the Revenue had failed to challenge the NCLT's approval of the amalgamation before the appropriate forum, it could not now raise the issue before the Tribunal; that the statutory provisions relied upon by the AO applied only to assets transferred from the amalgamating to the amalgamated company and not to goodwill generated as a fresh asset upon amalgamation, and such goodwill was accordingly eligible for depreciation; that no addition could be made to book profits under section 115JB based on disallowance computed under section 14A; that no disallowance under section 14A was warranted where the assessee's own interest-free funds exceeded the investments yielding exempt income, and CBDT Circular No. 5 of 2014 could not override the express provisions of section 14A; that the amendment to section 14A by the Finance Act, 2022 was prospective and inapplicable to the years under consideration; and that in the absence of the AO recording the requisite dissatisfaction under section 14A(2) with the correctness of the assessee's suo motu disallowance, no further disallowance under rule 8D could be made, and the additions were accordingly deleted. (AY. 2016-17, 2017-18)
Suzlon Energy Ltd v. Dy. CIT (2025) 131 ITR 737 (Ahd) (Trib)

393 **S.14A: Disallowance of expenditure-Exempt income-Shipping business-Tonnage tax scheme-Disallowance under S. 14A cannot be made in the case of the assessee, which is subject to tax under Chapter XII-G.[S.115VA]**
Disallowance under S. 14A cannot be made in the case of the assessee, which is subject to tax under Chapter XII-G (AY. 2018-19)
Shipping Corporation of India v. DCIT (2025) 235 TTJ 163 / 173 taxmann.com 190 (Mum) (Trib)

394 **S.14A: Disallowance of expenditure-Exempt income-Interest expenditure-Disallowance has to be computed at 0.5 per cent of investments which have actually yielded exempt income during the year and not the average of investments as appearing in the balance sheet of the assessee.[R.8D(2)(iii)]**
Held that the quantum of share capital, reserves and surplus of the assessee-company for the relevant year exceeds the investments which have resulted in exempt income; interest expenditure cannot be disallowed. Disallowance under R. 8D(2)(iii) has to be computed at 0.5 per cent of investments which have actually yielded exempt income

during the year and not the average of investments as appearing in the balance sheet of the assessee. (AY. 2011-12 to 2014-15)
E.I.D. Parry India Ltd. v. DCIT (2025) 235 TTJ 485 (Chennai)(Trib)

S. 14A: Disallowance of expenditure-Exempt income-Recording of satisfaction mandatory-Rule 8D cannot be invoked without examining accounts. [S 10(35), 115JB, R. 8D] 395
The Assessing Officer invoked rule 8D merely on the general observation that the assessee had incurred expenditure such as salaries, rent and audit fees without first examining the books of account or recording dissatisfaction regarding the assessee's claim that no expenditure had been incurred for earning exempt income. The Tribunal held that such satisfaction is a mandatory condition precedent for invoking rule 8D. In the absence of proper satisfaction, the disallowance under section 14A as well as the restriction thereof by the Commissioner (Appeals) could not be sustained. (AY. 2014-15, 2015-16, 2017-18 & 2018-19).
Manipal Education and Medical Group India (P.) Ltd. v. Dy. CIT (2025) 127 ITR 623 / 181 taxmann.com 711 (Bang.)(Trib.)
Manipal Global Education Services P. Ltd v. Dy. CIT (2025) 127 ITR 623 / 181 taxmann.com 711 (Bang.)(Trib.)
Manipal Hospital P. Ltd v. Dy. CIT (2025) 127 ITR 623 / 181 taxmann.com 711 (Bang.)(Trib.)

S. 14A: Disallowance of expenditure-Exempt income-Own funds exceeding investments-No disallowance of interest warranted. [R. 8D] 396
The Tribunal held that since the assessee's own funds were substantially in excess of the investments yielding exempt income, no disallowance of interest under section 14A read with rule 8D was called for. (AY. 2006-07 to 2012-13).
Dy. CIT v. Bodal Chemicals Ltd. (2025) 127 ITR 194 / 177 taxmann.com 448 (Ahd.)(Trib.)

S.14A: Disallowance of expenditure-Exempt income-Only investments yielding exempt income to be considered-Amendment by Finance Act, 2022 prospective. [R. 8D] 397
The Tribunal held that while computing disallowance under section 14A read with rule 8D, only investments which actually yielded exempt income during the relevant year could be considered. The amendment made by the Finance Act, 2022 was not retrospective. Consequently, deletion of the additional disallowance under both the normal provisions and section 115JB was upheld. (AY. 2018-19).
Geecee Ventures Ltd. v. Dy. CIT (2025) 127 ITR 371 / 174 taxmann.com 1285 (Mum.)(Trib.)

S.14A: Disallowance of expenditure-Exempt income-Recording of dissatisfaction mandatory before invoking rule 8D-Addition deleted. [R. 8D] 398
The assessee had made a suo motu disallowance under section 14A. The Assessing Officer invoked rule 8D without recording any dissatisfaction regarding the correctness of the assessee's computation. The Tribunal held that recording of satisfaction under section 14A(2) is a mandatory pre-condition. In its absence, invocation of rule 8D was invalid, and the addition was directed to be deleted. (AY. 2017-18 & 2018-19).
SLK Software (P.) Ltd. v. Asst. CIT (2025) 127 ITR 395 (Bang.)(Trib.)

399 **S.14A: Disallowance of expenditure-Exempt income-Rule 8D not applicable in absence of requisite data-Disallowance restricted to 10 per cent. of dividend income. [R. 8D]**
The Assessing Officer computed the disallowance under rule 8D without the necessary opening and closing value of investments. The Tribunal held that the prescribed formula could not be properly applied in such circumstances and sustained an estimated disallowance of 10 per cent. of the dividend income as reasonable. (AY. 2013-14).
Yokogawa India Ltd. v. Dy. CIT (2025) 122 ITR 499 (Bang.)(Trib.)

400 **S.14A: Disallowance of expenditure-Exempt income-Interest-free funds exceeding investments-Strategic investments-Disallowance restricted to exempt income.[R. 8D]**
The assessee earned exempt dividend income and voluntarily disallowed a part of the expenditure under section 14A. The Assessing Officer invoked Rule 8D and made a further disallowance. The Tribunal held that the investments had been made out of interest-free internal accruals and were strategic investments in group companies. No direct expenditure had been incurred for earning exempt income. Accordingly, the disallowance under section 14A was rightly restricted to the actual exempt income earned and further disallowance under Rule 8D was unsustainable. (AY. 2014-15).
Asst. CIT v. Kunvarji Finance (P.) Ltd. (2025) 124 ITR 609 / 176 taxmann.com 553 (Ahd.) (Trib.)

401 **S. 14A : Disallowance of expenditure-Exempt income-Borrowed funds not utilised for investments-Interest disallowance deleted-Administrative expenditure sustained. [R. 8D(2)(ii), (iii)]**
The Tribunal held that the assessee had established that borrowed funds were not utilised for investments yielding exempt dividend income and, therefore, the deletion of interest disallowance under Rule 8D(2)(ii) by the Commissioner (Appeals) was justified. However, as the assessee failed to establish that no expenditure had been incurred for managing the investments, the administrative disallowance computed under Rule 8D(2)(iii) was rightly sustained. (AY. 2011-12).
ITO v. Magic Software (P.) Ltd. (2025) 124 ITR 34 / 173 taxmann.com 59 (Delhi)(Trib.)

402 **S.14A: Disallowance of expenditure-Exempt income-Dividend income-Investments made out of own funds-No interest disallowance-Administrative expenditure to be reasonably apportioned.[S.10(33), R.8D]**
The Tribunal found that dividend-yielding investments had been made from the assessee's own funds and not from borrowed funds. Accordingly, no interest expenditure could be disallowed while computing exempt dividend income. However, administrative and other common expenses were directed to be apportioned on a reasonable basis with reference to the ratio of investments yielding exempt income to the average total assets. (AY. 1999-2000 to 2001-02).
HDFC Bank Ltd. (Successor to Housing Development Finance Corporation Ltd.) v. Dy. CIT (2025) 125 ITR 629 (Mum.)(Trib.)

S. 14A : Disallowance of expenditure-Exempt income-No exempt income earned-No disallowance permissible. [R. 8D] 403
The assessee did not earn any exempt income during the relevant assessment years. The Tribunal held that no disallowance under section 14A read with rule 8D could be made in the absence of exempt income and further held that the amendment made by the Finance Act, 2022 was prospective in operation. (AY. 2015-16 & 2016-17).
Dy. CIT v. Piramal Estates (P.) Ltd. (2025) 123 ITR 488 (Mum.)(Trib.)

S. 14A : Disallowance of expenditure-Exempt income-No exempt income earned-Disallowance not sustainable. [R. 8D] 404
The Tribunal held that as the assessee had not earned any exempt income during the relevant assessment years, no disallowance under section 14A read with rule 8D could be made. (AY. 2012-13, 2014-15 & 2015-16).
SIEL Ltd. v. Dy. CIT (LTU) (2025) 123 ITR 599 / 173 taxmann.com 278 (Delhi)(Trib.)

S.14A: Disallowance of expenditure-Exempt income-Directed to consider only those investments which yielded exempt income during the year. [R.8D] 405
Tribunal directed to Assessing Officer to verify the working of assessee and restrict disallowance under section 14A read with rule 8D by considering only those investments that yielded exempt income during the year. (AY. 2012-13, 2014-15, 2017-18, 2018-19)
Hercules Hoists Ltd. v. DCIT (2025) 214 ITD 61 (Mum) (Trib.)

S.14A: Disallowance of expenditure-Exempt income-Disallowance cannot exceed exempt income-Amendment made to provisions of section 14A vide Finance Act, 2022 is prospective in nature and cannot be applied for earlier years.[R.8D] 406
Held that the disallowance under section 14A cannot exceed exempt income and the amendment made to provisions of section 14A vide Finance Act, 2022 is prospective in nature and cannot be applied for earlier years. (AY. 2017-18)
G.N. International (P.) Ltd. v. ACIT (2025) 214 ITD 180 (Delhi) (Trib.)

S.14A: Disallowance of expenditure-Exempt income-Disallowance cannot exceed the exempt income.[R.8D] 407
Held that disallowance under section 14A should be restricted to the extent of exempt income earned during the previous year. (AY. 2016-17)
Parasmal Ravindra Kumar. v. ITO (2025) 213 ITD 276 (Chennai) (Trib.)

S.14A : Disallowance of expenditure-Exempt income-No exempt income-No disallowance can be made. [R. 8D] 408
Disallowance under section 14A does not get attracted in absence of any exempt income earned during year. (AY. 2014-15)
NDTV Networks Ltd. v. DCIT (2025) 212 ITD 167 /123 ITR 53 (Delhi) (Trib.)

409 **S.14A : Disallowance of expenditure-Exempt income-salaries paid to the employees of the treasury department-Allocation of expenses on the basis of area occupied by the department-Held to be reasonable-Book profit-Adjustment of disallowance under s. 14A is not required to be made in the book profit for MAT liability. [S.115JB, R.8D]**
Held that quantification of expenditure on salaries paid to the employees of the treasury department made by the assessee on the basis of the area occupied by that department is reasonable and, therefore, disallowance is directed to be restricted to that extent only. Adjustment of disallowance under s. 14A not required to be made in the book profit for MAT liability. (AY. 2018-19)
BSE Ltd. v. CIT (A) (2025) 233 TTJ 214 (Mum)(Trib)

410 **S.14A : Disallowance of expenditure-Exempt income-Merely because the AO did not expressly record his dissatisfaction about assessee's calculation-The conclusion of the AO cannot be rejected-Only those investments are to be considered for computing disallowance under section 14A which yielded exempt income during year.[R.8D]**
Held that the Assessing Officer carried out elaborate analysis and followed steps enacted in statute and then determined amount of expenditure incurred for earning tax exempt income, merely because he did not expressly record his dissatisfaction about assessee's calculation, his conclusion cannot be rejected. Tribunal also held that only those investments are to be considered for computing disallowance under section 14A which yielded exempt income during year only those investments are to be considered for computing disallowance under section 14A which yielded exempt income during year. (AY. 2019-20)
Kotak Mahindra Bank Ltd. v. DCIT (2025) 211 ITD 608 (Mum) (Trib.)

411 **S.14A : Disallowance of expenditure-Exempt income-No exempt income during the year- No disallowance can be made.[R.8D]**
Held that when there is no exempt income during year. No disallowance can be made. (AY. 2008-09)
JIL Information Technology Ltd. v. ACIT (2025) 211 ITD 277 (Lucknow) (Trib.)

412 **S.14A : Disallowance of expenditure-Exempt income-Sufficient interest free funds-Investment in securities-Disallowance is deleted.[R.8D]**
Held that the assessee had sufficient interest free funds available for making investments in tax free securities; it was to be presumed that interest free funds had been utilized for making investments. The Assessing Officer was not justified in applying rule 8D and making disallowance of expenditure under section 14A related to tax free investments. (AY. 2006-07)
DCIT v. ICICI Bank Ltd. (2025)210 ITD 643 (Mum(Trib.)

413 **S.14A : Disallowance of expenditure-Exempt income-Stock in trade-No disallowance can be made.[R. 8D]**
Held that disallowance under section 14A read with rule 8D cannot be made in case of shares held as stock-in-trade held by bank. (AY. 2015-16)
DBS Bank Ltd. v. DCIT (2025) 210 ITD 448(Mum)(Trib.)

S.14A : Disallowance of expenditure-Exempt income-Investment in partnership firm-Interest paid on the overdraft facility, which was obtained for business activities, should not have been disallowed, as it was not directly related to the exempt share income from the partnership firm.[S.10(2A), R.8D(2)(iii)] 414

The assessee earned a share of income from a partnership firm and claimed it as exempt income under section 10(2A). The AO noted that the assessee had incurred interest expenditure and, accordingly, he disallowed under Rule 8D (2)(ii), which pertains to the disallowance of expenses related to exempt income.

The Tribunal observed that the investment was made in 2000-01, and the overdraft facility was obtained only in November 2014, which was primarily used for day-to-day business activities and not for investing in the partnership firm. Held that the AO's disallowance under Rule 8D (2)(ii) Was not justified since the overdraft facility was used for business purposes and was not linked to the exempt share income. (AY. 2016-17)

Prakash Udyog Ltd. v. ITO [2025] 210 ITD 74 (Mum)(Trib.),

S. 15: Salaries-Business income-Director-Professional fees-Failure to furnish documentary evidence-Assessable as income from salary-Order of Tribunal affirmed. [S.17, 28(i), 194J, 260A] 415

Assessee, an individual and a director in a company. The assessee received Rs. 66 lakhs from the company and claimed the said amount as a professional/technical service fee assessable as income from business/profession. The Assessing Officer assessed the said amount as salary, which was affirmed by the CIT(A) and Tribunal. On appeal, the Court held that since the assessee had failed to produce any document evidencing that he had rendered services as a financial expert to the company, the amount received by him was rightly assessed as salary income. Order of the Tribunal affirmed. (AY. 2013-14 to 2015-16)

Mukesh Gupta v. Dy. CIT (2025) 307 Taxman 632 (Karn.)(HC)

S. 17(2) : Salary-Perquisite-Rent-free or concessional rent accommodations-Claim of assessee that perquisite value of Rent-free or concessional rent accommodations should be computed under Rule 3 considering its employees at par with Central Government employees is rejected-Proceedings under Sections 201 and 201(1A) were to be quashed, as assessee had made a bona fide estimate of perquisite value consistent with a similar ruling for another CSIR unit-SLP of the assessee is dismissed. [S. 15, 201, 201(IA), R. 3, Art. 136] 416

Assessee, a constituent unit of CSIR, claimed that valuation of perquisites for rent-free or concessional rent accommodations provided to its employees should be computed under Rule 3 considering its employees at par with Central Government employees. Lower authorities rejected said claim. On appeal, High Court held that for purposes of Rule 3, the requirement is that accommodation should be provided by the Central Government or State Government to employees either holding office or post in connection with affairs of Union or of State or serving with any body or undertaking under control of such government from deputation. It was further observed that aforesaid expression is unambiguous and therefore, its meaning could not be expanded to include any body, undertaking under control of Central Government and merely because assessee was a

body or undertaking owned or controlled by the Central Government, it could not be elevated to status of Central Government and therefore, assessee could not claim that valuation of perquisites in respect of residential accommodation should be computed as in case of an accommodation provided by Central Government. Therefore, Sl.No.1 of Table 1 of Rule 3 of Rules would not apply to assessee-However, High Court held that proceedings under Sections 201 and 201(1A) were to be quashed, as assessee had made a bona fide estimate of perquisite value consistent with a similar ruling for another CSIR unit. SLP of Revenue is dismissed. There was no reason to interfere with order of High Court and therefore, Special Leave Petitions were to be dismissed. (AY. 2007-08 to 2011-12)

Central Food Technological Research Institute v. ITO (TDS) (2025) 302 Taxman 181/476 ITR 689 (SC)

Editorial : Central Food Technological Research Institute v. ITO (TDS)(2021) 439 ITR 735/ (2024)168 taxmann.com 664 (Karn)(HC)

417 **S. 17(2): Salary-Perquisite-Valuation of shares-Face value-Shares allotted as part of employee stock purchase scheme Lock-in period during which shares could not be transferred-Valuation of shares taking into account restrictive condition. [S. 17(2)(iiia), 260A]**

On appeal, the Court held that the shares in question would become transferable post the lock-in-period. In the light of the restriction with respect to marketability and tradability of the stock in question, the fair market value could not have been recognised to exceed the face value of the shares and thus the determinative being Rs. 15. The valuation report was at best a medium adopted by the employer in order to broadly ascertain its obligations for the purposes of withholding tax. It could not have consequently been taken into consideration for the purposes of determining the fair market value. The face value alone would be conclusive for purposes of taxation. Followed *Dy. CGT v. BPL Ltd., (2022) 448 ITR 739 (SC).* Valuation cannot ignore the limitations attached to the shares.

Ravi Kumar Sinha v. CIT (2025) 474 ITR 594 / 165 taxmann.com 472 (Delhi)(HC),

418 **S. 17(2) : Salary-Perquisite-Stock options provided to ex employees-Stock options were not a perquisite; no exercise of options-No income chargeable to tax-Not liable to deduct tax at source. [S. 5,17(2)(vi), 197, Art. 226]**

The assessee was a former employee of a company that was part of a Singapore based group which had granted employee stock options. The assessee was granted 127,552 options under a vesting schedule. After a disinvestment announced on December 23, 2022, the value of the options fell and, on April 21, 2023, the Singapore company made a one time voluntary payment of USD 43.67 per option to option holders as compensation for loss in value. The company stated it would withhold tax. The assessee applied under section 197 for a nil deduction certificate; the application was rejected by the Department treating the payment as a perquisite under section 17(2)(vi). On writ: the court held that the options had not been exercised and no contingency in section 17(2)(vi) had occurred; the payment was voluntary and not a statutory or contractual transfer by the employer linked to employment; hence, it was not a perquisite and not

chargeable to tax. The rejection was invalid; the assessee was given liberty to apply for refund of TDS.
Sanjay Baweja v. Dy. CIT (2025) 474 ITR 376 (Delhi)(HC)

S. 17(2) : Salary-Perquisite-Amendments made to section 17(2)(ii) by Finance Act, 2007, whereby employees allotted bank-owned accommodation were deemed to have received a concession in matter of rent respecting such accommodation, were constitutional and valid-Amendments made to section 17(2)(ii) by Finance Act, 2007 with limited retrospective effect from 1-4-2002, do not violate Article 14 of Constitution or other constitutional provisions-Interpretation of taxing statutes-Provision creating legal fiction-Purpose of legal fiction to be ascertained. [S.17(2)(ii), R. 3(1) Art. 14,19(1)(g), 226] 419

Petitioners were associations of officers of nationalised banks. They challenged amendments to section 17(2)(ii) by Finance Act, 2007 on the ground that amendments created a legal fiction based on which it could now be presumed that employees allotted bank-owned accommodation were deemed to have received a concession in matter of rent respecting such accommodation and amendments broadly measured value of such concession as difference between specified percentage of employee's salary and rent recoverable or payable by such employees. Petitioners contended that the amendments were arbitrary, discriminatory and, therefore, violative of Article 14 of the Constitution of India. Dismissing the petition the Court held that the amendments to section 17(2)(ii) do not create any taxing liability or amend charging provisions, and they only provide machinery for assessing and recovering tax on concession in rent for accommodation provided by employer to employee. Merely because bank employees drawing higher salaries are called upon to bear a proportionately higher burden, it does not mean that there is any hostile discrimination within class or any manifest arbitrariness involved in the amendments. Amendments were a time-tested and permissible legislative exercise and they did not violate any constitutional provisions and thus, could not be held to be unconstitutional, ultra-vires, or null and void. In interpreting a provision creating a legal fiction, the court is to ascertain for what purpose the fiction is created and after that assume all those facts and consequences which are incidental or inevitable to the giving effect to the fiction.
All India Central Bank Officers Federation v. UOI (2025) 342 CTR 578 / 246 DTR 33 / 170 taxmann.com 627 /477 ITR 26 (Bom)(HC)

S. 17(2) : Salary-Perquisite-Rent-free accommodation-Existence of concession is a jurisdictional fact-Rule 3 cannot be invoked without such finding-in Indian Institute of Technology-Not a Central Government employer-Rule applicable to Central Government employees not attracted. [S. 15, 17(2)(ii), R. 3 of the Income-tax Rules, 1962] 420

The Assessing Officer treated the assessee as an assessee-in-default for failure to deduct tax at source on the value of residential accommodation provided to its employees by directly applying Rule 3. The Tribunal held that the applicability of Rule 3 arises only after the Assessing Officer records a finding that the accommodation was provided at a concessional rent within the meaning of section 17(2)(ii). In the absence of such a

finding, computation of perquisite value under Rule 3 was without jurisdiction and the order treating the assessee as an assessee-in-default was unsustainable. The Tribunal held that although the Indian Institute of Technology was established under an Act of Parliament and functioned under the administrative control of the Central Government, it did not become the Central Government itself. Consequently, its employees could not be treated as Central Government employees for determining the value of residential accommodation under Rule 3. (AY. 2012-13).
Asst. CIT v. Indian Institute of Technology (2025) 125 ITR 697 (Delhi)(Trib.)

421 **S. 17(2): Salary-Perquisite-Personal expenses of director-Paid through the credit card of the company-Disallowed in the assessment of company-Cannot be taxed again in hands of assessee-director as perquisite under section 2(24)(iv).[S. 2(24)iv), 28(iv), 37(1)]**
Held that the personal expenses of the assessee-director, which were paid through credit cards of the company, have already been disallowed in the hands of the company; the same cannot be added in the hands of the assessee-director as the value of any benefit or perquisite under the provisions of ss. 2(24)(iv), 17(2)(iv) or 28(iv). (AY. 2019-20 to 2022-23)
Mecca Rafeeque Ahmed v. ACIT (2025) 234 TTJ 691 / 172 taxmann.com 160 (Chennai) (Trib)
Israr Ahmed v. ACIT (2025) 234 TTJ 691 / 172 taxmann.com 160 (Chennai)(Trib)
Ashifaque Ahmed Mecca v. ACIT (2025) 234 TTJ 691 / 172 taxmann.com 160 (Chennai) (Trib)

422 **S. 17(2): Salary-Perquisite-LIC annuity-Employer purchasing an annuity policy in the name of the employee, payable in future. Cannot be taxed as a perquisite in the hands of the employee in the relevant assessment year, as the employee had not acquired any vested or enforceable right over the said amount in the relevant assessment year. [S. 10 (10CC) 15]**
During the year, a sum of Rs. 20 lakhs was paid by employer of assessee to LIC to purchase an annuity on behalf of the assessee. The Assessing Officer held that the amount paid to LIC was formed in the nature of an annuity, hence taxable as a perquisite under section 17(2)(v) of the Act and allowed exemption under section 10(10CC) to the extent of Rs 5.87 lakhs. CIT A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that the said sum paid by the employer to LIC to purchase an annuity on his behalf could not be taxed for the relevant assessment year as it did not represent any amount received, due, or vested in him during that year. Annuity was structured to be paid to the assessee only after four years, in the form of monthly instalments from LIC. For such a payment to be taxed in the hands of the employee, it was essential, as per section 15, that the amount was either due, paid, or allowed to the employee. A contingent benefit or a non-vested future entitlement could not be brought to tax in the year of payment by the employer unless the employee acquires a vested right in the amount. Since annuity payments commenced only after four years and assessee had in fact offered to tax annuity income received from LIC on accrual/receipt basis in relevant assessment year under head 'Income from Salary', taxing employer's payment of Rs. 20 lakhs in relevant assessment year would amount to taxing

same amount twice-once at stage of employer's contribution and again at time of annuity receipts-resulting in double taxation, which was impermissible in law. Therefore, the addition of Rs. 20 lakhs made by the Assessing Officer in the hands of the assessee for the relevant assessment year was deleted. (AY. 2018-19)
Biswas Manik v. ITO (2025) 214 ITD 197 (Ahd) (Trib.)

S. 17(3) : Salary-Profits in lieu of salary-Ceasing employment-Dispute regarding equity shares issued to assessee while in employment-Amount received on settlement of dispute-Not assessable as profits in lieu of salary-Assessable as capital gains [S. 15, 16, 17(2), 45] 423

Assessee was employed with a company in capacity of Chief Operating Officer. In terms of employment agreement, apart from yearly compensation, assessee was also entitled to sweat equity. However, employment of assessee was terminated. Thereafter, assessee approached CLB seeking for appropriate directions being framed requiring company to register shares in his name. During pendency of aforesaid petition before CLB, assessee and company agreed to settle all disputes and signed a settlement agreement. In terms of settlement agreement, assessee unconditionally and irrevocably relinquished all his rights in respect of registration of shares held by him and to consequently hand over share certificates in original to company. Assessee filed his return of income declaring said settlement amount as long-term capital gains. Assessing Officer held that said amount represented 'profits in lieu of salary', received in lump sum after cessation of employment and, thus, was liable to be taxed under head salaries. On appeal, the Commissioner (Appeals) held that the amount of Rs. 3.03 crores was chargeable to tax as 'capital gains' and not under the head of 'salaries'. On further appeal, the Tribunal held that the 15,000 eligible shares alone should be treated as taxable under the head 'capital gains' while the balance 35,000 shares should be taxed in accordance with the provisions of section 17(3)(iii). On appeal the Court held that the settlement amount was received by assessee in lieu of relinquishment of his right to seek registration of shares. Settlement consideration was not liable to be construed as payment connected to termination of assessee's employment. Further, in petition, which was filed before Company Law Board, there was no relief which was sought with respect to cessation of employment of assessee or validity of termination of employment. On facts, settlement amount received by assessee was liable to be recognised as capital gains and not profits in lieu of salary. Order of Tribunal was set aside. (AY. 2014-15)
Akash Poddar v. ACIT [2024] 165 taxmann.com 271 / (2025) 482 ITR 504 (Delhi)(HC)

S. 22 : Income from house property-Business income-Income assessed as income from house property in prior assessment years-Business income for assessment years 2008-2009, 2009-2010 and 2010-2011-Not valid-Res judicata-Principle not applicable to Income-tax proceedings-Principles of consistency applicable. [S. 28(1), 260A] 424

Dismissing the appeals of the revenue the Court held that the basic requirements for the assessee to consider the income in question as "income from house property" stood clearly satisfied, as the assessee derived income from house property "owned by it". Even if the assessee was in the business of letting or sub-letting of properties and deriving income therefrom, there was no embargo on the assessee from accounting

the income received by it, from the property "owned by the assessee" as "income from house property" and at the same time, categorizing the rental income from other properties not of the assessee's ownership under the head "Income from business". Moreover in the prior assessment years, the Assessing Officer had accepted the assessee's treatment of such income as income from house property, which was one of the factors which had weighed with the Tribunal to allow the appeals filed by the assessee, on the principle of consistency. The income from property for the assessment years 2008-2009, 2009-2010 and 2010-2011 was assessable as income from house property. Court also held that principle of res judicata is not applicable to income tax proceedings, but principles of consistency is applicable. (AY. 2008-09 to 2010-11)
PCIT v. Banzai Estates Pvt. Ltd [2024] 165 taxmann.com 412 / (2025) 482 ITR 407 (Bom) (HC)

425 **S. 22 : Income from house property-Co-owner-Joint ownership-Annual letting value-No specification of their respective shares in deed-Mere signing of instrument of conveyance by an individual does not raise any presumption of income being assessed in hands of such individual-Order of Tribunal affirming the Annual letting value at 8 per cent of cost of property was deleted. [S. 23(1)(a), 26, 27, 260A]**
Assessee and her husband were owners of a property. Assessing Officer held that assessee was 50 per cent owner of property and, thus, income from house property was to be taxed in hands of assessee. The CIT(A) and Tribunal affirmed the order of the AO on the ground that holding that since co-ownership of assessee and her husband was evidenced in sale deed but there was no specification of their respective shares in deed, it must be held that husband and wife purchased equal shares. On appeal, the Court held that mere signing of instrument of conveyance by an individual does not raise any presumption of income being assessed in hands of such individual. The question of taxability would necessarily have to be answered bearing in mind individual who had in fact obtained benefits from property. The order of the Tribunal is set aside. Followed *CIT v. Podar Cement (P) Ltd (1997) 92 Taxman 541 / 226 ITR 625 (SC)* (AY. 2015-16)
Shivani Madan (Smt) v. PCIT (2025) 303 Taxman 571 (Delhi)(HC)
Editorial: Order in Shivani Madan (Smt) v. ACIT (2023) 200 ITD 198 (Delhi)(Trib), reversed.

426 **S. 22: Income from house property-Rent reimbursed to purchasers-Not assessable in the hands of assessee.[S. 23]**
Assessee, engaged in the business of real estate, constructed a commercial property and sold most of the units, but none of them was registered during the previous year, and some of the customers had given letters of intent for giving their units on rent through assessee and rent received by assessee in respect of such units was subsequently paid to owners. Assessing Officer held that as assessee was the legal owner of property during financial year 2008-09, total rent was income of assessee and treated rent as income from house property. CIT(A) deleted the addition. On appeal, the Tribunal held that necessary details along with their bills and invoices were produced before the authorities below, and the assessee had also filed a copy of the Tri-Party Agreement. Further, assessee had duly declared rent pertaining to areas belonging to it in terms of

section 22, and reimbursement to purchasers had been made after TDS. Amount of rent reimbursed to purchasers cannot be assessed as income of assessee (AY. 2019-20)
ACIT v. Delhi Buildwell (P.) Ltd. (2025) 213 ITD 291 (Delhi) (Trib.)

427

S. 23 : Income from house property-Annual value-Municipal rateable value-Only when annual value under municipal laws so determined had close proximity with relevant assessment year, in case of significant gap between municipal rateable value and annual rent of property, Assessing Officer could make independent enquiry under section 23(1)(a)-Security deposit-Nominal licence fee-Assessing Officer was justified in fixing annual rental value by taking into consideration twin factors of comparable rents and notional interest on security deposits-Developer's letter and certificate from premises society cannot be treated as cogent evidence for fixation of municipal rateable value-Property given on rent-Standard rent of premises-Concept of standard rent applicable only to statutory tenant enjoying protection from rent escalation an eviction-Assessee's premises were not governed by provisions of rent control legislation-Assessing Officer not bound to accept Municipal Rateable Value and can take in to consideration annual rent premises capable of fetching-Notional interest receivable on security deposit cannot be sole factor for deciding annual letting out value of property-Comparable instance and return on overdraft facility taken by assessee from lessee Bank to arrive at sum of reasonable rent-Order of Tribunal affirmed. [S. 22, 23(1)(a), 260, Bombay Rents, Hotel and Lodging House Rates Control act, 1947]

Municipal rateable value could be taken as annual value of property under section 23(1)(a) only when annual value under municipal laws so determined had close proximity with relevant assessment year, in case of significant gap between municipal rateable value and annual rent of property, Assessing Officer could make independent enquiry under section 23(1)(a). Where assessee let out office premises at a nominal license fee and substantial amount of security deposit, since assessee had contemporaneously availed overdraft facility of Rs. 51 lakhs, security deposit was real return for assessee and thus, Assessing Officer was justified in fixing annual rental value by taking into consideration twin factors of comparable rents and notional interest on security deposits. Developer's letter and certificate from premises society cannot be treated as cogent evidence for fixation of municipal rateable value. Concept of standard rent applicable only to statutory tenant enjoying protection from rent escalation an eviction. Assessee's premises were not governed by provisions of rent control legislation. Assessing Officer not bound to accept Municipal Rateable Value and can take in to consideration annual rent premises capable of fetching. Notional interest receivable on security deposit cannot be sole factor for deciding annual letting out value of property Comparable instance and return on overdraft facility taken by assessee from lessee Bank to arrive at sum of reasonable rent. Order of Tribunal affirmed. (AY. 1990-91, 1991-92)
Tivoli Investment & Trading Co. (P.) Ltd. v. ACIT (2025) 481 ITR 730 / 177 taxmann.com 509 (Bom)(HC)

428 **S. 23 : Income from house property-Annual value-Arrears of rent-No retrospective fixation of fair rent-Orders increasing fair rent for year 2019 and for year 2022 were passed only on 24-1-2024, when lease had ended between parties, only arrears need to be determined-Common practice and also laid down in Government Order that 15 per cent increase can be made for every three years-In best interest of resolving dispute between parties, a reasonable 15 per cent increase shall be taken and calculated and submissions made to contrary shall be rejected.[S. 22, Art. 226]**

The petitioner/assessee bank (successor to Lakshmi Vilas Bank) was a tenant of a temple-owned property, originally under a lease from 1993. No new lease deed was executed thereafter. Rent was periodically increased by the temple, including demands in 2018 and 2019. The bank paid enhanced rent from January 2019 and acknowledged ₹ 46.20 lakhs as arrears as of 30-06-2019.The temple issued a fresh demand of ₹1.93 crores, which included retrospective rent increases from 2019 and 2022, without serving any corresponding rent fixation orders on the bank. The petitioner filed an appeal and deposited ₹72.73 lakhs under protest. The lease was later terminated and possession handed over in November 2023. The appeal was returned as time-barred. The bank filed the writ petition challenging the retrospective rent revision and demanding refund of the amount deposited.

The petitioner stated that over and above the sums paid, at the time of appeal, another sum has been deposited by the petitioner at the time of filing the appeal. Therefore there will be a balance that will be payable to the petitioner. Court held in this case, it has already been found that there were arrears in rent also as on 1-7-2016. Unlike the petitioners, who are bankers, Temple doesn't claim compound interest with monthly rents on arrears. If reasonable interest is calculated on the belated payments, then no amount will be payable to the petitioner. Overall, the third respondent temple shall treat the amounts so far received as full quit towards all arrears. Over and above, it shall move the Income Tax Department in the manner known to law for refund of arrears and the same shall be considered favourably by the Department in the manner known to law. Neither any sum will be further payable to the petitioner bank, nor it is entitled for any refund. Court held that common practice and also laid down in Government Order that 15 per cent increase can be made for every three years. In best interest of resolving dispute between parties, a reasonable 15 per cent increase shall be taken and calculated and submissions made to contrary shall be rejected.

DBS Bank India Ltd. v. Commissioner Hindu Religious and Charitable Endowments Department (2025) 305 Taxman 584 (Mad)(HC)

429 **S. 23 : Income from house property-Annual value-Property let out to partner at a low rent-Matter remanded to the file of the Assessing Officer for re-adjudication to get the comparable as per law. [S. 22]**

Tribunal remanded the matter to the file of the Assessing Officer to re-adjudicate the issue after getting the comparable and decide as per law (AY. 2014-15)

Pankaj Enterprises v. Dy.CIT (2025) 237 TTJ 497 (Mum)(Trib)

S. 23: Income from house property-Annual value-Property remaining vacant throughout year-Notional annual value assessable-Mere inability to secure a tenant throughout the year does not preclude assessment of notional rental income. [S. 22, 23(1)(a)] 430

The assessee claimed that no annual value could be assessed because the property remained vacant throughout the year despite efforts to find a tenant. The Tribunal held that where a property is capable of being let out, and there is no legal or physical impediment preventing letting, its annual value has to be determined under section 23(1)(a). Mere inability to secure a tenant throughout the year does not preclude assessment of notional rental income. (AY. 2018-19).

Bindumalyam Panduranga Allanharinarayan v. ITO (2025) 125 ITR 507 / 175 taxmann. com 388 (Bang.)(Trib.)

S. 23: Income from house property-Annual value-Used for self-occupation-Partly let out-Entire issue was remanded back to the Assessing Officer for determining ALV, taking into consideration only that part of the building which was let out by the assesse.[S. 22] 431

Assessing Officer estimated the annual letting value (ALV) of the property at Rs. 1.79 crores and brought the same to tax, ignoring the contention of the assessee that the property was used partly for self-occupation and partly let out. Tribunal held that since the statement of the caretaker of the property clearly established the fact that the assessee was partly letting out the property and partly used for self-occupation, the entire issue was to be remanded to the Assessing Officer for determining ALV, taking into consideration only that part of the building which was let out by the assessee.(AY. 2012-13 to 2017-18)

Asha Burman v. ACIT (2025) 215 ITD 612 (Delhi)(Trib.)

S. 23: Income from house property-Annual value-After expiry of lease, property remained vacant-Assessing Officer was to be directed to determine ALV of property based on municipal rateable value (MRV)[S. 22, 23(1) (c)] 432

The assessee owned a property which was leased out to a company. After expiry of the lease, the property remained vacant, and assessee claimed deduction of vacancy allowance under section 23(1)(c). Assessing Officer rejected the claim and determined the annual letting value (ALV) of the property on a notional basis. CIT A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that ALV should be determined based on municipal rateable value (MRV) and restored the matter to the Assessing Officer for determination of ALV as per guidelines laid down by the High Court in the case of *CIT v. Tip Top Typography (2014) 228 Taxman 244 /368 ITR 330 (Bom)(HC)*. However, the Assessing Officer determined ALV relying upon the rent fixed in the earlier expired lease deed. Since the Assessing Officer had not made any enquiry to ascertain the MRV of property during the relevant assessment years and had determined ALV simply relying upon an earlier expired lease deed, the matter was to be restored back to the Assessing Officer for determining ALV of property strictly in terms of the guidelines framed by the High Court in Tip Top Typography (supra). Matter remanded. AY. 2012-13, 2014-15, 2017-18, 2018-19)

Hercules Hoists Ltd. v. DCIT (2025) 214 ITD 61 (Mum) (Trib.)

433 **S. 23: Income from house property-Annual value-Taxes which are actually paid during the year are deductible-Matter remanded for verification-Leased property to a partner the Master Clock and Works Pvt Ltd (MB) at lower rent, claiming it was a bare shell-Fair rent comparison-Matter remanded for verification. [S. 22]**

Against the rental income declared, assessee claimed a deduction on account of property tax. Said deduction was denied on the ground that possession of property was received in January 2012 and January 2013; however, the property tax claimed was from financial years 2010 to 2014. Tribunal held that during the financial year 2013-14, it paid property tax pertaining to the financial year 2012-13 and for the financial year 2013-14 in the year under consideration. Therefore, the Assessing Officer was directed to allow deduction as per the proviso to section 23 in respect of taxes actually paid by the assessee during the year under consideration, after necessary verification of details as may be submitted by the assessee. As regards the leased property to a partner Master Clock and Works Pvt Ltd (MB) at lower rent, claiming it was a bare shell, unlike furnished properties rented to others, but the Assessing Officer rejected this due to lack of evidence and applied higher comparable rent; the matter was remanded, holding that assessee must prove with documents that both properties were similar (bare shell) for fair rent comparison. (AY. 2014-15)

Pankaj Enterprises. v. DCIT (2025) 214 ITD 702/237 TTJ 497 (Mum) (Trib.)

434 **S. 23: Income from house property-Annual value-Stock-in-trade-Notional rent has to be determined on vacant unsold flats held as stock-in-trade as 'Income from house property-No addition could be made to the assessment year before assessment year 2018-19 on such notional rent. [S. 22, 23(4)(b), 23(5)]**

Assessee, a builder, had shown closing stock of unsold flats in a completed project. Assessing Officer made an addition on deemed rental income on vacant flats which were shown in the balance sheet and profit and loss account of assessee as closing stock of unsold flats as per section 23(4)(b). CIT(A) upheld said addition. On appeal, the Tribunal held that as per decision of the jurisdictional High Court in case of CIT v. Ansal Housing Finance and Leasing Co. Ltd(2013) Taxman 143 / 354 ITR 180 (Delhi) (HC), notional rent had to be determined on vacant unsold flats held as stock-in-trade as 'Income from house property', however no addition could be made to assessment year prior to assessment year 2018-19 on such notional rent. High Court in CIT v. Tip Top Typography(2014) 228 taxman 244 / 368 ITR 330 (Bom) (HC) Court held that ALV under section 23(1)(a) has to be in accordance with municipal laws after duly considering inflated or deflated rent based on extraneous circumstances, if any, which in any case cannot exceed standard rent as per Rent Control Legislation applicable to said property. Therefore, the Assessing Officer was directed to determine notional rent in accordance with principles emphasized in the decision of Tip Top Typography (supra). (AY.2015-16)

Ramesh Dungarshi Shah v. DCIT (2025) 213 ITD 96 (Mum) (Trib.)

435 **S. 23 : Income from house property-Annual value-Property let in earlier period-Vacant for whole year-Annual value to be taken as Nil.[S. 22, 23(1)(a), 23(1)(c)]**

Assessee, engaged in developing malls, had let out 253 units out of 261 units. For the remaining 8 units, no rent was shown as they remained vacant during the year. AO

applied section 23(1)(a) and computed deemed rent. Tribunal held that since these units were let in earlier years and again let in subsequent years, the vacancy condition under section 23(1)(c) was satisfied. The intent of letting was established and annual value was rightly computed at Nil. (AY. 2016-17)
Classic Mall Development Company Ltd. v. ACIT (2025) 212 ITD 302 (Mum)(Trib.),

S. 23 : Income from house property-Annual value-Office premises-ALV to be determined on municipal rentable value-Matter remanded. [S. 22] 436
The assessee owned an office premises. The AO computed deemed ALV based on market rates from a property website, rejecting the claim that it was used for business purposes by the assessee and her husband. The Tribunal held that ALV should be based on municipal rentable value, not market estimations. Since this was not considered by the AO, the issue was remanded for fresh determination. (AY. 2012-13)
Tejal Kaushal Shah (Smt.) v. ITO (2025) 212 ITD 397/236 TTJ 39 (UO) (Mum)(Trib.),

S. 23 : Income from house property-Annual value-let out residential properties to companies for commercial use-Entitled to claim deduction of mixed land use charges paid to MCD against rental income received from tenants. [S. 22] 437
Assessee had let out its residential properties to two companies for commercial use and offered rental income received from same for tax under head income from house property. Assessee claimed deduction of mixed use charges paid by it to MCD towards use of residential properties for commercial activities. Assessing Officer disallowed said claim. CIT(A) affirmed the order of the Assessing Officer. Tribunal held that assessee would be entitled for claim of deduction of mixed uses charges paid to MCD against rental income received from tenants. (AY. 2014-15)
Padam Chand Gupta v. ACIT (2025) 212 ITD 498 (Delhi) (Trib.)

S. 24 : Income from house property-Deductions-Interest on borrowed capital-Building partly let out and partly used for business-Apportionment of interest on area basis-Deduction allowable.[S. 22] 438
The assessee apportioned the interest on borrowed funds utilised for construction of a building between the let-out area and the area used for its own business. The Tribunal held that the same method had consistently been accepted in earlier years and, there being no change in facts, the interest attributable to the let-out area was rightly allowed as deduction under section 24(b). (AY. 2015-16 & 2016-17).
Dy. CIT v. Piramal Estates (P.) Ltd. (2025) 123 ITR 488 (Mum.)(Trib.)

S. 24 : Income from house property-Deductions-Interest deduction on loans taken for rental properties-Matter remanded to the Assessing Officer for verification. [S. 22] 439
Held that since assessee before the lower authorities did not furnish any details regarding interest-bearing fund flow utilised for acquiring properties with supporting documents, in the larger interest of justice, the matter was remanded to the file of the Assessing Officer for verification. (AY. 2014-15)
Pankaj Enterprises v. DCIT (2025) 214 ITD 702/237 TTJ 497 (Mum) (Trib.)

440 **S. 26 : Income from house property-Co-owners-Association of persons-Maximum marginal rate-Tax rate applicable to individual Co-owners-Matter remanded to the Assessing Officer.[S. 22, 143(1), 167B]**

Assessee is an Association of Persons (AOP) engaged in managing rental income from co-owned immovable property. Assessee filed its return of income which was processed by CPC raising demands due to classification of assessee as an AOP with indeterminate or unknown shares, leading to application of maximum marginal rate under section 167B. CIT(A) dismissed the appeal. On appeal the Tribunal held that since co-ownership agreement specified that rental income would be distributed among co-owners in specific and pre-determined proportions after meeting all tax and other liabilities, shares of co-owners were specific and ascertainable, thus, provisions of section 167B which apply when shares are indeterminate or unknown, were inapplicable. Accordingly the matter is remanded back to Assessing Officer for verification. (AY. 2012-13, 2013-14)

Nam Group Aslali v. Assessing Officer, CPC (2025) 211 ITD 369 (Ahd) (Trib.)

441 **S. 28(i): Business income-Foreign exchange fluctuation gain- delay of 825 days- Delay was not satisfactorily explained-SLP of revenue dismissed. [Art. 136]**

Assessing Officer made an addition to income of assessee on account of foreign exchange fluctuation gain. Commissioner (Appeals) deleted addition, holding it was not related to the business activity of assessee and the Tribunal upheld this factual finding. High Court upheld the order of the Tribunal. SLP of the revenue was dismissed as the delay of 825 days was not satisfactorily explained.

CIT v. Hazira LNG (P.) Ltd. (2025) 305 Taxman 560 (SC)

Editorial : CIT v. Hazira LNG (P.) Ltd (2025) 175 Taxmann.com 536 (Guj)(HC)

442 **S. 28(i) : Business income-Income from other sources-Fixed deposit interest-Short-term deposit for opening LC or other business purposes-Matter remanded to the Assessing Officer-Order of High Court is affirmed.[S. 56, Art. 136]**

High Court held that FDs maintained by assessee with a bank were not to meet any requirement of the bank for opening LC or any other business purpose, and therefore, interest income earned on FDs had to be treated as income from other sources. On SLP the order of High Court is set aside by remanding matter to Assessing Officer for consideration of the issue for relevant year by bearing in mind nature of the business of assessee and purpose for which short term fixed deposit accounts were opened by assessee in bank and nature of income and treatment of interest income as income from other sources or business income. (AY. 2009-10)

XL India Business Services (P.) Ltd. v. ITO (2025) 302 Taxman 11 (SC)

Editorial: XL India Business Services (P.) Ltd. v. ITO (2018) 94 taxmann.com 720 (Delhi)(HC)

443 **S. 28(i): Business income-Capital gains-Delay of 752 days-Not satisfactorily explained-SLP of Revenue is dismissed on account of limitation. [S. 45, Art. 136]**

The Hon'ble Supreme Court dismissed the SLP filed by the Department on ground of limitation against the impugned order of the High Court in circumstances where assessee-company, dealing in real estate, had booked two office premises in a building

which were subsequently sold before taking possession since the office premises were acquired by assessee with an intention to resell and not use, same could be treated as stock in trade and not as investment and thus, surplus was assessable as business income and not as capital gain. SLP of Revenue is dismissed as delay of 752 days is not satisfactorily explained. (AY. 1989-90)

Radha Madhav Investments (P.) Ltd. v. Dy.CIT [2025] 302 Taxmann 358 (SC).

Editorial: Radha Madhav Investments (P.) Ltd v. Dy.CIT (2022) 143 taxmann.com 421 (Bom)(HC)

S. 28(i): Business income-Capital or revenue-Subsidy-Exemption from sales tax granted by State Government-Assessable as revenue receipt.[S. 4, The U.P. Trade tax Act, 1948, S. 4A, 8A(2) 29A]] 444

Held that from a bare perusal of sections 4A, 8A(2) and 29A of the U.P. Trade Tax Act, 1948, it was evident that the exemption from trade tax on turnover of sales was allowable to a class of entrepreneurs to encourage industrialisation. Sales tax, being an indirect tax, is ultimately passed on to the consumer. Once turnover of sales had been exempted, trade tax under the scheme of the 1948 Act, could neither be realised by the sellers nor could it be retained. There was no provision under the 1948 Act that empowered the assessee to withhold the amount of tax recovered, or that empowered the assessee to collect tax on exempted sales and to retain it as a subsidy. Once the amount had been received as the sale price, no part of it could be termed a capital receipt. Followed: *Amrit Banaspati Co. Ltd. v. State of Punjab, (1992) 85 STC 493 (SC), (1992) 2 SCC 411.* (AY.2001-02 to 2005-06)

CIT v. Birla Corporation Ltd [2024] 159 taxmann.com 632 / (2025) 483 ITR 554 (Cal)(HC)

S. 28(i): Business income-Income from other sources-Interest income on a loan given to staff-Matter remanded to the Assessing Officer-Order of Tribunal affirmed.[S. 56, 260A] 445

Assessee-company was engaged in the business of distribution of electricity. For the relevant year, assessee filed its return declaring certain taxable income. Assessing Officer treated interest income earned by assessee on loan given to its staff and advances, fixed deposit etc. as well as income from miscellaneous receipts such as excess stock found on physical verification, sale of tender forms, registration fees from suppliers and contractors, rebate for prompt payment by purchaser of power etc. as 'income from other sources' instead of 'income from business and profession' on ground that income was not generated from day-to-day business of assessee-company. Commissioner (Appeals) partly allowed appeal of the assessee, treating interest income from staff loans and advances as 'income from other sources' but held that miscellaneous receipts were business income. Tribunal set aside the order of the Commissioner (Appeals) and remanded the matter back to the Assessing Officer for fresh consideration. Order of Tribunal affirmed. (AY. 2014-15)

PCIT v. Paschim Gujarat Vij Company Ltd. (2025) 307 Taxman 572 (Guj.)(HC)

446 **S. 28(i) : Business income-Income from house property-Lease of property-Business of purchasing and renting properties-No other source of income-Income derived from letting out properties assessable under head 'income from profits and gains of business', and not as income from house property. [S. 22, 23, 56(2)(iii)]**

Assessee-company was engaged in business of purchasing and renting properties. It had no other source of income. Assessing Officer passed an assessment order whereby Assessing Officer calculated annual value of property on basis of gross rent instead of actual rent issued by assessee as shown in its returns under head Income from house property Tribunal held that income of assessee fell under head 'income from house property' and not income from business. The order of the Assessing Officer was affirmed by the Tribunal. On appeal the Court held that since income of assessee was derived from letting out of properties, which in fact, was principal business of assessee, assessee was correct in accounting such income under head income from profits and gains of business, and not as income from house property.(AY. 1989-90 to 1992-93, 1995-96, 2005-06 to 2008-09)

National Leasing Ltd. v. ACIT [2024] 168 taxmann.com 39 /(2025) 481 ITR 432 (Bom)(HC)

447 **S. 28(i) : Business income-Income from house property-Rental income from properties-Income assessable as business income and not as income from house property-Order of Tribunal was set aside [S. 22, 260A]**

Buildings were handed over to the company in a finished mode, advances were received from prospective purchasers but sales did not fructify for want of full consideration. The assessees held the buildings as stock-in-trade for more than 20 years and let them out on rent, the only business being of leasing buildings. The AO presumed that no prudent person would wait so long and hence held that the rental income earned by assessee was income from house property and not income from business, but the appellate authority found rental receipts to be business income. On appeal the Tribunal restored the order of the Assessing Officer. On appeal, the Tribunal's view was reversed and income rightly held assessable as business income. (AY. 2002-03 to 2007-08)

H.R. Properties (P) Ltd v. ACIT (2024) 167 taxmann.com 256 / (2025) 343 CTR 610 (Pat) (HC)

Chero Medico & Developers (P) Ltd v. ACIT (2024) 167 taxmann.com 256 / (2025) 343 CTR 610 (Pat)(HC)

448 **S. 28(i) : Business income-Income from house property-Business of purchase and renting properties-Rule of consistency is followed-Order of Tribunal assessing the rental income as income from house property is set aside.[S. 22, 260A]**

Assessee is engaged in the business of purchasing and renting properties. It had no other source of income. The Assessing Officer assessed the income as income from house property as against the income shown as business income. Tribunal affirmed the order of the Assessing Officer. On appeal the Court held that since the income of assessee was derived from letting out of properties, which, in fact, was the principal business of the assessee, the assessee is correct in accounting such income under the head income from profits and gains of business, and not as income from house property. Order of the Tribunal is set aside. (AY. 1989-90 to 1992-93 & 1995-96 to 2008-09)

National Leasing Ltd. v. ACIT (2025) 302 Taxman 43 (Bom.)(HC)

S. 28(i) : Business income-Income from house property-Income from sublicensing of property-Assessable as business income.[S. 22] 449

Held that the object of the assessee-company and its activity is the business of renting, licencing, sub-licencing shops, etc. and it derived income mainly from the aforesaid business activity, therefore, the income from sub-licencing derived by the assessee is business income and not income from house property, more so when it has been accepted as business income for so many years. (AY. 2005-06)

Oberoi Building & Investment (P) Ltd. v. CIT (2025) 342 CTR 343 / (2024) 244 DTR 198 (Cal)(HC)

S. 28(i): Business income-Rental income-Maintenance charges received under separate arrangement-Taxable as business income and not as income from house property. [S. 2(13), 22 44AD] 450

The assessee received rent and maintenance charges under a lease arrangement. The maintenance charges related to facility management services such as housekeeping, security, lifts, power supply, CCTV and other amenities. The Tribunal held that these services were distinct from mere letting of property and could have been independently rendered by a third party. Accordingly, the maintenance charges were assessable as business income under the head "Profits and gains of business or profession" and not as income from house property. (AY. 2018-19).

Bindumalyam Panduranga Allanharinarayan v. ITO (2025) 125 ITR 507 / 175 taxmann.com 388 (Bang.)(Trib.)

S. 28(i) : Business income-Income from house property-Service centre operations-Commercial exploitation with various amenities-Assessable as business income.[S. 22] 451

The assessee operated a fully equipped service centre providing central air-conditioning, furniture, housekeeping, conference facilities and other commercial amenities. Following the decisions in the assessee's own case for earlier years, the Tribunal held that the activity constituted an independent commercial business venture and the income was assessable under the head "Profits and gains of business or profession" and not under the head "Income from house property". (AY. 2015-16 & 2016-17).

Dy. CIT v. Piramal Estates (P.) Ltd. (2025) 123 ITR 488 (Mum.)(Trib.)

S. 28(i) : Business income-Duty drawback-Taxable in year of actual receipt-Matter remanded to avoid double taxation. 452

The assessee contended that the duty drawback had been offered to tax in the year of actual receipt and that the addition in the year under consideration would result in double taxation. The Tribunal restored the issue to the Assessing Officer to verify the assessee's claim and ensure that the same amount was not subjected to tax twice. (AY. 2018-19).

MAN Energy Solutions India P. Ltd. v. Asst. CIT [2023] 149 taxmann.com 347 / (2025) 129 ITR 562 (Pune)(Trib.)

453 **S.28(i): Business income-Income from house property-Income from renting out house properties to tourists and pilgrims on a day-to-day basis-Assessable as business income-Depreciation is allowable. [S. 22, 24(a), 32(1(ii)]**
Held that the activity of renting out house properties to tourists and pilgrims on a day-to-day basis, along with certain facilities carried on by the assessee is an organised activity of a composite nature and therefore, the income from renting of said properties has to be treated as business income and consequently deduction under s. 24(a) is not allowable; however, the assessee must be allowed depreciation on WDV on these buildings. (AY.2018-19)
Rajesh Kumar Jaiswal v. DCIT (2025) 235 TTJ 833 / 174 taxmann.com 276 (All) (Trib)

454 **S. 28(i) : Business income-Application fees, front-end fees and processing fees-Recognition on realization basis-Addition on an accrual basis was deleted.[S. 4, 5, 145]**
Assessee recognised application fees, front-end fees, administrative fees and processing fees on realization basis, whereas Assessing Officer taxed the same on an accrual basis. Issue was covered in favour of assessee by earlier decisions of the Tribunal and the jurisdictional High Court, *Housing & Urban Development Corporation Ltd. v ACIT (2020) 421 ITR 599(Bom)(HC)*. Therefore, additions made by recognising such fees on an accrual basis were deleted. (AY. 2012-13, 2014-15, 2015-16)
Housing & Urban Development Corporation Ltd. v. DCIT [2025] 128 ITR 387 (Delhi)(Trib.)

455 **S. 28(i): Business income-Income from house property-Leave and licence-Infrastructural facilities-Taxable as business income-Common area maintenance-Taxable as income from house property.[S. 22]**
Held that infrastructural facilities are taxable as business income and the amount received for common area maintenance services is taxable as income from house property. (AY. 2014-15)
Pankaj Enterprises v. Dy.CIT (2025) 237 TTJ 497 (Mum)(Trib)

456 **S. 28(i): Business income-Estimation of income-Deferred revenue expenditure, not income [S. 4, 145]**
The assessee, a SPV, was formed for a BOT project in Kerala under a concession agreement with NHAI. The assessee declared NIL income and did not report any revenue since toll collection had not commenced (began in March 2022). The AO estimated income at 8% of gross receipts on account of absence of books of accounts and variation in receipts between Form 26AS and P&L. CIT(A) referred to CBDT Circular No. 09/2014 clarifying BOT infrastructure costs are deferred revenue expenditure, amortized over the toll period and held that the amount was construction cost, not income. CIT(A) deleted the addition. On Revenue's appeal, ITAT upheld CIT(A)'s order and confirmed no income arises before toll operations begin. Thus, the ITAT dismissed Revenue's appeal. Relied on CBDT Circular No. 09/2014, dated 23.04.2014.(AY. 2017-18, 2018-19)
ITO v. Thrissur Expressway Ltd. (2025) 234 TTJ 676 (Hyd)(Trib)

S.28(i) : Business income-Accrual-Real income theory-Royalty-Mere deduction of TDS does not conclusively establish accrual of royalty income where ultimate collection is uncertain-Revenue recognition can be postponed under AS-9 where collectability is doubtful-Addition of royalty as undisclosed professional income deleted-However, amount of TDS claimed as credit deemed as income under section 198 and taxable-Relief restricted to royalty amount minus TDS claimed.[S. 5, 145, 198, 199, R. 37BA] 457

Delhi Tribunal held that where royalty receivable from sub-licensee was not recognised in the relevant year because there was no reasonable certainty of collection, and the amount ultimately remained unrealised and was later written off, such royalty could not be taxed merely because the payer had deducted tax at source and reflected it in Form 26AS. Applying the real income theory and AS-9 on revenue recognition, the Tribunal held that income which did not materialise and whose collectability was uncertain could not be brought to tax on hypothetical accrual. The fact that the assessee subsequently recognised the income in the next year, raised invoice, created provision and ultimately wrote off the receivable showed at best a timing difference, and TDS deduction by payer did not ipso facto crystallise income in the assessee's hands. Accordingly, the addition of Rs. 79,81,999 made as undisclosed professional income was deleted. However, since the assessee had claimed TDS credit of Rs. 7,98,200, the Tribunal held that by virtue of section 198, tax deducted at source is deemed income received for computing total income and there is no prescribed mechanism to simply withdraw the TDS claim; hence only Rs. 7,98,200 was to be taxed, granting net relief of Rs. 71,83,799. Appeal partly allowed. (A.Y 2012-13).

Weir Mineral (India) Pvt. Ltd. v. DCIT [2025] 175 taxmann.com 407 (Delhi)(Trib)

S. 28(i): Business income-Foreign Exchange fluctuations-Loan given to overseas party-Mark-to-market gain on loans given to an overseas party due to year-end foreign exchange reinstatement-loans were not on revenue account-Addition was deleted. [S. 45] 458

Assessee earned a mark-to-market gain on loans given to an overseas party due to foreign exchange fluctuation on year-end reinstatement, which the Assessing Officer treated as taxable income. CIT (A) affirmed the addition. On appeal, the Tribunal held that since loans were not on revenue account and foreign exchange fluctuation gain, in instant case, was only due to reinstatement of accounts at end of year by considering year-end rate of exchange, no question arises for considering said gain as income of assessee for year under consideration and accordingly, addition was to be deleted. (AY. 2017-18)

Shapoorji Pallonji Energy (Gujarat) (P) Ltd. v. DCIT (2025) 214 ITD 297 (Mum) (Trib.)

S. 28(i): Business income-Export of services-Not liable to pay GST/IGST on services exported out of India-Refund of IGST could not be treated as income of assessee.[S. 43B, Central Goods and Services Tax Act, 2017, S.54] 459

Assessee was engaged in the business of exporting services. At the time of export of service, IGST was paid in advance, which was later refunded after filing the necessary documents evidencing export of services that were exempt from IGST. Assessee filed nil return. Assessing Officer made an addition on account of the refund of IGST as reported

in the tax audit report in clause 16(b) of Form 3CD. CIT(A) held that the treatment given by the assessee by not claiming any expenditure in IGST was an attempt to avoid disallowance under section 43B and hence affirmed the order of the Assessing Officer. On appeal, the Tribunal held that the assessee was not liable to pay GST/IGST on services exported out of India and there was no such liability of the assessee to deposit GST/IGST; however, in terms of the provisions of the GST Act, advance IGST was to be deposited before exports, which was refunded at a later stage. Tribunal held that it was not an expenditure for which the provision of section 43B could be applied. The addition made on account of the refund of IGST was deleted. (AY. 2021-22)
Ecoenergy Insights Ltd. v. ACIT (2025) 214 ITD 381 (Delhi) (Trib.)

460 **S. 28(i): Business income-Call centre facilities-Business of providing call centre facilities and leasing out premises-Assessable as business income and not as income from house property-Maintenance charges received by assessee, owner of a property, from tenants for undertaking maintenance of common areas of property were to be assessed as income from business and profession. [S. 22]**
Held that ssessee-firm was engaged in the business of providing call centre facilities and leasing out premises, and it declared income from leasing out premises under the head 'Income from House Property' and income earned for providing functional infrastructure and other facilities to tenants under head 'Income from Business'. Tribunal held that since assessee's business activity was to render services to its tenants through various facilities, income earned from providing such facilities was taxable under the head 'Income from Business'. Tribunal also held that maintenance charges received by assessee-firm, owner of a property, from tenants for undertaking maintenance of common areas of property were to be assessed as income from business and profession (AY. 2014-15)
Pankaj Enterprises v. DCIT (2025) 214 ITD 702 (Mum)(Trib.)

461 **S. 28(i) : Business income-Power generation-Interest income-Loans and advances to employees-interest income earned from loans and advances provided to employees is incidental to business of power generation and qualified as business income and not as income from other sources.[S. 56]**
Assessee engaged in business of power generation, earned interest income from loans and advances provided to its employees-. Assessing Officer classified said interest income as income from other sources. CIT(A) allowed the claim of assessee as business income. On appeal the Tribunal held that loans and advances were provided solely to employees to ensure their welfare, retention and operational efficiency, which were critical in power sector and, thus, interest income earned from loans and advances provided to employees is incidental to business of power generation and qualified as business income. (AY. 2012-13, 2016-17)
DCIT v. Gujarat State Electricity Corporation Ltd. (2025) 211 ITD 405 (Ahd) (Trib.)

462 **S. 28(i) : Business income-Joint development agreement-Transfer of capital asset into stock-in-trade-Capital gains-Double taxation-Taxable in the year 2012-13.[S. 45(2)]**
Assessee, engaged in property development, had filed its return of income declaring a business loss. Pursuant to a search conducted in case of a Trust, revealing a Joint

Development Agreement (JDA) between assessee and Prestige Estate, Assessing Officer had made substantial additions, including Rs. 325.32 crores as business income, Rs. 84.92 crores as short-term capital gains, Rs. 71.90 crores as long-term capital gains. CIT(A) deleted the addition. On appeal the Tribunal held that issue of capital gains arising from transfer of capital assets into stock-in-trade for JDA, as well as business income, had already attained finality through Tribunal's order in first round of litigation holding that income from JDA would be taxable only from assessment year 2012-13 since sale deeds had commenced that year and taxing same in assessment year 2011-12 would result in double taxation. Order of CIT (A) is affirmed. (AY. 2011-12)
DCIT v. Chaitanya Properties (P.) Ltd. (2025) 212 ITD 150 (Bang) (Trib.)

S. 28(i): Business loss-Penny Stock-Bogus purchases-Genuineness of Transactions-Concurrent findings of fact-Delay of 325 days-SLP of revenue dismissed on account of delay and merits due to low tax effect-Question of law kept open. [Art. 136] 463
High Court held that the assessee did not sell the entire shareholding and continued to hold a portion of the shares in subsequent years, which militated against the allegation of a colourable device. In view of the concurrent findings of fact by the CIT (A) and the Tribunal in favour of the assessee, the Court held that no substantial question of law arose for consideration. SLP of revenue dismissed on account of a delay of 325 days and merits due to low tax effect. Question of law kept open (AY. 2015-16)
PCIT (Central) v. Affluence Commodities (P.) Ltd. (2025) 306 Taxman 351 (SC)
Editorial: PCIT v. Affluence Commodities (P.) Ltd. (2024) 161 taxmann.com 476 (Guj.) (HC)

S. 28(i) : Business loss-Derivatives arising from future option-set-off of this loss against profit earned from sale of a land along with development rights-Controversy settled under Direct Tax Vivad Se Vishwas Scheme, 2024-SLP dismissed as infructious. [Art. 136] 464
Assessee claimed loss on derivatives arising from future option It further claimed set-off of this loss against profit earned from sale of a land along with development rights. Assessing Officer held that transactions were not bona fide commercial transactions but were sham leading to bogus loss. Accordingly, he disallowed entire amount claimed as loss as well as set-off of same against profit earned from sale of loss. Tribunal reversed Assessing Officer's finding and allowed assessee's claim by observing that Assessing Officer did not doubt genuineness of transactions carried out by assessee which resulted in loss. High Court held that order of Tribunal was perverse as there was absolutely no case made by assessee for deleting addition and therefore, said order of Tribunal was to be set aside and order of Assessing Officer was to be restored. Apex Court held that since controversy between assessee and revenue no longer survived in view of settlement of dues under Direct Tax Vivad Se Vishwas Scheme, 2024, SLP filed by assessee against order of High Court had been rendered infructuous. (AY. 2007-08)
PKS Holdings v. PCIT (2025) 305 Taxman 253 (SC)
Editorial : PCIT v. PKS Holdings (2022) 145 taxmann.com 195 (Cal)(HC)

465 **S. 28(i) : Business loss-Capital loss-Foreign exchange fluctuation loss-Allowable as business loss.[S.37(1), 260A]**
Held that the Tribunal had rightly affirmed the order passed by the Commissioner (Appeals). It was not in dispute that the assessee was a non-banking financial company and had suffered a loss on account of foreign exchange fluctuation on receipt of repayment of a loan to a foreign company. The Tribunal was justified in holding that the loss due to foreign exchange fluctuation was a revenue loss and not a capital loss as held by the Assessing Officer. (AY.2004-05)
PCIT v. Avantha Realty Ltd (2025) 482 ITR 599 (Cal)(HC)

466 **S.28(i): Business loss-Penny stocks-Bogus purchases-Genuineness of transactions are proved-No control over on share prices-Losses are deleted. and moreover assessee had no control whatsoever on share prices-No substantial question of law.[S. 260A]**
Assessee is engaged in trading penny stocks, specifically shares of Alang Industrial Gases Ltd (AIGL) and Kappac Pharma Ltd (KPL). AO disallowed the loss. On appeal the CIT(A) and Tribunal allowed the loss on the ground that the assessee had no control over share prices and had genuinely incurred losses, particularly with AIGL shares where only a portion were sold, and rest were held into subsequent assessment year. Regarding shares of KPL, Tribunal reasoned that market rate being lower, justified business loss, even though shares were not sold. High Court affirmed the order of the Tribunal. (AY. 2015-16)
PCIT(Central) v. Affluence Commodities (P.) Ltd. (2024) 471 ITR 252 /161 taxmann.com 476 (Guj) (HC)

467 **S. 28(i) : Business loss-Foreseeable losses-Construction Contracts-Percentage of competition method-loss can be claimed in the manner provided under Accounting Standard 7 'Construction Contract'-For quantification of loss, the ITAT directed the AO to quantify the claim and allow it in accordance with the law. [S.37(1), AS 7]**
The Assessee claimed a sum of Rs.4,22,02,468/-on account of foreseeable losses. The AO asked to justify the claim of such losses. In response, the Assessee submitted that is engaged in the business of construction activity. It has executed projects at various places. In some of the contracts, the total cost exceeds the contract value of the project. Thus, the transaction resulted into losses. The Assessee relied upon the Accounting Standard (AS) 7 for construction contracts prescribed by ICAI and stated that the said unforeseen loss is allowable. The Assessee has been allowed such losses in its own case for the earlier assessment years. The AO held that provision for foreseeable losses is not an expenditure incurred in the year under consideration. Therefore, though it may be required to be provided as per AS 7, the same is not allowable under the Act. On appeal, the CIT(A) upheld the action of the AO. On appeal the ITAT held that the foreseeable loss is a claim under section 28 and not under section 37(1). It is determined by looking at total revenue generated, less cost of expenses to be incurred for the contract if there is a profit same is not recognized but if there is a loss, same is recognized as loss in the books as per principle of "prudence" in accounting. It is same method where the closing stock is valued at cost or market value whichever is less. When market value is higher than the actual cost, such profit is ignored and when

market value is less than actual cost such losses are recognized immediately in the books.. The prudence principle deviates from conventional accounting as it provides for all possible losses, but does not anticipate profits. It is allowable under section 28 itself. In this case, the Assessee has not claimed the expenditure under section 37(1). ITAT observed that determination of profit based on the accounting standard where there is no contrary provision in the Income Tax Act, is required to be accepted, as accounting standards are based on sound principles of Accounting and determine real income. The ITAT, therefore, held that the Assessee is entitled to the expected loss provided in the manner explained by the Accounting Standard 7 'Construction Contracts' Issued by ICAI. However, for quantification of loss, the ITAT directed the AO to quantify the claim and allow it in accordance with the law. [AY. 2017-18]
CIT (Dy.) v. ITD Cementation India Ltd. (2025) 131 ITR 53 (Mum)(Trib.)

S. 28(i): Business loss-Assessee a share trader and investor-Losses from share transactions including listed securities-Assessing Officer disallowing claim treating shares as penny stocks-Assessee transacting huge volumes of shares-Addition made on basis of preconceived idea after general investigation of investigating authority-Order set aside and addition quashed. [S. 45, 69] 468

The assessee, a share trader and investor, incurred loss from transactions in different shares on the stock exchange. The AO treated the shares as penny-stocks and added back the loss amount to the total income of the assessee, which addition was upheld by the CIT(A). On appeal, the Tribunal held that the assessee had duly submitted the relevant documents relating to the share trading loss before the Revenue authorities as well as before the Tribunal, and there was no question raised about the veracity of these documents. Since it was a case of loss, there was no question of any peak increase in share value. The assessee had suffered losses in a number of shares and had transacted a huge volume of shares during the year. The entire addition was made on the basis of a preconceived idea generated after a general investigation by the investigating authority, without independent verification qua the assessee. Accordingly, the addition of Rs. 2,27,75,453 was set aside and quashed. (AY. 2015-16)
Vicky Fincon P. Ltd. v. ACIT (2025) 132 ITR 18(Kol) (Trib.)

S. 28(i) : Business loss-Business expenditure-Irrecoverable advances written off-Claim allowable as business loss.[S. 37(1)] 469

The assessee wrote off irrecoverable advances made towards rent, telecommunication and other business expenses. The Tribunal held that the amounts represented business losses incurred in the course of business and were allowable as a deduction under section 37(1). (AY. 2014-15).
Birlasoft Ltd. v. Asst. CIT (2025) 127 ITR 63 / 173 taxmann.com 634 (Delhi)(Trib.)

S. 28(i) : Business loss-Loss on sale of shares-Addition based solely on Investigation Wing report-Documentary evidence supporting transactions-Disallowance deleted. 470

The Assessing Officer disallowed the assessee's loss on sale of shares solely on the basis of information received from the Investigation Wing without conducting any independent enquiry. The assessee produced contract notes, demat statements, broker's ledger accounts and bank statements establishing the genuineness of the transactions.

The Tribunal held that the investigation report neither referred to the assessee nor to its broker and no opportunity of cross-verification had been granted. In the absence of any contrary evidence, the disallowance was rightly deleted. (AY. 2014-15).
Asst. CIT v. Kunvarji Finance (P.) Ltd. (2025) 124 ITR 609 / 176 taxmann.com 553 (Ahd.) (Trib.)

471 **S. 28(i): Business loss-Overstated bank balance written off-Allowable as business loss.** Held that the overstated bank balance appearing in its books of accounts was written off in the books of account. Allowable as business loss. (AY. 2017-18)
Bangalore Electricity Supply Co. Ltd. v ACIT (2025) 234 TTJ 58 /121 ITR 595 / 174 taxmann.com 100 (Bang) (Trib)

472 **S. 28(i) : Business loss-Fixed deposits held by the assessee-bank with another bank written off-Allowable as business loss.**
Fixed deposits held by the assessee-bank with another bank MMCB in the course of its business, formed part of its stock-in-trade and, therefore, the loss incurred by the assessee as a result of write off of said deposits is a business loss occurring in the course of assessee's banking business and not a capital loss. Allowable as business loss. (AY-2013-14 & 2014-15)
Surat National Co-Operative Bank Ltd. v. ACIT (2025) 234 TTJ 529 (Surat)(Trib)

473 **S. 28(i) : Business loss-Converted a part of loan into equity shares-Exchange of one asset to another asset-loss incurred on conversion of such loan into equity shares is allowed as business loss. [S. 36(1)(vii)]**
Assessee, a non-resident banking company, was engaged in wholesale lending to its corporate customers. During year, pursuant to a scheme of Corporate Debt Restructuring (CDR), a part of loan was converted into equity shares of a company. Company issued shares to assessee on preferential basis fully converting loan into equity shares. However, when shares were credited into assessee's D-Mat account, market value was lower than price of shares at which shares were issued to assessee, thereby incurring loss which was claimed as loss on account of bad debt under section 36(1)(vii). Assessing Officer denied claim of loss on conversion of debt. CIT(A) affirmed the order of the AO. On appeal the Tribunal held that the assessee had assets (being loan outstanding) and assessee was assigned assets (market value of which was price of shares on NSE on date of credit in D-Mat account). The assets were exchanged for another asset and, hence, loss incurred was nothing but a business loss. Therefore, loss incurred on conversion of loan into equity shares was to be allowed. (AY. 2015-16)
DBS Bank Ltd. v. DCIT (2025)210 ITD 448(Mum)(Trib.)

474 **S. 28(i) : Business loss-Disposal of non-banking assets-Loss towards write-off of discrepant notes and cash backs offered to credit card customers-Allowable as business loss. [S. 37(1)]**
Assessee claimed business loss on account of disposal of non-banking assets, loss towards write off of discrepant notes and cash backs offered to credit card customers. Assessing Officer held that assessee had not furnished any supporting documentary evidence and accordingly disallowed claim of loss. CIT(A) allowed the claim of the

assessee. On appeal the Tribunal held that loss claimed on sale of assets was in ordinary course of business. It was also not in dispute that discrepant notes not accepted by RBI had to be written off as business loss. Similarly, offers made to credit card customers could not be said to be for non-business purposes. Order of the CIT(A) is affirmed.
(AY. 2006-07)
DCIT v. ICICI Bank Ltd. (2025)210 ITD 643 (Mum) (Trib.)

S. 28(iv) : Business income-Value of any benefit or perquisites-Converted into money or not-Share application money-Shares issued after some years-Capital receipt-Not taxable as business income.[S.4] 475
Held that share application money from its existing shareholders in earlier years and ultimately issued and allotted the shares to the respective investors in a later year, it has to be accepted that the receipt of share application money is a capital receipt in the hands of the assessee and, therefore, the same is not liable to be taxed under the provisions of s. 28(iv).(AY. 2017-18)
ACIT v. Dewanchand Ramsaran Industries (P) LTD. (2025) 236 TTJ 205 / 173 taxmann.com 743 (Mum)(Trib)

S. 28(iv): Business income-Value of any benefit or perquisites-Converted into money or not-Shares received on a loan basis-Neither the existence of any written agreement itself is determinative of the character of the transaction per se, nor absence thereof prevents the AO from assessing the circumstantial and surrounding circumstances to arrive at a lawful conclusion-No benefit can be said to have accrued to the assessee-The liability towards repayment of such loan transactions continues to exist during the year-Tere is no remission or cessation of any liability towards lender-Book profit-Books of account not rejected-Addition deleted-Addition is not sustainable. [S. 41(1), 115JB, 131, 133A] 476
Tribunal held that the assessee has produced evidence viz., entries in the books, declaration made in delivery instruction slips at the time of transfer of shares, statement of its director, unequivocal stand taken by GIDPL in the meeting of directors, etc. to substantiate its claim that the shares were received by the assessee from GIDPL as loan and there is nothing on record to arrive at a conclusion that GIDPL has waived its right in any manner to recover shares or equivalent value thereof from the assessee, there is no benefit chargeable to tax under s. 28(iv) in the hands of the assessee and S. 41(1) was also not attracted. Tribunal also held that the Assessing Officer had not rejected the books of account and addition was also deleted; hence, the adjustment to book profit was deleted. (AY. 2019-20)
Narayan Securities Ltd. v. DCIT (2025) 236 TTJ 339/ 174 taxmann.com 217 (Delhi) Trib)

S. 28(iv): Business income-Value of any benefit or perquisites-Converted into money or not-Hospitality business-Unsecured loans-Shell companies-No evidential proof or investigation established loans as sham and lender companies were active, registered and not identified as shell companies-Addition was not justified. 477
Assessee, engaged in the business of hotels, restaurants and hospitality services, had taken unsecured loans from five companies. Assessing Officer held that these lenders were Jama-Kharchi/bogus companies and doubted the genuineness of transactions

and treated them as benefits or perquisites. Accordingly, he made an addition of Rs. 10,75,05,000 under section 28(iv). CIT(A) deleted the addition. On appeal, the Tribunal held that the Assessing Officer failed to bring any evidential proof to conclude that such loans were bogus and no investigation had been carried out on the credentials of lenders. Further, lenders' company status was active on the Ministry of Corporate Affairs website; they were registered with the Registrar of Companies, Delhi, and their names did not appear in the list of apparent shell companies prepared by the Investigation Wing, Kolkata. Accordingly, the order of the CIT(A) deleting the additions were affirmed. (AY. 2018-19)

DCIT v. Hotel Surbhi Palace India (P.) Ltd. (2025) 214 ITD 697 (Delhi) (Trib.)

478 **S. 28(iv) : Business income-Value of any benefit or perquisites-Converted in to money or not-No benefit or perquisite is chargeable to tax under section 28(iv) for assets received from AEs on a returnable basis-Independent personal services-Training expenses paid to non-resident fell under Article 14 of the DTAA and not subject to TDS-DTAA-India-Singapore. [S.92C, Art. 14]**

The assessee received certain assets free of cost from its overseas AEs on a returnable basis. These were testing equipment/prototypes provided to ensure software development services met required parameters. Assets were either returned to AEs or destroyed after completion of projects. The assessee had an Advance Pricing Agreement (APA) that already considered depreciation on these assets in the cost base for determining transfer pricing. Training services couldn't be classified as technical, managerial or consultancy services. These services fell under Article 14 (Independent Personal Services) of India-Singapore DTAA and hence not taxable. Followed, *Tesco Bengaluru (P) Ltd. (ITA No. 2387/Bang/2019, dt. 4th Aug., 2022), CIT v. Mahindra & Mahindra Ltd. (2018) 302 CTR (SC) 213 : (2018) 165 DTR (SC) 337* distinguished. (AY. 2017-18)

ACIT v. Sony India Software Centre (P) Ltd. (2025) 233 TTJ 249/ 170 taxmann.com 309 (Bang)(Trib)

479 **S. 28(iv) : Business income-Value of any benefit or perquisites-Converted in to money or not-Acquisition of shares at face value when other paid premium-A capital transaction-Outside the purview of S. 28(iv).[S. 56(2)(x)]**

Shares were allotted to a director at face value when another investor paid a premium. Tax authorities reopened the assessment and added difference as income under section 28(iv). Upon appeal to ITAT, it was held that, for section 28(iv) to apply, the benefit must arise from business or profession. The share acquisition was an investment transaction (capital field), not a business transaction (revenue field). Section 28(iv) only applies to benefits in the revenue field. Prior to the insertion of Section 56(2)(x) by the Finance Act, 2017 (effective April 1, 2017), there was no provision to tax property received without consideration or for less than fair market value. Hence, the said transaction was not taxable under 56(2)(x) either since it occurred before the amendment. (AY. 2008-09)

Dy CIT v. Prakash Nimmagadda [2024] 169 taxmann.com 455 / (2025) 233 TTJ 812 (Hyd) (Trib)

S. 28(v): Business income-Partner-Interest, salary, bonus, remuneration-Chartered accountant-Depreciation-Business expenditure-Any expenditure incurred wholly and exclusively for earning such income, including depreciation, is allowable under sections 32 and 37 [S. 32, 37(1)] 480

Assessee-partner, a chartered accountant, received remuneration from a partnership firm and claimed business-related expenses against such salary; such remuneration is to be treated as business income under section 28(v). Tribunal held that any expenditure incurred wholly and exclusively for earning such income, including depreciation, is allowable under sections 32 and 37, especially when consistently allowed in past years. (AY. 2018-19)

Atul Kumar Gupta. v. ITO (2025) 215 ITD 472 (SMC) (Delhi) (Trib.)

S. 28(va) : Business income-Cash or kind-Under an agreement-Non-compete fee-Negative covenant-Capital receipt-Amendment taxing such receipt prospective-Not taxable.[S. 4] 481

The assessee received a non-compete fee under an agreement restraining it from carrying on a specified business activity. The Tribunal held that the receipt arose under a restrictive negative covenant and was a capital receipt. Since section 28(va), brought into force with effect from 1 April 2003, was prospective in operation, the receipt relating to the assessment year under consideration could not be taxed as business income. (AY. 1999-2000).

HDFC Bank Ltd. (Successor to Housing Development Finance Corporation Ltd.) v. Dy. CIT (2025) 125 ITR 629 (Mum.)(Trib.)

S. 32 : Depreciation-Building-Building structure had been standing for 20 years and it was renovated and beautified for use as a conference hall-Only 10 per cent depreciation is allowable-Not a temporary structure-Delay of 344 days in filing SLP-Delay is not condoned. [Art. 136] 482

Assessee claimed 50 per cent depreciation on building claiming it to be a temporary structure. Assessing Officer accepted. The assessment was reopened. Assessing Officer found that structure had been standing for 20 years and it was renovated and beautified for use as a conference hall hence limited claim of depreciation to 10 per cent as against returned claim of 50 per cent. On writ High Court dismissed the petition and held that since appendix 1 provides for only 10 per cent depreciation for buildings other than used for residential purpose and not covered by sub items 1 and 3, assessee was not entitled to obtain 50 per cent depreciation. Order of the Assessing Officer is affirmed. SLP of Revenue is dismissed as the assesssee could not explain the delay of 344 days in filing the SLP. (AY. 2011-12)

Bihar Police Building Construction Corporation (P.) Ltd. v. Pr. CCIT (2025) 302 Taxman 2 (SC)

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483 **S. 32: Depreciation-Intangible assets-Business and commercial brand equity are goodwill-Depreciation allowable. [S. 260A]**
Held that intangible assets like business and commercial brand equity are goodwill on which depreciation is allowable. (AY. 2007-08, 2009-10)
CIT v. Grindwell Norton Ltd (2025) 483 ITR 651 (Bom)(HC)

484 **S. 32 : Depreciation-Additional depreciation-Unit was a separate undertaking-Order of Tribunal affirmed.[S. 260A]**
Held that the Tribunal was justified in confirming the order of the Commissioner (Appeals) holding that the assessee was entitled to additional depreciation under section 32, on the ground that the Nigahi project of the assessee was a separate industrial undertaking engaged in production of an article or thing, i.e., coal and such production during the relevant years had increased by more than 20 per cent. and therefore, the assessee was entitled to additional depreciation.
CIT v. Northern Coal Fields Ltd. (2025) 482 ITR 659/ 173 taxmann.com 69 (MP) (HC)
Northeren Coal Fields Ltd v. Dy. CIT (2025) 482 ITR 659/ 173 taxmann.com 69 (MP) (HC),

485 **S. 32: Depreciation-lease of plot-Long-term lease of 99 years-Plot deposit-Depreciation not allowable[S.32(1)(ii), 260A]**
Assessee entered into a lease deed with SIPCOT, a State Government undertaking, towards the lease of a plot in an industrial park promoted by it. As per the lease deed, a plot was allotted to assessee on a long-term lease of 99 years. Assessee paid a certain amount towards plot deposit and also a sum towards development charges. Assessee claimed depreciation on the amount paid towards development charges. Assessing Officer disallowed the claim, holding that the amount paid to SIPCOT was only for the purpose of land development and rights obtained by assessee were only towards land and, therefore, the claim of depreciation was not allowable on building. Tribunal affirmed the order of the Assessing Officer. On appeal, the Court held that since the assessee had only a long-term leasehold right over infrastructural facilities and was not an owner either wholly or partly, the claim of depreciation was rightly disallowed. As regards development charges, the court held that development facilitated the running of business, which was an essential requirement without which business could not be operated; hence, the contribution made by the assessee was eligible to be treated as a revenue expenditure. (AY. 2006-07 to 2014-15)
Hinduja Foundries Ltd. v. ACIT (2025) 307 Taxman 336 /(2026) 486 ITR 117 (Mad.)(HC)

486 **S. 32 : Depreciation-Assets discarded-Entitle to depreciation-Order of Tribunal affirmed. [S. 260A]**
Dismissing the appeal of the revenue, the Court held that the assessee would be entitled to depreciation on assets which were discarded during the year and were no longer in the assessee's ownership, in view of the decision of the High Court in *CIT v. Ansal Properties & Infrastructure Ltd. [2012] 207 Taxman 61 (Delhi)(HC)*. (AY. 2010-11)
PCIT v. Sony India (P.) Ltd. (2025) 307 Taxman 173 (Delhi)(HC)

S. 32 : Depreciation-Dumpers-Put to use for 180 days-Failure to produce evidence-Not entitle for full depreciation-Order of Tribunal set aside. [S. 254(1)] 487

Assessee claimed 25 per cent depreciation on dumpers purchased by it, since assessee had not produced any evidence to establish that dumpers had been received in its premises and put to use prior to 1-10-1995, assessee was not entitled for full depreciation on dumpers in assessment year 1996-97. Order of Tribunal set aside. (AY. 1996-97)

CIT v. Ramco Cements Ltd. [2025] 481 ITR 705 / 173 taxmann.com 226 (Mad)(HC)

S. 32 : Depreciation-Unabsorbed depreciation from assessment year 1999-2000 could be set off against long term capital gains for assessment year 2002-03-Matter remanded. [S. 32(2), 72, 154, 260A] 488

Assessee-company, engaged in business of spinning of yarn and manufacture of knitted hosiery garments etc., had sold a parcel of land. Assessee offered income from sale of land as taxable income and claimed to set off unabsorbed depreciation that had remained unutilized from assessment year 1999-2000 against tax liability from aforesaid capital gains under section 32 read with section 72 Assessing Officer accepted claim of assessee. However, appellate authority disallowed claim for set off unabsorbed depreciation from assessment year 1999-2000 against capital gains in assessment year 2002-03. Tribunal upheld order of appellate authority. On appeal the Court held that unabsorbed depreciation could be set off against profit and gains from business or any profession carried on by an assessee which is assessable for that assessment year and if same is not feasible against any other income from that assessment year. Therefore, unabsorbed depreciation from assessment year 1999-2000 could be set off against long term capital gains for assessment year 2002-03. Matter remanded. (AY. 2002-03)

Prime Urban Development India Ltd. v. ACIT (2025) 305 Taxman 58 /(2026) 484 ITR 290 (Mad)(HC)

S. 32 : Depreciation-Written-down value-Block of assets-Amalgamation-Approval of Central Government under S. 72A not required where assessee is not claiming carry forward of unabsorbed depreciation but only adopting correct WDV of amalgamating company's assets. [S. 2(11), 32(2), 43(6), 72A] 489

The assessee, being the amalgamated company, claimed depreciation by adopting the correct written down value of the block of assets vested pursuant to amalgamation. The Tribunal denied the claim holding that without Central Government approval under S. 72A, adjustment of WDV and depreciation could not be allowed. The High Court held that S. 72A applies only where the assessee seeks carry forward and set off of accumulated loss and unabsorbed depreciation of the amalgamating company, which was not the case here. Since the assessee only sought adoption of correct WDV under S. 43(6), the Tribunal erred in insisting on approval under S. 72A. The CIT(A) was justified in holding that unabsorbed depreciation of amalgamating companies should be added to the WDV of the block of assets of the amalgamated company for allowing depreciation. (AY. 1992-93)

Technova Imaging Systems Ltd. v. DCIT (2025) 344 CTR 583 / 249 DTR 77 / 173 taxmann. com 405 (Bom)(HC)

490 **S. 32 : Depreciation-Goodwill-Amalgamation-Difference between purchase consideration and net assets acquired on demerger-Claim for depreciation not disputed in year immediately following demerger Disallowance of depreciation in later years relying solely on fifth proviso to section 32(1)-Proviso applicable only in year following demerger-Depreciation claim for subsequent years not barred-Matter remanded to Tribunal.[S. 43(6)(c)]**

Held, allowing the appeal the Court held that the fifth proviso to section 32(1) pertained to the aggregate deduction allowable to the predecessor and successor in the year immediately following a succession, amalgamation or demerger, and could regulate affairs only for the assessment year directly succeeding such event. Since the scheme came into effect in the financial year 2013-2014, the proviso was relevant only for the assessment year 2014-2015 and had no application to the assessment years 2015-2016 and 2016-2017. That although it was contended that section 43(6)(c) and the appended Explanations governed the manner of computing the written-down value, the Tribunal had not examined the matter from that perspective and had based its decision only on the fifth proviso to section 32(1), which was not applicable. The matter was remanded to the Tribunal for fresh consideration in accordance with law.(AY.2015-16, 2016-17)

PMV Maltings Pvt. Ltd v. Dy. CIT (2025) 479 ITR 159/304 Taxman 15 (Delhi)(HC)

491 **S. 32: Depreciation-Installation of cell site towers-Lease agreement-Accounting Standard 29-Entitled to depreciation.[S. 260A]**

Held that Installation of cell site towers as per lease agreement is entitled to depreciation. (AY. 2019-20)

Vodafone Mobile Services Ltd. v. Dy. CTT (2025) 476 ITR 80 / 304 Taxman 285 / 345 CTR 137 / 251 DTR 9 (Delhi)(HC)

492 **S. 32 : Depreciation-Pipeline installation-Contingent liability-Disallowance justified where liability towards port authorities was contingent and not crystallized-No substantial question of law. [S. 260A]**

The assessee, engaged in laying petroleum pipelines, claimed depreciation including liability of Rs. 20 crores payable to KPT and GMB. AO disallowed Rs. 5 crores depreciation, holding the liability contingent. CIT(A) and Tribunal upheld disallowance. Dismissing appeal, the High Court held that no contractual payment was made, nor liability accepted by port authorities; hence it was only a contingent liability. Findings being concurrent factual findings, no substantial question of law arose.(AY.2003-04)

Petronet V.K. Ltd. v. Asst. CIT (2025) 475 ITR 494 (Guj)(HC)

493 **S. 32 : Depreciation-Unabsorbed depreciation-Allowed to be carried forward and set off after a period of eight years from assessment year 1997-98, without any limit.[S. 32(2)]**

Held that unabsorbed depreciation is allowed to be carried forward and set off after a period of eight years from assessment year 1997-98, without any limit, whatsoever in accordance with section 32(2) as amended by Finance Act, 2001. (AY. 2008-09, 2010-11 & 2011-12)

Tamil Nadu Small Industries Corporation Ltd. v. ACIT (2025) 303 Taxman 129 (Mad.)(HC)

S. 32 : Depreciation-Block of assets-Ready for use-Entitle to full depreciation. [S. 2(11), R. 5(1)] 494

Held that the block of assets on which depreciation under section 32 had been claimed by the assessee were old and none of them were acquired during the previous year relevant to the assessment year in question. Therefore, the second and third proviso to sub-section (1) of section 32 would not apply. The assets in question on which the depreciation had been claimed were being used for the purpose of business or profession from earlier years. The block of assets on which the depreciation for the whole year had been claimed was ready for use during the entire year. The assessee is entitled to full depreciation for the assessment years 1999-2000 and 2000-01. (AY. 1999-2000, 2000-01)
Khar Hospitality India Ltd. v. CIT (2024)471 ITR 200 (Cal) (HC)

S. 32 : Depreciation-Actual cost-Sales-tax subsidy-subsidy is to be deducted from the cost of fixed assets for the purpose of depreciation computation as per Expln 10 to s. 43(1).[S.43(1)] 495

Held that Sales-tax deferment incentive received by the assessee from the State Governments was fundamentally linked to its fixed capital investment and was in the nature of a capital subsidy as it was later converted into a capital reserve; it squarely fell within the ambit of Expln. 10 to s. 43(1) and therefore, the proportionate amount of subsidy is to be deducted from the cost of fixed assets for the purpose of computation of depreciation. (AY.2003-04, 2006-07)
Munjal Auto Industries Ltd. v. ITO (2025) 235 TTJ 84 / 173 taxmann.com 498 (Ahd)(Trib)

S. 32 : Depreciation-Additional depreciation-Computers used for the production of software-Plant and machinery-Eligible for additional depreciation. [S. 32(1)(iia)] 496

Business of development of embedded software amounts to production of an article or thing, and therefore, computers used for software production qualify as plant and machinery, eligible for additional depreciation under S. 32(1)(iia). (AY.2016-17)
Bosch Global Software Technologies (P) Ltd. v. ACIT (2025) 235 TTJ 807 / 174 taxmann.com 76 (Bang)(Trib)

S. 32 : Depreciation-Intangible asset-Goodwill arising pursuant to amalgamation-The excess consideration paid is bona fide, attributable to commercial intent, and not a colourable device-The goodwill constitutes a depreciable asset-Depreciation is allowable. [S.2(IB), 32(1)(ii)43(1), 43(6), 49(1)(iii)(e)] 497

Held that the goodwill arising as a result of the payment of excess consideration over the net book value of assets and liabilities of the amalgamating company taken over by the assessee-company pursuant to a scheme of amalgamation sanctioned by the High Court, which is supported by an independent valuation report prepared by a registered valuer, constitutes a depreciable intangible asset within the meaning of S. 32(1)(ii) and, therefore, eligible for depreciation.(AY. 2015-16)
ACIT v. Intas Pharmaceuticals Ltd. (2025) 236 TTJ 550/ 174 taxmann.com 867 (Ahd)(Trib)

498 **S. 32 : Depreciation-Intangible asset-Slump sale-Acquisition of manufacturing, supply and maintenance contracts-Goodwill-AO is directed to treat the excess of consideration paid over and above the fair market value of the assets and liabilities as goodwill and allow depreciation-Depreciation-Unabsorbed-Carry forward and set off-set off of brought forward unabsorbed depreciation pertaining to asst. yr. 2008-09 cannot be denied on the basis that for that assessment year the assessee filed its return of income under S. 139(4). [S.2(42C), 32(1)(ii), 32(2), 50B, 72, 80, 139(4)]**

Held that total consideration paid by the assessee for slump sale acquisitions of some divisions of two companies includes consideration paid for manufacturing contracts, supply contracts and maintenance contracts acquired by the assessee; even if it is assumed that these contracts are not separate intangible assets under s. 32(1)(ii), the excess of consideration paid over and above the net asset value of other recognised tangible and intangible assets is to be treated as goodwill, and depreciation is allowable. Carry forward and set off of unabsorbed depreciation is in no way linked to the timely filing of the return of income; set off of brought forward unabsorbed depreciation pertaining to asst. yr. 2008-09 cannot be denied on the basis that the assessee filed its return of income under S. 139(4). (AY. 2010-11)

Thermo Fisher Scientific India (P) Ltd. v. DCIT (2025) 236 TTJ 865 / 176 taxmann.com 501 (Mum) Trib)

499 **S. 32 : Depreciation-Intangible asset-Goodwill arising pursuant to amalgamation-Depreciation on goodwill is allowable-Unabsorbed-Carry forward and set off-Depreciation once allowed cannot be disregarded in subsequent years for the purposes of S. 32(2) [S. 32(2)]**

Held that the Assessee acquired 100 per cent shares of PPL from independent parties at premium, the excess of consideration paid over the net book value of assets of PPL represents goodwill attributable to the business potential and intangible attributes of PPL which vested with the assessee on amalgamation of PPL with the assessee; goodwill so recorded is thus an identifiable intangible asset acquired at cost and satisfies the conditions prescribed under s. 32(1)(ii) and, therefore, eligible for depreciation. Once the claim of depreciation was allowed by the CIT(A) in the earlier assessment years, though initially disallowed by the AO, the carry forward of the unabsorbed portion thereof becomes a vested right and the set off under S. 32(2) cannot be denied in subsequent years.(AY-2012-13, 2013-14, 2020-21 & 2022-23)

DCIT v. Reckit Benkiser Healthcare India (P) LTD. (2025) 237 TTJ 129 / 176 taxmann. com 573 (Ahd)(Trib)

500 **S. 32 : Depreciation-Copyrights-Block of assets-Depreciation was allowed in earlier years-The AO is directed to delete the disallowance of depreciation. [S. 2(11), 32(1)(ii)]**

Held that the assessee has claimed depreciation on patents and copyrights as per the prescribed rate on the opening WDV of the block of assets in the earlier years, and there being no addition to the assets during the year, the claim of depreciation could not be disallowed in the relevant year on the ground that the assessee has failed to substantiate the same. (AY. 2021-22)

Ebix Travels (P) Ltd. v. DCIT (2025) 237 TTJ 751/ 178 taxmann.com 68 (Bang)(Trib)

S. 32 : Depreciation-Goodwill arising on slump sale-The matter was restored to the Assessing Officer to obtain valuation from the DVO, determine the value of land and building, attribute the balance consideration to goodwill and allow depreciation thereon. [S. 2(42C), 32(1)(ii), 50B, 56(2)(vii)(b)] 501

Where the purchase consideration paid on the acquisition of a business under a slump sale exceeded the value of the net assets acquired, the excess represented goodwill. The Tribunal held that section 50C was not applicable to the purchaser; however, section 56(2)(vii)(b) would apply. The matter was restored to the Assessing Officer to obtain valuation from the DVO, determine the value of land and building, attribute the balance consideration to goodwill and allow depreciation thereon. (AY. 2012-13 to 2014-15 & 2016-17)

Akorn India (P.) Ltd. v. DCIT (2025) 238 TTJ 869 / 180 taxmann.com 249 (Delhi)(Trib.)

S. 32 : Depreciation-Non-compete fee not eligible for depreciation [S. 32(1)(ii)] 502

The Tribunal held that a non-compete fee does not constitute an intangible asset eligible for depreciation under section 32(1)(ii). Accordingly, the claim for depreciation on the non-compete fee was rejected. [AY. 2012-13 to 2014-15 & 2016-17]

Akorn India (P.) Ltd. v. DCIT (2025) 238 TTJ 869 / 180 taxmann.com 249 (Delhi)(Trib.)

S. 32 : Depreciation-Goodwill arising on amalgamation-Allocation of purchase consideration to intangible assets based on valuation-Depreciation allowable-Unabsorbed depreciation-Amalgamation-Set-off of depreciation of earlier years-Allowable. [S. 32(2), 43(1), Expln 7] 503

Pursuant to amalgamation, the assessee recognised goodwill representing the excess of purchase consideration over the net assets acquired and claimed depreciation thereon. The Tribunal held that the valuation of goodwill and other intangible assets was based on recognised professional valuation and had been accepted while sanctioning the scheme of amalgamation. In the absence of any material disputing the valuation, depreciation on goodwill was allowable. Following its earlier decision in the assessee's own case, the Tribunal held that unabsorbed depreciation of the amalgamating company pertaining to years prior to assessment year 2002-03 was eligible for carry forward and set-off by the amalgamated company. (AY. 2006-07 to 2012-13).

Dy. CIT v. Bodal Chemicals Ltd. (2025) 127 ITR 194 / 177 taxmann.com 448 (Ahd.)(Trib.)

S. 32 : Depreciation-Assets acquired from associated enterprise-Depreciation allowed in earlier years-Depreciation cannot be denied in subsequent year. 504

The assessee claimed depreciation on assets purchased from its associated enterprises. The Tribunal held that once the assets formed part of the block of assets and depreciation had been allowed in the earlier years, the claim could not be denied in the subsequent year. (AY. 2010-11).

UPS Express P. Ltd. v. Asst. CIT (2025) 129 ITR 381 (Mum.)(Trib.)

S. 32 : Depreciation-Intangible assets-Goodwill-Business acquired on slump sale-Excess consideration representing business commercial rights-Depreciation allowable. 505

The assessee acquired a software business as a going concern under a slump sale. The excess consideration over the value of the net assets acquired was recognised as

goodwill. Although the intellectual property acquired was subsequently transferred to the parent company, the assessee retained and continued to enjoy the business contracts, employees, licences, permits and other commercial rights acquired under the business acquisition. The Tribunal held that the goodwill represented business or commercial rights arising from the acquisition of the entire business and not merely the intellectual property. Once the existence of goodwill was established, depreciation under section 32 could not be denied. Accordingly, the order allowing depreciation on goodwill was upheld. (AY. 2014-15).
Dy. CIT v. Blujay Solutions (India) P. Ltd. (2025) 129 ITR 780 (Hyd.)(Trib.)

506 **S. 32 : Depreciation-Speculation business-No double deduction-Addition deleted.[S.73]**
The Assessing Officer treated depreciation pertaining to the assessee's speculation business as a speculation loss and added it back to the income. The Tribunal held that the depreciation had already been adjusted while computing the normal business income and, therefore, no double deduction had been claimed. The addition was based on an incorrect appreciation of facts and was deleted. (AY. 2014-15).
Asst. CIT v. Kunvarji Finance (P.) Ltd. (2025) 124 ITR 609 / 176 taxmann.com 553 (Ahd.) (Trib.)

507 **S. 32 : Depreciation-Lease transaction-Commercial expediency cannot be questioned-Depreciation allowable.**
The Assessing Officer disallowed depreciation on leased machinery on the ground that the lease transaction lacked commercial justification. The Tribunal held that once the purchase of the machinery and the corresponding lease income had been accepted, the Assessing Officer could not question the assessee's business prudence or deny the statutory deduction under section 32 merely on suspicion. The depreciation was directed to be allowed. (AY. 1992-93).
Growmore Research and Assets Management Ltd. v. Dy. CIT (2025) 125 ITR 44 (Mum.) (Trib.)

508 **S. 32 : Depreciation-Computer accessories-Uninterrupted Power System eligible for 60 per cent. depreciation-Projector not part of computer system-Computer software-Tangible asset-Eligible for depreciation at 60 per cent.**
The Tribunal held that an uninterrupted power system forms an integral part of the computer system and is eligible for depreciation at 60 per cent. However, a projector is an independent electronic device and is not entitled to depreciation at the higher rate applicable to computers. The Tribunal held that computer software is classified as a tangible asset under the block of "Plant" in Appendix I to the Income-tax Rules and is therefore eligible for depreciation at 60 per cent (AY. 2008-09 to 2014-15).
Royal Sundaram General Insurance Co. Ltd. v. Dy. CIT (2025) 123 ITR 507 / 175 taxmann.com 427 (Chennai)(Trib.)

509 **S. 32: Depreciation-Goodwill-Amalgamation-Purchase method-AS 14-Provisions of sixth proviso to s. 32(1), Expln. 7 to s. 43(1) and Expln. 2(b) to s. 43(6) has no applicability to the facts of the case-Amendment made vide Finance Act, 2021, in relation to the allowance of depreciation on goodwill is effective from 1st April, 2021 and is applicable to asst. yr. 2021-22 and subsequent assessment years-Entitled to claim depreciation on goodwill arising on account of amalgamation-Customer relationship or distribution network-existing in the books of the amalgamating company-Fair value of these assets was specifically computed by the independent valuer vide his valuation report-The AO is directed to grant depreciation on "customer relationship" and "distribution network" arising on account of amalgamation. [S. 32(1), 43(1)]**

Assessee having recognised goodwill, i.e., excess amount of consideration over the value of net assets of the amalgamating company, in its financial statements following the provisions of AS-14, is entitled to depreciation on the same under s. 32(1)(ii); since the amalgamating company did not have any goodwill recorded in its books of account or as part of a block of depreciable assets, prior to amalgamation, provisions of the sixth proviso to s. 32(1), Expln. 7 to s. 43(1) and Expln. 2(b) to s. 43(6) has no applicability to the facts of the case. The Tribunal also held that the amalgamating company had a vast network of dealers and an existing diversified customer base, which has facilitated the business of the assessee (amalgamated company) pursuant to the amalgamation, and the fair value of these assets viz., "distribution network" and "customer relationship", has been specifically computed by the independent valuer; depreciation on these assets is allowable. The AO is directed to grant depreciation on "customer relationship" and "distribution network" arising on account of amalgamation. (AY. 2016-17 & 2018-19)

Dow Chemical International (P) Ltd. v. DCIT (2024] 169 taxmann.com 290 / (2025) 234 TTJ 712 (Mum)(Trib)

510 **S. 32 : Depreciation-Amalgamation-Depreciation on goodwill-Matter was remanded to the file of CIT(A) for consideration afresh.[S. 32(1)]**

Tribunal held that CIT(A) had not given any specific finding as assessee failed to provide additional documents such as amalgamation order, pre-amalgamation and post-amalgamation financials, goodwill calculation etc. Accordingly, the issue was remanded to the file of CIT(A) for deciding in accordance with law. (AY. 2013-14, 2014-15)

Dynaspede Integrated Systems (P.) Ltd. v. DCIT (2025) 215 ITD 17 (Chennai) (Trib.)

511 **S. 32: Depreciation-Goodwill-Slump sale-Tangible Assets-Entitled to claim depreciation. [S. 2(42C), 32(1)(ii), 50B]**

Assessee entered into a slump sale transaction with Novartis Health care Pvt Ltd, and excess consideration paid over and above the FMV of tangible assets taken over was classified as goodwill, on which depreciation was claimed. Tribunal held that since assets were put to use for more than 180 days and 'N' did not claim depreciation on such assets, assessee was entitled to claim depreciation at a rate of 100 per cent. (AY. 2016-17)

DCIT v. Glaxosmithkline Consumer (P.) Ltd. [2025] 215 ITD 423 (Chd) (Trib.)

512 **S. 32: Depreciation-POS machine is eligible for depreciation at a rate of 40 per cent-SAP license being a computer software, depreciation on the same was allowable at a rate of 40 per cent.**

Tribunal held that the POS machine was eligible for depreciation at a rate of 60 per cent. Followed *PCIT v. Connaught Plaza Restaurant Pvt. Ltd. [IT Appeal No. 542 of 2016, dated 20-9-2016 (Delhi) HC)*. SAP License, being a computer software, is eligible for depreciation at a rate of 60 per cent or 40 per cent. (AY. 2018-19)

Indian Potash Ltd. v. DCIT (2025) 214 ITD 121 (Delhi) (Trib.)

513 **S. 32: Depreciation-Carry forward and set off-Unabsorbed depreciation as current year's depreciation-Set-off against income under any head, including income from other sources-Provision does not mandate that business be carried on in the relevant year, nor limit adjustment to business income.[S. 32(2), 72]**

Assessing Officer denied set-off of brought forward unabsorbed depreciation from assessment year 2015-16 on the ground that no business was carried out during the relevant assessment year. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that unabsorbed depreciation, by virtue of section 32(2), becomes the current year's depreciation and can be set off against income under any head, including 'income from other sources'. Tribunal also held that the requirement that business must be carried on during the relevant previous year is not a condition precedent for invoking section 32(2), nor does the absence of business income restrict such adjustment. The assessee was entitled to set off brought forward unabsorbed depreciation against income assessed for the year under consideration. (AY. 2016-17)

Parshwanath Land Organisers LLP. v. ITO (2025) 214 ITD 173 (Ahd) (Trib.)

514 **S. 32: Depreciation-Goodwill-Intangible asset-Purchased goodwill as it involves cost and is recognised as an intangible asset in accounting in the successor company-Depreciation allowable.[S. 55]**

Assessee-company had taken over a proprietorship concern and claimed depreciation on goodwill purchased from the erstwhile proprietorship concern. Assessing Officer disallowed depreciation on goodwill on the ground that before succession to assessee-company, the amount of goodwill in the books of proprietorship concern was nil; therefore, goodwill just after taking over of its business by assessee-company had to be nil. CIT(A) upheld the order of the Assessing Officer. On appeal, the Tribunal held that goodwill is an intangible but saleable asset and it is built over years, and the value of acquired goodwill is not recognized in account books but is realised when the business is sold, and is reflected in the firm's selling price by an amount in excess over firm's net worth. Depreciation is an allowable deduction on purchased goodwill as it involves a cost and is recognized as an intangible asset in accounting in the successor company. Since, in instant case, assessee had made a categorical claim that erstwhile proprietorship was enjoying good business goodwill and none of the lower authorities could rebut the same by way of a categorical factual finding, addition made by Assessing Officer by determining cost of goodwill of erstwhile proprietorship concern at nil was unjustified. (AY. 2017-18)

Sagarlaxmi Agriseeds (P) Ltd. v. ACIT (2025) 214 ITD 204 (Ahd) (Trib.)

S. 32 : Depreciation-Lease of factory-Allowed earlier years-Allowed the depreciation. 515
Held that since depreciation claimed by assessee on leased assets was already allowed in earlier years, there was no reason to disallow the same in subsequent years. (AY. 2018-19)
Appasaheb Nalawade Gadhinglaj Sahakari Sakhar Karkhana Ltd. v. ACIT (2025) 213 ITD 569 (Pune) (Trib.)

S. 32: Depreciation-Amalgamation-Goodwill-If consideration paid by the amalgamated company to the amalgamating company is more than the net assets acquired by it, then the differential amount shall be treated as goodwill, and the amalgamated company shall be eligible for a claim of depreciation on such goodwill. [S.2(IB),43(1)] 516
Assessee-company claimed depreciation on goodwill created due to amalgamation of assessee and company MROPL. Assessing Officer disallowed the same. CIT(A) allowed the claim of depreciation. On appeal, the Tribunal held that the NCLT-approved scheme of amalgamation, wherein the revenue had not objected to the valuation report regarding the difference between net acquisition of assets and total consideration, was recorded as goodwill by the assessee at that point in time through the valuation report. Following the decision in Smifs Securities Ltd. v. CIT (2012) 210 Taxman 428 / 348 ITR 302 (SC), the Tribunal held that in case of amalgamation, if consideration paid by the amalgamated company to the amalgamating company is more than net assets acquired by it, then the differential amount shall be treated as goodwill and amalgamated company shall be eligible for claim of depreciation on such goodwill. Order of CIT(A) was affirmed.(AY. 2017-18, 2018-19)
ACIT v. Mcfills Enterprises (P.) Ltd. (2025) 213 ITD 573 (Ahd) (Trib.)

S. 32: Depreciation-Amalgamation-Goodwill-Excess of consideration over net assets-Depreciation on goodwill allowable. 517
Held that the assessee-company entered into a scheme of amalgamation with the company, BEIPL and as per the scheme, the excess of consideration discharged by the assessee over the amount of net assets of BEIPL was recognised as goodwill in the books of the assessee, and depreciation on goodwill was allowable. (AY. 2016-17)
Bakeri Projects (P.) Ltd. v. DCIT (2025) 215 ITD 289 (Ahd) (Trib.)

S. 32 : Depreciation-Intangible asset-Non-refundable deposit for rights to operate and manage hospital-Eligible for depreciation-Depreciation allowed in earlier years cannot be denied in subsequent years.[S. 32(1)((ii)] 518
The assessee paid a non-refundable deposit of ₹ 25 crores to acquire rights to operate and manage Nanavati Hospital and claimed depreciation treating the payment as an intangible asset u/s 32(1)(ii). The AO disallowed the claim. The CIT(A) found depreciation had been allowed in earlier years on WDV and deleted the disallowance. The Tribunal upheld the CIT(A), relying on *Bangalore International Airport Ltd. v. DCIT [2023] 457 ITR 229 (Kar)(HC)*, holding that such rights are intangible assets eligible for depreciation. Once allowed in earlier years, depreciation cannot be denied in subsequent years unless facts change. (AYs 2016-17 to 2018-19) (ITA Nos. 3083-3085/Mum/2025, dt. 11-8-2025)
Max Hospitals and Allied Services Ltd. v. DCIT, (Mum)(Trib) www.itatonline.org

519 **S. 32 : Depreciation-Not claimed-Commercial manner-As per Explanation 5 to section 32(1), depreciation was to be allowed while computing its income in a commercial manner. [S.11, 12, 12A, 32(1)]**

Held that though the assessee society had not claimed depreciation on its fixed assets in its return of income, yet, as per Explanation 5 to section 32(1), depreciation was to be allowed while computing its income in a commercial manner. (AY. 2017-18)

Vidya Kunj School v. ITO (2025) 211 ITD 11(SMC) (Raipur) (Trib.)

520 **S. 32 : Depreciation-Amalgamation-Intangible assets-Depreciation on patented technology-Order of CIT(A) deleting the depreciation is affirmed.**

Assessee-company is engaged in business of manufacturing and trading of high tech machinery and technology. During year, a company merged with assessee company on direction of High Court and all of its assets and liabilities were transferred to assessee which included patented technology. Assessee, accordingly, declared same as value of its assets and claimed depreciation. Assessing Officer disallowed depreciation on ground that there was no documentary evidence of expenditure incurred by amalgamating company on development of patented technology and valuation report of valuer could not be a basis to allow such expenditure. The AO disallowed the depreciation. CIT(A) allowed the depreciation. Tribunal held that once value of patented technology had been approved by High Court as part of scheme of amalgamation, then it could not be doubted or rejected by revenue authorities. Order of CIT(A) is affirmed. (AY. 2015-16)

DCIT v. United Drilling Tools Ltd. (2025) 210 ITD 632 (Delhi) (Trib.),

521 **S. 32 : Depreciation-Goodwill-Amalgamation of companies-Excess purchase consideration over net assets recorded as goodwill-Fallacy of Assessing Officer in treating goodwill as transferred from amalgamating to amalgamated company-Goodwill generated only as result of amalgamation, not asset transferred-Statutory provisions relied on inapplicable-Goodwill created as result of amalgamation allowable for depreciation-Appellate Tribunal-Scheme of amalgamation-National Company Law Tribunal's order approving amalgamation attaining finality-Revenue ought to redress grievance before appropriate forum-Having failed to do so, cannot raise ground before Tribunal. [S. 254(1)]**

Held that Goodwill generated only as a result of amalgamation is not an asset; transferred goodwill created as a result of amalgamation is allowable for depreciation-Appellate Tribunal. National Company Law Tribunal's order approving amalgamation attaining finality. Revenue ought to redress grievance before appropriate forum; having failed to do so, cannot raise ground before Tribunal. (AY. 2016-17, 2017-18)

Suzlon Energy Ltd v. Dy. CIT (2025) 131 ITR 737 (Ahd) (Trib)

522 **S. 32AC: Investment in new plant or machinery-Computers used in the business of development of computer software-Eligible for investment allowance-Remanded for verification.**

Held that the Computers installed by the assessee for the purpose of development of software are eligible for investment allowance under the provisions of s. 32AC. The issue is set aside for the AO to allow the claim of the assessee only if the new

computers were installed for the purpose of the business of the development of computer software, and not as office appliances. (AY.2016-17)
Bosch Global Software Technologies (P) Ltd. v. ACIT (2025) 235 TTJ 807 / 174 taxmann.com 76 (Bang) Trib)

S. 35 : Expenditure on scientific research-Agreement was granted on 17-6-2009 from 1-4-2007-Order of the High Court affirming the disallowance is affirmed-SLP dismissed earlier and refiled once again by a delay of 1251 days is also dismissed. [S. 35(2AB), Art. 136] 523

Assessee-company had two in-house (R & D) facilities. Assessee was granted approval by the Department of Science and Industrial Research (DSIR) on 17-6-2009 from 1-4-2007 to 31-3-2010. Assessee claimed weighted deduction under section 35(2AB) pertaining to capital and revenue expenditure incurred in respect of said R & D facilities during the relevant assessment years 2006-07 and 2007-08. Assessing Officer disallowed the claim on the ground that the agreement was entered into by assessee with DSIR as per clause (3) of section 35(2AB) on 21-8-2008; therefore, assessee was not entitled to claim weighted deduction under section 35(2AB) during relevant years. Tribunal affirmed the order of the Assessing Officer. On appeal, the High Court held that since an agreement as per section 35(2AB)(3) was a condition precedent for the purpose of claiming deduction and this condition was met by the assessee only on 21-8-2008 and, further, approval was granted to the R & D unit of the assessee on 17-6-2009 from 1-4-2007, denial of weighted deduction during relevant assessment years was justified. SLP of assessee dismissed on account of the delay of 1251 days. (AY. 2006-07, 2007-08)
Apollo Tyres Ltd. v. ACIT (2025) 307 Taxman 170 (SC)
Editorial : Apollo Tyres Ltd. v. ACIT(2022) 284 Taxman 687 (Ker)(HC)

S. 35 : Expenditure on scientific research-Matter was pending before competent Authority-Order of the Tribunal allowing the deduction was set aside. [S. 35(1)(v), 260A] 524

Allowing the appeal of the revenue, the Court held that when the matter was pending before competent Authority-Order of the Tribunal allowing the deduction was set aside. (AY. 1996-97)
CIT v. Ramco Cements Ltd. [2025] 481 ITR 705 / 173 taxmann.com 226 (Mad)(HC),

S. 35 : Expenditure on scientific research-Weighted deduction under section 35(2AB) is not allowable in the absence of approval of the in-house research facility and prescribed statutory compliances. [S. 35(1)(iv), 35(2AB)] 525

The assessee claimed weighted deduction under section 35(2AB) in respect of research and development expenditure without establishing that its in-house research facility had been approved by the prescribed authority or that the prescribed statutory forms had been filed. The Tribunal held that, in the absence of the mandatory approval and statutory compliance, the assessee was not entitled to weighted deduction under section 35(2AB). The alternate claim under section 35(1)(iv) was also rejected as the assessee failed to establish that the capital expenditure had been incurred for scientific research. (AY 2010-11 to 2012-13)
Anil Ltd. (formerly Anil Products Ltd.) v. Dy. CIT (2025) 130 ITR 351 (Ahd.)(Trib.)

526 **S. 35 : Expenditure on scientific research-Weighted deduction-Clinical trial expenditure necessarily incurred outside an in-house facility due to the requirement of cooperation from doctors, hospitals, volunteers and patients-Approval granted by DSIR in Form 3CL-Entitled to weighted deduction. [S. 35(2AB), R. 6(7A)]**

Held that since clinical trials by their very nature necessarily require cooperation from doctors, hospitals, volunteers and patients outside the research facility, and the DSIR had granted approval in Form 3CL for such expenditure, the assessee, following the ITAT's decision for earlier years on identical facts, was entitled to weighted deduction under section 35(2AB). (AY.2018-19)

Aurobindo Pharma Ltd v. Asst. CIT (2025) 131 ITR 15 (Hyd.)(Trib)

527 **S. 35: Expenditure on scientific research-Approval by prescribed authority-The deduction as claimed by the assessee under s. 35(2AB) is to be allowed-Prior to the amendment of R. 6, the provision of S 35(3) did not provide for referring to DSIR for determining the amount of expenditure eligible for deduction. [S.35(2AB), 35(3), R.6 (7A)]**

Held that once the R & D facility was approved by DSIR by issuing Form No. 3CM, the expenses incurred by the assessee have to be allowed under s. 35(2AB); quantification of expenditure has been prescribed by amending r. 6(7A) w.e.f. 1st July, 2016, only; prior to this amendment, no such power was with DSIR. Deduction under S. 35(2AB) has to be allowed on the basis of expenditure as recorded by the assessee in the books of account. (AY. 2011-12 to 2014-15)

E.I.D. Parry India Ltd. v. DCIT (2025) 235 TTJ 485 (Chennai)(Trib)

528 **S. 35: Expenditure on scientific research-Allocation of common expenses to tax-exempt units-Eligible undertaking-Separate books and verifiable entries-Disallowance is not sustainable. [S.10AA, 80IC, 80IE]**

Held that the assessee has maintained separate books of account for each unit, eligible for deduction under S. 10AA, 80-IC and 80-IE and the in-house R&D expenditure was incurred at a centralised R&D facility; the disallowance made by the AO by allocating a portion of common research and development expenses to the said tax-exempt units is not sustainable. (AY. 2015-16)

ACIT v. Intas Pharmaceuticals Ltd. (2025) 236 TTJ 550/ 174 taxmann.com 867 (Ahd)(Trib)

529 **S. 35 : Expenditure on scientific research-Approval of DSIR-In the absence of any statutory requirement for the DSIR to quantify or approve each expense prior to 1st July, 2016, the claim of weighted deduction under S. 35(2AB) cannot be restricted to the amount mentioned in Form No. 3CL. [S. 35(2AB]**

Held that in the absence of any statutory requirement for the DSIR to quantify or approve each expense prior to 1st July, 2016, the claim of weighted deduction under s. 35(2AB) cannot be restricted to the amount mentioned in Form No. 3CL; since the other expenditure was incurred by erstwhile CB Ltd., which has merged with the assessee-company and was granted recognition by DSIR, the said expenditure is eligible for weighted deduction under s. 35(2AB).(AY. 2015-16)

ACIT v. Intas Pharmaceuticals Ltd. (2025) 236 TTJ 550/ 174 taxmann.com 867 (Ahd)(Trib)

S. 35 : Expenditure on scientific research-Non-submission of Form No. 3CL-Weighted deduction not allowable-Allowable as a deduction under S 35(1)(i) and 35(1)(iv). [S. 35(1), 35(1)(iv), 35(2AB)] 530

Held that the assessee having not produced Form No. 3CL, claim of weighted deduction under s. 35(2AB) is not allowable. However, the expenditure is allowable as a deduction under S. 35(1)(i) and 35(1)(iv). (AY.2020-21)

Laxmi Organic Industries Ltd. v. DCIT (2025) 237 TTJ 268 / 177 taxmann.com 118 (Mum) Trib)

S. 35 : Expenditure on scientific research-Normal deduction under section 35(1) not dependent upon DSIR quantification-Weighted deduction restricted to expenditure approved by DSIR. [S. 35(2AB), 37(1) R.6(7A)] 531

The Tribunal held that quantification by the Department of Scientific and Industrial Research (DSIR) is not a condition precedent for allowing deduction under section 35(1). However, for claiming weighted deduction under section 35(2AB), the substituted rule 6(7A) requires quantification by the prescribed authority and operates as a valid machinery provision. Accordingly, the assessee was entitled to normal deduction under section 35(1), but weighted deduction under section 35(2AB) was restricted to the expenditure approved by the DSIR. (AY. 2018-19).

Mankind Pharma Ltd. v. Dy. CIT [2024] 162 taxmann.com 235 / (2025) 125 ITR 263 (Delhi)(Trib.)

S. 35: Expenditure on scientific research-Approval was granted by DSIR during the previous year-Entitled to claim weighted deduction in respect of entire expenditure incurred under section 35(2AB)[S.35(2AB)] 532

Held that approval having been granted by DSIR to assessee during the previous year, assessee would be entitled to claim weighted deduction in respect of entire expenditure incurred under section 35(2AB). (AY. 2016-17)

DCIT v. Anand NVH Products (P.) Ltd. (2025) 215 ITD 98 (Delhi) (Trib.)

S. 35: Expenditure on scientific research-Business expenditure-Withdrew higher claim-Entitled to 100% deduction of revenue expenses under section 35(1)(i) and depreciation on R&D assets under section 32(1).[S. 32(1), 35(1)(i), 35(2AB), 43(4), Form 3CL] 533

Assessee-company, engaged in manufacturing intermediates and speciality chemicals, claimed a weighted deduction under section 35(2AB) at 150 per cent of scientific research expenditure. Assessee furnished DSIR approval in Form 3CM and a CA report in Form 3CLA, but could not furnish DSIR Form 3CL as DSIR did not process issuance for non-submission of prescribed details. During assessment, it withdrew the section 35(2AB) claim and requested allowance of 100 per cent deduction of revenue expenditure and depreciation on R&D assets. Assessing Officer disallowed the entire claim under section 35(2AB) and declined the alternative claim, holding that any additional claim could be made only by filing a revised return, that expenditure had been claimed for scientific research and not for business, and that scientific research was not assessee's business. CIT(A) affirmed the order of the CIT(A). On appeal the Tribunal held that since research conducted by assessee satisfied definition of 'scientific research related to business' as prescribed in section 43(4)(iii) for purpose of section

35(1)(i), assessee was entitled to 100 per cent deduction of revenue expenses under section 35(1)(i) and appropriate amount of depreciation under section 32(1) for capital expenses. However, since complete details of various expenses incurred by the assessee were either not filed before the Assessing Officer or had not been examined by the Assessing Officer, the matter was to be remanded to the Assessing Officer for factual examination of documents/evidence of expenses. (AY. 2018-19)

Malwa Oxygen & Industrial Gases (P.) Ltd. v. ITO NFAC, Delhi (2025) 215 ITD 503 (Indore) (Trib.)

534 **S. 35: Expenditure on scientific research-Entitled to claim deduction under S. 35(2AB) even in respect of expenditure incurred prior to approval date, i.e. from 1-4-2019. [S.35(2AB]**

Where the competent authority granted approval under S. 35(2AB) on 23-10-2020 for the period 25-10-2019 to 31-3-2020, since the R&D facility of assessee had already been approved by DSIR, the assessee was entitled to claim a deduction under S. 35(2AB) even in respect of expenditure incurred prior to the approval date, i.e. from 1-4-2019. (AY. 2020-21)

Kaisha Lifesciences P. Ltd. v. Dy. CIT (2025) 123 ITR 589/ 172 taxmann.com 48 (Mum) (Trib.)

535 **S. 35 : Expenditure on scientific research-Business expenditure on in-house R&D facility-Claimed weighted deducted-AO denied as Form 3CL was missing-Held, post amendment, Form 3CL is a requisite for claiming deduction under S. 35(2AB)-Not entitled to deduction. [S.35(2AB]**

The Assessee claimed a weighted deduction of 150 per cent of its scientific research expenditure under s. 35(2AB) of the Act. However, the AO required the Assessee to submit Form 3CL, which the DSIR had not issued. The AO held that without Form 3CL, the deduction cannot be claimed. The CIT (A) made slight modification only by noting that AO made excessive disallowance of 200 per cent. On Appeal, the ITAT observed that the position of law as prevailing in A.Y. 2018-19 is that, furnishing of Form 3CL by DSIR is a prerequisite to claim the weighted component of deduction under s. 35(2AB) of the Act as Rule. 6(7A) (b) of the IT Rules got amended in 2016. The ITAT held that the AO was right in denying the claim. However, the matter was remanded back to the AO to consider the alternate claim of deduction under s. 35(1)(i) of the Act. (AY. 2018-19]

Ashok Leyland Ltd. v. ACIT (2025) 234 TTJ 372/ 172 taxmann.com 42 (Chennai)(Trib)

536 **S. 35 : Expenditure on scientific research-Bogus Donation-IMSRF was not notified under section 35(1)(ii), deduction claimed by assessee was disallowed-Reopening of assessment was affirmed.[S.35(1)(ii), 147, 148]**

During the year, assessee made a donation of a certain amount to one IMSRF, a charitable trust, and claimed a deduction on the same under section 35(1)(ii). Assessing Officer disallowed on the ground that the institution to which the donation was made was not recognised by CBDT. Tribunal affirmed the order of the Assessing Officer. The

Tribunal also affirmed the reopening of the assessment on the basis of information from DDI (Investigation.) (AY. 2004-05)
Vardhman Polytex Ltd. v. ACIT (2025) 213 ITD 594 (Chd) (Trib.)

S. 35 : Expenditure on scientific research-Capital expenditure-Outside India-Not eligible for weighted deduction under section 35(2AB)-Eligible for deduction under section 35(1)(iv) of the Act.[S. 35(1)(iv), 35(2AB)] 537
Assessing Officer disallowed claim of weighted deduction under section 35(2AB) on capital expenditure incurred on R&D facilities availed from its AEs to extent of R&D expenditure incurred outside India. DRP affirmed the order of the AO. On appeal the Tribunal held that since R&D facilities for which assessee incurred costs outside India were neither on in-house R&D facility of assessee nor approved by prescribed authority, same could not be granted weighted deduction under section 35(2AB); however, said R&D expenditure incurred outside India is eligible for deduction under section 35(1)(iv) of the Act. (AY. 2012-13)
Mahle Behr India (P.) Ltd. v. DCIT (2025) 211 ITD 485 (Pune) (Trib.)

S. 35AC: Expenditure on eligible projects or schemes-Donations-Had valid approval at the time of payment-Information from Investigation wing-No evidence that donation was bogus or returned cash-Subsequent withdrawal of approval or cancellation of registration under section 12AA(3) could not justify disallowance of deduction under section 35AC of the Act. [S.12AA(3), 35AC(6), 131, 132, 143(3), 147, 148] 538
Assessee-company claimed deduction under section 35AC for donations made to NCT, a charitable trust. Assessing Officer reopened the assessment based on Investigation Wing information, alleging that the donation was not genuine. Assessing Officer on perusal of search findings noted that trust was in receipt of a donation from various parties through the banking channel, and the donation was returned to the parties as payment of expenses. He also noted that there was a subsequent withdrawal of section 35AC recognition of trust and cancellation of registration under section 12AA(3). On this basis, the Assessing Officer disallowed the claim of deduction under section 35AC. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that the donee-trust enjoyed approval under section 35AC from the financial year 2010-11 onwards till withdrawal of the same by a notification issued by the department dated 30-11-2016. Furthermore, donation by assessee was made in the financial years 2011-12 and 2012-13 and at the relevant time, the trust was having the requisite valid approval. Thus, disallowance of claim of deduction under section 35AC in the hands of assessee could not have been made without establishing that it had made a bogus donation and money was received back in cash. Accordingly, the addition on account of the disallowance of the deduction claimed under section 35AC was deleted. (AY. 2012-13, 2013-14)
Raman and Weil (P.) Ltd. v. DCIT (2025) 215 ITD 514 (Mum) (Trib.)

S. 36(1)(iii) : Interest on borrowed capital-Investment company-Commercially expedient-Difference between interest received and paid by assessee for purpose of business-Deletion of disallowance was affirmed-SLP dismissed. [S. 37(1), Art. 136] 539
Assessee is engaged in business of finance and investment. It adopted cash system of accounting. Assessee borrowed capital from its group concerns and paid interest at lower

rate. It claimed deduction of interest paid on borrowed capital under section 36(1)(iii). Assessing Officer on basis of 'matching principles' made disallowance on account of difference between interest received and paid by assessee. Tribunal deleted the addition. On appeal the Court held that when cash system of accounting was adopted by assessee, an investment company, whose business was only to borrow and lend or invest, interest paid by assessee on amount taken for utilising it for further lending was said to be in business interest or commercially expedient for purpose of business. SLP dismissed. (AY. 2015-16)

CIT v. Shriram Investments (2025) 481 ITR 26/(2026) 308 Taxman 78 (SC)

Editorial : CIT v. Shriram Investments (2022) 289 Taxman 315 / (2025) 481 ITR 16 (Mad)(HC)

540 **S. 36(1)(iii) : Interest on borrowed capital-Land was used for agricultural purposes-High Court held that since there was no evidence to show that land was used for purpose of business of assessee, interest paid in respect of loan borrowed for purchasing said land could not be allowed as a deduction-SLP filed against order of High court was dismissed as withdrawn.[Art. 136]**

Assessee was engaged in business of asset management services. It had acquired a land for purpose of business by taking a loan Assessing Officer disallowed interest paid by assessee on loan on ground that loan amount was used by assessee for purchasing land which was an agricultural land and on which assessee had cultivated tapioca. High Court held that land was shown as a business asset in balance sheet of company but said land was used for agricultural purposes, which yielded agricultural income. High Court held that since there was no evidence to show that land was used for purpose of business of assessee, interest paid in respect of loan borrowed for purchasing said land could not be allowed as a deduction under section 36(1)(iii). SLP filed against order of High court was dismissed as withdrawn (AY. 2012-13)

Mini Muthoottu Credit India (P.) Ltd. v. CIT (2025) 305 Taxman 415 (SC)

Editorial : Mini Muthoottu Credit India (P.) Ltd. v. CIT (2024) 162 taxxmann.com 46 (Ker)(HC)

541 **S. 36(1)(iii) : Interest on borrowed capital-Advance to subsidiary-Share application money without charging interest-Commercial expediency and in normal course of its business activities-High Court affirmed the order of Tribunal-Delay of 295 days in filing SLP which had not been satisfactorily explained by revenue-SLP dismissed on ground of delay and question of law, if any, would be kept open.[Art. 136]**

Assessee had borrowed funds on which interest was paid, and advanced same to its subsidiary as share application money without charging interest. Assessing Officer held that funds were diverted for non-business purposes, and therefore disallowed interest under section 36(1)(iii) along with upfront fee paid for obtaining loan. Commissioner (Appeals) and Tribunal held that share application money advanced to subsidiary was for business purpose and investment was commercially expedient, given high telecom sector valuation and assessee's 64% stake. It was further held that since assessee would benefit from subsidiary's growth, interest and upfront fee on borrowed funds used for this purpose were allowable under section 36(1)(iii) and board had approved transaction

as part of normal business activity High Court held that both Commissioner (Appeals) as well as ITAT had come to a factual finding and law was also clear that if an assessee for commercial expediency and in normal course of its business activities takes loan to invest in shares of its subsidiary, in such circumstances, interest paid on those advances utilized would be allowable expenditure under Section 36(1)(iii). There was delay of 295 days in filing SLP which had not been satisfactorily explained by revenue. SLP dismissed on ground of delay and question of law, if any, would be kept open.(AY. 2008-09)

PCIT v. Videocon Industries Ltd. (2025) 305 Taxman 561 (SC)

Editorial : PCIT v. Videocon Industries Ltd(2025) 175 taxmann.com 239 (Bom)(HC)

S. 36(1)(iii) : Interest on borrowed capital-Advance to subsidiary-Share application money without charging interest-Commercial expediency and in normal course of its business activities-High Court affirmed the order of Tribunal.[S. 260A] 542

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PCIT v. Videocon Industries Ltd(2025) 175 taxmann.com 239 (Bom)(HC)

Editorial : PCIT v. Videocon Industries Ltd. (2025) 305 Taxman 561 (SC), SLP of revenue was dismissed on account of delay of 295 days as well as on merits.

S. 36(1)(iii) : Interest on borrowed capital-Used for purpose of business-Acquiring interest-Allowable as deduction. [S 260A] 543

Dismissing the appeal of the Revenue the Court held circular trading entered into by the assessee solely with the idea of evading tax by acquiring the shares through finances arranged mainly from sister companies of the group, along with two other companies to enable the group to acquire and take over the business of Ahmedabad Electricity Co Ltd. The interest was rightly held to be deductible. No question of law arose from the order. (AY. 1997-98)

CIT v. Ashini Lease Finance Pvt. Ltd.(2025) 482 ITR 81 (Guj)(HC)

S. 36(1)(iii) : Interest on borrowed capital-Borrowed capital had been used for purchase of agricultural land-Interest not deductible.[S. 10(1), 14A,260A] 544

Assessee was engaged in the business of asset management services. It had acquired land for purpose of business by taking a loan. Assessing Officer disallowed interest paid

by assessee on loan on ground that loan amount in question was used by assessee for purchasing land which was an agricultural land and on which assessee had cultivated tapioca. Though land in question was shown as a business asset in balance sheet of company but said land was used for agricultural purposes, which yielded agricultural income. Court held that since there was no evidence to show that land was used for purpose of business of assessee, interest paid in respect of the loan borrowed for purchasing said land could not be allowed as a deduction. Order of Tribunal affirmed. (AY. 2012-13)

Mini Muthoottu Credit India Pvt. Ltd. v. CIT [2024] 162 taxmann.com 46 / (2025) 482 ITR 338 (Ker)(HC)

Editorial: SLP of assessee dismissed, Mini Muthoottu Credit India Pvt. Ltd. v. CIT (2025] 305 Taxman 415 (SC)

545 **S. 36(1)(iii) : Interest on borrowed capital-Installation of cell site towers Provision did not contemplate distinction between capital borrowed for revenue or capital purpose-Expansion of business-Matter remanded to Assessing Officer to examine aspects pertaining to common pool of funds as framed by Tribunal and cell sites actually brought into use. [S. 37(1), 260A]**

Held that the phrase "extension of existing business" came to be introduced in the statute on the basis of the Finance Bill, 2003 ((2003) 260 ITR (St.) 36). The words in the Explanatory Memorandum state the underlying objective of its insertion ((2003) 260 ITR (St.) 191, 207). The question whether the Tribunal erred in holding that installation of cell site towers amounted to "extension of existing business" as stipulated in the proviso to section 36(1)(iii) thereby warranting proportionate disallowance of interest under that provision had to be evaluated on an independent evaluation of the scheme of section 36(1)(iii) read along with the proviso and the legislative intendment underlying the insertion of that amendment in the Act. It would be imprudent and unwise to base the answer solely on the purported difference on the usage of word "extension" in section 36(1)(iii) as contrasted with "expansion" as appearing in other parts of the statute. Matter remanded to Assessing Officer to examine aspects pertaining to common pool of funds as framed by Tribunal and cell sites actually brought into use.(AY. 2019-20)

Vodafone Mobile Services Ltd. v. Dy. CTT (2025) 476 ITR 80 / 304 Taxman 285 / 345 CTR 137 / 251 DTR 9 (Delhi)(HC)

546 **S. 36(1)(iii) : Interest on borrowed capital-Percentage of completion method for recognizing the revenue-ICDS IX provisions are not applicable to asst. yr. 2014-15. There is no provision in s. 36(1)(iii) to apportion the interest cost between the work-in-progress and the sales-Interest allowable as deduction.**

Tribunal held that since the ICDS provisions are not applicable to asst. yr. 2014-15, the AO was not at all justified in making the disallowance based on the said provisions; further, interest expenditure being a period cost, the same has to be allowed in the year in which it has been incurred notwithstanding that the assessee is following percentage of completion method for recognizing its revenue; there is no provision in s. 36(1)(iii) to apportion the interest cost between the work-in-progress and the sales. (AY.2014-15 & 2016-17)

DCIT v. Kolte Patil Integrated Townships Ltd. (2025) 235 TTJ 113 / (Pune)(Trib)

S. 36(1)(iii) : Interest on borrowed capital-Interest-free loans given to related concerns-Nexus between borrowed funds and loans advanced not established-Presumption that funds advanced first out of interest-free funds available-Disallowance not justified. 547

The assessee, engaged in printing and publication of newspapers, faced disallowance of interest expenses under section 36(1)(iii) on the ground that interest-free loans were given to group concerns out of borrowed funds, disallowance of one-third of brand relaunch expenses treating them as capital in nature. On appeal, the Tribunal held that in the absence of AO establishing a nexus between borrowed funds and the interest-free advances, a presumption arose that the advances were made out of the assessee's own interest-free funds, and the disallowance under section 36(1)(iii) was deleted.(AY. 2010-11to 2012-13)

Express Publications (Madurai) P. Ltd. v. DCIT (2025) 132 ITR 519(Chennai) (Trib.)

S. 36(1)(iii) : Interest on borrowed capital-Business expenditure-Interest-free advances to land co-owners-Advances towards co-owners' share of project consideration-Disallowance deleted. [S.37(1)] 548

The Assessing Officer disallowed interest on the ground that the assessee had borrowed funds at interest while advancing interest-free amounts to land co-owners. The Tribunal held that the advances represented amounts payable to the co-owners towards their share of the project consideration and for another upcoming project. There was, therefore, no question of charging interest from the co-owners and the interest disallowance was rightly deleted. (AY. 2018-19).

ITO v. Harmony Vinimay (P.) Ltd. (2025) 123 ITR 458 / 174 taxmann.com 1239 (Kol.)(Trib.)

S. 36(1)(iii) : Interest on borrowed capital-Business expenditure-Loans to sister concerns-Consistent view in earlier years-Disallowance deleted.[S. 37(1)] 549

The Assessing Officer disallowed interest alleging diversion of borrowed funds towards interest-free loans advanced to group concerns. The Tribunal held that identical disallowances in the assessee's own case had been deleted in earlier assessment years and there was no change in the factual position. Following the earlier orders, the disallowance of interest was deleted. (AY. 2003-04, 2006-07 & 2011-12 to 2015-16).

SIEL Ltd. v. Dy. CIT (LTU) (2025) 123 ITR 599 / 173 taxmann.com 278 (Delhi)(Trib.)

S. 36(1)(iii): Interest on borrowed capital-Commercial expediency-Interest allowed in earlier year-The principle of commercial expediency applied mutatis mutandis to the corresponding portion, and such disallowance was not warranted.[S. 251] 550

Tribunal held that the principle of commercial expediency should apply mutatis mutandis to the year under consideration for investment carried forward to Assessment Year 2017-18 and accordingly, the Assessing Officer was directed to apply the principle of commercial expediency to said portion of investment and delete the corresponding disallowance under section 36(1)(iii). As far as other investments which were not covered in terms of commercial expediency, the issue was to be restored to the file of the Assessing Officer for limited verification of disallowance under section 36(1)(iii). (AY. 2016-17)

Kausalya Agro Farms and Developers (P.) Ltd. v. ITO (2025) 215 ITD 401 (Hyd) (Trib.)

551 **S. 36(1)(iii): Interest on borrowed capital-Addition was based on mere guesswork and surmises, and the same was deleted.**
Tribunal held that t since the Assessing Officer had not made any inquiry to justify the addition and no examination was conducted regarding the genuineness of the submission made by the assessee, the addition was based on mere guesswork and surmises, and the same was deleted.(AY. 2017-18)
Khandelwal Industries v. ITO (2025) 215 ITD 667 (Raipur) (Trib.)

552 **S. 36(1)(iii): Interest on borrowed capital-Commercial expediency-Disallowance is deleted.[S.37(1)]**
Where the assessee borrowed funds in his individual capacity and advanced the same to a private limited company in which the assessee was also a director and shareholder, in the absence of any instance of diversion of funds, interest claimed under S. 36(1)(iii), which was part of the audited books of account, could not be disallowed. (AY.2018-19)
Ravindra Madanlal Khandelwal v. Dy. CIT [2024] 169 taxmann.com 457/ (2025) 123 ITR 660/ 234 TTJ 57(UO) (Nagpur)(Trib.)

553 **S. 36(1)(iii): Interest on borrowed capital-Advances to group concerns at lower interest-No disallowance if assessee's own funds exceed interest-free advances-Nexus established between borrowings and business use-Ad hoc disallowance based on average rate unjustified-Addition is deleted. [S. 40A(2)(b)]**
The assessee, engaged in the distribution of alcoholic and non-alcoholic beverages, had borrowed funds from various parties and paid interest ranging from 19.25% to 28% per annum, while advances to certain group concerns were made at lower rates of interest ranging from 0% to 15%. The Assessing Officer, observing that the assessee had charged lesser interest on the advances, made an ad hoc disallowance under S. 36(1)(iii) based on a notional average interest rate of 13.5% and further disallowed interest on borrowings under S. 40A(2)(b). The Tribunal, allowing the appeal, held that the assessee had demonstrated through books of account and bank records that the borrowed funds were used for business purposes across its divisions. The balance sheet reflected own funds (share capital and reserves) far in excess of the interest-free loans given, thereby establishing that such loans were not out of interest-bearing borrowings. Tribunal held that it is a settled principle that when sufficient own funds are available, and interest-bearing funds are not diverted for interest-free advances, no disallowance under S. 36(1)(iii) can be sustained. The disallowance confirmed by the CIT(A) was accordingly deleted. (AY. 2014-15)
Milestone Merchandise P. Ltd. v. ACIT (2025) 122 ITR 186 (Mum)(Trib.)

554 **S. 36(1)(iii): Interest on borrowed capital-sufficient non-interest-bearing funds-car loan-disallowance of interest is not justified.**
Held that the assessee had used borrowed funds for giving interest-free loans and advances. Disallowance of interest was deleted.(AY. 2011-12)
Patidar Builder (P.) Ltd. v. Assessing Officer (2025) 214 ITD 77 (Indore) (Trib.)

S. 36(1)(iii) : Interest on borrowed capital-Share application money-Sister concern-Disallowance of interest is not justified-Borrowed money-transferred to sister concern. The Assessing Officer was directed to levy interest; however, only for the actual period of the loan, i.e., for one day. 555

Held that the sum given by assessee to its sister concern was an investment in another group company by way of share application money and not a loan. Disallowance of interest is not justified. Where borrowed money was transferred to a sister concern. The Assessing Officer was directed to levy interest; however, only for the actual period of the loan, i.e., for one day. (AY. 2016-17)

Kamineni Health Services (P.) Ltd. v. ACIT (2025) 213 ITD 130 (Hyd) (Trib.)

S. 36(1)(iii): Interest on borrowed capital-Limited scrutiny-Funds invested in short-term deposits-Assessing Officer had travelled beyond the limited scrutiny parameters for which the case was selected-Addition was deleted. [S. 143(3)] 556

Held that the Assessing Officer had travelled beyond the limited scrutiny parameters for which the case was selected; hence, the addition was legally impermissible, and the Assessing Officer was directed to delete the addition made under section 36(1)(iii). (AY. 2015-16)

ACIT v. B.K. Sales Corporation (2025) 213 ITD 559 (Delhi) (Trib.)

S. 36(1)(iii): Interest on borrowed capital-Working capital loan-Interest-free loans were advanced in earlier years-Interest paid on working capital loan cannot be disallowed. 557

Held that during the year under consideration, assessee had not advanced any interest-free loan to its subsidiary companies and all interest-free loans were granted in preceding years, no disallowance could be made under section 36(1)(iii) on account of interest paid on working capital loan. (AY. 2017-18)

Laqshya Media Ltd. v. ACIT (2025) 213 ITD 588 (Mum) (Trib.)

S. 36(1)(iii) : Interest on borrowed capital-Interest-free advances given to farmers-Commmercial expediency-Allowable as deduction. 558

Held that interest-free advances to farmers, so that they are tied up with the assessee and they keep their crops in the cold storage of the assessee from which it can earn rent, it has to be accepted that the assessee has given said interest-free advances out of commercial expediency and therefore, the disallowance of interest paid by the assessee to the bank is not sustainable. Followed, *S.A. Bilders Ltd. v. CITYA) & Anr. (2006) 206 CTR 631 (SC).* (AY. 2011-12)

Girraj Cold Storage (P) Ltd v. ITO (2025) 174 taxmann.com 342/ 233 TTJ 41 (UO) (SMC) (Agra)(Trib)

S. 36(1)(iii) : Interest on borrowed capital-Interest on customer advances-Advances received from customers were utilized for business purposes as per MOU-Addition is deleted. 559

Assessee is engaged in business of construction and sale of residential and commercial plots. It collected advances from customers for property sales in terms of MOU and paid interest on these advances in case of delayed delivery of flats. Assessing Officer held

that assessee had non-current investments and was of view that interest-bearing funds were diverted for non-business purposes. Accordingly, disallowed finance charges being interest paid on advances. CIT(A) affirmed the order of the AO. On appeal, the Tribunal held that since assessee had proved that funds received from customers as advances were utilized for business purposes, is allowable as a deduction. (AY. 2016-17, 2017-18)
Ujwala Developers (P.) Ltd. v. DCIT (2025) 211 ITD 738 // 234 TTJ 25 (UO) (Hyd) (Trib.)

560 **S.36(1)(iii): Interest on borrowed capital-Interest on ICDs used for giving interest-free security deposit for getting the premises on leave and license-Business purpose-Interest is allowed as deduction. [S. 37(1)]**
The assessee had taken an office premises on leave and license by providing an interest-free security deposit, funded partly through Inter Corporate Deposits (ICDs) on which interest was paid. The AO disallowed the deduction of interest expense on the security deposit under section 36(1)(iii). CIT(A) allowed the claim of the aassessee. On appeal the ITAT upheld the CIT(A) order stating that the transaction was genuine, commercially prudent and not with a related party. Since the higher deposit ensured lower rent and a pre-emptive right to purchase the property, it can be said to be used for business purposes. Further, it held that the AO could not question the business decision of the assessee as long as the business purpose was established. (ITA No. 1389/ 1396 / Mum/2025 dt. 28-5 2025) (AY.2013-14, 2014-15)
ACIT v. JM Financial Properties and Holdings Ltd (Mum)(Trib) www.itatonline.org.

561 **S. 36(1)(iv) : Contribution towards a recognized provident fund-Business expenditure-Payments made on next day since due date fell on National holiday-Deductible.[37(1), 260A,]**
Held that the due date for payment of the amounts payable towards the provident fund and the employees' State insurance, fell due on a National holiday, i.e., August 15, 2018 and the assessee made the deposit on the following date, i.e., August 16, 2018. Entitle to deduction.
Aero Club v. ACIT [2023] 156 taxmann.com 74 / (2025) 474 ITR 320 (Delhi)(HC)

562 **S. 36(1)(iv) : Contribution towards a recognized provident fund-Excess contributions to approved superannuation fund to bridge gap between actual contribution and actuarial valuations-Allowable as deduction. [S. 37(1), 36(1)(v) Rule, 27]**
Held that excess contributions to approved gratuity fund to bridge gap between actual contribution and actuarial valuations is allowable as deduction. Tribunal also held that section 36(1)(v) does not contain any condition regarding any restriction regarding ordinary annual contribution to gratuity fund. (AY. 2017-18, 2018-19, 2020-21, 2021-22)
ACIT v. Syama Prasad Mookerjee Port (2025) 210 ITD 421 (Kol)(Trib.)

563 **S. 36(1)(va): Any sum received from employees-Not paid before due date-Disallowance was affirmed. [S.260A]**
Held that the assessing authority had found that the assessee had occasioned a delay in making the payment of the employees' contribution to statutory dues under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Employees'

State Insurance Act, 1948 to the authorities concerned. The disallowance under section 36(1)(a) was justified. (AY.2013-14)
Unitac Energy Solutions (India) Pvt. Ltd v. ACIT (2025) 474 ITR 265 (Ker)(HC)

S. 36(1)(va): Any sum received from employees-Employees' contributions to PF and ESIC, made after the due date, was not allowable under section 36(1) (va) of the Income Tax Act-Delay of 690 days-No reasonable cause-Delay is not condoned. [S. 253, 260A] 564

The assessee is a firm engaged in infrastructure development. The primary issue was whether the assessee-firm could claim a deduction under section 36(1) (va) of the Income-tax Act for employees' contributions towards PF and ESIC that were paid after the due date.
The revenue contended that the assessee's claim for deduction of employees' contributions to PF and ESIC, made beyond the due date, was rightly disallowed under section 36(1) (va) of the Income-tax Act.
The Hon'ble High Court noted that the issue of claiming a deduction under section 36(1) (va) for delayed payment of employees' contributions to PF and ESIC had already been settled by the Supreme Court in the case of *Checkmate Services (P.) Ltd. v. CIT.(2022)448 ITR 518 (SC)*. The Hon'ble High Court thereby dismissed the appeal as devoid of merit. Delay of 690 days in filing of appeal before the Tribunal is not condoned as there was no reasonable cause.(AY.2019-20)
BPS Infrastructure v. ITO (2025) 473 ITR 357 (Chhattisgarh) (HC)

S. 36(1)(va) : Any sum received from employees-Employees' contribution-Delay in deposit-Adjustment under section 143(1) valid-Auditor need not certify admissibility of claim. [S. 2(24)(x), 37(1) 43B, 143(1)] 565

The Centralised Processing Centre disallowed delayed payment of employees' contribution to the Provident Fund and ESI while processing the return under section 143(1) based on particulars furnished in the tax audit report. The Tribunal held that once the auditor mentions the actual dates of payment and the statutory due dates in the audit report, the requirement of section 143(1) that the disallowance should be indicated in the audit report stands satisfied. There is no statutory requirement for the auditor to specifically comment upon the admissibility or inadmissibility of the expenditure. Accordingly, the adjustment under section 143(1) was valid. (AY. 2018-19)
Checkmate Services P. Ltd. v. Dy. CIT (2025) 121 ITR 73 (Ahd.)(Trib.)

S. 36(1)(va): Any sum received from employees-Employees' contribution to PF/ESI-Prima facie adjustment under section 143(1)-Matter remanded for verification of employees' and employer's contributions. [S. 43B, 139(1), 143(1)(a)(iv)] 566

The CPC made an adjustment under section 143(1)(a)(iv) by disallowing delayed deposits of PF and ESI contributions on the basis of figures appearing in Form No. 3CD. The assessee contended that the figures included both employer's and employees' contributions and that only a smaller amount represented delayed employees' contribution. The Tribunal held that the lower authorities had mechanically adopted the figures from the audit report without verifying the actual classification. The matter was restored to the Commissioner (Appeals) to verify the factual position, segregate the

employer's and employees' contributions and restrict the disallowance, if any, only to delayed employees' contributions. The Tribunal further held that the decision of the Supreme Court in Checkmate Services (P.) Ltd. is binding from the inception by virtue of Article 141 of the Constitution and that prima facie adjustment under section 143(1)(a)(iv) is permissible where based on particulars furnished in the audit report. (AY. 2018-19 to 2020-21)
Atamjeet Singh Sandhu v. ITO (2025) 128 ITR 407 (Chd.)(Trib.).

567 **S. 36(1)(va): Any sum received from employees-Deduction only on actual payment-Belated payment of employees' contribution to provident fund and employees' State insurance-Disallowance upheld. [S. 2(24)(x), 43B]**
Tribunal upheld the disallowance for belated payment of employees' contributions to provident fund and ESI under section 36(1)(va) read with section 2(24)(x). (AY. 2013-14)
Asst. CIT v. Kerry Indev Logistics P. Ltd (2025) 131 ITR 100 (Chennai) (Trib)

568 **S. 36(1)(va): Any sum received from employees-Employees' contribution to Provident Fund and ESI-Delayed payment-Disallowance upheld.[S.43B]**
The Tribunal upheld the disallowance of employees' contribution to Provident Fund and Employees' State Insurance deposited after the due dates prescribed under the respective statutes, following the statutory provisions governing section 36(1)(va). (AY. 2016-17).
Hindustan Coca Cola Beverages (P.) Ltd. v. Add. CIT (2025) 122 ITR 290 (Delhi)(Trib.)

569 **S. 36(1)(va) : Any sum received from employees-Employees' contribution to Provident Fund and ESI-Deposit beyond due date-Disallowance forms part of business income and not income from other sources-Employees' contribution to Provident Fund and ESI-Deduction not allowable under general provision of section 37(1).[S.2(24)(x), 37(1)]**
The Tribunal held that employees' contribution to Provident Fund and Employees' State Insurance deposited beyond the prescribed due date was liable to be disallowed under section 36(1)(va) read with section 2(24)(x). However, such disallowance could only enhance the business income and could not be assessed under the head "Income from other sources". The Tribunal held that section 36(1)(va) is a specific provision governing deduction of employees' contributions to Provident Fund and ESI. Where the statutory conditions under that provision are not satisfied, the deduction cannot be claimed under the general provisions of section 37(1). (AY. 2014-15).
Norben Tea and Exports Ltd. v. Dy. CIT (2025) 123 ITR 715 / 175 taxmann.com 237 (Kol.) (Trib.)

570 **S. 36(1)(va): Any sum received from employees-Delayed employees' PF/ESI contributions on ground that figures in Form 3CD included both employer's and employees' portions-Matter was remanded to the file of CIT(A) to verify actual delay, segregate employer's and employees' contributions, and restrict disallowance only to employees' share deposited after statutory due dates.[S.43B, 143(1)]**
Tribunal remanded the matter to the file of CIT(A) to verify actual delay, segregate employer's and employees' contributions, and restrict disallowance only to employees' share deposited after statutory due dates.(AY. 2018-19, to 2020-21)
Atamjeet Singh Sandhu v. ITO (2025) 215 ITD 181 (Chd) (Trib.)

S. 36(1)(va): Any sum received from employees-Deposited ESI contribution on 16-10-2017 for September 2017, when the due date was 15-10-2017, which happened to be a public holiday, i.e., Sunday-One day delay on account of a public holiday-Allowable deduction. [S.43B General Clauses Act, 1897, S.10] 571

During the year, assessee deposited ESI contribution on 16-10-2017 for the month of September 2017 when the due date was 15-10-2017, which happened to be a public holiday i.e. Sunday. Assessing Officer disallowed same and added it to income of assessee. CIT(A) affirmed the order of the Assessing Officer. On appeal the Tribunal held that due date of depositing contribution of ESIC & EPF fell on a Sunday and gazette holiday; thus, said delay of one day was to be condoned as per section 10 of the General Causes Act. On facts, disallowance of ESI contribution on the ground of one day delay on account of a public holiday was to be deleted, and assessee was to be allowed deduction in respect of ESI paid by it. (AY. 2018-19)

SREI Equipment Finance Ltd. v. CIT (Appeals) (2025) 214 ITD 769 (Kol) (Trib.)

S. 36(1)(va): Any sum received from employees-Delayed payment of employee's contribution towards PF and ESIC-Not allowable as deduction. [S. 37(1)] 572

Held that delayed payment of employee's contribution towards PF and ESIC could not be allowed as deduction under section 37(1). (AY. 2010-11 & 2014-15)

Diebold Nixdorf India (P.) Ltd. v. CIT (2025) 211 ITD 377 (Mum) (Trib.)

S. 36(1)(va): Any sum received from employees-Due date for deposit-Delay in deposit of contribution-Disallowance is deleted. [Kolkata Port Trust (Non-contributory Provident Fund) Regulations 1988] 573

Held that the Kolkata Port Trust (Non-contributory Provident Fund) Regulations 1988 notified under Major Port Trust Act do not specify any date by which employee's contribution/subscription to PF is to be deposited in individual employee's account under Calcutta Port Trust Non-Contributory Provident Fund. Therefore, no disallowance under section 36(1)(va) was warranted on account of delay in deposit of contribution. Where contribution had actually been credited in concerned fund within following month of contribution, disallowance under section 36(1)(va) is deleted (AY. 2017-18, 2018-19, 2020-21, 2021-22)

ACIT v. Syama Prasad Mookerjee Port (2025) 210 ITD 421 (Kol)(Trib.)

S. 36(1)(va): Any sum received from employees-Delay in depositing employees contribution towards PF and ESI-Not allowable as deduction. 574

Held that when there was delay on part of assessee in depositing employees contribution towards PF and ESI, delay in deposit of same would attract disallowance under section 36(1)(va) of the Act. AY. 2015-16)

DCIT v. United Drilling Tools Ltd. (2025) 210 ITD 632 (Delhi) (Trib.)

575 **S. 36(1)(va): Any sum received from employees-Assessee maintain separate books for PF contributions-Credited it on real time basis-Deduction cannot be denied-NPS contributions not deposited within the due date of filing of Return-Cannot be claimed as a deduction in that year.[S. 2(24)(x)]**

The Tribunal observed that the assessee had maintained separate individual accounts for employees' General Provident Fund (GPF) contributions and credited them in real time as per the Provident Fund Regulations, 1960. Consequently, these contributions were held allowable as deduction. Secondly, regarding the New Pension Scheme (NPS), the Tribunal held in favour of the Revenue on the grounds the assessee had neither deposited its share of NPS contributions nor credited the employees' share to their respective accounts within the prescribed due dates or by the due date of filing the income tax return. Hence, the employer's contribution was disallowed for the current assessment year but allowed for deduction in subsequent years upon actual payment, and the employees' contributions were treated as deemed income and disallowed for deduction under Section 36(1)(va) (AY.2012-13, 2013-14)

Dy.CIT v. Punjab State Power Corporation Ltd. (2025) 233 TTJ 57 / 173 taxmann.com 148 (Chd) (Trib)

576 **S. 36(1)(vii) : Bad debt-Deduction is not allowable where the amount written off was never considered as income earlier and when the Assessee is not in the business of moneylending.[S. 36(2), 56, 57(iii)]**

The Assessee, a manufacturer of electric stabilizers and rectifiers, advanced funds on interest and wrote off a certain amount as unrealizable; the dispute was whether such write-off qualifies as bad debt or otherwise deductible when the Assessee is not a money lender and the principal was never recognized as income.

The Assessee argued that lending/advances were part of commercial expediency and sought allowance either as bad debt under Sec. 36(1)(vii)/36(2) or as expenditure under Sec. 37 read with Sec. 57(iii), emphasizing interest income was earned and suits were pursued for recovery.

The Revenue contended the write-off cannot be allowed since the principal was never recognized as income, the Assessee is not a moneylender, and the interest was returned under "other sources," and capital loss/expenditure claims are impermissible under Sec. 56-57 for this head of income.

The Hon'ble Tribunal dismissed the appeal, holding that bad debt conditions under Sec. 36(2) were not met and deduction under Sec. 57(iii) is confined to revenue expenditure for earning income under "other sources".

The Hon'ble Punjab & Haryana High Court dismissed the appeal, affirming the Hon'ble Tribunal, holding that deduction is not allowable since the principal was never recognized as income and the Assessee is not in the business of moneylending; claims under Sec. 57(iii) also fail for being capital in nature. (AY. 2004-05)

Bharti Bhushan Jindal v. PCIT (2025) 306 Taxman 153 (P & H.)(HC)

S. 36(1)(vii) : Bad debt-Business loss-Guarantee assistance on market value basis-Pledging of shares-Loss incurred by assessee was for business expediency of group company hence such loss/debt should be treated as having been incurred for purpose of business and directly relatable to business of assessee and eligible for deduction as loss or bad debt. [S. 28(1), 36(2)] 577

Assessee was an investment company. One of companies promoted by assessee was Balaji Industrial Corporation of India Ltd (BICL). BICL availed a loan from ICICI. As one of conditions required for disbursing loan, assessee, being promoter of BICL, had to pledge shares held by it in another company, to ensure asset coverage of 1.5 times of loan sanctioned by ICICI and guarantee assistance on market value basis. Accordingly, assessee pledged equity shares. Over a period, BICL was unable to repay its loan to ICICI. ICICI, to recover amount that was payable to it by BICL, under terms and conditions of loan and guarantee given by assessee, sold out of shares pledged, certain equity shares at prevailing market value. Accordingly, assessee accounted for dues from BICL to ICICI. BICL paid only Rs. 1 crore to assessee and assessee accepted same in full and final settlement of outstanding amount. Unpaid amount, assessee decided to write it off as bad debts in books of account. Assessing Officer disallowed this write-off. Tribunal accepted assessee's claim. On appeal the Court held that loss incurred by assessee was for business expediency of group company hence such loss/debt should be treated as having been incurred for purpose of business and directly relatable to business of assessee and eligible for deduction as loss or bad debt. (AY. 2009-10)

CIT v. Star Investments (P.) Ltd. (2025) 305 Taxman 437 (Mad)(HC)

S. 36(1)(vii) : Bad debt-Loss on account of guarantee obligation to group company-Financing business-Isolated transaction-Arrangement resulting in transfer of losses within group-Not allowable as deduction. [S. 36(2), 37(1)] 578

The assessee claimed deduction towards loss arising from invocation of guarantee furnished to a lender in respect of loans availed by its group company and wrote off the amount as bad debt. The AO and CIT(A) disallowed the claim holding that furnishing of guarantee was not in the ordinary course of assessee's business and that the arrangement was structured to transfer losses within the group. The Tribunal allowed the claim observing that the assessee was engaged in financing activities which included standing as guarantor. On appeal, the High Court reversed the Tribunal's order. It held that standing as surety was not one of the main objects of the assessee-company; at best it was incidental and there was no material to show that the assessee was regularly engaged in the business of furnishing guarantees for consideration. The guarantee in question was an isolated transaction for a group company and not in the ordinary course of business. Further, the conditions of section 36(2) were not satisfied, as the debt had neither been taken into account in computing income nor represented money lent in the ordinary course of banking or money-lending business. The Court also noted that both the assessee and the borrower were group concerns under common control; despite the borrower having financial wherewithal (including donation of Rs. 10 crores in the same year), the assessee took no effective steps for recovery. The arrangement effectively transferred losses from a loss-making entity to a profit-making entity, while remission of liability benefited the loss-making entity, thereby indicating a colourable

device. Relying on *Madan Gopal Bagla v. CIT (1956) 30 ITR 174 (SC) and CIT v. Birla House (P.) Ltd. (1970) 2 SCC 88*, the Court held that the assessee was not entitled to deduction. (AY. 2015-16)
PCIT v. WGF Financial Services (P.) Ltd. (2025) 345 CTR 400 / 250 DTR 329 / 304 Taxman 222 (Delhi)(HC)

579 **S. 36(1)(vii): Bad debt-Payments made by a chit fund company to cover defaults by chit holders, ensuring the continuation of the chit cycle, can be treated as bad debts. [S. 37(1), 260A]**
The assessee is engaged in the chit fund business. The issue involved includes a question on whether the amounts paid by the assessee to cover defaults by chit holders should be treated as bad debts.
The revenue contended that the assessee did not fulfill the conditions for allowance of bad debts under Section 36(1)(vii). The assessee claimed that the payments made to cover defaults by chit holders were during business and resulted in a loss, qualifying them as bad debts under Section 36(1)(vii).
The Hon'ble Tribunal held that the payments made to cover defaults by chit holders were allowable as bad debts under Section 36(1)(vii).
The High Court upheld the Hon'ble Tribunal's decision, while also taking necessary cue from the Supreme Court's ruling in *Shriram Chits and Investment (P.) Ltd v. Union of India; AIR 1993 SC 2063*, held that the payments made by the assessee to cover defaults by chit holders, ensuring the continuation of the chit cycle, can be treated as bad debts under Section 36(1)(vii). (AY.2014-15)
CIT v. Shriram Chits Tamil Nadu (P.) Ltd (2025) 473 ITR 278 /303 taxman 24 (Mad.) (HC)

580 **S. 36(1)(vii) : Bad debt-It is sufficient for the debt to be written off as irrecoverable in the assessee's accounts to be eligible for deduction, without the need to prove that the debt has actually become bad. [S. 36(2), 260A]**
The assessee was involved in the business of purchasing and selling land. The primary issue was whether the assessee's claim of bad debt, written off in their books of accounts, was allowable under Section 36(1)(vii) and Section 36(2) of the Income Tax Act, 1961.
The revenue argued that the bad debt should be written off in the assessee's books and be bonafide, claiming the assessee did not meet Section 36 conditions of the Income - Tax Act. One debtor still showed the amount as outstanding, so the assessee couldn't claim it as bad debt. The assessee on the other hand argued that the income from a business transaction was shown as business income, and despite reminders, the amount was not recovered. The write-off was based on commercial expediency, genuine, and complied with Section 36(1)(vii) and Section 36(2) of the Income Tax Act.
The Hon'ble Tribunal held that the assessee met Section 36(2) conditions, the debt was written off as irrecoverable, and the debtor-creditor relationship existed. The Hon'ble Tribunal set aside the disallowance and allowed the assessee's appeal.
The Hon'ble High Court upheld the Tribunal's decision, confirming compliance with Section 36(1)(vii) and Section 36(2), and dismissed the revenue's appeal. The Hon'ble High Court emphasized the legislative intent to avoid litigation over bad debt

deductions. Ratio in *PCIT v. Khyati Realtors Pvt Ltd (2022) 447 ITR 167 (SC)* explained. (AY.2009-10)
CIT v. Desouza Hotels Ltd. (2025) 473 ITR 368 (Bom.) (HC)

S. 36(1)(vii): Bad debt-Amount of unreconciled debtors written off-Allowable as bad debt. [S. 36(2)] 581
Held that the Assessee, having computerised its billing system by converting the manually maintained receivables into consumer-wise data and written off the collective unreconciled amount of the debtors (consumers), which has been obviously taken into the books of account of the assessee while computing its revenue in the year in which the amount of bills was recorded, it satisfies all the conditions of s. 36(1) (vii) r/w s. 36(2), and, therefore, the said amount is allowable as bad debt. (AY. 2017-18)
Bangalore Electricity Supply Co. Ltd. v ACIT (2025) 234 TTJ 58 /121 ITR 595 / 174 taxmann.com 100 (Bang) (Trib)

S. 36(1)(vii): Bad debt-Subsidy-Offered as income in earlier years-Unrecoverable subsidy allowable as bad debt. 582
Held that the assessee had accounted for subsidy regularly in earlier years as well as in the year under consideration. Since the assessee had initially booked subsidy as income and the unrecovered amount was claimed as bad debts in the same year, the unrecoverable subsidy was allowable as bad debt. (AY. 2018-19)
Indian Potash Ltd. v. DCIT (2025) 214 ITD 121 (Delhi) (Trib.)

S. 36(1)(vii) :Bad debt-Debited provision of doubtful debt from profit and loss account-Given effect in balance sheet-Allowable as deduction. 583
Assessee claimed deduction on account of provision for doubtful debts. Assessing Officer disallowed same on ground that bad debts were not written off as irrecoverable in assessee's accounts. The assessee had debited provision of doubtful debt from profit and loss account and had also given effect to same in balance sheet, which amounted to write off of debt. CIT(A) affirmed the order of the AO. On appeal the Tribunal held that the assessee was eligible for deduction on account of provision for doubtful debts. (AY. 2018-19)
Goldiam Jewellery Ltd. v. ACIT (2025) 210 ITD 554 (Mum)(Trib)

S. 36(1)(vii) : Bad debt-Amounts written off-Allowable as bad debt. 584
Assessing Officer disallowed the claim of the bad debt on ground that assessee had chosen not to comply with factual queries raised in connection with liability of bad debts and that write off was without valid reasons and proper basis. CIT(A) allowed the claim. On appeal the Tribunal held that after 01/04/1989, all that was required to claim amount as bad and doubtful debts was to demonstrate (1) debt was part of income of earlier year and (2) it has been actually written of in books of accounts. W rite off in books of account is sufficient to allow the claim. Order of CIT(A) is affirmed. (AY. 2006-07)
DCIT v. ICICI Bank Ltd. (2025) 210 ITD 643 (Mum)(Trib.)

585 **S. 36(1)(viia) : Bad debt-Provision for bad and doubtful debts-Schedule bank-Reserve and surplus account cannot be considered as provision for the purpose of allowing deduction-The amount credited to bad and doubtful reserve is not allowable as a deduction.**

Held that the Reserve and surplus account cannot be considered as a provision for the purpose of allowing deduction under S. 36(1)(viia) and, therefore, the amount credited to bad and doubtful reserve is not allowable as a deduction. (AY.2013-14 & 2014-15)

Surat National Co-Operative Bank Ltd. v. ACIT (2025) 234 TTJ 529 / (Surat)(Trib)

586 **S. 36(1)(viia): Bad debt-Provision for bad and doubtful debts-Schedule bank-A co-operative bank, eligible for deduction even if it had no rural branches-Long-term finance-Eligible for deduction under section 36(1)(viii).[S. 36(1)(vii)]**

Held that a co-operative bank was eligible for deduction even if it had no rural branches. The Tribunal held that the transfer to special reserve did not exceed 20 per cent of profit, assessee was a specific entity which included a co-operative bank, assessee was engaged in the business of banking and assessee was engaged in providing long-term finance, assessee was eligible for deduction under section 36(1)(viii).(AY. 2016-17)

ITO v. Sutex Co-operative Bank Ltd. (2025) 213 ITD 359 (Surat) (Trib.)

587 **S. 36(1)(viia) : Bad debt-Provision for bad and doubtful debts-Schedule bank-Provisions are made as per direction of RBI-Allowable as deduction.**

Held that provisions are made as per direction of RBI is allowable as deduction. AY. 2019-20)

Kotak Mahindra Bank Ltd. v. DCIT (2025) 211 ITD 608 (Mum) (Trib.)

588 **S. 36(1)(viia) : Bad debt-Provision for bad and doubtful debts-Schedule bank-Claimed as bad debt-Sale of debt-Allowable as business loss. [S.28(i), 36(2), 37(1)]**

Assessee, a non-resident banking company, assigned outstanding loans due from a customer to an asset reconstruction company for a sale consideration of certain amount against outstanding loans of higher amount. Sale consideration was duly recognized in financial statement of assessee and balance in debtors account was actually written off as bad debts. Assessee claimed that loss on sale of NPA was allowable as bad debts under section 36(1)(viia). Assessing Officer held that loss incurred by sale of NPA was not a bad debt to be considered under section 36(1)(viia) as deduction under section 36(1)(viia) was allowable to any bad debt or part thereof which was written off as irrecoverable in accounts of assessee for previous year. CIT(A) affirmed the order of the AO. On appeal the Tribunal held that on date of assignment, the loan outstanding in the account of customer was a debt in books of assessee as per provisions of section 36(2), which meant that assessee could have written off same as bad debt and claimed as such and instead, as a prudent businessman it sold the debt to EARC. Therefore the claim of assessee as a bad debt was as per the provisions of the Act and also allowable as a business loss. Addition is deleted. (AY. 2015-16)

DBS Bank Ltd. v. DCIT (2025) 210 ITD 448 (Mum)(Trib.)

S. 36(1)(viii) : Eligible business-Special reserve-Interest on FDRs and project loan bonds-Eligible business income-Deduction available. 589

Held that since interest income had a direct nexus with assessee's core business of providing long-term finance for housing, infrastructure and industrial development, such income constituted eligible business income. Accordingly, a deduction under section 36(1)(viii) was allowable. (AY. 2012-13, 2014-15, 2015-16)

Housing & Urban Development Corporation Ltd. v. DCIT [2025] 128 ITR 387 (Delhi) (Trib.)

S. 36(1)(viii) : Eligible business-Special reserve-Financial corporation engaged in long-term housing finance-Deduction applicable only to profits from long-term finance for construction or purchase of house for residential purpose-Interest income from loans of term under five years not to be excluded, being from core business-Loans for non-residential purpose not integral part of residential loans-Not eligible for deduction-Income must emanate from eligible undertaking with direct nexus-Surplus funds from housing finance business parked in approved Government securities yielding interest-Direct nexus with core business-Income "derived from" business-Eligible for deduction-Expenditure relating to income not includible in total income-Own funds in excess of investment for earning dividend-Interest cost not to be adjusted against dividend income-Administrative expenditure to be reallocated based on ratio of exempt-income-yielding investments to total average assets-Disallowance of expenditure relating to exempt income-Exemption on interest from tax-free bonds-Own funds in excess of investment-No disallowance warranted.[S. 10(33), 14A, R.8D] 590

The assessee, a housing finance institution, claimed deduction under section 36(1)(viii) at 40 per cent. of income from its housing finance business, including interest from residential loans of tenure less than five years, from non-residential unit loans, and from temporary deployment of surplus funds, which claims were partly denied by the Revenue; exemption was also claimed under section 10(33) for dividend income, restricted by the AO on the ground that related expenses exceeded the dividend earned; and the CIT(A) directed application of section 14A to tax-exempt interest on tax-free bonds. On appeal, the Tribunal held that interest income from residential loans of tenure less than five years, being from the assessee's core business of long-term housing finance and not from any other business activity, could not be excluded while computing the deduction under section 36(1)(viii); that interest from loans for non-residential purposes, not being an integral part of residential financing, was rightly held ineligible for the deduction; that income earned from surplus funds temporarily parked in approved Government securities, arising from the time gap between mobilisation and disbursement of housing loans, had a direct nexus with the core business and was "derived from" it, and was accordingly eligible for deduction, with recomputation directed; that since the assessee had own funds exceeding investments yielding dividend income, no interest cost was to be adjusted against such dividend income, though administrative expenditure was to be reallocated based on the ratio of exempt-income-yielding investments to total average assets; and that since own funds exceeded the investment in tax-free bonds, no disallowance under section 14A was warranted. (AY. 1998-99)

Housing Development Finance Corporation Ltd v. Add. CIT (2025) 131 ITR 185 (Mum.) (Trib)

591 **S. 36(1)(viii): Eligible business-Special reserve-Minimum alternate tax-Taxable in the year in which the amount is withdrawn from such reserve-Amount transferred to reserve under section 36(1)(viii) shall not be included in book profit under section 115JB.[S.115JB]**

Assessee-company, during the year, transferred a certain amount to the income tax special reserve in accordance with the provisions of section 36(1)(viii). Assessee claimed that said amount was transferred to the income tax special reserve out of statutory compulsion and, therefore, the same was to be excluded in computing book profit under section 115JB. However, the Assessing Officer did not allow the same and added the amount transferred to the income tax special reserve to book profit. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that section 36(1)(viii) provides for taxability of the amount withdrawn from the special reserve under section 36(1)(viii) under the head, profit and gains from business and profession. Therefore, amount transferred to special reserve as per section 36(1)(viii) is taxable in year in which amount is withdrawn from such reserve and, accordingly, said amount transferred to reserve under section 36(1)(viii) shall not be included in book profit under section 115JB. If grant of reserve was allowed to be added to book profit, it would create several practical difficulties, therefore, order of CIT(A) was set aside and the Assessing Officer was directed to allow said provisions while computing book profit under section 36(1)(viii) of the Act. AY. 2018-19)

SREI Equipment Finance Ltd. v. CIT (Appeals) (2025) 214 ITD 769 (Kol)(Trib.)

592 **S. 37(1) : Business expenditure-Non-resident-Temporary lull in business and not cessation-Mere absence of subsisting contract or office in India not decisive-Continuous correspondence and bidding activity showed business connection in India-Business expenditure allowable-Set-off against interest on tax refund permissible-Unabsorbed depreciation allowable to be carried forward and set off. [S. 2(13), 4, 5(2), 9(1)(i), 32(2), 71]**

The assessee, a French company engaged in oil drilling activities, had no subsisting drilling contract in India during the relevant assessment years, but continued correspondence with ONGC, explored fresh opportunities and submitted bids. During this interregnum, it incurred administrative, audit and legal expenses and earned interest on income-tax refunds. The Assessing Officer disallowed the business expenditure and denied set-off of brought forward unabsorbed depreciation on the ground that no business was being carried on in India. The Tribunal held that there was only a temporary lull in business and not cessation, and allowed the claim. The High Court reversed the Tribunal. On appeal, the Supreme Court held that failure to secure a contract by itself does not mean cessation of business. The assessee's continuous efforts to secure business in India established that it was carrying on business in India. The Court also held that the Act does not require a non-resident to have a permanent establishment or office in India for being regarded as carrying on business in India. Accordingly, business expenditure was allowable, such expenditure could be set off against interest on tax refunds under section 71, and unabsorbed depreciation was eligible for carry forward and set-off. The Supreme Court restored the Tribunal's orders and set aside the High Court judgment. (AY. 1996-97, 1997-98, 1999-2000)

Pride Foramer S.A v. CIT (2025) 481 ITR 1 / 307 Taxman 371/347 CTR 1 / 254 DTR 459 (SC)

Editorial : CIT v. Pride Foramer S.A(2009) 317 ITR 18/181 Taxman 262/ 226 CTR 94 (Uttarakhand)(HC)

S.37(1): Business expenditure-Set up-Commencement of business-Operating and financial expenses-Plant construction was incomplete-SLP of revenue dismissed.[Art. 136] 593

The Assessee is engaged in the business of manufacturing and sale of commercial vehicles in India, including design/development for the Indian market and sourcing components; the crux was whether the absence of actual manufacture/sale in the year (owing to incomplete plant construction) defeated its claim to deduct operating/ financial expenses as the business not being "set up."The Assessee contended that it had already commenced multiple business activities aligned with its objects, so its business was "set up," and expenses were allowable under S. 37(1) notwithstanding no manufacture/sale that year. The Revenue disputed allowability of the expenses on the premise that, without manufacture/sale during the year, the business was not set up and deductions could not be granted. The High Court held in favour of the Assessee that the commencement of various activities sufficed to treat the business as set up. SLP of revenue dismissed. (AY.2010-11)

Dy.CIT v. Daimler India Commercial Vehicles (P.) Ltd. (2025) 306 Taxman 343 (SC)

Editorial: Daimler India Commercial Vehicles (P.) Ltd v. Dy CIT (107 taxmann.com 243/ 416 ITR 343 (Mad)(HC)

S. 37(1): Business expenditure-Year of deductibility-Settled under Direct Tax Vivad se Vishwas Scheme, 2024-Appeal dismissed as withdrawn. [S. 145 [Art. 136] 594

The Supreme Court dismissed the appeal as withdrawn since the issue which arises for consideration in the said appeal has been settled under Direct Tax Vivad se Vishwas Scheme, 2024 introduced vide Finance (No.2) Act, 2024. However the Supreme Court left all contention as open and did not decided on the same.(AY. 2001-02)

Yum! Restaurants (India) (P.) Ltd. v. CIT (2025) 306 Taxman 353 (SC)

Editorial : Yum! Restaurants (India) (P.) Ltd. v. CIT (2009) 180 taxman 8(Delhi)(HC)

S. 37(1) : Business expenditure-Memorandum of Understanding (MoU) with sister concern-Quality difference-Debit note raised-Amount offered as income by sister concern-Order of Tribunal affirmed by High Court-SLP delayed by 392 days-SLP dismissed on account of delay as well as on merits. [Art. 136] 595

Assessee entered into Memorandum of Understanding (MoU) with sister concern N.K. Proteins Ltd. (NKPL), a Star Trading Export House, for export of FSG Oil. Due to quality differences, NKPL realized lower export prices than prices invoiced by assessee. NKPL raised debit notes for price shortfall, which assessee accounted as adjustment against sales and claimed as business expenditure under section 37(1). Assessing Officer disallowed debit note amount treating it as non-genuine. Commissioner (Appeals) confirmed disallowance. On further appeal, Tribunal concluded that debit notes issued for price differences between assessee and sister concern NKPL were valid, as NKPL had already offered the corresponding amount to tax. High Court held that in view of fact that amount was already charged to tax in hands of NKPL, same was rightly not added again in hands of assessee by Tribunal and therefore, there was no infirmity in findings arrived at by Tribunal. SLP of revenue was dismissed since there was an inordinate delay of 392 days in filing SLP and also on merits. (AY. 2012-13)

PCIT v. N.K. Industries Ltd. (2025) 306 Taxman 1 (SC)

Editorial : PCIT v. N.K. Industries Ltd(2025) 175 taxmann.com 619 (Guj)(HC)

596 **S. 37(1) : Business expenditure-Securities held as stock in trade-Broken period interest-SLP of revenue dismissed.[Art. 136]**

High Court held that since assessee-bank purchased securities to hold them as stock-in-trade and claimed deduction of broken period interest paid on purchase of securities, interest paid on such securities would be an allowable deduction. Following the decision in *Bank of Rajasthan Ltd. v. CIT [2024] 301 Taxman 463/469 ITR 280 (SC)*, SLP filed by revenue was dismissed. (AY. 1997-98)

CIT v. HDFC Bank Ltd. (2025) 304 Taxman 606 (SC)

Editorial: PCIT v. HDFC Bank Ltd (2025) 173 taxmann.com 579 (Bom)(HC)

597 **S. 37(1) : Business expenditure-Capital or revenue-Redemption of debentures-Allowable as revenue expenditure-SLP of revenue dismissed. [Art. 136]**

Assessee-company entered into an debenture subscription and share purchase agreement with HDFC wherein HDFC agreed to subscribe optionally convertible debentures of assessee. Assessee claimed deduction on account of premium paid on redemption of these debentures as revenue expenditure. Assessing Officer held that premium paid on redemption would be arising out of reserves and surplus and, thus, same would constitute capital expenditure and could not be allowed as deduction. High Court held that since issuance of debentures and deduction of TDS was not in dispute, premium paid by assessee to allottee on redemption of debentures was to be allowed as revenue expenditure. SLP of revenue dismissed. (AY. 2011-12)

Dy. CIT v. Nitesh Housing Developer (P.) Ltd. (2025) 304 Taxman 517 (SC)

Editorial : Nitesh Housing Developer (P.) Ltd(2023) 290 Taxman 474/ 454 ITR 770 (Karn)(HC)

598 **S.37(1): Business expenditure-Commencement-Set up of business-Operating expenses, financial expenses-Depreciation-Commenced several activities for which incorporated-Expenditure and depreciation allowable-SLP of revenue dismissed. [S.28(i), 32, Art. 136]**

The Tribunal upheld the disallowance of the operating expenses, financial expenses and depreciation claimed by the assessee on the ground that the commercial operation of manufacture and sale of commercial vehicles had not commenced so far and therefore, the business of the assessee had not been set up. The High Court reversed the Tribunal holding that merely because manufacture and sale of vehicles had not taken place, the business of the assessee could not be held not to have been set up, and that the assessee on showing that it had commenced several of the activities for which it was incorporated would qualify for deduction of the expenditure incurred by it under the head operating expenses, financial expenses and depreciation. SLP of revenue dismissed. (AY. 2010-11)

Dy. CIT v. Daimler India Commercial Vehicles Pvt. Ltd (2025) 479 ITR 221/306 Taxman 343 (SC)

Editorial : Daimler India Commercial Vehicles Pvt. Ltd. v. Dy. CIT, (2019) 416 ITR 343 /107 taxmann.com 243 (Mad)(HC)

S.37(1): Business expenditure-No supporting material-Order of High Court is affirmed. [Art. 136] 599

Held that the assessee has not placed any material on record in support of its claim for deduction of expenses except the resolution of its Board. Order of High Court is affirmed. (AY. 1990-91 to 1992-93)

M.P. Rajya Van Vikas Nigam Ltd. v. CIT (2025) 342 CTR 8 / (2024) 244 DTR 513 (SC)

Editorial : M.P. Rajya Van Vikas Nigam Ltd. v. CIT (judgment dt. 21st Oct., 2009 of the Madhya Pradesh High Court tin IT Appeal Nos. 90 of 1999 and 3 & 11 of 2001) affirmed.

S. 37(1) : Business expenditure-Not shown any income from money lending business-No interest income-Expenditure is not allowable as deduction-SLP of assessee is dismissed. [S. 56, Art. 136] 600

Assessing Officer disallowed expenditure on ground that assessee had not shown any income from money lending business. Tribunal had held that in past year assessee was found to be earning interest income which justified claim of being into money lending business,however, in relevant year assessee was no more into money lending business and there was no interest income at all either under head income from other sources or business income. High Court affirmed the order of the Tribunal. SLP of the assessee is dismissed. (AY. 2015-16)

Ashok J. Thapar HUF v. Dy. CIT (2025) 302 Taxman 364 (SC)

Editorial : Ashok J. Thapar HUF v. Dy. CIT (2024) 169 taxmann.com 202 (Delhi)(HC)

S. 37(1) : Business expenditure-Company-Advance-Interest-Failure to prove nexus-Order of Tribunal affirming the disallowance is affirmed. [S. 15, 260A] 601

Assessee claimed a deduction of interest expenditure on amounts borrowed by him and advanced to the company. Assessing Officer disallowed interest claim for want of nexus with any business/profession carried on by assessee. The disallowance was affirmed by the CIT(A) and the Tribunal. On appeal, the assessee contended that borrowing was for commercial expediency and, alternatively, interest income from the company should be set off against interest expenditure. Dismissing the appeal, the Court held that mere raising of a loan by mortgaging the assessee's property and advancing it to the company itself would not be considered as expenditure incurred for business/profession. Since the assessee failed to place any details and the nature of professional and technical services rendered to company, and also failed to prove nexus with business carried on by the assessee and raising of a loan by mortgaging the assessee's property and advancing it to the company to claim interest as expenditure incurred against business/professional income, the plea of commercial expediency and set-off was not allowable. (AY. 2013-14 to 2015-16)

Mukesh Gupta v. Dy. CIT (2025) 307 Taxman 632 (Karn.)(HC)

S. 37(1): Business expenditure-lease of plot-Long-term lease of 99 years-Development charges-Deduction allowable at 5% of contribution towards the development charges at the end of each year-Allowable as revenue expenditure.[S. 260A] 602

Assessee entered into a lease deed with SIPCOT for allotment of an industrial plot for 99 years long-term lease. As per the lease deed, assessee paid a certain amount towards development charges which included formation of roads, streets, lighting, sanitation,

drainage, sewerage, etc. Assessee claimed deduction of said amount as revenue expenditure, which was disallowed. The order of the Assessing Officer is affirmed by the Tribunal. On appeal the Court held that since infrastructural developments including roads, streets, etc., were not owned by assessee and were developed by SIPCOT and assessee did not acquire any right of ownership and payment made no addition to value of assets owned by assessee, but development facilitated running of business of assessee, which was an essential requirement without which business could not be operated, contributions made by assessee were eligible to be treated as a revenue expenditure. Deduction allowable 5% of contribution towards the development charges at the end of each year. (AY. 2006-07 to 2014-15)
Hinduja Foundries Ltd. v. ACIT (2025) 307 Taxman 336 /(2026) 486 ITR 117 (Mad.)(HC)

603 **S.37(1): Business expenditure-Employee welfare expenses-Payment under memorandum of settlement for benefit of entire locality-Allowable as business expenditure.[S. 40A(9).**
Assessee-company made payments towards community services and social welfare in vicinity of its business operations and claimed same as revenue expenditure. As said payments were envisaged under a Memorandum of Settlement (MOS) dated 31-3-1986 between assessee and workmen's union of workers employed by assessee, Assessing Officer disallowed said payments on ground that same were to be disallowed under section 40A(9). Tribunal allowed the claim as revenue expenditure. On appeal the tribunal held that since payments made by assessee were for public causes in locality of its business operations and benefits flowed from it to business of assessee, merely because a commitment to continue such welfare measures was recited in Memorandum of Settlement with workmen's union, these payments would not partake of character of payments made under Memorandum of Settlement or payment required to be made under labour law, or for that matter, payment that was made as an 'employer' so as to attract section 40A(9). Order of Tribunal affirmed. (AY. 1987-88,1988-89)
CIT v. Tata Engineering and Locomotive Company Ltd [2024] 165 taxmann.com 227 / (2025) 482 ITR 296 (Bom)(HC)

604 **S. 37(1): Business expenditure-Insurance and audit expenses Agreement entered into by assessee not covering insurance and audit expenses-Allowable as business expenditure. [S. 260A]**
That the Tribunal was justified in allowing the insurance and audit fees expenses, stating that the agreement between the assessee and the entity did not cover these expenses since the findings of fact had not been shown to be wrong. (AY. 2004-05)
PCIT v. Avantha Realty Ltd (2025) 482 ITR 599 (Cal)(HC)

605 **S.37(1): Business expenditure-Expenditure wholly and exclusively for business purposes-Expenditure incurred towards welfare activities and community development activities and recreation facilities-Expenditure incurred to fulfil obligations under National Coal Wage Agreements-Tribunal justified in allowing expenditure-Environmental expenses Tribunal remanding matter for want of reasoning by Commissioner (Appeals) and supporting documents is justified. [S. 260A]**
Assessee running open-cast coal mines. Expenditure incurred towards welfare activities, community development activities, and recreation facilities. Court held that the Tribunal

had found that the assessee had incurred expenditure on running of the institutions by three bodies which ran Pan India schools and also that the liability to discharge the obligation towards education fell on the assessee in terms of the National Coal Wage Agreement entered into between the employees union and the assessee, which was enforceable under law both under the Contract Act, 1872 and the Industrial Disputes Act, 1947 and also that it was not a voluntary expenditure incurred by the assessee and therefore, the expenses incurred towards education amounted to revenue expenses under section 37(1) to run the business of the assessee. The logic and justification given by the Tribunal in allowing the expenditure under section 37(1) for running the schools did not suffer from any infirmity or illegality in view of the obligations upon the assessee in terms of the National Coal Wage Agreements. As regards environmental expenses, the Tribunal remanding the matter for want of reasoning by the Commissioner (Appeals) and supporting documents is justified.
Northern Coal Fields Ltd. v. Dy. CIT (2025) 482 ITR 659/ 173 taxmann.com 69 (MP) (HC)

S. 37(1): Business expenditure-Capital or revenue-Expenses on removal of over-burden Assessee treating expenditure up to stage of mine reaching 25 per cent-Capital expenditure-Demand notice-Matter remanded. [S. 35E,156, Art. 226] 606
Assessee running open-cast coal mines. Expenses on removal of over-burden Assessee treating expenditure up to the stage of the mine reaching 25 per cent. The court held that the methodology of treating a mine reaching 25 per cent. Of its annual rated capacity was only an accounting methodology adopted by the assessee and was not found in the Act or any other enactment in force. The cut off of revenue mine or a development mine was not backed by any statutory provision and it was only an accounting practice and tradition. The logic was an artificial distinction being projected by the assessee without any sanctity of law. Therefore, the view of the Tribunal is that the expenses incurred in the removal of overburden after the mine reached the stage of 25 per cent. Of its rated annual capacity would amount to revenue expenditure and not capital expenditure was not correct. Demand notice matter remanded.
Northern Coal Fields Ltd. v. Dy. CIT (2025) 482 ITR 659/173 taxmann.com 69 (MP) (HC)

S. 37(1): Business expenditure-Licence fee-Use of goodwill-Travelling and entertainment expenses-Ad-hoc disallowance of 5 per cent-Provision for discount-Order of Tribunal deleting the disallowance is affirmed.[S. 260A] 607
Assessee, law firm claimed license fee paid for use of goodwill of one RRSCPL partnership firm. Assessing Officer disallowed the claim. Tribunal allowed the claim of the assessee. On appeal, the Court held that in assessee's own case, High Court held that license fee paid by assessee, a law firm, to a partnership firm which was owner of goodwill, for use of goodwill in law firm was wholly and exclusively for business of assessee and thus, allowable as deduction under section 37(1). The appeal of revenue is dismissed. Assessee claimed travelling and entertainment expenses. Assessing Officer made an ad hoc disallowance of 5 per cent of total travelling and entertainment expenses. Commissioner (Appeals) deleted the disallowance on the ground that no discrepancy was pointed out in the books. Tribunal upheld deletion, observing that Assessing Officer had not disputed genuineness of expenses and ad hoc disallowance

was made merely on assumptions and surmises without showing any evidence for personal use. Order of Tribunal affirmed.
PCIT v. Remfry and Sagar (2025) 307 Taxman 490 (Delhi)(HC)

608 **S. 37(1): Business expenditure-Provision for discount-Order of Tribunal allowing the claim is affirmed. [S.260A]**
Dismissing the appeal of the revenue, the order of the Tribunal allowing the claim for provision for discount is affirmed. (AY. 2014-15)
PCIT v. LTI Mindtree Ltd. (2025) 307 Taxman 25 (Karn.)(HC)

609 **S. 37(1): Business expenditure-Expenditure debited in the profit and loss account was not claimed as a deduction-Disallowance made by the Assessing Officer is held to be unsustainable-Order quashed. [S. 10(23FBA), 115UB, 143(3), Art.226]**
Assessing Officer disallowed expenses on the ground that expenses were neither found genuine nor any income had been offered against these expenses and added the same to assessee's income. On writ, the Court held that the addition of expenses made by the Assessing Officer to the total income of the assessee was never claimed as a deduction by the assessee in its return of income. Since the assessee had not claimed any deduction in respect of said expenses, the addition made by the Assessing Officer was wholly unsustainable. Order quashed and set aside. (AY. 2022-23)
Kedaara Captial Fund II LLP v. ANFAC (2025) 307 Taxman 19 (Bom)(HC)

610 **S 37(1):Business expenditure-Capital or revenue-Depreciation-Interest-Replacement of old machinery, pollution-free, is revenue expenditure-Fly Ash handling system 100 per cent depreciation allowed-Interest provision-Not allowable as paid. [S. 32, 43B]**
Held, expenditure on machinery replacement that is pollution-free and reduces power consumption without increasing capacity is revenue expenditure. 100 per cent depreciation allowed on the Fly Ash handling system as it achieves waste containment. Disallowance under S. 43B for interest provision confirmed in the absence of proof of actual payment. (AY. 1996-97)
CIT v. Ramco Cements Ltd. [2025] 481 ITR 705 / 173 taxmann.com 226 (Mad)(HC)

611 **S. 37(1): Business expenditure-Mark to market loss on derivative-Swap contract loss-Hedge-Foreign exchange loss-Accrued and subsisting liability-Not merely a contingent or hypothetical liability-Allowable as deduction-Accounting Standard 11.[S. 145]**
Assessee-company was engaged in business of energy and power generation. It availed external commercial borrowings at rate of LIBOR+4.4 per cent to refinance its project. Assessee to hedge itself from fluctuation in interest rate entered into derivative contract in nature of interest rate swap with Standard Chartered Bank on which it incurred loss. It claimed loss as business expenses/loss allowable as deduction. Assessing Officer held that mark-to-market loss on derivative instrument held by assessee as on balance sheet was not real but notional loss for reason that there was no actual transaction carried out by assessee. He disallowed mark to market loss on interest swap agreement. An identical issue came up before Tribunal in case of sister concern of assessee, wherein it was held that mark-to-market loss on SWAP contract was allowable where loans were converted into a foreign currency loan to take benefit of low interest rate and loss recognized on account of foreign

exchange fluctuation as per notified Accounting Standard 11 was an accrued and subsisting liability and not merely a contingent or hypothetical liability. Tribunal allowed the loss. High Court affirmed the order of the Tribunal. (AY. 2015-16, 2016-17)
PCIT v. Adani Power Maharashtra Ltd. (2025) 305 Taxman 595 (Guj.)(HC)

S.37(1): Business expenditure-Interest on borrowed funds-Set-off of interest receipts against interest paid-Commencement of business-Interest income for all assessment years to be assessed under head "Business"-Order of Tribunal set aside and order of Commissioner (Appeals) restored. [S.28(1), 56, 57(iii) 612
Allowing the appeal the Court held that the Tribunal expected actual commencement of the business after setting up of the necessary infrastructure and equipment. The Tribunal had ignored the issue as to whether financial transactions occurring during the period when the steps were initiated for commencement of the business could be taken into consideration for adjustment. The business for the Act would commence right from the stage of repairing and furnishing of property for being rented out and could not be treated as commenced only when the premises were actually let out to tenants. Interest income was directed to be assessed as business income, interest on borrowed funds was directed to be Set-off of interest receipts against interest paid. (AY.1992-93)
Modi Business Centre Pvt. Ltd. v Dy. CIT (2025) 480 ITR 471/177 taxmann.com 602 (Bom) (HC)

S. 37(1): Business expenditure-Bad debt-Advances given in the course of business written off-Genuineness of advances not doubted-Books audited by statutory auditors-Write-off allowable as deduction-Order of Tribunal affirmed. [S. 28(i), 36(1)(vii), 260A] 613
The assessee had written off advances given to more than 50 parties in the course of business on the ground that the amounts had become irrecoverable or no services were received. The Tribunal allowed the claim after noting that the genuineness of the advances was never doubted by the Revenue and that the books of account were duly audited. The High Court observed that the DRP had failed to consider detailed evidences furnished by the assessee vide letter dated 4-3-2014 and its observation that the claim lacked evidence was incorrect. Considering that the assessee had declared income exceeding Rs. 30 crore and the net write-off was only Rs. 7,66,713 involving small advances, the Tribunal's view allowing deduction was reasonable and justified. Accordingly, no substantial question of law arose and the order of the Tribunal was affirmed. (AY. 2010-11).
PCIT v. Watson Pharma (P) Ltd. (2025) 173 taxmann.com 957/346 CTR 82/249 DTR 25 (Bom)(HC)

S. 37(1) : Business expenditure-Penalty, fine, etc.-Payment of licence fee for use of goodwill by legal firm to heirs of goodwill owner-Alleged breach of Bar Council of India Rules not an offence or purpose prohibited by law-Deduction allowable. [S. 37(1), Explanation.] 614
The assessee-firm paid licence fees to the heirs of the erstwhile proprietor for use of the name and goodwill "R&S". The Assessing Officer disallowed the expenditure invoking the Explanation to section 37(1) on the ground that the arrangement violated the Bar Council of India Rules prohibiting sharing of professional fees with non-lawyers. The

Tribunal allowed the claim. On appeal, the High Court held that disallowance under the Explanation to section 37(1) applies only where expenditure is incurred for commission of an offence or for a purpose prohibited by law and the decisive test is the principal purpose of the expenditure. A breach of Bar Council of India Rules is not classified as an offence in law and payment made for commercial exploitation of goodwill cannot be regarded as expenditure incurred for an unlawful or prohibited purpose. The licence fee was consideration paid for use of a valuable transferable asset, namely goodwill, and the reference to firm revenue merely provided a mechanism for quantification of consideration and did not amount to sharing of professional fees. The Revenue erred in questioning the validity or motive of the gift of goodwill since the only issue was deductibility of expenditure. As the payment was made wholly for business purposes and not for committing an offence or circumventing law, deduction was allowable, and the order of the Tribunal was affirmed. (AY. 2009-10)

PCIT v. Remfry & Sagar (2025) 171 taxmann.com 391 / 345 CTR 703 / 252 DTR 103 (Delhi)(HC)

Editorial : Affirmed, Remfry & Sagar v. Jt. CIT (2016) 182 TTJ 744 (Delhi) (Trib)

615 **S.37(1): Business expenditure-Provision for warranty-Deletion of addition by the Tribunal is affirmed.**

Held that disallowance is arbitrary and unsustainable. Deletion of addition on account of excess warranty provision by the Tribunal, proper. (AY. 2016-17)

PCIT v. Sony India Pvt. Ltd [2024] 167 taxmann.com 549 / (2025) 477 ITR 576 (Delhi)(HC)

616 **S. 37(1): Business expenditure-Foreign exchange rates Expenses incurred on account of foreign exchange fluctuation and interest thereon in respect of foreign currency loans-Allowable business expenditure-Order of Tribunal set aside-Travelling expenses-Expenses incurred towards foreign tour of executives accompanied by their spouses-Major portion of claim allowed by Commissioner (Appeals)-Miniscule amount being involved order of Tribunal, affirmed.**

Held that foreign exchange rates Expenses incurred on account of foreign exchange fluctuation and interest thereon in respect of foreign currency loans, allowable business expenditure. Order of Tribunal set aside. Travelling expenses incurred towards foreign tour of executives accompanied by their spouses. Major portion of claim allowed by Commissioner (Appeals). Miniscule amount being involved order of Tribunal, affirmed. (AY. 1985-86, 1987-88)

Bajaj Auto Ltd. v. Dy. CIT (2025) 477 ITR 611/176 taxmann.com 104 (Bom)(HC)

CIT v. Reliance Industries Ltd. (2025) 477 ITR 611/176 taxmann.com 104 (Bom)(HC)

617 **S.37(1): Business expenditure-Construction business-Order of Tribunal deleting the disallowance was affirmed.[S. 260A]**

Dismissing the appeal of the revenue the court held that the Tribunal was justified in deleting the disallowance made by the AO. (AY. 2013-14)

PCIT v. Keti Construction Ltd [2024] 162 taxmann.com 278 / (2025) 475 ITR 182 (MP) (HC)

S.37(1): Business expenditure-Statutory reserve fund-Amounts transferred to statutory reserve fund in compliance with mandatory provisions of Reserve Bank of India Act, 1934-No diversion of income-Not allowable as deduction.[S. 4, Reserve Bank of India Act, 1934 S. 45-IC, 45Q] 618

Held, dismissing the appeal, that the Tribunal was right in holding that, there had been no diversion of income under the 1961 Act, by overriding charge in respect of amount transferred to statutory reserve fund in compliance with the mandatory provisions of section 45-IC read with section 45Q of the 1934 Act, and the amount transferred by the assessee to the reserve fund in compliance with the provisions of the 1934 Act was not an allowable deduction under section 37 of the 1961 Act.(AY. 2006-07)

Shriram City Union Finance Ltd. v. ACIT (2025) 474 ITR 514 (Mad)(HC)

S.37(1): Business expenditure-Provision for claims made on customer-wise details-Not a contingent liability-Provision for incurred but not reported claims allowable as deduction.[S.260A, First Schedule] 619

The assessee, an insurance company, had created provisions for unsettled claims and IBNR based on customer-wise details and actuarial methods. The Assessing Officer treated these as contingent liabilities and disallowed them; the Tribunal deleted the disallowances. The High Court dismissed the Department's appeal, holding that provisioning based on customer-wise details and actuarial estimation under IRDA regulations is not a contingent liability and is an allowable deduction under section 37(1).(AY. AY. 2013-14 to 2015-16)

PCIT v. Care Health Insurance Ltd. (earlier Religare Health Insurance Co. Ltd.) [2024] 164 taxmann.com 53 / (2025) 474 ITR 402 (Delhi)(HC)

S. 37(1) : Business expenditure-Contribution to its employees under Provident Funds-No disallowance can be made on the ground that it was not made to recognised Provident Fund [S. 260A, Provident Funds Act, 1925] 620

Held that the Tribunal was justified in holding that contribution made by assessee-company to PF of its employees under Provident Funds Act, 1925 was allowable, and it could not be disallowed on ground that it was not made to a Recognised Provident Fund. (AY. 1999-2000)

CIT v. Haryana Vidyut Prasaran Nigam Ltd. (2025) 303 Taxman 134 (P&H)(HC)

S. 37(1) : Business expenditure-Commercial expediency-Business loss-write-off of the deposits and interest-Amount lent to subsidiary-Allowable as business expenditure. [S. 28(i)] 621

The Court observed that in the instant case, the claim of the assessee for the expenditure and the deduction of write-off being the amount lent to MMC including interest due and advances for purchase of machinery given in the course of dealing with MMC was disallowed by the authorities under the Act for the preceding year i.e. the year 1989-90. The assessee filed an appeal viz. ITXA No.626 of 2002 which was decided by a Division Bench of this Court vide order dated 9th June 2023 in *Mahindra & Mahindra Ltd. vs. Commissioner of Income Tax.* The Hon Court agreed with the view taken by Division Bench of this Court in assessee's own case in *Mahindra & Mahindra*

Ltd. v. CIT (Order dated 9th June 2023) for the following reasons. Admittedly, MMC is a subsidiary of the assessee and assessee holds 27% equity capital of MMC since its incorporation. The assessee promoted the MMC on 15th May 1946. From the date of incorporation of the assessee, it was the managing agent of the MMC and the assessee has acted as a managing agent till 1974 when the Companies Act, 1974 abolished the Managing Agency System. However, due to severe recession in the textile industry, MMC started making losses. Thereupon, the MMC was wound-up. The assessee, in its board meeting held on 27th March 1989 agreed to incur expenditure for maintenance of MMC. Thereafter on 10th July 1990 the Board of Directors of the assessee agreed to resolve the dispute to meet the expenditure till the affairs of MMC were wound-up. The Board of Directors approved the expenditure made by the assessee in the previous relevant Assessment Year 1990-91. The assessee held substantial portion of equity capital of MMC and MMC was regarded in public and official circles as a Mahindra Company. The assessee, in order to protect and preserve the assets and to protect the value of goodwill attached to the assessee by various sections of the society and on the ground of commercial expediency, incurred expenditure, which is permissible as deduction. (AY. 1990-91)
Mahindra & Mahindra Ltd. v. CIT [2025] 174 taxmann.com 154 (Bom)(HC)

622 **S. 37(1) : Business expenditure-Securities held as stock in trade-Interest paid for broken period allowable as deduction-Rights issue of Fully Convertible Debentures (FCDs)-Expenditure on account of printing expenses, advertisement, professional fees, stamp duty and filing fees, bank charges, packages, etc-Allowable as deduction.**
Assessing Officer disallowed broken period interest paid by assessee on ground that it formed part of price of asset purchased, which had already been debited to profit and loss account. The order of the AO is affirmed by CIT(A) and Tribunal. On appeal the court held that Supreme Court in case similar to assessee held that since said securities were treated as stock-in-trade, broken period interest could not be considered as capital expenditure and would have to be treated as revenue expenditure, which could be allowed as deduction. Relied on *Bank of Rajasthan Ltd v. CIT (2024) 301 Taxman 463 (SC), CITY Bank NA (2003) 130 Taxman 334/ 264 ITR 18 (Bom)(HC), American Express International Banking Corporation (2002) 125 Taxman 488/ 258 ITR 601 (Bom)(HC).*
Assessee had made a rights issue of Fully Convertible Debentures (FCDs) and in such connection, had incurred expenditure on account of printing expenses, advertisement, professional fees, stamp duty and filing fees, bank charges, packages, etc.. Assessing Officer rejected claim on ground that real intention of assessee was to increase its capital and not to raise borrowed capital. The order of the AO is affirmed by the CIT(A) and Tribunal. On appeal the Court held in case similar to assessee, High Court held that debentures were to be converted in near future into equity shares, expenditure incurred needs to be allowed as revenue expenditure. Followed *CIT v. Faze Three Ltd (ITA No. 1761 of 2014 dt 16-3 2017, CIT v. Secure Meters Ltd (2010) 321 ITR 621(Raj)(HC) CIT v. Havells India Ltd (2012) 208 Taxman 114 /352 ITR 376 (Delhi)(HC).* (AY. 1993-94)
HDFC Bank Ltd. v. Dy. CIT (2025) 302 Taxman 460/477 ITR 197 (Bom.)(HC)

S. 37(1) : Business expenditure-Creation of a reserve fund and transfer certain amount to such reserve as per section 45-IC of Reserve Bank of India Act, 1934-Not allowable as deduction. [S.115JB, Reserve Bank of India Act, 1934 S. 45-IC.] 623

Assessee is NBFC was mandated to create a reserve fund and transfer certain amount to such reserve as per section 45-IC of Reserve Bank of India Act, 1934. Assessee claimed deduction of said amount while computing taxable income. Assessing Officer disallowed deduction claimed by assessee. Order of the AO is affirmed by the Tribunal. On appeal the Court held that in case of Shriram Transport Finance Company Ltd. v. ITO (OSD) [T.C.A. No. 755 of 2009, dated 30-6-2022], it was held that reserve is amount of profit which is retained for use in business, when difficulty arises and amount transferred by assessee to statutory reserve as mandated under provisions of the RBI Act, was not an allowable deduction in computing assessable income under provisions of Act under regular computation and computation of book profits under section 115JB. Order of the Tribunal is affirmed. (AY. 2006-07)

Shriram City Union Finance Ltd. v. ACIT (2025) 302 Taxman 288 (Mad.)(HC)

S.37(1): Business expenditure-Increase in payment to director-Company approved on 30-9-2004-The liability crystallised in the year when approved in AGM and not in an earlier year when the resolution was passed-Expenditure not deductible in Assessment Year 2004-05 [S. 145, 260A] 624

The Court held that the commission of ₹ 30 lakhs paid to the managing director for the assessment year (AY) 2004-2005 was not deductible as a revenue expenditure under the mercantile system of accounting, as the liability was ratified only in the subsequent AY 2005-2006. The appellant company claimed the deduction based on a resolution passed in December 2003, but the liability was approved in the Annual General Meeting (AGM) on September 30, 2004. The Court ruled that the liability crystallised in AY 2005-2006 upon ratification in the AGM, and despite the mercantile system recognising accrued liabilities, the approval was a prerequisite for the liability to arise. Therefore, the expense could not be claimed for AY 2004-2005 as the liability was contingent until ratified. The High Court upheld the Tribunal's order, dismissing the appeal and answering the question of law in favour of the Revenue. (AY. 2004-2005)

UC Mas Mental Arithmetic (India) Pvt. Ltd. v. ACIT (2025)472 ITR 585 (Mad)(HC)

S.37(1): Business expenditure-Bogus expenses-Double taxation-Two constituent entities already offered to tax certain amounts out of receipts of aggregate amounts from assessee-Same amount not liable to be taxed in the hands of the assessee as it would amount to double taxation.[S. 260A] 625

The Hon'ble Delhi High Court, deciding an appeal involving additions under S. 37 of the Act as bogus expenses emanating out of a search action, observed that the Respondent had never claimed the expense of Rs. 40 Crores and thus the question of any addition does not arise, as rightly held by the Tribunal. Further, the Court also observed that the aggregate amount of Rs. 40 Crores had already been offered to tax by two constituent entities. In view of the same, there arose no substantial question of law.(AY. 2012-13)

PCIT, Central v. Onehub Chennai Pvt. Ltd. [2025] 302 Taxman 497 (Delhi)(HC)

626 **S.37(1): Business expenditure-Capital or revenue-Payments made by an assessee for the use of a logo or trademark for a particular period, aimed at business improvement/ expansion, qualify as revenue expenditure.[S. 260A]**

The assessee is engaged in the chit fund business. The issue involved includes a question on whether the royalty payments made by the assessee to its parent company for using its logo should be treated as revenue expenditure or capital expenditure.

The revenue argued that the royalty payments should be treated as capital expenditure because they were for acquiring an intangible asset, thus only allowing for depreciation at 25% under Section 32. The assessee argued that the royalty payments were for the use of the parent company's logo and trademark, which were non-transferable and non-exclusive, and thus should be treated as revenue expenditure under Section 37(1).

The Hon'ble Tribunal ratifying the argument of the Assessee held that the royalty payments were revenue in nature and allowed the full deduction under Section 37(1).

The Hon'ble High Court upheld the Hon'ble Tribunal's decision, ruling that the royalty payments for the use of the logo or trademark for a particular period, aimed at business improvement/expansion, qualify as revenue expenditure under Section 37(1).(AY. 2014-15)

CIT v. Shriram Chits Tamil Nadu (P.) Ltd (2025) 473 ITR 278 /303 taxman 24 (Mad.) (HC)

627 **S.37(1): Business expenditure-Upfront fees and brokerage fees-Non-convertible debentures-Year of allowability-If the tax rate is uniform in two years then, the deduction whether claimed by the assessee in the year one or two is of no consequence to the revenue-The revenue expenditure is to be allowed in the year in which it is incurred but it could be spread over only at the instance of an assessee-Order of Tribunal is affirmed-No substantial question of law.[S. 145, 260A]**

In the appeal filed by the Revenue the issue before the court is whether the upfront fees and brokerage fees for issuing non-convertible debentures should be allowed fully in the assessment year 2004-05 or should be spread over two years for which non-convertible debentures were issued. There is no dispute between the parties that expenses have to be allowed as a deduction, but the only issue is whether it should be allowed fully in one year or it should be spread over a period of two years. The rate of tax for the assessment years 2004-05 and 2005-06 is same. Following the judgement in *CIT v. Nagri Mills Co. Ltd.(1958) 33 ITR 681 (Bom)(HC)* has observed that if the tax rate is uniform in two years then, the deduction whether claimed by the assessee in the year one or two is of no consequence to the revenue. Referred *PCIT v. Rakesh Prakash Timblo (2019) 106 taxmann.com 255 /415 ITR 344 (Bom)(HC), CIT v. Excel Industries Ltd (2013) 358 ITR 295 (SC).* Court also held that in *Madras Industrial Investment Corporation Ltd. v. CIT (1997) 225 ITR 802 (SC) and Taparia Tools Ltd v. JCIT (2015) 372 ITR 605(SC)* the Hon'ble Supreme Court has held that the revenue expenditure is to be allowed in the year in which it is incurred but it could be spread over only at the instance of an assessee. Appeal of Revenue is dismissed. (AY.2004-05) (ITA NO.661 of 2018 dt.8-1-2025)

PCIT v. Tata Industries Ltd (Bom)(HC) www.itatonline.org

S. 37(1) : Business expenditure-Stock-in-trade-Conversion and development expenses-AO disallowed expenditure treating same as capital expenditure-Assessee demonstrated that amount was included in closing stock-Adjustment was revenue neutral-Addition was unjustified. 628

The AO disallowed conversion/development expenses treating them as capital expenditure. The assessee argued the amount was debited in P&L and was included in closing stock under Land & Building Stock-in-Trade. Therefore, there was no reduction of taxable income. On appeal, ITAT observed that the said treatment was tax neutral as the amount was already reflected in closing stock. Mere nomenclature like 'Capital WIP' does not determine tax treatment. The ITAT accepted this explanation and held that no addition was justified (AY. 2014-15, 2015-16, 2017-18)

Anjana Construction v. ACIT (2025) 128 ITR 148 (Jodhpur)(Trib.)

S. 37(1) : Business expenditure-Corporate Social Responsibility (CSR) expenditure-Assessment years prior to 01.04.2015-Allowable as deduction. 629

Assessee-company, engaged in providing long-term finance for the development of housing and infrastructure, incurred CSR expenditure pursuant to directions issued by the Department of Public Enterprises. Assessing Officer disallowed the expenditure on the ground that it was not incurred wholly and exclusively for business purposes.

Explanation 2 to section 37(1), inserted by Finance (No. 2) Act, 2014 with effect from 01.04.2015, specifically disallows CSR expenditure. However, said amendment is prospective in operation. Since expenditure was incurred in years prior to assessment year 2015-16 and was incurred pursuant to regulatory mandate, the same was allowable as business expenditure under section 37(1). (AY. 2012-13, 2014-15, 2015-16)

Housing & Urban Development Corporation Ltd. v. DCIT [2025] 128 ITR 387 (Delhi) (Trib.)

S. 37(1) : Business expenditure-Prior period expenditure-Crystallisation of liability-Allowable in year of claim, subject to verification. [S. 145] 630

Assessee claimed prior period expenditure in the current assessment year. Assessing Officer disallowed the same on the grounds that the liability pertained to earlier years and assessee failed to establish crystallization during the relevant previous year. Held that where expenditure had not been claimed as a deduction in earlier years and liability crystallized during the year under consideration, deduction could not be denied merely because expenditure related to an earlier period. The matter was restored to the Assessing Officer to verify whether the expenditure had already been claimed in earlier years. If not claimed earlier, the same was allowable in the year under consideration. (AY. 2012-13, 2014-15, 2015-16)

Housing & Urban Development Corporation Ltd. v. DCIT [2025] 128 ITR 387 (Delhi) (Trib.)

S. 37(1) : Business expenditure-Grants-in-aid-Expenditure for promotion of housing and urban development-Allowable as a deduction. 631

Assessee engaged in financing housing and urban development projects claimed grants-in-aid expenditure as business expenditure. Assessing Officer disallowed the claim. Since the assessee's business consisted of financing housing and urban development projects, expenditure incurred by way of grants-in-aid contributed to the promotion of its

business activities. Following earlier orders in assessee's own case, such expenditure was allowable as a business deduction under section 37(1). (AY. 2012-13, 2014-15, 2015-16)
Housing & Urban Development Corporation Ltd. v. DCIT [2025] 128 ITR 387 (Delhi)(Trib.)

632 **S. 37(1) : Business expenditure-Foreign exchange fluctuation loss-Mark-to-market loss-Reinstatement of assets and liabilities-Allowable as a deduction. [S.28(1)]**
The assessee claimed a foreign exchange fluctuation loss arising on the reinstatement of assets and liabilities as on the balance sheet date. Assessing Officer treated it as a notional loss and disallowed the deduction. Allowability of foreign exchange fluctuation loss computed on the basis of the exchange rate prevailing on the balance sheet date was settled by the Supreme Court in *CIT v. Woodward Governor India (P.) Ltd.(2009) 312 ITR 254 (SC)*. Such loss was not merely notional and was allowable as business expenditure. Accordingly, the disallowance was rightly deleted. (AY. 2012-13, 2014-15, 2015-16)
Housing & Urban Development Corporation Ltd. v. DCIT [2025] 128 ITR 387 (Delhi) (Trib.)

633 **S. 37(1) : Business expenditure-Ad hoc disallowance-No defect in books of account or audited accounts-Disallowance not sustainable. [S. 44AB, 145]**
The Assessing Officer disallowed one per cent of the total expenditure on an ad hoc basis, which was partly sustained by the Commissioner (Appeals) in respect of certain administrative expenses. The Tribunal held that the assessee maintained regular books of account duly audited under section 44AB and the Assessing Officer had neither rejected the books under section 145 nor pointed out any specific defect or discrepancy in the expenditure claimed. In the absence of any material establishing that the expenses were not incurred wholly and exclusively for business purposes, the ad hoc disallowance was unsustainable and was deleted. (AY. 2017-18)
Sarvodaya Mining Services v. Asst. CIT (2025) 128 ITR 267 (Jodhpur)(Trib.).

634 **S. 37(1): Business expenditure-Business set up but not commenced-Expenditure allowable after setting up of business. [S. 4, 28, 56, 57(iii)]**
The assessee, engaged in setting up a thermal power project, claimed deduction of expenditure incurred after the business had been set up though commercial operations had not commenced. The Assessing Officer treated the expenditure as pre-operative and also assessed interest income from bank deposits and loans as "Income from other sources", denied deduction under section 57(iii) and taxed foreign exchange gains arising on year-end reinstatement of loans advanced to an overseas concern. The Tribunal held that the relevant test is the date on which the business is set up and not the date of commencement of commercial operations. Once the business is set up, all expenditure incurred wholly and exclusively for business purposes is allowable notwithstanding that no business income has yet been earned. The Tribunal further held that interest income from bank deposits and loans to sister concerns, having no nexus with the power project, was assessable as "Income from other sources". However, the corresponding finance cost having nexus with such income was directed to be examined and allowed under section 57(iii), ensuring that the deduction was allowed only once. It was further held that marked-to-market foreign exchange gains arising merely on reinstatement of loans

advanced to an overseas concern, there being no evidence that the loans were on revenue account, did not constitute taxable income and the addition was deleted. (AY. 2017-18)
Shapoorji Pallonji Energy (Gujarat) (P) Ltd. v. Dy. CIT (2025) 128 ITR 427 (Trib.).

S. 37(1) : Business expenditure-Employees' Stock Option Plan (ESOP)-Discount on ESOP-Ascertained liability-Deduction allowable. 635
The Assessing Officer disallowed the expenditure incurred on Employees' Stock Option Plan (ESOP) on the ground that it represented a notional or contingent liability. The Tribunal held that once the liability towards ESOP discount had accrued, it became an ascertained business expenditure, notwithstanding that its quantification or discharge would take place in future. Since the expenditure was recognised over the vesting period in accordance with the SEBI Guidelines and the applicable accounting standards, the assessee was entitled to deduction under section 37(1). (AY. 2009-10, 2012-13).
Bayer Crop Science Ltd. (Successor to Monsanto India Ltd.) v. Dy. CIT (2025) 130 ITR 679 (Mum.)(Trib.)

S. 37(1) : Business expenditure-Expenditure on movie tickets provided to staff of clients for chairman's film-Incurred for maintaining good relations with clients-Deduction allowable. 636
Held that the expenditure on movie tickets, as incurred for maintaining client relations, is allowable as a deduction. (AY. 2013 14)
Asst. CIT v. Kerry Indev Logistics P. Ltd (2025) 131 ITR 100 (Chennai) (Trib)

S. 37(1) : Business expenditure-Foreign exchange fluctuation loss-Working capital-Allowable as a deduction. [S. 145, AS-11] 637
Held that since the assessee has recognised the losses on forex fluctuation in relation to the closing balance held in EEFC a/c regularly in accordance with AS-11 and the Revenue has accepted the claim of fluctuation loss as 'real and revenue in nature', the same is an allowable deduction. (AY. 2010-11)
Vgm Export v. JCIT (2025) 235 TTJ 526 / 172 taxmann.com 819 (Panaji) (Trib)

S. 37(1) : Business expenditure-Advertisement material and goods-Purchase of icebox and plastic tables and chairs, bearing the logo-Allowable as business expenditure. 638
Assessee, a soft drink bottler, having disclosed net profit of 6.27 per cent, which is satisfactory and acceptable, the advertisement expenses incurred on the purchase of ice boxes, plastic tables and chairs bearing the logo, which were distributed to small vendors, cannot be disallowed for want of details of the said vendors (AY. 2016-17)
ACIT v. Ludhiana Beverages (P) Ltd. (2025) 235 TTJ 535 (Amritsar)(Trib)

S. 37(1) : Business expenditure-State tax paid in USA-Not claimed any benefit of the tax paid in the USA under the provisions of S. 90/91-State tax paid in USA is allowable as deduction. 639
Assessee not claimed benefit of provisions of S. 90/91, qua the State tax paid in the USA, the same is allowable as a deduction. Followed *Bank of India v. Asstt. CIT (2021) 210 TTJ 649 (Mum) (Trib)*. (AY.2016-17)
Bosch Global Software Technologies (P) Ltd. v. ACIT (2025) 235 TTJ 807 / 174 taxmann. com 76 (Bang)(Trib)

640 **S. 37(1) : Business expenditure-Commission for securing a loan-Allowable as business expenditure.**
Held that commission paid for securing the loan on which the TDS was deducted, which was paid through Cheque, is held to be allowable as business expenditure (AY. 2018-19)
DCIT v. Darshan Enterprises (2025) 236 TTJ 22 (Mum)(Trib)

641 **S. 37(1) : Business expenditure-Interest on delayed payment of tax deducted at source-Allowable as business expenditure. [S. 40(a)(ii), 201(IA)]**
Held that interest on the delayed payment of tax deducted at source payable under section 201(IA) or any other similar provision is deductible in computing the profits and gains of business or profession of the payer; the provisions of section 40(a)(ii) are not applicable. (AY. 2017-18)
Ganpati Gems & Jewellers v. ACIT (2025) 236 TTJ 100 (Jaipur) Trib)

642 **S. 37(1) : Business expenditure-Accrual-Provision for claim payout in respect of guarantee fee-allowable as a deduction.[S. 145]**
Tribunal held that a provision for liability to make payment towards claim payout made by the assessee trust engaged in providing credit guarantee on the basis of an actuarial report obtained from an independent actuary is an ascertained liability in view of the provisions of the Credit Guarantee Funds for Micro Units Scheme and therefore the provision created during the relevant year is allowable as deduction as the assessee is following accrual basis of accounting. (AY. 2019-20)
Credit Gurantee Fund for Micro Units v. NFAC (2025) 236 TTJ 296 (Mum)(Trib)

643 **S.37(1): Business expenditure-Penalty, fine, etc.-Payment made to intermediaries/ aggregators towards outsourcing of policy servicing activities-The payment made to the aggregators is allowable as a deduction.**
Held that there is no prohibition against outsourcing of policy servicing activities by an insurance company; since the assessee has not been declared to be guilty of any offence nor has any penal action been initiated against the assessee for violation of the provisions of the Insurance Act or IRDAI guidelines, the exceptions provided under Expln. 1 to s. 37(1) is not applicable. Accordingly, the payment made to the aggregators is allowable as a deduction. (AY. 2010-11, 2011-12, 2013-14 to 2016-17)
HDFC Ergo General Insurance Company Ltd. v. ACIT (2025) 237 TTJ 105 (Mum) Trib)

644 **S.37(1): Business expenditure-Insurance premium paid on the insurance policy of a partner-Loan was granted with the condition of obtaining an insurance policy of one partner-Allowable as business expenditure.**
Held that the lender company had granted a loan to the assessee on the condition that the assessee had to obtain an insurance policy, and the said loan was utilised for business purposes. Insurance premium paid on the insurance policy of a partner is an allowable business expenditure. (AY. 2014-15)
Pankaj Enterprises v. Dy.CIT (2025) 237 TTJ 497 (Mum) Trib)

S.37(1): Business expenditure-Royalty-Use of land-Power of attorney-Allowable as a deduction. [S.2(47)(vi)] 645

Held that payment of royalty for the use of land is allowable as business expenditure. (AY. 2012-13)

Balajee Infratech & Constructions (P.) Ltd. v. DCIT (2025) 238 TTJ 568 / 179 taxmann.com 420 (Mum)(Trib).

S. 37(1): Business expenditure-Settlement of patent dispute-Compensation paid for settlement of civil litigation is allowable business expenditure and not hit by Explanation 1 to section 37(1). [S. 37(1), Explns. 1 & 3] 646

The assessee paid compensation to a foreign company for the settlement of a patent infringement dispute through an out-of-court settlement. The Tribunal held that the payment was neither a penalty nor for any purpose prohibited by law, but was incurred for commercial expediency to settle a bona fide civil dispute. Explanation 3 to section 37(1), inserted by the Finance Act, 2022, enlarging the scope of "prohibited by law", is prospective and cannot be applied to AY 2014-15. Accordingly, the disallowance was deleted. (AY. 2014-15)

DCIT v. AIA Engineering Ltd. (2025) 238 TTJ 632 / 179 taxmann.com 152 (Ahd.)(Trib.)

S. 37(1): Business expenditure-Accrued or contingent liability-Assessee in real estate business-Provision for construction expenses made on fair estimate of amount required for completion of project, following matching concept-Amount spent in subsequent year through proper banking channels, no discrepancies noticed by Revenue-Provision to be allowed.[S. 145] 647

The assessee-firm, engaged in civil construction, had debited Rs. 4 crores as provision for construction expenses towards completion of remaining project work, which was disallowed by AO on the ground that under the mercantile system only crystallised liabilities were allowable, and this was upheld by CIT(A), though the deemed rent addition of Rs. 14,80,398 on unsold flats and shops was sustained. On appeal, the Tribunal held that since the flats sold during the year were not fully complete, the provision was made on a fair estimate following the matching concept, the amount was actually spent in the subsequent year through proper banking channels with no discrepancies noticed by the Revenue, and the assessee, following the project completion method, had already completed 90% of the project and recognised revenue on the entire sale proceeds, the provision for construction expenses was to be allowed and the addition of Rs. 4 crores was deleted; the addition on account of deemed rent was rightly sustained; and the disallowance of depreciation was restored to AO for fresh adjudication after affording the assessee an opportunity to substantiate its claim with relevant bills or vouchers. (AY. 2017-18)

Surana Mutha Bhansali Developers v. ACIT (2025) 132 ITR 240 (Pune) (Trib.)

S. 37(1) : Business expenditure-Capital or revenue expenditure-Brand relaunch expenses spread over three years-Activity not enlarging profit-making apparatus nor new line of business-Substantially revenue expenditure though benefit accruing over years-Not capital merely because benefit flows over more than one year-No enduring 648

advantage in capital field-Expenditure allowable-Disallowance of expenditure relating to exempt income-No exempt income earned during year-Explanation introduced by Finance Act, 2022 prospective, not applicable-No disallowance called for-Accrual of liability-Expenditure disallowed as prior period expenses-Ascertained and crystallised during the year-No deduction claimed in earlier years-Allowable in year of crystallisation-Deduction only on actual payment-Delayed payment of employees' contribution to provident fund and employees' State insurance-Not allowable. Payments to foreign agencies for services rendered abroad-Payees having no permanent establishment in India-Payments not taxable in hands of non-residents under Double Taxation Avoidance Agreements-Cannot be disallowed for failure to deduct tax at source. Commissioner (Appeals) directing Assessing Officer to reconcile difference between interest receipts and bad debts-Mere directions for verification-No interference called for. [S. 2(24)(x), 9(1)(vii), 14A, 40(a)(i), 43B, 250, 254(1)]

The assessee, engaged in printing and publication of newspapers. The Assessing Officer disallowance of one-third of brand relaunch expenses treating them as capital in nature, disallowance under section 14A despite no exempt income being earned, disallowance of certain prior period expenses, disallowance under section 43B for delayed deposit of employees' contributions to provident fund and ESI, disallowance under section 40(a)(i) for non-deduction of tax on payments to foreign news agencies, and additions based on discrepancies in interest receipts and bad debts as per Form 26AS. On appeal, the Tribunal held that the brand relaunch expenses, not resulting in any enlargement of the profit-making apparatus or acquisition of enduring advantage, were substantially revenue in nature notwithstanding the benefit spreading over years, and were allowable; that since no exempt income was earned during the year, the Explanation to section 14A introduced by the Finance Act, 2022 being prospective could not be applied, and the disallowance was deleted; that the prior period expenses, having crystallised and been ascertained only during the year with no prior claim thereof, were allowable in the year under consideration; that the disallowance under section 43B for delayed payment of employees' contributions to provident fund and ESI was rightly confirmed; that payments made to foreign news agencies for services rendered abroad, the payees having no PE in India, were exempt from taxation under the relevant DTAA and could not be disallowed under section 40(a)(i) for non-deduction; and that the directions of the CIT(A) to AO to verify and reconcile the discrepancies in interest receipts and bad debts called for no interference.(AY. 2010-11to 2012-13)

Express Publications (Madurai) P. Ltd. v. DCIT (2025) 132 ITR 519(Chennai) (Trib.)

649 **S. 37(1) : Business expenditure-Commission-Telecommunication business-Ad hoc disallowance deleted-Royalty, Wireless Planning Commission charges and advertisement expenditure-Revenue expenditure-Judicial consistency followed.**

The Assessing Officer disallowed 10 per cent. of the commission expenditure on an ad hoc basis. The Tribunal, following its earlier decision in the assessee's own case, held that commission payments formed an integral part of telecommunication business operations and there was no justification for the disallowance. The deletion by the Commissioner (Appeals) was upheld. Following earlier decisions in the assessee's own case and in the case of its sister concern, the Tribunal held that royalty, Wireless

Planning Commission charges and advertisement expenditure were allowable as revenue expenditure. The Revenue's appeals were dismissed by applying the principle of judicial consistency (AY. 1999-2000 & 2007-08).
Asst. CIT v. Vodafone West Ltd (2025) 126 ITR 335 / 173 taxmann.com 585 (Delhi)(Trib.)
ACIT v. Vodafone Idea Ltd. (2025) 126 ITR 335 / 173 taxmann.com 585 (Delhi)(Trib.)

S. 37(1) : Business expenditure-Employees' Stock Option Plan-Discount on issue of shares-Expenditure allowable. 650
The Tribunal followed its earlier orders in the assessee's own case and held that the Employees' Stock Option Plan expenditure, representing the difference between the fair market value and the issue price of shares and accounted for in accordance with the SEBI Guidelines, constituted an allowable business expenditure. The Assessing Officer was directed to delete the disallowance. (AY. 2018-19).
Sterling Holiday Resorts Ltd. v. Dy. CIT (2025) 127 ITR 284 / 180 taxmann.com 310 (Mum.)(Trib.)

S. 37(1) : Business expenditure-Mark-to-market loss on foreign exchange hedging-Allowable deduction. 651
The Tribunal held that mark-to-market loss arising on foreign exchange hedging contracts as on the balance-sheet date represented an allowable business expenditure. The disallowance made by the Assessing Officer was deleted. (AY. 2006-07 to 2012-13).
Dy. CIT v. Bodal Chemicals Ltd. (2025) 127 ITR 194 / 177 taxmann.com 448 (Ahd.)(Trib.)

S. 37(1) : Business expenditure-Lease equalisation reserve-Accounting Standard-19-Not a contingent liability-Deduction allowable. [S. 145] 652
The assessee claimed deduction towards lease equalisation reserve computed in accordance with Accounting Standard-19 for spreading lease rentals over the lease period. The Tribunal held that the claim represented a recognised method of accounting consistently followed by the assessee and accepted by the Revenue in other years. The lease equalisation reserve was not a contingent liability and was allowable as business expenditure. (AY. 2014-15).
Birlasoft Ltd. v. Asst. CIT (2025) 127 ITR 63 / 173 taxmann.com 634 (Delhi)(Trib.)

S. 37(1): Business expenditure-Research programme-Payment for employees' training and research-Expenditure incurred wholly for business purposes-Allowable-Advertisement and brand promotion expenses-Payment for use of established brand and designs-Revenue expenditure-Sponsorship expenses-Assessee failed to establish business purpose-Disallowance upheld.[S. 32] 653
The assessee made payments to a research institution in the United States under a collaborative research programme under which its employees received specialised training and research inputs for the future growth of its business. Though the payments were described as donations, the Tribunal held that their real nature was expenditure incurred wholly and exclusively for the purposes of business. The deduction was, therefore, allowable under section 37(1). The Assessing Officer treated payments made towards brand equity and design promotion as capital expenditure. The Tribunal held

that the payment merely enabled the assessee to use the established brand and derive commercial advantage in its business without acquiring ownership of any intangible asset. The expenditure was revenue in nature and allowable as a deduction. The assessee claimed deduction of sponsorship expenditure incurred towards sponsoring a prize at an annual function. The Tribunal held that although the payment was established, the assessee failed to demonstrate how the sponsorship promoted or benefited its business. As the expenditure was not shown to have been incurred wholly and exclusively for business purposes, the disallowance was upheld. (AY. 2014-15).
Tata Consultancy Services Ltd. v. Dy. CIT [2023] 154 taxmann.com 372 / (2025) 129 ITR 667 (Mum.)(Trib.)

654 **S. 37(1) : Business expenditure-Glow signboards, sales tools and fixtures supplied to dealers-Expenditure revenue in nature-Royalty-Manufacturing business already established-Royalty paid for manufacture of two-wheelers-Revenue expenditure-Technical know-how-Expenditure incurred after commencement of manufacturing-Revenue expenditure.**
The Assessing Officer treated expenditure incurred on glow signboards installed at dealers' premises and sales tools and fixtures supplied to dealers as capital expenditure. The Tribunal held that once the signboards were fixed at the dealers' premises, the assessee no longer retained ownership over them and the expenditure was incurred wholly for business promotion. Following its earlier orders in the assessee's own case, the Tribunal held that expenditure on signboards, sales tools and fixtures was allowable as revenue expenditure. The Assessing Officer treated royalty paid to the overseas holding company under the licence and technical know-how agreements as capital expenditure. The Tribunal held that the assessee was already carrying on the business of manufacturing motorcycles and scooters and the royalty was not paid for establishing a new manufacturing facility but for carrying on the existing business. Accordingly, the royalty expenditure was held to be revenue in nature and deductible. The assessee claimed deduction of technical know-how expenditure incurred after commencement of manufacturing operations. The Tribunal, following its earlier decision in the assessee's own case, held that expenditure incurred for acquiring technical know-how after the manufacturing facility had already been established was revenue in nature, whereas expenditure incurred for setting up the manufacturing facility would be capital. Accordingly, the deduction was allowed. (AY. 2017-18).
Honda Motorcycle and Scooter India Pvt. Ltd. v. Asst. CIT [2023] 153 taxmann.com 567 / (2025) 129 ITR 6 (Delhi)(Trib.)

655 **S. 37(1) : Business expenditure-Foreign travel expenses-Directors' visit to overseas subsidiaries for promotion of business-Commercial expediency-Allowable-Irrecoverable excise duty on sales returns-Expenditure incurred for business purposes-Allowable-Gift and gardening expenses-Expenditure incurred for business purposes-Allowable-Prior period expenses-Assessee unable to establish crystallisation of liability during relevant year-Disallowance upheld.**
The Assessing Officer disallowed a part of the foreign travel expenses incurred by the directors on the ground that no business benefit had been established. The Tribunal

held that the visits were undertaken to the assessee's overseas subsidiaries engaged in marketing its products and were dictated by commercial expediency. The expenditure was incurred wholly and exclusively for the purposes of business and was allowable. The assessee claimed deduction of excise duty paid on raw materials used in the manufacture of goods which was not refunded when the finished goods were returned by customers. The Tribunal held that the expenditure had been incurred wholly for the purposes of the business and was allowable as a business deduction under section 37(1). The Assessing Officer disallowed gift expenses and part of the gardening expenses on the ground that they were not incurred wholly for business purposes. The Tribunal held that the genuineness of the expenditure was not in dispute and that the expenses had been incurred for the purposes of the business. The disallowance was, therefore, deleted. The assessee claimed deduction of prior period expenditure towards miscellaneous expenses, repairs and maintenance, and legal and professional charges. The Tribunal held that the assessee failed to establish that the liability had crystallised during the relevant previous year. Mere approval of expenditure during the current year for work completed and accounted for in an earlier year did not determine the year of crystallisation. Accordingly, the disallowance was upheld. (AY. 2011-12 to 2016-17).
AVTEC Ltd. v. Asst. CIT [2024] 168 taxmann.com 692 / (2025) 129 ITR 483 (Delhi)(Trib.)

S. 37(1) : Business expenditure-Penalty for violation of law-Seizure of truck with wrong waybill-Not allowable.[Expln. 1 to S. 37(1), GST, VAT] 656
Penalty paid under the State VAT law on account of seizure of a truck carrying goods with an incorrect waybill was claimed as business expenditure. The Tribunal held that expenditure incurred for infringement of law is hit by Explanation 1 to section 37(1) and is not deductible. However, liberty was granted to the assessee to seek rectification if the penalty was subsequently held to be compensatory in nature. (AY. 2015-16).
Hindustan Coca Cola Beverages (P.) Ltd. v. Add. CIT (2025) 122 ITR 290 (Delhi)(Trib.)

S. 37(1) : Business expenditure-Construction of building on leasehold land-No ownership of capital asset-Expenditure allowable as revenue expenditure-Delay of 59 days and 206 days was condoned. [S. 32(1), 254(1)] 657
The assessee constructed a building on leasehold land which, under the lease agreement, had to be handed back to the lessor upon expiry of the lease. Following its earlier decision in the assessee's own case, the Tribunal held that the assessee did not acquire ownership of the capital asset and the expenditure incurred on construction was allowable as revenue expenditure. The order of the Commissioner (Appeals) allowing the claim was upheld. Delay of 59 days and 206 days was condoned. (AY. 2017-18, 2018-19 & 2020-21).
Asst. CIT v. Eastman Exports Global Clothing (P.) Ltd. [2024] 167 taxmann.com 434 / (2025) 122 ITR 243 (Chennai)(Trib.)

S. 37(1): Business expenditure-Inventory loss and leakage-Consistent view in earlier years-Deduction allowable. 658
Following its earlier orders in the assessee's own case, the Tribunal held that the write-off of inventory loss and leakage represented a normal business loss and was allowable

as a deduction. The Revenue's ground challenging the deletion of the addition was dismissed. (AY. 2016-17).
Hindustan Coca Cola Beverages (P.) Ltd. v. Add. CIT (2025) 122 ITR 290 (Delhi)(Trib.)

659 **S. 37(1): Business expenditure-Corporate Social Responsibility expenditure-Explanation 2 prospective-Expenditure incurred prior to assessment year 2015-16 allowable. [Expln. 2 to S. 37(1)]**
The Assessing Officer disallowed Corporate Social Responsibility (CSR) expenditure for assessment year 2014-15 by applying Explanation 2 to section 37(1). The Tribunal held that Explanation 2 was inserted with effect from assessment year 2015-16 and had no application to the year under consideration. Since the expenditure was incurred voluntarily for the welfare of employees and the local community without any statutory obligation, it was allowable as business expenditure. (AY. 2014-15).
Hindustan Coca Cola Beverages (P.) Ltd. v. Add. CIT (2025) 122 ITR 290 (Delhi)(Trib.)

660 **S. 37(1): Business expenditure-Bogus purchases-Statement of supplier retracted-Sales accepted-Purchases cannot be treated as bogus-Addition deleted.[S.69C]**
The Assessing Officer treated purchases of diamonds as bogus on the basis of the statement of the supplier's director alleging accommodation entries. The Tribunal noted that the statement had subsequently been retracted and that the assessee had made payments through banking channels. Since the corresponding sales were accepted by the Department, the existence of purchases could not be denied. The Revenue also failed to establish that the assessee acted merely as a conduit for accommodation entries. Accordingly, the deletion of the addition by the Commissioner (A) was upheld. (AY. 2012-13).
Asst. CIT v. Krishnaavtar J. Kabra (HUF) (2025) 122 ITR 337 / 170 taxmann.com 502 (Ahd.)(Trib.)

661 **S. 37(1) : Business expenditure-Portfolio Management Services (PMS) fees-Non-banking financial company engaged in investment and trading in securities-Fees paid to portfolio managers wholly and exclusively for business-Allowable as revenue expenditure-Delay of 101 days by Revenue-Delay in obtaining administrative approvals-Delay condoned.[S. 48, 254(1), ITAT R. 27]**
The assessee, a non-banking financial company engaged in investment activities and trading in securities, claimed deduction of Portfolio Management Services (PMS) fees paid to SEBI-regulated portfolio managers. The Tribunal held that the assessee was authorised by the Reserve Bank of India to carry on the business of acquisition and investment in shares and securities and the expenditure incurred on PMS was wholly and exclusively for carrying on such business. The fees constituted business expenditure allowable under section 37(1). The Revenue's contention that the expenditure was not deductible under section 48 was rejected and the order of the Commissioner (Appeals) allowing the deduction was upheld. The assessee was also entitled to support the order of the Commissioner (Appeals) by invoking Rule 27 of the Income-tax (Appellate Tribunal) Rules, 1963. The Tribunal held that the Revenue had satisfactorily explained the delay of 101 days in filing the appeal as it occurred on account of the time taken in

obtaining administrative approvals through the departmental hierarchy. The delay being bona fide, it was condoned in the interest of justice. (AY. 2022-23).
Dy. CIT v. Meenakshi Mercantiles Ltd. (2025) 124 ITR 1/175 taxmann.com 581 (Kol.) (Trib.)

S. 37(1): Business expenditure-Registrar of Companies fees for increase in authorised share capital-Increase for issue of bonus shares by capitalisation of reserves-Revenue expenditure allowable in full. [S. 35D] 662
The assessee increased its authorised share capital solely for issuing bonus shares by capitalising its free reserves and claimed deduction of the fees paid to the Registrar of Companies. The Tribunal held that the issue of bonus shares merely represented reallocation of existing funds without any inflow of fresh capital or expansion of the capital base. Accordingly, the expenditure was revenue in nature and allowable in full and could not be restricted under section 35D. (AY. 2020-21).
Asst. CIT v. Neuzen Finance (P.) Ltd. (2025) 124 ITR 43/175 taxmann.com 582 (Mum.) (Trib.)

S. 37(1) : Business expenditure-Legal and professional charges-Mere proof of payment through banking channels insufficient-Matter remanded for verification of services rendered. 663
The assessee claimed deduction of legal and professional charges paid to consultants. The Assessing Officer found that the consultants were not traceable at the addresses furnished and no evidence regarding actual services rendered was produced. The Tribunal held that proof of identity and payment through banking channels alone was insufficient to establish allowability of the expenditure. However, considering the lapse of time between the transaction and the enquiry, the matter was restored to the Assessing Officer to verify whether the payments were genuinely made for services rendered to the assessee. (AY. 2011-12).
BMW India (P.) Ltd. v. Dy. CIT [2019] 108 taxmann.com 419/(2025) 124 ITR 584 (Delhi) (Trib.)

S. 37(1): Business expenditure-Insurance business-Provision for IBNR and IBNER claims-Unascertained liability-Deduction not allowable-Amortisation of premium on securities-Disallowance upheld. 664
The assessee claimed deduction of provisions created towards "incurred but not reported" (IBNR) and "incurred but not enough reported" (IBNER) claims. Following the decision in the assessee's own case for earlier years, the Tribunal held that such provisions represented unascertained liabilities and were not allowable under section 37(1). However, the disallowance was directed to be restricted only to the amount actually debited to the profit and loss account. Following its earlier decisions in the assessee's own case, the Tribunal upheld the disallowance of amortisation of premium paid on purchase of securities (AY. 2020-21).
United India Insurance Co. Ltd. v. Dy. CIT (2025) 124 ITR 682 (Chennai)(Trib.)

665 **S. 37(1): Business expenditure-Employees' Stock Option Plan-Discount on issue of shares-Revenue expenditure allowable-Entertainment and guest house expenses-No finding that expenditure was not incurred for business-Disallowance deleted.**
The assessee claimed deduction of the discount on shares issued to employees under the Employees' Stock Option Plan. The Tribunal held that the dominant object of the scheme was to secure and retain efficient employees and not to raise share capital. The discount represented employee compensation and constituted revenue expenditure allowable under section 37(1). The Tribunal held that in the absence of any finding that the entertainment and guest house expenditure was not incurred wholly and exclusively for the purposes of business, the disallowance could not be sustained. The deletion made by the Commissioner (Appeals) was upheld. (AY. 1999-2000 to 2001-02).
HDFC Bank Ltd. (Successor to Housing Development Finance Corporation Ltd.) v. Dy. CIT (2025) 125 ITR 629 (Mum.)(Trib.)

666 **S. 37(1): Business expenditure-Technology licensing agreement-Payment initially capitalised as intangible asset-Expenditure held allowable as revenue expenditure-Foreign exchange loss-Expenditure arising from same business agreement-Revenue expenditure allowable. [Expln. 3 to S. 32(1)]**
The assessee entered into a long-term technology licensing agreement with EADS for commercialisation of intellectual property rights and capitalised the payment as an intangible asset while claiming depreciation. Alternatively, it claimed deduction under section 37(1). The Tribunal, after examining the terms of the agreement and the revenue generated therefrom, held that the expenditure was incurred wholly and exclusively for carrying on the assessee's business and did not result in acquisition of any depreciable business or commercial right. The alternative claim under section 37(1) was therefore allowed, and the Assessing Officer was directed to treat the expenditure as revenue expenditure. The foreign exchange loss related to the payment made under the same technology licensing agreement which the assessee had capitalised as an intangible asset. Following its finding that the principal expenditure was allowable under section 37(1), the Tribunal held that the corresponding foreign exchange loss also retained the character of revenue expenditure and directed the Assessing Officer to allow the deduction (AY. 2012-13).
Cheers Interactive (India) (P.) Ltd. v. Asst. CIT (2025) 125 ITR 149 / 173 taxmann.com 308 (Mum.)(Trib.)

667 **S. 37(1): Business expenditure-Prior period expenses-Provision for gratuity already disallowed by assessee-Double disallowance not permissible-Matter restored.[S. 145]**
The Tribunal found that the assessee had already disallowed the closing balance of the provision for gratuity in its computation of income. The Assessing Officer again disallowed substantially the same amount as prior period expenditure, resulting in double disallowance. The matter was restored to the Assessing Officer to verify the ledger accounts and delete the duplicate addition after verification. (AY. 2014-15).
Norben Tea and Exports Ltd. v. Dy. CIT (2025) 123 ITR 715 / 175 taxmann.com 237 (Kol.) (Trib.)

S. 37(1) : Business expenditure-Staff welfare expenses-Ad hoc disallowance without identifying non-business expenditure-Deletion justified. 668

The Assessing Officer disallowed 30 per cent of the staff welfare expenses on an ad hoc basis without recording any specific finding that any particular expenditure was not incurred wholly and exclusively for the purposes of business. The Tribunal held that such ad hoc disallowance was unsustainable and upheld the deletion made by the Commissioner (Appeals). (AY. 2014-15 & 2015-16).

SIEL Ltd. v. Dy. CIT (LTU) (2025) 123 ITR 599 / 173 taxmann.com 278 (Delhi)(Trib.)

S. 37(1): Business expenditure-Commission to motor vehicle dealers-Genuine business services established-Disallowance deleted-IBNR and IBNER provisions-Ascertained liabilities based on actuarial valuation-Deduction allowable. 669

The assessee paid amounts to motor vehicle dealers under agreements for sale of insurance policies. The Tribunal held that invoices, confirmations and collection of premium by the dealers established that genuine services had been rendered. Accordingly, the disallowance was deleted, leaving it open to the Revenue to take appropriate action if warranted after completion of GST proceedings. The Tribunal held that provisions for "incurred but not reported" (IBNR) and "incurred but not enough reported" (IBNER) claims, computed in accordance with IRDA Regulations and actuarial principles, represented substantially ascertainable liabilities and not contingent liabilities. The deduction under section 37(1) was therefore allowable. (AY. 2008-09 to 2014-15).

Royal Sundaram General Insurance Co. Ltd. v. Dy. CIT (2025) 123 ITR 507 / 175 taxmann.com 427 (Chennai)(Trib.)

S. 37(1) : Business expenditure-Advertisement and sales promotion expenses-Real estate project undertaken on ownership basis-Revenue expenditure allowable. 670

The Assessing Officer treated advertisement and sales promotion expenditure incurred for promotion of the assessee's Thane project as part of work-in-progress. The Tribunal held that the assessee had developed the project on its own account and not under a construction contract. Consequently, the advertisement and sales promotion expenditure constituted allowable revenue expenditure under section 37(1). (AY. 2015-16 & 2016-17).

Dy. CIT v. Piramal Estates (P.) Ltd. (2025) 123 ITR 488 (Mum.)(Trib.)

S. 37(1) : Business expenditure-Personal expenses of directors-No evidence that expenditure belonged to assessee-Addition deleted. 671

The Tribunal held that the expenditure represented the personal expenses of the directors and there was no material to establish that such expenditure was incurred by the assessee for its business. The addition was therefore rightly deleted. (AY. 2015-16).

Asst. CIT v. Shrigopal Rameshkumar Sales (P.) Ltd. (2025) 123 ITR 1 (Nagpur)(Trib.)

S.37(1): Business expenditure-Travel and conveyance expenses-Ad-hoc disallowance of 20 %-CIT(A) was justified in deleting the ad-hoc disallowances. 672

Held that the Assessee submitted additional evidence before the CIT(A) in support of the contract expenditure and conveyance and travel expenditure incurred by it, and the

AO having not submitted any remand report to convert the same, CIT(A) was justified in admitting the additional evidence and deleting the ad hoc disallowance made by the AO.(AY. 2017-18)
Bangalore Electricity Supply Co. Ltd. v ACIT (2025) 234 TTJ 58 /121 ITR 595 / 174 taxmann.com 100 (Bang) (Trib)

673 **S.37(1): Business expenditure-Marketing support expenses-Director's remuneration-Allowable as business expenditure.**
Held that the assessee-company, engaged in the business of manufacturing automobiles and auto parts, paid marketing support expenditure to its AE for enhancing its technical strength and marketing support, since assessee had explained the nature of such expenses in detail and had filed necessary documentary evidences to prove that such expenses had been incurred wholly and exclusively for purpose of business, hence, the expenditure was allowable as business expenditure. Tribunal also held that the remuneration paid by the assessee-company to its directors as per the board resolution was an allowable expenditure. (AY. 2016-17)
DCIT v. Anand NVH Products (P.) Ltd. (2025) 215 ITD 98 (Delhi) (Trib.)

674 **S.37(1): Business expenditure-Commission-Allowable as deduction.**
Held that assessee claimed deduction for commission expenses paid to four parties by banking channel, duly supported by TDS deduction, bank statements, invoices, party ledgers and return filed by one agent. Commission payments were found genuine and incidental to business; the addition made by the Assessing Officer for unverifiable payments was deleted. (AY. 2021-22)
R Y Midas Metacast (P.) Ltd. v. ITO (2025) 215 ITD 305 (Ahd) (Trib.)

675 **S.37(1): Business expenditure-towards Employee Stock Option Plan (ESOP)-International Stock Ownership Plan (ISOP)-Paid to parent company-Allowable as deduction.**
Assessee-company claimed expenditure towards Employee Stock Option Plan (ESOP) and International Stock Ownership Plan (ISOP) paid to its parent company. The Assessing Officer disallowed the payment. CIT A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that since assessee merely reimbursed actual costs in relation to its own employees and the evidence produced clearly established crystallisation of liability and actual outgo in the relevant previous year, disallowance of expenditure under section 37(1) was unsustainable. (AY. 2015-16)
Procter & Gamble Hygiene and Health Care Ltd v. NFAC (2025) 214 ITD 315 (Mum) (Trib.)

676 **S.37(1): Business expenditure-Setting up of business-Power Purchase Agreement-Expenditure incurred for the purpose of business after setting up of business was allowable for deduction.**
Held that assessee-company had entered into a Power Purchase Agreement, acquired several plots of land, obtained permission/clearance from relevant authorities, acquired equipment and other assets, etc., it could be said that the business of assessee of setting up a Thermal Power Project was already set up. Accordingly, the expenditure incurred

for the purpose of business after setting up the business was allowable for deduction. (AY. 2017-18)
Shapoorji Pallonji Energy (Gujarat) (P) Ltd. v. DCIT (2025) 214 ITD 297 (Mum) (Trib.)

S.37(1): Business expenditure-Insurance premium-Loan to firm on an insurance policy on the life of one of its partners-Insurance premium paid allowable as a deduction. 677
Held that the assessee had taken a loan and the same was utilised for its business purpose, and the loan was granted on condition of obtaining an insurance policy on the life of the partner. Accordingly, the insurance premium paid by the assessee was an allowable business expenditure. (AY. 2014-15)
Pankaj Enterprises v. DCIT (2025) 214 ITD 702 (Mum) (Trib.)

S.37(1): Business expenditure-Salary to employees-No disallowance was proposed in the show-cause notice-Order of CIT(A) deleting the disallowance was affirmed. 678
Held that the assessee paid salary to two employees through the banking channel and employees had duly reflected these salaries in their ITRs, salary payment could not be disallowed, particularly when no such disallowance was proposed in the show cause notice by AO. Order of CIT(A) was affirmed. (AY. 2017-18)
ITO v. Rajeshkumar Rameshchandra Shah (2025) 214 ITD 725 (Ahd) (Trib.)

S.37(1): Business expenditure-Special reserve-Amount transferred to special reserve pursuant to the provision of section 45 IC of the RBI Act, 1934 is an appropriation of profit and not allowable as a deduction or excludable; the amount transferred was required to be added back to book profit under section 115JB [S.115JB RBI Act, 1934, S.451C] 679
Assessee transferred about Rs. 52.70 crores to Special Reserve under section 45IC of the RBI Act, 1934 and claimed that, being a statutory transfer, the amount was to be excluded both from computation of total income under normal provisions and from book profit under section 115JB. Assessing Officer held that it was an appropriation of profit and added the same to the income of assessee. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that transfer to Special Reserve under section 45IC of the RBI Act, 1934 is an appropriation of profit and therefore not allowable as a deduction/excludable in computing (i) income under normal provisions and (ii) book profit under section 115JB. Therefore, the amount transferred to the Special Reserve under section 45IC of the RBI Act, 1934, was to be added back to book profit under section 115JB of the Act. (AY. 2018-19)
SREI Equipment Finance Ltd. v. CIT (Appeals) (2025) 214 ITD 769 (Kol) (Trib.)

S.37(1): Business expenditure-Bogus creditors-Trading in fabrics-Goods purchased were duly sold, and sales stood accepted; input of goods could not be doubted, and expenditure was to be treated as genuine, but 25 per cent of unverifiable purchases was disallowed. [S.41(1), 133(6)] 680
Assessee was engaged in the trading of fabrics and readymade garments. It had shown sundry creditors of a certain amount. Assessing Officer issued notices under section 133(6) to 27 parties, out of which 20 notices were returned unserved with remarks

'wrong address/incomplete address/non-existent'. He held creditors to be non-existent and made an addition of entire closing balance under section 41(1). CIT(A) dismissed the appeal. On appeal, the Tribunal held that the assessee had made purchases from these parties during the year, which were duly accounted for and sold, and no doubts were raised with respect to sales. Assessee had filed VAT returns showing input tax on such purchases. It was also noticed that in almost all cases, balances were squared off in subsequent years by cash payments below Rs. 20,000 on a regular basis, which cast doubt on the genuineness of creditors. Since goods purchased were sold and sales were accepted, input of goods could not be doubted, and expenditure was to be treated as genuine, but in view of failure to establish identity and genuineness of creditors, disallowance was restricted to 25 per cent of such purchases (AY. 2012-13)
Sudha Loyalka. (Smt.) v. ITO (2025) 214 ITD 750 (Delhi) (Trib.)

681 **S. 37(1): Business expenditure-Unrealised debtors-Write-off-Income offered in the subsequent years when realised-Order of CIT(A) deleting the addition was affirmed.**
Assessee-company was engaged in business of real estate. Assessee out of total receipts had deducted a sum on account of unrealized debtors by claiming that this amount pertained to maintenance charges which was not received after expiry of three months from the date of the bill and, therefore, recovery of such amount was doubtful. Accordingly, said amount was reduced from gross receipts. This practice was consistently followed by assessee on regular basis and income on such unrealised debtors were offered for tax as and when amount was received in subsequent years and same was accepted by revenue without any doubts in subsequent assessment years Assessing Officer,however, made addition of said amount. CIT A) deleted the disallowance. On appeal by revenue, the Tribunal held that following the principle of consistency and further looking to the fact that said amount had already suffered tax in subsequent years when said sum was realised, the order of CIT(A) deleting the additions was affirmed. (AY. 2019-20)
ACIT v. Delhi Buildwell (P.) Ltd. (2025) 213 ITD 291 (Delhi) (Trib.)

682 **S.37(1): Business expenditure-Setting up of business-Actual commencement of revenue-generating activity does not have any bearing on determining the date of setting up of business-Expenses incurred after the date of setting up of business are eligible for deduction. [S.28(i)]**
Held that the actual commencement of revenue-generating activity does not have any bearing on determining the date of setting up of business, and expenses incurred after the date of setting up of business are eligible for deduction. (AY. 2007-08)
DCIT v. Aricent Technologies (Holding) (P.) Ltd. (2025) 213 ITD 378 (Delhi) (Trib)

683 **S.37(1): Business expenditure-Capital or revenue-Licence fee for use of software-Allowable as revenue expenditure.**
Held that the licence fee for use of software, which was renewable on a yearly basis and was not paid, was not for acquiring any right in software; the same was to be allowed as revenue expenditure. (AY. 2017-18)
ACIT v. Matrix Publicities and Media India (P.) Ltd. (2025) 213 ITD 463 (Mum) (Trib.)

S.37(1): Business expenditure-Site maintenance expenditure-Ad-hoc disallowance of 30 per cent-Disallowance restricted to 10 percent of expenditure. 684

The Tribunal held that the Assessing Officer ought not to have made 30 per cent ad-hoc disallowance of expenditure for want of evidence; disallowance of 10 per cent of expenditure incurred under the head of site maintenance expenditure would meet the ends of justice. (AY. 2017-18)

Bollineni Developers Ltd. v. DCIT (2025) 213 ITD 635 (Hyd) (Trib.)

S.37(1): Business expenditure-Provision for claim payout on basis of actuarial report furnished by an independent actuary-Allowable as deduction. [S. 145] 685

Assessee-trust was established to increase access to and availability of micro-loans to eligible micro units and by providing guarantee cover to lenders (Banks/NBFCs/Financial Intermediaries) giving loans and advances without collaterals and/or third party guarantees to eligible Micro Units. Assessee charged Guarantee Fees from banks against guarantee cover. Assessee created provision for claim payout on basis of actuarial report furnished by an independent actuary. Assessing Officer disallowed claim of assessee on ground that assessee is following hybrid system of accounting. CIT(A) affirmed the order of the AO. On appeal the Tribunal held that since provision for claim payout created during relevant previous year was an ascertained liability, Assessing Officer is directed to grant deduction for provision for claim payout created during relevant previous year. (AY. 2019-20)

Credit Guarantee Fund For Micro Units. v. NFAC DCIT (2025) 212 ITD 1/ /236 TTJ 296 /124 ITR 307 (Mum) (Trib.)

S.37(1): Business expenditure-Interest on loan taken from State Government-Allowable as deduction. 686

Held that interest on loan taken from State Government is allowable as deduction. (AY. 2016-17, 2017-18)

Kumaon Mandal Vikash Nigam Ltd. v. ACIT (2025) 212 ITD 217 (Dehradun) (Trib.)

S.37(1): Business expenditure-Investments in subsidiaries-Expenditure is allowable as business expenditure-Excess remuneration to directors-Matter remanded. [S. 2(13)] 687

Held that a business expenditure could not be disallowed even in an instant of a holding company having made investments in subsidiary as such an activity could indeed be treated as business itself. As regards alleged excess directors matter is restored back to Assessing Officer for his afresh appropriate verification. (AY. 2014-15)

NDTV Networks Ltd. v. DCIT (2025) 212 ITD 167 (Delhi) (Trib.)

S.37(1): Business expenditure-Salary paid to staff/ spouse and professional fees-Disallowance is restricted to 30%.[S. 40(a)(ia), 143(3)] 688

The AO disallowed the salary paid to the spouse of the employees. The CIT(A) restricted the disallowances to 30 % of gross receipts. The Tribunal affirmed the order of the CIT(A). (AY 2016-17 to 2022-23)

J. Kumar Infraprojects Ltd. v. DCIT [2025] 176 taxmann.com 193 (Mum) (Trib)

689 **S 37(1): Business expenditure-Market development expenses-Capital or revenue-Expenses incurred towards sale of product-Revenue nature.**

Assessee furnished confirmation from NHPL and other corroborative evidences to demonstrate that market development expenses were incurred not only for sale of product but also to expand its market presence. On perusal of the said confirmation and evidences, it was found that expenses incurred primarily involve expenditure related to sale of product, such as, staff recruitment charges, salary and expenses of territory sales executives, salary and expenses of sales personnel manager, etc. Personnel engaged in sale of product of assessee belonged to NHPL. It could not be therefore, denied that market development expenses were towards sale of product, hence, revenue in nature. Further, AO reopened assessments for assessment years 2019-20 and 2020-21 to disallow market development expenses; however, after considering the objections and submissions of assessee, the AO accepted assessee's claim of market development expenses. Therefore, the principle of consistency would be maintained by following the position taken in reassessment proceedings for assessment years 2019-20 and 2020-21. Hence, market development expenses, being in the nature of revenue expenses, were allowable. (AY. 2021-22, 2022-23)

ARI Healthcare (P) Ltd. v. ACIT (2025) 172 taxmann.com 336 /121 ITR 51 (SN) (Mum) (Trib)

690 **S 37(1) : Business expenditure-Ad-hoc disallowance-AO neither rejected books of account nor pointed out any bogus or non-genuine expenses-Remand report did not pointed out any specific defects.[S. 144, 145(3)]**

AO disallowed 25% of expenses claimed by assessee-company on the ground that assessee failed to substantiate its claim with supporting documents. Assessee filed additional evidence before CIT(A) justifying the expenses with ledgers, invoices, and supporting documents. CIT(A) forwarded additional evidence to AO for verification and called for remand report. AO remand report accepted certain expenses such as bank charges, interest, labour expenses, etc. However, he raised concerns about expenses paid in cash, and certain expenses related to rent, salary, insurance, etc. CIT(A) observed that AO neither rejected books of account, nor pointed out any bogus or non-genuine expenses. He also observed that assesse accounts were audited and no adverse remarks were given in tax audit report. Accordingly, he deleted the entire disallowance. On appeal the Tribunal held that the AO did not reject assessee's books of account under section 145(3). Further, tax audit report did not highlight any discrepancies in assessee's expense claims. Further, the remand report did not identify specific defects in the expenses. No bogus or non-genuine expenditure was identified by AO. Moreover, the same nature of expenses was allowed in previous and subsequent years, indicating consistency. It is well settled by various judicial precedents that an ad-hoc disallowance without identifying specific defects is legally unsustainable. Since AO's own remand report did not justify the ad-hoc disallowance, the CIT(A) rightly deleted the same.[ITA No. 1034/Ahd/2023 dated 06/02/2025] [AY. 2016-17]

ACIT v. H. V. Infratex Ltd (Ahd)(Trib)(UR)

S.37(1): Business expenditure-Corporate Social Responsibility expenditure-Allowable as deduction. [37(2) Explanation.] 691

Held that CSR expenditure on activities which are beneficial to its employees, community at large and the local area where it is situated, same is allowable as deduction; amendments made in the Companies Act as well as Expln. 2 to S. 37 are not applicable to the relevant Assessment year, 2014-15.(AY. 2014-15)

Hindustan Coca Cola Beverages (P) Ltd. v. AD.CIT (2025) 233 TTJ 777 / 170 taxmann. com 633/ 122 ITR 290 (Delhi)(Trib)

S.37(1): Business expenditure-Contributions to the Investor Service Fund are mandatory; club membership fees of directors are allowable as business expenditure. 692

Held that contribution to the Investor Service Fund, as per SEBI's Circular No. Ref. SE/10118, dt. 12th Oct., 1992, ISF are to be utilised primarily for the promotion of investor education and investor awareness programme. The contribution and utilisation of the funds is mandatory, which are directly related to the business activity of the assessee hence allowable as business expenditure. The Tribunal also held that the Auditors did not report the club membership amount in the column of personal expense in Form 3CD but in the prescribed column of expenses on club etc., which is only for reporting purposes. Allowable as business expenditure. (AY. 2018-19)

BSE Ltd. v. CIT (A) (2025) 233 TTJ 214 / 245 DTR 1 (Mum)(Trib)

S.37(1): Business expenditure-Seizure of Truck-Penalty, fine, etc.-Levy of penalty under State VAT law-Issue pending before Commissioner of Commercial Taxes-Not allowable as deduction-Liberty is given to the assessee to file an application under s. 154 in case the issue pending before the first appellate authority is decided in favour of the assessee or it is adjudicated as compensation or compounding.[S. 37(1), Explanation 1, 154] 693

Held that penalty levied on the assessee under State VAT law on seizure of its truck, carrying finished goods, with wrong way bill cannot be allowed as business expenditure. As the issue under consideration is pending before Commissioner of Commercial Taxes, and has not reached finality, liberty is given to the assessee to file application under S. 154 in case the issue pending before the first appellate authority is decided in favour of the assessee or it is adjudicated as compensation or compounding. (AY. 2014-15 to 2016-17)

Hindustan Coca Cola Beverages (P) Ltd. v. AD.CIT (2025) 233 TTJ 777 / 170 taxmann. com 633/ 122 ITR 290 (Delhi)(Trib)

S.37(1): Business expenditure-Provision for depreciation on AFS securities- debited to profit and loss account-Allowable as deduction. 694

Assessee bank made investments in AFS securities and made provision for depreciation on AFS securities. Assessing held that the said amount was charged to profit and loss account, the same was disallowed while computing income. Assessing Officer held that provision made for depreciation in the value of investment was a notional loss and disallowed the assessee's claim. Commissioner (Appeals) allowed the claim. Tribunal, following the order of earlier years upheld the order of the CIT(A). (AY. 2018-19)

ACIT v. Karad Urban Co. Op. Bank Ltd. (2025) 211 ITD 717 (Pune) (Trib.)

695 **S.37(1): Business expenditure-Discount on issuance of ESOPs is an allowable business expenditure.**
Held that discount on issuance of ESOPs is an allowable business expenditure. (AY. 2019-20)
Kotak Mahindra Bank Ltd. v. DCIT (2025) 211 ITD 608 (Mum) (Trib.)

696 **S.37(1): Business expenditure-Broken period interest, i.e., interest accrued between the last coupon date and the date of purchase of government securities- allowable as business expenditure.**
Held that broken period interest, i.e., interest accrued between the last coupon date and the date of purchase of government securities, is deductible as business expenditure. (AY. 2019-20)
Kotak Mahindra Bank Ltd. v. DCIT (2025) 211 ITD 608 (Mum) (Trib.)

697 **S.37(1): Business expenditure- license fee-commercial exploitation of music albums-Deferred revenue expenditure to be amortized over a six-year period and not as prior period expenses-Matter remanded.**
On appeal, the Tribunal remanded the matter back to Assessing Officer with the direction that the Assessing Officer should re-assess expenses, treating license fees as deferred revenue expenditure to be amortized over six-year period and not as prior period expenses. (AY. 2016-17)
Aalap Digital Music (P.) Ltd. v. ACIT (2025) 211 ITD 284 (Delhi) (Trib.)

698 **S.37(1): Business expenditure-Fees for technical services to a foreign company for selection of suitable technical staff for a project, review of contractual documents, etc-Allowable as business expenditure.**
Assessee was awarded a contract with LMRCL for design and construction of a tunnel including three underground metro stations. Assessee agreed with GLM by which it was decided that GLM would not have any right in profits of assessee but would be given fees for technical services. Assessee paid fees to GLM for selection of suitable technical staff for the project, review of contractual documents, review of design and engineering, etc. Assessing Officer disallowed the claim of assessee on the ground that GLM had not rendered services. CIT (A) allowed the claim of the assessee. On appeal, the Tribunal held that, in light of the evidence, fees for technical services as claimed by the assessee had been incurred for the purpose of business; the order of CIT(A) allowing the claim is affirmed. (AY. 2017-18, 2018-19)
DCIT v. Gulermak TPL Joint Venture (2025) 211 ITD 349 /234 TTJ 497 (Mum) (Trib.)

699 **S.37(1): Business expenditure-Remuneration paid to partner-Maintenance of account-Allowable as deduction. [S. 153A]**
Held that the remuneration paid to a partner for maintenance of account is allowable as a deduction; merely because she did not come to the office on a daily basis, it could not be a ground to hold that she was only a sleeping partner and, hence, not entitled to remuneration. (AY. 2014-15 to 2020-21)
Rameshchandra Balachand v. JCIT (OSD) (2025) 211 ITD 24 (Mum) (Trib.)

S.37(1): Business expenditure-Capital or revenue-Retainership fees to two foreign agents for marketing and business development-Allowable as revenue expenditure. 700
Assessee paid retainership fees to two foreign agents for marketing and business development of assessee's software in USA. Assessing Officer disallowed the expenditure on the ground that the same was irrational and unjustified in comparison to income earned from export of software. CIT(A) upheld the order of the AO. On appeal, the Tribunal held that the assessee got good business in USA in subsequent years. The mere fact that payment made to aforesaid entities by way of retainership fee did not result in commensurate business in USA in the year relevant to assessment year 2008-09, did not imply that expenditure incurred was not for the purpose of assessee's business. Since expenditure is not in the nature of capital expenditure or personal expenses and is laid out or expended wholly and exclusively for purposes of business, the same is allowed. (AY. 2008-09)
JIL Information Technology Ltd. v. ACIT (2025) 211 ITD 277 (Lucknow) (Trib.)

S.37(1): Business expenditure-Expenditure incurred on sale of commercial space-Payment was made by cheque-Order of CIT(A) deleting the addition is affirmed. 701
Assessee sold commercial space and claimed deduction of expenditure incurred on account of sale of such commercial space. Assessing Officer disallowed claim of said expenditure on ground that assessee did not produce any bills/vouchers/evidence in support of claim. Commissioner (Appeals) deleted the addition made by the Assessing Officer on the ground that the expenditure was mostly incurred by cheque or banking channels. On appeal, the Tribunal affirmed the order of the CIT(A) deleting the disallowance. (AY. 2012-13 &2016-17)
ACIT v. Pavani Structurals (P.) Ltd. (2025) 211 ITD 415 (Hyd) (Trib.)

S.37(1): Business expenditure-Service tax payment-Corporate agency agreement-Allowable as deduction. 702
Held that service tax paid as per corporate agreement is allowable as deduction. (AY. 2011-12, 2012-13)
Axis Bank Ltd. v. ACIT (2025) 211 ITD 650 /235 TTJ 209 (Ahd) (Trib.)

S.37(1): Business expenditure-Finance lease rental-Providing remote infrastructure management, remote helpdesk, remote network monitoring services and other services for foreign customers-Allowable as business expenditure. 703
Assessee which is engaged in business of providing remote infrastructure management, remote helpdesk, remote network monitoring services and other services for foreign customers. The Assessing Officer disallowed finance lease rental payment and added same to total income of assessee. CIT(A) allowed and deleted the addition. On appeal, the Tribunal, following the order of the earlier year, affirmed the order of the AO. (AY. 2015-16)
DCIT v. NTT Global Data Centres Cloud Infrastructure India (P.) Ltd. (2025) 211 ITD 640 (Mum) (Trib.)

704 **S.37(1): Business expenditure-Ad hoc disallowance-Supporting documents-Matter remanded back to the Assessing Officer.**
Tribunal held that since the assessee is willing to produce all necessary evidence in support of the expenses claimed, the matter was to be restored to the Assessing Officer with a direction to the assessee to produce all necessary documentary evidence/voucher in support of the expenses claimed for verification by the Assessing Officer; the matter was remanded. (AY. 2017-18)
3A Composites India (P.) Ltd. v. ACIT (2025) 210 ITD 272 (Mum) (Trib.)

705 **S.37(1): Business expenditure-Consultancy fee-Future expansion-Allowable as business expenditure.**
Assessee, a non-resident banking company, claimed deduction of professional fees paid to a consultancy firm. Assessee submitted that fees were paid for services which were connected with conducting business of banking more efficiently and that said services were used by assessee in its business right away once services were rendered. Assessing Officer disallowed claim of assessee on ground that expenditure was not for day-to-day business of assessee but was for future expansion of its business. CIT(A) affirmed the order of the AO. On appeal the Tribunal held that the expenditure was primarily and essentially related to operation and working of business of assessee. It was an expenditure which was not for acquiring any tangible or intangible asset but for conducting business of banking better and more efficiently in present, hence allowable as business expenditure. (AY. 2015-16)
DBS Bank Ltd. v. DCIT (2025) 210 ITD 448(Mum)(Trib.)

706 **S.37(1): Business expenditure-Club membership fees-Allowable as business expenditure.**
Held that club membership fees paid for its executives so that they could establish and maintain business contacts which was in long-term interest of assessee's business, same is allowed as business expenditure. (AY. 2006-07)
DCIT v. ICICI Bank Ltd. (2025) 210 ITD 643 (Mum) (Trib.)

707 **S.37(1): Business expenditure-Club membership fees-Allowable as business expenditure. [Form 3CD]**
Held that Auditors of the assessee did not report this amount in the column of personal expense in Form 3CD but in the prescribed column of expenses on club etc., which is only for the reporting purposes. Therefore, AO was not justified in disallowing the said expenditure on the basis that the auditor has qualified such expenses as personal in nature as. Order of CIT(A) deleting the disallowance is affirmed.(AY. 2018-19)
BSE Ltd. v. CIT (A) (2025) 233 TTJ 214 (Mum) (Trib)

708 **S.37(1): Business expenditure-Managing director Managerial remuneration-Allowable as deduction-Remuneration-Not excessive or unreasonable-No disallowance can be made.[S. 40A(2)(b)]**
The assessee-company claimed deduction for remuneration paid to its Managing Director. The AO disallowed the claim alleging violation of the Companies Act, 2013 and also invoked section 40A(2)(b) alleging excessiveness. The Tribunal noted that

remuneration was covered by the provisions of the Companies Act, 1956 (Schedule XIII, Part-C), continued by CBDT Circular No. 07/2015, and no government approval was needed. Explanation 1 to section 37(1) was not applicable since there was no violation of law. On the allegation of excessiveness, the AO had not produced any comparable cases to justify disallowance u/s 40A(2)(b). Held, remuneration was reasonable and allowable as a deduction. (AY. 2015-16)
ACIT v. Piramal Fund Management (P.) Ltd. (2025) 212 ITD 389 (Mum) (Trib.)

S. 40(a)(i): Amounts not deductible-Deduction at source-Non-resident-Agency commission-Tribunal order deleting disallowance affirmed-No substantial question of law. [S. 195, 260A] 709

The assessee had paid commission to non-resident agents located abroad for securing export orders. It was undisputed that the agents rendered services outside India and that the commission was remitted directly through RBI to the foreign agents. Relying on CBDT Circular No. 786, which clarified that export commission payable to foreign agents is not chargeable to tax in India, the assessee did not deduct TDS. The Tribunal deleted the disallowance, and the High Court affirmed the decision, observing that there was no adjudication by any authority that such commission was taxable in India. The Court also referred to the principle laid down in GE India Technology Centre (P) Ltd v. CIT (2010) 327 ITR 456, SC) that a payer is responsible for making a judicious determination regarding TDS; if found wrong later, penal consequences follow. In the present case, the assessee's decision was held unimpeachable, and the Tribunal's order deleting the disallowance of commission payment was upheld.
CIT v. Tamil Nadu Newsprint & Papers Ltd. (2025) 343 CTR 634 / 245 DTR 394 (Mad)(HC)

S. 40(a)(i) : Amounts not deductible-Deduction at source-Non-resident-Fees for technical services-Reimbursement to non-resident AEs-Revenue unable to prove that payments are FTS-Disallowance deleted. [S. 9(1)(vii), 195, 260A] 710

The assessee, JAS Forwarding (P.) Ltd., made reimbursements to its non-resident associated enterprises (AEs) for various expenses, including server maintenance, netting charges, management expenses, insurance, tariff filings, and travel costs. The AO held that these reimbursements were in the nature of a fee for technical services (FTS) under Section 9(1)(vii), liable for TDS under Section 195, and accordingly disallowed the amounts under Section 40(a)(i). The CIT (A) and ITAT reversed the disallowance, accepting the assessee's contention that these were pure reimbursements without any income element and did not qualify as FTS.
The Delhi High Court upheld the ITAT's decision, holding that the Revenue failed to establish that the amounts reimbursed involved any managerial, technical, or consultancy services. The agreement clauses and nature of expenses showed that the payments were routine business reimbursements and not payments for services rendered. Since the requirements of Section 9(1)(vii) were not satisfied, there was no obligation to deduct tax at source, and thus the disallowance under Section 40(a)(i) was not justified.(AY. 2007-08)
PCIT v. Jas Forwarding Pvt. Ltd. (2024) 473 ITR 502 (Delhi) (HC)
PCIT v. Jas Forwarding Worldwide (I) Pvt Ltd (2024) 473 ITR 502 (Delhi) (HC)

711 **S. 40(a)(i) : Amounts not deductible-Deduction at source-Non-resident-Fees for technical services-Services rendered and utilised outside India-No tax deductible at source-Disallowance was deleted. [S. 9(1)(vii)(b), 195]**

The assessee made payments to a non-resident for technical services rendered outside India in connection with projects executed outside India. The non-resident had no permanent establishment in India, and the payments were made for earning income from a source situated outside India. The Assessing Officer disallowed the expenditure under section 40(a)(i) for failure to deduct tax at source under section 195. The Tribunal held that the payments were covered by the exception contained in section 9(1)(vii)(b), since the services were utilised for a business carried on outside India and for earning income from a source outside India. Accordingly, the income was not chargeable to tax in India, there was no obligation to deduct tax at source under section 195, and the disallowance was deleted. (AY. 2013-14)

QAI India Ltd. v. Dy. CIT (2025) 128 ITR 445 (Delhi)(Trib.).

712 **S. 40(a)(i) : Amounts not deductible-Deduction at source-Non-resident-Reimbursement of professional fees and expatriate salary costs to a foreign AE is not liable to TDS where payments do not satisfy the 'make available' test under the DTAA and salary costs are reimbursed on a cost-to-cost basis without any profit element.-Not liable to deduct tax at source [S. 9(1)(i),195]**

The assessee, being the Indian project office of a Spanish company, made payments to its foreign AE towards professional fees and reimbursement of expatriate salary costs. The AO disallowed the payments under section 40(a)(i) on the ground that they constituted Fees for Technical Services (FTS) on which tax was deductible under section 195. The Hon'ble Tribunal held that the professional fees represented reimbursement of costs incurred by the foreign AE in relation to joint NHAI contracts and did not involve making available any technical knowledge, know-how or skill to the assessee or the Indian service providers. It further held that reimbursement of expatriate salary costs was made strictly on a cost-to-cost basis without any mark-up and, therefore, contained no income element chargeable to tax in India. Consequently, no tax was deductible under section 195, and the disallowance under section 40(a)(i) was deleted. The appeal was allowed. [AY: 2018-19]

TPF Getinsa Euroestudios S. L. v. Asst. CIT (IT) (2025) 130 ITR 551 (Delhi)(Trib.)

713 **S. 40(a)(i): Amounts not deductible-Deduction at source-Non-resident-Payment of freight charges to foreign shipping companies-Disallowance was affirmed.[S. 5(2), 195]**

Held that the agreements entered into between the assessee and the foreign shipping companies regarding payment at the time of "Break bulk" did make the freight income of such foreign shipping companies clearly liable for taxation in India under the provisions of s. 5 r/w s. 9; in case the assessee was confident that the impugned freight payments made to foreign shipping companies were not taxable in India, then it should have applied for a Nil deduction certificate under s. 195. Accordingly, the payments made by the assessee to the foreign shipping companies without deducting TDS under s. 195 were rightly disallowed under s. 40(a)(i). Dy. CIT v. Reliance Industries Ltd. (2003) 81 TTJ 787(Mum) Trib, distinguished. (AY.2012-13, 2013-14 & 2016-17)

OPG Power Generation (P) Ltd. v. ACIT (2025) 235 TTJ 286 (Chennai)(Trib)

S. 40(a)(i): Amounts not deductible-Deduction at source-Non-resident-Commission paid to non-resident agents-Services rendered outside India-No disallowance can be made for failure to deduct tax at source. [S.9(1)(i), 195] 714

Held that the payment of commission for services rendered by nonresidents outside India in connection with sales promotion or procuring orders for the assessee in foreign markets and the Revenue having not brought any material on record to establish that the said agents had a business connection in India within the meaning of s. 9(1)(i), or that services were rendered in India, disallowance made under s. 40(a)(i) on account of commission paid to non-resident agents without deduction of TDS is not sustainable.(AY. 2015-16)

ACIT v. Intas Pharmaceuticals Ltd. (2025) 236 TTJ 550/ 174 taxmann.com 867 (Ahd)(Trib)

S. 40(a)(i): Amounts not deductible-Deduction at source-Non-resident-Fees for technical services-Marketing support services-Payment cannot be taxed in view of the application of provisions of s. 90(2)-Payment made to ADP cannot be disallowed under S. 40(a)(i) for non-deduction of TDS under S. 195-DTAA-India-Australia [S. 9(1)(vii), 90(2), 195 Art. 7, 12(3)] 715

Held that there is nothing to show that the business support services rendered by ADP make available technology, skill, etc. to the assessee, the support services fee paid by the assessee-company to ADP is neither taxable under the provisions of s. 9(1) (vii) nor under the provisions of the India-Australia treaty and, therefore, the same cannot be disallowed under s. 40(a)(i) for non-deduction of TDS under s. 195; said payment cannot also be taxed in view of the application of the provisions of s. 90(2). Not liable to deduct tax at source. (AY. 2020-21)

ADP (P) Ltd. v. DCIT (2025) 237 TTJ 1080/ 177 taxmann.com 708 (Hyd)(Trib)

S. 40(a)(i): Amounts not deductible-Deduction at source-Non-resident-Fees for technical services or royalty-Simple rendering of services not sufficient, technical know-how must be "made available"-Services of Singapore and Hong Kong companies utilised to deliver services to clients in Vietnam-Services rendered outside India for income from source outside India-Not taxable in India-Disallowance unjustified-Reimbursement of salary expenses to foreign companies-No income element-Not chargeable to tax in India-No obligation to deduct tax at source-Disallowance deleted-Payments for management and consulting support services rendered and utilised outside India-Exclusionary provision applies-Not taxable in India-Disallowance deleted-Royalty-Payments for use of trademarks and training materials of foreign universities utilised for business outside India-Exclusionary provision applies-Not taxable in India-Disallowance deleted-"Make available" clause-Payments to foreign institutions for training, accreditation and consultancy services-No technical knowledge, experience or skill made available-Not fees for technical services-Not taxable in India-Disallowance unsustainable-Independent personal services-Payment to non-resident individual professional for services rendered abroad-No fixed base or stay exceeding 90 days in India-Income taxable only in country of residence-Not chargeable to tax in India-No obligation to deduct tax at source-Disallowance deleted-DTAA-India-UK, USA. [S. 9(1)(vi), 9(1)(vii)(b), 195, Art. 12, 15] 716

Disallowances were made under section 40(a)(i) on various payments made by the assessee to non-residents for failure to deduct tax at source, which were partly

sustained by CIT(A) to the extent of Rs. 1,76,30,307. On appeal, the Tribunal held that payments made to companies in Dubai and Zurich being pure reimbursement of salary expenses without any income element were not chargeable to tax and required no TDS; that payments for services of Singapore and Hong Kong companies utilised to render appraisal services to clients in Vietnam, being rendered for earning income from a source outside India, fell within the exclusionary provision of section 9(1)(vii)(b); that royalty paid to American corporations for training its employees as authorised instructors, and payments for trademarks used for training clients' employees outside India, did not constitute fees for technical services or taxable royalty under the exclusionary provisions of sections 9(1)(vii) and 9(1)(vi)(b) respectively, since no training was rendered in India; that payments for course material, online examination fees, and payments to foreign institutions for training, accreditation and consultancy services did not satisfy the "make available" requirement or the definition of fees for technical services; and that payment to a non-resident individual professional for services rendered abroad, who had no fixed base or stay exceeding 90 days in India, was taxable only in the country of his residence under article 15 of the India-USA DTAA. Accordingly, all the disallowances made under section 40(a)(i) were held to be unwarranted and were deleted. (AY. 2011-12 & 2012-13)
QAI India Ltd. v. DCIT (2025) 132 ITR 494 (Delhi) (Trib.)

717 **S. 40(a)(i): Amounts not deductible-Deduction at source-Non-resident-Royalty-Software purchased for resale-Right to use copyrighted article and not copyright-Payment not royalty-No tax deductible at source.[S.9(1)(vi), 195]**
The Assessing Officer disallowed payments made for purchase of software on the ground that tax had not been deducted at source. The Tribunal held that the assessee had acquired only the right to use copyrighted articles and not any copyright. The payments did not constitute royalty chargeable to tax in India and, therefore, no tax was deductible under section 195. The disallowance under section 40(a)(i) was deleted. (AY. 2014-15).
Tata Consultancy Services Ltd. v. Dy. CIT [2023] 154 taxmann.com 372 / (2025) 129 ITR 667 (Mum.)(Trib.)

718 **S. 40(a)(i) : Amounts not deductible-Tax deduction at source-Reimbursement of debtor collection charges-No permanent establishment-Not royalty or fees for technical services-No tax deductible at source-Reimbursement of legal expenses-Pure reimbursement-Matter remanded for verification-No double taxation.[S. 9(1)(vii), 195]**
The assessee reimbursed its associated enterprise towards debtor collection charges paid to a non-resident service provider. The Tribunal held that the payment was a pure reimbursement without any profit element and the services neither constituted royalty nor fees for technical services as they did not make available any technical knowledge, skill or know-how. As the non-resident had no permanent establishment in India, the payment was not chargeable to tax in India and no tax was deductible under section 195. Accordingly, no disallowance under section 40(a)(i) was warranted. The assessee reimbursed legal fees paid by its associated enterprise on its behalf. The Tribunal held that where the payment was a pure reimbursement and the recipient had already offered

the income to tax, no further tax could be recovered by disallowing the expenditure in the hands of the assessee. The matter was restored to the Assessing Officer to verify whether the payee had already paid tax on the receipt (AY. 2010-11).
UPS Express P. Ltd. v. Asst. CIT (2025) 129 ITR 381 (Mum.)(Trib.)

S. 40(a)(i) : Amounts not deductible-Deduction at source-Non-resident-Business expenditure-Reinsurance premium paid to non-resident reinsurers-Not chargeable to tax in India-No liability to deduct tax at source-Commission deducted by insurance companies from reinsurance premium-No payment by assessee-Tax deduction at source not applicable-Survey fees paid to non-resident surveyors-Services rendered outside India-Mere reimbursement-No tax deductible at source. [S.195] 719
The Tribunal held that reinsurance premium paid to non-resident reinsurers was not chargeable to tax in India either under the Income-tax Act or the applicable Double Taxation Avoidance Agreements. Consequently, the assessee was under no obligation to deduct tax at source under section 195 and no disallowance under section 40(a)(i) could be made. The Tribunal held that the assessee had not made any separate payment of commission to the insurance companies, as the commission had been deducted by the insurers themselves from the reinsurance premium. Since no payment was made by the assessee, the provisions of section 195 were not attracted and the disallowance under section 40(a)(i) was rightly deleted. The assessee reimbursed survey fees paid to non-resident surveyors for quantification of insurance claims outside India. The Tribunal held that the entire services were rendered outside India, the surveyors had no business connection in India and the reimbursement was not chargeable to tax in India. Accordingly, the assessee was under no obligation to deduct tax at source under section 195. (AY. 2020-21).
United India Insurance Co. Ltd. v. Dy. CIT (2025) 124 ITR 682 (Chennai)(Trib.)

S. 40(a)(i) : Amounts not deductible-Deduction at source-Non-resident-Business expenditure-Reinsurance premium paid to non-resident reinsurers-Not chargeable to tax in India-No liability to deduct tax at source. [S. 195] 720
Following the decision in the assessee's own case for earlier years, the Tribunal held that reinsurance premium paid to non-resident reinsurers was not chargeable to tax in India under the Income-tax Act or the applicable Double Taxation Avoidance Agreements. Consequently, the assessee was under no obligation to deduct tax at source under section 195 and the disallowance under section 40(a)(i) was deleted. (AY. 2008-09 to 2014-15).
Royal Sundaram General Insurance Co. Ltd. v. Dy. CIT (2025) 123 ITR 507/175 taxmann.com 427 (Chennai)(Trib.)

S. 40(a)(i): Amounts not deductible-Deduction at source-Non-resident-Business profits-Canvassing orders and facilitating export transactions-Business income accruing outside India-Not liable to deduct tax at source-No disallowance can be made.[S.9(1)(i), 195, Article 7 of the OECD Model Convention] 721
Held that the assessee-company paid commission to non-resident agents located in UK, Australia, Netherlands, France, UAE, Hong Kong and Germany for canvassing orders and

facilitating export transactions and incurred warehousing charges in Europe for storing its finished goods before distribution to foreign buyers, both categories of payments were in nature of business income accruing outside India and, once, payments were not chargeable to tax in India, obligation under section 195 did not arise and, thus, disallowance under section 40(a)(i) was deleted.(AY. 2017-18)
Foods and Inns Ltd. v. DCIT (2025) 215 ITD 266 (Mum) (Trib.)

722 **S. 40(a)(i) : Amounts not deductible-Deduction at source-Non-resident-Reinsurance premium ceded to non-resident reinsurers (NRRs) is not taxable in India under the Income Tax Act or the applicable DTAA; therefore, disallowance under S. 40(a)(i) for non-deduction of TDS under S. 195 does not arise. [S.195]**
The assessee, a public financial institution engaged in the general insurance business in compliance with statutory provisions and IRDAI regulations, had paid as reinsurance premiums to non-resident reinsurers (NRRs). The Assessing Officer disallowed the payment u/s.40 (a)(i) for non-dedication of tax at source u/s. 195. However, on appeal, the Commissioner (Appeals) deleted the disallowance, ruling in favour of the assessee. The ITAT, following its earlier decision in the assessee's own case, upheld this view and held that the reinsurance premium paid to NRRs is not taxable in India under the Income Tax Act or relevant DTAAs, and hence the assessee was not liable to deduct TDS u/s. 195. Consequently, the disallowance u/s. 40(a)(i) was unwarranted.
United India Insurance Company Ltd. v. Dy. CIT (2025) 123 ITR 291 (Chennai)(Trib.)

723 **S. 40(a)(i) : Amounts not deductible-Deduction at source-Non-resident-Commisssion payment outside India-: Income deemed to accrue or arise in India-Commission paid to non-residents for services rendered outside India is not taxable in India; hence, the assessee is not liable to deduct TDS under S. 195. [S. 9(1)(i), 195]**
The assessee, a public financial institution carrying on general insurance business under relevant laws and IRDAI regulations, had paid an amount as commission to non-resident agents. The Assessing Officer disallowed this amount under S. 40(a)(ia) for non-dedication of TDS under S. 195. However, the Commissioner (Appeals) deleted the disallowance on appeal.
The Tribunal held that the non-resident agents had no permanent establishment or business activities in India, and the commissions were taxable only in the agents' foreign countries. Therefore, s. 195 did not apply.
United India Insurance Company Ltd. v. Dy. CIT (2025) 123 ITR 291 (Chennai)(Trib.)

724 **S. 40(a)(i): Amounts not deductible-Deduction at source-Non-resident-Commission-Non-resident carried out its activities outside India and income earned by it was not taxable in India-Not liable to deduct tax at source. [S. 9(1)(vi), 9(1)(vii), 195]**
Assessee made payment of commission to one IIBL, a non-resident, for agency services rendered by it for the execution of sale and its allied activities of garments in Bangladesh. Assessing Officer held that the assessee was liable to deduct TDS on said remittance made to IIBL. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that IIBL carried out its activities outside India and income earned by it was not taxable in India. Payment made to a foreign agent was also not on account

of royalty or fees for technical services; therefore, no tax was to be deducted at source under section 195 on such payment made to IIBL. (AY. 2013-14, 2014-15)
Manisha Kiran Temkar v. ACIT (2025) 214 ITD 393 (Mum) (Trib.)

S. 40(a)(i) : Amounts not deductible-Deduction at source-Non-resident-Amount paid to a foreign company towards management fees-Tax deducted and deposited-No addition could be made under section 40(a)(i), or the payment can be held to be as unexplained expenditure under section 69C.[S, 69C, 195] 725
Assessing Officer made an addition for said amount on account of non-deduction of TDS and also treated the same as unexplained expenditure. CIT(A) deleted the disallowances. Tribunal affirmed the order of the CIT(A). (AY. 2017-18)
ACIT v. Matrix Publicities and Media India (P.) Ltd. (2025) 213 ITD 463 (Mum) (Trib.)

S. 40(a)(i): Amounts not deductible-Deduction at source-Non-resident-Royalty-Payments made towards internet, broadband and bandwidth charges to foreign parties did not constitute royalty-Not liable to deduct tax at source.[S.9(1)(vi), 195] 726
Held that payments made towards internet, broadband and bandwidth charges to foreign parties did not constitute royalty, hence not liable to deduct tax at source. Order of CIT A) was affirmed. (AY. 2020-21)
DCIT v. Hinduja Global Solutions Ltd. (2025) 213 ITD 453 (Mum) (Trib.)

S. 40(a)(i) : Amounts not deductible-Deduction at source-Non-resident-Payment of advisory fee to a foreign company-Not fees for technical services-Not liable to deduct tax at source-DTAA-India-Singapore. [S. 9(1)(vii), 195, Art. 12] 727
Held that payment of advisory fee to a foreign company for arranging loan for it from foreign establishments and non-resident financiers with their efforts from Singapore, payment of such advisory fee could not be termed as royalty or fee for technical services as it was in nature of commission for financial services rendered. Not liable to deduct tax at source.(AY. 2012-13)
ITO (IT) v. Hartaj Sewa Singh. (2025) 211 ITD 179 (Kol) (Trib.)

S. 40(a)(i) : Amounts not deductible-Deduction at source-Non-resident-Royalty-Freight charges-Not royalty-Not liable to deduct tax at source-No disallowance can be made-DTAA-India-Korea. [S.9(1)(vi), 195, Art. 12] 728
Held that payment of freight charges to a Korean company for availing logistics services in connection with shipment of goods from various ports outside India to India is not royalty hence not liable to deduct tax at source. Order of CIT(A) deleting the disallowance is affirmed. (AY. 2015-16)
DCIT v. Doosan Power Systems India (P.) Ltd. (2025) 210 ITD 99 (Chennai) (Trib.)

S. 40(a)(i) : Amounts not deductible-Deduction at source-Non-resident-Depreciation-Fixed asset-Capitalised the expenditure-Disallowance is deleted. [S. 32] 729
Tribunal held that section 40(a)(i)/(ia) deals with amount payable towards interest, royalty, FTS or other sum chargeable under the Act. The phrase 'amount payable' in the section indicates that such amount can be claimed as a deduction in the form of

expenditure incurred for business. Whereas, in the instant case, the assessee capitalised the expenditure. Assessee capitalised the software purchased and the expenditure was not claimed as revenue by the assessee in its books of account. Therefore, depreciation could not be disallowed by invoking section 40(a)(i)/(ia). (AY. 2015-16)
Samsung R & D Institute India-Bangalore (P.) Ltd. v. JCIT (2025) 210 ITD 60 (Bang.) (Trib.)
Editorial: CIT v. IBM (2014) 43 Taxmann.com 470 (Karn)HC) Distinguished.

730 **S. 40(a)(ia): Amounts not deductible-Deduction at source-Short deduction of TDS-Fees for professional or technical services-No disallowance under section 40(a)(ia)[S.194C, 194J]**
The Assessee deducted TDS under section 194C. The Assessing Officer held that the TDS was required to be deducted under section 194J and entire amount was disallowed. On an appeal to CIT(A), the CIT(A) upheld the decision of the Assessing Officer based on the judgement of Hon'ble Kerla High Court. On further appeal to Tribunal, the Tribunal held in favor of Assessee based on the judgement of the Hon'ble Calcutta High Court and Hon'ble Delhi High Court. The Tribunal relied upon the Supreme Court judgement wherein the Apex Court held that in case of identical issues judgement of Jurisdictional High Court is not available and there are divergent views of non jurisdictional High Courts, the construction which is favorable to Assessee should be adopted. On further appeal by the Department the hon'ble court held in favor of Assessee and directed the AO to delete the addition. (AY. 2012-13)
CIT (IT) v. Samsung Heavy Industries Co. Ltd. (2025) 346 CTR 109 / 176 taxmann.com 482 (Uttarakhand)(HC)

731 **S. 40(a)(ia): Amounts not deductible-Deduction at source-Short deduction-Disallowance cannot be made for short deduction of tax at source. [S.194C, 194J]**
Dismissing the appeal of the revenue the Court held that, when tax was deducted by the assessee under s. 194C @ 2 per cent, instead of deduction under S. 194J 10 per cent, Tribunal was right in holding that S. 40(a)(ia) could not be invoked for short deduction. (AY. 2012-13)
CIT (IT) v. Samsung Heavy Industries Co. Ltd. (2025) 176 taxmann.com 482/ 346 CTR 109 / 252 DTR 305 (Uttarakhand)(HC)

732 **S. 40(a)(ia): Amounts not deductible-Deduction at source-Commission-Discount-Not liable to deduct tax at source-Disallowance was deleted. [S. 260A]**
Held that the discount to distributors are not liable to deduct tax at source. Disallowance was deleted. (AY. 2019-20)
Vodafone Mobile Services Ltd. v. Dy. CTT (2025) 476 ITR 80 // 304 Taxman 285 / 345 CTR 137 / 251 DTR 9 (Delhi)(HC)

733 **S. 40(a)(ia): Amounts not deductible-Deduction at source-Contractors-Declaration was furnished-Tribunal was not justified in remanding the issue before the Assessing Officer. [S. 194C(6), 254(1), 260A]**
Held that the assessing authority at first instance was not for the reason that the declarations were not produced as required under section 194(6). The disallowance was

on a specious finding that the payments made by the assessee were not to transport contractors but to their agents. Even if the assessing authority did entertain a doubt in that regard, he ought to have considered the declarations furnished by the contractor that were produced before him and given reasons as to why those declarations could not be accepted on their face value. The Commissioner (Appeals) perused the declarations and found them to be genuine and arrived at a correct decision deleting the disallowance made by the assessing authority under section 40(a)(ia). The Tribunal was not justified in remanding the matter to the assessing authority for a fresh adjudication on this issue.(AY.2013-14)
Unitac Energy Solutions (India) Pvt. Ltd v. ACIT (2025) 474 ITR 265 (Ker)(HC)

S. 40(a)(ia): Amounts not deductible-Deduction at source-Payment of wages to dock workers through Labour Board-Not liable to deduct tax at source. [S. 194C, 260A, Dock Workers (Regulation of Employment) Act, 1948] 734
The assessee, engaged in business of stevedoring and container freight services, was a registered employer under the Dock Workers (Regulation of Employment) Act, 1948 read with provisions of Calcutta Dock Workers (Regulation of Employment) Scheme, 1970. During the assessment years in question, assessee deposited a certain sum with Calcutta Dock Labour Board in discharge of its obligations under Act 1948 and Regulation Scheme 1970 for purposes of disbursement of wages of its employees through Board. Assessing Officer held that main function of Board was to provide labour to stevedore, i.e., assessee and, thus, while making payment to Board, assessee was bound to deduct tax at source under section 194C hence applied the provision of S. 40(a)(ia) of the Act. CIT(A) deleted the disallowance. Tribunal set aside the order of the CIT(A). On appeal High Court held that the contract of employment is between the assessee and the dock workers and not between the assessee and the Dock Labour Board; Board has merely discharged its statutory obligation with regard to regulation of dock workers; s. 194C has no application on facts of the present case with regard to payment of wages by the assessee to the dock workers through the Administrative Committee/Board. Therefore payment of wages to dock workers through Labour Board is not liable to deduct tax at source. (AY.2006-07, 2007-08)
Kamal Mookerjee & CO. (Shipping) (P) LTD. v. CIT [2024] 161 taxmann.com 419/ (2025) 342 CTR 441 (Cal)(HC)

S. 40(a)(ia): Amounts not deductible-Deduction at source-Fees for technical services-Insertion of explanation to Section 9 By Finance Act, 2010 with effect from 1-6-1976-No disallowance can be made-Interpretation-General principles-Principles of lex non cogit ad impossibilla, and impotentia excust legem.[S.9(1)(vii), 195, 260A 735
Dismissing the appeal of the Revenue the Court held that the Tribunal was right in deleting the disallowance under section 40(a)(ia) because the amendment to section 9 had not been passed at the relevant point of time and the assessee was not liable to deduct the taxes when the assessee had made the payments to non-residents towards the charges for sampling and analysis of cargo at destination port and for professional and consultancy fees. Relied on *Engineering Analysis Centre of Excellence (P) Ltd. D. CIT [2021] 432 ITR 471 (SC), (2022) 3 SCC 321, 2021 SCC OnLine SC 159* the Supreme

Court held that the two Latin maxims are applicable in all cases-lex non cogit ad impossibbilia i.e. the law does not demand the impossible and impotentia excusat legem, i.e. when there is a disability that makes it impossible to obey the law, the alleged disobedience of the law is excused. (AY. 2010-11)
ACIT v. Sociedade De Fomento Industrial Pvt. Ltd. (2024) 471 ITR 273 (Bom) (HC)

736 **S. 40(a)(ia): Amounts not deductible-Deduction at source-Capitalised the expenditure-Neither are expenses debited to P&L a/c and nor deduction is claimed-Disallowances cannot be made.**
Assessee-contractor having capitalised all the expenses incurred on construction and not claimed the same as revenue expenditure, no disallowance can be made by invoking the provisions of s. 40(a)(ia)..(AY. 2017-18 & 2018-19)
ITO v. Thrissur Expressway Ltd. (2025) 234 TTJ 676(Hyd)(Trib)

737 **S. 40(a)(ia) : Amounts not deductible-Deduction at source-Business expenditure-Generator hire charges and diesel reimbursement-No tax deductible on reimbursement of fuel cost-Matter partly restored-Professional fees-Tax deducted at source-Disallowance deleted-Purchase of ready-made shooting set-Sale transaction-Tax deduction at source not applicable.[S.194C, 194J]**
The assessee paid generator hire charges together with reimbursement of diesel and fuel expenses. The Tribunal held that reimbursement of fuel cost on a cost-to-cost basis did not constitute payment for carrying out any work and, therefore, section 194C was not applicable to such reimbursement. The disallowance relating to fuel charges was deleted. However, as evidence regarding deduction of tax at source on generator hire charges was not produced, that issue was restored to the Assessing Officer for verification. The Assessing Officer disallowed professional fees paid to the production manager alleging failure to deduct tax at source. The Tribunal found from Form No. 16A and the books of account that tax had in fact been deducted under section 194J. Accordingly, the disallowance under section 40(a)(ia) was deleted The assessee purchased a ready-made shooting set from a studio and acquired ownership thereof. Ledger accounts and invoices established that the transaction was one of outright sale and not hiring of a set. The Tribunal held that no tax was deductible at source under section 194J and the disallowance under section 40(a)(ia) was deleted. (AY. 2013-14)
Inspire Films Ltd. v. ITO [2025] 170 taxmann.com 79 / 234 TTJ 1 (UO) (Mum.)(Trib.)

738 **S. 40(a)(ia) : Amounts not deductible-Deduction at source-Compensation paid for surrender of rights is not interest-Disallowance is not justified. [S. 194A]**
The assessee paid compensation to a party for surrender of its rights in a property transaction. The Assessing Officer treated the payment as interest in substance and disallowed the expenditure under section 40(a)(ia) for failure to deduct tax at source. The Tribunal held that the payment was compensation for surrender of rights and not interest within the meaning of the Act. Since the payment did not attract deduction of tax at source under section 194A, the provisions of section 40(a)(ia) were not applicable. The disallowance was, therefore, deleted. (AY. 2014-15)
Kolte Patil Developers Ltd. (erstwhile Bellflower Properties P. Ltd.) v. Dy. CIT (2025) 130 ITR 505 (Trib.)

S. 40(a)(ia): Amounts not deductible-Deduction at source-TDS on land purchase-Seller having offered consideration to tax-No disallowance in buyer's hands-Non-deposit of TDS only precludes buyer's credit. [S. 132(4), 201(1)] 739

Held that TDS disallowance was unwarranted once the seller had offered the sum to tax. Order of CIT(A) was affirmed (AY. 2016-17, 2017-18)

S.A. Builders and Developers v. Asst. CIT (2025) 131 ITR 685 (Hyd.)(Trib)

S. 40(a)(ia): Amounts not deductible-Deduction at source-Payment of sales commission and cash incentives to retailers-the assessee filed various evidences including confirmation from the parties to prove the genuineness of said expenditure, adverse inference cannot be drawn merely because the notices issued under s. 133(6) were returned unserved by the postal authorities.[S.37(1), 133(6), 194H] 740

Held the Commission on sales promotion and cash incentives paid by the assessee to the retailers in the course of its business of promoting IML brands produced by two distilleries on behalf of its principals did not fall in the category of "commission" requiring deduction of TDS under S. 194H, there being no principal and agent relationship between the assessee and the retailers and therefore, the said payments could not be disallowed under S. 40(a)(ia) for non-deduction of tax; since the assessee filed various evidences including confirmation from the parties to prove the genuineness of said expenditure, same cannot be treated as non-genuine merely because the notices issued under S. 133(6) were returned unserved by the postal authorities. (AY. 2008-09)

ITO v. Welsh and Breton Blenders (P) Ltd. (2025) 236 TTJ 939 / 174 taxmann.com 510 (Hyd) Trib)

S. 40(a)(ia) : Amounts not deductible-Deduction at source-Commission paid to non-resident agents-Services rendered outside India-No business connection or permanent establishment in India-No tax deductible at source.[S.9(1)(i), 195] 741

The assessee paid commission to non-resident agents for procuring export business outside India. The Tribunal held that as the agents had neither a business connection nor a permanent establishment in India, the commission was not chargeable to tax in India. Consequently, the assessee was under no obligation to deduct tax at source under section 195 and the disallowance under section 40(a)(i) was deleted. (AY. 2014-15).

Tata Consultancy Services Ltd. v. Dy. CIT [2023] 154 taxmann.com 372 / (2025) 129 ITR 667 (Mum.)(Trib.)

S. 40(a)(ia) : Amounts not deductible-Deduction at source-Year-end provisions-Vendors not identifiable-Liability to deduct tax arises only on identification of payee-Disallowance deleted.[S.37(1), 145] 742

The assessee created year-end provisions for expenses before receipt of vendors' invoices and without crediting individual vendors' accounts. The Tribunal held that, until the payees became identifiable and the debtor-creditor relationship came into existence, there was no obligation to deduct tax at source. Accordingly, the disallowance under section 40(a)(ia) was deleted. (AY. 2014-15).

Tata Consultancy Services Ltd. v. Dy. CIT [2023] 154 taxmann.com 372 / (2025) 129 ITR 667 (Mum.)(Trib.)

743 **S. 40(a)(ia) : Amounts not deductible-Tax deduction at source-Labour charges-Payments made through head labourer-Labourers directly employed by assessee-No contract-Disallowance deleted. [S. 194C]**

The assessee made payments towards filling, unloading and other labour charges through head labourers. Since the labourers were directly employed by the assessee, were on its muster rolls and were covered by provident fund and Employees' State Insurance benefits, the Tribunal held that payment through the head labourer was merely a mode of disbursement and did not create a contractual relationship attracting section 194C. Accordingly, no tax was deductible at source, and the disallowance under section 40(a)(ia) was rightly deleted. (AY. 2010-11 to 2012-13).

Dy. CIT v. WD and Sons P. Ltd. (2025) 129 ITR 278 (Chennai) (Trib.)

744 **S. 40(a)(ia): Amounts not deductible-Deduction at source-Job work-Furnished Form 16A-Addition was deleted.[Form No 26AS]**

Held that the assessee claimed deduction for job-work expenses and the Assessing Officer disallowed a certain amount, alleging non-deduction of TDS, but the assessee furnished Form 16A and Form 26AS evidencing TDS had been duly deducted and matched with vendor entries, addition for non-deduction of TDS was not sustainable. (AY. 2021-22)

R Y Midas Metacast (P.) Ltd. v. ITO (2025) 215 ITD 305 (Ahd) (Trib.)

745 **S. 40(a)(ia): Amounts not deductible-Deduction at source-Building contractor-Capitalised the expenditure-Not disallowable.[S. 30 to 38, 143(1)(a), 194C]**

Assessee a building contractor for construction and capitalised expenditure, not claiming it as a revenue deduction. Assessing Officer processed the return under section 143(1) and made an adjustment of Rs. 61.95 lakhs, disallowing 30% of the sum under section 40(a)(ia) for non-deduction of TDS under section 194C. Assessee contended that the adjustment was unwarranted as the expenditure was capitalised and no deduction was claimed. Tribunal held that only expenditures allowable under sections 30 to 38 can be disallowed for non-deduction of tax at source. Since payment to the building contractor was a capital expenditure and not claimed as a deduction, no disallowance could be made in intimation under section 143(1)(a). (AY. 2019-20)

Raghav Agritech v. ITO (2025) 215 ITD 647 / 127 ITR 71 (Nagpur) (Trib.)

746 **S. 40(a)(ia): Amounts not deductible-Deduction at source-Pre-EMI interest-Recipient had paid due tax-Matter remanded.**

Assessee submitted that the recipient had paid due tax and, therefore, pre-EMI interest paid by assessee should be allowed but could not place on record any documents fulfilling the requirement of the provision of the Act in this regard. Tribunal remanded the matter to the Assessing Officer for verification.(AY. 2014-15)

Pankaj Enterprises v. DCIT (2025) 214 ITD 702 / 237 TTJ 497 (Mum) (Trib.)

747 **S. 40(a)(ia): Amounts not deductible-Deduction at source-Provision made for future expenditure-Matter remanded to the file of the Assessing Officer for verification. [S. 145]**

Assessee was engaged in the business of real estate. Assessee claimed that in POCM, revenue was recognised when a substantial amount of sale was realized, and

corresponding construction was yet to be completed, and physical possession was not given to the buyer. Thus, in order to provide parity between revenue and expenses, a provision was made for expenses that were going to be incurred in future. Since it was a provision made for future expenditure, there was no question of making TDS out of same.Assessing Officer made a disallowance of a certain amount of expenses under section 40(a)(ia) on account of non-deduction of tax at source. CIT(A) deleted disallowance on the basis of submissions of assessee that this related to the provision towards material. However, no opportunity was given to Assessing Officer for making verification of this fact. On appeal by revenue, the Tribunal directed the Assessing Officer to verify whether claim of assessee that amount related to provision for material and further verify whether due TDS was deducted and deposited on service portion before filing of return of income and decide the issue in accordance with law and also keeping in mind the method of revenue recognition followed by assessee. (AY. 2019-20)
ACIT v. Delhi Buildwell (P.) Ltd. (2025) 213 ITD 291 (Delhi) (Trib.)

S. 40(a)(ia): Amounts not deductible-Deduction at source-catering expenditure for purpose of supply of food packets to its employees-Subjected to GST-Not contract-Not liable to deduct tax at source-Business promotion expenses to promote business and rewards to employees to achieve work targets-Facilities/amenities made available by hotel to its customers do not constitute 'work' within meaning of section 194C-Hotel room booking expenses incurred by assessee were not liable to TDS under section 194C. [S. 194C] 748

Assessee incurred catering expenditure for purpose of supply of food packets to its employees. Assessing Officer held that assessee was liable to deduct TDS under section 194C as this fell under contractual payment and, thus, 30 per cent of catering expenditure was disallowed under section 40(a)(ia). CIT(A) up held the order of the Assessing Officer. On appeal the Tribunal held that case of supply of food packets and same being subjected to GST, same would not be considered as contract and, therefore, provision of section 194C would not apply. Assessee-company paid business promotion expenses to promote business and rewards to employees to achieve work targets. Assessing Officer held that assessee was liable to deduct TDS under section 194C on such expenses. CIT(A) affirmed the order of the Assessing Officer. On appeal the Tribunal held that since facilities/amenities made available by hotel to its customers do not constitute 'work' within meaning of section 194C, hotel room booking expenses incurred by assessee were not liable to TDS under section 194C. The assessee was not liable to deduct TDS on business promotion expenses under section 194C of the Act. (AY. 2011-12)
Infoobjects Software India (P.) Ltd. v. DCIT (2025) 212 ITD 546 (Jaipur) (Trib.)

S. 40(a)(ia): Amounts not deductible-Deduction at source-Interest, etc., paid to a resident without deduction of tax at source-Non-furnishing of Form 15G/15H-Form filed before the Tribunal-Matter remanded to the Assessing Officer for limited purpose of verification. [Form 15G, 15H] 749

Assessee, engaged in business of cloth merchant, claimed interest expenditure on unsecured loans. Assessing Officer disallowed same under section 40(a)(ia) on ground

that assessee had not furnished Form 15G/15H. Assessee contended that it had furnished said forms. The issue was remanded back to Assessing Officer for limited purpose of verification of Form 15G/15H. (AY.2012-13)
Suresh Kishinchand Changwani v. Dy. CIT (2025) 210 ITD 669 (Mum.) (Trib.)

750 **S. 40(a)(ia): Amounts not deductible-Deduction at source-Books of Accounts rejected-Separate addition under 40(a)(ia) not valid.**
Disputed income under litigation-Shown as other income-Cannot be included in turnover when books are rejected-Income does not accrue until litigation is finally terminated, especially if liability is not admitted by the other party. [S. 4, 5, 144 145]
Tribunal held that when books of accounts are rejected and net profit is estimated by applying a net profit rate, there cannot be additional disallowances under Section 40(a)(ia) based on the same set of books as this prevents double counting of disallowances when income is being assessed on an estimated basis.
The assessee had shown certain amount as "other claims" in their return. This amount represented disputed claims under litigation where the assessee had filed suit against certain parties. The Tribunal held that when estimating income after rejecting books of account, only real income can be taxed, not notional income under litigation. Therefore, this amount was correctly excluded from the turnover for income determination. Only real income should be considered for taxation, not notional income that hasn't accrued to the assessee. Income does not accrue until litigation is finally terminated, especially if liability is not admitted by the other party.(AY. 2017-18)
ACIT v. Vardha Infra Ltd. (2025) 233 TTJ 505 (Jodhpur)(Trib)

751 **S. 40(a)(ii) : Amounts not deductible-Rates or tax-State taxes paid overseas-Not eligible for relief under sections 90 or 91-Deduction allowable.[S.37(1), 90, 91]**
The Tribunal held that State taxes paid in foreign jurisdictions, which were not eligible for relief under sections 90 or 91, were outside the scope of Explanation 1 to section 40(a)(ii). Consequently, such taxes were allowable as business expenditure. (AY. 2014-15).
Tata Consultancy Services Ltd. v. Dy. CIT [2023] 154 taxmann.com 372 / (2025) 129 ITR 667 (Mum.)(Trib.)

752 **S. 40(a)(ii) : Amounts not deductible-Rates or tax-Education cess-Forms part of tax-Deduction not allowable.**
The assessee claimed deduction of education cess. The Tribunal held that the expression "tax" in section 40(a)(ii) includes education cess and, therefore, such cess is not an allowable deduction while computing business income. (AY. 2017-18).
Honda Motorcycle and Scooter India Pvt. Ltd. v. Asst. CIT [2023] 153 taxmann.com 567 / (2025) 129 ITR 6 (Delhi)(Trib.)

753 **S. 40(a)(ii) : Amounts not deductible-Rates or tax-Business expenditure-Education cess-Not allowable as deduction.[S. 37(1)]**
Following the applicable legal position, the Tribunal held that education cess on income-tax is not an allowable deduction while computing business income. (AY. 2013-14).
Yokogawa India Ltd. v. Dy. CIT (2025) 122 ITR 499 (Bang.)(Trib.)

S. 40(a)(ii) : Amounts not deductible-Rates or tax-Business expenditure-Education cess and higher education cess-Part of tax-Deduction not allowable. 754

The Tribunal held that education cess and higher secondary education cess form part of "tax" within the meaning of section 40(a)(ii). Consequently, they are not allowable as a deduction while computing business income. (AY. 2008-09 to 2014-15).

Royal Sundaram General Insurance Co. Ltd. v. Dy. CIT (2025) 123 ITR 507 / 175 taxmann.com 427 (Chennai)(Trib.)

S. 40(a)(iib) : Amounts not deductible-Business expenditure-Collection and payment of privilege fee, special privilege fee, etc. to the State Government-Disallowance was deleted. [S.37(1), A.P. (Regulation of Trade in Indian made Foreign Liquor, Foreign Liquor) Act, 1993, S. 4] 755

Held that the amount collected by the assessee from the licence-holders in terms of ss. 4A to 4C of A.P. (Regulation of Trade in Indian made Foreign Liquor, Foreign Liquor) Act, 1993 cannot be treated as income accruing to the assessee; since the amount collected from the licence-holders has been directly credited to the PD account and thereafter appropriated to various accounts by the Government, it cannot be treated as payment by the assessee to the State Government and therefore, the amounts of privilege fee, special privilege fee, additional privilege fee and contribution to CM Relief Fund cannot be disallowed under s. 40(a)(iib). (AY.2014-15 & 2015-16)

Andhra Pradesh Beverages Corporation Ltd. v. DCIT (2025) 237 TTJ 716 / 175 taxmann.com 567 (Hyd)(Trib)

S. 40(ba) : Amounts not deductible-Association of persons-Private specific trust-Interest paid to beneficiaries-Order of Tribunal disallowing the interest is affirmed. [S. 260A] 756

AO has held that the beneficiaries have come together voluntarily by pooling their money in the trust with clear knowledge that the funds will be utilized by the trust for the business of project work undertaken and would result in profits for the trust and consequently for the beneficiaries. The AO has recorded a finding that the trust is an AOP and the interest claim of Rs. 5,38,100 to the beneficiaries has been disallowed under S. 40(ba) of the Act. Findings recorded by the AO have been upheld by the Tribunal. On appeal High Court affirmed the order of the Tribunal. (AY.1995-96)

Mehta Jaising Combine v. ITO (2025) 344 CTR 256 / 249 DTR 73 / 174 taxmann.com 869 (Bom)(HC)

S. 40A(2): Expenses or payments not deductible-Excessive or unreasonable-Tribunal was justified in holding that expenses claimed by assessee were not excessive and disallowance of assessee's claim was unsustainable-SLP of revenue dismissed-DTAA-India-Italy. [S. 9(1)(i), Art. 7, Art. 136] 757

Assessee, an Italian company, entered into a contract with an Indian company to execute grass root hydrogen generation unit and fuel gas unit on lump sum turnkey basis. The AO proceeded to estimate profit attributable to PE at 10 per cent High Court held that since Assessing Officer failed to justify invocation of section 40A(2)(b) and all material particulars had been duty placed before DRP, Tribunal was justified in holding that

expenses claimed by assessee were not excessive and disallowance of assessee's claim was unsustainable. SLP of revenue dismissed. (AY. 2019-20)
CIT v. Technip Energies Italy S.P.A (2025) 482 ITR 153 / 304 Taxman 346 (SC)
Editorial : CIT v. Technip Energies Italy S.P.A (2025) 172 taxmann.com 433/482 ITR 149 (Delhi)(HC)

758 **S. 40A(2): Expenses or payments not deductible-Excessive or unreasonable-Tribunal was justified in holding that expenses claimed by assessee were not excessive and disallowance of assessee's claim was unsustainable-Order of Tribunal affirmed-Presumptive tax-Civil construction and Turnkey projects-Provision in applicable-DTAA-India-Italy. [S. 9(1)(i),44BB, 260A Art. 7,]**
Assessee, an Italian company, entered into a contract with an Indian company to execute grass root hydrogen generation unit and fuel gas unit on lump sum turnkey basis. The AO proceeded to estimate profit attributable to PE at 10 per cent High Court held that since Assessing Officer failed to justify invocation of section 40A(2)(b) and all material particulars had been duty placed before DRP, Tribunal was justified in holding that expenses claimed by assessee were not excessive and disallowance of assessee's claim was unsustainable. Court also held that presumptive tax provision in applicable. (AY. 2019-20)
CIT (IT) v. Technip Energies Italy S.P.A.(2025) 482 ITR 149 / 172 taxmann.com 433 (Delhi) (HC)
Editorial : SLP of revenue dismissed, CIT v. Technip Energies Italy S.P.A (2025) 482 ITR 153 / 304 Taxman 346 (SC)

759 **S. 40A(2): Expenses or payments not deductible-Excessive or unreasonable-Consultancy charges paid to related party-No comparable instances cited by AO-Disallowance is deleted. [S.40A(2)(b)]**
Assessee, engaged in land development, paid consultancy charges of 1,57,00,000 to Mangala Properties Pvt. Ltd. (MPPL), a related party, for services related to land sale. AO disallowed 50,75,784, holding the payment excessive without providing comparable instances or fair market value. AO failed to discharge the initial onus under section 40A(2)(b) by not demonstrating excessiveness through comparable cases or fair market value analysis. AO must first establish unreasonableness, which was not done. Therefore, disallowance was deleted.(AY. 2009-10) (ITA No. 1213/Ahd/2024, dt. 23/06/2025)
Virbala Kiritkumar Patel v. Dy. CIT (Ahd.) (Trib.) (UR)

S. 40A(2): Expenses or payments not deductible-Excessive or unreasonable-Long term capital gains-Commission payment to wife-Allowable as deduction. [S. 45, 48] 760

During the year, assessee sold a building and received a sum of Rs. 5.82 crores and offered long-term capital gains. While declaring long-term capital gains, assessee claimed transfer expenses of Rs. 59 lakhs as a deduction. Out of this, a sum of Rs. 35 lakhs was accepted by the Assessing Officer Assessing Officer disputed transfer expenses, which admittedly included commission payments of Rs. 18 lakhs made to wife and daughter of the assessee's director, being related parties covered within the ambit of section 40A(2)(b). On appeal, the CIT(A) allowed the payment on the ground that the amount paid was within the ambit of expenses on transfer. On appeal, the Tribunal held that the assessee has proved the nature of services rendered by the daughter and wife of the director of the assessee for enabling the transfer of subject mentioned property. Order of CIT A) affirmed. (AY. 2017-18)

G.N. International (P.) Ltd. v. ACIT (2025) 214 ITD 180 (Delhi) (Trib.)

S. 40A(2): Expenses or payments not deductible-Excessive or unreasonable-Cash payment to partners-No legal bar on cash payment to partners-Genuineness of payment was not doubted-Addition was deleted. [S.40A(b)(v)] 761

The assessee-firm was running a hospital. The Assessing Officer disallowed the remuneration paid to partners on the ground that the same was paid in cash. CIT(A) upheld the order of the Assessing Officer. On appeal, the Tribunal held that the remuneration had been given to partners as per the partnership deed and within the limit prescribed under section 40A(b)(v). Tribunal also held that there was no legal bar for a firm to pay partners' remuneration in cash and that the genuineness of said payment was not in doubt. Accordingly, the disallowance was deleted. (AY. 2019-20)

Sonone Surgical and Ophthalmic Hospital v. ITO (2025) 214 ITD 739 (Pune) (Trib.)

S. 40A(2): Expenses or payments not deductible-Excessive or unreasonable-Gold and precious metals-lower authorities had neither referred to nor relied upon any objective market data to determine the fair value of purchases-Matter was remanded to the file of CIT (A) for fresh adjudication.[S. 40A(2)(a)] 762

Assessee-company was engaged in the business of manufacturing and trading in gold bars and ornaments. During the year, assessee made purchases from two related parties. Since the assessee failed to justify the arm's length price of said purchases, Assessing Officer disallowed a certain amount under section 40A(2)(b).On appeal, the CIT(A) directed the Assessing Officer to adopt an average gross profit rate for the three assessment years 2012-13 to 2014-15 for determining the extent of excessive payment. On appeal by revenue, the Tribunal held that the determination of fair market value under section 40A(2)(a) requires a factual inquiry into prevailing market rates of relevant goods during the period of transaction. Since the assessee dealt in precious metals and ornaments, prices of which were subject to daily fluctuations, it was incumbent upon the Assessing Officer to examine relevant market data available in the public domain or through comparable independent transactions before arriving at a conclusion regarding excessiveness. However, lower authorities had neither referred to nor relied upon such objective market data to determine the fair value of the purchases in question.

Approach adopted by the Assessing Officer in computing disallowance solely based on a fall in gross profit rate, without corroborating the same with market evidence, could not be sustained in law. Accordingly, the matter was to be remanded back to the file of CIT(A) with a direction to re-adjudicate the issue afresh after examining the fair market value of purchases made from related parties during the relevant period, based on contemporaneous data. (AY. 2013-14)
ITO v. Khetalaji Gold (P.) Ltd. (2025) 213 ITD 607 (Mum) (Trib.)

763 **S. 40A(3) : Expenses or payments not deductible-Cash payments exceeding prescribed limits-Purchase of jewellery-Failure to show circumstances that required assessee to effect payments in cash-SLP of assessee dismissed. [R. 6DD, Art. 136]**
High Court dismissed the appeal on the ground that the assessee failed to demonstrate a situation which compelled him to make payment in cash which would have exempted him From application of the provisions of section 40A(3) of the Act and the Tribunal rightly held that it did not fall under any of the exceptional clauses under rule 6DD of the Income-tax Rules, 1962. SLP of assessee dismissed. (AY. 2013-14)
Natesan Krishnamurthy v. ITO (2025) 476 ITR 12 /304 Taxman 592 (SC)
Editorial : Natesan Krishnamurthy v. ITO (2019) 262 Taxman 127/ 178 DTR 177 / (Mad)(HC)/ (2019) 13 ITR-OL 80 /2019 SCC OnLine Mad 2366)

764 **S. 40A(3): Expenses or payments not deductible-Cash payments exceeding prescribed limits-Amendment with effect from 1-4-2009-Disallowance of payments exceeding specified limit to a single person on a single day-No evidence of separate payments made on a single day to assessee-Disallowance justified. [R.6DD]**
Held that the specific ground on which the disallowance was made by the Assessing Officer was with respect to no substantiating bills or vouchers having been produced. No vouchers were produced to substantiate the claim of separate payments having been made on a single day at the work spots where the delivery of the goods supplied was made. The disallowance was in accordance with the provision even as it existed before the amendment of April 1, 2009. It was valid.(AY.2004-05)
Mahendra Prasad Singh and Bros. Mahalla v. CIT [2024] 160 taxmann.com 233 / (2025) 483 ITR 479 (Patna)(HC)

765 **S. 40A(3) : Expenses or payments not deductible-Ad-hoc disallowance-Cash payments exceeding prescribed limits-Deletion of disallowance by Commissioner (Appeals) on examination of vouchers confirmed by Tribunal is affirmed [S.145 260A]**
Dismissing the appeal of the revenue the Court held that that the findings of fact recorded by the Tribunal on all the three issues were based on material and evidence on record. The Assessing Officer's estimation of the gross profit rate was primarily based on other findings recorded by the Assessing Officer affecting the credibility of books of account of the assessee and according to him the assessee had made payments in cash in excess of Rs. 20,000 in contravention of section 40A(3). That as to the issue of ad hoc disallowance of expenditure of consignment sale, the Tribunal has rightly concluded that it was an academic issue.(AY. 2014-15)
PCIT v. Mahabir Jute Mills Ltd [2024] 162 taxmann.com 601 / (2025) 482 ITR 345 (All) (HC)

S. 40A(3) :Expenses or payments not deductible-Cash payments exceeding prescribed limits-Payments to agents cannot be disallowed-Order of Tribunal set aside. [ITR, 1962 R. 6DD, Indian Contract Act, 1872, S. 182] 766

Held, that the assessee had withdrawn the amount from his bank account through his employees, i.e., supervisors, for disbursement to individual labourers and the supervisors gave an account of the money so received for payment to the labourers. Thus, the assessee was the principal and the supervisors acted as agent of the assessee. It is settled law that the authority of an agent may be express or implied. Submission of account by a supervisor acting as agent of the assessee, for the amount received and disbursed to individual labourers, left no manner of doubt that the supervisors who were employees of the assessee, acted as agents of the assessee for the purposes of disbursement of amount to labourers. The payment so made by the supervisors had not exceeded Rs. 20,000 to any individual labourers. There was no material or evidence on record to indicate or establish that the supervisors were sub-contractors. Under the circumstances the finding recorded by the Tribunal that the supervisors were sub-contractors was perverse and contrary to law. The order of the Tribunal to the extent it upheld the disallowance under section 40A(3) of the Act, 1961, could not be sustained and set aside.(AY. 2006-07)

SK. Jaynal Abddin v. CIT [2024] 161 taxmann.com 640 / (2025) 477 ITR 95 (Cal)(HC)

S. 40A(3) : Expenses or payments not deductible-Cash payments exceeding prescribed limits-Cultivator and grower-Company engaged in pasteurisation not producer of milk-Disallowance was up held-Interpretation of taxing statutes-Principle of noscitur a sociis. [S. 260A, R.6DD(e)(ii)] 767

Dismissing the appeal the Court held that the term produce in rule 6DD(e)(ii) was with reference to milk as a consequence of dairy farming. The fact that the milk was pasteurised by the company and thereafter, the pasteurised milk was distributed by the assessee to the dealers was immaterial. The cash payment should have been made to the cultivator, grower or producer of such articles, produce or products. The reference to "producer" in the conclusion of clause(e) of rule 6DD was clearly to a dairy farmer and not to a company. The term "producer" qua "dairy farming" had to be understood noscitur a sociis with the terms "cultivator" and "grower" qua agriculture, forestry, poultry farming, apiculture, etc., respectively. It could not include a company that was engaged in the activity of pasteurisation of milk, particularly bearing in mind the object of section 40A(3), being to discourage cash payments. Both entities, the company and the assessee had full access to banking facilities. The operation of section 40A(3) was absolute. Rule 6DD that carve out exceptions to the rigour of section 40A(3) did not envisage extension of that benefit to cash payments made by a distributor (assessee) to the company. There was no justification as to why the payments were made in cash or what the exigencies were that prevented the entities from transacting through the bank. The Tribunal was correct in sustaining the addition made under section 40A(3) for the assessment year (AY. 2009-2010)

Arasappan Madhivanan v. ITO (2025) 476 ITR 169 / 173 taxmann.com 876 (Mad)(HC)

768 **S. 40A(3) : Expenses or payments not deductible-Cash payments exceeding prescribed limits-No credible document produced to show why payment had to be made on bank holiday-Order of Tribunal is affirmed. [R.6DD, 260A]**
Dismissing the appeal of the assessee the Court held that assessee had also not produced any believable document to show that the recipients had in fact received the consideration and had declared it as their income. The disallowance under section 40A(3) is justified. (AY. 2013-14)
Santosh M. Bhandari v. ITO (2025) 473 ITR 646 (Karn)(HC)

769 **S. 40A(3): Expenses or payments not deductible-Cash payments exceeding prescribed limits-Alleged non-genuine purchases-lack of proper enquiry-Matter is restored to the AO with a direction to conduct a de novo assessment on this issue after carrying out proper and comprehensive enquiry regarding various aspects.[S.133(6)]**
Held that the Assessing Officer has neither examined the actual mode and dates of payments nor traced the flow of funds or established any cash trail nor conducted meaningful verification with the said suppliers or with the GST authorities to ascertain the authenticity of the transactions and made the impugned disallowance under s. 40A(3), the matter is restored to the AO with a direction to conduct a de novo assessment on this issue after carrying out a proper enquiry regarding various aspects. (AY.2021-22)
Shital Vipulkumar Dholakia v. ITO (2025) 237 TTJ 1045 (Ahd)(Trib)

770 **S. 40A(3) : Business expenditure-Cash payments-Television serial production-Advances to cashier for petty expenses-Matter remanded for verification.**
The assessee, engaged in the business of producing television serials, made cash advances to its cashiers for meeting petty shooting expenses such as conveyance, tea, coffee and snacks. It produced ledger accounts and sample vouchers showing that the actual cash expenditure on each occasion did not exceed the prescribed monetary limit. As neither the Assessing Officer nor the appellate authority examined the documentary evidence, the Tribunal restored the issue to the Assessing Officer for fresh verification. (AY. 2013-14).
Inspire Films Ltd. v. ITO [2025] 170 taxmann.com 79 / 234 TTJ 1 (UO) (Mum.)(Trib.)

771 **S. 40A(3) : Business expenditure-Cash payments exceeding prescribed limit-Purchase of copra through agents-Payments made through banking channels-Disallowance deleted.**
The Assessing Officer invoked section 40A(3) alleging that the assessee had made cash payments for purchase of copra. The Tribunal held that the purchases were made through agents and all payments by the assessee were made through banking channels. As no cash payment was made by the assessee, the provisions of section 40A(3) were not attracted and the disallowance was rightly deleted. (AYs. 2010-11 to 2012-13).
Dy. CIT v. WD and Sons P. Ltd. (2025) 129 ITR 278 (Chennai) (Trib.)

S. 40A(3): Expenses or payments not deductible-Cash payments exceeding prescribed limits-Payment to supplier on Saturday at around 5:30 P.M. after closure of banking hours-Payment was made on a day when the bank was observing half-day working-Rule 6DD(j) could not be invoked-Disallowance upheld. [R.6DD (j)] 772

Assessee made a payment of Rs. 47,337 to a supplier towards material purchased for consumption. Assessing Officer invoked section 40A(3) and made a disallowance. CIT(A) affirmed the disallowances. Assessee claimed that payment was made on Saturday at around 5:30 P.M. after closure of banking hours and thus, it deserved the benefit of the exception provided in rule 6DD(j). Tribunal held that the language of rule 6DD(j) is very clear and gives benefit to assessee only if bank remains closed for entire day, since assessee's claim was that payment was made on a day when bank was observing half-day working, rule 6DD(j) could not be invoked and, thus, disallowance was upheld. (AY. 2011-12)

Patidar Builder (P.) Ltd. v. Assessing Officer (2025) 214 ITD 77 (Indore) (Trib.)

S. 40A(3): Expenses or payments not deductible-Cash payments exceeding prescribed limits-Salary to employees-No finding that payment on particular date exceeded limit-Disallowance was deleted. 773

Held since the Assessing Officer had not given any specific finding that any payment to an employee at a particular date exceeded the limit of section 40A(3), disallowance made merely because payments during the year had been made in cash was not justified. (AY. 2019-20)

Sonone Surgical and Ophthalmic Hospital v. ITO (2025) 214 ITD 739 (Pune) (Trib.)

S. 40A(3) : Expenses or payments not deductible-Cash payments exceeding prescribed limits-Payments were made on bank holidays-Issue is restored back to file of Assessing Officer for examination afresh. 774

Tribunal remanded the issue back to Assessing Officer for examination afresh with a direction to assessee to substantiate that payment was made on bank holiday, payment was made by agent and further business exigency also demanded payment of cash. (AY. 2015-16)

Chandra Moolchand Jain (Smt.) v. ITO (2025) 211 ITD 398 (Bang) (Trib.)

S. 40A(3) : Expenses or payments not deductible-Cash payments exceeding prescribed limits-Business expediency-If the payment is necessary for business operations and is not made with fraudulent intent, disallowance u/s. 40A(3) may not be required, even if the payment exceeds the prescribed limit. 775

The AO disallowed the expenses on the ground that the same were more than the limits specified u/s. 40A (3). The CIT (A) upheld the order of the AO as the assessee had failed to establish the identity of the payees and the genuineness of these transactions, and the business expediency with regard to said payments was established. Tribunal held that disallowances u/s. 40A (3) should be made cautiously, especially when payments are essential for the business operations. If there is no doubt about the identity of the payee and the genuineness of the transactions, the business exigencies should be considered to justify the payments. Further held that if cash payments are made due to the business

exigencies and there is no suspicion of tax evasion, then such payments should not be disallowed. Therefore, expenses like fuel, meals, and repairs that are necessary for running the business should not be disallowed just because they exceed the limits of S. 40A(3).(AY. 2008-09, 2014-15)
Munish Arora v. ACIT [2025] 210 ITD 408 (Chd)(Trib.)

776 **S. 41(1) : Profits chargeable to tax-Remission or cessation of trading liability-Capital or revenue-Pre-payment of deferred sales tax liability-Capital receipt.[S. 4, 260A]**
That the Assessing Officer was not correct in treating the amount saved by the assessee while pre-paying the deferred sales-tax liability as income, by applying the provisions of section 41 of the Income-tax Act, 1961. (AY. 2007-08, 2009-10)
CIT v. Grindwell Norton Ltd (2025) 483 ITR 651 (Bom)(HC)

777 **S. 41(1) : Profits chargeable to tax-Remission or cessation of trading liability-Dead horses-Capital assets-Insurance claim-Capital receipts cannot be assessed under section 41(1) of the Act.[S.45]**
Assessee was carrying on business of breeding, rearing and selling racehorses. Assessee treated horses as stock-in-trade till age of 2 years and thereafter they were treated as capital assets. During relevant year, two mares died and assessee received insurance claim for death of mares. Assessing Officer held that insurance claim received by assessee from insurance company for death of mares was to be deemed as income of assessee under section 41(1).CIT(A) and Tribunal up held the order of the AO. On appeal the court held that revenue itself treated horses as capital assets and consequently, insurance receipt would become capital gain for assessee, thus, money received towards insurance claim on account of damage to or destruction of capital asset could not be treated as transfer of capital assets so as to attract tax under provisions of section 45(1). Court held that heading 'capital gains' governed by provisions of section 45 was mutually exclusive from heading 'profits and gains of business or profession' governed by section 41 hence insurance receipts is capital receipt. Order of Tribunal set aside.(AY.1988-89, 1990-91, 1991-92 & 1995-96)
Poonawalla Estate Stud & Agricultural Farm v. CIT (2025) 176 taxmann.com 308/ 347 CTR 504 / 254 DTR 73 (Bom)(HC)

778 **S. 41(1) : Profits chargeable to tax-Remission or cessation of trading liability-Outstanding liability cannot be taxed merely because it has become time-barred under the Limitation Act-In the absence of remission or cessation of liability, section 41(1) cannot be invoked. [S. 145]**
The AO invoked section 41(1) and treated outstanding trade liabilities of ₹ 75.38 crore as ceased liabilities on the ground that they had remained unpaid for several years and had become time-barred under the Limitation Act. The Tribunal held that the mere expiry of the limitation period does not result in remission or cessation of liability so as to attract section 41(1). Where the liabilities continued to be reflected in the books, and there was no evidence of remission or cessation, no addition could be made under section 41(1). Accordingly, the Tribunal deleted the additions in respect of most of the creditors. However, in respect of one liability, where the assessee claimed that the liability had

been taken over by the bank and recovery proceedings were pending before the DRT, the matter was restored to the CIT(A) for verification of the supporting evidence. The appeal was partly allowed for statistical purposes. [AY. 2007-08]
Vishal Exports Overseas Ltd. v. Asst. CIT (2025) 130 ITR 394 (Ahd)(Trib.)

S. 41(1) : Profits chargeable to tax-Remission or cessation of trading liability-Creditors outstanding for a long time-The amount due to the creditors is not chargeable to tax. 779
Merely because some of the creditors were outstanding for more than three years and no confirmations were filed, it cannot be said that there is cessation of liability and therefore, the amount due to the creditors is not chargeable to tax under s. 41(1). Followed, *PCIT v. Batliboi Environmental Engineering Ltd. (2022) 141 taxmann.com 245 (Bom) (HC)* (AY. 2013-14, 2014-15)
Kumar Urban Development (P) Ltd. v. DCIT (2025) 237 TTJ 881 (Pune)(Trib)

S. 41(1) : Profits chargeable to tax-Remission or cessation of trading liability-Lease deposit outstanding for several years-No cessation of liability-Addition deleted-Booking advances received in earlier years-No remission or cessation-Addition deleted. [S.28(i)] 780
The Assessing Officer treated lease deposits received in earlier years as income under section 41(1) on the ground that the liability had ceased. The Tribunal held that the lease deposits were interest-free security deposits received under a subsisting lease agreement for a period of 21 years, duly confirmed by the depositor and consistently reflected in the books of account. There was no remission, cessation or discharge of the liability, nor had the assessee obtained any benefit during the relevant previous year. Accordingly, the addition under section 41(1) was rightly deleted. The assessee had received booking advances against sale of properties in earlier years and no fresh advances were received during the year under consideration. The Tribunal held that the Assessing Officer failed to establish any remission or cessation of liability or that the assessee had earlier claimed any deduction in respect of such liabilities. Since the statutory conditions prescribed under section 41(1) were not satisfied, the booking advances could not be treated as income (AY. 2020-21).
ITO v. N. Kumar Housing and Infrastructure (P.) Ltd. (2025) 125 ITR 401 / 172 taxmann.com 428 (Nagpur)(Trib.)

S. 41(1): Profits chargeable to tax-Remission or cessation of trading liability-Creditors shown as outstanding-Addition cannot be made on an ad hoc basis. 781
Held that CIT(A), having found that payments have been made by the assessee to the creditors in the subsequent year, he was justified in coming to the conclusion that the liability as stated by the assessee as on 31st March, 2017 is in existence and has not ceased and consequently not chargeable to tax under s. 41(1). Order of CIT(A) deleting the addition was affirmed. (AY. 2017-18)
Bangalore Electricity Supply Co. Ltd. v. ACIT (2025) 234 TTJ 58 /121 ITR 595 / 174 taxmann.com 100 (Bang) (Trib)

782 **S. 41(1): Profits chargeable to tax-Remission or cessation of trading liability-Sundry creditors-Confirmation from parties-Additional evidence-The matter was restored to the file of the Assessing Officer for fresh adjudication.[S. 254(1)]**

The Assessing Officer disallowed liability of sundry creditors and added the amount to the assessee's income under section 41(1), which was affirmed by the CIT(A). Before the Tribunal, the assessee filed confirmation of parties. Tribunal held that since assessee had filed voluminous details which included confirmations, sample invoices and bank statements showing subsequent payments to creditors which required verification as the same were neither filed before the Assessing Officer nor before the Commissioner (Appeals), the matter was to be restored back to the file of the Assessing Officer for fresh adjudication. (AY. 2020-21)

Ginni Filaments Ltd. v. DCIT (2025) 215 ITD 175 (Agra) (Trib.)

783 **S. 41(1): Profits chargeable to tax-Remission or cessation of trading liability-Provision for liquidated damages-Settled under VSV Scheme, 2024-Not allowed deduction in earlier years-Reversal of provision-Cannot be taxed under section 41(1) of the Act. [VSV Scheme, 2024]**

Assessee, a foreign company, had entered into a contract with IOCL for rendering engineering design and project management services for the IOCL Paradip Refinery Project. Assessee had set up a project office in India and admitted the same as a Permanent Establishment (PE) in India. Assessee had debited provision for liquidated damages in earlier assessment years 2011-12 to 2013-14. The same was allowed as deduction by the Assessing Officer to the extent of Rs. 21.24 crores, and the remaining provision aggregating to Rs. 38.26 crores was disallowed. Later on, there was a settlement reached with IOCL, and the assessee was able to realise liquidated damages of Rs. 59.50 crores. Consequently, the same was reported under the head 'Other Income' by way of 'Provision no longer required written back' in the relevant assessment year 2018-19. Assessing Officer rejected the plea of assessee for exclusion of reversal of liquidated damages on the ground that assessee was contesting disallowance in appeal in those earlier years, and the same had not yet attained finality. Tribunal held that since the disallowance made in earlier years had attained finality as dispute had been settled under VSV Scheme, 2024 and requisite Form 4 had also been issued by Competent Authority, reversal of provision for liquidated damages which was not allowed as deduction in earlier assessment years, could not be taxed in relevant assessment year 2018-19 in terms of section 41(1) of the Act. (AY. 2018-19)

Foster Wheeler (G.B.) Ltd. v. DCIT. (2025) 215 ITD 579 (Chennai) (Trib.)

784 **S. 41(1): Profits chargeable to tax-Remission or cessation of trading liability-Advances from customers against sales-shown as liabilities in its balance sheet-Not written off-Addition cannot be made.**

Held that advances from customers against sales, shown those advances in its balance sheet as liabilities, had not been written off those liabilities and ultimately adjusted those liabilities against sales made to respective customers; conditions of section 41(1) would not be satisfied, and the addition made by the Assessing Officer by invoking section 41(1) was not sustainable.(AY. 2011-12)

Patidar Builder (P.) Ltd. v. Assessing Officer (2025) 214 ITD 77 (Indore) (Trib.)

S. 41(1) : Profits chargeable to tax-Remission or cessation of trading liability-Bad debts written off-Matter is remanded for de novo consideration.[S. 131, 133(6)] 785

The assessee wrote off the amount outstanding of seven parties. The AO made addition u/s 41(1) of the Act. CIT(A) affirmed the addition. On appeal the Tribunal remanded the matter for de novo consideration. (AY. 2019-20)

Kotak Mahindra Bank Ltd. v. DCIT (2025) 211 ITD 608 (Mum) (Trib.)

S. 41(1) : Profits chargeable to tax-Remission or cessation of trading liability-Sundry creditors-Outstanding for more than three years-Written back as income in the Assessment year 2017-18-Addition is deleted. 786

Assessing Officer made addition under section 41(1) on ground that sundry creditors were outstanding for more than three years and since assessee had not been able to provide either confirmation from sundry creditors or latest financial statement of said creditors, such sum was taxable under section 41(1). CIT(A) deleted the addition. On appeal the Tribunal held that the assessee had written off credit balance of both parties under consideration during assessment year 2017-18 which was supported by financials produced by assessee. Order of CIT(A) deleting the addition is affirmed. (AY. 2015-16)

DCIT v. United Drilling Tools Ltd. (2025) 210 ITD 632 (Delhi) (Trib.)

S. 41(1) : Profits chargeable to tax-Remission or cessation of trading liability-Sundry Creditors-Balance sheet-Discrepancy in confirmation and balance sheet-Addition is deleted. 787

Assessee, engaged in Basmati rice trading, declared sundry creditors in its balance sheet. The AO issued summons which creditors did not respond. The inspection report stated that those entities were not found at stated addresses. The AO treated the entries as fictitious and made addition under section. 41 (1) of the Act. Order of the AO is affirmed by the CIT(A). On appeal the Tribunal held that creditors had valid trading transactions with assessee in prior years, verified and accepted in previous assessment. Additionally, balance sheets, tax returns, and scrutiny orders for those creditors demonstrated continuous, genuine business relationships with assessee and liabilities were also settled in subsequent year, negating claim of cessation. When amounts were shown as payable in balance sheet of assessee and debt got acknowledged by assessee, there could not be any remission or cessation of liability in terms of section 41(1). Further if any discrepancy was found with confirmation and balance sheet of those sundry creditors, suitable action should be taken in hands of those sundry creditors and no adverse inference could be drawn on assessee. Addition is deleted. (AY. 2015-16)

Golden Moment (P.) Ltd. v. ACIT (2025) 210 ITD 484 (Delhi)(Trib.)

S. 43(5) : Speculative transaction-loss on purchase and sale of shares and securities as business loss-Controversy between assessee and revenue no longer survived in view of settlement of dues under Direct Tax Vivad Se Vishwas Scheme, 2024, SLP filed by assessee against impugned order of High Court had been rendered infructuous [Art. 136] 788

Assessee claimed loss on purchase and sale of shares and securities as business loss. The AO disallowed the loss. Tribunal allowed the claim of the assessee. High Court

held that since Assessing Officer clearly found that transactions of purchase and sale of shares were made on same date and no delivery of shares took place and transactions were intra-day share speculation, loss was to be treated as speculative loss and same was to be disallowed. Apex Court held that since controversy between assessee and revenue no longer survived in view of settlement of dues under Direct Tax Vivad Se Vishwas Scheme, 2024, SLP filed by assessee against impugned order of High Court had been rendered infructuous. (AY. 2007-08)
PKS Holdings v. PCIT (2025) 305 Taxman 253 (SC)
Editorial : PCIT v. PKS Holdings (2022) 145 taxmann.com 195 (Cal)(HC)

789 **S. 43(5) : Speculative transaction-Trade in derivatives-Recognised stock exchange-Business loss-Allowed to be set off against profirs and gains of business-Order of Tribunal is affirmed. [S. 72, 73, 260A]**
Dismissing the appeal of the Revenue the Court held that once provisions of section 43(5), as amended, came to treat a trade in derivatives as not a speculative transaction when it was carried out on a recognised stock exchange, then effect of that amendment was to treat transaction in derivatives as merely a business transaction. Therefore, a loss in derivative business would be a business loss for purposes of section 72, and a set off of such business loss would have to be permitted against profits and gains of business as computed in terms of Act. Order of Tribunal affirmed. (AY. 2007-08)
PCIT v. Dewa Projects (P.) Ltd. (2025) 303 Taxman 387 (Ker.)(HC)

790 **S. 43(5): Speculative transaction-Derivative trading loss-Set off against business income-Failure to produce broker's note-The matter was remanded to the Assessing Officer to examine whether trades met requirements of Explanations 1 & 2 to section 43(5).[S. 73]**
Assessing Officer rejected assessee's claim for set-off of derivative trading loss against business income on the ground that no broker contract notes were furnished as required under Explanations 1 & 2 to section 43(5). CIT(A) upheld the order of the Assessing Officer. On appeal, the Tribunal held that since the assessee had consistently traded through the same brokers in earlier years where such trades were accepted as fulfilling section 43(5) conditions, the matter was remanded to the Assessing Officer to examine whether the trades met the requirements of Explanations 1 & 2 to section 43(5). (AY. 2015-16)
Arup Banerji v. DCIT (2025) 214 ITD 225 (All) (Trib.)

791 **S. 43(6) : Written down value-Block of assets-Depreciation-Stamp valuation-Assessing Officer could not have substituted sale consideration received by stamp duty valuation of property while computing WDV for claiming depreciation on block of assets. [S. 2(11), 32, 50]**
During year, the assessee sold a factory building which was appearing as part of block of assets in its books of account and claimed depreciation on said block of building. Assessing Officer substituted sale consideration received by stamp duty valuation of property while computing written down value (WDV) for claiming depreciation on block of assets in accordance with provisions of section 50C and disallowed excess depreciation claimed by assessee. CIT(A) up held the order

of the AO. On appeal the Court held that legal fiction of section 50C cannot be extended while working out WDV for purpose of claiming depreciation on block of assets. The Assessing Officer could not have substituted sale consideration received by stamp duty valuation of property while computing WDV for claiming depreciation on block of assets. disallowance of depreciation is deleted. (AY. 2017-18)

3A Composites India (P.) Ltd. v. ACIT (2025) 210 ITD 272 (Mum) (Trib.)

S. 43B : Deductions on actual payment-Interest on term loan paid to bank allowable u/s 43B(d) even if not debited to P&L account and not claimed in return/revised return-NBFC-Interest on NPAs not taxable on accrual-Interest on recurring deposits created as sinking fund taxable only on maturity where both principal and interest were payable only on maturity and entire interest was offered in year of maturity-Delay of 385 days-SLP of revenue dismissed on account of delay as well as on merits. [S. 43B(d), 43D, Art. 136] 792

The assessee, a Government of West Bengal undertaking and an NBFC, had paid EMIs on a term loan, but by inadvertence the entire EMI amount (including interest) was shown as repayment of principal. The mistake was detected after assessment and the assessee raised an additional ground before the CIT(A) claiming deduction of Rs. 1,40,77,397 being interest actually paid to the bank. The Tribunal allowed the claim. The assessee had also created a sinking fund through recurring deposits of varying tenures for redemption of infrastructure bonds; as interest on such deposits was payable only on maturity, no interest was accounted for annually. The AO taxed notional accrual of such interest for AYs 2001-02 and 2002-03. The Tribunal deleted the addition. The Tribunal also deleted addition of interest on NPAs not accounted for by the assessee. On appeal, the High Court upheld the Tribunal and held that interest actually paid on term loan was allowable u/s 43B(d) in the year of payment irrespective of method of accounting, even if not debited to the profit and loss account and not claimed in the return or revised return. It further held that where the Tribunal's factual finding that interest on recurring deposits/sinking fund accrued only on maturity was not disputed, and the entire accrued interest had been offered to tax in AY 2005-06, no tax could be levied during the subsistence of the deposit tenure. The deletion of addition in respect of interest on NPAs not accounted for was also upheld. SLP of revenue dismissed on account of delay of 385 days as well as on merits. (AY. 2001-02, 2002-03)

CIT v. West Bengal Infrastructure Development Finance Corporation Ltd. (2025) 481 ITR 56 / 181 taxmann.com 349 (SC).

Editorial : CIT v. West Bengal Infrastructure Development Finance [2024] 164 taxmann.com 1112 / (2025) 481 ITR 45 (Cal)(HC).

793 **S. 43B : Deductions on actual payment-Interest on term loan paid to bank allowable u/s 43B(d) even if not debited to P&L account and not claimed in return/revised return-NBFC-Interest on NPAs not taxable on accrual-Interest on recurring deposits created as sinking fund taxable only on maturity where both principal and interest were payable only on maturity and entire interest was offered in year of maturity. [S. 43B(d), 43D]**
The assessee, a Government of West Bengal undertaking and an NBFC, had paid EMIs on a term loan, but by inadvertence the entire EMI amount (including interest) was shown as repayment of principal. The mistake was detected after assessment and the assessee raised an additional ground before the CIT(A) claiming deduction of Rs. 1,40,77,397 being interest actually paid to the bank. The Tribunal allowed the claim. The assessee had also created a sinking fund through recurring deposits of varying tenures for redemption of infrastructure bonds; as interest on such deposits was payable only on maturity, no interest was accounted for annually. The AO taxed notional accrual of such interest for AYs 2001-02 and 2002-03. The Tribunal deleted the addition. The Tribunal also deleted addition of interest on NPAs not accounted for by the assessee. On appeal, the High Court upheld the Tribunal and held that interest actually paid on term loan was allowable u/s 43B(d) in the year of payment irrespective of method of accounting, even if not debited to the profit and loss account and not claimed in the return or revised return. It further held that where the Tribunal's factual finding that interest on recurring deposits/sinking fund accrued only on maturity was not disputed, and the entire accrued interest had been offered to tax in AY 2005-06, no tax could be levied during the subsistence of the deposit tenure. The deletion of addition in respect of interest on NPAs not accounted for was also upheld. (AY. 2001-02, 2002-03)
CIT v. West Bengal Infrastructure Development Finance Corporation Ltd. [2024] 164 taxmann.com 1112 / (2025) 481 ITR 45 (Cal)(HC).
Editorial: SLP dismissed, CIT v. West Bengal Infrastructure Development Finance Corporation Ltd. (2025) 481 ITR 56/ 181 taxmann.com 349 (SC).

794 **S.43B: Deductions on actual payment-VAT-Service tax-Estimation of Profits-Rejection of Books of Account-Income estimated at 8% No Further Disallowance Permissible. [S.144, 145]**
During the assessment proceedings, the AO rejected the books of account and estimated the net profit. However, while computing the tax liability, the AO also made an addition under section 43B, which allows deductions only on actual payment, and accordingly passed the assessment order under section 143(3). The CIT(A) held that once the income under the head Profits and Gains of Business or Profession is estimated after rejection of the books of account, it is to be presumed that all provisions contained in sections 29 to 43D have been taken into account, and therefore no further disallowance under section 43B could be made. The High Court affirmed this principle and held that, where the gross profit is estimated after rejection of the books, restoring the matter to the AO for further verification was unnecessary and unwarranted. It was reiterated that once profits are determined on an estimated basis, the AO cannot rely on the rejected books of account to make further disallowances. Accordingly, no interference was called for with the order of the Tribunal. (AY.2012-13)
Skyscraper Projects (P.) Ltd. v. ACIT (2025) 306 Taxman 169 (Cal.)(HC)

S. 43B : Deductions on actual payment-Employees' contribution to PF / ESI-Due date fell on national holiday-Payment made on next working day-Disallowance deleted-Deduction allowable. [S. 2(24)(x), 36(1)(va), 43B, 143(1)(a)] 795

The Court held that though employees' contribution and employer's contribution stand on a different footing and employees' contribution is allowable only if deposited within the due date prescribed under the relevant welfare enactment, where the statutory due date for deposit of employees' PF / ESI contribution fell on a national holiday, i.e., 15-8-2018, and the assessee deposited the amount on the immediately succeeding working day, such payment had to be regarded as having been made within time. Accordingly, while affirming the legal position that section 43B does not override section 36(1)(va) and that Explanation 5 to section 43B is clarificatory, the Court held that the Tribunal was not justified in sustaining the disallowance on the peculiar facts where the delay occurred only because the due date itself was a national holiday. The addition made in processing under section 143(1)(a) to that extent was unsustainable and the assessee was entitled to deduction. (AY. 2019-20)

Woodland (Aero Club) Pvt. Ltd. v. ACIT (2025) 480 ITR 536 (Delhi)(HC)

S. 43B : Deductions on actual payment-Provision towards approved gratuity fund-Payment made to LIC gratuity fund approved by the CIT-Deduction allowable-S. 40A(7)(b) being specific provision overrides S. 43B. [S. 40A(7)(b)] 796

Allowing the appeal the Court held that where the assessee made a provision towards contribution to an approved gratuity fund maintained with LIC and duly approved by the CIT, the High Court held that the deduction was allowable under S. 40A(7)(b). It was observed that while S. 43B is a general provision dealing with deduction on actual payment, S. 40A(7)(b) is a specific provision governing contributions to an approved gratuity fund. Since S. 40A(7)(b) expressly covers approved gratuity funds, there was no conflict in applying it in preference to the generic reference in S. 43B. The Tribunal was therefore not justified in disallowing the claim, especially when identical payments had been accepted in earlier and subsequent years. (AY.2008-09)

Sanmar Speciality Chemicals Ltd. v. ACIT (2025) 344 CTR 454 / 248 DTR 369 / 173 taxmann.com 884 (Mad)(HC)

S. 43B : Deductions on actual payment-VAT, Entry Tax, CST-Not claimed as deduction-No disallowance can be made. [S. 139(1)] 797

Assessing Officer made disallowance under section 43B on account of non-payment of liabilities such as VAT, Entry Tax, CST before prescribed date of filing return under section 139(1). CIT(A) partly allowed the appeal. Tribunal affirmed the order of the CIT(A)). On appeal the Court held that the assessee did not claim amount of VAT, Entry Tax, CST in his profit and loss account as expenditure/deduction, nor assessee claimed deduction in respect of that account under section 43B. Accordingly the addition is deleted.(AY. 2018-19)

Grand Motors v. ITO (2025) 302 Taxman 440 (Chhattisgarh)(HC)

798 **S. 43B : Deductions on actual payment-liability on account of electricity duty payable-Set off against allotment of equity shares-Amount discharge of liability-No disallowance can be made. [S. 37(1), 260A]**

Held that the liability on account of electricity duty payable could be set off against allotment of equity shares, amount discharge of liability. No disallowance can be made assessee could b set off by way of allotment of equity shares, and same would amount to discharge of liability under section 43B. Order of Tribunal is affirmed. (AY. 1999-2000)

CIT v. Haryana Vidyut Prasaran Nigam Ltd. (2025) 303 Taxman 134 (P&H)(HC)

799 **S.43B: Deductions on actual payment-Leave encashment-Liability to pay leave encashment was neither accrued nor paid during relevant accounting year but in year 2004 to 2016-Not allowable as deduction. [S. 43B(f), 139(1), 260A]**

The Assessing Officer disallowed the claim of the assessee on ground that the liability to pay leave encashment as per the details provided by the assessee was due only in the year 2004 and onwards, as such, neither any liability had accrued nor discharged during the financial year 2001-02 and the process for establishment and registration of CLET was initiated and completed during the assessment year 2002-03 and was registered in the said year only. The Commissioner(Appeals) held that as there was no specific provision under Section 36 of the Act relating to contribution to leave encashment fund, the amount paid into the said fund by the assessee had no statutory recognition. The Tribunal held that section 43B was applicable only to those deductions, which otherwise were allowable under the Act and neither any liability had accrued to the assessee on account of leave encashment of employees in the year under appeal nor any payment was made to the employees during the said year. On appeal the High Court held that the liability incurred by the assessee did not qualify the requirement of section 43B(f) and hence were rightly disallowed by the revenue. Order of Tribunal was affirmed. (AY. 2002-03)

H.P. State Civil Supplies Corporation Ltd. v. ACIT (2025) 303 Taxman 306 / 345 CTR 536 / 251 DTR 343 (HP)(HC)

800 **S.43B: Deductions on actual payment-Provision for leave salary-Not allowable as deduction.[S.43(f)]**

Held that provision for leave salary is not allowable as deduction. (AY. 2008-09, 2010-11 & 2011-12)

Tamil Nadu Small Industries Corporation Ltd. v. ACIT (2025) 303 Taxman 129 (Mad.)(HC)

801 **S.43B: Deductions on actual payment-Converted interest due to equity shares-Tantamount payment-Entitle to deduction.**

During year, assessee had converted interest due to company APIDC into equity shares by issuing 5,05,000 shares of Rs. 10 each. Assessing Officer held that conversion of outstanding interest liability into loan i.e., funding interest or into equity did not amount to actual payment-Accordingly, amount of interest due to APIDC was disallowed under section 43B on ground that same was not actually paid. CIT(A) and Tribunal affirmed the order of the Assessing Officer. On appeal the Court held that since liability of assessee to pay interest ceased to exist on issue of shares in favour of APIDC, same

would tantamount to actual payment within meaning of section 43B and, thus, assessee would be entitled to deduction under section 43B of the Act. (AY. 1999-2000)
Frontier Information Tech Ltd. v. Dy. CIT (2025) / 478 ITR 637 / 303 Taxman 378 /343 CTR 143/ 245 DTR 457 (Telnagana)(HC)

S. 43B : Deductions on actual payment-Customs duty paid under protest-Refund offered to tax in subsequent year-Disallowance would result in double taxation-Deduction allowable-Addition was deleted. [S. 143(3)] 802
The assessee paid customs duty under protest during the relevant previous year and claimed deduction under section 43B. The Assessing Officer disallowed the claim. The Tribunal held that the liability had crystallised during the relevant year and the customs duty had actually been paid. Since any refund received had already been offered to tax in the subsequent assessment year, disallowance of the deduction would result in double taxation. The addition was therefore deleted. (AY. 2018-19).
Keysight Technologies India (P.) Ltd. v. Dy. CIT [2025] 181 taxmann.com 103 / 128 ITR 51 (SN) (Delhi)(Trib.)

S. 43B : Deductions on actual payment-Goods and services tax shown as unpaid as of the date of the audit report but paid before the due date for filing return of income-Goods and services tax not routed through profit and loss account-Section 43B not applicable. [S. 44AB] 803
The AO disallowed Rs. 59,93,015 under section 43B on account of unpaid goods and services tax of Rs. 67,47,034 shown as outstanding on the date of the audit report, which disallowance was upheld by the CIT(A), despite the assessee's contention that Rs. 53,50,546 thereof had been paid before the due date for filing the return of income and that the GST amount, being neither debited to the profit and loss account nor claimed as a deduction, fell outside the scope of section 43B. On appeal, the Tribunal held that since the assessee had not claimed any deduction in respect of the GST amount and had merely reflected it as a current liability under duties and taxes in its books without routing it through the profit and loss account, and since the amount had in any event been paid before the due date for filing the return, the provisions of section 43B were not applicable, and the disallowance was accordingly deleted. (AY. 2020-21)
P.K. Parikh, HUF v. ITO (2025) 131 ITR 431(Ahd) (Trib)

S.43B : Deductions on actual payment-Payment of TDS inadvertently misreported under cl. 26(B)(b) of From No. 3CD-the matter is restored to the jurisdictional AO with a direction to verify the correctness of the assessee's claim and re-adjudicate the allowability of payments under S 43B in accordance with law. 804
Held that the Assessee furnished a certificate issued by the statutory tax auditor certifying that he has inadvertently misreported the TDS payments under cl. 26(B) (b) instead of cl. 26(B)(a) of Form No. 3CD and clarified that all the TDS payments were in fact made before the due date of filing of return, the disallowance made under s. 43B is not justified; matter is restored to the jurisdictional AO with a direction to verify the correctness of the assessee's claim and re-adjudicate the allowability of payments under S. 43B in accordance with law. (AY.2021-22)
Darshit Gunantbhai Shah v. ITO (2025) 237 TTJ 359 / 177 taxmann.com 36 ((Ahd)(Trib)

805 **S. 43B : Deductions on actual payment-Unpaid interest on loan from World Bank-Section 43B(d), (da), (e) covering only interest payable to specific financial institutions, non-banking financial companies, scheduled banks or co-operative banks-World Bank or State Government loans not included-Disallowance deleted-Deduction only on actual payment-Statutory liability-Electricity duty collected from consumers but not remitted to Government-Assessee merely a conduit between consumer and Government-No independent liability-Disallowance rightly deleted.[S.43B(a), 43B(d), 43B(da), 43B(e)]**
AO disallowed unpaid interest of Rs. 2,56,43,688 on a loan taken from the World Bank under section 43B, which disallowance was upheld by CIT(A); further, a sum of Rs. 149.53 crores pertaining to electricity duty collected by the assessee, a power distribution company, from consumers under the Rajasthan Electricity (Duty) Act, 1962, but not remitted to the State Government, was disallowed under section 43B(a), which disallowance was deleted by CIT(A). On appeal, the Tribunal held that clauses (d), (da) and (e) of section 43B cover only interest payable to specific financial institutions, NBFC, scheduled banks or co-operative banks as specified in Explanation 4 thereto, and since neither the State Government nor the World Bank fell within any of these categories, the interest payable on such loans was not covered by section 43B, and the disallowance was accordingly deleted. It was further held that there was no infirmity in the order of the CIT(A) deleting the disallowance of electricity duty, as the assessee had no independent liability and merely acted as a conduit between the consumers and the Government. (AY.2016-17)
Jaipur Vidyut Vitran Nigam Ltd. v. DCIT (2025) 132 ITR 134 (Jaipur) (Trib.)

806 **S. 43B : Deductions on actual payment-Rectification of mistakes-Gratuity amount incorrectly claimed under wrong schedule in return-Not reflected in tax audit report-Centralised Processing Centre disallowing claim under section 143(1)-Assessee filing revised tax audit report-Genuine claim could not be denied-CBDT Circular-Income of assessee should not be over-assessed-Legitimate deduction not to be denied merely because of a mistake made by assessee. [S. 143(1), 154]**
The assessee claimed deduction of gratuity of Rs. 79,25,442 under section 43B, but inadvertently reported it under the wrong schedule of the return instead of the relevant column, which claim was disallowed by the CPC while processing the return under section 143(1); the assessee thereafter filed a revised tax audit report and sought rectification under section 154, but the CIT(A) upheld the disallowance holding that in the absence of a revised return of income, the claim made during appellate proceedings was not admissible. On appeal, the Tribunal held that the inadvertent non-reporting by the auditor was bona fide since all relevant details were otherwise available on record, and a genuine claim of deduction could not be denied merely because it was mentioned under the wrong classification in the return, especially having regard to CBDT Circular No. 14 (XL-35), dated April 11, 1955, which enjoins Departmental officers to assist taxpayers in claiming legitimate reliefs; the order of CIT(A) was accordingly set aside and the AO was directed to delete the addition. (AY. 2020-21)
National Contracting Co. (India) P. Ltd. v. DCIT (2025) 132 ITR 185 (Chennai) (Trib.)

S.43B: Deductions on actual payment-Expenses not charged to P&L a/c-Transferred to work in progress-Disallowances cannot be made. [S. 145] 807

Held that the Assessee having transferred the impugned expenses to work-in-progress account and not charged to P&L a/c, same cannot be disallowed under s. 43B. (AY.2017-18 & 2018-19)

ITO v. Thrissur Expressway Ltd. (2025) 234 TTJ 676(Hyd)(Trib)

S.43B: Deductions on actual payment-Liabilities disallowed in earlier year-Paid during year-Allowable on furnishing payment evidence, while addition for balance amount without supporting evidence was to be sustained. 808

Held that deduction under section 43B for liabilities disallowed in the earlier year and paid during the year, deduction for service tax and TDS was allowable on furnishing payment evidence, while addition for the balance amount without supporting evidence was to be sustained. (AY. 2018-19)

Magnaquest Technologies Ltd. v. DCIT (2025) 215 ITD 146/238 TTJ 920 (Hyd) (Trib.)

S.43B: Deductions on actual payment-Leave encashment-Disallowed earlier years-Settled by filing an application under the Direct Tax Vivad Se Vishwas Scheme, 2024-Allowable as a deduction on a payment basis. [S.43B(f)] 809

Held that leave encashment liability paid to employees during relevant assessment year 2017-18 which though pertained to leave encashment provided for in earlier assessment years 2002-03, 2003-04 and 2004-05 but had been disallowed and taxes thereon had been paid by assessee by filing application under Direct Tax Vivas se Vishwas Scheme, 2024, for assessment years 2002-03, 2003-04 and 2004-05. Tribunal held that the payment was allowable in the relevant assessment year 2017-18 on a payment basis in terms of section 43B(f) of the Act. (AY. 2017-18)

Universal Cables Ltd. v. ACIT (2025) 213 ITD 428 (Kol) (Trib)

S.43B: Deductions on actual payment-VAT payment-Fake challan-No actual payment-Addition was justified-Deduction-LIC premium-Failure to produce evidence-Disallowance was affirmed. [S.80C] 810

Assessing Officer made an addition towards VAT payment under section 43B on the ground that assessee had claimed payment of VAT through a fake challan without there being any actual payment. Tribunal held that since assessee could not file any evidence in support of its arguments that it had paid VAT to concerned authorities and there was no outstanding dues for the relevant period, the addition was affirmed. The assessee claimed a deduction of Rs. 1 lakh under section 80C, since the assessee had not furnished any evidence to prove that the claim of deduction made under section 80C was allowable. The Tribunal held that the Assessing Officer rightly made an addition of Rs. 1 lakh under section 80C (AY. 2012-13)

Ganga Reddy Gidde v. ITO (2025) 213 ITD 692 (Hyd) (Trib.)

811 **S. 43B: Deductions on actual payment-Interest tax liability for AYs:1993-94 to 1997-98 arose to assessee during relevant assessment year 2018-19 by way of order giving effect to order of High Court-liability was discharged by assessee during relevant year allowable as business expenditure. [S. 37(1)]**

The assessee company was into business of providing long term credits, the company paid interest tax for AY 93-94 to 97-98 which was later refunded due to the order of ITAT. The revenue's appeal was allowed in their favour by High Court. The AO in the order giving effect raised an interest tax demand. The assessee claimed that as expenditure, the AO disallowed on the reasoning that the same has to be allowed from income of those old years and not in which the tax was paid. Held that as per Interest Tax Act, 1974, the section 18 was very clear that assessee is eligible to claim the interest tax for any assessment year and the expenditure therefore was allowed in the AY 2018-19 when claimed by the assessee company. (AY.2018-19)

Tamilnadu Industrial Development Corporation Ltd v. DCIT [2025] 121 ITR 288 /172 taxmann.com 346 (Chennai)(Trib)

812 **S. 43CA : Transfer of assets-other than capital assets-Full value of consideration-stock in trade-Agreement value-Stamp valuation-Where part consideration is received by account payee cheque on the date of agreement, stamp duty value as on the date of agreement has to be adopted-No addition. [S. 43CA(3), 43CA(4), 50C]**

The assessee, engaged in the business of development and construction, sold flats pursuant to agreements under which part of the consideration had been received in advance through account payee cheques. The sale deeds were executed subsequently, by which time the stamp duty value had increased. The Assessing Officer invoked section 43CA and made an addition on the basis of the higher stamp duty valuation prevailing on the date of registration. The Tribunal held that where part of the consideration had been received by account payee cheque on the date of the agreement, sections 43CA(3) and 43CA(4) mandated adoption of the stamp duty value as on the date of the agreement. Accordingly, no addition could be made merely because the stamp duty value had increased on the date of registration. (AY. 2014-15)

Kolte Patil Developers Ltd. (erstwhile Bellflower Properties P. Ltd.) v. Dy. CIT (2025) 130 ITR 505 (Trib.)

813 **S. 43CA : Transfer of assets-other than capital assets-Full value of consideration-stock in trade-Agreement value-Stamp valuation-Allowing 10 per cent tolerance band is curative and applies retrospectively-No addition was warranted in case of assessee, where difference between DVO value and sale consideration was within permissible limit for assessment year 2018-19.[S.50C]**

Held that the proviso to section 43CA(1) allowing a 10 per cent tolerance band by the Finance Act, 2020, with effect from 1-4-2021, is curative and applies retrospectively; hence, no addition was warranted in the case of the assessee, where the difference between the DVO value and the sale consideration was within the permissible limit for the assessment year 2018-19. (AY. 2018-19)

DCIT v. Gaurav Investments. (2025) 215 ITD 124 (Mum) (Trib.)

S. 43CA : Transfer of assets-other than capital assets-Full value of consideration-stock in trade-Agreement value-Stamp valuation-Tolerance limit of 10 per cent introduced by Finance Act, 2020 to section 43CA is curative in nature and, therefore, applicable retrospectively.[S.50C] 814

Held that the tolerance limit of 10 per cent introduced by the Finance Act, 2020, to section 43CA is curative in nature and, therefore, applicable retrospectively. Where the variation between the sale consideration and the stamp duty valuation of the property was only 7 per cent, which was within the permissible tolerance limit, the addition made under section 43CA was deleted.(AY. 2019-20)

DCIT v. Amardeep Constructions (2025) 215 ITD 322 (Mum) (Trib.)

S. 43CA : Transfer of assets-other than capital assets-Full value of consideration-stock in trade-Agreement value-Stamp valuation Difference between SDV and agreement value was less than 5 per cent-Addition is deleted-Change of opinion-Reopening is not justified.[S.50C 147, 148] 815

The assessee, a partnership firm engaged in real estate development, sold four flats, of which two were sold below the stamp duty value. The Assessing Officer invoked section 43CA, treating the difference as escaped income. Held that since the difference between the stamp duty value and agreement value was less than 5%, the addition under section 43CA was unsustainable. Accordingly, the Assessing Officer was directed to delete the addition. Reopening of the assessment was quashed on the ground of change of opinion. (AY 2016-17)

Om Shriniwas Developers v. ITO [2025] 177 taxmann.com 610 (SMC) (Pune)(Trib.)

S. 43CA : Transfer of assets-other than capital assets-full value of consideration-stock in trade-Agreement value-Stamp valuation-Registration agreement at a later date-Transaction was completed in an earlier year and offered to tax-Addition cannot be made in the year of registration. [S. 2(47)(v), S.50C, Transfer of Property Act, 1882, S.53A] 816

Assessee, a real estate developer, sold four commercial properties in July 2013 and received full sale consideration through banking channels, simultaneously transferring possession of the premises to buyer. Income arising from the transaction was offered to tax in assessment year 2014-15. However, the agreement to sell was executed on 31-12-2014 and registered on 3-3-2015. Assessing Officer invoked provisions of section 43CA for the relevant assessment year, taking the registration date as the operative date of transfer and made an addition on account of the difference between the stated consideration and stamp duty value. CIT A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that once possession was handed over in part performance of a written agreement for consideration and the transferee was willing to perform their obligations, the transaction would qualify as a transfer for the purposes of taxation and formal registration of the agreement at a later date, being merely a procedural formality, could not defer taxability of the transaction. Furthermore, the entire consideration was received more than one year before the date of agreement, and the transaction was already taxed in the correct year, i.e., assessment year 2014-15. Addition made under section 43CA in assessment year 2015-16 was unsustainable in law and was to be deleted (AY. 2015-16)

Navketan Premises (P.) Ltd. v. DCIT (2025) 214 ITD 243 (Mum) (Trib.)

817 **S.43CA: Transfer of assets-other than capital assets-Full value of consideration-stock in trade-Agreement value-Stamp valuation Difference between SDV and agreement value was less than 5 per cent-Addition is deleted-Change of opinion-Reopening is not justified.[S.50C, 147, 148]**

The assessee, a partnership firm engaged in real estate development, sold four flats, of which two were sold below the stamp duty value. The Assessing Officer invoked section 43CA, treating the difference as escaped income. Held that since the difference between the stamp duty value and agreement value was less than 5%, the addition under section 43CA was unsustainable. Accordingly, the Assessing Officer was directed to delete the addition. Reopening of assessment was quashed on the ground of change of opinion. (AY 2016-17)

Om Shriniwas Developers v. ITO [2025] 177 taxmann.com 610 (SMC) (Pune)(Trib.)

818 **S. 43CA : Transfer of assets-other than capital assets-Full value of consideration-stock in trade-Agreement value-Stamp valuation-Developer-Booking of flat-Addition is deleted.[S. 43CA(3), 43CA(4), 50C]**

Assessee is a partnership firm engaged in business as builders and developers. Assessee sold certain flats for a consideration less than market value on date of agreement of sale Assessing Officer made addition to income of assessee under section 43CA. CIT(A) affirmed the addition. On appeal the Tribunal held that the assessee explained that flats were sold at prevailing rate of market value as on date of booking and since value as per agreement to sale was higher than stamp duty value as on date of booking of flats, no addition was called for. Addition is deleted.(AY. 2016-17)

Bansal Land Developers v. ITO (2025) 211 ITD 658 (Pune) (Trib.)

819 **S. 43CA : Transfer of assets-other than capital assets-Full value of consideration-stock in trade-Agreement value-Stamp valuation-Date of agreement fixing value of consideration and date of registration of such transfer not same-Stamp duty value as on date of agreement for sale should be considered as full value of consideration for purpose of computing profits and gains from transfer of flat-Addition is deleted. [S. 45]**

Assessee-firm was engaged in the real estate business. During assessment proceedings, the AO observed that the assessee had sold a flat at a value less than the stamp duty value. Assessee submitted that allotment letter in respect of flat was issued on 5-5-2011 and agreement for sale was executed between parties on 30-4-2011, and, therefore, stamp duty rate as on that date should be considered to be full value of consideration for purpose of section 43CA. However, the AO held that the assessee had not provided a copy of the bank account statement reflecting the transaction and a copy of the ready reckoner for the year in which aforesaid flat was allotted to the party. Accordingly, the AO made an addition u/s 43CA by considering the stamp duty value on the date of registration of the agreement, i.e., during the year under consideration. It was held that provisions of s. 43CA (3) provides that where date of agreement fixing the value of consideration and the date of registration of such transfer of asset are not same, then the stamp duty value as on date of agreement shall be taken as full value of consideration for the purpose of computing profits and gains from transfer of such asset. Since the agreement for sale was executed on 30-4-2011, in light of provisions of section 43CA(3),

the stamp duty value as on date of the agreement for sale, i.e., 30-4-2011, should be considered as the full value of consideration. Accordingly, the impugned addition was deleted. (AY. 2017-18)
Arihant Associates v. ACIT (2025) 210 ITD 149 (Mum.) (Trib.)

S. 43CB : Construction and service contracts-Percentage completion-Project completion method-Method of accounting-Construction Contracts-AS7-Real estate development, constructed residential flats on its own land-Revenue was to be recognized only upon sale deed execution and possession transfer.[S. 145] 820
Dismissing the appeal of the revenue, the Tribunal held that S. 43CB is applicable only to construction contracts and contracts for providing services, and not to developers executing real estate projects on their own account; since the assessee is engaged in the business of real estate development and construction of residential flats on its own land, it does not fall within the ambit of S. 43CB and, therefore, the addition made by the AO under S. 43CB by applying the percentage completion method as against the AS-9 followed by the assessee is not sustainable. (AY.2018-19)
DCIT v. Aaryan Buildspace LLP (2025) 234 TTJ 576 / 172 taxmann.com 806 (Ahd)(Trib)

S. 43D : Public financial institutions-Section 43D read with Rule 6EB is a complete code-Directions issued by National Housing Bank (NHB) do not override section 43D in matter of computation of taxable income. [S.43D, R.6EB, Art.136] 821
High Court held that directions issued by National Housing Bank (NHB) do not override section 43D in matter of computation of taxable income-Further, section 43D read with Rule 6EB is a complete code in itself and there is an element of discretion for rule making authority to follow or not to follow NHB guidelines as when they are revised. Every change in NHB guidelines would not lead to any corresponding automatic change in Rule 6EB. NPA is to be classified as per section 43D read with Rule 6EB of rules, and not by amended guidelines of NHB. SLP of the High Court is dismissed. (AY. 2005-06 to 2009-10)
Housing and Urban Development Corporation Ltd. v. Addl. CIT (2025) 302 Taxman 419 (SC)
Editorial : Housing and Urban Development Corporation Ltd. v. Addl. CIT (2017) 83 taxmann.com 292 (Delhi) (HC), Housing and Urban Development Corporation Ltd. v. Addl. CIT (RP. Nos 130 to 134 of 2018 dt 23-3-2018 (Delhi)(HC)

S. 43D : Public financial institutions-State financial corporation Interest on bad debts-Mercantile system of accounting-Cash basis-Interest of bad debts on cash basis-Order of Tribunal affirmed. [S. 145, Income-tax Rules, 1962, r. 6EA.] 822
Dismissing the appeal of the revenue the Court held that in the absence of any doubt as to the status of the assessee as a State financial corporation and in the face of the statutory scheme allowing it to account for recovery of interest on bad debts on cash basis, primarily, there was no error in the order of the Tribunal allowing the benefit to the assessee to account for interest of bad debts on cash basis.(AY. 2001-02, 2003-04)
CIT v. U.P. State Industrial Development Corporation Ltd. [2024] 162 taxmann.com 126 / (2025) 478 ITR 449 (All)(HC)

823 **S. 44 : Insurance business-Expenditure relating to exempt income-Section 14A not applicable to insurance companies.-Reserve for unexpired premium-Double taxation to be avoided-Matter restored for verification.[S.14A, R.8D, R.6E]**

The Tribunal held that the computation of income of insurance companies is governed by the special provisions of section 44. Accordingly, section 14A and rule 8D have no application while computing the taxable income of an insurance company. The Tribunal held that amounts representing reserve for unexpired premium which had already been disallowed in earlier years could not again be brought to tax in the year under consideration. The matter was restored to the Assessing Officer for verification and appropriate relief. (AY. 2008-09 to 2014-15).

Royal Sundaram General Insurance Co. Ltd. v. Dy. CIT (2025) 123 ITR 507 / 175 taxmann.com 427 (Chennai)(Trib.)

824 **S. 44AB : Audit of accounts-Business-Profession-Digital marketing-Digital marketing cannot be treated as profession-It should be treated as business-Turnover below 5 crores-Assessee was not therefore liable to file audit report in terms of proviso to s. 44AB(a).[S.28(i), Art. 226]**

Assessee was carrying on business of digital marketing. Assessee claimed that since its turnover was below Rs. 5 crores and cash transactions was below 5 per cent of its turnover, it was not liable to file audit report in terms of first proviso to section 44AB(a). Assessing Officer held that assessee carried on business of Digital Marketing and it would come under category of profession and passed the assessment order. On writ the Court held that Digital Marketing cannot be treated as profession, but it should be treated as business and thus, merely because assessee carried on digital marketing business through computers, it could not be treated as profession. Since assessee's turnover was below Rs. 5 crores and cash transaction was below 5 per cent on both aspects of expenses and receipts and everything was carried on through bank transactions, assessee was not required to file an audit report and was exempted for same. Matter was remanded back to Assessing Officer for fresh consideration. (AY. 2021-22)

Vajra Global Consulting Service LLP v. ADIT (2025) 347 CTR 890 / 254 DTR 217 /177 taxmann.com 734 (Mad)(HC)

825 **S. 44AD: Presumptive basis-Income from undisclosed sources-Cash seized during requisition under S. 132A-Not mandatory to maintain books of account-Addition was deleted. [S.69A, 132A]**

Held that the assessments of the assessee for earlier years have been completed on a presumptive basis under s. 44AD, the income declared by the assessee in the relevant year under s. 44AD has to be accepted, and therefore, the impugned addition under s. 69A made in respect of the seizure of cash of Rs. 7 lakhs from the possession of the assessee by the police authorities is not sustainable. The assessee also explained the source of the cash (AY. 2019-20)

Basharat Saleem Rehtoo v. DCIT (2025) 236 TTJ 456 (Amritsar)(Trib)

S. 44AD : Presumptive basis-Cash credits-Bank deposits-Treated as turnover-Assessing Officer had not shown that such deposits were different from business receipts; addition as sustained by Commissioner (Appeals) was deleted.[S.68] 826

Assessee filed a return of income declaring income under section 44AD. Assessee had deposits in his three bank accounts maintained with HDFC Bank, and while declaring an income under section 44AD in his return of income, assessee disclosed turnover/ gross receipts at Rs. 55.49 lakhs. Assessing Officer made an addition under section 68, treating cash deposits as unexplained, alleging a lack of documentary evidence for business activity. CIT(A) confirmed the addition. On appeal, the Tribunal held that since cash deposits forming the basis of addition under section 68 were already included in turnover declared by the assessee under section 44AD, and the Assessing Officer had not shown that such deposits were different from business receipts, the addition as sustained by the Commissioner (Appeals) was deleted. (AY. 2012-13)

Jatin Arora v. ITO (2025) 213 ITD 173 (Delhi) (Trib.)

S. 44AD : Presumptive basis-Cash credits-Unexplained investment-Demonetization-Cash deposits in books-Source of cash deposits explained-VAT return-Declared sales-Sales not doubted-The additions cannot be made as cash credits or unexplained investment. [S. 68, 69] 827

Allowing the appeal, the Tribunal held that where the source of cash deposits is explained, the additions cannot be made as cash credits or unexplained investment. Cash deposited during the demonetization period is deleted. (AY. 2017-18)

Mohit Sukhija v. NFA (2025) 213 ITD 251 (Delhi) (Trib.)

S. 44AD : Presumptive basis-Bogus purchases-Not under any obligation to explain individual entry of purchases-Gross receipts remained undisputed-Additions deleted. [S. 69C] 828

Assessee filed his return as per the provisions of section 44AD. Assessing Officer received information from the GST department that the assessee had received a bogus purchase bill from ARS Enterprises. He made an addition with respect to alleged bogus purchases. CIT(A) upheld the order of the Assessing Officer. On appeal, the Tribunal held that the Assessing Officer made disallowance merely on the basis of information received from the GST Department and did not make any enquiry about purchases from ARS Enterprises. The assessee had provided complete details of purchases from ARS Enterprises along with the address and GST no. of the party. Tribunal held that since assessee had opted for presumptive taxation under section 44AD, assessee was not required to maintain books of account as well as details of purchases made and was not under an obligation to explain individual entry of purchases unless such entry had nexus with gross receipts. Since the gross receipt shown by assessee remained undisputed and was never tested by revenue to be beyond the specified limit, the Assessing Officer was to be directed to delete addition. (AY. 2018-19)

Lakshmanram Bheemaji Purohit v. ITO (2025) 213 ITD 507 (Bang) (Trib.)

829 **S. 44B : Shipping business-Non-residents-Computation-Taxability in India-Presumptive tax-Business of operation of ships for international carriage-Goods and services tax collected as statutory levy and shown separately in invoice-Not part of gross receipts-Tribunal, in assessee's own case for earlier years, consistently holding service tax excludable from gross receipts-GST not includible in computing income under section 44B-Addition deleted-Income offered to tax under section 44B read with section 90(2)-Section 115JB not applicable-Book profit computation deleted-DTAA-India-Hong Kong. [S. 90(2), 115JB(1), Expln. 4A, 145A], Art.8]**

The assessee, a Hong Kong company engaged in operating ships in international traffic and offering its income to tax under section 44B in terms of article 8 of the India-Hong Kong DTAA, had 7.5 per cent. of its GST component added as deemed income under section 44B by the AO, confirmed by the DRP, and had book profit computed under section 115JB. On appeal, the Tribunal held that GST, being a statutory levy collected by the assessee in a fiduciary capacity on behalf of the Government and shown separately in invoices, carried no profit element and could not form part of the specified amounts contemplated under section 44B(2), consistent with its own earlier decisions holding service tax similarly excludable and with CBDT circulars clarifying that no tax need be deducted on separately indicated GST components, since section 44B, being a non obstante provision overriding sections 28 to 43A, was not governed by the inclusive valuation method under section 145A, and including GST in income would tantamount to taxing a tax, contrary to the legislative intent of taxing only charges recovered for shipping services; accordingly, the addition of GST was deleted. It further held that since the assessee had offered its income to tax under the deemed provisions of section 44B read with section 90(2), section 115JB was rendered inapplicable in view of Explanation 4A thereto, and book profit computed by the AO was to be deleted. (AY. 2020-21)

Orient Overseas Container Line Ltd. v. Dy. CIT (2025) 131 ITR 589 (Mum) (Trib)

830 **S. 44B : Shipping business-Non-residents-Computation-GST-Section 44B overrides the provisions of S. 29-Section 145A is not applicable for computing deemed income-GST not to be included Book profit-Income offered under deeming provision-Provision of book profit is not applicable-DTAA-India-Hong Kong. [S. 29,90, 115JB, 145A, Art.8]**

Held that for computing the deemed income under S. 44B is the amount paid or payable to the assessee or amount received or deemed to be received by the assessee on account of carriage of passengers, livestock, mail or goods, etc.. GST cannot be included while computing deemed income under S. 44B. Section 44B overrides the provisions of S. 29, hence S. 145A is not applicable for computing deemed income under S. 44B. Income offered income under deeming provision-Provision of book profit is not applicable. The assessee has offered income of operation of ships to tax under the deeming provisions of s. 44B r/w s. 90(2) and art. 8 of India-Hong Kong Tax Treaty; and therefore, in view of Expln. 4A to s. 115JB(1), the provisions of S. 115JB are not applicable to the assessee (AY. 2020-21)

Orient Overseas Container Line Ltd. v. Dy.CIT (IT) [2024] 168 taxmann.com 269 / (2025) 233 TTJ 83 (Mum)(Trib)

S. 44BB : Mineral oils-Computation-Presumptive tax-Non resident-Taxability in India-Undertaken for 119 days-Less than 183 days-No permanent establishment in India-Not taxable in India-DTAA-India-Singapore [Art. 51, Art.226] 831

Non-resident company having establishment in connection with services and activity for another company when fabrication, positioning and upgradation activity started Rig undergoing necessary upgrades and repairs to meet another company requirements prior to agreement Rig already in contracting State for providing services in connection with exploitation, exploration or extraction of mineral oils Business income taxable in contracting State in which it arises Double Taxation Avoidance Agreement between India and Singapore, art. 51. On a writ petition contending that according to the Double Taxation Avoidance Agreement between India and Singapore the business profits of the Singapore enterprise could be taxed only if it had a permanent establishment in India and as the drilling operations in India were only undertaken for 119 days which was less than the threshold period of 183 days, accordingly, the assessee could not be said to have a permanent establishment in India.

Deep Drilling 1 Pte. Ltd. v. Dy. CIT (2025) 482 ITR 982 (Bom)(HC)

S. 44BB : Mineral oils-Computation-Non-Resident-Business Income-Permanent Establishment-Not taxable as business income-Interest under section 234B cannot be levied-DTAA-India-Canada.[S.90, 209(1)(d), 234B] 832

The assessee, a tax resident of Canada, received consideration for supplying reservoir simulation software to Indian oil companies, on which tax was deducted at source. The Assessing Officer assessed the receipts under section 44BB. The Tribunal held that since the assessee had no permanent establishment in India, it was entitled to the more beneficial provisions of the India-Canada DTAA under section 90. Consequently, the receipts were not taxable as business income under section 44BB. It was further held that where the entire income of a non-resident is subject to tax deduction at source, there is no liability to pay advance tax and, therefore, interest under section 234B could not be levied. The Assessing Officer was also directed to grant due credit for TDS and interest under section 244A. (AY. 2012-13, 2019-20 to 2021-22)

Computer Modelling Group Ltd. v. Asst. CIT (2025) 121 ITR 214 / 162 taxmann.com 437 (Delhi)(Trib.)

S. 44BB : Mineral oils-Computation-Providing its vessels for transportation to entities engaged in the exploitation/exploration of seabed or subsoil-Section 44BB was not applicable-AO is directed to compute the income of the assessee in terms of art. 21(4) of the India-Norway DTAA-DTAA-India-Norway [S.90, Art, 21] 833

Tribunal held that Para 4 of art. 21 of the Indo-Norway DTAA is applicable to the consideration received by the assessee for providing a vessel for transportation to entities engaged in the exploitation/exploration of seabed or subsoil and, therefore, its income is to be computed in terms of art. 21(4) of the DTAA; S. 44BB was not applicable(AY.2022-23)

Sanco Holding AS v. DCIT (IT) (2025) 237 TTJ 936 / 178 taxmann.com 673 (Dehradun) Trib)

834 **S. 44BB : Mineral oils-Computation-Non-resident-Presumptive taxation-Goods and Services Tax (GST) collected separately-Not includible in gross receipts.[S. 145A]**
The assessee, a non-resident company engaged in offshore drilling services, offered its income to tax under section 44BB. The Assessing Officer included the GST component collected separately in the invoices while computing deemed income under section 44BB. The Tribunal held that GST is a statutory levy collected on behalf of the Government and does not contain any profit element. Inclusion of GST in gross receipts would amount to taxing a tax. Following its earlier decision in Orient Overseas Container Line Ltd., the Tribunal held that section 145A has no application while computing presumptive income under section 44BB and directed deletion of the addition. (AY. 2021-22).
Seadrill International Ltd. v. Asst. CIT (2025) 126 ITR 678 / 179 taxmann.com 553 (Mum.) (Trib.)

835 **S. 44BBA : Aircraft-Non-residents-Computation-Operation of aircraft-Presumptive taxation-Service tax collected on behalf of Government-Not includible in gross receipts.**
The issue before the Tribunal was whether service tax collected by a non-resident airline and remitted to the Government formed part of the gross receipts for computing presumptive income under section 44BBA. The Tribunal held that service tax is collected by the assessee merely as an agent of the Government and does not contain any element of income. Since only amounts received for carriage of passengers, livestock or goods constitute gross receipts under section 44BBA, service tax could not be included for computing presumptive income. (AY. 2016-17 to 2018-19).
Cathay Pacific Airways Ltd. v. Asst. CIT (2025) 129 ITR 51 (Trib.)
Hong Kong Dragon Airlines Ltd. v. Asst. CIT (2025) 129 ITR 51 (Trib.)

836 **S. 44C : Non-residents-Head office expenditure-Head office expenses-Allocated to PE in India-Allowed full-Prior to amendment of article 7(3) of India-UAE DTAA by way of protocol dated 28-11-2007-Expenditure incurred outside India exclusively for operations of Indian branches would not fall within ambit of section 44C-Allowable in full-DTAA-India-UAE [Art. 7]**
Assessee, a non-resident banking company incorporated in UAE, carrying on banking business in India through its branches. Assessee claimed deduction of head office expenses allocated to its PE in India in full. Assessing Officer held that head office expenses were allowable in terms with restrictions imposed under section 44C and assessee was entitled to get deduction at restricted rate of 5 per cent of average adjusted total income. CIT(A) up held the order of the AO. On appeal the Tribunal held that amendment brought to article 7(3) by way of protocol providing for limitations or restrictions on deduction of expenses would not apply retrospectively hence prior to its amendment by protocol dated 28-11-2007, deduction of expenses attributable to PE was to be allowed fully without applying restrictions imposed under section 44C.Tribunal also held that the expenditure incurred outside India exclusively for operations of Indian branches would not fall within ambit of section 44C and, hence, would be allowable in full. (AY. 2002-03)
Mashreq Bank Psc. v. CIT (IT) (2025) 211 ITD 511 /233 TTJ 881 / 125 ITR 312 (SB) (Mum) (Trib.)

S. 44C : Non-residents-Head office expenditure-Double taxation relief-Article 7(3) of the DTAA between India and UAE-Assessee claimed deduction u/s. 44C-AO allowed only 5% of the adjusted total income as deduction-Held, Art. 7(3) cannot be applied retrospectively-Held, deduction allowed without imposing restriction u/s. 44C-Expenditure incurred outside India exclusively for operations of Indian branches would not fall within ambit of section 44C hence allowable in full-DTAA-India-Dubai. [S. 90, Art.7(3), 25(1)] 837

Assessee is a non-resident banking company with headquarters in UAE and branch offices in Mumbai and Delhi. Assesee filed ITR with a loss however, stated that it has not claimed any deduction on account of head office expenses, since, it has returned loss, but reserves its right to claim deduction at 5 per cent as per s. 44C of the Act. As per Art. 7(3) the DTAA between India and Dubai all expenses incurred for the purpose of business of the PE, including, the executive and administrative expenses, are allowable without applying the restriction imposed under s. 44C of the Act. AO only allowed 5% deduction to the adjusted total income. The Tribunal observed that the purpose of art. 25(1) cannot be expanded to mean the manner of taxing the income in each of the Contracting States but is to reiterate that taxing the income arising in each of the Contracting States should be either under the domestic law or as per the express provisions contained in the convention. This, when read with s. 90(2) of the Act, would mean that the Assessee has option to choose whichever is beneficial to it. Accordingly, art. 25(1) cannot be interpreted to impose restrictions on the manner of computing the tax which is beyond its scope of eliminating double taxation. Articles 25(1) and 7(3) operate in different situations. While art. 25(1) deals with elimination of double taxation, art. 7 deals with taxability of business profits and para 3 of art. 7 lays down the mechanism of computation of business profit of PE. Therefore, while computing the business profit PE under art. 7(3) of the Treaty, the language used/employed therein has to be seen.

The Tribunal also considered whether the amendment to art. 7(3) of the Treaty, effective from April 2008 retrospectively. The Tribunal held that the provisions of art. 7(3) of the Treaty is a result of a bilateral treaty between two countries and the changes to art. 7(3) have to be interpreted strictly from the date as specified and not any another date. (AY. 2002-03)

Mashreq Bank PSC v. Dy. CIT (IT) (2025) 233 TTJ 881 / 211 ITD 511 / 125 ITR 312 (SB) (Mum)(Trib)

S. 45 : Capital gains-Capital asset-Agricultural Land-Sale of plot of land-Revenue records not conclusive-Negligible agricultural income-Concurrent findings of fact-SLP of assessee dismissed. [S. 2(14)(iii), Art. 136] 838

The assessee sold a plot of land and claimed that it constituted agricultural land, and therefore was not taxable as capital gains. The Court noted that all the authorities had concurrently held that the land was not used for agricultural purposes, and consequently, the income arising from the sale of the land was chargeable to tax. It was observed that Form 7/12 (revenue records) is a relevant piece of evidence on which an assessee may legitimately rely; however, it is not conclusive. The authorities found that the assessee had not undertaken any agricultural activity on the land and had failed to make full and proper disclosure of agricultural income, having stated that the net agricultural income, after excluding expenses, was negligible. The authorities further relied on the clauses in

the sale agreement, which indicated that the land was sold for development purposes, to be converted into plots and sold to third parties. Consideration was also given to the proximity of the land to the metropolitan cities of Mumbai and Thane, as well as the substantial expenditure incurred for the development of the land. The assessee was found to have made contradictory and inconsistent statements regarding the agricultural use of the property. The Court held that the assessee had failed to demonstrate any perversity in the authorities' findings. Since all relevant material and contentions had been duly considered by the lower authorities, there was no reason to interfere with the concurrent findings of fact, and no question of law, much less a substantial question of law, arose for consideration. SLP dismissed. (AY. 2011-12)

Prashant Jaipal Reddy v. ITO (2025) 306 Taxman 168/481 ITR 555. (SC)

Editorial: Prashant Jaipal Reddy v. ITO (2025)304 Taxman 39 / 481 ITR 547 (Bom) (HC)

839 **S. 45 : Capital gains-Capital asset-Agricultural Land-Sale of plot of land-Revenue records not conclusive-Negligible agricultural income-Concurrent findings of fact-Order of Tribunal affirmed. [S. 2(14)(iii), 260A]**

The assessee sold a plot of land and claimed that it constituted agricultural land, and therefore was not taxable as capital gains. On appeal the Court noted that all the authorities had concurrently held that the land was not used for agricultural purposes, and consequently, the income arising from the sale of the land was chargeable to tax. It was observed that Form 7/12 (revenue records) is a relevant piece of evidence on which an assessee may legitimately rely; however, it is not conclusive. The authorities found that the assessee had not undertaken any agricultural activity on the land and had failed to make full and proper disclosure of agricultural income, having stated that the net agricultural income, after excluding expenses, was negligible. The authorities further relied on the clauses in the sale agreement, which indicated that the land was sold for development purposes, to be converted into plots and sold to third parties. Consideration was also given to the proximity of the land to the metropolitan cities of Mumbai and Thane, as well as the substantial expenditure incurred for the development of the land. The assessee was found to have made contradictory and inconsistent statements regarding the agricultural use of the property. The Court held that the assessee had failed to demonstrate any perversity in the authorities' findings. Since all relevant material and contentions had been duly considered by the lower authorities, there was no reason to interfere with the concurrent findings of fact, and no question of law, much less a substantial question of law. (AY. 2011-12)

Prashant Jaipal Reddy v. ITO (2025) 481 ITR 547 / 304 Taxman 39 (Bom)(HC)

Editorial : SLP rejected, Prashant Jaipal Reddy v. ITO (2025) 306 Taxman 168/481 ITR 555. (SC)

840 **S. 45 : Capital gains-Capital asset-Personal effects-Vintage car-Failed to provide evidence proving personal use of vintage car-Gain taxable as capital gains.[S. 2(14)]**

Assessee sold a vintage car which he had purchased for Rs. 20,000 for a consideration of Rs. 21 lakhs. He claimed that car was shown as a personal asset in wealth tax and same was an exempt asset. Assessing Officer added profit on sale of car as business income. CIT(A) allowed the exemption. Tribunal reversed the order of the CIT(A). On

appeal the Court held that since assessee failed to adduce any evidence with regard to vintage car being put to personal use, vintage car owned by assessee was not his personal effect and, thus, gain arising on sale thereof was liable to be taxed under head 'Capital Gains. Applied. *H.H. Maharaja Rana Hemant Singhji v. CIT (1976) 103 ITR 61 (SC)* applied.(AY. 1992-93)
Narendra I. Bhuva v. ACIT (2025) 177 taxmann.com 540 /347 CTR 549 (Bom)(HC)

S. 45: Capital gains-Accepted cost of acquisition-Difference between intrinsic value of shares and amount paid by assessee cannot be taxed as perquisites-Order of Tribunal deleting the addition is affirmed. [S. 2(24)(iv), 260A] 841
Held that the assessee's computation of long-term capital gains was accepted by the Assessing Officer and the gains from the transfer of shares were brought to tax. Thus, the Department, having accepted the cost of acquisition of shares at Rs. 10 and having taxed the gains arising therefrom, could not later take a stand that the cost of the shares in the hands of the assessee was required to be computed based on their intrinsic value. This clearly militated against accepting that the cost of acquisition of the shares as Rs. 10 in the subsequent assessment years. The deletion of the addition by the Tribunal is affirmed. Court also observed that even though the court was of the view that there were no credible reasons for condoning delay of 1,563 days in filing the appeal, the matter was taken as it had been pending since 2011.(AY. 2001-02)
CIT v. Naresh K. Trehan. (2025) 305 Taxman 547/ 477 ITR 589 (Delhi)(HC)

S. 45 : Capital gains-Exemption-Entry provider-Survey-Unexplained money-Principle of natural justice-No opportunity of cross examination was given-Order of Tribunal deleting the addition is affirmed. [S. 10(38), 68, 69, 133A, 260A] 842
During the course of scrutiny assessment, the assessee filed a revised return claiming exemption of long-term capital gains under section 10(38) of the Income-tax Act, 1961, which was rejected by the Assessing Officer. The Commissioner (Appeals) was satisfied that the shares were purchased through account-payee cheques, held in a dematerialised account for more than one year, and sold through a recognised stock exchange after payment of securities transaction tax. The Tribunal observed that where an assessee has wrongly offered an item of income or omitted to claim a deduction in the return, he is entitled to correct the mistake by making a request to the Assessing Officer and to seek deletion of additions made under sections 68 and 69. The statements of the so-called entry providers relied upon to justify the additions were recorded on various dates in other proceedings not connected with the assessee and were recorded much before the date of the survey conducted on the assessee. The Tribunal held that the assessee was denied an opportunity to challenge and cross-examine the witnesses whose statements formed the basis for additions under sections 68 and 69; such failure to adhere to the principles of natural justice vitiated the assessment. Further, the Assessing Officer did not consider the Central Board of Direct Taxes' circular permitting revised returns to be filed where claims were omitted; accordingly, the Tribunal was justified in deleting the additions and dismissing the Revenue's appeal. (AY.2014-15)
PCIT v. Kishore Kumar Mohapatra [2024] 162 taxmann.com 4 / (2025) 475 ITR 195 (Orissa)(HC)
Editorial: SLP of revenue, dismissed, PCIT v. Kishore Kumar Mohapatra [2024] 298 Taxman 648 / (2025) 475 ITR 198 (SC)

843 **S. 45 : Capital gains-Sale of shares-Computation of capital gains-Fair market value as on 01-04-1981-Leasehold land-lease value of leasehold interest to be taken into account.[S. 2(22B), 55(2)(b)(ii), Wealth-tax Rules, 1957.R. 1D]**

The assessee, a shareholder in Company J, sold part of his shares. He filed a computation showing a capital loss based on the company's asset valuation and appended the valuation report. The AO made an addition, excluding the value of leased land from the fair market value (FMV) for computation of capital gains. The Commissioner (Appeals) and the Tribunal accepted the assessee's valuation, holding that the leasehold interest should be included because the company effectively controlled the land. The Court held that the leasehold interest in the land was an asset of the company and must be included when determining the FMV of unquoted shares as on 31-03-1981. As the lease term remaining exceeded 20 years, the lessee was effectively the de facto owner; therefore, the land's leasehold value could not be excluded from the asset valuation for computing capital gains. The Tribunal correctly applied FMV principles rather than relying solely on the balance-sheet figures under the Wealth-tax Rules.(AY 1997-98)

PCIT v. Dr. Karan Singh (2025) 474 ITR 446 (J&K and Ladakh) (HC)

844 **S. 45 : Capital gains-Development agreement with a builder for constructing residential flats on a sharing basis-Transfer. [S. 2(47)(v), Transfer of Property Act, 1882, S.53A]**

Assessee, a Non-Resident Indian entered into a development agreement with a builder for constructing residential flats on a sharing basis. Tribunal held that development agreement as a transfer under section 2(47) hence liable for capital gains. On appeal the Court held that from records that despite existence of a contract to transfer immovable property, signed by both parties, contract remained unexecuted for consideration. A refundable performance guarantee mentioned in development agreement was not paid as consideration for transaction and possession was handed over to developer solely for development work, not as contemplated under section 53A of Transfer of Property Act, 1882. Therefore, it could be said that transaction did not fall within definition of transfer under section 2(47), hence the order of the Tribunal is set aside. Referred, *Shrimant Shamrao Suryavanshi v. Prahlad Bhariroba Suravanshi (2002) 3 SCC 676.* (AY. 1997-98)

Shantha Vidyasagar Annam (Smt.) v. ITO (2025) 303 Taxman 348 / 345 CTR 209 / 251 DTR 119 (Telangana)(HC)

845 **S. 45: Capital gains-Business income-Sale of properties-Assessable as capital gains and not as business income-Rule of constancy followed. [S. 22, 28(i), 260A]**

Assessee is engaged in business of real estate development and leasing of properties. It had been consistently declaring rental income from letting out of properties as income from house property and income from sale of properties as capital gains. The Assessing Officer assessed rental receipts under head business income and consequently, income received by assessee on sale of property was also assessed as business income and not as capital gains as declared by assessee. CIT(A) allowed the appeal of the assessee. On appeal the Tribunal initially dismissed the appeal of the Revenue and thereafter recalled the order. By a common order allowed the appeal of the Revenue. On appeal

the Court held that merely for reason that in said assessment years, assessee effected a sale of some of its properties, it could not be seen as having embarked upon a business of buying and selling properties in those years, even if it was authorized to do such business as per its Memorandum of Association. Sale transactions could not have effect of changing very nature of income earning activity consistently carried on by assessee, and accepted by department-Therefore, income derived by assessee, from sale of properties owned by it, during two years under consideration in these appeals, could only be assessed under head of capital gains and not as business income. (AY. 2012-13 & 2015-16)
Knowell Realtors (India) (P.) Ltd. v. ACIT (2025) 302 Taxman 433 / 482 ITR 423 (Ker.)(HC)

S. 45 : Capital gains-Long term capital gains-Tenancy right is converted into ownership-Date of transfer-Consent term-Confirming party-Deed of confirmation or deed of consent term or registration-Matter remanded to the Tribunal for re adjudication. [S. 2(27), 50C, 254(1), 260A] 846
The assessee was a tenant of a premises. A consent decree dated 28-5-1999 came to be passed in a civil suit wherein the plaintiff recognized the right of the assessee in respect of the premises to convert tenancy of the assessee on ownership basis, on terms and conditions as set out in the consent terms. In pursuance of consent terms, an agreement dated 4-11-2004 came to be entered between the developer and the assessee and other tenants and the co-owners/plaintiff as the confirming party. On 22-2-2007, a deed of confirmation under which the rights of the parties which stood crystallized and recognized under the agreement dated 4-11-2004 came to be executed and registered. The AO held that the document was required to be considered as the sale value of the rights which were acquired by the assessee in the year 1986 from the original owner for long-term capital gains to be taxed for the assessment year 2007-08.
The Commissioner(Appeals) held that no transfer had taken place in the assessment year 2007-08 as the assessee had acquired ownership rights in assessment year 2000-01, hence deleted the addition. On appeal the Tribunal held that the agreement dated 4-11-2004 as the relevant date, by virtue of which the transfer of rights in favour of the assessee had taken place. Other grounds were not adjudicated. Matter remanded back to the Tribunal for re adjudicating the issue. Followed *Pokhraj Hirachand v. CIT [1963] 49 ITR 293 (Bom)(HC)*. (AY. 2007-08)
Hajra Iqbal Memon (Mrs.) v. ITAT (2025) 302 Taxman 524 (Bom.)(HC)

S. 45 : Capital gains-Long term capital gains-Exemption-Book profit-Exclusion of capital gains from calculations of book profits would not disentitle it from claiming exemption under section 10(38).[S. 10(38), 115JB(2), 260A] 847
Dismissing the appeal of the Revenue the Court held that proviso to s. 10(38) cannot be read in the reverse to mean that if the gains are not included as book profits under S.. 115JB, the same are liable to be included as income for the purposes of assessment to tax under the normal provisions, notwithstanding that the gains are required to be excluded from income chargeable to tax under s. 10(38). (AY.2015-16)
PCIT v. Hespera Reality (P) Ltd. (2025) 342 CTR 241 / 245 DTR 1 / 303 Taxman 154 (Delhi)(HC)

848 **S. 45 : Capital gains-Capital asset-Agricultural land-Tests to be applied-Whether land qualifies as agricultural land is a question of fact requiring cumulative consideration of multiple factors-Mere mention of agricultural land in revenue records is not sufficient if the land is not actually used for agriculture or is sold for non-agricultural purposes-Matter remanded. [S. 2(14)(iii)]**

The assessee, an individual, sold land at village Tambati, Taluka Khalapur, Raigad District and claimed exemption of capital gains as agricultural land. The AO held the land sold was in an industrial zone, unused for agricultural purposes since 1997-98 and sold for industrial purposes. Therefore, the assessee is not eligible to claim exemption. CIT(A) upheld the AO's view by placing reliance on (i) inspector's report showing industrial construction (ii) statement of purchaser's director admitting land was agricultural but situated in industrial zone and intended for industrial purposes (iii) Talathi's reply confirming no agricultural activity since 1997-98. ITAT held that classification as agricultural land in records and litigation preventing cultivation must be considered. The matter hinges on factual evaluation under section 2(14). The Hon'ble ITAT relied on the judgment of Hon'ble Gujarat High Court in the case of *CIT v Siddharth J Desai [1982] 139 ITR 628 (Guj HC)* and laid down 13 tests to determine whether land is agricultural land, and the matter was sent back to the AO for re-examination of the impugned issue as per the conditions laid down. (AY. 2016-17)

Snehlata Goel (Mrs) v. DCIT [2025] 180 taxmann.com 364(2026) 134 ITR 11 (Mum)(Trib)

849 **S. 45 : Capital gains-Transfer-Any transaction by way of becoming a member-Joint Development Agreement (JDA)-Unregistered JDA/GPA can still constitute transfer under section 2(47)(vi)-Transfer of 62% land in exchange for 38% developed area taxable in year of agreement-The matter was remanded only for recomputation of capital gains in accordance with sections 48 and 50C. [S. 2(47)(vi), 48, 50C]**

The assessee entered into an unregistered Joint Development Agreement (JDA) and General Power of Attorney (GPA) with a developer for construction of a residential complex on land owned by him. Under the arrangement, the assessee transferred 62% of the land in exchange for 38% of the developed area to be constructed. The assessee contended that since the JDA and GPA were unregistered and construction was completed only in 2017, no transfer had taken place during the relevant year. The Tribunal held that although, after the 2001 amendments, an unregistered agreement may not qualify as a transfer under section 2(47)(v) read with section 53A of the Transfer of Property Act, the transaction nevertheless fell within section 2(47)(vi), which covers arrangements having the effect of transferring or enabling enjoyment of immovable property. Since the developer acquired enforceable rights over 62% of the land and the consideration was the assessee's entitlement to 38% of the constructed area, a transfer had taken place in the year of execution of the JDA/GPA and was liable to capital gains tax. The matter was remanded only for recomputation of capital gains in accordance with sections 48 and 50C. Appeal partly allowed for statistical purposes. (AY. 2012-13)

K.P. Muhammed Ali v. ITO (IT) (2025) 130 ITR 271 (Cochin)(Trib.)

S. 45 : Capital gains-Transfer of bundle of rights/obligations as investment to a partner-The compensation received for not initiating assured insurance business is a capital receipt and not chargeable to tax as capital gains.[S.4, 55(2)(a)] 850

In the course of assessment proceedings, the AO noticed that the Assessee has claimed receipt of Rs.4,34,31,471/-from PNB Principal (Mauritius) as capital receipt. The AO asked the assessee as to why the said receipt cannot be taxed under the head 'capital gains'. In reply to the same, it was explained that the assessee along with Punjab National Bank and Vijaya Bank had entered into a Share Subscription Agreement (SSA) with Principal Financial Group (Mauritius) Ltd. to incorporate a company to undertake life insurance business after obtaining necessary approval from various authorities. Since regulatory approval could not be obtained, the business of Joint Venture Company could not commence. PFGM exercised its call option and acquired shares of Assessee for which the Assessee was paid a sum of Rs.4.34 crore for termination of contracts which was capital receipt in nature. The AO was of the view that the sum received from PFGM as compensation on taking over the company's bundle of rights and obligations under the BCA was by way of guaranteed returns on the investments made and was taxable as capital gains. AO further noted that the acquisition of capital asset being the right to carry in JV Co. has to be computed as per the provisions of section 55(2)(a) of the Act. As per AO cost of acquisition should be taken as NIL. Being aggrieved, the Assessee preferred the appeal before the CIT(A). The CIT(A) held that the Hon'ble Supreme Court in the case of *CIT v. Motor & General Stores (1967) 66 ITR 692(SC)* has held that in construing a contract, the terms and conditions thereof are to be read as a whole. A contract must be construed keeping in view the intention of the parties. However, the AO conveniently presumed that the compensation received by Assessee has its roots in the business. Therefore, the same is exigible to capital gains tax. The AO further presumed that the compensation can be labelled as shares sale consideration, which is contrary to material on record/agreements. The AO drawn an adverse inference by presuming that the Assessee has transferred right to carry on "investment business in insurance sector" in favor of PFGM whereas appellant had admittedly no activities of any sort in "insurance business" in past or future. There is no cogent material to support inferences drawn by AO. Thus, the addition made under capital gains is unjustified.. Being aggrieved, the Department filed appeal to the ITAT. The ITAT held that the compensation received by the Assessee was not only for the transaction of one or more tangible rights but was for receipt of a bundle of rights as an investing partner, as the whole profit-making process was impaired. It is a fact that the Assessee was never engaged in the business of insurance with any other party and genuineness of transaction was not doubted. Thus, the ITAT held that the AO has erroneously held the compensation as an asset as per section 55(2)(a) of the Act. Thus, the appeal of the Department was dismissed by the ITAT. [AY. 2008-09]

CIT (Asst.) v. U. K. Paints (India) P. Ltd. (2025) 131 ITR 74 (Delhi)(Trib.)

S. 45: Capital gains-Sale of joint property-Only 50 per cent of sale consideration can be taken-AO is directed to recompute the capital gain.[S. 48] 851

Held that the assessee and his wife are shown to be joint sellers/owners of the property in the sale deed; only 50 per cent of the sale consideration can be taken into account for computation of capital gains in the hands of the assessee.(AY. 2015-16)

Alauddin v. ITO (2025) 236 TTJ 497 (Agra)(Trib)

852 **S. 45 : Capital gains-Agreement of sale-Registration-Assessee handed over the land to the buyer and also received the sale consideration in asst. yr. 2008-09-Provisions of IT Act apply on the basis of real income and not based on notional income-No provision for increasing sale consideration by notional interest.[S. 48]**

Held that though the assessee handed over the land to the buyer and received the sale consideration in the asst. yr. 2008-09 before the sale deed was executed in asst. yr. 2017-18 and offered the capital gains to tax in the asst. yr. 2017-18, the sale consideration cannot be increased by the notional interest for the computation of capital gains. (AY.2017-18)

Deepak Kothari v. ACIT (2025) 237 TTJ 241 / 177 taxmann.com 219 (Delhi) Trib)

853 **S. 45 : Capital gains-Short-term capital loss-Penny stock-Accommodation entries-No independent enquiry-Loss allowable.[S.2(42B), 131, 133A, 143(3)]**

The Assessing Officer disallowed the assessee's short-term capital loss on sale of shares, treating the transactions as accommodation entries on the basis of reports of the Investigation Wing and SEBI. The Tribunal held that no independent enquiry was conducted by the Assessing Officer, the statements of entry operators did not name the assessee, and there was no direct evidence connecting the assessee with the alleged accommodation entries. Additions based merely on probabilities, surmises and conjectures were unsustainable. The assessee was entitled to set off the short-term capital loss against long-term capital gains. (AY. 2013-14).

Namokar Builders (P.) Ltd. v. Dy. CIT (2025) 127 ITR 304 (Kol.)(Trib.)

854 **S. 45 : Capital gains-Short-term capital gains-Business income-Sale of immovable property-Assessee held to be owner-Alternative finding of adventure in the nature of trade upheld. [S. 28(i), 45, S. 44AD, R. 46A]**

The assessee contended that the properties were purchased only in his name on behalf of a company and that only brokerage income was taxable. The Tribunal held that the conveyance deeds established the assessee's ownership and no satisfactory evidence was produced to show that he was merely a name lender or to substantiate the expenditure claimed. The profit on sale was rightly assessed as short-term capital gains. The alternative finding of the Commissioner (Appeals) that the transactions constituted an adventure in the nature of trade was also upheld. (AY. 2009-10 & 2010-11).

Piyush M. Dobariya v. ITO (2025) 127 ITR 246 / 174 taxmann.com 1075 (Ahd.)(Trib.)
Ajay Reghunhai Barwad v. ITO (2025) 127 ITR 246 / 174 taxmann.com 1075 (Ahd.)(Trib.)

855 **S. 45 : Capital gains-Fair market value as on 1-4-2001-Collector/Circle rate not examined-Matter remanded.[S.48, 55]**

The assessee claimed long-term capital loss on the basis of a valuation report determining the fair market value of land as on 1-4-2001. As the Collector/Circle rate was not available on record, the Tribunal held that the matter required fresh examination. The issue was restored to the Commissioner (Appeals) for determination after obtaining the Collector/Circle rate and giving opportunity to both parties. (AY. 2018-19).

Sterling Holiday Resorts Ltd. v. Dy. CIT (2025) 127 ITR 284 / 180 taxmann.com 310 (Mum.)(Trib.)

S 45 : Capital gains-Rights entitlement not taxable in India-Short-term capital loss not to be set off against exempt gain-DTAA-India-Ireland [S.2(42A), 2(42B). 70, 71, 74 Art. 13(5), 13(6)] 856

The Assessing Officer adjusted the assessee's short-term capital loss against the gain arising from the sale of rights entitlements before granting treaty relief. The Tribunal held that since gains from rights entitlements were not chargeable to tax in India under Article 13(6) of the DTAA, such gains did not enter the computation of taxable income in India. Consequently, the short-term capital loss governed by the domestic provisions could not be adjusted against such exempt gains. (AY. 2021-22).

Vanguard Emerging Markets Stock Index Fund, A Series of VISPLC v. Asst. CIT (2025) 125 ITR 128 / 172 taxmann.com 515 (Mum.)(Trib.)

S. 45 : Capital gains-Capital loss-Demerger-Transfer of assets and liabilities to Special Purpose Vehicles-Conditions of demerger not fulfilled-Long-term capital loss allowable. [S.2(19AA, 47] 857

The assessee transferred specified assets and liabilities to two Special Purpose Vehicles under a Scheme of Arrangement approved by the High Court. The Tribunal held that the SPVs merely took over specified assets and liabilities for liquidation of debts, no shares were allotted to the assessee and the transfer was not on a going concern basis. As the essential conditions of section 2(19AA) were not satisfied, the transaction could not be treated as a demerger and was liable to be regarded as a normal capital transfer. Accordingly, the long-term capital loss claimed by the assessee was allowable. (AY. 2003-04, 2006-07 & 2011-12 to 2015-16).

SIEL Ltd. v. Dy. CIT (LTU) (2025) 123 ITR 599 / 173 taxmann.com 278 (Delhi)(Trib.)

S. 45: Capital gains-Joint Development Agreement-Co-owners-Matter remanded to determine the share of each co-owner and decide the taxability-Construction of house within specified period-Matter remanded to decide after considering the relevant documents. [S. 54] 858

Assessee, his father, sister and brother, having executed the joint development agreement with the developer in their capacity as owners of land and subsequently executed a partition deed among themselves for dividing the property which was constructed by the developer according to their shares, it has to be accepted that there were four co-owners of the said land and not two as assumed by the AO. Tribunal restored the matter to the file of the AO to enquire as to whether the assessee's father and sister sold their respective shares separately, which they got based on the partition deed; if it is found that all the four owners have separately sold their respective shares of property, the long-term capital gain is to be computed by taking the assessee's share as 25 per cent. As regards the construction of a house within the specified period, the issue was remanded to the AO to decide the issue after considering the relevant documents. (AY. 2011-12)

Vadagur Narayanappa Premachandra v. ACIT (IT) (2025) 234 TTJ 350 / 171 taxmann.com 471 (Bang)(Trib)

859 **S. 45: Capital gains-Rights entitlement-Capital gains arising on sale of rights entitlements are not equity shares as s. 62 of Companies Act, 2013-rights entitlement are covered under the provisions of art. 13(6) and, therefore, cannot be subjected to tax in India but is taxable in the resident State of the assessee i.e., Ireland-DTAA between India and Ireland. [S.90, Art. 13(6), Companies Act, 2013, S.62,]**

Rights entitlement, which is granted on account of shareholding, cannot be regarded as being the same as shares, since the rights shares are allotted only on subscription and, therefore, capital gains arising on the sale of rights entitlements are covered under the provisions of art. 13(6) of the DTAA between India and Ireland, and consequently, the same cannot be subjected to tax in India as per art. 13 in the hands of an Ireland-based assessee. (AY.2021-22)

Vanguard Emerging Markets Stock Index Fund A Series Of Visplc v. ACIT (IT) (2025) 234 TTJ 801 / 125 ITR 128/ 172 taxmann.com 515 (Mum)(Trib)

860 **S. 45: Capital gains-Capital loss-Carry forward and set off by non-resident-Capital loss incurred under the provisions of the Act r/w art. 13(5) of the India-Ireland DTAA cannot be set off against short-term capital gain derived from the sale of rights entitlement because such gain is not subject to tax in India as per art. 13(6) of the DTAA between India and Ireland [Art. 13(6)]**

Capital loss incurred under the provisions of the Act r/w art. 13(5) of the India-Ireland DTAA cannot be set off against short-term capital gain derived from the sale of rights entitlement because such gain is not subject to tax in India as per art. 13(6) of the DTAA between India and Ireland. (AY.2021-22)

Vanguard Emerging Markets Stock Index Fund A Series Of Visplc v. ACIT (IT) (2025) 234 TTJ 801 / 125 ITR 128/ 172 taxmann.com 515 (Mum)(Trib)

861 **S. 45: Capital gains-Slump sale-Set-off of long-term loss against long-term gain from slump sale. [S.2(29B), 2(42C), 50B]**

Assessee-company sold shares of two closely held companies which it had purchased earlier at a huge premium and claimed long-term capital loss of Rs. 24 crores. The same was set off against long-term capital gain arising from slump sale under section 50B. Assessing Officer disallowed said loss on the ground that the same was not supported by any valid and reasonable explanations and documents and, thus, the same was a pre-planned transaction to avoid tax. CIT(A) deleted the addition. On appeal, the Tribunal held that the assessee had made investments in preference shares of two unlisted companies during the year 2014-15, and these investments were reflected in the audited financial statements of the assessee for the assessment year 2015-16 under 'Non-Current Investments', and the same was reported in the Director's report of the company in compliance with section 186. Further, these transactions were executed through proper banking channels and substantiated by share certificates, CA valuation reports, and accounting entries. Further, no evidence was brought on record by the Assessing Officer to suggest that the loss was pre-determined, the buyer of shares colluded with the assessee, and the share purchase/sale consideration was not real. Accordingly, on facts, long-term capital loss of Rs. 24 crores on sale of shares was genuine, and assessee was entitled to set off this loss against long-term capital gain arising from slump sale under section 50B. Order of CIT A) affirmed. (AY. 2018-19)

ACIT, LTU v. Prudential Sugar Corporation Ltd. (2025) 214 ITD 11 (Chennai) (Trib.)

S. 45: Capital loss-Advance for purchasing a commercial plot-Cancellation of forfeited amount paid in earlier years-Allowable as capital loss. [S. 2(14) 2(47)(ii)] 862

Assessee made advance payments to a person for purchasing a commercial plot, and as assessee failed to pay the remaining payments, that person forfeited amounts paid earlier by assessee and cancelled allotment, the assessee claimed the said amount as capital loss. CIT(A) affirmed the order of the Assessing Officer holding that there was no transfer of capital asset. On appeal the Tribunal held that when such right in a capital asset got extinguished pursuant to forfeiture of advance, it amounted to 'transfer' within the meaning of section 2(47) and therefore, assessee was justified in claiming long-term capital loss. (AY. 2017-18)

G.N. International (P.) Ltd. v. ACIT (2025) 214 ITD 180 (Delhi) (Trib.)

S.45: Capital loss-Sale of shares-Securities transaction tax-loss was allowable as a capital loss. 863

During the year, assessee sold shares of one company and claimed a loss of a certain amount-Assessing Officer noted that shares were purchased in a short span of a week and sold at very low prices. Since the price had drastically fallen and shares were held for a very short span of time, he concluded that the assessee had deliberately sold shares at a loss and doubted the genuineness of said loss and proceeded to disallow the short-term capital loss claimed by assessee. On appeal, the CIT(A) allowed the claim of the assessee. On appeal by the Department, the Tribunal held that the assessee had furnished complete details of the purchase and sale of shares, which were done on various dates at various prices prevailing in the secondary market. Further, the purchase and sale of shares were carried out by the assessee in the open market/secondary market through a registered share broker in a recognised stock exchange after due suffering of securities transaction tax. Order of CIT A) affirmed. (AY. 2017-18)

G.N. International (P.) Ltd. v. ACIT (2025) 214 ITD 180 (Delhi) (Trib.)

S. 45: Capital gains-Transfer-General Power of Attorney-Assessee executed GPA authorising agent to deal with land-Agent sold portion thereof to a company-Mere execution of GPA did not constitute transfer under section 2(47) in favour of agent-Only actual sale consideration received for transfer was taxable in assessee's hands, not any sum received by power agent.[S. 2(47)] 864

Assessee was owner of vacant land of 121 cents-He executed a registered General Power of Attorney (GPA) in favour of one V.R. Anuvelarajan, authorising him to deal with said land, including powers of sale. Subsequently, power agent,. R. Anuvelarajan acting under authority of said GPA, executed a registered sale deed transferring only to the extent of 30.35 cents in favour of one Jacaranda Properties Private Ltd for a sale consideration of Rs. 1.00 crores. Assessing Officer held that assessee had received an amount of Rs. 2.50 crores from power agent, and treated same as the full value of consideration for transfer of said 30.35 cents. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that GPA holder was not buyer of land and was only authorised to deal with prospective buyers. Further, no consideration was received by assessee for execution of said GPA. Further, there was nothing to demonstrate that said sum of Rs. 2.50 crores was received by assessee from ultimate purchaser. On facts, mere receipt of funds from power agent could not be equated with transfer consideration

for the impugned sale transaction, particularly when there was no transfer of capital asset to power agent himself. Accordingly the Assessing Officer was directed to adopt sale consideration at Rs. 1.00 crores instead of Rs. 2.50 crores for purpose of computing taxable long-term capital gains. (AY. 2014-15)
Natesan Ekambaram v. DCIT (2025) 214 ITD 615 (Chennai) (Trib.)

865 **S. 45: Capital gains-Family settlement-Capital asset-Transfer-Gift-Relinquishment of possession-Civil suit-Compensation received assessable as capital gains and not income from other sources.[S. 2(14), 2(47), 54, 54EC, 56(2)]**
Assessee received a certain amount from Uday Pratap Singh in the course of a family settlement regarding a property. Assessee declared the said amount as long-term capital gain and claimed deductions under sections 54 and 54EC. Assessing Officer held that since assessee lacked legal ownership, said amount could not be treated as consideration for transfer of a capital asset and treated it as a gift under section 56(2) and assessed it as income from other sources. On appeal, the Tribunal held that the assessee was in settled possession of property for decades, and the receipt was not gratuitous but for relinquishing that possession and claim, which were acknowledged in the civil suit and agreement. Possession and beneficial interest held by assessee over a prolonged period, her assertion of rights through legal proceedings, and receipt of consideration under a family settlement fall within the definition of "capital asset" under section 2(14), and the act of relinquishment is a "transfer" under section 2(47). Therefore, compensation received by assessee was liable to be assessed under the head 'Capital gains' and not 'Income from other sources'. (AY. 2012-13)
Dharampal Saghera v. ITO (2025) 213 ITD 69 / 236 TTJ 92 (Chd) (Trib.)

866 **S. 45: Capital gains-Sale of shares-Accommodation entries-Sale through registered stockbroker-Copies of contract note filed-Genuine transaction-Denial of exemption was not justified-Allowed exemption-Addition was deleted.[S. 10(38), 69A, 147, 148]**
Assessee claimed exemption under section 10(38) in respect of long-term capital gain (LTCG) earned on sale of shares of Appu Marketing and Manufacturing Ltd, Now Ejecta Marketing Ltd. Assessing Officer reopened assessee's case under section 147 on the ground that LTCG was essentially unexplained income of assessee. The CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that the assessee had effected the sale of shares through a registered stockbroker and copies of contract notes were available on record. No independent enquiry had been conducted by the Assessing Officer to establish that the persons to whom the assessee had sold shares were essentially entry providers. Further, though, as per the direction of SEBI, BSE had imposed restrictions on the trading of shares of the company, however, subsequently, trading in shares was allowed. In fact, the assessee had earned LTCG on the sale of shares and cannot be treated as accommodation entries. Addition was deleted on the merits. (AY. 2015-16, 2016-17)
Sangita Ben Mardia v. ITO (2025) 213 ITD 210 (Mum) (Trib.)

S. 45: Capital gains-Transfer of rights in plot of land-Following the order of the brother, the matter was remanded back to the Assessing Officer to decide the issue afresh. [S. 147, 148] 867

Held that since the case of the brother of assessee involving a similar issue for the same assessment year had already been sent back to the file of the Assessing Officer to decide the issue afresh, in the interest of justice, the matter was to be remanded back to the Assessing Officer to decide the issue afresh. (AY. 2012-13)

Hemantkumar Gajanan Lad v. ITO (2025) 213 ITD 366 (Pune) (Trib.)

S. 45: Capital gains-Land-Compulsorily acquired-Guarantor-Overdraft facility-Compensation was first credited to assessee's account and then transferred to sister concern's bank account to discharge its overdraft-Application of income and not diversion by overriding title-Capital gains were taxable in assessee's hands.[S. 4] 868

Assessee, a partnership firm engaged in civil contracts, had its land compulsorily acquired by the Government. Compensation was first credited to assessee's bank account and then transferred to sister concern's account to discharge its overdraft facility. Assessing Officer treated it as capital gain taxable in assessee's hands, noting assessee stood guarantor. CIT(A) affirmed the order of the Assessing Officer. On appeal, the assessee contended that no capital gain arose as income stood diverted by overriding title. Tribunal held that the assessee had claimed TDS credit and shown sister concern as a creditor in the balance sheet. Tribunal held that it was a case of application of income and not diversion by overriding title; therefore, capital gains were held to be taxable in the assessee's hands. (AY. 2013-14)

Geotech Foundation and Constructions v. ITO (2025) 213 ITD 565 (Cochin) (Trib.)

S. 45: Capital gains-Sale of property-Commercial building-Capital asset-Intention to let out-Constructed and sold over six years-Assessable as capital gains and not as business income-Exemption under section 54EC was allowable.[S.2(14), 28(i), 54EC] 869

Held that the assessee constructed a commercial building with the intention to let it out and disclosed it as a capital asset in returns; however, due to prolonged vacancy and financial strain, sold it after six years of holding, which was a forced sale, not a planned business venture. Profit from sale was assessable as capital gains, and an exemption under section 54EC was allowable. (AY. 2014-15)

Basavaraju Shivakumar Holavanahalli v. ACIT (2025) 215 ITD 316 (Bang) (Trib.)

S. 45: Capital gains-Transfer-Year of taxability-Handed over possession-Oral agreement-Full consideration-Registered conveyance deed was executed later-Capital gains could not be taxed in the subsequent year when the deed was registered.[S. 2(47), 50C] 870

Assessee sold land and handed over possession after receiving full consideration in the financial year 2009-10 under an oral agreement and offered for taxation. Registered conveyance deed was executed later on 11-3-2016, transfer was deemed to have occurred in the financial year 2009-10 under section 2(47), capital gains could not be taxed in the subsequent year when the deed was registered. The order of the Assessing Officer was set aside. (AY. 2016-17)

Maimoon Fashion Accessories (P.) Ltd. v. ITO (2025) 215 ITD 241 (Mum) (Trib.)

871 **S. 45: Capital gains-Transfer-Joint development agreement (JDA-Developer was allowed to enter into property only for development work, and nothing therein shall be construed as parting with possession of the scheduled property by the owner-original title deed of land remained with the assessee-JDA was not an agreement to sell so as to invoke provisions of section 53A and consequently deemed transfer in terms of section 2(47)(v)-Order of CIT(A) deleting the addition was affirmed. [S. 2(47)(v), 45, Transfer of Property Act, 1882, S.53A]**

Assessee entered into a Joint Development Agreement (JDA) dated 16-12-2013 with a developer for the development of its land. As per the terms of JDA, assessee would introduce land on which developer would develop and construct a building and it was agreed that assessee would be entitled to 47.5 per cent of share of constructed area and developer would be entitled to 52.5 per cent of the constructed area. Assessee sold flats constructed on land and declared capital gain on same. Assessing Officer held that flats sold by assessee were received by assessee on account of development agreement entered into by it with developer hence there was a transfer of capital asset in favour of developer as assessee was entitled to 47.5 per cent of total constructed area, whereas developer would be entitled to 52.5 per cent of constructed area out of total built up area of project. Accordingly, he reopened the assessment by issuing a notice under section 148 and assessed capital gain. On appeal, CIT(A) held that there was no transfer of immovable property in terms of section 2(47)(v) as there was no transfer of possession of land and ownership in favour of the developer vide said joint development agreement. On appeal, the Tribunal held that the parties had specifically expressed their intentions in JDA that the developer was allowed to enter into the property only for the purpose of development work, and nothing therein shall be construed as parting with possession of scheduled property by the owner. It was also specifically stated that nothing contained in said agreement shall be construed as delivery of possession of land in part performance or any agreement of sale under section 53A. Accordingly that JDA was not an agreement to sell so as to invoke provisions of section 53A and consequently deemed a transfer in terms of section 2(47)(v). Accordingly, the deletion of the addition by the CIT(A) was affirmed. (AY. 2014-15)

ACIT Circle-5(1) v. Lakshmi Technosolutions (P) Ltd (2025) 215 ITD 333 (Hyd) (Trib.)

872 **S. 45: Capital gains-Capital asset-Sale of immovable property-Name of lender-Agency Transaction-Ownership established in the registered documents-Addition is affirmed. [S.2(14), 44AD]**

Assessee reported income from the sale of immovable property under S. 44AD and claimed it to be in the nature of commission income earned on behalf of his father, Shri Mansukhbahai Dobariya. AO disagreed, holding that the properties were registered in the names of assessee and another individual. Assessee pleaded that the property sale transactions were carried out on behalf of his father and the income should not be taxable in his hands. Held: The purchase and sale deeds identified the assessee as the absolute owner of properties. Though payments were routed through 'Shri Mansukhbahai Dobariya account, however, this did not alter the ownership established in the registered documents. No evidence was submitted to substantiate the claim that

assessee acted merely as a name-lender for his father. Accordingly, the appeals filed by the Assessees are dismissed.(AY.2009-10, 2011-12)
Piyush M. Dobariya v. ITO [2025] 174 taxmann.com 1075 /127 ITR 246/234 TTJ 42 (Ahd) (Trib)
Ajay Bharwad v. ITO [2025] 174 taxmann.com 1075 /127 ITR 246/234 TTJ 42 (Ahd) (Trib)

S. 45 : Capital gains-Alleged NOC receipts-Loose sheets-Dumb documents-Statement in the Course of search-Statement retracted-No corroboration-Additions deleted. [S.132, 132(4), 132(4A)] 873

During search, diaries maintained by an employee were seized containing notings with initials "KB", which the Assessing Officer treated as unaccounted cash receipts for release of rights in Eksali lands, taxing them as capital gains. The Tribunal observed that the diaries were personal records of an employee, not maintained under the assessee's direction and unsupported by corroborative evidence. The statements of the employees were inconsistent and later retracted, and no third-party verification was carried out. Relying on *Common Cause (A Registered Society) v. UOI [(2017) 394 ITR 220 (SC), V.C. Shukla v. CBI (1998) 3 SCC 410 and CIT v. Reliance Industries Ltd. [(2020) 261 Taxman 358 (Bom)(HC)*, the Tribunal held that loose papers or "dumb documents" cannot, without corroboration, form the basis of addition. The entire addition of ₹ 4.96 crore was deleted.(ITA Nos. 3012-3013 & 3222-3228/Mum/2025 dt. 17-10-2025) (AY. 2014-15 to 2022-23)
Estate Investment Co. Pvt. Ltd. v. DCIT (Mum)(Trib) www.itatonline.org

S. 45 : Capital gains-Sale of Film Rights-Transfer of bundle of rights in 31 cinematographic films held to be transfer of capital assets-Consideration received taxable as capital gains and not as business income. [S.2(11)(B), 2(14), 28(i), 28(va) 55(2)(a)] 874

The assessee, a partnership firm engaged in film production since 1953, had produced 31 feature films between 1958 to 1998. On 20.04.2016, it entered into an Assignment Agreement with Red Chillies Entertainment Pvt. Ltd., transferring all rights, title, and interest (present and future) in these films, including intellectual property rights, exploitation rights, copyright, goodwill, and derivative rights. The assessee declared the consideration of ₹ 14.11 crore as long-term capital gains. The AO held that since the assessee was engaged in film production and had shown income from exploitation of film rights as business income in earlier years, the consideration from transfer of rights should also be assessed as business income. CIT(A) held that film rights are intangible assets covered under s. 2(14) and s. 55(2)(a). Their cost of acquisition was nil, and they constituted capital assets. The transfer of all rights in perpetuity amounted to transfer of a capital asset, hence taxable under capital gains. On appeal by the revenue the Tribunal held that the assessee transferred its entire bundle of rights in 31 films in perpetuity, thereby forfeiting all future earning potential, such rights constituted capital assets within the meaning of s. 2(14), being intangible property Reliance placed on *Johnson & Johnson Pvt. Ltd. v. DCIT (ITA No.1756/Mum/2023 dt.10-2-2025, Novartis Healthcare Pvt. Ltd. v. Addl. CIT [2015] 58 taxmann.com 216 / 69 SOT 72 (URO(Mum)(Trib) Jammu C. Sugandh v. DCIT*

(ITA No.711/Mum/2009 dt. 2-9-2010 and Khandelwal Laboratories Pvt. Ltd. v. CIT (ITA Nos. 2765 & 2702/Mum/2014), wherein transfer of trademarks, copyrights, and brands were held to be transfers of capital assets Karnataka High Court in *Syndicate Bank v. ACIT(1995) (155 ITR 681(Kran)(HC)* held that the term "capital asset" has wide connotation, including intangible rights. Accordingly, the Tribunal held that the consideration received by the assessee was liable to be taxed as capital gains, and not as business income. Revenue's appeal dismissed.(AY. 2016-17)(ITA No. 3204/Mum/2025, "E", dt. 24.09.2025)
ACIT v. Eagle Films (Mum) (Trib) www.itatonline.org.

875 **S. 45 : Capital gains-Property sold by firm-Land was belong to one of the partner-Assessing Officer was required to arrive at figures of amounts realized on sale of assets owned by firm and compute profits on sale of same after deducting written down value as it stood in books of assessee-firm-No return was filed-Reassessment is affirmed. S. 147,148]**

Assessing Officer held that assessee was actual owner of property and in absence of proper details and credible evidences, entire sale amount of property was treated as long term capital gains in hands of assessee and taxed accordingly. CIT(A) deleted the addition. On appeal the Tribunal held that land which formed part of auctioned assets belonged to one of partner of firm and not to firm. Therefore firm could not be charged long term capital gain on alienation of an asset which did not belong to it, therefore, only gains attributable to firm could be on account of building structure and plant and machinery which were owned by firm and depicted in its schedule of fixed assets. Assessing Officer was required to arrive at figures of amounts realized on sale of building structure and plant and machinery and compute profits on sale of same after deducting written down value as it stood in books of assessee-Held, yes-Whether no other amount could be taxed in hands of assessee as capital gains, for assets which did not belong to it. The assessee has not filed the return of income therefore, it could not be said that initiation of reassessment proceedings was void ab initio or that approval was given mechanically. The Assessing Officer may later come to a conclusion that grounds on which proceedings were initiated, were not valid, would not vitiate initiation of proceeding because initiation has to be viewed in context of material that was available at that time and whether same could lead to a reasonable inference, that income had escaped assessment. (AY. 2017-18)
DCIT v. Shree Bhawani Mills (2025) 212 ITD 530 (Lucknow) (Trib.)

876 **S. 45 : Capital gains-Business income-Sale of land-Part of property-No change in nature-Assessable as capital gains and not as business income. [S.28(i)]**

Assessee is a real estate development firm, had sold part of land on which shops were constructed and had offered gain on sale of land as Long Term Capital Gain. Assessing Officer in assessment proceedings re-characterized capital gain as business income and made addition under head income from business and profession. CIT(A) accepted the contention of assesseee. On appeal the Tribunal affirmed the order of the CIT(A). (AY. 2015-16)
ACIT v. Ambey Associates (2025) 212 ITD 62 (Dehradun) (Trib.)

S. 45 : Capital gains-Development agreement-Mere licence granted to developer without possession-No transfer-No capital gains.[S. 2(47)(v), Transfer of Property Act, 1882, S. 53A] 877

Assessee entered into a development agreement with a builder, in lieu of which flats were to be received later. AO taxed capital gains on signing of the agreement. Tribunal noted that only a licence for construction was given and no possession as per section 53A of Transfer of Property Act was handed over. Hence, no transfer u/s 2(47)(v) took place, and capital gains were not chargeable. (AY. 2012-13)

Balasaheb Popatrao Phadol v. ITO (2025) 212 ITD 280 (Pune)(Trib.)

S.45 : Capital gains-Beneficial owner-Co-owner-Entire sale consideration declared in return of income filed by assessee's brother-Addition can not be made in the hands of assessee.[S. 54F] 878

Assessee along with his brother sold a property. Assessing Officer added 50 per cent of sale consideration to total income of assessee as long term capital gains on ground that assessee had not relinquished his rights on property. The AO assessed the capital gains in the hands of the assessee. CIT(A) affirmed the order of the AO. On appeal the assessee submitted that even though property was purchased in joint name, actual possession and 100 per cent rights of said property belonged to his brother and entire consideration was also paid by him at time of purchase of said property and that consideration received on sale of property was not only received in bank account of assessee, but assessee's brother also declared same in his return of income and also claimed benefit of exemption under section 54F by purchasing another house property. Tribunal held that since assessee's brother was sole owner of property for all practical purposes and assessee's name appeared to have been added only out of natural love and affection, consideration received on sale of said property could not be added in hands of assessee. Addition is deleted. [AY. 2015-16]

Vinod Nihalchand Jain v. ITO (2025) 234 TTJ 585/ [2025] 172 taxmann.com 581 ((Mum) (Trib)

S. 45 : Capital gains-Cost of acquisition-Slump sale-Adjustment of business impairment loss on land purchased as part of slump sale of business-Indexed cost of acquisition has to be calculated from the actual cost of land acquired by the assessee-Fixed assets schedule prepared for Companies Act has no relevance, no depreciation can be allowed on free hold land-In the absence of proper details, the additions made by the AO are sustained. [S. 32, 48, 50B] 879

Held that business impairment loss assessee has recorded in the fixed assets schedule prepared for the purpose of Companies Act has no relevance considering the fact that no depreciation is allowed for the freehold land; assessee having not submitted the cost allocation of the freehold land acquired by way of slump sale along with buildings, the business loss impairment adjustment made by the assessee qua value of freehold land cannot be reduced upon the sale of land. Indexed cost of acquisition has to be calculated from the actual cost of land acquired by the assessee. (AY. 2014-15 to 2016-17)

Hindustan Coca Cola Beverages (P) Ltd. v. AD.CIT (2025) 233 TTJ 777 / 170 taxmann. com 633/ 122 ITR 290 (Delhi)(Trib)

880 **S. 45 : Capital gains-Capital loss-Indexation-Business income-Land was held for more than five years without carrying out any development activity-Sale of land is assessable as capital gains and not as business income.[S. 28(i)]**

Assessee sold her land on 26-3-2013 which was purchased by her on 26-11-2007 and after claiming cost of selling and indexed cost of acquisition declared long-term capital loss. Assessing Officer treated sale of land as an adventure in nature of trade and taxed same as business income on ground that assessee was director in various concerns which were engaged in real estate business. CIT(A) allowed the appeal of the assessee. On appeal the Tribunal held that since assessee had held land for more than five years without carrying out any developmental activity on same and revenue in preceding and succeeding assessment years had accepted treatment of assessee in claiming long-term capital gain on account of sale of land. Order of the CIT(A) is affirmed. (AY. 2013-14)

DCIT v. Kruti Lalitkumar Jain (2025) 210 ITD 344 (Pune) (Trib.)

881 **S. 45 : Capital gains-Interim order-Year of taxability of capital gains on compensation-Interest on compensation-Income from other sources-Delay of 404 days-Delay is condoned-The compensation and interest received in pursuance of an interim order of the Bombay High Court cannot be taxed in the year of receipt-Addition is deleted-Compensation and interest can be taxed only when the final order is passed by the High Court. [S. 45(5)(b), 45(5)(c),56(2)(viii) Land Acquisition Act, 1894, S. 11, 18]**

The land was acquired by the Special Land Acquisition Officer (SLAO) and an order was passed under section 11 of the Land Acquisition Act, 1894, awarding compensation at Rs. 14, 59, 531. Aggrieved by the order a reference was made under Section 18 of the Land Acquisition Act, 1894 to the Court of Civil, Judge, Senior Division, Raigad at Alibaug. The Additional judge has awarded the additional compensation by revising the market value of land to Rs 500 per sqm tr. The Court also directed the SLAO to interest at the rate of 9% for the first year from the date of possession and thereafter, at the rate of 15% p.a. till the realisation of the amount. The State of Maharashtra did not accept any portion of the Award passed by the Civil Court and filed an appeal before the High Court. High Court by an interim order stayed the order of Civil Court and directed the Government to deposit with the court. As per the interim order the appellant was permitted to withdraw the amount subject to Bank Guarantee of 60% and indemnity Bond 40%. The appellant has received certain amount on which the tax was deducted at source. The appellant filed the return of income claiming the refund of tax deducted at source. The AO assessed the amount received as per interim order as capital gains. On appeal the CIT(A) affirmed the addition made by the AO and also dismissed the appeal on account of delay. On appeal the Tribunal condoned the delay of 404 days. On merit the Tribunal held that the compensation received by the appellant in pursuance of an interim order of the Bombay High Court as per proviso to section 45(5)(b) shall be deemed to be income chargeable under the head capital gains of the previous year in which the final order of the Bombay High Court is passed. Accordingly the appeal of the assessee is allowed and the order of CIT(A) confirming the order of AO taxing long term capital gain amounting to Rs.22.49,01,802/-being compensation on acquisition of land and the interest of Rs 44,29,98,502/-u/s 56(2)(viii) of the Act is set aside. The Tribunal also deleted the penalty of Rs 20,10,01.733/-u/s 271(1)(c) of the Act. ((AY. 2016-17)

Percival Joseph Pereira v. ITO [2025] 174 taxmann.com 1223 (Mum)(Trib)

S.45 : Capital gains-Long-term capital gains from equities-Penny stock-Accommodation entries-Failure of the Revenue to bring on record any materials linking assessee in any of the dubious transactions-Addition as cash credit is deleted.[S. 10(38), 68, 147, 148] 882

Assessee purchased shares of a company and earned LTCG on the sale of the same. He claimed exemption of LTCG u/s 10(38) of the Act. The AO was of the opinion that the assessee had made huge profit out of said investment and therefore held that the said script was suspicious and penny stock. Accordingly, assessment was reopened on ground that the assessee had earned LTCG on sale of shares through accommodation entries, though the assessee had purchased shares directly from the company and through share transfer from another party and subsequently, sold the said shares through the stock exchange. It was noted that there were no discrepancies in documents filed by assessee claiming deductions u/s 10(38). Further, even though all the characteristics of penny stock existed, Revenue had not brought on record any materials linking assessee in any of dubious transactions relating to entry, price rigging or exit providers. Even in the SEBI report, there was no mention or reference to the involvement of assessee. It was therefore held that the impugned reopening of assessment was unjustified and LTCG claimed by assessee was legitimate (AY. 2012-13, 2013-14)

Archit Gupta v. ACIT (2025) 210 ITD 27 (Delhi) (Trib.)

S. 45: Capital gains-Capital loss-Assessee, a Foreign Portfolio Investor incorporated in United Kingdom-Eentered into Forward Foreign Exchange contracts (FCC) with a bank to hedge amounts invested in Indian securities-Loss incurred on rollover/cancellation of FCC was in nature of short-term capital loss eligible for carry forward under head 'capital gains'.[S.74] 883

Assessee was incorporated in the United Kingdom and was registered in India as a Foreign Portfolio Investor and was engaged in investment activities. It entered into Forward Foreign Exchange Contracts (FCC) with a bank to hedge amounts invested by it in Indian securities. It incurred certain losses on rollover/cancellation of FCC and said loss was carried forward as a short-term capital loss. AO held that the loss in question was to be carried forward under head 'income from other sources'. The ITAT relied on the decisions of *Citicorp Investment Bank (Singapore) Ltd. v. Deputy DIT (International Taxation)-1(2) [2012] 24 taxmann.com 211/54 SOT 119 (Mumbai) & Dy. CIT v. D. B. International (Asia) Ltd. [2018] 96 taxmann.com 75 (Mumbai)* and held that the loss in question was to be considered as short-term capital loss eligible for carry forward under the head 'capital gains'. (AY. 2020-21)

ACIT v. Emerging Markets Ltd. (2025) 210 ITD 494 (Mum.) (Trib.)

S. 45(4) : Capital gains-Distribution of capital asset-Dissolution of firm-Depreciable assets-Block of assets-Transfer of depreciable capital assets-Incoming partner-Liable to capital gains tax under Section 45(4), even though there was no distribution of assets among partners upon dissolution-Section 50 does not apply when asset's value has already been taxed as capital gains under Section 45(4) [S. 2(11), 45, 50, 50A] 884

Assessee, partnership firm, sold property for Rs.8.4 crore, allocating Rs.7.4 crore to building and Rs.1 crore to land. Buyer later joined firm and reintroduced property as capital contribution at same value. Assessee-firm did not declare capital gains, citing

no change in WDV. The Assessing Officer held that for computing capital gain under section 50, only cost of acquisition per Section 50A should be considered, adopting WDV for asset reintroduced by incoming partner, and computed short-term capital gain. Commissioner(Appeals) deleted said addition On appeal the Tribunal held that as per Section 45(4) distribution of capital asset as a result of dissolution of firm or otherwise fair market value of asset on date of such transfer shall be deemed to be full value of consideration received. Since in instant case there was no dispute about fair market value of consideration i.e. Rs.7.4 crores. Assessing Officer should compute capital gain under Section 45(4). Matter was to be remitted back to file of Assessing Officer to compute amount of capital gain under Section 45(4) by taking fair market value as sale consideration and deducting WDV of asset as per Act. Tribunal applied Section 45(4), stating that transaction attracted capital gains tax. Assessee contended that even if there was transfer, section 50 was applicable and gains could not be charged to tax as written down value of property at end of year was more than written down value of property at beginning of year. Tribunal held that section 50 had no application to facts of present case as same amount was assessed to capital gain u/s. 45(4).(AY. 2012-13)
ACIT v. PVR Tourist Home (2025) 212 ITD 381/235 TTJ 709 (Cochin) (Trib.)

885 **S. 45(4) : Capital gains-Distribution of capital asset-Dissolution of firm-Introduction of new partner-Amount received by existing partner for sacrificing his profit-sharing ratio-Realignment of share ratio-No transfer of asset-No capital gain taxable on relinquishment of share ratio-Post amendment, 2021, Finance Act, 2021. [S. 2(14), 2(47),9B, 45]**
The assessee is a partner in CRCL LLP, who received ₹2,38,63,452 when Elior India Catering LLP was admitted as a new partner with a 51% stake in CRCL LLP. The amount was credited to the existing partner for their reduction in profit-sharing ratios, with the assessee's share decreasing from 12% to 5.88%. The AO treated this amount as short-term capital gains under section 45 of the Income Tax Act, arguing it constituted consideration for relinquishing profit-share rights and goodwill, which was also upheld by the CIT(A). However, the ITAT overturned this and held that the reduction in profit-sharing ratio during the firm's reconstitution without asset transfer, retirement, or dissolution did not qualify as a "transfer" under section 2(47). On realignment of profit-sharing ratio upon introduction of new partners, there is no transfer of assets as the assets remain with the partnership firm, and thus, such an arrangement is not covered under Section 45(4) of the Income Tax Act, which applies to dissolution or reconstitution scenarios involving asset distribution. It further noted that post-2021 amendments to Section 45(4) and Section 9B (which could tax such transactions) were prospective and inapplicable to the AY 2017-18, and therefore deleted the addition. Relied on *CIT v. P.N. Panjawani 356 ITR 676 (Karn)(HC).* [AY.2017-18]
Gokulakrishna v. DCIT [2025] 175 taxmann.com 720 (Chennai)(Trib)

886 **S. 45(5A) : Capital gains-Joint Development Agreement-No taxation of consideration which had not accrued-Matter remanded-Delay of 458 in filing the appeal was condoned. [S. 2(47)(v),45, 56(2)(x), 254(1), Transfer of Property Act, 1882, S. 53A]**
The assessee entered into a Joint Development Agreement under which it received

monetary consideration and was also entitled to specified constructed premises on completion of the project. The Assessing Officer, comparing the disclosed consideration with the stamp duty valuation, made additions under sections 45(5A) and 56(2)(x), which were confirmed ex parte by the Commissioner (Appeals). The Tribunal held that the authorities had failed to properly appreciate the terms of the Joint Development Agreement and had taxed consideration which had neither accrued nor arisen during the relevant previous year. As the assessee had not been afforded an effective opportunity of hearing, the orders of the lower authorities were set aside, and the matter was restored to the Assessing Officer for fresh adjudication after examining the terms of the agreement, the actual consideration received and the applicability of sections 45(5A) and 56(2)(x). The delay of 458 days in filing the appeal was also condoned on showing sufficient cause. (AY. 2018-19)

Shree Sai Constructions v. Dy. CIT, NFAC (2025) 128 ITR 441 (Mum.)(Trib.)

S. 47(vi) : Capital gains-Transaction not regarded as transfer-Amalgamation-When transaction specifically falls under the said section-Addition under section 56(2)(x) is not valid-Capital reserve arising out of amalgamation cannot be treated as an Income under section 28(iv). [S. 28(iv), 56(2)(x)] 887

The ITAT ruled in favour of the assessee, concluding that, no benefit or perquisite arose from the amalgamation scheme. The assessee neither became richer nor poorer through the process. It merely converted indirect ownership to direct ownership. The capital reserve entry was merely a book entry required for accounting purposes under the double-entry system. The capital reserve was capital in nature and not revenue, making Section 28(iv) inapplicable. It was further confirmed that the amalgamation is covered by the exemption provided under section 47(vi), making section 56(2)(x) inapplicable. Capital reserve arising out of amalgamation cannot be treated as an Income under section 28(iv).(AY. 2008-09)

Dy.CIT v. Samagra Wealthmax (P) Ltd. (2024) 168 taxmann.com 325/ (2025) 233 TTJ 651 (Mum) (Trib)

S.47(xiiib): Capital gains-Transaction not regarded as transfer-Conversion of firm into LLP-Cash credit-Transfer of share capital and reserves of the company to the partners accounts upon conversion to LLP-No credits found in the assessee's books of accounts-The AO erred in making the addition in the hands of the assessee-Assuming that there was transfer, it is the credit in the partners' accounts and not in the assessee's account-Addition was deleted. [S.45, 47(xiiib)(f), 68] 888

Held that violation of the condition prescribed in s. 47(xiiib)(f) is only relevant to the computation of capital gain under S. 45 arising on certain transfers; since the allegation of the AO is that the assessee LLP has violated the conditions prescribed in S. 47(xiiib)(f) by transferring the share capital and reserves and surplus of the company to the partners' accounts upon conversion to LLP, the addition made by the AO under S. 68 cannot be upheld as none of the ingredients of the said provision is attracted. (AY. 2017-18)

ITO v. NICAF LLP (2025) 236 TTJ 858/ 175 taxmann.com 1001 (Mum)(Trib)

889 **S. 48 : Capital gains-Computation-Purchase and sale of shares-Sham transactions-Set off of short term loss against short term capital gains-Order of Tribunal disallowing the loss is affirmed.[S. 45, 260A]**

Assessee had made a short-term capital gain on sale of shares of a company and claimed short-term capital loss on sale of shares of another company. Assessing Officer held that shares of both companies were purchased at Rs. 100 per share and sold at Rs. 12.20 per share and held that transaction of purchase and sale of shares was a tax avoidance measure and disallowed short-term capital loss. Commissioner (Appeals) and Tribunal confirmed order of Assessing Officer. On appeal the Court held that since Assessing Officer held that transaction of purchase and sale of shares was a sham transaction, the order of Tribunal did not raise any substantial question of law. (AY. 2010-11)

Trends Pharma v. ITO (2025) 304 Taxman 150 (Bom.)(HC)

890 **S. 48: Capital gains-Mode of Computation-Payment made to settle a rival title claim and remove an encumbrance is deductible while computing capital gains. Amount directly paid by the purchaser to banks for discharge of mortgage is deductible and cannot be taxed in the hands of the assessee. [S. 45, 48(1)]**

The assessee paid ₹ 2 crore to a society having a subsisting claim over the title of the property under a settlement agreement to remove the encumbrance and complete the sale. The Tribunal held that the payment was incurred wholly and exclusively in connection with the transfer and was allowable as a deduction under section 48. The purchaser directly paid ₹7 crore to banks to discharge the mortgage created over the property by the assessee as guarantor. The Tribunal held that the amount never accrued to or was received by the assessee because of the overriding title of the banks. Accordingly, it could not be taxed as sale consideration and was allowable as a deduction while computing capital gains under section 48. (AY. 2020-21).

ITO v. Surendra Nath Gubbala (2025) 238 TTJ 741 / 179 taxmann.com 371 (Visakha) (Trib.)

891 **S. 48 : Capital gains-Cost of improvement-Expenditure in nature of repairs and furniture not allowable-Matter remanded for fresh verification. [S. 45, 50C]**

The reassessment arose from computation of long-term capital gains on sale of immovable property. The Assessing Officer denied the assessee's claim for indexed cost of improvement on the ground that the expenditure represented repairs, maintenance and furniture rather than improvement to the capital asset and that supporting evidence regarding the suppliers and payments had not been furnished. The Tribunal agreed that such expenditure was prima facie not allowable as cost of improvement. However, considering the assessee's request for one further opportunity and the peculiar facts of the case, the matter was restored to the Assessing Officer for fresh verification and determination of the correct taxable capital gains in accordance with law. (AY. 2015-16).

Ashok Kumar Jain v. NFAC (2025) 124 ITR 503 / 174 taxmann.com 211 (Jaipur)(Trib.)

892 **S. 48: Capital gains-Mode of Computation-Reference to valuation officer (FMV)-FMV of property as on 1-4-1981-Valuation report prepared by a Government-approved registered valuer-Matter was to be remanded back to file of Assessing Officer with a direction to refer valuation of property as on 1-4-1981 to DVO as per specific request**

of assessee, and thereafter, re-compute long-term capital gain-Cost of improvement expenses-Matter remanded for fresh examination-Full value of consideration-Stamp valuation-Matter concerning correct sale consideration required de novo consideration and was to be restored to Assessing Officer.[S. 45, 50C, 55A, 131, 133(6), 154]

Assessee adopted FMV of property as on 1-4-1981 based on a detailed valuation report prepared by a Government-approved registered valuer. Tribunal held that the value of FMV adopted by registered valuer had no legs to stand on, the matter was remanded back to the file of the Assessing Officer with a direction to refer valuation of the property as on 1-4-1981 to DVO as per the specific request of assessee, and thereafter, recompute long-term capital gain. Assessee claimed deduction towards cost of improvement and transfer expenses while computing capital gain on sale of property; however, Assessing Officer disallowed the same on the ground that bills furnished by assessee were handwritten, lacked necessary details, and pertained to a period prior to purchase of property. Tribunal held that since authorities below had not made any independent verification of evidence furnished by assessee and proceeded to make addition solely based on assumptions, matter was remanded for fresh examination. Held that the Assessing Officer passed order under section 154 adopting stamp duty value as sale consideration under section 50C for computation of STCG but computation of cost of acquisition was to be adjudicated. The Tribunal held that the entire matter concerning the correct sale consideration required de novo consideration and restored to the Assessing Officer. (AY. 2013-14)

Harshadkumar Hargovandas Patel v. ITO (2025) 215 ITD 374 (Ahd)(Trib.)

S. 48: Capital gains-Mode of Computation-Cost of improvement-Previous owner-Cost of acquisition-Cost of construction and interiors-Additional evidence-Matter was remitted back to the Assessing Officer for fresh adjudication. [S.49(1)] 893

Assessee sold an immovable property and claimed deduction for the cost of acquisition and the cost of improvement in computing long-term capital gains. For the cost of improvement, assessee claimed expenditure incurred by him on the first-floor construction and interiors and expenditure incurred by his brother on the second-floor construction and interiors. Assessing Officer disallowed the claim, holding that property was a completed house when purchased and that repair/renovation could not be treated as the cost of improvement. CIT(A) affirmed the order of the Assessing Officer. Tribunal held that as per section 49(1), the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of assets incurred or borne by the previous owner of the assessee. Since additional evidence furnished by the assessee would have a crucial bearing in determining the issue in dispute, the matter was remitted back to the Assessing Officer for fresh adjudication. (AY. 2016-17)

Vishnukumar Gokalchand Gupta v. ACIT (2025) 215 ITD 453 (Mum) (Trib.)

S. 48 : Capital gains-Mode of Computation-Indexed cost-1/4th co-owner-Matter was to be remanded back to the file of Assessing Officer with a direction to work out the correct LTCG derived on sale of asset.[S. 45] 894

Tribunal held that since the Assessing Officer also did not enquire about the cost of acquisition/cost of improvement of the asset and no deduction in this respect was

allowed to assessee, the matter was to be remanded back to the file of the Assessing Officer with a direction to work out the correct LTCG derived on sale of asset. (AY. 2015-16)
Alpesh Navinbhai Barot v. ITO (2025) 214 ITD 387 (Ahd) (Trib.)

895 **S. 48: Capital gains-Mode of Computation-Investment in mutual fund-JM Balanced Fund-Short-term capital loss-Supported by proper documents and recorded in books-Disallowance by Assessing Officer based on suspicion of manipulation was unsustainable-There was no SEBI action or direct evidence of collusion-Short-term capital loss was allowable. [S.45, 94(7), 133A]**
Assessee invested Rs. 150 crores in a mutual fund scheme of the company JM Balanced Fund. Assessee received a dividend of Rs. 29.92 crores and redeemed units at Rs. 77.24 crores, resulting in a short-term capital loss of Rs. 72.75 crores. Assessee adjusted the short-term capital loss against the long-term capital gain. Assessing Officer disallowed short-term capital loss on the ground that JM Balanced Fund had manipulated accounting methodology so as to artificially inflate distributable surplus and the same was done to enable investors to receive tax-free dividends and simultaneously generate fictitious short-term capital losses for set-off against taxable capital gains. CIT(A) allowed the claim of the assessee. On appeal, the Tribunal held that transactions of purchase and redemption were supported by unimpeachable documentary evidence, including mutual fund folio statements and bank statements and had been duly recorded in regular books of account. Computation of short-term capital loss had been carried out strictly in accordance with section 48, wherein the cost of acquisition and expenses on transfer were deducted from the full value of consideration. Assessee had itself disallowed, under section 94(7), loss to the extent of the dividend component, thereby adhering to statutory disallowance mechanism. There was no SEBI enquiry, and none of the statements of employees of JMBalanced Fund specifically alleged that any manipulation was undertaken with intent to confer a tax benefit upon the assessee. Moreover, the fund was an open-ended, SEBI-approved mutual fund scheme, and there was no material brought on record to suggest that SEBI had suspended, penalised, or debarred this scheme during or after the relevant period. Accordingly, the short-term capital loss could not be disallowed merely on suspicion or on generalised allegations. Since investments were genuine, made through proper banking channels, duly reflected in books, and supported by contemporaneous documentation, the short-term capital loss claimed by the assessee was allowed. Order of CIT A) affirmed. Referred, *Goldian International Ltd v. DCIT (ITA No. 3218/Mum/ of 2023 dt-5-4-2024)* (AY. 2016-17)
DCIT v. CMS Computers Ltd. (2025) 214 ITD 443/238 TTJ 10 (Mum) (Trib.)
DCIT v. 2015 Grover Family Trust (2025) 214 ITD 443/238 TTJ 10 (Mum) (Trib.)

896 **S. 48 : Capital gains-Mode of Computation-Interest paid on loan-Clear another loan-Required to be reduced from sale consideration received by assessee, being one of components of cost of acquisition.[S. 45]**
Assessee obtained loan from EDCO, during financial year 2007-08 for purpose of acquisition of property. Thereafter, assessee obtained another loan from India Bulls by mortgaging same property to clear loan taken from EDCO and claimed interest expense

as cost of acquisition with due indexation. Assessing Officer while computing capital gains with respect to sale of said land disallowed interest claim. CIT(A) affirmed the order of the AO. On appeal the Tribunal held that since interest paid in respect of property on loan amount used by assessee for substituting housing loan had a direct nexus with acquisition of property, same was allowable deduction in terms of section 48 and it was required to be reduced from sale consideration received by assessee, being one of components of cost of acquisition. (AY. 2012-13)
Ramesh Munaiah Chintakunta v. DCIT (2025) 212 ITD 117 (Hyd) (Trib.)

S. 48 : Capital gains-Mode of Computation-Cost of acquisition-Fair market value of land as on 1st April, 1981-Sale transaction through open auction in nearby Village Bhatauli, where the Ministry of Defence, Government of India purchased land on 3rd Nov., 1981 would be a better determinant of the fair market value of the land that was sold by the assessee-AO is directed to adopt the said value of the land for the purposes of determining the cost of acquisition and resultant indexed cost of acquisition while computing the capital gains in the hands of the assessee-[S.2(14), 45, 55(2)(b)] 897
Assessee sold two pieces of land situated in Village Kansapur. The AO adopted the value as on 1-4-1981 on the basis of information received from the Sub-Registrar. The CIT(A) affirmed the order of the AO. On appeal the assessee contended that assessee's son also sold his share of agricultural land situated in the same village. Value of land in village Bhatuali has been considered and accepted by the CIT(A) in a later decision to arrive at the fair market value and the said matter has attained finality. Tribunal held that since the assessee and his son have sold land situated in the same village during the same period to the same party, there is no justifiable basis to deviate and adopt two different valuations. Further, the price which an asset can fetch in an open market auction rather than privately negotiated transaction would be a better determinant of the fair market price of the asset. Therefore, the fair market value of the land basis fird/intkal as so submitted by the assessee relating to sale transaction through open auction in nearby Village Bhatauli, where the Ministry of Defence, Government of India purchased land on 3rd Nov., 1981 would be a better determinant of the fair market value of the land that was sold by the assessee. AO is directed to adopt the said value of the land as on 1st April, 1981 for the purposes of determining the cost of acquisition and resultant indexed cost of acquisition while computing the capital gains in the hands of the assessee. Followed *Manjit Singh vs. Dy. CIT (2013) 151 TTJ (Chd)(UO) 1 and CIT v. Ravinder Kaur [IT Appeal No. 240 of 2009 (P&H)(HC)]* (AY. 2007-08)
Zahid Hasan Khan v. ITO (2025) 233 TTJ 229 / 245 DTR 268 / 173 taxmann.com 191 (Chd)(Trib)

S. 48 : Capital gains-Mode of Computation-Cost of acquisition-Unaccounted receipts taxed as part of capital gains, related unaccounted expenditure cannot be taxed separately-Cash payments related to personal expenses, were sourced from unaccounted receipts-Personal expenditure is deleted. [S.45 69C] 898
Held that when the unaccounted receipts from sale of properties were subjected to taxation as part of capital gains computation, related unaccounted expenditures stood explained and could not be taxed separately as unexplained expenses under section 69C.

Tribunal also held that cash payments related to personal expenses, were sourced from unaccounted receipts, addition is deleted. (AY. 2016-17 to 2019-20)
Kailash Ramavatar Goenka v. ACIT (2025) 211 ITD 317 / 234 TTJ 259 /124 ITR 210 (Ahd) (Trib.)

899 **S. 48 : Capital gains-Mode of Computation-Sale consideration-Joint development agreement-Merely on the basis of statement-Addition cannot be made.[S. 45, 132(4)]**
Assessee sold commercial space through registered sale deed for a total consideration of Rs. 5.71 crores, i.e., an average rate of Rs. 2,596 per sq. ft.. However, as a result of search at premises of WC notice was issued to both partners of JV firm and during statement under section 132(4), Managing Director of YKH admitted sale price of Rs. 3,000 per sq. ft. towards sale of commercial space and again rate of Rs. 3,000 per sq. ft. was affirmed by Accountant of assessee. On basis of said statements, Assessing Officer calculated sale consideration of commercial space at Rs. 3,000 per sq. ft. for purpose of calculation of total income in hands of assessee. CIT(A) deleted the addition. On appeal the Tribunal held that sale price of Rs. 3,000 per sq. ft. taken by Assessing Officer, merely on basis of some statements without bringing any concrete material to show that assessee received any consideration over and above what had been shown in registered sale deed, was not correct. Order of the CIT(A) deleting the addition is affirmed. (AY. 2012-13 & 2016-17)
ACIT v. Pavani Structurals (P.) Ltd. (2025) 211 ITD 415 (Hyd) (Trib.)

900 **S. 48 : Capital gains-Mode of Computation-Cost inflation index-Foreign asset is held and sold outside India-Indexation-Shares held in foreign countries-Resident company-Second proviso to section 48, which grants indexation benefit, does not distinguish between assets held in India and held in foreign countries-Eligible for Indexation.[S. 45]**
Assessee, a resident company, sold shares of its foreign subsidiary company and computed long-term capital gain by deducting indexed cost of acquisition. Assessing Officer held that cost of inflation index was determined on basis of inflation taking place in India and, hence, assessee could not avail benefit of cost of inflation index in respect of its foreign assets held and sold outside India. Accordingly, denied benefit of cost inflation index. CIT(A) allowed the claim of the assessee. On appeal the Tribunal held that second proviso to section 48, which grants indexation benefit, does not distinguish between assets held in India and in foreign countries. Therefore the assessee is entitled to deduct indexed cost of shares of foreign company while computing long term capital gain. (AY. 2016-17)
DCIT v. Aarav Fragrances and Flavors (P.) Ltd. (2025) 210 ITD 369 (Mum (Trib.)

901 **S. 49 : Capital gains-Previous owner-Cost of acquisition-Immovable property upon liquidation of company in proportion to its shareholding-[S. 45,46(2), 49(iii)(c), 55(2)(b)]**
Assessee received immovable property upon liquidation of company in proportion to its shareholding. Assessee computed capital gains as per section 55(2)(b)(iii) by taking fair market value of asset on date of distribution as cost of acquisition. Assessing Officer held that section 49(1)(iii)(c) applied and cost of acquisition would be that of company (previous owner). Tribunal accepted assessee's method of computation but

still allowed revenue's appeal following coordinate bench decisions in other related cases. On appeal the Court held that both section 49(1)(iii)(c) and section 55(2)(b)(iii) would stand attracted as there were two transactions of transfer of shares, firstly, by way of extinguishment of right therein and in consideration of which assessee received asset from company and secondly, by transfer of asset received on liquidation and in consideration of which assessee received actual money. On facts the assessee had not postponed taxability of capital gains but offered it for tax in same year in which gains had accrued, therefore, methodology adopted by assessee would be proper methodology for computation of cost of acquisition. Order of Tribunal set aside. (AY. 1991-92)
T.R.Balasubramanium v. ACIT (2025) 305 Taxman 119 (Mad)(HC)

S. 49 : Capital gains-Previous owner-Cost of acquisition-Sale of asset received on liquidation of company-Asset received on liquidation and sold in same year-Both ss. 49(1)(iii)(c) and 55(2)(b)(iii) applicable-Proper computation to consider both transactions-The Tribunal, though accepting the legal position canvassed by the assessee, decided the issue against the assessee solely on the ground that earlier coordinate Bench decisions in cases of other assessees were adverse, instead of referring the matter to a Larger Bench. The High Court held that such an approach was incorrect-Order of Tribunal set aside and assessee's method upheld. [S. 45, 46(2), 48, 49(1)(iii)(c), 55(2)(b)(iii), 254(1)] 902

Where the assessee received an immovable property on liquidation of a company consequent to extinguishment of shareholding rights (transaction-1) and sold such property in the very same financial year (transaction-2), both provisions relating to cost of acquisition u/s. 49(1)(iii)(c) and determination of cost u/s. 55(2)(b)(iii) were simultaneously attracted. The Tribunal, though accepting the legal position canvassed by the assessee, decided the issue against the assessee solely on the ground that earlier coordinate Bench decisions in cases of other assessees were adverse, instead of referring the matter to a Larger Bench. The High Court held that such an approach was incorrect and affirmed that computation of capital gains must necessarily take into account both stages of the transaction, namely receipt of asset on liquidation and its subsequent sale, as reflected in computation-4 adopted by the assessee. Accordingly, the methodology of computation accepted by the assessee was held to be correct and the order of the Tribunal was set aside. (AY. 1991-92).
T.R. Balasubramanium v. ACIT (2025) 345 CTR 526 / 251 DTR 182 (Mad)(HC)

S. 50: Capital gains-Depreciable assets-Block of assets-Sale of trade marks acquired before amendment of s. 32(1) w.e.f. 1st April, 1999-Assessable as long-term capital gains. [S. 2(11), 32(1), 45] 903

Held that since both the trade marks were acquired by the assessee prior to the amendment of s. 32(1) w.e.f. 1st April, 1999; there is no question of allowance of depreciation on the said trade marks and, therefore, the conditions for the applicability of S. 50 are not satisfied, and consequently, the capital gains which accrued to the assessee on the transfer of trade marks are assessable as long-term capital gains and not as short-term capital gains. (AY.2011-12)
Johnson & Johnson (P) Ltd. v. DCIT (2025) 234 TTJ 249/ 171 taxmann.com 619 (Mum) (Trib)

904 **S. 50 : Capital gains-Depreciable assets-Block of assets-Immovable property-Stamp value and actual consideration-Matter is remanded to Assessing Officer for de novo consideration as per the provisions of section 43CA read with section 50C of the Act. [S.43CA, 45, 50C]**

Assessee-bank had sold immovable properties. Assessing Officer held that stamp duty value of one property was shown at Rs. 11.55 crores against sale consideration of Rs. 7 crores. Accordingly, he had made an addition of Rs. 11.55 crores as long term capital gain (LTCG) on ground that assessee had failed to provide proof of purchase consideration of sold out flat for a sale consideration of Rs. 7 crores as against stamp duty value. CIT(A) affirmed the addition. On appeal the Tribunal held that principles of natural justice is violated hence the case is remanded to Assessing Officer for de novo consideration as per the provisions of section 43CA read with section 50C of the Act. (AY. 2019-20)

Kotak Mahindra Bank Ltd. v. DCIT (2025) 211 ITD 608 (Mum) (Trib.)

905 **S. 50 : Capital gains-Depreciable assets-Block of assets-Rate of tax-Deeming fiction is to be confined only to section 50 and it could not convert short term capital asset into long term capital asset and vice versa for other purpose of Act-Rate of tax would be in terms of section 112 at rate of 20 percent and not 30 percent.[S. 2(29AA), 2(29B), 2(42A), 45, 48, 49, 112(1)]**

The assessee transferred immovable properties which formed part of block of assets on which depreciation was claimed. In ROI, the assessee company offered the gains as STCG u/s. 50 but paid tax as per section 112 at 20% plus surcharge. AO added tax at the rate of 30% as per STCG tax applying section 50(1). Held that section 50 starts with a non obstante clause and is a deeming provision which should be strictly limited to the purpose mentioned therein. The exclusion prescribed by the non obstante clause is limited to the purpose of modification of sections 48 and 49 and such non obstante clause cannot be applied to any other provisions contained in the Act. The provisions of section 50 changes the characteristic of the gain that in some cases a long-term to a short-term capital gain where assets are held beyond the specific term. However, the section does not change the characteristic of the capital asset held by the assessee, that is, the long-term capital asset will remain a long-term capital asset for all other purposes, but for the deeming fiction under section 50, capital gains is taxable as if it is gain arising from transfer of a short-term capital asset. Held that the rate of tax is applicable for the transfer of a long-term capital asset has to be in accordance with section 112. The deeming fiction of section 50 cannot be imported under section 112. Majority view. (AY. 2000-01)

SKF India v. DCIT [2025] 121 ITR 307/ 210 ITD 1 (SB)(Mum)(Trib)

906 **S. 50B : Capital gains-Slump sale-Freehold land-Business impairment adjustment in books-Indexed cost to be computed on actual cost-Addition sustained.[S. 2(24C), 45]**

The assessee sought to reduce the cost of freehold land by relying on business impairment adjustments recorded in its books after acquiring a business through a slump sale. The Tribunal held that impairment adjustments made for accounting purposes under the Companies Act could not alter the actual cost of acquisition for

income-tax purposes. The indexed cost of acquisition had to be computed on the actual acquisition cost of the land, and the addition made by the Assessing Officer was upheld. (AY. 2014-15).
Hindustan Coca Cola Beverages (P.) Ltd. v. Add. CIT (2025) 122 ITR 290 (Delhi)(Trib.)

S. 50C : Capital gains-Full value of consideration-Stamp valuation-Deeming fiction has no application to the purchaser-Dealy of 350 days-SLP dismissed on account of delay. [S. 45, Art. 136] 907
Section 50C applies only to an assessee who has received, or to whom consideration has accrued, as a result of the transfer of a capital asset. The provision is concerned exclusively with the seller of the property, and its deeming fiction has no application to the purchaser.
PCIT v. Sharan Svadha LLP (2025) 306 Taxman 92 (SC)
Editorial: PCIT v. Sharan Svadha LLP (2025) 176 taxmann.com 88 (Delhi)(HC)

S. 50C : Capital gains-Full value of consideration-Stamp valuation-Transfer of leasehold rights-Provision is applicable in respect of transfer of leasehold rights in the lands which were transferred by the MIDC in favour of the assessee. [S. 2(14)(a), 50C, 260A] 908
Dismissing the appeal of the assessee the Court held that leasehold rights in land constitute a "capital asset" as property can be "held" and not necessarily owned, and therefore s. 50C applies even to transfer/assignment of leasehold rights in land allotted by *MIDC. Atul G. Puranik v. ITO (2011) 58 DTR 208 (Mum)(Trib) overruled; CIT v. Greenfield Hotel & Estates (P) Ltd. (2016) 389 ITR 68 (Bom)(HC)* distinguished.
Vidarbha Veneere Industries Ltd. v. ITO (2025) 344 CTR 322 / 249 DTR 249/ 174 taxmann. com 223/ (2026) 484 ITR 132 (Bom)(HC)

S. 50C: Capital gains-Full value of consideration-Stamp valuation-The stamp duty paid on the transaction showed a higher stamp duty valuation-No request was made for referring to DVO-The CIT(A) has rightly applied the provisions of S. 50C by adopting the stamp duty value as the full value of consideration in place of the sale deed value. [S. 45] 909
Held that the Stamp duty valuation of the property being more than the consideration shown in the sale deed, the AO and the CIT(A) were justified in applying the provisions of S. 50C and adopting the stamp duty value as the full value of consideration in place of the sale deed value. The Assessee has not made a request for referring to DVO (AY.2012-13)
Dilip Mohandas Devani v. ITO (2025) 237 TTJ 1098 (Ahd)(Trib)

S. 50C: Capital gains-Full value of consideration-Stamp valuation-Income from Other Sources-Slump sale-Section 50C cannot be applied-If the value of the land and building is lower than the stamp duty value, the provisions of section 56(2)(vii)(b) may apply after valuation by the DVO. The matter was restored to the Assessing Officer for fresh determination.[S. 2(42C), 56(2)(vii)(b), 50B] 910
In the case of acquisition of a business by way of slump sale, section 50C has no application in the hands of the purchaser. However, if the value of the land and building

is lower than the stamp duty value, the provisions of section 56(2)(vii)(b) may apply after valuation by the DVO. The matter was restored to the Assessing Officer for fresh determination. (AYs. 2012-13 to 2014-15 & 2016-17)
Akorn India (P.) Ltd. v. DCIT (2025) 238 TTJ 869 / 180 taxmann.com 249 (Delhi)(Trib.)

911 **S. 50C: Capital gains-Full value of consideration-Stamp valuation Land affected by statutory restrictions due to gas pipeline-Reduction in stamp duty value justified. [S. 45, Petroleum and Minerals Pipelines Act, 1962, S.9]**
The assessee sold immovable property through which a gas pipeline had been laid, resulting in statutory restrictions under section 9 of the Petroleum and Minerals Pipelines Act, 1962, as well as restrictions imposed by the State Government on the use of the land. Though the matter was referred to the Departmental Valuation Officer, no reduction was allowed on account of these restrictions. The Tribunal held that the statutory restrictions adversely affected the marketability and value of the property. Since the assessee had obtained an independent valuation before the sale and sold the property in accordance with such valuation, the Revenue could not ignore the genuine disadvantage suffered by the assessee. The claim for a 25 per cent reduction in the stamp duty value was held to be reasonable, and no addition under section 50C was warranted. (AY. 2003-04)
Ajay Kumar Jain v. ITO (2025) 129 ITR 157 (Jaipur)(Trib.)

912 **S. 50C : Capital gains-Full value of consideration-Stamp valuation Mandatory reference to Valuation Officer ignored-Additions deleted.[S. 56(2)(vii)(b)]**
The Assessing Officer adopted the stamp duty valuation for computing capital gains and for making an addition under section 56(2)(vii)(b), despite the assessee's request for reference to the Departmental Valuation Officer. The Tribunal held that sections 50C(2) and 56(2)(vii)(b) mandate such reference where the assessee disputes the stamp duty valuation. Since the Assessing Officer failed to comply with the statutory requirement, the additions were unsustainable and were directed to be deleted. (AY. 2014-15).
Nirmal Singh v. ITO (2025) 124 ITR 629 / 176 taxmann.com 554 (Lucknow)(Trib.)

913 **S. 50C: Capital gains-Full value of consideration-Stamp valuation-DVO valued the property more than the Stamp Valuation Authority-Assessing Officer was required to accept the full value of consideration as per value determined by the Stamp Valuation Authority, i.e Rs 3.21 crores. [S.45, 50C(3)]**
Assessee sold a flat for a consideration of Rs. 3.50 crores. Stamp Valuation Authority valued the transaction of such sale at Rs. 4.17 crores as per the ready reckoner rate as on 07-01-2011. Assessing Officer invoked provisions of section 50C and computed LTCG on the assessee's share. Tribunal directed the Assessing Officer to make reference to DVO to ascertain the value of the asset as on the date of presentation before the Stamp Valuation Authority. DVO submitted his valuation report wherein he estimated fair market value at Rs. 4.13 crores as on 27-11-2010. Accordingly, the Assessing Officer recomputed the capital gain. The assessee had placed on record a certified copy of the registered agreement presented on 29-11-2010 wherein the ready reckoner rate was worked out at Rs. 3.21 crores. Such a fact was not countered by revenue. The

Tribunal held that once the Assessing Officer accepted the contention of the assessee for seeking estimation of value from DVO as on 27-11-2010 and in case estimation of DVO was more than the value of his Stamp Valuation Authority, as per section 50C(3), the Assessing Officer was required to accept full value of consideration as per value determined by Stamp Valuation Authority. Accordingly, the Assessing Officer was to be directed to adopt Rs. 3.21 crores and recompute capital gain on the assessee's share. (AY. 2011-12)
Chittu Bhawanji Narsey v. ITO (2025) 214 ITD 400 (Mum) (Trib.)

S. 50C: Capital gains-Full value of consideration-Stamp valuation-Third proviso-Difference between value determined by DVO and consideration declared by assessee was less than 5 per cent of sale consideration-Would be entitled to the safe harbour rule of 5 per cent as per third proviso to section 50C.[S. 45] 914
Held that if the difference between the value determined by DVO and consideration declared by assessee was less than 5 per cent of sale consideration declared by assessee, assessee would be entitled to the safe harbour rule of 5 per cent as per third proviso to section 50C. (AY. 2012-13)
DCIT v. Tirupati Niryat (P.) Ltd. (2025) 213 ITD 513 (Kol) (Trib.)

S. 50C : Capital gains-Full value of consideration-Stamp valuation-The AO adopted SRO rate as sale consideration-Not referred to DVO-Matter remanded to Assessing Office to refer determination of FMV of asset to DVO. [S. 45, 48] 915
Tribunal held that while determination of fair market value should have been referred to DVO to be decided after hearing assessee and considering material put forth by him. Matter is to be restored to Assessing Officer to refer determination of fair market value of asset to DVO to be decided after affording an opportunity to assessee.](AY. 2012-13)
Ramesh Munaiah Chintakunta v. DCIT (2025) 212 ITD 117 (Hyd) (Trib.)

S. 50C: Capital gains-Full value of consideration-Stamp valuation-Transfer of development rights-Notional assignment of development rights-Provision is not applicable.[S. 45] 916
Held that the provision of section 50C is applicable only on transfer of a capital asset being land or building or both and does not apply to transfer of development rights in land. Notionally assigned development rights in favour of a partnership firm and there was no actual transfer of land or building, the provision of section 50C is not applicable on such notional assignment of development rights. (AY. 2012-13)
DCIT v. Minal Urmil Shah (2025) 211 ITD 136 (Ahd) (Trib.)

S. 50C: Capital gains-Full value of consideration-Stamp valuation-Stamp duty value of the property-Date of agreement-The AO is directed to consider the stamp duty value of the property, as on the date of agreement i.e. 03.06.2002/19.06.2002, as mentioned in the sale deed itself and recompute the capital gain/tax liability accordingly.[S.45] 917
The Assessee has paid the entire consideration amount of Rs.4,25,000/-to the vendor/ seller on 19.06.2002 itself. This fact is also clear from the sale deed dated 19.02.2018 itself. Further, from the receipt, which is part of the said sale agreement/ sale deed

reflects the payment of Rs.4,25,000/-having been made by the Assessee on 03.06.2002 through cheque nos. 531715 and 007797 respectively amounting to Rs.3,00,000/-and Rs.1,25,000/-drawn on Maharashtra Bank, Goregaon West Branch. From the documents, such as electricity connection, Aadhar card, PAN card, election card etc., the Assessee also proved corroborative material of ownership of the property. Thus, considering the peculiar facts and circumstances in totality and the sale deed, wherein the purchase of the property has specifically been mentioned, coupled with corroborative documents/ evidences, which goes to show that the Assessee on the basis of agreement fixed the amount of consideration and paid the consideration amount in two cheques on dated 03.06.2002 itself and this fact is part of the sale deed and therefore it can easily be construed that the Assessee's case falls under 1st proviso of section 50C of the Act and therefore the stamp duty value as on the date of agreement is required to be taken for the purpose of computation of consideration for such transfer. Thus, the AO is directed to consider the stamp duty value of the property, as on the date of agreement i.e. 03.06.2002/19.06.2002, as mentioned in the sale deed itself and recompute the capital gain/tax liability accordingly.(AY. 2011-12) [ITA No. 2/VIZ/2024 dated 08/08/2024]
Gupta Enterprises v. ACIT (Visakha) (Trib)(UR)

918 **S. 50C : Capital gains-Full value of consideration-Special provision for computation of full value consideration (Amendment)-Difference between sale consideration and stamp duty value-Stamp Duty Value of the Property purchased and Purchase consideration is less than the tolerance band of 10%-Provisions of Section 56(2)(x)-The assessee is entitled to the benefit of the tolerance limit of 6.56%. [S. 56(2)(x)]**
Both assessees, as co-owners, jointly purchased a residential flat. The registration of the said flat was completed on 01.09.2017. The declared value of the property was Rs.2,71,11,500/-, whereas the stamp duty valuation, as determined by the stamp duty authorities, stood at Rs.2,88,91,540/-. Consequently, the difference amounted to Rs.17,80,040/-.-The assessee is entitled to the benefit of the tolerance limit of 6.56%.-Specifically, the question is whether this tolerance limit applies to both assesses.-Yes: (AY. 2018-19)
Saggar Parimmal v. ITO [2025] 174 taxmann.com 805 (Mum)(Trib)
Ketan Kumar Sagar v. ITO [2025] 174 taxmann.com 805 (Mum) (Trib)

919 **S. 50C : Capital gains-Full value of consideration-Valuation for the purposes of Stamp Duty-Development rights-Assessee holding the land title in her name only for technical purposes-Development rights of the land transferred to the partnership firm where assessee was a partner-Assignment of development rights, provision is not applicable. [S. 45]**
Land was purchased in the name of the assessee and her husband. The assessee and co-owner gave development rights to the partnership firm in which she was a partner. The Assessing Officer applied Section 50C, determining a notional value based on jantri rates. Based on the submissions, ITAT held that, the land actually belonged to the partnership firm, with the assessee merely acting as a name-lender. Hence, no short-term capital gains were chargeable in the hands of the assessee because she acted only as a name-lender for the partnership firm. Applicability of S. 50C failed since it was

not applicable as there was no actual transfer of land or building, but only a notional assignment of development rights.(AY. 2012-13)
Dy.CIT v. Minal Urmil Shah (2025) 233 TTJ 805/ 211 ITD 136 / (Ahd) (Trib)

S. 54 : Capital gains-Profit on sale of property used for residence-Residential house-Prior to amendment in 2014 allowed for exemption for purchase of more than 1 residential properties.[S. 45] 920

The Assessee sold a residential flat in Mumbai and invested the sale proceeds in a joint venture with a builder for acquisition/construction of seven row houses in Pune. The Assessee claimed exemption under section 54 of the Income-tax Act against the entire capital gain arising from the sale of the Mumbai flat. The Assessing Officer disallowed the claim on the ground that exemption under section 54(1) was permissible only for investment in one residential house and not multiple houses. On appeal, the Tribunal allowed exemption only in respect of one row house. Aggrieved, the Assessee filed an appeal before the Hon'ble Bombay High Court, which granted relief to the Assessee holding that the expression "a residential house" in section 54, as it stood prior to the 2014 amendment, would include multiple residential houses and was not restricted to one house. Relying on decisions of the Karnataka High Court in *Arun K. Thiagarajan v. CIT (A) [2020] 272 Taxman 235* and the Madras High Court in *Tilokchand & Sons v. ITO [2019] 263 Taxman 713*, the Court observed that the provision is beneficial in nature and should be interpreted liberally. It further noted that the 2014 amendment substituting the words "a residential house" with "one residential house" was prospective and applicable only from AY 2015-16. Accordingly, the Court held that the Assessee was entitled to exemption under section 54 against the entire capital gain arising from the sale of the Mumbai flat, as the investment in seven row houses was made prior to the amendment.(AY. 1995-96)
Krishnagopal B. Nangpal [2025] 306 Taxman 289/ 484 ITR 272 (Bom) (HC)

S. 54 : Capital gains-Profit on sale of property used for residence-Construction of house-Putting together a structure of plywood sheets could not be construed as constructing a residential house-Not entitle to exemption. [S.45, 260A] 921

Assessee had sold a residential property and earned capital gain. He claimed exemption under section 54 on ground that he had constructed a residential house within a period of three years. Assessing Officer on basis of inspection report observed that assessee had not constructed a residential house but purchased vacant agricultural land and constructed a makeshift structure on said land. He held that said structure had been raised with a view to evade tax liability. Accordingly, denied the deduction. CIT(A) affirmed the order of the AO. On appeal the Tribunal held that none of basic amenities like boundary wall, kitchen, washroom, bedroom, electricity connection or water connection were available at residential house of assessee. Accordingly, the order of the AO is affirmed. On appeal the Court held that from perusal of inspector's report, it was noted that a makeshift guardroom made of plywood of 7 feet x 6 feet and a similar room of plywood of 16 feet x 12 feet with a toilet attached was found at said site putting together a structure of plywood sheets could not be construed as constructing a residential house, order of Tribunal is affirmed. (AY. 2015-16)
Sandeep Hooda v. PCIT (2025) 302 Taxman 208 / 475 ITR 605 (Delhi)(HC)

922 **S. 54 : Capital gains-Profit on sale of property used for residence-Buildings or lands appurtenant thereto-Purchase of property consisting of four shops and one room-Presence of a single room at the first floor of the commercial structure does not alter the dominant character of the property as the same is expected to be used for incidental and ancillary activities/for commercial purposes-The investment in the said new property does not qualify for exemption.[S.45]**

Held that the immovable property purchased by the assessee consisting of four shops at the ground floor and a single room at the first floor, cannot be treated as a "residential house" within the meaning of S. 54 and, therefore, investment in said property is not eligible for exemption under S. 54.(AY. 2015-16)

Alauddin v. ITO (2025) 236 TTJ 497 (Agra)(Trib)

923 **S. 54 : Capital gains-Profit on sale of property used for residence-Co-owners-New residential property jointly purchased by assessee and his wife-Actual contribution towards the purchase of the new house is a relevant factor while determining the eligible exemption-AO is directed to verify the proportion of investment made by the assessee and allow the exemption accordingly-Cost of improvement-The assessee has provided the best available documentary evidence in the form of contractor bills and work details, the claim for indexed cost of improvement is allowed to the assesse. [S. 45, 48]**

Held that the assessee purchased new residential property jointly with his wife and both the co-owners having filed affidavit confirming that the investment was made in the ratio of 2:1, assessee's claim for exemption under s. 54 is acceptable in principle, subject to verification of the actual contributions made by the assessee and his wife towards the new property. Tribunal also held that assessee claimed to have incurred expenditure in cash and having produced documentary evidence in the form of contractor bills and work details, the claim for the indexed cost of improvement of the old property is allowable to the assessee in the computation of capital gains arising from the sale of the said property. (AY.2012-13)

Dilip Mohandas Devani v. ITO (2025) 237 TTJ 1098 (Ahd)(Trib)

924 **S. 54 : Capital gains-Profit on sale of property used for residence-Exemption-Purchase of new residential house jointly with son-in-law-Deduction cannot be restricted to co-ownership share-Fair market value as on 1-2-2001-Valuation cannot be rejected. [S.45, 48, 55(2)(b)]**

The assessee invested the capital gains in a new residential house purchased jointly with her son-in-law and claimed a deduction under section 54. The Tribunal held that where the assessee had contributed the substantial portion of the purchase consideration, the deduction under section 54 could not be restricted merely because the property was jointly purchased. Further, the fair market value as on 01-04-2001 adopted by the assessee was supported by a registered valuer's report as well as the stamp duty valuation and, therefore, there was no justification for rejecting the valuation adopted by the assessee while computing long-term capital gains. (AY. 2021-22)

ITO v. Neelam Shamsher Kashyap (2025) 238 TTJ 898 / 180 taxmann.com 39 (Mum.) (Trib.)

S. 54: Capital gains-Profit on sale of property used for residence-Construction of house-Purchase of land with construction of house-Matter was to be remitted back to the Assessing Officer for decision afresh.[S. 45, 54F] 925

Assessee sold a residential plot and invested the sale consideration in the purchase of land with the construction of a house thereon and claimed exemption under section 54. The Assessing Officer denied the exemption, which was affirmed by the CIT(A). On appeal, the Tribunal held that since the Assessing Officer had not called for any report from revenue authorities regarding the use of land appurtenant to residential construction therein and did not even visit the site and inspect the same to find out as to what was actual status of new asset during period relevant for purposes of section 54, matter was to be remitted back to Assessing Officer for decision afresh. (AY. 2017-18)

Yogesh Mutha v. ITO (2025) 215 ITD 87 (Jaipur) (Trib.)

S. 54 : Capital gains-Profit on sale of property used for residence-Property is purchased in the name of spouse-Exemption cannot be denied.[S. 45] 926

Held that investment in new residential property is made by assessee from his own funds, the mere fact that property is purchased in the name of spouse does not disentitle assessee from exemption under section 54. Since CIT (A) had not specifically discussed or dealt with judicial authorities cited by the assessee, the order of CIT(A) was set aside and the matter was restored for de novo adjudication. (AY. 2012-13)

Rajesh Narendrabhai Patel v. ITO (2025) 215 ITD 282 (Ahd) (Trib.)

S. 54 : Capital gains-Profit on sale of residential property-Co-owner-Deduction allowable proportionately to extent of investment [S. 45] 927

The assessee sold a residential property and reinvested in a new residential house jointly with her husband, claiming exemption under section 54. The AO denied exemption, holding that two properties were transferred, violating section 54 conditions. The Tribunal held that prior to the amendment effective 01.04.2015, no restriction existed against claiming exemption as a co-owner. Deduction must be allowed proportionately to the assessee's share of investment, subject to verification that no double benefit was claimed by both spouses. (AY. 2012-13)

Tejal Kaushal Shah (Smt.) v. ITO (2025) 212 ITD 397 (Mum)(Trib.)

S. 54 : Capital gains-Profit on sale of property used for residence-Amount utilised for construction of new house-Exemption is allowable even if construction was not complete. [S. 45] 928

Assessee sold a residential property and invested capital gains in construction of new residential property. He also deposited certain amount in capital gain account scheme. The assessee claimed exemption under section 54. The Assessing Officer disallowed exemption claimed by assessee on ground that construction of new property was not complete. CIT(A) allowed the exemption. On appeal the Tribunal held that exemption under section 54 could be allowed based on amount utilised by assessee out of sale consideration towards construction of new house property even if construction was not complete. Order of CIT(A) is affirmed. (AY. 2016-17)

DCIT v. Bagalur Krishnaiah Shetty Vijay Shanker (2025) 210 ITD 20 (Bang) (Trib.)

929 **S. 54 : Capital gains-Profit on sale of property used for residence-Property purchased by HUF-Through General Power of Attorney held by a coparcener-Held, valid transaction-Eligible for exemption. [S. 45]**

The assessee, an HUF, purchased a property via a General Power of Attorney (GPA) held by its co-parcener (the assessee's son), from three unrelated persons. The Assessing Officer (AO) denied the claim under section 54, arguing that the assessee already had more than one residential property. The ITAT observed that, when the sale consideration flowed directly from the HUF to the original property owners, possession transferred from the original owners to the HUF, and the son, as GPA holder, merely facilitated the transaction without acquiring personal rights, it was a case of valid transaction and the HUF could not be deprived of the S. 54 benefit. (AY. 2006-07)

Dhanraj Kochar (HUF) v. Dy.CIT (2025) 233 TTJ 636 (Chennai)(Trib)

930 **S. 54B: Capital gains-Land used for agricultural purposes-Investments made beyond the statutory time-limit-Received the sale proceeds in a staggered manner over the years, from 2012 to 2016, Reinvested the capital gains in a residential property and agricultural land as and when funds were available-Exemption u/ss. 54B and 54F cannot be denied solely on the ground of non-adherence to strict time-limits-Assessee is entitled to claim deduction in respect of investments made beyond the prescribed time period-AO is directed to recompute the assessee's taxable capital gains by allowing proportionate exemption u/s. 54B and 54F for the investments made within the statutory time limits. Ownership of land in the assessee's name is a mandatory condition and, therefore, assessee cannot claim exemption u/s. 54B for the land purchased in the name of his brother. [S. 45, 54F]**

Assessee having received the sale proceeds in a staggered manner over the years, from 2012 to 2016, and accordingly reinvested the capital gains in a residential property and agricultural land as and when funds were available, exemption u/ss. 54B and 54F cannot be denied solely on the ground of non-adherence to strict time-limits; the assessee is entitled to claim proportionate exemption u/s. 54B and 54F for the investments made within the statutory time limits. Ownership of land in the assessee's name is a mandatory condition and, therefore, the assessee cannot claim exemption u/s. 54B for the land purchased in the name of his brother. (AY. 2015-16)

Jobanji Thakor v. ITO (2025) 234 TTJ 774 / 175 taxmann.com 62 (Ahd)(Trib)

931 **S. 54B: Capital gains-Land used for agricultural purposes-Co-owner-Order of CIT(A), merely relying upon the decision of the co-owner without verifying distinguishing facts recorded by the Assessing Officer, was set aside and restored to him for decision afresh.[S. 45]**

Tribunal held that the CIT(A) has allowed the exemption merely relying upon the decision of the co-owner without verifying the distinguishing facts recorded by the Assessing Officer. The matter was restored to him for decision afresh. (AY. 2016-17)

ITO v. Nitinbhai Kanubhai Patel (2025) 215 ITD 565/238 TTJ 908 (Ahd) (Trib.)

S. 54B: Capital gains-Land used for agricultural purposes-Reinvestment-Additional sale consideration from an escrow account-Reinvested in new asset-Matter remanded for reverification.[S. 45] 932

Assessee filed the return claiming exemption under section 54B in respect of additional consideration received from the sale of land. Assessing Officer held that additional sale consideration was received after execution of registered sale deed dated 21-02-2010; hence, denied exemption on the ground that purchase was beyond statutory two-year period reckoned from date of transfer. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that, from perusal of the agreement entered into with the escrow agent, the assessee had received additional sale consideration from the purchaser out of the escrow arrangement upon clearance of title encumbrances to the purchaser's satisfaction in April 2012. Since the escrow agent agreement was not considered by the lower authorities, the matter was to be remanded back to the Assessing Officer to consider said document and thereafter the assessee was given a deduction under section 54B. (AY. 2013-14)

Nitin R Shah v. DCIT (2025) 214 ITD 646 (Ahd) (Trib.)

S. 54B: Capital gains-Land used for agricultural purposes-Land sold was used for agricultural activities for the last two years immediately preceding the date of transfer-Sale proceeds were also utilised for purchase of another land, which was again used for agricultural purposes-Exemption cannot be denied on the ground that after sale land was declared as non-agricultural by Stamp Duty Officer.[S. 45] 933

Assessee, an agriculturist, sold his agricultural land and purchased another piece of land and claimed exemption under section 54B. Assessing Officer held that said land was reported and mentioned as residential in order passed by the State Government Stamp Duty Officer under the Stamp Duty Act, hence denied exemption under section 54B on the ground that the sold land was a non-agricultural capital asset and LTCG tax was payable by assessee. CIT(A) allowed the exemption. On appeal, the Tribunal held that, from the jamabandi of said land, it was described to be under self-cultivation, and the same details were available for financial years 2007-08 to 2011-12, which proved that the particular land was under cultivation for more than the last two years. Since the land sold by the assessee was used for agricultural activities for the last two years preceding the date of transfer, and sale proceeds were utilised for purchase of another land which was again used for agricultural purposes, the assessee was entitled to the benefit of section 54B of the Act. (AY. 2012-13)

ITO v. Ajaib Singh (2025) 213 ITD 613 (Amritsar) (Trib.)

S. 54B : Capital gains-Land used for agricultural purposes-Agricultural land purchased in the name of wife-Not entitle for exemption. [S.45] 934

Held that the assessee cannot claim any deduction under s. 54B on purchase of agricultural land in the name of his wife. (AY. 2007-08)

Zahid Hasan Khan v. ITO (2025) 233 TTJ 229 / 245 DTR 268 / 173 taxmann.com 191 (Chd)(Trib)

935 **S. 54B : Capital gains-Land used for agricultural purposes-Land was not used for agricultural purposes for two years immediately preceding the date of transfer-Not entitled to exemption. [S. 45]**

Held that the assessee is not able to demonstrate that the land sold was used for agricultural purposes for two years immediately preceding date of transfer; section 54B is not applicable. (AY. 2017-18)

Amartbhai Mandanbhai Desai v. PCIT (2025) 211 ITD 195 (Ahd) (Trib.)

936 **S. 54B : Capital gains-Land used for agricultural purposes-Growing paddy crop-Lands used for agricultural purposes two years immediately preceding the date on which land was sold-Entitled to exemption. [S. 45, 143(3)]**

During the year, assessee sold three lands and claimed exemption under section 54B. Assessing Officer denied the exemption on the ground that the assessee had failed to place on record supporting documentary evidence which would substantiate that lands sold by him were either being used by him or his parents for agricultural purpose in two years immediately preceding date on which same were transferred i.e. a pre-condition for claiming deduction under section 54B. On appeal the Tribunal held that on a bare perusal of 'Form P-II/Khasra' (forming part of sale deeds of subject properties), it could safely be gathered that agricultural operations i.e. growing paddy crop were being carried out by assessee on subject lands in two years immediately preceding date on which same were transferred. Since pre-condition as regards usage of lands sold by assessee for agricultural purposes in two years immediately preceding date on which they were transferred was found to be satisfied, Assessing Officer is directed to allow the claim for exemption under section 54B, subject to verification of satisfaction of other conditions contemplated in said statutory provision. (AY. 2015-16)

Rahul Bajpai v. DCIT (2025) 211 ITD 580 (Raipur) (Trib.)

937 **S.54F : Capital gains-Investment in a residential house-Agricultural land-Capital asset-Even if claim was not made in return-The Assessing Officer cannot reject the claim on technical ground-Matter remanded-Assessee had not adduced any evidence to prove agricultural activity and documents of Sub-Registrar's office where sale deed was registered did not contain any endorsement as regards nature of property to be agricultural-Denial of exemption affirmed. [S. 2(14), 10(37), 45, 260A]**

Assessee, a non-resident, sold a land with a residential building situated in a village for a certain sum and claimed exemption under section 10(37) on the ground that it was agricultural land having no liability to capital gains tax. Assessing Officer rejected the said claim, which was affirmed by the Tribunal. High Court affirmed the order of the Tribunal. As regards the exemption under section 54F of the Act, even if the claim was not made in return, the Assessing Officer cannot reject the claim on technical grounds. Matter remanded to the Assessing Officer. (AY. 2014-15)

George Stanley v. DCIT (IT) (2025) 178 taxmann.com 187 / 347 CTR 299 / 255 DTR 57 (Ker)(HC)

S.54F : Capital gains-Investment in a residential house-Purchase of two independent flats in a building on two different floors-Not possible to combine them as one unit-Not entitled to exemption. [S. 45] 938

Assessee sold a plot of land and used proceeds to purchase two non-adjacent flats; since two flats were constructed and situated physically in a manner that it was not possible to combine them and they could not be used as one single dwelling unit even though they were in the same tower of a residential society, assessee is entitled to exemption under section 54F in respect of only one flat. Order of Tribunal is affirmed.(AY. 2013-14)

Kamla Ajmera (Mrs.) v. PCIT [2024] 169 taxmann.com 119 / (2025) 342 CTR 626 / 245 DTR 65 (Delhi) (HC)

S. 54F : Capital gains-Investment in a residential house-Purchase of residential house-Deduction cannot be denied merely because the sale deed was executed subsequently where investment and genuineness of the transaction are established. [S. 45] 939

The assessee claimed exemption under section 54F on the investment of long-term capital gains arising from the sale of development rights in the purchase of a residential house. The Assessing Officer denied the exemption on the grounds that the memorandum of understanding was unregistered, the seller owned only three-fourths of the property, the parties were related, and the registered sale deed was executed after two years. The Tribunal held that the entire consideration had been paid pursuant to the memorandum of understanding, the subsequent sale deed referred to the earlier agreement and the seller's ownership of three-fourths share was undisputed. The delay in the execution of the sale deed and the relationship between the parties did not render the transaction non-genuine. Accordingly, the assessee was entitled to a deduction under section 54F. (AY. 2015-16)

Dy. CIT v. Kruti Lalitkumar Jain (2025) 121 ITR 26 (SN) (Pune)(Trib.)

S.54F: Capital gains-Investment in a residential house-Delay in completion of construction due to circumstances beyond assessee's control-Exemption allowable. [S. 45] 940

The assessee invested the sale consideration in construction of a residential house but could not complete the construction within the prescribed period because the builder failed to hand over possession of the plot owing to a dispute relating to highway construction. The assessee thereafter relinquished the original allotment and invested the entire consideration in another residential property, though construction was completed beyond the statutory period. The Tribunal held that section 54F is a beneficial provision and where the assessee had invested the entire consideration within the stipulated period, but completion of construction was delayed for reasons beyond the assessee's control, the exemption could not be denied. (AY. 2017-18)

Rajni Kumar v. ITO (2025) 178 taxmann.com 543 / 128 ITR 246 / 237 TTJ 73 (UO) (Delhi) (Trib.)

941 **S.54F: Capital gains-Investment in a residential house-Construction of mosque not a residential house-Not entitled to exemption. [S. 45]**

The assessee claimed exemption under section 54F on investment in construction of a property used as a mosque, orphanage school and staff quarters. The Tribunal held that the property could not be regarded as a "residential house" contemplated under section 54F, as it was predominantly constructed and used for religious purposes and not for the assessee's residential occupation. Since the statutory requirement of investment in a residential house was not satisfied, no deduction under section 54F was allowable, and there was no scope for granting proportionate relief. (AY. 2013-14).

ACIT v. Iqbal Ali Khan [2024] 158 taxmann.com 377 / (2025) 130 ITR 576 (Hyd.)(Trib.)

942 **S.54F: Capital gains-Investment in a residential house-Purchase of house property-Execution of sale deed beyond the specified period-MoU on 21st Aug., 2015-Entitled to exemption. [S. 45]**

Dismissing the appeal of the revenue, the Tribunal held that the assessee, having entered into an MoU with KHC (P) Ltd. for purchasing a property within a few months after the sale of development rights and lease rights of certain property and paid the sale consideration to KHC (P) Ltd. on the date of the MoU, exemption under s. 54F cannot be denied to the assessee merely because the sale deed has been executed after the specified period of two years, and the assessee and her family members are shareholders in the amalgamated company in which KHC (P) Ltd. has amalgamated. (AY. 2015-16)

DCIT v. Kruti Lalitkumar Jain (2025) 235 TTJ 32/ 170 taxmann.com 465 (Pune) (Trib.)

943 **S.54F: Capital gains-Investment in a residential house-Purchase of land-Construction of house-Investment within time limit-Gift of property-It is irrelevant whether the assessee has constructed a building on the entire portion of the land or has only utilised a portion of the land for a residential house and kept the remaining land vacant-Eligible for exemption.[S. 45, 139(1)]**

Held that the Assessee had made a gift of his other house property to his daughter on the occasion of her marriage; once the gift given by the assessee is accepted as valid, it is clear that the assessee was left with only one residential house property. The assessee purchased a flat by way of a registered sale deed dt. 7th July, 2021, and the builder handed over possession thereof in June 2022; it cannot be said that the assessee purchased one more residential property within one year from the date of transfer of the original asset in violation of the proviso to s. 54F(1); further, the investment made by the assessee for purchasing the new residential house on 18th Oct., 2022 and the investment made in the Capital Gains Accounts Scheme on 28th Oct., 2022, were within the due date, which satisfied the conditions of S. 54F; exemption cannot be disallowed only on the ground that the assessee has used only part of the land for constructing the house property.(AY. 2022-23)

ITO v. Narasimha Reddy Duthala (2025) 236 TTJ 169/ 174 taxmann.com 1073 / [2026] 134 ITR 682 (Hyd) (Trib)

S.54F: Capital gains-Investment in a residential house-Owing to the Death of the mother of the assessee, she received 25 per cent of the share in the property in New Delhi-Merely because the assessee had the right to receive the rent w.e.f. 11th July, 2015, the position does not change-Absolute ownership was acquired by the assessee only after mutation. The assessee is the 25 per cent owner of the property; he cannot be held to be the absolute owner of the second property entitled to exemption. [S. 45] 944

Held that since the assessee held only the property in Pune on the date of transfer of the original asset in August 2016 and became owner of a portion of the property in new Delhi under the Will of his deceased mother only after the mutation in March, 2017, benefit of exemption under s. 54F could not be denied on the basis that he was owner of two residential flats at the time of transfer of the original asset. Tribunal also held that the assessee having received only 25 per cent share in the property on the death of his mother, the assessee cannot be held to be the absolute owner of the said property. Entitled to exemption. (AY.2017-18)

Deepak Kothari v. ACIT (2025) 237 TTJ 241 / 177 taxmann.com 219 (Delhi) Trib)

S. 54F : Capital gains-Investment in a residential house-Construction of residential house-Booking of flat under construction-Registration within three years-Exemption allowable-Difference in value of flat disclosed in Schedule AL and registered sale deed-Difference explained-Addition deleted.[S. 45, 69B] 945

The assessee booked a residential flat under a construction agreement and made substantial payments before execution of the sale deed. The Assessing Officer denied exemption under section 54F by treating the transaction as a purchase completed beyond the prescribed period. The Tribunal held that the assessee had invested the sale proceeds in a property under construction and obtained possession and registration within the statutory period of three years from the date of transfer of the original asset. The transaction was one of construction and not purchase. Accordingly, the exemption under section 54F was allowable. The Assessing Officer treated the difference between the value of the flat shown in Schedule AL and the registered sale consideration as unexplained investment. The Tribunal held that the assessee was not required to maintain books of account and had satisfactorily explained that the difference represented stamp duty, registration charges and other incidental expenses, all paid through banking channels. Since the Revenue neither conducted any enquiry nor disproved the explanation, the addition under section 69B was deleted. (AY. 2017-18).

Avichal Kulshrestha v. ITO (2025) 126 ITR 356 / 179 taxmann.com 87 (Delhi)(Trib.)

S.54F: Capital gains-Investment in a residential house-Year of chargeability-Addition made by Assessing Officer for A. Y. 2018-19, treating the amount withdrawn from CGAS account in the succeeding year 2019-20 as the assessee's income under the head LTCG was deleted.[S.2(14), 45, 54F(4)] 946

Held that the assessee had sold a capital asset (i.e., unlisted shares and securities) on 29-7-2015 and deposited the capital gain under the Capital Gains Account Scheme (CGAS), 1988; the amount withdrawn would be taxed in the year when three years period from the date of transfer of the original asset would expire, i.e. 29-7-2018. Accordingly, the addition made by the Assessing Officer for the A. Y. 2018-19, treating

the amount withdrawn from the CGAS account in the succeeding year 2019-20 as the assessee's income under the head LTCG, was deleted. (AY. 2018-19)
Digamber Madhav Chaudhary Through Lr Harshad Digamber Chaudhary v. DCIT [2024] 168 taxmann.com 64 / (2025) 234 TTJ 228 (Raipur)(Trib)

947 **S.54F: Capital gains-Investment in a residential house-Sale of non-agricultural land-No deposit was made in the capital gains account-Expenditure incurred towards the construction of the house till the due date for filing of return under section 139(4) was to be allowed as deduction under section 54F-Matter remanded. [S. 45, 139(4)]**
Assessee sold a non-agricultural land, in which he was a 1/4th co-owner, for a consideration of Rs. 8 crores. In return for income, assessee had disclosed capital gain of Rs. 25.38 lakhs after claiming deduction of Rs. 1.74 crores under section 54F. Assessing Officer held that assessee did not deposit capital gain in capital gain account scheme; further, there was no evidence brought on record that construction of new property was completed within a period of three years from the date of sale of original asset and assessee had also not verified that he did not own more than one house property; hence deduction claimed under section 54F was disallowed. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that even if no deposit was made by assessee in the capital gain account, expenditure incurred towards the construction of the house till the due date for filing the return under section 139(4) was to be allowed as a deduction under section 54F. Assessee, being the owner of not more than one house property as on the date of sale of the property under consideration, should also be examined by the Assessing Officer before allowing deduction under section 54F. Matter remanded] (AY. 2015-16)
Alpesh Navinbhai Barot v. ITO (2025) 214 ITD 387 (Ahd) (Trib.)

948 **S.54F: Capital gains-Investment in a residential house-Sale of land-Investment in construction of a residential property-Bank transactions comprising both withdrawals and payments were demonstrably available in support of claim-Exemption could not be disallowed solely on the ground that supporting vouchers or bills were on plain paper or not in preferred form.[S. 45]**
Assessee sold a land owned by it and invested sale consideration in construction of a residential property and claimed exemption under section 54F. Assessing Officer rejected claim as assessee had not furnished any documents with regard to investment in residential property. CIT(A) also declined to allow exemption under section 54F on the ground that evidentiary documents produced in support of construction expenses were merely on plain paper. On appeal, the Tribunal held that the assessee had in fact undertaken construction of a residential property and had incurred substantial expenditure towards said construction out of sale consideration received. Further, upon perusal of the bank account statements of assessee, it was found that there were significant cash withdrawals as well as payments made towards construction. Since sufficient bank transactions comprising both withdrawals and payments were demonstrably available in support of the claim, exemption could not be disallowed solely on the ground that supporting vouchers or bills were on plain paper or not in preferred form. Therefore, the Assessing Officer was directed to grant exemption under

section 54F for said sum and to recompute long-term capital gains chargeable to tax after giving effect to the same. (AY. 2014-15)
Natesan Ekambaram v. DCIT (2025) 214 ITD 615 (Chennai) (Trib.)

S.54F: Capital gains-Investment in a residential house-Purchases-Duplex-Single deed-Entitled to exemption. [S. 45] 949
Held that where assessee purchased a residential home being duplex by way of a single deed of transfer, it could not be said that assessee had purchased two residential houses, and, thus, assessee was entitled to exemption under section 54F.The Assessing Officer was directed to allow the exemption. (AY. 2022-23)
Ratan Mahendra Jain (Mrs) v. ITO (2025) 213 ITD 58/124 ITR 624 (Mum) (Trib.)

S.54F: Capital gains-Investment in a residential house-Sale of shop in February, 2012-Booked flat in December, 2010-Purchase of residential Flat in April, 2016-Entitled to exemption if substantial payment for said flat was made during relevant period or within two years from date of sale of shop-Matter remanded. [S.45, 50C] 950
Assessee sold the shop in February 2012 and purchased a residential flat in April 2016. Assessee claimed exemption under section 54F of the Act. The Assessing Officer disallowed the claim of exemption, which was affirmed by the CIT(A). On appeal, the assessee contended that though the registered sale deed was executed in April 2016, the assessee had booked a flat in December 2010 and had made substantial payment for the same in the financial year 2011-12. Tribunal remanded the issue to the Assessing Officer for verification of payments, and if substantial payment was made during the relevant period or within two years from the date of sale of the shop, the benefit of section 54F would be allowed to the assessee. (AY. 2012-13)
Saurabh Khanna v. ITO (2025) 213 ITD 479 (Delhi) (Trib)

S.54F : Capital gains-Investment in a residential house-Return not filed-Exemption cannot be denied.[S 139, 148] 951
Assessee had not filed return of income for the relevant assessment year but had made a claim while filing return of income in response to notice under section 148. The AO denied the exemption. CIT(A) affirmed the order of the AO. On appeal, the Tribunal held that the assessee could not be denied deduction under section 54F. Appellate Authorities are not barred from entertaining fresh claim. (AY. 2012-13)
Satyanarayana Viswanadha v. ITO (2025) 211 ITD 173 (Visakha) (Trib.)

S. 54F : Capital gains-Investment in a residential house-Advance received cannot be assessed as capital gains-The AO was directed to recompute the capital gains on actual consideration and also directed to allow the exemption under section. 54F. [S. 45] 952
The assessee, an individual, sold 30.35 cents of land out of 121 cents situated at Siruseri Village for ₹ 1,00,44,000/-. The AO, however, treated the entire sum of ₹2.50 crore (including advances for balance land) as consideration and computed LTCG, further denying exemption u/s 54F for want of proper documents. The CIT(A) upheld the addition. On appeal, the Tribunal held that only ₹1,00,44,000/-received for the land actually transferred could be considered as sale consideration, the balance being advance for unsold portion. As regards

exemption u/s 54F, the ITAT admitted fresh details such as bank statements and found sufficient evidence of reinvestment of ₹82,15,610/-in construction of a residential house. It directed the AO to recompute LTCG by taking sale consideration at ₹1,00,44,000/-and granting deduction u/s 54F for ₹82,15,610/-. Appeal partly allowed. (AY 2014-15)
Natesan Ekambaram v. DCIT [2025] 214 ITD 615 /238 TTJ 689 (Chennai) (Trib)

953 **S.54F : Capital gains-Investment in a residential house-Residential property was purchased in his wife's name-Entitle to deduction. [S. 45]**
Held that though the assessee had purchased residential property in his wife's name the deduction is allowed. (AY. 2012-13)
Vidjayane Durairaj-Vidjayane Velradjou v. ITO (2025) 210 ITD 579 (Chennai) (Trib.)

954 **S. 54F: Capital gains-Investment in residential house-50% ownership in property-Does not own more than one house at the time of the transfer of the original capital asset, would be entitled to claim the exemption u/s.54F, even if they lack absolute ownership of the property they are selling. [S. 45]**
The assessee earned a long-term capital gain from the sale of investments. The assessee invested in a property and claimed an exemption u/s. 54F, based on the reinvestment made in that property. The AO denied the exemption, stating that the assessee owned more than one house property on the date of the transfer of the original capital asset.
Held that the lack of absolute ownership in the property does not disqualify the assessee from claiming the exemption. Even though the assessee only had 50% ownership in the property, the important factor was that, on the date of transfer of the original capital asset, the assessee did not own more than one residential property. The Assessee was not the absolute owner of the property was not a sufficient reason to deny the exemption.(AY. 2020-21)
Rajeev Vasudeva v. Dy. CIT [2025] 210 ITD 442 (Delhi)(Trib.)

955 **S.54F : Capital gains-Investment in a residential house-Joint property purchase with wife-Joint transfer for consideration-The wife's inclusion in the property title was deemed nominal and for convenience-Denial of exemption is not valid.[S. 45, Transfer of Property Act, 1882, S.45]**
The assessee claimed deduction under section 54F in respect of purchase of house property. The AO disallowed the full deduction under Section 54F, restricting it to 50%, asserting joint ownership of the purchased property. On appeal the CIT(A), reversed the AO's findings, citing sufficient documentation and approvals and relying on *CIT v. Ravindra Kumar Arora [2011] 203 Taxman 289 /[2012] 342 ITR 38/ 252 CTR 392 (Delhi)(HC).* On appeal by the Revenue, the Tribunal held that the entire purchase consideration for the property was paid by the assessee. The wife's inclusion in the property title was deemed nominal and for convenience. Order of the CIT(A) is affirmed. Relied on *CIT v.. Ravinder Kumar Arora (2012) 342 ITR 38 /203 Taxman 289 ((Delhi)(HC) CIT v. Kamal Wahal (2013) 30 Taxman.com 34 / 214 Taxman 287 (2013] 351 ITR 4 (Delhi) (HC), Shri Bhatkal Ramanrao Prakash v. ITO (2019 175 ITD 144 (Bang)(Trib), Jitendra V. Faria v.ITO (2017) 81 Taxman.com 16 /164 ITD 443 (Mum)(Trib) (ITA No.1085 /Mum/2024 dt.13-1-2025)*(AY. 2021-22)
ACIT v. Jay Bharat Mehta (Mum)(Trib) www.itatonline.org.

S. 56 : Income from other sources-Grants received by statutory corporation from Government for construction of housing for Police Department-Interest on deposit of such grant amounts in banks-Assessable as income from other sources-Interest paid not allowable as deduction. [S. 36(1)(iii)] 956

Held that the interest earned was not of borrowed funds. The assessee was not carrying out the construction for the purpose of setting up of business or for expansion of a business; but was engaged in the activity of construction itself, with the funds made available by the Government. The interest income earned from the grants made by the Government for the purpose of construction of buildings for the Police Department could only be treated as income from other sources. It was not an activity inextricably connected with the construction of buildings and it did not in any manner reduce the cost of construction. In the case of the assessee the funds parked in deposits, out of the grants received, were surplus funds; since the amounts earned by the assessee from the deposit of such funds were set off from the grants for the subsequent year. That the circular of the State Government providing for deduction of grants in the successive years to the extent of the interest earned from the grants of the earlier year, cannot regulate the taxability under the Income-tax Act, 1961. If at all, Income-tax was deducted from the interest earned, the Corporation would be entitled to request the Government to not deduct the amounts paid as Income-tax from the grants of the subsequent years. The circular issued by the State Government regulating the business/ transaction between the Government and its corporation could not have any effect on the taxability of the interest income, which was deemed to be income from other sources under section 56 of the Income-tax Act. There was no question of any deduction being permitted, as permissible under section 36(1)(iii) of the Act, which is with respect to interest paid on borrowed capital for the purpose of business or profession (AY. 2018-19)

Bihar Police Building Construction Corporation Pvt. Ltd v. PCIT [2023] 157 taxmann.com 495 / (2025) 483 ITR 203 (Patna)(HC)

Editorial : SLP dismissed on the ground that delay of 364 days was not satisfactorily explained.: Bihar Police Building Construction Corporation Pvt. Ltd v. PCIT [2025) 303 Taxman 335 (SC)

S. 56: Income from other sources-Shares at premium-Valuation of shares Discounted cash flow method Determination of fair market value of shares under rule 11UA-Order of Tribunal affirmed. [S. 56(2)(viib), R. 11UA] 957

Held, dismissing the appeal, that the Tribunal had after considering the provisions contained in section 56(2)(viib) and rule 11UA(2) of the Income-tax Rules, 1962 had held that according to this rule the fair market value of the shares should be the value determined under the prescribed formula or according to the discounted cash flow method which was at the option of the assessee. Therefore, the discounted cash flow method adopted by the assessee for determining the fair market value of the shares under rule 11UA(2) did not require any interference, and the additions made under section 56(2)(viib) were not sustainable in law. No question of law arose.(AY. 2013-14)

PCIT v. Surana Metacast (India) Pvt. Ltd. (2025) 482 ITR 942 (Guj)(HC)

958 **S. 56 : Income from other sources-Share premium-DCF method-Order of Tribunal deleting the addition is affirmed. [S. 56(2)(viib), R 11UA(2), 260A]**

Assessee-company received substantial amount as share premium on issue of equity shares. Assessee submitted valuation report issued by a CA using DCF method of valuation. The Assessing Officer rejected said valuation report and made addition under section 56(2)(viib). On appeal the Tribunal held that valuation report was rejected based on objective satisfaction and not based on detailed examination and valuation done by assessee could not be rejected without recording any finding to contrary by lower authorities. On appeal, the High Court held that since Tribunal had construed subject provision keeping in view fair market value of shares in question and not premium amount and fair market value had been arrived at by assessee by adopting one of statutorily designated methods in terms of rule 11UA(2). Order of Tribunal affirmed. (AY. 2013-14)

PCIT, Central v. Waterline Hotels (P.) Ltd. (2025) 304 Taxman 487 (Karn)(HC)

959 **S. 56 : Income from other sources-Issue of shares at premium-Valuation of unquoted shares-DCF method-FMV determined on basis of expert valuation report cannot be rejected merely due to general disclaimers-Valuation under DCF method permissible under Rule 11UA-Assessee's substantiated valuation to be accepted-Order of Tribunal affirmed. [S. 56(2)(viib), R. 11UA]**

The assessee issued shares at premium and determined the fair market value (FMV) of unquoted equity shares on the basis of a valuation report adopting the Discounted Cash Flow (DCF) method as prescribed under Rule 11UA(2)(b). The Assessing Officer rejected the valuation mainly on the ground that the report contained disclaimers and determined a negative value under an alternative computation. The Tribunal held that the assessee had duly substantiated the FMV through an expert valuation report valuing shares at Rs. 2,771.65 per share and that general disclaimers commonly forming part of valuation reports could not be a ground for rejection in absence of any material defect in data or methodology. The High Court held that Explanation to section 56(2)(viib) permits adoption of a prescribed method or a value substantiated to the satisfaction of the Assessing Officer and once the assessee substantiates a higher valuation, the same is required to be accepted. The DCF method being one of the recognised methods under Rule 11UA, valuation of investment in subsidiary shares on that basis was permissible and no substantial question of law arises. (AY. 2016-17)

PCIT v. A.H. Multisoft (P) Ltd. (2025) 305 Taxman 347 / 346 CTR 233 / 252 DTR 431 (Delhi)(HC)

960 **S. 56 : Income from other sources-Capital gains-Agricultural land-Interest on enhanced compensation for acquisition of land-Interest on delayed payment under the Land Acquisition Act partakes the character of compensation-Eligible for exemption u/s 10(37) where land is agricultural-Not "interest" u/s 2(28A), hence S. 56 not attracted. [S. 2(28A), 10(37), 45, 56(2)(viii), 145, Land Acquisition Act,1894, S. 28, 34, Art. 300A]**

On appeal the High Court held that where an assessee receives interest on delayed payment of compensation or enhanced compensation under the Land Acquisition Act, such interest (whether awarded u/s 28 or u/s 34) is not in the nature of "interest"

as defined in S. 2(28A), but is an accretion to the principal compensation itself, arising from the constitutional obligation to pay full compensation under Art. 300A. Accordingly, such interest must be treated as part of the compensation and assessed under the head "Capital gains" and not as "Income from other sources" u/s 56. Consequently, the interest component will also enjoy the benefit of exemption u/s 10(37) where the land compulsorily acquired is agricultural land. The applicability of S. 56(2)(viii) depends on whether, in the facts, the interest is distinct from compensation; where it is only compensatory for delayed payment, S. 56 is not attracted. Referred, *Sundar v. UOI (2001)7 SCC 211.*
Anvar Ali Poolakkodan v. ITO (2025) 344 CTR 551 / 304 Taxman 461 (Ker)(HC)

S. 56 : Income from other sources-Amendment with effect from 1-4-2010-Interest on enhanced compensation and compulsory acquisition of agricultural land assessable as income from other sources in A. Y. 2016-2017-Order of the Tribunal set aside. [S. 56(2)(viii), 145B, 260A, Land Acquisition Act, 1894, S. 28] 961

Section 56 of the Income-tax Act, 1961, was amended by the Finance (No. 2) Act, 2009 (2009) 315 ITR (St) 60), which introduced section 56(2)(viii) with effect from 1 April 2010. A conjoint reading of sections 56(2)(viii) and 145B makes clear that income received by way of interest on compensation or enhanced compensation is chargeable to tax under the head "Income from other sources." The 2010 amendment was a deliberate departure by the Legislature from the earlier position and must be given effect. Therefore, interest under section 28 of the Land Acquisition Act, 1894, paid on enhanced compensation for compulsory acquisition of agricultural land, is income from other sources under section 56(2)(viii) and is separable from the enhanced compensation. The Tribunal's reliance on *CIT v. Ghanshyam (HUF) (2009) 315 ITR 1(SC)* decided before the 2010 amendment, was unsustainable in the facts of the present case. Order of Tribunal set aside. Order of Assessing Officer affirmed. (AY. 2016-17)
PCIT v. Inderjit Singh Sodhi (HUF) [2024] 161 taxmann.com 301 / (2025) 475 ITR 294 /344 CTR 670 / 245 DTR 262 (Delhi)(HC)

S. 56: Income from other sources-Capital or revenue receipt-Capital work in progress-Interest earned prior to commencement of business on funds received in form of share capital for specific purpose of acquisition of coal mines-Part of capital cost and to be treated as capital work-in-progress.[S. 4, 57(iii), 260A] 962

The assessee a joint-venture company formed for the purposes of ensuing adequate and dependable coal supply. The assessee received certain funds from its promoter companies for a specific purpose of acquiring and developing coal mines overseas. During the negotiation period the funds were kept in short term fixed deposits yielding interest income. The AO treated the interest income as income from other sources. The Tribunal allowed the claim. On appeal, dismissing the appeal of the Revenue, the Court held that the funds were received and earmarked for the purposes of the acquisition of a coal mine overseas. Thus, the interest received on borrowed funds was a part of the capital cost and was required to be capitalized as capital work-in-progress.(AY. 2012-13)
PCIT v. International Coal Ventures Pvt. Ltd. (2025) 472 ITR 307 (Delhi) (HC)

963 **S. 56 : Income from other sources-Immovable property-Stamp duty valuation to be adopted as on date of allotment-Addition deleted.[S. 56(2(vii)(b)]**
The assessee entered into an agreement with a builder and received allotment of a flat in the financial year 2009-10, while registration was completed in the financial year 2017-18. The Assessing Officer adopted the stamp duty valuation as on the date of registration and made an addition under section 56(2)(vii)(b). The Tribunal held that, since the allotment letter had been issued and consideration was paid through banking channels, the relevant stamp duty valuation was that prevailing on the date of allotment. As there was no discrepancy in the purchase consideration declared by the assessee, the addition was deleted. (AY. 2017-18).
Sudha Agrawal v. ITO (2025) 175 taxmann.com 64 / 234 TTJ 140 (UO) (Mum.)(Trib.)

964 **S. 56 : Income from other sources-Issue of shares at premium-Fair Market Value-Discounted Cash Flow (DCF) Method-Amendment to valuation rules-Applicable to pending proceedings-Addition was deleted. [S. 56(2)(viib), R.11UA (2)(b)]**
The assessee issued shares at a premium and furnished a valuation report of a Chartered Accountant adopting the Discounted Cash Flow (DCF) Method for determining the fair market value of shares. The Assessing Officer rejected the valuation and made an addition under section 56(2)(viib) alleging that the shares were issued at a value exceeding their fair market value. Tribunal held that the amendment to Rule 11UA introducing the DCF Method is procedural in nature and is applicable to pending proceedings. Since the assessee had furnished a valid valuation report prepared by a Chartered Accountant adopting the prescribed DCF Method and there was no material to establish overvaluation of shares, the addition under section 56(2)(viib) was unsustainable and liable to be deleted.(AY.2013-14)
East Delhi Leasing (P.) Ltd. v. ITO [2025] 128 ITR 6 (Delhi) Trib)

965 **S. 56 : Income from other sources-Shares purchased for trading purposes-Stock in trade-Shares purchased for trading purposes, provisions of section 56(2)(viia) cannot be applied. [S. 562(viia)]**
Tribunal held that the "Stock-in-trade" is not subject to the rigours of the provisions of s. 56(2)(viia) and therefore, shares held as "stock-in-trade" in the regular course of business for trading purposes cannot be subjected to addition with the aid of the provisions of s. 56(2)(viia); since the assessee has been able to establish that it is also engaged in the business of investments and trading of shares and securities and purchased the shares under consideration for trading purposes in the normal course of business, which are shown as stock-in-trade in its financial statements, the addition made by the AO by invoking S. 56(2)(viia) is not sustainable. (AY.2017-18)
Utility Supply (P) Ltd. v. DCIT (2025) 235 TTJ 601 /124 ITR 324/174 taxmann.com 250 (Mum)(Trib)

966 **S. 56 : Income from other sources-Difference between the stamp duty value as on the date of agreement and the agreement value of the flats-Reference to DVO-Issue is restored to the AO for de novo adjudication after seeking a valuation report from the DVO as per the provisions of the Act. [S.50C(2), 56(2)(vii)(b)]**
Held that the Assessing Officer made addition under S. 56(2)(vii)(b)(ii) on account of the difference between the stamp duty value as on the date of agreement and the agreement

value of the flats purchased by the assessee, without referring the valuation of the flats to the DVO despite specific request by the assessee to make such reference, this issue is restored to the AO for de novo adjudication after seeking a valuation report from the DVO as per the provisions of the Act. (AY. 2014-15)
Fakhruddin T. Malik v. ITO (2025) 235 TTJ 906 (SMC) (Mum)(Trib)

S. 56 : Income from other sources-Receipt of bonus shares-Provisions of s. 56(2)(vii)(c) are not attracted on receipt of bonus shares.[S.56(2)(vii)(c)] 967
Held that the provisions of s. 56(2)(vii)(c) are not attracted on receipt of bonus shares. (AY.2017-18)
Deepak Kothari v. ACIT (2025) 237 TTJ 241 / 177 taxmann.com 219 (Delhi) Trib)

S. 56 : Income from other sources-Issues of shares at premium-The valuation of share determined by the chartered accountant at Rs. 15.23 per share was held to be correct and the addition made by the AO under s. 56(2)(viib) was deleted. [S.56(2)(viib)] 968
Held that the assessee having furnished a certificate issued under R. 11UA by a chartered accountant certifying that the fair market value of its equity share as on 30th Sept., 2013 i.e., date of issue, was Rs. 15.23 per share as against the issue price of Rs. 15 (face value Rs. 10 plus premium Rs. 5), CIT(A) was justified in deleting the addition made by the AO under s. 56(2)(viib). (AY.2014-15)
ITO v. Somila Texfab (India) (P) Ltd. (2024) 237 TTJ 333 (Jodhpur)(Trib)

S. 56 : Income from other sources-Issue of shares at a premium-DCF method-Addition was deleted.[S.56(2)(vii), R.11UA] 969
Held that the Assessing Officer could not have rejected the DCF method adopted by the valuer and determined the value of shares based on the NAV under R. 11UA. The assessee-company issued shares at a premium to its promoters, and the promoters subsequently sold the shares to a foreign company at a much higher price. The AO has not brought on record any evidence to question the genuineness of the transaction; the addition made under S. 56(2)(viib) is not sustainable. (AY. 2017-18)
Ipsaa Holdings (P) LTD. v. ACIT (2025) 237 TTJ 605 / 176 taxmann.com 823 (Delhi)(Trib)

S. 56 : Income from other sources-Fair market value of shares acquired by assessee from AE-The assessee purchased the shares of ETL at Rs. 14.30 per share, which is higher than its FMV-Even if the assessee has obtained the valuation report at a later date, as long as it is able to demonstrate that the FMV has been ascertained in accordance with R. 11UA(1)(c) based on audited balance sheet drawn up on the valuation date, said report cannot be rejected for being obtained post the date of transaction-CIT(A) was justified in deleting the addition made under s. 56(2)(x)[S.56(2)(x), R.11UA(1)(c)] 970
Held that even if the assessee has obtained the valuation report at a later date, as long as it is able to demonstrate that the FMV has been ascertained in accordance with r. 11UA(1)(c), based on the audited balance sheet drawn up on the valuation date, said report cannot be rejected for being obtained post the date of transaction; Revenue was empowered to ascertain the FMV of shares only in accordance with the specific and sole

method as prescribed in r. 11UA(1)(c) and could not apply any alternate methodology, viz., external comparable method; while arriving at the FMV of unquoted shares held by the company IG3, the resultant negative figure arising on account of excess of liabilities over the value of assets cannot be ignored; loan granted to other companies cannot be considered as amount set apart as dividend, having regard to the language used in r. 11UA(1)(c); FMV of shares of IG3 of Rs. 11.989 per share computed by the assessee was justified; further, ETL held shares of IG3 which have been valued by the assessee at Rs. 11.989 per share, and consequently, the FMV of ETL shares computed by the assessee at Rs. 13.41 per share is justified. Addition was deleted. (AY.2021-22)
DCIT v. Aathmika Holdings (P) Ltd. (2025) 237 TTJ 943 / 176 taxmann.com 1001 (Chennai)(Trib)

971 **S. 56 : Income from Other Sources-Share Premium-DCF Method-Unrealistic and unverified projections; ignored the ICAI Technical Guide-addition was affirmed. [S. 56(2)(viib), R.11UA (2)(b)]**
Where the valuation report adopting the DCF method was based on unrealistic and unverified projections, ignored the ICAI Technical Guide on Share Valuation and substantially differed from the company's actual financial performance, the Assessing Officer was justified in rejecting the DCF valuation and adopting the NAV method. Consequently, the addition under section 56(2)(viib) in respect of excessive share premium was upheld. (AY. 2015-16)
Kataria Snack Pellets (P.) Ltd. v. ACIT (2025) 238 TTJ 113 (Rajkot)(Trib.).

972 **S. 56 : Income from Other Sources-Interest on enhanced compensation under section 28 of the Land Acquisition Act-Taxable on a receipt basis. The amended provisions constitute a complete code and prevail over the character assigned to such receipts under the Land Acquisition Act or under judicial precedents rendered under the pre-amendment law. [S 2(28A), 14, 45(5), 56(2)(viii), 145B(1), Land Acquisition Act, 1894, S. 28]**
The assessees contended that interest received under section 28 of the Land Acquisition Act formed part of compensation and was not taxable as income from other sources. The Tribunal held that with effect from 1-4-2010, Parliament introduced a specific charging mechanism under sections 56(2)(viii) and 145B(1), mandating that interest on compensation or enhanced compensation is taxable under the head "Income from Other Sources" on a receipt basis. The amended provisions constitute a complete code and prevail over the character assigned to such receipts under the Land Acquisition Act or under judicial precedents rendered under the pre-amendment law. Accordingly, interest received under section 28 of the Land Acquisition Act was held taxable under section 56(2)(viii). (AY. 2012-13 to 2015-16, 2017-18, 2018-19, 2020-21 & 2023-24)
Ajay Kumar & Ors. v. ITO (2025) 238 TTJ 953 (Chd.)(Trib.)
ITO v. Nachhatar Singh v. ITO (2025) 238 TTJ 953 (Chd.)(Trib.)

973 **S. 56 : Income from other sources-Income-Search and seizure-Fraudulent Income-tax refunds obtained through bogus challans-Income invested in shares and deposits-Assessee having tangible control and dominion over funds-Taxable on accrual, not merely on receipt-Recovery or repayment in subsequent years cannot negate**

taxability in year of accrual-Deduction for recovery/repayment not allowable under section 57-Fraudulent income taxable under "Income from other sources-Offences and prosecution-Execution of false challans with intent to defraud Income-tax Department-Revenue authorities directed to take deterrent action permitted by law. [S.2(24), 57, 132, 277, Indian Penal Code, 1860, S. 177, 193, 196, 199]

Following a search under section 132 on the assessee, a CA, incriminating documents revealed that he had fraudulently obtained Income-tax refunds of his clients using bogus challans and invested the proceeds in shares and deposits in his family's HUF and other accounts, additions for which were confirmed by CIT(A) even after the matter was restored by the Tribunal for fresh consideration, rejecting the assessee's claim that recovery of the refund money by the Government in subsequent years should be allowed as a deduction. On appeal, the Tribunal held that since the assessee had accepted the fraudulent activity and exercised tangible control and dominion over the funds, leveraging them for personal economic gains, the income was taxable in the year of accrual under the inclusive definition of income in section 2(24), which does not distinguish between legal and illegal earnings, and that subsequent recovery or restitution of the fraudulent income did not negate its taxability for the year of accrual under the doctrine of real income; the claim for deduction of the recovered amount failed to satisfy the conditions under section 57, since restitution of wrongful gains was not an expense incurred wholly and exclusively for earning income, and allowing such deduction would incentivise fraud, and accordingly the fraudulent income was upheld as taxable under "Income from other sources". The Tribunal further directed the Revenue authorities to take appropriate deterrent action as permitted by law against such fraudulent claims defrauding the Income-tax Department (AY. 1992-93, 1993-94)

Mukesh Rasiklal Shah v. ACIT (2025) 132 ITR 536(Ahd) (Trib.)

S. 56 : Income from other sources-Hoarding charges-Not income from house property. [S. 22] 974

The assessee received consideration under an agreement permitting installation of an advertisement hoarding on the terrace. The Tribunal held that the payment was for permitting display of a hoarding and not for letting out the terrace or any part of the building. The receipts were therefore assessable as "Income from other sources" and not as "Income from house property". (AY. 2017-18).

Gowri Shankar Gupta v. ITO (2025) 127 ITR 595 (Hyd.)(Trib.)

S. 56: Income from other sources-Purchase of shares-Value adopted by assessee higher than fair market value-Provision not attracted. [S. 56(2)(viib), [S.92C, R. 11UA] 975

The Revenue sought to invoke section 56(2)(viia) on the purchase of shares by the assessee. The Tribunal held that the value adopted by the assessee was higher than the fair market value determined under Rule 11UA and, therefore, the provisions of section 56(2)(viia) were not attracted. The addition was directed to be deleted. (AY. 2017-18).

TPG Growth II Markets Pte. Ltd. v. Dy. CIT [2023] 153 taxmann.com 368 / (2025) 129 ITR 175 (Mum.)(Trib.)

976 **S. 56 : Income from other sources-Capital gains-Income from other sources-Sale of immovable property-Difference between sale consideration and stamp duty value less than ten per cent.-No addition.[S.50C, 56(2)(x)**

The Assessing Officer made an addition under section 56(2)(x) on the difference between the sale consideration of two flats and the stamp duty value. The Tribunal held that the variation between the declared consideration and the value adopted under section 50C was within the statutory tolerance limit of 10 per cent. Consequently, section 56(2)(x) had no application and the addition was deleted. (AY. 2013-14).

Nalanda Builders (P.) Ltd. v. Dy. CIT (2025) 122 ITR 346 (Kol.)(Trib.)

977 **S. 56 : Income from other sources-Purchase of immovable property-Amendment effective from 2014-Not applicable retrospectively.[S. 56(2)(vii)(b)(ii)]**

The assessee purchased agricultural land in August 2012 for consideration substantially lower than the stamp duty value. The Assessing Officer invoked section 56(2)(vii)(b)(ii) and taxed the difference as income from other sources. The Tribunal held that the amendment bringing such transactions within the ambit of section 56(2)(vii)(b)(ii) came into force only from 2014 and could not be applied retrospectively to a transaction undertaken in financial year 2012-13. The addition was therefore deleted. (AY. 2013-14).

Vimla Tripathi v. ITO (2025) 122 ITR 312 / 170 taxmann.com 507 (Lucknow)(Trib.)

978 **S. 56 : Income from other sources-Shares held as stock-in-trade-Purchase below fair market value-Provision not applicable.[S. 2(14), 56(2)(vii) R. 11UA]**

The assessee, engaged in share trading and investment, purchased shares below their fair market value and held them as stock-in-trade. The Tribunal held that section 56(2)(viia) was enacted as an anti-abuse provision to curb laundering of unaccounted income and applies only to shares constituting capital assets. Shares held as stock-in-trade in the ordinary course of business fall outside its ambit. Since the Department had accepted similar treatment in the case of the assessee's sister concern and there was no allegation of money laundering, the addition under section 56(2)(viia) was deleted. (AY. 2017-18).

Utility Supply (P.) Ltd. v. Dy. CIT (2025) 124 ITR 324 / 174 taxmann.com 250 (Mum.)(Trib.)

979 **S. 56 : Income from other sources-Share premium-Fair market value-Valuation report not examined by Assessing Officer-Matter remanded. [S.56(2)(viib), R. 11UA]**

The Assessing Officer determined the fair market value of shares solely on the basis of the book value method and treated the excess share premium received by the assessee as taxable under section 56(2)(viib). Before the Commissioner (Appeals), the assessee produced a valuation report based on the Discounted Cash Flow method, which was rejected without giving the assessee an opportunity to explain or substantiate the report. The Tribunal held that neither the Assessing Officer nor the Commissioner (Appeals) had objectively examined the valuation report. The matter was therefore restored to the Assessing Officer for de novo adjudication after providing adequate opportunity to the assessee. (AY. 2014-15).

Tajshree Autowheels (P.) Ltd. v. Asst. CIT (2025) 125 ITR 198 / 177 taxmann.com 210 (Nagpur)(Trib.)

S. 56: Income from other sources-Property received as a gift from step-sister-Step-sister and step-brother fall within the definition of 'relative' and therefore, they are to be treated as brother and sister for S. 56(2)(vii) and, consequently, property received by a stepbrother from a stepsister by way of gift cannot be taxed under s. 56(2)(vii)(b). [S.2(15B), 56(2)(viib), Reserve Bank of India Act, 1934, S. 45S, Companies Act, 2013, S.2(77)] 980

Tribunal held that, S.. 2(15B) of the IT Act, 1961 defines the word "child". It states that "any relation to an individual includes a stepchild and an adopted child of that individual"; thus, a stepchild has been treated as a child for the purpose of the IT Act, and if this analogy is taken into consideration, then stepbrother and stepsister should also be reckoned as brother and sister. Further, Section 45S of the Reserve Bank of India Act, 1934 provides the list of relatives which includes "step brother and step sister". Similarly, s. 2(77) of the Companies Act, 2013 includes stepbrother and step-sister within the meaning of the term "relative". According to Black's Law Dictionary, "relative" includes persons connected by ties of affinity as well as consanguinity and when used with a restrictive meaning, refers to those only who are connected by blood. Individuals related by affinity also include individuals in a step or adoptive relationship. Thus, the term "relative" would also include "stepbrother and stepsister". Affinity is of three kinds : (1) Direct, that subsists between the husband and his wife's relations by blood or between the wife and her husband's relations by blood; (2) Secondary, that subsists between the husband and his wife's relations by marriage; and (3) Collateral, that subsists between the husband and the relations of his wife's relations. Accordingly, step sister and step brother are part of the family by affinity and in common sense, they are related to each other as brother and sister. As per the Dictionary meaning, the term "relative" includes a person related by affinity, which means the connection existing in consequence of marriage between each of the married persons and the kindred of the other. If the aforesaid Dictionary meaning is to be referred to and relied upon, then the term "relative" would include stepbrother and stepsister by affinity. If the term "brother and sister of the individual" has not been defined under the IT Act, the meaning defined in common law has to be adopted and in the absence of any other negative covenant under the Act, brother and sister should also include step-brother and step-sister who, by virtue of the marriage of their parents, have become brother and sister. Accordingly, a gift given by a step-sister to a step-brother falls within the definition of 'relative', that is, they are to be treated as brother and sister as per s. 56(2)(vii) and consequently, property received by a step-brother from a step-sister by way of gift cannot be taxed under s. 56(2). Accordingly, the claim of the assessee that the gift received from his stepsister is exempt from being taxed as income from other sources is accepted and accordingly, the addition made by the AO is deleted. (AY. 2016-17)

Rabin Arup Mukerjea v. ITO (IT) (2025) 234 TTJ 820/ 172 taxmann.com 855 / 2026] 134 ITR 413 (Mum)(Trib)

S. 56: Income from other sources-Interest-Highway project-Temporary parking of such funds in short-term deposits, interest earned thereon being inextricably linked with setting up of infrastructure facility was capital in nature and to be reduced from capital work-in-progress.[S. 4, 37(1)] 981

Assessee-company, engaged in development of Chenani-Nashri Tunnel project on BOT basis, had parked borrowed funds and promoter's contribution temporarily in short-

term fixed deposits pending utilisation for construction of project. Assessee capitalised interest earned on such deposits and reduced the same from the cost of capital work-in-progress. Assessing Officer treated said interest as taxable under head 'Income from other sources'. CIT(A) held that, since entire funds were raised for execution of project and temporary parking of funds was only to ensure liquidity and reduce overall project cost, interest earned thereon was inextricably linked with setting up of infrastructure facility and such interest, being capital in nature, had to be reduced from capital work-in-progress and could not be brought to tax under head 'Income from other sources'. On appeal, the Tribunal affirmed the order of the CIT(A). (AY. 2012-13)
ACIT v. Chenani Nashri Tunnelway Ltd. (2025) 215 ITD 197 (Mum) (Trib.)

982 **S. 56: Income from other sources-Income from other sources-Shares at premium-Cash flow method-Matter was to be restored to the file of CIT(A) for fresh adjudication. [S.56(2)(viib)]**
Assessee-company issued shares at a premium. Assessing Officer made an addition under section 56(2)(viib) on the ground that shares were issued at an exorbitant premium. CIT(A) deleted the additions. On appeal, the Tribunal held that as per the first valuation certificate, fair market value was Rs. 50,176, and in the second valuation certificate, fair market value per share was Rs. 1.61 lakhs. Since Wipro Enterprises Ltd was neither a venture capital nor a SEBI-registered fund very basis of granting of relief was incorrect. Tribunal held that since the assessee had furnished the necessary details and documentary evidence showing that the source of investment was duly explained and shares were issued at fair market value determined by a registered valuer under the discounted cash flow method, the matter was to be restored to the file of CIT(A) for fresh adjudication. (AY. 2021-22)
ACIT, Central Circle. v. Sanghvi Beauty and Technologies (P.) Ltd. (2025) 215 ITD 588 (Pune) (Trib.)

983 **S. 56: Income from other sources-Gift-Brother-in-law (spouse of his sister)-Through NRE account-Source of amount being from a relative-Amount was not liable to be included in the total income of assessee.[S. 56(2)(x)]**
Assessee received a gift from his brother-in-law (spouse of his sister) through an NRE account. Assessing Officer held that the gift deed was not made in India but in the USA and the deed also did not bear the signature of the recipient, and, thus, he held that since no proper gift deed was made, the amount was liable to be assessed as 'income from other sources. Tribunal held that money had been received through a banking channel. Tribunal held that section 56 does not require a valid gift deed, but it is provided in the section itself that if an amount is received from a relative as defined therein, the same is not liable to be assessed under section 56. Since the source of the amount was from a relative was not in question, the amount was not liable to be included in the total income of the assessee. Since the necessary documentary evidence in support of the claim that the amount was received from a relative was furnished by the assessee, there was no occasion to insist on a gift deed for excluding the amount received from the brother-in-law. The addition made by the Assessing Officer was deleted. (AY. 2012-13)
Deb Prasanna Choudhury v. ADIT (2025) 215 ITD 675 (Kol) (Trib.)

S. 56: Income from other sources-Share premium-valuation of unquoted shares-Order of CIT(A) deleting the addition is affirmed. [S.56(2), (viib), R. 11UA] 984

Assessing Officer rejected the valuation of unquoted shares held by the assessee and made an addition under section 56(2)(viib) of the Act. CIT(A) deleted the addition. On appeal, the Tribunal held that since the assessee had taken FMV valuation relying upon data available in audited/ published financials of respective corporate entities, the value of unquoted equity shares investment held by the assessee had been correctly calculated. Order of CIT (A) is affirmed. (AY. 2016-17)

ITO v. Ninecube Technologies (P.) Ltd. (2025) 214 ITD 276 (Delhi) (Trib.)

S. 56: Income from other sources-Fixed deposit with bank-Assessable as income from other sources-Interest expenditure-, Deduction under section 57(iii) was to be allowed after examining the nexus of the same with interest income. [S 57 (iii)] 985

Held that the assessee earned interest income and other income on funds parked as fixed deposits with banks, since there was no material available on record to prove that the granting of advances/loans to sister concerns and maintaining deposits in the bank was for the purpose of business, said income could only be treated as income from other sources. Since assessee had also debited interest expenditure/finance costs to its profit and loss account, deduction of the same under section 57(iii) was to be allowed after examining the nexus of the same with interest income. (AY. 2017-18)

Shapoorji Pallonji Energy (Gujarat) (P) Ltd. v. DCIT (2025) 214 ITD 297 (Mum) (Trib.)

S. 56: Income from other sources-Agricultural land-Capital gains-Full value of consideration-Stamp valuation-Agricultural land is also covered under section 56 (2) (x)-When the value of land is disputed, the Assessing Officer ought to have referred the matter to the Departmental Valuation Officer (DVO)-Matter remanded. [S.2(14) 50C(2), 56(2)(10)] 986

Tribunal held that since the value of the property was disputed, the Assessing Officer had to make a reference to DVO for the purpose of valuing the same; Agricultural land cannot be taken out of the purview of section 56(2)(x). Matter remanded. (AY. 2018-19)

Clayking Minerals LLP v. ITO (2025) 213 ITD 1 (Ahd) (Trib.)

S. 56 : Income from other sources-Capital gains-Acquisition of agricultural land-Wrongly offered as income from other sources-Interest on enhanced compensation-Matter remanded to decide in accordance with law. [S. 10(37), 45, 143(1), Land Acquisition Act, 1894, S, 28, 34] 987

Due to a clerical mistake, enhanced compensation received by assessee on account of compulsory acquisition of agricultural land was reduced under the head 'other sources' instead of the correct head 'exempt', consequently, the Assessing Officer added the same to assessee's income. On appeal, the Tribunal remanded the matter to Assessing Officer to reduce the amount of the aforesaid compensation from the total income of the assessee. As regards interest on compensation, also required factual verification; the issue was restored to the Assessing Officer. (AY. 2018-19)

Centum Finance Ltd. v. DCIT (2025) 213 ITD 269 (Delhi) (Trib.)

988 **S. 56: Income from other sources-Valuation of shares-Consideration shown was Rs 1.-Lock-in-Lowest price traded was Rs 22. 88-Mere fact that shares were in lock-in was not sufficient to come to the conclusion that market value shall be determined in a manner similar to that of unquoted shares, i.e. in accordance with rule 11UA-Matter remanded to the file of the Assessing Officer. [R.11UA(1)(c) (b)]**

Assessee purchased shares of a company for a total consideration of Rs. 1. Assessing Officer held that shares were traded on the stock exchange and lowest price traded was Rs. 22.88 per share; thus, FMV on the date of transfer was Rs. 22.88 per share. Accordingly, he made an addition. On appeal, the assessee explained that shares purchased by it were under lock-in as per requirements of SEBI Regulations 2009; hence, such shares did not qualify as quoted shares as defined under rule 11U and, therefore, shares were required to be valued as per rule 11UA(1)(c)(b). As per the Valuation Report, the FMV of shares purchased by the assessee was negative. CIT(A) deleted the additions. On appeal, the Tribunal held that nowhere was it emanating from the assessment order or the order of the Commissioner (Appeals) that the period of lock-in of shares purchased by the assessee was discussed. Further, the class of shares purchased by the assessee i.e. shares purchased by assessee were also listed on the stock exchange was also not emanate from the order. The mere fact that shares were in lock-in was not sufficient to come to the conclusion that market value shall be determined in a manner similar to that of unquoted shares i.e. in accordance with rule 11UA. Assessing Officer should examine the relevance and impact of the issuance of convertible warrants to the outgoing promoter on the FMV of shares. Accordingly, the issue was restored to the Assessing Officer for de novo assessment. (AY. 2015-16)

ACIT v. Ajay Singh (2025) 213 ITD 386 (Delhi) (Trib)

989 **S. 56: Income from other sources-Relinquishment of rights over land-Symbolic possession-Failure to submit details-Amount received assessable as income from other sources and not as capital gains-Insurance refund-Amount received on surrender of life insurance policy-Addition cannot be made as unexplained money-Addition was deleted.[S.2(14), 45, 68]**

Assessee claimed that it entered into an agreement to acquire land in year 1992-93. However, registration of the sale deed could not be made. During the relevant assessment year, said housing society was in process to sell same land on which he had symbolic possession and received certain money to relinquish title over such land. Assessee offered said amount as long-term capital gain. Assessing Officer treated the same as income from other sources on the ground that assessee was not a property developer, and there was no transfer of property to assessee. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that since the assessee had not submitted any details in the form of a settlement agreement or deed of relinquishment of right in property, the amount received by the assessee could not be treated as long-term capital gain but as income from other sources as treated by the Assessing Officer. As regards the amount received as a refund for the surrender of a life insurance policy and the relevant details of the amount received from the surrender of the policy, as well as the earlier payment made to the insurance company, were submitted to the revenue authorities, such exempt income could not be treated as unexplained money under section 68 (AY. 2016-17)

Hiren Rameshbhai Patel v. DCIT (2025) 213 ITD 392 (Ahd) (Trib.)

S. 56: Income from other sources-Interest on compensation 990

Interest received on compensation/enhanced compensation on acquisition of land by State Government shall be considered as income from other sources and shall be exigible to income tax.

Assessee received compensation of Rs. 1.88 crores in respect of its agricultural land acquired by State Government. Out of said amount, Rs. 85.24 lakhs was enhanced compensation and Rs. 1.03 crores was interest on such enhanced compensation. Assessee claimed that entire interest received of Rs. 1.03 crores was to be treated as exempt. CIT(A) allowed the appeal of the assessee. On appeal the Tribunal held that the interest received on compensation/enhanced compensation shall be considered as income from other sources and shall be exigible to income tax. Accordingly, the order of CIT(A) was set aside. (AY. 2018-19)

ITO v. Gurdev Singh (2025) 213 ITD 654 (Delhi) (Trib.)

S. 56: Income from other sources-Gift of management system to managing trustee-Personal gifts received by trustee has to be considered in individual hands of the donee in her assessment and not in the hands of the trust. [S. 56(2)(x)(a), 132, 153A] 991

During a search conducted under section 132 upon assessee-trust, a 'gift management system' was seized wherein personal gifts received by the managing trustee from various persons during various programs conducted by the trust were recorded. Assessing Officer made an addition of Rs. 16.39 lakhs, being the aggregate of personal gifts received by the managing trustee as per the 'gift management system'. On appeal, CIT(A) deleted the addition made by the Assessing Officer, except Rs. 19,900 being gifts received by the managing trustee which were not offered to tax. On appeal, the Tribunal held that since the name of the donee was specifically mentioned in the 'gift management system', personal gifts received were to be considered in the individual hands of the donee in her assessment and not in the hands of the trust. Since the entire cash gifts received by the donee were less than Rs.50,000, the same were not taxable in her hands. (AY. 2019-20 to 2021-22)

Jesus Calls v. DCIT (2025) 213 ITD 681 (Chennai) (Trib.)

S. 56: Income from Other Sources-Stamp duty valuation-Difference between agreement date and registration date-Allotment letter treated as "agreement"-Part consideration paid through banking channel before agreement-Stamp duty valuation to be adopted as on date of allotment-Addition deleted.[S. 50C,56(2)(vii)(b).] 992

Where the assessee purchased a flat for ₹1,10,00,000 and the AO made an addition of ₹59,87,000 under section 56(2)(vii)(b) by adopting the stamp duty valuation as on 30-03-2017, the CIT(A) upheld the addition holding that no evidence was furnished for adopting earlier valuation; however, before the Tribunal the assessee established that an allotment letter dated 29-11-2012 had been issued and part of the consideration was paid through banking channels in 2011-12, satisfying the statutory condition for applying the first proviso to section 56(2)(vii)(b). The Tribunal held that once an agreement (allotment letter) exists and consideration is paid through non-cash modes prior to the agreement date, the stamp duty value relevant to the year of agreement (F.Y. 2012-13) must be adopted. Since the registered valuer's report contemporaneous to

2012-13 reflected the same consideration of ₹1,10,00,000, no difference subsisted, and the addition was unsustainable. The Tribunal deleted the addition and remanded the matter to the AO only for the limited purpose of recomputation applying valuation as on the agreement year, after providing opportunity of hearing. (ITA No. 6045/Mum/2025, Order dated 27-11-2025.) (AY.2017-18)
Awadhnarayan Bhagwanta Singh v. ITO (Mum)(Trib) www.itatonline.org

993 **S. 56 : Income from other sources-Property received for inadequate consideration-Difference between agreement value and stamp duty value-Oral agreement supported by contemporaneous evidence-Agreement fixing the consideration and does not mandatorily require a written agreement-Change in stamp duty valuation method-Addition not sustainable-No binding precedent-Tribunal held that decision is based the facts and circumstances unique to assessee's case and therefore the same cannot be applied as precedent in any other case. [S. 56(2)(vii)(b)(ii), 69B]**
The assessee purchased a property for ₹3.15 crore, whereas the stamp duty valuation on the date of registration (31-12-2015) was ₹4.12 crore. The Assessing Officer treated the difference as unexplained investment u/s 69B, while the CIT(A) upheld the addition u/s 56(2)(vii)(b) holding that the benefit of the proviso could not be extended in the absence of a written agreement. On appeal, the Tribunal held that the assessee had entered into an oral agreement with the sellers in May 2015 and paid advances of ₹54 lakh and ₹1.61 crore after deducting TDS, duly reflected in Form 26QB mentioning the full consideration of ₹3.15 crore. The bank loan application and affidavits of the sellers also corroborated the consideration agreed. The Tribunal observed that the increase in stamp duty value between May and December 2015 was only on account of a change in the method of valuation introduced by Circular dated 04-11-2015 by the Stamp Authorities, and not due to any real appreciation in the market value. Since the ready reckoner rate per sq. metre remained unchanged throughout the year, the difference was held to be notional. It was further held that the proviso to section 56(2)(vii)(b) speaks of an "agreement fixing the consideration" and does not mandatorily require a written agreement. On the facts, the oral agreement stood substantiated by documentary evidence. Accordingly, the addition u/s 56(2)(vii)(b) was deleted. Tribunal observed that the decision is based on the facts and circumstances unique to assessee's case and therefore the same cannot be applied as precedent in any other case. (ITA No. 4154/Mum/2025, dt. 02-09-2025)(AY. 2016-17)
Sharad Sevantilal Shah v. ITO (Mum)(Trib.) www.itatonline.org

994 **S. 56 : Income from other sources-Immovable property-Purchase consideration-DVO valuation-Difference of 7% within 10% safe harbour-Amendment by Finance Act, 2020 curative and retrospective-Addition deleted.[S. 50C, 56(2)(x)(b)(B)]**
The assessee, an individual, purchased a property for ₹60,00,000/-. The District Valuation Officer (DVO) valued the property at ₹64,84,000/-, resulting in a difference of ₹4,84,000/-. The Assessing Officer treated the difference as income under section 56(2)(x) of the Act and made an addition. The CIT(A) upheld the addition based on the DVO's valuation. On appeal, the Tribunal held that the difference between the purchase consideration and DVO valuation was about 7%, which fell within the 10% tolerance limit introduced by

Finance Act, 2020. Relying on judicial precedents, including the principle laid down by the Supreme Court in CIT v. Alom Enterprise Ltd. (2009) 185 Taxman 416/ 319 ITR 306 (SC), the Tribunal held that the amendment was curative and remedial in nature, and hence applicable retrospectively. As the difference was within the permissible limit, no addition could be sustained. Addition of ₹4,84,000 deleted. Appeal allowed in favour of assessee. Referred, *NFAC Delhi v. NRB Developers [2025] 211 ITD 728 (Mum) (Trib.), Saggar Parimmal v. ITO [2025] 174 taxmann.com 805 (Mum)(Trib.) Shri Ashutosh Sinha v. ITO, ITA No. 643/Mum/2023, dated 29-8-2023, (Mum) (Trib.) (ITA No. 4425/Mum/2025 dt. 25-8-2025)* (AY 2018-19)
Ramesh Dnyandeo Dhuri v. ITO (SMC)(Mum)(Trib), www.itatonline.org

S. 56 : Income from other sources-Purchase of land along with other co-owners-Difference between fair market value and purchase consideration was approximately 10 per cent of purchase consideration of property-Addition was deleted. [S.56(2)(x)] 995
Assessee purchased a parcel of land along with other co-owners for total consideration of Rs. 2.01 crores. Stamp duty value of same was found to be of Rs. 3.32 crores Assessing Officer invoked provisions of section 56(2)(x) and made an addition of difference, to extent of assessee's holdings in said land, which tantamounted to 47.50 per cent of total land. CIT(A) affirmed the addition. On appeal the Tribunal held that in case of third co-owner of land itself had deleted addition made under section 56(2)(x) on ground that difference between fair market value and purchase consideration was approximately 10 per cent of purchase consideration of property which was not a material difference. On facts addition was deleted. (AY. 2018-19)
Arvindkumar Jagjivandas Thakkar v. ITO (2025) 212 ITD 504 (Ahd) (Trib.)

S. 56 : Income from other sources-Sale of immoveable property-Sale consideration and stamp value-Provisions is applicable to purchaser and not seller-Matter is remanded back to Assessing Officer.[S. 56(2)(x)] 996
Assessee sold an immovable property for certain consideration. Assessing Officer held that stamp duty value was higher than sale consideration. He made addition on account of difference in stamp duty value and sale consideration of said property under section 56(2)(x). CIT(A) sustained the addition. On appeal the Tribunal held that the Assessing Officer had not given any finding on this issue and Commissioner (Appeals) had merely sustained addition made by Assessing Officer without giving any finding regarding applicability of said provisions. Matter remanded to the Assessing Officer. (AY. 2017-18)
Latika Sakharam Patil v. ITO (2025) 212 ITD 89 (Pune) (Trib.)

S. 56 : Income from other sources-Purchase of immovable property-Sale agreement dated 1-6-2012 and received possession on same day-Document was registered on 27-6-2013-Provision was inserted in statute with effect from 1-4-2014-Addition is deleted [S. 56(2)(vii)(b)(ii)] 997
Assessee purchased an immovable property vide sale agreement dated 1-6-2012 and received possession on same day by executing documents which were registered on 27-6-2013. The AO held that the assessee had paid stamp duty on value adopted for stamp duty purpose, hence, difference of purchase consideration and market value was

proposed to be treated as income from other sources by invoking provisions of section 56(2)(vii)(b)(ii) of the Act. CIT(A) affirmed the order of the AO. On appeal the Tribunal held that since provisions of section 56(2)(vii)(b)(ii) have been inserted in statute with effect from 1-4-2014 and not before that while assessee had already executed agreement during assessment year 2013-14 itself, provisions of section 56(2)(vii)(b)(ii) were not applicable to said transaction per se. Addition is deleted.(AY. 2014-15)
Nitin Narayan Kadamdhad v. ITO (2025) 212 ITD 199 (Nagpur) (Trib.)

998 **S. 56 : Income from other sources-Part consideration was paid as per allotment letter-Allotment of new flat was made in continuation of replacing of earlier allotment letter-Addition is deleted.[S. 56(2)(x)]**
Assessee purchased property. Assessing Officer held that stamp value of said property was higher than purchase price. He made addition of difference of such amount to assessee's total income under section 56(2)(x) of the Act. CIT(A) affirmed the order of the AO. On appeal the Tribunal held that the assessee demonstrated from relevant supporting material that allotment of new flat had been made to assessee in continuation of replacing of earlier allotment which was changed because of unavoidable circumstances of change in Development Control Regulation, as per proviso to section 56(2)(x) first allotment letter was to be considered as agreement to sell. Addition is deleted. (AY. 2018-19)
Pinstripe Properties (P.) Ltd. v. Dy.CIT (2025) 212 ITD 223 (Mum) (Trib.)

999 **S. 56 : Income from other sources-Former Cricketer-Revised return-Amount shown as taxable in the return-Return is accepted-Delay of 1993 days in filing the appeal before CIT(A) is condoned-One-time benefit received by assessee, a former cricketer, from BCCI in recognition of his services to Indian cricket-Exempt under section 56(2)(vii)-BCCI is a trust registered under section 12AA of the Act. [S. 12AA, 56 (2)(vii, 143(1), Art. 265]**
Assessee, a former cricketer, had offered to tax a sum received from BCCI as one-time benefit in recognition of his services to Indian cricket. Subsequently, assessee was advised that said one-time benefit received from BCCI was exempt under section 56(2)(vii) of the Act. The assessee filed an appeal before CIT(A) which was delyed by 1993 days. CIT(A) refused to condone the delay. On appeal the Tribunal condoned the delay and held that one-time benefit received from BCCI in recognition of services would be eligible for exemption under section 56(2)(vii) as BCCI is a trust or institution registered under section 12AA. The Tribunal also held that since assessee had voluntarily come forward to offer one-time benefit received from BCCI to tax in return of income, said receipt could not be brought to tax merely because assessee had offered erroneously in return of income. (AY. 2013-14)
Kapil Dev Nikhanj v. ACIT (2025) 212 ITD 191//235 TTJ 717 (Delhi) (Trib.)

1000 **S. 56 : Income from other sources-Share premium-Valuation under DCF method-AO cannot substitute or reject valuation done by a prescribed valuer without authority-Projection variations with actuals cannot be a ground to disregard valuation-Deletion of addition justified. [S. 56(2)(viib), 11UA(2)(b)]**
The assessee issued shares at a premium of ₹10 per share based on a Chartered Accountant's valuation using the DCF method as prescribed under Rule 11UA(2)(b). The

AO rejected the valuation citing unrealistic projections and absence of tangible assets, and added the premium to income u/s 56(2)(viib). The CIT(A) noted that in AY 2018-19, the same valuer's report was accepted by the department and deleted the addition. The Tribunal, following *Cinestaan Entertainment (P.) Ltd. v. ITO [2019] 106 taxmann.com 300 (Delhi)(Trib)* affirmed in *PCIT v. Cinestaan Entertainment (P.) Ltd.[2021] 433 ITR [2021] 433 ITR 82 (Delhi)(HC),* held that where a recognised method prescribed in law is adopted by a qualified valuer, the AO cannot substitute his own valuation or reject it merely because projections differ from actual results. Variations are inherent in DCF valuation, which is based on reasonable estimates. Deletion of addition upheld. (AYs 2016-17, 2017-18) (ITA Nos. 3083-3084/Mum/2025, dt. 11-8-2025)
Max Hospitals and Allied Services Ltd. v. DCIT, (Mum)(Trib)www.itatonline.org

S. 56: Income from other sources-Share premium received by a private company-DCF Method is a valid method under rule 11UA-No defects pointed out in valuation report-Addition is deleted. [S. 56(2)(viib), R.11UA] 1001

Assessee-company issued 1,70,000 shares at a face value of Rs.10 per share at a premium of Rs.20 per share, raising a total capital of Rs.51,00,000 (Rs.17,00,000 as share capital + Rs.34,00,000 as share premium). AO invoked section 56(2)(viib) and treated the entire amount of Rs.51,00,000 as 'Income from other sources', holding that assessee did not carry out any active business during the year. The valuation report submitted by assessee was not in accordance with rule 11UA, as it relied on the Adjusted Net Asset Method and Future Earnings Analysis, not prescribed under rule 11UA.DCF Method is a valid method under rule 11UA, and AO cannot reject it merely because it leads to a higher valuation. In the instant case, assessee submitted a CA-certified valuation report, which was neither doubted nor challenged by AO. AO erred in rejecting assessee's valuation report without pointing out any specific defects. Therefore, addition under section 56(2)(viib) made by AO, based on an incorrect interpretation of valuation rules, was deleted. [AY. 2015-16],
Patel Minerals Pvt Ltd v. ACIT [2025] 172 taxmann.com 287 / 121 ITR 45 (SN) (Jodhpur) (Trib)

S. 56 : Income from other sources-Issue of shares at premium-Merchant banker on the basis of DCF method-No valuation by DCF method at the time of issuance of shares-Valuation report was obtained in the course of assessment proceedings-The AO is justified in determining the fair market value of shares by applying R. 11UA(2) and making addition by invoking section 56(2)(vib) of the Act. [S. 56(2)(vib), R.11UA(2)] 1002

Assessee issued shares at Rs. 150 per share including a premium of Rs. 140 per share. It produced value of the shares determined by the merchant banker on the basis of DCF method. AO rejected the valuation report on the ground that the assessee failed to produce supporting documents and it was prepared based on the discussion with the management of the company. No material was filed supporting the DCF method. CIT(A) affirmed the order. On appeal the Tribunal held that AO rightly adopted the method under R. 11UA(2) in determining the FMV of the unquoted shares at Rs. 63.47. Assessee obtained valuation of shares by DCF method only during the course of assessment proceedings in the year 2021 and there was no valuation by DCF method at the time of issuance of shares. Arguments of the Authorised Representative that option is left to

the assessee to adopt any date i.e., the date of valuation report by merchant bankers for the purpose of sub-r. (2) of r. 11UA cannot be accepted in view of sub-r. (3) thereof. The AO was justified in invoking the provisions of s. 56(2) (viib) r/w r. 11UA. *Brio Bliss Life Science (P) Ltd. v. ITO (ITA No. 3067/Chny/2019, dt. 22nd Feb., 2023*) distinguished. (AY. 2018-19)
SPL Infrastructure (P) Ltd. v. ITO [2024] 169 taxmann.com 459/ (2025) 233 TTJ 495 / 245 DTR 321 (Chennai)(Trib)

1003 **S. 56 : Income from other sources-Tolerance limit-DVO's valuation report-Amendment introduced by Finance Act, 2020, increasing tolerance limit under section 56(2)(x)(b)(B) from 5 per cent to 10 per cent, has retrospective effect and applies to assessment year 2018-19.[S.56(2)(x)(b) (B)]**
Assessee purchased a property for Rs.8.19 crores. Booking payment was made, and allotment letter was issued on 30-3-2010. Assessing Officer made an addition of Rs. 9.04 crores under section 56(2)(x) due to a difference between set forth value and stamp duty value-Commissioner(Appeals) restricted addition to Rs. 81.19 lakhs based on DVO's valuation report. On appeal the assessee contended that Finance Act, 2020, increased tolerance limit from 5 per cent to 10 per cent under section 56(2)(x)(b)(B) and that amendment has retrospective effect. The Tribunal held that provision of section 56(2)(x)(b)(B) has retrospective effect and is applicable to impugned assessment year, therefore, matter is remanded to Assessing Officer for allowing assessee incremental differences as per section 56(2)(x)(b)(B) for alleged properties. (AY. 2018-19)
NFAC v. NRB Developers (2025) 211 ITD 728 (Mum) (Trib.)

1004 **S. 56 : Income from other sources-Under construction property-Gift-Increase in GST adjustment of GST value in total value of consideration would not fall within ambit of section 56(2)(x).[S. 43CA, 50C, 56(2)(x)]**
Assessee booked under construction property. Due to increase in GST rates builder reduced agreement value from Rs. 2.63 crores to Rs. 2.55 crores. Assessing Officer held that registration of property was done at lower cost and accordingly made addition of differential amount in hands of assessee under section 56(2)(x). Commissioner (Appeals) upheld addition made by Assessing Officer. On appeal the Tribunal held that to accommodate purchasers in respect of transferring benefit of GST by including same in total value of consideration. As a result of which value that was agreed had to include GST which was payable by purchasers. Accordingly, the adjustment of GST value in total value of consideration would not fall within the ambit of section 56(2)(x). Addition is deleted. (AY. 2018-19)
Jayantilal Umashankar Chavji v. NEAC (2025) 211 ITD 537/236 TTJ 130 (Mum) (Trib.)

1005 **S. 56 : Income from other sources-Purchase of flat prior to insertion of clause (x) of sub-section (2) of section 56 by Finance Act 2017-Provision is not applicable-Addition is deleted.[S.56(2)(x)]**
Assessee purchased a flat for a consideration of Rs. 19 lakhs-Assessing Officer held that flat had stamp valuation at Rs. 63.78 lakhs and, therefore, difference in invested value and stamp valuation of Rs. 44.78 lakhs was added under section 56(2)(x). Commissioner (Appeals) affirmed order of Assessing Officer by simply holding that case fell within

scope of section 56(2)(x)(b), as amended by Finance Act, 2018 from assessment year 2019-20. On appeal the Tribunal held that since flat was purchased prior to insertion of clause (x) of sub-section (2) of section 56 by Finance Act 2017, provisions of section 56(2)(x) were not applicable. Addition is deleted. (AY. 2020-21)
Kajari Banerjee (Smt.) v. ITO (2025) 211 ITD 358 (Kol) (Trib.)

S. 56 : Income from other sources-Amalgamation-No transfer of shares-Addition is deleted.[S. 47(vii), 56(2)(vii(c)] 1006
Assessee, a public limited company, had amalgamated three private limited companies with itself which were essentially owned by relatives of promoters of assessee. Assessing Officer held that excess value transferred to beneficiary, related parties should be added to returned income of assessee on a protective basis as per section 56(2)(vii)(c) and made addition as protective basis. On appeal the CIT(A) deleted the addition. On appeal the Tribunal held that new shares allotted by amalgamated company did not give rise to a transfer of shares, and hence, also section 56(2)(vii)(c) had no application. Transfer of shares in a scheme of amalgamation was not considered as 'transfer' under section 47(vii) and accordingly, if it was not transferred, then application of section 56(2) was not applicable. Further, there was no anti-abuse of provision and new share was allotted as per amalgamation scheme under supervision of High Court after hearing of all stakeholders including Government. Scheme of amalgamation under which an exchange ratio of shares was approved by High Court and it was conclusive, question of skewed swap ratio or issuing shares at discounted rate did not arise. Order of CIT(A) deleting the addition is affirmed. (AY. 2014-15)
DCIT v. Rajoo Engineers Ltd. (2025) 211 ITD 159/234 TTJ 331 (Rajkot) (Trib.)

S. 56 : Income from other sources-Fraudulently received refunds from income tax department by producing forged challans and parked same in accounts operated by him-Taxable on accrual basis even if the said amount was recovered by the Govt. of India in subsequent years-Deduction-Recovery of income did not constitute an expense incurred wholly and exclusively for purpose of earning income under section-Disallowance is affirmed. [S. 2(24), 4,57, 132] 1007
A search and seizure operation was carried out at residential and office premises of assessee. It was found that assessee had fraudulently obtained refunds from income tax department by producing forged challans. Assessing Officer added amount of such fraudulent refunds to income of assessee. Assessee contended that alleged misappropriation of income tax refund/money receipts was recovered fully, by Govt. of India, hence, it did not constitute income chargeable to tax. On appeal the Tribunal held that the assessee had admitted to fraudulently earning income and parking same in accounts operated by him. Amount out of fraudulent refunds were invested in shares and department had recovered amount by disposal of shares and investments. The Tribunal held that the fraudulent income was recovered or repaid in subsequent years would not negate taxability of income in year of accrual. Provision of section 2(24) is an inclusive definition and does not differentiate between legality or illegality of earning of income. On facts since assessee had admitted to fraudulently earning income and utilized it for economic gains, including investments, such fraudulent income is taxable in hands of assessee as income from other sources. The Tribunal also held that the recovery of income

did not constitute an expense incurred wholly and exclusively for purpose of earning income under section 57. Disallowance is affirmed. (AY. 1992-93, 1993-94)
Mukesh Rasiklal Shah v. ACIT (2025) 211 ITD 74 (Ahd) (Trib.)

1008 **S. 56: Income from other sources-Long term capital loss-Share transfer agreement-Shares sold at an undervalued price-Related party transaction-AO claimed that the transaction was structured to avoid tax-Shares valued at upwards of Rs 19000, per share were sold for Rs 100 per share-Valuation was not in accordance with Rule 11UA-Matter remanded back to AO for recalculating capital gains. [S. 45,56(2)(vii)(b), 56(2)(x), R.11UA(1)(c)(v)]**
Regarding the valuation of long-term capital loss claimed on the sale of shares the ITAT agreed with the AO's findings that the assessee sold shares at a drastically undervalued price despite the recent valuations showing much higher values. The related-party transactions, including the sale of a valuable property to assessee's wife were done at a lower price. However, it found that the AO's computation method was not in line with Rule 11UA. The ITAT remanded the matter to the AO to recalculate capital gains based on the most credible valuation evidence available. (AY. 2013-14, 2014-15, 2019-20)
DCIT v. M. Mahadevan [2025] 175 taxmann.com 383 (Chennai)(Trib)

1009 **S. 56 : Income from other sources-Purchase of properties/payment of sale consideration & taking possession of property-Subsequent registration of sale Deed in the relevant AY-Addition deleted-Non-speaking order-Violation of principles of natural justice. [S. 56(2)(x)(b)]**
Assessee purchased two plots of land for a total consideration of Rs. 2.05 lakhs while its stamp duty value was Rs. 63.25 lakhs in the years 2008 & 2010 i.e. much prior to impugned year and that in said years assessee had entered into an agreement to sell and had paid entire amount of consideration to seller, but sale deed was registered in impugned year. Further, Assessee had also taken possession of said two pieces of land in those years itself. The AO made addition of the difference between stamp value and actual consideration to the total income of assessee u/s 56(2)(x) without assigning any reasons and without discussing the submissions made by the Assessee. The CIT(A) upheld the AO's order. Since both authorities below had passed non-speaking orders and there was no reason at all in orders of authorities below for rejecting assessee's explanation and invoking S. 56(2)(x), such orders were violative of principles of natural justice and therefore, impugned non-speaking order passed by the AO as well as the CIT(A) were to be set aside and consequent additions made in case of assessee were to be deleted (AY. 2020-21)
Babubhai Ramanbhai Patel v. ITO (2025) 210 ITD 165 (Ahd.) (Trib.)

1010 **S. 56: Income from other sources-Share premium-Conversion of a loan into share capital does not exonerate the assessee from the application of S.56(2)(viib)-Addition is affirmed. [S. 56(2)(viib)]**
The AO found that on the face value of share of Rs.10 allotted on 03-11-2012 premium of Rs.90 per share was charged, whereas the shares allotted on 26-3-2013 were issued at a premium of Rs.31.67/-per share only. The AO held that the premium charged to the extent of Rs.55.45 per share was excessive, and accordingly, the share premium of Rs.94.27 lakhs was added u/s. 56(2)(viib).

Held by the Tribunal that the provision of S. 56(2)(viib) applies regardless of whether the consideration for the shares is in the form of money or non-cash consideration (such as the conversion of a loan into share capital). If the company issues shares at a price higher than their FMV, the excess amount over the FMV is chargeable to tax under the head Income from Other Sources, and the conversion of the loan into share capital does not provide an exemption from the application of this section. (AY. 2013-14)
Parasmani Gems (P.) Ltd. v. Dy. CIT [2025] 210 ITD 215 /234 TTJ 664 (Ahd)(Trib.)

S. 56: Income from other sources-Interest on compensation-Assessable as income from other sources. [S.10(37), Land Acquisition Act, 1894, S 28] 1011
The interest on compensation or on enhanced compensation cannot be considered as compensation and shall be chargeable to tax under the head income from other sources. Following *Punjab & Haryana High Court in Mahender Pal Narang v. CBDT [2020] 120 taxmann.com 400/275 Taxman 222/423 ITR 13 (Punjab & Haryana)* it was held that interest issued on the compensation for enhanced compensation is to be treated as income from other sources. (AY. 2019-20)
Vachaspati Sharma v. ITO (2025) 210 ITD 537 (Delhi) (Trib.)

S. 56: Income from other sources-Stamp valuation-Allotment letter-Registration-AO made addition as stamp duty value more than consideration paid-Consideration paid was as per allotment latter and not date of registration-Entitled to the benefits of proviso to Section 56(2)(vii)(b). [S. 56(2)(viib), 143(2)] 1012
The case of the Assessee was selected for scrutiny. AO observed that the Assessee had purchased a flat and the consideration paid for the flat is less than the stamp duty value of the flat and made addition u/s 56(2)(vii)(b) of the Act. The case of the Assessee was that the date of allotment letter fixing the amount of consideration for the transfer of property and date of registration are not the same, therefore market value as on the date of allotment letter may be taken for the purpose of section 56(2)(vii)(b) of the Act. The Tribunal held that, based on the chronology of events, the Assessee is entitled to the benefits of proviso to Section 56(2)(vii)(b). It was also observed that the Assessee has paid the parts of consideration as per the terms and conditions of allotment through banking channels prior to the execution of Sale agreement, the provisos to S.56(2)(x) shall apply to the facts of the present case. However, the date of the allotment letters were not brought on record, therefore, the case of the assessee was restore back to AO for the limited purpose of comparing the actual sale consideration with the stamp duty valuation as on the date of respective allotment letters. (AY. 2014-15)
Manjulaben Himmatlal Jain v. ITO (2025) 233 TTJ 345 (Mum) (Trib)

S. 56 : Income from other sources-Transactions between partners and firm-Will-Family settlement-Brothers and sisters-Changes in the profit sharing ratio-Colourable device-Transfer-Capital contribution-The provisions of Section 56(2)(viia) of the Act is not applicable-Order of CIT(A) deleting the addition is affirmed. [S. 2(31)(iv), 2(47), 14, 56(2)(viia), R. 11UA] 1013
The shares of UFIPL have been introduced as capital contribution @ 92.88/-per share totalling to Rs.2,50,77,507/-. The fair value of Rs.92.88/-per share was computed on

17/12/2015 as per the valuation report prepared by the Chartered Accountant as per Rule 11UA of the Income-tax Rules, 1962. As per the will and family settlement the profit sharing ratio of the partners have been changed. Thereafter, on 18/01/2016, all the assets of the assessee firm including shares of UFIPL were valued based on valuation report of M/s. V B Desai Financial Services Limited (VBDFSL), a SEBI registered merchant banker. On the basis of the report of VBDFSL, the AO held that the value per share of UFIPL was computed by a merchant banker on intrinsic value of Rs.4786.53/-per share. The AO accordingly took the differential price of Rs.4693.65 (4786.53-92.88) per share aggregating to Rs.126,72,80,806/-as the fair value of shares of UFIPL. Accordingly the AO invoked the provisions of Section 56(2)(viia) of the Act, and made the addition of Rs.126,72,80,806/-. On appeal the CIT(A) deleted the addition. On appeal by the Revenue the Tribunal held that the provisions of Section 56(2)(viia) is not applicable in respect of capital contribution by partner in a firm. The entire transaction is part of the family settlement and the transfer of shares between family members was part and parcel of family settlement entered into between brothers and sisters to give effect to the will and desire of the father, who were the promoters of the companies. The Tribunal held that when there is a family settlement to bring harmony and settlement of disputes, there is no transfer of assets and the provisions of Section 56(2)(viia) of the Act would not apply. The Tribunal held that shares were contributed as capital of the firm to give effect to the intention of Mr. D.M. Neterwala. Therefore for capital contribution, the provisions of Section 56(2)(viia) of the Act would not apply. The AO has treated the entire transactions as a colourable device to avoid tax completely ignoring the will and the family settlement. The Honourable Tribunal affirmed the order of the CIT(A). Referred, *Ram Charan Das v. Girjanandini Devi AIR 1966 SC 323, Ziauddin Ahmed v. CGT [1976] 102 ITR 253(Gauhati)(HC), CIT v. R. Ponnammal [1987] 164 ITR 707 (Mad) (HC), CGT v D. Nagrirathinam [2003]129 Taxman 822 (Mad)(HC) (ITA No. 2457/Mum. /2024 dt. 20-3-2025)*(AY. 2016-17)
ITO v. SDN Company [2026] 182 taxmann.com 129 (Mum)(Trib)

1014 **S. 56 : Income from other sources-Re development-Alternative accommodation of New flat of bigger size allotted from the builder in extinguishment of the old flat as per the redevelopment agreement-Cannot be assessed under section 56(2)(x) of the Act-At the most the said transaction may attract capital gains in which case the assessee should be entitle for deduction of cost of new flat u/s. 54 resulting in no tax liability-Addition is deleted. [S.45, 54]**

The assessee, Anil Dattaram Pitale, owned a flat in Co-op Housing Society, which was purchased in FY 1997-98. The society underwent redevelopment, as per the agreement with developer. As pert the terms and conditions of the agreement the assessee was allotted a new flat of bigger size. The AO assessed the difference between the stamp duty value of the new flat and the indexed cost of the old flat, as income from other sources u/s. 56(2)(x) of the Income-tax Act based on the stamp valuation. The order of the AO is affirmed by the CIT(A). On appeal the Tribunal held that the transaction is part of a redevelopment agreement, resulting in the extinguishment of the old flat and acquisition of the new flat, this is not a receipt of immovable property for inadequate consideration. Therefore provisions of section 56(2)(x) is not applicable. Tribunal also held that at the most the said transaction may attract capital gains in which case the

assessee should be entitle for deduction of cost of new flat u/s. 54 resulting in no tax liability. The Tribunal directed to delete the addition made u/s. 56(2)(x). (AY. 2018-19)
Anil Dattaram Pitale v. ITO [2025] 173 taxmann.com 51 (Mum)(Trib.)

S. 56 : Income from other sources-Discretionary trust-Property-Interest from partnership firm and shares from unlisted company-Trust for the benefit of relatives of settler-Power with the trustees to add any persons or class of persons or charity as beneficiaries-Revision order on the ground that the Trust is not wholly benefit of beneficiaries-Amount of Rs 669 crores received by the Trust is assessable under Section 56(2)(x) of the Act-Tribunal held that the interest in firm falls in category of shares-Benefit is not restricted to the benefit of relatives of the settler-Amount received is chargeable to tax under section 56(2)(x)-Revision order is affirmed on law and merit. [S. 56(2) (viid), 56(2)(x),263 Indian Trust Act, 1882] 1015

Assessee is a private discretionary trust and was established under the provisions of Indian Trust Act, 1882 vide settlement deed dated January 23, 2018 executed between Mr. Anand Nadathur, being the Settlor and Vervain Management Private Limited, being the Trustee. The settlor settled investments amounting to INR 669,.27 crores, to the trust out of natural love and affection. The assessment was completed u/s 143(3) of the Act. Commissioner revised the order on the ground that the AO has failed to conduct any enquiries due to which the order of the AO is erroneous and prejudicial to the interest of revenue. On appeal the issue of jurisdiction u/s 263 was not argued. Tribunal held that revision is justified on law and facts. Affirming the Revision order the Tribunal held that the benefit of the amount received was not restricted to the family members and hence the view of the AO is not plausible view therefore the PCIT is correct in law in holding the order as prejudicial to the interest of revenue. Tribunal also held that the term shares and securities has been used it is abundantly clear that "and" should be read as "or". Further literal interpretation in the present case is also giving an absurd meaning therefore the expression "and" used here should be read as "or".Therefore interest in partnership firm falls in the category of "shares" as used in explanation (d) of section 56(2)(vii). What is "interest in partnership firm" has been decided by so many judicial pronouncements wherein this expression has been interpreted of expression. Accordingly the term shares as used in explanation-2 of section 56(2)(vii) is not restricted to the shares of companies only, rather it is wide enough to mean a part or portion of something. For instance, "sharing" refers to dividing or giving out portions of something among several people. Merely because some expression is missing Tribunal cannot restrict the meaning of a word. Tribunal held that it is settled position of law that words should not be overly restricted; their meaning can be shaped by the context in which they are used. Legal texts, contracts, or laws often define words, but if a specific definition is not provided, courts or authorities may interpret the word according to its common usage or the broader context. Therefore the Tribunal has taken the common meaning of word "share". As the interest in a partnership firm is nothing but shares of the partnership firm. Accordingly, the Revision is affirmed on law and merit.(ITA No.1051 /Bang/2024 dt.30-12-2024)(AY.2018-19)
Buckeye Trust v. PCIT (Bang)(Trib) www.itatonline.org.
Editorial: Honourable Tribunal by order sheet dt.7 th Jan 2025, suo-moto recalled the order u/s 254(2) of the Act, which reads as under " On suo-moto perusal at the

order dated 30-12-2024 in ITA No.1051 / Bang /2024, it is found that there are certain inadvertent errors in the order, therefore, as per the provisions of section 254(2) of the Act, the above order is recalled in its entirety and fixed for hearing afresh on 19-2-2025. Notice be issued to both parties." (Prakash Chand Yadav (Judicial Member) Prashant Maharishi (Vice-President) (Dt. 7-Jan-2025, Refer , Buckeye Trust v. Registrar [2025] 180 taxmann.com 7 (Karn)(HC), Buckeye Trust v PCIT ([2026] 183 taxmann.com 381 (Bang) (Trib)

1016 **S. 57 : Income from other sources-Deductions-Expenditure for purposes of earning-Borrowing money and lending it to others-Interest on borrowed money-Allowable as deduction.[S.56, 57(iii)]**

Dismissing the appeal of the revenue the High Court held that there was a direct nexus between the money borrowed by the assessee and money advanced by the assessee. The assessee paid interest on the money borrowed by it and had received the interest on the money advanced by it. The interest paid by the assessee was incurred wholly and exclusively for the purpose of earning of interest income. Order of Tribunal allowing the deduction, is affirmed. (AY. 2010-11)

PCIT v. Mahalaxmi Design Pvt. Ltd (2025) 482 ITR 215 / 174 taxmann.com 149 (Delhi) (HC)

1017 **S. 57 : Income from other sources-Deduction of interest-Nexus established between borrowings and lending-Disallowance deleted. [S. 56, 57(iii)]**

The assessee earned interest income and claimed deduction of interest paid on borrowed funds under section 57(iii). The AO disallowed the claim for lack of nexus. The Tribunal noted that the assessee had established a clear nexus between borrowings and lending, and in subsequent years the AO had accepted the claim. Accordingly, the disallowance was deleted. (AY. 2017-18)

Vinay Badera v. ACIT (2025) 212 ITD 456 (Pune)(Trib.)

1018 **S. 57 : Income from other sources-Deduction of interest and commission-Failure to substantiate claim-Disallowance upheld.[S. 24(b), 57(iii)]**

Assessee claimed deduction of interest under section 24(b) for loan on self-occupied house and further claimed balance interest under section 57. AO disallowed as no evidence was given to prove the loan was for earning income. Similarly, commission payments claimed were found bogus since recipients denied or could not be produced. Tribunal upheld the disallowances. (AY. 2013-14)

Vivek Sheel Aggarwal v. DCIT (2025) 212 ITD 257 (Delhi)(Trib.)

1019 **S. 64 : Clubbing of income-Minor child-Income includes loss-Loss of minor can be clubbed in mother's hands and not necessarily only in father's hands-Order of Tribunal set aside. [S.64(IA), 260A]**

On appeal the High Court held that the Tribunal was not justified in invoking S. 64(1A) to hold that the income (or loss) of a minor child can only be clubbed in the hands of the father and not in the hands of the mother. The Court noted that in the immediately preceding assessment year, the minor son's income had in fact been clubbed in the hands of the assessee mother and such treatment was never disturbed by the authorities.

Further, the issue of clubbing was not even considered by the Assessing Officer at the assessment stage for the year under consideration. In these circumstances, a strict interpretation of s. 64(1A) would require that the minor's income/loss be clubbed in the hands of the parent in whose income it was included earlier, and the Tribunal erred in law in directing that it must necessarily be clubbed only in the father's hands. Accordingly, the Tribunal's order was set aside. (AY.1997-98)
Sulochana V. Gupta v. ITO (2025) 344 CTR 405 / 249 DTR 1 / 174 taxmann.com 1201 (Guj)(HC)

S. 64 : Clubbing of income-Minor child-Capital gains-Sale of inherited property-Minor daughter's share deposited in nationalized bank under Court order-Not includible in assessee's hands.[S. 45, 54F, Hindu Minority and Guardianship Act, 1956, S.8(2)] 1020
The assessee sold property inherited from his deceased wife, being entitled along with his minor daughter to equal shares. The City Civil Court, Chennai, permitted the sale and directed that the minor's 50% share be deposited in a nationalized bank in the name of the Registrar under the Hindu Minority and Guardianship Act. The AO, however, included the daughter's share in the assessee's hands for LTCG computation, which was confirmed by the CIT(A). On appeal, the Tribunal held that since the assessee had no right to utilize the minor's share and it was deposited under Court's directions, it could not be treated as his income. The addition was deleted, and brokerage disallowance also allowed. Appeal allowed.(AY 2016-17) (ITA No. 1626/Chny/2025, dt. 03/09/2025)
Pradeep Jeyavelu v. ITO (SMC) (Chennai) (Trib) (UR) www.itatonline.org.

S. 67A: Association of persons-Body of individuals-Member's share-Member of syndicates engaged in liquor business-Share of assessee in income of syndicate-Not taxable when association of persons taxed at maximum marginal rate-SLP of revenue dismissed. [S.2(31),86, 167B, Art. 136] 1021
Dismissing the appeal of the revenue, the Court held that when the assessee was a member of an association of persons or body of individuals, the shares of members of such association of persons or body of individuals were determinate and known, and such associations of persons or bodies of individuals were chargeable to tax on their total income at the maximum marginal rate or any higher rate. Thus, the share of profit or income received by the assessee from the association of persons or body of individuals or syndicates fell under clause (a) of the first proviso to section 86 read with section 67A and the Assessing Officer was not justified in making the addition in the hands of the assessee on account of his share in the profits of the syndicates and on account of his share of inadmissible expenses incurred by the syndicates. SLP of revenue dismissed. (AY. 2010-11 to 2016-17)
PCIT (Central) v. Laxmi Narayan Shivhare (2025) 307 Taxman 443 (SC)
Editorial : PCIT v. Ramesh Chandra Rai (2024) 168 taxmann.com 43: (2025) 481 ITR 231 (MP)(HC):

1022 **S. 67A : Association persons-Body of individuals-Member's share-Member of syndicates engaged in liquor business-Share of assessee in income of syndicate-Not taxable when association of persons taxed at maximum marginal rate-SLP of revenue dismissed. [S.2(31),86, 167B, Art. 136]**

Dismissing the appeal of the revenue the Court held that when the assessee was a member of an association of persons or body of individuals, the shares of members of such association of persons or body of individuals were determinate and known and such associations of persons or bodies of individuals were chargeable to tax on their total income at the maximum marginal rate or any higher rate. Thus, the share of profit or income received by the assessee from the association of persons or body of individuals or syndicates fell under clause (a) of the first proviso to section 86 read with section 67A and the Assessing Officer was not justified in making the addition in the hands of the assessee on account of his share in the profits of the syndicates and on account of his share of inadmissible expenses incurred by the syndicates. SLP of revenue dismissed. (AY. 2010-11, 2011-12, 2013-14, to 2016-17)

PCIT v. Harmindar Singh Bhatia (2025) 481 ITR 244/ 307 Taxman 528 (SC)

Editorial : PCIT v. Ramesh Chandra Rai (2024) 168 taxmann.com 43 : (2025) 481 ITR 231 (MP)(HC

1023 **S. 68 : Cash credits-Shares to promoters at premium-Income from other sources-Share premium cannot be assessed as revenue receipt even if assessee had breached provisions of section 78(2) of Companies Act, 1956, it would be penalised by provisions of Companies Act and breach would never turn share premium amount received into a revenue receipt-Share premium cannot be assessed as income from other sources-SLP of revenue was dismissed on account of delay of 271 days and also on merits. [S. 2(24)(xvi)56(2)(vii)(b), Companies Act, 1956, S 78(2), Art. 136]**

Assessee issued shares to its promoters at premium, one of which was an Indian entity and other was a foreign promoter. Assessing Officer treated entire share premium received as unexplained cash credit under section 68 on ground that there was violation of provisions of section 78(2) of Companies Act, 1956. On appeal, the Commissioner (Appeals) upheld the order of the Assessing Officer. On appeal, the Tribunal directed the Assessing Officer to examine whether there was violation of provisions of section 78(2) of the Companies Act, 1956. On appeal, High Court held that there was nothing on record in balance sheet of assessee which showed that share premium was utilized for purposes other than what was prescribed in section 78(2) of Companies Act, 1956. Also closing balance and opening balance of share premium money only indicated that there was increase in share premium account by way of infusion of funds. Court held that Income-tax Act does not stipulate that non-compliance of any provision of other Act would result in turning a capital receipt into a revenue receipt. Even if assessee had breached provisions of section 78(2) of Companies Act, 1956, it would be penalised by provisions of Companies Act and breach would never turn share premium amount received into a revenue receipt. Assessing Officer also treated entire share premium received as unexplained cash credit under section 68 on ground that there was no justification for charging share premium. Court held that money received on issue of shares at premium is on capital account and would not give rise to any income and

there was no provision under Act to tax receipt of share premium for assessment year under consideration. High Court referred CBDT Instruction No. 2/2015, dated 29-1-2015 Referred *Vodafone India Services (P.) Ltd. v. UOI [2015] 228 Taxman 25/ [2014] 368 ITR 1 (Bom)(HC).* SLP of revenue was dismissed on account of delay of 271 days and also on merits. (AY. 2011-12)

Shendra Advisory Services Pvt. Ltd. (2025) 306 Taxman 166/481 ITR 457 (SC)

Editorial : Shendra Advisory Services Pvt. Ltd v.Dy. CIT (2024) 298 Taxman 261 / (2025) 482 ITR 385 (Bom)(HC)

S. 68 : Cash credits-Share capital received from three companies-Mere proof of identity of investors insufficient-Assessee must establish creditworthiness and genuineness-Tribunal ignored AO's findings-Addition restored by High court-SLP of assessee dismissed.[Art. 136] 1024

In this case, the Supreme Court addressed the issue of addition under Section 68 of the Income-tax Act relating to share capital received by the assessee-company during Assessment Years 2011-12 and 2012-13. The Assessing Officer had made an addition under Section 68 on the ground that the assessee failed to satisfactorily explain the nature and source of share application money received from three companies. The AO examined the genuineness and creditworthiness of the transactions and concluded that the assessee had not discharged its onus. However, the Tribunal deleted the addition, holding that the assessee had established identity and discharged its burden. The High Court reversed the Tribunal's decision, observing that mere proof of identity of the investor does not suffice under Section 68; the assessee must also prove the creditworthiness of the investors and the genuineness of the transactions, including their financial capacity to invest. The Court noted that the Tribunal had ignored material evidence considered by the AO and failed to address findings regarding creditworthiness and genuineness. Consequently, the High Court restored the AO's addition. The assessee challenged this before the Supreme Court, but the Court found no reason to interfere with the High Court's order and dismissed the Special Leave Petition.(AY. 2011-12, 2012-13)

Jaguar Buildcon (P.) Ltd [2025] 306 Taxman 349/481 ITR 493 (SC)

Editorial : PCIT v. Jaguar Buildcon (P.) Ltd. (2025) 177 taxmann.com 504 /481 ITR 477 (Delhi)(HC)

S. 68 : Cash credits-Sale consideration-Tribunal held taxing same again would result in double addition, which was impermissible and accordingly, entire addition under section 68 was deleted. High Court held that considering factual findings arrived at by Tribunal for both Assessment Years, no question of law, much less any substantial question of law arose for consideration. SLP delayed by 392 days. SLP of revenue was dismissed on account of delay as well as on merits. [Art. 136] 1025

Assessee-company received Rs.244.98 crores from its clients against sale transactions. Assessing Officer treated entire amount as unexplained cash credit under section 68. Commissioner (Appeals) restricted addition to Rs.52.01 crores, noting Rs.192.97 crores was paid towards purchases during year. On further appeal, Tribunal found balance amount of Rs.52.01 crores was carried forward and paid to sister concern NKPL in

subsequent year, as verified by Assessing Officer. Since entire amount was used in regular course of business and corresponding sales were recorded as income, Tribunal held taxing same again would result in double addition, which was impermissible and accordingly, entire addition under section 68 was deleted. High Court held that considering factual findings arrived at by Tribunal for both Assessment Years, no question of law, much less any substantial question of law arose for consideration. SLP delayed by 392 days. SLP of revenue was dismissed on account of delay as well as on merits. (AY. 2012-13)

PCIT v. N.K. Industries Ltd. (2025) 306 Taxman 1 (SC)

Editorial : PCIT v. N.K. Industries Ltd (2025) 175 taxmann.com 619 (Guj)(HC)

1026 **S. 68 : Cash credits-Capital gains-Exemption-Sale of shares-Report by Investigation Wing-SEBI's detailed inquiry found no statutory violations-Order of Tribunal deleting the addition and allowing the exemption was affirmed by High Court-SLP delay of 282 days-Delay had not been satisfactorily explained by revenue-SLP dismissed on ground of delay.[S. 10(38), 45, 68, 69 Art. 136]**

Assessee sold shares and claimed exemption under section 10(38) of the Act. Assessing Officer doubted the transaction on a report by Investigating Wing and made additions under sections 68 and 69 of the Act. Assessee furnished complete, unchallenged evidence such as contract notes, demat details, and bonus share records-Further, transactions were routed through BSE with STT paid, and no misconduct was attributed to broker. SEBI's detailed inquiry found no statutory violations. Considering all those details, Tribunal deleted addition under section 68 and allowed exemption under section 10(38). High Court affirmed the order of the Tribunal. Revenue has filed SLP before the Supreme Court was delayed by 282 days. Supreme Court dismissed the SLP on the ground that delay of 282 days in filing SLP which had not been satisfactorily explained by revenue. (AY. 2014-15)

PCIT v. Neelu Mahansaria (2025) 305 Taxman 493 (SC)

Editorial : PCIT v. Neelu Mahansaria (2025) 175 taxmann.com 235 (Guj)(HC)

1027 **S. 68 : Cash credits-Long term capital gains-Sale of shares-Information from Investigation Wing-Sold shares after holding same for more than seven years-Proximity of time between buy and sale of shares could not be considered as an accommodation entry-High Court affirmed the order of Tribunal-SLP of revenue dismissed. [S. 10(38), 45, 68, 69, Art. 136]**

Assessee had earned long-term capital gains on sale of shares of a company and claimed exemption under section 10(38). Assessing Officer received information from Investigation Wing that assessee made transaction in penny stocks and claimed exemption under section 10(38). He, thus, reopened assessment. Assessing Officer opined from financial of penny stock company that there was no substantial change so as to support huge deviation of share price and that it did not have any business activity which justified huge market price of shares. The Assessing Officer disallowed exemption and made addition under section 68. Tribunal held that assessee had sold shares after holding same for more than seven years and proximity of time between buy and sale of shares could not be considered as an accommodation entry. Tribunal, held that assessee was a genuine investor who was not involved in manipulative practices.

Tribunal further noted that amount of long-term capital gain was not significant. High Court affirmed the order of the Tribunal. SLP filed by revenue was dismissed. (AY. 2011-12, 2012-13)

PCIT v. Damodar Jajoo (2025) 305 Taxman 10 / 482 ITR 166 (SC)

Editotial : PCIT v. Damodar Jajoo (2025) 173 taxmann.com 949 /482 ITR 154 (Guj) (HC)

S. 68: Cash credits-Unsecured loan-Assessee failed to prove genuineness of loan from struck-off company by not producing erstwhile directors or cogent evidence-Addition sustained-Plea that S. 41(1) applies rejected, as no genuine liability ever came into existence-SLP dismissed. [S. 41(1), Art. 136] 1028

The assessee claimed that Rs. 14 lakhs credited in its books was an unsecured loan from Gee Wire Pvt Ltd. The so-called loan agreement was found to be highly unusual, as it carried no interest, imposed no real repayment obligation, and contained vague repayment terms dependent on mutual consent. Since the lender was a private limited company that had been struck off, the assessee was expected to establish genuineness by producing its erstwhile directors or other reliable evidence, but failed to do so. The contention that the AO ought to have issued notice to the lender was rejected, as the initial onus under section 68 was on the assessee and stood undischarged. The plea that section 41(1) and not section 68 applied was also rejected, since once the very genuineness of the loan was not proved, no enforceable liability had ever crystallised in law. Accordingly, the addition under section 68 was upheld by High court. SLP dismissed. (AY. 2018-19)

Valley Iron and Steel Co. Ltd v. PCIT (2025) 480 ITR 248/181 taxmann.com 348 (SC)

Editorial : Valley Iron and Steel Co. Ltd v.PCIT [2024] 159 taxmann.com 1179 / (2025) 480 ITR 244 (Delhi)(HC)

S. 68 : Cash credits-Sale of shares-Information received from investigation wing-Sold through recognised stock exchange-Paid Security transaction-Delay of 292 days-SLP dismissed-Delay was not satisfactorily explained. [S. 10(38), 45, Art. 136] 1029

Assessee sold shares of a company and claimed sale proceeds as exempt under section 10(38). Assessing Officer on basis of information received from investigation wing, treated same as unexplained income under section 68 holding that transaction was sham to route unaccounted money to give it colour of genuine transaction. Tribunal held that assessee had held shares for two and half years and same were sold through recognized stock exchange after paying securities transaction tax and that assessee had submitted numerous details of company whose shares were sold by her. Tribunal allowed the exemption. High Court held that no question of law much less any substantial question of law arose from impugned order passed by Tribunal. SLP filed by revenue was delay of 292 days. Revenue could not explain satisfactority delay. SLP was dismissed. (AY. 2014-15)

PCIT v. Divyaben Prafulchandra Parmar (2025) 304 Taxman 512 (SC)

Editorial : PCIT v. Divyaben Prafulchandra Parmar(2024) 169 taxmann.com 473 (Guj) (HC)

1030 **S. 68 : Cash credits-Unexplained investment-Ex parte assessment order-Concurrent findings by authorities below that assessee failed to prove source of deposits-High Court held no substantial question of law arose-SLP of asseessee dismissed. [S.69,133(6), 143(3), 144, 260A]**

Assessee failing to respond to multiple notices Assessment completed ex parte Unexplained deposits in bank account treated as income under sections 68 and 69A. Assessee remaining non-responsive during proceedings before Commissioner (Appeals). Explanation offered without substantiation that amounts were cash collected by assessee as recovery agent from its borrowers located in Naxal affected areas and deposited in his account found to be unreasonable by Tribunal. Concurrent findings by authorities below that assessee failed to prove source of deposits. High Court held no substantial question of law arose. SLP of Assessee dismissed. (AY.2012-13)

Dinesh Singh Chouhan v. ITO (2025) 479 ITR 461/179 taxmann.com 252 (SC)

Editorial : Dinesh Singh Chouhan v. ITO [2024] 168 taxmann.com 590 / (2025) 479 ITR 451 (Chhattisgarh)(HC)

1031 **S. 68: Cash credits-Assessing Officer made additions towards consideration received by assessee on sale of shares-Assessee had duly disclosed receipt of capital gains and offered for tax-No occasion for making addition-SLP to be dismissed on ground of low tax effect. [S. 153A, Art. 136].**

The Hon'ble Supreme Court dismissed the SLP filed by the Department on the ground of low tax effect in a matter wherein the High Court held that in the absence of any incriminating material found during search, there was no occasion for the AO to make an addition on the basis of unexplained cash credit. However, without going into the merits of the case, the SLP came to be dismissed due to a low tax effect. (AY. 2008-09)

PCIT v. Ahinsa Vinimay [2025] 302 Taxman 359 (SC).

Editorial : PCIT v. Ahinsa Vinimay (P.) Ltd(2024) 169 taxamnn.com 134 (Orissa (HC)

1032 **S. 68: Cash credits-SLP dismissed against High Court's finding that additions were unjustified-Huge amounts deposited in foreign bank account in Geneva-Assessee pleaded that bank account belonged to nephew situated in UK-Assessee was an agriculturist and his name was struck from the bank account much prior to his visit to Geneva-SLP dismissed also on the ground of delay of 233 days, which was not explained properly.[Art. 136**

The Hon'ble Supreme Court dismissed an SLP filed by the Department against impugned order of the High Court wherein it was observed that addition made to assessee's income on account of huge amount deposited in his foreign bank account in Geneva was unjustified since there was no material on record to show that said amount was deposited by assessee and justifiable explanation was given by assessee that said account belonged to his nephew residing in U.K. However, the said SLP was dismissed on the ground of delay of 233 days and also due to the fact that the High Court had noted that no substantial question of law arose in the case. (AY.2006-2007 2007-2008)

PCIT v. Joginder Singh Chatha [2025] 302 Taxman 5 (SC).

Editorial : CIT v. Joginder Singh Chatha (2023) 156 Taxman.com 509 (P& H) (HC)

S. 68: Cash credits-Not explained the source-Order of High Court affirming the addition was affirmed-SLP of assessee dismissed on the ground of delay of 388 days and on merits. [Art. 136] 1033

Dismissing the appeal the High Court held that the assessee, an educational institution, could not produce sufficient material to dispel the suspicion as to donations received from companies which were not even based geographically close to the assessee and the reason to grant the donation was never properly explained, and that the addition under section 68 was justified. SLP of assessee dismissed on the ground that delay of 388 days in filing the special leave petition had not been satisfactorily explained and on the merits.(AY. 2014-15)

Mayor Foundation v. CIT (2025) 475 ITR 150 / 304 Taxman 660 (SC)

Editorial : Mayor Foundation v. CIT (2024) 469 ITR 562 (P& H)(HC)

S. 68 : Cash credits-Principle of natural justice-Assessee must be given adequate opportunity to be heard and also to cross-examine witnesses whose statements have been relied on to make additions. [S. 260A] 1034

Held, that the findings rendered by the Revenue authorities stood vitiated for failure on their part to afford an opportunity to the assessee to cross-examine the transporters and for disbelieving the evidence adduced such as certificates of tax deduction at source. The addition to the assessee's income was not valid. In Andaman Timber Industries v. CCE, (2016) 38 GSTR 117 (SC); (2016) 15 SCC 785, the Supreme Court held that not allowing the assessee to cross-examine the witnesses though the statements of those witnesses were made the basis of the assessment order by the adjudicating authority is a serious flaw which makes the order a nullity inasmuch as it amounts to violation of the principles of natural justice. (AY. 2001-02)

Sree Trading Corporation v. ITO [2023] 151 taxmann.com 486 / (2025) 482 ITR 712 (Telengana)(HC)

S. 68 : Cash credits-Shares-Failure to prove genuineness of transaction-Order of Tribunal affirmed.[S. 132, 133A, 153C, 260A] 1035

Dismissing the appeal, the Court held that the entire findings of the Assessing Officer and the Tribunal were based on facts and did not give rise to any substantial question of law, in the absence of which the appeal under section 260A could not be entertained. (AY.2004-05 to 2009-10)

Smriti Television Media and Films Pvt. Ltd. (through its managing director Bipin Goswami) v. PCIT [2023] 151 taxmann.com 323 / (2025) 482 ITR 737 (MP)(HC)

S. 68 : Cash credits-Penny stock-Sun Rise Asian Ltd (SAL)-Long-term capital gains-Order of the Tribunal deleting the addition is affirmed.[S. 10(38), 45] 1036

The assessee company had invested in shares of one company. After holding shares for a long period, assessee sold shares and claimed long-term capital gains earned on the same as exempt under section 10(38). Assessing Officer treated the share transaction as bogus and made an addition under section 68, holding that the company in which shares were purchased was a penny stock and its price movement was not supported by the financial fundamentals of the company. Tribunal deleted the addition holding

that shares sold by assessee could not be doubted as bogus. On appeal, the order of Tribunal affirmed. Relied *Pr. CIT v. Divyaben Prafulchandra Parmar [2024] 169 taxmann.com 473 (Guj) (HC).*
PCIT v. Vinod Premjibhai Gangani (2025) 307 Taxman 146 (Guj.)(HC)

1037 **S. 68: Cash credits-Share application money-Shell company-Mere production of incorporation certificates, PAN numbers, income tax returns, or showing that transactions were routed through banking channels could not discharge the burden of proof under section 68-Assessing Officer's conclusion was founded upon tangible, cogent and independent evidence, and not on conjecture, addition made by Assessing Officer was justified-Order of Tribunal set side. [S. 260A]**
The assessee company received share application money of a certain amount from an investor company. Assessing Officer held that said investor company was a shell company which was created and controlled by the assessee group for the purpose of providing accommodation entries. He also held that the enquiry revealed that funds ostensibly shown as share application money originated from the assessee group itself. He treated share application money as unexplained cash credit under section 68 of the Act. Tribunal deleted the addition. On appeal, the Court held that the entity had no business activity, no infrastructure, no employees, and was not even traceable at its registered address. Its financial statements revealed meagre income, which, by no stretch of imagination, could justify investment of several crores of rupees in the assessee company. Further, the money trail unearthed by the Assessing Officer demonstrated that funds originating from the coffers of the assessee group itself were routed through a web of layering and multiple accounts controlled by entry operators and eventually reintroduced into the assessee's books in the guise of share application money and premium. Mere production of incorporation certificates, PAN numbers, income tax returns, or showing that transactions were routed through banking channels could not discharge the burden of proof under section 68. Since the Assessing Officer's conclusion was founded upon tangible, cogent and independent evidence, and not on conjecture, the addition made by the Assessing Officer was justified. (AY. 2014-15)
ACIT, Central v. Agrawal Infrabuild (P.) Ltd. (2025) 307 Taxman 153 / (2026) 484 ITR 558 (Chhattisgarh)(HC)

1038 **S. 68: Cash credits-Sale of shares-Short-term capital loss-Order of Tribunal affirmed. [S. 260A]**
Assessee sold its shares in one company to three entities and declared a short-term capital loss on the sale. Assessing Officer doubted the genuineness of transactions and held that the sum received on account of the sale of shares was taxable under section 68. Tribunal, after referring to bank statements of three purchaser companies, held that purchasers had sufficient funds at their disposal for the acquisition of shares and further noted the net worth of these companies and deleted additions. Order of Tribunal affirmed. (AY. 2012-13)
PCIT v. Hamlet (2025) 307 Taxman 248 (Karn.)(HC)

S. 68 : Cash credits-Share capital received from three companies-Mere proof of identity of investors insufficient-Assessee must establish creditworthiness and genuineness-Tribunal ignored AO's findings-Addition restored by High court [S. 260A] 1039

The Assessing Officer had made an addition under Section 68 on the ground that the assessee failed to satisfactorily explain the nature and source of share application money received from three companies. The AO examined the genuineness and creditworthiness of the transactions and concluded that the assessee had not discharged its onus. However, the Tribunal deleted the addition, holding that the assessee had established identity and discharged its burden. The High Court reversed the Tribunal's decision, observing that mere proof of identity of the investor does not suffice under Section 68; the assessee must also prove the creditworthiness of the investors and the genuineness of the transactions, including their financial capacity to invest. The Court noted that the Tribunal had ignored material evidence considered by the AO and failed to address findings regarding creditworthiness and genuineness. Consequently, the High Court restored the AO's addition. (AY. 2011-12, 2012-13)

PCIT v. Jaguar Buildcon Pvt. Ltd (2025) 481 ITR 477 /177 taxmann.com 504 (Delhi)(HC)

Editorial : Jaguar Buildcon Pvt. Ltd v. PCIT (2025) 481 ITR 493/306 Taxman 349 (SC), SLP of assessee dismissed.

S.68: Cash credits-Share Capital-Identity and creditworthiness of Share applicant companies-Financial statements-Deletion of addition affirmed. [S. 260A] 1040

The assessee satisfied the Tribunal as to the identity and creditworthiness of the share applicant companies. In examining the creditors of the share applicant companies, the Tribunal perused the share applicant companies' financial statements and noted that they possessed sufficient funds, and that the amounts invested in the purchase of shares were negligible in comparison to their overall creditworthiness. The Tribunal further observed that the source of the share application money had already been taxed in the hands of the share applicants, and therefore, taxing the same amount again in the hands of the assessee company would amount to double taxation. Accordingly, it was held by the High Court that no substantial question of law arose for consideration in the appeal. (AY. 2012-13)

Pr. CIT v. One Point Commercial (P.) Ltd. (2025) 306 Taxman 7 /2026) 484 ITR 421 (Cal.) (HC)

S. 68: Cash credits-Addition on the basis of DVO valuation-Property of the assessee neither sold nor transferred-Share transfer between shareholders-No income in the hands of assessee company-The acquisition of an indirect interest in property through share transfer does not divest the assessee of its ownership, and any tax incidence, if applicable, would be confined to the transacting shareholders-Addition deleted.[S. 260A] 1041

On appeal by the assessee the Court held that the Assessing Officer was not justified in making an addition in the hands of the assessee company under section 68 solely on the basis of an estimated market value of a property for the purpose of valuation of shares transferred by the shareholders, since the same property was neither sold nor transferred by the assessee company. The Court noted that although a Memorandum of

Understanding was found during the search proceedings indicating a transfer of shares, the assessee had not transferred any title or interest in the property and continued to remain its owner. It was further observed that the transaction, if any, was undertaken between the shareholders through transfer of shares, and accordingly, any income or deemed income could arise only in the hands of the transferor shareholders and not in the hands of the assessee company. The Court also clarified that the acquisition of an indirect interest in property through share transfer does not divest the assessee of its ownership, and any tax incidence, if applicable, would be confined to the transacting shareholders.(AY. 2011-12)

Snerea Properties (P.) Ltd v. ACIT (2025) 306 Taxman 126 (Delhi)(HC)

1042 **S. 68 : Cash credits-Shell company-Accommodation entries-Commission income was offered-Order of Tribunal deleting the addition as unexplained credits was affirmed by the High Court. [S. 153C, 260A]**

During search of Naresh Kuamr Jain & Jain brothers, incriminating documents were found which revealed that assessee was used as conduit for routing accommodation entries to ultimate beneficiaries. Assessing Officer made addition of credits found in accounts of assessee as unexplained under section 68. CIT(A) deleted the addition. Tribunal up held the order of CIT(A). On appeal the Court held that credit introduced in books of assessee, a shell company, was matched by a debit to other entities used to route funds to ultimate beneficiaries and commission for providing entries to beneficiaries would be real income of Jain Brothers and there was no material to indicate that assessee had earned any commission income. Unexplained credits were liable to be taxed in hands of beneficiaries and since same had been done, there was no occasion of taxing channels through which amounts were routed. Order of Tribunal deleting the addition was affirmed. (AY. 2012-13 to 2017-18)

PCIT v. Third Generation Traders (P.) Ltd. (2025) 305 Taxman 299 (Delhi)(HC)

1043 **S. 68 : Cash credits-Unsecured loans-Amount disclosed cannot be considered as undisclosed-Order of Tribunal deleting the addition was affirmed. [S. 132, 260A]**

Assessee had reflected receipt of unsecured loans aggregating ₹ 10.96 crores from two separate companies. The Assessing Officer held that transactions of receipt of unsecured loans were sham transactions as neither of two entities were found to be genuine and accordingly made additions under section 68 of the Act. CIT(A) deleted the addition. Tribunal affirmed the order of the CIT(A). On appeal, the High Court held that since assessee's case was not required to be examined as a stand alone case by ignoring disclosures made by its group company which had admittedly introduced funds and debited them in books of account of assessee, amount as disclosed could no longer be considered as unexplained. Order of Tribunal deleting the addition was affirmed. (AY. 2015-16)

PCIT (Central) v. R B Farms and Estates (P.) Ltd. (2025) 305 Taxman 576 (Delhi)(HC)

S. 68 : Cash credits-Shares-Sale of property-DVO's report estimating market value of property that was neither sold nor transferred by assessee-Incidence of tax, if any, would be confined to transacting parties-Addition affirmed by the Tribunal deleted. [S. 260A] 1044

During search in case of group companies of assessee, a Memorandum of Understanding (MoU) was found, indicating that 50 per cent share in a jointly held property had been transferred to a third party. Based on DVO's report estimating market value of property at ₹ 150 crores, Assessing Officer made addition under section 68 of the Act. DVO also reported that no investment or structural changes were made by assessee during relevant year. CIT(A) deleted the addition. On appeal by revenue, the Tribunal reversed the finding of CIT(A). On appeal the High Court held that the assessee had not transferred any title or interest in said property, and that transaction, if any, was between shareholders of assessee company by way of share transfer to third party. Therefore, income or deemed income had arisen in hands of transferors and not assessees. Thus, Assessing Officer was not justified in making additions under section 68 on basis of estimation of market value of property that had neither been sold nor transferred by assessees. Therefore incidence of tax, if any, would be confined to transacting parties. (AY.2011-12)

Snerea Properties (P) Ltd. v. ACIT (2025) 347 CTR 722 / 254 DTR 165 / 306 Taxman 126 (Delhi)(HC)

S. 68: Cash credits-Unsecured loan-Assessee failed to prove genuineness of loan from struck-off company by not producing erstwhile directors or cogent evidence-Addition sustained-Plea that S. 41(1) applies rejected, as no genuine liability ever came into existence. [S. 41(1)] 1045

The assessee claimed that Rs. 14 lakhs credited in its books was an unsecured loan from Gee Wire Pvt Ltd. The so-called loan agreement was found to be highly unusual, as it carried no interest, imposed no real repayment obligation, and contained vague repayment terms dependent on mutual consent. Since the lender was a private limited company that had been struck off, the assessee was expected to establish genuineness by producing its erstwhile directors or other reliable evidence, but failed to do so. The contention that the AO ought to have issued notice to the lender was rejected, as the initial onus under section 68 was on the assessee and stood undischarged. The plea that section 41(1) and not section 68 applied was also rejected, since once the very genuineness of the loan was not proved, no enforceable liability had ever crystallised in law. Accordingly, the addition under section 68 was upheld..(AY. 2018-19)

Valley Iron and Steel Co. Ltd v. PCIT [2024] 159 taxmann.com 1179 / (2025) 480 ITR 244 (Delhi)(HC)

Editorial : SLP rejected, Valley Iron and Steel Company Ltd v. PCIT [2025] 181 taxmann.com 348 / 480 ITR 248 (SC)

S. 68 : Cash credits-Share capital / Share premium-Identity, creditworthiness and genuineness established-Deletion of addition justified-No substantial question of law. [S. 260A] 1046

The assessee received share capital and share premium which was added by the AO under s. 68. In appeal, the CIT(A) called for two remand reports and, on examination

of the material, held that the identity and creditworthiness of the share applicant companies stood established. The AO himself recorded that the investments were made on personal contact and persuasion but failed to analyse the implication thereof. The CIT(A) observed that the AO had not doubted the identity and creditworthiness of the subscribers but had only questioned the high share premium. On facts, the CIT(A) noted that the assessee-company had shown substantial growth of about 39%, held impressive inventories of quoted equity shares (Rs. 8.38 crores as on 31-3-2011 and Rs. 9.36 crores as on 31-3-2012), and its audited results reflected profits growing more than three times between AYs 2011-12 and 2012-13, with corresponding increase in earnings per share. It was thus held that the assessee was a growing and profit-making company and the premium charged was justified. The Tribunal, after re-examining the entire material including a paper book of 1029 pages, affirmed the order of the CIT(A) and deleted the addition. On further appeal, the High Court held that the findings were purely factual and no substantial question of law arose; the Tribunal was justified in deleting the addition under S 68. (AY. 2012-13)

PCIT v. Wise Investment (P) Ltd. (2025) 175 taxmann.com 692/345 CTR 218/251 DTR 1 (Cal)(HC)

PCIT v. Femina Stock Management Company Ltd (2025) 175 taxmann.com 692/ 345 CTR 218/251 DTR 1 (Cal)(HC)

1047 **S. 68 : Cash credits-Demonetisation-Small borrowers-Statement not considered-Principle of natural justice-Matter remanded to Assessing Officer for fresh consideration-Taxation Laws (Second Amendment) Bill, 2016 (2016) 389 ITR (St.) 14, 21) [S. 133(6), 143(3), Art. 226]**

Court set aside to the Assessing Officer for comparing the earlier years statement of accounts and the assessee shall be granted personal hearing. (SJ) (AY.2017-18)

S.M.I.L.E. Microfinance Ltd v. ACIT (2025) 479 ITR 172/179 taxmann.com 65 (Mad)(HC)

1048 **S. 68 : Cash credits-Unexplained investment-Ex parte assessment order-Concurrent findings by authorities below that assessee failed to prove source of deposits-No substantial question of law arose. [S.69,133(6), 143(3), 144, 260A]**

Assessee failing to respond to multiple notices Assessment completed ex parte Unexplained deposits in bank account treated as income under sections 68 and 69A. Assessee remaining non-responsive during proceedings before Commissioner (Appeals) Explanation offered without substantiation that amounts were cash collected by assessee as recovery agent from its borrowers located in Naxal affected areas and deposited in his account found to be unreasonable by Tribunal Concurrent findings by authorities below that assessee failed to prove source of deposits. No substantial question of law arose. (AY.2012-13)

Dinesh Singh Chouhan v. ITO (2024] 168 taxmann.com 590/(2025) 479 ITR 451 (Chhattisgarh)(HC)

Editorial : SLP rejected, Dinesh Singh Chouhan v. ITO (2025) 479 ITR 461/ 179 taxmann.com 252 (SC)

S. 68 : Cash credits-Trading in shares-Claim of long-term capital gains-Shares of company suspended by stock exchange Cannot be reason to make additions in absence of any material to suggest that purchase and sale of such shares were bogus-Deletion of addition by the Tribunal is affirmed. [S. 10(38), 45, 260A] 1049

Dismissing the appeal of the Revenue the Court held that the purchase and sale of shares and it was also found by the Department that the assessee was holding shares of other fifteen companies and it had continued to hold the shares over three years and therefore, sale of the shares were not bogus merely on the basis of suspicion on account of the fact that a substantial quantum of capital gains had been earned by the assessee on account of trading in respect of those shares. Merely because trading in the shares of the company N were suspended by the stock exchange, in the absence of any material brought on record to suggest that purchase and sale of these shares were bogus, the Assessing Officer was not justified in his finding that there had been collusion or connivance between the broker and the assessee for the introduction of his own unaccounted money, resulting into a bogus transaction. The deletion of the addition by the Tribunal was justified.(AY. 2015-16)

PCIT v. Ambalal Chimanlal Patel [2024] 162 taxmann.com 892/(2025) 478 ITR 514 (Guj) (HC)

S. 68 : Cash credits-Share premium-Notices served on companies returning unserved Inspector reporting companies non-existent-Order of Tribunal affirmed-No question of law. [S. 133(6), 260A] 1050

Dismissing the appeal, the Court held that when the notices were issued to the shareholding companies under section 133(6) of the Act they were returned unserved, and the companies were found to be non-existent followed by the fact that the inspector too came out with a report itself that the companies did not exist. The investment which was made by two companies their proof of identity of creditors and the capacity of creditors to advance money and genuineness of transaction fell apart when the company was found to be non-existent. The assessee having failed to discharge the onus of section 68 of the Act, no question of law arose. The addition was affirmed. (AY.2014-15]

Sumit Global Pvt. Ltd v. ITO (2025) 475 ITR 62 (Chhattisgarh)(HC)

S. 68 : Cash credits-Share application-Identity, genuineness and creditworthiness of investors proved-Order of Tribunal is affirmed-Business expenditure-Income taxed twice-Order of Tribunal affirmed. [S.37(1), 133(6), 133A, 145(3), 260A] 1051

Order of Tribunal deleting the addition on account of cash credits and estimating the net profit was affirmed. (AY. 2011-12, 2012-13)

PCIT v. Garg Acrylics Ltd (2025) 476 ITR 737/305 Taxman 285 (Delhi)(HC)

S. 68 : Cash credits-Penny Stock-Loss-Bogus claim of loss on trading of shares-Principles of natural justice-Tribunal erred in relying on coordinate bench decision without examining facts-Organized tax evasion-Exception to CBDT Circular No. 5 of 2024 dt.15-3-2024, para 3.1 (h) (2024) 462 ITR 273 (St), applies-Monitory limits is not applicable-Order of the Tribunal was set aside-Substantial question of law was answered in favour of revenue. [S. 143(2), 142(1), 143(3), 254(1), 260A, 268A] 1052

The assessee, an NBFC, claimed loss of ₹ 51,33,870/-in trading of shares of Radford Global Ltd. and Shreenath Commercial for AY 2014-15, set off against interest income.

The AO, based on investigation reports and SEBI/SAT findings, held the transactions to be sham, pre-arranged circular trades in penny stocks involving cartel operators, and disallowed the loss applying the test of human probabilities *Sumati Dayal v. CIT (1995)214 ITR 801 (SC))*. CIT(A) confirmed the addition, holding no violation of natural justice since material was disclosed and cross-examination was not a vested right *(CIT v. Swati Bajaj (2022) 446 ITR 56 (Cal))(HC)*. The Tribunal, however, without examining facts, allowed the appeal merely by relying on *Namokar Builders Pvt. Ltd v. PCIT)(ITA 762/Kol/2022 dt. 9-5-2024)(Kol) (Trib)*. On appeal, the High Court held that the Tribunal committed a serious error of law by not examining facts and blindly following a coordinate bench order. It restored the additions, holding that the assessee's transactions were sham and covered under organized tax evasion through penny stocks, thus falling within Exception (h) of CBDT Circular No. 5/2024 dated 15.03.2024. Reliance placed by assessee on *PCIT v. Krishna Devi(Smt) (2021) 279 Taxman 148 (Delhi)(HC), PCIT v. Dipansu Mohapatra ((2024) 463 ITR 678 (Orissa.)(HC)) and CIT v. Nilesh Jain (HUF) (2024) 163 taxmann.com 229 (MP)(HC)* was distinguished. Appeal of the Revenue allowed, questions answered in its favour. (AY.2014-15)

PCIT (Central-2), Kolkata v. Zulu Merchandise Pvt. Ltd (2025) 177 taxmann.com 160 (Cal) (HC)

Editorial: Zulu Merchandise (P.) Ltd.v. ITO [ITA No. 553/Kol/2024 dated 23-09-2024] (Para 22) Reversed. The Calcutta High Court has reinforced its earlier ruling in Swati Bajaj that penny stock transactions lacking commercial rationale must be tested on human probabilities and can be disallowed even if routed through stock exchange, Demat and banking channels. The judgment is significant as it clarifies that such cases constitute "organized tax evasion" falling under the exception to CBDT's low tax effect circulars, enabling Revenue appeals irrespective of monetary limits.

1053 **S. 68 : Cash credits-Advance against sale of land-Creditworthiness not in doubt-Flaw in the document cannot justify the addition-Order of Tribunal deleting the addition is affirmed. [S.260A]**

Assessee received a certain amount from buyer Unitech Ltd as advance for land. AO treated it as unexplained due to irregularity in stamp paper date. CIT(A) and ITAT found identity, creditworthiness, and genuineness proved. High Court held flaw in documentation alone cannot justify addition when transaction is tax neutral and source undisputed. Appeal of revenue dismissed. (AY. 2010-11)

Pr. CIT v. Nucleus Steel (P.) Ltd. (2025) 303 Taxman 58 (Delhi)(HC)

1054 **S. 68 : Cash credits-Unexplained investment-Natural justice-Show cause issued under s. 68-Final order passed under s. 69A without opportunity-Order set aside [S. 69, 144B, 147, Art. 226]**

Revenue issued a show-cause proposing addition under S. 68, but the final order made addition under S. 69A without giving opportunity to the assessee. This was held to be violative of natural justice, and the assessment was set aside with direction to pass fresh order after granting reasonable hearing. (AY. 2016-17) (SJ)

Vishal Jhajharia v. Assessment Unit ITD (2024) 164 taxmann.com 781 / (2025) 343 CTR 478 (Cal)(HC)

S. 68 : Cash credits-Conversion of loan into equity-Source of source proved-Deletion upheld-No substantial question of law.[S. 260A, CPC,1908, S.100] 1055

CIT(A) deleted addition after verifying identity, creditworthiness, and genuineness of shareholders; Tribunal affirmed holding no fresh credit was received, only conversion of loan into equity with source explained. Both appellate authorities having recorded findings of fact, High Court held no substantial question of law arose. (AY. 2011-12 to 2015-16 & 2017-18)

CIT v. Goldstone Cements Ltd. (2025) 343 CTR 562 / 247 DTR 465 (Gauhati)(HC)

S. 68 : Cash credits-Issue of shares against goodwill-No cash receipt-Provsions of section 68 were not attracted.[S. 260A] 1056

Assessee allotted shares to Mr. Surinder Kumar Kaushik towards goodwill without monetary consideration. AO made addition u/s 68. CIT(A) and ITAT deleted addition as there was no cash receipt and entry was explained. High Court upheld deletion on the ground that since the transaction did not represent an actual receipt of any cash in hands provisions of the section 68 were not attracted. (AY. 2015-16)

Pr. CIT v. Zexus Air Services (P.) Ltd. (2025) 303 Taxman 410 (Delhi)(HC)

S. 68 : Cash credits-Share application-Accommodation entries-Identity, creditworthiness and genuineness of transactions are established-Order of Tribunal deleting the addition is affirmed-Statement is retracted-Order of Tribunal is affirmed [S. 132(4), 260A] 1057

Dismissing the appeal of the Revenue the Court held that Tribunal had noted that assessee had furnished each and every document required for proving identity, creditworthiness of share applicants and genuineness of transactions, however, Assessing Officer had not been able to brought on record any evidence to show that cash was paid by assessee to any person for obtaining accommodation entries in form of share application money. Court also held that as matter of record that SCS had retracted his statements given before the Assessing Officer. On facts addition made by the Assessing Officer was without any basis. Followed *Pullangode Rubber Produce Co Ltd v. State of Kerala (1973) 91 ITR 18 (SC)* (AY. 2011-12)

PCIT v. Esspal International (P.) Ltd.(2025) 473 ITR 329 (Raj) (HC)

S. 68 : Cash credits-Share capital and share premium-Creditworthiness and genuineness is established-Subscribers complied with the notices issued u/s 133(6) of the Act. [S.133(6), 260A] 1058

Dismissing the appeal of the Revenue the Court held that, all are Income-tax assessees, filed their returns of income, share application form and allotment letters were available on record, share application money was paid by account payee cheques, details of the bank accounts belonging to share applicants and their bank statements were on record, in none of the transactions, there were any deposit of cash before issuing cheques to the assessee and, all the share applicants had substantial creditworthiness represented by their capital and reserves. Order of Tribunal is affirmed. AY. 2009-10)

PCIT v. Delta Dealers Pvt. Ltd. (2025) 473 ITR 48 (Cal)(HC)

1059 **S. 68 : Cash credits-Established source and capacity of the parties-Order of Tribunal is affirmed.[S.260A]**

Dismissing the appeal of the Revenue the Court held that since Tribunal had dealt with all grounds raised by revenue in order impugned and had passed a well reasoned and speaking order taking into consideration all material available on record. Order of Tribunal is affirmed. (AY.2013-14)

PCIT v. Mukul Kakar (2024) 166 taxmann.com 199 / (2025) 473 ITR 59 (MP)(HC)

1060 **S. 68 : Cash credits-Long term capital gains-Penny stock-Order of Tribunal allowing the exemption is affirmed.[S. 10(38), 45, 260A]**

Assessee filed its return of income claiming exemption of long-term capital gains on sale of shares under section 10(38). Assessing Officer disallowed exemption claimed by assessee on ground that said shares were penny stocks used for generating bogus long-term capital gains. Tribunal held that the shares of company in which assessee had invested did not appear in AIR report of revenue which related to trading in penny stock. Further, name of alleged company did not appear in list of 331 suspended companies and no adverse inference was drawn by SEBI. On appeal, dismissing the appeal of the Revenue the Court up held the order of the Tribunal.(AY. 2013-2014)

PCIT v. Sawankumar T Jajoo (2025) 473 ITR 201 / 171 Taxmann.com 26 (Cal)(HC)

1061 **S. 68 : Cash credits-Unsecured loan-Furnished documents to prove identity, genuineness and credit worthiness of parties-Matter remanded back to the Assessing Officer for fresh consideration. [S. 143(3), Art. 226]**

Assessee-firm is engaged in business of manufacture and sale of tobacco. Assessee had repaid loan during year under consideration out of unsecured loans taken from different parties. Assessing Officer made additions under section 68 on ground that no substantial document was furnished to prove genuineness and creditworthiness of unsecured loans received. On writ the Court held that the assessee had furnished all relevant documents containing copy of ledger account from its audited books, confirmation of respective depositor with PAN number, copy of its bank statements, copy of ITR filed by respective depositors and copy of bank statements of respective depositors from where funds were provided-No dispute had been raised by revenue with regard to submission of aforesaid documents by assessee during assessment proceedings. Since Assessing Officer had made additions without considering documents placed on record, impugned assessment order was to be set aside and matter was to be remanded back to Assessing Officer for fresh consideration. (AY. 2018-19)

Shah Tobacco Trading Co. v. Add. ACIT (2025) 302 Taxman 219 (Guj)(HC)

1062 **S. 68 : Cash credits-Cash deposit in the bank-No reasonable explanation-Addition is affirmed. [S.260A]**

Held that In view of the concurrent findings of fact, arrived at by the authorities, no question of law, much less any substantial question of law arose from the order of the Tribunal.(AY.2015-16)

Mathurbhai P. Viradiya, HUF v. ITO (2025) 472 ITR 217 (Guj)(HC)

S. 68: Cash credits-Credit transfer received by other family members and group concerns could not be assumed to be assessee's undisclosed income where AO failed to establish that assessee was de facto owner of bank accounts of various recipients. [S. 132, 260A] 1063

The Hon'ble Kerala High Court in appeals preferred by the Revenue decided questions of law involving conditions to invoke S. 68 of the Act for making additions. It was observed that, undisputedly, the transactions have taken place through banking channels. On the basis of documentary evidence, it could be said that the requisite onus as required to be discharged under S. 68 was duly discharged by the assessee, and it was the onus of the revenue to dislodge the same. However, upon perusal of orders of lower authorities, the Court found that no cogent material or evidence was on record to dislodge the claim of the assessee; rather the additions were based more on allegations, surmises, conjectures and mere suspicion. Accordingly, the Court concluded that the decision of Tribunal did not warrant any interference and consequently, the appeals were dismissed.(AY. 2012-13 to 2017-18)

PCIT (Central v. M.K. Rajendran Pillai Rajavalsam [2025] 302 Taxman 512/344 CTR 102 / 247 DTR 299 (Ker)(HC)

S. 68 : Cash credits-Failure to furnish source, identity of parties and genuineness of transaction-Shell companies-A racket of illegal business of providing accommodation entries-Accommodation entry provider-Credit appearing in the bank account-Books of account-, Data appearing in 2 CDs are extracted by the investigating wing from books of account-Statement on oath-Order of the Tribunal is reversed-Order of CIT(A) is affirmed-The Court also directed the Institute of Chartered Accountant of India to take disciplinary action, initiate proceedings under Prevention of Money Laundering Act, 2002, launch prosecution under Income-tax Act, and also directed the CCIT to conduct an enquiry and fix the responsibility against the officer responsible for the for not giving effect to the order of CIT(A). Court also directed the Registry of the High Court is to forward copy of the order to Disciplinary Committee of the Institute of Chartered Accountants of India, National Financial Reporting Authority, The Commissioner of Police-Economic Offence Wing, Mumbai, Enforcement Director under PMLA Act, The Chief Commissioner of Income-tax, Mumbai Ministry of Corporate Affairs. [S. 2(12A), 44AB,69, 131, 132(4), 279, Chartered Accountant's Act, 1949. Indian Penal Code/BNS, 2023] 1064

The assessee company is in the business of providing accommodation entries on commission basis. The assessee has admitted that they are in "a racket of illegal business of providing accommodation entries" In the assessment proceedings the director of the assessee company Mr. Mukesh Choksi, on oath has admitted that the company is providing accommodation entries. The Assessing Officer made addition under Section 68 of the Act amounting to Rs.10,73,52,553/-under the head Income from other sources. The said addition was made on the ground that the credits appearing in the disclosed and undisclosed bank accounts of the respondent-assessee are unexplained, and since no details or explanation regarding the identity, source and genuineness of such deposits were submitted, the same were treated as unexplained cash credits. On appeal the CIT(A) confirmed the addition of 0.37% as against 0.15% offered by the assessee. On appeal the Tribunal reduced the addition from 0.37% to 0.15%. On appeal

by Revenue the Court held that the Respondent assesseee can not contend that they will not give details of beneficiaries, but at the same time, credits cannot be assessed in its hands. Court observed that how the revenue can find out to whom the credits belong to unearth unaccounted income. The respondent-assessee cannot act as a shield for beneficiaries by making such a submission and at the same time refuse to pay taxes for the unexplained amounts in its bank accounts. Court observed that "we will be failing in our duty as a Court of law if we do not comment on the accommodation entry provider, Mr. Mukesh Choksi through his web of shell companies and various admissions made by the counsel for the respondent-assessee. It is also important to note that Mr Mukesh Choksi, director of the respondent-assessee in his answer to question No.14 of the statement has admitted that he was a practicing Chartered Accountant but has surrendered the Certificate of Practice (COP) in 1993 and thereafter is only engaged in the business of providing accommodation entries. He has also stated that search action has been taken against him/his companies more than once.". The Court allowed the appeal of the Revenue and affirmed the order of the CIT(A). The Court directed the Institute of Chartered Accountant of India to take disciplinary action, the appropriate authority to initiate proceedings under Prevention of Money Laundering Act, 2002, Prosecution under Income-tax Act, directed the CCIT to conduct an enquiry and fix the responsibility against the officer responsible for the same for not giving effect to the order of CIT(A). Court also directed the Registry of the High Court to forward a copy of the order to the Disciplinary Committee of the Institute of Chartered Accountants of India; National Financial Reporting Authority; The Commissioner of Police-Economic Offence Wing, Mumbai; Enforcement Director under PMLA Act; The Chief Commissioner of Income-tax, Mumbai; Ministry of Corporate Affairs. (AY. 2009-10)
PCIT v. Buniyad Chemicals Ltd. (2025) 474 ITR 452 / 304 Taxman 560 / 343 CTR 773 / 248 DTR 65 (Bom) (HC)

1065 **S. 68 : Cash credits-Revision of orders prejudicial to revenue-Cash credits-Share Capital-Share Premium-Second Reassessment-Natural justice-The material gathered was not furnished to the assessee, resulting in violation of section 142(3) and the principles of natural justice. Accordingly, the addition was deleted. [S. 142(3), 144, 147, 263]**
Pursuant to an order under section 263 directing a fresh enquiry into share capital and share premium, the Assessing Officer, in the second round of reassessment, made an addition under section 68 without conducting a proper enquiry and without confronting the assessee with the material collected. The Tribunal held that although the validity of the revision order under section 263 had attained finality, the addition under section 68 could not be sustained. In the original reassessment proceedings, the assessee had already established the identity, creditworthiness and genuineness of all share applicants by producing confirmations, audited financial statements, income-tax returns and bank statements, which had been duly verified by the Assessing Officer. In the second reassessment, no fresh incriminating material was brought on record, relevant enquiries directed under section 263 were not properly carried out, and the material gathered was not furnished to the assessee, resulting in violation of section 142(3) and the principles of natural justice. Accordingly, the addition under section 68 was deleted. (AY. 2008-09)
Goodview Marketing (P.) Ltd. v. ITO (2025) 121 ITR 8 / 172 taxmann.com 46 (Kol.)(Trib.)

S. 68: Cash credits-Unsecured loan-Share application money-Identity, creditworthiness and genuineness proved-Assessee not required to explain source of source where creditor had sufficient own funds-Addition deleted.[S. 133(6) 1066

The assessee received unsecured loans from a creditor alleged by the Assessing Officer to be a shell entity providing accommodation entries. The assessee furnished complete details, including the creditor's name, address, PAN, confirmations, bank statements, financial statements and income-tax returns establishing that the transactions were through banking channels. The creditor's own assessment had accepted the source of its share capital after enquiry under section 133(6), and it possessed sufficient reserves and surplus to advance the loan. The Tribunal held that the assessee had discharged the initial onus under section 68 by proving the identity and creditworthiness of the creditor and the genuineness of the transactions. The assessee was not required to prove the source of the creditor's funds when the creditor's financial capacity stood established. The deletion of the addition by the Commissioner (Appeals) was upheld. (AY. 2015-16, 2016-17.)

ITO v. Vastimal Bhim Raj Sancheti (2025) 121 ITR 677 (Bang.)(Trib.)

S. 68: Cash credits-Cash deposits during demonetisation-Addition was deleted-the enhanced rate under section 115BBE was not applicable for A.Y. 2017-18-Agricultural income-Ad hoc disallowance of 10% was deleted. [S. 115BBE] 1067

The assessee's appeal was filed belatedly as no physical copy of the appellate order had been received, and the assessee was unaware of the order due to irregular checking of the Department's portal. The Tribunal condoned the delay, holding that it was neither intentional nor deliberate. On merits, the Assessing Officer had treated cash deposits made during the demonetisation period as unexplained cash credits under section 68 and taxed the same under section 115BBE. The Tribunal observed that no independent enquiry had been conducted regarding the assessee's agricultural holdings or agricultural receipts and that the claim had not been disproved. Considering the facts, an ad hoc disallowance of 10% of Rs. 27,14,000 was held sufficient to safeguard the interests of the Revenue. The Tribunal further held that the enhanced rate under section 115BBE was not applicable for A.Y. 2017-18. (AY. 2017-18)

Sureshbhai Bhiukhabhai Patel v. ITO (2025) 121 ITR 5 (SN) (Surat)(Trib.)

S. 68: Cash credits-Unexplained Money-Senior citizen-Cash deposits during demonetisation-Agricultural income-Lump sum addition-Addition restricted to lump sum disallowance of Rs 62 000-Section 115BBE was inapplicable as the deposits were from explained sources and directed taxation under the normal provisions of the Act-The decision was rendered on the peculiar facts of the case and was not to be treated as a precedent. [S. 69A, 115BBE] 1068

The assessee, a senior citizen engaged in agricultural activities for several years, explained cash deposits made during the demonetisation period by producing five years' income-tax returns showing agricultural income, ledger accounts, bank passbooks, revenue records (Forms 7/12 and 8A) and electricity bills relating to agricultural operations. The Tribunal held that the documentary evidence established that the deposits represented agricultural income. Since the Department had not doubted the agricultural activities or the evidence produced, the Commissioner (Appeals) was not justified in sustaining part of the addition. However, to take care of minor

inconsistencies, a lump sum disallowance of Rs. 62,000 was considered appropriate instead of the sustained addition of Rs. 6,20,000. The Tribunal further held that section 115BBE was inapplicable as the deposits were from explained sources and directed taxation under the normal provisions of the Act. The decision was rendered on the peculiar facts of the case and was not to be treated as a precedent. (AY. 2017-18)
Ambarambhai Velabhai Jetpariya v. ITO (2025) 121 ITR 1 (SN) (Rajkot)(Trib.)

1069 **S. 68: Cash credits-Partner's capital contribution-Partner was assessed to tax, and the source of the capital contribution was proved-Addition in the hands of the firm was not sustainable.**
The AO treated cash introduced as partner capital as unexplained income under section 68 of the Act. The assessee explained that the partner had received funds from Sarvodaya Mining Services and provided supporting books, cash records, and balance sheet evidence. On appeal, the ITAT agreed that the source of funds was explained and relied on the principle that capital introduced by a partner cannot generally be taxed in the hands of the firm when the partner is identifiable and a taxpayer. The deletion of the addition was upheld. [AY. 2017-18]
Anjana Construction v. ACIT (2025) 128 ITR 148 (Jodhpur)(Trib.)

1070 **S. 68: Cash credits-Reassessment-AO reopened case of assessee on the ground of large cash deposits in bank accounts-However, reassessment was ended with a disallowance under section 80P-Since no addition was made on account of cash deposit, the disallowance was not sustainable. [S. 80P, 147,148]**
The assessee, a cooperative society, was issued a notice under section 148 on the basis of information under the head 'NMS' that the assessee had deposited cash in 3 bank accounts maintained with the Central Cooperative Bank Ltd. The assessee filed a nil return claiming a deduction under section 80P. Ultimately, the case of the assessee was assessed at Rs.13,04,658 after disallowing the deduction claimed under section 80P. On appeal to the ITAT, it was held that where the AO reopened the case of the assessee on the ground of large cash deposits in bank accounts, but the reassessment was ended with a disallowance under section 80P, without making any addition on account of cash deposits, the disallowance made by the AO was not sustainable in law. [AY. 2019-20]
Balithal Gram Seva Sahakari Samiti Ltd. v. ITO (2025) 128 ITR 417 (Jaipur)(Trib.)

1071 **S. 68: Cash credits-Share capital and premium-Identity, genuineness of transaction and creditworthiness of investor were established-Addition deleted.**
The assessee had received a certain amount on account of share capital, including share premium. The AO treated the aforesaid share capital as unexplained cash credit under section 68 and added it back to the total income of the assessee. On the revenue's appeal, ITAT held that where identity, genuineness of transaction and creditworthiness of investor were unambiguously established by assessee in respect of share capital and premium raised by issue of preferential shares, CIT(A) had rightly deleted the addition. [AY. 2009-10, 2012-13]
ACIT v. Doshion Veolia Water Solution (P.) Ltd. (2025) 128 ITR 128 (Mum)(Trib.)
ACIT v. Doshion Water Solutions P. Ltd 2025) 128 ITR 128 (Mum)(Trib.)

S. 68: Cash credits-Loose sheets / Excel sheets found during search-No corroborative evidence-A seized loose sheet or Excel sheet, by itself, cannot justify additions under sections 68 or 69C unless the Revenue establishes ownership of the document, its nexus with the assessee, and corroborates the entries with independent evidence. Documents must be read in their entirety and not selectively. Additions were deleted.[S.69C, 115BBE] 1072

The assessee, a salaried employee of the Homeland Group, was subjected to search proceedings. During the search, certain loose papers and Excel sheets titled "BTD-2011" were found containing names of parties, proposed borrowings, cash entries, credit limits, collateral securities and financial details of various group companies. Based solely on these documents, the Assessing Officer treated the entries as unexplained cash credits under section 68 and unexplained expenditure under section 69C and made additions for A.Ys. 2017-18, 2018-19 and 2019-20. On appeal the Tribunal held that the assessee was merely a salaried employee managing the financial affairs of the group and had no independent business or personal books of account. The seized documents, when read as a whole, clearly relate to the borrowings and financial planning of various group entities and not to the assessee personally. The Assessing Officer failed to establish that the entity "BTD-2011" belonged to the assessee or that the entries represented his unexplained transactions. During remand proceedings, several entries were found to tally with the books of account of group companies, supporting the assessee's explanation that the sheets were only projections and financing proposals. No unexplained cash, jewellery, investment or asset was found during the search to corroborate the alleged undisclosed income. Loose sheets, without independent corroborative evidence, cannot be the sole basis for additions under sections 68 or 69C. Accordingly, the additions under sections 68 and 69C read with section 115BBE were rightly deleted, and the Revenue's appeals were dismissed. (AY. 2017-18, 2018-19, 2019-20)

DCIT v. Kapil Romana [2025] 128 ITR 368 (Chd) (Trib.)

S. 68 : Cash credits-Burden of proof-Share application money-Assessee filing documents such as income-tax returns, confirmations, bank statements, income-tax notices and assessment orders of share applicants-Assessing Officer not making independent enquiry or calling for particulars from parties who advanced money-Addition was deleted. 1073

The assessee received share application money and, during assessment proceedings, furnished complete documentary evidence, including income-tax returns, confirmations, bank statements, assessment orders and other supporting records of the investor companies. The Assessing Officer, without conducting any independent enquiry or pointing out any discrepancy in the documents, treated the share application money as unexplained cash credit under section 68. On appeal the Tribunal held that once the assessee produced cogent documentary evidence establishing the identity of the investors, their creditworthiness and the genuineness of the transactions, the initial burden under section 68 stood discharged. The Assessing Officer neither conducted any independent enquiry nor summoned the investors nor pointed out any infirmity in the evidence produced. In the absence of any contrary material, the addition under section 68 was unsustainable and was liable to be deleted.(AY. 2016-17)

ACIT v. Signature Global (India) (P.) Ltd. [2025] 128 ITR 30 (Delhi) (Trib.)

1074 **S. 68: Cash credits-Interest on loans-No disallowance when assessee proves identity, creditworthiness and genuineness of lenders and loans accepted by Revenue-Addition was deleted. [S. 37(1)]**

Pursuant to information gathered during a search in the case of a third party, the Assessing Officer reopened the assessment and disallowed interest paid on loans alleged to be bogus. The assessee produced affidavits, income-tax returns, bank statements and other documentary evidence establishing the identity and creditworthiness of the lenders and the genuineness of the transactions. The loans had been accepted in the years in which they were taken and were subsequently repaid. Since no addition was made towards the principal amount of the loans and the Revenue failed to rebut the evidence produced by the assessee, the Tribunal held that the disallowance of interest was unjustified and directed its deletion. (AY. 2011-12)

Rakesh Gupta Family Trust v. Asst. CIT (2025) 128 ITR 162 (Mum.)(Trib.).

1075 **S. 68: Cash credits-Purchase expenditure cannot be assessed as unexplained cash credit or unexplained expenditure where the source of payment is not disputed. [S. 69C, 250]**

The Assessing Officer treated purchases as unexplained expenditure under section 69C, and the Commissioner (Appeals) further invoked section 68. The Tribunal held that section 68 applies only where there is an unexplained credit in the books, whereas the present case related to expenditure already recorded by the assessee. Further, the source of payment was never doubted, and the purchases pertained to an earlier year. Therefore, neither section 68 nor section 69C was applicable, and the additions were liable to be deleted. The enhancement made by the Commissioner (Appeals) by invoking section 68 without granting an opportunity of hearing was also held to be unsustainable. (AY. 2009-10 & 2013-14)

Feather Infotech (P.) Ltd. v. Dy. CIT (2025) 130 ITR 1 (Delhi)(Trib.)

1076 **S. 68: Cash credits-Once the assessee establishes the identity and creditworthiness of the shareholders and the genuineness of the transaction, the burden shifts to the Assessing Officer. Addition was deleted.**

The assessee received share capital and share premium from nine corporate shareholders and furnished complete documentary evidence including PAN, share application forms, bank statements, income-tax returns, audited financial statements, details of reserves and surplus and the immediate source of funds to establish the identity, creditworthiness of the subscribers and the genuineness of the transactions. The Tribunal held that the assessee had discharged the primary onus cast under section 68 and, thereafter, it was incumbent upon the Assessing Officer to conduct an independent enquiry. Since no discrepancy was found in the evidence furnished and the Assessing Officer failed to make any independent verification, the addition under section 68 was rightly deleted. (AY. 2009-10)

ITO v. Express Tradelink (P.) Ltd. (2025) 130 ITR 282 (Kol.)(Trib.)

Editorial: Affirmed in PCIT v. Express Tradelink (P.) Ltd. [2026] 309 Taxman 369 (Cal.)(HC).

S. 68: Cash credits-Share capital and premium-Newly incorporated company, no business model-500-fold premium charged only on second lot issued 27 days after first lot at nil premium-Investors unverifiable, no source of funds, director not produced-Source of funds not established-Identity, creditworthiness and genuineness not substantiated-Addition as unexplained cash credit justified. 1077

Assessee, a newly incorporated company with no business history, raised share capital at nearly 500 times face value premium in a second lot issued just 27 days after an earlier lot at nil premium, and the AO added the amount under section 68 as the director failed to appear or verify the investors, a view confirmed by the CIT(A). On appeal, the Tribunal upheld the addition, holding that the investors themselves lacked any independent source of income, no valuation justified the premium, and with the director never produced, the identity, creditworthiness and genuineness of the transactions remained unsubstantiated, rendering the arrangement a camouflage. (AY. 2012-13)

Toplink Commerce Ltd v. ITO (2025) 131 ITR 503(Kol) (Trib)

S. 68: Cash credits-Search and seizure-Undisclosed income-Advances received through banking channels for land sale-Suppression means receipt of excess as own money outside banking channel-No correlation with specific sale-Not unaccounted sale-Addition deleted.-Advances from buyers-Addition based on book entries, not incriminating material-Confirmation, ledger, bank statements furnished-Identity/ creditworthiness beyond dispute once sale deed registered-Non-filing of confirmation from few persons irrelevant-Addition deleted-Unaccounted sale consideration-Managing partner's admission vs registered sale deed-Latter to prevail-Only profit element assessable, cost subsumed in closing stock-Commissioner (Appeals)'s findings upheld-Advances not linked to identifiable plot-Confirmation, ledger, PAN furnished-Addition based on book entries not incriminating material-Identical treatment required for similarly placed parties-Addition deleted-Addition based solely on partner's statement admitting unaccounted income-Statement pertaining to partners, not assessee-No corroborating material-Addition not sustainable. [S. 132, 132(4)] 1078

The assessee-firm faced multiple additions on advances received for land sales and unaccounted consideration, largely based on book entries and a partner's statement under section 132(4) rather than incriminating material, with the CIT(A) granting substantial relief. On cross-appeals, the Tribunal held that banking-channel advances without correlation to specific sales could not be treated as unaccounted consideration, that additions based merely on book entries where documentary evidence and registered sale deeds existed could not be sustained, that a registered sale deed prevails over a partner's inconsistent statement with only the profit element taxable, and that an addition resting solely on an uncorroborated partner's statement pertaining to partners rather than the firm was not sustainable; accordingly, the Revenue's appeal was dismissed and the assessee's allowed. (AY. 2016-17 2017-18)

S.A. Builders and Developers v. Asst. CIT (2025) 131 ITR 685 (Hyd) (Trib)

1079 **S. 68: Cash credits-Share transactions-Capital gains-Cannot be assessed as sham transaction-Addition was deleted. [S. 10(38), 45]**
Held that the assessee has produced bank statement and DMT statement; hence, the sale transaction cannot be assessed as a sham transaction. Capital gains exemption was allowed. (AY.2013-14)
Kavya Satija v. Dy. CIT (2025) 235 TTJ 217 (Delhi)(Trib)

1080 **S. 68: Cash credits-Income chargeable to tax-Revaluation of assets-Member's capital account-Revaluation of stock-in-trade in the books of accounts of AOP to recognise its present value does not trigger any tax liability either in the hands of AOP or any of its members-Addition was deleted.[S. 4]**
Held that it cannot be said that any income has arisen on revaluation of assets by the AOP and crediting the amount to the capital accounts of the individual members, including the assessee in their respective shares and therefore, addition under s. 68 made in the hands of the assessee cannot be upheld. Referred, *CIT v. Hind Construction Ltd (1972) 83 ITR 211 (SC)* (AY. 2018-19)
DCIT v. Darshan Enterprises (2025) 236 TTJ 22 (Mum)(Trib)

1081 **S. 68 : Cash credits-Share transactions-Long-term capital gains-Share price of KAF Ltd. had been manipulated by seven entities-Delay was condoned-Matter remanded to the file of the Assessing Officer. [S. 10(38), 45, 254(1)]**
Tribunal held that the CIT(A) deleted the addition, ignoring the final order passed by SEBI, wherein it confirmed that the share price of KAF Ltd. had been manipulated by seven entities. The matter is restored to the AO (AY. 2015-16)
ITO v. Arvind Kumar Gupta Through Legal Heir Smt. Uma Gupta (2025) 236 TTJ 482 / 176 taxmann.com 628 (Lucknow)(Trib)

1082 **S. 68: Cash credits-Amounts not credited in the books of the assessee-loss resulted in an outgo and depletion of funds-Addition was deleted.**
Held that the amounts being loss which resulted in outgo and depletion of funds, were not amounts credited in the books of the assessee-firm and, therefore, the addition under S 68 made by the AO is not sustainable.(AY. 2013-14, 2014-15)
Shree Ganesh Commodity Brokers v. ITO (2025) 236 TTJ 826 (Delhi) Trib)

1083 **S. 68: Cash credits-Share application money-On account of convertible equity warrants from companies which are operated by an entry operator-AO was justified in treating the amount as unexplained income of the assessee. [S. 131(IA), 132(4), 133(6)]**
Assessee-company having shown receipt of huge amount on account of convertible equity warrants from companies operated by an entry operator Shri Shirish Chandrakant Shah which have shown negligible income, meagre capital and no business history commensurate with the quantum of investment, the AO was justified in treating the impugned amount as unexplained income of the assessee; since the assessee, doing independent business, having independent directors unrelated to Shri Shirish Chandrakant Shah and there is no contract, no instruction and no correspondence indicating that the assessee was acting on behalf of another entity; the assessee is to be

regarded as the true economic owner of the money and cannot be treated as a conduit. The order of the Assessing Officer was affirmed. (AY.2014-15)
ITO v. Evexia Lifecare Ltd. (2025) 237 TTJ (Ahd) 1(Ahd)(Trib)

S. 68: Cash credits-Difference between amount of loan shown in audit report and confirmation-Filed confirmation-two separate account-Deletion of addition was affirmed. 1084
Held that the Assessee explained that the difference between the amount of loan as shown in the audit report and the amount shown in the confirmation occurred on account of resemblance in the names of two creditors, and filed confirmation of both the creditors along with their bank statements and balance sheets, the CIT(A) rightly deleted the impugned addition. The assessee is maintaining two accounts of RF (P) Ltd., one for the loan and another for purchases and sales made from/to the latter, and the assessee has credited the amounts received from RF (P) Ltd. on various dates to separate accounts which stand corroborated by the confirmation letters of the said company and the bank statements, the addition of the whole amount is not sustainable. Difference between the amount of loan shown in audit report and confirmation/bank statement, reconciliation was filed. Addition was deleted. (AY.2014-15)
ITO v. Somila Texfab (India) (P) Ltd. (2024) 237 TTJ 333 (Jodhpur)(Trib)

S. 68: Cash credits-Cash deposits-Demonetization-Survey-Cash sales accepted-Auditors have certified that proper books of account as required by law have been kept by the assessee and books of account give a true and fair view of profit-The rejection of the books of account by the CIT(A) was held to be not justified-Addition was deleted. [S. 69A, 133A, 145(3)] 1085
Held that the Department having not found any incriminating material during the survey under S. 133A showing any discrepancy in stock, cash, purchases, sales expenses and books of account or any positive material/evidence showing that the assessee was having any source of undisclosed income or that the sales shown by the assessee was not genuine, deposits of demonetized currency i.e., specified bank notes, made by the assessee in his bank accounts out of cash sales made before demonetization cannot be treated as undisclosed income and therefore, impugned addition under s. 68 is not sustainable; since the lower authorities have not pointed out any unverifiable purchases or unvouched expenses or unaccounted receipts or any specific defect in the assessee's books of accounts, which are audited by chartered accountants, CIT(A) was not justified in rejecting the books of account. Addition was deleted. (AY. 2017-18)
Peeyush Agarwal v. ITO (2025) 237 TTJ 515 (Jaipur)(Trib)

S. 68: Cash credits-Advance received from customers of the housing project-Offered to tax such advances received in the subsequent years-Addition was not justified-Entitled to claim deduction under s. 80-IA-Addition was rejected.[S.80IA] 1086
Held that the assessee offered to tax the advance received from its customers in the subsequent year, the impugned addition under s. 68 made by the AO in the relevant assessment year is not sustainable, more so as the assessee is also entitled to a deduction under s. 80-IA.(AY. 2013-14, 2014-15)
Kumar Urban Development (P) Ltd. v. DCIT (2025) 237 TTJ 881 (Pune) Trib)

1087 **S. 68: Cash credits-Share capital-Addition already made in the hands of investor companies-Amount cannot be taxed again in the hands of the assessee company as the Act does not envisage taxation of the same income twice over on one passage of money.**
Held that the amount received by the assessee-company as share capital through a series of endorsements of crossed cheques among the investor companies has already been assessed as unexplained income in the hands of the respective investor companies, and the addition has been sustained in the appeals in their cases; the same amounts cannot be taxed again in the hands of the assessee. (AY. 2010-11)
ACIT v. Double Plus Software (P) LTD. (2025) 237 TTJ 769 (TM) (Delhi) Trib)

1088 **S.68: Cash credits-Genuineness of Loans-Established the identity, creditworthiness and genuineness of the lenders-Addition was deleted.**
Where the assessee-company established the identity, creditworthiness and genuineness of the lenders by furnishing confirmations, bank statements, financial statements and income-tax returns, and the advances were received through banking channels and duly explained with reference to acquisition of fixed assets, the addition under section 68 was unsustainable. The Assessing Officer was directed to delete the addition. (AY. 2013-14)
Fedora Sea Foods (P.) Ltd. v. ACIT (2025) 238 TTJ 104 (Hyd.)(Trib.).

1089 **S. 68: Cash credits-Cash deposits during demonetisation-Addition cannot be made on conjectures-Matter remanded.**
The Tribunal held that where the assessee explained the cash deposits made during the demonetisation period with reference to its books of account and the Revenue failed to disprove the explanation through any investigation, an addition under section 68 could not be sustained on mere suspicion or conjecture. However, the matter was restored to the Assessing Officer for fresh examination and verification of the supporting evidence in view of the provisions governing taxation under section 68 (AY. 2017-18 & 2018-19).
Rohilkhand Educational Charitable Trust v. DCIT (2025) 238 TTJ 173 / 178 taxmann.com 672 (Lucknow)(Trib.)

1090 **S. 68: Cash credits-Disclosure under IDS, 2016-Addition confined to difference between bogus share sale proceeds and income disclosed.**
The Tribunal held that where the assessee had declared undisclosed income under the Income Declaration Scheme, 2016, in respect of bogus share transactions, such disclosure represented unexplained income taxable under section 68 and not long-term capital gains. The Assessing Officer rightly granted credit for the income already disclosed under IDS and made an addition only to the extent of the balance amount representing the difference between the bogus sale proceeds and the income declared under the Scheme. (AY. 2014-15)
DCIT v. Vimalar Vind Kapasi (2025) 238 TTJ 228 (Mum.)(Trib.)

1091 **S. 68: Cash credits-Method of accounting-Opening balance of unsecured loans cannot be taxed under the section. [S. 145]**
The Tribunal held that section 68 applies only to credits recorded during the relevant previous year and not to opening balances brought forward from earlier years.

Accordingly, the addition under section 68 in respect of opening balances of unsecured loans was held to be unsustainable. (AY 2020-21).
ACIT v. Ramasubbu Minnalkodi (2025) 238 TTJ 337 (Chennai)(Trib.)

S. 68: Cash credits-Addition cannot be sustained where the assessee establishes the identity, creditworthiness and genuineness of the share subscribers by producing confirmations, ITRs, audited financial statements, bank statements and all subscribers respond to notices under section 133(6).[S. 131, 133(6)] 1092
The Tribunal held that the assessee had discharged the onus cast under section 68 by furnishing confirmations, income-tax returns, audited financial statements, bank statements and other documentary evidence of all the share subscribers. The notices issued under section 133(6) were duly complied with, and summons under section 131 were served, establishing the identity of the subscribers. The subscribers possessed substantial share capital and free reserves, and their creditworthiness could not be doubted merely because they had low recurring income. Since the Assessing Officer failed to point out any defect in the evidence produced, the addition under section 68 was deleted. (AY. 2012-13 & 2014-15 to 2016-17)
Samrat Finvestors (P.) Ltd. v. ITO (2025) 238 TTJ 42 /181 taxmann.com 713 (Kol.)(Trib.).

S.68: Cash credits-Bogus long-term capital gains-Genuine share transactions through stock exchange, demat account and banking channels cannot be treated as bogus in the absence of incriminating evidence. [S. 45, 69C] 1093
The assessee purchased and sold shares through the Bombay Stock Exchange, received delivery in the demat account, and all transactions were routed through banking channels. As the AO failed to establish any involvement of the assessee in price manipulation or cash trail and rejected none of the documentary evidence, the Tribunal deleted the additions under sections 68 and 69C. (AY. 2014-15)
Ashok Panwar (HUF) v. ACIT (2025) 238 TTJ 681 (Jodhpur)(Trib.)
Ashok Panwar v. ACIT (2025) 238 TTJ 681 (Jodhpur)(Trib.)

S. 68: Cash credits-Gift from sister-Creditworthiness and genuineness proved-Addition deleted. 1094
The assessee received gifts from his sisters, one in cash out of the sale proceeds of property and another by cheque from funds available in the donor's bank account. The Tribunal held that the assessee had produced the registered sale deed, confirmations, gift declarations and the donor's bank statements establishing the identity of the donors, their creditworthiness and the genuineness of the transactions. Merely because one donor was not subjected to a scrutiny assessment could not be a ground to doubt her financial capacity. Since all three ingredients of section 68 stood duly established, the gifts were held to be genuine, and the additions made by the Assessing Officer were deleted. (AY. 2016-17.)
Sharad Maheshwari v. ITO (2025) 238 TTJ 1055 (Agra)(Trib.)

1095 **S. 68: Cash credits-Cash deposit in bank-Demonetisation-Cash sales-Books of account not rejected-Figures of sales have been depicted in VAT return-Addition is deleted-Section 115BBE is applicable to transactions on or after 1st April, 2017.[S. 115BBE]**
Held that the assessee has explained the cash deposits in the bank representing cash sales, and the books of account are audited, and the Assessing Officer has not rejected the books of account. Addition was deleted. (AY. 2017-18)
Ayesha Steels (P) Ltd v. ITO (2025) 238 TTJ 942 (Delhi)(Trib)

1096 **S. 68 : Cash credits-Demonetisation-Cash deposits in bank during demonetisation period-Explanation that deposits were from recorded cash sales-Stocks existing on date of sale, no backdating-Complete stock tally maintained, books audited, no deviation in gross profit ratio, parties identified, proper invoices and VAT returns filed-No evidence of bogus sales-Cash deposits cannot be treated as unexplained income. [S. 115BBE]**
The assessee, engaged in trading of gold and silver jewellery, had a sum of Rs. 2,05,75,291 deposited in the bank during the demonetisation period treated as unexplained cash credit under section 68 on the ground of abnormal increase in cash deposits and alleged manipulation of cash sales, which addition was affirmed by the CIT(A). On appeal, the Tribunal held that the addition was not sustainable since the stock existed on the date of sale with no backdating proved, the assessee maintained a complete audited stock tally with quantitative records certified by the tax auditor, there was no deviation in the GP ratio compared to the preceding year, all parties were identified with names, addresses and PAN, proper invoices were issued and VAT duly charged, paid and returned without post-demonetisation revision, and AO had accepted the entire sales and purchases as genuine; since the cash deposits represented recorded sales already offered for taxation and no evidence of bogus sales was brought on record, a receipt could not be treated simultaneously as sale proceeds and as unexplained cash credit, and the addition was accordingly deleted.(AY. 2017-18)
Lalit R Jagawat HUF v. DCIT (2025) 132 ITR 192 (Mum) (Trib.)

1097 **S. 68 : Cash credits-Unexplained money-Cash deposits claimed as sale of scrap to unorganised dealers, accounted as "direct income"-No buyers' details, tax collected at source information or Form 27EQ filed-Explanation unsupported-Matter remanded for fresh verification-Reassessment-Notice-Addition deleted by Commissioner (Appeals) on technical ground of non-mention in show-cause notice-Assessing Officer had in fact discussed issue and afforded opportunity-Matter remanded for fresh verification [S. 69, 69A, 115BBE, 147, 148, 206C]**
Cash deposits of Rs. 1.40 crores were added under section 68, the assessee's explanation of scrap sales being unsupported by buyers' details or Form 27EQ filings, and Rs. 43 lakhs paid in cash to another entity was added under section 69A, both deleted by CIT(A). On appeal, the Tribunal held that since the assessee failed to substantiate the scrap sale claim with any statutory evidence, the matter was remanded for verification, to be deleted only if the assessee established the sales formed part of its regular books; and since AO had actually discussed the Rs. 43 lakhs issue in the SCN and given a hearing, the technical ground for deletion did not survive, and this too was remanded for fresh verification. (AY. 2016-17)
DCIT v. Ingeneric Technologies Solutions P. Ltd. (2025) 132 ITR 794(Hyd) (Trib.)

S. 68: Cash credits-Unexplained loan-Addition based solely on third-party document-Handwriting expert proving signatures forged-Addition deleted. 1098

The reassessment was based on an unregistered document seized from the premises of a third party alleging that the assessee had advanced a loan. The assessee denied the transaction, produced a handwriting expert's report establishing that the signatures were forged and demonstrated that the document neither contained his PAN nor Aadhaar details nor was it recovered from his premises. The Tribunal held that the document had no evidentiary value, no corroborative evidence existed against the assessee and no opportunity of cross-examination had been granted. The addition under section 68 was therefore deleted. (AY. 2013-14).

Rana Iqbal Singh v. ITO (2025) 126 ITR 252 / 178 taxmann.com 473 (Amritsar)(Trib.)

S. 68: Cash credits-Short-term capital gains-Alleged penny stock transactions-Genuine transactions through stock exchange-Addition deleted. [S.2(42B), 45, 111A, 115BBE] 1099

The Assessing Officer treated the assessee's short-term capital gains as unexplained cash credits under section 68 alleging manipulation and price rigging by entry operators. The Tribunal held that the shares were purchased and sold through the Bombay Stock Exchange, were credited to and debited from the assessee's demat account, payments were made through banking channels, and there was no evidence linking the assessee or the brokers with any price manipulation. The clean chit granted by SEBI further supported the assessee's case. The recharacterisation of genuine short-term capital gains as unexplained cash credits was held to be unsustainable and the Revenue's appeal was dismissed. (AY. 2014-15 to 2016-17).

Dy. CIT v. Naresh Laxminarayan Grover (2025) 126 ITR 137 / 178 taxmann.com 472 (Nagpur)(Trib.)

S. 68 : Cash credits-Share capital and unsecured loans-Identity, creditworthiness and genuineness established-Addition deleted. 1100

The assessee furnished complete details of shareholders and creditors including identity, cash-flow statements, bank statements and other supporting documents. The Tribunal held that the Assessing Officer failed to establish any nexus between the cash deposits and the assessee-company or make any meaningful enquiry regarding the source of funds. Since the assessee had discharged the initial burden of proving the identity, creditworthiness and genuineness of the transactions, the additions under section 68 were deleted. (AY. 2013-14).

Pioneer Fabricators (P.) Ltd. v. Dy. CIT (2025) 175 taxmann.com 96 / 126 ITR 115 (Delhi) (Trib.)

S. 68 : Cash credits-Unsecured loans-Identity, creditworthiness and genuineness established-Addition deleted-Source of source-Requirement not applicable-Addition based on suspicion not sustainable. [S. 131, 133(6)] 1101

The assessee furnished confirmations, PAN, bank statements, income-tax returns, agricultural land records and balance sheets of the loan creditors. All loans were received, and many were repaid through banking channels. The Tribunal held that the assessee had discharged the initial burden under section 68 by establishing the identity

of the creditors, their creditworthiness and the genuineness of the transactions. The Assessing Officer failed to conduct any meaningful enquiry under sections 131 or 133(6), and mere non-compliance by certain creditors with summons could not justify the addition. The deletion of the addition by the Commissioner (Appeals) was upheld. The Assessing Officer doubted the financial capacity of the creditors on the ground of low bank balances and meagre income. The Tribunal held that for the assessment year under consideration there was no obligation upon the creditors to explain the source of source. In the absence of evidence showing that the loans represented accommodation entries or the assessee's own money, additions based merely on suspicion or probabilities were unsustainable. (AY. 2022-23).
ITO v. Agrasen Logistics (2025) 126 ITR 436 / 179 taxmann.com 86 (Agra)(Trib.)

1102 **S. 68 : Cash credits-Share capital-Unsecured loan-Established identity, creditworthiness and genuineness of transaction beyond doubt-Addition deleted.**
Tribunal held that there was no enquiry by the Assessing Officer to link the cash deposited with unaccounted income of the investee company. Further, assessee had established identity, creditworthiness and genuineness of transaction beyond doubt. The addition was deleted. As regards unsecured loan, the Tribunal held that the Assessing Officer did not make any enquiry whatsoever regarding the source of cash with the lender. Addition was deleted. (AY. 2013-14)
Pioneer Fabricators (P.) Ltd. v. Dy.CIT (2025) 126 ITR 115 / 175 taxmann.com 96 (Delhi) (Trib)

1103 **S. 68 : Cash credits-Demonetisation-Cash deposits out of recorded cash sales-Books of account not rejected-Addition deleted-Assessment-Protective addition-Cash sales-Substantive addition pending in purchaser's case-Matter remanded.[S.115BBE, 143(3), 145]**
The assessee, engaged in the business of manufacture and trading of wool and woollen fabrics, deposited cash during the demonetisation period. The Assessing Officer treated the deposits as unexplained under section 68. The Tribunal held that the cash sales constituted only a small percentage of the total turnover, were duly recorded in the books of account, and the cash book, purchase and sales records, vouchers and ledger accounts were produced before the Assessing Officer. As no defect was pointed out in the books and no enquiry was conducted with the purchasers to rebut the assessee's explanation, the source of the cash deposits stood satisfactorily explained. The deletion of the addition by the Commissioner (Appeals) was upheld. The Assessing Officer made a protective addition in the assessee's hands on the ground that the sale proceeds received from one purchaser were returned to the assessee's bank account after demonetisation, while the substantive addition had already been made in the purchaser's hands. The Tribunal held that since the substantive addition was pending adjudication before the Commissioner (Appeals), the protective addition in the assessee's case also required reconsideration. The matter was restored to the Commissioner (Appeals) to decide both issues together. (AY. 2017-18).
Dy. CIT v. Tirupati Balaji Exim (P.) Ltd. (2025) 122 ITR 591 / 174 taxmann.com 1077 (Chd.)(Trib.)

S. 68 : Cash credits-Capital gains-Penny stock-Short-term capital loss-Addition based only on Investigation Wing and SEBI reports-Tuni Textile Ltd-Blue Circle Ltd-No independent enquiry-Loss allowable.[S. 10(38), 45] 1104

The Assessing Officer disallowed the assessee's short-term capital loss on the ground that the shares formed part of penny stock scrips allegedly manipulated by entry operators. The Tribunal held that the assessee had produced contract notes, demat statements, bank records and other documentary evidence, which the Assessing Officer neither disproved nor investigated independently. As no incriminating material linked the assessee with the alleged manipulation and the addition was based solely on Investigation Wing reports and statements of third parties, the disallowance of the loss was deleted. (AY. 2013-14).

Nalanda Builders (P.) Ltd. v. Dy. CIT (2025) 122 ITR 346 (Kol.)(Trib.)

S. 68 : Cash credits-Unsecured loans-Repayment through banking channels accepted in subsequent year-Addition of loans, commission and interest deleted. 1105

The assessee produced confirmations and bank statements showing repayment of the unsecured loans through banking channels in the subsequent assessment year, and such repayments had been accepted by the Department without any adverse addition. The Tribunal held that the additions towards unexplained loans under section 68 and the ad hoc additions towards alleged brokerage and cash interest under section 69C were unsupported by evidence and could not be sustained. (AY. 2013-14).

Dy. CIT v. Southwinds Project LLP (2025) 124 ITR 292 (Kol.)(Trib.)

S. 68 : Cash credits-Loan repaid through account payee cheques-Documentary evidence ignored-Addition deleted-Unexplained investment-Purchase of immovable property-Source partly explained-Addition restricted.[S.69] 1106

The assessee explained that the impugned credit represented repayment of a loan obtained from a concern of her husband and produced the bank statement, reply before the Assessing Officer and the balance sheet of the lender. The Tribunal held that the Assessing Officer failed to consider the documentary evidence and the basis of the addition was not clear. Since the bank statement did not support the finding regarding cash deposits immediately preceding the repayment, the addition of Rs. 54,000 under section 68 was deleted. Documents seized during search showed purchase of immovable property for cash. The assessee claimed that the funds had been provided by her mother-in-law from a housing loan. The Tribunal held that there was no evidence to establish that the cash withdrawn by the mother-in-law had actually been handed over to the assessee or paid to the vendors. However, after considering the assessee's disclosed income available during the year, the addition was restricted to Rs. 9,08,376, being the amount whose source remained unexplained. (AY. 2016-17).

Kavita Samtani v. Dy. CIT (2025) 124 ITR 119 (Jaipur)(Trib.)

S. 68 : Cash credits-Share capital and share premium-Identity, creditworthiness and genuineness established-No incriminating material found during search-Addition deleted.[S. 132] 1107

Pursuant to a search, the Assessing Officer treated share capital and share premium received from a corporate investor as unexplained cash credits under section 68.

The Tribunal held that the investor possessed sufficient share capital and reserves to make the investment, the entire contribution was made through normal banking channels without any cash deposits, and the assessee had established the identity, creditworthiness and genuineness of the transaction by documentary evidence. No incriminating material relating to the share capital was found during the search. As the assessment year preceded insertion of the proviso to section 68, the assessee was not required to establish the source of the source. Accordingly, the deletion of the addition by the Commissioner (Appeals) was upheld. (AY. 2011-12).
Dy. CIT v. Mahavir Coal Resources (P.) Ltd. (2025) 124 ITR 14 / 170 taxmann.com 671 (Nagpur.)(Trib.)

1108 **S. 68 : Cash credits-Loans received by non-banking financial company-Identity, creditworthiness and genuineness established-Running account between parties-Addition deleted.**
The assessee established the identity, creditworthiness and genuineness of the lenders by producing confirmations, bank statements, financial statements, income-tax returns and ledger accounts. The Tribunal held that there were regular running accounts between the assessee and the lenders involving advances, repayments and fresh loans. The Assessing Officer relied upon external information without examining the documentary evidence or making proper enquiries. Repayment of loans earlier advanced by the assessee could not be treated as unexplained cash credits. The additions under section 68 were therefore deleted. (AY. 2020-21).
Asst. CIT v. Neuzen Finance (P.) Ltd. (2025) 124 ITR 43 / 175 taxmann.com 582 (Mum.) (Trib.)

1109 **S. 68 : Cash credits-Unsecured loans-Identity, creditworthiness and genuineness established-Addition deleted-Penny stock-Long-term capital gains-Penny stock-Essar (India) Ltd-Purchase and sale supported by demat account and banking records-Exemption allowable.[S 10(38), 45]**
The Assessing Officer treated unsecured loans received from a Kolkata-based company as unexplained cash credits under section 68 on the ground that the lender's funds were sourced from share premium. The Tribunal held that the assessee had produced loan confirmations, bank statements, income-tax returns and financial statements of the lender establishing its identity, creditworthiness and the genuineness of the transaction. The lender's assessments had also been accepted by the Department. Since the assessee had discharged the burden cast upon it under section 68, the Commissioner (Appeals) was justified in deleting the addition. The Assessing Officer treated the exempt long-term capital gains earned on sale of listed shares as bogus penny stock transactions and added the entire sale proceeds under section 68. The Tribunal held that the assessee had established the purchase and sale of shares through contract notes, demat account, stock exchange records and banking channels. Mere statements of alleged entry operators, without linking the assessee to any manipulation, could not justify denial of exemption. The deletion of the addition by the Commissioner (Appeals) was upheld. (AY. 2014-15).
Dy. CIT v. Sanjay Gaurishankar Agrawal (2025) 125 ITR 455 (Nagpur)(Trib.)

S. 68: Cash credits-Identity, creditworthiness and genuineness established-Source of source explained-Non-furnishing of lender's return of income not fatal. 1110

The assessee produced the lender's confirmation, PAN, bank statements and evidence establishing the flow of funds through banking channels from the original source to the lender and thereafter to the assessee. The Tribunal held that the assessee had discharged the burden of proving the identity of the lender, its creditworthiness, the genuineness of the transaction and even the source of the source. Mere non-furnishing of the lender's return of income could not justify an addition under section 68. The addition was accordingly deleted. (AY. 2020-21).

Convenica Textiles v. NFAC (2025) 125 ITR 422 (Chd.)(Trib.)

S. 68: Cash credits-Opening balances-No fresh credit during relevant previous year-Addition not sustainable. 1111

The Assessing Officer questioned the genuineness of lease deposits and booking advances received in earlier years. The Tribunal held that section 68 applies only to credits appearing during the relevant previous year. Since the impugned amounts represented opening balances received through banking channels in earlier years and no fresh credit had arisen during the year under consideration, no addition could be made under section 68. (AY. 2020-21).

ITO v. N. Kumar Housing and Infrastructure (P.) Ltd. (2025) 125 ITR 401 / 172 taxmann.com 428 (Nagpur)(Trib.)

S. 68 : Cash credits-Long-term capital gains-Penny stock-NCL research-Kolkata Investigation report-Statement of persons involved-Artificial rise in share price-Transactions held non-genuine-Exemption denied.[S.10(38), 45, 132, 147] 1112

The assessee claimed exemption under section 10(38) in respect of long-term capital gains arising from sale of shares of a penny-stock company. The Tribunal found that the scrip had witnessed an abnormal and unjustified rise in price followed by a steep fall, the trading pattern was synchronised, and the investigation conducted by the Directorate of Income-tax and SEBI established manipulation by entry operators. The financial position of the company did not justify such appreciation in value. Mere production of contract notes, demat statements, banking records and payment of Securities Transaction Tax could not establish the genuineness of the transactions in the absence of any explanation for the abnormal price movement. The claim of exemption under section 10(38) was therefore rejected. (AY. 2013-14).

Munjal Mrugesh Jaykrishna v. Dy. CIT (2025) 125 ITR 565 (Ahd.)(Trib.)

S. 68: Cash credits-Share capital-Filed copies of PAN details, memorandum of association and articles of association, audit reports and balance-sheets, bank statement, copies of share application forms along with board resolutions and also confirmation of the companies-Order of CIT(A) deleting the addition was affirmed. 1113

Held that the assessee-company filed copies of PAN details, memorandum of association and articles of association, audit reports and balance-sheets, bank statement, copies of share application forms along with board resolutions and also confirmation of the companies to whom shares were allotted by the assessee, AO was not justified in treating the amounts received from the said companies as accommodation entries solely

on the basis of the statement on an unconnected person recorded behind the back of the assessee and without providing copy of said statement to the assessee. Order of CIT(A) deleting the addition was affirmed. (AY.2012-13)
DCIT v. N. Kumar Construction Co. (P) LTD. (2025) 234 TTJ 128 (Nag)(Trib)

1114 **S. 68: Cash credits-Sale of shares-Penny stock-Investigation Wing/SEBI reports-Bogus long term capital gains-Accommodation entries-NCL Research & Finance Services Pvt Ltd-Shares through stock exchange-Paid STT, Disclosed transaction in return-Held shares in demat account-Routed Payments through banks-Sale proceeds cannot be assessed as cash credits-Eligible for exemption-Addition of unexplained expenditure was also deleted. [S. 10(38), 45, 69C]**
Assessee sold shares of a company through the stock exchange, paid STT, and disclosed the transaction in return. Assessing Officer, relying on Investigation Wing/SEBI reports, treated sale proceeds as unexplained cash credit under section 68, alleging scrip was rigged and used for accommodation entries. CIT(A) upheld the addition. On appeal, the Tribunal held that shares were reflected in the demat account, payments were made through banking channels, and the entire transaction was disclosed in return. Revenue failed to establish any direct nexus or involvement of the assessee in price rigging or entry operations. Revenue had not even brought out whether it was an isolated transaction or whether the assessee regularly entered into the purchase and sale of shares. Furthermore, the assessee had submitted at the time of assessment that the assessee was not aware about fact that ' NCL Research & Finance Services Pvt Ltd was a rigged and it was penny stock share. In the absence of any direct evidence against assessee, it could only be concluded that assessee was an unsuspecting investor who had entered into an investment in shares. The addition made in the hands of assessee was arbitrary and bad in law and deleted. Tribunal also deleted an ad hoc addition for alleged commission on accommodation entry services without any material to show that such services were rendered or payments made. (AY. 2013-14)
Anju Parekh v. ITO (2025) 215 ITD 639 (SMC) (Raipur) (Trib.)

1115 **S. 68: Cash credits-Partner's capital-Cash flow and bank statements-Addition was deleted. [S.115BBE]**
Assessee was a partnership firm. During the relevant assessment year, one of its partners introduced capital. Assessee claimed that the source of capital was the partner's cash in hand. Assessing Officer held that the partner's ITR-4 for assessment year 2016-17 did not disclose any cash-in-hand balance. Accordingly, he treated said amount as unexplained under section 68 read with section 115BBE of the Act. Tribunal held that the assessee had furnished a copy of its cash flow statement and individual bank statement, without confronting the assessee regarding the genuineness of the claim, without making a necessary inquiry regarding submissions that had been put forth by the assessee. Revenue had made an addition which was perverse, arbitrary and bad in law. Since principles of natural justice were not followed and no inquiry on this aspect was made by the revenue, the addition made in the hands of assessee was deleted. (AY. 2017-18)
Khandelwal Industries v. ITO (2025) 215 ITD 667 (Raipur) (Trib.)

S. 68: Cash credits-Additional evidence-Matter remanded to the CIT(A). [ITAT R. 46A] 1116
Held that since the assessee was prevented by sufficient cause from producing evidence before the Assessing Officer, which was relevant to the addition, additional evidences admitted and the matter was remanded to the file of CIT(A). (AY. 2016-17)
Matrix Automotive v. ITO (2025) 215 ITD 651 (Mum) (Trib.)

S. 68 : Cash credits-Firm-Partners-Once partners' identity, creditworthiness, and genuineness of capital contribution are established through evidence, addition u/s 68 cannot be made in the firm's hands, as the firm is not required to explain the source of partners' funds.[S. 2(31)(iv)] 1117
During the assessment, the AO treated partners' fresh capital contribution as unexplained cash credit u/s 68 for lack of creditworthiness proof. On appeal, the CIT (A), after examining partners' PAN, bank statements, ITRs, and capital accounts, held that identity, creditworthiness, and genuineness were established and deleted the addition, noting that a firm need not prove the source of partners' income. The ITAT upheld this, observing that the assessee discharged its burden by furnishing evidence, and the AO failed to rebut or file a remand report. Revenue's appeal was dismissed. ITA No. 3459/Mum/2025 dated 30/07/2025.
Dy. CIT v. A.A. International (Mum)(Trib.)(UR)

S. 68: Cash credits-Sale of shares-Shares held for more than 19 years-Long-term capital gains cannot be assessed as cash credits-Entitled to exemption. [S. 10(38), 45] 1118
Held that the sale of shares after holding them for 19 years and claiming LTCG exemption, since shares were sold through a recognised broker of the stock exchange and assessee furnished complete details such as date of acquisition of share, details of dematerialisation of share and details of share sold, transaction could not be doubted and LTCG could not be treated as cash credit under section 68. Entitled to exemption. (AY. 2015-16)
ITO v. Ketan Dilip Shah (2025) 214 ITD 85 (Mum) (Trib.)

S. 68: Cash credits-Cash deposits in its bank-Demonetization period-Opening cash balance-Addition was deleted as cash credits read with section 115BBE of the Act. [S.115BBE] 1119
Held that the revenue had not proved the onus that the opening cash balance stood utilised for some other purposes by the assessee and that the same was not available as a cash source with the assessee as on the date of making the deposit. Addition made under section 68 read with section 115BBE was deleted. (AY. 2017-18)
G.N. International (P.) Ltd. v. ACIT (2025) 214 ITD 180 (Delhi) (Trib.)

S. 68: Cash credits-Long-term capital gains-Accommodation entry-Off market-Paid cash-Sole transaction-Investigation report-Order of CIT(A) denying the exemption and assessing as cash credits affirmed.[S. 10(38), 45, 115BBE] 1120
Assessee claimed LTCG exemption under section 10(38) on the sale of shares of the company Kappac Pharma Ltd (KPL). Assessing Officer held that shares were acquired in physical form through an off-market transaction and payment for the purchase of shares

was made in cash. He further took note of investigation reports which had flagged transactions in Kappac Pharma Ltd as being part of an orchestrated accommodation entry racket to convert unaccounted money into tax-exempt capital gains. He thus held that the transaction was a colourable device and accordingly held LTCG to be unexplained cash credit and brought it to tax under section 115BBE. CIT(A) affirmed the order of the Assessing Officer. On appeal the Tribunal held that the share certificate was dated much prior to the claimed date of purchase and shares were transferred in the name of the assessee after a lapse of more than six months. Further, assessee had no prior or subsequent history of trading or investment in shares, and this transaction in Kappac Pharma Ltd appeared to be the sole transaction of its kind, both in terms of nature and volume. Further, assessee's receipts consisted mainly of tuition fees in cash, and cash withdrawals of Rs. 5,000 per month, thereby not exhibiting any kind of liquidity or surplus that would plausibly explain a one-time cash investment of Rs. 1 lakh in a little-known company. On the facts, the transaction in question did not inspire confidence as a genuine investment, and bore the hallmark of an accommodation entry scheme devised to generate tax-exempt long-term capital gain. Tribunal also held that, since suspicious time gaps, mode of acquisition (cash), lack of prior or subsequent trading activity, scrip's tainted profile, and implausible price appreciation, all cumulatively establish that the transaction failed the test of human probability, the addition made was upheld.(AY. 2015-16)

Jelly Samkit Doshi v. ITO (2025) 214 ITD 255 (Ahd) (Trib.)

1121 **S. 68: Cash credits-Share capital-Share premium-Equity shares of Rs 10 each-Premium of Rs 990 per share-Summons not complied with-Failure to establish creditworthiness-Addition made by the Assessing Officer was affirmed. [S.131]**

Assessee company raised its share capital by issuing 49100 equity shares of Rs. 10/-each along with a premium of Rs. 990/-per share. Assessing Officer held that the summons issued to the directors of the assessee company for personal attendance remained uncomplied with. He made an addition of Rs. 4.91 crores under section 68. CIT A) held that subscriber companies which had subscribed to shares of the assessee with substantial premium did not have the capacity or financial standing to do so. He further noted that none of these companies had reported any substantial income as per their income tax returns, hence upheld the order of the Assessing Officer. On appeal, the Tribunal held that transactions relating to the issue of shares were not genuine, nor had the creditworthiness of creditors been established. Addition was affirmed. (AY. 2012-13)

Winsher Vinimay (P.) Ltd. v. ITO (2025) 214 ITD 328/125 ITR 219 (Kol) (Trib.)

1122 **S. 68: Cash credits-Unsecured loan-Additional evidence-Interest paid to related parties-Denial of exemption-Matter remanded to the Assessing officer-corpus without written direction from donor, same would not qualify as corpus under section 11(1)(d).[S.11(1)(d), 13, ITAT R. 29]**

Assessing Officer treated the increase in unsecured loans as unexplained for want of evidence. Tribunal held that since assessee filed additional evidence before Tribunal citing lack of proper advice, said evidence was admitted conditionally, and the matter was remitted to the Assessing Officer for fresh verification. Interest paid on loan also

remitted back to the Assessing Officer. Assessing Officer was directed to re-examine the claim of interest expenditure after verifying additional evidence and after allowing assessee a reasonable opportunity to substantiate that interest paid to related parties was neither excessive nor in violation of section 13. Assessee was directed to demonstrate that interest paid was commensurate with market conditions and did not confer an unjust benefit on specified persons. Tribunal also held that corpus without written direction from donor would not qualify as corpus under section 11(1)(d). (AY. 2016-17)
Smt. Ramanandi Anangpuria Charitable Trust v. DCIT (2025) 214 ITD 574 (Chd) (Trib.)

S. 68: Cash credits-Cash deposits-Demonetization-Proved sales with VAT returns, stock records, supplier confirmations-Books of account not rejected-Addition was deleted. [S. 145(3)] 1123

During demonetization period, assessee had made cash deposits in its bank account and claimed same to be out of cash sales made by assessee during period October, 2016 to 08-11-2016. Assessing officer held that assessee had recorded no major cash sales between April to September, 2016 but heavy cash sales were recorded thereafter and further, he noted that there were certain abnormalities in cash sales registers which indicated non-genuineness of sales. On this basis, Assessing Officer held that cash deposited during demonetization period was undisclosed cash of assessee and hence, same was added under section 68. CIT(A) deleted the addition. On appeal the Tribunal held that the assessee had furnished all evidences proving genuineness of sales made during demonetization period duly supported with purchases made which were further evidenced by copy of VAT returns filed by assessee and also stock records of the assessee. Further, notices issued by the Assessing Officer to all parties from whom purchases were made by assessee under section 133(6) were duly responded to, and parties confirmed sales made to assessee. There was no abnormality in the quantum of sales made by assessee in the year as compared to the preceding year. Neither auditor had pointed out any discrepancy in the accounts of the assessee nor the Assessing Officer had rejected the books of assessee under section 145(3). Order of CIT(A) deleting the addition was affirmed. (AY. 2017-18)
ITO v. Rajeshkumar Rameshchandra Shah (2025) 214 ITD 725 (Ahd) (Trib.)

S. 68 : Cash credits-Cash deposit-Demonetization-Cash sales-Failure to comply notice under section 133(6)-Lump sum addition of Rs 5 lakh was affirmed-Provisions of section 115BBE would apply only to transaction done on or after 1-4-2017.[S.133(6), 115BBE] 1124

The Assessing Officer held that there was sudden spike in cash sales and disproportionate cash deposited made by assessee. Assessing Officer issued notices under section 133(6) to 8 buyer parties which remained uncomplied with except one, which confirmed purchase from the assessee. Assessing Officer made addition under section 68 on account of cash deposits made during demonetization. CIT(A) deleted the addition. On appeal by the revenue the Tribunal held that the assessee had attempted to prove entire source of cash deposit during demonetization as cash withdrawals from bank as well as sales due to a government directive requiring sugar mills to liquidate stock by 31-10-2016. However, there was some element of failure to explain some of the cash deposits, which could not be ruled out. Accordingly, a lump-sum addition of Rs 5

lakhs was confirmed. Tribunal also held that the provisions of section 115BBE would apply only to transactions done on or after 1-4-2017. (AY. 2017-18)
Dy. C.I.T v. Rai Bahadur Narain Singh Sugar Mills Ltd. (2025) 213 ITD 222 (Delhi) (Trib.)

1125 **S. 68 : Cash credits-Cash deposit-Demonetization-Cash sales-No discrepancy in the books of account-Additions deleted.**
Assessee, scrap dealer, had deposited a certain amount of cash in its bank account during the demonetization period. Assessing Officer made an addition under section 68 to assessee's income on account of said cash deposits. CIT(A) affirmed the addition. On appeal, the Tribunal held that the assessee had provided various documents to substantiate cash sales recorded by it and no discrepancies or defects had been pointed out in the same; the Assessing Officer had not pointed out any discrepancy in various documents submitted by the assessee to substantiate its cash sales even during the course of remand proceedings. Since the addition was made only based on surmises and conjectures without any adverse material or independent enquiry made by lower authorities, the addition was deleted. (AY. 2017-18)
Ayesha Steels (P.) Ltd. v. ITO (2025) 213 ITD 495 / 238 TTJ 942 (Delhi) (Trib.)

1126 **S. 68 : Cash credits-Search-documents seized-Share application money along with its premium was bogus-Addition was justified. [S. 132]**
Tribunal held in the course of search certain documents were seized which revealed that these companies were involved in arranging accommodation entries in form of share capital by paying commission and Assessing Officer on basis of said documents made addition on account of such bogus share capital received by assessee from one company of said group, since Assessing Officer had made a detailed analysis and found that share application money received by assessee along with its premium was a bogus one. Tribunal affirmed the addition. (AY. 2009-10)
Creative Capital Services (P.) Ltd. v. DCIT (2025) 213 ITD 645 (Chd) (Trib.)

1127 **S. 68: Cash credits-Immovable property-Transaction was reflected in both TDS return and Sub-Registrar's report-Failure to respond to notices-Assessing Officer made additions on both, treating them as separate transactions-Matter was to be remanded for fresh examination.[S. 144, 194IA]**
Assessment was completed under section 147 read with section 144, making an addition on account of the purchase of immovable property based on both assessee's TDS statement and Sub-Registrar's report, treating them as separate transactions. CIT(A) dismissed the appeal for failure to attend various notices. On appeal, the Tribunal remanded the matter to the file of the jurisdictional Assessing Officer. (AY. 2016-17)
Om Prakash Girgaonkar v. ITO (2025) 213 ITD 675 (Bang) (Trib.)

1128 **S. 68: Cash credits-Conversion of private limited company into LLP-The transfer of share capital and reserves to partners' accounts upon conversion-The addition was not justified since the nature and source of the credit were not explained. [S. 47(xiiib) (f), 115BBE]**
The NICA Private Limited was converted into NICALF LLP. Prior to conversion, the company had share capital and y Reserves & Surplus. Post-conversion, both these

amounts were credited to the partners' capital accounts in the LLP. The AO held that this crediting of accumulated profits to partners' capital violated S. 47(xiiib) (f) of the Income-tax Act, which prohibits any direct or indirect payment to partners from accumulated profits for 3 years post-conversion. The AO treated the said amount as an unexplained credit u/s.68, and added it to the total income u/s. 115BBE. The CIT (A) deleted the addition, holding that no actual payment was made to partners and hence there was no violation of S. 47(xiiib) (f). The conversion was deemed tax-neutral, having complied with all conditions from (a) to f) of the said section. The Tribunal held that mere crediting of accumulated profits to the partners' capital accounts, without any actual payment or withdrawal, does not amount to unexplained income. Hence, S. 68, which applies to unexplained cash credits, is not attracted. Further, any violation of S. 47(xiiib)(f), which relates to capital gains exemptions on conversion, cannot be the basis for invoking S. 68, particularly when the credit is not unexplained and does not arise in the assessee's account but rather in the partners' capital accounts.(AY.2017-18)

ITO v. NICAF LLP [2025] 175 taxmann.com 1001(Mum) (Trib.)

S. 68: Cash credits-Capital is recorded through proper banking channel-Capital introduced by partner in firm-No addition can be made in the hands of the firm. [S. 2(31)(iv), 133(6)] 1129

Assessee-firm was constituted with two partner. During the year, assessee introduced capital amounting contributed by both the partners. Assessee furnished its partnership deed, audited financials, ITRs, bank statements and ledger accounts of partners. Assessee also submitted that capital was introduced by its partners through banking channels and supported by ledger accounts and confirmations. However, AO held that only 'R' responded to notice under section 133(6) and provided documentary evidence. The other partner, 'G' did not respond. Thus, relying solely on the non-response, the AO treated the capital contribution by 'G' as unexplained cash credit and made addition under section 68. CIT(A) deleted the addition holding that the addition was based merely on suspicion and non-compliance under section 133(6), without bringing any adverse material on record to rebut the documents filed by assessee.

Assessee furnished all the requisite documentary evidence to substantiate identity, genuineness, and creditworthiness of 'G', including PAN, ITR, audited financial statements, bank statements, confirmations, and ledger accounts. Further, capital was received through banking channel and duly recorded in books of account of assessee. AO did not point out any defect or inconsistency in the evidence submitted by the assessee. A non-response by a third party, without more, could not form the sole basis for invoking section 68 in the hands of assessee, when all other documentary evidences were placed on record. CIT(A) after carefully examining the submissions and facts, rightly concluded that assessee discharged the initial onus cast under section 68. He noted that failure of partner to respond to notice under section 133(6) was not communicated to assessee and, even otherwise, did not ipso facto establish that capital was unexplained. It is a settled position of law that once the partner is identifiable and capital is recorded through proper banking channel, no addition under section 68 can be made in the hands of the firm, if there is no evidence that the amount is undisclosed

income of the firm. Hence, CIT(A) was justified in deleting the addition under section 68.(AY. 2018-19) (ITA No. 1081/Ahd/2023,dt. 01/04/2025)
ITO v. Goodfarm Rearing (Ahd.)(Trib.)(UR)

1130 **S. 68 : Cash credits-Cash deposits during demonetisation-Books audited and accepted-Rejection of books for selective entry unjustified [S. 145(3)]**
The assessee, engaged in manufacturing and trading, deposited substantial cash during demonetisation. The AO rejected the books under section 145(3), treating the deposits as unexplained under section 68. The Tribunal observed that the assessee maintained audited accounts, duly accepted in audit, and no defects were found in stock or trading results. Rejection of books only for cash deposits was unjustified. Addition was deleted. (AY. 2017-18)
Satya Pal Shiv Kumar v. ACIT (2025) 212 ITD 473 (Delhi)(Trib.)

1131 **S. 68 : Cash credits-Cash deposit-Partly agricultural income-Addition is restricted to 8 lakhs.**
Assessee had shown opening balance of Rs 12 lakhs in bank account and claimed that same was accumulated from agricultural income. However, no supporting evidence was furnished by assessee. Assessing Officer treated said cash deposits as cash credits under section 68. CIT(A) affirmed the addition. On appeal Tribunal restricted the addition to 8 lakhs, considering the agricultural income. (AY. 2012-13)
Kanchanben Maheshbhai Patel v. ITO (2025) 212 ITD 133 (Surat) (Trib.)

1132 **S. 68: Cash credits-Long term capital gains on listed shares-Documentary evidence furnished-Addition as bogus LTCG unjustified. [S. 10(38), 45, 115BBE]**
Assessee earned LTCG on listed shares and claimed exemption u/s 10(38). AO treated the gain as bogus and taxed under section 68/115BBE. Tribunal noted that shares were regularly traded, held in demat, supported by broker ledger and bank statements. In similar cases, additions were deleted. Hence, the addition was unjustified and deleted. (AY. 2014-15)
Arvind Kumar Kotawal v. ACIT (2025) 212 ITD 269 (Delhi)(Trib.)

1133 **S. 68 : Cash credits-Demonetisation-Cash deposit-Senior citizen widow-Savings over 30 years-Addition deleted**
Assessee, 80-year-old widow, deposited ₹13.62 lakhs during demonetisation. AO made addition u/s 68. Tribunal found that deposits were accumulated savings of her late husband (a priest) kept in cash due to old age and medical insecurity. Considering her social background and evidence, addition was deleted. (AY. 2017-18)
Hemlata Kamalakar Deo v. ITO (2025) 212 ITD 264 (Mum)(Trib.)

1134 **S. 68 : Cash credits-Long term capital gain-Penny stock-Sale of shares-Turbo Tech Engineering Ltd-Kappac Pharma Ltd-Acquired at Rs 12 and sold at Rs 720 per share-Abnormal price rise-General investigation report-Cash purchase and late dematerialisation-No cogent evidence of genuine transaction-Addition upheld. [S. 10(38), 115BBE, 131, 133(6)]**
The assessee claimed exemption u/s 10(38) on LTCG of ₹84,79,100 from sale of shares of Turbo Tech Engineering Ltd. and Kappac Pharma Ltd., purchased in cash in earlier years,

dematerialised shortly before sale, and sold through a broker on the stock exchange. The AO, relying on Investigation Wing reports and the abnormal price rise in these scrips, held the transactions to be pre-arranged accommodation entries for converting unaccounted cash into exempt LTCG, and made addition u/s 68 taxable u/s 115BBE. The assessee's plea of genuine transaction, reliance on broker's affidavit, and request for cross-examination of persons whose statements were relied upon, were rejected. The CIT(A) upheld the addition. The Tribunal, after analysing the AO's findings on price movements, financial health of the companies, and surrounding circumstances, held that the transactions were unnatural and suspicious, banking documents were self-serving, and the assessee failed to discharge the burden of proving genuineness as per the test of human probabilities *Sumati Dayal v. CIT (1995) 214 ITR 801 (SC)*. Distinguishing cases like *Pr. CIT v. Ziauddin A. Siddique (Appeal No. 2012 of 2017, dated 4-3-2022(Bom)(HC) and Pr. CIT v. Krishna Devi (2021) 279 Taxman 148*/ *431 ITR 361 (Delhi)(HC)* (SLP of Revenue was dismissed, *PCIT v. Krishna Devi (2002) 287 ITR 91 (SC)* and Co ordinate Bench order in *Farzad Sheriar v. ITO(2024)159 taxmann.com 9*/ *119 ITR 298(Mum)(Trib)* dealing with same script. Followed *Manvi Khandelwal v. ITO (ITA No. 3212 /Del. 2018 dt. 26-11-2109 (Delhi)(Trib), ACIT v. Arihant Kumar Jain (ITA No. 5342 /Del /2018 dt. 27-10-2021 (Delhi)(Trib)* in respect of the same scrip, the appeal was dismissed and the addition sustained. (AY 2014-15) (ITA No. 3229/Mum/2023, dt. 22-07-2025)
Chitra Avdhesh Mehta (Smt) v. ITO (SMC) (Mum)(Trib)www.itatonline.org

S. 68 : Cash credits-Survey-Disclosure of additional income as business income-Surrendered income cannot be assessed as cash credit and invoking the provision of section 115BBE of the Act. [S. 115BBE, 133A] 1135

During the course of survey operation assessee declared Rs. 2 crores as additional income. In reply to some questions assessee has categorically given the details of the land with survey number etc. from which he has received excess cash, which was not recorded in the books of account and was surrendered during the course of survey and offered in the return, which partakes the character of business income. The AO assessed the surrendered income under section 68 and applied the provisions of section 115BBE of the Act. CIT(A) affirmed the order of the AO. On appeal, the Tribunal held that the assessee has categorically stated the nature and source of income during the course of survey itself, which was offered to tax in the return filed; therefore, CIT(A) was not justified in confirming the order of the AO taxing the surrendered income by invoking the provisions of s. 68 r/w s. 115BBE. (AY.2017-18)
Sopan Bandoba Chavan v. ITO (2025) 233 TTJ 17 (UO) (Pune) (Trib)

S. 68 : Cash credits-Repayment of loan-Addition is deleted-Loan outstanding-Report of the Inspector is not provided to the assessee-Violation of principle of natural justice-The matter is restored to the AO to provide the report of the Inspector to the assessee for his rebuttal with proper and supporting evidence.[S. 133(6)] 1136

Held that the assessee has repaid various loans; addition under s. 68 to said extent is not sustainable; since the assessee has furnished various details in respect of the remaining outstanding loans i.e., names, PANs, bank statements, confirmation affidavits, etc. of the lenders, and the AO has made the addition without making proper and

complete enquiries and without confronting the report of the Inspector to the assessee, the matter is restored to the AO to provide the report of the Inspector to the assessee for his rebuttal with proper and supporting evidences and to make enquiries from the lenders. (AY.2017-18)
Bhupatbhai Thakarshibhai Mavani v. ACIT (2025) 233 TTJ 29 (UO) (Surat) (Trib)

1137 **S. 68 : Cash credits-Loans and advances-Cash deposit-Demonetisation-Best judgement assessment-Matter remanded to CIT(A) [S.69, 144]**
Assessee is a business of trading in jewellery. Assessing Officer made an ex parte assessment order and made additions towards non-current liabilities as unexplained cash credits and also cash deposited during Demonetisation. Tribunal remanded the matter to the CIT(A). (AY. 2017-18, 2018-19)
Meena Jewellers Extension (P.) Ltd. v. ACIT (2025) 211 ITD 216 /234 TTJ 207 (Hyd) (Trib.)

1138 **S. 68 : Cash credits-Cash deposit-Demonetisation-Justified in treating as unexplained and levy tax as prescribed in section 115BBE of the Act.[S.2(37A,),115BBE, 131, 133(6)]**
During demonetization period, assessee deposited certain amount in its bank account in Rs. 500 and Rs. 1,000 notes. Assessing Officer asked assessee to explain source of these deposits but assessee failed to provide satisfactory evidence. In response summons under section 131 and letters under section 133(6), two of the parties denied giving any cash to the assessee one party did not file confirmation and other parties did not respond. Assessing Officer completed assessment treating said amount as unexplained cash deposits under section 68 and levied tax at 60 per cent under section 115BBE. CIT (A) confirmed the order of the AO. On appeal the Tribunal held that since assessee failed to prove source of cash deposits, Assessing Officer was justified in treating same as unexplained income under section 68 and levying tax rate as prescribed in section 115BBE. (AY. 2017-18)
Spectra Equipment (P.) Ltd. v. ITO (2025) 211 ITD 61 (Hyd) (Trib.)

1139 **S. 68 : Cash credits-Share application money and share premium-Filed necessary details-Deletion of order by CIT(A) is affirmed.[S. 133(6)]**
Assessee company received share application money with premium from three parties. Assessing Officer issued notices to assessee to provide details of share applicants/ subscribers and assessee failed to comply with notices. Assessing Officer issued notices under section 133(6) to share applicants but same were also not replied by them. Assessing Officer treated share application money as unexplained cash credit. During appellate proceedings the assessee submitted confirmations from share subscribers, copy of bank statements, acknowledgement copy of ITR along with copy of annual reports, share application in Form No. 2, memorandum and articles of association, copy of board resolutions and details of net worth of share applicants. Commissioner (Appeals) called for a remand report from Assessing Officer and issued notice under section 133(6) to aforesaid investor companies and in response to same, parties namely 'ATPL' and 'ALPL' confirmed transactions with assessee company with necessary documents and evidences. CIT(A) deleted the addition. On appeal the Tribunal affirmed the order of the CIT(A). (AY. 2012-13)
DCIT v. J.A. Infracon (P.) Ltd. (2025) 211 ITD 471 (Ahd) (Trib.)

S. 68 : Cash credits-Produced, identity, genuineness of transaction and creditworthiness, along with confirmation and proof of regular banking channel-Lender's failure to respond to summons alone did cannot be the ground to treat the loan as cash credits. [S. 131] 1140

Assessee has received unsecured loan. The assessee has provided lender's confirmation, PAN, and proof of transactions through regular banking channels. However, despite issuance and service of a summons under Section 131 by Assessing Officer, lender did not respond. Assessing Officer treated loan as an unexplained cash credit. CIT(A) confirmed the order of the AO. On appeal the Tribunal held that the assessee had furnished necessary documents to prove 3 ingredients of section 68 i.e. identity of creditors, genuineness of transaction and creditworthiness of lenders and lender was duly assessed to tax and had even furnished confirmation and loan was received by assessee in regular banking channels. Merely because summons had not been responded by said lender, no adverse inference could be drawn on assessee. Addition is deleted. (AY. 2015-16)

Golden Moment (P.) Ltd. v. ACIT (2025) 210 ITD 484 (Delhi)(Trib.)

S. 68: Cash credits-Share capital-Share premium-Assessee had demonstrated that subscribing companies were having adequate reserves and surpluses to invest-Addition is deleted. 1141

The only issue for contention before the Tribunal is that the AO had passed a short and cryptic order making an addition to the total income of the Assesee u/s. 68 of the Act as the Assessee failed to discharge the onus cast upon him to prove the genuineness of the transaction. The Assessee company had put all the documents on record, but the director failed to reply to one summons. CIT(A) confirmed the addition. The Tribunal held that the there was no justification on the part of the lower authorities in making the impugned addition. Therefore, the addition was deleted.

(AY. 2012-13)

Karni Infraprojects (P) Ltd. v. ITO (2025) 233 TTJ 465 / 173 taxmann.com 576 (Kol) (Trib)

S. 68 : Cash credits-Demonetisation-Specified Bank notes-Sales-Matter remanded to the Assessing Officer.[S. 115BBE] 1142

Assessee was carrying on the business of bar and restaurant. During the demonetisation period, Assessee deposited cash of Rs. 4.83 lakhs in his bank account out of which Rs. 24.44 lakhs was Specified Bank Notes (SBNs). Assessee explained that cash was deposited out of sale and the same was recorded in his books of account. AO noted that assessee was not authorised to collect SBNs from 08.11.2016 and, therefore, Rs. 9.50 lakhs being in excess of SBNs deposited in the bank account of assessee was added u/s 68 and charged to tax u/s 115BBE. Held, if the assessee was able to establish that there were sales recorded in the books of account in cash and the source of deposit was available with the assessee out of such sales, no addition could be made in the hands of the assessee. Matter was remanded to AO for re-verification of the issue (AY. 2017-18)

B. K. Rajanna v. ITO (2025) 210 ITD 677 (Bang.) (Trib.)

1143 **S. 68 : Cash credits-Agriculturist-Bank deposits-Non-filing of ITR-additions on account of unexplained cash deposited in savings bank account & income from LTCG on the sale of agricultural land-ex-parte assessment order-Assessee was required to substantiate his income before the AO with proper and supporting evidence-matter remanded.[S. 2(14), 45]**

Assessee was an agriculturist and claimed that he had not filed an ITR as he had no taxable income. The AO made additions on account of unexplained cash deposited in savings bank account and income from LTCG on the sale of agricultural land. Held, since the assessment order was passed ex-parte and the first appellate order was passed after considering the remand report sent by the AO and the Assessee was required to substantiate his income before the AO with proper and supporting evidences the matter was to be remanded back to the AO to pass an assessment order afresh (AY. 2011-12)

Dnyaneshwar Baburao Kathe v. ITO (2025) 210 ITD 85 (Pune) (Trib.)

1144 **S. 68: Cash credits-Deposit in bank-The deposits are backed by equivalent withdrawals or immediate transfers; the entire deposit amount should not be treated as unexplained income-Net profit rate of 1 per cent on entire deposit is confirmed. [S. 148]**

The AO added back the entire credit entries (deposits) as unexplained income under section 68 because the assessee could not provide documentary evidence to explain the source of the deposits.

Held that there were equivalent withdrawals and immediate transfers of the same amounts to another entity. This indicates that the deposits may have been related to routine business operations or cash flow movements rather than unexplained or illegal income. The account was opened for business purposes, the deposits could represent business receipts or cash inflows, and the corresponding withdrawals might indicate business expenses or other operational costs. Instead of treating the entire deposit as unexplained income, the proper course of action would be to add back the withdrawals, which represent the business expenses or transfers, or to apply a net profit rate on the total deposits (since they could reflect business activities and not personal income). The entire deposit should not be treated as unexplained income, as the corresponding withdrawals and transfers suggest a legitimate business activity or cash flow.(AY. 2009-10)

Pankaj Pyarelal Khemka v. ITO [2025] 210 ITD 585/234 TTJ 19 (UO) (Mum)(Trib.)

1145 **S. 68: Cash credits-Unsecured loan-The assessee satisfactorily explained the source of the loan, and the lender's credibility was established through the repayment in cheque and the lender's business activity. The addition is deleted. [S.133(6)]**

The AO made an addition u/s. 68 as unexplained cash credit on the grounds that the lender failed to respond to the notices issued u/s. 133(6), and therefore, the genuineness of the transaction and the creditworthiness of the lender could not be established.

Held that the lender's financial background was reasonable, the loan was repaid through an account payee cheque, and the source of funds was explained satisfactorily, the assessee had adequately explained the nature and source of the credit in its books. Therefore, the impugned addition u/s. 68 was unjustified and deleted. The failure of

the lender to respond to notices u/s. 133(6) did not negate the satisfactory explanation provided by the assessee regarding the loan transaction.(AY. 2016-17)
Prarthana Gems v. Dy. CIT [2025] 210 ITD 158 (Surat)(Trib.)

S. 68:Cash credits-Identity and creditworthiness is established-b The loan was repaid through banking channels-Addition is deleted. [S. 147, 148] 1146

During a search conducted on a group and its associates, the Investigation Wing found that the group had admitted to providing accommodation entries. Based on this admission, the AO formed the opinion that MGL was linked to the accommodation provider, and subsequently, the AO reopened the assessment and made additions u/s. 68 as unexplained credit with respect to the loan taken by the assessee from MGL.
The Tribunal observed that the loan transaction was supported by genuine documents and was conducted through proper banking channels. The identity of the lender, the genuineness of the transaction, and the creditworthiness of the lender were established, and no evidence was provided by the AO to disprove these factors. The loan repayment was also made through banking channels, and there was nothing in the records to suggest that the loan was actually the assessee's unaccounted money channeled through the alleged lender.
Held that the all essential elements of a genuine loan were clearly demonstrated. The loan was taken through proper banking channels, and there was no evidence suggesting that the loan was anything other than legitimate. The identity of the lender, the genuineness of the transaction, and the creditworthiness of MGL were not disputed by the AO, and the assessee had provided sufficient documentation and evidence. Nothing was brought on record to suggest that the loan received by the assessee was part of any unaccounted money or that it had any illicit origins. The loan could not be considered unexplained credit.(AY. 2018-19)
Rajuram Savaji Purohit v. ITO [2025] 210 ITD 358 (Mum)(Trib.)

S. 68: Cash credits-Share capital-Share premium-Proved the identity, credit worthiness and genuineness by documents-Addition is deleted. [S. 133(6)] 1147

In the first round of appeal before ITAT, the Tribunal deleted the addition on account of share capital and premium as unexplained cash credit u/s. 68. The revenue filed appeal before High Court, and the High Court set aside the matter back to ITAT to consider the matter afresh and pass a reasoned order. In the assessment proceedings, the AO issued summons to the directors of the company to whom the share capital was issued, however none of the parties appeared before the AO. The assessee has submitted all the details and response to notice issued u/s. 133(6) was also replied to. The main reason to make addition was that on the date of receipt, there was a similar amount which was also debited from the bank account of the assessee and that the huge premium is not justified by the financials of the assessee company. It was held that though there is no standard operating procedure stated under the Act adhering to which one can prove the nature and source of such sum but in the past Hon'ble Apex Court in the case of the land mark judgment of *Kale Khan Mohammad Hanif v. CIT (1963) 50 ITR 1 (SC)* and *Roshan-Di-Hatti v. CIT (1977) 107 ITR 938* laid down the proposition that the onus of proving the source of a sum of money found to have been received by an assessee,

is on the assessee. Once the assessee has submitted the documents relating to identity, genuineness of the transaction, and creditworthiness, then the AO must conduct an inquiry, and call for more details before invoking Section 68. The ITAT after looking into complete documentation submitted during the assessment proceedings concluded that the assessee had submitted everything to prove the onus. Further, it was also observed that all those companies that had invested were also subject to assessment proceedings, where the amounts were taxed. It was held that source of source of such share application has already been taxed in those companies, if the addition is sustained in the assessee company, it would tantamount to double additions and taxation. (AY: 2012-13)
One Point Commercial Pvt. Ltd v. ITO(2025) 121 ITR 526 (Kol)(Trib)

1148 **S. 68: Cash credits-Share application-Share premium-Identity and creditworthiness and genuineness is established-Addition is deleted.**
Where assessee, an NBFC issued equity shares with a premium and Assessing Officer treated share capital as unexplained cash credits under section 68 due to concerns over low revenue, since assessee demonstrated identity, creditworthiness, and genuineness of share applicants, who had sufficient net worth, and were registered with MCA, addition made under section 68 was to be deleted (AY.2013-14)
Shankar Traders & Distributors (P.) Ltd. v. ITO (2025) 210 ITD 41 (Kol.) (Trib.)

1149 **S. 68 : Cash credits-Cash deposit-Demoetizaation-Sales-Produced names, address, PAN etc-Parties have responded to the notices u/s 133(6)-Sales are accepted by VAT department-No defects in the books of account-Order of CIT(A) deleting the addition is affirmed. [S.133(6), 143(3)]**
The assesseee has deposited cash sales in the bank account. The Assessing Officer assessed the said deposit as unexplained cash credit. On appeal, the CIT(A) deleted the addition. On appeal by the Revenue, affirming the order of the CIT(A) the Tribunal held that the assessee has produced names, address, PAN etc. Parties have responded to the notices u/s 133(6). Sales are accepted by the VAT department. No defects in the books of account and the theory of human probabilities cannot be applied to the facts of the assessee. Accordingly, the order of CIT(A) deleting the addition is affirmed. (AY. 2017-18) (ITA No. 244/Mum/ 2025 dt. 30-4-2025)
JCIT v. Aries Agro Ltd (Mum)(Trib) www.itatonline.org.

1150 **S. 68 : Cash credits-Sale of shares-Explained the nature and source-Investment and the transaction was part of a larger acquisition by KKR Group-Order of CIT(A) deleting the addition is affirmed.[S. 115BBE, 133(6)]**
Assessee sold 22,62,512 equity shares of J.B. Chemicals and Pharmaceuticals Ltd. (JBCPL) to Tau Investment Holdings Pte. Ltd. for ₹ 168.55 crore. He claimed the transaction was genuine and supported by documentation, including regulatory approvals from SEBI and the Competition Commission of India. The Assessing Officer questioned the genuineness and creditworthiness of Tau Investment and made addition u/s 68 of the Act. CIT(A) deleted the addition. On appeal by Revenue the Tribunal held that The Tribunal agreed with the CIT(A) that the transaction was genuine which is

supported by share purchase agreement, Letter of Offer to SEBI, and confirmation from Tau Investment and the transaction was part of a larger acquisition by KKR Group. The Tribunal rejected the Revenue's arguments of inadequate evidence, noting that the AO did not pursue direct inquiries with Tau Investment despite being provided with contact details. Order of CIT (A) is affirmed. (ITA No.1085 /Mum/2024 dt.13-1-2025) (AY. 2021-22)
ACIT v. Jay Bharat Mehta (Mum)(Trib) www.itatonline.org.

S. 68 : Cash credits-Purchase and sales through book entries with sub-broker-Commodity exchange-Futures Speculative transactions-Forward market commission-Accommodate bogus loss-Transaction with sub-broker-Addition is deleted. 1151
On the basis of information from the investigation wing, the Assessment of the appellant was reopened. The Assessing Officer added entire purchase and sales transactions with sub-broker as cash credits under section 68 of the Act. On appeal, the CIT(A) affirmed the addition. On appeal the Tribunal held that addition under section 68 cannot be made and only profit can be estimated. Accordingly, the addition under Section 68 is deleted (AY. 2010-11) (ITA No.1773//2024 dt.13-1-2025)
Vijay Maneklal Banushali v. ITO (Mum)(Trib)(www.itatonline.org

S. 69: Unexplained investments-Immovable property-Undisclosed income declared under Income Declaration Scheme, 2016 (IDS)-Form No IV in certificate of declaration was issued-Reopening of assessment was held to be bad in law-Order of commissioner was set aside. [S. 147, 148, 264, Art. 226, Finance Act, 2016, S.183 (IDS, 2016)] 1152
Assessee was engaged in the real estate business. He did not file income tax returns for assessment years 2011-12 to 2016-17. He declared undisclosed income under Income Declaration Scheme (IDS), 2016-Subsequently, Assessing Officer issued notice under section 143(2) read with section 147 for assessment year 2014-15 on ground that assessee had entered into some transaction of sale of property and there were cash deposits-He further passed an assessment order under section 69A read with section 144 and made additions to income of assessee. Principal Commissioner, on application under section 264, partly set aside the order passed by the Assessing Officer and deleted additions made in respect of the sale of property and cash deposit in the bank account, but he confirmed additions made in respect of the purchase of property. On writ, the Court held that there was no statement in order that assessee had misrepresented while he filed a declaration under the IDS scheme where he had already paid tax. Further, the certificate issued in favour of assessee in Form IV under section 183 of the Finance Act, 2016, was never cancelled. Since assessee had availed the IDS Scheme pursuant to a declaration of undisclosed income and the amount on that head was credited into bank account, it was not open for the revenue to sit in appeal over said decision, particularly when it had failed to revoke Form IV issued in favour of assessee, which it could have done only if it was issued on basis of some misrepresentation or fraud played. Accordingly, the order passed by the Principal Commissioner was to be set aside. (AY. 2014-15)
Prabhakar Nerulkar v. PCIT (2025) 307 Taxman 286 (Bom)(HC)

1153 **S. 69: Unexplained investments-Unexplained money-Cash deposits-Advance received under unregistered agreement to sell-Addition was deleted-Agricultural income accepted as explained sources-Addition was deleted. [Indian Registration Act, 1908, S. 17]**

The Assessing Officer treated cash deposits in the assessee's bank account as unexplained under section 69. The assessee explained that part of the deposits represented advance received under an unregistered agreement for sale of agricultural land and the balance represented agricultural income from land jointly cultivated by the assessee and his father. The Tribunal held that registration of an agreement to sell agricultural land is not mandatory and the affidavits of the attesting witnesses, having remained uncontroverted, had to be accepted. The agricultural income was duly supported by Form J, jamabandi and lease documents and had not been doubted by the Revenue. Accordingly, the explanation regarding the source of the cash deposits was accepted, and the addition was deleted. (AY. 2012-13)

Anbhao Parkash v. ITO (2025) 128 ITR 544 (Amritsar)(Trib.)

1154 **S. 69 : Unexplained investments-Income from undisclosed sources-Survey-Investment in immovable property-AO was right in bringing the undisclosed income to tax under the special provisions of S. 69 and thereafter levying tax under the provisions of S. 115BBE.[S.69B, 115BBE, 292B]**

Tribunal held that the Assessee having neither included the amount of unexplained investment detected during the course of survey in his books of accounts nor in his audited accounts nor in his return and merely submitted that he made the said investment out of his undisclosed business income and rental income and offered no explanation regarding the nature and source of the investment, said undisclosed income is liable to tax under s. 69/69B and the tax is leviable under the provisions of s. 115BBE. (AY.2018-19)

Rajesh Kumar Jaiswal v. DCIT (2025) 235 TTJ 833 / 174 taxmann.com 276 (All) (Trib)

1155 **S. 69 : Unexplained investments-Income from undisclosed sources-Search-Notings on loose paper-Third-party presumption-Failure to give an opportunity of cross-examination-Addition was deleted. [S.132, 132(4)]**

Held that the addition made by the AO solely on the basis of the notings on one loose sheet of paper found during the course of search at the premises of a third person, Sanjay Bansal, which was in the handwriting of his employee Sushil Kumar, is not sustainable, more so as the AO did not allow an opportunity to the assessee to cross-examine Sushil Kumar. (AY.2011-12)

Subhash Chander Gupta v. ITO (2025) 235 TTJ 883 (Chd)(Trib)

S. 69: Unexplained investments-Income from undisclosed sources-Alleged bogus purchases-Vendor appeared before the Assessing Officer-Produced delivery stock register, detailing the movement of goods-Addition of 25 % of total purchases was deleted. [S. 131] 1156

Held that the assessee furnished stock register, detailing the movement of goods as accounted by him in his books of accounts supported by purchase bills and delivery challans thereby demonstrating that he has purchased goods from APT at landed price, and the proprietor of APT having appeared before the AO and produced relevant documentary evidence confirming the said transaction with the assessee, the impugned addition made by the AO by treating 25 per cent of the total purchases made from APT as bogus purchases is not sustainable. *PCIT v. Kanak Impex (India) Ltd. (2025) 344 CTR 137 (Bom) (HC) 248 DTR* distinguished. (AY. 2008-09)

Rahul M. Dalmia v. ITO (2025) 236 TTJ 284 (Mum)(Trib)

S. 69: Unexplained investments-Capital introduced by partner-The explanation furnished by the assessee cannot be rejected merely on suspicion-Order of CIT(A) deleting the addition was affirmed. 1157

Held that the partner has recorded his capital contribution to the firm in his books of account and explained that he received the funds from his father through regular banking channels, who in turn generated such funds from the sale of shares through a recognised stock exchange, which is fully documented. The order of the CIT(A) deleting the addition was affirmed. (AY.2017-18)

ITO v. Kalidas Jivabhai Patel (2025) 237 TTJ 95 (Ahd)(Trib)

S. 69: Unexplained investments-Non-Resident-Investment in property-Co-owner-Source of investment was explained-Addition was deleted. 1158

Held that the Assessee, a non-resident Indian, had purchased a flat in India with his brother as a co-owner, and payments made were sourced from outside India; further, payments made through a housing loan had been satisfactorily explained assessee, being a non-resident during the year 2015-16, the addition was deleted. (AY. 2015-16)

Nilesh Purshottam Ghodasara v. DCIT (2025) 237 TTJ 618 (Delhi) Trib)

S. 69: Unexplained investments-Non-Resident Indian-Investment in property out of foreign salary remitted through NRE account cannot be assessed under section 69. [S. 5(2)] 1159

The assessee, an NRI, produced bank statements, remittance records, salary documents and other evidence establishing that the investment in immovable property was made from foreign salary earned abroad and remitted through banking channels. As the Revenue failed to rebut the evidence and the income was not taxable in India under section 5(2), the addition under section 69 was deleted. (AY. 2016-17).

Rajnish Kasturchand Ostwal v. ITO (IT) (2025) 238 TTJ 737 / (2026) 216 ITD 24 (Mum.) (Trib.)

1160 **S. 69: Unexplained investments-Undisclosed Income-Loose papers-Addition based on dumb documents-Addition was deleted.[S.69C, 132, 153A]**

Loose papers found during the course of the search, which were undated, unsigned and not supported by any corroborative evidence, could not form the basis for addition. The Revenue failed to establish any nexus between the documents and the assessee or any evidence of unaccounted sales or tax evasion. The director had neither admitted to undisclosed sales nor had any enquiry been made to the person who could explain the documents. Addition based merely on presumption and conjectures was rightly deleted. (AY. 2017-18).

ACIT v. Chhattisgarh Distilleries Ltd. (2025) 238 TTJ 774 / 177 taxmann.com 257 (Raipur) (Trib.)

1161 **S. 69: Unexplained investments-Search assessment-Sale of shares-Opening stock ignored by Assessing Officer-Addition for unexplained investment deleted.-Addition based on material collected behind assessee's back-No opportunity of rebuttal-Addition deleted-Loose papers-No corroborative evidence of investment-Addition deleted-Bank deposits recorded in books-Entire deposits cannot be treated as unexplained income-CIT(A) was not justified in relying on Joint Parliamentary Committee on scam, when the assessee explaining specific transactions of deposit-addition was deleted-Bonds registered in Assessee's name by order of Special Court. Assessing Officer's computation of accrued interest as assessee's income was sustained.-Surrender of Income-Addition was directed to be deleted even if reassessed income lower than sum surrendered. ([S. 4, 68, 69A, 132,132(4), 139, Special Court (Trial of Offences Relating to Transactions in Securities Act, 1992]**

The Assessing Officer treated the difference between the quantity of shares sold and purchased during the year as unexplained investment. The Tribunal upheld the finding of the Commissioner (Appeals) that the balance shares formed part of the assessee's opening stock. As the Revenue failed to disprove the existence of the opening stock, the addition under section 69 was deleted. The Assessing Officer made additions on the basis of information obtained from companies, the Custodian and other sources without furnishing the material to the assessee. The Tribunal held that no addition can be sustained on the basis of material collected behind the assessee's back without affording an opportunity to rebut the same. The relief granted by the Commissioner (Appeals) was upheld. The Assessing Officer made an addition solely on the basis of loose papers allegedly reflecting investments in shares. The Tribunal held that, in the absence of share certificates, broker confirmations, money trail or any evidence linking the investments with the assessee, loose papers by themselves could not justify an addition under section 69. The addition was deleted. The Assessing Officer treated the entire receipts reflected in multiple bank accounts as unexplained income. The Tribunal held that where the deposits were duly recorded in the books of account and represented business transactions, only the income element, if any, could be brought to tax. Entire bank deposits could not be assessed as unexplained income under sections 68 or 69A. The addition was deleted. CIT(A) was not justified in relying on the Joint Parliamentary Committee on scam, when the assessee was explaining specific transactions of deposit-addition was deleted. Bonds registered in Assessee's name by order of Special Court.

Assessing Officer's computation of accrued interest as assessee's income was sustained. As regards surrender of Income, addition was directed to be deleted even if reassessed income was lower than sum surrendered. (AY. 1992-93).
Growmore Research and Assets Management Ltd. v. Dy. CIT (2025) 125 ITR 44 (Mum.) (Trib.)

S. 69: Unexplained investments-Purchase of house property-Residential house was purchased in joint names by the assessee along with his wife-Explained the source of investment-Addition was not valid-Reassessment-Information was received from the office of the Sub-Registrar under s. 285BA Sanction for reassessment was valid-PCIT has recorded the satisfaction-Approval was valid. [S. 133(6), 147, 148, 151, 285B] 1162
Held that the assessee, having purchased a residential house jointly with his wife and duly explained the source of his share of investment in the property on the basis of his savings kept in various bank accounts, housing loan and the sale proceeds of a plot, addition was deleted. As regards the reassessment, the Tribunal held that the PCIT recorded her satisfaction after clearly applying her mind to the reasons recorded by the AO before giving approval, the approval under s. 151 was properly granted. (AY.2012-13)
Gajendra Pal Sharma v. ITO (2025) 234 TTJ 181 (Delhi)(Trib)

S. 69 : Unexplained investments-Income from undisclosed sources-Entries on loose papers seized from residential premises of third party-Addition in the hands of the assessee was not sustainable-Presumption under S. 132(4A) is only confined to the person in whose premises search is conducted.[S. 132(4A)] 1163
Held that AO, having adduced no corroborative evidence to show that the transaction mentioned in the document found in the premises of Suresh Bajoria pertains to assessee, and which did not bear the name of the assessee; addition in the hands of the assessee was not sustainable; presumption under S. 132(4A) is only confined to the person on whose premises a search is conducted. (AY. 2015-16)
ACIT v. Sanjay Gaurishankar Agrawal (2025) 234 TTJ 830 (Nagpur)(Trib)

S. 69: Unexplained investments-Investment in plot of land-Unsigned agreement to sell-Property continued to remain in the name of seller-Addition was deleted. [S. 132, 153A] 1164
Assessee was subjected to a search under section 132. Assessing Officer on basis of an unsigned agreement to sell, which was unearthed during course of search, made an addition to assessee's income under head income from other sources on account of unexplained investment in plot of land. CIT(A) up held the addition. On appeal the Tribunal held that alleged agreement relied upon by Assessing Officer was admittedly unsigned and unregistered and, therefore, could not be regarded as a legally enforceable document. No registry was ever executed pursuant thereto, nor was any corroborative evidence brought on record to establish transfer of ownership or actual flow of consideration. Property, as evidenced from electricity bills and purchase invoices, continued to remain in the name of the seller. Further, the Assessing Officer neither conducted any independent inquiry from said owner nor afforded any opportunity of cross-examination to assessee. Accordingly, no addition can be made merely based

on an unsigned or draft agreement to sell, especially where no investigation has been conducted by the department. Accordingly, the addition was deleted. (AY. 2017-18)
Balwant Singh v. DCIT 2025) 215 ITD 64 (Chd)(Trib.)

1165 **S. 69 : Unexplained investments-Jewellery-Jewellery bills found during search were not substantial-Poultry Farm Sale-Photocopy of an agreement to sell, allegedly retrieved from WhatsApp chat-Statement of buyer was not recorded-Additions on account were unjustified.[S. 131(IA), 132]**
Held that jewellery bills found during the search were not substantial, and additions on account of jewellery were unjustified. Tribunal also held that addition cannot be made in respect of a poultry farm sale solely on basis of a photocopy of an agreement to sell, allegedly retrieved from WhatsApp chats of assessee's husband, without recording statements of buyer or seller and without independent verification of such addition. AY. 2020-21, 2021-22)
Lakhvir Kaur v. DCIT (2025) 215 ITD 39 (Chd) (Trib.)

1166 **S. 69: Unexplained investments-Bonds/Debenture-Investment was made from her daughter's bank account, where she was a nominee-Addition was deleted.**
Assessing Officer made an addition in respect of investment in bonds/debentures as unexplained. On appeal, the Tribunal held that the investment was made from her daughter's bank account, where she was a nominee. Addition was deleted.(AY. 2012-13)
Renu Vinod Kaushal v. ITO (2025) 215 ITD 12 (Ahd) (Trib.)

1167 **S. 69 : Unexplained investments-Immovable property-Source of investment is explained-Addition is deleted.**
Held that the source of investment is explained by filing relevant documents. Addition is deleted. (AY. 2015-16)
Bharat Mithalal Jain v. ITO (2025) 212 ITD 232 (Mum) (Trib.)

1168 **S. 69: Unexplained investments-Source of investment-Loan from mother and brother-Addition is deleted.**
Assessee acquired a residential flat jointly with his mother and brother. He was asked to explain the source of this investment. Assessee claimed that he obtained a loan from his mother and brother. AO doubted the creditworthiness of assessee's mother and thus, concluded that investment remained unexplained to the extent of loan taken from assessee's mother. Assessee contended that his mother's case was also reopened to examine the same investment and her returned income was accepted without doubting her creditworthiness. Assessee's mother was also co-owner of the flat. Revenue was required to assess the unexplained investment made directly or indirectly in the flat in the hands of respective co-owners, if their creditworthiness was doubtful. Since, during the reopened assessment proceedings, Asstt. CIT had already held that the assessees mother had creditworthiness for making investment and advances in the relevant year, her creditworthiness did not remain questionable. Addition is deleted. [AY. 2012-13]
Ankur Goyal v. ITO (2025) 211 ITD 571 (Delhi)(Trib)

S. 69 : Unexplained investments-Jewellery-Banl locker-Old jewellery was converted into bullion-Addition is justified. [S. 132, 153A] 1169

Held that since the bank locker was jointly held by the assessee and her son the same can be treated as acquired from explained sources. Only the gold jewellery weighing 125.924 gms. found in the locker can be treated as unexplained by applying the combined limits specified in Instruction No. 1916, dt. 11th May, 1994. Since the locker was jointly held by the assessee and VD, 62.962 grams (50 per cent of 125.924 grams] of gold jewellery can safely be held as an unexplained investment in the hands of the assessee. The AO is directed to restrict the addition in the case of the assessee to the extent of the value of 62.962 grams, i.e., Rs. 1,71,886.(AY. 2015-16)

Asha Daga v. Dy.CIT (2025) 233 TTJ 860/ 170 taxmann.com 199 (Raipur)(Trib)

S. 69 :Unexplained investments-Immovable property-Loan from mother-Creditworthiness is established-Addition is deleted-Interest paid to mother-Matter remanded to the AO for verification. [S. 22, 24] 1170

Assessee along with his mother and brother acquired a residential flat. Assessee made investment of certain amount in said property sourced as loan from his mother. Assessing Officer held that creditworthiness of mother as doubtful, held that investment made by assessee was unexplained and taxed same under section 69. CIT(A) up held the addition. On appeal the Tribunal held that the assessee had established the creditworthiness of mother hence addition is deleted. As regards interest paid to mother the matter is remanded back to the AO for verification. (AY. 2012-13)

Ankur Goyal v. ITO (2025) 211 ITD 571 (Delhi) (Trib.)

S. 69: Unexplained investments-Investment in flat which was made in earlier year-Reflected in balance sheet-Addition is deleted. 1171

Assessing Officer made addition under section 69 on account of investment in flat by assessee which was not explained. CIT(A) dismissed the appeal. On appeal, the Tribunal held that investment in the flat was made in an earlier year and was duly reflected in the balance sheet of the assessee. Addition is deleted. (AY. 2020-21)

Kajari Banerjee (Smt.) v. ITO (2025) 211 ITD 358 (Kol) (Trib.)

S. 69 : Unexplained investments-Immovable property-Non-resident-Source of investment-Produced bank statement-Addition is deleted. 1172

Assessee purchased immovable property vide allotment letter issued by a company for a consideration of a certain amount. Assessing Officer made an addition on account of unexplained investment in purchase of immovable property under section 69. DRP also affirmed the addition. On appeal, the Tribunal held that the Assessee had produced bank statements of his wife and that, being an NRI account, credits appearing in the bank account had also been properly explained by the assessee. Addition is deleted. (AY. 2018-19)

Anil Dhansukhlal v. ITO (2025) 211 ITD 236 (Rajkot) (Trib.)

1173 **S. 69 :Unexplained investments-Investment in an immovable property in India-Explained the source-Addition is deleted-Registration and stamp charges-Source explained-Addition is deleted.**

Assessee made investment in an immovable property in India which was claimed to be sourced from a foreign company where her spouse was a director. Assessing Officer held part of the investment to be out of unexplained sources for the reason that there was no explanation as to why this amount had been transferred by said foreign company on behalf of assessee, and also on account of proper confirmation of said transaction not being filed by assessee from the foreign entity. CIT(A) confirmed the addition. On appeal, the Tribunal held that since confirmation was filed by the management of said foreign entity and assessee had given proper explanation of source of investment substantiated with proper documentary evidences which had not been doubted by the authorities, the addition made by Assessing Officer is deleted. As regards registration and stamp duty charges for purchase of immovable property from her NRE bank account and had filed all supporting evidences to explain source of said investment, as coming out of advances given by her son to assessee from his foreign account. Addition is deleted. (AY. 2021-22)

Rekha Sanjeev Bhatt v. ITO (2025) 210 ITD 690 (Ahd) (Trib.)

1174 **S. 69: Unexplained investments-Alleged on money-Purchase of flat-Survey statement-Opportunity of cross examination is not provided-Merely on the basis of statement of the accountant of the builder no addition can be made. [S.132(4), 133A]**

The assesseee purchased the flat from shah Hosecon Pvt Ltd. In the course of survey in the premises of the builder certain sheet was found and the statement of the accounted was recorded. The accountant of the company has accepted the receipt of the on money. In response to show cause notice the assessee denied the payment of on money. The assessee also requested for cross examination of the person who has given the statement. The Assessing Officer issued the summons to the accountant of the Company and appear for cross examination. In spite of summons no body appeared on behalf of the builder. The assessee filed an affidavit denying the payment of any cash amount. The Assessing Officer made an addition of Rs 30 lakhs as unexplained investments. On appeal, CIT(A) affirmed the order of the AO. On appeal the Tribunal held that statements recorded during survey proceedings u/s. 133A does not hold evidentiary value unless corroborated by independent evidence. The Tribunal relied on the ruling in the case of *Yash Synthetic Pvt. Ltd. (ITA No. 268/Mum/2024 dt. 18-6-2024 and Anil Jaggi v. ACIT (ITA No. 3049/Mum/2016dt. 20-12-2017)*, which stated that no addition could be made based solely on uncorroborated survey statements. The Tribunal held that the AO did not consider the affidavit and bank statements, or conduct further inquiries. The addition is deleted. (AY 2014-2015) (ITA No. 3233/Mum/2024 dated 21/02/2025)

Aarti Sudarshan Soni v. ITO, (Mum)(Trib.) www.itatonline.org

1175 **S. 69A: Unexplained money-Denominations-Details not maintained-Nature of source of cash deposit was not explained satisfactorily-SLP of assessee dismissed. [Art. 136]**

On appeal, the High Court held that the explanation offered by the assessee was no explanation at all, and that the nature or source of acquisition of the money not having

been explained, it could only be treated as unexplained money. SLP of the assessee was dismissed. (AY. 2017-18)
Pankaj Gupta v. PCIT (2025) 477 ITR 390/305 Taxman 407 (SC)
Editorial: Pankaj Gupta v. PCIT (2025) 477 ITR 387/174 taxmann.com 747 (Orissa) (HC)

S. 69A: Unexplained money-Investment at end of year-Deletion of addition by the Tribunal is affirmed by the High Court. [S. 260A] 1176
Assessing Officer treated total equity investments reflected at the end of the year as unexplained and also treated the figure of loans and advances outstanding at the end of the year as unexplained, which was affirmed by the CIT(A). Tribunal deleted additions after examining audited financial statements, balance sheet schedules, and documents available in the public domain. On appeal, the Court held that since the decision of the Tribunal was supported by documents produced before it, no substantial questions of law arose for consideration.
PCIT v. Improve Financial Consultants (P.) Ltd. (2025) 307 Taxman 260 (Cal.)(HC)

S. 69A: Unexplained money-Search-Real estate projects-Books of account-Seized diaries contained recordings of receipts, which pertained to booking of flats-Not dumb documents-Order of Tribunal confirming the addition was affirmed.[S. 2(12A), 132, 260A] 1177
Dismissing the appeal, the Court held that seized diaries contained recordings of receipts, which pertained to booking of flats and additions made were not solely on the basis of diaries alone but also on the basis of reconciling material as found in diaries and formal books of account maintained by assessees, it would be erroneous to construe diaries as a random paper or dumb documents that did not reveal any information. The order of the Tribunal confirming the addition was affirmed. (AY. 2014-15 to 2018-19)
Shri Om Sai Infrapromoters (P.) Ltd. v. Dy. CIT (2025) 305 Taxman 551 (Delhi)(HC)

S. 69A : Unexplained money-Income form undisclosed sources-Cash deposits in bank account-Demonetisation period-Bank account statement of last three financial years and return of her income for last six financial years-Allowing the appeal the Court held that the Assessing Officer ought to have been verified in terms of clauses 1.1 and 1.3 of CBDT Circular No. 3, dated 21-2-2017 before making addition-Matter was remitted back to Assessing Officer to conduct verification and pass an order afresh. [S. 254(1), 260A] 1178
Assessing Officer made addition of entire cash amount deposited in the bank treating it as unexplained money under section 69A. Tribunal relying upon CBDT Circular No. 3/2017, dated 21-2-2017, held that assessee would have been in possession of cash in hand of Rs. 3.50 lakhs at relevant point of time and after deducting said amount, sustained addition of Rs. 7.50 lakhs with her income. On appeal the Court held that since assessee had submitted her bank account statement of last three financial years and return of her income for last six financial years, it ought to have been verified in terms of clause 1.1 and 1.3 of CBDT Circular No. 3/2017, dated 21-2-2017, which was not carried out by either of authorities and straightway an amount of Rs. 7.50 lakhs had

been added to income of assessee on account of unexplained money under section 69A, which was unsustainable and bad in law. Accordingly the addition was set aside and matter was to be remitted back to Assessing Officer to conduct verification and pass an order afresh in terms of clauses 1.1 and 1.3 of aforesaid Circular to extent of addition of Rs. 7.50 lakhs with income of assessee. (AY. 2017-18)
Sunita Sherwani v. ITO (2025) 177 taxmann.com 437/ 347 CTR 408 / 255 DTR 161 (Chattisgarh)(HC)

1179 **S. 69A : Unexplained money-Search and seizure-Cash seized-Commission income-Mere declaration without proof of source-In absence of satisfactory explanation with supporting material, addition u/s 69A justified and taxable u/s 115BBE.[S. 115BBE, 132)**
During the course of the search, cash was seized, and the assessees filed returns declaring ₹50,00,000 and ₹35,00,000 respectively as commission income. However, except for a bald statement that the amounts represented commission, no details or material explaining the nature and source of such receipts were furnished despite issuance of show-cause notices. The assessees did not respond to the notices. The Court held that under section 69A, the burden lies on the assessee to satisfactorily explain the nature and source of money found in his possession. Mere declaration during search or disclosure in return is not sufficient unless supported by credible material. Even where an explanation is offered, it must be satisfactory in the opinion of the Assessing Officer. In the present case, there was no explanation at all. The seized cash, not being properly explained, constituted unexplained money within the meaning of section 69A and was liable to be taxed under section 115BBE. The contention that declaration of income as commission was sufficient to take the case outside the purview of section 69A r/w section 115BBE was rejected. (AY. 2021-22)
Gautham Chand Jain v. ACIT (2025) 304 Taxman 640 / 345 CTR 328 / 250 DTR 132 (Mad)(HC)
Sumermal Kantilal Jain v. ACIT (2025) 304 Taxman 640 / 345 CTR 328 / 250 DTR 132 (Mad)(HC)

1180 **S. 69A : Unexplained money-Post-demonetisation deposit of old currency notes-Cash book balance insufficient to explain deposit-Failure to explain the source-Addition was affirmed.[S. 260A]**
The Assessing Officer held that the explanation given by the assessee was inadequate and made an addition under section 69A, treating the deposit as unexplained money. The Commissioner (Appeals) confirmed the addition and the Tribunal upheld the decision. On appeal, the Court held that the explanation offered by the assessee was no explanation at all. The nature or source of acquisition of the money not having been explained it could only be treated as unexplained money. (AY. 2017-18)
Pankaj Gupta v. PCIT (2025) 477 ITR 387/174 taxmann.com 747 (Orissa)(HC)
Editorial: SLP rejected, Pankaj Gupta v. PCIT (2025) 305 Taxman 407 / 477 ITR 390 (SC)

S. 69A : Unexplained money-On money-Construction business-Tribunal directed the Assessing Officer to compute on money at rate of 10 per cent of total receipt booked in the books of account-High Court affirmed the order of Tribunal.[S. 132(4), 260A] 1181

The Assessee, a company engaged in construction, was subject to a search under section 132 of the Income-tax Act during which unaccounted cash was found. In a statement recorded under section 132(4), the company's directors admitted to charging 'on-money' on all projects relating to residential and commercial properties. The Assessing Officer estimated on-money at ₹81.55 lakh based on the proportion of on-money to gross receipts ratio in the case of its group concern and added ₹76.55 lakh after adjusting the disclosed amount. On appeal, the CIT(A) reduced the addition to ₹3.81 lakh (Being 10% of the gross receipts on all projects excluding project Sarjan), holding that no on-money was received on a major project ('Sarjan') where prices were advertised publicly. On appeal by the Department, the Tribunal held that the directors' admission and cash found during search justified the receipt of on-money and directed the Assessing Officer to compute on-money at 10% of total receipts, including the Sarjan project. Aggrieved, the Assessee approached the Hon'ble Gujarat High Court, which upheld the Tribunal's order, observing that the estimation of the quantum of on-money was based on voluntary admission corroborated by evidence and was a finding of fact. Further, the High Court observed that the addition was sustained by the CIT(A) and that the order of the Tribunal was only concerned with the quantum of the on-money based on the fact that the Assessee was in receipt of the on-money. The Court dismissed the appeal. (AY. 1993-94)

Labh Construction & Industries Ltd. [2025] 306 Taxman 201 (Guj)(HC)

S. 69A : Unexplained money-Accommodation bills-Burden of proof-Assessee was not obliged to produce third-party books-Order of Tribunal deleting the disallowance was affirmed.[S. 260A] 1182

Dismissing the appeal of the revenue, the Court held that where assessee engaged in stevedore services and faced disallowance for inflated payments to two entities, since substantial documents proved that the entities had rendered Container Freight Services, and the assessee was not obliged to produce third-party books, disallowance was rightly deleted by CIT(A) and confirmed by the Tribunal. [BP.1-4-1989 to 18-6-1999]

PCIT v. M. Dinshaw & Co. (P.) Ltd. [2023] 156 taxmann.com 170 (Bom)(HC)

S. 69A : Unexplained money-Seizure at airport-Professional income explained-Competent authority was directed to return seized cash. [S. 131(1A),Art. 226] 1183

Allowing the petition the Court held that where Rs. 16 lakhs seized at airport was explained as professional income recorded in books, Tribunal accepted explanation and deleted addition. Competent authority was directed to return seized cash. [AY. 2019-20]

Ramchandra K. Mendadkar v. UOI [2023] 154 taxmann.com 440 (Bom)(HC)

S. 69A : Unexplained money-Agricultural income-Failed to establish that land was under cultivation-Order of Tribunal denying exemption was upheld. [S.10(1), 260A] 1184

Assessee claimed exemption of agricultural income. Income Tax Inspector deputed by Assessing Officer for spot enquiry reported that land was marked into plots and was not

used for cultivation. Tribunal held that the assessee had failed to establish that land in question was under cultivation. Order of Tribunal is affirmed. (AY. 2000-01)
Patnala Srinivas v. ITO (2025) 303 Taxman 374 (Telangana)(HC)

1185 **S. 69A : Unexplained money-Search-Foreign Bank Account-Deposit in bank account-Debit card in joint name-Matter remanded to produce bank account. [S.260A]**
On appeal, the Court held that subject to the assessee producing the authenticated bank statement of the said bank account for the relevant period. In the event the assessee produces the same, the Assessing Officer shall determine the addition based on the said account. The order of the Tribunal is modified accordingly. (BP. 1-4 1990 to 17-10-2000)
Pawan Kumar Jaggi v. ACIT (2025) 302 Taxman 274 (Delhi)(HC)

1186 **S. 69A : Unexplained money-Compulsory Scrutiny-Difference between the value of plant and machinery shown in the Balance Sheet on 31-03-2004 and opening balance shown on 01-04-2004 in the books of accounts-Assessee firm failed to explain the difference in the investments in plant and machinery-Addition is confirmed, [S. 119, 143(2), 144, 260A]**
The assessee partnership firm filed its return of income, subsequently selected for compulsory scrutiny under the CBDT guidelines in Clause 2(q) for the financial year 2006-07. During the assessment proceedings, the assessee firm failed to explain the difference between the value of plant and machinery claimed to be purchased in the Balance Sheet as on 31-03-2004 and the balances carried forward as on 01-04-2004 in the books of accounts. The assessee raised the issue of selection of its case under compulsory scrutiny in violation of the CBDT's circular/guidelines, particularly Clause 2(q) for the financial year 2006-07.
On appeal, the Hon'ble Court held that there is no violation of the procedure laid down in the CBDT's circular for selection of the cases for the financial year 2006-07 and accordingly, the order passed by the ITAT upholding the assessment order making addition u/s 69A of the Act was sustained. (AY. 2007-08)
Reshi Construction Company v. CIT (2024) 167 taxmann.com 47 /(2025) 472 ITR 570 (J & K& L)(HC)

1187 **S. 69A : Unexplained money-Addition cannot be made on the entire value of alleged unaccounted sales-Only the profit element embedded in such sales is taxable, even where the existence of clandestine sales is established through seized documents and corroborative third-party statements-Estimation of profit at 6% by the CIT(A) was held to be reasonable. [S. 69A, 147]**
Pursuant to information received from the DGCEI regarding clandestine sales, the assessment was reopened under section 147. Based on a seized diary maintained by a purchaser recording cash payments, corroborated by statements of the purchaser's Managing Director, accountant and commission agent, the AO treated the entire alleged unaccounted sales of ₹7.51 crore as unexplained money under section 69A. The CIT(A) accepted the existence of unaccounted sales but, relying on judicial precedents, restricted the addition to 6% of the turnover, representing the embedded profit. The Tribunal upheld the reopening as valid and confirmed that the seized diary and corroborative third-party evidence established the existence of unaccounted sales.

However, following the principles laid down in *CIT v. President Industries (2002) 258 ITR 654 (Guj) HC)* and *Dy.CIT v. Panna Corporation(2012) 82 CCH 26 (Guj) HC)*, it held that only the profit element embedded in the unaccounted turnover could be brought to tax and not the entire sale proceeds. Since the possibility that corresponding purchases were already accounted for could not be ruled out and no material was brought on record to justify a higher profit rate, the Tribunal held that the estimation of profit at 6% by the CIT(A) was fair and reasonable. Accordingly, the assessee's appeal was partly allowed, and the Revenue's appeal was dismissed. (AY. 2011-12)
Shah Foils Ltd. v. ITO (2025) 130 ITR 198 (Ahd(Trib.)

S. 69A: Unexplained money-Search assessment-Unaccounted receipts-Estimation of profit-Telescoping-Seized cash-PF/ESI contributions-Addition was deleted..[S. 69C 132, 145, 153A, General Clauses Act,] 1188
Where search proceedings revealed unaccounted receipts and expenditure from the assessee's hospitality business, the CIT(A) was justified in estimating income by applying a net profit rate of 12% on the unaccounted receipts instead of treating the entire receipts as income. Telescoping of unaccounted expenditure against such receipts was rightly allowed as both formed part of the same business activity. Separate addition of seized cash under section 69A was rightly deleted since the cash represented business receipts already considered while estimating income, and a further addition would amount to double taxation. Addition in respect of PF/ESI contribution for unabated assessment years was not sustainable in the absence of incriminating material, while for the abated year the payment made after a Sunday was held to be within the permissible time under the General Clauses Act. The Tribunal also upheld deletion of separate addition for poker income and expenditure as the same already formed part of the seized material considered for estimating business income. (AY. 2013-14 to 2019-20).
Sankalp Recreation Pvt. Ltd. v. ACIT (2025) 130 ITR 517 (Ahd.)(Trib.)

S. 69A : Unexplained money-Cash deposits in bank account-Demonetization period-Assessee, aged 89 years-Addition cannot be sustained to the extent of Rs. 5 lakhs in view of CBDT Instruction No. 3 of 2017, dt. 21st Feb., 2017-Source of the remaining amount of Rs. 5 lakhs has been duly explained by the assessee on the basis of said bank statements-Addition was deleted. 1189
Held that in view of CBDT Instruction No. 3 of 2017, dt. 21st Feb., 2017, addition under s. 69 is not sustainable in respect of the cash deposit made by the assessee, aged 89 years, to the extent of Rs. 5 lakhs; assessee having duly explained the source of the remaining cash deposits in her bank account on the basis of earlier withdrawals of cash which were held by her on the date of declaration of demonetization, no addition under s. 69 is sustainable. (AY. 2017-18)
Shantirani Saarathamal Dagriya v. ITO (2025) 235 TTJ 448(SMC) (Mum)(Trib)

S. 69A : Unexplained money-Cash deposit in bank account-Matter remanded to the file of CIT(A)-Reassessment was affirmed.[S. 147, 148] 1190
Held that the Assessee had duly explained the source of cash deposit made in bank account with the help of regularly maintained cash book on day to day basis and bank statement that he was having sufficient cash in hands on eve of cash deposit out of

cash withdrawals from his bank CIT(A) having not examined the contention of the assessee vis-à-vis cash flow statement, matter is remitted to the file of the CIT(A) to decide the issue afresh. Tribunal also held that at the stage of initiation of reassessment proceeding AO is required only to frame a prima facie belief as to the escapement of income. Reassessment was affirmed.(AY. 2016-17)
Akshat Loyalka v. ITO (E) (2025) 237 TTJ 200/ 126 ITR 373/ 175 taxmann.com 42 (Jaipur) (Trib)

1191 **S. 69A : Unexplained money-Credit card expenses incurred in representative capacity-Reimbursed expenses-Addition was deleted-Seizure of gold jewellery-Source explained-Addition was deleted. [S. 132]**
Assessee used the business credit card issued by JCII exclusively for incurring expenditure for official purposes of JCII, and the latter having reimbursed the said expenditure, the addition made by the AO is not sustainable. As regards jewellery, the explanation offered by the assessee, a religious preacher, based on declared income, family status, and customary gifting practices, is reasonable and consistent with accepted norms and, therefore, the addition under S. 69A in respect of jewellery was not sustainable. (AY. 2021-22)
Paul Dhinakaran v. DCIT (2025) 237 TTJ 850 (Chennai)(Trib)

1192 **S. 69A : Unexplained money-Survey-Addition based on dumb documents seized from third parties deleted.[S. 133A]**
The Tribunal held that the addition under section 69A could not be sustained merely on the basis of loose papers and statements recorded from finance brokers during a search conducted prior to the commencement of the relevant previous year. The assessee had promptly retracted the statement recorded during the survey, alleging coercion, and the Revenue failed to produce any corroborative evidence such as statements of brokers, borrowers or other material linking the assessee with alleged cash loans. The seized papers were merely "dumb documents" incapable of establishing undisclosed investments. In the absence of independent evidence, no adverse inference could be drawn, and the addition was deleted. (AY. 2020 21)
Suresh Kumar Banthia v. DCIT (2025) 238 TTJ 130 (Kol.)(Trib.)

1193 **S. 69A : Unexplained money-Cash deposits during demonetisation-Addition was deleted where source stood explained from regular books [S. 115BBE]**
The Tribunal held that the cash deposited during the demonetisation period by the assessee-trust running a medical college, hospital and pharmacy was fully explained by cash receipts from fees, hospital collections, pharmacy sales and redeposit of earlier cash withdrawals, all of which were duly recorded in the regular books of account. The Assessing Officer had neither rejected the books nor disproved the documentary evidence produced by the assessee. Since the cash receipts already formed part of the gross receipts disclosed in the income and expenditure account, the same amount could not be taxed again under section 69A. The deletion of the addition by the CIT(A) was therefore upheld. (AY. 2017-18)
DCIT v. Santosh Trust (2025) 238 TTJ 237 / 178 taxmann.com 31 (Delhi)(Trib.)

S. 69A : Unexplained money-Seized Papers-Where seized rough sheets substantially tally with the regular books of account, only unexplained differences can be sustained and not the entire addition. [S.132, 145(3)] 1194

The Tribunal held that the Assessing Officer himself had accepted that nearly 80% of the entries found in the seized documents were duly reconciled with the books of account of the assessee and its related concerns. The seized documents were merely rough memoranda subsequently incorporated into the regular books. In the absence of any evidence of unrecorded money or assets, the CIT(A) was justified in deleting the major addition while sustaining only the minor unexplained differences. However, the addition relating to an alleged opening balance was confirmed as the assessee failed to substantiate the claim with evidence from its books of account. (AY. 2022-23)

Jamna Dass Nikkamal Jain Saraf (P.) Ltd. v. DCIT (2025) 238 TTJ 473 (Chd.)(Trib.).

S. 69A : Unexplained money-Search & seizure-Addition based solely on employee's diary and retracted statements-Not sustainable. (S. 132, 132(4A) 153A) 1195

The Assessing Officer made additions on the basis of diary entries maintained by an employee and statements recorded during search proceedings. Both the employee and the director subsequently retracted their statements, and no independent enquiry or corroborative evidence was brought on record. The Tribunal held that loose papers or personal diaries maintained by an employee, without independent corroboration, cannot constitute the sole basis for addition. The additions under the head capital gains and section 69A were accordingly deleted. (AY. 2014-15 to 2017-18, 2019-20 to 2022-23)

Estate Investment Company (P.) Ltd. v. DCIT (2025) 238 TTJ 585 (Mum)(Trib).

S. 69A : Unexplained money-Cash deposits-Deposits made by members of co-operative society-Explanation accepted-Ad hoc addition deleted. 1196

The reassessment was initiated on the basis of Annual Information Return data linked to an old Permanent Account Number which the assessee had already requested to be surrendered. The assessee explained that the cash deposits represented deposits received from its members in the ordinary course of its activities and that it functioned merely as a pass-through entity. The Tribunal held that the Department failed to disprove the explanation and, once the source of the deposits was substantially accepted, no addition under section 69A could be sustained merely on suspicion. The ad hoc addition of 10 per cent. sustained by the Commissioner (Appeals) had no legal basis and was deleted. (AY. 2019-20).

Sanjivani Mahila Gramin Bigar Sheti Sahakari Pat Sanstha v. ITO (2025) 126 ITR 713 (Nagpur)(Trib.)

S. 69A : Unexplained money-Cash deposits-Availability of cash from earlier withdrawals-Matter remanded for fresh examination-Reassessment-"Reason to believe"-Prima facie belief sufficient-Reopening valid-Delay of six days was condoned. [S. 147, 148, 254(1)] 1197

The assessee explained that the cash deposited in his bank account represented redeposit of earlier cash withdrawals. The Assessing Officer rejected the explanation, whereas the Commissioner (Appeals) held that no supporting evidence had been produced. The Tribunal observed that there was only a short gap between the withdrawals and redeposits and that contradictory findings had been recorded regarding

the availability of cash. Since the Assessing Officer had not established utilisation of the withdrawals for any other purpose, the matter was restored to the Commissioner (Appeals) for fresh examination in accordance with law. The assessee challenged the reassessment contending that it was based only on suspicion and not on a valid "reason to believe". The Tribunal held that at the stage of initiation of reassessment proceedings, the Assessing Officer is only required to form a prima facie belief regarding escapement of income. Sufficiency of the material cannot be examined at that stage. Accordingly, the challenge to the reopening was rejected. Delay of six days in filing of appeal was condoned. (AY. 2016-17).
Akshat Loyalka v. ITO (2025) 126 ITR 373 / 175 taxmann.com 42 (Jaipur)(Trib.)

1198 **S. 69A : Unexplained money-Protective addition-Fraudulent bank account operated by third parties-No benefit or control of account by assessee-Addition deleted. [S 206C]**
Huge cash deposits were made in a bank account fraudulently opened in the assessee's trade name. The assessee denied ownership of the account, lodged a police complaint and established that the money was deposited and withdrawn by third parties without his knowledge. The Assessing Officer had already taxed the beneficiaries substantively but made a protective addition in the assessee's hands. The Tribunal held that the assessee neither controlled the account nor derived any benefit from the transactions. Considering the nature of the retail liquor licence, it was impossible for the assessee to achieve the alleged turnover within fourteen days. The protective addition was therefore deleted. (AY. 2012-13).
Mandeep Singh v. ITO (2025) 126 ITR 240 / 178 taxmann.com 474 (Amritsar)(Trib.)

1199 **S. 69A : Unexplained money-Cash deposits during demonetisation-Cash balance contrary to Schedule AL-Addition upheld.**
The assessee claimed that the cash deposited during demonetisation represented opening cash-in-hand as per a balance sheet prepared by him. The Tribunal held that the assessee had disclosed only ₹1.06 lakh as cash-in-hand in Schedule AL of the return and could not subsequently rely on an unfiled balance sheet showing ₹36.66 lakh. Since the balance sheet had no evidentiary value, the addition under section 69A was rightly sustained. (AY. 2017-18).
Gowri Shankar Gupta v. ITO (2025) 127 ITR 595 (Hyd.)(Trib.)

1200 **S. 69A : Unexplained money-Search and seizure-Parallel invoicing-No corroborative evidence connecting seized material with assessee-Addition deleted-Sales-Under-invoicing-Extrapolation of entire turnover unjustified-Addition restricted. [S. 132]**
The Assessing Officer made additions for alleged undisclosed sales based on spreadsheets found at the premises of the assessee's accountant. The Tribunal held that the assessee successfully reconciled the entries with recorded sales and the Revenue failed to produce any corroborative evidence linking the seized material with undisclosed transactions. Deletion of additions relating to parallel invoicing, unexplained money and capital employed was upheld. The Tribunal held that the Assessing Officer was not justified in extrapolating alleged under-invoicing to the entire turnover without comparing identical grades of paper. While sustaining the restriction of addition only

to sales made to one party, the Tribunal reduced the rate of under-invoicing to the rate emerging from the Assessing Officer's own working. (AY. 2014-15 to 2020-21).
Dy. CIT v. DSG Papers (P.) Ltd. (2025) 127 ITR 410 (Chd.)(Trib.)

S. 69A : Unexplained money-Unaccounted production-Estimation based on variation in electricity consumption-No evidence of unaccounted purchases or sales-Addition deleted.[S. 132] 1201
The Assessing Officer estimated unaccounted production and sales solely on the basis of higher electricity consumption. The Tribunal held that fluctuations in electricity consumption within a reasonable range could not, by themselves, justify estimation of unaccounted production in the absence of any evidence of purchases or sales outside the books. The addition was deleted. (AY. 2018-19, 2019-20 & 2020-21).
Rosha Alloys P. Ltd. v. Dy. CIT (2025) 127 ITR 76 / 175 taxmann.com 622 (Chd.)(Trib.)

S. 69A : Unexplained money-Search assessment-Financial broker-Cash loans belonging to clients-Brokerage income already disclosed-Addition as unexplained money deleted-Seized document-Entire document to be read as a whole-Revenue cannot rely selectively on favourable entries.[S.69A, 132, 132(4), 153C] 1202
During search, documents relating to cash and cheque loans arranged by the assessee, a financial broker, were seized. While the Revenue accepted brokerage earned on cheque transactions, it treated the principal amount of cash loans and interest thereon as unexplained money under section 69A. The Tribunal held that the assessee had already disclosed brokerage income from cash transactions in the return filed under section 153C and the Revenue could not adopt a contrary stand by treating the same transactions as the assessee's undisclosed money. In the absence of any evidence showing that the cash advanced belonged to the assessee, the deletion of the addition by the Commissioner (Appeals) was upheld. The Tribunal reiterated that a seized document must be read in its entirety and neither the assessee nor the Revenue can rely only on isolated portions favourable to its case. Where the explanation regarding a transaction is available from the seized material or the statement recorded under section 132(4), the same must be considered before drawing adverse inferences.(AY. 2016-17 to 2019-20).
Dy. CIT v. Biharilal Shadhuram Chhabriya (2025) 124 ITR 149 (Nagpur)(Trib.)

S. 69A : Unexplained money-Cash deposits during demonetisation-Cash generated from additional income disclosed before Settlement Commission-Source explained-Addition deleted. 1203
The assessee had disclosed additional income of Rs. 3.36 crores before the Settlement Commission in respect of bogus unsecured loan entries, and the Settlement Commission permitted capitalisation of the additional income. The assessee explained that the cash generated on repayment of those loan entries was utilised for working capital requirements and the balance cash available was deposited during the demonetisation period. The Tribunal held that the explanation was bona fide and reasonable. Merely because the cash had been used in the business as working capital did not mean that it ceased to be available as cash or cash equivalent. Accordingly, the source of the cash deposits stood satisfactorily explained, and the deletion of the addition under section 69A was upheld. (AY. 2017-18).
Dy. CIT v. Baashyaam Constructions (P.) Ltd. (2025) 124 ITR 272 (Chennai)(Trib.)

1204 **S. 69A: Unexplained money-Cash deposits in bank-Business receipts from sale of SIM cards and recharge vouchers-Addition under section 69A deleted-Profit element alone taxable-The Assessing Officer was directed to estimate the income at 1 per cent. of the gross business receipts, and no interest was leviable as the income remained below the basic exemption limit. [S. 144]**

The Assessing Officer completed an ex parte reassessment and treated the entire cash deposits in the assessee's bank account as unexplained money under section 69A. Before the Tribunal, the assessee produced bank statements, sales summaries and ledger accounts showing that the deposits represented business receipts from sale of SIM cards and recharge vouchers, which were continuously rotated for purchase of further stock. The Tribunal held that the Commissioner (Appeals) erred in ignoring the documentary evidence and merely relied upon the assessee's non-compliance before the Assessing Officer. Since the nature and source of the deposits stood established, section 69A had no application. The Assessing Officer was directed to estimate the income at 1 per cent. of the gross business receipts, and no interest was leviable as the income remained below the basic exemption limit. (AY. 2017-18).

Akash Anand Puri v. ITO (2025) 125 ITR 707 (Nagpur)(Trib.)

1205 **S. 69A: Unexplained money-Cash deposits during demonetisation-Cash deposited directly by customers into bank account-Addition deleted.[S. 68, Specified Bank Notes (Cessation of Liabilities) Act, 2017, S. 2(1)(a), 5]**

The assessee, engaged in the business of manufacturing and sale of textile goods, explained that the cash deposits during the demonetisation period represented sale proceeds directly deposited into his bank account by customers, which was the regular practice followed in earlier years. The Tribunal held that the sales were accepted as genuine and part of the cash deposits had already been accepted by the Department. The Reserve Bank of India guidelines imposed obligations only on the person making the deposit and not on the recipient. Since the specified bank notes continued to be legally depositable in banks up to 31 December 2016, direct deposits made by customers into the assessee's bank account could not be treated as unexplained money under section 69A. The addition was accordingly deleted. (AY. 2017-18).

Ramesh v. ITO (2025) 125 ITR 600 (Jodhpur)(Trib.)

1206 **S. 69A: Unexplained money-Income from undisclosed sources-Cash deposits in bank during demonetization period-Books of account not rejected-The assessee has explained the nature and source of the same and recorded the same in his books of account. Addition was deleted. [S. 145]**

AO having accepted assessee's turnover in excess of Rs. 16 crores and not rejected the books of accounts, addition of Rs. 40 lakhs made by the AO under s. 69A on the ground that the cash deposits made by the assessee in his bank accounts during the demonetization period out of the cash in hand i.e., Rs. 1,04,52,586, were made up of currency notes of small denominations, is not sustainable. (AY. 2017-18)

Rengasamy Asaithambi v. ACIT (2025) 234 TTJ 890 (Chennai)(Trib)

S. 69A: Unexplained money-Cash deposits-Past disclosures and withdrawals-Addition was sustained to the extent of Rs 10 lakhs.[S.44AE] 1207

Assessee, engaged in transport business, made cash deposits of Rs. 26.01 lakh, and the Assessing Officer made additions under section 69A. Tribunal held that considering past disclosures of transportation receipts of Rs. 9.16 lakh and redeposit of Rs. 4.65 lakh out of earlier withdrawals, addition was to be sustained to the extent of Rs.10 lakh. (AY. 2012-13)

Renu Vinod Kaushal. v. ITO (2025) 215 ITD 12 (Ahd) (Trib.)

S. 69A: Unexplained money-Cash deposits-Additional evidence-Matter remanded to the file of the Assessing Officer for re-adjudication. [S. 147] 1208

Assessing Officer treated the entire cash deposit in assessee's bank as unexplained money under section 69A of the Act. The assessee produced additional evidence before the Tribunal. Tribunal admitted the additional evidence and remanded to the file of the Assessing Officer with directions to verify such evidence and to re adjudicate the addition.(AY. 2018-19)

Chinthalapudi Ramakrishna v. ITO (2025) 215 ITD 222 (Hyd) (Trib.)

S. 69A: Unexplained money-On money-Sale of flats-Uncorroborated document-WhatsApp chat-No independent supporting evidence-Order of CIT(A) deleting the addition was affirmed.[S. 43CA, 153C] 1209

During the search, certain loose papers and extracts of WhatsApp chat were recovered. Assessing Officer stated that on verification of the WhatsApp message in the form of an Excel sheet, it was found that the actual sale value of flats was different from the agreement value. Assessing Officer completed under section 153C wherein an addition was made under section 69A on account of the on-money received on the sale of flats. CIT(A) deleted the additions. On appeal, the Tribunal held that the assessee had duly furnished comprehensive documentary evidence substantiating its claim, including sale agreements, cancellation deeds, and corresponding banking transactions. Further, all transactions were executed at values exceeding stamp duty valuation and were fully compliant with the provisions of section 43CA. Tribunal held that the WhatsApp message relied upon by the Assessing Officer was uncorroborated, and there was no independent supporting evidence. Order of CIT(A) deleting the addition was affirmed. (AY. 2018-19, 2019-20)

DCIT v. Saarrthi Reality and Infra LLP (2025) 214 ITD 27 (Mum) (Trib)

S. 69A : Unexplained money-Accommodation entries-long-term capital gains-Accommodation entries-Penny stock-Reassessment was affirmed-Addition was deleted on merits. [S.10(38), 45, 147, 148] 1210

On the basis of this information from the Investigation Wing, the Assessing Officer reopened the assessment and made additions of bogus LTCG and bogus STCL. Assessee contended that Assessing Officer had made an addition citing name of the entity Kushal Limited, whereas assessee's transactions pertained to Kushal Trade Mark Ltd. It was noted that from the evidence brought on record by the revenue, it was evident that the two entities were the same and the name of Kushal Trade Mark Ltd was changed to Kushal Ltd w.e.f. 17.10.2017. Tribunal held that the reason as recorded by the

Assessing Officer could not be held as incorrect for this reason, as the two names were synonymous. On merit, the Tribunal held that transactions as undertaken by assessee in shares were duly disclosed in his return of income and assessee had also brought on record a copy of the demat account to prove that the purchase and sale in shares were effected through demat account only, thus, assessee had discharged its onus to establish that transactions in shares were genuine, reopening notice issued against assessee was unjustified. (AY. 2017-18)
ITO v. Harsha Asheshbhai Patel (2025) 214 ITD 502 (Ahd) (Trib.)

1211 **S. 69A: Unexplained money-Search-Gold jewellery-Found 1810 grams-CBDT Circular No.1916/1994, dated 11-05-1994-Exemption was allowed to the extent of 1700 grams as per the circular of CBDT-Addition was to be made towards the value of jewellery to the extent of 110 grams. [S. 132]**
CIT (A), referring to the CBDT Circular No.1916/1994, dated 11-05-1994, held that the source as regards 1700 grams of jewellery was explained by the assessee and he directed the Assessing Officer to accept the explanation to the extent of 1700 grams of jewellery and sustained addition towards value of jewellery to the extent of 110 grams only, the source of which assessee could not explain. On appeal, the Tribunal held that since the assessee could not file any evidence to explain the source for said jewellery, the order of CIT(A) was affirmed. (AY. 2021-22)
Kiran Kumr Reddy v. DCIT (2025) 213 ITD 490 (Hyd) (Trib.)

1212 **S. 69A: Unexplained money-Rough diary notings-Internal circulation of funds-Statement in the Course of search-Statement retracted-Addition unsustainable.[S. 132, 132(4), 132(4A)]**
The Assessing Officer treated a diary entry of ₹ 2.50 lakh as unexplained money under section 69A. The Tribunal found that the entry represented internal circulation of cash within the group and not an independent receipt by the assessee. As no corroborative evidence or verification of the alleged parties was made, the addition was purely on conjecture. Following *PCIT v. Umesh Ishrani [(2019) 108 taxmann.com 437 (Bom)(HC), and Harish Textile Engineers Ltd v. DCIT [(2015) 63 taxmann.com 66 (Bom(HC)* it was held that suspicion, however strong, cannot replace proof. The addition was accordingly deleted.(ITA Nos. 3012-3013 & 3222-3228/Mum/2025 dt. 17-10-2025) (AY. 2014-15 to 2022-23)
Estate Investment Co. Pvt. Ltd. v. DCIT (Mum)(Trib) www.itatonline.org

1213 **S. 69A: Unexplained money-Cash deposited in bank-Source explained-Addition is deleted. [S. 115BBE]**
The Tribunal held that the AO had not pointed out any mistake or error in documents so submitted by assessee, except to say that the documents and explanation submitted by assessee were not acceptable; it was not justifiable on part of the Assessing Officer to make an addition under section 69A, read with section 115BBE of the Act. (AY. 2017-18)
Girishkumar Jamnadas Bhalodiya Kishan v. ITO (2025) 212 ITD 249 (Rajkot) (Trib.)

S. 69A : Unexplained money-Alleged unaccounted cash sales from Scrap and Piling business-Addition of gross receipts is not justified-Applying an average profit rate of 8.56% on such cash receipts is held to be reasonable-Order of CIT(A) is affirmed. [S.115BBE] 1214

During the course of assessment, the AO made an addition under section 69A aggregating to ₹1,03,27,743 on account of unaccounted income from cash sales of scrap (₹25,79,334) and piling business (₹77,48,409), allegedly based on statements recorded during the course of search and materials seized. The assessee contended that even if such transactions were undertaken, the correct approach would be to estimate the income component and not treat the entire cash receipt as undisclosed income, especially when expenses related to such business activity had already been booked in the regular books. The CIT(A) restricted the addition by estimating income at 8.56% of the gross receipts (based on average profit before tax margin), resulting in reduced additions of ₹2,20,791 (for scrap) and ₹6,63,264 (for piling). The issue before the Tribunal was, whether cash receipts from alleged unaccounted business activity (scrap sale and piling) can be added in full under section 69A, or whether only the income component, estimated on a reasonable profit margin, should be taxed. On appeal the Tribunal agreed with the assessee's contention and upheld the CIT(A)'s approach. The Tribunal held that,the business of scrap sale and piling formed part of the assessee's regular operations. Even if cash transactions were undertaken outside the books, the income component needed to be determined on an estimate, not the entire turnover. The AO failed to establish that the entire cash receipts were pure income or profit, especially in the absence of evidence that related expenses were not incurred or were also outside the books. The assessee's regular books already accounted for corresponding expenses, which the AO did not dispute. The Tribunal held that applying an average profit rate of 8.56% on such cash receipts was a reasonable method to determine taxable income in the absence of exact details. Accordingly, the Tribunal held that additions under section 69A must be restricted to estimated profit margins on unaccounted turnover. Addition of gross receipts is not justified. Order of CIT(A) upheld. (AY 2016-17 to 2022-23)

J. Kumar Infraprojects Ltd. v. DCIT [2025] 176 taxmann.com 193 (Mum) (Trib)

S. 69A : Unexplained money-Alleged investment of unaccounted cash receipts in immovable properties-The Tribunal held that without tangible evidence of investment, addition under section 69A on account of alleged purchase of immovable property is not justified. Addition deleted. 1215

The Assessing Officer alleged that the assessee had utilized unaccounted cash receipts (from scrap sales and piling activities) for investment in immovable properties. The AO relied on statements recorded during the search, internal correspondence, and summary sheets seized from the premises. Based on this, a sum of ₹1.03 crore was added under section 69A as unexplained investment. The assessee rebutted this by submitting that there was no direct evidence of cash investment in any identified immovable property. The documents were unsigned, unauthenticated, and contained projected figures. No immovable property was found to be registered in the name of the assessee or its partners using such unaccounted cash. The issue before the Tribunal was,whether mere suspicion of investment in immovable properties based on unsigned internal documents

and uncorroborated statements is sufficient to invoke section 69A and make an addition for unexplained investment.

The Tribunal held that the addition under section 69A was not sustainable in the absence of cogent and corroborative evidence. The following points were emphasised: No immovable property was found or identified by the Department which could be attributed to the alleged unaccounted income. The AO failed to establish the actual flow of funds from the business into any asset or transaction. The seized documents were not supported by entries in any books of accounts or third-party confirmations. Mere projections, proposals, or internal assessments of fund requirements for property purchases cannot constitute evidence of actual investment. The Tribunal also noted that the income component from the cash receipts (scrap and piling) had already been offered to tax on an estimated basis (8.56%). Therefore, taxing the same amount again as unexplained investment would amount to double addition. The Tribunal held that without tangible evidence of investment, addition under section 69A on account of alleged purchase of immovable property is not justified. Addition deleted. (AY. 2016-17 to 2022-23)

J. Kumar Infraprojects Ltd. v. DCIT [2025] 176 taxmann.com 193 (Mum) (Trib)

1216 **S. 69A: Unexplained money-Income Declaration Scheme, 2016-quoted wrong PAN No.-issue is restored to the AO for necessary verification. [Income Declaration Scheme, 2016]**

Held that the assessee has filed a declaration under the Income Declaration Scheme, 2016 and inadvertently paid the tax partly quoting the old PAN and partly the new PAN; she is eligible to the benefit of IDS; issue is restored to the AO for necessary verification and delete addition under s. 69A. (AY. 2017-18)

Pushpadevi Shivlal Rathi v. ITO (2025) 233 TTJ 12 / 245 DTR 16 (SMC) (Pune) (Trib)

1217 **S. 69A : Unexplained money-Search-Cash withdrawal-No explanation for reason for withdrawal-Addition cannot be made-Jewellery-Silver articles-Residence and bank locker-Joint family-Explanation has to be considered as belonging to family as a whole-Addition is deleted. [S. 132]**

A search was carried out at the premises of assessee during which cash was found from his residence. Assessing Officer made addition under section 69A in respect of cash withdrawn as unexplained money. CIT(A) (Appeals) did not accept the explanation of cash claimed to be out of the amount withdrawn by assessee from company for reason that no explanation was given as to why cash was withdrawn when entire household expenses were incurred by assessee's father. On appeal the Tribunal held that no document was found in search to come to a conclusion that amount withdrawn by assessee from company had been utilized elsewhere. Merely because the assessee had not given explanation as to why cash was withdrawn, it could not be a ground to hold that the same was unexplained money of assessee. Addition is deleted. Held that Jewellery and silver articles which were found at the residence and bank locker belong to joint family and have to be considered as belonging to family as a whole. Addition is deleted (AY. 2016-17)

Ajay Data v. ACIT (2025) 211 ITD 701 (Jaipur) (Trib.)

S. 69A: Unexplained money-Unexplained Investments-Demonetization-Deposit of cash-Business receipts-Recorded in Books-Acceptance of Specified Bank Notes (SBNs) prior to 31.12.2016 is not illegal-Addition is deleted. [S.69] 1218

During assessment, the AO identified substantial cash deposits made during demonetization and sought clarification. The assessee stated the cash, in the form of Specified Bank Notes (SBNs), was received from debtors in the normal course of business and recorded in audited books. The AO, however, dismissed the explanation citing the cessation of SBNs as legal tender from 09/11/2016, and added ₹44.61 lakhs as unexplained under Section 69A. The CIT(A), NFAC, confirmed the addition without granting a personal hearing.

The Hon'ble ITAT, Mumbai, observed that the assessee had satisfactorily discharged the onus of explaining the nature and source of the cash deposits, which were duly supported by documentary evidence and reflected in the regular books of account. The Tribunal held that although SBNs ceased to be legal tender from 09.11.2016, their acceptance in bona fide commercial transactions was not prohibited by law until 31.12.2016. It further held that the mere violation of RBI notifications, if any, does not ipso facto attract the provisions of Section 69A unless the cash remains unexplained. Placing reliance on the decision of the ITAT, Chennai Bench, in *Tamil Nadu State Marketing Corporation Ltd. v. ACIT (ITA No. 431/ Chny/2023 dt. 7-10-2024)*, the Tribunal held that the impugned addition was untenable and accordingly directed the deletion of the addition of ₹44.61 lakhs, thereby allowing the appeal.(ITA No. 547/Mum/2024 dt.17-6-2025) (AY. 2017-18)

Goldman Tapes Private Limited v. ACIT (Mum)(Trib) www.itatonline.org.

S. 69A : Unexplained money-Cash deposit in bank-Non-Resident-Withdrawal from bank-Addition is deleted. 1219

Assessing Officer made addition to income of assessee on account of cash deposit in her bank account, source of which remained unexplained. CIT(A) confirmed the addition. On appeal, the Tribunal held that the assessee, a non-resident, explained that said cash deposit was sourced from withdrawals made from a company in South Africa where her spouse was a director. She had filed all documentary evidences, proving same, right from bank statement of said company showing withdrawal of necessary amount in currency of country of residence, document evidencing conversion of currency into dollars, declaration of said dollars to Custom Authority in India when assessee carried amount immediately after withdrawal from South Africa to India, and deposited same immediately thereafter in Indian bank NRE account of assessee, jointly held with her husband. Assessee had also filed confirmation of said facts from auditors of said company. As the assessee had sufficiently discharged her onus of proving genuineness of transaction, addition is deleted.(AY. 2021-22)

Rekha Sanjeev Bhatt v. ITO (2025)210 ITD 690 (Ahd) (Trib.)

S. 69A: Unexplained money-Cash deposit-Demonetisation-Cash sales-Deletion of addition is affirmed by the Tribunal. [S. 68] 1220

Where assessee deposited cash of Rs. 2.52 crores in bank account during demonetization period, since on entering into fresh agreement in June, 2016, assessee had made huge sales in cash which eventually stood deposited in bank account and entire cash sales

made by assessee were duly reflected in VAT returns of assessee, addition made by Assessing Officer under section 69A was rightly deleted by Commissioner (Appeals) (AY.2015-16)
Subhash Chand Gupta v. ACIT (2025) 210 ITD 118 (Delhi) (Trib.)

1221 **S. 69A: Unexplained money-Cash found in the work premises-Sales-Matter restored to AO to consider the evidence submitted. [S. 131, 133A]**
Cash was found while survey u/s. 133A from the car in possession of the employee of the assessee. His statement was recorded u/s. 131, where he mentioned that he works as an employee for the assessee, and the amount of cash was received on his behalf and was received from an outstanding debtor. The assessee was also later on surveyed, where he accepted that the cash that was found from his employee was received on his behalf. He mentioned that the amount was received from a debtor to whom he had sold goods in the course of his business. The assessee retracted the statement recorded and later mentioned that all the cash was from regular buyers during the year. Because of inconsistency in the statement, the entire cash received was added as unexplained u/s.69A. It was observed by ITAT that the assessee, though he retracted from the statement, had filed the details relating to the claim and substantiated his case to support the cash found in possession of the employee of the assessee. The sale was also reflected in GST returns filed. The AO did not discuss any of the documents submitted by the assessee to support the transaction as a sale; the matter was therefore restored to the AO to verify the contentions made by the assessee. (AY. 2019-20)
Turab Ali Bohra v. ACIT (2025) 121 ITR 153 (Jaipur)(Trib)

1222 **S. 69B: Amounts of investments not fully disclosed in books of account-Survey-Shortage of closing stock of finished goods and raw material-Sales outside books of account-The contention of the assessee that only GP should be added was rejected-On writ High Court affirmed the order of the Commissioner. [S. 264, Art. 226]**
During a survey conducted by the Central Excise Authority, it was found that there was shortage of closing stock of finished goods and raw material in assessee's company. Assessing Officer made addition on account of said shortage of stock. It was found that discrepancy of stock found at the time of Central Excise survey was accepted by assessee as sales outside the books of account and the assessee had also paid excise duty on that amount. The Assessing Officer added entire sale done outside books of account was income to be added, as raw material cost had been accounted for in regular books of account. The contention of the assessee that only GP should be added was rejected by the AO, which was affirmed by the commission under 264 proceedings. On writ, the High Court affirmed the order of the Commissioner. (AY. 2009-10)(SJ)
Chhattisgarh Steel Castings (P.) Ltd. v. CIT (2025) 304 Taxman 447/347 CTR 861 / 255 DTR 412 (Chhattisgarh)(HC)
Editorial: Affirmed by division bench, Chhattisgarh Steel Castings (P.) Ltd. v. PCIT (2025) 306 Taxman 28 (Chhattisgarh)(HC)

S. 69B : Amounts of investments not fully disclosed in books of account-Survey-Excess stock-Regular business stock-Taxable as business income-Section 69B not applicable. [S. 28(i), 115BBE, 133A] 1223

During a survey, excess stock was found and surrendered by the assessee as business income. The Assessing Officer treated the value of excess stock as an unexplained investment under section 69B and taxed it under section 115BBE. The Tribunal held that the excess stock formed part of the regular trading stock and had no independent identity separate from the disclosed stock. Since it represented business receipts and not any unexplained investment in a separate asset, section 69B had no application. The surrendered amount was therefore assessable as business income, and the provisions of section 115BBE were not attracted. (AY. 2019-20)

Amarjit and Sons v. Dy. CIT (2025) 121 ITR 130 (Chd.)(Trib.)

S. 69B : Amounts of investments not fully disclosed in books of account-Unexplained investment-Survey-Excess stock found during survey of business premises-Surrendered in return as business income-No independent source of investment shown-Business being sole source of income-Survey at business premises, no books impounded, no reasons recorded-Deeming provision not attracted-Excess stock taxable as business income. [S. 28, 115BBE, 133A] 1224

A survey under section 133A revealed excess stock of Rs. 1,00,10,915, which the assessee surrendered as business income in its return, but the AO treated it as "income from other sources" under section 69B read with section 115BBE, which was upheld by the CIT(A). On appeal, the Tribunal held that since no books of account or documents were impounded during the survey, with no reasons recorded as required under section 133A(3)(ia), and the assessee's returned income was not less than the preceding year's nor had it retracted its survey disclosure, none of the conditions under CBDT Instruction No. 4 of 2018 for manual scrutiny selection were satisfied, rendering the assessment order null and void ab initio; it further held that since there was no material to show that the excess stock arose from any source independent of the assessee's business of trading in designer sarees, being its sole source of income, and the Department had not shown the excess stock to be unconnected with the business, the deeming provisions under section 69B could not be invoked, and the excess stock was to be taxed as normal business income under section 28. (AY 2017-18)

Nikhaar Fashions v. Asst. CIT (2025) 131 ITR 1 (Jaipur) (Trib)

S.69C: Unexplained expenditure-Reassessment proceedings-bogus purchases-Inability to furnish purchase confirmations, addresses of suppliers-High Court held that the Assessing Officer was justified in making additions for disallowance of peak purchases-SLP of assessee dismissed. [S. 69C, 147, 148, Art.136] 1225

The assessee, Drisha Impex (P.) Ltd., engaged in trading of electric items, toys, and electronics, faced reassessment on the ground that purchases from certain parties were non-genuine. The Assessing Officer, after noting failure to produce audited books, stock register, delivery challans, supplier confirmations, and addresses, disallowed the peak of such purchases under section 69C. Enquiries revealed that suppliers did not exist at the stated locations, summons were returned unserved, and there was no

correlation between purchases and sales. On appeal, the CIT (A) granted substantial relief, restricting disallowance to 1% of the alleged bogus purchases. The Revenue filed an appeal before the Hon'ble Tribunal which in turn confirmed that purchases were bogus, increased the disallowance to 3%, reasoning that only the profit element should be estimated as purchases were from the grey market. Upon further appeal, the Bombay High Court set aside the Tribunal's order, holding that once purchases were found bogus, estimating only 3% was perverse and contrary to law. It restored the Assessing Officer's addition, observing that the assessee failed to discharge its onus and that the Tribunal's speculative reasoning was unjustified. The Assessee, aggrieved by the order of the High Court, filed a Special Leave Petition before the Hon'ble Supreme Court. The Hon'ble Supreme Court dismissed the Assessee's Special Leave Petition holding that there was no reason to interfere with the impugned order passed by the Hon'ble High Court.(AY. 2009-10, 2010-11)

Drisha Impex Pvt Ltd v. PCIT (2025) 306 Taxman 337 /481 ITR 456 (SC)

Editorial: PCIT v. Drisha Impex Pvt Ltd(2025) 479 ITR 315/344 CTR 441 / 249 DTR 121 / 173 taxmann.com 571 (Bom)(HC)

1226 **S. 69C : Unexplained expenditure-Bogus purchases-No discrepancy between purchases and sales shown-Entire purchase cannot be added-Order of High Court dismissing the appeal of the revenue is affirmed-SLP delay of 606 days-SLP of revenue dismissed on account of delay as well as on merits. [S. 268A, Art. 136]**

Assessing Officer added certain purchases made by assessee were bogus. He, added said amount to the assessee's taxable income. Tribunal deleted the addition. On appeal the Court following the ratio in *Pr. CIT v. Mohommad Haji Adam & Co. (2019) 103 taxmann.com 459 (Bom)(HC)* held that where there was no discrepancy between purchases shown by assessee and sales declared, entire amount of bogus purchases could not be treated as income of assessee and addition was to be limited to extent of bringing gross profit rate on purchases at same rate as applied in other genuine purchases. SLP filed against order of High Court was dismissed both on ground of delay as well as on merits.

PCIT v. Zahira R. Khatun (2025) 304 Taxman 514 (SC)

Editorial : PCIT v. Dhondiram Narayan Limbhore (2023) 153 taxmann.com 539 (Bom) (HC)

1227 **S. 69C: Unexplained expenditure-Bogus purchases-Information from Sales-Tax Department-Failure to prove genuineness of purchases-Order of the Appellate Tribunal holding that only profit estimation at 12. 5% was set aside-Order of the Assessing Officer confirming the addition of entire purchases as bogus under section 69C of the Income-tax Act was affirmed by High Court-SLP of assessee dismissed. [S.69C, 133(6), 143(3), 144, 147, 148, Art. 136]**

The assessee, Kanak Impex (India) Ltd., was engaged in the trading of iron and steel. The original assessment was completed under section 143(3). Subsequently, the case was reopened under section 147 based on information from DGIT (Inv.), Mumbai/ Sales Tax Department regarding bogus purchases. Due to non-compliance, an order under section 144 r.w.s. 147 was passed, adding the entire amount of purchases as bogus purchases since the assessee failed to prove the genuineness under section 69C of the Act. On appeal, the CIT(A) upheld the reassessment proceedings, rejecting the

assessee's contention of non-service of notice, and confirmed the addition of bogus purchases. However, instead of sustaining the entire addition, the CIT(A) estimated 12.5% of the bogus purchases as taxable profit, relying on *CIT v. Simit P. Sheth (2013) 356 ITR 451 (Guj)(HC))* Both the revenue and the assessee appealed before the ITAT. The revenue contended that the entire bogus purchases should be disallowed, while the assessee challenged the estimation. The Tribunal, relying on *PCIT-17 v. Mohammad Haji Adam & Co. (2019) 103 taxmann.com 459 (Bom.)(HC)* directed the AO to restrict the addition to the extent of bringing the GP rate of disputed purchases in line with genuine purchases. The Revenue appealed to the Bombay High Court, while the assessee did not file an appeal. The High Court held that the assessee failed to prove the genuineness of purchases and merely provided details of sundry debtors and creditors in the original assessment which did not absolve them from proving the purchases during reassessment. The Court held that the CIT(A) and ITAT misdirected themselves by estimating profits instead of confirming the full addition. Accordingly, the High Court allowed the revenue's appeal and restored the AO's order. The Honourable Supreme Court dismissed the SLP of the assessee. SLP (CIVIL) Diary No. 47369/2025 dt. 21-11-2025)(AY. 2009-10)

Kanak Impex (India) Ltd v. PCIT [2026] 308 Taxman 167 / 485 ITR 3 (SC)

Editorial: PCIT v. Kanak Impex (India) Ltd. (2025) 172 taxmann.com 283 / 474 ITR 175 (Bom)(HC)

S. 69C: Unexplained expenditure-reassessment-trader in diamonds-Information from Investigation wing-Bogus purchases-Commission agent-Bhanwarlal Jain-Books of account not rejected-Order of Tribunal estimating at six per cent is affirmed. [S. 132(4), 147, 148, 260A] 1228

The assessee traded in diamonds. The assessment was reopened on the basis of information received from the Investigation Wing that the assessee was a beneficiary of accommodation entries provided by a group of companies of one Bhanwarlal Jain wherein search under section 132 was conducted. The statement of Bhanwarlal Jain had been recorded under section 132(4) wherein he had admitted that he and his family members managed various entities which provided accommodation entries and that the assessee was one of the beneficiaries of bogus purchases from three of their entities. The assessee filed copies of the audited accounts, the profit and loss account, the balance sheet, the contract note of purchase and sale of goods, debit and credit notes of alleged commission and the statement of commission received. The assessee requested to be furnished with a copy of the statement of BJ and his cross-examination. The Assessing Officer rejected the objections filed by the assessee. The Assessing Officer disallowed 25 per cent. of the purchases. The Commissioner (Appeals) restricted the disallowance to 12.5 per cent. The Tribunal found that the assessee had filed detailed evidence to prove that the purchases were genuine, that he was merely a commission agent and had provided complete details of purchases in the form of contract notes and sales of goods, ledger accounts of expenses, details of commission received, audited profit and loss account, that the Assessing Officer had made not a comment on the documentary evidence furnished by the assessee and did not dispute the sales of the assessee, and that the Assessing Officer had made the disallowance of 25 per cent. purchases

without rejecting books of account. The Tribunal held that in similar cases, wherein the purchases were shown from the accommodation entry provider Banwarlal Jain the disallowance had been restricted or enhanced to the extent of six per cent. of the disputed purchases. It accordingly reduced the disallowance to six per cent. High Court affirmed the order of the Tribunal (AY. 2007-08)
Gyanchand S. Jain (proprietor of Sanjana Exports) v. ITO (2025) 483 ITR 377 (Guj)(HC)

1229 **S. 69C : Unexplained expenditure-Difference in stock-Reconciliation was filed-Order of Tribunal affirmed-No substantial question of law. [S. 260A]**
Assessing Officer made an addition of a certain amount to assessee's income towards difference in stock in trade (difference in purchases) as unexplained expenditure under section 69C. CIT(A) affirmed the order of the Assessing Officer. Tribunal held that the assessee had filed a reconciliation explaining total purchases, including purchase of capital goods and purchase of returns, and tallied with purchases recorded in account books, and the Assessing Officer had completely erred in making an addition. Order of Tribunal affirmed. (AY. 2009-10)
PCIT v. Madras Pharmaceuticals [2024] 167 taxmann.com 108 / (2025) 482 ITR 522 (Mad)(HC)

1230 **S. 69C: Unexplained expenditure-Cash purchases and receipts for job work on the basis of seized document. Estimation of gross profit at 8 per cent.-Question of fact-Order of Tribunal affirmed.[S. 132, 260A]**
Held that the Tribunal restored the order of the Assessing Officer and deleted the reduction of the gross profit rate from eight per cent. to two per cent. because there was no challenge on the part of the assessee in respect of the finding that the transactions shown in the seized document related to it, and that no valid reason was shown for reduction in the rate of profit which was normally applicable. Order of Tribunal affirmed. (AY. 1994-95, 1995-96)
Kanahaya Metal Works v. CIT (2025) 482 ITR 792 (P & H) (HC)

1231 **S. 69C: Unexplained expenditure-Bogus purchases-Information for sales tax department-Hawala transactions-Not given an opportunity of cross-examination-Order of Tribunal limiting addition to 15 per cent of alleged purchases was affirmed. [S. 260A]**
Assessee-company filed its return of income, and same processed. Subsequently, a reopening notice was issued based on information received from the sales tax department regarding hawala transactions in respect of assessee. Assessing Officer passed the order and made an addition on account of bogus purchases. Commissioner (Appeals) restricted addition to 15 per cent of hawala purchases. Tribunal upheld said order. On appeal, the Court held that the information on the basis of which the addition of bogus purchases was to be made in the hands of assessee was never furnished by the Assessing Officer to the assessee. The assessee also submitted that all payments were made by account payee cheques and submitted a certificate from the VAT Auditor in respect of the transaction from one of the suppliers. Since VAT assessment for the relevant assessment year was pending adjudication, merely relying on information of the

Sales Tax Department without granting an opportunity to the assessee to cross-examine hawala purchasers to confirm purchases was a breach of principles of natural justice. Thus, lower authorities, on appreciation of facts, had rightly restricted additions at a rate of 15 per cent of alleged hawala purchases. Followed, *PCIT v. SVD Resins and Plastics (P) Ltd. (2025) 305 Taxman 503 / 474 IR 151 (Bom) HC).* (AY. 2009-10)
PCIT v. Ramelex (P.) Ltd. (2025) 307 Taxman 356 (Bom.)(HC)

S. 69C: Unexplained expenditure-Bogus purchases-No discrepancy between purchases and sales shown-Entire purchase cannot be added-Order of High Court dismissing the appeal of the revenue is affirmed.[S. 260A] 1232

Assessing Officer added that certain purchases made by assessee were bogus. He, added said amount to the assessee's taxable income. Tribunal deleted the addition. On appeal the Court following the ratio in *Pr. CIT v. Mohommad Haji Adam & Co. (2019) 103 taxmann.com 459 (Bom)(HC)* held that where there was no discrepancy between purchases shown by assessee and sales declared, entire amount of bogus purchases could not be treated as income of assessee, and the addition was to be limited to extent of bringing gross profit rate on purchases at same rate as applied in other genuine purchases.
PCIT v. Dhondiram Narayan Limbhore (2023) 153 taxmann.com 539 (Bom)(HC)
Editorial: SLP of revenue dismissed, PCIT v. Zahira R. Khatun (2025) 304 Taxman 514 (SC)

S. 69C: Unexplained expenditure-Bogus purchases-Accommodation entries from Bhanwarlal Jain Group-Addition restricted to 6 per cent of bogus purchases is fair and reasonable. [S. 147, 148, 260A] 1233

On review of searches related to the Bhanwarlal Jain Group, the Revenue treated all purchase transactions as bogus, resulting in a 100% disallowance by the AO. However, the CIT(A) limited this disallowance to 6%, a decision upheld by the Tribunal. The Court dismissed Revenue's appeals for assessment years 2011-12 and 2013-14, affirming that only the income component of bogus purchases should be taxed.(AY. 2011-12) (AY. 2013-14)
PCIT v. Mohit Pukhraj Kawdiya (No. 1) (2025) 481 ITR 310 / 181 taxmann.com 712 (Guj.) (HC)
PCIT v. Mohit Pukhraj Kawdiya (No. 2).(2025) 481 ITR 318 / taxmann.com 712 (Guj)(HC)

S. 69C: Unexplained expenditure-Bogus purchases-Addition of 10 per cent. on account of bogus purchases-Order of Tribunal affirmed.[S.260A] 1234

Order of Tribunal affirming the 10 per cent on account of bogus purchases affirmed. No substantial question of law (AY. 2007-08 to 2012 13)
Refrigerated Distributors Pvt. Ltd. (Now known as Partytime Ice Pvt. Ltd.) v. Dy. CIT (2025) 479 ITR 309 (Bom)(HC)

1235 **S. 69C : Unexplained expenditure-Accommodation entries-Grey market-Trading of electronic items-Information from sales tax department-Summons to parties returned unserved-Tribunal restricting the disallowance to three percent of purchases-Order of Assessing Officer disallowing the peak of purchases-CIT(A) and Tribunal estimated the percentage of alleged bogus purchases-On appeal by revenue-Court held that reassessment Notice valid-Failure to quote legal provision or quoting not to vitiate an action if power and authority were to be otherwise found in statute-Order under section 143(3), read with section 147 of the Act passed by the Assessing Officer was restored. [S. 37(1), 69, 133(6), 143(1), 147, 148, 260A]**

Allowing the appeal of the revenue the Court held that Tribunal erred by estimating only three per cent. of the alleged purchases as bogus to justify disallowance. By indulging in speculative reasoning that was never urged by the assessee, the Tribunal should not have estimated only three per cent. instead of confirming the disallowance of all the purchases. The non-co-operation of the assessee was only one of the grounds and not the sole ground. Practically every vital piece of information was not produced by citing convenient inabilities. The documents and paperwork that would have invariably accompanied genuine transactions were missing, or the assessee expressed inability to produce them. The orders passed by the Commissioner (Appeals) and the Tribunal were to be set aside, and the addition made under section 69C in the assessment orders under section 143(3) read with section 147 by the Assessing Officer was restored. (AY. 2009 10, 2010-11)

PCIT v. Drisha Impex Pvt. Ltd.(2025) 479 ITR 315/344 CTR 441 / 249 DTR 121 / 173 taxmann.com 571 (Bom)(HC)

Editorial : SLP dismissed, Drisha Impex (P.) Ltd v. PCIT (2025) 306 Taxman 337 (SC)

1236 **S. 69C: Unexplained expenditure-Bogus purchases-Accommodation entries-Business of import and export and trading of diamonds-Information from Investigation Wing-Tribunal restricting disallowance to six per cent. based on assessee's turnover and net profit justified-No question of law arose.[S. 147, 260A]**

The assessee was in the business of import and export and trading of diamonds. On the basis of information received from the Investigation Wing that the assessee had received accommodation entries of bogus purchases, the Assessing Officer disallowed the entire alleged bogus purchases. The Commissioner (Appeals) restricted the addition to five per cent. of the unverified purchases. The Tribunal held that the Assessing Officer was not justified in disallowing 100 per cent. of purchases in the absence of proper investigation of such purchases and that the assessee had shown total turnover of Rs.186.96 crores and a net profit at 0.0051 per cent., which was extremely on the lower side and restricted the addition to six per cent. On appeal, the High Court affirmed the order of the Tribunal.(AY.2013-14) (AY. 2008-09) (AY. 2011-12)

PCIT v. Deepak Banwarilal Agarwal (2025) 478 ITR 572 (Guj)(HC)

PCIT v. Dilkhush Babel (2025) 478 ITR 611 (Guj)(HC)

PCIT v. Enviro Control Pvt. Ltd (2025) 478 ITR 683 (Guj)(HC)

S. 69C: Unexplained expenditure-Bogus purchases-Estimate of alleged bogus purchases-No substantial question of law-Appeal of revenue was dismissed. [S. 260A] 1237

Assessing Officer has estimated the gross profit (GP) at 12 % on the bogus purchases. This was not challenged by the revenue in any proceedings. The Commissioner (Appeals), reduced this estimation to 5.75%. On an appeal by the revenue on the question of GP estimation, the Income Tax Appellate Tribunal (ITAT) has confirmed the appeal order. On appeal by the revenue, the dismissing the appeal holding that issue does not raise any substantial question of law since the full purchases were not disallowed by the AO in the first instance and the only issue relates to the estimate of a certain percentage of purchases as profit. (ITA No. 517 of 2021 & 528 of 2021 dt 22-1-2025). Dismissing the appeal of the revenue, the Court held that whether the addition of bogus purchases should have been less than 10% as ordered by the ITO or 2% as levied by the CIT (Appeals). Such a question does not give rise to any substantial question of law. (ITA Nos 11, 12, & 14 of 2024 dt.17-9-2025)

PCIT v. N. N. Trading Corporation (Bom (HC) www.itatonline.org

PCIT v. Relcon Infraprojects Ltd. (Bom(HC) www.itatonline.org

S. 69C : Unexplained expenditure-Bogus purchases-Only income component of disputed purchases taxable-Restriction of disallowance by Tribunal to six per cent. justified. [S. 132, 143(3) 147, 260A] 1238

Held, dismissing the appeal, that the Tribunal was justified in estimating the disallowance of the alleged bogus purchases at six per cent. Relying on the decision in *Mayank Diamonds Pvt. Ltd. v. ITO, (2014) 11 TMI 812 (Guj)* against the 100 per cent. disallowance of the purchases made by the Assessing Officer. (AY. 2013-14)

PCIT v. Amit Tarachand Jain (2025) 476 ITR 74 (Guj) (HC)

S. 69C : Unexplained expenditure-Bogus purchases-Information from Investigation Wing-Restriction of disallowance by Tribunal to 6 per cent. justified.[143(3), 147, Art. 226] 1239

Dismissing the appeal, the Court held that the Tribunal was justified in estimating the disallowance of the alleged bogus purchases at six per cent. Relying on the decision in *Mayank Diamonds Pvt. Ltd. v. ITO, (2014) 11 TMI 812* against the 100 per cent. disallowance of the purchases made by the Assessing Officer.(AY. 2013-14)

PCIT v. Atul Kailashchand Mehta.(2025) 476 ITR 460 (Guj)(HC)

S. 69C: Unexplained expenditure-Bogus purchases-Purchase of newsprint-Ad hoc disallowance of 15 per cent. reduced to 5 per cent. by Tribunal-Assessee accepting 5 per cent. Order of Tribunal affirmed. [S.37(1), 56, 131, 153(3), 246A, 260A] 1240

Held that the Commissioner (Appeals) applied a consistent standard from earlier years and restricted the addition to 1.5 per cent. Tribunal remanding matter only for reverification of depositors who denied contributions. Department not acting for 18 years. Court held that the remand was impractical after thirty years. Addition in accordance with Commissioner (Appeals)' order. As regards bogus suppliers, Ad hoc disallowance of 15 per cent. reduced to 5 per cent. by Tribunal. Assessee accepting 5 per cent. No justification for interference. Appeal of revenue was dismissed. (AY. 1995-96)

CIT v. Jaya Publications (2025) 476 ITR 545 /174 taxmann.com 104 (Mad)(HC)

1241 **S. 69C: Unexplained expenditure-Real estate business-Order of Tribunal was affirmed-Order of Tribunal was reversed in so far as the purchases from the two parties were concerned-However, the total additions should not exceed the total purchases from them.[S. 68, 133(6), 260A]**

High Court affirmed the order of the Tribunal except in respect of purchases from the two parties. However, the total additions should not exceed the total purchases from them. (AY. 2010-11)

PCIT v. Shree Ganesh Developers (2025) 476 ITR 568 /172 taxmann.com 542/344 CTR 152 / 248 DTR 320 (HC)

1242 **S. 69C : Unexplained expenditure-Search-Block assessment-Failure to issue cross examination-Order deleting the addition was affirmed.[S.69A, 132(4), 158BC, 260A]**

Dismissing the appeal of the revenue the Court held that there was no justification for additions being made under section 69A since the records had established that the assessee had made genuine export sales and received export remittances through regular banking channels, that one CPS whose statement was recorded in the absence of the assessee had refused for cross-examination by the assessee, that according to the assessment order the statement of CPS was recorded prior to the date of search and could not be considered as statement recorded under section 132(4) during the search, that the allegation of the alleged threat to CPS was not substantiated by any evidence or material on record had held that the assessee had made genuine purchases from the two concerns in question and had accordingly deleted the additions reversing the findings of the authorities below. Order of Tribunal affirmed. (BP. 1-4 1989 too 14-7-1999)

PCIT v. Arun Malhotra (2025) 475 ITR 217 (Delhi)(HC)

1243 **S. 69C : Unexplained expenditure-Bogus purchases-No discrepancy between purchases and sales-Entire bogus purchases could not be treated as income; addition restricted to GP element. [S. 260A]**

The assessee had shown purchases from parties subsequently identified as hawala dealers, though the corresponding sales were accepted by the Revenue. The AO disallowed the full amount of purchases as bogus and taxed it as income. On appeal, it was observed that since sales were recorded and purchases supported sales, only the profit element embedded in such purchases could be added. Following *PCIT v. Mohammad Haji Adam & Co(2019) 103 taxmann.com 459 (Bom)(HC)* the addition was restricted to GP element.

PCIT v. Dhondiram Naryan Limbhore [2023] 153 taxmann.com 539 (Bom)(HC)

Editorial : SLP of revenue dismissed due to delay of 628 days and also on merits, PCIT v. Zahira R. Khatun [2025] 304 Taxman 514 (SC).

1244 **S. 69C : Unexplained expenditure-Bogus purchases-Tribunal justified in restricting addition to 8% GP on impugned purchases, as purchases were genuine and paid by cheque. [S. 133(6), 260A]**

The assessee made purchases from certain parties later found to be accommodation entry providers. The AO added the entire amount of such purchases to income since notices issued under section 133(6) were returned unserved. The CIT(A) restricted the

addition to 12% of purchases considering the profit element, while the Tribunal further reduced it to 8%, observing that purchases were made, payments were through account payee cheques, and the assessee had already disclosed 7.5% GP. The High Court upheld the Tribunal's finding. (AY. 2010-11)
PCIT v. Hiren C. Parekh [2023] 153 taxmann.com 470 (Bom)(HC)

S. 69C: Unexplained expenditure-Bogus purchases-Information from sales tax department-Suspicious dealers-Only profit attributable on total purchase consideration could be subject to income-tax-Not entire purchase.[S. 260A] 1245
Dismissing the appeal of the revenue, the Court held that where assessee purchased from suspicious dealers, the fact of consumption of goods was undisputed, the entire purchases could not be taxed. Only profit element on such purchases could be brought to tax. (AY. 2009-10, 2010-11, 2011-12]
PCIT v. Bharat Copy Centre (P.) Ltd. [2023] 155 taxmann.com 211 (Bom)(HC)

S. 69C: Unexplained expenditure-Bogus purchases-Restricting addition to the extent of seven percentage of alleged bogus purchases-No question of law-Order of Tribunal was affirmed. [S.37(1), 69C, 260A]. 1246
Dismissing the appeal of the revenue, the Court held that the Department submitted that the restricting addition to the extent of seven percentage of alleged bogus purchases was held to be not proper. The appeal of the revenue was dismissed. No question of law.
PCIT v. Pravin U. Parmar (Jain) (2025) 474 ITR 171 (Bom)(HC)

S. 69C: Unexplained expenditure-Sales tax department-Non-genuine supplier-Failure to produce bank statements-The order of the Tribunal estimating the income at 12. 5% of alleged bogus purchases is reversed insofar as the purchases from two parties and the order of the Assessing Officer making 100% of addition under Section 69C of the Act is affirmed-Partly in favour of revenue. [S.133(6), 260A] 1247
The assessee is a firm engaged in the business of Real estate. The Assessing Officer made an addition under section 69C of the Income Tax Act in respect of certain parties based on the report of the Sales Tax Department. On appeal the CIT(A) called for remand report and after considering the explanation of the assessee estimated income at 12. 5% of alleged bogus purchases in respect of all the parties. In respect of two parties, they have not provided the bank statements. On appeal, the Tribunal affirmed the order of the CIT(A).On appeal by the Revenue, the Court held that if the approach of the Appellate Authorities is accepted, then the provision of Section 69C, which is an enabling provision, would become redundant. Section 69C provides that where an assessee has incurred any expenditure and offers no explanation about the source of expenditure or the explanation offered is not in the opinion of the AO satisfactory, then the amount of expenditure may be deemed to be the income of the assessee and such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income. The Court observed that if the approach of the CIT(A) and the Tribunal is accepted, then it would amount to endorsing outright conduct of illegality contrary to the express provisions of Section 69C of the Act, which the Appellate Authorities have entirely ignored. On the facts the Officer has

done independent verification and has come to a conclusion that with respect to these two parties in the absence of bank statements, the purchases cannot be said to have been proved. With respect to the purchases from M/s Neptune Trading Co. and Hari Om Traders are concerned, the question is answered in favour of the Revenue and against the respondent-assessee. The order of the CIT(A) and the Tribunal is reversed insofar as the purchases from these two parties are concerned. However, the total additions would not exceed Rs.1,00,10,773, which is the total purchase from M/s Neptune Trading Co. and Hari Om Traders. The High Court considered the ratio of the following cases and distinguished on facts. *PCIT v. Mohommad Haji Adam & Co. [2019] 103 taxmann.com 459 (Bom) (HC), PCIT v. Vaman International Pvt. Ltd, ITXA/1940 /2017,dt. 29-1-2020 (Bom)(HC), P CIT v. JK Surface Coatings Pvt. Ltd. [2020] 423 ITR 220 (Bom)(HC) Pr. CIT v. Shapoorji Pallonji and Co. Ltd [2020] [2020] 273 Taxman 167(Bom)(HC) (SLP of Revenue is dismissed) [2022] 288 Taxman 661(SC) PCIT v. Tejua Rohitkumar Kapadia[2018] 94 taxmann.com 324 (Guj.)(HC) / (2018] 256 Taxman 213 (SC), CIT v. Century Plyboards (I) Ltd(2019] 103 taxmann.com 178 (Cal.)(HC), PCIT v. Ram Builders.(2023) 454 ITR 444 (Bom)(HC), PCIT v. S V. Jiwani [2022] 449 ITR 583 (Bom)((HC), PCIT v. Chawla Interbild Construction Co. (P.) Ltd. [2019] 412 ITR 152 (Bom)(HC) PCIT v. JWC Logistic Park (P.) Ltd [2018] 100 taxmann.com 355 (SC), CIT v. Odeon Builders (P.) Ltd. [2019] 418 ITR 315 (SC), Babulal C. Borana v. ITO (2006] 282 ITR 251 (Bom)(HC)* (AY. 2010-11)
PCIT v. Shree Ganesh Developers [2025] 172 taxmann.com 542 / 476 ITR 568 (Bom)(HC)

1248 **S. 69C: Unexplained expenditure-Bogus purchases-Information from Sales-Tax Department-Failure to prove genuineness of purchases-Addition is justified-Order of the Appellate Tribunal holding that only profit estimation at 12. 5% can be made is set aside; the order of the Assessing Officer is affirmed. [S. 133(6), 143(3), 144, 147, 148, 260A]**

The respondent-assessee, Kanak Impex (India) Ltd., engaged in trading of iron and steel declared an income of Rs. 2,84,700/-in its return under section 139, and the original assessment was completed under section 143(3) determining total income at Rs. 3,86,250/-. Subsequently, the case was reopened under section 147 based on information from DGIT (Inv.), Mumbai/Sales Tax Department regarding bogus purchases amounting to Rs. 20,06,80,150/-. Notice under section 148 was served via email and affixture, as notices sent via post remained unserved. Due to non-compliance, an order under section 144 r.w.s. 147 was passed, adding the entire amount of Rs. 20,06,80,150/-as bogus purchases since the assessee failed to prove the genuineness under section 69C of the Act. On appeal, the CIT(A) upheld the reassessment proceedings, rejecting the assessee's contention of non-service of notice, and confirmed the addition of bogus purchases. However, instead of sustaining the entire addition, the CIT(A) estimated 12.5% of the bogus purchases as taxable profit, relying on *CIT v. Simit P. Sheth. (2013) 356 ITR 451 (Guj)(HC))* Both the revenue and the assessee appealed before the ITAT. The revenue contended that the entire bogus purchases should be disallowed, while the assessee challenged the estimation. The Tribunal, relying on *PCIT-17 v. Mohammad Haji Adam & Co. (2019) 103 taxmann.com 459 (Bom.)(HC)* directed the AO to restrict the addition to the extent of bringing the GP rate of disputed purchases in line with genuine purchases. The Revenue appealed to the Bombay High Court, while the assessee

did not file an appeal. The High Court held that the assessee failed to prove the genuineness of purchases and merely provided details of sundry debtors and creditors in the original assessment which did not absolve them from proving the purchases during reassessment. The Court held that the CIT(A) and ITAT misdirected themselves by estimating profits instead of confirming the full addition. Relying on *Shoreline Hotel (P.) Ltd. v. CIT(2018) 98 taxmann.com 234 (Bom)(HC) and N.K. Industries Ltd. v. DCIT (2016) 72 taxmann.com 289 (Guj)(HC),* the court held that section 69C is applicable, and the entire expenditure was to be disallowed. It further observed that the assessee intentionally avoided reassessment proceedings and could not later claim insufficient opportunity. Accordingly, the High Court allowed the revenue's appeal, restored the AO's order allowing the addition of Rs. 20,06,80,150/-, and reversed the order of the ITAT. However, it directed that the total addition should not exceed Rs. 20,06,80,150/-. (AY. 2009-10)

PCIT v. Kanak Impex (India) Ltd. (2025) 172 taxmann.com 283 / 474 ITR 175 /344 CTR 137 / 248 DTR 305 (Bom)(HC)

Editorial: SLP of assessee dismissed, Kanak Impex (India) Ltd v.PCIT 2026] 308 Taxman 167 / 485 ITR 3 (SC)

S. 69C : Unexplained expenditure-Bogus purchases-Order of Tribunal affirming the 7% of GP rate is affirmed-No substantial question of law.[S.143(3), 260A] 1249

The ITAT has restricted the addition only to the extent of 7 % of GP in respect of alleged bogus purchases. On appeal by the Revenue, the dismissing the appeal and held that no substantial question of law arises from the order of the Tribunal. Honourable Court relied on P*CIT v. SVD Resins & Plastics Pvt Ltd (2024) 300 Taxman 503 (Bom)(HC)* (1662 of 2018 dt.7-8-2024) & *Ashok Kumar Rungta v. ITO (2024) 301 Taxman 580 (Bom) (HC))* (1753 of 2018 dt. 15-10-2024) (ITA No.1015 of 2018 dt.9-1-2025)

PCIT v. Pravin U. Parmar (Jain) (Bom)(HC) www.itatonline.org

S. 69C : Unexplained expenditure-Business Expenditure-Bogus Purchases-Accommodation Bills-Failure to give an opportunity of cross-examination-Deletion of addition was affirmed.[S. 37(1), 131, 133A] 1250

The Assessing Officer disallowed purchases from a supplier solely on the basis of the supplier's statement that he had issued accommodation bills. The assessee produced purchase invoices, stock registers, ledger accounts, payment details through account-payee cheques and established corresponding sales. The Tribunal held that the assessee had discharged the primary burden of proving the genuineness of the purchases. The Revenue neither supplied the supplier's statement nor allowed cross-examination, and even disputed only a part of the purchases from the same supplier. In the absence of any contrary evidence, the disallowance was unsustainable. (AY. 2012-13)

Asst. CIT v. Sharp Corp. Ltd. (2025) 121 ITR 697 / 161 taxmann.com 207 (Delhi)(Trib.)

1251 **S. 69C: Unexplained expenditure-AO treated two purchase parties as bogus and made 100% disallowance-Bhawarlal Jain group-Since sales had not been doubted and without purchases, there cannot be any sales, no adverse inference could be made insofar as the export of diamonds was concerned, for which all documentary evidence was placed on record-Addition was restricted to the profit element. [S. 69C, 133A, 148]**
The assessee, a partnership firm engaged in manufacturing and trading of cut and polished diamonds, was issued a notice under section 148 based on Investigation Wing information following search/survey in the Bhawarlal Jain group, alleging accommodation purchase entries. In response, the assessee furnished purchase bills, stock register, sales and purchase registers, bank statements evidencing payments through banking channels, export invoices and shipping bills, and bank realisation advices, and correlated the impugned purchases to export sales with proceeds realised through banking channels. The AO treated the purchases from two parties as bogus and made a 100% disallowance of Rs. 46.46 lakhs. On appeal to the ITAT, the ITAT held that where assessee was alleged to have made bogus purchases from two entities based on third party investigation, but furnished all purchase and sales records, payment proofs and export documents correlating purchases with export sales and sales were not doubted, entire purchases could not be disallowed, and only the profit element relating to the disputed purchases could be added to income. Thus, addition was to be restricted to the profit element, i.e., the difference in gross profit on undisputed purchases and disputed purchases. (AY. 2010-11)
Arham Star v. ITO (2025) 128 ITR 192 (Mum)(Trib.)
Editorial: Distinguished, PCIT v. Kanak Impex India Ltd. [2025] 172 taxmann.com 283 / 474 ITR 175 (Bom)(HC), followed, PCIT v. Mohammad Haji Adam and Company [2019] 103 taxmann.com 459 (Bom)(HC)

1252 **S. 69C: Unexplained expenditure-Search assessment-Entire unaccounted business receipts cannot be taxed where corresponding unaccounted business expenditure is evidenced-Only profit element embedded in such receipts is taxable by applying a reasonable net profit rate and telescoping of expenditure is permissible. [S. 145, 153A]**
The assessee, engaged in the hospitality business, was subjected to a search during which diaries and loose papers revealed unaccounted business receipts and corresponding unaccounted cash expenditure. The AO rejected the books of account under section 145, treated the entire unaccounted receipts as income and separately made additions under section 69C towards unexplained expenditure. The CIT(A) held that the expenditure had been incurred out of the unaccounted business receipts, allowed telescoping, deleted the addition under section 69C and estimated the profit at 12% of the unaccounted receipts. The Tribunal upheld the order of the CIT(A), holding that only the profit element embedded in unaccounted business receipts can be brought to tax and not the entire gross receipts. Since the seized material evidenced both unaccounted receipts and corresponding business expenditure arising from the same source, telescoping was rightly allowed to avoid double taxation. The Tribunal further held that the estimation of net profit at 12% was fair and reasonable in the facts of the case. Accordingly, the Revenue's grounds were dismissed, and the assessee's challenge to the 12% estimation was also rejected. [AY. 2013-14 to 2019-20]
Sankalp Recreation P. Ltd. v. Asst. CIT (2025) 130 ITR 517 (Ahd)(Trib.)

S. 69C: Unexplained expenditure-Alleged bogus purchases-Produced documentary evidence such as purchase invoices, stock records, RTGS payments, GST returns, supplier confirmations, and segment-wise accounts-Matter was remanded back to the AO to obtain the bank account details of MT Co., and verify whether there exists any cash trail; if no such cashback trail is established upon verification, and payments are found to have remained within the banking system, then the addition is to be restricted only to the embedded profit element @ 5 per cent. [S. 145] 1253

Held that the Assessee furnished complete books of accounts, bank statements, stock records, purchase invoices, GST returns, supplier confirmations, and segmentwise financials and the AO having not brought any independent material on record to disprove these documents or trace any cash withdrawals after payments, the entire purchases made by the assessee from MT Co. cannot be treated as bogus merely because the latter was found to be non-existent entity during GST enquiry in later years; matter is remanded back to the AO to obtain the bank account details of MT Co., and verify whether there exists any cash trail; if no such cashback trail is established upon verification, and payments are found to have remained within the banking system, then the addition is to be restricted only to the embedded profit element @ 5 per cent. Distinguished: *PCIT v. Shree Ganesh Developers (2025) 172 taxmann.com 542 /476 ITR 568 / 344 CTR 152 (Bom)(HC), N.K.Industries Ltd v. Dy.CIT (2016) 72 taxmann.com 289 (Guj)(HC)* (AY. 2018-19)

Leela Greenship Recycling (P) Ltd. v. DCIT (2025) 237 TTJ 471/ 180 taxmann.com 407 (Ahd)(Trib)

S. 69C: Unexplained expenditure-Bogus purchases-Addition unsustainable where purchases, movement of goods and consumption are fully evidenced. [S. 145] 1254

The Tribunal held that where the assessee produced invoices, ledger accounts, evidence of movement of goods, stock registers and proof of payment through banking channels, and the Assessing Officer had accepted the corresponding sales, purchases could not be treated as bogus merely because of an alleged irregularity in CENVAT credit. In the absence of any material disproving the genuineness of purchases, the addition was deleted. (AY. 2018-19 to 2020-21)

Rosha Alloys (P.) Ltd. v. DCIT (2025) 238 TTJ 357 / 127 ITR 76 / 175 taxmann.com 622 (Chd.)(Trib.)

S. 69C: Unexplained expenditure-Bogus purchases-Unverifiable Purchases-Only the profit element embedded in unverifiable purchases can be taxed and not the entire purchase amount-Estimation of 5% GP upheld. [S. 145(3)] 1255

The Tribunal held that although purchases from three parties remained unverifiable, the books of account had not been rejected under section 145(3) and the turnover was accepted by the Revenue. Therefore, the settled principle that only the profit element embedded in such purchases is liable to tax was applicable. Considering the nature of the assessee's business as a wholesaler of building material and civil contractor, the Tribunal held that estimation of gross profit at 5% on the unverifiable purchases, after reducing the GP already declared, was reasonable. Invocation of section 69C was held to be unwarranted. (AY.2021-22)

DCIT v. Tirupati Matsup (P.) Ltd. (2025) 238 TTJ 465 / 125 ITR 715 / 177 taxmann.com 836 (Delhi)(Trib.).

1256 **S. 69C: Unexplained expenditure-Recorded expenditure cannot be taxed under section 69C [S. 143(3)]**

Where the expenditure was duly recorded in the books of account, it could not be treated as unexplained expenditure under section 69C. The Tribunal held that section 69C applies only to unrecorded or unexplained expenditure and directed the Assessing Officer to examine the allowability of expenditure under the normal provisions of the Act instead of invoking section 69C. (AY. 2018-19)

Sree Vishwabharathi Charitable Trust v. ITO (2025) 238 TTJ 828 / 178 taxmann.com 544 (Bang.)(Trib.)

1257 **S. 69C : Unexplained expenditure-Bogus purchases-Day-to-day stock records, GST documents and banking evidence produced-Sales accepted-Addition deleted-Estimated profit element-Purchase prices comparable with genuine purchases-No basis for estimating profit-Addition deleted.[S. 133(6)]**

The Assessing Officer treated purchases as bogus mainly because certain suppliers did not respond to notices issued under section 133(6). The assessee produced complete documentary evidence including purchase invoices, PAN of suppliers, bank statements, e-way bills, transport receipts, GST records and maintained day-to-day stock tally. The Tribunal held that the books of account were not rejected, the sales were accepted, and the purchases were fully supported by documentary evidence. Mere non-response by suppliers to notices under section 133(6) could not justify the addition. The addition was deleted. The Commissioner (Appeals) sustained an addition by estimating the profit element embedded in alleged doubtful purchases at 12.5 per cent. The Tribunal held that the rates at which purchases were made from the disputed suppliers were comparable with or lower than purchases from other suppliers and, therefore, there was no possibility of extra profit or inflation of expenditure. In the absence of any defect in the books or evidence of inflated purchases, even the estimated addition was unsustainable. (AY. 2021-22).

Gaurav Singhi v. ITO (2025) 126 ITR 259 (Chd.)(Trib.)

1258 **S. 69C: Unexplained expenditure-Computer printouts seized from accountant-No corroborative evidence-Addition deleted-Protective addition-Cash found with accountant-Accountant owning cash-Addition in assessee's hands not permissible.**

The Assessing Officer made additions under section 69C on the basis of computer printouts and digital data found at the accountant's premises. The Tribunal held that no material linked the documents with the assessee's books of account. The deletion of the addition by the Commissioner (Appeals) was upheld.. Cash seized during the search was admitted and explained by the accountant. The Tribunal held that making a protective addition of the same amount in the assessee's hands would amount to double taxation. The deletion of the addition was upheld. (AY. 2014-15 to 2020-21).

Dy. CIT v. DSG Papers (P.) Ltd. (2025) 127 ITR 410 (Chd.)(Trib.)

S. 69C : Unexplained expenditure-Search assessment-Unexplained cash expenditure-Assessee failed to establish expenditure incurred on behalf of production house-Addition confirmed.[S.69A, 132, 132(4)] 1259

The assessee claimed that the cash expenditure incurred for production of a film was on behalf of the production house and that she was merely a "pass-through entity". The Tribunal held that the cash expenditure was not recorded in the books; the assessee failed to produce the production house or establish the source of the cash payments and could not shift the burden after expiry of the limitation period. The additions under sections 69C and 69A were therefore upheld. (AY. 2012-13 to 2014-15).

Usha Satish Salvi v. Asst. CIT (2025) 127 ITR 452 (Mum.)(Trib.)

S. 69C : Unexplained expenditure-Business expenditure-Bogus purchases-Addition based solely on third-party statements without cross-examination-Not sustainable-Onus discharged by assessee-Burden shifts to Revenue-Addition deleted-Sales accepted-Entire purchases cannot be disallowed-No further addition warranted. [S. 37(1), 142(1), 147, 148] 1260

The Assessing Officer treated purchases made by the assessee, a civil contractor executing Government contracts, as bogus solely on the basis of Investigation Wing reports and statements of third parties without furnishing such statements or granting an opportunity of cross-examination. The assessee produced purchase bills, supplier confirmations, bank statements, inward registers and other documentary evidence establishing the genuineness of the purchases. The Tribunal held that the principles of natural justice had been violated and, in the absence of any rebuttal of the documentary evidence, the additions were unsustainable. The assessee maintained complete books of account, material registers and proved payment for purchases and receipt of sale proceeds through account-payee cheques. The Tribunal held that once the assessee discharged the initial burden of proving the identity of suppliers and genuineness of purchases, the burden shifted to the Revenue to disprove the evidence. In the absence of any evidence that the payments had returned to the assessee, the purchases could not be treated as bogus. The Tribunal held that the execution of Government contracts necessarily established consumption of materials and no discrepancy had been pointed out by the Government authorities. Since the sales/work receipts were accepted and the assessee had already declared a reasonable gross profit, no further addition was justified. (AY. 2007-08 to 2009-10).

Indravadan Hanjarimal Jain v. Dy. CIT (2025) 127 ITR 352 / 180 taxmann.com 308 (Mum.)(Trib.)

S. 69C : Unexplained expenditure-Bogus purchases-Burden of proving taxability lies on Revenue-Assessee cannot be called upon to prove a negative-Addition deleted.[S. 145] 1261

The reassessment was based on information received from the Investigation Wing alleging that the assessee had obtained accommodation entries for purchase of diamonds. The assessee consistently denied having purchased goods from the alleged supplier and produced its purchase registers and tax audit report showing no such purchases. The Tribunal held that the Revenue had failed to establish the existence of the alleged purchases by any cogent evidence. Since the burden of proving the conditions for

taxability lay on the Revenue, the assessee could not be required to prove a negative. The addition under section 69C was deleted. (AY. 2012-13).
Ankit Gems P. Ltd. v. Circle 5(1)(1) (2025) 127 ITR 265 / 178 taxmann.com 454 (Mum.) (Trib.)

1262 **S. 69C : Unexplained expenditure-Bogus purchases-Sales accepted and books not rejected-Entire purchases cannot be disallowed-Only profit element taxable-Trading addition-Gross profit rate of 5 per cent. adopted to meet ends of justice.[S.133(6), 143(3)]**

The Assessing Officer treated purchases from three suppliers as bogus since two suppliers did not respond to notices under section 133(6) and one denied the transactions. The Tribunal held that although the assessee failed to conclusively establish the genuineness of the purchases, the corresponding sales were accepted and the books of account had not been rejected. Therefore, only the profit element embedded in the alleged non-genuine purchases could be brought to tax and not the entire purchase value. The Tribunal found that the assessee had disclosed better gross profit than in earlier years and was engaged in the business of wholesale supply of building material and civil contracting. Considering the overall facts, it held that a gross profit rate of 5 per cent. on the disputed purchases would adequately cover the possible inflation of expenditure. The addition was accordingly sustained only as a trading addition, and no separate addition under section 69C survived. (AY. 2021-22).
Dy. CIT v. Tirupati Matsup (P.) Ltd. (2025) 125 ITR 715 / 177 taxmann.com 836 (Delhi) (Trib.)

1263 **S. 69C : Unexplained expenditure-Cash payments reflected in seized documents duly reconciled with books of account-Addition rightly deleted-Recovery from farmers towards unloading charges-Common trade practice-No evidence of receipt by assessee-Addition deleted-Cash receipts and sale of de-oiled cakes-Entries reflected in books-No rebuttal by Assessing Officer-Addition deleted-Additional income voluntarily surrendered-Telescoping against additions-Separate addition not justified-Excess stock-Difference only in valuation and not quantity-Books not rejected-Addition deleted. [S.68, 132, 145(3)]**

The assessee, engaged in the business of running a ginning mill and dealing in cotton, declared additional income pursuant to search and paid tax thereon. The Assessing Officer made additions under section 69C on the basis of seized documents showing cash payments. The Tribunal held that the assessee had reconciled the cash payments with the books of account and the Commissioner (Appeals), after verification, rightly deleted the reconciled additions as the expenditure was duly recorded in the books. The Assessing Officer made an addition alleging that the assessee recovered unloading charges from farmers without recording the same in its books. The Tribunal held that it was a common trade practice for farmers to pay unloading charges directly to labourers and the Revenue failed to establish that the assessee had either recovered such charges from farmers or made the payments itself. The Commissioner (Appeals) rightly deleted the addition. The additions were made on the basis of a rough paper containing a message seeking cash for purchase of stores, spares and maintenance of machinery and

on account of alleged sale of de-oiled cakes. The Tribunal held that the receipts were duly reflected in the books of account and the Assessing Officer failed to rebut the assessee's explanation with any evidence. The additions were therefore deleted. The assessee had voluntarily declared additional income during search and paid tax thereon. The Tribunal held that, in the absence of specific incriminating material supporting the additions made by the Assessing Officer, the Commissioner (Appeals) rightly telescoped the additions against the surrendered income and deleted the separate additions. The Tribunal found that there was no discrepancy in the physical quantity of stock and that the difference arose only on account of valuation during the middle of the financial year. Since the books of account had not been rejected under section 145(3) and the year-end valuation had been accepted, the addition towards excess stock was unsustainable. The addition sustained by the Commissioner (Appeals) on account of alleged stock deficit was also directed to be telescoped against the surrendered income.(AY. 2015-16).
Asst. CIT v. Shrigopal Rameshkumar Sales (P.) Ltd. (2025) 123 ITR 1 (Nagpur)(Trib.)

S. 69C: Unexplained expenditure-Bogus purchases-Books of account accepted by Commissioner (Appeals)-Purchases at prevailing market rates-No profit embedded-Addition deleted.[S.133(6) 145(3)] 1264

The Assessing Officer, on the basis of information received from the GST Department regarding cancellation of registration of certain suppliers, treated purchases made from those parties as bogus, rejected the books of account under section 145(3) and estimated the profit embedded in such purchases at 12.5 per cent. The Commissioner (Appeals) accepted the books of account and restricted the addition to the declared gross profit rate of 5.94 per cent. The Tribunal held that once the books of account had been accepted and the purchases were found to have been made at rates comparable to or lower than other purchases, there was no basis to presume any additional profit. The entire addition was therefore deleted. (AY. 2021-22).
Prime Steel Industries (P.) Ltd. v. Dy. CIT (2025) 123 ITR 107 / 174 taxmann.com 547 (Chd.)(Trib.)

S. 69C: Unexplained expenditure-Expenditure recorded in the books of account-Supported by third-party invoices and replied by parties-Deletion of addition by the CIT(A) was affirmed. [S.133(6)] 1265

Held that the expenditure incurred by the assessee is duly supported by third-party invoices as well as contracts entered into by the assessee with the said companies, and the transactions are duly recorded in the assessee's books of accounts; AO was not justified in making the addition by treating the said expenditure as bogus. Tribunal also held that S. 69C has no applicability in cases where the expenditure is recorded in the books of accounts. The order of CIT(A) deleting the addition was affirmed. (AY. 2016-17)
DCIT v. Vidarbha Infotech (P) Ltd. (2025) 234 TTJ 461 (Nagpur)(Trib)

S. 69C : Unexplained expenditure-Foreign travelling expenditure of daughter-borne by husband-Personal use of vehicle-Addition was deleted. [S. 132] 1266

Held that foreign travelling, since the daughter of the assessee was a permanent resident of Canada and all her boarding and lodging expenses were borne by her and travel

expenses relating to Canada were borne by the husband of the assessee, in the absence of any cogent evidence brought on record by the revenue to the contrary, addition merely on an estimation basis was not justified. As regards personal use of vehicle, the revenue had not brought on record any cogent evidence to the contrary, and considering the explanation tendered by the assessee, additions merely on an estimation basis were not justified (AY. 2020-21, 2021-22)
Lakhvir Kaur v. DCIT (2025) 215 ITD 39 (Chd) (Trib.)

1267 **S. 69C: Unexplained expenditure-Purchases-Mismatch between purchases in VAT returns and audited accounts-The difference was due to statutory compliance-Addition was deleted.**
The assessee had a mismatch between purchases in VAT returns and audited accounts due to statutory VAT adjustments regarding input tax credit reversal on returned goods. The Assessing Officer made an addition under section 69C of the Act. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that since assessee provided supplier-wise reconciliation showing the difference was due to statutory compliance rather than actual inflation or bogus purchases, and sales figures were otherwise consistent, the disallowance of such difference as unexplained expenditure was deleted. (AY. 2017-18)
Ankur Fine Products v. ITO (2025) 215 ITD 633 (Ahd) (Trib.)

1268 **S. 69C: Unexplained expenditure-Brokerage payment-Loose paper-Recovered from the partner of the firm-Order of CIT(A) deleting the addition was affirmed. [S. 132,153C]**
During search, certain loose papers were recovered which made reference to brokerage on the sale of flats. Assessing Officer made addition of amount under section 69C towards brokerage payment. CIT(A) deleted the addition. The Tribunal held that the Assessing Officer made additions towards alleged brokerage payment, solely based on loose paper, without conducting any independent inquiry or bringing any corroborative evidence on record. A loose paper, without any independent corroboration or inquiry, could not form a valid basis for initiating proceedings under section 153C of the Act. Order of CIT(A) deleting the addition was affirmed. (AY. 2018-19, 2019-20)
DCIT v. Saarrthi Reality and Infra LLP (2025) 214 ITD 27 (Mum) (Trib)

1269 **S. 69C: Unexplained expenditure-Renovation of residential house-Addition was to be restricted to 25 per cent of the net differential between accounted payments and estimated gross renovation cost.**
Assessing Officer made an addition under section 69C on account of unexplained expenditure towards renovation of assessee's residential. CIT A) partly allowed the appeal. On appeal, the Tribunal held that the house, since the addition was computed by aggregating only positive balances from the seized diary while ignoring negative balances and without any third-party verification, the addition was restricted to 25 per cent of the net differential between accounted payments and estimated gross renovation cost. (AY. 2015-16, 2016-17)
Minesh Bipinbhai Patel v. DCIT (2025) 214 ITD 285 (Ahd) (Trib.)

S. 69C : Unexplained expenditure-Bogus purchases-Accommodation entries Assessing Officer disallowed 100% purchases as bogus purchases-CIT(A) restricted the disallowance to 8% of purchases against 100% disallowed by the Assessing Officer-on appeal by Revenue, the Tribunal affirmed the order of the Assessing Officer and confirmed 100% of bogus purchases. [S. 37, 68, 143(3), 147, 148] 1270

The assessee, engaged in trading of cut and polished diamonds, was found to have obtained accommodation purchase bills from entities controlled by the Rajendra Jain Group, established by the Investigation Wing and the Maharashtra Sales Tax Department to be non-existent paper concerns issuing bogus invoices without actual supply of goods, with the entry operator himself admitting the modus operandi during search proceedings; the Assessing Officer accordingly made a 100% disallowance of the purchases u/s 69C as unexplained expenditure, which the CIT(A), despite accepting the purchases as bogus and noting that the assessee failed to discharge the burden of proving genuineness, restricted to 8% by applying profit-estimation precedents; on appeal by the Revenue, the Tribunal held that once purchases are proved to be non-genuine, no estimation of profit is permissible since such estimation indirectly allows a part of bogus expenditure, which is expressly prohibited under section 69C, and relying on binding decisions including *PCIT v. Kanak Impex (India) Ltd. (2025) 172 taxmann.com 283 / 474 ITR 175 (Bom)(HC), SLP rejected No. 47369/2025 dt. 21-11-2025], Shree Ganesh Construction (ITA No. 719/2028 dt. 5-3-2025 (Bom)(HC)), Shoreline Hotel (P.) Ltd. v. CIT (2018) 98 taxmann.com 234 (Bom)(HC), PCIT v. Premlata Tekriwal [(2022) 289 Taxman 337 (Cal)/ (2023) 456 ITR 671 (Cal)(HC)], ACIT v. Shanti Swarup Jain (2015) 230 Taxman 533 (All)(HC), N.K. Industries Ltd. v. Dy. CIT (2016) 72 taxmann.com 289 (Guj)(HC), SLP rejected (SLP No. 963/2017 dt. 16-1-2017) (SC) and N.K. Proteins Ltd. v. Dy. CIT (SLP No. 1952 dt. 16-1-2017; (2020) 421 ITR 15 (St)(SC)),* held that the CIT(A)'s restriction to 8% was contrary to law and restored the AO's order disallowing 100% of the bogus purchases in full. (ITA Nos. 2166 & 2167/Mum/2025, dt. 10-11-2025) (AYs 2010-11, 2011-12)

ITO v. Romil Diam (Mum)(Trib) www.itatonline.org

S. 69C : Unexplained expenditure- Bogus purchases- estimation of profit element-When purchases were supported by bills, bank payments and sales not disputed, addition restricted to 12.5% of alleged bogus purchases; Bombay High Court ruling in PCIT v. Kanak Impex(India) Ltd [2025] 474 ITR 175 / 172 taxmann.com 283 (Bom)(HC) is distinguished and held not applicable. [S. 147, 148] 1271

The assessee, engaged in trading and export-import of garments and textiles, was found to have made purchases of ₹2.19 crores from three concerns alleged to be hawala dealers. The AO, in reassessment proceedings, treated 18.5% of such purchases as bogus and added ₹40.57 lakhs. On appeal, the CIT(A) restricted the disallowance to 12.5% of purchases. Before the Tribunal, the assessee contended that the addition should be restricted to 5%, while the Revenue sought restoration of 100% addition relying on *PCIT v. Kanak Impex (India) Ltd. (2025) 474 ITR 175 / 172 taxmann.com 283 (Bom.)(HC)* The Tribunal held that the facts of Kanak Impex were distinguishable since in that case the assessee had not appeared in reassessment proceedings, whereas in the present case the assessee furnished purchase invoices, bank statements, and evidence of sales.

Following consistent Tribunal precedents, the ITAT upheld the CIT(A)'s estimation at 12.5% and rejected both the assessee's plea for further reduction and the Revenue's plea for enhancement. Appeals of both parties were dismissed. Referred, *ITO v. Pradeep Kumar Agarwal (ITA No. 1544/JPR/2024) dated 04.04.2025 (Jaipur)(Trib), ACIT v. Dhiraj Parbat Gothi (ITA No. 580/Mum/2025) dated 30.05.2025 (Mum)(Trib), ITO v. Khimchand Okchand Bhansali (2025) 174 taxmann.com 148 (Mum)(Trib), Quality Heightcon Pvt. Ltd. v. DCIT (ITA No. 1489/Mum/2025) dated 07.05.2025 (Mum)(Trib), ITO v. Mangalam Drugs & Organics Ltd. (ITA No. 5279/Mum/2015) dated 08.05.2025 (Mum)(Trib), Rajesh Shivji Shah v. ITO (ITA No. 525/Mum/2025) dated 29.04.2025 (Mum)(Trib)*. (ITA Nos. 2561/Mum/2025 & 2939/Mum/2024, dt. 28.07.2025)(AY. 2011-12)
Palmon Impex Pvt. Ltd. v. ITO (Mum)(Trib) www.itatonline.org.

1272 **S. 69C : Unexplained expenditure-Bogus purchases-Hawala-Accommodation entries-Purchases duly supported by bills, cheque payments, confirmations, and accepted sales cannot be treated as bogus. Disallowance of entire purchases unjustified-Disallowance deleted-Bombay High Court ruling in PCIT v. Kanak Impex(India) Ltd [2025] 474 ITR 175 / 172 taxmann.com 283 (Bom)(HC) is distinguished. [S. 37(1), 44AB, 133(6)]**
The assessee, engaged in trading of mustard oil cake and groundnut oil cake in the proprietary concern M/s Shiv Enterprises, made purchases of ₹9.60 crore from three related concerns-Jagdamba Traders (Prop. Purshottam Agarwal), Jagdamba Enterprises, and Parwati Cottex & Oil Industries (Prop. Smt. Parwati Agarwal). The AO treated the entire purchases as non-genuine on the ground that suppliers did not respond to notices u/s 133(6), transportation bills appeared fabricated, and certain vehicle numbers were non-commercial. Accordingly, the AO disallowed the entire purchases. On appeal, the CIT(A) deleted the addition noting that the assessee maintained audited books and stock register, filed purchase bills, GST returns, e-way bills, bank statements showing cheque payments, confirmations, and transport documents. The assessee explained that the suppliers had closed business due to heavy losses and dishonoured cheques, and therefore were not traceable. CIT(A) observed that the sales corresponding to the disputed purchases were accepted, rates were comparable with market rates, and the GP/NP declared was better than earlier years. As an alternative, CIT(A) held that even if purchases were unverifiable, only GP addition could be made, but no such addition was warranted as results were better than past history. The Tribunal upheld the CIT(A)'s findings. It distinguished the Bombay High Court ruling in *PCIT v. Kanak Impex(India) Ltd [2025] 474 ITR 175 / 172 taxmann.com 283 (Bom)(HC)* relied upon by the Revenue, noting that in the present case there was no evidence of hawala or accommodation entries, while assessee had furnished corroborative evidence including GST and e-way bill records. Relying on *PCIT v. Tejua Rohitkumar Kapadia (2018) 256 Taxman 213 (SC),* the Tribunal held that purchases duly supported by bills, cheque payments, confirmations, and accepted sales cannot be treated as bogus. Disallowance of entire purchases unjustified. Appeal of the Revenue dismissed. (ITA No. 1544/JPR/2024)(AY. 2021-22)
ITO v. Pradeep Kumar Agarwal (Jaipur)(Trib) www. itatonline.org.

S. 69C : Unexplained expenditure-Bogus purchases-Only profit element to be taxed-Addition restricted to 12.5% of alleged bogus purchases-Bombay High Court ruling in PCIT v. Kanak Impex(India) Ltd [2025] 474 ITR 175 / 172 taxmann.com 283 (Bom)(HC) is distinguished. [S. 133(6), 147, 148] 1273

The assessee, engaged in construction, filed return declaring income of ₹5.36 crore. Assessment was reopened u/s 148 on the basis of Investigation Wing information alleging bogus purchase bills. The AO issued notices u/s 133(6) which returned unserved as suppliers were non-existent and treated purchases of ₹42.82 lakh as bogus, disallowing 100%. CIT(A) confirmed the addition. On appeal, the Tribunal noted that in assessee's own case when it was a partnership firm (M/s. Quality Construction Co., ITA No. 1403/Mum/2024, AY 2010-11, order dated 05/12/2024), addition on identical facts had been restricted to 12.5% of alleged bogus purchases, following the Bombay High Court ruling in *Pr. CIT v. Suraj Infrastructures (P.) Ltd. [2023] 156 taxmann.com 192 (Bom)(HC)* Tribunal further held that reliance placed by Revenue on *PCIT v. Kanak Impex(India) Ltd [2025] 474 ITR 175 / 172 taxmann.com 283 (Bom)(HC)* was distinguishable since in that case assessee failed to cooperate with investigation and could not prove genuineness of purchases, whereas present assessee had participated in proceedings and filed details. Accordingly, addition was restricted to 12.5% of the alleged purchases representing profit element, and balance deleted. On denial of TDS credit of ₹24.46 lakh, matter was remitted to AO for verification of Form 26AS and TDS certificates. Ground challenging reopening was not pressed. Addition restricted to 12.5% of alleged bogus purchases; TDS credit issue restored to AO. Appeal partly allowed. (ITA No. 1489/Mum/2025,dt.07/05/2025)(AY. 2010-11)

Quality Heightcon Pvt. Ltd. v. DCIT (Mum)(Trib) www.itatonline.org

S. 69C : Unexplained expenditure-Bogus purchases-Addition unsustainable when purchases supported by documents, payments through banking channel, sales accepted, and no cross-examination allowed-VAT authorities accepted purchases-Addition was deleted-Bombay High Court ruling in PCIT v. Kanak Impex(India) Ltd [2025] 474 ITR 175 / 172 taxmann.com 283 (Bom)(HC) is distinguished.[S.133(6), 144] 1274

The assessee, engaged in the business of new-born baby products, had purchases of ₹16.29 lakh disallowed u/s 69C on the basis of Sales Tax Department information alleging hawala transactions. The AO made the addition as the assessee could not produce the suppliers, though the assessee had furnished purchase bills, ledger, accounts, bank statements showing payments through banking channels, and corresponding sales were accepted. No opportunity of cross-examination of third-party statements was granted. The Tribunal held that the AO merely relied on third-party information without making further enquiry or providing cross-examination. Since the assessee had discharged the burden by submitting documents and showing payments through banking channels, and VAT authorities had accepted the transactions while granting ITC, the addition u/s 69C was unsustainable. Reliance placed on *CIT v. Nikunj Eximp Enterprises (2015) 372 ITR 619) (Bom.) (HC) and Ashok Kumar Rungta v. ITO / [2024] 301 Taxman 580 (2025] 474 ITR 160 (Bom HC). Krishna Textiles v. CIT(2009) 310 ITR 227 (Guj)(HC), Case of PCIT v. Kanak Impex (Ind) Ltd[2025] 474 ITR 175 / 172 taxmann.com 283 (Bom)(HC) (Bom HC)* distinguished on facts as in that case books were

rejected and assessee had not cooperated. Accordingly, the addition u/s 69C was deleted. (ITA No. 525/Mum/2025 dt. dt. 29.04.2025) (AY 2011-12)
Rajesh Shivji Shah v. ITO (2025) (SMC) (Mum)(Trib) www.itatonline.org

1275 **S. 69C : Unexplained expenditure-Bogus purchases-Addition made on estimated basis of 25% of purchases deleted-Purchases supported by bills, stock register, delivery challans and bank payments-Supplier appeared before AO and confirmed sales-ITAT held that once purchases are corroborated by evidence and vendor's statement, no addition could be sustained-Bombay High Court ruling in PCIT v. Kanak Impex(India) Ltd [2025] 474 ITR 175 / 172 taxmann.com 283 (Bom)(HC) is distinguished. [S. 68]**
The assessee, engaged in trading of craft paper and chemicals, had shown purchases of ₹43,75,381 from M/s. Arun Paper & Iron Traders. AO treated the purchases as accommodation entries and disallowed 25% (₹10,93,845) as bogus purchases. Before the CIT(A), additional evidence was filed and remand proceedings were conducted wherein the supplier, Shri Arun Agarwal, appeared and produced books of account, invoices, delivery challans, assessment orders, and confirmed the transactions. Despite this, CIT(A) sustained the addition. On appeal, ITAT noted that in the case of assessee's wife, Smt. Anuradha Dalmia, on identical purchases from the same supplier, the addition was deleted by CIT(A) and confirmed by ITAT after considering the vendor's sworn statement. Tribunal further observed that sales made by the vendor were accepted in his own reassessment and no allegation was made regarding sales to the assessee. Payments were through banking channels and stock registers and delivery challans supported the purchases. Followed *PCIT v Mohammad Haji Adam & Co. [2019] 103 taxmann.com 459 (Bom) (HC)*; Distinguishing the Bombay High Court ruling in *PCIT v. Kanak Impex (India) Ltd [2025] 474 ITR 175 / 172 taxmann.com 283 (Bom)(HC)* which involved non-participation of the assessee in proceedings, the Tribunal held that in the present case the assessee fully participated and the vendor had confirmed the sales. Accordingly, the addition of 25% of purchases was deleted and the appeal was allowed. (ITA No. 3883/Mum/2024 dt. 29.05.2025(AY. 2008-09)
Rahul M. Dalmia v. ITO (SMC) (Mum)(Trib) www.itatonline.org

1276 **S. 69C: Unexplained expenditure-Bogus purchases-Addition restricted to 4%-Tribunal held that since purchases were supported by invoices, bank statements, stock register, and no defect was found in books or sales, only profit element could be added. High Court decision in PCIT v. Kanak Impex (India) Ltd. [2025] 474 ITR 175 / 172 taxmann.com 283 (Bom)(HC) distinguished-Appeal of revenue was dismissed.**
The assessee was alleged to have obtained bogus purchase bills of ₹3.33 crore from concerns linked to Shri Pravin Kumar Jain. The AO held that the assessee failed to produce parties for cross-examination, disregarded retraction affidavit of Shri Jain, and made addition of 12.5% of purchases as non-genuine. CIT(A), noting that assessee had filed purchase bills, bank statements, stock records, sales bills, MCA documents of suppliers and declared GP higher than past average, restricted the addition to 4% relying on prevailing VAT rate in Maharashtra. On appeal by the Revenue, the Tribunal noted that the AO had not found any defect in books or disproved evidences produced. Sales were accepted. The reliance placed by Revenue on *PCIT v. Kanak Impex (India) Ltd. [2025] 474 ITR 175 / 172 taxmann.com 283 (Bom)(HC)* to support 100% addition

was held distinguishable since in Kanak Impex the assessee had not participated in reassessment proceedings and purchases remained unproved, unlike in the present case where assessee furnished complete evidence. The Tribunal relied upon *CIT v. Nikunj Eximp Enterprises Pvt. Ltd. v. CIT [2015] 372 ITR 619 (Bom)(HC)* wherein it was held that when books of account are not rejected, sales are accepted, and payments are through banking channels, purchases cannot be disallowed merely on suspicion for non-production of parties. Accordingly, the restriction of addition to 4% by CIT(A) was upheld. The appeal of revenue was dismissed.(ITA No. 580/Mum/2025 dt. 30.05.2025.) (AY. 2007-08)

ACIT v. Dhiraj Parbat Gothi (Mum)(Trib) www.itatonline.org

S. 69C : Unexplained expenditure-Bogus purchases-Information from sales tax department-Bogus accommodation entries-Purchases-Payments through banking channels-Sales accepted-Addition restricted to 5 percent-PCIT v. Kanak Impex (India) Ltd. [2025] 474 ITR 175 / 172 taxmann.com 283 (Bom)(HC) distinguished. [S. 143(3)] 1277

Assessee was engaged in the business of dealing in ferrous and non-ferrous metals. It made purchases through banking channels and filed relevant purchase invoices, copy of bank statements evidencing payment made through proper banking channels, chart showing details of purchases made from parties and corresponding sales Assessing Officer held that sales tax department had given information with regard to bogus accommodation entries on account of bogus purchases/bills hence he estimated profit element at rate of 12.5 per cent of total purchases made by assessee which were claimed to be bogus and made addition under section 69C. Commissioner (Appeals) restricted addition from 12.5 per cent to 4 per cent of bogus purchases. On appeal the Tribunal held that since assessee had proved that transactions had been carried out through banking channels and Assessing Officer had not doubted same, addition made by Assessing Officer at rate of 12.5 per cent could not be restored, however, considering peculiar facts and circumstances, addition was to be restricted at rate of 5 per cent instead of 4 per cent as restricted by Commissioner (Appeals). Decision in *PCIT v. Kanak Impex (India) Ltd 2025] 474 ITR 175 / 172 taxmann.com 283 (Bom)(HC)* distinguished. (AY. 2009-10, 2011-12)

ITO v. Khimchand Okchand Bhansali [2025] 174 taxmann.com 148 (SMC) (Mum) Trib.)

S. 69C: Unexplained expenditure-Bogus purchases-Export of readymade garments-Sales not doubted-Profit margin embedded in value of such disputed purchases was to be estimated at 2.5 per cent. [S.133(6) 145] 1278

Held that sales are not doubted; the case involved is a case of unverifiable purchases where profit margin would be slightly higher as purchases had been made in grey market; profit margin embedded in value of such disputed purchases is directed to be estimated at 2.5 per cent. (AY. 2014-15)

Braham Dev Gupta v. JCIT (2025) 212 ITD 238 (Delhi) (Trib.)

1279 **S. 69C: Unexplained expenditure-Alleged out-of-books Murrum expenses-Where cash expenditure relates to business operations and its incurrence is not disputed, addition under section 69C cannot be made for the entire amount-Estimation of profit element is justified. Addition restricted to 5% of such expenses. [S. 132]**

Pursuant to search proceedings, the Assessing Officer noted from trial balances and loose sheets that certain site-wise murrum expenses (earth work filling material) were incurred in cash outside the regular books of accounts. The AO made a total addition of ₹ 6,42,71,657 under section 69C, holding that the entire expenditure was unaccounted and unexplained. The assessee submitted that the murrum expenses were part of routine site-level working, that corresponding income was offered to tax, and that even if not fully recorded in the regular books, the expenses were incurred wholly and exclusively for business purposes. The CIT(A), agreeing partially with the assessee, deleted the full addition and estimated income at 5% of the murrum expenses, treating that as income embedded in the alleged out-of-books expenditure. The issue before the Tribunal was, whether the entire out-of-books expenditure (murrum expenses) can be added under section 69C as unexplained expenditure, or whether only a reasonable profit element should be brought to tax when the source and business purpose are not in doubt. On appeal the Tribunal held that the AO was not justified in treating the entire amount of cash murrum expenses as unexplained under section 69C. Key observations were, the murrum expenses were incurred during execution of civil contracts at specific project sites and were not in the nature of capital or personal expenses. The Department failed to show that the said cash expenditure was diverted for any purpose other than business. The AO relied merely on trial balances and loose papers seized, without corroborating the actual nature or quantum of cash outflows. Section 69C allows addition only when the source of expenditure is unexplained, not merely because it is outside the books. The Tribunal upheld the CIT(A)'s estimate of 5% of the alleged cash expenditure as reasonable in the context of the nature of business and cash-intensive operations. It also agreed with the finding that a contractor cannot be denied deduction for business expenditure merely because of procedural lapses in accounting. The Tribunal held that where cash expenditure relates to business operations and its incurrence is not disputed, addition under section 69C cannot be made for the entire amount. Estimation of profit element is justified. Addition restricted to 5% of such expenses. (AY. 2016-17 to 2022-23)

J. Kumar Infraprojects Ltd. v. DCIT (2025] 176 taxmann.com 193 (Mum)(Trib)

1280 **S. 69C: Unexplained expenditure-Bogus purchases-Estimate of 12% of alleged bogus expenses is affirmed- P*r. CIT v. Kanak Impex (India) Ltd (2025) 474 ITR 175 / 172 Taxman.com 283 (Bom)(HC)* distinguished. [S. 37(1)]**

The AO has disallowed 100% of alleged bogus expenses. On appeal, the CIT(A) restricted the disallowance at 12% of the alleged bogus expenses. On appeal by the Revenue and the assessee, the Tribunal affirmed the order of the CIT(A) estimating the disallowance at 12% of alleged bogus expenditure. The Tribunal distinguished the ratio in *Pr. CIT v. Kanak Impex (India) Ltd. Pr. CIT v. Kanak Impex (India) Ltd (2025) 474 ITR 175 / 172 Taxman.com 283 (Bom)(HC).* (AY. 2016-17 to 2022-23)

J. Kumar Infraprojects Ltd. v. DCIT (2025] 176 taxmann.com 193 (Mum) (Trib)

S. 69C: Unexplained expenditure-Search and seizure-Seized document was found from third party premises-Addition is deleted-Payment to travel agent-Payment received on the basis of rooms booked-Addition is deleted. [S. 132] 1281

During course of search and seizure proceedings, ledgers pertaining to unaccounted payments by assessee made to interior designer for hotel purchase were found to be recorded and seized from residential premises of one JP. Assessing Officer held that payments were unaccounted and made an addition under section 69C. CIT(A) deleted the addition. On appeal, the Tribunal held that since there was no operative agreement between the assessee and said interior designer, the order of CIT(A) deleting the addition is affirmed. As regards the payment received by the travel agent being offered to tax, the order of CIT(A) deleting the addition is affirmed.(AY. 2020-21)

DCIT v. Triton Hotels and Resorts (P.) Ltd. (2025) 211 ITD 1 (Mum) (Trib.)

S. 69C: Unexplained expenditure-Unaccounted cash-Seized material, diary notings-Transfer within group-Taxed in respective entities-Addition is deleted-Unexplained receipts and payments-Estimation of gross receipts-CIT(A) is justified in adopting a profit rate of 30 per cent on total receipts, based on the principle of taxing real income.[S.48, 153A] 1282

Held that based on the transactions recorded in the seized material, diary notings, which are transfers within group which are taxed in respective entities. Once again, the addition based on the same material is deleted. The Tribunal held that the CIT(A) is justified in adopting a profit rate of 30 per cent on total receipts, based on the principle of taxing real income.(AY. 2016-17 to 2019-20)

Kailash Ramavatar Goenka v. ACIT (2025) 211 ITD 317/234 TTJ 259 /124 ITR 210 (Ahd) (Trib.)

S. 69C: Unexplained expenditure-Bogus purchases-Deletion of addition by CIT(A) is affirmed. [S. 147] 1283

Assessing Officer disallowed 25 per cent of total purchases. CIT(A), considering the evidence, deleted the addition. On appeal, the tribunal affirmed the order of the CIT(A). (AY. 2010-11

ITO v. Sumit Agrawal (2025) 210 ITD 177 (Raipur) (Trib.)

S. 69C: Unexplained expenditure-Search and seizure-Unabated assessment-Purchases are recorded in regular books of account-Order of CIT(A) deleting the addition is affirmed. 1284

The ITAT ruled that in cases of completed/unabated assessments, additions cannot be made without incriminating material found during search. The Tribunal followed the Supreme Court decision in *Principal CIT v. Abhisar Buildwell (P) Ltd.*, which established that for completed assessments, additions can only be made if incriminating material related to that specific issue was found during search.

Section 69C could not be applied to purchases already recorded in regular books of account when the books were not rejected by tax authorities, payments were made from disclosed bank accounts and the source of expenditure was duly explained. (AY. 2014-15)

Dy.CIT v. Aba Builders Ltd (2025) 233 TTJ 328/ 245 DTR 105 / 176 taxmann.com 216 (Delhi)(Trib)
Dy.CIT v. IV Country (P) Ltd (2025) 233 TTJ 328 / 245 DTR 105 / 176 taxmann.com 216 (Delhi)(Trib)
Dy.CIT v. Country Infrastrctures (P) Ltd 2025) 233 TTJ 328 / 245 DTR 105 / 176 taxmann.com 216 (Delhi)(Trib)

1285 **S. 69C: Unexplained expenditure-Information from Investigation wing-The AO cannot proceed to disallow only the purchases in isolation, and the Tribunal disallowed the purchases at 12.5%. On appeal for A.Y. 2014-15, the Tribunal observed that the Assessee had only made payments towards purchases from the previous year; hence the addition for A.Y. 2014-15 was unjustified. [S. 147, 148]**

The Assessee runs a proprietorship. On information received from investigation wing, the AO treated the purchase made by the Assessee as bogus and proceeded to disallow the purchases and made an addition. CIT(A) confirmed the addition. On appeal for A.Y. 2013-2014, the Tribunal observed that the AO has accepted the sales declared by the Assessee and only proceeded to disallow purchases. Hence, the Tribunal held that the AO cannot proceed to disallow only the purchases in isolation and the Tribunal disallowed the purchases at 12.5%. On appeal for A.Y. 2014-15, the Tribunal observed that the Assessee had only made payments towards purchases from previous year, hence the addition for A.Y. 2014-15 was unjustified. (AY. 2013-2014,2014-2015)

Manak Chand Daga v. ITO (2025) 233 TTJ 11 (UO) (Delhi)(Trib)

1286 **S.70: Set off of loss-One source against income from another source-Same head of income-arrangement of affairs within legal framework through legitimate means to reduce its tax liability-no evidence on record to doubt genuineness of transactions-STCL derived by assessee could not be prevented from being set off against LTCG. [S. 45]**

During the relevant AY assessee set off her STCG (Short Term Capital Loss), which arose from the sale of shares of Mindtree Ltd, against (LTCG) Long Term Capital Gain derived from the sale of shares of another company, Avendus Capital Pvt Ltd. The AO opined that assessee had adopted 'colourable device' of selling shares having anticipated reduction in price due to issuance of bonus shares by M, by arranging her affairs in a manner so as to derive maximum benefit by selling shares purchased at a loss and reducing her tax liability on account of LTCG derived on sale of shares of Avendus Capital Pvt Ltd. Accordingly, the STCL was disallowed and the LTCG added back to income of assessee. The ITAT noted that the AO had not expressed any doubt regarding the nature of loss. It was held that if an assessee arranges affairs within legal framework and through legitimate means to reduce its tax liability, AO cannot prevent the assessee from doing so. Since there was no evidence on record to doubt the genuineness of transactions entered into by assessee, STCL derived by the assessee from sale of shares could not be prevented from being set off against LTCG by alleging adoption of a colourable device. Pr. CIT (Central) v. Adar Cyrus Poonawalla [2018] 100 taxmann.com 227/260 Taxman 41 (Bom)(HC) followed. (AY. 2016-17)

ACIT v. Ranu Vohra (2025) 210 ITD 285 / 121 ITR 60 (SN) ((Mum.) (Trib.)

S. 71 : Set off of loss-One head against income from another-Constitutional validity and retrospectivity-Set off of loss from one head against income from another Deduction and vested entitlement to set off actual amount of loss-Income from house property to Rs. 2 lakhs for particular assessment year with effect from 1-4-2018-Insertion of sub-section (3A) in section 71 in terms of section 31 d amendment not violative of article 14-Income-tax Act, 1961, s. 71(3A)-Finance Act, 2017, S 31[1], Finance Act, 2017,(2017) 393 ITR (St.) 1) [S. 22,56(2), 71(3A), Art.13, 14, 19(1)(g), 226, 265] 1287

On a writ petition by the assessee seeking to quash section 31 of the Finance Act, 2017 ((2017) 393 ITR (St.) 1) whereby sub-section (3A) has been inserted in section 71 of the 1961 Act to the effect that the assessee shall not be entitled to set-off of loss under the head "Income from house property" under section 56(2) to the extent the amount of the loss which exceeded two lakhs rupees against income under another head as being ultra vires the provisions of the Constitution of India or alternatively directing that sub-section (3A) to section 71 of the 1961 Act, is prospective in application and not applicable to the house loans raised prior to the amendment of the 1961 Act, i.e., prior to April 1, 2017 resulting in losses under the head "Income from house property dismissing the petition the Court held that, insertion of sub-section (3A) in section 71 in terms of section 31 d amendment not violative of article 14-Income-tax Act, 1961. The insertion of sub-section (3A) in section 71 of the 1961 Act was proportionate with the object sought to be achieved and not violative of Article 19 of the Constitution. The alteration in the manner of imposing tax did not deprive the taxpayer of a benefit; rather it tantamounted to a realignment of the existing provisions bearing in mind the broader economic and policy considerations, which the Legislature was duly empowered to do. Amendment not violative of Article 14. (AY. 2018-19)

Sanjeev Goyal v. UOI [2024] 163 taxmann.com 122 / (2025) 479 ITR 204 (Delhi)(HC)

S. 71 : Set off of loss-One head against income from another-Set off of business loss against capital gains-Sub-s. (2) of s. 71 does not provide any particular mode to set off the loss that should be followed-the assessee is entitled to set off the business loss against any head of income, including long-term capital gains.[S.45, 70, 71(2)] 1288

Held that Sub-s. (2) of S. 71 gives the option to the assessee to set off any loss, other than the loss under the head "Capital gains", against income under any head, including capital gains and therefore, the assessee is entitled to set off the business loss against long-term capital gains (AY. 2019-20)

Priya Kapil Todarwal v. ITO (2025) 236 TTJ 953/ 176 taxmann.com 349 (Mum)(Trib)

S. 72 : Carry forward and set off of business losses-Investment business-Capital loss-Notional loss-Fall in value of equity shares-Sale of non-convertible debentures-Order of Tribunal allowing loss as carry forward loss not erroneous. [S 10(2A), 260A] 1289

Held, dismissing the appeal the Court held that the fall in the value of shares of the entity Vardhan Spinning and General Mills Ltd had been worked out based on the market quotation in the Stock Exchange, wherein prior to the rights issue on October 13, 1992, last-cum-right price of the shares was Rs. 610 per share and the first ex-right price of the shares on November 11, 1992 was Rs. 400 per share, resulting in fall in the price of the shares by Rs. 210 per share and such aspect had not been disputed by the

Department. The judgments of the Supreme Court and Bombay High Court had been followed by this court in *Navin Jindal v. Asst. CIT, (2006) 280 ITR 608 (P&H)(HC).* The order of the Tribunal was not erroneous in allowing the loss and directing the Assessing Officer to allow it as carry forward loss to the subsequent years (AY. 1993-94)
PCIT v. Adinath Investment and Training Co. (2025) 476 ITR 35 (P & H) (HC)

1290 **S. 72: Carry forward and set-off of business losses-Depreciable assets-Business loss short-term capital gains-Disallowance of set-off by CPC was affirmed-Matter remanded to the file of Assessing Officer to consider the Judgment in *PCIT v. Alcon Developers (2020) 432 ITR 277 (Bom)(HC)*.[S. 50, 143(1)]**
Assessee is an individual carrying on the business of running a petrol pump. Assessee filed its return of income claiming set-off of brought-forward business loss against short-term capital gain from sale of depreciable business assets-Central Processing Centre (CPC) did not allow said set-off on the ground that there was no mechanism available in income-tax return for such set off. CIT (A) upheld the order of the CPC. On appeal, the Tribunal held that since there were no specific provisions under the Act which clearly provided that short-term capital gains assessable under section 50 could be set off against brought forward business losses, disallowance of set-off by CPC was correct. However, since the assessee had not placed reliance on the judgment of the High Court in the case of *PCIT v. Alcon Developers (2020) 432 ITR 277 (Bom)(HC)*, the matter was remanded to the Assessing Officer for fresh consideration. (AY. 2019-20)
Pradeep Kisanlal Boob v. ACIT (2025) 213 ITD 285/238 TTJ 1032 (Pune) (Trib.)

1291 **S. 72A : Carry forward and set off of accumulated loss and unabsorbed depreciation-Amalgamation-Demerger-Scheme of restructuring involving transfer of only specified assets and liabilities and consideration paid in cash and not by issue of shares-Provisions of s. 72A(4) not attracted-Assessee entitled to carry forward and set off of loss. [S. 2(19AA), 2 (19AAA), 72A(4)]**
Where pursuant to a scheme of restructuring sanctioned by the High Court in company jurisdiction only specified assets and liabilities of the Petrochemicals Division and Plastic Products Division were transferred to the resulting companies and the consideration was discharged in cash instead of issue of shares to shareholders of the demerged company, the essential statutory conditions of a "demerger" under s. 72A(4) were not satisfied; accordingly, the CIT(A) and the Tribunal were justified in holding that sub-s. (4) of s. 72A was not attracted, and the assessee was entitled to carry forward and set off accumulated loss and unabsorbed depreciation. Order of Tribunal affirmed. Affirmed *Dy. CIT v. NOCIL Ltd. (2017) 190 TTJ 192 (Mum) (Trib)* (AY. 2004-05)
PCIT v. Nocil Ltd. (2025) 345 CTR 549 (Bom)(HC)

1292 **S. 72A : Carry forward and set off of accumulated loss and unabsorbed depreciation-Amalgamation-Demerger-Relaxation of conditions under r. 9C(a)-Power of Central Government is discretionary and to be exercised only in exceptional cases-Failure to achieve stipulated capacity utilisation-Rejection of relaxation upheld-Writ petition dismissed.[S. 72A(2), R. 9C(a), Art. 226]**
The proviso to r. 9C(a) confers an enabling power on the Central Government to relax the requirement relating to achievement of prescribed production capacity or

the time period for achieving the same, having regard to the genuine efforts made by the amalgamated company and the circumstances preventing achievement thereof; however, such power being in the nature of an exception cannot be exercised liberally and must be invoked reasonably, objectively and only to the extent necessary to advance the object of s. 72A, namely revival and continuation of the business of the amalgamating industrial undertaking. The benefit of carry forward of accumulated loss and unabsorbed depreciation under s. 72A is conditional and intended to prevent abuse by profitable companies amalgamating with loss-making entities merely for tax advantage without genuine revival of business. In the present case, despite extension sought by the assessee, the stipulated production level of 50% of installed capacity was not achieved even within the extended period and successive requests seeking reduction of the threshold capacity and further extension of time were made only on the basis of business difficulties. The Central Government, after considering the assessee's efforts and circumstances, rejected the request for relaxation, and such decision could not be termed perverse or based on extraneous considerations. Where the scheme of amalgamation itself was aimed at simplification of corporate structure and maximisation of shareholder value, strict compliance with revival conditions assumed greater significance and the objective of s. 72A could not be extended to such restructuring absent achievement of prescribed operational revival. The Court held that the authority had exercised discretion in accordance with law and judicial review under Art. 226 was not warranted.

Cargill India (P) Ltd. v. CBDT (2025) 483 ITR 738 / 345 CTR 834 / 252 DTR 279 / 304 Taxman 236 (Delhi)(HC).

S. 73 : Loss in share trading-Speculation loss-Set-off-Not allowable against profit from F&O transactions-Arbitrage operations-Explanation to S.73 operates independently of S.43(5)-Speculative loss cannot be adjusted against F&O business income.[S.28(i), 43(5)] 1293

The assessee, a stock broker, engaged in arbitrage operations, simultaneously purchased shares in the cash segment and sold them in the F&O segment. While it incurred losses in the cash segment, it earned profits in the F&O segment, resulting in an overall gain. The AO held that loss in the cash segment constituted speculation loss under Explanation to S.73 and disallowed set-off against F&O profits. The CIT(A) allowed set-off following earlier ITAT orders. The Judicial Member, relying on *Snowtex Investment Ltd. v. PCIT (2019)414 ITR 227) (SC) and PCIT v. Diamond Securities (P) Ltd. (2021)431 ITR 201) (MP) HC),* held that cash segment loss is speculative and cannot be set off. The Accountant Member distinguished Snowtex, holding arbitrage as a composite business. On reference u/s 255(4), the Third Member held that F&O profits are business income by virtue of S.43(5), but delivery-based share trading loss is speculation loss under Explanation to S.73. Since both provisions operate independently, speculation loss cannot be set off against F&O business income. Accordingly, the Revenue's appeal was allowed. (ITA Nos. 3144, 6362, 3175 & 6114/Mum/2018 dt. 18.08.2025 (AY. 2012-13, 2013-14)

DCIT v. JM Financial Services Ltd (TM) (Mum)(Trib) www.itatonline.org

1294 **S. 74 : Losses-Capital gains-Tax resident of Mauritius-Sale of shares acquired before 01.04.2017-Grandfathered sale-Non-grandfathered sale-Both transactions were distinct; assessee was entitled to claim carry forward of long-term capital loss to subsequent years-Dividend income can't be adjusted against long-term capital loss carried forward. DTAA-India-Mauritius.[S.56, 90, 245R, Art, 13 (4)]**

Assessee, a tax resident of Mauritius, was engaged in dealing in shares. During the year, it earned long-term capital gains of Rs. 38.61 crores from the sale of shares which were acquired before 1-4-2017 (grandfathered sale) and the same was claimed as not taxable as per provisions of article 13(4) of India-Mauritius DTAA. It also incurred long-term capital loss of Rs. 24.70 crores from the sale of shares which were acquired after 1-4-2017 (non-grandfathered sale). It set off long-term capital gain of Rs. 6.74 crores against long-term capital loss of Rs. 24.70 crores and claimed carry forward of balance long-term capital loss of Rs. 17.96 crores. Assessing officer rejected the claim and also adjusted the dividend income of Rs. 5.09 crores declared by assessee under the head 'income from other sources' against the long-term capital loss of Rs. 17.96 crores incurred by assessee. On appeal, the CIT(A) held that the choice of Act or the treaty provisions was qua the stream of income and since both long term capital gains as well as the long-term capital loss from the same stream of income therefore carry forward of long-term capital loss was not permissible. On appeal, the Tribunal held that the choice of Act or Treaty is qua separate source of income and each transaction resulting in gain or loss is a distinct source of income. Since long-term capital gains earned by assessee from transactions which were grandfathered as per provisions of article 13(4) of India-Mauritius DTAA had already been accepted for exemption under provisions of treaty, therefore, both transactions were distinct and, hence, resulted in different sources of income. Further, since dividend income declared as taxable under the head 'income from other sources' could not be adjusted against long-term capital loss carried forward by assessee, the Assessing Officer was directed to allow carry forward of long-term capital loss to subsequent years as per provisions of section 74. (AY. 2022-23)

Atyant Capital India Fund-I. v. ADIT, IT (2025) 214 ITD 431 (Mum) (Trib.)

1295 **S. 74 : Losses-Capital gains-Capital loss-Carry forward and set off-Shares acquired before 1st April, 2017 cannot be taxed in the source country i.e., India-Eligible to carry forward the long term capital loss under the provisions of the Act-Debatable issue-Adjustment was not valid-DTAA-India-Singapore [S.90,143(1), Art. 13]**

Held that Long-term capital gains earned on the sale of shares by the assessee Singapore based company, cannot be taxed in India in view of Art. 13 of the India-Singapore DTAA and, therefore, assessee is eligible to carry forward the long-term capital loss under the provisions of the Act. Issue as to whether the long-term capital loss is to be allowed to be carried forward as per the Act or to be set off against the LTCG which is eligible for exemption under the DTAA is a debatable issue and, therefore, the AO was not correct in making the disallowance of carry forward of long-term capital loss by way of prima facie adjustment under s. 143(1).(AY. 2020-21)

Qualcomm Asia Pacific Pte. Ltd. v. CIT (A) (2025) 235 TTJ 785 / 173 taxmann.com 839 (Mum) (Trib)

S. 79 : Carry forward and set off losses-Change in share holdings-Companies which public are not substantially interested-Observations of Assessing Officer considering assessment for earlier year of no effect and not sustainable.[S. 260A] 1296

The assessee carried forward business losses from earlier years, unabsorbed depreciation and capital loss of an earlier year. The Assessing Officer observed that the brought forward losses would not be allowed. The Commissioner (Appeals), dismissed the assessee's appeal. On appeal, the Tribunal directed the Assessing Officer to expunge the concluding remark "brought forward loss is not allowed to be carry forward", holding that the question whether the loss, incurred in any year, could be carried forward to the following year, and set off against the profits, had to be decided by the Assessing Officer who would deal with the assessment for the subsequent year, when the aspect concerning carry forward and set off of losses would come to the fore. On appeal, the Court held that the view taken by the Tribunal was correct. The mere fact that the Tribunal had expunged the observations could not impact the stand of the Department. Thus, no interference was called for with the order of the Tribunal. Relied on the Supreme Court, while interpreting the provisions of section 24 of the Indian Income-tax Act, 1922, which is pari materia to section 72 of the Act, held in CIT v. Manmohan Das (Deceased), (1966) 59 ITR 699 (SC) (AY.2014-15)

PCIT v. Burda Druck India Pvt. Ltd [2023] 157 taxmann.com 563 / (2025) 483 ITR 469 (Delhi)(HC)

S. 80DD: Medical treatment of dependent-Disability-Amendment made to S. 80DD vide Finance Act, 2022 cannot be applied retrospectively to policies taken prior to 2014. [Art. 32, 142] 1297

The Hon'ble Supreme Court while deciding a Writ Petition in nature of a PIL, observed that the plea for retrospective operation of the amendment is in the interest of the disabled persons nor can the Court give a retrospective operation to the amendment. This is particularly having regard to the fact that an insurance contract is in a sense, a commercial contract, having certain terms and conditions and the sub-stratum of the contract cannot be removed by giving a retrospective operation to the amendment. The benefit under S. 80DD of the Act would have been availed by the subscribers at the time when they have subscribed to the policy. The Court noted that the grievance of the persons like the Petitioner had stood addressed though with prospective effect in a Contempt Petition also heard by the Court. Accordingly, the Court was not inclined and disposed of the Writ Petition(s).

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1298 **S. 80DD : Medical treatment of dependent-Disability-Medical treatment of handicapped dependent-Amendment made by Finance Act, 2022 to section 80DD could not be applied retrospectively to policies taken prior to 2014 as it was not in the interest of disabled persons-Court cannot give retrospective operation to insurance contract which is a commercial contract.[S.80DD(2)(a), Finance Act, 2022, S.21, Art. 32, 142]**

Amendment in S. 80DD of the Income-tax Act, 1961 by s. 21 of the Finance Act, 2022 provides that on attaining the age of 60 years by an individual subscriber (or on a member of an HUF attaining that age), payment or deposit to the Jeevan Aadhar policy of LIC (a policy intended for the benefit of a dependent disabled person under s. 80DD) can be discontinued and the accumulated monetary benefit utilised. It was urged that the amendment should be given retrospective effect to benefit subscribers who took policies prior to 2014. Held: The plea for retrospective operation cannot be sustained-retrospective effect would defeat the very object of the Jeevan Aadhar policy, which is to secure the disabled dependent after the subscriber's death; allowing a subscriber to discontinue during his lifetime on attaining 60 would be contrary to the policy's intent and against the interests of the disabled beneficiary. Moreover, the amendment cannot be given retrospective operation by the Court, particularly as the insurance contract is commercial in nature and subscribers would not have contracted expecting the substratum of the contract to be removed retrospectively. W.e.f. 01-04-2023, the amendment held not retrospective. Court also held that the Court cannot give retrospective operation to an insurance contract which is a commercial contract.

Ravi Agrawal v. UOI [2024] 168 taxmann.com 320 / (2025) 475 ITR 455 (SC)

Editorial: Refer, Ravi Agrawal v. UOI (2019) 260 Taxman 352 / 410 ITR 399 (SC)

1299 **S. 80G : Donation-Registration under section 12AA granted and subsisting-Entitled to approval for purposes of section 80G(5)(vi) of the Act-SLP of revenue dismissed. [S. 12AA, 80G(5))vi), Art. 136]**

Dismissing the appeal of the revenue, the Court held that since the assessee stood registered as a charitable institution under section 12AA, the only corollary was that its application under section 80G(5) also deserved to be allowed. Order of the Tribunal directing the CIT (E) to grant approval under section 80G(5) of the Act is affirmed. SLP of the revenue dismissed.

CIT v. Dignity Education Society (2025) 481 ITR 222 / 307 Taxman 523 (SC)

Editorial : CIT(E) v. Dignity Education Society (2025) 481 ITR 217 /179 Taxman 373 (Chattisgarh)(HC)

1300 **S. 80G : Donation-Registration under section 12AA granted and subsisting-Entitled to approval for purposes of section 80G(5)(vi) [S. 12AA, 80G(5))vi)]**

Dismissing the appeal of the revenue, the Court held that since the assessee stood registered as charitable institution under section 12AA, the only corollary was that its application under section 80G(5) also deserved to be allowed. The order of the Tribunal directing the CIT (E) to grant approval under section 80G(5) of the Act is affirmed.

CIT(E) v. Dignity Education Society (2025) 481 ITR 217 /179 Taxman 373 (Chhattisgarh) (HC)

Editorial: CIT(E) v. Dignity Education Society (2025) 481 ITR 222/ 307 Taxman 523 (SC), SLP of revenue dismissed.

S. 80G : Donation-Renewal of approval under S. 80G(5)(vi) cannot be denied merely because an educational trust collects fees, incurs establishment expenses, or donates to other educational institutions lacking 80G approval, absent change in its charitable activities. [S.11, 80G(5)(vi) [S.80G(5)(vi)] 1301

Dismissing the appeal of the revenue the Court held that renewal of approval under S. 80G(5)(vi) cannot be denied merely because an educational trust collects fees, incurs establishment expenses, or donates to other educational institutions lacking 80G approval, absent change in its charitable activities. Court also observed that the routine expenses are not a defect, and the political-party donation point, if at all, should be dealt with by adjustment against S. 11(1) application rather than denying 80G. (AY. 2007-08)

CIT v. P.S. Ramasamy Telugu Minority Educational & Charitable Trust (2025) 306 Taxman 33 (Mad.)(HC)

S. 80G : Donation-Registration of institution-Renewal of registration-Assessee granted registration under Section 12AA-Amount utilized for construction of Public Library is for charitable purpose-Failure to file form 10B-Denial of renewal of registration on that ground is not justified-Directed the respondents to grant renewal of registration under section 80G(5)(vi) of the Act. [S. 2(15), 11, 12AA, 80G(5)(vi), Art. 226] 1302

The assessee was denied registration under section 80G(5)(vi) by the Commissioner of Income-Tax, Karnal (CIT). The commissioner declined the request on the ground that the petitioner-society was not carrying out any charitable activity as the genuineness of the donations and its use could not be proved. By relying on *Sonepat Hindu Educational and Charitable Society v. CIT [2005] 278 ITR 262 (P&H)(HC)* the court held that there has been no finding that the donations have been utilized for the purpose of profits, personal gain or any other purpose and it should not be discarded from seeking exemption merely on technicalities such as production of receipts/entries. No Finding was also recorded that the petitioner failed to carry out its aim and objects. Accordingly, the court granted the renewal of registration.

Mumukshu Mandal (Regd.) Shri Geeta Mandir v. CIT (2025) 473 ITR 452 (P&H) (HC)

S. 80G : Donation-Refusal of recognition-Registration u/s 12A not questioned-Mere suspicion on donations ancillary to objects not valid-Refusal of recognition under S. 80G(5) set aside.[S. 12A, 80G(5), Art. 226] 1303

Where the assessee-trust was already registered u/s 12A, the refusal of exemption u/s 80G on the ground that the trust donated funds to other trusts was held unsustainable. The High Court noted that the assessee had substantial gross receipts and had made donations to another trust also registered u/s 12A and eligible for s. 80G approval; mere suspicion on such donations ancillary to the trust's objects could not justify denial. The impugned order declining recognition under s. 80G(5) was therefore set aside.

Tilok Tirath Vidyavati Chhuttani Trust v. CIT (2025) 343 CTR 161 / 247 DTR 73 (P&H)(HC)

1304 **S. 80G : Donation-Deduction-Corporate Social Responsibility expenditure-Donation to approved institution-Allowable as deduction-Education cess-Not allowable as deduction-Dividend Distribution Tax-Not entitled to claim a lower rate of Dividend Distribution Tax under the DTAA, [S. 37(1), Expln. 2 40(a)(ii), 115-0, 234A, 234B, 234C)**
Corporate Social Responsibility expenditure, though not allowable as business expenditure under Explanation 2 to section 37(1), is eligible for deduction under section 80G where the donations are made to institutions registered under section 80G and the statutory conditions are fulfilled, since no corresponding restriction has been inserted in section 80G. The Tribunal accordingly directed the Assessing Officer to allow the deduction after factual verification. It was further held that the assessee was not entitled to claim a lower rate of Dividend Distribution Tax under the DTAA, the issue being covered by the Special Bench decision in Total Oil India P. Ltd. The Tribunal also held that, in view of the retrospective amendment by the Finance Act, 2022, education cess and secondary and higher education cess are not deductible under section 40(a)(ii). Levy of interest under sections 234A, 234B and 234C being consequential was upheld. (AY. 2015-16)
Ericsson India Global Services P. Ltd. v. Dy. CIT (2024) 160 taxmann.com 599 / (2025) 121 ITR 89 (SN) (Delhi)(Trib.)

1305 **S. 80G : Donation-Approval-Application under wrong sub-clause-Curable defect-Commissioner (Exemptions) must permit rectification-Approval cannot be denied for technical error-Duty of Officers to assist assesses in obtaining relief to which assessee entitled-CBDT Circular No. 14 (XL-35), dated 11-4-1955 [S.12A, 80G(5) S. 119)**
The assessee, a charitable institution registered under section 12A, inadvertently filed Form No. 10AB under the wrong sub-clause while seeking approval under section 80G(5). The Commissioner (Exemptions) rejected the application holding that the earlier provisional approval was invalid as the assessee had already commenced its activities. The Tribunal held that filing the application under an incorrect provision was only a curable procedural defect. Following CBDT Circular No. 14 of 1955, it observed that the tax authorities are under a duty to assist the assessee in securing the relief to which it is otherwise entitled and should have permitted rectification instead of rejecting the application on a technical ground. The CIT(E) was directed to treat the application as one filed under the correct provision and grant approval after satisfying himself regarding the genuineness of the activities and fulfilment of the statutory conditions.
IIT Ropar Technology Business Incubator Foundation v. CIT (E) (2025) 128 ITR 86 (Amritsar)(Trib).

1306 **S. 80G : Donation-Approval-Application for final approval-Application filed six months before expiry of provisional approval-Within limitation. General principles-Rules of procedure are intended to advance justice-Tribunal quashed the order and restored the matter to the CIT E) to consider the application on merits after granting an effective opportunity of hearing. [S.80G(5)]**
The assessee-trust, originally registered in 1980, was granted provisional approval under section 80G and thereafter applied in Form No. 10AB for regular approval before expiry of the provisional approval. The Commissioner (Exemption) rejected the application

as time-barred on the ground that the trust had commenced its activities long before obtaining provisional approval. The Tribunal held that the application was governed by the first limb of clause (iii) of the proviso to section 80G(5), as it had been filed at least six months before expiry of the provisional approval, and not by the provision relating to commencement of activities. Holding that procedural provisions are intended to advance justice and not to penalise a litigant, the Tribunal quashed the order and restored the matter to the CIT(E) to consider the application on merits after granting an effective opportunity of hearing. (AY. 2004-05)
Agrasain Bhawan Trust (Regd.) v. Dy. CIT (2025) 128 ITR 516 (Delhi)(Trib.).

S. 80G: Donation-Charitable as well as religious objects-Trust applies less than 5 per cent of its income towards religious purposes-Matter is restored to the CIT(E) to consider the grant of registration after carrying out necessary verification in accordance with law. [S.80G(5) 80G(5B), Expiation 3] 1307
Tribunal held that registration under S. 80G(5) cannot be denied to the assessee only on the ground that two of its objects are of "religious" nature when there are several other objects; since the CIT(E) did not call for the necessary details with regard to expenditure incurred by the assessee on religious purposes to ascertain whether such expenditure was within the 5 per cent exemption limit provided under S. 80G(5), matter is restored to the CIT(E) to consider the grant of registration under S. 80G afresh after carrying out necessary verification in accordance with law.
Vismruti Social & Charitable Trust v. CIT (E) (2025) 235 TTJ 590 / 172 taxmann.com 582 ((Ahd)(Trib)

S. 80G : Donation-Charitable or religious trust-Registration-Rejection of application-CIT (E)-Failure to deal with the material placed on the record-Order of CIT(E) is set aside.[S.80G(5)] 1308
Held that Assessee's detailed reply dt. 27th Nov., 2024, in response to the show-cause notice issued by the CIT(E), wherein the nature of the trust's activities, the interpretation of its object clause, and the absence of any religious activity or expenditure were specifically explained, was not considered by the CIT(E). Tribunal set aside the rejection of the assessee's application, and the matter is restored to the file of the CIT(E) for fresh adjudication in accordance with law.
Shri Umedkumari Mandir Trust v. CIT (E) (2025) 236 TTJ 737/ 175 taxmann.com 406 (Ahd)(Trib)

S. 80G : Donation-Recognition of institution, etc-CIT(E) has not brought any material on record to show that the activities of the assessee trust are not genuine or the conditions as specified above are not fulfilled by the assessee-trust-CIT(E) is directed to grant approval under s. 80G to the assessee-trust. [S.11, 12A, 80G(5)] 1309
Held that while dealing with application for grant of approval under s. 80G(5) the scope of enquiry by the CIT(E) extends only to examination of the genuineness of the activities of the trust/institution and the fulfillment of conditions laid down in cls. (i) to (v) of s. 80G(5) and not the actual computation of surplus; issue whether the receipts in the form of tuition and other fees and hostel fees do not fall under the definition

of donation are not at all relevant; CIT(E) is directed to grant approval under s. 80G to the assessee-trust.
Academy of Liberal Education v. CIT(E) (2025) 237 TTJ 366 / 176 taxmann.com 675 (Bang) Trib)

1310 **S. 80G : Donation-Medical relief to the poor in rural areas-Rejection of application by CIT(E) is set aside and directed to approve. [S.2(15), 80G(5)]**
Held that the medical facilities provided at nominal prices to the patients in rural areas are eligible to be a charitable activity. CIT(E) has erred in rejecting the application for approval. The rejection order was set aside, and the CIT(E) was directed to grant approval.
Matha Medical Centre Trust v. CIT(E) (2025) 237 TTJ 613 (Chennai)(Trib)

1311 **S. 80G : Donation-Composite charitable and religious trust-Approval cannot be denied if religious expenditure does not exceed 5%.-Matter was remanded. [S. 80G(5), 80G(5B)]**
The Tribunal held that even a composite trust having both charitable and religious objects is eligible for approval under section 80G where expenditure incurred for religious purposes does not exceed the limit prescribed under section 80G(5B). The mere existence of certain religious objects does not disentitle the trust from approval. Since the CIT (E) failed to examine the assessee's claim under section 80G(5B), the matter was restored for verification of whether the religious expenditure was within the statutory limit and for grant of approval accordingly.
Shree Sthanak Vasi Jain Sanghji Vrajpark v. CIT (E) (2025) 238 TTJ 327 (Ahd.)(Trib.).

1312 **S. 80G : Donation-Corporate Social Responsibility expenditure-Eligible donation-Deduction allowable-Receipts not produced-Matter remanded for verification.[S. 37(1)]**
The Assessing Officer denied deduction under section 80G on the ground that the donations formed part of Corporate Social Responsibility expenditure. The Tribunal held that Explanation 2 to section 37(1) merely prohibits deduction of CSR expenditure as business expenditure and does not bar deduction otherwise allowable under section 80G. Donations qualifying under section 80G are eligible for deduction notwithstanding that they also constitute CSR expenditure. The assessee claimed deduction under section 80G in respect of certain donations but failed to produce the supporting receipts before the Assessing Officer. The Tribunal restored the issue to the Assessing Officer for verification of the receipts and fulfilment of the statutory conditions for allowing the deduction. (AY. 2020-21).
Amway India Enterprises (P.) Ltd. v. NFAC (2025) 127 ITR 642 (Delhi)(Trib.)

1313 **S. 80G : Donation-Charitable institution-Registration-Application filed under wrong clause-Technical error not fatal-Registration directed.[S. 12AA, 80G(5)(vi)]**
The assessee, an existing charitable institution registered under section 12AA, applied for approval under section 80G in Form No. 10AB by mistakenly referring to the clause applicable to newly established institutions. The Tribunal held that the assessee fulfilled all the substantive conditions for grant of approval and that the application had been

filed within the extended time prescribed by the CBDT. A mere reference to the wrong clause could not defeat the substantive benefit. The Commissioner (Exemptions) was directed to treat the application as one filed under the appropriate clause applicable to existing institutions and grant regular registration under section 80G. (AY. 2024-25).
Society for Technology Business Incubator v. CIT (2025) 127 ITR 719 (Chd.)(Trib.)

S. 80G : Donation-Corporate Social Responsibility-Donation to approved institutions-Deduction cannot be denied merely because expenditure forms part of CSR activities. [S. 37, Companies Act, 2013, S. 135] 1314

The Assessing Officer denied deduction under section 80G in respect of donations made to approved institutions on the ground that they formed part of the assessee's Corporate Social Responsibility (CSR) expenditure. The Tribunal held that there is no statutory prohibition against allowing deduction under section 80G merely because the expenditure is disallowable as CSR expenditure under section 37. The matter was restored to the Assessing Officer to verify whether the statutory conditions for deduction under section 80G were fulfilled. (AY. 2017-18).
Honda Motorcycle and Scooter India Pvt. Ltd. v. Asst. CIT [2023] 153 taxmann.com 567 / (2025) 129 ITR 6 (Delhi)(Trib.)

S. 80G: Donation-Deduction-Corporate Social Responsibility expenditure-No bar to deduction if conditions of section 80G are fulfilled.[S. 37(1)] 1315

The assessee claimed deduction under section 80G in respect of donations forming part of its Corporate Social Responsibility (CSR) expenditure. The Assessing Officer and the Commissioner (Appeals) disallowed the claim on the ground that CSR expenditure was mandatory under the Companies Act, 2013 and could not be regarded as a voluntary donation. The Tribunal held that there is no correlation between the disallowance contemplated under Explanation 2 to section 37(1) and the deduction available under section 80G. The mandatory character of CSR expenditure does not disentitle an assessee from claiming deduction under section 80G if the statutory conditions are otherwise satisfied. Accordingly, the disallowance was deleted. (AY. 2020-21).
Cheil India (P.) Ltd. v. Dy. CIT [2024] 169 taxmann.com 507 / (2025) 122 ITR 194 (Delhi) (Trib.)

S. 80G: Donation-Corporate Social Responsibility (CSR) expenditure-Donation to charitable institution-Deduction allowable.-Appeal to Appellate Tribunal-Co-ordinate Bench decision-Binding precedent.[S. 254(1)] 1316

The assessee claimed deduction under section 80G in respect of donations made towards its Corporate Social Responsibility (CSR) obligations. The Assessing Officer disallowed the claim and the Commissioner (Appeals) confirmed the disallowance. The Tribunal held that the issue was squarely covered by the decision of the co-ordinate Bench in Interglobe Technology Quotient (P.) Ltd. v. Asst. CIT (2024) 114 ITR 611(Delhi)(Trib.), wherein it was held that CSR donations otherwise qualifying under section 80G are eligible for deduction. Following the binding precedent, the disallowance was deleted. (AY. 2018-19).
Ratna Sagar (P.) Ltd. v. Asst. CIT (2025) 122 ITR 18 (Delhi)(Trib.)

1317 **S. 80G : Donation-Corporate Social Responsibility expenditure-Deduction under section 80G allowable notwithstanding disallowance under section 37(1).[S. 37(1), Expln. 2]**
The Assessing Officer denied deduction under section 80G on the ground that the contribution formed part of Corporate Social Responsibility expenditure and was not allowable under Explanation 2 to section 37(1). The Tribunal held that the prohibition contained in Explanation 2 to section 37(1) is confined to computation of business income and does not bar a deduction otherwise admissible under section 80G. Since the donations did not fall within the statutory exclusions contained in section 80G(2)(a), the assessee was entitled to deduction under section 80G. (AY. 2018-19).
Mankind Pharma Ltd. v. Dy. CIT [2024] 162 taxmann.com 235 / (2025) 125 ITR 263 (Delhi)(Trib.)

1318 **S. 80G: Donation-Rejection of application was set aside-Matter was remanded to the file of CIT(E) to examine the accounts of three preceding years-In case there are no expenses exceeding 5 per cent on religious activities, approval under s. 80G(5) is allowable to the assessee if the assessee fulfils all other conditions. [S.11AA(2)(g), 12A, 12AB, 80G(5)]**
CIT(E) rejected the assessee's application for regular approval under S. 80G(5) by holding that it is not purely a charitable trust, without recording any finding that there is a violation of R. 11AA(2)(g). Tribunal restored back to the CIT(E) to examine the accounts of three preceding years; in case there are no expenses exceeding 5 per cent on religious activities, approval under s. 80G(5) is allowable to the assessee if the assessee fulfils all other conditions.
Shri Navsari Modh Vanik Panch v. CIT (E) (2025) 234 TTJ 328/ 175 taxmann.com 822 (Surat) (Trib)

1319 **S. 80G : Donation-Knowledge based spiritual programs-Promote high moral values and not rituals or religious practices-Rejection of application by CIT E) was set aside for re-examination. [S.80G(5)(iii)]**
CIT E) rejected the application for registration on the ground that the objects of the trust deed were found to be religious in nature. Tribunal held that the object is organising knowledge-based and spiritual programs intended to promote high moral values, and not rituals or religious practices. The matter was to be remanded for re-examination.
Prayatna Charitable Trust v. CIT(E) (2025) 215 ITD 26 (Ahd) (Trib.)

1320 **S. 80G: Donation-Mentioning wrong code-Rectified by filing another Form 10AB-Rejection application by CIT E) was set aside. [S.80G(5), Form No 10AB]**
CIT(E) rejected the application for registration on the ground that the assessee had mentioned the wrong code in the original application, though the assessee rectified the same by filing another Form 10AB, within the time extended by CBDT Circular No. 7 of 2024 dated 25-4-2024 and even before the original form was considered and an order passed by CIT(E). Tribunal set aside the order of CIT(E) directed to consider assessee's application seeking approval under section 80G(5)
Radhe Krushna Gau Sala Trust v. CIT(E) (2025) 215 ITD 32 (Ahd) (Trib.)

S. 80G: Donation-Rejection of application on the ground that the objects were religious and it had expended more than 5 per cent of its income on religious activities without considering the assessee's explanation of the assessee-Matter was remanded to the file of CIT E) for fresh examination of submission and grant approval if found eligible. [S.80G(5), 80G(5B)] 1321

CIT(E) rejected the application of the assessee-trust for grant of approval under section 80G(5) on the ground that its objects were religious in nature and it had expended more than 5 per cent of its income on religious activities, which was a clear violation of provisions of sections 80G(5) and 80G(5B). On appeal, the Tribunal held that since CIT(E) had not considered assessee's explanation pointing out the inapplicability of section 80G(5B) to the facts of the case, the matter was to be remanded back to him for fresh examination of the assessee's submissions and grant of approval, if found eligible.
Sthanakvasi Jain Sangh Jivrajpark v. CIT (2025) 215 ITD 213 (Ahd) (Trib.)

S. 80G: Donation-Rejection of application-Claimed exemption in earlier years-Claiming exemption in prior years does not debar a trust from seeking approval under section 80G(5)-Rejection order was quashed. [S.11, 80G(5)(iv)(B)] 1322

CIT(E) rejected the application seeking approval under section 80G(5) on the ground that assessee had already claimed exemption of its income under section 11 in earlier assessment years, and thus, its case did not fall within the ambit of section 80G(5)(iv)(B). Tribunal held that since the amendment brought by the Finance Act, 2024, only clarifies that claiming exemption in prior years does not debar a trust from seeking approval under section 80G(5), the rejection order was quashed by CBDT Circular No. 1/2024 dated 23-1-2024.
Akshat Education and Charitable Trust v. CIT (2025) 214 ITD 483 (Ahd) (Trib.)

S. 80G: Donation-Delay in filing application-Order of CIT(E) rejection of application was set aside and directed to treat application as having been filed under clause (iv)(B) of first proviso to section 80G(5).[S. 80G(5)(iv)(B)] 1323

Assessee charitable/religious trust, having been granted provisional registration under section 80G(5) for a period of three years, filed an application on 31-7-2024 for the grant of approval under section 80G(5). CIT(E) rejected as not maintainable on the ground that the application was filed after the cut-off date of 30-6-2024 prescribed by CBDT Circular No.7/2024 dated 25-4-2024. Tribunal held that section 80G had been amended by insertion of clause (iv) in first proviso to section 80G(5) by Finance Act, 2024 with effect from 1-10-2024 to enable assessee trust to apply for approval under section 80G(5) at any time after commencement of its activities, since order of CIT(E) rejecting application was passed on 27-1-2025 after amendment had come into force, order was set aside and CIT(E) was directed to treat application filed on 31-7-2024 as having been filed under clause (iv)(B) of first proviso to section 80G(5) and decide same in accordance with law. (AY. 2025-26)
Foundation for Friendly Environment & Medical Awareness v. CIT (E) (2025) 215 ITD 410 (Chennai) (Trib.)

1324 **S. 80G: Donation-Promoting education in Gujarat-Company not-for-profit-Rejection of application by CIT(E)-Order of rejection was set aside, and the matter was restored to the file of CIT(E), with a direction to examine assessee's application afresh on merits in accordance with law. [S. 11,1 2, Companies Act, 2013, S. 8, Form 10AB, R. 11AA]**

Assessee sought approval to enable donors to claim a deduction under section 80G. It had earlier been granted provisional approval under clause (i) via Form No. 10AC, valid from Assessment Year 2022-23. On 30.06.2024, it filed an application in Form No. 10AB seeking approval under clause (iii). CIT(E) rejected the application without going into the merits, recording that an existing approval under clause (i) via Form No. 10AC was valid from Assessment Year 2022-23 and concluding that fresh application under clause (iii) was non-maintainable. On appeal the Tribunal held that on a plain reading of statutory provisions and Rule 11AA, assessee's earlier approval in Form No. 10AC was provisional and was valid only for a limited period, and law specifically mandates that such provisional approval must be followed by a fresh application in Form No. 10AB for regular approval under clause (iii) once activities have commenced or before expiry of the provisional period. Therefore, the assessee's application was both proper and maintainable under the scheme of the Act, and the reasoning of CIT(E) that the existence of provisional approval rendered the fresh application redundant was contrary to the intent and framework of the amended law. Further, since CIT(E) denied an effective opportunity to be heard to the assessee, it amounted to a violation of principles of natural justice. Accordingly, the order was set aside, and the matter was restored to the file of CIT(E), with a direction to examine the assessee's application afresh on merits in accordance with law.

Niravadya Foundation v. CIT(E) (2025) 215 ITD 446 (Ahd) (Trib.)

1325 **S. 80G: Donation-Wrong clause-Rejection solely on this basis was improper since an opportunity to rectify, or suo motu consideration under the correct clause, should have been provided. The presence of an object enabling application of funds outside India does not bar 80G registration if eligibility otherwise exists.[S. 12A, 80G(5), Form No 10AB]**

Assessee, a charitable trust engaged in education and sports promotion, held registration under section 12A and had been granted provisional approval under section 80G valid up to Assessment Year 2024-25. It filed Form 10AB seeking regularisation of provisional approval, but in the first application, it mistakenly mentioned clause (ii) instead of clause (iii) of the first proviso to section 80G(5). CIT(E) rejected the first application as non-maintainable on that ground. Assessee then filed a fresh application under the correct clause, which CIT(E) rejected as not filed within the prescribed time, and not examined on merits. On appeal, the Tribunal held that mere mention of the wrong section could not be a ground for rejecting registration under section 80G unless the assessee was otherwise not eligible. The Tribunal further held that the CIT(E) ought to have allowed the assessee to rectify the mistake i.e. mentioning of the appropriate clause, or even could have suo motu passed an order treating said application under the relevant clause in section 80G(5). Tribunal also held that having an object clause in the trust deed which enables potential application of funds outside India was not a condition under section 80G(5), and therefore, the same could not be a reason for

denial of registration under section 80G if assessee was otherwise eligible. Accordingly, the matter was remitted back to CIT(E) to consider the application for registration under section 80G on merits by calling for relevant details and to consider the same in accordance with the law. (AY. 2026-27)
Nilesh Kulkarni Foundation v. CIT(E) (2025) 215 ITD 524 (Mum) (Trib.)

S. 80G: Donation-Corporate Social Responsibility (CSR) funds-Eligible for deduction. 1326
Held that the Assessee would be eligible for claim of deductions under section 80G for eligible donations made out of its Corporate Social Responsibility (CSR) funds, if stipulated conditions of section 80G were duly satisfied.(AY. 2020-21)
Hemani Industries Ltd. v. PCIT (2025) 214 ITD 520 (Mum) (Trib.)

S. 80G : Donation-Welfare trust-38.53% of income was spent on religious activities, exceeding the 5% limit, and it failed to provide evidence of charitable activities like education or health-Rejection of application by CIT(E) was justified.[S.80G(5)(iii)] 1327
Assessee-trust made an application for approval under section 80G(5)(iii), claiming that it was a non-religious, welfare-oriented organisation. CIT(E) rejected said application and also cancelled provisional registration on ground that the trust was a religious trust, and it had integrated religious instances over and above 5 per cent of total income in violation of section 80G(5)(iii). On appeal the Tribunal held that as per requirement of section 80G(5)(iii), only 5% religious expenditure is allowable but in assessee's case, said religious expenditure was almost 38.53% and assessee had accepted that trust was promoting certain religious activities without giving any supporting evidences to substantiate activities such as education expenditure, health expenditure, as mentioned in clause of trust deed and trust had also not given any details related to expenditure incurred on actual charitable purposes. Further, assessee had not given any details about educational, health or environmental institutions which were run by the trust for charitable purposes and which were beneficial to society at large without any distinction of religion, caste, creed or gender. Accordingly, the order of the CIT(E) rejection of the application was affirmed.
Yuva Gayatri Pariwar Trust v. CIT(E) (2025) 214 ITD 570 (Ahd) (Trib.)

S. 80G: Donation-Rejection of application-Selection of wrong code-Principles of natural justice-Matter was to be remitted to CIT(E) with direction to consider application as filed under correct clause and consider it afresh on merits. [S.80G(5), Form No 10AB] 1328
CIT(E) rejected the application on the grounds of incorrect selection of a clause in Form 10AB. Tribunal held that due to technical difficulties and absence of opportunity of being heard, it constituted a violation of principles of natural justice. Accordingly, the matter was remanded to CIT(E) with a direction to consider the application as filed under the correct clause (iii) and decide afresh if the assessee was otherwise eligible.
Shree Fofaria Family Charitable Trust v. CIT (2025) 214 ITD 744 (Ahd) (Trib.)

1329 **S. 80G: Donation-CSR expenditure-Entitled to deduction even if the amount was donated under CSR expenses.[S.37(1), 80G(2)(iiihk), 80G(2) (iiihI), Companies Act, 2013, S.135]**

Assessee made a donation of Rs. 3 crore to a charitable institution under its CSR initiative and claimed a deduction of 50 per cent of the same under section 80G. Assessing Officer disallowed the same on the ground that as per section 135 of the Companies Act, 2013, expenditure under CSR was mandatory and, thus, same could not be allowed as deduction under section 80G. CIT(A) affirmed the order of the Assessing Officer. On appeal the Tribunal held that since it is specifically mentioned in section 80G that no deduction is allowable in two instances namely; contribution towards Swachh Bharat Kosh (Clean India Fund) and Clean Ganga Fund, CSR expenditure is not allowable under section 80G(2)(a)(iiihk) and (iiihl), however, provisions of section 80G are not applicable to other CSR expenditure. Thus, the assessee would be entitled to a deduction under section 80G even if the amount was donated under CSR expenses. (AY. 2018-19)

SREI Equipment Finance Ltd. v. CIT (Appeals) (2025) 214 ITD 769 (Kol) (Trib.)

1330 **S. 80G: Donation-Error in filing of Form 10AB-Matter remanded back for de novo consideration [S 11, 12, 80G(5)(iv)(B)]**

Tribunal held the CIT(E) was not justified in rejecting the application for approval due to an inadvertent error in filing of Form 10AB, wherein the application was made under incorrect sub-clause (B) of clause (iv) of first proviso to subsection (5) of section 80G instead of clause (iii) of the first proviso to subsection (5). The matter was remanded back to Commissioner (E) for de novo consideration.

Aatman Foundation v. CIT (E) (2025) 213 ITD 8 (Ahd) (Trib)

1331 **S. 80G: Donation-Medical relief-Medical facilities-Lab testing facility-Charitable activity-Eligible for approval.[S. 2(15), 11, 80G(5)]**

Allowing the appeal against the rejection of the application by CIT E) the Tribunal held that medical facilities provided at nominal prices to patients in rural areas were eligible to be a charitable activity for considering it as medical relief as per section 2(15). The CIT(E) had erred in rejecting the application for approval under section 80G by stating that the activity of the trust was commercial in nature.

Matha Medical Centre Trust v. CIT (E) (2025] 213 ITD 76/237 TTJ 613 (Chennai) (Trib.)

1332 **S. 80G: Donation-Non-compliance on notices-Failure to give sufficient opportunity-Matter remanded to CIT (E). [S.11, 12A, 80G(5)]**

CIT(E) rejected applications for registration under section 12A and 80G on the ground of non-compliance with notices by the assessee. On appeal, the Tribunal held that since assessee was not given a proper and sufficient opportunity to explain its case, the matter was to be remanded to provide one more opportunity to the assessee.

Sai Seva Sansthan v. CIT (2025) 213 ITD 12 (Lucknow) (Trib.)

S. 80G: Donation-Bona fide error-Selecting sub-clause (iv) instead of sub-clause (ii)-Matter was remanded to the CIT(E) to grant approval. [S.10(23C), 11, 12, 80G(5)(iv)(B), Form 10AB] 1333

Assessee-trust, while submitting an application for approval under section 80G in Form 10AB, made a bona fide error of selecting sub-clause (iv) instead of sub-clause (ii) of the proviso to section 80G(5). On appeal, the Tribunal remitted back to CIT(E) to consider the application under clause (ii) and thereafter grant approval accordingly, if the assessee was otherwise found eligible.

Senior Citizen Council Gandhinagar v. DCIT (2025) 213 ITD 16 (Ahd) (Trib.)

S. 80G: Donation-University-Approved under section 10(23C)(vi)-Nature of activities of assessee being charitable in nature could not be disputed while granting approval under section 80G(5)-Order of Commissioner rejecting the application was quashed and set aside. [S.10(23C)(vi, 80G(5)] 1334

Assessee, a private university, was established under the Telangana State Private Universities (Establishment and Regulation) Act, 2020. Assessee was allowed said recognition solely for the reason that the charitable activity of education was to be carried out by it. Assessee was approved under section 10(23C)(vi). The assessee filed an application for approval under section 80G(5) of the Act. CIT(E) denied approval on the ground that assessee failed to produce proof of expenditure to establish the charitable nature of its activities. On appeal, the Tribunal held that the assessee had a campus spreading over 107 acres of land wherein more than 4000 students were enrolled, and 240 faculty members were working to provide education to students. Since the assessee had satisfied the conditions for grant of approval under section 10(23C)(vi), the nature of activities of the assessee being charitable in nature could not be disputed while granting approval under section 80G(5) unless it was found that the assessee had carried out activities in contrary to the objects or activities of the assessee were found to be not genuine. Since CIT(E) had summarily rejected the application without giving a definite finding of fact, the matter was to be remanded back to CIT(E) for reconsideration of the application. Matter remanded. (AY. 2025-26)

Mahindra University v. CIT (E) (2025) 213 ITD 153 (Hyd) (Trib.)

S. 80G: Donation-Delay of 27 days in filing application for registration-Delay condoned and matter was remanded back to CIT (E) for fresh adjudication. [S. 12A] 1335

CIT(E) rejected assessee's application for grant of approval under section 80G on the ground that assessee did not have valid registration under section 12A, the application was filed belatedly, and full details of activities, beneficiaries and expenses were not furnished. Tribunal held that there was a minor delay of 27 days in light of CBDT Circular No. 7/2024, dated 25-4-2024, extending the date for such application; the issue was to be remanded back to CIT (E) for fresh adjudication (AY. 2025-26)

Baburao Chandere Social Foundation v. CIT (2025) 213 ITD 433 (Pune) (Trib.)

1336 **S. 80G: Donation-Scope of enquiry-While dealing with application for grant of approval under section 80G scope extends only to satisfaction of genuineness of activities of such trust/institutions and fulfilment of all conditions laid down in clauses (i) to (v) of section 80G(5)-It does not cover examination of surplus accumulation or its utilization-Rejection of application was set aside.[S.12A, 80G(5)]**

Assessee-trust was registered under section 12A. It applied for approval under section 80G. CIT(E) rejected the application on the ground that the assessee-trust reported surplus every year, which was not utilised towards charitable purposes, and it had been accumulated in FDs and received interest income. On appeal, the Tribunal held that the scope of enquiry by CIT(E) while dealing with an application for grant of approval under section 80G extends only to satisfaction of genuineness of activities of such trust/ institutions and fulfilment of all conditions laid down in clauses (i) to (v) of section 80G(5) and not actual computation of surplus. Since the activities of the assessee-trust were genuine and it fulfilled all conditions for approval under section 80G. CIT (E) was directed to grant approval under section 80G of the Act.

City Hospital Charitable Trust v. CIT (E) (2025) 213 ITD 399 (Bang) (Trib.)

1337 **S. 80G : Donation-CSR expenses-allowable as a deduction. [S. 37(1)]**

Held that the contribution as CSR expenses is allowable as a deduction. (AY. 2012-13)

DCIT v. Hinduja Global Solutions Ltd. (2025) 213 ITD 453 (Mum) (Trib.)

1338 **S. 80G: Donation-Granted registration under section 12AB-Application for approval under section 80G(5) cannot be denied-Matter remanded. [S.80G(5)]**

The Assessee filed an application for approval under section 80G(5). CIT (E) denied approval on the ground that no substantial charitable activities were being carried out by the assessee-trust. On appeal, the Tribunal held that CIT(E) had not discussed the record filed by the assessee showing activities carried out by it as well as the record filed by the assessee at the time of seeking registration under section 12AB. Tribunal held that since the assessee had already been granted registration under section 12AB and had also responded to notices issued by CIT€, the matter was to be remanded to CIT(E) for reconsideration of the application for approval under section 80G(5) of the Act (AY. 2025-26)

Veedhi Balala Sneha Sangam v. CIT (2025) 213 ITD 541 (Hyd) (Trib.)

1339 **S. 80G: Donation-Wrong selection of section code/clause in application-Rejection of application was set aside. [S.80G(5), Form No.10AB]**

CIT(E) rejected the application on the ground that the assessee had selected the wrong section code while e-filing Form No. 10AB. On appeal, the Tribunal held that the wrong selection of the section code/clause would not disentitle the assessee to its rightful claim and could not be treated as fatal to proceedings initiated after the filing of the application. The matter was remanded to the file of CIT(E) with the direction to grant an opportunity to rectify the mistake and to decide on the merits.

Abhinav Shikshan Sanstha v. CIT (2025) 213 ITD 619 (Pune) (Trib.)

S. 80G: Donation-Time limit-Delay in filing of Form No 10B-CIT (E) rejected application on the ground that it was beyond the time limit prescribed for filing of Form No. 10AB-Commencement of activity-Matter was to remanded to CIT (E) for reconsideration of application on merits.[Form No 10AC] 1340

Assessee was granted provisional registration/approval in Form No. 10AC on 22-6-2022, valid from assessment year 2023-24 to 2025-26. The assessee filed an application in Form No. 10AB seeking regular approval under section 80G on 30-9-2024, which was rejected by the CIT (E) on the ground that the assessee had made an application in Form 10AB beyond the time limit prescribed by the Finance Act, 2020 and Circular No. 7 of 2024. Tribunal held that the assessee had stated that it commenced its charitable activity with effect from the date of its registration, i.e. 22-6-2016; therefore, when the activities of assessee were commenced before provisional registration granted on 22-6-2022, then the limitation reckoned from the commencement of activity became irrelevant. The matter was remanded to the record of CIT(E) for reconsideration of the assessee's application for grant of regular registration/approval under section 80G on merits by considering all relevant facts, details and record.

KMV Foundation v. CIT(E) (2025) 213 ITD 582 (Hyd) (Trib.)

S. 80G : Donation-Provisional registration-Delay in filing Form No. 10AB-Technical glitch-Tribunal and CIT(E) empowered to condone the delay-Mere enabling clause to apply funds outside India cannot be ground to reject registration-Delay condoned-Matter restored to CIT(E) for fresh consideration on merits. [S. 11(1)(c), 12A(1)(ac)(iii), 80G(5)(iii), Form No. 10AB] 1341

The assessee, is a charitable company registered under the Companies Act, was granted provisional registration under section 80G on 09.02.2022, valid up to A.Y. 2024-25. The assessee filed Form No. 10AB for regular registration on 03.08.2024, i.e., 33 days after the extended due date of 30.06.2024. The CIT(E) rejected the application as time-barred and further observed that certain clauses in the Memorandum of Association permitted application of funds outside India, allegedly violating section 11(1)(c). The assessee submitted that it was a small organisation without a full-time accountant and the delay occurred due to technical glitches on the income-tax portal. It also produced an affidavit and board resolution showing that steps had been initiated to amend the Memorandum to remove the offending clauses. The Tribunal observed that the assessee had filed Form No. 10AB before the end of A.Y. 2024-25 and, even assuming a delay, sufficient cause was shown. Relying on *Swachh Vapi Mission Trust v. CIT(E) (2024) 160 taxmann.com 657 (Surat)(Trib.)* and *Saaksh Foundation v. CIT(E) (2024) 162 taxmann.com 474 (Mum)(Trib.)*, it was held that technical difficulties constitute reasonable cause and delay can be condoned to advance substantial justice. The Tribunal noted that it is the final fact-finding authority under section 254(1) and has power to condone such delay. After insertion of the proviso to section 12A(1)(ac)(iii) by the Finance (No. 2) Act, 2024 w.e.f. 01.10.2024, even the CIT(E) is empowered to condone such delay. It was further held that mere inclusion of enabling clauses authorising application of funds outside India cannot be a ground to reject registration, particularly when the assessee has taken steps to amend its Memorandum. Such issues may be examined at the assessment stage. Accordingly, the delay of 33 days was condoned and the matter restored to the

CIT(E) for fresh consideration on merits and to verify whether the amendment to the Memorandum has been duly effected. (Followed: *Vaishya Welfare Gaushala v. UOI (2024) 167 taxmann.com 582 (Chh.)(HC); Sitaldas K. Motwani v. DGIT (2010) 323 ITR 223 (Bom)(HC); K.P. Varghese v. ITO (1981) 131 ITR 597 (SC))*. (A.Y. 2024-25) (ITA No. 2617/Mum/2025, dt. 14.10.2025)
Mohanji Bharat Welfare Foundation v. CIT(E) (Mum.)(Trib.) [www.itatonline.org]

1342 **S. 80G: Donation-Some objects were religious in nature-Not incurred any expenditure which was of religious nature-Mere use of words 'religious' or 'religion' in few objects of trust deed would not mean that trust was not for charitable purpose but was for religious purpose. [S.80G (5), Form No 10AB]**
Assessee-trust filed an application for registration under section 80G. Commissioner (E) rejected the same on the ground that some objects of the assessee-trust were religious in nature; hence, assessee-trust was not established only for charitable purposes. On appeal, the Tribunal held that since assessee-trust had not incurred any expenditure which was of a religious nature, mere use of words 'religious' or 'religion' in a few objects of the trust deed would not mean that the trust was not for charitable purposes but was for religious purposes. The matter was remanded back to the Commissioner (E) to carry out verification as to whether 5 per cent of the total income of the assessee-trust was spent for religious purposes and thereafter to consider grant of registration in accordance with law.
Shree Mahavideh Charitable Trust v. CIT (E) (2025) 212 ITD 587 (Surat) (Trib)

1343 **S. 80G: Donation-Deduction of 50% of CSR expenses-Receipts produced-Claim allowed [S. 37(1)]**
The assessee disallowed CSR expenses under section 37(1) and claimed deduction under section 80G at 50% of the amount donated. The AO rejected the claim, but the Tribunal held that since valid donation receipts were produced, deduction under section 80G was allowable. (AYs. 2018-19 to 2020-21)
DCIT v. Gabriel India Ltd. (2025) 212 ITD 468 (Mum)(Trib.)

1344 **S. 80G : Donation-Rejection of application-Non-service of notice-Matter remanded [S. 80G(5), 282]**
The Commissioner (E) rejected the assessee's application for 80G registration citing non-compliance with notices issued through the portal. The Tribunal held that no notice was served by email or post, nor was proper communication made. The matter was remanded for fresh consideration on merits.
Sharan Foundation v. CIT (2025) 212 ITD 463 (Amritsar)(Trib.)

1345 **S. 80G: Donation-Issue linked with registration u/s 12A-Matter remanded.[S.12A]**
The assessee-trust's application for registration u/s 80G was rejected by the Commissioner (E). Since the Tribunal had already remanded the assessee's application for registration u/s 12A to the Commissioner (E) for reconsideration, it held that the approval u/s 80G, being dependent on 12A registration, must also be reconsidered. Held, issue of 80G approval remanded along with 12A registration. (AY. 2024-25)
Nanchahal Family Memorial Trust v. CIT (E) (2025) 212 ITD 372 (Delhi)(Trib.)

S. 80G: Donation-Receipt of school bus fees, tuition fees and exam fees-Registration was granted-Approval under section 80G cannot be denied. [S. 2(15),11, 12, 12A, 13] 1346

Assessee-trust was established for charitable purposes. It received school bus fees, tuition fees and exam fees. Commissioner (E) held that since said receipts did not fall under the definition of donation, assessee-trust was not eligible for approval under section 80G. On appeal, the Tribunal held that at time of granting approval under section 80G, authority had to satisfy herself that charitable institution was established in India for charitable purposes and that activities of assessee-trust were genuine. However, Commissioner (E) had not brought any material on record to show that assessee-trust activities were not genuine. Mere fact that assessee received school bus fees, tuition fees and exam fees, approval under section 80G could not be denied, specially when it was established for charitable purposes within meaning of section 2(15) and registration under section 12A had already been granted. Provisions of section 11 and 12 along with section 13 including application of fund collected by a charitable organization were to be examined during the course of assessment proceedings and not at the time of granting approval under section 80G. Tribunal has directed the Commissioner (E) to grant approval under section 80G of the Act. (AY. 2024-25)

Anugraha Education Trust v. CIT (2025) 212 ITD 520 (Bang) (Trib.)

S. 80G : Donation-Failure to furnish documents-Opportunity to be given. [S. 254(1), Form No 10AB] 1347

The assessee filed an application in Form 10AB for approval u/s 80G. Commissioner (E) rejected it due to failure to submit crucial documents like intent letter for corpus donation, though the assessee had substantially complied with earlier notices. Tribunal observed that in the interest of justice, one more opportunity should be given to furnish missing documents. Matter remanded to Commissioner (E) for fresh decision.

Sultankhan Educational Trust v. CIT (2025) 212 ITD 376 (Pune)(Trib.)

S. 80G : Donation-Failure to file reply to discrepancies-Matter is remanded back Commissioner (Exemption) to grant one more opportunity of hearing. [S.11, 12A, 80G(5), Form No. 10AB] 1348

Assessee-trust, running educational institutions, made an application in Form 10AB under sub-clause (B) of (iv) of first proviso to sub-section (5) of section 80G. Commissioner (E) held that assessee had regular registration under section 12A since 1994 and thus, provisions of sub-clause (B) of (iv) of first proviso to sub-section (5) of section 80G would not be applicable. CIT(E) issued notice to assessee with respect to certain discrepancies. However, assessee did not file any reply. Commissioner (E) rejected application for grant of approval under section 80G. On appeal the Tribunal held that since assessee did not furnish any explanation to discrepancies communicated to it, matter is remanded back to Commissioner (E) to give one final opportunity to assessee to substantiate its case by filing requisite details.

Dr. Vikhe Patil Foundation v. CIT (E) (2025) 212 ITD 57 (Pune) (Trib.)

1349 **S. 80G : Donation-Provisionally approved-Inadvertent and clerical error-Matter remanded to Commissioner (E) to grant an opportunity to assessee to file revised application under clause (iii) of first proviso to section 80G(5). [S.80G(5)]**

Assessee-trust was provisionally approved under section 80G. It filed an application for approval under clause (ii) of first proviso to section 80G(5). Commissioner (E) rejected said application on ground that assessee was required to file application under clause (iii) of first proviso to section 80G(5). On appeal the Tribunal held that since error committed by assessee was merely inadvertent and clerical, matter hence the matter is remanded to Commissioner (E) to grant an opportunity to assessee to file revised application under clause (iii) of first proviso to section 80G(5).(AY. 2025-26)

Subharma Charitable Trust v. CIT (E) (2025) 212 ITD 44 (Mum) (Trib.)

1350 **S. 80G : Donation-Wrongly applied for provisional registration under new regime-Matter remanded to the Commissioner (E) for de novo adjudication. [S.80G(5),Form No.10AB]**

Assessee-trust was granted provisional registration under sub-clause (A) of clause (iv) of first proviso to section 80G. Assessee filed an application in Form No.10AB under clause (ii) of first proviso to section 80G(5) seeking approval under section 80G. Commissioner (E) rejected application on ground that application was filed under wrong section. On appeal the assessee contended that it was registered under section 80G since its incorporation and wrongly applied for provisional registration under new regime. Tribunal held that since assessee was already an approved trust, application was rightly made by assessee under clause (ii) of first proviso to section 80G(5), and grant of provisional approval could not be sole basis for rejecting same.Matter is remanded to Commissioner (E) for de novo adjudication.(AY. 2025-26)

Sheth Vijilal Laxmidas Tribvondas Kesar Bai Jijilal Poona Convalcent Home v. CIT (2025) 212 ITD 205 (Mum) (Trib.)

1351 **S. 80G : Donation-Registration-Mentioning of wrong section-Matter is remanded to the file of CIT(E) with a direction to grant final approval to assessee under clause (iii) of the first proviso to section 80G(5), if assessee was otherwise found eligible.[S.80G(5), Form 10AB]**

The assessee filed an application for final registration under section 80G(5). Commissioner (E) rejected the said application on the ground that assessee was not fulfilling the stipulated conditions prescribed for filing an application for approval in Form 10AB. On appeal, the assessee submitted that it had inadvertently mentioned the wrong section as sub-clause (B) of clause (iv) of the first proviso to sub-section (5) of section 80G instead of clause (iii) of the first proviso to sub-section (5) of section 80G. Further, the assessee did not have an opportunity of being heard before the Commissioner (E) due to incorrect advice, which otherwise assessee might have explained facts to avoid the impugned rejection. Tribunal set aside the order of the CIT(E) and directed the CIT (E) to grant final approval to assessee under clause (iii) of the first proviso to section 80G(5), if the assessee was otherwise found eligible. (AY. 2024-25)

Rotary Charity Trust v. CIT (2025) 211 ITD 297 (Mum) (Trib.)

S. 80G : Donation-Rejection of application-Violation of natural justice-Matter is remanded back to CIT(E). [S.80G(5)(iv)(B)] 1352

Assessee-trust had applied for registration under section 80G of the ACT. Commissioner (E) rejected the assessee's application on a technical ground that the application was not filed under the correct provisions of the Act. On appeal, the Tribunal held that necessary information sought was duly submitted by the assessee from time to time, since the principle of natural justice had been violated by taking action against assessee without confronting it about the reasons for such rejection. Matter is remanded to CIT(E) to decide the issue in accordance with law. (AY. 2024-25)

Bhagwan Mahaveer Jain Relief Trust v. CIT(E) (2025) 211 ITD 454 (Raipur) (Trib.)

S. 80G : Donation-Cancellation of approval-Details of FCRA funds utilization for assessment years 2021-22 to 2023-24 to meet out its objects-Cancellation of registration is set aside. [S.80G(5)] 1353

Commissioner (E) cancelled approval under section 80G(5) granted to assessee-trust on ground that funds of assessee-trust were lying idle year-to-year in bank accounts/FDRs without its actual utilization. On appeal the assessee contended that funds were being utilized for objects of assessee-trust. Tribunal held that the assessee trust had placed on record details of FCRA funds utilization for assessment years 2021-22 to 2023-24 to meet out its objects by complying with statutory requirements under Act. Order of cancellation is set aside.

Tiger Research and Conservation Trust. v. ITO (2025) 211 ITD 441 (Nagpur) (Trib.)

S. 80GGB: Contribution-Companies-Political parties-Remanded to the file of the Assessing Officer for verification. [Finance Act, 2017, Companies Act, 2013, S. 182] 1354

Assessee made a political contribution of Rs. 2 crores to BJP and claimed the entire amount as a deduction under section 80GGB-Assessing Officer restricted deduction to Rs. 15.51 lakhs. Commissioner (Appeals) restricted deduction under section 80GGB to Rs. 23 lakhs, being 7.5 per cent of average net profits of the immediately preceding three financial years. On appeal, the Assessee contended that the restriction of 7.5 per cent of average net profits was no longer applicable as the Finance Act, 2017, with effect from 31.03.2017, deleted the first proviso to section 182 of the Companies Act, 2013, which restricted political contribution to 7.5 per cent of average profits of the immediately preceding three financial years. Tribunal considering the section 80GGB and amendments to the Companies Act, 2013, the issue was remanded to the file of the Assessing Officer to allow deduction under section 80GGB in accordance with prevailing law. (AY. 2018-19)

Centum Finance Ltd. v. DCIT (2025) 213 ITD 269 (Delhi) (Trib.)

S. 80GGC : Contribution-Any person-Political parties-Political party not genuine, not existing online, not responding to official notices, not filing required financial reports to the Election Commission for several years, and its own return showing nil contributions received-No certified documents furnished-Political party an unrecognised political party-Deduction rightly disallowed. [S. 133(6)] 1355

Assessee claimed deduction under section 80GGC of Rs. 50 lakhs, being nearly half of his GTI of Rs. 1,08,83,909, towards contribution to a political party which, on

verification under section 133(6), was found untraceable online, non-responsive to notices, and had not filed required financial reports or Form 24A to the Election Commission for seven years, and whose own return showed nil voluntary contributions received during the year, leading AO to disallow the claim, which was confirmed by CIT(A). On appeal, the Tribunal held that the assessee had failed to explain how he came into contact with the political party or the reason for making such a huge donation, had furnished no fresh evidence beyond what was placed before AO, and had not filed any certified documents to substantiate the bank statement or receipts produced, and since the donee was found to be an unrecognised political party with no evidence of any political activity, the disallowance of the deduction was rightly upheld. (AY. 2016-17)
Jayeshkumar Gopalbhai Akbari v. DCIT (2025) 132 ITR 407 (Surat) (Trib.)

1356 **S. 80HHC : Export business-Total turnover-Excise duty, custom duty, windmill power receipts-Not part of turnover. [S.260A]**
Dismissing the appeal of the revenue the court held that excise duty, custom duty, windmill power receipts. Not part of turnover.(AY. 1996-97)
CIT v. Ramco Cements Ltd. [2025] 481 ITR 705 / 173 taxmann.com 226 (Mad)(HC)

1357 **S. 80HHC : Export business-Search and seizure-Block assessment-Genuine export sales-Order of Tribunal allowing the benefit was affirmed. [S. 132, 158BC, 260A.]**
Court held that it was a case of succession and books of account and audit report of the proprietorship concern had continued from the concern and since the statement of account was available which was filed with the return of income of the company, the report of such audit in the prescribed form should not be rejected simply because it was filed along with return of the company which had succeeded the proprietorship concern. Such factual findings had not been displaced with the help of any relevant and cogent evidence by the Department. No question of law arose.(BP. 1-4-1989 to 14-7 1999)
PCIT v. Arun Malhotra (2025) 475 ITR 217 (Delhi)(HC)

1358 **S. 80I : Industrial undertaking-For computing deduction under section 80I, it would be necessary to give effect to, and factor in, deduction allowed under section 33AC and if result of such deduction under section 33AC was that there was no profit from ship-Deduction under section 80I is allowable-Shipping business-Reserves-Reserve created to be primarily used for acquiring new ship-Cannot partake character of profit-Deduction inextricably linked to business of shipping with direct nexus to shipping operations brought out in provision itself-Total income-Income from capital gains and other sources contribute merely in computation of scale of cap on deduction-Profits of ship to be given effect to and factored in for computation of deduction under Sectionm80I-Provision for creating reserve to acquire new ship-Amendment not applicable to relevant assessment years prior to effective date-Proportionate allocation-Court cannot provide own basis and proportions for apportionment in appeal-Interpretation of meaning of word Ship in provision.[S.80I(3), 80I(6),260A]**
Dismissing the appeals, the Court held that the deduction under section 33AC was towards creating a reserve in order to acquire a new ship and was not linked to whether

shipping operations had yielded a profit, but linked to enabling acquisition of a new ship for business purposes, i. e., purely for shipping business operations. That the usage of the phrase total income in section 33AC enabled indicating the numerical cap applicable to the allowance amount. No allowance could have been claimed in excess of the total income. That the Tribunal was right in noticing that the amendment of 1996 was only in connection with the computation of the cap on the amount of the allowance and did not throw any fresh light on interpretation of the provisions of section 33AC that existed prior to the amendment (between 1991 and 1993). The deduction allowed under section 33AC was directly linked to shipping operations and aimed at sustaining earnings from shipping operations (by enabling a reserve in order to acquire a new ship). A deduction for such purpose, not only met the nexus test, but was also reasonable, logical and commercially commonsensical. That by the very design of section 33AC, there was a nexus between the deduction allowed under section 33AC and the shipping business operations. That the reference to a ship would need to be regarded as a reference to any ship that qualifies under section 80-I(1) which uses the phrase to which this section applies. Section 80-I(3) provides that the section would apply to any ship that meets the three criteria stipulated in that sub-section. Therefore, applying section 80-I(6), the qualifying ship PD must be treated as the only source of income, but it could not be stated that the reserve created under section 33AC could never be attributed to the ship PD. It would not be possible to make adjustments at this stage by apportionment between qualifying and non-qualifying ships and the court could not provide the basis and proportions for such apportionment in an appeal under section 260A.(AY.1992-93, 1993-94)

Tolani Ltd. v. Dy. CIT (2025)472 ITR 121/ 165 taxmann.com 697 /344 CTR 11 / 247 DTR 198 (Bom)(HC)

S. 80IA : Industrial undertakings-Enterprises engaged in infrastructure development- 1359
Does not restrict computation of gross total income-Restricts deduction under any other provision under heading C to extent of deduction claimed under section 80IA-The aggregate deduction under section 80IA and other provisions under heading C of Chapter VI-A do not exceed 100 per cent. of the profits of the business of the assessee, is logical and correct. [S. 4(1), 80AB, 80B(5), 80HHC, 80IA(9), Chap. VI-A.]

The different High Courts have taken different view as regards deduction under section 80HHC of the Act. The High Court of *Bombay in Associated Capsules Pvt. Ltd. v. Dy. CIT, (2011) 332 ITR 42 (Bom)(HC)* has decided the case in favour of assessee and where as a different view has taken by the High Court of Delhi in *Great Eastern Exports v. CIT (2011) 332 ITR 14 (Delhi)(HC)* Group of appeals has been referred to a Bench of three judges in view the order dated December 10, 2015 in *ACIT v. Micro Labs Ltd (2016) 380 ITR 1 (SC).* The three judges bench held that the Bombay High Court's view in *Associated Capsules Pvt. Ltd. v. Dy. CIT, (2011) 332 ITR 42 (Bom)(HC)* that section 801A(9) does not affect the computability of deduction under various provisions under heading C of Chapter VI-A, but it affects the allowability of deductions computed under various provisions under heading C of Chapter VI-A, so that the aggregate deduction under section 80IA and other provisions under heading C of Chapter VI-A do not exceed 100 per cent. of the profits of the business of the assessee, is logical and correct. The

court directed the registry to place the appeals before the appropriate Bench. (AY. 2002-03)

Shital Fibers Ltd. v. CIT (2025) 476 ITR 309/306 Taxman 103 /345 CTR 363 /(2026) 349 CTR 787 (Three Judges) (SC)

Editorial: Associated Capsules Pvt Ltd v. Dy.CIT (2011) 332 ITR 42 (Bom)(HC), approved. ACG Associated Capsules P. Ltd v.CIT(343 ITR 89 (SC), Difference of opinion between two judges, ACIT v. Micro Labs Ltd (2016) 380 ITR 1 (SC), ACIT v. Rogini Garments (2007) 294 ITR (AT) 15 (Chennai)(SB)(Trib)

1360 **S. 80IA : Industrial undertakings-Infrastructure facility-Interest on fixed deposits kept under contractual and business compulsion and interest on TDS refund-Direct nexus with eligible business of operating and maintaining port facility-Eligible for deduction. [S. 80IA(1), 80IA(4), 244A]**

The assessee, Gateway Terminals India Pvt. Ltd., a joint venture between APM Terminals Mauritius Ltd. and Container Corporation of India Ltd., was engaged in operating a container terminal at JNPT under a BOT agreement, an eligible business u/s 80IA(4) of the Act. Pursuant to the licence agreement with JNPT, the assessee was under a mandatory obligation to replace major container handling equipment, including cranes, after a specified period and was required to plan for such replacement well in advance. Accordingly, the assessee set aside funds in fixed deposits for replacement of equipment. Further, pursuant to an interim order of the Bombay High Court in a tariff dispute with the Tariff Authority for Major Ports (TAMP), the assessee was permitted to collect higher tariffs subject to maintaining and safeguarding the differential amounts, which were also parked in fixed deposits. Interest earned on such fixed deposits was claimed as deduction under section 80IA. The assessee also received interest under section 244A on income-tax refunds arising from excess TDS wrongly deducted by its customers from port charges. The Assessing Officer denied deduction under section 80IA in respect of interest on TDS refund and the CIT(A), by way of enhancement, also denied deduction on interest from fixed deposits. The Tribunal upheld the disallowance. On appeal, the Bombay High Court held that the fixed deposits were not made for deployment of surplus or idle funds but were necessitated by contractual obligations under the licence agreement and by judicial directions in the tariff dispute. The placement of funds was imperative for carrying on the eligible business and had a direct and inextricable nexus with the operation and maintenance of the port facility. The Court further held that TDS wrongly deducted by customers constituted part of the assessee's business receipts and the consequent refund, together with interest thereon, was integrally connected with the eligible business. Had excess TDS not been deducted, such funds would have remained available for business purposes. Distinguishing *Liberty India v. CIT (317 ITR 218)(SC), CIT v. Sterling Foods (237 ITR 579)(SC), Shah Originals v. CIT (459 ITR 385) (SC) and following CIT v. Karnataka State Co-operative Apex Bank (251 ITR 194)(SC), CIT v. Meghalaya Steels Ltd. (383 ITR 217)(SC), CIT v. Indo Swiss Jewels Ltd. (284 ITR 389)(Bom.) and PCIT v. Hiranandani Builders (ITA No.1413 of 2016, Bom HC),* the Court held that where the interest income has a direct nexus with and arises from business compulsion connected with the eligible infrastructure activity, the same qualifies for deduction under section 80IA. Accordingly, deduction under section 80IA was allowable on both the interest earned on fixed deposits and the interest received on TDS refund.

The order of the Tribunal was set aside, and the appeal of the assessee was allowed (AY. 2012-13)
Gateway Terminals India Pvt. Ltd. v. DCIT [2025] 177 taxmann.com 707 /479 ITR 726 (Bom) (HC)

S. 80IA: Industrial undertakings-Enterprises engaged in infrastructure development-Income tax refund-Interest on excess payment of tax-Income derived from eligible business-Eligible for deduction-No substantial question of law. [S. 260A] 1361
The assessee, a developer of IT Parks and SEZ, claimed deduction u/s 80-IA not only on lease rental income (undisputedly eligible) but also on interest received on income tax refund arising from excess payment of tax. The Assessing Officer denied deduction, holding that such interest had no nexus with the eligible business. The CIT(A) and ITAT, however, held in assessee's favour. The High Court upheld the Tribunal's view. It observed that interest on excess tax paid was integrally connected with the assessee's business of leasing out premises in IT Parks and SEZ, since the payment and refund of income tax formed part of the same business cycle. The Tribunal had rightly concluded that such income can be said to have been derived from the assessee's eligible business, and therefore, deduction u/s 80IA was allowable. Accordingly, no substantial question of law arose, and the Revenue's appeal was dismissed. (ITA No.1413 of 2016, dt. 10-01-2019) (AY.2009-10)
PCIT (Central)-1 v. Hiranandani Builders, (Bom)(HC). (UR) www.itatonline.org

S. 80IA : Industrial undertakings-Infrastructure facility-Road projects-Developer vis-à-vis works contractor-Assessee undertaking development, rehabilitation, widening, upgradation and strengthening of roads under Government contracts-Eligible for deduction. [S. 80IA(4), 80IA(13)] 1362
The assessee, Montecarlo Ltd., was engaged in execution of various infrastructure projects including road and canal projects awarded by Government authorities. For AY 2017-18, it claimed deduction under section 80IA(4) in respect of profits derived from such infrastructure development activities. The Assessing Officer disallowed the claim of ₹ 86.52 crore on the ground that the assessee was merely a contractor executing works contracts and was hit by the Explanation below section 80IA(13), which denies deduction to undertakings executing works contracts. The CIT(A), after examining the terms and conditions of the agreements and tender documents, held that the assessee had undertaken development of infrastructure facilities and not merely execution of works contracts. The Tribunal affirmed the finding. On appeal, the Gujarat High Court noted that both the CIT(A) and the Tribunal had concurrently found, on appreciation of the contractual terms, that the assessee was acting as a developer of infrastructure facilities. The authorities had examined the scope of work, which included rehabilitation, widening, upgradation and strengthening of roads, and had further considered factors such as investment and execution responsibility resting with the assessee, furnishing of security deposits, exposure to penalties for delays, responsibility for procurement of materials, deployment of qualified engineers, liability for defects, insurance obligations, and other developmental risks and responsibilities. The Court held that section 80IA(4) grants deduction to an enterprise carrying on the business of developing, or operating and maintaining, or developing, operating and maintaining

infrastructure facilities, whereas the Explanation below section 80IA(13) excludes only pure works contracts. Since the concurrent factual findings established that the assessee had entered into development agreements and not works contracts, it satisfied the conditions of section 80IA(4). Following its earlier decision in *Pr. CIT v. Montecarlo Construction Ltd. (Central) [2024] 161 taxmann.com 222 (Guj.)*, the Court held that the assessee was a developer of infrastructure facilities and therefore entitled to deduction under section 80IA(4). Consequently, the Revenue's appeal was dismissed. (AY. 2017-18)
PCIT v. Montecarlo Ltd [2024] 162 taxmann.com 389 / (2025) 475 ITR 143 (Guj)(HC)

1363 **S. 80IA : Industrial undertaking-Special deduction-Container freight station approved and notified as infrastructure facility-Deduction allowable.[S.80IA(4)]**
Held that since the container freight station was a duly notified infrastructure facility entitled to deduction. (AY. 2013 14)
Asst. CIT v. Kerry Indev Logistics P. Ltd (2025) 131 ITR 100 (Chennai) (Trib)

1364 **S. 80IA : Industrial undertakings-Enterprises engaged in infrastructure development-Industrial park-Withdrawal of approval by CBDT-CBDT could not have on its own motion withdrawn the notification-The communication of Ministry of Commerce which was relied upon by the CBDT for withdrawing the notification has been subsequently clarified by the Ministry of Commerce itself as well as by the High Court-There was no reason for withdrawal of notification-The AO is directed to allow the claim of deduction under S. 80IA(4).[S.80IA(4)(iii), 119]**
Held that the Industrial Park Scheme 2002, the approval under S. 80IA(4)(iii) has to be granted only by the Central Government, and the power to withdraw such approval is also granted to the Central Government. Central Government empowered committee having given approval to the assessee and also modified the approval, the issue of notification by the CBDT was merely a ministerial act and thus, the CBDT could not have on its own motion withdrawn the notification. The claim of deduction was allowed. (AY. 2012-13 to 2014-15)
Pantheon Infrastructure (P) Ltd. v. DCIT (2025) 236 TTJ 601 (Mum)(Trib)

1365 **S. 80IA : Industrial undertakings-Enterprises engaged in infrastructure development-Sale of steam by one eligible unit to other eligible unit for captive consumption-Rejecting the comparable of the assessee and the enhancement made by the DRP by giving direction to treat the claim of deduction under s. 80-IA for steam transfer as 'Nil' is set aside-Claim of deduction is allowed.**
Held that the rejecting the comparable of the assessee without bringing anything cogent on record and directing to treat the claim of deduction under s. 80-IA as 'Nil' is not justifiable. Tribunal also held that considering the facts of the case, detailed discussion made above corroborated by documentary evidence on record, the enhancement made by the DRP by giving direction to treat the claim of deduction under s. 80-IA for steam transfer as 'Nil' is set aside. Accordingly, the claim of deduction is allowed and enhancement made by DRP by giving directions to treat the deduction under s. 80-IA in respect of the sale of stem to another eligible unit as nil is set aside.(AY.2020-21)
Laxmi Organic Industries Ltd. v. DCIT (2025) 237 TTJ 268 / 177 taxmann.com 118 (Mum.) (Trib)

S. 80IA : Industrial undertakings-Enterprises engaged in infrastructure development-Claim was not made in the return-Additional ground before CIT(A)-The disputed claim of deduction under S. 80-IA(4) was neither made in the original return nor in any revised return till the conclusion of the assessment proceedings-Claim was made first time before CIT(A)-Additional ground was rejected-Not eligible for deduction.[S. 80A(5),80IA(4), 139(1), 139 (4), 250] 1366

Held that S. 80A(5) mandates the claim of relevant deduction in the return of income itself, whether under S. 139(1) or S. 139(4), assessee having neither made the claim for deduction under S. 80-IA(4) in the original return nor in any revised return and made the claim for the first time before the CIT(A) as an additional ground sans any return, said claim is not admissible. Followed, *PCIT v. Wipro Ltd. (2022) 446 ITR 1 (SC) and Commr. of Customs (Import) v. Dilip Kumar & Co. (2018) 95 taxmann.com 327 (SC).* (AY.2013-14)

BSC C & C Joint Venture v. ACIT (2025) 237 TTJ 377(Delhi)(Trib)

S. 80IA : Industrial undertaking-Deduction-To be allowed from gross total income-Order of CIT(A) to allow deduction after verification of claim was held to be proper. [S. 143(3)] 1367

The Tribunal held that denial of deduction under section 80-IA while processing the return under section 143(1) did not preclude the assessee from raising the issue in appeal against the assessment under section 143(3). Deduction under section 80-IA is allowable from the gross total income and cannot be denied merely because the eligible profits stand adjusted against losses under the head "Profits and gains of business or profession". The order of the Commissioner (Appeals) directing verification and allowance of the claim was upheld. (AY. 2018-19).

Geecee Ventures Ltd. v. Dy. CIT (2025) 127 ITR 371 / 174 taxmann.com 1285 (Mum.)(Trib.)

S. 80IA : Industrial undertakings-Enterprises engaged in infrastructure development-Generation of steam-Steam constitutes power-Captive consumption-Arm's length price cannot be taken at Nil-Transfer pricing adjustment deleted. [S. 92BA] 1368

The Transfer Pricing Officer determined the value of steam generated by the assessee's biomass steam power plant at Nil on the ground that biomass was a by-product. The Tribunal held that steam is a form of power eligible for deduction under section 80-IA and its arm's length price could not be taken at Nil. The evidence established that only 20 per cent. of the steam generated was used for electricity generation and the balance was consumed in the manufacturing process. The assessee's transfer price, supported by an engineer's report and the CUP method, was held to be at arm's length and the transfer pricing adjustment was deleted. (AY. 2013-14).

Nectar Lifesciences Ltd. v. Asst. CIT [2022] 138 taxmann.com 557 / (2025) 129 ITR 542 (Delhi)(Trib.)

S. 80IA : Industrial undertakings-Enterprises engaged in infrastructure development-Captive power generation-Market value of electricity-Rate charged by distribution company to consumers to be adopted for computing deduction.[S.80IA(8)] 1369

The assessee claimed deduction under section 80-IA in respect of electricity generated and consumed captively by adopting the rate charged by the electricity distribution

company to consumers. The Transfer Pricing Officer substituted the rate at which the assessee supplied surplus power to the distribution company. The Tribunal held that for determining the market value of electricity under section 80-IA, the appropriate benchmark is the tariff at which the electricity distribution company supplies power to consumers and not the purchase price paid by the distribution company to generating companies. Accordingly, the deletion of the transfer pricing adjustment was upheld. (AY. 2016-17).

Asst. CIT v. Tamil Nadu Newsprint and Papers Ltd. (2025) 129 ITR 138(Chennai) (Trib.)

1370 **S. 80IA : Industrial undertakings-Infrastructure facility-Audit report in Form 10CCB filed belatedly due to technical glitches on e-filing portal-Audit report furnished before processing of return-Deduction under section 80IA(4) cannot be denied-Disallowance under section 143(1) not justified. [S. 80IA(4), 80IA(7), 143(1)]**

The assessee, engaged in the business of development of infrastructure projects, filed its return of income for AY 2022-23 claiming deduction of Rs.3.42 crore under section 80IA(4). The CPC, while processing the return under section 143(1), disallowed the claim on the ground that the audit report in Form No.10CCB, required under section 80IA(7), was not furnished within the prescribed due date. The assessee contended that although the due date for filing Form 10CCB stood extended to 07.10.2022 and the tax audit report in Form 3CD was filed within time, the Form 10CCB could not be uploaded due to technical glitches on the income-tax portal. Grievances were lodged with the Department and after the issue was resolved, Form 10CCB was filed on 31.10.2022, much before the CPC processed the return on 16.03.2023. The CIT(A) upheld the adjustment, holding that filing of Form 10CCB within the prescribed time had become mandatory after the amendment made by the Finance Act, 2020 and that the delay was attributable to the assessee and its Chartered Accountant. On appeal, the Tribunal held that the audit report had been filed before processing of the return and was therefore available on record when the CPC made the adjustment. Relying on CIT v. G.M. Knitting Industries (P.) Ltd. [2016] 376 ITR 456 (SC), *Tarasafe International (P.) Ltd. v. DDIT, CPC [2024] 168 taxmann.com 514 (Kol. Trib.)* and *Natesan Precision Components (P.) Ltd. v. DCIT (ITA No.1397/Chny/2024, dated 09.08.2024)*, the Tribunal held that filing of the prescribed audit report for claiming deductions under Chapter VI-A is directory in nature and a deduction cannot be denied merely because the report was filed belatedly, provided it is furnished before completion of assessment/processing proceedings. The Tribunal further observed that the Supreme Court in *PCIT v. Wipro Ltd. [2022] 446 ITR 1 (SC)* had itself distinguished deduction provisions under Chapter VI-A from exemption provisions under Chapter III. Since Form 10CCB had been furnished prior to processing of the return and the assessee had otherwise satisfied the conditions for claiming deduction under section 80IA(4), the CPC was not justified in denying the deduction while processing the return under section 143(1). Accordingly, the order of the CIT(A) was reversed and the deduction under section 80IA(4) was directed to be allowed.(AY. 2022-23)

Desai Infra Projects (I) (P) Ltd v. CIT (A) (2025) 234 TTJ 879 /121 ITR 31(SN) (Pune)(Trib)

S. 80IA : Industrial undertakings-Enterprises engaged in infrastructure development-Contractor for execution of metro rail project-Not entitled to claim exemption. [S.80IA(4)] 1371

Assessee was a contractor for execution of metro rail project. It claimed deduction under section 80-IA. Assessing Officer denied the claim on the ground that assessee was not carrying on business of developing, operating and maintaining any infrastructural facility which fulfilled condition for claiming deduction under section 80IA. CIT(A) allowed the claim. On appeal the Tribunal held that the assessee was acting as only a contractor for execution of work awarded to it and on successful completion of contract, assessee had no role insofar as revenue from Metrorail was concerned. The Tribunal also held that the assessee did not fulfil condition that agreement had to be with Central Government/ State Government/Local Authority/Statutory Authority as LMRCL, with which assessee entered into contract, did not fit in any of them. Order of the AO disallowing the claim is affirmed.(AY. 2017-18, 2018-19)

DCIT v. Gulermak TPL Joint Venture (2025) 211 ITD 349 /234 TTJ 497 (Mum) (Trib.)

Editorial : Order of Tribunal set aside, Gulermak TPL Joint Venture v. ITAT (2025) 307 Taxman 597 (Bom.)(HC)

S. 80IB : Industrial undertakings-Manufacture or production-Ayurvedic medicinal capsules-Filling mushroom powder into gelatin capsules through a regulated manufacturing process-Commercially distinct product emerges-Eligible for deduction. [S. 43B] 1372

The assessee, DXN Herbal Manufacturing (India) (P.) Ltd., was engaged in manufacturing Ayurvedic medicinal products and held various statutory licences issued by the Drugs Control authorities, Central Excise Department, Factories Department and Pollution Control authorities for manufacture of Ayurvedic capsules. The assessee imported mushroom powder and, through a prescribed production process involving encapsulation, quality control testing, polishing, sorting, bottling, labelling and packing, manufactured Ayurvedic products marketed as "Reishi Gano (RG)" and "Ganocelium (GL)" capsules. For AYs 2003-04 and 2004-05, it claimed deduction under section 80IB. The Assessing Officer disallowed the claim holding that the assessee was merely trading in mushroom powder and that putting mushroom powder into gelatin capsules did not amount to manufacture. The CIT(A) and the Tribunal affirmed the disallowance, holding that the mushroom powder retained its original identity even after capsulation. On appeal, the Madras High Court held that the Tribunal's conclusion was unsupported by evidence and ignored the extensive statutory licences, manufacturing approvals and regulatory compliances obtained by the assessee for manufacture of Ayurvedic medicines. The Court noted that the production activity involved a detailed and controlled manufacturing process with prescribed formulations, machine-assisted encapsulation, quality control tests, disintegration and stability testing, polishing, bottling and packaging in accordance with the Drugs and Cosmetics Rules, 1945. The Court observed that the expression "manufacture" had to be understood in its common parlance meaning and that a process resulting in a commercially distinct product would constitute manufacture. Relying on *Aspinwall & Co. Ltd. v. CIT (251 ITR 323)(SC), CIT v. Hindustan Petroleum Corpn. Ltd. (396 ITR 696)(SC) and CIT v. N.C. Budharaja & Co.*

(204 ITR 412)(SC), the Court held that the product emerging after the manufacturing process was commercially distinct, capable of consumption in measured dosage form and different from the bulk mushroom powder originally used as input. The Court further noted that the assessee was registered with the Central Excise authorities as a manufacturer of excisable goods, had paid excise duty, availed CENVAT credit and operated an industrial manufacturing unit. Accordingly, the activity undertaken by the assessee amounted to manufacture and production of an article, entitling it to deduction under section 80IB. The Court also allowed the assessee's claim under section 43B in respect of excise duty actually paid and held that no prejudice had been demonstrated merely because a former employee whose statement was relied upon was not offered for cross-examination. The appeal was partly allowed.(AY.2003-04, 2004-05)
ITO v. DXN Herbal Manufacturing (India) (P.) Ltd. (2025) 303 Taxman 407 (SC)
Editorial: DXN Herbal Manufacturing (India) (P.) Ltd v. ITO (2018) 257 Taxman 492 (Mad)(HC)

1373 **S. 80IB : Industrial undertakings-Manufacture or production-Production of paints, varnish and thinners-Casual workers-The undertaking engaging ten or more workers-Entitled to exemption.**
Held that the activity of mixing certain raw materials to produce paints, varnish and thinners is carrying on manufacturing activity, and the Contractual workers engaged by the assessee fulfilled the condition of engaging ten or more workers. Entitled to deduction under section 80IB. (AY.2006-07 & 2007-08)
Jaydeep Petro Chem Company (P) Ltd. v. ITO (2025) 237 TTJ 316 / 176 taxmann.com 871 (Chennai) Trib)

1374 **S. 80IB(10): Housing projects-Built up area of each flat less than 1000 square feet-Approved construction plan-Unexplained money-Three flats on the same floor were sold at different rates-Rates at which flats were sold were higher than stamp valuation-Order of Tribunal deleting the addition was affirmed-No question of law. [S.69A, 260A]**
The assessee was engaged in a housing project and claimed deduction under section 80IB(10). During assessment proceedings, the Revenue alleged that certain residential units exceeded the prescribed built-up area limit of 1,000 sq. ft. and further contended that substantial variation in sale rates of three flats situated on the same floor indicated undisclosed cash transactions and a colourable device to evade tax. While two flats were sold at approximately Rs. 34,926 and Rs. 35,618 per sq. ft., a third flat was sold at a substantially higher rate of about Rs. 62,893 per sq. ft. The Assessing Officer treated the differential sale consideration as undisclosed income. The CIT(A) and the Tribunal, however, recorded concurrent findings that the approved building plans demonstrated that the built-up area of each residential unit was below 1,000 sq. ft. and therefore all statutory conditions prescribed under section 80IB(10) stood satisfied. In relation to the alleged undisclosed income, both appellate authorities noted that the third flat enjoyed direct access to an attached terrace measuring approximately 318 sq. ft., which justified a higher valuation. The CIT(A) accordingly granted a premium for this additional feature and the Tribunal affirmed the factual finding regarding terrace access. On appeal, the

Bombay High Court held that the findings regarding compliance with section 80IB(10) were pure findings of fact concurrently recorded by the CIT(A) and the Tribunal and therefore gave rise to no question of law, much less a substantial question of law. The Court further held that mere difference in sale prices of flats could not, in the absence of corroborative evidence, justify an inference that cash transactions were involved in the sale of the other flats. The dispute regarding the appropriate premium attributable to terrace access was essentially a valuation issue and a factual determination. Since all sale values were higher than the stamp duty valuation and there was no material demonstrating receipt of unaccounted money, no addition could be sustained. Accordingly, the appeal of the Revenue was dismissed as raising no substantial question of law.
PCIT, Central v. AHCL PEL (2025) 307 Taxman 317 (Bom.)(HC)

S. 80IB(10) : Housing projects-Date of commencement of construction-Concurrent finding that construction commenced after 1-10-1998-Deduction allowable. Rule 8D prospective and not applicable prior to AY 2008-09. [S. 14A, Rule 8D] 1375
The assessee, a developer of a housing project, claimed deduction under section 80IB(10) for AY 2007-08. The Assessing Officer denied the deduction on the ground that the project had commenced prior to 1-10-1998 and therefore did not satisfy the statutory condition prescribed under section 80IB(10). The CIT(A), after examining the material on record, held that the actual construction commenced on 18-4-1999 and the commencement was duly intimated to the Municipal Corporation on 5-5-1999. The Tribunal affirmed the finding and further noted that an identical contention raised by the Revenue in the assessee's own case for AY 2001-02 had already been rejected. On appeal, the Bombay High Court held that the findings of the CIT(A) and the Tribunal regarding the date of commencement of construction were purely factual findings based on evidence on record. Once it was established as a matter of fact that construction commenced after 1-10-1998, the assessee would be entitled to deduction under section 80IB(10), subject to fulfilment of the other statutory conditions. Since the issue involved only appreciation of facts, no substantial question of law arose for consideration.
The Revenue also challenged the deletion of disallowance made under section 14A read with Rule 8D. The Assessing Officer had invoked Rule 8D for AY 2007-08 in respect of exempt income earned by the assessee from partnership profits and dividend income. The CIT(A) held that Rule 8D, inserted with effect from 24-3-2008, was applicable only from AY 2008-09 onwards and therefore could not be invoked for AY 2007-08. He accordingly restricted the disallowance to 10% of the exempt income. The Tribunal upheld the order following *Godrej & Boyce Manufacturing Co. Ltd. v. DCIT (328 ITR 81) (Bom.)*. The High Court affirmed the Tribunal's view and, relying upon *CIT v. Essar Teleholdings Ltd. (401 ITR 445)(SC)*, held that Rule 8D is prospective in operation and cannot be applied to any assessment year prior to AY 2008-09. Consequently, no substantial question of law arose on this issue either and the Revenue's appeal was dismissed.(AY. 2007-08)
PCIT v. Kumar Housing Corporation Ltd. (2025) 306 Taxman 23 (Bom.) (HC)

1376 **S. 80IB(10) : Housing projects-Built-up area-Flower bed area, being below floor level, open to sky, outside residential unit and not habitable, cannot be included in "built-up area"-Cupboard projections already forming part of wall area, service area being common utility duct area, and window projections at sill level being unsafe/elevational features also not includible-Tribunal justified in directing allowance of deduction under section 80-IB(10)-Order affirmed. [S. 80-IB(14)(a), 260A]**

The Bombay High Court held that the expression "built-up area" in section 80-IB(14)(a) refers to the inner measurements of the residential unit at floor level, including only such projections and balconies as are habitable or capable of effective use by the flat purchaser, together with wall thickness, but excluding common areas. The flower bed area, admittedly outside the residential unit, below floor level, open to the sky and merely ornamental, could not be treated as part of built-up area. Likewise, cupboard projections already formed part of the wall area, the service area was a common duct space for pipes and not usable by flat owners, and window projections at sill level were unsafe and only elevational features. Accordingly, these areas were rightly excluded while computing the 1000 sq. ft. limit, and the assessee was entitled to deduction under section 80-IB(10). (AY. 2010-11)

PCIT v. Nahar Enterprises (Bom)(HC) (2025) 176 taxmann.com 570 / 347 CTR 97 / 255 DTR 25 (Bom)(HC)

1377 **S. 80IB(10) : Housing projects-Bunglows which were duplexes surrendered by compound wall-Portico and open terarace-Open terrace and portico was an area which was otherwise totally open and exposed and could not be brought within purview of inner measurement of residential unit-Two areas had to be excluded from computation of built-up area entitling assessee to benefit under section 80IB(10) of the Act. [S. 260A]**

Assessee, a real estate developer, was engaged in business of construction of residential units/bungalows which were duplexes surrounded by a compound wall. Each residential unit consisted of a portico and an open terrace Assessee claimed deduction under section 80IB(10) of the Act. Assessing Officer disallowed same on ground that terrace which was open to sky and portico without walls could be included in computing built-up area of each residential unit which exceeded 1,500 sq. ft. for purposes of determining eligibility for deduction under section 80-IB. Tribunal affirmed the order of the Assessing officer. On appeal the Court held that since open terrace and portico was an area which was otherwise totally open and exposed and could not be brought within purview of inner measurement of residential unit, said two areas had to be excluded from computation of built-up area entitling assessee to benefit under section 80IB(10) of the Act. Order of Tribunal affirmed. (AY. 2008-09, 2009-10)

Modi Builders & Realtors (P.) Ltd. v. ACIT (2025) 305 Taxman 277/347 CTR 176 / 255 DTR 37 (Telangana)(HC)

1378 **S. 80IB(10) : Housing projects-Amendment by Finance Act, 2006 w.e.f. 1-4-2006-Joint venture development agreement and agreement for sale entered into on 23-11-2005, when s. 80AC was not on statute-For AY 2006-07, deduction u/s 80-IB(10) cannot be denied merely because no claim was made in return filed u/s 139(1)-However, for AYs**

2007-08 onwards, in view of express bar in s. 80AC, no deduction allowable where assessee had not claimed deduction in return filed within due date-Plea that s. 80AC is only procedural/directory can be examined only in collateral proceedings under Art. 226 and not in appeal u/s 260A. [S. 80AC, 139(1), 260A, Art. 226]

The assessee entered into a joint venture development agreement and an agreement for sale on 23-11-2005 with a developer for development of its land, under which it became entitled to 37.54% of the built-up area. In reassessment proceedings for AYs 2006-07 to 2011-12, one of the issues was whether the assessee was entitled to deduction u/s 80-IB(10) though no such claim had been made in the returns filed u/s 139(1). The High Court held that s. 80AC, inserted by the Finance Act, 2006 w.e.f. 1-4-2006, imposed a statutory condition that deduction u/s 80-IB would not be allowable unless claimed in a return filed within the due date prescribed u/s 139(1). Since the agreements were executed on 23-11-2005, when s. 80AC was not in force, that restriction could not be invoked to deny deduction for AY 2006-07. However, for AYs 2007-08 onwards, in view of the express language of s. 80AC, the assessee having admittedly not claimed deduction u/s 80-IB in the returns filed u/s 139(1), was not entitled to deduction u/s 80-IB(10). The Court further observed that the contention that s. 80AC was only procedural and directory, and not mandatory, could be considered only in an independent challenge under Art. 226 and not in an appeal u/s 260A. Accordingly, the appeals were dismissed. (AY. 2006-07 to 2011-12)

Coromondel Cabeles Pvt. Ltd. v. ACIT. (2025) 480 ITR 314 / 175 taxmann.com 587 (Mad) (HC)

CIT v. Coromondel Cabeles Pvt. Ltd. (2025) 480 ITR 314 / 175 taxmann.com 587 (Mad) (HC)

S. 80IB(10): Housing projects-Slum redevelopment projects-CBDT notification issued under proviso to section 80IB(10)-Corrigendum restricting benefit to projects approved on or after 1-4-2004 and before 31-3-2008-Validity-Proviso introduced by Finance (No.2) Act, 2004 operates prospectively from 1-4-2005-CBDT competent to align notification with statutory provision-Corrigendum not ultra vires. [Art. 226] 1379

The petitioners challenged CBDT Notification No. 02/2011 dated 05.01.2011, issued as a corrigendum to Notification No. 67/2010 dated 03.08.2010, contending that the corrigendum illegally restricted the benefit available under the proviso to section 80IB(10) in respect of slum redevelopment projects. The petitioners argued that the proviso to section 80IB(10), which exempts notified slum redevelopment projects from the requirements contained in clauses (a) and (b), applied to all eligible housing projects irrespective of the date of approval and that the CBDT, being only a delegate, lacked authority to curtail the scope of the statutory provision. The Revenue contended that the proviso granting special treatment to slum redevelopment projects was introduced by the Finance (No.2) Act, 2004 with effect from 01.04.2005 and was prospective in operation. It was submitted that the original notification dated 03.08.2010 had inadvertently granted the benefit only from the date of publication and the corrigendum was issued merely to align the notification with the statutory provisions.

The Bombay High Court held that prior to the substitution of section 80IB(10) by the Finance (No.2) Act, 2004, no special benefit existed for housing projects undertaken under slum redevelopment schemes. The proviso granting such benefit came into force

only from 01.04.2005 and was neither declaratory nor clarificatory in nature. Therefore, the benefit introduced by the proviso could not be regarded as retrospective. The Court observed that if Parliament intended to extend the benefit retrospectively, it would have expressly so provided. The corrigendum merely ensured that the CBDT notification operated in conformity with the amended statutory provision and did not create any additional restriction beyond the scope of section 80IB(10). Relying upon *CIT v. Brahma Associates (333 ITR 289)(Bom.) and CIT v. Sarkar Builders (375 ITR 392 / 7 SCC 579) (SC),* the Court reiterated that amendments to section 80IB(10) introduced by the Finance (No.2) Act, 2004 are prospective in nature. Accordingly, the Court held that the impugned corrigendum was intra vires the Act, represented a valid exercise of delegated authority, and merely aligned the notification with the legislative intent underlying the amended provision. The writ petitions were dismissed.
Kiran Harsukhlal Hemani v. UOI (2025) 343 CTR 343 / 247 DTR 161 (Bom)(HC)
Bombay Slum Redevelopment Corporation (P) Ltd. v. UOI (2025) 343 CTR 343 / 247 DTR 161 (Bom)(HC)

1380 **S. 80IB(10) : Housing projects-Deduction under section 80IB(10) disallowed on ground of delayed completion and alleged size violations-Assessee subsequently obtaining crucial evidence under RTI Act regarding completion application filed with local authority-Additional evidence admitted-Matter remanded for fresh adjudication. Penalty under section 271(1)(c) also remanded for verification of additional evidence. [S. 115JC, 271(1)(c), 274]**

The assessee, an individual engaged in real estate development through a proprietary concern, claimed deduction under section 80IB(10) in respect of a housing project named "Teerth Towers". The Assessing Officer disallowed the deduction on the ground that the project, approved on 30.03.2007, was not completed within the prescribed period of five years from the end of the financial year in which approval was granted and that certain residential units exceeded the maximum permissible built-up area. The Tribunal, in the quantum proceedings, had earlier held that the project was approved on 30.03.2007 and that the completion certificate was issued only on 30.03.2013. The Tribunal also treated the assessee's alleged completion application dated 07.03.2012 as unproved and held that the project did not satisfy the requirements of section 80IB(10). Thereafter, the Assessing Officer levied penalty under section 271(1)(c) for furnishing inaccurate particulars of income and the CIT(A) confirmed the penalty. Subsequently, the assessee obtained documents from the District Collector's office under the Right to Information Act, including copies of the application dated 07.03.2012 and official replies indicating that such application had in fact been filed with the local authority. The assessee contended that these documents directly rebutted the earlier finding that the application was unproved and constituted crucial evidence going to the root of the matter. The Tribunal held that the assessee had disclosed all primary facts in the return of income and audit report while claiming deduction under section 80IB(10), including the commencement certificate, project details, architect's certificate and completion-related particulars. Since the RTI documents were not available earlier and were capable of materially affecting the conclusion regarding timely completion of the project, the Tribunal admitted the additional evidence. It held that the Assessing Officer should

verify the authenticity and implications of the RTI material and, if it was established that the assessee had indeed filed the completion application on 07.03.2012 before the competent authority, appropriate relief should follow. Accordingly, the penalty matter was restored to the Assessing Officer with a direction to re-examine the issue after considering the additional evidence and to cancel the penalty if the assessee's contention was found correct. Similar directions were issued for AYs 2014-15 and 2015-16.
Further, for AY 2020-21, where deduction under section 80IB(10) and credit under section 115JC had been denied following the earlier quantum orders, the Tribunal held that the same RTI documents had a direct bearing on the allowability of deduction. Since the additional evidence went to the root of the eligibility issue, it was admitted and the matter concerning deduction under section 80IB(10) was also restored to the Assessing Officer for fresh adjudication in accordance with law after granting adequate opportunity to the assessee. Thus, both the quantum and penalty issues were remanded for reconsideration in light of the newly obtained RTI evidence.(AY.2013-14 to 2015-16 ,& 2020 21
Vijay Tukaram Raundal v. DCIT (2025) 214 ITD 661 (Pune) (Trib.)

S. 80IB(10) : Housing projects-Completion certificate issued after statutory cut-off date-Assessee claiming project was completed and applications for completion/occupancy certificate were filed before prescribed date-Delay attributable to local authority to be examined-Matter remanded. [S. 80IB(10)(e), (f)]. 1381
The assessee, City Corporation Ltd., engaged in the business of development of properties and construction of residential and commercial buildings, claimed deduction under section 80IB(10) in respect of housing projects designated as R-4, R-5 and R-22. The Assessing Officer disallowed the deduction on the ground that completion certificates from the competent authority had not been obtained before the prescribed date of 31-03-2013. The Assessing Officer further alleged violation of section 80IB(10)(e)/(f) on account of more than one residential unit being allotted to the same family and also denied pro-rata deduction. The CIT(A) upheld the disallowance, holding that the completion certificates for the projects were issued only after the statutory deadline and that the conditions of section 80IB(10) were not satisfied. The assessee contended before the Tribunal that all projects had been completed before the cut-off date, architect certificates evidencing completion had been obtained, and applications seeking completion/occupancy certificates had been filed before the competent authority well before 31-03-2013. It was argued that any delay in issuance of completion certificates was attributable to the Collector's office and was beyond the assessee's control. The Tribunal observed that if a developer completes the project in all respects and files the requisite applications before the competent authority within the stipulated period, the assessee cannot be denied deduction merely because the authority delays issuance of the completion or occupancy certificate. If the certificate ultimately issued is based on the original application without any material deviation, the conditions of section 80IB(10) would stand satisfied. However, since the applications allegedly filed before the cut-off date were produced as additional evidence and had not been properly verified by the Assessing Officer, factual verification was required. Distinguishing its earlier decision in *ACIT v. Vijay Tukaram Raundal [2023] 147 taxmann.com 53 (Pune-Trib.)*, where the

project itself was found to have been completed beyond the prescribed period, the Tribunal held that the present case required examination of whether the assessee had in fact applied for completion/occupancy certificates prior to 31-03-2013 and whether there was any variation between the original applications and subsequent applications filed later. Accordingly, the matter was restored to the Assessing Officer with directions to obtain information from the office of the Collector, verify the dates and contents of the applications, examine the reasons for delay in issuance of the certificates, and thereafter decide afresh the assessee's eligibility for deduction under section 80IB(10), including the issues of pro-rata deduction and alleged violation of section 80IB(10)(e)/(f), after granting adequate opportunity of hearing to the assessee. The appeals were allowed for statistical purposes.(AY. 2011-12, 2012-13)
City Corporation Ltd. v. Dy.CIT-(2025) 233 TTJ 367 / 170 taxmann.com 203 (Pune) (Trib)

1382 **80IB (10) : Housing projects-Slum Rehabilitation Authority (SRA) Projects-CBDT circular-Notification-Claim u/s.80IB (10) would be allowable even the approval was granted before 01/04/2004 and commencement certificate after 01-4-2004-Circulars and notifications cannot override the provisions of the Act-Notification No. 1/2011 dated 5-1-2011 restricting the eligibility of section 80IB(10) to SRA project on or after 1-4-2004 and before 31-3-2008 is inconsistent to the proviso to clauses (a) and (b)) [S.80IB(10)(a), 80IB(10)(b), 119, 254(1)]**

The scheme for Slum development has been prepared by the Maharashtra Government (SRA). The assessee undertook a project under the scheme of Slum Rehabilitation Authority (SRA) framed by the government of Maharashtra for carrying out a housing project. The claim of deduction has been declined by the revenue authorities on the ground that the project was approved before 01.04.2004, whereas the amendment to section 80IB(10) (a & b), vide finance (2) Act 2004 relaxed the condition imposed by section 80IB(10)(b) by introducing the proviso to section 80IB(10)(a)&80IB(10((b). The CIT(A) and Tribunal affirmed the view of the AO. The Assessee filed an appeal against the order passed by this Tribunal before the Hon'ble Bombay High court. Hon'ble Bombay High Court, set aside the order to Tribunal. Tribunal held that the rigours of section 80IB(10) were relaxed by introduction of proviso by finance Act, 2004, wherein it was provided that the condition stipulated in clauses (a) & (b) shall not be applicable to SRA Project under. Further with regards to the condition/requirement of section 80IB(10)(b) in respect of the project size of the plot of 1 acre is concerned, the a proviso has been added to sub clause (b) to section 80IB (10) as per amendment by finance Act (2) 2024 w.e.f 01.04.2005, wherein the condition of 1 acre has been relaxed in the cases of Delhi or Mumbai on the condition that the relaxation was subject to the approval by local authority under slum rehabilitation scheme and notified by the CBDT. Therefore, the settled legal position that the circulars or directions cannot be permitted to curtail the substantive provisions of the Act. The circular cannot therefore curtail the benefit conferred on assessee or be contradictory to the Act. Deduction is allowed. Followed *Ramesh Gunshi Dedhia v. ITO (2014) 148 ITD 356 (Mum)(Trib.)* (ITA No. 4389/MUM/2014 & ITA No. 4390/MUM/2014, dt. 25/02/2025) (AY. 2006-07, 2007-08)
Bhavya Construction CO. v. ACIT (Mum)(Trib.) wwwitatonline.org.

S. 80IC : Special category States-Substantial expansion-Deduction at 100 per cent rate on undertaking carrying out substantial expansion-Restriction to 25 per cent deduction not permissible-Assessee entitled to full deduction. [S. 80IC] 1383

The assessee, proprietor of M/s Himshell Industries, Baddi (Himachal Pradesh), engaged in manufacturing corrugated boxes, offset printed material, duplex printed boxes and promotional material, filed its return of income claiming deduction of Rs. 81.45 lakh under section 80IC. During scrutiny assessment, the Assessing Officer restricted the deduction to 25 per cent of the eligible profits and allowed deduction of only Rs. 20.36 lakh, as against the 100 per cent deduction claimed by the assessee. The CIT(A), Tribunal and subsequently the Punjab & Haryana High Court upheld the action of the Assessing Officer. On appeal, the Supreme Court noted that the controversy regarding eligibility of 100 per cent deduction upon substantial expansion already stood concluded by its decision in *Pr. CIT v. Aarham Softronics (412 ITR 623)(SC)*, wherein it was held that an eligible undertaking carrying out substantial expansion is entitled to claim deduction at the rate of 100 per cent in accordance with section 80IC and that the earlier view expressed in *CIT v. Classic Binding Industries (407 ITR 429)(SC)* no longer represented the correct legal position. Following Aarham Softronics, the Supreme Court held that the assessee was entitled to the 100 per cent deduction claimed under section 80IC. Accordingly, the judgment of the High Court, as well as the orders passed by the revenue authorities, were set aside and the appeal of the assessee was allowed. (AY. 2011-12)

Shelly Bansal v. CIT (2025) 304 Taxman 182 /347 CTR 673 (SC)

Editorial : Shelly Bansal v. CIT (2025)171 taxmann.com 807 (P& H)(HC)

S. 80IC : Special category States-Substantial expansion-Initial assessment year-Undertaking already enjoying 100% deduction for first five years cannot claim fresh 100% deduction on substantial expansion by treating it as a new initial assessment year-Deduction for remaining period restricted to 25% (30% in case of company). Review petition dismissed. 1384

The assessee claimed that after availing deduction under section 80IC at the rate of 100 per cent for the first five assessment years, it became entitled to a fresh period of 100 per cent deduction on account of undertaking substantial expansion of its industrial unit. Earlier, the Supreme Court in *CIT v. Classic Binding Industries (2018) 407 ITR 429(SC)* had held that once the initial assessment year commences and an assessee starts enjoying deduction under section 80IC, there cannot be another initial assessment year within the overall ten-year period merely because substantial expansion has been undertaken. Consequently, after claiming deduction for the first five years at 100 per cent, the assessee would be eligible only for deduction at the rate of 25 per cent (or 30 per cent where the assessee is a company) for the balance period and not a fresh deduction at the rate of 100 per cent. The assessee filed a review petition seeking reconsideration of the said decision. The Supreme Court noted that there was an unexplained delay of 412 days in filing the review petition and that no satisfactory grounds for review had been made out. Accordingly, the review petition was dismissed both on the ground of delay and on merits, thereby affirming the earlier decision in Classic Binding Industries. (AY. 2006-07)

Lyon D.C. v. Pr. CIT (2025) 304 Taxman 280 (SC)

Followed: CIT v. Classic Binding Industries [2018] 96 taxmann.com 405 / 407 ITR 429 (SC).

1385 **S. 80IC : Special category States-Substantial expansion-Entitle exemption of 100 per cent beyond period of five years on ground that it now carried out substantial expansion in terms of section 80-IC(8)(ix) within aforesaid period of ten years in its manufacturing unit. [S.80IC(2), 80IC(3), 80IC(8)(ix), 260A]**

On appeal the Court held that The order passed by the Tribunal is not sustainable in the eyes of law, as it is solely based upon the judgment rendered by two Judge Bench of the Supreme Court in *CIT v. Classic Binding Industries[2018]257 Taxman 324/407 ITR 429,* which judgment, admittedly, has been over-ruled by a Bench of five Judges of the Supreme Court in *PCIT v. Aarham Softronics [2019] 261 Taxman 529/412 ITR 623*, wherein the Supreme Court has clearly held that an assessee who sets up a new industry of a kind mentioned in section 80-IC(2) and starts availing exemption of 100 per cent tax under section 80-IC(3) (which is admissible for five years) can start claiming exemption at same rate of 100 per cent beyond the period of five years on the ground that the assessee now carried out substantial expansion in terms of section 80-IC(8)(ix) within aforesaid period of ten years in its manufacturing unit. The judgment of the Constitution Bench of the Supreme Court is binding and, therefore, in terms thereof, the assesse is held entitled to the benefit under section 80-IC at the rate of 100 per cent of its profit and findings to the contrary cannot be sustained and are accordingly set aside. (AY. 2010-11)

J.C. International v. Dy. CIT (2025) 305 Taxman 425 (HP)(HC)

1386 **S. 80IC : Special category States-Industrial undertaking-Approval of local or State authority-Section 80-IC(2)(b)(ii) does not require such agreement or approval-Requirement under rule 18BBB(4) and form 10CCB cannot be read as mandatory where parent provision does not stipulate it-The issue not constituted grounds of appeal-Tribunal erred in examining the issue not constituted grounds of appeal-Order of Tribunal was set aside. [S. 80IC)2)(b)(ii), 80IA(4), 254(1), 260A, R.188BBB]**

Held that the Tribunal had while framing direction for remit lost sight of the principal distinction between sections 80IA and 80IC and had also overlooked the fact that rule 18BBB as well as form 10CCB extended to more than one provision in the Act. It was intended to cater to varied enterprises and eligible businesses as envisaged in section 80-1, 80-IA, 80-IB or 80-IC. In the absence of section 80-IC requiring an agreement between the assessee and the Central or State Government or local authority or mandating such an agreement as being a mandatory precondition for claiming benefits, the Tribunal had erred in reading such a requirement in respect of an assessee claiming benefits under section 80-IC. That the Tribunal had examined the case of the assessee from the stand point of section 80-IA(8) and section 80-IA(10). This exercise undertaken by it for purposes of discerning abnormal profits and whether the assessee had shifted profit or expenditure to an eligible business was an issue which was neither canvassed, raised nor urged either before the Assessing Officer or the Commissioner (Appeals). It also did not appear to have constituted a ground of appeal that was urged by the Department for the consideration of the Tribunal. Tribunal erred in examining the issue not constituted grounds of appeal. Its observation in this regard were unwarranted and liable to be set aside.

Legacy Foods Pvt. Ltd v. Dy. CIT (2025) 476 ITR 582/172 taxmann.com 50 (Delhi)(HC)

S. 80IC : Special category States-Profits and gains derived from industrial undertaking-Income from sale of scrap-Scrap was a by-product arising directly from the manufacturing process undertaken at the eligible unit-Eligible for deduction-Disallowance under S. 40(a)(ia) would form part of the eligible profits for the purpose of deduction under s. 80-IC, allowable deduction. [S.40(a)(ia)] 1387

Held that the scrap was a by-product arising directly from the manufacturing process undertaken at the eligible unit of the assessee and, therefore, deduction under s. 80-IC is allowable qua income arising from the sale of scrap. Disallowance under s. 40(a)(ia) would form part of the eligible profits for the purpose of deduction under s. 80-IC.(AY. 2012-13, 2013-14, 2020-21 & 2022-23)

DCIT v. Reckit Benkiser Healthcare India (P) LTD. (2025) 237 TTJ 129 / 176 taxmann. com 573 (Ahd)(Trib)

S. 80ID : Hotels and convention centres in specified area-Existing hotel taken on lease and later purchased-Only nominal additions to fixed assets-Business continued under new name-Assessee failed to prove setting up of a new eligible hotel-Denial of deduction affirmed by High Court-SLP dismissed.[Art. 136] 1388

The assessee claimed deduction under section 80-ID for AY. 2012-13 in respect of hotel SIRIS 18, at Agra. The Assessing Officer found that the hotel property had originally been developed and operated earlier in the name "Rani Mahal" by the previous owners; the assessee had first operated the same hotel on lease during FY 2008-09 and thereafter purchased it on June 8, 2009 along with furniture and fixtures on "as is where is" basis. The record further showed that only nominal additions were made to building, computers and kitchen equipment, and there was no substantial investment indicating establishment of a new hotel. The Ministry of Tourism approval for the renamed hotel SIRIS 18, was obtained subsequently. The Assessing Officer held that the assessee had merely continued the existing hotel business under a new name and was not entitled to deduction under section 80-ID. The Commissioner (Appeals) and the Tribunal affirmed the disallowance. On appeal, the High Court held that the concurrent factual findings clearly established that the hotel was already in existence and functioning prior to the assessee's claim, and the assessee had failed to show that those findings were perverse. On appeal, the Court held that since the business was only a continuation/transfer of an existing hotel and not a newly established eligible undertaking, deduction under section 80-ID was rightly denied. SLP dismissed. (AY. 2012-13)

Ramesh Bhatia (HUF) v. ITO (2025) 481 ITR 38 /181 taxmann.com 502 (SC)

Editorial : Ramesh Bhatia (HUF) v. ITO (2025) 481 ITR 27 /181 taxmann.com 162 (Delhi)(HC)

S. 80ID : Hotels and convention centres in specified area-Existing hotel taken on lease and later purchased-Only nominal additions to fixed assets-Business continued under new name-Assessee failed to prove setting up of a new eligible hotel-Denial of deduction affirmed. [S. 260A] 1389

The assessee claimed deduction under section 80-ID for AY. 2012-13 in respect of hotel SIRIS 18, at Agra. The Assessing Officer found that the hotel property had originally been developed and operated earlier in the name "Rani Mahal" by the previous owners; the assessee had first operated the same hotel on lease during FY 2008-09 and thereafter

purchased it on June 8, 2009 along with furniture and fixtures on "as is where is" basis. The record further showed that only nominal additions were made to building, computers and kitchen equipment, and there was no substantial investment indicating establishment of a new hotel. The Ministry of Tourism approval for the renamed hotel SIRIS 18, was obtained subsequently. The Assessing Officer held that the assessee had merely continued the existing hotel business under a new name and was not entitled to deduction under section 80-ID. The Commissioner (Appeals) and the Tribunal affirmed the disallowance. On appeal, the High Court held that the concurrent factual findings clearly established that the hotel was already in existence and functioning prior to the assessee's claim, and the assessee had failed to show that those findings were perverse. Since the business was only a continuation/transfer of an existing hotel and not a newly established eligible undertaking, deduction under section 80-ID was rightly denied. (AY. 2012-13)
Ramesh Bhatia (HUF) v. ITO (2025) 481 ITR 27 /181 taxmann.com 162 (Delhi)(HC)
Editorial : SLP dismissed, Ramesh Bhatia (HUF) v. ITO (2025) 481 ITR 38 (SC)

1390 **S. 80JJA : Biodegradable waste-Collecting and processing-Allocation of expenses-Consistency of practice-Order of CIT(A) affirmed.**
Held that the allocation of expenses was proper and consistently followed. Order of CIT(A) was affirmed.(AY 2010-11 to 2012-13)
Anil Ltd. (formerly Anil Products Ltd.) v. Dy. CIT (2025) 130 ITR 351 (Ahd.)(Trib.)

1391 **S. 80JJA : Bio-degradable waste-Collecting and processing-Belated filing of audit report requirement of furnishing the report of an accountant is mandatory-Procedural aspect The report of the Accountant in Form 10DA was available before the CPC at the time of passing intimation under S. 143(1), even though the same may not be filed on or before the due date of furnishing the same-The assessee is entitled to claim the deduction under S. 80JJAA [S.139(1), 143(1) Form No 10DA R.19AB]**
Held that the requirement of furnishing the report of an accountant in Form No. 10DA is mandatory; however, the filing thereof is a procedural aspect; once the report in Form No. 10DA was available before the CPC at the time of passing intimation under s. 143(1), even though the same may not be filed on or before the due date of furnishing the same, the assessee is entitled to claim the deduction under s. 80JJAA. (AY. 2023-24)
IIFL Samasta Finance Ltd. v. DCIT (2025) 237 TTJ 870 / 176 taxmann.com 278 (Bang) (Trib)

1392 **S. 80JJAA : Deduction in respect of employment of new employees-Deduction-Amended provisions wrongly applied-Matter remanded for examination under unamended provisions.**
The Assessing Officer rejected the assessee's claim for deduction under section 80JJAA by applying the amended provisions of the section. The Tribunal held that the claim had to be examined in accordance with the provisions applicable to the relevant assessment year and that section 80JJAA, being an incentive provision, deserved liberal interpretation. The issue was remanded to the Assessing Officer for fresh examination under the unamended provisions. (AY. 2017-18).
Honda Motorcycle and Scooter India Pvt. Ltd. v. Asst. CIT [2023] 153 taxmann.com 567 / (2025) 129 ITR 6 (Delhi)(Trib.)

S. 80JJAA : Deduction in respect of employment of new employees-Deduction claimed in return accompanied by Form 10DA containing typographical error showing 'zero' new workmen-Corrected Form 10DA furnished during assessment proceedings-Deduction cannot be denied on technical ground that revised report was not filed before due date of return. Matter remanded for verification of quantification. [S. 143(3), 270A] 1393

The assessee, O.C. Sweater LLP, engaged in the business of manufacturing wearing apparel, filed its return of income for AY 2018-19 claiming deduction of Rs. 30.34 lakh under section 80JJAA. Along with the return, the assessee e-filed the prescribed audit report in Form No. 10DA. During assessment proceedings, the Assessing Officer noticed that columns relating to the number of new workmen employed reflected "zero" and, consequently, disallowed the deduction on the ground that the audit report was incomplete. The assessee explained that there was an inadvertent typographical error in Form No. 10DA and furnished a corrected and duly signed audit report before the Assessing Officer during the course of assessment proceedings containing the correct particulars of newly employed workmen. The Assessing Officer, however, declined to consider the revised report on the ground that it had not been filed electronically before the due date prescribed under the Act. The CIT(A) upheld the disallowance.

On appeal, the Tribunal observed that the assessee had already claimed deduction under section 80JJAA in the original return of income and had also filed Form No. 10DA along with the return. The revised audit report did not amount to a fresh or additional claim but merely rectified a typographical mistake in the particulars furnished. The Tribunal further noted that the Assessing Officer had not examined the claim on merits and had rejected it solely on procedural grounds. Relying on *International Tractors Ltd. v. DCIT (2021) 435 ITR 85(Delhi)(HC) and Jubilant Food Works Ltd. v. ACIT [2025] 177 taxmann.com 374 (Delhi)(Trib.)*, the Tribunal held that procedural defects or delayed filing of a corrected audit report cannot defeat a substantive claim otherwise available under section 80JJAA. Since the claim had already been made in the return and the corrected Form No.10DA was furnished during the assessment proceedings, the deduction could not be denied merely because the revised report was not filed before the due date of filing the return. Accordingly, the Tribunal held that the assessee was entitled to deduction under section 80JJAA and restored the matter to the Assessing Officer only for the limited purpose of verifying and quantifying the eligible deduction. Consequently, the penalty levied under section 270A on account of such disallowance was also deleted.(AY. 2018-19)

O. C. Sweater LLP. v. ITO (2025) 215 ITD 251 (Delhi) (Trib.)

S. 80JJAA : Deduction in respect of employment of new employees-Form No. 10DA filed along with revised return and available before CPC/AO at time of processing of return-Non-filing of Form No. 10DA with original return is a procedural omission-Deduction cannot be denied on such technical ground. Matter remanded for verification of quantification. [S. 139(5), 143(1), 80AC] 1394

The assessee, Jubilant FoodWorks Ltd., filed its return of income for AY 2022-23 claiming deduction under section 80JJAA amounting to Rs.13.49 crore. However, Form No. 10DA, being the prescribed accountant's report for claiming the deduction, was not filed along with the original return under section 139(1) but was subsequently furnished

along with a revised return filed under section 139(5). The CPC, while processing the return under section 143(1), denied the deduction on the ground that Form No. 10DA had not been furnished with the original return and the CIT(A) upheld the disallowance. On appeal, the Tribunal noted that the assessee had claimed deduction under section 80JJAA in the original return itself and that Form No. 10DA was available before the CPC/Assessing Officer at the time of processing of the revised return. The Tribunal observed that furnishing of Form No. 10DA is a procedural requirement and that failure to file the form along with the original return, when the same is subsequently furnished and is available on record before completion of processing/assessment, cannot defeat a substantive claim for deduction. Relying on *CIT v. G.M. Knitting Industries (P.) Ltd. (376 ITR 456)(SC), Sai Computers Ltd. v. ADIT, CPC [2023] 155 taxmann.com 607 (Delhi-Trib.)* and other decisions, the Tribunal held that the omission was merely procedural and that the deduction under section 80JJAA could not be denied solely because Form No. 10DA was not filed before the due date for filing the original return. The Tribunal distinguished the decision of the Supreme Court in *PCIT v. Wipro Ltd. (446 ITR 1)(SC)* as being concerned with exemption provisions and not deductions under Chapter VI-A. Accordingly, the matter was restored to the Assessing Officer/CPC for the limited purpose of verification and quantification of the admissible deduction under section 80JJAA after examination of the supporting documents. The appeal was allowed for statistical purposes. (AY. 2022-23)
Jubilant Food Works Ltd. v. ACIT (2025) 214 ITD 361 (Delhi) (Trib.)

1395 **S. 80P : Co-operative societies-Deduction-Absence of banking licence-Deduction allowable-Disallowance of gratuity contribution-enhancement of business profits would also qualify for deduction in view of CBDT Circular No. 37 of 2016. [S.80P(2)(4)]**
The assessee, a co-operative society, was denied deduction under section 80P on the ground that it was a co-operative bank within the meaning of section 80P(4). The Tribunal held that merely because the word "bank" formed part of the assessee's name, it could not be treated as a co-operative bank in the absence of a banking licence issued under the Banking Regulation Act. Since the assessee was not carrying on banking business as contemplated under the Banking Regulation Act, the Department was not justified in denying deduction merely on nomenclature. Accordingly, the assessee was held entitled to a deduction under section 80P. The Tribunal further observed that any disallowance of gratuity contribution resulting in enhancement of business profits would also qualify for deduction in view of CBDT Circular No. 37 of 2016 (AY. 2015-16)
Muzaffarnagar District Co-operative Bank Ltd. v. Dy. CIT (2025) 121 ITR 11 (SN) (Delhi) (Trib.)

1396 **S. 80P : Co-operative societies-Deduction under section 80P cannot be denied merely because the assessee claimed deduction under the wrong provision. [S. 80A(5), 80P(2)(a)(i), 80P(2)(c), 154]**
The assessee, a co-operative society engaged in providing banking and credit facilities to its members, inadvertently claimed deduction under section 80P(2)(c) instead of section 80P(2)(a)(i) in its return of income. Although a rectification application was filed, the same was not considered, and the Commissioner (Appeals) rejected the claim by

invoking section 80A(5). The Tribunal held that the Assessing Officer is duty-bound to grant a legitimate deduction even if it is claimed under an incorrect provision or omitted due to a bona fide mistake. Further, section 80A(5) has no application to a deduction claimed under section 80P by a co-operative society. Accordingly, the assessee was held entitled to deduction under section 80P(2)(a)(i). (AY. 2018-19)
Habrol Co-operative Agricultural Service Society Ltd. v. ITO (2025) 130 ITR 425 (Chd.) (Trib.)

S. 80P : Co-operative societies-Interest income from fixed deposits with scheduled banks, personal loans to employees and house building loans not attributable to business of providing credit facilities to members-Deduction rightly denied-Commission, miscellaneous and sundry receipts not attributable to business of providing credit facilities-Deduction rightly denied. Income-Method of accounting-Overdue interest on non-performing assets-Income recognition-Matter remanded to exclude interest only if supported by statutory guidelines or accounting standards-Assessment-Income from other sources-Expenses against interest income-No further expenses allowable beyond those already claimed in computation of income-Disallowance confirmed Principles of natural justice-Alleged lack of opportunity before Commissioner (Appeals)-Appellate order passed after considering submissions-No violation was found.[S.4,80P(2)(a)(1), 80P(2(d)), 143(3), 250] 1397
The assessee, a co-operative society engaged in lending to its members and to primary co-operative agriculture and rural development banks, had its deduction under section 80P disallowed and Rs. 17,76,82,947 added as overdue interest by AO, which was upheld by the CIT(A). On appeal, the Tribunal, following its own decision in the assessee's case for an earlier year, confirmed the disallowance of deduction under section 80P(2)(a)(i)/(d) on interest from banks, personal loans and house building loans to employees, and on commission, miscellaneous and sundry income, holding these not attributable to the assessee's business of lending to members, since employees were not members; held that no further expenses beyond those already claimed and allowed could be attributed to earning such interest and other income; rejected the assessee's plea of lack of opportunity before CIT(A) as unsubstantiated; and remanded the issue of overdue interest on NPA to AO to examine and exclude such interest from income only if supported by statutory guidelines or AS, subject to the assessee demonstrating and quantifying the same. (AY.2013-14)
West Bengal State Co-operative Agri and Rural Development Bank Ltd. v. ACIT (2025) 132 ITR 434 (Kol) (Trib.)

S. 80P : Co-operative societies-Deduction-Belated return-Deduction under section 80P cannot be denied merely because the return was filed after the due date. [S.80AC(ii), 139(1), 143(1)] 1398
The assessee, a co-operative society, filed its return belatedly claiming deduction under section 80P, which was denied by the Centralised Processing Centre and confirmed by the Commissioner (Appeals) by invoking section 80AC(ii). The Tribunal held that section 80AC(ii) does not bar the grant of deduction under section 80P merely because the return was filed beyond the due date prescribed under section 139(1). Accordingly, the

Assessing Officer was directed to allow the deduction under section 80P. (AY. 2019-20). *Shramik Vikas Sahkari Shram Samvida Samiti Ltd. v. Assessing Officer (2025) 122 ITR 169 (Lucknow)(Trib.)*

1399 **S. 80P: Co-operative societies-Commission income from MSEDCL Bill Collection-Services rendered to members-Entitled to exemption. [S.80P(2) (c)]**
Assessee, a co-operative credit society, earned commission income from collecting electricity bills for MSEDCL (Maharashtra State Electricity Distribution Company Limited) and locker rent charges from its members. AO disallowed the deduction claimed under section 80P(2)(c), treating the commission income as 'Income from Other Sources.' Assessee argued that the income was derived from services rendered to members and was eligible for deduction, supported by audited accounts and expense details (salaries, electricity charges, etc.).The commission income was attributable to services provided to members and was duly verified. The expenses incurred were directly linked to the income, and the accounts were audited by the Maharashtra State Cooperation Ministry. The income qualified under section 80P(2)(c) as it was incidental to the society's primary credit activities.(AY. 2017-18) (ITA No. 990/Mum/2025, dt.30/04/2025)
DCIT v. Jaimuni Sahakari Patpedhi Maryadit (Mum) (Trib)(UR)

1400 **S. 80P: Co-operative societies-Interest from Nationalised banks-Income from other sources-Proportionate expenditure-The matter was remanded to the file of the Assessing Officer for verification. [S. 56, 57, 80P(2)(d)]**
The assessee submitted a revised computation offering interest from Nationalized banks under the head 'Income from Other Sources' instead of 'Profits and gains from business', and claimed proportionate administrative expenses under section 57. Assessing Officer rejected this revised computation and did not allow the expenditure claimed under section 57 and disallowed the entire deduction claimed by assessee under section 80P. CIT(A) upheld the order of the Assessing Officer. On appeal, the Tribunal held that the assessee should be allowed proportionate expenditure against interest income, subject to the assessee establishing a connection between incurring such expenditure and earning of interest income from banks, which is a specific requirement for the claim of such expenditure under section 57. The matter was remanded to the file of the Assessing Officer for verification. (AY. 2018-19)
Kheralu Taluka Primary Teachers Co. Op. Credit Society Niyamit v. NFAC (2025) 214 ITD 420 (Ahd) (Trib.)

1401 **S. 80P : Co-operative societies-Mutuality-Three classes of members, namely, regular members, associate members and nominal members-Mutuality cannot be denied-Interest from fixed deposit with co-operative Bank-Within mandatory limit allowed deduction-Rental income, commission and other income-Disallowance affirmed. [S. 40(a)(ia), 57, 80P(2)(a)(i), Karnataka Cooperative Societies Act, 1959, S. 18]**
Assessee was a co-operative society carrying out banking business and providing credit facilities to its members. It had three classes of members, namely, regular members, associate members and nominal members. Assessing Officer disallowed deduction

claimed under section 80P on ground that assessee was catering to different classes of members having different rights with regard to participation in share profit and dividend, therefore, essential feature, i.e. concept of mutuality, was missing in case of assessee-Assessee submitted that as per section 18 of Karnataka Cooperative Societies Act, 1959, a cooperative society was legally allowed to admit nominal and associate members. Since the assessee operated under Karnataka Cooperative Societies Act, which permits inclusion of nominal and associate members, and Supreme Court in *Mavilayi Service Co-operative Bank Ltd. v. CIT(2021) 279 Taxman 75/431 ITR 1 (SC)* held that eligibility under section 80P must be determined under relevant State law, presence of such members did not vitiate mutuality. The Tribunal directed the Assessing Officer to verify mandatory requirement for making FD as per provision of Karnataka Cooperative Societies Act, 1959 and if deposit was found within limit of mandatory requirement, then interest earned from such deposit be allowed. Matter remanded. Deduction on rental income, commissions and small other income heads, since said income was not arising from business of assessee as envisaged under section 80P, disallowance was confirmed. (AY. 2017-18)

ITO v. Sahakara Nagar Credit Co-operative Society Ltd. (2025) 213 ITD 178 (Bang) (Trib.)

S. 80P : Co-operative societies-Marketing of sugarcane produced by its members-Commission from sugar mills on supply of sugarcane by its members-Derived from-Business receipt-Eligible for deduction. [S. 56, 80P(2)] 1402

Assessee-society was engaged in marketing of sugarcane produced by its members. It received commission from sugar mills on supply of sugarcane by its members. Assessing Officer held that commission received by assessee was assessable under head income from other sources and not as income from business and, thus, deduction under section 80P was not allowable. CIT(A) allowed the deduction. On appeal the Tribunal held that both Cane Development Councils or Cooperative Cane Development Unions (Cane Growers Cooperative Society or Societies) performed an important role in cane production and marketing in a particular area or zone. Unions were directly involved in marketing of sugarcane to various factories, Council performed a number of functions to facilitate production and supply of sugarcane in area assigned to it. Payment of commission by occupier of factory or by Gud, Rub or Khandsari units was not on account of some investment that was made by these Councils or Unions with factories but rather because of their role in production and marketing of sugar cane in that particular area and was attributable to activity of production and marketing of sugarcane for which Cane Development Councils and Co-operative Cane Development Unions had been set up under Sugarcane Act and Rules. On facts, commission received by assessee was business receipts and, thus, eligible for deduction under section 80P. (AY. 2013-14, 2014-15, 2015-16, 2017-18)

ITO v. Cooperative Cane Development Union Ltd. (2025) 212 ITD 558 /236 TTJ 108 (Lucknow) (Trib.)

1403 **S. 80P : Co-operative societies-Return was not filed within due date-PCIT condoned the delay-issue was to be remitted to Assessing Officer.[S.80AC, 119, 139(1)]**
Assessee, co-operative society, could not file return within due date-Assessing Officer issued reopening notice. The Assessing Officer disallowed the deduction under section 80P on the ground that Assessee did not file return within due date specified in section 139(1). The Hon'ble CIT(A) has up held the order of the Assessing Officer. On appeal the Hon'ble Tribunal held that the Assessee had filed a condonation petition before Principal Commissioner who condoned delay in filing return for assessment year 2019-20 beyond due date specified under section 139(1). Accordingly the issue was to be remitted to Assessing Officer with a direction to give effect of order of Principal Commissioner and pass necessary order after due verification allowing deduction as claimed by assessee under section 80P. (AY. 2009-10)
Angamaly Service Co-operative Bank Ltd. v. ITO (2025) 212 ITD 288 (Cochin) (Trib.)

1404 **S. 80P : Co-operative societies-Interest income from its investments held with a co-operative bank-Entitle to deduction. [S.80P(2)(d)]**
The Assessee, a co-operative society, derived interest income from its investments held with a co-operative bank and claimed deduction under section 80P(2)(d). However, the Centralized Processing Centre ('CPC') disallowed the claim while processing the return under section 143(1). On appeal, the ITAT observed that the issue was already covered in favour of the Assessee by several judicial precedents, particularly the decision of the Mumbai Tribunal in Pathare Prabhu Co-operative Housing Society Ltd. v. ITO [2023] 202 ITD 464. The Tribunal reiterated that Section 80P(2)(d) grants deduction in respect of interest or dividend income derived by a co-operative society from investments made with another co-operative society. A co-operative bank continues to be a co-operative society registered under the relevant co-operative laws, and therefore interest earned from investments with a co-operative bank qualifies for deduction under Section 80P(2)(d). The Tribunal further clarified that the restriction contained in Section 80P(4) applies only to co-operative banks claiming deduction for themselves and does not deny deduction to a co-operative society earning interest from investments with a co-operative bank. Accordingly, following the consistent view taken in earlier decisions and applying the principle that any ambiguity in a taxing provision should be interpreted in favour of the Assessee, the Tribunal allowed the deduction claimed under Section 80P(2)(d). (AY. 2021-22)
Sai Ankur Co-operative Housing Society Ltd. v. ITO (2025) 211 ITD 265 (Mum) (Trib.)

1405 **S. 80P: Co-operative societies-Delay in filing of return-The amendment to section 143(1)(a)(v) enabling disallowance of deduction claimed under Chapter VIA was made by Finance Act, 2021, w.e.f. 1-4-2021-The Assessing Officer is directed to allow the claim. [S.80AC, 139(1), 143(1)(a)(v)]**
The return of income was processed by Central Processing Centre (CPC) and Assessee's claim for deduction under section 80P was rejected. The Hon'ble CIT(A) confirmed the addition as he was of the view that assessee was hit by section 80AC; as assessee had not filed return of income within time limit prescribed under section 139(1). The Hon'ble ITAT held that the amendment to section 143(1)(a)(v) enabling disallowance of deduction claimed under Chapter VIA was made by Finance Act, 2021, w.e.f. 1-4-2021,

however as the instant case pertained to assessment year 2019-20, assessee's claim for deduction under section 80P (which falls under Chapter VI-A) was not hit by section 80AC while processing return and making adjustments under section 143(1). (AY 2019-20)
Sahkari Ganna Vikas Samiti Ltd. v. ACIT (2025) 210 ITD 375 (Lucknow) (Trib.)

S. 86: Share of member of an association of persons-Syndicates engaged in liquor business-Income of AOP assessable only in hands of AOP, not in hands of member-Inadmissible expenses of AOP cannot be added in hands of member. [S. 2(31), 67A, 153A, 260A] 1406

The Assessee, an individual, derived income from mainly from sale of liquor for which he had formed groups/syndicates with various persons and used to receive his share of profits from the said groups/syndicates. Following a search and seizure operation, the AO made additions to the Assessee's income based on the Assessee's share in undisclosed income and inadmissible expenses of the syndicates. However, the CIT(A)deleted these additions, stating that the syndicates are separate taxable entities classified as an Association of Persons (AOP) and subject to tax at the maximum marginal rate. The Tribunal upheld this ruling, concluding that the syndicates must be assessed separately, making the assessee's profit share and expense share non-taxable. The HC acknowledged the fact that the income of the AOP was already being taxed by way of assessment of the AOP and hence in view of the clause (a) of the first proviso to section 86 read with section 67A, the share received by the members cannot be taxed again in the hands of the recipients. The HC held that no substantial question of law arose and dismissed the revenue's appeals. (AY. 2010-11-2011-12, 2013-14 to 2016-17)
PCIT v. Ramesh Chandra Rai (2024)168 taxmann.com 43 / (2025) 481 ITR 231 (MP) (HC)
Editorial : SLP dismissed in PCIT v. Ramesh Chandra Rai /PCIT v. Ramswaroop Shivhare [2025]181 taxmann.com 890 (SC)

S. 87A : Rebate on Income-tax in case of certain individuals-The assessee could not be restrained from claiming rebate under section 87A by modifying utility by which assessee was forbidden at threshold itself from making such a claim. [S.115BAC, 139D, Rule 12, Art. 226] 1407

The Revenue had published the income-tax utility wherein the taxpayers were not able to claim rebate under section 87A for taxes computed under chapter XII of the Act.The petitioner filed a writ challenging the said modification in the utility by the revenue claiming that rebate under section 87A was to be allowed not only from tax computed under section 115BAC but also from tax computed following other provisions of Chapter XII of the Act unless such other provisions expressly debar them from making claim. Revenue contended that rebate under section 87A could not be granted from tax specified in other sections of Chapter XII other than section 115BAC and form prescribed was in accordance with provisions of Act and there was no need to seek prayer for modification of the utility. The HC held that section 139D, read with rule 12, provides for filing of return in electronic form and authorises Board to make rules for class of persons who are required to file return in electronic form, however, section 139D, read with rule 12, does not empower authorities to design form on basis of their reading of law or provisions which debar an assessee from making a claim at

threshold itself. Since issue raised for consideration on claim under section 87A was highly debatable and contentious, revenue would not be justified in assuming that its interpretation was open and shut, and based upon such a conclusion, shut out bona fide claims for rebate under section 87A. The assessee could not be restrained from claiming rebate under section 87A by modifying utility by which assessee was forbidden at threshold itself from making such a claim.(Dt. 24-1-2025) (AY.2024-25)
Chamber of Tax Consultants v. DGIT (systems) (2025) 473 ITR 85 / 303 Taxman 451 (Bom) (HC)
Editorial : Chamber of Tax Consultants v. Director General of Income-Tax Systems & Ors (2025) 302 Taxman 505 (Bom)(HC)

1408 **S. 87A : Rebate on Income-tax in case of certain individuals-Tax on short-term capital gains-Computation of income under S. 115BAC-Amendment made by the Finance Act, 2025 supports the view that under the unamended provision applicable for asst. yr. 2024-25, rebate under S 87A cannot be denied merely because tax arises under s. 111A-The assessee is eligible for rebate under s. 87A for asst. yr. 2024-25 even though the income includes STCG taxable under s. 111A. [S. 111A, 112A(6), 115BAC]**
Held that there exists no express bar either in S. 87A or s. 111A for denial of rebate in respect of tax payable on short-term capital gains at special rates under S. 111A; subsequent amendment made by the Finance Act, 2025, which is prospective in nature, clarifies that no such restriction was in force during the asst. yr. 2024-25; assessee is eligible for rebate under S. 87A for asst. yr. 2024-25 even though the income includes STCG taxable under S 111A and the assessee has exercised option under S. 115BAC. (AY. 2024-25)
Jayshreeben Jayantibhai Palsana v. ITO (2025) 237 TTJ 817 / 177 taxmann.com 411 (SMC) (Ahd)(Trib)

1409 **S. 87A : Rebate on Income-tax in case of certain individuals-Tax on short-term capital gains-Computation of income under S. 115BAC-No restriction in S. 111A which reflects the tax rate on short-term capital gains that the rebate under s. 87A would not be eligible for short-term capital gains.[S.111A]**
Held that there is no restriction or prohibition either in s. 111A or s. 87A, rebate under S. 87A is allowable to the assessee on the tax on short-term capital gains. (AY-2024-25)
Pramod Kumar Dubey v. ITO (2025) 237 TTJ 827 (SMC) (Agra) (Trib)

1410 **S. 89 : Relief for income-tax-Arrears or advance of salary-One time lumpsum ex-gratia amount in lieu of payments till completion of 63 years of age-Advance salary-Entitled to relief under section 89(1)[S. 17(3(i), 89(1), R. 21A]**
Assessee was an employee of company which had incurred heavy losses as a result of which its textile mill unit was shut down. Subsequently, as per individual agreements between company and workers, assessee was paid an ex-gratia amount. Assessee filed his return claiming relief under section 89(1). Assessing Officer disallowed claim on ground that payment made to him by company was one time lumpsum exgratia amount which did not qualify to be treated as advance of salary. The Hon'ble CIT(A) held that the amount is liable to be taxed under section 17(3)(i) of the Act. On appeal the Tribunal held that company also treated one-time compensation as a salary paid in

advance and deducted TDS on same which clearly indicated that compensation received by assessee was only salary received in advance and not as termination compensation even though this was paid in lumpsum as ex-gratia in one go and allowed the claim of the Asseessee. Following the decision of the co-ordinate bench in the case of other employee of the same company in *Rajesh Shantaram Chavan v. ACIT [2022] 141 taxmann.com 513.* (AY. 2017-18)
Sunil Vishnu Gaikwad v. ITO (2025) 211 ITD 30 (Mum) (Trib.)

S. 89A : Relief from taxation in income from retirement benefit account maintained by notified country-Denial of relief-Filed Form No. 10EE for assessment year 2022-23-Option exercised therein would continue to apply to all subsequent years-It would not be mandatory for assessee to file said Form afresh for every assessment year to claim relief under section 89A.[R. 21AAA, Form No 10EE] 1411

Assessee, resident individual, had a retirement benefit account maintained in a notified country. He filed Form 10EE to exercise the option in assessment year 2022-23 for taxation of income accrued from such retirement benefit account in the assessment year in which income from said account was taxed at the time of withdrawal or redemption, as the case may be, in the notified country. For the relevant assessment year, assessee claimed relief under section 89A towards income accrued on retirement benefit account. Assessing Officer disallowed the same on the ground that assessee had not filed Form No. 10EE for the relevant assessment year. CIT(A) affirmed the order of the Assessing Officer. Tribunal held that the assessee had filed Form No. 10EE for the assessment year 2022-23. Once Form No. 10EE had been filed in respect of a previous year, the option exercised therein would continue to apply to all subsequent years and, consequently, it would not be mandatory for the assessee to file the form afresh for every assessment year. Since relief under section 89A had been granted on the basis of Form No. 10EE already furnished, the same relief could not be denied merely for the reason that the form had not been filed again in subsequent years. Accordingly, the denial of relief under section 89A to assessee on such procedural grounds was not sustainable in law (AY. 2023-24)
Jignesh Naresh Jariwala v. Dy.CIT (2025) 214 ITD 585 (Mum) (Trib.)

S. 90 : Double taxation relief-elimination of double taxation-Curative petition filed against the review petition dismissed against order of the Supreme Court that a notification under section 90(1) is a mandatory condition to give effect to a DTAA, or any protocol changing its terms or conditions, which has the effect of altering existing provisions of law-DTAA-India-France-curative petition dismissed. [ITATR. 128, Art. 10, 13] 1412

The Hon'ble Supreme Court had in its judgement [2023] 458 ITR 756 held that interpretation of Expression 'is' occurring in DTAAs [clause IV(2) of India-Netherlands DTAA protocol-other two clauses in relation to France and Switzerland being similar] would have present signification, therefore, for a party to claim benefit of a same treatment clause, based on entry of DTAA between India and another state which was member of OECD, relevant date is entering into treaty with India and not a later date. When, after entering into DTAA with India, such country becomes an OECD member such member cannot be entitled to the benefits of the treaty. Further, it was held that

MFN clauses do not automatically import benefits granted under a later DTAA with another OECD country and that a notification under section 90(1) is mandatory to give effect to DTAA provisions or protocols that alter legal rights. A review petition was filed against the said order which was dismissed. Subsequently, a curative petition was filed. The SC, after considering the curative petition held that none of the parameters as laid down in the case of *Rupa Ashok Hurra v. Ashok Hurra (2002) 4 SCC 388* were present and hence dismissed the curative petition.
Nestle Sa v. Assessing Officer (IT), New Delhi (2025) 307 Taxman 167 (SC)
Editorial: Nestle SA v. AO (IT) (2024) 300 Taxman 361/ 341 CTR 320/ 243 DTR 88 (SC)

1413 **S. 90 : Double taxation relief-Interpretation of agreements-Matter covered by Supreme Court-Writ petition was dismissed-SLP of assessee dismissed. [Art.136]**
The dispute concerned the taxpayer's claim for the benefit of the Most Favoured Nation (MFN) clause contained in the India-France DTAA. The assessee contended that, by virtue of the MFN clause, it was entitled to the same beneficial treatment that India subsequently granted under its tax treaties with certain other countries that later became members of the OECD. However, during the pendency of the matter, the Hon'ble SC in Nestlé SA (supra) had authoritatively held that for the purposes of an MFN clause, the relevant date for determining OECD membership is the date on which the concerned country entered into the DTAA with India, and not a later date when that country subsequently became an OECD member. The Hon'ble SC further held that any beneficial provision available under another DTAA cannot automatically be imported into an existing treaty through the MFN clause; a separate notification under section 90 of the Act is required to amend or give effect to such changes. Before the Delhi HC, the assessee fairly conceded that the issue was covered against it by the SC's decision in Nestlé SA. The HC observed that it was bound by the law declared by the Supreme Court and, therefore, closed the writ petitions, effectively rejecting the assessee's claim. The High Court reaffirmed that a notification under section 90(1) is a mandatory requirement for giving effect to treaty modifications arising from a protocol or MFN clause that would alter existing legal provisions. The decision was rendered in favour of the Revenue. Subsequently, the SC also dismissed the SLP of the Assessee against the HC order.
Societe DE Participations Financieres v. ACIT (2025) 474 ITR 199 (SC)
Editorial : Societe De Participations Financieres v. Dy.CIT (IT) ([2024] 297 Taxman 75 (Delhi)(HC)

1414 **S. 90 : Double taxation relief-A non-resident is entitled to the credit of Tax Deducted at Source (TDS) even if the income on which the tax was deducted was not offered to tax in India, provided the income is not taxable under the provisions of Section 90 of the Income Tax Act, 1961-Directed to refund of TDS along with interest. S. 143(3), 155(14). 264, Form 26AS Art. 226]**
The assessee is a non-resident reinsurance company. The primary issue was whether the assessee, was entitled to the credit of TDS deducted for the Assessment Year, despite not offering the corresponding income for tax in India. The revenue contended that the assessee was not entitled to the credit of TDS because the income received by the Assessee was never offered to tax in India. Further that the assessee should have revised

its Return of Income to include the earnings to claim the TDS credit. The assessee contended that the income received was not taxable in India under Section 90 and therefore, they were entitled to a refund of the TDS amount. Moreover, the TDS credit was duly reflected in Form 26AS, and the return was processed under Section 143(3) without any additions, thereby accepting their position. The Hon'ble High Court held that the assessee was entitled to the TDS credit as the income was not taxable in India under Section 90 of the Act. The Hon'ble High Court also emphasized that Section 155(14) of the Act does not require the original return to be amended or revised for the TDS credit to be granted. The Hon'ble High Court ordered the refund of the TDS along with statutory interest to the assessee. (AY. 2015-16)

Munchener Ruckversicherungs Gesellshaft Aktienge-sellschaft in Munchen v. CIT (IT) (2025) 473 ITR 53 (Delhi) (HC)

S. 90 : Double taxation relief-Non-resident-Tests-Fixed place permanent establishment-Assessee company providing remittances services to non-residents in USA-Liaison office set up in India under conditional permission granted by Reserve Bank of India-Reports to Reserve Bank of India not showing any violations of conditions-No material to establish that liaison office at disposal of assessee or belonged to assessee to conduct its business wholly or partly-Nature of activities of liaison office preparatory and auxiliary-Liaison office not permanent establishment of assessee.-Not exigible to tax in India-DTAA-India-USA. [Art. 5(1), 5(2), 5(3)] 1415

The Assessee, a US based non-resident company established a Liaison Office (LO) in India with RBI approval, restricted to preparatory activities like distributing brochures, liaising with authorities, and exploring business opportunities, while being prohibited from engaging in commercial activities or signing agreements. For relevant assessment years, the assessee had paid commission to its agents situated in India. The AO alleged the place used by the LO to be fixed place PE and also alleged that the LO constituted a dependent agent PE. The CIT(A) upheld the order of the AO. The Tribunal held that the Assessee had a business connection in India as per the Act, however, it did not constitute a PE in India. Dismissing the appeal of the department, Hon'ble High Court held that the liaison office did not meet the criteria established in sub-paras 1 and 2 of article 5, so as to constitute a "fixed place" of business or meet the tests of virtual projection, a takeover of the premises as well as the precepts of control and disposal in order to be a fixed place permanent establishment. The activities undertaken by the liaison office even otherwise were clearly auxiliary in character and would thus clearly fall within Article 5(3)(e) of the DTAA. The liaison office also did not meet the requirements of a dependent agent permanent establishment as per clauses (a), (b) and (c) of para 4 of article 5. Furthermore, the software utilised for the purpose of connecting the Indian agents to the mainframe, being intangible property, would invariably be excluded from the threshold of permanent establishment. Hence, it was held that the liaison office of the assessee did not constitute a permanent establishment in India, there was no dependent agent permanent establishment and that the software did not result in the creation of a permanent establishment. (AY. 2001-02 to 2004-05 2006-07 to 2008-09, 2011-12,2013-14 2015-16)

DIT (IT) v. Western Union Financial Services Inc. (2025) 472 ITR 220 (Delhi) (HC)

1416 **S. 90 : Double taxation relief-Foreign tax credit cannot be denied merely because Form No. 67 was filed after the due date, where the claim is otherwise supported by the return of income. [S. 139(1), R. 128]**

The assessee became a resident in India during the relevant year, declared global income and claimed foreign tax credit under section 90. The Assessing Officer rejected the claim solely because Form No. 67 was not filed along with the return within the prescribed time. The Tribunal held that the delay in filing Form No. 67 is procedural in nature and cannot defeat a substantive claim for relief where the requisite particulars are available on record. The Assessing Officer was directed to grant a foreign tax credit. (AY. 2022-23)

Vaibhav Singh v. ITO (2025) 121 ITR 17 (SN) (Jaipur)(Trib.)

1417 **S. 90: Double taxation relief-Tax on excess interest under Article 11 cannot exceed the treaty rate of 10%-Surcharge and education cess not leviable separately-DTAA-India-Cyprus. [Art. 11]**

The Revenue sought to levy surcharge and education cess over and above the tax payable on interest under Article 11 of the India-Cyprus DTAA. The Tribunal held that the treaty specifically restricts tax on gross interest to 10 per cent and such ceiling includes the tax payable under the treaty. Accordingly, surcharge and education cess could not be levied over and above the treaty rate, and the Assessing Officer was directed to restrict the tax to 10 per cent of the gross interest. (AY. 2014-15)

Fairfield Developments Ltd. v. Dy. DIT (2025) 130 ITR 211 (Hyd.)(Trib.)

1418 **S. 90: Double taxation relief-Foreign Tax Credit-FTC cannot be denied merely because Form No. 67 was filed after the due date under section 139(1), where it was furnished before completion of assessment-Requirement under Rule 128(9) is directory and not mandatory. [S., 91, 143(1), R. 128(9)]**

The assessee claimed Foreign Tax Credit (FTC) of ₹ 7.70 lakh in respect of taxes paid in the USA. Though Form No. 67 was filed after the due date prescribed under section 139(1), it was furnished before the intimation under section 143(1). The CPC denied the FTC and the CIT(A) upheld the denial solely on the ground of delayed filing of Form No. 67. The Hon'ble Tribunal held that the requirement of filing Form No. 67 within the prescribed time under Rule 128(9) is directory and not mandatory, and FTC cannot be denied when the form is filed before completion of the assessment. Since the authorities failed to consider Form No. 67 despite it being available on record prior to the intimation under section 143(1), the matter was restored to the CIT(A) to verify the claim and grant the eligible FTC in accordance with law. Appeal allowed for statistical purposes. [AY. 2020-21]

Ashish Sood v. Dy. CIT (2025) 131 ITR 436 (Chd)(Trib.)

1419 **S. 90 : Double taxation relief-Non-resident-Government authority-Interest income-Abu Dhabi Investment Authority-Exempt under India-UAE DTAA-Denial based on Truecaller search unsustainable-DTA-India-UAE.[Art. 24(2)(b)(ii)]**

The assessee, Abu Dhabi Investment Authority, produced a valid Tax Residency Certificate, registration as a Foreign Portfolio Investor with SEBI and other documentary evidence establishing its identity and status as an authority of the Government of Abu

Dhabi. The Commissioner (Appeals) denied exemption under Article 24 of the India-UAE DTAA solely because the mobile number mentioned in the return appeared as fraudulent on the "Truecaller" application. The Tribunal held that such an approach was wholly unsustainable. Once the statutory documents established that the assessee was the Abu Dhabi Investment Authority specifically covered by Article 24(2)(b)(ii) of the DTAA, its income was exempt from tax in India. The interest income was therefore held not taxable. (AY. 2019-20).

Abu Dhabi Investment Authority v. Dy. CIT [2024] 160 taxmann.com 104 / (2025) 126 ITR 209 (Mum.)(Trib.)

S. 90 : Double taxation relief-Foreign tax credit-Form No. 67 filed-Substantive compliance-Credit allowable. 1420

The Tribunal held that where the assessee had furnished Form No. 67 along with the prescribed documents, denial of foreign tax credit merely on technical grounds was not justified. The Assessing Officer was directed to allow the foreign tax credit in accordance with law. (AY. 2020-21).

Toyota Boshoku Automotive India (P.) Ltd. v. Dy. CIT (2025) 126 ITR 298 / 174 taxmann.com 933 (Bang.)(Trib.)

S. 90 : Double taxation relief-Foreign tax credit-Credit on income exempt in India-Available where permitted by applicable DTAA-DTAA-India-USA [Art.25] 1421

The assessee claimed foreign tax credit in respect of taxes paid overseas on income exempt from tax in India. The Tribunal held that such credit was allowable only where the relevant Double Taxation Avoidance Agreement expressly permitted credit even in respect of income exempt in India. Accordingly, credit was available only in respect of countries whose treaties contained such provisions. (AY. 2014-15).

Tata Consultancy Services Ltd. v. Dy. CIT [2023] 154 taxmann.com 372 / (2025) 129 ITR 667 (Mum.)(Trib.)

S. 90 : Double taxation relief-Non-resident-Rights Entitlement-Capital gains-Rights entitlement distinct from shares-Taxable only in State of residence-DTAA-India-Ireland [[Art. 13(4), 13(5), 13(6), Companies Act, 2013, S. 62] 1422

The assessee, an Irish tax resident and registered Foreign Portfolio Investor, earned short-term capital gains on the sale of rights entitlements of Indian companies and claimed exemption under Article 13(6) of the India-Ireland DTAA. The Revenue treated rights entitlements as shares taxable in India under Article 13(5). The Tribunal held that rights entitlement is a distinct asset, separate from equity shares, capable of being transferred, renounced or allowed to lapse, and is akin to a derivative rather than a share. Since Article 13(5) applies only to shares and rights entitlements are not covered therein, the gains were taxable only in Ireland under Article 13(6). Accordingly, the capital gains were held not taxable in India. (AY. 2021-22).

Vanguard Emerging Markets Stock Index Fund, A Series of VISPLC v. Asst. CIT (2025) 125 ITR 128 / 172 taxmann.com 515 (Mum.)(Trib.)

1423 **S. 90 : Double taxation relief-Non-resident-Delaware Limited Liability Company-Fiscally transparent entity-Liable to tax in USA-Treaty benefits available-DTAA-India-USA**

The Assessing Officer denied treaty benefits on the ground that the assessee, being a Delaware Limited Liability Company, was a fiscally transparent entity. The Tribunal held that "liable to tax" denotes the legal liability to taxation and not actual payment of tax. Accordingly, the assessee was entitled to the benefits of the India-USA Double Taxation Avoidance Agreement. (AY. 2016-17 to 2019-20 & 2021-22).

GoDaddy.com, LLC v. ACIT (IT) (2025) 123 ITR 29 / 170 taxmann.com 408 (Delhi)(Trib.)

1424 **S. 90 : Double taxation relief-Foreign tax credit-Filing of Form No. 67 is not mandatory, but it is a directory requirement, and mere delay in filing Form No. 67 as per provisions of Rule 128(9) will not preclude the assessee from claiming benefit of foreign tax credit in respect of tax paid outside India-DTAA-India-USA.[R. 128, Form No 67, Art. 25]**

The Assessee filed his return of income claiming foreign taxes, however there was a delay in filing Form 67. The CPC disallowed the claim of foreign taxes. On appeal the Hon'ble CIT(A) allowed the claim of foreign taxes. On appeal by the department, the Tribunal held that filing of Form No. 67 is not mandatory, but it is a directory requirement, and mere delay in filing Form No. 67 as per provisions of Rule 128(9) will not preclude assessee from claiming the benefit of foreign tax credit ('FTC') in respect of tax paid outside India. The Tribunal further held that FTC is assessee's vested right as per DTAA read with section 90, and the same cannot be disallowed for non-compliance with the procedural requirement. (AY. 2020-21)

ITO v. Fashion Factory (International) (P.) Ltd. (2025) 213 ITD 545 (Delhi) (Trib.)

1425 **S. 90 : Double taxation relief-Filing of Form No. 67 read with rule 128 is only directory in nature and not mandatory-Belated filing of Form No. 67 would not bar claim of Foreign Tax Credit (FTC)-Dividend income from USA based company-Rate of tax on said income is already prescribed under India-USA DTAA, same shall prevail over and above normal tax rate provided under Income-tax Act-DTAA-India-USA. [S. 143(1)(a), Art. 10, 25, R. 128, Form No 67]**

Assessee claimed Foreign Tax Credit (FTC) of a certain amount in its return of income.In support of claim of FTC, assessee filed Form No. 67 belatedly. Assessing Officer denied FTC solely on ground of belated filing of Form No. 67. On appeal the Tribunal held that filing of Form No. 67 read with rule 128 is only directory in nature and not mandatory. Therefore, belated filing of Form No. 67 would not bar claim of FTC. Assessee, an individual, earned dividend income from USA based company. In income-tax return, assessee offered this income to tax at rate of 25 per cent as per article 10 of India-USA DTAA However, CPC while processing return under section 143(1)(a) taxed said dividend income at rate of 30 per cent The Tribunal held that since the rate of tax is already prescribed under Treaty, same shall prevail over the normal tax rate provided under Act and further held that the Assessee had rightly offered to tax dividend income at rate of 25 per cent. (AY. 2021-22)

Vipul Chandrakant Sawalwade v. ITO (2025) 212 ITD 581 (Pune) (Trib)

S. 90 : Double taxation relief-Education cess-Tax rates as prescribed under DTAA would include education cess as well-Adjustment made is directed to be deleted-DTAA-India-USA. [S. 143(1), 154, Art. 2(1)b)(i)&(ii), 10, 11] 1426

The Assessee is a citizen of USA and was residing permanently in India. The return of income of the Assessee was processed and the CPC raised a demand after levying education cess on entire tax including DTAA rates. On appeal, the assessee submitted that the rates as specified in DTAA included surcharge and surtax and the education cess would be applicable only for income earned in India. The Hon'ble CIT(A) rejected the same on the ground that education cess is an additional levy that is applied on the basic tax liability by the Government to generate revenue for education. On appeal the Tribunal held that, as per Article 2(1)(b)(i) & (ii) of India-USA DTAA, surcharge and surtax are included in maximum rates as specified under Articles 10 and 11 of DTAA. The Hon'ble Tribunal, relying on *DDIT v. BOC Group Ltd (2015) 156 ITD 402(Kol)(Trib),ITO v. M. Far Hotels Ltd(2013) 32 taxmann.com 100(Cochin)(Trib), Sunil V. Motiani v. ITO (IT) (2013) 33 taxmann.com 252(Mum)(Trib),* held that the tax rates as prescribed under DTAA would embed education cess as well and directed the CPC to recompute the tax liability. (AY. 2022-23)

Sankaranarayanan Ramasubramanian v. ACIT (2025) 211 ITD 155 (Chennai) (Trib.)

S. 90 : Double taxation relief-Foreign tax credit-Form No. 67 not filed within due date of filing return under section 139(1) but filed before processing of return by CPC-Directory and not mandatory-Foreign tax credit cannot be denied. [S. 139(1) Form No 67] 1427

Form No. 67 was not filed by assessee within the due date of filing return under section 139(1), but the same was filed before processing of return by CPC. CPC denied Assessee's claim of Foreign Tax Credit (FTC) alleging that Form No. 67 was not filed within prescribed time. The Hon'ble CIT(A) confirmed the action of CPC on the ground that Form No. 67 was not filed before the time limit specified under section 139(1) and filing of Form No. 67 is mandatory to claim the benefit of FTC. Assessee contended that filing of Form No. 67 is a directory requirement but not mandatory. The Hon'ble Tribunal held that the CPC was not justified in denying the Assessee's claim of FTC merely because Form No. 67 was not filed within the due date specified for filing return under section 139(1), as it is merely directory in nature. [ITA No. 2491/PUN/2024 dated 21/01/2025] (AY. 2019-20)

Preeti Das v. ITO (Pune) (Trib) (UR)

S. 90: Double taxation relief-Foreign business income-Tax paid in Nepal-Delay in filing Form No. 67-Assessee would be entitled to FTC. DTAA-India-Nepal [Form No 67] 1428

Assessee earned foreign business income on which tax was paid in Nepal. Assessee filed its return claiming FTC. The learned AO denied the claim on the ground that Form No. 67 was filed belatedly. The Hon'ble Tribunal held that the Assessee deserved credit for taxes paid in Nepal since provisions of India-Nepal DTAA, which provides for eliminating double taxation of income, have an overriding effect over other provisions of the Act. Therefore, it would be entitled to FTC even if Form No. 67 was filed belatedly (AY. 2021-22)

BGA Electrical & Services (P.) Ltd. v. Dy. CIT (2025) 210 ITD 472 (Kol.) (Trib.)

1429 **S. 90: Double Taxability Relief-Foreign Tax Credit (FTC)-Denial due to delayed filing of Form No. 67-Directed to allow the claim. DTAA-India-Netherlands.[Form No.67, Art. 23]**
Assessee was on assignment to Netherlands and had received salary in Netherlands. Assessee had received salary income in India and offered same to tax and claimed foreign tax credit (FTC) in revised return which was disallowed by the CPC on the ground that Form No. 67 was filed beyond time allowed in terms of rule 128(9). The Hon'ble Tribunal held that Rule 128(9) prescribing the filing of Form No. 67 by the due date of the return, is directory and procedural and non-compliance with this procedural requirement does not extinguish the substantive right to claim FTC. The Hon'ble Tribunal further held that the provisions of DTAA override domestic law if they are more beneficial to the Assessee and procedural compliance should not override the DTAAs substantive provisions, which guarantee relief from double taxation. Accordingly, the AO was directed to allow FTC as per DTAA between India and Netherlands. (AY. 2020-21)
Surendra Kumar Goenka v. ADIT, CPC (2025) 210 ITD 315 (Kol.) (Trib.)

1430 **S. 90 : Double taxation relief-Mauritius company-Indian company shares acquired before 01-04-2017-Sale claimed as exempt using Article 13(4) of the DTAA-No capital gains as TRC was given and grandfathering of treaty.-DTAA-India-Mauritius [S.90, Art. 13(4)]**
Assessee company was investment company based in Mauritius and invested in India in number of companies. The capital gains of sale of equity shares of Indian companies were claimed as non-taxable by taking recourse to Article 13(4) of India-Mauritius Treaty. The AO treated the company as shell company and alleging that there was no real economic activity, and TRC was not sufficient and that the company was managed from USA parent and no treaty benefit could be given. It was observed by ITAT that the assessee company submitted all documentary evidences to claim treaty benefit as per Article 13(4) and as per section 90 read with rule 21AB. Form No.10F and category-1 Global business license issued by the Financial Services Authorities Mauritius was submitted. It was held that the income-tax authorities sitting in India cannot question the correctness of the TRC issued by the Mauritius Tax Authority. Once, the concerned authorities in Mauritius have issued the TRC and the Cat-1 Global business license, it has to be assumed that all facts and evidences were verified by them and only after being satisfied that the relevant conditions have been fulfilled, the certificates have been issued. The AO could not establish on record that the assessee is a shell/conduit company through proper evidence. It was held that the assessee remains entitled to treaty benefits. Further, since the shares were acquired before the amendment to the tax treaty was made, the LTCG can be claimed as exempt. (AY. 2020-21)
Norwest Venture Partners X-Mauritius v. DCIT / [2024] 160 taxmann.com 632 /[2025] 121 ITR 239(Delhi)(Trib)

1431 **S 90: Double taxation relief-Capital gains-Exempt income-Set-off of losses-Carry-forward allowed-No set-off of capital losses against exempt gains permitted-Carry-forward of losses for future years is allowed, subject to that the set-off must be applied only to income which is taxable in India-DTAA-India-Mauritius. [S. 70, 74(1), 90(2), Art. 4, 13(3B), 13(4)]**
The Assessee, TVF Fund Ltd, a company incorporated in Mauritius and registered with SEBI as a Foreign Portfolio Investor (FPI), earned LTCG of Rs. 225 crores and STCG

of Rs. 39 crores during AY 2021-22 from the sale of shares and derivatives acquired prior to 01.04.2017. The Assessee, a resident of Mauritius under Article 4 of the India-Mauritius DTAA, claimed exemption for these gains under Article 13(3) and 13(4) of the DTAA, holding that such gains are taxable only in Mauritius. The assessee also carried forward LTCL of Rs. 45 crores for AY. 2020-21 and Rs. 11 crores for AY 2021-22, as well as STCL of Rs. 9 crores after setting off Rs. 3 crores in AY 2021-22. The learned AO passed an order setting off the brought-forward capital losses against the exempt capital gains, thereby restricting the exemption claimed under the DTAA. The DRP upheld the order of the AO. The Tribunal held that capital gains on shares and derivatives acquired prior to 01.04.2017 are exempt from tax in India under Article 13(3) and 13(4) of the India-Mauritius DTAA, as such gains are taxable only in Mauritius. The Tribunal also held that the set-off of capital losses against exempt income is not permissible as the gains are not chargeable to tax in India, no loss can be set off against such exempt income. The Tribunal also held that carry-forward of losses for future years is allowed, subject to the condition that the set-off must be applied only to income that is taxable in India. (AY.2021-22)

TVF Fund Ltd. v. Dy.CIT [2025] 171 taxmann.com 349 (Mum)(Trib)

S. 90 : Double taxation relief-Capital gains-Mutual fund Units-Singapore resident-Sale/ redemption of mutual fund units would be covered under Article 13 of DTAA-Not taxable in India-DTAA-India-Singapore. [Art. 13(4), 13(5)] 1432

Assessee is a non-resident Indian and is a resident of Singapore. The Assessee has claimed exemption for the capital gains earned on sale of Mutual funds under Article 13 of the India Singapore DTAA. The AO denied the exemption. The DRP affirmed the denial of exemption by the AO. On appeal the Hon'ble Tribunal held that the short term capital gains arising from sale/redemption of mutual fund units would fall within the ambit of Para 5 of Article 13 of DTAA between India and Singapore. Accordingly the Tribunal deleted the addition. (AY.2022-23)

Anushaka Sanjay Shah (Ms) v. ITO (IT)(2025) 173 taxmann.com 570 (Mum)(Trib)

S. 92B : Transfer pricing-International transaction-Determination of-whether corporate guarantee was an international transaction-Remand directions by the Tribunal held to be unclear-HC sets aside order of Tribunal and directs AO for de novo exercise [S.92CA, 260A] 1433

The Assessee had given a corporate guarantee in respect of bonds issued by its AE. The AO made a reference to the TPO, however, the TPO did not make any additions. The AO independently examined the issue and made the addition of alleged guarantee fee by treating it as an international transaction. The CIT(A) upheld the order of the AO. Subsequently, the Hon'ble Tribunal constituted a special bench but it was held that the question of whether giving a corporate guarantee was an international transaction did not arise as the Assessee had only given an undertaking. The Tribunal remanded the matter to the AO for fresh examination of the issue. On appeal to the Hon'ble HC, the HC held that the Tribunal's remand directions were overly broad and failed to specify the precise issue that remained to be examined. The Court observed that the real question was whether the obligation arising from the undertaking given by NDTV could itself qualify as an "international transaction" under Section 92B. The Court further

noted that this issue had not been conclusively determined by the lower authorities and therefore required examination at the assessment stage.
The order of the Tribunal was set aside with the direction that after the learned AO came to a conclusion that the corporate guarantee amounted to an international transaction the matter was to be considered and referred to the TPO. Since the principal direction of remit by the Tribunal and a de novo exercise was liable to be undertaken by the AO, the order of the TPO and the consequent draft assessment order also stood set aside.(AY.2008-09)
New Delhi Television Ltd v. ACIT [2025] 478 ITR 536 / 171 taxmann.com 425 (Delhi)(HC)

1434 **S. 92B : Transfer pricing-International transaction-Arm's length price-Avoidance of tax-Lending or Borrowing / Capital Financing-Delay in receipt of receivables beyond a reasonable credit period partakes the character of an advance and results in an international transaction in view of the Explanation to section 92B(2), which can thereafter be subjected to computation of notional interest. [S. 92C]**
The assessee was engaged in the business of providing software services. The case was selected for scrutiny, and international transactions entered into with AEs were referred to TPO under section 92CA(1) for determination of ALP. The TPO passed an order under section 92CA(3) proposing a transfer pricing adjustment on account of outstanding trade receivables from AE, treating the delay in realization of receivables beyond the reasonable credit period as a separate international transaction and imputing notional interest thereon. The DRP upheld the order passed by the TPO. On appeal to the Tribunal, it was held that delay in receipt of trade receivables beyond reasonable credit period constituted an international transaction and warranted computation of notional interest at LIBOR plus markup under rule 10CB. Thus, the appeal of the assessee was dismissed. [AY. 2017-18]
Avaya India (P.) Ltd. v. ACIT (2025) 128 ITR 504 (Delhi)(Trib.)

1435 **S. 92B : Transfer pricing-International transaction-Arm's length price-Avoidance of tax-Royalty-Payment for technical know-how-Royalty transaction cannot be aggregated with manufacturing transactions-Transaction held to be at arm's length. [S.92C, R. 10AB]**
The Transfer Pricing Officer aggregated the assessee's payment of royalty with other manufacturing transactions for determining the arm's length price. The Tribunal held that payment of royalty for use of technical know-how was an independent international transaction and could not be aggregated with manufacturing activities merely because the technology was used in the manufacturing process. Since the royalty charged by the associated enterprise from another independent party for the same product was higher than that charged from the assessee, the royalty paid by the assessee was held to be at arm's length, and the adjustment was deleted. (AY. 2018-19).
MAN Energy Solutions India P. Ltd. v. Asst. CIT [2023] 149 taxmann.com 347 / (2025) 129 ITR 562 (Pune)(Trib.)

S. 92B : Transfer pricing-International transaction-Determination of Arm's length price-Tax Avoidance-Interest on outstanding receivables is international transaction-Separate benchmarking-Appropriate rate of interest is LIBOR + 200 basis point. [S.92C] 1436

The Assessee had outstanding receivable from its AEs beyond the agreed credit period. The learned TPO opined that the delay in payment of receivables from the AEs constituted an International Transaction under section 92B, which explicitly included such deferred payments under the ambit of transfer pricing provisions, thereby warranting an Arm's Length Price (ALP) determination. As a result, the learned TPO worked out the delayed period in excess to 90 days of agreed credit period for each and every invoice and applying interest rate as SBI-PLR i.e. 13.27 per cent. The Assessee filed objections before the Hon'ble DRP. The Hon'ble DRP held that outstanding receivable was not an international transaction, the TP adjustment should be made where there was real income arises, the Assessee being debt free had not incurred borrowing cost, therefore interest on outstanding receivable was not required to be charged etc.

The learned TPO passed giving effect order, and the learned AO passed final assessment order making an addition of interest on outstanding receivable for certain amount only. The Hon'ble DRP revised its direction as there was inadvertence mistake crept in the direction. The DRP in rectified direction directed the TPO to compute the ALP of interest on delayed receivable only for the period pertaining to year under consideration. The learned TPO passed revised giving effect order and thereby computed the interest amount at certain amount. The revised computation of the interest was not incorporated by the learned AO in the final assessment order as the learned AO had not received the revised direction issued by the Hon'ble DRP. The Assessee filed appeal before the Hon'ble Tribunal.

The Hon'ble Tribunal held that as per amendment to section 92B of the Act by way of Finance Act, 2012 with retrospective effect from 1-4-2002, interest on outstanding receivables is an international transaction, which requires separate benchmarking. The Hon'ble Tribunal directed the learned Assessing Officer to compute interest on delayed receivable for period falling with year under consideration only and appropriate rate of interest would be LIBOR + 200 basis point. (AY. 2020-21)

Ariba Technologies India (P.) Ltd. v. DCIT (2025) 212 ITD 17 /235 TTJ 420 (Bang) (Trib)

S. 92B : Transfer pricing-International transaction-Determination of Arm's length price-Tax Avoidance-Transactions between head office (HO) and Project Office (PO) in India-Transactions between a foreign enterprise and its PE in India qualify as international transactions under section 92B, even if both are non-residents subject to ALP adjustment-The matter is directed to be placed before the Division Bench to give effect to the direction. [S.92 Art. 7(2), 9, India-China DTAA] 1437

The Assessee was Project Office in India of TBEA a company incorporated in China. The Head Office in China had made/ received certain payments on behalf of the Project Office as the Project Office did not have a bank account in India at the relevant time. The learned Assessing Officer held the payments as 'reimbursement' and termed them as 'international transaction' for the purpose of reference to learned TPO.

The learned TPO held that since the original onshore service contract was executed between head office in China and PGCIL, the act of carrying out execution of the

contract by the Project Office in India on behalf of head office in China and consequent incurring of expenses by it was required to be considered as the international transaction between the Head Office in China and Project Office. The learned TPO observed that the per unit civil work rate received from PGCIL was lower than the rate paid to sub-contractor. The learned TPO held that the Project Office was not adequately compensated for the onshore activity and had incurred losses. Therefore the learned TPO held that the TP provisions were applicable to transactions between Project Office and its Head Office in China. The Assessee filed appeal before the Hon'ble Tribunal and Special Bench was constituted by the Hon'ble Tribunal.

The Hon'ble Tribunal held that the difference in per-unit civil work rates received from PGCIL and the rate paid to subcontractors showed inadequate compensation to the PO. Since the PO was a separate enterprise under Article 7(2) of the India-China DTAA, transactions between HO and PO were subject to transfer pricing adjustments under section 92B. Assessee challenged the adjustment. Held: The PO must be treated as a distinct and separate enterprise from HO, as per Article 7(2) of the India-China DTAA. Transactions between a foreign enterprise and its PE in India qualify as international transactions under section 92B of the Act, even if both are non-residents. The matter is directed to be placed before the Division Bench to give effect to the direction. (AY. 2012-13)

TBEA Shenyang Transformer Group Company Ltd. v. Dy. CIT(IT) (2025) 210 ITD 53 /233 TTJ 906 (SB) (Ahd.)(Trib.)

1438 **S.92BA : Transfer pricing-Specified domestic transaction-Arm's length price-Market value of electricity-Indian Energy Exchange not comparable to supply by State Electricity Boards-Comparable uncontrolled price method not applicable in case of material dissimilarity-Deletion of transfer pricing adjustment justified. [S.80-IA(8), 92B, 92BA, 92C, 92F, 260A]**

The assessee, engaged inter alia in power generation, transferred electricity from eligible units to non-eligible units and claimed deduction under section 80-IA. The TPO, while accepting CUP as the most appropriate method, benchmarked the transactions by adopting average rates of electricity traded on the Indian Energy Exchange (IEX) and made a transfer pricing adjustment on the ground that the transfer was not at market value, resulting in reduction of section 80-IA deduction. The Tribunal held that electricity traded on IEX represents spot market transactions for purchase of power and is materially different from regular supply of electricity by State Electricity Boards or power distribution companies for consumption, and therefore cannot be considered as a comparable uncontrolled transaction. It was held that CUP method can be applied only where there is a high degree of comparability and where differences materially affecting price can be reasonably adjusted, which was not possible in the present case. The Tribunal thus accepted the rates charged by State Electricity Boards as an appropriate external CUP and deleted the transfer pricing adjustment. On appeal, the High Court dismissed the Revenue's appeal, holding that the Tribunal was justified in concluding that IEX rates see significant dissimilarity and cannot be applied for determining arm's length price of specified domestic transactions, and that no substantial question of law arose. (AY.2014-15)

PCIT v. DCM Shriram Ltd. (2025) 478 ITR 385 / 170 taxmann.com 631 (Delhi) (HC)

S. 92BA : Transfer pricing-Specified domestic transaction-Arm's length price-Avoidance of tax-Industrial undertaking-Generation of electricity-Internal CUP available-Purchase price of electricity from State Electricity Board constituted market value-Transfer pricing adjustment deleted. [S. 80IA] 1439

The assessee benchmarked the transfer of electricity generated by its captive power unit to its manufacturing unit by adopting the Comparable Uncontrolled Price (CUP) method based on the tariff charged by the Punjab State Power Corporation Ltd. The Transfer Pricing Officer substituted the Indian Energy Exchange trading rate as the benchmark. The Tribunal held that where a direct internal CUP was available, the electricity tariff charged by the State Electricity Board represented the appropriate market value. In the absence of any justification for adopting the IEX trading rate, the assessee's transfer price was held to be at arm's length, and the transfer pricing adjustment was deleted. (AY. 2013-14).

Nectar Lifesciences Ltd. v. Asst. CIT [2022] 138 taxmann.com 557 / (2025) 129 ITR 542 (Delhi)(Trib.)

S.92BA: Transfer pricing-Specified domestic transaction-Arm's length price-Avoidance of tax Transfer Pricing-"Arrangement" between eligible and non-eligible units is condition precedent-Additional evidence admitted-Matter remanded.[S. 80-IA (10) 80-IC, 80-IE, 92BA, 254(1), R. 29 of the ITAT Rules, 1963] 1440

The Transfer Pricing Officer invoked section 80-IA(10) merely because the eligible units earned higher profits than comparable concerns and inferred that profits had been shifted from non-eligible units. The assessee sought to produce additional evidence before the Tribunal to demonstrate that the transactions with associated enterprises were at market price. The Tribunal held that existence of an "arrangement" is a mandatory pre-condition for invoking section 80-IA(10), and higher profitability or close connection alone cannot establish such an arrangement. Since the additional evidence was necessary for a just adjudication, it was admitted under rule 29, and the matter was restored to the Assessing Officer for fresh examination. (AY. 2018-19).

Mankind Pharma Ltd. v. Dy. CIT [2024] 162 taxmann.com 235 / (2025) 125 ITR 263 (Delhi)(Trib.)

S. 92BA : Transfer pricing-Specified domestic transaction-Arm's length price-Avoidance of tax-Captive power plant-Transfer pricing-State Electricity Board tariff not comparable-Arm's Length Price to be determined on internal comparable-Eligible business-Non-claim of deduction under section 80-IA-Does not exclude applicability of section 92BA.[S.80IA(8), 80IA(10), 80IB, 92CA, R. 10B] 1441

The assessee adopted the tariff charged by the State Electricity Board as the comparable uncontrolled price for benchmarking the transfer of power generated by its captive power plant to its cement manufacturing unit. The Tribunal held that the functions, assets and risks of the State Electricity Board were materially different from those of the assessee's captive power plant. In the absence of an open market price, the Transfer Pricing Officer was justified in applying the arm's length price principle under section 92C read with rule 10B and benchmarking the transaction by adopting the arithmetic mean of the rates charged by the assessee to independent consumers. The assessee

contended that section 92BA was inapplicable as no deduction under section 80-IA had been claimed for the relevant assessment year. The Tribunal held that the applicability of section 92BA depends upon the nature of the specified domestic transaction covered by section 80-IA(8) or section 80-IA(10) and not upon the actual claim of deduction under section 80-IA. Mere non-exercise of the option to claim deduction does not take the transaction outside the ambit of section 92BA (AY. 2017-18).
Sanghi Industries Ltd. v. Dy. CIT (2025) 123 ITR 133 / 170 taxmann.com 716 (Hyd.)(Trib.)

1442 **S. 92BA : Transfer pricing-Specified domestic transaction-Determination of Arm's length price-Tax Avoidance-Firm-Partner-Capital contribution from partner-Failure to give comparable-Assessing Officer valued at a lower rate based on cost of construction-Addition affirmed.**

The Assessee entered into a specified domestic transaction relating to the transfer of land by a partner in the Assessee to the Assessee as capital contribution. The transaction was recorded to have taken place in the books of the Assessee. The Assessee had not given any comparable price and benchmarking analysis for establishing the transaction with its AE to have taken place at arms' length, the learned TPO showcaused the Assessee as to why the cost of acquisition of the land by the partner be not considered as ALP of the land transferred to the Assessee. The Assessee filed reply justifying the transaction to be at ALP stating that the land had been transferred to the assessee-firm at cost pointing out that the sale deed itself mentioned the cost of land. The Assessee filed comparable transaction to demonstrate that the impugned specified domestic transaction had taken place at ALP.

The learned Assessing Officer held that land originally acquired was 7,537 sq. mt. by the partner and the contention therefore that only 4,522 sq. mt. land was acquired was incorrect. The Assessee was not justified in stating that the cost of acquisition of land mentioned in the sale deed of Rs. 5.20 crores pertained to cost of acquisition of 4,522 sq. meters of land transferred to the Assessee.

The comparable transaction furnished by the Assessee pertained to Assessment Year 2016-17, since the date of transaction was 15-10-2015 and the Assessment Year being assessment year 2015-16, the learned Assessing Officer held that the transaction was not comparable for the purpose of CUP method prescribed in rule 10B(1)(a) of the Income Tax Rules, 1962. And recomputed ALP of applying rate of Rs. 9,659/-per sq. meters to the land, 4,522 sq. meters, transferred to the Assessee and made an upward adjustment to the impugned specified domestic transaction of Rs. 83.20 lakhs. The Hon'ble CIT(A) upheld the order of the learned Assessing Officer. The Assessee filed appeal before the Hon'ble Tribunal.

The Hon'ble Tribunal held that, TPO/Assessing Officer noted that comparable transaction furnished by Assessee pertained to assessment year 2016-17, since date of transaction was 15-10-2015 and impugned year being assessment year 2015-16, he accordingly held that transaction was not comparable for purpose of CUP method prescribed in Rule 10B(1)(a) and made an upward adjustment to specified domestic transaction. The Hon'ble Tribunal affirmed the order of the Assessing Officer (AY. 2015-16)
Dhara Developers v. ITO (2025) 214 ITD 692 (Ahd) (Trib.)

S. 92C : Transfer pricing-Arm's length price-Tax Avoidance-Intra-group services-Matter remanded by Tribunal to Transfer Pricing Officer-High Court holding no infirmity in order of Tribunal-Revenue SLP dismissed.[S.92CA(3), Art. 136] 1443

The Assessee had computed the arm's length price in respect of the allocation of intra-group services adopting the transactional net margin method but the learned Transfer Pricing Officer held that the services were nil on an application of the comparable uncontrolled price method but the Hon'ble Tribunal remanded the matter to the learned Transfer Pricing Officer to consider the matter afresh. The Hon'ble High Court held that the Hon'ble CIT(A)) and the Hon'ble Tribunal having recorded concurrent findings that the Assessee had received the intra-group services and the transfer pricing study of the assessee could not be rejected unless the conditions as set out in section 92C(3) of the Act were satisfied, that the learned Transfer Pricing Officer had not examined the transfer pricing analysis furnished by the assessee regarding the value of the services received, there was no infirmity in the Tribunal's decision in remanding the matter to the Transfer Pricing Officer to consider afresh whether any of the conditions under section 92C(3) of the Act were satisfied before proceeding to make transfer pricing adjustment on account of intra-group services. The SLP of revenue dismissed. (AY. 2019-20)

American Express Banking Corporation v. ACIT [2025] 307 Taxman 226 / (2026) 484 ITR 1 (SC)

Editorial: American Express Banking Corporation v. ADIT (IT) (2025) 476 ITR 752 (Delhi HC)

S. 92C : Transfer pricing-Arm's length price-Tax Avoidance-SLP of revenue dismissed on account of failure to explain 597 days of delay. [Art. 136] 1444

The Hon'ble High Court held that where learned TPO made protective as well as substantive addition on account of AMP expenditure, however perusal of transactions undertaken by assessee with AE showed no discernible pattern which would suggest any arrangement or understanding between assessee and its AE that would qualify said transaction as an international transaction; no addition could have been made. There being gross delay of 597 days in filing SLP by revenue which had not been explained, SLP was dismissed on ground of delay. (AY. 2012-13, 2013-14)

PCIT v. Amadeus India (P.) Ltd. (2025) 304 Taxman 276 (SC).

Editorial : PCIT v. Amadeus India (P.) Ltd. (2022) 145 taxmann.com 311 (Delhi)(HC)

S. 92C : Transfer pricing-Arms' length price-Tax Avoidance-Gross delay of 434 days in filing SLP had not been satisfactorily explained by revenue-SLP of revenue dismissed. [Art. 136] 1445

The Assessee was a distributor which did not make any value addition to the goods received by it from its principal; the MAM for ascertaining ALP concerning the international transaction was the Resale Price Method. The learned Assessing Officer made upward adjustments and relied upon the TNMM for benchmarking the international transaction. The Hon'ble Tribunal held that although the TPO had observed that the assessee was a full-fledged risk-bearing distributor performing various functions; therefore, the MAM was not RPM, but no comparable instances had been brought on

record by the learned TPO. The Assessee resold the goods in the market without any value addition. Bearing these two aspects in mind, the Hon'ble Tribunal concluded that RPM was the MAM to benchmark the concerned international transactions. The Revenue filed an appeal before the Hon'ble High Court.

The Hon'ble High Court held that RPM was most appropriate method for determining ALP of international transaction in case of distribution and marketing activities especially when goods are purchased from AEs and there were sales to unrelated parties without any processing and value addition. Since gross delay of 434 days in filing SLP had not been satisfactorily explained by revenue, SLP of revenue was dismissed. (AY. 2012-13, 2013-14)

PCIT v. Fujitsu India (P.) Ltd. (2025) 304 Taxman 657 (SC)

Editorial : PCIT v. Fujitsu India (P.) Ltd.(2024) 296 Taxman 197 (Delhi)(HC)

1446 **S. 92C : Transfer pricing-Arm's length price-Tax Avoidance-Specified domestic transaction-Royalty-Most appropriate method-SLP of revenue dismissed. [Art. 136]**

The Assessee was engaged in the business of manufacturing. The Assessee made payment of royalty to its foreign based AE for providing technical know how and technical knowledge for manufacturing of engines to be sold to the customers. The Assessee benchmarked this transaction alongwith other international transactions of export sales under overall 'manufacturing segment'. The Assessee used TNMM to benchmark all its international transaction. The learned Transfer Pricing Officer segregated the international transaction of payment of royalty from other international transactions of the Assessee and used CUP method to benchmark the international transaction.

The Assessee filed appeal before the Hon'ble Tribunal which upheld the order of the learned Transfer Pricing Officer. The Assessee filed appeal before the Hon'ble High Court.

The Hon'ble High Court allowed the Assessee's appeal holding that the Transfer Pricing Officer having accepted the transactional net margin method as the most appropriate method could not have applied the comparable uncontrolled price method for only one element of the international transaction of payment of royalty, that even after the new agreement was entered into by the assessee. The Hon'ble High Court dismissed the Revenue's petition, that sufficient cause and grounds had not been made out to condone the delay in filing the petition.(AY. 2015-16 to 2017-18)

ACIT v. Cummins India Ltd.(2025) 476 ITR 158 /304 Taxman 604 (SC)

Editorial : Cummins India Ltd. v. ACIT (2023) 294 Taxman 619/ 335 CTR 387 / (2024) 470 ITR 184 (Bom)(HC)

1447 **S. 92C : Transfer pricing-Arm's length price-Tax Avoidance-Distributor purchasing goods from associated enterprises and reselling without value addition-Gross profit is determinative factor-Resale price method is most appropriate.[S. 144C, 260A]**

The Assessee was distributor which did not make any value addition to the goods received by it from its principal, the MAM for ascertaining ALP concerning the international transaction was the Resale Price Method. The learned Assessing Officer made upward adjustments, relied upon the TNMM as most appropriate method. The Hon'ble Tribunal held that although the learned TPO had observed that the Assessee

was a full-fledged risk-bearing distributor performing various functions and, therefore, the MAM was not RPM, but no comparable instances had been brought on record by the learned TPO. The Hon'ble Tribunal found that assessee resold the goods in the market without any value addition, concluded that RPM was the MAM to benchmark international transactions.

The Hon'ble High Court dismissing the Revenue appeal, held that the Hon'ble Tribunal found that the Assessee resold the goods in the market without any value addition and therefore, the gross margin earned on such transaction was the only determinative factor for analysing the gross compensation after the cost of sale. It held that although the learned Transfer Pricing Officer and the Hon'ble Dispute Resolution Panel had observed that the Assessee was a full-fledged risk-bearing distributor performing various functions and therefore the most appropriate method was not the resale price method, they did not bring any comparable instances on record and rejected the transactional net margin method adopted by them.(AY. 2011-12 to 2013-14)

PCIT v. Fujitsu India Pvt. Ltd [2024] 296 Taxman 197 / (2025) 483 ITR 400 (Delhi)(HC)

Editorial : SLP rejected, PCIT v. Fujitsu India Pvt. Ltd (2025) 304 Taxman 657 (SC)

S. 92C : Transfer pricing-Arm's length price-Tax Avoidance-Advertising, marketing and promotion expenditure-Applying the bright line test was sustainable-Pendency of SLP-Liberty given to revive the appeal if the Revenue succeeds. [S.260A] 1448

The learned Assessing Officer made reference to the learned the Transfer Pricing office. The learned Transfer Pricing Officer during Transfer Priicng assessment proceedings, observed that the Assessee had incurred substantial Advertisement, Marketing and Promotion ('AMP') expenses. A portion of these AMP expenses resulted in promotion of the Timex brand owned by the foreign AEs and therefore constituted an international transaction under section 92B of the Act applying the Bright Line Test ('BLT'), the learned TPO determined that the Assessee had incurred AMP expenditure in excess of what an independent enterprise would have incurred and made transfer pricing adjustments. The Assessee challenged the adjustment, contending that the AMP expenditure was incurred solely for increasing its own sales in India and that there was no arrangement with the AEs for brand promotion. The Assessee filed appeal before the Hon'ble Tribunal. The Hon'ble Tribunal, both for the assessment years 2010-2011 and 2008-2009, had remitted the matter to the learned Assessing Officer. The Revenue filed appeal before the Hon'ble High Court.

The Revenue had not been able to demonstrate that the position in the assessment year 2010-2011 was any different from that of the assessment year 2008-2009, both in fact and in law.

The Hon'ble High Court affirmed the view of the Hon'ble Tribunal which ruled that excessive AMP expenditure did not fall in category of an International Transaction therefore, adjustment made qua same was unsustainable in eyes of law as assessee was primarily engaged in manufacturing operations and that AMP expenditure had been Incurred to benefit its own operation and not for promoting an AE and had remitted matter back to file of learned Assessing Officer. The Hon'ble High Court dismissed the Revenue appeal. (AY. 2010-11)

PCIT v. Timex Group India Ltd [2023] 157 taxmann.com 528 / (2025) 483 ITR 475 (Delhi) (HC)

1449 **S. 92C : Transfer pricing-Arm's length price-Tax Avoidance -Tribunal Order affirmed. [S.260A]**

The Revenue appeal dismissed, held that the auditors had accepted it. The accounts had been approved by the company in general meeting and had also been filed with the Registrar of Companies. Therefore, the Hon'ble Tribunal was correct in not interfering with the order of the Hon'ble Dispute Resolution Panel with regard to computation of the profit level indicator. The Hon'ble Dispute Resolution Panel had correctly held that the solar trial activity was an extraordinary item and was not part of the regular business of the Assessee and there was impairment of asset.

PCIT v. Schott Glass India Pvt. Ltd (2025) 483 ITR 3 (Bom)(HC)

1450 **S. 92C : Transfer pricing-Arm's length price-Tax Avoidance-Interest on delayed receivables-Selection of comparables-Exclusion of comparables by Tribunal Functional dissimilarities-Tribunal Order affirmed. [S.92B, 92CA]**

The Assessee established in Mauritius engaged in providing IT enabled back office research and data analytics services to its AEs. The show cause notice was issued to Assessee with respect to disallowance under section 14A of the Act to be made pertaining to the dividend income pertaining to which expenses were not declared. The learned Assessing Officer made reference to the learned Transfer Pricing Officer for ALP determination. The learned TPO selected two comparables and made upward adjustment with respect to IT enabled services. The Assessee filed objections before the Hon'ble DRP. The Hon'ble DRP upheld the disallowance of expenses made by the learned Assessing Officer and the selection of comparables and held that deferred receivables from AE would be an international transaction. The Assessee filed appeal before the Hon'ble Tribunal. The Hon'ble Tribunal deleted the disallowance made under section 14A of the Act and held that the Assessee was debt-free company thus, adjustment on account of interest on receivables cannot be sustainable.

The Hon'ble High Court held that the Hon'ble Tribunal was justified in excluding the two comparables, which were included by the learned Transfer Pricing Officer for determination of the arm's length price under section 92B, on the ground of functional dissimilarities. The Hon'ble Tribunal Order affirmed. (AY.2012-13)

PCIT v. Inductis India Pvt. Ltd (2023) 157 taxmann.com 87 / (2025) 483 ITR 492 (Delhi) (HC)

Editorial: PCIT v. Inductis India Pvt. Ltd [2025] 175 taxmann.com 423 (SC), SLP dismissed on account of delay of 387 days.

1451 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-Tribunal holding transfer pricing to be proportionate to value of international transaction-Business expenditure-Provision for warranty-Tribunal deleted disallowance-No substantial question of law. [S.37(1), 260A]**

The Hon'ble High Court dismissed the Revenue appeal upheld the order of the Hon'ble Tribunal holding that the transfer pricing adjustment under section 92C of the Act should be proportionate to the value of international transaction. The Hon'ble High Court upheld order of the Tribunal deleting disallowance for provision for warranty. No substantial question of law.

PCIT v. Mahle Behr India Ltd. (formerly known as Behr India Ltd.) (2025) 482 ITR 1000 (Bom)(HC)

S. 92C : Transfer pricing-Arm's length price-Tax Avoidance-Comparables-Transfer Pricing Officer, included high brand value companies-Functional similarity alone not decisive factor-Exclusion of comparables in subsequent AY's-Directed to exclude two comparables.[S.92CA] 1452

The Assessee engaged in providing IT Software Development Services, Information Technology back office support services together with pre-sales marketing and post-sales technical support services to its group entities. The learned TPO rejected certain comparables selected by the Assessee and used new comparables. The Hon'ble DRP upheld the view taken by the learned Transfer Pricing Officer. The Assessee filed appeal before the Hon'ble Tribunal. The Hon'ble Tribunal upheld the inclusions of comparables selected by the TPO. The Assessee filed appeal before the Hon'ble High Court.

The Hon'ble High Court allowed the Assessee appeal held that the exclusion of three comparables for determination of arm's length price under section 92CA of the Act merited acceptance. For two entities , the Hon'ble Tribunal, in the Assessee's own case pertaining to assessment year 2011-2012, excluded two entities i.e. TCS E-Serve and Infosys BPO from list of comparables and consequently were to be excluded for assessment year 2010-2011.(AY. 2010-11)

Cadence Design Systems (India) v. Dy. CIT [2024] 168 taxmann.com 122 (2025) 482 ITR 415 (Delhi)(HC)

S. 92C: Transfer pricing-Arm's length price-Distribution business-No ALP adjustment made by TPO-Separate AMP adjustment uncalled-Tribunal Order affirmed. [S. 260A] 1453

The Assessee was engaged primarily in import and distribution of audio/visual entertainment products in the Indian market. The Assessee incurred AMP expenses on behalf of its Associated Enterprise ('AE') and benchmarked the international transaction by aggregating with the other transactions using Transactional Net Margin Method ('TNMM'). For benchmarking software development segment, the Assessee selected 19 comparables in SISC Division and 7 comparables in SARD Division.

The learned Transfer Pricing Officer adopted Bright Line Test ('BLT') for benchmarking the AMP expenses and accordingly made adjustment towards AMP expenses. Further, the learned Transfer Pricing Officer rejected the comparable selected by the Assessee and selected fresh comparables. The Assessee filed objections before the Hon'ble DRP. The Hon'ble DRP upheld the order passed by the learned Assessing Officer. The Assessee filed appeal before the Hon'ble Tribunal. The Hon'ble Tribunal held that in case of distribution business, where there was no ALP adjustment made by the learned TPO, separate AMP adjustment was uncalled. The Hon'ble Tribunal relied on the decision of Hon'ble High Court in *Commissioner of Income-tax v. Ansal Properties & Infrastructure Ltd. [2012] 20 taxmann.com 770/207 Taxman 61 (Delhi)* held that Assessee would be entitled to depreciation on assets which were discarded during year and were no longer in ownership of Assessee. The Revenue filed appeal before the Hon'ble Tribunal.

The Hon'ble High Court dismissed Revenue appeal held that, where no ALP adjustment was made by the learned Transfer Pricing Officer, hence separate AMP adjustment was uncalled f. Affirmed the Hon'ble Tribunal Order. (AY. 2010-11)

PCIT v. Sony India (P.) Ltd. (2025) 307 Taxman 173 (Delhi)(HC)

1454 **S. 92C: Transfer pricing-Arm's length price-Tribunal Order deleting adjustment affirmed. [S. 260A]**

The Assessee acting as a distribution channel in India. The Assessee incurred certain AMP expenses on behalf of its AE in India. The learned Transfer Pricing Officer proposed adjustments on the issue of AMP expenses using the ''Bright Line Test''. The Hon'ble DRP upheld the order of the learned Transfer Pricing Officer which directed upward adjustment. The Assesseee filed appeal before the Hon'ble Tribunal. The Hon'ble Tribunal deleted the AMP adjustment of AMP. The Revenue filed appeal before the Hon'ble High Court

The Hon'ble High Court observed that the learned TPO had proposed adjustments on the issue of AMP expenses using the 'Bright Line Test'.

The Hon'ble High Court noted that in Assessee's own case, the Hon'ble High Court rejected bright line test method for making adjustment under section 92C of the Act. The Hon'ble Tribunal affirmed the order of the Hon'ble Tribunal and justified in deletion of addition on account of AMP expenses incurred by Assessee.(AY. 2016-17)

Pr. CIT v. Casio India Company (P.) Ltd. (2025) 307 Taxman 122 (Delhi)(HC)

1455 **S. 92C: Transfer pricing-Arm's length price-Cost plus pricing methodology-Advance Pricing Agreement would be persuasive value.[S.92CC]**

Assessee company was engaged in the provision of software development and related support services to its AEs. The Assessee entered into international transactions of providing ''Software Development Services'' (SDS) to its AEs. In the course of assessment proceedings, the learned Transfer Pricing Officer made an adjustment in respect of said transaction. The Assessee submitted that it had entered into an advance pricing Agreement with CBDT under section 92CC of the Act for period of five consecutive years from 2014-15 to 2018-19 and rollback for four consecutive years from the year 2010-11 to 2013-14 and said Advance Pricing Agreement was applicable to international transaction of SDS entered into by Assessee with its AEs during year as there was no change in FAR of Assessee during year vis-a-vis years covered under APA Agreement. The Hon'ble Tribunal accepted the contention of the Assessee. The Revenue filed appeal before the Hon'ble High Court, held that since there was no change in FAR of Assessee during year under assessment vis-a-vis years covered under APA Agreement and consolidated margin (OP/OC) computed as per APA Agreement was much more than consolidated margin agreed upon between assessee and CBDT for years covered under APA Agreement, though APA Agreement was not specifically applicable to year under assessment, it would have persuasive value to dispute of Assessee for other years. The Hon'ble High Court affirmed the order of the Hon'ble Tribunal deleting adjustment. (AY. 2010-11)

PCIT v. FIS Global Business Solutions India (P.) Ltd. (2025) 307 Taxman 309 (Delhi)(HC)

1456 **S. 92C: Transfer pricing-Arm's length price-Assessee cannot be treated as wholesale trader-Tolerance limit of ±3 per cent applicable.[S. 260A]**

The Assessee was engaged in the trading of automobile components, processing of steel products and providing logistic services, primarily catering to the automotive industry. It filed its return declaring a loss of a certain amount. The learned Assessing Officer made a reference to TPO for determination of arm's length price of international transactions

of assessee with its AEs. The learned TPO rejected comparables selected by the assessee and computed the transfer pricing adjustment. The Hon'ble DRP upheld the same. The Hon'ble Tribunal held that under CBDT Notification No. 30/2013, tolerance was 1 per cent for wholesale traders and 3 per cent for others. As per Notification No. 86/2015, wholesale trading required (i) purchase cost ≥80 per cent of total cost and (ii) average monthly inventory ≤10 per cent of sales. Assessee satisfied the first condition but not the second, as its average inventory exceeded 10 per cent of sales. Since the Assessee did not cumulatively satisfy both conditions, it could not be classified as a wholesale trader and therefore was not entitled to ±3 per cent tolerance. The Hon'ble High Court affirmed the order of the Hon'ble Tribunal. CBDT Notification No.30/2013 dated 15-4-2013 and Notification No.86/2015 dated 29-10-2015.(AY. 2013-14)
PCIT v. Toyota Tsusho India (P.) Ltd. (2025) 307 Taxman 135 (Karn.)(HC)

S. 92C : Transfer pricing-Arm's length price-Tax Avoidance-Exclusion or inclusion of RS Software as comparable would have no bearing-Excluding RS Software as comparable academic.[S. 260A] 1457

The Hon'ble High Court dismissed Revenue appeal , held that exclusion or inclusion of RS Software as comparable would have no bearing, in view of said stand, appeal of Assessee on issue of excluding RS Software as comparable, dismissed as academic.
PCIT v. Avaya India (P.) Ltd (2025) 481 ITR 788/ 307 Taxman 179 (Delhi)(HC)

S. 92C: Transfer pricing-Arm's length price-Tax Avoidance-Captive Power Plants (CPPs)-Internal CUP method-Average landed cost of electricity paid to SEBs-Corporate guarantee-Arm's length guarantee fee-0.5 per cent-Tribunal Order affirmed. [S. 92BA, Rule 10B] 1458

The Assessee transferred electricity generated from its Captive Power Plants (CPPs) to its non-eligible units and benchmarked the specified domestic transaction by adopting the internal CUP method, using the average annual landed cost of electricity paid by its manufacturing units to State Electricity Boards (SEBs). The learned Transfer Pricing Officer held that the arm's length price should be determined based on average tariff orders applicable to independent power producers supplying electricity to SEBs and proposed an adjustment. The Hon'ble CIT(A) deleted the adjustment, and the Hon'ble Tribunal affirmed the same. On appeal, the Hon'ble Calcutta High Court held that CPPs are established for captive consumption and not for sale of power to SEBs. The internal CUP method adopted by the Assessee, based on the landed cost of electricity purchased from SEBs, constituted the most appropriate method for determining the arm's length price. The Hon'ble High Court noted that the issue was squarely covered by its earlier decisions in *Star Paper Mills Ltd. [2025] [172 taxmann.com 391] (Calcutta HC) and Rungta Mines Ltd. [2025] [176 taxmann.com] 410 (Calcutta HC)* and answered the substantial questions of law against the Revenue. With regard to the corporate guarantee issued by the assessee on behalf of its associated enterprise, the assessee adopted the CUP method for benchmarking said transactions.. The learned TPO on the basis of a broad functional comparability approach under the CUP Method, computed the interest savings by applying the percentile approach at 137.5 bps and assuming that 50 per cent benefit ought to have been paid by the associated enterprise to the assessee in the form of a corporate guarantee fee, the ALP of the corporate guarantee fee was computed at

69 bps. The Hon'ble Tribunal restricted the arm's length guarantee fee to 0.5 per cent. The Hon'ble High Court upheld this finding, observing that the Tribunal had followed settled judicial precedent and, in fact, applied the very rate contended by the Revenue before the Tribunal. The Hon'ble Court held that no substantial question of law arose on this issue.(AY. 2015-16)
PCIT v. Dhunseri Ventures Ltd. [2025] 306 Taxman 375 (Cal) HC)

1459 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-SEZ unit-Assessing Officer cannot deny section 10AA exemption on portion of income relating to TP adjustments-No income enhanced by Assessing Officer Conditions of section 92C(4) proviso not attracted.[S.10AA, 92C(4), 260A]**
The Assessee-company, engaged in providing back-office support and data processing services, had SEZ unit eligible for deduction under section 10AA of the Act. For relevant assessment years, Assessee had voluntarily offered TP adjustments on account of an APA. The learned Assessing Officer denied deduction under section 10AA of the Act on portion of income relatable to TP adjustments made pursuant to APA on ground that Assessee had declared TP adjustments in anticipation of adjustments by learned TPO to avoid rigour of section 92C(4) of the Act and Assessee had not furnished details to show how such TP adjustments arose as eligible profits and only gains derived from exports were to be allowed. On appeal, the Hon'ble CIT(A) allowed the appeal and found that the exemption under section 10AA could not be denied on the enhanced income and the proviso to section 92C(4) of the Act was not a bar for allowing such a claim. The Hon'ble Tribunal affirmed the order of the CIT(A).On appeal by the Revenue the Hon'ble High Court held that where Assessee had voluntarily factored in ALP pursuant to APA entered into with CBDT, for computing income as declared in its returns, learned Assessing Officer could not deny exemption under section 10AA in respect of declared income of assessee insofar as it related to TP adjustments made pursuant to APA. (AY.2015-16, 2016-17)
PCIT v. Eygbs (India) (P) Ltd. (2025) 180 taxmann.com 681 / 347 CTR 280 / 254 DTR 385 (Karn)(HC)

1460 **S. 92C : Transfer pricing-Arms' length price-Tax Avoidance-Business of distribution of solar products-No value addition by Assessee on products purchased and sold subsequently.-Assumption of TPO erroneous-RPM was most appropriate method-Tribunal Order affirmed. [S.92CA, 260A]**
The Assessee was engaged in business of distribution of solar products-Assessee used RPM as most appropriate method for benchmarking international transactions relating to purchase of solar products and other methods to benchmark transactions of warranty cost claim and reimbursement of expenses. TPO proposed adjustment by selecting TNMM as most appropriate method on ground that warranty cost claim and reimbursement of expenses were inextricably inter-linked with transaction of purchase of solar products and they could not survive without each other and, thus, these three transactions were required to be aggregated or clubbed together for benchmarking or determination of ALP. The Hon'ble Tribunal deleted the adjustments. On appeal the Hon'ble High Court held that warranty cost claim would be reimbursed by AE apart

from reimbursement of expenses and amounts so recovered/reimbursed did not comprise of any service element as AE would have borne these expenses directly, had assessee not incurred same and, thus, purchase of solar products/lights on one hand and warranty cost claim on other, were unrelated transactions and could not be aggregated/clubbed. There was no value addition done by assessee on products purchased and subsequently sold by it. The learned TPO's order was erroneous and RPM was most appropriate method. (AY. 2017-18)
PCIT v. D. Light Energy (P.) Ltd. (2025) 304 Taxman 426 (Delhi)(HC)

S. 92C : Transfer pricing-Arms' length price-Tax Avoidance-TNMM-While ALP determination-Benchmarking should be done only on associated enterprise or related party transactions-Not with respect to entire turnover.[S. 260A] 1461
The learned Assessing Officer made transfer pricing adjustment to the assessee's international transactions. The Hon'ble Tribunal restricted the adjustment only on international transactions where the assessee had selected TNMM and applied the same on entity level. On appeal, the Revenue submitted that the presumption underlying arm's length principle was that uncontrolled transactions were at arm's length. and therefore, if the overall margins were less than arm's length margins, the shortfall must be on account of AE transactions only and not on pro rata basis. The decisions of the Co-ordinate Bench hold that benchmarking should be done only on associated enterprise or related party transactions and not with respect to the entire turnover. The Hon'ble Tribunal Order affirmed. (AY. 2009-10)
PCIT v. Terex India (P.) Ltd. (2025) 304 Taxman 282 (Bom)(HC)

S. 92C : Transfer pricing-Arm's length price-MAP settlement under India-USA DTAA-Applicable only to transactions covered under MAP-ALP of non-US transactions cannot be determined on basis of MAP framework-ALP independently determined under Act and Rules-DTAA-India-USA [S.92CA, R.10B, Art. 27] 1462
The assessee had invoked Mutual Agreement Procedure (MAP) under Article 27 of the India-USA DTAA and transfer pricing adjustments relating to US transactions were resolved through agreement between the competent authorities of India and USA, the Hon'ble Tribunal was not justified in directing the learned TPO to adopt the same approach for determining ALP in respect of non-US international transactions. The Hon'ble High Court held that MAP is a consensual dispute resolution mechanism confined only to transactions covered by such agreement for elimination of double taxation and cannot substitute statutory determination of arm's length price under the Act and Rules for transactions not forming part of MAP. Acceptance of a negotiated MAP settlement for US transactions does not bind or govern determination of ALP for transactions with entities situated in other jurisdictions, in absence of any corresponding agreement between competent authorities. Accordingly, ALP for non-MAP transactions must necessarily be determined independently in accordance with section 92C of the Act read with Rule 10B and the Hon'ble Tribunal's direction to extend MAP methodology to non-US transactions was held to be unsustainable. (AY. 2008-09).
Aon Consulting (P.) Ltd. v. PCIT (2025) 171 taxmann.com 336 / 346 CTR 121 / 252 DTR 476 (Delhi)(HC)

1463 **S. 92C : Transfer pricing-Arm's length price-Most appropriate method-TNMM consistently accepted in earlier years-Rejection without reasons-Invocation of "any other method" under Rule 10AB not justified-Assessee's PLI higher than mean PLI of comparables-Revenue Appeal dismissed [S. 260A, R. 10AB]**

The learned TPO rejected the Transactional Net Margin Method (TNMM), consistently accepted in the preceding six assessment years, without assigning any cogent reasons and adopted the residual "any other method" under Rule 10AB of the Rules. The Hon'ble Tribunal held that though res judicata does not strictly apply to income-tax proceedings, consistency in approach is desirable unless there are valid reasons for deviation, particularly in transfer pricing matters. The learned TPO had neither demonstrated any statutory change nor furnished reasons for discarding TNMM as the most appropriate method. Merely pointing out alleged flaws in comparables or observing that the assessee operated as a commission agent did not justify rejection of TNMM. The Rule 10AB can be invoked only where none of the prescribed methods are appropriate and requires benchmarking with same or similar uncontrolled transactions under similar circumstances. In the present case, the learned TPO failed to establish similarity of transactions used as comparables. The Assessee's PLI under TNMM (OP/VAE and Berry ratio) was significantly higher than the mean PLI of comparables and was further corroborated by independent benchmarking studies. The Tribunal rightly faulted the TPO's approach. Applying the principle in *Radhasoami Satsang v. CIT (1992) 193 ITR 321 (SC)*, the Hon'ble High Court held that no substantial question of law arose. (AY. 2016-17).

PCIT v. Sabic India (P) Ltd. (2025) 345 CTR 104 / 250 DTR 176 (Delhi)(HC)

1464 **S. 92C : Transfer Pricing-Arm's length price-Sale of power by eligible unit claiming deduction u/s 80-IA to non-eligible units-Market for electricity regulated-CUP Method-Rates charged by SEB constitute appropriate external CUP. [S. 80-IA(8), 92BA, 260A]**

The Hon'ble Delhi High Court held that where the Assessee transferred electricity from its eligible captive power units (claiming deduction under section 80-IA of the Act to non-eligible units, the Hon'ble Tribunal was justified in applying the CUP method by adopting the rates charged by the State Electricity Boards/power distribution companies as an appropriate external comparable. The Hon'ble High Court observed that the electricity market is regulated and transactions on the Indian Energy Exchange (IEX) are materially different, being subject to bidding, unpredictability, wide rate fluctuations and payment for power purchased rather than power actually consumed. Such differences significantly affect pricing, making IEX rates unsuitable as a comparable uncontrolled transaction. Since SEB tariffs provide a stable and regulated benchmark with sufficient similarity, the Hon'ble Tribunal correctly held them to be the proper external CUP for determining the market value/ALP of electricity supplied by the eligible unit to non-eligible units. Accordingly, the transfer pricing adjustment was rightly deleted. (AY . 2014-15)

PCIT v. DCM Shriram Ltd. (2025) 344 CTR 817 / 247 DTR 25 / 179 taxmann.com 240 (Delhi)(HC)

S. 92C : Transfer pricing-Arm's length price-Tax Avoidance-Specified domestic transaction-Principle of natural justice-Notice and grant of approval by Principal Commissioner quashed and set aside-Matter remanded to Assessing Officer for fresh consideration. [S.92CA(1), 92CA(2), 92CA(3), Art. 226] 1465

The Hon'ble High Court allowing the Writ Petition held that the Assessing Officer had made a proposal dated 24 December 2019 in a great hurry after issuing notice under section 142(1) of the Act calling upon the Assessee to furnish the accounts and documents specified on or before 24 December 2019 at 12: 15 p.m. The notice was admittedly issued at 10:03 p. m. on 23 December 2019. fixing the date of hearing on December 24, 2019. However, there was no response from the Assessee and none had attended. The Reasons furnished for making transfer was also recorded on December 24, 2019 and thereafter the Principal Commissioner had granted approval also on December 24, 2019. The assessee was never provided any opportunity to make submissions in response to the notice dated December 23, 2019. In such circumstances, the further opportunity of hearing granted on December 23, 2019 was only an empty formality resulting into breach of principles of natural justice. The reference made by the Assessing Officer under section 92CA(3) to the Transfer Pricing Officer and the approval granted by the Principal Commissioner were quashed and set aside. The proceedings were remitted to the Assessing Officer for fresh consideration of the matter to pass a fresh de novo reasoned order after giving an opportunity of hearing to the assessee and considering the objections in accordance with law.(AY. 2017-18)

Axis Bank Ltd. v. ACIT (2025) 477 ITR 297/ 304 Taxman 538 (Guj)(HC)

S. 92C : Transfer pricing-Arm's length price-Tax Avoidance-Specified domestic transaction-No substantial question of law.[S. 260A] 1466

The Hon'ble High Court held that the Assessee's contentions that Bloomberg database was not reliable or that the assessee's export price was more than the Indian Customs quoted rate and accordingly, that the exports were at the arm's length price even under the comparable uncontrolled price method had not been controverted by the Department. The Hon'ble Tribunal also rejected the reasons given by the Transfer Pricing Officer that the assessee had made arbitrary adjustment to the prices quoted by the indices with the intention to bring them to the tolerance level of +/-five per cent. It accepted the scientific calculation given by the assessee to arrive at the prices. The Hon'ble Tribunal had arrived at its conclusion on factual basis with valid reasons circumstances, there was no reason to interfere.(AY.2009-10-2012-13)

PCIT v. Phoenix Comtrade Pvt. Ltd [2024] 162 taxmann.com 99 /(2025) 477 ITR 498 (Bom)(HC)

S. 92C : Transfer pricing-Arm's length price-Tax Avoidance Specified domestic transaction-Entertainment business-Royalty Payment-Transfer Pricing Officer cannot examine commercial expediency-Royalty payable under licence agreement-No question of law Tribunal Order affirmed. [S. 9(1)(vi), 260A] 1467

The Hon'ble High Court dismissed Revenue appeal, held that the Transfer Pricing Officer cannot examine commercial expediency. Royalty payable under licence agreement. No

question of law arose regarding disallowance on account of royalty paid by assessee to associated enterprises. The Hon'ble Tribunal Order affirmed. (AY. 2016-17)
PCIT v. Sony India Pvt. Ltd [2024] 167 taxmann.com 549 /(2025) 477 ITR 576 (Delhi)(HC)

1468 **S. 92C : Transfer pricing-Arm's length price-Tax Avoidance-Specified domestic transaction-Reimbursement of expatriate employees salaries-Net margin method-Tribunal Order affirmed. [S. 37(1), 92C, 92CA, R.10A(d), 260A]**
The Hon'ble High Court dismissed Revenue appeal held that the learned Transfer Pricing Officer could not question the commercial expediency of the Assessee in hiring expatriate employees for rendering assistance and could not supplant his opinion in place of the assessee in regard to the need for such services. That the arm's length price in respect of royalty could not be determined as nil on the ground that the assessee had incurred losses. The fact that the assessee had incurred a loss in its business, did not necessarily mean that the value of the utilities availed of by it or the value of the labour employed was nil. The arm's length analysis is not concerned with the commercial expediency of incurring costs. It was merely confined to determining the arm's length price of the material or the services used. The decision of the Assessee to procure technical know-how for its activities was a commercial decision. This decision was not subject of a review on the merits by the Transfer Pricing Officer who was to merely examine whether the amount paid by the assessee for acquiring the technical know-how was on arm's length basis. The cost paid for technical know-how was one of the elements of costs, which was incurred by the assessee for carrying on its business. The conclusion of the learned Transfer Pricing Officer that since royalty was paid for technical know-how, the fact that the assessee had not earned profit was indicative that the value of technical know-how, if any, received by the assessee was nil was flawed. There was no infirmity in the decision of the Hon'ble CIT(A) or the Hon'ble Tribunal in setting aside the arm's length price adjustment made by the learned Assessing Officer on the recommendation of the learned Transfer Pricing Officer. The Hon'ble Tribunal Order affirmed. (AY. 2007-08, 2009-10)
CIT v. Benetton India Pvt. Ltd. (2025) 476 ITR 404 / 171 taxmann.com 536/ 347 CTR 825 / 256 DTR 393 (Delhi)(HC)

1469 **S. 92C : Transfer pricing-Arm's length price-Tax Avoidance-Specified domestic transaction-Concurrent findings of appellate authorities that assessee had received intra-group services-Matter remanded by Tribunal to Transfer Pricing Officer for fresh consideration No infirmity in order of Tribunal remanded matter for fresh consideration. [S.92CA(3), 254(1), 260A]**
The Hon'ble High Court held that the Hon'ble Tribunal had concurrently found that the Assessee had received intra group services it was necessary for the Transfer Pricing Officer to examine the transfer pricing studies furnished by the assessee in that perspective. If the conditions as specified under section 92C(3) of the Act were not satisfied, the learned Transfer Pricing Officer could not proceed to make any adjustment. The Tribunal had remanded the matter to the Transfer Pricing Officer to consider afresh since his fundamental premise was that the assessee had not received any services and had been rejected. In such circumstances, there was no infirmity in the Hon'ble

Tribunal's decision in remanding the matter to the learned Transfer Pricing Officer to consider afresh. The learned Transfer Pricing Officer was required to consider whether any of the conditions under section 92C(3) of the Act were satisfied before proceeding to make transfer pricing adjustment on account of intra group services.(AY. 2009 10)
American Express Banking Corporation (India Branch) v. ADIT (2025) 476 ITR 752/174 taxmann.com 595 (Delhi)(HC)

S. 92C : Transfer pricing-Arm's length price-Tax Avoidance-Specified domestic transaction-Disallowance of expenditure-Existence of international transaction must be established and not inferred-Burden on Revenue to prove existence of international transaction-Amendment introducing deeming fiction in section 92B(2) with effect from 1-4-2015 not applicable to assessment years 2009-2010 and 2012-2013-Assessment Orders set aside. [S. 92B, 92CA, 92D, 92F, 260A] 1470

On the issue whether the Hon'ble Tribunal was justified in (i) deleting addition made on account of advertisement, marketing and promotion expenses (AMP) incurred by the assessee for brand-building of its associated enterprise, and (ii) holding that the Department must establish on the basis of tangible material that there existed an international transaction regarding AMP expenses: Held, dismissing the appeal, that an international transaction requires a discernible arrangement between two or more associated enterprises for allocation or apportionment of expenses. Section 92F defines a transaction to include an arrangement or action in concert, but its existence must be first established. The Explanation to section 92B of the Act only clarified the scope of intangible property but did not relieve the Revenue from proving the existence of a transaction. Since the Revenue failed to establish such a transaction and merely invoked the bright line test on excessive AMP expenditure, the Hon'ble Tribunal rightly set aside the assessments. The deeming fiction in section 92B(2) of the Act applied prospectively from 1-4-2015 and did not cover AYs 2009-10 and 2012-13. (AY. 2009-10, 2012-13)
PCIT v. Beam Global Spirits and Wine (India) Pvt. Ltd. (2025) 475 ITR 664 / 304 Taxman 397 (Delhi)(HC)

S. 92C : Transfer pricing-Arm's length price-Tribunal after giving detailed reasons rejected comparables selected by TPO-No question of law arose for consideration. [S. 260A] 1471

The Assessee was engaged in international transactions with its associated enterprises. The learned TPO had adopted certain comparables for determining ALP, which the Hon'ble Tribunal rejected after detailed factual analysis. The Revenue filed appeal contending substantial question of law arose. The Hon'ble High Court held that once the Hon'ble Tribunal's findings were based on factual analysis, no question of law arose.
PCIT v. Warburg Pincus India (P.) Ltd. [2023] 153 taxmann.com 574 (Bom)(HC)
Editorial : On SLP by revenue, Supreme Court PCIT v. Warburg Pincus India (P.) Ltd [2023] 295 Taxman 417 (SC) set aside High Court order and remanded for fresh consideration.

1472 **S. 92C : Transfer pricing-CUP method-TPO adopting CUP method unjustified-Subsequent years assessee's benchmarking method was accepted-Tribunal Order affirmed. [S. 260A]**

The Assessee had undertaken two separate transactions with its AE: export of steel items benchmarked using CPM, and commission income benchmarked using IRR method. The learned TPO instead applied CUP method for both. The Hon'ble CIT(A) deleted adjustment, noting that in subsequent years the Revenue itself had accepted assessee's method and no adjustment was made. The Hon'ble Tribunal upheld deletion, holding CUP inapplicable where sales considered by TPO were negligible. The Hon'ble High Court affirmed. (AY. 2005-06)

PCIT v. Thyssen Krupp Electrical Steel India (P.) Ltd. [2023] 154 taxmann.com 441 (Bom) (HC)

1473 **S. 92C : Transfer pricing-Risk adjustment-Tribunal remitted matter for risk adjustment margin-Revenue appeal not maintainable as issue not raised earlier. [S. 260A]**

The Assessee claimed risk adjustment in its TP analysis which Hon'ble Tribunal accepted and remitted to AO for working out margin. The Revenue argued before the Hon'ble High Court that risk adjustment is not permissible under Rule 10B(e)(iii) of the Rules. However, since this plea was never raised before the Hon'ble Tribunal, the Hon'ble High Court held Revenue cannot raise a fresh question before it. The Revenue Appeal dismissed.

PCIT v. Mahle Behr India Ltd [2023] 154 taxmann.com 224 (Bom)(HC)

1474 **S. 92C : Transfer pricing-Arm's length price-International transaction-Trading of imported luxury goods-Resale price method (RPM) is most appropriate method. [S. 260A]**

Assessee is engaged in trading of imported luxury goods. It had used RPM as corroborative method for benchmarking international transactions relating to import of finished goods. TPO rejected RPM for the reason that assessee had incurred excessive sum towards AMP expenses and therefore adopted TNMM as the most appropriate method and accordingly made transfer pricing adjustment. The Hon'ble Tribunal accepted assessee's contention that its AMP expenses were not excessive and were similar to those incurred by other comparable entities and held that RPM would be most appropriate method in given facts. Aggrieved by the order of Hon'ble Tribunal, the revenue filed an appeal before the Hon'ble High Court wherein the Hon'ble High Court affirmed the order of the Tribunal holding that AMP expenses were not excessive and were similar to those incurred by other comparable entities and there is no cavil that the AMP activities are a part of the functional profile of the assessee. (AY. 2012-13, 2013-14)

PCIT v. Burberry India (P.) Ltd. (2025) 302 Taxman 257 (Delhi)(HC)

1475 **S. 92C : Transfer pricing-Arm's length price-International transaction-Exclusion of Comparables-Brand value-Entities having high brand value not to be selected as comparables-Order of Tribunal is set aside.[S. 260A]**

The assessee is engaged in providing IT Software Development Services, Information Technology back-office support services together with pre-sales marketing and post-sales

technical support services to its group entities. The Hon'ble Tribunal upheld TPO's order on inclusion of TCS E-serve International, TCS EServe Limited and Infosys BPO Limited as comparables in respect of the Arm's Length Price determination pertaining to the appellant's international transactions for Assessment Year 2010-11. The inclusion of TCS E-Serve International Ltd., TCS E-Serve and Infosys BPO Limited was essentially raised on the ground of the huge expenditure incurred by those entities in brand building and advertisement as also on account of the reputed brand value and profile of those entities which clearly resulted in higher profitability.

Aggrieved by the order the Hon'ble Tribunal, the assessee filed an appeal before the Hon'ble High Court challenging the inclusion of said comparables. The Hon'ble High Court, relying on the decision of *Pr. CIT v. Evalueserve Sez (Gurgaon) Pvt. Ltd [ITA No. 241 of 2018, dated 26-2-2018]* held that the entities are having high brand value and, therefore, are being able to command greater profits. Hence, these comparables could not be selected as comparables. In view of the above,order of Hon'ble Tribunal was set aside.(AY. 2010-11)

Cadence Design Systems (India) v. DCIT [2025] 482 ITR 415 (Delhi) (HC)

S. 92C : Transfer pricing-Advertising, marketing and promotion expenses-Bright line method-Adjustment deleted [S. 260A] 1476

Assessee has entered into international transactions with respect to distribution functions, cost allocations, reimbursement received and reimbursement paid. The TPO made a transfer pricing adjustment on account of Advertisement, Marketing and Promotion (AMP) expenditure incurred by the assessee by applying the Bright Line Test (BLT), alleging that the assessee had incurred excess expenditure for promotion of its foreign AE's brand. The Tribunal rejected the Revenue's contention and held that the BLT could not be applied for benchmarking AMP expenses.

The Hon'ble High Court dismissing the appeal, held that the Bright Line Test has no statutory mandate, as already laid down in Sony Ericsson Mobile Communications India (P.) Ltd. and Bausch & Lomb Eyecare (India) (P.) Ltd. Mere pendency of appeals before the Supreme Court does not dilute the binding nature of those decisions in the absence of any stay. Accordingly, the AMP adjustment based on BLT was held to be unsustainable and the Revenue's appeal was dismissed.(AY. 2011-12)

PCIT v. Sharp Business Systems (India) Pvt. Ltd. (2025) 472 ITR 582 (Delhi) (HC)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Working capital adjustment-Comparables selected by Transfer Pricing Officer-Matter remanded-Adjustment on overdue receivables consequential.[S.92CA] 1477

The Transfer Pricing Officer denied working capital adjustment on the ground that the assessee had failed to establish its impact on profits and separately treated overdue receivables from associated enterprises as an international transaction. The Tribunal held that once the comparables were selected by the Transfer Pricing Officer, it was his duty to examine and compute the working capital adjustment or record reasons for denying it. As neither party had furnished the requisite computation, the matter was restored to the Transfer Pricing Officer for fresh determination. The Tribunal further held that if, after allowing the working capital adjustment, the assessee's margin falls within the arm's

length range, no separate transfer pricing adjustment on account of overdue receivables would survive. (AY. 2020-21).
Schneider Electric IT Business India (P.) Ltd. v. Dy. CIT [2025] 181 taxmann.com 342 / 128 ITR 57 (SN) (Bang.)(Trib.)

1478 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Advertisement, Marketing and Promotion (AMP) expenditure-Revenue failed to establish existence of international transaction-No transfer pricing adjustment-Information Technology support services-Separate international transaction-Matter remanded for fresh benchmarking.[S.92, 92B, 92CA, 92F]**
The assessee, engaged in import and resale of BMW automobiles in India, incurred advertisement, marketing and promotion (AMP) expenditure. The Transfer Pricing Officer treated the expenditure as an international transaction for brand-building services rendered to the associated enterprise by applying the bright-line test. The Tribunal held that the Revenue failed to establish any agreement or arrangement requiring the assessee to incur AMP expenditure for the benefit of its associated enterprise. The bright-line test has no statutory recognition for determining the existence of an international transaction. Since the assessee's operating margins were higher than those of the comparables and no material established any brand-building service rendered to the associated enterprise, no transfer pricing adjustment was warranted. The Tribunal held that the payment for information technology support services received from the associated enterprise constituted an independent international transaction and could not be aggregated with other international transactions. Following the decision in the assessee's own case for the earlier assessment year, the issue was restored to the Transfer Pricing Officer for fresh determination of the arm's length price. (AY. 2011-12).
BMW India (P.) Ltd. v. Dy. CIT [2019] 108 taxmann.com 419 / (2025) 124 ITR 584 (Delhi) (Trib.)

1479 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Captive software development services-Business closed after expiry of service agreement-Adjustment cannot be made on expenses incurred for closure of operations-Notional income not taxable.[S.92CA]**
The assessee, a captive software development service provider, rendered services to its associated enterprise only during the first nine months of the previous year, after which its operations were discontinued owing to non-renewal of the service agreement. The Tribunal held that the Transfer Pricing Officer erred in determining the arm's length price for the entire year by treating the assessee as a going concern. Expenses incurred for closure of business and impairment losses did not constitute international transactions and no mark-up could be imposed thereon. Since the assessee had declared only actual income and claimed only actual expenditure relatable to the international transactions, no transfer pricing adjustment could be made on notional income. The adjustment was accordingly deleted. (AY. 2012-13).
Motricity India (P.) Ltd. v. Dy. CIT (2025) 124 ITR 166 / 170 taxmann.com 504 (Delhi) (Trib.)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Working capital adjustment-Comparables selected by Transfer Pricing Officer-Matter remanded-Adjustment on overdue receivables consequential.[S.92CA] 1480

The Transfer Pricing Officer denied working capital adjustment on the ground that the assessee had failed to establish its impact on profits and separately treated overdue receivables from associated enterprises as an international transaction. The Tribunal held that once the comparables were selected by the Transfer Pricing Officer, it was his duty to examine and compute the working capital adjustment or record reasons for denying it. As neither party had furnished the requisite computation, the matter was restored to the Transfer Pricing Officer for fresh determination. The Tribunal further held that if, after allowing the working capital adjustment, the assessee's margin falls within the arm's length range, no separate transfer pricing adjustment on account of overdue receivables would survive. (AY. 2020-21).

Schneider Electric IT Business India (P.) Ltd. v. Dy. CIT [2025] 181 taxmann.com 342 / 128 ITR 57 (SN) (Bang.)(Trib.)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Advertisement, Marketing and Promotion (AMP) expenditure-Revenue failed to establish existence of international transaction-No transfer pricing adjustment-Information Technology support services-Separate international transaction-Matter remanded for fresh benchmarking.[S.92, 92B, 92CA, 92F] 1481

The assessee, engaged in import and resale of BMW automobiles in India, incurred advertisement, marketing and promotion (AMP) expenditure. The Transfer Pricing Officer treated the expenditure as an international transaction for brand-building services rendered to the associated enterprise by applying the bright-line test. The Tribunal held that the Revenue failed to establish any agreement or arrangement requiring the assessee to incur AMP expenditure for the benefit of its associated enterprise. The bright-line test has no statutory recognition for determining the existence of an international transaction. Since the assessee's operating margins were higher than those of the comparables and no material established any brand-building service rendered to the associated enterprise, no transfer pricing adjustment was warranted. The Tribunal held that the payment for information technology support services received from the associated enterprise constituted an independent international transaction and could not be aggregated with other international transactions. Following the decision in the assessee's own case for the earlier assessment year, the issue was restored to the Transfer Pricing Officer for fresh determination of the arm's length price. (AY. 2011-12).

BMW India (P.) Ltd. v. Dy. CIT [2019] 108 taxmann.com 419 / (2025) 124 ITR 584 (Delhi) (Trib.)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Captive software development services-Business closed after expiry of service agreement-Adjustment cannot be made on expenses incurred for closure of operations-Notional income not taxable.[S.92CA] 1482

The assessee, a captive software development service provider, rendered services to its associated enterprise only during the first nine months of the previous year, after

which its operations were discontinued owing to non-renewal of the service agreement. The Tribunal held that the Transfer Pricing Officer erred in determining the arm's length price for the entire year by treating the assessee as a going concern. Expenses incurred for closure of business and impairment losses did not constitute international transactions and no mark-up could be imposed thereon. Since the assessee had declared only actual income and claimed only actual expenditure relatable to the international transactions, no transfer pricing adjustment could be made on notional income. The adjustment was accordingly deleted. (AY. 2012-13).
Motricity India (P.) Ltd. v. Dy. CIT (2025) 124 ITR 166 / 170 taxmann.com 504 (Delhi) (Trib.)

1483 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Export Commission-Adjustment was deleted-Royalty and technical know-how-Revenue expenditure-Expenditure incurred on glow signboards, signage, sales tools and dealer fixtures was also held to be revenue expenditure-Education cess-Not allowable as deduction-Dividend Distribution Tax-Matter remanded to the file of Assessing Officer. [S.37(1), 40(a)(ii)]**
The assessee, engaged in the manufacture and sale of motorcycles and scooters, paid export commission and royalty to its associated enterprises. The Transfer Pricing Officer determined the arm's length price of both transactions to be nil. Following earlier orders in the assessee's own case, the Tribunal held that the assessee had established commercial expediency and higher profitability from exports, and therefore the export commission adjustment was unsustainable. Royalty paid under the technical know-how agreement was held to be revenue expenditure and allowable. Expenditure incurred on glow signboards, signage, sales tools and dealer fixtures was also held to be revenue expenditure. However, the deduction of education cess was rejected in view of the retrospective amendment to section 40(a)(ii). The claims relating to excess dividend distribution tax and technical know-how expenditure, not having been made in the original or revised return, were restored to the Assessing Officer for fresh adjudication. (AY. 2018-19)
Honda Motorcycle and Scooter India P. Ltd. v. ACIT (2025) 121 ITR 92 (Delhi)(Trib).

1484 **S. 92C : Transfer Pricing-Arm's length price-Avoidance of tax-International transaction-Comparables-Functionally dissimilar companies are to be excluded while determining the arm's length price. [S. 92CA, 92F]**
The assessee, engaged in providing digital mapping, software development and support services to its associated enterprises, challenged the inclusion of certain comparables selected by the Transfer Pricing Officer. The Tribunal held that companies engaged in activities functionally different from the assessee, including engineering services, medical transcription and information technology-enabled services, could not be regarded as valid comparables for software development or production services. It further held that comparables with distorted segmental results due to substantial unallocated expenditure were also liable to be excluded. On exclusion of the functionally dissimilar comparable, the assessee's profit margin fell within the permissible tolerance range of ±5 per cent. The Tribunal also directed the Transfer Pricing Officer to explain the computation of the profit margin of one comparable and

re-determine its inclusion after granting an opportunity of hearing to the assessee. (AY. 2012-13)
Here Solutions India P. Ltd. v. Dy. CIT (2025) 170 taxmann.com 583 / 121 ITR 42 (SN) (Mum.)(Trib.)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Selection of comparables-No estoppel-Assessee is not estopped from seeking exclusion of company originally selected in TP study.[S.92CA] 1485
The assessee sought exclusion of certain comparables which had originally been included in its own transfer pricing study after discovering that they were functionally dissimilar. Tribunal held that there is no estoppel against an assessee in transfer pricing proceedings. Merely because a company was initially selected by the assessee as a comparable, the assessee is not precluded from subsequently seeking its exclusion upon demonstrating functional dissimilarity or lack of comparability. Functional comparability must prevail over the initial selection made in the transfer pricing study (AY.2013-14)
Here Solutions India (P.) Ltd. v. ACIT [2025] 128 ITR 454 (Mum) (Trib)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Selection of comparables-Companies engaged in diversified activities without segmental results-Functionally not comparable-Addition was deleted. [S.92CA] 1486
The assessee, engaged in providing digital map data for vehicle navigation, internet and wireless applications and business solutions to its associated enterprises, benchmarked its international transactions under the Transactional Net Margin Method (TNMM). During transfer pricing proceedings, the Transfer Pricing Officer rejected certain comparables selected by the assessee and included companies engaged in diversified business activities despite the absence of reliable segmental information. Tribunal held that a company deriving revenue from multiple business streams without reliable segmental accounts cannot be regarded as functionally comparable for transfer pricing analysis. Where relevant segmental data relating to software development services or IT-enabled services is unavailable, such company is liable to be excluded from the final set of comparables. Accordingly, the Transfer Pricing Officer was directed to exclude the disputed comparables from the benchmarking analysis.(AY.)
Here Solutions India (P.) Ltd. v. ACIT [2025] 128 ITR 454 (Mum) (Trib)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Ad-hoc determination of ALP of intra-group royalty payments at Nil without applying any prescribed method or comparable transaction is unsustainable-Where the assessee benchmarked the transaction under CUP and substantiated receipt of services, TP adjustment is liable to be deleted. [S.92CA] 1487
The assessee paid royalty to its AE towards central services and benchmarked the transaction under the CUP method by furnishing comparable agreements and extensive documentation evidencing the receipt and benefit of services. The TPO rejected the benchmarking, determined the ALP at Nil by adopting an ad-hoc approach under the "Other Method" without relying on any comparable uncontrolled transaction, and made a transfer pricing adjustment. The Tribunal held that the TPO had failed to apply any of the prescribed methods under section 92C and merely adopted an impermissible

ad-hoc approach. Since the assessee had substantiated the rendition of services and benchmarked the transaction under the CUP method, and identical adjustments had consistently been deleted in the assessee's own case for earlier years, the transfer pricing adjustment was deleted. The appeal was allowed. (AY. 217-18, 2018-19)
Unilever India Exports Ltd. v. Asst. CIT (2025) 130 ITR 455 (Mum)(Trib.)

1488 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Overseas AE, being the least complex entity, can be selected as the tested party where the assessee substantiates its functional profile and comparability-Matter remanded for fresh examination. [S.92A, 92B]**
The assessee selected its overseas AEs as the tested parties for benchmarking its international transactions, contending that they were the least complex entities performing limited functions and assuming minimal risks. The TPO rejected the approach and selected the Indian entity as the tested party without examining the functional analysis and transfer pricing documentation furnished by the assessee. The Hon'ble Tribunal, following the decisions in Atmecs Technologies (P.) Ltd. and Virtusa Consulting Services (P.) Ltd., held that an overseas AE can be selected as the tested party where it is the least complex transacting entity and the requisite documentation is available. Accordingly, the issue was restored to the TPO for fresh consideration after examining the assessee's transfer pricing documentation and functional profile. The appeal was partly allowed for statistical purposes. (AY. 2018-19)
Unilog Content Solutions P. Ltd. v. Asst. CIT (2025) 130 ITR 477 (Bang)(Trib.)

1489 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Foreign exchange gain arising from trade receivables of international transactions constitutes operating income for computing PLI-Functionally dissimilar companies cannot be selected as comparables for benchmarking ITES transactions. [S.92BA]**
The assessee, engaged in providing telecommunication networking services to its AE, treated foreign exchange gain arising from trade receivables as operating income and benchmarked its ITES transactions under TNMM. The TPO treated the foreign exchange gain as non-operating and modified the set of comparables. The Tribunal held that foreign exchange gain arising from trade receivables of international transactions forms part of operating income and must be considered while computing the PLI. The Tribunal further directed exclusion of functionally dissimilar comparables and inclusion of appropriate comparable companies in accordance with settled principles, and restored the matter to the AO/TPO for recomputation of the ALP. The appeal was partly allowed for statistical purposes. (AY. 2017-18)
Vodafone Global Services P. Ltd. v. Asst. CIT (2025) 130 ITR 323 (Pune)(Trib.)

1490 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Intra-group services-ALP of GIS services cannot be determined at NIL where assessee substantiated receipt, benefit and cost allocation of services-Addition deleted-GSA services remanded for fresh benchmarking. [S. 92CA]**
The assessee, engaged in advertising and media planning services, made payments to its AEs towards Global Information Services (GIS) and Global Service Agreement (GSA) services. The TPO rejected the benchmarking under TNMM, applied the "Need-

Evidence-Benefit Test" under the Other Method, determined the ALP of both GIS and GSA services at NIL, and made a transfer pricing adjustment of Rs.8.32 crore. The Tribunal noted that in the assessee's own case for AY 2018-19, on identical facts and documentation, the Tribunal had deleted the adjustment relating to GIS services after holding that the assessee had satisfactorily demonstrated the need, rendition and benefit of services, supported by agreements, cost allocation workings and documentary evidence. Following the earlier order, the Tribunal deleted the adjustment of Rs.6.60 crore relating to GIS services. As regards GSA services, the Tribunal observed that such services were pari materia with MSF/MNC services considered in AY 2018-19, where the issue had been restored to the TPO for fresh examination. Accordingly, the issue relating to GSA services was remanded to the TPO for fresh determination of ALP after considering the documents and benchmarking analysis furnished by the assessee. Appeal partly allowed for statistical purposes. (AY. 2021-22)
Lintas India P. Ltd. v. Asst. CIT (2025) 130 ITR 28 (Mum)(Trib.)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Interest on compulsorily convertible debentures to be benchmarked as debt till conversion-Recharacterisation not permissible-Benchmarking at Libor + 200 basis points proper and in accordance with Reserve Bank of India Guidelines. [S. 92CA] 1491
The Assessing Officer recharacterised interest paid on compulsorily convertible debentures and made a transfer pricing adjustment. The Tribunal held that compulsorily convertible debentures retain the character of debt until conversion into equity and, therefore, the Assessing Officer could not recharacterise the transaction. Benchmarking of interest at LIBOR plus 200 basis points, being consistent with the Reserve Bank of India guidelines, was upheld and the transfer pricing adjustment was deleted. (AY. 2014-15)
Fairfield Developments Ltd. v. Dy. DIT (2025) 130 ITR 211 (Hyd.)(Trib.)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Comparable companies having exceptionally high turnover to be excluded while determining ALP.-Working capital adjustment is allowable while determining arm's length price-Purchases from non-associated enterprises cannot be treated as deemed international transactions in the absence of evidence of influence by the associated enterprise [S. 92, 92B, 92CA] 1492
The assessee challenged the inclusion of companies having substantially higher turnover for benchmarking its international transactions relating to manufacture of rigid and steering drive axles. The Tribunal held that companies having turnover exceeding Rs. 200 crores could not be regarded as comparable with the assessee, as huge turnover materially affects profitability and functional comparability. The matter was restored to the Transfer Pricing Officer for fresh determination of the arm's length price after excluding such companies. While determining the arm's length price, the Transfer Pricing Officer denied the assessee's claim for working capital adjustment. The Tribunal held that, in accordance with the OECD Guidelines, reasonable adjustments must be made to eliminate material differences between controlled and uncontrolled transactions. Since differences in working capital materially influence profitability,

the assessee was entitled to working capital adjustment. The issue was restored to the Transfer Pricing Officer for fresh determination after granting such adjustment. The Transfer Pricing Officer included purchases made by the assessee from local vendors as deemed international transactions on the ground that the purchases were under the overall supervision of the associated enterprise. The Tribunal held that section 92B applies only where there is evidence of a prior agreement or where the terms of the transaction are determined by the associated enterprise. In the absence of any supporting evidence, purchases from local vendors could not be regarded as deemed international transactions. Accordingly, only transactions with associated enterprises were directed to be considered for determination of the arm's length price. (AY. 2017-18)
Comer Industries India (P.) Ltd. v. Asst. CIT (2025) 130 ITR 238 (Bang.)(Trib.)

1493 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Selection of Comparables-Companies having huge brand value, intangibles, R&D activities and related party transactions not comparable to captive software service provider-Working capital adjustment-Adjustment cannot be denied without assigning reasons-Assessee entitled to relief-TPO must adopt one of the prescribed statutory methods-Second attempt to rectify omission not permissible. [S.92CA, 92B]**
The assessee, a captive software development service provider, challenged the inclusion of WTS and IL as comparables. The Tribunal held that WTS had related party transactions by virtue of section 92B(2), thereby ceasing to be an uncontrolled comparable. IL was a full-fledged entrepreneur owning valuable intangibles, carrying out substantial research and development activities, possessing significant brand value and assuming all business risks, whereas the assessee was a low-risk captive service provider without any intangibles. Following its orders in the assessee's own case for earlier years, the Tribunal directed exclusion of both companies from the final list of comparables. The Transfer Pricing Officer denied working capital adjustment despite differences in working capital levels between the assessee and the comparable companies. The Tribunal held that working capital adjustment materially affects profitability and had consistently been allowed to the assessee in its own cases for earlier and subsequent assessment years. As the lower authorities had not assigned any specific reasons for denying the adjustment, the Tribunal directed the Assessing Officer/Transfer Pricing Officer to grant the benefit of working capital adjustment. The Tribunal held that determination of the arm's length price must strictly be made by adopting one of the methods prescribed under the Act. Since the Transfer Pricing Officer failed to apply any of the statutory methods while determining the arm's length price, the determination was unsustainable. The Tribunal further held that such failure could not subsequently be cured by undertaking a fresh exercise, as the prescribed methods are mandatory and not merely directory. The issue was accordingly decided in favour of the assessee. (AY. 2011-12)
Capgemini India P. Ltd. v. Dy. CIT (2025) 130 ITR 431 (Mum.)(Trib.)
Editorial: Affirmed in PCIT v. Capgemini India P. Ltd. (2025) 181 taxmann.com 7 (Bom.)(HC).

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Management consultancy services-Internal CUP/Internal TNMM to be preferred over external comparables-Transfer pricing adjustment deleted-Transfer Pricing Officer not adopting any prescribed method-Adjustment unsustainable-Selection of comparables-Comparable engaged in similar line of business cannot be excluded. [S. 92CA, R. 10B] 1494

The assessee benchmarked its international transaction of rendering management consultancy services by adopting the Comparable Uncontrolled Price (CUP) Method based on comparable services rendered to unrelated parties. The Transfer Pricing Officer rejected the method and adopted external comparables under the Transactional Net Margin Method (TNMM). The Tribunal held that where reliable internal comparable uncontrolled transactions are available, they deserve preference over external comparables. As no defect was found in the assessee's benchmarking and the Transfer Pricing Officer had proceeded on erroneous factual assumptions, the transfer pricing adjustment in respect of management consultancy services was directed to be deleted. The Transfer Pricing Officer made adjustments in respect of licence fees, information technology cost allocation and reimbursement of expenses without determining the arm's length price by adopting any of the methods prescribed under section 92C. The Tribunal held that determination of arm's length price must necessarily be made by applying one of the statutory methods prescribed under the Act. As no prescribed method had been followed, the transfer pricing adjustments were liable to be deleted. While benchmarking regional co-ordination services, the Transfer Pricing Officer excluded one comparable on the ground of functional dissimilarity and substituted another. The Tribunal held that where the excluded comparable was engaged in a business similar to the comparable selected by the Transfer Pricing Officer, there was no justification for its exclusion. The Assessing Officer was directed to include the comparable in the final set of comparables. (AY. 2011-12).

Boston Consulting Group (India) Pvt. Ltd. v. Dy. CIT (2025) 130 ITR 717 (Mum.)(Trib.)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-While benchmarking specified domestic transactions, the TPO cannot cherry-pick only low-priced products from a basket of products for determining ALP-Where TNMM is accepted as the Most Appropriate Method in the subsequent year, the supplementary TP study adopting TNMM ought to be considered. [S. 92BA] 1495

The assessee, engaged in the manufacture and sale of pharmaceutical products, benchmarked its specified domestic transactions of transfers from non-SEZ units to SEZ units under the CPM. The TPO rejected the benchmarking and determined the ALP by selecting only certain low-priced product families while ignoring the remaining products. Before the DRP, the assessee furnished a supplementary transfer pricing study adopting TNMM, which was not considered. The Tribunal held that the TPO was not justified in cherry-picking only selected products from the entire basket of product families for determining the ALP. It further held that, since the TPO himself had accepted TNMM as the Most Appropriate Method for identical transactions in the subsequent assessment year, the supplementary TP analysis adopting TNMM ought to have been considered. Accordingly, the matter was restored to the AO/TPO for fresh determination of the ALP under TNMM after considering the supplementary TP study. Appeal partly allowed for statistical purposes. (AY. 2019-20)

Aurobindo Pharma Ltd. v. Asst. CIT (2025) 131 ITR 15 (Hyd)(Trib.)

1496 **S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction Management support services-Fresh evidence filed before Tribunal-Matter remanded for examination by Transfer Pricing Officer.[S.92CA]**
Tribunal admitted the additional evidence, and Matter remanded for examination by the Transfer Pricing Officer. (AY. 2013 14)
Asst. CIT v. Kerry Indev Logistics P. Ltd (2025) 131 ITR 100 (Chennai) (Trib)

1497 **S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Most appropriate method-Royalty-Department adopting comparable uncontrolled price method-Tribunal in assessee's own case for earlier year holding transactional net margin method most appropriate-Assessee's use of same method justified-Payment of management fees to associated enterprise-Identical payment accepted by Transfer Pricing Officer in earlier years-Facts similar in current year-Payment held to be at arm's length.[S.92CA]**
Claimed deduction for reimbursement of professional service costs to its German associated enterprises which was disallowed without any specific finding of non-business purpose, paid royalty benchmarked by the TPO using the comparable uncontrolled price method as against the transactional net margin method applied by the assessee, and paid management fees to associated enterprises in China and Germany which the Transfer Pricing Officer treated as stewardship activity and benchmarked at nil, though the CIT(A) ruled in the assessee's favour on the royalty and management fee issues. On appeal, the Tribunal condoned a one-day delay in filing the appeal caused by an intervening holiday; restored the issue of deduction under section 37 for reimbursement of professional service costs to the Assessing Officer to enable the assessee to produce supporting documents; upheld the CIT(A)'s acceptance of the transactional net margin method for benchmarking royalty payments, following the Tribunal's decision in the assessee's own case for an earlier year; and upheld the CIT(A)'s finding that the management fees paid to associated enterprises, being similar to fees accepted without adjustment in the case of a group company and not in the nature of stewardship activity, were at arm's length. (AY. 2010-11 to 2014-15)
Schaeffler India Ltd. v. Asst. CIT (2025) 131 ITR 237 (Ahd.)(Trib)

1498 **S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Selection of comparables-Related-party transactions ratio to be applied consistently on aggregate basis, 15 per cent. filter appropriate-Functionally different companies without segmental data to be re-verified-Companies with unreliable export data excluded-Negative net worth not a factor for rejection if functions, assets and risk analysis acceptable-Functionally similar companies satisfying export turnover filter to be included-Matter remitted for company-wise functions, assets and risk analysis-OECD guidelines to be followed for broad comparability-Working capital adjustment affecting net profit margin to be allowed-Inadvertent wrong reckoning by Assessing Officer-Rectification application pending-Assessing Officer directed to carry out rectification. [S.92CA, 154]**
The assessee, a wholly owned subsidiary providing software development and marketing support services, challenged the selection of comparables adopted for benchmarking

both segments and the TPO's denial of working capital adjustment, the additions having been made pursuant to the directions of the DRP. On appeal, the Tribunal held that the related-party transaction ratio must be computed consistently on an aggregate basis with a 15 per cent. filter, and since the DRP had proceeded only on a turnover filter without considering functional comparability, the matter was remitted for fresh adjudication; several comparables were remitted to the TPO for verification of segmental data, export revenue reliability, and functions, assets and risk analysis, with negative net worth alone held insufficient ground for exclusion, while one company was excluded as functionally dissimilar being an information technology enabled services provider and another was held functionally comparable having satisfied the export turnover filter; in the marketing support segment, since the DRP had not undertaken a company-wise functions, assets and risk analysis for comparables sought to be included or excluded by the assessee, the issue was remitted for fresh adjudication with the assessee directed to furnish supporting documents; working capital adjustment, having a bearing on net profit margin, was directed to be granted in line with OECD guidelines on broad comparability; and the AO was directed to verify and rectify the inadvertent wrong computation of the assessee's total income pursuant to the pending rectification application. (AY.2017-18)

MetricStream Infotech (India) P. Ltd v. Asst. CIT (2025) 131 ITR 310 (Bang.)(Trib)

S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Selection of comparables-Companies included by assessee itself in final list, later sought to be excluded on functional difference/turnover filter-Functional similarity established-Turnover difference not sufficient for exclusion-Interest on outstanding receivables constitutes international transaction-Rate depends on currency of denomination-Remanded for reconsideration-Employees' contribution to provident fund-Belated remittance not deductible even if paid before due date of filing return [S. 2(24)(x), 36(1)(va), 92CA, 139(1)] 1499

The Tribunal upheld inclusion of two comparables, L and P, since both had been self-selected by the assessee in its own transfer pricing study and were functionally similar, turnover difference alone being insufficient for exclusion; remanded the interest adjustment on outstanding receivables to the TPO since the SBI prime lending rate was wrongly applied without ascertaining the currency of denomination; and upheld disallowance of belated remittance of employees' PF contribution under section 36(1)(va), even though paid before the due date for filing the return. (AY 2012-13)

Oakton Global Technology Services Centre (India) P. Ltd v. ITO (2025) 131 ITR 418 (Trib)

S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Corporate guarantee-Rate limited to 0.60 per cent. In assessee's own case for earlier year-Same rate sustained for all corporate guarantees-Income-Higher turnover reported in service tax return, including mobilisation advances from customers, treated as income by Assessing Officer-Advances not taxable as income-Appeal-Power of appellate authorities-Claim raised for first time before appellate authorities can be considered-Remitted to Assessing Officer for statistical purposes.[S. 4, 250] 1500

The Tribunal sustained the arm's length rate of 0.60 per cent. for corporate guarantees, consistent with its decision in the assessee's own case for earlier years; held that

mobilisation advances received from customers, shown as advances in service tax returns for services yet to be performed, could not be treated as income, contrary to the AO's view based on percentage of completion; and remanded certain issues raised for the first time during assessment to the AO for verification and fresh decision after affording a hearing. (AY. 2018-19)
KEC International Ltd v. Dy. CIT (2025) 131 ITR 450(Mum) (Trib)

1501 **S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Not charging interest on late realisations of receivables-Addition made towards notional interest on delayed receivables from AEs is deleted.**
Held that the Assessee benchmarked its international transactions of export of finished goods to AEs under the TNMM, and made a working capital adjustment while computing the PLI; receivables due from the AEs are merely an extension of the main international transaction of sale of goods and do not constitute a separate international transaction warranting an independent adjustment. (AY. 2015-16)
ACIT v. Intas Pharmaceuticals Ltd. (2025) 236 TTJ 550/ 174 taxmann.com 867 (Ahd)(Trib)

1502 **S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Advertisement, marketing and sales promotion (AMP) expenses-TP adjustment made on account of AMP expenses incurred by the assessee is not sustainable-Selection of comparables-For benchmarking under the RPM, functional attribute is a primary factor rather than the similarity of the products-Reimbursement of expenses-TPO, as well as the DRP, were not justified in treating the value of the international transaction of reimbursement of expenses to be Nil.[S.92CA]**
Held that Revenue has adduced no material to prove the existence of any arrangement, understanding or action in concert between the assessee and its AEs for incurring the AMP expenses on behalf of the AEs; the impugned TP adjustment made on account of AMP expenses incurred by the assessee is not sustainable. For benchmarking under the RPM, the functional attribute is a primary factor rather than the similarity of the products and therefore, Satyatej Commercial Co Ltd. cannot be excluded as a comparable on the basis that it is dealing in different products as compared to the assessee; purchases in foreign currency have no impact on the gross sales margin, which are compared under RPM. Since the product profile of Hand Innovation Inc is similar to that of Smith & Nephew, Inc which has been excluded by the TPO from the list of comparables, Hand Innovation Inc is also to be excluded for benchmarking the international transaction of receipt of indenting commission. Since RG Medical has a similar product line to that of Cincinnati Sub-Zero Products Inc (CSZ) and both companies are operating in the same/ similar territories, and the TPO has excluded CSZ from the list of comparables, RG is also to be excluded for benchmarking the international transaction of receipt of indenting commission. Held that the Assessee having filed the evidence for services received by it and the details of reimbursement made by it to the AEs for such expenses, and the TPO having neither undertaken any benchmarking analysis nor searched for any comparable transaction, the value of the international transaction of reimbursement of expenses could not be treated as Nil. (AY. 2010-11)
Thermo Fisher Scientific India (P) Ltd. v. DCIT (2025) 236 TTJ 865 / 176 taxmann.com 501 (Mum)(Trib)

S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Inter-unit sale of electricity-the enhancement made by the DRP by resorting to weighted average of purchase price of electricity by BEST @ Rs. 5.11 per unit is not tenable-Accordingly, addition made by the AO/TPO in respect of sale of electricity by the eligible units to non-eligible units is not sustainable. 1503

Held that the Market price of inter-unit sale of electricity has to be computed on the basis of the rate charged from a consumer in the open market and not at the weighted average purchase price at which thermal power plants sold electricity to BEST. The enhancement made by DRP by applying the weighted average purchase price paid by BEST to the thermal power plants is not sustainable. (AY.2020-21)

Laxmi Organic Industries Ltd. v. DCIT (2025) 237 TTJ 268 / 177 taxmann.com 118 (Mum)(Trib)

S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Sale of power by assessee's eligible units to non-eligible units-Market value-Matter remanded.[S.80IA(8), 92BA] 1504

Held that the decision of the Delhi High Court in Principal CIT v. DCM Shriram Ltd. (2025) 344 CTR 817(Delhi) (HC) was not before the DRP, it is required to revisit its decision; order of the AO is set aside with the directions that the DRP may be requested by the AO/TPO, to reconsider the directions in the light of the amendment in the definition of 'market value' read with the decision of the Delhi High Court, examine the facts of the case and thereafter, modified directions, if required, may be issued to the AO for incorporation in the assessment order as per law. (AY. 2021-22)

Indian Metals & Ferro Alloys Ltd. v. AUID (2025) 237 TTJ 699 / 177 taxmann.com 586 (Cuttack)(Trib)

S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Surcharge on sale of air tickets to AEs-There is no evidence that assessee has charged a surcharge to non-AEs higher than what is chargeable to AEs-The AO is directed to delete the adjustment made to the ALP of the international transaction of sale of air tickets. [S.92CA] 1505

Held that the Assessee has compared the price which has been charged for the same and similar uncontrolled transaction carried out with non-AEs under similar circumstances with the price charged from its AEs in the benchmarking methodology adopted by it, there was no justifiable reason for rejection of the transfer pricing study report prepared by the assessee; since there is no evidence that assessee has charged surcharge to non-AEs higher than what is chargeable to AEs, the AO is directed to delete the adjustment made by adopting TNMM. (AY. 2021-22)

Ebix Travels (P) Ltd. v. DCIT (2025) 237 TTJ 751/ 178 taxmann.com 68 (Bang)(Trib)

S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Notional interest on receivables due from AE-Outstanding receivables from AE are an international transaction-LIBOR being the internationally accepted rate of interest for benchmarking, LIBOR plus 200 basis points should be adopted for imputing interest on overdue receivables.[S.92B] 1506

Held that the assessee charges interest on third party receivables, receivables from AE should be benchmarked with reference to third party transactions because it is an

international transaction; since the assessee failed to file relevant details, the argument of the assessee that overdue payables to the AE should be adjusted and only the net overdue receivables from AE should be considered cannot be accepted; LIBOR being the internationally accepted rate of interest for benchmarking, LIBOR plus 200 basis points should be adopted for imputing interest on overdue receivables. (AY. 2020-21)
ADP (P) Ltd. v. DCIT (2025) 237 TTJ 1080/ 177 taxmann.com 708 (Hyd)(Trib)

1507 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-No TP adjustment where consistent benchmarking was accepted in an earlier year. [S.92CA]**
The Tribunal held that where the assessee, a joint venture company, had entered into a principal-to-principal arrangement with ONGC and merely passed on the bareboat charter hire received from ONGC to its associated enterprise without retaining any margin, the transfer pricing adjustment was unwarranted. The benchmarking methodology based on revenue split had already been accepted by the DRP in the assessee's own case for an earlier year, and there was no change in facts or contractual arrangement. Even after imputing a 2.5% commission, the payment to the AE remained lower than comparable uncontrolled transactions. Accordingly, the transfer pricing adjustment was deleted (AY. 2021-22)
SP Armada Oil Exploration (P.) Ltd. v. DCIT (2025) 238 TTJ 209 / 179 taxmann.com 196 (Mum.)(Trib.)

1508 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Advertising, marketing and promotion expenses-No agreement with associated enterprise to share/reimburse expenses-Not an international transaction-Addition not justified.-Royalty for trademark separate from royalty for technology-Cannot be clubbed-Adjustment on royalty for technology deleted-Arms length price-To be determined only by one of five prescribed methods-Ad hoc estimation of salary and man-hours not permissible-Adjustment deleted-Income-Disallowance of expenditure relating to exempt income-Sufficient own funds available-No disallowance warranted-Direct/indirect expenses remitted for verification-Business loss-Foreign exchange loss on forward contracts terminated by bank on/after maturity, not prematurely cancelled by assessee-Integral to export of goods-Allowable as business loss-Special deduction-Allocation of operating and establishment expenses on ratio of unit's revenue to total revenue-Method consistently accepted in earlier years-Deduction allowable-Interest-No delay in filing return-No interest under section 234A-Interest under section 234C levied on assessed income instead of returned income-Matter remitted for recomputation. [S. 14A,R. 8D, 28(i), 80IC, 234A, 234C]**
The assessee, a subsidiary of a UK company engaged in the food segment of the FMCG industry, faced transfer pricing adjustments and disallowances confirmed by the DRP on account of advertising, marketing and promotion expenses, royalty on technology, service charges paid to its associated enterprise, disallowance under section 14A, foreign exchange loss, deduction under section 80-IC, and addition based on annual information return mismatch. On appeal, the Tribunal, largely following its own decisions in the assessee's case for earlier years, held that in the absence of any agreement to share

or reimburse advertising and marketing expenses, such expenditure was not an international transaction; that royalty paid for trademark and technology being under separate agreements could not be clubbed, and the technology royalty adjustment was to be deleted; that the arm's length price could be determined only by one of the five methods prescribed under section 92C(1) and not by ad hoc estimation; that no disallowance under section 14A was warranted since the assessee had sufficient own funds, though the quantum was remitted for verification; that the foreign exchange loss on forward contracts terminated by the bank on maturity, not prematurely cancelled by the assessee, was allowable as business loss; that the assessee's consistent method of allocating operating and establishment expenses for claiming deduction under section 80-IC was to be accepted; that no interest under section 234A was leviable as there was no delay in filing the return; and that the levy of interest under section 234C on assessed rather than returned income was remitted to the AO for re-computation.(AY. 2011-12, 2012-13)

Mondelez India Foods P. Ltd. (formerly known as Cadbury Ltd.) v. ACIT (2025) 132 ITR 83 (Mum) (Trib.)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Manufacturing of power distribution equipment-Import of raw materials-Transactional net margin method-No defect pointed out-Contract manufacturing not a proper comparable-No adjustment required-Information technology services from associated enterprise-Transfer Pricing Officer's simultaneous use of comparable uncontrolled price and nil valuation contradictory-Assessee's transfer pricing study acceptable-No adjustment called for.-Reimbursement of travel, lodging and employee cost on cost basis-Cost incurred without benefit improbable-Transfer Pricing Officer's benchmarking proper. [S. 92] 1509

Following its own decision for the earlier year on identical facts, the Tribunal held that the assessee's transactional net margin method for import of raw materials from associated enterprises could not be disturbed by adopting contract manufacturing as comparable without pointing out any defect; that TPO's contradictory approach of applying the comparable uncontrolled price method while also valuing the transaction at nil for information technology services was untenable, and the assessee's transfer pricing study was acceptable; and that since a non-associated party would not incur costs like travel, lodging and employee expenses on behalf of another without benefit, the assessee must have deployed resources in providing administrative services, justifying the TPO's benchmarking with a mark-up. The adjustments on raw material imports and information technology services were deleted, while the adjustment on reimbursement of expenses was upheld.(AY. 2018-19)

Schneider Electric Infrastructure Ltd. v. DCIT (2025) 132 ITR 358 (Ahd) (Trib.)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Comparable companies-Related party transactions filter-Companies having 99 per cent. and 100 per cent. related party transactions-To be excluded from final set of comparables-Assessing Officer obligated to compute income in conformity with arm's length price determined by Transfer Pricing Officer-Assessing Officer changing 1510

cost allocation methodology from headcount ratio to salary expense ratio, partly disallowing support services cost-Not proper-Depreciation on intangible assets being customer contracts and assembled workforce-Allowable-Deduction of tax at source-Credit for-Assessing Officer directed to verify and grant credit for tax deducted at source, advance tax and self-assessment tax.[S. 32(1)(ii), 92B, 92CA(3), 92 CA(4)]

The assessee, an independent business unit of GE providing offshore business process management services to its associated enterprise, faced a transfer pricing adjustment of Rs. 1,48,30,634 towards provision of information technology enabled support services, upheld by DRP, with AO also altering the cost allocation methodology from headcount ratio to salary expense ratio, thereby partly disallowing support services cost. On appeal, the Tribunal held that two comparable companies deriving 99% and 100% of their revenue from inter-company transactions were rendered non-comparable due to excessive RPT and were to be excluded; that, following its own decision for the preceding AY, since the TPO had not disturbed the ALP of the transaction, AO's relook into the basis of allocation of support services cost militated against section 92CA(4), which obligates AO to compute income in conformity with the ALP determined by TPO, and relief was to be granted accordingly; that depreciation of Rs. 73,95,017 on intangible assets being customer contracts and assembled workforce was allowable; and that AO was directed to grant credit for TDS, advance tax and self-assessment tax in accordance with law. (AY. 2017-18)

Genpact Services LLC v. ACIT (2025) 132 ITR 612 (Delhi) (Trib.)

1511 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Specified domestic transaction-Loan to associated enterprise in Bahrain-Benchmarking using US/European data inappropriate-Bahrain Central Bank's prime lending rate reflects arm's length rate-Upward adjustment unsustainable-Business expenditure-Disallowance-Payment for product certification services-Not fees for technical services-No tax deductible at source-Disallowance deleted.-Withholding liability arises only when income taxable in recipient's hands-Royalty payable only on activation by end-user-Provision for royalty rightly allowed. [S.9(1)(vii) 40(a)(ia(195 R.10B]**

The TPO's upward adjustment on interest charged to the assessee's Bahrain associated enterprise, based on US/European loan data with added risk spreads, was held unsustainable since the Bahrain prime lending rate already reflected regional risk and had been consistently applied; payments for product certification services evaluating software quality were held not to constitute fees for technical services, requiring no TDS given the payees' absence of a fixed place of business in India; and the provision for royalty expenses was held rightly allowed since royalty became payable only on activation of software by the end-user, so withholding tax liability under section 195 did not arise until then. (AY. 2011-12)

DCIT v. Elitecore Technologies P. Ltd. (now merged with Sterlite Technologies Ltd.) (2025) 132 ITR 740 (Ahd) (Trib.)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Royalty-Transactional Net Margin Method-Principle of consistency-Matter remanded-Outstanding receivables-Delay beyond agreed credit period-Interest to be benchmarked at LIBOR + 200 basis points.[S.92B, 92CA] 1512

The Transfer Pricing Officer benchmarked royalty payment by adopting the Profit Split Method and determined the arm's length price at nil after recharacterising the assessee as a contract manufacturer. The Tribunal held that in the earlier years the Transactional Net Margin Method had consistently been accepted as the most appropriate method and there was no change in the functions, assets or risks assumed by the assessee. Applying the principle of consistency, the matter was restored to the Transfer Pricing Officer to benchmark the royalty transaction by adopting the Transactional Net Margin Method. The Tribunal held that overdue receivables from Associated Enterprises constituted a separate international transaction. Since the transactions were denominated in foreign currency, interest was directed to be computed by applying LIBOR + 200 basis points after allowing the agreed credit period, instead of the SBI Prime Lending Rate applied by the Transfer Pricing Officer. (AY. 2020-21).

Toyota Boshoku Automotive India (P.) Ltd. v. Dy. CIT (2025) 126 ITR 298 / 174 taxmann.com 933 (Bang.)(Trib.)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Outstanding receivables from Associated Enterprises-Separate international transaction-Interest to be computed at LIBOR + 200 basis points.[S. 92B, 92CA, 143(3), 144C] 1513

The Transfer Pricing Officer treated delayed realisation of receivables from Associated Enterprises as a separate international transaction and computed interest by applying the SBI Prime Lending Rate. The Tribunal held that, in view of the retrospective amendment to section 92B, delayed receivables constitute an international transaction requiring separate benchmarking. However, since the transactions were foreign currency transactions, interest was directed to be recomputed in accordance with the rectified directions of the Dispute Resolution Panel by applying LIBOR + 200 basis points only for the relevant period of delay. (AY. 2020-21).

Ariba Technologies India (P.) Ltd. v. Dy. CIT (2025) 212 ITD 17 / 126 ITR 272 (Bang.)(Trib.)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Advertisement, Marketing and Promotion (AMP) expenses-Commission to distributors not AMP expenditure-Addition deleted. [S. 92CA] 1514

The Transfer Pricing Officer included commission paid to distributors under the multi-level marketing model as Advertisement, Marketing and Promotion expenditure and made a transfer pricing adjustment. The Tribunal held that distributor commission was directly linked to sales achieved and not to brand promotion. Following the principle of consistency adopted in earlier years, such commission could not be treated as AMP expenditure or an international transaction. The transfer pricing adjustment was deleted. (AY. 2020-21).

Amway India Enterprises (P.) Ltd. v. NFAC (2025) 127 ITR 642 (Delhi)(Trib.)

1515 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Management fee for advisory-TPO was not justified in making a downward adjustment by taking management fee expense at 'Nil' under CUP method, disregarding TNMM employed by assessee as most appropriate method, without pointing out any defects in application or relevance of TNMM by the assessee-Payment of management fee for advisory services and use of brand name, said services received by assessee could not be labelled as shareholder/stewardship services.[S.92CA]**

Held that where assessee-hospital made payment of management fee to AE for advisory services and use of brand name at rate of 2.5 per cent of gross operating revenue and applied TNMM as most appropriate method, TPO was not justified in making downward adjustment by taking management fee expense at 'Nil' under CUP method disregarding TNMM employed by assessee as most appropriate method without pointing any defects in application or relevance of TNMM in this case. Tribunal also held that the payment of management fee for advisory services and use of brand name, said services received by assessee could not be labelled as shareholder/stewardship services. (AY. 2012-13, 2013-14)

Dy.CIT v. Apollo Gleneagles Hospital Ltd. [2023] 150 taxmann.com 210 / (2025) 129 ITR 352 (Kol)(Trib)

1516 **S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Profit Level Indicator-Gross margin on sales appropriate where associated enterprises are risk-bearing distributors-Tested party-Alternative benchmarking adopting associated enterprises as tested parties-Accepted-Interest on loans to associated enterprises-Assessee's contention that loans formed part of shareholder activities not examined-Matter remanded-Corporate, financial and performance guarantees-International transactions-Guarantee commission chargeable at 0.5 per cent-Imputation of royalty from associated enterprises-Assessee not owner of brand-No notional royalty could be charged. [R. 10B]**

The Tribunal held that the associated enterprises performed significant distribution and marketing functions and bore commercial risks. Accordingly, the gross margin on sales constituted the appropriate Profit Level Indicator for benchmarking the international transactions. The order of the Commissioner (Appeals) was upheld. The Tribunal upheld the order of the Commissioner (Appeals), who accepted the assessee's alternative benchmarking by treating the associated enterprises as the tested parties after examining appropriate comparables. The Transfer Pricing Officer's selection of comparables without a proper search process was rejected. The Tribunal found that the lower authorities had failed to consider the assessee's contention that the loans advanced to its associated enterprises constituted shareholder activities. The issue of arm's length interest was, therefore, restored to the Assessing Officer/Transfer Pricing Officer for fresh adjudication. The Tribunal held that, after insertion of Explanation (i)(c) to section 92B, corporate, financial and performance guarantees furnished on behalf of associated enterprises constituted international transactions. Guarantee commission was directed to be computed at 0.5 per cent. The Transfer Pricing Officer imputed royalty on the footing that the assessee had created valuable brand rights used by its associated enterprises. The Tribunal held that the assessee itself did not own the brand and merely

had a right to use it. Since the assessee was not the owner of the brand, no royalty could be imputed from the associated enterprises. The transfer pricing adjustment was deleted. (AY. 2014-15).
Tata Consultancy Services Ltd. v. Dy. CIT [2023] 154 taxmann.com 372 / (2025) 129 ITR 667 (Mum.)(Trib.)

S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Royalty-Benchmarking-Transactional Net Margin Method adopted at entity level-Separate benchmarking of royalty not warranted. 1517
The Transfer Pricing Officer proposed a separate benchmarking of royalty paid by the assessee to its associated enterprises on the ground that the Transactional Net Margin Method (TNMM) was not the most appropriate method for benchmarking the royalty transaction. The Tribunal, following its decisions in the assessee's own case for the earlier assessment years, held that where TNMM had been accepted and applied at the entity level, no separate benchmarking of royalty was called for. Accordingly, the transfer pricing adjustment proposed in respect of royalty was deleted. (AY. 2018-19).
Toyota Kirloskar Motor P. Ltd. v. Dy. CIT (2025) 129 ITR 515 (Bang.)(Trib.)

S. 92C : Transfer pricing-International transactions-Arm's length price-Comparables-Functionally different company-Absence of segmental results-Comparable directed to be excluded.[S.92CA] 1518
The Tribunal held that a company deriving substantial revenue from software services, without segmental financial information, was functionally different from the assessee and could not be accepted as a comparable. Accordingly, the company was directed to be excluded from the final set of comparables. (AY. 2018-19).
MAN Energy Solutions India P. Ltd. v. Asst. CIT [2023] 149 taxmann.com 347 / (2025) 129 ITR 562 (Pune)(Trib.)

S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Liability and doubtful debts written back-Operating income-Foreign exchange fluctuation loss-Operating in nature-Technical know-how fees-Arm's length price cannot be determined at Nil-Need-benefit test not permissible. [S.4, 5, 92CA] 1519
The Tribunal held that remission of liability and doubtful debts written back, being intrinsically connected with the business operations of the assessee, constituted operating income for determining the arm's length price. The Tribunal held that foreign exchange fluctuation loss arising in the ordinary course of business constituted an operating item for transfer pricing purposes, particularly when it had been accepted as such in the preceding and succeeding assessment years. The Transfer Pricing Officer determined the arm's length price of technical know-how fees paid to associated enterprises at Nil. Following its earlier decision in the assessee's own case, the Tribunal held that the Transfer Pricing Officer could not disregard the prescribed methods under section 92C or apply a need-benefit test while determining the arm's length price. (AY. 2010-11).
UPS Express P. Ltd. v. Asst. CIT (2025) 129 ITR 381 (Mum.)(Trib.)

1520 **S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction Technical know-how fees-Transfer Pricing Officer cannot determine arm's length price at Nil without applying prescribed method-Need-benefit test not permissible. [S. 92CA]**
The Transfer Pricing Officer determined the arm's length price of technical know-how fees paid by the assessee to its associated enterprises at Nil. The Tribunal held that the Transfer Pricing Officer was bound to determine the arm's length price by applying one of the methods prescribed under section 92C and had no authority to determine the arm's length price at Nil or insist upon a need-benefit test. The matter was decided in favour of the assessee following the decision in its own case for the earlier year. (AY. 2010-11).
Dy. CIT v. Hexagon Manufacturing Intelligence India P. Ltd. (2025) 129 ITR 317 (Pune) (Trib.)

1521 **S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Transfer of shares-Discounted Cash Flow (DCF) method-Transfer Pricing Officer cannot substitute projected figures with actual subsequent results. [S.56(2)(viib), 92B, 92CA, Rr. 10B, 11UA]**
The Transfer Pricing Officer rejected the valuation of shares based on the Discounted Cash Flow (DCF) method by replacing projected financial figures with actual financial results of subsequent years and made a transfer pricing adjustment. The Tribunal held that valuation under the DCF method has to be based on information available on the valuation date and not on hindsight. Rule 10B permits only contemporaneous data and does not authorise reliance on subsequent years' financial results. Accordingly, substitution of projected figures with actual results was held to be impermissible, and the transfer pricing adjustment was deleted. (AY. 2017-18).
TPG Growth II Markets Pte. Ltd. v. Dy. CIT [2023] 153 taxmann.com 368 / (2025) 129 ITR 175 (Mum.)(Trib.)

1522 **S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Export commission paid to Associated Enterprise-Higher export profitability established-Transfer pricing adjustment deleted-Jurisdiction confined to determination of Arm's Length Price-Commercial expediency of expenditure cannot be questioned-Model fee paid to Associated Enterprise allowable.[S.92CA]**
The assessee, engaged in the manufacture of two-wheelers, paid export commission to its Japanese Associated Enterprise for export of specified models. The Transfer Pricing Officer determined the arm's length price of the commission at nil on the ground that no services had been rendered. The Tribunal held that the average export price and profitability from exports were substantially higher than those from domestic sales, demonstrating commercial benefit derived by the assessee. Since the payment was at arm's length and resulted in higher profitability, the transfer pricing adjustment on export commission was directed to be deleted. The Transfer Pricing Officer determined the arm's length price of model fees paid by the assessee to its Associated Enterprise for launching new and upgraded models at nil without applying any of the prescribed methods under the Act or the Rules. The Tribunal held that the jurisdiction of the Transfer Pricing Officer is confined to determination of the arm's length price and he cannot assume the role of a businessman to question the commercial expediency of a

transaction or disregard contractual obligations between the parties. As the adjustment was made without following the statutory transfer pricing provisions, the payment was held to be allowable. (AY. 2017-18).
Honda Motorcycle and Scooter India Pvt. Ltd. v. Asst. CIT [2023] 153 taxmann.com 567 / (2025) 129 ITR 6 (Delhi)(Trib.)

S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Adjustment to be confined to international transactions with Associated Enterprises-Comparables-Functional similarity-Government company not to be excluded merely because of Government ownership-Matter remanded-Trading segment-Commission earned on direct sales by Associated Enterprises to third-party customers-Not part of trading activity-Transactional Net Margin Method-Global sales and marketing expenditure-Operating cost.[S.92CA] 1523

The Transfer Pricing Officer computed the arm's length price by considering both Associated Enterprise (AE) and non-AE transactions. The Tribunal held that transfer pricing provisions apply only to international transactions with Associated Enterprises and directed that the adjustment be restricted only to AE transactions. The Tribunal held that comparables accepted in the assessee's own case for earlier years should ordinarily be followed unless material differences exist. Government ownership by itself is not a ground for exclusion if the company satisfies the functional, asset and risk (FAR) analysis. The matter was restored to the Transfer Pricing Officer for fresh examination of the FAR analysis, with a direction that a company cannot be treated as persistently loss-making unless it incurred losses in all the relevant years. Functionally similar companies were directed to be included. The Associated Enterprises made direct sales to customers in India and paid commission to the assessee. The Tribunal held that such commission income did not arise from the assessee's trading segment and could not be treated as part of its trading activity for transfer pricing analysis. The Transfer Pricing Officer treated global sales and marketing expenditure as Advertisement, Marketing and Promotion expenditure for adjustment purposes. The Tribunal held that such expenditure constituted operating cost and was required to be allocated in the ratio of the turnover relating to the relevant international transactions while applying the Transactional Net Margin Method. (AY. 2013-14).
Yokogawa India Ltd. v. Dy. CIT (2025) 122 ITR 499 (Bang.)(Trib.)

S. 92C: Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Advertisement, Marketing and Promotion (AMP) expenditure-No international transaction established-Transfer pricing adjustment deleted-Intra-group services-Earlier year's order followed-Matter remanded to Transfer Pricing Officer-Assessment-Fresh claim made during assessment proceedings-No revised return filed-Claim raised before appellate authorities maintainable-Matter remanded.[S.92CA, 143(3)] 1524

The Transfer Pricing Officer treated excess Advertisement, Marketing and Promotion (AMP) expenditure incurred by the assessee as an international transaction for brand building of its Associated Enterprise and made an adjustment by applying the Bright Line Test and Cost Plus Method. The Tribunal held that the existence of an international transaction is a sine qua non for invoking Chapter X. Mere use of the Associated Enterprise's brand or incurring higher AMP expenditure does not establish

an international transaction. In the absence of any agreement or evidence showing that the assessee had undertaken brand promotion for its Associated Enterprise, the transfer pricing adjustment was deleted. The Tribunal observed that an identical issue relating to intra-group services had been restored to the Transfer Pricing Officer in the assessee's own case for an earlier assessment year. Since the Revenue could not point out any distinguishing feature, the issue was restored to the Transfer Pricing Officer for fresh adjudication in accordance with the earlier order..The assessee claimed deduction of interest on customs duty, excise duty, service tax, warranty provision and deduction under section 80JJAA by letters filed during assessment proceedings without filing a revised return. The Tribunal held that an assessee is entitled to raise an additional claim before the appellate authorities even without filing a revised return, provided the relevant material is available on record. The claims were restored to the Assessing Officer for fresh examination on merits (AY. 2012-13).

BMW India (P.) Ltd. v. Dy. CIT [2019] 109 taxmann.com 528 / (2025) 125 ITR 16 (Delhi) (Trib.)

1525 **S. 92C : Transfer Pricing-Arm's length price-International transaction-Entrepreneurial Service Provider-Transactional Net Margin Method (TNMM) appropriate-Other Method under Rule 10AB-Re-characterisation of Transactions-Royalty Computation-Transfer Pricing Adjustment of ₹ 444.93 Cr held to be unsustainable.[R. 10AB]**

The assessee, engaged in distribution of access to the global Netflix streaming service, applied TNMM as the most appropriate method for benchmarking its payment of distribution fee to its Associated Enterprises (AEs). The TPO rejected this characterization and recharacterised the assessee as an entrepreneurial content and technology provider, applying the "Other Method" under Rule 10AB based on royalty rates derived from third-party agreements, leading to a transfer pricing adjustment of ₹444.93 crore. The DRP affirmed this approach.

On appeal, the Hon'ble Tribunal held that Netflix India was a limited-risk distributor performing routine functions of marketing, billing, customer support, and compliance, without owning or controlling any content, intellectual property, or technology. The Open Connect Appliances (OCAs) were only cache devices for bandwidth efficiency and not core technology assets. The TPO's reliance on unrelated royalty agreements was found to be arbitrary, unsupported by comparables, and contrary to the contractual and factual framework. The Tribunal held that the the distribution agreement and subscriber terms clearly established that the assessee merely distributed access to the Netflix service and did not acquire any rights in content, technology, or intellectual property. It was further held that TNMM, based on software-product distributors as comparables, remained the most appropriate method, and the TPO and DRP had erred in discarding it in favour of a speculative "Other Method." The re-characterisation of a bona fide distribution arrangement into a licence transaction was impermissible. Following *Engineering Analysis Centre of Excellence (P.) Ltd. v. CIT (2021) 432 ITR 471 (SC),* it was held that the assessee neither received nor transferred any copyright or licence and that the payment of distribution fee did not constitute royalty. Accordingly, the entire transfer pricing adjustment was deleted. (AY. 2021-22)

Netflix Entertainment Services India LLP v. DCIT [2025] 179 taxmann.com 644 (Mum) (Trib.)

S. 92C : Transfer pricing-Arm's length price-Avoidance of tax-International transaction-Interest on outstanding receivables from AES-Outstanding dues beyond an agreed credit period are separate international transaction separate benchmarking-Working capital adjustment subsumed accrued interest on trade receivables-Issue is restored back to the TPO.[R. 10A] 1526

The assessee did not separately benchmark outstanding receivables from its AEs, contending that they were closely linked to the principal international transactions and were covered under TNMM. The TPO held that receivables outstanding beyond the agreed credit period constituted a separate international transaction of capital financing and made a transfer pricing adjustment by imputing interest on delayed realization. The DRP upheld the adjustment.

The Hon'ble Tribunal held that outstanding dues beyond an agreed credit period are separate international transaction, which requires to be benchmarked separately and cannot be clubbed together with other transactions; since the argument of the assessee that the working capital adjustment subsumed accrued interest on trade receivables, and no separate adjustment should be made was not advanced before the TPO or the DRP, this issue is restored back to the TPO. (AY. 2020-21)

Biocon Biologicals Ltd v. ACIT (2025) 233 TTJ 930 / 170 taxmann.com 372 / 121 ITR 39 (SN) (Bang)(Trib)

S.92CA: Transfer pricing-Reference to Transfer Pricing Officer-Arm's Length Price-Appropriate method-Transactional Net Margin Method (TNMM)-Resale Price Method (RPM)-No material difference-Tribunal order deleting adjustment affirmed.[S.92C, 260A] 1527

The assessee benchmarked its international transaction of purchase of computer hardware components from its AE using the Resale Price Method (RPM). The TPO rejected RPM and adopted the Transactional Net Margin Method (TNMM), resulting in a transfer pricing adjustment. The CIT(A) agreed that TNMM was the appropriate method but adopted comparable companies used in the preceding year and held that the assessee's margin fell within the permissible tolerance range, thereby deleting the adjustment. The Tribunal upheld the CIT(A)'s order. The TPO rejected RPM and applied TNMM using operating profit to sales, resulting in a transfer pricing adjustment. The Commissioner (Appeals) held TNMM to be appropriate method, but adopted comparable companies used in the preceding year and held that the assessee's margin fell within the permissible tolerance range. The Hon'ble Tribunal upheld the CIT(A)'s order and deleted the upward transfer pricing adjustment.

The Delhi High Court dismissed the Revenue's appeal and held that the revenue failed to show any material factual differences across assessment years that would justify reopening the Tribunal's finding. The rejection of certain comparables and methodology choices were upheld, and no substantial question of law arose.(AY. 2004-05, 2005-06)

PCIT v. ESYS Information Technologies Ltd [2024] 168 taxmann.com 431 / (2025) 474 ITR 396 (Delhi)(HC)

1528 **S. 92CA : Transfer pricing-Arm's Length price-Benchmarking to be done at entity level-not transaction level-That Profit margins required to be compared with profit margins of enterprise and not that of any sub-unit or division of enterprise-Res Judicata-Once deduction under 10A accepted in earlier year-Thee same has to be accepted.[S. 2(31), 10A, 92CA(3), 92F(iii) R.10A]**

The assessee, engaged in software development services through multiple STP units, benchmarked its international transactions with AEs under TNMM at the enterprise level. The TPO, however, examined operating margins of each STP unit separately and made transfer pricing adjustments in respect of certain units. The CIT(A) and the Tribunal held that benchmarking was required to be undertaken at the entity level and deleted the adjustment. Further, the Assessee claimed deduction under section 10A in respect of its STP units, but the same was denied on the ground that said new unit was a mere extension of existing unit.

The Delhi High Court upheld the Tribunal's decision and held that where services were rendered under a common agreement with AEs and there was unity of management and interlacing of funds, it was inappropriate to split the transactions unit-wise for determining the arm's length price. It was further held that profit margins required to be compared with profit margins of enterprise and not that of any sub-unit or division of enterprise. Splitting transactions unit wise for determining Arm's Length Price would not be apposite. The Court observed that under TNMM, profit margins of comparable uncontrolled transactions were determined at the enterprise level and, therefore, the assessee's PLI was also required to be compared at the enterprise level. Accordingly, the entity-level benchmarking adopted by the CIT(A) and the Tribunal was held to be correct and the transfer pricing adjustment was deleted. Further, with regard to claim of deduction under section 10A, the Hon'ble High Court held that where revenue had accepted in initial year of operation that a new undertaking had been set up and did not fall within exclusionary clauses, new STP unit was eligible for deduction under section 10A.

CIT v. Birlasoft Ltd. (2025)472 ITR 170/ 302 Taxman 324 /344 CTR 464 / 249 DTR 34 (Delhi)(HC)

1529 **S. 92CA : Transfer pricing-Arm's Length price-Comparables-Objections of assessee on account of functional dissimilarities is not considered by Tribunal-Matter remanded to Transfer Pricing Officer.[S.92CA(3), 254(1)]**

The assessee, engaged in providing IT-enabled services, objected to the inclusion of E4e Healthcare as a comparable on the ground that its annual report was not available and, therefore, its functional comparability could not be verified. The TPO, DRP and Tribunal nevertheless retained the company as a comparable, proceeding on the erroneous assumption that the assessee's objection related only to the employee-cost filter and it was apparent that the assessee was in the possession of the annual accounts of the company. On appeal, the Hon'ble High Court held that the orders passed by the Transfer Pricing Officer, the Dispute Resolution Panel and the Tribunal had proceeded on an assumption which were ex facie incorrect. Accordingly, the matter was restored back to the file of the Transfer Pricing Officer, to the limited extent, to examine the inclusion of e4e as a comparable entity.(AY.2013-14)

Sequential Technology International India Pvt. Ltd. v. Add. CIT (2025)472 ITR 753/ 169 taxmann.com 256 (Delhi)(HC)

S. 92CA : Transfer pricing-Arm's Length price-Computation of Arm's Length Price-Issues of inclusion and exclusion of comparables for determination of arm's length price-Contentions regarding dissimilarities in product, function and export revenue earned not considered and adjudicated by the tribunal-Matter remanded back to Tribunal.[S.92CA(3), 260A] 1530

The assessee consisting of two merged companies ALTIPL and ADIPL engaged in rendering software development services determined the arm's length price by adopting the transactional net margin method. The Transfer Pricing Officer determined the arm's length price on the basis of certain comparable entities and made upward adjustments in his order. The assessee challenged the order of the Assessing officer which were confirmed by the Dispute Resolution Panel and the tribunal by raising three questions i.e. whether the tribunal has misdirected itself in : (i) not excluding comparables Avani Cincom Technologies Limited (Avani) and Ishir Infotech Ltd (Ishir) (ii) not including comparable Akshay Software Technologies Ltd. and (iii) failing to adjudicate the contentions of the assessee with regards to the inclusion of comparables Tata Elxsi Limited (Tata) and Sasken Communication Technologies(Sasken). As regards to the first question, the Hon'ble High court held that the tribunal while rejecting the assessee's claim as to Avani, had disregarded the information available on the website which stated that they were involved in sale of other software products which was not confirmed and therefore held that it could not be considered a valid comparable since it earned revenue from both software services and software products and no segmental information was available to isolate software-development income. As regards to Ishir, the Hon'ble High court held that the order of tribunal was erroneous in rejecting assesses' challenge to inclusion of Ishir as it followed a different business model-outsourcing-based business model. Further, the tribunal's decision to exclude Akshay as a comparable was held to be unsustainable as the Tribunal had rejected assessee's challenge on the ground other than the those actually raised and thus, remanded back to the Tribunal as it was the assesses contention that Akshay did comply with the revenue filter as well as export filter. Further on the third question, the tribunal had not considered assessee's objection to the inclusion of Tata and Sasken and thus the matter was remanded back.(AY. 2007-08)

Alcatel Lucent India Ltd. v. Dy. CIT (2025) 472 ITR 22 (Delhi) (HC)

S. 92CA : Transfer pricing-Reference to Transfer Pricing Officer-Arm's Length price-Avoidance of tax-Advertisement, Marketing and Promotion (AMP) expenses-No international transaction beyond agreed reimbursement-Adjustment deleted-Comparables-Functionally dissimilar companies to be excluded-Working capital adjustment-DRP directions binding-Adjustment to be allowed-Royalty-Transactional Net Margin Method accepted-Separate benchmarking under CUP not permissible-Salary of expatriate employees-Secondment-No evidence of services rendered to parent company-Disallowance deleted.[S.37(1), 92C, 144C] 1531

The Transfer Pricing Officer treated the assessee's Advertisement, Marketing and Promotion expenditure as an international transaction and made adjustment by applying the Bright Line Test and the Transactional Net Margin Method. The Tribunal held that reimbursement of marketing expenditure was confined to items specifically approved by the associated enterprise and there was no agreement requiring the assessee to incur

AMP expenditure for brand promotion on behalf of the associated enterprise. In the absence of an international transaction, no transfer pricing adjustment was permissible. The Tribunal directed exclusion of several comparables selected by the Transfer Pricing Officer in the trading, networking and manufacturing segments as they were functionally different from the assessee or lacked comparable financial data. Appropriate comparables were directed to be included or excluded after applying proper functional analysis. The Tribunal held that, consistent with earlier years and in accordance with the binding directions of the Dispute Resolution Panel, the assessee was entitled to working capital adjustment while computing the arm's length margin of the comparables. The Transfer Pricing Officer was directed to recompute the adjustment after factual verification. The Transfer Pricing Officer separately benchmarked royalty paid by the assessee by applying the Comparable Uncontrolled Price Method despite having accepted the Transactional Net Margin Method for the manufacturing segment. The Tribunal held that royalty formed an integral part of the manufacturing activity and could not be separately benchmarked. The CUP analysis was based on incomparable transactions and resulted in an impermissible double adjustment. The transfer pricing adjustment was deleted. The Assessing Officer disallowed salary paid to expatriate employees on the ground that they worked for the foreign parent company. The Tribunal held that no evidence was brought on record to establish that the seconded employees furthered the business of the parent company. Following earlier decisions, the disallowance of salary expenditure was deleted. (AY. 2015-16).
Samsung India Electronics (P.) Ltd. v. Dy. CIT (2025) 127 ITR 543 (Trib.)

1532 **S. 92CA : Transfer pricing-Reference to Transfer Pricing Officer-Arm's Length price-Avoidance of tax-Interest on unsecured compulsorily convertible debentures-Arm's length rate accepted in earlier years-Revenue could not adopt a different view in absence of change in facts. [S.92C, 143, R. 10B]**
The Transfer Pricing Officer recomputed the arm's length rate of interest on unsecured compulsorily convertible debentures issued to the assessee's associated enterprise. The Tribunal held that the coupon rate on the same debentures had been accepted by the Revenue in the earlier assessment year and there was no change in the facts. The comparables selected by the Transfer Pricing Officer were also not appropriate as they included financing companies and secured debentures. Accordingly, the deletion of the transfer pricing adjustment by the Commissioner (Appeals) was upheld. (AY. 2015-16).
ITO v. V. R. Surat P. Ltd. [2023] 152 taxmann.com 679 / (2025) 129 ITR 626 (Surat)(Trib.)

1533 **S. 92CA : Transfer pricing-Reference to Transfer Pricing Officer-Arm's Length price-Avoidance of tax-Investment in equity shares of overseas subsidiary-Not an international transaction of loan-No notional interest could be charged. [S. 92B, 92C]**
The Transfer Pricing Officer treated the assessee's investment in the equity share capital of its overseas subsidiary as an interest-free loan and made an adjustment by imputing notional interest. The Tribunal held that the investment was made out of internal accruals for business expansion and shares had been allotted against the remittances. Such investment in equity could not be recharacterised as a loan. Accordingly, no arm's

length adjustment on account of notional interest was called for, and the addition was deleted. (AY. 2010-11 & 2011-12).
Brightcom Group Ltd. v. Dy. CIT [2023] 149 taxmann.com 450 / (2025) 129 ITR 645 (Hyd.) (Trib.)

S. 112 : Tax on long-term capital gains-Determination of tax in certain cases-Rate of tax-Redemption of debentures-Debentures are explicitly excluded from the concessional tax treatment under s. 112A, the correct rate of tax applicable on the LTCG from the redemption of market-linked debentures is 20 per cent under s. 112 [S.112A] 1534
Held that the benefits of s. 112A is restricted to certain securities, and debentures are not covered under this provision, since debentures are explicitly excluded from the concessional tax treatment under s. 112A, the correct rate of tax applicable on the LTCG from the redemption of market-linked debentures is 20 per cent under S. 112. (AY.2021-22)
Doraiswami Rajagopalan v. DCIT (2025) 235 TTJ 597 / 172 taxmann.com 735(SMC) (Bang)(Trib)

S. 112 : Tax on long term capital gains-Determination of tax at special rate-Income from other sources-Exemption not claimed under 10(38)-Purchase transaction in earlier year-Cannot be disturbed in subsequent year-Special rate of tax cannot be denied-Buyback of shares-Exemption on distributed income-Tax not payable by buyback company-Exemption cannot be denied. [S. 10 (34A, 10(38), 45, 56, 115QA] 1535
The assessee earned profits on buyback of shares of unlisted companies and claimed exemption under section 10(34A). The Assessing Officer denied the exemption on the ground that the companies buying back the shares had not paid tax under section 115QA and alleged that the transactions were part of a colourable device. The CIT(A) held that there was no violation of the conditions prescribed under section 10(34A) and that, in the absence of any differential between the issue price and the buyback price in the hands of the issuer companies, liability under section 115QA itself did not arise. The Hon'ble Delhi Tribunal upheld the CIT(A)'s order and held that once the statutory conditions of section 10(34A) were satisfied, exemption could not be denied merely on the basis of suspicions regarding share transactions undertaken in earlier years. The Tribunal observed that alleged irregularities relating to issue prices in concluded assessment years could not be used to deny exemption on a buyback transaction that was duly recorded and assessed in accordance with law.
Further, the assessee earned long term capital gain (LTCG) on sale of shares of two companies. Assessing Officer treated LTCG as income from other sources and thus denied benefit of special rate of tax available on LTCG under section 112. CIT(A) allowed the claim of the assessee. On appeal to the Tribunal, the Hon'ble Tribunal held that since purchase transactions carried out in earlier years could not be disturbed in a subsequent year to deny concessional rate of tax claimed by assessee as available under provisions of Act. Therefore, the order of the assessing officer is set aside. (AY. 2016-17)
ACIT v. Magical Enterprises L.L.P. (2025) 211 ITD 46 (Delhi) (Trib.)

1536 **S. 115A : Foreign companies-Tax on interest income-Interest on compulsory convertible debentures and optionally convertible debentures-Entitled to concessional rate under S. 115A(1)(a)(BA)(ii) r/w s. 194LD in respect of OCDs and CCDs [S. 115A(1)(a)(BA)(ii), 194LD]**

Held that the nature, rights and obligations attached to OCDs/CCDs cannot be equated with that of shares until conversion thereof; till then OCDs/CCDs retain the character of debenture simplicitor; tax authorities have fallen into error by not giving the assessee the benefit of s. 115A r/w s. 194LD regarding OCD/CCD. (AY. 2020-21 & 2021-22)

Amplus Energy Solutions Pte Ltd. v. ACIT (2025) 237 TTJ 1034 / 175 taxmann.com 1070 (Delhi) (Trib)

1537 **S. 115BAA: Tax on income of certain domestic companies-Concessional tax regime-Failure to opt for concessional tax regime-Revised return filed after the due date of filing of return was not entertained-SLP of assessee was dismissed.[S. 115JB, 139, Form 10-IC, Art. 136]**

Assessee company filed its return of income for the relevant assessment year on 13-2-2021. In its return, assessee had not opted for taxation under section 115BAA. Assessee contended that there was some confusion regarding the manner of claiming the benefit of lower taxation under section 115BAA, and it failed to select the option for the same. It further stated that soon thereafter, its finance officer recovered from COVID-19 and verified the return, and he became aware that assessee had not opted for the option under section 115BAA, and, therefore, filed a revised return on 26-3-2021 and also surrendered depreciation on goodwill. However, the Assessing Officer passed an assessment order under section 115JB. On writ, the Hon'ble High Court held that sub-section (5) of section 115BAA clearly provides that section 115BAA would not be applicable unless (a) an option is exercised by the assessee in a prescribed manner; and (b) before the due date specified under section 139(1) for furnishing the return of income. Further, since assessee had not opted for lower taxation under section 115BAA in its return and its computation of depreciation was not strictly in accordance with terms of sub-section (2) of section 115BAA, it could not be allowed to revise its return and file Form 10-IC after due date for filing return under section 139(1) so as to avail benefit of lower taxation under section 115BAA of the Act. Hence, SLP of the assessee was dismissed. (AY. 2020-21)

Sarla Holdings (P.) Ltd. v. PCIT (2025) 307 Taxman 446 /(2026) 487 ITR 235 (SC)

Editorial : Sarla Holdings (P.) Ltd. v. PCIT [2025] 179 taxmann.com 83 (Delhi)(HC)

1538 **S. 115BAA : Tax on income of certain domestic companies-Concessional tax regime-Delay in filing form No. 10-ICGenuine mistake-Failure to file e.filing Form No 10-IC within due date and filed belated Form-Court held the authority must consider condonation under S. 119(2)(b) and permit a fresh Form 10-IC filing to give effect to the concessional rate. [S.119(2(b), Art, 226]**

The Assessee is a private limited company that intended to exercise the concessional tax regime at 22% under Sec. 115BAA in ITR-6 but inadvertently failed to e-file Form 10-IC within the stipulated date. The assessee sought condonation of delay under Sec. 119(2)(b) after filing the form belatedly. The contention of the Assessee was that it had opted for S. 115BAA in the return and the non-filing of Form 10-IC on time was a bona

fide Chartered Accountant error. CBDT Circular No. 6/2022 reflects a liberal intent to avoid genuine hardship, so delay should be condoned and Form 10-IC should be treated appropriately to allow the 22% rate. The Revenue, however, held the view that Sec. 115BAA (5) mandates filing Form 10-IC in the prescribed manner by the due date under Sec. 139(1), and reliance was placed on *Principal Commissioner of Income Tax v. Wipro Limited [2022] 140 taxmann.com 223 (SC)* to argue that belated compliance was not permissible. PCIT rejected condonation under Sec. 119(2)(b), citing the lack of power in view of CBDT Circular No. 6/2022.

On writ, the Hon'ble Gujarat High Court allowed the petitionand directed that the Assessee be permitted to obtain/submit a fresh Form 10-IC and that the authority should consider condonation under S. 119(2)(b) in light of the Court's observations, recognizing S. 115BAA as a relief provision and S. 119(2)(b) as a hardship redressal tool. (AY. 2020-21)

Camino Herbal Remedies (P.) Ltd. v. PCIT (2025) 306 Taxman 279 (Guj)(HC)

S. 115BAA : Tax on income of certain domestic companies-Concessional tax regime-Exercise of option under 115BAA-Revised return-Non-filing of Form 10-IC-CBDT Circular condoning delay does not relax requirement of exercising option in return filed under S. 139(1)-Assessee having expressly stated "none of above" not eligible-Writ dismissed [S. 115BA, 115BAB, 139(1), Art. 226, Form 10-IC] 1539

The assessee sought benefit of concessional tax under s. 115BAA for AY 2020-21 but had not exercised the option before the due date for filing the return under s. 139(1). In the return of income (Part A-GEN), against the specific column regarding option under S. 115BA/115BAA/115BAB, the assessee had expressly selected "none of above". The plea that there was no specific box to exercise the option was found to be factually incorrect. The contention that the option was intended but inadvertently not indicated was also rejected, particularly when the computation of depreciation was not in conformity with S. 115BAA(2). Further, reliance on CBDT Circular No. 6/2022 dated 17-3-2022 was held misplaced, as the Circular merely condoned delay in filing Form 10-IC in specified cases but did not relax the statutory requirement that the option must be exercised in the return filed within the time prescribed under S. 139(1). Clause (ii) of para 3 of the Circular makes it clear that condonation was available only where the assessee had opted for lower taxation under S. 115BAA in the return. Since the assessee had not done so, it did not satisfy the stipulated conditions. Accordingly, the assessee was denied the benefit of section 115BAA. The writ petition challenging the assessment order was dismissed.(AY. 2020-21)

Sarla Holdings (P) Ltd. v. PCIT (2025) 345 CTR 129 / 179 taxmann.com 83 (Delhi)(HC)

Editorial : SLP dismissed, Sarla Holdings (P) Ltd. v. PCIT (2025)307 Taxman 446 (SC)

S. 115BAA: Tax on income of certain domestic companies-Concessional tax regime-Return of income-Failure to file form 10IC within extended period-CBDT circular No 6 of 2022 dt-17 3-2021-Tribunal directing the assessee to file form-Order of Tribunal affirmed. [S. 139(1), 260A, Form No. 10IC] 1540

Assessee filed its return of income opting for taxation under section 115BAA but failed to file mandatory form 10-IC within extended period provided under CBDT Circular

No. 6/2022 due to covid pandemic. The Assessing Officer denied the benefit of section 115BAA on the ground that Form 10-IC had not been filed within the stipulated time, and the CIT(A) upheld the denial. Hon'ble Tribunal setting aside CIT(A)order directed Assessing Officer to permit assessee to file form 10IC stating that the delay is condonable considering Central Board of Direct Taxes Circular No. 6 of 2022 dated 17-3-20221. On further appeal to the Hon'ble High Court, affirmed the order of the Tribunal and held that the matter should be restored to the Assessing Officer to permit filing of Form 10-IC and examine the assessee's claim for relief under section 115BAA, subject to fulfilment of all other statutory conditions. (AY.2020-21)
PCIT v. Fastner Commodeal Pvt. Ltd (2025) 172 taxmann.com 573 (Cal)(HC)

1541 **S. 115BAA : Tax on income of certain domestic companies-Concessional tax regime-Revised return-Option under section 115BAA can validly be exercised through a revised return filed within the due date. [S. 139(5)]**
The assessee exercised the option under section 115BAA for the first time through a revised return filed within the prescribed time. The Tribunal held that a revised return substitutes for the original return and validly exercises the option. It further held that business losses and capital losses not covered by section 115BAA(2) continue to be eligible for set-off. (AY. 2021-22).
ACIT v. Lahari Holiday Homes (P.) Ltd. (2025) 238 TTJ 708 / 179 taxmann.com 217 (Hyd.) (Trib.)

1542 **S. 115BAA: Tax on income of certain domestic companies-Concessional tax regime-Failure to file Form No 10IC due to technical glitch-Assessee was to be directed to file Form No. 10IC within one month from the date of receipt of this order.[Form No 10IC]**
Assessee filed its return of income claiming the benefit of section 115BAA, but could not file Form No. 10IC due to a technical glitch on the income-tax portal. Consequently, while processing the return under section 143(1), CPC denied the benefit of the concessional tax rate under section 115BAA on the ground that Form No. 10-IC had not been filed, and the CIT(A) upheld the adjustment. The Hon'ble Tribunal held that since there were technical issues relating to filing of form 10-IC during the relevant period. It further noted that CBDT had issued Circular No. 19/2023 and Circular No. 17/2024 providing mechanisms for filing or condonation of delay in filing Form No. 10-IC, though the assessee had not availed those remedies.
Accordingly, the impugned order was set aside and Assessee was to be directed to file Form No. 10-IC within one month from the date of receipt of this order with a corresponding direction to CPC to open the portal for this limited purpose.(AY. 2021-22)
Sanjana Clothings (P.) Ltd. v. AID, CPC (2025) 215 ITD 256/ 238 TTJ 446 (Indore) (Trib.)

1543 **S. 115BAA: Tax on income of certain domestic companies-Concessional tax regime-Opted concessional tax regime-Total income-Long Term Capital Gain, would be 22 per cent as per section 115BAA and not 20 per cent under section 112. [S. 112]**
The assessee-company had exercised the option under section 115BAA by filing Form 10-IC and was, therefore, subject to the concessional tax regime applicable to domestic companies. For AY 2021-22, it earned Long-Term Capital Gain (LTCG) on sale of land

and computed tax on such gains at 20% under section 112. However, while processing the return under section 143(1), the Assessing Officer applied the tax rate of 22% under section 115BAA on the assessee's total income and raised an additional demand. The CIT(A) upheld the adjustment.

The Hon'ble Tribunal held that where the assessee has opted for taxation u/s. 115BAA, the rate of tax applicable in respect of the total income of the assessee company is 22%. Thus, the rate of tax applicable on Long Term Capital Gain would be 22% u/s. 115BAA and not 20% u/s. 112.(AY. 2021-22)

Maharishi Education Corporation P. Ltd. v. ITO (2025) 215 ITD 320 (Delhi) (Trib.)

S. 115BAB : Tax on new manufacturing domestic companies-Concessional tax rate-Manufacturing company-Option once exercised continues for subsequent years-Adjustment under section 143(1) not permissible without opportunity of hearing. [S.143(1)] 1544

The assessee had exercised the option under section 115BAB in the earlier assessment year by filing Form No. 10-ID within the prescribed time. While processing the return under section 143(1) for the subsequent year, CPC applied the normal tax rate of 30 per cent. on the ground that no fresh option had been exercised. The Tribunal held that once the option under section 115BAB is validly exercised, it continues to apply to subsequent years and no fresh Form No. 10-ID is required. Further, the question whether the assessee had commenced manufacturing was a debatable factual issue which could not be adjusted while processing the return under section 143(1). The denial of the concessional tax rate without granting an opportunity of hearing was therefore unsustainable. (AY. 2023-24).

GFCL EV Products Ltd. v. Asst. CIT [2025] 180 taxmann.com 17 / 128 ITR 1 (SN) (Ahd.) (Trib.)

S. 115BAC : Tax on income of individuals and Hindu undivided family-New tax regime-Non-filing of Form No.10-IE-Claiming the benefit of option-The denial of exercise of this option in the relevant year for failure to file Form No. 10-IE is not in accordance with law. [S.115BAC(5), Form No-10-IE] 1545

Held that in the preceding year the assessee had exercised its option of paying taxes under the new regime for the first time and the option was denied to the assessee for the reason that Form No. 10-IE was not filed within the prescribed time, there was no requirement for the assessee to file a fresh Form No. 10-IE at all as per sub-s. (5) of s. 115BAC and therefore, the denial of exercise of this option in the relevant year for failure to file Form No. 10-IE, is not in accordance with law. (AY. 2023-24)

Arun Gopilal SamnanI v. ITO (2025) 236 TTJ 258/ 174 taxmann.com 33 (Ahd)(Trib)

Bhargavkumar Parsottambhai Patel (HUF) v. ITO (2025) 236 TTJ 258/ 174 taxmann.com 33 (Ahd)(Trib)

S.115BAC: Tax on income of individuals and Hindu undivided family-New tax regime-Delay in filing Form No. 10-IE-Option cannot be denied.[S. 115BAC(5), 139(2)] 1546

The assessee filed Form No. 10-IE after the prescribed due date while opting for taxation under section 115BAC. The Assessing Officer denied the benefit of the new tax regime.

The Tribunal held that delay in filing Form No. 10-IE does not invalidate the exercise of the option, as the statute treats the option as invalid only where the conditions of section 115BAC(2) are violated. The assessee was therefore entitled to the benefit of the new tax regime. (AY. 2022-23, 2023-24)
Sanju Soni v. ITO (2025) 238 TTJ 578 (Jodhpur)(Trib).

1547 **S. 115BAC : Tax on income of individuals and Hindu undivided family-New tax regime-Form No 10-IE-New regime and old regime-The assessee cannot be forced to adopt the new regime-The action of the CPC in processing the return of income determining the total income under the new regime of taxation is quashed and set aside.[S. 139, Form No.10E]**
The assessee originally exercised the option for taxation under S. 115BAC by filing Form No. 10-IE on 18th July, 2022. Subsequently, he filed the return of income on 20th July, 2022 declaring total income under the old regime of taxation claiming additional depreciation and deductions under Chapter VI-A. CPC processed the return under new regime and determined the total income. CIT(A) affirmed the order of the CPC. On appeal, the Hon'ble Tribunal held that it is not a case that the assessee filed Form No. 10-IE and also filed the return under the new tax regime and thereafter filed a revised return withdrawing the option which is not permissible in the said previous year. The Tribunal held that the assessee cannot be forced to adopt the new regime. Addl. CIT(A) was not justified in upholding the action of the CPC in processing the return of income determining the total income under the new regime of taxation. (AY.2022-23)
Akshay Nitin Malu v. ITO (2025) 173 taxmann.com 684 (Pune)(Trib)

1548 **S. 115BBE : Tax on specified income-Determination of tax in certain cases-Unexplained money-Search conducted prior to amendment-Enhanced tax rate of 60% not applicable. [S. 69A, 132]**
Pursuant to a search conducted on 16-08-2016, the Assessing Officer taxed unexplained gold and jewellery under section 69A at the enhanced rate prescribed under section 115BBE as amended with effect from 01-04-2017. The Tribunal held that the amendment enhancing the rate of tax was prospective and could not be applied to a search conducted prior to its coming into force. Accordingly, the addition under section 115BBE at the higher rate was held to be unsustainable. (AY. 2017-18).
Samir Shantilal Mehta v. Asst. CIT (2025) 129 ITR 83 (Surat)(Trib.)

1549 **S. 115J : Company-Book profit-The AO has no jurisdiction to question the correctness of the profit and loss account prepared and certified by the Chartered Accountant. [Companies Act, 1956]-Expenditure incurred for subsidiary under winding-up-Commercial expediency-Deductible as business expenditure [S. 37(1)]**
The assessee-company incurred expenditure towards maintenance of its subsidiary company, MMC, which had become financially unviable and was in the process of being wound up. The assessee had promoted MMC, held a substantial equity stake therein, and had acted as its managing agent for several years. The Assessing Officer disallowed expenditure incurred for maintenance of MMC as well as write-off of deposits and interest, holding that the assessee had effectively discharged the liabilities of MMC for

reasons unrelated to its own business. The Tribunal affirmed the disallowance
The Hon'ble Bombay High Court held that the expenditure was incurred on grounds of commercial expediency. The Court noted that MMC was closely associated with the assessee and was regarded as a Mahindra group company. The assessee incurred the expenditure to protect its business reputation, goodwill, and investment in MMC. Following its earlier decision in the assessee's own case, the Court held that the expenditure and corresponding write-offs were directly connected with the assessee's business interests and were therefore allowable as business expenditure/loss. Accordingly, the deductions claimed by the assessee were allowed.
Further, While computing book profits under section 115J, the Assessing Officer and appellate authorities sought to make adjustments to the profit and loss account prepared by the assessee. The issue before the Court was whether the Assessing Officer could question the correctness of the audited profit and loss account prepared in accordance with Parts II and III of Schedule VI to the Companies Act.
The Hon'ble High court held that the Assessing Officer does not have jurisdiction to question correctness of profit and loss account prepared and certified by statutory auditors of assessee-company as having been prepared in accordance with requirements of Parts II and III of Schedule VI to Companies Act. Therefore, following the decision of Hon'ble Supreme Court in the case of *Malayala Manorama Company Ltd. v. CIT Trivandrum (2008) 169 Taxman 471/ 300 ITR 251 (SC)* it was held that the Assessing Officer does not have jurisdiction to go behind net profit shown in profit and loss account except to extent provided in Explanation to section 115J. (AY. 1990-91)
Mahindra & Mahindra Ltd. v. CIT City-II, Mumbai, [2025] 174 taxmann.com 154 (Bom) (HC)

S. 115J : Company-Book profit-Disallowance under section 14A r.w.r 8D-expenditure towards generating exempt income-Matter remanded.[S. 14A, R.8D] 1550
Pursuant to a search conducted under section 132, assessments for certain years were framed under section 153A read with section 143(3). The Assessing Officer made additions by including disallowances under section 14A read with Rule 8D while computing book profit under section 115JB.The Hon'ble Tribunal held that disallowance under section 14A read with rule 8D could not be added while computing book profit under section 115JB.However, expenditure directly relatable to exempt income may be considered under clause (f) of Explanation 1 to section 115JB(2), independent of the Rule 8D computation..
Further, the assessee contended that the assessment years under consideration were unabated/completed years and no incriminating material relating to such additions was found during the course of search. It was further argued that disallowance computed under section 14A read with Rule 8D could not be added while computing book profit under section 115JB. The Hon'ble Tribunal further observed that, in view of the Supreme Court decision in Abhisar Buildwell (P.) Ltd., no addition can be made in respect of completed/unabated assessments under section 153A in the absence of incriminating material unearthed during the search. Accordingly, the matter was restored to the Assessing Officer to verify whether any expenditure was actually incurred for earning exempt income and whether the assessment years were unabated years without any

incriminating material. If no incriminating material was found, no addition could be sustained, though reopening under sections 147/148, subject to statutory conditions, would remain available to the Revenue. (AY. 2012-13, 2013-14)
S.R. Ingots (P.) Ltd. v. ACIT (2025) 210 ITD 254 (Raipur)(Trib.)

1551 **S. 115JB : Company-Book profit-Provision for doubtful loans and advances Loss-Actual and certain-No upward adjustment required. [S.115JB(2)(c)]**
For Assessment Year 2004-05, the Assessing Officer made a disallowance under section 14A by applying the amended provisions introduced by the Finance Act, 2022, which inserted a non-obstante clause and Explanation to section 14A. The Assessing Officer also made an upward adjustment while computing book profits under section 115JB by treating the amount debited towards provision for doubtful loans and advances as an unascertained liability. The Tribunal deleted the disallowance under section 14A and held that no adjustment under section 115JB was warranted since the amount represented an ascertained liability that had actually been written off.
The Hon'ble High Court held that the Tribunal had recorded findings that in the assessment order, the Assessing Officer had not given any reason for making upward adjustment while calculating the book profit for the purpose of minimum alternate tax and despite this fact the Commissioner had presumed that the Assessing Officer might have invoked the provisions of section 115JB(2)(c) by treating the loans and advances which were actually written off as doubtful. The assessee had consistently submitted that the loss was real and such loss had been debited to the profit and loss account under the head provision for doubtful loans and advances and on perusal of audited accounts it was clear that it was written off in the account as irrecoverable though the nomenclature was used as provision. The revenue could not show any factual matrix which led them to take a view that such amount was not certain and was merely a provision. Since the amount had in fact been written off and represented a certain liability, no upward adjustment under section 115JB(2)(c) was permissible. Accordingly, the Court found no reason to interfere with the Tribunal's factual findings and dismissed the Revenue's appeal.(AY. 2004-05)
PCIT v. Avantha Realty Ltd [2024] 164 taxmann.com 376 /(2025) 482 ITR 599 (Cal)(HC)

1552 **S. 115JB : Company-Book profit-Interest under S. 234B-Binding precedent of Co-ordinate Benches-Revenue bound to disclose contrary judgments-Allegation that earlier judgments were "obtained" deprecated-The duty of fairness expected from the Revenue, the Court observed that binding precedents should not be suppressed or casually attacked-Appeal dismissed. [Ss. 234B, 260A]**
Where the assessee had computed book profits in accordance with the prevailing law and interest under section 234B was sought to be levied consequent to retrospective amendments made by the Finance Act, 2008 w.r.e.f. 1-4-2001, the Court held that identical questions had already been decided against the Revenue by at least three Co-ordinate Benches and such binding precedents were not even brought to the notice of the Court by the Revenue while seeking admission of the appeal. The contention of the Revenue that earlier judgments were "obtained" by suppression of material was strongly deprecated, the Court observing that such allegations against Co-ordinate

Bench decisions are objectionable and cannot substitute proper legal challenge or distinction. The Court further held that a question not raised before the Tribunal nor framed in the memorandum of appeal cannot be urged in an appeal under section 260A. Emphasising the duty of fairness expected from the Revenue, the Court observed that binding precedents should not be suppressed or casually attacked and, following earlier decisions holding that no interest under section 234B is leviable where book profits were computed as per law then prevailing, dismissed the Revenue's appeal. (AY. 2005-06).

CIT v. Reliance Industries Ltd. (2025) 345 CTR 747 / 252 DTR 65 (Bom)(HC)

S. 115JB : Company-Book profit-Expenditure towards corporate social responsibility-No basis for excluding expenditure on corporate social responsibility for determining book profits-Book profits to be determined as per accounts maintained in accordance with law Income-tax Act. 1553

The assessee, engaged in the business of import and distribution of products under the "Sony" brand, incurred Corporate Social Responsibility (CSR) expenditure and included the same in its accounts while computing book profits under section 115JB. The Assessing Officer sought to add back the CSR expenditure while computing MAT, contending that such expenditure ought not to be considered for determining book profits. The Tribunal deleted the adjustment and held that the CSR expenditure as debited in the books formed part of the accounts prepared in accordance with law and could not be excluded while computing book profits under section 115JB

The Hon'ble High Court held that section 115JB permits only those adjustments to the net profit which are specifically provided for in the statute. There is no provision under section 115JB requiring CSR expenditure to be added back or excluded while determining book profits. Book profits are to be computed on the basis of accounts maintained in accordance with applicable accounting principles, subject only to the adjustments expressly prescribed in the section. Since the revenue had no basis for excluding expenditure on corporate social responsibility for determining book profits, book profits to be determined as per accounts maintained in accordance with law Income-tax Act.(AY. 2016-17)

PCIT v. Sony India Pvt. Ltd [2024] 167 taxmann.com 549 / (2025) 477 ITR 576 (Delhi)(HC)

S. 115JB : Company-Book profit-Provision for bad and doubtful debts-Electricity company-Applicability of MAT provisions-Tribunal deleting additions made to enhance book profit justified.[S. 260A, Schedule VI of Companies Act, 1956, Electricity Act, 2003, Electricity (Supply) Act, 1948] 1554

The assessee is a company engaged in generation and distribution of electricity. While computing book profits under section 115JB, the Assessing Officer made certain adjustments relating to expenditure attributable to exempt income and the appellate authority further enhanced the book profit. On further appeal, the Tribunal held that section 115JB, as it stood during the relevant assessment year, had no application to an electricity company and directed deletion of the additions made for enhancing book profits. The Revenue challenged the Tribunal's order before the High Court.

The Hon'ble Tribunal held that the Tribunal was justified in deleting the additions made on account of book profit under section 115JB. The Court observed that prior to

the amendment made by the Finance Act, 2012, section 115JB(2) required companies to prepare their profit and loss accounts in accordance with Parts II and III of Schedule VI to the Companies Act, 1956. However, electricity companies were statutorily required to prepare their accounts under the provisions of the Electricity Act, 2003 and the Electricity (Supply) Act, 1948, and not under Schedule VI of the Companies Act. Consequently, the machinery provisions contained in section 115JB were incapable of being applied to such companies. The Court further noted that the Finance Act, 2012 specifically amended section 115JB to bring electricity, banking and insurance companies within its scope by permitting them to prepare accounts in accordance with their governing statutes. The Memorandum explaining the amendment also clarified that the amendment was prospective and applicable from Assessment Year 2013-14 onwards. Accordingly, the Court held that section 115JB, as it stood prior to the Finance Act, 2012, was not applicable to electricity companies and therefore the Tribunal was justified in deleting the additions made while computing book profits. The order of the Tribunal deleting the additions made to the book profit did not suffer from infirmity or error and, was, therefore upheld.(AY. 2006-07)

PCIT v. Tata Power Delhi Distribution Ltd. (2025) 476 ITR 639 / 171 taxmann.com 59 (Delhi)(HC)

1555 **S. 115JB : Company-Book profit-Electricity generation and distribution-Provisions of section 115JB inapplicable to assessee in assessment year 2008-2009 prior to amendment by Finance Act, 2012. [S. 260A]**

Dismissing the appeal the Court held that section 115JB would be inapplicable, to the assessee engaged in electricity generation and distribution, prior to its amendment by virtue of the Finance Act, 2012, for the assessment year 2008-2009. The order of the Tribunal was up held.(AY. 2008-09)

Dy. CIT v. Tata Power Delhi Distribution Ltd. (2025) 476 ITR 659 (Delhi)(HC)

1556 **S. 115JB : Company-Book profit-Limited power of AO-AO cannot go behind audited accounts approved under Companies Act except for adjustments in Explanation. [S. 260A]**

The assessee had demerged its resort division, resulting in a loss on demerger disclosed as extraordinary item in audited profit and loss account. While computing book profit under section 115JB, AO disregarded the loss disclosed in the profit and loss account and proceeded on the basis of profit before the extraordinary adjustment, taking the view that the demerger loss ought to have been adjusted against reserves and not charged to the profit and loss account. The Tribunal deleted the adjustment made by the Assessing Officer.

The Hon'ble High Court held that the Ld. AO made adjustments beyond the specific additions permissible under Explanation 1 of section 115JB.The Court held that AO's jurisdiction under MAT provisions is limited to specified adjustments; once accounts are certified and approved under Companies Act, AO cannot alter book profits. Since the loss arising on demerger had been duly reflected in the audited accounts and no adjustment in respect thereof was contemplated under Explanation 1 to section 115JB, the Assessing Officer was not justified in excluding such loss while computing book

profits. Accordingly, the Tribunal was justified in deleting the adjustment and accepting the book profit as reflected in the audited accounts. (AY. 2009-10)
PCIT v. Varun Corporation Ltd [2023] 154 taxmann.com 548 (Bom)(HC)

S. 115JB : Company-Book profit-Long-term capital gains-exemption under section 10(38)-Order of Tribunal allowing the exemption is affirmed.[S.10(38), 260A] 1557
The assessee claimed exemption under section 10(38) in respect of long-term capital gains (LTCG) arising from the sale of listed shares. While computing book profits under section 115JB, a substantial portion of such gains was not included in the profit and loss account and was carried directly to capital reserve. The Assessing Officer held that since the LTCG had not been considered for determining book profits under section 115JB, the assessee was not entitled to exemption under section 10(38) and accordingly included the amount in the taxable income under the normal provisions of the Act. The CIT(A) and the Tribunal, however, held that the LTCG continued to be exempt under section 10(38).
The Hon'ble High court, dismissing the appeal of the Revenue upheld the order of the Tribunal, in rejecting the Department's contention and holding that the assessee was entitled to exemption under section 10(38) of the long-term capital gains on account of sale of shares by the amalgamating companies, which was denied by the Assessing Officer. (AY.2015-16)
PCIT v. Hespera Reality Pvt. Ltd. (2025)472 ITR 630/303 Taxman 154 (Delhi)(HC)

S. 115JB: Company-Book profit-Sales tax subsidy-Credited to capital reserve-Adjustment made by the Assessing Officer is not justified. 1558
Since the sales-tax subsidy has been directly credited to the capital reserve and never credited to the P&L a/c, in accordance with AS-12 and the provisions of the Companies Act, 1956, the AO was not justified in making an addition to book profit under s. 115JB; there being no finding in the CIT(A)'s order that the accounts of the assessee-company were not prepared in accordance with the Companies Act, the adjustment made by the AO was beyond his jurisdiction. (AY.2003-04, 2006-07)
Munjal Auto Industries Ltd. v. ITO (2025) 235 TTJ 84 / 173 taxmann.com 498 (Ahd)(Trib)

S. 115JB : Company-Book profit-Method of accounting-Provision for loss of inventory-Diminution in value of asset-Any reduction in the value of inventory is to be added back to book profit computed in terms of s. 115JB(2)-Addition is affirmed. [S.115JB(2), 145] 1559
Held that the assessee follows lower of cost or net realizable value method of accounting for the purpose of valuation of inventory, any reduction in the valuation of inventory is reflected in closing value of stock-in-trade or inventory and there is no question of debiting the said reduction to the material consumption account; 4 / 15 reduction in the value of inventory is to be added back to the book profit computed in terms of S. 115JB(2).(AY.2011-12)
Dr. Reddy's Laboratories Ltd. v. DCIT (2025) 236 TTJ 699 / 174 taxmann.com 238 (Hyd) (Trib)

1560 **S. 115JB : Company-Book Profit-Sick Industrial Company-Exemption under Explanation 1(vii)-Net worth becoming positive-BIFR Scheme-The BIFR directions merely required the Department to consider continuation of the exemption and did not override the statutory provisions of section 115JB-Exemption not available. [Sick Industrial Companies (Special Provisions) Act, 1985, (SICA), S. 32]**

The assessee-company claimed exclusion of its profits from book profits under section 115JB on the strength of the rehabilitation scheme sanctioned by the BIFR. The Tribunal held that the exemption under Explanation 1(vii) to section 115JB is available only till the assessment year in which the net worth of the sick company remains below the accumulated losses. Since the assessee's net worth had become positive on 31-03-2009 and it was discharged from the purview of SICA/BIFR on that basis, the profits of A.Y. 2012-13 could not be excluded while computing book profits. The BIFR directions merely required the Department to consider continuation of the exemption and did not override the statutory provisions of section 115JB. (AY. 2012-13)

Supertex Industries Ltd. v. DCIT (2025) 238 TTJ 887 / 179 taxmann.com 677 (Mum.)(Trib.)

1561 **S. 115JB : Company-Book profit-Amalgamation-General reserve arising on amalgamation not equivalent to accumulated profits-Matter restored-Interest-Levy consequential. [S. 234B, 234C]**

The Assessing Officer treated the general reserve created on amalgamation as accumulated profits while computing book profit under section 115JB. The Tribunal held that the reserve did not represent accumulated profits and followed its earlier decision in the assessee's own case directing the Assessing Officer to allow deduction of the lower of the brought-forward business loss or unabsorbed depreciation while computing book profit. The matter was restored to the Assessing Officer. The Tribunal upheld the directions of the Commissioner (Appeals) regarding computation of interest under sections 234B and 234C in accordance with the law laid down by the Supreme Court in Rolta India Ltd., holding that the levy of interest was consequential and required recomputation by the Assessing Officer. (AY. 2006-07 to 2012-13).

Dy. CIT v. Bodal Chemicals Ltd. (2025) 127 ITR 194 / 177 taxmann.com 448 (Ahd.)(Trib.)

1562 **S. 115JB : Company-Book profit-Minimum Alternate Tax-Book profit-Sales tax subsidy-Capital receipt-Subsidy reduced from written-down value of assets-Not includible in book profit. [S.2(24)(xviii)]**

The assessee received sales tax subsidy under the Maharashtra Package Scheme of Incentives, 2007, which was treated as a capital receipt and adjusted against the written-down value of fixed assets for computing depreciation. Although the subsidy was credited to the profit and loss account, no reduction was claimed while computing book profit under section 115JB. The Tribunal held that once the subsidy had been adjusted against the written down value of the assets and accepted by the Department as a capital receipt, it ceased to be income under section 2(24)(xviii). A capital receipt cannot be subjected to tax even while computing book profit under section 115JB. The assessee was therefore entitled to reduce the subsidy from the computation of book profit notwithstanding that the claim had not been made in the original return. (AY. 2017-18 & 2018-19)

Economic Explosives Ltd. v. Asst. CIT [2024] 167 taxmann.com 9 / (2025) 124 ITR 443 (Nagpur)(Trib.)

S. 115JB: Company-Book profit-Corporate Social Responsibility expenditure-Provision made in accordance with Companies Act-Not liable to be added back while computing book profit.[S. 37(1), 115JB, Expln. 1] 1563

The Assessing Officer added back the provision for Corporate Social Responsibility (CSR) expenditure while computing book profits under section 115JB by relying upon CBDT Circular No. 1 of 2015. The Tribunal held that the Circular dealt only with allowability of CSR expenditure under section 37(1) and had no application to computation of book profits under section 115JB. Since the accounts were prepared in accordance with the Companies Act, 2013 and the CSR provision was not covered by any of the adjustments specified in Explanation 1 to section 115JB, the Assessing Officer had no jurisdiction to recompute the book profits. The deletion of the addition was upheld. (AY. 2016-17 to 2018-19).

Dy. CIT v. Jammu and Kashmir Power Development Corporation Ltd. (2025) 125 ITR 556 / 177 taxmann.com 530 (Amritsar)(Trib.)

S. 115JB : Company-Book profit-Insurance company-Reserve for unexpired risks and premium deficiency-No adjustment permissible under Explanation 1-Addition deleted. 1564

The Tribunal held that section 115JB does not provide for adding back reserve for unexpired risks or premium deficiency while computing book profit. As these items are not specified in Explanation 1 to section 115JB, the additions made by the Assessing Officer were deleted. (AY. 2008-09 to 2014-15).

Royal Sundaram General Insurance Co. Ltd. v. Dy. CIT (2025) 123 ITR 507 / 175 taxmann.com 427 (Chennai)(Trib.)

S. 115JB : Company-Book profit-Income from operation of ships-Income offered under deeming provision-Provsion of book profit is not applicable-DTAA-India-Hong Kong. [S. 44B, 145A, 90(2), Art. 8] 1565

The assessee, a non-resident shipping company, offered its income from operation of ships to tax under the presumptive provisions of section 44B. The Assessing Officer included the GST collected by the assessee in the gross receipts for computing deemed profits under section 44B and accordingly enhanced the presumptive income.

The Hon'ble Tribunal held that section 44B is a special provision providing for taxation of non-resident shipping companies on a presumptive basis and the deemed income is required to be computed only with reference to the specific amounts mentioned in section 44B(2), namely, amounts paid or payable or received on account of carriage of passengers, livestock, mail or goods. The Tribunal observed that section 145A deals with valuation of purchases, sales and inventory for determining business income under the normal provisions and cannot override the special computation mechanism prescribed under section 44B. It further held that GST is a statutory levy collected by the assessee in a fiduciary capacity on behalf of the Government and does not contain any element of profit. Inclusion of GST in the gross receipts would effectively amount to levying income-tax on tax itself, which could not be the legislative intent

Further, in view of Expln. 4A to s. 115JB(1), the provisions of S. 115JB are not applicable to the assessee. Accordingly, the Tribunal held that GST cannot be included

while computing presumptive income under section 44B and deleted the addition made by the Assessing Officer. (AY. 2020-21)
Orient Overseas Container Line Ltd. v. Dy.CIT (IT) [2024] 168 taxmann.com 269 / (2025) 233 TTJ 83 (Mum)(Trib)

1566 **S. 115-O : Company-Dividend distribution tax-Payment of dividend to non-resident shareholder-Dividend distribution tax payable by company at rate under section 115-O, not at rate applicable to non-resident shareholder under Double Taxation Avoidance Agreement, unless contracting States by specific provision extend treaty protection to domestic company. [S. 90]**
Held that the DTAA does not apply to DDT paid by a domestic company under section 115-O unless the contracting States specifically extend treaty protection to such company, and hence the tax was rightly levied at the rate under section 115-O.(AY. 2010-11 to 2014-15)
Schaeffler India Ltd. v. Asst. CIT (2025) 131 ITR 237 (Ahd.) (Trib)

1567 **S. 115-O : Domestic companies-Tax on distributed profits-Refund-Entitlement-Refund of Dividend Distribution Tax paid on dividend to International Finance Corporation-Entitled to refund. [IFC Act, 1958]**
Held that the dividend paid to entities enjoying absolute immunity under the IT Act, such as IFC, which has been granted tax-free status, should in all forms be excluded from the taxable base for the purpose of DDT; hence, the amount of dividend paid to IFC is to be reduced from the total amount on which DDT is payable, and the assessee is entitled to a refund. (AY.2018-19 to 2020-21)
Polycab India Ltd. v. ACIT (2025) 237 TTJ 837 / 175 taxmann.com 707 (Mum) Trib)

1568 **S. 115-O: Domestic companies-Tax on distributed profits-Dividend Distribution Tax-Dividend paid to non-resident shareholder-Rate prescribed under section 115-O applicable-Rate under DTAA not applicable to domestic company paying dividend distribution tax.**
The assessee contended that dividend distribution tax was payable at the rate prescribed under the applicable Double Taxation Avoidance Agreement as the dividend was distributed to non-resident shareholders. The Tribunal held that dividend distribution tax is a liability of the domestic company under section 115-O and is payable at the rate prescribed therein. The concessional rate available to a non-resident shareholder under the applicable DTAA could not be extended to the domestic company unless the treaty specifically so provided. (AY. 2018-19).
Toyota Kirloskar Motor P. Ltd. v. Dy. CIT (2025) 129 ITR 515 (Bang.)(Trib.)

1569 **S. 115P : Domestic companies-Tax on distributed profits-Interest-Dividend Distribution Tax-Credit-Matter remanded for verification.**
The Tribunal directed the Assessing Officer to verify the challans and books of account evidencing payment of Dividend Distribution Tax and grant consequential credit along with recomputation of interest in accordance with law. (AY. 2020-21).
Toyota Boshoku Automotive India (P.) Ltd. v. Dy. CIT (2025) 126 ITR 298 / 174 taxmann.com 933 (Bang.)(Trib.)

S. 115P: Domestic companies-Tax on distributed profits-Dividend Distribution Tax-Credit-Assessing Officer directed to grant credit after verification. 1570

The assessee sought credit for Dividend Distribution Tax paid and reflected in the statutory records. The Tribunal directed the Assessing Officer to verify the challans and Form 26AS and grant the appropriate credit together with consequential recomputation of interest and demand. (AY. 2018-19).

Geecee Ventures Ltd. v. Dy. CIT (2025) 127 ITR 371 / 174 taxmann.com 1285 (Mum.)(Trib.)

S. 115V-I: Shipping business-Shipping income-Allocation of administrative expenditure-Required to be allocated on a reasonable basis. 1571

Held that the administrative expenses are required to be incurred for all activities of the assessee-company, and therefore, the same are required to be allocated on a reasonable basis to arrive at profit from the incidental activities in accordance with s. 115V-I. (AY. 2018-19)

Shipping Corporation of India v. DCIT (2025) 235 TTJ 163 / 173 taxmann.com 190 (Mum) (Trib)

S. 115V-I: Shipping business-Shipping income-Interest from deposits with banks-AO is directed to treat the interest income as part of the profits from core shipping activities carried on by the assessee as business income. [S.115VJ] 1572

Held that the fixed deposits maintained with the banks, which are marked as lien, fixed deposits with the banks out of the funds which were generated from public offerings for the purpose of financing ship-building projects pending utilization for the said purpose, fixed deposits placed with the banks, for complying with the covenants in the loan agreement entered for the purpose of acquiring ships and vessels are linked with the business of operating ships and therefore interest income constitutes business income and relates to the core shipping activity. (AY. 2018-19)

Shipping Corporation of India v. DCIT (2025) 235 TTJ 163 / 173 taxmann.com 190 (Mum) (Trib)

S. 119: Central Board of Direct Taxes-Charitable Trust-Delay in filing tax audit report in form 10B-High Court directed to allow the exemption-SLP of revenue was delayed by 237 days-SLP is dismissed on account of delay as well as on merits. [S. 11, 12, Form No. 10B, Art. 136] 1573

Assessee, a Public Charitable Trust, filed a return for Assessment Year 2021-22, declaring a deficit. CPC disallowed exemptions under Sections 11 and 12 due to non-filing of the audit report in Form 10B and treated the entire income as taxable. The Hon'ble Tribunal, relying on Gujarat High Court's decision in *Association of Indian Panel Board Manufacturers v. DCIT [2023] 157 taxmann.com 550 (Guj)(HC)*, held that filing of Form 10B is a procedural requirement and allowed the exemption claim of the assessee.

The Hon'ble High Court held that no substantial question of law arose out of the order of the Tribunal and upheld the order of Tribunal stating that claim of the assessee for exemption to its entire income under Section 11 of the Act is required to be allowed and AO/CPC was directed accordingly to delete the adjustment made in the intimation under Section 143(1) of the Act.

The Hon'ble Supreme Court dismissed the SLP filed by the revenue on the ground of delay of 237 days in filing the SLP and the reasons assigned were neither satisfactory nor sufficient in law to condone the delay. SLP filed by revenue was dismissed on the grounds of delay as well as on the merits. (AY. 2021-22)

CIT (E) v. Anjana Foundation (2025) 307 Taxman 169 / (2026) 485 ITR 10 (SC)

Editorial : CIT(E) v. Anjana Foundation [2024] 168 taxmann.com 462 (Guj) HC)

1574 **S. 119 : Central Board of Direct Taxes-Charitable Trust-Delay in filing Form No 10B-Delay of 1257 days-Oversights by the Chartered Accountant-Human error lacking any malafide intention-Delay was not intentional or deliberate-Assessee could not be prejudiced on account of an ignorance or error committed by professional engaged by it-High Court condoned the delay and CIT(E) is directed to procced with the return in accordance with law-SLP delayed by 323 days-Delay was condoned-Order of High Court affirmed. [S. 11, 119(2) Form No 10B, Art,136]**

Assessee, a charitable trust filed its return for assessment year 2016-17 on 6-9-2016, declaring nil income and seeking a refund. Assessee failed to FILE audit report in Form No. 10B along with return, which was eventually filed on 15-2-2020, with a delay of approximately 1257 days. Despite explaining delay as an oversight by their Chartered Accountant/Auditor, condonation application under section 119(2)(b) was rejected by CIT(E).

On writ, allowing the petition, the Hon'ble High Court held that since assessee had been filing its returns and Form 10B for subsequent years within due dates on this ground alone, delay condonation application should have been allowed because failure to file returns for AY 2016-17 could be only due to human error lacking any mala fide intention. On facts, the delay was not intentional or deliberate and therefore, assessee could not be prejudiced on account of an ignorance or error committed by professional engaged by it. The Hon'ble High Court condoned the delay and directed CIT(E) to procced with the return in accordance with law. SLP of revenue was delayed by 323 days. Delay was condoned and on merits, the Hon'ble Supreme court dismissed the SLP affirming the order of the High Court. (AY. 2016-17)

CIT (E) v. AL Jamia Mohammediyah Education Society (2025) 481 ITR 215 / 176 taxmann.com 761 (SC)

Editorial : AL Jamia Mohammediyah Education Society v.CIT(E)(2024) 298 Taxman 650 / 339 CTR 572 / (2025) 482 ITR 41 (Bom)(HC)

1575 **S. 119 : Central Board of Direct Taxes-Delay in filing return-Condonation of delay for filing revised returns-National Company Law Tribunal-Revised books of account-Genuine hardship-Power vested in Authority to be judicially exercised-The assessee could file before the jurisdictional Assessing Officer physical returns of income based on books of account revised under section 130(2) of the 2013 Act, as taken on record by the National Company Law Tribunal for the assessment years 2015-16 to 2020-21 within the time stipulated in this order-SLP of Revenue is dismissed. [S. 119(2)(b). 139(4), Companies Act, 2013, S. 130, Art. 136]**

Pursuant to an order passed by the NCLT under section 130 of the Companies Act, 2013, the assessee's books of account and financial statements for earlier years were

reopened, recast and audited by firms appointed by the Ministry of Corporate Affairs. The recasted financial statements were subsequently accepted by the NCLT and filed with the Registrar of Companies. Based on the revised accounts, the assessee sought condonation of delay under section 119(2)(b) for filing revised returns of income for Assessment Years 2015-16 to 2020-21. However, the CBDT rejected the condonation applications on various grounds, including pendency of proceedings before other authorities and the need to examine the veracity of the recasted accounts. The Tribunal/ High Court proceedings arose from the challenge to such rejection.

On a writ petition, the Hon'ble High Court allowed the petitions holding, inter alia, that when by the order under section 130(2) of the Companies Act, 2013 passed by the National Company Law Tribunal on an application filed by the Ministry of Corporate Affairs the accounts had been recast and accepted by the National Company Law Tribunal and also filed with the Registrar of Companies under the Ministry of Corporate Affairs, the Department could not raise frivolous objections and hold that the delay in filing the returns of income based on the revised books of account should not be even be condoned. SLP of Revenue is dismissed. It further held that the expression "genuine hardship" under section 119(2)(b) must be construed liberally to advance substantial justice and enable determination of income on merits. Accordingly, the impugned order rejecting condonation was quashed and the Department was directed to permit filing of revised returns based on the recasted accounts and assess the income accordingly. The Supreme Court dismissed the Revenue's SLP and affirmed the High Court's decision. (AY.2015-16 to 2020-21)

ACIT. v. CG Power and Industrial Solutions Ltd (2025) 472 ITR 642/ 303 Taxman 256 (SC)

Editorial : CG Power and Industrial Solutions Ltd v. ACIT (2024)465 ITR 432 / 162 taxmann.com 315 (Bom)(HC)

S. 119: Central Board of Direct Taxes-Charitable Trust-Property held for charitable purposes-Deemed application of income-Filed Form No 10 instead of Form No 9A delay condoned [S.11(1), 12A, 80G,119(2)(b), Form No.9A Form No 10, Art. 226] 1576

Assessee, a charitable trust registered under sections 12A and 80G, filed its return for Assessment Year 2016-2017 claiming deemed application of income under section 11(1). Owing to an amendment by Finance Act, 2015, Form No. 9A became mandatory from Assessment Year 2016-17, but the assessee inadvertently did not file it and instead filed Form No. 10 On realizing mistake during assessment, the assessee filed Form 9A, and a condonation application Assessing Officer rejected the claim for deemed application for late filing of Form 9A, raising a tax demand. Commissioner rejected the condonation application, citing no reasonable cause for delay.

On writ, the Hon'ble High court held that assessment year 2016-17 was the first year wherein filing of Form No. 9A was prescribed. Further, assessee was a charitable trust carrying on various charitable activities for the last 38 years, and if this delay was not condoned, there would be genuine hardship to assessee, since assessee would be saddled with a huge tax liability, even though it had substantially complied with provisions of section 11. Accordingly, the order rejecting condonation of delay in filing Form No. 9A was set aside and the delay in filing Form 9A was condoned. (AY. 2016-17)

Lakhi Trust v. ITO (E) (2025) 307 Taxman 557 (Bom.)(HC)

1577 **S. 119: Property held for charitable purposes-Charitable trust-Accumulation of income-Filed after due date of return-Delay of 338 days-Suffered genuine hardship if delay was not condoned, as accumulated amount had already been applied towards objects of trust in relevant assessment year and if exemption in respect of accumulated amount was denied and tax demand arising on account of denial of benefit of accumulation was recovered, it would place assessee in gross financial difficulty, delay in filing Form No. 10 was condoned. [S. 11(2), 11(5),139(1), Form No 10, Art.226]**

Assessee-trust filed return claiming exemption under section 11 and accumulation under section 11(2). Form No. 10 for accumulation was filed electronically after the due date under section 139(1). Assessing Officer denied assessee's claim for accumulation under section 11(2) on the ground that assessee failed to file the requisite Form within the stipulated time. Application for condonation of delay was rejected by the CIT(E).

On writ, the Hon'ble High court held that accumulation was already disclosed in the return of income and supported by Board resolution and audit report in Form No. 10B, all existing prior to the due date; thus, the claim was not a new claim but one always made and supported by contemporaneous documents. Substantive requirements of section 11(2), viz., investment under section 11(5) and application within the stipulated time, stood fulfilled. Further, delay occurred as the year under consideration was the first year after statutory amendment and assessee bona fide believed Form No. 10 could be filed during scrutiny proceedings based on the pre-amended position. The Hon'ble High Court held that since assessee would suffer genuine hardship if delay was not condoned, as the accumulated amount had already been applied towards objects of trust in relevant assessment year and if exemption in respect of the accumulated amount was denied and tax demand arising on account of denial of benefit of accumulation was recovered, it would place assessee in gross financial difficulty, delay in filing Form No. 10 was condoned. (AY. 2018-19)

Columbia Global Center in India v. ITO (E) (2025) 307 Taxman 548 (Bom.)(HC)

1578 **S. 119: Central Board of Direct Taxes-Charitable trust-Condonation of delay of 1257 days-Accumulation of income-Form No. 10-Delay was condoned-Directed to file application under section 154 of the Act. [S. 11(2), 119(2)(b), R. 17, Form No.10B, Art. 226]**

Assessee-trust filed an audit report in Form No. 10B and sought a claim of accumulation of income under section 11(2). The learned Assessing Officer rejected said claim on the grounds that Form 10 was not filed. Subsequently, Form 10 was filed beyond the due date along with an application for condonation of delay. However, the learned Assessing Officer rejected the application. The application for condonation of delay was dismissed by the Commissioner. On writ, it was contended by the assessee's auditor that since factum of accumulation of receipts was reported in the audit report in Form No.10B, he was under bona fide impression that there was no separate requirement to file a separate statement and that provisions of section 11(2) were complied with. The assessee's auditor admitted to oversight that he did not consider provisions of Rule 17, which required a separate statement in Form No. 10 to be filed, apart from the audit report in Form No. 10 B, and also the intimation with respect to denial of accumulation of income was received during the pandemic period. Allowing the petition, the Hon'ble

Bombay High Court held that since delay was not intentional or deliberate, assessee could not be prejudiced on account of an ignorance of rules admitted by a professional engaged by assessee and thus, delay was condoned. (AY. 2019-20)
Shree Jain Swetamber Murtipujak Tapagachha Sangh v. CIT(E) [2024] 161 taxmann.com 114 / (2025) 482 ITR 38 (Bom)(HC)

S. 119: Central Board of Direct Taxes-Charitable trust-Property held for charitable purposes-Delay of 70 days-Order of CIT(E) not condoning the delay was quashed and set aside-Authority concerned was directed to grant the exemption.[S. 11, 119(2)(b), Form No 10B, Art. 226] 1579

Assessee, a charitable trust, filed its return of income along with the audit report under Form 10B with a delay of 70 days. It was denied exemption under section 11 owing to the aforesaid delay. Assessee sought condonation of delay of 70 days in filing Form No. 10B, but the same was rejected by the Commissioner (Exemptions) on the ground that the application for condonation of delay was filed beyond the period of three years from the end of the assessment year in question by relying upon Circular No. 16/2024 dated 18-11-2024. On writ, the Court held that the due date to file the audit report for assessment year 2020-21 was preponed by one month, and the same was inadvertently not noticed by the assessee. Further, during the relevant time, assessee was effectively operating in the absence of key trustees as well as permanent accounting staff, and it was only pursuant to a review of records carried out by newly appointed trustees in March 2025 that the assessee became aware of denial of exemption under section 11. Moreover, the Hon'ble Bombay High Court held that not condoning such delay would cause genuine hardship to the assessee inasmuch as assessee had been denied exemption under section 11 and a demand of a certain amount upon the assessee after computing the total income of the trust. On facts, the order passed by Commissioner (E) was set aside, and a delay of 70 days in filing of Form No. 10B for assessment year 2020-21 was condoned. (AY. 2020-21)
Dinesh Surendra Kotecha v. UOI (2025) 307 Taxman 504 (Bom.)(HC)

S. 119 : Central Board of Direct Taxes-Charitable Trust-Property held for charitable purposes-Form No 10B delayed by 29 days-Delay was condoned, and the revenue was directed to allow exemption. [S. 11, 12A, 119(2)(b), Form No.10B, Art. 226] 1580

Assessee, a charitable trust, was registered under section 12A of the Income Tax Act, 1961. It filed its return of income for the relevant assessment year on 5 November 2022, claiming exemption under section 11. The assessee filed Form No. 10B on the same day as the filing of the return, which was beyond the applicable due date of 7-10-2022 and consequently, there was a delay of 29 days in filing Form No. 10B. Assessee filed an application seeking condonation of delay, claiming that the form could not be filed in due time because its accountant suffered a miscarriage and was advised to take bed rest, which prevented timely finalisation of accounts. However, the Commissioner rejected the application on the ground that the assessee had not shown any reasonable cause that prevented it from filing the audit report within the specified date. On writ, condoning the delay, the Hon'ble Bombay High Court held that since there was only a 29-day delay in filing Form No. 10B and the Commissioner never doubted the factual situation put

forth by the assessee to explain the delay, the Commissioner ought to have condoned the delay. If this delay was not condoned, there would be genuine hardship to the assessee, inasmuch as the assessee would be denied exemption otherwise claimed under section 11, which was of a substantial amount. Hence, delay was condoned. (AY. 2022-23)
St. Thomas High School v. CIT (E) (2025) 307 Taxman 141 (Bom.)(HC)

1581 **S. 119: Central Board of Direct Taxes-Charitable Trust-Audit report in Form 10B was obtained in time and uploaded with a delay of 181 days-Mistake of the accountant of the Auditor-Delay was condoned-Order of CIT(E) was quashed and set aside.[S. 11, 12, 119(2)(b), 143(1) form No 10B, Art. 226]**
Assessee, a charitable trust running an educational institution, filed its return of income for the relevant assessment year declaring NIL income. Audit report under Form 10B was obtained in time but uploaded late due to the inadvertence of the auditor's accountant. CPC issued an intimation under section 143(1) raising demand. Assessee applied for condonation of 181 days' delay in filing Form 10B under section 119(2)(b) of the Income Tax Act, 1961. CIT(E) rejected the application for condonation of delay on the ground that there was no reasonable cause and non-filing within the due date. The Hon'ble Bombay High Court held that since the delay was neither deliberate nor mala fide but was on account of the inadvertence of the accountant of auditor, and the assessee had otherwise complied with statutory requirements, obtained the audit report in time, and filed it immediately upon noticing the lapse the order under section 119(2)(b)of the Act was liable to be quashed and the delay of 181 days in filing Form No. 10B was condoned. (AY. 2019-20)
Vesava Koli Samaj Shikshan Sanstha v. CIT (E) (2025) 307 Taxman 83 (Bom.)(HC)

1582 **S. 119: Central Board of Direct Taxes-Charitable trust-Form No 10BB-Delay of 81 days-Chartered Accountant failed to prompt or instruct authorized person from the assessee institute to verify the audit report on the e-filing portal before the due date of filing of return-Delay was condoned. [S.10(23C)(vi), 11, 119(2)(b), 143(1), Form No 10BB, Art. 226]**
Assessee, a charitable educational institution, filed its return of income declaring nil income after claiming exemption under section 11 as well as under section 10(23C)(vi) of the Income Tax Act, 1961. Audit report in Form No. 10BB was obtained and uploaded on the Income-tax portal within the due date for filing the return of income. However, said Form No. 10BB was verified on the e-filing portal after 81 days. Assessing Officer issued an intimation under section 143(1) denying the assessee's claims of exemption under section 11 and section 10(23C)(vi) and raised a tax demand. During appeal before the National Faceless Appeal Centre, assessee filed an application under section 119(2)(b) seeking condonation of delay in verification of Form No. 10BB. The learned Principal Commissioner of Income Tax rejected the application on the ground that no reasonable cause was shown for the delay. On writ, the assessee explained that delay had occurred as the Chartered Accountant failed to prompt or instruct an authorised person from the assessee institute to verify the audit report on the e-filing portal before the due date of filing of return. Allowing the petition, the Hon'ble Bombay High Court held that since

assessee institute would suffer grave hardship if the delay was not condoned and the exemption denied merely on this count, delay. Delay was condoned. (AY. 2018-19)
Institute of Actuaries of India v. CIT (E) (2025) 307 Taxman 256 (Bom.)(HC)

S. 119: Central Board of Direct Taxes-Return for losses-Inadequate advice by a Chartered Accountant admitted by filing an affidavit-Delay was condoned-Order rejecting the application was set aside. [S.80, 119(2)(b), 139, 153(1B) Art. 226] 1583
Assessee filed its return of income belatedly, claiming a loss of a certain amount. The assessee filed an application for condonation of delay under section 119(2)(b) of the Income Tax Act, 1961. Assessee claimed that the delay occurred because the Chartered Accountant was not acquainted with the legal and accounting treatment to be given apropos compensation received in the form of TDR in lieu of compulsory acquisition of certain immovable property and, accordingly, he had to seek appropriate legal advice. The learned Commissioner of Income Tax rejected the assessee's contention because the assessee failed to exercise due diligence to ensure the timely filing of its return and due to the his lack of supervision. On writ, the Hon'ble Bombay High Court held that the delay in filing return was not due to any negligence on the part of the assessee but due to inadequate advice by a Chartered Accountant, which fact stood admitted by him in his affidavit. Whether the issue that was being grappled with was fairly complex and there were no well-settled judicial precedents at the relevant time, assessee ought not to be put to a considerable disadvantage as a result of belated advice given to it by a Chartered Accountant. Court also held that, in view of the provisions of section 153(1B), the Assessing Officer would have 12 months from the end of 31 March 2026 to complete an assessment, i.e. he will have time till 31 March 2027 to frame an assessment under section 143/144, thus, there would be no prejudice to revenue if the delay was condoned. Accordingly, the delay in filing the return was condoned, and the return filed was to be treated as the return filed in accordance with section 153(1B) of the Act. (AY. 2018-19)
Balaji Landmarks LLP v. CBDT (2025) 307 Taxman 498 (Bom.)(HC)

S. 119 : Central Board of Direct Taxes-Return-Delay of 12 days-COVID-19-related constraints-PCIT acts as a quasi-judicial body-Under an obligation to pass a reasoned order-Order was set aside, and the matter was remanded back to PCIT for a de novo consideration to decide the application. [S. 119(2)(b), 139(4), Art, 226] 1584
Petitioner filed his return of income 12 days later than the applicable due date of filing the said return. He filed an application under section 119(2)(b) of the Income Tax Act. 1961 seeking condonation of delay, citing COVID-19-related constraints. The learned PCIT rejected the said application, holding that there was no genuine hardship in filing the return, inter alia noting that public transport was operating at 50% capacity in late December 2021 and that assessee had sufficient time to file the return, further referring to CBDT Circular No. 09/2015. On writ, the Hon'ble Delhi High Court held that the learned PCIT had not dealt with various averments made by assessee/applicant and had rejected the application for condonation of delay in a mechanical manner. The learned PCIT who admittedly exercises powers under section 119(2)(b) of the Act, acts as a quasi-judicial body and is under an obligation to pass a reasoned order. Since the order,

except stating that there was no genuine hardship in filing the return of income, did not deal with the detailed application filed by the assessee/applicant, the learned PCIT's action was held to be unsustainable. Therefore, the order was to be set aside, and the matter was remanded back to the learned PCIT for de novo consideration to decide the application. CBDT Circular No. 09/2015, dated 9-6-2015. (AY. 2021-22)
Udit Goyal v. PCIT (2025) 307 Taxman 34 (Delhi)(HC)

1585 **S. 119: Central Board of Direct Taxes-Concessional tax regime-Form 10-IC-60-day delay-Mistake of accountant-Matter remanded to the file of PCIT for de novo consideration. [S. 115BAA, 119(2)(b), 139(1), Form-10-IC, Art. 226]**
Assessee-company opted for taxation under section 115BAA of the Income Tax Act, 1961 for Assessment Year 2023-24, requiring the filing of Form 10-IC by the due date under Section 139(1) of the Act. Due to the accountant's inadvertence, Form 10-IC was filed on 29 December 2023 and the return of income on 30 December 2023, with a 60-day delay. Assessee filed an application under Section 119(2)(b) of the Act for condonation, explaining reliance on the accountant and prompt filing upon realising the lapse. The learned PCIT rejected the said application, citing prior timely filings and lack of reasonable cause. On writ, the Hon'ble Delhi High Court held that since fault on part of accountant surely reflected reasonable cause for non-compliance by assessee and after receipt of email from respondent regarding non-filing of the return of income, Form 10-IC, and the return were promptly filed, this would substantiate explanation for filing Form 10-IC and the return of income beyond the due date and accordingly, the order passed by the the learned PCIT was without considering averments made by petitioner in application and to that extent, it was an unreasoned order and thus, matter was to be remanded back to the learned PCIT for de novo consideration. Circular no. 9/2015 [F.No. 312/22/2015-OT] dated 9-6.2025. (AY. 2023-24)
VRG Electronics (P.) Ltd. v. PCIT (2025) 307 Taxman 109 (Delhi)(HC)

1586 **S. 119: Central Board of Direct Taxes-Carry forward and set off of business losses-Failure to up load the return within the due date of filing of return-Chartered accountant was busy with family function-Application for condonation of delay was rejected by the CCIT-On writ the Court held that Chief Commissioner could not have rejected application as filing of return for claiming benefit under provision of Act was procedural and benefit accrued to assessee could not be taken away on account of technicalities when there was a genuine hardship. The matter was remanded to the Chief Commissioner to pass a fresh order to condone the delay in filing the return. [S. 44B, 72 139, Art. 226]**
Assessee-HUF incurred losses in the relevant assessment year. Assessee's books were duly audited, and the tax audit report was uploaded on the income tax portal within the due date. However, assessee could not file the return of income before the prescribed due date under the Income Tax Act, 1961. Consequently, assessee filed an application for condonation of delay in filing return of income for the relevant assessment year. The learnedChief Commissioner of Income Tax rejected the said application. On writ, the assessee claimed that it was eligible to carry forward such losses and set off the same against income of future years and if the delay was not condoned, it would face genuine hardship. It was noted that the Chartered Accountant of assessee was preoccupied with his family function,

which resulted in the non-filing of the return. It was also noted that the audit report had been duly certified and losses of the assessee were not doubted. As soon as the function was over in the family of CA, an application was made promptly under section 119(2)(b) of the Act. The Court held that the learned CCIT could not have rejected the application as filing a return for claiming benefit under the provision of Act was procedural and the benefit accrued to the assessee could not be taken away on account of technicalities when there was a genuine hardship. The matter was remanded to the learned CCIT to pass a fresh order to condone the delay in filing the return. (AY. 2023-24)
Manish Popatbhai Jiwani HUF v. CCIT (2025) 307 Taxman 50 (Guj.)(HC)

S. 119 : Central Board of Direct Taxes-Charitable trust-Property held for charitable purposes-Delay of 16 days in uploading the Form No 10B-Mistake of the auditor-Order rejecting the application was set aside. [S.11, 12,12A, 119(2)(b), 143(1), 154, Form No 10B, Art. 226] 1587

Assessee-society engaged in welfare activities filed its return of income claiming exemption under section 11 of the Income Tax Act, 1961. However, due to an inadvertent error on the part of the auditor/tax professional, the audit report could not be uploaded along with the return and, accordingly, the assessee filed the audit report in Form No. 10B belatedly. Assessing Officer denied exemption under section 11 of the Act while processing the return of income under section 143(1) of the Act. The learned Commissioner of Income Tax rejected assessee's application for condonation of delay, relying on the decision of the Hon'ble Supreme Court in the case of Ranka v. Rewa Coalfields Ltd., AIR 1962 SC 361. On writ, the Hon'ble Delhi High Court held that since law is well-settled that inadvertent mistake of the auditor should not prejudice assessee and in the instant case delay was bona fide as assessee could not upload audit report along with the return of income and due to such inadvertent mistake, the order rejecting condonation of delay was set aside. (AY. 2018-19)
Delhi Maharashtriya Educational and Cultural Society v. CIT (E) (2025) 307 Taxman 448 (Delhi)(HC)

S. 119: Central Board of Direct Taxes-Charitable trust-Property held for charitable purposes-Form No 10B was not filed along with the return-Mistake of chartered accountant-Delay of 1448 days-High Court condoned the delay and directed the authority concerned to allow the exemption. [S. 11, 12A, 119(2)(b), Form No 10B, Art. 226] 1588

Assessee, a charitable trust, filed its return of income along with Form 10. However, Form 10B was inadvertently not filed by the Chartered Accountant along with the said return of income. Subsequently, assessee filed a belated Form 10B and also filed an application for condonation of delay under section 119(2)(b) of the Income Tax Act, 1961, which was rejected. On writ, the Hon'ble Gujarat High Court held that inadvertent oversight had occurred in not filing Form 10B due to impending due dates and the overwhelming workload of CA. Since the delay in filing Form 10B was due to inadvertent oversight of CA, the same was directed to be condoned by the authority concerned under section 119(2)(b) of the Act. (AY. 2018-19)
Babubhai C Jariwala Charitable Trust v. CBDT (2025) 307 Taxman 592 (Guj.)(HC)

1589 **S. 119 : Central Board of Direct Taxes-Return-Condonation of delay-Rejection of application for condonation of delay without following guidelines-Not valid. [S. 139, Art. 226]**

Petitioner/Assessee was constantly under medical treatment owing to his frequent illness, and hence failed to file the return of income. The assessee filed an application u/s 119(2)(b) of the Income Tax Act, 1961 for condonation of delay citing his reasons for the same. However, the learned Principal Commissioner of Income Tax rejected the request of the assessee. The Hon'ble Orissa High Court, allowing the writ petition of the assesseeheld that the illness of the assessee as well as uploading of statutory audit report on March 31, 2022 by the concerned chartered accountant rendered the delay beyond the control of the assessee. The application for condonation of the delay filed by the assessee should not have been rejected in a cryptic manner. The order rejecting the application was not justified.(Circular No. 9 of 2015 dated June 9, 2015 ((2015) 374 ITR (St) 25) (AY. 2021-22)

Abhilash Panda v. ITO (2025) 482 ITR 326 (Orissa)(HC)

1590 **S. 119 : Central Board of Direct Taxes-Carry forward of losses-Assessee must prove genuine hardship-Rejection of application for condonation of delay was affirmed. [S.139(1), 139(3), Art. 226]**

The Hon'ble Gujarat High Court, in a recent ruling held that section 139(3) of the Act provides for filing a return of income so as to enable the assessee to carry forward losses if the return is filed within time as per section 139(1) of the Act. Therefore, there was no question of condoning the delay to carry forward the loss by the assessee. Moreover, the assessee had also failed to show any hardship, much less any genuine hardship for filing the return of income for the assessment year 2015-2016 belatedly on March 29, 2016. Since it was also clear from the order passed by the Central Board of Direct Taxes that the assessee was habitual in late filing the return of income from the assessment years 2011-2012 to 2017-2018, the order rejecting the application to condone the delay in making the claim was justified.(AY. 2015-16)

Gaurangbhai Chimanbhai Kapadiya v. UOI [2024] 161 taxmann.com 304 / (2025) 482 ITR 649 (Guj)(HC)

1591 **S. 119 : Central Board of Direct Taxes-Charitable Trust-Condonation of delay-Application filed wrongly under form 10BB instead of form 10B-Authority ought to have condoned delay instead of dismissing form 10B on anvil of limitation Order set aside and delay condoned Authority directed to consider form 10B under section 119(2)(b) on merits. [S.119(2)(b),Form No 10B, 10BB, Art. 226]**

Assessee filed an application under section 119(2)(b) of the Income Tax Act, 1961, seeking condonation of delay in filing Form 10B. Same was rejected on ground that explanation offered for delay was not satisfactory, particularly on premise that assessee was obliged to explain delay on a day-to-day basis. On writ, the Hon'ble Orissa High Court held that it is not necessary that a day-to-day explanation is required and that continuity of events constituting sufficient cause is adequate, and authority must not adopt a pedantic approach but should follow a liberal and justice-oriented approach so that issue is decided on merits. Since assessee was prevented by sufficient cause from

filing Form 10B within statutory period, order rejecting condonation application solely on ground of limitation was set aside and application for condonation was allowed. Further, the authority was directed to consider form 10B on the merits in accordance with law.
Joharimal High School v. PCIT (2025) 181 taxmann.com 709 / 481 ITR 333 (Orissa)(HC)

S. 119 : Central Board of Direct Taxes-Return-Delay in filing of return-Financial crises-Delay can not be condoned for assesses negligence in filing the return on time-Order rejecting the application was affirmed. [S.80AC, 119 (2), 139, Art. 226] 1592
Assessee filed application for condonation of delay under section 119(2) of the Income Tax Act, 1961 for filing of the return of income within the due date as specified under the Act. CBDT refused to condone delay on ground that as per profit and loss account for the year ending 2020, the assessee had shown profit which was more than previous year. Also, as per the cash flow statement for year ending 2020, total cash equivalents of substantial amount were recorded and said positive cash flow contradicted the claim of financial crunch. Further, assessee was regularly filing belated return. On writ, the Hon'ble Delhi High Court held that the recital of facts clearly demolished any assertion of financial constraints that may have befallen assessee. Hence, it was held that order refusing to condone delay for late filing of return was justified. (AY. 2020-21)
Lava International Ltd. v. CBDT [2024] 163 taxmann.com 148 / (2025) 481 ITR 795 (Delhi)(HC)

S. 119 : Central Board of Direct Taxes-Charitable Trust-Charitable or religious trust-Delay in filing of Form 10B-PCIT rejected the condonation application filed after 9 months for a delay in filing Form 10B by 24 days-Non-condonation of delay would be a genuine hardship for the assessee-Delay in filing Form 10B condoned. [S.11, Form No 10B, Art. 226] 1593
The assessee is a Charitable trust claiming exemption under section 11 of the Income Tax Act, 1961. During the year under consideration, the trust filed Form 10B with a delay of 24 days. Accordingly, the assessee's claim for exemption was denied. Aggrieved, the assessee filed a condonation application under section 119 of the Act approximately nine months after denial of the assessee's claim for exemption. The assessee's application was rejected by the learned PCIT on the grounds that the condonation application was not filed instantly but after approximately 9 months. Aggrieved, the assessee filed a writ before the Hon'ble Bombay High Court which granted relief to the assessee holding that the delay of nine months is not such that the learned PCIT should deny the assessee's application. Relying on the decision in case of *Sarvodaya Charitable Trust v. ITO (exemption) [2021] 278 Taxman 148 (Guj)(HC)* it was held that an assessee should not be denied the exemption under section 11 of the Act merely on account of the bar of limitation when it fulfils all the conditions for availing such an exemption since the legislature has conferred discretionary powers for condonation of delay. Further, the Hon'ble Bombay High Court also recognized that if the delay is not condoned, it would lead to genuine hardship to the assessee as it would be denied an exemption under section 11 of the Act of a substantial amount.
Mirae Asset Foundation v. PCIT [2025] 306 Taxman 3 (Bom)(HC)

1594 **S. 119 : Central Board of Direct Taxes-Charitable Trust-Delay in Filing Form 10-Delay of 522 days-Due to Auditor's Negligence-Condonation of Delay-Matter Remanded for Granting Exemption.[S.11, 12A, 119(2)(b), Form No 10, Art. 226]**

The Hon'ble Bombay High Court held that delay in filing Form No. 10 for claiming accumulation of income under section 11(2) of the Income Tax Act, 1961 is a procedural lapse capable, of being condoned under section 119(2)(b) of the Act, where the assessee is a genuine religious/charitable institution and has otherwise substantially complied with the statutory requirements. The Hon'ble court observed that when the intention to accumulate income is evident from contemporaneous records such as resolutions, audit reports and the return of income, denial of exemption solely on the ground of delayed filing of Form No. 10 would defeat the object of the beneficial provisions of section 11. Accordingly, the rejection of the assessee's request for condonation by the CIT (E) was held to be unsustainable and was set aside.(AY. 2016-17)

St. Anne's Church v. CIT (E) (2025) 306 Taxman 358 (Bom.)(HC)

1595 **S. 119 : Central Board of Direct Taxes-Charitable trust-Delay of 353 days in filing audit report in Form 10B-Genuine hardship due to Covid-19 and auditor's negligence-Condonation of delay-Matter remanded for granting exemption.[S. 12A, 119(2)(b), R.17B, Form No.10B, Art. 226]**

Allowing the writ petition and remanding the matter, the Hon'ble Orissa High Court held that exemption under section 12A of the Income Tax Act, 1961 should not be denied merely on account of a delay of 353 days in filing the audit report in Form 10B, particularly when the delay was attributable to genuine hardship. The Hon'ble court observed that the Commissioner (Exemption) failed to consider the petitioner-trust's application for condonation of delay in its proper perspective under section 119(2)(b) read with CircularNo.10/2019, dated 22-5-2019., despite the fact that the trust had been consistently availing exemption in earlier years and the delay occurred during the Covid-19 pandemic period, coupled with the auditor's negligence. Emphasising that procedural requirements should not override substantial justice, the Hon'ble court held that the Commissioner had exercised discretion arbitrarily and without due application of mind. Accordingly, the impugned order rejecting condonation was set aside and the matter was remitted to the Learned Commissioner of Income Tax to consider the audit report in Form 10B and grant consequential relief by treating the report as filed within the prescribed time.(AY. 2017-18)

Society for Training Action Research and Rehabilitation v. CBDT (2025) 306 Taxman 52 (Orissa.)(HC)

1596 **S. 119 : Central Board of Direct Taxes-Charitable Trust-Property held for charitable purposes-Audit report in Form 10B could not be uploaded with return due to inadvertent error of auditor-Delay was bona fide-Delay was condoned-Commissioner was directed to pass a fresh order in accordance with law. [S. 12A, 139,119(2)(b), 143(1), 154, Form 10B, Art. 226]**

Assessee-society engaged in welfare activities filed its return of income claiming exemption under section 11 of the Income Tax Act, 1961. Due to inadvertent error on part of auditor/tax professional, audit report could not be uploaded along with return

of income, and accordingly, assessee filed audit report in Form No. 10B belatedly. The learned Assessing Officer, therefore, denied exemption under section 11 of the Act while processing return under section 143(1). Subsequently, rectification application u/s 154 of the Act was also rejected. The assessee filed an application under section 119(2)(b) seeking the condonation of delay, explaining that the delay was inadvertent and bona fide due to the mistake of the auditor/tax professional; however, the Commissioner (Exemptions) rejected the condonation application holding that such lapse could not constitute reasonable cause. On writ, order passed by the learned CIT was set aside and he was directed to pass a fresh order on the application filed by the petitioner/applicant under section 119(2)(b) within a period of eight weeks from the receipt of the copy of the order and thereafter proceed in accordance with law. (AY2018-19)

Delhi Maharashtriya Educational & Cultural Society v. CIT (E) (2025) 307 Taxman 448/ 347 CTR 193 / 255 DTR 193 (Delhi)(HC)

S. 119 : Central Board of Direct Taxes-Return-Belated revised return of income-Condonation of delay-Reasonable cause-Mistake by chartered accountant-Rectify error in Tax Audit Report pertaining to due date of payment of employees contribution to PF/ESI-Incorrect dates in Form 3CD-On writ thee Court held that Principal Commissioner ought to have condoned delay in filing return of income by assessee.[S 36(1)(va), 43B, 119(2(b). Form No 3CD, Art. 226] 1597

Assessee filed its return of income for relevant year and claimed refund of certain amount. Subsequently, assessee received a communication from CPC proposing a positive adjustment under section 36(1)(va) in respect of Employees' contribution to Provident Fund/Employees' State Insurance (PF/ESI) on ground that same had not been credited to employees' account on or before prescribed due date. Assessee, upon receipt of said communication, examined Tax Audit Report (Form 3CD) and found that there was an error in mentioning due date for payment of PF/ESI contribution in column 20b of Form 3CD. The assessee filed a revised return and raised a claim of refund, revised return was filed beyond prescribed time-limit and assessee filed an application for condonation of delay in filing revised return. Application was rejected by the learned Principal Commissioner of Income Tax on ground that reason for inordinate delay in filing of returns did not seem to be genuine. On writ, the Hon'ble Gujarat High Court held that assessee was not responsible for mentioning incorrect dates in Form 3CD as same was issued by Chartered Accountant of assessee wherein, mistakes were committed in mentioning due dates for payment of PF/ESI in column 20(b) in Form 3CD. The learned Principal Commissioner while exercising jurisdiction under section 119(2)(b) of the Act ought to have condoned delay in filing revised return by assessee so as to enable assessee to claim refund as per return of income filed by assessee. The impugned order was quashed, condoning the said delay, and the learned Commissioner was directed to pass de novo order in accordance with law. (AY. 2017-18)

P. Kavin & Company v. PCIT (2025) 176 taxmann.com 909/ 347 CTR 401 / 255 DTR 345/ (2026) 484 ITR 414 (Guj)(HC)

1598 **S. 119 : Central Board of Direct Taxes-Circular-Delay in filing Form No 9A-Misprint contained in taxman publication-Delay was condoned-Directed to grant the exemption. [S.11(1)(a), 11(7), 119(2)(b), 139,Form 9A, Art. 226]**

The learned Assessing Officer denied the exemption under section 11 of the Income Tax Act, 1961 on the ground that there was delay in submitting the Form 9A. Application by the assessee for condonation of delay was rejected by the learned Commissioner of Income Tax. On writ, the Hon'ble Bombay High Court held that delay was due to misprint contained in taxman publication hence the delay was condoned. The learned CIT was directed to grant the said exemption to the assessee. (AY. 2022-23)

Savitribai Phule Shikshna Prasarak Mandal v. DG(Inv)(2025) 347 CTR 561 (Bom)(HC)

1599 **S. 119: Central Board of Direct Taxes-Charitable trust-Delay of 700 days in filing Form No. 10B-No mala fide intention-Assessee, a registered public charitable trust, could not be denied exemption merely on technical bar of limitation when substantive conditions were satisfied-Order rejecting condonation application quashed-Delay condoned and assessee permitted to upload Form No. 10B. [S. 11, 12, 119(2)(b), Art. 226, Form No. 10B]**

The assessee, a registered public charitable trust, filed Form No. 10B for AY 2018-19 belatedly with a delay of 700 days, attributable to the illness and subsequent death of its president, which disrupted the day-to-day affairs of the trust. Its application under section 119(2)(b) of the Income Tax Act, 1961 for condonation of delay was rejected by the Revenue. Allowing the writ petition, the Hon'ble Rajasthan High Court held that there was no allegation of any mala fide intention in belated filing of Form No. 10B, nor was the charitable status of the assessee in dispute. The Hon'ble Court observed that although limitation provisions are intended to attach finality, where the Legislature confers wide discretionary powers to alleviate hardship, such powers must be exercised in a reasonable, equitable and judicious manner. Since the assessee substantially fulfilled the conditions for exemption and the delay was occasioned by genuine hardship, denial of exemption on a mere technical ground was unjustified. Accordingly, the order rejecting condonation was quashed and set aside, the delay was condoned, and the assessee was permitted to upload Form No. 10B. (AY. 2018-19)

Manav Seva Samiti v. PCCIT (2025) 480 ITR 457 /347 CTR 881 (Raj) (HC)

1600 **S. 119 : Central Board of Direct Taxes-Charitable Trust-Delay in filing Form 10B-No mala fide intention in Order rejecting assessee's application quashed and set aside-Delay condoned.[S. 11, 12, 119(2)(b), Art.226, Form, 10B]**

Where the staff of the chartered accountant firm had met with an accident, which fell under the circumstances beyond control, resulting in the delay caused in uploading or e-filing of form 10B, the Hon'ble Rajasthan High Court, allowing the writ petition, held that there was no allegation of lack of bona fide in uploading or e-filing form 10B, and uploading it belatedly. The Hon'ble court held that it was evident that the Department had in a perfunctory manner rejected the application filed by the assessee for condoning the delay, without considering the facts specified by the assessee. Hence, the delay was condoned and the Department was directed to allow benefits of sections 11 and 12 to the assessee.

Khandelwal Vaishya Samaj Charitable Trust v. CIT (2025) 480 ITR 463/181 taxmann.com 710 /(2026) 349 CTR 217 (Raj)(HC)

S. 119: Central Board of Direct Taxes-Return-Condonation of delay-Belated filing of Form 10-IC-Genuine hardship-Filing of Form 10-IC prior to filing of return not mandatory-Delay is to be condoned where substantial justice warrants relief.[S. 115BAA, 119(2)(b), Art. 226] 1601

The assessee sought condonation of delay in filing Form No. 10-IC for availing concessional tax rate under section 115BAA of the Income Tax Act, 1961, which was rejected by the learned Principal CIT adopting a strict and technical approach. The Hon'ble Allahabad High Court held that section 119(2)(b) of the Act confers discretionary power upon authorities to mitigate genuine hardship and must be construed as a beneficial provision. The assessee demonstrated genuine hardship arising from successive family deaths of the person handling its tax matters, which directly affected timely statutory compliance. The Hon'ble court observed that when substantial justice and technical considerations conflict, preference must be given to substantial justice, particularly where the assessee's intention to opt for section 115BAA of the Act was evident from the return of income and audit report. It was further held that filing of Form 10-IC prior to filing of return is not mandatory and procedural delay should not deprive an assessee of a substantive statutory benefit if genuine hardship is established. The rejection of condonation was therefore held to be arbitrary and contrary to the remedial intent of section 119(2)(b) of the Act. Accordingly, relying on the decision of the Hon'ble Supreme Court in the case of *B.M. Malani v. CIT (2008) 219 CTR 313 (SC)* the impugned order was quashed and the respondent authority was directed to condone the delay, hence, accept Form 10-IC and grant consequential relief by recomputing tax liability. (AY. 2021-22).

Cell Com Teleservices (P) Ltd. v. UOI (2025) 176 taxmann.com 712 / 346 CTR 1 / 252 DTR 353 (All)(HC)

S. 119 : Central Board of Direct Taxes-Return-Condonation of delay-Genuine hardship-Clerical error in ITR-Incorrect ticking of audit information column resulting in rejection of return as invalid-Delay in filing revised return to cure defect to be condoned.[S. 44AB, 119(2)(b), 139, Art. 226] 1602

The assessee's return of income was rejected as invalid on the ground that it was not accompanied by a Tax Audit Report, though admittedly the assessee was not required to furnish the same. The defect arose solely due to an inadvertent clerical error whereby the assessee had wrongly ticked "No" instead of "Yes" in the audit information column relating to cash receipts and payments, despite cash receipts being nil and cash payments not exceeding the prescribed limit. The Hon'ble Delhi High Court held that the entire controversy arose on account of checking an incorrect box in the return, which had no bearing on computation or assessment of income, and since no statutory appeal was available against rejection of the return of income as invalid, the assessee had established genuine hardship within the meaning of section 119(2)(b) of the Act. Accordingly, the impugned order was set aside and the assessee was permitted to file a revised return of income limited to curing the defect, which was directed to be considered without being influenced by delay. (AY. 2022-23).

Nikon Finlease (P.) Ltd. v. PCIT (2025) 175 taxmann.com 867 / 345 CTR 859 / 251 DTR 161 (Delhi)(HC)

1603 **S. 119 : Central Board of Direct Taxes-Instructions-Revised return-Intimation-Condonation of delay-Refund-Mistake in filling appropriate columns in the return-intimation by CPC-CBDT ought to have condoned the delay in filling the corrected/revised return-Writ petition allowed. [S. 119(2(b), 139(5), 143(1)(a), 237, Art. 226]**

The Hon'ble Gujarat High Court, in a recent ruling held that the assessee, having found such mistake in his return of income, had rightly filed a corrected/revised return under S. 119(2)(b) of the Income Tax Act, 1961, as the time to file the revised return had already expired on 31st March, 2019. There was no impact of the corrected return of income on the taxable income of the assessee and it was only to facilitate the CPC to process the return so that the assessee is entitled to the refund, if any, so as to compute the taxable income of the assessee in accordance with law as provided under s. 143(1)(a) of the Act. Hence, the revenue was directed to condone the delay in filing the revised return of income. (AY.2018-19)

Ujala Dyeing & Printing Mills (P) Ltd. v. DCIT (2025) 344 CTR 179 (Guj)(HC)

1604 **S. 119 : Central Board of Direct Taxes-Return-Condonation of delay-Delay in filing Form No. 10-ID-Reasonable cause-Benefit claimed in return cannot be denied for procedural lapse-Authorities directed to accept belated Form as valid. [S. 119(2)(b), 139, Form 10-IC, Art. 226]**

The assessee had claimed the concessional tax regime benefit u/s 115BAB of the Income Tax Act, 1961 in its return of income but filed Form No. 10-ID belatedly on 12 September 2022. The application for condonation of delay u/s 119(2)(b) of the Act was rejected by the Department. The Hon'ble Gujarat High Court held that once the substantive benefit is claimed in the return of income, filing of the prescribed Form is only a procedural requirement and denial of benefit for such lapse is not justified when reasonable cause is shown. The Hon'ble Court noted that the CBDT itself had issued a series of circulars (Circular Nos. 6/2022, 19/2023 and 17/2024) acknowledging widespread difficulties faced by assessees in timely filing of Forms 10-IC/10-ID. Given this departmental recognition, the assessee's lapse constituted sufficient cause. The Hon'ble Court further observed that had the assessee's application remained pending till the issuance of Circular No. 17 of 2024, the delay would have been automatically condoned. Accordingly, the impugned rejection order was quashed and the authorities were directed to treat Form 10-ID filed on 12 September 2022 as legal and valid. (AY. 2021-22)

Royal Led Equipments (P) Ltd. v. CCIT (2025) 344 CTR 725 / 249 DTR 449 / 174 taxmann.com 61 (Guj)(HC)

1605 **S. 119 : Central Board of Direct Taxes-Return-Condonation of delay-Filing of return of loss-Genuine hardship-Delay of 5 months in filing return due to bona fide professional advice by Chartered Accountant-Assessee should not suffer grave hardship for a professional's mistake-Circular No. 9 of 2015-Delay was condoned-CBDT's rejection order set aside-Directed that the return filed on 30th March 2019 be treated as filed in time, and permitted assessment to be completed under section 153(1B) of the Act. [S. 72, 80, 119(2)(b), 139(1), 139(3), 153(1B), Art. 226]**

The assessee filed its return of income for AY 2018-19 declaring a loss on 30 March 2019, beyond the due date of 31 October 2018, but within the extended period under

section 139(4) of the Income Tax Act, 1961. Since the delay of five months prevented carry forward of losses under sections 72 and 80 of the Act, the assessee sought condonation of delay under section 119(2)(b) as per CBDT Circular No. 9/2015. The delay was explained to be due to the Chartered Accountant's uncertainty regarding the tax treatment of compensation received in the form of TDRs for compulsory acquisition of property, for which legal opinions were sought. The CBDT rejected the application citing lack of diligence. The Hon'ble Bombay High Court observed that the delay was neither deliberate nor negligent but occasioned by bona fide reliance on professional advice regarding a complex issue. It held that denial of condonation would cause genuine hardship as the assessee would lose the benefit of carry-forward losses, which satisfies the condition of "genuine hardship" under section 119(2)(b) of the Act. The Hon'ble Court further held that section 153(1B) adequately protects the Revenue's interests by extending the assessment period in cases where condonation is granted. Accordingly, the Hon'ble Court quashed the CBDT's order, condoned the delay, directed that the return filed on 30th March 2019 be treated as filed in time, and permitted assessment to be completed under section 153(1B). (AY. 2018-19)
Balaji Landmarks LLP v. CBDT [2025] 307 Taxman 498 (Bom)(HC)

S. 119 : Central Board of Direct Taxes-Return-Power to condone delay in case of genuine hardship-Power to be exercised in judicious manner-Permitted to file the return of income claiming the refund-Assessing Officer was directed to allow the refund in accordance with law. [S.119(2)(b),139, Art 226] 1606

Allowing the writ petition, the Hon'ble Gujarat High Court held that, the amount claimed in the return of income was liable to be refunded by the authority in accordance with the provisions of the Act. In such circumstances, the denial on the part of the learned Principal Commissioner to condone the delay in filing the return of income by the assessee either in the name of his father or in his individual name ought to have been permitted and the authority ought to have examined such claim on the merits and if it was found to be genuine, the assessee would be entitled to the refund with statutory interest, if any, to be paid on such amount.(AY. 2017-18)
Nileshkumar Uttamchand Rathod v. PCIT (2025) 476 ITR 62 (Guj)(HC)

S. 119 : Central Board of Direct Taxes-Return-Condonation of delay-Delay of 1585 days in filing revised return-Personal hearing mandatory-Violation of natural justice-Order was set aside-Matter remanded to CBDT to pass well reasoned after hearing assessee. [S. 119(2)(b),139, Art. 226] 1607

The assessee applied for condonation of 1,585 days' delay in filing a revised return of income for AY 2015-16. The learned Additional Commissioner signed an order under S.119(2)(b) of the Income Tax Act, 1961 stating it was with the approval of the Member (Income-tax), CBDT. The assessee challenged the order by writ petition. The Hon'ble Bombay High Court set aside the order and remitted the matter to CBDT to decide the application afresh. It held that orders under S.119(2)(b) of the Act that affect civil consequences should ordinarily be passed after compliance with principles of natural justice, including a personal hearing. An approval by a member without the member personally passing a reasoned order and giving opportunity of hearing is not sufficient.

The impugned order was set aside and matter remanded to CBDT to pass well reasoned after hearing assessee. (AY. AY 2015-16)
Bharat Education Society v. AO (2025) 474 ITR 485 / 303 Taxman 630 (Bom) (HC)

1608 **S. 119 : Central Board of Direct Taxes-Specified authority-Order passed by subordinate with member's approval-Requirement of authorised authority [S. 119(2)(b), Art. 226]**
An Additional Commissioner (OSD) rejected an application for condonation of delay for an assessee, stating the order had the approval of the CBDT member. The assessee/ petitioner challenged the validity of the order said to be passed by the CBDT when the signature on the order belonged to the learned Additional Commissioner. The Hon'ble Bombay High Court held that paragraph 9.3 of the Central Secretariat Manual (relating to authentication) does not replace the statutory requirement that CBDT or its authorised member must pass the order under s.119(2)(b). The mere approval of a member does not validate an order purportedly passed by the CBDT when, in fact, it was signed by another officer. The matter was remanded to CBDT or the duly authorised member for fresh consideration and for giving a personal hearing.(AY. 2020-21)
Nd's Art World Pvt. Ltd. v. Addl. CIT, (2025) 474 ITR 491 (Bom) (HC)

1609 **S. 119: Central Board of Direct Taxes-Return-Profits and gains from housing projects-Condonation of delay-Genuine hardship-Delay in filing of return of income-Genuine hardship-Claim for deduction under section 80IBA-Delay of 45 days due to illness of managing partner-Rejection not justified. [S. 80IBA, 119(2(b), 139, Art. 226]**
The assessee, a partnership firm engaged in construction, received a completion certificate for its housing project in AY. 2024-25 and claimed deduction under section 80IBA of the Act. Although audit reports were filed in time, the return of income was delayed by 45 days due to the managing partner's illness. The Principal Commissioner rejected the application for condonation of delay, stating that professional assistance was available and supporting documents for deduction under section 80IBA of the Act were not submitted. On writ the High Court held that being guided by professionals cannot mean that there is no possibility of errors or delay. , and that there is no legal requirement to substantiate the deduction claim at the stage of condonation. It observed that non-condonation would result in denial of a substantial claim, causing genuine hardship. Accordingly, the delay was condoned, and the department was directed to reopen the portal to enable filing. (AY. 2024-25)
Western Arch Developers v. Pr. CIT [2025] 177 taxmann.com 313 (Bom)(HC)

1610 **S. 119 : Central Board of Direct Taxes-Return-Delay of 216 days-Delay is not explained satisfactorily-Rejection of application for condonation of delay in filing the return is affirmed.[S. 80P, 119(2)(b), 139, Art. 226]**
Assessee, a co-operative society, filed its return of income after a delay of 216 days due to which it could not claim deduction under section 80P. The Court held that the audit report was available on 2-7-2019 and the COVID outbreak occurred in March 2020 but return was filed only on 3-6-2020, so the reason did not justify the delay. Thus

the application for condonation of delay was rejected on the ground that delay is not explained satisfactorily. (AY. 2019-20)
No. 9074 Neermullikuttai Primary Agricultural Co-operative Credit Society Ltd. v. Chief CIT (2025) 302 Taxman 22 (Mad.)(HC)

S. 119 : Central Board of Direct Taxes-Charitable trust-Accumulation of income-Belated filing of Form No. 9A-Genuine hard ship-Substantial justice-Delay is condoned. [S. 11, 119(2)(b), Form No 9A, Form No. 10, Rule 17(1), Art. 226] 1611
Application for condonation of delay of filing Form No 9A is rejected by the Commissioner. On writ allowing the petition the Court held that the powers and statutory discretion conferred on the commissioners to condone delay under section 119(2)(b) of the Act ought to be judiciously exercised so that undue hardship to the assessee is avoided. Instead, the impugned order makes it evident that the Assessing Officer has mixed up issues of the assessee claiming deductions towards deprecation and capital expenditure made and duly disclosed by it during the assessment proceedings with intentional delay in belated filing of Form 9A attributed to the assessee. In fact the chart relied on by the assessee setting out the revised computation of income by the assessee of Rs. 2.70 lakhs as against that of Rs. 59.99 lakhs not being accepted by the respondents considering delayed filing of Form 9A by the assessee, would lead to undue financial burden, hardship foisted upon the assessee-trust. Such vital aspect ought to have weighed with the respondents in considering and deciding the aspect of hardship, while rejecting its application for condonation of delay. On the facts the assessee-trust filed Form 9A along with revised computation for claiming deduction under section 11, however there was delay in filing Form 9A due to change in procedure from manual to electronic filing, since assessee filed Form 9A along with application for delay condonation within three days from date of extension granted to file such Form 9A vide CBDT Circular, same is directed to be condoned. (AY. 2017-18)
Nav Chetna Charitable Trust v. CIT (E) [2024] 169 taxmann.com 543/(2025) 342 CTR 121 (Bom)(HC)

S. 119 : Central Board of Direct Taxes-Return-Condonation of delay-Genuine hardship-Audit report was made available on 9th Sept., 2019 i.e., 5 months prior to the COVID outbreak-No reasonable cause-Rejection of application is up held-Writ petition is dismissed. [S. 119(2)(b), 139, 234F, Art. 226] 1612
Rejecting the writ petition against the condonation of delay in filing of return, the Court held that the Audit report was made available on 9th Sept., 2019 itself and there is no substances in the reason assigned by the assessee on the aspect of delay in receipt of the audit report; further, nothing prevented the assessee to file their return before the said COVID outbreak period; taking into consideration of all these aspects, the respondent had rightly rejected the application filed by the assessee. (AY-2019-20)(SJ) (Writ Petition No. 9535 of 2025).
S208 Kanjanaickenpatty Primary Agricultural Cooperative Credit Society Ltd. v. Chief CIT (2025) 342 CTR 335/245 DTR 144 (Mad)(HC)

1613 **S. 119 : Central Board of Direct Taxes-Charitable Trust-Property held for charitable purposes-Form No. 10B was filed manually before due date of filing of return-Mandatory e-filing of Form 10B-Delay of 2732 days in filing the form electronically -Delay is condoned-The delay should be condoned as long as such lapse is not mala fide and the assesseee has not derived any undue advantage out of his own lapse-Order of CIT(E) rejecting the application for condonation of delay is quashed and set aside. [S. 11, 119 (2)(b), 139(9), 143(1), 154, Art. 226]**

The petitioner, an educational trust running schools and colleges, manually filed Form No. 10B for AY 2014-15 within the prescribed time but failed to submit it electronically. The respondent denied exemption under Section 11 without issuing a mandatory show cause notice. The petitioner filed rectification applications before CPC in 2016 and 2017, which were rejected. The petitioner also filed rectification application under Section 154 on 2 July 2018 before the Jurisdictional Assessing Officer. In the course of rectification proceedings the petitioner was informed that exemption was denied for not up loading the form No 10B electronically. The petitioner up loaded the form 10B on 24-3 2022. The petitioner then sought condonation of delay on 30.03.2022 before the CIT(E), supported by an affidavit from the Chartered Accountant stating she was unawareness of the mandatory e-filing requirement. The CIT(E) rejected the application on 10.10.2024 without granting a hearing. A rectification application was also filed on 12.11.2024 which was similarly dismissed on 13.11.2024 without a hearing. Aggrieved, by the order of rejection the petitioner filed writ petition before the High Court. Honourable Court held that the petitioner is acting on bona fide advice, believed manual filing constituted substantial compliance. The Honourable Court held that the delay should be condoned as long as such lapse is not mala fide and the assesseee has not derived any undue advantage out of his own lapse, length of delay should not be sole consideration. The quality of the explanation offered is crucial and the focus must be the quality of the cause shown in the explanation. Accepting the petitioner's contention that the delay should be computed from the date of actual intimation, the court condoned the delay and set aside the orders dated 10.10.2024 and 13.11.2024.(AY.2014-15)

The Borivali Education Society v. CIT (E) (2025) 304 Taxman 34 (Bom) (HC)

1614 **S. 119: Central Board of Direct Taxes-Powers of CBDT-CBI and Serious Fraud Investigation Office (SFIO) made a false claim of income generated in relevant years instead of loss-Genuine hardship-Reassessment-Fictitious income-CBDT's refusal to allow re computation despite established fraud-Order quashed and set aside. [S. 10A, 119(2)(b), 139(5), 147, 154,245, 264, 281B, Art. 14, 19(1)(g), 226, 265, 300A]**

The petitioner, Satyam Computer Services Limited (now known as Tech Mahindra Limited), was embroiled in a major corporate scandal when its former Chairman, Mr. B. Ramalinga Raju, admitted to falsifying accounts, inflating income by Rs. 5,040 crores. This resulted in excess tax payments and distorted financial statements. Following the government intervention and a change in management, the petitioner sought relief from the Central Board of Direct Taxes (CBDT) under Section 119(2)(b) of the Income Tax Act,1961 requesting recomputation of income for Assessment Years 2003-04 to 2008-09 to reflect actual income and exclude fictitious amounts. Despite findings by investigative agencies like CBI, SFIO, and Court rulings confirming the fraud, the CBDT rejected

the application, citing lack of jurisdiction and absence of "genuine hardship." The petitioner challenged the order in the Telangana High Court, arguing that denial of relief contravened Article 265 of the Constitution of India, which mandates tax collection based solely on lawful income. The High Court held that the CBDT's refusal ignored established fraud and the petitioner's genuine hardship. It emphasized that tax cannot be levied on non-existent income and that the CBDT's powers under Section 119(2)(b) include granting relief in extraordinary situations to prevent injustice. The Court quashed the CBDT's order, directing reassessment based on actual income and allowing the petitioner's writ. (W.P. No. 23255 of 2011 & Batch, dt. 31/01/2025) (AY. 2002-03, 2007-08, 2009-10)

Satyam Computer Services Limited v. CBDT(2025) 343 CTR 521 / 247 DTR 401 /171 taxmann.com 656 /476 ITR 262 (Telangana)(HC)

S. 120: Jurisdiction of income-tax authorities-Assessment-Jurisdiction-Additional Commissioner acting as Assessing Officer-Absence of authorisation under sections 120(4)(b) and 127-Assessment without jurisdiction liable to be quashed-Additional legal grounds challenging jurisdiction admissible before Tribunal. 1615

[S. 2(7A), 120(4)(b), 124(3), 127, 143(3), 144C, 254(1)]

The assessee raised an additional ground before the Tribunal challenging the jurisdiction of the Additional Commissioner to pass the assessment order in the absence of valid authorisation under sections 120(4)(b) and 127. The Tribunal held that a challenge to the authority of the officer to frame the assessment is a pure question of law going to the root of the matter and can be raised at any stage if no fresh investigation of facts is required. Since the Revenue failed to produce any order empowering the Additional Commissioner to act as the Assessing Officer or transferring jurisdiction in accordance with law, the assessment order was held to be without jurisdiction and was quashed. (AY. 2007-08)

ITO (IT) v. Tata Steel Ltd. (2025) 121 ITR 641 (Mum)(Trib)

S. 124: Jurisdiction of Assessing Officers-Faceless Assessment-Objection to jurisdiction has to be raised within reasonable time-Writ petition is dismissed-Alternative remedy. [S. 119(2), 143(3) 144B, 154, 246A, General Clauses Act, 1897, S. 24, Art. 226] 1616

The Petitioner has impugned first respondents assessment order and the questions raised by the petition are whether the Additional Commissioner of Income-Tax, National Faceless Assessment Centre could have assumed jurisdiction in respect to issuance of notice under section 143(2) of the Income Tax Act,1961 and if not then would the consequent proceedings arising out of the said order fail and whether the petitioner can invoke this Court's jurisdiction despite the fact that the petitioner has participated in the Court's proceedings and has filed a statutory appeal against the order. The court discussed the amendments to the section 143 of the Act. Substitution of Section 143(2) and insertion of section 143 (3A), (3B) and (3C) along with the notification of the Faceless Assessment Scheme, 2019 vide the notification dated September 1, 2019 which was initially called as E-Assessment Scheme. By the order dated August 13, 2020 [F No. 187/3/2020-ITA-1] it was stated that all assessment orders shall be passed by the National E-Assessment Centre except the orders related to Central Charge and

International Charge. Vide an internal communication dated May 17, 2021 wherein the Directorate on Income Tax (Systems) stated that in cases pertaining to Central Charges and International Charges notices under section 143(2) have been issued by the prescribed income tax authority and displayed to the concerned jurisdictional Assessing Officer for carrying out further jurisdiction Assessing Officer. The Faceless Assessment Scheme was repealed and National Faceless Assessment Scheme was introduced with the insertion of Section 144B. The petitioner thus challenged the validity of the communication. The Court after taking into consideration the Section 24 of the Act-Continuation of orders, etc. issued under enactments repealed and re-enacted the court held that the order dated August 13, 2020 is saved. On the second question the assessee had participated in the proceedings and completed its payment of first instalment, and questioning the authority of the Assessing Officer under section 124(1) is not only limited to territorial jurisdiction but extends to all types of jurisdiction and has a limitation period of one month and therefore the petitioner fails on the second question as well.(AY. 2020-21)
Adarsh Developers v. Dy. CIT (2025) 472 ITR 765 (Karn.) (HC)

1617 **S. 124: Jurisdiction of Assessing Officers-Pecuniary jurisdiction-Income exceeding ₹30 lakhs-Notice issued by Income-tax Officer without jurisdiction-Assessment invalid.[S. 119, 120, 127, 143(2)]**
The assessee declared total income of ₹91.05 lakhs. Under CBDT Instruction No. 1 of 2011 issued under section 119, cases involving returned income exceeding ₹30 lakhs were required to be assessed by an Assistant Commissioner or Deputy Commissioner of Income-tax. The assessment, however, was completed by an Income-tax Officer and the Revenue failed to produce any order under section 127 transferring jurisdiction. The Tribunal held that the notice issued under section 143(2) by the Income-tax Officer was without jurisdiction and the consequential assessment was void ab initio. (AY. 2017-18).
Arjun Rishi v. ITO (2025) 126 ITR 664 / 176 taxmann.com 720 (Delhi)(Trib.)

1618 **S. 124: Jurisdiction of Assessing Officers-Reassessment-Notice-Transfer of case-AIR information-Purchase of property-ITO, Bareilly issued notice-Not designated Assessing Officer-Mere mention of a Bareilly address in sale deed could not confer jurisdiction-Notice was quashed as beyond jurisdictional competence and therefore non-est in law-Assessment order was quashed. [S. 124, 144, 147, 148]**
Assessing Officer, Bareilly, received an AIR information that assessee had purchased a residential land of a certain amount in Bareilly. He issued a notice under section 148 to assessee for making reassessment. Thereafter, he discovered PAN of assessee and transferred reassessment proceedings to ITO, Lucknow. Subsequently, an assessment order was passed making an addition on account of the amount paid by assessee for the purchase of residential land. CIT(A) affirmed the reassessment proceedings. On appeal, the Tribunal held that ITO, Bareilly was designated officer authorized to collect AIR information and make an enquiry in this regard; however, he was not the designated Assessing Officer of the assessee. The mere fact that a Bareilly address was mentioned in the sale deed could not confer jurisdiction upon the ITO, Bareilly, to assess the income of the assessee. Accordingly, the notice issued by ITO, Bareilly, was

clearly beyond his jurisdictional competence and, therefore, non-est in the eyes of the law. Accordingly, the assessment order under section 147 read with section 144 was quashed. (AY. 2008-09)
Poonam Sen. v. ITO (2025) 214 ITD 50 (Lucknow)(Trib.)

S. 127: Power to transfer cases-search and seizure-Transfer was for co-ordinated investigation and assessment proceedings-High Court held that the order of transfer is held to be justified-SLP dismissed. [S. 127(2), 132, Art.136] 1619
High Court dismissed the petition and held that the case of the assessee had been centralised with the relevant Income-tax Authority as specified in the office order. The search was conducted in case of P and other related persons in the State of Haryana, and the assessees' case had been centralised in connection with the search. The orders set out that the centralisation was being done for the purpose of co-ordinated investigation and assessment proceedings considered expedient on the ground that the search and seizure operations were conducted in the case of Pavel Garg and others. SLP dismissed. (AY. 2020-21)
Alta Vista Info Solutions Pvt. Ltd. and another v. Pr. CIT (2025) 481 ITR 43/181 taxmann. com 889 (SC)
Editorial : Alta Vista Info Solutions Pvt. Ltd. v. PCIT (2025) 481 ITR 40 /181 taxmann. com 172 (Delhi)(HC)

S. 127 : Power to transfer cases-Centralisation of assessment-Suspicious cash transactions-Transfer from one jurisdiction to another-Assessee not disputing transactions-Order of transfer upheld-SLP of the assessee challenging transfer dismissed.[S. 127(2)(a), Art. 136] 1620
Dismissing the Special Leave Petition filed by the assessee, the Supreme Court upheld the order passed under section 127 of the Act, transferring the assessee's case from Vadodara to Pune for the purpose of centralised and coordinated investigation. The Court noted that the transfer was based on significant suspicious cash transactions between the assessee and an entity assessed at Pune, which the assessee had not denied. It was further observed that the impugned show cause notice and subsequent transfer order were issued in continuation of the earlier transfer order to comply with the statutory requirement of granting an opportunity of hearing and could not be quashed merely on the ground that they were styled as corrigendum. The Court held that the assessee's failure to respond to the notice and the absence of any denial of the underlying transactions justified the transfer. Accordingly, finding no infirmity in the judgment of the High Court, the Supreme Court declined to interfere and dismissed the SLP in favour of the Revenue.
Vishal Darshanlal Talreja v. Pr. CIT (2025) 306 Taxman 164 / 481 ITR 476 (SC)
Editorial: Vishal Darshanlal Talreja v. Pr. CIT (2025)174 taxmann.com 469 /481 ITR 459 (Guj)(HC)

1621 **S. 127 : Power to transfer cases-Search-On SLP the Court held since transfer had already taken place, if authority concerned wanted to pass an order, it might proceed to do but it would not give a final effect to order till matter was heard on merits. [Art. 136]**

A search operation was conducted under section 132 in case of a group of companies by Investigation Wing, Kolkata. As a result of said search in Kolkata Office, many incriminating documents were found and it was concluded that assessee was conducting business operations of lottery in jurisdiction of Kolkata Central Circle. Notice under section 127 was issued to transfer income tax assessment file of assessee from Assessing Officer, Coimbatore to jurisdiction of Kolkata Central Circle. On writ High Court held that transfer of a case from place where assessee had its place of residence or business to another place would cause inconvenience but if it was necessary in public interest then transfer on ground of proper and co-ordinated investigation could not be held to be impermissible in law and thus, transfer of assessee's case did not require interference. Court held since transfer had already taken place, if authority concerned wanted to pass an order, it might proceed to do but it would not give a final effect to order till matter was heard on merits.

Future Gaming and Hotel Services (P.) Ltd. v. PCIT (2025) 305 Taxman 490 (SC)

Editorial : Jose Charles Martin v. PCIT (2025) 174 taxmann.com 1196 (Mad)(HC) (para 3), stayed.

1622 **S. 127 : Power to transfer cases-Transfer of case for effective co-ordinated investigation to avoid loss of revenue-Transfer order stating adequate reasons and centralisation for limited period until conclusion of assessment according to norms and decentralisation thereafter-Communications between transferor and transferee jurisdictional Commissioners indicating their agreement-Assessee given opportunity of hearing-No infirmity in transfer order-Interference in writ jurisdiction not warranted-SLP of assessee dismissed, [S. 127(2), Art. 136]**

The assessee challenged before the High Court the transfer of its case from Mumbai to New Delhi under section 127(2) of the Income-tax Act, 1961, on the grounds that the order lacked reasons and that there was no agreement between the jurisdictional Commissioners. The Court noted that the order clearly recorded reasons, namely, centralisation of group cases at Delhi for effective co-ordinated investigation to safeguard revenue interests, and that such centralisation was for a limited period until completion of assessment, followed by decentralisation. The objections raised by the assessee were duly considered and clarifications obtained from the Delhi Commissioner. Both the Mumbai and Delhi Principal Commissioners had communicated and agreed to the transfer proposal, with due opportunity of hearing afforded to the assessee. The Court held that convenience of the assessee was subordinate to the larger interest of centralised investigation, and modern technology obviated hardship of physical travel. Since the transfer order was supported by reasons and statutory compliance, there was no infirmity warranting interference under article 226. SLP of assessee dismissed. (AY. 2022-23)

Laxminath Investment and Management Consultants Pvt. Ltd. v. PCIT (2025) 474 ITR 7/ 174 taxmann.com 55 (SC)

Editorial : Laxminath Investment and Management Consultants Pvt. Ltd. v. PCIT (2025) 474 ITR 1/ 174 taxmann.com 54 (Bom)(HC)

S. 127 : Power to transfer cases-Search and seizure-A search and seizure operation was conducted at the assessee's premises at Kolkata in which several incriminating documents were seized that were involved in his lottery business. The transfer of case was justified since the incriminating documents were found at Kolkata Office [S. 132, Art. 226] 1623

Held, dismissing the petition, that there was no material to show that the Principal Commissioner had failed either to provide an opportunity or sufficient materials to transfer the case under section 127 from Coimbatore to Kolkata. Hence, it would be appropriate to transfer the case since the Kolkata circle office had traced out and seized some incriminating material with regard to the involvement of the assessee in the lottery business for the evasion of taxes within their jurisdiction.

Therefore, the Principal Commissioner had rightly transferred the case from Coimbatore jurisdiction to Kolkata jurisdiction and there was no reason to interfere with the notification. No prejudice would be caused due to the notification because no adverse order was passed except the transfer of the assessee's case by the Principal Commissioner from Coimbatore to Kolkata, and no show-cause notice was issued for the purpose of making any assessment, whereby it would affect the assessee's interest.(SJ)

Arise Industries and Agency Pvt. Ltd. v. PCIT [2024] 167 taxmann.com 152 / (2025) 483 ITR 782 (Mad)(HC)

S. 127 : Power to transfer cases-Failure to give an opportunity of hearing-Transfer of case not valid. [Art. 226] 1624

Held that by the notice dated December 14, 2023, only three days' time was provided to the assessee to respond thereto. The notice referred to the search and seizure action and the documents seized consequently thereof. It also referred to the interconnected nature of the documents. Conspicuous by its absence was any reference to the role of the assessee in this transaction. By contrast, the order referred to the assessee as one of the key persons. When these facts and circumstances were considered cumulatively, reasonable opportunity was not provided to the assessee. Hence the order for transfer of case was not valid.

Sindhu Shree Charles v. PCIT (2025) 482 ITR 625 (Mad)(HC)

S. 127: Power to transfer cases-Search-Udaipur to Delhi-With implementation of faceless assessment regime, transfer was neither reasonable nor justifiable-Order of transfer was set aside [S. 132, Art.226] 1625

The assessee's case was sought to be transferred from Udaipur to Delhi by the Principal Commissioner for uniformity in the assessment of persons involved, following a search that the revenue had conducted under section 132(1) on the Brindavan group. On writ, the court held that the assessment of Brindavan Group was completed in December 2019. Proceedings initiated by the revenue against the assessee were pending for more than 6 years. Since the factual position as it was prior to issuance of the earlier transfer order had not changed, except for a few formal approvals of competent authorities of Revenue at Delhi. The order of Transfer was set aside. Further, with the implementation of the faceless assessment regime, the transfer was neither reasonable nor justifiable.

Murliwala Agrotech (P.) Ltd. v. UOI (2025) 307 Taxman 543 (Raj)(HC)

1626 **S. 127 : Power to transfer cases-search and seizure-Transfer was for coordinated investigation and assessment proceedings-Order of transfer is held to be justified.[S.. 127(2), 132, Art. 226]**

On writ dismissing the petition the Court held that the case of the assessees had been centralised with the relevant Income-tax authority as specified in the office order. The search was conducted in the case of P and other related persons in the State of Haryana, and the assessees' case had been centralised in connection with the search. The orders set out that the centralisation was being done for the purpose of coordinated investigation and assessment proceedings considered expedient on the ground that the search and seizure operations were conducted in the case of Pavel Garg and others.(AY. 2020-21)

Alta Vista Info Solutions Pvt. Ltd. v. PCIT (2025) 481 ITR 40 /181 taxmann.com 172 (Delhi)(HC)

Editorial : SLP dismissed, Alta Vista Info Solutions Pvt. Ltd. v. PCIT (2025) 2025] 481 ITR 43/ 181 taxmann.889 (SC)

1627 **S. 127 : Power to transfer cases-Centralisation of assessment-Suspicious cash transactions-Transfer from one jurisdiction to another-Assessee not disputing transactions-Order of transfer upheld.[S. 124, 127(2)(a), Art.226]**

Revenue passed order dated 2.1.2025 transferring case of assessee. On writ the assessee submitted that impugned notice dated 21.12.2024 and order dated 2.1.2025 were contrary to provisions of section 127(2)(a) because both notice and order were in form of corrigendum to earlier order passed dated 29.11.2023, and further, revenue had improved upon facts as well as reasons which were not available in order 29.11.2023. Dismissing the petition the Court held that the notice dated 21.12.2024 and order dated 2.1.2025 were in continuation of order dated 29.11.2023 so as to comply with provisions of Act to provide opportunity of hearing to assessee. It was not in dispute that assessee had not filed any reply to notice dated 21.12.2024 and now it was contended that assessee did not file reply as said corrigendum notice referred to details relied upon to transfer case. Such approach of assessee could not be accepted to quash impugned order. Further, the assessee had not denied transactions entered into by assessee with GKA. Writ petition was dismissed.

Vishal Darshanlal Talreja v. PCIT (2025) 481 ITR 459/ 174 taxmann.com 469 (Guj)(HC)

Editorial : Vishal Darshanlal Talreja v. PCIT (2025) 481 ITR 476/306 Taxman (SC)

1628 **S. 127 : Power to transfer cases-Reasonable opportunity of being heard-Principle of natural justice-No Mandatory Requirement of personal Hearing-Writ petition dismissed. [S. 132, Art. 226]**

Pursuant to a search conducted under section 132, certain incriminating material was found, and the case of the assessee was transferred under section 127 of the Act for the purpose of coordinated investigation. The assessee challenged the transfer order on the ground of violation of principles of natural justice, alleging that no personal hearing had been granted. The Court held that section 127 does not mandatorily require a personal hearing. The Court observed that the expression "after giving the assessee a reasonable opportunity of being heard" does not necessarily imply an oral or personal hearing, and

that the opportunity to submit objections in writing is sufficient compliance with the requirements of section 127. Accordingly, no violation of natural justice was made out. Writ petition was dismissed.(AY. 2024-25)
Shreeji Foods (P.) Ltd. v. UOI (2025) 306 Taxman 180 (Telangana)(HC)

S. 127 : Power to transfer cases-Revocation of transfer order during pendency of writ and finalisation of assessments-Volte-face without reasons-Strictures passed-CBDT and Ministry of Finance directed to conduct enquiry. [S. 119, 127(2), Art. 226] 1629
The petitioner challenged an order passed under s. 127(2) transferring its assessment proceedings from Mumbai to Indore on the ground of centralisation. During the pendency of the writ petition and despite interim orders, the Revenue authorities, without assigning any reasons and without apprising the Court, revoked the earlier transfer order and instead retransferred the case from one Circle to another within Mumbai. Simultaneously, assessment orders were hurriedly passed by the Mumbai authorities substantially accepting the assessee's submissions. The Court noted that the original transfer order had recorded detailed reasons for centralisation, and therefore it was inexplicable how the same authorities could review and reverse their own order without any reasons or disclosure to the Court. The conduct of the Revenue officials, including failure to properly assist the Court during hearings and non-disclosure of subsequent developments, prima facie suggested misuse of Court proceedings and possible compromise of Revenue's interests. Though the impugned transfer order had been abandoned and the petition had become infructuous, the High Court held that the developments warranted deeper scrutiny. Accordingly, the CBDT and the Ministry of Finance were directed to take cognizance of the matter, conduct at least a preliminary enquiry into the circumstances leading to revocation of the transfer and finalisation of assessments during pendency of the writ, and determine whether any action was warranted against the officials involved. The Chairperson of CBDT was directed to file a compliance report by 27 th June, 2025
52 Weeks Entertainment Ltd. v. PCIT (2025) 173 taxmann.com 615 / 345 CTR 233 / 250 DTR 401 (Bom)(HC)

S. 127 : Power to transfer cases-Coordinated investigation-Subjective satisfaction of authorities-Power is administrative in nature and not circumscribed by express language-Transfer justified where search reveals incriminating material across group concerns-No mala fides-Writ appeals dismissed. [Art. 226] 1630
Pursuant to a search and seizure operation conducted by the Directorate of Investigation, Kolkata, incriminating documents were seized from the premises of the assessees belonging to a lottery group. The Revenue recommended centralisation of cases u/s 127 for coordinated and meaningful assessment of the entire block, as the assessees were sister concerns with common family control and interlinked business affairs. The assessees challenged the transfer orders contending lack of justification. The High Court held that the power under S. 127 is administrative in nature, requiring opportunity of hearing wherever possible, and the decision whether coordinated investigation is necessary is based on the subjective satisfaction of the competent authority. Since seized documents affected assessments of multiple entities and centralisation was essential for

effective investigation, the transfer was within the object of s. 127. In the absence of any allegation of mala fides and with no reason to doubt the bona fides of the authority, the Court found no infirmity in the transfer order. Accordingly, the Single Judge's decision was affirmed, and the writ appeals were dismissed.
M & C Property Development (P) Ltd. v. PCIT (2025) 344 CTR 715 / 250 DTR 137 / 174 taxmann.com 926 (Mad)(HC)
Editorial : Arise Industries& Agency (P) Ltd v.PCIT (2024) 341 CTR 321/ 243 DTR 89 (Mad)(HC) (SJ)

1631 **S. 127 : Power to transfer cases-Facilitate coordinated investigation of cases-Order of transfer was valid.[Art. 126]**
Dismissing the petition, the Court held that the reason which necessitated the authorities to pass the order was to have a coordinated investigation. In the notice under sub-section (1) of section 142 of the Act, there was a clear elaboration of cash transactions between the petitioner's establishment and the I group, which was under the jurisdiction of a different Assessing Officer. There was no sufficient supporting documentary evidence with the assessee's establishment or with its officials at the time of survey to establish that the transactions were genuine and that they were done strictly in accordance with the provisions of law. A plain reading of the order itself would clearly indicate that the assessee was in fact given an opportunity of hearing, of which the assessee did avail. The order of transfer of case was valid.
Akshara Enterprises Pvt. Ltd. v. PCIT (2025) 477 ITR 121 (Telengana)(HC)

1632 **S. 127 : Power to transfer cases-Denial of reasonable time to respond to notice-Matter remitted to the Principal Commissioner to afford personal hearing to assessee and decide in accordance with law.[Art.226]**
Allowing the petition, the court held that denying reasonable time to respond the notice, the order was set aside, and the matter was remitted back to the Principal Commissioner to decide the issue in accordance with law after giving a personal hearing to the assessee.
Dr. Anita Choudhary (w/o Shri Vijay Prakash Khichar) v. PCIT (2025) 475 ITR 01 (Raj(HC)

1633 **S. 127: Power to transfer cases-Search and seizure-No compliance with requirement of agreement between jurisdictional Principal Commissioners-Transfer order set aside [S. 127(2), Art. 226]**
Following a search, the Assessee's case was transferred from Kolkata to Dhanbad citing "incriminating material" and CBDT instructions, without furnishing the material or affording a hearing. The Court found that the reasons were vague, unsubstantiated, and that there was no documented agreement between the Principal Commissioners of Kolkata and Central Patna as required under S. 127(2). Such lapses rendered the transfer order invalid, and all consequential notices were quashed. (SJ)
Pradeep Kumar Kajaria v. UOI (2025) 303 Taxman 111 (Cal)(HC)

S. 127 : Power to transfer cases-Order passed without opportunity of hearing-Best judgment order quashed [S. 144, 260A, Art. 226] 1634

The assessee, regularly assessed in Delhi, had its case transferred to Himachal Pradesh without following the mandatory requirements of s. 127, giving reasonable opportunity and recording reasons. The Himachal AO completed best judgment assessment under S. 144. The Court held that such transfer without S 127 compliance was invalid and quashed the assessment, though allowing fresh proceedings in accordance with law. (AY 2009-10)

Deluxe Enterprises v. ITO (2025) 303 Taxman 366 (HP)(HC)

S. 127 : Power to transfer cases-Transferring the case from the Jurisdictional officer in Mumbai to the counterpart in New Delhi-No agreement between the Principal Commissioners of Mumbai and Delhi for the proposal of such a transfer-Compliance of natural justice-Transaction with specific group-Coordinated and centralised investigation-Transfer is valid-Writ petition is dismissed [S.127(2), Art. 226] 1635

The assessee challenged the transfer of case from the jurisdictional officer in Mumbai to the counterpart in New Delhi. Dismissing the petition the Court held that cases are centralised with Central Circle for coordinated investigation in group cases to protect the interest of revenue. The convenience of the assessee is adverted to; the order also observed the centralisation is for a limited period, and once the assessment concludes as per the norms, then there would be decentralisation. The Court also observed that the contentions of the inconvenience raised by the assessee can always be addressed through modern technological advances, thereby obviating the necessity of extensive travel by the assessee or its representative. The process of natural justice is observed before transferring the case. The writ petition is dismissed. (WP No.2277 of 2023 dt.7-1-2025) (AY. 2022-23)

Laxminath Investment & Management Consultants Pvt. Ltd. v. PCIT (2025) 474 ITR 1 / 174 taxmann.com 54 / 344 CTR 30 / 246 DTR 305 (Bom)(HC)

Editorial : SLP of assessee dismissed, Laxminath Investment & Management Consultants Pvt. Ltd. v. PCIT (2025) 474 ITR 7 / 174 taxmann.com 55 (SC)

S. 132 : Search and seizure-Reason to believe-Material considered was irrelevant and unrelated satisfaction note did not fulfil jurisdictional preconditions-Search proceedings were not legal-SLP of the revenue was dismissed. [S. 132(1)(a) to (c), Art. 136] 1636

High Court allowed writ petition challenging the validity of search action against the assessees holding that the information giving a reason to believe as contemplated under section 132(1) of the Income-tax Act, 1961, must be prior to such seizure, that the contents of the file of the Department given to the court in a sealed envelope did not disclose any information which would lead the authorities to have reason to believe that any of the contingencies as contemplated by section 132(1)(a) to (c) of the Act, were satisfied, that the material considered was irrelevant and unrelated, that no notice or summons had been issued to the assessees calling for any information from them at any prior point of time to form a reasonable belief that the assessee had omitted or failed to produce books of account or other documents for production of which summons or

notice had been issued, or that such person would not produce such books of account or other documents even if summons or notice is issued to him, that the satisfaction note did not fulfil the jurisdictional preconditions specified in section 132 of the Act, and that therefore, the search proceedings were not legal. SLP of revenue dismissed. However, the question of law was kept open.
DIT (In) v. Echjay Industries Pvt. Ltd (2025) 476 ITR 367/175 taxmann.com 846 (SC)
Editorial : Echjay Industries Pvt. Ltd. v. Rajendra, DIT (2024) 299 Taxman 432 /340 CTR 82 / (2025) 475 ITR 331 (Bom)(HC)

1637 **S. 132 : Search and seizure-Reason to believe-Three lockers-Jewellery and bullion worth crores-Sufficiency of the information for forming the reasons to believe cannot be examined in writ proceedings-Writ petition dismissed.[S. 132(1), 132(3), Art. 226]**
Dismissing the petition, the Court held that Sufficiency of the information for forming the reasons to believe cannot be examined in writ proceedings.(AY. 2023-24)
Raj Krishan Gupta v. PCIT (Inv) (2025) 178 taxmann.com 371/ 347 CTR 707 / 255 DTR 1 (Delhi)(HC)

1638 **S. 132 : Search and seizure-Bank account of political party was not linked with its PAN-Satisfaction arrived at by revenue to initiate a search and seizure under section 132 could not be held to be perverse or legally untenable-Prohibitory order-Period of 60 days had already expired, prohibitory order had already expired by operation of law and hence could not remain valid.[S.131(IA), 132(3), 132(8), Art. 226]**
The petitioner was a member of the political party called Communist Party of India (Marxist) (CPI(M)) and was the Secretary of the District Committee, Thrissur. The said political party had a Central Committee with its office at New Delhi and State Committees in various States, apart from District Committees in the States. The 'CPI(M)', was an assessee to income tax and the Central Committee filed the returns every year including the accounts of the State and District Committees. The District Committee of Thrissur CPI(M) had an account at the Bank of India, Thrissur Branch. A search and seizure proceedings under section 132 was initiated against him on ground that bank account of political party was not linked with its PAN which led to non-disclosure of particular bank account from which huge amount was withdrawn, giving rise to a reasonable belief that petitioner was in possession of money representing wholly or partly income which had not been disclosed for the purpose of income tax. On writ the petitioner contended that failure to link PAN with bank account was due to default of bank as a result of a typographical error. Court held that materials obtained by department prima facie indicated that despite request by bank from 2010 onwards to submit documents for providing KYC and also to link the bank account with PAN, there had been a total refusal on part of persons operating bank account to furnish such records. Further, bank account had not even been linked to PAN. There was material available with revenue to prima facie assume that petitioner was in possession of money, which had not been disclosed to income tax department. Satisfaction arrived at by revenue to initiate a search and seizure under section 132 could not be held to be perverse or legally untenable. As regards prohibitory order issued under section 132(3), Chief Manager of Bank of India, Thrissur Main Branch, was directed not to deal with four specified accounts and all other bank accounts of political party held in that Branch, however, by virtue of sub-section (8A) of

section 132, such an order could not remain valid beyond 60 days. Since the period of 60 days had already expired, prohibitory order had already expired by operation of law and hence could not remain valid. (SJ)
M.M. Varghese v. ADIT (2025) 305 Taxman 105 (Ker)(HC)

S. 132 : Search and seizure-Business premises at Ranchi-Seizure of jewellery by Deputy Director of Investigation Wing, Ranchi-Outside territorial jurisdiction of High Court at Calcutta-Writ of mandamus could not be issued to an authority which was situated outside jurisdiction of High Court. Direction could not be issued to Income Tax Officer, who was outside jurisdiction of the court, to return jewellery. [Art. 226] 1639
Search operation was conducted at business premises of assessee at Ranchi. During search, certain jewellery was seized by Deputy Director of Investigation Wing, Ranchi. Assessee filed writ petition before High Court, Kolkata and sought release of jewellery seized by Deputy Director. Single Judge of the High Court dismissed writ petition. On appeal, the Court held that since seizure of jewellery had been effected at Ranchi in State of Jharkhand which was outside territorial jurisdiction of High Court at Calcutta, a writ of mandamus could not be issued to an authority which was situated outside jurisdiction of High Court. Direction could not be issued to Income Tax Officer, who was outside jurisdiction of this court, to return jewellery.
Dia Gold Jewels (P.) Ltd v. PCIT (2025) 305 Taxman 255 (Cal.)(HC)
Editorial : Dia Gold Jewels Ltd v. PCIT (2025) 173 taxmann.com 386 (Cal)(HC)(SJ)

S. 132: Search and seizure-Authorisation-"Reason to believe"-Satisfaction not perverse-Search action valid-Prohibitory order under S. 132(3) ceases after 60 days by virtue of S. 132(8A). [S. 132(3), 132(8A), Art. 226] 1640
On information that a bank account maintained by CPI(M) was neither linked with PAN nor disclosed in the returns filed, and that despite repeated requests from the bank since 2010 to furnish KYC documents and link PAN there was refusal by the operators of the account, the Department gathered further material showing substantial transactions including withdrawal of Rs. 1 crore on 2-2-2024 with a balance of Rs. 4.81 crores. On the basis of such material, the Director General of Income-tax (Investigation) recorded satisfaction and authorised search and seizure under S. 132. The petitioner challenged the action under Art. 226. The High Court held that invocation of S. 132 is a drastic step but permissible where there is prima facie material indicating undisclosed income. On perusal of the satisfaction note and approval order, it was evident that detailed reasons were recorded and approval granted after due application of mind. There was no material to establish mala fides. In the circumstances, the "reason to believe" could not be said to be perverse or legally untenable and the search action did not warrant interference (relying on Director General of IT (Inv.) v. Spacewood Furnishers (P) Ltd. (2015) 277 CTR (SC) 322). However, as regards the prohibitory order issued under S. 132(3) on 5-4-2024 directing the bank not to operate specified accounts, in view of S. 132(8A), such order cannot remain in force beyond 60 days. Since the statutory period had expired, the prohibitory order ceased to operate by force of law, and no further declaration was required.
M.M. Varghese v. ACIT (Inv.) (2025) 345 CTR 86 / 250 DTR 201 (Ker.)(HC)

1641 **S. 132: Search and seizure-Reasonable belief-All three conditions must be satisfied-Satisfaction note-Failure to disclose capital gains-Absence of jurisdictional pre-requisites for exercise of power under section 132 Search and seizure illegal Revenue granted liberty to initiate reassessment proceedings in accordance with law-Warrant of authorisation quashed and subsequent search and seizure illegal-Competent authority not empowered to issue notice under section 131 (1) after initiation of search and seizure under section 132(1) Notice issued after search and seizure unsustainable-Interpretation of taxing statutes Strict interpretation and compliance.[S 45, 55(2)(ac), 131(1), 132, 147, 148, Art. 226]**

Allowing the petition, the Court held that the exercise of power under section 132 of the Income-tax Act, 1961 is hedged by certain conditions so as to ensure avoidance of arbitrary and mala fide actions against the assessees. They also balance the demands of the Revenue against the rights and liberties of the assessees including the right to privacy. Therefore, the provisions of section 132 have to be understood and interpreted strictly just as they have to be complied with strictly. In order to initiate any action under section 132, firstly, there has to be information in possession of the officers referred thereunder. Secondly, such officers should have reason to believe as a consequence of such information and based thereon. Thirdly, this information and reason to believe should have a relation with any of the three clause, (a), (b) or (c) contained therein, otherwise such exercise would be bad in law. The search and post-search information or reason to believe cannot form the basis for justifying the warrant of authorisation or the search and seizure conducted under section 132 in pursuance thereof. Information and reason to believe referred to in section 132 have to pre-exist the search operations under section 132. On facts absence of jurisdictional pre-requisites for exercise of power under section 132 Search and seizure illegal Revenue granted liberty to initiate reassessment proceedings in accordance with law. Warrant of authorisation quashed and subsequent search and seizure illegal. Competent authority not empowered to issue notice under section 131 (1) after initiation of search and seizure under section 132(1). Notice issued after search and seizure unsustainable. Interpretation of taxing statutes Strict interpretation and compliance. (AY. 2022-23)

Pramod Swarup Agarwal v. PDIT (Inv) (2025) 477 ITR 453 /305 Taxman 314/ 345 CTR 565 / 251 DTR 193 (All)(HC)

Sneh Lata Agarwal v. PDIT (Inv) (2025) 477 ITR 453 /305 Taxman 314/345 CTR 565 / 251 DTR 193 (All)(HC)

1642 **S. 132: Search and seizure-Satisfaction note-Reasons recorded-Non-compliance with statutory requirements under section 132(1) vitiated search and seizure operations. [S. 132(1), Art. 226]**

A search and seizure under section 132 was conducted at the petitioners' premises from 1 November 2023 to 3 November 2023 based on five transactions dated 20 December 2019, 21 December 2019, 17 August 2020, 25 August 2020 and 2 February 2022, where B was the purchaser of immovable property jointly with one Anil Sapra. These transactions had been disclosed in returns filed by B for the relevant years; consequently, there was no fresh material to justify a search under section 132. The Court held that the Department's satisfaction note did not disclose any information

leading to a reason to believe the contingencies in section 132(1)(a)(c) were met. The note failed to show any prior reason to believe a requirement that cannot be supplied retrospectively by what was found in lockers during the search. No prior notice or sufficient recorded reasons existed; therefore, the search and seizure were vitiated and were quashed. All consequential actions were also set aside, but the Department was given liberty to take action lawfully using the seized material if permissible.
Balkrushna Gopalrao Buty v. PDIT (Inv) [2024] 164 taxmann.com 1056 / (2025) 475 ITR 323 (Bom)(HC)

S. 132 : Search and seizure-Stock in trade-Burden of proving goods constituted stock-in-trade of business, lies on assessee.[S. 131(IA), 132(1)(iii), 132(4) Art. 226] 1643
Dismissing the writ appeal, the Court held that when the assessee itself had stated in the statement recorded under section 132(4) that it did not possess any bills or invoices, prima facie, the goods so seized were not stock-in-trade within the meaning of section 132(1)(iii). The assessee was not entitled to release of the assets from seizure. Under section 132(1)(iii) of the Income-tax Act, 1961, if the goods which are seized form part of stock-in-trade, then they could not be seized at all. Prima facie it is to be proved as stock-in-trade by supporting documents. The term "stock-in-trade" has not been defined under the Income-tax Act, 1961. It is a general parlance expression, and means goods purchased or procured and put into the stock of a running business.
Paras Jewelers v. PCIT (2025) 475 ITR 134 (Chhattisgarh)(HC)

S. 132: Search and Seizure-Ultra vires seizure-Stock in trade-Writ petition disposed of with directions to avail alternative remedy under S. 132B of the Act. [S. 131(1A), 132(1)(iii), 132B, Art. 226] 1644
The petitioners' gold and jewellery were seized at Bhubaneswar Airport on 12 May 2024. They contended that the seizure was illegal and ultra vires under Section 132(1)(iii) of the Income-tax Act, as the provision prohibits seizure of stock-in-trade and only allows for an inventory to be made. The revenue, however, disputed the date of seizure, asserting that it occurred on 1 June 2024, and argued that the petitioners had an alternative and efficacious remedy under Section 132B. The petitioners submitted clarifications regarding their statement recorded under Section 131(1A) on 10 July 2024. However, they did not raise any specific plea at that stage regarding the seizure being ultra vires or demand the return of the seized gold and jewellery. The court observed that a writ of mandamus requires a prior demand for justice followed by a refusal. Since no such demand was evident, the court granted the petitioners one week to make a formal demand with full particulars and reference to the relevant legal provisions. The revenue was directed to respond within two weeks of receiving the demand, granting the petitioners an opportunity of hearing and passing a reasoned order addressing all contentions, including those based on the proviso to Section 132(1)(iii). The court disposed of the petition with these directions, leaving all contentions open for adjudication by the revenue authorities.
H. K. Jewels Private Limited v. ADIT [2025] 172 taxmann.com 616 (Bom)(HC)

1645 **S. 132(3) : Search and seizure-Prohibitory order-Valuable article-Liquor bottles are valuable articles within the meaning of section 132. Liquor bottles can be seized-Prohibitory order in respect of liquor bottles-Not valid.[S. 132, 133(1)]**

Sub-section (3) of section 132 is an exception to section 133(1) in its sweep and purpose. Section 132(3) provides that where it is not practicable to seize the articles (books of account, other documents, money, jewellery or other valuable articles or things) for reasons other than those mentioned in the second proviso to sub-section (1) of section 132, a prohibitory order can be passed preventing the person concerned from removing the articles found in his possession. The factors necessary for invoking the second proviso to section 132(1) are: (i) volume; (ii) weight; (iii) other physical characteristics; (iv) and dangerous nature, making it impossible or impracticable for the competent authority to remove the articles. The intention of the Legislature is very clear, viz., it is the duty of the authorised officers to effect seizure wherever any valuable article or thing is found during the course of the search and the words "not practicable to seize" used in section 132(3) have to be understood in this sense, viz., where there is a practicable difficulty in effecting seizure, an order under section 132(3) can be passed.
Dilip Mehta v. ITD [2024] 166 taxmann.com 280 / (2025) 483 ITR 662 (MP)(HC)
Editorial : ITD v. Dilip Mehta [2024] 300 Taxman 584 (SC), SLP dismissed due to delay of 200 days.

1646 **S. 132(4) : Search and seizure-Statement on oath-Statement recorded during search-Retraction after seven months-No evidence of coercion-Statement admissible.[S. 132]**

The accountant retracted his statement recorded under section 132(4) after seven months, alleging coercion. The Tribunal held that the burden to establish coercion or duress lay on the person retracting the statement. In the absence of supporting evidence, the delayed retraction could not invalidate the statement. (AY. 2014-15 to 2020-21).
Dy. CIT v. DSG Papers (P.) Ltd. (2025) 127 ITR 410 (Chd.)(Trib.)

1647 **S. 132(8): Search and seizure-Retention of the books of account and other documents-Authorities are directed to return the books of accounts and other documents forthwith.[S. 132,132(9B), Art. 226]**

The account books and documents of assessee seized during search were retained by income-tax authorities for almost two years from search without communicating to assessee reasons recorded by authorised officer for same and without approval of Commissioner. On writ the Court held that the Respondent-authorities have never communicated the reasons recorded to the assessee for retention of books and documents beyond thirty days; further, CIT(A) has granted substantial relief to the assessee by reducing demand; authorities are directed to return the books of accounts and other documents forthwith. (AY. 2017-18 to 2020-21)
Virendra Amrutlal Patel v. ACIT [2024] 168 taxmann.com 143 / (2025) 342 CTR 221 / 245 DTR 23 (Guj)(HC)

S. 132A : Powers-Requisition of books of account-Cash seized from vehicle-High Court held that seized property would be released only upon furnishing bank guarantee(s) and personal bond(s) and once amount was secured-SLP of revenue dismissed. [S.69A, Code of Criminal Procedure, 1973, S. 451, 452, Art. 136] 1648

Cash was seized from assessee and his companion while travelling, and was produced before Magistrate as they failed to explain its source. Assessee's request for interim custody was denied, and amount was released to Income Tax Department. Petition under Section 452 CrPC was also rejected. Assessee challenged Magistrate's order in revision petition and by relying on decision of Kerala High Court in *Ravirajan R. v. State of Kerala [2023 (6) KHC SN 23/[2023] 155 taxmann.com 670 (Ker.)(HC)* and contended that Income Tax Department could not claim custody of money under section 132A when it was in possession of a criminal court and that a Magistrate could not compel Revenue to complete assessment within a prescribed timeframe under Section 451 CrPC. High Court held that there was no reason to deviate from view taken by this Court in Ravirajan R. (supra) and accordingly, order was set aside. High Court directed amount would be released to assessee upon execution of a bond to repay/redeposit it if directed, and furnishing a bank guarantee from a Nationalised or Scheduled Bank for same amount and Department would complete assessment as per law. On SLP the Court held that order passed by High Court directing release of cash seized from vehicle of assessee for reason that High Court had already provided that seized property would be released only upon furnishing bank guarantee(s) and personal bond(s) and once amount was secured, there was no reason to interfere with order. Order of High Court affirmed. *Government of India, Income-tax Department v. Mohammed K. (2025) 305 Taxman 487 (SC)*

Editorial : Mohammed K. v. State of Kerala (2025) 174 taxmann.com 1242 (Ker)(HC)

S. 132A : Powers-Requisition of books of account-Theft of cash-On criminal application by the Revenue, the Court held that department would be free to undertake all actions permitted under law, subject deposit of entire amount of Rs.35.28 lakhs in P.D. Account in accordance with provisions and Rules of Income Tax Act.[S.132A(1)(c)] 1649

Informant lodged FIR before police station for theft committed by accused in his house for golden and silver ornaments worth of Rs. 90,000, however subsequently, he informed about theft of his passport and cash worth of Rs. 1.40 crores. Police recovered Rs. 60.29 lakhs and swift car worth of Rs. 1.75 lakhs purchased from stolen rupees out of total Rs. 1.40 crores as also gold and silver ornaments. Informant gave satisfactory reply to police authority, however when interrogation by Income-tax department was made, he failed to give satisfactory explanation for an amount of Rs. 35.28 lakhs. Department issued warrant of authorization under section 132A(1)(c) to police inspector for requisition of seized cash, which was not accepted as matter was pending before Magistrate. Department appeared before Magistrate and upon request being made by department, Magistrate passed an order holding that Income-tax department was free to take all actions permissible under law including to make fixed deposit of Rs. 35.28 lakhs in name of informant with any Nationalized Bank initially for a period of two years renewable from time to time. Said order was challenged before Sessions Court inter alia praying for permission to allow them to deposit aforesaid amount in a fixed deposit

in name of Income-tax department, however, said request was rejected. On criminal application by the revenue the Court held that department would be free to undertake all actions permitted under law, however, he shall deposit entire amount of Rs.35.28 lakhs in P.D. Account in accordance with provisions and Rules of Income Tax Act (SJ)
Dy. DIT v. State of Gujarat (2025) 305 Taxman 133 (Guj.)(HC)

1650 **S. 132A : Powers-Requisition of books of account-Search and seizure-Cash and seizure of articles-Seizure of jewellery by State Surveillance Team (SST) of District Election Officer and handing over to IT Department-Logistics company-Application for release of seized assets Consignments of jewellery seized by Static Surveillance Team under guidelines issued by Election Commission and handed over to Income-tax Department-Non-recording of satisfaction note-Reassessment notice was quashed-The application filed by the AT Jewellers was liable to be considered by the AO, i.e. Dy. CIT, Central-2.Apart from AT Jewellers, whoever is the consignee claiming ownership and release, may submit an application before the same AO-Writ petitions are allowed with a direction to the Dy. CIT, Central-2 to release the jewellery consignments-Cost of Rs.50000 was awarded in favour of all the writ petitioners payable by the respondents severally and jointly.[S. 127, 131,132,147, 148, Art. 226]**

Petitioners have filed application for release of seized consignment of jewellery Limitation Consignments of jewellery for delivery to various consignees seized by Static Surveillance Team under guidelines issued by Election Commission and handed over to Income-tax Department Power under section 127 to centralize proceedings. On writ against seizure of cash and jewellery the Court held that, as per the SOP of Election Commission, there has to be satisfaction by the State Surveillance Team (SST) or the District Grievance Committee (DGC) that the seized cash, articles or goods are being transported or in possession of a person concerned belonging to any candidate of the election and brought for influencing the voters. There is absolutely no satisfaction recorded either by SST or by the District Grievance Committee. No FIR was registered against AS, SLPL or any other candidates. Therefore, as per this SOP, these consignments ought to have been released to AS, from whom it was seized, instead of being handed over to the IT Department. SST and District Grievance Committee did not consider the important facts that the vehicle was not carrying any unaccounted cash, election posters, election materials, drugs, arms, etc., except these consignments, which could create suspicion leading to seizure and handing over to the IT Department. It is also not the case with the SST that the vehicle does not belong to SLPL, which is a logistics company. Valuation of the consignment or jewellery, which is more than Rs. 6,00,00,000 became the basis of seizure and information to the IT department. There is no dispute about the employer employee relationship between SLPL and AS and the seizure of consignments by the SST, during the election period, from the vehicle of SLPL in which AS was travelling. When it is a case of AS, he is an employee of SLPL and transporting these jewellery boxes from the consignor of Indore to the consignees of Ratlam, then he is not supposed to disclose, either wholly or partly, his income or property. Documents which were in his possession relating to transportation, viz., bills and invoices, etc., were produced. Hence, all the proceedings initiated under s. 148 against AS are hereby quashed. Words 'AO' means the same AO who is dealing with

the seized asset, not the AO of the person concerned. AO of person concerned may not have any material or record pertaining to the seizure, therefore, he would not be in a position to pass an effective order. Therefore, the application filed by the AT Jewellers was liable to be considered by the AO, i.e. Dy. CIT, Central-2.Apart from AT Jewellers, whoever is the consignee claiming ownership and release, may submit an application before the same AO. Writ petitions are allowed with a direction to the Dy. CIT, Central-2 to release the jewellery consignments. Cost of Rs. 50,000 is awarded in favour of all the writ petitioners payable by the respondents severally and jointly.(AY. 2020-21 to 2022-23)
Arihant Jewellers v. PCIT (2025) 177 taxmann.com 709/ 347 CTR 750 /(2026) 485 ITR 569/ 257 DTR 126 (MP)(HC)
Amit Shrama v. PCIT (2025) 177 taxmann.com 709/ 347 CTR 750 /(2026) 485 ITR 569 / 257 DTR 126 (MP)(HC)
Sequel Logistics (P) Ltd v. PCIT (2025) 177 taxmann.com 709/ 347 CTR 750 /(2026) 485 ITR 569 / 257 DTR 126 (MP)(HC)

S. 132A : Powers-Requisition of books of account, etc.-Assets in custody of Police-Criminal case-Stolen property seized by police-Department cannot claim possession by issuing notice under s. 132A-Separate proceeding can be initiated only after decision of Court. [CrPC, 1973, Ss. 397, 401, 457] 1651

The applicant lodged an FIR for theft; during investigation the police recovered stolen cash and gold from the accused. The applicant moved an application under S. 457 of the CrPC for release of the seized articles, which was opposed by the Income-tax Department on the ground that the assets were unaccounted and liable for requisition under s. 132A. The trial Court rejected the application merely on the Department's objection. On revision, the High Court held that in proceedings under S. 457 of the CrPC, the Court is required to examine whether the claimant establishes ownership over the seized property on the basis of cogent material; the Income-tax Department cannot, in a criminal case where stolen property is seized by police, claim possession of such property by issuing notice under S. 132A, as that is a separate proceeding which can be initiated only after the decision of the criminal Court. If the Department seeks to tax unaccounted assets, it is free to initiate appropriate proceedings under the Act independently. Since the applicant had produced documentary evidence including a Tahsildar's certificate in support of ownership, the trial Court erred in rejecting the application solely on the Department's objection. The impugned order was set aside and the trial Court was directed to allow the application subject to satisfaction regarding ownership. (SJ)
Shravan Kumar Pathak v. State of M.P. (2025) 345 CTR 433 / 251 DTR 377 / 175 taxmann.com 894 (MP)(HC).

S. 132A : Powers-Requisition of cash-Explanation unsupported by documents-Writ dismissed-If no demand crystallised, seized cash to be returned within four weeks [S. 153B(1)(a), Art. 226] 1652

The Assessee's explanation for cash seized, including alleged collections from retail concerns and refund of advances, was found unsupported by credible documents. The Court upheld the requisition under s. 132A, holding that the Department had reason to

believe the cash was undisclosed. However, it directed that if the time for assessment u/s 153A had expired and no demand stood crystallised, the seized cash be returned to the assessee within four weeks.
Gautam Thadani v. DCIT (Inv) (2025) 343 CTR 120 / 246 DTR 97 / 171 Taxmann.com 94 (Delhi)(HC)

1653 **S. 132A : Powers-Requisition of books of account-Cash seizure-Reassessment notice-Review petition-Information provided under Right to Information Act incorrect-Review petition dismissed.[147, 148, 148A, Art. 226]**
The court dismissed the review petition, filed by the assessee based on the information received under the provisions of the Right to Information Act from the police station that no requisition or warrant of authorisation under section 132A of the Income-tax Act, 1961 was issued, holding that the information provided to the assessee under the Right to Information Act from the police station was incorrect which was the only ground raised. (SJ)
Muhammed C. K. v. ACIT (NO. 2) (2025)472 ITR 165 (Ker)(HC)
Editorial : Muhammed C. K. v.ACIT (NO. 1) (2025)472 ITR 161 (Ker)(HC), Muhammed C. K. v. ACIT (NO. 3) (2025)472 ITR 166 (Ker)(HC)

1654 **S. 132B: Search and seizure-Retained assets-Jurisdiction of High Court-Writ petition not maintainable where search and seizure conducted by authorities of another State-Remedy to be sought before jurisdictional High Court-SLP of assessee dismissed. [S. 132, Art. 136]**
The assessee filed a writ petition before the Hon'ble Delhi High Court seeking a direction to the Income-tax Department to release jewellery and bullion seized during the course of a search. The Revenue objected to the maintainability of the writ petition on the ground that the search operation and seizure were conducted by Income-tax authorities situated in the State of Haryana and, therefore, the Delhi High Court lacked territorial jurisdiction to entertain the petition. Accepting the contention of the Revenue, the Hon'ble Delhi High Court dismissed the writ petition holding that it had no justification to entertain or continue proceedings in respect of a search conducted by authorities outside its territorial jurisdiction. Aggrieved, the assessee filed a Special Leave Petition before the Hon'ble Supreme Court. During the course of hearing, it was brought to the notice of the Court that after filing of the writ petition, the Assessee's case had been centralized and transferred from the Deputy Commissioner of Income Tax, Circle 61(1), Delhi to the Deputy Commissioner of Income Tax, Central Circle-1, Faridabad (Haryana). The Hon'ble Supreme Court declined to entertain the Special Leave Petition and held that the assessee was at liberty to seek an appropriate remedy before the High Court having territorial jurisdiction. Accordingly, the Special Leave Petition filed by the assessee was dismissed.(AY. 2023-24)
Pavel Garg v. ITD [2025] 306 Taxman 98 (SC)
Editorial : Pavel Garg v. ITD [2025] 175 taxmann.com 1082 (Delhi)(HC)

S. 132B : Application of seized or requisitioned assets-Requisition of books of account-Stock in trade-Trader of gold jewellery/ornaments-Factual dispute regarding itemized stock register and quantity of gold seized-Non-release of gold ornaments held to be justified. [S. 132A, Art. 226] 1655

The assessee, engaged in wholesale trading of gold ornaments, was intercepted during travel with stock supported by delivery challans. While the GST authorities found no irregularities, the Income Tax Department initiated proceedings under section 132A, seizing 398 pieces of jewellery weighing 4,603.110 grams (gross) and 4,146.69 grams (net). The department noted discrepancies between the jewellery and the stock register, non-furnishing of itemized stock records, and mismatch in valuation, leading to retention of goods. The High Court held that where factual disputes exist regarding itemized stock and quantity, the assessing authority is entitled to verify details during assessment. Non-release of goods pending assessment was justified, and the assessee could seek remedy post-assessment if tax liability arose. Petition dismissed. (AY. 2024-25)

Vikas Kankaria v. UOI (2025) 303 Taxman 185 (Raj.)(HC)

S. 132B : Application of seized or requisitioned assets-Search and seizure-Seizure of jewellery from locker in company's name-Presumed to belong to company-Revenue cannot treat it as belonging to directors-Directed to release seized assets. [S. 132(1)(B)(iii), Art. 226] 1656

The assessee, a jewellery company, faced search operations covering its business and associated premises, including Locker No. 161 registered in its name. Jewellery therein was inventoried but seized by the department, claiming it belonged to directors personally. The High Court held that under section 132(1)(B)(iii), stock-in-trade cannot be seized, only inventoried. Jewellery in a locker registered in the company's name is presumed to be company property. The revenue's action in retaining the stock was arbitrary and without authority, particularly after expiry of the retention period under section 132B(1)(i). Direction was issued to release the jewellery forthwith. (AY. 2022-23)

Dillano Luxurious Jewels Ltd. v. Dy. DIT (Inv) (2025) 303 Taxman 140 (P&H)(HC)

S. 132B : Application of seized or requisitioned assets-Search and Seizure-Jewellery-Release of seized assets-Strictures-Accountability-Jewellery seized in the year 2005-Not released to the assessee even after 25 years-Loss of seized jewellery from the Bank locker-Legal heir entitled to return of jewellery-Income tax department and Bank held liable to compensate-Interim relief granted-The Court emphasized the importance of fair tax governance and proper security measures in Nationalized Banks and Scheduled the matter for further hearing on February 11-Copy of the order is forwarded to the Chairman CBDT and the Chairperson and Managing Director of Bank of Maharashtra. [S. 132, Art. 226] 1657

In July 2005, the premises of the assessee, Late Mrs. Shakuntala Hiralal Malu, were searched by the Income Tax Department, and jewellery weighing 901.98 grams (net weight 727.39 grams) valued at Rs. 7,56,640/-was seized. Upon the conclusion of the proceedings, it was found that no tax was payable, and some refunds were due to the assessee. In 2016, the assessee passed away. The petitioner, her husband and legal

representative, wrote to the tax department in 2017, requesting the return of the seized jewellery. In April 2018, an order under Section 132B was passed directing the release of the jewellery. However, despite repeated follow-ups by the petitioner, the jewellery was not returned. In 2020, it came to light that the jewellery was deposited in a bank locker with the Bank of Maharashtra, but the bank claimed that the jewellery could not be traced. The Income tax Department and the Bank blamed each other for the loss, offering no relief to the petitioner. Aggrieved, Writ was filed by the petitioner. The Honourable Court held that there was no dispute regarding the petitioner's entitlement to the jewellery and noted that both the Tax Department and the Bank failed in their duty. Estimating the current value of the seized jewellery at Rs. 56,00,000/-, the Court held both the IT authorities and the bank jointly liable to compensate the petitioner for this amount. The Court emphasised the importance of fair tax governance and proper security measures in nationalised banks and scheduled the matter for further hearing on February 11, 2025. Copy of the order is forwarded to the Chairman, CBDT and the Chairperson and Managing Director of Bank of Maharashtra (WP No. 8026/2022, dt. 04-02-2025)

Hiralal H Malu, Legal Heir of Late Mrs. Shakuntala Hiralal Malu v. DDIT(Inv) (2025) 171 taxmann.com 260 / 345 CTR 239 (Bom)(HC)

1658 **S. 132B : Application of seized or requisitioned assets-Search and Seizure-Adjustment of seized cash against self-assessment tax was allowed. [S. 132, 140A]**

Cash seized during the search after the close of the financial year was claimed by the assessee towards self-assessment tax liability. The Tribunal held that Explanation 2 to section 132B prohibits adjustment only against advance tax and not against self-assessment tax. Since the seized cash belonged to the assessee and no defect notice was issued for non-payment of self-assessment tax, adjustment of the seized cash towards self-assessment tax was allowable. (AY. 2024-25.)

Kapoor Industries Ltd. v. CPC (2025) 238 TTJ 798 (Delhi)(Trib.)

1659 **S. 132B : Application of seized or requisitioned assets-Cash seized-Explanation 2 inserted below section 132B by Finance Act, 2013-Existing liability' does not include 'advanced tax' payable-Cash seized during search could not be adjusted against advance tax liability-Cash seized-Offered as undisclosed income-Matter is remanded back to Assessing Officer for determining issue of adjustment of self-assessment tax liability.[S. 132, 140A].**

Held that since Explanation 2 inserted below section 132B by Finance Act, 2013 states that existing liability does not include advanced tax payable cash seized during search cannot be adjusted against advance tax liability of assessee. Cash seized during search as his undisclosed income and requested for adjustment of cash seized against self-assessment tax liability, since assessee had apparently not included said amount of cash seized as part of his total income and computed self-assessment tax liability corresponding to said income. Matter is remanded back to Assessing Officer for determining issue of adjustment of self-assessment tax liability. (AY. 2015-16)

Kushal Narayan Patel. v. ITO (2025) 211 ITD 36 / 234 TTJ 200 (Mum) (Trib.)

S. 133A : Survey-Unexplained investments-No addition can be made solely on the basis of a survey statement without corroborative evidence.[S. 133A] 1660

The Tribunal held that where the Assessing Officer had accepted the regular books of account and failed to produce any corroborative evidence establishing that the notings found during the survey represented actual unaccounted sales, an addition could not be sustained merely on the basis of statements recorded during survey proceedings. The deletion of the addition by the CIT(A) was upheld. (AY. 2020-21)

ACIT v. Ramasubbu Minnalkodi (2025) 238 TTJ 337 (Chennai)(Trib.).

S. 133A : Power of survey-Statement recorded during survey-No evidentiary value-Addition based solely on survey statement and third-party documents deleted.[S.292C] 1661

The assessee, an educational institution, was subjected to survey under section 133A pursuant to a search conducted in the case of another educational institution. Additions were made on the basis of statements recorded during the survey and documents impounded from the premises of a third party alleging suppression of fee receipts. The Tribunal held that section 133A does not empower the Department to record statements having evidentiary value, and that documents found at the premises of a third party do not attract the presumption under section 292C against the assessee. As the Assessing Officer failed to establish that the seized documents belonged to the assessee or that the calculations contained therein were correct, the additions were deleted. (AY. 2015-16 to 2017-18).

Pushpa Vidya Niketan Samiti v. Asst. CIT (2025) 125 ITR 1 / 177 taxmann.com 5 (Jaipur) (Trib.)

S. 138 : Information respecting assessee-Disclosure-Public interest-Information sought for use in criminal trial-Not permissible-RTI information already furnished-Criminal trial could not fall in category of public interest-No further disclosure under section 138(1)(b). [RTI Act, S. 498A IPC, Art. 226] 1662

The petitioner sought disclosure of information under section 138(1)(b) of the Income-tax Act, 1961 relating to tax evasion proceedings initiated against his father-in-law, pursuant to a complaint filed by the petitioner. The stated object of seeking such information was to establish the "real truth" in larger public interest and to use the information as evidence in criminal proceedings under section 498A of the IPC arising out of matrimonial disputes between the petitioner and his ex-wife. The petitioner had already been furnished limited information by the Income-tax Department under the Right to Information Act, 2005, including the broad outcome of the enquiry conducted pursuant to his tax evasion petition. The application under section 138(1)(b) was rejected by the Principal Director of Income Tax (Investigation) on the ground that the information sought did not involve any public interest. Aggrieved, the petitioner filed a writ petition before the Telangana High Court contending that the order was cryptic and that disclosure was necessary in public interest to enable him to defend himself in the criminal proceedings. The Hon'ble Telangana High Court dismissed the writ petition and upheld the rejection of the application. The Court observed that the petitioner was seeking disclosure of information relating to tax evasion proceedings against a third party for the purpose of using it as evidence in a criminal trial arising out of a

personal matrimonial dispute. Such disclosure, beyond what had already been furnished under the RTI Act, could not be said to fall within the ambit of "public interest" as contemplated under section 138(1)(b) of the Act. The Court held that disclosure of further information relating to tax proceedings against an individual, particularly for use in private criminal litigation, is impermissible and does not serve public interest. The impugned order was found to be reasoned and not suffering from non-application of mind. Accordingly, the writ petition was dismissed.(AY. 2013-14)
Nooty Vasishta Venkateswarlu v. UOI [2025] 306 Taxman 187 /(2026) 484 ITR 791 (Telangana) (HC)

1663 **S. 139 : Return of income-Revised return declaring nil income-Cancellation of sale agreement-Revised accounts-Capital gains-Transfer-Immovable properties-On appeal high Court was affirmed-Appeal of revenue dismissed. [S. 2(47), 45, 142, Art. 136]**
On appeal the Tribunal held that the income earlier disclosed had not materialised because the agreements were terminable or could have been cancelled, that once they were cancelled, the properties reverted back to the assessee, that they were duly reflected in the balance-sheet and as assets of the assessee, that the revised accounts were also scrutinised and found to be in order and meeting the accounting practice adopted. It therefore accepted the return and reversed the order of the Assessing Officer. The High Court dismissed the Department's appeal holding that no substantial question of law arose, that the findings of the Tribunal were On appeal to the Supreme Court order of High Court affirmed. (AY. 2007-08)
CIT v. Lok Housing and Construction Ltd (2025) 476 ITR 366/ 175 taxmann.com 848 / 345 CTR 431 / 251 DTR 321 (SC)
Editorial : CIT v. Lok Housing and Constructions Ltd., (2015) 5 ITR-OL 235 / (2015) 58 taxmann.com 179/ 232 Taxman 159 (Bom)(HC).

1664 **S. 139 : Return of income-Defect not rectified-Return invalid-Order of rejection u/s 264 is affirmed. [S.44A,139(9), 264, Art. 226]**
Held, that the assessee had been given ample opportunity to produce the audited accounts and to rectify the defect in the return submitted on November 28, 1997. Deficiency letters dated August 10, 1998 and a letter intimating that the return was liable to be rejected as defective dated December 29, 1998 had been issued to the assessee which was not in dispute. It was also not in dispute that the audited accounts were produced only on February 26, 2002, long after the last date for filing the rectified returns in respect of the year in question. The return was rightly treated as invalid. (AY.1997-98) (SJ)
Kerala State Electronics Development Corporation v. ACIT (2025) 482 ITR 885 (Ker)(HC)

1665 **S. 139 : Return of income-Due date for filing tax audit report-CBDT was directed to issue a circular extending the return filing due date to 30-11-2025, for Assessment year 2025-26 [S. 44AB, 119 Art. 226]**
Assessee filed writ petitions seeking extension of due date for filing tax audit reports and income tax returns, citing delayed availability of e-filing utilities released on 14.08.2025, which curtailed filing time. CBDT extended the specified date for audit reports from 30.09.2025 to 31.10.2025 vide Circular No.14/2025 but did not extend the

corresponding return filing date. Court held that in *Income-tax Bar Association v. UOI [2025] 179 taxmann.com 290(Guj) HC)* directed the CBDT to extend the return filing due date to 30.11.2025, observing that there must be a one-month gap between the audit report and return filing dates. Despite repeated adjournments and assurances, CBDT failed to act. Gujarat High Court order had attained finality. Court directed CBDT to issue a necessary circular in exercise of power under section 119 to extend due date for filing of returns by assessee required to file an audit report as per clause (a) of Explanation 2 to sub-section (1) of section 139 or required to file report of audit under provisions of the Act for Financial Year 2024-2025 (AY. 2025-26) to 30-11-2025. CBDT Circular No 14/2025.(AY. 2025-26)
Ashwini Kumar v. CBDT (2025) 307 Taxman 623 (P& H(HC)

S. 139 : Return of income-Delay in filing of return-Tax deducted at source-Land Acquisition Act-The Commissioner was directed to condone the delay and allow the assessee to file the return. [S. 119 (2)(b), 194LA, Form 26AS, Art. 226] 1666
Assessee's land was acquired under the Land Acquisition Act, and he received an award in 2022 on which TDS was deducted under section 194LA. Since assessee, had no taxable business income till assessment year 2022-23, he did not file any return. Thereafter, in 2024, Assessee's CA registered his PAN on the income tax website for the first time and found that TDS was reflected in Form 26AS. Accordingly, assessee filed an application under section 119(2)(b) for condonation of delay and for permitting to file return for the relevant assessment year. The application was rejected. On writ, the Court held that it was not in dispute that assessee was not aware of TDS and only after being employed and on acquiring PAN, assessee came to be aware of tax deducted at source. Accordingly, the PCIT was directed to condone the delay and allow the assessee to file the return. (AY. 2022-23)
Navinbhai Bhagubhai Patel v. UOI (2025) 307 Taxman 438 (Guj.)(HC)

S. 139 : Return of income-Carry forward loss-Provided return is filed within time indicated in relevant notice under section 153A(1)(a)-Order of Tribunal allowing the carry forward of loss was affirmed [S. 153A, 245B(4), 260A] 1667
The Settlement Commission has passed an order under section 245B(4) and it was held that the losses and expenses of the assessee for the assessment year 2015-16 are allowable in the hands of the assessee and a particular sum of money towards item debited in the books of PTAL included in their return where added back and direction was issued to the Assessing Officer to consider the said losses and expenses in the hands of the assessee as the assessment of the assessee under section 153A was pending as on date. On appeal, the Commissioner (Appeals) held that the Assessing Officer was asking the assessee to do something that was legally impossible and therefore the same cannot be approved. On further appeal, the Tribunal also upheld the order of the Commissioner (Appeals).On appeal by the revenue the Court held that since the search operations in this case were initiated on 2-9-2004, it was no longer necessary for this assessee to file his regular return by 31-10-2004 notwithstanding the mandate of section 139(1). The obligation to file the return remained suspended, in view of the clear opening words of section 153A(1), till such time that a notice was issued to him under clause (a) of such sub-section. If such is the meaning of section 153A(1), the

operation of section 139(3) qua the time available for filing a return in order to avail of the benefit of carrying forward any loss stands extended till a return is called for under section 153A(1)(a) and such return is filed, provided the return is filed within the time indicated in the relevant notice under section 153A(1)(a). There can be no dispute to such being the effect of section 153A(1)(a). Order of Tribunal affirmed. (AY. 2015-16)
PCIT (Central) v. Seven Star Steels Ltd. (2025) 305 Taxman 98 (Cal)(HC)

1668 **S. 139 : Return of income-Refund of excess tax-Statement made by the revenue in court to pass rectification order-Petition was disposed of albeit with a direction that revenue would be bound down to statement made.[S. 139(9), 153C, Art. 226]**
Assessee filed return under section 139(1) claiming refund of excess tax. CPC issued notice under section 139(9) citing mismatch in TDS and income. Assessee filed revised return within prescribed time, but revenue failed to process it or issue any communication rejecting return. On writ in view of statement made by revenue that Assessee's application for rectification of assessment order passed under section 153C to seek grant of refund on account of excess tax paid after adjusting tax liability in terms of assessment order under section 153C would be processed. Petition was disposed of albeit with a direction that revenue would be bound down to statement made.(AY. 2016-17)
Mukesh Garg v. ACIT (2025) 305 Taxman 502 (Delhi)(HC)

1669 **S. 139 : Return of income-Tax audit report-Extension of due date-Technical glitches on e-filing portal-Delayed release / intermittent functioning of utilities-Sharp fall in number of tax audit reports filed as compared to earlier year-Extension granted for individual ITRs also relevant-Significant hardship to assessees and professionals justified judicial intervention-As an interim measure, due date for filing tax audit reports for A.Y. 2025-26 extended from 30-9-2025 to 31-10-2025. [S. 44AB, 119, Art. 226]**
On writ petitions filed by tax bar associations seeking extension of the due date for filing tax audit reports for A.Y. 2025-26, the Rajasthan High Court examined the comparative filing statistics for A.Ys. 2024-25 and 2025-26 and found a substantial shortfall in the number of tax audit reports filed up to 23-9-2025 as compared to the corresponding period in the earlier year. The Court noted that the material on record showed recurring technical glitches on the income-tax e-filing portal, delayed release and intermittent functioning of utilities, and widespread practical difficulties faced by Assessees and tax professionals in complying with statutory requirements. The Court also took note of the extension already granted for individual ITR filings and held that the sharp disparity in filing data, coupled with portal-related issues and the foreseeable hardship to taxpayers, prima facie established the need for immediate judicial intervention. Referring to the CBDT's powers under section 119 and earlier precedents where Courts had intervened in similar circumstances, the Court held that the cumulative facts justified extension of time and, as an interim measure, directed the respondents to extend the due date for filing tax audit reports for A.Y. 2025-26 from 30-9-2025 to 31-10-2025. (AY.2025-26)
Tax Bar Association, Bhilwara v. UOI (2025) 347 CTR 60 / 254 DTR 153 (Raj (HC)
Tax Bar Association, Jodhpur v. UOI (2025) 347 CTR 60 / 254 DTR 153 (Raj (HC)

S. 139 : Return of income-Tax audit report-Specified date-Extension of due date-CBDT Circular No. 14 of 2025 extending only the "specified date" without extending the "due date" is contrary to Expln. (ii) to s. 44AB and legislative intent-There must statutorily remain a gap of one month between the tax audit report date and return filing due date-CBDT directed to extend due date for filing return to 30-11-2025 for assessees liable to furnish audit report for AY. 2025-26.[S. 44AB, 119, 139(1), 139(2), Art. 226] 1670

The Gujarat High Court held that after the amendment by the Finance Act, 2020, the "specified date" for furnishing the tax audit report under Expln. (ii) to s. 44AB is statutorily fixed as one month prior to the "due date" for filing the return under s. 139(1). Therefore, once CBDT, by Circular No. 14 of 2025, extended the specified date from 30-09-2025 to 31-10-2025, it was incumbent upon it to correspondingly extend the due date for filing the return from 31-10-2025 to 30-11-2025. Merely extending the specified date without extending the due date would render Expln. (ii) to s. 44AB otiose and defeat the legislative intent behind the 2020 amendment, effectively restoring the pre-amendment position of simultaneous filing of audit report and return. Rejecting CBDT's stand that it would monitor the e-filing portal and decide later, the Court held that such an approach was contrary to the statutory scheme. Accordingly, the Court directed CBDT to issue a consequential circular under s. 119 extending the due date for filing returns up to 30-11-2025 for assessees required to furnish audit reports for FY 2024-25 relevant to AY 2025-26.(AY. 2025-26)

Income Tax Bar Association v. UOI (2025) 179 taxmann.com 290 / 347 CTR 73 / 254 DTR 417 (Guj)(HC).

S. 139 : Return of income-Extension of due date-Date of filing audit report-Proposal for extension of return filing due date for auditable assessees for assessment year 2025-26 remained undecided and delay in e-filing utilities caused hardship, CBDT was directed to issue circular extending return filing due date to 30.11.2025 for assessment year 2025-26. [S.44AB, 119, Art. 226] 1671

On writ the Court directed CBDT to issue necessary circular in exercise of power under s. 119 to extend the due date for filing of returns by assessees required to file audit report as per cl. (a) of Expln. 2 to sub-s. (1) of s. 139 or required to file report of audit under provisions for financial year 2024-25 (AY. 2025-26) to 30th Nov., 2025. (AY. 2025-26)

Ashwini Kumar v. CBDT (2025) 347 CTR 692 /256 DTR 223 / 307 Taxman 623 (P&H) (HC)

S. 139 : Return of income-Return declared defective under s. 139(9)-AI-generated order-Principles of natural justice-Alternative remedy of revision-Writ petition dismissed.[S. 44AB,139(9),264, Art. 226] 1672

The assessee challenged an AI-generated order declaring the return defective under s. 139(9), contending that though the order stated that the response was considered, it disclosed no reasons for rejecting the explanation. The Court observed that the impugned order contained only conclusions without reasons and resembled the "inscrutable face of a sphinx", and that the duty to give reasons is a facet of natural justice which cannot be sacrificed on the ground of automation or system limitations. While noting that minimal reasoning is necessary even in such orders, the Court declined to entertain the writ petition as the assessee had an effective alternate remedy by way of revision under s. 264. Issues relating to alleged non-compliance with s. 44AB

would require examination of returns, P&L account and accompanying documents, which could be more appropriately undertaken by the CIT in revisional jurisdiction. Though reliance was placed on the Gujarat High Court decision in *Rohtak Panipat Tollway (P.) Ltd.v. Dy.DIT (SCA No. 5727 of 2024* the Court held that this was not an exceptional case warranting bypass of the statutory remedy. Accordingly, the writ petition was not entertained, leaving the assessee to avail the remedy under S. 264, while emphasizing that AI-based systems must evolve to reflect thoughtful consideration and adherence to principles of natural justice. (AY. 2022-23)
TPL-Hgiepl Joint Venture v. UOI (2025) 344 CTR 1 / 248 DTR 137 /173 taxmann.com 540 (Bom)(HC)

1673 **S. 139 : Return of income-Limitation-Where assessment order was passed and consequential demand raised by treating return and audit reports as belated without considering CBDT Notification dated 31-12-2020 extending time limits due to COVID-19 under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, the order was unsustainable-Return and audit reports filed on 14-02-2021 were within extended time up to 31-03-2021-Assessment order and demand set aside and Department directed to open e-portal to enable assessee to upload reports, if any. [Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, Art.226]**

The assessee, for AY 2020-21, filed its return of income and audit reports on 14-02-2021 after the due dates originally prescribed under section 139, which stood extended up to 31-03-2021 by CBDT Notification dated 31-12-2020 issued under the 2020 Act due to the COVID-19 pandemic. Ignoring the said notification, the Assessing Officer disallowed expenses and raised a consequential demand by treating the filings as delayed. The High Court held that the return and audit reports were filed within the extended time and the assessment order passed without considering the statutory extension was contrary to law. Accordingly, the assessment order and demand were set aside, and the Department was directed to remove the demand and open the e-portal to enable uploading of reports, if any. (SJ) (AY. 2020-21)
Pavai Varam Educational Trust v. CPIO (2025) 478 ITR 417 (Mad)(HC)

1674 **S. 139 : Return of income-Audit-Profession or business-Principle of natural justice-Order treating return as invalid without assigning reason not valid-Order set aside. [S. 139(9), Art. 226]**

On writ, the assessee contended that the assessee that it was engaged in a business and that the upper audit limit of Rs. 50,00,000 was not applicable, the Department in the statement of objections, for the first time before the court, contended that the assessee was engaged in a profession. The question whether the assessee was carrying on a business or was engaged in a profession had neither been adverted to nor addressed in the order. The order under section 139(9) of the Income-tax Act, 1961, treating the return filed by the assessee for the assessment year 2021-2022 had to be quashed because it was a non-speaking and unreasoned order being violative of principles of natural justice.(SJ) (AY. 2021-22)
Srijan Capital Advisors LLP v ACIT (2025) 478 ITR 476 (Karn)(HC)

S. 139 : Return of income-Delay in filing return-Refunds-Computation of limitation period-CBDT Circular No. 9/2015, para 6 [2015] 374 ITR (St.) 25)-Order rejecting the application was set aside. [S. 139(9), 237, 240, 245, Art. 226] 1675

The assessee belatedly filed an application for condonation of delay in filing a refund application. Revenue rejected the refund claim. On writ, the single judge relied on CBDT Circular No.9/2015 (para 6) [2015] 374 ITR (St.) 25), allowing belated refund applications within six years and set aside the revenue's order; the Division Bench later affirmed. The Court found that revenue authorities failed to consider paragraph 6 of CBDT Circular No.9/2015, which provides for admission of belated refund applications within a condonable period. Since the authorities did not apply that paragraph while declining the refund, the order was set aside and the matter remitted for fresh consideration. On appeal against the order of single judge, division bench affirmed the order of the single judge. (AY. 2013-14)

PCIT v. Vivek Krishnamoorthy, (2025) 474 ITR 506/175 Taxmann.com 681 (Karn) (HC)

Editorial: Order of Single Judge in Vivek Krishnamoorthy v. PCIT (2024) 469 ITR 605 (Karn) affirmed.

S. 139AA : Return of income-Quoting of Aadhaar Number-Mandatory linkage of Aadhaar with PAN for operation of Demat account-Reasonable restriction on privacy-Provision constitutionally valid. [IT Rules, 1962, R.114AAA, Art. 14, 19(1)(g), 21, 300A] 1676

The Orissa High Court upheld the validity of mandatory linking of Aadhaar with PAN for the operation of Demat accounts, holding that the measure is a reasonable regulatory requirement aimed at curbing tax evasion, money laundering, and misuse of securities markets through fake PANs and benami accounts. The Court applied the triple test of legality, necessity, and proportionality as laid down in *K.S. Puttaswamy v. UOI (2018) 8SCR 1*, and found that s. 139AA is backed by legislative mandate, serves a legitimate State interest in ensuring financial transparency, and imposes only a proportionate restriction on privacy. While concerns regarding data security and possible Aadhaar breaches were acknowledged, the Court held that these do not outweigh the compelling need for regulatory oversight, especially with safeguards in place. Accordingly, the provision mandating Aadhaar-PAN linkage for Demat accounts was held to stand on firm constitutional and legal footing and did not warrant interference.

Tathagata Satapathy v. HDFC Bank Ltd. (2025) 344 CTR 503/249 DTR 145/172 taxmann.com 785 (Orissa)(HC)

S. 142(2A) : Inquiry before assessment-Special audit-Natural justice-Breach of natural justice does not automatically vitiate-No serious prejudice shown-Writ dismissed. [S. 142(1), Art. 226] 1677

The AO ordered special audit u/s 142(2A) citing large discrepancies and suspected hawala transactions revealed in seized documents and digital data. Though the assessee was given only five days to respond, the Court held that there is no universal rule that every violation of natural justice warrants interference, especially when no serious prejudice is shown. At the stage of special audit, the AO is only required to form a prima facie opinion, which was justified in this case. The writ petition was dismissed.

Mongia Steel Ltd. v. UOI (2024) 163 Taxmann.com 149/(2025) 343 CTR 254/246 DTR 152 (Jharkhand)(HC)

1678 **S. 142(2A) : Inquiry before assessment-Special audit-Satisfaction of Assessing Officer-Extension of time-Special audit order is void where satisfaction is not independently recorded by the Assessing Officer and statutory procedure under sections 142(2A) and 142(2C) is not followed.[S. 143(3), 153]**

The Assessing Officer referred the assessee's accounts for a special audit after obtaining approval from the Commissioner. The Tribunal held that satisfaction regarding the complexity of accounts must be that of the Assessing Officer alone and cannot be substituted or supplemented by the Commissioner. Further, the initial period for furnishing the special audit report must be fixed by the Assessing Officer and not by the Commissioner, while extension of time can be granted only in accordance with the proviso to section 142(2C). Since these mandatory statutory requirements were violated, the special audit proceedings were void ab initio and the consequential assessment was rightly quashed. (AY. 2010-11 to 2012-13)

Dy. CIT v. Patanjali Ayurved Ltd. (2025) 174 taxmann.com 170 / 234 TTJ 39 (UO) / 121 ITR 14 (SN) (Delhi)(Trib.)

1679 **S. 143(1) : Assessment-Intimation-Delayed depositing of contribution under employees welfare Acts-Disallowance set aside Revenue granted liberty to proceed in accordance with law.[S. 2(24)(x), 36(1)(va), 143(1)(a), 143(3) Employees' State Insurance Act, 1948-Employees' Provident Fund and Miscellaneous Provisions Act, 1952]**

Allowing the appeal, that on the date of issuance, i.e., on December 16, 2021, of the intimation order under section 143(1)(a) by the Assessing Officer, the issue as to whether the delayed deposit of employees' share of contributions towards Employees' State Insurance and Employees' Provident Fund, though deposited by the assessee beyond the due date prescribed under the relevant Acts, but before the due date of filing of the return of income under section 139(1), could be held as the income of the assessee under section 36(1)(va) read with section 2(24)(x) or not or whether it was subject to the provisions contained in section 43B, was highly debatable, which was pending consideration before the Supreme Court in *Checkmate Services Pvt. Ltd. v. CIT, (2022) 448 ITR 518 (SC)* and subsequently, it was resolved by the Supreme Court by the judgment dated October 12, 2022. The assessee in its audit report had only furnished the details of delayed deposits and had not shown them as disallowances. Therefore, the Assessing Officer had committed a legal error in processing the return of the assessee under section 143(1)(a). The Assessing Officer should not have made the assessment under the provisions contained in section 143(1)(a); instead, he should have made the assessment under the provisions of section 143(3) of the Act. Order of Tribunal set aside. The Revenue to proceed in accordance with law. (AY. 2020-21)

Raj Kumar Bothra v. Dy. CIT (2025) 476 ITR 249 /174 taxmann.com 1199 /347 CTR 266 / 255 DTR 62 (Chhattisgarh)(HC)

S. 143(1) : Assessment-Intimation-Prima facie adjustment-Corrections to returns must be intimated to the assssee-Reply of assessee must be considered-Application for rectification u/s 154 not considered-Scrutiny proceedings initiated, AO directed to consider the assessee's reply and thereafter initiate scrutiny proceedings under Faceless Assessment Scheme. [S. 154, Art. 226] 1680

For the AY: 2022-23, the assessee-company filed its return of income. The return of income has been processed and an intimation u/s 143(1) with some discrepancies has been served. The AO directed the assessee to file its reply during the period of 30 days. Though the reply filed by the assessee, the AO had not considered the same and initiated scrutiny proceedings. On Writ, the Hon'ble High Court found that the AO has not considered the reply filed with explanation for the adjustments made in the intimation u/s 143(1) of the Act. The Hon'ble Court held that the AO is directed to consider the reply filed by the assessee and accept the ITR accordingly, and thereafter, the Faceless Assessment Officer shall proceed further by providing the opportunity of hearing before passing an order in the scrutiny assessment. (AY. 2022-23) (SJ)

Northern Arc Investment Managers (P.) Ltd. v. DDIT (2025) 171 taxmann.com 305 / 472 ITR 154 (Mad)(HC)

S. 143(1) : Assessment-Intimation-Prima facie adjustment-GST refund-Matter remanded for verification. [S. 143(1)(a)] 1681

The CPC made an adjustment on the basis of the tax audit report, stating that the GST refund was not credited to the Profit & Loss Account. The assessee contended that, as an exporter, GST refund was adjusted against GST receivable and was not required to be routed through the Profit & Loss Account. The Tribunal restored the matter to the Assessing Officer for verification of the GST ledger, refund orders and accounting treatment before deciding the issue. (AY. 2021-22 & 2022-23.)

BNY Mellon International Operations (India) (P.) Ltd. v. ITO (2025) 238 TTJ 819 / 181 taxmann.com 222 (Pune)(Trib.)

S. 143(1) : Assessment-Intimation-Issue of notice-Denial of exemption-No adjustment shall be made unless prior intimation of the proposed adjustment is given to the assessee-Matter restored to CIT(A). [S. 11(1)(d), 12A, 143(1)(a)] 1682

The assessee filed its return declaring nil income after claiming exemption of Rs. 32.34 crore under section 11(1)(d). The CPC, while processing the return under section143(1), declined the claim for exemption under section11(1)(d) on the ground that the assessee society was neither registered nor had applied for registration under section12A. The assessee contended that adjustments under section 143(1) were made without prior intimation as mandated under the proviso to section 143(1). On appeal, the ITAT held that CPC remained under a statutory obligation to notify assessee and call for its objections before carrying out an adjustment under section 143(1) to returned income. Accordingly, the matter is restored to CIT(A) to verify as to whether the CPC had complied with the statutory obligation as required under the proviso to section 143(1). (AY. 2019-20)

Chhattisgarh State Livestock Development Agency v. ITO [(2025) 128 ITR 641 (Raipur) (Trib.)

1683 **S. 143(1) : Assessment-Intimation-Business expenditure-Interest on pension bonds-Indian Accounting Standard (Ind AS)-109 fair value adjustment-Incorrect reporting in return-Matter remanded-Employer's contribution to pension and gratuity trust-Payment before due date of return-CPC adjustment due to incorrect reading of Form 3CD-Matter remanded. [S.43B, 139(1)]**

The Centralised Processing Centre disallowed the assessee's claim under section 43B on account of interest relating to pension bonds because the amount had been incorrectly reported in the return. The assessee contended that the entry represented only a notional fair value adjustment under Ind AS-109, whereas alternatively it was also claimed that the interest had actually been paid before the due date of filing the return. The Tribunal found the factual position to be unclear and held that the issue required verification. The matter was restored to the Assessing Officer for fresh examination in the light of the evidence produced by the assessee. The Centralised Processing Centre disallowed the employer's contribution to the pension and gratuity trust by erroneously adding together the amounts reported in different clauses of Form No. 3CD. The assessee demonstrated that the contribution had been paid before the due date prescribed under section 139(1). The Tribunal held that the claim required factual verification and restored the issue to the Assessing Officer with a direction to verify the evidence and delete the disallowance if the payment was found to have been made within the prescribed time (AY. 2021-22).
Telangana Power Generation Corporation Ltd. v. Dy. CIT (2025) 126 ITR 615 / 179 taxmann.com 554 (Hyd.)(Trib.)

1684 **S. 143(1): Assessment-Intimation-Prima facie adjustment-Bonus disallowance by CPC-Issue can be examined in scrutiny assessment-Matter remanded.[S. 144C, 154.]**

The Centralised Processing Centre disallowed the assessee's claim for bonus under section 143(1). The Dispute Resolution Panel declined to examine the issue on the ground that it arose from the intimation under section 143(1). The Tribunal held that although the proper remedy against an intimation under section 143(1) is rectification under section 154 or appeal under section 246, once such adjustment forms part of the final assessment under section 143(3) read with section 144C, the Assessing Officer ought to examine the correctness of the adjustment. The issue was restored to the Assessing Officer for fresh adjudication. (AY. 2020-21).
Ariba Technologies India (P.) Ltd. v. Dy. CIT (2025) 212 ITD 17 / 126 ITR 272 (Bang.)(Trib.)

1685 **S. 143(1): Assessment-Intimation-Employees' contribution to Provident Fund and ESI-Delay in deposit-Adjustment while processing return under section 143(1)-Valid-Processing of return-Intimation dated 31-3-2021 communicated by e-mail on 1-4-2021-Not barred by limitation-Prima facie adjustment-Incorrect claim apparent from return-Adjustment based on tax audit report-Valid-Prima facie adjustment-Prior intimation through e-mail-Compliance with principles of natural justice. [S. 36(1)(va), 143(1)(a)]**

The Centralised Processing Centre disallowed employees' contribution to Provident Fund and Employees' State Insurance deposited beyond the due dates prescribed under the respective statutes while processing the return under section 143(1). The Tribunal held that the decision of the Supreme Court in *Checkmate Services (P.) Ltd v. CIT (2022) 448 ITR 518 (SC)*. applies equally to proceedings under section 143(1) as well as

scrutiny assessments. Since the delay was evident from the tax audit report itself, the adjustment under section 143(1) was valid. The assessee contended that the intimation under section 143(1) was time-barred because it was digitally signed and communicated by e-mail on 1 April 2021. The Tribunal held that the intimation itself was generated on 31 March 2021 and the subsequent digital signature and communication through e-mail did not alter the date of processing. Further, the time-limit for processing returns had been extended by the CBDT. Accordingly, the intimation was held to be within limitation. The adjustment relating to delayed deposit of employees' contribution was made on the basis of defaults reported by the tax auditor. The Tribunal held that where the incorrect claim is apparent from the information furnished in the return and tax audit report, adjustment under section 143(1)(a) is permissible. The assessee challenged the adjustment on the ground that no prior intimation had been issued. The Tribunal found that the Centralised Processing Centre had communicated the proposed adjustment through the assessee's registered e-mail address before processing the return. The statutory requirement of prior intimation under section 143(1)(a) was therefore duly complied with.(AY. 2019-20).

Checkmate Services (P.) Ltd. v. Asst. CIT [2024] 164 taxmann.com 498 / (2025) 124 ITR 188 (Ahd.)(Trib.)

S. 143(1) : Assessment-Intimation-Prima facie adjustment Leave encashment-CPC, while processing a return under section 143(1) cannot make any adjustment without issuing any prior intimation as contemplated under the first proviso to section 143(1)(a).[S.10(10AA(ii)] 1686

Assessee, an individual, filed a return of income and subsequently revised it by claiming exemption under section 10(10AA)(ii) in respect of leave encashment received on retirement-CPC processed said return vide an intimation issued under section 143(1) and made an adjustment which resulted in enhancement of income and demand. CIT(A) upheld the adjustment. On appeal, the Tribunal held that CPC, while processing the return under section 143(1), was not justified in adjusting assessee's claim of exemption under section 10(10AA)(ii) without issuing any prior intimation as contemplated under the first proviso to section 143(1)(a). Therefore, the intimation issued by CPC under section 143(1) was invalid in law and quashed. (AY. 2022-23)

Kailash Narayan Shridhar v. DCIT (2025) 214 ITD 547/237 TTJ 91 (UO) (Ahd) (Trib.)

S. 143(1) : Assessment-Intimation-Payment of bonus-adjustment made under section 143(1) was incorporated in assessment framed under section 143(3) without taking into cognizance of adjustment made by CPC in intimation-Matter is set aside to file of Assessing Officer for fresh adjudication as per provisions of law.[S. 143(3)] 1687

Assessing Officer without considering Assessee's claim finalized draft assessment order by taking income assessed by CPC in intimation under section 143(1) and thereafter proposed further addition on account of TP adjustment as well as other addition proposed by Assessing Officer. On appeal the Tribunal held that the Assessing Officer should have taken into cognizance of adjustment made by CPC in intimation generated under section 143(1) especially in circumstances where assessee had brought to notice to Assessing Officer about such adjustment. Accordingly the

issue is set aside to file of Assessing Officer for fresh adjudication as per provisions of law. (AY. 2020-21)
Ariba Technologies India (P.) Ltd. v. DCIT (2025) 212 ITD 17/235 TTJ 420 (Bang) (Trib)

1688 **S. 143(2) : Assessment-Notice-Limitation-Date of filing original return to be considered for limitation, not date defects were removed-SLP dismissed-Question of law kept open [S. 139(1), 139(9), Art. 136]**
The assessee filed its return on 29-11-2016 under section 139(1), which was declared defective. Defects were removed on 19-07-2017 within time allowed. Notice under section 143(2) was issued on 11-08-2018. The High Court held that removal of defects under section 139(9) does not constitute filing of a fresh return; the return relates back to its original filing date, making the limitation for notice six months from end of FY 2016-17, i.e., 30-09-2017. Notice issued in August 2018 was time-barred. SLP by revenue dismissed. (AY. 2016-17)
Dy. CIT v. Travel Designer India (P.) Ltd. (2025) 303 Taxman 583 / 482 ITR 283 (SC)
Editorial: Travel Designer India (P.) Ltd. (2020) 269 Taxman 429 / (2021) 17 ITR-OL 28 (Guj.)(HC)

1689 **S. 143(2) : Assessment-Notice-Order passed after giving proper notice under section 143(2) and adequate opportunity of being heard to assessee-Order valid.[Art. 226]**
Held, dismissing the writ petition, that a notice under section 143(2) of the Income-tax Act, 1961, is a condition precedent for framing an Income-tax assessment and in the present case, such notice had been issued. The Assessing Officer had rightly issued notice under section 143(2) in the format normally utilised for this purpose and at paragraph 1 thereof had conveyed to the addressee, the assessee, that the return had been selected for limited scrutiny and that the issue of share capital/capital had been identified for further verification. He proceeded to fix the matter for hearing and provided an opportunity to the assessee to appear and cause evidence in support of the return of income. There was nothing further that was required to be set out as far as notice under section 143(2) was concerned, and with this, the notice under section 143(2) was complete. The consequent order of assessment was valid. (SJ)
Angusamy Gounder Subbu Rathinamun v. ACIT (2025) 482 ITR 819 (Mad)(HC)

1690 **S. 143(2) : Assessment-Notice-Failure to comply with provisions of section 143(2)-Draft and final assessment order Reassessment proceedings invalid-Notice and assessment orders quashed. 143(2), 147, 148, 153A, Art. 226]**
Allowing the petition the Court held that the Assessing Officer while undertaking a search assessment under section 153A was obliged to comply with the assessment procedure otherwise codified only and in so far as they may be applicable. The mandatory imperatives of section 143(2) and its applicability to reassessment action was duly considered by the court in a host of judgments and consistently taken the position that section 143(2) was to be mandatorily complied with.(AY. 2021-22)
Shaily Juneja v. ACIT [2024] 167 taxmann.com 90 / (2025) 476 ITR 665 (Delhi)(HC)
Primary Real Estate Investments v. Dy.CIT [2024] 167 taxmann.com 90 / (2025) 476 ITR 665 (Delhi)(HC)

S. 143(2) : Assessment-Notice-Jurisdiction-Notice by Assessing Officer-Pecuniary jurisdiction-Non-issue of mandatory notice-The assessment was held to be void ab initio and was quashed. [S. 143(3)] 1691

A notice under section 143(2) issued by an officer not having jurisdiction over the assessee is non est in law. Where the Assistant Commissioner issued the notice under section 143(2), but the assessment was ultimately framed by the Income-tax Officer having pecuniary jurisdiction without issuing a fresh notice under section 143(2), the mandatory jurisdictional requirement was not satisfied. Consequently, the assessment was held to be void ab initio and was quashed. (AY. 2017-18)

Raju Biswas v. ITO (2025) 121 ITR 92 (SN) (Kol.)(Trib.)

S. 143(2) : Assessment-Notice-Additional ground-Notice issued under section 143(2) contrary to the mandatory format prescribed by CBDT Instruction issued under section 119 is invalid-Consequently, the assessment based on such notice is liable to be quashed. [S.119, 143(3), 254(1)] 1692

The assessee challenged the validity of the assessment on the ground that the notice issued under section 143(2) was not in any of the formats prescribed by CBDT Instruction No. F.No.225/157/2017/ITA-II dated 23.06.2017. The Revenue contended that the notice was computer-generated and the AO had no control over its format. The Tribunal held that the CBDT Instructions issued under section 119 are mandatory and binding upon the income-tax authorities. Since the notice under section 143(2) was not issued in the prescribed format, it was invalid in law, and the assessment framed pursuant thereto was liable to be quashed. Having quashed the assessment on this legal ground, the Tribunal did not adjudicate the other grounds relating to limited scrutiny and additions on merits. The appeal was allowed. (AY. 2018-19)

Shib Nath Ghosh v. ITO (2025) 130 ITR 69 (Kol)(Trib.)

S. 143(2) : Assessment-Validity-Notice under section 143(2) issued by Income-tax Officer-Additional grounds-Legal issue-Jurisdictional Assessing Officer, having regard to quantum of returned income, being Deputy Commissioner-No order transferring case to Deputy Commissioner-Income-tax Officer lacking jurisdiction-Deputy Commissioner completing assessment without valid notice-Defect not curable-Assessment quashed. [S. 124(3), 127, 254, ITAT Rules, 1963, R. 11] 1693

The assessee's assessment was completed by the Deputy Commissioner under section 143(3) pursuant to a notice under section 143(2) issued by an ITO, upheld by the CIT(A); the assessee's additional ground before the Tribunal challenging the validity of this notice on jurisdictional grounds was admitted, being a legal issue going to the root of the matter. On appeal, the Tribunal held that, as per CBDT Instruction No. 1 of 2011, since the assessee's declared income exceeded Rs. 20 lakhs and pertained to a non-corporate return, jurisdiction lay exclusively with the Deputy Commissioner and not the ITO who had issued the notice; since no order under section 127 transferring the case to the Deputy Commissioner was brought on record, and the officer completing the assessment ought also to have issued the jurisdictional notice, the notice under section 143(2) issued by the ITO was invalid, rendering the resultant defect incurable and the assessment liable to be quashed. (AY. 2014-15)

Vipul Mittal v. Dy. CIT (2025) 131 ITR 621(Delhi) (Trib)

1694 **S. 143(2) : Assessment-Notice-Notice sent to wrong address-Assessment order was illegal and void ab initio. [S. 143(3), 282(1)(b)/(c)/ (d).]**
Tribunal held that the issuing of a valid notice under s. 143(2) is mandatory, and without complying with the said provision and not issuing a valid notice under s. 143(2), the AO cannot assume jurisdiction to proceed with the carrying out of the assessment proceedings. Therefore, since the notice under s. 143(2) was issued at a wrong/ non-existing address, and this mistake has been accepted by the Revenue authorities in the later part of the assessment proceedings during which the assessee has strongly raised objection about non-receipt of valid notice under s. 143(2) on the address of communication mentioned in the PAN database, no valid notice was issued and served upon the assessee under s. 143(2) within the statutory time-limit provided under the Act. The Assessment order was quashed as illegal and void ab initio. (AY.2013-14)
Dhanottam Vasant Lonkar v. ITO (2025) 235 TTJ 265 (Pune)(Trib)

1695 **S. 143(2) : Assessment-Notice-Physical copy of the notice has not been brought on record-Reassessment is bad in law. [S. 147, 148]**
Held that the revenue failed to produce a physical copy of the notice under s. 143(2), assessment is not sustainable. (AY. 2011-12)
Subhash Chander Gupta v. ITO (2025) 235 TTJ 883 (Chd)(Trib)

1696 **S. 143(2) : Assessment-Notice-No evidence on record regarding any order of transfer under S. 127-The assessment framed by ITO-3(4), Raipur vide his order passed under s. 143(3) in the absence of an order of transfer under S. 127 without issuance of any notice by him under s. 143(2) to the assessee, is without valid jurisdiction, was bad in law; hence quashed. [S.124(3)(a), 127, 143(3)]**
Held that since the notice under s. 143(2) was issued to the assessee by ITO-1(1), Raipur, the assessment framed by ITO-3(4), vide his order passed under s. 143(3) in the absence of an order of transfer under S. 127, without issuance of any notice by him under s. 143(2) to the assessee, is without valid jurisdiction and bad in law, hence quashed. (AY.2015-16)
Gunjan Kumar Bihani v. ITO (2025) 237 TTJ 440/ 177 taxmann.com 221 (Raipur) Trib)

1697 **S. 143(2): Assessment-Notice-Jurisdiction-Notice under section 143(2) issued by a non-jurisdictional Assessing Officer is void. [S. 127, 143(3)]**
The Tribunal held that once jurisdiction over the assessee had been transferred under section 127 with immediate effect, the original Assessing Officer ceased to have jurisdiction. Consequently, the notice under section 143(2) issued thereafter by the erstwhile Assessing Officer was without jurisdiction and invalid. Administrative delay in the migration of records cannot postpone the legal effect of a valid transfer order. Accordingly, the assessment framed pursuant to such invalid notice was quashed. (AY. 2020-21)
ACIT v. Ramasubbu Minnalkodi (2025) 238 TTJ 337 (Chennai)(Trib.).

S. 143(2) : Assessment-Notice-Limitation-To be reckoned from date of filing of original return and not from date of curing of defects-Return filed under section 139(1) within time-Defect notice under section 139(9) subsequently cured-Notice under section 143(2) issued beyond time-limit reckoned from date of original return-Assessment without jurisdiction-Quashed. [S. 139(1), 139(9)] 1698

The assessee filed its return within the prescribed due date on October 28, 2017, and rectified defects pointed out under section 139(9) on August 19, 2018, following which a notice under section 143(2) was issued on September 22, 2019 initiating scrutiny, and the assessment was upheld by the CIT(A). On appeal, the Tribunal held that the limitation for issuing notice under section 143(2) runs from the year in which the original return was filed and not from the year in which the defect was cured, since the proviso to section 139(9) permits removal of defects up to the framing of assessment and empowers AO to condone delay in curing defects, which he had in fact done by processing the return under section 143(1) and issuing a refund; the Department's contention that the original return should be treated as invalid for non-removal of defect within time was self-defeating, since in that case no valid return would exist on which to found a notice under section 143(2) at all. As the notice under section 143(2) was issued beyond the limitation period reckoned from the date of the original return, the assessment framed was without jurisdiction and was quashed. (AY. 2017-18)

Aark Infosoft P. Ltd. v. ACIT (2025) 132 ITR 646(Ahd) (Trib.)

S. 143(2) : Assessment-Notice-Return filed in response to notice under section 148 not e-verified-Return non est-Notice under section 143(2) not mandatory.[S. 139, 148] 1699

The assessee filed a return in response to notice under section 148 but failed to e-verify it within the prescribed time. The Tribunal held that an unverified return is non est in law and cannot be treated as a valid return under section 139. Consequently, the Assessing Officer was not required to issue a notice under section 143(2), as such notice can be issued only where a valid return has been furnished. (AY. 2017-18).

Vijay Kumar Patel v. Pr. CIT (2025) 122 ITR 436 (Raipur)(Trib.)

S. 143(2) : Assessment-Notice-First notice returned unserved-Second notice issued beyond limitation-No valid service within prescribed time-Assessment without jurisdiction.[S. 143(3)] 1700

The first notice under section 143(2) issued to the assessee's registered address was returned unserved and the Assessing Officer took no steps to effect service by any alternative mode. A fresh notice was issued more than sixteen months later, well beyond the statutory period prescribed under the Act. The Tribunal held that the Revenue failed to discharge its burden of proving valid service of notice within the prescribed time. As no valid notice under section 143(2) had been served within the limitation, the assessment was without jurisdiction and liable to be quashed. (AY. 2012-13).

Sukriti Information Systems (P.) Ltd. v. ITO (2025) 123 ITR 376 / 174 taxmann.com 1135 (Delhi)(Trib.)

1701 **S. 143(3) : Assessment-Reassessment-Undisclosed income-Writ jurisdiction-Alternative remedy-Writ petition dismissed-Granted liberty to file statutory appeal-SLP of assessee dismissed. [S. 147, 148, Art.136]**

Dismissing the petition the Court held that the recording of sales receipts in books of account not established by assessee. Additions made by Assessing Officer based on examination of materials on record. Writ petition dismissed. Liberty granted to the assessee to file statutory appeal. SLP of assessee dismissed. (AY. 2016-17, 2017-18)

Shree Shakambhari Udyog Partnership Firm v. CIT (2025) 479 ITR 238/306 Taxman 339 (SC)

Editorial : Shree Shakambhari Udyog Partnership Firm v. CIT (2025) 479 ITR 222 (Patna)(HC)

1702 **S. 143(3) : Assessment-Jurisdiction-Notices-Assessing Officer or prescribed authority-Powers of Central Board of Direct Taxes to prescribe authority not confined to authorising Income-tax Officers of National Faceless Assessment Centre alone as prescribed authority-Notification issued by Central Board of Direct Taxes authorising Assistant Commissioner or Deputy Commissioner (IT), Circle-1(1)(1)-Notice were within jurisdiction-SLP dismissed. [S.119, 142(1), 143(2), ITAT R, 1962, R. 12E. Art. 136]**

The High Court dismissed the assessee's writ petition against notices issued under sections 142(1) and 143(2) of the Income-tax Act, 1961, holding that the Central Board of Direct Taxes, in exercise of powers under rule 12E of the Income-tax Rules, 1962, had authorised the Assistant Commissioner or the Deputy Commissioner (IT), Circle-1(1)(1), Delhi to act as the "prescribed Income-tax authority" for the purpose of issuance of notice under section 143(2), that the powers of the Board to notify the "prescribed authority" was not confined to authorising Income-tax Officers of the National Faceless Assessment Centre, and that the notices under sections 142(1) and 143(2) were valid. SLP of assessee dismissed.

Ambience Farms Pvt. Ltd v. Asst. CIT (2025) 474 ITR 214 (SC)

Editorial : Ambience Farms Pvt. Ltd. v. ACIT, (2025) 474 ITR 209 (Delhi)(HC)

1703 **S. 143(3): Assessment-Failure to produce purchase of material-Scam-Siphoned off funds received from State Government for flood relief-Order of Tribunal disallowing the claim is affirmed. [S. 260A]**

Dismissing the appeal, that the entire assessment arose from a scam, in which the assessee was said to have been involved. The assessee had not produced any material before the Assessing Officer to substantiate the purchases made by him, from the amounts disbursed by the State Government for the purpose of providing flood relief. The Tribunal had categorically noticed that no evidence was led by the assessee before the Assessing Officer. The order of assessment was valid. The appeal from the order was not maintainable.(AY. 2005-06)

Santosh Kumar Jha v. Dy. CIT (2025) 482 ITR 211 (Patna)(HC)

S. 143(3): Assessment-Service of notice-Change of address-Notices sent to old address provided by assessee in revised return-Department aware of new address while passing order of refund for subsequent assessment year Mistake due to adoption of mode of communication electronically-Assessment order quashed-Matter remanded with direction to pass speaking order within 45 days [S.69, 282, Rule 127] 1704

Pursuant to a scheme of amalgamation, a company was merged with assessee company and registered office of assessee was shifted to new address. Assessee appeared to have intimated change in address to Income-tax department and several communications were also sent to assessee to its new e-mail id and new address of its registered office. Since revised return had old address, impugned assessment order was passed on an old address whereby certain additions were made. On writ, the Court held that there was no doubt that there was a mistake committed by assessee that while filing revised return instead of giving new address and new e-mail id, assessee had given old postal address and old e-mail id. However, fact also remained that other wings of department were aware of shifting of address of assessee-Similarly, they were also aware of change in e-mail id-.While passing order of refund claim for subsequent financial year i.e., 2019-20, notices/orders were sent to correct address. Court held that Assessee had not committed a serious mistake in not providing correct address and e-mail address while filing return although it had turned out to be fatal to assessee and considering interest of parties, assessment order was e quashed and case was to be remanded back to Assessing Officer with a direction to pass a speaking order. (AY. 2018-19)(SJ)

Vinplex India Pvt. Ltd v. NFAC [2023] 155 taxmann.com 116 / (2025) 483 ITR 30 (Mad) (HC)

S. 143(3) : Assessment-Principal of natural justice-Order passed set aside. [Art. 226] 1705

Held, that the material on record showed that a request for adjournment to the notice dated March 31, 2021 was in fact submitted on April 3, 2021. Without dealing with the Assessee's request or informing the assessee as to whether adjournment request was accepted or rejected, the assessing authority proceeded to make the order of assessment. The order had been passed in violation of principles of natural justice. The order of assessment was not valid.(AY. 2018-19)

Mangal Chand v. Add. CIT (2025) 483 ITR 187 (Mad)(HC)

S. 143(3): Assessment-Accounts-Rejection of books of account-Estimation of profits-Tribunal deleting addition to income by estimating profit-Justified.[S. 133(6), 144, 260A] 1706

Held that dismissing the appeal, the findings of the appellate authorities were concurrent in nature and had been arrived at based on the factual circumstances. The Tribunal was justified in deleting the addition made by the Assessing Officer by estimating the profit at 8 per cent. Rejecting the books of account.(AY. 2013-14)

PCIT v. Backbone Projects [2023] 157 taxmann.com 303 / (2025) 483 ITR 190 (Guj)(HC)

1707 **S. 143(3): Assessment-Existence of alternate remedy-Person who fails to avail of opportunity of being heard-No violation of principles of natural justice if order is passed-Writ petition is dismissed. [S. 246A, Art. 226]**
Held, dismissing the appeal, that the assessee could not complain that he was not afforded the opportunity to file written submissions and supporting documents. He had time till August 18, 2023 from July 20, 2023. But he failed to furnish written submissions and documentary evidence. Moreover, he had an effective alternate remedy by way of appeal. The order could not be quashed.(AY. 2017-18) (SJ)
C. Prasannakumaran Unnithan v. CIT (Appeals) [2023] 156 taxmann.com 397 / (2025) 483 ITR 288 (Karn)(HC)

1708 **S.143(3): Assessment-Principle of natural justice-Order passed without giving assessee adequate opportunity of hearing-Order is set aside.[Art. 226]**
On writ, the Court held that in the interest of justice, an opportunity had to be given to the assessee to submit his explanation to the notice issued by the Assessing Officer. The assessment order is set aside. The Assessing Officer was to give the assessee the opportunity to be heard and pass orders afresh thereafter in accordance with law. (AY. 2017-18)
Kovi Guravaiah Naidu v. NFAC (2025) 483 ITR 294 (AP)(HC)

1709 **S. 143(3): Assessment-Amalgamation intimated to Income-tax authorities which has merged-Assessment proceedings against non existing company not valid-Participation in the proceedings by the assessee cannot operate as an estoppel against law. [Art. 226]**
When two companies are merged and are so joined, as to form a third company or one is absorbed into or blended with another, the amalgamating company loses its identity. Once the factum of amalgamation of a company had been brought to the notice of the Assessing Officer and despite this the proceedings are continued and an order of assessment passed in the name of non-existent company, the order of assessment would not be merely a procedural defect but would be rendered void; and the participation in the proceedings by the assessee cannot operate as an estoppel against law.
New Age Buildtech Pvt. Ltd v. NFAC [2023] 151 taxmann.com 66 / (2025) 483 ITR 768 (Bom)(HC)

1710 **S. 143(3): Assessment-Sale proceeds of agricultural land partly invested in purchasing a house site and balance deposited in bank-Alternative remedy-Appeal pending before CIT(A)-Rectification application-Writ petition dismissed.[S. 154, 156,246A, Art. 226]**
Dismissing the petition, the Court held that the right course to be adopted by the assessee was to file a rectification petition under section 154. The writ petition was devoid of merits. The assessee was granted liberty to file a rectification petition before the authority concerned under section 154. (AY.2017-18) (SJ)
N. Periyasamy v. CIT (2025) 483 ITR 779 (Mad)(HC)

S. 143(3): Assessment-Order passed without considering the reply of the assessee-Assessment order and demand notice was set aside-Directed to pass an order after considering the reply of assessee and after providing a reasonable opportunity of hearing.[S. 143(2), 144B, 147, 148, Art. 226] 1711

On writ the Court held that though the assessee had filed short adjournment vide application dated February 14, 2024 up to February 23, 2024 and on February 23, 2024 it had filed a detailed reply which was not considered by the Assessing Officer. Once the assessee had tendered the reply to the notice on February 23, 2024, it was incumbent upon the Assessing Officer to consider such reply and thereafter pass the assessment order dealing with the objections raised by the assessee with regard to additions proposed in the notice, otherwise issuance of notice prior to passing the assessment along with the draft assessment order would be a futile exercise contrary to the provisions of section 144B. Consequently, the assessment order and the demand notice under section 156 were quashed, directing a de novo assessment by the Assessing Officer, with due consideration of the assessee's reply and provision for a hearing, if requested by the assessee.

Chatursinh Javanji Chavda v. ACIT (2024) 162 taxmann.com 466 / (2025) 482 ITR 245 (Guj)(HC)

S. 143(3): Assessment-Alternate remedy-Dispute regarding finding of fact-Writ petition dismissed. [S.246A. Art. 226] 1712

Held, dismissing the writ petition, that a perusal of the assessment order clearly showed that the authority below had taken into consideration the defences raised by the assessee. It could not be stated that the order was a non-speaking one. The assessee had also appeared for an enquiry before the authority concerned. The assessee should invoke the alternate remedy available to him, which was an effective alternative remedy. Writ petition dismissed. (AY. 2017-18)

Senthil Murugan Jewellers v. ACIT [2023] 152 taxmann.com 534 / (2025) 482 ITR 803 (Mad)(HC)

S. 143(3): Assessment-Outstanding tax-Notice of demand-Non-consideration of repeated representations for updating of challans-Direction to consider representations for updating of challans within four weeks-Direction to intimate action taken to assessee within one week from date of such action taken.[S. 156, Art. 226] 1713

On failure by the Income-tax Officer to consider repeated representations by the assessee for updating of challans against outstanding tax for the assessment years 2005-2006, 2006-2007, 2009-2010 and 2013-2014, the assessee preferred a writ petition, Court held that the Income-tax Officer was directed to consider and dispose of the pending representations for updating of challans in accordance with law within a period of four weeks from date and to intimate such action to the assessee within a week from the date of taking such action.(AY.2005-06, 2006-07, 2009-10, 2013-14) (SJ)

Dinesh Kumar Goyal v. ITO (2025) 482 ITR 909 (Cal)HC)

1714 **S. 143(3) : Assessment-Appellate Tribunal-Powers-Additional grounds-Revised return-Assessed income below the returned income-Assessing officer cannot deny the deduction relying on the Circular No 549 dt. 30-10-1989 (1990) 182 ITR (St.) (1)-DTAA-India-Japan. [S.9(1)(i), 254(1), Art. 5, 7, Art. 226]**

Assessee filed revised return on ground that said revision was necessitated in light of settlement which had been arrived at with revenue in earlier years. Assessing Officer while framing order of assessment refused to accept aforesaid declarations. Assessee raised additional grounds before Commissioner(Appeals) with respect to error in taxing purchases while taxing sales and not excluding turnover from export of goods from India and error in holding that its Indian subsidiary was a PE. Commissioner (Appeals) upheld order of Assessing Officer. Tribunal remanded matter to Assessing Officer-However, Assessing Officer by relying on CBDT Circular no. 549, dated 31-10-1989 held that assessee could not be accorded relief which would result in assessed income falling below to disclosed income in return of income. On writ the Court held that while ordinarily an assessee might be bound by return of income as furnished, in case Tribunal were to admit a question and proceed to accord relief, same could not be denied or be made subject to a return of income being revised. Insistence of revenue on a revision of return being a precondition clearly failed to take into consideration plenary powers which stood conferred upon Tribunal by virtue of section 254 once Tribunal had called upon Assessing Officer to examine issue afresh, said direction could not have been disregarded by reference to a Circular issued by CBDT. The Assessing Officer is directed to pass the order in accordance with law.

Mitsubishi Corporation v. ACIT [2024] 165 taxmann.com 79 / (2025) 482 ITR 230 (Delhi) (HC)

1715 **S. 143(3): Assessment-Appellate Tribunal-Remand-When an assessment is remanded by the ITAT and no final assessment order is passed pursuant to the remand, any further proceedings become time-barred-The AO must accept the return and refund amounts due, with interest. [S.92C, 143(2), 254(1), Art. 226]**

The Assessee filed a NIL return claiming a refund; scrutiny notice under s.143 (2) was issued which was subsequently followed by a reference to TPO. The TPO determined the ALP to be higher than the value of the foreign transactions disclosed by the Assessee; the Revenue issued draft order. Upon challenge, the Hon'ble DRP directed Recomputation, and the Revenue passed final order making TP addition; The Hon'ble Tribunal set aside for breach of natural justice and remanded the issues to the file of the AO, holding that the Assessee had to be provided all information obtained during assessment proceedings so it could respond and remanded for fresh consideration after giving reasonable opportunity of being heard. The Hon'ble Delhi HC accepted that no final assessment order was passed after remand (Revenue did not file a counter and said files were "untraceable"). The Hon'ble High Court upholding the view held by the earlier decision of the Court in *Nokia India (P.) Ltd. v. Dy. CIT [2017] 251 Taxman 85/ [2018] 407 ITR 20 (Delhi)(HC)* held further proceedings to be barred by limitation and directed refund (including further payments) with interest, preferably within 12 weeks. (AY. 2007-08)

Acuity KP Solutions (India) (P.) Ltd. v. DCIT (2025) 306 Taxman 141 (Delhi)(HC)

S. 143(3): Assessment-Deputy Commissioner (DCIT) issued notice under section 143(2) on basis of verifiable information pointing to tax evasion-No approval of concerned jurisdictional Pr.CIT / Pr.DIT / CIT / DIT-Order of Tribunal setting aside of the order was affirmed. [S. 143(2)] 1716

The Deputy Commissioner (DCIT) had issued a notice under section 143(2) clearly stating that the Assessee's tax return had been selected for scrutiny on the basis of paragraph 1(iii) of the Manual Compulsory Scrutiny Guidelines issued by the CBDT vide Instruction No. 5/2017 dt 7-7 2017. The Tribunal set aside the assessment proceedings pursuant to the assessment order passed by the Assessing Officer under section 143(3) on the ground that the Assessee's return was selected for scrutiny without the necessary approval of the jurisdictional Principal Commissioner (Pr.CIT)/Principal Director (Pr.DIT). On appeal High Court affirmed the order of the Tribunal. (AY. 2016-17)

PCIT v. Raja Arora (2025) 305 Taxman 204 (Delhi)(HC)

S. 143(3): Assessment-Non-existent Oriental Bank of Commerce-Strictures-Prior intimation of merger and request for PAN cancellation-Since action had already been taken against Assessing Officer on administrative side, only token cost of Rs. 10,000 was imposed, payable to Gujarat State Legal Services Authority, instead of Rs. 1 crore proposed earlier for negligent assessment without independent verification and over-reliance on software systems. [Art. 226] 1717

Assessee-bank filed instant writ petition against assessment order passed in name of non-existent entity Oriental Bank of Commerce (OBC) despite prior intimation of merger and PAN cancellation. High Court, on 17-3-2025, proposed imposition of costs of Rs. 1 crore on respondents/revenue for negligent assessment action without independent verification and over-reliance on software systems, and issued notice granting revenue an opportunity to show cause why such costs should not be imposed. Revenue filed an affidavit stating that systems were being continuously updated to address such issues and tendered unconditional apology seeking relief from proposed costs. It was noted that revenue department was taking corrective proactive steps for resolution of issues which were raised in this petition pertaining to initiation of proceedings on dead persons/ amalgamated companies or business and inactive or multiple PANs in software system of department. Court held since revenue department was blindly following information made available by software system and taking action without verifying veracity of same, present petition was a classic example where little verification or application of mind by Jurisdictional Assessing Officer would not have resulted into this litigation and it could have been avoided by not taking any action more particularly, when there was a merger of one National Bank with petitioner bank. Since action was taken by department against Jurisdictional Assessing Officer on administrative side, Court did not want to further prejudice such departmental action by observing in any manner. Petition was therefore to be disposed of with a cost of Rs. 10,000 to be paid by revenue with Gujarat State Legal Service Authority as a token cost instead of Rs. 1 crore proposed earlier.

Punjab National Bank v. ITO (2025) 347 CTR 801 /178 taxmann.com 584 / (2026) 257 DTR 112 (Guj)(HC).

1718 **S. 143(3) : Assessment-Assessment order was passed manually without mentioning Document Identification Number (DIN)-Alternative remedy-Writ petition was not maintainable. [Art. 226]**

Assessee challenged legality and/or validity of assessment order passed under section 143(3) read with section 144B on ground that assessment order was passed manually without mentioning Document Identification Number (DIN) in its body and same was passed beyond period of limitation. Dismissing the petition the Court held that since petitioner had directly approached jurisdiction of High Court under article 226 of Constitution of India and called upon High Court to adjudicate issues relating to facts and application of law on said set of facts, writ petition was not maintainable as an alternative and efficacious remedy was available to petitioner. (AY. 2018-19)

Philips India Ltd. v. Dy. CIT (2025) 304 Taxman 520 /347 CTR 810 / 256 DTR 377 (Cal.) (HC)

1719 **S. 143 (3): Assessment-Show cause notice-Writ petition was dismissed with cost of Rs.25000, which is payable to Tata Memorial Hospital. [Art. 226]**

Assessee filed writ petition challenging show-cause notice issued on 12-4-2022. The petitioner moved praecipe to take up matter urgently. Court held that the assessee had moved High Court at fag end when assessment was likely to be time barred by 31-3-2025. This facility for urgent circulation could not have been invoked by creating such artificial urgency. Further, challenge being only to a show cause notice, instant praecipe was to be dismissed with costs of Rs 25000 which is payable to Tata Memorial Hospital. (AY. 2016-17)

Anil Dhirajlal Ambani v. Dy.DIT (2025) 304 Taxman 518 (Bom.)(HC)

1720 **S. 143(3): Assessment-Notice under S. 143(2) issued by ITO lacking pecuniary jurisdiction-Assessee participated in proceedings before Dy. CIT without objection-Objection raised for first time before Tribunal barred by S. 292BB-Tribunal erred in quashing assessment-Matter remanded. [S. 143(2), 254(1), 260A, 292B, 292BB]**

The ITO issued notice under S. 143(2), though he did not have pecuniary jurisdiction, and thereafter transferred the proceedings to the Dy. CIT, who completed the assessment under S. 143(3). The assessee participated in the assessment proceedings before the Dy. CIT without raising any objection as to jurisdiction or validity of notice. No such ground was raised even before the CIT(A). The Tribunal, however, quashed the assessment on the ground that no notice under S. 143(2) was issued by the Dy. CIT. On appeal by the Revenue, the High Court held that the Tribunal ignored the provisions of S. 292B and S. 292BB. The notice issued by the ITO was not found to be invalid in substance or contrary to the intent of the Act, and hence could not be treated as invalid merely on account of defect in jurisdiction. Further, in view of S. 292BB, the assessee having participated in the proceedings without objection till completion of assessment, was precluded from raising such objection for the first time before the Tribunal. The impugned order of the Tribunal was set aside and the matter remanded to the Tribunal for adjudication on other grounds. (AY 2015-16)

CIT v. Shankar Lall Goenka (2025) 481 ITR 690 / 305 Taxman 16 / 345 CTR 75 / 250 DTR 305 (Gauhati)(HC)

S. 143(3) : Assessment-Principles of natural justice-Opportunity of being heard-Notices sent to email address available on MCA website-Assessee having participated in assessment proceedings precluded from objecting to service of notice-No violation of natural justice-Writ petition dismissed. [S. 142(1), 282, 292BB, R. 127(2)(b)(iii) of the Income-tax Rules, 1962, Art. 226] 1721

Notices issued during scrutiny assessment were transmitted electronically to the assessee-company at the email address available on the website of the Ministry of Corporate Affairs in terms of Rule 127(2)(b)(iii). The assessee admittedly received the notice informing selection of return for scrutiny and had also responded to notice issued under section 142(1). In absence of any averment denying receipt of notices and in view of participation in assessment proceedings, the provisions of section 292BB were clearly attracted and the assessee was precluded from contending that notices were not properly served. Since notices were also available on the ITBA portal and the assessee was fully aware of the proceedings, the assessment order could not be challenged on the ground of breach of principles of natural justice or lack of adequate opportunity. Writ petition dismissed. (AY. 2022-23)

Kalkajee Kraft Paper (P) Ltd. v. AUITD (2025) 345 CTR 793 / 305 Taxman 261 (Delhi)(HC)

S. 143(3) : Assessment-Principle of natural justice-Strictures-Assessment order passed without granting or rejecting adjournment request-Systemic deficiencies in faceless assessment and portal functioning resulting in violation of rule of law-Assessment, penalty and demand orders quashed-Work Domain-Directions issued to strengthen tax administration and ensure compliance with Court orders-Costs were imposed on the Department. [S 156, 270A, Art. 226, 265] 1722

The assessee was granted only three days' time to respond to draft assessment order issued vide show cause notice dated 27-2-2021 and had sought adjournment up to 11-3-2021 as details were under compilation, though limitation for completing assessment stood extended up to 30-4-2021; however, without either granting or rejecting the adjournment request, the Department proceeded to pass assessment order dated 4-3-2021, which was held to be in blatant violation of principles of natural justice and liable to be quashed. The High Court noted that the lapse resulted from twin factors, namely portal deficiencies and human error, observing that faceless assessment portals have become silent stakeholders in justice delivery and must function in alignment with constitutional mandate under Article 265. The Court further recorded serious concern regarding systemic administrative deficiencies, contemptuous disregard of stay order dated 6-4-2021, and filing of false affidavit amounting to contempt and perjury by departmental authorities. Consequently, penalty order under section 270A and demand notice under section 156 dated 21-12-2021, passed despite subsisting stay, were also quashed. Taking cognizance of recurring institutional failures, the Court issued wider directions mandating impleadment of CIT (Judicial) as party respondent in all future income-tax petitions and placing responsibility upon such officer to ensure strict implementation of CBDT Instruction No. 1 of 2024 so as to prevent recurrence of procedural injustice and strengthen accountable tax administration. Costs were imposed on the Department. (AY. 2018-19)

Shree Sarkhej Kelavani Mandal v. ADCIT (2025) 345 CTR 807 / 252 DTR 222 (Guj)(HC)

1723 **S. 143(3): Assessment-Reassessment-Undisclosed income-Writ jurisdiction-Alternative remedy-Granted liberty to file statutory appeal.[S. 147, 148, 246A, Art. 226]**
Dismissing the petition, the Court held that the recording of sales receipts in books of account was not established by assessee. Additions made by Assessing Officer based on examination of materials on record. Writ petition dismissed. Liberty granted to the assessee to file statutory appeal.(AY. 2016-17, 2017-18)
Shree Shakambhari Udyog Partnership Firm v. CIT (2025) 479 ITR 222 (Patna)(HC)
Editorial : SLP dismissed, Shree Shakambhari Udyog Partnership Firm v. CIT (2025) 479 ITR 238 /306 Taxman 339 (SC)

1724 **S. 143(3): Assessment-Amalgamation-Assessment framed and TPO order passed in the name of a non-existent amalgamating company despite intimation of merger-Subsequent attempt to rectify by invoking s.154 impermissible-Use of expression "formerly known as" shows failure to acknowledge change in legal status-Assessment order a nullity and not curable u/s 292B.[S.92CA(3), 154, 260A, 292B]**
Despite being duly informed of the amalgamation pursuant to which the amalgamating company had ceased to exist, the Transfer Pricing Officer passed the order in the name of the erstwhile entity and later sought to cure the defect by invoking section 154, which is confined to inadvertent or typographical errors. The Assessing Officer thereafter framed the draft and final assessment orders in the name of the non-existent entity, describing the assessee as "formerly known as", thereby treating the amalgamation as a mere name change rather than a fundamental alteration in legal identity. The Tribunal held that the assessment was void ab initio and time-barred, the defect being substantive and not procedural, and incapable of being cured under section 292B. On appeal, the High Court affirmed that, absent any intent to assess the amalgamated entity, the assessment order against a non-existent entity was a nullity and the appeal of the Revenue was dismissed. (AY.2015-16)
PCIT v. Vedanta Ltd. (2025) 479 ITR 635/170 taxmann.com 833 (Delhi)(HC)

1725 **S. 143(3): Assessment-Amalgamation-Assessment orders passed in names of amalgamating entities-Amalgamation approved by court was informed to Department with date and other details-assessment orders issued in names of non-existent entities void ab initio-Jurisdictional issue-Additional ground was raised first time before High Court-Additional ground was admitted-Interim applications allowed-Appeals by Revenue and Assessee's writ petition rendered infructuous.[S. 143(3), 254(1), 260A]**
Additional ground on jurisdictional issue of assessment orders passed in names of amalgamating entities when the amalgamation approved by court was informed to Department with date and other details hence the assessment orders issued in names of non-existent entities was bad in law. High Court admitted the additional ground which was raised first time before the High Court and held that the assessment orders passed in names of amalgamating entities is bad in law. Consequently, the appeal orders would also not survive. The question of law framed on January 20, 2025 *(Reliance Industries Ltd. v. P.L. Roongta, (2025) 479 ITR 763 (Bom)(HC)* was therefore answered in favour of the assessee and against the Department. Consequently. the Department's appeal was dismissed as infructuous, the cause or grievance raised in

the writ petition would not survive and the writ petition became infructuous. The interim order, if any, passed stood vacated. The Assessee's appeal was allowed only on the ground that the assessment orders under section 143(3) were passed in the name of the amalgamating companies. The Department was given liberty to initiate fresh proceedings against the amalgamated company RIL in accordance with law. Since the assessment orders were quashed, the questions of law admitted by this court in the years 2008 and 2013 in various appeals on the merits were not adjudicated upon. The appeals and interim applications filed by the assessee for the assessment years 1993-1994 to 1995-1996 were allowed, consequently the appeals filed by the Department for the assessment year 1994-1995 and the writ petition filed by the assessee were rendered infructuous. Refer *Reliance Industries Ltd v. P.L. Rungta (2025) 479 ITR 763 (Bom)(HC)*. (AY.1993-94, 1994-95)

Reliance Industries Ltd. v. P.L. Roongta, CIT (2025) 479 ITR 770/171 taxmann.com 467 (Bom)(HC)

Editorial : SLP of revenue dimissed, Dy. CIT v. Reliance Industries Ltd. [2026] 309 Taxman 501/488 ITR 624 (SC).

S. 143(3): Assessment-Principle of natural justice-Allegation that assessee had not been heard not proved-Writ petition dismissed-Given liberty to file statutory appeal. [S. 142(1), 147, 148, 246A, Art. 226] 1726

Held, dismissing the petition, that on examining the assessment order, it could not be concluded that materials placed on record by the assessee were not taken into consideration. Upon the appraisal of such materials, findings were recorded by the Assessing Officer. On prima facie consideration of the material documents, it could not be concluded that the appraisal of evidence was perverse. Any reappraisal of such evidence would be squarely within the province of the appellate forum. As regards the objection that the notice under section 148 of the Income-tax Act, 1961 was not received, it was noticeable that multiple notices under section 142(1) were issued thereafter and the reasons for reopening the assessment were communicated to the assessee. Therefore, the order of assessment could not be quashed.(AY. 2017-18)

Devendran Coal International Pvt. Ltd. v. NFAC (2025) 478 ITR 432 (Mad)(HC)

S. 143(3): Assessment-Validity-Unable to access Department's portal-Order quashed-Matter remanded for reconsideration subject to payment of costs of Rs.10000 by assessee to the Adyar Cancer Institute, Chennai. [S. 142(1), Art. 226] 1727

On writ the fact remained that the assessee endeavoured to submit a reply on December 3, 2022 but could not do so because the portal was not accessible by that time. As a result, the assessee was unable to place on record submissions to support the contention that the income from sale of property was only liable to capital gains and that it should not be treated as business income. For that reason, the order had to be quashed. The matter was remanded for reconsideration subject to payment of Rs. 10,000 as costs by the assessee to the Adyar Cancer Institute, Chennai.(SJ) (AY.2021-22)

Vijayalakshmi Mohanakrishnan v. NFAC (2025) 478 ITR 470 (Mad)(HC)

1728 **S. 143(3): Assessment-Appeal was filed against assessment order within extended limitation period granted by Supreme Court owing to pandemic-Writ petition dismissed-The assessee was relegated to statutory remedy of appeals before the Commissioner (Appeals) under section 246A and the Tribunal under section 253.[S. 246A, 253, Art. 226]**

Dismissing the writ petition the Court held that the assessee could have filed an appeal from the assessment order on or before May 28, 2022, even without a delay condonation application. The writ petition itself had been filed only on November 2, 2022 almost five months after the time granted by the Supreme Court had expired. There was also no explanation as to why the assessee did not approach the appellate authority within the time provided by the Supreme Court. Hence the orders of assessment and penalty need not be interfered with in writ jurisdiction. The assessee was relegated to statutory remedy of appeals before the Commissioner (Appeals) under section 246A and the Tribunal under section 253.

Bihar State Hydroelectric Power Corporation Ltd v. NEAC (2025) 478 ITR 487 (Patna)(HC)

1729 **S. 143(3): Assessment-Order passed without giving assessee adequate opportunity to cross-examine parties summoned under section 133(6)-Violation of principles of natural justice-Notices and orders not valid-Matter remanded to the Assessing Officer. [S.68, 69C, 133(6), 144B, 260A]**

On appeal the Court held that since the Assessing Officer had not issued notice under section 133(6) prior to the issuance of show-cause notice under section 144B comprising the draft assessment order, the assessee could not respond to the findings which were recorded in the assessment order by the Assessing Officer on the basis of the inquiry made by him pursuant to the notice under section 133(6). The assessment order under section 143(3) read with section 144B was in violation of the principles of natural justice and hence was not valid. The matter was remanded to the Assessing Officer for fresh consideration. Matter remanded.(AY. 2022-23)

A.K. Metals Products v. ACIT [2024] 166 taxmann.com 159 (2025) 478 ITR 504 (Guj)(HC)

1730 **S. 143(3): Assessment-Principles of natural justice-Covid-19 pandemic-Not granting sufficient opportunity-Matter remanded to Assessing Officer to consider afresh after giving due opportunity to assessee.[S. 144B, Art. 226]**

Allowing the petition the Court held that at the time of Covid 19 pandemic the revenue should have adopted liberal approach, when the assessment was not getting time barred. Matter remanded.(AY.2018. 19)

Gokul Refoils and Solvent Ltd v. NFAC (2025) 478 ITR 520 (Guj)(HC)

1731 **S. 143(3): Assessment-Firm-Additional capital by partners-Fund flow established-Matter remanded to the Assessing Officer to consider the additional documents provided by the assessee. [S. 68, 142(1), Art. 226]**

On writ against the assessment order the Court held that the assessee had placed on record sufficient evidence of the financial capability of the partners. In certain cases, the flow of funds had been established but had not been established in cases of other partners. As regards the partners, (i) VST-the Assessing Officer had focused on the bank

statement and there was no discussion with regard to the financial statement of VST including the cash flow statement appended thereto, (ii) ST-the Assessing Officer had disregarded the credit entry of Rs. 46.5 lakhs merely because there was a debit entry on the same date, (iii) BK-the bank statement had not been examined and (iv) MK-the variation was confirmed on account of non-production of the bank statement. The assessment order was set aside and the matter was remanded for reconsideration.(SJ) (AY. 2022-23)
Sanmar Group Corporate Finance v. AUITD (2025) 478 ITR 568 (Mad)(HC)

S. 143(3): Assessment-Amalgamation-Assessment order passed in name of non-existent assessee amalgamated company after informing Department duly informed about merger-Participation in proceedings no estoppel against law-Assessment order quashed and set aside.[S. 144B, 144C, Art. 226] 1732
On a writ allowing the petition, that the assessment in the name of a company which had been amalgamated and dissolved was null and void. The assessee had on at least five occasions intimated the assessing authority as to the factum of amalgamation and requested that the assessment be made in the name of the resultant company and hence the assessment order in the name of the non-existent company was liable to be set aside. Therefore, the assessment order passed under section 143(3) read with sections 144C and 144B for the assessment year 2017-2018 in the name of the non-existing entity was quashed and set aside. The Department was granted liberty to proceed in accordance law.(SJ) (AY. 2017-18)
Pharmazell (India) Pvt. Ltd. v. NFAC [2024] 161 taxmann.com 484/ (2025) 478 ITR 710 (Mad)(HC)

S. 143(3): Assessment-Failure of assessee to update e-mail ID resulting in non-receipt of-Own fault-No violation of principles of natural justice-Order valid-Given liberty to file statutory appeal. [S. 144B, 246A, Art. 226] 1733
Dismissing the petition the Court held that it was due to inadvertent error on the part of the assessee in not updating or changing the e-mail address with the Department and the notices under section 143(2) of the Income-tax Act, 1961 were unnoticed and could not be responded to, on time. When the assessee was at fault, as they did not update or change the e-mail address with the Department, they could not legitimately complain that there was violation of the principles of natural justice. There was no reason to entertain this writ petition under article 226 of the Constitution of India. The assessee could seek remedy of statutory appeal before the Commissioner (Appeals) under section 246A of the Act.(AY. 2022-23) (SJ)
Lakeshore Hospital and Research Centre Ltd. v. Add. CIT (2025) 447 ITR 337 (Ker)(HC)

S. 143(3): Assessment-Jurisdiction-Transfer of case-Notice issued by Assessing Officer from whose jurisdiction case was transferred-Notice not valid.[S. 260A, 263] 1734
Held, dismissing the appeal of the revenue the Court held that on June 17, 2010 the assessment under section 143(3) of the Income-tax Act, 1961, was completed. Thereafter, two notices were issued under section 263 of the Act dated December 21, 2012 and December 15, 2013. On May 7, 2013 the Commissioner had passed the

order under section 263 of the Act. By order dated March 15, 2013, the Commissioner transferred the file to the jurisdiction of the Assessing Officer in Chennai. It was thereafter that the assessing authority had issued notice dated February 21, 2014 and proceeded to complete the assessment on March 24, 2014. After the order passed by the Commissioner transferring the files to the jurisdiction at Chennai by order dated March 15, 2013, the Assessing Officer Kolkata has passed the order who had no jurisdiction to deal with the matter. The Tribunal was correct in holding that the assessment order dated March 24, 2014. Order of Tribunal affirmed.(AY. 2008-09)
PCIT v. Ojasvi Motor Finance Pvt. Ltd [2024] 163 taxmann.com 80 / (2025) 477 ITR 448 (Cal)(HC)

1735 **S. 143(3): Assessment-Excess stock-Violation of principle of natural justice-Order of assessment was quashed and set aside-Existence of alternate remedy-Not an absolute bar for issue of writ Violation of principles of natural justice. [S.69B, Art. 226]**
On writ the Court held that the proceedings leading up to the passing of the order lacked clarity and had resulted in the assessee being led to believe that its response or explanation in respect of the proposal to treat a sum of Rs. 3,86,63,654 as excess stock, except to the extent of Rs. 29,36,013 was accepted inasmuch as the officer had by notice dated August 16, 2022 called for an explanation only in respect of a sum of Rs. 29,36,013. This in turn had resulted in the assessee not putting forth any further explanation in respect of the alleged excess stock over and above Rs. 29,36,013, thereby resulting in violation of principles of natural justice. The assessment order was quashed and set aside. Court also held that the existence of alternate remedy is not an absolute bar for issue of writ Violation of principles of natural justice. (AY. 2020-21)
Smart Furniture v. Dy. CIT [2024] 161 taxmann.com 444 /(2025) 477 ITR 527 (Mad)(HC)

1736 **S. 143(3) : Assessment-Principles of natural justice-Assessment order passed without considering reply to notice u/s 133(6) and by relying on non-existent case law-Artificial Intelligence (AI)-Quasi-judicial authorities cannot rely blindly on results generated by AI tools without independent verification-Breach of natural justice-Alternative remedy-Appeal was filed to avoid limitation-Assessment quashed and matter remanded [S. 68, 133(6), 144B, 156, 271AAC, 274, Art. 226]**
Where the Assessing Officer disallowed purchases on the ground that the supplier had not responded to the notice u/s 133(6), though the supplier had in fact filed a detailed reply confirming the transaction with supporting documents, and further made an addition of unsecured loans by relying on non-existent judicial decisions and without showing any working or issuing a show-cause notice, it was held that the assessment was passed in gross violation of the principles of natural justice. The Department fairly admitted that the supplier's response was not considered and that certain cited judgments were non-existent. The Court observed that quasi-judicial authorities cannot rely blindly on results generated by AI tools without independent verification. Accordingly, the Assessment Order u/s 143(3) r.w.s. 144B, the consequential demand u/s 156, and penalty notice u/s 274 r.w.s. 271AAC were quashed and set aside, and the matter remanded to the Assessing Officer to issue a fresh show-cause notice, grant opportunity of hearing, and pass a speaking order. (A.Y. 2023-24)
KMG Wires Pvt. Ltd. v. NFAC [2025] 179 taxmann.com 565 (Bom)(HC)

S. 143(3): Assessment-Resolution plan approved-No new claims by the revenue are maintainable-Order under section 143(3) of the Act was quashed and set aside. [Insolvency and Bankruptcy Code, 2016, S. 31. Art. 226] 1737

Upon approval of a resolution plan or sale of the corporate debtor as a going concern by the Adjudicating Authority, all the previous liabilities and claims of any person qua the corporate debtor cease to exist and are extinguished. Thus, the successful resolution applicant starts running the business of the corporate debtor on a fresh slate. On writ, the Court held that the order dated May 22, 2024 passed under section 143(3) of the Act was quashed and set aside. (AY. 2022-23)

National Sewing Thread Company Ltd v. Dy. CIT (2025) 476 ITR 40 (Delhi)(HC)

S. 143(3): Assessment-Non-existing entity-Amalgamation-Order of DRP-Order of Tribunal annulling the assessment was affirmed. [S. 144C, 254 Companies Act, 1956, 391, 394.] 1738

Dismissing the appeal, the Dispute Resolution Panel in its order had duly acknowledged and considered the scheme of arrangement duly sanctioned by the court. The order of the Tribunal annulling the assessment was affirmed. (AY. 2011-12)

PCIT v. Vertex Customer Management India Pvt. Ltd.(2025) 476 ITR 475 (Delhi)(HC)

S. 143(3): Assessment-Pendency of appeal-Writ-Alternative remedy-Suppressing material information of filing of statutory appeal-Pursuing parallel remedies amounted to treating extraordinary remedy as an alternate remedy to appellate remedy-Petition dismissed and cost of Rs. 1 lakh was imposed to be paid to the High Court Employees Medical Welfare Fund at Mumbai. [S. 246A, Art, 226] 1739

On a writ petition challenging the assessment order passed under the Income-tax Act, 1961 contending that it was without jurisdiction, dismissing the petition, that the assessee pursued parallel remedies at the same time. The assessee had filed statutory appeal before the Commissioner (Appeals) under the Act and application for stay of demands before the Assessing Officer. The writ petition under article 226 of the Constitution of India was misconceived and amounted to taking chances with the judicial process which amounted to treating the extraordinary remedy as an alternate remedy to the appellate remedy provided in the statute. The assessee not only had an alternate and efficacious remedy but had already invoked it. The crucial facts, that an appeal and stay application were already filed as on the date of the institution of this petition, which constituted material facts, were suppressed. The averment was so couched as not to attract attention and contained no clear statement of the appeal having been filed, the date of filing or the fact that a stay was also applied for. The delay in instituting this petition was also not explained. All the material facts emerged only after this court posed queries, though the assessee had stated that it had not withheld any material information from this court. Cost of Rs. 1 lakh was imposed on the assessee. to be paid to the High Court Employees Medical Welfare Fund at Mumbai.

Sawai Fragrances v. UOI (2025) 475 ITR 429/ 175 taxmann.com 302 /347 CTR 893 / 256 DTR 260 (Bom)(HC)

1740 **S. 143(3) : Assessment-Jurisdiction to assess-Formation of Centralised Processing Centre-CPC acts as facilitator and does not take away jurisdiction of Assessing Officer under section 120. [S. 120, 143(1A), 154, 263, 264, Art. 226]**

The assessee filed a rectification application under section 154 against an intimation under section 143(1), seeking set-off of unabsorbed business loss against long-term capital gains. The CPC did not allow the claim. On a revision application under section 264, the Principal Commissioner rejected it on the ground that the Deputy Commissioner, CPC, did not report to him. Held that such reasoning was incorrect. CPC is only a processing mechanism and does not displace the jurisdiction of the AO under section 120. Therefore, the Principal Commissioner had jurisdiction to entertain the revision petition, and rejection was unjustified.(AY. 2016-17)

Sarda Paper Ltd. v. PCIT [2024] 161 taxmann.com 362 / (2025) 475 ITR 641 (Bom)(HC)

1741 **S. 143(3) Assessment-Disallowance of expenditure-Business income-Entries in the books of account is not conclusive-Alternative remedy-No deduction of expenses claimed either by assessee or unit holders-Addition made by AO wholly without jurisdiction-Writ petition maintainable-Assessment order quashed. [S. 10(23FBA), 28(i), 37(1), 115UB, 144B, 246A, Art. 226]**

The assessee, a SEBI registered Category II AIF with pass-through status u/s 115UB, filed NIL return for A.Y. 2022-23. It had incurred expenses of ₹118.99 Cr but claimed no deduction of the same, nor were they claimed by unit holders. The only income earned was short-term capital gains of ₹0.99 Cr, claimed exempt u/s 10(23FBA). The AO disallowed ₹103.15 Cr (excluding management fee of ₹15.84 Cr allowed) holding expenses to be non-genuine and added the same under "business income," issuing demand and penalty notice u/s 274.The High Court held that, though an alternative remedy before CIT(A) was available, writ jurisdiction is maintainable where the order is wholly without jurisdiction; the AO erred in relying on accounting treatment to disallow expenses never claimed as deduction, as settled by the Supreme Court in *Kedarnath Jute Mfg. Co. Ltd. v. CIT (1971) 82 ITR 363(SC), Taparia Tools Ltd. v. JCIT (2015) 372 ITR 605 / 55 taxmann.com 361(SC) and United Commercial Bank v. CIT (1999) 240 ITR 355(SC)* book entries are not conclusive for taxability; since no deduction was claimed, there was no basis to add back such expenses. Accordingly, the impugned assessment order, demand notice and penalty notice were quashed. (AY.2022-23)

Kedaara Capital Fund II LLP v. NFAC [2025] 307 Taxman 19 (Bom)(HC)

1742 **S. 143(3): Assessment-Jurisdiction-Notices-Assessing Officer or prescribed authority-Powers of Central Board of Direct Taxes to prescribe authority not confined to authorising Income-tax Officers of National Faceless Assessment Centre alone as prescribed authority-Notification issued by Central Board of Direct Taxes authorising Assistant Commissioner or Deputy Commissioner (IT), Circle-1(1)(1)-Notice were within jurisdiction. [S.119, 142(1) 143(2), ITAT R, 1962, R. 12E.Art. 226]**

Held, dismissing the petition, that the Central Board of Direct Taxes had issued a notification dated May 28, 2022 2022) 445 ITR (St) 21), in exercise of powers under rule 12E of the Rules, and had authorised the Assistant Commissioner or the Deputy Commissioner (International Taxation), Circle-1(1)(1), Delhi to act as the "prescribed income-tax authority" for the purpose of issuance of notice under section 143(2). The

notice under section 143(2) for the Assessment year 2023-2024 had been issued by the Assistant Commissioner or the Deputy Commissioner (IT), Circle-1(1)(1), Delhi. Therefore, the contention that the Income-tax Officer did not have the jurisdiction to issue the notice under section 143(2) was not tenable. The contention that other than the Assessing Officer, only the authorised Income-tax Officers of the National Faceless Assessment Centre could issue notice under section 143(2) as it would be in furtherance of automation of such process, was also not tenable. This proposition is not supported by the plain language of section 143(2) of the Act or rule 12E of the Rules. The contention that the prescribed Income-tax Authority could only serve a notice under section 143(2) but could not issue it, was insubstantial. The notices dated July 10, 2024 and September 6, 2024 under section 142(1) for the assessment year 2023-2024 were not beyond the period of limitation. Once it was accepted that the Assessing Officer had the jurisdiction to issue the notice under section 143(2) which was also the contention of the assessee-the Assessing Officer could not be faulted for proceeding to complete the assessment.(AY.2023-24)

Ambience Farms Pvt. Ltd v. ACIT (2025) 474 ITR 209 (Delhi)(HC)

Editorial : SLP of assessee dismissed, Ambience Farms Pvt. Ltd v. Asst. CIT (2025I 474 ITR 214 (SC)

S.143(3): Assessment-Reassessment-Alternative remedy-Writ petition dismissed.[S. 147, 148, 246A, Art. 226] 1743

Held, dismissing the petition, that in view of the facts and precedents, the court refrained from entertaining the writ petition and granted liberty to the assessee for filing appeal under section 246A before the Commissioner (Appeals). Though the period for filing of appeal had expired, the appellate authority was directed to hear the appeal on merit if it was filed within a period of 15 days subject to making pre-deposits.

Mahesh Chander Sharma v. NFAC (2025) 474 ITR 528 (P & H) (HC)

S. 143(3): Assessment-Appeal pending before CIT(A)-Writ-Alternate remedy-Writ petition not maintainable-Extraordinary jurisdiction-Not to be invoked when alternate statutory remedy is available-The Court directed CIT(A) to dispose of the appeals (both against assessment and penalty orders) within eight weeks. [S. 144B 250, Art. 226] 1744

The assessee challenged the assessment order passed, demand notice and penalty order before the Bombay High Court. The Revenue raised a preliminary objection that the assessee had already filed appeals before CIT(A), and therefore the writ petition was not maintainable. The assessee argued breach of natural justice and also pointed to attachment of his bank account. The Court held that once the assessee has availed alternate remedy before CIT(A), writ jurisdiction under Art. 226 should not be exercised. However, considering the grievance of bank attachment, the Court directed CIT(A) to dispose of the appeals (both against assessment and penalty orders) within eight weeks. Writ petition was dismissed with these directions. (WP No. 11536 of 2025, dt. 3-9-2025) (AY. 2021-22)

Anil Ramchandran Pillai v. NFAC (Bom)(HC) www.itatonline.org

1745 **S. 143(3) : Assessment-High pitched assessment-Local Committee-Neither a quasi-judicial authority nor a statutory authority-Grievance redressal mechanism only for administrative action-Report not binding on appellate/revisional authorities-Writ petition dismissed.[S. 147, 148, 148A, Art. 226]**

The assessee challenged a high-pitched assessment before the Local Committee constituted under CBDT instructions. It was argued that the Committee should grant a hearing before submitting its report. The Court noted that the Local Committee is an internal mechanism created by CBDT Instruction No. 17/2017, dated 9-11-2015 and Instruction No. 225/101/2021, dated 23-4-2022 to curb arbitrary or high-pitched assessments and to enable the Principal Chief CIT to take administrative action against errant officers. The Committee's report is not binding on appellate or revisional authorities, and it is discretionary for the Principal Chief CIT to act upon it. Since the Committee is neither a quasi-judicial nor statutory authority, it is not obliged to provide taxpayers with an opportunity of hearing. Thus, the petition was dismissed. (AY 2016-17, 2019-20)

Bee Cee Fireworks Industries v. PCIT (2025) 170 taxmann.com 297 / 343 CTR 668 / 247 DTR 500 (Mad)(HC)

1746 **S. 143(3) : Assessment-Non-existing amalgamating company-Order in name of amalgamating company void ab initio-Additional question of law raised for first time in High Court-Assessment orders quashed. [S. 260A, Art. 226]**

The AO passed assessment orders in the name of RPEL and RPPL despite having been intimated that these companies had amalgamated with RIL. The assessee produced inter-parte documents and computation notes showing that the AO was aware of the merger. The Court held that once the AO is informed that the amalgamating company ceased to exist, any proceedings against such entity are void ab initio, even if the amalgamated company participated. Following *CIT v. Maruti Suzuki India Ltd.(2019)416 ITR 613 (SC)*, the orders passed against non-existing entities were quashed as bad in law. Revenue, however, is free to proceed against the amalgamated company in accordance with law. (AY. 1992-93 to 1995-96)

Reliance Industries Ltd. v. P.L. Roongta, CIT (2025) 479 ITR 763 / 343 CTR 401 / 171 taxmann.com 467 (Bom)(HC)

CIT v. Reliance Polypropylene Ltd. (2025) 479 ITR 763 / 343 CTR 401 / 171 taxmann.com 467 (Bom)(HC)

Editorial : SLP of revenue dimissed, Dy. CIT v. Reliance Industries Ltd. [2026] 309 Taxman 501/488 ITR 624 (SC).

1747 **S. 143(3) : Assessment-Non-existing amalgamating company-Order in name of non-existent entity is void-Cannot be saved by S.154 or S. 292B-Revenue appeal dismissed. [S. 92CA(3), 154, 170, 260A, 292B]**

Despite disclosure of merger, AO passed draft order in name of amalgamating company. Such order was held inherently illegal and not curable under S. 154 or S. 292B, as assessment in name of non-existent entity is void. Order of Tribunal was affirmed.

PCIT v. Vedanta Ltd. (2025) 170 taxmann.com 833 / 343 CTR 596 / 247 DTR 185 (Delhi) (HC)

S. 143(3): Assessment-Error in heading was result of an inadvertent systemic error-Clarification issued by the Assessing Officer-Writ petition is dismissed. [S. 144C, Art. 226] 1748

The assessee filed the writ petition on the presumption that the order passed by the Assessing Officer was draft assessment order. Dismissing the petition the Court held that order clearly indicated that it was an order passed under section 143(3) and Assessing Officer also clarified that error in heading was result of an inadvertent systemic error. (AY.2016-17)

BT Global Communications India (P.) Ltd. v. DCIT (2025) 302 Taxman 298/ 481 ITR 651 (Delhi)(HC)

S. 143(3): Assessment-Principle of natural justice-Reply of assessee is not considered-Order is set aside.[Art. 226] 1749

Allowing the petition the Court that in the absence of a proper consideration of the documents filed in support of the Assessee's response to the show-cause notice, the order of assessment is unsustainable. Order is set aside.

Aryan Pumps and Environment Solution Pvt. Ltd. v. NFAC (2025)472 ITR 152 (Bom)(HC)

S. 143(3): Assessment-Jurisdiction of AO-Best judgement-Order passed without complying the provision of section 127 is quashed and set aside. [S. 120, 127, 144, 260A, Art. 226] 1750

Assessee had been filing his IT returns with respondent No. 4 (AO, Delhi) ever since the date of inception. Assessment was finalized by respondent No. 4 even for the asst. yr. 2003-04. The assessment was completed by AO Solan. On appeal the ITAT dismissed the appeal. On writ the Court held that jurisdiction originally with respondent No. 4 could not have been unilaterally transferred to respondent No. 5 (AO, Solan) without complying with the provisions of S. 127. Respondents cannot dispute that the AO in this case has been changed and the records too stand transferred to him which could have only been done after complying with provisions of s. 127 and an order passed in absence of any reasons for transfer has essentially to be construed to be the one as having been passed without application of mind. Accordingly the order framing the best judgment assessment is quashed and set aside. (AY.2009-10)

Deluxe Enterprises v. ITO (2025) 342 CTR 618 / 246 DTR 25 / 303 Taxman 366 (HP)(HC)

S. 143(3) : Assessment-Search and seizure-Assessment in search cases-Additions cannot be made on the basis of data appearing in pen-drive not unearthed during search which does not constitute incriminating material. [S. 132(4), 153A, 260A] 1751

Dismissing the appeal of the department, the Court held that the assessment is confined to section 153A and consequently the significance of the incriminating material found in the course of the search alone would be the basis for any additions to the income. As the pen-drive was an article which was not recovered in the course of the search but constituted material which had been obtained by the Department through the exchange of information route, it would not constitute incriminating material. Additions cannot be made relying on such data on the pen drive.(AY. 2007-08)

PCIT v. Vikram Dhirani (2025) 472 ITR 342 (Delhi) (HC)

1752 **S. 143(3): Assessment-Corporate insolvency resolution plan was approved by National Company Law Tribunal on 14-10-2022 which provided that no person shall be entitled to initiate any proceedings against assessee in relation to claims so long such result to a period prior to effective date of resolution plan, i.e., 10-11-2022-Notice issued under section 143(2) to assessee for A.Y. 2022-23 is bad in law and quashed. [S. 142, 143(2), Insolvency and Bankruptcy Code, 2016, S. 14, Art. 226]**

As per the Corporate Insolvency Resolution Process of assessee-company under provisions of Insolvency and Bankruptcy Code, 2016, 100 per cent shareholding of assessee-company was acquired by a company (resolution applicant) and thereafter name of assessee-company was changed from Uttam Galva Steels Pvt Ltd to AM Mining India Pvt Ltd, the name is changed to AMNS Khopoli Limited. Assessing Officer issued on assessee a notice under section 143(2) dated 31-3-2023 informing it that income tax return for assessment year 2022-23 had been selected for scrutiny assessment and this was followed by three notices issued under section 142(1). The assesseee filed writ before the High Court, the court held that since resolution plan approved by National Company Law Tribunal on 14-10-2022, expressively provided that no person shall be entitled to initiate any proceedings or inquiry, assessment, enforce any claim or continue any proceedings against assessee in relation to claims so long such result to a period prior to effective date of resolution plan, i.e., 10-11-2022, notices issued by Assessing Officer were bad in law and set aside. (AY. 2022-23)

AMNS Khopoli Ltd. v. ACIT (2024) 471 ITR 571 / 164 taxmann.com 187 (Bom) (HC)

1753 **S. 143(3): Assessment-r Principle of natural justice-Order passed without giving an opportunity of hearing is set aside.[S. 142(1), Art.226]**

On writ the Court held that the Order passed without giving an opportunity of hearing is set aside and directed to pass the order is accordance with law. (AY. 2017-18) (SJ)

Kulumepalya Lenkegowda Shivakumar v. ITO (2024) 471 ITR 459 (Karn) (HC)

1754 **S. 143(3): Assessment-Capital gains-Penny stock-Shyam transactions-Statement of third parties used against the assessee-No opportunity of cross examination is given-Assessment order is set aside and matter remanded for reconsideration.[S. 10(38) 45, 112A, Art. 226]**

Allowing the petition the Court held that if statement of third parties cannot be used against the assessee without giving an opportunity of cross examination is given. Assessment order is set aside and matter remanded for reconsideration. (AY. 2018-19) (SJ)

Naresh Sangeetha v. ITO (2024) 471 ITR 515 (Mad) (HC)

1755 **S. 143(3): Assessment-Notice is sent to wrong email-Order is set a side-The Assessing Officer is directed to pass an order after giving a reasonable opportunity of hearing. [S. 156, Art. 226]**

On writ the Court held that the notice of hearing was sent to wrong email and the assessee was unable to response. The order is set a side. The Assessing Officer is directed to pass the order by giving a reasonable opportunity of hearing.

Jyoti Narang v. ITO (2024) 471 ITR 66 (Delhi)(HC).

S. 143(3): Assessment-Reassessment-After the expiry of four years-Rental income-Capital gains-Investment in a residential house-Change of opinion-Audit objection-TOLA-Disputed facts cannot be adjudicated in writ jurisdiction-Availability of alternate remedy-Writ petition is dismissed with liberty to file an appeal. [S. 23, 45, 54F, 144B, 147148, 151, 250, Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act (TOLA), Art. 226] 1756

The petitioner filed his return of income for AY 2015-16, which was accepted under Section 143(3) of the Act. Subsequently, based on audit objections, the Assessing Officer issued a notice under Section 148 for reassessment, citing incorrect deduction under Section 54F and non-disclosure of rental income under Section 23. The petitioner objected that the reassessment was based on a change of opinion and at the behest of the audit party. However, the reassessment order was passed, making additions to income from house property and disallowing part of the deduction under Section 54F. The petitioner challenged the reassessment order through a writ petition, contending that no sufficient opportunity of hearing was provided and raising objections under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act (TOLA). The High Court dismissed the writ petition, holding that the petitioner had an alternate remedy of appeal under Chapter XX of the Income-tax Act. The court noted that the objections regarding TOLA and jurisdiction under Section 147 were not raised during the original reassessment proceedings. It further held that disputed facts could not be adjudicated in writ jurisdiction and directed the petitioner to file an appeal within four weeks, extending the ad-interim relief for the same period. The court also observed that it had not expressed any opinion on the merits and left all issues open for adjudication by the appellate authority. (AY. 2015-16)

Vijay Vasant Kulkarni v. ACIT [2025] 303 Taxman 519 (Bom)(HC)

S. 143(3) : Assessment-Suppression of Sales-Consignment sales are treated as unaccounted sales-Only gross profit and investment in purchases are taxable, not the entire sale proceeds. [S. 69] 1757

The assessee, a dealer in food grains and a commission agent, claimed that a substantial portion of its turnover represented consignment sales on which no commission was charged as the consignors were petty agriculturists. The Tribunal found that the parties to whom consignment sales were allegedly made were the same parties with whom regular sales were effected, and no evidence of commission receipts or any documentary material was produced to substantiate the explanation. The explanation was held to be devoid of merit, and the Commissioner (Appeals) was justified in treating the consignment sales as suppressed sales. However, only the gross profit embedded in such suppressed sales could be assessed as income, and 20% of the suppressed sales could be treated as undisclosed investment for making the corresponding purchases, and not the entire sale proceeds. (AY. 2015-16)

CIT v. Nav Bharat Trading Company (2025) 121 ITR 7 (SN) (Delhi)(Trib.)

1758 **S. 143(3) : Assessment-Limited scrutiny-Addition made on other issues-AO exceeded his jurisdiction in disallowing the capital loss and determining the business loss by allowing set-off against capital gain-The order of the AO is set aside.[S. 45, 143(2)]**
Held that in a "limited scrutiny", the scope of enquiry shall be restricted to the "limited scrutiny" issues; in view of the fact that the assessee's case was selected only for the examination of refund claim and whether investment and income relating to foreign bank account are duly disclosed, the AO exceeded his jurisdiction in disallowing the claim of capital loss and determining the business loss by allowing set off against capital gain by expanding the scope of "limited scrutiny" without obtaining prior approval from the concerned Principal CIT/CIT; impugned order of the AO is set aside.(AY. 2016-17, 2017-18)
Anantula Vijay Mohan v. DCIT (2025) 236 TTJ 312 / 174 taxmann.com 1002 (Bang)(Trib)

1759 **S. 143(3) : Assessment-Limited scrutiny-Conversion of limited scrutiny into complete scrutiny without prior approval-Cash deposit-AO was obliged to take the specific permission of the Principal CIT before expanding the scope of enquiry to cover the credits in the assessee's bank account-Failure to do so is a clear violation of the CBDT Instruction No. F. No. 225/402/2018/ITA.II, dt. 28th Nov., 2018-The addition made by him is not sustainable-Cash credit-Reconciliation was filed-Addition was deleted. [S.68]**
Held that since the assessee's case was selected only to examine the cash deposits made during the year and the AO has himself recorded in his order that the cash deposits did not exceed Rs. 3,92,500, he could not have expanded the scope of his enquiry and make consequent additions by making enquiry into the entire credits in the bank account without specific permission from the Principal CIT addition is, deleted. Tribunal also held that the assessee has furnished an explanation by way of reconciliation of all the credits in his bank account, and the CIT(A) having neither offered any comments nor refuted as inaccurate any part of this reconciliation, and treated the difference between the amounts credited in the bank account and the assessee's turnover as unexplained, the impugned addition is not sustainable. (AY. 2017-18)
Bindu Kumar v. ITO (2025) 236 TTJ 838 (Lucknow)(Trib)

1760 **S. 143(3) : Assessment-Limitation-Generation of multiple DINs by AO-Not barred by limitation.[S.153]**
Held that the AO passed the assessment order on ITD/AST system and generated a DIN on 31st Dec., 2019 i.e., the due date. The order was not barred by limitation for the reason that the AO inadvertently generated a separate DIN on 24th Jan., 2020, while migrating to ITBA-portfolio and again a third DIN for the intimation letter, which was delayed due to technical glitches. The order was not barred by limitation. (AY.2014-15 & 2015-16)
Andhra Pradesh Beverages Corporation Ltd. v. DCIT (2025) 237 TTJ 716 / 175 taxmann.com 567 (Hyd)(Trib)

S. 143(3) : Assessment-Non-existing entity-Intimated the AO of the merger-Prior to the insertion of S. 170A w.e.f. 1st April, 2022, there was no provision enabling the filing of a modified return-The order passed by the AO is void ab initio.[S.170A] 1761

Held that since the assessment order has been passed in the name of a non-existing company despite being informed by the assessee to the AO of its merger with the assessee, the order passed by the AO is void ab initio. AY. 2013-14, 2014-15)

Kumar Urban Development (P) Ltd. v. DCIT (2025) 237 TTJ 881 (Pune) Trib)

S. 143(3) : Assessment-Valid DIN-Assessment order without assessee's name or PAN-Omission cannot invalidate the assessment-Protected by section 292B [S.11, 156, 292B] 1762

The Tribunal held that the omission of the assessee's name, PAN, assessment year and relevant statutory provision from the assessment order did not invalidate the assessment where the order bore a valid DIN, was digitally signed by the Assessing Officer, uploaded on the portal and accompanied by a demand notice containing all material particulars. Such procedural defects were curable under section 292B, though computational mistakes in the demand notice could be rectified separately. (AY. 2017-18, 2018-19)

Rohilkhand Educational Charitable Trust v. DCIT (2025) 238 TTJ 173 / 178 taxmann.com 672 (Lucknow)(Trib.)

S. 143(3): Assessment-Unaccounted Production-Electricity consumption alone cannot justify an addition. [S. 69] 1763

The Tribunal held that no addition for alleged unaccounted production or sales could be made merely on the basis of variation in electricity consumption in the absence of evidence of unaccounted purchases, production or sales. Since the assessee had satisfactorily explained the variation in power consumption and no incriminating material was found during the search, the addition was deleted (AY. 2018-19 to 2020-21)

Rosha Alloys (P.) Ltd. v. DCIT (2025) 238 TTJ 357 / 127 ITR 76 / 175 taxmann.com 622 (Chd.)(Trib.)

S. 143(3): Assessment-Limited scrutiny-AO cannot travel beyond the scope of limited scrutiny without converting it into complete scrutiny-Capital gains-Investment in a residential house-Exemption under section 54F could not be denied merely because construction was completed after three years.[S. 45, 54F] 1764

The assessment was selected for limited scrutiny regarding disclosure of investment in property; however, the AO disallowed the deduction under section 54F without converting the proceedings into complete scrutiny. The Tribunal held that the AO exceeded his jurisdiction and the addition was invalid. Further, where the assessee utilised the capital gains within the prescribed period for the purchase of an old uninhabitable house and construction of a new residential house, exemption under section 54F could not be denied merely because construction was completed after three years. AY. 2016-17).

Sneh Gupta v. ACIT (2025) 238 TTJ 654 / 178 taxmann.com 578 (Delhi)(Trib.)

1765 **S. 143(3) : Assessment-Gratuity-Disallowance in intimation under section 143(1)-Payment made before due date-Deduction allowable. [S.43B, 143(1)]**

The Centralised Processing Centre disallowed gratuity expenditure while processing the return under section 143(1). The Tribunal held that the payment had been made before the due date of filing the return and was duly supported by the tax audit report. Since the disallowance merged with the scrutiny assessment under section 143(3), the assessee was entitled to challenge the same in appeal. The disallowance was deleted. (AY. 2020-21).

Toyota Boshoku Automotive India (P.) Ltd. v. Dy. CIT (2025) 126 ITR 298 / 174 taxmann.com 933 (Bang.)(Trib.)

1766 **S. 143(3): Assessment-Gross profit-Ad hoc enhancement without defects in books-Addition deleted-Depreciation-CPC disallowance without reasons-Matter remanded-[S.32, 143(1), 145(3)]**

The Assessing Officer applied a gross profit rate of 25 per cent. and the Commissioner (Appeals) reduced it to 24 per cent. The Tribunal found both estimates arbitrary since the books were fully vouched and no defects were established. The addition sustained by the Commissioner (Appeals) was deleted. The Tribunal held that the Centralised Processing Centre had disallowed depreciation on the assessee's power plant without assigning any reason. As no incriminating material had been found during the search, the issue was restored to the Assessing Officer for fresh adjudication on merits. (AY. 2014-15 to 2020-21).

Dy. CIT v. DSG Papers (P.) Ltd. (2025) 127 ITR 410 (Chd.)(Trib.)

1767 **S. 143(3): Assessment-Wrong mention of section 69 instead of section 50C-Typographical error-Assessment valid-Absence of Document Identification Number (DIN)-No prejudice shown-Assessment not invalid-Manual signature-Absence of digital signature-Assessment valid-Capital gains-Full value of consideration-Stamp valuation-Stamp duty value exceeding declared sale consideration-Addition upheld-Search assessment-Approval of prescribed authority-Approval available on record-Assessment upheld. [S.45, 50C, 69,132, 153D 282A]**

Although the Assessing Officer mentioned section 69 while making the addition, the assessment order clearly discussed suppression of sale consideration under section 50C. The Tribunal held that the incorrect reference to section 69 was merely a typographical error, which was rightly corrected by the Commissioner (Appeals), and did not affect the validity of the assessment. The assessee challenged the assessment on the ground that the assessment order did not bear a Document Identification Number (DIN). The Tribunal held that, in the absence of any material showing prejudice to the assessee, the assessment could not be treated as invalid merely for want of a DIN, particularly when the issue was pending before the Supreme Court The assessment order was manually signed by the Assessing Officer and did not contain a digital signature. The Tribunal held that since the assessee failed to demonstrate any prejudice caused by the absence of a digital signature, the assessment order was valid. The assessee disclosed sale consideration of ₹21 lakhs whereas the stamp valuation authority adopted the value of the property at ₹23.40 lakhs. The Tribunal held that as the stamp duty value exceeded

the permissible tolerance limit, the provisions of section 50C were rightly invoked and the difference was liable to be taxed. The assessee contended that the assessment was invalid for want of approval under section 153D. The Tribunal found that the approval granted by the Additional Commissioner was available on record and rejected the challenge to the validity of the assessment. (AY. 2018-19).
Kavita Samtani v. Dy. CIT (2025) 127 ITR 705 (Jaipur)(Trib.)

S. 143(3): Assessment-Bogus purchases-Purchases supported by invoices, stock records and banking evidence-Sales accepted-Addition deleted-Delay of 136 days in filing cross-objection-Bona fide belief-Delay condoned. [S. 145(3), 254(1)] 1768
The Assessing Officer treated certain purchases as bogus mainly on the basis of alleged irregular CENVAT credit. The assessee produced purchase invoices, ledger accounts, stock registers, evidence of movement of goods and proof of payment through banking channels. Since the sales were accepted and no defect was found in the records, the Tribunal held that the purchases were genuine and deleted the addition. The assessee filed the cross-objection with a delay of 136 days under the bona fide belief that, having substantially succeeded before the Commissioner (Appeals), no cross-objection was required. The Tribunal held that sufficient cause had been shown and condoned the delay in the interest of justice (AY. 2018-19, 2019-20 & 2020-21).
Rosha Alloys P. Ltd. v. Dy. CIT (2025) 127 ITR 76 / 175 taxmann.com 622 (Chd.)(Trib.)

S.143 (3): Assessment-Revised claim during assessment proceedings-Re-computation of deduction-Fresh revised return not necessary-Tribunal can entertain claim.[S. 10AA, 139, 254(1) 1769
The assessee revised the quantum of deduction under section 10AA during the assessment proceedings by including interest income forming part of its business profits. The Tribunal held that the assessee had not made a fresh claim but had merely recomputed the deduction already claimed in the return. Even otherwise, the Tribunal was competent to entertain a lawful claim not made through a revised return. (AY. 2014-15).
Tata Consultancy Services Ltd. v. Dy. CIT [2023] 154 taxmann.com 372 / (2025) 129 ITR 667 (Mum.)(Trib.)

S. 143(3) : Assessment-Income-Alleged suppression of purchases-Comparison of eleven months' purchases with twelve months' purchases-Wrong methodology-Addition deleted.[S.5] 1770
The Assessing Officer compared the assessee's purchases recorded for eleven months with the suppliers' accounts for twelve months and treated the difference as unaccounted purchases. The Tribunal held that the comparison was fundamentally erroneous and incapable of establishing suppression of purchases. As the addition was based on an incorrect methodology, it was rightly deleted. (AY. 2010-11 to 2012-13).
Dy. CIT v. WD and Sons P. Ltd. (2025) 129 ITR 278 (Chennai) (Trib.)

1771 **S. 143(3): Assessment-Return filed in name of the amalgamating company after amalgamation-Return non est-Assessment in the name of a non-existent entity also invalid. [S. 139(9)]**

After amalgamation, the assessee filed the original as well as the revised return in the name of the amalgamating company, which had ceased to exist. The Assessing Officer framed the assessment in the name of the non-existent entity. The Tribunal held that a return filed in the name of a non-existent person is non est and does not constitute a defect curable under section 139(9). Consequently, the assessment framed in the name of the non-existent company was also invalid and was rightly quashed. (AY. 2014-15).

Star India Pvt. Ltd. v. Asst. CIT (2025) 129 ITR 94 (Mum.)(Trib.)

1772 **S. 143(3) : Assessment-Document Identification Number (DIN)-Absence of DIN on assessment order-No prejudice established-Assessment not invalid-Digital signature-Absence of proof of prejudice-Assessment not invalid-Search assessment-Approval by Additional Commissioner-Prior approval obtained-Assessment valid.[S. 132, 153D, 282A]**

The assessee challenged the validity of the assessment order on the ground that it did not contain a Document Identification Number (DIN). The Tribunal held that CBDT instructions regarding DIN are meant for departmental compliance and, in the absence of any allegation that the assessment order was fabricated or that any prejudice had been caused to the assessee, the omission to mention the DIN did not invalidate the assessment. The Tribunal held that the assessee failed to establish that the assessment order was invalid merely because it allegedly lacked a digital signature. In the absence of evidence showing prejudice or that the assessment order was fabricated, no interference was called for. The assessee contended that the assessment was void for want of approval under section 153D. The Tribunal found from the record that the Additional Commissioner had granted approval after examining the draft assessment order. Accordingly, the mandatory requirement of section 153D stood complied with and the assessment could not be treated as invalid (AY. 2016-17).

Kavita Samtani v. Dy. CIT (2025) 124 ITR 119 (Jaipur)(Trib.)

1773 **S 143(3): Assessment-Ex parte order-Principles of natural justice-One more opportunity to assessee-Matter remanded.[S. 250, 254(1)]**

The assessee failed to effectively participate before both the Assessing Officer and the Commissioner (Appeals), resulting in an ex parte appellate order. The Tribunal held that although the assessee had been negligent in prosecuting the matter, the dispute ought to be decided on the merits and no person's rights should be defeated without an effective opportunity of hearing. Accordingly, the assessment was restored to the Assessing Officer for fresh adjudication with a direction that the assessee shall fully cooperate and shall not seek unnecessary adjournments. (AY. 2013-14).

Puneet Singhvi v. ITO (2025) 125 ITR 378 (Jaipur)(Trib.)

S.143(3): Assessment-Limited scrutiny-Enquiry into assets and liabilities arising from information furnished during assessment-Within scope of scrutiny.[S.2(13), 22, 23, 28(i), 44AD] 1774

The assessee contended that the Assessing Officer travelled beyond the scope of limited scrutiny. The Tribunal held that the additions arose from information regarding assets and liabilities which the assessee was statutorily required to disclose in the return of income but failed to furnish. Since the issues emerged from details produced during assessment proceedings, the Assessing Officer had acted within the permissible scope of limited scrutiny. (AY. 2018-19).

Bindumalyam Panduranga Allanharinarayan v. ITO (2025) 125 ITR 507 / 175 taxmann.com 388 (Bang.)(Trib.)

S. 143(3) : Assessment-Protective assessment-Additional ground-No provision exists in the IT Act giving power to the AO to write a letter to the first appellate authority to consider and treat the protective assessment as a substantive assessment; no protective assessment survives in the absence of a substantive assessment-Legal representative-order of the CIT(A) in making cause title in the automatically generated system data-The mention of deceased assessee's name in the cause title did not vitiate the order. [S. 131, 159, 254(1)] 1775

Assessee, who is a power agent of one Tangarajan Nadar, sold property to Sethuprakasam. In his statement recorded under s. 131, Sethuprakasam stated that he purchased land from Tangarajan Nadar and paid sale consideration also to Tangarajan Nadar.AO assessed capital gains in the hands of the assessee protectively on behalf of Tangarajan Nadar. Later, in a letter addressed to the CIT(A), the Dy. CIT requested the CIT(A) to consider the protective assessment as a substantive assessment. Tribunal held that no provision exists in the IT Act giving power to the AO to write a letter to the first appellate authority to consider and treat the protective assessment as a substantive assessment. CIT(A) rightly held that no protective assessment survives in the absence of a substantive assessment. The procedural mechanism for generating cause title is based on the system linked with the PAN of the assessee. There was no intervention in the order of the CIT(A) in making the cause title in the automatically generated system data. Therefore, the mention of the deceased assessee's name in the cause title did not vitiate the order. (AY. 2009-10)

ACIT v. Arvind E. & Mrs. Baskaravalli L/H Of M.R.P. Eraavanan (2025) 234 TTJ 555 (Chennai)(Trib)

S. 143(3): Assessment-Limited Scrutiny-Depreciation-Goodwill-Increase in share capital-Assessing Officer could not have enlarged scope of limited scrutiny to full scrutiny without prior approval of Jurisdictional Commissioner-Addition made by Assessing Officer disallowing depreciation on goodwill was quashed.[S. 32, 143(2)] 1776

Assessee-company filed its return of income, which was selected for limited scrutiny under CASS to examine the issue of a large increase in share capital during the year, and accordingly, a notice under section 143(2) was issued to the assessee. In response, assessee stated that it had taken over a proprietorship concern and had recorded all assets and liabilities, including intangible assets like goodwill, etc., at acquisition cost on the basis of a valuation report by a CA firm that was an expert in business valuation

and had issued shares against assets and liabilities taken over as per said valuation report. Assessing Officer did not make any addition in respect of the issue of increase in share capital; however, he proceeded to examine the issue of claim of depreciation and made an addition by disallowing depreciation on goodwill. CIT(A) affirmed the order of the Assessing Officer. On appeal the Tribunal held that merely because issue of claim of depreciation was germane to issue of purchase of assets/goodwill, that itself, would not confer jurisdiction upon Assessing Officer to suo motu enlarge his jurisdiction from limited scrutiny to full scrutiny and entitle him to make additions by disallowing depreciation on goodwill, which issue was neither subject nor within scope of limited scrutiny issue of increase in share capital. The Assessing Officer, without seeking any permission from the competent authority, exceeded jurisdiction by enlarging the scope of limited scrutiny and made an addition by disallowing depreciation on goodwill; the assessment order was quashed. (AY. 2017-18)
Sagarlaxmi Agriseeds (P) Ltd. v. ACIT (2025) 214 ITD 204 (Ahd) (Trib.)

1777 **S. 143(3) : Assessment-Non existing company-Merger-Assessment was invalid and quashed. [S. 170]**
The assessee company merged with Capgemini with effect from 1-4-2020 pursuant to NCLT order dated 24-6-2021. Despite being informed, the AO passed assessment in the name of the erstwhile entity. The DRP upheld the order. Tribunal held that once the company had ceased to exist on account of merger, assessment framed on a non-existent entity is void ab initio. Held, assessment quashed as invalid. (AY. 2020-21)
Liquidhub Analytics (P.) Ltd. v. NFAC (2025) 212 ITD 349 (Pune) (Trib.)

1778 **S. 143(3) : Assessment-limited scrutiny-Disallowance of expenditure-Exempt income-Suo moto disallowed the expenditure-Not part of reasons for limited scrutiny-Capital gains-Short term loss-Suo moto disallowed the expenditure-Disallowance made by the Assessing Officer is deleted. [S. 14A, 28(i), 45, 143(3), R. 8D]**
Held that the Assessing Officer had travelled beyond his jurisdiction and made additions on issues which were not part of reasons for limited scrutiny, same was to be set aside. Held that since assessee itself had disallowed large expenses claimed in shape of loss on share warrants and added back to total income computed under head Income from Business or Profession scope of Assessing Officer in limited scrutiny would end. Disallowance of expenses are deleted (AY. 2015-16)
Dahila Infrastructure (P.) Ltd. v. DCIT (2025) 212 ITD 184 (Delhi) (Trib.)

1779 **S. 143(3): Assessment-limited scrutiny-Profits chargeable to tax-Remission or cessation of trading liability-The addition made under s. 41(1) and disallowance of transmission charges are deleted.[S. 41(1)].**
Assessment was selected for limited scrutiny for examination of some specific issues. The AO made addition made under S. 41(1) and disallowance of transmission charges. CIT(A) affirmed the disallowances. On appeal the Tribunal held that the AO has not obtained the permission or approval was obtained from the Principal CTT for converting limited scrutiny into complete scrutiny. Tribunal held that in view of CBDT Instruction No. 20 of 2015, dt. 29th Dec., 2015 and Instruction No. 5 of 2016, dt. 14th July, 2016 read with Director General of IT (Vigilance) letter dt. 30th Nov., 2017 before venturing

into other issues outside the scope of limited scrutiny, the AO should take prior approval of Principal CIT. Addition is deleted. (AY.2015-16)
Sitac Re (P) Ltd. v. Dy. CIT (2025) 233 TTJ 971/ 174 taxmann.com 428 ((Delhi)(Trib)

S. 143(3): Assessment-limited scrutiny for examination of specific issue-Assessing Officer could not have ventured into a different issue without getting said limited scrutiny converted into complete scrutiny as per CBDT Circular No.20/2015 dated 29.12.2015. [S. 56 (2)(viib)] 1780

Assessee had e-filed his return of income declaring certain amount as income. Subsequently, case of assessee was selected for limited scrutiny for examination of specific issues. During course of assessment proceedings, Assessing Officer held that assessee had purchased certain land for a consideration of Rs. 5 lakhs, whereas, Fair Market Value (FMV) of same was Rs.55.65 lakhs. He made an addition of Rs.50.65 lakhs under section 56(2)(vii)(b). On appeal the Tribunal held that since case of assessee was selected for limited scrutiny for examination of specific issues, Assessing Officer could not have ventured into an issue (difference in purchase consideration of property) that did not form basis for taking up case for such scrutiny assessment without getting said limited scrutiny converted into complete scrutiny as per CBDT Circular No.20/2015 dated 29.12.2015. Addition is deleted. (AY. 2015-16)
Rahul Bajpai v. DCIT (2025) 211 ITD 580 (Raipur) (Trib.)

S. 144 : Best judgment assessment-Estimation of unaccounted sales of finished goods manufactured out of excess scrap-Neither books of account rejected nor any evidence to support suspicion of unaccounted manufacturing and sale of finished goods-Order of Tribunal deleting additions is affirmed. [S. 260A] 1781

Dismissing the appeals, the Court held that the Assessing Officer had consistently accepted the books of account and the sale of semi-finished goods made by the assessee to its sister concern for the assessment years 2010-2011 to 2014-2015 in his orders under section 143(3) of the Income-tax Act, 1961, and no additions had been made towards the sale of semi-finished goods. Order of Tribunal affirmed. (AY.2019-20)
PCIT v. Jamna Auto Industries Ltd [2023] 156 taxmann.com 239 (2025) 483 ITR 424 (P & H) (HC)

S. 144 : Best judgment assessment-Principle of natural justice-All correspondence sent to Assessee's old address-Intimation received by assessee at new address after three years-Direction to provide opportunity of hearing.[Art. 226] 1782

Held, allowing the petition, that it was an admitted fact that the assessee was initially residing at New Delhi and had shifted her residence from Delhi to Chennai in 2008. Hence, she was not at Delhi when the assessment order was passed. All the correspondence was sent to the old address of the assessee and she was intimated about the correspondence only in 2022. The assessee having submitted that if one last opportunity was provided to her to file a reply she would put forth her case before the Income-tax Officer, the order was set aside and the matter was remanded back to the Department, with a direction to provide an opportunity to the assessee for filing a reply and personal hearing. (AY.2012-13)
Vidya Ravichandran v. ITO (2025) 483 ITR 719 (Mad)(HC)

1783 **S. 144: Best judgment assessment-Cash deposits during demonetisation-Unexplained money-Non-receipt of the notice-Ex parte order was set aside, and the Assessing Officer was directed to make fresh adjudication.[Art. 226]**
The Assessing Officer passed an ex parte order under Section 144 of the Act. On writ, the assessee contended that they did not get notice to the appropriate mail and no notice was communicated through any other mode. High Court set aside the ex parte order and remanded it back to the Assessing Officer for fresh adjudication. (AY. 2017-18)(SJ)
Yashaswini Gruha Nirmana Sahakara Sangha Niyamitha v. ITO (2025) 307 Taxman 244 (Karn.)(HC)

1784 **S. 144 : Best judgment assessment-Books of account not rejected-Based on departmental valuation Officer's report-Reference made under section 142A by the Assessing Officer to the Departmental Valuation Officer was not in accordance with law-Order of Tribunal affirmed. [S. 142A, 145, 260A]**
Held, dismissing the appeal of the revenue the Court held that that the best judgment assessment wherein he had relied on the estimation of investment made by the assessee, as disclosed by the Departmental Valuation Officer. Undeniably, the books of account of the assessee were not rejected on or before April 5, 2006 but later after the submission of the Departmental Valuation Officer's report dated September 14, 2006. The Tribunal was correct in holding that the reference made under section 142A by the Assessing Officer to the Departmental Valuation Officer was not in accordance with law.(AY. 2004-05)
PCIT v. Parmarth Iron Pvt. Ltd [2024] 161 taxmann.com 709 /(2025) 478 ITR 452 (All)(HC)

1785 **S. 144 : Best judgment assessment-Pendency of appeal and revision-Assessment order is stayed till proceedings before Appellate Authority or Revisional Authority were decided. [S. 144B, 148, 246A, 264, Art. 226]**
On writ the Court held that the petitioner shall pursue the proceedings before the Commissioner (Appeals) against the impugned assessment order as also the proceedings before the Revisionary Authority. It is open to the petitioner to raise contentions in regard to the illegality of the notice issued to the petitioner under section 148.. Till the proceedings before the Appellate Authority or Revisionary Authority are decided, the assessment order shall remain stayed. All contentions of the petitioner on the pending proceedings are expressly kept open. (AY. 2018-19)
Real Infrastructure Co. v. ITO (2025) 302 Taxman 116 (Bom.)(HC)

1786 **S. 144 : Best judgment assessment-Estimation of gross receipt-Special Audit Report-Special Audit Report for earlier assessment year cannot be basis to make addition for later assessment year-Matter remanded to Assessing Officer for re computation of income. [S. 37, 142(2A), Art. 226]**
Held that Special Audit Report for earlier assessment year cannot be basis to make addition for later assessment year. Matter remanded to Assessing Officer for re computation of income. (AY.2018-19)(SJ)
World Vision India v. Add. CIT (2025) 472 ITR 564 / 170 taxmann.com 594 (Mad)(HC)

S. 144 : Best judgment assessment-Rejection of books-Estimation of income-Addition restricted on basis of earlier accepted profit rate. [S. 44AB, 145(3)] 1787

The assessee failed to file its return despite substantial turnover and also failed to get its accounts audited under section 44AB. The Assessing Officer rejected the books of account under section 145(3) and disallowed 10 per cent. of the expenditure. The Tribunal held that while rejection of books was justified, estimation of income had to be fair and based on accepted past results. Considering that the assessee's net profit rate accepted in the preceding year worked out to 1.52 per cent., the addition was restricted by directing the Assessing Officer to compute income at 1.52 per cent. of the turnover, after granting credit for the income already returned. (AY. 2011-12).

Adworld Communications (P.) Ltd. v. Dy. CIT (2025) 125 ITR 160/177 taxmann.com 1 (Jaipur)(Trib.)

S 144: Best judgment assessment-Amounts of investments not fully disclosed in books of account-Purchase of flat-Investment from maturity of fixed deposits-Matter was restored to the file of the Assessing Officer for a fresh examination. [S.69B] 1788

Tribunal held that the assessee was unable to present her case effectively before the Assessing Officer as well as the Commissioner (Appeals); the matter was to be restored to the file of the Assessing Officer for a fresh examination. (AY. 2011-12)

Rekha Shah v. NFAC (2025) 213 ITD 371 (Mum) (Trib.)

S. 144B : Faceless Assessment-Natural justice-Non-consideration of adjournment request-Alternative remedy-Writ petition was dismissed-SLP dismissed as withdrawn with liberty prayed. [Art. 136] 1789

Assessee filed writ petition and challenged assessment order alleging breach of natural justice due to non-consideration of adjournment request despite seeking video conferencing hearing. It was noted that video conferencing facility and personal hearing was offered to assessee but assessee's representative could not attend due to being preoccupied with State Assembly. Dismissing the petition the Court held that this was not a fit case to deviate from standard rule of exhaustion of alternate remedies and all contentions now raised by assessee could be better adjudicated before Appellate Authority, and no extraordinary circumstances had been made out to bypass statutory remedies and entertain petition. Assessee filed instant SLP against said order. Assessee sought permission to withdraw instant SLP and stated that, if so advised, it would file an appeal and also move an application for grant of stay. SLP was dismissed as withdrawn with liberty as prayed. (AY. 2023-24)

Maharashtra State Road Development Corporation Ltd. v. Assessment Unit, ITD (2025) 305 Taxman 492 (SC)

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S. 144B: Faceless Assessment-Video conference-Adequate opportunity of hearing should be given to assessee.[S. 147, Art. 226] 1790

Held that the assessee had sought video conferencing and uploaded the request on March 28, 2022. However, without providing an opportunity to hear through video conferencing, the order of reassessment under section 144 read with section 144B of the Act dated March 29, 2022, was passed. The order was not valid. (AY.2017-18)

Studio Virtues v. NFAC (2025) 483 ITR 636 (Guj)(HC)

1791 **S. 144B: Faceless Assessment-Opportunity of personal hearing must be given if requested-Order of assessment not valid.[S.144B(6), Art. 226]**
Held that the assessee had specifically made a request for an opportunity of personal hearing through video conferencing. A similar request was also made on the web portal of the Income-tax Department. It was admitted that the assessee had not been given the opportunity of a personal hearing. Hence, the order of assessment under section 144 was not valid (AY. 2017-18)
Maheshkumar Bhagvandas Patel v. ITO (2025) 482 ITR 840 (Guj)(HC)

1792 **S. 144B: Faceless Assessment-Variation proposed in draft. Twelve hours' time granted to reply to show-cause notice-cum-draft assessment order-Documents requested not supplied-Request for cross-examination of person not granted Reasonable opportunity of being heard not granted Violation of principles of natural justice-Assessment order set aside.[S. 144, 147, 148, Art. 226]**
Held, allowing the petition, that it was undisputed that the documents requested by the assessee were not supplied and an opportunity of cross-examination of the person was not granted to the assessee. Even otherwise, it was difficult for the assessee to submit a complete reply to the respondents within twelve hours. When the show-cause notice-cum-draft assessment order was issued to the assessee, reasonable and adequate opportunity was required to be given to him. Adequate opportunity was not given to the assessee and therefore, the assessment order was quashed and set aside. (AY.2014-15)
Dineshkumar Chhaganbhai Nandani v. ITO [2023] 157 taxmann.com 738 / (2025) 482 ITR 900 (Guj)(HC)

1793 **S. 144B: Faceless Assessment-Non-resident-Failure to grant personal hearing-Reassessment notice and consequential order were quashed. [S.10(15), 148, 148A(b), 148A(d), Art. 226]**
Assessee, an NRI residing in Dubai, held NRE deposits in HDFC Bank and Standard Chartered Bank, claimed income only as interest on NRE deposits exempt under section 10(15), and was alleged by the department to have not filed a return for the relevant assessment year. The case was flagged under Risk Management Strategy, and a show-cause under section 148A(b) was issued. An order under section 148A(d) held it to be a fit case for reassessment, alleging escapement of income of about Rs. 3.05 crores, and a notice under section 148 was issued. During reassessment, notices under section 142(1) were issued, and a show-cause proposed addition of about Rs. 3.05 crores and fixed a personal hearing on 25-3-2023. Assessee sought 15 days' adjournment. However, without granting a personal hearing despite assessee's request, the Assessing Officer passed a reassessment order on 31-3-2023 under section 147 read with section 144B, adding about Rs. 3.05 crores. On writ, the Court held that it is a fundamental proposition of law that the other side should be heard before any order is passed, and maxim audi alteram partem is broad enough to include a rule against bias since a fair hearing is a must for an unbiased hearing. Since hearing was not granted to assessee despite a request being made, the reassessment order was quashed and set aside. (AY. 2018-19)
Hasmukh Nanalal Parekh v. UOI (2025) 307 Taxman 427 (Guj)(HC)

S. 144B: Faceless Assessment-Failure to provide personal hearing-Assessment Order as well as notice were to be quashed and set aside-Matter remanded back to NFAC to comply with SOP and pass a fresh order after following due procedure of law.[S. 144B(6), 147, 148, 148A(b), 148A(d), Art. 226] 1794

Assessing Officer passed the assessment order without providing an opportunity for video conferencing as well as a draft assessment order to assessee. On writ, the Court held that since the assessee had responded and categorically demanded a personal hearing through video conferencing, which was not granted, authorities had failed to follow the mandatory requirement of the Standard Operating Procedure (SOP) dated 3-8-2022 (Faceless Assessment). Accordingly, the Assessment Order as well as the notice were to be quashed and set aside and matter remanded back to NFAC to comply with SOP and pass a fresh order after following the due procedure of law. (AY. 2016-17)

Mukeshbhai Barbarbhai Desai v. IDAU, NFAC (2025) 307 Taxman 265 (Guj.)(HC)

S. 144B : Faceless Assessment-Validity of assessment order under section 143(3) passed by serving Show Cause notice for variation of income on email Id not provided by the assessee-Assessment set aside and remanded back at the stage of Show cause proceeding.[S.143(3), 144B(1)(xii), Art. 226] 1795

On writ the Court held that where a show cause notice was served on an email ID never furnished by the assessee, and the assessment was completed on the premise that no reply had been filed, such assessment order is vitiated for violation of the principles of natural justice. Accordingly, the assessment order was set aside, and the matter was remanded to the Assessing Officer to recommence the proceedings from the stage of issuance of a valid show cause notice. (AY. 2022-23)

Tulsidas Khimji (P.) Ltd. v. ACIT (2025) 306 Taxman 274 (Bom.)(HC)

S. 144B : Faceless Assessment-Reassessment-Standard Operative Procedure-One day time was given to upload the evidences-Violation of principle of natural justice- 1796

Assessee's case was selected for reassessment under section 147-In continuation with assessment proceedings, Faceless Assessment Unit instructed assessee to upload certain evidences granting him barely one day and assessment was completed. On writ the Court held that since show cause notice was issued on 7-3-2025 fixing due date of submission of reply on 9-3-2025, same was contrary to Standard Operating Procedure which stipulates response time of seven days. Therefore, there had been flagrant violation of principles of natural justice. Since inadequate time was granted to assessee to furnish voluminous documents, assessment order was to be set aside and matter was to be remitted for fresh adjudication.(AY. 2020-21)

Ashok Kumar Meher v. CBDT (2025) 305 Taxman 380 (Orissa) (HC)

S. 144B : Faceless Assessment-Principle of natural justice-Opportunity of hearing-Assessment order having been passed in violation of principle of natural justice was set aside and matter was to be restored to Assessing Officer for taking suitable steps for rehearing of case by providing reasonable opportunity of hearing to assessee. [Art. 226] 1797

Assessee filed its return of income which was accepted and an assessment order was passed. Thereafter, a second notice was issued by department on 13-3-2025, wherein

response was sought from assessee by 17:00 hours of 15-3-2025 i.e. within two days which was a very short time for filing response. The Assessment order was passed. On writ the Court held that date of 14-3-2025 was declared as holiday on occasion of Holi festival, therefore, assessment order having been passed in violation of principle of natural justice was set aside and matter was to be restored to Assessing Officer for taking suitable steps for rehearing of case by providing reasonable opportunity of hearing to assessee. (AY. 2023-24)

Ramesh Kumar Jain v. CIT (2025) 305 Taxman 640 (Chhattisgarh)(HC)

1798 **S. 144B : Faceless Assessment-Reassessment-No jurisdictional error-Writ petition dismissed. [S. 148, 151, Art 226]**

Dismissing the writ petition the Court held that the notice under S. 148 was duly served on the registered e-mail of the assessee; Department has followed the procedure as envisaged under S. 144B; in course of faceless assessment at every stage approval from competent authorities have been obtained. It is not a case of jurisdictional error. (AY. 2014-15)

Awadh Kishor Singh v. NFAC (2025) 344 CTR 207 / 248 DTR 337 / 171 taxmann.com 722 (Pat)(HC)

1799 **S. 144B : Faceless Assessment-Assessment order passed without issuing show-cause notice-cum-draft assessment order-Assessment order and consequential demand notice and recovery proceedings set aside-Matter remanded to Assessing Officer-Violation of principles of natural justice Assessee need not be relegated to statutory remedy of appeal.[Art. 226]**

Allowing the petition the Court held that the assessment order passed without issuing show-cause notice-cum-draft assessment order is set aside. Matter remanded to Assessing Officer. When there is violation of principles of natural justice Assessee need not be relegated to statutory remedy of appeal. (AY. 2018-19)

Teerth Developers and Teerth Realties JV (AOP) v. NFAC (2025) 479 ITR 282 (Bom)(HC)

1800 **S. 144B : Faceless Assessment-Personal hearing not granted-Matter remanded to Assessing Officer-Violation of principles of natural justice Assessee need not be relegated to statutory remedy of appeal.[S. 143(3), Art.14, 226]**

Assessee submitting written reply and requesting personal hearing on following day Final assessment order passed without granting opportunity of hearing. On writ the Court held that requirement of personal hearing provided under section 143(3) and intrinsically ingrained in section 144B. Additions made without considering assessee's reply or granting opportunity of personal hearing Deprivation of hearing violated fundamental right under article 14 Foundational illegality in assessment required to be addressed at inception Assessee not to be relegated to alternative remedy-Relief not to be denied merely due to one day's delay in submitting response Assessment order, notice of demand and penalty notices without jurisdiction and unsustainable. Income-tax. (AY. 2020-21)

Vimal Trading v. NFAC (2025) 479 ITR 292 (Bom)(HC)

S. 144B : Faceless Assessment-Standard Operating Procedure Period of seven days must be given to respond the notice-Order is quashed and set aside [S. 144B(6)(xi), Art.226] 1801
National Faceless Assessment Centre, has notified the "Standard Operating Procedure for Assessment Unit under the Faceless Assessment provisions of section 144B of the Act", dated August 3, 2024. Paragraph N of the order under the heading "Process of assessment", in clause N.1.3 thereunder provides that a period of seven days be given to the assessee for obtaining response from issuance of show-cause notice. Held, that the show-cause notice was issued on March 22, 2024. It was also clear that sufficient time was available to the Assessing Officer to pass an assessment order even if he were to grant seven days' time to the assessee to file a reply to the show-cause notice. However, the Assessing Officer granted only two days' time at the first instance and thereafter extended the time by another two days, which apart from being not sufficient, was certainly not in accordance with the time to respond to the show-cause notice, as prescribed under the Standard Operating Procedure. The Assessing Officer, had arbitrarily exercised jurisdiction by granting an extension of only two days. Such approach on the part of the Department was clearly in breach of the Standard Operating Procedure, which had also resulted in a breach of the principles of natural justice, which guarantees to the assessee a fair and reasonable opportunity to respond to the show-cause notice under the procedure prescribed, in undertaking the assessment proceedings. This had surely caused a prejudice to the assessee. Hence the order dated March 27, 2024 was quashed and set aside.
Cheftalk Food and Hospitality Services Pvt. Ltd. v. ITO [2024] 165 taxmann.com 415 / (2025) 478 ITR 588 (Bom)(HC)

S. 144B : Faceless Assessment-Subsequent notice indicating the Department's intention to make assessment in a faceless manner and requiring the assessee to file a reply on the online portal rather than to the jurisdictional AO-Notice need not be interfered with. [S. 147, 148, 151(1), Art. 226] 1802
The petitioner challenged the notice dated 28 March 2024 under section 148 alleging violation of section 151(1) and claiming the Department intended to conduct proceedings in a non-faceless manner. The Court observed that a subsequent notice dated 28 June 2024 under section 148 clarified the reassessment would be completed under the faceless procedure (section 144B) and that all proceedings would be conducted electronically through the assessee's e-proceedings account. The initial notice of 28 March 2024 merely indicated the Department's intention to reopen for faceless reassessment. The assessee was required to file responses via the online portal (and did so); there was no indication the Department intended to bypass faceless procedure. Accordingly, the petition was dismissed.(SJ)
Dhiraj Lakhotia v. UOI (2025) 475 ITR 290 (Cal)(HC)

1803 **S. 144B : Faceless Assessment-Limitation-Commencement of limitation period-Directions of DRP uploaded on 31-1-2022 in Income-tax Business Application portal-Order visible and accessible to AO on same date-AO cannot rely on later internal intimation dated 3-2-2022-Assessment completed on 22-3-2022 held barred by limitation.[S.143(3), 144B(3), 144C(13), 260A]**

The Assessee's case was referred to the Dispute Resolution Panel (DRP). The DRP's directions were uploaded in the Income-tax Business Application (ITBA) portal on 31-1-2022, which was accessible to both the assessee and the Faceless Assessing Officer. However, as per case history, the AO recorded receipt of the DRP order on 3-2-2022 and completed the final assessment on 22-3-2022. The Department contended that limitation should commence from 3-2-2022, whereas the assessee argued that limitation commenced from 31-1-2022, the date of uploading in ITBA. The High Court held that section 144C of the Act is a self-contained code prescribing strict timelines for completion of assessment. Limitation cannot vary depending on internal processes or user functionalities in the ITBA. Since the DRP's order was uploaded on 31-1-2022 and was accessible in the "360-degree screen" to the Faceless AO immediately, limitation had to be reckoned from that date. The assessment order dated 22-3-2022 was thus beyond limitation. The Tribunal was justified in holding the assessment time-barred. Held, assessment order barred by limitation. (AY. 2017-18)

CIT v. Ramco Cements Ltd. (2025) 474 ITR 9 / 171 taxmann.com 306 /347 CTR 349 / 255 DTR 325 (Mad)(HC)

1804 **S. 144B : Faceless Assessment-Personal hearing-Natural justice-Video conference-Order of the Assessing Officer was quashed and set a side-Statutory authority was directed to afford a personal hearing to assessee through video conferencing. [S. 143(2), 144B(7), Art. 226]**

Assessee filed its return of income and a notice under section 143(2) was issued. Draft assessment order was passed making certain additions to assessee's income. Thereafter, a show cause notice was issued to assessee as to why assessment should not be completed as per draft assessment order. In response to show cause notice, assessee requested for a personal hearing through video conferencing. However, in online mode assessee had not exercised option but filed its reply through written submission against show cause notice. Without giving an opportunity of personal hearing, an assessment order was passed making an additional demand. On writ the Court held that the assessee had specifically made request for a personal hearing though it might be true that in online mode assessee had not exercised option, that was not a ground to deny opportunity of hearing when statute provided otherwise and no standards, procedures and processes for approving request for personal hearing had been framed by competent authority. Since assessee had specifically made request for a personal hearing, which had not been considered, there had been violation of principles of natural justice, and hence, statutory authority was directed to afford a personal hearing to assessee through video conferencing. Notification No. 3264(E) dated 12.9.2019. (AY. 2018-19) (SJ)

Federal Bank Ltd. v. ACIT (2025) 303 Taxman 118 (Ker.)(HC)

S. 144B : Faceless Assessment-Failure to issue show cause notice-cum-draft order-Breach of natural justice-Assessment order quashed. [S. 143(3), Art. 226] 1805

The Assessee's case was scrutinised and queries were raised, including payments to struck-off companies. The assessee sought adjournment and later furnished further details. However, the AO passed the final order without issuing any show cause notice-cum-draft assessment order. The Court held that s. 144B mandates issuance of such notice and opportunity to respond, being an embodiment of natural justice. Since this was not done, the assessment order suffered from incurable illegality and was quashed. Revenue may proceed afresh by following the due procedure within three months. (AY. 2018-19)

Teerth Developers & Teerth Realties JV (AOP) v. ACIT (2024) 169 taxmann.com 94 / (2025) 343 CTR 424 / 245 DTR 185 (Bom)(HC)

S.144B: Faceless Assessment-Principle of natural justice-Video conference was not provided-Order passed was quashed and set aside-Assessing Officer to pass a fresh de novo order in accordance with law. [Art. 226] 1806

Assessee filed its return of income, which was selected for scrutiny. During assessment proceedings, assessee received a show-cause notice inquiring as to why expenses/ loss from the sale of VDA assets should not be disallowed. Assessee gave a detailed explanation in response to said notice and also requested a hearing through video conferencing. Assessment order was passed without giving an opportunity for a video conference. On writ the assessee contended that no opportunity was granted to present argument or provide hearing through video conferencing prior to issuance of assessment order though specific request was made by assessee-Revenue conceded to fact that opportunity of hearing through video conferencing was not made to assessee and assessment order was passed without granting opportunity of hearing through video conferencing-Whether therefore, impugned order was passed in clear breach and violation of principles of natural justice and, it was to be quashed and set aside and, matter was to be remanded to Assessing Officer to pass a fresh de novo order in accordance with law (AY. 2023-24)

Siddharth Maneklal Patel v. NEAC (2025) 307 Taxman 327 (Guj.)(HC)

S. 144B : Faceless Assessment-Jurisdiction of Assessing Officer-Territorial Jurisdiction-Additional Commissioner of National Faceless Assessment Centre Vested with Jurisdiction to issue notice-Appeal and rectification application filed-Writ is not maintainable. [S.119(2), 120, 124 (2), 143(2) 154, 246A, General Clauses Act, 1897, S. 24, Art. 226] 1807

Dismissing the writ the Court held that the appeal and rectification is application filed by the assessee hence writ is not maintainable. Notices issued under section 143(2) by Addl. Commissioner, NAFAC instead of jurisdictional Assessing Officer to assessee under Central Charge were valid. (AY.2020-21)(SJ)

Adarsh Developers v. Dy. CIT (2025)472 ITR 765/ 158 taxmann.com 81 (Karn)(HC)

1808 **S. 144B : Faceless Assessment-Alternative remedy-Denial of opportunity of hearing on ground technically not feasible through video conference-Assessing Officer is directed to give opportunity of hearing in designated area of Department's office-Assessment order quashed and set aside.[S. 143(3), 263, Art. 226]**
Allowing the petition of the assessee, Hon'ble High Court quashed the assessment order by observing that not providing the assessee an opportunity of being heard through video conferring is contrary to the Circular dated 06.09.2021 issued by CBDT more particularly para 2(B) thereof, which requires the AO to give personal hearing to the assessee and if it is not technically possible through video conference, ought to have conducted the personal hearing in a designated area of department's office.(AY. 2018-19)
Fusion Granito Pvt. Ltd. v. ACIT (2025) 472 ITR 725 (Guj.) (HC)

1809 **S. 144B : Faceless Assessment-Ex parte order-Service of notice to an unregistered email address-Violation of principles of natural justice-Assessment order, demand notice and penalty notices are quashed and set aside-Department has given liberty to issue fresh notices if necessary in accordance with law. [S. 143(2), 282, Art. 226]**
The petitioner assessee filed her return of income for the AY: 2022-23, wherein she disclosed her registered email address tradingbco@gmail.com. The Income Tax Department processed the ITR u/s 143(1) without any discrepancy and served the intimation on the registered email address. Subsequently, it was found on the income tax portal several notices u/s 143(2) and 143(1) as also ex parte assessment order. However, all these notices and assessment order were not communicated to the assessee's registered email address but were sent to an unregistered email address named karun_b2001@hotmail.com. On Writ by the petitioner-assessee, the Hon'ble Court noted that the assessment proceedings were vitiated due to procedural lapses and non-compliances of statutory provisions as mandated u/s 282, resulting into depriving the petitioner of a fair opportunity to respond, violating the principles of natural justice. The Court further observed that the respondent's reliance on the petitioner's PAN database or an alternate email address cannot substitute for statutory compliance, that the assessment completed without issuance of notice u/s 143(2) is bad in law and accordingly the assessment order, demand notice and penalty notices are quashed, with a direction to the respondent authorities to issue fresh notices with strict adherence to the statutory provisions and ensuring proper service to the petitioner. (AY. 2022-23) (SJ)
Neha Bhawsingka v. UOI (2024) 169 taxmann.com 669 /(2025) 472 ITR 335 (Cal)(HC)

1810 **S. 144B : Faceless Assessment-Remand by Tribunal-Scrutiny assessment with certain disallowance u/s 14A-Remand by the Tribunal on the issues to JAO-The order giving effect to the ITAT's directions passed by the JAO-The jurisdiction assumed subsequently by the NFAC on completed assessment by the JAO without jurisdiction and liable to be set aside. [S. 14A, 143(3), 147, 148, 254(1), Art. 226]**
The assessee-company filed its revised return of income. The AO passed the order with addition to the assessee's declared income invoking section 14A. The CIT (Appeals) deleted the additions. On further appeal, the Tribunal remanded the issue pertaining to the fines and penalties and disallowance u/s 14A to the AO for consideration of afresh with specific directions. Pursuant to the said directions, the JAO passed the order giving

effect to the ITAT's order. Subsequent to that, the NFAC proceeded to pass another order. On Writ, the Hon'ble High Court held that there is no provision under the Act for continuing assessment proceedings after an assessment order is passed, that concluded assessment cannot be opened except by the recourse to specific provisions in this regard including Section 147 and accordingly, the initiation of further proceedings by NFAC held without jurisdiction and the impugned order is set aside. (AY. 2013-14)
Religare Enterprises Ltd. v. NFAC (2025) 172 taxmann.com 200 / 472 ITR 329 (Delhi)

S. 144B : Faceless Assessment-Cash credits-Un secured loan-No opportunity of cross examination is provided-Assessment order is set aside. [S. 68, 133(6) Art, 226] 1811
Assessing Officer passed assessment order making addition of certain as cash credits. The Assessing Officer did not supply copy of reply received from 17 parties, pursuant to notice issued under section 133(6). After issuance of show cause notice in form of draft assessment order, no any opportunity of cross-examination of parties whose replies were considered to make addition under section 68 was granted to assessee. On writ the Court held that the assessment is quashed and set aside and direction is issued to pass an order by providing an opportunity of cross-examination to assessee, if requested. Matter remanded. (AY. 2022-23)
MAA Padmavati Exports v. ITO (2024) 471 ITR 683/ 163 taxmann.com 605 (Guj) (HC)

S. 144B : Faceless Assessment-Inability to participate in video conference-Natural justice-No fault of the assessee-Matter remanded to the Assessing Officer to pass a speaking order after giving a reasonable opportunity of hearing. [S. 143(3), 144, Art. 226] 1812
Court held that the assessee could not participate in the hearing due to inability to get link of video conference. The assessment order is set aside to pass a fresh speaking order after giving opportunity of hearing to the assessee.(SJ)
Anuj Bakshi v. ACIT (2024)471 ITR 446 (Cal) (HC)

S. 144B : Faceless Assessment-Show cause notice less than 7 days-Personal hearing through video conference is not granted-All replies are considered-Alternative remedy-Writ petition is dismissed. [S,143(3), Art. 226] 1813
The petitioner challenged the order passed under section 143(3) read with section 144B of the Act on the ground of principle of natural justice. Revenue contended that the Petitioner was served with the show cause notice dated 14 December 2022 but digitally signed on 15 December 2022 at 12:55 p.m. The Petitioner applied for some time, and the Petitioner was granted the same. The Petitioner filed a reply to this show cause notice on 20 December 2022. Significantly, in this reply, which is fairly detailed, there is no grievance about inadequate notice or consequent prejudice. The Petitioner has raised all points in its defence, and there was no complaint about any serious prejudice on account of the alleged short notice. Dismissing the petition the court held that since the Assessing Officer may not have required any further clarification, no video conferencing opportunity was granted to the Petitioner. Again, based on this material, court cannot hold that this is a case of patent violation of natural justice based on which the rule of exhaustion of alternate remedies ought to be bypassed. Court relied on

Oberoi Constructions Limited v. UOI (2024) 169 taxman.com 413 (Bom)(HC) (WP L.No. 33260 of 2023 dt.11-11-2024) Writ petition is dismissed. (AY. 2021-22)
Anandkumar Rathod v. UOI. [2025] 172 taxmann.com 459 (Bom.)(HC)

1814 **S. 144C : Reference to dispute resolution panel-Draft assessment order-High Court quashing directions of Dispute Resolution Panel and assessment order passed consequent thereto-SLP of revenue was dismissed.[S. 144C(2), Art. 136]**
In response to the draft assessment order issued by the Assessing Officer, the assessee informed the Assessing Officer of its intention of filing objections before the Dispute Resolution Panel, but the Assessing Officer passed the final assessment order confirming the draft assessment order, without waiting for the mandatory period of 30 days provided under section 144C(2) of the Income-tax Act, 1961. Once the assessee received the assessment order, the assessee informed the Dispute Resolution Panel that the latter had no jurisdiction as the assessment order (albeit illegal) had already been passed and that the assessee had already filed an appeal before the Commissioner (Appeals) against it. Notwithstanding this, the Dispute Resolution Panel proceeded to issue directions based on which another assessment order was passed. On a writ petition the High Court quashed the directions issued by the Dispute Resolution Panel and the consequent assessment order. SLP of revenue was dismissed. (AY. 2015-16)
Dy. CIT v. Undercarriage and Tractor Parts Pvt. Ltd. (2025) 476 ITR 3/305 Taxman 411 (SC)
Editorial : Undercarriage and Tractor Parts Pvt. Ltd. v. DRP [2023] 156 taxmann.com 79/ 335 CTR 974 / (2024) 460 ITR 401 (Bom)(HC)

1815 **S. 144C : Reference to dispute resolution panel-International transactions-Draft assessment order must be forwarded to assessee-Failure to pass draft assessment order would render assessment order as null and void. [S.92C, 92CA, Art. 226.]**
Held that the failure to pass a draft assessment order under section 144C(1) of the Act rendered the assessment one without jurisdiction. The final assessment order passed under section 143(3) read with section 92CA read with section 254 of the Act, and the notices issued under section 156 and section 274 read with section 271 of the Act by the respondent in the case of the assessee for the assessment years 2009-2010 and 2010-2011 were quashed. (AY. 2009-10, 2010-11)
CWT India Pvt. Ltd v. ACIT [2023] 155 taxmann.com 450 / (2025) 483 ITR 194 (Bom)(HC)

1816 **S. 144C : Reference to dispute resolution panel-Limitation-Draft assessment order Assessment order passed beyond statutory limitation period of one month from date of directions issued by Dispute Resolution Panel-Order is quashed and set aside. [S.144C(13), 260A]**
Held, dismissing the appeal, the Court held that the Assessing Officer was mandated to complete the assessment "in conformity with the directions" as framed by the Dispute Resolution Panel within one month from the end of the month in which such a direction was received. Order of Tribunal affirmed.
PCIT v. Fiberhome India Pvt. Ltd [2024] 159 taxmann.com 772 / (2025) 482 ITR 221 (Delhi)(HC)

S. 144C : Reference to dispute resolution panel-Non-eligible assessee-Assessing Officer cannot propose draft assessment order to vary income or loss in return of resident assessee not eligible assessee-Order set aside.[S.144C(15)(b), Art. 226] 1817

Assessee filed return claiming status of resident of India. Thereafter, a revised return was filed wherein he claimed status of non-resident. During draft assessment proceedings it was held that assessee was a resident and not a non-resident. However, despite said finding draft assessment order was passed. DRP also upheld said order. On writ the court held that since revenue upon considering material had categorically held that claim of assessee in revised return was incorrect, revenue could not distance itself from its own finding merely because assessee claimed otherwise in his revised returns. Assessee would not be eligible assessee as defined under section 144C(15) and procedure as prescribed under section 144C could not apply to assessee. Accordingly the draft assessment order was set aside.(AY. 2021-22)

Aldrin Alberto Araujo Soares v. Dy. CIT [2024] 162 taxmann.com 186 /(2025) 482 ITR 257 (Bom (HC)

S. 144C : Reference to dispute resolution panel-Non eligible assessee-Assessing Officer cannot pass draft assessment order under section 144C(1)-Draft assessment order, final assessment order and notices of demand and penalty set aside. [S. 92CA(3), 143(3), 144C(15), 156, 270A, 271AAC, Art. 226] 1818

Held that the assessee not being an "eligible assessee" in terms of section 144C(15)(b), was not an assessee for whom the Assessing Officer was competent to pass the draft assessment order under section 144C(1) and consequently, he could not have passed the final assessment order under section 143(3) read with section 144C(3) read with section 144B. Accordingly, the draft assessment order, the final assessment order and the demand notice under section 156, as well as the notices under sections 270A and 271AAC seeking to impose a penalty, were quashed and set aside.

Classic Legends Pvt. Ltd. v. Asst. Unit (2025) 307 Taxman 95 (2026) 484 ITR 550 /348 CTR 323 / 257 DTR 418 (Bom)(HC)

S. 144C : Reference to dispute resolution panel-Assessing Officer must pass final assessment order within one month of receiving DRP directions, with no scope for extension or discretion-Order not valid.[S. 92C, 144C(13), 260A] 1819

Allowing the appeal the Court held that the Assessing Officer is mandated to pass order within time prescribed thereunder and no discretion is vested with Assessing Officer. On the facts the Assessing Officer received direction from DRP on 29-12-2015 and was required to pass assessment order within one month from end of December, 2015, Assessing Officer ought to have passed assessment order on or before 31-1-2016 and thus, assessment order passed on 18-2-2016, beyond prescribed time under sub-section (13) of section 144C, was set aside.(AY. 2011-12)

Himalaya Drug Company v. Dy. CIT (2025) 176 taxmann.com 55 / 481 ITR 682 (Karn)(HC)

1820 **S. 144C : Reference to dispute resolution panel-Time limit-Mandatory-Assessment order made after expiry of time limit provided under section 144C(13)-Invalid [S. 144C(13),153, 260A] has to be held as invalid**

Directions of DRP were received by Assessing Officer on 23-12-2014 but final assessment order was passed by Assessing Officer on 27-2-2015, since final assessment order was passed beyond expiry of one month from end of month in which directions were received as it ought to have been passed latest by 31-1-2015, assessment order was beyond limitation period provided and, therefore, assessment order was bad in law. Order of Tribunal affirmed. (AY. 2010-11)

PCIT v. Sterling Oil Resources Ltd. (2025) 481 ITR 767/ 171 taxmann.com 581 (Bom)(HC)

1821 **S. 144C : Reference to dispute resolution panel-Period of limitation-Date of uploading DRP order on ITBA Portal is to be considered as date of service to recipient and time for Assessing Officer to pass assessment order starts running from date of receipt of DRP order-Order was barred by limitation. [S.144C(13), 153, 260A, 282]**

Dismissing the appeal of the revenue, the Court held that in view of provisions of section 144C(13), date of uploading DRP order on ITBA Portal is to be considered as date of service to recipient and time for Assessing Officer to pass assessment order starts running from date of receipt of DRP order. Where DRP directions were uploaded on ITBA portal on 26-05-2022 with a DIN, as recorded from intimation letter, time for Assessing Officer to pass assessment order started running from 01-06-2022, and expired on 30-06-2022 and since same was passed on 01-07-2022, order was barred by limitation. (AY. 2018-19)

CIT (IT) v. Hyundai Rotem Co. (2025) 347 CTR 305/ 255 DTR 257 / 180 taxmann.com 18 / (2026) 484 ITR 448 (Delhi)(HC)

1822 **S. 144C : Reference to dispute resolution panel-Limitation-DRP's proceedings was issued on 10-6-2022, uploaded in ITBA portal on 22-6-2022 and communicated to Assessing Officer on 4-7-2022, last date for passing impugned assessment order would have expired on 31-8-2022 and, thus, assessment order passed on 19-8-2022 was within period of limitation. [S.144C(13), Art. 226]**

Dismissing the petition the Court held that, DRP's proceedings was issued on 10-6-2022, uploaded in ITBA portal on 22-6-2022 and communicated to Assessing Officer on 4-7-2022, last date for passing impugned assessment order would have expired on 31-8-2022 and, thus, assessment order passed on 19-8-2022 was within period of limitation. (SJ)

Extreme Networks India (P) Ltd. v. DCIT (2025) 175 taxmann.com 641/ 347 CTR 337 / 255 DTR 313 (Mad)(HC)

1823 **S. 144C : Reference to dispute resolution panel-Transfer pricing-Assessment pursuant to Tribunal remand-Failure to pass draft assessment order-Assessment order passed without complying with section 144C procedure is void and illegal.[S.92CA, 144C(1), Art. 226]**

Pursuant to earlier directions of the Tribunal remanding the transfer pricing issues to the Assessing Officer/TPO for fresh consideration with liberty to the assessee to raise all grounds, the Assessing Officer completed assessment without issuing a draft

assessment order under section 144C(1). The High Court held that once the matter was remitted for fresh adjudication, the earlier draft assessment order ceased to exist and any fresh variation prejudicial to the assessee necessarily attracted the mandatory procedure prescribed under section 144C. The requirement to issue a draft assessment order applies equally to an assessment framed pursuant to Tribunal remand and non-compliance cannot be justified on the ground that proceedings originated earlier. Passing a final assessment order without first issuing a draft assessment order deprives the assessee of the statutory right to approach the Dispute Resolution Panel and constitutes not a procedural irregularity but an incurable illegality. Accordingly, the assessment order was quashed. (AY. 2012-13)

Enfinity Solar Solutions (P.) Ltd. v. DCIT (2025) 176 taxmann.com 170 / 345 CTR 739 / 251 DTR 473 (Mad)(HC)

S. 144C : Reference to dispute resolution panel-Assessment order-Limitation-Assessment orders passed beyond period prescribed in S.144C(13) invalid and set aside-Interpretation-When the language of the provision is clear, no external aid of interpretation is required. [S.144C(13), Art. 226] 1824

The High Court held that the Assessing Officer is strictly bound by the limitation prescribed in section 144C(13) for passing the final assessment order after issuance of the draft assessment order and receipt of DRP directions. The chronology of events in the present cases established that the assessment orders were issued beyond the statutory time limit. The court held that when the language of the provision is clear, no external aid of interpretation is required; the amendment to section 144C must be construed in light of the legislative intention to streamline and expedite the DRP mechanism. Once the amended provision became part of the statute, it had to be given full effect, even if section 144C is a machinery provision. Any assessment order passed in violation of the mandatory timeline is invalid. Accordingly, all assessment orders passed beyond the limitation period were quashed.

IBS Software Services Pvt. Ltd. v. UOI (2025) 478 ITR 114 / 175 taxmann.com 668 (Ker)(HC)

Suntec Business Solutions Pvt. Ltd. v. UOI (2025) 478 ITR 114 / 175 taxmann.com 668 (Ker)(HC)

S. 144C : Reference to dispute resolution panel-Objections raised by assessee must be considered before order is issued-Order passed without waiting for directions of Dispute Resolution Panel on assessee's objections Liable to be quashed Assessing Officer to await directions of Dispute Resolution Panel. [S. 144C(5), 144C(6), 144C(10) Art.226] 1825

Allowing the petition the Court held that objections raised by assessee must be considered before order is issued. Order passed without waiting for directions of Dispute Resolution Panel on assessee's objections Liable to be quashed. Assessing Officer to await directions of Dispute Resolution Panel. Order under section 144C was set aside. (SJ) (AY. 2021-22)

Zoomrx Healthcare Technology Solutions Pvt. Ltd v. NFAC (2025) 478 ITR 436 (Karn)(HC)

1826 **S. 144C : Reference to dispute resolution panel-Document Identification Number ['DIN']-Circulars issued by CBDT in exercise of its powers under Section 119 of the Act are binding on the revenue-DIN has to be generated for DRP proceedings-Order of Tribunal quashing the order is affirmed by High Court-No substantial question of law. [S. 119, 143(3), 144(5), 260A]**

The ITAT held that the direction issued by the Dispute Resolution Panel under Section 144C (5) of the Act did not contain a Document Identification Number ['DIN'] as mandated by the Central Board of Direct Taxes by its Circular No.19/2019 [F.No.225/95/2019-ITA II] dated 14.08.2019; that the subsequent communication intimating the DIN for DRP proceedings did not satisfy the conditions prescribed in paragraph No.3 of the circular; and that therefore, the directions are invalid in law and as a sequitur, the assessment order which was impugned before ITAT is liable to be quashed. In the instant case, the assessment order also did not contain a DIN. The Hon Court observed that it is well settled that circulars issued by CBDT in exercise of its powers under Section 119 of the Act are binding on the revenue. The consequences of not following the directions issued in the circular are also provided in the circular. The issue is no longer res integra. Relying on a decision of Division Bench of Bombay High Court in *Ashok Commercial Enterprises v. ACIT [2023] 154 taxmann.com 144 (Bom)(HC)* it was observed that, even a satisfaction note according to the Division Bench would fall within the scope of paragraph No.2 of the circular and therefore, in our view, there cannot be any doubt that the directions of the DRP which consists of a collegium of three Income Tax Commissioners also would fall within the scope of paragraph No.2 of the circular. Apart from the fact that DRP proceedings did not contain a valid DIN and was invalid for the reasons stated above, the assessment order also in this case does not contain a DIN. There was no explanation offered by appellant for not generating the DIN in the assessment order. Therefore, Appeal was dismissed. (AY. 2015-16)

CIT v. Laserwords US Inc. [2025] 175 taxmann.com 920 (Mad)(HC)

1827 **S. 144C : Reference to dispute resolution panel-Assessment-Mandatory condition-Order passed without following procedure-Order is quashed.[S.292B Art. 226]**

Allowing the petition the Court held, that Department had, in the affidavit-in-reply, acknowledged that there was a failure on the part of the Assessing Officer to follow the procedure prescribed under section 144C(1) of the Income-tax Act, 1961 though it had contended that it was merely a procedural or inadvertent error. The assessment order was quashed and set aside.

Shell India Market Pvt. Ltd. v. Add. CIT (2025) 472 ITR 558 (Bom)(HC)

1828 **S. 144C : Reference to dispute resolution panel-Pendency of objection-Order is set aside. [Art. 226]**

Assessing Officer passed draft assessment order proposing addition on account of treating lease rentals received by assessee from leasing of aircraft as interest income and proposed penalty as well. Aggrieved by draft assessment order, assessee filed its objections with DRP. Notwithstanding that assessee's objections were pending before DRP, Assessing Officer passed impugned final assessment order re-computing income of assessee on being satisfied that assessee had under-reported its income. On writ allowing

the petition the Court held that since objections had been filed and were pending before DRP, Assessment Order passed by Assessing Officer in ignorance of said objections is set-aside. (AY. 2022-23)
Jackson Square Aviation Ireland Ltd. v. ACIT (2025) 302 Taxman 502 (Delhi)(HC)

S. 144C: Reference to dispute resolution panel-Despatch-When electronic records enters portal or computer resource it is treated to be receipt by recipient Assessing Officer or concerned authority-The Assessment Orders were passed beyond the period of one month of receipt of directions by DRP, being barred by limitation, is set aside. [S. 144C(5), 144C (13), Information Technology Act, 2000, S. 2(k),13(1), Art. 226] 1829
The petitioner filed its objection to the draft assessment order before the Dispute Resolution Panel (DRP), which passed its order on June 30, 2022. The respondent issued the final assessment order on August 30, 2022 which the petitioner claims was outside the period of limitation of one month from the end of the month in which the direction is issued by the DRP as prescribed by Section 144C(5). The court while interpreting the term "on receipt of" as mentioned in section 144C (13), laid emphasis on the definition given in the section 13(1) Information Technology Act, 2000. By relying on various judgements, the court held that the Assessment Orders were passed beyond the period of one month of receipt of directions by DRP, being barred by limitation, and thus set aside. (AY. 2018-19, 2019-20)
Rapiscan Systems Pvt. Ltd. v. Addl. DIT (IT) (2025) 473 ITR 485 /170 Taxmann.com 753 (Telangana) (HC)

S. 144C : Reference to dispute resolution panel-Not following mandatory requirements of section 144C(2)-Assessment Order cannot be treated as draft Assessment Order-Proceedings before DRP and Tribunal bad in law-Not curable defect-Defect cannot be cured by issuing corrigendum-Assessment order is void. [S. 144C(1), 292BB] 1830
The Assessee filed a return of income, reference was made to the Ld. Transfer Pricing Officer ("TPO") for determining the Arm's Length Price ("ALP") and the Ld. TPO passed Transfer Pricing Order. The Ld. AO subsequently passed the assessment order under section 143(3) r.w.s 144C of the Act. The Ld. AO issued corrigendum stating that the Assessment Order should be treated as Draft Assessment Order ("DAO") under Section 143(3) r.w.s. 144C(1) of the Act after which the Ld. AO passed the Final Assessment Order ("FAO"). The Assessee challenged the Assessment Order before the Hon'ble CIT(A). The grievance of the Assessee is that the Ld. AO has not followed the procedure under section 144C of the Act which requires, DAO to be passed after which the Assessee is required to respond within 30 days of receipt of the DAO file its acceptance of the variations contained in the DAO with the Ld. AO or file its objection to the variations with the Dispute Resolution Panel ("DRP"). On receipt of the FAO, the Assessee filed objections before the Hon'ble DRP. The Hon'ble DRP rejected the objections, treated the Assessment Order as DAO. The Assessee filed an appeal before the Hon'ble Tribunal which ruled against the Assessee and upheld the DRP directions. The Assessee filed appeal before the Hon'ble High Court. The Hon'ble High Court ruled in favour of the Assessee, observed that mere reference to section 144C(1) of the Act in the Assessment Order without following the procedure does not make the

Assessment Order a DAO. The Assessment Order merely concluded the assessment and raised demand, without reference to the mandatory requirement of section 144C (2) of the Act. The corrigendum issued cannot override the fundamental requirements of section 144C (2) of the Act. The Assessee was denied the statutory right to respond, as the Assessment Order was final in nature. The errors committed by the revenue are not procedural but fundamental to jurisdiction and go to the root of the matter. The Hon'ble Tribunal's decision was incorrect as the Assessment Order is valid as a regular assessment, making the Hon'ble DRP and Hon'ble Tribunal proceedings invalid. (AY. 2007-08)
Lason India Pvt Ltd v. ACIT (2025) 473 ITR 263 / 171 taxmann.com 261 (Mad.) (HC)

1831 **S. 144C : Reference to dispute resolution panel-Remand proceedings-Assessment order passed without passing a draft assessment is not tenable-Limitation period is expired. [S.92C, 153(3), 154(4), 260]**
Held that it is mandatory for Assessing Officer to pass a draft assessment order under section 144C during remand proceedings. Final assessment order passed without passing a draft assessment order as mandated under section 144C is not tenable. Order is beyond limitation period hence bad in law. (AY.2003-04,to 2011-12, 2017-18, 2018-19, 2020-21)
PCIT v. Sumitomo Corporation India (P.) Ltd. (2024) 471 ITR 688 /166 taxmann.com 55 (Delhi) (HC)

1832 **S. 144C : Reference to dispute resolution panel-Limitation-Assessment-Transfer Pricing-CBDT Notifications-Assessment was time-barred-Invalid. [S. 143(3), 144B, 144C(3), 153(4)]**
The assessee contended that the assessment completed on 30-09-2022 was barred by limitation since, in a transfer pricing case, section 153(4) extended the limitation only up to 31-03-2022 and neither the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, nor the CBDT Notifications extended the period for completion of assessment under section 153(4). The Tribunal held that the reference to the TPO merely extended the limitation up to 31-03-2022. As no further statutory extension was available, the assessment order passed on 30-09-2022 was beyond the prescribed period and therefore invalid. (AY. 2009-10)
Dy. CIT v. Dalmia Cement (Bharat) Ltd. (2025) 121 ITR 298 (Chennai)(Trib.)

1833 **S. 144C: Reference to dispute resolution panel-Reassessment-Limitation-Non-resident-Extended limitation under S. 153(4) available only where reference is made to Transfer Pricing Officer-Reassessment beyond prescribed period invalid. (S. 92CA, 144C, 148, 153(2), 153(4)]**
The assessee, a non-resident, was subjected to reassessment under section 147 on the basis of alleged unexplained investment. A draft assessment order was issued under section 144C and, after the DRP proceedings, the final assessment order was passed beyond one year from the end of the financial year in which notice under section 148 was served. The Revenue contended that the extended limitation applicable to eligible assessees governed by section 144C applied. The Tribunal held that the additional

period under section 153(4) is available only where a reference has been made to the Transfer Pricing Officer under section 92CA. Since no such reference was made, the normal limitation under section 153(2) applied and the reassessment order was barred by limitation and liable to be quashed. (AY. 2017-18)
Syed Gulam Mohiuddin v. ITO (IT) (2025) 128 ITR 70 (Hyd)(Trib).

S. 144C: Reference to dispute resolution panel-Limitation-Transfer Pricing order passed beyond the time limit prescribed under section 92CA(3A) is barred by limitation-Consequently, the assessee ceases to be an 'eligible assessee' under section 144C and the draft as well as final assessment orders are void ab initio. [S. 92CA(3A), 144C(15)(b)(i), 153] 1834

The AO referred the assessee's specified domestic transactions to the TPO, who passed the order under section 92CA(3) on 01.11.2019. The assessee contended that the TPO ought to have passed the order on or before 31.10.2019 in terms of section 92CA(3A). The Tribunal held that the TPO's order passed on 01.11.2019 was barred by limitation. Consequently, the assessee could not be treated as an "eligible assessee" under section 144C(15)(b)(i), rendering the extended limitation under section 153 inapplicable. As a result, the draft assessment order, DRP directions and the final assessment order were held to be void ab initio and liable to be quashed. The appeal was allowed. [AY. 2016-17]
Tubacex Prakash India P. Ltd. v. ITO (2025) 130 ITR 77 (Mum.) (Trib.)

S. 144C: Reference to dispute resolution panel Assessment-Validity-Final assessment order pursuant to Dispute Resolution Panel's directions-Order time-barred once Dispute Resolution Panel's order held non est for want of document identification number-Extended time under section 144C(13) inapplicable-Final assessment order bad in law. [S. 116, 144C, 153, 253, 254(1)] 1835

The assessee's appeal, delayed on account of the covid-19 pandemic and erroneous advice from its tax advisor regarding the correct appellate forum, also raised an additional legal ground challenging the validity of the DRP's and AO's orders for want of a valid computer-generated document identification number as mandated by CBDT Circular No. 19 of 2019. On appeal, the Tribunal condoned the delay in light of the SC's covid-19 limitation extension and the reasonable cause shown, admitted the additional ground being a pure question of law, and held that the circular, being binding on all Income-tax authorities, mandated allotment and quoting of a document identification number in the body of every communication, which requirement was not satisfied by a handwritten number generated subsequently and not traceable in the Department's database; it further held that the DRP's directions were not merely internal communications but were required to comply with the circular, that the DRP itself constituted an Income-tax authority bound by such circulars, and that since its directions were non est for want of a valid document identification number, the extended limitation under section 144C(13) for passing the final assessment order did not apply, rendering the final assessment order barred by limitation, void ab initio, and liable to be quashed. (AY. 2006-07 to 2020-21)
Sutherland Global Services Inc v. Asst. CIT (2025) 131 ITR 269 (Chennai)(Trib)

1836 **S. 144C: Reference to dispute resolution panel-Non-resident-Draft assessment order-Validity of assessment-Eligible assessee-[S.144C(15)(b), 147, 148]**
Assessee being a non-resident and, therefore, an "eligible assessee" under s. 144C(15)(b), final assessment order under s. 147 passed by the AO without issuing a draft assessment order under S 144C(1) lacked jurisdiction and was null and void. (AY. 2016-17, 2017-18)
Anantula Vijay Mohan v. DCIT (2025) 236 TTJ 312 / 174 taxmann.com 1002 (Bang)(Trib)

1837 **S. 144C: Reference to dispute resolution panel-Direction of DRP-Final assessment order not in conformity with the directions of DRP-The assessment order is quashed-Non-service of order is not invalid.[S.80IA, 144C(13)]**
Held that the computation made by the AO in the final assessment order is not in conformity with the directions issued by the DRP, more specifically, in respect of the claim of deduction made under s. 80IA pertaining to the transfer of steam, and therefore, the assessment order is liable to be quashed. Order passed by the TPO complying with the directions of the DRP is not a fresh or an adverse order nor one requiring appeal or compliance by the assessee and, therefore, the order of the AO is not invalid for the reason that it was not served on the assessee. (AY.2020-21)
Laxmi Organic Industries Ltd. v. DCIT (2025) 237 TTJ 268 / 177 taxmann.com 118 (Mum) Trib)

1838 **S. 144C: Reference to dispute resolution panel-Assessment-Limitation-Assessing Officer required to complete assessment within one month from the end of the month in which directions of Dispute Resolution Panel received-Directions of Panel dated 21-9-2021-Final order passed on 18-11-2021, after due date of 31-10-2021-Time-barred-Final assessment order void ab initio. [S. 92CA(3), 92CA(5), 144C(5), 144C(13)]**
The DRP issued directions under section 144C(5) on September 21, 2021. As per section 144C(13), the AO was required to complete the assessment in conformity with the Panel's directions, without providing any further opportunity of hearing to the assessee, within one month from the end of the month in which the directions were received, i.e., on or before October 31, 2021. However, the AO passed the final assessment order only on November 18, 2021, after the TPO had given effect to the Panel's directions on October 29, 2021. On appeal, the Tribunal held that the final assessment order having been passed beyond the statutory time limit prescribed under section 144C(13), the order was expressly time-barred, and consequently null and void ab initio, and was liable to be quashed. (AY. 2017-18)
Rolls Royce India P. Ltd. v. DCIT (2025) 132 ITR 1 (Delhi) (Trib.)

1839 **S. 144C: Reference to dispute resolution panel-Transfer Pricing-Dispute Resolution Panel-Rectified directions-Assessing Officer bound to give effect-Transfer pricing adjustment deleted. [S. 92CA, 143(3), 144C(5), 144C(13)]**
The Dispute Resolution Panel initially granted partial relief in respect of transfer pricing adjustments relating to software development and IT-enabled services. Subsequently, on the assessee's rectification application, the Panel rectified its directions and the Transfer Pricing Officer passed a consequential order reducing the transfer pricing adjustment to nil. The Tribunal held that although the final assessment order had been passed before the rectified directions, the Assessing Officer was duty-bound to give effect to

the revised directions of the Dispute Resolution Panel and the consequential order of the Transfer Pricing Officer. The Assessing Officer was directed to delete the entire transfer pricing adjustment. (AY. 2020-21).
Ariba Technologies India (P.) Ltd. v. Dy. CIT (2025) 212 ITD 17 / 126 ITR 272 (Bang.)(Trib.)

S. 144C: Reference to dispute resolution panel-Directions issued without Document Identification Number (DIN)-CBDT Circular No. 19/2019 violated-Order null and void. [S. 92CA] 1840
The Dispute Resolution Panel issued its directions without quoting a valid computer-generated Document Identification Number (DIN) as mandated by CBDT Circular No. 19 of 2019. The Tribunal held that compliance with the Circular was mandatory and the subsequent communication assigning a handwritten DIN could not cure the defect. As the directions were issued without a valid DIN, they were deemed never to have been issued and were liable to be quashed as null and void ab initio. The merits of the transfer pricing adjustment were left open. (AY. 2017-18).
Practo Technologies Pvt. Ltd. v. Dy. CIT (2025) 129 ITR 229 (Bang.)(Trib.)

S. 144C: Reference to dispute Resolution Panel-Fresh claim-Valid claim raised for first time before Panel-Maintainable-Matter remanded for adjudication on merits.[S. 254(1)] 1841
The assessee raised a fresh claim before the Dispute Resolution Panel for the first time. The Tribunal held that a valid claim could be entertained by the Dispute Resolution Panel even though it had not been made before the Assessing Officer and restored the issue for consideration on merits. (AY. 2019-20).
Edenred SE (formerly known as Edenred SA) v. Dy. CIT [2023] 153 taxmann.com 161 / (2025) 129 ITR 603 (Mum.)(Trib.)

S. 144C : Reference to dispute resolution panel-Assessment-Directions of Dispute Resolution Panel-Final assessment order passed beyond statutory time-limit-Order barred by limitation and void.[S. 144B, 144C(5), 144C(13)] 1842
The final assessment order was passed more than six months after receipt of the Dispute Resolution Panel's directions. The Tribunal held that under section 144C(13), the Assessing Officer is required to pass the final assessment order within one month from the end of the month in which the directions are received. The Transfer Pricing Officer's effect order could not extend the statutory limitation. Accordingly, the final assessment order passed beyond the prescribed period was barred by limitation and void ab initio. (AY. 2018-19).
Adidas India Marketing (P.) Ltd. v. Asst. CIT (2025) 123 ITR 267 (Delhi)(Trib.)

S. 144C: Reference to dispute resolution panel-Limitation-Final assessment order dated 28-06-2022 was passed after DRP directions on 22-4-2022-Beyond the time limit prescribed under section 144C(13) Barred by limitation-Order was quashed.[S.92CA, 144C(13)] 1843
DRP issued directions under section 144C(5) on 22-04-2022, and TPO passed an order giving effect to the DRP direction on 20-05-2022 and subsequently, an assessment order came to be passed on 28-06-2022. Since the assessment order was passed beyond the

period of limitation prescribed under section 144C(13), the same was set aside.(AY. 2011-12)
BMW India (P.) Ltd. v. ACIT (2025) 215 ITD 21 (Delhi) (Trib.)

1844 **S. 144C: Reference to dispute resolution panel-Amalgamation-Non-existent entity-Draft assessment order was passed in the name of a non-existent entity despite the Assessing Officer having been duly informed of amalgamation-Void-ab-initio. [S. 144C(5),292B]**
Held that the issuance of an assessment order against a non-existent entity was a substantive illegality going to the root of the jurisdiction of the Assessing Officer. It could not be cured by section 292B, which only addresses procedural errors. Once the draft order was found to be vitiated for being passed in the name of a non-existent entity, mere reference to the correct name in the DRP order or final assessment order would not cure the foundational illegality, and thus, the draft assessment order would be void-ab-initio.(AY. 2012-13)
Man Energy Solutions India (P.) Ltd. v. ITO (2025) 214 ITD 491 (Ahd) (Trib.)

1845 **S. 144C: Reference to dispute resolution panel-Dividend-Rate of tax-Singapore tax resident-Mistakenly offered non-taxable capital gains and excess tax on dividends-Assessing Officer and DRP ignored correction request, citing lack of jurisdiction-Tribunal held that DRP can examine such issues under section 144C(8)-Tribunal restored matter to Assessing Officer to verify and allow relief if admissible-DTAA-India-Singapore [S.9(1)(i), 144C(8), Art.10]**
Assessee, a tax resident of Singapore, filed its return of income. During assessment proceedings, assessee claimed that it had wrongly declared non-taxable long-term capital gain (LTCG) and short-term capital gain (STCG) in return of income and paid tax. Assessee also claimed that it had wrongly offered dividend income to tax at 20 per cent as against 15 per cent as per Article 10 of India-Singapore DTAA. Assessing Officer had not considered assessee's claim and passed the order. DRP also rejected assessee's claim, holding that it had no jurisdiction to admit additional evidence or additional claims. On appeal, the Tribunal held that, in terms of the Explanation to section 144C(8), DRP is empowered to examine issues arising out of assessment proceedings even if such issues do not form part of variations proposed by the Assessing Officer. Since the assessee had made its claim both before the Assessing Officer and before the DRP, in the interest of justice, the matter was to be restored to the file of the Assessing Officer with a direction to verify the assessee's claim and grant relief, if found admissible, in accordance with law. (AY. 2022-23)
Jubin Jehnbux Gandevia v. ITO (IT) (2025) 214 ITD 590 (Mum) (Trib.)

1846 **S. 144C : Reference to dispute resolution panel-Revised direction of DRP-Rectification order-Assessing Officer is directed to consider rectified direction of DRP and corresponding revised giving-effect order of TPO and delete entire TP adjustment. [S.92C, 154]**
On objections filed by assessee, DRP granted partial relief to assessee and thereby TPO in giving effect order reduced TP adjustments. Based on direction of DRP and giving effect order, Assessing Officer passed final assessment order. In meantime, assessee

against DRP direction filed rectification application which was accepted and DRP passed rectification order. TPO in revised giving effect order reduced TP adjustment to nil, however, no effect was given by Assessing Officer in final assessment order to comply with revised direction of DRP and revised effect giving order by TPO. On appeal the Tribunal held that the Assessing Officer is bound to give effect to revised directions of DRP and giving-effect order passed by TPO. The AO is directed to consider rectified direction of DRP and corresponding revised giving-effect order of TPO and delete entire TP adjustment made in respect of software development and IT-enabled services. (AY. 2020-21)

Ariba Technologies India (P.) Ltd. v. DCIT (2025) 212 ITD 17 (Bang) (Trib)

S. 144C : Reference to dispute resolution panel-DRP order was uploaded on ITBA portal on 26-5-2022-Assessment was to be completed on or before 30-6-2022-Assessment order passed on 1-7-2022 was null and void is barred by limitation.[S.92CA, 144C(13)] 1847

DRP order was uploaded on ITBA portal on 26-5-2022. Assessment order was passed on 1-7-2022. Since in terms of section 144C(13), assessment was to be completed on or before 30-6-2022. Assessment order passed on 1-7-2022 was time barred and, therefore, null and void. (AY. 2018-19)

Hyundai Rotem Company Indian Project Offices. v. ACIT IT (2025) 210 ITD 326 / 122 ITR 178 (Delhi) (Trib.)

Editorial : Affirmed in CIT v. Hyundai Rotem Company (2025) 347 CTR 305/ 255 DTR 257 / 180 taxmann.com 18 / (2026) 484 ITR 448 (Delhi)(HC)

S. 144C : Reference to dispute resolution panel-Assessee did not file ITR-Assessment reopened u/s 147-Capital gain not declared-limitation-Assessment order barred by limitation as extended time limit u/s 153 not applicable. [S. 2(14)(iii), 144C(13), 147, 148, 153(2), 153(4)] 1848

The Assessee, an NRI sold his property, however, did not file his return of income declaring capital gain. Assessee's contention was that the land sold was an agricultural land beyond 12 kms from the local limits of the municipality, hence was not a capital asset as per S. 2(14)(iii) of the IT Act. AO rejected the same and made addition. The same was challenged before the DRP. The DRP upheld the addition. On appeal, the Assessee argued that the order passed by the AO is barred by limitation because, as per the provisions of s. 153(2) of the Act, no order of assessment or reassessment, or recomputation shall be made under s. 147. The Tribunal held that the assessment order is barred by limitation as the extended time limit u/s 153 sub section (4) is not available to the AO in the case of Assessee.

(AY. 2016-17,2018-19)

Mir Ibrahim Ali v. ACIT (IT) (2025) 233 TTJ 733 (Hyd) (Trib)

Abbas Ali Akil v. ACIT (IT) (2025) 233 TTJ 733 (Hyd)(Trib)

1849 **S. 145 : Method of accounting-Search and seizure-Assessment in Rejection of books of account-Estimation of gross profit-Restriction of gross profit to two per cent. from four per cent. by Commissioner (Appeals) confirmed by Tribunal-Order of Tribunal affirmed. [S. 132, 153A,260A]**

Held, dismissing the appeal, that based on the estimated gross profit for the assessee's group of companies and considering the subsequent assessment orders passed by the Assessing Officer for the later assessment years, the Tribunal had confirmed the order of the Commissioner (Appeals) restricting the gross profit rate of the assessee at two per cent. for the assessment year 2012-2013. The Tribunal's order is affirmed.(AY.2012-13)

PCIT v. B.B. Tradelink Agro Pvt. Ltd (2025) 483 ITR 232 (Guj)(HC)

1850 **S. 145 : Method of accounting-No rejection of books of account-Deletion of addition by the Tribunal based on three years' gross profit is affirmed.[S.260A]**

Held that in the absence of any other objection found in the books of account of the assessee, there survived no room to reject the books of account of the assessee. Consequently, there was no intrinsic evidence to enhance the gross profit rate. Once the books of account of an assessee had been accepted, the Assessing Officer should have remained within the confines of his powers and not disturbed the gross profit rate, as that would remain in the nature of the result of the book entries and not an original entry by itself. It was not open to the Assessing Officer to reject the gross profit rate disclosed by the assessee. The finding on the acceptance of books of account of the assessee recorded by the Commissioner (Appeals) was not even specifically challenged. The order of the Tribunal was affirmed. (AY. 2014-15)

PCIT v. Mahabir Jute Mills Ltd. [2024] 162 taxmann.com 601 / (2025) 482 ITR 345 (All) (HC)

1851 **S. 145: Method of accounting-Project competition method-Civil construction-Order of the Tribunal estimating the income at 8% on the basis of receipts was deleted-Directed the Assessing Officer to accept the project competition method. [S. 260A]**

Assessee was engaged in the business of civil construction on a contractual basis. In respect of contract receipts from one, Gujarat Torrent Energy Corporation Ltd (GTEC) assessee followed the project completion method. Assessing Officer noticed that assessee received payment from GTEC on the basis of RA bills raised from time to time and estimated profit at 8 per cent on the basis of receipts from GTEC and made an addition to assessee's income. Tribunal confirmed the addition made by the Assessing Officer. On appeal, the Court held that the assessee had followed the project completion method since 1992 in respect of the project with GTEC. Since the assessee had followed a method of accounting which was well recognised and was in consonance with standard accounting practice, more particularly as per revenue recognition note forming part of accounts, which disclosed that assessee had followed the project completion method as per Accounting Standard-7 in respect of the said contract, the addition made on account of income estimated at 8 per cent was deleted. (AY. 1998-99)

J. N. Tekrawala Construction Ltd. v. ITO (2025) 307 Taxman 236 (Guj.)(HC)

S. 145: Method of accounting-Undisclosed sales-Search-Estimated yield ratio-Low yield-Rejection of books of account not valid-Order of Tribunal deleting the disallowance was affirmed.[S.69A, 132, 145(3), 260A] 1852

Assessee was engaged in the manufacturing of re-rolled products such as heavy steel structural, joist and girder. A search was conducted upon assessee. Assessing Officer made an addition on account of unaccounted sales based on an estimated production yield of 89 per cent in assessee's SMS Division. Assessing Officer adopted an estimated yield ratio and proceeded to calculate alleged unaccounted production and consequential sales, resulting in substantial additions. He further held that books of account were not reliable and rejected the same while resorting to section 145(3). Commissioner (Appeals) found that variation in consumption of sponge iron and power in SMS Division was reasonable as the same was certified by a registered valuer. He thus concluded that there was a complete absence of any adverse material against assessee which could support the allegation of the Assessing Officer towards unaccounted production presumed based on the alleged low yield declared by the assessee, and thus rejection of books of accounts was invalid. Tribunal affirmed the order of the CIT A). On appeal, the High Court affirmed the order of the Tribunal. (AY. 2010-11)

Dy. CIT v. Mahamaya Steel Industries Ltd. (2025) 307 Taxman 126 (Chhattisgarh)(HC)

S. 145 : Method of accounting-Trading in jewellery-Discrimination-Parliament power to prescribe accounting standards-Provision making it mandatory for assessees to adopt first-in-first-out or weighted average cost method for valuing stock and inventory-Provision applicable to all assessees-Not an unreasonable classification or arbitrary-Valid in law-Valuation of stock-Closing and opening stock to be valued by applying same method of valuation-Valuation of stock-Enhancement by revaluation of stock not real income in hands of assessee-Provision making it mandatory for assessees to adopt first-in-first-out or weighted average cost method for valuing stock and inventory with retrospective effect Amendment meant to give relief to assessees who regularly adopted first-in-first-out to value stock in assessment year 2017-2018 and to save returns from being declared incorrect or invalid-Not applicable to assessees who did not apply first-in-first-out to value opening and closing stock but followed last-in-first-out consistently and had filed returns before amendment Income-tax Act, 1961-Mercantile system of accounting and consistently valuing stock and inventory using last-in-first-out method-Department to either accept valuation of both opening and closing stock based on last-in-first-out method or permit assessee to value stock applying first-in-first-out or weighted average cost method. [S. 145A Art, 14, Art. 226, 145A Income Computation and Disclosure Standards (II), cl. 16.] 1853

Court held that Parliament, after a wide range of consultation from all stakeholders and based on the recommendations of the committee to maintain uniformity in accounting the income and valuing stock, made clause 16 of the Income Computation and Disclosure Standards (II) mandatory for the adoption of the first-in-first-out or weighted average cost method. This mandatory provision applies to all assessees, and, therefore, making clause 16 of the Income Computation and Disclosure Standards (II) mandatory for adopting the first-in-first-out or the weighted average cost method as the only method for valuing the stock and inventory does not suffer from the vice of

unreasonable classification or manifest arbitrariness as violative of article 14 of the Constitution of India. Court also held that, an assessee is entitled to adopt one or the other method of computation of its income if a particular method has not been made mandatory. The assessee was applying the last-in-first-out method of accounting as the standard for valuing the closing and opening stock up to April 1, 2017. Before April 1, 2017, there was no mandatory provision for adopting one or another method of Accounting Standards. The statute also did not mandate only one method of valuing the closing and opening stock. The assessee was free to adopt any one of the Accounting Standards as notified by the Institute of Chartered Accountants of India. By applying the method of first-in-first-out with effect from April 1, 2017, the income of the assessee had increased to the tune of Rs. 51.07 crores without any real income. Therefore, the stipulation under clause 16 of the Income Computation and Disclosure Standards (II) for the adoption of the first-in-first-out or weighted average cost for valuation of stock and inventory could not be applied in the assessment year 2017-2018 for the valuation of the opening stock, as the opening and closing stock of the year were to be valued by applying the same methodology. The Department was to either accept the valuation of both opening and closing stock, for the assessment year 2017-2018, based on the last-in-first-out method or permit the assessee to value his stocks by applying the first-in-first-out or weighted average cost method.(AY. 2017-18) (SJ)
P.A. Jose v. UOI (2025) 481 ITR 148 (Karn)(HC)

1854 **S. 145 : Method of accounting-No defects in the books of account-Estimate of net profit of 10% solely on basis of assessee's earlier declaration before Settlement Commission is held to be not justified-Order of Tribunal deleting the addition is affirmed.[S. 144, 260A]**
Assessee filed its return of income declaring income on the basis of regularly maintained books. Assessing Officer, invoking section 145(3) passed assessment under section 144, applying net profit rate of 10 per cent. Commissioner (Appeals) and Tribunal held that no infirmity in books was noticed and application of net profit rate was based on pure guesswork. On appeal by the revenue the Court held that, since no defect or discrepancy was recorded in the books maintained for the relevant year, Assessing Officer could not have invoked section 145(3) and applied the net profit rate of 10 per cent solely on the basis of assessee's earlier declaration before the Settlement Commission. Order of Tribunal affirmed. (AY. 2014-15)
ACIT v. Sunil Kumar Agrawal (2025) 305 Taxman 630 (Chhattisgarh)(HC)

1855 **S. 145 : Method of accounting-Business income-Valuation of closing stock-Consistent application of cost or net realisable value method-Order of Tribunal deleting the addition is affirmed. [S.28(i)]**
The assessee has valued the closing stock by consistently following the application of cost or net realisable value. The order of the Tribunal deleting the addition is affirmed. (AY. 2016-17)
PCIT v. Sony India Pvt. Ltd [2024] 167 taxmann.com 549 /(2025) 477 ITR 576 (Delhi)(HC)

S. 145 : Method of accounting-Solicitor-Client's money-Amounts received by solicitor from clients for specific tasks-Amounts received in fiduciary capacity-Not assessable as income. [S.4, 260A] 1856

The assessee, a solicitor, declared receipts from profession of Rs. 1,82,02,958 for AY 2007-08, while TDS certificates showed receipts of Rs. 5,56,88,817. The AO added the difference (Rs. 3,74,85,859) to the assessee's income. The assessee explained the excess represented advances received from clients, part of which were spent on behalf of clients for counsel fees, stamp paper, court fees, payments to the rent controller, bank drafts in lieu of stamp duty/registration, etc., and provided head-wise particulars. The Commissioner (Appeals) and the Tribunal accepted the explanation. Held: No adverse inference under s. 145 could be drawn; the monies were held in a fiduciary capacity and payments made as agent were not disputed. The differential amount was not assessable as income.(AY. 2007-08)

CIT v. Sanderson and Morgans (2025) 475 ITR 473 (Cal)(HC)

S. 145 : Method of accounting-Project completion method-Real estate development-Assessing Officer followed percentage completion method-Alternative remedy-Writ petition dismissed. [S. 43CB, 144B, ICDS III & IV, Art. 226] 1857

The assessee followed the project completion method, but the AO assessed income using the percentage completion method, issuing a demand under section 143(3) r.w.s. 144B. The assessee filed a writ claiming the order taxed income already accepted in AYs 2015-16, 2018-19, and 2023-24, and was thus without jurisdiction. The High Court noted there was no challenge to constitutional validity, nor breach of natural justice, and that all arguments went to merits, which could be raised in appeal before the CIT(A). The Court reiterated that writ jurisdiction cannot be used to bypass effective alternative remedies under the Act. Petition dismissed.

Shandilya Properties LLP v. ITO (2025) 303 Taxman 561 /344 CTR 706 / 246 DTR 376 (Bom.)(HC)

S. 145 : Method of accounting-Valuation of stock-LIFO method-Retrospective ICDS (II) mandating FIFO/Weighted Average not applicable to AY 2017-18 opening stock-Relief granted. [S. 145(2), 145A, ICDS (II), Art. 14, 226] 1858

Assessees consistently followed LIFO method till AY 2017-18. Retrospective amendment by Finance Act, 2018 requiring FIFO could not be applied to opening stock of AY. 2017-18 as returns were filed earlier. Court directed that both opening and closing stock for AY 2017-18 be valued under same method, either LIFO or FIFO/Weighted Average, and quashed contrary notices. (AY. 2017-18)

P.A. Jose v. UOI (2025) 343 CTR 499 (Ker)(HC)

S.145 : Method of accounting-Wastage-Suppression of weight or production-Addition is made on presumptions and assumptions-Addition affirmed by the Tribunal is deleted-Scarp value of discarded cables-Addition is deleted.[S. 41(2), 256(2)] 1859

On reference the Court held that the assessee's books of account, trading account and the stock had been found to be within the satisfaction of the authorities and the Assessing Officer had accepted them. The wastage of 13.04 per cent. shown by the

assessee had been held to be higher than the wastage shown for the previous year, i. e., 8.66 per cent. That the stock production and consumption records were maintained under the supervision of the Excise authorities and there was no objection raised with regard to the stock. The Assessing Officer had not objected to the total stock maintained and could not have proceeded on a presumption alleging higher wastage shown by the assessee. Addition affirmed by the Tribunal is deleted. As regards the addition of profit under section 41(2) on the sale of copper wire, the assessment order and the explanation given by the assessee showed that the assessee had explained each and every question of the Assessing Officer. The reasoning given by the Assessing Officer for such an addition was found to be contrary to the facts. The Tribunal had erred in assessing the additions made by the Assessing Officer.(AY. 1983-84)
Shree Digvijaya Woollen Mills Ltd. v. CIT (2024) 471 ITR 655 (P&H) (HC)

1860 **S. 145 : Method of accounting-Rejection of Books-Estimation of Profit-Form 26AS Difference-Loan Waiver-One-time settlement. Additions were deleted. [S. 145(3), 28(iv), 41(1), 145(3)]**
The Assessing Officer rejected the books of account, estimated profit at 8% of turnover, made an addition for the difference between the turnover reflected in Form 26AS and the books, and taxed the waiver of the principal amount of the loan. The Tribunal held that the rejection of books was unjustified as the assessee consistently followed the mercantile system and recognised revenue on the percentage-completion method in accordance with Accounting Standard-7 and ICDS. The reconciliation with Form 26AS was duly explained. It was further held that waiver of the principal amount of the loan under a one-time settlement was neither taxable under section 41(1) nor under section 28(iv), as only the principal was waived and the interest had already been paid. Accordingly, all additions were rightly deleted. (AY. 2018-19)
Dy. CIT v. NAPC P. Ltd. (2025) 121 ITR 544 / 174 taxmann.com 105 (Chennai)(Trib.)

1861 **S. 145 : Method of accounting-Rejection of books of account-Estimation of profits-Addition was deleted-Delay in appeal-Delay of 880 days-Delay was condoned. [S. 144, 145(3), 253, Rule 46A]**
Where, during remand proceedings, the Assessing Officer verified the books of account and categorically reported that no discrepancies existed, the rejection of books under section 145(3) and estimation of profit by the lower authorities became unsustainable. The FIR and forensic audit also supported the assessee's contention that he was merely a signatory and had no control over the transactions. Accordingly, the additions were deleted. Further, the delay of 880 days in filing the appeal, attributable to the assessee's bona fide reliance on his former employer and the COVID-19 period, was condoned in the interest of substantial justice. (AY. 2013-14)
Devendra Thakershibhai Thakkar v. ITO (2025) 172 taxmann.com 504 / 121 ITR 69 (SN) (Ahd.)(Trib.).

S. 145 : Method of accounting-Revenue recognition-Derecognition of income in books-Addition sustainable. [S.28(i)] 1862

Assessee challenged additions made on account of revenue recognition/de-recognition in the books of account. Issue stood concluded against assessee by the judgment of the jurisdictional High Court in *Housing & Urban Development Corporation Ltd v. ACIT (2017) 396 ITR 667(Bom)(HC)*. Assessee's Special Leave Petition and Review Petition before the Supreme Court had also been dismissed. Therefore, additions made on account of revenue recognition/de-recognition were liable to be sustained (AY. 2012-13, 2014-15, 2015-16)

Housing & Urban Development Corporation Ltd. v. DCIT [2025] 128 ITR387 (Delhi) (Trib.)

S. 145: Method of accounting-Accommodation entries-In the case of accommodation entry providers, commission income is to be estimated only on the sales turnover and not on the aggregate of purchases and sales-The ITAT directed the AO to estimate commission income at 0.05% of the total sales turnover. [S. 145(3), 153A] 1863

The assessee was found, on the basis of DRI investigation, to be engaged in providing accommodation entries through bogus purchase, sale and loan transactions. The AO rejected the books under section 145(3) and estimated commission income at 0.5% of the aggregate of purchases and sales turnover. The CIT(A) reduced the commission to 0.05% of the aggregate of purchases and sales and estimated commission on loan transactions separately. The Tribunal, following its earlier decision in *Sanjay Kumar Choudhary (HUF) v. ACIT (ITA No. 1367 /Ahd /2017 dt 29-12 2021(Ahd)(Trib)* held that commission in the case of accommodation entry providers is to be estimated only on the sales turnover and not on both purchases and sales, since profit is linked with sales. Accordingly, it directed the AO to estimate commission income at 0.05% of the total sales turnover in the case of all the assessees. The technical ground challenging the limitation was treated as not pressed. Assessees' appeals were partly allowed and Revenue's appeals were dismissed. (AY. 2018-19)

Antique Exim P. Ltd. v. Asst. CIT (2025) 131 ITR 660 (Surat)(Trib.)
Saffron Gems P. Ltd v. Asst. CIT (2025) 131 ITR 660 (Surat)(Trib.)
Tanman Jewels P.Ltd v. Asst. CIT (2025) 131 ITR 660 (Surat)(Trib.)
Nobal Jewels P.Ltd v. Asst. CIT (2025) 131 ITR 660 (Surat)(Trib.)

S. 145: Method of accounting-Builder and developer-Project completion method-Advances received by the assessee from the customers cannot be taxed in this year when the same have been adjusted in the sales in the assessment year 2018-19.[S. 143(3)] 1864

Held that the assessee, a builder and developer, has been consistently following the project completion method and the same has been accepted by the Revenue in the past; the advances received by the assessee from the customers cannot be taxed in this year when the same have been adjusted in the sales in asst. yr. 2018-19, and the income declared in that year has been accepted. (AY. 2013-14 & 2017-18)

Kaizen Enterprises (P) Ltd. v. ACIT (2025) 235 TTJ 295/ 128 ITR 270/ 172 taxmann.com 621 (Jaipur) (Trib)

1865 **S. 145: Method of accounting-Rejection of books of account-Estimation of gross profit-No comparative cases-GP declared was more than earlier years-Addition was deleted-ERP software expenses as revenue expenditure cannot be accepted-Purchase invoices were produced before the Assessing Officer-No violation of R.46A [S.37 (1), 145(3) 251, R.46A]**

GP rate disclosed by the assessee in the relevant year being more than its average GP rate of the past six years, the gross profit declared by the assessee is to be accepted, and no addition on account of GP rate is called for. Purchase invoices were produced before the Assessing Officer; hence there is no violation of R.46A. Since the assessee's books of accounts have been rejected by applying s. 145(3) and the gross profit has been estimated on the basis of past history of the assessee at a certain percentage; the books results are deemed to have been the claim of the assessee to allow ERP software expenses as revenue expenditure cannot be accepted. (AY. 2016-17)

ACIT v. Ludhiana Beverages (P) Ltd. (2025) 235 TTJ 535 (Amritsar)(Trib)

1866 **S. 145: Method of accounting-Books of account not rejected-Enhancement of net profit-Addition was deleted.[S. 145(3)]**

Held that the addition made by the Assessing Officer, enhancing the net profit rate from 2.76 per cent to 8 % to cover possible leakage of revenue, is not justified. The addition was deleted. (AY. 2014-15).

Ashok Panwar (HUF) v. ACIT (2025) 238 TTJ 681 (Jodhpur)(Trib.)

1867 **S.145: Method of accounting-Project-completion method-Real estate developer-Sale proceeds recognised only upon obtaining completion certificate and handing over possession, not during year under consideration-No sales effected or possession handed over during relevant year-Ad hoc addition based on registration of sale deeds not justified-Allocation of common expenses among group companies based on business volume accepted by Department in earlier years-Project-completion method regularly followed-No discrepancy pointed out in audited accounts-Ad hoc disallowance not justified. [S. 43CA, 143(3)]**

Assessee, engaged in real estate development and following the project-completion method of accounting, had its sale proceeds of 54 properties brought to tax by AO applying a net profit rate of 10% on the ground that the registration deeds executed amounted to complete transactions, and 10% of total expenses allocated among group companies for common projects were disallowed for want of substantiation, both of which additions were upheld by CIT(A). On appeal, the Tribunal held that the documents in respect of the 54 units were mere agreements to sell containing termination clauses, with substantial consideration received and possession handed over only in the subsequent year, and since AO had accepted the applicability of section 43CB and the project-completion method without invoking section 263, the ad hoc addition based on registration of sale deeds was not justified and was to be deleted; it further held that the allocation of common expenses such as salaries, marketing and administration among group entities based on business volume, consistently accepted by the Department in earlier years and capitalised to WIP under the regularly followed project-completion method, could not be disallowed on an ad hoc basis without pointing

out any discrepancy in the audited accounts, and the disallowance was accordingly deleted. (AY. 2018-19)
VTP Mohite Associates v. DCIT (2025) 132 ITR 580(Pune) (Trib.)

S. 145: Method of accounting-Books of account-Rejection-Delay in furnishing details due to data corruption-Rejection unjustified-Estimation of income deleted.[S.139, 145(3)] 1868
The Assessing Officer rejected the books of account and estimated the profit without recording any finding that the accounts were incorrect, incomplete or that the method of accounting was not regularly followed. The Tribunal held that the delay in furnishing the list of sundry creditors was due to data corruption, which was subsequently rectified, and the audited books were duly verified. As the rejection of books was unsustainable, the consequential estimation of income also failed, and the Assessing Officer was directed to accept the returned income. (AY. 2013-14).
Pioneer Fabricators (P.) Ltd. v. Dy. CIT (2025) 175 taxmann.com 96 / 126 ITR 115 (Delhi) (Trib.)

S. 145 : Method of accounting - Rejection of books of account-Failure to produce records due to factory seizure-Estimation of gross profit-Reduction by Commissioner (Appeals) upheld-Assessing Officer doubting only trading results-No defect found in manufacturing segment-Overall rejection of books unjustified.[S. 145(3)] 1869
For the assessment year 2014-15, the assessee failed to produce supporting records as its factory had been seized by banks. The Assessing Officer rejected the books of account and estimated gross profit. The Commissioner (Appeals) substantially reduced the addition after considering the losses suffered due to industry recession, export rejections and closure of the factory. The Tribunal held that the assessee had failed to challenge the rejection of books or produce evidence before the Assessing Officer and found no reason to interfere with the reduced addition sustained by the Commissioner (Appeals). For the assessment year 2013-14, the Assessing Officer doubted only the losses from the trading segment but proceeded to reject the entire books of account and estimate gross profit for the whole business. The Tribunal held that, in the absence of any defect in the manufacturing segment, rejection of the entire books was unwarranted, and there was no basis for estimating overall gross profit. The order of the Commissioner (Appeals) deleting the addition was upheld. (AY. 2013-14, 2014-15).
R. H. Agro Overseas P. Ltd. v. Asst. CIT (2025) 127 ITR 37 / 180 taxmann.com 92 (Delhi) (Trib.)

S. 145: Method of accounting-Percentage Completion Method-Consistently followed and accepted-Revenue cannot substitute completed sales method without pointing out defects-Percentage Completion Method-Double taxation avoided-Addition deleted. 1870
The Assessing Officer rejected the Percentage Completion Method consistently followed by the assessee and taxed the entire sale value of flats sold during the year. The Tribunal held that the Percentage Completion Method is a recognised method of accounting and had been consistently accepted by the Revenue in earlier years. In the absence of any defect in the books of account or change in facts, the Assessing Officer

was not justified in discarding the method. The Tribunal found that the profits from the project had already been recognised in earlier years under the Percentage Completion Method and formed part of the closing work-in-progress. Taxing the entire sales again in the year under consideration would result in double taxation. Accordingly, the deletion of the addition by the Commissioner (Appeals) was upheld (AY. 2015-16).
ITO v. Sainath Land Developers (2025) 122 ITR 154 / 170 taxmann.com 431 (Ahd.)(Trib.)

1871 **S. 145: Method of accounting-Change in accounting policy for long-term insurance policies-Deferred recognition of premium-Addition upheld.[S. 143(3)]**
The assessee changed its accounting policy by recognising premium received on long-term health and personal accident policies over the duration of the policies instead of in the year of receipt. The Tribunal held that the Assessing Officer was entitled to determine the correct taxable income notwithstanding the accounting treatment adopted and upheld the addition. (AY. 2008-09 to 2014-15).
Royal Sundaram General Insurance Co. Ltd. v. Dy. CIT (2025) 123 ITR 507 / 175 taxmann.com 427 (Chennai)(Trib.)

1872 **S. 145: Method of accounting-Business expenditure-Real estate developer-Project completion method-Percentage completion method-Consistent method of accounting accepted in earlier year-No justification to change method-Addition deleted.[S. 28(i),37(1), Accounting Standard-9]**
The assessee, a real estate developer, consistently followed the project completion method and recognised revenue in accordance with Accounting Standard-9. The Assessing Officer rejected the method and computed income under the percentage completion method by applying Accounting Standard-7 and ICDS-III. The Tribunal held that the assessee's method had been accepted by the Revenue in the preceding assessment year and there was no change in facts warranting a departure. The Assessing Officer had also wrongly adopted the wholesale value of the entire project, including the co-owners' share, though revenue was to be divided among all co-owners. As the project ultimately resulted in a loss, the addition made on the percentage completion method was rightly deleted. (AY. 2018-19).
ITO v. Harmony Vinimay (P.) Ltd. (2025) 123 ITR 458 / 174 taxmann.com 1239 (Kol.)(Trib.)

1873 **S. 145: Method of accounting-Project completion method (PCM)-Real estate developers-Consistently accepted-Application of Percentage Completion Method by Assessing Officer was unjustified-Survey-Merely on basis of a statement recorded during survey proceedings under sections 133A/131, without any corroborative evidence, could not be sustained. [S.131, 133A]**
Held that the assessee-firm, engaged in the business of real estate development, had been consistently following the Project Completion Method (PCM) for recognition of revenue since inception, and the same method had been accepted by the Department in all preceding assessment years. Assessing Officer applied the Percentage Completion Method (PCM) and made an addition. Tribunal held that since the Assessing Officer had not pointed out any change in factual or legal position warranting deviation from consistently accepted accounting method, the application of the Percentage Completion

Method by the Assessing Officer was unjustified. Tribunal also held that an addition made merely on the basis of a statement recorded during survey proceedings under sections 133A/131, without any corroborative evidence, could not be sustained. AY. 2019-20)
DCIT v. Amardeep Constructions (2025) 215 ITD 322 (Mum) (Trib.)

S. 145: Method of accounting-Estimation of income-Income recognition-Toll contractor awarded with a 15-year toll collection and maintenance contract-Only net consideration as income instead of gross receipts and expenses-Assessing Officer was not right in taxing gross income and ignoring estimated maintenance costs.[S. 4, 5] 1874
Assessee was awarded a contract for the collection of toll operation, maintenance and improvement of the Mumbai-Pune section of NH-4 for a period of 15 years for a consideration of Rs. 918 crores. Assessee has shown net consideration, reducing the estimated expenditure, as per the agreement. Assessing Officer, while completing the assessment, had considered only the income of the assessee but had failed to consider cost estimated to be incurred towards maintenance and improvement. CIT(A) affirmed the order of the assessing Officer. On appeal, the Tribunal held that since the Assessing Officer had not considered the cost estimated to be incurred towards maintenance and improvement, the addition made by the Assessing Officer was to be deleted. Tribunal also held that if income was to be recognised on a gross basis, then reduction towards estimated expenditure was also to be allowed. (AY. 2006-07)
Maharashtra State Road Development Corporation Ltd. v. ITO (2025) 215 ITD 532 (Mum) (Trib.)

S. 145: Method of accounting-Estimation of profit-Decline in gross profit margin-No specific defects or discrepancies in books of account-Appeal of revenue dismissed. 1875
Held that mere decline in gross profit margin in the relevant year compared to preceding assessment years cannot by itself justify addition to assessee's income unless Assessing Officer identifies specific defects or discrepancies in books of account maintained by assessee. Appeal of revenue dismissed. (AY. 2017-18)
ACIT v. Anant Commodities (P.) Ltd. (2025) 214 ITD 68 (Indore) (Trib.)

S. 145 : Method of accounting-Capital or Revenue-b Loss and gain on account of revaluation of outstanding dues payable to its overseas sister concern due to fluctuation in valuation of foreign exchange-Rule of consistency is followed. 1876
Assessee earned gain on account of revaluation of outstanding dues payable to its overseas sister concern due to fluctuation in valuation of foreign exchange. Assessee claimed that if loss due to foreign exchange fluctuation was treated as capital in nature, gain on similar transaction should also be treated as capital in nature and, therefore, foreign exchange fluctuation gain offered as income in impugned assessment year should be withdrawn. CIT(A) affirmed the order of the AO. On appeal, the Tribunal held that since offer of gain as income was consistent with accounting principle regularly followed by assessee, claim of withdrawal of such income could not be accepted. Tribunal also held that the rule of consistency applied not only to the assessee, but also to the revenue and, in case gain derived is treated to be in the character of revenue,

loss arising in similar account also has to be treated as revenue account. (AY. 2010-11 & 2014-15)
Diebold Nixdorf India (P.) Ltd. v. CIT (2025) 211 ITD 377 (Mum) (Trib.)

1877 **S. 145A : Method of accounting in certain cases-Unutilised CENVAT credit-Exclusive method of accounting consistently followed-No adjustment called for.[S. 145]**
The assessee consistently followed the exclusive method of accounting for CENVAT credit. The Tribunal held that the method had no impact on the computation of profits and, therefore, the deletion of the addition made under section 145A was justified. (AY. 2006-07 to 2012-13).
Dy. CIT v. Bodal Chemicals Ltd. (2025) 127 ITR 194 / 177 taxmann.com 448 (Ahd.)(Trib.)

1878 **S. 147: Reassessment-Depreciation-Earth-moving equipment-Commercial vehicles-No failure to disclose material fact-High court quashed reassessment notice and order disposing of the objections-SLP dismissed on account of not explaining the delay of 244 days. [S. 148, Art. 136]**
Assessee was engaged in the business of hiring earth-moving equipment and commercial vehicles. Assessee claimed depreciation on tipper at a rate of 30 per cent, which was allowed in the course of assessment proceedings. The assessment was reopened on the ground that the claim of higher depreciation on tipper-plant and machinery was not admissible at 30 per cent as the assessee was in the business of mining and not in the business of motor lorries on hire, and accordingly, depreciation was not allowable. High Court quashed the reassessment proceedings. SLP of revenue was dismissed as the revenue could not explain the delay of 244 days. (AY. 2016-17)
ACIT v. P.C. Patel and Company (2025) 307 Taxman 223 (SC)
Editorial : P.C. Patel & Co v. ACIT (2024) 166 taxmann.com 100 (Guj)(HC)

1879 **S.147: Reassessment-Commercial activity-High Court quashed reassessment notice-SLP delay of 445 days-SLP dismissed on account of delay. [S. 11, 148, Art. 136]**
Assessing Officer issued a reopening notice on the ground that assessee earned income of a certain amount from commercial activities, and receipt of said sum indicated that assessee's activities were commercial in nature. He held that the assessee would not be entitled to exemption under section 11. On writ, the Court held that there was not even an allegation with respect to uncontrolled discretion or authority to open or maintain a commercial institution in object of assessee. Also, there was not even a finding to that effect High Court held that merely because there were certain receipts received by the assessee while conducting its charitable activities, irrespective of their quantum, said receipts could not be treated as income from commercial activities, and further, since reasons to believe indicated non-application of mind, the same could not be sustained. SLP filed by the revenue was dismissed on account of a delay of 445 days, which was not satisfactorily explained. (AY. 2007-08)
Dy. DIT (E) v. Fine Arts Society (2025) 307 Taxman 224 (SC)
Editorial : Fine Arts Society v. Dy. DIT(E)(2024) 159 taxmann.com 776 (Bom)(HC)

S. 147: Reassessment-Borrowed satisfaction-Underinvesting of export-Justice M.B. Shah Commission's Report-SLP delay of 411 days-SLP of revenue dismissed on account of delay as well as on merits. [S. 148, Art. 136] 1880

Assessee received notice under section 148 of the Act. The first reason was under-invoicing of exports based on Justice M.B. Shah Commission's Report. The second reason was based on the decision of Apex Court thereby declaring mining leases in Goa expired on 22-11-2007, and subsequent activities considered to be illegal. The third ground was that income had escaped assessment because of failure on the part of the assessee to disclose fully and truly all material facts. This reason was again based on Justice M.B. Shah Commission's Report and observations of the Apex Court. High Court held that the third report of the Justice M.B. Shah Commission contained merely an expression of its opinion, and it lacked finality as well as authoritativeness, and only based on the expression of such opinion by the Commission, there could not be any prima facie belief which could be recorded by the Assessing Officer, without any independent material for the purpose of re-opening. Further, for making disclosure truly and fully assessee must have knowledge of it and since case of Goa Foundation v. Union of India in Writ Petition (Civil) No. 435 of 2012 declaring expiry of mining leases in Goa on 22-11-2007, was decided by Apex Court on 21-4-2014, such fact could not have been disclosed by assessee in return filed in year 2009-10. Moreover, since reasons for re-opening clearly went to show that Assessing Officer, except borrowing information from the third report of Justice M.B. Shah Commission, failed to record independently to his own satisfaction any reason so as to direct re-opening of assessment, reopening was not permissible. Court held that there was a delay of 411 days in filing the SLP, which had not been satisfactorily explained, and there was no good ground to interfere with the order. SLP filed was dismissed on account of delay and also on the merits. (AY. 2010-11 & 2011-12)

ACIT v. Tungabhadra Minerals (P.) Ltd. (2025) 307 Taxman 303 (SC)

Editorial: Balaji Mines and Minerals (P.) Ltd. v. ACIT [2024] 163 taxmann.com 37 (Bom HC)

S.147: Reassessment-After the expiry of four years-Depreciation on goodwill and additional depreciation-No failure to disclose material facts-Slump sale-Depreciation-Suspicion-Disclosure before settlement commission-Third party disclosure-Notice and order disposing the objection was quashed by High Court-SLP of revenue dismissed. [S.2(42C), 32, 32AC, 148, Art.136] 1881

On writ High Court held that the assessee-company acquired injectable business from its holding company as a going concern on slump sale basis and claimed depreciation on amount of goodwill, since issue regarding depreciation on goodwill was duly considered during course of regular assessment, Assessing Officer would not have any jurisdiction to reopen assessment. Court also held that the assessee-company acquired injectable business from its holding company as a going concern on slump sale basis and claimed depreciation on assets, since assessee had purchased entire unit on slump sale basis without values being assigned to individual assets and assessee had also obtained valuation report from expert valuer, who had physically verified each of assets to derive value, assessee was entitled to claim depreciation on assets on basis of valuation made

by an expert valuer of each of assets forming part of sale consideration. Held that the there was no dispute with regard to the assessee entering into transaction of slump sale to acquire the injectable unit as a going concern from its holding company. Therefore, all the notices under section 148 were to be quashed and set aside. SLP of revenue dismissed. (AY. 2015-16 to 2017-18)

ACIT v. Baxter Pharmaceuticals India Pvt. Ltd (2025) 481 ITR 301/ 307 Taxman 380/ (2026] 308 Taxman 158 (SC)

Editorial : Baxter Pharmaceuticals India Pvt. Ltd v. ACIT (2025) 481 ITR 289/ 171 taxman 573 (Guj) / 173 taxmann.com 573 (Guj)(HC)

1882 **S 147 : Reassessment-Strictures-Failure to produce reasons recorded and original assessment record-Record not traceable-Appeal dismissed-Cost of Rs.5000 levied on revenue-SLP of revenue dismissed. [S. 148, Art. 136]**

High Court dismissing the appeal of the revenue observed that Department after several opportunities to comply with this direction, stated that the original file was not traceable and sought an adjournment. The court granted the Department another opportunity to comply with directions within ten weeks, subject to payment of costs of Rs. 5,000. When the case came up for hearing, dismissing the appeal, that there was no proof of the costs having been paid as directed by the court and by letter dated February 19, 2019, the Deputy Commissioner had informed the assessee's counsel that the assessment records in the case of the assessee for the assessment year 2004-2005 were not traceable. It was plain that the Department was not interested in pursuing the appeal. SLP of revenue dismissed. (AY. 2004-05)

PCIT v. Indo Rama Synthetics (1) Ltd (2025) 481 ITR 660/ 307 Taxman 389 (SC)

Editorial : PCIT v. Indo Rama Synthetics (1) Ltd(2025) 481 ITR 658 /179 taxman.com 347 (Delhi)(HC)

1883 **S.147: Reassessment-After the expiry of four years-Proceedings based on bogus 'sauda chitthi' neither on stamp paper nor registered nor notarized on plain paper-No income accrued on account of transfer of capital asset-No escapement of income chargeable to tax-Reassessment notice was quashed by High Court-SLP delay of 846 days-SLP dismissed on account of delay as well as on merits. [S.2(47), 68, 148, Art. 136]**

The Hon'ble High Court noted that the Reassessment notice was founded on a bogus 'sauda chitthi' produced by the complainant, which was neither stamped, registered, nor notarized and was merely on plain paper. Further, it was found that no sale deed was executed and the properties continued to stand in the assessee's name and possession was never handed over. The High Court held that there was no transfer of a capital asset under section 2(47) and hence no income accrued either by way of sale deed or handing over possession; therefore, there was no escapement of income due to failure to disclose material facts. Reopening beyond four years was invalid and notices under section 148 were quashed. SLP of revenue was dismissed on account of delay of 846 days as well as on merits. (AY. 2014-15)

ITO v. Asefa Zohar Malampattiwala (2025) 306 Taxman 96 (SC)

Editorial : Asefa Zohar Malampattiwala v. ITO (2025) 176 taxmann.com 219 (Guj) (HC)

S. 147 : Reassessment-Client Code Modification-Cash credits-AO treated entire gross amount as undisclosed income-Only net gain taxable-No escapement of income-Delay of 442 days-SLP dismissed on account of delay. [S. 68, 148, Art. 136] 1884

The Assessing Officer issued a reopening notice alleging that the entire amount of ₹ 98.04 lakhs received by the assessee through Client Code Modification (CCM) constituted undisclosed income. The assessee argued that the AO had incorrectly treated the gross amount as taxable, whereas only the net income from buy and sell transactions-₹77,280-was relevant for tax purposes. High Court agreed, noting that the AO had failed to apply his mind to the nature of contra entries and had erroneously added both buy and sell amounts to compute escapement of income. The Court emphasized that only the net gain could be taxed and, since ₹77,280 was below the basic exemption limit for the year, no income chargeable to tax had escaped assessment. SLP dismissed on grounds delay not satisfactorily explained. (AY. 2014-15)

ITO v. Ram Nebhnani HUF [2025] 306 Taxman 272 (SC)

Editorial : Ram Nebhnani HUF v. ITO (2025) 176 taxmann.com 231 (Bom)(HC)

S. 147 : Reassessment-With in four years-Cash credits-Book profit-Even if the proposed addition is made, there would be no taxable income-Reassessment notice was quashed by High Court-SLP delay of 196 days-Delay was not condoned-SLP dismissed.[S. 68, 115JB, 148, Art. 136] 1885

The Hon'ble high court quashed and set aside the reassessment notice on the basis that even after the proposed addition, there would not be any taxable income impact due to Sec. 115JB. Revenue pursued SLP but offered no justifiable grounds to condone a 196-day delay in filing. SLP dismissed on account of failure to explain the delay. (AY. 2017-18)

ACIT v. Adeshwara Cement Co. (P.) Ltd. (2025) 306 Taxman 271 (SC)

Editorial : Adeshwara Cement Co. (P.) Ltd v. ACIT (2024) 166 taxmann.com 583 (Guj) (HC)

S. 147 : Reassessment-Income from other sources-Share premium-Change of opinion-No new tangible material-SLP of revenue dismissed.[S. 56, 68, 148, Art. 136] 1886

The Assessee had issued shares at a premium; the crux was whether assessment for AY 2015-16 could be reopened solely due to a perceived exponential hike in share premium when that very issue had been scrutinized originally. The Assessee contended that since the rise in share premium was already considered in the original assessment, reopening without new/tangible material was barred as a mere change of opinion.

The Revenue sought reopening under Sec. 148 citing substantial increase in share capital due to high share premium, contending income chargeable under Sec. 56 required reassessment. The Hon'ble Gujarat High Court set aside S. 148 notice, holding that reopening on the same issue without fresh material constitutes a change of opinion. The Hon'ble Supreme Court found no ground to interfere under Article 136 and dismissed the Revenue's SLP, in favour of the Assessee. (AY. 2015-16)

Dy. CIT v. Infibeam Avenues Ltd. (2025) 306 Taxman 350 /481 ITR 515 (SC)

Editorial : Infibeam Avenues Ltd v. Dy. CIT (2024) 161 taxmann.com 476 / (2025) 481 ITR 508 (Guj)(HC)

1887 **S. 147 : Reassessment-Alternative remedy-Filing appeal-Writ petition was dismissed-SLP of assessee dismissed.[S. 144B,148, Art. 136]**

The assessment order under section 147 read with section 144 and 144B was passed in the case of the Assessee. Aggrieved by the said order, the Assessee filed a writ application before the Delhi High Court. The High Court held that the petitioner had the alternate remedy of an appeal before the appellate authority and did not entertain the petition. Being aggrieved by the order of the Hon'ble Delhi High Court, the Assessee filed a special leave petition before the Hon'ble Supreme Court. The Hon'ble Supreme Court upheld the decision of the High court as an alternative remedy was available with the Assessee and refused to intervene in the matter.(AY. 2020-21)

Manju Arora v. ITO [2025] 306 Taxman 91 (SC)

Editorial : Manju Arora v. ITO (2025) 176 taxmann.com 343 (Delhi)(HC)

1888 **S.147 : Reassessment-Cash credits-Information from GST data-Non-furnishing of sales and purchase register-Assessee furnished GSTR-I and complete audited books-Reopening unjustified-Delay of 233 days-SLP of revenue was dismissed on account of delay as well as on merits. [S. 68,148, Art. 136]**

Parmukh Exports is a partnership firm engaged in trading cotton yarn and textile machinery spare parts. The Assessing Officer reopened the assessment citing information from the Insight Portal about huge sales and purchases which were alleged to be unexplained transactions and that the assessee failed to furnish its sales and purchase register despite having substantial sales and purchases. However, the assessee had already provided Audited Financial Statements, Form GSTR-1 details, ledger accounts, and other supporting documents, demonstrating that all transactions were duly recorded and reconciled with the information reported to the GST department. The Gujarat High Court held that reopening was based on non-application of mind of the AO and the mere ground of non-submission of the sales/purchase register was unjustified when comprehensive records were already on file. The Revenue challenged this decision before the Supreme Court through a Special Leave Petition. The Court noted a delay of 233 days in filing the petition and dismissed the SLP on grounds of delay as well as lack of merit.(AY. 2018-19)

ITO v. Parmukh Exports [2025] 306 Taxman 356 (SC)

Editorial : Parmukh Exports v. ITO (2025) 177 taxmann.com 227 (Guj)(HC)

1889 **S. 147: Reassessment-Unexplained money-Unaccounted sales-Information from Partner's Complaint-Opportunity of Hearing-No Reliance Solely on Third-Party-Writ not maintainable-SLP of assessee dismissed. [S.69A, 148, Art. 136]**

The reassessment notice was issued on the basis of a complaint received from one of the partners of the assessee firm, alleging that the firm had understated its actual business receipts with an intent to defraud the Revenue. Based on the information received and the replies furnished by the assessee, the AO passed the reassessment order, making additions to the income of the assessee. The assessee challenged the reassessment proceedings on the ground that they were based on third-party information, namely the complaint, and that no opportunity of cross-examination of the complainant had been granted. The Court noted that the AO had not recorded any statement of the complainant or any other witness, nor was the reassessment order passed solely on the basis of the complaint. Instead, the Assessing Officer had examined the documentary

material evidencing the firm's transactions, all of which had been made available to the assessee. The assessee was also afforded an adequate opportunity to explain and substantiate how the alleged undisclosed sales were accounted for in the books of account. The Court held that, sitting in writ jurisdiction, it could not undertake an appreciation or analysis of factual material and documentary evidence. Accordingly, no jurisdictional error was found in the reassessment proceedings. The writ petition was dismissed, with liberty granted to the assessee to avail the alternate statutory remedy by way of appeal. SLP of assessee dismissed. (AY.2016-17, 2017-18)
Shree Shakambhari Udyog Partnership Firm v. CIT (2025) 306 Taxman 339 (SC)
Editorial: Shree Shakambhari Udyog Partnership Firm v. CIT (2025) 173 taxmann.com 955 (Pat) (HC)

S. 147 : Reassessment-Cash credits-Change of opinion-Reassessment notice and order was quashed by High Court-SLP of revenue was dismissed on account of delay of 308 days in filing SLP which had not been satisfactorily explained and also on merits.[S. 68, 148, Art, 136] 1890
Assessee filed its return of income which was selected for scrutiny and an assessment order under section 143(3) was passed, making additions under section 68. Thereafter, a reopening notice was issued on the ground that assessee had not disclosed fully and truly all facts and details with regard to trading done through a broker and, as such, the return was processed under section 143(1), and no scrutiny assessment was passed under section 143(3). On writ the Court held that at time when assessment order under section 143(3) was passed, Assessing Officer was in possession of transaction details through broker and thereby, same could not be made subject matter again to assume jurisdiction under section 148 for reopening of assessment, as same had already been concluded-High Court held that reopening notice was nothing but change of opinion and same was not permissible in law. On SLP by revenue, the Court dismissed the SLP on account of delay of 308 days in filing SLP by revenue and delay had not been satisfactorily explained, and also on merits. (AY. 2011-12)
ITO v. Hemanshu Ramniklal Shah (2025) 305 Taxman 408 (SC)
Editorial : Hemanshu Ramniklal Shah v. ITO (2025) 171 taxmann.com 19 (Guj)(HC)

S.147: Reassessment-After the expiry of four years-Business loss-Stock broking-Change of opinion-Order of High Court quashing the reassessment order was affirmed-SLP of revenue dismissed. [S. 28(i), 148, Art. 136] 1891
Assessee was in business of shares and stock broking. Assessing Officer issued notice under section 148 on ground that assessee had wrongly claimed loss on certain trades as business loss and thus income chargeable to tax had escaped assessment High Court held that since issue involved in reasons for reopening were examined at time of original assessment, it was a clear case of change of opinion which did not constitute justification and/or reasons to believe that income chargeable to tax had escaped assessment. Reassessment notice and order disposing the objection was quashed. SLP of revenue dismissed. (AY. 2015-16)
ACIT v. Emkay Global Financial Services Ltd. (2025) 304 Taxman 185 / 482 ITR 286 (SC)
Editorial : Emkay Global Financial Services Ltd v. ACIT (2024) 465 ITR 763 / 160 taxmann.com 275 (Bom)(HC)

1892 **S. 147 : Reassessment-Cash credits-Change of opinion-Delay of 185 days in filing SLP-SLP of revenue dismissed on account of delay and also on merits. [S. 68, 148, Art. 136]**
Assessee filed its return of income was selected for scrutiny, and an assessment order under section 143(3) was passed, making additions under section 68. Reopening notice was issued on the ground that assessee had not disclosed fully and truly all facts and details with regard to trading done through broker and as such, the return was processed under section 143(1) and no scrutiny assessment was passed under section 143(3). On writ the Court held that at time when assessment order under section 143(3) was passed, Assessing Officer was in possession of transaction details through broker and thereby, same could not be made subject matter again to assume jurisdiction under section 148 for reopening of assessment, as same had already been concluded. High Court held that reopening notice was nothing but change of opinion and same was not permissible in law. There was gross delay of 185 days in filing SLP. Court held that since delay had not been satisfactorily explained and even otherwise, there was no reason to interfere with the order passed by the High Court, the SLP filed by the revenue was to be dismissed on the ground of delay as well as on merits. (AY. 2011-12)
ITO v. Hemanshu Ramniklal Shah (2025) 304 Taxman 610 / 482 ITR 147 (SC)
Editorial : Hemanshu Ramniklal Shah v. ITO (2025) 171 taxmann.com 19/482 ITR 138 (Guj)(HC)

1893 **S.147: Reassessment-Unexplained investments-Low tax effect-Report of enquiry Commission-Miscellaneous application-Three weeks' time to get further instructions was to be granted to both assessee and revenue as jointly prayed for.[S. 268A, Art. 136]**
Assessee-company was engaged in the business of trading iron ore. On the basis of the report of enquiry of the Commission, the Assessing Officer found that the assessee was one of such companies which quoted an export price lesser than base value. Assessing Officer made an addition on the basis of the aforesaid report of enquiry of the Commission. Tribunal held that when the assessee had purchased 'royalty paid' iron ore from the open market and exported the same at ALP, no addition could be made to the assessee's income on the basis of the aforesaid report.
The High Court held that the Tribunal, having taken into consideration the applicability of report of the Enquiry Commission, the findings recorded by Tribunal could not be interfered with.
Special Leave Petition against said impugned order was dismissed on ground of low tax effect. Revenue filed a Miscellaneous Application against said order and pointed out that present should be treated as an exception under relevant Circular issued by Ministry of Finance. There was threshold limit for proceeding under section 147 but this was only trigger point for initiating necessary proceedings against assessee in due course. Three weeks time was granted to get further instructions was to be granted to both assessee and revenue as jointly prayed for. *(PCIT v. Rawmin Mining and Industries (P.) Ltd(SLP (C) No. 12639 /2020 (2021) 124 taxmann.com 239 (SC)* (AY. 2010-11)
PCIT v. Rawmin Mining and Industries (P.) Ltd. (2025) 304 Taxman 272 (SC)

S. 147 : Reassessment-Within four years-Donation-CSR expenditure-original assessment completed u/s. 143(3)-Change of opinion-Reassessment notice quashed-SLP of revenue dismissed for failure to explain gross delay of 268 days. [S. 37(1), 80G, 147, 148, Art. 136] 1894

Assessee-company engaged in business of manufacturing lubricating oils, filed its return of income for AY 2017-18. It disallowed a portion of CSR amount as per Explanation 2 to section 37(1), and additionally, it claimed a deduction under section 80G for donations to approved trusts/institutions. Return was selected for scrutiny, and after providing necessary details, an assessment order was passed, allowing claimed deductions. Subsequently, AO issued a notice for reopening assessment, alleging income escapement. On writ, the Court observed that before finalizing original assessment order, AO had raised queries to which assessee responded adequately, clarifying that deductions were only claimed under section 80G, supported by donation receipts and AO had examined all these aspects while passing original assessment order. Further, documents on record also indicated that Audit Wing of Department raised certain objections to original assessment order including issue of deduction under Section 80G and AO justified the original assessment order to the audit party without accepting any adjustment to the same. In view of the above, it could be said that the assessment was reopened on the basis of a change of opinion and it lacked tangible information on the basis of which AO allegedly formed the requisite belief. Accordingly, the reassessment notice and order disposing of the objection were quashed by the Hon'ble High Court. Revenue filed SLP against the High Court order. SLP of the revenue was dismissed for failure to explain gross delay of 268 days. (AY. 2017-18)

Dy. CIT v. Castrol India Ltd. (2025) 304 Taxman 658 (SC)

Editorial : Castrol India Ltd v. Dy.CIT (2024) 299 Taxman 71 (Bom)(HC)

S. 147: Reassessment-Second Notice issued pursuant to liberty granted by Supreme Court relating to foreign assets-Supreme Court decision in first round of litigation binding on parties sufficient material existed to justify reassessment-SLP dismissed-Corporate guarantee; the issue is kept open. [S. 68, 92B, 147, proviso (ii), 148, Art.136, 142] 1895

Dismissing the appeal the Court observed that reassessment proceedings initiated on the ground that the United Kingdom subsidiary of the assessee, which raised funds through step-up coupon convertible bonds was a sham entity and the funds were actually the assessee's unaccounted income, the Supreme Court held that there were sufficient reasons to believe that income had escaped assessment, but found that the assessee had made full and true disclosure of all material facts and quashed the notice under section 148 issued after four years without establishing non-disclosure, but granted liberty to the Department to issue a fresh notice taking the benefit of the second proviso to section 147, which related to income in relation to assets located outside India. Based thereon, the Assessing Officer issued a second notice for reassessment stating that the assessee had a financial interest in the United Kingdom-based company which had raised funds, and that the genuineness of the entire transaction was dubious and relying upon the findings of the Dispute Resolution Panel that the subsidiary companies were sham transactions and that the assessee had routed its undisclosed income through these companies.

On a writ petition the court held that the findings rendered by the Supreme Court bound the parties including the assessee, that the decision to reopen was based on the liberty which was granted by the Supreme Court in the first round of litigation and only placed the Department under the obligation of informing the assessee of their intent to invoke and rely upon the second proviso to section 147, that sufficient material existed before the Assessing Officer which would have justified the power to reassess being exercised, and that the court would not review the findings rendered in this context in the first round of litigation. The appeal dismissed. However the question whether the undertaking furnished by the assessee would amount to a corporate guarantee or a mere obligation which could be viewed as an international transaction was kept open for the assessee to canvass before the Assessing Officer.

New Delhi Television Ltd v. Asst. CIT (2025) 478 ITR 558/ 304 Taxman 177 (SC)

Editorial : New Delhi Television Ltd v. Asst. CIT (2025) 478 ITR 544 (Delhi)(HC)

1896 **S. 147 : Reassessment-Capital gains-Information from investigation unit-Penny stock-Borrowed satisfaction-Fishing inquiry not permissible-Order of High Court quashing the notice is affirmed-SLP of revenue dismissed.[S. 10(38), 45, 148, Art. 136]**

On a writ petition, the High Court quashed the notice and held that the Assessing Officer had assumed jurisdiction on the basis of borrowed satisfaction without there being any live link between the information and the material on record and had issued notice for making a fishing inquiry which was not permissible. SLP of revenue dismissed.(AY. 2014-15)

Dy. CIT v. Rakesh Ramanlal Shah (2025) 477 ITR 296 (SC)

Editorial : Rakesh Ramanlal Shah. v. Dy. CIT 2024] 165 taxmann.com 364 / (2025) 477 ITR 289 (Guj)(HC)

1897 **S. 147 : Reassessment-Search and seizure-Assessment of third person-opportunity of hearing not mandatory for issue of notice of reassessment pursuant to search-Satisfaction note is internal communication of Department not requiring document identification number-No provision requiring supply of copy of satisfaction note to assessee with notice for reopening assessment-SLP against High Court order dismissed. [S. 132, 148, 153A Art.136]**

Dismissing the petition the Court held that the entire scheme of reopening of assessment under section 147, in search cases had undergone a change by paradigm shift of the reassessment proceedings replacing the earlier block assessment and thereafter the provisions under section 153A read with section 153C for reopening of the past assessment years on the basis of material found during the course of search were applicable. Dismissing the petition the Court held that the satisfaction note could not be said to be a communication as contemplated under Board Circular No. 19 of 2019 ((2019) 416 ITR (St.) 140) and even otherwise it could be regularized by issuing a copy of the satisfaction note with a document identification number which would be a procedural aspect for issuing notice under section 148 which already contained the document identification number and date. That there was no time limit prescribed for initiation of reassessment proceedings and sending the proposal for reopening the assessment under section 147 on the basis of search and seizure under section 132.

The time limit provided in Board Circular No. 24 of 2015 ((2016) 380 ITR (St.) 32) was prescribed for recording satisfaction of the Assessing Officer of the searched person either at the time of initiation of proceedings against the searched person or during the course of assessment proceedings or immediately after assessment proceedings were completed. Such guidelines would not apply for recording satisfaction note in the case of a person other than the searched person on the basis of materials seized or found during the course of search. SLP against the High court order was dismissed. (AY. 2017-18)

Rameshkumar Tulidas Kaneriya v. ACIT (2025) 477 ITR 366/304 Taxman 666 (SC)

Editorial : Rameshkumar Tulsidas Kaneriya v. ACIT (2025) 477 ITR 358 /172 taxmann. com 814 (Guj)(HC)

S. 147 : Reassessment-Exchange, difference or net loss in foreign exchange transaction-Change of opinion-No tangible material-SLP of revenue dismissed, on ground of delay of 181 days and also on merits. [S. 143(3), 148, Form 15CA, Art. 136] 1898

On writ High Court quashed the reassessment notice on the ground that the Assessing Officer could not have formed a prima facie belief that there was escapement of income in view of the material available on record during the original assessment proceedings and the notice was based on a change of opinion on the part of the Assessing Officer on borrowed satisfaction without there being any fresh tangible material to prima facie material. SLP of revenue dismissed as the delay of 181 days in filing the special leave petition had not been satisfactorily explained and also on merits. (AYs. 2016-17 & 2017-18)

Dy. CIT v. Gokul Agro Resources Ltd. (2025) 476 ITR 160/304 Taxman 425 (SC)

Editorial : Gokul Agro Resources Ltd. v. Dy. CIT (No. 1), (2025) 474 ITR 555 (Guj)(HC)

S.147: Reassessment-After the expiry of four years-Business of purchase and sale of shares-Set-off-Speculation loss-Business loss-Query raised-Audit objection-Change of opinion-Notice and order disposing the objection was quashed-SLP of revenue dismissed. [S.28(i), 73, 148, Art. 136] 1899

On writ the High Court held that the assessment was merely based on change of opinion which did not constitute justification or reasons to believe that the income chargeable to tax has escaped assessment. There was a specific contention that the Assessing Officer had strongly objected to the audit query and had filed a detailed reply in support of his action of allowing the claim. Thus there was no denial in the affidavit-in-reply and on the contrary it was simply stated that it was matter of record, factual and formal in nature, and therefore, no comments were offered. Reopening beyond four years to recharacterize it as speculation loss under the Explanation to s. 73 was held invalid since the issue had been considered in the original assessment and no allegation of failure to disclose was made. The notice issued under section 148 and the order rejecting the assessee's objections were quashed and set aside by the Hon'ble High Court. SLP of the revenue dismissed. (AY.2013-14)

ACIT v. BSIFS Pvt. Ltd. (2025) 474 ITR 208 (SC)

Editorial : BSIFS Pvt. Ltd. v. ACIT (2025) 474 ITR 200 (Bom)(HC)

1900 **S.147: Reassessment-After the expiry of four years-Disallowance of expenditure-Exempt income-No failure to disclose material facts-Reassessment quashed by High Court-Delay of 457 days-SLP of Revenue is dismissed on the ground of delay of 457 days. [S. 14A, 148, 263, Art. 136]**

On writ, the High Court held that the assessment order under section 143(3) was passed after considering assessee's reply to the questionnaire issued by the Assessing Officer regarding dividend income, and even proceedings under section 263 did not raise the issue of disallowance of expenditure incurred for earning exempt income under section 14A; reopening of assessment for making disallowance under section 14A was not justified. SLP of Revenue is dismissed on the ground of delay of 457 days (AY. 2008-09)

Dy. CIT v. Unitech Ltd. (2025) 302 Taxman 372 (SC)

Editorial : Unitech Ltd v. Dy.CIT (2017) 397 ITR 547 / (2018) 99 taxmann.com 455(Delhi)(HC)

1901 **S. 147 : Reassessment-Within four years-Bad debt-Provision for bad and doubtful debts-Schedule bank-Order of High Court quasheing the reassessment notice and consequential order was quashed-SLP of Revenue is dismissed on account of delay of 162 days as well as on merits. [S. 36(1)(viia), 143(3), Art. 136]**

Assessee-bank filed its return claiming deduction under section 36(1)(viia) on account of provision for bad and doubtful debts which was 7.5 per cent of profit of assessee. Assessment was completed under section 143(3). Reassessmeent was initated, on writ the High court quashed the reassessment proceeings on the ground that during original assessment proceedings, the Assessing Officer had called upon assessee to give details of the outstanding balance in provision for bad and doubtful debts created under section 36(1)(viia), also a specific query was raised in respect of rural branches separately and called for proof of such rural branches. The reassessment notice and the order disposing of the objection were quashed. Revenue filed SLP against the said impugned order. SLP was to be dismissed on grounds of delay as well as on merits. (AY. 2010-11)

ACIT v. Yes Bank Ltd. (2025) 303 Taxman 260 (SC)

Editorial : Yes Bank Ltd v. ACIT (2025) 474 ITR 430 / (2024) 160 taxmann.com 329 (Bom)(HC)

1902 **S. 147 : Reassessment Capital gains-Full value of consideration-Stamp valuation-High Court affirmed the order of the Tribunal on the ground that based on very same document re assessment was not justified-Special leave petition was dismissed on ground of low tax effect. [S. 50C, 148, Art. 136**

Assessee is engaged in real-estate business. He filed his return of income which was accepted and assessment was completed. Subsequently, assessment was reopened on ground that assessee should have adopted value of land computed by District Revenue Officer under Indian Stamp Act for purpose of computation of stamp duty payable on such instrument. The Assessment was repened. On appeal the CIT(A) affirmed the order of the Assessing Officer. Tribunal held that there was no material available with the Assessing Officer other than what was available with him at the first instance, when he completed the assessment under section 143(3) to come to a conclusion that there were reasons to reopen the assessment. On appeal the High Court affirmed the order

of the Tribunal on the ground that based on very same document re assessment was not justified. Special leave petition filed against impugned order of High Court was dismissed on ground of low tax effect. (AY. 2009-10)
PCIT v. K.R. Jayaram (2025) 303 Taxman 408 (SC)
Editorial: PCIT v. K.R. Jayaram (2025)171 taxmann.com 51 (Mad)(HC)

S. 147: Reassessment-Cash credits-Bogus sales-Special Audit report-Reopening based only on NSEL information-Delay of 122 days not satisfactorily explained-SLP dismissed both for delay and on merits. [S. 68, 143(3), 148, Art. 226] 1903
AO reopened assessment solely on NSEL's report that certain dues from assessee represented bogus sales, despite facts on record showing no transactions on NSEL during the year. High Court quashed the reopening as jurisdiction was assumed without basis. SLP by Revenue was dismissed both for delay of 122 days and also on merits. (AY.2014-15)
ACIT v. N.K. Industries Ltd. (2025) 303 Taxman 262 (SC)
Editorial : N.K. Industries Ltd v. ACIT (2024) 165 taxmann.com 194 (Guj)(HC)

S. 147 : Reassessment-Within four years-Accommodation entries-Shell company-Deposit of demonetized cash-Borrowed satisfaction-Not independently applied the mind-Reassessment notice and order disposing the objection was quashed-SLP of Revenue is dismissed on account of delay of 354 days as well as on merits. [S. 69A, 143(1), 148, Art.136] 1904
High Court quashed the reassessment notice on the ground that the reasons recorded do not suggest at all whether pursuant to receipt of information, the assessing officer had independently applied its mind to the information received or conducted its own inquiry into the matter for the purpose of coming to a conclusion that indeed income assessable to tax had escaped assessment or that the transaction in question with the alleged shell entity was only a paper transaction. Accordingly, the reassessment notice and order disposing of the objection were quashed. SLP of Revenue was dismissed on account of delay of 354 days, which had not been satisfactorily explained, and also on merits. (AY.2016-17)
ACIT v. B. U. Bhandari Autolines Pvt. Ltd. (2025) 472 ITR 1 /171 taxmann.com 130 (SC)
Editorial : B. U. Bhandari Autolines (P.) Ltd. v. Asstt. CIT (2023) 292 Taxman 195/ 456 ITR 56 (Bom)(HC)

S.147: Reassessment-After the expiry of four years-No failure to disclose material facts or new tangible material available-Disallowance of corporate social responsibility expenditure-Notice based on change in law in succeeding assessment year-Not valid. [S. 37(1), 143(3), 144B, 148, Art. 226] 1905
Allowing the petition, that there was no failure by the assessee to disclose fully and truly all material facts. Reopening of the assessment under section 147 was on an audit objection and there was no tangible material available to conclude that income had escaped assessment. All material particulars had been disclosed by the assessee pursuant to which the order under section 143(3) was passed for the assessment year 2013-2014. The Assessing Officer had proceeded on the ground that the entire expenditure was

corporate social responsibility expenditure and had disallowed it placing reliance on Explanation 2 to section 37(1) which was inserted with effect from April 1, 2015 and therefore not in the statute during the assessment year 2013-2014. Explanation 1 was not applicable as corporate social responsibility expenditure was incurred as required by section 135 of the Companies Act, 2013 and its proposed disallowance would not constitute an offence. The Assessing Officer had acted in excess of his jurisdiction to reopen the assessment in the exercise of powers under section 147 read with section 148. The notice issued under section 148 and the order passed under section 147 read with section 144B and consequent notices of demand and penalty were to be quashed.
Maharashtra State Power Generation Co. Ltd. v. ACIT (2025) 482 ITR 960 (Bom)(HC)

1906 **S.147: Reassessment-After the expiry of four years-No failure to disclose material facts or new tangible material available-Payments under settlement with on-site employees in class action law suit in United States of America-Reassessment to disallow deduction on ground that amount expended was penalty-Payment not in nature of penalty-Reassessment not sustainable.[S. 37(1), 148, Art. 226]**

Allowing the petition, that the Assessing Officer had no reason to believe that the payment made on account of settlement under the agreement with the on-site employees in the United States of America in the class action law suit was a payment towards a penalty imposed and therefore, there was no reason for the Assessing Officer to believe that income had escaped assessment under section 147. The Department had not alleged that the penalty imposed upon the assessee was a part of a sentence in criminal proceedings which if it were, would result in denying the benefit of the deductions claimed. The Assessing Officer had sought to accord a fresh consideration to an issue which was already concluded in the regular assessment proceedings. There was no basis for the Assessing Officer for forming reason to believe and the basis shown on the face of it was totally perverse. The notice issued under section 148 and the order rejecting the assessee's objections were set aside.
Tata Consultancy Services Ltd. v. Dy. CIT (2025) 482 ITR 966 (Bom)(HC)

1907 **S.147: Reassessment-After the expiry of four years-Scrutiny assessment-No evidence of failure to disclose material facts-Reassessment notice and order disposing of objection was quashed. [S. 143(3), 148, Art. 226]**

Allowing the petition, the Court held that there was nothing on record to show as to what the information relating to the client code modification was, when it was received, and how it would point to any income in the hands of the assessee escaping assessment. Equally, there was not a whisper that the assessee had instructed modification of the client codes. The notice dated March 31, 2021, and both consequential notices under section 143(2) dated June 30, 2021 and the notice under section 142(1) dated December 21, 2021 and the order dated February 14, 2022, purporting to dispose of the objections raised by the assessee to the proposed reassessment were quashed.(AY. 2013-14)
Aashish Niranjan Shah v. UOI [2024] 167 taxmann.com 561 / (2025) 482 ITR 492 (Bom) (HC)

S.147: Reassessment-After the expiry of four years-Change of opinion-Reassessment notice and order disposing of the objection are quashed. [S. 148, Art. 226] 1908

Held that the very same issues of difference between the closing balance for the assessment year 2011-2012 and the opening balance for the assessment year 2012-2013 in the amounts of work-in-progress and sale of a property raised in the reasons to believe had been raised by the Assessing Officer in the original assessment under section 143(3). Detailed explanations had been given by the assessee on both the issues and the Assessing Officer had been satisfied with the explanations. The notice issued under section 148 and the order rejecting the assessee's objections were quashed and set aside.(AY. 2012-13)

Wellgroomed Venture v. ACIT (2025) 482 ITR 813 (Bom)(HC)

S.147: Reassessment-After the expiry of four years-Change of opinion-Failure to disclose material facts-Notice not valid.[S. 148, Art. 226] 1909

On writ, the Court held that the Assessing Officer had failed to give the particulars of the information available with him, which had led to the belief that income had escaped assessment. There appeared to be no new tangible material available on record to conclude that income had escaped assessment. It was clearly a "change of opinion". The notice of reassessment was not valid. (AY.2009-10)

Welcome Plywood Pvt. Ltd. v. ITO [2023] 153 taxmann.com 285 / (2025) 482 ITR 936 (Bom)(HC)

S.147: Reassessment-After the expiry of four years-Change of opinion-Failure to disclose material facts-Notice not valid.[S. 148, Art. 226] 1910

Allowing the petition, the Court held that there was nothing to indicate failure to disclose any material fact. Upon examining the order under section 143(3) of the Income-tax Act, 1961, it was clear that the Assessing Officer had considered all documents and accepted the business loss and allowed unabsorbed depreciation to be carried forward to the subsequent years in accordance with the Act. The notice of reassessment was not valid.(AY. 2012-13)

Kapstone Constructions Pvt. Ltd. v. ACIT [2023] 153 taxmann.com 305 / (2025) 482 ITR 940 (Bom)(HC)

S.147: Reassessment-After the expiry of four years-Educational Society-Accumulation of income-Reassessment notice and order disposing the objection was quashed and set aside. [S. 11(2), 14 Art. 226] 1911

On writ the Court held that the assessee-society, in response to the query regarding the accumulation/ deemed application u/s 11(2), as specifically raised by the AO during the original scrutiny proceedings by issuing notices u/s 143(2) and thereafter u/s142(1), answered clearly bringing to the notice of the AO that they had claimed deemed application/ accumulation u/s 11(2) of Rs. 32 Crores and the after being satisfied with the explanation, AO passed his Order u/s 143(3) concluding that the Petitioner being a Trust, the taxable income of the Petitioner was nil. The Court held that there was no failure on the part of the assessee to fully and truly disclose all material facts necessary for AY 2013-14 which would give jurisdiction to the current AO to initiate re-assessment

proceedings under Sections 147 and 148 of the Income Tax Act more particularly because admittedly the Section 148 notice has been issued after a period of 4 years from the date of the end of the relevant Assessment Year. The Court also agreed with Petitioner that on perusing the reasons for re-opening the assessment, it can be seen that it is nothing but a change of opinion which wholly impermissible and does not allow the Assessing Officer to reopen the Assessment. It was also held that the power given to the Assessing Officer is not to review the earlier order but only to reassess and both are quite different. Reassessment can only take place (if the first proviso to Section 147 is attracted) when there is a failure to disclose all material facts necessary for that particular Assessment Year. If that jurisdictional requirement is not met, the Assessing Officer has no power to reopen the assessment or issue any notice under Section 148 of IT Act.(AY.2013-14)

Symbiosis Open Education Society v. ACIT (2025) 306 Taxman 62 (Bom.)(HC)

1912 **S.147: Reassessment-After the expiry of four years-Cash credits-Bogus transactions-Violation of principle of natural justice-Objections of assessee were not disposed of before passing of assessment order, entire proceedings were vitiated and matter was to be remanded back to Assessing Officer.[S. 68, 148, Art. 226**

Assessing Officer issued notice under section 148 on ground that assessee had entered into bogus transactions with one Naresh Jain. Assessee filed objections against said reopening notice contending that it did not know any Naresh Jain and that no financial transactions had ever been entered into with said Naresh Jain during relevant assessment year. Without disposing of said objections, Assessing Officer issued a show-cause notice and passed assessment order in complete breach of principles of natural justice. On writ the Court held that since objections of assessee were not disposed of before passing of assessment order, entire proceedings were vitiated and matter was to be remanded back to Assessing Officer. (AY. 2014-15)

Kalpesh R. Varia HUF v. ITO (2025) 305 Taxman 600 (Bom)(HC)

1913 **S.147: Reassessment-After the expiry of four years-Business loss-Stock broking-Change of opinion-High Court quashed the reassessment notice and order disposing of the objection. [S. 28(i), 148, Art. 226]**

Assessee was in the business of shares and stock broking. Assessing Officer issued notice under section 148 on ground that assessee had wrongly claimed loss on certain trades as business loss and thus income chargeable to tax had escaped assessment High Court held that since issue involved in reasons for reopening were examined at time of original assessment, it was a clear case of change of opinion which did not constitute justification and/or reasons to believe that income chargeable to tax had escaped assessment. Reassessment notice and order disposing of the objection were quashed. (AY. 2015-16)

Emkay Global Financial Services Ltd v. ACIT (2024) 465 ITR 763 / 160 taxmann.com 275 (Bom)(HC)

Editorial: SLP of revenue dismissed, ACIT v. Emkay Global Financial Services Ltd. (2025) 304 Taxman 185 / 482 ITR 286 (SC)

S. 147: Reassessment-After the expiry of four years-Business expenditure-Promotional articles distributed to doctors for promotion-Change of opinion-Reassessment notice and order disposing of the objection were quashed. [S. 37(1), 148, Art. 226] 1914

During assessment proceedings, the assessee claimed promotional expenses incurred by it on promotional articles distributed to doctors for promotion of assessee's products. Assessing Officer disallowed one-third of such expenses on the ground that recipient details and documentary evidence thereof were not furnished and allowed the balance expenses. Reopening notice was issued against assessee on ground that entire expenditure on promotional articles should have been disallowed in view of CBDT Circular No. 5 of 2012. On writ, the Court held that it was an admitted position, as per reasons recorded, that the issue was examined during the course of assessment proceedings and one-third of promotional expenses were disallowed and the balance expenses were allowed; the pre-condition of failure to disclose fully and truly all material facts necessary for assessment could not be satisfied. Failure, if there was any, was on the part of the Assessing Officer for not disallowing entire expenditure earlier, not on assessee. Therefore, reopening amounted to a mere change of opinion. Reassessment notice and order disposing of the objection was quashed. (AY. 2009-10)

Pfizer Ltd. v. Dy. CIT (2025) 304 Taxman 455 (Bom.)(HC)

S.147: Reassessment-After the expiry of four years-Business expenditure-Premium paid on securities-The Assessing Officer had not disclosed which material facts, according to him, were not fully and truly disclosed by the assessee for relevant assessment year. Accordingly, the notice and order disposing of the objection was quashed. [S. 37(1), 148, Art. 226] 1915

Assessee issued compulsory convertible debentures (CCDs) to its subsidiaries. Same was converted into optionally convertible debentures (OCDs). Subsequently, OCDs were redeemed and repaid along with premium on such OCDs to the holding company. Assessee claimed deduction towards premium paid. Assessing Officer allowed the claim. After four years, Assessing Officer sought to reopen assessment on ground that the entire premium amount was paid from securities premium account and not routed through profit and loss account and, thus, the claim of entire amount should have been denied. On writ, the Court held that reasons recorded by Assessing Officer nowhere stated that there was failure on the part of assessee to disclose fully and truly all material facts necessary for assessment. The Assessing Officer had not disclosed which material facts, according to him, were not fully and truly disclosed by assessee for the relevant assessment year. Accordingly, the notice and order disposing the objection was quashed. (AY. 2014-15)

Concentrix Services India (P.) Ltd. v. Dy. CIT (2025) 304 Taxman 211 (Bom.)(HC)

S.147: Reassessment-After the expiry of four years-Transfer pricing-Arms' length price-Avoidance of tax-International transaction-Guarantee fees-Pending before Tribunal-Court held that the Assessing Officer was debarred from initiating reassessment proceedings on that very issue-Reassessment notice and order disposing the objection was quashed. [S.92C, 143(3), 148, Art. 226] 1916

Assessee filed its return of income, which was accepted, and an assessment order was passed. The Assessing Officer issued a reopening notice after a period of four years on

the ground that the guarantee fee claimed by assessee pertaining to the financial year 2013-14 but booked in the financial year 2015-16 was not allowable in assessment year 2014-15. On writ, the Court held that the reasons for reopening did not allege any failure on the part of assessee to disclose fully and truly all material facts anywhere in the assessment. There was no fresh tangible material which would empower the Assessing Officer to reopen assessment. Further, issue of 'guarantee fee' was pending consideration before the Tribunal and thus the Assessing Officer was debarred from initiating reassessment proceedings on that very issue. Reassessment proceedings were quashed. (AY. 2014-15)
Tata Communications Ltd. v. Dy. CIT (2025) 304 Taxman 476 (Bom)(HC)

1917 **S.147: Reassessment-After the expiry of four years-Cash credits-Faceless Assessment Standard Operating Procedure-Natural justice-No fresh tangible material-Reassessment notice and order disposing of the objection was quashed-[S. 68, 144, 144B(6)(xi), 148, Art. 226]**
Petitioner filed her return of income in response to notice issued under section 148. Assessing Officer issued a show cause notice-cum-draft assessment order to assessee under section 144 and proposed to make a best judgment assessment under section 144. Assessee sought adjournment of 15 days to reply to notices issued under section 142(1) on the ground of then prevalent Covid-19 pandemic. Assessing Officer did not consider assessee's letter seeking adjournment of 15 days to reply to notices and proceeded to issue draft assessment order giving assessee only 3 days' time to file a reply to such show cause notice cum draft assessment order. On writ the court held that since SOP, as issued under provisions of section 144B(6)(xi), clearly provides a response time of seven days from issuance of Show Cause Notice to assessee to submit his reply, Assessing Officer acted contrary to SOP under section 144B by giving assessee only three days' time to respond to show cause notice, which had resulted in breach of principles of natural justice order is quashed and set aside. The Assessing Officer sought to reopen the assessment on the ground that the assessee had taken huge financial transactions. The Court held that since there was no fresh tangible material on record to justify reopening of the reassessment order passed against the assessee after a period of four years was unjustified and set aside. (AY. 2014-15)
Madhuri Sameer Gokhale v. NFAC (2025) 304 Taxman 359 (Bom.)(HC)

1918 **S.147: Reassessment-After the expiry of four years-Sale promotion expenses incurred on doctor-Since there was no failure on the part of assessee to disclose fully and truly all material facts necessary for assessment, reopening notice was quashed.[S. 143(3), 148, Art. 226]**
Assessee-company filed its return of income, which was selected for scrutiny assessment and an assessment order was passed disallowing a certain percentage of expenses on samples given to doctors on ground that the same constituted sale promotion expenses incurred on doctor. Assessing Officer issued a reopening notice against the assessee. On writ, the Court held that the Assessing Officer, in the reasons recorded, had admitted that the issue for which reopening was sought had either been disclosed in the profit and loss account or in the balance sheet. It was also found that reasons based on which reopening was initiated comprised the issue of sale promotion, which was disallowed

in the course of assessment proceedings and the issue with respect to export incentives, security deposit and expenses of rationalisation initiatives were not disallowed during the course of assessment proceedings. Since there was no failure on the part of assessee to disclose fully and truly all material facts necessary for assessment, the reopening notice was quashed. (AY. 2013-14)
GlaxoSmithKline Pharmaceuticals Ltd. v. ACIT (2025) 304 Taxman 350 (Bom.)(HC)

S.147: Reassessment-After the expiry of four years-No failure to disclose material facts-Capital gains-Reopening would amount to review of the assessment order which is not permissible. [S. 148, Art. 226] 1919
Allowing the petition, the Court held that where the reasons recorded do not specify any material facts allegedly not disclosed by the assessee and reopening is based only on assessment records already examined in original scrutiny (capital gains), the jurisdictional condition under the first proviso to s. 147 is not satisfied. Reassessment after four years in such circumstances amounts to an impermissible review. Furnishing reasons at the fag end and completing reassessment in haste without properly disposing of objections was also held to be unfair and unconstitutional. Followed *Hindustan Lever Ltd. v. R.B. Wadkar (2004) 268 ITR 332 (Bom) (HC)* (AY. 2015-16)
Jayant Avinash Dave v. ACIT (2025) 344 CTR 326 / 249 DTR 106 (Bom)(HC)

S.147: Reassessment-After the expiry of four years-Set off the losses incurred in one unit against the profits of the other unit-Audit objection-Change of opinion-Notice and consequential proceedings quashed-Circular No. 7/DV/2013 dated July 16, 2013 ((2013) 356 ITR (St.) 7).[S.10A, 10AA, 148, 151] 1920
Allowing the petition, the Court held that it was only upon consideration of complete disclosures made by the assessee that the original assessment order was passed for the assessment year 2015-2016. The Tribunal for the assessment year 2011-2012, in the assessee's own case, had taken the view that there was no requirement to set off the losses incurred in one unit against the profits of the other unit following the decision of the Supreme Court. The Department had admitted that reassessment proceedings were initiated due to audit objection. No such reason was given to the assessee along with the notice seeking to reopen the assessment under section 147. The jurisdictional parameters for reopening the assessment beyond four years had not been satisfied. Reopening of the assessment was on mere change of opinion. Proceedings to reopen an assessment were not akin to review proceedings. The notice issued under section 148, the draft assessment order and the consequential proceedings were quashed. (AY.2015 16)
Genesys International Corporation Ltd v. ACIT (2025) 479 ITR 795/173 taxmann.com 438 (Bom)(HC)

S.147: Reassessment-After expiry of four years-No failure to disclose material facts-Change of opinion-Dividend from trust-Investment allowance wrongly claimed-Reopening invalid. [S. 2(22)(e), 10(34), 32AC, 143(3), 148, Art. 226] 1921
Allowing the petition, the Court held that, where during original scrutiny under section 143(3) the assessee had fully disclosed the receipt of dividend from a trust and the claim of investment allowance and the Assessing Officer had examined the same,

reopening after four years based on a mere bald allegation of failure to disclose material facts amounted to a change of opinion. Notice under section 148 and the order rejecting objections were quashed. (AY. 2013-14, 2014-15.)

Bharat Petroleum Corporation Ltd v. ACIT (2025) 478 ITR 358 / 176 taxmann.com 103 (Bom)(HC)

Editorial : SLP of revenue dismissed, ACIT v. Bharat Petroleum Corporation Ltd. (2026) 309 Taxman 497 (SC)

1922 **S.147: Reassessment-After the expiry of four years-Business of purchase and sale of shares-Set-off-Speculation loss-Business loss-Query raised-Audit objection-Change opinion-Notice and order disposing the objection was quashed. [S.28(i), 73, 148, Art. 226]**

On writ the Court held that the assessment was merely based on the basis of change of opinion which did not constitute justification or reasons to believe that the income chargeable to tax has escaped assessment. There was a specific contention that he Assessing Officer had strongly objected to the audit query and had filed a detailed reply in support of his action of allowing the claim. There was no denial in the affidavit-in-reply and on the contrary it was simply stated that it was matter of record, factual and formal in nature, and therefore, no comments were offered. The notice issued under section 148 and the order rejecting the assessee's objections were quashed and set aside. (AY. 2013-14)

BSIFS Pvt. Ltd. v. ACIT [2024] 161 taxmann.com 443 / (2025) 474 ITR 200 (Bom)(HC)

Editorial : SLP of revenue dismissed, ACIT v BSIFS Pvt. Ltd.(2025) 474 ITR 208 (SC)

1923 **S.147: Reassessment-After the expiry of four years-Query raised and issue considered in assessment proceedings-Reassessment notice and order disposing the objection was quashed. [S. 148, Art. 226]**

On writ, the Court held that as per the proviso to section 147 of the Act, as the assessee had disclosed truly and fully all material facts during the regular assessment, no notice could have been issued under section 148 of the Act. Moreover, in view of scrutiny of the issue of disallowance under section 14A of the Act read with rule 8D of the Rules during the regular assessment proceedings, reopening on the same issue would amount to mere change of opinion of the Assessing Officer. The notice was not valid.(AY. 2014-15)

Bharatbhai Ratanshi Shah v. ACIT [2024] 162 taxmann.com 760 / (2025) 477 ITR 72 (Bom)(HC)

1924 **S.147: Reassessment-After the expiry of four years-No failure to disclose material facts-Sanction should be given only after due application of mind-Notice and order disposing the objection is quashed. [S. 37(1), 148, 151, Art. 226]**

The assessee's income for AY 2015-16 was assessed under section 143(3) of the Income Tax Act, 1961 ('the Act'). The assessment was reopened after five years on the ground that leasehold improvement costs and amortization of investments were capital in nature and, therefore, not allowable under section 37(1). The reassessment also questioned the omission of donation disallowance and non-disallowance of interest under section

201(1A). Aggrieved by the reopening, the assessee filed a writ petition before the Hon'ble Bombay High Court.
The Court held that since the reassessment was beyond four years, the first proviso to section 147 applied, requiring the Assessing Officer to demonstrate that the assessee failed to disclose fully and truly all material facts necessary for the assessment. The original assessment had been conducted through scrutiny proceedings where all relevant facts were disclosed, and the reassessment was based on a mere change of opinion. Additionally, the sanction under section 151 was held to be mechanical and without proper application of mind, rendering it invalid. Accordingly, the reassessment proceedings were quashed as illegal and without jurisdiction.(AY. 2015-16)
Saraswat Co-operative Bank Ltd. v. ACIT (2025) 473 ITR 205 (Bom.) (HC)

S.147: Reassessment-After the expiry of four years-No failure to disclose material facts-Audit objection-Reassessment notice and order disposing the objection is quashed. [S. 57, 143(3), 147, Art. 226] 1925
The assessee's income for AY 2015-16 was assessed under section 143(3) of the Income Tax Act, 1961('the Act'). The assessment was reopened beyond four years on the ground that the assessee had failed to disclose fully and truly all material facts necessary for assessment as the assessee had failed to substantiate its payments towards interest on loan taken from the banks, and a proportionate interest deduction was incorrectly allowed. Aggrieved from the re-opening, the assessee filed a writ petition before the Hon'ble Bombay High Court, where it was held that since the reassessment was beyond four years, the first proviso to section 147 of the Act applied, whereby the Assessing Officer has to satisfy the jurisdictional condition that there was failure on the part of the assessee to disclose fully and truly all material facts necessary for the assessment. No such failure was evident, as the reopening was based on information already available in the original assessment. The reassessment was initiated merely on the basis that the predecessor officer had not assessed the income correctly, which is not a valid ground for reopening. Further, the objections raised by the assessee were not rebutted by the Assessing Officer and in absence of rebuttal it shall be presumed that the department have accepted the objections raised by the Petitioner and, therefore, the impugned proceeding is liable to be quashed. Furthermore, the department placed reliance on audit objections that could not justify the reassessment. Accordingly, the Hon'ble High Court quashed the reassessment proceedings as being wholly without jurisdiction, illegal, arbitrary, and liable to be quashed.(AY. 2015-16)
Shrenik Kumar N. Baldota v. DCIT (2025) 171 taxmann.com 181/ 473 ITR 195 (Bom)(HC)

S.147: Reassessment-After the expiry of four years-Interest on borrowed funds-Change of opinion-No failure to disclose material facts-Reassessment proceedings is quashed and set aside.[S. 36(1)(iii), 143(3), 148, Art. 226] 1926
The Assessee filed a return of income declaring a loss. The learned Assessing Officer ("Ld. AO") completed the assessment proceedings under section 143(3) of the Income Tax Act ('the Act') and made a disallowance under section 14A of the Act. Aggrieved, the Assessee filed an appeal before the Hon'ble CIT (A), which was pending for adjudication.

Subsequently, the Ld. AO initiated Reassessment proceedings and issued notice under section 148 of the Act, alleging that the Assessee had given loans and advances to related parties against which no interest income was offered and claimed finance cost as interest on borrowed funds. The Ld. AO held that the proportionate interest expenses were not allowable expenses under section 36(1)(iii) of the Act. Aggrieved, the Assessee filed a Writ Petition before the Hon'ble High Court against the Reassessment proceedings. The Hon'ble High Court observed that the Reassessment is on the basis of materials which were already available with the Ld. AO, in finalising the assessment proceedings under section 143(3) of the Act. The Ld. AO has acted on a complete change of opinion on the same material and/or intending to have a review of the Assessment Order, which was not permissible under law. On both the counts, namely on failure of the Ld. AO in adhering to the mandate as contained in the first proviso to section 147 of the Act and on exceeding his jurisdiction as conferred by the said provision by forming an opinion on the same material, which was available with him in the course of assessment proceedings, was wholly an impermissible exercise of jurisdiction; the notice and thereby reopening were quashed.(AY. 2013-14)

Imperial Consultants and Securities Ltd v. DCIT (2025) 473 ITR 217 /303 Taxman 263 /344 CTR 228 / 247 DTR 241 (Bom.) (HC)

1927 **S.147: Reassessment-After the expiry of four years-No failure to disclose material facts-Purchase of land-Reassessment notice and order disposing of the objection is quashed and set aside.[S.69C, 147, 153A, Art. 226]**

Assessee created a special purpose vehicle (SPV) company namely, Allcargo Logistics Limited, in joint venture with two companies which purchased land for project of shipbuilding yard undertaken by assessee. A search was conducted upon the Allcargo Logistics Limited group of companies, which also included the assessee being MD of a company. During the search, it was found that the said SPV of the assessee had issued cheques to various entry providers as capital expenditure for purchase of land, but the same was received in the form of cash by the assessee. The assessee had engaged Vasudev Ramdas Thacker, a land broker, for acquiring land and obtained bogus bills for generating cash by way of accommodation entries. Accordingly, assessment was completed under section 143(3) read with section 153A. Thereafter, a reopening notice was issued to the assessee on the ground that Allcargo Logistics Limited had issued cheques to Vasudev Ramdas Thacker and cash was received by the assessee, but the assessee did not disclose said transaction.

On writ, the Court held that there was no failure on the part of the assessee to disclose fully and truly material facts during regular assessment. Non-furnishing of details of bank account maintained by a different legal entity, namely, Allcargo Logistics Limited, that had been made basis for reopening of assessment by assessee could not be said failure on part of assessee to make full disclosure. There was no tangible material with the Assessing Officer, which would form a basis for his 'reason to believe' that payments made to Vasudev Ramdas Thacker resulted in generation of cash, which ultimately found its way to the assessee. On facts, reopening of notice and order disposing of the objection is quashed and set aside. (AY. 2019-20)

Shashikiran Janardhan Shetty v. ACIT (2023) 153 taxmann.com 472 / (2024) 471 ITR 528 (Bom) (HC)

S.147: Reassessment-After the expiry of four years-Change of opinion-Internal audit-Failure to dispose of objections-Reopening of assessment based on change of opinion and internal audit objections is without jurisdiction-Notice is quashed. [S. 147, 144B, Art. 226] 1928

The petitioner, Crystal Pride Developers, a partnership firm engaged in real estate development, filed its original return for AY 2014-15, declaring a loss of Rs. 5,53,822/ which was assessed by the AO. However, on 27.03.2021, beyond the four-year limitation period, the AO issued a notice under Section 148 for reopening the assessment, alleging that Rs. 7.64 crores had escaped taxation. The petitioner contended that the reopening was bad in law as it was beyond four years and based on a mere change of opinion, as the issue of partner withdrawals and interest-free loans had already been examined in the original assessment. Additionally, the reopening was triggered by an internal audit objection, which is impermissible.

On writ the Court relied on *Teerth Developers v. ACIT 2024 SCC OnLine Bom 3621, CIT v. Kelvinator India Ltd [2010]320 ITR 561(SC), KSS Petron Pvt. Ltd v. ACIT 2016 SCCOnline Bom 13550 and GKN Driveshafts (India) Ltd v. ITO 2003 1 SCC 72* to hold that reassessment beyond four years requires a failure to disclose material facts, which was absent in this case. Further, the court noted that the AO failed to dispose of the petitioner's objections separately before passing the reassessment order, violating the principles of natural justice and GKN Driveshafts (India) Ltd. Consequently, the reassessment notice was quashed as being without jurisdiction. (AY.2014-15)

Crystal Pride Developers v. ACIT [2025] 172 taxmann.com 463 / [2026] 487 ITR 326 (Bom) (HC)

S.147: Reassessment-After the expiry of four years-No failure to disclose material facts-Change of opinion-Notice not valid.[S. 148, Art. 226] 1929

Held, that there was no failure on the part of the petitioner to disclose fully and truly all material facts necessary for its assessment. Even from the record, it was evident that in the statement of income, minimum alternate tax credit details were filed. No details or further inquiry was made on the claim. Having accepted the claim in the absence of any other reason, reassessment on the very issue was a change of opinion. The notice of reassessment was not valid.(AY. 2012-13)

E. Infochips Pvt. Ltd. (earlier E. Infochips Ltd.) v. ACIT [2023] 156 taxmann.com 468 / (2025) 483 ITR 229 (Guj)(HC)

S.147: Reassessment-After the expiry of four years-No failure to disclose material facts-Sham transaction-Reassessment notice and order disposing of the objection were quashed-Sanction-Non-application of mind.[S.50C, 148,151 Art. 226] 1930

Allowing the petition, the Court held that queries were raised during the original assessment, which included questions concerning the sale of the subject land. More particularly, answers were furnished by the assessee, along with the relevant documents and material sought by the Assessing Officer. Clearly, the transaction was examined, and thereafter, an assessment order dated February 28, 2014 was passed. Therefore, it could not be said that the subject transaction was not scrutinised by the Assessing Officer. The Department's contention that the original assessment order did not disclose any reasoning was untenable in law, as an assessee has no control over how the assessment

order is framed. Therefore, this was a case of a change of opinion that cannot form the basis of reassessment. Court also held that the sanction was granted without application of mind. The reassessment notice and order disposing the objection were quashed. (AY.2011-12)
Shourya Infrastructure Pvt. Ltd v. ITO [2023] 157 taxmann.com 730 / (2025) 483 ITR 528 (Delhi)(HC)

1931 **S.147: Reassessment-After the expiry of four years-Audit objection-No failure to disclose material facts-Reassessment notice and order disposing of the objection were quashed and set aside. [S. 148, Art. 226]**
Held that the reason to believe therefore, could not be said to be based on any new or fresh tangible material and could not therefore be used as a tool to reopen the assessment proceedings. The assessment had been reopened beyond a period of four years, and it was not a case where it could be said that the assessee had failed to disclose fully and truly all material facts necessary for his assessment. The notice of reassessment was not valid (AY.2011-12)
Sun Pharmaceutical Industries Ltd v. Dy. CIT (2025) 483 ITR 655 (Guj)(HC)

1932 **S.147: Reassessment-After the expiry of four years-No failure to disclose material facts-Reassessment notice and order disposing of the objection is quashed.[S. 148, Art. 226]**
Held that the audited accounts indicated that a fresh and plausible explanation was tendered by the assessee in the context of deposits. The assessment order passed after due inquiry on December 17, 2019 also indicated that there was full and complete disclosure of income of the assessee. The notice of reassessment not valid.(AY.2017-18)
Nathalal Ambalal and Sons v. ITO [2023] 156 taxmann.com 31 / (2025) 483 ITR 701 (Guj)(HC)

1933 **S.147: Reassessment-After the expiry of four years-Non application of mind-Change of opinion-Notice and order rejecting objections quashed and set aside [S. 68,143(3), 148, Art. 226]**
Allowing the petition the Court held that the Assessing Officer had mechanically recorded that the return was processed only under section 143(1) which itself suggested that he had recorded reasons in a mechanical manner and with no application of mind. At the time when the assessment order under section 143(3) was passed, the then Assessing Officer was in possession of the details of the transactions done through the entity DC and these could not be made the subject matter again to assume jurisdiction under section 147 of the Act for reopening of the assessment, since it had already been concluded. Reopening of the assessment under section 147 on the basis of the same details was nothing but a change of opinion which was not permissible in the eyes of law. The notice issued under and the order rejecting the assessee's objections were quashed and set aside.(AY. 2011-12)
Hemanshu Ramniklal Shah v. ITO (2025) 482 ITR 138/171 taxmann.com 19 (Guj)(HC)
Editorial : SLP dismissed, ITO v. Hemanshu Ramniklal Shah (2025) 304 Taxman 610 / 482 ITR 147 (SC)

S.147: Reassessment-After the expiry of four years-Stamp value-Information regarding enhanced stamp value of property purchased by assessee, was before the Assessing Officer at the time of making assessment-Reopening of assessment to assess amount enhanced beyond was not justified.[S. 56, 148, Art. 226] 1934

Assessee purchased a property which was shown in the return of income at certain value. Registering Authority, however, demanded stamp duty on the guideline value of said property, which was much higher than the value disclosed by the assessee. Assessing Officer made an addition considering the guideline value of the property. The assessee filed an appeal against the decision of the Stamp Authority to enhance the guideline value of the property. In appeal, the stamp value of the property was further enhanced. Assessing Officer reopened the assessment to assess the amount of difference between the enhanced guideline value and the original guideline value. On writ, the Court held that since reasons furnished for reopening indicated a differential amount omitted to be considered, it was clear that information was available either in the form of an order of the Stamps Authority or in form of an endorsement in sale deed, which would have been produced for inspection before re-assessment was completed and therefore, reopening of assessment beyond period of four years was not justified. Reassessment notice and order disposing of the objection were quashed. (AY. 2014-15) (SJ)

Chinnathambi Rajeswari v. ACIT (2025) 482 ITR 606 (Mad)(HC)

S.147: Reassessment-After the expiry of four years-Second round of notice-Change of opinion-No failure to disclose material facts-Notice and order disposing of the objection are quashed. [S. 148, Art. 226] 1935

Allowing the petition, the Court held that once the assessee has disclosed all the material and primary facts, truly and fully before the Assessing Officer, it is for the Assessing Officer to draw the requisite inferences from those primary facts. The onus on the assessee cannot be extended beyond the true and full disclosure of such facts. The power of the Assessing Officer to reassess an income chargeable to tax which has escaped assessment is permissible in light of the pith and substance enshrined in section 147, but allowing the authority to review the decision taken during the original assessment proceedings would be violative of the mandate of this section.(AY. 2011-12)

S.B. Packagings Ltd v. ACIT (2025) 482 ITR 456 (Delhi)(HC)

S.147: Reassessment-After the expiry of four years-Cash credits-Failure to disclose material facts-Reassessment notice is held to be valid.[S. 148, Art. 226] 1936

Dismissing the petition, the Court held that the debit and credit entries were the primary basis for proceeding with reassessment. During the course of the hearing, the assessee had undisputedly conceded that the transactions had been carried out between the parties mentioned. The assessee had not been able to allude to any enquiry either expressly or indirectly conducted by the Assessing Officer in the earlier assessment proceedings qua the issue under consideration, which could suggest that the present proceedings were merely based upon a change of opinion. Thus, the Assessing Officer could not be said to have traversed beyond its mandate to assume jurisdiction under section 147 of the Act. (AY. 2011-12)

BDR Builders and Developers Pvt. Ltd v. ACIT [2024] 162 taxmann.com 64 /(2025) 482 ITR 477 (Delhi)(HC)

1937 **S.147: Reassessment-After the expiry of four years-Bad debts-Change of opinion-No new facts-Notice and order disposing of the objection is quashed. [S. 36(1)(vii), 148, Art.226]**
Held, that in the original assessment for the assessment year 2015-2016, notice had been issued calling upon the assessee to tender specific details relating to the issue of bad debt and non-performing assets in view of section 36(1) (vii) and section (viia) of the Income-tax Act, 1961. In response to the notice, a detailed reply was forwarded by the assessee on October 16, 2017 and thereafter, after having been satisfied, the Assessing Officer had not made any addition on this issue and passed an assessment order. The Assessing Officer had not thought it fit to make any addition with regard to the claim of Rs. 24.63 crores, and as such, when the material was very much available and accepted by the Assessing Officer while passing the assessment order, now to reopen that issue again was based upon a change of opinion. Hence, the notice dated March 26, 2021 and the order dated November 9, 2021 were liable to be quashed. (AY.2015-16)
Axis Bank Ltd. v. ACIT [2023] 149 taxmann.com 395 / (2025) 482 ITR 746 (Guj)(HC)

1938 **S.147: Reassessment-After the expiry of four years-Change of opinion-Share premium-No tangible material-Reassessment notice and order disposing the objection was quashed. [S.68, 143(3), 148, Art. 226]**
Allowing the petition the court held that issue with regard to rise in share premium was discussed during the course of assessment proceedings and the said issue was well within the mind of the then Assessing Officer at the time of scrutiny assessment. In view thereof, it would not be now permissible for the Department to reopen the concluded assessment proceedings on the same issue and details. No new or tangible material had come into the possession of the Department which was not truly and fully disclosed by the assessee at the time when the assessment proceedings were concluded. Accordingly, the notice under section 148 of the Act seeking reopening of the concluded assessment was based on nothing but a mere change of opinion. The notice under section 148 seeking to reopen the assessment for the assessment year 2015-2016 was quashed and set aside.(AY. 2015-16)
Infibeam Avenues Ltd v. Dy. CIT (2025) 481 ITR 508 / 164 taxmann.com 466 (Guj)(HC)
Editorial : Dy.CIT v. Infibeam Avenues Ltd (2025) 306 Taxman 350/481 ITR 515 (SC)

1939 **S.147: Reassessment-After the expiry of four years-Depreciation on goodwill and additional depreciation-No failure to disclose material facts-Slump sale-Depreciation-Suspicion-Disclosure before settlement commission-Third party disclosure-Notice and order disposing the objection was quashed.[2(42C), 32, 32AC, 148 Art. 226]**
Allowing the petition the Court held that the assessee-company acquired injectable business from its holding company as a going concern on slump sale basis and claimed depreciation on amount of goodwill, since issue regarding depreciation on goodwill was duly considered during course of regular assessment, Assessing Officer would not have any jurisdiction to reopen assessment. The Court also held that the assessee-company acquired injectable business from its holding company as a going concern on slump sale basis and claimed depreciation on assets, since assessee had purchased entire unit on slump sale basis without values being assigned to individual assets and assessee had also obtained valuation report from expert valuer, who had physically verified

each of assets to derive value, assessee was entitled to claim depreciation on assets on basis of valuation made by an expert valuer of each of assets forming part of sale consideration. held that the there was no dispute with regard to the assessee entering into transaction of slump sale to acquire the injectable unit as a going concern from its holding company. Therefore, all the notices under section 148 were to be quashed and set aside.(AY. 2015-16 to 2017-18)

Baxter Pharmaceuticals India Pvt. Ltd v. ACIT (2025) 481 ITR 289/173 taxmann.com 573 (Guj)(HC)

Editorial : ACIT v. Baxter Pharmaceuticals India Pvt. Ltd. (2025) 481 ITR 301 / (2026] 308 Taxman 158 (SC), SLP of revenue dismissed.

S. 147 : Reassessment-After the expiry of four years-Non-compete Fee-Revenue expenditure-Change of opinion-Full disclosure of facts-Reassessment notice and order disposing the objection was quashed.[S. 37(1), 148, Art. 226] 1940

Allowing the petition the Court held that there was no failure on the part of the assessee to disclose fully and truly all material facts, as all relevant details and agreements had been placed on record during the original assessment proceedings. The reopening was thus held to be based on a mere change of opinion, which is impermissible. Accordingly, the reassessment proceedings were quashed and set aside. (AY. 2003-04)

Revathi Equipment Ltd. v. ACIT (2025) 306 Taxman 72/(2026) 484 ITR 768 (Mad.)(HC)

S. 147: Reassessment-After the expiry of four years-Alleged bogus purchases-Unexplained expenditure-Full disclosure-Reason to suspect-Order of Tribunal quashing the reassessment order was affirmed. [S.69C, 148, 260A] 1941

The AO initiated reassessment proceedings based on information received from the investigation wing. The AO initiated the proceedings on the ground that the genuineness of purchases was doubtful. However, while doing so, the AO accepted the corresponding sales transactions entered into with the same parties as well as with other parties, thereby acknowledging that the assessee was carrying on genuine business activities.

The Court held that the reopening was sought on the basis of a mere suspicion. The Court held that reassessment can be initiated only on the basis of "reason to believe" and not "reason to suspect", and that mere suspicion of possible escapement of income does not justify reopening of a completed assessment. The High Court further noted that there was no failure on the part of the assessee to fully and truly disclose all material facts necessary for the assessment. The transactions relating to purchases and sales had already been scrutinised in the original assessment under section 143(3) and were not disputed by the Revenue.

The High Court also observed that the Tribunal failed to appreciate that the Assessing Officer had concluded escapement of income without properly considering the material already available on record. Additionally, the statements recorded during the search were retracted within one month, and neither the Assessing Officer nor the CIT (A) dealt with the issue of such retraction. Accordingly, the reopening of the assessment was held to be invalid, and the reassessment proceedings were quashed. (AY.2011-12, 2012-13, 2013-14)

PCIT v. Purple Suppliers (P.) Ltd. (2025) 306 Taxman 145 (Cal.)(HC)

1942 **S.147: Reassessment-After the expiry of four years-Cash credits-Penny stock-Transaction in shares-Information from Investigation Wing-General information-No live nexus-Concluded assessment cannot be reopened.[S.37(1), 68, 143(3), 148, Art. 226]**

Assessee-company was engaged in the business of trading in shares, securities, equity and currency derivatives, mutual funds, etc. Assessee filed its return of income, which was accepted and an assessment order was passed. The Assessing Officer issued a reopening notice against the assessee on the ground that assessee had traded in a penny stock company and said transactions were sham transactions done only to create an adjustment or a set off in books of account and same was assessee's own money which was routed through closely held penny stock and assessee had entered into these transactions to evade payment of due taxes. On writ, the Court held that information provided by the Investigation Wing was of a general nature and it was more in the nature to flag trading transactions in listed stock of a penny stock company as against credible and definite information that all transactions in shares of the penny stock company were sham transactions. Further, there was no indication that this information was applicable or related in any manner to assessee. There was also no indication of a range of sharp increase in price or movement of price of shares of the penny stock company during the relevant period. Information did not disclose period during which share prices of the penny stock company were stated to have widely fluctuated. Information clearly furnished no reason for Assessing Officer to believe that assessee's income for relevant assessment year had escaped assessment. On facts, notice and order were quashed and set aside. (AY. 2011-12)

CNB Finwiz Ltd. v. Dy. CIT (2025) 305 Taxman 363 (Delhi)(HC)

1943 **S.147: Reassessment-After the expiry of four years-Long term capital gains-Penny stock-Cash credits-Accommodation entries-Shell company-Reassessment is held to be valid-Order of Tribunal set aside. [S. 45, 68, 148, 260A]**

The AO issued a reopening notice on the ground that assessee got said money from Rupak Developers Pvt Ltd as a beneficiary in the form of bogus LTCG/STCG.CIT(A) affirmed the order of the AO. Tribunal set aside the order of the Assessing Officer, holding that the case was reopened on very vague reasons. On appeal by revenue, the Court held that the Assessing Officer had material to show that said company was actually used for providing accommodation entries to various beneficiaries in the form of bogus LTCG on sale of penny stock shares. Further, as per the survey conducted by the Investigation Wing in the case of Rupak Developers Pvt Ltd it was found that no business activity was carried out by said company. Court held that since the assessee had failed to establish the genuineness of the transaction, creditworthiness of the company, which was found to be a shell company with no business activities, reopening was done for valid reasons. (AY. 2010-11)

PCIT v. Event Developers (P.) Ltd. (2025) 305 Taxman 187 (Cal)(HC)

S. 147 : Reassessment-After the expiry of four years-Business expenditure-Wages and salaries expenditure-Liability on account of retrospective revision in salaries of seconded employees crystallised during relevant assessment year-Full disclosure in accounts-Conditions of section 149(1)(b) not satisfied as escapement not represented in the form of an asset-Order under section 148A(d), notice under section 148 and reassessment proceedings quashed. [S. 37(1), 148, 148A(b), 148A(d), 149(1)(b), Art. 226] 1944

The assessee, a joint venture company of GAIL and NTPC, had filed its return for AY 2013-14 declaring loss, which was assessed under section 143(3). The assessee had claimed expenditure under the head "Wages and salaries", including Rs. 6.29 crore pertaining to earlier years, on the ground that the liability crystallised during the relevant previous year pursuant to a retrospective salary revision circular issued by NTPC in respect of seconded employees. The Assessing Officer sought to reopen the assessment beyond four years alleging excess claim of expenditure. On writ, the High Court held that the conditions of section 149(1)(b), as substituted by the Finance Act, 2021, were not satisfied since the alleged escaped income was not represented in the form of an asset, the wages and salaries account being only a nominal account. Further, since the original assessment was completed under section 143(3), reopening beyond four years was barred in the absence of any failure on the part of the assessee to disclose fully and truly all material facts. The assessee had specifically disclosed in its accounts that the wages and salaries included prior period liability arising on account of retrospective revision of salaries of seconded employees, and the liability had crystallised during the relevant year. Accordingly, the order passed under section 148A(d), notice issued under section 148 and the reassessment proceedings were quashed. (AY. 2013-14)

Ratnagiri Gas and Power Pvt. Ltd. v. ACIT (2025) 480 ITR 697 (Delhi)(HC

S. 147: Reassessment-After the expiry of four years-Double deduction-Failure to disclose fully and truly all material facts-Reopening valid-Writ not maintainable when alternate remedy availed-Order of Single Judge affirmed.[S. 37(1), 148, Art. 226] 1945

The assessee had claimed deduction of ₹ 6,54,75,440 twice, firstly by reducing the said amount from sales and thereafter again claiming it as a deduction under other allowable expenditure. The Assessing Officer reopened the assessment beyond four years on the ground that there was failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment. The assessee was unable to demonstrate either before the AO or the Writ Court that it was not a case of double deduction. The High Court held that the reasons recorded for reopening were relevant and based on tangible material indicating escapement of income due to double deduction. Since the assessee had made a wrong claim and had not made full and true disclosure during the original assessment, the conditions for reopening beyond four years were satisfied. The Court also noted that the assessee had already availed the statutory appellate remedy before the CIT(A) and, having failed in the writ petition, could not reagitate the same issues. The assessee was at liberty to contest the merits of reopening before the appellate authority. Accordingly, the writ appeal was dismissed and the order of the Single Judge was affirmed. (AY. 2014-15)

Pharmazell (India) (P) Ltd. v. ACIT (2025) 345 CTR 478 / 251 DTR 135 / 173 taxmann.com 181 (Mad)(HC).

Editorial: Pharmazell (India) (P) Ltd. v. ACIT (2025) 345 CTR 486 / 251 DTR 144 (Mad)(HC), affirmed.

1946 **S.147: Reassessment-After the expiry of four years-Deduction claimed twice-Reassessment is justified.[S.37(1), 148, Art. 226]**

Dismissing the petition the Court held that although materials were disclosed during the course of assessment, the prima facie fact reveals that the deduction was wrongly claimed twice in the primary material and contains incorrect particulars. There was no proper declaration of income in the return of income. The AO cannot be faulted while reopening the Assessment and overrule the objection of the assessee. Further, Explanation to s. 147 makes it clear mere filing of information is not sufficient. (AY. 2014-15)(SJ)

Pharmazell (India) (P) Ltd. v. ACIT (2025) 345 CTR 486 / 251 DTR 144 (Mad)(HC)

Editorial : Pharmazell (India) (P) Ltd. v. ACIT (2025) 345 CTR 478 / 251 DTR 135 / 173 taxmann.com 181 (Mad)(HC), affirmed.

1947 **S. 147 : Reassessment-After the expiry of four years-Failure to issue notice u/s 143(2)-Error in Form 10CCB regarding date of commencement of production-Date of grant of licence cannot normally be date of commencement of business-Mistake of Chartered Accountant in the Form No 10CCB-No failure to make true and full disclosure-Extended limitation of 6 years not available-Reassessment notice quashed. [S. 80IB, 143(2), 143(3), 148, Form 10CCB, Art. 226]**

On an appeal against the order of single judge, the division bench held that where reassessment proceedings were initiated solely on the basis of an inadvertent error in Form 10CCB, in which the chartered accountant mentioned the date of grant of licence to work as the date of commencement of commercial production, the High Court held that such an error could not justify reopening of assessment. The date of licence can never normally be the date of commencement of business, and the mismatch in Form 10CCB itself showed that the mistake was bona fide and not motivated by any intention to suppress material facts. Since there was no failure on the part of the assessee to make a true and full disclosure, the Department was not entitled to invoke the extended limitation of six years under the proviso to S. 147. Further, reassessment was finalized without issuance of mandatory notice u/s 143(2), violating principles of natural justice. Accordingly, the reassessment notice and the order rejecting objections were quashed. Writ appeals are dismissed. (AY. 2002-03 to 2004-05)

ACIT v. Sterlite Industries (India) Ltd. (2025) 344 CTR 567 / 249 DTR 329 / 305 Taxman 151 (Mad)(HC)

1948 **S.147: Reassessment-After six years-Search and seizure-Cash credits-Share application money-Failure to issue notice-Reassessment based on suspicion-Deletion of addition by Tribunal is affirmed. [S. 68,133(6), 148, 260A]**

Dismissing the appeal, the Court held that no incriminating material was found during search; information and statements of three persons were recorded by Investigation Wing. Assessee was neither confronted with statements nor afforded opportunity to cross-examine persons whose statements were recorded. Notice was issued after six years. Order of Tribunal deleting the addition is affirmed. (AY. 2009-10)

PCIT v. K.R. Pulp and Papers Ltd (2025) 479 ITR 240 (Delhi)(HC)

S.147: Reassessment-After the expiry of four years-Suspicion-Information received from Investigation Wing-No independent examination-Reassessment notice and order disposing the objection was quashed and set aside.[S. 148, Art. 226] 1949

Held that there is a live link between material and belief necessary for issue of notice. Notice based solely on information received from Investigation Wing, which did not specify any material disclosing No independent examination conducted by Assessing Officer. Notice and order rejecting assessee's objections set aside.(AY.2011-12) (AY. 2014-15)

CNB Finwiz Ltd. v. Dy. CIT (2025) 479 ITR 125 (Delhi)(HC)

Sanjay Kaul v. ITO (2025) 479 ITR 146 (Delhi)(HC)

S. 147 :Reassessment-After the expiry of four years-Search and seizure-Original assessment made pursuant to search and seizure based on appraisal report and materials seized during search and seizure operations-Reassessment notice based on audit objection which was based upon same appraisal report-Notice not based on new material coming to notice of Assessing Officer-Not sustainable-Limitation Four to six years counted from end of assessment year Notice for assessment year 2014-2015 dated 31-3-2021 not barred by limitation-Reassessment-Notice after four years-Sanction of prescribed authority-Law before amendment with effect from 1-4-2021-Principal Commissioner competent to accord permission for reopening of assessments beyond four years-Assessing Officer digitally signing notice on 31-3-2021 at 7.01 p.m.-Notice goes beyond control of Assessing Officer at that moment Notice within prescribed time limit-Generation of document identification number by online portal on 1-4-2021 would not render notice barred by limitation. [S.132, 148, 149(1)(b), 151, Art.226]. 1950

On writ allowing the petition the Court held that the appraisal report was available before the Assessing Officer during the original assessment. The assessment order was passed based on materials seized during search and seizure operations including the ledger and cash book of different years found in the Tally data of the assessee and in the wake of the fact that the assessee had failed to produce any books of account, ledgers, bills, vouchers and any other Supporting evidence substantiating his case. From the record, it was apparent that the initiation of proceedings for reassessment was not based on discovery of new materials which were not available before the Assessing Officer during. The audit objection was based upon the same appraisal report. The notice dated March 31, 2021 and the order rejecting his objection dated February 21, 2022 were accordingly to be set aside. Court also held that in terms of the existing provisions of section 149(1)(b) prior to amendment by the Finance Act, 2021 with effect from April 1, 2021, reassessment proceedings could be initiated beyond the period of four years up to six years counted from the end of the assessment year, i.e., in the assessee's case March 31, 2015 up to March 31, 2021. The notice dated March 31, 2021 under section 148 was not barred by limitation. That under the provisions of section 151 of the Act as they stood before the amendment with effect from April 1, 2021, the Principal Commissioner was fully competent to accord permission for reopening of assessments beyond the period of four years as prescribed under section 149(1)(b). That the Department had made a categorical statement that the Assessing Officer issued notice under section 148 of the Act by digitally signing the notice on March 31, 2021 at 7.01 p.m. The moment he put his digital signature on the notice in the specified online

portal of the Department, it went out of his hands to the centralised online application unit of the Income-tax Department and, therefore, it was beyond the control of the Assessing Officer. It was the software on the online portal, to which the Department had no access, which automatically delivered the notice at the e-mail address of the assessee. Therefore, the notice under section 148 issued on March 31, 2021 at 7.01 p.m. was within the prescribed time limit of six years as provided under section 149(1)(b) of the Act. It was only the generation of the document identification number by the online portal that had been done on April 1, 2021. The notice was not barred by limitation though it may have been uploaded on the portal on April 1, 2021.(AY. 2014-15)
Abhijit Paul v. UOI (2025) 479 ITR 697/174 taxmann.com 1134 (Tripura)(HC)

1951 **S.147: Reassessment-After the expiry of four years-Bad debt-Write-off of bad debt-Not required to be proven-Writ appeal allowed-Reassessment notice and order disposing the objection was quashed. [S. 36(1)(vii), 148, Art. 226]**
Allowing the writ appeal the Court held that the notice of reassessment had been issued beyond the period of four years. In terms of the proviso to section 147, the assessing authority had to establish as a precondition, that the invocation of larger limitation of six years was on account of the failure on the part of the assessee to file a proper return of income or to make a full and true disclosure of all material facts. The assessee had filed the return of income. The original order of assessment contained unambiguous findings to the effect that all materials required by the assessing authority to arrive at a proper conclusion in regard to the claim of bad debts, were available before the authority. No new tangible material had been noted or cited by the assessing authority to justify the reassessment, that too, beyond a period of four years. The Department had not brought on record any material to establish failure of the assessee to make a full and true disclosure. Hence, the assumption of jurisdiction under section 147 was bad in law.(AY. 2009-10)
Citadel Fine Pharmaceuticals Ltd v. Dy. CIT (2025) 476 ITR 193 /173 taxmann.com 142 (Mad)(HC)
Editorial: Decision of single judge in Citadel Fine Pharmaceuticals Ltd v. Dy. CIT (Mad)(HC)(SJ)(W.P.Nos. 36522 and 35630 of 2016 dt. 22-4-2021) reversed.

1952 **S.147: Reassessment-After the expiry of four years-No failure to disclose all material facts-Borrowed satisfaction-Notice and order disposing of the objection were quashed. [S. 143(3), 148, Art. 226]**
Allowing the petition, the Court held that the Assessing Officer could not have assumed the jurisdiction merely and solely relying upon the information made available on the insight portal without forming any independent opinion on the basis of the material on record. The notice issued under section 148 for the assessment year 2013-2014 was quashed and set aside.(AY. 2013-14)
Raajratna Stockholdings Pvt. Ltd. v. ACIT (2025) 476 ITR 228 /170 taxmann.com 473 (Guj)(HC)

S. 147 : Reassessment-After the expiry of four years-Failed to electronically upload Form 10CCB along with return of income within the timeframe prescribed under section 139-Reassessment notice and order disposing of the objection were quashed and set aside. [S. 80IA(7), 139, 148, Form 10CCB, R.12, Art. 226] 1953

The Assessing Officer's reasons for reopening referred solely to the failure to digitally file the audit report in Form 10CCB. Failure to digitally upload a form, when the audit report had in fact been furnished and was available for scrutiny, could not be equated with failure to make a full and true disclosure under section 147; therefore, reassessment notices dated March 26, 2019, and subsequent reassessment proceedings for AYs 2013-14 and 2014-15 were invalid. *PCIT v. Wipro Ltd. (2022) 466 ITR 1 (SC), distinguished; CIT v. G.M. Knitting Industries Pvt. Ltd. (2015) 376 ITR 456 (SC)*, applied.(AY. 2013-14, 2014-15)
Shree Bhavani Power Projects Pvt. Ltd. v. ITO (2024) 165 taxmann.com 733 / (2025) 475 ITR 155 (Delhi)(HC)

S.147: Reassessment-After the expiry of four years-Share capital-Parent company-Source explained-Re assessment notice and order disposing of objection quashed.[S. 68, 143(1), 143(3), 148, Art. 226] 1954

The Department issued notices under section 148 on the basis that a Singapore entity had invested in the assessee. The Department had earlier accepted similar transactions in later assessment years including scrutiny in which the foreign entity's income was assessed. Given acceptance of the transactions and the absence of material factual differences, the High Court quashed the reassessment notices and proceedings.(AY. 2008-09, 2011-12)
Experion Hospitality Pvt. Ltd v. ITO (2025) 474 ITR 358 (Delhi)(HC)

S.147: Reassessment-After the expiry of four years-Agricultural land-Capital gains-Adventure in the nature of trade-No new material-Re assessment notice and order disposing of the objection were quashed. [S. 2(14)(iii)(b), 28(i), 45, 143(3), 148, Art. 226] 1955

Allowing the petition the Court held that the assessee had not claimed the sale consideration of the agricultural land as capital gains, but had at all times asserted the land in question to be falling beyond the municipal limits and, therefore, beyond the provisions of section 2(14)(iii), though the Department had contended that there was no evidence produced in support of any agricultural activity. The assessee's contention had been supported by the report of the Income-tax Officer (Intelligence). The Assessing Officer does not refer either to the report of the Income-tax Officer (Intelligence) nor to the submissions of the assessee. It was a colourable exercise of power. When an authority was empowered to exercise and pass orders in terms of the Act, it had to remain within the four corners of the manner in which the power was required to be exercised. Once the basis for reopening the assessment was under section 147 for non-disclosure of income under capital gains and non-disclosure of sources of investment, the Assessing Officer had no authority in law to pass order holding that income had escaped assessment, on account of "adventure in the nature of business". The notice and order were quashed. (AY. 2013-14)
Dinesh Singla v. ACIT (2025) 474 ITR 532 (P & H)(HC)

1956 **S. 147 : Reassessment-After the expiry of four years-Futures & options loss-Borrowed satisfaction-No failure to disclose-Notice quashed.[S. 71, 148, Art. 226]**
The assessee disclosed F&O losses in return, which were examined during scrutiny. Reopening after four years was initiated solely on insight portal information without independent verification. The Court held this to be "borrowed satisfaction" and a change of opinion, as no tangible new material or failure to disclose was shown. Notice was quashed. (AY 2013-14)
Rikin Industries v. ITO (2025) 303 Taxman 393 (Guj)(HC)

1957 **S.147: Reassessment-After the expiry of four years-Futures & Options-Loss was accepted in the original assessment-Information received from insight portal-No independent verification-No failure to disclose material facts-Notice and order disposing the objection was quashed and set aside [S. 28(1), 143(3), 148, Art. 226]**
Assessee-firm entered into transactions in Futures & Options (F&O) trading which resulted in loss. Such loss was duly reflected in the profit and loss account Assessment was completed under section 143(3). After four years, the Assessing Officer issued reopening notice against assessee based on information received from the insight portal that the assessee had entered into non-genuine transactions in F&O trading. On writ the Court held that the assessee had disclosed particulars of loss under head of 'F&O' in its return which was subsequently accepted by the department. No verification of material on record was made by Assessing Officer. There was no failure on part of assessee to disclose fully and truly all material facts necessary for its assessment, hence, the notice and order disposing of the objection were quashed and set aside. (AY. 2014-15)
Ashvin Dye-Chem Industries v. ITO (2025) 303 Taxman 621 (Guj.)(HC)

1958 **S.147: Reassessment-After the expiry of four years-Depreciation Additional depreciation-No failure to disclose material facts-Order of Tribunal quashing the reassessment order is affirmed. [S.32, 148, 260A]**
Dismissing the appeal of the Revenue, the Court held that reopening of assessment after four years, based solely on details from profit and loss account filed by assessee, without new tangible material or failure by assessee to disclose material facts, was invalid when original assessment was completed under section 143(3) after full scrutiny. Order of Tribunal is affirmed. (AY.2008-09)
PCIT v. Farmson Pharmaceuticals Gujarat (P.) Ltd. (2024) 164 Taxmann.com 378 / (2025) 473 ITR 639 (Guj)(HC)

1959 **S.147: Reassessment-After the expiry of four years-Change of opinion-Fixed deposit interest-No failure to disclose material facts-Reassessment notice and order disposing of the objection is quashed and set aside. [Art. 226]** Allowing the petition there was no failure on the part of the assessee to fully and truly disclose all material facts before the Assessing Officer. The Assessing Officer had sought to reopen the assessment from the material already produced on record and did not have any new or tangible material in his possession. The notice issued under section 148 is quashed and set aside. (AY. 2014-15)
Dediyasan Industrial Co-Op, Credit Society Ltd. v. Dy. CIT (2025) 473 ITR 347 (Guj)(HC)

S.147: Reassessment-After the expiry of four years-No failure to disclose material facts-Business expenditure-Discovery appreciation plan (DAP)-Material for reopening assessment had been gathered from assessment record of subsequent year-Reasons recorded stated that the claim was allowed by mistake-Change of opinion-Notice and order disposing the objection is set aside. [S. 37(1), 143(3), Art. 226] 1960

Assessing Officer issued a notice under section 148 on the ground that assessee had debited an amount on account of DAP paid to employees, which was in the nature of dividend and not admissible as expenditure and also production and translation expenses of a certain amount could not be allowed. The material for reopening assessment had been gathered from assessment record of subsequent year. On writ, the Court held that there was no whisper, what to speak of any allegation, that assessee had failed to disclose fully and truly all material facts necessary for its assessment and because of that failure, there had been an escapement of income chargeable to tax. The Assessing Officer specifically recorded in reasons that it was a mistake which resulted in under-assessment of income. Thus, it was manifest that the Assessing Officer had not attributed the alleged escapement of income to any failure on the part of assessee but to a mistake and lack of verification on his own part. Court held that the reasons that prompted Assessing Officer to reassess and disallow expenditure incurred on DAP only demonstrated a change of opinion on the part of the Assessing Officer, which could not form the basis of reopening assessment. Accordingly, the notice and order disposing of the objection is set aside. (AY. 2011-12)

Discovery Communications India v. Addl. CIT (2025) 302 Taxman 246 / 473 ITR 627 (Delhi)(HC)

S.147: Reassessment-After the expiry of four years-Unexplained investment-Borrowed satisfaction-No failure to disclose material facts-Reassessment notice and order disposing of the objection is quashed. [S. 69, 142(1), 148, Art.226] 1961

Allowing the petition, the Court held that the notice was issued on the basis of borrowed satisfaction without having any live nexus with the facts on record when transactions in question were duly reflected in books of account in the form of audited balance-sheet as well as in reply to notice under section 142(1). On the facts, since there was no failure on the part of assessee to disclose truly and fully all material facts during regular assessment, the notice and order disposing of the objection are quashed. (AY. 2013-14)

Om Synergy Spacelink (P.) Ltd. v. NFAC (2025) 302 Taxman 201 (Guj.)(HC)

S.147: Reassessment-After the expiry of four years-Material facts not considered-When the assessee's objections to alleged foreign receipts are not adequately considered by the revenue authorities in response to a notice under section 148 of the Income-tax Act, 1961, a remand to the Assessing Officer with directions. [S. 133(6), 148, Art. 226] 1962

The assessee is a partnership firm providing professional services such as auditing, tax consulting, and advisory services. The issue involved is whether the income chargeable to tax has escaped assessment for a given assessment year. The revenue authorities issued a notice under section 148, alleging that certain foreign receipts had not been offered to tax.

The assessee contended that none of the alleged amounts were related to the assessment year in question. Further that a portion of the amounts in question was also never received by the assessee. That some of these amounts were either received in subsequent years or by a different firm. The assessee also requested the relevant details to reconcile the payments, but these details were not provided. Aggrieved, the assessee filed the petition contending that the objections were not considered, and essential information was also not provided.

The Hon'ble High Court found that the revenue authorities had failed to adequately consider the objections raised by the assessee, and thereby remanding the matter to the Assessing Officer laid down the directions to provide the necessary information relied upon for issuing the notice under section 148, and to give the assessee an opportunity for a hearing to consider their objections in detail. That this exercise was to be completed within 12 weeks from the date of receipt of the court's order. (AY. 2012-13)

Deloitte Haskins and Sells v. ACIT (2024) 166 taxmann.com 253 / (2025) 473 ITR 337 (Guj.) (HC)

1963 **S.147: Reassessment-After the expiry of four years-Cash credits-Partners' capital account-No satisfaction was recorded-Reassessment notice and order disposing of the objection quashed is quashed. [S. 68, 131(IA), 148, Art. 226]**

Assessing Officer reopened assessment in case of assessee beyond four years on the ground that the assessee's bank account was credited by three transactions on various dates from account of Sarathak Enterprises and same amount was debited on the same dates to account of Munjal B.Shah and he opined that said amount remained unexplained in hands of assessee. However, communication whereby reasons recorded were supplied, no satisfaction was recorded by Assessing Officer that income chargeable to tax had escaped assessment. From the facts, it was evident that the amount was received by assessee as partners' capital and had a valid source. Assessee had utilised amount for repayment of a loan obtained from Munjal B. Shah. High Court held that question of escapement of income chargeable to tax did not arise and thus, the Assessing Officer having misdirected himself in invoking powers to reopen assessment, the reassessment proceeding initiated beyond four years was set aside. (AY. 2013-14)

Dhirajlal Gandalal Mehta v. ITO (2024) 471 ITR 58 /160 taxmann.com 313 (Guj) (HC)

Editorial: SLP of Revenue is dismissed, ITO v. Dhirajlal Gandalal Mehta (2024) 298 Taxman 351 (SC)

1964 **S.147: Reassessment-After the expiry of four years-Capital gains-Co-owner-No failure to disclose material facts-Reassessment notice and order disposing of the objection is quashed. [S. 45(3) 50C, 148, Art. 226]**

Assessee an individual derived income from different sources, including share in a partnership firm. Assessment was completed u/s 143(3) of the Act. The assessement was reopened. On writ the Court held that notice proposing to reopen a completed assessment is quashed and set aside. (AY. 2012-13)

Jagdishkumar Vitthalbhai Patel v. ITO (2023) 471 ITR 216 /151 taxmann.com 121 (Guj) (HC)

S. 147: Reassessment-Notice-Suspicion-Notice to verify details that income has escaped assessment is not valid.[S. 148, Art. 226] 1965

Allowing the petition, the Court held that there were no reasons to believe but only reasons to suspect escapement of income under section 147. The agreement referred to in the reasons recorded was dated May 9, 2013, which pertained to the assessment year 2014-2015, and that could not be a basis for escapement of income for the assessment year 2015-2016. The notice under section 148 was quashed and set aside. (AY. 2015-16)

Paranjape Schemes (Construction) Ltd. v. Dy. CIT (2025) 483 ITR 353 (Bom)(HC)

S. 147: Reassessment-Return filed in response to notice of reassessment. Inadvertent error in stating that the return was under Error should be ignored-Reassessment order passed without considering the submission-Order and consequential notices were quashed and set aside.[S. 139, 148, 292B, Art.226] 1966

On writ, the court held that the facts on record showed that the assessee did file a return of income in response to the notice issued under section 148 of the Income-tax Act, 1961 and had also furnished appropriate responses and material pursuant to the notices issued under section 142(1) by the Assessing Officer. After the case of the assessee was transferred to the Assessing Officer dealing with International Taxation, the information which was already sought for and submitted was called for yet again. An inadvertent error was committed by the assessee in reflecting that the return of income had been filed under the category under section 119(2)(b) instead of selecting the option under section 148. This could have been treated to be a return validly filed by invoking the provisions of section 292B of the Act, especially when the assessee claimed that the mistake was brought to the notice of the Assessing Officer at the appropriate stage. Consequently, the order of assessment dated April 29, 2022, the notice of demand issued under section 156 of the Act dated April 29, 2022, as also the notice dated April 29, 2022 initiating penalty proceedings under sections 271(1)(c) and 271F of the Act were not valid.(AY. 2015-16)

Shahana Nayak v. ITO [2023] 151 taxmann.com 482 / (2025) 482 ITR 767 (Bom)(HC)

S. 147: Reassessment-Reasons for notice not given to assessee-GKN Driveshafts (India) Ltd. v. ITO(2003) 259 ITR 19 (SC)-Draft Order of assessment order passed without giving assessee sufficient time to raise objection; assessment not valid.[S. 148, Art. 226] 1967

On writ, the Court held that the assessee had consistently requested the Assessing Officer to furnish the reasons for reopening, which admittedly were never provided to the assessee. Even otherwise, the time granted by the Assessing Officer to the assessee to file its response to the draft assessment order was quite insufficient. Hence, the assessment and notice of demand, both dated March 21, 2022, as well as the notice under section 148 of the Act dated March 30, 2021, were not valid. Referred: *GKN Driveshafts (India) Ltd. v. ITO, (2003) 259 ITR 19 (SC)*. (AY. 2014-15)

Rajesh Poddar v. ITO [2023] 152 taxmann.com 98 / (2025) 482 ITR 770 (Bom)(HC)

S. 147: Reassessment-Order passed without considering objections of assessee-Not valid-Order and notice quashed and set aside. [S. 148, Art. 226] 1968

Held that acknowledgement receipts had been generated by the system and, in the absence of any doubt about the authenticity of such acknowledgement receipts,

there was no case made out to doubt the assessee's statement made on oath that the objections were filed not once but twice to the notices issued by the respondents. Accordingly, the order dated July 29, 2022 was made without considering the assessee's objections and based on the improper premise that it was the assessee who had failed to file the objections. On this short ground, the order dated July 29, 2022 is set aside (AY. 2016-17)

Browntape Technologies Pvt. Ltd. v. ACIT (2025) 482 ITR 789 (Bom) (Gao)(HC)

1969 **S. 147: Reassessment-Within four years-Cash credits-Cash deposits-Demonetisation-Reassessment notice was held to be justified-Writ petition was dismissed. [S. 68, 148, Art. 226]**

Assessing Officer issued reopening notice on ground that cash deposits were made by three medical representatives, without any clarification, who were prima facie not even employed by assessee on deposit dates or who had joined just two months earlier. On writ, the Court held that though assessee was called upon to submit details, details furnished were far from clear and quality of explanations belatedly offered by assessee appeared to be in nature of after-thoughts. Since the circumstance that demonetization had been ordered and there was a rush to make cash deposits also could not be ignored, the reopening notice issued against the assessee was justified. (AY. 2017-18)

Osstem Implant India (P.) Ltd. v. Dy. CIT (2025) 304 Taxman 686 (Bom.)(HC)

1970 **S. 147 : Reassessment-Within four years-Issues already examined in original assessment-Change of opinion-Reasons recorded without application of mind-Objections not properly dealt with-Reassessment notice and order disposing objections quashed. [S. 36(1)(vii), 36(1)(viia), 80-IA, 143(3), 148, Art. 226, Companies Act, 2013, S. 129]**

The Bombay High Court held that reassessment proceedings initiated within four years were unsustainable where the issues sought to be reopened had already been examined during the original scrutiny assessment under S. 143(3). The Court found that the reasons recorded contained several factual inaccuracies (wrong dates, incorrect figures, and even a deduction under S. 80-IA which was never claimed), showing complete non-application of mind. Further, the foundation of reopening was based on findings which had already been reversed by the CIT(A), leaving no "reason to believe" that income had escaped assessment. The computation of book profit under S. 115JB and deductions under S. 36(1)(vii) and 36(1)(viia) were also matters already scrutinised earlier, and reopening on the same amounted to an impermissible review on a mere change of opinion. The order disposing of objections was also held defective as it failed to deal with the assessee's objections and merely reproduced case law extracts without reasoning. Accordingly, the reassessment notice and the order rejecting objections were quashed. (AY 2016-17)

IDBI Bank Ltd. v. DCIT (2025) 344 CTR 807 / 248 DTR 449 / 173 taxmann.com 881 (Bom) (HC)

S. 147 : Reassessment-No fresh tangible material-Change of opinion-Claims under section 35AC and deductions under section 80G examined and allowed in scrutiny assessment-No new material found to reopen completed assessment-Reassessment not valid. [S. 35AC, 80G, 143(3), 148, Art. 226] 1971

Allowing the petition the Court held that there was no tangible fresh material based upon which the Assessing Officer could have reason to believe that income had escaped assessment under section 147. The queries particular to the issue were raised by the Assessing Officer and were answered by the assessee, and upon consideration of all these materials, an assessment order was passed under section 143(3). On the ground that some other view was possible, the Assessing Officer could not have changed his earlier opinion and, based upon such change of opinion, issued the notice under section 148 seeking to reopen the assessment. The notice and the order rejecting the assessee's objections were set aside.(AY.2016-17)

Lupin Ltd v. Dy. CIT (2025) 479 ITR 667/304 Taxman 26 (Bom)(HC)

Editorial : SLP dismissed, Dy. CIT v. Lupin Ltd [2025] 180 taxmann.com 866 / (2026) 308 Taxman 164 (SC)

S. 147: Reassessment-Notice-Change of opinion-Report of the Directorate General of Goods and Services Tax Intelligence was considered in the original assessment proceedings-Reopening of assessment on the basis of same report is change of opinion-Reassessment notice and order disposing the objection was quashed. [S. 148, Art. 226] 1972

On writ the Court held that the entire assessment order dated December 28, 2018 was based upon the report of the Directorate General of Goods and Services Tax Intelligence, based upon which the Assessing Officer had assessed the income of the assessee. The same report had been considered as a reason for reopening the assessment in the order, which clearly would indicate that it was not a case of mistake, but was a change of opinion, on the same material, which was not sustainable in law.(AY.2016-17)

Shivam Ispat Pvt. Ltd v. UOI (2025) 478 ITR 656 (Bom)(HC)

S. 147: Reassessment-Notice-Crime Investigation Bureau-Mere receipt of information regarding such escapement; notice based on information not valid.[S. 148,151, Art. 226] 1973

Allowing the petition, the Court held that Section 147 of the Income-tax Act, 1961 specifically provides that the Assessing Officer must have reason to believe that income has escaped assessment. Approval is required under section 151 of the Act from the superior authority on the reasons recorded by the Assessing Officer. Just because some information has been received from the Crime Investigation Bureau does not entitle the Assessing Officer to reopen the assessment (AY. 2010-11 to 2012-13)

Chandni J. Ahuja v. UOI [2024] 160 taxmann.com 404 / (2025) 478 ITR 662 (Bom)(HC)

S. 147 : Reassessment-Capital gains-Capital gains-Investment in a residential house-Alternate remedy-Writ petition is dismissed. [S.54F, 143(3), 148, Art.226] 1974

The assessee claimed deduction u/s 54F in original assessment. AO later reopened assessment alleging deduction should be restricted to cost of acquisition of assessee's share. No queries on s. 54F were raised earlier. High Court held writ was not maintainable as an alternate efficacious remedy by appeal existed; refrained from

examining facts under Art. 226. Ad-interim relief extended for 4 weeks to enable stay application. (AY. 2015-16)
Vijay Vasant Kulkarni v. ACIT (2025) 303 Taxman 519 (Bom)(HC)

1975 **S. 147 : Reassessment-Recorded reasons-Sanction-Reasons placed for consideration before Joint Commissioner to seek approval-Reasons submitted for approval as appropriate reasons for reopening is contrary-Reassessment order is set aside and quashed.[S. 148, 151, Art. 226]**
Allowing the petition the Court held that reasons placed for consideration before Joint Commissioner to seek approval and reasons submitted for approval as appropriate reasons for reopening is contrary. Reassessment order is set aside and quashed. (AY. 2017-18)
Floyd Filandro Linhares v. ITO (2024) 166 taxmann.com 125 / (2025) 473 ITR 587 (Bom) (HC)

1976 **S. 147 : Reassessment-With in four years-Survey-Newly established hundred per cent. export oriented establishments-Reassessment proceedings to disallow claim for deduction once again is impermissible-Notice and order rejecting objections quashed and set aside. [S.10B, 133A, 148 (2), Art. 226]**
Held that the burden is on the Assessing Officer to establish that the conditions are fulfilled and that the fulfilment of the conditions has to be established on the basis of reasons recorded in terms of section 148(2). Accordingly the reassessment proceedings to disallow claim for deduction once again is impermissible. Notice and order rejecting objections quashed and set aside. (AY.2009-10)
Sesa Sterlite Ltd. v. Asst. CIT (2025)472 ITR 591/ 167 taxmann.com 137 (Bom)(HC)

1977 **S. 147: Reassessment-Revision-Notional rent-Income from house property-Change of opinion-Reopening based on issues already examined in revision proceedings-The original assessment order dt.31.12.2015 no longer exists, as it was set aside under Section 263-Making the reopening procedurally invalid-Reassessment is quashed. [S. 22, 143(3), 148, 149, 151, 263, Art. 226]**
The assessee, engaged in the real estate business, filed his return of income for AY 2013-14 in September 2013, declaring total income of ₹ 54,91,960. The assessment under Section 143(3) was completed on 31.12.2015, accepting the returned income. Subsequently, on 29.11.2017, a notice under Section 263 was issued by the CIT, questioning non-disclosure of ₹2,74,94,950 from the sale of six flats, disallowance of interest payments, and unreported house property income. The CIT set aside the original assessment order on 16.03.2018, directing a fresh examination. The AO, in compliance, passed a reassessment order on 14.12.2018 under Section 143(3) r.w.s. 263, assessing income at ₹57,06,250 by making an addition on account of notional rent under Income from House Property. Subsequently, on 25.03.2021, the AO issued a notice under Section 148 to reassess AY 2013-14, prompting the assessee to file a return in January 2022. The reasons for reopening were provided in March 2021, and the assessee objected in March 2022, contending that the same issues were already subject to Section 263 proceedings, making reopening invalid under the third proviso to Section 147. Further he contended

that the reopening was based on a change of opinion and that the sanction under Section 151 was not valid. The AO rejected the objections on 11.03.2022, justifying reassessment based on oversight or inadvertence in the original proceedings. Aggrieved, the assessee filed a writ petition; the Bombay High Court quashed the reassessment notices for AY 2013-14 and AY 2014-15, holding that the original assessment order (31.12.2015) no longer existed, as it was set aside under Section 263, making the reopening procedurally invalid. Further, it held that the reassessment was based on the same grounds already examined in 263 proceedings, violating the third proviso to Section 147, and no failure to fully and truly disclose material facts was demonstrated. It also held that reopening constituted an impermissible review of the earlier order, not a valid exercise of reassessment jurisdiction. Accordingly, the court ruled in favour of the assessee and set aside the reassessment proceedings. (AY. 2013-14, 2014-15]
Dilip Gangaram Patil v. ACIT (2025) 304 Taxman 2 (Bom)(HC)

S. 147: Reassessment-Within four years-Change of opinion-Alleged double deduction-No failure to disclose material facts-Reassessment is quashed and set aside. [S. 143(3), 148, 149, 151, 36(1)(vii), 37(1), Art. 226] 1978

The assessee filed its original return of income in October 2007 and revised it in March 2009, claiming a deduction of ₹69,88,37,464 for inventories, sundry debtors, loans & advances, and cost of set-top boxes written off against the share premium account pursuant to an amalgamation scheme approved by the Bombay High Court. The case was selected for scrutiny, and the AO passed an assessment order under Section 143(3) on 30.12.2009, disallowing ₹1,00,41,557 on account of bad debts. The assessee's total income was assessed as NIL after adjusting unabsorbed business losses and depreciation. On 30.03.2012, the AO issued a notice under Section 148, stating that the assessee had claimed deductions for amounts already adjusted against the share premium account, resulting in an alleged double deduction of ₹69,88,37,464. The reasons for reopening were provided in May 2012. The assessee filed objections in November 2012, arguing that the issues had already been examined during the original assessment and the reassessment was based on a change of opinion, which is impermissible under the Income Tax Act. He further added that there was no actual double deduction and the AO failed to provide the date of recording reasons, making the reassessment invalid. The AO rejected the objections in January 2013, thus, the assessee challenged the reassessment before the Bombay High Court. The High Court quashed the reassessment notice under Section 148, holding that the same issues were already examined during the original scrutiny assessment, and the reassessment amounted to a change of opinion, which is not valid. It further held that failure to discuss an issue in the assessment order does not mean it was not considered; if the AO raised queries and accepted the assessee's response, reopening on the same issue is not justified, and no failure to disclose material facts was demonstrated. The court also added that the AO did not rebut the assessee's objection that no double deduction occurred, which indicated a lack of valid reasoning for reopening, and the claim was a balance sheet adjustment and not a profit and loss account deduction, making the AO's reasoning flawed. Accordingly, the court quashed and set aside the reassessment notice for AY 2007-08 and the order disposing of the objection. (AY. 2007-08)
Indusind Media & Communications Ltd. v. ACIT 11(1) [2025] 172 taxmann.com 280 (Bom) (HC)

1979 **S. 147 : Reassessment-Search and seizure-Reasons recorded based on material unearthed during search-Where proceedings are founded on search material, recourse must be taken under sections 153A/153C and not under section 147-Notice issued under section 147 held without jurisdiction. [S. 132, 148, 153A, 153C, Art. 226]**

Where reopening proceedings were initiated on the basis of information and material gathered pursuant to a search conducted under section 132 in the case of a third party, the very foundation of the reassessment arose from incriminating material discovered during the search. In such circumstances, the statutory scheme mandates that assessment must necessarily be undertaken under sections 153A/153C, which contain a non-obstante clause overriding sections 147 and 148. The provisions relating to reassessment under section 147 operate in a distinct field and can be invoked only where income escaping assessment is not based on search proceedings. Once the Revenue seeks to rely upon material emanating from a search action, resort to section 147 is impermissible and would result in overlapping of mutually exclusive statutory regimes. Following *PCIT v. Abhisar Buildwell (P.) Ltd. (2023) 332 CTR 729 (SC)* and concurring with decisions of the Rajasthan and Karnataka High Courts, it was held that since the reopening was founded entirely on search material, proceedings ought to have been initiated under section 153C read with section 153A and not under section 147. Accordingly, the notice issued under section 147 and all consequential proceedings were quashed as being without jurisdiction and bad in law. (AY. 2012-13).

Sejal Jewellery v. UOI (2025) 171 taxmann.com 846 / 345 CTR 681 / 252 DTR 145 (Bom) (HC)

1980 **S. 147: Reassessment-Objection disposed along with the assessment order-Order passed without disposing the objection by passing a separate order-Failure to dispose of objections separate order-Reopening notice and reassessment order is quashed and set aside. [S. 80 IA, 142 (1), 143(3), 148, Art. 226]**

The assessment of the petitioner was completed under Section 143(3) of the Act. In response to reassessment notice, the petitioner filed the return and requested for copy of the recorded reasons. On receipt of the recorded reasons the petitioner filed objections. Respondent issued a notice under Section 148, seeking to reopen the assessment. However, without disposing of the objections, the respondent issued a notice under Section 142(1) on 22.11.2021, directing the petitioner to justify its claims under Section 80IA with supporting documents. The petitioner once again requested to dispose of the objections before proceeding further. However, instead of addressing the objections separately, the respondent issued a consolidated reassessment order which purportedly disposed of the objections while completing the reassessment. Aggrieved by the order, the petitioner filed a writ petition before High Court to quash the notice and assessment order. The Hon'ble Court held that the respondent's failure to dispose of the objections separately before passing the reassessment order is vitiated due to noncompliance with jurisdictional parameters and without jurisdiction. Accordingly, the Court quashed the notice and the reassessment order. The Court also directed the appeal to be withdrawn.

Kesar Terminals & Infrastructure Ltd v. Dy.CIT (2025) 171 taxmann.com 800 /474 ITR 498 (Bom)(HC)

S. 147: Reassessment-Within four years-No new tangible material-Review is not possible-Reassessment notice and order disposing of the objection is quashed. [S. 13(1)(d)(iia), 115BBC, 143(3), 148, Art. 226] 1981

On writ allowing the petition, the Court held that once all materials which were furnished by the assessee were subject matter of consideration in the assessment order being passed under s. 143(3), in such event in the absence of any fresh tangible material, the AO could not have issued a notice under s. 148 to reopen the assessee's assessment for the reason that the AO would not have jurisdiction under the garb of reassessment under s. 147, to reopen the assessee's assessment merely on the basis of change of opinion and/or review the assessment order passed against the assessee. (AY.2014-15)

Shri Saibaba Sansthan Trust (Shirdi) v. UOI [2024] 169 taxmann.com 671 / (2025) 481 ITR 517 / 342 CTR 465 / 245 DTR 217 (Bom)(HC)

S. 147 : Reassessment-Change of opinion-Foreign exchange loss-Reopening on forex loss already examined earlier held invalid. [S. 37(1), 148, Art. 226] 1982

The assessee claimed deduction for notional foreign exchange loss, which was examined in original assessment through queries and replies. Later AO reopened assessment on the ground that such loss was not allowable. The Court held reopening to be based on mere change of opinion since the issue was already scrutinized, and hence invalid. (AY. 2014-15)

Meer Gems v. ACIT [2023] 154 taxmann.com 646 (Bom)(HC)

Editorial : SLP dismissed, ACIT v. Meer Gems [2023] 295 Taxman 120 (SC).

S. 147: Reassessment-Infrastructure undertaking-Change of opinion-Query was raised in original assessment proceedings-Reassessment notice and order disposing of the objection was quashed. [S.80IA(4)(iii), 148, Art. 226] 1983

Allowing the petition, the Court held that where the assessee established Diamond Industrial Park in SEZ and claimed deduction u/s 80-IA, the AO having raised queries in original assessment could not reopen the same issue. Reopening was held to be a mere change of opinion and unsustainable. [AY. 2013-14]

Diamond and Gem Development Corporation Ltd. v. ACIT [2023] 155 taxmann.com 239 (Bom)(HC)

S. 147: Reassessment-Query raised during assessment proceedings-Change of opinion-Reopening not justified. [S. 36(1)(viia), 148, 149, Art. 226] 1984

During assessment, the AO raised a query regarding deduction under S.36(1)(viia). The assessee replied and furnished details. The assessment accepted the position. Subsequently, a notice under s.148 was issued to withdraw the deduction. The Court held that once a query is raised and responded to in the assessment proceedings, the matter becomes part of the AO's consideration. A mere change of opinion does not constitute a reason to believe that income has escaped assessment. Reopening on the same facts without fresh material is unjustified, and the notice under s.148 was invalid. (AY. 2010-11)

Yes Bank Ltd. v. ACIT [2024] 160 Taxmann.com 329 / (2025) 474 ITR 430 (Bom) (HC)

Editorial: SLP of Revenue dismissed for delay (162 days) and on merits ACIT v. Yes Bank Ltd., (2025) 303 Taxman 260 (SC).

1985 **S. 147: Reassessment-Disposal of objections-Combined order disposing objections and completing reassessment-Breach of natural justice-Alternative remedy-Appeal was filed to protect from bar of limitation-Notice and order quashed-Statement to withdraw the appeal within 15 days accepted. [S. 80-IA,143(3), 148, 151, 246A, Art. 226]**

AO issued notice under s.148 for claim under s.80-IA. Without separately disposing of the assessee's objections, the AO passed a consolidated order rejecting objections and completing reassessment. The assessee filed writ. The Court quashed the consolidated order for violating principles of natural justice. Objections must be disposed of in a separate reasoned order, providing the assessee an opportunity to challenge the rejection; issuing a combined order is procedurally impermissible. The writ petition was held maintainable and relief granted. Notice and order quashed. Statement to withdraw the appeal within 15 days accepted. Referred *GKN Driveshafts(India Ltd v. ITO (2003) 259 ITR 19 (SC), Asian Paints Ltd v. Dy.CIT (2008) 296 ITR 90 (Bom)(HC), Formento Resorts* and *Hotels Ltd v. ACIT 2019 SCC Online Bom 13550, Bayer Material Science Pvt Ltd v. Dy.CIT (2016) 382 ITR 333 (Bom)(HC)*

Kesar Terminals & Infrastructure Ltd. v. Dy. CIT, (2025) 474 ITR 498/ 171 taxmann.com 800 (Bom) (HC)

1986 **S. 147 : Reassessment-Capital gains-Gift of shares Gift of shares without consideration not liable to capital gains-Notice of reassessment invalid. [S. 45, 47(iii), 50CA, 50D, 143(1), 148, Art. 226]**

The assessee gifted the listed shares without consideration. The return was processed u/s 143(1). AO issued notice u/s 148 alleging escapement of capital gains. On writ, the High Court held that transfer by way of gift is covered u/s 47(iii), hence excluded from capital gains under s. 45. Since no consideration passed, ss. 50CA and 50D were inapplicable. The reassessment notice lacked tangible material and was quashed.(AY. 2010-11)

Jai Trust v. UOI [2024] 160 taxmann.com 690 / (2025) 475 ITR 568 (Bom)(HC)

1987 **S. 147 : Reassessment-Notice-Subject matter of appeal-Income which is subject matter of appeal, reference or revision-Reassessment notice is not valid [S. 11, 148, Art. 226]**

On writ the Court held, that the Assessing Officer has no jurisdiction to assess or reassess any income which is the subject matter of an appeal. Since the grant of benefit of section 11 of the Act was the subject matter of appeal and had been held in favour of the assessee, the notice of reassessment was not valid. The third proviso to section 147 of the Income-tax Act, 1961 provides that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matter of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.

Shri Shanmukhananda Fine Arts and Sangeetha Sabha v. Dy. DIT (E) (2025) 477 ITR 431 (Bom)(HC)

S.147: Reassessment-Amounts of investments not fully disclosed in books of account-Search-Information from public domain-Fishing enquiry-Reassessment notice and order disposing of the objection were quashed. [S.69B, 148, Art. 226] 1988

Petitioners purchased bungalows in a scheme. A search under section 132 was conducted upon one Dr. Dilip Amabalal Modi, wherein loose papers were found and seized, which contained handwritten details of financial transactions of property situated at various places along with bifurcation of cheque and cash payments. On the basis of this, the Assessing Officer issued a reopening notice against petitioners on the ground that they had made cash payments over and above the sale consideration for the purchase of bungalows. On writ the Court held that the Assessing Officer had no other material except seized material which was found during search of residential premises of Dr. Dilip Amabalal Modi and on basis of such information, Assessing Officer had arrived at a prima-facie conclusion that petitioners would have also made payment of on-money over and above sale consideration reflected in sale deed without taking into consideration that each transaction made by petitioner was much earlier than that of transactions of purchase of Bungalow No. 6 made by Dr. Dilip Amabalal Modi in year 2021-22, just prior to search carried out on 16-11-2021. Reliance placed on information found from the public domain was also without any basis, as the Assessing Officer could not have assumed jurisdiction on the basis of such information, which had no live nexus with material available on record in the form of a sale deed, which was executed by the petitioners much prior to the date of search. Valuation report of DVO could never have been the basis for assuming jurisdiction, as the valuation report was only an opinion of the valuer and the same was required to be supported by corroborative evidence to prima facie come to the conclusion that the petitioners must have paid on-money for the purchase of the bungalow. Notices being issued only for the purpose of making a fishing inquiry were quashed and set aside. (AY. 2019-20 to 2021-22)

Dhirajlal Laljibhai Patel v. ACIT (2025) 307 Taxman 530 (Guj.)(HC)

S. 147: Reassessment-Notice-Incorrect facts-Reassessment proceedings quashed. [S. 148, Art. 226] 1989

Allowing the petition, the Court held that the authorities having accepted their fault and realising that no satisfaction could have been formed as to escapement of any income in the hands of the assessee for the assessment year 2015-2016 in the absence of jurisdictional facts, the assessee need not suffer the full course of reassessment proceedings. Allowed the petition. (AY. 2015-16)

Kamlesh Kumari v. UOI (2025) 483 ITR 179(All)(HC)

S. 147 : Reassessment-No fresh material-Reassessment notice and order disposing of the objection were quashed.[S. 148, Art. 226] 1990

Held, that the Income-tax Officer had recorded the reasons for reopening only on the basis of the material available during the course of the original assessment and there was no fresh material to form a reason to believe that income had escaped assessment. The assessee had disclosed all material facts during the course of the original assessment and in response to the notices issued under sections 143(2) and 142(1) of the Income-tax Act, 1961 and the assessment order was passed after considering the details provided

by the assessee. The Assessing Officer did not have any jurisdiction to issue the notice in the absence of any basis except assumptions and presumptions. The notice of reassessment was not valid.(AY. 2016-17)
Manu Drives and Controls Pvt. Ltd v. ITO (2025) 483 ITR 238 (Guj)(HC)

1991 **S. 147: Reassessment-Statement of searched party-Reassessment notice and order disposing the objection is held to be not valid. [S. 132(4), 133(6), 148, Art. 226]**
Held, allowing the petition, that the question of the transactions of assessee with the S group had already been examined and had been discussed in the assessment order under section 143(3) read with section 147 for the earlier assessment year. In view of the contents of the notice under section 133(6) and the reply filed by the assessee explaining that it was not a transaction which he had undertaken with the S group furnishing all the details and also having found that the transaction was in the context of commodity profit from H for an amount of Rs. 2,03,017 the assessment for the assessment year 2014-2015 need not be reopened since the issue had already been examined earlier. (AY.2014-15)
Mahendrakumar Chandanmal Vinayakiya v. ITO [2023] 156 taxmann.com 28 /(2025) 483 ITR 243 (Guj)(HC)

1992 **S. 147: Reassessment-No new tangible material-Reassessment not valid.[S. 148]**
Held that it was an established finding of fact that there was disclosure and a scrutiny assessment was made. Apart from the disclosure, the materials on record did not show anything else as tangible material to substantiate the issuance of the notice. It had to be set aside and quashed. Followed, *CIT v. Kelvinator of India Ltd., (2010) 320 ITR 561 (SC)*. (AY. 2016-17)
Kalinga Institute of Industrial Technology v. ACIT (2025) 483 ITR 696 (Orissa)(HC)

1993 **S. 147: Reassessment-Faceless assessment-Natural justice-Adequate opportunity of hearing must be given-Order of reassessment quashed.[S. 144, 148, Art. 226]**
Held that the material on record showed that the respondent had already taken all efforts to send the notices to the assessee physically as well as by uploading them in the e-portal. Further, it was clear that only due to inaction on the part of the assessee in filing the reply, the assessment order came to be passed. Hence, the order passed under section 144 read with section 147 of the Income-tax Act, 1961 was valid (AY.2021-22)
Munirajappa Ravi v. ITO (2025) 483 ITR 713 (Mad)(HC)

1994 **S. 147 : Reassessment-Accommodation entry-Cash credits-Same material-Second notice-No fresh material-Reassessment notice and order disposing of the objection were quashed. [S. 68, 143(3), 148, Art. 226]**
Assessing Officer issued to the assessee a notice under section 148 dated 17-9-2013 seeking to reopen assessment for subject assessment year for reasons that assessee in lieu of cash had received an accommodation entry from a party Transnational Growth Fund Ltd of Rs. 50 lacs during the year and said entry had been shown in various papers seized during search and seizure action conducted on a party S.K. Jain Group and, therefore, he had reason to believe that the income of Rs. 50 lacs chargeable to tax

had escaped assessment-Assessing Officer accepted explanation of assessee and framed an assessment order under section 143(3) dated 30-3-2015. Assessing Officer thereafter issued on assessee another notice under section 148 dated 30-3-2018 seeking to reopen the aforesaid assessment for reasons that search action was conduced on 14-9-2010 in case of. K. Jain Group and the record seized indicated that. K. Jain Group was involved in providing accommodation entries and assessee was one of beneficiaries of the accommodation entry amounting to Rs. 50 lacs. On writ allowing the petition the Court held that since allegation with regard to source of accommodation entry and amount was similar, both when assessment order dated 30-3-2015 was passed and when notice under section 148 dated 30-3-2018 was issued, it was a clear case of change of opinion and thus invalid in law (AY.2011-12)

PMC Fincorp Ltd. v. ACIT [2024] 158 taxmann.com 533 / (2025) 482 ITR 444 (Delhi)(HC)

S. 147: Reassessment-No new information-Notice based on facts already on record-Notice not valid.[S. 148, 260A] 1995

Held that the assessee in this case had disclosed primary facts. The Assessing Officer, decidedly, committed an error in appreciating the information that was already available on record. The notice of reassessment was not valid.(AY.2005-06)

PCIT v. Alcatel Lucent India Ltd [2023] 152 taxmann.com 48 / (2025) 482 ITR 733 (Delhi) (HC)

S. 147: Reassessment-Capital gains-Considered in the original assessment proceedings-Notice based on the same facts-Not valid.[S. 45, 54EC, 148, Art. 226] 1996

Held that there was nothing to doubt the details which figured in the return of income, which was processed. The submission that the co-owners showed capital gains of different amounts, was also not a valid ground since the facts and computation in the case of each assessee in respect of return of income would differ. The assessee showed all facts and details in the return of income. Neither foundational facts existed nor could it be said that any tangible material was available with the Assessing Officer to justify the exercise of power. Accordingly, the notice dated March 30, 2018 seeking to reopen the assessment of the assessee in respect of the assessment year 2011-2012 was quashed.(AY. 2011-12)

Bimlakumari Lajpatraj Hurra v. ITO [2023] 152 taxmann.com 254 / (2025) 482 ITR 741 (Guj)(HC)

S. 147: Reassessment-Sufficiency of reasons cannot be considered at the stage of notice-Notice based on information from the Income-tax Investigation Wing is valid.[S. 148, Art. 226] 1997

Held, dismissing the writ petition, that a notice under section 148 of the Income-tax Act, 1961 was issued calling upon the assessee to deliver a return in the prescribed form for the assessment year 2012-2013. The authority received information from the Investigation Wing, Kolkata, during the year under consideration that the assessee made transaction in penny stock in the scrips of Twenty First Century (I) Ltd for an amount of Rs. 6,49,000. On the basis of material before it, if the Assessing Officer was satisfied to harbour reasons to believe that there was escapement of income and if on such basis,

he had exercised his powers under sections 147 and 148 of the Income-tax Act, 1961, no fault could be found. The notice of reassessment was valid. (AY.2012-13)
Akshat Pramodkumar Chaudhary v. Dy. CIT [2023] 153 taxmann.com 25 /(2025) 482 ITR 860 (Guj)(HC)

1998 **S. 147 : Reassessment-Notice-Review of judgment-Disputing deposit of cash in bank account forming ground for reassessment notice-Notice valid.[S. 148, Art.226]**
On a review petition by the assessee against the judgment passed in a writ petition challenging the validity of the notices issued under section 148 and section 142(1) of the Income-tax Act, 1961 contending that the reliefs sought for were not considered while disposing of the writ petition and that it was incumbent on the court to first establish as to whether or not those prayers were made out, dismissing the review petition, that there was no error apparent on the face of the record. While closing the writ petition the court had indicated that since the assessment order did not foist any tax liability on the assessee, as the income of Rs. 1,96,430 declared by him was accepted, the writ petition need not progress any further but had granted the assessee leeway to take recourse to a statutory remedy in accordance with law, in case he was still aggrieved by the assessment order. The reasons for issue of notice under section 148 of the Income-tax Act, 1961 were based on the information from the Department system firstly, that the assessee was a "non-filer" and secondly, that he had deposited cash of Rs. 14,00,000 in his bank account in the financial year 2011-2012 relevant to the assessment year 2012-2013.Reassessment Notice was valid.(AY.2012-13)
Ramakant v. ITO (2025) 482 ITR 910 (Delhi)(HC)

1999 **S. 147 : Reassessment-Notice-Procedure laid down in GKN Driveshafts (India) Ltd. v. ITO (2003) 259 ITR 19 (SC)-Assessing Officer bound to dispose of objections of assessee by speaking order prior to reassessment order-Notices and reassessment order set aside. [S. 148, Art. 226]**
Allowing the petition, the Court held that the procedure laid down by the Supreme Court in the case of *GKN Driveshafts (India) Ltd. v. ITO, (2003) 259 ITR 19 (SC)* had to be followed when a notice under section 148 of the Income-tax Act, 1961, was issued. The procedure required that on the issue of notice under section 148 of the Act, the Assessing Officer was bound to dispose of the objections raised by the assessee by a speaking order prior to the issue of the reassessment order. Admittedly, the reasons for reopening having been communicated and reply to such reasons having been furnished by the assessee, the Assessing Officer was bound to dispose of the assessee's objections by passing a speaking order before proceeding to pass an order under section 143(3) read with section 147 of the Act. Court also held that the practical difficulties of the Assessing Officer could be of no reason to condone the non-adherence to the procedure in *GKN Driveshafts (India) Ltd. v. ITO, (2003) 259 ITR 19 (SC)*. Notices and reassessment order were set aside. (AY.2011-12)
Hewlett Packard Financial Services (India) Pvt. Ltd v. Dy. CIT (2025) 482 ITR 916 (Karn) (HC)

S. 147: Reassessment-Faceless assessment-Ex-parte order-Violation of principles of natural justice-Order set aside and matter remanded for consideration afresh after giving due opportunity of hearing.[S. 144B, 148, Art. 226] 2000

Held, allowing the petition, that the reassessment order under section 147 violated the elementary principles of natural justice and, therefore, was unsustainable. Though April 14, 2023, was fixed in the notice dated April 10, 2023, under section 144B, no orders were passed on April 14, 2023, by the National Faceless Assessment Centre, and no further date was fixed. The assessee had filed its reply on May 1, 2023, on the Department's portal. The National Faceless Assessment Centre passed the order on May 2, 2023, without considering the reply of the assessee. The order was ex parte and without application of mind inasmuch as, the reply of the assessee had not been considered at all. The reassessment order was set aside, and the matter was remitted back to the National Faceless Assessment Centre for consideration afresh and passing a fresh order after affording due opportunity of hearing to the assessee. (AY. 2015-16)

M.G. Constructions Pvt. Ltd v. NFAC (2025) 482 ITR 949 (All)(HC)

S. 147 : Reassessment-With in four years-Cash credits-Capital gains0 Book profit-Notice issued based on information in Insight Portal-Price manipulation in shares-Assessing Officer had no other specific information relating to assessee's share transactions-Notice quashed.[S. 45, 68 115JB, 143(3), 147, 148, Art. 226] 2001

Assessee-company filed its return of income and an assessment order was passed under section 143(3) of the Act. Subsequently, the Assessing Officer issued a reassessment notice on the ground that assessee-company had generated non-genuine gain by trading in shares of Kushal Group, which had escaped assessment. On writ, it was contended that even if addition was made as proposed by the Assessing Officer, being income escaped from assessment, there would not be any taxable income after proposed addition, as income would be taxed under section 115JB. High Court quashed the reassessment notice and order disposing of the objection. (AY. 2017-18)

Adeshwara Cement Co. Pvt. Ltd. (through director Kushal Mohit Shah) v. ACIT [2024] 166 taxmann.com 583 / (2025) 481 ITR 282 (Guj)(HC)

Editorial : ACIT v. Adeshwar Cement Co (P.) Ltd(2025) 306 Taxman 271 (SC), SLP of revenue dismissed for failure to explain delay of 196 days.

S 147 :Reassessment-Strictures-Failure to produce reasons recorded and original assessment record-Record not traceable-Appeal dismissed-Cost of Rs.5000 levied on revenue [S. 148, 260A] 2002

In an appeal by the Department against the order of the Tribunal affirming the order of the Commissioner (Appeals) who set aside the order of the Assessing Officer in the context of reopening of assessment of the assessee, the court directed the Department to place on record copies of the reasons recorded by the Assessing Officer and of the original assessment order under section 143(3) of the Income-tax Act, 1961. The Department, after several opportunities to comply with this direction, stated that the original file was not traceable and sought an adjournment. The court granted the Department another opportunity to comply with directions within ten weeks, subject to payment of costs of Rs. 5,000. When the case came up for hearing, the appeal, as there

was no proof of the costs having been paid as directed by the court and by letter dated February 19, 2019, the Deputy Commissioner had informed the assessee's counsel that the assessment records in the case of the assessee for the assessment year 2004-2005 were not traceable. It was plain that the Department was not interested in pursuing the appeal. (AY. 2004-05)

PCIT v. Indo Rama Synthetics (1) Ltd (2025) 481 ITR 658 /179 taxman.com 347 (Delhi) (HC)

Editorial : PCIT v. Indo Rama Synthetics (1) Ltd (2025) 481 ITR 660/307 Taxman 389 (SC)

2003 **S. 147 : Reassessment-With in four years-Change of opinion-Foreign exchange loss-Information relating to foreign currency transactions and loss was subject matter of query by Assessing Officer-Reassessment notice and order disposing the objection was set aside.[S. 37(1), 148, Art. 226]**

Assessing Officer reopened assessee's assessment framed under section 143(3) for reasons that premium on forward contract and options and foreign exchange loss was not actual exchange fluctuation loss but were notional in nature and, thus, same was to be disallowed and brought to tax On writ the Court held that since information relating to foreign currency transactions and loss based on which expenses were claimed as deduction under section 37 was furnished by assessee in response to notices issued under section 143(2) and was subject matter of query by Assessing Officer pursuant to which assessment order passed. Reassessment notice and order disposing the objection was quashed and set aside. Impugned reassessment order was liable to be set aside. (AY. 2016-17) (SJ)

Pon Pure Chemical India (P.) Ltd. v. ACIT (2025) 481 ITR 799/ 172 taxmann.com 93 ((Mad)(HC)

2004 **S. 147 : Reassessment-With in four years-Interest on borrowed capital-Change of opinion-Full disclosure during original assessment-Reopening held invalid.[S.36(1)(iii), 147, Art. 226]**

The Madras High Court held that the reassessment proceedings initiated under section 147 were invalid as they were based merely on a change of opinion and not on any fresh tangible material. The assessee had fully and truly disclosed all primary facts relating to interest paid and utilisation of borrowed funds during the original assessment proceedings, and the Assessing Officer, after raising queries and examining the details, had completed the assessment under section 143(3). The Court observed that once relevant particulars are disclosed and considered, the Assessing Officer cannot reopen the assessment simply because he subsequently forms a different view on the same material. It was further held that the assessor's duty does not extend to disclosing inferences and reopening on the same issue amounts to impermissible review of the original assessment. Accordingly, the reopening was quashed and decided in favour of the assessee.(AY.2006-07)

Sundararajan (P.) v. DCIT (2025) 306 Taxman 115 (Mad.)(HC)

S. 147 : Reassessment-Within four years-Deemed Dividend-Trade Advances-Credit Balances-Common Shareholding-Reassessment Invalid. [S.2(22)(e), 148, Art. 226] 2005

The AO contended that the assessee had obtained substantial unsecured loans from its amalgamated company in which a common director held a substantial interest, and therefore sought to treat the amount as a deemed dividend under section 2(22)(e). The Court, however, noted that the amounts in question did not represent unsecured loans, but arose from credit balances in running accounts, comprising payment receipts, margins, interest on margins, and trade advances. Such trade-related credit balances were held to be outside the scope of section 2(22)(e). Accordingly, the reassessment proceedings were held to be unsustainable and were quashed and set aside. (AY.2016-17)

Relitrade Stock Broking (P.) Ltd. v. ITO (2025) 306 Taxman 133 (Guj.)(HC)

S. 147 : Reassessment-Within four years-Change of opinion-Depreciation-Survey-Examined during the original assessment proceedings-Reassessment not valid-Omission to pass a speaking order on receipt of objections cannot be considered as fatal.[S. 133A, 143(3), 148, Art. 226] 2006

The reopening of the assessment was initiated on the basis of a survey conducted under section 133A, during which it was alleged that the assessee had not properly capitalised self-constructed units and had incorrectly claimed depreciation on computer software. However, the Court noted that during the original scrutiny assessment under section 143(3), the Assessing Officer had specifically called for details. The assessee had furnished all the relevant details and had duly responded to the queries raised. In these circumstances, the Court held that there was no justification for reopening the assessment, as the reassessment proceedings were founded on the same material that had already been examined during the original assessment. Such reopening amounted to a mere change of opinion, which is impermissible. Further, the Court observed that the failure of the Assessing Officer to pass a speaking order while disposing of the objections could not, by itself, be considered fatal in the absence of any serious prejudice having been demonstrated by the assessee. (AY. 2007-08)

SI Property (Kerala) (P.) Ltd. v. CIT (2025) 306 Taxman 44 (Ker.)(HC)

S. 147 : Reassessment-Long term capital gains from equities-Information from Investigation wing-Accommodation entry-Reassessment is affirmed-Order of Tribunal set aside. [S. 145, 148, 260A] 2007

Assessment order was passed in case of assessee under section 147 read with section 144B. Subsequently, the Assessing Officer issued reopening notice against assessee on ground that information was received from the investigation wing that the assessee was one of the beneficiaries who received accommodation entry which was used to avail bogus LTCG/STCL. Tribunal held that Assessing Officer had not formed an opinion and he had mechanically followed the report of the investigation wing; hence, reopening was not justified. On appeal, the Court held that the Tribunal committed an error in coming to a conclusion that the Assessing Officer had not applied his mind for reopening assessment under section 147. Accordingly the order of reassessment is affirmed. (AY. 2013-14)

PCIT v. P.L. Goenka HUF (2025) 305 Taxman 398 (Cal)(HC)

2008 **S. 147: Reassessment-Long-term capital gains from equities-Information from Investigation wing-Shown as short-term capital gains-The Tribunal held that no material was placed on record to show how the Assessing Officer concluded that LTCG exemption had been claimed. On appeal order of the Tribunal is affirmed. [S. 10(38) 45, 143(1), 260A]**

Assessee filed return of income which was processed under section 143(1). Subsequently, Assessing Officer reopened assessment based on information from Investigation Wing that assessee had claimed exemption under section 10(38) on Long-Term Capital Gain (LTCG) arising from sale of shares of a company-However, records revealed that there was no LTCG on sale of shares of said company, and assessee had in fact offered Short-Term Capital Gain (STCG) to tax in the original return. The Tribunal held that no material was placed on record to show how Assessing Officer concluded that LTCG exemption had been claimed. On appeal order of the Tribunal is affirmed. (AY. 2012-13)

PCIT v. Nikunj Dhanuka (2025) 305 Taxman 661 (Cal)(HC)

2009 **S. 147 : Reassessment-With in four years-Cash credits-Penny stock-Accommodation entries-General information-India Infotech and Software ltd-SRK industries Ltd-Capital gains-Capital loss-Materials based on which said report was prepared had also not been placed on record by revenue-Conclusion arrived at by Assessing Officer was based on suspicion created by information that shares of IISL and SRK were penny stocks. On facts reassessment notice and order disposing of the objection were quashed and set aside. [S. 45, 68, 148, Art. 226]**

Assessee had traded in shares of two companies, namely, India Infotech and Software Ltd (IISL) and SRK Industries Ltd (SRK). Information was received by the Assessing Officer from Investigation Wing that shares of IISL were a penny stock, and it was being rigged to provide bogus accommodation entry to beneficiaries. Assessing Officer found that SRK was flagged as one of BSE listed penny stock companies in the Investigation Report circulated from Principle DIT (Inv.). On the basis of same, a reopening notice was issued on the ground that assessee had claimed bogus short-term capital loss on penny stocks to evade tax liability. On writ, the Court held that the information on basis of which the reassessment notice was issued was general in nature and did not point towards involvement of assessee in the arrangement of providing accommodation entry by contriving bogus short-term capital loss. Further, there was nothing to show that information produced above was applicable to assessee. Materials based on which said report was prepared had also not been placed on record by revenue. Conclusion arrived at by Assessing Officer was based on suspicion created by information that shares of IISL and SRK were penny stocks. On facts, the reassessment notice and order disposing the objection were quashed and set aside. (AY. 2014-15)

Sanjay Kaul v. ITO (2025) 305 Taxman 462 (Delhi)(HC)

S.147: Reassessment-Cash credits-Information from investigation wing-Round tripping-Share subscription agreement and shareholders agreement with KKR Mauritius-Failure on part of assessee to fully and truly disclose material facts-Reassessment notice was valid.[S. 148, Art. 226] 2010

Assessee-company had entered into definitive agreements with KKR Mauritius as per which KKR invested Rs. 500 crores in assessee-company and was allotted 3.79 crores equity shares. These shares were bought back by DBL, holding company for a sum of Rs. 1218 crores. Subsequently, Assessing Officer received information from investigation wing that investment pumped in by KKR Mauritius was assessee's own black money and that there had been round tripping since later KKR's shareholding in assessee-company was bought back by the holding company and that whole transaction needed to be investigated properly to find out if any black money had been used in the transaction. Assessing Officer issued a reopening notice. Audit report of assessee specifically noted that holding company as well as assessee had entered into definitive agreements, namely, share subscription agreement and shareholders agreement with KKR Mauritius. Single judge allowed the writ petition against reassessment notice. On appeal by the revenue the Court held that copies of share subscription agreement and shareholders' agreement were not placed before the Assessing Officer. Since full contours of arrangement between KKR Mauritius and assessee-company were not placed before Assessing Officer in the first instance, there was failure on the part of the assessee to fully and truly disclose material facts; there was sound basis for reasonable belief entertained by the Assessing Officer for issuing notice under section 148. Order of single judge is set aside. (AY. 2011-12)

ACIT v. Dalmia Cement (Bharat) Ltd. (2025) 305 Taxman 26 (Mad)(HC)

Editorial : Dalmia Cement (Bharat) Ltd v. ACIT (WP(Md) Nos.19202 of 2018 and 19826 of 2018 dt 30-10 2019 (SJ)(Mad)(HC)

S. 147: Reassessment-Cash credits-Reason to believe-Suspicious Transaction Report (STR)-Burden of proof-Tribunal could not have applied the principle enunciated by the court in a criminal case to discharge the burden of proof beyond reasonable doubt-Order of Tribunal set aside. [S. 68, 148, 260A] 2011

Assessee was engaged in business of financing and leasing. Assessing Officer issued a reassessment notice based on fund movements in assessee's bank account, treating them as taxable income. Tribunal decided in favor of assessee, holding that there was no taxable income involved, relying on Supreme Court's decision in *Raja Naykar v. State of Chhattisgarh in [Criminal Appeal No. 902 of 2023, dated 24-1-2024]* (a criminal case) and applied the principle of "proof beyond reasonable doubt" to tax law concept of "reason to believe". On appeal, the Court held that principles enunciated in criminal jurisprudence in respect of proof beyond reasonable doubt were erroneously applied to an issue which was subject to the provisions of Act and construction of words "reason to believe" as construed by Tribunal on the anvil of said Supreme Court case, was absolutely erroneous. Accordingly, the Tribunal misdirected itself in predicating its entire reasoning on an incorrect and inapplicable principle of law, which are confined to purely penal provisions which were not present situation and, thus, on this error alone impugned judgement was found to be unsustainable in law

and the matter was to be remanded back to the Tribunal to decide on merits.(AY. 2012-13, 2013-14)
PCIT v. East Delhi Leasing (P.) Ltd. (2025) 304 Taxman 705 (Delhi)(HC)

2012 **S. 147 : Reassessment-Face less assessment-Notice under section 148 issued by jurisdictional Assessing Officer held valid despite faceless assessment regime-Approval under section 151 by Joint Commissioner after 1-4-2021 invalid-In search cases, section 147 can be invoked where sections 153A/153C are inapplicable-Limitation for AYs 2013-14 and 2014-15 to be tested in light of TOLA and Ashish Agarwal / Rajeev Bansal-Matter remanded. [S. 144B, 148, 149(1), proviso 3, 151, 153A, 153C, Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, s. 3(1), Art. 226]**

On writ Court held that section 148 notices issued by the jurisdictional Assessing Officer were valid notwithstanding the faceless regime. However, approval under section 151 by the Joint Commissioner after 1-4-2021 was invalid. It was also held that in search matters, reassessment under section 147 is permissible where proceedings under sections 153A/153C cannot be initiated. The issue of limitation was remitted to the Assessing Officer to be examined in the light of TOLA and the Supreme Court decisions in *UOI v. Rajeev Bansal, (2024) 469 ITR 46 (SC); UOI v. Ashish Agarwal, (2022) 444 ITR 1 (SC)*. Matter remanded. (AY. 2013-14, 2014-15)
Kanwaljeet Kaur v. ACIT (2025) 480 ITR 50 / 171 taxmann.com 174 (Delhi)(HC)

2013 **S. 147: Reassessment-Shell companies-Information from Investigation Wing that assessee raised share capital through paper/shell companies controlled by accommodation entry operator-Assessee failed to furnish crucial details sought by Assessing Officer-Information constituted tangible material having live link with formation of belief that income had escaped assessment-Reassessment notice held valid-Writ petition dismissed. [S. 68, 148, Art. 226]**

The assessee had filed return declaring loss for AY 2010-11 and assessment was earlier completed under section 153C r.w.s. 143(3) at nil income. Thereafter, notice under section 148 dated 31-3-2017 was issued on the basis of information received from the Director of Investigation, Kolkata that the assessee had raised share capital of Rs. 1.51 crore by issuing shares at face value of Rs. 10 and premium of Rs. 90 to certain paper/shell companies, most of which were allegedly controlled by one NKJ, an admitted accommodation entry operator. The Assessing Officer had also called upon the assessee to furnish details such as share application forms, names of allottees, number of shares allotted, breakup of face value and premium, and mode of receipt of funds, but there was no material to show that the assessee had furnished proper supporting details or answered the specific queries. On writ, the Court held that the information received from the Investigation Wing regarding bogus share capital and shell companies was germane material and had a live link with the formation of belief that income had escaped assessment. Since the assessee neither rebutted the allegations with supporting material before the Assessing Officer nor before the Court, and the statutory requirements of recording reasons, obtaining sanction and furnishing reasons were duly complied with, the reopening could not be said to be without jurisdiction. The wider

post-1-4-1989 scope of section 147 permitted reopening on the basis of such tangible material. Accordingly, the writ petition was dismissed. (AY. 2010-11)
Mukund System and Networking Pvt. Ltd. v. DCIT (2025) 480 ITR 566 / 176 taxmann.com 923/347 CTR 210 / 255 DTR 113 (Gauhati)(HC)

S. 147: Reassessment-Audit objection-Non-resident-Assessing Officer must apply independent mind-Audit objection is only "information" and not a command to reopen-Reassessment cannot be used to review a concluded scrutiny assessment-Change of opinion not permissible-In absence of failure to disclose fully and truly all material facts, extended period of six years not available-Limitation restricted to four years from end of relevant assessment year-Notice issued beyond four years held barred by limitation-Notice under section 148A(b), order under section 148A(d) and notice under section 148 quashed. [S. 148A(b), 148A(d), 149, Art. 226] 2014

The assessee, a non-resident, for AY 2017-18 was assessed under section 143(3), wherein the Assessing Officer had specifically examined the taxability of finance, sales and corporate service recharges received from its Indian associated enterprise and accepted the returned position. Subsequently, reassessment was sought to be initiated on the basis of an audit objection. Though an audit objection may constitute "information" for purposes of sections 148/148A, the High Court held that it does not compel reopening and the Assessing Officer must independently apply his mind and decide whether income has in fact escaped assessment. Since the very issue of taxability of the receipts had already been examined in original scrutiny and there was no fresh tangible material, the reopening amounted to a mere review of the concluded assessment and was based on a change of opinion, which is impermissible under section 147. The Court further held that there was no allegation of failure by the assessee to disclose fully and truly all material facts and, therefore, under the old law preserved by the first proviso to section 149, the extended six-year period was unavailable; limitation remained four years from the end of AY 2017-18, and the impugned notices having been issued beyond that period were time-barred. Accordingly, the notice and consequential proceedings were quashed. (AY. 2017-18)
Springer Healthcare Ltd. v. ACIT (2025) 480 ITR 712 (Delhi)(HC).

S. 147 : Reassessment-Cash credits-Addition of unexplained share premium not forming part of recorded reasons for reopening is unsustainable-If no addition is made on issue for which assessment was reopened, no other addition can be made-Reassessment order quashed. [S. 68, 148, 260A] 2015

The assessee had originally filed its return of income for A.Y. 2007-08, which was assessed under section 143(3). Subsequently, the assessment was reopened under section 147 on the allegation that the assessee had received bogus accommodation entries. During the reassessment proceedings, however, the Assessing Officer did not make any addition on the basis of the recorded reasons for reopening. Instead, an addition under section 68 was made in respect of share premium reflected in the balance sheet. The Commissioner (Appeals) rejected the assessee's challenge to jurisdiction but deleted the addition on merits. On further appeal, the Tribunal held that since no addition had been made on the issue forming the basis of reopening, no other addition could

be sustained, and accordingly deleted the addition and quashed the reassessment. On appeal by the Revenue, the High Court dismissed the appeal and held that section 147 permits reopening only in exceptional circumstances where the Assessing Officer has reason to believe that income chargeable to tax has escaped assessment. If the very ground on which the assessment is reopened does not survive, there is no justification for expanding the scope of reassessment to other issues. Explanation 3 to section 147 only clarifies that once the Assessing Officer validly assumes jurisdiction and assesses or reassesses the income for which the assessment was reopened, he may also assess other income that comes to notice during the course of proceedings. It does not permit the Assessing Officer to make additions on other issues where no addition is made on the issue recorded as the reason for reopening. Accordingly, the Tribunal was justified in deleting the addition under section 68 and quashing the reassessment order. (AY. 2007-08)

PCIT v. Sunlight Tour and Travels Pvt. Ltd. (2025) 480 ITR 787 (Delhi)(HC)

2016 **S. 147: Reassessment-Alternative remedy-writ petition almost after expiry of one year from the date of passing the impugned assessment order-Writ petition dismissed. [S. 144, 144B, 148, Art. 226]**

Assessee has challenged the assessment order after expiry of one year from the date of passing the assessment order. Dismissing the petition the Court held that writ petition was filed after one year from the date of the assessment order; the assessment order is an appealable order; the writ petition was not maintainable. (SJ)

D.D. Infrastructure (P) Ltd. v. UOI (2025) 345 CTR 658 / 251 DTR 100 (Cal)(HC)

Editorial : Review petition allowed, order of single judge recalled, D.D. Infrastructure (P) Ltd. v. UOI (2025) 174 taxmann.com 215 / 345 CTR 652 / 251 DTR 93 (Cal)(HC)

2017 **S. 147 : Reassessment-Capital gains-Exemption under S. 54F-Investment in a residential house-Separate floors of same house purchased by family members-To be regarded as one residential house-No failure to disclose material facts-Reopening invalid. [S. 45, 54F, 260A]**

The assessee claimed exemption under s. 54F in respect of investment in a residential property, wherein separate floors of a singular house were purchased by her family members. The AO reopened the assessment alleging that the assessee owned more than one residential unit and had failed to disclose material facts. The Tribunal quashed the reassessment. On appeal, the High Court held that ownership of different floors of the same building does not convert a singular residential house into multiple residential houses. Merely because different floors are owned or partly owned by different persons would not detract from the fact that the property constituted one residential house for the purpose of s. 54F. Reliance was placed on *CIT v. Gita Duggal (2013) 257 CTR 208 (Delhi)(HC) and Mrs. Kamla Ajmera v. Pr. CIT (2025) 342 CTR 626 (Delhi) (HC))*. The Court further held that the assessee had truly and fully disclosed all material facts relating to the sale of the original asset and investment in the residential property. The configuration of ownership as reflected in Municipal Corporation records did not establish any failure of disclosure. Accordingly, no substantial question of law arose

and the order of the Tribunal quashing the reassessment was affirmed. (AY. 2011-12).
PCIT v. Lata Goel (2025) 345 CTR 121 / 250 DTR 441 / 174 taxmann.com 535 (Delhi)(HC)

S. 147: Reassessment-Validity-High-pitched assessment on non-existing entity-Addition made on basis of Multi Year MNS Data without application of mind-Merger of assessee-bank and surrender of PAN ignored-Sanction under S. 151 mechanical-Reassessment was quashed-Exemplary costs of Rs 1 crore were proposed for passing high-pitched assessment order contrary to the facts available on record. [S. 144, 148, 151, Art. 226] 2018

On writ, the High Court held that the impugned reassessment order for AY 2017-18 passed in the name of Oriental Bank of Commerce, Bharuch Branch, under PAN "AAAC07436M", was a nullity, as OBC had merged with Punjab National Bank w.e.f. 1-4-2020 and the surrendered PAN stood requested to be cancelled; despite this being specifically brought on record, the AO and NFAC proceeded without application of mind to frame a high-pitched reassessment under ss. 147 r/w 144, making an addition of ₹393.97 crore and raising a demand of ₹648.26 crore solely on the basis of undisclosed "Multi Year MNS Data", without inquiry and without considering the return and explanations; the approval under s. 151 was also accorded mechanically. The Court quashed the reassessment and, noting the egregious non-application of mind and the severe prejudice caused by the high-pitched demand against a non-existent entity, directed issuance of show-cause to the respondents on imposition of exemplary costs of ₹1 crore. Kept for further hearing on 4 th April, 2025. (AY. 2017-18)
Punjab National Bank v. ITO (2025) 344 CTR 35 / 248 DTR 185 / 9 (Guj)(HC)

S. 147: Reassessment-Information-Computer-generated DIN-AO examined the information and transaction documents received from the complainant after giving opportunity of hearing to the assessee-Writ to quash proceedings dismissed. [S. 143(3), 143(3A), 148, Art. 226] 2019

The assessment order was initially issued without a Document Identification Number (DIN), but the defect was subsequently cured on the same date by issuance of a digitally signed communication containing a computer-generated DIN. The reassessment for AY 2017-18 was based on information and voluminous transaction documents furnished by a complainant (a partner of the assessee-firm), which were supplied to the assessee along with an opportunity to respond. The AO examined the materials and found that the assessee failed to substantiate how undisclosed sales of various products were accounted for in the books. Since the impugned order was not based on any statement or examination of the complainant, there was no requirement of cross-examination and *Andaman Timber Industries v. CCE (2015) 281 CTR 241 (SC))/ (2016) 15SCC 785*, was distinguished. The High Court held that no jurisdictional error was made out and declined to interfere in writ jurisdiction, leaving the assessee to pursue statutory appellate remedies. (AY. 2017-18)
Shree Shakambhari Udyog v. CIT (2025) 344 CTR 612 / 249 DTR 297 / 173 taxmann.com 955 (Pat)(HC)
Editorial: SLP rejected-Shree Shakambhari Udyog Partnership Firm v. CIT (2025) 306 Taxman 339 / 479 ITR 238 (SC)

2020 **S. 147: Reassessment-Principle of natural justice-Order passed in hurry to avoid time getting barred and without giving the assessee adequate opportunity to be heard-Not valid.[S.143(1), 148, 153, Art. 226]**

On writ, the Court held that the orders passed on March 30, 2022 were preceded by the notices and show-cause notices-cum-draft assessment orders dated March 26, 2022. It was evident that the assessment orders had been passed in a hurry to avoid lapsing of the assessment proceeding due to limitation under section 153 of the Act. There had been a manifest violation of principles of natural justice as not enough time was given to the assessee to respond to the respective show-cause notices-cum-draft assessment orders dated March 26, 2022 and therefore, the orders were liable to be quashed as not enough time was given to the assessee to respond to the respective show-cause notices-cum-draft assessment orders dated March 26, 2022. The cases were to be sent back to the Additional Commissioner to pass a fresh order by giving opportunity to the assessee to file a reply or representation to the respective show-cause notices-cum-draft assessment orders dated March 26, 2022.(SJ) (AY. 2008-09, 2014-15, 2015-16)

Vijaykumar Poornima v. NFAC [2024] 162 taxmann.com 394/ (2025) 478 ITR 676 (Mad) (HC)

2021 **S. 147: Reassessment-Notice-Failure to respond to notices-Natural justice is not violated-Division bench held that the Single judge right in relegating assessee to the remedy of statutory appeal. Extension of time granted to file appeal before appellate authority-Stay of coercive proceedings until outcome of order in statutory appeal.[S. 148, 246A, Art. 226]**

On appeal against the order of single judge, the Court held that the court had rightly dismissed the writ petition, giving liberty to the assessee to file a statutory appeal. The time granted to file the statutory appeal was extended. Till orders were passed on the stay application or the appeal, no coercive steps should be taken against the assessee pursuant to the assessment order.(AY. 2016-17)

Shaju Pachelil Pathrose v. NEAC (2025) 478 ITR 490 (Ker)(HC)

Editorial : Decision of single judge in Shaju Pachelil Pathrose v. NEAC (2025) 483 ITR 218 (Ker)(HC), affirmed.

2022 **S. 147 :Reassessment-Faceless Assessment-Natural justice-Matter remanded to Assessing Officer to proceed in accordance with law.[S. 144C, 147, Art. 226]**

On writ the Court held that the duration to comply the notice was too short a period, particularly, when the explanation and details had been sought of an assessment year about seven to eight years old. Thereafter, by notice dated March 21, 2022 the period had been extended by another two days. There was no proof whether or not these notices issued on March 21, 2022 extending the period from March 21, 2022 to March 23, 2022 had been effectively served upon the assessee. Meanwhile the assessee had sent his reply on March 19, 2022, before the authority concerned. Proceedings had been drawn by the Department in a hasty manner without a reasonable opportunity of being heard given to the assessee. Therefore the order under section 147 read with section 144B was quashed and set aside. The matter was remitted to the Assessing Officer for

proceeding in accordance with law after affording an opportunity of hearing to the assessee without any further delay.(AY. 2014-15)
A. Jaipal Reddy Amireddy v. UOI (2025) 478 ITR 509 (Telengana)(HC)

S. 147: Reassessment-Foreign assets-Notice issued pursuant to liberty granted by Supreme Court relating to foreign assets-Supreme Court decision in first round of litigation binding on parties Sufficient material existed to justify reassessment.[S. 68, 92B, 147, proviso (ii), 148, Art. 142, 226] 2023

Dismissing the petition, the Court held that the findings rendered by the Supreme Court bound the parties including the assessee. The decision to reopen was based on the liberty which was granted by the Supreme Court in the first round of litigation and only placed the Department under the obligation of informing the assessee of their intent to invoke and rely upon the second proviso to section 147. Sufficient material existed before the Assessing Officer which would have justified the power to reassess being exercised. The submission regarding misinterpretation of the Dispute Resolution Panel's order was unsustainable considering the undisputed fact that this was not a contention raised, urged or canvassed either before the High Court or before the Supreme Court. The assessee had not even argued that the conclusion drawn by the Assessing Officer on the basis of the order of the Dispute Resolution Panel was incorrect or arbitrary. It essentially required the court to review and revisit the findings rendered in this context in the first round of litigation. There was no justification to tread down this path. Writ petition dismissed. (AY.2008-09)
New Delhi Television Ltd v. ACIT (2025) 478 ITR 544 (Delhi)(HC)
Editorial : New Delhi Television Ltd v. Asst. CIT (2025) 478 ITR 558/ 304 Taxman 177 (SC)

S. 147 : Reassessment-Cash credits-Accommodation entries-Addition made on different grounds not forming part of reasons for reopening of assessment-Once principal grounds on which reassessment was proposed are dropped, no further additions can be made even by taking recourse to Explanation 3 to section 147-Order of Tribunal deleting the addition is affirmed. [S.68, 147, Expln. 3 148, 260A] 2024

Dismissing the appeal of the revenue, the Court held that the Tribunal had relied on judicial precedents to hold that once the principal grounds on which reassessment under section 147 was proposed were dropped, no further additions could be made even by taking recourse to Explanation 3. Its order deleting the additions made under section 68 was affirmed. (AY. 2011-12)
PCIT v. Jaguar Buildcon Pvt. Ltd (2025) 479 ITR 345 (Delhi)(HC)
Editorial: SLP dismissed, Jaguar Buildcon (P) Ltd. v. PCIT [2025] 177 taxmann.com 809 (SC)

S. 147 : Reassessment-Cash credits-Assessment not relating to reasons recorded-Order of Tribunal deleting the addition is affirmed. [S. 68, 148, 260A] 2025

Held, dismissing the appeal the court held that no addition under section 68 could be made by the Assessing Officer pursuant to initiation of reassessment proceedings, that

were not on the basis of which the assessment was reopened under section 147.(AY. 2012-13)
PCIT v. Naveen Infradevelopers and Engineers Pvt. Ltd (2025) 479 ITR 463 (Delhi)(HC)

2026 **S. 147 : Reassessment-Search and seizure-Assessment of third person-S. 153C is an enabling provision and does not automatically override S. 147-In absence of satisfaction note and transfer of seized material by Assessing Officer of searched person, jurisdiction under S. 153C not assumed-Reassessment under S. 147 valid-Tribunal erred in holding that S. 153C had overriding effect merely because search was conducted-Matter restored to Tribunal to decide other grounds. [S. 132, 147, 153C, 260A]**
Pursuant to a search under section 132 in the case of a third party, the Assessing Officer reopened the assessee's assessment under section 147 on the basis of information received from the Investigation Wing. The Tribunal set aside the reassessment, holding that once search material relating to a third person was found, assessment could be made only under section 153C and proceedings under section 147 were barred by the non obstante clause in section 153C. On appeal, the High Court held that section 153C is an enabling provision and its non obstante clause becomes operative only when jurisdiction under section 153C is validly assumed. Since no satisfaction note was recorded by the Assessing Officer of the searched person and no seized material was transmitted to the Assessing Officer having jurisdiction over the assessee, the jurisdictional conditions of section 153C were not fulfilled. In such circumstances, recourse to section 147 was not barred. The Court held that the Tribunal erred in treating section 153C as mandatory and in holding that section 147 stood excluded merely because a search had taken place. As the Tribunal had not examined the other grounds raised by the assessee, the matter was restored to the Tribunal for fresh adjudication. (AY. 2011-12)
PCIT v. Naveen Kumar Gupta [2024] 168 taxmann.com 574/ (2025) 479 ITR 586 (Delhi) (HC)

2027 **S. 147: Reassessment-Survey-Non-resident-Permanent establishment Permanent agent-Dependant establishment-Attribution of profits-Reassessment notice was upheld by the Tribunal-No substantial question of law-Appeal dismissed-Rejection of application for recall of the order was affirmed. [S. 148, 254(2), 260A, Art. 226]**
Order of Tribunal affirming the reassessment notice was upheld. High Court also affirmed the order of the Tribunal to recall the order. No new facts or circumstances existed in the assessment to take a different view. (AY. 2009-10))
GE Nuovo Pignone S.P.A. v. CIT (IT) [2024] 167 taxmann.com 351/ (2025) 477 ITR 659 (Delhi)(HC)

2028 **S. 147 : Reassessment-Change of opinion-Notice based on assessment order of subsequent assessment year-Non-deduction of tax at source on payment made to non-resident, short and long term gains on share transactions-Provision for warranty-Deduction u/s 35(2AB)-No independent formation of opinion by Assessing Officer based on new material-Reassessment notice quashed and set aside. [S.35(2AB), 148, Art. 226]**

Allowing the petition, the Court held that the notice based on the assessment order of the subsequent assessment year, issues of non-deduction of tax at source on payment made to non-resident, short and long term gains on share transactions, deductions under section 35(2AB) and provision for warranty substantiated with supporting documents by assessee in original scrutiny assessment. Assessee's submissions accepted by Assessing Officer and order stating that claims duly examined. No failure on part of assessee to disclose all material facts. Reopening of assessment solely based on holding of Assessing Officer for subsequent assessment year. No independent formation of opinion by Assessing Officer based on new material. Reassessment proceedings unsustainable. Notice quashed and set aside.(AY. 2009-10)
Maruti Suzuki India Ltd. v. Dy. CIT (2025) 477 ITR 725 /171 taxmann.com 729 (Delhi)(HC)

S. 147 : Reassessment-Search and seizure-Reassessment-Reassessment pursuant to search carried out prior to 1-4-2021-Orders quashed.[S. 132, 148, Art. 226] 2029
On writ allowing the petition the Court held that considering the challenge to the order was based mainly on the ground that it pertained to proceedings of reassessment under section 147 of the Income-tax Act, 1961 on the basis of search carried out under section 132 prior to April 1, 2021, the issue raised had been covered by the order passed in *Tirupati Construction Co. v. ITO, (2024) 465 ITR 611 (Raj); 2024 SCC OnLine Raj 2011.* The orders were quashed.
Shiv Vegpro Pvt. Ltd. v. ACIT (2025) 477 ITR 781 (Raj)(HC)

S. 147 : Reassessment-Audit objection-No new material-Notice and order disposing the objection was quashed. [S. 148, Art. 226] 2030
Allowing the petition the Court held, that the case of the assessee was selected for scrutiny and detailed notice under section 142(1) of the Income-tax Act, 1961 was issued, requiring the assessee to furnish various details with respect to break-up of "any other amount allowable as deduction" claimed in Schedule BP of the return, wherein notional guarantee commission was claimed. The assessee submitted the requisite details. Thereafter, the assessment order under section 143(3) of the Act was passed. It is a settled legal position that reopening on the basis of audit party objections is invalid and on a bare perusal of the reasons recorded, it was apparent that there was no material available with the Assessing Officer to form a reason to believe that the income had escaped assessment. In such circumstances, the notice issued under section 148 was not valid.(AY. 2017-18)
Adani Wilmar Ltd v. ACIT [2024] 162 taxmann.com 832 /(2025) 477 ITR 88 (Guj)(HC)

S. 147 : Reassessment-Capital gains-Information from investigation unit-Penny stock-Borrowed satisfaction-Fishing inquiry not permissible-Notice quashed and set aside. [S. 10(38), 45, 148, Art. 226] 2031
Allowing the petition the Court held that the reasons recorded did not disclose any live link or fresh material to connect the transaction entered into by the assessee with the information in the possession of the Assessing Officer. The Assessing Officer had assumed jurisdiction on the basis of borrowed satisfaction without there being any live link between the information and the material on record. The notice under section 148

was issued for making a fishing inquiry which was not permissible. The notice issued under section 148 for reopening the assessment under section 147 for the assessment year 2014-2015 was quashed and set aside.(AY. 2014-15)
Rakesh Ramanlal Shah v. Dy. CIT [2024] 165 taxmann.com 364/(2025) 477 ITR 289 (Guj) (HC)
Editorial : SLP rejected Dy. CIT v. Rakesh Ramanlal Shah [2025] 477 ITR 296/177 taxmann.com 200 (SC)

2032 **S. 147 : Reassessment-Search and seizure-Reassessment-Assessment of third person-Notice opportunity of hearing not mandatory for issue of notice of reassessment pursuant to search-Satisfaction note is internal communication of Department not requiring document identification number-No provision requiring supply of copy of satisfaction note to assessee with notice for reopening assessment-Writ petition dismissed. [S. 132, 148, 153A, Art. 226]**
Dismissing the petition, the Court held that the entire scheme of reopening of assessment under section 147, in search cases, had undergone a change by paradigm shift of the reassessment proceedings replacing the earlier block assessment and thereafter the provisions under section 153A read with section 153C for reopening of the past assessment years on the basis of material found during the course of search were applicable. According to the amendment Dismissing the petition the Court held that the satisfaction note could not be said to be a communication as contemplated under Board Circular No. 19 of 2019 ((2019) 416 ITR (St.) 140) and even otherwise it could be regularized by issuing a copy of the satisfaction note with a document identification number which would be a procedural aspect for issuing notice under section 148 which already contained the document identification number and date. That there was no time limit prescribed for initiation of reassessment proceedings and sending the proposal for reopening the assessment under section 147 on the basis of search and seizure under section 132. The time limit provided in Board Circular No. 24 of 2015 ((2016) 380 ITR (St.) 32) was prescribed for recording satisfaction of the Assessing Officer of the searched person either at the time of initiation of proceedings against the searched person or during the course of assessment proceedings or immediately after assessment proceedings were completed. Such guidelines would not apply for recording satisfaction note in the case of a person other than the searched person on the basis of materials seized or found during the course of search. Writ petition dismissed. (AY. 2017-18)
Rameshkumar Tulsidas Kaneriya v. ACIT (2025) 477 ITR 358/172 taxmann.com 814 (Guj) (HC)
Editorial :SLP rejected, Rameshkumar Tulsidas Kaneriya v. ACIT [2025] 304 Taxman 666 / 477 ITR 366 (SC)

2033 **S. 147: Reassessment-Jurisdiction-Power to call information-Commission receipt-Incorrect assumption-Non-application of mind by Assessing Officer-Electronic system failure to record reply would not justify initiation of reassessment-Notices quashed and reassessment proceedings vitiated.[S. 133(6), 148 Art. 226]**
Allowing the petition the Court held that the amount was already recorded and included in the return of income filed for the assessment year 2020-2021 and was duly processed

by the Assessing Officer and it was offered for tax as part of business turnover. The notice under section 148 had been issued without application of mind and hence stood vitiated. The proceedings initiated under section 147 therefore, were not sustainable in law. The notice under section 148 dated March 31, 2024 had been issued by the Assistant Commissioner while the notices issued under section 133(6) were issued by the jurisdictional Assessing Officer. Court held that the Assistant Commissioner was not competent to issue the notice. On both counts, the notices were not sustainable and hence were quashed.(AY. 2021-22)
Vishal Garg v. ACIT (2025) 476 ITR 178 (P & H) (HC)

S. 147: Reassessment-Capital gains-Borrowed satisfaction-Notice and order rejecting assessee's objections set aside.[S. 10(38), 45, 148, Art. 226] 2034
Allowing the petition, the Court held that the initiation of reopening proceedings was on borrowed satisfaction since no independent opinion was formed. Therefore, without forming such opinion, solely and mechanically relying upon the information received from the other sources, the Assessing Officer could not have assumed the jurisdiction to reopen the assessment. Accordingly, the notice issued under section 148 for the assessment years 2014-2015 and 2016-2017 and the order rejecting the assessee's objections were set aside.(AY. 2014-15, 2016-17)
Nimesh Maheshbhai Shah (HUF) v. ITO (2025) 476 ITR 236/171 taxmann.com 24 (Guj) (HC)

S. 147: Reassessment-Change of opinion-Search-No tangible material-Discovery of cash-Reassessment notice and order disposing of the objection were quashed.[S. 132, 147, 148, 153A, Art. 226] 2035
Allowing the petition, the Court held that there should have been a live link between the information that was surfaced for issuance of notice under section 148 to reopen the assessment and to pass a fresh reassessment order under section 147. It could not be said that the Assessing Officer was unaware of the search proceedings and the seizure made pursuant to the search conducted on September 3, 2013 resulting in seizure of cash from the assessee and its partner and gold recovered from related party. The notice issued under section 148, inspired by a change of opinion, and the order rejecting the assessee's objections were quashed and set aside.
VIP Housing and Properties v. Dy. CIT (2025) 476 ITR 529 /172 taxmann.com 306 (Mad) (HC)

S. 147 : Reassessment-Survey-Unexplained investments-Departmental Valuation Officer showing significant difference between declared costs and actual construction value-Tangible material-Reassessment valid. [S. 131, 133A, 142(1), 143(2), 148, Art. 226] 2036
For AYs 2001-02 to 2003-04, the AO reopened assessment on the basis of a DVO's report obtained during a survey under section 133A, showing large differences between declared and actual construction costs of a nursing home and residential unit. The assessee challenged reopening as without jurisdiction. Held, dismissing the petition, that where undervaluation of income is found, AO has power to refer matter to DVO under section 131. The DVO's report constituted tangible material justifying reopening under

section 147. The AO had recorded proper reasons and rejected objections by a speaking order. Thus, reopening was valid. (AY. 2001-02 to 2003-04)
Dr. Pradeep Sihare v. ITO (2025) 475 ITR 599 / 175 taxmann.com 301 (Chhattisgarh)(HC)

2037 **S. 147 : Reassessment-Change of opinion-No new tangible material-Reassessment notice and order disposing the objection was quashed-Existence of alternate remedy-Not an absolute bar on issue of writ.[S. 148, Art.226]**
Held, that the Assessing Officer could not assume the jurisdiction to reopen the assessment for the assessment year 2016-2017 to again reappreciate the same facts which he had considered during the course of the assessment year 2015-2016 to disallow the exemption under section 54F of the Income-tax Act, 1961 on the ground that three years from the date of deposit in the Capital Gains Deposit Scheme would be over on January 30, 2016 which would fall in the previous year relevant to the assessment year 2016-2017. The notice dated May 30, 2019, issued under section 148 of the Act was liable to be quashed. The Supreme Court in the case of *Calcutta Discount Co. Ltd. v. ITO, (1961) 41 ITR 191 (SC); 1960 SCC OnLine SC 10* held that the High Courts have power to issue a writ in a fit case, prohibiting an executive authority from acting without jurisdiction, and an existence of alternative remedy as appeals and reference to the High Court would not be a sufficient reason for refusing quick relief by a writ or order prohibiting an authority acting without jurisdiction from continuing such action.(AY. 2016-17)
Bimalkumar Karshanbhai Tank v. ITO [2024] 159 taxmann.com 711 / (2025) 475 ITR 348 (Guj)(HC)

2038 **S. 147 : Reassessment-Capital gains-Sale of shares-Reasons recorded cryptic and vague-Notice not valid. [S. 45, 143(3), 148, Art. 226]**
On writ allowing the petition, the Court held that the assessee had furnished details pertaining to capital gains including the short-term capital gains on sale of shares along with documentary evidence in support of the sale in the scrutiny assessment under section 143(3). In the reasons, it was stated that during the year under consideration the assessee had made high value suspicious banking transactions. In the entire recording of reasons, the Assessing Officer had not revealed the mature of the transaction, date of the transaction and the name of the party with whom such transaction had been entered into. The reasons recorded were cryptic and scanty and hence the notice issued was not valid.(AY. 2017-18)
Girishbhai Dahyabhai Patel (through Power of Attorney Jitesh Ranchhodbhai Patel) v. Dy. CIT (2025) 474 ITR 299 (Guj)(HC)

2039 **S. 147: Reassessment-Survey-Information related to third parties-Borrowed satisfaction-Change of opinion-Notice and order disposing of the objection were quashed. [S. 133A, 148, Form 15CA, Art. 226]**
Allowing the petition the Court held that the assessee's bank had clearly stated in the reply that there were two different entries captured in the statement of account and remittance sheet had two different types of rates, one was notional and the other one was actually realised and statement of account submitted to the assessee, it was duly recorded in the books of account reflecting the actual realised rate of foreign exchange.

The bank had given an explanation and clarification from the Forex Department to the effect that the bank after receiving the bill from the party or customer, the bill amount was firstly calculated on the notional rate decided by the bank from time to time and finally, at the time of realisation of the bill, it was calculated on the actual settlement or exchange rate on that day. On application of the basic accounting principles, the assessee had produced all the material during the course of the regular assessment. When such record was already available with the Assessing Officer, which was produced by the assessee during the original assessment proceedings under section 143(3), he ought to have considered them and applied his mind with regard to the material made available by the survey action under section 133A which was conducted on the bank coupled with the explanation tendered by the bank. The notice issued under section 148 was on change of opinion on the part of the Assessing Officer on borrowed satisfaction without there being any fresh tangible material to prima facie conclude that income had escaped assessment and hence quashed and set aside.(AY. 2016-17, 2017-18)
Gokul Agro Resources Ltd. (through director Jayesh Kanubhai Thakkar) v. Dy. CIT(No. 1) (2025) 474 ITR 555 (Guj) (HC)
Editorial: SLP of revenue dismissed; the delay of 181 was not satisfactorily explained and also on merits. Dy. CIT v. Gokul Agro Resources Ltd. (2025) 476 ITR 160/304 Taxman 425 (SC)

S. 147 : Reassessment-Validity of notices issued under old regime after 01.04.2021-Limitation and sanction under new regime-Considering the surviving time available-limitation under S.149 had expired or sanction under S.151 of appropriate authority was lacking, the reassessment notices were invalid. [S. 148, 148A, 149, 151, Art. 226] 2040
The assessee challenged notices issued u/s 148 (old regime) during April-June 2021 and subsequent notices/orders u/ss. 148A(d)/148 (new regime) for AYs 2013-14 to 2017-18 on grounds of limitation u/s 149(1)(b) and absence of proper sanction u/s 151. The Court noted that by Finance Act, 2021, new procedure u/ss. 147-151 was introduced w.e.f. 01.04.2021. Pursuant to *UOI v. Ashish Agarwal (2022) 444 ITR 1 (SC)*, such notices issued under the old regime were treated as deemed notices under the new regime. Later, in *UOI v. Rajeev Bansal (2024) 469 ITR 46 (SC)*, the Apex Court clarified that reassessment after 01.04.2021 must strictly comply with the new regime and limitation/ sanction requirements thereunder. Applying the ratio of Rajeev Bansal, the High Court held that where limitation under S.149 had expired or sanction under S.151 of the appropriate authority was lacking, the reassessment notices were invalid considering the surviving time available. Accordingly, the batch of petitions was disposed of following the Supreme Court's directions.(AY. 2013-14, 2014-15, 2016-17, 2017-18)
Dhanraj Govindram Kella v. ITO [2025] 177 taxmann.com 194 (Guj)(HC)

S. 147 : Reassessment-No escapement of income-Mere non-uploading of audit report not fatal-Notice and reassessment quashed-Reassessment beyond six years-Notice and order disposing the objection was quashed. [S. 80IA(7), 148, Form 10CCB, Art. 226] 2041
Reassessment notices were issued solely on the ground that the assessee failed to digitally upload Form 10CCB. The Court held that absence of digital filing could not

establish failure to disclose material facts or escapement of income. Since the audit report was otherwise furnished and available for scrutiny, S 80IA(7) was substantially complied with. For AY 2013-14, reopening was also beyond the six-year limit. Accordingly, notices u/s 148 and reassessment proceedings were quashed.(AY. 2013-14, 2014-15))

Shree Bhavani Power Projects (P) Ltd. v. ITO (2024) 165 Taxmann.com 733 / (2025) 343 CTR 325 / 247 DTR 217 / 475 ITR 155 (Delhi)(HC)

2042 **S. 147: Reassessment-Long term capital gains from equities-Bogus claim-Accommodation entries-Information from Investigation Wing-Loan-No independent satisfaction regarding reasons recorded to re-open assessment-Reassessment notice and order disposing the objection is quashed. [S. 10(38), 45, 132, 148, Art. 226]**

Assessee had filed its return of income disclosing short-term capital gain on sale of shares. Assessing Officer issued a reopening notice against assessee on the ground that assessee had claimed bogus LTCG on sale of shares. On writ, the Court held that the Assessing Officer had failed to give requisite details in the reasons recorded so as to form a requisite *prima facie* belief that income had escaped assessment. Reasons recorded only referred to information received from credible sources that search was carried out in case of Kausal Group (Kaushal Limited)and during course of search, incriminating documents were found and seized and it was found that assessee was one of beneficiaries of accommodation entries in form of different types of income like Long Terms Gains/Loss/Short Terms Gains/Loss and also beneficiary of unsecured loans etc., without there being any basis for forming such belief. The Court held that on facts, Assessing Officer could not be said to have formed an independent satisfaction regarding the reasons recorded to re-open assessment to come to a prima facie conclusion that there was escapement of income. Reassessment notice and order disposing of the objection are quashed and set aside. (AY. 2017-18)

Ashishbhai Jashwantbhai Desai HUF v. ITO (2025) 303 Taxman 578 (Guj.)(HC)

2043 **S. 147: Reassessment-Survey-Income deemed to accrue or arise in India-Business connection-Permanent Establishment-Fixed place PE-Foreign company-Recorded reasons for belief that income had escaped assessment did not refer to facts specific to the relevant assessment years-Reassessment notice and order disposing of objections quashed-DTAA-India-Finland [S. 9(1)(i), 133A(2A), 143(3), 148, Art. 226]**

The assessee, a foreign company engaged in manufacturing products for power transmission, reactive power compensation, and harmonic filtering, had supplied equipment from outside India under a contract with an Indian company. It received only a 10% advance during the year and declared nil income. The assessment under section 143(3) accepted this position. Subsequently, a survey under section 133A(2A) was conducted at the GE group, which had taken over the assessee's grid business in 2015. Based on the survey, reassessment was initiated on the ground that the assessee had a fixed place and dependent agent PE in India. The Court held that the Assessing Officer had merely reiterated survey findings without recording facts specific to AYs 2013-14 to 2017-18. The reassessment proceedings were quashed. (AY.2013-14 to 2017-18)

Grid Solutions Oy (Ltd.) v. ACIT (IT) (2025) 303 Taxman 288 /477 ITR 698 (Delhi)(HC)

S. 147: Reassessment-Capital gains-Land used for agricultural purposes-Reassessment notice is justified. [S. 45, 54B, 143(3), 148, Art. 226] 2044

The assessee has claimed deduction under section 54B of the Act which was allowed. The Assessing Officer issued reassessment notice on the ground that land was sold by brothers and income had escaped assessment. On writ the Court held that there was no specific question raised with regard to the deduction claimed under section 54B; the issue of the reassessment notice is valid. (AY. 2009-10)

Yogesh Kumar Saini v. UOI (2025) 302 Taxman 427 (Raj.)(HC)

S. 147 : Reassessment-Natural justice-Opportunity of hearing-Order passed without giving an adequate opportunity of hearing is not valid. [S. 148, Art. 226] 2045

Allowing the petition the Court held, that the order of reassessment without providing an opportunity of personal hearing to the assessee is not valid. (AY.2016-17)(SJ)

Tadimalla Gowthami v. ITO (2025)472 ITR 150 / 171 taxmann.com 310 (Mad)(HC)

S. 147 : Reassessment-Commission-Non-Resident-Commission paid to services rendered out side India-Commission for the services rendered outside India, were not chargeable and consequently, the returns were accepted-The contention of the Department that they sought to invoke the proceedings to rectify the mistake, has no merit-Writ petition is allowed. [S. 9(1)(i), 143(3), 148, 195, Art. 226] 2046

The assessee was a partnership firm engaged in the business of trading and exports of marble. The assessee filed e-return for the assessment year 2009-10 declaring total income of certain amount. Such return was taken up for scrutiny and assessment order was passed under section 143(3). A notice under section 148 was issued against the assessee on ground that the assessee had escaped income due to non-deduction of tax at source under section 195 on commission paid by it to a non-resident for services rendered outside India. Allowing the petition the Court held that commission if any paid for the services rendered by a person outside India is not chargeable under the IT Act; further, during the process of scrutiny, the assessee submitted all the books of accounts, payment details to the assessment officer and the assessment officer considered the same and passed order; reopening was not therefore sustainable. (AY. 2009-10)

Sumati Exports v. UOI (2025) 170 taxmann.com 125 (342 CTR 492 / 245 DTR 385 (Raj) (HC)

S. 147 : Reassessment-Income of any other person-Search-Penny stock-Capital gains-Shell companies-Cash credits-Non obstante clause-Information from Investigation Wing and also in the course of search-Reassessment is valid-Matter remanded to the Tribunal to decide other grounds. [S.68, 132, 132A, 148, 153A, 153C, 260A] 2047

In the course of search large volume of documents were seized. The Assessing Officer, also received information from investigation wing that the assessee had purchased penny scrips. Based on the information and material available, Assessing Officer issued a notice under section 148, for reassessment of income after prior approval from the competent authority. The reassessment order was passed wherein additions were made under section 68 w indicating receipt of entries from shell companies. On appeal the CIT(A) up held the order. On further appeal the Tribunal held the Assessing Officer was

required to frame the assessment/reassessment under section 153C and was precluded from proceeding under section 147. On appeal by the Revenue the Court held that where jurisdictional conditions to initiate further steps under section 153C were not satisfied, non obstante clause as used in section 153C could not be read to completely exclude provisions of section 147 and thus, Assessing Officer could initiate reassessment proceedings under section 147 even if proceedings under section 153C could have been initiated. Order of Tribunal is set aside. As the Tribunal had not examined the other grounds the matter is restored to the Tribunal. (AY. 2011-12)
PCIT v. Naveen Kumar Gupta [2024] 168 taxmann.com 574 / (2025) 342 CTR 263 / 245 DTR 89 (Delhi)(HC)

2048 **S. 147: Reassessment-Unexplained investment-Assessment cannot be opened twice for the same reason-Reassessment notice and order disposing of the objection are quashed and set aside. [S. 69, 148, Art.226]**
The Assessing Officer issued a reopening notice on the assumption that assessee had sold shares at a price below their correct value; however, the same issue was the subject matter of examination in the earlier round of reassessment under section 147 wherein the Assessing Officer had accepted the assessee's explanation; the impugned notice and order disposing of the objection is quashed and set aside. (AY. 2017-18)
Sarika Kansal v. ACIT [2025] 171 taxmann.com 545 /303 Taxman 636 (Delhi)(HC)

2049 **S. 147 : Reassessment-Assessment of third person-Authorised Officer conducting search to hand over seized documents relating to third person to Assessing Officer having jurisdiction within fifteen days of seizure-Assessing Officer seeking instructions from superior authority and not exercising independent judgment on facts-Reassessment proceedings and assessment order passed by Assessing Officer at dictation of higher authorities-Null and void-Rule of law. [S. 132(9A), 132A(3), 147, 148, 153C, 260A]**
Hon'ble Court held that the Investigating Officer who has seized the goods on the basis of which reassessment proceedings were initiated, did not share it with the AO of the assessee within the period of 15 days as mandated under section 132(9A) of the Act. Further, the decision of the AO to initiate the reassessment proceedings under section 147 was not independent but at the behest of the superior officer. Hence, the entire proceedings is bad in law. Order of Tribunal is affirmed. Rule of law is of the elementary principle of Constitution of India. The rule of law requires rule within the ambit of law and every statutory authority must function themselves as required under the law. Every authority may however, high should only function within four corners of law because the rule of law requires that all machinery of State must function according to mandate of statute. (AY. 1988-89 to 1992-93)
Dy. CIT (Assessment) v. Surendra Kumar Jain (Dead) (2025) 472 ITR 346 (Chhattisgarh) (HC)

S. 147 : Reassessment-Change of opinion-Notice beyond period of limitation-Interest paid and interest received-Capital receipt-No failure on part of assessee to make true and full disclosure in original assessment-Reassessment proceedings to bring to tax interest receipts based on change of opinion impermissible.[S. 143(3), 148, 260A] 2050

Once the AO had consciously applied his mind for not treating the interest paid and the interest received as revenue items but as capital items, his subsequent attempt to tax the interest receipt as revenue receipt in the reassessment proceedings under section 147 is based on change of opinion. There was full disclosure of the interest receipt by the assessee in the original assessment under section 143(3) and AO in the original assessment order, after discussion, had formed an opinion that the interest paid and interest received were not revenue but capital in nature. Thus, the reassessment proceedings are bad in law.(AY. 1997-98)

CIT v. Kesoram Industries Ltd. (2025) 472 ITR 696 (Cal.) (HC)

S. 147: Reassessment-Ex parte assessment-First information report allegations filed by daughter against her husband and in laws-Physical inability to participate in proceedings-Ex parte assessment order and demand notice is quashed and set aside. [S. 148, Art. 226] 2051

Allowing the petition against the ex parte re assessment order passed by the Assessing Officer, the Court held that the foundation of the assessment order pursuant to the re assessment order is based on the first information report allegations filed by daughter against her husband and in laws on the alleged ground that the assessee had spent Rs 8 lakh apart from giving other articles at the time of marriage. The complaint was quashed upon compromise arrived between parties. The Assessing Officer neither conducted any independent investigation nor produced any evidence that the asseessee had earned the alleged amounts during the relevant year. The assesee's inability to participate due to his vegetative state at the relevant point of time, the ex parte assessment order passed on assumptions and presumptions and consequent notices were quashed and set side.

Mohinder Singh v. ITO (2025) 473 ITR 354 (P& H)(HC)

S. 147 : Reassessment-After the expiry of four years-Bogus transactions-Change of opinion-Borrowed satisfaction-Lack of application of mind-Reopening invalid. [S. 68, 148, 151] 2052

The assessment was reopened beyond four years on the allegation that the assessee had benefited from accommodation entries received through an amalgamated company. The Tribunal found that the Assessing Officer recorded contradictory facts regarding the nature of the transactions and failed to conduct any independent enquiry before recording reasons to believe. There was no material to establish failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment. The reopening was based on borrowed satisfaction and mechanical approval under section 151. Accordingly, the reassessment proceedings and consequential addition under section 68 were held to be invalid. [AY. 2011-12]

CIT v. Capseal Vyapaar P. Ltd. (2025) 121 ITR 47 (Guwahati)(Trib.)

2053 **S. 147: Reassessment-Difference in GST and Income-tax Turnover-Addition cannot be sustained merely because turnover declared for GST purposes differs from turnover disclosed in the return, where the assessee furnishes a proper reconciliation explaining the difference.[S. 148]**

The assessment was reopened on the basis of information from the Directorate General of GST Intelligence that the turnover disclosed for service tax purposes exceeded the turnover declared in the income-tax return. During reassessment proceedings, the assessee furnished a reconciliation explaining that service tax turnover was based on receipt of advances, whereas income was recognised on project completion in accordance with accounting principles. The Tribunal held that the Assessing Officer and the Commissioner (Appeals) ignored the reconciliation and supporting documents without rejecting the books of account. Since the variation arose from different methods of recognising turnover and not from suppression of receipts, the additions were deleted. (AY. 2014-15)

Aarone Developers P. Ltd. v. Dy. CIT (2025) 121 ITR 21 (SN) (Delhi)(Trib.)

2054 **S. 147: Reassessment-Scope of reassessment-Addition on issues unconnected with recorded reasons-Reassessment is invalid where the addition made is unrelated to the reasons recorded for reopening. [Ss. 40A(3), 147, Expln. 3]**

The assessment was reopened to examine alleged unexplained bank credits of ₹26.91 crore. During reassessment, however, the Assessing Officer did not make any addition on the bank credits but instead disallowed 10 per cent of purchases on the ground of cash payments. The Tribunal held that though Explanation 3 to section 147 permits assessment of other escaped income noticed during reassessment, it does not confer unrestricted power to make additions wholly unconnected with the reasons recorded for reopening. Since the reassessment ultimately rested on an issue unrelated to the recorded reasons, the reassessment was held to be invalid. (AY. 2013-14, 2014-15)

Atiq Ahmed v. ITO (2025) 121 ITR 24 (SN) (Delhi)(Trib.)

2055 **S. 147: Reassessment-Reassessment cannot be initiated merely on vague 'high-risk transaction' information without tangible material. [S 68, 69, 148]**

The assessment was reopened on the basis of information reflected in the Department's portal that the assessee had received unsecured loans of ₹50 lakh under the category of "high-risk transactions". The reasons recorded neither disclosed the names of the lenders nor the dates of the transactions, nor any tangible material indicating the escapement of income. The Tribunal held that the expression "reason to believe" requires specific and reliable material having a live nexus with the alleged escapement of income and cannot be substituted by a mere "reason to suspect". Since the reopening was based only on vague and unspecified information without any supporting material, the assumption of jurisdiction under section 147 was without legal foundation, and the reassessment was quashed. (AY. 2013-14)

Naveen Kumar Singhal v. ITO (2025) 121 ITR 28 (SN) (Delhi)(Trib.)

S. 147: Reassessment-Validity of addition on new issue-Assessment reopened for escapement of salary income, but addition made on account of Recurring Deposit Investment-Addition was deleted. [S. 148] 2056

The AO reopened the assessments based on information from a survey at Aakash Hospital & Diagnostic. The reason recorded for reopening was that the assessee allegedly had unreported salary income of Rs.6 lakh. However, while completing the reassessment, the AO did not make any addition for the alleged Rs.6 lakh escaped income. Instead, additions were made for unexplained investment in a recurring deposit scheme/bank deposits. On appeal, the ITAT held that the AO's recorded reasons must show the basis for reopening. The AO cannot make additions on a new issue when the original reason for reopening does not result in an addition. The Tribunal followed the principle that if the income for which reassessment was initiated is not added, other unrelated additions cannot survive. The appeals filed by the assessee were allowed. The additions made deleted. [AY. 2017-18 2018-19]

Bhupesh Gupta v. ACIT (2025) 128 ITR 317 (Chd)(Trib.)

S. 147: Reassessment-Additional ground-Reassessment proceedings initiated solely on the basis of NMS, without any independent verification, tangible material, or proper satisfaction recorded by the AO, would not confer valid jurisdiction under section 147-Initiation of reassessment proceedings under section 147 was void ab initio. [S. 115A, 139, 148, 194LD, 254(1)] 2057

The assessee, a Singapore tax resident and Category III FPI, invested about Rs. 448 crores in Non-convertible Debentures (NCDs) of an Indian company (SVHPL). It earned interest of about Rs. 8.24 crores on these NCDs, on which tax was deducted under section 194LD. Relying on section 115A(5), the assessee did not file its return. Based on information received through the Non-filers Management System, the AO issued a notice under section 148 and conducted a reassessment. The AO noted that the NCD investment was funded by the Singapore holding company, treated the assessee as a shell entity, and added the NCD subscription of Rs.448 crores as unexplained business income. The AO further added interest of about Rs. 8.24 crores. On objections, the DRP sustained the additions. Pursuant to remand directions in connected writ proceedings, the DRP issued second-round directions, again upholding the draft order. Consequent to these directions, the AO passed the final reassessment order. On appeal to the ITAT, it was held that the AO reopened the assessment solely on an NMS non-filing alert, without independent verification or proper reasons, despite being aware that assessee was a non-resident with only TDS-deducted interest income. Thus, such reassessment was held to be void ab initio. [AY. 2015-16, 2017-18]

Argos Holdings Pte. Ltd. v. DCIT (2025) 128 ITR 582 (Delhi)(Trib.)

S. 147: Reassessment-Addition cannot be made on issues unconnected with the reasons recorded for reopening- Addition was deleted. [S. 148] 2058

The assessment was reopened on the ground that income from sale of flats had escaped assessment. However, in the reassessment order, no addition was made on that issue, and instead additions were made towards unexplained sundry creditors. The Tribunal held that where the Assessing Officer does not make any addition on the issue for

which the assessment was reopened, he cannot make additions on altogether different issues unless fresh reasons are recorded and the assessment is validly reopened in respect thereof. Accordingly, the additions relating to sundry creditors were held to be beyond the scope of reassessment and were deleted. (AY. 2012-13 to 2014-15)
Rajesh Kumar Bansal v. ITO (2025) 128 ITR 123 (Chd.)(Trib.).

2059 **S. 147: Reassessment-"Reason to believe"-Reopening invalid where reasons recorded are factually incorrect and based on non-application of mind-Assessment was quashed. [S. 148, 151]**
The Assessing Officer reopened the assessment on the basis of Annual Information Return information relating to purchase of immovable property, erroneously recording that the assessee had not filed any return of income, though the return had in fact been filed. The Tribunal held that information received from another wing merely sets the process in motion and the Assessing Officer must independently verify the facts before forming the requisite belief. Since the reopening was based on incorrect facts and the approval under section 151 was also granted mechanically, the reassessment proceedings were held to be invalid and were rightly quashed. (AY. 2011-12)
ITO v. Taj Land Developers and Promoters (P.) Ltd. (2025) 128 ITR 167 (Chd.)(Trib.).

2060 **S. 147: Reassessment-Reopening is invalid where the very same income has already been assessed substantively in the hands of another assessee, and the AO records only a contingent belief that the income may escape assessment if the other assessee succeeds in appeal-Contingent reopening was without jurisdiction and liable to be quashed. [S. 148]**
The assessee, a Mauritius company, received facilitation fees of ₹125 crore from MSM under a Facilitation Services Deed. The very same amount had already been assessed substantively in the hands of its Indian group company (WSGI) in search assessment proceedings. Thereafter, the AO reopened the assessee's assessment under section 147 to tax the same amount in its hands. The Tribunal held that once the Revenue had already assessed the income substantively in the hands of another assessee, it could not reopen the assessment merely on a contingent apprehension that the income may escape tax if the other assessee succeeded in appeal. The reasons recorded disclosed only a belief that the income "may escape assessment" and not the statutory requirement of a belief that income "has escaped assessment". Such contingent reopening was without jurisdiction and liable to be quashed. The appeal was allowed. [AY. 2010-11]
World Sport Group (Mauritius) Ltd. v. Dy. CIT (IT) (2025) 130 ITR 641 (Mum)(Trib.)

2061 **S. 147: Reassessment-No failure to disclose material facts-Notices issued under S. 148 under the new regime for the relevant asst. yrs. 2014-15 and 2016-17 on 25th July, 2022 and 26th July, 2022, respectively, were barred by limitation-Reassessment proceedings are quashed.[S. 148, 148A(b)]**
Dismisssing the appeal of the revenue, the Tribunal held that the Assessing Officer has referred only to the P&L a/c and balance sheet of the assessee while reopening the assessment which were filed along with the original return of income, the reopening was based on the same set of facts which were available at the time of original assessment

and, therefore, reopening was not valid; also, there is no allegation of any failure on the part of the assessee to disclosure fully and truly all material facts necessary for completion of assessment. The Tribunal also held that notices issued under s. 148 under the new regime for the relevant asst. yrs. 2014-15 and 2016-17 on 25th July, 2022, and 26th July, 2022, respectively, were barred by limitation; reassessment proceedings are quashed. (AY.2014-15 & 2016-17)
DCIT v. Kolte Patil Integrated Townships Ltd. (2025) 235 TTJ 113 / (Pune)(Trib)

S. 147: Reassessment-Information from Investigation-Wing-No tangible material-No application of mind-Reassessment notice and consequential order were quashed as illegal.[S.143(3) 148] 2062
Held that the nexus is conspicuously absent in the reasons recorded. The challenge raised was towards the wrong assumption of jurisdiction. The reassessment notice and consequential orders were quashed. (AY.2013-14)
Kavya Satija v. Dy.CIT (2025) 235 TTJ 217 (Delhi)(Trib)

S. 147: Reassessment-Reason to believe-Information received from Dy. CIT(E)-No live link or rational belief in the reasons recorded-AO should not act on the dictate of any other authority like Dy. CIT(E)-Reassessment was quashed. [S. 11, 13(1)(a), 148] 2063
There being no whisper in the reasons recorded by the AO that the assessee has applied its income for any particular religion or caste in violation of s. 13(1)(a), the information received from the Dy. CIT(E) that a large amount of foreign contributions has been received by the assessee-trust for carrying out religious activities, in the absence of any independent enquiry by the AO or any relevant tangible material, cannot be a reason to believe that assessee's income has escaped assessment and therefore, the reopening of assessment and the consequential reassessment are bad in law. (AY.2010-11 & 2011-12)
The Gate of Hope Charitable Trust v. ITO (E) (2025) 235 TTJ 664 / 173 taxmann.com 578 (Chennai) Trib)

S. 147 : Reassessment-Search-Loose papers-Satisfaction-The Assessing Officer ought to have initiated action under section 153C-Reassessment was quashed and set aside. [S. 132, 148, 153C] 2064
Held that a paper seized during the course of a search in the case of a group of institutions, a trust and its chairman, pertains to the assessee and it indicates a certain payment to the assessee, the AO ought to have initiated the proceedings under s. 153C against the assessee; no action under s. 147/148 could be taken against the assessee. (AY. 2011-12)
Subhash Chander Gupta v. ITO (2025) 235 TTJ 883 (Chd)(Trib)

S.147: Reassessment-After the expiry of four years-Information from the Addl. Director of IT(I&CI)-Interest income-Excess loss of inventory in respect of obsolete stock-Reassessment was held to be valid. [S. 115JB, 148] 2065
Held that the Assessee has offered lesser interest income received from its foreign subsidiary and furnished no details of the interest income either in its financial statements or by way of notes to accounts; there was no full and true disclosure of

necessary facts in respect of interest income. Tribunal also held that there was no specific disclosure of provision for obsolete inventory either in the notes to accounts or by way of explanation to the AO during the course of assessment proceedings; there was failure on the part of the assessee to disclose fully and truly all material facts necessary for its assessment-reopening of assessment after the expiry of four years from the end of the relevant assessment year is valid. (AY.2011-12)
Dr. Reddy's Laboratories Ltd. v. DCIT (2025) 236 TTJ 699/174 taxmann.com 238 (Hyd) Trib)

2066 **S.147: Reassessment-After the expiry of four years-No failure to disclose material facts-The essential conditions precedent to invoke the jurisdiction to reopen the assessment are absent-Consequently, issuance of notice under s. 148 is ab initio void.[S. 143(3), 148]**
Tribunal held that the reasons recorded, the AO has not made a mention of assessee's failure to disclose fully and truly material facts necessary for assessment; reopening is bad in law also for the reason that there is no indication that the AO received any fresh information/tangible material from external sources which formed the foundation for forming his belief that income chargeable to tax has escaped assessment.(AY. 2014-15)
Pachamuthu Ravi v. DCIT (2025) 236 TTJ 961 (Chennai)(Trib)

2067 **S. 147: Reassessment-Recorded reasons-No addition was made based on recorded reasons. An issue that was not subject matter; no addition can be made.[S.68, 148]**
Held that without assessing the escaped income for which the assessment was reopened under S. 147, as per the reasons recorded, the Assessing Officer cannot assess any other income, which has no nexus with the reasons recorded. The assessment order and the additions made by the AO are unsustainable in law (AY. 2011-12 to 2016-17)
Zenith Barter (P) Ltd. v. DCIT (2025) 236 TTJ 468 (Mum)(Trib)

2068 **S. 147: Reassessment-Search-Incriminating documents-Notice issued on the basis of documents seized from a third party not pertaining to the assessee-Reassessment was quashed. [S. 69, 148, 153C]**
Held that the notice under S 148, issued to the assessee based on the document seized during the search in the case of Kokani Group, is bad in law as none of the seized documents pertains to the assesse. Reassessment was quashed. Tribunal also held that the advance pertains to an earlier year, and same is established by the opening balance in the ledger account impugned addition is directed to be deleted (AY. 2012-13)
Atul Vijay Madan v. DCIT (2025) 237 TTJ 220 (Pune)(Trib)

2069 **S. 147: Reassessment-Search cases-Mechanical approval-After a search, assessment for the preceding years must necessarily be framed under section 148 and not under section 143(3); mechanical approval without application of mind vitiates the assessment. [S. 132, 143(3), 148, 148A. 151]**
The Tribunal held that once a search under section 132 was conducted, the assessment for the preceding assessment years covered by Explanation 2(iv) to section 148 could be framed only by following the reassessment procedure under sections 148 and 148A after

obtaining the prescribed statutory approval. The Revenue could not continue regular scrutiny proceedings under section 143(3). The Tribunal further found that approval had been granted mechanically on the very same day despite voluminous seized material, without any evidence of independent application of mind by the approving authority. Accordingly, the assessment was held to be without jurisdiction and was quashed. (AY. 2022-23)
Jamna Dass Nikkamal Jain Saraf (P.) Ltd. v. DCIT (2025) 238 TTJ 473 (Chd.)(Trib.).

S. 147: Reassessment-Limitation-Notice issued beyond the statutory period is invalid where the assessee had made full and true disclosure of all material facts; reopening beyond three years is also barred where the alleged escaped income is below ₹50 lakh. [148, 149(1)(a)] 2070

The Tribunal held that for AY 2014-15, the assessee had fully and truly disclosed all material facts relating to the transactions resulting in losses and, therefore, the proviso to section 147 was not applicable. Consequently, the notice issued on 28-4-2021 was barred by limitation, and the reassessment was quashed. In respect of AY 2016-17, since the alleged escaped income was only ₹21.78 lakh, section 149(1)(a) permitted reopening only within three years. Accordingly, the notice issued on 30-7-2022 was also held to be barred by limitation, and the reassessment was quashed.
Samarat Finvestors (P) (Ltd.) v. ITO (2025) 238 TTJ 423 (Kol)(Trib)

S. 147: Reassessment-Information derived from a search on another person-Reassessment under S. 147 is valid in the absence of seized material.[S.132, 153C] 2071

The Assessing Officer reopened the assessment under section 147 on the basis of information received from the Investigation Wing regarding cash deposits made by the assessee. No books of account, documents or assets belonging to the assessee had been seized during the search on the third party, nor was any satisfaction recorded under section 153C. The Tribunal held that section 153C applies only where seized material belonging to or relating to the assessee is available. Mere intelligence or information derived from a search cannot be equated with seized material. Accordingly, reopening under section 147 was held to be valid (AY. 2013-14 to 2017-18)
Yakin Jayantilal Shah v. ITO (2025) 238 TTJ 554 (Ahd)(Trib)

S. 147: Reassessment-Change of opinion-No fresh tangible material-Reopening invalid [S.2(47)(vi), 37(1)] 2072

The reassessment was initiated solely on the basis of a different legal inference drawn from the same material examined during the original scrutiny assessment. The Tribunal held that there was no fresh tangible material and the reopening amounted to a mere change of opinion, which is impermissible in law. It further held that royalty paid by the assessee to a duly authorised power of attorney holder for use of land was a genuine business expenditure incurred out of commercial expediency and allowable under section 37(1). (AY. 2012-13)
Balajee Infratech & Constructions (P.) Ltd. v. DCIT (2025) 238 TTJ 568 / 179 taxmann.com 420 (Mum)(Trib).

2073 **S. 147:Reassessment-Manually written DIN-Subsequent generation of DIN-Assessment void-CBDT Circular No. 19/2019. [S. 119, 143(3), 148]**

The assessment order bore only a manually written DIN, while the computer-generated DIN was issued nearly three weeks later. The Tribunal held that CBDT Circular No. 19/2019 mandates that every communication must bear a computer-generated DIN at the time of issuance. Subsequent generations of DIN cannot cure the defect. Accordingly, the reassessment proceedings were held to be void ab initio. (AY. 2014-15 to 2017-18, 2019-20 to 2022-23)

Estate Investment Company (P.) Ltd. v. DCIT (2025) 238 TTJ 585 (Mum)(Trib).

2074 **S. 147: Reassessment-Condition precedent-Tangible material to reopen assessment-Assessing Officer seeking to verify computation of total income-No new material to show escapement of income-Reassessment not sustainable. [S. 143(3), 148]**

The assessee's assessment was completed under section 143(3) after scrutiny, wherein all details, including purchase and sale of land documents and the tax audit report, were furnished. Within four years, the AO reopened the assessment merely for verification of the computation of total income and a loss on sale of assets already disclosed, without any fresh material. The CIT(A) held the reopening invalid, being mere reverification without evidence of escapement of income. On appeal, the Tribunal held that reopening cannot be resorted to for the purpose of thorough verification, and there must be tangible material in the form of fresh evidence before initiating such a step; since the entire material on the basis of which reasons were recorded was already available in the assessment record and no new material showed escapement of income, the reassessment proceedings were not sustainable in law. (AY.2008-09)

DCIT v. DRS Logistics P. Ltd. (2025) 132 ITR 67(Hyd) (Trib.)

2075 **S. 147: Reassessment-Borrowed satisfaction-Mechanical approval-Reassessment quashed.[S. 148, 151]**

The Assessing Officer reopened the assessment solely on the basis of the Investigation Wing report and undisclosed handwritten papers without making any independent enquiry. The sanctioning authority also granted approval under section 151 on incorrect facts, assuming that the assessment was being framed for the first time although an assessment under section 143(3) had already been completed. The Tribunal held that both the reasons recorded and the approval reflected complete non-application of mind. The reassessment was therefore quashed. (AY. 2008-09).

Nova Formworks (P.) Ltd. (formerly Wonder Moldplast (P.) Ltd.) v. ITO (2025) 126 ITR 63 (Delhi)(Trib.)

2076 **S. 147 : Reassessment-After the expiry of four years-Bogus purchases-No independent enquiry-Reassessment invalid-Incorrect reasons recorded-Wrong entity mentioned-Proceedings void ab initio-Addition based on third-party statements without cross-examination-Addition deleted.[S.69C, 148, 149]**

The notice under section 148 was issued beyond four years from the end of the assessment year merely on the basis of information received from the Investigation Wing. The Tribunal held that the Assessing Officer neither conducted any independent

enquiry nor recorded his own satisfaction regarding escapement of income. The reopening was based entirely on borrowed satisfaction and was therefore void. The reasons recorded for reopening referred to an incorrect entity from whom the assessee had allegedly made bogus purchases. The Tribunal held that this demonstrated complete non-application of mind while recording the reasons to believe. Consequently, the reassessment proceedings and the notice issued under section 148 were held to be void ab initio. The Assessing Officer treated purchases as bogus solely on the basis of statements of suppliers recorded behind the assessee's back without permitting cross-examination. The assessee produced purchase invoices, stock records, transportation details and evidence of payment through banking channels. The Tribunal held that the books of account were not rejected, stock records and sales were accepted, and no defect was found in the documentary evidence. Since no opportunity of cross-examination was granted, the addition under section 69C was deleted. (AY. 2014-15).
ITO v. Vohra Solvex (P.) Ltd. (2025) 126 ITR 71 / 178 taxmann.com 150 (Amritsar)(Trib.)

S. 147 : Reassessment-Notice after four years-Failure to disclose material facts not alleged-Reassessment invalid-Borrowed satisfaction-Reasons recorded based solely on Investigation Wing report-Reopening invalid.[S.68, 143(3), 148] 2077
The assessment completed under section 143(3) was reopened after expiry of four years. The Tribunal held that the reasons recorded did not allege any failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment. Consequently, the mandatory condition prescribed in the first proviso to section 147 was not satisfied and the reassessment was held to be invalid. The Assessing Officer reopened the assessment solely on the basis of information received from the Investigation Wing without making any independent enquiry or verification. The Tribunal held that mere reproduction of the Investigation Wing report without application of mind amounted to borrowed satisfaction and rendered the reassessment proceedings invalid. (AY. 2013-14, 2014-15).
BNA Commerce (P.) Ltd. v. ITO (2025) 127 ITR 335 (Kol.)(Trib.)

S. 147 : Reassessment-Amalgamated company-Notice issued in the name of non-existent entity despite knowledge of amalgamation-Reassessment void ab initio.[S. 148] 2078
The notice under section 148 was issued in the name of a company which had already amalgamated with another company pursuant to an order of the High Court. The fact of amalgamation had been duly intimated to the Assessing Officer much before issuance of the notice. The Tribunal held that the Revenue was fully aware that the original company had ceased to exist and, therefore, the reassessment proceedings initiated in the name of a non-existent entity were void ab initio. The order annulling the reassessment was upheld. (AY. 2010-11).
Dy. CIT v. KKalpana Industries India Ltd. (2025) 127 ITR 24 (Kol.)(Trib.)

S. 147: Reassessment-Educational institution-Fresh claim for exemption under section 10(23C) cannot be raised in reassessment proceedings-Order of CIT(A) was restored to decide on merits. [S 10(23C), 139(4C), 143(3), 148, 250] 2079
The assessee, an educational institution, sought exemption under section 10(23C) by

raising an additional ground before the Commissioner (Appeals) during reassessment proceedings, though no such claim had been made in the original return. The Tribunal held that reassessment proceedings are intended to examine escaped income and do not permit an assessee to seek review of concluded matters or raise a fresh claim unrelated to the reasons recorded for reopening. The Commissioner (Appeals) exceeded his jurisdiction in entertaining the new claim. However, the matter was restored to decide the appeal on the merits of the additions made by the Assessing Officer. (AY. 2009-10).
Dy. CIT v. Navodaya Education Trust (2025) 129 ITR 109 (Bang.)(Trib.)

2080 **S. 147 : Reassessment-Reasons recorded for reopening based on cash deposits-No addition made on recorded reasons-Addition on other issues beyond jurisdiction-Assessment quashed. [S. 148]**
The assessment was reopened on the ground that the assessee had deposited cash in his bank account and had not filed the return of income. During reassessment, the Assessing Officer accepted the explanation regarding the cash deposits and made no addition on that issue, but made additions on other issues which came to his notice during the proceedings. The Tribunal held that once no addition was made on the issue forming the basis of the recorded reasons for reopening, the Assessing Officer lost jurisdiction to assess any other income. The reassessment was therefore quashed. (AY. 2012-13).
Kailash Chand v. ITO (2025) 124 ITR 410 / 173 taxmann.com 357 (Jaipur)(Trib.)

2081 **S. 147: Reassessment-Income from other sources-Interest reflected in Form 26AS-No actual receipt-Addition deleted-Reassessment was invalid.[S. 56, 148, Form No. 26AS]**
The reassessment was based solely on tax deducted at source reflected in Form 26AS showing interest income. The assessee, a Government special purpose company, established through audited accounts, bank statements and Accounting Standard-9 that no interest had actually been received during the relevant year. The Tribunal held that mere reflection of tax deducted at source in Form 26AS could not justify taxation in the absence of accrual or receipt of income. The deletion of the addition by the Commissioner (Appeals) was upheld. Reassessment was quashed. (AY. 2014-15 to 2017-18).
ITO v. Gas and Power Investment Co. Ltd. (2025) 125 ITR 489 / 174 taxmann.com 341 (Mum.)(Trib.)

2082 **S. 147 : Reassessment-After the expiry of four years-Disallowance under section 14A already deleted in assessee's own case-No failure to disclose material facts-Reassessment invalid-Speculative transactions-No addition made on issue forming basis of reopening-Addition on other issues not permissible-Reassessment invalid. [S.14A, 40A(2)(b), 43(5), 73, 148, R. 8D]**
The assessment was reopened beyond four years on the ground that the disallowance under section 14A read with rule 8D had been incorrectly computed. The Tribunal held that the very disallowance made in the original assessment had already been deleted in the assessee's own case as no exempt dividend income had been earned during the year. As there was no failure on the part of the assessee to disclose fully and truly all material facts, the reopening beyond four years was without jurisdiction and liable to

be quashed. The reassessment was also initiated on the allegation that receipts from transactions with the National Spot Exchange Ltd. represented speculative income. The Tribunal found that there were no such transactions during the relevant assessment year and the addition itself pertained to a later year. Since no addition survived on the reasons recorded for reopening, the Assessing Officer could not make additions on other issues not forming part of the recorded reasons. The reassessment and consequential additions under sections 43(5), 73 and 40A(2)(b) were therefore quashed. (AY. 2009-10).
Asst. CIT v. NK Proteins (P.) Ltd. (2025) 123 ITR 235 (Ahd.)(Trib.)

S. 147 : Reassessment-Change of opinion-Reinsurance premium paid to non-resident reinsurers-No fresh tangible material-Reopening invalid.[S. 40(a)(i),148, 195, 2083
The reassessment was initiated on the allegation that the assessee had failed to deduct tax at source from reinsurance premium paid to non-resident reinsurers. The Tribunal held that the issue had been thoroughly examined during the original assessment proceedings and the Assessing Officer had formed an opinion after detailed enquiry. As there was no fresh tangible material and no failure on the part of the assessee to disclose fully and truly all material facts, the reopening amounted to a mere change of opinion and was liable to be quashed. (AY. 2008-09 to 2014-15).
Royal Sundaram General Insurance Co. Ltd. v. Dy. CIT (2025) 123 ITR 507 / 175 taxmann.com 427 (Chennai)(Trib.)

S. 147 : Reassessment-After the expiry of four years-Full and true disclosure-Survey-No failure to disclose material facts-Reassessment was quashed and set aside.[S.133A, 148] 2084
Held that the AO neither specified the incriminating material allegedly found during the course of the survey under S. 133A nor the contents of such material in the reasons recorded for reopening the assessment, nexus between such material and formation of belief that income has escaped assessment has not been established, and there being no material on record which has nexus with the opinion formed by the AO that the income escaping assessment is in excess of Rs. 1,00,000, the AO did not have the requisite authority to reopen the assessment under s. 147, and consequently, the reassessment proceedings are set aside. (AY. 2012-13)
Anish Garg v. ITO (2025) 234 TTJ 98(SMC) (Chd)(Trib)

S. 147: Reassessment-Change of opinion-Interest-free advances-No fresh information-Reassessment was quashed-Notional Interest-Order of CIT(A) deleting the notional interest was affirmed. [S. 4, 28(i), 37(1), 143(3), 148] 2085
Assessee, a SPV for the BOT road project assessed under scrutiny without addition. The assessment was reopened on alleged escaped income due to interest-free advances to the EPC contractor. Tribunal held that reassessment was without any fresh information or material being provided by the Assessing Office and was based merely on a change of opinion and hence quashed. The cross objection of the assessee was allowed. As regards the notional interest, the Tribunal held that the assessee executing a BOT road project gave interest-free advances to the EPC contractor as per the contract and industry practice, and had not claimed any related interest expenditure as a deduction nor earned or accrued notional interest. The addition of notional interest as business

income was unsustainable since tax cannot be levied on hypothetical income. Order of CIT(A) deleting the notional interest was affirmed. (AY. 2017-18)
ACIT 3 (2) (1) v. Solapur Yedeshi Tollway Ltd. (2025) 215 ITD 395 (Mum) (Trib.)

2086 **S. 147: Reassessment-Legal representatives-Information from Investigation Wing-Assessment orders were framed in the name of deceased assessee-Reopening notice and assessment orders were quashed and set aside. [S. 148, 159]**
Assessee passed away, and the department was informed about the demise of the assessee along with a copy of the death certificate on 23-1-2015; however, a reopening notice under section 148 was issued in the name of the deceased assessee for the relevant assessment years, and assessment orders were also framed in the name of the deceased assessee. Tribunal held that the reopening notice and assessment orders were unjustified. (AY. 2011-12 to 2014-15)
Lalita Agarwal v. ACIT (2025) 215 ITD 499 (Delhi) (Trib.)

2087 **S. 147: Reassessment-Unexplained investments-No addition was made on the reasons recorded-Reassessment order was quashed and set aside.[S.50C, 69, 148]**
Assessing Officer reopened the assessment on the ground that the purchase consideration remained unexplained. However, no addition was made on account of payment towards purchases of immovable property. Thereafter, the Assessing Officer went on discussing issues of capital gains declared on other properties, viz application of provisions of section 50C and disallowance of interest paid on home loans and made additions on said issues. CIT A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that since none of additions/disallowance made was linked with the reasons recorded for reopening of assessment, the Assessing Officer had exceeded its jurisdiction by making additions on issues which were not forming part of the reasons recorded for reopening assessment, when no addition was made on the issue covered in the reasons recorded. Reassessment was quashed and set aside. (AY. 2011-12)
Sonea Dhir (Mrs.) v. CIT (A) (2025) 214 ITD 128 (Delhi) (Trib.)

2088 **S. 147: Reassessment-Purchase of agricultural land-MOU on 21-3-2016-Presented before Joint Sub-Registrar on 24-3-2016, falling in financial year 2015-16 relevant to assessment year 2016-17-Reassessment for the assessment year 2017-18 was not valid. [S. 148 ITAT Rule.27, Registration Act, 1908, S. 47]**
Assessee, an NRI, had entered into an MOU on 21-3-2016 with one 'GNC' and 11 other persons for clearing of pending litigation in respect of agricultural land situated at Manchirevula Village. Assessee had also entered into 2 agreements of sale cum GPA, both dated 21-3-2016 with 'GNC' and others for purchase of 2 parcels of land against consideration which was paid through banking channels. All these documents were presented before the Joint Registrar and were duly registered on 24-3-2016. On the basis of the reporting of said transaction vide agreement of sale cum GPA, Assessing Officer reopened assessment of assessee by issuing notice under section 148 dated 30-3-2021.On appeal, the CIT(A) held that, held that there was no transfer of immovable property by way of these documents, namely agreement of sale cum GPA dated 21-3-2016, because the vendors in these documents did not have valid possession of the said property and,

therefore, due to lack of handing over of physical possession of the land, there was no transfer of immovable property. On appeal by the revenue, the Assessee raised an issue of the validity of reopening by invoking Rule 27 of the ITAT Rules, 1963. Tribunal held that documents were duly signed by parties and presented for registration on 24-3-2016, and thereupon these documents were registered on 24-3-2016. Thus, the transaction of sale of land was completed on the date when these documents were presented before the Sub-Registrar and thereafter registered on 24-3-2016, which fell in the financial year 2015-16 relevant to assessment year 2016-17 and not in the financial year 2016-17 relevant to assessment year 2017-18. Therefore, reopening of assessment for the year under consideration was not valid. The order of CIT(A) was affirmed. (AY. 2017-18)
ITO v. Ratan Kumar Ingu (2025) 214 ITD 651 (Hyd) (Trib.)

S. 147: Reassessment-Unexplained investment-Information from Insight portal-Objection was not disposed of-Reassessment order was quashed and set aside. [S.69, 148] 2089
Allowing the appeal, the Tribunal held that the case was reopened based on information from the Insight portal that assessee had carried out substantial financial transactions; however, the assessee's objections that he had not entered into any such transaction were not disposed of by the Assessing Officer by passing a speaking order, and reassessment proceedings were to be quashed. (AY. 2014-15, 2016-17)
Prasanth Sunil Kumar Bohra v. ITO (2025) 213 ITD 34 (Mum) (Trib.)

S. 147 : Reassessment-Cash credits-Accommodation entries-Share capital-Failure to comply with filing with ROC-Huge share capital in balance sheet-Reassessment proceedings were quashed and set aside.[S. 68, 148] 2090
Held that share capital received by the assessee from two companies cannot be considered bogus on the ground that these companies had not complied by filing returns with ROC and were accommodation entry providers. Companies were in existence in ROC portal and had huge shares capital and reserves in their balance sheets; non-compliance by these companies itself could not be a reason to treat receipt of share capital money as bogus. Reassessment proceedings were quashed and set aside. (AY.2012-13)
Colorado Chattels (P.) Ltd. v. ITO (2025) 213 ITD 216 (Delhi) (Trib.)

S.147: Reassessment-After the expiry of four years-Sub-contractors-No failure to disclose material facts-Reassessment order is quashed. [S.148] 2091
Held that the assessee has filed complete details of the subcontractors to whom assessee made payments and also filed details of all the work done by the said subcontractors, which were not doubted by the AO during the original assessment proceedings; notice issued by the AO under s. 148 after the expiry of four years from the end of the relevant assessment year on the basis of a claim of bogus subcontract is not sustainable. (AY. 2012-13)
S.P. Singla Construction (P) Ltd. v. Dy.CIT (2025) 233 TTJ 559 / 245 DTR 357 (Chd)(Trib)

2092 **S.147: Reassessment-After the expiry of four years-Double Taxation Relief-Part relief allowed-No new or tangible material-Reassessment order is quashed-DTAA-India-UK .[S.90, 148, Art. 24]**

The assessment was completed under section 143(3), making certain additions/ disallowances. The assessment was reopened after expiry of 4 years from the end of relevant assessment year and disallowed relief under section 90, on the ground that the arrangement of payment had caused revenue loss to the Government of India.CIT(A) affirmed the order of the AO. On appeal, the Tribunal held that part relief under section 90 was granted under original assessment; there was no allegation by the Assessing Officer that income chargeable to tax had escaped assessment due to failure on the part of the assessee to disclose fully and truly all material facts. Since there was not even a mention of any new or tangible material which formed the basis to believe that income chargeable to tax had escaped assessment, the reassessment order is quashed. (AY. 2012-13)

Shah Rukh Khan v. DCIT (2025) 211 ITD 666 /234 TTJ 361 /2026] 133 ITR 39 (Mum) (Trib.)

2093 **S. 147 : Reassessment-After the expiry of four years-Penny stock-Long term capital gains-Reassessment is bad in law.[S.68]**

During assessment proceedings, assessee had claimed Long Term Capital Gain (LTCG) from sale of share as exempt and assessment was completed accordingly. After a period of four years, the Assessing Officer issued reopening notice against the assessee on basis of information from the office of the Chief Commissioner (CCIT) that assessee was a beneficiary in penny-stock bogus cases and had claimed bogus exempt income, and he treated the capital gain as unexplained cash credit under section 68. CIT(A) affirmed the order of the AO. On appeal, the Tribunal held that the information given by CCIT only constituted a starting point of enquiry and could not be held as tangible material for reopening assessment. Further, in the absence of failure on the part of the assessee in disclosure of material facts, the impugned reopening notice issued against the assessee is not valid and justified in law. (AY. 2014-15)

Minal Shroff v. ITO (2025) 211 ITD 247 / 121 ITR 83 (SN) (Chennai) (Trib.)

2094 **S. 147 : Reassessment-Information from third-party search-Accommodation entries-Cash credits-Section 153C not triggered, reopening u/s 147 is valid-On merits, addition based mainly on untested third-party statement without cross-examination requires fresh adjudication by CIT(A). [S. 68, 132(4), 133(6), 148, 151, 153C, ITAT Rule, 1963,R. 27]**

In a search on the Sushil Lahoti group, statements indicated accommodation entries; relying on this information (and not on any seized material "belonging to" the assessee), the AO reopened the case of Manju Diamonds Pvt. Ltd. u/s 147 and added ₹75.50 lakh u/s 68 for unsecured loans from four Lahoti-linked companies after 133(6) notices went uncomplied. On appeal the CIT(A) deleted the additions on merits, on the ground that the addition rested solely on Lahoti's untested statement without supplying the statement or permitting cross-examination and breach of natural justice and shifted onus under S. 68 once confirmations/PANs/bank statements were filed. On appeal by the revenue before the Tribunal, the assessee invoked Rule 27 to contend that the

correct route was 153C and not reassessment proceedings under section 147, hence re assessment was bad in law. The Tribunal admitted the application under Rule 27 of the ITAT Rules. The Tribunal held that since no document/material "pertaining to/belonging to" the assessee was found in the Lahoti search, 153C was not attracted, and the AO could invoke 147 on external information; therefore, the reassessment was upheld and the application under Rule 27 was rejected on merits. As regards the deletion of addition by the CIT(A), on merit the Tribunal held that as the CIT(A) had deleted the addition outright without a full appraisal vis-à-vis the AO's enquiries and the assessee's primary evidence, and because the foundation was largely a third-party statement without cross-examination, the issue on merits was set aside and remanded to the CIT(A) for fresh decision after supplying material and affording effective cross-examination/verification as per law. (AY. 2017-18) ITA No. 2766/MUM/2025, dt. 30-07-2025)
ITO-12(3)(1) v. Manju Diamonds Pvt. Ltd (Mum)(Trib) www.itatonline.org

S. 147: Reassessment-Long-term capital gains-Addition on issue forming reasons for reopening deleted by CIT(A)-Reassessment held invalid.[S. 68, 69, 10(38), Expl. 3 to S. 147, 148, 255(4)] 2095

The assessee, a Government employee, filed a return declaring salary income. Based on an Investigation Wing report, the AO reopened the assessment u/s 147 alleging receipt of ₹9.60 lakh as accommodation entry in the form of LTCG claimed exempt u/s 10(38). In reassessment, the AO made an addition of ₹9.60 lakh LTCG u/s 68 (basis for reopening), ₹15.48 lakh towards cash/cheque deposits u/s 68 and ₹20.62 lakh towards investment in property u/s 69. The CIT(A) deleted the LTCG addition but sustained the other additions. The Judicial Member (Vice President) held that when the sole basis for reopening was deleted, the reassessment was bad in law, following *ATS Infrastructure Ltd. v. ACIT (2024) 166 taxmann.com 61 (Delhi)(HC), CIT v. Jet Airways (I) Ltd. (2011) 331 ITR 236 (Bom)(HC) and CIT(E) v. B.P. Poddar Foundation (2023) 148 taxmann.com 125 (Cal)(HC).* The Accountant Member dissented. On reference u/s 255(4), the Third Member (President) agreed with the Judicial Member and held that as the addition forming the basis of reopening did not survive, the reassessment was invalid and other additions made during reassessment could not be sustained. (AY. 2012-13) (ITA No. 2650/Del/2024, dt. 06-08-2025)
Mahesh Kumar v. ITO (2025) (TM) (Delhi)(Trib) www.itatonline.org

S. 147 : Reassessment-Information from DIT (Inv)-Beneficiary of accommodation entries-Long-term capital gains-Sale of shares-Vague reasons recorded-Borrowed satisfaction-Sanction-Mechanical approval-Reassessment was quashed. [S.69A, 143(1), 148, 151] 2096

The AO reopened the assessment based on DIT(Inv) information alleging bogus LTCG on shares of BSR Finance & Construction Ltd. The reasons recorded by the AO were vague, lacking details of transactions, parties or evidence, indicating borrowed satisfaction. Further, approval of the Principal Commissioner under section 151 was mechanical as he only wrote: "Yes, it is a fit case". The Tribunal held that both the reasons and approval were invalid. Held, reassessment quashed. (AY. 2013-14)
Anju Daruka v. ITO (2025) 212 ITD 326 (Kol) (Trib.)

2097 **S. 147: Reassessment-Industrial undertakings-Lower deduction in original return-Higher deduction in response to notice u/s 148-Deduction cannot be denied. [S.80IA, 148]**

On appeal, the Tribunal held that the assessee is entitled to get statutory deductions under Chapter VI-A as per the limit prescribed and cannot be denied benefit of the same simply on reason that earlier in the original return of income, the assessee had claimed lower amount than amount claimed in subsequent return of income filed in response to notice under section 148, especially when subsequent return had been accepted. (AY. 2015-16)

Bharat Mithalal Jain v. ITO (2025) 212 ITD 232 (Mum) (Trib.)

2098 **S. 147 : Reassessment-Vehicle hiring charges-Specific query was raised in the assessment proceedings-Reassessment is quashed. [S. 11, 13(1)(c), 13(3)(cc), 143(3)]**

Assessee-trust filed return and claimed exemption under section 11 of the Act. During scrutiny, assessment was completed under section 143(3) accepting claim of assessee. Reassessment for relevant assessment year was initiated on basis of assessment framed on assessee for assessment year 2015-16 wherein payment made by assessee-trust towards car hire charges to trustee were disallowed as car was never given on rent to assessee-trust. Accordingly, Assessing Officer held that car hire charges paid by assessee during relevant assessment year was also in violation of fiduciary relation between trust and trustee. He made addition by invoking provisions of section 13(1)(c) read with section 13(3)(cc) and withdrew benefit of exemption under section 11. On appeal the CIT(A) affirmed the reassessment. On appeal the Tribunal held that specific query in relation to vehicle hiring charges was raised during relevant assessment proceedings and in response to same assessee had made disclosure of primary facts and furnished supporting documents during regular scrutiny assessment proceedings. Since in reasons recorded for reopening assessment there was nothing to indicate that reopening was sought on ground of failure on part of assessee to disclose fully and truly all material facts necessary for framing assessment, initiation of reassessment proceedings under section 147 could not be sustained. Reassessment order is quashed. (AY. 2014-15)

Saraswati Mukund Education Society v. ITO (2025) 212 ITD 142 (Mum) (Trib.)

2099 **S. 147: Reassessment-Limitation-Non-resident-No reference to TPO-The time-limit for completing the assessment was available up to 31st March, 2023-Order passed on 8 th January, 2024-Barred by limitation-Additional legal ground on limitation is admitted. [S.92CA, 144C(13), 148, 153(2), 153(4), 254(1)]**

Held that assessee, except in a case of reference to the TPO, extended time-limit of 12 months for completion of assessment as per S. 153(4) is not available even in a case of non-resident, even though the said assessment proceedings are covered under S. 144C of the Act. Additional ground on limitation is admitted. On the facts the notice was issued under s. 148 on 29th March, 2021 and served in the month of April, 2021. Though the assessment was made as per the procedure laid down in s. 144C, no reference was made under s. 92CA to the TPO. The time-limit for completing the assessment under S. 147 was available up to 31st March, 2023 as per s. 153(2); hence the final assessment

order passed by the AO under s. 147 r/w s. 144C(13), dt. 8th Jan., 2024 is barred by limitation. (AY.2016-17, 2018-19)
Mir Ibrahim Ali v. ACIT (IT) (2025) 233 TTJ 733 (Hyd)(Trib)
Abbas Ali Akil v. ACIT (IT) (2025) 233 TTJ 733 (Hyd)(Trib)

S. 147:Reassessment-Information received from Investigation Wing-Return was processed u/s143(1)-Survey-Accommodation entries-Reassessment is justified-On merit, the matter is remanded to estimate of gross profit as applicable to genuine purchases. [S. 69C, 133A, 143(1)] 2100

Reassessment on the basis of report from Investigation Wing. The Tribunal affirmed the reassessment order. During the course of survey under S. 133A, proprietor Swastic Corporation confessed that three transactions are non-genuine. The first transaction made on 27th Jan., 2015 pertains to the financial year 2014-15. Therefore, no addition in respect of the aforesaid transaction can be made in the year under consideration. As regards the other two transactions which were made in the relevant year, the assessee could not furnish documents to prove the delivery of goods by Swastic Corporation even during the appellate proceedings. Further, the assessee could not co-ordinate the purchases with the corresponding sales. It is evident that the assessee has failed to prove the genuineness of the aforenoted two purchases made from Swastic Corporation. The matter is restored to the AO with the direction to restrict the addition as regards the two bogus purchases by bringing the gross profit rate on such bogus purchases at the same rate as that of the other genuine purchases. (AY. 2016-17)
Shah Traders v. Dy.CIT (2025) 233 TTJ 641 / 246 DTR 41 / 172 taxmann.com 513 (Mum) (Trib)

S. 147 : Reassessment-Assessment order passed by non-jurisdictional AO-Invalid transfer on request of assessee-Mandate of law is not followed-Notice and order are bad in law.[S.114B, 127(4), 139A(5), 143(3), 148, 272B] 2101

On the facts, the ITO at Muktsar transferred assessee's case to ITO, Ward 4(1), Chandigarh and the case was finally transferred to ITO, Ward 4(5), Chandigarh. The prescribed authority i.e., senior officer of the Department, has not exercised the power of transfer within the meaning of S. 127. Consequently, the issue of transfer, even though triggered at the instance of assessee, ought to have gone through the rigours of S. 127. Though the transfer was effected at the instance of the assessee, it lacks statutory teeth and the assessee has rightly agitated the same by way of a legal issue. It is the duty of the ITO, at Muktsar to have brought the issue to the notice of his superior officers to set in motion the provisions of S. 127, which he has not done. As there is no valid order of transfer under S. 127. The ITO, at Muktsar and ITO, Ward-4(1) Chandigarh usurped the power of their senior officers by transferring the case of the assessee in a manner not known to law. Consequently, the transfer to ITO, Ward 4(5), Chandigarh is bad in law. Since the assessment order is not as per S. 127, protection of s. 127(4) is not available to the Revenue. Consequently, notice under S. 148 which was issued by ITO, at Muktsar is bad in law. Therefore, all subsequent proceedings are bad in law and illegal. (AY. 2012-13)
Arunjeet Kaur (Smt.) v. ITO (2025) 233 TTJ 294 (Chd)(Trib)

2102 **S. 147 : Reassessment-Share premium-shareholders of amalgamating company in pursuance of approved amalgamation scheme-Issue of share premium was duly examined by Assessing Officer in original assessment proceedings-Order of CIT(A), quashing of reassessment is affirmed. [S. 56(2)(viib), 148]**

Assessee company issued equity shares at a premium of a certain amount to shareholders of amalgamating company in pursuance of approved amalgamation scheme. It filed its return of income declaring certain loss which was scrutinised and an assessment order was passed under section 143(3). The AO reopened the assessment on the ground that the assessee had issued equity shares at a premium of an amount which was more than fair market value and, thus, it had resulted in under-assessment of income in the hands of the assessee. On appeal, the CIT(A) held that the issue of share premium was duly examined by the Assessing Officer in the original scrutiny assessment proceedings and formed his opinion about non-applicability of the provision of section 56(2)(viib). Further, the Assessing Officer did not have any fresh tangible material to form an opinion that there was any escapement of income. Also, the Assessing Officer failed to establish that the assessee did not disclose all material facts during the original assessment. The reassessment order was quashed. On appeal the Tribunal affirmed the order of the CIT(A) (AY. 2015-16)

ITO v. HSG Propmart (P.) Ltd. (2025) 211 ITD 459 (Delhi) (Trib.)

2103 **S. 147 : Reassessment-Client code modification-Report from Investigation wing-Unexplained Moneys-Bogus commodity trading-Assessee is able to establish that its own funds were utilised to conduct transactions on NSEL platform-Reopening is quashed. [S. 68, 69A, 148]**

The assessment was reopened on the basis of information from the Investigating Wing indicating that assessee had indulged in bogus transactions through commodity trading via client code modification. On appeal, the Commissioner (Appeals) held that all transactions had taken place on NSEL platform and income derived from such transactions had been offered to tax. Reassessment is quashed. On appeal the Tribunal held that the assessee has established that the assesssee has established that its own funds were utilized to conduct transactions on the NSEL platform. Order of the CIT(A) is affirmed. (AY. 2012-13, 2014-15)

DCIT v. Modern India Ltd. (2025) 211 ITD 270 (Mum) (Trib.)

2104 **S. 147 : Reassessment-Unexplained investment-Purchase of land in another person-Issue is pending before under adjudication before authorities under PBPT Act-Matter is restored to file of AO. [S. 69, 148, Prohibition of Benami Property Transaction Act, 1988, S. 72]**

As per information received from ACIT (Benami Prohibition), assessee had purchased immovable property in name of another person (Bhanupratap) in cash. Assessing Officer reopened assessment and made additions in hands of assessee treating same as unexplained investment under section 69. CIT(A) affirmed the addition. On appeal the Tribunal held that issue of benami transaction was under adjudication before authorities under PBPT Act, 1988 which is pending for adjudication before ATPML. Accordingly the matter is restored matter back to file of Assessing Officer with direction to adjudicate

case of assessee afresh, taking into cognizance of orders of authorities under PBPT Act, 1988. (AY. 2011-12)
Prem Singh Saluja v. ITO (2025) 211 ITD 496 (Raipur) (Trib.)

S. 147 : Reassessment-CIT(A) partly allowed the claim against losses-reopening of assessment on same issue-CIT(A) allowed the reopening-Held, reopening not valid as no fresh material on record. [S. 148] 2105
Assessee runs race club and claimed losses that was partly allowed by CIT(A). On reopening u/s 147, the same issue was considered by CIT(A) again and this time he confirmed the addition. On appeal, the Tribunal held that the AO had no fresh tangible material but based the reopening on the material available in the assessment records, which was also taken up to the CIT(A). Reassessment is not valid. (AY 2007-08)
Madras Race Club v. Dy.CIT (2025) 233 TTJ 383 (Chennai) (Trib)

S. 147 : Reassessment-Best judgment assessment-Unexplained money-Entire cash deposit cannot be treated as income-Income of the assessee is estimated at 10 per cent of cash credit and other credit. [S.69A 148, 249(3)] 2106
AO issued a show cause notice u/s 148; the assessee failed to file a return in response. Since the assessee did not reply to any notices, AO added the entire cash deposit to the income u/s 69A. CIT(A) dismissed the appeal on grounds of limitation. On appeal, the Tribunal held that the CIT(A) has not exercised his jurisdiction under section 249(3) for condoning the delay even though the delay was only of 50 days. On the issue of reopening, the Tribunal held that the AO had enough information about cash credit in the bank account of the Assessee and sufficiency or correctness of the material was not a thing to be considered at the stage of reopening, as held by *Raymond Woolen Mills Ltd. v. ITO (1999) 236 ITR 34 (SC).* With regard to addition under Section 69A to the income, the tribunal held that the entire transaction/credit entry in the bank can never be the income of the assessee, particularly when the bank account demonstrates that the amount deposited in the bank was immediately debited by way of clearance; only a reasonable estimation of income would be sufficient to avoid the possibility of revenue leakage. Appeal partly allowed. Income of the assessee is estimated at 10 per cent of cash credit and other credit. (AY. 2012-13)
Kailashnath Arunkumar Dube v. ITO (2025) 233 TTJ 720 (SMC) (Surat) (Trib)

S. 147: Reassessment-Limitation-TOLA did not apply as the limitation period expired before 20.03.2020-Notice under section 148 issued in 31-7-2022, which is beyond the prescribed time limit-Reassessment held to be invalid. [S. 68, 133(6), 142(1), 148, 148A(b), 148A(d), 149, 151, 154, 115JB] 2107
The scrutiny assessment was completed under Section 143(3) 29-12-2017. The assessment was reopened in 31-7-2022 based on a search action in the case of Himanshu Verma and others, wherein it was alleged that the assessee facilitated accommodation entries through shell companies. The reassessment proceedings resulted in an addition of ₹39,75,00,000 under Section 68 on the grounds that the assessee failed to establish the identity, creditworthiness, and genuineness of loan transactions. The CIT(A) upheld the reassessment. On appeal, the ITAT quashed the reassessment,

holding that TOLA did not apply as the limitation period expired before 20.03.2020. Relying on *UOI v. Ashish Agarwal (2022) 138 taxmann.com 64 (SC) and UOI v. Rajeev Bansal (2024) 167 taxmann.com 70 (SC)*, the Tribunal held that the notice under Section 148 was barred by limitation. Consequently, other grounds, including the Section 68 addition, were held to be academic and not adjudicated on merits. (ITA No. 6269 & 6270/Mum/2024, dated 17.02.2025) (AY. 2015-16, 2017-18)
CLE Private Ltd. v. DCIT (Mum)(Trib) www.itatonline.org

2108 **S. 148 : Reassessment-Notice-Notice through his Chartered Accountant-No notice was issued within period of limitation-Service of notice to Chartered Accountant was not valid service of notice-High Court quashed the reassessment notice-SLP delay of 327 days-Explanation rendered for delay was not satisfactory, SLP was dismissed on ground of delay and laches. [S. 149(1)(b), Art. 136]**
Reassessment proceedings were initiated by issuing notice on 15-3-2016 by Assessing Officer. Assessee filed writ petition on ground that on 13-04-2016, for first time, he was served with notice under section 148(1) through his Chartered Accountant and, thus, no notice was issued within period of limitation as prescribed under section 149(1)(b) read with section 148(1) and, therefore, initiation of proceeding for reassessment was barred by limitation. Single Judge allowed writ petition holding that no notice was served to assessee under section 148(1) and service of notice to Chartered Accountant was not service at all. High Court held that had it been a case of revenue that notice was served upon assessee before 31-03-2016, then why they have again issued notice through Chartered Accountant on 13-04-2016 was not understood and, therefore, notice under section 148 issued on 13-04-2016 was after period of limitation, i.e., dated 31-03-2016. The notice was quashed. Revenue filed SLP which was delay of 327 days. Court held that explanation rendered for said delay was not satisfactory, hence SLP was dismissed on the grounds of delay and laches. (AY. 2009-10)
ACIT v. Ardent Steel Ltd. (2025) 305 Taxman 629 (SC)
Editorial : ACIT v. Ardent Steel Ltd. (2025)175 taxmann.com 816 (Chhatisgarh)(HC)

2109 **S. 148: Reassessment-Amalgamation-Notice issued to non-existent company-Order is non-est and void-SLP of revenue dismissed. [S. 147, Art. 136]**
The assessee-company, by a communication dated 28-4-2021, informed the Assessing Officer about the factum of non-existence of company Elitecore Technologies Private Limited ("ETPL") on account of its amalgamation with the assessee-company with effect from 29-9-2015 and emphasised that since notice had been issued in the name of a non-existing entity, the same was non est and void ab initio. Despite objections of the assessee, the Assessing Officer issued a fresh notice requiring the non-existent entity to show cause as to why the proposed variation should not be made and passed an assessment order against it, followed by a penalty notice and a demand notice. The High Court held that since notice under section 148, assessment order, as also penalty notice and demand notice, had been issued in the name of a non-existent entity despite having been informed about the factum of amalgamation, the assessment order and notices were untenable and set aside. SLP of revenue dismissed. (AY. 2013-14, 2014-15)
Dy. CIT v. Sterlite Technologies Ltd. (2025) 304 Taxman 345 (SC)
Editorial : Sterlite Technologies Ltd v. Dy.CIT (2023) 152 taxxmann.com 381/ (2024) 462 ITR 457 (Bom)(HC)

S. 148: Reassessment-Notice-Limitation-Last date for issue of notice expiring on 31-3-2021-High Court holding notices dated 31-3-2021 had left Income-tax Business Application portal on or after 1-4-2021-Order was barred by limitation-SLP of revenue was dismissed. [S. 147,149, Art. 136] 2110

The High Court, allowing the assessee's writ petition against notices of reassessment, held that the notice under section 148 of the Income-tax Act, 1961 had been issued (not served) on April 1, 2021 or on a later date, that since the notice had been dispatched from the Department on or after April 1, 2021 which itself was beyond the period of limitation, the notice issued under section 148, dated March 31, 2021, was barred by limitation under sections 148 and 149, since the notice had left the Income-tax Business Application portal on or after April 1, 2021 and that therefore, it was unsustainable. SLP of the revenue was dismissed.

Add. CIT v. Anantha Reddy Pannala (2025) 476 ITR 6 /305 Taxman 565 (SC)

Editorial : Kalyan Chillara v. Dy. CIT, (2024) 465 ITR 729 /341 CTR 418 /242 DTR 438 /167 taxmann.com 500 (Telangana)(HC)

S.148: Reassessment-Notices after approval of resolution plan for period prior to closure-Notice quashed; liberty to take action against ex promoters-SLP dismissed. [S. 147, Art. 136] 2111

Following the Court's decision in *Alok Industries v. Asst. CIT,(2024) 471 ITR 536 (Bom) (HC)*, notices issued against a company after approval of a resolution plan for periods prior to closure are invalid. However, the Revenue may pursue steps in accordance with law against erstwhile promoters where appropriate. Where the assessee and Revenue concurred that matters were covered by Alok Industries, the High Court quashed the notices but granted liberty to the Department to take action against ex promoters; the Supreme Court dismissed the Revenue's SLP.

PCIT v. Patanjali Foods Ltd (2025) 474 ITR 339/ 303 Taxman 330 (SC)

Editorial: PCIT v. Patanjali Foods Ltd. (2024) 161 taxmann.com 675 / (2025) 474 ITR 333 (Bom)(HC) affirmed.

S. 148 : Reassessment-Notice-Writ petition was dismissed on the ground with liberty to the assessee to raise all contentions in reply before the Assessing Officer and also direction for grant of personal hearing-Income-On SLP, by the assessee , the Department stated that it had no objection to quash the notice as the transactions between a mother and son-Appeal is allowed [S.50C, 147, Art. 136] 2112

On writ dismissing the petition, the court held that the assessee shall raise all contentions and also directed the grant of a personal hearing before passing the order. On SLP, the Department stated that it had no objection to quash the notice as the transactions were between a mother and son; accordingly, the appeal is allowed.

Mahendra Gala v. ITO (2024) 471 ITR 758 /(2025) 302 Taxman 1 (SC)

Editorial: Mahendra Gala v. ITO (2024) 471 ITR 757 (Bom)(HC)

2113 **S. 148: Reassessment-Notice-Amalgamation-Information furnished-Notice on transferor company and consequent assessment-Not valid.[S. 147]**
Dismissing the appeal of the revenue, the Court held that notice on the transferor company and consequent assessment is held to be not valid. Order of Tribunal affirmed. (AY. 2006-07)
PCIT v. Archit Securities Pvt. Ltd. (Successor of Anirudh Overseas Pvt. Ltd.) [2023] 155 taxmann.com 477 / (2025) 483 ITR 139 (Delhi)(HC)

2114 **S. 148: Reassessment-Notice-Objections not raised against the reassessment notice-Writ petition was dismissed as premature.[S. 147, Art. 226]**
The assessee filed a writ petition against the issue of notice u/s 148 of the Act. Dismissing the writ petition, the writ petition at this stage was premature and thus ought not to be entertained. It was open to the assessee to raise all its objections and place reliance on the judgment referred to and circular before the assessing authority, who shall consider them while passing the orders of assessment. [It was made clear that while completing the assessment, the assessing authority shall afford reasonable opportunity in accordance with law. (AY. 2015-16, 2016-17, 2017-18) (SJ)
BMN Steels Emporium (Chennai) v. Dy. CIT [2023] 155 taxmann.com 623 / (2025) 483 ITR 276 (Mad)(HC)

2115 **S. 148: Reassessment-Notice-Notice issued after approval of resolution plan under IBC Code, 2016-Not valid.[S. 147, Insolvency and Bankruptcy Code, 2016, S.7, 31, Art. 226**
On a writ, the petitioner contended that the Department had no jurisdiction or authority to commence any action for reassessment pertaining to a period prior to the approval of the resolution plan under section 31 of the Code:
Held that the respondents had not contested the validity of the resolution plan at any stage and it was not the case of the respondents that the National Company Law Tribunal had been approached for the purposes of recall of its order approving the resolution plan or that the resolution plan was a closure in respect of any claim or demand that had existed in respect of the assessee. Court held that the notice under section 148 for the assessment year 2014-2015 dated March 31, 2021, and reassessment proceedings under section 147 were not valid and hence were unsustainable.(AY. 2014-15)
Asian Colour Coated Ispat Ltd. v. ACIT [2024] 165 taxmann.com 641 / (2025) 482 ITR 264 (Delhi)(HC)

2116 **S. 148: Reassessment-Notice-Amalgamation of companies-Fact intimated to Income-tax authorities-Notice in name of transferor company which had ceased to exist-Not valid. [S. 147, Art. 226]**
Held that the notice dated July 27, 2022 relating to the assessment year 2016-2017 under section 148 of the Income-tax Act, 1961 was issued to the assessee, which had already been amalgamated on October 4, 2019, with effect from April 1, 2018, and the Department had been intimated about this amalgamation. The notice had to be quashed solely on the ground that it was issued in the name of a non-existing company despite

the Revenue having notice and knowledge of the non-existence of such company. (AY.2016-17) (SJ)
Briliant Credit and Finance Ltd. (formerly known as Akarshan Vinimay Pvt. Ltd.) v.ITO (2025) 482 ITR 774 (Cal)(HC)

S. 148: Reassessment-Notice-Merger-Tribunal quashed the order-No specific direction for reassessment-Section 150 could not be invoked-Notice was time-barred and invalid under section 149.[S. 149, 150] 2117

Assessee-company was engaged in the business of development and export of software. Assessing Officer passed in name of a company that existed prior to the merger with assessee. Tribunal quashed the order, reserving liberty to revenue to take action in accordance with law. Pursuant to said order, a notice was issued under section 148 read with section 150 proposing to reopen assessment of assessee for assessment year 2008-09 in year 2019. Assessee objected to the same on the ground that notice was issued 10 years after assessment. On writ the Court held that the Tribunal set aside assessment order on the ground that the assessment order was passed in the name of the merged company and not in the name of the assessee and it did not give any finding or direction for reopening the assessment. Section 150 enables revenue to reopen an assessment pursuant to an order in appeal, but on twin conditions, i.e., to give effect to any finding or direction. Notice under section 148 could not be saved by the addition of section 150 as it did not satisfy two conditions with regard to findings in furtherance of the order in appeal and direction as contained in section 150 and, thus, reopening of assessment was barred by the time limit prescribed under section 149(1)(a) or (b) of the Act. (AY. 2008-09)
Ltimindtree Ltd. v. JCIT (2025)177 taxman 603/ 347 CTR 469 / 254 DTR 345 (Karn)(HC)

S. 148: Reassessment-Notice-Block period-Satisfaction note was recorded on 27-8-2024-Assessment year 2014-15 fell beyond ten-year block period and, therefore, impugned notice issued under section 148 was barred by limitation.[S. 132, 148A(b), 148A(d), 158BC, Art. 226] 2118

Assessee-company, engaged in the business of construction and other related activities, had filed its return of income declaring certain income. Subsequently, a search was conducted in the case of one Kala Rathi, RSW Steel Ltd, wherein it was found that assessee had made fictitious purchases from Kala Rathi. On basis of same, Assessing Officer issued a notice under section 148 in the case of the assessee on 31.8.2024. Assessee filed a writ petition contending that satisfaction note of Assessing Officer exercising jurisdiction in respect of assessee was recorded on 27.8.2024. Court held that since the satisfaction note was recorded during financial year 2024-25, period of ten years was required to be considered from end of assessment year 2025-26 and, thus, assessment year 2014-15 fell beyond ten-year block period; therefore, impugned notice issued under section 148 was barred by limitation. (AY. 2014-15)
Evergreen Infrasolutions (P.) Ltd. v. ACIT (2025) 305 Taxman 497 (Delhi)(HC)

2119 **S. 148 : Reassessment-Notice-Without supporting reasons-Notice is quashed and set aside. [S. 147, Art. 226]**

The Assessing Officer issued notice under section 148 against the petitioner for the assessment years 2014-15 to 2016-17. The assessee filed a writ petition contending that in the absence of supporting reasons, the notice was liable to be set aside. Allowing the petition, the Court held that the notice must be supported by reasons. On the facts, notices were issued to the assessee under section 148 without supporting reasons; they were set aside. (AY. 2014-15 to 2016-17)

Kishore Kumar Singh v. ACIT (2025) 305 Taxman 48 (Patna)(HC)

2120 **S. 148: Reassessment-Notice-Not dealt with the objections-Matter was remanded to the Assessing Officer to pass a fresh order disposing of objections raised by the assessee. [S. 147, Art. 226]**

Assessing Officer issued a reopening notice upon the assessee. Assessee raised objections against reopening of assessment. Assessing Officer passed an order disposing of objections raised by the assessee. However, it was found that the Assessing Officer had not dealt with objections raised by the assessee. On writ the Court held that assessee having filed only one set of objections, and without dealing with those objections, to say that objections followed by cross objections are an endless process, which should end at a certain point in time, was not justified Since Assessing Officer had not dealt with objections raised by assessee, matter was remanded back to Assessing Officer to pass a fresh order disposing of objections raised by assessee. (AY. 2015-16)

Modern Realty (P.) Ltd. v. Dy. CIT (2025) 305 Taxman 115 (Bom)(HC)

2121 **S. 148: Reassessment-Notice-Dead person-Department had knowledge of demise of assessee-Not bound by legal representative-Notice and order quashed.[S.147, 148A(b), 148A(d), Art. 226]**

Assessee expired on 13-8-2016. Assessing Officer issued reassessment notice in the name of deceased assessee on 6-4-2022-Petitioner, son of deceased assessee, filed writ petition seeking to quash reassessment notice and order passed under section 148A(d) and section 147. Allowing the petition, the Court held that the petitioner informed the Assessing Officer about the demise of assessee vide communication dated 22-5-2018. This communication bore endorsement of receipt, and along with this communication, the death certificate was enclosed. The department had notice of assessee's demise by May 2018; despite notice final orders were issued in the name of the deceased assessee. Court held that once it was established that assessee had expired by the time notices were issued and the department had knowledge of demise, there was no justification for issuing notices. Since no notices were issued to legal representatives and notices were issued to the dead person, notices or orders made could not bind legal representatives. Notices and orders were quashed and set aside.

Amjad Ahmed Shaikh v. ITO (2025) 304 Taxman 377 (Bom.)(HC)

2122 **S. 148 : Reassessment-Notice-Non-application of mind-Notice was quashed. [S. 135A, 292B, Art. 226]**

A notice under section 148 was issued in the case of assessee. Assessee filed objections against said notice contending that information pertaining to some other assessee was

attached to said notice. However, an order rejecting objections of the assessee was passed without considering said error. On writ, the Court held that while issuing the impugned notice under section 148, respondents by pure inadvertence had annexed/ attached information pertaining to some other individual/assessee and not assessee. Since such aspect appeared to be an error or mistake and neither deliberate nor wilful, no fatality could be said to attach to issuance of notice under section 148. Notice issued under section 148, to the extent that it reflected information of some other person, shall be rectified by respondents. Authority did not apply its mind to objections raised by assessee and, thus, the order rejecting objections of assessee was quashed. (AY. 2020-21)
Monish Gajapati Raju Pusapati v. AUITD (2025) 304 Taxman 382/344 CTR 165 / 248 DTR 17 (Delhi)(HC)

S. 148: Reassessment-Notice-Territorial jurisdiction of High Court-Place of assessing authority-Cause of action-Forum conveniens-Notice issued by income-tax officials in Kolkata-Writ jurisdiction depends on the authority passing the order within the territory, and not on the assessee's residence or registered office-Assessee relegated to remedies at Kolkata. [Art. 226] 2123

Where reassessment notices under S. 148 were issued by income-tax officials at Kolkata and the entire record, material and assessing jurisdiction were also situated in Kolkata, the Bombay High Court held that the mere fact that the assessee had its registered office in Mumbai was not sufficient to confer writ jurisdiction. Even if a minuscule part of the cause of action could be said to have arisen in Mumbai, that by itself could not compel the Court to exercise discretionary jurisdiction under Article 226. The jurisdiction depends on the location of the authority passing the impugned order/notice, and the residence or location of the affected person is irrelevant. Applying the principle of forum conveniens, the Court held that the interest of justice would be served by relegating the assessee to avail remedies before the appropriate forum at Kolkata. Reliance was placed on *Lt. Col. Khajoor Singh v. UOI AIR 1961 SC 532, PCIT v. ABC Papers Ltd.* and *Sterling Agro Industries Ltd (2022) 328 CTR 129/ (2022) 9 SCC 1*
Trustcap (P) Ltd. v. ITO (2025) 344 CTR 801 / 249 DTR 473 / 173 taxmann.com 635 (Bom) (HC)

S. 148: Reassessment-Writ-Maintainability-Notice u/s 148 is only a show-cause notice-No interference under Art. 226-Assessee free to raise objections before AO. [S.147, Art.226] 2124

The High Court held that a notice issued under section 148 is merely a show-cause notice initiating reassessment proceedings, and ordinarily no writ will lie at this preliminary stage when an effective alternative remedy exists. Challenges to such notices under Article 226 should be rare since entertaining them results in unnecessary delay of pending proceedings. In the present case, the assessee contended that the notice was issued without complying with Notification No. SO 1466(E), dated March 29, 2022. However, since reassessment proceedings were still pending, the assessee had full liberty to file a reply and raise all objections before the Assessing Officer. There was no justification for the court to interfere at this stage, and the writ petition was dismissed.
Mohd. Sajid Bains v. ITO [2024] 159 taxmann.com 599 / (2025) 478 ITR 148 (Raj)(HC)

2125 **S. 148 : Reassessment-Notice-Income-tax-Existence of alternative remedy-Writ petition dismissed. [Art. 226]**

Dismissing the writ petition, the Court held that the assessee had not challenged the notice and had permitted the Assessing Officer to pass the assessment order. The assessee having raised the dispute on the satisfaction note as well as on the merits, it could not be said that the controversy arising in the petition was purely legal because it involved disputed questions of fact as to whether or not the satisfaction note of the Assessing Officer pertained to the incriminating material which has direct relation with the income escaped during the assessment year and for that documentary evidence was required to be appreciated. Hence the writ petition was not maintainable. Referred *Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority, (2023) 109 GSTR 402 (SC); 2023 SCC OnLine SC 95.* (AY. 2016-17)

Rameshbhasi Jivrajbahi Desai v. Dy,CIT (2025) 478 ITR 440 (Guj) HC)

2126 **S. 148 : Reassessment-Notice-Reference to dispute resolution panel-Draft assessment order-Capital gains-Additional documents-Matter remanded to the Assessing Officer-Draft assessment order was set aside. [S. 45, 144C, 147, Art. 226]**

On writ, the Court held that there was some basis for reopening the assessment. However, the assessee had placed additional documents on record. These documents indicated that the assessee transferred the shares to S on February 12, 2015. If the documents were found to be valid and genuine on verification, they indicated that the share transfer took place during the financial year 2014-2015 and not 2015-2016. This would have a material impact on the reassessment proceedings initiated by the Assessing Officer. Consequently, the assessee should be provided an opportunity to place these documents for consideration by the Assessing Officer before the Assessing Officer prepared the draft assessment order. In order to facilitate this process, the draft assessment was liable to be set aside.(AY. 2016-17)

Kalyanasundaram Chandrasekaran v. ITO (IT (2025) 478 ITR 580 (Mad)(HC)

2127 **S. 148: Reassessment-Notice-Proceedings against company after approval of resolution plan for period prior to closure-Notice quashed with liberty to take action in accordance with law against ex-promoters. [S. 147, Art. 226]**

On writ petitions against notices of reassessment under the Income-tax Act, 1961, the assessee and Department concurred that the petitions were covered by the decision of the court in *Alok Industries Ltd. v. Asst. CIT, (2024) 471 ITR 536 (Bom); 2024 SCC OnLine Bom 3481* the Department sought permission to take such steps as advised against the ex-promoters of the respondent-company. The court disposed of the petitions following the judgment of the court and without expressing any opinion, and granting liberty to the Revenue to take any steps as they proposed, in accordance with law against the ex-promoters of the assessee-company under the Income-tax Act, 1961.

PCIT v. Patanjali Foods Ltd. (formerly known as Ruchi Soya Industries Ltd.)(2024) 161 taxmann.com 675 / (2025) 474 ITR 333 (Bom)(HC)

Editorial : SLP of revenue dismissed, PCIT v. Patanjali Foods Ltd (2025) 474 ITR 339 (SC)

S. 148: Reassessment-Notice-Mother and Son-Writ petition is dismissed on the ground with liberty to assessee to raise all contentions in reply before Assessing Officer and also direction for grant of personal hearing-Income. [S. 50C, 147, Art. 226] 2128

On writ dismissing the petition, the court held that the assessee shall raise all contentions and also directed the grant of a personal hearing before passing the order.

Mahendra Gala v. ITO (2024) 471 ITR 757 (Bom)(HC)

Editorial: Order of High Court is set aside, Mahendra Gala v. ITO (2024) 471 ITR 758/ (2025) 302 Taxman 1 (SC)

S. 148: Reassessment-Notice-Protective assessment-Issuance of notice after initiation of corporate Insolvency resolution process and after initiation of corporate insolvency resolution process and giving effect to resolution plan-Notices and subsequent proceedings of reassessment and penalty and consequential orders are reversed and set aside-Assessing Officer should modify demand giving effect to order of adjudicating Authority in Corporate Insolvency process under Code-Revenue may take whatever steps available to take action, if any, against ex-promoter and other third parties in accordance with law-Notices, subsequent proceedings of reassessment and penalty and consequent orders are reversed and set aside. [S. 133(6), 144, 147, 156A, 271(1)(c), 274, Insolvency and Bankruptcy Code, 2016, S. 31, 238, Art. 226] 2129

Assessee-company is undergoing Corporate Insolvency Resolution Process (CIRP).A resolution plan was approved by NCLT. As per resolution plan, value of all dues including income tax dues was treated as nil and was deemed to have been fully discharged and settled for any period prior to closing date. After resolution plan had been given effect to, department initiated reassessment proceedings against assessee by issuing a notice under section 148. On facts, issue of notice under section 148 to assessee company after approval of resolution plan for a period prior to closing date was invalid and bad in law, having been issued contrary to provisions of Code and Resolution Plan. Court also held that the Assessing Officer should modify demand giving effect to order of adjudicating Authority in Corporate Insolvency process under Code. Court also observed that Revenue may take whatever steps available to take action, if any, against ex-promoter and other third parties in accordance with law. Accordingly notices, subsequent proceedings of reassessment and penalty and consequent orders are reversed and set aside. Referred, *Ghanashyam Mishra and Sons Pvt Ltd v. Edelweiss Asset Resolution Co Ltd (2021) 227 Comp Cas 251 (SC) / (2021) 91 GSTR 28 (SC)/ (2021) 9SCC 657.* (AY. 2013-14)

Alok Industries Ltd. v. ACIT (2024) 471 ITR 536 /161 taxmann.com 285 (Bom) (HC)

S. 148: Reassessment-Notice-Merger-Non-existing entity-Notice issued to a non-existing entity post-merger was a substantive illegality and not some procedural violation-Notice and order is quashed and set aside. [S.147, 292B, Art. 226 2130

On writ the Court held that based on the averments and the arguments, the fundamental error in issuing the impugned notices against a non-existing company despite full knowledge of the merger cannot be condone. The impugned notices, which are non-est cannot be treated as "good" as urged on behalf of the Respondents. In *PCIT v. Maruti Suzuki Ltd (2019) 265 Taxman 515/ 416 ITR 613 (SC)*, the Hon'ble Supreme Court has

held that issuing notice in the name of a non-existing company is a substantive illegality and not a mere procedural violation of the nature adverted to in Section 292B of the Act. Notice and order is quashed and set aside. (AY. 2013-14 to 2019-20)
City Corporation Limited v. ACIT (2025) 171 taxmann.com 301 (Bom) (HC)

2131 **S. 148: Reassessment-Notice in name of deceased-Invalid-No statutory obligation on deceased to intimate department. [S. 149(1)(b), 159(2)(b), Art. 226]**
The assessee died before issuance of notice u/s 148. The AO issued notice in the name of the deceased. The Court held that proceedings initiated against a dead person are invalid, and the only permissible course is as per s. 159(2)(b) against legal heirs. The contention that the deceased had a statutory duty to intimate the department was rejected. Accordingly, the notice and consequential proceedings were quashed. (AY. 2016-17)(SJ)
Preethi V. (Smt.) v. ITO (2025) 343 CTR 390 / 247 DTR 21 / 171 taxmann.com 100 (Karn) (HC)
Editorial: Appeal affirmed by division bench, ITO v. Preethi V. (Smt) (2025) 343 CTR 385 / 247 DTR 16 / 170 Taxmann.com 673 (Karn)(HC)

2132 **S. 148: Reassessment-Notice issued in name of deceased-Proceedings void-No revival against legal heirs after limitation-Order of single judge is affirmed. [S. 149, 159, Art. 226]**
On appeal by the revenue against the order of the single judge, the appellate Court held that assessment proceedings initiated in the name of a deceased person are null and void. Section 159 permits continuation of validly initiated proceedings against legal representatives but does not allow initiation against a deceased assessee. Since limitation had expired against the deceased, fresh proceedings could not be started against legal heirs. Writ petition was allowed. (AY. 2016-17)
ITO v. Preethi V. (Smt) (2025) 343 CTR 385 / 247 DTR 16 / 170 Taxmann.com 673 (Karn) (HC)
Editorial: Preethi V. (Smt.) v. ITO (2025) 343 CTR 390 / 247 DTR 21 / 171 taxmann.com 100 (Karn)(HC)

2133 **S. 148 : Reassessment-Notice-Death of assessee-Notice in name of deceased assessee-Notice is not valid.[S. 147, 159, Art. 226]**
Allowing the petition, the Court held that the documents revealed that the petitioner had duly informed the Department regarding the death of the assessee by acknowledging the notice sent by the Department and also to the verification team. Since the notices were issued and orders were passed in the year 2021, i. e., much after the death of the assessee on February 14, 2015, in the name of the deceased person without bringing on record the legal heir or legal representative under section 159, they were liable to be quashed and set aside. Court also observed that merely because the Department was not intimated about the death of the assessee, that cannot, by itself, extend the period of limitation prescribed under the statute. There is no statutory obligation on the part of the legal representatives of the deceased assessee to immediately intimate the death

of the assessee or take steps to cancel the permanent account number registration. (AY.2015-16)
Sujata Devi v. ITO (2025)472 ITR 463 (Jharkhand)(HC)

S.148: Reassessment-Deceased-Insolvency proceedings-Once the assets were taken over by the Official Assignee and the assessee was declared as an insolvent, the respondents can very well approach the Official Assignee for seeking their remedy-It is up to the Official Assignee to consider the claims and distribute the proceeds in accordance with law. [S. 147, 152(2), 226(3), 263, Art. 226] 2134
The original assessee passed away on 11th July, 2013 and after his demise, he was declared as an insolvent by order dt. 9th Aug., 2017 and in which the petitioner was also one of the legal heirs and that the Official Assignee has taken charge of the entire estate, issuing notices and assessment orders one after another to the petitioner in the name of the dead person, who is the original assessee, by the respondents are not sustainable. On writ, the Court held that once the assets were taken over by the Official Assignee and the assessee was declared as an insolvent, the respondents can very well approach the Official Assignee for seeking their remedy. It is up to the Official Assignee to consider the claims and distribute the proceeds in accordance with law. (AY.2012-13)
A. Sai Siva Jyothi v. PCIT [2024] 169 taxmann.com 19/(2025) 342 CTR 114 / 245 DTR 82 (Mad)(HC)

S. 148: Reassessment-Notice-Amalgamation-Informed the factum of amalgamation-Reassessment in the name of non-existent amalgamating entity a nullity-Not curable defect cannot be validated under section 292B-Notice and consequential order is quashed. [S. 147, 292B, Art. 226] 2135
Held that a notice or proceedings drawn against a dissolved company or one which no longer exists in law would invalidate proceedings beyond repair. The *Pr. CIT v. Maruti Suzuki India Ltd. [2019] 107 taxmann.com 375/265 Taxman 515/416 ITR 613 (SC)* Accordingly initiation or continuance of proceedings after a company has merged pursuant to a Scheme of Arrangement and ultimately comes to be dissolved, would not sustain. It is noted that in this batch of writ petitions and in light of the disclosures which have been made, the assessees clearly appear to have apprised their respective Assessing Officers of the factum of amalgamation and merger at the first available instance. If the respondents chose to ignore or acknowledge those fundamental changes, they would have to bear the consequences which would follow. Once the Scheme came to be approved, the transferor companies came to be dissolved by operation of law. They, thus, ceased to exist in the eyes of law. Proceedings, thus, drawn in their name would be a nullity and cannot be validated by resort to section 292B. (AY. 2012 13 to 2019-20)
International Hospital Ltd. v. DCIT (2024) 167 taxmann.com 317 /(2025) 472 ITR 400/ 342 CTR 10 (Delhi)(HC)

2136 **S. 148: Reassessment-Notice-Amalgamation-Failure to intimate the amalgamation-Petition is dismissed. [S. 147, 292B, Art. 226]**

The petition the Court held that failure on the part of the assessee to apprise the Department of scheme of arrangement which is approved, even if concerned Assessing Officers were assumed to have derived knowledge of pendency of proceedings before NCLT or called upon to furnish a consent to proposed Scheme of Arrangement, same would not absolve assessee from obligation of duly apprising respondents once a Scheme of Arrangement came to be approved. (AY. 2013-14)

International Hospital Ltd. v. DCIT (2024) 167 taxmann.com 317 /(2025) 472 ITR 400 (Delhi)(HC)

2137 **S. 148 : Re-assessment-Notice-Notice issued in the name of amalgamating company instead of amalgamated company-Not a curable defect-Notice is invalid. [S.260A, 292B].**

The Hon'ble Calcutta High Court decided an appeal under S. 260-A of the Act dealing with the question whether the reopening of the assessment was valid in law, inasmuch as, the notice was admittedly sent to a non-existing entity. It was observed that the assessing officer was aware of the amalgamation even at the time when proceedings were initiated under S. 147 of the Act pursuant to the notice dated 6.12.2018. Apart from that in the reasons to believe which was appended to the notice the AO has specifically referred to the details regarding the amalgamation. Therefore, the submission of the Revenue was not accepted. Further, so far as filing of return in the name of the assessee company prior to its amalgamation was an event which could not be avoided by the assessee and in any event mere filing of such return cannot be taken to be a ground to cure the inherent defect which goes to the root of the matter. Accordingly, the appeal was dismissed.(AY. 2011-12)

PCIT v. GPT Sons Pvt. Ltd. [2025] 302 Taxman 234 (Cal)(HC)

2138 **S. 148: Reassessment-Notice-Claim for deduction of interest-Intimation is not an order of assessment-Assessment for the first time under section 147-Entitle for permissible deductions under the law.[S.43B, 143(1), 147]**

The assessee filed original return and revised return of income prior to the issuance of any notice under section 148. The assessee had claimed deduction of interest paid to financial institutions and banks during the previous years relevant to the assessment years 1999-2000 and 2000-01. No intimation under section 143(1)(a) was sent by the Assessing Officer. Even if the acknowledgment of return was treated to be an intimation under section 143(1)(a), yet it was not an assessment order. Since there was no original assessment proceeding and assessment order, the question of reassessment did not arise. The order passed by the Assessing Officer to not a reassessment order but an assessment order pursuant to the original and revised returns filed by the assessee. The assessee claimed interest as deductible expenditure under section 43B and its admissibility was not disputed by the Assessing Officer. The proceedings before the Assessing Officer not being reassessment proceedings, the assessee had lawfully claimed interest as a deducible expenditure which the Assessing Officer was bound to have allowed. The charge of tax was on the income and not on gross receipts. It was the profits and

gains of business or profession which had to be computed after deducting the losses and expenditures incurred for business. Interest is an allowable expenditure. Order of Tribunal is set aside. *CIT v. Sun Engineering Works P Ltd. [1992] 198 ITR 297 (SC), (1992) 4 SCC 363* distinguished.(AY. 1999-2000, 2000-01)
Khar Hospitality India Ltd. v. CIT (2024) 471 ITR 200 (Cal) (HC)

S. 148: Reassessment-Income of any other person-Search-Search material pertains to third party-Notice of reassessment under Section 148 is held without jurisdiction-Section 153C and not Section 148 is to be resorted to-Notice of reassessment is quashed and set aside. [S. 132, 147, 151(1), 153A, 153C, Art. 226] 2139

The petitioner, a partnership firm engaged in manufacturing and trading gold and diamond jewellery, filed its return of income for AY 2012-13 on 28.09.2012. On 04.10.2018, a search under Section 132 was conducted at the premises of Shilpi Jewellers Pvt. Ltd., during which incriminating materials, including loose papers and electronic data, were seized. No direct incriminating material was found against the petitioner. The AO issued a notice under Section 148 on 29.03.2019, alleging escapement of income for AY 2012-13 and initiated reassessment proceedings. The primary objection raised by the petitioner was to the effect that the assessment could have been made only under Section 153C and not under Section 147 since the notice was based on search material from a third party. The petitioner also dealt with each of the reasons on the merits, to contend that no case was made out for reopening of the assessment on such materials. It was contended that the reopening under Section 147 was without jurisdiction and violated legal provisions. The AO rejected the objections, stating that since the search was conducted in AY 2019-20, Section 153A did not apply to AY 2012-13, and proceeded under Section 147. On writ the Bombay High Court, relying on the Supreme Court's decision in *PCIT v. Abhisar Buildwell Pvt. Ltd. (2023) 149 taxmann.com 399/293 Taxman 141/ 444 ITR 212 (SC), Shyam Sunder Khandelwal v. ACIT (2024) 161 taxmann.com 255 (Raj)(HC) Sri Dinakara Suvarna v. Dy.CIT (2022) 143 tax mann.com.362 / 454 ITR 21 (Karn)(HC)* and held that when search material forms the basis of reassessment, proceedings must be initiated under Section 153C, not Section 147. The Court held that the AO lacked jurisdiction under Section 147, rendering the notice invalid. Consequently, the court quashed and set aside the notice under Section 148 and allowed the petition. (AY. 2012-13)
Sejal Jewellery & others v. UOI. [2025] 171 taxmann.com 846 (Bom) (HC)

S. 148: Reassessment-Notice-Non-existing company-Merger of companies-Notice served on non-existing company or entity despite the respondents' knowledge of its non-existence-Notice is quashed and set aside. [S. 2(31), 292B, 148A, 151, 292B, Art. 226] 2140

The petitioner company, City Corporation Limited (CCL), merged with its subsidiary company, Amanora Future Towers Pvt. Ltd. (AFTPL) in 2018, as per the order of the National Company Law Tribunal (NCLT). The petitioner informed the Income Tax Department of the merger in 2020. However, in 2023, the ACIT issued a notice under Section 148 to AFTPL on its pre-merger PAN, despite the fact that AFTPL had ceased to exist after the merger. The petitioner filed writ challenging the notice on the ground that since AFTPL was a non-existent entity, no notice could have been issued to it. Relying on the Supreme Court decision in *Maruti Suzuki India Ltd. v. PCIT (2019) 107 taxmann.*

com 375 /265 Taxman 515/ 416 ITR 613 (SC), the court held that issuing a notice to a non-existent company is a substantive illegality and not merely a procedural lapse under Section 292B. The court quashed and set aside the notice, emphasising that procedural compliance is critical and cannot be ignored even if a technical glitch occurs. (AY. 2013-14, 2014-15, 2016-17, 2017-18, 2018-19 2019-20)
City Corporation Limited v. ACIT [2025] 171 taxmann.com 301/ [2026] 488 ITR 12 (Bom) (HC)

2141 **S. 148 : Reassessment-Notice Limitation-Time-limit for issuing of notice under s. 148 for asst. yr. 2015-16 under the old provisions was 31st March, 2022-Notice issued on 28th June, 2021-Not covered under TOLA-Barred by limitation. [S. 144C(13), 147, 149(1)]**
Held that notice under s. 148 for asst. yr. 2015-16 issued on 28th June, 2021, was barred by limitation. Accordingly, the assessment order passed under s. 147 r/w s. 144C(13) is quashed.(AY. 2015-16)
Trans World International LLC v. DCIT (IT) (2025) 236 TTJ 385 / 175 taxmann.com 703 (Delhi)(Trib)

2142 **S. 148 : Reassessment-Notice-Notice issued in the name of dissolved firm-No notice has been issued to any of the partners-Non existing entity-Notice issued in the name and address of the non-existing entity is in violation of S. 283(2), and it has no sanctity in the eyes of the law-Assessment order was quashed. [S.144B, 147, 189, 283(2)]**
Held that since the notice under s. 148 has not been issued to the partners of the assessee firm immediately before its dissolution in compliance with the provisions of S. 283(2); the assessment framed based on such notice is quashed. Followed: *Nathalal Hemabhai Patel v. ITO (2024) 167 taxmann.com 337 (Guj) (HC).* (AY. 2013-14, 2014-15)
Shree Ganesh Commodity Brokers v. ITO (2025) 236 TTJ 826 (Delhi) Trib)

2143 **S. 148: Reassessment-Notice issued to deceased person-Legal heir informing Department of death-Reassessment void ab initio.[S.147, 159(2)(b)]**
The assessee had expired before issuance of the notice under section 148. During the reassessment proceedings, the legal heir informed the Department of the death and furnished the death certificate. Despite being aware of the death, the Assessing Officer neither issued a fresh notice to the legal heir under section 159 nor substituted the legal representative, but completed the reassessment in the name of the deceased. The Tribunal held that a notice issued to a dead person is a nullity in law and the Department, having failed to invoke section 159(2)(b), could not sustain the reassessment. The assessment was therefore void ab initio. (AY. 2012-13).
ITO v. Ramesh Kumar Sahu (2025) 126 ITR 702 (Indore)(Trib.)

2144 **S. 148: Reassessment-Notice under section 143(2) issued before return filed in response to notice under section 148-Reassessment invalid.[S. 143(2), 147]**
The Assessing Officer issued notice under section 143(2) before the assessee requested that the original return be treated as the return filed in response to notice under section 148. No fresh notice under section 143(2) was issued thereafter. The Tribunal held that

issuance of a valid notice under section 143(2) after the filing of the return in response to section 148 is a mandatory jurisdictional requirement. Failure to issue such notice rendered the reassessment orders invalid. (AY. 2009-10 & 2010-11).
Vinod Kumar Kasturchand Golechha v. ITO (2025) 126 ITR 290 / 174 taxmann.com 912 (Mum.)(Trib.)

S. 148 : Reassessment-Jurisdiction-Notice issued by non-jurisdictional Assessing Officer-Reassessment invalid.[S. 143(3) 147] 2145
The assessee was regularly assessed at Saharanpur and had filed the return there. However, the notice under section 148 was issued by the Income-tax Officer, Meerut, who had no jurisdiction over the assessee. The case was subsequently transferred to the jurisdictional Assessing Officer at Saharanpur. The Tribunal held that the initiation of reassessment proceedings by a non-jurisdictional Assessing Officer was without authority of law and the subsequent transfer did not cure the defect. The reassessment was quashed. (AY. 2010-11).
Reeta Rana v. Dy. CIT (2025) 126 ITR 24 / 178 taxmann.com 149 (Delhi)(Trib.)

S. 148: Reassessment-Non-resident-Notice issued by non-jurisdictional Assessing Officer-Assessment framed by Assessing Officer (IT) on same notice-Reassessment void-Delay of 57 days was condoned. [S. 147, 254(1)] 2146
The assessee, a non-resident citizen of the United States, was issued a notice under section 148 by an Assessing Officer having no jurisdiction over non-resident assessees. Subsequently, the Assessing Officer (International Taxation) completed the reassessment on the basis of the same notice without issuing a fresh notice under section 148. The Tribunal held that the original notice itself was without jurisdiction and could not confer authority upon the Assessing Officer (International Taxation). Consequently, the reassessment proceedings were held to be void ab initio. Delay of 57 days was condoned. (AY. 2012-13).
Dy. CIT (IT) v. Manjeet Singh (2025) 122 ITR 467 (Chd.)(Trib.)

S. 148 : Reassessment-Notice issued by non-jurisdictional Assessing Officer-Assessment completed by jurisdictional Assessing Officer without fresh notice-Invalid. [S. 147] 2147
The reassessment proceedings were initiated by an Assessing Officer having no jurisdiction over the assessee. On realising the error, the case was transferred to the jurisdictional Assessing Officer, who completed the assessment without issuing a fresh notice under section 148. The Tribunal held that the jurisdictional defect could not be cured by mere transfer of the file and that the assessment framed on the basis of an invalid notice was without jurisdiction and liable to be quashed. (AY. 2009-10).
Raman Pillai Sivasankara Pillai v. Dy. CIT (2025) 124 ITR 388 (Chd.)(Trib.)

S. 148:Reassessment-Information-Internal audit memo-notice issued under s. 148 on 29th June, 2021, was deemed to be a show-cause notice issued under s. 148A(b)-The internal audit memo was outside the scope and ambit of the term "information" as provided in Expln. 1 to s. 148 prior to its amendment by the Finance Act, 2022-Order of the CIT(A) quashing the reassessment proceedings was upheld. [S. 147, 148A(b)] 2148

Held that the notice under s. 148 issued to the assessee on 29th June, 2021, was deemed to be a show cause notice issued under s. 148A(b) pursuant to the decision of the Supreme Court in *UOI v. Ashish Agarwal (2022) 444 ITR 1/ 326 CTR 473 (SC)*, and the only information available with the Revenue for initiating the reassessment proceedings was the internal audit memo on the said date, which did not fall within the scope and ambit of the term "information" as defined in Expln. 1 to s. 148 prior to its amendment by the Finance Act, 2022, the notice issued under s. 148 is void ab initio and bad in law, and, therefore, the reassessment proceedings were rightly quashed by the CIT(A). (AY. 2014-15)
ACIT v. Rishabh Diamond (P) Ltd (2025) 234 TTJ 18 / 246 DTR 113 (Mum)(Trib)

2149 **S. 148 : Reassessment-Notice-Limitation-First notice under s. 148 was issued on 30th June, 2021-Since the notice was issued after 1st April, 2021, amended provisions effective from 1st April, 2021 were applicable-Notice is within limitation period. [S. 147, 148A(d)]**
Held that the letter was issued by the AO on 28th May, 2022 as per the amended law and since the assessee filed her reply on 15th June, 2022, the notice under s. 148 issued on 29th July, 2022 was well within the prescribed time-limit. AY. 2017-18)
Pushpadevi Shivlal Rathi v. ITO (2025) 233 TTJ 12 / 245 DTR 16 (SMC) (Pune) (Trib)

2150 **S.148: Reassessment-Notice-Issued notice without disposing of assessee's objections-Breach of principle of natural justice-Reassessment order was quashed.[S. 147, 153A]**
The AO failed to dispose of the assessee's objections before passing the reassessment order. The ITAT observed that when an assessee files objections against a reassessment notice, the AO is required to first address and dispose of those objections in a separate, formal order and only after communicating this decision can the AO proceed with the final assessment. Since the AO bypassed this mandatory step entirely and issued the final reassessment order without ruling on the assessee's objections, the ITAT held that the entire assessment was in breach of the principle of natural justice and thus was void. Relied on *M/s. Kesar Terminal & Infrastructure Ltd v DCIT* (WP No.3248 of 2022 dated 27.01.2025) and *GKN Driveshaft (India) Ltd. v. ITO [2003] 259 ITR 19 (SC).* (AY-2011-12, 2012-13 & 2015-16)
M.K. Shelters v. ITO Ward [2025] 175 taxmann.com 884 (Mum) (Trib)

2151 **S. 148: Reassessment-Unexplained money-Undisclosed foreign bank account-Notice u/s 143(2) was not issued within specified time limit-Reassessment was completed beyond period of limitation, exchange of information came into operation from the first day of April, 2011 whereas the relevant financial year corresponding to the assessment year 2007-08 is from 01.04.2006 to 31.03.2007-Reassessment order is quashed as time barred. [S.69A 133A, 143(2) 147]**
On the basis of information received from the 'French' Government indicating that the assessee was maintaining a foreign bank account in HSBC Geneva, Switzerland. The said information is commonly known as the base note in relation to a bank account. The said base note contains personal details of the assessee including his name, date of birth, place of birth, sex, nationality along with date of opening bank account and amount of the

balance in a particular year. Subsequently, a survey u/s 133A of the Act was carried out on 30.09.2011 by the Investigation Wing of the Income-tax Department, Mumbai. During the survey proceedings, the assessee was confronted with the information related to the foreign bank account, then, he accepted the amount lying in the foreign bank account as undisclosed income in his hands. In view of the information received coupled with the finding during the course of the survey proceedings, the Assessing Officer recorded reasons to believe that income escaped assessment and issued notice u/s 148 of the Act on 30.03.2012. During the course of the reassessment proceedings, a summon u/s 131 of the Act was also issued to the assessee. Further a show cause notice was also issued on 23.10.2013 calling upon as why the balance amount of Rs.19,48,46,625/-equivalent to USD 43,29,943 (@ 45 INR per USD) should not be added to the total income of the assessee. The assessee contended that the said account was neither opened nor operated or controlled by him. The Ld. Assessing Officer related the balance lying in the foreign bank account of Rs.19,48,46,625/-as unexplained income as part of total income of the assessee u/s 69A of the Act. CIT (A) affirmed the order of the AO. On appeal allowing the appeal the Tribunal quashed the reassessment on the ground that no notice u/s 143(2) was issued within specified time, reassessment was completed beyond period of limitation, exchange of information came into operation from the first day of April, 2011 whereas the relevant financial year corresponding to the assessment year 2007-08 is from 01.04.2006 to 31.03.2007 and therefore, said protocol was not in operation during the period relevant to the assessment year therefore, this reference which was sent by the AO in the year under consideration was invalid. The Tribunal also observed that an addition has been made on the basis of a photocopy of a document commonly known as a base note of bank account with HSBC Geneva. The said base note was obtained by a non-official route by the French government, and then the same has been forwarded to the Indian government. But the existence of said bank account has not been confirmed by HSBC, Geneva. Therefore, no addition can be sustained on merit also. As the reassessment is quashed, the Tribunal has not decided the issue on merits. Followed. *Shri Pravin Sawhney v. ACIT in ITA No. 1539-1544/Mum/2017 ACIT v. Sh. Parminder Singh Kalra in ITA No. 5330/Del/2016* (ITANo. 679/Mum/2025 dt.15-4-2025)(AY. 2007-08)

Kalpana Dilip Mehta as Legal Heir of Dilip Dalpatlal Mehta v. ACIT (Mum)(Trib)www.itatonline.org

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notice issued for verification-High Court quashed the notice-SLP of revenue dismissed.[S. 148, 148A(b), 148A(d), Art. 226] 2152

Assessing Officer issued a notice under section 148A(b) requiring the assessee to furnish information with respect to the source, genuineness and creditworthiness of persons who gave loans to the assessee just after its incorporation. The assessee filed a detailed reply objecting to the validity of said notice on the ground that such notice did not disclose any information with regard to escaped income of the assessee, but it was in the nature of an inquiry to be conducted under section 148A(a). Assessing Officer passed an order under section 148A(d) rejecting the assessee's objection and issued a notice under section 148 for reopening of assessment. On writ, the High Court held that the notice issued under section 148A(b) could not have been issued for verification on the part of the Assessing

Officer; hence, the notice was quashed. SLP of the revenue was dismissed. (AY. 2020-21)
ITO v. Onir Infraspace (P.) Ltd. (2025) 307 Taxman 615 / (2026) 487 ITR 420 (SC)
Editorial : Onir Infraspace (P) Ltd v.ITO (2024) 168 taxmann.com 21 (Guj) (HC)

2153 **S. 148A : Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless regime-Jurisdiction of JAO-Notice after three years-Sanction of Specified Authority-Approval to be obtained from Principal Chief Commissioner-Approval from Principal Commissioner-Sanction is invalid-Order and consequent notice is invalid-SLP delayed by 248 days-SLP dismissed on account of delay as well as on merits. S. 147, 148A(b) 148A(d) 151(i), 151(ii) 151A, Art. 136]**
High Court dismissed the assessee's writ petition against the order under section 148A(d) of the Income-tax Act, 1961 and the notice of reassessment under section 148 issued by the jurisdictional Assessing Officer, instead of the officer under the faceless scheme, holding that when there was no dispute that the jurisdictional Assessing Officer had no jurisdiction to issue the order and notices in question, the order and the notices issued by him were not in compliance with the scheme notified by the Central Government implementing the provisions of section 151A of the Act which was in the nature of a subordinate legislation governing the conduct of proceedings under section 148A and section 148 of the Act, and that thus the order and notice were invalid and the proceedings initiated under section 148 of the Act were not sustainable. The Supreme Court dismissed the petition on the ground of delay of 248 days, as well as the merits. (AY. 2018-19)
ITO v. Prakash Pandurang Patil (2025) 481 ITR 332/306 Taxman 341 (SC)
Editorial: Prakash Pandurang Patil v. ITO (2025) 481 ITR 325 /177 taxmann.com 552 (Bom)(HC) /Editorial: SLP filed by the revenue was restored, ITO v. Prakash Pandurang Patil (2025) 307 Taxman 618 (SC)

2154 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Limitation-Initial notice issued within limitation period-Subsequent order and notice for reopening assessment issued based on assessee's reply to initial notice-Held, Notice not barred by limitation-Notice and reassessment proceedings valid-SLP of assessee dismissed. [S. 147, 148, 148A(b), 148A(d), 149(1)(a), Art.126]**
Dismissing the writ petition, the Court held that the date of issuing the initial notice under section 148A(b) was the relevant and crucial date for the purpose of the limitation period. The initial notice dated March 28, 2024, issued under section 148A(b), was within the limitation period prescribed under section 149(1)(a). The subsequent notice dated April 22, 2024, was issued in response to the assessee's reply dated March 31, 2024 and did not affect the validity of the reassessment proceedings under section 147. SLP of revenue dismissed.(AY. 2020-21)
Chandra Shekhar v. PCIT (2025) 481 ITR 229 / 307 Taxman 385 (SC)
Editorial : Chandra Shekhar v. PCIT (2025) 481 ITR 223/173 taxmann.com 595 (Patna)(HC)

2155 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Satisfaction of Assessing Officer at notice stage is sufficient for reopening-SLP of assessee dismissed. [S. 147, 148A(b), 148A(d), Art. 136]**
The assessee filed his return of income, which was later sought to be reopened on the ground that he had made bogus purchases from non-existent or accommodation

entry providers. The assessee argued that the information relied upon by the Assessing Officer related to income already disclosed in the return and, therefore, there was no escapement of income. It was noted that at stage of issuance of notice under section 148, the Assessing Officer was not required to conclusively determine income that escaped assessment. Assessing Officer was required to be satisfied that there were reasons that indicated that assessee's income had escaped assessment. High Court, by impugned order, held that since the Assessing Officer had, at threshold stage examined response furnished by assessee and had found it a fit case to continue with re-assessment proceedings, the impugned reopening notice issued against the assessee was justified. It was also held that even going through the materials on record, there was no good reason to interfere with the impugned order passed by the High Court. Hon Supreme Court held that SLP filed by assessee against impugned order of High Court was to be dismissed. (AY. 2018-19)
Vivek Kumar v. ITO (2025) 306 Taxman 101 (SC)
Editorial: Vivek Kumar v. ITO (2025)175 taxmann.com 864 (Delhi)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-A reassessment notice that was already time-barred before 1-4-2021 under the erstwhile law cannot be revived by applying Sec. 149(1)(b) (w.e.f. 1-4-2021)-Reassessment proceedings (including those routed through Ashish Agarwal judgement) would still be beyond limitation-the Revenue's SLP was dismissed for delay.[S. 148, 148A(b), 148A(d), 149, TOLA, 2020, S. 3 Art. 136] 2156

The dispute concerns reassessment proceedings initiated through orders under Sec. 148A(d) and notices under Sec. 148 with the central issue being limitation/time-bar considering Sec. 149 (as amended w.e.f. 1-4-2021). The Assessee contended that the matter is covered by the Bombay High Court ruling in New India Assurance Co. Ltd. v. ACIT, i.e., notices already time-barred prior to 1-4-2021 cannot be revived by applying Sec. 149(1)(b) effective from 1-4-2021, and reassessments initiated pursuant to Union of India v. Ashish Agarwal would also be beyond the time limit.
Revenue agreed with the assessee's submission before the High Court.
The Hon'ble Bombay High Court quashed Sec. 148A (d) orders and Sec. 148 notices as beyond limitation. The Department, despite agreement, filed an SLP before the Hon'ble Supreme Court ('SC'). The Hon'ble Supreme Court dismissed the SLP on the ground of unexplained delay.
ACIT v. Elan Capital Advisors (P.) Ltd(2025) 306 Taxman 336 (SC)
Editorial : Virendra Ship Recyclers LLP v. ACIT(2025) 170 taxmann.com 558 (Bom)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Capital gains-Full value of consideration-Stamp valuation-Non-application of mind-Notice and consequential order was quashed by High Court-Delay of 331 days-SLP of revenue was dismissed as the delay has not been satisfactorily explained. [S. 50C, 148, 148A(b), 148A(d), Art. 136] 2157

Assessing Officer issued on assessee a notice under section 148A(b) on ground that there was violation of provisions of section 50C and passed order under section 148A(d) and issued to the assessee a notice under section 148 seeking to reopen the assessment. On writ, the High Court held that the Assessing Officer, before issuing a notice must have satisfied himself that what he wrote made sense, and even the Principal Commissioner, who granted sanction should have also applied his mind and satisfied himself that the

order passed under section 148A(d) was being issued correctly by applying his mind. High Court further held that since there was nothing in the notice to explain as to how, if the transaction amount was less than the stamp duty value, there could be escapement of any income, particularly in hands of a buyer, the impugned notices and order were to be set aside. On appeal the Court held that since delay of 331 days in filing SLP had not been satisfactorily explained, the SLP filed by the revenue was dismissed. (AY. 2018-19)
ITO v. Aruna Surulkar (2025) 305 Taxman 3 (SC)
Editorial: Aruna Surulkar v. ITO (2024) 158 taxmann.com 677 (Bom)(HC)

2158 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Unexplained investments-Writ against issue of notice under section 148 was dismissed-Assessee filed SLP against order of High Court-Assessee sought permission to withdraw SLP with liberty to file review before High Court-SLP filed against order was to be dismissed as withdrawn with liberty to file review before High Court.[S. 131(IA), 148A(b), 148A(d), Art. 136]**
Assessee-charitable society filed nil return for the relevant assessment year. Notice under section 131(1A) was issued by the Investigation Wing to submit details with respect to donations paid by assessee. Assessing Officer, based on ex parte report, issued notice under section 148A(b) and thereafter, an order was passed under section 148A(d). Assessee had filed writ challenging order passed under section 148A(d) and notice issued under section 148 on ground that impugned order was passed mechanically without application of mind. Court held that from perusal of report that during course of proceedings before Investigation Wing assessee did not produce any supporting documentary evidence in respect to donation paid. High Court held that merits of information referable to section 148A would remain subject to reassessment proceedings initiated vide notice under section 148, thus issues which required determination at stage of reassessment proceedings and in respect of which departmental remedy was otherwise available would not require to be determined at stage of decision by Assessing Officer under section 148A(d) and thus, impugned order under section 148A(d) and notice under section 148 would not warrant any interference under article 226 as challenge to such order would be available to assessee while challenging order passed in reassessment proceedings consequent to notice issued under section 148. Assessee filed SLP against the order of High Court, but subsequently it sought permission to withdraw SLP with liberty to file review before High Court. SLP filed against the order was to be dismissed as withdrawn with liberty to file a review before the High Court. (AY. 2016-17)
Smart Vishwas Society v. ACIT (2025) 305 Taxman 416 (SC)
Editorial: Smart Vishwas Society v. ACIT (2023) 156 taxmann.com 188 (All)(HC)

2159 **S. 148A: Reassessment-Conducting inquiry and providing opportunity before issue of notice-Information received under risk management strategy framed by CBDT-Approval of Principal Commissioner obtained-AO cannot be compelled to obtain two identical approvals under sections 148A and 151-SLP dismissed. [S. 148, 151, Art. 136]**
The Delhi High Court upheld the notice issued under section 148 for A.Y. 2021-22. It held that merely because information relating to the assessee surfaced during a search on another group, it did not rule out the Assessing Officer having also received information in accordance with the risk management strategy formulated by the CBDT

for purposes of section 148A. The Court further held that where the Assessing Officer had already obtained approval of the Principal Commissioner for issuance of notice under section 148, the assessee could not insist on a second, identical approval under clause (c) of the proviso to section 148A read with section 151, as the requirement was substantially the same. Accordingly, the challenge to the reassessment notice failed. The Supreme Court dismissed the SLP filed against the High Court judgment. (AY. 2021-22)
Killa Financial Services Pvt. Ltd. (2025) 480 ITR 242 / 180 taxmann.com 527 (SC)
Editorial : Killa Financial Services Pvt. Ltd. v. Dy. CIT, (2025) 480 ITR 240 /180 taxmmann.com 99 (Delhi)(HC)

2160 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Where High Court, while issuing notice in writ petition, permitted assessment proceedings to continue but directed that final assessment order, if passed, shall not be given effect to till disposal of writ petition-High Court ultimately quashing notice under section 148A(b), order under section 148A(d) and notice under section 148-Assessee stating before Supreme Court that it intended to challenge completed assessment order on merits independently and not on grounds urged in writ petition-Revenue's appeal held not required to be examined and dismissed. [S. 147, 148, 148A(b), 148A(d), Art. 136]**

The assessee, a non-resident, had received consideration under a single agreement for grant of exclusive telecast rights of league matches for assessment years 2016-17 to 2018-19. The Assessing Officer issued notice under section 148A(b) on the ground that tax had not been deducted at source from receipts allegedly chargeable to tax in India, thereafter passed an order under section 148A(d) and issued notice under section 148. In writ proceedings, the High Court, at the stage of issuing notice, clarified that reassessment proceedings could continue, but any final assessment order passed would not be given effect to and would remain subject to further orders of the Court. Subsequently, the High Court held that the Assessing Officer's view that there was no basis for bifurcation of receipts in the ratio of 95 per cent and 5 per cent was perverse in light of the agreement and accordingly quashed the notice under section 148A(b), order under section 148A(d) and notice under section 148. On Revenue's appeal, the Supreme Court held that since a final assessment order had already been passed and the assessee stated that it intended to challenge that assessment independently on its own merits, and not on the grounds urged in the writ petition against the section 148A(d) order, there was no good reason for the Court to examine the Department's appeal. Accordingly, the Revenue's appeal was dismissed. (AY. 2016-17 to 2018-19)
Dy. CIT (IT) v. Trans World International Ltd. LLC (TWI) (2025) 480 ITR 661 / 180 taxmann.com 793 (SC).
Editorial: Trans World International LLC TWI v. Dy. CIT (IT) (2024) 301 Taxman 530 / 467 ITR 583 (Delhi)(HC).

2161 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Order of High Court set aside in view of UOI v. Rajeev Bansal [2024]301 Taxman 238/469 ITR 46(SC) final assessment order was quashed only for the purpose of enabling assessee to raise all objections and contentions vis-a-vis impugned notices. [S. 148, 148A(b), 148A(d), Art. 136]**

High Court held that since the petition was filed after a delay of almost one year and that too just a few days before the final assessment order came to be passed and there was no explanation as to why the petition was filed after such delay, assessee should exhaust its alternative remedies under the provisions of the Income-tax Act before approaching High Court. SLP, the Court held that in view of the decision of Supreme Court in *UOI v. Rajeev Bansal [2024] 301 Taxman 238/469 ITR 46(SC)*, the final assessment order was quashed only for the purpose of enabling the assessee to raise all objections and contentions vis-a-vis the impugned notices. Order of High Court set aside

Seahorse Mercantile Company (P.) Ltd. v. ITO (2025) 304 Taxman 277 (SC)

Editorial: Seahorse Mercantile Company (P.) Ltd. v. ITO (2025)172 taxmann.com 162 (Bom)(HC)

2162 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice- Alternative remedy- The High Court held that since the Assessing Officer had passed a well-detailed order after rebutting the assessee's contentions, the assessee should be directed to adopt the alternate remedy of appeal against the assessment order. SLP filed by the assessee against the order of High Court was dismissed. [S. 143(3), 148, 148A(b), 148A(d), Art. 136]**

The assessee had filed its return, which was processed, and an assessment order was passed. The assessee received a reopening notice under section 148. The assessee filed a writ petition alleging that the notice under section 148 was issued without passing a mandatory order under section 148A(d) and objections filed by it had not been disposed. High Court held that in none of the replies sent in response to the notice under section 148 assessee had even raised this ground of order under section 148A(d) not having been passed. High Court further held that the assessee had responded to three notices issued under section 142(1), and a personal hearing was also granted, but this ground was never raised. High Court held that since the Assessing Officer had passed a well-detailed order after rebutting the assessee's contentions, the assessee should be directed to adopt the alternate remedy of appeal against the assessment order. SLP filed by the assessee against the order of the High Court was dismissed. (AY. 2016-17)

Seahorse Mercantile Company (P.) Ltd. v. ITO (2025) 304 Taxman 511 (SC)

Editorial : Seahorse Mercantile Company (P.) Ltd. v. ITO (2025) 172 taxmann.com 699 (Bom)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-International transactions-Faceless assessment scheme-Must be by faceless procedure-High court held that notices not following faceless procedure quashed-SLP of the revenue dismissed. [S. 144B, 148, 148A(b), 148(A)(d), 151A, Art. 136] 2163

Allowing the petition the Court held, that issue was covered by the decision of the court in *Venkataramana Reddy Patloola v. Dy.CIT (2024) 468 ITR 181 (Telengana)(HC)*, holding that the phrase "to the extent provided in section 144B of the Act" in clause 3(b) of the e-Assessment of Income Escaping Assessment Scheme, 2022 dated March 29, 2022 ((2022) 442 ITR (St.) 198) does not preclude the mandatory faceless procedure for issuance of notice under section 148 of the Income-tax Act, 1961, and quashing the notices on the ground that they had not been issued in a faceless manner, the writ petition was allowed. SLP of the revenue dismissed.

Add. DIT (IT) v. Deepanjan Roy (2025) 478 ITR 160 (SC)

Editorial : Deepanjan Roy v. Add. DIT (2025) 478 ITR 158 (Telengana)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Initial notice allowing five days to reply-Minimum seven days required to be granted under statute for assessee to respond-Assessee filing reply after five days-High Court set aside the order and notice with direction to Assessing Officer to consider reply filed by assessee and pass appropriate order-SLP of assessee dismissed. [148, 148A(b),148A(d), 151, Art. 136] 2164

On the High Court, set aside the order under section 148A(d) and the consequent notice under section 148 with a direction to the Assessing Officer to consider the reply already filed by the assessee and pass an appropriate order, and if he considered it a fit case for issuing notice under section 148, he could obtain necessary approval as required. SLP of assessee dismissed on the ground that the relief, as sought for by the assessee, having already been granted with a direction issued to the Assessing Officer to consider the reply already filed by the assessee and pass an appropriate order. (AY. 2018-19)

Anuj Ghuliani v. ITO (2025) 478 ITR 528 /306 Taxman 93 (SC)

Editorial : Anuj Ghuliani v. ITO (2025) 478 ITR 526/172 taxmann.com 224 (Delhi)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Amalgamation-Fresh notice issued as per Supreme Court directions in UOI v. Ashish Agarwal (2022) 444 ITR 1 (SC))-Fresh notice following new procedure issued in correct name of assessee; reassessment proceedings not vitiated by incorrect name in original notice-Reassessment proceedings under fresh notice valid-SLP of assessee dismissed.[S. 147, 148, 148A(b), 148A(d), Art. 136] 2165

Dismissing the petition on writ the Court held that the notice could not be construed as a notice under section 148 and was required to be considered as a notice under section 148A(b). The notice dated July 29, 2022 was issued under section 148 after following the procedure as prescribed under section 148A and was in the name of the assessee and, therefore, could not be faulted on account of the notice having been issued in the name of a non-existent company. The reassessment proceedings under section 147 in respect of the assessment year 2014-2015 were now being continued pursuant to the notice issued under section 148 and not the notice, which was to be construed as a

notice under section 148A(b). The contention that the proceedings were vitiated on account of the fact that the notice was issued in the name of a non-existent company was unmerited. SLP of the assessee dismissed. (AY. 2014-15)
Nokia Solutions and Networks India Pvt. Ltd v. Dy. CIT (2025) 477 ITR 410/304 Taxman 583 (SC)
Editorial: Nokia Solutions and Networks India Pvt. Ltd. (successor of Nokia Siemens Networks India Pvt. Ltd.) v. Dy. CIT (2025) 477 ITR 406 /170 taxmann.com 794 (Delhi) (HC)

2166 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Pendency of appeal-SLP of assessee dismissed.[S. 148A(b), 148A(d), Art. 136]**
On writ petitions against orders passed by the Income-tax Officer, the court held that the assessment order having already been passed, and the appeal against the assessment order, having been filed and pending consideration before the appellate authority, the writ petition was dismissed. SLP of the assessee dismissed. (AY. 2019-20)
Chaturbhuj Gattani v. ITO (2025) 476 ITR 155 / 305 Taxman 1 (SC)
Editorial: Chaturbhuj Gattani v. ITO, (2024) 468 ITR 295/336 CTR 369/ (Raj)(HC) / Saroj Gattani v. ITO (2024)468 ITR 295/336 CTR 369 (Raj)(HC)

2167 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-High Court holding writ will not lie and grievances on merits to be agitated by assessees in reassessment proceedings before Assessing Officer-Supreme Court Concession of Department before Supreme Court in UOI v. Rajeev Bansal (2024) 469 ITR 46(SC) that all notices issued on or after 1-4-2021 would have to be dropped as they would not fall for completion during period prescribed under Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020-Notices dated 25-6-2021 quashed.[S. 147, 148, 148A(b), (d), Art, 226]**
Allowing the petition the Court held that in view of the concession made by the Department in *Union of India v. Rajeev Bansal, (2024) 469 ITR 46 (SC)* that for the assessment year 2015-2016, all notices issued on or after April 1, 2021 would have to be dropped as they would not fall for completion during the period prescribed under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, the notices dated June 25, 2021 were liable to be quashed.
Deepak Steel and Power Ltd. v. CBDT (2025) 476 ITR 369 /305 Taxman 169 /345 CTR 398 / 251 DTR 341 (SC)
Hanuman Khedaria v. CBDT (2025) 476 ITR 369 /305 Taxman 169 /345 CTR 398 / 251 DTR 341 (SC)
Editorial : Decision of Orissa High Court reversed, Deepak Steel and Power Ltd. v. CBDT (WP Nos. 2446 of 2023, 2543 of 2023 dt 1-2-2023

2168 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless assessment-Bogus purchases-Accommodation entry providers-Assessing Officer not required to conclusively determine escaped income at threshold stage. Order and notice for reopening assessment upheld-Issue regarding jurisdiction of**

Assessing Officer to initiate reassessment proceedings in faceless assessment regime is no longer res integra-Writ petition was dismissed. SLP of assessee dismissed. [S. 147, 148, 148A(b), 148A(d), Art. 136]

On a writ petition against an order under section 148A(d) of the Income-tax Act, 1961, directing issuance of notice under section 148 of the Act, the High Court ordered a remand to the Assessing Officer. Upon the remand the Assessing Officer again passed an order under section 148A(d) directing issuance of notice under section 148. On a writ petition, the High Court held, dismissing the petition, (i) that pursuant to the remand order of the court in the earlier writ petition, the Assessing Officer had once again examined the assessee's response to the notice under section 148A(b) and passed a fresh order under section 148A(d) for issue of notice under section 148 finding that there was information which had remained unexplained, that the alleged bogus purchases required verification and that the assessee had not produced sufficient material to establish the movements of goods. The court also held that the issue of jurisdiction of the Assessing Officer in light of the provisions for faceless assessment would abide by the decision in petitions pending before the court, and that the Assessing Officer had at the threshold stage examined the response furnished by the assessee and had found it to be a fit case to continue with the reassessment proceedings. SLP of the assessee was dismissed. (AY. 2018-19)

Vivek Kumar v. ITO (2025) 476 ITR 567 (SC)

Editorial : Vivek Kumar v. ITO (2025) 476 ITR 562 (Delhi)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Failure to issue notice-Order under section 148A(d) was not conclusive-Writ petition was dismissed-SLP of assessee dismissed. [S 147, 148, 148A(b), 148A(d), Art.136] 2169

Dismissing the petition, the Court held that the assessee was granted time up to April 14, 2023 and the order was passed only on April 21, 2023. There was no question of any remand being made for the purpose of hearing. The order issued under section 148A(d) was not conclusive. The consequent notice under section 148 having already been issued, the assessee would be entitled to raise all contentions in reply to that notice, if it had not concluded. SLP of assessee dismissed. (AY.2023-24)

Naubind Singh v. PCIT (2025) 474 ITR 196/ 175 taxmann.com 1022 (SC)

Editorial: Naubind Singh v. PCIT (2025) 474 ITR 193/ 175 taxmann.com 526 (Patna) (HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless regime-Jurisdiction of JAO-Notice after three years-Sanction of Specified Authority-Approval to be obtained from Principal Chief Commissioner-Approval from Principal Commissioner-Sanction is invalid-Order and consequent notice is invalid. S. 148-SLP of revenue was dismissed for failure to explain the delay and also on merits. [S. 147, 148A(b) 148A(d) 151(i), 151(ii), 151A, Art. 136] 2170

The Supreme Court dismissed the Revenue's SLP (with a delay of 248 days) against the judgment of the Bombay High Court. The Bombay High Court had quashed the reassessment notice dated 05.04.2022 issued for AY 2018-19 on the ground that the

Jurisdictional Assessing Officer (JAO) lacked jurisdiction to issue notice u/s 148 once the faceless regime under section 151A (Notification dated 29.03.2022) had come into force. Only the Faceless Assessing Officer (FAO) could issue such notice through automated allocation. Relying on *Hexaware Technologies Ltd v. ACIT(2024) 464 ITR 430 Bom)(HC)* the Court held that there is no concurrent jurisdiction between JAO and FAO, and any contrary view would render the faceless scheme redundant. Additionally, since the reassessment was initiated beyond 3 years, sanction had to be obtained from higher authority u/s 151(ii), as held in *Siemens Financial Services Pvt. Ltd v. Dy.CIT (2023) 154 taxmann.com 159/ 457 ITR 647 (Bom HC) and Vodafone Idea Ltd v. Dy.CIT (2024)468 ITR 346 (Bom HC).* Since the sanction was wrongly granted by PCIT under s.151(i), the approval itself was invalid. The Bombay High Court therefore declared the notice and order u/s 148A(d) as void and without jurisdiction. The Supreme Court refused to interfere and dismissed the SLP both on delay as well as merits. (AY. 2018-19)
ITO v. Prakash Pandurang Patil (2025) 481 ITR 332 /306 Taxman 341 (SC)
Editorial: affirming Prakash Pandurang Patil v. ITO.(2025) 481 ITR 325 / 177 taxmann.com 552 (Bom)(HC)

2171 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Interest on borrowed capital-Diversion of fund-Assessing Officer was not disabled from proceeding to examine entire case, including on basis of allegations which formed part of original reasons to believe-High Court dismissed the writ petition-SLP of assessee is dismissed. [S. 36(1)(iii) 147, 148, 148A(b), 148A(d), Art. 136]**
Assessee-company was engaged in the business of property development. It filed its return of income for the relevant year. Assessing Officer issued a reassessment notice on the ground that assessee-company had not paid statutory dues and that assessee illegally and fraudulently diverted a loan to its sister concern instead of paying its statutory liabilities and other creditors. On writ, the Court held that the Assessing Officer was not disabled from proceeding to examine the entire case, including on the basis of allegations which formed part of the original reasons to believe. SLP filed by assessee against said order was dismissed. (AY. 2016-17)
Alankar Apartments (P.) Ltd. v. ACIT (2025) 303 Taxman 109/477 ITR 405 (SC)
Editorial: PCIT v. Alankar Apartments (P.) Ltd(2024) 169 taxmann.com 682 /(2025) 477 ITR 399 (Delhi)(HC)

2172 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Cash credits-Large cash deposits-Inadequate explanation-Reassessment notice is held to be justified-SLP dismissed as withdrawn.[S.68, 148A(b), 148A(d), Art. 136]**
AO issued s. 148A(b) notice for large cash deposits; assessee's reply omitted quantum and source of deposits. High Court upheld reopening. Before the Supreme Court, assessee sought withdrawal of SLP to approach the High Court to correct factual errors; SLP dismissed as withdrawn. (AY. 2017-18)
Dhan Prakash Gupta v. Income-tax Dept. (2025) 303 Taxman 257 (SC)
Editorial : Dhan Prakash Gupta v. Income-tax Dept (2025)170 taxmann.com 665 (Delhi)(HC)

S. 148A : Reassessment-Conducting inquiry, providing opportunity before issue of notice-Time limit for notice-SLP disposed of in terms of Supreme Court judgment in UOI v. Rajeev Bansal (2024) 301 Taxman 238 (SC).[S. 148A(b), 148A(d), 149, Art. 136] 2173

The AO issued notice under section 148A(b) for AYs 2013-14 and 2014-15 on 27-05-2022, followed by an order under section 148A(d) dated 23-08-2022 and notice under section 148. The High Court, relying on Keenara Industries (P.) Ltd. v. ITO, quashed the notices as time-barred. On SLP, the Supreme Court disposed of the matter in terms of its judgment in *UOI v. Rajeev Bansal (2024) 301 Taxman 238 (SC)*.(AY 2013-14, 2014-15)

ITO v. Vinal Comtrade (P.) Ltd. (2025) 303 Taxman 106 (SC)

Editorial: Vinal Comtrade (P.) Ltd. v. ITO (2024) 169 taxmann.com 679 (Guj.)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-The issue involved in SLP was covered in UOI v. Rajeev Bansal [2024] 167 taxmann.com 70/301 Taxman 238 (SC)-SLP filed by revenue against order of High Court was disposed of-The Assessing Officer will dispose of the objections in terms of law laid down by the apex court in Rajeev Bansal (Supra)-The assessee is given liberty to pursue all the rights and remedies in accordance with law.[S. 148, 148A(b)), 148A(d), 149, Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, S. 3, Art. 136] 2174

Assessee filed Writ Petitions and submitted that all these petitions will be covered by judgment of New India Assurance Co. Ltd. v. ACIT [2024] 158 taxmann.com 367 (Bom) (HC) wherein it was held that, a notice, which had become time barred prior to 1-4-2021 as per then prevailing provisions, would not be revived by virtue of application of section 149(1)(b) effective from 1-4-2021, hence, reassessment proceedings initiated pursuant to judgment in Union of India v. Ashish Agarwal [2022] 138 taxmann.com 64/286 Taxman 183/444 ITR 1 (SC) would also be regarded as beyond time limit. Revenue agreed with the submissions of assessee. High Court held that orders passed under section 148A(d) and notices issued under section 148 in respective petitions were to be quashed and set aside. On SLP, the Court held that the issue involved in SLP was s covered in *UOI v. Rajeev Bansal [2024] 167 taxmann.com 70/301 Taxman 238 (SC)*. SLP filed by the revenue against the order of the High Court was disposed of. The Assessing Officer will dispose of the objections in terms of law laid down by the apex court in Rajeev Bansal (Supra). The assessee is given liberty to pursue all the rights and remedies in accordance with law.

ACIT v. Sanman Trade Impex Ltd. (2025) 303 Taxman 333 (SC)

Editorial : Virendra ship Recylers LLP v. ACIT(2025) 170 taxmann.com 588 (Bom)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Difference between remittance-sheet and account statement of various parties of bank-Reassessment was quashed earlier-Merely on ground that this being a new regime of reassessment after 1-4-2021, scope was enlarged by amended provisions for reopening-Reopening notice was to be quashed and set aside-SLP filed by revenue against order of High Court was dismissed. [S. 148A(b), 148A(d), Art. 136] 2175

Notice under section 148A(b) was issued to assessee on the ground that in the survey conducted in the case of Jammu & Kashmir Bank, wherein assessee transacted, it was found that there was a difference between the remittance sheet and account statement

of various parties of the bank. Assessing Officer, without considering the explanation of assessee company, passed order under section 148A(d) on ground that assessee's case was not selected for scrutiny and no further inquiries were conducted nor any queries were raised on said issue. He, consequently, issued a reopening notice. High Court held that since for earlier assessment years which were subjected to reopening for which notice was already quashed on same material, there could not be a reopening for year under consideration merely on ground that this being a new regime of reassessment after 1-4-2021, scope was enlarged by amended provisions for reopening. High Court further held that the reopening notice was quashed and set aside. SLP filed by revenue against the order of High Court was dismissed. (AY. 2018-19)
Dy. CIT v. Gokul Agro Resources Ltd. (2025) 303 Taxman 259 (SC)
Editorial : Gokul Agro Resources Ltd v.Dy.CIT (2025) 170 taxmann.com 668 (Guj)(HC)

2176 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Writ petition was dismissed-SLP is disposed following the order in UOI v. Rajeev Bansal [2024] 301 Taxman 238 (SC). [S. 148A(b), 148A(d), Art. 136]**
High Court dismissed the petition on the ground that Assessing Officer was yet to frame a reassessment order under section 147, and it is well settled that there is vexed distinction between jurisdictional error and error of law/fact within jurisdiction and for rectification of errors, a statutory remedy has been provided. On SLP, the Court held the issue is covered in *UOI v. Rajeev Bansal [2024] 301 Taxman 238 (SC),* accordingly, the order is disposed. (AY. 2015-16)
Dinesh Verma v. ITO (2025) 302 Taxman 367 (SC)
Editorial: Dinesh Verma v. ITO (2022) 141 taxmann.com 453/ 456 ITR 682 (P& H)(HC)

2177 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notice issued under section 148 is treated as notice under section 148A(b)-Directed to dispose of the objection in terms of UOI v. Rajeev Bansal [2024] 301 Taxman 238 (SC).[S. 149, Art. 136]**
SLP is disposed of against the order of the High Court in terms of the judgment of this Court in the case of *UOI v. Rajeev Bansal, 301 Taxman 238 (SC)*. (AY. 2013-14, 2014-15)
ITO v. Ashish Acharatlal Varaiya (2025) 302 Taxman 183 (SC)
Editorial : Ashish Acharatlal Varaiya (2023) 152 taxmmann.com 656 (Guj)(HC)

2178 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Final assessment order passed by AO is quashed only for the purpose of enabling the assessee to take up all objections and contentions vis-a-vis the impugned notices-On SLP, the Court held that the concerned AO shall consider the objections and contentions of the assessee. [S. 148, 148A(b), 148A(d), Art. 136]**
Assessee filed writ after delay of almost one year, that too just a few days before final assessment order came to be passed, impugning an order passed under section 148A(d) and consequent reopening notice; in such circumstances, assessee should exhaust its alternative remedies under provisions of Income-tax Act before approaching High Court. On SLP, the Court held that final assessment order under s. 147 is quashed for the purpose of enabling the assessee to take up all objections and contentions vis-a-vis the impugned notices; the concerned AO shall consider the objections and contentions of

the assessee vis-a-vis the impugned notices and pass a fresh order in accordance with law. Relied on, *UOI v. Rajeev Bansal (2024) 301 Taxman 238/ 469 ITR 46/ 340 CTR 565 (SC)*

Seahorse Mercantile Co. (P) Ltd. v. ITO (2025) 172 taxmann.com 163/342 CTR 238 (SC)

Editorial: Seahorse Mercantile Co. (P) Ltd. v. ITO (2025) 172 taxmann.com 62 (Bom) (HC) is set aside.

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notice in the name of dead person-High Court by an order disposed of writ petition reserving all contentions to be taken by legal heirs of assessee before Assessing Officer except contention that initial notice under section 148A(b) was issued to a dead person-Order of High Court is modified and the AO is directed to consider all legal arguments including defect notice issued in the name of dead person. [S. 148A(b), 148A(d), Art. 136] 2179

On 24-5-2022, notice under section 148A(b) was issued in the name of the assessee who had, in fact, died prior thereto on 2-9-2016. On writ before the High Court the Legal heirs of assessee contended that solely because they as legal representatives, subsequently responded to notices would not imply that the proceeding initiated was valid. The High Court disposed of the Writ petition by holding that the legal representatives could take all contentions available to them except the fact that the initial notice was issued in the name of a dead person. On SLP, the Supreme Court modified the order of the High Court and the AO is directed to consider all legal arguments, including the defect in the notice issued in the name of a dead person.(AY. 2013-14)

Ghanyashyam Anil Dhanani v. ITO (2025) 342 CTR 232/245 DTR 35/302 Taxman 411/ 476 ITR 764 (SC)

Editorial : Ghanyashyam Anil Dhanani v. ITO (2024) 169 taxmmann.com 326 / (2025) 482 ITR 1010 (Bom)(HC), partly set aside.

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Revenue itself wanted the Order under S. 148A(d) to be set aside with liberty to issue fresh notice under S. 148A(b)-Order of High Court rejecting Writ Application of the Petitioner thereby affirming the order under S. 148A(d) is set aside with liberty as prayed for. [S. 147, 148, 148A(b), 148A(d), Art. 136] 2180

The Hon'ble Supreme Court while deciding a Civil Appeal against the impugned order of the High Court wherein the High Court had rejected the writ application filed by the appellant assessee thereby affirming the order passed by the Revenue under S. 148A(d) of the Act, observed and recorded the Revenue's concession that the order under S. 148A(d) of the Act may be set aside with liberty to issue fresh notice under S. 148A(b) of the Act. Accordingly, the impugned order of the High Court came to be set aside with liberty to the Revenue to issue a fresh notice to the appellant (assessee) under S. 148A(b) of the Act in accordance with law.

Radha Soami Satsang Beas v. NFAC [2025] 302 Taxman 420/343 CTR 271/247 DTR 159 (SC).

Editorial: Radha Soami Satsang Beas v. NFAC(2024) 169 taxmann.com 477 (P & H) (HC) Set aside.

2181 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Limitation-Initial notice issued within limitation period-Subsequent order and notice for reopening assessment issued based on assessee's reply to initial notice-Held, Notice not barred by limitation-Notice and reassessment proceedings valid. [S. 147, 148, 148A(b), 148A(d), 149(1)(a), Art. 226]**

Dismissing the petition, the Court held that the date of issuing the initial notice under section 148A(b) was the relevant and crucial date for the purpose of the limitation period. The initial notice dated March 28, 2024, issued under section 148A(b), was within the limitation period prescribed under section 149(1)(a). The subsequent notice dated April 22, 2024 was issued in response to the assessee's reply dated March 31, 2024 and did not affect the validity of the reassessment proceedings under section 147. (AY. 2020-21)

Chandra Shekhar v. PCIT (2025) 481 ITR 223/173 taxmann.com 595 (Patna)(HC)

Editorial: Chandra Shekhar v. PCIT (2025) 481 ITR 229/ 307 Taxman 385 (SC)

2182 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Directions issued by Supreme Court in UOI v. Ashish Agarwal. Notice barred by limitation. Notice quashed and set aside [S. 147, 148, 148A(b), 148A(d), 149, Art. 226]**

Held, allowing the petition, that the notice issued under the pre amended provisions of section 148, after the amendment with effect from April 1, 2021, for the assessment year 2014-2015, was barred by limitation under section 149 and accordingly quashed. The order was restricted only to the point of limitation since the notice had been issued after the amendment by the Finance Act, 2021, on April 1, 2021, and that too under the provisions existing prior to the amendment.(AY. 2014-15)

Bela Kishor Varma v. PCIT (2025) 483 ITR 793 (Bom)(HC)

2183 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Death of assessee-Department not informed of death of assessee-Legal heir deemed to be assessee-Directed to respond to notice under section 142(1)-Assessing Officer directed to issue subsequent notices in name of legal heir.[S. 142(1), 148A(b), 148A(d), Art. 226]**

Held that the Department had not been informed and the view expressed by the Income-tax Officer in his order passed under section 148A(d) of the Income-tax Act, 1961, that an attempt to suppress the details had been made by the legal heir was correct. The Income-tax Officer had accepted that the death of the deceased had been noted and that in future the legal heir would be treated as deemed to be an assessee in respect of the deceased assessee and the future notices would be issued in the name of the legal heir. The legal heir's contention that since the notice issued and the orders had been passed were in the name of dead person, they were non est was not acceptable. Though the notice under section 142(1) had been issued in the name of the deceased assessee, the legal heir should respond to this notice in accordance with law. The Income-tax Officer was directed to ensure and correct his record to reflect the name of the deceased as c/o. the legal heir, and could issue a fresh notice under section 148(1). Time up to date was excluded. All rights and contentions other than that the notice issued to a dead person were kept open.

Ghanshyam Anil Dhanani v. ITO (2025) 482 ITR 1010 (Bom)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notice issued at old address-Notice was issued by jurisdictional assessing Officer and not Faceless Assessing Officer-Notice and order quashed and set aside. [S. 144B, 147, 148, 148A(b), 148A(d), Art. 226] 2184

Allowing the petition, the Court held that the Assessing Officer based in Kolkata issued notice under section 148 (preceded by a notice under section 148A(b)) and passed a reassessment order under section 147 read with section 144B. Assessee contended that notice under section 148 was invalid as it was issued by a Jurisdictional Assessing Officer instead of a Faceless Assessing Officer, and that this defect vitiated reassessment. Following the judgment in *Hexaware Technologies Ltd. v. Asstt. CIT [2024] 162 taxmann.com 225/464 ITR 430 (Bom.)(HC),* notice under section 148 and consequential proceedings were quashed and set aside. (AY. 2019-20)

Vincent Commercial Company Ltd. v. ITO (2025) 307 Taxman 320 (Bom.)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Territorial Jurisdiction-Notice issued by Assessing Officer outside territorial jurisdiction of High Court-Notice served on petitioner who is assessee within territorial jurisdiction of High Court-Petitioner required to defend notice issued on it at Mumbai-Part of cause of action arising within territorial jurisdiction of High Court maintainable-Notice-Amalgamation of companies-Notice issued to non-existent amalgamating company Intimation of amalgamation given to Department-Reassessment proceedings cannot be initiated against non-existent entity-Notices and order invalid and non est.[S. 147, 148, 148A(b),148A(d), Art. 226] 2185

On writ, the Court held that though the Assessing Officer who issued the notice was based outside the territorial jurisdiction of the High Court, the notice was served on the petitioner within the territorial jurisdiction of the court. The petitioner, who was required to defend the notice at Mumbai, had its registered office within the jurisdiction of the court. A part of the cause of action having arisen within the territorial jurisdiction of the court, the petition was maintainable. Court also held that there was neither legal basis nor jurisdiction with the Assessing Officer to issue the notice under section 148A(b), pass an order under section 148A(b) and issue the notice under section 148 to a non-existing entity UB. Once the amalgamating company had ceased to exist as a result of the scheme of amalgamation approved by the National Company Law Tribunal, there was no warrant in law for the Assessing Officer to proceed against a non-existent company. The notices at the threshold were illegal, invalid and non est.(AY. 2017-18)

Uber India Systems Pvt. Ltd. v. ACIT (2025) 483 ITR 771 (Bom)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Deceased person Details available on Income-tax portal-Notice invalid-Sanction-Mechanical sanction-Time limit wrongly mentioned as more than three years-Principal Commissioner had no power to approve-Approval sanction invalid. [S. 147, 147, 148A(b), 148A(d), 151, Art. 226] 2186

Allowing the petition, the court held that the initial notice under section 148A(b) was invalid as the Assessing Officer failed to make a basic enquiry or verify the Income-tax portal details showing the assessee's death. Such notice issued without mandated

enquiry under section 148A(a) had to be quashed. Court also held that the approval under section 151 demonstrated non-application of mind as neither the Assessing Officer, Additional or Joint Commissioner, nor Principal Commissioner noticed that the limitation period was erroneously shown as more than three years, though notice was issued within three years. If the period was more than three years, the Principal Commissioner had no power to approve.(AY. 2019-20)
Rahul Rajendra Adhikari v. ITO. (2025) 483 ITR 364 (Bom)(HC)

2187 **S. 148A : Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless regime-Jurisdiction of JAO-Notice after three years-Sanction of Specified Authority-Approval to be obtained from Principal Chief Commissioner-Approval from Principal Commissioner-Sanction is invalid-Order and consequent notice is invalid S. 148. [S. 147, 148A(b) 148A(d) 151(i), 151(ii) 151A, Art. 226]**
The Bombay High Court had quashed the reassessment notice dated 05.04.2022 issued for AY 2018-19 on the ground that the Jurisdictional Assessing Officer (JAO) lacked jurisdiction to issue notice u/s 148 once the faceless regime under section 151A (Notification dated 29.03.2022) had come into force. Only the Faceless Assessing Officer (FAO) could issue such notice through automated allocation. Relying on *Hexaware Technologies Ltd v. ACIT(2024) 464 ITR 430 Bom)(HC)* the Court held that there is no concurrent jurisdiction between JAO and FAO, and any contrary view would render the faceless scheme redundant. Additionally, since the reassessment was initiated beyond 3 years, sanction had to be obtained from higher authority u/s 151(ii), as held in *Siemens Financial Services Pvt. Ltd v. Dy. CIT (2023) 154 taxmann.com 159/ 457 ITR 647 (Bom HC) and Vodafone Idea Ltd v. Dy. CIT (2024) 468 ITR 346 (Bom HC).* Since the sanction was wrongly granted by PCIT under s.151(i), the approval itself was invalid. The Bombay High Court therefore declared the notice and order u/s 148A(d) as void and without jurisdiction.(AY. 2018-19)
Prakash Pandurang Patil v. ITO (2025) 481 ITR 325/ 177 taxmann.com 552 (Bom)(HC)
Editorial : ITO v. Prakash Pandurang Patil (2025) 481 ITR 332 / 306 Taxman 341 (SC) SLP of revenue was dismissed on account of delay as well as on merits.

2188 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Material relied upon by Assessing Officer not provided to assessee-Assessing Officer is directed to pass speaking order considering reply. [S. 148, 148A(b), 148A(d), Art 226]**
On writ, the Court held that the order under section 148A(d) for the assessment year 2019-2020 was set aside. The assessee was directed to file his reply to the order under section 148A(d), treating the allegations therein as a show-cause notice under section 148A(b). The Assessing Officer was to consider the reply and pass an order in accordance with law after giving opportunity of hearing to the assessee.(AY. 2019-20)(SJ)
Krishan Kumar Gupta v. ITO (2025) 483 ITR 1 (Cal)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Sanction-Principal Commissioner-Notice valid-Writ petition dismissed. [S. 147, 148, 148A(b), 148A(d), 151(1), 151(ii), Art. 226] 2189

Dismissing the petition the Court held that the statements of the witnesses were not the sole basis for passing the order but there were other documentary materials which had been considered while passing the order under section 148A(d). The Department based on the evidence in the form of documents, statements of entry operators and other key persons involved, facts and other circumstantial evidence and after recording satisfaction had issued notice under section 148 for initiating reassessment proceedings under section 147. There was no good ground to interfere with the order passed by the authorities under section 148A(d) and the consequent notice issued under section 148 for reopening the assessment under section 147.(AY. 2019-20)

Raika Ispat Udyog Pvt. Ltd v. PCIT (2025) 483 ITR 36 (Chhattisgarh)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Order passed after considering objections-Order valid. [S. 147, 148, 148A(b), 148A(d), Art. 226] 2190

Dismissing the petition the Court held that the documents had been supplied to the assessee in pursuance of the order passed by the court; thereafter notice was issued under section 148A(b) of the Act; the reply was filed by the assessee; thereafter the order was passed under section 148A(d) of the Act and at the same time, notice under section 148 of the Act was issued; the matter was pending before the authority and the assessee had sufficient opportunity to take all defences available to him. (Writ petition dismissed. AY. 2016-17) (SJ)

Sunil Kumar Jain Shrishrimal v. Chief CIT (2025) 483 ITR 65 (Chhattisgarh)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Non-resident-Failure to file return of income Remittances from India-Fees for technical services-Assessing Officer is directed to consider provisions of sections 115A and 139 and pass fresh order after hearing assessee.[S.9(1)(vii), 115A, 139, 147, 148, 148A(b), 148A(d), Art. 226] 2191

On writ, the Court held that on the facts and circumstances, the Assessing Officer had to consider the provisions of sections 139 and 115A and decide whether an obligation to file a return of income was cast on the assessee. The Assessing Officer should also decide as to whether, even if the return of income was not filed, that would by itself lead to a conclusion that the remittances received by the assessee were income chargeable to tax which had escaped assessment under section 147. Therefore, the order passed under section 148A(d), and the consequent notice issued under section 148 were set aside with liberty to the Assessing Officer to pass a fresh order after giving due opportunity of hearing to the assessee.(AY. 2019-20)

Timex Group USA Inc v. Dy. CIT (IT) (2025) 483 ITR 77 (Delhi)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Order in name of deceased-Not valid.[S. 148, 148A(b), 148A(d), Art. 226] 2192

Allowing the petition, the Court held that the order issued under section 148A(d) of the Income-tax Act, 1961 referred to the petitioner as the legal heir of the deceased

assessee. However, it was issued in the name of the deceased assessee. The notice and all consequential proceedings arising therefrom in the name of the deceased assessee were not sustainable. Consequently, the notice as well as order under section 148A(d) of the Act and all actions in furtherance thereof were quashed. (AY. 2018-19)
Meet Lalwani v. ITO (2025) 483 ITR 172 (MP)(HC)

2193 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Natural justice-Assessee not responding to two show-cause notices despite grant of time requested-Refusal to grant further time-No violation of principles of natural justice-Alternative remedy-writ petition dismissed. [S. 144B, 147, 148, 148A(b), 148A(d), 246A, Art. 226]**
Dismissing the petition, the Court held that on the facts, there was no violation of principles of natural justice. In respect of the first show-cause notice, the assessee had asked for time up to May 20, 2023 and it was granted to him. The assessee did not file a reply and therefore, the authority was well within its power not to grant further time. Though the second show-cause notice was issued, the assessee asked for time and did not file a reply. The assessee could not go on asking for time in response to the show-cause notice issued one after another. Therefore, there was no ground to interfere. The assessee could avail of the remedy of filing an appeal before the Commissioner (Appeals) under section 246A against the assessment order. Since the writ petition had remained pending, the Commissioner (Appeals) was to examine the appeal on the merits and the stay application, if any, filed along with the appeal, without getting into the question of limitation. (AY. 2016-17)
Shaju Pachelil Pathrose v. Add. CIT (2025) 483 ITR 218 (Ker)(HC)

2194 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Non-Resident-Principle of natural justice-Notices issued in accordance with rule 127(2) but to earlier address of assessee shown on permanent account number database-Notices and orders not served on assessee owing to assessee having moved out of India-Assessment order set aside. Matter remanded to jurisdictional Assessing Officer.[S. 144, 144B, 147, 148, 148A(b), 148A(d)-Income-tax Rules, 1962, R. 127(2), Art. 226]**
The Department issued an initial notice under section 148A(b), an order under section 148A(d) and consequent notice under section 148 of the Income-tax Act, 1961 and the assessment order serving them at the address available in the permanent account number database of the assessee in accordance with rule 127(2) of the Income-tax Rules, 1962. On a writ petition by the assessee contending that he was unaware of the notices and that the order under section 147 read with section 144 and section 144B were passed in violation of the principles of natural justice, allowing the petition, that although the Department could not be faulted for passing the assessment order under section 147 read with section 144 read with section 144B, since the notices had been issued in accordance with rule 127(2) of the Income-tax Rules, 1962, the fact was that the assessment order had been passed by the Assistant Commissioner from New Delhi. The assessee had no other connection with Karnataka State barring a brief stay there between 2010 and 2012, when he was employed in Bellary and after that had been a non-resident till date. The assessment order having been passed without the assessee

being served with the notices under section 148A(b), order under section 148A(d), notices under sections 148 and 142(1) and the order under section 147 read with section 144 read with section 144B were quashed. The matter was remitted to the Assistant Commissioner, New Delhi, to pass a fresh order on the merits. The Income-tax Officer, Hospet, was directed to transmit all the papers to the jurisdictional Income-tax Officer in Bellary in view of the migration by the assessee. Matter remanded. (AY. 2015-16)
Shravan Mani v. ACIT (2025) 483 ITR 272 (Mad)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Failure to grant seven days to file reply to initial notice-Notice for reopening assessment set aside-Matter remanded to Assessing Officer.[S. 147, 148A(b), 148A(d), Art. 226] 2195

On writ, the Court held that the failure to grant seven days of time to file a reply to the initial notice accordingly set aside the notice for reopening assessment. Matter remanded to Assessing Officer. (AY.2019-20) (SJ)
Pawan Kumar Sharma v. UOI (2025) 483 ITR 447/ 172 taxmann.com 228 (Cal)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Assessee must be given an opportunity of personal hearing.[S. 148A(b), 148A(d), Art. 226] 2196

The heading of section 148A of the Income-tax Act, 1961, itself provides for conducting an enquiry and providing an opportunity before issuance of notice under section 148. Section 148A(b) begins with "provide an opportunity of being heard to the assessee". Hearing does not mean filing a reply to the show-cause notice. If the provision of this section contemplates the opportunity of being heard, it has to be construed as a personal hearing. Therefore, there was no substance in the submission of the Department that an opportunity of being heard to the assessee contemplated under section 148A(b) does not necessarily mean a personal hearing. Held that, admittedly, no opportunity of being heard personally was given to the assessee. Hence, the notice under section 148A was not valid.(AY. 2019-20) (SJ)
Asamannoor Service Co-operative Bank Ltd v. ITO (2025) 483 ITR 648 (Ker)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-UOI v. Ashish Agarwal (2022) 444 ITR 1 (SC) Notice under section 148 deemed to be issued under section 148A-Assessee has right to reply to notice.[S. 148, 148A(b) 148A(d), Art.226] 2197

Held, that it was clear that the court had set aside and quashed both notices respectively dated March 31, 2021 and April 8, 2021, issued under section 148. The Revenue was left to proceed in accordance with law. The Revenue did proceed. However, in issuing the show-cause notice for effecting the variation, it did not comply with the amended provisions of section 148A inserted by the Finance Act, 2021 ((2021) 432 ITR (St) 52). In the facts and circumstances, the Revenue had to proceed from the stage of section 148A(b), on dispensation of inquiry as directed by the Supreme Court in Ashish Agarwal, (2022) 444 ITR 1 (SC); (2023) 1 SCC 617; 2022 SCC OnLine SC 543. The assessee had the right to reply to the show-cause notice, consideration of which may

have led to an order passed under section 148A(d), for issuance of notice under section 148 subsequent thereto. The assessee would then have had to comply by filing a return for the reassessment. This procedure was not followed. The show-cause notice dated May 3, 2023, assessment order dated May 12, 2023, and demand also dated May 12, 2023 were set aside and quashed.
Sylvesa Infotech Pvt. Ltd. v. NFAC (2025) 482 ITR 996 (Orissa)(HC)

2198 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Failure to provide personal hearing-Violation of statutory condition and principles of natural justice-Order of single judge affirmed. [S. 147, 148, 148A(b), 148A(d), Art. 226]**

Dismissing the appeal of the revenue against a single judge, the Court held that the express provisions of section 148A contemplated that the assessee should be granted an opportunity of being heard and that opportunity to be effective should include a right to a personal hearing as well. The order passed in the writ petition quashing the notice issued under section 148 for reopening the assessment under section 147 for the assessment year 2019-2020 was not interfered with.(AY. 2019-20)
ITO v. Asamannoor Service Co-operative Bank Ltd [2024] 160 taxmann.com 681 / (2025) 482 ITR 305 (Ker)(HC)

2199 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless assessment-Notice sent to registered e-mail account of assessee from web portal of Department-Notice valid-Mentioning of Officer's name curable defect and would not vitiate notice and proceedings-Writ petition dismissed. [S. 130, 151A, 144B, 148, 148A(b), 148A(d), Art. 226]**

Dismissing the petitions, that the Directorate of Income-tax (Systems) had made the allocation through automated allocation system to the respective Assessing Officer based on the permanent account number card jurisdiction. Hence, the requirement of automated allocation system had already been duly complied with. The faceless manner means, sending notice electronically by way of "e-proceedings" to the assessee's registered account through the Income-tax Business Application portal itself, i.e., web portal which is designated and controlled by the Directorate General of Income-tax System). The notices were signed digitally and were sent to the assessee electronically from the web portal of the Income-tax Business Application through the e-proceeding facilities available with the Department through the assessee's registered account from the web portal of the Income-tax Business Application. All the requirements of the scheme were duly complied with, i.e., the notice had been sent under section 148 in a faceless manner, through automated allocation, in accordance with the risk management strategy formulated by the Board as referred to in section 148A. The Directorate of Income-tax (Systems) selected the cases based on the discrepancies identified-risk management system as referred to in clause (i) of Explanation 1 to section 148. In the absence of specific provisions empowering the Faceless Assessing Officer in terms of section 144B, the power and the jurisdiction of the jurisdictional Assessing Officer could not be taken away as long as a section 148 notice is sent by automated allocation based on a risk management strategy and in a faceless manner in terms of the provisions of the scheme. All the three ingredients had been duly complied with by the Department

in issuance of the notice under section 148. Therefore, it could not be construed that the Department had sent the notice under section 148 through the Income-tax Business Application portal not in the faceless manner. If the notices had been sent in a faceless manner, the name of the officer should not be mentioned. Mentioning of the Officer's name would only be considered as a procedural error and would not vitiate the entire initiation of the proceedings under section 147 and hence, it would not affect the jurisdiction to issue the notice by the Department. Liberty was granted to the assessee to file their reply within a period of 30 days and the authorities were directed to consider the reply and pass orders after affording an opportunity of personal hearing to the assessee. (AY.2023-24)

Mark Studio India Pvt. Ltd v. ITO [2024] 169 taxmann.com 542/(2025) 482 ITR 539 (Mad) (HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Natural justice-Opportunity of hearing was not given-Strictures-Obiter dicta-Matter remanded.[S. 147, 148, 148A(b), 148A(d), Art.226] 2200

Held, that once the order under section 148A(d) was quashed by the High Court, the Assessing Officer was required to consider the assessee's reply to the notice under section 148A(b) and issue a fresh order under section 148A(d). After such order was passed, a fresh notice under section 148 should have been issued. This was not done. Moreover, the reply of the assessee on all aspects was completely disregarded by the Assessing Officer. The virtual hearing was an empty formality and no questions were put to the assessee when the assessee made submissions. Hence, the order under section 148A(d) of the Act issued without providing a reasonable opportunity to the assessee was not valid.

Obiter dicta:(para 10)." The purpose of personal hearing, whether physical or virtual is to enable the assessee to make submissions, provide clarifications and respond to questions, if posed. This can only be achieved if such hearing is interactive. Faceless assessments were introduced so as to avoid the deleterious consequences of direct interaction. Even making an allowance therefor, an appropriate mechanism should be evolved by the Income-tax Department to ensure that such hearings are conducted in a meaningful manner." (SJ)

Anitha Radhakrishnan (Mrs.) v. ITO (2025) 482 ITR 708 (Mad)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Reasons for notice not disclosed-Reassessment notice quashed and set aside.[S. 147, 148, 148A(b), 148A(d), Art. 226] 2201

Held that the notice for reassessment was not valid. First, the notice issued under section 148A(b) of the Income-tax Act, 1961, proceeded on a completely incorrect premise, i.e., that the assessee was a non-filer of an income-tax return. Second, the information concerning the salary received by the assessee, as well as the sale of property, was disclosed in the return. Third, the e-mail said to have been received from the buyer of the subject property had not been shared with the assessee. The notice was liable to be quashed.(AY. 2016-17)

Ashok Kumar Madan v. ITO [2023] 153 taxmann.com 103 / (2025) 482 ITR 798 (Delhi) (HC)

2202 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Order passed without giving assessee opportunity to be heard-Not valid.[S. 148A(b), 148A(d), Art. 226]**
Held that the main contention of the assessee was that the order under section 148A(d) of the Income-tax Act, 1961 was passed without providing proper opportunity of hearing to the assessee as the Chief Commissioner had not supplied information and material which formed the basis and were relied upon by the Department. Hence, the notices under sections 148A and 148 were not valid.(AY.2016-17)
Sunil Kumar Jain Shrishrimal v. CCIT (2025) 482 ITR 847 (Chhattisgarh) (HC)

2203 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Order passed without considering reply of assessee-Not valid.[S. 147, 148, 148A(b), 148A(d), Art. 226]**
Held that the reply of the assessee was not given due consideration by the Assessing Officer. Hence, the order dated April 15, 2023 issued under section 148A(d) of the Income-tax Act, 1961, and the consequential notice dated April 16, 2023 issued under section 148 were set aside (AY. 2009-10)
Praveen Kumar Bhardwaj v. ACIT (2025) 482 ITR 855 (Delhi)(HC)

2204 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Cash credits-Accommodation entries-Opportunity of hearing was given-Reassessment notice is affirmed-Writ petition dismissed. [S. 68, 143(1), 148A(b), 148A(d), Art. 226]**
Assessee, a partnership firm engaged in the business of trading of ferrous and non-ferrous metals. Notice under section 148A(1) was issued alleging that the assessee had entered into bogus transactions involving accommodation entries with Karthik Alloys Pvt Ltd (KAPL) during the financial year 2018-19 amounting to Rs. 88.86 lakhs. Assessee replied and sought the opportunity to hear. Assessing Officer, after perusing the reply and documentary evidence, held that mere maintenance of books and documents does not rule out discrepancies in purchases; KAPL was a defaulter and debtor of huge payments; had filed return only for one year showing 'nil' income and 'nil' profit, and its huge transactions were not commensurate with the ITR filed by it. Assessing Officer held that purchases from KAPL were sham and income had escaped assessment-Whether genuineness of transaction was a pure question of fact requiring scrutiny in reassessment; there was no violation of natural justice since opportunity was granted; sufficiency of material was beyond judicial review; and Assessing Officer had sufficient information to initiate proceedings, reassessment was justified. (AY. 2019-20)
R.S. Alloys v. ITO (2025) 307 Taxman 70 (Delhi)(HC)

2205 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Cash credits-Accommodation entries-Failure to consider the reply-Violation of principle of natural justice-Order of the Assessing Officer is set aside-the matter was remanded to the Assessing Officer to pass a fresh de-nova order under section 148A(d) after considering the reply of assessee. [S. 68, 132, 148A(b), 148A(d), Art. 226]**
Assessing Officer issued a reopening notice under section 148A on the ground that a search conducted under section 132 upon one 'M' revealed that he was an

accommodation entries provider in the form of unsecured loan and as per such information, assessee was one of the beneficiaries who had availed accommodation entry in the form of loan, which was not reflected in the accounts of the assessee. It was noted that the assessee had filed a detailed reply along with relevant documents. However, the Assessing Officer, without considering said reply, passed the impugned order under section 148A(d), holding that it was a fit case to reopen the assessment. On writ, the Court held that the Assessing Officer had failed to consider the detailed reply filed by the assessee, which would result in a breach of principles of natural justice. High Court set aside the notice issued under section 148, and the matter was remanded to the Assessing Officer to pass a fresh de novo order under section 148A(d) after considering the reply of the assessee. (AY. 2019-20)
Amarpadma Credits (P.) Ltd. v. ITO (2025) 307 Taxman 305 (Guj.)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Unexplained investments-Failure to consider the reply-Natural justice-Order and notice set aside-Matter remanded.[S. 69, 115BBE, 147, 148, 148A(b), 148A(d), Art.226] 2206
Assessee filed its return of income, which was accepted and an assessment order was passed. Subsequently, an issue arose that loss pertaining to the sale of shares of company kushal Ltd declared by the assessee could not be ascertained and, thus, an income to a certain extent had escaped assessment and notice of reassessment was issued and addition was made u/s 69 of the Act. On writ, the Court held that in response to the show cause notice, assessee filed a detailed submission explaining that transactions executed with company kushal Ltd were genuine transactions and the same was also backed by documentary evidence. However, the Assessing Officer passed an order making addition alleging unexplained investment. Since the Assessing Officer had not even bothered to consider the detailed reply made by the assessee in response to the show-cause notice. The order of the Assessing Officer was a breach of principles of natural justice and was set aside. Matter remanded. (AY. 2018-19)
Mehul Ravjibhai Surani v. AUID(2025) 307 Taxman 202 (Guj.)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Unexplained money-Allowed only four days to respond to notice-Order passed under section 148A(d) as well as notice issued under section 148 were quashed and set aside. [S. 69A, 148, 148A(b), 148A(d), Art. 226] 2207
Assessee filed its return of income, which was accepted and an assessment order was passed. Subsequently, information was uploaded on the insight portal alleging evasion of income on account of bogus purchases made by assessee from one Tanman Jewls pvt Ltd. On the basis of the same, a notice under section 148A(b) was issued to assessee. Thereafter, another notice under section 148A(b) was issued alleging bogus sales transactions with the same party and directed assessee to furnish a reply by a certain date. It was noted that assessee was allowed only four days to respond to notice, which was contrary to the minimum required statutory period of seven days as mandated under section 148A(b). However, due to insufficient time provided, assessee was unable to file a reply and adequately rebut allegations made in the second notice. Thereafter, an order under section 148A(d) was passed alleging bogus sales, and on the same date,

a notice under section 148 was issued seeking to reopen assessment. On writ, the Court held that since assessee was not given adequate time as required under section 148A(b) and was not heard before the order, the order passed under section 148A(d) as well as the notice issued under section 148 were not tenable and were quashed and set aside. (AY. 2018-19)
Atul Mahavirprasad Paldecha v. ITO (2025) 307 Taxman 331 (Guj.)(HC)

2208 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Cash deposited in bank-Failure to consider the reply-Principle of natural justice-Order of assessment was quashed and set aside. [S.144B, 148, 148A(b), 148A(d), Art. 226]**
Assessee, an agriculturist, did not file a return of income. Assessing Officer issued a notice under section 148A(b) for reopening assessment on the ground that the assessee had deposited a certain amount of cash in a bank which had remained unexplained. He passed an order under section 148A(d) and also issued a notice under section 148. Subsequently, the Assessing Officer issued a show-cause notice as per section 144B proposing addition. The assessee filed a reply to the show-cause notice. However, the Assessing Officer, without considering the reply, passed an assessment order making an addition. On writ, the Court held that the assessee had already filed a reply to the show-cause notice-Whether non-consideration of reply to the show-cause notice by the Assessing Officer had resulted in breach of principles of natural justice. The order of the Assessing Officer was set aside and directed to pass a fresh order. (AY. 2018-19)
Laxmanbhai Amarsingh Chavda v. AUD (2025) 307 Taxman 30 (Guj.)(HC)

2209 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Time limit-Minimum of seven days to respond-Order of single judge quashing the order was affirmed. [S. 148A(b), 148A(d), Art. 226]**
Assessee filed a writ petition challenging the notice issued under section 148A(b) on the ground that it did not afford a minimum of seven days to respond. Single Judge quashed said notice, accepting contention of the assessee and reserving liberty to the revenue to initiate appropriate proceedings against the assessee in accordance with law. On appeal, the Revenue contended that time provided under section 148A(b) was not mandatory and it was directory. Dismissing the contention, the Court held that section 148A requires providing a minimum of seven days' notice to the assessee to respond to said notice. The order of a single judge was affirmed.
PCCIT v. Komarla Yogendra Keertana (Smt) (2025) 307 Taxman 106 (Karn)(HC)

2210 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless assessment-Opportunity of hearing-Notice and order were quashed and set aside. [S. 144B, 148A(b) 148A(d), 151A, Art. 226]**
On writ, the Court held that in terms of the amendment brought to the Income Tax Act by way of the Finance Act, 2021, with effect from 1-4-2021, proceedings under section 148A, read with section 148, ought to be issued and proceeded in a faceless manner. Therefore, the notice issued under section 148A, read with section 148, not being issued in a faceless manner, was quashed. (AY. 2020-21)
Mallesh Goud Donkeni v. ITO (2025) 307 Taxman 190 (Telangana)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Transfer of shares-Agreed to provide the share purchase agreement, TRC, full bank statements and full reconciliation of foreign exchange and cost to the Assessing Officer-The order and notice were set aside and the matter was to be remanded back to the Assessing Officer for a fresh consideration.[S. 148, 148A(b), 148A(d), Art. 226] 2211

Assessee, an Australian company, transferred its shares in an Indian company to its UK subsidiary. Assessing Officer issued a notice under section 148A(1) on the ground that information from the risk management strategy showed that assessee was involved in a financial transaction and, in the absence of a return filed by assessee, the taxability of said transaction remained unexplained. Pursuant to said notice, assessee submitted a computation that it had incurred a long-term capital loss and made a short-term capital gain from said share transfer. Assessing Officer passed an order under section 148A(3) rejecting the computation and issued a reopening notice on the ground that, in the absence of relevant documents, the transaction required examination in detail. On writ, the Court held that since the assessee was willing to submit the share purchase agreement, TRC, full bank statements and full reconciliation of foreign exchange and cost to the Assessing Officer, the order and notice were set aside and the matter was to be remanded back to the Assessing Officer for a fresh consideration. (AY. 2020-21)

Ferra Engineering Pty Ltd. v. Asst. CIT, (IT) (2025) 307 Taxman 519 (Delhi)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Cash credits-Surrender of old PAN-Allotted new PAN-Notice and order quashed. [S. 148, 148A(b), 148A(d), Art. 226] 2212

Assessee, a cooperative society, surrendered its old PAN and was allotted a new PAN. From assessment year 2014-15 onwards, it filed returns on new PAN, and scrutiny assessments for assessment years 2014-15 to 2017-18 were completed on the new PAN. For the relevant assessment year, the Assessing Officer received information flagged on the CBDT Insight portal that certain information cropped up under the assessee's old PAN on account of transactions relating to cash deposits, withdrawals, and foreign remittances totalling Rs. 5.49 crore. Accordingly, the Assessing Officer issued notice under section 148A(a) to the assessee on the old, surrendered PAN. Subsequently, a notice under section 148A(b) followed, and an order under section 148A(d) and a notice under section 148 were issued on the old PAN. On writ, the court held that since it was not in dispute that old PAN had been surrendered, which was communicated to the office of revenue and the return relating to the relevant assessment year was filed by the assessee under the new PAN, the order under section 148A(d) as well as the notice under section 148, both under old PAN, were quashed.(AY. 2018-19)

Panchsheel Mercantile Co-Op Bank Ltd. v. ACIT (2025) 307 Taxman 649 (Guj.)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Cash credits-capital gains-Notice in the name of deceased-Information was furnished to the revenue-Notice and order quashed and set aside.[S. 68, 148, 148A(b), 148A(d), Art. 226] 2213

Assessee's father sold a property and made a capital gain. Assessing Officer issued a notice under section 148A against the assessee for alleged escapement of income on the ground that there was a sale of immovable property by the late father of assessee and

passed an order under section 148A(d) and issued a notice under section 148. On writ, the court held that the assessee had informed the Assessing Officer about the death of his father by letter, which was not considered by the Assessing Officer. The court held that any proceedings against a deceased person are a nullity and thus the order passed under section 148A(d) as well as the notice under section 148 issued against the dead person were quashed and set aside. (AY. 2016-17)
Bipinbhai v. Income-tax Officer (2025) 307 Taxman 423 (Guj.)(HC)

2214 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notice was issued by the jurisdictional Assessing Officer-Notice and all further proceedings were quashed. [S. 148A(b), 148A(d), 151A, Art. 226]**
On writ, the Court held that the show-cause notice issued by the jurisdictional Assessing Officer outside the scope of section 151A stood obliterated and all further proceedings initiated were quashed. (AY. 2017-18)
Karnataka Co-operative Sheep and Goat Rearers Societies Federation Ltd. v. ITO (2025) 307 Taxman 588 (Karn.)(HC)

2215 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Cash credits-Demonetization-Reasons recorded are contrary to facts-Notice and order under section 148A(d) are quashed and set aside.[S. 68, 148, 148A(b), 148A(d), Art. 226]**
The return was selected for scrutiny, and assessment was passed under section 143(3) of the Act. Reassessment notice was issued on the ground that cash deposits had been made in a bank account during the demonetization period, which was not supported by any available facts and records. The assessee had explained that business being in a rural area, end-users were used to make cash payment instead of any UPI payment and thus, he had explained cash deposits in bank account during assessment year as well as during demonetization period. Along with the objection, assessee had submitted requisite details, copies of bank statement, audited balance sheet, etc. However, the Assessing Officer has not referred to while disposing of the objection. On writ, the court held that since the reasons assigned by the Assessing Officer in order to disclose the objection were contrary to the facts on record, the notice issued under section 148 as well as the order passed under section 148A(d) were quashed and set aside. (AY. 2016-17)
Utpala Pradeep Jain v. ACIT (2025) 307 Taxman 432 (Guj.)(HC)

2216 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Limitation-Directions of Supreme Court in UOU v. Ashish Agarwal without following amended law-Bar of limitation-Dicta laid down by Supreme Court in UOI v. Rajeev Bansal-Notices and order barred by limitation.[S. 142(1), 147, 148, 148A(b), 148A(d), 226].**
Allowing the petition, the Court held that the notices and order were not in accordance with law as amended by the Finance Act, 2021 ((2021) 432 ITR (St.) 52). In the Supreme Court decision in *UOI v. Rajeev Bansal, (2024) 469 ITR 46 (SC)*, it had been specifically conceded by the Department that for the assessment year 2015-2016, all the notices

issued on or after April 1, 2021 would have to be dropped as they would not fall for completion during the period prescribed under the Taxation and Other Laws (Relaxation of Certain Provisions) Act, 2020. Admittedly, the assessee's case pertained to the year 2015-2016 and the notice is issued after April 1, 2021. Therefore, it was expected of the Department to act in conformity with the binding dicta of the Supreme Court. Therefore, the order dated July 27, 2022 passed under section 148A(d), the notice dated July 27, 2022 under section 148 and the notice dated December 9, 2024 under section 142(1) for the assessment year 2015-2016 were barred by limitation and hence quashed and set aside.(AY. 2015-16)
Nisha Garg v. UOI (2025) 481 ITR 257 (P&H)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notice dated 31-3-2021 under section 148 was issued within extended limitation period under section 149(1)(b) as it stood till 31-3-2021-Notice is not time-barred even after application of first proviso to section 149 as amended with effect from 1-4-2021. [S. 148, 148A(b), 148A(d), 149(1)(b), Art. 226] 2217
Dismissing the petition, the Court held that notice dated 31-3-2021 under section 148 was issued within the extended limitation period under section 149(1)(b) as it stood till 31-3-2021-Notice is not time-barred even after application of the first proviso to section 149 as amended with effect from 1-4-2021. (AY. 2015-16) (SJ)
Ramadoss Srikanthi v. ACIT (2025) 481 ITR 126 / 174 taxmann.com 150 (Mad)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Jurisdiction of Income-tax authorities Faceless procedure-Mandatory-Notices and orders issued by jurisdictional Assessing Officer-Invalid [S. 144B, 148, 148A(b), 148A(d), 151A, Art. 226] 2218
Allowing the petition the Court held that the notices and orders issued by the jurisdictional Assessing Officer, were outside the faceless mechanism as provided under the provisions of section 144B read with section 151A and the e-Assessment of Income Escaping Assessment Scheme, 2022 ((2022) 442 ITR (St.) 198) notified by the Government of India on March 29, 2022 under section 151A, and were bad and illegal. The Assessing Officer had no jurisdiction to issue the orders and notices in question.
Prameela Pasumarthi (Smt) v. Dy. CIT (2025) 481 ITR 336/ 180 taxmann.com 131/(2026) 348 CTR 226 (AP)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Face less assessment-Mandatory-Notices and orders issued by jurisdictional Assessing Officer-Invalid-Notification No.18 of 2022 dated 29-3-2021. [S. 144B, 148, 148A(b), 148A(d), 151A, Art. 226] 2219
On writ allowing the petition, the Court held that in terms of the amendment to the Act by way of Finance Act, 2021 with effect from 1-4-2021, proceedings under section 148A as also under section 148 ought to have been issued and proceeded in a faceless manner. Therefore, notice issued under section 148A as also under section 148 by the jurisdictional Assessing Officer was set aside.
Southern Power Distribution Company of Telangana Ltd v. ACIT (2025) 481 ITR 556/ 175 taxmann.com 800 (Telengana)(HC)

2220 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless assessment-Jurisdiction lies with Faceless Assessment Officer or Jurisdictional Assessing Officer-Contrary views in precedents-Decision in Mark Studio India Pvt. Ltd. v. ITO1 dissented from; matter referred to Division or larger Bench.[S. 144B, 147, 148, 148A, 151A, Art. 226]**

On writ the Court held that the notice under section 148A and order passed thereon were issued by Jurisdictional Assessing Officer (JAO) and not by a Faceless Assessing Officer (FAO), as required by provisions of section 151A, reducing "faceless assessment" to assessment by JAO by means of E-Proceedings might not constitute assessment in a faceless manner, thus, matter was to be referred to a Division/ Larger Bench on question of jurisdiction of JAO to conduct proceedings under section 148A. (AY. 2015-16) (SJ)

TVS Credit Services Ltd v. Dy. CIT (2025) 481 ITR 574/ 174 taxmann.com 1078 (Mad)(HC)

2221 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Principle of natural justice-Standard Operating Procedure (SOP)-Time allowed for reply to notice under section 148A(b) was 4 days instead of 7 days as per the Standard Operating Procedure (SOP) issued by the CBDT-No prejudice caused to the assessee merely because 4 days were provided instead of 7 days as suggested in SOP-Writ petition dismissed. [S. 148, 148A(b), 148A(d), Art. 226]**

The assessee challenged the legality and validity of the re-assessment proceedings before the Hon'ble Calcutta HC, arguing that the proceedings are vitiated since the assessee was granted only three days to reply to the show cause notice instead of seven days as provided in the CBDT's standard operating procedure. In reply, the Department argued that the assessee was granted sufficient opportunities throughout the proceedings by way of issuance of notices under section 148A(b) of the Act, 148 of the Act and 142(1) of the Act, none of which was relied to by the assessee. The Department also relied on the decision in case of *PCIT v. P L Goenka HUF [(2025) 174 taxmann.com 588 (Cal) HC)]* wherein it was held that mere breach of a SOP would not render the assessment invalid. Further, the Department also placed reliance on the decision in case of *State of U.P. v. Sudhir Kumar Singh [(2021) 19 SCC 706 (Supreme Court)]*, wherein it was held that an order cannot be said to be invalid solely on account of breach of natural justice and if there is no prejudice caused to the assessee, it cannot be said that natural justice has been denied. Accordingly, it was argued by the Department that as the assessee had not submitted replies to any of the earlier notices, no prejudice was caused. Dismissing the assessee's writ, the Hon'ble Calcutta High Court observed that the assessee had sufficient opportunities to respond to the earlier notices issued and had remedies available under the law to challenge the reassessment order and therefore, no prejudice was caused to it. However, the Hon'ble High Court gave the liberty to the assessee to challenge the reassessment order before the appropriate appellate forum.(SJ)

Mukul Mahanta v. UOI [2025] 306 Taxman 38 (Cal)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Return in response to section 148 was delayed due to technical constraint-Faceless assessment-Assessment order quashed and set aside-Directed to consider the exemption. [S.10(23), 144B, 148, Art. 226] 2222

The Assessee is a society manufacturing and selling Khadi products (textiles, agarbathis, oils, honey) claiming exemption under S.. 10(23) of the Act; the dispute centres on an assessment passed without considering a slightly delayed reply under the faceless regime, despite the return having been filed within the Sec. 148 timeline. The Assessing Officer denied the exemption. On writ, the High Court quashed the assessment and remanded the matter to the Assessing Officer to reconsider the show-cause after taking the Assessee's reply on record and to decide the exemption under Sec. 10(23), granting an opportunity of hearing. (AY. 2020-21)(SJ)

Alleppey Sarvodaya Sangh v. ITO (2025) 306 Taxman 192 (Ker)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Unexplained investments-No reason was given in support of conclusion that escaped income was more than Rs. 50 lakhs-Matter was to be remanded back to Assessing Officer to decide the same afresh in accordance with law.[S. 148A(b), 148A(d), Art. 226] 2223

Assessing Officer issued notice to assessee under section 148A(b) on the ground that assessee had purchased immovable property worth Rs. 1.21 crore but had not disclosed the same in her return of income. Assessee submitted that immovable property purchased by her was not of value of Rs. 1.21 crore but of Rs. 1.31 crore. Assessing Officer passed an order under section 148A(d); however no reason was given in support of the conclusion that escaped income was more than Rs. 50 lakhs. On writ, the Court held that since the order passed by the Assessing Officer was bereft of any cogent or plausible reasons, same was to be set aside and the matter was to be remanded back to the Assessing Officer to decide the same afresh in accordance with law. (AY. 2017-18)

Neena Singh Thakur v. PCIT (2025) 305 Taxman 194 (HP)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Unexplained expenditure-Bogus purchases-Information received from GST department-Disregarding response furnished by assessee solely for reason of information on portal and simply reiterating information as available, would render procedure under section 148A meaningless-Accordingly, reopening notice issued against assessee was set aside . [S. 69C, 148A(b), 148A(d), Art. 226] 2224

Assessee's assessment was sought to be reopened on ground that as per information received from GST department, assessee had made bogus purchases from a dummy company. Assessee submitted that it had purchased MS Ingot from said company but denied that purchases were bogus and claimed that same were duly recorded in books of account. Assessee also provided copies of purchase bills, E-way bills, transporter bill, toll tax receipts and screenshot of GSTR-1 filed through GST portal. Assessing Officer rejected evidence furnished by assessee and held that it was a fit case for re-opening of assessment. On writ, the Court held Investigation Wing had conducted an enquiry and found that no action in the case of another company, GFPL and assessee,

was recommended. Disregarding response furnished by assessee solely for reason of information on portal and simply reiterating information as available, would render procedure under section 148A meaningless. Accordingly, the reopening notice issued against assessee was set aside. (AY. 2020-21)
Devat and Ram Company (P.) Ltd. v. ITO (2025) 305 Taxman 538 (Delhi)(HC)

2225 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Purchase of house in joint name-Cash credits-Entire consideration was paid by the husband-Reassessment notice in the name of wife was quashed and set aside.[S.68, 133(6), 148, 148A(b), 148A(d), Art. 226]**
Assessee filed her return of income for the relevant assessment year declaring taxable income of a certain amount. Thereafter, a notice under section 133(6) was issued to assessee seeking details with respect to the purchase of an flat. In response, the assessee explained that she was a housewife and that the purchase of said flat was done entirely by her husband from his own funds/sources and not by her. She further stated that she had not contributed anything towards purchase of said flat and her name was added only for sake of convenience. She also produced purchase agreement as well as bank statement of her husband which indicated that entire consideration was paid by her husband. Reopening notice was issued against assessee on the ground that she had not disclosed correct income in her return. On writ allowing the petition the Court held that agreement for sale was duly stamped and registered and it was not in dispute that same was produced before Assessing Officer; bank statement of husband of assessee was also produced which showed that entire consideration paid for purchase of said flat was from funds of husband. Court held that the reopening notice issued against assessee was unjustified and same was set aside. (AY. 2021-22)
Hetal Vipul Shah v. ITO (2025) 177 taxmann.com 470/ 347 CTR 293 / 255 DTR 210 (Bom) (HC)

2226 **S 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Cash credits-Proceedings under sections 148A as also 148 ought to have been issued and proceeded in a faceless manner-Notice issued by jurisdictional Assessing Officer not in a faceless manner was bad in law and was t quashed and set aside. [S.68, 147, 148, 148A(b), 148A(d), 151A, Art. 226]**
Allowing the petition against issue of notice u/s 148 the Court held that in terms of amendment brought to Income Tax Act by way of Finance Act, 2021 with effect from 1-4-2021, proceedings under sections 148A as also 148 ought to have been issued and proceeded in a faceless manner, notice issued under section 148A and 148 by jurisdictional Assessing Officer not in a faceless manner was bad in law and quashed.
Rocky Red Sandal Exports (P) Ltd. v. UOI (2025) 306 Taxman 11 / 347 CTR 255 / 255 DTR 165 (Telengana)(HC)

2227 **S 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notice under section 148 was issued by Jurisdictional Assessing Officer (JAO) instead of Faceless Assessing Officer (FAO)-Notice was quashed-Reopening notice had been issued after more than three years from end of relevant assessment year and thus,**

reopening without sanction/approval of specified authority in accordance with section 151 was bad in law-Assessee and CBDT entered into a unilateral Advance Pricing Agreement (APA) and assessee filed a modified return as per agreement, since no adverse report was received from TPO which could lead to cancellation of agreement, Assessing Officer had no jurisdiction to make further ALP adjustments and was bound to accept modified return.[S. 92CD, 147, 148, 148A(b), 148A(b), 151, 151A, Art. 226]

Jurisdictional Assessing Officer issued notice under section 148 to assessee-Assessee challenged reopening of assessment on ground of lack of jurisdiction of JAO. Court held that in case similar to the assessee, High Court held that where notice under section 148 was issued by JAO instead of FAO, same was to be quashed. Following the order view notice issued under section 148 by JAO was without jurisdiction. Assessing Officer issued order under Section 148A(d) and a notice under section 148 on 07-04-2022 with approval of Principal Commissioner. Revenue claimed that the period of seven days furnished to the assessee to submit reply to the notice under section 148A(b) issued on 23-03-2022 was to be excluded for counting period of three years. On writ the Court held that proviso to section 151, inserted by Finance Act, 2023, with effect from 1-4-2023 could not be applied retrospectively to exclude period of seven days in furnishing reply to notice under section 148A(b) by assessee and thus, Assessing Officer could not have assumed exclusion of such a period while passing order under section 148A(d) or issuing notice under section 148 on 7-4-2022. Accordingly, the order under section 148A(d) and notice under section 148 had been issued after more than three years from the end of the relevant assessment year and prior approval of the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General was required to be obtained before passing of order under section 148A(d) or before issuance of notice under section 148. Accordingly, reopening of assessment without sanction/approval of specified authority in accordance with section 151 was bad in law. Assessee entered into a unilateral Advance Pricing Agreement (APA) with CBDT covering the relevant assessment year wherein 17 per cent of net margin was agreed upon as ALP. Pursuant thereto, assessee filed a modified return under Section 92CD and filed Annual Compliance Report in Form 3CEF within time. Subsequently, Assessing Officer issued notices proposing an adjustment in relation to modified return on the ground that nil income pursuant to APA was not supported with documentary evidence. He, accordingly, passed a reassessment order making an arm's length adjustment. Reassessment proceedings for the relevant assessment year were pending on the date of filing of the modified return. Furthermore, TPO had not submitted any finding of failure on part of assessee to comply with the terms of agreement, which could lead to cancellation of the agreement. On writ, the Court held that the Assessing Officer was not vested with jurisdiction to interpret APA as to whether assessee had satisfied terms and conditions of APA, and it was only TPO who had jurisdiction over assessee to carry out compliance audit of the agreement. In the absence of any adverse report from TPO, Assessing Officer was obligated to accept that assessee had complied with the terms of APA and thus, the Assessing Officer had no jurisdiction to make any adjustment/addition to income disclosed in such modified return. Writ petition was allowed. (AY. 2018-19)

Deloittee Consulting India Pvt. Ltd. v. NFAC(2025) 481 ITR 175 / 175 taxmann.com 781 / 347 CTR 433 / 255 DTR 417 (Telangana)(HC)

2228 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Limitation-Notices issued for asst. yr. 2015-16 are held to be invalid as same were issued during the extended period from 1st April, 2021 to 30th June, 2021 under TOLA. [S. 148, 149(1), TOLA, S. 3(1), Art. 226]**

On writ, the Court held that revenue could not have issued the notices under S. 3(1) of TOLA as, considering the time period as prescribed under S. 149 w.e.f. 1st April, 2021, three years would be over on 31st March, 2019, which is prior to the coming into force of TOLA and six years would be completed on 31st March, 2022, which is after the operation of TOLA. Notices issued under s. 148 for asst. yr. 2015-16 are held to be invalid as same were issued during the extended period from 1st April, 2021 to 30th June, 2021 under *TOLA-UOI v. Rajeev Bansal (2024) (2024) 469 ITR 46 (SC) and Mayurkumar Babubhai Patel v. Asstt. CIT & Anr. [Special Civil Appln. No. 3154 of 2022, dt. 17th June, 2025 (Guj)(HC)]* followed. (AY.2015-16)

Narendra Maganlal Purohit. v. DCIT (2025) 347 CTR 540 / 254 DTR 95 / [2026] 182 taxmann.com 786 (Guj)(HC)

2229 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Alternative remedy-Writ is maintainable.[S. 148A(b), 148A(d), 246A(1)(b), Art. 226]**

On writ the court held that-power to issue prerogative writs under Article 226 of Constitution of India is plenary and discretionary in nature, and availability of alternative remedy does not bar exercise of such jurisdiction. High Court, in exercise of its discretion, could entertain writ petition against order under section 148A(d) notwithstanding availability of alternative remedy.

Zydus Healthcare Ltd. v. ACIT (2025) 347 CTR 701/ 256 DTR 201 /180 taxmann.com 207 (Sikkim)(HC)

2230 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Limitation-Assessee was given extended time to respond to notice under section 148A(b)-Time was excludable for computing limitation under section 149(1)-Order passed under section 148A(d) was not time-barred. [S. 148A(b), 148A(d), 149(1), Art. 226]**

Court held that upon issuance of notice under section 148A(b), time or extended time allowed to assessee to file response is to be excluded while computing period of limitation under section 149(1), in addition to any period of stay granted by Court. Further, in terms of the fourth proviso to section 149(1), if remaining time for passing the order under section 148A(d) is less than 7 days, such remaining period shall stand extended to a further period of 7 days and period of limitation shall be deemed to be extended accordingly. Therefore, the Assessing Officer was entitled to exclude 25 days for computing limitation, and order dated 6-4-2023 was within time. Dismissing the writ, the Court held that since assessee also had an alternate remedy, he should pursue the same before the statutory authority. (AY. 2019-20)

Manoj Kumar Bagree v. ITO (2025) 176 taxmann.com 58 / 347 CTR 792 / 254 DTR 265 (Cal)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-A notice which was originally issued under section 148 by Jurisdictional Assessing Officer in terms of old regime and which had been deemed to be issued under section 148A(b) could be continued to be processed by same officer. [S. 148, 148A(b), 148A(d), Art.226] 2231

Post amendment on account of treating notices issued under section 148 as notice under section 148A(b), the natural corollary would be that such replies which may be received to notice issued under section 148A(b), would be examined by the same Assessing Officer, who had originally issued notices under old regime. Thereafter, the same Assessing Officer is required to pass an assessment order under the new scheme after giving notice under section 148 of the old Act. On writ, the Court held that a notice which was originally issued under section 148 by the Jurisdictional Assessing Officer in terms of the old regime and which had been deemed to be issued under section 148A(b) could be continued to be processed by the same officer. All writ petitions are dismissed.
Patran Foods (P.) Ltd v. UOI (2025) 347 CTR 363 / 170 taxmann.com 470 (P&H)(HC)

S. 148A: Reassessment-Conducting inquiry/providing opportunity before issue of notice-Information received under CBDT risk management strategy-Search-related information-Approval of Principal Commissioner sufficient-AO not required to obtain two identical approvals-Writ petition dismissed. [S. 148, 151, Art. 226] 2232

The Delhi High Court held that merely because the Assessing Officer had received information in accordance with the CBDT risk management strategy, it did not exclude recourse to Explanation 2(iv) to the proviso to section 148, where incriminating material relating to the assessee was also found during search on a group concern. The Court further held that once approval of the Principal Commissioner had been obtained for issuance of notice under section 148, the assessee's contention that a separate additional approval under clause (c) of the proviso to section 148A was also mandatory was untenable, since both approvals were substantially identical in nature. Accordingly, the writ petition challenging the notice was dismissed. (AY. 2021-22).
Killa Financial Services Pvt. Ltd. v. Dy. CIT (2025) 480 ITR 240 (Delhi)(HC)
Editorial : Killa Financial Services Pvt. Ltd.(2025) 480 ITR 242 / 180 taxmann.com 527 (SC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Limitation-Alleged escapement on share transactions-Short-term capital gains below Rs. 50 lakhs-Notice issued beyond three years-In absence of material showing escapement exceeding threshold, notice held barred by limitation-Reassessment invalid. [S 147, 148, 148A(b), 148A(d), 149(1)(a), Art. 226] 2233

For AY 2014-15, the assessee had disclosed short-term capital gains on sale of shares of a listed company and paid tax thereon. After expiry of three years, the Assessing Officer issued notice under section 148A(b) alleging escapement of income in relation to share transactions, followed by order under section 148A(d) and notice under section 148. On writ, the Delhi High Court held that at the stage of section 148A(d), the Assessing Officer is required to examine the material on record and the assessee's reply and determine whether income chargeable to tax had in fact escaped assessment and

whether the extended limitation under section 149 was available. In the present case, the allegation regarding long-term capital gains was factually incorrect, as the assessee had never claimed exempt long-term capital gains. There was also no material to show that the assessee had received the gross sale proceeds of Rs. 61.93 lakhs; the unrebutted material showed receipt of only Rs. 9.43 lakhs, which had already been offered to tax as short-term capital gains. Even assuming the share transaction was dubious, the alleged escapement could not exceed Rs. 50 lakhs so as to attract the extended limitation. Accordingly, notice issued beyond three years was barred by limitation and the reassessment proceedings were quashed. (AY. 2014-15)
Ankit Khandelwal v. ITO (2025) 480 ITR 449 (Delhi)(HC)

2234 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Sanction-Specified authority-Time limits-Surviving time-Effect of extension under 2020 Act-Approval of specified authority-Though approval under section 151(1) by Principal Commissioner for passing order under section 148A(d) and issuing notice under section 148 was valid, notices/orders issued beyond "surviving time" as explained in UOI v. Ashish Agarwal(2022) 444 ITR 1 (SC) were barred by limitation and liable to be quashed. [S. 147, 148, 148A(b), 148A(d), 149(1)(b), 151(1), Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, S. 3(1), Art. 226]**

For A.Ys. 2013-14, 2014-15, 2016-17 and 2017-18, the Department had issued old-regime notices under section 148 between 1-4-2021 and 30-6-2021 by taking recourse to the 2020 Act and thereafter issued fresh notices/orders under the new regime between July and September 2022. The High Court held that the dictum of the Supreme Court in *UOI v. Ashish Agarwal(2022) 444 ITR 1 (SC)* had to be followed in letter and spirit. Accordingly, the later notices under the new regime were to be treated as substituted notices, and the validity thereof had to be tested on the basis of the "surviving time" available after excluding the period from 30-6-2021 to 4-5-2022, the time taken for furnishing information under section 148A(b), and 15 days allowed to the assessee for reply. On this basis, the approval granted by the Principal Commissioner under section 151(1) for passing orders under section 148A(d) and issuing notices under section 148 was held to be valid. However, the question of limitation had to be examined separately in each case by computing the surviving time from the date of the original notice issued under the old regime till 30-6-2021. For A.Ys. 2016-17 and 2017-18, old-regime notices issued between 1-4-2021 and 30-6-2021 were to be treated as having been issued within three years from the end of the relevant assessment year, since the three-year period expired during 20-3-2020 to 30-6-2021. Nevertheless, on facts, the impugned orders under section 148A(d) and consequent notices under section 148 had been issued beyond the available "surviving time" and were therefore invalid. The notices, orders under section 148A(d), and all consequential proceedings were quashed. (AY. 2013-14, 2014-15, 2016-17, 2017-18)
Dhanraj Govindram Kella v. ITO (2025) 480 ITR 612 (Guj)(HC).

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice Jurisdiction of Assessing Officer-Review of original scrutiny assessment impermissible-No fresh tangible material-Loans and expenditure fully disclosed in limited scrutiny-Notice under section 148A(b), order under section 148A(d) and notice under section 148 quashed. [S. 147, 148, 148A(b), 148A(d), 149, 151, Art. 226] 2235

The assessee's assessment for A.Y. 2017-18 had been completed under section 143(3) pursuant to limited scrutiny. Thereafter, the Assessing Officer sought to reopen the assessment by issuing notice under section 148A(b) on the footing that loans advanced to certain entities and expenditure of Rs. 329 crores had escaped assessment, though all relevant details had already been called for and furnished in the original proceedings. On writ, the Court examined the post-1-4-2021 reassessment scheme and held that after the amendment, section 148 is expressly subject to section 148A, and reassessment cannot be resorted to merely to review a concluded scrutiny assessment. In the absence of any fresh and tangible material available with the Assessing Officer, reopening was without jurisdiction and amounted to an impermissible review of the original order. Accordingly, the notice under section 148A(b), the order under section 148A(d), the consequential notice under section 148 and all further proceedings were quashed. (AY. 2017-18) (SJ)

Mahogany Logistics Services Pvt. Ltd. v. ITO (2025) 480 ITR 732 (Mad)(HC)

S. 148A : Reassessment-Conducting inquiry, providing opportunity before issue of notice-Audit objection-Limitation-Amended provisions of section 149 apply to notices issued after 1-4-2021 even for earlier assessment years-Notice issued within six years not barred-Audit objection must clearly state that assessment was not made in accordance with Act-Reopening valid only to limited issues supported by definite audit objection-Matter remanded. [S. 147, 148, 148A(b), 148A(d), 149, Art. 226] 2236

The assessee's return for AY 2017-18 was accepted under section 143(3). Reassessment proceedings were initiated on the basis of an audit objection alleging escapement of income exceeding Rs. 329 crores. The assessee challenged the notice under sections 148A(d) and 148, contending that the reopening was based on change of opinion, without fresh material, and was barred by limitation. The High Court held that for notices issued after 1-4-2021, the substituted provisions of section 149 would apply even to past assessment years and, therefore, the notice issued within six years from the end of AY 2017-18 was not time-barred. However, it was held that an audit objection would constitute "information" under section 148(3)(ii) only if it clearly and unambiguously stated that the original assessment was not made in accordance with the provisions of the Act. Since this test was satisfied only in respect of processing charges and legal/professional charges, reopening on all other issues was without jurisdiction. Accordingly, the order under section 148A(d) and notice under section 148 were quashed, and the matter was remanded to the Assessing Officer to issue a fresh notice under section 148A(b) confined only to those specified issues. Matter remanded.(AY. 2017-18)

ITO v. Mahogany Logistics Services Pvt. Ltd. (2025) 480 ITR 767 (Mad)(HC)

2237 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Capital gains-Assessing quantum of escaped income in matters like this, amount mentioned in registered conveyance could not be straight away taken as income escaping assessment without deducting cost of acquisition therefrom. Order of single judge was affirmed. [S. 45, 48, 147, 148, 148A(b), 148A(d), 149(1)(b), Art. 226]**

Assessing Officer issued reopening notice dated 21-3-2023 on the ground that on sale of property LTCG arose and Rs 55 lakhs had escaped assessment. Assessee submitted that capital gain was Rs. 33.85 lakhs and as income escaping assessment did not exceed Rs. 50 lakhs, in terms of section 149(1)(b), notice under section 148 could not be issued. Single Judge, High Court held that the entirety of sale consideration should not be taken into account and words found in section 149, which was 'income chargeable to tax' must be read in terms of 'income' as arising out of 'capital gains' as provided under section 48. Single judge set aside reopening notice. While assessing the quantum of escaped income in matters like this, the amount mentioned in registered conveyance could not be straight away taken as income escaping assessment without deducting the cost of acquisition therefrom. Order of single judge was affirmed. (AY. 2016-17)

ITO v. Sanath Kumar Murali (2025) 304 Taxman 55 (Karn)(HC)

Editorial: Sanath Kumar Murali v. ITO (2023) 294 Taxman 80/ 455 ITR 370 (Karn(HC) (SJ)

2238 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Income-Deemed to accrue or arise in India-Royalties/Fees for technical services DTAA-India-Singapore. [S.9(1)(vi), 9(1)(vii), Art.12, Art. 226]**

Assessing Officer issued a reopening notice under section 148A(b), alleging that the assessee, a Singaporean company, had received a certain sum on account of FTS/FIS from an Indian company on which TDS was not deducted by the Indian payer even though consideration received by assessee was income chargeable to tax which had escaped assessment. On writ, the assessee contended that it was registered in Singapore and had no Permanent Account Number, nor any credentials in the Income-tax Portal, apart from not having received any communication whatsoever at Singapore. Court held that the revenue had not been able to demonstrate that the reopening notice under section 148A(b) was ever served upon the assessee at its registered office in Singapore, and the fact that the assessee had no Permanent Account Number nor any credentials in the IT Portal had neither been contradicted nor controverted by the revenue. The matter was remanded back to the stage of consideration of notices under section 148A(b) of the Act. (AY. 2019-20)

ST Engineering Aerospace Engines PTE Ltd. v. ACIT (2025) 304 Taxman 697 (Delhi)(HC)

2239 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless assessment-Sanction for issue of notice-Jurisdiction of authority who passed order-Interim stay was granted for a period of four weeks.[S. 144B, 148, 148A(b) 148A(d), 151A, Art. 226]**

Division bench held that since the issue was related to the jurisdiction of the authority that passed order impugned in the writ petition, there shall be an order of interim stay for a period of four weeks.

Mark Studio India (P.) Ltd. v. ITO (2025) 304 Taxman 454 (Mad)(HC)

Editorial: Mark Studio India (P.) Ltd. v. ITO (2024) 169 taxmann.com 542 (Mad)(HC) (SJ)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Considering the objection order u/s 148A(d) was passed-Again objection was raised in response to notice u/s 142(1)-No explanation for delay in filing the writ petition-Interim relief rejected-Matter listed on 7 th April, 2025 for further orders. [S. 148, 148A(b),148A(d), Art. 226] 2240

The AO passed the order under section 148A(d), considering the objection Again, an objection was raised in response to notice u/s 142(1). The petitioner thereafter filed the writ petition belatedly. The petitioner could not give any explanation for delay in filing the writ petition. Interim relief rejected. Matter listed on 7 th April, 2025 for further orders. (AY. 2015-16, 2016-17, 2018-19)

Tomorrow Technologies Global Innovation Ltd. v. ACIT (2025) 304 Taxman 703 (Bom.)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Limitation-Notice under s. 148A(b) issued on 28-3-2024 within three years is the relevant date for computing limitation-Subsequent notice dated 22-4-2024 issued pursuant to assessee's reply does not extend or shift limitation-Notice under s. 148 dated 30-4-2024 not barred by limitation. [S. 148, 148A(b), 149(1), Art. 226] 2241

Dismissing the writ petition, the Court held that proceedings for reassessment commenced with the issuance of notice under s. 148A(b) on 28-3-2024, which was within the time-limit prescribed under s. 149(1). The assessee's contention that limitation should be computed from notice dated 22-4-2024 was rejected, as the said notice was issued only in response to the assessee's reply dated 31-3-2024 and was merely consequential. On a combined reading of the fifth and sixth provisos to s. 149(1), delay, if any, has to be reckoned with reference to the first notice initiating proceedings. Since the initial notice dated 28-3-2024 was within limitation, the Assessing Officer had jurisdiction and the notice under s. 148 dated 30-4-2024 was valid. (AY. 2020-21)

Chandra Shekhar v. PCIT (2025) 345 CTR 385 / 251 DTR 315 (Pat)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notice-Limitation-Where the first notice under s. 148 issued on 23-6-2021 (to be treated as notice under s. 148A(b) in view of Ashish Agarwal) was within extended time up to 30-6-2021 under TOLA, the order under s. 148A(d) and consequential second notice under S. 148 were required to be issued within seven days of assessee's reply; second notice dated 14-7-2022 being beyond limitation, entire proceedings quashed. [S. 148, 148A(b), 148A(d), 149, 151, Art. 226] 2242

For AY 2016-17, the limitation for issuance of notice under S. 148 under the pre-31-3-2021 regime was four years from the end of the relevant assessment year, i.e., up to 31-3-2021. The first notice dated 23-6-2021 was issued within the extended period up to 30-6-2021 by virtue of TOLA and, in terms of the decision of the Supreme Court in *UOI v. Ashish Agarwal (2022) 326 CTR 473 (SC)* was required to be treated as a notice under S. 148A(b). The assessee filed reply on 7-6-2022. Consequently, the order under S. 148A(d) and the fresh notice under S. 148 were required to be issued within seven days thereafter. However, the second notice under s. 148 was issued on 14-7-2022, which was beyond the prescribed period of limitation. The Revenue's contention that the second notice was non est on account of proceedings under s. 153C, while simultaneously

arguing for revival of abated proceedings under S. 153A, was rejected as intrinsically inconsistent. In view of the definite stand of the Revenue that limitation was four years, the second notice being time-barred, all proceedings pursuant thereto were set aside without examining the issue of parallel proceedings. Ram Balram Buildhome (P) Ltd. v. ITO (2025) 345 CTR 441 (Delhi) (HC) followed. (AY. 2016-17)
Pratishtha Garg v. ACIT (2025) 345 CTR 472 / 250 DTR 383 / 174 taxmann.com 973 (Delhi)(HC)

2243 **S. 148A : Reassessment-Conducting inquiry and providing opportunity before issue of notice-Reopening after approval of resolution plan under Insolvency and Bankruptcy Code-Alleged transactions with shell companies for tax evasion-CIRP cannot be used to defeat reassessment proceedings-Writ petition dismissed. [S. 148,148A(b), 148A(d), Insolvency and Bankruptcy Code, S.31, Art. 14, 19, 226]**
The assessee challenged initiation of reassessment proceedings under sections 148 and 148A after completion of the Corporate Insolvency Resolution Process (CIRP) and approval of the resolution plan by the NCLT contending that all past liabilities stood extinguished. The High Court held that although recovery proceedings in respect of past liabilities may not survive after approval of a resolution plan under section 31 of the Insolvency and Bankruptcy Code, initiation of reassessment proceedings is not barred in law. Based on information available with the Department indicating suspicious trading patterns involving shell entities, identical purchase and sale quantities, abnormal price variations and momentary trades suggestive of fraudulent transactions undertaken to evade tax, the authorities were justified in invoking section 148A proceedings. The Court observed that CIRP cannot be permitted to operate as a mechanism to shield misdeeds, misappropriation or illegal transactions intended for tax evasion. Reassessment at this stage was only for inquiry and verification and not for fastening immediate tax liability, and the Department could also proceed against responsible directors if illegality was established. Accordingly, initiation of proceedings under section 148A was held valid and the writ petition was dismissed. Followed, Dishnet Wireless Ltd. v. Asstt. CIT (2022) 139 taxmann.com 493 (Mad)(HC). (AY. 2014-15 to 2016-17)
VRDV Traders (P.) Ltd. v. UOI (2025) 176 taxmann.com 80 / 345 CTR 729 / 252 DTR 167 (Telangana)(HC)

2244 **S. 148A : Reassessment-Conducting inquiry and providing opportunity before issue of notice-Faceless collection of information-No challenge to constitutional validity of S. 135A-Disputed factual issues cannot be examined in writ jurisdiction-Reassessment notice upheld and writ petition dismissed. [S. 135A, 148, Art. 226]**
Where the assessee challenged the reassessment notice issued pursuant to proceedings under section 148A contending that the information relied upon in the notice was erroneous and duplicated, the Court held that the petition contained no prayer challenging the constitutional validity of section 135A and, in absence of proper pleadings and reliefs, such constitutional issue could not be examined. The dispute raised by the assessee involved adjudication of factual aspects regarding correctness of statements contained in the notice, which required detailed examination by the Assessing Officer and could not be undertaken in writ jurisdiction under Article 226.

Since the reassessment scheme itself contemplated full opportunity to the assessee during proceedings and no jurisdictional error or lack of authority was demonstrated in issuance of the notice, interference at the notice stage was unwarranted. Accordingly, the writ petition seeking quashing of reassessment proceedings was dismissed. (AY. 2020-21). *Nimesh Sharad Shah v. ACIT (2025) 175 taxmann.com 528 / 345 CTR 863 / 252 DTR 212 (Bom)(HC)*

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-UOI v. Rajeev Bansal (2024) 469 ITR 46 (SC)-Order and notices not in accordance with amended procedure under Finance Act, 20212 and barred by limitation.[S. 147, 148, 148A(b),148A (d), 149-Finance Act, 2021 Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, Art. 226] 2245

Allowing the petition the court held that order section 148A(d), the consequential notice dated June 30, 2022 under section 148 and the show-cause notice dated March 10, 2025 for the assessment year 2015-2016 were issued to the assessee without following the procedure for issuance of notice in terms of the law as amended by the Finance Act, 2021 ((2021) 432 ITR (St.) 52). The Department had conceded before the Supreme Court in *UOI v. Rajeev Bansal, (2024) 469 ITR 46 (SC); 2024 SCC OnLine SC 2693* to the effect that for the assessment year 2015-2016, all notices issued on or after April 1, 2021 would have to be dropped as they would not fall for completion during the period prescribed under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. Accordingly, the order dated June 30, 2022 under section 148A(d), the consequential notice dated June 30, 2022 under Section 148 and the show-cause notice dated March 10, 2025 were set aside.(AY.2015-16)
Jay Jay Agro Industries v. ITO (2025) 479 ITR 407 (P & H)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Shares issued at less than fair market value-Revision proceedings dropped-Change of opinion-Reassessment notice and proceedings quashed and set aside. [S.56, 147, 148, 148A(b), 148A(d), 263, Art. 226] 2246

Allowing the petition the Court held that the Principal Commissioner had dropped the revision proceedings under section 263 accepting the assessee's reply and hence, it was evident that at the time of original scrutiny assessment under section 143(3) and the revision proceedings under section 263, the authorities were aware of the shares held by the assessee for a consideration which was considered to be less than the fair market value. The reasons for issuing notice under section 148A(b) were exactly similar to the reasons on which the Principal Commissioner had invoked section 263. Once the Principal Commissioner had decided in favour of the assessee after having considered its reply, the Assessing Officer had no authority to reopen the assessment under section 147. Reopening of assessment was on mere "change of opinion", and the reassessment proceedings were in the nature of review of the original assessment. Grant of approval by the Principal Chief Commissioner would not confer legitimacy to the initiation of the reassessment as the issue on which the reassessment was initiated had already been considered in the original proceedings. The higher authority could not grant approval which was in violation of the settled principles on the basis of which reassessment

action could be initiated. The initial notice under section 148A(b), the order passed under section 148A(d), the notice under section 148 and the consequential proceedings under section 147 were set aside.(AY. 2014-15)
Chandra Global Finance Ltd v. ITO [2024] 168 taxmann.com 182/ (2025) 479 ITR 502 (Delhi)(HC)

2247 **S. 148A: Reassessment-Reassessment-Conducting inquiry, providing opportunity before issue of notice-International transactions-Face less assessment scheme-Must be by faceless procedure-Notices not following faceless procedure quashed.[S. 144B, 148, 148A(b), 148(A)(d), Art. 226]**
Allowing the petition the Court held, that issue was covered by the decision of the court in *Venkataramana Reddy Patloola v. Dy.CIT (2024) 468 ITR 181 (Telengana)(HC),* holding that the phrase "to the extent provided in section 144B of the Act" in clause 3(b) of the e-Assessment of Income Escaping Assessment Scheme, 2022 dated March 29, 2022 (2022) 442 ITR (St.) 198) does not preclude the mandatory faceless procedure for issuance of notice under section 148 of the Income-tax Act, 1961, and quashing the notices on the ground that they had not been issued in a faceless manner, the writ petition was allowed.
Deepanjan Roy v. Add. DIT (2025) 478 ITR 158 (Telengana)(HC)
Editorial : SLP of revenue dismissed, Add. DIT (IT) v. Deepanjan Roy (2025) 478 ITR 160 (SC)

2248 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notice-Satisfaction-Observations of the court not to prejudice the assessee or the Department- writ petition dismissed.[S. 147, 148, 148A(b), 148A(d), Arts. 226, 227]**
In writ proceedings challenging an order passed under section 148A(d) and consequential notice under section 148, the High Court held that at the pre-notice stage, the scope of judicial review is confined only to examining the existence of information suggesting escapement of income. Issues such as sufficiency or correctness of material, or merits of the proposed reassessment, cannot be adjudicated under Article 226. A show-cause notice under section 148A(b) must contain precise and concise information enabling the assessee to understand the Assessing Officer's mind and to respond effectively. The assessee had denied the allegation of accommodation entries and sought the underlying material; however, the Assessing Officer, after considering the reply and available information, recorded satisfaction that it was a fit case for issuance of notice under section 148. The Court held that (i) observations in an order under section 148A(d) do not prejudice the assessee or the Department since the reassessment will proceed independently under section 147; and (ii) the assessee failed to show non-application of mind or that the findings were contrary to record. At this intermediary stage, interference under articles 226 or 227 was unwarranted. Writ petition dismissed. (AY 2017-18)
Shanti G.D. Ispat and Power Pvt. Ltd. v. Asst. CIT (2025) 478 ITR 166 (Chhattisgarh)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Share application money-Shell companies-Penny stock-Pendency of appeal-Second reassessment proceedings while first reassessment proceedings pending-Transaction items mentioned in order under section 148A(d) not mentioned in notice-Non-application of mind by Assessing Officer and sanctioning authority Principal Chief Commissioner-Order under section 148A(d) and notice under section 148 quashed and set aside [S. 147, 148, 148A(b), 148A(d), 151, Art. 226] 2249

Allowing the petition, the Court held that the transaction items mentioned in the order under section 148A(d) not mentioned in notice. Non-application of mind by the Assessing Officer and the sanctioning authority, the Principal Chief Commissioner. Accordingly, the order under section 148A(d) and notice under section 148 quashed and set aside. (AY 2016-17)

Samiksha Gour v. ITO [2024] 162 taxmann.com 903 / (2025) 478 ITR 187 (Bom)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Law applicable-Effect of amendment of section 148 with effect from 1-4-2022-Audit objection could form basis of notice.[S. 147, 148, 148A(b), 148A(d), Art. 226] 2250

The provisions relation to reassessment have been changed drastically changed with effect from April 1, 2022, section 148 of the Income-tax Act, 1961, has been amended and clause (ii) of Explanation 1 has been inserted which provides that any audit objection to the effect that the assessment in the case of an assessee for the relevant assessment year has not been made in accordance with the provisions of the Act would be a ground for reopening of the assessment. (SJ) (AY. 2016-17)

Sree Narayana Guru Memorial Educational and Cultural Trust v. ACIT (2025) 478 ITR 466 (Ker)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Order passed without considering the reply-Pendency of appeal-Directions were to be issued to the appellate authority to dispose of the appeals within a stipulated time frame, pursuant to which, the respondents could be directed to reconsider the matter afresh in accordance with law. [S. 148A(b), 148A(d), 250, Art. 226] 2251

Allowing the petition, the Court held that a perusal of the order dated March 31, 2023 passed under section 148A(b) of the Income-tax Act, 1961 would indicate that the detailed response dated March 24, 2023 submitted by the assessee had not been considered or appreciated by the respondents, which was sufficient to vitiate the order. Under these circumstances, non-consideration of the response of the assessee, by passing the unreasoned and non-speaking order, was violative of principles of natural justice and on this ground alone, the order was liable to be set aside. However, since the assessee's appeals in relation to the preceding assessment years were pending before the appellate authority, necessary directions were to be issued to the appellate authority to dispose of the appeals within a stipulated time frame, pursuant to which the respondents could be directed to reconsider the matter afresh in accordance with law. (SJ) (AY.2016-17, 2017-18, 2018-19)

GMR Airports Ltd v. Dy. CIT (2025) 478 ITR 482 (Kar)(HC)

2252 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Interest income on bank deposits-Order dated 22-10-2019 of National Company Law Tribunal writing off of bank loans and waiving off of statutory dues Notice and order quashed and set aside Income.[S.127(2), 147, 148, 148A(b), 148A(d), Art. 226]**
The assessee was in manufacturing business. In the Corporate Insolvency Resolution Proceeding initiated before the National Company Law Tribunal under the provisions of the Insolvency and Bankruptcy Code, 2016 the resolution professional took control and custody of the management and operations of the assessee as a going concern and by virtue of a final order dated October 22, 2019, the bank loans were written off and the statutory dues were waived off. The Principal Commissioner passed an order dated January 11, 2023 under section 127(2) of the Income-tax Act, 1961 and transferred the case of the assessee from Vadodara to Ahmedabad with immediate effect. The Assessing Officer at Vadodara issued a notice under section 148A(b) on February 14, 2023 for reopening of the assessment for the assessment year 2019-2020 on the ground that the assessee did not file return of income for the assessment year 2019-2020 though there were transactions by way of term deposits and interest income. The assessee could not respond due to the change in place of office and mail ID. The Deputy Commissioner passed an order under section 148A(d) and the consequent notice under section 148 was issued. On a writ, allowing the petition the Court held that in view of the settled legal position, the notice under section 148 and the order passed under section 148A(d) for issue of notice were untenable and were accordingly, quashed and set aside.(AY. 2019-20)
Maruti Koatsu Cylinders Ltd v. Dy. CIT (2025) 478 ITR 498 (Guj)(HC)

2253 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notice giving assessee less than seven days-Notice invalid-Limitation-Extended period of limitation Income alleged to have escaped less than fifty lakh rupees-Notice after three years-Barred by limitation.[S. 147, 148, 148A(b), 148A(d), 149(1)(a), Art. 226]**
Held that Section 148A(b) of the Income-tax Act, 1961, requires providing opportunity of being heard to the assessee by serving upon him or her a notice to show cause within such time as may be specified in the notice being "not less than seven days" but not exceeding thirty days from the date on which such notice is issued. Both the terminal days have to be excluded for the purpose of complying with the requirement of words "not less than... days". Held, that admittedly, the notice dated March 16, 2022 was issued or posted on March 17, 2022 and the date fixed for response was March 23, 2022. Excluding the date of sending of the notice as well the last date indicated, even if the notice was received by the assessee, the time granted fell short of the seven day period, as envisaged by the provisions of section 148A(b) of the Act; and, for violation of mandatory provisions of section 148A(b) of the Act, the notice issued to the assessee could not be sustained. Court also held that, moreover, the amount was less than Rs. 50,00,000 and for the assessment year 2015-2016, the notice had been issued on March 16, 2022, i.e. beyond three years. It was ex facie barred by limitation and consequently was without jurisdiction.(AY. 2015-16)
Bijendra Singh v. PCIT [2024] 162 taxmann.com 66 / (2025) 478 ITR 493 (Raj)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Initial notice allowing five days to reply-Minimum seven days required to be granted under statute for assessee to respond-Assessee filing reply after five days-Order and notice set aside with direction to Assessing Officer to consider reply filed by assessee and pass appropriate order.[148, 148A(b),148A(d), 151, Art. 226] 2254

Allowing the petition the Court held that since the Department had stated that the assessee could be given one more opportunity to respond to the initial notice under section 148A(b) dated August 21, 2024, the order dated August 31, 2024 passed under section 148A(d) and the consequent notice dated August 31, 2024 issued under section 148 were set aside. The Assessing Officer was to consider the reply already filed by the assessee on August 27, 2024 and pass an appropriate order. In the event the Assessing Officer considered that it was a fit case for issuing notice under section 148, necessary approval under section 151 could be obtained from the concerned Chief Commissioner, as was the requirement for the assessment year 2018-2019 (AY. 2018-19)

Anuj Ghuliani v. ITO (2025) 478 ITR 526/172 taxmann.com 224 ((Delhi)(HC)

Editorial : Anuj Ghuliani v. ITO [2025] 306 Taxman 93/ 478 ITR 528 (SC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Conversion of firm into private limited company-Notice in name of non-existent dissolved firm-Reassessment proceedings initiated against dissolved firm-All transactions actually conducted by successor company using its permanent account number-Department's failure to consider conversion despite intimation Notice issued under section 148 and reassessment proceedings and reassessment order passed in name of non-existent firm set aside.[S. 142(1), 144, 144B, 147, 148, Art. 226] 2255

Held, allowing the petition, that the fact that the assessee was converted into a private limited company with the dissolution of the partnership firm on July 14, 2010. With such conversion, the permanent account numbers were also altered. The documents that had been filed by the assessee in respect of which the proceedings were initiated pertained to exports made by the assessee with the same Importer-Exporter Code, and copies of the export shipping bills showed that the permanent account number of the company with the Importer-Exporter Code had been declared. Similarly, copies of the bills of entry also indicated that the bills of entry contained the permanent account number of the assessee-company with the same Importer-Exporter Code and not the permanent account number of the partnership firm which had expired with effect from July 14, 2010. The assessee had also filed copy of form 15CA acknowledgment with respect to remittance to non-resident or foreign company which also indicated the name of the assessee-company with the assessee's permanent account number. On the other hand, the order itself had been passed in the name of the non-existing firm based on a notice that was issued in the name of non-existing firm. All along the assessee had replied to the Department. However, the Department had failed to take note of the same and had thus confirmed the demand. The Assistant Commissioner had also rightly dropped the proceedings by an order, under section 148A(d) for the subsequent assessment year 2016-2017. The notice issued under section 148 and the order passed under section 147 read with sections 144 and 144B were arbitrary and showed clear non-application of mind and hence were set aside. (SJ) (AY. 2015-16)

NRP Projects Pvt. Ltd. (successor to the erstwhile firm N.R. Patel and Co.) v. NFAC (2025) 478 ITR 690 (Mad)(HC)

2256 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Amalgamation-Notice issued to non-existent transferor assessee after court-approved amalgamation-Assessment order passed against dissolved company-Notice and consequential proceedings invalid.[S. 147, 148, 148A(b), 148A(d), Art. 226]**
Allowing the petition, the Court held that the order and proceedings initiated under section 147 against the assessee after amalgamation were invalid. The assessee had informed the Department about the amalgamation and had enclosed a copy of the court order by way of a communication dated March 8, 2023. The Department had issued an assessment order against the transferee-company for the assessment year 2015-2016 on December 20, 2017. The assessment order dated March 14, 2023 was accordingly quashed, and the Department was given liberty to initiate proceedings against the transferee-company in accordance with law.(AY. 2015-16)
Pon Pure Chem Pvt. Ltd. v. NFAC (2025) 478 ITR 723 (Mad)(HC)

2257 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Limitation-Notice issued pursuant to directions of Supreme Court in UOI v. Ashish Agarwal (2022) 444 ITR 1 (SC)-Notice signed digitally on 31-3-2021 and placed on portal-Notice dispatched through e-mail sent and speed post on 1-4-2021-Where notice sent electronically, date of dispatch of e-mail to be considered as date of issue of notice not barred by limitation [S. 147, 148, 148A(b), 148A(d), 149(1), Art. 226]**
On a writ petition challenging the notice issued under section 148A(b) of the Income-tax Act, 1961 pursuant to the directions of the Supreme Court in *Union of India v. Ashish Agarwal, (2022) 444 ITR 1 (SC)* the order passed under section 148A(d) and the consequent notice issued under section 148 on the ground that it was issued beyond the period of limitation prescribed under section 149(1) for the assessment year 2013-2014, dismissing the petition, the Court held that the notice under section 148 had been signed digitally on the system on March 31, 2021 and was, thus, placed on the portal, though the e-mail was despatched to the assessee on the morning of April 1, 2021 at 07:30: 47 a.m. and was delivered at 07:30: 48 a.m. The notice was also despatched to the assessee by speed post on April 1, 2021. The date of notice was vital for determining the rights of the parties and there could be no uncertainty regarding the date of issuance of notice. Therefore, it was necessary that the date of issue of notice be ascertained on completion of the precise steps for issuance of the notice. Where the notice was sent electronically, the date of dispatch of the e-mail was to be considered as the date of issue of the notice and the date of issue of notice would have to be taken as April 1, 2021. If there was no dispute that the date of issuance of notice was considered as April 1, 2021, then such notice was required to be treated as a notice under section 148A(b) in terms of the decision of the Supreme Court. The notice under section 148 is a jurisdictional notice and issuance of such notice is necessary for the Assessing Officer to assume jurisdiction to reassess the income under section 147. If the notice under section 148 is found to be invalid, it would vitiate the proceedings commenced pursuant thereto. Merely because the parties had laboured under a misconception at the initial stage that the initial notice issued under section 148 was valid, that would not invalidate the subsequent actions taken by the Department. If the original notice dated March 31, 2021 was construed as a notice served on April 1, 2021, the assessee's challenge to the notice and the order was rejected. (AY. 2013-14)
Rajesh Chopra v. ITO (2025) 479 ITR 354/179 taxmann.com 84 (Delhi)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notice issued by jurisdictional Assessing Officer under old regime Effect of Supreme Court decision in UOI v. Ashish Agarwal (2022) 444 ITR 1 (SC)-Writ petition dismissed-Liberty granted to file an appeal.[147, 148, 148A(b) 148A(d),246A, Art. 226] 2258

Dismissing the petition, the Court held that the jurisdictional Assessing Officer would continue to proceed and have jurisdiction to decide the notices under section 148 which were originally issued by him. The original notice under section 148 was issued by the jurisdictional Assessing Officer, which had been treated as a notice under section 148A of the new regime and section 148 of the old regime, as notices under section 148A(a) and (b). He would, therefore, be the best person to assess and reassess under section 147. Where there was an allegation of escapement of income, on account of which notices were issued by the jurisdictional Assessing Officer, it must be reached to a logical conclusion by the same officer. The procedure which had been laid down under the new regime would have to be followed by the jurisdictional Assessing Officer. No prejudice would be caused if such a course was adopted by the jurisdictional Assessing Officer. The assessees relating to the orders passed by the Assessing Officer on the merits could be raised in appeal before the appellate authority. If appeals were filed, they should be decided on the merits, and the delay should be condoned. The prescribed time limitation under the Act should be accordingly treated as extended on account of the pendency of the writ petitions.

Patran Foods Pvt. Ltd. v. UOI (2025) 479 ITR 379 /170 taxmann.com 470/347 CTR 363 / 255 DTR 351 (P & H) (HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless regime-Notice issued by Jurisdictional Assessing Officer (JAO) after 01.04.2022-Held to be valid-The Court clarified that paragraph 3 of the Scheme requires only automated allocation, not faceless issuance-Writ petitions dismissed-Not followed Hexaware Technologies Limited v. ACIT [2024] 162 taxmann.com 225/ 464 ITR 430 / 338 CTR 536 (Bom)(HC). [S. 119 120, 124, 144B, 147, 148 148A, 151A, Art. 226] 2259

A group of petitions challenged the jurisdiction of the Jurisdictional Assessing Officer ("JAO") to issue notices u/s 148 after 01.04.2022 on the ground that, after introduction of Section 151A and the e-Assessment of Income Escaping Assessment Scheme, 2022 (Notification No. 18/2022 dated 29.03.2022), such notices could be issued only by the Faceless Assessing Officer through automated allocation. Petitioners relied heavily on the Bombay High Court judgment in *Hexaware Technologies Limited v. ACIT [2024] 162 taxmann.com 225/ 464 ITR 430 / 338 CTR 536 (Bom)(HC)* and similar rulings of Telangana, Gauhati, Punjab & Haryana and Rajasthan High Courts holding that notices issued by JAOs post-1-4-2022 are without jurisdiction; Revenue pointed out conflicting views of Calcutta and Delhi High Courts and submitted that SLP against Hexaware is pending before the Supreme Court. The Gujarat High Court examined the statutory scheme under Sections 147, 148, 148A, 151A, 120, 124, 130 and Section 144B along with the 2022 Faceless Schemes to determine whether issuance of notice by the JAO, instead of the Faceless system, vitiates jurisdiction. The matter was admitted earlier and, considering over 400 pending petitions on the same issue and divergent views of various

High Courts, the Court heard both sides on the common question of law regarding the validity of reassessment notices issued by JAOs after 1-4-2022 under the faceless regime. After analysing Section 151A, the E-Assessment of Income Escaping Assessment Scheme, 2022, and Section 144B, as well as divergent High Court rulings (including *Hexaware Technologies Limited v. ACIT [2024] 162 taxmann.com 225/ 464 ITR 430 / 338 CTR 536 (Bom)(HC, Kankanala Ravindra Reddy v. ITO [2023] 295 Taxman 652 (Telengana)(HC) Triton Overseas P. Ltd v UOI [2023] 156 taxmann.com 318 (Cal)(HC),T.K.S. Builders (P.) Ltd. v. ITO(2024) 167 taxmann.com 759. 469 ITR 657 (Delhi)(HC)*

The Court held that:

1. The Jurisdictional Assessing Officer (JAO) can validly issue notice under Section 148. The Court rejected the contention that only the Faceless Assessing Officer (FAO)/NFAC can issue such notices.

2. "Faceless manner" in the Scheme applies only to assessment/reassessment, not to issuance of notice.

The Court held that the phrase "and in faceless manner" in the Scheme is qualified by the words that follow it-"to the extent provided in Section 144B with reference to making assessment or reassessment"-meaning:

3.Faceless assessment is mandatory,

Faceless issuance of notice under Section 148 is not mandated, because Section 144B does not cover issuance of Section 148 notices.

4. The Scheme, 2022 does NOT eliminate the JAO's jurisdiction to issue notice.

The Court clarified that paragraph 3 of the Scheme requires only automated allocation, not faceless issuance. Section 148A enquires and satisfaction must still be carried out by the Assessing Officer, which is consistent with JAO issuing the notice.

5. The interpretation adopted by Bombay & Telangana High Courts (Hexaware line of cases) was not accepted.

The Court expressly disagreed with the view that only NFAC/FAO has jurisdiction to issue Section 148 notices.

Petitions challenging the jurisdiction of JAO to issue notice under Section 148 were dismissed.

The Court upheld the validity of notices issued by JAOs after 01-04-2022.

Snehdham Trust & Ors v. ACIT [2025] 181 taxmann.com 98 / [2026] 485 ITR 24 (Guj)(HC)

2260 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Amalgamation-Fresh notice issued as per Supreme Court directions in UOI v. Ashish Agarwal(2022) 444 ITR 1 (SC))-Fresh notice following new procedure issued in correct name of assessee Reassessment proceedings not vitiated by incorrect name in original notice-Reassessment proceedings under fresh notice valid.[S. 147, 148, 148A(b), 148A(d), Art. 226]**

Dismissing the petition the Court held that the notice could not be construed as a notice under section 148 and was required to be considered as a notice under section 148A(b). The notice dated July 29, 2022 was issued under section 148 after following the procedure as prescribed under section 148A and was in the name of the assessee and, therefore, could not be faulted on account of the notice having been issued in the name of a non-existent company. The reassessment proceedings under section 147 in

respect of the assessment year 2014-2015 were now being continued pursuant to the notice issued under section 148 and not the notice, which was to be construed as a notice under section 148A(b). The contention that the proceedings were vitiated on account of the fact that the notice was issued in the name of a non-existent company was unmerited. (AY. 2014-15)

Nokia Solutions and Networks India Pvt. Ltd. (successor of Nokia Siemens Networks India Pvt. Ltd.) v. Dy. CIT (2025) 477 ITR 406 /170 taxmann.com 794 (Delhi) (HC)

Editorial: SLP rejected, Nokia Solutions and Networks India (P.) Ltd.v. Dy.CIT (2025) 304 Taxman 583 / 477 ITR 410 (SC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Limitation-Issue of notice under new regime not permissible if time barred under old regime-By virtue of TOLA, Assessing Officer had period of twenty-nine days limitation left on date of commencement of reassessment proceedings to issue a notice under section 148-Notice dated 30-7-2022 for Assessment Year 2013-14 issued beyond period of limitation-Order and consequential notices set aside. [S. 144, 144B, 147, 148, 148(A)(b), 148A(d), 149, TOLA, 2020, S 3(1), Art. 226] 2261

Assessee filed writ on ground that a notice dated 01-06-2021 issued under section 148 and notice under section 148A(b) issued on 30-5-2022 in furtherance of notice dated 1-6-2021 and impugned order passed under section 148A(d) and notice issued under section 148 issued on 30-7-2022 were beyond period of limitation as provided under section 149(1). The Court held that last date for issuance of notice under section 148 for assessment year 2013-14 under statutory framework, as was existing prior to 1-4-2021 was 31-3-2020 and by virtue of section 3(1) of TOLA, it was extended till 30-6-2021 and, thus, notice dated 1-6-2021 was issued twenty-nine days prior to expiry of period of limitation for issuing a notice under section 148 as was extended by TOLA. The period from 1-6-2021 and date of decision of Supreme Court on 4-5-2022 in UOI v. Ashish Agarwal(2022) 286 Taxman 183/ 444 ITR 1(SC) and period from date of said decision till date of providing material, as required to be accompanied with a notice under section 148A(b), was required to be excluded by virtue of third proviso to section 149(1). Further, time granted to assessee to respond to notice dated 30-5-2022 was also required to be excluded by virtue of third proviso to section 149(1).By virtue of TOLA, Assessing Officer had period of twenty-nine days limitation left on date of commencement of reassessment proceedings, which began on 1-6-2021, to issue a notice under section 148 and said notice was required to be accompanied by an order under section 148A(d), thus, an order under section 148A(d) was required to be passed within said twenty-nine days notwithstanding time stipulated under section 148A(d). Since assessee had furnished its response to notice under section 148A(b) on 13-6-2022, time available to Assessing Officer to pass an order under section 148A(d) was necessarily truncated and same was required to be passed on or before 12-7-2022. Thus, notice dated 30-7-2022 had been issued beyond period of limitation and was to be set aside. (AY. 2013-14)

Ram Balram Build Home Pvt Ltd v. ITO (2025) 477 ITR 133 /171 taxmann.com 99/ 345 CTR 441 / 250 DTR 353 (Delhi)(HC)

2262 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Accepting information furnished by assessee-Order for conducting further enquiry-Not valid. [S. 147, 148, 148A(b), 148 A(d), Art. 226]**

Allowing the petition, the Court held that the Assessing Officer wanted to verify the genuineness of the contract work done by the assessee or whether any accommodation entry was provided to P. The Assessing Officer had accepted the contention of the assessee and held that the information report by the insight portal was accounted for by the assessee in his books and income arising out of those transactions was duly offered for taxation. Therefore, the order dated April 21, 2023 under section 148A(d) of the Act could not be sustained. (AY. 2019-20)

S.V. Jadhav v. ITO [2024] 163 taxmann.com 263 /(2025) 477 ITR 80 (Bom)(HC)

2263 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Limitation-Time limit of four years reduced to three years for all situations-Time limits of four years and six years from end of relevant assessment years specified under Act not affected Assessing Officer required to issue notice for reopening assessment under section 148 of new regime within limit of surviving period under Act read with 2020 Act-Notice dated 29-7-2022 issued beyond surviving period of 2-7-2022 for assessment year 2013-2014 barred by limitation-Order for issue of notice and notice and consequent assessment order quashed and set aside. [S. 144B, 147, 148, 148A(b), 148A(d), 149 (1), Income-tax Act, 1961, ss. 144B, 147, 148, 148A(b), (d), 149(1) Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, S. 3(1), Art. 226]**

On a writ petition challenging the order under section 148A(d) and the consequent notice under section 148 dated July 29, 2022 for the assessment year 2013-2014 as time barred in view of the first proviso to substituted section 149 as interpreted by the Supreme Court, allowing the petition, the Court held that the submission of the Revenue that section 148A(d) extended the time limit under section 149(1) or had a bearing on the time under section 149(1) was misconceived and lacked legal sanctity. The period for reassessment in terms of section 149 of the old regime was deemed to be extended till June 30, 2021 under the 2020 Act. The notice dated June 29, 2021 would be deemed to be a notice under section 148A(b). The surviving period excluding the date of re-issuance of notice on June 29, 2021 would be the remaining days in the month of June 2021 (June 30, 2021-June 28, 2021), namely, two days. On June 30, 2021, the extension in terms of the 2020 Act, would come to an end. The period that was excluded would be the period up to June 30, 2021, covered by the provisions of the Income-tax Act read with the 2020 Act, the period from July 1, 2021 to May 3, 2022 being the period before the decision of the Supreme Court in *UOI v. Ashish Agarwal, (2022) 444 ITR 1 (SC),* the period from May 4, 2022 till May 20, 2022, the date when the material was furnished and the reasons for reopening were given to the assessee, the period of two weeks for reply to be filed by the assessee, which ended on June 4, 2022 and the extended time to file reply (additional reply was filed by the assessee on June 28, 2022). Further extension was given to the assessee in pursuance of notice dated July 14, 2021 giving additional time of one week in view of change in the incumbent to the office, which period ended on July 21, 2022. On the facts, considering all the exclusion periods, the remainder days for conclusion of the procedure for passing of an order under section

148A(d) and issuance of notice under section 148 would be two days from July 21, 2022 which had expired on July 23, 2022. The notice under section 148 dated July 29, 2022 was time barred. The order under section 148A(d) and the notice issued under section 148, dated July 29, 2022, which were after the surviving period that had expired on July 21, 2022 were beyond the time period specified under section 149(1) and hence quashed. Consequently, the assessment order dated May 29, 2023 passed on the basis of the notice under section 148 was quashed and set aside.(AY. 2013-14)
Gurpreet Singh v. Dy. CIT (2025) 477 ITR 167 (Bom)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-limitation-Notice issued after expiry of six years from relevant assessment year barred by limitation [S. 147, 148, 148A(b), 148A(d), 149(1)(b), Art. 226] 2264
On a writ petition challenging the initial notice under section 148A(b), the order under section 148A(d) and the consequential notice under section 148 for reopening the assessment for the assessment year 2017-2018:
Held, allowing the petition, that the period of six years for the relevant assessment year 2017-2018 had expired on March 31, 2024. The notice issued under section 148 thereafter for reopening the assessment under section 147 was barred by limitation. Followed *UOI v. Rajeev Bansal (2024) 469 ITR 46 (SC)* (AY. 2017-18)
Felix Generics Pvt. Ltd. v. Dy. CIT (2025) 477 ITR 368 (Delhi)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Not granting sufficient time to reply-Principal Commissioner granting approval for notice prior to digitally signing of initial notice and passing of order for issue of notice for reassessment-Notice and order not valid.[S. 147, 148, 148A(b), 148A(d), Art. 226] 2265
The Court held that no time was granted to the assessee by the Assessing Officer to file a reply and, therefore, the notice issued under section 148A(b) of the Act was not valid. That the Principal Commissioner had granted the approval to the issuance of notice under section 148 of the Act prior to even digitally signing of the notice under section 148A(b) of the Act as well as to the date of passing of the order under section 148A(d) of the Act on March 26, 2022. That therefore, the notice under section 148 of the Act is issued admittedly without jurisdiction and contrary to the provisions of the Act. The order dated March 26, 2022 passed under section 148A(d) of the Act as well as the notice dated March 29, 2022 issued under section 148 of the Act were quashed. (AY. 2018-19)
Ninaben Tusharbhai Shah v. ITO [2024] 161 taxmann.com 442/ (2025) 477 ITR 378 (Guj) (HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Diversion of loan-Proceedings continued under section 148A pursuant to direction of Supreme Court in UOI v. Ashish Agarwal (2022) 444 ITR 1 (1) (SC)-Reassessment proceedings held to be valid. [S. 147, 148, 148A(b), 148A(d), Art. 226] 2266
Dismissing the petition, the Court held that the credible information which constituted the bedrock for the formation of opinion had categorically alluded to the alleged

diversion of the loan to sister concerns. The direction of the court was to carry out an exercise of examining the explanation as proffered by the assessee afresh. The Assessing Officer was not disabled from proceeding to examine the entire case, including on the basis of the allegations which formed part of the original reasons to believe. (AY. 2016-17)
Alankar Apartments Pvt. Ltd v. ACIT [2024] 169 taxmann.com 682 /(2025) 477 ITR 399 (Delhi)(HC)

2267 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Information found recorded in coded electronic books of account of searched party-No scrutiny assessment-Reassessment notice is valid-Limitation-Quantum of escapement of income Limitation for assessment year 2017-2018 existing beyond 31-3-2021-Reassessment proceedings within prescribed time limit of six or ten years. [S. 147, 148, 148A(d), 153, Art. 226]**
Dismissing the petition, the court held that, on an analysis done by the Departmental authorities, they had formed an opinion that the entries found recorded in the electronic books of account of OML were coded. There was nothing to doubt the prima facie relevancy of the information received by the Departmental authorities for the purpose of initiating the reassessment proceedings. The assessee was not subjected to regular assessment under section 143(3) for the assessment year 2017-2018. Therefore, there was no earlier assessment where the facts being alleged against the assessee or his income had been examined. The reassessment notice was valid. Court also held that the limitation of reassessment proceedings for the assessment year 2017-2018 would exist beyond March 31, 2021. Whether six years or ten years, the reassessment proceedings initiated against the assessee vide notice under section 148 dated March 6, 2024, remained within the time limit. (AY. 2017-18)
Ravindra Pratap Shahi v. UOI (2025) 477 ITR 490 (All)(HC)

2268 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Credits pertaining to earlier years-Transaction explained-Reassessment notice and order disposing the objection were quashed.[S.68, 147, 148, 148A(b), 148A(d), Art. 226]**
Assessee, a partnership firm engaged in the cotton bale and yarn business, filed a return which was accepted. Later, based on the Insight portal information of bank credits/ debits, transactions with 'M', mutual fund sale, TDS on motor vehicle, and foreign currency purchase, AO issued a reopening notice under section 148A(b) and passed an order under section 148A(d) alleging income escapement. However, bank credits pertained to earlier years, and the assessee had already furnished the ledger and tax audit details for transactions with 'M'.Held that since AO lacked valid information suggesting escapement of income, he had no jurisdiction to reopen, and the reopening notice was quashed.(AY. 2018-19)
Ajay Cotspin Industries v. ITO [2025] 178 taxmann.com 64 (Guj)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Cash credits-Reinitiation of reassessment proceedings already Reassessment action on same reasons-Reassessment notice and order quashed. [S. 68, 147, 148 148A(b), 148(A)(d), Art.226] 2269

Allowing the petition the Court held that the reassessment proceedings had already concluded and an order had been passed under section 147. The reassessment action was reinitiated on the same set of reasons vide a notice under section 148A(b) of the Act. The right of the Department to reopen the concluded assessment was based on a perceived reading of the decision of the Supreme Court in *UOI v. Ashish Agarwal, (2022) 444 ITR 1 (SC); (2023) 1 SCC 617.* In view of the law enunciated by the Delhi High Court in *Anindita Sengupta v. Asst. CIT, (2024) 467 ITR 624 (Dehi)(HC)* the reinitiation of reassessment was not sustained. The order under section 148A(d) and the consequential notice under section 148 for the assessment year 2014-2015 were quashed.(AY. 2014-15)
Jaswant Singh Juneja v. ITO (2025) 476 ITR 28 (Delhi)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Principles of natural justice-Opportunity of personal hearing was not granted-Assessment order, consequential demand and penalty notices set aside. Matter remanded for fresh disposal.[S. 147, 148, 148A(b), 148A(d), Art. 226] 2270

On writ, the Court held that though a personal hearing was sought for by the assessee, it had been denied on the ground that the assessee would have nothing further to add to the reply already filed in response to the initial notice under section 148A(b). Such an approach was not appropriate. If the law requires the grant of a personal hearing, it should not be ordinarily denied. Although the assessment order was appealable under the Act, the writ petition was entertained since there was violation of principles of natural justice. The assessment order and the consequent notice of demand were set aside. The matter was remanded to the Assessing Officer for fresh disposal.
Pico Capital Pvt. Ltd. v. Dy. CIT (2025) 476 ITR 209/ 170 taxmann.com 638 (Bom)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Political parties-Approval without application of mind-Assessing Officer restrained from enforcing final assessment order without leave of court. [S. 13A. 147, 148, 148A(b), 148A(d), 151, Art.226] 2271

On writ the Court held that the Department was on the verge of concluding the assessment proceedings, the assessee despite having made out a prima facie case was not entitled to stay of further proceedings, though a limited protection could be afforded. The assessment order was yet to be passed. The assessee was granted liberty to respond to the notice proposing variation dated March 13, 2025 before March 29, 2025. Accordingly, if such response was filed, the faceless assessment unit should accept such response and upon providing opportunity of hearing, if sought for, could take the proceeding under section 148A to its logical conclusion. However, the order if any, to be passed by the faceless assessment unit should not be communicated to the assessee nor uploaded or enforced without the leave of this court.(AY. 2017-18)
All India Trinamool Congress v. ACIT (2025) 476 ITR 340 /173 taxmann.com 125 /344 CTR 201 / 248 DTR 393 (Cal)(HC)

2272 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Search and seizure-Asset-Limitation-Six or ten assessment years preceding search for which assessment can be reopened-Asset-Assessment year 2016-2017 fell beyond the block of six years the notice issued under section 148 and the reassessment proceedings under section 147 initiated pursuant thereto were set aside. [S. 132, 132A, 147, 148, 148A(b), 148 A(d), 153A(1), proviso 4.]**

Allowing the petition the Court held that there was no allegation that the income which had escaped assessment was represented in the form of an asset. Therefore, the conditions as stipulated in clause (a) of the fourth proviso to section 153A(1) were not satisfied. The Assessing Officer did not have possession of any books of account, other documents or evidence, which revealed that the assessee's income that was represented in the form of an asset as defined in terms of Explanation 2 to section 153A(1) which included immovable property being land or building or both, shares and securities, loans and advances, deposits in bank accounts, had escaped assessment. He had sought to disallow expenses doubting their genuineness holding that they were not incurred wholly or exclusively for the purpose of the assessee's business. In the absence of any further material to establish that such expenses had resulted in the acquisition of any asset, the conditions stipulated in the fourth proviso to section 153A(1) would not be satisfied. Therefore, the period of limitation for issuing a notice under section 153A had to be confined to a period of six assessment years immediately preceding the assessment year relevant to the previous year in which the search under section 132 was conducted. The search having been conducted in the financial year 2022-2023, the relevant block of six assessment years would be the six assessment years preceding the assessment year 2023-2024. Accordingly, since the assessment year 2016-2017 fell beyond the block of six years the notice issued under section 148 and the reassessment proceedings under section 147 initiated pursuant thereto were set aside.(AY. 2016-17)

Smart Chip Pvt. Ltd. v. ACIT (2025) 476 ITR 389/174 taxmann.com 297 (Delhi)(HC)

2273 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless assessment-Bogus purchases-Accommodation entry providers-Assessing Officer not required to conclusively determine escaped income at threshold stage Order and notice for reopening assessment upheld-Issue regarding jurisdiction of Assessing Officer to initiate reassessment proceedings in faceless assessment regime is no more res integra-Writ petition was dismissed. [S. 147, 148, 148A(b), 148A(d), Art. 226]**

Held that the Assessing Officer had once again examined the assessee's response to the notice under section 148A(b) and had deleted the reference to income, which on examination, was found to have been declared by the assessee. However, the Assessing Officer had also found that there was information which had remained unexplained and had accordingly passed a fresh order under section 148A(d) for issue of notice under section 148. Although the assessee had reiterated that the alleged bogus purchases were genuine, the Assessing Officer had found that they required verification and that the assessee had not produced sufficient material to establish the movements of goods. That in the earlier writ petition on the contention that the Assessing Officer did not have jurisdiction to initiate the reassessment proceedings under section 147 in the faceless

assessment regime, the court had observed that the issue was pending consideration in a batch of matters and directed that the outcome of the proceedings initiated by the Assessing Officer would abide by the decision in those petitions. The issue regarding the jurisdiction of the Assessing Officer to initiate reassessment proceedings under section 147 had been concluded.(AY. 2018-19)
Vivek Kumar v. ITO (2025) 476 ITR 562 (Delhi)(HC)
Editorial : SLP dismissed, Vivek Kumar v ITO (2025) 476 ITR 567 (SC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Bogus purchase-Accommodation entries Unexplained income-The Assessing Officer is not required to conclusive determine escaped income at threshold stage-Order and notice for reopening assessment up held. [S. 69, 147, 148, 148A(b), 148A(d), Art. 226] 2274
Dismissing the petition the court held that the Assessing Officer is not required to conclusive determine escaped income at threshold stage at the time of issuing the notice under section 148 of the Act. Order and notice for reopening assessment up held. (AY. 2018-19)
Vivek Kumar (No. 2) v. ITO (2025) 476 ITR 562 (Delhi)(HC)

S. 148A : Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless assessment-Pendency of appeal-Appellate authority bound by earlier decision of High Court-Stay of assessment orders until outcome of appellate proceedings-All contentions kept open. [S.144B, 147, 148, 148A(b), 148A(d), 246A, 250, Art. 226] 2275
Writ petitions challenged notice under s. 148A(b), order under s. 148A(d), notice under s. 148, assessment under s. 147 read with s. 144B and consequential orders for AYs 2014-15 and 2016-17, pending statutory appeal under s. 246A before the Commissioner (Appeals). The court observed that the appellate authority is bound by the jurisdictional High Court's decisions, including *Hexaware Technologies Ltd. v. Asst. CIT (2024) 464 ITR 430 (Bom)(HC)*, and therefore the assessee may raise before the Commissioner (Appeals) all pleas argued in the writ petitions-including illegality of the s. 148 notice. The appellate authority must consider those pleas and pass appropriate orders; accordingly, the assessment orders should not be acted upon until appellate proceedings conclude. All contentions were kept open.(AY. 2014-15, 2016-17)
Astra Exim Pvt. Ltd. v. ITO (2025) 475 ITR 418 (Bom)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless assessment-Pendency of appeal-All contentions kept open. [S.144, 144B, 47, 148, 148A(b), 148A(d), 246A, 250, Art. 226] 2276
On a writ seeking to quash initial notice under s. 148A(b), the order under S. 148A(d), notice under s. 148 and assessment under S. 147 read with S. 144 and 144B and consequential orders, the court directed that the assessee should pursue its statutory appeal under s. 246A before the Commissioner (Appeals) and file an interim application requesting disposal in light of *Hexaware Technologies Ltd v. ACIT (2025) 475 ITR 413 (Bom)(HC)*. The assessee may raise all contentions in the appeal; the Commissioner (Appeals) should consider any interim application expeditiously. Until the appellate

proceedings conclude, the assessment should not be acted upon. All contentions were expressly kept open.
Shantilal Prabhudas & Co. v. ITO (2025) 475 ITR 425 (Bom)(HC)

2277 **S. 148A : Reassessment-Conducting inquiry, providing opportunity before issue of notice-Demonetisation-Cash deposited-No tangible material-Change of opinion-Reassessment notice and order disposing the objection was quashed.[S. 147, 148, 148A(b), 148A(d), Art. 226]**
The assessee had deposited specified bank notes during the demonetisation period. In the scrutiny assessment completed under section 143(3) on December 31, 2019, the Assessing Officer had examined this issue in detail and accepted the return of income after verifying the records. Later, on the basis of audit objection, notice under section 148A(b) was issued on March 19, 2024. The Court held that the power to reopen assessment post April 1, 1989 is wider, but the words "reason to believe" cannot be interpreted so as to permit reopening merely on a change of opinion. Since the issue of demonetisation cash deposits had already been examined and accepted in scrutiny, the reassessment amounted to review of the same matter, which is impermissible. Accordingly, the notice and order disposing of the objection were quashed as invalid. (AY. 2017-18)
Dilip Laximan Powar v. ITO [2024] 167 taxmann.com 109 / (2025) 474 ITR 72 (Bom.)(HC)

2278 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Initial notice against dead person-Mandatory requirement-Notice and order were quashed.[S. 147, 148, 148A(b), 148A(d), Art. 226]**
Held, allowing the petition, that the mandatory requirement of prior show-cause notice, hearing and passing of order under section 148A before issuance of reassessment notice under section 148 could not be fulfilled in the case of a dead person. The legal heirs could not be bound by a non-existent order. However, the Department was not precluded from issuing a fresh notice to the heirs if the requirements of section 147 or 148 were otherwise satisfied. Followed *UMC Technologies Pvt. Ltd. v. Food Corporation of India, (2021) 2 SCC 551; 2020 SCC OnLine SC 934*, wherein the Court held that be the first principle of civilised jurisprudence that a person against whom any action is sought to be taken or whose right or interests are being affected should be given a reasonable opportunity to defend himself. (AY. 2015-16)
Gourang Anil Wakade (Legal heir of late Mrs. Meena Anil Wakade) v. ITO (2025) 474 ITR 575 (Bom)(HC)

2279 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless assessment-Notice and order in the name of dead person-Corresponding with chartered accountant of assessee irrelevant-Service of notice not on living person, legal heir Held, notices and orders quashed and set aside.[S. 144, 144B, 147, 148, 148A(d), 156, 159, Art. 226]**
Allowing the petition the Court held that the son of the deceased assessee had informed the Department about the demise of the assessee by way of a communication along with a copy of the death certificate and the receipt of such communication had been endorsed. The explanation that the Department was corresponding with the chartered

accountant was neither relevant nor convincing. No notices were issued to the legal representatives under section 159. The notices and orders were issued to the dead person, and consequently the legal representatives could not be said to have knowledge of them. The notices and orders were quashed. The Department was given liberty to conduct the proceedings against the legal representatives of the assessee in accordance with law.
Amjad Ahmed Shaikh (legal heir of late Ahmed Gulamnabi Shaikh) v. ITO (2025) 474 ITR 579 (Bom)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Cash credits-Reopening based on new information-Cash receipts & credit card expenses-Reassessment notice is affirmed.[S. 68, 148A(b), 148A(d), Art. 226 2280
AO reopened assessment on receipt of post-assessment information of unverified cash receipts and credit card expenses. These issues were outside the scope of the earlier limited scrutiny and not examined. High Court upheld reopening, leaving merits to assessment/appellate proceedings. (AY. 2016-17)
Sanjay Ratra v. ACIT (2025) 303 Taxman 168 / 476 ITR 323 /343 CTR 661 (Bom)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless assessment-Notice is issued by the Jurisdictional Assessing Officer-On writ the Court set aside the notice issued under Section 148 and all other proceedings/ orders emanating therefrom-Honourable Court has granted liberty to the Revenue to revive the order simply by moving a Praecipe before this Court-The Court also observed that once the Petition is revived and restored, the same would have to be decided on its own merits considering that several other issues are also raised in challenging the Notice issued under Section 148 [S. 148, Art. 226] 2281
The assessee filed the writ petition and challenged the Notice issued under Section 148 of the Income-Tax Act, 1961 on various grounds. One of the grounds is that the Notice has been issued by the Jurisdictional Assessing Officer when the law mandates that it has to be issued by the Faceless Assessing Officer. This is a fatal defect, and therefore the Notice has to be quashed. The petitioner relied on *Hexaware Technologies Limited v. ACIT [2024] 162 taxmann.com 225/ 464 ITR 430 / 338 CTR 536 (Bom)(HC),* The Revenue contended that the said decision has been challenged before the Hon'ble Supreme Court and the Hon'ble Supreme Court is likely to take up the matter immediately on re-opening. Revenue also fairly stated that there is no stay to the judgment in Hexaware Technologies Ltd (Supra). The Honourable Court followed the jurisdictional High Court and allowed the petition of the assessee and set aside the notice issued under Section 148 and all other proceedings/orders emanating therefrom. Honourable Court has granted liberty to the Revenue to revive the order simply by moving a Praecipe before this Court. The Court also observed that once the Petition is revived and restored, the same would have to be decided on its own merits considering that several other issues are also raised in challenging the Notice issued under Section 148. (AY. 2019-20)
Caishen Enterprise LLP v. ACIT (2025) 306 Taxman 138 (Bom)(HC).

2282 **S. 148A: Reassessment-Conducting inquiry; providing opportunity before issue of notice-Faceless assessment-Initial notice and order-Pending appeal before Commissioner (Appeals) and revision application before Principal Chief Commissioner-Stay of assessment order until outcome of appellate proceedings and revisional application-All contentions of assessee kept open for raising before statutory authorities. [S. 144, 144B, 147, 148, 148A(b), 148A(d), 250, 253; Art. 226]**
Where an initial notice under s. 148A(b), order under s. 148A(d), notice under s. 148 and an assessment order under ss. 147 read with 144 and 144B were challenged while a statutory appeal under s. 246A before the Commissioner (Appeals) and a revision application under s. 264 before the Principal Chief Commissioner were pending, the High Court held that the assessee was entitled to raise all contentions before those statutory fora. The appellate and revisional authorities, being bound by the court's earlier decisions, must consider legal challenges to the notices and assessment; consequently, the writ court should not pre-empt issues that could be decided by the appellate or revisional authorities. Liberty was therefore granted to the assessee to raise all contentions before those authorities, and the assessment order under S. 147 read with 144B was directed to remain stayed until conclusion of the pending proceedings.
Rajan Pradeepkumar Dubey v. ITO, (2025) 475 ITR 413 (Bom. HC)

2283 **S. 148A : Reassessment-Conducting inquiry, providing opportunity before issue of notice-Original notice under section 148 issued before 1-4-2021 culminated in reassessment order attaining finality-Fresh notice under section 148A(b) impermissible-Supreme Court directions in UOI v. Ashish Agarwal limited to pending reassessment proceedings-Notice and order quashed. [S. 147, 148, 148A(b), 148A(d), Art. 226]**
For AY 2017-18, notice under section 148 was issued on 28-6-2021 culminating in an order on 30-3-2022, which attained finality. Relying on *UOI v. Ashish Agarwal (2022) 444 ITR 1 (SC),* the AO issued a fresh notice under section 148A(b) on 1-6-2022 leading to a fresh order under section 148A(d). Held, allowing the petition, that the Supreme Court's directions were confined to reassessment notices pending as of 4-5-2022 and did not authorize reopening of already concluded assessments. Therefore, the order under section 148A(d) and consequential notice under section 148 dated 31-7-2022 were quashed. (AY. 2017-18)
Merton v. Dy. CIT (2025) 475 ITR 734 / 171 taxmann.com 544 (Mad)(HC)

2284 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Professional-Anesthesiologist-No tangible material-Reassessment notice and order was quashed. [S. 148A(b), 148A(d), 192, 194J, Art. 226]**
Allowing the petition, the Court held that the reasons stated in the notice issued under section 148A(b) of the Income-tax Act, 1961, dated March 26, 2022, did not justify the conclusion that the assessee was not a professional. Unless the Department had the document to substantiate that the assessee was an employee in the respective hospitals, from whom he had received consideration and deductions were made wrongly under section 194J instead of section 192, the Department could not reopen the assessment. The assessee being an anesthesiologist was consulting in several hospitals and thus, had received remuneration for the services rendered to these hospitals, although on a

monthly basis. There was no justification in reopening the assessment. The order under section 148A was not valid.(AY. 2018-19) (SJ)
Sankarnaryanasamy Selvanarayanan v. ITO [2024] 164 taxmann.com 169/ (2025) 475 ITR 173 (Mad)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Alternative remedy-Writ petition was dismissed. [S. 147, 147, 148A(b), 148A(d), Art. 226] 2285

On writ, the Court held that from the order or the documents relied on by the assessee, it did not appear that the assessee had made any specific request before the Assessing Officer, inter alia, praying for issuance of summons on A for him to be produced for the purpose of cross-examining him. The assessee having not approached the court earlier and having not made any specific prayer for cross-examining A before the Assessing Officer at the stage of the proceeding under section 147 of the Income-tax Act, 1961, the writ petition could not be entertained on such ground. Admittedly, there was an alternative remedy in the form of appeal. Hence, the order could not be quashed.
Dinesh Khaitan v. UOI [2024] 163 taxmann.com 39 /(2025) 475 ITR 722 (Cal)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Original notice under section 148 issued before 1-4-2021 which culminated in reassessment order attaining finality-Fresh notice under section 148A(b) issued pursuant to direction of Supreme Court in UOI v. Ashish Agarwal (2022) 444 ITR1 (SC), Supreme Court directions limited to pending reassessment proceedings-Notice and order quashed Fresh reassessment impermissible for concluded assessment [S. 147, 148, 148A(b), 148A(d), Art. 226] 2286

For the assessment year 2017-2018, the Assessing Officer issued a notice under section 148 of the Income-tax Act, 1961 on June 28, 2021 which had culminated in an assessment order dated March 30, 2022. Both the Department and the assessee accepted this order, and no further proceedings were initiated thereafter. However, following the Supreme Court's directions in *Union of India v. Ashish Agarwal, (2022) 444 ITR 1 (SC); (2023) 1 SCC 617; 2022 SCC OnLine SC 543 dated May 4, 2022*, the Assessing Officer issued a fresh notice under section 148A(b) on June 1, 2022 which led to an order under section 148A(d) and a consequential notice under section 148 both dated July 31, 2022. On a writ petition:
Held, allowing the petition, that the Supreme Court decision in *Union of India v. Ashish Agarwal, (2022) 444 ITR 1 (SC); (2023) 1 SCC 617; 2022 SCC OnLine SC 543* under article 142 of the Constitution of India was to put to rest the issues that arose out of the amendment to the Income-tax Act, 1961 by the Finance Act, 2021 (2021) 432 ITR (St) 52). The Supreme Court had not given any direction to the Assessing Officer to reopen assessments that were already completed by treating notices issued under section 148 as initial notices under section 148A(b) as amended with effect from April 1, 2021. Therefore, the order passed under section 148A(d), and the consequential notice under section 148, both dated July 31, 2022, were quashed. (AY. 2017-18) (SJ)
Merton v. Dy. CIT (2025) 475 ITR 734 /171 taxmann.com 544 (Mad)(HC)

2287 **S. 148A: Reassessment-Conducting inquiry; providing opportunity before issue of notice-Recovery of tax-Insolvency of assessee-Effect of Insolvency and Bankruptcy Code, 2016-Claims of tax cannot be made subsequent to plan by Resolution Professional-All claims not forming part of resolution plan stand extinguished. [S. 144, 147, 148, 148A(b), 148A(d), Insolvency and Bankruptcy Code, 2016, S. 31(1), 238; Art. 226]**

The court held that the demand raised by notice dated 20 March 2023 pursuant to the assessment order dated 13 March 2023 did not pertain to any claim that formed part of the resolution plan. Proceedings continued under S. 147 read with 144 likewise did not relate to any claim included in the resolution plan; consequently, notices issued by the Commissioner (Appeals) and references for hearing of appeals filed by the assessee stood extinguished on 1 July 2022 because no demand existed in the absence of any claim raised before the resolution professional by the Department. For the assessment year 2018-19, in the absence of any demand pending as on 1 July 2022, any demand raised subsequently could not be treated as a claim before the resolution professional; therefore, the demand arising from the assessment order dated 13 March 2023 could not be said to have been extinguished. The Commissioner (Appeals) notices were quashed and set aside; however, the petition for interim relief staying implementation and execution of the orders and notices dated 31 March 2022, 13 March 2023 and 20 March 2023 (including operation of ss. 148A(d) and 148) was rejected.

Surya Exim Ltd. (through director Bhawani Singh) v. UOI, [2024] 161 taxmann.com 749 / (2025) 475 ITR 306 (Guj) (HC).

2288 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-UOI v. Ashish Agarwal (2022) 444 ITR 1 (SC)-Notice cannot be issued in respect of completed assessment.[S. 147, 148, 148A(b), 148A(d), Art. 226]**

Allowing the petition, the Court held that the notices dated June 1, 2022 and July 16, 2022, issued under section 148A(b) and section 148, respectively and the order dated July 16, 2022 passed under section 148A(d) were liable to be quashed. The procedure envisaged in *Union of India v. Ashish Agarwal, (2022) 444 ITR 1 (SC)* is unambiguously confined to matters where, although notices may have been issued, proceedings were yet to attain finality. Judgment neither spoke of completed assessments nor did it embody any direction that could be legitimately or justifiably construed as mandating completed assessments being reopened. (AY. 2015-16)

Akshita Jindal v. ITO (2025) 474 ITR 614 (Delhi)(HC)

2289 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notices of reassessment for earlier years issued under old procedure quashed-Order for issue of notice under new procedure based on same material not valid. [S. 143(1), 147, 148, 148A(b) 148A(d), Art. 226]**

Allowing the petition, the Court held that when notices for reopening of assessments for the earlier assessment years on the same material had been quashed, there could not be a reopening for the year under consideration only because for the year under consideration no scrutiny assessment is undertaken by the Assessing Officer. This being a new regime of reassessment after April 1, 2021, no different treatment could be given

for reopening only because the scope was enlarged by the amended provisions for reopening. Therefore, the order passed under section 148A(d) of the Income-tax Act, 1961, as well as the notice under section 148, were not valid and hence quashed. (AY. 2018-19)
Gokul Agro Resources Ltd v. Dy. CIT (No 2.)(2025) 474 ITR 564 (Guj)(HC)

S. 148A : Reassessment-Conducting inquiry, providing opportunity before issue of notice-Failure to file return-Unexplained money-Section 69A is applicable even where assessee is not required to maintain books of account-Cost of Rs. 10,000 imposed on assessee to be paid to Adyar Cancer Institute-Matter remanded to NFAC-Addition confirmed as regards the difference between stamp value and agreement value. [S. 56(2)(x)(b)(B), 69A, 148, 148A(b), 148A(d), Art. 226] 2290
The assessee did not file a return of income for A.Y. 2019-20 on the ground that her income was below the exemption limit. She had purchased an immovable property for Rs. 1.56 crores. The AO issued notice under section 148A(b), considered the reply, and thereafter issued notice under section 148. Additions were made of Rs. 1.56 crores under section 69A and Rs. 26.16 lakhs under section 56(2)(vii)(b) for differential value between agreement and market value. In writ proceedings, the assessee contended that funds were provided by her husband directly to the vendor, evidenced by bank statements, and that section 69A applied only to assessees maintaining books of account.. On writ the Court held that, Section 69A applies even where an assessee is not required to maintain books of account, as evident from the words "books of account, if any." Since the assessee failed to establish that the source funds of Rs. 1.56 crores were reported in her husband's return of income, the matter was remanded to the NFAC for fresh consideration subject to payment of Rs. 10,000 as costs to Adyar Cancer Institute. As regards the addition under section 56(2)(x)(b)(B), the Court held that reference in the notice to section 56(2)(vii)(b) instead of section 56(2)(x)(b)(B) did not vitiate the assessment since the provisions were substantially similar, and the differential value exceeded the statutory thresholds. The addition of Rs. 26.16 lakhs was therefore sustained.(AY. 2019-20)
R. Chitra (Mrs.) v. NFAC [2024] 164 taxmann.com 134 / (2025) 474 ITR 78 (Mad)(HC) (SJ)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Order passed without considering the reply-Order set aside.[S. 147, 148, 148(A(b), 148A(d) Art. 226] 2291
Allowing the petition, the Court held that the Assessing Officer was required to decide on the basis of material available on record, including the reply filed by the assessee whether it was a fit case to issue notice under section 148 or not. The matter was remanded back to the Assessing Officer to pass a fresh order after giving an opportunity of hearing to the assessee. (AY. 2018-19)
Kanishka Prints Pvt. Ltd. v. ACIT (2025) 474 ITR 86 /163 taxmann.com 178 ((Guj)(HC)

2292 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Failure to file return-Unexplained money-Books of accounts-Section 69A applicable even where assessee is not required to maintain books of account-Cost of Rs. 10,000 imposed to be paid to Adyar Cancer Institute-Matter remanded to NFAC-Addition confirmed as regards difference between stamp value and agreement value. [S. 56(2)(x)(b)(B), 69A, 148, 148A(b), 148A(d), Art. 226]**

The assessee had not filed a return of income for A.Y. 2019-20 on the ground that her income was below the exemption limit. She purchased an immovable property for Rs. 1.56 crores, which triggered reassessment proceedings under section 148A. Additions were made of Rs. 1.56 crores under section 69A and Rs. 26.16 lakhs under section 56(2)(vii)(b) [later applied as section 56(2)(x)(b)(B)] being the differential between agreement value and stamp duty value. On a writ petition, the Court held that section 69A applies even where the assessee is not required to maintain books of account. Though the Assessing Officer was prima facie satisfied with the explanation regarding the source of Rs. 1.56 crores, the assessee failed to produce her husband's return of income and relevant documents. The matter was remanded to NFAC for fresh consideration of the section 69A addition, subject to payment of Rs. 10,000 as costs to Adyar Cancer Institute. The addition of Rs. 26.16 lakhs under section 56(2)(x)(b)(B) was upheld as valid.(AY. 2019-20) (SJ)

R. Chitra (Mrs.) v. NFAC [2024] 164 taxmann.com 134 / (2025) 474 ITR 78 (Mad)(HC)

2293 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Failure to issue notice-Order under section 148A(d) was not conclusive-Writ petition was dismissed. [S 147, 148, 148A(b), 148A(d), Art.226]**

Dismissing the petition, the Court held that the assessee was granted time up to April 14, 2023 and the order was passed only on April 21, 2023. There was no question of any remand being made for the purpose of hearing. The order issued under section 148A(d) was not conclusive. The consequent notice under section 148 having already been issued, the assessee would be entitled to raise all contentions in reply to that notice, if it had not concluded. (AY.))

Naubind Singh v. PCIT (2025) 474 ITR 193 (Patna)(HC)

Editorial: SLP of assessee dismissed, Naubind Singh v Pr. CIT (2025) 474 ITR 196 (SC)

2294 **S. 148A : Reassessment-Cash credits-Accommodation entry-Demonetisation-Notice upheld-Writ petition dismissed. [S. 68, 132, 147, 148, 148A(b), 148A(d), Art. 226]**

Search and seizure revealed the assessee received ₹6.39 crore through RTGS from an entry provider during demonetisation, corroborated by statement under oath and seized diary. AO, after following S. 148A procedure, issued notice for reassessment. Court held that sufficient prima facie material existed, and the assessee could contest in reassessment. Writ petition is dismissed. (AY 2017-18)

R.K. Bullion v. ACIT, Central (2025) 303 Taxman 195 (MP)(HC)

S. 148A: Reassessment-Unexplained investments-Issue examined in the assessment-Notice quashed [S. 69B, 148, 148A(b), 148A(d), Art. 226] 2295

The AO issued a second reopening notice on undervaluation of shares, alleging TREPL owned the entire property, ignoring that in the earlier reassessment the extent of ownership (two floors) was examined and accepted. Court held this was the same issue revisited without new material; the reopening was invalid. (AY 2017-18)

Sarika Kansal v. ACIT (2025) 303 Taxman 636 (Delhi)(HC)

S. 148A: Reassessment-Unexplained money-Bogus transactions-Writ to quash notice dismissed. [S. 69A,133A, 148, 148A(b), 148A(d), Art. 226] 2296

Survey on an entry operator revealed that the assessee's purchases/sales were only paper transactions with no underlying movement of goods. AO complied with s. 148A procedure and concluded that these were bogus transactions. Court upheld the reopening as valid and refused to interfere under Art. 226. (AY 2018-19)(SJ)

Abhishek Mittal v. UOI (2025) 303 Taxman 1 (Gauhati)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Succession to business otherwise than on death-Merger-Factum of disclosure of merger had remained uncontested; notice for reassessment issued in name of entity which had ceased to exist could not be sustained. [S. 148, 148A(b), 148A(d), 170, Art. 226] 2297

The assessee company was amalgamated with another company. Subsequently, a notice under section 148 was issued in the name of the pre-merger assessee. Assessee filed its reply to aforesaid notice and specifically brought to the attention of the revenue the factum of merger of the assessee with another company. Despite that disclosure being made, revenue proceeded to frame a final order under section 148A(d) as well as to issue notice under section 148, both drawn in the name of the pre-merger assessee. On writ, the Court held that since the factum of disclosure of merger had remained uncontested, the impugned notice for reassessment issued in the name of an entity which had ceased to exist could not be sustained. (AY. 2014-15)

Moonlight Equity (P.) Ltd. v. UOI (2025) 303 Taxman 603 (Delhi)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Central Circle-Notice issued by jurisdictional Assessing Officer (JAO) rather than the Faceless Assessment Officer (FAO)-Notice and consequential order under section 148A(d) is quashed and set aside-Liberty is granted to the Revenue to seek revival if the Supreme Court later reverses the decision in Hexaware Technologies Ltd. [S. 148, 148A(b), 148A(d), 151A Art, 226] 2298

The petitioner challenged a show cause notice dated 29.08.2024 issued under Section 148A(b) of the Income Tax Act, an order dated 31.08.2024 passed under Section 148A(d), and a consequential reassessment notice dated 31.08.2024 issued under Section 148. The primary ground of challenge was that the notices were issued by the Jurisdictional Assessing Officer (JAO) rather than the Faceless Assessment Officer (FAO), which the petitioner claimed rendered them invalid.

1. Whether the issuance of reassessment-related notices by the JAO, instead of the FAO, renders them invalid?

2. Whether the law laid down in Hexaware Technologies Ltd. v. ACIT and followed in subsequent Bombay High Court decisions is applicable?
3. Whether the reassessment process was legally sustainable given the procedural defect?
4.

The Court noted a divergence in views between two Single Judges on the issue and resolved the conflict by following the decision in *Hexaware Technologies Ltd v. ACIT (2024) 162 taxmann.com 225 / 464 ITR 430 (Bom)(HC)* authored by the present Chief Justice. The honourable Court also referred, *BMC Software India (P) Ltd v. Dy.CIT (2024) 167 taxmann.com 39 (Bom)(HC), Kairos Properties (P) Ltd v. ACIT (2024) 165 taxmann.com 760/468 ITR 1688 (Bom)(HC).* Court held that it is mandatory for the FAO to issue such notices. Since the respondent had issued the notices through the JAO, they were declared invalid. The Court also noted that Special Leave Petitions against Hexaware and related cases were pending before the Supreme Court. It clarified that if the Apex Court reverses Hexaware, the Revenue would be at liberty to seek revival of the present case. Any other issues not covered by the Hexaware ruling were kept open for adjudication at an appropriate stage. Accordingly, the writ petition was allowed. The impugned notices were quashed. There was no order as to costs. Liberty was granted to the Revenue to seek revival if the Supreme Court later reverses the decision in Hexaware. (WP No.35385 of 2024 dt.24-6-2025)(AY. 2018-19)

Dadha Pharma LLP v. Dy.CIT (Mad)(HC) www.itatonline.org.

2299 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Petitioner had explicitly sought a personal hearing-Not granted-Breach of the principles of natural justice-Order is set aside.[S. 148A(b), 148A(d), Art. 226]**

On writ the Court held that though a personal hearing was sought, the same has been denied to the Petitioner on the ground that the Petitioner would have nothing further to add to the reply already filed by the Petitioner. The Court noted that such an approach would not be appropriate. If the law requires the grant of a personal hearing, then the same should not be ordinarily denied on the grounds that nothing further could be said in the personal hearing. The Petitioner must be allowed to convince the Assessing Officer of the merits of its version. This is more so when a law provides for a personal hearing when requested by the Assessee. Accordingly, the order and notice are quashed and set aside.

Pico Capital Private Limited v. Dy. CIT (2025) 170 taxmann.com 638 (Bom)(HC)

2300 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Income from other sources-Failure to respond to notice-Audit objection after amendment-Factual disputes can not be adjudicated in writ proceedings when an alternative remedy is available-Writ petition is dismissed with liberty to file an appeal. [S. 57, 142(1), 143(3), 148, 148A(b), 148A(d), Art. 226]**

The petitioner, an individual, filed his return of income for AY 2017-18 on 3 August 2017, which was selected for scrutiny under Section 142(1) to examine the deduction claim under Section 57. During the original assessment, the petitioner submitted an email response with evidence to establish the nexus between the income from other sources and the claimed deduction. The assessment order under Section 143(3) was

passed on 24 December 2019, accepting the return without explicitly mentioning the petitioner's response. On 16 March 2024, a notice under Section 148A(b) was issued, requiring the petitioner to submit a reply by 25 March 2024 via email. The notice was based on audit objections, stating that no documentary evidence or bank statement was found to substantiate the interest expense claimed under Section 57. The petitioner did not file a reply within the stipulated time and did not seek an adjournment. Instead, he submitted his reply on 27 March 2024 via email, after the deadline. On 28 March 2024, an order under Section 148A(d) was passed, along with a reassessment notice under Section 148, citing no explanation was provided by the petitioner. The petitioner then filed a writ petition challenging the reassessment. The court noted that the petitioner failed to reply within the prescribed time and had not annexed the attachments referred to in his response, making it impossible to verify the claim that the issue was already examined during the original assessment. The court declined to exercise its discretionary jurisdiction, observing that factual disputes could not be adjudicated in writ proceedings and that an alternative remedy was available. The court dismissed the writ petition, granting liberty to the petitioner to challenge the reassessment before the appellate authority. [WP(L) No. 31458/2024, dt. 26.02.2025, (AY. 2017-18)
Sanjay Patel v. ACIT(Bom) (HC) www.itatonline.org

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice Principle of Natural Justice-Non-Application of Mind by Authorities-Role of Principal Commissioner of Income Tax (PCIT)-Approval under Section 151-Strictures-Interplay Between CGST Act and Income Tax Act-Costs and Accountability of Tax Authorities-The High Court held that the reopening of assessment under Section 148 was invalid as it was based on mechanical approval and a lack of due diligence by the tax authorities-Imposed personal costs of ₹25,000 each on the Assessing Officer and the Principal Commissioner of Income Tax, payable to the National Association for the Blind, Mumbai for arbitrary and unjustified actions serves as a deterrent against abuse of authority and reinforces accountability in the exercise of statutory powers-Directed the Ministry to scrutinize the conduct of the involved officers for accountability. [S. 148, 148A(b) 148A(d), 151, Art. 226] 2301

The petitioner a chartered accountancy firm, challenged a notice issued under Section 148 of the Income Tax Act, 1961, for reopening the assessment for AY 2018-2019. The notice was based on a report from CGST authorities alleging that the petitioner received bogus invoices for fraudulent Input Tax Credit (ITC) without the supply of goods. Arbitrary actions by assessing officers and approving authorities, based on unrelated or erroneous assumptions, violate principles of natural justice. On writ, the Court held that proper scrutiny of facts and circumstances is mandatory. Approval granted under Section 151 must demonstrate independent application of mind. Vague, irrelevant, or unsupported remarks in granting such approval render the reassessment process invalid. Information obtained under the CGST framework cannot automatically be applied to proceedings under the Income Tax Act unless substantiated with evidence relevant to the assessee's disclosed income. Imposing personal costs of ₹25,000 each on the Assessing Officer and the Principal Commissioner of Income Tax, payable to the National Association for the Blind, Mumbai, for arbitrary and unjustified actions serves

as a deterrent against abuse of authority and reinforces accountability in the exercise of statutory powers. (AY. 2018-19)
C.C. Dangi & Associates v. UOI [2025] 170 taxmann.com 541 (Bom)(HC)

2302 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Loan-Cash credits-Once assessment is reopened, it is not confined to those subjects only-If no addition is made on the recorded reasons-The Assessing Officer cannot make additions in respect of items forming part of original return-Assessment order is quashed and set aside. [S. 147, 148, 148A(b), 148A(d), Art. 226]**
On basis of information that assessee had received loan from its 100 per cent subsidiary and said issue was not examined during assessment proceedings, notice under section 148A(b) was issued to assessee. In response to notice under section 148A(b), assessee submitted that during the year relevant to assessment year, it had received no loans rather, repayment had been made of the advance received earlier. Assessing Officer in order passed under section 148A(d) considered reply of assessee and had found it tenable and observed that assessee had not provided any evidences with regard to source of funds utilized for making payment of the loan and he, thus, treated loan repayment amount as income and made addition to income of the assessee. On writ, the Court held that the Assessing Officer could not supplement or improve upon the reason which formed basis for initiating action under section 148A. Explanation 3 of section 147 can be applied only where power to reassess is validly invoked. Since foundational material alone would be relevant for purposes of evaluating whether reassessment powers were justifiably invoked, reassessment proceedings were quashed and set aside. (AY. 2014-15 to 2016-17)
ATS Infrastructure Ltd. v. Asst. CIT (2024) 166 taxmann.com 61 /(2025) 473 ITR 595/343 CTR 434 (Delhi) (HC)

2303 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Recorded reasons-Capital gains-Non-filer of return-Additions made on the ground of not entitlement of DTAA benefits-Reassessment notice and consequential order were set aside-DTAA-India-Mauritius. [S.9(1)(i)), 148, 148A(b), 148A(d), Art. 13, Art. 226]**
The Assessing Officer issued a notice under section 148A(b) on the ground that the assessee had not filed its return of income for the assessment year in question and proposed to initiate reassessment based on a purported remittance to a non-resident or foreign company. The Assessee submitted that it had filed its return for assessment year 2016-17 and the assessee had in fact sold shares leading to capital gains, which too were duly disclosed in the return which had been furnished and claimed exemption from taxation by virtue of Article 13(4). The Assessing Officer passed an order under section 148A(d) denying exemption under Article 13 to the assessee. On a writ, the assessee contended that the original show cause notice had proceeded on the premise that the assessee was a non-filer; however, it was established that the assessee had filed its return, which was duly acknowledged and the financial transactions in question were duly disclosed in the return; thus, reassessment was unjustified. Held that the reopening notice was not even founded on the allegation that assessee was not entitled to claim

the benefit of Article 13(4) of the DTAA. Since the Assessing Officer had issued a notice under section 148A(b) on a false premise, the impugned reassessment was not valid and was to be set aside. (AY. 2016-17)
Banyan Real Estate Fund Mauritius v. Asst. CIT (IT) (2024) 165 taxmann.com 210 /(2025) 473 ITR 466 /343 CTR 459 (Delhi)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Cash deposit-Cash credit-Review of completed assessment in garb of reopening of assessment is not allowed.[S. 68, 143(3), 148, 148A(b), 148A(d), Art. 226] 2304
Allowing the petition, the Court held that since the assessee had made full and true disclosure of material facts at time of original assessment, reassessment was unsustainable. Review of completed assessment in the garb of reopening of assessment is not allowed. (AY. 2018-19)
Sete Mares Global Forex (P.) Ltd. v. UOI (2024) 167 taxman.com 89 / (2025) 473 ITR 667 (Bom)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Faceless Assessment-Ex-parte order-Notice was not in manner provided-Matter remanded. [S. 142(1), 144B, 147, 148, 148A(b), 148A(d), Art. 226] 2305
Allowing the petition, the Court held that the ex parte reassessment order was passed without any further notice in terms of section 142(1). Under the new regime, though the assessing authority remained faceless at the same time it could not act mindless of the procedural law. The rules of natural justice were completely broken. The matter was remanded to be decided in accordance with law. (AY. 2016-17)
V. S. Finance Ltd. v. CCIT (2025) 473 ITR 722 (All)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Unexplained investments-Interest income-Failure to consider the reply-Matter remanded to the Assessing Officer. [S.69, 143(3), 148, 148A(b), 148A(d), Art. 226] 2306
The Assessing Officer issued notice under section 148A(b) proposing to initiate reassessment proceedings on the ground that the assessee had not disclosed interest income in its return of income. The assessee has filed his reply. Without considering the reply the assessment order was passed. On a writ, held reassessment order is set aside and matter remanded to the Assessing Officer for considering assessee's reply afresh and to pass a reasoned order. (AY. 2018-19)
Vivek Kumar(No. 1) v. ITO (2025) 302 Taxman 96 / 476 ITR 558 (Delhi)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Approval of resolution plan under Code-No person would be entitled to initiate or continue any proceedings in respect of any claim for any dues relating to period prior to approval of resolution plan. [S. 148, 148A(b), 148A(d), Insolvency and Bankruptcy Code, 2016, S.30(6), Art. 226] 2307
Allowing the petition the Court held that in view of approval of resolution plan under Code, the Assessment Order passed under section 147 read with sections 144 and 144B and order passed under section 148A(d) as well as the impugned notices issued under

section 148A(b), notice issued under section 148 and notice issued under section 156 were quashed and set aside. (AY. 2018-19)
Perfect Boring (P.) Ltd. v. Assessment Unit, Income-tax Department (2025) 302 Taxman 373 (Guj.)(HC)

2308 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Time limit-Notice dated 1-5-2024-Following the decision in UOI v. Rajeev Bansal [2024] 167 taxmann.com 70 (SC), order issued u/s 148A(d) and notice issued under section 148 in respect of assessment year 2017-18were set aside.[S. 148, 148A(b) 148A(d), 149(1), Art. 226]**
On a writ, the Assessee contended that the notice was issued beyond a period of limitation as prescribed in first proviso to section 149(1). Following the decision in *UOI v. Rajeev Bansal [2024] 167 taxmann.com 70 (SC)*, the order u/s 148A(d) and notice issued under section 148 in respect of assessment year 2017-18 were set aside. (AY. 2017-18)
Sheetal International (P.) Ltd. v. Chief CIT, Central (2025) 302 Taxman 271 (Delhi)(HC)
Editorial : SLP of revenue was dismissed on account of delay of 320 days, CCIT v. Sheetal International (P.) Ltd. (2026) 309 Taxman 168 (SC)

2309 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Unable to file reply to initial notice within time granted owing to technical glitch on portal-Reply was filed prior passing of the order-Natural justice-Order held to be not valid. [S.148A(b), 148A(d), Art. 226]**
Allowing the petition the Court held that the Assessing Officer committed an error in not considering the reply which was undisputedly submitted prior to the order and consequently, since the order was passed without providing sufficient or reasonable opportunity to the assessee it was violative of the principles of natural justice. The order passed under section 148A(d) of the Act was quashed. (AY.2016-17)
Kiran Milapchand Jain (Smt.) v. Review Unit, Income-Tax Department (2025)472 ITR 644 (Karn)(HC)

2310 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Seizure of cash by police-Proceedings under section 132A-Notice held to be valid though issued without compliance of procedure-Order of single judge is affirmed. [S.132A, 147, 148, Criminal Procedure Code, 1973, S 451]**
Dismissing the petition the Court held that though when an item or cash, was produced before a criminal court the Department could not issue a notice under section 132A to the court in question, once the item was produced before the court in connection with any criminal case registered by the police or any other law enforcement agency, an application for release or for giving custody of it to the Department could only be in accordance with the provisions of the Code of Criminal Procedure and specifically section 451 of the 1973 Code. However, that did not take away the fact that the Department had initiated proceedings under section 132A to requisition the amount from the police station. Therefore, the case was covered by the first proviso to section 148A and the procedure prescribed under the provisions of section 148A need not be

complied with before issuing the notices under section 148 for the assessment years 2020-21 to 2023-24. On appeal order of single judge was affirmed. (AY.2020-21 to 2023-24)

Muhammed C. K. v. ACIT (NO. 3) (2025)472 ITR 166 / 172 taxmann.com 198 (Ker)(HC)

Editorial : Muhammed C. K. v. ACIT (NO. 1) (2025)472 ITR 161 (Ker)(HC) (SJ)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Seizure of cash by police-Proceedings under section 132A-Notice is valid though issued non compliance of procedure.[S.132A, 147, 148, Criminal Procedure Code, 1973, S 451] 2311

Dismissing the petition the Court held that though when an item or cash, was produced before a criminal court the Department could not issue a notice under section 132A to the court in question, once the item was produced before the court in connection with any criminal case registered by the police or any other law enforcement agency, an application for release or for giving custody of it to the Department could only be in accordance with the provisions of the Code of Criminal Procedure and specifically section 451 of the 1973 Code thereof. That did not take away the fact that the Department had initiated proceedings under section 132A to requisition the amount from the police station. Therefore, the case was covered by the first proviso to section 148A and the procedure prescribed under the provisions of section 148A need not be complied with before issuing the notices under section 148 for the assessment years 2020-21 to 2023-24. (AY.2020-21 to 2023-24)(SJ)

Muhammed C. K. v. ACIT (NO. 1) (2025)472 ITR 161 (Ker)(HC)

Editorial : Decision of single judge is affirmed, Muhammed C. K. v. ACIT (NO. 3) (2025) 472 ITR 166 (Ker)(HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notice issued by jurisdictional AO and not as per S. 151A-Section 144B cannot be viewed as exclusive basis for all assessment and reassessment procedures and Jurisdictional Assessing Officer (JAO) cannot be completely deprived of power to assess or reassess merely because section 144B and Faceless Reassessment Scheme 2022 have been introduced S.151A-Notice issued by Jurisdictional Assessing Officer-Guidelines issued in terms of sub-S. (2) of s. 144B will not amount to the directions issued by the Central Government in terms of sub-(2) of s. 151A-Writ petition was dismissed. [S. 124, 143(2), 144B, 148, 148A] 2312

Dismissing the petition the Court held that as far as the issuance of notice under s. 148 is concerned, only the JAO will have exclusive jurisdiction; as far as the assessment, reassessment or re computation in terms of the provisions of s. 147 is concerned, both the FAO as well as the JAO will have concurrent jurisdiction; in the present case, the cases were allotted by the Directorate of IT (Systems) through Automated Allocation System, based on the risk management strategy formulated by the Board as referred to in s. 148, for issuance of notice to the JAO, who had thereafter sent the s. 148 notice to the registered e-mail account of the assessee from the ITBA Portal, in faceless manner was valid. Writ petition was dismissed. Followed, *T.K.S.Builders (P) Ltd v. ITO (2024) 341 CTR 465/ 469 ITR 657/ 167 taxmann.com 759 (Delhi)(HC), Talati and Talati LLP v.*

Asstt. CIT (2024) 301 Taxman 321 (Guj) (HC). Distinguished, *Hexaware Technologies Ltd. v. Asstt. CIT (2024) 162 taxxmann.com 225 / 464 ITR 430 (Bom)(HC)* distinguished. (AY. 2017-18)(SJ)
Mark Studio India (P) Ltd. v. ITO [2024] 169 taxmann.com 542 / (2025) 342 CTR 361 / 245 DTR 273 (Mad)(HC)

2313 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Order was passed without giving assessee adequate opportunity to reply to the initial notice-Order held to be not valid-Matter was remanded back to the Assessing Officer. [S. 147, 148, 148A(b), 148A(d), Art. 226]**
The court held that the Assessing Officer had passed the order dated March 30, 2022 without granting the assessee an opportunity of hearing as provided by Section 148A(b) by granting further time not exceeding thirty days on which the notice is issued. Therefore, the notice was quashed and set aside and the matter was remanded back to the Assessing Officer to grant the petitioner an opportunity of hearing.(AY. 2018-19)
Ahmedabad District Co-op Milk Producers Union Ltd. v. ITO (2025) 472 ITR 214 (Guj.) (HC)

2314 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-The interest income received from Non-Convertible Debentures (NCDs) was appropriately taxed under section 194LD, and could not be characterized as dividend liable for Dividend Distribution Tax (DDT) under section 115-O-Nexus between material relied on and formation of belief is necessary-Recorded reasons cannot be substituted-Notice and order disposing the objection is quashed. [S.115O, 147, 148, 148A(b), 148A(d), 194LD, Art. 226**
The assessee, a company incorporated in Luxembourg and a registered Foreign Portfolio Investor (FPI) under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 subscribed to Non-Convertible Debentures (NCDs) issued by an Indian company.
The revenue contended that the interest income received by the assessee from NCDs was mischaracterized and that the transaction was structured to evade tax by recharacterizing what should have been dividend payments as interest payments. That the funds, although taken out in the form of interest payments, were in fact liable to be declared as dividends and subjected to DDT under section 115-O.
The assessee contended that the interest income was correctly offered to tax under section 194LD at the prescribed rate. That they were merely the recipients of interest income and not the entity that declared or paid any dividend. Therefore, even if the payments were to be assumed as dividends, the liability to pay DDT could only be imposed on the company that declared, distributed, or paid the dividend, which in this case would not be the Assessee.
The Hon'ble High Court quashed the reassessment notice issued u/s 148A(b) and the consequential orders under section 148A(d) on the premise that the revenue lacked valid basis for recharacterizing the interest income as dividend income. The Hon'ble High Court further held that the interest income was correctly taxed under section 194LD and could not be recharacterized as dividends subject to DDT under section 115-O.

Moreover, the Hon'ble Court emphasized that DDT liability could only be imposed on the company that declared, distributed, or paid the dividend, which was not the case with the assessee. Court also observed that an ineffaceable connect must exist between the reasons initially disclosed proposing reassessment under section 147 of the Act and the basis which constituted formation of opinion with respect to escapement of income and the final decision to commence reassessment proceedings. Notice and order disposing the objection were quashed. (AY. 2018-19)
Genpact Luxembourg S. A. R. L. v. ACIT (IT) (2025) 473 ITR 68 (Delhi) (HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-No opportunity of being heard-Violation of principles of natural justice-Reassessment notice u/s 148 and order u/s 148A(d) quashed [S. 148A(b), 148A(d), 149(1)(a), 149(1)(b)] 2315

The Assessing Officer issued a notice under section 148A(b) of the Income Tax Act, 1961 on 15 March, 2022 for the assessment year 2015-16, alleging escapement of income amounting to ₹78,59,057. The petitioner sought additional time to respond, but the request was denied, and an order under section 148A(d) was passed on 31 March 2022, leading to the issuance of a reassessment notice under section 148. The Petitioner argued that the notice was barred by limitation under section 149(1)(a), as the escaped income was less than ₹50 lakh and the due date to issue notice in his case would be 3 years from end of the relevant assessment year i.e. 31 March, 2019. However, the Revenue claimed that the extended period of limitation under section 149(1)(b) applied since the escaped income exceeded ₹50 lakh.
The Hon'ble Gauhati High Court held that the Petitioner was not given a reasonable opportunity to respond, which violated section 148A(c) and the principles of natural justice. The Court noted that the notice was received only six days before the deadline, which was inadequate. Further, the Court held that the denial of additional time was unjustified, and even if the escaped income exceeded ₹50 lakh, the due date would be 31 March 2026 and not 31 March 2022, and hence the reason so assigned in the affidavit for not granting additional opportunity amounted to non-application of mind. Consequently, the reassessment order and notice were quashed, and the Assessing Officer was directed to consider the Petitioner's reply and provide a fresh hearing.(AY. 2015-16) (SJ)
Nalinaksha Sarma v. UOI (2025) 473 ITR 257 (Gauhati) (HC)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Purchase of property-Income from other sources-Order u/s 148A(d) was on an issue not mentioned in the initial notice-Notice and order were quashed-Matter remanded.[S. 56(2)(viib), 147, 148, 148A(b), 148A(d), Art. 226] 2316

Assessing Officer issued a notice under section 148A(b) on basis of information gathered from Insight Portal calling upon assessee to show cause as to why a notice under section 148 should not be issued in respect of transactions related to purchase of two properties and another entry related to a TDS statement for certain amount. However the Assessing Officer passed an order under section 148A(d) that there was difference between amount of guideline value and sale consideration of properties purchased by assessee which

was assessable under section 56(2)(vii)(b). On writ the Court held that the notice under section 148 had raised an issue which was not previously raised in show cause notice, it was necessary for Assessing Officer to issue a fresh show cause notice calling for an explanation with regard to all issues that warranted issuance of a notice under section 148. Accordingly, the notice and consequential order were quashed. The matter was remanded back to the AO. (AY. 2016-17) (SJ)
Annam Rajasekher Bindu v. ITO (2024)471 ITR 328/158 taxmann.com 406 (Mad) (HC)

2317 **S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Notice issued without giving an opportunity of hearing heard-Notice and order is set aside. [S. 147, 148, 148A(b), 148A(d), Art. 226]**
Allowing the petition the Court held that the notice was issued without giving an opportunity of being heard. The Court set aside the notice and order. The assessee was directed to file the reply in response to notice. (AY. 2018-19) (SJ)
Shram Enterprises v. ACIT (2024)471 ITR 456 (Karn) (HC)

2318 **S. 148A : Reassessment-Conducting inquiry, providing opportunity before issue of notice-Limitation-Surviving limitation after Rajeev Bansal-Notice issued beyond surviving period-Reassessment quashed.[S. 147, 148, 148A(b), 148A(d)]**
The original notice under the old regime was issued on 28-6-2021, leaving only two days of the original limitation period. Applying the principles laid down by the Supreme Court in Rajeev Bansal and Ashish Agarwal, the Tribunal held that after expiry of the time granted to the assessee to respond to the deemed notice under section 148A(b), the Assessing Officer was required to complete the proceedings under section 148A and issue notice under section 148 within the surviving period of two days. Since the notice was issued beyond the surviving limitation, it was barred by limitation, and the reassessment was quashed. (AY. 2017-18).
Dy. CIT v. Prasad Shetty (2025) 126 ITR 124 / 178 taxmann.com 148 (Delhi)(Trib.)

2319 **S. 148A : Reassessment-Conducting inquiry, providing opportunity before issue of notice-Search cases-Approval granted without recording finding of escapement of income-Notice under section 148 invalid. [S. 132, 147, 148, 148A(b), 151]**
The reassessment proceedings were initiated pursuant to a search without any finding that the information unearthed during the search had resulted in escapement of income for the relevant assessment years. The Principal Commissioner granted approval mechanically without recording satisfaction regarding escapement of income. The Tribunal held that fulfilment of the condition of escapement of income was a sine qua non for reopening the assessment and, in the absence of proper approval under section 151, the notices issued under section 148 were invalid. (AY. 2018-19, 2019-20 & 2020-21).
Rosha Alloys P. Ltd. v. Dy. CIT (2025) 127 ITR 76 / 175 taxmann.com 622 (Chd.)(Trib.)

S. 148A : Reassessment-Conducting inquiry, providing opportunity before issue of notice-Unexplained cash-Demonetisation-Recorded reason for reopening under section 148A(d) was found incorrect-Addition made on the basis of recorded reasons was deleted by CIT(A)-No further additions beyond the original reason could be sustained-All additions were held to be made without jurisdiction were deleted.[S.69A, 147, 148, 148A(b), 148A(d)] 2320

The Assessee was an agriculturist having no any other source of income than agricultural income. Since, income from agricultural operations was exempt from tax, he was not obliged to file return of income. The Assessing Officer based on information that assessee had deposited a sum of Rs. 76 lakhs in bank, initiated reassessment proceedings in case of assessee by recording reasons that income to extent of Rs. 76 lakhs had escaped assessment. Accordingly, the notice under section 148 was issued. The Assessing Officer passed reassessment order wherein he made additions by treating the agricultural income as income from other sources and further made additions of Rs. 76 lakhs being cash deposited during demonetization as unexplained money under section 69A. CIT(A) deleted the addition made on account of cash deposited in the bank account by accepting the plea that said account did not belong to the assessee and further restricted the addition on account of interest made by the Assessing Officer and upheld the addition made on account of agriculture income, treating the same as income from other sources. On appeal, the assessee contended that once the very basis of initiation of proceedings under section 147 did not survive, the Assessing Officer had no jurisdiction to consider those issues which were not forming part of the reasons for reopening. Tribunal held that once information regarding cash deposited in bank was found to be incorrect and addition made on this account was deleted, it was established that reasons for which case of assessee was reopened had no legs to stand, therefore, Assessing Officer had exceeded his jurisdiction in making additions on issues which were not forming part of reasons recorded for reopening and, thus, no additions could be made beyond reasons recorded for initiating proceedings under section 147 and addition was deleted.(AY. 2015-16)

Ashok Kumar v. Assessment Unit (2025) 215 ITD 70 (Dehradun) (Trib.)

S. 148A: Reassessment-Conducting inquiry, providing opportunity before issue of notice-Beyond three years-Income alleged to have escaped was less than Rs. 50 lakhs, i.e., Rs. 32.78 lakhs-Reassessment notice and consequential assessment orders were void ab initio, hence quashed. [S. 56 (2) (vii)(b), 147, 148, 148A(b), 148A(d), 149(1)(b)] 2321

The Assessee had entered into a transaction for the purchase of immovable property for a sale consideration of Rs. 80 lakhs. Assessment was reopened for the reason that the stamp value of the property was Rs. 1.12 crores Assessing Officer passed an assessment order under section 147, determining total income after making an addition of Rs. 32.78 lakhs under section 56(2)(vii)(b), being the difference in stamp duty value and sale consideration. CIT (A) affirmed the addition and reassessment. On appeal, the Tribunal held that since notice had been issued beyond 3 years but not more than 10 years from the end of the relevant assessment year, it would fall under the provision of section 149(1)(b). Since notice under section 148 was issued only for income which had escaped assessment amounting to Rs. 32.78 lakhs, the reassessment notice and consequential

assessment order were void ab initio, hence quashed. Followed, Naresh Balchandrao Shinde v. ITO (2023) 146 taxmann.com 66 / 451 ITR 149 (Bom)(HC) (AY. 2017-18)
Krishna Deep Builders. v. ITO (2025) 213 ITD 147 (Mum) (Trib.)

2322 **S. 148B : Prior approval for assessment, reassessment or recomputation in certain cases-Search-related assessment-Assessment completed under section 143(3) instead of section 147-Mandatory procedure under Finance Act, 2021 not followed-Assessment quashed-Third-party documents and statements-No cross-examination-No incriminating material found from assessee-Additions deleted-Appeal to Appellate Tribunal-Additional legal grounds-Pure questions of law-Grounds admitted.[S. 68, 69, 132,132(4) 143(2) 143(3), 147, 148, 254(1)]**

Following a search on third parties, the Assessing Officer relied upon seized material while framing the assessment under section 143(3) without invoking the reassessment provisions introduced by the Finance Act, 2021 or obtaining the mandatory approval under section 148B. The Tribunal held that where the assessment year falls within the three preceding years covered by Explanation 2 to section 147, the procedure prescribed under the new reassessment regime is mandatory. Failure to comply with these jurisdictional requirements rendered the assessment void ab initio. The additions towards alleged on-money receipts and unexplained investment were based entirely on digital data and statements obtained from independent deed writers and brokers during search. The Tribunal held that none of the seized material was recovered from the assessee, no satisfaction was recorded that the documents belonged to the assessee, and no opportunity of cross-examination was granted. In the absence of corroborative evidence or incriminating material found from the assessee's premises, the additions were deleted. The assessee raised additional legal grounds challenging the jurisdiction of the Assessing Officer to complete the assessment under section 143(3) instead of following the reassessment procedure prescribed after the Finance Act, 2021. The Tribunal held that the grounds involved pure questions of law arising from the existing record and did not require investigation into new facts. The additional grounds were accordingly admitted. (AY. 2021-22).
Homelife Buildcon (P.) Ltd. v. Dy. CIT (2025) 126 ITR 557 (Chd.)(Trib.)

2323 **S. 149 : Reassessment-Time limit for notice-last date for service of notice and initiating proceedings under section 148 under unamended provisions was coming to an end on 31-3-2021, but notices had been issued from the office of the Department either on 1-4-2021-SLP of revenue dismissed. [S. 148, Art. 136]**

The High Court held that where the last date for service of notice and initiating proceedings under section 148 under unamended provisions was coming to an end on 31-3-2021, but notices had been issued from the office of the Department either on 1-4-2021 or on subsequent dates, impugned notices were barred by limitation under sections 148 and 149. The Court held that two identical matters arising from the orders of the High Court had already been dismissed by the instant court in *Income-tax Officer, National Faceless Assessment Centre Delhi v. Consortium of Institutions of Higher Learning [2025] 177 taxmann.com 196 (SC) and ACIT v. Anantha Reddy Pannala [2025]*

175 taxmann.com 688 (SC), accordingly, the SLP filed by the revenue was dismissed.
ITO v. Medwin Hospital Services (2025) 307 Taxman 9 (SC)
Editorial: Kalyan Chillara v. DY.CIT [2024] 167 taxmann.com 500 (Telangana)(HC)

S. 149: Reassessment-Time limit for notice-SLP delay of 800 and 467 days-SLP of revenue dismissed on account of delay.[S. 148,148A(b) 148A(d), Art. 136] 2324
The Assessee filed a writ petition challenging the reopening notice under section 148 dated 29-8-2022 on the ground of limitation. High Court held that, in view of the decision in the case of *Keenara Industries Private Limited v. ITO [2023] 147 taxmann.com 585/453 ITR 51 (Guj)(HC),* the reopening notice issued against the assessee on 29-8-2022 was quashed. There was a gross delay of 800 and 467 days in filing SLP, which was not satisfactorily explained. SLP filed by the revenue was to be dismissed. (AY. 2014-15)
ITO v. Dhara Varun Shah (2025) 307 Taxman 11 (SC)
Editorial: Dhara Varun Shah v. ITO [2023] 151 taxmann.com 558 (Guj)(HC)

S. 149: Reassessment-Time limit for notice-Order of the High Court was affirmed-SLP of the revenue was dismissed as time-barred. [S. 148, 148A(b), 148A(d), Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, S. 3, Art. 136] 2325
The Assessee filed Writ Petitions and submitted that all these petitions will be covered by judgment of *New India Assurance Co. Ltd. v. ACIT [2024] 158 taxmann.com 367 (Bom) (HC)* wherein it has been held that, a notice, which had become time barred prior to 1-4-2021 as per then prevailing provisions, would not be revived by virtue of application of section 149(1)(b) effective from 1-4-2021, hence, reassessment proceedings initiated pursuant to judgment in *UOI v. Ashish Agarwal [2022]286 Taxman 183/444 ITR 1 (SC)* would also be regarded as beyond time limit. Revenue agreed with the submissions of the assessee. High Court held that orders passed under section 148A(d) and notices issued under section 148 in the respective petitions were to be quashed and set aside. SLP was squarely covered by the judgment in *UOI v. Rajeev Bansal [2024] 301 Taxman 238 / 469 ITR 46 (SC)* and accordingly the assessee will be governed by the reasons discussed in said judgment, and assessing officers will dispose of objections in terms of the law laid down by the Court. SLP filed by the revenue was disposed of accordingly.
UOI v. Krishna Fashion World (2025) 307 Taxman 7 (SC)
Editorial: Virendra Ship Recyclers LLP v. ACIT (2025) 170 taxmann.com 588 (Bom) (HC)

S. 149: Reassessment-Time limit for notice-validity of a notice must be judged on basis of law existing as on date on which notice was issued under section 148-Order passed under section 148A(d) and notice issued under section 148 were quashed on ground of limitation-Issue was held to be covered by the case UOI v. Rajeev Bansal [2024] 301 Taxman 238 (SC)-Assessing Officer was directed to dispose of objections of assessee accordingly.[S. 148, 148A(b), 148A(d), Art. 136] 2326
The Assessee filed writ challenging reopening notice and stated that the issue was covered by the High Court's decision in *Godrej Industries Ltd. v. Asstt. CIT [2024] 160 taxmann.com 13 (Bom) (HC).* Revenue agreed to said claim. The High Court held that

the validity of a notice must be judged on the basis of law existing as on the date on which the notice was issued under section 148 and the order passed under section 148A(d), and the notice issued under section 148 was to be quashed on the ground of limitation. SLP of revenue was disposed of following the judgment in *UOI v. Rajeev Bansal [2024] 301 Taxman 238 (SC)*, and the assessing officers were directed to dispose of objections in terms of law laid down by the Court; thereafter, the assessee, if aggrieved, would be at liberty to pursue all rights and remedies in accordance with law.
ACIT v. Bharat Ramanlal Parekh (2025) 307 Taxman 391 (SC)
Editorial : Bharat Ramanlal Parekh v. ACIT (2025) 178 taxmann.com 314 (Bom)(HC)

2327 **S. 149 : Reassessment-Time limit for notice-Validity of a notice must be judged on the basis of the law existing as on the date on which the notice was issued u/s 148-Reassessment notice dated 31-7-2022 was barred by limitation-SLP of revenue was dismissed. [S. 148, 148A(b), 148A(d), Art. 136]**
Assessee filed writ petitions stating that issues in these petitions were covered by the judgment of this Court in Godrej Industries Ltd. v. Asstt. CIT [2024] 160 taxmann.com 13 (Bom)(HC) wherein it was held that validity of a notice must be judged on basis of law existing as on date on which notice was issued under section 148; in terms of Finance Act, 2021 no notice under section 148 for assessment year 2014-15 could be issued on or after 1-4-2021 based on first proviso to section 149 and, thus, reopening notice issued on 31-7-2022 for assessment year 2014-15 was barred by limitation-Revenue agreed with this submission. The High Court held that orders passed under section 148A(d) and notices issued under section 148 in respective petitions were to be quashed and set aside. On SLP by the revenue following the judgment in UOI v. Rajeev Bansal [2024] 167 taxmann.com 70 (SC), the SLP of the revenue was dismissed. (AY. 2014-15)
ITO, IT v. Shapoorji Pallonji Mistry (2025) 307 Taxman 620 (SC)
Editorial: Labh Investment v. ITO (2025) 170 taxmann.com 628 (Bom)(HC)

2328 **S. 149 : Reassessment-Time limit for notice-Income escaped less than Rs. 50 lakhs-Notice issued after three years-Barred by limitation-SLP disposed of in terms of *UOI v. Rajeev Bansal(2024) 301 Taxman 238/ 469 ITR 46 (SC)*.[S. 148, 148A(b), 149(1)(a), Art. 136, 142]**
Notices under unamended section 148 dated 28-06-2021 (AY 2017-18) and 30-06-2021 (AY 2016-17) were issued, later followed by section 148A(b) notice dated 20-05-2022 after the Supreme Court's decision in *Ashish UOI v. Agarwal (2022) 286 Taxman 183/444 ITR 1 (SC)*. The High Court held the reassessment was barred by limitation as the escaped income was below Rs. 50 lakhs and the three-year limit under section 149(1)(a) had expired. On SLP, the Supreme Court disposed of the matter in terms of its ruling in *UOI v. Rajeev Bansal (2024) 301 Taxman 238/ 469 ITR 46 (SC)*. (AY. 2016-17, 2017-18)
ACIT v. Amit Jain (2025) 303 Taxman 163 (SC)
Editorial: Ganesh Dass Khanna v. ITO (2023) 156 taxmann.com 417 / 460 ITR 546 (Delhi)(HC)

S. 149: Reassessment-Time limit for notice-Notice dated 30-8-2022 issued under section 148 being issued beyond 'surviving time' and hence invalid.[S. 148, 148A(b), 148A(d), Art. 226, Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (TOLA)] 2329

The Assessing Officer issued a notice dated 30-6-2021 under section 148 during an extended time period as per TOLA, which was to be treated as a notice under section 148A(b). Thereafter, the Assessing Officer provided information on 27-7-2022. The Assessee filed his reply on 11-08-2022. The Assessing Officer passed an order under section 148A(d) on 29-08-2022, and a notice under section 148 was issued on 30-08-2022. On a writ, the Court held that, considering the period of limitation from the date of issuance of notice under section 148 read with TOLA up to 30-6-2021, limitation for issuance of notice under section 148 would be 25-8-2022. Notice dated 30-8-2022 issued under section 148 was issued beyond the 'surviving time' and hence was invalid. Referred, *UOI v. Ashish Agarwal [2022] 286 Taxman 183/444 ITR 1 (SC), UOI v. Rajeev Bansal [2024] 301 Taxman 238/469 ITR 46 (SC)*. (AY. 2016-17)

Ashitkumar Satishchandra Patel v. ITO (2025) 307 Taxman 538 (Guj.)(HC)

S. 149: Reassessment-Time limit for notice-Surviving period-date of earlier notice under section 148 read with TOLA up to 30-06-2021, last permissible date for issuance of reassessment notice under section 148 would be 18-06-2022-Notice dated 27-07-2022 issued under section 148, having been issued beyond surviving time was invalid [S. 148, 148A(b), 148A(d), Art. 226] 2330

The Assessing Officer issued a notice under section 148 (old regime) on 28-6-2021 during an extended time period as per TOLA. Pursuant to the directions of the Supreme Court, the Assessing Officer provided information on 28-5-2022, and the assessee filed a reply on 11-6-2022. Thereafter, an order under section 148A(d) as well as a notice under amended section 148 was issued on 27-7-2022. On a writ, the Court held that, considering the date of earlier notice under section 148 read with TOLA up to 30-06-2021, the last permissible date for issuance of reassessment notice under section 148 would be 18-06-2022; the notice dated 27-07-2022 issued under section 148, having been issued beyond the surviving time, was invalid. Referred to: *UOI v. Ashish Agarwal [2022] 286 Taxman 183/444 ITR 1 (SC), UOI v. Rajeev Bansal [2024] 301 Taxman 238/469 ITR 46 (SC)*. (AY. 2013-14)

Opera Exports (P.) Ltd. v. ACIT (2025) 307 Taxman 65 (Guj.)(HC)

S. 149: Reassessment-Time limit for notice-Concession made by the Additional Solicitor General before the Supreme Court as recorded in Rajeev Bansal-Notice being barred by limitation was to be dropped, and consequently, reassessment order, demand notice and penalty notices were quashed and set aside. [S. 148, 148A(b), 148A(d), Art. 226] 2331

The Assessing Officer initiated reassessment proceedings pursuant to notice issued under section 148 on 5-4-2022. The High Court, vide its order dated 9-5-2024, allowed the writ petition. However, the Assessing Officer continued with reassessment on premises that order passed by the Supreme Court in case of *UOI v. Rajeev Bansal [2024] 301 Taxman 238/ 469 ITR 46 (SC)* would be applicable in the facts of the case of the petitioner. The Court held that the Assessing Officer overlooked the fact that, in view of the decision

of the High Court in *Hexaware Technologies Limited v. ACIT [2024] 162 taxmann.com 225 /464 ITR 430 (Bom)(HC),* he could not have proceeded further. Both parties agreed that, in view of the decision of the High Court in Hexaware (supra), the assessment order dated 3-3-2025 was bad in law. However, revenue contended that, as per his reading of Rajeev Bansal (supra), though a concession had been made by ASG in respect of assessment year 2015-16, said concession did not appear to have been judicially recognised by the Supreme Court. Since notice under section 148 was undisputedly issued on 5-4-2022, which was after 1-4-2021, said reassessment proceedings ought to have been dropped in view of the concession made by Additional Solicitor General before the Supreme Court as recorded in Rajeev Bansal (supra). Notice being barred by limitation was to be dropped, and consequently, the impugned reassessment order, demand notice and penalty notices were to be quashed and set aside. (AY. 2015-16)
Verjinia Foods Ltd. v. ITO (2025) 307 Taxman 563 (Bom.)(HC)

2332 **S. 149: Reassessment-Time limit for notice-Concession given by Additional Solicitor General (ASG)-Notice under section 148 dated 5-4-2022, and all consequential orders/ notices were to be quashed.[S. 148, 149(1)(b),151, Art. 226]**
The Assessing Officer issued a reopening notice on 5-4-2022. Assessee contended that since the notice was issued after 1-4-2021; it was without jurisdiction and had to be withdrawn in light of the concession made by the revenue before the Supreme Court in *UOI v. Rajeev Bansal [2024] 301 Taxman 238/469 ITR 46 (SC).(para 19).* It was noted that the revenue had categorically made a concession before the Supreme Court that for the assessment year 2015-16, it would drop all notices issued under section 148 after 1-4-2021. Notice under section 148 dated 5-4-2022 and all consequential orders/notices were quashed. (AY. 2015-16)
Cherian Nallathu Abraham Annamma v. ITO, IT (2025) 307 Taxman 367 (Bom.)(HC)

2333 **S. 149 : Reassessment-Time limit for notice-Long term capital gains from equities-Amount was below threshold limit of Rs. 50 lakhs-Notice was issued beyond period of limitation as prescribed under section 149(1)(a) and conditions as specified so as to attract provisions of section 149(1)(b) were not satisfied, same was set aside. [S. 148, 148A(b), 148A(d), 149(1)(a), 149(1)(b), Art. 226]**
A Notice was issued under section 148A and the Assessing Officer passed an order holding that it was a fit case for issuance of notice under section 148. On a writ the assessee contended that notice was issued beyond period of limitation as prescribed under section 149(1)(a) and conditions specified so as to attract provisions of section 149(1)(b) were not satisfied. It was noted that the assessee had computed exempt LTCG on sale of shares in previous year relevant to assessment year 2013-14. Only transaction in previous year relevant to assessment year 2013-14 was sale of shares of Gemstone and PMPL. There was no material with the Assessing Officer to indicate that gross sale consideration had escaped assessment in assessment year 2013-14. If information as available with the Assessing Officer was verified to be correct, income which assessee had claimed as exempt under section 10(38) would be income that was chargeable to tax under Act and had escaped assessment. The amount was below threshold limit of Rs. 50 lakhs for attracting provision of section 149(1)(b).Therefore, notice having been issued

beyond the period of limitation as prescribed under section 149(1)(a) and conditions as specified so as to attract provisions of section 149(1)(b) were not satisfied. Accordingly the notice was quashed. (AY. 2013-14)
Manjeet Kaur Duggal v. ITO (2025) 305 Taxman 305 (Delhi)(HC)

S. 149 : Reassessment-Time limit for notice-Old regime-dated 1-6-2021 seeking to reopen assessment for assessment year 2015-16-Following UOI v. Rajeev Bansal (2024) 301 Taxman 238/ 469 ITR 46 (SC) all notices issued on or after 1-4-2021 would have to be dropped as they would not fall for completion during period prescribed under TOLA-Accordingly the notice and proceedings are quashed and set aside. [S. 148, 148A(b), 148A(d), Art. 226] 2334
The Assessing Officer issued notice under section 148 (old regime) dated 1-6-2021 seeking to reopen assessment for assessment year 2015-16. Thereafter a show cause notice was issued on 17-5-2022. Subsequently, order under section 148A(d) and reopening notice was issued on 30-6-2022. On a writ the Court held that Supreme Court in *UOI v. Rajeev Bansal (2024) 301 Taxman 238/ 469 ITR 46 (SC)* had set out concession made on behalf of revenue wherein it was held that for assessment year 2015-16, all notices issued on or after 1-4-2021 would have to be dropped as they would not fall for completion during period prescribed under TOLA Accordingly the notice and proceedings were quashed and set aside. Referred, Deepak Steel and Power Ltd v. CBDT (2025) 174 taxmann.com 145 (SC) (AY. 2015-16)
Veena Jain v. ITO (2025) 305 Taxman 534 (Delhi)(HC)

S. 149 : Reassessment-Time limit for notice-Old regime-Notice dt 23-7 2022 seeking to reopen assessment for assessment year 2015-16-Following UOI v. Rajeev Bansal (2024) 301 Taxman 238/ 469 ITR 46 (SC) all notices issued on or after 1-4-2021 would have to be dropped as they would not fall for completion during period prescribed under TOLA-Accordingly the notice and proceedings are quashed and set aside. [S. 148, 148A(b), 148A(d), Art. 226] 2335
The Assessee filed its return of income for relevant assessment year on 23-9-2015. The Assessing Officer issued a notice under section 148 on 23-7-2022. On a writ the assessee contended that proceedings initiated by notice dated 23-7-2022 were required to be set aside in view of concession made by revenue before Supreme Court in *UOI v. Rajeev Bansal [2024] 301 Taxman 238/469 ITR 46 (SC)* that for assessment year 2015-16, all notices issued on or after 1-4-2021 would have to be dropped as they would not fall for completion during period prescribed under Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. The Court held that in view of the concession, notice and proceedings are quashed and set aside. Followed *Makemytrip India (P.) Ltd. v. Dy. CIT [2025] 173 taxmann.com 497 (Delhi)(HC)* (AY. 2015-16)
Lalit Gulati v. ACIT (2025) 305 Taxman 11 (Delhi)(HC)

S. 149 : Reassessment-Time limit for notice-Since only one day was available for issuance of notice, after giving opportunity of filing reply to assessee-Last date to issue notice as per judgment of Supreme Court in Rajeev Bansal would be 12-6-2022-Notice under section 148 was issued on 15-7-2022-The Notice dated 30-6-2021 was an invalid 2336

notice. The Notices dated 15-7-2022 and 30-6-2021 were quashed and set aside. [S. 148,148A(b), 148A(d), Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA). S.3, Art. 226]

The Assessee filed its return of income for relevant assessment year-Subsequently, a notice dated 30-6-2021 was issued under section 148 under provisions of TOLA. Pursuant to the decision of the Supreme Court in case of *UOI v. Ashish Agarwal [2022] 286 Taxman 183/444 ITR 1(SC)* Assessing Officer issued notice dated 24-5-2022 under section 148A(b). Thereafter, an order dated 15-7-2022 was passed under section 148A(d) alleging that income to certain extent had escaped assessment. Pursuant to the said order, a reassessment notice under section 148 was issued on 15-7-2022. On a writ challenging the order and notice, the Court held that as per the decision of Supreme Court in *UOI v. Rajeev Bansal [2024]301 Taxman 238/469 ITR 46 (SC)* the notice dated 30-6-2021 would relate to notice dated 15-7-2022. Since only one day was available for issuance of notice, after giving opportunity of filing reply to assessee, last date to issue notice as per judgment of Supreme Court in Rajeev Bansal (supra) would be 12-6-2022, whereas notice under section 148 was issued on 15-7-2022-therefore, notice dated 30-6-2021 was held to be an invalid notice hence notice dated 15-7-2022 as well as notice dated 30-6-2021 were quashed and set aside. (AY. 2016-17)

Saroj Predhiman Kaw v. Dy. CIT (2025) 305 Taxman 650 (Guj)(HC)

2337 **S. 149 : Reassessment-Time limit for notice-Finding or direction in appeal-S. 150 cannot be invoked to revive time-barred reassessment proceedings-Notice issued beyond limitation invalid. [S. 148, 148A(d), 150, Art. 226]**

The Court held that S. 150 enables departure from the limitation prescribed under S. 149 only for giving effect to a finding or direction issued in appellate, revisional or court proceedings, but does not contemplate rejuvenation of reassessment proceedings which were already barred by limitation on the date of issuance of notice. Sub-s. (2) of S. 150 carves out an exception and restricts application of sub-s. (1) where reassessment action was already time-barred when the order forming subject matter of appeal or revision was passed. In the present case, the notice under s. 148 was admittedly barred by limitation under s. 149(1) on the date of its issuance and the earlier remand order directing reconsideration of the assessee's reply did not obliterate or extend statutory timelines. The AO was required to examine limitation before proceeding afresh and could not assume that remand diluted statutory time restrictions. Accordingly, the order passed under S. 148A(d) dt. 31-3-2024 and notice issued under S. 148 dt. 1-4-2024 were quashed as barred by limitation. (AY. 2014-15)

ADM Agro Industries (P) Ltd. v. ACI (2025) 346 CTR 55 / 252 DTR 383 (Delhi)(HC

2338 **S. 149 : Reassessment-Time limit for notice-Non-resident-Assets located outside India-Rule against retrospectivity-Intent and language to be considered-Whether new time limit would apply where assessments concluded prior to date of amendment-Matter referred to larger Bench-Finance Act 2012) (2012) 345 ITR 1 (St). [S. 147, 148, 149(1(c), Art. 226]**

The assessee a non-resident, received a notice u/s 148 of the Act on various dates between March 2014 and 2021 for the Assessment years 1997-98 to 1999-2000 and

2001 to 2005-06 for which the time limits expired under section 149 as existing to prior to the amendment in 2012on various dates prior to March 31, 2012. On a writ the assessee contended that clause (c) of section 149(1) was not operative retrospectively and therefore, would be applicable only in respect of those assessment years in respect of which assessments had not been concluded. The Department contended in favour of retrospective application of clause (c) of sub-section (1) of section 149 which clarified that provisions of sub-sections (1) and (3) of section 149 as amended by the Finance Act, 2012 were applicable for any assessment year beginning on or before April 1, 2012. The Court held that it was important to examine the legislative intent and the language of the statute to determine whether it was intended to be applicable retrospectively. Accordingly the matter was referred to a larger Bench. (AY. 1997-98to 1999-2000, 2001to 2005-06)

U.K.Paints (Overseas) Ltd v. ACIT (2025) 478 ITR 326/ 345 CTR 337 / 251 DTR 289 (Delhi) (HC)

S. 149 : Reassessment-Time-barring-First proviso-Faceless regime-Jurisdiction of AO-Notice held barred by limitation and without jurisdiction. [S. 80IA, 133A, 143(3), 148, 148A(b), 148A(d), 151A, Art.226] 2339

The assessee, engaged in manufacture and sale of cement, filed ROI for AY 2017-18 claiming deduction u/s 80IA on profits from SWM, WTS and NIPU. The claim was examined in scrutiny and allowed by the AO/CIT(A), with quantum partly in dispute before ITAT. During pendency of appeal, survey u/s 133A was conducted (June 2023), and AO alleged fresh facts showed wrong claim of deduction of ₹ 841.25 cr. On 31-3-2024, notice u/s 148A(b) was issued; objections on limitation, change of opinion and non-fulfilment of s. 149(1)(b) conditions were rejected, and notice u/s 148 dated 1-5-2024 was issued by Jurisdictional AO. On writ the Court held that following *Hexaware Technologies Ltd. v. ACIT [2024] 162 taxmann.com 225/ 464 ITR 430 (Bom.)(HC) and Godrej Industries Ltd v. ACIT (2024) 338 CTR 25 / 160 taxmann.com 13/ 470 ITR 628 (Bom HC),* that for AY 2017-18, the 6-year limit under the erstwhile s. 149(1)(b) expired on 31-3-2024; first proviso to s. 149 bars issue of notice thereafter. Fifth/sixth provisos cannot extend the "restriction" period in the first proviso. Notice dated 1-5-2024 was thus time-barred. Further, under s. 151A and CBDT Notification dt. 29-3-2022, issuance of notice u/s 148 must be through automated allocation by a Faceless AO; issuance by a Jurisdictional AO was contrary to the mandatory scheme and without jurisdiction. Consequently, both the notice u/s 148 and the order u/s 148A(d) were quashed. (AY. 2017-18)

Shree Cement Ltd. v. ACIT & Ors. [2025] 177 taxmann.com 538 / [2026] 484 ITR 576 ((Raj.)(HC)

S. 149: Reassessment-Time limit for notice-Provisions of relevant assessment year applicable for reassessment proceedings. [S. 147 148,149(1)(b), Art. 226] 2340

The Assessing Officer issued a reassessment notice under Section 148 in 2022 for AY 2013-14, applying the amended provisions of Section 149 introduced by the Finance Act, 2022. However, under the pre-amended Section 149(1)(b) (which applied to AY 2013-14), the limitation period of six years had already expired on 31 March 2020, and was only

extended until 31 March 2021 by COVID-related notifications. The reassessment notice was issued much later, beyond this extended period.
The Bombay High Court held that the amended provisions of Section 149 (as given in the Finance Act, 2022) could not be applied retrospectively to AY 2013-14. Hence, the AO lacked jurisdiction, and the entire reassessment proceedings, including the notice and consequential assessment order, were held to be void ab initio.(AY. 2013-14)
Bhoomi Viral Shah v. ITO (2024) 473 ITR 574 (Bom.) (HC)
Editorial: This decision is prior to the Apex Court's judgment of UOI v. Rajeev Bansal (2024)469 ITR 46/ 301 ITR 238 (SC)

2341 **S. 149 : Reassessment-Time limit-Notice under section 148 dated 31-8-2024-Six years expired for the AY. 2016-17 the notice is quashed and set aside. [S. 148, Art. 226]**
The notice u/s was 148 was issued on 31-8-2024. On writ the Court held that the period of six years from the end of the relevant assessment year 2016-17 expired on 31-3-2023 hence barred by limitation. Followed *Manju Somani v. ITO [2024] 300 Taxman 516/466 ITR 758 (Delhi) (HC)* (AY. 2016-17)
DB International Stock Brokers Ltd. v. ACIT (2025) 302 Taxman 405 (Delhi)(HC)

2342 **S. 149 : Reassessment-Time limit-Notice dated 31-8-2024-Beyond period of six years-Notice and order is set aside. [S. 148, 148A(b), 148A(d), Art. 226]**
The Assessing Officer issued a reopening notice under section 148 dated 31-8-2024. On writ, the Court held that the notice issued under section 148A(b) and the order passed under section 148A(d) prior to the issuance of notice were set aside on the ground that same is barred by limitation. The period of six years from the end of the relevant assessment year 2016-17 expired on 31-3-2024. Notice and order are set aside. (AY. 2016-17)
Curadev Pharma Pvt Ltd v. Dy. CIT (2025) 302 Taxman 407 (Delhi)(HC)

2343 **S. 149 : Reassessment-Limitation-Notice for assessment year 2015-16 deemed notice under section 148A(b) per Ashish Agarwal (SC)-Fresh notice under section 148 required within balance period per UOI v. Rajeev Bansal (2024) 469 ITR 46 (SC)-Department had 15 days but issued notice after 34 days-Notice void ab initio-Reassessment quashed. [S. 147, 148, 148A(b), 148A(d)]**
Notice under section 148 dated June 16, 2021 was deemed a section 148A(b) notice per Ashish Agarwal, and after providing material and rejecting objections, a fresh notice under section 148 was issued on July 29, 2022, leading to assessment under section 147 read with section 144B. On appeal, the Tribunal held that since the 4-year limitation period expired within the window covered by the 2020 Act's extension (up to June 30, 2021), the Revenue had only 15 days from receipt of the assessee's reply (till June 25, 2022) to issue notice under section 148, but the notice issued on July 29, 2022 came 34 days late; the notice was accordingly barred by limitation under section 149, void ab initio, and the entire reassessment proceedings were quashed. (AY. 2015-16)
ITO v. Sumitra Rajeshbhai Jain (2025) 131 ITR 643 (Mum) (Trib)

S. 149 : Reassessment-Time limit for notice-Cash deposit-The AO assumed jurisdiction by passing an order under s. 148A(d) on the basis of incorrect information-Notice beyond three years from the end of the relevant assessment year-The notice issued by the AO under S. 148 dt. 28th April, 2022, is illegal, void ab initio and consequently, the assessment order passed was quashed. [S. 143(3), 147, 148, 148A(b), 148A(d)] 2344
AO having issued notice under s. 148A(b) on the basis of some information which did not exist at the relevant point of time and thereafter passed the order under s. 148A(d) on the basis of incorrect information and issued the notice under s. 148 beyond three years from the end of the relevant assessment years, i.e., the time limit under s. 149(1)(a), even though the income escaping assessment did not exceed Rs. 50 lakhs, the impugned notice and order are illegal and void ab initio. (AY. 2015-16)
Sri Adiparashakti Boards v. ITO (2025) 235 TTJ 195 (Hyd)(Trib)

S. 149 : Reassessment-Time limit for notice-Notice issued after expiry of six years from the end of relevant assessment year-Notice for asst. yr. 2015-16 issued on 15th July, 2022 under s. 148 is barred by limitation, hence bad in law [S. 148] 2345
Held that notice for asst. yr. 2015-16 issued on 15th July, 2022 under S 148 is barred by limitation and hence bad in law, and therefore, impugned reassessment proceedings as well as the impugned reassessment order are bad in law. Followed *UOI v. Rajeev Bansal (2024) 340 CTR 865 (SC)* (AY.2015-16)
Mark Foods v. ITO (2025) 235 TTJ 251 (Mum) Trib)

S. 149 : Reassessment-Time limit for notice-Income escaping assessment was certainly more than Rs. one lakh. Notice dt. 31st March, 2021, issued under s. 148 within six years from the end of the asst. yr. 2015-16, falls within the time-limit of the old regime.-Notice through electronic platform on assessee's email-ID-No illegality or invalidity either in the notice under s. 148 r/w s. 142(1) or at any stage of the assessment proceedings.[S.143(2), 144B, 147, 148, 151] 2346
Tribunal held that the Assessing Officer found that the assessee had not disclosed sale consideration of immovable property of Rs. 45,00,000 in his return, the income escaping assessment under the head capital gains was certainly more than Rs. one lakh and, therefore, notice issued under s. 148 within six years from the end of the relevant asst. yr. 2015-16 fell within the time-limit prescribed under s. 149 of the old regime. Tribunal also held that the notice issued under s, 148 through the electronic platform on the assessee's email ID available with the Department and the assessee having participated in the assessment proceedings, which were carried out in a faceless manner under S. 144B, there was no illegality or invalidity in the service of notice (AY. 2015-16)
Alauddin v. ITO (2025) 236 TTJ 497 (Agra)(Trib)

S. 149 : Reassessment-Time limit for notice-Notice under S. 148 within the TOLA period on 30th June, 2021-Minimum days available as per the fourth proviso to S 149(1) was seven days-last date for issuing notice under s. 148 was 23rd June, 2022-Notice dt. 28th July, 2022, issued under s. 148 in respect of asst. yr. 2013-14 is time-barred.[S. 147, 148] 2347
Tribunal held that the AO issued original notice under S. 148 within the TOLA period on 30th June, 2021, the minimum days available as per the fourth proviso to s. 149(1)

was seven days and thus the 'surviving period' was also seven days; since the material relied upon for issuance of notice was communicated to the assessee by letter dt. 2nd June, 2022, the period of two weeks allowed to the assessee to respond to the notice ended on 16th June, 2022, and, therefore, the last date for issuing notice under S. 148 was 23rd June, 2022; notice dt. 28th July, 2022, issued under s. 148 in respect of asst. yr. 2013-14 is time-barred. (AY. 2013-14)
Lakshmi Narasimhan Santhi (Smt.) v. ACIT (2025) 236 TTJ 718/ 176 taxmann.com 257 (Chennai) (Trib)

2348 **S. 149 : Reassessment-Time limit for notice-Period of six years-Original notice under S. 148, which was deemed to be a notice issued under S. 148A(b)-The notice issued under S. 148 on 22nd July, 2022, was barred by limitation.[S. 147, 148, 148A(b)]**
Held that the period of six years from the end of the relevant asst. yr. 2013-14 expired on 31st March, 2020, the notice under s. 148 issued on 29th June, 2021, which was deemed to be notice under s. 148A(b) is covered under the extended time limit till 30th June, 2021, provided under the TOLA; Revenue had only two days to issue notice under S. 148 of the new regime, i.e., till 15th June, 2022, after receipt of the response from the assessee on 13th June, 2022 and therefore, the notice issued under S. 148 on 22nd July, 2022 was barred by limitation under S. 149.(AY. 2013-14)
Sanjay Natwarlal Desai v. ITO (2025) 236 TTJ 726 (Mum)(Trib)

2349 **S. 149 : Reassessment-Time limit for notice-Limitation-Time spent in proceedings under section 148A to be excluded-Reassessment order passed beyond limitation-Invalid. [S.148, 148A(b)]**
The reassessment proceedings arose pursuant to the decision of the Supreme Court in *Union of India v. Ashish Agarwal*. The Tribunal held that while computing limitation under section 149, the period required to be excluded under the third proviso to section 149(1), as explained by the Supreme Court in *Union of India v. Rajeev Bansal*, had to be considered. On the facts, the reassessment order was passed beyond the period of limitation and was therefore liable to be quashed. (AY. 2013-14).
Varun Goel v. Dy. CIT (2025) 127 ITR 272 (Delhi)(Trib.)

2350 **S. 149 : Reassessment-Time limit for notice-Notices under new regime issued beyond limitation prescribed by Supreme Court-Proceedings time-barred-Withdrawal of approval under section 10(23C)(vi) invalid-Second proviso-Applicable only from assessment year 2022-23-Reference to Principal Commissioner for earlier years invalid-Withdrawal of approval-Jurisdiction-Reference made to wrong authority-Order without jurisdiction.[S 10(23C)(vi) 148, 148A(b), 148A(d)]**
The reassessment notices under section 148 were issued after the expiry of the extended limitation period recognised by the Supreme Court in *Union of India v. Rajeev Bansal*. The Tribunal held that the notices issued for the relevant assessment years were barred by limitation and, therefore, no valid reassessment proceedings were pending before the Assessing Officer. Since the reference made to the Principal Commissioner under the second proviso to section 143(3) was founded on invalid reassessment proceedings, the orders withdrawing approval under section 10(23C)(vi) were quashed. The Tribunal held

that the second proviso to section 143(3), inserted with effect from 1 April 2022, applies prospectively from assessment year 2022-23. Consequently, the Assessing Officer had no authority to invoke the proviso for the earlier assessment years under consideration while making a reference for withdrawal of approval under section 10(23C)(vi). The consequential orders were therefore held to be without authority of law. The approval granted to the assessee under section 10(23C)(vi) was withdrawn by the Principal Commissioner pursuant to a reference made by the Assessing Officer. The Tribunal held that, under the applicable notifications, only the Commissioner (Exemption) having territorial jurisdiction was competent to grant or withdraw approval under section 10(23C)(vi). As the impugned orders were passed by an authority lacking jurisdiction, they were liable to be quashed. (AY. 2018-19 to 2020-21).
G. D. Mother Educational Society v. Pr. CIT (2025) 122 ITR 231 (Pat.)(Trib.)

S. 149: Reassessment-Time limit for notice-Time-limit of four years from the end of the relevant assessment year, i.e., 2015-16, expired on 31st March, 2020, and the period of six years from the end of the relevant assessment year expired on 31st March, 2022-Notice under S. 148 was issued on 29th July, 2022, i.e., 34 days after the balance time period-Barred by limitation-Reassessment proceedings and assessment order passed are quashed.[S. 147, 148, 148A(b)] 2351

Held that since the period of four years from the end of the relevant asst. yr. 2015-16 expired on 31st March, 2020, which fell within the period from 20th March, 2020 to 31st March, 2021, the original notice under s. 148 issued on 16th June, 2021, which was deemed to be a notice under s. 148A(b), is covered under the extended time-limit till 30th June, 2021 provided under the TOLA; however, Revenue had only fifteen days i.e., between 16th June, 2021, and 30th June, 2021, to issue notice under s. 148 i.e., till 25th June, 2022, after receipt of the response from the assessee to the show-cause notice under s. 148A(b) on 10th June, 2022 and, therefore, the notice under s. 148, issued on 29th July, 2022, is barred by limitation specified under S. 149 and is void ab initio. (AY. 2015-16)
ITO v. Sumitra Rajeshbhai Jain (2025) 234 TTJ 697 (Mum)(Trib)

S. 149: Reassessment-Time limit for notice-Cash deposits-Notice under section 148A in July 2022-Revised notice period for assessment year 2013-14 expired on 26 June 2022-Notice issued on 25 th July 2022 was barred by limitation.[S. 69A, 147, 148, 148A(b), 148A(d)] 2352

The Assessee did not file a return, and cash deposits resulted in a reassessment notice under section 148A in July 2022. Tribunal held that since the Supreme Court clarified in *UOI v. Rajeev Bansal (2024) 301 Taxman 238/ 469 ITR 46 (SC)* that revised notice period for assessment year 2013-14 expired on 26 June 2022, the notice issued on 25 July 2022 was barred by limitation and the entire reassessment proceedings were not legally valid and were quashed. (AY. 2013-14)
Sainik Co-operative House Building Society Ltd. v. ITO (2025) 214 ITD 595 (Amritsar) (Trib.)

2353 **S. 149: Reassessment-Time limit for notice-For assessment year 2015-16, notice under section 148 issued on 29-7-2022 was beyond the limitation period prescribed under section 149 and was barred by limitation.[S. 68, 148, 148A(b), 148A(d)]**
Held that the notice issued on 29-7-2022 under section 148 for assessment year 2015-16 was barred by limitation and the entire reassessment proceeding and assessment order passed under section 147 read with section 144B was quashed. (AY. 2015-16)
Anisha Raoof Dhanani v. ACIT (2025) 213 ITD 422 / 126 ITR 485 (Ahd) (Trib.)

2354 **S. 149 : Reassessment-Time-barring-First proviso-Notice issued beyond six years-Fifth proviso not applicable-Notice quashed. [S. 147,148, 148A(b), 148A(d), 149(1)(b).]**
The assessee, a contractor, had sold immovable property in AY 2015-16 but did not file a return. Based on information from the Sub-Registrar, the AO issued a notice u/s 148A(b) on 24-03-2022, passed an order u/s 148A(d) on 18-04-2022, and issued a notice u/s 148 on the same date, completing reassessment with additions of ₹1.77 crore. The assessee contended that, as per the first proviso to s. 149(1)(b) and relying on *Hexaware Technologies Ltd. v. ACIT [2024] 162 taxmann.com 225 /464 ITR 430 (Bom.)(HC) and UOI v. Rajiv Bansal [2024] 167 taxmann.com 70 /340 CTR 865 (SC)* the six-year limit under the old regime expired on 31-03-2022, hence the notice dated 18-04-2022 was time-barred. The Tribunal held that the first proviso restricted reopening for years prior to AY 2021-22 where the six-year limit had expired, and that the fifth proviso (exclusion of time allowed to respond to SCN) could not extend the bar under the first proviso. Since the notice was issued after 31-03-2022, it was invalid; the reassessment and additions were quashed.(AY. 2015-16))(ITA No. 926/Mum/2025, dt. 28-04-2025)
Babu Hasan Shaikh v. ITO (2025) (Mum)(Trib) www.itatonline.org

2355 **S. 150: Assessment-Order on appeal-Survey-Direction issued by the CIT(A) beyond the limitation period-No assessment or reassessment could be made as the time period prescribed under section 149 had already expired-Assessing Officer could not have reopened assessment in compliance with said direction.[S. 133A, 148, 149, 150(1),250, Art. 226]**
The Assessee-firm filed a return of income for assessment year 2014-15. During survey proceedings, undisclosed income was found, and the same was added to the income of assessee. The Commissioner (Appeals) partly allowed the appeal and held that the addition made by the Assessing Officer was to be made in the respective assessment years 2011-12 to 2014-15 inasmuch as the project based on which gross profits were estimated was completed during the duration of the assessment years 2011-12 to 2014-15. In compliance with the directions of the Commissioner (Appeals), the Assessing Officer issued notices under section 148 for reopening the assessment for the relevant years. Assessee raised objections on the ground that, as per section 150(2), which restricts power under section 150(1), to give direction to reopen assessment, the period of limitation prescribed under section 149(1) had expired. However, the Assessing Officer disposed of objections on the ground that notices were issued in compliance with the directions issued by the Commissioner (Appeals). On a writ, the Court held that, as per section 150(1), notice under section 148 can be issued at any time to give effect to a direction passed by the Commissioner (Appeals). However, provisions of

section 150(1) are subject to section 150(2), which provides that section 150(1) shall not be applied in a case where assessment, in respect of which direction was passed by the Commissioner (Appeals), could not have been reopened at the time of passing such appellate order. Since Commissioner (Appeals) had issued direction after the expiry of four and six years, respectively, for assessment years 2011-12 and 2012-13, no assessment or reassessment could be made as the time period prescribed under section 149 had already expired, and thus, the Assessing Officer could not have reopened the assessment in compliance with said direction. (AY. 2011-12, 2012-13)
Shubh Buildcon v. ITO (2025) 307 Taxman 181 (Guj.)(HC)

S. 150 : Assessment-Order on appeal-Reassessment-Time limit for notice-No finding or direction-Notice issued beyond limitation-Quashed.[S. 69A, 148, 148A(3), 149(1), 153A, Art. 226] 2356

Pursuant to search proceedings, additions under section 69A were made and later deleted by CIT(A) and confirmed by the Tribunal; the High Court dismissed revenue's appeal. AO then issued notice under section 148A(b) followed by order under section 148A(3). The Court held that the earlier High Court order could not be construed as "finding or direction" under section 150 to permit issue of notice beyond the limit in section 149(1). The notice and order were quashed as time-barred. (AY. 2015-16)
Sanjay Singhal v. ACIT (2025) 303 Taxman 35 (Delhi)(HC)

S. 150: Assessment-Order on appeal-Conditions set out in S. 150 are required to be fulfilled for invoking S. 150 for issuance of notice under S. 148 beyond the period stipulated under S. 149-Appeal of Revenue is dismissed. [S. 148, 149, 254(1), 260A] 2357

The Hon'ble Delhi High Court in an appeal, was faced with a question whether there was any 'finding or direction' in the order of the Tribunal or in the order of Coordinate Bench of the High Court to give effect to which the AO could have issued notice under S. 148 of the Act for the purpose of reassessment or re-computation and specifically with regard to the addition of an amount of Rs. 7 crores on the ground of the same being undisclosed income of the assessee. The Court ultimately concluded that it was clear from the perusal of the order of the co-ordinate Bench of the High Court dated 29.07.2015 as well as the order of the Tribunal, the CIT(A) that in none of the orders, there was any finding or direction that the undisclosed income of Rs. 7 crores was required to be assessed to tax in the hands of the assessee, which warranted issuance of notice under S. 148 of the Act to give effect to such finding or direction. Appeal of the Revenue was dismissed.(AY. 2007-08)
PCIT Central v. Capital Power Systems Ltd. [2025] 302 Taxman 481 /481 ITR 615 (Delhi) (HC)

S. 151: Reassessment-Sanction for issue of notice-Approval granted after expiry of three years-SLP delay of 411 days-SLP of the revenue was dismissed on account of delay as well as on merits. [S.148, 148A(b), 148A(d), 149(1)(b), Art. 136] 2358

The Assessee challenged the initiation of reassessment proceedings on the ground that sanction for initiation of reassessment should be granted by the Principal Chief Commissioner. As per the section 151 approval form, that case was covered under section 149(1)(b) (beyond three years but not more than ten years). However, the

Assessing Officer proceeded after obtaining administrative approval under section 151 from the Commissioner, with approval granted on 27-4-2023. High Court held that since approval was granted after expiry of 3 years from end of relevant assessment year, Commissioner should have realized that it was more than three years after expiry of assessment year, which was 2019-2020 and if some time had to be excluded as per fifth proviso to section 149, that should have been mentioned in order-sheet, otherwise it would only amount to exercising jurisdiction which he never had. The order passed under section 148A(d), and the notice issued under section 148, were quashed. On SLP, the Court held that since there was a gross delay of 411 days in filing SLP, which had not been satisfactorily explained by the revenue, the SLP filed by the revenue was to be dismissed on the grounds of delay as well as merits. (AY. 2019-20)

ACIT, IT v. LinkedIn Singapore Pte. Ltd. (2025) 307 Taxman 524 (SC)

Editorial: Linkedin Singapore PTE. Ltd. v. ACIT(IT) [2025] 179 taxmann.com 412 (Bom)(HC)

2359 **S. 151: Reassessment-Sanction for issue of notice-Deposited donations received in cash in its bank account-Reassessment notice and sanction were without application of mind-Delay of 246 days-Not satisfactorily explained-SLP dismissed. [S. 11, 12A, 147, 148, Art. 136]**

The assessee had deposited donations received in cash in its bank account and thereby disclosed nil total income for the relevant assessment year. Accounts of assessee were recorded, accounted for, and audited. The AO issued notice for reassessment. On writ, the Court held that there was no live link, which was a sine qua non between material before the Assessing Officer in the present case and belief which he had to form regarding escapement of income-Sanction under section 151 granted by prescribed authority as well as notice for reopening issued by Department was without any application of mind. High Court held that, on facts, the impugned reopening notice issued against the assessee was unjustified and the same was to be set aside. Revenue filed SLP. Court held that, there being a gross delay of 246 days in filing SLP by the revenue, which had not been satisfactorily explained, the SLP was dismissed. (AY. 2014-15)

ITO (E) v. Dnyaneshwar Maharaj Sansthan Alandi Dewachi (2025) 304 Taxman 667 (SC)

Editorial: Dnyaneshwar Maharaj Sansthan Alandi Dewachi v. ITO (2025) 173 taxmann.com 62 (Bom)(HC)

2360 **S. 151: Reassessment-Sanction for issue of notice Conducting inquiry, providing opportunity before issue of notice-Not a typographical error-Sanction for issue of notice-Principal Commissioner-Non-application of mind-Approval under section 151 granted without proper application of mind-High Court quashed notices and orders-SLP delay of 181 days-SLP dismissed on grounds of delay and on merits. [S. 148 148A(b), 148A(d), Art. 136]**

On a writ the Court held that there was a discrepancy between the draft of the order under section 148A(d) of the Act which stated that income of Rs.97,06,911 had escaped assessment and the approval granted by the Principal Commissioner, which showed the income which had escaped assessment as Rs. 63,16,784, and that therefore, the

approval under section 151 was obtained and granted without application of mind. The court quashed the order under section 148A(d) and the consequent notice issued under section 148 for reassessment. The Supreme Court dismissed the petition on the grounds of delay of 181 days and also on the merits.(AY.2019-20)
Asst. CIT v. Teleperformance Global Service Pvt. Ltd.(2025) 478 ITR 78/170 taxmann.com 832 (SC)
Editorial : Teleperformance Global Service Pvt. Ltd v. ACIT (2024) 298 Taxman 769 / (2025) 478 ITR 74 (Bom)(HC)

S. 151 : Reassessment-Sanction for issue of notice-Recording of satisfaction-Sanction was valid.[S. 148, Art. 136] 2361
The High Court dismissed the writ petition against a notice of reassessment holding that the Commissioner had read the reasons recorded by the Assessing Officer to believe that income had escaped assessment, and by a written order under section 151 of the Income-tax Act, 1961, had stated that he was satisfied on the basis of reasons recorded that this was a fit case for issue of notice under section 148, and that there was no reason to interfere with the notice issued under section 148. SLP of assessee dismissed. (AY. 2013-14)
Venky Steels Pvt. Ltd v. CIT (2025) 475 ITR 148 / 304 Taxman 597 (SC)
Editorial : Venky Steels (P.) Ltd. v. CIT(2024) 301 Taxman 344 /(2025) 475 ITR 111 (Pat)(HC)

S. 151 : Reassessment-Sanction for issue of notice-After lapse of three years-Approval from wrong authority-SLP covered by UOI v. Rajeev Bansal(2024) 301 Taxman 238/ 469 ITR 46 (SC). [S. 148A(b), 151(ii), Art. 136] 2362
The AO issued notice under section 148A(b) beyond three years from the end of the AY with approval from the Principal Commissioner instead of the authority under section 151(ii). The High Court quashed the notice but allowed liberty to issue fresh proceedings. On SLP, the Supreme Court disposed of the matter in terms of *UOI v. Rajeev Bansal, (2024) 301 Taxman 238/ 469 ITR 46 (SC)* directing disposal of objections as per law, with assessee free to pursue remedies except on concluded issues.
ACIT v. Vikram Kapahi (2025) 303 Taxman 254 (SC)
Editorial: Vikram Kapahi v. ACIT (2025) 170 taxmann.com 592 (Delhi)(HC)

S. 151: Reassessment-Sanction for issue of notice-Beyond three years-Approval from Principal Commissioner-SLP covered by UOI v. Rajeev Bansal(2024) 301 Taxman 238/ 469 ITR 46 (SC). [S. 148, 148A(b), 148A(d), 151(ii), Art. 136] 2363
The AO issued notice under section 148A(b) on 21-03-2022, an order under section 148A(d) and consequent section 148 notice on 07-04-2022, all beyond three years. The sanction was from the Principal Commissioner as provided in section 151(ii). The High Court quashed the proceedings. On SLP, the Supreme Court disposed of the matter in terms of UOI v. Rajeev Bansal (2024) 301 Taxman 238/ 469 ITR 46 (SC). (AY. 2018-19)
ITO v. Pradeep Himatlal Shah (2025) 303 Taxman 166 (SC)
Editorial: Pradeep Himatlal Shah v. ITO (2025) 170 taxmann.com 471 (Bom.)(HC)

2364 **S. 151 : Reassessment-Sanction for issue of notice-Application of mind-Notice is valid-SLP of Assessee is dismissed.[Art. 136]**
The High Court held that sanction is granted after application of mind. SLP of the assessee is dismissed. (AY. 2007-08)
Baldevbhai Bhikhabhai Patel v. Dy. CIT (2025) 302 Taxman 370 (SC)
Editorial : Baldevbhai Bhikhabhai Patel v. Dy. CIT (2018) 94 taxnann.com 428 (Guj) (HC)

2365 **S. 151: Reassessment-Sanction for issue of notice-Approval taken of Principal Commissioner-Note sheets disclosing records placed containing remark of Joint Commissioner-Not resulting in wrongful exercise of jurisdiction by Principal Commissioner Remark of Joint Commissioner facilitating application of mind by Principal Commissioner-Sanction is valid. [S. 147, 148, Art. 226]**
Dismissing the petition, the Court held that the Principal Commissioner applied his mind and granted approval in terms of the requirement of law as provided in section 151 of the Income-tax Act, 1961. The remarks of the Joint Commissioner of Income-tax were only to facilitate the Principal Commissioner to apply his mind. Writ petition dismissed.
Mahendra Sisodia v. ITO (2025) 483 ITR 314 (Raj)(HC)

2366 **S. 151 : Reassessment-Sanction for issue of notice-Amount involved is more than Rs. 50 lakhs-Approval has to be obtained from Principal Chief Commissioner or Chief Commissioner as defined under section 151(ii)-Approval was obtained from Principal Commissioner in terms of section 151(i) and no approval was obtained before issuance of reopening notice in terms of provision of section 151(ii)-Reopening notice was quashed and set aside. [S. 148, 149, 151(1), 151(ii), Art. 226]**
The Assessing Officer issued notice under section 148 on 25-7-2022. On writ it was contended that as the amount involved is more than Rs. 50 lakhs, approval has to be obtained from the Principal Chief Commissioner or the Chief Commissioner as defined under section 151(ii). On facts, the amount involved in writ petition was a sum of Rs. 3.65 crores and Section 148 notice was issued on 25-7-2022, which was beyond period of three years Since approval was obtained from Principal Commissioner in terms of section 151(i) and no approval was obtained before issuance of reopening notice in terms of provision of section 151(ii), which was mandatory, reopening notice was issued in violation of provision of section 151(ii). Therefore, the reopening notice was quashed and set aside. (AY. 2016-17)(SJ)
Core Logistic Company v. ACIT (2025) 305 Taxman 420 (Mad)(HC)

2367 **S. 151 : Reassessment-Sanction for issue of notice-Beyond three years-Notice was not issued with prior approval of the Principal Chief Commissioner or any other authority specified under section 151(ii), which was a mandatory requirement-Notice was quashed and set aside. [S. 148, 148A(b) 148A(d), 151(1), 151(ii), Art. 226]**
The Assessee-company filed its return of income, which was accepted. Assessing Officer issued a reopening notice to the assessee alleging that assessee had taken an accommodation entry of fictitious purchases of shares from a company. On a writ, the

court held that the notice was not issued with prior approval of the Principal Chief Commissioner or any other authority specified under section 151(ii), which was a mandatory requirement for issuance of notice under section 148 beyond the period of three years from the end of the relevant assessment year. Notice was quashed and set aside. (AY. 2016-17)
Bhagwan Sahai Sharma v. Dy. CIT (2025) 305 Taxman 387 (Delhi)(HC)

S. 151 : Reassessment-Sanction for issue of notice-After expiry of three years-It would be the Principal Chief Commissioner who would be liable to be recognised as being competent authority-Sanction accorded by Principal Commissioner for reassessment under section 148A is not valid-Reassessment notice and consequential order was quashed. [S.148, 148A(b), 148A(d), Art. 226] 2368
The assessee challenged the reassessment proceedings on the ground that since more than three years had elapsed from the end of assessment year 2016-17, only the Principal Chief Commissioner (PCCIT) had the authority to grant approval for reassessment. The sanction was instead granted by the Principal Commissioner of Income Tax (PCIT), making the reassessment action invalid. The High Court allowed the petition and quashed the reassessment notice. (AY. 2016-17)
Kusum Healthcare (P.) Ltd. v. Dy. CIT (2025) 304 Taxman 471 (Delhi)(HC)

S. 151: Reassessment-Sanction for issue of notice-Limitation-Notice issued beyond six years-Time spent by assessee in earlier litigation can neither be excluded nor can it be claimed to result in extension of limitation period-Notice without sanction from prescribed authority-Notices and order invalid.[147, 148, 148A(b), 148A(d), 149(1)(b), 151(ii), Art. 226] 2369
On a writ allowing the petition the Court held that there was no merit in the Department's contention that the time period during which the assessee's petition against earlier notice, dated July 27, 2022 under section 148 was pending before this court was required to be excluded for the purposes of computing the limitation period. The notice issued in the earlier round was set aside on the ground that the Assessing Officer had not followed the mandatory requirement of seeking approval from the competent authority under section 151. The Department ought to have taken all necessary steps for initiation of the assessment proceedings within the period of limitation in accordance with law. The fact that the Department had not taken the steps in accordance with law could not be construed as a factor in favour of the Department for extending the limitation as stipulated under section 149. No period could be excluded unless there was an express bar created by a court order. The pendency of a petition or a stay of notice could not extend the limitation to issue a fresh notice. The time spent in the earlier litigation could neither be excluded nor could lead to an extension of the limitation period under section 149(1)(b). Accordingly, the initial notice under section 148A(b), the order passed under section 148A(d) and the consequent notice dated April 24, 2024 issued under section 148 for the assessment year 2016-2017 were set aside.(AY. 2016-17)
Abhinav Jindal v. ACIT (2025) 476 ITR 330/171 taxmann.com 217 (Delhi)(HC)

2370 **S. 151 : Reassessment-Sanction for issue of notice-Specified authority-Grant of approval under section 151 to be in consonance with extended time limits. Approval granted by Joint Commissioner not compliant with provisions; notice and assessment order invalid.[S. 147, 148, 149(1)(b), Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, S. 3, Art. 226]**

Allowing the Petition the Court held that for the assessment year 2015-2016, the Assessing Officer issued a notice under section 148 of the Income-tax Act, 1961, digitally signing the notice on April 9, 2021, although it was dated March 31, 2021. The notice issued on April 9, 2021 was barred by limitation or lacked jurisdiction since approval was granted by Joint Commissioner, who was not the competent authority, notice and consequential order were quashed.(AY. 2015-16)

Rohit Kumar v. ITO (2025) 476 ITR 691 /170 taxmann.com 506 (Delhi)(HC)

2371 **S. 151: Reassessment-Sanction for issue of notice-Satisfied-The approval is a safeguard and has to be meaningful and not merely ritualistic or formal-General order of approval for all the 111 cases-Mechanical according of sanction-Not valid.[S. 147, 148, Art. 226]**

Allowing the Petition, the Court held that the competent authority must apply its mind independently on the basis of material placed before it before grant of approval or sanction. It was evident that the approval for notice of reassessment dated March 28, 2021 was a general order of approval for all the 111 cases. There was no whisper as to what material had weighed in the grant of approval in the present case. While the Principal Commissioner was not required to record elaborate reasons, he had to record satisfaction after application of mind. The approval is a safeguard and has to be meaningful and not merely ritualistic or formal. The sanction order did not refer to the material of any of the 111 cases. The grant of approval in such a manner did not fulfil the requirement of section 151 of the Act. The notice issued under section 148 of the Act for the assessment year 2015-2016 and the proceedings emanating therefrom were not valid.(AY. 2015-16)

Vinod Kumar Solanki v. Asst. CIT (2025) 475 ITR 208 (Delhi)(HC)

2372 **S. 151 : Reassessment-Sanction for issue of notice-Non-application of mind-Notice and order disposing of the objection was quashed. [S. 147, 148,148A(b), 148A(d), Art. 226]**

Allowing the Petition the Court held, that a perusal of the record revealed that the request for approval under section 151 of the Act in a printed Format was placed before the Principal Chief Commissioner on March 20, 2023. The Principal Chief Commissioner granted the approval on the same day. Hence, the approval granted by the Principal Chief Commissioner for issuance of the order under section 148A(d) was not valid. Consequently, the order passed under section 148A(d), and the notice under section 148 issued pursuant to the order under section 148A(d) had to be set aside and quashed.

SBC Minerals Pvt. Ltd. v. Asst. CIT [2024] 167 taxmann.com 113 /(2025) 475 ITR 360 (Delhi)(HC)

S. 151 : Reassessment-Sanction for notice-Approval beyond four years must be by Principal Commissioner, not Addl. Commissioner. [S. 148, 149, Art. 226] 2373

The AO issued a reopening notice beyond four years from end of the relevant AY with sanction from the Additional Commissioner. The High Court held such sanction to be invalid as per section 151. It held that approval had to be obtained from the Principal Commissioner/Chief Commissioner when reopening is beyond four years. Accordingly, notice was quashed. (AY. 2015-16)

Sidhmicro Equities (P.) Ltd. v. Dy. CIT [2023] 150 taxmann.com 460 (Bom)(HC)

Editorial: SLP rejected, Dy. CIT v. Sidhmicro Equities (P.) Ltd [2023] 453 ITR 35/150 taxmann.com 461 (SC).

S. 151 : Reassessment-Sanction for issue of notice-Mechanical approval-Principal Commissioner-Amount less than 50 lakhs-Reassessment notice was quashed. [S. 149(1)(b), 148A(b), 148A(d), Art. 226] 2374

Allowing the Petition, the Court held that where PCIT granted sanction u/s 151 mechanically on basis of a form mentioning escapement of Rs. 4 lakhs under s.149(1)(b), though the law required approval only by the Principal Chief Commissioner and escapement above Rs. 50 lakhs, reopening was invalid. Since notice u/s 148A(b) was within three years, the case fell under s.149(1)(a). Order and reopening notice were set aside. (AY 2019-20)

Bhavesh Maganlal Dharod v. ITO [2023] 155 taxmann.com 335 (Bom)(HC)

S. 151: Reassessment-Sanction for issue of notice-Pendency of proceedings till proceeding before the Appellate Authority or Revisionary Authority are decided, assessment order and further proceedings are stayed.[S.151A, 246A 264, Art. 226] 2375

On a writ the Court held that the assessee has already filed an appeal against impugned order, as also assessee had filed a review application before Principal Chief Commissioner under section 264. Accordingly the assessee was directed to pursue the pending proceedings before the appropriate Appellate Authority instead of filing instant writ petition. Till proceeding before Appellate Authority or Revisionary Authority are decided, assessment order shall remain stayed. (AY. 2021-22)

Mahindra and Mahindra Ltd. v. ACIT (2025) 302 Taxman 551 (Bom.)(HC)

S. 151 : Reassessment-Sanction for issue of notice-Within four years-Non-application of mind-Approval granted by the specified authority is not in accordance with the law-The notice for reopening and the subsequent assessment order is bad in law [S. 147, 148] 2376

The Assessee was subjected to the reopening under section 147 of the Act and a notice dated 30.03.2017 was issued under section 148 of the Act based on some information received from the Investigation Wing. The AO, based on the said information, alleged that the Assessee indulged in accommodation entries of bogus purchases. The AO finalised the assessment by making the additions on account of alleged bogus purchases. On appeal, the CIT(A) restricted the addition from 100% to 5%. Being aggrieved with the order of CIT(A), the Assessee filed the appeals to the ITAT. Before ITAT, the Assessee raised legal issue challenging the notice under section 148 of the Act. It was contended

before the ITAT that, in the present case, the notice under section 148 of the Act is issued without seeking proper approval and satisfaction as per section 151 of the Act. The ITAT after considering the arguments of the Assessee, observed that the Additional Commissioner of Income Tax wrote a letter to the Principal Commissioner of Income Tax on 27.03.2017 stating that a search and seizure action has conducted on 03.10.2013 in the group of Shri Rajendra Jain, Sanjay Jain etc, the Assessee is one of the beneficiary of this group, therefore necessary sanction under section 151(1) of the Act may be given. However, the form for recording the reasons for initiating proceedings under section 147 was prepared on 23.03.2017 for obtaining the approval of the Commissioner of the Income-Tax. The approval was granted merely mentioning 'yes. I am satisfied'. The ITAT held that as per section 151 of the Act, the appropriate authority for granting approval was the Additional Commissioner of Income Tax and not the Commissioner of Income Tax. Thus, there is no application of mind before granting approval. The ITAT, therefore, quashed the reassessment proceedings, holding the notice under section 148 bad in law. Thus, the Appeal of the Assessee was allowed. [AY. 2010-11, 2011-12]
ITO v. Ravjibhai Bechabhai Dhameliya (2025) 131 ITR 557 (Surat)(Trib.)

2377 **S. 151 : Reassessment-Sanction for issue of notice-Specified authority-Sanction form Principal CIT and not Chief CIT-Reopening proceedings and the reassessment order passed are quashed.[S. 151(ii)]**
For the relevant asst. yr. 2016-17, the time-limit of three years lapsed on 31st March, 2020, which falls between 20th March, 2020 and 31st March, 2021, during which provisions of TOLA would apply. Accordingly, the amended provisions under the Act r/w TOLA extended the time-limit for granting of approval under s. 151 till 30th June, 2021 by the specified authority. Since the notice under s. 148 and order under s. 148A(d) have been issued beyond the said period of three years from the end of the relevant assessment year, the case of the assessee fell within the provisions of s. 151(ii) of the amended law, whereby the specified authority for the grant of approval is the Principal Chief CIT, Principal Director General, Chief CIT or Director General. Contrary to this requirement, approval was obtained from the Principal CIT. Accordingly, since a proper sanction by the specified authority has not been obtained for the issue of a notice under s. 148 under the applicable provisions of law, said notice is invalid and bad in law. Reopening proceedings and the reassessment order passed thereafter are quashed. Followed. *UOI v. Rajeev Bansal (2024) 340 CTR 865 (SC)* (AY. 2016-17)
Mark Foods v. ITO (2025) 235 TTJ 251 (Mum) Trib)

2378 **S. 151: Reassessment-Sanction for issue of notice-Limitation-Information-Mere generation of notice on the ITBA screen cannot in fact or in law constitute issue of notice-Cash deposit-The AO has failed to establish with concrete information that there is escapement of income-Notice was issued after obtaining the approval from Jt. CIT and not with the approval of the prescribed authority-Reassessment notice and consequential order are quashed. [S. 147, 148, 148A(b)]**
Notice was issued only on 1st April, 2021, though the same is dated 31st March, 2021 and, therefore, the notice under s. 148 was barred by limitation; since the AO reopened the assessment simply on account of the fact that the assessee made a cash deposit in

the bank, it cannot be said that there was escapement of income from assessment and, therefore, reassessment is not valid; that apart, notice under s. 148 issued after obtaining the approval from the Jt. CIT was not in conformity with the amended provisions of S. 151. Followed *UOI v. Rajeev Bansal (2024) 340 CTR 865(SC)* (AY.2017-18)
Kishan Beej v. ITO (2025) 235 TTJ 512 (Rajkot)(Trib)

S. 151: Reassessment-Sanction for issue of notice-Notice under section 148 invalid where approval under section 151 is mechanical and inconsistent with reasons recorded [S. 148, 148A(b), 148A(d)] 2379

The Tribunal held that reassessment proceedings were invalid where the approval granted by the Principal CIT did not correspond with the reasons recorded by the Assessing Officer, omitted approval for major issues forming the basis of reopening and reflected no independent application of mind. Mere search action does not automatically justify reopening in the absence of material indicating escapement of income. Accordingly, the notice under section 148 and the consequential assessment were quashed (AY. 2018-19, to 2020-21)
Rosha Alloys (P.) Ltd. v. DCIT (2025) 238 TTJ 357 / 127 ITR 76 / 175 taxmann.com 622 (Chd.)(Trib.).

S. 151 : Reassessment-Sanction for issue of notice-Approval under section 151 recording "Yes, I am satisfied and may be reopened"-Mechanical approval-Without independent satisfaction-Reassessment invalid.[S. 147, 148] 2380

The Principal Commissioner accorded approval for reopening by merely recording, "Yes, I am satisfied and may be reopened." The Tribunal held that the use of the word "may" reflected lack of a definitive direction and showed absence of proper application of mind. Such casual approval did not satisfy the requirement of section 151. The reassessment proceedings were, therefore, quashed. (AY. 2012-13 to 2015-16).
Rungta Irrigation Ltd. v. Asst. CIT (2025) 127 ITR 169 (Kol.)(Trib.)

S. 151 : Reassessment-Sanction for issue of notice-Search cases-Search assessment-Approval by Director General having jurisdiction over Central Charge-Sanction valid.-CBDT Notification No. 68 of 2014, dated 13-11-2014-Escaped income represented by asset exceeding Rs. 50 lakhs-Reopening not barred by limitation-Central Charge-Assignment outside faceless assessment scheme-Jurisdictional Assessing Officer competent to complete assessment-Seized diaries-Statement under section 132(4) admitting ownership-Subsequent plea that diaries belonged to family members rejected-Seized diaries-Tally books subsequently prepared not reliable-Profit to be determined from seized diaries-Land trading-Estimation of profit-Profit rate of 13.14 per cent. held reasonable-Share trading-Estimation of profit-Profit rate of 8 per cent. on total credits directed-Trading account (Maal Khaate)-Income estimated at 10 per cent. of total credits-Peak credit-Telescoping of income assessed in earlier years-Benefit allowable-Bad debts-Claim not reflected in seized diaries-Deduction not allowable-Accrued interest-Notional entries in seized diaries-Double taxation avoided-Addition deleted-Negative peak cash balance-Opening balances of earlier years to be considered-Matter restored-Miscellaneous cash transactions-Only undisclosed income 2381

taxable-Peak credit method upheld. [S.28(i), 36(1)(vii), 44AB,44AD, 69, 69A, 115BBE, 132, 132(4), 147, 148, 149(1)b), 153A]

The assessee challenged the reopening on the ground that approval under section 151 ought to have been granted by the Principal Chief Commissioner and not by the Director General. The Tribunal held that, since the Principal Chief Commissioner had no jurisdiction over the Central Charge or the Director General concerned, the sanction granted by the jurisdictional Director General was valid and in accordance with section 151. Pursuant to search, seized diaries revealed undisclosed cash transactions in the nature of loans and advances exceeding the monetary threshold prescribed under section 149(1)(b). The Tribunal held that such loans and advances constituted "assets" within the meaning of Explanation 2 to section 153A and the corresponding provision in section 149(1)(b). Accordingly, the reopening of assessment was valid and not barred by limitation. The Tribunal held that search assessments assigned to the Central Charge are outside the scope of the faceless assessment scheme. Consequently, the jurisdictional Assessing Officer was competent to initiate and complete the reassessment proceeding. The assessee admitted during the search that the seized handwritten diaries belonged to him and contained details of his cash transactions. The Tribunal held that, in the absence of any material identifying the diaries as belonging to family members or group concerns, the subsequent retraction was not acceptable. The Tribunal held that the tally books prepared after the search contained substantial alterations, including removal of notional interest, merger of family accounts and additional claims for bad debts. As they did not faithfully reflect the seized diaries, the Assessing Officer rightly rejected the tally books and determined the income on the basis of the seized diaries. The Assessing Officer estimated the assessee's profit from land trading at 35 per cent. of the credits recorded in the seized diaries. The Tribunal held that the estimate was excessive and, considering the assessee's own average profit ratio of 13.14 per cent. reflected in the seized records, directed the Assessing Officer to apply that rate. The Tribunal found no basis for the Assessing Officer's estimate of 20 per cent. profit on share trading transactions recorded in the seized diaries. It directed that income be computed by applying a net profit rate of 8 per cent. on the total credits, considering the nature of the transactions and the statutory presumptive scheme. The Tribunal held that the Maal Khaate ledger contained both credit and debit entries and could not be treated as representing net profit. Rejecting the Commissioner (Appeals)' estimate of 20 per cent., the Tribunal directed estimation of income at 10 per cent. of the total credits, considering the turnover and nature of the business. The Tribunal held that, while peak credit should be computed ledger-wise in the absence of identification of individual parties, the assessee was entitled to telescoping of income already assessed in earlier years against the peak addition made in subsequent years. The Tribunal held that no bad debts had been written off in the seized diaries and the claim was raised only in the tally books prepared subsequently. As the tally books were rightly rejected and the statutory requirements for deduction were not satisfied, the claim for bad debts was disallowed. The Tribunal held that the accrued interest entries recorded in the seized diaries were merely notional and that actual interest had already been brought to tax on receipt basis. Taxing the notional interest separately would result in double taxation. Accordingly, the deletion of the addition by the Commissioner (Appeals) was upheld. The Tribunal held that the seized diaries for earlier years formed

an integral part of the evidence and the opening cash balance recorded therein could not be ignored merely because assessment for those years had become time-barred. The matter was restored to the Assessing Officer for recomputation of the negative peak cash balance after considering the opening balances reflected in the seized diaries. The Tribunal held that only the undisclosed income arising from the unexplained transactions and not the entire undisclosed receipts could be brought to tax. The Commissioner (Appeals) rightly adopted the peak credit method after excluding entries already considered under other heads and deleted protective additions relating to family members.(AY. 2013-14 to 2021-22).

Prakash Misrimal Sanghvi v. Dy. CIT (2025) 123 ITR 387 (Ahd.)(Trib.)

S. 151 : Reassessment-Sanction for issue of notice-Order passed by ignoring the revised return filed by assessee-No satisfaction recorded by Pr. CIT before granting approval-Reassessment order was quashed and set aside. [S. 147, 148] 2382

The Assessee filed the original return, which was revised subsequently. However, AO, while reopening the assessment and while obtaining the approval of the competent authority, failed to take cognizance of the same. Further, there were so many factual mistakes by AO while recording the reasons. Furthermore, in the reasons recorded, the Pr. CIT stated 'fit case, approved' and no satisfaction was recorded by him before granting the approval. It is a settled position that mere mechanical manner of approval is not valid and reopening made based upon that said approval is bad in law. Further, it is also settled position of law that once a revised return is filed, the original return must be taken to have been withdrawn and substituted by a fresh return for the purpose of assessment Therefore, since reassessment was framed by ignoring the revised return filed by assessee, the re-assessment proceedings initiated on the basis of such incorrect and vague facts and invalid approval, could not be sustained.(AY. 2012-13) (ITA No. 371/Kol/202, dt. 01/04/2025)

Pradeep Kumar Banerjee v. CIT (A) (Kol.)(Trib) (UR)

S. 151: Reassessment-Sanction for issue of notice-Notice under section 148 was issued after expiry of three years from the end of the relevant assessment year without approval from the authority prescribed under section 151(ii)-Reassessment proceedings were invalid. [S. 148, 151(ii)] 2383

Held that notice under section 148 was issued after expiry of three years from the end of the relevant assessment year without obtaining approval from the competent authority as prescribed under section 151(ii); reassessment proceedings were held to be invalid. (AY. 2017-18)

Karia Builders. v. ITO (2025) 214 ITD 161 (Pune) (Trib.)

S. 151: Reassessment-Sanction for issue of notice-Notice beyond a period of three years-Assessing Officer was statutorily obligated to have obtained approval from either of the authorities specified under section 151(ii) as per section 151 as amended by Finance Act, 2021, effective from 1-4-2021-Reassessment notice and consequential orders were quashed.[S.68, 148, 147, 151(ii)] 2384

The Assessing Officer issued a notice under section 148 dated 4-4-2022 on the ground that the assessee had made substantial cash deposits in its bank accounts, the

assessment was made with addition as cash credits. The CIT(A) also affirmed the order of the Assessing Officer. On appeal, the Tribunal held that the Assessing Officer issued a reopening notice after obtaining approval from the Principal Commissioner. It was also noted that notice under section 148 was issued beyond a period of three years from the end of assessment year. The Tribunal held that the Assessing Officer was statutorily obligated to have obtained approval from either of the authorities specified under section 151(ii) as per section 151, as amended by the Finance Act, 2021, effective from 1-4-2021. Since the Assessing Officer had obtained approval from the Principal Commissioner, i.e., an authority who was not vested with any jurisdiction as per the mandate of section 151, the assessment so framed by him under section 147, being devoid of a valid assumption of jurisdiction, was quashed. (AY. 2018-19)

Nandigam Veerabrahmam. v. ITO (2025) 214 ITD 553 (Visakha) (Trib.)

2385 **S. 151: Reassessment-Sanction for issue of notice-Notice issued under section 148 with sanction of PCIT instead of JCIT-Survey-Invalid sanction-Assessment held to be null and void. [S. 133A, 143(3),151(2), 147, 148]**

The assessee, engaged in stock broking and financial services, had filed its return, which was assessed under section 143(3). Subsequently, on the basis of information received from search and survey in the case of Naresh Jain group (providing accommodation entries in penny stocks), the assessment was reopened under section 148 with the sanction of the PCIT. The AO made an addition of ₹16.86 lakhs as bogus loss, which was upheld by the CIT(A). On further appeal, the Tribunal admitted additional grounds challenging the validity of sanction. Relying on the Supreme Court decision in *UOI v. Rajeev Bansal [2024] 469 ITR 46 (SC*) and Bombay High Court decision in *Ghanshyam K. Khabrani v. ACIT (2012) 346 ITR 443 (Bom) (HC)* it held that since the reopening pertained to AY 2015-16, the sanctioning authority under section 151(2) was the JCIT and not the PCIT. Sanction from a higher authority does not cure the defect. Consequently, the notice under section 148 was invalid and the reassessment order was quashed as null and void. Other grounds were rendered academic. Appeal of assessee allowed. (AY. 2015-16)

Sunidhi Securities & Finance Limited v. DCIT [2025] 178 taxmann.com 265 (Mum)(Trib)

2386 **S. 151 : Reassessment-Sanction for issue of notice-Beyond three years-Approval by Principal Commissioner invalid-Reassessment quashed [Ss. 147, 148, 148A(b), 151(i), 151(ii)]**

The AO reopened assessment after three years with approval from the Principal Commissioner. The Tribunal held that under section 151(ii), approval of the specified authority was mandatory beyond three years. Approval by the Principal Commissioner was invalid, and the reassessment notice and order were quashed as void ab initio, following the Supreme Court in *UOI v. Rajeev Bansal (2024) 469 ITR 46 (SC)*. (AY. 2017-18)

DCIT v. SS Jewellery (2025) 212 ITD 432 (Mum)(Trib.)

S. 151 : Reassessment-Sanction for issue of notice-Shall be signed-Validity of reassessment-As per the CBDT Notification dated 31.03.2021, reassessment proceedings initiated prior to 01.04.2021 were to be governed under the old regime, and all functions were to be performed by the Jurisdictional AO-Sanction and jurisdiction is bad-Order of reassessment is quashed Unsigned sanction-Order is quashed and set aside. [S. 120, 147, 148,149, 282A(1) R.127A(1)] 2387

The Assessing Officer issued notice under section 148 of the Act on the basis of alleged unaccounted cash receipts. The assessee challenged the very foundation of the reassessment proceedings, arguing that the mandatory sanction under section 151 of the Act as required before issuance of notice under section 148 was neither manually signed nor digitally signed by the competent authority. The sanction sheet merely contained the name and designation of the Principal Commissioner of Income-tax (PCIT), without any signature, initials, or DSC. The assessee heavily on the Allahabad High Court decision in *Vikas Gupta v. UOI (2022) 448 ITR 1 (All)(HC)*, which held that unsigned approvals do not fulfil the mandatory requirement of "authentication" under section 282A(1). The issue before the Tribunal was whether reassessment proceedings initiated under section 147/148 are valid when the mandatory approval under section 151 is unsigned-i.e., neither manually nor digitally signed,and whether such approval satisfies the legal test of authentication under section 282A of the Income-tax Act.

The Tribunal, after extensively examining the provisions of sections 151 and 282A, held that the Authentication under section 282A(1) is not a mere procedural formality; it is a statutory mandate. An unsigned approval cannot be considered valid, whether issued in paper form or electronic form. A notice or document must bear a valid manual or digital signature to be held as "signed". The approval obtained in the case was admittedly not signed by the PCIT, either physically or electronically. The Tribunal distinguished the contrary view expressed by the Chhattisgarh High Court in Bharat Krishi Kendra v. UOI (2022) 444 ITR 584, noting that it was a single-judge decision and did not deal with section 282A(1) in detail. The Tribunal followed the ratio of Vikas Gupta (All)(HC) and *Daujee Abhushan Bhandar v. UOI (2022) (All)(HC)*, as both were Division Bench rulings specifically interpreting section 282A(1). The Tribunal further relied on the Supreme Court decision in *CIT v. Vegetable Products Ltd. (1973) 88 ITR 192 (SC)*, which laid down that where two views are possible on a provision, the view favourable to the assessee must be adopted.

Accordingly, the Tribunal held that the unsigned sanction was invalid, and since valid prior approval is a jurisdictional condition under section 151, the entire reassessment proceedings were bad in law; therefore reassessment proceedings initiated on the basis of such approval are without jurisdiction and hence quashed. (AY. 2016-17)

J. Kumar Infraprojects Ltd. v. DCIT [2025] 176 taxmann.com 193 (Mum)(Trib)

S. 151: Reassessment-Sanction for issue of notice-Date of sanction for issuance of notice-Date on which the notice is uploaded on ITBA portal of department-Not the date on which it was communicated manually. [S. 148] 2388

On an appeal the assessee contended that the approval under section 151 was granted after issuance of notice under section 148 dated 29-3-2018, since Assessing Officer had received approval from Pr. Commissioner on ITBA Portal on 29-03-2018, however,

manual communication through letter was forwarded to the Assessing Officer on 31-03-2018, hence bad in law. The Tribunal held that the date of approval was 29-03-2018, which was on the ITBA portal of the department, and not the date on which it was communicated to the assessee. Accordingly, there was proper compliance of pre-requisite conditions to obtain approval under section 151 as per mandate of law. (AY. 2011-12)
Prem Singh Saluja v. ITO (2025) 211 ITD 496 (Raipur) (Trib.)

2389 **S. 151 : Reassessment-Sanction for issue of notice-Approval held to have been granted in a mechanical manner-Reassessment quashed. Communication of assessment order-Assessment orders and demand notices issued u/s. 156, without a Document Identification Number (DIN) are unsustainable in law and can be considered invalid. [S. 119, 147, 148, 156]**
The approval was granted in a mechanical manner and without application of mind. The reassessment notice and order were quashed. As per CBDT Circular No. 19/2019, dated 14-08-2019, it is a mandatory requirement that the Document Identification Number (DIN) must be quoted on the body of the assessment order and demand notice at the time of issuance. A subsequent generation of DIN (either on the same day or the next day) and its intimation to the assessee via a separate communication does not satisfy the conditions laid down in paragraphs 3 and 4 of the circular. Since the requirement of quoting the DIN on the original assessment order and demand notice was not met, they were unsustainable in law. (AY. 2013-14, 2014-15)
Mohd. Shafiq Cement Store v. ITO [2025] 210 ITD 1 (Amritsar)(Trib.)

2390 **S. 151 : Reassessment-Sanction for issue of notice-Notice u/s 148 issued beyond 3-year period-As per amended Section 151 (post 01.04.2021), approval from PCCIT/CCIT was required, but approval was taken from PCIT-Reassessment proceedings quashed. [S. 147, 148]**
In this case notice u/s 148 under old provisions was issued on19/05/2021, so the survival period of 42 days was available to the AO up to 30/06/2021, and the same period would be available after excluding the period of stay up to the date of filing response by the assessee. which has been filed on 10/06/22. Pursuant to the supply of material/ issue of notice u/s 148A(b) of the Act on 28.05.2022, the assessee filed its response on 10.06.2022; therefore, the Assessing Officer got 42 days from 10.06.2022 for issue of reassessment notice us 148 of the Act under the amended regime of reassessment. Thus, the survival period of 42 days ended on 22.07.2022, whereas the Assessing Officer in the instant case has issued notice u/s 148 of the Act on 30.07.2022, which is otherwise beyond the period of three years from the end of the relevant assessment year. Notice issued on 30/07/2022 was beyond the permitted 42-day survival period post assessee's reply dated 10.06.2022. Approval was taken from PCIT, not the competent authority under amended Section 151 (PCCIT/CCIT). Thus, reassessment proceedings were invalid, and the entire proceedings were quashed. (AY. 2016-17), (ITA Nos.1582/M/2024 2026/MUM/2024)
Arvind Velji Gada v. ITO (Mum) (Trib)(UR)

S. 151: Reassessment-Sanction for issue of notice-Additional ground admitted-Approval from incorrect authority-Notice issued without valid sanction from specified authority-Notice is quashed and set aside. [S. 144C(13), 147, 148, 148A(b), 148A(d), 151(ii), Art. 226] 2391

The assessee, a non-resident Indian, filed an e-return of income for AY 2017-18 on 02.07.2017, declaring income at Rs. 80. Subsequently, it was found that out of Rs. 16,00,000/-cash seized by the police in old denomination notes (Rs 500 and 1000), Rs. 7,35,000/-belonged to the assessee. The AO reopened the case under Section 147 and issued a Section 148 notice on 29.07.2022, after obtaining prior approval from the Principal Commissioner of Income Tax (PCIT-27), Mumbai. The assessee raised additional ground before the Tribunal on the issue of incorrect sanction by the specified Authority. The Tribunal admitted the additional ground. The assessee contended that since more than three years had elapsed from the end of the relevant assessment year, approval should have been obtained from the Principal Chief Commissioner or Principal Director General as mandated under Section 151(ii) of the new regime and contested the validity of the notice, arguing that the approval from an unauthorised authority rendered the reassessment proceedings invalid. The ITAT held that the issuance of notice without approval from the correct authority is a jurisdictional defect that invalidates the entire assessment. Tribunal referred the *UOI v. Rajeev Bansal (2024) 340 CTR 865 / 242 DTR 297 / 301 Taxman 238 / 167 /469 ITR 46 (SC) UOI v. Ashish Agarwal (2022) 286 Taxman 183/ 444 ITR 1 (SC)* wherein the prior approval under section 148A(a) and 148(b) were waived, however, the prior approval of the specified authority according to section 151 of the new regime was not waived before passing an order u/s. 148A(d) or issuing a notices u/s. 148 of the Act on or after 01.04.2021. Accordingly, the Tribunal quashed the Section 148 notice and the consequential reassessment order, rendering other issues academic. (ITA No. 2427/MUM/2024, dt. 10/02/2025) (AY. 2017-18)
Abdul Saeed Issak v. INT Tax Ward (3) (Mum)(Trib). www.itatonline.org.

S. 151 : Reassessment-Sanction for issue of notice-Notice issued after three years from the end of the relevant assessment year-Principal Chief Commissioner-Approval obtained from Principal Commissioner instead of Principal Chief Commissioner-Reassessment notice and consequential order is quashed and set aside. [S. 56(2)(vii)(b), 144B, 147, 148,151(ii)] 2392

The Assessing Officer framed the assessment under Section 147 read with Section 144B of the Act, making an addition of Rs. 20,42,000 under Section 56(2)(vii)(b). The assessee challenged the order before the CIT(A) on legal grounds and on merits, which was dismissed. On appeal the ITAT held that the approval for issuing notice under Section 148 was required to be obtained from the Principal Chief Commissioner (Pr. CCIT) as per Section 151(ii) since the notice was issued after three years from the end of the relevant assessment year. However, the AO obtained approval from the Principal Commissioner (Pr. CIT-2), which was invalid. The ITAT quashed the reassessment order for lack of valid approval. The Tribunal emphasized that procedural compliance under Section 151(ii) is mandatory, and failure to obtain approval from the appropriate authority renders the reassessment order void. Accordingly, the appeal was allowed. Relied on *UOI v. Rajiv Bansal (2024) 167 taxmann.com 70/2024) 340 CTR 865 / 242 DTR*

297 / 301 Taxman 238 / 167 /469 ITR 46 (SC), ACIT-19(1) v. Manish Financials, ITA No. 5050 & 5055/Mum/2024, decided on 2/12/2024. (ITA No. 3224/Mum/2024) dt.27-1-2025) (AY. 2017-18)
Ramlal G Suthar v. ITO (Mum)(Trib) www.itatonline.org

2393 **S. 151A : Faceless assessment of income escapement of income-Interlocutory application seeking restoration of SLP was allowed and restored to its original number on file-Sanction to issue of notice-Reassessment was initiated after the expiry of three years-Interlocutory application seeking restoration of SLP was to be allowed and restored to its original number on file. [S. 148, 151, Art. 136]**
Assessee filed petition challenging the validity of the reassessment notice issued to it. Notice under section 148 and order of the same date under section 148A(d) were issued by the Jurisdictional Assessing Officer and not under the mandatory faceless mechanism as per provisions of section 151A. The High Court held that for a notice to be validly issued under section 148, the Assessing Officer would be required to comply with the provisions of section 151A, so as to adhere to the faceless mechanism, as notified by the Central Government by notification dated 29-3-2022. Since the order and notices issued by the Assessing Officer were not in compliance with the scheme notified by the Central Government implementing provisions of section 151A, the reassessment notice issued to the assessee was set aside. SLP of revenue was dismissed on the grounds of delay as well as on merits. Interlocutory application seeking restoration of SLP was to be allowed and restored to its original number on file. As regards sanction, the High Court held that where reassessment in the case of the assessee was initiated after expiry of three years from the end of the relevant assessment year, sanction for issue of notice under section 148 ought to have been granted by authorities of rank referred to in section 151 (ii) and not by authorities of relatively lower rank under section 151 (i). SLP of revenue was dismissed on the grounds of delay as well as on the merits. Interlocutory application seeking restoration of SLP was to be allowed and restored to its original number on file. (AY. 2018-19)
ITO v. Prakash Pandurang Patil (2025) 307 Taxman 618 (SC)
Editorial : SLP restored, ITO v. Prakash Pandurang Patil (2025) 306 Taxman 341 (SC)

2394 **S. 151A: Faceless assessment scheme-Reassessment-Notice issued without mandatory faceless mechanism-After expiry of three years-Approval by authority not as per provisions of S. 151(ii)-Proceedings invalid-Delay of 248 days-SLP was dismissed on account of delay as well as on merits. [S. 148, 148A(b), 148A(d), 151(i), 151(ii), Art. 136]**
In this case, the Supreme Court addressed the validity of reassessment proceedings initiated under Section 148 of the Income-tax Act for Assessment Year 2018-19. The assessee had challenged the validity of the reassessment notice and the order under Section 148A (d) on the ground that they were issued by the Jurisdictional Assessing Officer and not through the mandatory faceless mechanism prescribed under Section 151A, as notified by the Central Government on 29 March 2022.The Bombay High Court held that compliance with Section 151A was essential for issuing a valid notice under Section 148, and since the impugned notices were not in accordance with the faceless scheme, they were invalid and liable to be set aside. Additionally, the High Court also

observed that the reassessment was initiated after the expiry of three years from the end of the relevant assessment year, and therefore, sanction for issuing the notice should have been obtained from the higher authorities specified under Section 151(ii) and not from lower-ranked authorities under Section 151(i). The Revenue filed a Special Leave Petition before the Supreme Court, which was dismissed on account of gross delay of 248 days in filing the petition as well as on merits.(AY. 2018-19)
ITO v. Prakash Pandurang Patil [2025] 306 Taxman 341 / 481 ITR 325 (SC)
Editorial : Prakash Pandurang Patil v. ITO (2025) 177 taxmann.com 552 / 481 ITR 325 (Bom)(HC) SLP dismissed earlier was restored, ITO v. Prakash Pandurang Patil (2025) 307 Taxman 618 (SC)

S. 151A: Faceless assessment scheme-Reassessment proceedings were initiated by the Jurisdictional Assessing Officer-Reassessment notice and consequential proceedings were quashed. [S. 148, 148A(b) 148A(d), Art. 226] 2395
The Assessee filed writ petitions challenging the initiation of reassessment proceedings under sections 148A and 148 by the Jurisdictional Assessing Officer. High Court quashed the reassessment notice and consequential proceedings. Followed. *Kankanala Ravindra Reddy v. ITO [2023]295 Taxman 652 (Telangana)(HC).*
Yashnu Yasasvi Polucherla v. ITO (2025) 307 Taxman 393 (Telangana)(HC)

S. 151A: Faceless assessment scheme-Jurisdiction-Procedure adopted by the Department in contravention of statutorily prescribed provisions-Notice set aside-Revenue granted liberty to proceed in accordance with law. [S. 147, 148, Art. 226] 2396
On a writ petition challenging the order under section 151A of the Income-tax Act, 1961 and the notice issued under section 148 for reopening the assessment under section 147 for the assessment year 2021-2022 and contending that all subsequent proceedings should be set aside since the issuing authority had no jurisdiction to issue the notice, in view of the notification dated March 29, 2022 (2022) 442 ITR (St.) 198) of the Central Board of Direct Taxes, wherein, it has been specifically enumerated that the National Faceless Assessment Centre has exclusive power to issue the notice under section 148, Court held that the Department was granted liberty to proceed in accordance with law following the prescribed procedure under section 151A for issuing the notice under section 148 to reopen the assessment under section 147 for the assessment year 2021-2022.(AY. 2021-02)
Om Satya Overseas v. UOI (2025) 479 ITR 430 /178 taxmann.com 137 (P & H)(HC)

S. 151A: Faceless assessment scheme-Jurisdiction-Search cases-Central charge-Under faceless mechanism-e-Assessment of Income Escaping Assessment Scheme, 2022 dated 29-3-2021-Central Board of Direct Taxes order dated 6-9-2021-Judicial propriety-High Court-Precedent-Proper for Bench of court to follow its own authoritative ruling in preference to that of another court.[S. 144B(2), 148, 153A, 153B, 153D [Art. 226] 2397
Allowing the Petition, the Court held that the orders under challenge were in violation of the provisions enacted by the Finance Act, 2021 ((2021) 432 ITR (St.) 52), which came into force with effect from April 1, 2021. Cases assigned to central charges and the notices issued therein for reassessment could not be issued by the Jurisdictional Assessing Officer and that it could be in a faceless manner. Where there is an

authoritative decision on the issue by the same High Court, judicial propriety requires the Bench to honour the view taken by the Division Bench of the High Court itself. (AY.2019-20 to 2022-23)
Kings Pride Infra Projects Pvt. Ltd. v. Dy. CIT (2025) 479 ITR 651 /176 taxmann.com 704 (Telengana) (HC)

2398 **S. 151A: Faceless assessment scheme-Notice under section 148 issued by Jurisdictional Assessing Officer instead of Faceless Assessing Officer-Non-compliance with provisions of section 151A-Banking business-Capital or revenue Purchase of securities-Broken period interest-Allowable revenue expenditure-Audit objection-Notice held to be invalid.[S. 147, 148, 148A(b), 148A(d), Art.226]**
Held that that the notice issued under section 148 and the order under section 148A(d) were issued by the jurisdictional Assessing Officer and not by the Faceless Assessing Officer, as required under the provisions of section 151A of the Act. The Jurisdictional Assessing Officer had no jurisdiction to issue the notices under sections 148A(b) and 148. In view of the law in *Hexaware Technologies Ltd. v. Asst. CIT, (2024) 464 ITR 430 (Bom); (2024) 2 HCC (Bom) 204*, the notice was unsustainable, and consequently, the very manner in which the proceedings were initiated vitiated the proceedings. The contention of the assessee on the position in law in regard to the broken period interest on the purchase of hold-to-maturity securities was accepted and the issue on the entitlement of the assessee to the deduction of the broken period interest was no more res integra. The initial notice under section 148A(b), the order under section 148A(d) and the notice issued under section 148 for reopening the assessment under section 147 for the assessment year 2018-2019 were set aside.(AY. 2018-19)
Bank of India v. ACIT (2025) 477 ITR 208/170 taxmann.com 422 (Bom)(HC)

2399 **S. 151A: Faceless assessment scheme-Notices issued by jurisdictional Assessing Officer quashed and set aside-In a taxing statute, one has to look at the text as it is. There is no equity in taxation law. There is no intendment and presumption as to tax-Nothing is to be read in and nothing is to be implied-Revenue granted liberty to issue fresh notices in compliance with Central Board of Direct Taxes circular read with section 151A of the Act-Interpretation of taxing statute-term "randomly". [S. 147, 148, 148A(b) 148A(d), Art. 226, 265]**
Allowing the Petitions, that any jurisdictional error in the notices had to be cured and hence the notices which had been issued under section 148 for reassessment under section 147 did not withstand the broader scheme of law which required automated allocation based on algorithm and random assignment of the Assessing Officer. The mandate of section 151A had to be strictly followed. The Jurisdictional Assessing Officer shall not have the jurisdiction to issue notices under section 148, as it would not only render section 151A weak, but may also lead to its diminishing activation. For the purpose of notices and reassessment proceedings under sections 147, 148 and 148A and in the light of the sanction under section 151A, adherence had to be made to algorithm based random assessing system, and therefore, the notices issued under section 148 were quashed and set aside. Article 265 of the Constitution of India, prohibits the State from extracting tax from the citizens without authority of law. It is axiomatic that taxation statute has to be interpreted strictly because State cannot at its whims and fancies

burden the citizens without authority of law. In a taxing statute, one has to look at the text as it is. There is no equity in taxation law. There is no intendment and presumption as to tax. Nothing is to be read in and nothing is to be implied. The basic principle of charge under the tax statutes is, "No tax can be imposed on the subject without words in the Act clearly showing an intention to lay a burden upon him. Burden of proof of bringing someone under a charge is on the Revenue and that of bringing assessee under exemption or deduction is on the assessee itself. If an interpretation of a fiscal enactment is open to doubt and two views are reasonably possible then the one more beneficial or favourable to the assessee should be adopted. Provisions related to machinery of assessment or collection should be construed to make it workable and effectuate the levy and advance the objectives of the provisions. Construction of machinery provisions that disables the taxing machinery, and enables the person to escape taxation shall be avoided. In case of provisions creating rights, courts must lean in favour of construction that saves the right instead of the one defeating it."
Sharda Devi Chhajer. v. ITO (2025) 477 ITR 228 / 347 CTR 115 / 254 DTR 25 (Raj)(HC)

S. 151A: Faceless assessment scheme-Notices issued and orders passed outside purview of Jurisdictional Assessing Officer in faceless mechanism and hence set aside-Revenue given liberty in accordance with new procedure on outcome of Supreme Court decision in pending special leave petition on similar issue.[147, 148, 148A(b),148A(d), 151A, Art. 226] 2400

On a writ allowing the petition the Court held that the initial notice under section 148A(b), the order under section 148A(d) and the notice under section 148 for reopening the assessment under section 147 should not have been issued in a faceless manner, at least till the Supreme Court had decided the special leave petitions pending before it. In spite of the matter having been taken on many occasions, the Supreme Court had not granted any interim protection to the Department. Large number of High Courts had taken a consistent stand that such action of the Department as being violative of the Finance Act, 2020 ((2020) 422 ITR (St.) 25) and Finance Act, 2021 ((2021) 432 ITR (St.) 52). The Department's persistent initiation of fresh proceedings was contrary to established judicial pronouncements. This court had already provided a balanced approach by preserving both the Department's rights and the assessee's interests. The initial notice under section 148A(b), the order under section 148A(d) and the notice under section 148 and consequential orders, if any, were quashed and set aside. Allowing of this writ petition was subject to outcome of the special leave petition preferred by the Department against the decision in *Kankanala Ravindra Reddy v. ITO, (2023) 22 ITR-OL 728 (Telangana)(HC)* and either of the parties, could in an appropriate petition seek revival of this writ petition in the light of the decision of the Supreme Court in the pending special leave petition on the very same issue.
Dugar Indvent Pvt. Ltd v. ITO (2025) 477 ITR 278 (Telengana)(HC)

S. 151A: Face less assessment scheme-Notice under section 148 issued by Jurisdictional Assessing Officer instead of Faceless Assessing Officer-Non-compliance with provisions of section 151A-Notice invalid.[S. 147, 148, 148A(b), 148A(d), Art.226] 2401

Held that that the notice issued under section 148 and the order under section 148A(d) were issued by the Jurisdictional Assessing Officer and not by the Faceless Assessing

Officer, as required under the provisions of section 151A of the Act. The jurisdictional Assessing Officer had no jurisdiction to issue the notices under sections 148A(b) and 148. In view of the law in *Hexaware Technologies Ltd. v. Asst. CIT, (2024) 464 ITR 430 (Bom); (2024) 2 HCC (Bom) 204,* the notice was unsustainable and consequently, the very manner in which the proceedings were initiated vitiated the proceedings. The notices and consequent order were quashed. (AY. 2020-21))
Ashni Logistics Pvt. Ltd v. ACIT (2025) 476 ITR 684 (Bom)(HC)

2402 **S. 151A : Faceless assessment scheme-Reassessment-Notice-Notice issued by Jurisdictional AO instead of Faceless AO-Notice invalid [S.147, 148]**
The reassessment notice under section 148 was issued by the jurisdictional Assessing Officer instead of the Faceless Assessing Officer as required under the scheme notified under section 151A. Following the Bombay High Court decisions, the Tribunal held that the notice was without jurisdiction and invalid. (AY. 2014-15 to 2017-18, 2019-20 to 2022-23)
Estate Investment Company (P.) Ltd. v. DCIT (2025) 238 TTJ 585 (Mum)(Trib).

2403 **S. 151A: Faceless assessment scheme-Reassessment-Faceless jurisdiction-Manual DIN-Reassessment held void ab initio-Jurisdictional AO issued notice instead of Faceless AO-Assessment order manually issued without computer-generated DIN-Proceedings invalid. [S. 147, 148, 151, CBDT Circular No. 19/2019]**
Pursuant to a search on the Seksaria Group, the Assessing Officer reopened the assessments of The Estate Investment Company Pvt. Ltd. for several years and made additions towards alleged capital gains and unexplained money on the basis of seized diaries and employee statements. The assessee contended that the notice under section 148 was issued by the Jurisdictional AO instead of the Faceless AO as required under section 151A, and that the assessment order dated 27-03-2023 was manually issued without a pre-generated DIN, contrary to CBDT Circular No. 19/2019, which mandates electronic generation and quoting of DIN on all communications. The Tribunal held that the faceless reassessment scheme confers exclusive jurisdiction on the Faceless AO, and any notice issued by the Jurisdictional AO is coram non judice and void. Further, since the assessment order contained a manually written DIN and no exceptional circumstances or prior approval were recorded as prescribed by the Circular, the order was non est and deemed never to have been issued. The reassessments were accordingly quashed as void ab initio. Followed, *Ashok Commercial Enterprises v. ACIT [(2023) 154 Taxmann.com 144 (Bom)(HC) Hexaware Technologies Limited v. ACIT [2024] 464 ITR 430 (Bom)(HC),Abhin Anil Kumar Shah v. ITO [(2024) 468 ITR 350 (Bom)(HC) Ganesh Nivrutti Jagtap v. ACIT [(2024) 166 Taxmann.com 168 (Bom)(HC)* The dismissal of the Special Leave Petition by the Hon'ble Supreme Court in *Deepanjan Roy v. ADIT [SLP (C) No. 18753/2025] (ITA Nos. 3012-3013 & 3222-3228/Mum/2025 dt. 17-10-2025)* (AY. 2014-15 to 2022-23)
Estate Investment Co. Pvt. Ltd. v. DCIT (Mum)(Trib)-www.itatonline.org

S.151A: Faceless assessment of income escaping assessment-Reassessment issued by Jurisdictional AO instead of FAO-Order is held to be valid on the presumption that the operation of the Jurisdictional High Court in Hexaware Technologies Ltd. v. ACIT (2024) 464 ITR 430 (Bom)(HC) is stayed by the Honourable Supreme Court. [S. 148, 151, Art. 136] 2404

The assessee challenged the validity of the reassessment proceedings for AY 2016-17 on the ground that the notice under section 148 was issued by the Jurisdictional Assessing Officer (JAO), whereas under section 151A and CBDT Notification No. 18/2022 dated 29.03.2022, reassessment notices post-01.04.2021 were to be issued only by the Faceless Assessing Officer (FAO). The assessee relied heavily on the decision of the Bombay High Court in *Hexaware Technologies Ltd. v. ACIT, (2024) 464 ITR 430 (Bom)(HC))* which quashed reassessment notices issued by the JAO on identical grounds. The issue before the Tribunal was, whether reassessment notice issued by JAO post-01.04.2021 is without jurisdiction in light of the mandate under section 151A and CBDT notification requiring reassessment to be conducted through the FAO. The Tribunal noted the assessee's reliance on the Bombay High Court ruling in Hexaware Technologies Ltd. However, it also recorded that the operation of the said High Court judgment had been stayed by the Hon'ble Supreme Court. In view of the Supreme Court stay, the Tribunal declined to follow the said precedent as binding, distinguishing it from ordinary jurisdictional rulings. The Tribunal held that once the judgment relied on by the assessee is stayed by the Apex Court, the principle of judicial discipline does not oblige the Tribunal to apply it. Consequently, the Tribunal did not accept the argument that the issuance of notice by the JAO rendered the proceedings void or without jurisdiction. Thus, this issue was decided against the assessee, and the reassessment proceedings were held to be valid despite the procedural objection. Reassessment notice issued by the JAO is not invalid where the High Court judgment holding it so has been stayed by the Supreme Court. (AY 2016-17 to 2022-23)

J. Kumar Infraprojects Ltd. v. DCIT [2025] 176 taxmann.com 193 (Mum)(Trib)

Editorial: The Tribunal erroneously observed that the Judgement of the Jurisdictional High Court in Hexaware Technologies Ltd. v. ACIT (2024)162 taxmann.com 225/ 464 ITR 430 (Bom)(HC) is stayed by the Honourable Supreme Court. Refer: Dada Pharma LLP v. Dy. CIT (Mad)(HC) www.itatonline.org, Gaishen Enterprise LLP v. ACIT (Bom)(HC) www.itatonline.org. Chennai ITAT issues Circular requesting the Bar and Departmental Representatives to identify appeals covered by Madras HC ruling in TVS Credit Services Ltd v. DCIT, following Bombay High Court Judgement in Haxaware for consolidating hearing, www.itatonline.org.

S. 153 : Assessment-Limitation-Proceedings under s. 144C-Whether time consumed in DRP procedure is to be included within limitation prescribed under S. 153-Divergent judicial views-Issue relating to applicability of twelve-month limitation under S. 153(3) even in DRP cases and determination of maximum permissible period for completion of assessment referred to Larger Bench. [S. 144C, 153(3)] 2405

The Supreme Court noted divergence of opinion on whether the time taken in proceedings before the Dispute Resolution Panel under s. 144C is to be subsumed within or excluded from the limitation period prescribed under s. 153 for completion of

assessment. While examining the scheme of ss. 144C and 153, the Court observed that s. 144C prescribes a special procedure with fixed timelines for eligible assessees, whereas s. 153 governs overall limitation for completion of assessments. Since conflicting interpretations existed regarding whether, even where s. 144C applies, the twelve-month limitation contemplated under s. 153(3) would continue to govern completion of assessment and what constitutes the outer time limit for passing the final assessment order pursuant to DRP directions, the Court directed that the matter be placed before the Hon'ble Chief Justice of India for constitution of an appropriate Larger Bench to authoritatively settle the issue. (AY. 2014-15, 2018-19)
ACIT v. Shelf Drilling Ron Tappmeyer Ltd. (2025) 177 taxmann.com 262 / 346 CTR 137 / 253 DTR 41 (SC).

2406 **S. 153 : Assessment-Reassessment-Limitation-Order giving effect to the order of Tribunal-Transfer Pricing-Raising demand Order raising demand contrary to order of Tribunal-Order set aside.[S. 92CA, 153(3), 156, 254(1), Art. 226]**
The Assessing Officer passed an order under section 143(3) read with section 144C(1) read with section 92CA of the Income-tax Act, 1961 for the assessment year 2013-2014 in which he had accepted the income declared by the assessee in the return but added the transfer pricing adjustment and disallowed the expenses claimed towards research and development. The Tribunal allowed the assessee's appeal in respect of the transfer pricing adjustment but remitted the matter to the Assessing Officer in respect of the disallowance of research and development expenses. Thereafter, the Deputy Commissioner raised a demand for certain outstanding amounts for the assessment years 2013-2014, 2018-2019 and 2021-2022. On a writ petition contending that pursuant to the order of the Tribunal, the Transfer Pricing Officer did not pass an order giving effect to the order under section 254 and that only thereafter the Deputy Commissioner ought to have passed a fresh assessment order. High Court directed the Assessing Officer to pass an order as per the direction of the Tribunal within four weeks. (AY. 2013-14) (SJ)
Bloom Energy (India) Pvt. Ltd v. Dy. CIT [2023] 155 taxmann.com 474 / (2025) 482 ITR 930 (Mad)(HC)

2407 **S. 153 : Assessment-Reassessment-Limitation-Tribunal, by order dated 31-3-2015, remanded matter to Assessing Officer for de novo consideration-Fresh assessment, as directed by Tribunal, ought to have been completed on or before 31-3-2017 as per sub-section (7) of section 153, as amended by the Finance Act, 2016-Notice dated 6-11-2020 issued by Assessing Officer was barred by limitation. [S. 153(6), 153(7), 254(1), Art. 226]**
The Assessing Officer completed assessment under section 143(3) on 31-12-2009-Tribunal, by order dated 31-3-2015, remanded matter to Assessing Officer for de novo consideration. Thereafter, the Assessing Officer, by notice dated 6-11-2020, sought to provide an opportunity to assessee to complete assessment afresh in terms of the Tribunal's directions. The assessee challenged said notice in a writ petition, inter alia contending that proceedings were time-barred. The Single Judge held that, in view of section 153(7), notice dated 6-11-2020 was barred by limitation and accordingly quashed the same. It was noted that sub-section (3) is expressly made subject to provisions of

sub-section (2A) which governs cases where an order of fresh assessment is to be made in pursuance of an order of Tribunal setting aside or cancelling an assessment and it prescribes a period of limitation of one year from end of financial year in which order of Tribunal is received by Principal Chief Commissioner, Chief Commissioner, Principal Commissioner, or Commissioner, as case may be. The Court held that on a combined reading of sub-sections (7) and (9) of section 153, it is to be held that sub-section (7) of section 153, as amended by Finance Act, 2016, is applicable to instant case, and fresh assessment, as directed by Tribunal, ought to have been completed on or before 31-3-2017. Notice issued by the Assessing Officer on 6-11-2020 to complete assessment was barred by limitation. The order of single judge was affirmed. (AY.2007-08)

ACIT v. United Spirits Ltd. (2025) 178 taxmann.com 192 / 347 CTR 866 / 255 DTR 45 (Karn)(HC)

Editorial : United Spirits Ltd. v Asstt. CIT (2024) 296 Taxman 141/ 464 ITR 167 / 337 CTR 826/ 236 DTR 47 (Karn)(HC) affirmed.

S. 153: Assessment-Reassessment-Limitation-Assessment order uploaded on portal after expiry of limitation period-Order time-barred-Violation of natural justice-Notices issued to wrong email ID despite intimation of fresh email IDs-No effective opportunity of personal hearing-Assessment order passed under influence of superior officers and without independent application of mind-Order quashed as non est. [S. 143(3), 142(1), 119, Art. 226] 2408

For AY 2022-23, the limitation prescribed under section 153(1), as amended by the Finance Act, 2022, required the assessment to be completed within twelve months from the end of the assessment year, i.e., on or before 31-3-2024. Though the Revenue contended that the assessment order was made on 31-3-2024, the order was undated and was reflected on the assessee's portal only on 4-4-2024. In the absence of any contemporaneous evidence of service or uploading on 31-3-2024, and as no email containing the assessment order was shown to have been sent on that date, the Court held that the order was passed beyond limitation and was therefore time-barred. The Court further held that the Assessing Officer had violated principles of natural justice by issuing notices to an old email ID of a former Chartered Accountant despite intimation of fresh email IDs and by not granting personal hearing despite specific request. It was also found that the Assessing Officer had been influenced by superior officers during the assessment proceedings, whereas their role was confined only to approval of the final order under the CBDT Circular, resulting in abdication of quasi-judicial discretion. Accordingly, the assessment order was held to be illegal, arbitrary and non est, and was quashed.(AY. 2022-23)

FinDoc Finvest (P.) Ltd. v. Dy. CIT, Central (2025) 481 ITR 58 /304 Taxman 491 (P&H)(HC)

S. 153: Assessment-Reassessment-Limitation-Finding or direction in appeal etc.-Stay of proceedings-Dismissal of writ petition-AO required to complete reassessment within sixty days from vacation of stay-Reassessment quashed as time-barred. [S. 148, 153(6), Explanation 1 proviso, 245C, Art. 226] 2409

The assessee had challenged the reassessment notice issued u/s 148 dated 20th March, 2019 for AY 2013-14, in the backdrop of pending proceedings before the Settlement

Commission u/s 245C. The High Court had granted an interim stay on 20th Dec., 2019 restraining the AO from continuing reassessment proceedings. Subsequently, the writ petition was dismissed as withdrawn on 13th Dec., 2023, thereby vacating the stay. The Revenue contended that the limitation stood extended u/s 153(6) on account of Court proceedings. The High Court held that s. 153(6) had no application since there was neither any "finding" nor any "direction" issued by the Court requiring completion of assessment. Instead, the proviso to Explanation 1 to s. 153 applied, since the reassessment was otherwise required to be completed by 31st Dec., 2019 and the remaining time available was less than sixty days. Therefore, the AO was mandatorily required to complete the reassessment within sixty days from the date the stay was vacated, i.e., by 11th Feb., 2024. As the reassessment proceedings continued beyond this period, they were held to be barred by limitation and were accordingly quashed. (AY. 2013-14)

Ameeta Goyal v. AUIT (2025) 344 CTR 681 / 248 DTR 362 / 173 taxmann.com 975 (Delhi) (HC)

2410 **S. 153 : Assessment-Reassessment-Limitation-When there is no finding or direction in terms of clause (i) of sub-section (6) of Section 153, the extended time shall be 60 days, as specified in the first proviso to Explanation 1 of Section 153, rather than 12 months-Direction-In consequence of-To give effect to-Finding-Assessment order is barred by limitation. [S. 143(3) 144B, 147, 148, 153(3)(ii), 153(6), 260,Income Tax Act, 1922, S. 34(3), Art. 226]**

The firm is engaged in the business of construction and real estate development. The primary issue involved was whether the reassessment proceedings initiated against the Assessee were time-barred due to the expiration of the limitation period as prescribed under Section 153 of the Income Tax Act, 1961. The specific contention was whether the extended period of limitation under sub-section (6) of Section 153 applied in this case.

The notice under Section 148 was issued on 29 March 2019, and the financial year ended on 31 March 2019. The nine-month period from 1 April 2019 ended on 31 December 2019. The reassessment proceedings were stayed by the High Court from 13 December 2019 to 21 September 2021. Excluding this period, the limitation period was extended to 20 November 2021. Since the remaining period after the exclusion was less than sixty days, the period of limitation was extended to sixty days, ending on 20 November 2021.

The assessee contended that the entire reassessment proceedings were time-barred. The Assessee argued that the last date for passing the assessment order was 31 December 2019, and even after excluding the period during which the proceedings were stayed by the High Court, the limitation period expired on 20 November 2021. The assessee asserted that the impugned assessment order passed on 30 September 2022 was almost ten months after the limitation period had expired.

The revenue contended that the order dated 21 September 2021 passed by the High Court constituted a direction to deal with the fresh objections. Therefore, the Revenue argued that the extended period of twelve months from the end of the month in which the court's order was passed, as provided under sub-section (6) of Section 153, was

applicable. According to the Revenue, the impugned assessment order passed on 30 September 2022 was within the prescribed limitation.
The Hon'ble High Court found that the order dated 21 September 2021 passed by the Division Bench did not contain any findings or directions as understood in terms of clause (i) of sub-section (6) of Section 153 but was merely a remand back to consider the matter afresh. Therefore, the extended period of limitation under sub-section (6) of Section 153 did not apply. The Hon'ble High Court held that the limitation period for the Assessing Officer to pass the assessment order had ended on 20 November 2021, and the impugned assessment order passed on 30 September 2022 was time-barred. Consequently, the High Court quashed and set aside the impugned assessment order. (AY. 2012-13)
Wavy Construction LLP v. ACIT (2025) 473 ITR 1/170 taxmann.com 174/343 CTR 181/ 247 DTR 113 (Bom) (HC)

S. 153: Assessment-Limitation-Transfer pricing adjustments-Tribunal's order remitting matter to Assessing Officer dated 21-10-2020 (after 01-04-2019)-Limitation period of twelve months expired on 21-10-2021-Assessment is barred by limitation. [S. 92CA, 153(3); Art. 226] 2411
For AY 2010-11, following transfer pricing adjustments and partial relief by the Dispute Resolution Panel, the Tribunal remitted the matter to the AO on 21 October 2020. Because the Tribunal's order was passed after 1 April 2019, the nine-month period in s. 153(3) is to be read as twelve months; computing twelve months from 21 October 2020 meant the Department's jurisdiction to make an assessment pursuant to the Tribunal's direction ended on 21 October 2021. Thereafter, notices issued on 6 March 2023 and 19 March 2023 were time barred and were therefore quashed and set aside.(AY. 2010-11)
Consulting Engineering Services (India) Pvt. Ltd. v. Assessment Unit, (2025) 475 ITR 375/173 taxmann.com 857 (Delhi HC).

S. 153: : Assessment-Reassessment-Limitation-Order of assessment passed on 28-12-2006 but communicated to assessee only on 5-1-2007-Assessment orders dated 28-12-2006 and penalty order dt. 29-6-2007 were barred by limitation-Alternative remedy not absolute bar for issue of writ. [S. 148, 153(1), 153(2), Art. 226 2412
Allowing the petition the Court held that that even though the assessment order was passed on December 28, 2006, it was communicated to the authorised representative of the assessee only on January 5, 2007. The assessment orders dated December 28, 2006 and penalty order dated, June 29, 2007 passed by the Assessing Officer were illegal and violative of the provisions of section 153(2). Alternative remedy not absolute bar for issue of writ. (AY. 2003-04)
Mema Paul and Others v. ITO [2024] 164 taxmann.com 778/(2025) 475 ITR 19 (Manipur) (HC)

S. 153 : Assessment-Limitation-Limitation to be computed from date order is received from higher authority-Order received on 30-1-2021; order of assessment on 13-2-2023 barred by limitation. [S. 92CA, 153(3), Art. 226] 2413
Following directions of the Tribunal, the Transfer Pricing Officer passed an order under section 92CA on 30 January 2021. The Assessing Officer failed to frame the

final assessment within the time prescribed under section 153(3). The AO's claim that the TPO's order was not communicated or known to him was factually untenable. The limitation period under section 153(3) runs from the date the AO receives the Tribunal/TPO order; even allowing benefits of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, the assessment should have been completed by 30 September 2021. The assessment passed on 13 February 2023 was therefore barred by limitation and was quashed. Additionally, the AO's adjustments of refunds in 2022 against a non-existent demand for AY 2011-12 were improper.(AY. 2011-12)

Readers Digest Book and Home Entertainment (India) Pvt. Ltd. v. Dy. CIT (2025) 475 ITR 260 (Delhi)(HC)

2414 **S. 153 : Assessment-Limitation-Final assessment order passed beyond time-limit prescribed under section 153(2)-No reference to Transfer Pricing Officer-Reassessment proceedings barred by limitation-Assessment order quashed. [S. 69, 144, 144C(13), 147, 148, 153(2)]**

The assessee, a non-resident individual who had not filed a return, had reassessment proceedings initiated under section 147 on the ground that he had purchased immovable property for Rs. 2.55 crores in cash, and AO completed the assessment under section 144 treating the consideration as unexplained investment under section 69, which was upheld by DRP. On appeal, the Tribunal admitted the additional legal grounds challenging the validity of the reassessment and held that since the notice under section 148 was issued on February 24, 2021, and there was no reference to the TPO for determination of arm's length price, the time-limit for completion of assessment under section 153(2) expired on March 31, 2022; however, the final assessment order under section 144 read with section 144C was passed only on January 30, 2023, beyond the prescribed time-limit, and the assessment order was accordingly quashed as barred by limitation. (AY 2017-18)

Farooq Ali v. ITO (2025) 132 ITR 316 (Hyd) (Trib.)

2415 **S. 153A: Assessment-Search-Undisclosed income-No incriminating material-Order of Tribunal deleting the addition is affirmed. [S. 132, 260A]**

Dismissing the appeal, the Court held that the Tribunal was right in holding that no addition could be made under section 153A in respect of the completed assessment because no incriminating material had been found during the search.(AY. 2008-09, 2009-10)

PCIT v. Bharatnet Technology Ltd. [2024] 158 taxmann.com 28 / (2025) 483 ITR 435 (P & H)(HC)

2416 **S. 153A: Assessment-Search-No incriminating material found during search-Completed assessment cannot be interfered with.[S.260A]**

Dismissing the appeal, the Court held that when no incriminating material was found during search, completed assessment cannot be reopened referred *PCIT v. Abhisar Buildwell Pvt. Ltd. (2023) 454 ITR 212 (SC)* (AY.2012-13)

PCIT v. Kaushik Devjibhai Patel (2025) 482 ITR 808 (Guj)(HC)

S. 153A : Assessment-Search or requisition-Unabated assessment-No incriminating material found-Order of Tribunal deleting the addition was affirmed. [S. 260A] 2417
Dismissing the appeal of the revenue, the Court held that the Assessing Officer could not assume jurisdiction under section 153A in the absence of any incriminating material during the course of the search for the year under consideration, which was admittedly an unabated assessment. Order of Tribunal affirmed. (AY. 2009-10)
PCIT (Central) v. Sitaram Prints (P.) Ltd. (2025) 307 Taxman 227 (Guj.)(HC)

S. 153A : Assessment-Search-Limitation-Exchange of information under Indo-Swiss DTAA-Reference made to Swiss authorities for period prior to 1-4-2011 not maintainable under amended Article 26-Benefit of exclusion of time under Explanation (ix) to S. 153B not available-Assessment orders rightly held barred by limitation-DTAA-India-Swiss. [S.69C, 90, 132, 143(3), 153B, Expl. (ix), Art. 14, 26] 2418
Reference made to Swiss authorities for obtaining information regarding assessee's Swiss bank account for period prior to 1-4-2011. Amending Protocol dated 30-8-2010 substituted Article 26 and, in absence of any saving clause, earlier exchange of information provision stood obliterated/novated. Under Art. 14(3) of the Amending Protocol, substituted Article 26 applied only to information relating to fiscal years beginning on or after 1-4-2011. Hence request made by Indian competent authority on 11-6-2013 for information pertaining to earlier years was not in terms of DTAA. Consequently, Revenue could not claim exclusion of one year under Explanation (ix) to S. 153B for computing limitation for completion of assessments u/s 153A. Tribunal was justified in holding that assessments dated 4-3-2015 for AYs 2006-07 to 2011-12 were barred by limitation and in quashing same. Revenue's appeals dismissed. (AY. 2006-07 to 2011-12)
PCIT v. Sneh Lata Sawhney (2025) 480 ITR 416 (Delhi)(HC).

S. 153A : Assessment-Search-Writ not maintainable merely on alleged breach of natural justice-Non-grant of cross-examination not a ground to bypass statutory appeal-S. 65B of Evidence Act, 1872 and 63 of Bharatiya Sakshya Adhiniyam, 2023 inapplicable to assessment proceedings-CBDT Digital Evidence Investigation Manual, 2014 has no statutory force-Single Judge order set aside.[S. 119, 132,143(3) 246A, Bharatiya Sakshya Adhiniyam, 2023, S. 63, Evidence Act 1872, S. 65B, Art. 226] 2419
Pursuant to searches conducted in October 2018, assessments for AYs 2013-14 to 2019-20 were completed in June 2021 making substantial additions based on seized digital materials and statements. The Single Judge entertained writ petitions and interfered, inter alia, on the ground of violation of natural justice and non-compliance with S. 65B of the Evidence Act in respect of electronic evidence. On appeal by the Revenue, the High Court held that though exceptions to the rule of alternative remedy have been recognised in *CIT v. Chhabil Dass Agarwal, (2013) 217 Taxman 143 / 357 ITR 357/ 261 CTR 113 (SC)* even in cases alleging breach of natural justice, exercise of writ jurisdiction remains discretionary and cannot be invoked routinely to bypass the statutory appeal. Mere non-grant of cross-examination, especially when no specific request was made by the assessees before the AO, cannot justify sidestepping the remedy under s. 246A; the issue can be urged before the appellate authority. Sections

65B of the Evidence Act, 1872 and 63 of the Bharatiya Sakshya Adhiniyam, 2023 apply only to judicial proceedings before Courts and not to quasi-judicial proceedings under the Income-tax Act; IT authorities and the Tribunal are not bound by technical rules of evidence. Hence, absence of a certificate under s. 65B cannot preclude reliance on electronic records seized from the assessees' own systems. The CBDT's Digital Evidence Investigation Manual, 2014 cannot confer statutory force so as to import the Evidence Act into assessment proceedings or override binding Supreme Court precedents. Observing that large-scale unaccounted transactions were unearthed after extensive investigation over nearly three years, the Court held that the Single Judge's directions virtually micromanaged the assessment process and were unsustainable. The impugned order was set aside; however, the Revenue was directed to furnish copies of the 101 panchnamas within three weeks and the assessees were granted four weeks thereafter to file appeals, with all contentions left open except on the applicability of S. 65B of the Act. (AY. 2013-14 to 2019-20)

ACIT v. Vetrivel Minerals (V.V. Minerals) (2025) 345 CTR 1 / 250 DTR 217 / 174 taxmann.com 110 (Mad)(HC)

ACIT v. Vijay Cements (2025) 345 CTR 1 / 250 DTR 217 / 174 taxmann.com 110 (Mad)(HC)

Editorial : Vetrivel Minerals (V.V. Minerals) v. ACIT (2021) 323 CTR 766/ 208 DTR 282 (Mad)(HC) set aside; LKS Gold House (P) Ltd & Ors v. Dy CIT (2025) 345 CTR 15/250 DTR 231 (Mad)(HC), approved.

2420 **S. 153A : Assessment-Search-Reassessment-Notice-Limitation-Where search under s. 132 was conducted in FY 2022-23, the block of six assessment years would be six years preceding AY 2023-24 and thus AY 2016-17 falls beyond the permissible period-Extended period of ten years not applicable in absence of income represented in the form of an asset-Notice and consequential proceedings quashed. [S. 132, 148, 149(1)(b), Art. 226]**

The Petitioner challenged the notice issued under S. 148 seeking to reopen AY. 2016-17 pursuant to a search conducted in FY 2022-23. The Court held that once it is accepted that a notice under S. 148 cannot be issued if such notice could not have been issued under S. 153A as applicable to searches conducted prior to 31-3-2021, the limitation prescribed under S. 153A would govern the field. The fourth proviso to S. 153A(1) permits extension up to ten years only where the escaped income is represented in the form of an "asset" as defined in Expln. 2. On the facts, the reasons recorded did not allege that the escaped income was represented in the form of any asset such as immovable property, shares, loans, advances or bank deposits; the proposed addition was merely on account of disallowance of expenditure. In absence of material indicating income represented in the form of an asset, the conditions for invoking the extended ten-year period were not satisfied. Consequently, limitation had to be confined to six assessment years preceding AY 2023-24 (the assessment year relevant to the previous year of search). Since AY.2016-17 fell beyond the block of six years, the impugned notice and all proceedings pursuant thereto were set aside. (AY. 2016-17)

Smart Chip (P.) Ltd. v. ACIT (2025) 345 CTR 417 / 476 ITR 389 / 174 taxmann.com 297 (Delhi)(HC)

S. 153A: Assessment-Search-No incriminating material discovered during search-Principle of finality in tax proceedings-Reassessment, revision-Multiple proceedings on same issue-Order of Tribunal affirmed.[S. 54F, 143(3), 147, 148, 153A, 260A, 263.] 2421
Dismissing the appeal the Court held that no incriminating material was found in the search proceedings. Since the reassessment stood concluded as on the date. The search had admittedly not yielded any incriminating materials in regard to the claim under section 54F for assumption of jurisdiction under section 153A. The purpose of an assessment under section 153A was to bring to tax income that had been hitherto undisclosed for the purpose of assessment, emanating from incriminating materials found in the course of the search. Hence, the order of assessment under section 153A could not be sustained even on this score. The policy of law was that there must be a point of finality in all legal proceedings and stale issues should not be reactivated beyond a particular stage and that lapse of time must induce repose in and set at rest judicial and quasi-judicial controversies.(AY.2008-09)
PCIT v. Sasikala Raghupathy (2025) 479 ITR 187 (Mad)(HC)

S. 153A: Assessment-Search-Search warrants-Laptop containing relevant data found from third party search No incriminating material evidence found from the assessee's premises to justify additions-Held, proceedings under section 153A initiated without incriminating material found from the assessee's premises unsustainable.[S. 132 Art. 226] 2422
Dismissing the appeal the Court held that mentioning the name of M3MIH for the address would not be a reason to hold that no search operation was conducted at the premises of the assessee because even if the name of the other private limited company was mentioned in the warrant, the fact remained that the registered address of the assessee-firm was searched and the names of their partners were mentioned. The findings of the Tribunal that there was no search conducted at the premises of the assessee were found to be erroneous and perverse. The laptop of another group of companies recovered from Mumbai. Recovery of the laptop was not from the office belonging to the assessee. The search operation in which the laptop was recovered was of different firm and it was not during the course of search operation conducted under section 132 against the assessee or its partners that such incriminating material was recovered. If there was any indication of violation of provisions of the Act or suppression of income or any other incriminating material, which may have been recovered from the premises, the proceedings under section 153A could be said to be justified and legal. However, since no such material was collected or found from the premises of the assessee, the proceedings initiated under section 153A were unsustainable. The pleas raised were purely factual which had been examined by the Tribunal. Proceedings, if at all which could have been initiated on the basis of material collected while conducting search of some other assessee and found to be relevant for the purpose was only under section 153C, since the provisions of sections 153A and 153C had been held to operate in different fields.(AY. 2012-13)
PCIT v. M3M India Holdings (2025) 476 ITR 728 (P & H) (HC)

2423 **S. 153A : Assessment-Search-No addition in unabated years absent incriminating material. [S. 132, 260A]**

The assessee was subjected to search and assessment proceedings were initiated u/s 153A. The AO made additions in respect of completed assessments where no incriminating material was found. Tribunal deleted additions. The High Court held that in unabated assessments, additions cannot be made without incriminating material.

PCIT v. Saroj Sudhir Kothari [2023] 154 taxmann.com 359 (Bom)(HC)

Editorial : SLP dismissed, PCIT v. Saroj Sudhir Kothari [2023] 294 Taxman 598 (SC).

2424 **S. 153A : Assessment-Search-Completed assessments-Additions without incriminating material not sustainable. [S. 132, 260A]**

The Revenue challenged deletion of additions made under 153A in absence of seized material. Relying on its earlier decision in assessee's case, the High Court held that no addition can be made for completed assessments without incriminating material.

PCIT v. Saroj Sudhir Kothari [2023] 154 taxmann.com 127 (Bom)(HC)

Editorial : SLP dismissed, PCIT v. Saroj Sudhir Kothari [2023] 154 taxmann.com 128 / 455 ITR 379 (SC).

2425 **S. 153A: Assessment-Search-Additions unsustainable in the absence of incriminating material for unabated assessments-No addition can be made-Order of Tribunal is affirmed. [S. 132, 133A, 153C, 260A]**

The assessee, a commission agent operating through his proprietary concern had entered into an agreement with a non-resident company, for facilitating RBI contracts for supply of banknote paper. The agreement terminated on 31.12.2012. A search was conducted under Section 132 on 26.12.2016, and assessments for AYs 2012-13 to 2017-18 were reopened under Section 153A. The Assessing Officer made additions across all years, alleging that remittances continued from foreign group entities related to the aforementioned non-resident company, which he treated as undisclosed income arising from the same line of activity.

The Delhi High Court upheld the ITAT's decision deleting all additions, holding that there was no incriminating material found during the search to support additions for the unabated assessments (AYs 2012-13 to 2015-16). It relied on the settled law laid down in Kabul Chawla and Abhisar Buildwell that completed assessments under Section 153A cannot be reopened without incriminating evidence. The Court observed that the payments in question were already disclosed, and there was no fresh material linking them to any business activity post-termination of the agreement. For AYs 2016-17 and 2017-18, the Revenue also failed to establish any active Indian business connection or evidence of services rendered. Since the entire assessment was based on assumptions rather than evidence, the Court held there was no substantial question of law and dismissed the Revenue's appeals.(AY. 2012-13 to 2017-18)

PCIT v. Shri Satya Prakash Gupta (2024) 164 Taxmann.com 137 / (2025) 473 ITR 515 (Delhi) (HC)

S. 153A: Assessment-Search-No incriminating material is found-The Assessing Officer (AO) can only reopen assessments for the block period of six years if incriminating material related to each specific year is found during the search and not otherwise-Order of Tribunal is set aside. [S. 132, 158BB, 260A] 2426

The assessees were various business units under one group, which included partnership firms and a proprietorship concern. The group was engaged in the business of gold ornaments and operated under different names.

The primary issue involved was whether the Assessing Officer was justified in reopening the assessments for the assessment years 2002-03 to 2007-08 under Section 153A of the Income Tax Act, based on incriminating material found during a search conducted on 21.08.2007, which pertained only to the assessment year 2008-09.

The revenue contended that the incriminating material found during the search operation for the assessment year 2008-09 justified the reopening of assessments for the earlier years (2002-03 to 2007-08). That the suppression of income detected for the year 2008-09 could be presumed to extend to the earlier years as well.

The assessees argued that the search conducted under Section 132 of the Income Tax Act did not yield any incriminating material for the assessment years 2002-03 to 2007-08. That the reopening of assessments for these years was unjustified and based merely on assumptions and estimations derived from the findings of the year 2008-09.

The Hon'ble Tribunal had allowed the appeals preferred by the Department for the assessment years 2002-03 to 2007-08, thereby upholding the reopening of assessments for these years based on the incriminating material found for the year 2008-09.

The Hon'ble High Court set aside the orders of the Hon'ble Tribunal, ruling that the reopening of assessments for the years 2002-03 to 2007-08 was not permissible in the absence of incriminating material specific to those years. Further that the Assessing Officer could not use the material from the year 2008-09 to justify reopening assessments for earlier years unless such material directly related to those years. Moreover, that the jurisdiction to reopen assessments under Section 153A must be based on incriminating material pertinent to each specific assessment year within the block period. (2002-03 to 2007-08 & 2008-09)

Sunny Jacob Jewellers Gold Hyper Market v. CIT (2025) 473 ITR 159 (Ker.) (HC)

S. 153A: Assessment-Search-Assessment of searched person-Search conducted at assessee's residence-Assessment under section 153A is valid and not under section 153C-Completed assessments-No incriminating material-Transactions already recorded in books and bank statements-Section 68 addition not sustainable.[S. 68, 132, 153C] 2427

Search proceedings were conducted not only on the assessee's husband and his business premises but also at the residential premises jointly occupied by the assessee and her husband. The Tribunal held that since the assessee herself was a searched person, the assessment was rightly framed under section 153A and not under section 153C, which applies only to persons other than the searched person. The additions under section 68 were made on the basis of entries found in a seized ledger showing transfers from the assessee's husband's proprietary concern. The Tribunal found that the assessments for the relevant years had already attained finality, the transactions were duly recorded in the husband's books and reflected in the assessee's bank statements, and no

incriminating material was discovered during the search. Since the seized ledger merely reflected recorded transactions without indicating any unexplained financial implication, the additions under section 68 were unsustainable. The assessment order and the order of the Commissioner (Appeals) were set aside. (AY. 2015-16)
Kavita Samtani v. Dy. CIT (2025) 121 ITR 661 / 174 taxmann.com 161 (Jaipur)(Trib.).

2428 **S. 153A: Assessment-Search-No addition in unabated assessment in absence of incriminating material found during search. [S. 68, 69C]**
Pursuant to a search, the Assessing Officer made additions under sections 68 and 69C in respect of share capital/share premium and alleged unexplained expenditure solely on the basis of an appraisal report prepared in the case of a third party without relying upon any incriminating material found during the search conducted on the assessee. The Tribunal held that in respect of unabated assessments, no addition can be made under section 153A unless it is based on incriminating material unearthed during the search. Since the additions were founded only on the appraisal report relating to another person and no incriminating material was found from the assessee, the additions were liable to be deleted. (AY. 2009-10 & 2013-14)
Feather Infotech (P.) Ltd. v. Dy. CIT (2025) 130 ITR 1 (Delhi)(Trib.)

2429 **S. 153A: Assessment-Search-Computation of undisclosed income-Addition is sustained to the extent of Rs. 10 lakh in addition to the income already disclosed voluntarily by the assessee. [S. 132, 144]**
Held that the Revenue having not demonstrated that the disclosure made by the director of the assessee-company is the net undisclosed income and not the gross receipts as claimed by the assessee, whole amount cannot be added to the income of the assessee as undisclosed income; a reasonable estimate of income has to be done; addition is sustained to the extent of Rs. 10 lacs in addition to the income disclosed voluntarily by the assessee. (AY. 2013-14 & 2017-18)
Kaizen Enterprises (P) Ltd. v. ACIT (2025) 235 TTJ 295/ 128 ITR 270/ 172 taxmann.com 621 (Jaipur (Trib)

2430 **S. 153A: Assessment-Search-AO cannot take into consideration the material collected at the premises of a third person without following the mandatory procedure contemplated in S. 153C-Satisfaction not recorded-Addition was deleted-[S.132(4), 153C]**
The Tribunal held that the Assessing Officer of Kapil Romana having not recorded any satisfaction that certain document found during the search conducted at the premises of said Kapil Romana pertains to the assessee, the impugned addition made in the assessee's assessment under s. 153A, on the basis of said document, is not sustainable. Tribunal also held that the AO, having neither proved the authenticity of the alleged incriminating document relatable to the assessee which was found at the premises of a third party, Kapil Romana, nor allowed any opportunity of cross-examination of Kapil Romana to the assessee, the addition made simply based on said documents in the assessment under S. 153A is not sustainable. (AY. 2019-20)
DCIT v. Amarjit Singh (2025) 235 TTJ 313 (Chd)(Trib)

S. 153A: Assessment-Search-Approval under S. 153D-Approving authority granted approval by a letter without even a token of mention of any independent application of mind-200 cases without application of mind-Invalid and bad in law-The assessment is vitiated for want of valid approval under s. 153D.[S.132, 153D] 2431

Held that the Addl. CIT having approved s. 153D for 200 cases, including the assessee's case, in one day itself, and there being no indication of examination of the assessment records or the search material, it is clear that the impugned approval has been granted in a mechanical manner and without application of mind and, therefore, the same is invalid and bad in law and consequently, the assessment under s. 153A is vitiated for want of valid approval under s. 153D. (AY. 2015-16 to 2018-19)

Resonance Eduventures Ltd. v. ACIT (2025) 235 TTJ 370 (Jaipur)(Trib)

S. 153A: Assessment-Search-Incriminating material-Time limit for issue of notice u/s 143(2) as on date of search has not expired-The Assessing Officer had power to assessee / re assess the total income including undisclosed income-Appellate Tribunal-Cross objection-Delay of 205 days was condoned-Undisclosed income-Accommodation entries-Addition cannot be made without providing the statement and an opportunity of cross examination-Sub contractor-No opportunity of cross examination-Addition was deleted. [S. 132, 143(2), 254(1)] 2432

Held that since the time-limit was available for issue of notice under s. 143(2) as on the date of the search, i.e., 2nd May, 2018, the assessment for the asst. yr. 2017-18 stood abated in terms of first proviso to s. 153A and consequently, the AO had the power to assess/reassess the total income, including undisclosed income, if any, found as a result of the search. Assessee having initially not filed cross-objections under bona fide belief that once relief has been granted by the CIT(A), there is no necessity for filing cross-objection on other issues which have been decided against the assessee and later filed the cross-objections acting on the advice of its counsel, the reasons cited by the assessee for the delay appear to be bona fide and reasonable, and therefore, the delay of 205 days in filing the cross-objections is condoned, and the cross-objections are admitted for adjudication. Assessee having furnished all the evidences including relevant work order, tax invoice and delivery challans of old machinery purchased from Pardeep Kumar Babulal & Co (PKB & Co.) and also filed relevant bank statement to prove the payment through proper banking channel, impugned additions made towards disallowance of depreciation on plant and machinery solely by relying upon the statement of Kewal Chand Jain who is controlling PKB & Co. that he is providing accommodation entries in the form of bogus bills cannot be sustained, more so as the AO has not provided the statement of said KJ to the assessee for his comments and cross-examination. Assessee having filed the sub-contract agreements relating to the work, work orders, bills submitted by the sub-contractors and made payments to the subcontractors by cheques after deducting TDS as per law, the addition made by the AO on the basis of enquiry conducted on two sub-contractors and the statement recorded from an employee of the assessee cannot be sustained, more so as the AO has not given the enquiry report to the assessee for his comments and rebuttal. (AY. 2017-18 & 2018-19)

ACIT v. AMR India Ltd. (2025) 235 TTJ 397 (Hyd)(Trib)

2433 **S. 153A: Assessment-Search-Approval should not be rubber-stamping and mere ritual formality and should not suffer from lack of application of mind-The Addl. CIT also granted approval under s. 1 on the very same day, in the other 12 cases-The approving authority has not applied his mind and granted the approval in a mechanical and hasty manner-Approval suffers from perversity and impropriety-The approval is invalid in the eyes of law, and consequently the assessment order is also invalid.[S. 153D]**

Tribunal held that the approving authority granted the approval under S.. 153D on the very same date when the draft orders were submitted by the AO in the assessee's case and also in 12 other cases and he has nowhere stated what evidence, document, statement, material, etc. were examined by him before granting the approval; approving authority has not applied his mind and granted the approval in a mechanical and hasty manner and, therefore, the approval is invalid in the eyes of law and consequently the assessment order is also invalid.(AY.2017-18)

Utility Supply (P) Ltd. v. DCIT (2025) 235 TTJ 601 /124 ITR 324 / 174 taxmann.com 250 (Mum)(Trib)

2434 **S. 153A: Assessment-Search-Incriminating material-32GB Pen-drive available with the Investigation Wing-Statement taken under section 50 of Prevention of Money Laundering Act by Enforcement Directorate (ED)-Excel sheets-No additions could be made in the absence of any incriminating material found during the course of search. [S. 132(4), Prevention of Money Laundering Act, 2002, S.50]**

A pen drive containing five Excel sheets on the basis of which the addition was made. The Tribunal held that the pen-drive which was received by the IT Department from the ED and the Excel sheets found in the supplementary charge-sheet in the other pen-drive during the course of search against the assessee did not constitute incriminating material/ evidence and, therefore, the additions made by the AO in the assessment under s. 153A, based on said material, cannot be sustained. (AY. 2011-12 to 2017-18)

Sushen Mohan Gupta v. ACIT (2025) 236 TTJ 32 (Delhi) Trib)

2435 **S. 153A: Assessment-Search-Incriminating material-Balance sheet-Statement recorded-Not incriminating material-Addition was deleted. [S. 132]**

Held that the balance sheets of the assessee which are based on books of accounts and already disclosed to the Department through returns of income and the statements recorded from third parties in the course of proceedings unconnected to the search and seizure operation carried out in the case of the assessee did not constitute incriminating material found as a result of search and seizure operation conducted in the assessee's case and, therefore, the additions are legally unsustainable.3A.(AY. 2011-12 to 2016-17)

Zenith Barter (P) Ltd. v. DCIT (2025) 236 TTJ 468 (Mum)(Trib)

2436 **S. 153A : Assessment-Search-Undisclosed income-The assessee received software services, and the consideration paid for such services cannot be disallowed. [S. 37]**

Held that all software and online activities of the assessee-trust and JC have been functional since 2017 till the date of search and the assessee is highly successful and has grown multifold in the last two decade which has possible only by regular

development updatation, adaptation to new technology and maintenance of software, it has to be accepted that the software team of the software developer TFMSS has been genuinely providing maintenance services on regular basis and therefore, the software development charges paid for such services could not be disallowed, on the ground that the trust funds were intentionally diverted to a related foreign entity which was controlled by one of the assessee's former employees. Tribunal also held that the AO mechanically disallowed the business consultancy charges paid by the assessee trust along with software charges without realising that the business consultancy charges were erroneously clubbed with the software charges. Disallowance was deleted. (AY. 2017-18 to 2021-22)

Karunya Educational & Research Trust v. DCIT (2025) 237 TTJ 163 / 176 taxmann.com 404 (Chennai)(Trib)

S. 153A : Assessment-Search-Undisclosed income-Manufacturing facility of the assessee does not make it feasible for packaging of the products in small packets-First appellate authority has rightly appreciated the veracity of the evidence furnished by the assessee after verification-Input-output ratio-Order of CIT(A) was affirmed.[S. 132] 2437

Held that the assessee having furnished documentary evidence to substantial that the contractors to whom packaging of some products was outsourced had genuine business, and the CIT(A) having recorded finding of fact that the transactions between the assessee and the said parties cannot be treated as non-genuine after verifying all the materials available on record, there is no valid reason to differ with the factual finding of the first appellate authority. Tribunal also held that the fact that no incriminating document indicative of out of book purchases of raw materials was found in the course of search and seizure operations either from the assessee's premises or from the premises of its supplies nor any discrepancy was found in the stock position of raw materials, semi finished goods or finished goods, the impugned addition made by the AO towards the alleged out of books purchases on the basis of input-output ratio derived during the trial run is not sustainable (AY. 2013-14 to 2019-20)

DCIT v. Everest Food Product (P) Ltd. (2025) 237 TTJ 913 (Mum)(Trib)

S. 153A : Assessment-Search-Cash found at assessee's residence claimed to belong to third party (H group)-H group also claiming the sum and seeking advance tax credit thereof-Same amount cannot be taxed twice-Matter remanded for verification-Income disclosed before Settlement Commission spread year-wise-Petition rejected-Same income taxed again for assessment year 2014-15-Double taxation-Matter remanded for de novo assessment. [S. 132, 132(4), 245D(1)] 2438

During search, cash of Rs. 7,52,50,500 was found at the assessee's residence, of which he admitted Rs. 5,52,50,000 as undisclosed income but claimed the balance Rs. 2 crores belonged to the H group; his settlement application was rejected, following which the AO taxed the disclosed income year-wise as offered before the Settlement Commission and also taxed the same income again for assessment year 2014-15, which was upheld by the CIT(A). On appeal, the Tribunal held that since the H group had also claimed the Rs. 2 crores and sought advance tax credit therefore, the same sum could not be taxed twice, and remanded the matter for verification; it further held that taxing the same

income both year-wise before the Settlement Commission and again for assessment year 2014-15 amounted to double taxation, absent any evidence of the income being earned in the years disclosed, and remanded the matter for de novo assessment.(AY. 2008-09, 2010-11,to 2014-15)
Sachin Vilas Chaugule v. CIT (2025) 132 ITR 153 (Mum) (Trib.)

2439 **S. 153A : Assessment-Search-Unabated assessments-No incriminating material found during search-Addition deleted-Documents found during search of third party-Proceedings under section 153C mandatory-Assessment under section 153A invalid. [S. 68,132, 143(3), 153C]**
The Assessing Officer made additions under section 68 in assessments completed under section 153A on the basis of statements recorded during the search of another person. The Tribunal held that no incriminating material was found or seized from the assessee's premises in respect of the unabated assessment years. Statements recorded during the search of a third party could not constitute incriminating material for initiating proceedings under section 153A against the assessee. Accordingly, the Commissioner (Appeals) rightly deleted the additions. The Revenue relied upon documents and statements found during the search of another person to support additions in the assessee's assessment under section 153A. The Tribunal held that where material belongs to or relates to a person other than the searched person, the mandatory procedure under section 153C must be followed. Since no proceedings were initiated under section 153C or section 148, the additions made under section 153A were unsustainable. (AY. 2012-13 to 2015-16).
Dy. CIT v. Aachman Vanijya (P.) Ltd. (2025) 126 ITR 225 (Mum.)(Trib.)

2440 **S. 153A : Assessment-Search-No incriminating material relating to assessment year-Assessment under section 153A invalid.[S. 132]**
The additions made by the Assessing Officer were not based on any incriminating material found during the search relevant to the assessment year under consideration. The Tribunal held that, in the absence of incriminating material, the assessment framed under section 153A was illegal and void ab initio. (AY. 2006-07 to 2012-13).
Dy. CIT v. Bodal Chemicals Ltd. (2025) 127 ITR 194 / 177 taxmann.com 448 (Ahd.)(Trib.)

2441 **S. 153A : Assessment-Search-Bogus long-term capital gains-Additions based solely on Investigation Wing report and untested third-party statements-No incriminating material-Addition deleted-Estimated commission on alleged accommodation entries-No evidence linking assessee with entire stock exchange transactions-Addition deleted-Alleged cash handling based on statement of office boy-No corroborative evidence or cash trail-Addition deleted. [S. 45]**
The Assessing Officer treated the assessee as a participant in an alleged price-rigging syndicate and estimated commission income on the basis of the Investigation Wing report, statements of alleged operators and unusual price movement in the shares of a listed company. The Tribunal held that no incriminating material was found during the search, the statements neither named the assessee nor were confronted to him, no opportunity of cross-examination was granted, and no corroborative evidence or cash

trail was established. Suspicion, however strong, could not substitute for evidence. The deletion of the additions by the Commissioner (Appeals) was upheld. The Assessing Officer estimated commission at 2 per cent. of the total value of transactions in the shares traded on the stock exchange on the assumption that the assessee was responsible for the alleged accommodation entry operations. The Tribunal held that there was no evidence establishing the assessee's participation in the alleged syndicate or receipt of commission. Estimation based on presumptions and conjectures was unsustainable. The Assessing Officer estimated commission income on the basis of the statement of an office boy alleging that he handled cash on behalf of the assessee. The Tribunal held that the statement was unsupported by independent evidence, was denied by the assessee, and no cash trail was established. In the absence of corroborative material, the addition was rightly deleted (AY.2013-14 to 2019-20).
Dy. CIT v. Manoj Naginlal Jain (2025) 127 ITR 154 / 180 taxmann.com 309 (Mum.)(Trib.)

S. 153A : Assessment-Search-Addition based on document impounded during survey-Not permissible in assessment under section 153A-Addition deleted. [S.69A, 115BBE, 132, 133A] 2442
The Assessing Officer made an addition under section 69A in proceedings under section 153A on the basis of documents impounded during a survey under section 133A. The Tribunal held that documents impounded during the survey could not be treated as incriminating material found during the course of search so as to justify an addition in assessment under section 153A. Accordingly, the addition was deleted. However, the Revenue was left free to initiate proceedings under section 148, if otherwise permissible in law. (AY. 2018-19).
Dy. CIT v. Nandkumar Prasad Sah (2025) 127 ITR 48 (Patna)(Trib.)

S. 153A : Assessment-Search-Search warrant and panchnama not in the name of assessee-Assumption of jurisdiction invalid-Assessment quashed. [S. 132(1)] 2443
The assessment under section 153A was framed pursuant to a search conducted at the assessee's premises. However, the search warrant and the panchnama were issued in the names of third parties and not in the name of the assessee. The Tribunal held that, in the absence of a valid search against the assessee, the Assessing Officer lacked jurisdiction to invoke section 153A. The Commissioner (Appeals) was justified in annulling the assessment. (AY. 2011-12 to 2015-16).
Asst. CIT v. Honey Arora (2025) 127 ITR 14 / [2026] 187 taxmann.com 519 (Delhi)(Trib.)

S. 153A: Assessment-Search and seizure-No incriminating material-Difference between physical stock and book stock by itself cannot constitute incriminating material-Addition based only on sworn statement without corroborative evidence-Assessment quashed-Delay of three days was condoned.[S. 37, 132, 143(3), 253] 2444
A search under section 132 was conducted in the assessee's group cases. The Assessing Officer made disallowance of expenditure towards special salary and commission charges merely on the basis of the sworn statement of one of the directors. The Tribunal held that the difference between physical stock and book stock by itself could not constitute incriminating material, as such details could be called for during the regular assessment proceedings. Further, the addition was based solely on the sworn statement

without any corroborative documentary evidence found during the search. In the absence of incriminating material, the assessment framed under section 143(3) read with section 153A was liable to be quashed. On merits also, the deletion of the disallowance by the Commissioner (Appeals) was upheld. (AY 2010-11 to 2012-13).
Dy. CIT v. WD and Sons P. Ltd. (2025) 129 ITR 278 (Chennai) (Trib.)

2445 **S. 153A: Assessment-Search-Unexplained investment-Addition based solely on retracted statement-No corroborative evidence-Addition deleted-Rental income-Seized rental agreement-Income already offered to tax-Addition deleted-Unexplained investment-Cost of construction-Addition based only on retracted confession-No supporting evidence-Addition deleted.[S. 69, 132(4), 153D]**
The Assessing Officer made an addition alleging payment of on-money for purchase of immovable property on the basis of the assessee's statement recorded during search. The assessee subsequently retracted the statement and explained that the seller had ultimately sold the property to the assessee's wife at a substantially lower consideration owing to financial distress. The Tribunal held that the subsequent agreement clearly referred to the earlier transaction and supported the assessee's explanation. In the absence of any independent enquiry or incriminating material establishing payment of cash over and above the recorded consideration, no addition could be sustained merely on the basis of a retracted statement. The Assessing Officer made an addition on the basis of notings on the reverse of a seized rental agreement showing rent allegedly higher than that disclosed by the assessee. The Tribunal found that the assessee had already offered proportionate rental income in the relevant year and the balance in the subsequent year after termination of the agreement. As the Assessing Officer failed to controvert these facts, the addition was deleted. The assessee had initially admitted undisclosed investment in construction during search but later retracted the statement and explained that part of the amount had already been offered to tax in different assessment years. The Tribunal held that the balance addition was made solely on the basis of the retracted statement without any supporting evidence or valuation material. Since no corroborative evidence was brought on record, the addition was directed to be deleted (AY. 2012-13 & 2014-15 to 2016-17).
Harish Jain v. Asst. CIT (2025) 122 ITR 640 / 174 taxmann.com 348 (Jaipur)(Trib.)

2446 **S. 153A: Assessment-Search-No incriminating material found during search of assessee-Material seized from third party cannot form basis of assessment under section 153A-Assessment invalid-Return filed in response to notice-Revised computation during assessment-Addition based on difference from original return-Not justified-Undisclosed income-Sale of plots-Transactions duly recorded in books-No evidence of suppression-Addition deleted-Unexplained expenditure-Development expenses-Assessee only landowner-Expenditure incurred by associates-Addition deleted-Cash credits-Sale proceeds of plots deposited in bank-Source explained-Enhancement of profit by Commissioner (Appeals) deleted-Inter-bank transfer-Amount taxed twice as unexplained credit-Addition deleted-Cash credits-Documentary evidence explaining source-Addition restricted to profit element upheld. [S. 68, 69, 69C, 132, 139, 153C]**
The search conducted at the assessee's premises did not result in seizure of any

incriminating material. The additions were based entirely on documents found during the search of another person. The Tribunal held that section 153A permits additions only on the basis of incriminating material found during the search of the assessee. Material seized from a third party, if at all relevant, could be used only by invoking section 153C. Consequently, assumption of jurisdiction under section 153A was held to be invalid. The Assessing Officer made an addition merely because the income disclosed in the return filed under section 153A differed from the original return. The Tribunal held that the assessee had filed a revised computation during the assessment proceedings itself, offered the correct income and paid the due taxes. The addition was based only on suspicion and not on any material establishing suppression of income. The addition was therefore deleted. The Revenue alleged that the assessee received undisclosed consideration from sale of plots in a real estate project. The Tribunal found that all sale transactions were duly recorded in the books of account and no evidence was brought on record to establish receipt of any amount over and above the disclosed consideration. The addition towards undisclosed income was accordingly deleted. The Assessing Officer treated project development expenditure as unexplained expenditure in the hands of the assessee. The Tribunal held that the assessee was merely the landowner and all development expenditure had been incurred by the other project associates. As the Revenue ignored the assessee's explanation and failed to establish that the expenditure had been incurred by him, the addition was deleted. The assessee furnished plot-wise details of sale proceeds deposited into the bank account together with supporting documents. The Tribunal held that the Commissioner (Appeals) accepted the documentary evidence and the revised computation but still enhanced the gross profit rate without any supporting material. Since the source of deposits stood established, the addition under section 68 and the enhanced profit addition were deleted. The Revenue challenged the finding that a particular amount had been counted twice while computing undisclosed income. The Tribunal held that the impugned amount represented only an inter-bank transfer and not an independent receipt. Since the Assessing Officer failed to controvert the factual finding, no addition under section 68 could be sustained. The Tribunal held that the assessee had explained the nature and source of the bank credits through documentary evidence. The Assessing Officer disputed only the sale consideration and not the cost of acquisition. In the absence of any contrary evidence, the profit rate adopted by the Commissioner (A) on the basis of seized material was upheld and the Revenue's appeal was dismissed. (AY. 2015-16).
Naval Kishore v. Dy. CIT (2025) 122 ITR 23 (Jaipur)(Trib.)

S. 153A : Assessment-Search-Unabated assessment-No incriminating material found during search-Addition based on third-party statements recorded outside search-Not sustainable-Conditions for reopening under fourth proviso to section 153A not fulfilled-No seized material representing escaped income in the form of assets-Addition deleted. [S. 68, 69C 131, 132, 142(1)] 2447

The assessment for the relevant year had attained finality prior to the search and had not abated. The Assessing Officer made additions under sections 68 and 69C on the basis of statements of third parties recorded under section 131, without any incriminating material having been found during the search and without confronting

those statements to the assessee. The Tribunal held that, in the case of an unabated assessment, additions under section 153A can be made only on the basis of incriminating material seized during the search. As no such material existed, the additions were without jurisdiction and were rightly deleted by the Commissioner (A). The Tribunal held that the Assessing Officer neither referred to any seized books of account nor to any seized documents revealing income represented in the form of assets as required under the fourth proviso to section 153A. The additions were based only on third-party statements recorded under section 131 outside the course of search, which were never confronted to the assessee. The statutory conditions for invoking section 153A were therefore not fulfilled and the assessment could not be sustained. (AY. 2013-14).

Dy. CIT v. Southwinds Project LLP (2025) 124 ITR 292 (Kol.)(Trib.)

2448 **S. 153A: Assessment-Search-Unabated assessment-No incriminating material found during search-Addition towards unsecured loans and commission deleted-WhatsApp messages found in third person's mobile phone-Not incriminating material for completed assessment-Addition deleted-Assessment of third person Satisfaction note mandatory-Procedure under section 153C not followed-Assessment unsustainable. [S. 68, 69C, 132, 153C]**

The Revenue made additions under sections 68 and 69C on the basis of statements recorded during search in the cases of third parties alleging accommodation entries. The Tribunal held that no incriminating material was found during the search conducted in the assessee's case and the assessments for the relevant years had already attained finality. In the absence of incriminating material, no addition could be made in proceedings under section 153A. The statements relied upon had also been retracted, and the deponents had no connection with the assessee. The additions were therefore deleted. The Revenue relied upon WhatsApp messages found in the mobile phone of a third person to make additions towards unexplained expenditure. The Tribunal held that the messages related to a subsequent assessment year and were recovered from a third person's mobile phone. They did not constitute incriminating material against the assessee for the completed assessment years and could not form the basis of additions under section 153A. The Tribunal held that where material belonging to a person other than the searched person is found during search, the statutory procedure prescribed under section 153C must be followed by recording satisfaction and transferring the material to the jurisdictional Assessing Officer of such other person. As the mandatory procedure was not followed, the assessment could not be sustained under section 153A (AY. 2013-14 to 2016-17).

Gulshan Investment (P.) Ltd. & Others v. Jt. CIT (2025) 124 ITR 649 (Delhi)(Trib.)

2449 **S. 153A : Assessment-Search-Undisclosed income-Construction and property development-On money-Seized diaries-Statement of senior sales manager-Extrapolation of receipt of on money-Addition was made on guesswork and surmises-Addition was deleted. [S. 131, 132, 133A]**

Tribunal held that during search proceedings, not a single question about receipt of on money was enquired of the principal partner during the search statement recorded

under section 131 of the Act. Seized documents incapable of testifying to partner's receipt of on money, and addition was made on mere suspicion. Tribunal also held that extrapolation of receipt of on money for other flat purchasers and years was without any evidence. Addition was deleted.(AY. 2017-18 to 2019-20)
Ganraj Homes LLP v. ACIT (2025) 123 ITR 630 (Pune)(Trib)

S. 153A: Assessment-Search-Tribunal cannot examine the legality of the search once the warrant and Panchnama were drawn on the assesse-Incriminating material-Unabated and concluded assesments-No addition can be made without incriminating material-Dairy was found in the premises of the director-Revenue failed to establish that the contents of entries discovered from a third person with the assessee-company-No addition can be made.[S. 132, 132(4), 292C] 2450
Held that the Tribunal cannot examine the legality of the search once the warrant and Panchnama were drawn on the assesse. When no incriminating material was found in respect of un-abated and concluded assessments, addition can not be made. Revenue authorities have not demonstrated that the entries in the diary found at the residential premises of the director of the assessee-company, who is also a director of the other companies, relate to the assessee-company and there being no corroborative material to link the said entries with the assessee-company, the addition is not sustainable on the basis of said entries. Followed *CIT v. Abhisar Buildwell (P) Ltd. (2023) 332 CTR 385(SC).* (AY. 2011-12 to 2012-13)
Colourful Estates (P) Ltd. v. DCIT (2025) 234 TTJ 1 / 247 DTR 17 (Delhi) (Trib)

S. 153A : Assessment-Search-Valid information-Proceedings are valid-Cash credits-Gift-Grandmother-No source to substantiate the gift-Addition was affirmed-Unexplained expenditure-Household expenses-Addition was affirmed.[S.68, 69C] 2451
Held that the search operation was carried out based on valid information gathered against the assessee along with associates/relatives, and large-scale unaccounted investments were found by the Department during the relevant year, proceedings under S. 153A cannot be said to be illegal. The assessee failed to substantiate the source of the gift given by the grandmother; the addition was affirmed. Since no contrary evidence was filed by the assessee before the Assessing Officer as well as the CIT(A) during proceedings, therefore, the addition made by CIT(A) was sustained. (AY.1998-99 & 2001-02 to 2004-05)
Kumar Suman Singh v. ACIT (2025) 234 TTJ 85 / 171 taxmann.com 801 (Pat)(Trib)

S. 153A: Assessment-Search-Seized electronic material coupled with the statement given by the accounts manager of the assessee under s. 132(4) constituted incriminating material-Objection for validity of jurisdiction was rejected-Undisclosed income-Rejection of books of account justified-Estimated the profits of the assessee @ 2.21 per cent of the turnover was affirmed-Unaccounted sale proceeds could be telescoped towards the source of unaccounted expenditure and therefore, no separate addition on this account was permissible. [S.132, 132(4)] 2452
Held that the Revenue authorities, having unearthed two parallel sets of books of accounts maintained by the assessee and evidence of suppression of sales from the

seized electronic material in the course of search, said electronic material coupled with the statement given by the accounts manager of the assessee under s. 132(4) constituted incriminating material unearthed in the course of a search and, therefore, the validity of jurisdiction assumed by the AO under s. 153A cannot be assailed for want of incriminating material. Tribunal also held that since the assessee has been found to be maintaining two sets of books of accounts showing variation in expenses, CIT(A) was justified in rejecting the accounts and estimating the profits of the assessee @ 2.21 per cent of the turnover by following the decision of the Tribunal in the case of assessee's sister concern which was based on identical facts; unaccounted sale proceeds could be telescoped towards the source of unaccounted expenditure and therefore, no separate addition on this account was permissible. (AY.2014-15 to 2019-20)
ACIT v. Alba Industries Ltd. (2025) 234 TTJ 306 (Chennai)(Trib)

2453 **S. 153A: Assessment-Search-Undisclosed income-Statement retracted-Two agreements relating to same property-No incriminating document is found-Addition cannot be made.[S. 132(4)]**
Held that since the two agreements relating to the same property mentioning different amounts of sale consideration found during the course of search at the assessee's premises pertain to two separate transactions between different parties, no addition is sustainable, more so as the assessee has retracted from his statement recorded under s. 132(4), and there is no material to show that the assessee or his wife has paid any undisclosed amount to the seller of the property. Addition was made solely on the basis of the assessee's retracted statement recorded during the search, and no incriminating material was found to support the unaccounted investment in house construction; the addition was deleted. The assessee had already disclosed rental income higher than the amount recorded in the seized document; the addition based on such document was unwarranted. (AY.2012-13 & 2014-15 to 2016-17)
Harish Jain v. ACIT (2025) 234 TTJ 597/ 122 ITR 640/ 174 taxmann.com 348 (Jaipur)(Trib)

2454 **S. 153A: Assessment-Search-Undisclosed income-Purchases cannot be disallowed as bogus by relying on some oral statements recorded behind the back of the assessee-No addition could be made on the basis of such documents which were not found in the control and possession of the assessee-Addition deleted.[S. 69]**
Assessee having provided relevant and necessary evidences to the AO to establish the genuineness of the purchases made by it and the owners of the transport agencies having confirmed the fact that goods were transported by them to the assessee and that the payments for the same were made by the suppliers, addition made by the AO by treating the purchases as bogus by relying on some oral statements recorded behind the back of the assessee is not sustainable; when the genuineness of all purchases is acceptable, addition of profit embedded in such purchases cannot be sustained. Tribunal also held that an addition could not be made on account of sales outside the books on the basis of documents which pertain to an entity other than the assessee and which were not found in the control and possession of the assessee. (AY. 2013-14)
Rama Allied Products Marketing (P) Ltd v. ACIT (2025) 234 TTJ 764 (Delhi)(Trib)

S. 153A: Assessment-Search-Abated assessment-No incriminating material was found-Alleged bogus purchases-Addition was deleted. [S. 69C, 132] 2455

Dismissing the appeal of the revenue the Tribunal held that without any incriminating material found during search proceedings the addition cannot be made in respect of abated assessment. Followed, *PCIT v. Abhisar Buildwell Pvt Ltd (2023)454 ITR 212/ 293 Taxman 141/ 332 CTR 385/ 225 DTR 105 (SC), PCIT v. Meeta Gutgutia (2017) 82 taxmann.com 287 /395 ITR 526 (Delhi)(HC), CIT v. Gurinder Singh Bawa (2016) 386 ITR 483 (2017) 79 taxmann.com 398 (Bom)(HC)* (AY. 2013-14 to 2018-19)

Dy.CIT v. Hardcastle Restaurant Pvt Ltd [2025] 177 taxmann.com 694 (Mum)(Trib)

S. 153A: Assessment-Search-Approval-Jt. CIT has given certain specific instructions to the Assessing Offficer -Mandate is complied with.[S. 143(3), 153D] 2456

Held that the Jt. CIT has given certain specific instructions to the AO. Assessee failed to place on record any material which would substantiate her claim that there was no application of mind by the Jt. CIT, while granting the approval. The mandate of S. 153D is complied with. (AY. 2015-16)

Asha Daga v. Dy.CIT (2025) 233 TTJ 860/ 170 taxmann.com 199 (Raipur)(Trib)

S. 153A: Assessment-Search-Undisclosed income-Document referred to and relied upon by the AO does not bear any signature of the assessee-Addition is deleted-Appellate Tribunal-Delay of 702 days in filing the appeal is condoned. [S. 254(1)] 2457

The Tribunal condoned the delay of 702 days in filing of an appeal. On merit the Tribunal held that in the absence of any corroborative evidence to suggest that assessee has actually received unaccounted cash impugned addition made by the AO solely on the basis of an unsigned document seized during the course of search is not sustainable, particularly when no enquiry of whatsoever nature was made by the AO from the broker who allegedly prepared the impugned document or from GM Group which allegedly made the payment of the said sum and the assessee has explained that the same represents letters of credit received by it from the GM group against the sales made to the said group. Addition is deleted. (AY. 2015-16)

Shrigopal Rameshkumar Sales (P) Ltd. v. Dy.CIT (2025) 233 TTJ 747 / 121 ITR 37 (SN) (Nag)(Trib)

S. 153A: Assessment-Search-Unabated assessments-No incriminating material was found during search-Addition is deleted. [S. 14A, 132, 132A, 147, 148] 2458

Held that no addition can be made in respect of unabated assessments without incriminating material found during search The completed/unabated assessments can be re-opened by Assessing Officer in exercise of powers under sections 147/148, subject to fulfilment of conditions as envisaged/mentioned under sections 147/148 and those powers are saved. (AY. 2012-13, 2013-14)

S.R. Ingots (P.) Ltd. v. ACIT (2025) 210 ITD 254 (Raipur) (Trib.)

2459 **S. 153A: Assessment-Search-Revenue followed detailed guidelines during the search-Approval under the section cannot be considered as granted mechanically-Matter is restored to CIT(A). [S. 153D]**

The ITAT Ahmedabad upheld the Revenue's stance, rejecting claims that approvals under Section 153D were granted mechanically and that additions were made without reference to incriminating material found during the search. The Tribunal noted that detailed guidelines for search assessments were followed, and incriminating material revealed discrepancies such as unexplained loans, cash deposits, and manipulated entries in the books of accounts. The matter was restored to CIT(A) for further probe. (AY. 2005-06, 2006-07)

Neelu Sanjay Gupta (Smt.) Legal Heir of Late Sanjay Gupta v. Dy.CIT (2025) 233 TTJ 29 (Ahd) (Trib)

Technodot Engineers Ltd v. Dy.CIT (2025) 233 TTJ 29 (Ahd) (Trib)

2460 **S. 153A: Assessment-Search-Alleged transfer of Development rights-Reassessment based on seized ledger account and third-party statement-No independent inquiry conducted by the AO-No evidence to link the assessee to the transaction-Addition is deleted. [S. 131, 147, 148, 153A, 153C]**

The assessee has been a dormant firm since 2003 and received a reassessment notice u/s 147 r/w 148 based on information that a partner of the firm received large cash payments for the sale of Transferable Development Rights (TDR) by another entity. The AO alleged that the assessee was used to route these unaccounted funds. However, the ITAT observed that the seized materials, including a ledger account and the third-party statement, failed to establish a connection to the assessee. The AO did not conduct any independent inquiry or find corroborative evidence to support the claim that this dormant firm was used to route cash for a TDR transaction owned and executed by a separate joint venture. Thus, the additions were deleted by the ITAT on the grounds that they were based on speculation and assumptions, rather than concrete evidence that could establish the assessee's involvement in the transactions. (I.T.A. No.5376/Mum/2024 dt. 23-05-2025) (AY. 2009-10)

M.K. Shelters v. ITO Ward (Mum) (Trib) www.itatonline.org

2461 **S. 153A: Assessment-Search-No addition can be made merely on the basis of statement-On money-Presumption-Addition is deleted.[S. 132, 153C, 292C]**

Search u/s 132 was conducted at Assessees's residential and business premises. During statement, the MD of the Kalyan Development Corporation admitted to additional income. Other unaccounted receipts were also found. The same was declared on an estimate basis and quantified at 5% of the total receipts. The Tribunal held that, no incriminating material has been unearthed during the course of search for the relevant assessment year, no addition can be made by the AO in the impugned assessment.

For A.Y. 2016-17, the Tribunal observed that the addition has been made and sustained by the authorities below which was solely based on the statement recorded under s. 132(4). The said disclosure was general in nature and without pinpointing to the specific seized documents in respect of which additions have been made in the hands of the Assessee and drawing inferences from his individual case to make an addition in the hands of KDC was uncalled for. Therefore, addition was deleted.

For A.Y. 2014-15, the issue before the Tribunal was that assessment ought to have been framed under s. 153C and not under s. 153A, as there was no jurisdiction with the learned AO because the addition made in the case of Assessee was based on the seized documents found in another person's home, on whom also a search was conducted. The Tribunal held that the assessment was bad in law as the AO has used the seized material/document found in the course of search conducted in the case of third party. Hence, the addition was deleted. Presumption under S 292C applies only in the case of persons searched-Since the AO was using the excel sheets found and seized from a third person against the assessee, it is was mandatory requirement under s. 65B of the Evidence Act to comply with the procedures given therein. None of these aspects have been discussed by the AO. Therefore, impugned addition made by the AO towards "on-money" alleged to be received by the assessee is deleted.
(AY. 2016-17 to 2018-19)
Kalyan Development Corporation v. ACIT (2025) 233 TTJ 413 (Mum) (Trib)
Mangesh D. Gaikar v. Asstt. CIT (2025) 233 TTJ 413 (Mum)(Trib)
Mangesh Enterprises v. ACIT (2025) 233 TTJ 413 (Mum)(Trib)

S. 153A: Assessment-Search-Addition can not be made in the absence of incriminating material found during the search. [S. 69A, 69C, 132] 2462
Search u/s 132(1) took place at the group's premises. The AO made addition on estimate basis. For A.Y. 2013-14 and A.Y. 2014-15, the Tribunal held that in the absence of any incriminating material during the course of search, no addition could be made in a completed assessment.
For A.Y. 2013-14, the addition made was on account of bogus purchase, however the same was also not based on the documents found during the search conducted. Hence, the addition was deleted.
For A.Y. 2016-17, the issue before the Tribunal was whether an addition on account of bogus purchase per se could be made by applying the provisions of s. 69C of the Act. The Tribunal observed that when the provisions of s. 69C of the Act are sought to be invoked, the Revenue does not doubt the genuineness of incurrence of such expenditure. Only the source of such expenditure is being doubted by the revenue. Since the source of the expenditure was the regular books of account, the addition u/s 69C was deleted. (AY. 2014-15)
Dy. CIT v. Aba Builders Ltd. (2025) 233 TTJ 328 /245 DTR 105 / 176 taxmann.com 216 (Delhi) (Trib)
Dy.CIT v. IV Country (P) Ltd (2025) 233 TTJ 328 / 245 DTR 105 / 176 taxmann.com 216 (Delhi)(Trib)
Dy.CIT v. Country Infrastrctures (P) Ltd 2025) 233 TTJ 328 / 245 DTR 105 / 176 taxmann.com 216 (Delhi)(Trib)

S. 153B : Assessment-Search-Time limit-Satisfaction note-date was required to be considered as 24-6-2022-Period available for making an assessment pursuant to notice dated 19-12-2023 would lapse on expiry of twelve months from end of financial year in which documents were handed over, that is, on 31-3-2024-The notice was quashed and set aside.[S. 132, 153C, Art. 226] 2463
Search and seizure operations were conducted in respect of persons belonging to Alankit Group on 18-10-2019. On 19-12-2023, notice under section 153C was issued. The

Assessee had filed return of income for relevant assessment year on 30-9-2015. Assessing Officer of searched person had recorded a satisfaction note dated 24-6-2022 to effect that he was satisfied that documents belonging to or containing information relating to assessee, were found during course of search. It was also recorded that documents in question were handed over to the Assessing Officer exercising jurisdiction in case of assessee. On a writ the Court held that as per proviso to section 153C, date of receiving of documents or material by the Assessing Officer having jurisdiction over the other person [person other than one searched] from the Assessing Officer having jurisdiction over searched person is required to be considered as date of initiation of search under section 132. On the facts said date was required to be considered as 24-6-2022 and, period available for making an assessment pursuant to notice dated 19-12-2023 would lapse on expiry of twelve months from end of financial year in which documents were handed over, that is, on 31-3-2024, twelve months from end of financial year 2022-23. Accordingly, the Petition was allowed and the notice was quashed and set aside. (AY. 2015-16)

Carol Infrastructure (P.) Ltd. v. ACIT (2025) 305 Taxman 42 (Delhi)(HC)

2464 **S. 153B : Assessment-Search-Time limit-Proceedings initiated under section 153C-No question of transfer of records seized-Time limit provided by first limb of clause (ii) of third proviso to section 153B(1) shall apply-12 months from end of financial year in which search took place-Time barred-Order quashed.[S. 132, 153C, Art. 226]**

A search and seizure operation under section 132 was carried out on 21-8-2019 in case of one ORL during which certain documents and information concerning petitioner, a third party, were seized. On basis of same, notices under section 153C were issued to Petitioner for relevant assessment years. On a writ the Petitioner contended that the order was time barred. Allowing the Petition the Court held that, fresh time given in second limb of clause (ii) of third proviso to section 153B(1) is applicable only if the Assessing Officer of searched party transfers record from himself to the Assessing Officer of the third party, in case where both the Assessing Officers are different; there is no provision of granting time for completion of assessment with reference to transfer of records from Investigation Wing to the Assessing Officer Since the Assessing Officer of searched party as well as the Assessing Officer of third party, i.e. Petitioner, was one and same, time limit provided by first limb of clause (ii) of third proviso to section 153B(1) was to be applied, which was 12 months from end of financial year in which search took place. Since said time limit expired on 31-3-2021 and in light of TOLA and Notification No. S.O. 966(E) dated 27-2-2021, aforesaid time limit stood extended till 30-9-2021, thus, assessment under section 153C for relevant assessment years should have been completed by 30-9-2021. Since the Assessing Officer had not completed assessment by 30-9-2021, proceedings under section 153C for relevant assessment years were quashed.(AY. 2014-15 to 2019-20)

Vijay Bihari Kandhari v. ACIT (2025) 347 CTR 681 / 256 DTR 185 /(2026) 308 Taxman 400 (Bom)(HC)

S. 153B : Assessment-Search-Time limit-Amalgamation of four companies-Books of account or documents or assets seized were handed over to the Assessing Officer having jurisdiction over the searched person-Notice is not barred by limitation. [S. 153C, Art. 226] 2465

Held that since the first notice was issued against the transferor companies which stood amalgamated, thus, the said notice and action were void in nature, and accordingly, the same vanished in thin air and relevant dates for issuance of said notices were of no relevance for counting limitation. Merely because some time was consumed in centralising and handing over relevant incriminating material to the Assessing Officer having jurisdiction, the Petitioner would not come out of rigours of proviso to section 153B. Notice was held to be not barred by limitation. (AY. 2012-13 to 2017-18)

Jupally Real Estate Developers (P.) Ltd. v. Dy. CIT (2025) 302 Taxman 237 /347 CTR 872 (Telangana)(HC)

S. 153B : Assessment-Search-Time limit-Exchange of information-Reference was on 14-11-2012-Article 26 ceased to exist after 30-8-2010-Period of limitation could not be extended under Explanation (ix) to section 153B to frame assessment based on such reference-Assessment order was quashed and set aside on ground of limitation-DTAA-India-Swiss [S. 90, 90A, 153B(ix) Art.24, 26] 2466

The revenue initiated a reference to Swiss Tax Authorities under Exchange of Information Article 26 of Indo-Swiss DTAA on 14-11-2012. The Assessing Officer invoked clause (ix) of the Explanation to section 153B and passed assessment orders on 27-2-2015. On appeal, the assessee challenged the assessment orders on the ground of being barred by limitation. Allowing the appeal the Tribunal held that the amending protocol of the Indo-Swiss DTAA was signed on 30-8-2010. Article 26 would be effective for the exchange of information that relates to the following fiscal year commencing from 1-4-2011; thus, no request could be made under Article 26 (which was earlier numbered as Article 24) of the Indo-Swiss DTAA after 30-8-2010, as said article ceased to exist after 30-8-2010. Thus, where the Assessing Officer made reference for exchange of information to Switzerland tax authorities on 14-11-2012, the period of limitation could not be extended under Explanation (ix) to section 153B to frame an assessment based on such reference. Accordingly, the orders were quashed on the ground of limitation. (AY. 2006-07 to 2011-12)

Subhash Sathe v. ACIT (2025) 213 ITD 187 (Delhi) (Trib.)

S. 153B: Assessment-Search-Time limit-Limitation to pass the assessment order expired on 31.12.2020-Order passed on 21-4-2021 is barred by limitation.[S. 69B, 132, 153A, 153C] 2467

A search action u/s 132 was carried out at the residential premises of 'D'. Pursuant to the same, a notice u/s 153C was issued to the Assessee. Assessment proceedings were carried out, and the AO passed an assessment order u/s 153C r.w.s. 143(3) on 21.04.2021, making addition of certain amounts u/s 69B. It was held that as per the first proviso to S. 153B, the assessment order ought to be passed by 31.12.2020 for AY 2016-17, and the delay in passing the said assessment order of 111 days was barred by limitation. (AY.2016-17, 2017-18)

Chintankumar Rameshbhai Patel v. Dy. CIT (2025) 210 ITD 290 (Rajkot) (Trib.)

2468 **S. 153B : Assessment-Search-Time limit-Assessment of any other person-Satisfaction note was drawn in assessment year 2018-19-Order passed beyond period of limitation of six years-Barred by limitation.[S. 143(3), 153C]**

The Assessing Officer received information on 31-3-2018 that a search and seizure action was carried out in case of 'A' and incriminating documents pertaining to the assessee were found. On the basis of the said information, a notice under section 153C was issued and assessment under section 143(3) read with section 153C was completed for the relevant assessment year. It was noted that the Tribunal in case similar to the assessee held that for initiating proceedings against non-searched entity under section 153C, date of recording satisfaction by the Assessing Officer was commencement point for proceeding under section 153C and the power to assess block period of ten years could not be attracted in case of a search which had taken place prior to 1-4-2017. Since search was conducted before the amendment made under section 153C and also satisfaction note for assessee, being a non-searched party was drawn in assessment year 2018-19, order of the Assessing Officer passed under section 153C read with section 143(3) was beyond permissible period of six years and thus, assessment order passed was to be quashed. (AY. 2011-12)

Rupesh Katilala Savla v. ACIT (2025) 210 ITD 591 (Mum.) (Trib.)

2469 **S. 153C : Assessment-Income of any other person-Search-No incriminating material-Satisfaction notes had not recorded any reasons-SLP of revenue dismissed on account of delay and also on merits. [Art. 136]**

The High Court quashed notices issued under section 153C of the Income-tax Act, 1961, holding that no incriminating material had been gathered or obtained and that the satisfaction notes of the Jurisdictional Assessing Officers had failed to record any reasons to show that the material discovered and pertaining to a particular assessment year was likely to "have a bearing on the determination of the total income" for the year which was sought to be abated or reopened in terms of the notices, and that none of the satisfaction notes had recorded any reasons of how that material was likely to materially influence the computation of income for those assessment years. SLP was dismissed on account of delay and also on merits. (AY. 2013-14 to 2020-21)

ITO v. Forever Bodycare Industries.(2025) 482 ITR 285/ 173 taxmann.com 912 (SC)

Editorial :Saksham Commodities Ltd. v. ITO, (2024) 464 ITR 1 /161 taxmann.com 485 (Delhi)(HC)

2470 **S. 153C : Assessment-Income of any other person-Search-No incriminating material-SLP of revenue dismissed. [Art. 136]**

High Court held that where a satisfaction note issued by the Jurisdictional Assessing Officer of assessee did not refer to any incriminating material for the relevant assessment years, it was ex facie evident that no incriminating material had been found for the relevant assessment years. Further, the Jurisdictional Assessing Officer completely failed to record any reasons indicating how the material referred to by the Assessing Officer of the searched person could "have a bearing on the determination of total income of such other person". Notice issued under section 153C and all consequential proceedings

arising therefrom were to be quashed and set aside. SLP filed by the revenue against the order was dismissed. (AY. 2014-15 to 2020-21)
ACIT v. Kishore Kumar Sharma (2025) 307 Taxman 172 (SC)
Editorial: Kishore Kumar Sharma v. ACIT [2025] 178 taxmann.com 315 (Delhi)(HC)

S. 153C : Assessment-Income of any other person-Search-Not recording of satisfaction-No incriminating material-Abated-Proceedings invalid-SLP of revenue dismissed.[S. 153A, Art. 136] 2471
The Assessee, approaching Hon'ble High Court contended that the proceedings under S. 153C were invalid because there was no incriminating material for the impugned years and the satisfaction notes did not explain how any seized material had a bearing on the determination of total income for those years.
The Hon'ble Delhi High Court quashed the S. 153C proceedings/notice on the grounds that, absent incriminating material and proper satisfaction demonstrating bearing on total income for the year, Sec. 153C could not be sustained.
The Revenue challenged the High Court's quashing of the 153C proceedings by filing an SLP before the Supreme Court (i.e., Revenue sought to sustain the 153C action set aside by the High Court), albeit with substantial delay and did not overcome the High Court's reasoning on the need for incriminating material and proper satisfaction for each year.
The Hon'ble Supreme Court dismissed the SLP as time barred and on merits; the Supreme Court refused to interfere, effectively affirming the High Court's quashing of the S. 153C proceedings. (AY. 2015-16)
ACIT v. Neelkanth Steel and Alloys (2025) 306 Taxman 100 (SC)
Editorial : Saksham Commodities Ltd v. ITO (2024) 161 taxmann.com 485/ 464 ITR 1 (Delhi)(HC)

S. 153C : Assessment-Income of any other person-Search-Proceedings must be taken under S. 153C read with assessment under S. 153A), and not under S. 148/147-Delay of 322 and 358 days-SLP of revenue dismissed on account of delay as well as on merits. [S. 147, 148, 153A, Art. 136] 2472
The Assessee contended that since the seized material "belonged/related" to the Assessee but was found during a search on another person, the correct route was Sec. 153C leading to Sec. 153A, and therefore the Sec. 148 notices and orders rejecting objections were invalid. The Revenue pursued reassessment under S. 148 notwithstanding that the trigger was seized material relatable to a person other than the person searched.
The Hon'ble Rajasthan High Court set aside/quashed the S. 148 notices and the orders rejecting objections, holding that S. 153A, 153D prevail and that S. 153C, not Sec. 148, must be used where material relates to an "other person". The Hon'ble SC dismissed SLPs on the grounds of delay as well as on merits. (AY. 2014-15)
ACIT v. Pramod Jain (2025) 306 Taxman 162 (SC)
Editorial : Shyam Sunder Khandelwal v.ACIT (2024) 161 taxmann.com 255 (Raj)(HC)

2473 **S. 153C : Assessment-Income of any other person-Search-No incriminating material had been gathered or obtained-Satisfaction notes also failed to record any reasons as to how material discovered and pertaining to a particular Assessment Year was likely to have a bearing on determination of total income for year which was sought to be abated or reopened in terms of notices-SLP filed by revenue against the order of High Court was dismissed on ground of delay of 250, 215 and 267 days as well as on merits.[S. 132, Art. 136]**

The High Court held that section 153C would apply only to such Assessment Years where Jurisdictional Assessing Officer is satisfied and has incriminating material for those Assessment Years and which may be concerned with disclosed and undisclosed income. The High Court also held that unless Assessing Officer is satisfied that material gathered could potentially impact determination of total income, it would be unjustified in mechanically reopening or assessing all over again all ten Assessment Years that could possibly form part of block of ten years. The High Court further held that where section 153C was invoked in respect of Assessment Years for which no incriminating material had been gathered or obtained and satisfaction notes also failed to record any reasons as to how material discovered and pertaining to a particular Assessment Year was likely to 'have a bearing on determination of total income' for year which was sought to be abated or reopened in terms of impugned notices, proceedings initiated under section 153C would not sustain and notice was to be quashed. The SLP filed by revenue against order of the High Court was dismissed on the ground of delay of 250, 215, and 267 days as well as on merits (AY. 2015-16)

ACIT v. Satya Pal Arya (2025) 305 Taxman 410 (SC)

ACIT v. Neelkanth Steel and Alloys (2025) 305 Taxman 488 (SC)

Editorial : Saksham Commodities Ltd v.ITO (2024) 161 taxmann.com 485/ 464 ITR 1 (Delhi)(HC)

2474 **S. 153C: Assessment-Income of any other person-Search-Block Assessment-Satisfaction note-Block period-Seized material must pertain to relevant assessment year-Bearing-Notices issued in absence of incriminating material based on non-speaking satisfaction notes unsustainable-Satisfaction notes in these petitions had alluded to incriminating material having been recovered for the assessment years 2013-14 and 2014-15, respectively, and the materials that were co relatable had been specifically identified. All other contentions of parties could be raised in the ongoing proceedings-SLP dismissed on account of delay and also on merits. [S. 132, 153A 158BB, Art. 136]**

The High Court held that section 153C would apply only to such Assessment Years where jurisdictional Assessing Officer is satisfied and has incriminating material for those Assessment Years and which may be concerned with disclosed and undisclosed income. The High Court also held that it is only once the Assessing Officer of non-searched entity is satisfied that material coming into its possession is likely to "have a bearing on determination of total income" that a notice under section 153C would be issued and abatement would thus be a necessary corollary of that notice. The High Court further held that since in instant case section 153C was invoked in respect of Assessment Years for which no incriminating material had been gathered or obtained and satisfaction notes also failed to record any reasons as to how material discovered and pertaining to a particular Assessment Year was likely to "have a bearing on

determination of total income" for year which was sought to be abated or reopened in terms of impugned notices, in such circumstances, proceedings initiated under section 153C would not sustain and notice was to be quashed. The SLP filed by the revenue against order of the High Court was to be dismissed on account of delay of 161 and 269 days and also on account of merits. (AY. 2013-14 to 2020-21)
ITO v. Saksham Commodities Ltd. (2025) 304 Taxman 515 (SC)
ACIT v. Chander Parkash Gupta (2025) 304 Taxman 607 (SC)
ACIT v. Satyapal Arya (2025) 304 Taxman 179 (SC)
Editorial : ITO v. Saksham Commodities Ltd(2024) 161 taxmanncom 485/ 464 ITR 1 / 338 CTR 418 (Delhi)(HC)

S. 153C : Assessment-Income of any other person-Search-Period of six years-Commences from date materials forwarded to the AO of the other person-review petition dismissed due to delay of 433 days and also on merits. [S. 153A, Art. 136] 2475
On a review petition against the decision of the court to the effect that under section 153C of the Income-tax Act, 1961, the period of six-years in respect of which returns are to be filed by the third-party assessee (i.e., other than the assessee in respect of whom the search was conducted) commences only from the date the materials are forwarded to the Assessing Officer of the third-party assessee. SLP dismissed on account of delay of 433 days in filing the review petition had not been satisfactorily explained and also on the merits.(AY. 2009-10, 2010-11)
CIT v. Jasjit Singh (2025) 476 ITR 157 /304 Taxman 602/345 CTR 416 / 251 DTR 272 (SC)
Editorial : CIT v. Jasjit Singh (2023) 458 ITR 437 / 295 Taxman 612/ 334 ITR 937 (SC), reaffirmed. Refer, CIT v. Jasjit Singh (2023) 155 taxmann.com 154 (Delhi)(HC)

S.153C : Assessment-Income of any other person-Search-Recording of satisfaction-Limitation-Preparation of satisfaction note not a mechanical process-No delay; objections on limitation not raised before AO-SLP dismissed. [S. 132(1), 153A, 153D, Art.136] 2476
On the facts, assessment proceedings against the searched person were completed in September 2022; satisfaction notes and transmissions occurred in mid 2023 and notices under section 153C were issued on March 30, 2024. The Court found no delay and dismissed challenges; the SLP was dismissed.(AY. 2015 16 to 2017 18)
Bhupinder Singh Kapur v. ITO (2025) 474 ITR 331 (SC)
Editorial: Bhupinder Singh Kapur v. ITO (2025) 474 ITR 326 (P&H) (HC)

S. 153C : Assessment-Income of any other person-Search-No incriminating material-Order of High Court quashing assessment affirmed-Delay in SLP-SLP dismissed on delay as well as merits.[Art. 136] 2477
The High Court held that section 153C applies only for AYs where the AO has incriminating material relevant to that year. Without such material, reopening all 10 AYs mechanically is unjustified. In this case, satisfaction notes did not record how seized material had a bearing on the total income for the years reopened. The proceedings were quashed. The Supreme Court dismissed revenue's SLP due to delay of 162 and 145 days and also on merits. (AY. 2015-16)
Dy. CIT v. Vikas Wahi (2025) 303 Taxman 404 (SC)
Editorial: Saksham Commodities Ltd. v. ITO (2024) 161 taxmann.com 485 / 464 ITR 1 (Delhi)(HC)

2478 **S. 153C : Assessment-Income of any other person-Search-Satisfaction-Mechanical reopening-Order quashed-SLP dismissed for delay and on merits.[S. 153A, Art. 136]**
The High Court quashed proceedings under section 153C where no incriminating material was found for the years reopened and the satisfaction note failed to show how the material had a bearing on determination of total income. The Supreme Court dismissed revenue's SLP for delay of 142 and 172 days and on merits. (AY. 2015-16)
ACIT v. Mamta Agarwal (2025) 303 Taxman 327 (SC)
Editorial: Saksham Commodities Ltd. v. ITO (2024) 161 taxmann.com 485 (Delhi)(HC)

2479 **S. 153C : Assessment-Income of any other person-Search-Notice issued prior to transfer of case-Notice and order held to be bad in law-The amendment by insertion of clause (c) in sub section (3) of section 124(3)(c) by the Finance Act, 2016(2016) 384 ITR 1 (St), which came into effect from 1-6-2016 is prospective in nature-Order of High Court was affirmed-SLP of revenue was dismissed. [S. 124, 127(2), Art. 136]**
On a writ the High Court held that a notice under section 153C was served on the assessee on 11-5-2009 by DCIT, Central Circle 1(1).Meanwhile, an order under section 127(2) was issued on 20-7-2009 by Commissioner, Bangaluru and case of the assessee was transferred from ACIT, Circle 6(1) to DCIT, Central Circle 1(1), Bangalore. However, notices under section 153C were issued by DCIT, Central Circle, Bengaluru on 11-5-2009 and furthermore, date of transfer of files from ACIT was 19-8-2009. The High Court held that it was ex-facie apparent that notices under section 153C were issued prior to transfer of case and jurisdiction conferred on DCIT and since notice issued by the DCIT, Circle-1(1), Bangalore, was without jurisdiction, all further proceedings would be rendered void ab initio. The High Court also held that the amendment by insertion of clause (c) in sub-section (3) of section 124 by Finance Act, 2016, which came into effect from 1-6-2016, is prospective in nature. SLP filed by the revenue against the impugned order of the High Court was dismissed. (AY. 2003-04 to 2008-09)
CIT v. Himalaya Drug Company (2024) 471 ITR 763/169 taxmann.com 244 (SC)
Editorial: CIT v. Himalaya Drug Company (2023) 22 ITR-OL 33(Karn)(HC)/ 2021 SCC online Kar 16067

2480 **S. 153C: Assessment-Income of any other person-Search-Material related to assessee being other person found during search and handed over to AO-Assessment ought to have been made under S. 153C and not S. 143(3) of the Act-Order of Tribunal quashing the addition is affirmed. [S. 143(3), 260A]**
The Hon'ble MP High Court while deciding an appeal on the question of law being whether on the facts and circumstances of the case and in law, the Hon'ble ITAT was justified in annulling the 143(3) assessment on the ground that the assessment should have been framed under S. 153C of the Act, without appreciating that since seized documents in the instant case are not of incriminating nature, the AO is legally barred from framing assessment under S. 153C as confirmed by the Hon'ble Supreme Court judgment in the case of Abhishar Buildwell P. Ltd. [TS-202-SC-2023]. The Hon'ble Court adopted the reasoning of the Hon'ble Court's judgment in *Pr. CIT (C) v. Kalyanika Infra Mega Ventures (P.) Ltd. [ITA No. 113/2024, dated 28-8-2024]* to arrive at the conclusion that where during search in case of other person certain material related to the assessee

was handed over to the Assessing Officer having jurisdiction over assessee assessment should have been made under S. 153C, assessment order passed under S. 143(3) was not valid.
PCIT v. Tarun Devcon Pvt. Ltd. [2025] 302 Taxman 444 (MP(HC).

S. 153C: Assessment-Income of any other person-Search-Additions based on a survey conducted in premises of assessee and not based on incriminating material found/ seized during search and neither recorded in 'Satisfaction Note' during assessment under S. 153C cannot be sustained and deserves to be deleted.[S. 133A, 260A] 2481

The Hon'ble Delhi High Court while deciding an appeal involving questions relating to the scope of S. 153C of the Act observed that the Revenue was seeking to rely on three documents recovered during survey to justify the assumption of jurisdiction under S. 153C of the Act against the assessee. Two of them viz., the licence issued to the assessee by the DTCP and the letter issued by the DTCP permitting it to transfer such licence, have no relevance for the purposes of determining escapement of income of the assessee for the AYs in question. Consequently, even if those two documents can be said to 'belong' to the assessee they are not documents on the basis of which jurisdiction can be assumed by the AO under S. 153C of the Act. Accordingly, the Court concluded that the question of law raised in the present appeals had already been settled by the earlier Division Bench of this Court in Kabul Chawla [2015] 61 taxmann.com 412 and Dreamcity Buildwell (P) Ltd. [2019] 110 taxmann.com 28. Accordingly, no substantial question of law arose for consideration in the present appeals. The same were accordingly dismissed.
PCIT Central v. TDI Infrastructure Ltd. [2025] 302 Taxman 540 (Delhi)(HC)

S. 153C : Assessment-Income of any other person-Search-Cash credits-Accommodation entries-No incriminating material found in respect of non-searched persons-Statement under section 132(4) alone, without corroborative material, insufficient basis for addition-Assessment proceedings vitiated. [S. 132, 153A, 153C, 292B] 2482

In a case involving the BPTP group, the assessee companies were assessed under sections 143(3) and 153C following a search that revealed Rs. 325.23 crores in advances from the Jain group. The directors acknowledged these amounts during questioning. However, despite these admissions, the Tribunal deleted the subsequent additions of Rs. 341 crores made under section 68, noting that no incriminating material was found during the searches of the assesses. The Court upheld the Tribunal's decision, stating that undisclosed income cannot be determined solely based on statements made during a search unless corroborated by actual evidence found in the search. In this case, the satisfaction note lacked specific incriminating details against the assessee companies, and the revenue failed to show relevance of materials seized from the Jain group's search.
The court addressed the relevant date for computing assessment years under section 153C related to a search conducted on 05.02.2011. It held that the initiation date should be based on when the seized documents are handed to the jurisdictional AO, not the search date itself. This determines the assessment years under review, which include 2005-06 through 2010-11. The court rejected the revenue's claim of a bona fide mistake

under section 292B, clarifying that this provision only addresses minor errors and does not rectify jurisdictional defects that nullify proceedings.
In a case concerning one of the assessee companies, the Tribunal found a significant violation of natural justice as the owner of the Jain group of companies was not permitted to provide a statement nor was the assessee given the chance to cross-examine him, despite repeated requests. The Court upheld the Tribunal's finding that denying cross-examination, which was necessary when a witness's statement was pivotal to the assessment order, constituted a gross violation of natural justice, nullifying the order. (AY. 2011-12)
PCIT v. Pavitra Realcon (P.) Ltd [2024] 164 taxmann.com 1169 / (2025) 481 ITR 663 (Delhi) (HC)
PCIT v. Design Infracon Pvt Ltd [2024] 164 taxmann.com 1169 (2025) 481 ITR 663 (Delhi) (HC)
PCIT v. Delegate Realtors Pvt Ltd [2024] 164 taxmann.com 1169 / (2025) 481 ITR 663 (Delhi) (HC)

2483 **S. 153C : Assessment-Income of any other person-Search-Cash credits-Accommodation entries-Pendrive-Transaction pertaining to financial year 2014-15-Satisfaction note for the Assessment year 2021-22-Pendrive cannot be considered as incriminating documents for the AY. 2021-22-Notice was quashed.[S.68, 132, Art. 226]**
On the basis of search conducted in case of searched person, a satisfaction note was recorded by the Assessing Officer which indicated that a pen-drive was found containing information regarding transactions entered into by the assessee with companies that had provided accommodation entries through generation of bogus invoices. The Assessing Officer issued notice under section 153C for the Assessment Year 2021-22. On a writ the Court held that information allegedly found was regarding a purported transaction pertaining to financial year 2014-15, therefore pen drive found could not be considered as containing any incriminating material pertaining to the assessee in respect of relevant assessment year. Accordingly assessment for the AY. 2021-22 could not be reopened under section 153C of the Act. Notice was quashed and set aside. (AY. 2021-22)
Panch Tatva Promotors (P.) Ltd. v. ACIT (2025) 305 Taxman 171 (Delhi)(HC)

2484 **S. 153C : Assessment-Income of any other person-Search-Seized documents relating to cash payments for land purchase pertaining to earlier year-No incriminating material having bearing on income of relevant assessment years-Notice and proceedings held invalid and quashed.[S.132A, 153A, Art. 226]**
Pursuant to search proceedings, notices under section 153C were issued to the assessee on the basis of a singular satisfaction note alleging cash payments in respect of immovable properties purchased in the name of the assessee's wife. The Court held that the seized material related to financial year 2013-14 relevant to AY 2014-15 and had no bearing on determination of income of the assessee for AYs 2015-16 to 2020-21. Section 153C mandates that the Assessing Officer must be satisfied that seized documents have a bearing on determination of total income of the other person for the relevant assessment year; mere reference or relation to the assessee is insufficient. Since no incriminating material pertaining to the relevant assessment years was found,

assumption of jurisdiction under section 153C was unsustainable. Accordingly, the impugned notices and consequential proceedings were quashed. Reliance was placed on *CIT v. Sinhgad Technical Education Society (2017) 387 ITR 344/ 297 CTR 441 (SC) CIT v. Abhisar Buildwell (P.) Ltd. (2023)454 ITR 212/ 332 CTR 385 (SC) and CIT v. Kabul Chawla (2015) 281 CTR 45 (2016) 380 ITR 573 (Delhi) (HC)* (AY. 2015-16 to 2020-21).
Neeraj Bharadwaj v. ACIT (2025) 481 ITR 77/ 346 ITR 31 (Delhi)(HC)

S. 153C : Assessment-Income of any other person-Search-Limitation-Assessment proceedings before AO not judicial proceedings-Evidence Act not applicable-Amendment to S. 2(12A) defining "books or books of accounts" is clarificatory and retrospective-Electronic/digital data covered-Date of satisfaction note deemed date of handing over for computing limitation-Assessments not time-barred-Writ partly allowed for limited remand. [S.2(12A), 132, 153A, 153B, Indian Evidence Act, 1872, S. 65A, 65B, Art. 226] 2485

A search under s. 132 was conducted in the case of the searched person and certain electronic data and materials were relied upon to initiate proceedings under s. 153C against the assessees. The assessees challenged the jurisdiction under s. 153C and contended that electronic data could not be treated as "books of account" prior to amendment by the Finance Act, 2022; that provisions of ss. 65A, 65B and 66 of the Indian Evidence Act, 1872 were not complied with; and that the assessments were barred by limitation. Dismissing the writ petitions on jurisdiction and limitation, the Court held that assessment proceedings before the AO are quasi-judicial and not judicial proceedings; therefore, strict rules of evidence under the Indian Evidence Act, 1872 including ss. 65A, 65B and 66 have no application. The definition of "books or books of accounts" in s. 2(12A) uses the expression "includes" and has wide amplitude. The amendment by the Finance Act, 2022 inserting "electronic form", "digital form" and printouts thereof is clarificatory in nature, intended to align the provision with technological developments, and is therefore retrospective. Even prior to amendment, data stored in electronic media such as hard disks, pen drives, etc., constituted books of account. For the purpose of limitation under the third proviso to s. 153B(1), the date of recording of satisfaction note is to be treated as the deemed date of handing over of seized material to the AO of the other person, even where the AO of the searched person and the other person is the same. There is no statutory time-limit for issuance of satisfaction note; assessments completed within twelve months from the end of the financial year in which such handing over is deemed to have taken place were within time. However, on facts, since unexplained income had been added in the hands of both directors, the impugned orders were quashed to that limited extent, and matters were remanded for fresh exercise. (AY. 2016-17 to 2021-22)
LKS Gold House (P) Ltd. v. DCIT [2024] 161 taxmann.com 604/ (2025) 345 CTR 15 / 250 DTR 231 (Mad)(HC)

2486 **S. 153C : Assessment-Income of any other person-Search-Limitation-In case of "other person", limitation period is to be reckoned from the date on which seized material is received by the Assessing Officer having jurisdiction over such other person and not from the date of issuance of show-cause notice-Writ petition dismissed. [S. 132, 132A, Art. 226]**

Where search under section 132 was conducted on 10-11-2020 in the case of another person and documents/materials relating to the assessee (being the "other person") were collected by the Assessing Officer having jurisdiction over the assessee on 30-6-2022, the assessee contended that limitation should be computed from the date of issuance of show-cause notice dated 30-12-2024 and therefore proceedings were time-barred. Dismissing the writ petition, the Court held that as per the first proviso to section 153C(1), in the case of an "other person", the reference to the date of initiation of search under section 132 or requisition under section 132A has to be construed as the date on which books of account, documents or assets seized are received by the Assessing Officer having jurisdiction over such other person. Since the search was not conducted in the assessee's premises and materials were received only on 30-6-2022, the limitation period of six years had to be computed from that date and not from the date of show-cause notice; consequently, the notice issued on 30-12-2024 was within limitation. Issues on merits were left open to be agitated before the Assessing Officer in accordance with law. (AY. 2017-18)

KLP Projects (P.) Ltd. v. ACIT (2025) 174 taxmann.com 291 / 345 CTR 783 / 249 DTR 177 (Mad)(HC)

2487 **S. 153C : Assessment-Income of any other person-Search-Objection to jurisdiction-Delay in filing-Writ petition to quash the assessment order is dismissed. [S. 132, Art.226]**

On a writ to quash the assessment, the assessee has raised objections to the assumption of jurisdiction on August 13, 2022. The Court held that the objection was rejected by a written order dated September 28, 2022. The satisfaction note was appended thereto. The assessee slept over the matter for more than one year. Merely because the assessment proceedings may have been transferred in the meanwhile, that did not explain the laches that otherwise existed. The Court held that the assessee had acted with delay. Since the assessment proceedings were about to become time-barred and the assessee had acted late, the discretionary jurisdiction under Article 226 of the Constitution of India was dismissed. (AY. 2011-12)

Ranjana Agarwal v. ACIT (2025) 478 ITR 463 (All)(HC)

2488 **S. 153C : Assessment-Income of any other person-Search-Assessment order passed many years after assessee had filed return-Order passed without giving assessee opportunity to be heard-Order to be treated as notice and assessment to be made after giving assessee opportunity of being heard-The Assessing Officer was directed to provide a reasonable opportunity to be heard, including a personal hearing, and thereafter issue a fresh assessment order within two months. [S. 132, 143(3)]**

On a writ the Court held, that although, since the assessee had not replied to notices, the Assessing Officer could not be faulted for completing the assessment on best

judgment basis in the facts and circumstances, it was clear that the assessment was made several years after the assessee had filed the return of income and on the basis of material unearthed in the course of search in 2012. When these facts and circumstances were considered cumulatively, it was appropriate that the assessee be provided an opportunity of being heard before the reassessment was concluded. Solely for this reason, the assessment order dated December 30, 2019 in respect of the assessment year 2013-2014 had to be quashed. The assessment order was to be treated as a show-cause notice. The Court directed the assessee to file a reply within 15 days from receipt of a copy thereof, where after, the Assessing Officer was to provide the assessee reasonable opportunity to be heard, including a personal hearing, and thereafter issue a fresh assessment order was directed to be passed within two months.(SJ) (AY. 2013-14)
Jaihan Infrastructure v. Dy. CIT (2025) 478 ITR 561 (Mad)(HC)

S. 153C : Assessment-Income of any other person-Search-Assessing Officer accepting explanation of searched party that document seized pertained to financial year 2016-2017 and not financial year 2017-2018-Notice issued for assessment year 2018-2019 and therefore consequent assessment order not sustainable.[S. 132(4), Art. 226] 2489
Allowing the petition, the court held that the Assessing Officer considered incriminating material as having a bearing on the assessee's income for the financial year 2017-2018 relevant to the assessment year 2018-2019. The jurisdictional condition was not satisfied since the search had not yielded any incriminating material, which could confer jurisdiction to the Assessing Officer to issue a notice under section 153C in respect of the assessment year 2018-2019. Since no incriminating material whatsoever was found in respect of the assessee's income for the financial year 2017-2018 relevant to the assessment year 2018-2019, the notice issued under section 153C and the assessment order were set aside.(AY. 2018-19)
Rakesh Babbar v. ACIT (2025) 476 ITR 439 /174 taxmann.com 347 (Delhi)(HC)

S. 153C : Assessment-Income of any other person-Search-Un abated assessments-No addition can be made-Order can be reopened if other conditions are satisfied-Appeal of revenue dismissed. [S. 132,132A, 147, 148, 260A] 2490
Dismissing the appeals of the revenue the Court held that in respect of completed assessments or unabated assessments, no addition could be made by the Assessing Officer in the assessment under section 153C in the absence of any incriminating material found during the course of search of the searched party under section 132 or requisition under section 132A. However, it was clarified that the completed or unabated assessments could be reopened by the Assessing Officer in exercise of the powers under section 147 or 148 of the Act subject to fulfilment of conditions as envisaged under these provisions and as might be permissible in law.
PCIT v. Speciality Paper Ltd [2024] 167 taxmann.com 409 / (2025) 476 ITR 483 (Bom)(HC)
PCIT v. Global Paper Impex Pvt Ltd [2024] 167 taxmann.com 409 / (2025) 476 ITR 483 (Bom)(HC)

2491 **S. 153C: Assessment-Income of any other person-Search-Block assessment-Satisfaction note of searched person not indicating anything against third party assessee-CBDT circular binding on assessing authority-Assessment orders and notices invalid for absence of satisfaction. [S. 132, 158BD, 260A]**

Following search and seizure at the chairman's premises, notices under s. 153C were issued for block years 1999-2000 to 2004-2005 and the search year 2005-06. The AO made additions after considering the assessee's return; on appeal many matters were remitted, and on remand the AO reconfirmed earlier additions. The Tribunal, accepting the assessee's additional ground, found that there was no satisfaction note on record indicating reason to believe that incriminating documents pertained to the other person (the assessee). The High Court held that a satisfaction note specific to the other person is a sine qua non before invoking s. 153C, and even where the AO for the searched person and the other person is the same, a separate satisfaction must be recorded; CBDT Circular No. 24/2015 dated 31 12 2015(2016) 380 ITR 32 (St) supports withdrawal of litigation that does not meet Supreme Court guidelines. Accordingly, proceedings under S. 153C were vitiated for want of a proper satisfaction note and the appellate orders upholding that view were affirmed.(AY. 1999-2000 to 2005-06)

CIT v. SRM Systems and Software Pvt. Ltd., (2025) 475 ITR 387 / 171 taxmann.com 764 /344 CTR 260 / 248 DTR 458 (Mad.)(HC).

2492 **S.153C : Assessment-Income of any other person-Search-Recording of satisfaction-Limitation-Preparation of satisfaction note not a mechanical process-No delay in initiation-Objection on limitation not raised before AO-Writ petition dismissed. [S.132(1), 153A, 153D, Art.226]**

Assessment against the searched person was completed under section 158BC (now section 153A) in September 2022. The AO of the searched person drew a satisfaction note on June 7, 2023 and transmitted documents to the assessee's AO, who prepared his satisfaction note on October 31, 2023. Notice under section 153C was issued on March 30, 2024. The High Court held there was no delay; the words "immediately after" in Circular No. 24/2015 could not mean within a few days. Preparation of a satisfaction note requires reasoned consideration and is not mechanical. Since the assessee did not raise the objection of limitation beyond six years before the AO, it could not be considered later. No jurisdictional error was found and the writ petition was dismissed. (AY. 2015-16 to 2017-18)

Bhupinder Singh Kapur v. ITO (2025) 474 ITR 326 (P&H)(HC)

Editorial: SLP of assessee dismissed, Bhupinder Singh Kapur v. ITO (2025) 474 ITR 331 (SC)

2493 **S.153C: Assessment-Income of any other person-Search-Limitation-Finance Act, 2017 amendment-Extension of period from six to ten years-Applicability only when search made on or after 1 4 2017. [S. 132(1), 153A, 153D, Art. 226]**

The Finance Act, 2017 extended the block period for search assessments to ten assessment years by introducing "relevant assessment years". However, the extension applies only where the search occurred on or after April 1, 2017. The date on which the Assessing Officer records satisfaction for the searched and non searched persons is

material for limitation calculations. Where the search took place on April 7, 2016 (prior to the amendment), the ten year extension did not apply and the assessment under section 153C was barred by limitation. (AY. 2012 13)
PCIT v. Karina Airlines International Ltd [2024] 165 taxmann.com 421 / (2025) 474 ITR 340 (Delhi)(HC)

S. 153C : Assessment-Income of any other person-Recording of satisfaction on 23-10-2019-First AY 2018-19, tenth AY 2009-10-Notices for AYs 2009-10 to 2014-15 not time-barred.[S. 153A, Art. 226] 2494
Search on 10-03-2015 at Venus Infrastructure and Developers Pvt Ltd group premises led to seizure of documents relating to the assessee. Satisfaction was recorded on 23-10-2019 by the jurisdictional AO. The assessee argued notices were time-barred. The Court held that with satisfaction recorded on 23-10-2019, the first AY was 2018-19 and the tenth AY 2009-10. Applying the extended 10-year limit under section 153C r.w.s. 153A (as amended by Finance Act, 2017) for escaped income exceeding Rs. 50 lakhs, the notices were within time. Petition dismissed.
Bhavin Kishorebhai Zinzuwadia v. ACIT (2025) 303 Taxman 73 (Guj.)(HC)

S. 153C : Assessment-Income of any other person-Search-No valid transfer of case-Assessment by Assessing Officer in Andhra Pradesh is not valid-Alternative remedy not an absolute bar for issue of writ-Question regarding jurisdiction to exercise power can be raised at any stage of proceedings.[S. 127, Art. 226] 2495
Allowing the petition the Court held that the assessment by the Assessing Officer in Andhra Pradesh is not valid. Alternative remedy not an absolute bar for issuance of a writ. Question regarding jurisdiction to exercise power can be raised at any stage of proceedings. Order was held to be not valid. (AY.2013-14 to 2020-21)
Vijay Nathulal Sharma v. Dy. CIT [2023] 146 taxmann.com 15 / (2025)472 ITR 535 (AP)(HC)

S. 153C : Assessment-Income of any other person-Search-Limitation-Search in the case of husband-Seized materials which belonged to assessee were handed over to the Jurisdictional Assessing Officer on 20-11-2021-Assessment orders were issued on 30-3-2023 or 31-3-2023-Time limit of 12 months would run from 31-3-2022 to 31-3-2023-Assessment orders were issued within period of limitation-Issuance of notice under section 153A is triggered by search or requisition, whereas notice under section 153C is triggered only upon occurrence of three conditions-Provision of Section 69 is applicable in case of where the books of account is not maintained-Opportunity of being heard-The order under S. 127 was issued after obtaining the consent of or consulting the persons concerned. Mixed questions of fact and law cannot be decided in the absence of pleadings. [S.69, 132(9A), 153B, Art. 226] 2496
On a writ dismissing the petition the Court held that Section 132(9A) can be construed as mandatory only to the limited extent of imposing a mandatory obligation on the authorised officer to hand over the seized materials to the Jurisdictional AO but not with regard to time-limit; besides, in the absence of any reference or link between s. 132(9A) and ss. 153A to 153C, such non-compliance cannot be construed as vitiating the subsequent assessment proceedings. On facts seized materials which belonged to

the assessee were handed over to the Jurisdictional Assessing Officer on 20-11-2021. Assessment orders were issued on 30-3-2023 or 31-3-2023. Time limit of 12 months would run from 31-3-2022 to 31-3-2023-Assessment orders were issued within period of limitation. Court also held that issuance of notice under section 153A is triggered by search or requisition, whereas notice under section 153C is triggered only upon occurrence of three conditions. The assessee did not raise any objections to the centralisation either by replying to the communication or otherwise in spite of being provided an opportunity to object. Mixed questions of fact and law were involved in determining whether the order under S. 127 was issued after obtaining the consent of or consulting the persons concerned. It was held that the mixed questions of fact and law cannot be decided in the absence of pleadings. The Court also held that use of the expression "if any" in s. 69 indicates that that it would also apply to unexplained investments in cases wherein the assessee does not maintain books of account. (AY. 2018-19 to 2020-21)(SJ)

Pavithra Sugichandran (Smt.) v. DCIT [2024] 168 taxmann.com 413/ (2025) 342 CTR 514/ (2026) 485 ITR 484 (Mad)(HC)

2497 **S. 153C: Assessment-Income of any other person-Search-Material seized from another person-Addition under section 153A not sustainable. [S. 132, 153A]**

The Assessing Officer made additions under section 153A on the basis of incriminating documents seized during the search of another person relating to alleged cash receipts of the assessee. The Tribunal held that where the incriminating material belongs to or relates to another person, the proper course is to invoke section 153C after recording the requisite satisfaction. Material seized from a third party cannot form the basis of an assessment under section 153A in the absence of incriminating material found during the search of the assessee. The addition was therefore rightly deleted. (AY. 2013-14 to 2015-16)

Dy. CIT v. BSR Builders Engineers and Contractors (2025) 121 ITR 626 (Chennai)(Trib.)

2498 **S. 153C : Assessment-Income of any other person-Search-A satisfaction note is required to be recorded under section 153C for each assessment year-A consolidated satisfaction note recorded for different assessment years would vitiate entire assessment proceedings [S. 132, 153A]**

The AO initiated assessments under section 153C r.w.s. 143(3) based on documents seized during a search on the Chetak Group. The assessee argued that the AO failed to record a separate satisfaction note for each assessment year, as required under law. The ITAT held that satisfaction under section 153C must be recorded separately for each year. Since a combined satisfaction note was prepared for multiple years, the ITAT held the proceedings as defective and quashed the notices under section 153C as well as assessments for AY 2014-15 and 2015-16. (AY. 2014-15, 2016-17)

Anjana Construction v. ACIT (2025) 128 ITR 148 (Jodhpur)(Trib.)

S. 153C : Assessment-Income of any other person-Search-Satisfaction note-Addition on basis of unacted seized agreement-Invalid approval under section 153D-Entire assessment quashed. [S. 69C, 132, 143(3), 153D] 2499

Pursuant to documents seized from a third party during a search, proceedings under section 153C were initiated alleging that the assessee had made an unaccounted cash payment for purchase of land. The Tribunal held that the seized agreement had never been acted upon, as the assessee, on discovering the intermediary's conduct, cancelled the proposed transaction and directly purchased a smaller parcel of land from the original farmers at the actual consideration, a fact corroborated by the intermediary's statement. The Assessing Officer's allegation of cash payment was unsupported by any cogent evidence. The satisfaction note initiating proceedings was vague, general and recorded without application of mind, merely proposing an enquiry without indicating escapement of income or linking it to any assessment year. Further, the approval under section 153D was granted mechanically by a composite approval for all assessment years instead of separate approvals. Accordingly, the Tribunal held that the proceedings under section 153C were vitiated and deleted the addition. Delay in filing the appeal was also condoned on showing sufficient cause. (AY. 2012-13)

Pushpanjali Construction (P.) Ltd. v. Dy. CIT (2025) 128 ITR 201 (Trib.).

S. 153C: Assessment-Income of any other person-Search-Undisclosed contract receipts-Estimation of profit at 8% upheld-Addition was deleted. [S. 44AD, 132(1)] 2500

During search proceedings in the case of a third party, seized documents recorded both cheque and cash payments made to the assessee towards construction contracts. While the assessee admitted the cheque receipts, it denied receipt of cash. The Assessing Officer treated the cash receipts as undisclosed contract receipts and estimated income at 8 per cent under section 44AD. The Tribunal held that the seized documents were corroborated by the statement of the person from whose premises they were recovered and the assessee failed to produce any material to disprove the cash payments or explain their source. The legal objections regarding proceedings under section 153C were also found to be without merit. Since estimation of profit at 8 per cent was reasonable and beneficial to the assessee, the additions were upheld. (AY. 2012-13, 2014-15)

Sai Chandra Construction Co. v. Dy. CIT (2025) 128 ITR 493 (Delhi)(Trib.).

S. 153C: Assessment-Income of any other person-Search-Satisfaction note-Must state with reference to information from seized material its relevance to assessee's income-Assessee's business not commenced-No question of turnover being suppressed-Seized documents bearing no reference to turnover-Satisfaction note issued without application of mind-Approval under section 153D also invalid-Assessments not sustainable. [S. 69C, 153A, 153D] 2501

The assessee, part of the K.K. Builders group and engaged in construction of two hotel buildings under contract with K.K. Builders for its hotel business which was yet to commence, had assessments framed under section 153A read with section 153C making additions for unexplained construction expenditure under section 69C, based on a loose document seized during search at K.K. Builders premises pertaining to the assessee. On appeal, the Tribunal held that the satisfaction note failed to specify the seized material

or its bearing on the assessee's income, and since the seized document, being the only material pertaining to the assessee, bore no reference to turnover, there could be no question of suppressed turnover when the assessee's business itself had not commenced; the satisfaction note thus reflected complete non-application of mind both by the AO and the approving authority, rendering the approvals under section 153D equally invalid in law, and consequently the assessments, suffering from want of jurisdiction and valid approval, were bad in law and could not be given effect. (AY. 2008-09 to 2010-11)
K.K. Leissure Tourism International P. Ltd v. Dy. CIT (2025) 131 ITR 226 (Cochin) (Trib)

2502 **S. 153C : Assessment-Income of any other person-Search-loose sheets seized from the locker of a third party-Order of CIT(A) deleting the addition is affirmed.**
Dismissing the appeal of the revenue the Tribunal held that loose sheets seized from the locker of a third party which were not in the assessee's hand-writing and did not bear the assessee's name, dates or details of land were dumb document having no evidentiary value in respect of the entries noted therein and, therefore, no addition could be made towards alleged payment of on-money in the hands of the assessee solely on the basis of said documents. (AY. 2015-16)
DCIT v. Amutha Thennarasu (Smt.) (2025) 235 TTJ 72 (Chennai)(Trib)
Dy.CIT v. Vavipalayam Selvaraj Thennarasu (2025) 235 TTJ 72 (Chennai)(Trib)

2503 **S. 153C : Assessment-Income of any other person-Search-No incriminating material-Addition was deleted.[S. 132]**
Held that the AO, having not mentioned or referred to any incriminating document relating to the assessee in the assessment order and made the addition simply on the basis of the difference in valuation of the property sold by the assessee which was already available in the return filed by the assessee in the normal course, the assessment made by the AO under s. 153C cannot be sustained. (AY. 2018-19)
Rawalpindi Co-Operative Cinema Society Ltd. v. DCIT (2025) 235 TTJ 453 (Chd)(Trib)

2504 **S. 153C: Assessment-Income of any other person-Search-Recording of satisfaction-Assessment for the Assessment year 2009-10 was not pending at the time of recording of the satisfaction by the Assessing Officer-Joint development agreement entered into between the assessee and other codeveloper cannot be held as incriminating material as the amount received by the assessee as the refundable security under the JDA is reported in the assessee's balance sheet as well as in the cash book and bank account-Proceedings initiated on the basis of invalid satisfaction are not sustainable. [S. 2(47)(v), 132, 153A]**
Tribunal held that since the assessment for the assessment year 2009-10 was not pending at the time of recording the satisfaction by the AO as on 4th Aug., 2015, then in the absence of any incriminating material, the AO cannot make any addition. Tribunal also held that Joint development agreement entered into between the assessee and other codeveloper cannot be held as incriminating material as the amount received by the assessee as the refundable security under the JDA is reported in the assessee's balance sheet as well as in the cash book and bank account; further, satisfaction recorded by the AO without specifying the linkage between the seized material and the

undisclosed income of a particular assessment year did not satisfy the requirements of the statutory provisions and consequently, the proceedings initiated by the AO under S. 153C on the basis of such invalid satisfaction are not sustainable. (AY. 2009-10)
Amsri Builders (P) Ltd. v. Dy.CIT (2025) 235 TTJ 465 (Hyd)(Trib)
Amsri Infra Projects (P) Ltd v. Dy.CIT (2025) 235 TTJ 465 (Hyd)(Trib)

S. 153C: Assessment-Income of any other person-Search-Undisclosed income-Noting loose sheet-Seized from third party-Addition was deleted. [S. 132(4) 292C, Indian Evidence Act, S. 114] 2505
Tribunal held that the AO made addition on account of alleged cash loans availed by the assessee, simply based on notings found in loose papers/book seized from the premises of a third party Anbhu despite assessee's explicit and categorical denial that no cash loan whatsoever has been borrowed from Anbhu and in the absence of any statement of Anbhu specifically incriminating the assessee and any independent enquiry, CIT(A) has rightly held the seized material to be unreliable and deleted the addition. (AY.2015-16 to 2017-18, 2019-20 & 2020-21)
ACIT v. Kasthoori Raja Dhanush (2025) 237 TTJ 23 (Chennai)(Trib)

S. 153C: Assessment-Income of any other person-Search-Satisfaction note-Required to be recorded for each assessment year-Consolidated satisfaction note recorded for different assessment years-Bad in law-Approval-Mechanical manner-Order quashed. [S. 153D] 2506
Held that the satisfaction note is required to be recorded under S 153C for each assessment year; a consolidated satisfaction note recorded for different assessment years would vitiate the entire assessment proceedings. Tribunal also held that the Jt. CIT/Addl. CIT had given the approval under s. 153D by referring to the period covered by asst. yrs. 2012-13 to 2018-19 though the incriminating material referred to in the satisfaction note of the Dy. CIT relates to only two assessment years, and without examining the issue as to whether the AO has jurisdiction to issue notice under S 153C when the searched party has approached the Settlement Commission, the approval has been given in a mechanical manner. Approval not being in accordance with the law, the assessment orders are quashed. (AY. 2016-17 & 2017-18)
Chitra Narendra Parmar & ORS. v. ACIT (2025) 237 TTJ 63 (Pune)(Trib)

S. 153C : Assessment-Income of any other person-Search-Seized documents-Subsequent exchange agreement-Addition was deleted. [S. 68, 69] 2507
Tribunal held that the documents, including the mortgage deed, amended mortgage deed, dt. 7th March, 2016 and the subsequent exchange agreement of sale make it clear that the assessee firm has given Rs. 6 crore loan to KV in the year 2013 and secured the property for mortgage by a mortgage deed; said mortgage deed has been replaced by entering into an exchange agreement of sale; reason given by the AO that subsequent exchange agreement of sale dt. 7th March, 2016, is an altogether different transaction is devoid of merit and cannot be accepted. Addition was deleted. (AY. 2016-17)
ACIT v. Suresh Productions (2025) 237 TTJ 486 (Hyd)(Trib)

2508 **S. 153C: Assessment-Income of any other person-Search-Recording of satisfaction-The AO has recorded the satisfaction not as per the statutory convention-The entire assessment is vitiated and bad in law-Addition made on presumption was deleted. [S. 132]**

Held that AO recorded in the satisfaction note that the incriminating material found during the search needs to be verified/examined from the regular books of account of the assessee during the assessment proceedings, this is absolutely general and casual recording of satisfaction; since there is no recording of details of escapement of income or quantification of escapement of income or any reference to the specific assessment year, the recording of satisfaction is not as per the requirement of law and therefore, the entire assessment under s. 153C is vitiated and bad in law. Tribunal also held that the assessee, having cancelled the original agreement made with Ghanshyam Gupta for the purchase of land and eventually purchased the land directly from the farmers at a lower rate, the impugned addition made by the AO on the basis of a copy of the agreement found during the search of Ghanshyam Gupta is not sustainable. (AY. 2012-13)

Pushpanjali Construction (P) Ltd. v. DCIT (2025) 237 TTJ 993 (Delhi)(Trib)

2509 **S. 153C : Assessment-Income of any other person-Search-Jurisdiction-Substituting the words "pertains to" for "belongs to" is prospective from 1-6-2015 and does not apply to earlier searches-Assessments were quashed. [S. 132, 153A]**

Proceedings under section 153C are invalid where the seized documents merely relate to or pertain to the assessee but do not belong to the assessee. The amendment made by the Finance Act, 2015, substituting the words "pertains to" for "belongs to" is prospective from 1-6-2015 and does not apply to earlier searches. Accordingly, the notices issued under section 153C and the consequential assessments were quashed for want of jurisdiction. (AY. 2008-09 to 2011-12)

Four Pillar Communications (P.) Ltd. v. ACIT (2025) 238 TTJ 48 / 175 taxmann.com 1051 (Pune)(Trib.).

2510 **S. 153C : Assessment-Income of any other person-Search-Satisfaction recorded under section 153C but assessment framed under section 143(3)-Assessment invalid.[S. 69, 115BBE, 132, 153A,143(3), 153D]**

Documents relating to the assessee were found during a search conducted on another person. Although the Assessing Officer recorded satisfaction that proceedings were required to be initiated under section 153C, he completed the assessment under section 143(3) without issuing notice under section 153C or obtaining approval under section 153D. Information obtained under the Right to Information Act confirmed these lapses. The Tribunal held that failure to invoke the mandatory provisions of section 153C constituted a fundamental jurisdictional defect rendering the assessment unsustainable. (AY. 2021-22).

Ranjan Sharma v. Dy. CIT (2025) 126 ITR 216 / 178 taxmann.com 475 (Delhi)(Trib.)

S. 153C : Assessment-Income of any other person-Search-Assessment of other person-Absence of satisfaction note-Jurisdiction not assumed in accordance with law-Assessment quashed-Presumption regarding seized documents-Applicable only against person from whose possession documents were seized-Addition deleted.-Addition based solely on Departmental Valuation Officer's report-No rejection of books or incriminating material-Addition deleted-DVO valuation-CPWD rates-Allowance for PWD rates and self-supervision-No addition survives.[S. 69B, 132, 292C] 2511

Pursuant to a search conducted on an erstwhile partner of the assessee-firm, the Assessing Officer initiated proceedings under section 153C and made additions towards unexplained investment based on a Departmental Valuation Officer's report and documents seized from the former partner. The Tribunal held that neither the Assessing Officer of the searched person nor the Assessing Officer having jurisdiction over the assessee had recorded the mandatory satisfaction contemplated by section 153C. Further, no incriminating material belonging to the assessee had been found or handed over to the jurisdictional Assessing Officer. As the jurisdictional requirements of section 153C were not fulfilled, the assessment was quashed. The Revenue relied upon documents recovered from the residence of an erstwhile partner to make additions in the hands of the assessee-firm. The Tribunal held that the statutory presumption under section 292C operates only against the person from whose possession the documents are seized. Since the former partner had ceased to be a partner on the date of search and no incriminating material was found from the assessee or its existing partners, the documents could not automatically be attributed to the assessee-firm. The deletion of the additions was upheld. The Assessing Officer made additions for alleged unexplained investment in construction solely on the basis of the Departmental Valuation Officer's estimate without rejecting the assessee's books of account or finding any evidence of cash investment during the search. The Tribunal held that a valuation report is merely an opinion and cannot, by itself, justify an addition under section 69B in the absence of incriminating material. The addition was deleted. The Tribunal held that adoption of CPWD rates resulted in inflated valuation. Following settled principles, it directed that appropriate rebate be granted for the difference between CPWD and State PWD rates as well as for self-supervision. After allowing these deductions, no unexplained investment survived, and the addition under section 69B was deleted. (AY. 2016-17 to 2019-20).
Dy. CIT v. RKS Builders and Promoters (2025) 126 ITR 421 (Chd.)(Trib.)

S. 153C : Assessment-Income of any other person-Search-Third-party search-Dumb document-Abbreviated entries without corroborative evidence-Addition deleted-Limitation-Satisfaction note received beyond permissible period-Assessment for assessment year 2015-16 without jurisdiction-Satisfaction note-Prima facie satisfaction sufficient for assumption of jurisdiction-Delay of 16 days-Sufficient cause-Delay condoned.[S. 132(4), 153A, 292C] 2512

Additions were made on the basis of abbreviated entries in notebooks seized during the search of a third party, alleging that they referred to the assessee, a former Highway Minister. The Tribunal held that the notebooks were merely dumb documents, containing no details regarding the nature of payment, purpose of payment or identity of the recipient. In the absence of corroborative evidence and after the retraction of the

employee's statement relied upon by the Revenue, the additions could not be sustained. The satisfaction note relating to the assessee was received by the jurisdictional Assessing Officer during assessment year 2022-23. The Tribunal held that jurisdiction under section 153C extended only to the six assessment years immediately preceding the relevant assessment year. Consequently, assessment year 2015-16 fell beyond the permissible period and the assessment for that year was held to be without jurisdiction and was quashed. The Tribunal held that, for assuming jurisdiction under section 153C, only a prima facie satisfaction is required. Since the seized material and the statement recorded during search prima facie connected the abbreviation "HW" with the Highway Minister during the relevant period, the satisfaction recorded by the Assessing Officer was sufficient to assume jurisdiction under section 153C. The Tribunal found the delay of 16 days in filing the appeal to be marginal and, in the interest of justice, condoned the delay. (AY. 2015-16 to 2017-18).
Dy. CIT v. Karuppagounder Palaniswami (2025) 122 ITR 380 (Chennai)(Trib.)

2513 **S. 153C : Assessment-Income of any other person-Search-Proceedings under section 153C mandatory-Reassessment under sections 147/148 invalid-Loose paper found from third party-Statement of accountant not tested by cross-examination-Addition deleted-Return filed in response to notice under section 148-Notice under section 143(2) mandatory-Assessment invalid.[S. 132, 147, 148]**
During a search of a third party, loose papers allegedly relating to the assessee were seized. Instead of invoking section 153C, the Assessing Officer reopened the assessment under sections 147 and 148. The Tribunal held that section 153C, containing a non obstante clause, governed the assessment of third persons where seized material pertaining to them was found. Since the mandatory procedure under section 153C had not been followed, the reassessment was without jurisdiction and liable to be quashed. The addition was based solely on a loose paper found during the search of a third party and the statement of the searched person's former accountant. The Tribunal held that the loose paper was neither in the handwriting nor in the possession of the assessee, the accountant's statement recorded outside search proceedings carried no statutory presumption of truth, and the accountant was not produced for cross-examination. In the absence of corroborative evidence establishing cash payment to the assessee, the addition was deleted. The assessee requested that the original return be treated as the return filed in response to notice under section 148. The Tribunal held that once such request was accepted, issuance of notice under section 143(2) became mandatory before framing the reassessment. As no notice under section 143(2) had been issued, the reassessment was invalid (AY. 2011-12).
Subhash Chander Gupta v. ITO (2025) 124 ITR 247 (Chd.)(Trib.)

2514 **S. 153C : Assessment-Income of any other person-Search-Incriminating documents specifically identifying assessee-Addition upheld-Cash payments evidenced by seized documents-Failure to rebut evidence-Addition sustained-Satisfaction under amended provision-Proceedings valid.[S 69A, 69C,. 132, 133A, 153A]**
During search and survey operations conducted in the cases of third parties, incriminating documents and electronic data specifically referred to the assessee and

reflected unaccounted cash transactions. The assessee failed to respond to notices issued under sections 153C and 142(1) or explain the seized material. The Tribunal held that the vouchers and seized documents maintained in the ordinary course of business constituted reliable evidence and mere denial without supporting material could not dislodge the additions. The addition under section 69A was accordingly upheld. The Assessing Officer made additions under section 69C on the basis of payment vouchers and electronic records seized during search proceedings. The Tribunal held that the assessee neither challenged the evidentiary value of the seized documents nor furnished any explanation before the Assessing Officer. Since the additions were supported by contemporaneous business records and corroborative statements recorded under section 132(4), the Commissioner (Appeals) was not justified in deleting them. The assessment order was restored. The Tribunal held that after the amendment to section 153C with effect from 1 June 2015, proceedings can be initiated where the Assessing Officer is satisfied that seized documents pertain to or contain information relating to a person other than the searched person. Since the assessee failed to establish absence of the requisite satisfaction and the seized material clearly related to the assessee, the proceedings under section 153C were held to be valid. (AY. 2018-19, 2019-20).
Asst. CIT v. Unique Realities Builders and Developers (2025) 125 ITR 472 (Nagpur)(Trib.)

S. 153C: Assessment-Income of any other person-Search-Absence of satisfaction note and incriminating material-Assessment invalid.[S. 132] 2515
The assessee's assessment under section 153C was framed pursuant to documents allegedly found during a search conducted on a third party. The Tribunal called upon the Department to produce the satisfaction note and incriminating material forming the basis of assumption of jurisdiction. As neither the satisfaction note nor any incriminating document relating to the assessee was produced, and the addition was made only on the basis of valuation disclosed in the return of income, the Tribunal held that the mandatory jurisdictional requirements of section 153C were not fulfilled. Accordingly, the assessment and the addition were held to be unsustainable. (AY. 2018-19).
Rawalpindi Co-operative Cinema Society Ltd. v. Dy. CIT (2025) 125 ITR 185 (Chd.)(Trib.)

S. 153C : Assessment-Income of any other person-Search year-Wrongly applied the provision of Section 153C by the CIT(A); the matter is remanded to the file of CIT(A) to decide the issue on merits-Application for adjournment was rejected. [S. 132, 143(3), 255, ITATR, 1963, R. 23] 2516
Tribunal held that though the AO has made the addition in the hands of the assessee on the basis of documents found at the time of search in the premises of a third party, rigours of s. 153C are not attracted as the year under consideration is the search year; additions were required to be made by the AO within four corners of s. 143(3) of the Act. The CIT(A) had deleted the addition on the wrong understanding that the requirements under s. 153C are required to be fulfilled. The order of the CIT(A) was set aside and the matter was remanded back to the CIT(A) to decide the issue afresh on merit. Application of the assessee for adjournment was rejected. Followed *R.B Seth*

Jessarm Hosppital v. R.B Seth Awokman Union (WP Np. 1960 of 2024 (Delhi)(HC) (AY. 2010-11)
Dy.CIT v. Vamsi Mohan Vallabhaneni (2025) 233 TTJ 121 / 245 DTR 81 (Hyd)(Trib)

2517 **S. 153C : Assessment-Income of any other person-Search-Satisfaction note prepared without application of mind and without referring to the incriminating material found during the course of search-Assessment order was quashed.[S. 132]**
The Assessment u/s. 153C of the Act was initiated on the basis of the Satisfaction Note recorded by the AO, who had jurisdiction over both the searched person and a person other than the searched person. Satisfaction Note did not refer to the material seized during the course of the search u/s. 132 of the Act. The Tribunal held that a single consolidated satisfaction note could be prepared for more than one AY but AO should record satisfaction that which incriminating material pertains to which AY's to depict application of mind and initiation of action under section 153C of the Act qua such assessment years. In absence of the same, assessment order passed u/s. 153C of the Act was quashed by the Delhi Tribunal. (AY. 2019-20)
Pradeep Singh v. ACIT (2025) 233 TTJ 590 (Delhi) (Trib.)
Renu Singh v. ACIT (2025) 233 TTJ 590(Delhi)(Trib)

2518 **S. 153D : Assessment-Search-Approval-Mechanical approval invalid.[S. 132, 153A, 260A]**
Pursuant to a search under section 132, assessments for AYs 2009-10 to 2011-12 were completed under section 153A/143(3) after obtaining approval under section 153D. The Tribunal held the assessments to be invalid on the ground that the approval was granted mechanically without due application of mind, as the Additional Commissioner approved multiple draft assessment orders on the same day without verifying records and even approved additions of opening balances which were erroneous. On an appeal, the High Court upheld the Tribunal's view, holding that an approval under section 153D cannot be accorded in a casual or mechanical manner and must reflect due consideration of the material on record. The court held that the Tribunal was justified in holding the approval to be invalid. (AY. 2009-10 to 2011-12).
PCIT v. Subash Dabas (2025) 478 ITR 217 (Delhi)(HC)

2519 **S. 153D : Assessment-Search-Approval-Mechanical approval-Multiple approval on other group cases-Non-application of mind-Order was quashed. [S. 132, 153A]**
Tribunal held that the approval was granted mechanically without application of mind. Multiple approvals were granted on the same day on other group cases. Assessment order passed based on invalid approval was quashed. (AY. 2017-18)
Navratan Management P.Ltd v. Dy.CIT (2025) 128 ITR 100 (Mum)(Trib)

S. 153D: Assessment-Search-Approval-Failure to examine the seized documents-Addl. CIT approved 86 other orders pertaining to different assessees in these three days. The language of all these approvals is identical-The approving authority has granted common approval for all the assessment years in respect of the assessee-while granting the approval, the benefit of presumption under S. 114(e) of the Indian Evidence Act that all official acts are regularly performed is not available to the Revenue. The assessment order was held to be void ab initio, hence quashed. [S.153A, Indian Evidence Act, 1872, S.114(e)] 2520

Held that the Addl. CIT has granted omnibus approval under s. 153D to the draft assessment orders pertaining to eleven assessment years within three days, merely stating that the approval is accorded after perusing the draft assessment orders and the case records without providing any further details and without stating that the seized material or the appraisal report has been perused by her, it is clear that the approval under S. 153D has been granted by the Addl. CIT in a mechanical manner without due application of mind and, therefore, the assessment framed by the AO is void ab initio. (AY. 2011-12 to 2017-18)
Sushen Mohan Gupta v. ACIT (2025) 236 TTJ 32 (Delhi)(Trib)

S. 153D : Assessment-Search-Approval-Departmental Representative produced a sealed envelope stating that he is relying on a "Confidential" document to prove "Application of mind" by the officer.-Each assessment year is different from the other, and the facts/ additions made in separate assessment years demand separate application of mind, as is the requirement of S. 153D. Non-application of mind-The order was quashed and set aside.[S. 132, 153A] 2521

Tribunal observed that approval granted by the Department is neither an executory nor administrative function, as the same gives rise to a civil consequence of assessment being framed against the assessee. Tribunal held that what is mandatorily required is independent application of mind by the Addl. CIT while granting approval under S. 153D for each separate case after thoroughly and judiciously examining the draft order as well as other relevant documents based on which the assessment is completed; approval must ex facie disclose that the approving/sanctioning authority has considered the evidence and other material placed before it; no such evidence is adduced and the approvals appear to be mere templates; approvals so granted are violative of mandate of s. 153D and, therefore, the assessments made under S. 153A are invalid and bad in law in the absence of valid and proper approval under S. 153D.(AY. 2016-17 to 2020-21)
Umesh Sadashiv Thakre v. ACIT (2025) 236 TTJ 745 / 175 taxmann.com 951 / [2026] 134 ITR 69 (Nagpur)(Trib)
YRCE Educare (P) Ltd v. ACIT (2025) 236 TTJ 745 / 175 taxmann.com 951 / [2026] 134 ITR 69 (Nagpur) Trib)
Atul Manoharro Yamsanwar v. ACIT (2025) 236 TTJ 745 / 175 taxmann.com 951 / [2026] 134 ITR 69 (Nagpur) Trib)

2522 **S. 153D : Assessment-Search-Approval-Manual of Office Procedure issued by the CBDT in February 2023 was not followed-Separate approval for each assessment year was not obtained-Approval granted is mechanical in manner and without application of mind by the approving authority-Order was quashed.[S. 119, 153C]**
Tribunal held that a separate approval of the draft assessment order under S. 153D for each year is to be obtained; a single approval granted by the Addl. CIT for all six assessment years is bad in law. The AO sent only a proposal to the Addl. CIT, which was not accompanied by any assessment folder, seized material or any other related documents, the approval was granted in a mechanical manner without application of mind by the Addl. CIT and, therefore, the same is not sustainable in the eyes of the law. (AY. 2009-10 to 2014-15)
Dheeraj Chaudhary v. ACIT (2025) 237 TTJ 633/ 127 ITR 482/ 178 taxmann.com 360 (TM) (Delhi)(Trib)

2523 **S. 153D : Assessment-Search-Approval-The approval should not be rubber-stamping and a mere factual formality-Assessment was quashed. [S. 132, 153A, 153B]**
Held that the approval under S. 153D under consideration is not based on examination of any relevant documents and has been accorded in haste and therefore lacks application of mind; same suffers from perversity and impropriety and consequently is not sustainable. The assessment order was quashed. (AY.2017-18)
Navratan Management (P) Ltd. v. DCIT (2025) 237 TTJ 1059 (Mum) Trib)

2524 **S. 153D : Assessment-Search-Approval-Mechanical approval without independent application of mind-Assessment invalid. [S. 132, 153A, 153C]**
The Joint Commissioner granted approval under section 153D to draft assessment orders for several assessment years on the very next day after receipt of the proposal from the Assessing Officer through a single common approval. The Tribunal held that approval under section 153D is a mandatory quasi-judicial function requiring independent examination of the seized material, enquiries made by the Assessing Officer, replies of the assessee and the conclusions reached in the draft assessment order. A mechanical approval granted without due application of mind defeats the legislative safeguard envisaged under section 153D. Since the approval was granted mechanically for all assessment years together without independent consideration, the approval was invalid, and the consequential assessments framed under section 153A were held to be bad in law. (AY. 2008-09 to 2014-15)
Impress Estates (P.) Ltd. & Ors. v. ACIT (2025) 238 TTJ 1016 (Delhi)(Trib.)

2525 **S. 153D : Assessment-Search-Approval-Consolidated approval for seven assessment years-Mechanical approval-Assessment quashed.[S.153A]**
The Joint Commissioner granted a consolidated approval under section 153D for all seven assessment years on the very next day after receiving the proposal from the Assessing Officer. The approval did not record that the assessment records, appraisal report or seized material had been examined and merely relied upon the Assessing Officer's certification. The Tribunal held that the approval under section 153D is a quasi-judicial function requiring independent application of mind. The mechanical

approval rendered the consequential assessment order unsustainable in law and the assessment was quashed. (AY. 2015-16).
Apple Commodities Ltd. v. Dy. CIT (2025) 126 ITR 623 / 179 taxmann.com 552 (Delhi) (Trib.)

S. 153D : Assessment-Search-Approval-Composite approval for seven assessment years-No independent application of mind-Assessment quashed.[S.153A] 2526
The Assessing Officer forwarded only the draft assessment orders while seeking approval under section 153D. The competent authority granted a composite approval for assessment years 2014-15 to 2020-21 by issuing a single approval with check marks against each year, without referring to the appraisal report, seized material or assessment records. The Tribunal held that the approval was granted mechanically without any independent scrutiny or reasoning and merely on the basis of the draft assessment orders. As the mandatory requirement of application of mind under section 153D was not satisfied, the approval and the consequential assessments were held to be invalid. (AY. 2014-15 to 2020-21).
Kehar Singh v. Dy. CIT (2025) 126 ITR 609 (Delhi)(Trib.)

S. 153D : Assessment-Search-Approval-Quasi-judicial function-Mechanical approval without application of mind-Assessment quashed.[S. 153A] 2527
The Tribunal held that the power of granting approval under section 153D is statutory and quasi-judicial in nature and requires examination of the assessment records, seized material and replies of the assessee. As the Additional Commissioner granted approval without verifying these records and without demonstrating any application of mind, the approval was mechanical. Consequently, the assessment framed pursuant to such approval was quashed. (AY. 2013-14 to 2018-19).
S. P. Singla Constructions (P.) Ltd. v. Dy. CIT (2025) 126 ITR 536 (Chd.)(Trib.)

S. 153D : Assessment-Search-Approval-Mechanical and omnibus approval for seven assessment years-Assessment quashed.[S.153A] 2528
The assessee challenged the validity of the assessment on the ground that the approval granted under section 153D was mechanical. The Tribunal held that the approval letter did not indicate that the Additional Commissioner had examined the draft assessment orders, seized material or assessment records. A single omnibus approval was granted for seven assessment years without any independent application of mind. Since the statutory approval contemplated under section 153D is required to be year-specific and based on due application of mind, the mechanical approval vitiated the assessment. (AY. 2018-19).
Inder Chand Bajaj v. Dy. CIT (2025) 126 ITR 500 (Delhi)(Trib.)

S. 153D : Assessment-Search-Approval-Due application of mind established-Additional ground rejected. [S. 132, 153C] 2529
The assessee challenged the validity of the assessment contending that the approval granted under section 153D was mechanical. The Tribunal admitted the additional legal ground but held that the approving authority had examined the draft assessment

order, appraisal report, seized material, queries raised by the Assessing Officer and the assessee's replies before granting approval. The suggested modifications were incorporated in the assessment order, demonstrating due application of mind. Accordingly, the challenge to the approval under section 153D was rejected. (AY. 2012-13 to 2014-15).
Usha Satish Salvi v. Asst. CIT (2025) 127 ITR 452 (Mum.)(Trib.)

2530 **S. 153D : Assessment-Search-Approval-Composite approval for multiple assessment years-Mechanical approval-Assessment quashed-Mere proposal letter without assessment records-Approval invalid-Appeal to Appellate Tribunal-Additional grounds-Pure question of law-Delay due to change of counsel-Additional grounds admitted.[S. 153A, 254(1)]**
The Third Member majority held that the Additional Commissioner granted a composite approval for all the assessment years without separately examining each draft assessment order or the assessment records and seized material. Such approval reflected total non-application of mind and violated the mandatory requirements of section 153D. Consequently, the assessment orders were held to be void ab initio and quashed. The Assessing Officer forwarded only the proposal letter seeking approval without placing the assessment records, seized material or other relevant documents before the approving authority. The Tribunal held that approval granted without examining the relevant records and contrary to the CBDT Manual of Office Procedure was mechanical and unsustainable. The consequent assessments were quashed. The assessee raised additional grounds challenging the validity of the assessments after change of counsel. The Tribunal held that the grounds involved pure questions of law arising from facts already on record and that the delay had been satisfactorily explained. The additional grounds were accordingly admitted. (AY. 2009-10 to 2014-15).
Dheeraj Chaudhary v. Asst. CIT (2025) 127 ITR 482 / 178 taxmann.com 360 (TM)(Delhi)(Trib.)

2531 **S. 153D : Assessment-Search-Approval-Approval under section 153D-Mechanical approval granted on same day in several cases-Assessment void ab initio-Appellate Tribunal-Additional grounds-Pure questions of law going to root of assessment-Admitted.[S. 132]**
The draft assessment order, approval under section 153D and final assessment order in the assessee's case formed part of several cases disposed of on the same day. The Tribunal held that the approval was granted mechanically without proper application of mind to the material on record. Since approval under section 153D is a mandatory safeguard and cannot be a mere ritual, the approval was invalid, rendering the assessment order void ab initio. The assessee raised additional legal grounds challenging the validity of the assessment. The Tribunal held that the additional grounds involved pure questions of law arising from the assessment proceedings, required no further investigation into facts and went to the root of the matter. Accordingly, they were admitted for adjudication (AY. 2017-18).
Utility Supply (P.) Ltd. v. Dy. CIT (2025) 124 ITR 324 / 174 taxmann.com 250 (Mum.)(Trib.)

S. 154 : Rectification of mistake-Mistake apparent from the record-Notice issued in the name of a dead person-Notice quashed. [Art. 226] 2532

Allowing the petition, the Court held that, considering the facts and circumstances of the case and the submissions of the parties, the notice was quashed. However, the Department was not barred from issuing a fresh notice in accordance with the law. (AY. 2015-16) (SJ)

Goutam Sadhan Bose v. ACIT (2025) 483 ITR 137 (Cal)(HC)

S. 154: Rectification of mistake-Mistake apparent from the record-Refund-Amalgamation-Directions issued for expeditious disposal of rectification application and grant of refund upon migration of cases within Department. [S. 237, Art. 226] 2533

On a writ, the court directed the Deputy Commissioner to ensure that the rectification application initiated by the assessee was dealt with and finalised at the earliest within eight weeks. Subject to the migration of cases being done successfully, the assessee would be entitled to claim whatever refund it was entitled to refund in accordance with law. The refund application, if any, should also be processed and finalised as expeditiously as possible.

Virtusa Consulting Services Pvt. Ltd. v. Dy. CIT (2025) 483 ITR 356 (Telangana) (HC)

S. 154 : Rectification of mistake-Mistake apparent from the record-Depreciation-Powers of appellate Authority-Merely because an appeal was filed before Appellate Authority or revision pending before Revisional Authority would not preclude Original Authority to rectify any mistake or error apparent from record under section 154 in respect of which either no order has been passed by Appellate/Revisional Authority or yet an order was to be passed.[S. 32, 250, 251(ia), 260A] 2534

While powers are vested with the Assessing Officer to pass an order rectifying the assessment order under section 154 even if appellate or revisional proceedings are pending, it would also not preclude the Appellate Commissioner from enhancing tax liability in respect of an issue which was subject matter of the assessment. Therefore, where in an assessment order claim for adjusting unabsorbed depreciation against income arising from capital gains was subject matter of assessment, the Appellate Commissioner was justified in re-looking same irrespective of order passed under section 154 (AY. 2002-03)

Prime Urban Development India Ltd. v. ACIT (2025) 305 Taxman 58 /(2026) 484 ITR 290 (Mad)(HC)

S. 154 : Rectification of mistake-Mistake apparent from the record-Designated authority-Certificate in Form 5 was issued-Scope of section 154 was limited to amend any order passed by Assessing Officer under provisions of Income-tax Act, 1961 and it would not be extended to sit over order passed and declaration issued by designated authority under section 5 of DTVSV Act-Order passed by Assessing Officer under section 154 was set aside [S.132(IA), Direct Tax Vivad se Vishwas Act, 2020 Form No 5, Art. 226] 2535

Pursuant to seizure of cash from its collection agent, the assessee was issued a warrant under section 132(1A) and an assessment order was passed under section 143(3) raising a tax demand. During pendency of appeal, assessee filed a declaration under section 3

of Vivad se Vishwas Act, 2020 before designated authority and a certificate in Form 5 was issued. The Assessee paid entire amount but since it was entitled to a refund and department was not refunding excess amount of tax paid by assessee, it pursued his claim before competent authority. The Assessing Officer on basis that despite disputed tax demand already settled earlier, there were two more additional demands under section 69/69A, for which tax liability would be charged at rate of 60 per cent under section 115BBE in addition to 30 per cent amount charged under section 143(3). On a writ the Court held that the Designated Authority under Vivad se Vishwas Act, 2020 entertained application of assessee and based on pleadings and admission, in presence of both parties, a certificate of closure of proceeding was issued. The Court held that scope of section 154 which talks of rectification of mistake is limited to amend any order passed by the Assessing Officer under provisions of Income-tax Act, 1961 but in no way in garb of exercise of its power under clause (a) of sub-section (1) of section 154 it may be extended to sit over order passed and declaration issued by designated authority under section 5 of DTVSV Act. Accordingly the order passed by the Assessing Officer under section 154 was set aside.

Manohar Lal Poddar v. UOI (2025) 176 taxmann.com 344/ 347 CTR 389 / 254 DTR 172 (Pat)(HC)

2536 **S. 154 : Rectification of mistake-Mistake apparent from the record-Return of income-Assessee was directed to file order treating return as invalid with revenue and a copy of ITR form uploaded with system of revenue and return which was treated as defective. On receipt of above documents, revenue shall dispose of rectification petition filed by assessee after giving assessee an opportunity of hearing. [S. 44AB, 139(9), Art. 226]**

The Centralized Processing Centre, Bengaluru treated the return filed by the assessee as defective return under section 139(9) on the ground that assessee had not filed tax audit report as required under section 44AB. The Assessee filed a rectification petition for rectification of order. Revenue rejected rectification petition on ground that there was no base order available on system to be rectified. On a writ the Court held that assessee having accessed system of revenue to download the impugned order, even revenue could have accessed the said order and rejected rectification application on the ground that base order was not available. However, assessee was directed to file order treating return as invalid with revenue and a copy of ITR form uploaded with system of revenue and return which was treated as defective. On receipt of above documents, revenue was directed to dispose of rectification petition filed by assessee after giving assessee an opportunity of hearing. (AY. 2023-24)

Lupin Investments (P.) Ltd. v. CPCID (2025) 304 Taxman 676 (Bom.)(HC)

2537 **S. 154 : Rectification of mistake-Mistake apparent from the record-Surcharge-Application for rectification-Object of Section 154 cannot be defeated by reason of mechanical and technical objections-Records of assessment included financials for years in question and books of account including ledgers.[S. 43B, 260A]**

Disallowance of claim in assessment order passed in year 1995 for Assessment Year 1992-93,on the ground that the claim crystallised only in the year 1997. Pursuant to

Court Order. The Tribunal confirming rejection of rectification application on the ground that claim not made in return of income and records of Assessment Year 1996-97 not available was misconceived. On appeal the Court held that grounds of appeal before appellate authorities were not considered on merits. The Court held that the object of Section 154 cannot be defeated by reason of mechanical and technical objections. Records of assessment included financials for years in question and books of account including ledgers. Accordingly, the claim of assessee was allowed. (AY. 1998-99)
Super Spinning Mills Ltd. v. Asst. CIT (2025) 473 ITR 249 (Mad)(HC)

S. 154: Rectification-Mistake apparent from the record-Mandatory requirement of DIN-Back-dated rectification order-Limitation-Violation of CBDT Circular No. 19/2019-Order deemed never issued-Writ maintainable despite alternate remedy. [S. 119, 154(3), 154(7), 250, 292B, Art. 226] 2538

The assessee challenged a rectification order purportedly dated 29-03-2024 passed u/s 154 giving effect to the directions of the TPO for AY 2005-06, on the ground that the order did not bear a Document Identification Number (DIN) as mandated by CBDT Circular No. 19/2019 and was back-dated to overcome the limitation prescribed u/s 154(7). On a writ the Bombay High Court held that the requirement of DIN is mandatory and any communication issued without DIN, not falling within the limited exceptions in the Circular and without prior approval of the competent authority, is invalid and is deemed never to have been issued. The subsequent intimation letter supplying DIN could not cure the defect. The Court further held that issuance of a show-cause notice u/s 154(3) on 20-06-2024 itself demonstrated that the rectification order could not have been passed on 29-03-2024 and was clearly back-dated after expiry of limitation on 31-03-2024. Reliance by the Revenue on s.292B and the Jharkhand High Court decision in Prakash Lal Khandelwal was rejected as misconceived and distinguishable. Following *Ashok Commercial Enterprises v. ACIT (2023) 459 ITR 100 (Bom)(HC) Hexaware Technologies Ltd v. ACIT (2024) 464 ITR 430 (Bom) (HC) where CIT v. Brandix Mauritius Holdings Ltd (2023) 456 ITR 34 (Delhi)(HC),CIT v. Tata Medical Centre Trust (2023) 459 ITR 155 (Cal) (HC) and CIT v. Sutherland Global Services Inc. (2025) 175 taxmann.com 897 (Mad) (HC)* the Court quashed the rectification order and DIN intimation as being without jurisdiction. Availability of an alternate remedy before the Tribunal was held not to bar the writ, as the impugned action was ex facie illegal and without jurisdiction. (AY. 2005-06).
Siemens Limited v. DCIT [2025] 181 taxmann.com 448 /[2026] 486 ITR 181 (Bom)(HC)

S. 154 : Rectification of mistake-Mistake apparent from the record-Since rectification order was passed three years after framing of original order of assessment-Pendency of appeal-Rectification order was quashed. [S. 147, 148,292B, Art. 226] 2539

The AO passed an assessment order in the name of the Company already merged with another company pursuant to a scheme of arrangement sanctioned by the High Court. The AO initiated proceedings u/s 154 during pendency of an appeal before CIT (Appeals).
On appeal, the Hon'ble Court observed that the factum of merger was already within the knowledge of the AO; even then, the AO passed the order in the name of the entity

which had ceased to exist. Accordingly, the Hon'ble Court held that there is no case of inadvertent error or mistake and therefore, rectification order passed three years after framing of the original assessment order even during the pendency of the appeal of the assessee, the rectification order was unsustainable.(AY. 2013-14)
International Hospital Ltd. v. DCIT (2024) 167 taxmann.com 317 /(2025) 472 ITR 400 (Delhi)(HC)

2540 **S. 154 : Rectification of mistake-Mistake apparent from the record-Disallowance of expenditure-Exempt income-Assessee has accepted the disallowance-Issue not debatable-Order of Tribunal affirming the order of CIT(A) was affirmed. [S. 14A, 260A]**
The Assessing Officer made disallowance under section 14A. The Assessee filed an appeal before the Commissioner (Appeals) but did not press the ground of disallowance made by the Assessing Officer. The CIT(A) partly allowed the appeal. Thereafter the Commissioner (Appeals) issued notice to assessee seeking to rectify order passed in appeal. The Assessee objected to proposed rectification. The Commissioner (Appeals) in an order passed under section 154 rejected objections preferred by the assessee and directed the Assessing Officer to enhance disallowance under section 14A. On an appeal the Tribunal affirmed the order of the CIT(A). On an appeal the Court held that since assessee itself had accepted disallowance under section 14A, it was not a debatable issue and Commissioner (Appeals) after following due procedure as contemplated under law including issuance of notice and after considering objections of parties, rectified error and made disallowance, same was within purview of provisions of Act. Appeal was dismissed. (AY. 1999-2000)
Andhra Bank Financial Services Ltd. v. CIT (2025) 342 CTR 697 / 245 DTR 347 / 302 Taxman 397 (Telangana)(HC)

2541 **S. 154 : Rectification of mistake-Mistake apparent from the record-Subsequent decision of Supreme Court-Order must be rectified-Order of AAR which was overruled by Supreme Court-Circular No 688 dated 17-11 1971(1972) 83 ITR 6 (St).[Art. 226]**
On the basis of the order passed by Authority for Advance Rulings that payment received by the assessee from its Indian distributor for sale of software product in India was royalty, the assessee filed its returns and paid taxes under protest. Order of AAR had been challenged by assessee before Apex Court and it was expressly overruled. Subsequent to order of the Apex Court, the assessee filed rectification application and sought for refund of taxes by invoking section 154 but lower authorities rejected the assessee's rectification application on the premise that section 154 was not applicable to the facts of the case. On a writ the Court held that as per circular No. 68, dated 17-11-1971, an assessee is entitled to seek rectification pursuant to interpretation of law by the Apex Court, taxes paid by the assessee under protest deserved to be refunded by rectifying income-tax returns filed by the assessee. Order was set aside and rectification was allowed. (AY. 2017-18 to 2019-20)(SJ)
Citrix Systems Asia Pacific Proprietary Ltd. v. Dy. CIT (IT)(2024) 471 ITR 452/160 taxmann.com 625 (Karn) (HC)

S. 154 : Rectification of mistake-Mistake apparent from the record-Book profit-Surrender of income-Surrendered income is not included in the book profit-Not a patent error-Rectification not justified. [S.115JB, 133A] 2542

The Assessing Officer passed an order under section 154 and added surrendered amount in book profit. The Tribunal held that the amount included in book profit of the assessee on the basis of a voluntary disclosure made during course of survey under section 133A, was not supported by any incriminating material found during the course of survey, and therefore, it could not have been considered as a mistake apparent on record under section 154 of the Act. On an appeal by the Revenue, the High Court affirmed the order of the Tribunal. (AY. 2011-12)

PCIT v. Setco Automotive Ltd. (2024)471 ITR 247 /161 taxmann.com 254 (Guj) (HC)

S. 154 : Rectification of mistake-Mistake apparent from the record-Assessment-Prima facie adjustment under s. 143(1)(a)-Co-Operative society-Denial as was authorised by Finance Act, 2021 was well within the provisions of law-Adjustment was held to be valid-Rejection of rectification application was held to be justified. [S.80AC(ii), 80P, 143(1)(a)(v)] 2543

Tribunal held that CPC's power to deny claim for deduction under s. 80P by virtue of the application of s. 80AC(ii) became effectively operational from 1st April, 2021, irrespective of the assessment year to which such a belated return relates, since the assessee's return was processed under s. 143(1) on 25th Nov., 2021, i.e., much after 1st April, 2021, the CPC did neither traverse nor exceed its jurisdiction in disallowing the assessee's claim for deduction under s. 80P by applying the provisions of s. 80AC(ii) and, therefore, the tax authorities rightly denied to rectify the denial of deduction by reversal under s. 154.(AY. 2020-21)

Vyavasaya Seva Sahakari Sangh Niyamit v. ITO (2025) 236 TTJ 379 (Panaji)

S. 154 : Rectification of mistake-Mistake apparent from the record-Employees' contribution to Provident Fund and ESI-Deposit beyond due date under respective Acts-Disallowance upheld. 2544

[S.36(1)(va) 43B, 139(1), 154]

The Centralised Processing Centre disallowed employees' contributions to Provident Fund and ESI under section 36(1)(va) through a rectification order under section 154 on the ground that the contributions were deposited beyond the due dates prescribed under the respective statutes, though before the due date of filing the return. The Tribunal, following the decision of the Supreme Court in Checkmate Services (P.) Ltd. v. CIT,(2022) 448 ITR 518 (SC) held that the disallowance was in accordance with law. The rectification order and the order of the Commissioner (A) were upheld.

Zephyrsun Electro Mech (P.) Ltd. v. ITO (2025) 126 ITR 493 (Jodhpur)(Trib.)

S. 154 : Rectification of mistake-Mistake apparent from the record-Error in computation sheet-Assessing Officer directed to rectify. 2545

The assessee pointed out an error in the computation sheet appended to the assessment order relating to refund granted and had already filed an application under section 154.

The Tribunal directed the Assessing Officer to dispose of the rectification application and rectify the mistake apparent from the record in accordance with law.
Vanguard Emerging Markets Stock Index Fund, A Series of VISPLC v. Asst. CIT (2025) 125 ITR 128 / 172 taxmann.com 515 (Mum.)(Trib.)

2546 **S. 154: Rectification of mistake-Mistake apparent from the record-Enhancement of income-Inadvertent misreporting of income in the return-Affidavit filed by the chartered accountant-The affidavit and the facts stated therein require verification; the order of the CIT(A) was set aside, and the matter as restored to the AO. [S.143(1)]**
The Tribunal held that any inadvertent misreporting of income in the return of income filed by an assessee, which is suitably explained by the assessee amounts to a mistake apparent from the record and is rectifiable under the provisions of s. 154. In view of the fact that the affidavit has been filed by the chartered accountant submitting that an inadvertent typographical error has been committed by his staff in reporting the figures in Sch. CG(LTCG) while filing the assessee's return, which led to the enhancement of income in the intimation under s. 143(1), the matter was restored to the AO for verification of the said affidavit and other details/evidence submitted by the assessee in support of her contention. (AY. 2020-21)
Monica Capoor v. ITO (2025) 234 TTJ 851 (Delhi)(Trib)

2547 **S. 154: Rectification of mistake-Mistake apparent from the record-Investment in mutual fund-Name of the assessee as second holder-Order was passed without giving an opportunity of hearing-Rectification order was set aside. [S. 143(3)]**
The Assessing Officer passed a rectification order to add an amount of Rs. 5.30 lakhs to the income of the assessee based on investment in a mutual fund. On an appeal, the Tribunal held that since the investment in the mutual fund was made by wife of the assessee and name of the assessee was appearing only as a second holder and not as a primary holder. The Tribunal also held that the Assessing Officer neither issued notice of hearing to the assessee nor provided any opportunity of hearing to the assessee before amending the order passed under section 143(3); the order passed under section 154 was bad in law and was set aside. (AY. 2007-08)
Brig. (Retd.) Jitendra Kumar Narang v. ITO (2025) 213 ITD 81 (Pune) (Trib.)

2548 **S. 154: Rectification of mistake-Mistake apparent from the record-Enhance assessment or reduce refund-Order passed without giving an opportunity of hearing-Rectification order was set aside. [S. 143(3) 154(3)]**
On an appeal, the Tribunal held that where the Assessing Officer intends to enhance the assessment or reduce refund or otherwise increase liability of assessee, he must give the assessee a reasonable opportunity of being heard before passing a rectification order under section 154. Failure to issue statutory notice under section 154(3) before passing a rectification order, which resulted in enhancing the assessment/reducing refund/increasing liability of assessee, was a per se violation of the statutory procedure prescribed by section 154. (AY. 2016-17 to 2018-19)
ILJIN Automotive (P.) Ltd. v. ACIT (2025) 213 ITD 88 (Chennai) (Trib.)

S. 154 : Rectification of mistake-Mistake apparent from the record-Provision for expenses-Not claimed as application of income-Order of the CIT(A) quashing the rectification order is affirmed. [S. 11] 2549

The Assessee, a charitable trust, claimed provision for expenses. The Assessing Officer passed the order u/s 154 and disallowed on the ground that provisions were not allowable as same were not actual expenses incurred but estimate for expenses to be incurred in subsequent period. On an appeal the CIT(A) held that the assessee had made provision for expenses, it had not claimed amount as applied during year. Consequently, since assessee did not claim any amount from provision as applied income, question of disallowance did not arise. Therefore, rectification order under section 154, which made an addition on account of provision for expenses was held to lack merit and was set aside. [In favour of assessee](AY. 2012-13)

ITO v. Rajasthan Cricket Association (2025) 211 ITD 430 (Jaipur) (Trib.)

S. 154 : Rectification of mistake-Mistake apparent from the record-Tax deducted at source-Rectification proposing withdrawal of refund of tax deducted at source-Rectification order is not valid.[S. 143(1)] 2550

The Assessee's return was processed u/s 143(1) and was allowed refund. The AO issued intimation of rectification u/s 154 and proposed to withdraw certain amount due to withdrawal of tax credit. The Tribunal held that the AO acted beyond jurisdiction to execute the withdrawal of credit and reduced the refund u/s 154. Section 154 is only restricted to filing of return under s. 139 and processing of intimation under S. 143(1). Demand raised under section 154 of the Act was quashed. (AY. 2017-18)

Mohan Lal Talesara v. Dy.CIT (2025) 233 TTJ 985 (Jodhpur)(Trib)

S. 156A : Modification and revision of notice in certain cases-Assessment-Bar of Insolvency and Bankruptcy Code, 2016-National Company Law Tribunal passed the orders in the insolvency resolution proceedings against the assessee-The Assessing Officer is directed to take necessary action as per law. [S. 156, Insolvency and Bankruptcy Code, 2016, S.5] 2551

Held that the National Company Law Tribunal passed the orders in the insolvency resolution proceedings against the assessee-The Assessing Officer is directed to take necessary action as per law.(AY. 2008-09 to 2018-19)

Aircel Ltd v. Dy.CIT (2025) 235 TTJ 880 (Chennai)(Trib)

S.156A: Modification and revision of notice in certain cases-Demand and recovery-Since the resolution plan was yet to be finalized, remanding the appeal to the AO was necessary-The AO will take the required steps before the NCLT in compliance with s.156A and the IBC provisions. [S. 156, 178, Insolvency and Bankruptcy Code, 2016, S. 14] 2552

The assessee was admitted to be the corporate debtor by the NCLT. The NCL had issued directions u/s. 14 of the IBC. The AO claimed that under such circumstances, unless revenue was included as one of the secured creditors, the demand issued u/s.156 could not be enforced upon the assessee.

Held that since the resolution plan was not yet finalized, the appeal was remanded to the AO so that the department can follow the due process as per s. 156A. The AO

was directed to proceed before the NCLT to ensure that the department's tax claim is appropriately dealt with under the resolution process.(AY. 2007-08)
Manz Retail (P.) Ltd. v. Dy. CIT [2025] 210 ITD 12 (Mum)(Trib.)

2553 **S. 158BA : Block assessment-Undisclosed income-Unexplained money-Shares-Block assessment-Assessment has to be made on actual undisclosed income and not on notional basis-The submission that the amount involved is below monetary limit is also not accepted-Matter remanded to the Assessing Officer.[S. 69A, 132, 158B(b), 158BC, 260A, 268A]**
The Revenue has filed against the order of Tribunal which has dismissed the appeals of the Revenue. On behalf of the Revenue it was contended that though the amalgamation is approved by Gujarat High Court cash payments and interests were paid till the date of search. According to the Revenue there was capital gains which was not offered to tax. The submission that the amount involved was below monitory limit was also not accepted. Allowing the appeal of the Revenue the Court held that Assessment has to be made on the basis of actual records instead of on notional basis. Matter was remanded to the Assessing Officer. (BP. 1-4 1998 to 15-12 1998)
CIT v. Dadha Pharma (P.) Ltd. (2023) 153 taxmann.com 106 / (2024) 471 ITR 545 (Mad) (HC)
CIT v. S. Mohancahnd Dadha (Indl) (2023) 153 taxmann.com 106 / (2024) 471 ITR 545 (Mad) (HC)

2554 **S. 158BB: Block assessment-Computation-Undisclosed income-Books and documents discovered during search-Addition is valid. [S. 132, 260A]**
Dismissing the appeal, the Court held that the assessee was not able to substantiate the source of income as put forth in the other two years; allegedly by way of income from the Hindu undivided family, the returns of which were not filed in the relevant assessment year and a gift, which was just a bland statement without any substantiation. The additions made were as a result of the material recovered and the admissions made pursuant to the search. Order of Tribunal affirmed. (AY. 1989-90 to 1998-99)
Satyendra Kumar alias Satyendra Kumar Singh v. CIT (2025) 483 ITR 359 (Pat)(HC)

2555 **S. 158BB : Block assessment-Computation-Undisclosed income-Particular income did not fall within the period of block assessment-Amount not assessable. [S. 260A]**
Held, allowing the appeal, that the order passed by the Commissioner (Appeals) deleting the additions of the amount of Rs. 5,60,566 as capital gains arising on account of sale of 330 equity shares for the block period up to December 31, 1995, was correct and did not call for any interference.(BP 1-4 1985 to 31-12-1995)
Vijay Sehgal v. PCIT (2025) 482 ITR 331 (P & H) (HC)

2556 **S. 158BC: Block assessment-No satisfaction note-Delay of 595 days-SLP dismissed on account of delay and also on merits. [S. 132, Art. 136]**
The High Court, following the judgment in *ACIT v. Marico Industries Ltd. [2025] 171 taxmann.com 140 (Bom)(HC)*, held that as there was no satisfaction note, the search

action was not valid. SLP of revenue was delayed by 595 days. SLP was dismissed on account of delay as well as on the merits.
CIT v. Vijay Goel (2025) 307 Taxman 445 (SC)
Editorial: CIT v. ITAT (2025) 179 taxmann.com 409 (Bom) HC)

S. 158BC : Block assessment-Undisclosed income-Benami companies-High Court holding findings of fact if not perverse cannot be interfered with in appeal-SLP dismissed. [S. 132, 158BB, 260A, Art. 136] 2557
The High Court dismissed the assessee's appeals against the order of the Tribunal in *Mange Ram Mittal v. Asst. CIT, (2007) 289 ITR (AT) 112 (Delhi) [SB]* arising out of an assessment made pursuant to a search, holding that the Tribunal had found that there was undisclosed income of the assessee which he had earned through ghost and benami companies, which were run on the properties taken on rent by him, that the assessment order had been correctly reassessed by the three-Member Bench of the Tribunal which had examined the case on the facts, and that pure findings of fact were immune from challenge in appeals under section 260A.SLP dismissed. [BP. 1-4-1986 to 28-6-1996)
Mange Ram Mittal v. CIT (2025) 481 ITR 12 /307 Taxman 613 (SC)
Editorial : Manage Ram Mittal v. CIT (2024) 168 taxmann.com 306/ (2025) 482 ITR 130 (P& H)(HC)

S. 158BC : Block assessment-Search and seizure-Authorisation-Penalty-Additional ground-Absence of satisfaction note-Invalid search-High Court order affirmed-Delay in SLP-SLP dismissed on delay and merits.[S. 132, 158BFA, Art. 136] 2558
In block assessment proceedings, the assessee argued there was no valid satisfaction note for issuing a search warrant. Despite the Tribunal directions, the revenue failed for years to produce it, later claiming it was destroyed in a fire. The High Court held that without the satisfaction note, the search and consequent assessment, penalty under section 158BFA, and criminal case could not survive. The Supreme Court dismissed revenue's SLP due to delay of 404 days and on merits.
ACIT v. Marico Industries Ltd. (2025) 303 Taxman 405 (SC)
Editorial: ACIT v. Marico Industries Ltd. (2025) 171 taxmann.com 140 (Bom.)(HC)

S. 158BC : Block assessment-Undisclosed income-Benami companies-High Court holding findings of fact if not perverse cannot be interfered with in appeal-Order of Tribunal affirmed. [S. 132, 158BB, 260A] 2559
The High Court dismissed the assessee's appeals against the order of the Tribunal in *Mange Ram Mittal v. Asst. CIT, (2007) 289 ITR (AT) 112 (Delhi) [SB]* arising out of an assessment made pursuant to a search, holding that the Tribunal had found that there was undisclosed income of the assessee which he had earned through ghost and benami companies, which were run on the properties taken on rent by him, that the assessment order had been correctly reassessed by the three-Member Bench of the Tribunal which had examined the case on the facts, and that pure findings of fact were immune from challenge in appeals under section 260A. Order of Tribunal affirmed. [BP. 1-4-1986 to 28-6-1996)
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2560 **S. 158BC: Block assessment-Search and seizure-Deemed seizure-Limitation-Search initiated on 8-12-1999-Prohibitory order under section 132(3) on 21-1-2000-Search concluded on 2-3-2000-Assessment order dated 28-3-2002 not barred by limitation-Matter remanded to Tribunal to decide on merits. [S. 132, 132(3), 143(3), 158BE, 260A]**
Search under section 132 was initiated at the assessee's premises on 8-12-1999 and, as it could not be completed on the same day, prohibitory orders under section 132(3) were issued and the search was continued on 21-1-2000 and finally concluded on 2-3-2000 when the prohibitory order was lifted. The Tribunal held that limitation under section 158BE(1)(b) had to be reckoned from the date of initiation of search, i.e., 8-12-1999, and therefore the block assessment order dated 28-3-2002 passed under section 143(3) read with section 158BC was barred by limitation. On an appeal by the Revenue, the High Court held that there is a clear distinction between "deemed seizure" contemplated under the second proviso to section 132(1) and a restraint/prohibitory order under section 132(3), and an order under section 132(3) cannot be equated with seizure. Where the search remains incomplete and is validly continued on subsequent dates, limitation under section 158BE(1)(b) is to be computed from the end of the month in which the search is actually concluded and not from the date of initial search. Since the search concluded only on 2-3-2000, the block assessment order dated 28-3-2002 was within limitation. As the Tribunal had not adjudicated the issues on merits, the matter was remanded to the Tribunal for decision on merits along with the assessee's cross-objection. (AY. 1990-91 to 1999-2000 & part of AY. 2000-01)
CIT v. Vedanta Ltd. (2025) 480 ITR 664 (Mad)(HC)

2561 **S. 158BC : Block assessment-Undisclosed income-On money-Purchase of agricultural property-No incriminating material-Purchaser declaring capital gains-Seized documents without signature and statement of original owners-Addition is deleted. [S. 132, 260A]**
Allowing the appeal the Court held that there was no incriminating material seized, which could suggest that the assessee had paid any on-money. The Assessing Officer had relied upon only two circumstances, firstly, the seized documents, which did not bear any signature, secondly, on the statement of the original owners, wherein the original owners had confirmed on oath the actual value of the land. One of the original owners of lands had stated on oath that a police complaint was given against him and therefore, he had given statement against the purchaser before the Income-tax authorities and subsequently, retracted it. In the circumstances, the assessment order passed based on the seized material and the statements, which had been redressed, was perverse. The Assessing Officer had no material to hold that the assessee had paid any on-money. Order of Tribunal is set aside. (AY.BP. 1990 to 2001)
Dr. Syed Anwar v. Dy. CIT [2023] 146 taxmann.com 247/ (2025)472 ITR 551 (Karn)(HC)

2562 **S. 158BC : Block assessment-Undisclosed income-Evidence collected and noticed during the search can be considered for assessment-Cross-examination of parties-Ghost of benami companies-Assessment order is correctly assessed-No substantial question of law.[S. 158BB, 260A]**
A search was conducted at the residential premises of the assessee and incriminating material was found in the form of unaccounted sales from liquor vends. Assessing

Officer passed an assessment order making an addition on account of the same. On appeal, the Tribunal held that ample evidence, including partnership deeds of various liquor firms, was found in the course of the search itself regarding undisclosed income of assessee from liquor business carried on by him; thus, it could not be said that assessment of undisclosed income in that regard was outside the purview of section 158BC.On appeal, the Court held that during the search, statements of a number of persons were recorded who stated that they were salesmen working in those vends and the assessee was their employer and real owner of vends. It was also noted that documents of rent agreement for the premises were taken on record in the name of the company, which was signed by assessee as a contractor. Since there was cross-examination of almost all persons whose statements were relied upon and after cross-examination nothing contrary to earlier statements emerged, inference could be drawn that undisclosed income was earned by assessee through ghost and benami companies which were running on properties taken on rent by him. Therefore, assessment order was found to have been correctly re-assessed by the Tribunal. No substantial question of law. (BP.1-4-1986 to 28th June 1996)

CIT v. Mange Ram Mittal [2024] 168 taxmann.com 306/ (2025) 482 ITR 130 / 342 CTR 1 / 245 DTR 49 (P&H)(HC)

Editorial : Mange Ram Mittal v. ACIT (2006) 103 TTJ 594(SB) (Delhi) (Trib) is affirmed.

S. 158BD: Block assessment-Undisclosed income of any other person-No recording of satisfaction-Office note cannot be considered as recording of satisfaction-Order of Tribunal quashing the assessment order is affirmed by High Court.[S.132, 158BC, 260A] 2563

Dismissing the appeal of the revenue, the Court held that the statute mandates that a satisfaction note has to be recorded by the AO. Office note at best can be treated as a speculation and cannot qualify to be a valid satisfaction note. On the factual aspect, the Tribunal has rendered a finding in favour of the assessee, and this finding of fact cannot be allowed to be reopened by the Revenue. Further, initiation of the proceedings under s. 158BD pursuant to a letter dt. 5th Aug., 2003 issued by the AO of the searched person is barred by time as it is almost a year after the block assessment was completed on the searched person on 28th Aug., 2002. (AY. 1991-92 to 2001-02)

CIT v. Krishna Kumar Daga (2025) 347 CTR 729 / 255 DTR 465 (Cal)(HC)

S. 158BD: Block assessment-Undisclosed income of any other person-Search and Seizure-Recording of satisfaction-Failure to follow the mandatory procedure-Order is bad in law.[S. 132, 158BC, 260A] 2564

Dismissing the appeal of the Revenue, the Court held that since the Assessing Officer of the searched person had not recorded any satisfaction note for initiating proceedings under section 158BD against the assessee and also had not handed over to the Assessing Officer of assessee seized documents, etc., to enable him to proceed under section 158BC, the order passed by the Assessing Officer is without jurisdiction and unauthorised. (AY.1996-2002)

PCIT v. Milia Tracon (P.) Ltd (2024) 165 taxmann.com 150 (2025) 473 ITR 155 (Cal)(HC)

2565 **S. 158BD: Block assessment-Undisclosed income of any other person-No satisfaction note from the Assessing Officer of the searched person-Initiation is without jurisdiction-Order of Tribunal is affirmed.[S.132, 260A]**

The primary issue was the validity of the initiation of proceedings under section 158BD of the Income-tax Act, 1961, against the Assessee without a satisfaction note from the Assessing Officer of the searched person.

The revenue contended that the satisfaction note for initiating proceedings under Section 158BD against the assessee was duly recorded by the Assessing Officer of the searched person, and thus, the initiation of proceedings was valid.

The assessee argued that the initiation of proceedings under Section 158BD was invalid as there was no satisfaction note recorded by the Assessing Officer of the searched person. Additionally, the required procedure of handing over documents by the Assessing Officer of the searched person to the Assessing Officer of the assessee was not followed.

The Hon'ble Tribunal held that the satisfaction note was not recorded by the Assessing Officer of the searched person but by the Assessing Officer of the assessee. The Hon'ble Tribunal found that the procedure prescribed under Section 158BD, including the handing over of documents, was not followed, rendering the initiation of proceedings unauthorised and without jurisdiction.

The Hon'ble High Court affirmed the Hon'ble Tribunal's decision, holding that the initiation of proceedings under Section 158BD by the Assessing Officer of the assessee was unauthorised and without jurisdiction due to the absence of a satisfaction note from the Assessing Officer of the searched person. The Hon'ble High Court dismissed the revenue's appeal, answering the substantial question of law in favour of the assessee and against the revenue. (BP. 1-4 1996 to 7-5 2002)

PCIT v. Milia Tracon Pvt. Ltd. (2025) 473 ITR 155 (Cal.) (HC)

2566 **S. 158BE : Block assessment-Time limit-Search and seizure-Deemed seizure-Limitation to be reckoned from date of conclusion of last search and not from date of initial search-Block assessment order held within limitation. [S. 132(1), 132(3), 158BC, 260A]**

Where search at the assessee's premises was conducted on different dates pursuant to the original authorization, the limitation for completion of block assessment had to be computed from the date on which the search proceedings were finally concluded and not from the date of first search. A restraint or prohibitory order under section 132(3) cannot be equated with "deemed seizure" contemplated under the second proviso to section 132(1), as such order is passed only when immediate seizure is impracticable and does not amount to seizure itself. Since the search initiated on 8-12-1999 continued on subsequent dates and was ultimately concluded only on 2-3-2000 upon lifting of the prohibitory order, the search could not be treated as completed on the earlier dates. Accordingly, limitation under section 158BE(1)(b) was to be reckoned from 2-3-2000, and the block assessment order dated 28-3-2002 was within time. The distinction between restraint order and deemed seizure was reiterated, and the decision in *VLS Finance Ltd. v. CIT (SC)* applied. Matter remitted to Tribunal for decision on merits. (BP : 1990-91 to 8-12-1999).

CIT v. Vedanta Ltd. (2025) 175 taxmann.com 538 / 345 CTR 612 / 252 DTR 1 (Mad)(HC)

S. 159: Legal representatives-Death of assessee-Appeal to Commissioner (Appeals)-Appeal against order passed while assessee alive-Proper procedure to be followed-Existence of alternative remedy-Appeal against assessment order-Defect in filing appeal-Not entitled to invoke writ jurisdiction against assessment order-Writ petition dismissed. [S. 143(3), 221(1), 246A, Art. 226] 2567

Assessing Officer passed assessment order on assessee and issued notice of demand under section 221(1). Assessee died after assessment order was passed. Husband of assessee filed appeal before Commissioner (Appeals) against aforesaid assessment order in capacity as legal representative of deceased assessee with the PAN of deceased assessee and appeal had not been numbered so far. Petitioner challenged the assessment order by filing a writ petition. The Court held that after death of assessee petitioner must register on Income Tax Portal by submitting PAN of deceased assessee along with his PAN as legal representative of deceased assessee and produce a death certificate of deceased assessee together with his legal heirship certificate and only after such compliance appeal against assessment order could be numbered and heard Having opted to correctly challenge assessment order before Commissioner (Appeals) by filing an appeal though with defects, it was not open to petitioner to challenge assessment order and/or notices that preceded impugned assessment order before High Court in writ. Petitioner was granted liberty to work out remedy before Commissioner (A) by curing defects in appeal filed. Writ petition dismissed.(AY. 2015-16) (SJ)

P.S. Subramanian v. ITO [2024] 160 taxmann.com 232 / (2025) 482 ITR 29(Mad)(HC)

S. 159: Legal representatives-Return-Condonation of delay-Executor of will is covered within the expression "legal representative" and is liable to be assessed in respect of income of deceased-Delay in filing return directed to be condoned. [S. 2(29), 119(2)(b), 139, 159, Code of Civil Procedure, 1908, S. 2(11), Art. 226] 2568

The petitioner, son and executor of the will of the deceased assessee Shri Babulal, filed returns of income relating to income earned by the deceased during his lifetime, though beyond the prescribed time limit. The Assessing Officer completed assessments under section 143(3); however, for AY 1995-96, where refund of TDS was due, the Chief Commissioner rejected the application for condonation under section 119(2)(b), doubting the petitioner's status as legal representative. The High Court held that an executor of a will squarely falls within the expression "legal representative" under section 159 and is liable to comply with tax obligations of the deceased for the period when he was alive. The rejection of condonation on the ground of lack of status was contrary to statutory provisions and CBDT directions issued under section 119(2)(b), rendering the order illegal and without jurisdiction. Accordingly, the impugned order was quashed, and the Revenue was directed to condone the delay in filing the return. (AY 1995-96).

Vinod Kala v. CIT (2025) 176 taxmann.com 240 / 346 CTR 98 / 252 DTR 217 (MP)(HC)

S. 164 : Representative assessees-Charge of tax-Beneficiaries unknown-Beneficiaries are to share benefit as per their investment made in proportion to investment made-Shares are determinate-Income of that respective sharer or beneficiaries is to be taxed in hands of beneficiary and not in hands of trustees-Tax effect was below taxable limit-SLP of revenue is dismissed.[S.268A, Art.136] 2569

High Court held that in order to attract section 164(1), beneficiaries on whose benefit

such income or such part thereof is receivable are indeterminate and unknown. Where beneficiaries are to share benefit as per their investment made in proportion to investment made, any person with reasonable prudence would reach the conclusion that shares are determinable and thus, once shares of beneficiaries are found to be determinable, income of that respective sharer or beneficiaries is to be taxed in hands of beneficiary and not in hands of trustees. SLP of revenue is dismissed due to low tax effect. (AY. 2009-10)

ITO v. TVS Investments I Fund (2025) 303 Taxman 512 (SC)

Editorial : TVS Investments I Fund v. ITO (2025)171 taxmann.com 312 (Mad)(HC)

2570 **S. 164 : Representative assessee-Charge of tax-Beneficiaries unknown-Alternative Investment Fund (Category III)-Where SEBI law prohibits an AIF from accepting investments or identifying investors before registration, non-mention of investors/ beneficial interests in original trust deed cannot attract maximum marginal rate under section 164-Doctrine of impossibility ("lex non cogit ad impossibilia") applied-Once beneficiaries and their shares become determinable under contribution agreements, requirement of law stands satisfied-CBDT Circular No. 13 of 2014 could not be applied in such impossible circumstances-Board for Advance Rulings order quashed. [Ss. 161, 245Q, 245R(4), SEBI Act, 1992, s. 12, SEBI (AIF) Regulations, 2012, regs. 3, 6(3), Art. 226]**

Assessee, a SEBI-regulated Category III AIF trust, sought advance ruling on whether section 164 applied merely because names of investors/beneficial interests were not mentioned in the original trust deed. The BAR, relying on CBDT Circular No. 13 of 2014, held that in the absence of such particulars in the original trust deed, the trust was indeterminate and liable to maximum marginal rate in the hands of trustees. Allowing the writ petition, the Delhi High Court held that under section 12 of the SEBI Act and regulations 3, 4, 6 and 7 of the SEBI (AIF) Regulations, an AIF cannot accept commitments/investments until registration is obtained; hence, at the stage of execution/ registration of the original trust deed, it is legally impossible to name investors or specify their beneficial interests. Law does not compel performance of the impossible and the maxim lex non cogit ad impossibilia squarely applied. Once the investors and their shares became ascertainable/determinable under contribution agreements after registration, the requirement of certainty stood satisfied and section 164(1) was not attracted. The Court also held that para 6 of CBDT Circular No. 13 of 2014, suggesting that contrary High Court decisions would operate only within that High Court's territorial jurisdiction, was contrary to settled judicial discipline, since a decision of a Constitutional Court on a pure question of law binds Revenue authorities nationwide unless overturned. Accordingly, the order of Board for Advance Rulings quashed and set aside.

Equity Intelligence AIF Trust v. CBDT (2025) 480 ITR 278 / 306 Taxman 214 (Delhi)(HC).

2571 **S. 164 : Representative assessees-Charge of tax-Beneficiaries unknown-Private Discretionary Trust-Maximum marginal rate-Surcharge-To be computed as per slab prescribed in Finance Act and not at highest surcharge rate.[S. 2(29C), 111A, 167B, Finance Act, 2023]**

The issue before the Special Bench was whether a private discretionary trust, whose income is taxable at the maximum marginal rate, is automatically liable to the highest rate of surcharge irrespective of its total income. The Tribunal held that the expression

"maximum marginal rate" in section 2(29C) refers to the highest slab of income and not the highest rate of tax or surcharge. Surcharge is to be levied only in accordance with the slab-wise provisions contained under the heading "Surcharge on Income-tax" in Paragraph A, Part I of the First Schedule to the relevant Finance Act. Where the total income does not cross the prescribed threshold, no surcharge is leviable. Levying the highest surcharge irrespective of income would render the statutory surcharge slabs otiose and lead to absurd results. Accordingly, surcharge on a private discretionary trust taxable at the maximum marginal rate must be computed with reference to the applicable income slab under the Finance Act. A discretionary trust filed return at maximum marginal rate. CPC levied surcharge at highest rate (37%). Tribunal held that surcharge must be computed as per slab rates in Finance Act. Maximum marginal rate means tax rate applicable to highest slab (30%) plus surcharge as per relevant slab, not automatically the highest 37%. (AY. 2023-24).

Araadhya Jain Trust v. ITO (2025) 212 ITD 1 / 126 ITR (Trib.) 1 / 235 TTJ 1 (SB)(Mum.) (Trib.)

Nik Family Trust v. ITO (2025) 212 ITD 1/126 ITR 01/ 235 TTJ 1 (SB) (Mum) (Trib)

Anu Aga Family Discretionary Trust v. ITO (2025) 212 ITD 1 /126 ITR 01 /235 TTJ 1 (SB) (Mum) (Trib)

Hreyansh Vausundara Family Trust v. ITO (2025) 212 ITD 1 / 126 ITR 01/ 235 TTJ 1 (SB) (Mum) (Trib)

Adpr and Associates v. ITO (2025) 212 ITD 1 /126 ITR 01 (SB) (Mum) (Trib)

Ashok Patni Family Trust v. ITO (2025) 212 ITD 1 / 126 ITR 01 /235 TTJ 1 (SB) (Mum) (Trib)

S. 164: Representative assessees-Charge of tax-Beneficiaries unknown-Trusts created by Will are not to be subjected to tax at Maximum Marginal Rate (MMR) but are to be taxed at rates applicable to AOPs. [S.143(1)(b), 160, 161(IA), 164(1), 167B] 2572

Allowing the appeal of the assessee, the Tribunal held that, in terms of provision of the First Proviso to section 164(1), trusts created by Will are not to be subjected to be taxed at Maximum Marginal Rate (MMR) but are to be taxed at rates applicable to AOPs. Therefore, the adjustment made by CPC while processing the return of the assessee-trust created by a Will by levying tax at MMR was not in accordance with law. (AY. 2021-22)

Nathiben Kalidas Patel Family Trust v. ITO (2025) 212 ITD 539 /235 TTJ 866 (Ahd) (Trib.)

S. 179: Private company-Liability of directors-High Court held that ad. interim orders granted earlier could be confirmed if assessee would deposit 50% of demanded amount with department within eight weeks of today and if no such deposit was made within eight weeks of today, this interim order would stand vacated without further reference to this Court-Against the order of High Court the assessee filed SLP-Supreme Court dismissed the SLP. [Art. 136] 2573

Assessee, a joint owner of immovable property, filed a writ petition to restrain Income Tax Department from proceeding with sale of attached property. The sale was based on an attachment order and an order under section 179, holding assessee jointly and severally liable for tax dues of certain company. The assessee had not challenged the order under Section 179 holding her jointly and severally liable with said company.

Further, she had also not challenged the attachment order based on which the proclamation was issued. Assessee had also not bothered to implead company as a party, though; record showed a very close nexus between her and this company and without challenging foundational orders, attempt was to stall proclamation and sale by alleging the bar of limitation High Court held that in fiscal matters, there is no justification for granting unconditional interim reliefs merely upon Petitioner making out a prima facie case and aspects of balance of convenience must also be considered and here, assuming that a prima facie arguable case was made out, still, balance of convenience did not favour grant of an unconditional stay. Thus, considering all those factors cumulatively, ad. interim orders granted earlier could be confirmed if the assessee would deposit 50% of the demanded amount with the department within eight weeks of today and if no such deposit was made within eight weeks of today, this interim order would stand vacated without further reference to this Court. Against the order of the High Court the assessee filed an SLP. Supreme Court dismissed the SLP.

Anuradha A. Karnik v. Tax Recovery Officer (2025) 305 Taxman 627 /481 ITR 431. (SC)

Editorial: Anuradha A. Karnik v. Tax Recovery Officer (2025) 175 taxmann.com 841/ 481 ITR 428 (Bom)(HC)

2574 **S. 179: Private company-Liability of directors-Recovery of tax-Petition for stay of proclamation and sale of assessee's property-Assessee not challenging order holding her jointly and severally liable with company, nor attachment order-Assessee not impleading company-None of foundational orders challenged-Assessee or company unwilling to pay taxes, though demands attained finality-No severe financial hardship pleaded-Balance of convenience not favouring grant of an unconditional stay-Direction to deposit 50 per cent. of demand within eight weeks as condition for stay.[Art. 226]**

On writ against the order under section 179 the court held that the assessee had not impleaded the company as a party, though the record showed a very close nexus between her and the company. The fact that the assessee or the company were unwilling to pay any taxes, though the tax demands had attained finality, was relevant. The fact that none of the foundational orders was challenged was important. The fact that no severe financial hardships were pleaded or urged was also important. Even assuming that a prima facie arguable case was made out, still, the balance of convenience did not favour the grant of an unconditional stay. The court directed that the ad interim orders granted earlier could be confirmed if the assessee deposited 50 per cent. of the demand within eight weeks. If no such deposit was made within eight weeks, the interim order would stand vacated without further reference to the court. The court clarified that the interim order only restrained the Tax Recovery Officer from selling the attached property. The assessee was directed to maintain status quo regarding the property, which was the subject of attachment and proclamation.

Anuradha A. Karnik v. TRO (2025) 481 ITR 428/175 taxmann.com 841 (Bom)(HC)

Editorial : Anuradha A. Karnik v. TRO (2025) 481 ITR 431/305 Taxman 627 (SC), SLP dismissed.

S. 179: Private company-Liability of directors-Order passed upon deceased assessee-director raising tax demand of Company-Company was under CIRP under Insolvency and Bankruptcy Code (IBC)-No efforts by AO in compliance with Section 179(1)-Proceedings commenced upon the assessee-director quashed and set aside.(Art. 226] 2575

The Company filed its return of income and assessed with several additions, and accordingly a tax demand was raised against the Company. The stay application filed by the Company was rejected. The deceased assessee was one of the directors of the Company, and an order u/s 179 was passed upon the deceased assessee raising tax demand from him.

The Hon'ble Court found that the AO passed the order u/s 179 upon the deceased assessee without first taking any step to trace out the assets of the Company or any evidence indicating no possibility of recovery of tax dues from Company, that the Company was under Corporate Insolvency Resolution Process under IBC and order admitting petition u/s 7 of IBC was passed, that the deceased assessee had not been given any opportunity to establish that non recovery could not be attributable to any of three directors on his part i.e. gross neglect or misfeasance or breach of duty. Accordingly, the Hon'ble Court held that the impugned order passed for commencing proceedings u/s 179 upon the assessee was to be quashed and set aside. (AY. 2012-13)

Manjula D. Rita v. PCIT (2023) 153 taxmann.com 468/ 472 ITR 116 (Bom)(HC)

Bhavya D. Rita v. PCIT (2023) 153 taxmann.com 468/ 472 ITR 116 (Bom)(HC)

S. 188A: Firm-Joint and Several Liability of Partners-Dissolution of firm-Liability of sleeping partner-Liable to tax liability incurred by the firm. [Art. 226] 2576

During the period in which the tax liability arose, disputes existed among the partners of the firm. One of the partners contended that he was a sleeping partner and had been excluded from the affairs of the partnership, allegedly taking advantage of his advanced age. It was also contended that the partnership firm had subsequently been dissolved pursuant to a judgment and decree of the Court; accordingly, it was not liable for the taxes. The Court held that, notwithstanding internal disputes among partners or the dissolution of the firm, all partners remain jointly and severally liable under section 188A for the tax liabilities incurred by the partnership firm during the relevant period. The plea that the partner was a sleeping partner or was not actively involved in the business was held to be irrelevant for the purpose of statutory liability. However, having regard to the peculiar facts of the case, including the advanced age of the partner, the Court directed that the impugned demand order shall remain stayed insofar as it related to the said partner, for a period of two months. (AY. 2017-18)(SJ)

S. Pushpa v. PCIT (2025) 306 Taxman 197 (Mad.) (HC)

S. 192: Deduction at source-Salary-Salaries in the form of Grant-in-aid received by Nuns, Sisters or Missionaries working as teachers in religious institutions, from State Government, are liable to TDS-SLP of assessee is dismissed.[S. 15, Art. 136] 2577

High Court held that the applicability of section 192 relating to TDS provisions is uniform and not affected by the religious character of teachers who are paid such salary by the State in the form of Grant-in-aid and thus salaries received by Nuns, Sisters or

Missionaries working as teachers in religious institutions from State Government are liable to TDS. SLP of the assessee is dismissed.
Institute of the Franciscan Missionaries of Mary v. UOI (2025) 302 Taxman 4 (SC)
Editorial: UOI v. Society of Mary Immaculate (Tamil Nadu), Madras (2019) 262 Taxman 496/ 412 ITR 545 (Mad) (HC)

2578 **S. 192 : Deduction at source-Salary-Consultant doctors-No employer-employee relationship-TDS deductible u/s 194J-Income from business or profession-No substantial question of law-Contract-Annual Maintenance Contracts (AMCs)-Whether technical services-Matter remanded to the Tribunal to verify the contract. [S. 133A, 194C, 194J, 201(1), 201(1A), 260A]**
On appeal by the revenue, the Court held that where consultant/honorary doctors engaged by the assessee-hospital were free to practice elsewhere, did not receive fixed monthly remuneration, were not covered by PF/ESIC, nor bound by service rules or fixed timings, the relationship was not of employer-employee. Their remuneration was assessable as "professional fees" and not "salary". Accordingly, tax was rightly deducted under section 194J and not u/s 192. The doctors themselves declared the receipts under the head "Income from business or profession". Following *CIT (TDS) v. Grant Medical Foundation (2015) 375 ITR 49 (Bom.),(HC)*, it was held that no substantial question of law arises. As regards the annual maintenance contract, the matter is remanded to the ITAT for fresh adjudication on whether payments fell under s.194C or s.194J.)(ITXA Nos. 2166, 2448, 2451, 2612, 2758 of 2018 & ITXA No. 605 of 2020, dt. 15-9-2025. (AY. 2007-08 to 2012-13)
CIT (TDS)-1 v. Dr. Balabhai Nanavati Hospital (Bom)(HC) www.itatonline.org.

2579 **S. 194A : Deduction at source-Interest other than interest on securities-Payment of interest by co-operative bank to other cooperative societies-the exemption for deducting tax at source from the payment of interest is only up to Rs. 10,000-The assessee was liable to deduct TDS from payment of interest above this threshold. [S.194A(3)(v), 201(1)]**
Held that in view of the amendment of cl. (v) of sub-s. (3) of S. 194A w.e.f. 1st June, 2015, interest paid by a co-operative society engaged in banking business is exempt from deduction of tax at source up to an amount of Rs. 10,000; since the assessee is a co-operative bank covered by sub-cl. (b) of cl. (i) as well as cl. (viia) of s. 194A(3), the exemption for deducting TDS from the payment of interest is only up to Rs. 10,000, and, therefore, it was liable to deduct TDS from the payment of interest above this threshold limit. (AY. 2016-17)
Citizen Credit Co-Operative Bank Ltd. v. ITO (2025) 237 TTJ 681 / [2026] 182 taxmann.com 693 (Mum) (Trib)

2580 **S. 194A: Deduction at source-Interest other than interest on securities-Acquisition of loan-Purchased loans (including NCDs, ICDs and term loans)-No part of consideration paid by assessee could be termed as 'interest' paid by assessee to transferors-No obligation to deduct tax at source under section 194A. [S. 2(28, 133B(2), 201(1), 201(IA)]**
Assessee purchased loans (including NCDs, ICDs and term loans) from Piramal Enterprises Ltd and Piramal Capital Ltd at carrying value, comprising principal and

accrued interest till the date of transfer of the loan. During the survey under section 133B(2), it was found that the assessee typically accrued interest in books based on the period of its holding of the loan and had defaulted in deducting TDS on accrued interest and excess interest on revision in interest rates. Accordingly, the Assessing Officer treated the assessee as an 'assessee-in-default' for non-deduction of tax under section 194A on payment of consideration with respect to accrued interest for acquiring loans from 'P' and 'C' and raised a demand. CIT(A) allowed the appeal. On appeal, the Tribunal held that payment made by assessee to transferors towards the purchase of loans was purchase consideration for acquiring the right to receive principal along with interest from the debtor at maturity and no part of the consideration could be termed as 'interest' paid by the assessee to transferors. Since no part of the consideration paid by the assessee could be termed as 'interest' paid by the assessee to transferors, there was no obligation to deduct tax at source under section 194A. (AY. 2019-20)
DCIT (TDS) v. Piramal Enterprises Ltd. (2025) 214 ITD 406 (Mum) (Trib.)

S. 194A: Deduction at source-Interest other than interest on securities-Intermediary between clients-Not required to deduct TDS under section 194A in respect of payment made to its clients.[S. 2(28A)] 2581

Assessee-company is a broker in financial markets to facilitate its clients in placing trades and transactions with National Spot Exchange Ltd. (NSEL). All transactions were in the nature of purchase/sale of commodities between clients and NSEL. In respect of transactions, assessee received brokerage. Assessing Officer held that assessee accepted deposits from its customers, which were invested in such a manner that returns on investments were assured for beneficiaries. He held that fixed returns given to investors by assessee were nothing but interest payment within the meaning of section 2(28A) on which TDS under section 194A should have been deducted. Commissioner (Appeals) held that provisions of section 194A could not be invoked and, thus, assessee was not liable to deduct TDS. On appeal the Tribunal held that the assessee was merely an intermediary between clients and NSEL and was never party to any counter party members. Entire responsibility had been put on to exchange and not of brokers facilitating these transactions. The assessee is not liable to deduct tax at source. (AY. 2013-14, 2014-15)
DCIT v. Anand Rathi Commodities Ltd. (2025) 210 ITD 239 /122 ITR 318 (Mum) (Trib.)

S. 194A: Deduction of tax at source-Interest other than interest on securities-Assessee in default-Reimbursement of interest to Group Company-Not liable to deduct TDS by the Assessee-Levy of interest is deleted. [S. 201(1), 201(IA)] 2582

The assessee was part of a group engaged in building and developing properties, selling flats and offices for residential and commercial use. The group had taken a loan from a bank. The assessee borrowed a sum of money from its group entities and paid interest on the same. The Assessing Officer held that the assessee was under a statutory obligation to deduct TDS u/s.194A on the interest paid to its group entities.
Held that since the interest paid by the assessee was only a reimbursement of interest already subjected to TDS by the group entities, the assessee had no liability to deduct TDS under Section 194A. Consequently, the provisions of S.201 (1), treating the assessee

as an "assessee in default" and interest liability u/s.201 (1A) did not apply.(AY. 2016-17 to 2020-21)
KD Lite Developers (P.) Ltd. v. Dy. CIT [2025] 210 ITD 384 (Mum)(Trib.)

2583 **S. 194C : Deduction at source-Contractors-Slum rehabilitation scheme on a particular plot of land-Transferable development rights (TDR)-Assessee having made out a prima facie case, implementation and operation of impugned order passed under sections 201 and 201(1A) deserved to be stayed, and consequently, demand and penalty notices were also to be stayed-Revenue was directed to file reply on or before 25 th August 2025. [S.194B, 194LA,194R,201, 201(IA), 271C, 274, MRTP Act, 1966, S.126, Art. 226]**
Assessee was implementing a slum rehabilitation scheme on a particular plot of land. As per instructions of the Slum Rehabilitation Authority, assessee issued Transferable Development Rights (TDRs) to (i) developers, for carrying out development work, and (ii) landowners, as compensation for land acquired for public purposes from original owners. Revenue treated assessee as assessee-in-default for failure to deduct TDS under sections 194C and 194LA on such issuance of TDRs, and also issued consequential demand and penalty notices. On writ, the assessee contended that issuance of TDRs did not amount to payment in 'cash or by cheque/draft or any other monetary mode' and, therefore, sections 194C/194LA would not apply, especially since those provisions do not specifically deal with payments in kind, unlike sections 194B and 194R. Court held that, prima facie, section 194C and section 194LA would not apply when TDR Certificates are issued in lieu of compensation. Court held that sections 194B and 194R specifically contemplate situations involving payments wholly or partly in kind; therefore, assessee having made out a prima facie case, implementation and operation of the impugned order passed under sections 201 and 201(1A) deserved to be stayed, and consequently, demand and penalty notices were also to be stayed. Revenue was directed to file reply on or before 25 th August 2025. (AY. 2021-22)
Pune Municipal Corporation v. ACIT, TDS (2025)306 Taxman 175 (Bom.)(HC)

2584 **S. 194C : Deduction at source-Contractors-Common Area Maintenance (CAM) charges-Not rent-Tribunal held that the assesseee rightly deducted tax at rate of 2 percent and rate of 10 percent as alleged by the Assessing Officer cannot be applied-High Court affirmed the order of the Tribunal.[S.194I, 201(1), 201(IA), 260A]**
Assessee was engaged in business of fashion products from premises owned by Ambience Group which operated Ambience Mall Assessee paid Common Area Maintenance (CAM) charges to Ambience Group after deducting tax at rate of 2 per cent on said charges. Assessing Officer found that CAM charges paid by mall owners were essentially a part of rental activities and, therefore, tax was required to be deducted on such payments under section 194-I at rate of 10 per cent. Commissioner (Appeals) confirmed order of Assessing Officer. Tribunal held that CAM charges were not paid for use of land/building but were paid for carrying out work for maintenance of common area/facilities that were available along with lease premises and, therefore, same could not be characterized and/or brought within meaning of 'rent' as defined in section 194-I. Tribunal held that CAM charges would fall within meaning of 'work' as defined under section 194-C.Order of Tribunal affirmed. (AY. 2011-12)
CIT (TDS) v. Liberty Retail Revolutions Ltd. (2025) 305 Taxman 358 (Delhi)(HC)

S. 194C : Deduction at source-Contractors-Rent-Payments under charter party contracts for vessels liable under S.194C, not S.194-I. [S. 194-I, Art. 226] 2585

Members of the assessee-association owned and operated vessels, entering into contracts for transport of goods through charter parties. AO directed that such payments be treated as rent and TDS deducted under S.194-I. On writ, following earlier High Court ruling, Indian National Ship Owners' Association v. CIT [Chamber Summons No. 183 of 2007, dated 29-6-2007, it was held that freight payments under charter parties fall under S.194C, not S.194-I. (AY. 2007-08 to 2010-11)

Indian National Ship Owners Association v. CIT [2023] 154 taxmann.com 294 (Bom)(HC)

S. 194C : Deduction at source-Contractors-Project work on Build-Own-Operate-Transfer-Subsidy-Infusion of equity capital as measure of financial support through contractual obligation cannot be treated as payment for work undertaken-Provisions of section is 194C not applicable.[S. 260A] 2586

The subsidy or financial support which was extended by the assessee to the concessionaire and was only envisaged to work as viability gap funding could not possibly have been construed as a payment made for work undertaken by the contractor. Though section 194C did not stand confined to works contract alone, unless the Revenue had established that the sum in question and represented by the viability gap funding was recompense for a physical activity undertaken or labour expended, the disbursements could not have formed the subject matter of withholding tax under section 194C of the Act. (AY. 2010-11 2011-12)

CIT (TDS) v. National Highway Authority of India (2025) 472 ITR 486 / 302 Taxman 144 (Delhi) (HC)

S. 194C : Deduction of tax at source-Contractors-Common Area Maintenance (CAM) charges-Charges paid to independent service providers-Not part of rent-Tax deductible under section 194C at 2 per cent and not under section 194-I. [S. 194-I, 201(1), 201(1A)] 2587

The assessee deducted tax at source under section 194C on common area maintenance charges paid to independent service providers in respect of leased premises. The Assessing Officer treated the assessee as an assessee in default on the ground that the payments formed part of rent liable for deduction of tax under section 194-I. The Tribunal held that the common area maintenance charges were paid separately to service providers and did not form part of the rent payable to the property owners. Accordingly, tax was rightly deducted under section 194C and the addition made under sections 201(1) and 201(1A) was deleted. (AY. 2014-15).

Chadha Sugars and Industries P. Ltd. v. Asst. CIT (2025) 129 ITR 535 (Delhi)(Trib.)

S. 194C: Deduction at source-Contractors-Rent-Common Area Maintenance (CAM) charges-Separate agreements-CAM charges not part of rent-Tax deductible under section 194C at 1% and not at 10% u/s 194I. [S. 194I, 201(1), 201(1A)] 2588

The assessee deducted tax at source at 10 per cent. on rent under section 194-I and at 1 per cent. on Common Area Maintenance (CAM) charges under section 194C. The Assessing Officer treated the CAM charges as part of rent and raised a demand under

sections 201(1) and 201(1A). The Tribunal held that the lease agreements separately identified rent and CAM charges and the maintenance services were provided independently. Accordingly, CAM charges did not constitute rent and were liable to TDS under section 194C. The demand for short deduction of tax and consequential interest was deleted. (AY. 2013-14 & 2016-17).
Bose Corporation India (P.) Ltd. v. Asst. CIT (2025) 122 ITR 412 / 175 taxmann.com 586 (Delhi)(Trib.)

2589 **S. 194H: Deduction at source-Commission or brokerage-Agreement with ADPL to develop a plot of land-Association of persons (AOP)-Payment was principal-to-principal basis-Not commission or brokerage-Not liable to deduct tax at source-Order of Tribunal affirmed. [S.133A, 201(1) 201(IA), 260A]**
Assessee, owner of a plot of land, entered into an agreement with one ADPL to develop said plot of land. In the course of survey under section 133A, it was found that the assessee had made a payment of Rs. 80 crores to ADPL during financial year 2009-10. Assessing Officer held that the payment made by the assessee to ADPL was on account of 'commission or brokerage' as defined under section 194H and, hence, the assessee was required to deduct tax at source at 10 per cent on said payment. On appeal, the Commissioner (Appeals) held that the amount paid by the assessee to ADPL was not in the nature of 'commission or brokerage' and hence there was no requirement of the assessee to deduct tax at source under section 194H. Tribunal held that transactions entered into by the assessee and ADPL were on a principal-to-principal basis and, thus, not covered under section 194H. On appeal the Court held that since revenue had not challenged any of the factual findings given by the Tribunal, the impugned order passed by the Tribunal did not give rise to any substantial question of law. (AY. 2010-11)
CIT v. Nish Developers (P) Ltd (2025) 177 taxmann.com 472 / 347 CTR 412 (Bom)(HC)

2590 **S. 194-I: Deduction at source-Rent-TDS from rent paid to temple-No steps were taken by temple at relevant point of time to establish that TDS need not be deducted-Assessee was not in error in deducting TDS amount-TDS amount cannot be claimed as arrears-Temple was directed to file appropriate proceedings and seek a refund from Income tax department.[S. 12A, 197, 197A, Art. 226]**
Assessee bank was a tenant of temple property. It had deducted TDS from rent paid to the temple at the rate of 20%. The temple objected to TDS deduction, relying on a 1994 letter from the Income Tax Department and its religious status, claiming it was not required to be registered under section 12A. The Temple made a claim on the bank as arrears of rent and claimed a refund from the petitioner. The assessee (DBS Bank) filed a writ petition seeking quashing of the temple's demand and a refund of ₹72.73 lakhs deposited under protest, which included the TDS amount. The Temple contended that it was registered under section 12A and, therefore, no TDS was to be deducted. Court held that since no steps were taken by the temple at relevant point of time to establish that TDS need not be deducted, assessee was not in error in deducting the TDS amount. Temple was directed to file appropriate proceedings and seek a refund from Income Tax Department. (SJ)
DBS Bank India Ltd. v. Commissioner Hindu Religious and Charitable Endowments Department (2025) 305 Taxman 584 (Mad)(HC)

S. 194IA : Deduction at source-Purchase of property-Two sellers-Consideration below Rs. 50 lakhs individually-No TDS liability-Interest deleted [S. 201(1)] 2591

The assessee purchased property from two sellers, with payments to each being below Rs. 50 lakhs. The AO held the assessee liable for non-deduction of TDS under section 194IA. The Tribunal held that the threshold is to be examined on a transferor-transferee basis. Since payments to each seller were below the limit, no TDS obligation arose, and levy of interest was unjustified. (AY. 2015-16)

Archanaben Rajendrasingh Deval v. ITO (2025) 212 ITD 414 (Ahd)(Trib.)

S.194IC: Deduction at source-Payment under specified agreement-Joint development agreement-Exchange for constructed area and monetary consideration-Payments constituted those under a specified agreement as per section 45(5A)-Attracted TDS at 10 per cent under section 194IC-Treated as assessee in default-Short deduction of tax deduction at source-Payee offered the income and paid tax-Matter was to be remitted to Assessing Officer to verify if payee offered income to tax, and if so, assessee should not be treated as assessee in default. [S. 45(5A), 201, 201(IA), Form No 26A] 2592

Assessee, engaged in the business of development and construction of real estate projects, entered into a development agreement with Shri Premal Dayal Doshi, who was the alleged owner of the land on which the building was constructed. As per the agreement, Shri Premal Dayal Doshi allowed the assessee to develop/ construct new buildings and to sell the saleable area to prospective buyers and Shri Premal Dayal Doshi was entitled to a share of the area out of total constructed area in the new building. Shri Premal Dayal Doshi was also entitled to receive a certain sum of cash/ monetary consideration as per the agreement. Assessing Officer held that the assessee should have deducted TDS under section 194-IC at 10 per cent since payment was made as per 'Specified Agreement'. However, the assessee contended that Shri Premal Dayal Doshi was holding only a leasehold right, which did not fall within the definition of specified agreement under section 45(5A) and therefore TDS was deducted under section 194-IA at a rate of 1 per cent. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that if a narrower interpretation as contended by assessee was to be accepted, then it would lead to an anomaly that a transfer by a leasehold right owner under JDA would go out of the tax net as the transferor was not the owner as mentioned in the definition of specified agreement. Since the payee held the right to give land for development and receive consideration, payments fell within a "specified agreement" under section 45(5A), attracting section 194IC; therefore, assessee was liable to deduct TDS at 10 per cent under section 194IC and having failed to do so, the assessee was treated as an assessee in default. Tribunal also held that the assessee made short deduction of TDS on payments under a JDA but claimed that payee had declared such receipts in tax returns but failed to submit Form 26A, matter was to be remitted to Assessing Officer to verify if payee offered income to tax, and if so, assessee should not be treated as assessee in default. (AY. 2020-21, 2021-22, 2023-24)

Sugee Seven Developers LLP. v. ITO, TDS (2025) 215 ITD 296 (Mum) (Trib.)

2593 **S. 194J: Deduction at source-Fees for professional or technical services-An agreement with IGSPT for availing services-Not liable to deduct tax at source. No substantial question of law. [S.260A]**

Assessee had entered into an agreement with IGSPT for availing services. Assessing Officer held that services received by assessee were technical and professional in nature; hence, assessee should have deducted tax at source from the above payments under section 194J. Commissioner (Appeals) and Tribunal ruled in favour of assessee, stating that the agreement did not involve professional, managerial, or technical expertise but was merely a call centre service where service providers were engaged in handling customer complaints, and their employees were mostly graduates or undergraduates, following prescribed guidelines. On appeal, the Court held of work they discharged could not be said to be perverse. Further, Tribunal had recorded that the service providers to whom assessee made those findings of fact were supported by the terms of agreement between the assessee and IGSPT and other material on record, such as details of call service executives, their qualifications, and the nature of payments that had already been paid; appropriate taxes by way of advance tax / self-assessment tax. No question of law arises. (AY. 2008-09)

CIT (TDS) v. Vodafone Essar Ltd. (2025) 304 Taxman 389 (Bom.)(HC)

2594 **S. 194J : Deduction at source-Fees for professional or technical services-Clearing charges or professional charges paid to CCIL-The AO is directed to delete the addition. [S.201(1), Form No.26A]**

Held that the amounts due to CCIL are automatically deducted and charged to the assessees account and consequently, assessee cannot be held guilty for non-deduction of TDS on professional or clearing charges paid by it to CCIL; that apart, CCIL is payment system company duly authorized by the RBI and therefore assessee is excluded from the purview of tax deduction at source vide Notification No. 47 of 2016, dt. 17th June, 2016, issued by CBDT, addition made by the AO for non-deduction of TDS under s. 194J from the amounts paid to CCIL is deleted. Followed, Suchitra Component Ltd. [Civil Appeal No. 3596 of 2005, dt. 17th Jan., 2007 (SC)(AY.2014-15 & 2017-18)

Tamilnad Mercantile Bank Ltd. v. ACIT (2025) 237 TTJ 763 / 176 taxmann.com 863 (Chennai)(Trib)

2595 **S. 194LBC : Deduction of tax at source-Income in respect of investment in securitisation trust-Definitions of "investor" and "securitised debt instrument"-Originator not holding any pass-through certificates of securitisation trust-Where minimum retention requirement commitment is met via other permissible alternative, originator does not hold instrument in securitisation trust and cannot be reckoned as investor-Assessee not "assessee-in-default". [S. 115TCA, 201(1), 201(1A)]**

The assessee was a securitisation trust formed to secure a pool of loan receivables from an originator, AMPL. The assessee-trust paid Rs. 1,88,67,795 to AMPL under the head "excess interest spread" without deducting tax at source under section 194LBC of the Act. The AO held the trust liable for default under section 201(1) and 201(1A) of the Act, which was confirmed by the CIT(A). On appeal, the Tribunal held that the liability to deduct tax at source under section 194LBC arose only where income was

payable to an "investor", defined under section 115TCA as a holder of any securitised debt instrument or securities or security receipts issued by the securitisation trust; since the originator, AMPL, had met the minimum retention requirement through a permissible alternative and did not hold any pass-through certificates or securitised debt instrument of the trust, it could not be regarded as an "investor", and consequently the conditions of section 194LBC were not attracted. It was further held that the assessee had filed Form 26A as additional evidence before the Tribunal establishing that AMPL had discharged its tax liability on the excess interest spread, and in any event, since there was no liability to deduct tax at source in the first place, the filing of Form 26A was rendered academic. Accordingly, the assessee could not be treated as "assessee-in-default" and the entire demand and interest levied by the AO was deleted. (AY. 2018-19)
Vivriti Cibus 013 2017 v. ITO (2025) 132 ITR 29(Mum) (Trib.)

S. 194LBC : Deduction of tax at source-Payments to investors in securitisation trust-Excess interest spread paid to originator by assessee, a securitisation trust-Originator not an "investor"-Not liable to deduct tax at source. [S. 115TCA, 201(1)] 2596
The assessee, a securitisation trust, paid Rs. 8.27 crores as excess interest spread to the originator, S Ltd., without TDS under section 194LBC, and was held a defaulter under section 201(1) by the AO, though the CIT(A) held that the originator could not be regarded as an "investor" under section 115TCA. On appeal, the Tribunal held that section 194LBC applies only where the payee is an investor holding a securitised debt instrument, securities or security receipts of the trust, and the payment relates to income from such investment; since the originator was merely the assignor of the loan portfolio and not a holder of any securitised debt instrument, and the deed of assignment could not be regarded as such an instrument, neither condition was satisfied, and the assessee was not liable to TDS. (AY 2018-19)
ITO v. Syamantaka IFMR Capital 2017 (2025) 132 ITR 61(Mum) (Trib.)

S. 194LBC : Investment in securitisation trust-Deduction of tax at source-Securitisation trust-Excess interest spread paid to originator-Originator not an investor-No liability to deduct tax at source.[S.115TCA, Securities Contracts (Regulation) Act, 1956, S. 2(h (ie), Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008, regln. 2(1)(s)] 2597
The assessee, a securitisation trust, paid excess interest spread to the originator after acquisition of a loan portfolio. The originator had not subscribed to pass-through certificates or any other securitised debt instruments issued by the trust and, therefore, was not an "investor" within the meaning of sections 115TCA and 194LBC. The Tribunal held that the excess interest spread represented consideration for creation of the loan pool and not income from investment in the securitisation trust. Accordingly, the provisions of section 194LBC were not attracted, and the assessee was not liable to deduct tax at source. (AY. 2017-18 & 2018-19).
SME Pool Series v August 2016 v. ITO (TDS) (2025) 127 ITR 129 (Mum.)(Trib.)

2598 **S. 195: Deduction at source-Non-resident-Other sums-Income deemed to accrue or arise in India-Royalty-Fees for technical services-Diamond testing/certification charges paid to GIA USA through Hong Kong laboratory-Mere rendering of services, without making available technical knowledge, experience, skill, know-how or processes, cannot be treated as FTS under Art. 12 of India-USA DTAA-Assessee not liable to deduct tax at source-SLP of Revenue dismissed. [S. 9(1)(vi), 9(1)(vii), Art. 12, Art. 136]**

The assessee, a partnership firm engaged in the business of cutting and polishing diamonds and export thereof, made remittances towards diamond testing and certification services to GIA USA, which operated a laboratory in Hong Kong through GIA Hong Kong. The Assessing Officer held that the payment was made to GIA Hong Kong and not to GIA USA and, therefore, treaty benefit under the India-USA DTAA was not available and tax was deductible at source under section 195. The High Court, however, found that the invoices were issued by GIA USA and the remittances were received in the offshore bank account of GIA USA, and held that though there was only a "take-in window" in Hong Kong where diamonds were delivered, the service arrangement was with GIA USA and the beneficial owner of the remittances was GIA USA. The High Court further held that the diamond grading / certification services did not "make available" any technical knowledge, experience, skill, know-how or process to the assessee and, therefore, the payment could not be characterised as fees for technical services under Art. 12 of the India-USA DTAA; accordingly, no tax was deductible at source under section 195. The Supreme Court dismissed the Revenue's SLP. (AY. 2015-16).

CIT (IT&TP) v. Star Rays (2025) 304 Taxman 180 (SC)

Editorial : CIT (IT) v. Star Rays (2023) 294 Taxman 641 / 457 ITR 1 (Guj)(HC).

2599 **S. 195 :Deduction at source-Non-resident-Other sums-Income-Deemed to accrue or arise in India-Royalty FTS-Advertisement/Web charges)-Not liable to deduct tax at source-Order of Tribunal affirmed-DTAA-India-USA. [S. 9(1)(vi), 9(1)vii),201(1), Art. 12]**

Assessee company is in the business of dealing in home decor products and had made Payments to non-resident companies towards advertisement charges. Assessing Officer held that assessee had failed to deduct tax at source on said payments and, thus, assessee was held to be an assessee-in-default as per provisions of section 201(1) for non-deduction of tax at source. On appeal the Tribunal held that recipients of payments Le, Facebook and Rocket Science Group only allowed assessee to use their facilities for purpose to use their advertisement contents Payment to Amazon Web Ser vices was only for using information technology facilities provided by it, that too billing would depend upon extent of usage of those facilities Facilities provided by non-resident companies were only enabling facilities which resident helped assessee lo place its advertisement contents on their platform effectively-In case of Amaz4%, payment was in nature of rent payments for use of infrastructure facilities. Payments made by the assessee to non-resident companies could not be considered as 'royalty payments' and, hence, they did not give rise to any income chargeable in India There was no requirement to deduct tax at source from those payments under section 195 and, hence, assesses could not be considered as an assessee-in-default under section 201(1). Tribunal also held that consideration paid by assessee for purchase of software, cloud computing, and cloud

space hiring involving transfer of right to use software was not royalty and, thus, there was no requirement to deduct tax at source from those payments under section 195. Order of Tribunal affirmed by High Court. (AY. 2015-16 to 2017-18)
CIT (IT) v. Urban Ladder Home Decor Solutions (P.) Ltd. (2025) 304 Taxman 155 (Karn)(HC)

S. 195 : Deduction at source-Non-resident-Payment towards reimbursement of salary of seconded employees-Not liable for TDS-DTAA-India-USA. [S. 9(1)(vii), 90, 195(2), 197(2), Art. 12, Art. 226] 2600

On appeal against the single judge in *Flipkart Internet (P) Ltd v. Dy.CIT (IT) (2022) 288 Taxman 699/ 448 ITR 268/ 327 CTR 289(Karn)(HC)* division bench held that payments made by the assessee-company to its US group entity towards reimbursement of salaries of seconded employees could not be treated as fees for technical services/ fees for included services and therefore no tax was deductible at source u/s 195. The Court found that the secondment arrangement under the MSA clearly established an employer-employee relationship between the assessee and the secondees, supported by appointment letters, job responsibilities, PF contributions and visa arrangements. The remittances were on a pure cost-to-cost reimbursement basis, and the assessee had rightly sought a certificate u/s 195(2). Applying the "make available" test under Article 12 of the India-USA DTAA, the Court held that the payments did not involve transfer of technical knowledge or consultancy services so as to qualify as FIS/FTS. Accordingly, reimbursement of salary paid to seconded employees fell outside the scope of taxable sums under the Act, and no withholding obligation arose. The direction to issue certificate u/s 195(2) was upheld. Order of single judge affirmed. (AY.2020-21)
DCIT (IT). v. Flipkart Internet (P) Ltd. (2025) 344 CTR 414 / 249 DTR 287 / 171 taxmann.com 693 (Karn)(HC)

S. 195 : Deduction at source-Non-resident payments-Royalty-Payments for online advertisements to FB, AWS, RSC not royalty-No TDS liability-DTAA-India-USA.[S. 9(1)(vi), 201(1), 201(1A), 260A, Art. 12(3)] 2601

The assessee placed advertisements on platforms of FB, AWS and RSC, making payments without TDS. AO treated the assessee as assessee-in-default. CIT(A) confirmed. Tribunal, relying on *Engineering Analysis Centre of Excellence Pvt. Ltd. v. CIT (2021) 432 ITR 471 (SC)*, held payments were not royalty under s. 9(1)(vi) or Art. 12(3) of DTAA. High Court dismissed Revenue's appeal, holding the facilities were enabling in nature and copyright remained with service providers. Liberty granted to Department to seek review depending on SC's outcome in Engineering Analysis.(AY. 2015-16, to 2017-18)
CIT (IT) v. Urban Ladder Home Decor Solutions Pvt. Ltd. (2025) 475 ITR 518 / 304 Taxman 155 (Karn)(HC)

S. 195 : Deduction at source-Non-resident-Other sums-Statutory authority-Retention of amounts on pretext of Income-tax contingency-Illegal-Direction to refund with interest-Costs imposed on Managing Director-Precedent-Statutory authority must be fair in its commercial transactions. [S. 201(IA), R. 31,Form 16A, Art. 12, 226] 2602

The assessee-firm, engaged in EPC services, entered into a contract with Jharkhand Bijli Vitran Nigam Ltd. (JBVNL) for rural electrification works. JBVNL deducted 2% TDS from

bills raised for supply of materials but did not deposit it with the Department. Instead, it retained the sums on the pretext of "Income-tax contingency", linking release of the amount and issue of Form 16A with the outcome of its appeal against a demand raised u/s 201(1A). The assessee's repeated requests for release of the withheld amount failed. On writ, the Court held that JBVNL had no authority to retain the sums deducted, since under S. 195 read with s. 201 it was its statutory obligation to deposit the TDS with the Department and issue Form 16A. Pending appeal against the demand could not justify illegal retention. Such unjust withholding violated the principles of justice, equity, and good conscience, caused losses to the assessee, and resulted in unjust enrichment of JBVNL. The withheld sums were directed to be refunded with interest as per the Electricity Supply Code Regulations, 2015. The High Court also imposed costs of ₹5 lakhs on JBVNL, recoverable from its Managing Director, holding that the litigation was frivolous and actuated with oblique motives Court also held that the statutory authorities are bound to act fairly even in commercial dealings; they cannot retain amounts due to contractors on the pretext of tax disputes. Costs can be imposed personally on officials where mala fide conduct is established. Court referred *Mahabir Auto Stores v. Indian Oil Corporation, (1990) 3 SCC 752; 1990 SCC OnLine SC 43* the Supreme Court held that the State or its instrumentalities are "State" under article 12 of the Constitution and its actions even in commercial transactions must be reasonable, fair and just, that the requirement of being just, fair and reasonable on the part of the State and its instrumentalities extends even in cases where no formal contract has been entered into. *Anvil Cables Pvt. Ltd v. State of Jharkhand and others (2025) 474 ITR 271 / 174 taxmann.com 140 (Jharkhand)(HC)*

2603 **S. 195: Deduction at source-Non-resident-Other sums-Permanent Establishment-Stay of employees less than the prescribed period-No obligation to deduct tax at source-DTAA-India-UK [S. 9(1)(i), 201(IA), Art. 5(2)(k)]**

The assessee made payments to a U.S. company for installation services under three job-work orders executed between January and July 2013. The Revenue treated the assessee as an assessee in default on the ground that the U.S. entity constituted an installation permanent establishment in India. The Tribunal held that for determining the existence of an installation permanent establishment under Article 5(2)(k) of the India-USA DTAA, the actual period of stay of employees in India had to be computed on a cumulative basis. Since the employees stayed only 26 days in A.Y. 2013-14 and 65 days in A.Y. 2014-15, the prescribed threshold of 120 days was not crossed. Accordingly, the non-resident had no permanent installation in India, and the assessee was under no obligation to deduct tax at source on the payments made (AY. 2013-14, 2014-15)

SKAPS Industries India (P.) Ltd. v. ITO (IT) (2025) 170 taxmann.com 244 / 121 ITR 9 (SN) (Ahd.)(Trib.)

S. 195: Deduction of tax at source-Payment to non-resident-Liability to deduct tax only if income of non-resident chargeable to tax in India-Standard software licences-End-user licence agreements not transferring copyright-Payments not royalty-Provisions of domestic law not applicable when Double Taxation Avoidance Agreement more beneficial to assessee-No obligation to deduct tax at source-DTAA-India-UK. [S. 9(1)(vi), 90(2), 201(1), 201(1Art. 13] 2604

The assessee, a cellular mobile telephony service provider, made remittances to a UK entity for software licences without TDS under section 195(1), which AO treated as royalty under section 9(1)(vi) and DTAA, raising a demand under sections 201(1) and 201(1A), though CIT(A) allowed the assessee's appeal holding that payments for copyrighted products without rights to exploit the copyright did not qualify as royalty under the Agreement. On appeal, the Tribunal held that the end-user licence agreements did not grant the end-user any right amounting to use of, or right to use, any copyright, and hence the payments did not constitute royalty and were not chargeable to tax in India; since the domestic law definition of royalty under section 9(1)(vi) was not more beneficial to the assessee than DTAA, it was not applicable in view of section 90(2), and consequently there was no obligation to TDS under section 195. (AY.2013-14)

DCIT v. Vodafone West Ltd. (2025) 132 ITR 633(Ahd) (Trib.)

S. 195: Deduction at source-Non-resident-Other sums-Fees for Included Services-Pre-clinical laboratory services-No "make available" of technical knowledge-Receipts not taxable in India-No obligation to deduct tax at source-DTAA-India-USA.[S.9(1)(vii), 90(2) Art. 12] 2605

The assessee, a US company, rendered pre-clinical laboratory services to Indian customers and supplied reports based on its research. The agreements provided that all inventions, techniques and methodologies remained the exclusive property of the assessee and the Indian customers were not enabled to perform the research independently. The Tribunal held that the services did not "make available" any technical knowledge, skill or process within the meaning of Article 12 of the India-USA DTAA. The receipts were, therefore, not taxable in India as fees for included services and there was no obligation on the Indian customers to deduct tax at source under section 195. (AY 2013-14, 2014-15 & 2017-18).

Charles River Laboratories Inc. v. Asst. CIT [2023] 152 taxmann.com 568 / (2025) 129 ITR 754 (Bang.)(Trib.)

S. 195 : Deduction at source-Non-resident-Other sums-Foreign payments to its parent company in USA-testing charges-Matter is remanded back to the Assessing Officer for examination afresh.[S.9(1)(vi), Art. 12] 2606

Assessee, a subsidiary of UL US, is into the business of providing testing services in various areas including air, water and chemical emission testing etc.. It had made foreign payments to its parent company in the USA under the head testing charges without deducting tax at source under section 195. Assessing Officer held said payment to be taxable as FTS under the provisions of Act as well as the India-USA DTAA. CIT(A) affirmed the order of the AO. On appeal the Tribunal held that it was not coming out clearly as to whether expenses were subcontracting charges or testing charges from

the orders of the authorities below. Accordingly, the matter is remanded back to the Assessing Officer for examination afresh. (AY. 2012-13)
UL LLC. v. ACIT (IT) (2025) 212 ITD 34 (Bang) (Trib.)

2607 **S. 197 : Deduction at source-Certificate for lower rate-Non-Resident-Most Favoured Nation-Protocol providing for deduction at lower rate-Tax to be deducted at rate as provided in agreement-DTAA-India-Netherlands. [S. 9(1) (1), Art. 10, Art. 136]**
The petitioner, a Netherlands-based Company, held 58.39% of the shares of the Indian Company (DFCPL). During the relevant yea 2021-22, DFCPL proposed to distribute a dividend to petitioner, for that the application u/s 197 before the AO requesting him to issue a certificate for lower withholding tax rate of 5% as applicable under DTAA between India and Netherlands read with Protocol in view of "Most Favoured Nation", MFM clause in DTAA. The AO rejected the application and issued the certificate u/s 197 at the rate of 10%. High Court while relying upon the decision of the same High Court in *Concentrix Services Netherlands B.V. v. ITO (2021) 127 taxmann.com 43* / *434 ITR 516 (Delhi) and Nestle SA Vs. AO (International Taxation) (W.P. (C) No. 3243 OF 2021, dtd. 04-06-2021*, held that in view of MFM clause in DTAA, the rate of tax on dividend applicable at the rate of 5%. The Revenue challenged the order of the High Court before the Supreme Court. The Supreme Court found that the judgments relied upon by the High Court were set aside by the Supreme Court in *AO (IT) v. Nestle SA (2023) 155 taxmann.com 384* / *(2024) 296 Taxman 580* / *(2023) 458 ITR 756 (SC)*, and thus, the impugned order of the High Court was to be set aside. (AY. 2022-23)
ITO v. Deccan Holdings B.V. (2025) 303 Taxman 336/472 ITR 639/342 CTR 577 (SC)
Editorial : Deccan Holdings B.V. v. ITO (2022) 445 ITR 486 (Delhi)(HC) is reversed.

2608 **S. 197: Deduction at source-Certificate for lower rate-Assessing Officer passed an order on the assessee's application under section 197 of the Income-tax Act, 1961, determining the rate of deduction of tax of 0.80 per cent. instead of the lower rate of 0.35 per cent. on payments covered by section 194-0-Order set aside.[S.194-O, Art. 226]**
Allowing the petition, the Court held that the Assessing Officer was bound to indicate reasons for determining the deduction of tax at 0.80 per cent. instead of 0.35 per cent. The Assessing Officer does not possess unguided discretion to decide the rate of deduction of tax at source as he thinks fit. He is bound to furnish reasons which would demonstrate application of mind by him in the circumstances. The matter was remanded to the Assessing Officer for de novo consideration. Before disposing of the application under section 197, he should grant a personal hearing to the assessee and thereafter pass a reasoned order.
Kay Kay Overseas Corporation v. Dy. CIT (2025) 483 ITR 63 (Bom)(HC)

2609 **S. 197 : Deduction at source-Certificate for lower rate-Software license agreement-Order set aside with directions to decide the application in accordance with the order of Dispute Resolution Panel and the order of Supreme Court-DTAA-India-USA [Art. 7, Art. 226]**
Allowing the petition, the Court held that the assessee's application for issue of certificate under section 197 for nil deduction of tax at source was to be decided

afresh after giving opportunity of hearing to the assessee with liberty to hear via video conferencing and considering the order passed by the Dispute Resolution Panel, and the ratio of the judgment rendered by the Supreme Court. The assessee would receive remittances, if any, at the prevailing rate of deduction of tax. If the decision rendered by the concerned authority was adverse to the interests of the assessee, it would be at liberty to take recourse to an appropriate remedy in accordance with law. (AY. 2019-20)
Openwave Mobility Inc v. Dy. CIT (2025) 481 ITR 570 (Delhi)(HC)

S. 197: Deduction at source-Certificate for lower rate-Income deemed to accrue or arise in India-Fees for technical services-Royalty-Support services to Indian AEs-Gross charges received-Not taxable as FTS /FIS-Services did not make available either technical knowledge or involved transfer of copyright-DTAA-India-USA [S.9(1)(vi),9(1)(vii), Art. 12(3), Art. 226] 2610

Assessee filed an application under section 197 seeking 'nil' withholding tax certificate in respect of cross charges received from its AEs for services rendered by it. Assessing Officer rejected the application and held that charges paid to assessee by its AEs were taxable as fees for technical services (FTS) and fees for included services (FIS). On writ the Court held that services rendered by assessee did not make available technical knowledge, experience, skill, know-how, or processes to AEs and service provided did not confer any right in favour of recipient in respect of knowledge, experience, skill or know-how, condition that services 'make available' such technical knowledge, know-how, skill, or process so as to fall with sweep of FIS would not be satisfied. On fact the AEs did not acquire any copyright in software; cross-charges paid by them could not be construed as royalties within scope of article 12(3) of India-US DTAA, Accordingly, the order rejecting the application was set aside and Assessing Officer was directed to issue the necessary certificate or 'NIL' withholding Tax Certificate in respect of cross-cost charges as received by the assessee from its AEs.
Aecom Technical Services Inc. v. ITO (2025) 305 Taxman 234/ 2026) 485 ITR 357 (Delhi) (HC)

S. 197 : Deduction at source-Certificate for lower rate-Income Deemed to accrue or arise in India-Shipping, Inland Waterways Transport and Air Transport-Directed the issuance of the certificate for nil withholding tax under section 197-However, it is clarified that issuance of the certificate shall not preclude the Assessing Officer from examining whether the income/receipts of the assessee are chargeable to tax in India in assessment proceedings, uninfluenced by this order-India-Germany. [S. 9(1)(i), 195(3), Rule, 29B(1), 29B(2), Art 8, Art. 226] 2611

The assessee, a Germany based company engaged in the business of international cargo handling and transportation of cargo through operation of aircraft in international traffic, claimed that its income was not chargeable to tax in India in terms of article 8 of the India-Germany DTAA and applied for a nil withholding tax certificate. The Assessing Officer, however, issued a certificate for withholding tax at 0.10 per cent. The High Court held that the assessee had been regularly filing returns and had been granted nil withholding tax certificates for more than a decade on identical facts, except for one year where ultimately nil certificate was also granted after remand. There was

no change in the nature of services rendered and the Revenue had not controverted the assessee's claim that the receipts were not chargeable to tax in India under article 8 of the DTAA. The Assessing Officer had also not assigned any cogent reason for permitting deduction at 0.10 per cent instead of nil rate. Accordingly, the impugned order could not be sustained. Considering that the financial year was to expire within a few days, the Court, instead of remanding the matter, directed issuance of certificate for nil withholding tax under section 197. However, it was clarified that issuance of such certificate would not preclude the Assessing Officer from examining in regular assessment proceedings whether the income/receipts were chargeable to tax in India, uninfluenced by the order. (AY. 2025-26)

Lufthansa Cargo AG v. ACIT (2025) 304 Taxman 671/481 ITR 790 (Delhi)(HC).

2612 **S. 197 : Deduction at source-Certificate for lower rate-Capital or revenue-Employee stock option-One-time compensation received for surrendering of stocks received under stock option scheme of employer-Stock option not perquisite-Order rejecting application quashed and set aside-Cost of acquisition of stock options cannot be determined Capital receipt not chargeable under section 45-Not chargeable under any other head Charging section and computation section constituted an integrated code-Application for nil deduction rejected by Principal Chief Commissioner-No adequate alternate remedy of appeal-Writ petition maintainable-Order rejecting the application was quashed and set aside. [S. 4, 5, 17(2),45, 48, Art.226]**

On writ the Court held that no adequate alternate remedy against rejection of application for nil deduction of tax deduction of tax at source. Writ petition is maintainable. Tax cannot be deducted at source under the Income-tax Act, 1961 if the payment does not constitute income and the power of the Revenue to direct deduction of tax under section 197 can be exercised only if there is an income chargeable to tax. Cost of acquisition of stock options cannot be determined. Capital receipt not chargeable under section 45; hence not chargeable under any other head. Charging section and computation section constituted an integrated code. Order rejecting the application was quashed and set aside. (AY.2024-25)

Manjeet Singh Chawla v. Dy. CIT (2025) 479 ITR 1 /175 taxmann.com 778 /347 CTR 566 / 256 DTR 33 (Karn)(HC)

2613 **S. 197: Deduction at source-Certificate for lower rate-Income deemed to accrue or arise in India-Business connection-Business profits-Assessing Officer required to take assessee's expenses into account in determining rate of withholding tax-Matter remanded-OECD Model Convention-Art. 7 [S. 9(1)(i), Art. 226]**

The Assessing Officer attributed 15% of receipts as income attributable to the assessee's PE in India and applied a 40% tax rate, resulting in a withholding tax rate of 6%. On writ, the assessee contended that, in a similar case, the Supreme Court had held that there was no taxable income in India where expenses exceeded the gross revenue attributable to the PE. The Court held that the Assessing Officer must consider expenses in determining the withholding rate. As the computation was based solely on gross revenue without expense allowance, the matter was remanded for fresh consideration. (AY. 2015-16)

Travelport International Operations Ltd. v. DCIT (2025) 303 Taxman 150 (Delhi)(HC)

S. 199 : Deduction at source-Credit for tax deducted-Assessing Officer had not controverted any of facts as set out by company in its response to verification sought by Assessing Officer, said communication was to be accepted as correct-Assessing Officer was directed to consider response furnished by company as correct and process assessee's request for TDS credit. [S. 221(1), Art. 226] 2614

Assessee-firm had filed its return of income claiming credit for TDS as per TDS certificate issued by the company. Assessing Officer rejected on the ground that the same was not verified from data available on the portal. On request of Assessing Officer that same be verified in order to enable him to process assessee's application, the concerned authority had stated that data on the TRACES Portal was available commencing from financial year 2007-08 and data for financial year 2006-07 was not available. On writ, it was noted that company had provided details of cheques and concerned bank account where same were deposited to the credit of Central Government. Same could be verified from concerned banks; however, such exercise had not been initiated. Since Assessing Officer had not controverted any of the facts as set out by the company in its response to verification sought by Assessing Officer, said communication was to be accepted as correct and the Assessing Officer was directed to consider the response furnished by the company as correct and process the assessee's request for TDS credit. (AY. 2007-08)

KJP and Associates v. Dy. ACIT (2025) 305 Taxman 84 (Delhi)(HC)

S. 199 : Deduction at source-Credit for tax deducted-When the income was not offered for taxation, credit for tax deducted at source was rightly denied by the Tribunal. Order of Tribunal affirmed. [S. 198, 260A] 2615

Assessee transferred its business and filed nil return. Assessee claimed credit for TDS on income which was not offered for assessment. The Assessing Officer denied the credit of TDS on the ground that the assessee had transferred its income, and it had shown nil income.The order of AO was affirmed by CIT(A) and Tribunal. On appeal the Court held that there could not be a situation that principal income corresponding to TDS as claimed was not offered for assessment as a NIL return was filed; however, merely the benefit of TDS income was claimed. Such incongruence and a position contrary to return of the assessee went contrary to the provisions of section 198 read with section 199 and thus, credit for TDS was rightly denied to the assessee. Order of Tribunal affirmed. (AY. 2006-07)

Imageads & Communications (P.) Ltd. v. ITO (2025) 304 Taxman 47 (Bom.)(HC)

S. 199: Deduction at source-Credit for tax deducted-Failure to deposit tax deducted at source by employer-No TDS credit in Form 26AS-TDS credit based on salary slips, assessee could not be denied TDS credit merely due to employer's fault.[S. 205, Form 26AS] 2616

Assessee-employee received a monthly salary from the employer, who deducted TDS. However, the employer/deductor did not deposit the same to the Central Government, resulting in no TDS credit in Form 26AS. Assessee filed a return and claimed TDS as prepaid taxes. Assessing Officer denied the claim. On appeal, the Tribunal held that apparent from the verification of salary slips of the assessee that tax was deducted from salary by the employer. Since the employer, after deducting tax, did not deposit

the same to the credit of the Central Govt., that could not be a cause for denying credit to the employee who had suffered TDS by the employer. The Assessing Officer was directed to grant credit of TDS to assessee (AY. 2024-25)
Antaash Sheikh (Mrs) v. ITO (2025) 215 ITD 114 (Bang) (Trib.)

2617 **S. 199 : Deduction at source-Credit for tax deducted-Deductor failed to deposit-Credit cannot be denied-Remanded for verification. [S.205, 234B, 234C, Form No 26AS]**
Where tax has actually been deducted at source from the assessee's receipts, credit for TDS cannot be denied merely because the deductor failed to deposit the tax or the credit is not reflected in Form No. 26AS. Section 205 prohibits recovery of such tax from the deductee. The Assessing Officer was directed to verify the assessee's reconciliation based on invoices, payment advices and bank statements and allow the corresponding TDS credit, with consequential deletion of interest under sections 234B and 234C. (AY. 2022-23)
Naik Naik & Co. v. CIT (A) (2025) 238 TTJ 39 / 179 taxmann.com 168 (Mum.)(Trib.)

2618 **S. 199: Deduction at source-Credit for tax deducted-Assessee offering interest on RBI Bonds on an accrual basis is entitled to proportionate TDS credit. [S. 145, R. 37BA]**
The assessee had offered interest on RBI Bonds on an accrual basis over several assessment years and paid tax accordingly. The Tribunal held that once such income had been accepted by the Department, the assessee was entitled to proportionate credit of the TDS, including TDS deducted on maturity of the bonds, after verification under Rule 37BA. (AY. 2023-24).
Surbhi Anand v. ACIT (2025) 238 TTJ 672 / 179 taxmann.com 609 (Agra)(Trib.)

2619 **S. 199: Deduction at source-Credit for tax deducted-Return held non est-Assessment-Assessing Officer bound to grant credit of taxes and consequential refund.[S.139(9), 143(3), 237]**
Although the return filed by the amalgamating company was held to be non est, the Assessing Officer independently completed the assessment. The Tribunal held that once an assessment is made, the Assessing Officer is duty-bound to compute the correct tax liability, grant credit for taxes deducted at source under section 199 and issue the consequential refund or demand, irrespective of the validity of the return. The matter was restored for verification and grant of the refund due. (AY. 2014-15).
Star India Pvt. Ltd. v. Asst. CIT (2025) 129 ITR 94 (Mum.)(Trib.)

2620 **S. 199: Deduction at source-Credit for tax deducted-Takeover of business-Income had been taxed in the hands of assessee-company and partnership firm had not claimed credit, assessee was entitled to credit of tax deducted at source. [S.143(1), Rule 37BA]**
Assessee-company had taken over the hospital business previously conducted by a partnership firm, and during the year, certain insurance companies, while making payments, inadvertently deducted TDS in the name and PAN of the erstwhile partnership firm. Tribunal held that since the income in question had been taxed in the hands of the assessee-company and the partnership firm had not claimed credit, the assessee was entitled to credit of tax deducted at source. (AY. 2023-24)
Upasani Super Speciality Hospital (P.) Ltd. v. ITO (2025) 215 ITD 231 (Mum) (Trib.)

S. 199: Deduction at source-Credit for tax deducted-Sale of property-Received part consideration in a later year-Income was offered in earlier year-Deduction of TDS at time of part settlement was to be allowed to assessee. [S. 143(1), R. 37BA] 2621

Assessee declared capital gain in assessment year 2019-20 for a total consideration of Rs. 2.97 crores in his return and also paid due taxes in that year. Balance amount of Rs. 1 crore was received by assessee in the assessment year 2023-24, and TDS of Rs. 23.92 lakhs was deducted on such amount. Assessee claimed TDS of Rs. 31.25 lakhs, including TDS of Rs. 23.92 lakhs on such receipt as refund in return for the assessment year 2023-24. Assessing Officer restricted TDS claim to Rs. 8.69 lakhs while completing assessment under section 143(1). On appeal, the Tribunal held that the assessee in assessment year 2019-20 had paid due tax after taking credit only to the extent of tax deducted by the purchaser. Since the assessee received part payment/settlement during the assessment year 2023-24, the purchaser deducted TDS and paid the net amount to the assessee and the same was reflected on Form 26AS for the assessment year 2023-24. Further, on verification of both Form 26AS for assessment years 2019-20 and 2023-24, it matched the sale consideration declared by the assessee in assessment year 2019-20. Since the assessee had declared the full value of the sale consideration in the assessment year 2019-20 and offered tax, deduction of TDS at the time of part settlement was to be allowed to the assessee. The assessee was eligible to claim TDS in the assessment year 2023-24. (AY. 2023-24)

Yogesh Gandhi v. ACIT (2025) 215 ITD 662 (Delhi) (Trib.)

S. 199: Deduction at source-Credit for tax deducted-TDS was not allowed by the Assessing Officer/CPC due to an error in writing the wrong alphabet in PAN-The matter was remitted back to the Assessing Officer for fresh consideration.[S. 154] 2622

Assessing Officer restricted assessee's TDS claim due to a technical error and an error in writing the wrong alphabet in PAN credits; a certain amount of TDS was not allowed by the Assessing Officer/CPC. CIT(A) dismissed the appeal. On appeal, the Tribunal held that the objective of the statute is not to punish the assessee for an error of omission not done with mala fides and an intentional motive. The matter was to be remitted back to the Assessing Officer for fresh consideration. (AY. 2020-21, 2021-22)

Bengal GHG Developers (P.) Ltd. v. ITO (2025) 214 ITD 47 (Kol) (Trib.)

S. 199: Deduction at source-Credit for tax deducted-Trust-Trustee-TDS in the name of Trustee-Assessing Officer was to be directed to give due credit to assessee-trust if credit of TDS was in name of trustee and details were given whether money was credited by trustee into account of trust. [S. 143(1), 154] 2623

Assessee-trust filed its return claiming a refund of TDS. Intimation under section 143(1) was passed, and the claim for TDS was not allowed. The assessee filed a rectification application for TDS credit. Thereafter, assessee filed a grievance application, which was closed, and assessee's claim for credit of TDS was rejected, and a demand was raised. CIT(A) dismissed the appeal on the grounds of delay, as well as observing that the closure of the grievance application was not an appealable order. On appeal, the assessee claimed that the TDS deducted was reflected in the name of Hasmukhbhai S. Dave who was a trustee of the trust, and TDS was not claimed by Hasmukhbhai S. Dave; thus, it should be given credit for TDS. The Tribunal remanded the matter to the

Assessing Officer with direction that if credit of TDS was in the name of the trustee and trust being given details whether money was credited by the trustee into the account of the trust, the same should be taken into account and due credit to the assessee trust be given accordingly. (AY. 2020-21 to 2022-23)
Urmilaben H. Dave Disc Family Trust v. ITO (2025) 213 ITD 163 (Ahd) (Trib.)

2624 **S. 199 : Deduction at source-Credit for tax deducted-CPC reduced TDS credit allowable to assessee on ground that gross receipts of assessee reflected in Form 26AS on which credit for TDS was claimed were higher than total of receipts shown under all heads of income in return of income-Matter remanded back to Commissioner (Appeals) to verify facts.[S. 143(3), Form No 26AS]**
Assessee had filed its return of income claiming certain amount of TDS credit. However, on processing return, CPC found that gross receipts of assessee reflected in Form 26AS on which credit for TDS was claimed were higher than total of receipts shown under all heads of income in return of income. While credit for TDS was being claimed, corresponding receipts were not offered in respective income schedules, to arrive at taxable total income-Hence, return of income was regarded as defective and accordingly, TDS credit granted to assessee was computed and reduced. Commissioner (Appeals) upheld order passed by CPC. On appeal the Tribunal held that the assessee had made explanatory submissions and reply before Commissioner (Appeals), however, decision of Commissioner (Appeals) was without verifying facts by himself or through Assessing Officer. The matter was remanded to the Commissioner (A). (AY. 2023-24)
Jagannath Transport Corporation v. DCIT (2025) 121 ITD 609 (Raipur) (Trib.)

2625 **S. 199: Deduction at source-Credit for tax deducted-Sale of agricultural land-Tax was deducted at rate of 1 per cent-No tax was required to be deducted-Entitled to credit for entire TDS appearing in Form 26AS.[S. 194-IA, R. 37BA]**
Assessee sold an agricultural land and purchaser deducted TDS on sale consideration at rate of 1 per cent. Assessee claimed credit of TDS; however, Assessing Officer denied same on account of mismatch of corresponding income as assessee had not shown corresponding receipts as exempt income in return. It was noted that section 194IA applied to immovable property other than agricultural land. Assessing Officer had not taken into consideration agricultural income shown in schedule of exempt income. CIT(A) upheld the order of the Assessing Officer. On appeal the Tribunal held that since TDS was not required to be deducted by the purchaser, the Assessing Officer was to be directed to give credit for the entire TDS claimed as appearing in Form 26AS and claimed by assessee in the return. (AY. 2023-24)
K. Venkatesan (HUF) v. ACIT (2025) 212 ITD 618 //238 TTJ 936 (Chennai) (Trib.)

2626 **S. 199 : Deduction at source-Credit for tax deducted-Trust-Sole beneficiary-Reflected in Form No. 26AS of trust-Assessing Officer is directed to take necessary steps to address request of both assessee and trust for transfer of TDS credit from Form No. 26AS of trust to Form No. 26AS of assessee and, thereafter, to allow credit in accordance with law. [Form 26AS]**
Assessee, a sole beneficiary of a private trust filed his return of income claiming credit for tax deducted at source (TDS) on income earned from trust. Assessing Officer denied TDS

credit on the ground that the same did not appear in Form No. 26AS of assessee. CIT(A) directed the AO to verify the claim. On appeal the Tribunal held that since Commissioner (Appeals) had already directed Assessing Officer to verify assessee's claim and grant TDS credit and if such credit had not been granted till date of passing of this order, Assessing Officer was to be directed to take necessary steps to address request of both assessee and trust for transfer of TDS credit from Form No. 26AS of trust to Form No. 26AS of assessee and, thereafter, to allow credit in accordance with law. (AY. 2023-24)
Jamshed R Bilimoria v. ITO (2025) 212 ITD 101 (Mum) (Trib.)

S. 199: Deduction at source-Credit for tax deducted-Not reflected in Form 26AS-Submitted supporting documents-Matter remanded to Assessing Officer for proper verification.[S. 143(1), 154, 201, Form 26AS.] 2627
Assessee filed Income Tax Return claiming TDS credit of Rs.23.66 crore, but Form 26AS did not reflect full credit. Assessing Officer disallowed excess TDS claim, adhering to CBDT guidelines requiring TDS credit to match Form 26AS. Assessee contended that Assessing Officer should allow TDS credit based on its claim, irrespective of Form 26AS. Commissioner (Appeals) remitted the matter back to the Assessing Officer for verification. On appeal the Tribunal held that the assessee had furnished various documents, including a copy of ITR acknowledgement and computation, Form 26AS, a chart of disallowed TDS claims, party-wise ledgers, and bank statements. However, those documents were not available before the Assessing Officer when the return was processed under section 143(1) and later rectified under section 154. Matter is remanded to the AO with the direction to allow the claim of deduction of TDS irrespective of whether the claim is reflected in Form 26AS on account of default on the part of deductors. (AY. 2019-20)
Xander Finance (P.) Ltd. v. ACIT (2025) 211 ITD 595 (Raipur) (Trib.)

S. 199: Deduction of tax at source-Credit for tax deducted-Cancellation of agreement-The contract was terminated, the income did not accrue, and the advance was refunded-Entitled to claim a refund of the TDS deducted on the advance paid by the party. [R. 37BA(3), Art. 265] 2628
The assessee, a joint venture engaged in undertaking construction contracts, entered into an agreement with HPCL for setting up an ethanol plant in India. Subsequently, due to technical issues, HPCL decided not to pursue the project, and therefore, same was cancelled as per the mutual decision between the assessee and HPCL Since the assessee had already offered income to extent of certain amount in AY 2020-21, only balance amount was offered in AY 2021-22. However, the amount of advance received by the assessee (including TDS deducted on it) was required to be refunded back to HPCL by the assessee. Since HPCL did not wish to revise the TDS return, the assessee had claimed the credit for the tax deduction.
Held that the assessee was entitled to claim a refund of TDS deducted from the entire advance given by HPCL, as the contract was terminated and the advance (including TDS) was refunded. However, the AO was directed to verify that HPCL had not already claimed a refund by filing a revised TDS return before allowing the brought-forward TDS credit to the assessee.(AY. 2021-22)
LEC-TPL UJV v. ITO (2025) 210 ITD 79 (Mum)(Trib.)

2629 **S.199: Deduction of tax at source-Credit for tax deducted-Sale of jointly owned immovable property-The property was jointly owned, and the capital gain was shared equally between the spouses cannot be the sole reason for disallowing the TDS credit. [Form No.26AS]**

The Tribunal held that merely because the property was jointly owned by the assessee and his wife and the capital gain was equally shared between them, that alone should not be the reason to disallow the assessee's claim for the TDS credit. Directed the AO to factually verify whether the assessee's wife had claimed any part of the TDS credit. If the assessee's claim that his wife had not claimed any part of the TDS was found to be correct, then the entire TDS credit should be allowed to the assessee.(AY. 2023-24)

Rahul Dinesh Bajpai v. Dy. DIT [2025] 210 ITD 307 (Mum)(Trib.)

2630 **S. 201 : Deduction at source-Failure to deduct or pay-Order passed beyond reasonable time-Barred by limitation-Deduction of tax at source default after four years from financial years in question. [S. 201(1) 201(IA), 260A]**

Dismissing the appeal, that the orders under section 201(1) and (1A) of the Income-tax Act, 1961, in both the appeals, were passed on April 27, 2007. Admittedly, there was no limitation provided in the statute for an order to be passed under section 201, deeming an assessee to be in default in respect of such tax, which is not deducted or paid or after deduction failed to pay such tax, as an employer, due from the employee. The Tribunal found that the assessment orders were passed after four years from the financial years 2001-2002 and 2002-2003 beyond a reasonable period. The Tribunal was justified in holding that the orders were barred by limitation. (AY. 2002-03, 2003-04)

ITO v. Indian Oil Corporation Ltd. (2025) 483 ITR 60 (Patna)(HC)

2631 **S. 201: Deduction at source-Failure to deduct or pay-Deducted tax at a lower rate as payee had secured a certificate from concerned Assessing Officer for deduction of tax at a lower rate-No proceedings under section 201 were warranted-Notice was set aside. [S. 201(1), 201(IA), Art. 226]**

Assessee had filed a petition challenging the notice issued under section 201. Court held that the assessee had deducted tax at a lower rate as the payee had secured a certificate from the concerned Assessing Officer for deduction of tax at a lower rate. There was no material on record to suspect that assessee had failed to deduct TDS or deposit the same with Income Tax Authorities. Therefore, no proceedings under section 201 were warranted in the case of assessee and the notice was set aside.

Conner Institute of Health Care and Research Center (P.) Ltd. v. Dy. CIT (2025) 305 Taxman 129 (Delhi)(HC)

2632 **S. 201: Deduction at source-Failure to deduct or pay-Assessee in default-Limitation-Order passed beyond period prescribed under section 201(3) is barred by limitation-Liberty granted by Court to proceed "in accordance with law" does not override statutory limitation-Order and notice quashed. [S. 153(6)(i), 194C, 201(3), Art. 226]**

Where payments towards External Development Charges (EDC) were made during financial year 2015-16, the limitation of seven years prescribed under section 201(3) expired on 31-3-2023 and therefore the order passed thereafter treating the assessee as an assessee in default under sections 201(1) and 201(1A) was time-barred. The

contention of the Revenue that such action was saved by section 153(6)(i) pursuant to liberty granted by the High Court in earlier proceedings was rejected, as the liberty to proceed further was expressly subject to action being taken "in accordance with law" and did not dilute or override the statutory limitation contained in section 201(3). The earlier judgment merely clarified the applicable TDS provision and did not contain any finding or direction enabling initiation of proceedings beyond limitation. Accordingly, the impugned order and consequential notice were quashed and set aside. (AY. 2016-17).
Swiftrans International (P.) Ltd. v. ITO (2025) 174 taxmann.com 1185 / 345 CTR 667 / 251 DTR 177 (Delhi)(HC)

S. 201 : Deduction at source-Failure to deduct or pay-Compensation for acquisition of land-Deduction of tax on payment of interest on compensation or enhanced compensation-Legal advice-Land Acquisition Officer acted upon directions of his superior, District Revenue Officer who in turn took legal advice which was based on High Court order-Land Acquisition Officer not at fault-Order levying penalty set aside. [S.45(5)(b), 56(2)(viii), 194A, 194LA, Land Acquisition Act, 1894.S. 28, Art. 226] 2633

The petitioner challenged the imposition of liability under section 201(1) of the 1961 Act on the ground that the petitioner had failed to deduct tax at source upon interest on enhanced compensation under section 28 of the 1894 Act. Allowing the petition the Court held that the Department had not denied that the Land Acquisition Officer and his Department had at the time of enquiry submitted the reasons for non-deduction of tax and therefore, the Land Acquisition Officer was not at fault. He had genuinely followed the advice given to him by his superior, the District Revenue Officer, whose directions of not deducting tax were based on legal advice. The legal advice was given on the basis of the directions of this court. While this court may have passed order which was not in conformity with some other orders passed by the High Court, it was not available for the Land Acquisition Officer to ignore or flout the court's orders, which were to be presumed to be correct till they were set aside in appeal. Thus, no fault could be attributed on the Land Acquisition Officer or on his officials. In the absence of there being any fault and there being a genuine belief based on the judgment of the High Court that tax was not required to be deducted on the interest paid, the action of the Land Acquisition Officer was wrong or illegal. The action of releasing the interest amount without deducting tax at source, therefore, could not be a reason for imposing penalty under section 201(1) and 201(1A) of the 1961 Act and could not be justified. The Land Acquisition Officer could not be made to suffer on account of the orders passed by the court. Penalty imposed on him by the Assistant Commissioner (TDS) was set aside.
Land Acquisition Officer, Urban Estate v. ACIT [2024] 166 taxmann.com 325 / (2025) 478 ITR 648 (P & H) (HC)

S. 201 : Deduction at source-Failure to deduct or pay-Assessee in default-Notice issued beyond four years-Proceedings barred by limitation-Delay of 218 days-Delay due to illness of authorised representative-Sufficient cause-Delay condoned.[S. 133A(2A), 201(1), 201(IA) 254(1) 2634

Pursuant to a survey under section 133A(2A), proceedings were initiated to treat the assessee as an assessee in default under section 201(1) and to levy interest under section

201(1A). The Tribunal held that a reasonable time-limit for initiating proceedings under section 201(1) is four years. Since the notices had been issued beyond four years from the end of the relevant financial years, the proceedings were barred by limitation. The orders passed under sections 201(1) and 201(1A) were accordingly quashed. The assessee explained that the delay of 218 days in filing the appeal occurred because its authorised representative had undergone heart surgery and was unable to attend to professional work. Hospital records and other supporting evidence were produced. The Tribunal held that the delay was supported by sufficient cause, there was no mala fide intention and, accordingly, condoned the delay (AY. 2012-13 & 2013-14).
Indoworth India Ltd. v. Asst. CIT (2025) 124 ITR 573 / 176 taxmann.com 426 (Nagpur) (Trib.)

2635 **S. 201: Deduction at source-Failure to deduct or pay-Short deduction of tax deducted at source-Assessing Officer is directed to look into contention of assessee with regard to incorrect levy of interest under section 201(1A).[S. 194C, 194J, 201(IA)]**
Assessee deducted tax at source under section 194J on payment made by it. Assessing Officer treated assessee as assessee in default and charged interest under section 201(1A). Commissioner (Appeals) held that assessee admitted short deduction of tax at source as a result of wrongly applying provisions of section 194C and, thus, assessee is liable to pay interest under section 201(1A) on account of admitted short deduction. On appeal the assessee contended that interest under section 201(1A) was incorrectly charged. Tribunal directed the Assessing Officer to look into contention of assessee with regard to incorrect levy of interest under section 201(1A) and pass order afresh in accordance with law. (AY. 2008-09)
Accounts Officer, BSNL v. DCIT TDS) (2025) 211 ITD 449 (Delhi) (Trib.)

2636 **S. 201 : Deduction at source-Failure to deduct or pay-Local Authority-Leave encashment-liable to deduct tax considering the exemption limit up to 3 lakhs-Revenue authorities are directed to recompute the quantum of tax deductible. [S.10(10AA), 201(1), 201(IA)]**
Assessee, a local authority, paid leave encashment to its employees and did not deduct TDS on the same. Assessing Officer held that payments were in excess of Rs. 3 lakhs and since recipients were neither State Government nor Central Government employees, exemption limit could not exceed Rs. 3 lakhs and accordingly tax had to be deducted by assessee. Commissioner (Appeals) confirmed addition on the ground that employees of assessee were neither State Government nor Central Government employees. On appeal the Tribunal held that since exemption given on account of leave encashment varies according to category of employees and exemption of leave encashment is allowed to State and Central Government employees in full and exemption to other than State and Central Government employees is upto Rs. 3 lakhs as per provisions of section 10(10AA), assessee was liable to deduct tax on payments made against leave encashment to its employees. Accordingly, the revenue Authorities are directed to re-compute quantum of tax deductible taking into consideration exemption limit of Rs. 3 lakhs prescribed by Act. (AY. 2017-18, 2020-21, 2021-22, 2023-24)
Vadodara Urban Development Authority v. ITO (TDS) (2025) 210 ITD 185 (Ahd) (Trib.)

S. 201 : Deduction at source-Failure to deduct or pay-Deducting lower tax in earlier months of financial year-Short fall is made good in next month-Not liable to pay interest. [S. 192(3), 201(IA)] 2637

Tribunal held that on mere short deduction of tax at source from salaries paid to employees, section 201(1A) cannot be invoked unless total tax deducted by end of year is less than tax deductible on salary paid to employee in that year. Section 192(3) not only authorizes adjustment in case of excess or deficient deduction, but also authorizes adjustment in case of total failure to deduct tax during financial year. If there are bona fide reasons in deducting lower tax in earlier months of financial year and same is made good immediately after noticing such shortfall, then in such eventuality section 192(3) would save employer from liability of making payment of interest. (AY. 2012-13 to 2019-20)

Great Eastern Shipping Co. Ltd. v. Dy.CIT (2025) 210 ITD 501 (Mum) (Trib.)

S. 205 : Deduction at source-Bar against direct demand-Employer failed to deposit TDS deducted from salary-Demand cannot be raised against employee-Directions to CBDT to harassment in future-Technology/software must be rectified. [S. 119, 192, Art. 226] 2638

In this case, the employer deducted tax at source from the assessee's salary for two years but failed to deposit it with the Government. The Department raised demand on the assessee on account of mismatch in the system. The Court held that in view of S. 205 and CBDT Instruction No. 275 dt.1-6-2015 and Office Memorandum dt.11-3-2016 no demand can be enforced against the employee where tax is deducted but not deposited by the employer. The Court criticized the reliance on faulty software systems which ignored statutory provisions and binding CBDT instructions. Directions were issued to rectify the software to prevent such harassment in future. The demand raised was quashed. (AY.2020-21, 2021-22)

Gayatri Snehal Rao v. ITO (2024) 168 taxmann.com 466 / (2025) 343 CTR 696 / 248 DTR 29 (Guj)(HC)

Shobhan Shantilal Doshi v. ITO 168 taxmann.com 466 / (2025) 343 CTR 696 / 248 DTR 29 (Guj)(HC)

S. 205: Deduction at source-Bar against direct demand-Non-deposit of tax deducted at source-Employee cannot be held to be assessee in default-Tax department had, without any warrant in law, foisted liability to pay such tax on employees-Demand notices issued to employees were quashed and set aside.[Art. 226] 2639

Petitioners were former employees of a company under investigation for financial crimes. Tax department issued demand notices against petitioners for non-deposit of TDS by their former employer. On writ the petitioners contended that as per section 205, they could not be held liable for TDS not deposited by their employer. On writ the Court held that the object and purpose behind provision of section 205 is to effect that when an obligation to deposit tax is on employer and if employer has defaulted, liability to pay such tax cannot be shifted so as to be foisted on employee, who is in fact beneficiary of payment to be received from employer and who would also become beneficiary of tax being deposited at source on his behalf. Since tax department had without any warrant in law, foisted liability to pay such tax on employees, it was clearly in breach of section 205. Demand notices issued to petitioners were quashed and set aside. (AY. 2021-22)

Neenad Ashok Kadam v. IT Assessing Officer (2025) 302 Taxman 100 (Bom.)(HC)

2640 **S. 205 : Deduction at source-Bar against direct demand-Tax deduction at source on salary-Employer failed to deposit the amount of TDS from salary to the Central Government-Discrepancy reflected in Form 26AS-The department should not deny the benefit of TDS by employer simply on mismatch in 26AS arising out of non deposit of TDS amount to the Central Government-Any recovery or adjustment made by the Department in interregnum is to be refunded to the assessee with statutory interest. [S.191, 192, 234A, 234B, 234C, Art. 226]**

The assessee is the salaried employee. The return of income for the Asstt.Year: 2013-14 filed demonstrating Gross Salary from employer Company with TDS deducted. The Revenue found the significant discrepancy between TDS amount deducted and reflected in Form 26AS. Accordingly the department denied to grant the credit for the full amount of TDS and consequently, demand notice together with the interest u/s 234B and 234C was issued.

On Writ Petition, the Hon'ble Court noted that there is no dispute as to the TDS from salary made by the deductor employer company, that the Revenue has not taken any step against the employer for non-depositing the TDS amount. The Hon'ble High Court held that in view of Section 205 r.w. CBDT's Circular issued on 01-06-2015 and the Office Memorandum on 11-03-2016, the tax credit mismatch cannot be enforced coercively against the petitioner assessee shall give credit of TDS amount to the petitioner. (AY. 2013-14)

Malay Kar v. UOI (2024) 162 taxmann.com 767/(2025) 472 ITR 714 (Orissa)(HC)

2641 **S.206AA: Requirement to furnish Permanent Account Number-Deduction of tax at source-Immoveable property-Where purchasers deducted tax at source at 1% under section 194-IA on sale consideration and vendor had furnished PAN which was accepted by the Department's portal, subsequent demand treating PAN as invalid and alleging short deduction at 20% under section 206AA was unjustified-PAN had been linked with Aadhaar and late fee paid by vendor-No failure on part of deductors-Orders passed without considering relevant material and in violation of principles of natural justice were quashed. [S.194-IA, Income-tax Rules, 1962 r.30(2A), Art.226]**

The assessees purchased a residential flat and deducted tax at source at 1% as mandated under section 194-IA after the vendor furnished his PAN, which was duly mentioned in Form 26QB and accepted by the Department's system. The CPC-TDS passed orders alleging short deduction by invoking section 206AA on the ground that the vendor's PAN was invalid. The High Court held that section 206AA was not attracted as the vendor had linked PAN with Aadhaar, paid the prescribed late fee and the PAN was accepted by the Department's portal without any indication of invalidity. In absence of any failure to furnish PAN and without affording proper opportunity, the impugned orders were contrary to facts and violative of principles of natural justice and hence quashed.

Harsha Sunil Shah v. ACIT (2025) 478 ITR 413 (Mad)(HC).
Sunil Navin Chandra Shah v. ACIT (2025) 478 ITR 413 (Mad)(HC).

S. 206C : Collection at source-Trading-Forest produce-Timber sized, sawn into logs of different dimensions and shapes-High Court holding product ceased to be forest produce and assessee not liable to collect tax at source-Delay of 880 days-SLP of revenue dismissed on account of delay and also on merits. [Art. 136] 2642

High Court dismissed the Department's appeal holding that where timber was sized, sawn into logs of different dimensions and shapes in activities carried out in saw mills authorised by the Government, a different produce came into being, and that the provisions of section 206C(1) of the Income-tax Act, 1961, were not applicable because the product ceased to be forest produce. SLP of revenue dismissed as the revenue had not been satisfactorily the delay of 880 days in filing the SLP and also on merits. (AY. 2005-06 to 2009-10)

CIT v. Nirmal Kumar Kejriwal (2025) 476 ITR 154/304 Taxman 589 (SC)

Editorial : PCIT (TDS) v. Nirmal Kumar Kejriwal, (2022) 289 Taxman 51 / 216 DTR 441/ 328 CTR 222 / (2023) 454 ITR 777 (Cal)(HC)

S. 206C : Collection at source-Trading-Alcoholic liquor-Forest produce-Scrap-Compounding fee and fine collected from offenders of illegal mining or transportation-No legislative mandate to collect TCS on compounding fee/fine collected under S. 23A of the MMDR Act-Obligation to collect TCS applies only to royalty payable by lawful lease or licence holders-Order of Tribunal set aside. [S. 2(47), 206(IC), Mines and Minerals (Development and Regulation)Act, 1957, S.9, 23A, Rules 2015, R. 71(5)] 2643

S. 206C(1C) obliges collection of tax at source only from a person to whom rights in a mine or quarry are granted and who is liable to pay royalty to the State Government, and such obligation cannot be extended to persons involved in illegal mining or illegal transportation of minerals. Compounding fee or fine collected under S. 23A of the Mines and Minerals (Development and Regulation) Act, 1957 r/w Rule 71(5) of the 2015 Rules arises from compounding of offences, the effect of which is cessation of criminal proceedings akin to acquittal, and such compounding fee is distinct and mutually exclusive from royalty. In absence of any legislative mandate under S. 206C(1C) to collect TCS on compounding fee/fine, demand raised along with interest and penalty for non-collection of TCS was unsustainable. The Tribunal erred in treating compounding fee/fine as covered by the definition of transfer under S. 2(47). Accordingly, the order of the Tribunal was set aside. (AY. 2018-19)

District Mining Officer v. DCIT (2025) 345 CTR 600 / 251 DTR 460 / 175 taxmann.com 1008 (Chhattisgarh)(HC)

Editorial : SLP dismissed, DCIT (TDS) v. District Mining Officer (2026) 183 taxmann.com 119 (SC).

S. 206C : Collection at source-Trading-Forest produce-Illegal mining-TCS applies only to payments by lease/license/contract-holders and cannot extend to compounding fees/fines from illegal miners-Order of Tribunal set aside. [S.133A, 206(IC), MMDR Act, 23A(1), R.71(5)] 2644

The Assessee (State mining authority/lease grantor) collected compounding fees/fines from illegal miners/transporters; the dispute was whether TCS under Sec. 206C (1C) must be collected on such compounding receipts. The Assessee contended that Sec.

206C(1C) targets amounts paid by leaseholders/licensees/contract-holders liable for royalty, not offenders in illegal mining; compounding fees under Sec. 23A of the MMDR Act read with Rule 71(5) are penalties, not royalty, and fall outside 206C(1C).
The Revenue argued that the TCS obligation under 206C (1C) extends to cases where rights or interests in a mine are "otherwise transferred," and should cover compounding receipts from illegal miners. CIT (A) NFAC dismissed the Assessee's appeal. The Hon'ble Tribunal upheld TCS's demand/interest/penalty on compounding fees. The Hon'ble High Court of Chhattisgarh, after strictly construing fiscal statutes, held that 206C(1C) applies only to consideration from lessees/licensees/contract-holders paying royalty; no legislative mandate to collect TCS on compounding fees/fines under MMDR Sec. 23A read with Rule 71(5); Hon'ble Tribunal's order set aside and appeal allowed in favour of Assessee. (AY 2015-16)
Collector Mining, Kanker v. DCIT (TDS) (2025) 306 Taxman 362 (Chhattisgarh)(HC)

2645 **S. 206C : Collection at source-Trading-Forest produce-Coal sales-Public sector undertaking-Verification of Form 27C declaration under section 206C(1A)-Assessee in default-Order of Tribunal quashing the order is affirmed. [S.206C(IA), 260A, Form 27C]**
The assessee, a public sector undertaking, sold coal to buyers who submitted Form 27C declarations under section 206C(1A) of the Income-tax Act, 1961, stating that the coal would be utilized for purposes of manufacturing, processing or producing articles or for generation of power and not for trading purposes. The Assessing Officer demanded tax collection at source for the assessment years, treating the assessee as "assessee-in-default" under section 206C, alleging that certain buyers used the coal for trading purposes despite submitting a declaration in form 27C, and was of the view that the assessee was required to verify the genuineness of buyers who submitted form 27C declarations under section 206C(1A). The Tribunal deleted the tax collection at source demand, holding that once form 27C was duly filled and signed by the declarant and received by the assessee, and the seller's portion was forwarded to the Revenue authorities within the prescribed time limit, the assessee should not be held responsible if any buyers gave false statements in form 27C. Appeal of revenue dismissed.(AY. 2013-14 to 2018-19)
Dy.CIT (TDS) v. Central Coalfields Ltd(2025) 479 ITR 510 /304 Taxman 217 (Jharkhand) (HC)

2646 **S. 206C: Collection at source-Trading-Forest produce-Scrap-Declarant in Form 27C is purchaser and not seller-Revenue's contention rejected. [S. 206C(1A), R. 37C, Form 27C]**
The issue was whether the responsibility of verification in Form 27C lies with the seller or the purchaser. The Revenue argued that the seller must verify the declaration furnished. The High Court rejected this contention, holding that the Act and Rules make it explicit that the declarant is the purchaser who furnishes the verified form to the seller. Neither S. 206C(1A) nor Rule 37C imposes any duty on the seller to verify the correctness of the declaration. Relying on Atibir Industries Co. Ltd. v. Central Coalfields Ltd(WP No. 46 of 2018 dt.3-12-2018 (Jharkhand) (HC) the Court reiterated that the obligation rests squarely on the purchaser and not the seller. Since the Revenue's

argument was contrary to the statutory scheme, no substantial question of law arose.
DCIT v. Central Coalfields Ltd. (2025) 304 Taxman 217 / 343 CTR 657 / 248 DTR 25 (Jharkhand)(HC)

S. 206C: Collection at source-Auction by state government of right to collect toll fees on roads-Proceedings against Department of State Government for Failure to collect tax at source on toll money-No liability can be imposed on State Government if the lessees has already paid taxes on the toll fees collected-In the event of default of taxes being paid by lessees the State Government Department liable to pay interest for period between date of default in collection of tax and date of actual payment of tax by toll licensee.[S. 206C(IC), 206(7), 260A, Art. 289] 2647

Hon'ble High Court held that before any liability to pay tax under the 1961 Act is imposed on the assessee, it is required to be verified as to whether or not respective toll lessees of the Himachal Pradesh Government had paid taxes on their income or sale turnover while collecting tolls at the barriers erected by the State Government. If the toll lessees had already paid taxes on their income, even if the assessee had not deducted the tax at source on such income, the assessee could not be mulcted with the liability to pay the tax again. If the toll lessees had not paid the tax which ought to have been deducted as tax collected at source by the assessee when it had filed its return, the assessee was liable to pay it and the assessee is liable to pay interest under section 206C(7) of the Act to the department for the period between the date of default in deduction of tax on the amount for which the toll licensee had actually paid the tax on the amount for which there had been a short fall in such deduction within the prescribe period.(AY. 2004-05 to 2008-09)
Excise and Taxation Commissioner (Asst.) v. ITO (TDS) (2025) 472 ITR 471 (HP) (HC)

S. 206C: Collection at source-Trading-Clubbing of income-Credit must be given-AO is directed to give due credit of TDS/TCS of the minor child in the hands of the assessee-Amendment in Finance Bill, 2024 regarding credit of tax collected to be given to persons other than collectee should be held as retrospective in nature and not to detriment of assessee against a legitimate claim [S.64(IA)] 2648

Held that since the income of the minor child was clubbed with the income of the assessee as per s. 64(1A), the corresponding TCS collected in the hands of the minor should be allowed, and due credit should be given in the hands of the assessee. Tribunal also held that the amendment of S. 206C by the Finance (No. 2) Act, 2024, can be applied retrospectively. (AY. 2024-25)
Anshul Anil Goel v. DCIT (2025) 234 TTJ 218 / 171 taxmann.com 382 (Pune)(Trib)

S. 206C : Collection at source-Illegal miners-transporters etc-Liable collect TCS-Order of CIT(A) is affirmed. [S. 206C(IC), 206(6), 206(7)] 2649

Assessing Officer held that assessee was in default for not collecting TCS on illegal mining, storage, and transportation, as well as for failing to deduct tax on contributions to District Mineral Foundation-On appeal, Commissioner (Appeals) upheld A.O's order by relying on decision of Tribunal in case of District Mining Officer v. Dy. CIT (TDS) (2023) 152 taxmann.com 583 (Raipur)(Trib). Tribunal affirmed the order of the CIT(A). (AY. 2013-14 to 2019-20)
Mining Officer v. DCIT (TDS) (2025) 212 ITD 93 (Raipur) (Trib.)

2650 **S. 220 : Collection and recovery-Assessee deemed in default-High-pitched assessment-Pre-deposit of 20 per cent. of assessed tax-Discretion to waive pre-deposit, Effect of CBDT circular. Circular cannot override powers of appellate authority-Commissioner considering facts and rejecting application but granting facility of paying tax in instalments-Circular cannot override powers of appellate authorities-CBDT Instruction No. 96, dated 21-8-1969-Writ petition dismissed. [S. 119,220(6), 246, Art. 226]**

On writ the court held that the Assistant Commissioner while considering the request made by the assessee for waiver of pre-deposit of 20 per cent. of the assessed tax liability under section 220(6) of the Act had granted instalment facility to the assessee to deposit Rs.30,73,524 per month which was payable before the 15th of every month starting July, 2023 till March, 2024 and the Principal Commissioner had reduced the instalment amounting to Rs. 13,85,000 for 20 months till such instalment reached 20 per cent. of the total tax liability amounting to Rs.13,84,43,552 or till the disposal of the appeal by the Commissioner (Appeals) whichever was earlier. From the record it was clear that the Departmental-authorities had considered the grievances of the assessee by granting monthly instalment of Rs. 13,85,000 from December, 2023 and the record of the case would clearly demonstrate that the assessee had not submitted his genuine hardship at the time of filing of the application under section 220(6) of the Act before the Assistant Commissioner or before Principal Commissioner or before the court. The assessment order for the assessment year 2018-2019 was passed on March 28, 2023 and more than ten months had been lapsed, but the assessee had not filed an application for stay before the Commissioner (Appeals), who is empowered under section 246 of the Act to waive the pre-deposit of 20 per cent. The order was valid.(AY. 2018-19) (SJ)

Shyam Oil Extractions Pvt. Ltd v. PCIT [2024] 159 taxmann.com 555/(2025) 482 ITR 430 (Chhattisgarh)(HC)

2651 **S. 220 : Collection and recovery-Assessee deemed in default-Recovery of tax Stay of demand-Application for stay of demand-Petition for stay of demand before assessing authority pending-Direction to dispose of appeal within four months from date of order [S. 220(6), Art. 226]**

Held, that even though the assessee had already filed a petition for stay, it was still pending, where no decision seemed to have been taken. That being so, the assessee may not be remediless during the pendency of the appeal. The respondents were directed to decide and dispose of the appeal filed by the assessee against the assessment order dated September 23, 2021, for the assessment year 2018-2019, on the merits and in accordance with law, after giving a fair hearing to the assessee within a period of four months from the date of receipt of a copy of the order.(AY. 2018-19) (SJ)

British Agro Products (India) Pvt. Ltd v. PCCIT (2025) 482 ITR 705 (Mad)(HC)

2652 **S. 220: Collection and recovery-Assessee deemed in default-Pending appeal before CIT(A)-Order passed with consent of assessee-Order could not be quashed. [S. 148, 148A(b), 148A(d) 246A, Art. 226]**

Held, dismissing the writ petition, that the discretion exercised by the authority while passing the order thereby granting a stay subject to deposit of 20 per cent. The amount under demand with the facility of instalments could not be said to be arbitrary when

such an order was passed with the consent of the assessee. No interference by the court was warranted under Article 226 of the Constitution of India.
Karmayogi Ankushrao Tope Samarth SSK Ltd v. PCIT [2023] 150 taxmann.com 316 / (2025) 482 ITR 728 (Bom)(HC)

S. 220: Collection and recovery-Assessee deemed in default-Pendency of appeal-Recovery of tax months but till disposal of appeal.[S. 220(6)] 2653
When a stay of recovery is granted, it would continue not only for a period of six months under section 220(6) of the Income-tax Act, 1961, but till the disposal of the statutory appeal (AY. 2015-16, 2016-17)
Bharat Petroleum Corporation Ltd. v. ACIT (2025) 482 ITR 946 (Bom)(HC)

S. 220: Collection and recovery-Assessee deemed in default-No wilful disobedience of earlier court order-Contempt proceedings were dropped. [Contempt of Courts Act, 1971, S. 2(b)] 2654
Court set aside the earlier order passed by the PCIT and directed it to pass fresh orders in accordance with law. Pursuant to the direction, the Principal Commissioner passed a fresh order. Court held that there was no wilful disobedience of the order, or that the order had been passed by the Principal Commissioner with evil intent or with a bad motive or purpose. Thus, no case was made out to proceed with a contempt petition and contempt proceedings were dropped. (AY. 2011-12 to 2016-17)
Court on its Own Motion v. Anuradha Misra (2025) 307 Taxman 411 (Delhi)(HC)

S. 220 : Collection and recovery-Assessee deemed in default-CIT(A) allowed the appeal-Tribunal allowed the appeal of the revenue-Fresh notice of demand-Liability to interest commences from expiry of one month from second notice-CBDT-Circulars issued by Central Board not binding upon court-Circular No. 334, dated 3-4-1982(1982) 135 ITR 10 (St) [S. 119, 156,220(2) 254 (1), Art. 226] 2655
Assessee-society was assessed) and a demand of certain amount was raised. Assessee filed an appeal and Commissioner (Appeals) allowed same-Consequently, revenue refunded tax deposited by assessee along with statutory interest. Tribunal allowed revenue's appeal. To give effect to Tribunal's order, a fresh notice under section 156 was issued raising demand which included recovery of earlier refund. Assessee deposited tax liability and refunded interest. Thereafter, a separate demand of interest was raised under section 220(2). The assessee challenged the demand by filing writ petition. Allowing the petition, the Court held that since the liability assessed by the Assessing Officer was set aside by First Appellate Authority, as soon as Appellate Authority set aside the assessment order, the notice issued under Section 156 lost its significance and ceased to exist hence the petitioner was not liable to pay interest as per first notice issued under Section 156. Since the revenue issued fresh notice under section 156 which was in consequence of orders passed by the Appellate Tribunal under section 254, liability of interest would commence if liability was not discharged within period specified in notice issued under Section 156. Therefore, liability of interest commenced from the day immediately following expiry of one month period from fresh notice under

section 156. Court also held that the circular dated April 3, 1982 ((1982) 135 ITR (St.) 10) issued by the Central Board of Direct Taxes was not binding upon the court.
Karnal Co-Op. Sugar Mills Ltd. v. CIT (2025) 481 ITR 303 /180 taxmann.com 19 (P &H) (HC)

2656 **S. 220 : Collection and recovery-Assessee deemed in default-Once resolution plan was approved and demand raised by Income Tax Department was not claimed in said resolution plan-Dues, if not forming part of resolution plan, would stand extinguished and no proceedings in respect of such dues for period prior to date on which adjudicating authority (NCLT) granted its approval under section 31 could be continued-Recovery notice issued by Assessing Officer was quashed and set aside [S. 270a, 271 AAC, Insolvency and Bankruptcy Code 2016, S.31, Art. 226]**
Corporate debtor was undergoing insolvency resolution process under the Insolvency and Bankruptcy Code, 2016. NCLT had approved the resolution plan submitted by the corporate debtor. Assessing Officer issued recovery notice raising demand pursuant to penalty order passed under section 270A as well as demand raised pursuant to penalty order passed under section 271AAC. On writ the Court held that once the resolution plan was approved and the demand raised by the Income Tax Department was not claimed in said resolution plan, such dues, if not forming part of the resolution plan, would stand extinguished and no proceedings in respect of such dues for period prior to date on which the adjudicating authority (NCLT) granted its approval under section 31 could be continued. Recovery notice issued by Assessing Officer was quashed and set aside. (AY. 2017-18)
V S Texmills (P.) Ltd. v. ACIT (2025) 305 Taxman 208 (Guj)(HC)

2657 **S. 220: Collection and recovery-Assessee deemed in default-High pitch assessment-Recovery of Rejection of application for stay of demand Precondition of depositing 20 per cent. of demand-Stay of recovery in interim order of court until disposal of pending appeal before Commissioner (Appeals)-Direction to appellate authority to expedite disposal of appeal Interim relief granted to continue until outcome of order in statutory appeal [S. 147, 220(6), 250, Art. 226]**
The assessee challenged a high-pitched assessment order computing the income which was 51 times the returned income, raising a demand under section 156 of the Income-tax Act, 1961, which was 180 times the self-assessed tax paid by the assessee for the assessment year 2018-2019. A statutory appeal was preferred before the Commissioner (Appeals). The application filed under section 220(6), seeking stay of recovery was rejected by the Assistant Commissioner who permitted payment of 20 per cent. of the demand in monthly instalments. The Principal Commissioner partly modified the order but retained the 20 per cent. deposit requirement for proceeding with the appeal before the Commissioner (Appeals). These orders were upheld by the court in the writ petition filed by the assessee. On appeal allowing the appeal, that considering that the statutory appeal under section 246A had been pending before the Commissioner (Appeals) for one year and five months and that the assessee had already deposited Rs.41.55 lakhs and the grant of stay of recovery, under section 220(6), in the interim order of the court being in force for the past five months, the appellate authority was directed to decide the appeal

within three months and to continue the interim protection until the outcome of the statutory appeal. The order in the writ petition was set aside.(AY. 2018-19)
Shyam Oil Extractions Pvt. Ltd. v. PCIT (2025) 479 ITR 677 (Chhattisgarh)(HC)

S. 220 : Collection and recovery-Assessee deemed in default-Waiver of interest-Genuine hardship-Non-co-operation-Adjusted tax by selling gold bars and diamond jewellery-Rejection of waiver application was affirmed. [S. 220(2A), Art. 226] 2658
Rejecting the petition the Court held that the assessee had failed to make out any case with the non-payment of the tax demanded in time under circumstances beyond his control. There was significant ambiguity about the sources from which the assessee had arranged the amount to pay part of the tax. However, no case was made out that the assessee could not pay the taxes because the investments, gold and diamonds were seized in 2007. The investments were not substantial in the tax and interest demand context. The Chief Commissioner had applied his mind to the relevant circumstances and had passed a reasoned order rejecting the application under section 220(2A) for waiver of interest. Considering the limited scope of judicial review, no case was made out to interfere with the order rejecting waiver of interest under section 220(2A). Order of rejection was affirmed. (AY. 2002-03 to 2008-09)
Jitendra M. Doshi (Deceased) v. CCIT (2025) 476 ITR 184 / 303 Taxman 338 / 344 CTR 603 / 247 DTR 97 (Bom)(HC)

S. 220 : Collection and recovery-Assessee deemed in default-Stay-Pendency of appeal-Non genuine purchases-Directions to pay 20 per cent. of demand in six instalments-Writ petition dismissed. [S. 156, Art. 226] 2659
Dismissing the petition the Court held that the assessee had not presented any documents showing its financial incapacity to pay 20 per cent. of the demand. The issue of whether the purchases were genuine was a question of fact to be determined on the facts of each particular case. The assessee had attempted to delay the recovery proceedings of 20 per cent. demand and had not made out a case for a complete stay of demand. Order of Commissioner affirmed. (AY. 2021-22)
Indrayani Ferrocast Pvt. Ltd. v. Dy. CIT (2025) 476 ITR 205 (Bom)(HC)

S. 220 : Collection and recovery-Assessee deemed in default-Stay-Pendency of appeal-Dealing with stay applications to ensure a fair balance between tax collection and taxpayer rights without necessitating pre-deposit as a mandate for considering the stay-Matter remanded to the Assessing Officer. [S. 132, 220(6) 246A, Art. 226] 2660
The assessee is an individual who was subjected to search and seizure operations under Section 132 of the Income Tax Act, 1961. The issue involved is the challenge against the orders of the Principal Commissioner of Income Tax, which required the assessee to deposit 40% of the outstanding tax demand as a precondition for considering the stay application.
The revenue contended that the assessee had not deposited even 20% of the outstanding demand, which was a prerequisite for considering the stay application. That the additions made in the assessment order were based on credible evidence collected

during a search operation. Moreover, that mere filing of an appeal before the CIT(A) was not sufficient ground for granting a stay.
The assessee contended that the assessment orders were arbitrary and unsustainable, particularly considering the Supreme Court's judgment in *Principal Commissioner of Income Tax, Central v. Abhisar Buildwell Private Limited*. The additions were based on documents and statements not gathered during the search, making them untenable. The authorities failed to consider the prima facie merits of the case and the undue hardship caused by the demand. And that the assessee had offered to pledge properties to guarantee the outstanding demand to the extent of 20%.
The Hon'ble High Court held that the authorities erred in assuming that a 20% pre-deposit was mandatory for entertaining stay applications. The Principal Commissioner of Income Tax (Central) further erred by requiring a 40% deposit without evaluating the prima facie merits of the case. Quashing the Orders, the Hon'ble High Court remitted the matter to the Assessing Officer for fresh examination, considering the legal position as enunciated in the case of *NASSCOM v. Deputy Commissioner of Income Tax (E) Circle 2(1), New Delhi & Ors*, and necessitating evaluation of merits of the case to decide on the stay application. (AY.2010-11 to 2020-21)
Sushen Mohan Gupta v. PCIT (2024) 161 Taxmann.com 257 / (2025) 473 ITR 173 (Delhi) (HC)

2661 **S. 220 : Collection and recovery-Assessee deemed in default-Seized cash-Adjustment-Notice of demand dated 30-12-2016-Cash adjusted on 21-3-2018-Cash seized was available with the Department-Interest cannot be charged. [S. 132B]**
During search, cash was seized from assessee and assessee filed return accepting cash seized as his undisclosed income. Assessing Officer issued notice of demand dated 30-12-2016, allowing assessee 30 days time for payment of demand-However, Assessing Officer adjusted seized cash against tax liability only on 21-3-2018 and levied interest. On appeal the Tribunal held that since cash seized was available for adjustment by Assessing Officer, and assessee made request for such adjustment during course of assessment proceeding as well as in post-assessment period, however, Assessing Officer had adjusted seized cash against tax liability demand dated 30-12-2016 only on 21-3-2018, assessee could not be held as assessee in default for non-payment of tax on time and thus, no interest under section 220 could be charged from assessee. (AY. 2015-16)
Kushal Narayan Patel v. ITO (2025) 211 ITD 36 / 234 TTJ 200(Mum) (Trib.)

2662 **S. 220: Collection and recovery-Assessee deemed in default-No order or notice of demand was issued-Not liable to pay interest. [S.156, 220(2)]**
Held that the provisions of section 220(2) are applicable only where the amount specified in the notice of demand issued under section 156 is not paid within the stipulated period. Where no order or notice of demand was ever issued for relevant assessment year, assessee would not have any liability with regard to the levy of interest under section 220(2). (AY. 2012-13 to 2019-20)
Great Eastern Shipping Co. Ltd. v. Dy.CIT (2025) 210 ITD 501 (Mum) (Trib.)

S. 221 : Collection and recovery-Penalty-Tax in default-Return filed in wrong form-Writ petition dismissed-Granted liberty to file application for rectification with direction to Department to consider permitting assessee to file return of income in appropriate form-SLP of assessee dismissed. [S. 139(4A), 154, 221(1), Art. 136] 2663

The assessee's return was processed under section 143(1), resulting in a demand as the exemption claimed was not recognised due to filing the return in an incorrect form. A penalty notice under section 221(1) was issued. On writ, the Court held that the assessee was aware of the defect, having corrected the return for the subsequent year, and had an effective remedy under section 154. Liberty was granted to the assessee to file an application for rectification, with a direction to the Department to consider permitting filing of the return in the appropriate form. SLP of asseessee dismissed. (AY. 2013-14).

Cutler Hammer Provident Fund Trust v. ITO (2025) 478 ITR 235/305 Taxman 167/344 CTR 561/249 DTR 354 (SC)

Editorial : Cutler Hammer Provident Fund Trust v. ITO [2024] 166 taxmann.com 402 (2025) 478 ITR 231/344 CTR 562 (P & H) (HC)

S. 221 : Collection and recovery-Penalty-Tax in default-Return filed in wrong form-Writ petition dismissed-Granted liberty to file application for rectification with direction to Department to consider permitting assessee to file return of income in appropriate form. [S. 139(4A), 154, 221(1), Art. 226] 2664

The assessee's return was processed under section 143(1), resulting in a demand as the exemption claimed was not recognised due to filing the return in an incorrect form. A penalty notice under section 221(1) was issued. On writ, the Court held that the assessee was aware of the defect, having corrected the return for the subsequent year, and had an effective remedy under section 154. Liberty was granted to the assessee to file an application for rectification, with a direction to the Department to consider permitting filing of the return in the appropriate form. (AY. 2013-14).

Cutler Hammer Provident Fund Trust v. ITO [2024] 166 taxmann.com 402/(2025) 478 ITR 231/344 CTR 562/249 DTR 356 (P&H)(HC).

Editorial : SLP of assessee dismissed, Cutler Hammer Provident Fund Trust v. ITO (2025) 305 Taxman 167 / 478 ITR 235 / 344 CTR 561 / 249 DTR 354 (SC)

S. 222: Collection and recovery-Certificate to Tax Recovery Officer-Priority of secured creditor over Government dues-Prohibitory order-Prior hypothecation-Revenue's inaction-Attachment cannot impede auction sale.[Art. 226] 2665

On writ, the High Court held that, in the absence of a specific statutory provision to the contrary, the dues of a secured creditor have priority over Government dues. In the present case, the hypothecation agreement in favour of respondent No. 3 was executed on 12-12-2008, much prior to the issuance of the prohibitory order by the Tax Recovery Officer under S. 222, and therefore the secured creditor was entitled to enforce its security and sell the assets. Though the Revenue had issued a prohibitory order, it took no further steps for recovery and cannot keep the properties attached indefinitely. Despite being duly informed at every stage about the proposed and completed auction, the tax authorities neither raised objections nor initiated proceedings to challenge the sale, thereby indicating acquiescence. Accordingly, the attachment order could not be

construed as an impediment to the auction sale in favour of the petitioner, the secured creditor's claim having precedence over the Revenue's claim. Reliance was placed on *Dena Bank v. Bhikhabhai Prabhudas Parekh & Co 2000) 5 SCC 694., Stock Exchange, Bombay v. V.S. Kandalgaonkar, (2014) 271 CTR (SC) 192 : (2014) 109 DTR (SC) 225 : (2015) 2 SCC 1 UOI v. N. Murugesan (2022) 2 SCC 25 and State Bank of India v. M.J. James. (2022) 2 SCC 301.*
Fasttrack Tieup (P) Ltd. v. UOI (2025) 344 CTR 78 / 248 DTR 113 /172 taxmann.com 541 (Delhi)(HC).

2666 **S. 226 : Collection and recovery-Modes of recovery-Deposited entire outstanding tax dues along with accrued interest during pendency of appeal-Department itself had purchased land through auction with no third-party rights involved-Department was to be directed to release land to assessee upon receipt of payment from Court Registry. [Art. 136]**
The assessee filed appeals challenging the orders attaching and auctioning their lands for recovery of tax dues. During the pendency of the appeals, the assessee deposited the entire outstanding tax dues along with accrued interest before the Court. The assessee sought release of the lands. The Department contended that substantial questions of law arose and sought adjudication thereon. During the course of submissions made at the Bar, it is also pointed out that the respondent(s)/Department itself purchased the land through an auction process and there are no third-party rights created insofar as the lands in these cases are concerned. Court held that the interest of justice would be met in these cases if a direction is issued to the Registry of this Court to release the amount deposited by the appellant(s) herein along with accrued interest, if any, to the Department forthwith. However, a substantial question of law, if any, is left open.
Ramanbhai Gojiya Tandel v. CIT (2025) 305 Taxman 625 /347 CTR 679 (SC)

2667 **S. 226 : Collection and recovery-Modes of recovery-Stay-Book profit-Mere existence of a strong prima facie case does not automatically warrant unconditional stay-Tribunal having upheld addition under section 115JB, conditional stay justified-Pending rectification application and possible reduction in demand considered-Interim relief granted on deposit of Rs. 60 crores within four weeks-SLP dismissed. [S. 115JB, Art.136]**
Where the Tribunal upheld addition of Rs. 200 crores to book profits under section 115JB on the ground that capital expenditure had been debited to the profit and loss account in a manner not permissible under the Companies Act, 2013, applicable accounting standards and guidance notes, the High Court, pending disposal of the appeal, held that the assessee was not entitled to unconditional stay of demand merely because it claimed a strong prima facie case. The Court observed that once the Tribunal had confirmed the demand, the normal rule would be deposit of the entire demand, though since a rectification application was pending and, if allowed, the tax liability could stand reduced, the interests of justice would be served by granting interim stay subject to deposit of Rs. 60 crores within four weeks. The Court also rejected the subsidiary's request to substitute the deposit with a bank guarantee, holding that substantive modification of the order could not be sought through praecipes and that

no case for further concession was made out. The Supreme Court dismissed the SLP.
Malco Energy Ltd v. ACIT (2025) 480 ITR 257 /304 Taxman 586 (SC)
Editorial: Malco Energy Ltd v. ACIT (2025) 480 ITR 250/304 Taxman 61 (Bom)(HC)

S. 226: Collection and recovery-Modes of recovery-Stay-Cash credits-SLP of assessee disposed of by granting liberty to assessee to challenge assessment order relating to assessment year 2022-23 before Commissioner (Appeals) along with an application for grant of stay and for waiver of condition to deposit 20 per cent of disputed tax demand in terms of Office Memoranda issued by CBDT. [S. 250, Art. 136] 2668
Assessment order was passed making additions as cash credits. Assesssee filed writ petition against said assessment order. High Court dismissed the petition. SLP of assessee disposed of by granting liberty to assessee to challenge assessment order relating to assessment year 2022-23 before Commissioner (Appeals) along with an application for grant of stay and for waiver of condition to deposit 20 per cent of disputed tax demand in terms of Office Memoranda issued by CBDT. Further, for a period of ten days, coercive steps for recovery of impugned tax demand shall not be taken. Circulars and Notifications: Office Memorandum (O.M.) F.No. 404/72/93-ITCC dated 29-2-2016 and 31-7-2017 (AY. 2022-23)
PPK Newsclick Studio (P.) Ltd. v. Dy. CIT (2025) 304 Taxman 509 (SC)
Editorial : PPK Newsclick Studio (P.) Ltd. v. Dy. CIT (2025) 172 taxmann.com 778 (Delhi)(HC)

S. 226: Collection and recovery-Stay of demand-Pendency of appeal before CIT(A)-CBDT Circular-No statutory requirement of pre-deposit under the Act-Direction to deposit 20% of disputed demand based solely on CBDT Office Memorandum dated 31-7-2017-Executive instructions cannot override or impose conditions contrary to statute-Where serious prejudice likely and case treated as non-priority by Department, exemption from pre-deposit ought to be granted-Order rejecting stay set aside and recovery and penalty proceedings stayed by High Court-SLP of revenue dismissed.[S. 119, 246A, 250, 271F, 274; Art.136] 2669
Where the assessee, a charitable society, challenged the assessment order and consequential penalty notice under sections 274 read with section 271F and filed an appeal before the CIT(A) along with an application for stay of recovery, the stay application was rejected solely on the ground that the assessee had not deposited 20% of the disputed demand as per the CBDT Office Memorandum dated 31-7-2017. Allowing the writ petition, the High Court held that the Income-tax Act does not prescribe any statutory requirement of pre-deposit for grant of stay and that executive instructions may supplement the statute but cannot impose a condition contrary to it. The Court observed that discretion in stay matters must be exercised reasonably and judiciously, particularly where the assessee had raised a substantive challenge to the assessment, and serious prejudice was likely to be caused by coercive recovery. Since the Department itself had treated the case as non-priority and the appeal was fixed for hearing after several months, exemption from pre-deposit ought to have been granted. Accordingly, the order refusing stay was set aside, and the operation of recovery and penalty notices was stayed by the High Court. SLP of revenue dismissed. (AY. 2015-16)
PCIT v. Dumka Catholoic Diocese (2025) 478 ITR 215/178 taxmann.com 165 (SC)

Editorial : Dumka Catholoic Diocese. v.PCIT (2025) 478 ITR 209 /178 taxmann.com 97 (Jharkhand)(HC)

2670 **S. 226 : Collection and recovery-Modes of recovery-Resolution Plan under IBC-Tax liability not shown as contingent liability-Subsequent demand invalid. [S. 154, IBC 2016 S. 31(1), 61, 62, Art. 136]**

The assessee's corporate debtor had income-tax liabilities for AYs 2012-13 and 2013-14, which were not shown as contingent liabilities in the Resolution Plan approved by NCLT on 21-5-2019. After approval, the Revenue raised demands for those years. The Supreme Court held that once a Resolution Plan is approved under s. 31 of the IBC, all prior claims not included in the Plan stand extinguished. The subsequent tax demands were invalid and unenforceable. Reliance was placed on *Ghanashyam Mishra & Sons v. Edelweiss ARC (2021) 9 SCC 657 and Essar Steel India Ltd. v. Satish Kumar Gupta (2020) 8 SCC 531.* NCLT's imposition of costs was also found unsustainable. (AY. 2012-13, 2013-14)

Vaibhav Goel v. DCIT (2025) 343 CTR 689 / 248 DTR 49 (SC)

Editorial: Tehri Iron & Steel Castings Ltd dt. 25-11-2021(CD)

2671 **S. 226 : Collection and recovery-Modes of recovery-Stay-Pendency of appeal before CIT(A)-20 per cent of demand Computation of such amount-Amounts deducted and collected at source to be factored-The Assessing Officer could not have recovered more than 20 per cent of demand. [S. 156, 246A, 250, Art. 226]**

Held that the Revenue had to refund the amount, which was in excess of 20 per cent. of Rs. 44,10,05,569 after carrying out the requisite verifications. The amounts already collected by tax deducted at source and tax collected at source would have to be adjusted against the amount arrived at by applying the rate of 20 per cent against tax crystallised in terms of the assessment order (AY.2021-22)

Orion Security Solutions Pvt. Ltd. v. Dy. CIT [2023] 155 taxmann.com 411 / (2025) 483 ITR 209 (Delhi)(HC)

2672 **S. 226 : Collection and recovery-Modes of recovery-Stay of demand-Board circular-Deposit of 20 per cent. of demand for grant of stay of demand till disposal of appeal-Matter remanded with direction to reconsider deposit of sum less than 20 per cent. Considering the hardship of the assessee-Direction to the assessee to file application for reconsideration.[Art. 226]**

Held, allowing the petition, that it was not certain whether the Department could exercise discretion without following the Central Board of Direct Taxes circular postulating the deposit of twenty per cent. of the outstanding till the disposal of the appeal. The matter was remanded to the Department for reconsideration of the deposit of a sum less than twenty per cent. of the outstanding as stipulated in the Central Board of Direct Taxes circular till the disposal of the appeal, considering the hardship of the assessee, and directed the assessee to apply for reconsideration of the decision of the Department.

Harekrushna Patra v. PCIT (2025) 482 ITR 786 (Orissa)(HC)

S. 226 : Collection and recovery-Modes of recovery-Order set aside by the Tribunal-Order of attachment was directed to be lifted. [S. 153A, Art. 226] 2673

Pursuant to the search under section 153A, the Assessing Officer passed an assessment order and made new additions. Commissioner (Appeals) set aside the additions, and the Tribunal confirmed the order of the CIT(A). However, in spite of the confirmation order, the department did not lift the attachment order. Assessee filed a writ petition before the High Court for setting aside the attachment order and to direct the revenue to lift the said attachment order. Court held that, as per the order passed by the Tribunal and Commissioner (Appeals), the entire arrears had already been paid by the assessee. Once an order attained finality at the level of the Tribunal on the factual aspect and the entire arrears had been paid by the assessee, no further recovery could be initiated, and thus, the Tax Recovery Officer was bound to lift the attachment order. (SJ) (AY. 2011-12)
JSR Infra Projects (P.) Ltd. v. TRO (2025) 307 Taxman 578 (Mad)(HC)

S. 226 : Collection and recovery-Modes of recovery-Stay-Book profit-In fiscal matters, bank guarantee is not an appropriate substitute for cash deposit and unconditional stay should ordinarily not be granted. [S.115J, Art. 226] 2674

After the Tribunal upheld addition to book profit by treating capital expenditure debited to P&L account as liable to adjustment, assessee not entitled to unconditional stay merely on plea of strong prima facie case or high-pitched assessment. CBDT circulars on high-pitched assessments mainly apply at the first appellate stage. Pending rectification application reducing demand justified limited departure from normal rule of full deposit. Interim stay granted subject to deposit of Rs. 60 crores within four weeks. Request to substitute bank guarantee rejected. In fiscal matters, bank guarantee is not an appropriate substitute for cash deposit and unconditional stay should ordinarily not be granted.
Malco Energy Ltd. v. ACIT (2025) 480 ITR 250 / 304 Taxman 61 (Bom)(HC)
Editorial : SLP dismissed, Malco Energy Ltd v. ACIT (2025) 480 ITR 257 / 304 Taxman 586 (SC).

S. 226 : Collection and recovery-Stay of demand-Pendency of appeal before CIT(A)-CBDT Circular-No statutory requirement of pre-deposit under the Act-Direction to deposit 20% of disputed demand based solely on CBDT Office Memorandum dated 31-7-2017-Executive instructions cannot override or impose conditions contrary to statute-Where serious prejudice likely and case treated as non-priority by Department, exemption from pre-deposit ought to be granted-Order rejecting stay set aside and recovery and penalty proceedings stayed [S. 119, 246A, 250, 271F, 274; Art. 226] 2675

Where the assessee, a charitable society, challenged the assessment order and consequential penalty notice under sections 274 read with section 271F and filed an appeal before the CIT(A) along with an application for stay of recovery, the stay application was rejected solely on the ground that the assessee had not deposited 20% of the disputed demand as per the CBDT Office Memorandum dated 31-7-2017. Allowing the writ petition, the High Court held that the Income-tax Act does not prescribe any statutory requirement of pre-deposit for grant of stay and that executive instructions may supplement the statute but cannot impose a condition contrary to it. The Court

observed that discretion in stay matters must be exercised reasonably and judiciously, particularly where the assessee had raised a substantive challenge to the assessment and serious prejudice was likely to be caused by coercive recovery. Since the Department itself had treated the case as non-priority and the appeal was fixed for hearing after several months, exemption from pre-deposit ought to have been granted. Accordingly, the order refusing stay was set aside and the operation of recovery and penalty notices was stayed. (AY. 2015-16)

Dumka Catholic Diocese v. PCIT (2025) 478 ITR 209 / 178 taxmann.com 97 (Jharkhand) (HC)

Editorial: SLP of revenue, dismissed, PCIT v. Dumka Catholic Diocese (2025) 478 ITR 215 / 178 taxmann.com 165 (SC)

2676 **S. 226: Collection and recovery-Modes of recovery-Pendency of appeal before CIT(A)-Mode of undertaking transactions-Penalty levied-Attachment of bank account-Directions issued to lift attachment on condition of payment of sum-Stay of proceedings until outcome of order in appeal.[S. 12A, 80G, 250,269ST, 271DA, Art. 226]**

On a writ petition to lift the attachment of the bank accounts, the Court held that since a statutory appeal was filed against the order issued under section 271DA of the Act, it was not appropriate to record definitive conclusions on the issues raised in the order. The assessee was directed to remit a sum of Rs. 12.5 lakhs as a condition for raising the attachment of its bank accounts. Immediately upon receipt of such sum, all attachment orders in question would stand raised, and the assessee would be free to operate its bank accounts. This order was subject to the outcome of the appellate proceedings.

Raj Educational Trust v. Dy CIT (E) (2025) 478 ITR 460 (Mad)(HC)

2677 **S. 226 : Collection and recovery-Modes of recovery-Stay-Ex parte assessment order-Pending appeal before Commissioner (Appeals)-High pitched assessment-Assessing Officer directed to pay 20 per cent. deposit of demand-Principal Commissioner directed to deposit Rs. 5 lakhs per month-Attachment of bank account and property-On writ monthly instalment of deposit reduced to Rs. 1 lakh considering hardship caused to assessee Directions to decide appeal before Commissioner (Appeals) expeditiously Coercive proceedings for recovery of demand restrained.[S. 144, 144B, 156, 220(6), 250, Art. 226]**

High-pitched assessment of about 170 times higher than the returned income and raised a demand which was about 161 times higher. The assessee filed an appeal before the Commissioner (Appeals) and sought a stay of demand under section 220(6). The Assessing Officer, applying the Central Board of Direct Taxes' office memorandum, directed a 20 per cent predeposit. The review petition before the Principal Commissioner was rejected. The assessee then filed a writ petition, which was allowed with a direction to reconsider the stay application and decide the appeal expeditiously. The Principal Commissioner directed the assessee to deposit Rs. 5 lakhs per month until 20 per cent. of the total demand was deposited or the appeal was decided. On a writ petition, the Court held that until the appeal was decided by the appellate authority, the assessee was directed to pay a reduced monthly sum of Rs. 1 lakh, either until a smaller percentage of the outstanding demand was paid or the decision of the appellate

authority was received, whichever was earlier. The assessee should not alienate or mortgage any immovable property owned by him without the prior written permission of the concerned jurisdictional Assessing Officer, and this restriction shall be subject to the outcome of the appeal. (AY. 2022-23)
Bali Nagwanshi v. UOI (2025) 479 ITR 681/177 taxmann.com 660 (Chhattisgarh)(HC)

S. 226: Collection and mode of recovery-Recovery of tax-Pendency of appeal before CIT(A)-Stay of demand-Non-speaking order-Application of mind-Principles of natural justice-Allowing the writ, the Court held that the order rejecting the assessee's stay application was a non-speaking order passed without considering the submissions made by the assessee-The matter was remanded to the Principal Commissioner for fresh consideration after granting a hearing and by passing a reasoned speaking order-Till disposal of the stay application afresh, the Revenue was restrained from taking any coercive recovery action. [S. 220(6), 226(3),250, Art. 226] 2678
The assessee had filed a detailed stay application pending disposal of appeal before the CIT(A), which was rejected by the Principal Commissioner in a cryptic manner by merely stating "matter is heard, assessee's stay application is rejected", without recording reasons or dealing with the contentions raised. The High Court held that such an order reflects complete non-application of mind and violates principles of natural justice. Consequently, the impugned order rejecting the stay application and the consequential recovery notice issued under section 226(3) were set aside, and the matter was remanded to the Principal Commissioner for fresh consideration after granting a hearing and by passing a reasoned speaking order. Till disposal of the stay application afresh, the Revenue was restrained from taking any coercive recovery action. (WP (L) No. 40617 of 2025, dt. 15-12-2025)(AY. 2023-24)
Shalina Laboratories Pvt. Ltd v. UOI (Bom)(HC) www.itatonline.org

S. 226 : Collection and recovery-Modes of recovery-Tax recovery officer-Reassessment-Strictures-After period of seventeen years-Auction by Income tax Authority-Tax recovery officer-Hindu undivided family-Pendency of appeal-Fictitious demand-Auction is nullity-TRO should cancel recovery certificate on being informed that payment had been made by concerned defaulter-Directed to pay the compensation-Where a reference has been admitted by High Court against an order of Tribunal, prudence demands to keep away from conducting auction of properties for purpose of recovery-An auction conducted under the Income-tax Act, 1961 cannot be put on the same footing as that of an auction being conducted for execution of a decree by the Court or elsewhere in public as it would be in clear distinction of income-tax default auction-Income tax department is directed to pay cost of Rs 1 lakh to the petitioner. [S. 147, 224, 225(3), 256(1), 256(2), Transfer of Property Act, 1882, S 52, Rule 56,60,61, 62, of schedule, Art. 226, 300A] 2679
Assessee-HUF received a donation of Rs. 5 lakhs from an individual. Assessment was completed, which reflected said receipt. However, ITO, after seventeen years, reopened assessment under section 147 and held that demand of Rs. 5 lakhs had emanated from assessee. Assessee's appeal against said order was allowed by AAC as well as Tribunal. On reference to the High Court, the matter was set aside to Tribunal.

Tribunal thereafter passed ex parte order upholding the assessment. Assessee filed reference against said order under section 256(2). Meanwhile, recovery proceedings were initiated, and assessee submitted objections that a sum of Rs. 2,45,000 had already been deposited and a sum of Rs. 1,20,000 had already been recovered and, thus, same was to be deducted from the total shown in the recovery certificate to TRO. TRO had rejected objections and conducted auction of said property and sold same and recovered disputed sum. Assessee filed writ petition, and while writ was pending, High Court answered reference in favour of assessee and entire proceedings under section 147 were held to be bad in law. Court held that once the sum of Rs. 2,45,000 was deposited, the recovery certificate was required to be revised. TRO should have withheld proclamation and further proceedings of auction, particularly when demand notice and recovery certificate were based on order of Tribunal which had been set aside by High Court. Since ultimately it had been found that there was no tax requirement to be paid, writ petition is allowed and orders were to be set aside and department is t directed to restore properties of assessee from auction purchaser and compensation should also be paid to him by department. TRO has power even to cancel recovery certificate on being informed that payment has been made by concerned defaulter. Where a reference has been admitted by the High Court against an order of the Tribunal, prudence demands to keep away from conducting auction of properties for the purpose of recovery. An auction conducted under the Income-tax Act, 1961 cannot be put on the same footing as that of an auction being conducted for execution of a decree by the Court or elsewhere in public, as it would be in clear distinction from an income-tax default auction. Court also directed the Income tax department is directed to pay the cost of Rs 1 lakh to the petitioner. (AY. 1946-47)
Gokal Chand Rattan Chand v. UOI (2024)471 ITR 337/ 163 taxmann.com 222 (P&H) (HC)

2680 **S. 226: Collection and recovery-Modes of recovery-Matter pending before CIT(A)-Stayed further recovery of proceedings till the disposal of the appeal. [S. 143(3), 254, 263, Art. 226]**
On writ, the Court held that if the assessment was set aside, the assessee would be entitled to the refund along with interest payable as per the statute or that paid in the cash credit account, whichever was higher, and if not, the assessee would be saved from the interest on the amount recovered in the intervening period. Therefore, it was not required to direct refund of the 20 per cent. already recovered from the assessee. There shall be no further recovery based on the earlier assessment order till the appeal was disposed of by the National (AY. 2015-16)
SIS Prosegur Holding Pvt. Ltd. v. PCIT (2024)471 ITR 403 (Patna) (HC)

2681 **S. 234A: Interest-Default in furnishing return of income-Waiver of interest-Return filed voluntarily after receipt of letter from Assessing Officer-Delay owing to old age of assessee and assessee being illiterate-Factors can be treated as unavoidable circumstances-Waiver must be granted-Notification dated 23-5-1966(1997) 235 ITR 101 (St) [S. 119(2), 139, 234B, 234C,Art. 226]**
Waiver application of the legal heirs for waiver of interest for delay in filing of the application. was rejected by the Commissioner. On writ, the Court held that delay owing

to old age of assessee and assessee being illiterate, factors can be treated as unavoidable circumstances and waiver must be granted. (AY. 1990-91 to 1999-2000)
Baso Devi v. CBDT [2024] 161 taxmann.com 17/(2025) 477 ITR 382 (P & H) (HC)

S. 234B: Interest-Advance tax-Non-Resident-Not liable for payment of interest-SLP of Revenue is dismissed due to low tax effect. [Art. 136] 2682
High Court held that if payer, who was required to make payments to non-resident, had deducted tax at source, question of payment of advance tax by payee would not arise and, therefore, it would not be permissible for revenue to charge interest under section 234B. SLP of Revenue is dismissed on account of low tax effect.) (AY. 2005-06 2006-07)
DIT, IT v. Texas Instruments Incorporated (2025) 302 Taxman 7 (SC)
Editorial : DIT, IT v. Texas Instruments Incorporated (2020) 275 Taxman 614 (Karn)(HC)

S. 234B : Interest-Advance tax-Levy of interest-Mandatory and consequential.[S. 234C] 2683
The Tribunal held that the levy of interest under sections 234B and 234C is mandatory and consequential. Accordingly, the levy of interest was upheld. (AY. 2018-19).
Toyota Kirloskar Motor P. Ltd. v. Dy. CIT (2025) 129 ITR 515 (Bang.)(Trib.)

S. 234B: Interest-Advance tax-Transfer Pricing-Retrospective amendment-Advance tax-Interest under section 234B not leviable on transfer pricing adjustment arising from subsequent retrospective amendment. [S.92B] 2684
The Transfer Pricing Officer made an adjustment on account of excess credit period allowed to Associated Enterprises by applying the retrospective amendment to section 92B introduced by the Finance Act, 2012. Consequently, interest under section 234B was levied for short payment of advance tax. The Tribunal held that, at the time of filing the return, the assessee could not have anticipated the subsequent retrospective amendment enlarging the scope of "international transaction". Since the assessee had paid advance tax on the basis of the law prevailing on the date of filing the return, it could not be treated as a defaulter. The levy of interest under section 234B was therefore deleted. (AY. 2008-09).
Exquisite Jewellery v. ITO (2025) 125 ITR 117/177 taxmann.com 4 (Mum.)(Trib.)

S. 234B : Interest-Advance tax-Tax deductible at source-Interest to be recomputed after allowing TDS credit.[S. 199] 2685
The Tribunal held that while computing interest under section 234B, the Assessing Officer was required to reduce the amount of tax deductible at source. The matter was restored with a direction to recompute the interest accordingly. (AY. 1992-93).
Growmore Research and Assets Management Ltd. v. Dy. CIT (2025) 125 ITR 44 (Mum.) (Trib.)

S. 234B: Interest-Advance tax-Non-Resident-Deduction at source-Interest not leviable. [S. 195] 2686
Held that where the assessee was a non-resident, and its income was subject to tax deduction at source under section 195, it could not be held to be in default in payment of its advance tax liability. Interest under section 234B is not leviable. (AY. 2012-13)
DCIT v. Formula one Marketing II Ltd. (2025) 213 ITD 242 (Delhi) (Trib.)

2687 **S. 234C: Interest-Deferment of advance tax-COVID-19 pandemic-Dismissal of waiver application is set aside-Matter remanded to CCIT for a de novo consideration. [S.208, 209, Art. 226]**

Allowing the petition, the Court held that dismissal of the application for waiver of application is due to non-application of mind. Accordingly, the order is set aside for de novo consideration (AY. 2021-22)

Grasim Industries Ltd. v. Chief CIT (Central) (2025) 302 Taxman 194 (Bom.)(HC)

2688 **S. 234C: Interest-Deferment of advance tax-Levy of interest was not available on record; matter remanded to the Assessing Officer. [S.143(3))**

Where the returned income was accepted without any addition, but the computation sheet showing the levy of interest was not available on record, the Tribunal restored the matter to the Assessing Officer for verification of the interest charged under section 234C and recomputation in accordance with law. (AY. 2021-22, 2022-23)

BNY Mellon International Operations (India) (P.) Ltd. v. ITO (2025) 238 TTJ 819 / 181 taxmann.com 222 (Pune)(Trib.)

2689 **S. 234D: Interest on excess refund-Regular assessment completed before 1-6-2003-Consequential order under section 143(3) read with section 254 does not attract interest. [S. 2(40), 143(3), 147, 153A, 254]**

The assessee's regular assessment under section 143(3) had been completed before 1-6-2003, i.e., before the insertion of section 234D. Pursuant to the Tribunal's order, the Assessing Officer passed a consequential order under section 143(3) read with section 254 and levied interest under section 234D. The Tribunal held that interest under section 234D is leviable only where the regular assessment contemplated under sections 143(3), 144, 147 or 153A is completed after 1-6-2003. A consequential order giving effect to an appellate order cannot be treated as a regular assessment for this purpose. Accordingly, the levy of interest under section 234D was held to be unsustainable. (AY. 1997-98)

DCIT v. Hindustan Unilever Ltd. (2025) 238 TTJ 947 (Chd.)(Trib.)

2690 **S.234E: Fee-Default in furnishing the statements-Delay in filing statement of tax deducted at source Levy of late fee-Provision for imposition of late fee inserted only with effect from 1-6-2015 Late fee not importable before 1-6-2015-Delay in filing writ-Not ground for denying relief.[Art. 226]**

Held that Section 234E of the Income-tax Act, 1961 was introduced by the Finance Act, 2012 ((2012) 345 ITR (St.) 10) with effect from July 1, 2012. It provides for levy of late fee for not filing the statement of tax deducted at source. The amendment was to take effect only from June 1, 2015 and was thus prospective in nature. The jurisdiction to levy late fee under section 234E of the Act arises only from June 1, 2015 and not earlier. Accordingly, the imposition of late fees under section 234E of the Act was not valid. Court also held that, since in matters where total lack of jurisdiction is alleged, delay cannot be relied upon as a ground to deny the relief, the objections of the Income-tax Officer were without any basis.(AY. 2012-13 to 2014-15)

Amaravati (represented by its managing partner Mohandas P. S) v. ITO (2025) 482 ITR 702 (Ker)(HC)

S.234E: Fee-Default in furnishing the statements-Deduction of tax at source-Submission of statement-Amendment with effect from 1-6-2015-Amendment not retrospective-Not applicable prior to 1-6-2015.[S.200A(1)(c), Art. 226] 2691

Allowing the petition the Court held that the Department had imposed the late fee only under section 234E of the Act for the assessment years 2012-13, 2013-14, 2014-15. However, section 200A(1)(c) of the Act was not introduced during the assessment years in question. In the absence of any provisions under section 200A of the Act, when processing the application for tax deducted at source under section 200A, no late fee could be imposed under section 234E. The levy was not valid.(AY.2012-12 to 2014-15)(SJ)

True Blue Voice India Pvt. Ltd. v. Chief CIT (TDS) (2025)472 ITR 480 / 158 taxmann.com 67 (Mad)(HC)

S. 237: Refunds-Direction to Revenue to refund excess tax paid by assessee-Such direction was duly complied with after adjusting self-assessed liability-SLP to be disposed of. [Art. 136] 2692

The Hon'ble Supreme Court disposed of the SLP filed by the Department against the impugned order of the High Court wherein directions were issued to the Department to refund certain excess taxes paid by the assessee. The said directions were duly complied with after adjusting the self-assessed liability and hence the SLP could be disposed of.

PCIT v. Aditya Eastern India Pvt. Ltd. [2025] 302 Taxman 416 (SC).

Editorial : Aditya Eastern (India) Agencies (P.) Ltd. v. Chairperson, Central Board of Direct Taxes (2024) 169 taxmann.com 355 (Orissa)(HC)

S. 237 : Refunds-Collection of tax at source Refund-Interest-High Court directing Department to reimburse seller and to seller to return sum to assessee within specified periods-Direction for payment of interest if time limits set by court not kept-High Court refusing to direct Department to undertake not to appeal against order of Tribunal-SLP of assessee dismissed. [S.244A, Form 27C, Art.136] 2693

On writ, the court categorically clarified that an appeal under section 260A was a statutory right and the court could not prevent anyone, either assessee or the Department, from availing of such right and rejected the plea of CCL as misconceived. The court indicated that, for any other interest claimed by the assessee would be at liberty to move the competent civil court for redressal of his grievance of interest, if so advised. SLP of assessee dismissed (AY. 2013-14 to 2018-19)

Adhunik Power and Natural Resources Ltd v. Central Coalfields Ltd. & Ors. (2025) 476 ITR 225 /175 taxmann.com 840 (SC)

Editorial: Adhunik Power and Natural Resources Ltd. v. Central Coalfields Ltd. and Ors. (2024) 296 Taxman 53/ (2025) 476 ITR 213 (Jharkand)(HC)

S. 237: Refunds-Interest on refund-Deputy Commissioner directed to refund with statutory interest if amount found to be refundable.[S.244A, Art. 226] 2694

On a writ petition, the court, on the facts, directed the Deputy Commissioner to consider the application within the stipulated period and to refund to the assessee if the amount was found refundable under section 237 of the Income-tax Act, 1961 and within the stipulated period with statutory interest.

Mosaic India Pvt. Ltd. v. Dy. CIT (2025) 482 ITR 344 (Delhi)(HC)

2695 **S. 237: Refunds-Erroneous deposit of tax under incorrect head-Assessee subsequently deposited tax under correct head-Excess payment due to error not disputed-Department directed to verify challans and grant refund if no other impediment-If refund cannot be processed, reasons to be communicated in writing-Assessee entitled to avail remedies in accordance with law.[Art. 226]**

The assessee had erroneously deposited certain tax amounts under an incorrect head and thereafter deposited the same amounts again under the correct head. The assessee filed a writ petition seeking a direction to the Department to grant refund of the excess tax paid for AYs 2021-22, 2022-23 and 2023-24 under section 237 along with interest. The Court held that it was undisputed that the assessee had deposited the tax under an incorrect head and therefore the excess payment was liable to be refunded. Accordingly, the Department was directed to verify the challans through which the deposits were made and, if it was found that excess payment had been made and there was no other impediment, the refund should be granted. If the authority concluded that the refund under section 237 could not be processed, it must communicate the reasons in writing to the assessee, who would be at liberty to avail remedies in accordance with law. (AY. 2021-22 to 2023-24).

Remote Infosystem Pvt. Ltd. v. ITO (2025) 480 ITR 24 / 180 taxmann.com 209 (Delhi)(HC)

2696 **S. 237: Refunds-Limitation-Excess TDS-CBDT Circular prescribing two-year time limit for refund claim of tax erroneously deducted at source held ultra vires-In absence of statutory limitation under ss. 237/239, Board cannot curtail substantive right to claim refund-Interest on FCCBs/ECBs utilised for overseas subsidiary held covered by s. 9(1)(v)(b), hence no TDS deductible-Taxing statutes are interpreted by following the principles of strict interpretation. While interpreting a taxing statute, there is no room for any intendment. [S. 9(1)(v)(b), 119, 195, 200, 203, 239, R. 31, Art. 226]**

On writ the High Court held that after omission of s. 239(2) w.e.f. 1-9-2019, the Act does not prescribe any limitation for claiming refund under ss. 237/239 in such cases, and therefore para 9 of CBDT Circular No. 7 of 2007 fixing a two-year period for refund of excess TDS was beyond the power conferred under s. 119 and could not extinguish the assessee's substantive right to seek refund. Accordingly, rejection of the assessee's refund claim as time-barred was held unsustainable. The Court further held that interest/ premium paid on FCCBs and ECBs utilised for funding overseas subsidiary operations was for purposes of earning income from a source outside India and fell within s. 9(1)(v)(b); hence no tax was deductible at source u/s. 195, and the excess tax deposited was refundable. Taxing statutes are interpreted by following the principles of strict interpretation. While interpreting a taxing statute, there is no room for any intendment. (AY. 2011-12 to 2013-14)

Sun Pharmaceutical Industries Ltd. v. ITO (2025) 480 ITR 164 / 171 taxmann.com 469 (Delhi)(HC)

2697 **S. 237: Refunds-Defective return-Rectified return filed-Return cannot be ignored merely due to TDS mismatch-Where no addition made in scrutiny, refund claim must be processed. [S. 139(9), 143(3), 153C, Art. 226]**

The assessee filed a revised/rectified return which, according to the Revenue, was treated as defective and therefore not processed. The High Court held that there was

no material on record to show that the revised return had ever been declared invalid or that any communication treating the return as defective was issued to the assessee. A mere mismatch between TDS reflected and income disclosed in the return cannot be a ground to disregard the return altogether; at best it may warrant further inquiry. Since the rectified return could not be ignored and no addition had been made by the Assessing Officer at the scrutiny stage, the assessee's claim for refund was required to be processed. The Court disposed of the writ petition directing the Revenue to process the rectification application seeking refund after giving credit of advance tax and TDS as reflected in Form 26AS, while binding the Revenue to the statement made before the Court. (AY. 2016-17)
Mukesh Garg v. ACIT (2025) 175 taxmann.com 142 / 345 CTR 788 / 251 DTR 228 (Delhi) (HC).

S. 237 : Refunds-Interest on refund-Department directed to process claim for refund with interest under section 244A with interest in accordance with law [S.244A, Art. 226] 2698

On writ the Court directed the Department to process the refund with interest in accordance with law within eight weeks and allowed the petition.(AY.)
NMDC Energy PJSC (Erstwhile National Petroleum Construction Company) v. Dy. CIT (2025) 479 ITR 158/179 taxmann.com 63 (Delhi)(HC)

S. 237 : Refunds-Interest on refunds-Delay in issuing Form 5 certificate-Interest on refund-Department's obligation to compensate wrongful retention of money-Assessee entitled to interest on refund for period from date of issue of form 5 till date of payment-Interest on refund directed at six per cent. for delayed period.[S. 132A 244A, Direct Tax Vivad se Vishwas Act, 2020, S 4, 5, 7 Art. 226] 2699

Cash and gold bars were seized by police from the assessee, non-filer of return of income and handed over to the Magistrate after registering a crime. The Department treated these assets as the assessee's income and took custody of the cash under section 132A. An assessment order followed, fixing the assessee's total income for the assessment year 2016-2017 and imposing a penalty under section 271AAB. The assessee filed a declaration under the Direct Tax Vivad se Vishwas Act, 2020 ((2020) 422 ITR (St.) 121). The assessee's declaration under section 4 of the 2020 Act was accepted. Since out of the cash seized, an amount was retained by the Department and an order was issued, giving effect to form 5 certificate and directed refund confirming that the assessee was eligible for a refund from the seized cash. The Department delayed issuing the consequential refund order by twenty-three months, beyond the thirty-days limit set by the Central Board of Direct Taxes. On a writ petition, allowing the petition, that since form 5 certificate was issued to the assessee under the 2020 Act, the consequential order granting a refund ought to have been issued within the prescribed thirty-days timeline. Section 7 of the 2020 Act and its Explanation indicated that if the declarant had paid any amount in excess of tax found payable under section 3, he would be entitled only to a refund of the excess amount paid, but without interest. Such provision could not enable the Department to deny interest due to the assessee since the situation was different. The provisions of section 7 interdicted the grant of interest on payments made prior to the submission of the declaration by the declarant. After the declaration

was made by the Department in form 5, identifying the amount of arrears due from the declarant, the delay thereafter, in refunding any excess amount paid earlier, could not be protected by the Explanation to section 7 of the 2020 Act. The Department was directed to issue orders granting interest on the amount of refund at the rate of six per cent. from expiry of thirty days from the date of issue of Form 5 till the date of refund order. The interest was to be quantified and paid within thirty days. (SJ) (AY. 2016-17) *Satwashil Vasant Mane v. ACIT (2025) 479 ITR 493 (Karn)(HC)*

2700 **S. 237 : Refunds-Refund Rectification applications-Strictures-Refund amount not paid despite earlier court order Department failed to provide instructions despite time granted-Department directed to refund undisputed amount of refund-If the amount was not refunded within two weeks, liberty was granted to the assessee to revive the present application and the presence of the Assessing Officer in the court would be called for.[S. 143(1), 154, Art. 226]**

The assessee filed a writ petition seeking disposal of its rectification applications. The High Court directed the Deputy Commissioner to decide the applications by a speaking order and release consequential refunds with up-to-date interest. Pursuant thereto, the Assessing Officer passed an order under section 154 read with section 143(1) of the Income-tax Act, 1961, acknowledging substantial tax deducted at source credits but granted only partial refund under section 237. The assessee sought rectification contending that the balance refund was wrongly withheld and that even the admitted refund was not released. On a writ, the Court held that the Department was directed to refund the undisputed amount under section 237 to the assessee. If the amount was not refunded within two weeks, liberty was granted to the assessee to revive the present application, and the presence of the Assessing Officer in the court would be called for. *Afilias India Pvt. Ltd. v. Dy. CIT (2025) 479 ITR 675 (Delhi)(HC)*

2701 **S. 237: Refunds-Interest on refund-Application for rectification Petition seeking direction for early disposal of rectification application-No objection by Department-Direction for adjudication of application expeditiously.[S. 154, Art. 226]**

The assessee filed a petition seeking refund under section 237 of the Income-tax Act, 1961 with interest, and early disposal of rectification application under section 154. The Department raised no objection to expediting the adjudication of the rectification application. The court directed adjudication of the rectification application within eight weeks.

NMDC Energy PJSC v. Dy. CIT (2025) 478 ITR 735 / 178 taxmann.com 326 (Delhi)(HC)

2702 **S. 237 : Refunds-Dividend distribution tax-Income-tax Refund order Essential factors Order must reflect conclusive and final-Preliminary or prima facie opinion not sufficient. Communication not demonstrating full and final satisfaction regarding entitlement to No breach of article 265 of Constitution where refund not conclusively determined Refund cannot be granted based on such communication. Fresh adjudication ordered. [Art. 265]**

On writ the Court held that since the adjudication or determination of the entitlement to a refund under section 237 of the Income-tax Act, 1961 is an appealable order, it follows that there must be a written communication in which there is a final determination of

the entitlement or disentitlement supported by reasoning so that the appellate authority can test it. Therefore, there must be an "order" under section 237. Such an order must be a conclusive and final determination of the entitlement or disentitlement to a refund of the excess amount paid. The emphasis need not be on the form or citation of the relevant legal provision. But the essential attributes of conclusiveness must be reflected. The parties must know that a formal determination of the refund claim was being considered and dealt with, so that all aspects could be pointed out and considered.
Article 265 of the Constitution of India also provides that no tax shall be levied or collected except by authority of law. The phrase "authority of law" would mean liability or entitlement under the Act. This would contemplate that before a person can be entitled to a refund, the Assessing Officer must satisfy that such an entitlement is in accordance with the provisions of the Act, and there must be a final determination of the correctness of the claim for refund. Based upon an inconclusive or tentative opinion of an Assessing Officer, no breach of Article 265 can be alleged or established.
Section 237 refers to the phrase "satisfied". The phrase satisfaction means fully and conclusively satisfied and not a prima facie satisfaction. Accordingly, the Court directed the Assessing Officer to pass a final order determining the refund claim of the assessee within eight weeks after giving it the opportunity of hearing and by passing a speaking order. (AY. 2018-19)
Fcbulka Advertising Pvt. Ltd v. ACIT (2025) 477 ITR 639 /174 taxmann.com 340 /344 CTR 687 / 249 DTR 361 (Bom)(HC)

S. 237: Refunds-Procedure lacunae-Not credited to bank account-Once assessee was entitled to refund, it has to be paid with all expediency-Revenue was directed to inform assessee within a period of four days. [Art. 226] 2703
Assessee was entitled to refunds for relevant assessment years. However, revenue was of the opinion that certain procedural lacunae persisted and, therefore, although refund was payable to assessee, it was not being credited to assessee's bank account. On writ, the Court held that once the assessee was entitled to refund, it needed to be paid with all expediency and more particularly, when refunds pertained to such old assessment years. The revenue was directed to process refunds and credit amount to assessee's account and if any modalities needed to be complied by assessee in that regard, the assessee was to be informed within a period of four days so that further appropriate steps to credit refunds along with applicable interest were undertaken on or before the returnable date. (AY. 2004-05, 2005-06, 2007-08, 2008-09, 2018-19, 2019-20, 2020-21, 2022-23 & 2023-24)
GMO Emerging Markets Fund v. Dy. CIT (IT) (2025) 303 Taxman 199 (Bom.)(HC)

S. 237: Refunds-Tax deducted at source-Revenue was directed to dispose of the application within three months, refund the amount within two months, and if there was delay beyond two months the revenue would be liable to pay interest as per law. [Art. 226] 2704
Assessee filed a writ petition seeking refund of a certain amount of TDS on the ground that since TDS certificate had been placed on record, revenue should at least verify position regarding deductions and grant a refund. Court directed that the, revenue

department was to dispose of assessee's representation within three months, and if it was satisfied that deductions were indeed made as reflected in TDS certificate, the amount should be refunded to assessee within a month from such determination. If refund was made within two months from such determination, there would be no question of paying interest to assessee, however, if there was a delay beyond two months, revenue would be liable to pay interest as per law.
Bizznet Online Systems (P.) Ltd. v. Dy. CIT (2025) 303 Taxman 363 (Bom.)(HC)

2705 **S. 237 : Refunds-Delay in payment-Laxity of Department-Strictures-Refund of tax amount if any, ought to be immediately granted to assessee-Delayed payment of refunds burdens the public exchequer-Rules would be required to be framed-Accountability is required to be fixed. [S. 239, 244A, Art. 226]**
On writ the Court held that the delay in payment of refunds to the assessees is on account of negligence/laxity on the part of the Department which results in imposition of unwarranted interest burden on the public exchequer; respondents are directed to take instructions from CBDT and make an appropriate statement either on the adjourned date of hearing or earlier to that so that appropriate orders can be passed. Court directed to frame such rules and mechanism by which accountability needs to be fixed on a particular officers, whose actions are increasing the burden on the Government of India, is required to be immediately. The Court also observed that delayed payment of refunds burdens the public exchequer any situation of an unjust enrichment is not acceptable. Due to delay of refund by which a serious prejudice to both the revenue and to the assessee is caused. (AY. 2013-14, 2016-17)
Bloomberg Data Services (India) (P) Ltd. v. DCIT (2025) 342 CTR 249 / 245 DTR 9 / 302 Taxman 454 (Bom)(HC)

2706 **S. 237 : Refunds-Affidavit-Refund of Rs. 100.49 crores with interest to be released to assessee. [S. 244A, Art. 226]**
In response to writ petition, DCIT filed affidavit admitting net refund of Rs. 153.80 crores plus interest due to assessee for AY 2018-19. After adjusting 20% of demand relating to earlier years against refund, balance of Rs. 100.49 crores remained payable. Court directed the Department to ensure refund with applicable interest is credited to assessee's account. (AY. 2018-19)
Tech Mahindra Ltd v. DCIT [2023] 153 taxmann.com 342 (Bom)(HC)

2707 **S. 237: Refunds-Condonation of delay-Reasonable cause-Date of claim in return relevant-Subsequent formal application immaterial-Refund allowed. [S. 119(2)(b), 139, Art. 226]**
The assessee had claimed refund in its income-tax return but filed a formal condonation application later. The Revenue rejected the claim citing delay beyond the permissible period under CBDT Circular No. 9 of 2015 dt. 9-6-2015. The High Court held that both para 3 (prescribing six years' limit) and para 6 (providing for condonation in deserving cases) of the circular must be considered. Importantly, when a refund is claimed in the return itself, the relevant date for computing delay is the date of the return, and not the date of a subsequent condonation petition. Since the claim was part of the return and the delay was otherwise condonable, the rejection by Revenue was not justified.

Affirming the Single Judge's order, the Court directed that the refund be considered. (AY. 2013-14)

PCIT v. Vivek Krishnamoorthy (2025) 343 CTR 625 / 247 DTR 449 (Karn)(HC)

Editorial: Vivek Krishnamoorthy v. PCIT (WP No. 16991 of 2023, dt. 2-11-2023) (Karn) (HC), Single Judge affirmed.

S. 239 : Refunds-Limitation-Revised return-Condonation of delay-Application for condonation beyond six years from end of AY not maintainable-Assessee cannot take benefit of his own wrong-Interest under S. 244A not payable where delay attributable to assessee-Revenue to consider only claim of refund. (S. 119(2)(b), 139(5), 244A, Art. 226) 2708

The assessee filed a revised return claiming refund for AY 2008-09 after completion of assessment and subsequently sought condonation of delay. As per S. 139(5), a revised return is to be filed before three months prior to the end of the relevant assessment year or before completion of assessment, whichever is earlier. CBDT Instruction No. 13 of 2006, issued under S. 119(2)(b), provides that in cases where refund claims exceed Rs. 10 lakhs but are up to Rs. 50 lakhs, an application for condonation must be filed within six years from the end of the relevant assessment year. In the present case, the refund claim was Rs. 24,83,851 and the six-year period from AY 2008-09 expired on 31-3-2015. The assessee, however, filed the condonation application only on 25-7-2016, beyond the prescribed period. The Revenue rejected the claim and the Single Judge directed consideration of the refund claim with applicable interest. On appeal, the High Court held that the assessee could not be granted the benefit of his own wrong; though the refund claim may have been genuine and bona fide, interest under S. 244A could not be directed as interest is compensatory and payable only for delay attributable to the Revenue. Since the delay was on account of the assessee in not filing the condonation application within the prescribed time, the direction to grant interest was set aside. However, the Revenue was directed to consider the assessee's claim for refund, if not already considered, within four weeks. (AY. 2008-09)

PCIT v. Subash Menon (2025) 171 taxmann.com 504 / 345 CTR 321 / 250 DTR 169 (Karn) (HC)

S. 239 : Refunds-Limitation-Refund of tax erroneously withheld-CBDT Circular ultra vires-Refund cannot be denied.[S. 119(2), 195, 237, Art. 226] 2709

The assessee's applications for refund of excess TDS deposited u/s 195 for AYs 2010-11 to 2012-13 were rejected by the Commissioner, relying on para 9 of CBDT Circular No. 7/2007 dated 23-10-2007, which restricted the time period. The Delhi High Court held that neither S. 237 nor S. 239 prescribes a limitation for refund claims, and the earlier sub-S. (2) of S. 239 prescribing timelines had been omitted by the Finance Act 2019. CBDT's power under S. 119 is only to relax statutory provisions, not to curtail rights or extinguish claims. Para 9 of the Circular was therefore held ultra vires and beyond CBDT's powers. The rejection order was quashed and refunds directed to be granted. (AY. 2010-11 to 2012-13)

Sun Pharmaceutical Industries Ltd. v. ITO (2025) 171 taxmann.com 469 / 343 CTR 705 / 247 DTR 321 (Delhi)(HC)

2710 **S. 240: Refunds-Appeal-Tax deducted at source-Refund should be granted without application for it.[S. 199, 239, 244A(1)(a), Art. 226]**

Petitioner, aggrieved by the order of the assessing officer, filed a Writ Petition stating that the benefit of Tax Deducted at Source had been restricted. The tribunal had decided that consideration received for the rights relating to live feed would not be taxable as royalty at all and further framed directions for the AO to verify and grant the TDS credit as claimed by the writ petitioner. Hon'ble Court relied on its decision in Mitsubishi Corporation v. CIT(2024 SCC OnLine Del 5164) and allowed the writ petition commanding the respondents to acknowledge the credit of TDS as reflected in Form 26AS of the petitioner amounting to INR 2,27,83,28,430/-and to recomputed the total refund at INR 2,03,40,32,090/-.(AY. 2014-15)

ESS Singapore Branch v. Dy. CIT (2024) 165 taxmann.com 645 / (2025) 473 ITR 541 (Delhi) (HC)

2711 **S. 241 : Refunds-Power to with hold in certain cases-Disposal of appeal, demand raised in assessment order being set aside-It was obligatory on part of tax authorities to refund amount recovered towards discharge of demand raised in reassessment order. [S.69A, 147, 226(3),Art. 226]**

Assessing Officer treated cash deposit made by assessee-society in bank account as unexplained and made addition under section 69A. Thereafter, reassessment proceedings were initiated, and demand was raised. During pendency of appeal before Commissioner(Appeals), Assessing Officer recovered a certain amount towards discharge of demand raised in reassessment order. Commissioner (Appeals) set aside the demand raised. Despite appeal being allowed, Assessing Officer had not refunded the amount so recovered during pendency of appeal. On writ the Court held that upon disposal of the appeal, demand raised in the assessment order being set aside, it was obligatory on part of tax authorities to refund the amount recovered towards discharge of the demand raised in the reassessment order. (AY. 2016-17)

Puri Commercial Co-operative Society v. ITO (2025) 305 Taxman 394 (Orissa)(HC)

2712 **S. 244A: Refunds-Interest on refunds-Compensation of acquisition of agricultural land-Assessee neither made aware of deduction of tax at source nor issued form 16A by deductor-Delay in application for refund under circumstances beyond control of assessee Assessee-Entitled to interest on refund-SLP delay of 457 days-SLP dismissed on account of delay as well as on merits. [S.194LA, Art. 136]**

Agricultural land of the assessee was acquired by the State and the assessee filed his return with a delay, and the High Court directed the Department to grant the assessee interest under section 244A of the Income-tax Act, 1961, holding that no tax was payable by the assessees on the amount of interest under section 194LA of the Act and the delay in claiming the refund was not attributable to the assessee as the deductor, i. e., the Executive Engineer, Irrigation Department, had neither informed the assessee about the deduction of tax nor issued form 16A which was mandatory under rule 31(3) of the Income-tax Rules, 1962. High Court allowed the petition and directed the revenue to grant interest. SLP filed by the revenue was delayed by 457 days. SLP of the revenue was dismissed on account of delay as well as on merits. (AY. 2013-14)

PCIT v. Bhimjibhai Madhavjibhai Bharad (2025) 481 ITR 454/ 178 taxmann.com 7 (SC)

Editorial : Mohanbhai Madhavjibhai Bharad v.PCIT (2024) 465 ITR 323 / 158 taxmann.com 13 (Guj)(HC)

S. 244A: Refunds-Interest on refund-Delay in filing return condoned-Assessee not at fault-Deductor failed to intimate TDS and issue Form 16A-Interest payable from date of TDS deposit till date of refund-Delay of 471 days-SLP of revenue dismissed on account of delay as well as on merits. [S. 119(2)(b), 194LA, Rule 13 of IT Rules, Art. 136] 2713

Agricultural land belonging to the assessee was acquired by the State of Gujarat under the 'Survo Scheme'. The Land Acquisition Officer awarded compensation, and pursuant to enhancement by the Reference Court, the Irrigation Department deducted tax at source on the interest component of the compensation while depositing 50% amount with the Court. However, the deductor neither informed the assessee about such tax deduction nor issued Form 16A. The assessee, upon becoming aware of the deduction, filed an application for condonation of delay in filing the return of income to claim refund. The delay was condoned under section 119(2)(b), but the Revenue denied interest on the refund on the ground that the claim was belated. The High Court held that the assessee was not at fault in not filing the return on time, as the deductor failed to comply with its statutory obligations, and further held that no tax was deductible under section 194LA on interest paid on acquisition of agricultural land. Accordingly, the Hon'ble High Court directed the Revenue to grant interest on the refund from the date of deposit of TDS till the date of refund under section 244A.The Revenue filed a Special Leave Petition before the Hon'ble Supreme Court with a gross delay of 471 days, which was not satisfactorily explained. The Supreme Court dismissed the SLP on the grounds of delay as well as on merits, holding that no reason was made out to interfere with the order of the High Court. Accordingly, the direction to grant interest on the refund from the date of TDS deposit till the date of refund was upheld.(AY. 2013-14)

PCIT v. Chandrikaben Rajeshbhai Undhad [2025] 306 Taxman 347 (SC)

Editorial : Mohanbhai Madhavjibhai Bharad v. PCIT(2024) 158 taxmann.com 13/ 465 ITR 313 (Guj)(HC)

S. 244A: Refunds-Interest on refund-Delay in filing return condoned-Assessee not at fault for non-claim of refund-Deductor failed to inform TDS and issue Form 16A-Interest payable from date of TDS deposit till the date of refund-Delay of 457 days-SLP dismissed on account of delay as well as on merits. [S.119(2)(b), 194LA, Rule 13 of IT Rules, Art. 136] 2714

Agricultural land belonging to the assessee was acquired by the State of Gujarat under the 'Survo Scheme'. The Land Acquisition Officer awarded compensation, and pursuant to enhancement by the Reference Court, the Irrigation Department deducted tax at source on the interest component of the compensation while depositing 50% amount with the Court. However, the deductor neither informed the assessee about such tax deduction nor issued Form 16A. The assessee, upon becoming aware of the deduction, filed an application for condonation of delay in filing the return of income to claim refund. The delay was condoned under section 119(2)(b), but the Revenue denied interest on the refund on the ground that the claim was belated. The High Court held that the assessee was not at fault in not filing the return on time, as the deductor failed

to comply with its statutory obligations, and further held that no tax was deductible under section 194LA on interest paid on acquisition of agricultural land. Accordingly, the Hon'ble High Court directed the Revenue to grant interest on the refund from the date of deposit of TDS till the date of refund under section 244A. On appeal, the Hon'ble Supreme Court dismissed the Special Leave Petition filed by the revenue, noting a gross and unexplained delay of 457 days. The Court further held that, even on merits, no interference was warranted with the order of the High Court. Accordingly, the direction to grant interest on the refund from the date of TDS deposit till the date of refund was upheld.(AY. 2013-14)

PCIT v. Bhimjibhai Madhavjibhai Bharad [2025] 306 Taxman 334 (SC)

Editorial : Bhimjibhai Madhavjibhai Bharad v.PCIT (2024) 158 taxmann.com 13/ 465 ITR 313 (Guj)(HC)

2715 **S. 244A : Refunds-Interest on refunds-When Tribunal directed Assessing Officer to compute interest under section 244A following principles laid down by Delhi High Court matter was to remanded to Assessing Officer with direction to compute interest payable to assessee under section 244A by strictly applying principles laid down by Tribunal and High Court-SLP of revenue dismissed on account of delay and also on merits. [Art. 136]**

Tribunal directed Assessing Officer to compute interest under section 244A following principles laid down by Delhi High Court in case of *India Trade Promotion Organisation v. CIT [2013] 38 taxmann.com 233/263 CTR 18/ [2014] 361 ITR 646(Delhi)(HC).* However, Assessing Officer came to conclusion that further interest under section 244A was not payable. High Court also directed Assessing Officer to strictly apply principles laid down by Tribunal. Assessing Officer again held that further interest under section 244A was not payable. High Court by order held that payment of interest on unpaid amount occurs because of non-payment of total amount refundable, which was due and payable to assessee consisting of tax, which had to be refunded and interest accrued on delayed refund of tax. High Court further held that principal amount and interest due were to be added and treated as primary amount and interest would become due and payable on this primary amount, thus, matter was to remanded to Assessing Officer with direction to compute interest payable to assessee under section 244A by strictly applying principles laid down by Tribunal and High Court. SLP filed by revenue against order of High Court was to be dismissed, on account of delay of 444 days and also on merits.

Dy. CIT v. Tata Communications Ltd. (2025) 304 Taxman 664 (SC)

Editorial: Tata Communications Ltd v. Dy.CIT (2025) 173 taxmann.com 12 (Bom)(HC)

2716 **S. 244A: Refunds-Interest on refunds-Deduction of tax at source-Delay in application under circumstances beyond control of assessee-Delay is condoned-Entitled to interest on refund-Money held without authority-High Court directed the revenue to grant interest-SLP delayed by 371, 390 and 374 days-SLP of revenue was dismissed on account of delay and also on merit. [S. 194LA, IT R, 1962, R. 31(3), form 16A, Art. 136]**

The High Court, on writ petitions seeking refund of the tax deducted at source on the interest on the compensation for acquisition of the assessees' agricultural lands, directed the grant of refund to the assessees under section 244A of the Income-tax Act, 1961,

holding that the assessees were not at fault for the delay in claiming refund as no tax was payable by the assessees on interest under section 194LA of the Act. SLP of the revenue was dismissed as the delay of 371, 390 and 374 days, respectively, had not been satisfactorily explained. Even otherwise, there was no good reason to interfere with the orders passed by the High Court. (AY. 2013-14)

PCIT v. Amrutlal Madhavjibhai Bharad (2025) 476 ITR 1 / 305 Taxman 413 (SC)

Editorial : Mohanbhai Madhavjibhai Bharad v. PCIT (2024) 465 ITR 313/ 336 CTR 578 /158 taxmann.com 13 (Guj) (HC)

S. 244A : Refunds-Interest on refunds-Delay in paying refund-High Court holding interest payable on interest accrued on account of refund due to delay in repayment-Delay of 444 days-SLP dismissed on account of delay and merits.[S. 136] 2717

High Court held that the Department had to refund the entire amount, which was due and payable, including interest payable under section 244A of the Act. On SLP by the revenue, the Supreme Court dismissed the application for condonation of the 444 days delay and on the merits.

Dy. CIT v. Tata Communications Ltd.(2025) 474 ITR 574 (SC)

Editorial: Tata Communications Ltd v. Dy.CIT (2023) 335 CTR 983/ (2024) 462 ITR 86 (Bom)(HC)

S. 244A: Refunds-Interest on refunds-High Court directed the revenue to pay interest at 15 per cent per annum-Statutory fixed rate of interest is only 6 % per annum-Interim stay of High Court order-Court directed the assessee to refund the amount of interest in excess of 6 per cent per annum. [Art. 136] 2718

On writ, the High Court directed the revenue to grant interest on refund to assessee at rate of 15 per cent per annum from the date on which it was determined, till the date of payment of the same to assessee. On appeal, revenue submitted that statutorily fixed rate of interest under section 244A is only 6 per cent per annum, therefore, High Court could not have ordered for refund at a rate of 15 per cent per annum. Assessee submitted that revenue had already complied with the direction issued by the High Court. Court held that an interim order had stayed the direction of High Court insofar as it pertained to the award of interest in excess of 6 per cent per annum. Therefore, the appeal was to be allowed by directing the assessee to refund the amount of interest in excess of 6 per cent per annum. (AY. 2017-18)

ACIT v. TSI Business Parks (Hyderabad) (P.) Ltd. (2025) 303 Taxman 516 / 477 ITR 1 /344 CTR 549 / 249 DTR 175 (SC)

Editorial: TSI Business Parks (Hyderabad) (P.) Ltd v.ACIT(2021) 125 taxmann.com 342 / 431 ITR 654 (Telengana)(HC), modified.

S. 244A : Refunds-Interest on refunds-Equalisation levy-Refund Interest on refund equalisation levy paid by assessee after three years compensation for use and retention of money collected in excess-Direction for payment of interest at rate of six per cent. From April 1 of the year following the financial year in which excess payments were made by assessee till date of actual refund-When the collection is illegal, there is a corresponding obligation on the Department to refund such amount with interest 2719

inasmuch as they have retained and enjoyed the money deposited. A refund due and payable to the assessee is a debt owed and payable by the Department.[Finance Act, 2016, ss. 164(i), 165, 166, 168(1), Art. 226]

Allowing the petition, the Court held that the State, having received the money without right, and having retained and used it, is bound to make the party good, just as an individual would be under like circumstances. The obligation to refund money received and retained without right implies and carries with it the right to interest. Whenever money has been received by a party which ex aequo et bono ought to be refunded, the right to interest follows, as a matter of course. When the collection is illegal, there is a corresponding obligation on the Department to refund such amount with interest inasmuch as they have retained and enjoyed the money deposited. A refund due and payable to the assessee is a debt owed and payable by the Department. (AY.2018-19)

Group M Media India Pvt. Ltd. v. Dy. CIT (IT) [2023] 157 taxmann.com 487 / (2025) 483 ITR 593 (Bom)(HC)

2720 **S. 244A : Refunds-Interest on refunds-Limitation-for assessment year 2012-13, assessment order was passed on 31.01.2017 for the AY. 2012-13-Order giving effect to ITAT order was passed beyond the prescribed three months under section 153(5) on 23.08.2023-Order was time-barred-Single judge is justified in directing refund with interest under section 244A(1)(b) and 244A(1A). [S.153(5),153(9), Art. 226]**

The assessee filed an application on 01.12.2022 seeking refund for AY 2012-13 along with interest under Section 244A(1)(b). As the refund application was not considered, it filed a writ petition seeking a mandamus for refund of about Rs. 4.73 crores. The revenue thereafter passed an order giving effect to the Tribunal's order dated 07.07.2017 determining the refund; the order giving effect is dated 23.08.2023. The assessee contended that the order giving effect was passed beyond the time limit prescribed under Section 153 and that it was entitled to additional interest under Section 244A(1)(b). The learned Single Judge set aside the order giving effect dated 23.08.2023 as time barred and directed grant of refund of about Rs. 4.73 crores with interest under Sections 244A(1)(b) and 244A(1A). On appeal by the revenue the Court held that for assessment year 2012-13 order was passed on 31.01.2017, exception under sub-section (9) of section 153 to the inapplicability of the Finance Act, 2016 is not applicable and, thus, the time limit for passing an order giving effect to ITAT order is governed by the provisions of section 153(5). On appeal, the Division Bench held that since order giving effect was passed on 23.08.2023 beyond the time limit of three months as provided under section 153(5), the learned Single Judge was justified in declaring the order giving effect dated 23.08.2023 as time-barred and in directing grant of refund with interest under section 244A(1)(b) and section 244A(1A) of the Act. (AY. 2012-13)

DCIT v. Biesse India (P) Ltd. (2025) 178 taxmann.com 282 / 347 CTR 277 (Karn)(HC)

2721 **S. 244A : Refunds-Interest on refunds-DTAA-India-Mauritius-Interest income-Specific approval of Government-Foreign lender's eligibility under DTAA having been established through supporting documentation, no further separate approval under S. 195(2) or S. 197 was required. Revenue directed to refund 5 per cent TDS amount**

deposited by assessee along with applicable interest under S. 244A.[S.90(2), 194LC(2)(ia), 195(2) 197, Art. 11(2)]
Approval granted under s. 194LC(2)(ia) was based on a thorough evaluation of ECB agreement entered into between assessee and HSBC.Once such approval is granted, it logically follows that same agreement qualifies not just for concessional treatment under domestic law but also triggers beneficial treatment under DTAA, wherever applicable. Approval granted under S. 194LC(2)(ia) is substantive and sufficient for applying DTAA rate on interest payments to foreign lender. Foreign lender's eligibility under DTAA having been established through supporting documentation, no further separate approval under S. 195(2) or S. 197 was required. Revenue directed to refund 5 per cent TDS amount deposited by assessee along with applicable interest under S. 244A.
Shree Cement Ltd v. Dy.CIT(IT) (2025) 347 CTR 526 / 254 DTR 297 (Raj)(HC)

S. 244A : Refunds-Interest on refund-Direct Tax Vivad Se Vishwas Act, 2020-Belated grant of refund-Court empowered to award interest for delay attributable to Revenue [Direct Tax Vivad Se Vishwas Act, 2020, S. 4, 5(2), 6, 7, Art. 226] 2722
Where excess amount paid pursuant to declaration under the Direct Tax Vivad Se Vishwas Act, 2020 was refunded after an inordinate delay, the High Court held that though section 7 of the DTVSV Act excludes statutory interest under section 244A, there is no absolute prohibition against grant of interest where refund is unreasonably delayed due to fault of the Revenue. The Court observed that since the scheme mandates payment by the assessee within fifteen days upon acceptance of declaration, a corresponding obligation rests upon the Department to issue refund within a reasonable time. In the present case, despite acceptance of declaration on 24-11-2021, the Department released refund only on 29-11-2023, which constituted unjustified delay. The Court held that powers under sections 3 and 4 of the Interest Act, 1978 enable grant of reasonable interest notwithstanding exclusion under the Income-tax Act or the DTVSV Act where delay is solely attributable to the Revenue. Accordingly, grant of interest on delayed refund was upheld.
ACIT v. Satwashil Vasant Mane (2025) 173 taxmann.com 105 / 345 CTR 659 / 251 DTR 169 (Ker)(HC).

S. 244A: Refunds-Interest on refunds-Wrong PAN Number by the Depositor-The Revenue cannot be responsible-Not entitled to interest on refunds. [S.194C, Form No 16A, Art. 226] 2723
Dismissing the petition, the Court held that for wrong quoting of PAN by the depositor, the Revenue cannot be held responsible. The assessee is not entitled to interest on refunds. (AY. 2009-10 to 2011-12)(SJ)
Surya Construction v. UOI (2025) 302 Taxman 387 (Gauhati)(HC)

S. 244A: Refunds-Interest on refunds-Directed to refund the amount with interest.[R. 31A, Form No 26B, Vivad Se Vishwas Act, 2020, S. 5, 6, 7, Art. 226] 2724
The assessee applied under the VSV Act, 2020 and in full and final settlement, Form 5 under the provisions of the VSV Act, 2020 was issued entitling the assessee to a refund. The refund was not issued. On writ, the Court held that once Form 5 under the

VSV Act, 2020 was issued entitling the assessee to a refund of Rs. 2,19,42,954, there was no question of the respondents then requiring to file Form 26B as now sought to be demanded by the respondents. Obligation to refund money received and retained without right implies and carries with it the right to interest. The Revenue is directed to make payment of refund of Rs. 2,19,42,954 along with interest @ 6 per cent per annum on the delayed refund amount w.e.f. 20th Dec., 2022 i.e. beyond the period of 90 days from the date of determination of refund amount on 20th Sept., 2022 till the date of actual payment to the assessee. (AY.2008-09)
Dish TV India Ltd. v. CIT (2025) 342 CTR 430 / 245 DTR 438 (All) (HC)

2725 **S. 244A : Refunds-Interest on refunds-Adjustment of part refund-Refund to be first adjusted towards interest component and thereafter towards principal-Interest under section 244A is allowable accordingly.[S. 140A, 220]**
The dispute related to the manner in which the Revenue adjusted part refunds against outstanding tax demands. The Tribunal held that although the Act does not prescribe the method of adjustment, the principle underlying sections 140A and 220 requires adjustment first against the interest component and thereafter against the principal. Any other method would enable the Revenue to withhold the interest component indefinitely without compensating the assessee under section 244A. Such an adjustment does not amount to payment of interest on interest. Accordingly, the Revenue was directed to first adjust the refund against the outstanding interest component and thereafter against the principal while computing interest under section 244A. (AY. 1993-94 & 1998-99)
Nirma Ltd. v. Dy. CIT (2025) 121 ITR 269 (Ahd.)(Trib.)

2726 **S. 244A: Refunds-Interest on refunds-Assessee entitled to interest up to date of actual receipt of refund.**
The assessee contended that interest under section 244A had not been granted up to the actual date of receipt of refund. The Tribunal held that the assessee was entitled to interest under section 244A till the date on which the refund was actually received and directed the Assessing Officer to grant the consequential relief. (AY. 2011-12).
Boston Consulting Group (India) Pvt. Ltd. v. Dy. CIT (2025) 130 ITR 717 (Mum.)(Trib.)

2727 **S. 244A: Refunds-Interest on refunds-Filing of a revised return to claim additional TDS does not postpone interest on the refund already claimed in the original return filed within time-Where the refund is issued by demand draft, the date of issue of the demand draft is the date of grant of refund. [S. 139(5), 244(1)(a)(i)]**
The Tribunal held that where the assessee had filed its original return within the due date claiming a refund and subsequently filed a revised return only to claim additional TDS credit, the delay attributable to the filing of the revised return would apply only to the additional TDS claimed therein and not to the refund already claimed in the original return. Accordingly, interest under section 244A(1)(a)(i) was directed to be granted from 1st April of the assessment year on the refund arising from the original return. It was further held that where the refund is issued through a demand draft, the date of issue of the demand draft constitutes the date of grant of refund for computing interest under section 244A. (AY. 2017-18)
Suzlon Gujarat Wind Park Ltd. v. DCIT (2025) 238 TTJ 456 / 181 taxmann.com 714 (Ahd.) (Trib.).

S. 244A : Refunds-Interest on refunds-Refund to be adjusted first from the outstanding interest and thereafter the principal amount.[S. 140A, 220] 2728

Appeal was filed against the order of CIT(A) on the ground that adjustment of part income tax refund received by assessee against the total outstanding refund which comprises tax as well as interest is incorrect. The plea was that first the refund needs to be adjusted against the interest element and then the balance towards the principal amount of refund. The tribunal allowed the ground of the assessee by relying on the decision in case of *Union Bank of India v. ITO [72 taxmann.com 348 (Mumbai)]* and on Delhi High Court in the case of *India Trade Promotion Organisation v. CIT [2014] 361 ITR 646 (Delhi)* where it was held that that there is no provision in law for manner of adjustment of part refund granted. And taking into account the provisions of section 140A requiring self-assessment tax paid short by the assessee to be first adjusted against interest outstanding and then against tax, and also the provisions of section 220 charging interest on the portion of outstanding demand of tax including interest, the Court held that the same principle would follow if revenue defaults in full payment of refund. Since section 244A debars payment of interest on interest refund, it held that part refund needs to be adjusted against interest first otherwise the AO would refund the principal amount and not pay the interest component under section 244A for an unlimited period with impunity and without any sanction which would tantamount to allowing a premium on non-compliance with the law (AY.1993-94, 1998-99)

Nirma Ltd v. DCIT. [2025] 172 taxmann.com 429 (Ahd)(Trib)

S. 245: Refunds-Set-off of refunds against tax remaining payable-Adjustment without intimation not valid.[S. 220(6), 237, 244A Art. 226] 2729

Held, allowing the petition, that the adjustment of refund for the assessment year 2021-2022 against the demand for the assessment years 2015-2016 and 2016-2017 and the adjustment refund for the assessment year 2017-2018 against the demand for the assessment year 2016-2017 were quashed and set aside. The refund amount or such additional amount as might have been determined was to be paid to the assessee with interest thereon under section 244A up to the date of payment (AY. 2015-16, 2016-17)

Bharat Petroleum Corporation Ltd. v. ACIT (2025) 482 ITR 946 (Bom)(HC)

S. 245 : Refunds-Set off of refunds against tax remaining payable-Discharged 20 per cent of the tax demand-Entitle to stay-Pendency of rectification application-Respondent is directed to dispose of the refund application filed by the assessee and grant refund of Rs. 3,000,0000 along with interest. [S. 154,246A, 250, Art. 226] 2730

Assessee-company, engaged in manufacture and sale of electric two-wheelers, filed return declaring loss, which was initially accepted. Pursuant to revision under section 263, the Assessing Officer passed a fresh order under section 144 read with section 263/144B, making addition under section 56(2)(viib) and levying penalty under section 271(1)(c), resulting in total demand of Rs. 3.11 crores. Commissioner (Appeals) directed the assessee to pay 20 per cent of the demand, which it discharged by way of earlier refund adjustments. Assessee also filed rectification petition for set-off of unabsorbed depreciation. Meanwhile, refund of Rs. 3.74 crores determined for assessment year 2024-25 was adjusted by CPC against disputed demand for assessment year 2016-17.

On writ allowing the petition, the Court held that, since 20 per cent of tax demand stood discharged and both appeal and rectification petition were pending, assessee was entitled to refund of adjusted amount and deferment of recovery proceedings; adjustment of refund was set aside. (AY.2016-17 & 2024-25)(SJ)
Greaves Electric Mobility Ltd. v. ACIT (2025) 176 taxmann.com 275 /347 CTR 785 / 254 DTR 497 (Mad)(HC)

2731 **S. 245 : Refunds-Set off of refunds against tax remaining payable-Adjustment order passed by the Assessing Officer was in gross violation of principles of natural justice and fair play-The adjustment was quashed, and the revenue was directed to deposit the adjusted amount in Court. [Art. 226]**
An intimation proposing an adjustment of Rs.2.82 crores and Rs.72,209 was sent to assessee. However, after that, assessee was not granted a hearing, and no formal order was made under section 245. Instead, by communication, assessee was informed of adjustment of refund of an amount of Rs.4.91 crores against outstanding demand for assessment year 2018-19-It was noted that assessee had raised objections to proposed adjustments, but no consideration was given to same and no formal order was also made dealing with assessee's objections. On writ the Court held that the adjustment order passed by Assessing Officer was in gross violation of principles of natural justice and fair play. The adjustment was to be quashed and the revenue was directed to deposit the adjusted amount in Court.
Trent Ltd. v. Dy. CIT (2025) 304 Taxman 208 (Bom.)(HC)

2732 **S. 245 : Refunds-Set off of refunds against tax remaining payable-Adjustment of refund pertaining to assessment year 2010-11-Successful Resolution Applicant's (SRA's) claim to have refund for assessment year 2010-11, was rejected-SRA could only claim to have stepped into and managed affairs of corporate debtor from date of approval of resolution plan on 7-11-2017. [Insolvency and Bankruptcy Code, 2016, S. 31, Art. 226]**
The petitioner was a successful resolution applicant (RA), and revenue raised a demand upon it regarding arrear tax dues. The petitioner submitted that the claim was not placed before the Resolution Professional (RP).
The revenue submitted that in the stated table of statutory/other legal liabilities there was provision for 'income tax old' at Rs.14.26 crores. Subsequent disclosure in the writ petition also provided for the manner, in which said amount, approved in the resolution process, was to be paid by assessee. It remained unpaid. In the circumstances, adjustment of the refund against old income tax dues was duly made. On writ, the Court held that SRA could only claim to have stepped into and managed affairs of corporate debtor from date of approval of resolution plan on 7-11-2017. Writ petition was dismissed. (AY. 2010-11)
Sree Metaliks Ltd. v. DGIT (2025) 304 Taxman 58 (Orissa)(HC)

2733 **S. 245: Refunds-Set off of refunds against tax remaining payable-Recovery-Revenue has not issued any prior notice or intimation for making adjustment-Order set aside and refund directed to be paid with interest. [S. 220, 222, 237, Art. 226]**
The assessee's refund for AY 2020-21 was adjusted by the Revenue against outstanding demands for AYs 2016-17, 2017-18 and 2018-19. The High Court noted that adjustment

of refund against demand may, in certain cases, amount to a coercive measure, particularly where interim protection against recovery is operating. In respect of AYs 2017-18 and 2018-19, the issue was covered by the earlier decision in *Huawei Telecommunications India Co. (P) Ltd v. ACIT (WP No. 10835 of 2024 dt-4-12-2024 (Delhi) (HC)* wherein such adjustment was set aside. Further, even regarding AY 2016-17, the Revenue's action was held unsustainable since no prior notice or intimation under S. 245 was issued, and the mandatory procedure for adjustment was not followed. Accordingly, the adjustment of refunds was quashed, and the Revenue was directed to release the refund amount along with applicable interest expeditiously, preferably within eight weeks. (AY. 2020-21)
Huawei Telecommunications India Company (P) Ltd. v. ACIT (2025) 344 CTR 433 249 DTR 134/173 taxmann.com 396 (Delhi)(HC)

S. 245: Refunds-Setting off against tax due-Stay application-Pendency of appeal-Adjustment of refunds for AYs 2021-22 and 2024-25 against demand for AY 2017-18 is bad in law when appeal for AY 2017-18 is pending; such demand ought to be stayed till disposal of the appeal.[S. 143(1), 246A, Art. 226] 2734
A scrutiny assessment for AY 2017-18 led to additions to the assessee's income and a tax demand. The assessee applied for a stay on the demand, but the AO immediately rejected the application and directed payment of 20% of the demand, which the assessee paid. Later, u/s. 143(1), refunds were determined for AYs 2021-22 and 2024-25.
Part of these refunds was adjusted against the outstanding demand for AY 2017-18. While the assessee's appeal for AY 2017-18 was still pending before the CIT (A), the AO initiated reassessment proceedings for that same year. On writ the High Court observed that, concerning reassessment and refund adjustments for AY 2017-18, it established that when an appeal is pending, tax demands should be stayed, and refund adjustments against such demands are not permissible. The demand from reassessment proceedings (u/s 147 r/w 144B) must be stayed until the appeal before the CIT (A) is resolved. Adjustment of refunds for AYs 2021-22 and 2024-25 against the outstanding demand for AY 2017-18 is illegal. The balance demand for AY 2017-18 under both original and reassessment orders is stayed pending appeal disposal.(AY 2021-22, 2024-25)
Rajeshwar Bullion Trading v. ACIT [2025] 175 taxmann.com 889 (Bom)(HC)

S. 245A : Settlement Commission-Settlement of cases-Search & seizure-Proceedings under S.153A deemed pending from date of search-Applications filed before 30-9-2021 maintainable-Orders rejecting applications unsustainable-Applications restored to Interim Board-Interpretation-Anomalous results to be avoided and legislative intent behind deletion of provisions to be effected. [S. 119, 132, 139, 147, 148, 149, 151, 153A, 245C, Art. 226] 2735
On writ, the High Court held that where a search under section 132 is conducted prior to 31-3-2021, all assessment years covered by section 153A stand reopened and are deemed "pending" for purposes of section 245A(b), notwithstanding that earlier proceedings under sections 139/147/148/149/151/153 may have been concluded. The definition of "case" cannot be restricted by Explanation (iiia), as the provisos to section 245A(b) were deleted to expand the scope of pending proceedings, and the Explanations cannot override that legislative intent. Since anomalous results must be avoided, the

only proper interpretation is that a "case" becomes pending from the date of the search itself. Therefore, assessees subjected to search before 31-3-2021 were entitled to file settlement applications up to 30-9-2021 pursuant to CBDT's order under section 119(2)(b), and such applications must be adjudicated by the Interim Board for Settlement. The rejection of applications as not maintainable was invalid, and the applications were directed to be restored.(SJ

New Hope Foundation v. UOI (2024) 167 taxmann.com 474 / (2025) 478 ITR 130 (Ker) (HC)

Editorial: Order of single judge,partly reversed, UOI v. Aayana Charitable Trust (2025) 478 ITR 193 / 175 taxmann.com 908 (Ker)(HC).

2736 **S. 245C: Settlement Commission-Settlement of cases-Conditions-Immunity from penalty and prosecution-High Court held that there was no foundation for finding of full and true disclosure by Settlement Commission-Matter remanded for reconsideration of grant of immunity-Review petition dismissed-SLP dismissed by Supreme Court with clarification that Settlement Commission shall decide matter independently in accordance with law and without being influenced by observations of High Court. [S. 245H, Art. 136]**

On writ petitions filed by the Department challenging the order of the Settlement Commission granting immunity from penalty and prosecution, the High Court held that there was no foundation for the Commission's satisfaction regarding full and true disclosure by the assessees. The matter was therefore remanded to the Settlement Commission for reconsideration of the question whether immunity under section 245H ought to be granted. The review petitions filed by the assessees were dismissed, the Court observing that neither the original order nor the final order of the Settlement Commission disclosed any reasons as to how it was satisfied about full and true disclosure or why the assessees were entitled to immunity. On SLP, the Supreme Court dismissed the petition and clarified that it had not interfered with the direction of remand and that the Settlement Commission shall examine the matter in accordance with law, without being influenced by the findings recorded by the High Court.

Standard Farms Pvt. Ltd. v. CIT (2025) 480 ITR 496 (SC).

Editorial : CIT v. Standard Farms Pvt. Ltd. (2025) 483 ITR 621 (Delhi)(HC).

2737 **S. 245C : Settlement Commission-Settlement of cases-Law amended with retrospective effect from 1-2-2021, but notified on 1-4-2021-Application filed prior to 31-3-2021-No prohibition in statute as on that date for assessee to make such application-Interim Board holding applications invalid-High Court held order of Interim Board not sustainable and remanded matters for consideration on merits-SLP dismissed-Question of law kept open [Ss. 245A(b), 245C, 245D(4), Art. 136].**

Notices under sections 148/153 were issued to the assessees, who filed applications under section 245C(1) before 31-3-2021, i.e., after 1-2-2021 but prior to 1-4-2021. The Interim Board for Settlement treated such applications as invalid by relying upon the amended provisions introduced by the Finance Act, 2021. On writ petitions, the High Court held that though the amendment was stated to operate retrospectively from 1-2-2021, it was notified only on 1-4-2021 and, therefore, till 31-3-2021 there was no statutory prohibition against filing settlement applications. The Court read down para

4(i) of Circular dated 28-9-2021 and held that applications filed between 1-2-2021 and 31-3-2021 were to be treated as pending and eligible for consideration by the Interim Board. Accordingly, the orders of the Interim Board were set aside and matters were remanded for decision on merits. The Supreme Court dismissed the SLP and left the question of law open.(AY. 2010-11, 2013-14, 2016-17, 2017-18, 2019-20, 2020-21)
Interim Board for Settlement v. Krushang Prakashbhai Soni (2025) 480 ITR 695 (SC).
Editorial : Vetrivel Infrastructure v. Dy. CIT (2024) 468 ITR 665 (Guj)(HC).

S. 245C: Settlement Commission-Settlement of cases-Conditions-Bogus purchases-Conduct of assessee not showing co-operation in proceedings-Disclosure was not full and true-Order of settlement commission set aside. [S. 245D(4), 245H(1), Art. 226] 2738
Allowing the petition of the revenue the Court held that, when there was unimpeachable evidence of a much larger amount of concealed income, about which there was no ambiguity, what was disclosed by the assessee in the application filed under section 245C could not be regarded as full and true disclosure of income merely because the assessee, when cornered in the course of the proceedings before the Settlement Commission, offered to disclose the entire concealed income. Since the Settlement Commission had ignored this crucial aspect, the majority order of the Settlement Commission was contrary to the provisions of section 245H(1).(AY. 2004-05 to 2010-11)(Dt. 10-2-2014)
CIT v. ITSC (2025) 483 ITR 606 (Delhi)(HC)

S. 245C : Settlement Commission-Settlement of cases-Failure of Settlement Commission to record satisfaction that assessee has made full and true disclosure as to income and manner of earning it-Grant of immunity not in accordance with law-Matter remanded to Settlement Commission. [S.245H, Art. 226] 2739
On writ petitions by the Department contending that the Settlement Commission had granted the assessees immunity from penalty and prosecution without recording its satisfaction, that there had been a full and true disclosure of the income, which was a mandatory condition under section 245H(1), Court held that the order of the Settlement Commission to the extent it had granted the assessees immunity from penalty and prosecution was set aside and the matter was remanded to the Settlement Commission for a fresh decision on that question in accordance with law. Matter remanded to Settlement Commission.(Dt. 21-7-2017)
CIT v. Raheja Builders Pvt. Ltd.(2025) 483 ITR 619 (Delhi)(HC)
CIT v. Standard Farms Pvt Ltd (2025) 483 ITR 619 (Delhi)(HC)
Editorial : Refer to CIT v. Standard Farms Pvt. Ltd. (2025) 483 ITR 621 (Delhi)(HC), SLP dismissed, Standard Farms Pvt. Ltd. v. CIT (2025) 480 ITR 496 (SC).

S. 245C : Settlement Commission-Settlement of cases-Matter remanded to Settlement Commission-High Court-Review Power limited Review petition not entertainable unless there is an error apparent on face of record [S. 245H, Art. 226, Civil Procedure Code, 1908, s. 114, Sch. 1, O. 47, r. 1.] 2740
On writ petitions by the Department challenging the order passed by the Settlement Commission to the extent that it granted the assessees immunity from prosecution and penalty, the court in *CIT v. Raheja Builders Pvt. Ltd., (2025) 483 ITR 619 (Delhi))* observed that there was no foundation for the finding of the Settlement Commission

that there was full and fair disclosure, and remanded the matter to the Settlement Commission for reconsideration whether or not immunity from penalty and prosecution ought to be granted. On review petitions by the assessees contending that at both stages (at the stage of applications under section 245C and section 245H), there had been no non-co-operation by the assessees, that the assessees' applications had been allowed to be proceeded with by the Settlement Commission on the finding that the assessees fulfilled all the conditions prescribed under section 245C(1) of the Act, read with the background recorded in the order passed by the Settlement Commission, and that that was sufficient to grant immunity:

Held, that no reason had been given by the Settlement Commission either in its initial order December 28, 2011 or in its final order dated June 27, 2013 as to why the Commission had recorded its satisfaction in respect of true and full disclosure and as to why the assessees made out a case for grant of immunity from prosecution and penalty. There was no error apparent on the face of the record or any other grounds that merited consideration for reviewing *CIT v. Raheja Builders Pvt. Ltd., (2025) 483 ITR 619 (Delhi) (HC)*. The matter was remanded to the Income-tax Settlement Commission in terms of *CIT v. Raheja Builders Pvt. Ltd., (2025) 483 ITR 619 (Delhi)(HC)* (Dt. 13-12-2024)

CIT v. Standard Farms Pvt. Ltd. (2025) 483 ITR 621 (Delhi)(HC)

CIT v. Raheja Builders Pvt Ltd 2025) 483 ITR 621 (Delhi)(HC)

Editorial : SLP dismissed, Standard Farms Pvt. Ltd. v. CIT (2025) 480 ITR 496 (SC).

2741 **S. 245C : Settlement Commission-Settlement of cases-Conditions-Abolition of Settlement Commission-Interim Board Settlement Commission inoperative from 1-2-2021-Application on 17-3-202, i.e., prior to date when assent of President of India had been received for Finance Act, 2021-Application was restored to file of Settlement Commission. [S. 24B. 245C(1), 245(5) Art. 226]**

Assessee filed applications before the Settlement Commission for settlement of his income tax matters for assessment years 2014-15 to 2020-21. Settlement Commission treated application as invalid on the ground that the requisite conditions for filing a settlement application under section 245C read with the Finance Act, 2021, press release dated 7-9-2021 and CBDT's order under section 119(2)(b), dated 28-9-2021, had prima facie not been fulfilled. On writ, the Court held that sub-section (5) of section 245C was not to make an application already filed after 1-2-2021 as invalid but it should be read as no application shall be made after 1-2-2021 once assent of President of India had been received, and any application made by assessee before grant of assent would not be hit by sub-section (5) of section 245C. The Settlement Commission was abolished by the Finance Act, 2021, which was notified on 01-04-2021, and an Interim Board was constituted to deal with pending applications. Since assessee filed the application before the Settlement Commission on 17-3-2021 i.e., prior to the date when assent of the President of India had been received for the Finance Act, 2021, the application was to be restored to the file of the Settlement Commission and the Interim Board was directed to consider the said application. The Finance Act, 2021 ((2021) 432 ITR (St.) 52).(AY. 2014-15 to 2020-21)

Pradeep Kumar Naredi v. UOI (2025) 481 ITR 346 / 170 taxmann.com 715 (Cal) (HC)

RSB Industries Ltd. v. UOI (2025) 481 ITR 346 / 170 taxmann.com 715 (Cal) (HC)

S. 245C : Settlement Commission-Settlement of cases-Conditions-Applications of petitioners were validly filed before ITSC which legally and factually existed, i.e., much before Finance Act, 2021 was promulgated on 1-4-2021-Application shall be treated as pending applications to be considered by Interim Board-Direction was issued to consider application. [S. 119(2)(b), 153A, 245C(1), 245C(5), Art. 226] 2742

Petitioner-company was subjected to search and seizure-Subsequently, notices under section 153A were issued to it. Petitioner filed an application under section 245C on 22-3-2021 along with an amount of Rs. 30.04 crore by way of tax and interest on income disclosed in said application as statutorily required. ITSC did not take any action on said application filed by petitioner. Meanwhile, Finance Act, 2021 was promulgated on 1-4-2021 which abolished ITSC and constituted an Interim Board for settlement of pending applications. Petitioner filed a writ petition contending that because of introduction of Finance Bill, 2021, respondents were not accepting applications for settlement under old dispensation. Court held that It cases of assessees commenced with issuance of notice under sections 153A, 153C and 142(1) in month of March, 2021, and settlement applications were made on 22-3-2021, pursuant to orders passed by High Court. Thus, applications were validly filed before ITSC which legally and factually existed, i.e., much before Finance Act, 2021 was promulgated on 1-4-2021. Court held that settlement applications of petitioners, even if filed after 1-2-2021, on 22-3-2021, shall be treated as pending applications to be considered by Interim Board. (AY. 2014-15 to 2020-21)

Megha Engineering and Infrastructure Ltd v. ITSC (2025) 481 ITR 356 / 179 taxmann.com 208 (Delhi)(HC)

Western U.P. Power Transmission Co Ltd v. ITSC (2025) 481 ITR 356 / 179 taxmann.com 208 (Delhi)(HC)

S. 245C : Settlement Commission-Settlement of cases-Full and true disclosure-Assessees disclosed entire receipts and offered part thereof as income after claiming balance as expenses-Deeper factual enquiry required-Rejection of application at stage of s. 245D(2C) not justified-Matter to be proceeded with under s. 245D(4)-Consequent transfer to Interim Board under s. 245AA. [S. 245AA, 245D(2C), 245D(4), Art. 226] 2743

The assessees had disclosed the receipts in full and offered part of such receipts as income while claiming the remaining portion as deductible expenses. The Settlement Commission rejected the applications at the stage of s. 245D(2C) on the ground of absence of full and true disclosure. On writ, the Court held that where receipts are disclosed and only the quantification of allowable expenses requires verification, the matter calls for deeper factual examination. The proper course was to allow the applications to proceed beyond s. 245D(2C) and adjudicate the claim under s. 245D(4) after calling for evidence and determining the correct taxable income. Rejection at the preliminary stage was not justified. The impugned order was quashed. In view of abolition of the ITSC and constitution of the Interim Board for Settlement under s. 245AA w.e.f. 1-2-2021, the matters were directed to be placed before the Interim Board for disposal in accordance with law.

M. Vedamurthy v. ITSC (2025) 345 CTR 375 / 251 DTR 278 (Mad)(HC).

Dr. Maya Vedamurthy v. PCIT (2025) 345 CTR 375 / 251 DTR 278 (Mad)(HC).

RSV Skin & Laser Cenre v. Dy.CIT 2025) 345 CTR 375 / 251 DTR 278 (Mad)(HC).

2744 **S. 245C : Settlement Commission-Settlement of cases-Powers of Central Board of Direct Taxes-Delegated legislation-Maintainability of application-Search conducted prior to 31-3-2021 but notices under sections 153A / 153C issued thereafter-Application filed before 30-9-2021-Rejection on ground that no "case" pending as on 31-3-2021 pursuant to CBDT Order-Held, statutory requirement is pendency of a case on date of application-CBDT cannot expand definition of "case" under section 245A(b) or impose substantive eligibility conditions by delegated legislation-Clause in CBDT Order requiring pendency as on 31-3-2021 held ultra vires-Order partly reversed. [S. 119(2)(b), 132, 153A, 153C, 245A(b), Art. 226]**

The assessees were subjected to search under section 132 prior to 31-3-2021; however, notices under sections 153A / 153C were issued after 31-3-2021. Applications for settlement were filed before the Interim Board for Settlement on or before 30-9-2021, which were rejected relying on CBDT Order dated 28-9-2021 on the ground that no "case" was pending as on 31-3-2021. The single judge allowed the writ petitions holding that pendency had to be reckoned with reference to the date of search. On appeal by the Revenue, the High Court held that in the absence of any challenge to the statutory definition of "case" under section 245A(b), there was no scope to artificially construe search proceedings as constituting pendency; however, section 245C mandates only that a "live and un-adjudicated" case must be pending on the date of filing of the application. The Court further held that the CBDT, while exercising power under section 119(2)(b), could not introduce substantive eligibility restrictions or deny the benefit of extended time to a class of assessees by prescribing an additional cut-off date. Consequently, the clause in the CBDT Order requiring pendency of a case as on 31-3-2021 was held ultra vires the Act. While setting aside the single judge's finding equating search with pendency, the Court upheld the direction to consider settlement applications on merits where notices under sections 153A / 153C were issued between 31-3-2021 and 30-9-2021.

UOI v. Aayana Charitable Trust (2025) 478 ITR 193 / 175 taxmann.com 908 (Ker)(HC).

Editorial : Decision of single judge in New Hope Foundation v UOI (2025) 478 ITR 130 (Ker)(HC), partly reversed.

2745 **S. 245C : Settlement Commission-Settlement of cases-Conditions-Application was filed on 30-3-2021-CBDT's press release giving taxpayers an opportunity to file application for settlement by 30-9-2021-Eligible application though filed after 31-1-2021-Pending application which is required to be considered as pending application for adjudication on merits.[S.153A, 245B, 245D, 245D, 245F, Art. 226]**

During the pendency of assessment proceedings, assessee filed application before Settlement Commission under section 245C on 30-3-2021. Assessing Officer, however, completed assessment proceedings and passed assessment orders on 27-7-2021 on ground that applications was filed before Settlement Commissioner after cessation of settlement commission. CBDT came out with a press release dated 7-9-2021, directing to admit all applications filed after 31-1-2021 and before 30-9-2021. On writ the Court held that application filed by assessee under section 245C would be an eligible application though filed after 31-1-2021 and same was required to be considered as pending application for adjudication on merits. As per provision of section 245F(2), Interim

Board was vested with powers of Settlement Commission and jurisdiction and Income-tax authority could not have proceeded further with assessment proceedings in view of pendency of settlement application before Interim Board. Therefore the assessment order were non est and liable to be quashed and set aside as same could not have been passed as per provision of section 245F(2) of the Act. (AY. 2013-14 to 2018-19)
Sanjay Sevantilal Shah v. Interim Board for Settlement (IBS) (2024) 471 ITR 311 /160 taxmann.com 255 (Guj) (HC)

S. 245D : Settlement Commission-Settlement of cases-Advance tax-Interest-Search and seizure-Seizure of cash not related to payment of advance tax High Court holding Settlement Commission right in refusing to waive interest for default in payment of advance tax-SLP of assesse dismissed. [S. 234B. 234C, 245D(4), Art. 136] 2746
On writ against the order of settlement Commission against orders of the Settlement Commission refusing to waive interest under sections 234B and 234C of the Income-tax Act, 1961, Court held that seizure of cash during the search could not be a ground for waiver of advance tax or payment of tax for the subsequent year and keeping in view that the advance tax was required to be paid, refused to waive the interest under sections 234B and 234C. SLP of assessee dismissed. (AY. 1989-90)
Hari Chand and Ors v. ITSC (2025) 477 ITR 429 (SC)
Editorial : Refer, Sanat Lal v. ITSC (2025) 477 ITR 422 (P& H)(HC)

S. 245D: Settlement Commission-Settlement of cases-True and full disclosure-High Court set aside order of Single Judge interfering with Settlement Commission order-Once ITSC was satisfied about true and full disclosure and had proceeded beyond stage of s. 245D(2C), writ court cannot re-appreciate sufficiency of material or interpretation of seized documents-Alleged calculation error could be brought before appropriate authority for correction. [S. 245C, 245D(2C), 245D(4), Art. 226] 2747
The Single Judge set aside the order passed by the Income Tax Settlement Commission (ITSC) on the premise that the assessee had failed to make a true and full disclosure; however, it was not even the case of the Department that there was absence of true and full disclosure, since in such a situation the ITSC would not have proceeded beyond the stage contemplated under s. 245D(2C). The ITSC having recorded satisfaction regarding true and full disclosure and thereafter passed an order under s. 245D(4), interference in writ jurisdiction was unwarranted. The Court held that even assuming that the ITSC had committed a calculation error or adopted an incorrect interpretation of seized documents, the same would not justify judicial interference, as the High Court cannot sit in appeal over the sufficiency of material considered by the Settlement Commission. If the grievance of the Revenue related to a computational mistake, it was open to the Department to approach the competent authority/Interim Board in accordance with law. Accordingly, the order of the Single Judge was quashed and the order of under s. 245D(4) passed by the ITSC affirmed. (AY. 2006-07 to 2012-13)
Dr. Kamala Selvaraj v. ITSC (2025) 175 taxmann.com 812/ 346 CTR 65 / 252 DTR 316 (Mad)(HC)

2748 **S. 245D : Settlement Commission-Settlement of cases-Procedure-Application-Report by Principal Commissioner-Rejection of request for further enquiry-No adverse inferences drawn in assessment proceedings pursuant to search and seizure Nothing to establish that mere agreement of sale between two persons led to concealment of income Order of Settlement Commission rejecting further enquiry was held to be proper.[S. 132, 153A, 245C, 245D(3), Income-tax Settlement Commission (Procedure) Rules, 1997, R. 9, Art. 226**

The Settlement Commission rejected the plea of the Department for further enquiry. On a writ the Court held that the Settlement Commission, in its order, had specifically referred to seven deeds of registration seized in the search and had found that three of those properties were purchased in the individual names of the partners of the firms in question and not in the names of the assessees. Proceedings under section 153A were initiated and orders were passed, wherein no adverse inference was drawn. The enquiry was with respect to the investment in certain properties found during the search and seizure operation under section 132. There was no enquiry conducted by the Department on the website, and no materials were produced before the Settlement Commission in respect of the properties in question. In respect of the sale agreements, the only contention of the Department was that though notices were issued to the parties mentioned in the deeds, none had appeared, and hence they were bogus persons, and the agreements were set up to conceal the investments made. But for the bland assertion of concealment of income, there was nothing to establish as to how the mere agreement of sale between two persons could lead to concealment of income. The Department also had not conducted any enquiry except for issuing letters to the registered addresses of the persons mentioned in the deeds and on receiving no response, it had styled them as bogus, summarily. On such findings the Settlement Commission had rejected the plea for a further inquiry, which was proper and no interference was warranted.

PRCIT v. ITSC (2025) 478 ITR 577 (Patna)(HC)
PRCIT v. National Paper House (2025) 478 ITR 577 (Patna)(HC)
PRCIT v. Excel Enterprices (2025) 478 ITR 577 (Patna)(HC)

2749 **S. 245D : Settlement Commission-Settlement of cases-Return of income-Delay in filing of return-waiver of interest-Delayed filing of return as of copies of documents seized by Department not supplied in time to assessee-Cause for delay accepted by Settlement Commission-Settlement Commission reducing interest to 50 per cent.-No reasons assigned for partial reduction of interest-Complete waiver warranted when circumstances beyond assessee's control Income-Advance tax-Seizure of cash not related to payment of advance tax-Settlement Commission right in refusing to waive interest for default in payment of advance tax. [S.220(2), 234B, 234C, 245D(4), Art. 226]**

On Writ the Court held that the Settlement Commission had accepted that the returns for the assessment year 1989-1990 could not be filed in time, and were delayed on account of the fact that the seized papers were not available with them. While exercising the discretion by the Settlement Commission, no reasons had been assigned as to why the interest had been reduced by 50 per cent. only, and as to why the complete interest had not been waived for the assessment year 1989-1990. The interest charged in terms

of section 234A was to be waived. As regards seizure of cash during the search could not be a ground for waiver of advance tax or payment of tax for the subsequent year. The advance tax was required to be paid the interest under sections 234B and 234C was not waived.(AY. 1989-90)

Sant Lal and Others v. ITSC (2025) 477 ITR 422 (P&H)(HC)

Editorial : SLP of assessee dismissed, Hari Chandan. v. ITSC (2025) 477 ITR 429 (SC)

S. 245D : Settlement Commission-Settlement of cases-Procedure-Application-Single judge allowing writ petition filed by Commissioner of Wealth-tax and Commissioner of Income-tax against order under section 245D(4) passed by Settlement Commission No allegation that decision of Settlement Commission not in accordance with provisions of Act or based on bias, fraud and malice-Order of single judge in writ petition set aside-Blackstonian theory-Precedent Retrospective application of later judicial decision theory-Decision rendered later would have retrospective effect clarifying legal position which was earlier not correctly understood.[S. 245B(3), 245D(4), Art. 226] 2750

The Commissioner of Income-tax had challenged the final order passed by the Settlement Commission under section 245D(4) of the Act. The single judge set aside the orders of the Settlement Commission. On appeal the Court held that there was no allegation of bias or fraud or malice in the order of the Settlement Commission. It may be true that when the orders in question were passed by the Settlement Commission, the judgment of the Bombay High Court was not decided. But, a judicial decision acts retrospectively as held in Blackstonian theory. It is not the function of the court to pronounce a "new rule" but to maintain and expound the "old one". Judges do not make law, they only discover or find the correct law. The law has always been the same. If a subsequent decision alters the earlier one, the later decision does not make new law. It only discovers the correct principle of law which has to be applied retrospectively. Even where an earlier decision of a court operated for quite some time, the decision rendered later on would have retrospective effect, clarifying the legal position which was earlier not correctly understood. The orders passed by the single judge was quashed and set aside.(AY. 1999-2000 to 2005-06)

Sri Krishna Tiles and Potteries (Madras) Pvt. Ltd. v. CIT (2025) 477 ITR 595/175 taxmann.com 883 (Mad)(HC)

Sri Krishna Tiles and Potteries (Madras) Pvt. Ltd. v. CWT (2025) 477 ITR 595/175 taxmann.com 883 (Mad)(HC)

Editorial : Decision of single judge in CWT v. ITSC (2021) 435 ITR 583 (Mad)(HC)), reversed.

S. 245D : Settlement Commission-Settlement of cases-Cash credits-Share application-Order of Settlement Commission accepting claim for deduction need not be interfered with-Order of Settlement Commission holding that addition of unsubstantiated share capital under s. 68 would not qualify for deduction under s. 80-IC set aside-Section 115BBE (introduced later) not applicable; assessee entitled to special deduction. [S. 68, 80-IC, 115BBE, 245D(3), 245D(4), Art. 226] 2751

The Settlement Commission's conclusions were upheld in large measure. The Director of Industries had certified the claim, and the Assessing Officer had accepted the

deduction under section 80-IC during scrutiny assessments for AYs 2006-07 to 2008-09. In respect of additions to the share capital of entity A (amounting to Rs. 37.60 crores), those additions had already been subjected to tax in assessments of entity A and the Department had identified the source of funds; therefore, the Settlement Commission erred in making further additions on that basis. Section 115BBE-which disallows special deductions for certain incomes-was inserted only by the Finance Act, 2012, with effect from 1 April 2013, and thus did not apply to the assessment years in question. The assessee had explained circumstances for surrendering income and the Department produced no material to displace the claim that the share capital was connected with the business. The Settlement Commission's order was set aside in part (to the extent of certain additions) but, importantly, the assessee was held entitled to consequential relief and the denial of deduction under section 80IC on that ground was set aside.(AY. 2004-05 to 2010-11)
Valley Iron and Steel Co. Ltd. v. PCIT [2024] 161 taxmann.com 72 / (2025) 475 ITR 231 (Delhi)(HC)

2752 **S. 245D : Settlement Commission-Interim Board for Settlement-Settlement pronounced but order not passed-Cessation of Settlement Commission and formation of Interim Board for Settlement-On oath, Vice-President and member of Settlement Commission confirmed conclusion of hearing and pronouncement of settlement-Interim Board directed to pass order under s. 245D(4) accepting settlement as pronounced. [S. 245C(1), 245D(4), Art. 226]**
The assessee stated the Settlement Commission had formally pronounced the case as settled and recorded the terms, with hearings concluded and only the written order under section 245D(4) pending. The Settlement Commission ceased to exist with effect from 1 February 2021 (Finance Bill, 2021), and no orders under section 245D(4) were issued before that date. On affidavit, the Vice-President and a member of the Settlement Commission confirmed that hearings concluded on 28 January 2021 and that the terms of settlement were accepted and pronounced. The Court found the affidavit by the Vice-President and member to be credible and inconsistent with the Assistant Commissioner's case diary account. Consequently, the Interim Board was directed to pass an order under section 245D(4) accepting the application as "settled" on the terms pronounced by the Settlement Commission, granting immunity from penalties and prosecution as indicated.
Gagjibhai Bhurabhai Koshiya & Ors. v. Interim Board of Settlement & Anr. [2024] 161 taxmann.com 48 / (2025) 475 ITR 249 (Guj)(HC)

2753 **S. 245D : Settlement Commission-Settlement of cases-Procedure-Application-Search and seizure-Additional income-Settlement Commission entitled to consider evidence beyond materials seized during search operation or disclosed before it-Writ petition was dismissed. [S.2(22)(e), 132, 245D(4), 245I, Art. 226]**
Dismissing the petition the Court held that section 245D of the Act states that after examination of the records and the report of the Principal Commissioner or Commissioner, if any, "and after examining such further evidence as may be placed before it or obtained by it," the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit. The Commission must pass

orders under section 245D(4) in accordance with the provisions of the Act, but it is not precluded from considering other evidence and materials which were not before the Assessing Officer if they were brought to the notice of the Commission to determine the true and correct undisclosed income of the assessee and this is amply clear from the language employed in the Act. Therefore, the Commission is not barred from considering the material evidence which was not discovered during the search and seizure operation. The order of the Settlement Commission under section 245D(4) is in the nature of a package deal. An assessee cannot be permitted to accept what is favourable to him and reject what is not. (SJ) (AY. 2012-13 to 2018-19)
Thomas Philip v. Interim Board For Settlement and Ors (2025) 474 ITR 215 (Ker)(HC)

S. 245D : Settlement Commission-Search-Additional income-Finding of fact arrived at by Settlement Commission and in absence of any evidence found contrary to disclosure made, order passed by Settlement Commission was just and proper and required no interference. Writ petition of revenue was dismissed. [S. 132, 153A, 245C(1), 245D, Art. 226] 2754

During search under section 132 carried out at premises of assessee, various incriminating documents pertaining to unaccounted income of assessee were found and seized. Thereafter, assessee filed application under section 245C(1) before Settlement Commission offering additional income of certain amount Assessee contended that said income was out of land dealing through one Mr. Kishor P. Koshiya as assessee was parking his fund with him who was making investment, entering into land transactions and parting with gap income with assessee. Settlement Commission admitted application filed by assessee under section 245D(1) Revenue filed writ petition contending that in absence of condition of disclosing manner of earning of additional income disclosed by assessee, Settlement Commissioner could not have accepted settlement application. The Court held that Settlement Commission while accepting application of assessee, found that assessee was not directly dealing with land from which income had been earned which had been invested in land and therefore, it would not be possible for assessee to disclose manner in which such undisclosed income was earned from real estate transaction. Finding of fact arrived at by Settlement Commission and in absence of any evidence found contrary to the disclosure made, the order passed by Settlement Commission was just and proper and required no interference. Writ petition of revenue was dismissed. (AY. 2011-12 to 2017-18)
PrCIT (Central) v. Navinchandra Dalpatlal Mehta (2025) 303 Taxman 551 (Guj.)(HC)

S. 245D: Settlement Commission-Settlement of cases-Interim Board for settlement (IBS)-Deemed dividend-Undisclosed income-Remuneration earned-[S.2(22)(3) 132, 153A, 245C, 245D(4), Art.226] 2755

Assessee filed an application under section 245C admitting undisclosed income of certain amount towards remuneration earned outside banking channels which was admitted. Assessing Officer in his report opined that assessee had not disclosed an additional income to the extent of certain amount. Settlement Commission (IBS) passed a final order settling the income of assessee at a certain amount. Assessee filed a writ petition on issue of loan amount received by assessee from two companies in which

it was a shareholder, which IBS considered as deemed dividend income of assessee under section 2(22), which was dismissed by a single judge, on finding that there was no scope for interfering with the impugned order of IBS in proceedings under Article 226. On appeal against the order of the single judge, dismissing the appeal the Court held that the assessee might be able to demonstrate that loans availed by him for sister concerns were for furtherance of business of group as a whole, and therefore, would not attract concept of deemed dividend, fact remained that from another perspective said amount could be seen as income that was not disclosed for purposes of settlement. Further, a defect that vitiates a settlement must be one that vitiate whole and not merely any one part of the settlement. Therefore, a partial acceptance of a settlement is not envisaged under I.T. Act, and courts must defer to that scheme of statutory finality envisaged for settlement under I.T. Act while exercising jurisdiction of judicial review under Article 226. Order of single judge is affirmed. (AY. 2012-13 to 2017-18)
Thomas Philip v. Interim Board for Settlement-II (2025) 303 Taxman 202 (Ker.)(HC)
Editorial: Thomas Philip v. Interim Board for Settlement-II (W.P (C) No. 1175 of 2024 dt. 21-2-2024 (SJ)

2756 **S. 245H: Settlement Commission-Settlement of cases-Power-Grant of immunity from prosecution and penalty-High Court setting aside order of Settlement Commission and remanding matter for reconsideration on ground that assessee had not made full and true disclosure at the outset-Special Leave Petition dismissed with clarification that remand direction of High Court would remain unaffected and matter to be examined afresh in accordance with law without being influenced by observations of High Court. [S. 245C, Art. 136]**
The assessee had approached the Settlement Commission seeking settlement of its case and the Commission granted it immunity from penalty and prosecution. The High Court, on a review petition, held that for invoking the settlement mechanism the assessee must make a full and true disclosure of undisclosed income at the first instance and that disclosures in instalments would not satisfy the statutory requirement. Observing that there was no basis for the finding of the Settlement Commission that the assessee had made a full and fair disclosure, the High Court set aside the order granting immunity and remanded the matter to the Settlement Commission for reconsideration. On Special Leave Petition by the assessee, the Supreme Court dismissed the petition but clarified that the direction of remand issued by the High Court remained undisturbed and the matter should be examined afresh by the concerned authority strictly in accordance with law without being influenced by any observations or findings recorded in the High Court's judgment. SLP dismissed.
Standard Farms Pvt. Ltd. v. CIT (2025) 480 ITR 496 (SC).
Editorial: Refer to CIT v. Standard Farms Pvt. Ltd. (2025) 483 ITR 621 (Delhi)(HC) against which SLP was preferred

2757 **S. 245H : Settlement Commission-Immunity from prosecution and penalty-Full and true disclosure-Writ petition of revenue was dismissed. [S. 245C, 245D(4), Art. 226]**
The assessee-company approached the Settlement Commission for A.Ys. 2004-05 to 2011-12 and offered additional income for settlement. The Commission, while passing

the final order, granted immunity from penalty and prosecution under section 245H. The Revenue challenged the grant of immunity contending that the Commission had exceeded its jurisdiction and that the statutory conditions were not satisfied. Dismissing the petition, the Court held that since the twin conditions on part of assessee i.e., (i) to make a full and true disclosure and (ii) to cooperate in proceedings, were satisfied for purposes of section 245D(4), the validity of discretionary power exercised by ITSC under section 245H could not be questioned. The order of ITSC was affirmed. Writ petition of revenue was dismissed.(AY. 2004-05 to 2011-12)

Dy. CIT v. ASM Traxim Pvt. Ltd [2024] 169 taxmann.com 40 / (2025) 474 ITR 25 (Delhi) (HC)

S. 245R: Advance rulings-Non-resident-Entitlement to benefits under DTAA-Transfer of shares-Capital gains-Transfer of shares in a foreign company by one non-resident to another-Treaty shopping-Lifting the corporate veil-Department must establish treaty abuse-Share transaction grandfathered under Article 13(3A)-Order of AAR holding transaction as tax avoidance arbitrary and illegal-Assessee entitled to DTAA benefit-SLP filed by Revenue-Operation of order stayed-DTAA-India-Mauritius [S. 45, 90, 119, 245R(2), Arts. 13(3), 13(3A), 27A] 2758

The respondent, a Mauritius-based company, acquired shares of Flipkart Singapore between October 2011 and April 2015. It later transferred them to a Luxembourg entity. The High Court held that the respondent had economic substance, as it incurred expenses of USD 1,063,709 and had liabilities and shareholders' equity of USD 1,764,819,299. The mere connection of two board members with the TG Group did not establish it as a puppet entity under the LOB clause of the India-Mauritius DTAA. The Court held that, as no tax rate was prescribed under Art. 13(3B) for gains from shares acquired before 1-4-2017, the grandfathering provision in Art. 13(3A) applied, excluding the transaction from capital gains tax. The Supreme Court stayed the High Court order pending disposal of the Revenue's SLP. (AY 2018-19)

AAR v. Tiger Global International II Holdings (2025) 303 Taxman 252 (SC)

Editorial: Tiger Global International II Holdings v. AAR (2024) 165 taxmann.com 405 / 468 ITR 405 / 341 CTR 713 (Delhi)(HC)-operation of the order stayed.

S. 246A : Appeal-Commissioner (Appeals)-Appealable orders-National Faceless Appeal Centre Delay in disposal of appeal before Commissioner (Appeals)-Directions issued to expedite adjudication of appeal within stipulated period. [S. 250, Art. 226] 2759

On a writ petition seeking a direction to the National Faceless Appeal Centre to decide, within a period of four to eight weeks, the assessee's appeal under section 246A of the Income-tax Act, 1961, filed on October 14, 2022, which was pending adjudication before the Commissioner (Appeals):

The court directed the National Faceless Appeal Centre to expedite the disposal of the assessee's appeal within a period of eight weeks. The court expressed conceroverer the delay in disposal of appeals, for which the National Faceless Appeal Centre was envisaged and observed that the National Faceless Appeal Centre should endeavour to implement the remedial measures in all earnest.

Suparshva Swabs (I) v. NFAC (2025) 482 ITR 342 (Delhi)(HC)

2760 **S. 246A : Appeal-Commissioner (Appeals)-Appealable orders-Assessment order-Alternative remedy-Writ petition was dismissed with liberty to assessee to avail alternate remedy available under Act. [S.143(3), 250, Art.226]**

Assessment order was challenged by assessee by way of writ petition. On writ the Court held that the assessee had alternate remedy of appeal available under Act. a There was no statement about no alternate or efficacious remedy not being available to assessee. Since assessee had alternate and efficacious remedy to question impugned assessment order, alternate statutory remedy could not be bypassed so casually and without disclosing full and correct facts. Writ petition was dismissed with liberty to assessee to avail alternate remedy available under Act.

Patil Ranajagjitsingh Padmasinha (HUF) v. PCCIT (2025) 304 Taxman 452 (Bom.)(HC)

2761 **S. 249 : Appeal-Commissioner (Appeals)-Form of appeal and limitation-Condonation of delay-Non-consideration of assessee's application-Order passed without examining records amounts to gross negligence-Order set aside and matter remanded-Cost of Rs 10000 was imposed on Department with liberty to recover the same from the erring officer in accordance with law. [S. 246A, 249(3), 250, Art. 226]**

The CIT(A), functioning through the National Faceless Appeal Centre (NAFC), dismissed the assessee's appeal without considering the application for condonation of delay and without taking note of binding judgments of the Supreme Court and the High Court granting time to pursue alternative remedies. The Department fairly conceded before the High Court that the impugned order appeared to have been passed without proper examination of records and deserved remand. The Court held that the action of the CIT(A) reflected gross negligence, if not dereliction of duty, as an appellate authority is expected to examine all relevant aspects before passing an order, and such mechanical disposal caused unnecessary hardship and multiplicity of litigation. Accordingly, the impugned order was set aside and the CIT(A) was directed to consider the appeal afresh after granting personal hearing and to pass a reasoned order within three months. Considering the hardship and litigation expenses suffered by the assessee, the Department was directed to pay costs of Rs. 10,000 to the assessee, with liberty to recover the same from the erring officer in accordance with law. (AY. 2016-17).

Happy Science Bodhgaya India v. PCIT (2025) 175 taxmann.com 997 / 346 CTR 103 / 251 DTR 273 (Pat)(HC)

2762 **S. 249 : Appeal-Commissioner (Appeals)-Form of appeal and limitation-Appeal filed manually-Dismissal of appeal-Appellate authority is directed to take into consideration the date of filing of the manual appeal for the purposes of calculating and appreciating the issue of delay in respect of the appeal preferred online. [S. 250, Art.226]**

The CIT(A) dismissed the appeal filed manually. On writ allowing the petition, the Court held that when the manually filed appeal was dismissed as invalidly filed, the appellate authority is directed to take into consideration the date of filing of the manual appeal for the purposes of calculating and appreciating the issue of delay in respect of the appeal preferred online.

Electron Volt Renewables (P) Ltd. v. ITO [2024] 168 taxmann.com 378 / (2025) 342 CTR 357 / 245 DTR 134 (AP)(HC)

S. 249 : Appeal-Commissioner (Appeals)-Form of appeal and limitation-Condonation of delay-Delay of 5 years and 19 days-Reasonable cause-Order of the CIT(A) in not admitting the appeal of the assessee is quashed, and the appeal is restored to the CIT(A) with a direction to decide the appeal on its own merits.[S.250, 254(1)] 2763

Assessee having not filed the appeal in time on the advice of the professional who was handling its assessment proceedings and subsequently filed the appeal pursuant to the advice of another professional, the reason for the delay given by the assessee appears to be genuine, and bona fide and it cannot be said that there was no sufficient cause for the delay; appeal is restored to the CIT(A) with a direction to decide the appeal on its own merits. Followed: I*nder Singh v. State of Madhya Pradesh 2025 Live Law SC 339, Ramachandra Shankar Deodhar v. State of Maharashtra (1974) 1 SCC 317, A.B. Govardhan v. P. Ragothaman (2024) 10 SCC 613, UOI v. Jahangir Behramjee Jeejeebhoy 2024 INSC 262 and Isha Bhattachrjee (2013) 12 SCC 649* (AY. 2014-15, 2016-17)
Institute of Nephrourology v. DCIT (E) (2025) 236 TTJ 623 (Bang)(Trib)

S. 249: Appeal-Commissioner (Appeals)-Form of appeal and limitation-Condonation of delay-Ex parte assessment-Matter remanded for fresh adjudication. [S. 143(3), 221(1), 271(1)(c)] 2764

The assessee-firm's appeals against the assessment and penalty orders were dismissed by the Commissioner (Appeals) on the ground of delay. The assessee established that the business had been discontinued, the partners had shifted from the place of business and the assessment and penalty orders had never been served, the assessee becoming aware of them only on receipt of a recovery notice. The Tribunal held that sufficient cause had been shown for condonation of delay and that participation by the chartered accountant during assessment proceedings did not establish knowledge of the assessment orders. On the merits, the addition was made solely due to a clerical error in the date mentioned in the supplier's invoice, despite the assessee producing revised invoices and supplier confirmation. Since these documents had not been properly examined, the assessment was restored to the Assessing Officer for fresh adjudication after due verification. As the quantum addition was remanded, the penalty under section 271(1)(c) was also set aside for fresh consideration, if necessary. (AY. 2014-15.)
Geethika Enterprises v. ITO (2025) 128 ITR 556 (Hyd.)(Trib.).

S. 249: Appeal-Commissioner (Appeals)-Form of appeal and limitation-Condonation of delay-Two PANs allotted to assessee-Proceedings initiated under old PAN-Sufficient cause established-Delay was condoned-Matter remanded. [S. 147, 148A, 144, 249(3)] 2765

The assessee-company had inadvertently been allotted two PANs, one in the status of a firm and another in the status of a company. Returns of income were filed under the new PAN, whereas reassessment proceedings were initiated under the old PAN on the basis of information received from the DGFT. Since the assessee was unaware of the proceedings under the old PAN, it could not file appeals within the prescribed time. The Tribunal held that the existence of two PANs constituted sufficient and reasonable cause for the delay in filing the appeals. The delay was condoned, and the matter was restored to the Assessing Officer to verify whether the transactions reported by the DGFT under the old PAN had already been accounted for by the assessee in its books of account. (AY. 2015-16,2017-18)
Lova Impex (P.) Ltd. v. ITO (2025) 238 TTJ 1049 (Hyd.)(Trib.)

2766 **S. 249: Appeal-Commissioner (Appeals)-Form of appeal and limitation-Delay of 1386 days-Ex parte assessment-Non-receipt of notices as they were issued to the jail Superintendent while assessee's father was in jail-Delay was condoned, and the matter was restored to the file of CIT(A) for decision on merits.[S. 144]**

Assessing Officer passed an ex-parte assessment order against assessee under section 144. Assessee filed an appeal before CIT(A) after a delay of 1386 days. CIT(A) dismissed the appeal on the ground of delay. On appeal, the assessee contended that his father was lodged in jail and notices were issued to the jail superintendent, and no compliance with the notices issued by the Assessing Officer could be made. Tribunal held that since an ex parte order had been passed by the Assessing Officer without serving notice to assessee, delay in filing appeal was condoned and matter was remanded back to CIT(A) to decide afresh on merits. (AY. 2017-18)

Rishabh Dev v. ITO (2025) 214 ITD 766 (Dehradun) (Trib.)

2767 **S. 249: Appeal-Commissioner (Appeals)-Form of appeal and limitation-Appeal was served on 7-8-2023-Due date for filing of an appeal was 5-9-2023-Appeal was filed on 25-8-2023-CIT(A) was not justified in dismissing the appeal on the ground of delay-Cash credits-Matter was remanded for deciding on merits.[S. 68, 246A, 250]**

Assessment order was served on assessee on 7-8-2023, and the due date for filing of appeal was 5-9-2023. Assessee filed an appeal on 25-8-2023. Tribunal held that merely issuing an order on 30-3-2023 would not start the due date for filing of the appeal, but the calculation of the due date for filing of the appeal was from the date of service of the order, which was plausible; therefore, CIT (A) was correct in dismissing the appeal on the ground of delay. The matter was remanded to the file of CIT(A) to decide on merits. (AY. 2017-18, 2021-22)

Madhya Gujarat Vij Co. Ltd. v. DCIT (2025) 213 ITD 168 (Ahd) (Trib.)

2768 **S. 249 : Appeal-Commissioner (Appeals)-Form of appeal and limitation-No admitted income-Cash deposited in the Bank-The proviso also provides that when there is good and sufficient reasons, then the appeal can still be admitted-Matter is restored to the CIT(A) to adjudicate the appeal on merits in accordance with law. [S. 69A, 249 (4) (b), 250]**

The AO made addition under section 69A of the Act, in respect of cash deposited in the Bank. The assessee denied the addition u/s 69A of the Act. On appeal, the CIT(A) dismissed the appeal on the ground that the admitted tax was not paid by the assessee. On appeal, the Tribunal held that the assessee, who is residing outside India, has no admitted income in India and is disputing the addition under s. 69A made by the AO, there was no admitted tax liability and, therefore, the appeal filed by the assessee before the CIT(A) could not be dismissed on account of non-compliance with the provisions of s. 249(4)(b).The matter is restored to the CIT(A) to adjudicate the appeal of the assessee on the merits in accordance with law. Followed, *Vishnusharan Chandravanshi v. ITO (2024) 161 taxmann.com 803 (Raipur)(Trib).* (AY.2017-18)

Ritika Jain v. ITO (2025) 233 TTJ 619 / 245 DTR 377 (SMC) (Agra)(Trib)

S. 250 : Appeal-Commissioner (Appeals)-Procedure-There is no provision for rejecting an appeal for non-appearance of appellant-Irrespective of question whether appellant had appeared or not, appellate authority had to take decision by strictly following mandate contemplated under section 250(6) which could only be a decision adjudicating grounds raised in appeal-CIT(A) was directed to decide the appeal within three months from the date of receipt of the order. [S. 10(10C), 89(1),250(6), Art. 226] 2769

The petitioner was an employee ICICI Bank, who took voluntary retirement during the assessment year 2004-05. As part of the benefits of retirement scheme, he received a compensation of Rs.4,52,814/-. He submitted return of income for the said assessment year claiming relief under section 89(1) amounting to Rs.24,353/-.Subsequently he submitted a rectification application, seeking exemption under section 10(10C) on retirement compensation, which was turned down by the assessing officer. Against the same, a revision petition was submitted by the petitioner before the Commissioner (Appeals), which was rejected, relegating the petitioner to invoke the appellate remedies. On writ, the Court held that section 250(6) imposes an obligation upon the appellate authority that while disposing of appeal, the order shall be in writing and shall state points for determination, decision thereon and reason for the decision. It was obligatory on the part of the appellate authority to refer to the points raised in the appeal and to determine the same by supplying reasons for such determination. There is no provision for rejecting an appeal for non-appearance of appellant. Therefore, in the absence of any such provision, irrespective of the question whether appellant had appeared or not, the appellate authority had to take a decision by strictly following the mandate contemplated under section 250(6), which could only be a decision answering points raised in the appeal. CIT(A) was directed to decide the appeal within three months from the date of receipt of the order. (AY. 2004-05)(SJ)

Anandan N v. CIT (Appeals) (2025) 305 Taxman 458 (Ker)(HC)

S. 250 : Appeal-Commissioner (Appeals)-Delay in disposal of appeals involving demands above Rs. 5 crores-On writ, the court directed the Principal Commissioner to ensure disposal of appeals within three months-No coercive recovery measures to be taken till disposal.[S. 156, 246A, 250(6A), Art. 226] 2770

On writ allowing the petition, that there should not be any difficulty on the part of the first appellate authority to decide the appeals at the earliest, more so, taking into account the mandate of section 250(6A) and the guidelines dated March 7, 2024. The Principal Commissioner was to ensure that the appeals filed by the assessee for the assessment year 2020-2021 and 2018-2019 on October 18, 2022 and April 10, 2023 were disposed of within a period of three months. Since no recovery had been made and specific directions were issued to the Principal Commissioner, no coercive measures were to be taken against the assessee in respect of the demands of these assessment years.(AY. 2018-19, 2020-21)

Mega Alloys v. UOI (2025) 476 ITR 631 (Gauhati)(HC)

2771 **S.250: Appeal-Commissioner (Appeals)-Procedure-Delay in disposal-Faceless Appeal-Central Action Plan-Held that the NFAC would endeavor to implement the said remedial measures in all earnestness-Writ petition filed seeking time-bound disposal-Direction issued to dispose of appeal within eight weeks. [S.246A, Art.226]**

The petitioner filed an appeal on 14.10.2022, which remained pending before the Commissioner [CIT(A) for more than two years. Aggrieved by the delay, the petitioner approached the High Court through a writ petition, seeking directions to dispose of the pending appeal within 4 to 8 weeks and to issue guidelines for timely disposal of pending appeals. The petitioner also sought interest and compensatory costs for the delay in adjudication. During the hearing, the Senior Standing Counsel for the National Faceless Appeal Centre (NFAC) submitted a roadmap for the disposal of 5,49,042 pending appeals in a time-bound manner, as per the Central Action Plan 2024-25, which was taken on record by the Court. The High Court observed that the NFAC was created to expedite disposal of appeals and expressed concern over the large backlog. While it did not issue specific guidelines, it expected NFAC to implement remedial measures earnestly. Regarding the petitioner's appeal, the court noted with concern that it had been pending for more than two years and directed that it be taken up for consideration and disposed of expeditiously, within eight weeks. No order was passed on the request for interest or compensatory costs [WP(C) 356/2025 and CM Appl. 1749/2025, dt. 24.02.2025]

Suparshva Swabs (I) v. NFAC (Delhi)(HC)www.itatonline.org

2772 **S. 250: Appeal-Commissioner (Appeals)-Procedure-Additional grounds-Death of assessee-Pendency of application-Order dismissing the appeal-Order set aside and matter remanded to appellate authority for disposal of appeal afresh in light of application for additional grounds and orders passed by Assessing Officer for other years.[S. 246A, Art. 226]**

Allowing the petition, the Court held that it was an undisputed fact that the order passed on November 30, 2023 was against a dead person and was a nullity, non est and void ab initio. The assessment order was not valid. The orders of the appellate authority were set aside, and the matter was remanded to the appellate authority for consideration afresh after considering the application for additional grounds and bearing in mind the assessment orders passed for the preceding and subsequent years by the Assessing Officer.(AY. 2012-13) (SJ)

Estate of the late Nagarathna Rajappa v. ITO (2025) 477 ITR 372 (Karn)(HC)

2773 **S. 250: Appeal-Commissioner (Appeals)-Procedure-Recovery of tax-Stay of recovery pending appeals-Department's inaction on stay application for over six years deprecated-Delay in disposal of stay application-Adjusting refund-Direction to refund excess adjustment and expedite adjudication of pending appeal. [S.143(3), 156, 226, 237, 250(6A); CBDT Instruction No. 1914 dated 21-03-1996; Art. 226]**

An assessment under s. 143(3) resulted in a demand under s. 156. The assessee filed a stay application after voluntarily depositing 20% of the demand. On 6-10-2022, a refund for AY 2022-23 was adjusted against the demand for AY 2015-16. The stay application was decided only on 17-04-2024, granting a stay for the balance demand. The court deprecated the Department's delay (stay application filed 29-01-2018 but decided

after over six years). The Department could not profit from its delay by adjusting a later refund against the earlier demand, which caused the assessee to pay an amount exceeding the 20% voluntarily deposited. The Department ought to have refunded the excess either on the assessee's representation or while passing the stay order. The court directed refund of the excess adjustment and ordered expeditious adjudication of the appeal before the Commissioner (Appeals), and directed investigation into the delay in adjudication. (AY. 2015-16)
Mahesh Mathuradas Ganatra v. CPC (2025) 475 ITR 489 (Bom)(HC)

S. 250 : Appeal-Commissioner (Appeals)-Procedure-Time bound-Pending for ten years-Directions issued for disposal of appeal within six months from the date of order of the court. [S. 246A, 250(6A), Art. 226] 2774
On a writ petition seeking direction for expediting the disposal of a pending appeal before the Commissioner (Appeals) filed under section 246A of the Income-tax Act, 1961, in the year 2015, the Court held that the appeal was filed under section 246A on May 8, 2015, almost ten years back and till date there was no progress in the proceedings before the Commissioner (Appeals). The Commissioner (Appeals) was directed to decide the appeal within six months from the date of the order of the court.
Perfetti Van Melle India Pvt. Ltd v. UOI (2025) 475 ITR 370 (P & H) (HC)

S. 250 : Appeal-Commissioner (Appeals)-Procedure-Time bound disposal of appeals)-Delay in disposal of appeals-Pending for five years-Stipulation of one year period for disposal of appeal in provisions of section 250(6A)-Legislative intent-Inordinate delay would defeat objective of provision-If the appeal was not disposed within this period, the reasons for such delay must be explicitly recorded in the orders, so as to reflect whether the delay was attributable to the assessee or the Department and efforts should be made to decide the appeals maximum within a period of two years-Commissioner (Appeals) directed to decide appeal within three months from date of order of court-The Registry was directed to send a copy of this order to Union of India, the Central Board of Direct Taxes, the Commissioner (Appeals), the Assistant Commissioner and the Principal Commissioner (Central) for necessary compliance. [S. 246A, 250(6A), Art. 226.] 2775
On writ the Court held the Commissioner (Appeals) was directed to decide within a period of three months, the appeal filed by the assessee under section 246A for the assessment year 2018-2019, five years back in the year 2020, in which there was no progress till date. Considering that substantial amount of revenue involved in these appeals remained blocked during the pendency of these proceedings, it was imperative that the appellate authorities should endeavour to dispose of the appeals, preferably within one year as prescribed under the provisions of the Act. If the appeal was not disposed of within this period, the reasons for such delay must be explicitly recorded in the orders, so as to reflect whether the delay was attributable to the assessee or the Department and efforts should be made to decide the appeals within a maximum period of two years. The Registry was directed to send a copy of this order to the Union of India, the Central Board of Direct Taxes, the Commissioner (Appeals), the Assistant Commissioner and the Principal Commissioner (Central) for necessary compliance. Section 250 of the Income-tax Act, 1961 shows the intention of the Legislature since it

has been specifically mentioned that in every appeal, the Joint Commissioner (Appeals) or the Commissioner (Appeals), as the case may be, where it is possible, may hear and decide such appeal within a period of one year from the end of the financial year in which such appeal is filed before him. Although the expression "where it is possible" has been used, the intent of the Legislature unequivocally is in favour of time-bound disposal of appeals. An inordinate delay in adjudication at the appellate level defeats the objective of section 250(6A). (AY. 2018-19)
Kulwinder Paul Singh v. CBDT (2025) 475 ITR 371/ 173 taxmann.com 358 / 344 CTR 310 / 249 DTR 142 (P & H) (HC)

2776 **S. 250 : Appeal-Commissioner (Appeals)-Procedure-Collection and recovery-Assessee deemed in default-Sufficient opportunity was provided-Order of single judge dismissing the writ petition is affirmed-Order is modified to the extent of remitting 20 per cent of the disputed tax as a precondition for filing a stay petition along with the appeal before the Tribunal.[S. 220(6), 250(4), Art. 226]**
On appeal, the Court held that the assessee was repeatedly called upon by the NFAC to produce the supporting documents, if any, he had not chosen to produce any such documents and had only kept on seeking adjournments; there was thus no violation of principles of natural justice; there was no scope to contend that the notices were issued under s. 250(4) as part of the inquiry that would be conducted by the CIT(A) under the said sub-section; nor was there any cause or reason to believe that a separate notice for hearing would be issued to the assessee by the NFAC. However order of the single judge dismissing the writ petition is affirmed. The order is modified to the extent of remitting 20 per cent of the disputed tax as a precondition for filing a stay petition along with the appeal before the Tribunal. (AY.2017-18)
C. Prasannakumaran Unnithan v. CIT [2024] 169 taxmann.com 136 / (2025) 342 CTR 678 / (2024) 244 DTR 289 (Ker)(HC)
Editorial : C. Prasannakumaran Unnithan v. CIT (2025) 342 CTR 684/ (2024) 244 DTR 295 (Ker)(HC), is modified.

2777 **S. 250 : Appeal-Commissioner (Appeals)-Procedure-Penalty-Ex parte order-Commissioner (Appeals) bound to decide appeal on merits-Short and inadequate opportunity of hearing violates principles of natural justice-Matter restored. [S. 250(6), 251, 271B]**
The Commissioner (Appeals) dismissed the assessee's appeal ex parte after issuing notices at long intervals and thereafter granting only seven days for compliance before passing the appellate order. The Tribunal held that an effective opportunity of hearing necessarily means a proper and reasonable opportunity. An appeal cannot be dismissed in limine without adjudicating the issues on the merits, as sections 250(6) and 251 cast a duty on the Commissioner (Appeals) to pass a reasoned order on the merits of the case. Since adequate opportunity had not been afforded to the assessee, the ex parte order was set aside, and the matter was restored to the Commissioner (Appeals) for fresh disposal in accordance with law. (AY. 2014-15)
Vimla Devi Agrotech Ltd. v. Asst. CIT (2025) 121 ITR 117 (Jaipur)(Trib.).

S. 250: Appeal-Commissioner (Appeals)-Procedure-Ex parte order-Technical glitches in uploading documents-Matter restored for fresh adjudication. [S. 251] 2778

The assessee, a Regional Rural Bank, challenged an ex parte order of the Commissioner (Appeals), contending that although it had responded to the notice of hearing, the supporting attachments could not be uploaded due to technical glitches. Further, the subsequent notice contained an incorrect hearing date and though a corrected notice was later issued, the assessee did not receive it and remained under the impression that the original date continued to apply. The Tribunal held that the discrepancy in the hearing dates had deprived the assessee of a reasonable opportunity of being heard. Accordingly, the ex parte order was set aside and the matter was restored to the Commissioner (Appeals) for fresh disposal after granting adequate opportunity of hearing. The assessee was directed to extend full co-operation in the appellate proceedings (AY. 2020-21)

Maharashtra Gramin Bank v. CIT (2025) 121 ITR 12 (SN) (Pune)(Trib.)

S. 250: Appeal-Commissioner (Appeals)-Procedure-Additional evidence-Demonetisation-Cash deposits-Commissioner (Appeals) must examine additional evidence or call for a remand report before deciding the appeal. [S. 68, 139, 142(1), 144, Rule 46A] 2779

The Assessing Officer completed an ex parte assessment treating cash deposits made during the demonetisation period as unexplained. Before the Commissioner (Appeals), the assessee, an aged illiterate farmer, produced additional evidence, including land records and bank statements and explained that the deposits represented agricultural receipts and redeposits of earlier cash withdrawals. He also explained that he could not respond before the Assessing Officer because his only son, who maintained the records, had suffered a prolonged illness and died. The Tribunal held that the Commissioner (Appeals) erred in rejecting the appeal without considering the additional evidence or calling for a remand report from the Assessing Officer as contemplated under Rule 46A. The matter was, therefore, restored to the Commissioner (Appeals) for de novo adjudication after examining the additional evidence and the assessee's contentions. (AY. 2017-18)

Jamuna Shankar Sharma v. ITO (2025) 121 ITR 49 (SN) (Agra)(Trib.)

S. 250: Appeal-Commissioner (Appeals)-Procedure-Speaking order-Reassessment-Charitable Trust-The matter was restored to the Commissioner (Appeals) for fresh adjudication after providing adequate opportunity to the assessee. [S. 11, 12, 12A, 12AA 147, 148, 250(6)] 2780

The Commissioner (Appeals) cannot dismiss an appeal merely for non-compliance by the assessee and is statutorily required under section 250(6) to pass a reasoned and speaking order on the merits. Since the assessee's contention regarding the retrospective benefit of the amended proviso to section 12A(2) was not adjudicated and the appellate order merely affirmed the reassessment order without reasons, the order was held to be cryptic and in violation of section 250(6). The matter was restored to the Commissioner (Appeals) for fresh adjudication after providing adequate opportunity to the assessee. (AY. 2010-11)

Pehal v. ITO (E) (2025) 121 ITR 62 (SN) (Agra)(Trib.).

2781 **S. 250: Appeal-Commissioner (Appeals)-Procedure-Power to direct enquiry-Empowered to direct the Assessing Officer to make necessary enquiries and verify facts where the record so warrants-130 days delay in filing appeal-Incorrect affidavit given by the Assessing Officer-Delay was not condoned-Appeal was dismissed. [S. 153(5), 250(4)]**
The Commissioner (Appeals) is empowered to direct the Assessing Officer to make necessary enquiries and verify facts where the record so warrants. Where the Assessing Officer, pursuant to such directions, verified the identity and creditworthiness of the share subscribers and accepted the transactions as genuine, no useful purpose would be served by remanding the matter merely for the Commissioner (Appeals) to pass a consequential order. Further, the Revenue's appeal, filed with a delay of 130 days based on a factually incorrect affidavit of the Assessing Officer, was held to be barred by limitation, and the delay was not condoned. (AY. 2012-13)
ITO v. Alert Consultants and Credit (P.) Ltd. (2025) 121 ITR 65 (SN) (Kol.)(Trib.)

2782 **S. 250 : Appeal-Commissioner (Appeals)-Procedure-Ex parte order-Reassessment-Addition under S. 69A-Faceless proceedings-Matter remanded to the file of CIT(A). (S 69A, 147, 148, 151, 250(6)**
An ex parte order passed by the Commissioner (Appeals) in a faceless appeal, without affording the assessee an effective opportunity of hearing, cannot be sustained where the possibility of communication gaps between the assessee and counsel cannot be ruled out. The matter was restored to the Commissioner (Appeals)/NFAC for fresh adjudication after granting adequate opportunity to the assessee, who was directed to diligently prosecute the appeal. (AY. 2011-12)
Shyam Sunder Talwar v. ITO (2025) 121 ITR 67 (SN) (Delhi)(Trib.).

2783 **S. 250: Appeal-Commissioner (Appeals)-Procedure-Duty Commissioner (Appeals) cannot dismiss appeal on account of non-prosecution of appeal by assessee Duty-bound to dispose of the appeal through a speaking order on merits, on all the points which arose for determination in the appellate proceedings, including on all the grounds of appeal-Order of the CIT(A) is set aside and he is directed to pass de novo order as per law, in accordance with law. [250(6), 251(2)]**
Commissioner (Appeals) cannot dismiss the assessee's appeal in a summary manner without deciding the appeal on merits through an order in writing, stating the points of determination in the appeal, the decision thereon and the reason for the decision. Order of the CIT(A) is set aside, and he is directed to pass a de novo order as per law, in accordance with law. Followed *CIT v. Kanpur Coal Syndicate (1964) 53 ITR 225 (SC), CIT v. Premkumar Arjundas Luthra (HUF) (2016) 240 Taxman 133/ (2017) 297 CTR 614 (Bom)(HC)*(AY. 2011-12)
Praksh Pushparaj Golcha v. ACIT (2025) 236 TTJ 14 / 174 taxmann.com 219 (Mum)(Trib)

2784 **S. 250: Appeal-Commissioner (Appeals)-Procedure-Condonation of delay-Refusal to condonation of delay and decision on merits-Once the appeal is not admitted on account of delay, the CIT(A) cannot proceed to decide the issue on merit-When CIT(A) has decided the issue on merit despite the delay in filing the appeal, it is deemed or**

implied that the CIT(A) has condoned the delay in filing the appeal and admitted the appeal for adjudication. [S. 249(3), 251, 253]
Held that since the CIT(A) has decided the issue on merit, it is deemed or implied that the CIT(A) has condoned the delay in filing the appeal and admitted the appeal for adjudication; therefore, the delay in filing the appeal before the CIT(A) is condoned for all assessment years. Followed, *Vijayeswari Textiles Ltd. v. CIT (2002) 256 ITR 560 (Mad)(HC) and Nafees Sulatana v. ITO (ITA No. 642/Hyd/ 2025, dt. 28th April, 2025)* (AY 2016-17 to 2021-22)
The Zoos & Parks Authority Of Telangana v. Dy.CIT (E) (2025) 236 TTJ 117/ 174 taxmann. com 1136 (Hyd) (Trib)

S. 250: Appeal-Commissioner (Appeals)-Procedure-Notices sent to the wrong e-mail address-Failure to intimate change of email-Ex parte order was set aside-Cost of Rs 2500 was imposed on each appeal. [S. 254(1)] 2785
Held that the Department issued the notices to the assessee at an email address not specified in Form No. 35 and consequently, the assessee could not avail of the opportunities provided by the office of the CIT(A), the appeals filed before the CIT(A) are restored, with the direction to the CIT(A) to afford an opportunity of being heard to the assessee, and dispose of the appeals afresh. Tribunal also held that since the assessee and her Authorised Representative took no step to apprise the Department that she wanted a change in the email address for communications of notices, a cost of Rs. 2,500 is imposed on the assessee in each appeal. (AY. 2015-16 & 2017-18)
Sangeeta Gupta (Smt.) v. ACIT (2025) 237 TTJ 236 (Jaipur)(Trib)

S. 250 : Appeal-Commissioner (Appeals)-Procedure-Delay in filing-Commissioner (Appeals) treating delay as 551 days instead of 4 days-Matter remanded.[S.80P, 253(3)] 2786
The Commissioner (Appeals) dismissed the appeal on the ground that it was delayed by 551 days, whereas the actual delay was only four days after considering the pandemic-related extensions. The Tribunal held that the Commissioner (Appeals) proceeded on an incorrect factual premise. The matter was restored to the Commissioner (Appeals) for fresh consideration of the application for condonation of delay and, if the delay was condoned, for disposal of the appeal on merits in accordance with law. (AY. 2019-20).
Co-operative Cane Development Union Ltd. v. ITO (2025) 127 ITR 662 (Lucknow)(Trib.)

S. 250 : Appeal-Commissioner (Appeals)-Procedure-Speaking order-Failure to deal with contentions-Matter remanded.[S. 40(a)(i), 250(6)] 2787
The Commissioner (Appeals) dismissed the assessee's grounds relating to disallowance under section 40(a)(i) without discussing the applicability of the Double Taxation Avoidance Agreement or sections 9 and 195. The Tribunal held that section 250(6) mandates a reasoned and speaking order. The non-speaking order violated the principles of natural justice and the matter was restored to the Commissioner (Appeals) for fresh adjudication. (AY. 2017-18 & 2018-19).
SLK Software (P.) Ltd. v. Asst. CIT (2025) 127 ITR 395 (Bang.)(Trib.)

2788 **S. 250 : Appeal-Commissioner (Appeals)-Procedure-Cash credits-Additional evidence filed before Commissioner (Appeals) not considered-Remand report not called for-Matter restored for de novo assessment.[S.68, 69,R. 46A]**

The Assessing Officer made additions under sections 68 and 69 in respect of unsecured loans, unexplained cash deposits, share capital and other credits, besides disallowing 10 per cent. of purchases for want of complete evidence. The Tribunal held that the assessee had produced additional evidence before the Commissioner (Appeals), who dismissed the appeal without calling for a remand report, resulting in violation of rule 46A. As several explanations relating to share capital, unsecured loans, cash deposits and purchases required proper verification, the entire matter was restored to the Assessing Officer for de novo adjudication after admitting the additional evidence and granting adequate opportunity to the assessee. (AY. 2012-13).

Jay Ved Agro Improve (P.) Ltd. v. Dy. CIT (2025) 123 ITR 363 / 174 taxmann.com 1072 (Ahd.)(Trib.)

2789 **S. 250: Appeal-Commissioner (Appeals)-Procedure-Failure to give a reasonable opportunity of hearing-Matter remanded to the file of CIT (A) for de novo adjudication. [S. 10(23C)(iiiad), 143(1) (a)]**

The assessee filed its return of income claiming exemption under section 10(23C) (iiiad), but in the return processed under section 143(1)(a), the benefit of exemption was denied. On appeal, the CIT(A) held that, since the Commissioner (Appeals) gave a very short time to the assessee to furnish details and prima facie it showed that a fair opportunity of hearing was not given to the assessee, the issue was to be restored to the file of CIT (A) for de novo adjudication. (AY. 2019-20)

Sai Shikshan Prasarak Mandal v. ITO (2025) 213 ITD 128 (Pune) (Trib.)

2790 **S. 250: Appeal-Commissioner (Appeals)-Procedure-Ex-parte order by CIT(A)-Reassessment-Land development-Directed to provide one more opportunity of hearing. [S. 45, 147, 148]**

CIT(A) dismissed the appeal ex parte. Tribunal held that in order to meet the principle of natural justice, CIT(A) was directed to provide one more opportunity to the assessee to substantiate her claim. (AY. 2015-16)

Kaushalya Devi v. ITO (2025) 213 ITD 159 (Kol) (Trib.)

2791 **S. 250: Appeal-Commissioner (Appeals)-Procedure-Ex-parte order-Violation of the principle of natural justice-The matter was remanded back to the Commissioner (Appeals) for consideration of the assessee's plea. [S. 144, 153A]**

Tribunal held that since CIT(A) decided ex parte without considering assessee's evidence, leading to denial of opportunity and violation of natural justice, the matter was to be remanded back to CIT(A) to decide on the merits. (AY. 2016-17 to 2018-19)

Bharat Chaturbhuj Vedant v. DCIT (2025) 213 ITD 556 (Jodhpur) (Trib.)

S. 250 : Appeal-Commissioner (Appeals)-Procedure-Second order passed in same appeal-Faceless regime-Cost of Rs.10,000 was imposed on Department.[ITAT Rules, 1963, R. 32A(2)] 2792

The assessee's appeal for AY 2013-14 against additions made u/s 143(3) had been allowed by the CIT(A)-7 vide order dated 22.01.2018 in physical mode. Subsequently, after the introduction of the Faceless Appeal regime, the same appeal was again taken up by the National Faceless Appeal Centre and decided ex parte against the assessee. The Tribunal observed that once the appeal had already been decided, there was no occasion for the CIT(A) to pass a second order in the same matter. The lapse was due to departmental laxity, which caused the assessee to incur unnecessary litigation expenses. The Tribunal set aside the impugned order and directed the Department to pay costs of ₹10,000, equivalent to the appeal fee paid, in accordance with Rule 32A(2) of the ITAT Rules, 1963, within three months.(AY. 2013-14 (ITA No. 519/Mum/2023, Dt. 31.05.2023)
Karnataka Sangha v. ITO (E)-1(4), Mumbai (Mum)(Trib) www.itatonline.org

S. 251 : Appeal-Commissioner (Appeals)-Powers-Matter remanded to Assessing Officer by Tribunal-Consequential order passed by Assessing Officer-On appeal, Commissioner (Appeals) can consider matter on merits and is not bound by order of remand.[S. 254(1) 260A] 2793

Allowing the appeal, the Court held that once the Assessing Officer passes an order, the Commissioner (Appeals) is independently empowered to examine the appeal and is not bound by the orders of remand passed earlier by the Tribunal. The order passed on remand by the Assessing Officer dated March 27, 2001, was not on remand by the Tribunal to the Commissioner (Appeals). The Tribunal, on appeal from the order dated January 16, 2002, therefore, erred in remanding the case back to the Commissioner (Appeals) directing him to follow the order of the Tribunal dated December 31, 1998. The said aspect had been completely ignored in the subsequent order passed by the Tribunal. (BP 1-4 1985 to 31-12-1995)
Vijay Sehgal v. PCIT (2025) 482 ITR 331 (P & H) (HC)

S. 251 : Appeal-Commissioner (Appeals)-Powers-Assessment-Ex parte order-Officer issuing notices should strictly explore possibilities of sending notices through some other mode as prescribed in section 169(1) of GST Act which were also valid mode of service under Act-Delay of six months-Application for condonation of delay was rejected-On writ the delay was condoned, subject to payment of Rs.5000 to the credit of the Principal Government of Naturopathy College and Hospital-Matter remanded to the file of CIT(A) to decide on merits. [S. 143(3), 246A, Central Goods and Services Tax Act, 2017, S.169(1), Art. 226] 2794

Assessing Officer passed ex-parte assessment order. Assessee filed an appeal to Commissioner (Appeals) with a delay of more than six months. He also filed an application for condonation of delay claiming that all show cause notices were issued to an outdated e-mail ID of assessee's former auditor and he was unaware of said notices. Application was rejected on grounds that delay was beyond condonable period i.e., after 6 months from date of ex-parte order. The order also had reference to some provisions of the GST Act. On writ the Court held that when there was no response from tax

payer to notice sent through a particular mode, Officer who was issuing notices should strictly explore possibilities of sending notices through some other mode as prescribed in section 169(1) of GST Act which were also valid mode of service under Act, otherwise it would not be an effective service, rather, it would only fulfilling empty formalities. Since reason assigned by assessee appeared to be genuine, delay in filing appeal was condoned. Delay was condoned, subject to payment of Rs.5000 to the credit of the Principal Government of Naturopathy College and Hospital. Matter remanded to the file of CIT(A) to decide on merits. (AY. 2021-22) (SJ)
Lakshmanan Murugaraj v. CIT (Appeals) (2025) 305 Taxman 656 (Mad)(HC)

2795 **S. 251 : Appeal-Commissioner (Appeals)-Powers-Disciplinary proceedings against Commissioner (Appeals)-Tribunal remanded the matter to the Assessing Officer-Delay in initiation of disciplinary proceedings against respondent, six months prior to retirement of respondent, was fatal-Writ petition of Revenue is dismissed. [Art. 226]**
The Assessing Officer disallowed the Commission and passed an ex parte order. CIT(A) allowed the claim of the assessee. Tribunal reversed the order of the CIT(A). High Court set aside the order of the Tribunal to the Assessing Officer. Revenue initiated the disciplinary proceedings against the CIT(A). CAT dismissed the petition. On writ by the Revenue the Court held that since gravity of charge against respondent was diluted when Tribunal remanded matter back to Assessing Officer, delay in initiation of disciplinary proceedings against respondent, six months prior to retirement of respondent, was fatal. Therefore, the writ petition of the Revenue is dismissed.
UOI v. Vinay Kumar (2025) 302 Taxman 280 (Gauhati)(HC)

2796 **S. 251: Appeal-Commissioner (Appeals)-Powers-Duty to adjudicate jurisdictional grounds-Matter remanded where legal grounds not decided before setting aside assessment. [S. 144, 147, 148, 250, 254]**
The assessee's assessment was completed under section 144 read with section 147 after failure to file a return in response to notice under section 148. The Commissioner (Appeals), relying upon the amended provisions of section 251(1), set aside the assessment for fresh consideration without adjudicating the jurisdictional and legal grounds raised by the assessee. The Tribunal held that such grounds ought to have been decided first. Following its earlier decision on identical facts, it restored the matter to the Commissioner (Appeals) for fresh adjudication of all legal and jurisdictional issues after providing adequate opportunity of hearing to the assessee. (AY. 2012-13)
Arun Kumar Gupta v. Asst. CIT (2025) 128 ITR 186 (Surat)(Trib.).

2797 **S. 251: Appeal-Commissioner (Appeals)-Powers-Additional claim-CIT(A) can entertain a fresh claim made by the assessee, even if such a claim was not made in the return of income or by way of a revised return.[S. 139]**
Held that the CIT(A) can entertain a fresh claim made by the assessee, even if such a claim was not made in the return of income or by way of a revised return. (AY. 2018-19)
Shipping Corporation of India v. DCIT (2025) 235 TTJ 163 / 173 taxmann.com 190 (Mum) (Trib)

S. 251: Appeal-Commissioner (Appeals)-Powers-Remand of matter to Assessing Officer-CIT(A) has no power to remand an appeal to the Assessing Officer except in cases covered by the proviso to section 251(1)(a) i.e., where the assessment is framed under section 144. [.S. 201, 250(6), 251(1)(a)] 2798

The CIT(A), while deciding an appeal arising from an order passed under section 201, restored certain issues to the Assessing Officer for fresh verification. The Tribunal held that, after the amendment made by the Finance Act, 2024 with effect from 1 October 2024, the power of the first appellate authority to remand a matter is confined only to cases where the assessment order under appeal has been passed ex parte under section 144. Since the order before the CIT(A) was passed under section 201, the remand was beyond the jurisdiction conferred by section 251(1)(a). The CIT(A), being a statutory authority, is required to decide the appeal on merits and cannot assume powers not conferred by the Act. Accordingly, the order remanding certain grounds to the Assessing Officer was set aside, and the matter was restored to the file of the CIT(A) with a direction to adjudicate those grounds afresh by passing a reasoned order. (AY. 2017-18)
ITO v. SECL (2025) 238 TTJ 1 (Raipur)(Trib).

S. 251 : Appeal-Commissioner (Appeals)-Powers-Enhancement by Commissioner (Appeals)-Mandatory notice under section 251(2) not issued-Enhancement invalid-Company-Book profit-Recast financial statements-Adjustment not adjudicated-Matter remanded. [S. 115JB, 251(2)] 2799

During appellate proceedings, the Commissioner (Appeals) enhanced the assessee's book profits under section 115JB without issuing a statutory notice under section 251(2). The Tribunal held that issuance of a specific enhancement notice is a mandatory jurisdictional requirement. In the absence of such notice, the Commissioner (Appeals) lacked authority to enhance the income. The enhancement was therefore deleted. The assessee claimed reduction in book profits following recasting of its financial statements to account for hedging costs relating to external commercial borrowings. As the Commissioner (Appeals) failed to adjudicate this issue, the Tribunal restored the matter for de novo consideration in accordance with law (AY. 2019-20).
Indian Railway Finance Corporation Ltd. v. Dy. CIT (2025) 122 ITR 161 / 175 taxmann.com 747 (Delhi)(Trib.)

S. 251: Appeal-Commissioner (Appeals)-Powers-Jurisdiction-Valid order of transfer-Matter remanded to the file of CIT(A) to decide the issue of jurisdiction. [S.127(1), 127(3), 144, 147, 148] 2800

Assessee having specifically assailed the validity of the jurisdiction that was assumed by the AO for framing the assessment vide his order passed under s. 144 r/w s. 147, inter alia, for the reason that the Principal CIT, while transferring the case of the assessee under S. 127, failed to give an opportunity of being heard to him. CIT(A) decided the matter without deciding the issue of jurisdiction. On appeal, the Tribunal held that the CIT(A) was vested with jurisdiction to deal with the specific challenge raised by the assessee as regards the validity of the assessment order and ought to have adjudicated the said issue; the matter is restored to the CIT(A) with a direction to adjudicate the challenge raised by the assessee. (AY.2011-12, 2012-13)
Amit Kumar Gupta v. ITO (2025) 234 TTJ 293/ 171 taxmann.com 16 (SMC) ((Raipur)(Trib)

2801 **S. 251: Appeal-Commissioner (Appeals)-Powers-Direction to AO beyond ground of appeal-Violation of natural justice-Failure to issue show cause notice-The directions of the CIT(A) are deleted. [S.69A]**

CIT(A), having not issued any show-cause notice to the assessee as regards the source of the amount deposited by the assessee in his bank account over and above the impugned addition under S. 69A, which has been disputed in the appeal, the direction given by the CIT(A) to the AO to take suitable action in respect of the said excess deposit is not legally sustainable. (AY. 2017-18)

Rengasamy Asaithambi v. ACIT (2025) 234 TTJ 890 (Chennai)(Trib)

2802 **S. 251 : Appeal-Commissioner (Appeals)-Powers-Expenditure on scientific research-Ex parte order-Matter was remitted back to CIT(A) for de-novo adjudication.[S. 35(1)(ii), 250, 254(1)**

Assessee-company made a donation to a certain institution and claimed a deduction under section 35(1)(ii). CIT(A) passed an ex parte order without hearing the assessee and without considering the evidence already furnished during the assessment proceedings. The matter was remitted to CIT(A) for de novo adjudication. (AY. 2016-17)

Axiomatic iTech (P.) Ltd. v. ITO (2025) 215 ITD 625 (Ahd) (Trib.)

2803 **S. 251: Appeal-Commissioner (Appeals)-Powers-Direction to file the rectification application-Matter remanded to the file of CIT (A) for proper adjudication of claim under section DTAA. [S.90, 154, Rule 128, Article 24 of OECD Model Convention, Form 67]**

Assessee filed its return, which included certain foreign income taxable at special rates under DTAA. The assessee duly filed Form 67 in compliance with Rule 128 before issuance of intimation under section 143(1). The Assessing Officer/CPC processed the return and raised a demand, treating the entire income at normal rates of taxation. On appeal, CIT(A) directed the assessee to file a section 154 rectification application. On appeal, the Tribunal held that since CIT(A) failed to examine the merits, the matter was remanded back to the file of CIT(A) with direction to examine the DTAA claim. (AY. 2024-25)

Suresh Krishnamoorthy v. ITO (2025) 213 ITD 419 (Cochin) (Trib)

2804 **S. 251: Appeal-Commissioner (Appeals)-Powers-Dismissal of appeal ex parte-CIT(A) has no power to dismiss the appeal without discussing the appeal on merits-Matter is remanded to the CIT(A) to decide the grounds on merits. [S. 250(1)]**

Allowing the appeal, the Tribunal held that it is not open to the CIT(A) to dismiss the appeal ex parte without addressing all the grounds of appeal on the merits of the case; the CIT(A) having dismissed the appeal by passing an ex parte order qua assessee without issuing any notice fixing the case for hearing of appeal as mandated by S. 250(1). The order of the CIT(A) is set aside, and he is directed to pass a de novo order as per law, in accordance with law. Followed *CIT v. Premkumar Arjundas Luthra (HUF) (2016) 240 Taxman 133/ (2017) 297 CTR 614/ 154 DTR 302 (Bom)(HC)* (AY.2012-13)

Indu Sharma (Smt.) v. ITO (2025) 233 TTJ 113 (Amritsar)(Trib)

S. 251 : Appeal-Commissioner (Appeals)-Powers-Survey-Surrender of income-No effective disposal of appeal-Matter remanded to the file of the CIT(A).[S. 69 to 69D, 115BBE, 133A] 2805

Held that since there was no effective disposal of case on the merits especially before the Commissioner (Appeals), the case was to be remanded back to the Commissioner (Appeals) with directions to the assessee to avail one more opportunity of hearing as and by way of last chance. (AY. 2019-20)

Karam Chand Sweets v. DCIT (2025) 211 ITD 190 (Chd) (Trib.)

S. 251 : Appeal-Commissioner (Appeals)-Powers-Ex-parte assessment order-Foreign tax credit-Order is set aside-DTAA-India-USA [S. 90, 139(1), Form No.67, Art. 25] 2806

Assessing Officer passed an ex parte assessment order denying the claim of Foreign Tax Credit (FTC) relief under section 90 on the ground that Form No. 67 was not filed along with the return of income. Commissioner (Appeals) held that filing of Form No. 67 before the time limit under section 139(1) [now extended to 139(4)] was mandatory and, having failed to file the same within the 139(1) limit, the Assessing Officer was correct in denying credit of FTC. Assessee claimed that filing of the form was not mandatory and thus, he should be given credit of FTC on late filing of Form No. 67. Since appeal against ex-parte assessment order was still pending before National Faceless Assessment Centre, appellate order passed by the Commissioner (Appeals) is set aside with a direction to decide the same along with the other appeal. (AY. 2019-20)

Kamlesh D. Patel v. ACIT (2025) 210 ITD 681 (Ahd) (Trib.)

S. 251: Appeal-Commissioner (Appeals)-Powers-CIT (A) has wide powers akin to reassessment authority and must ensure thorough adjudication while deleting additions made by AO-Matter remanded back to AO to conduct fresh enquiries.[S. 250] 2807

The AO disallowed the expenditure incurred by the assessee based on the information received from CGST department, citing fraudulent tax invoices. CIT(A) deleted the additions made by the AO citing he acted merely on suspicion without conducting a proper investigation and the AO failed to make further investigations despite it being warranted. ITAT held that CIT(A) is granted wide powers to confirm, reduce, enhance or annul assessments as well as make further enquiries as deemed necessary, and also direct the AO to conduct investigations. The matter was remanded back to the AO to conduct fresh enquiries. (AY. 2018-19)

Dy.CIT v. Edelweiss Tokio Life Insurance Co. Ltd. (2025) 233 TTJ 796 (Mum)(Trib)

S. 251: Appeal-Commissioner (Appeals)-Powers-CIT(A) did not give opportunity to assessee for hearing-Held, CIT(A) does not have power to dismiss appeal summarily without going on merits-matter back to NFAC for de novo consideration. [S. 250, 251(1)(a), 251(2)] 2808

The only issue for consideration before the Tribunal is the summary dismissal of the appeal as no fair and reasonable opportunity of hearing was extended to the Assessee during the appellate proceedings, as the appellant did not receive any notices or communication from the learned CIT(A) to avail an opportunity to represent before CIT(A). The Tribunal observed and held that as per the provisions of s. 251(1)(a) and

(b) and Explanation to s. 251(2) of the Act, the CIT(A) is required to apply his mind to all the issues which arise from the impugned order before him when the same has been raised by the appellant before him. Accordingly, the law does not empower the CIT(A) to dismiss the appeal summarily, as is evident from the provisions of the Act. The matter was remanded back to the CIT(A)/ NFAC for de novo consideration. (AY. 2017-18)
Mushtaq Ahmad Buhroo v. ITO (2025) 233 TTJ 877 (Amritsar)(Trib)

2809 **S. 253 : Appellate Tribunal-Delay of 166 days-Justice-oriented approach-Delay condoned-Tribunal directed to decide appeal on merits.[S. 254(1), Art. 136]**
The Tribunal declined to condone a delay of 166 days in filing an appeal, which was affirmed by the High Court. The Supreme Court held that both the Tribunal and the High Court ought to have adopted a justice-oriented and liberal approach in condoning delay. Accordingly, the delay was condoned, the impugned orders were set aside, and the Tribunal was directed to decide the appeal on merits.
Vidya Shankar Jaiswal v. ITO (2025) 305 Taxman 83 / 343 CTR 39 / 246 DTR 207 (SC)

2810 **S. 253 : Appellate Tribunal-Appeal-Delay of 1797 days-Reasonable cause-Affidavit-Liberal approach in condonation-Tribunal not justified in dismissing appeal without considering explanation-Delay condoned and matter remanded. [S. 254(1), 260A]**
The assessee filed an appeal before the Tribunal with a delay of 1797 days along with an application for condonation supported by an affidavit explaining the circumstances leading to the delay. The Tribunal, without properly considering the reasons assigned or examining whether "sufficient cause" was made out, rejected the application and dismissed the appeal as time-barred without entering into the merits. The High Court held that although delay cannot be condoned mechanically and must be supported by sufficient cause, the merits of a case cannot be thrown out solely on technical grounds of limitation when substantial justice is at stake. A liberal approach is required where refusal to condone delay would undermine adjudication on merits. Since the assessee had placed adequate material showing reasonable and sufficient cause for the delay, the rejection by the Tribunal was not justified. Accordingly, the delay was condoned, and the matter was remanded back to the Tribunal for decision on merits. Reliance was placed on *Inder Singh v. State of Madhya Pradesh (2025 INSC 382, and Mool Chandra v. UOI (2025) 1 SCC 625. Neel Kumar Ajmera Alias Nilesh Ajmera v. PCIT (2025) 344 CTR 797 / 344 CTR 797 / 174 taxmann.com 242 (MP)(HC)*

2811 **S. 253: Appellate Tribunal-Appeals-Delay of 530 days in filing appeal-Delay because assessee was pursuing rectification and review options-Delay must be condoned-Matter remanded to the Tribunal to decide on merits. [S. 80P(2)(a)(i), 260A]**
Allowing the appeal, the Court held that the reason for delay in filing the appeal to the Tribunal was prima facie shown to be bona fide. The record showed that the time spent diligently pursuing the review or rectification application ought to have been condoned and the facts had to be seen in a cluster, not in fragments. Consequently, the delay of 530 days in filing the appeal before the Tribunal had to be condoned. Matter remanded to the Tribunal to decide on merits. (AY. 2018-19)
Sidharth Co-operative Credit and Thrift Society Ltd v. ITO (2025) 478 ITR 424 (Chhattisgarh)(HC)

S. 253 : Appellate Tribunal-Appeals-Condonation of delay of 55 days-Delay in filing appeal on wrong advice of Counsel-Sufficient cause within the ambit of Section 253(5)-Delay is condoned.[S. 12A, 253(5), 260A] 2812

The assessee is the society registered under the Societies Act. It submitted an application in Form 10A for provisional registration u/s 12A, which has been granted by CIT (E). However, the application and Form No. 10AB for permanent registration u/s 12A were rejected by CIT (E).

Aggrieved by such order, the assessee-society filed appeal before the Tribunal, but delayed by 55 days. The assessee-society, in discharge of its onus, explained that the delay occurred due to wrong advice of the Counsel to reapply for registration and due to delay in deciding the second application for registration and realizing the mistake, the appeal before the ITAT was preferred with a delay of 55 days. The ITAT rejected the application for the condonation of delay. On further appeal, the Hon'ble High Court observed that the rejection of appeal for condonation of delay has serious civil consequences upon the status of the society that the society would not be able to claim tax exemption u/s 11 and 12, that no counter affidavit filed by the assessee opposing the application for condonation of delay supported by the affidavit, that the delay occurred for such obvious sufficient cause within the meaning and ambit of the provisions of Section 253(5) of the Act. The Hon'ble High Court noted that the Tribunal ought to have condoned the delay in preferring the appeal as there is no allegation that the delay in filing the appeal is mala fide or it is deliberate; rather, it is bona fide based on wrong advise of the Counsel to reapply for registration and accordingly, the High Court set aside the Tribunal's order with the condonation of delay.

Navodit Samaj Sevi Sanstha v. ITO (2025) 472 ITR 647 /170 taxmann.com 377 /342 CTR 538 / 245 DTR 443 (Chhattisgarh) (HC)

S. 253 : Appellate Tribunal-Appeals-Delay of 680 days-Order of Tribunal dismissing the appeal is affirmed-Payment of employees' contribution towards PF and ESIC beyond due date-Not allowable as deduction.[S. 36(1)(va), 260A] 2813

Assessee-firm made payment of employees' contribution towards PF and ESIC beyond due date and claimed deduction of same under section 36(1)(va). Assessing Officer disallowed the claim. Commissioner (Appeals) dismissed the appeal on the ground of non-compliance. The assessee filed an appeal before the Tribunal with a delay of 680 days. Tribunal declined to condone delay and dismissed appeal. Held that since the appeal filed by the assessee before the Tribunal was not only devoid of merits but also barred by limitation as provided under section 253, the Tribunal had rightly dismissed the appeal of assessee. (AY.2019-20)

BPS Infrastructure v. ITO (2024) 164 taxmann.com 270 / (2025) 473 ITR 357 (Chhattisgarh) (HC)

S. 253 : Appellate Tribunal-Appeals-Vivad Se Vishwas Scheme, 2024-Revenue's appeal-Infructuous. [Vivad Se Vishwas Scheme, 2024, S. 3] 2814

Where the assessee settled the disputed tax under the Vivad Se Vishwas Scheme, 2024 and the Department issued Form No. 3 acknowledging payment of the outstanding dues, the Revenue's appeal became infructuous. However, liberty was granted to the

Department to seek revival of the appeal if any discrepancy was found in the assessee's declaration under the Scheme. (AY. 2011-12)
ITO v. Rashmi Chopra Estate Developers (P.) Ltd. (2025) 121 ITR 67 (SN) (Delhi)(Trib.).

2815 **S. 253: Appellate Tribunal-Appeals-Filing fee-Old regime or new regime-No variation on quantification of assessed income-In terms of provisions of S 253(6), Clause (d) is applicable: filing fees only Rs 500; no defect in filing fees-Delay of 71 days in filing an appeal was condoned. [S.115BC, 253(6)(d), 254(1)]**
Held that the assessee has returned its income as per the new regime specified in terms of S. 115BAC and is disputing the assessment framed under the old regime, determining the taxes at higher rates; the case falls under cl. (d) of s. 253(6), and the assessee was required to pay filing fees of only Rs. 500; hence, there is no defect of alleged short payment of filing fee. The delay of 71 days in filing an appeal was condoned. (AY. 2023-24)
Arun Gopilal SamnanI v. ITO (2025) 236 TTJ 258/ 174 taxmann.com 33 (Ahd)(Trib)
Bhargavkumar Parsottambhai Patel (HUF) v. ITO (2025) 236 TTJ 258/ 174 taxmann.com 33 (Ahd)(Trib)

2816 **S. 253: Appellate Tribunal-Appeals-Respondent can raise jurisdictional ground without filing appeal or cross-objection [S. 254(1), ITAT R. 27]**
Invoke Rule 27 of the Income-tax (Appellate Tribunal) Rules to raise a pure question of law relating to jurisdiction. Since such a ground goes to the root of the assessment, it can be entertained and adjudicated by the Tribunal. (AY. 2020 21)
ACIT v. Ramasubbu Minnalkodi (2025) 238 TTJ 337 (Chennai)(Trib.).

2817 **S. 254(1) : Appellate Tribunal-Powers-Commissioner (Appeals) did not adjudicate the issue on merits-Settlement Commission-Pendency of application-abated-Tribunal condoned the delay and remanded the matter back to Commissioner (Appeals) for fresh consideration-Order of High Court is affirmed-SLP of Revenue is dismissed. [S.133A, 245C, 245D, 245F(2), Art. 136]**
Assessee filed an appeal before the Commissioner (Appeals), who dismissed appeal on account of pendency of the application filed by the assessee before Settlement Commission as per section 245F(2). Settlement Commission disposed of the settlement application as abated on account of amendment in Act. Assessee then filed an appeal before the Tribunal challenging the order passed by Commissioner (Appeals) with an application to condone delay in preferring appeal. Tribunal condoned delay and remitted matter back to Commissioner (Appeals) for fresh consideration on merits On writ by Revenue affirming the order of the Tribunal the Court held that since Commissioner (Appeals) did not adjudicate issue on merits and dismissed appeal as not maintainable in light of Settlement Commission's order abating proceedings, Tribunal had rightly condoned delay in filing appeal and remand matter back to Commissioner (Appeals) for fresh consideration. SLP of Revenue is dismissed. (1999-2000 to 2005-06)
PCIT v. MD Industries (P.) Ltd. (2025) 473 ITR 751 /172 Taxmann.com 92 / 304 Taxman 343 /345 CTR 801 / 252 DTR 273 (SC)
Editorial : PCIT v. MD Industries (P.) Ltd. (2025) 473 ITR 744 /172 taxmann.com 91/ 345 CTR 802 / 252 DTR 274 (Guj)(HC)

S. 254(1): Appellate Tribunal-Powers-Ex parte order by CIT(A)-Tribunal set a side the matter to decide on merits-The assessee trying to use technical reasons-Appeal is dismissed-SLP of assessee is dismissed. [S. 147, 255(8), 263, Art. 136] 2818

High Court held that the Commissioner (Appeals) had dismissed the appeal ex parte. On further appeal, the Tribunal had ex-parte restored the issue back to the Commissioner (Appeals), and the appeal was dismissed by him for non-compliance. The Tribunal, in the interest of natural justice, had restored the issue to the Commissioner (Appeals) so that the assessee could be granted the opportunity to substantiate its case. This clearly showed that the assessee was not interested in showing the reconciliation but had attempted to use technical reasons to avoid the responsibility. This scathing remark of the Tribunal showed the triviality of the matter. The submissions made with regard to section 255 showed the intention of the assessee to delay the case. While scrutinising the documents at hand, it was clear that due compliance had been made with respect to the reassessment proceedings and all the subsequent appeals. Additionally, the assessee had been provided with regular chances to submit his representation, but the assessee had been delaying it. Appeal is dismissed. SLP of the assessee is dismissed. (AY. 2008-09)

L. A. Developers v. CIT (2024) 471 ITR 444 (SC)

Editorial : L. A. Developers v. CIT (2024) 471 ITR 437 (Orissa) (HC)

S. 254(1): Appellate Tribunal-Powers-Condonation of delay-Dealy of six to seven years-Documents were handed over to the counsel-Mistake of counsel-High Court affirming the order of the Tribunal held that there is no general proposition that mistake of counsel by itself is always a sufficient ground for condonation of delay-Order of High Court affirmed-SLP of assessee dismissed. [Art. 136] 2819

Assessee-company filed an appeal before the Tribunal after a delay of six to seven years. Assessee also filed an application for condonation of delay on the ground that it promptly handed over documents to counsel and a professional expert grossly failed to take action, for which assessee-company should not be penalised. Tribunal held that assessee was aware of orders passed by Commissioner (Appeals), but assessee had not exercised any care to enquire about the status of second appeal and tried to shift responsibility towards his lawyer. Tribunal, thus, refused to condone the delay and consequently dismissed appeals as time-barred. High Court held that there is no general proposition that mistake of counsel by itself is always a sufficient ground for condonation of delay, and every case is required to be considered on the basis of the facts and circumstances of the case, and further findings recorded by the Tribunal were just and proper, and there was no infirmity in the order. SLP of assessee dismissed. (AY. 2010-11, 2012-13)

C.I. Builders (P.) Ltd. v. Pr. CIT (2025) 307 Taxman 2 / (2026) 484 ITR 192 (SC)

Editorial: C.I. Builders (P.) Ltd. v. PCIT (2025) 305 Taxman 217 (MP) (HC)

S. 254(1): Appellate Tribunal-Powers-Pendency of application before Settlement Commission-Tribunal condoned the delay and directed the CIT(A) to decide on the merits-High Court affirmed the order of the Tribunal-SLP of revenue dismissed. [S. 245F(2), Art. 136] 2820

Assessee filed an application for settlement before the Settlement Commission. Assessing Officer, meanwhile, passed an assessment order. Assessee filed an appeal before the

Commissioner (Appeals), who dismissed the appeal on account of the pendency of the application filed by the assessee before the Settlement Commission as per section 245F(2). Settlement Commission disposed of the settlement application as abated on account of an amendment in Act. Assessee then filed an appeal before the Tribunal challenging the order passed by the Commissioner (Appeals) with an application to condone delay in preferring appeal Tribunal condoned the delay and remitted the matter back to the Commissioner (Appeals) for fresh consideration on merits. High Court held that since the Commissioner (Appeals) did not adjudicate the issue on the merits and dismissed the appeal as not maintainable in light of the Settlement Commission's order abating proceedings, the Tribunal had rightly condoned delay in filing the appeal and remanded the matter back to the Commissioner (Appeals) for fresh consideration. Since a similar petition in *PCIT v. M.D. Industries (P.) Ltd. [2025] 176 taxmann.com 550 (SC)* had been dismissed; SLP of revenue dismissed. (AY. 1999-2000 to 2005-06)
PCIT v. MD Industries (P.) Ltd. (2025) 307 Taxman 301 (SC)
Editorial : PCIT v. MD Industries (P) Ltd [2025] 172 taxmann.com 91 / 473 ITR 744 (Guj) (HC)

2821 **S. 254(1): Appellate Tribunal-Powers-Settlement Commission-CIT(A) did not adjudicate the issue on merits and dismissed the appeal-Tribunal remanded matter back to CIT(A) for consideration-High Court affirmed the order of the Tribunal-SLP of revenue dismissed.[S. 245D(4), 245HA, 246A, 250, Art. 136]**
The assessee approached the Settlement Commission to determine the issues. However, during the pendency of the settlement proceedings, the AO passed an order under section 143(3). The appeal filed before the CIT (A) was dismissed on the ground that the issues were pending before the Settlement Commission. The Tribunal condoned the delay, allowed the appeal, and set aside the order of the CIT (A), directing that the issues be considered in light of the proceedings before the Settlement Commission. The Supreme Court held that there was no infirmity in the Tribunal's order and directed that the CIT(A) should keep the matter pending until the application before the Settlement Commission is finally determined. The principal reiterated that, in view of section 245F, the Settlement Commission enjoys exclusive jurisdiction, and once an application is admitted, no other income-tax authority has jurisdiction to pass any order on the matters covered by the settlement application. (AY 1999-2000 to 2005-06)
PCIT v. MD Industries (P.) Ltd. (2025) 306 Taxman 89 (SC)
PCIT v. MD Industries (P)(Ltd (2025) 306 Taxman 344 (SC)
Editorial: followed in Pr. CIT v. MD Industries (P.) Ltd. (2025) 306 Taxman 344 (SC), the High Court decision is reported in PCIT v. MD Industries (P.) Ltd. (2025) 172 taxmann.com 91/473 ITR 744 (Guj.) (HC).

2822 **S. 254(1): Appellate Tribunal-Duties-Delay of 166 days-On SLP court held that the Tribunal and High Court ought to have adopted a justice-oriented and liberal approach by condoning the delay of 166 days. Accordingly, the orders were to be set aside by condoning the delay in preferring the appeal and the Tribunal was to decide the appeal in accordance with law.[S. 253(1), 260A, Art. 136]**
An appeal was preferred by assessee before the Tribunal wherein there was a delay of 166 days. Tribunal declined to condone the delay. An appeal was preferred against said

order by the assessee before the High Court, which had also been dismissed. On SLP court held that the Tribunal and High Court ought to have adopted a justice-oriented and liberal approach by condoning the delay of 166 days. Accordingly, the orders were to be set aside by condoning delay in preferring appeal, and the Tribunal was to decide the appeal in accordance with law. (AY. 2014-15)
Vidya Shankar Jaiswal v. ITO (2025) 305 Taxman 83 (SC)
Editorial : Vidya Shankar Jaiswal v. ITO (2024) 162 taxmann.com 284 (Chhatttishgarh) (HC)

S. 254(1): Appellate Tribunal-Duties-Cross objection-Cross-objection only to support first appellate order and no arguments advanced in support thereof-Appeal for other two years Adjudication of issue would apply mutatis mutandis to remaining two assessment years-No question of law arises. [Form No 36A, S. 260A] 2823
Dismissing the appeal, the court held that the assessee had filed the cross-objections only to support the first appellate order. No substantial arguments were advanced in support of cross-objections by the assessee. The appeals of the Revenue having been dismissed for the assessment years 2011-2012, 2012-2013 and 2013-2014, the cross-objection having become academic and infructuous, was not adjudicated (AY.2012-13)
Essence Commodities Pvt. Ltd v. ACIT (2025) 483 ITR 374 (MP)(HC)

S. 254(1): Appellate Tribunal-Powers-Remand-Cross appeal-Power should not be exercised in an arbitrary manner.[S. 260A] 2824
Held that the Tribunal was required to adjudicate on the grounds which were urged before it by the assessee. Remanding the matter in its entirety to the Assessing Officer had caused serious prejudice to the assessees inasmuch as even those reliefs which had been granted by the first appellate authority would stand nullified in view of the Tribunal's direction to the Assessing Officer to redo the whole exercise in its entirety. No cross-appeals were filed by the Revenue against the order of the first appellate authority granting substantial relief to the assessees. The order of remand passed by the Tribunal was quashed.
Kapil Foods and Structures Pvt. Ltd v. Dy. CIT (2025) 483 ITR 586 (Telengana)(HC)

S. 254(1) : Appellate Tribunal-Duties-Ex-parte order by the Tribunal-Principle of natural justice-Duty to grant assessee adequate opportunity to be heard-Order of Tribunal set aside.[S.260A] 2825
On appeal the Tribunal by recording that no representative had appeared on behalf of the assessee on July 12, 2016 and also on the previous occasions proceeded to decide the matter on the merits. Court held that the nature of disputes involved for adjudication of the Tribunal were on factual aspects. The Tribunal being the final fact finding authority was expected to grant sufficient opportunity to the assessee to submit his case. The Tribunal's proceeding to decide the appeal on the merits without granting sufficient opportunity to the assessee would prejudice the assessee's interest. The further appeal under section 260A of the Income-tax Act, 1961 before the court would be on substantial questions of law. In the circumstances, the order of the Tribunal was not sustainable and needed to be set aside on the ground of violation of principles of natural justice.(AY. 2010-11)
Ayub (S/O. Abdul Khadar Tamatgar) v. Jt. CIT (2025) 482 ITR 206 (Karn)(HC)

2826 **S. 254(1) : Appellate Tribunal-Powers-Expert opinion of technical matters-Inspection of factory to decide the matter-Not perverse or any excess of jurisdiction. [S. 260A]**
Revenue raised an objection to the procedure followed by the Tribunal. According to revenue, the members of the Tribunal ought not to have undertaken the exercise of inspecting the mill, as they can hardly be construed to be experts in the field of cement production and technology. Referred to the decision in the case of *CIT v. Bharti Cellular Ltd [2010] 193 Taxman 97/[2011] 330 ITR 239 (SC)* that supports the contention that if at all one were to undertake such exercise, it is best left to the experts in that field. This decision relates to deduction of tax at source by that assessee in the context of interconnect charges/access/port charges to BSNL. Court held that the inspection undertaken has enabled the Tribunal to understand the layout and segments of the factory, the manner in which the processes are carried out and the contribution of those processes to the ultimate output. The action was not perverse and could not be objected to. (AY. 1996-97)
CIT v. Ramco Cements Ltd. [2025] 481 ITR 705 / 173 taxmann.com 226 (Mad)(HC)

2827 **S. 254(1): : Appellate Tribunal-Duties-Delay of six to seven years-Negligence of counsel-Ex-parte order was passed by the CIT(A)-Assessee was aware of negligence of counsel-Appeal was dismissed as time barred-Order of Tribunal affirmed.[S. 253(1), 260A]**
Assessee-company filed appeal before Tribunal after a delay of six to seven years. Assessee also filed an application for condonation of delay on the ground that it promptly handed over documents to counsel and a professional expert grossly failed to take action for which assessee-company should not be penalized. Tribunal held that the assessee was aware of orders passed by the Commissioner (Appeals) but the assessee had not exercised any care to enquire about status of the second appeal and tried to shift responsibility towards his lawyer. Tribunal has relied upon the judgment delivered by the Supreme Court in the matter of *Mani Ram Sewa Nyasi Sangh Ayodhya v. CIT [2020] 119 taxmann.com 3838 (SC),* wherein the Supreme Court has held that it was otherwise the duty of the assessee to watch the affairs of its firm and delay of few days or months can be considered, but delay of years is required to be examined minutely. Tribunal, thus, refused to condone the delay and consequently dismissed the appeals as time-barred. On appeal, the Court held that there is no general proposition that mistake of counsel by itself is always a sufficient ground for condonation of delay and every case is required to be considered on the basis of facts and circumstances of the case. Order of tribunal affirmed.(AY. 2010-11, 2012-13)
C.I. Builders (P.) Ltd. v. PCIT (2025) 305 Taxman 217 (MP)(HC)

2828 **S. 254(1) : Appellate Tribunal-Duties-Tribunal statutorily obliged to consider appeals on merits-Dismissal of appeal for non-prosecution without considering merits of appeal is legally unsustainable.[S. 10B, 260A]**
Tribunal dismissed assessee's appeal for non-prosecution. On appeal, the High Court held that Tribunal was statutorily obliged to consider all appeals on merits, and dismissal for non-prosecution, without considering merits of appeal, was legally unsustainable. The order of tribunal was set aside and it was directed to decide the appeal on the merits. (AY. 2007-08)
Cool Minds Technologies (P.) Ltd. v. ACIT (2025) 305 Taxman 567 (Ker)(HC)

S. 254 (1): Appellate Tribunal-Powers-Additional evidence-Writ of mandamus-In absence of any challenge to order of Appellate Tribunal, it was not permissible to issue a mandamus to Appellate Tribunal to admit and consider remaining documents-Writ petition of revenue was dismissed. [S. 254(2), Art. 226] 2829

Commissioner filed a writ petition before High Court seeking a writ of mandamus directing Tribunal to admit additional evidence submitted by revenue and consider same. Court held that record showed that Tribunal had already allowed certain documents to be produced, which, by implication, meant it rejected production of remaining documents regarding which mandamus was sought Court also observed that order of Appellate Tribunal was not challenged in the instant petition. Accordingly, in absence of any challenge to the order of the Appellate Tribunal, it was not permissible to issue a mandamus to the Appellate Tribunal to admit and consider remaining documents. The writ petition of the revenue was dismissed.

CIT (IT) v. Income Tax Appellate Tribunal (2025) 304 Taxman 444 (Bom.)(HC)

S. 254(1) : Appellate Tribunal-Duties-CIT(A) decided the appeal on merits-Revision by the Commissioner-It was incumbent upon Tribunal to have decided appeal on merits rather than finding that the assessee ought to have questioned under section 263 in separate proceedings-Order of Tribunal set aside to decide for fresh consideration. [S. 115JB, 253, 263, 250, 260A] 2830

Commissioner invoked revisional power on the ground that Assessing Officer had not conducted proper enquiries with respect to assessee's claim for set-off of carry forward depreciation while computing book profit under section 115JB. Commissioner set aside the order of assessment and remanded the matter back to the Assessing Officer to make a fresh assessment as per law. On remand, Assessing Officer passed revised order of assessment. Assessee preferred an appeal before Commissioner (Appeals) who dismissed appeal. Against order of the Commissioner (Appeals), assessee preferred an appeal before the Tribunal. Tribunal held that the order of the Commissioner under section 263 having reached its finality, proceedings consequent to order of the Commissioner under section 263 could not be challenged until and unless proceedings under section 263 were agitated by assessee. Accordingly, appeal was dismissed as not maintainable. On appeal, the Court held that since the Commissioner (Appeals) had decided appeal preferred by assessee against revised assessment order on merits, it was incumbent upon Tribunal to have decided appeal on merits rather than finding that assessee ought to have challenged the order under section 263 in a separate proceedings. Since the Tribunal erred in dismissing appeal preferred by the assessee as 'not maintainable', the order of the Tribunal was set aside and the appeal was restored to the files of the Tribunal for fresh consideration. (AY. 2006-07)

Malabar Institute of Medical Sciences Ltd. v. Dy. CIT (2025) 304 Taxman 690 (Ker.)(HC)

S. 254(1): Appellate Tribunal-Powers-Condonation of delay-Search and seizure-Cross objection-Rejection of assessee's cross-objections on ground barred by limitation-Order of Tribunal quashed and set aside-Tribunal directed to hear cross-objections filed by assessee along with appeal filed by Department.[S. 132, 158BC, 253(5), 254(2), 260A.] 2831

On appeal, the Tribunal held that the Tribunal, instead of considering the facts and

appreciating the submissions made by the assessee, had gone at a tangent by referring to the provisions of section 255(5), ignoring the provisions of section 253(5). From the observations and the findings arrived at by the Tribunal, it was apparent that it had decided the miscellaneous application as if the assessee had filed an appeal rather than referring to the mistake committed by it while rejecting the cross-objection filed by the assessee. When there was sufficient cause explained by the assessee by filing an affidavit in support of the cross-objections, the Tribunal had not applied its mind but had, without any basis, mentioned to the effect that the assessee had made a story for condonation of delay, which was not supported by any evidence and hence, even delay of 31 days could not be condoned. The delay of 31 days was condoned. Order of Tribunal set aside and the Tribunal is directed to decide the matter on the merits.
Bhagwanjibhai N. Delwadia v. ACIT (2025) 479 ITR 367 /179 taxmann.com 62 (Guj)(HC)

2832 **S. 254(1) : Appellate Tribunal-Duties-Cash credits-Share application money-Deleting additions without assigning reasons-Matter remanded to Tribunal to consider afresh and pass reasoned order.[S 68, 260A]**
On appeal by the revenue the Court held that the Tribunal's findings, were not adequately supported by factual analysis or reasons, especially when the Assessing Officer had found that the assessee, being a private limited company, failed to produce directors of the subscribing companies or offer a credible explanation of the sources of funds received as share application money and premium. The order of the Tribunal was set aside and the matter was remanded to the Tribunal for fresh consideration and pass a reasoned order.(AY. 2012-13)
PCIT v. One Point Commercial Pvt. Ltd [2024] 161 taxmann.com 737 / (2025) 478 ITR 183 (Cal)(HC)

2833 **S. 254(1) : Appellate Tribunal-Duties-Alleged AI-generated order-Bias apprehension-Transfer of case-Once the ITAT President reassigned the matter to another Bench, writ petition seeking deferment of hearing became infructuous.[Art. 226, 227]**
The assessee filed a writ petition before the Karnataka High Court seeking a direction to defer ITAT proceedings in ITA No.1051/24 until disposal of its petition pending before the President, ITAT, Mumbai, for transfer of the case to another Bench. It was contended that the earlier ITAT order appeared to have been driven by Artificial Intelligence and was later recalled; some members who were part of that order had recused themselves. The assessee apprehended bias since the same Judicial Member intended to hear the matter again. The High Court had earlier stayed further proceedings before that Member and permitted the President to consider the transfer application. Subsequently, the President assigned the matter to a different Bench. Considering this development, the Court held that the writ petition had become infructuous and disposed it while reserving liberty to the assessee to pursue remedies, if any adverse order is passed. (SJ)
Buckeye Trust v. Registrar, ITAT [2025] 180 taxmann.com 7 (Karn) (HC)
Editorial : Buckeye Trust v. CIT (ITA No. 1051 /Bang / 2024 dt 30-12-2024. ITAT suo-moto recalled the order u/s 254(2) of the Act by order dated 7-1-2025, www.itatonline.org

S. 254(1) : Appellate Tribunal-Powers-Tribunal remanding matter with cost-Cost of ₹50,000 imposed on small trader held to be harsh and unjustified-Order of Tribunal set aside. [S. 250(6), 254(2B), 260A] 2834

The assessee, a small trader of glass articles, filed appeal against the order of the ITAT, Kolkata 'SMC' Bench, for AY 2017-18. The ITAT had remanded the matter to the AO for fresh assessment but imposed a cost of ₹50,000 payable to Legal Aid Services, citing repeated non-compliance of notices. On appeal the assessee explained that due to ill health, poor knowledge of online compliances, and complete reliance on a consultant who failed to appear, he could not attend proceedings before the AO and CIT(A). The High Court observed that the CIT(A)'s order suffered from violation of S. 250(6) as it did not deal with grounds raised by the assessee. The ITAT itself had accepted that the matter required a fresh assessment. In such circumstances, imposing heavy cost on an individual small trader would be harsh and unjustified. The Court accordingly set aside the cost, while remanding the matter to the AO with direction to issue fresh notice and complete assessment after giving full opportunity to the assessee, who undertook to cooperate in the proceedings. Substantial questions of law were left open. Court held that when the Tribunal itself finds that the matter needs to be remanded, imposing hefty cost on a small assessee for restoration is unjustified. (AY. 2017-18)(ITAT/170/2025, IA NO: GA/1/2025, dt. 09/09/2025)

Abdul Mannan v. ITO (Cal)(HC) www.itatonline.org

S. 254(1) : Appellate Tribunal-Duties-Non-resident-Permanent establishment (PE)-DTAA (India-USA)-Issue of PE not considered by Tribunal-Matter remanded to Tribunal to examine the matter afresh-DTAA-India-USA [S.90, 260A, Art. 5, 27] 2835

A mutual agreement procedure (MAP) communication recorded that the competent authorities of India and the US did not determine whether the assessee had an Indian PE. Instead, the parties agreed to an exercise of attribution to settle disputes across years. The Tribunal proceeded without addressing the PE issue. The Court found that the issue of permanent establishment remained unaddressed and had not been brought to the Tribunal's attention. Since the Tribunal proceeded on an incomplete factual and legal foundation, its orders were set aside and the matters remanded to the Tribunal to be decided afresh on merits, leaving all contentions open (AY. 2013-14, 2014-15, 2017-18 to 2019-20)

Convergys Customer Management v. CIT (2025) 474 ITR 439 (Delhi) (HC)

S. 254(1): Appellate Tribunal-Powers-Registration-Trust or institution-Observation of Tribunal that Director (E)'s view in that communication/order was correct-On appeal the Court held that Tribunal exceeded its jurisdiction in virtually upholding said communication/order on its merits-Observation of the Tribunal was directed to be ignored and the statutory authorities are directed to decide as prescribed by the law. [S. 12A,12AB, 253, 260A, Art.226] 2836

Assessee, Board of Control for Cricket in India (BCCI), was granted registration under section 12A on 12-2-1996. Assessee amended its objects in 2006 and 2007. No intimation about such amendments was given to Director (E). Therefore, Director(Ex) wrote to the assessee that since assessee had modified its objects and no intimation of

such modification was sent to him, registration granted to assessee under section 12A on 12-2-1996 did not survive from date on which objects were changed. Assessee filed an appeal before Tribunal. Tribunal held that impugned communication/order did not amount to either cancellation or withdrawal of registration under section 12A and that assessee's appeal was not maintainable under section 253. However, after recording above conclusion, Tribunal held that the registration granted in 1996 could not extend to the amended objects. On appeal the Court held that Tribunal exceeded its jurisdiction in virtually upholding said communication/order on its merits. Court held that such observations and findings were without jurisdiction, and, therefore, such observations/ findings would have to be ignored by revenue, inter alia, when deciding issue of registration under section 12A of the Act.

Board of Control for Cricket in India v. ACIT (2025) 303 Taxman 587 /344 CTR 883 / 248 DTR 399 (Bom.)(HC)

2837 **S. 254(1) : Appellate Tribunal-Duties-ITAT has not dealt with the issue of Document Identification Number (DIN)-Failure to decide Cross objection-Search-Assessment order without DIN-Not uploaded on portal before limitation-Violation of CBDT Circular No. 19 of 2019 dt. 14 th August, 2019-Bogus purchases-Un secured loan-Assessment was not uploaded on Portal before the expiry of limitation-Screen shots-Miscellaneous application was rejected by the ITAT-Order of the ITAT on merit is set aside-Matter remanded to ITAT to decide afresh. [S. 68, 132, 153A, 254(1) 254(2), 260A, IT Rules, 1963,47(2) Form No.36A]**

Pursuant to a search under section 132, assessments were made under section 153A for A.Ys. 2013-14 to 2020-21. The assessee contended that the assessment order lacked a DIN (Document Identification Number) and was not uploaded on the Income-tax Portal within the period of limitation, in violation of CBDT Circular No. 19/2019 dt. 14 th August, 2019. It was also contended that the Tribunal failed to consider the arguments on limitation and DIN, as well as failed to address the assessee's cross objections. Further, it was submitted that the Tribunal reversed findings of CIT(A) without proper reasoning and adopted inconsistent views as compared to the group company's case (Hi-Tech Engineers), even though facts were identical. The Revenue argued that compliance with the Circular was done through other means and that the order was valid. However, the High Court held that the Tribunal did not deal with the issue of DIN and limitation at all, and failed to consider conclusive evidence submitted by the assessee. It noted that the DIN issue goes to the root of the matter and must be addressed. Accordingly, the common orders of the ITAT dated 28-02-2023 and 04-04-2024 (order in MA) were quashed. The Tribunal is directed to decide all appeals afresh, with liberty to both parties to adduce additional materials and grounds (AY. 2013-14 to 2020-21)

Skyway Infraprojects Pvt. Ltd v. DCIT [2025] 176 taxmann.com 992 (Bom)(HC)

Editorial: Skyway Infraprojects Pvt. Ltd v. DCIT (ITA Nos. 2665 / Mum 2022 dt 28-2-223)(Mum) (Trib)

S. 254(1): Appellate Tribunal-Powers-Additional evidence-Revenue produced additional evidence-Matter was remanded to the file of CIT(A) for de novo adjudication. [68, 69C, 80IB, 148] 2838

Revenue has produced subsequent adjudication order of Customs Department covering 51 notices including the assessee's case denying duty entitlement pass book benefit and duty drawback and levying penalties. Tribunal admitted the additional evidence and restored the appeal to the file of CIT(A) for de novo adjudication. (AY. 2002-03, 2005-06 to 2007-08)

ITO v. A.K. Exports (2028) 128 ITR 572 (Chd)(Trib)

S. 254(1): Appellate Tribunal-Powers-Opportunity of being heard-failure to decide on merits-Order of CIT(A) was set aside, and Notices sent to wrong e-mail IDs-The issue is restored to the AO to decide in accordance with law. [S. 69A, 251] 2839

In view of the fact that the CIT(A) sent all the notices, except one, to different email IDs other than the e-mail ID which was mentioned by the assessee in Form No. 35 and the assessee's chartered accountant passed away during the appellate proceedings, it is clear that the assessee did not get a proper hearing; issue is restored back to the AO with a direction to the assessee to substantiate its case that the amount deposited in the bank account is not chargeable to tax under s. 69A. (AY.2017-18)

Sri Guru Thipperudraswamy Devasthana v. ITO (E) (2025) 235 TTJ 202 (Bang)(Trib)

S. 254(1): Appellate Tribunal-Powers-Information gathered from the Google search engine cannot be the basis for arriving at a decision-Tribunal cannot bring new facts on record, specially gathered from external sources/public domain, which do not form part of the orders passed by the lower authorities without confronting the same to the assessee. 2840

Held that the Tribunal cannot bring new facts on record, especially gathered from external sources/public domain, which do not form part of the orders passed by the lower authorities, without confronting the same to the assessee (AY. 2016-17)

DCIT v. Sahil Vachani (2025) 236 TTJ 137 / 126 ITR 172/ 175 taxmann.com 979 ((Delhi) (TM)(Trib)

S. 254(1): Appellate Tribunal-Powers-Jurisdictional validity of assessment order in question due to absence of transfer order under section 127-Commissioner (Appeals) passing order without adjudicating jurisdictional issue despite pending High Court directions-Matter restored to file of Commissioner (Appeals). [S. 127, 143(3), 144B] 2841

Assessee contested the jurisdictional validity of the de novo assessment framed under section 143(3) read with sections 254 and 144B on the ground of absence of a transfer order under section 127, apart from raising substantive grounds relating to interest on capital loans, disallowance under section 40A(2), undervaluation of closing job-in-progress and non-grant of foreign tax credit under section 91, but CIT(A) passed the order without adjudicating the jurisdictional issue despite pending HC directions and without granting a final hearing. On appeal, the Tribunal held that since the Department itself admitted that the matter be restored to the file of CIT(A), it was fit and appropriate to restore the entire appeal to the file of CIT(A) for fresh adjudication. (AY. 2009-10)

DCIT v. Consulting Engineering Services (India) P. Ltd. (2025) 132 ITR 206 (Delhi) (Trib.)

2842 **S. 254(1): Appellate Tribunal-Powers-Delay of 1,566 days-Wrong legal advice-Delay condoned.[S. 253]**

The Tribunal found that the extraordinary delay in filing the appeal occurred because the assessee had not been properly advised by his earlier counsel. Holding that the assessee should not suffer for the mistake of his legal adviser and that sufficient cause had been shown, the Tribunal condoned the delay of 1,566 days and admitted the appeal. (AY. 2013-14).

Ajay Parasmal Kothari v. ITO [2024] 159 taxmann.com 570/(2025) 126 ITR 511 (Mum.) (Trib.)

2843 **S. 254(1) : Appellate Tribunal-Powers-Additional ground-Pure question of law requiring no fresh investigation of facts-Admitted.[S.10AA, 139]**

The assessee raised an additional ground before the Tribunal contending that deduction under section 10AA should be computed on commercial profits instead of income under the head "Profits and gains of business or profession". The Tribunal held that the issue was purely legal and did not require investigation of fresh facts. The additional ground was admitted and the issue remanded to the Assessing Officer for fresh consideration. (AY. 2014-15).

Tata Consultancy Services Ltd. v. Dy. CIT [2023] 154 taxmann.com 372/(2025) 129 ITR 667 (Mum.)(Trib.)

2844 **S. 254(1): Appellate Tribunal-Powers-Additional grounds-Pure question of law arising from record-Additional grounds admissible.**

The assessee sought to raise additional grounds before the Tribunal based on facts already available on record. The Tribunal held that since adjudication of the additional grounds did not require any fresh investigation into facts, the additional grounds deserved to be admitted and decided on merits. (AY. 2017-18).

Practo Technologies Pvt. Ltd. v. Dy. CIT (2025) 129 ITR 229 (Bang.)(Trib.)

2845 **S. 254(1) : Appellate Tribunal-Powers-Delay of 449 days-Delay was condoned and matter remanded to the file of CIT A) to decide on merits. [S. 250]**

Tribunal condoned the delay of 449 days and remanded the matter to the file of CIT (A) to decide on merits. (AY. 2017-18)

Prampreet Kaur v. ITO (2025) 122 ITR 14 (Armritsar)(Trib)

2846 **S. 254(1): Appellate Tribunal-Powers-Delay of 1370 days-Reasons for delay unexplained-Delay was not condoned.[S. 253]**

Assessee filed an appeal before the Appellate Tribunal with a delay of 1370 days, claiming lack of remedial advice from its tax consultant, but could not satisfactorily explain the full period of delay and cited only general reasons. Such an inordinate and unexplained delay was not condoned. (AY. 2018-19)

Attivo Protezione (P.) Ltd. v. ITO (2025) 215 ITD 463 (SMC) (Mum) (Trib.)

S. 254(1): Appellate Tribunal-Powers-Delay of 464 days-Affidavit-Delay was condoned-CIT(A)-Ex-parte order-Not dealing on merits-Matter remanded to the file of CIT(A) to decide on merits.[S.250(6)] 2847

The Tribunal condoned the delay of 464 days in filing the appeal by assessee before the Tribunal, and the reason stated by the assessee in his affidavit showed that assessee was prevented by reasonable cause from filing an appeal. The Tribunal also held that CIT(A) had passed an order in concurrence with the order of the Assessing Officer without himself going into the merits of the case; his order was in violation of the provisions of section 250(6). The matter was remanded to the file of the CIT(A) to decide on the merits. (AY.) 2012-13)

Ananda Kondu Akhade v. ITO (2025) 213 ITD 260 (Pune) (Trib.)

S. 254(1): Appellate Tribunal-Powers-Credit for tax deducted at source-Additional evidence admitted and matter remanded to the file of CIT(A) to decide in accordance with law. [S. 199] 2848

Assessing Officer denied TDS credit on the ground that transactions were not supported with documentary evidence and explanations. Before the Tribunal, the assessee made an application for admission of additional evidence along with details/information substantiating the claim, which could not be submitted before the lower authorities. Tribunal admitted the additional evidence and remanded the matter to the file of CIT(A) for reconsideration.

Anil Vasantrao Deshpande v. NFAC(2025) 213 ITD 450 (Panaji) (Trib.)

S. 254(1) : Appellate Tribunal-Powers-Settled under the Direct Tax Vivad Se Vishwas Scheme, 2024, read with sections 91 and 92 of the Finance (No. 2) Act, 2024-Declaration and particulars to be furnished-Pending appeal of assessee filed before Tribunal was allowed to be withdrawn. [Direct Tax Vivad Se Vishwas Scheme, 2024 read with sections 91 and 92 of the Finance (No. 2) Act, 2024, S.91, 92] 2849

Held that assessee opted to settle the case of quantum assessment under DTVSV 2024 and only the order for full and final settlement of tax arrears under sub-section (2) of section 92 read with section 93 of Finance (No.2) Act, 2024 was awaited; pending appeal of assessee filed before the Tribunal was allowed to be withdrawn. (AY. 2016-17)

LM Wind Power Blades (India) (P.) Ltd. v. DCIT (2025) 213 ITD 408 (Bang) (Trib)

S. 254(1) : Appellate Tribunal-Powers-Additional claim-Not made through revised return of income-Restrictions does not apply to appellate authorities. [S. 139] 2850

The assessee has made additional claim, which was rejected by the AO on the ground that claim was not made through revised return. CIT(A) also affirmed the order of the AO. On appeal the Tribunal held that restriction imposed on Assessing Officer in entertaining an additional claim not made through revised return of income, does not apply to appellate authorities. Matter remanded to the AO to consider the claim on merits in accordance with law. (AY. 2010-11 & 2014-15)

Diebold Nixdorf India (P.) Ltd. v. CIT (2025) 211 ITD 377 (Mum) (Trib.)

2851 **S. 254(2): Appellate Tribunal-Rectification of mistake apparent from the record-Industrial undertakings-Infrastructure development-Contractor-Developer-Tribunal had not considered evidence on record and had merely recorded bare conclusions without setting out any reasons in support thereof, order of Tribunal under section 254(1) of the Act was set aside and matter was remitted back to Tribunal for disposal afresh on merits. [S.80IA(4)(1)(b), 254(1), Art.226]**

Assessee, an un-incorporated joint venture, entered into a contract with a nodal agency, namely, LMRCL, established for the purpose of administering and regulating metro rail in the city of Lucknow, under which assessee was to design and construct an underground tunnel and 3 underground metro stations for a fixed consideration. Assessee filed its return claiming a deduction under section 80-IA for developing an infrastructure facility on profits earned from the aforesaid contract with LMRCL. Assessing Officer denied deduction under section 80-IA on the ground that assessee was only a contractor and not a developer of an infrastructure facility and, further, the condition as set out in section 80-IA(4)(i)(b) was also not satisfied as agreement was not entered into with Central Government, State Government, Statutory Authority or a Local Authority. On appeal, the CIT(A) affirmed the order of the Assessing Officer. Tribunal also confirmed the disallowance made by the Assessing Officer. The Miscellaneous application of the assessee was dismissed by the Tribunal. On writ allowing the petition, the Court held that the Tribunal, while coming to the conclusion that assessee was a mere contractor, had failed to consider various clauses of the agreement entered into by assessee with LMRCL. Court held that since LMRCL was appointed as a nodal agency by the Central and State Governments for the administration of the metro rail project in Lucknow, the agreement entered into by assessee with LMRCL would satisfy the requirement of section 80-IA(4)(i)(b). Since the Tribunal had not considered the evidence on record and had merely recorded bare conclusions without setting out any reasons in support thereof, the order of the Tribunal was set aside, and the matter was remitted back to the Tribunal for disposal afresh. (AY. 2017-18, 2018-19)

Gulermak TPL Joint Venture v. ITAT (2025) 307 Taxman 597 (Bom.)(HC)

Editorial : Dy.CIT v. Gulermak Tpl Joint Venture (2025) 234 TTJ 497 / 211 ITD 349 (Mum)(Trib)

2852 **S. 254(2): Appellate Tribunal-Rectification of mistake apparent from the record-Affidavit-Copy of second paper book served on respondents-No denial of averment of assessee in petition that second paper book filed-Tribunal rejecting miscellaneous application without considering second paper book-Order of Tribunal quashed, remanded to Tribunal for consideration of second paper book.[S. 254(1), Art. 226]**

Tribunal dismissed the miscellaneous application filed by the assessee for not considering the second paper book filed by the assessee. On writ, the Court held that there was no denial of the averments in paragraph 4.4 of the petition, about the first paper book, second paper book of seventy-one pages, when it was filed, and the fact that the copy of the second paper book of seventy-one pages was served on the respondents. On February 23, 2022, the court had directed the first respondent to file an affidavit after inspecting the records and proceedings and make a statement whether such a paper book was filed. The affidavit had been filed stating that the paper book

was not found. The assessee had filed an affidavit through its director stating that the paper book was filed. A copy of the paper book was also served on October 1, 2019, on the Departmental representative through a covering letter addressed to the Registrar, Appellate Tribunal. In the circumstances, the assessee's explanation that a paper book containing seventy-one pages was filed was accepted. Without going into or dealing with this point, the Tribunal had simply rejected the miscellaneous application. Therefore, the order was quashed and set aside and remanded the matter to the Tribunal with a direction to the assessee to file a compilation once again in the Tribunal within two weeks, and the Tribunal shall consider the compilation and decide whether its order dated November 13, 2019, dismissing the assessee's appeal required any modification. (AY. 2014-15)

Biryas Finance and Investments Pvt. Ltd v. ITO (2025) 482 ITR 927 (Bom)(HC)

S. 254(2) : Appellate Tribunal-Rectification of mistake apparent from the record-PF/ESI contribution-Subsequent decision of Supreme Court-Cannot be ground for rectification-Tribunal erred in recalling its order on the basis of subsequent ruling-Writ petition allowed. [S. 254(1), 143(1)(a), 36(1)(va), 43B, 260A, Art. 226, CPC O.47 R.1] 2853

The assessee filed return for AY 2019-20. CPC disallowed employees' PF/ESI contribution u/s 36(1)(va) read with S. 43B, adjusted u/s 143(1)(a). CIT(A) upheld the addition relying on Expl. 5 to S. 43B (Finance Act, 2021). On appeal, ITAT allowed the claim holding amendment prospective, relying on *CIT v. Alom Extrusions Ltd. (2009) 319 ITR 306(SC)* and *CIT v. Ghatge Patil Transport Ltd. (2014) 368 ITR 749, Bom)(HC) Revenue filed MA u/s 254(2) relying on Checkmate Services (P.) Ltd v. CIT (2022) 143 taxmann.com 178/448 ITR 518 (SC)*. ITAT recalled its earlier order, holding Checkmate constituted "mistake apparent from record", relying on *ACIT v. Saurashtra Kutch Stock Exchange Ltd. (2008 305 ITR 227, SC)*. On writ, the Bombay High Court held that S.254(2) powers are akin to review under CPC O.47 R.1. Explanation to O.47 R.1 bars review on the ground of a subsequent decision of a superior court. Subsequent ruling cannot constitute a "mistake apparent from record". Saurashtra Kutch Stock Exchange (Supra) dealt with a prior binding decision not noticed; it does not lay down that subsequent decisions can be a basis for recall. The Tribunal therefore exceeded its jurisdiction in recalling its order. Writ petition allowed and ITAT orders dated 17-09-2024 set aside. Revenue, however, is not precluded from filing appeal u/s 260A against the original ITAT order dated 05-09-2022. (AY. 2019-20)

Vaibhav Maruti Dombale v. Assistant Registrar, ITAT(2025)481 ITR 103/ 178 taxmann.com 447 / 347 CTR 42 / 254 DTR 279 (Bom)(HC)

S. 254(2): Appellate Tribunal-Rectification of mistake apparent from the record-Failure to appear due to indisposition of advocate-Order of Tribunal quashed and set aside-Appeal restored.[S. 254(1), Art. 226] 2854

The assessee filed a miscellaneous application stated to be under S. 254(2). Since the provision deals with rectification, the Tribunal could not be faulted for examining the matter from that perspective. However, while rejecting the application, the Tribunal also held that it was not satisfied with the cause shown for non-appearance and referred to its earlier observation that what could not be collected in five years could not be

produced within twenty days, and that the adjournment sought was a challenge to the functioning of the Bench. The High Court held that the Tribunal failed to appreciate that the real issue was whether sufficient cause was shown for absence on the date of hearing. The assessee had specifically pleaded indisposition of the advocate, supported by a medical certificate, and had also filed additional grounds and documents along with the application, thereby addressing the Tribunal's earlier concern. Accordingly, the impugned order was quashed and set aside, the miscellaneous application was allowed and the appeal was restored. (AY. 2014-15)
Poonam Pujari v. Assistant Registrar of ITAT (2005) 344 CTR 429 / 247 DTR 93 (Orissa) (HC)

2855 **S. 254(2): Appellate Tribunal-Rectification of mistake apparent from the record-Review-Statutory dues like the Provident Fund and Employees State Insurance-Payments were made before due date of filing of return-Allowed by the Tribunal-Corporation-Not deposited before due date of respective Acts-Delay of 92 days in filing miscellaneous application-Tribunal allowed the miscellaneous application of the Revenue of the basis of Subsequent Judgement of Supreme Court in Checkmate Services Private Limited v. CIT (2022) 448 ITR 518 /290 Taxman 19 (SC)-On writ against the order of the Tribunal allowing the miscellaneous application of the Revenue is quashed and set aside-Tribunal cannot review the order based on the subsequent decision of Supreme Court-Tribunal has no power to condone the delay in filing the miscellaneous application. [S. 2(24)(x),36(1)(va) 43B, 139(1), Art. 226, Civil Procedure Code, 1908, Order XLVII, Rule 1.]**
The assessing officer disallowed the certain amounts in regard to the payment of the statutory dues like the Provident Fund and Employees State Insurance Corporation under Section 36(1)(va) of the Income-Tax Act, on the ground that the payments were not made within the statutory period of respective Acts,though the payments were made before due date of filing of return. CIT(A) allowed the claim on the ground that the payments were made before due date of filing of the return. Order of CIT(A) is affirmed by the Tribunal. The order of the Tribunal was dated 26 th July 2022. Subsequently the Honourable Supreme Court in *Checkmate Services Pvt Ltd v. CIT (2022) 448 ITR 518 /290 Taxman 19 (SC)* held that the payment is not allowable as deduction unless the payments are made within specified dates of the Respective Acts. The order of the Supreme Court is dated 12-10-2022. The Revenue has filed Miscellaneous application before the Tribunal to rectify the order of the Tribunal based on the Judgement of Supreme Court in *Checkmate Services Pvt Ltd v. CIT (2022) 448 ITR 518 /290 Taxman 19 (SC).* The miscellaneous application of the Revenue was delayed by 92 days. The Tribunal allowed the Miscellaneous application of the Revenue. The petitioner filed a writ petition and contended that the Tribunal has no power to condone the delay in filing the Miscellaneous application and also the Tribunal cannot review the order based on the subsequent decision of Supreme Court. Allowing the petition, the Court held that the Tribunal was in a patent error in exercising jurisdiction under Section 254(2) and setting a side the original order. The order of the Tribunal is quashed on the grounds of delay as well as on the merits. Referred to *Sanjay Kumar Agrawal v. State Tax Officer (1) and Another 2024) 2 Supreme Court Cases 362., Beghar Foundation v. Justice K. S.*

Puttaswamy [2021] 278 Taxman 1. (SC), CIT v. Income Tax Appellate Tribunal [2017] 85 taxmann.com 42 (Bom) (HC),Dy.CIT v. ANI Integrated Services Ltd [2024] 162 taxmann. com 889 /207 ITD 91 (Mum)(Trib). (AY. 2017-18, 2018-19, 2019-20)
Infantry Security and Facilities through, proprietor Tukaram M. Surayawanshi v. ITO (2025) 474 ITR 584/347 CTR 33 / 254 DTR 269 (Bom)(HC)

S. 254(2) : Appellate Tribunal-Rectification of mistake apparent from the record-Subsequent decision of Supreme Court-Employee's contributions (EPF/ESI)-Tribunal cannot invoke section 254(2) on basis of subsequent change in law-Order of rectification quashed. [S. 36(1)(va), 139(1), 143(1), 260A, Art. 226, 227] 2856

The assessee had deposited the employees' share of provident fund and ESI before the due date for filing return under section 139(1). The Assessing Officer disallowed the same in the intimation under section 143(1). The CIT(A) upheld the disallowance. On appeal, the Tribunal, relying on *Ghatge Patil Transports Ltd. v. CIT (2015) 53 taxmann. com 141 (Bom)(HC) and CIT v. Alom Extrusions Ltd. (2009) 319 ITR 306 (SC),* allowed the deduction. Subsequently, the Supreme Court in *Checkmate Services (P.) Ltd. v. CIT (2022) 448 ITR 518 (SC)* held that employees' contributions are deductible only if deposited within the due date prescribed under the relevant Acts. Based on this subsequent decision, the Revenue filed a rectification application under section 254(2), which the Tribunal allowed, thereby reversing its earlier decision. On writ, the Bombay High Court held that a subsequent change in law or later judgment of the Supreme Court cannot constitute a "mistake apparent from record" within the meaning of section 254(2). The Tribunal's jurisdiction under section 254(2) is limited to rectifying errors apparent on record and cannot be invoked to review or revisit the merits of the case based on subsequent developments in law. The Court relied on *Infantry Security & Facilities v. ITO (WP No. 17175/2024, dated 3-12-2024), Prakash D. Koli v. ITAT [2025] 176 taxmann.com 481 (Bom)(HC) Vaibhav Maruti Dombale v. Asst. Registrar, ITAT (2025) 178 taxmann.com 447 (Bom)(HC)* and the Constitution Bench ruling in Beghar Foundation v. K. S. Puttaswamy (Aadhaar Review-5 J)(2021) 278 Taxman 1 (SC). Accordingly, the High Court quashed the rectification order passed under section 254(2) and restored the Tribunal's original order. However, liberty was granted to the Revenue to challenge the original order under section 260A, if permissible in law. (W.P. (L) No. 24647 of 2025, dt. 16-9-2025).
Rajkumar Laxminarayan Kanojiya v. DCIT, CPC (Bom)(HC) www.itatonline.org.

S. 254(2): Appellate Tribunal-Rectification of mistake apparent from the record-Binding precedent-Decision of High Court is binding on all Income-Tax Authorities under its jurisdiction-Set off of business loss-Failure to follow the order of the Tribunal which is affirmed by the High Court-Mistake apparent on record-Order of the Tribunal is set aside. [S.28(i), 56, 254(1), Art. 226] 2857

Assessee relied on decision of High Court with similar issue and claimed set off of brought forward business loss and unabsorbed depreciation in return. Assessing Officer treated interest income received on staff loan and other advances along with miscellaneous receipt as income from other sources. Tribunal distinguished the decision relied upon by the assessee and remanded the issue to the Assessing Officer.

Rectification application was rejected. On writ, the Court held that the Tribunal had not followed a decision on identical facts by a co-ordinate bench, which was confirmed by High Court, there was a mistake apparent on record which ought to have been considered by the Tribunal. The matter is remanded back to the Tribunal to pass fresh orders in the miscellaneous application. (AY. 2010-11, 2012-13 to 2014-15)
Uttar Gujarat Vij Co. Ltd. v. ITO (2024) 162 taxmann.com 201 (2025) 473 ITR 729 (Guj) (HC)

2858 **S. 254(2): Appellate Tribunal-Rectification of mistake apparent from the record-Limitation-COVID extension not applicable-Rectification application is filed beyond period of six months-Income Tax Appellate Tribunal has no jurisdiction to condone delay-Writ petition is dismissed. [Art. 226]**
The ITAT dismissed the petitioner's appeal on 21 September 2021, and the order was communicated on 17 November 2021. Under Section 254(2), the limitation period for filing a Miscellaneous Application (MA) expired on 31 May 2022. The petitioner, however, filed the MA on 26 August 2022, resulting in a three-month delay. The ITAT dismissed the MA on 03 November 2023, holding that it lacked jurisdiction to condone the delay. The petitioner challenged the ITAT's decision by filing a writ petition and contended that there was no delay, relying on the Supreme Court's order dated 10 January 2022 in WP(C) No. 3 of 2020, which extended the limitation during the COVID period. Alternatively, the petitioner sought condonation of delay. The Revenue countered that the Supreme Court's order did not apply, as the limitation expired on 31 May 2022, beyond the COVID extension period (15 March 2020-28 February 2022). Further, under Section 254(2), a rectification application must be filed within six months, and even the ITAT lacks jurisdiction to condone a delay beyond this period. The court held that the petitioner had not raised the contention regarding the Supreme Court order before the ITAT, bringing it up for the first time before the High Court. Even if considered, the argument would not benefit the petitioner, as the limitation expired on 31 May 2022, and the Supreme Court's order did not extend time beyond 28 February 2022. Court held that the ITAT correctly held that Section 254(2) contains no provision allowing condonation of delay beyond six months, making sufficient cause irrelevant. *Citing Karuturi Global Ltd. v. DCIT (2020) 116 Taxmann.com 924 (Karn)(HC) and Ram Baburao Salve v. AO, (2024) 162 taxmann.com 354 (Bom)(HC)* the court affirmed the order of the Tribunal and dismissed the petition.
Leena Power Tech Engineers Pvt. Ltd. v. Dy. CIT (2025) 304 Taxman 392 (Bom)(HC)

2859 **S. 254(2): Appellate Tribunal-Rectification of mistake apparent from the record-Limitation-Appellate Tribunal has no power to condone the delay-The Appellate Tribunal being a creature of the Statute cannot extend its jurisdiction beyond what is expressly conferred on it under the Statute-Order of Tribunal is set aside. [S.254(1), 260A]**
Held that the time permitted for filing an application under section 254(2), for rectifying a mistake in an order passed by the Tribunal under section 254(1) is six months from the end of the month in which the order under section 254(1) was passed. The Appellate Tribunal, being a creature of Statute, could not have extended its jurisdiction

beyond what was expressly conferred on it under Statute, and thus, it could not have granted liberty to the revenue to file rectification applications to restore appeals beyond the period permitted under Statute. The order of the Tribunal is set aside. Referred, *Madanlal Arora v. The Excise and Taxation Officer, Amritsar AIR 1961, SC 1565, Smt. Ujjam Bai v. State of Uttar Pradesh AIR 1962 SC 1621*, wherein the Courts have held that the Appellate Tribunal being a creature of the Statute cannot extend its jurisdiction beyond what is expressly conferred on it under the Statute. (AY. 2012-13 & 2015-16)
Knowell Realtors (India) (P.) Ltd. v. ACIT (2025) 302 Taxman 433 / 482 ITR 423 /344 CTR 533 / 249 DTR 242 (Ker.)(HC)

S. 254(2): Appellate Tribunal-Rectification of mistake apparent from the record-Deduction-Rectification application of revenue was dismissed. [S. 80P (2)(d))] 2860
The Revenue filed a miscellaneous application seeking rectification of the Tribunal's order. The Revenue argues that the Tribunal wrongly relied on the decision, ignoring binding Karnataka High Court decisions in two Totagars Cooperative Sale Society cases. One held that cooperative banks qualify as cooperative societies u/s. 80P (2)(d), while the other denied deduction when the interest income wasn't from business operations. The Revenue claims this constitutes an apparent mistake warranting recall of the order. However, the assessee opposes the application, arguing that similar relief was granted in earlier years and upheld consistently by the Tribunal and other High Courts. The assessee further contends that the Revenue's request amounts to a review, not a rectification, which is beyond the scope of s. 254(2) of the Income Tax Act, citing the Supreme Court ruling in *CIT v Reliance Telecom Ltd(2022] 284 Taxman 517 / 440 ITR 1 (SC)*. Tribunal held that the predecessor's decision aligns with consistent judicial views, including those of the Mumbai Tribunal, which conclude that for deduction u/s. 80P (2)(d), co-operative banks qualify as co-operative societies. This position has been upheld by various coordinate benches and higher judicial forums. The Revenue seeks to recall the order u/s. 254(2), however, such a recall falls outside the limited scope of S. 254(2), as clarified by the Hon'ble Supreme Court in *CIT v. Reliance Telecom Ltd*. Accordingly, the appeal was rightly decided in favour of the assessee, and the application for recall is without merit. (Arising out of ITA No. 981/Mum/2023 dt. 14-06-2023, MA No. 63/MUM/2024 dt. 20-6-2025)
ITO v. Bhoomi Classic Co-op HSG. Soc. Ltd.(Mum) (Trib.)(UR)

S. 254(2): Appellate Tribunal-Rectification of mistake apparent from the record-Tribunal held that amended provisions of section 115BBE are prospective in nature and not applicable for assessment year 2017-18-Miscellaneous application filed by revenue for rectification of said order of Tribunal was dismissed. [S. 68 to 69D, 115 BBE] 2861
Tribunal held that the amended provisions of section 115BBE are prospective in nature and not applicable for assessment year 2017-18 and directed the Assessing Officer to tax the remaining addition at the normal rate of tax and applicable surcharges, if any, under section 115BBE. Revenue filed a miscellaneous application against the order of the Tribunal. The miscellaneous application was rejected. (AY. 2017-18)
DCIT v. Sanjaybhai Mansukhbhai Patel. (2025) 213 ITD 470 /238 TTJ 1060 (Surat) (Trib.)

2862 **S. 254(2): Appellate Tribunal-Rectification of mistake apparent from the record-Penalty-Concealment-Without valid approval of Joint Commissioner-Miscellaneous application of revenue was dismissed. [S.271(1)(c)]**

Assessee filed an appeal before the Tribunal against the penalty order dated 17-3-2020, contending that the Assessing Officer had passed an order before obtaining approval from the Joint Commissioner and relied on the later approval dated 18-3-2020 to support this. Tribunal allowed assessee's appeal and deleted the penalty. Revenue filed a miscellaneous application under section 254(2), contending that the order was validly passed based on the Joint Commissioner's approval dated 17-3-2020. The Tribunal held that the revenue failed to produce valid, signed approval dated 17-3-2020, and the documents relied upon were unsigned. Since no valid approval was brought on record, the penalty order could not be sustained, and the miscellaneous application was dismissed. (AY. 2013-14)

ACIT v. Vaibhav Pankaj Shah (2025) 213 ITD 625 (Mum) (Trib.)

2863 **S. 254(2): Appellate Tribunal - Rectification of mistake apparent on record-Subsequent judgment of Supreme Court cannot be ground for recall/rectification-Tribunal having followed binding jurisdictional High Court judgment at the time of passing original order-No mistake apparent from record-Miscellaneous Application dismissed. [S. 36(1)(va), 43B]**

The Assessing Officer, while processing the return under section 143(1), disallowed employees' contribution to PF and ESI on the ground of delayed payment under the respective statutes. The CIT(A) confirmed the disallowance. The Tribunal, in the original appellate order dated 31-05-2022, deleted the disallowance by following the binding judgment of the Bombay High Court in *CIT v. Ghatge Patil Transport Ltd (2014) 368 ITR 749) (Bom) (HC)*. holding that such payments made before the due date of filing the return are allowable. The Revenue filed Miscellaneous Applications under section 254(2) seeking recall/rectification of the Tribunal's order in view of the subsequent Supreme Court judgment in *Checkmate Services Pvt. Ltd. v. CIT.* The Tribunal held that jurisdiction under section 254(2) is limited to rectifying patent and obvious mistakes apparent on the record and that a subsequent judgment, even of the Supreme Court, cannot be a ground for rectification if, on the date of the original order, the Tribunal had correctly applied the law as it then stood. Relying on the recent Bombay High Court judgment in Vaibhav Maruti Dombale v. Assistant Registrar, ITAT, the Tribunal held that no mistake apparent from the record was shown and dismissed the Revenue's Miscellaneous Applications. (MA Nos. 35 to 37/Mum/2023 (arising out of ITA Nos. 137 to 139/Mum/2022 dt. 08-12-2025.) (AYs 2017-18 to 2019-20,)

Global Waste Management Cell Pvt. Ltd. v. ACIT(Mum)(Trib) www.itatonline.org

2864 **S. 254(2): Appellate Tribunal-Rectification of mistake apparent from the record-Territorial jurisdiction-Rectification application filed by the Revenue to quash the order of Mumbai Tribunal on the ground that the Mumbai Tribunal had no jurisdiction to entertain the appeal and the appeal should have been filed before the ITAT at Pune is dismissed. [S. 12A, 127]**

On appeal filed by the assessee the Tribunal quashed the cancellation of registration by PCIT Central Circle Poona on the ground that he was not competent to cancel

the registration which was granted by the PCIT (E) Mumbai. Revenue filed the miscellaneous application before the Tribunal on the ground that the Mumbai Tribunal had no jurisdiction to entertain the appeal at Mumbai as the cancellation of registration was done by the PCIT Central Circle Pone, hence the order passed by the Mumbai Tribunal was beyond jurisdiction. Dismissing the Rectification application of the Revenue the Tribunal held that remedy available to the Revenue is to file an appeal before the High Court against the order of the Tribunal. The lack of jurisdiction was not raised before the Tribunal when the appeal was argued on merit. The Tribunal also held the issue involved is not of jurisdiction under section 127 of the Act,accordingly the Rectification application filed by the Revenue is dismissed. (MA No. 643 /M/ 2023 dt. 21-3-2025)(Arising ITA No.1524/M/2023 dt.27-7-2023) (AY. 2023-24)
Dy.CIT v. Heart Foundation of India (Mum)(Trib) www.itatonline.org

S. 254(2): Appellate Tribunal-Rectification of mistake apparent from the record-Development agreement-Cost Inflation Index-Year of taxability-Tribunal's common order applied to all co-owners-Miscellaneous application of Revenue is dismissed. [S. 45, 48, 254(1)] 2865

The assessee filed a return for AY.2008-09, declaring long term capital gains in respect of development rights. The Assessing Officer assessed the total income. On appeal the CIT(A) granted partial relief and directed the AO to adopt the Cost Inflation Index (CII) for FY 2007-08 instead of 2002-03. The Revenue filed ITA No. 3195/MUM/2015 challenging this direction. The assessee also filed an appeal and raised the additional ground on the issue of year of taxability. Other co-owners had also appealed, and a common order dated 19.04.2018 was passed by the Tribunal dismissing the appeal of the Revenue and allowing the appeal of the assessee the Tribunal held that the development agreement was entered in the year 2003-04 and not in the assessment year 2008-09 relying on the decision in *Chaturbhuj Dwarkadass Kapadia of Bombay v. CIT (2003) 260 ITR 491 (Bom)(HC)* addition was deleted. Revenue filed the Miscellaneous Application (MA),and contended that the Tribunal wrongly referenced the case of another assessee (Shri Jaiprakash L. Singh for AY 2007-08), which was unrelated to ITA No. 3195/MUM/2015, and failed to render a decision on the present assessee (Neelam Omprakash Singh). The Tribunal held that its common order explicitly stated that all co-owners' appeals would be governed by the findings in ITA No. 3303/Mum/2013 and ITA No. 4530/Mum/2013. Accordingly, the MA was dismissed. (MA No. 629/MUM/2019 arising out of ITA No. 3195/MUM/2015) (dt. 24.01.2025) (AY 2008-09)
ACIT v. Neelam Omprakash Singh (Mum)(Trib)www.itatonlline.org

S. 254(2A): Appellate Tribunal-Stay-No coercive or precipitative steps had been taken by revenue-Stay petition cannot be dismissed as premature-Matter remanded to the Tribunal to decide on merits. [S. 92C, Art.226] 2866

Assessee filed an appeal before the Tribunal and also filed stay application seeking stay of outstanding demand. Tribunal dismissed the stay application on ground that stay application was premature. On writ the Court set aside dismissal of the stay application and directed the Tribunal to decide on merits. (AY. 2021-22)
Samsung India Electronics (P.) Ltd. v. Dy. CIT (2025) 302 Taxman 537 (Delhi)(HC)

2867 **S. 255 : Income Tax Appellate Tribunal-Office premises-Additional premises for the functioning of Court Rooms-Interim order of the High Court dated 28th June, 2000 allotting the premises to ITAT for the functioning of an additional five court rooms is affirmed [S. 254, Art. 226]**

The ITAT Bar Association Mumbai has filed a PIL before the Bombay High Court for allotting the premises for an additional five Benches of the ITAT. The Honourable Court, by an interim order dated 28th June 2000, directed the All India Radio to hand over the possession of the premises to the ITAT. The All India Radio has filed an SLP before the Supreme Court, No. 15549/ 2000, order dated February 18, 2002. The SLP was dismissed in view of a consensus reached between the learned counsel for the parties. The Honourable Bombay High Court by order dated July 3, 2025 held that as the ad. interim relief, the Benches were functioning for the past 16 years, and the ad-interim order was also upheld by the Supreme Court, as the Special Leave Petition was dismissed, as well as on account of efflux of time, no further orders are required to be passed in the writ petition. (WP 624 of 1999 dated July 3, 2025)

ITAT Bar Association & Anr. v. Secretary of I&B & Ors. (Bom)(HC) www.itatonline.org.

2868 **S. 255: Appellate Tribunal-Procedure-Functions-No prohibition requiring a Special Bench as a rule to stay its hands when a similar/identical issue is pending before the High Court-Special Bench can proceed to hear and decide the appeal in accordance with law. [S. 14A, 158A, 250]**

The assessee, a foreign bank incorporated in the USA and having its Branch in Mumbai, claimed that the amount of interest received by the Indian Branch from its Head office could be treated as ''income not chargeable to tax'' on the principle of mutuality. The AO is treated the same as business income. On further appeal before ITAT, the assessee claimed that the issue was squarely covered in its favour by the decision of the Special Bench in the case of *Sumitomo Mitsui Banking Corpn. v. Deputy DIT (IT) [2012] 19 taxmann.com 364/136 ITD 66 (Mumbai) (SB).* The revenue filed a cross-objection raising the issue whether the provisions of section 14A would be applicable in the event it was held that the interest received by the assessee from its Head Office was not taxable in the hands of the Indian Branch office. On behalf of the revenue, reliance was placed on the decision of the Division Bench of this Tribunal in *Oman International Bank SAOG v. JCIT [ITA Nos. 335 and 336 (Mum) of 2004, dated 22-3-2013] and CO Nos. 86 and 87/ Mum/2004,* which was challenged and admitted before the Bombay High Court on 28-7-2015. The regular Division Bench of ITAT expressed its inability to concur with the view taken by the co-ordinate Bench in Oman International Bank SAOG (supra) and sought the constitution of a Special Bench. The President referred the matter to the Special Bench. When the matter came up before the Special Bench, the Department objected to the constitution of the Special Bench on the ground that a similar issue was pending consideration before the Bombay High Court, and once a similar issue was pending before the High Court, the Special Bench deserved to be disbanded/discontinued. However, the ITAT held that there is no prohibition either in law or in practice that would require the Special Bench, as a rule, to stay its hands when a similar/identical issue is pending before the High Court. Hence, the ITAT held that it was not necessary to withdraw the reference and/or to deconstitute the Special Bench. (AY. 1998-99)

J. P. Morgan Chase Bank, NA v. JCIT (2025) 128 ITR 291 [SB] (Mum)(Trib.)

S. 255: Appellate Tribunal-Procedure-Functions-Right to Information Act-Departmental representative seeking disqualification of assessee's advocate on ground that advocate represented Tribunal Member as CPIO in an unrelated RTI matter-No conflict of interest-Tribunal not appropriate forum to adjudicate disciplinary matter-Ministry of Law and Justice not having control over judicial functions of Tribunal-Application frivolous, amounting to obstruction of justice-Rejected. [S. 254(1), Art. 227] 2869

A preliminary objection was raised by the DR seeking disqualification of the assessee's advocate on the ground that the advocate had earlier represented a Member of the Tribunal, in his capacity as Central Public Information Officer, before the Central Information Commissioner in an unrelated RTI matter. The Tribunal rejected the preliminary objection holding that there was no conflict of interest since none of the situations cited by the Department existed in the present matter, that the Tribunal was not a disciplinary body competent to disqualify an advocate, that the Ministry of Law and Justice had no control over the Tribunal's judicial functions which were subject only to High Court supervision, and that raising such an issue repeatedly amounted to a frivolous and mischievous obstruction of justice. (AY. 2013-14)

Asst. CIT v. Kerry Indev Logistics P. Ltd (2025) 131 ITR 100 (Chennai) (Trib)

S. 260A : Appeal-High Court-Order passed by Tribunal in 2018-No endeavour by Department during six years to pursue matter-Matter must have reached finality-Appeal disposed of keeping questions of law open-Appeal cannot be dismissed on ground that appellant made no efforts to get it listed Failure to answer question put by court not ground to dismiss appeal-Appeal restored to High Court.[Art. 136] 2870

An appeal preferred by the Department was dismissed by the High Court on the grounds that when a query was made to learned counsel for the Department to state what happened during the period from 2018 to 2024, he was unable to answer and that no endeavour was made by the Department to pursue the matter by getting it listed. On further appeal:

Held, partly allowing the appeal, that if the appeal was not listed for hearing, it was not the fault of the appellant. The appeal cannot be dismissed on the ground that the appellant made no efforts to get the appeal listed. Failure to answer the question put by the court was no ground to dismiss the appeal. The court set aside the order of the High Court and restored the appeal to the High Court to be listed before the roster Bench on June 26, 2025, when the parties to the appeal shall appear without further notice.(AY. 2009-10)

PCIT v. Paradeep Phosphates Ltd (2025) 480 ITR 659 /181 taxmann.com 346 (SC)

Editorial : PCIT v. Paradeep Phosphates Ltd (2025) 480 ITR 657 / 180 taxmann.com 742 (Orissa) (HC)

S. 260A : Appeal-High Court-Ex parte order allowing Department's appeals-Review petition filed before High Court-No service of notice-On SLP, the court held that the High Court was to look into the review petition and take an appropriate decision in accordance with law. [Art. 136] 2871

High Court by an ex parte order allowed the Department's appeals arising out of assessments against the assessee-trust. On SLP the court held, that as the review petition

filed by the assessee on the ground that in fact, there was no service of the notice issued by the High Court effected was pending before the High Court, the High Court was to look into the review petition and take an appropriate decision in accordance with law.(AY. 2007-08)

Maharaji Education Trust v. PCIT (2025) 476 ITR 9 /304 Taxman 590 (SC)

Editorial : PCIT v. Maharaji Education Trust, (2024) 468 ITR 634 /166 taxmann.com 197 (Delhi)(HC)

2872 **S. 260A : Appeal-High Court-Method of accounting-Bonded warehouses-Accrual basis-Matter remanded to the Assessing Officer on concession by assessee-Appeal dismissed by high Court-If the assessee believed that its counsel wrongly conceded before the High Court on a point of law, it was expected of it to immediately prefer an appropriate application before the High Court and get the matter clarified. It was too late in the day to level such allegations-SLP rejected. [S. 254(1), Art. 136]**

Dismissing the appeal, the Court held that the aspects that under the mercantile system only actually accrued income was taxable and the income from unclaimed stored goods accrued merely due to indefinite storage, had been decided on concession. Appeal was dismissed. SLP was dismissed. Court also observed that if the assessee believed that its counsel wrongly conceded before the High Court on a point of law, it was expected of it to immediately prefer an appropriate application before the High Court and get the matter clarified. It was too late in the day to level such allegations.

Central Warehousing Corporation. v. PCIT (2025) 476 ITR 520 (SC)

Editorial: Central Warehousing Corporation v. CIT (2025) 476 ITR 516 (Delhi)(HC)

2873 **S. 260A: Appeal-High Court-Substantial question of law-High Court asked to formulate the second question of law as proposed by the Revenue as one of the substantial questions of law where High Court had already admitted the first question of law. [S. 13(1)(c), Art. 136]**

The Hon'ble Supreme Court on an SLP filed by the Department observed that having admitted the first question of law, the High Court seems to have declined to admit the appeal on the second substantial question of law as proposed by the Revenue, on the premise that the same is covered by Finance Act, 1984, Circular No. 387 dated 6-7-1984 (1985) 152 ITR 1 (St) issued by the Income Tax Department. Thus, it was observed that it would be in the interest of things if the High Court also looks into the second question of law in circumstances where the Revenue has raised the point that the said Circular would not apply. The Hon'ble Court, however clarified that it will be for the High Court to take the final call as regards the merits of the said substantial questions of law.

PCIT v. Sinhagad Technical Education Society [2025] 302 Taxman 424 / 472 ITR 18/ 342 CTR 354 (SC).

Editorial : PCIT (Central) v. Sinhagad Technical Education Society (2025) 472 ITR 15 (Bom)(HC) [IT Appeal No. 1454 of 2017, dated 24-11-2021] (para 12) reversed.

S.260A : Appeal-High Court-Reassessment-Matter is remanded to the Assessing Officer-Over due interest-Non-forming asset-Question of fact-SLP is dismissed-Assessee at liberty to avail of remedy of legacy dispute resolution. [S. 36(1)(viia), 43D, 147, 148, Art. 136] 2874

Dismissing the appeals, the Court held that the Tribunal had considered all the issues raised before it and had rendered findings which were based primarily on facts. Though references had been made of certain legal provisions, the adjudication and rendering of findings were essentially facts-centric. A comprehensive scrutiny of the proposed questions of law in three of these appeals revealed that they were generic in nature. Appeals are dismissed. SLP is dismissed. Assessee at liberty to avail of remedy of legacy dispute resolution. (AY. 2009-10, 2013-14, 2014-15)

Jila Sahakari Kendriya Bank Maryadit v. PCIT (2024)471 ITR 417 (SC)

Editorial: Jila Sahakari Kendriya Bank Maryadit v. PCIT (2024)471 ITR 413 (MP) (HC)

S. 260A : Appeal-High Court-Substantial questions of law-No challenge to High Court order-Mistake of counsel-Counsel erroneously submitting that two of them covered against assessee by decision of Supreme Court-High Court disposing of appeal deciding third question alone in favour-Order of High Court set aside to enable restoration of appeal to High Court.[Art. 136] 2875

Three questions of law were raised by the assessee before the High Court but counsel of the assessee having erroneously contended before the High Court that two substantial questions of law were covered by the judgment of the Supreme Court in *Checkmate Services Pvt. Ltd. v. CIT, (2022) 448 ITR 518 (SC)* against the assessee, although this was not so, the High Court considered the third question and disposed of the appeal in its favour. The assessee and Department accepted the High Court's decision on that question, the assessee filed an appeal before the Supreme Court seeking an opportunity to make submissions before the High Court on the other two substantial questions of law, or in the alternative, that the Supreme Court hear the appeal on those two substantial questions of law. Supreme Court held that an opportunity must be given to the assessee to make submissions on those two substantial questions of law and for the purpose of reconsidering whether or not they were covered by the judgment of the court in *Checkmate Services Pvt. Ltd. v. CIT, (2022) 448 ITR 518 (SC)* against the assessee. Although there was no challenge to the order of the High Court on the ground of there being any error therein, the order had to be set aside as it was a final order of the High Court, so as to enable the appeal to be restored on the file of the High Court.

Woodland (Aero Club) Pvt. Ltd. v. ACIT (2025) 474 ITR 322/171 taxmann.com 60 /347 CTR 797/ 256 DTR 29 (SC)

Editorial: Aero Club v. ACIT (2025) 474 ITR 320 (Delhi)(HC), set aside.

S. 260A: Appeal-High Court-Dispute settled-Appeal of revenue dismissed. [Direct Tax Vivad se Vishwas Act, 2020] 2876

Dismissing the appeal, the Court held that the disputes between the parties had been settled under the provisions of the Direct Tax Vivad se Vishwas Act, 2020, and requisite certificates had been issued. It was also stated by the Revenue that the issues in respect of discrepancies in the permanent account numbers had been resolved.

CIT v. V.L.S. Finance Ltd (2025) 483 ITR 513 (Delhi)(HC)

2877 **S. 260A: Appeal-High Court-Order of Tribunal rejecting application for rectification of its order not appealable.[S. 254(2)]**

Held, dismissing the appeal, that the appeal was dismissed by the Tribunal on September 26, 2019 on account of low tax effect. Since the monetary limit for filing an appeal had been withdrawn in the Central Board of Direct Taxes Circular No. 23 of 2019, dated September 6, 20191, and special order dated September 16, 20192, the miscellaneous application was filed before the same Tribunal. However, the application was dismissed by order dated March 30, 2022. An appeal from such an order of the Tribunal was not maintainable to the High Court. (AY.2014-15)

PCIT v. Sekhar Kumar Mohapatra (2025) 483 ITR 639 (Orissa)(HC)

2878 **S. 260A : Appeal-High Court-Delay of 40 days-Service of ITAT order on Chartered Accountant not specifically authorised to accept service-Chartered Accountant not a recognised agent of assessee-Tribunal bound to communicate order to assessee-Delay condoned. [S. 254(3), 282, ITAT R. 35, Code of Civil Procedure, 1908,Order, 3, 5, R. 12]]**

The Tribunal had served a copy of its order upon the Chartered Accountant who represented the assessee before the ITAT, but the order was not communicated to the assessee personally. The assessee contended that knowledge of the order was obtained only upon receipt of recovery notice in April 2024, where after certified copy was applied for and appeal was filed with delay of 40 days. The High Court held that under the statutory scheme of the Act read with Rule 35 of the ITAT Rules, the Tribunal is mandatorily required to communicate the order to the assessee, and mere service upon an authorised representative does not absolve such obligation unless the representative is specifically empowered to accept service. A Chartered Accountant acts only as an authorised representative and cannot be treated as a recognised agent within the meaning of Order 3 of the CPC in absence of specific authority to receive service. Service upon such representative therefore cannot be equated with service upon the assessee. Since the assessee established absence of knowledge of the order and acted promptly after becoming aware of it, the delay in filing appeal deserved to be condoned and the appeal was directed to be heard on merits; dissenting from *Sultanpur Kshetriya Gramin Bank v. Jt. CIT (2011) 245 CTR 64 (All)(HC)* and following *Nandram Hunatram v. CIT (1959) 37 ITR 500 (Orissa) (HC).* (AY. 2009-10).

Neelam Ajit Phatarpekar (Mrs.) v. ACIT (2025) 176 taxmann.com 129/345 CTR 553/[2026] 485 ITR 80 (Bom)(HC)

Ajit Phatarpekar (2025) 176 taxmann.com 129/345 CTR 553/252 DTR 41/[2026] 485 ITR 80 (Bom)(HC)

2879 **S. 260A : Appeal-High Court-Review-Mistake apparent from record-Reassessment-Writ petition was filed after one year of assessment order-Dismissal of writ petition on ground of alternative remedy-Violation of principles of natural justice-Order recalled and writ petition restored.[S. 144, 144B, 147, 148, 260A(7), Art. 226]**

Where the writ petition challenging reassessment proceedings was dismissed by the Single Judge on the ground of availability of alternative statutory remedy, though the assessee had not been properly intimated about the reassessment proceedings and received the assessment order only subsequently, resulting in denial of effective

opportunity of hearing, the High Court held that the earlier order suffered from errors apparent on the face of the record warranting exercise of review jurisdiction. The Court observed that rejection of a writ petition solely on the ground of alternative remedy is not justified where the impugned order is passed in breach of principles of natural justice. As the assessee was deprived of reasonable opportunity to present its case and even the recording that counsel for parties were heard was factually incorrect, the reassessment proceedings stood vitiated by procedural irregularity. Accordingly, the order dismissing the writ petition was recalled and the writ petition was restored for fresh adjudication on merits after granting reasonable opportunity to the assessee.
D.D. Infrastructure (P.) Ltd. v. UOI (2025) 174 taxmann.com 215 / 345 CTR 652 / 251 DTR 93 (Cal)(HC).
Editorial: Order of single judge recalled, D.D. Infrastructure (P) Ltd. v. UOI (2025) 345 CTR 658 / 251 DTR 100 (Cal)(HC)

S. 260A : Appeal-High Court-Cross objections-Right of respondent-assessee to file cross-objections-The right to prefer cross-objections is statutorily recognised by S. 253(4), Parliament chose not to confer such a right upon a respondent in an appeal referable to the former-Legislative silence may sometimes resonate louder than express words and which may be either ambiguous or capable of more than one interpretation-Cross objection not maintainable. [S.253 (4), 256(1), 260A(3), 260A(4), 260A(6), 260A(7), Civil Procedure Code, 1908,S.100, Order XLI, R. 22] 2880
The Delhi High Court held that the right to file cross-objections is a statutory remedy expressly conferred under S. 253(4) before the Tribunal, but Parliament has consciously not provided any corresponding right to a respondent in an appeal under S. 260A. The scope of a respondent's right in S. 260A is confined to contending that no substantial question of law arises, and permitting cross-objections would impermissibly widen the appeal proceedings and amount to reading into the provision a substantive right not envisaged by the statute. Legislative silence in S. 260A, contrasted with express provision in S. 253(4), makes cross-objections before the High Court not maintainable. Referred *CIT v. V. Damodaran (1979) 13 CTR (SC) 191 / (1980) 1 SCC 173*
PCIT v Nagar Dairy (P) Ltd. (2025) 344 CTR 341 / 248 DTR 217 / 172 taxmann.com 111 /480 ITR 354 (Delhi)(HC)

S. 260A : Appeal-High Court-Review-Order passed on concession given by counsel-Review not maintainable. [S. 260A(7), Code of Civil Procedure, 1908, Order 47, R. 1] 2881
Review petition was filed in *CIT (E) v. Jharkhand State Cricket Association (2025) 344 CTR 547 ((Jharkhand)(HC)*, the Jharkhand High Court held that once an appeal has been decided on the basis of a concession made by counsel appearing for the parties, the concerned party cannot subsequently seek review of such order. Review jurisdiction can be invoked only where there is an error apparent on the face of the record or where some material fact, despite due diligence, was not within the knowledge of the litigant. Since the earlier order dated 11th July 2024 was passed purely on concession and no such error or new factual circumstance was shown, no ground for review was made out. Accordingly, the review petition was dismissed. (AY. 2014-15)
Jharkhand State Cricket Association v. CIT (E) (2025) 344 CTR 540 / 249 DTR 233 (Jharkhand)(HC)

2882 **S. 260A : Appeal-High Court-Power of review-Process of reasoning is not an error apparent on face of record-Mistake or error apparent Neither inherent nor appellate power Earlier order cannot be recalled or reviewed unless court is satisfied that material error is manifest on face of record Error that is not self-evident and one that has to be detected by process of reasoning is not an error apparent on face of record-Decision or order cannot be reviewed merely because it is erroneous.[Civil Procedure Code, 1908, 0. 47, R 1]**

Dismissing the review petition, the Court held that a decision or order could not be reviewed merely because it was erroneous. There was no error apparent on the face of the record warranting interference in the order of the court. There was no reason to review or recall the order as recognised by Order 47, rule 1 of the Code. (AY.2012-13)

Essence Commodities Pvt. Ltd. v. ACIT (2025) 479 ITR 329 (MP)(HC)

Editorial : Essence Commodities Pvt. Ltd. v. Asst. CIT, (2025) 483 ITR 374 (MP) (HC)

2883 **S. 260A: Appeal-High Court-Jurisdiction of High Court-Additional question of law raised for first time in High Court-Merger-Assessment in name of non-existent entity-Assessment order passed on non-existent entity is void question involving jurisdictional issue not raised before Tribunal-Additionally proposed questions of law involved in these appeals and hence included.[S. 143(3), 260A(4)]**

On a writ petition challenging the validity of assessment orders passed in the name of non-existent entities and several connected Income-tax appeals, the issue arose whether the court could frame an additional substantial question of law not raised before the Tribunal, held, that the question was whether the factum of the merger was intimated to the Assessing Officer or whether he was otherwise aware of this fact before making the assessment orders. There was no question of prejudice as such. The additional question, "whether on the facts and in the circumstances of the case and in law, the assessment order under Section 143(3) passed on a non-existent entity is bad in law, void ab initio ?", as proposed by the assessee, was involved In these appeals, and, therefore, the question was framed in all these appeals. The issue of whether the assessee's case was fully covered by the decision of the Supreme Court was a question that had to be decided once the additional substantial question as proposed was framed. If answered in favour of the assessee, the proposed question would go to the root of jurisdiction. Referred *Veena Estate Pvt Ltd v. CIT (2024)) 461 ITR 483 (Bom)(HC)*. Refer *Reliance Industries Ltd v. P.L. Roongta (2025) 479 ITR 770 (Bom)(HC)*. (AY. 1993-94 to 1995-96)

Reliance Industries Ltd v. P.L. Roongta and Others (and connected appeals)(2025) 479 ITR 763 /343 CTR 401 / 171 taxmann.com 467 (Bom)(HC)

CIT v. Reliance Polypropylene Ltd. (2025) 479 ITR 763/ 343 CTR 401 / 171 taxmann.com 467 (Bom)(HC)

Editorial : SLP of revenue dismissed, Dy. CIT v. Reliance Industries Ltd. reported in [2026] 309 Taxman 501/488 ITR 624 (SC).

2884 **S. 260A : Appeal-High Court-Delay in filing appeal-Discretion to condone delay-Sufficient cause for delay-Delay to be condoned.**

Ordinarily, "condonation of delay" is a matter of discretion to be exercised by the concerned court. Even if the delay is short and there is no proper explanation

forthcoming, the delay need not be condoned. Similarly, despite the fact that the delay is enormous, if sufficient reasons are given thereunder, the delay can be condoned.
Held, that the delay was short and sufficient reasons had been given and so the delay had to be condoned.
PCIT v. North Eastern Electric Power Corporation Ltd.(2025) 477 ITR 376 (Maghalaya)(HC)

S. 260A : Appeal-High Court-Method of accounting-Bonded warehouses-Accrual basis-Matter remanded to the Assessing Officer on concession by assessee-Appeal dismissed. [S. 254(1)] 2885
Dismissing the appeal, the Court held that, under the mercantile system, only actually accrued income was taxable and the income from unclaimed stored goods accrued merely due to indefinite storage, had been decided on concession. Appeal was dismissed.
Central Warehousing Corporation v. CIT (2025) 476 ITR 516 (Delhi)(HC)
Editorial : SLP rejected, Central Warehousing Corporation. v. PCIT (2025) 476 ITR 520 (SC)

S. 260A : Appeal-High Court-Income deemed to accrue or arise in India-Royalty-Non speaking order-Deduction of tax at source-Payment to non-resident-Application for certificate of nil deduction Royalty-Matter remanded to the CIT(A)-DTAA-India-USA. [S. 9(1)(vi), Expln. 6, 195(2), 254(1), Art. 12(3)2.] 2886
Held that, in an appeal under section 260A, the court could not verify whether in the earlier assessment years, there was a final determination that the entity IC was not liable to pay tax, which required verification by the lower authorities. That none of the authorities below had examined and analysed the various clauses of the agreement which provided for the scope of services to be rendered by IC to the assessee, to ascertain the nature of the services rendered to the assessee and how the definition of "royalty" under the Act or under article 12(3) of the Double Taxation Avoidance Agreement could be made applicable to such services. It was incumbent upon the three authorities, the assessing authority, the Commissioner (Appeals) and the Tribunal to have examined and analysed the nature of services as agreed upon by the parties in the agreement, to thereafter give a finding of fact and then apply the definition of "royalty" under the Act or under article 12(3) of the Double Taxation Avoidance Agreement. How the services rendered to the assessee by IC were covered by the Act or article 12(3) of the Double Taxation Avoidance Agreement was not discussed. The orders of the three authorities were non-speaking. Maatter remanded to the CIT(A). The court made it clear that it had not expressed any opinion on the merits and on the applicability of article 12(3) of the Double Taxation Avoidance Agreement to the nature of services rendered by the foreign entity to the assessee. The assessee and the Revenue were at liberty to raise all the contentions on the liability to tax under the Act or article 12(3) of the Double Taxation Avoidance Agreement. Matter remanded to Commissioner (Appeals). The Court made it clear that it had not expressed any opinion on merits and on applicability of article 12(3) of the DTAA to the nature of services rendered by the foreign entity to the assessee. The assessee and the revenue were at liberty to raise all the contentions on the liability to tax under the Act or article 12(3) of the DTAA. (AY. 2009-10 to 2013-14)
Viacom 18 Media Pvt. Ltd. v. Dy. CIT (2025) 476 ITR 781 /174 taxmann.com 389 (Bom) (HC)

2887 **S.260A : Appeal-High Court-Reassessment-Matter is remanded to the Assessing Officer-Over due interest-Non forming asset-Question of fact.[S. 36(1)(viia), 43D, 147, 148]**
Dismissing the appeals the Court held that the Tribunal had considered all the issues raised before it and had rendered findings which were based primarily on facts. Though references had been made to certain legal provisions, the adjudication and rendering of findings were essentially facts-centric. A comprehensive scrutiny of the proposed questions of law in three of these appeals revealed that they were generic in nature. Appeals are dismissed. (AY. 2009-10, 2013-14, 2014-15)
Jila Sahakari Kendriya Bank Maryadit v. PCIT(2024)471 ITR 413 (MP) (HC)
Editorial: SLP is dismissed; assessee at liberty to avail of remedy of legacy Dispute resolution, Jila Sahakari Kendriya Bank Maryadit v. PCIT(2024) 471 ITR 417 (SC)

2888 **S. 261: Appeal-Supreme Court-Limitation: Condonation of delay-Strictures-Departmental delay of 524 days-Unsatisfactory explanation-Internal procedural delays such as multiple scrutiny reports, repeated vetting and lack of timely direction for filing SLP held to be avoidable-However, considering that other matters on similar issue were already entertained, Supreme Court condoned the delay as a special case and directed tagging with Civil Appeal No. 1294 of 2015 [Art. 136]**
In the case where the Department filed the SLP with a delay of 524 days, the Supreme Court noted that despite being aware of the impugned order, the Department undertook a prolonged internal process, first calling for a scrutiny report, then a second scrutiny report, seeking explanations for the delay, sending papers to panel counsel for drafting, followed by three rounds of vetting, and again sending back the papers for drafting the delay-condonation application. The Court observed that no one in the Department took steps to shorten the process, despite having legal experts, and even appeared not to trust its own lawyers. Though the explanation for delay was found unsatisfactory, considering that other matters on similar issues had already been entertained, the Court condoned the delay as a special case, directed the matter to be tagged with Civil Appeal No. 1294 of 2015, and further directed that the order be communicated to the concerned Commissioner and higher authorities for corrective measures. (2025, SLP (Civil) Diary No. 33271/2025. Dt.21-11-2025)
CIT (E) v. Hyderabad Cricket Association (SC) www.itatonline.org

2889 **S. 263: Commissioner-Revision of orders prejudicial to revenue - Reassessment-Finding of Tribunal that reasons supplied to assessee were not same reasons recorded and found in assessment record and that order of reassessment was not valid-Finding that since reassessment order itself was not validly passed, revision thereof by Principal Commissioner was invalid-SLP of revenue dismissed. [S. 147, 148 Art. 136]**
The High Court held that the Tribunal had found that the reasons supplied to the assessee were not the same reasons recorded and found in the assessment record and that the order of reassessment was not valid, and that since the original reassessment order itself was not validly passed, the subsequent revision order by the Principal Commissioner was invalid. On SLP dismissing the petition, the Court held that in view of the findings of fact recorded by the Tribunal in paragraphs 14 and 15 of its judgment,

which had been confirmed by the High Court, there was no case for interference under Article 136 of the Constitution.(AY. 2013-14)
PCIT v. Bulbul Agrawal (2025) 482 ITR 279 (SC)
Editorial: PCIT v. Badal Prakash Jindal (HUF) (2023) 457 ITR 345 (Orissa)(HC)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Capital gains-Land used for agricultural purposes-High Court affirmed the quashing of the revision order by the Tribunal-SLP of revenue is dismissed as the revenue could not explain the delay of 305 days in filing the SLP. [S. 54B, Art. 136] 2890

Assessee sold a piece of land and claimed a deduction under section 54B on the purchase of other agricultural land. The same was allowed. Thereafter, Pr. Commissioner invoked revision jurisdiction under section 263 on the ground that the assessee was not eligible for deduction under section 54B as no documentary evidence was placed before the Assessing Officer about agricultural activities carried out by the assessee in said land. Assessee had filed a reply raising objection that jurisdiction under section 263 was being exercised over 2/3rd of the parcel of land, while on 1/3rd parcel of land, capital gain was already allowed. Further, assessee had also filed details of reply to various show cause notices issued by the Assessing Officer for seeking certain information about short term/long term capital gain and agricultural income. CIT revised the order. Tribunal set aside the revision order. On appeal, the High Court held that since Assessing Officer had examined issue in depth and allowed exemption under section 54B to assessee, view taken by the Assessing Officer was one of reasonable, plausible and legally sustainable view which could not be said to be erroneous and, thus, order passed by Pr. Commissioner under section 263 could not be sustained and same was to be set aside. SLP of revenue was dismissed as the revenue could not explain the inordinate delay of 305 days in filing the SLP. (AY. 2016-17)
PCIT v. Kanubhai Vanmalibhai Patel HUF (2025) 307 Taxman 6 (SC)
Editorial: PCIT v. Kanubhai Vanmalibhai Patel HUF (2025) 178 taxmann.com 133 (Guj)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Cash credits-Adequate enquiry by Assessing Officer-Lack of enquiry-General observation by CIT-High Court affirmed the order of Tribunal-SLP of the revenue dismissed.[S. 68, 143(3), 153A, Art. 136] 2891

During the assessment proceedings, the AO raised specific queries regarding unsecured loans and, after obtaining the relevant information and conducting necessary enquiries, was satisfied with the details furnished by the assessee, including the identity and genuineness of the creditors, and completed the assessment under section 143(3). The CIT subsequently initiated revision proceedings under section 263. The Court noted that the CIT had made only general observations alleging a lack of enquiry by the AO, without specifying what further information ought to have been called for, nor did the CIT record any finding on the material already placed on record before holding that the assessment order was erroneous and prejudicial to the interests of the Revenue. Accordingly, it held that the Tribunal was justified in setting aside the revision order passed by the Commissioner, and no substantial question of law arose for consideration.

The Supreme Court declined to interfere with the judgment of the High Court, and the Special Leave Petition was dismissed. (AY.2014-15)
PCIT, Central v. Prabhu Poly Pipes Ltd. (2025) 306 Taxman 161 /481 ITR 506 (SC)
Editorial: PCIT Central v. Prabhu Poly Pipes Ltd. [2025] 176 taxmann.com 693 /481 ITR 503 (Cal.) (HC)

2892 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Capital gains-Investment in a residential house-More than one house-High Court held that findings of fact recorded by Tribunal in impugned order could not be termed as perverse or contrary to evidence on record and in overall view of matter, decision of Tribunal was correct and required no interference-SLP of revenue dismissed. [S. 54F, 143(3), Art. 136]**
Assessee claimed exemption under section 54F in respect of capital gains arising from sale of a long-term capital asset. Assessing Officer had issued notices under sections 143(2) and 142(1), specifically seeking details related to exemption claimed and assessee had responded with relevant documents, including explanations regarding nature and use of various properties-Upon consideration, Assessing Officer accepted claim and completed assessment under section 143(3). Principal Commissioner invoked provisions of section 263 on the ground that assessee was not eligible for deduction under section 54F as assessee owned more than one residential house other than new asset on date of transfer of original asset. Tribunal quashed order of Principal Commissioner passed under section 263 and held that Assessing Officer had applied his mind and framed assessment order and thus order passed by Assessing Officer was neither erroneous nor prejudicial to interest of revenue. High Court held that findings of fact recorded by the Tribunal in the impugned order could not be termed as perverse or contrary to evidence on record and in the overall view of the matter, the decision of the Tribunal was correct and required no interference. SLP of revenue dismissed. (AY. 2017-18)
PCIT v. Dineshchandra Narharishankar Upadhyay (2025) 304 Taxman 609 / 482 ITR 359 (SC)
Editorial: PCIT v. Dineshchandra Narharishankar Upadhyay (2025) 173 taxmann.com 835 /482 ITR 350 (Guj)(HC)

2893 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Cash credit-Order of the High Court quashing the revision order was affirmed-SLP of the revenue dismissed. [S. 68, Art. 136]**
Assessee-firm filed its return for relevant assessment year declaring total income as nil. Assessment was reopened assessment based on information from Investigation Wing that assessee maintained a bank account with ING Vysya Bank with substantial amount of credit entry which was not disclosed by assessee in its return. The Assessing Officer disallowed deduction under section 10AA. Principal Commissioner invoked revisionary jurisdiction on ground that Assessing Officer had not made any inquiry in respect of credit entries and same remained undisclosed and held that assessment order passed by Assessing Officer was erroneous and prejudicial to interest of revenue. Tribunal held that Assessing Officer had examined two issues raised in reopening of assessment under section 147 viz. credit entry in bank account and disallowance of deduction under section 10AA and set aside revisionary order on ground that entries in said

bank statement were examined by Assessing Officer in reassessment proceedings. High Court held that Assessing Officer had conducted sufficient inquiry and it was not a case of 'no inquiry' or 'lack of inquiry', thus, when an opinion was formed as a result of inquiries, which was in exclusive domain of Assessing Officer, it was not open for revisional authority to arrive at conclusions merely on basis of a subjective exercise It was not case of failure to investigate, but one where no addition was made on issue. SLP filed by the revenue was dismissed. The impugned order of the High Court was to be dismissed. (AY. 2012-13)

PCIT v. NYA International (2025) 304 Taxman 669 / 482 ITR 281 (SC)

Editorial : NYA International v. PCIT (2025) 173 taxmann.com 102 (Guj)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Accrual of income-Holiday scheme-Refund not only advance but also surrendered value in case of non-utilization of scheme-Incurred liability and no income accrued to assessee on receipt of advance-No claim was made by the Department in the Corporate Insolvency Resolution Process proceedings-Order of High Court affirming the order of Tribunal is affirmed-SLP of revenue dismissed. [S. 4, 5, Art. 136] 2894

Dismissing the civil appeal and SLO of revenue, the Court held that no claim was made by the Department in the Corporate Insolvency Resolution Process proceedings, wherein the plan has been approved and is being implemented. Followed *Ghanashyam Mishra & Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd. (2021) 9 SCC 659*.(AY. 2005-06)

CIT v. Pancard Clubs Ltd. (2025) 180 taxmann.com 529/ 347 CTR 672 / 256 DTR 180 (SC)

Editorial : CIT v. Pancard Clubs Ltd. (2014) 226 Taxman 141/ 272 CTR 257 /(2015) 370 ITR 45 (Bom)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Cash credits-share capital-Share premium-Principal Commissioner had to examine all records pertaining to assessment year at time of examination by him, which included, post-search assessment proceedings and thereafter only if he found that order passed by Assessing Officer on any issue was erroneous in so far as it was prejudicial to interest of revenue-Order of Tribunal quashing the revision order was affirmed-SLP of revenue was dismissed as the revenue could not explain the delay of 646 days in filing SLP. [S. 68, 153A, Art. 136] 2895

Principal Commissioner exercised its jurisdiction under section 263 and directed Assessing Officer to pass fresh assessment by looking into share capital/premium collected by assessee. Tribunal set aside order passed under section 263 and remanded matter back to Principal Commissioner for a fresh decision. While matter was pending, Assessing Officer completed assessment pursuant to search and seizure operation under section 153A. Commissioner did not consider effect of order passed under section 153A by stating that it was irrelevant and Commissioner proceeded to pass order under section 263. Tribunal held that Principal Commissioner while exercising his jurisdiction under section 263 was bound to look into subsequent action of Assessing Officer i.e. reassessment order under section 153A, wherein no adverse inference was drawn against share capital/premium collected by assessee during year under consideration and same had been accepted after enquiry. Further, under section 263, Principal Commissioner had to examine all records pertaining to assessment year at time of examination by him,

which included post-search assessment proceedings and thereafter only if he found that the order passed by the Assessing Officer on any issue was erroneous insofar as it was prejudicial to the interest of the revenue, then only he would interfere by enhancing/ modifying/cancelling assessment order. On appeal High Court held that finding rendered by Tribunal was justified as Principal Commissioner could not have ignored order passed under section 153A as being immaterial and irrelevant and the order of Tribunal affirmed. SLP of revenue was dismissed as the revenue court did not explain the delay of 646 days in filing SLP. AY. 2009-10)

PCIT v. Techno Tracom (P.) Ltd. (2025) 305 Taxman 563 (SC)

Editorial : PCIT v. Techno Tracom (P.) Ltd (2023) 293 Taxman 392/ (2024) 461 ITR 47 (Cal)(HC)

2896 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Cash credits-Share application money-Second revisionary order-Order of Tribunal setting aside second revisionary order is affirmed-SLP of revenue dismissed. [S. 68, 143(3), Art. 136]**

Commissioner invoked revisionary jurisdiction under section 263 in respect of share application money received by assessee-company. Tribunal set aside revisionary order passed by Commissioner on ground that Assessing Officer in compliance with first revisionary order had called for details of share application money received and conducted detailed enquiry regarding same and thereafter passed the consequential order Dismissing the appeal the Court held that since in second round of litigation, Tribunal had found that Assessing Officer in compliance with revisionary order had conducted detailed enquiry in respect of share application money, Tribunal was justified in setting aside second revisionary order passed by Commissioner. SLP of revenue dismissed. (AY. 2012-13)

Pr. CIT v. Rani Sati Agro Tech Pvt. Ltd. (2025) 478 ITR 229 /304 Taxman 584 (SC)

Editorial : PCIT v. Rani Sati Agro Tech Pvt. Ltd [2024] 298 Taxman 498 / (2025) 478 ITR 225 (Cal)(HC)

2897 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Amalgamation-Depreciation-Demerger-Goodwill-Difference between net assets and shares to be issued credited as goodwill and depreciation allowed-Scrutiny assessment-Order of Tribunal setting aside revision order was affirmed by High Court-SLP of revenue was dismissed. [S. 32(1), 43(6), Expln. 3(b), 143(3), Art, 136.]**

Dismissing the appeal the Court held that the Assessing Officer had considered the action of granting approval and also the valuation report and since the Assessing Officer had examined the aspect of the assessee's claim during the course of assessment while passing order under section 143(3) he had taken a plausible view sustainable in the eyes of law. It held that the assessee was entitled to claim depreciation under section 32 on goodwill expended at the time of amalgamation. The Assessing Officer had also relied on the decision of the Supreme Court in *CIT v. Smifs Securities Ltd., (2012) 348 ITR 302 (SC)* and allowed the depreciation. No substantial question of law. SLP of the revenue was dismissed. (AY. 2015-16, 2016-17)

PCIT. v. Aculife Healthcare Pvt. Ltd.(2025) 477 ITR 398/ 177 taxmann.com 79 (SC)

Editorial : PCIT v. Aculife Healthcare Pvt. Ltd. (2023) 155 taxmann.com 283 / (2025) 477 ITR 392 (Guj)(HC)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Business expenditure-Loss-Carry forward-Non application of mind-High Court holding Assessing Officer, without enquiry or application of mind, allowed the assessee to carry forward loss and Commissioner right in revising-SLP of the revenue was dismissed.[Art. 136] 2898

The High Court allowed the Department's appeal against the order of the Tribunal setting aside the revision proceedings under section 263 of the Act holding that the Commissioner was justified in setting aside the assessment order under section 263, on the grounds that the record, prima facie, suggested that no business was undertaken by the assessee during the year though it had claimed business expenses with a view to carrying forward losses, that the records clearly indicated that the assessee had not charged any fees for technical or management services said to have been rendered during the year, that without a thorough inquiry, the Assessing Officer was not justified in allowing the assessee to carry forward losses, that this was not a case of some plausible view taken by the Assessing Officer but a case where his decision was a result of non-application of mind to the materials on record and that it was only in pursuance of inquiry that the Commissioner had recorded a categorical finding that the assessee had not claimed payment of any fees from Paradeep Phosphates Ltd in respect of any technical or management services said to have been rendered by it. SLP of the assessee was dismissed. (AY. 2009-10)

Zuari Maroc Phosphates Ltd. v. Pr. CIT (2025) 476 ITR 5/305 Taxman 495 (SC)

Editorial: Pr. CIT v. Zuari Maroc Phosphates Ltd., (2021) 432 ITR 316 / 279 Taxman 333 (Bom)(HC).

S. 263: Commissioner-Revision of orders prejudicial to revenue-Capital gains-Assessment order was passed without making enquiry-In terms of clause (a) of Explanation 2 to section 263, the assessment order was deemed to be erroneous in so far as it was prejudicial to interests of revenue-SLP filed by the assessee against order of High Court was dismissed.[S. 45, 263, Explanation 2, Art. 136] 2899

Assessee sold immovable property for a sum of Rs. 6.5 crores. Admittedly, a sum of Rs. 5.05 crores was received by the assessee and the balance amount of Rs. 1.45 crores was not received, as cheques for said amount were dishonoured. Assessee did not reflect sale of his immovable property during the relevant assessment year and did not offer capital gains to tax. PCIT passed the revision order on the ground that the Assessing Officer did not examine details regarding dishonour of cheques. Tribunal affirmed the revision order. On appeal, the High Court held that the assessment order was passed without making necessary inquiries and verification and thus, in terms of clause (a) of Explanation 2 to section 263, the assessment order was deemed to be erroneous in so far as it was prejudicial to interests of revenue. SLP filed by the assessee against the order of the High Court was dismissed. (AY. 2015-16)

M.R. Apparels (P.) Ltd. v. PCIT (2025) 303 Taxman 328 (SC)

Editorial : M.R. Apparels (P.) Ltd. v. PCIT (2024) 168 taxmann.com 197 (Delhi)(HC)

2900 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Share capital-Share premium-Order of High Court quashing the revision order-Delay of 358 days-SLP of revenue was dismissed for failure to explain the condonation of delay. [S. 131, 142(1), Art. 136]**

Dismissing the appeal of the revenue, the Court held that the second time, pursuant to the order passed under section 263, the view taken by the Assessing Officer in the second round of the proceedings was permissible under the law, and that the Tribunal had rightly held that the Principal Commissioner had not given any reasons to conclude that the assessment should be revised for the second time. Delay of 358 days. SLP of the revenue was dismissed on account of condonation of delay.

PCIT v. Pearl Tracom Pvt. Ltd (2025) 476 ITR 459 (SC)

Editorial : PCIT v. Pearl Tracom Pvt. Ltd., (2025) 476 ITR 456 (Cal)(HC)

2901 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Tribunal's quashing of revision order relying on High Court decision on similar issue-SLP of revenue dismissed on the ground of delay and on the merits. [Art. 136]**

The High Court dismissed the Department's appeal from the order of the Tribunal quashing proceedings taken by the Principal Commissioner under section 263 of the Act. SLP dismissed on the ground of delay and on the merits.(AY. 2013-14)

PCIT v. Green Touch Vincom Pvt. Ltd.(2025) 476 ITR 515 /304 Taxman 587 (SC)

Editorial : Pr. CIT v. Green Touch Vincom Pvt. Ltd. (2025) 476 ITR 511 /173 taxmann.com 879 (Cal)(HC)

2902 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Assessing Officer issued questionnaire seeking comprehensive information regarding share capital transactions-Assessee furnished required details and documents, and adequate enquiries were conducted by Assessing Officer-Power cannot be invoked without demonstrating failure of proper inquiry-SLP of revenue dismissed. [Art. 136]**

Dismissing the appeal, the High Court held that the Tribunal had examined the entire record and found that the Assessing Officer had raised several queries and had also demanded documents through the questionnaire, which was comprehensive and covered all relevant aspects of the share issue transactions. The assessee had answered and furnished all the requested documents to the Assessing Officer, and had also informed the Principal Commissioner, who had taken proceedings under section 263. The Principal Commissioner had not pointed out any further enquiries which were required to be made by the Assessing Officer. The power under section 263 could not be invoked in such circumstances by the Principal Commissioner. The factual aspects had been completely and thoroughly examined by the Tribunal. The order passed by the Principal Commissioner was not sustainable and had been correctly quashed by the Tribunal. SLP of the revenue dismissed. (AY. 2018-19)

PCIT v. V-Con Integrated Solutions Pvt. Ltd (2025) 476 ITR 526 /304 Taxman 598/347 CTR 559 / 255 DTR 383 (SC)

Editorial : Pr. CIT v. V-Con Integrated Solutions Pvt. Ltd.(2025) 476 ITR 522 /173 taxmann.com 773 (P & H) (HC) / V-Con Integrated Solutions Pvt. Ltd. v. Pr. CIT, (2024) 112 ITR 118 (Chad) (Trib)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Depreciation-Order passed by Assessing Officer relying on the decision of Tribunal-Subsequently set aside by High Court-Revision is not valid-Order of High Court is affirmed. [S. 32, 143(3), Art. 136] 2903

Commissioner passed the Revision order. On appeal, the Tribunal, placing reliance on its decision passed in earlier years, set aside order passed by the Commissioner. On appeal, Revenue contended that the decision of Tribunal in an earlier year was set aside by the High Court in appeal and hence, the revision order was just. High Court held that merely because the order of the Assessing Officer was passed relying upon the order of the Tribunal, which was subsequently reversed by High Court, could not justify the order passed by the Commissioner under section 263 of the Act. SLP of the Revenue is dismissed. (AY. 2009-10)

CIT, LTU v. Canara Bank (2025) 302 Taxman 369 (SC)

Editorial : CIT, LTU v. Canara Bank (2021) 277 Taxman 215 (Karn)(HC)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Capital asset-Solitary transaction-Sold without development-Assessing Officer accepted the claim as capital gains-Two plausible views-Order of the High Court quashing the revision order is affirmed.[S. 2(14), 45, Art. 136] 2904

Dismissing the SLP of the Revenue, the Court held that the finding that the transaction was a solitary transaction and no development activity was made was in consonance with the facts recorded by the Assessing Officer. The only difference was that the Assessing Officer had taken a view that for any purchase or sale of land, the assessee was liable to pay capital gains tax, and the Commissioner had taken a different view. High Court held that merely because two plausible views were available and the Assessing Officer had taken one view, jurisdiction under section 263 could not have been exercised; the revision order is set aside. SLP filed by the revenue against the order passed by the High Court is dismissed. (AY. 2008-09)

CIT v. Embassy Brindavan Developers (2025) 302 Taxman 362/476 ITR 768 (SC)

Editorial : Embassy Brindavan Developers v. CIT (2023) 291 Taxman 188/ 457 ITR 234 (Karn)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Capital gains-The part consideration on account of immovable property sold was not received as cheques dishonoured-The assessee did not offer Capital Gain to tax during the relevant assessment year-Pr. CIT found that the AO did not examine details regarding dishonour of cheques-Assessment Order to be erroneous in so far as prejudicial to the interest of the Revenue-Order of Tribunal is affirmed by High Court-SLP is dismissed-S. 263, Explanation 2(a). [S. 45, Art. 136] 2905

The assessee sold immovable property during the relevant year. However, the assessee did not reflect the sale of immovable property neither paid tax on Capital Gains on the ground that the cheques towards balance of sale considerations were dishonoured.

The Pr. CIT observed that the two cheques issued by the purchaser was post dated cheques. The AO at the time of framing the assessment order, accepted the auditor's report given before the date of post dated cheques and accordingly, passed the

assessment order without any enquiries as to dishonoured post dated cheques. The Pr. CIT assumed the jurisdiction in terms of clause (a) of Explanation 2 to Section 263 with the observation that the AO failed to examine the details of the dishonoured cheques and thus, the assessment order being an erroneous in so far as the prejudicial to the interest of the Revenue. On appeal by the petitioner, the Tribunal upheld the order passed by the Pr. CIT. High Court affirmed the order of the Tribunal. SLP is dismissed. (AY. 2015-16)

M.R. Apparels (P.) Ltd. v. PCIT (2025) 472 ITR 799 (SC)

Editorial M.R. Apparels (P.) Ltd. v. PCIT (2024) 168 taxmann.com 197 / (2025) 472 ITR 793 (Delhi) (HC)

2906 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Remittances to non-resident-Import of raw materials-Deduction of tax at source-Tribunal setting aside the order of Commissioner-Commissioner cannot make addition without directing the Assessing Officer to re-examine issue-Order of High Court is affirmed-SLP of Revenue is dismissed. [S. 40(a)(ia), 195, 254, Art. 136.]**

Dismissing the appeal of the Revenue the Court held that the conclusion of the Tribunal, to the extent, that the Commissioner could not have unilaterally directed the Assessing Officer to add back the sum paid towards the import of raw materials by holding that it was disallowable as expenditure could not have been issued under section 263 without the Assessing Officer re-examining the issue was beyond the jurisdiction of the Commissioner, did not suffer from any legal infirmity. Order of Tribunal is affirmed. No substantial question of law. SLP of Revenue is dismissed (AY. 2007-08)

CIT v. Paradeep Phosphates Ltd.(2024) 471 ITR 422 (SC)

Editorial : CIT v. Paradeep Phosphates Ltd. (2024) 471 ITR 419 (Orissa) (HC)

2907 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Cash credits-Share premium-Capital transaction-Second time on ground of inadequate enquiry-Tribunal, on examining the factual position and also noting the legal position, had granted relief to assessee-No question of law arose from order of Tribunal.[S.68, 143(3), 260A]**

The assessee-company had received a substantial amount as share capital/share premium. The Assessing Officer made an addition under section 68 in respect of the share capital/share premium. Principal Commissioner invoked revisionary power under section 263 on the ground that the Assessing Officer had passed the order without carrying out a detailed investigation. The Assessing Officer passed the fresh assessment order under section 143(3) read with section 263 and deleted the addition already made under section 68 in respect of the share capital/share premium. PCIT once again passed the revision order. On appeal, the Tribunal held that it was not a case of no enquiry or lack of enquiry as the Assessing Officer had made an enquiry and taken a view after considering the evidence furnished by the assessee as well as by the share subscribers. On appeal, the High Court affirmed the order of the Tribunal. (AY. 2012-13)

PCIT v. Anjaniputra Nirmal (P.) Ltd. (2025) 307 Taxman 45 (Cal.)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Loans and advances-DDIT Investigation report-Shell companies-No discussion in the assessment order-Effect of insertion of Explanation to section 263 with effect from 1-6-2015-Revision order affirmed-Order of Tribunal set aside.[S. 68, 143(3), 260A, Explanation 2.] 2908

Assessee, engaged in the business of real estate development, filed its return of income, which was accepted accordingly. Commissioner invoked powers vested under section 263 and observed that it was a case of lack of inquiry, which ought to have been made on part of Assessing Officer as issue of loans advanced to assessee by Sarvottam Securities Ltd and Upaj Leasing and Finance Pvt Ltd was not properly examined by Assessing Officer despite DDIT investigation report. Tribunal held that Assessing Officer had duly inquired into the matter and PCIT had erroneously invoked jurisdiction under section 263. On appeal by the Revenue, the Court held that perusal of assessment order would reflect that it nowhere discussed, examined or evaluated said loan transactions. In light of findings from DDIT investigation report and assessment proceedings of Upaj Leasing and Finance Pvt Ltd that entities Sarvottam Securities Ltd and Upaj Leasing and Finance Pvt Ltd were shell companies of an entry operator, relevance of ascertaining genuineness and creditworthiness of transactions could not be undermined and since there was no discussion about aforesaid aspects in assessment order, revision order was valid. Explanation 2 to section 263 of the Act would be applicable as the Explanation was inserted by the Finance Act, 2015 (2015) 373 ITR (St.) 25 with effect from June 1, 2015 and the case of the assessee belonged to the assessment year 2016-2017. The order of revision was valid.(AY. 2016-17)

PCIT v. Paramount Propbuild Pvt. Ltd [2024] 161 taxmann.com 85 / (2025) 482 ITR 61 (Delhi)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Understatement of closing stock-Order of revision based on suspicion-Not valid-Order of Tribunal affirmed.[S.260A] 2909

Dismissing the appeal of the revenue the Court held that the exercise conducted by the Assessing Officer in the scrutiny assessment was examined by the Tribunal which found that due enquiry had been conducted by the Assessing Officer and after perusal of the documents, stock register, etc., the assessment was completed. The Tribunal also reappreciated the factual position and found that the Commissioner while exercising power under section 263 of the Act had not recorded a specific finding that it was a case of no enquiry by the Assessing Officer rather the observation was that there could be a possibility of understatement of the closing stock. Order of Tribunal affirmed. (AY. 2009-10)

CIT v. Gopal Sharma (2025) 482 ITR 226(Cal)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Presumptive basis-Order of Tribunal affirming the revision is affirmed. [S.44DA, 260A] 2910

Held, dismissing the appeal, that the assessment in accordance with the provisions of section 44ADA of the Income-tax Act, 1961 has to be at 50 per cent. and thus, the Assessing Officer had erred in making the assessments and consequently, the order was prejudicial to the interests of the Revenue. Order of Tribunal affirmed. (AY. 2018-19)

Harjot Singh v. PCIT (2025) 482 ITR 335 (P & H) (HC)

2911 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Long term capital gains-Order of Tribunal affirmed.[S. 45, 54F, 260A]**

Dismissing the appeal, the revenue court held that the findings of fact recorded by the Tribunal in its order could not be termed perverse or contrary to the evidence on record. The order of the Tribunal holding that none of the reasons set out by the Principal Commissioner for invoking the jurisdiction under section 263 was sustainable and accordingly quashing the order of the Principal Commissioner was affirmed. (AY. 2017-18)

PCIT v. Dineshchandra Narharishankar Upadhyay (2025) 482 ITR 350 /173 taxmann.com 835 (Guj)(HC)

Editorial : SLP dismissed, PCIT v. Dineshchandra Narharishankar Upadhyay (2025) 304 Taxman 609 / 482 ITR 359 (SC)

2912 **S. 263: Commissioner-Revision of orders prejudicial to revenue-AO allowed deduction under section 54B after detailed inquiry-View taken by AO reasonable and plausible-Twin conditions for section 263 not fulfilled-Revision order not sustainable. [S. 54B, 260A]**

The assessee-HUF sold agricultural land for Rs. 33.82 crores, claiming a deduction of Rs. 17.75 crores under section 54B for the purchase of other agricultural land. The AO accepted the income after a thorough inquiry, including documentary evidence such as sale deeds and bills. However, the PCIT set aside the assessment, citing a lack of cross-verification with the agriculture department and previous non-declared agricultural income. On appeal, the Tribunal quashed the PCIT's order, concluding that the AO had reasonably determined the transaction as capital gains eligible for deduction, and that both conditions under section 263 were not met. The revenue's appeal was dismissed as no substantial question of law arose, and the treatment of capital gains for a co-owner corroborated the AO's position.(AY. 2016-17)

PCIT v. Kanubhai Vanmalibhai Patel (2025) 481 ITR 246 / [2025] 178 taxmann.com 133 (Guj.) (HC).

Editorial : SLP of revenue dismissed, delay of 365 days, PCIT v. Kanubhai Vanmalibhai Patel (2025) 307 Taxman 6 (SC)

2913 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Assessing Officer taking one of two possible views-Order of Assessing Officer not erroneous-Order cannot be revised. [S. 260A]**

Dismissing the appeal of the revenue, the Court held that the Tribunal had recorded that on the first issue, the Commissioner had misconstrued the facts. On issue Nos. 2, 3 and 4, the Assessing Officer had taken "possible views". The Tribunal was justified in setting aside the order of revision. In *CIT v. Amitabh Bachchan, (2016) 384 ITR 200 (SC)*, the Supreme Court has held that so long as the view taken by the Assessing Officer is a "possible view", it ought not be interfered with by the Commissioner under section 263 of the Income-tax Act, 1961 merely on the ground that there could be another possible view in the matter. (AY. 2014-15)

PCIT v. Sasken Technologies Ltd (2025) 483 ITR 49 (Karn)(HC)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Tribunal finding that the Assessing Officer had made sufficient inquiry and the order of assessment was not erroneous-Order of revision not valid.[S. 260A] 2914

Held, dismissing the appeal, that the Tribunal had found that an adequate inquiry was done and it was not a case of lack of inquiry. Repayment of the loan did not constitute any expenditure, and as the source of such repayment was explained before the Assessing Officer as well as the Principal Commissioner, section 69C of the Income-tax Act, 1961, could not have been invoked. The receipts had already been taxed in the hands of the assessee, and the assessee had filed an appeal against the order, which was finally closed under the Direct Tax Vivad se Vishwas Scheme. The Tribunal was right in holding that it was not a case where there was a lack of inquiry and therefore there was no ground on which revisionary powers under section 263 could have been invoked. (AY. 2017-18)

PCIT v. Corus Vitrified Pvt. Ltd (2025) 483 ITR 254 (Guj) (HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Alleged bogus purchases-Assessment had been passed after due enquiry-Revision of order not valid. [S. 143(3), 260A] 2915

Dismissing the appeal, the Court held that the assessee had furnished the bank statements, tax invoices and ledger accounts of the parties. Similarly, for the commission expenses, the assessee had furnished the details of both parties. Out of four parties, three parties were located at distant places. The Principal Commissioner had not disputed the existence of the parties, nor the payment against the purchases or the commission paid, nor the evidence filed by the assessee to substantiate the allegation that the purchases or commissions paid were bogus. The order of assessment was not erroneous, and the order of revision was not valid. (AY.2014-15)

PCIT v. Ramchandra Dahyabhai Narrow Fab Pvt. Ltd.(2025) 483 ITR 722 (Guj)(HC)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Unsecured loans-AO raised queries, examined identity, creditworthiness and genuineness of creditors, and took a plausible view-General observation by PCIT without specific finding as to what inquiry was lacking-Revision order not sustainable. [S. 143(3), 153A] 2916

The assessment under sections 153A and 143(3) was completed by the AO after the assessee provided evidence of unsecured loans. The PCIT invoked Section 263, claiming that the AO conducted an inadequate inquiry into the creditworthiness and identity of the loan providers. However, the Tribunal quashed the PCIT's revision, asserting that the AO had conducted sufficient inquiries and had a plausible basis for accepting the loans. The Court upheld the Tribunal's decision, stating that the PCIT must provide specific findings on the AO's alleged failures and independently verify any additional information needed to challenge the assessment order. The revenue's appeal was dismissed, confirming no substantial question of law arose. (AY. 2014-15)

PCIT v. Prabhu Poly Pipes Ltd. (2025) (2025) 481 ITR 503 / 176 taxmann.com 693 (Cal.) (HC)

Editorial : PCIT v. Prabhu Poly Pipes Ltd. (2025) 481 ITR 506/306 Taxman 161 ((SC), SLP dismissed.

2917 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Depreciation-Leasehold improvements at its leasehold office premises-100 per cent depreciation-Temporary erection-Assessing Officer had not examined nor applied his mind in respect of available rate of depreciation on leasehold improvements; granting said depreciation was erroneous, prejudicial to interest of revenue. Order of Tribunal affirmed. [S. 32, 260A]**

Assessee-company carried out leasehold improvements at its leasehold office premises. Assessee claimed 100 per cent depreciation on the ground that additions were in the nature of dismantling and temporary erection, which were eligible for depreciation as per rates prescribed under Rule 5 of the Income-tax Rules, 1962. Assessing Officer allowed the same. Principal Commissioner invoked revisionary proceedings on the ground that the assessee would be entitled to depreciation thereon at 10 per cent as per the Rules. He directed the Assessing Officer to re-do the assessment afresh. Tribunal dismissed the appeal of the assessee. On appeal, the Tribunal held that since the issue of depreciation at 100 per cent was a non-issue before the Assessing Officer, i.e., the Assessing Officer had neither examined nor applied his mind in respect of the available rate of depreciation on leasehold improvements, granting said depreciation was erroneous and prejudicial to the interest of revenue. Order of Tribunal affirmed. (AY. 2008-09)

Herbalife International India (P.) Ltd. v. CIT (2025) 305 Taxman 175 (Karn.)(HC)

2918 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Property held for charitable purposes-Since there was no discussion or finding on 34 questions raised under section 142(1), the Assessing Officer should be taken as having accepted the assessee's explanation-Order of the Tribunal quashing the revision order is affirmed. [S. 11, 12, 142(1), 260A]**

Assessing Officer passed an assessment order allowing exemption under section 11. Commissioner passed the revision order for failure to consider certain receipts as business income. Tribunal quashed the revision order. On appeal, the Court held that the Assessing Officer had issued a questionnaire raising 34 questions on various issues and the assessee had given an explanation and also submitted materials. Since there was no discussion or finding on 34 questions raised under section 142(1), the Assessing Officer should be taken as having accepted the assessee's explanation. Accordingly, the order of the Tribunal quashing the revision. The order is affirmed. (AY. 2009-10)

CIT v. Vellore Institute of Technology (2025) 305 Taxman 450 (Mad)(HC)

2919 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Unexplained investments-Unaccounted cash sales-Assessing Officer had duly examined issue of unaccounted cash sales during assessment proceedings-Order of Tribunal quashing the revision order passed by the Commissioner is affirmed. [S.69C 143(3), 260A, 263, Explanation 2.]**

The assessment was reopened based on documents found during a search at a certain firm, revealing financial transactions. Assessing Officer assessed income, adding it using the G.P. rate of 19.40%. PCIT invoked Section 263, arguing that the Assessing Officer failed to verify cash transactions and ordered fresh assessment. Tribunal quashed the PCIT's order, holding that the Assessing Officer had duly examined the issue of

unaccounted cash sales during assessment proceedings. High Court affirmed the order of the Tribunal, holding that the Tribunal had rightly held that the PCIT had erred in invoking the provisions of section 263 and had rightly set aside said order. (AY. 2012-13)
PCIT v. Asiatic Bearing Co. (2025) 304 Taxman 533 (Guj.)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Jurisdiction to be tested with reference to law prevailing on date of exercise of revisional power-Subsequent Supreme Court decision cannot invalidate revision-Lack of enquiry by Assessing Officer on section 32AB deduction and computation of book profits under section 115J rendered assessment erroneous and prejudicial-Commissioner's order to be read as a whole and not by isolating one sentence-Where assessee did not challenge order giving effect to section 263, merits could not thereafter be agitated-Tribunal upholding assumption of jurisdiction affirmed. [S. 32AB, 115J, 260A] 2920

The Bombay High Court held that where the Assessing Officer had not examined the issues relating to deduction under section 32AB and computation of book profits under section 115J in the original assessment, the Commissioner validly assumed jurisdiction under section 263, since absence of enquiry rendered the assessment order erroneous and prejudicial to the interests of the Revenue. The Court held that the validity of revisional jurisdiction must be tested on the basis of the legal position prevailing on the date the Commissioner exercised such jurisdiction, and a subsequent decision of the Supreme Court in Apollo Tyres Ltd. could not be relied upon to invalidate the revision. It was further held that the Commissioner's operative order had to be read holistically and the assessee could not isolate one sentence to contend that a final finding on merits had been given; the Commissioner had only directed fresh examination in accordance with law. Since the assessee had not challenged the order passed by the Assessing Officer giving effect to the section 263 order, the assessee could not be permitted to indirectly agitate the merits in appeal against the revisional order. The Tribunal's order upholding the exercise of jurisdiction under section 263 was affirmed.(AY. 1988-89)
KEC International Ltd. v. Dy. CIT (2025) 480 ITR 138 / 304 Taxman 132 (Bom)(HC).

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Survey-Lack of proper enquiry-Specific show-cause notice-Excess stock-Principal CIT unjustified in invoking revisionary jurisdiction-Tribunal order affirmed. [S. 69, 115BBE, 133A, 260A] 2921

During survey, excess stock was found and the AO issued a specific show-cause notice asking why the amount should not be treated as unexplained investment under S. 69 and taxed under S. 115BBE. The assessee explained that the excess stock represented business stock duly recorded in the books and offered as business income. After considering the reply, the AO accepted the explanation and made only a small addition. The Principal CIT invoked S. 263 alleging lack of enquiry and non-application of mind. The High Court held that since the AO had conducted enquiry through a specific notice and taken a plausible view, the twin conditions of "erroneous" and "prejudicial to revenue" were not satisfied. Mere loss of revenue or disagreement with the AO's view could not justify revision. Accordingly, the revision order was rightly set aside by the Tribunal. (AY. 2017-18)
PCIT v. Mahavir Ashok Enterprises (P) Ltd. [2024] 167 taxmann.com 396 / (2025) 344 CTR 628 (Chhattisgarh) (HC)

2922 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Lack of enquiry-Leasehold rights in land and building duly examined by Assessing Officer-Valuation based on registered valuer's report-Reversal of provision disallowed u/s 43B cannot be taxed on write-back-Revision not sustainable-Tribunal quashing revision affirmed. [S. 43B, 56(2)(x), 260A].**

The Assessing Officer, after examining the valuation of leasehold land and building acquired for setting up a mega industrial unit and considering the registered valuer's scientific valuation report along with incentives granted by the Government of Maharashtra, accepted the assessee's claim and completed assessment after due enquiry. The Tribunal found that invocation of revisionary jurisdiction by the Principal CIT was primarily at the instance of the Assessing Officer, which is impermissible in law, and that adequate enquiries had in fact been conducted during assessment proceedings. It was also held that section 56(2)(x) was inapplicable since the agreement for acquisition preceded its introduction. Further, reversal/write-back of a provision earlier disallowed under section 43B could not be brought to tax, as such action would amount to double taxation of the same sum. The Principal CIT failed to deal with the assessee's detailed explanation and judicial precedents while directing reconsideration by the Assessing Officer. Accordingly, the Tribunal rightly set aside the revision order and the High Court affirmed that the conditions for exercise of jurisdiction under section 263 were absent. (AY. 2018-19).

PCIT v. Britannia Industries Ltd. (2025) 176 taxmann.com 470 / 346 CTR 242 / 252 DTR 178 (Cal)(HC)

2923 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Number of partners exceeded 20-Remuneration to partners-Commissioner not showing how order of Assessing Officer prejudicial-Order of Tribunal quashing the revision order was affirmed. [S.40(b)]**

Dismissing the Department's appeal the Court held that the notice issued by the Commissioner there was no explanation as to why the order of the Assessing Officer was prejudicial to the interests of the Revenue. Even if prejudice to the Revenue was to be reckoned in terms of the actual loss to the exchequer, no figures had been given in the notice to suggest that the average rate of Income-tax on the total income of the association of persons would be far higher than the average rate of Income-tax applied to the firm. That if the Revenue's stand of disallowing under section 40(b), the remuneration paid by the assessee to its partners was upheld, then the total tax that would be paid by the assessee and its partners would amount to Rs.7,11,81,848. If the stand of the assessee was accepted, still the tax paid collectively by the firm and the partners in their individual assessments would amount to Rs. 7,11,81,848. Therefore, there was no prejudice that could be stated to have been caused to the Revenue. Court also held that a firm is a compendious way of describing the individuals constituting the firm. The view of the Commissioner that the assessee's partner MDK acted in two capacities, i.e., on his own behalf and as a partner in a representative capacity of DHSM and, therefore, should be counted as two in numbers, thereby adding one more partner to the existing strength of 20 partners, was erroneous. On the facts and circumstances, DHSM could not be added as a partner of the assessee-firm. The Tribunal was right in

holding that the Commissioner in his power under section 263, had erroneously directed the Assessing Officer to modify the assessment order passed under section 143(3), treating the status of assessee as an association of persons.(AY. 2008-09)
CIT v. Deloitte Haskins and Sells (2025) 478 ITR 21/305 Taxman 605 (Mad)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Consortium of private entities not a statutory body-Deduction wrongly allowed by AO-Revision justified-Order of Tribunal set aside. [S.80IA(4) Expl. 263] 2924
The assessee claimed deduction u/s 80IA on the basis of a concession agreement entered into with a consortium of private entities for operating, maintaining and developing the cargo terminal at Delhi Airport. The consortium was formed pursuant to a bidding process conducted by Airports Authority of India (AAI). The AO allowed the deduction. The PCIT invoked S.263, holding that the mandatory condition of S.80IA(4)that the agreement must be with the Central/State Government, local authority or statutory body was not fulfilled since the consortium was not a statutory body merely because AAI delegated certain functions to it. Tribunal set aside the revision order. On appeal, the High Court held that the Tribunal erred in ignoring these statutory preconditions; the concession granted by the consortium could not qualify for S. 80IA benefits, and the AO's order was therefore erroneous and prejudicial to the Revenue. Revision order of PCIT restored.(AY. 2011-12)
PCIT v. Celebi Delhi Cargo Management India Pvt. Ltd. (2025) 478 ITR 82/172 taxmann.com 3 (Delhi)(HC).

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Finding by Tribunal that proper enquiry had been conducted-order was not prejudicial to revenue; order of revision not valid.[S. 260A] 2925
Held, dismissing the appeal, that the Tribunal had dealt with the issue and found that the Assessing Officer thoroughly examined the sale of immovable property that had resulted in capital gains. He had examined the written reply, sale deed, purchase of property and computation of capital gains. He had also examined the evidence led by the assessee to claim benefit of section 54 of the Income-tax Act, 1961. The Tribunal had observed that the revisional authority had not expressed any doubt regarding the quantum of capital gains arising at the hands of the assessee and that it was invested in purchase and construction of residential house. Seen in the context of an assessee with modest means, the Commissioner had unnecessarily drawn up revision proceedings upon a procedural lapse as no real prejudice may have ever arisen to the Revenue authorities in the context of the petty amount involved. The Tribunal was justified in setting aside the order of revision.(AY. 2012-13)
PCIT v. Sarita Gupta (Ms) [2024] 163 taxmann.com 8/(2025) 478 ITR 446 (All)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Penalty concealment-Satisfaction need not be recorded in particular form-Order dropping penalty proceedings can be revised.[S. 271 (1)(c)] 2926
On appeal by the revenue the Court held that the penalty proceedings were initiated and then dropped which later order was revised under section 263. This was valid. Court

also held that no contention was taken regarding the prima facie satisfaction having not been recorded in the assessment order; which was never taken up earlier and which demonstrably was recorded in the assessment order. The penalty proceedings were valid. Satisfaction need not be recorded in particular form. (AY. 2004-05)
PCIT v. R.A. Himmatsingka and Co.(2025) 478 ITR 456 /178 taxmann.com 135 (Patna) (HC)

2927 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Penalty Concealment of income or furnishing inaccurate particulars thereof-Specific charge-Assessing Officer recording satisfaction under section 271AAB and not under section 271(1)(c) during assessment proceedings-Revisional authority's direction to initiate proceedings under section 271(1)(c) without such satisfaction unsustainable-Tribunal justified in setting aside revisional order.[S. 260A, 271(1)(c), 271AAB.]**
For initiation of penalty proceedings under section 271(1)(c) of the Income-tax Act, 1961, the satisfaction of the Assessing Officer that the matters mentioned in clauses (a) to (d) of section 271 subsist, is to be recorded during the course of the proceedings. The assessment and penalty are separate proceedings. The recording of the satisfaction has to be during the course of the proceedings though the notice can be issued during or after the proceedings. Once the satisfaction is recorded, the penalty can be imposed after conclusion of the proceedings but within the limitation period provided under section 275. The initiation of penalty proceedings by the Assessing Officer during the proceedings is not a substitute for recording of the satisfaction in the order. The assessment order cannot be held to be erroneous and prejudicial to the interests of the Revenue for non-recording of the satisfaction by the Assessing Officer to initiate the penalty proceedings. The satisfaction has to be of specific provisions and penalty proceedings cannot be initiated a different provision for which no satisfaction was recorded.(AY. 2012-13 to 2018-19)
PCIT v. Ram Kishan Verma (2025) 478 ITR 727 /174 taxmann.com 239 /345 CTR 68 / 250 DTR 289 (Raj)(HC)
PCIT v. Harish Jain (2025) 478 ITR 727 /174 taxmann.com 239/ 345 CTR 68 / 250 DTR 289 (Raj)(HC)
PCIT v. Manoj Kunar Sharma (2025) 478 ITR 727 /174 taxmann.com 239/ 345 CTR 68 / 250 DTR 289 (Raj)(HC)

2928 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Amalgamation-Depreciation-Demerger-Goodwill-Difference between net assets and shares to be issued credited as goodwill and depreciation allowed-Scrutiny assessment-Order of Tribunal setting aside revision order was affirmed.[S. 32(1), 43(6), Expln. 3(b), 143(3), 260A]**
Dismissing the appeal, the Court held that the Assessing Officer had considered the action of granting approval and also the valuation report, and since the Assessing Officer had examined the aspect of the assessee's claim during the course of assessment while passing an order under section 143(3) he had taken a plausible view sustainable in the eyes of law. It held that the assessee was entitled to claim depreciation under section 32 on goodwill expended at the time of amalgamation. The Assessing Officer had also relied on the decision of the Supreme Court in *CIT v. Smifs Securities Ltd., (2012) 348*

ITR 302 (SC) and allowed the depreciation. No substantial question of law. (AY. 2015-16, 2016-17)
PCIT v. Aculife Healthcare Pvt. Ltd. (2023) 155 taxmann.com 283 / (2025) 477 ITR 392 (Guj)(HC)
Editorial: SLP rejected, PCIT v. Aculife Healthcare Pvt. Ltd [2025] 477 ITR 398 / 177 taxmann.com 79 (SC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Capital gains-Principal Commissioner had applied his mind and had not relied merely on Assessing Officer's proposal-Order of revision valid-Order of Tribunal set aside. [S. 10(38), 143(3), 260A] 2929
Allowing the appeal of the revenue, the Court held that the operative portion of the show-cause notice under section 263 of the Act showed that the Principal Commissioner had applied his mind and had come to the prima facie conclusion that the Assessing Officer should have treated the entire credit as bogus and added it back, rejecting the claim for exemption under section 10(38) of the Act. This was not a case where the Principal Commissioner solely proceeded based on the report of the Assessing Officer but, on a perusal of the report, had examined the facts. The Tribunal had committed a manifest error in allowing the assessee's appeal and setting aside the order passed under section 263. The order of revision was valid. Order of Tribunal set aside. (AY. 2014-15)
PCIT v. Bina Gupta (2025) 476 ITR 54 (Cal)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Book profits-Prior-period expenses-Hyper-technical Revision order directing addition of such amount in book profits, unsustainable-Order of Tribunal was set aside. [S. 115JA, 260A] 2930
Allowing the appeal the Court held that the order of the Tribunal confirming the proposal was also hyper-technical. The Tribunal had proceeded on the assumption that there was a profit and loss appropriation account which was erroneous as there was no such account in the financials produced before the court. The Tribunal was not right in holding that the prior-period expenses could not be reduced from the book profits computed under section 115JA. (AY. 1998-99)
Ramakrishna Mills (CBE) Ltd. v. JCIT (2025) 476 ITR 161 /173 taxmann.com 918 (Mad) (HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Share capital and Share premium-Principal Commissioner invoking revision powers for second time on same issue involving share capital and share premium-Order of Tribunal quashing the revision order was affirmed.[S. 131, 254(1), 260A] 2931
Dismissing the appeal of the revenue the Court held that the Assessing Officer when the matter went before him for the second time pursuant to the order passed under section 263. The Tribunal was satisfied that the view taken by the Assessing Officer in the second round of the proceedings was permissible under the law. The Tribunal had rightly held that the Principal Commissioner merely gave directions but did not give any reasons to conclude that the assessment should be revised for the second time.(AY. 2012-13)
PCIT v. Pearl Tracom Pvt. Ltd.(2025) 476 ITR 456 (Cal)(HC)

Editorial : SLP of revenue was dismissed for explain satisfactorily delay of 358 days in filing SLP, PCIT v. Pearl Tracom Pvt. Ltd (2025) 476 ITR 459 (SC)

2932 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Estimation of disallowance of purchase expenses-Assessing Officer accepting sale and purchase-Disallowing an estimated five per cent. of inflated amount-Revision order was quashed. [S. 37(1), 260A]**

Dismissing the appeal, the Court held that the Principal Commissioner had invoked his power under section 263 based on conjecture and there was no finding recorded that the books of account of the assessee were rejected. The specific issue raised by the assessee that the documents and details were furnished before the Assessing Officer was not found to be incorrect. Therefore, the Tribunal on consideration of the facts had rightly held that the twin conditions under section 263, order being erroneous and prejudicial to Revenue, were not satisfied and quashed the order passed by the Principal Commissioner. *Vijay Proteins Ltd v. CIT 2014 SCC OnLine (Guj) 14838*, distinguished. (AY. 2013-14)

PCIT v. Kartick Bose [2022] 143 taxmann.com 215 / (2025) 476 ITR 506 (Cal)(HC)

2933 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Tribunal's quashing of revision order relying on High Court decision on similar issue-Not erroneous-No substantial question of law.[S. 260A]**

Dismissing the appeal of the revenue the Court held that the Tribunal had not erred in quashing the revision order passed under section 263 by relying on the earlier decision of the High Court. No substantial question of law arose.(AY. 2013-14)

PCIT v. Green Touch Vincom Pvt. Ltd. (2025) 476 ITR 511 /173 taxmann.com 879 (Cal) (HC)

Editorial : SLP of revenue dismissed, PCIT v. Green Touch Vincom Pvt. Ltd [2025] 304 Taxman 587 / 476 ITR 515 (SC)

2934 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Assessing Officer issued questionnaire seeking comprehensive information regarding share capital transactions Assessee furnished required details and documents and adequate enquiries conducted by Assessing Officer-Power cannot be invoked without demonstrating failure of proper inquiry-Order of Tribunal quashing the revision order was affirmed. [S. 260A]**

Dismissing the appeal, the Court held that the Tribunal had examined the entire record and found that the Assessing Officer had raised several queries and had also demanded documents through the questionnaire which was comprehensive and covered all relevant aspects of the share issue transactions. The assessee had answered and furnished all the requested documents to the Assessing Officer, and had also informed the Principal Commissioner who had taken proceedings under section 263. The Principal Commissioner had not pointed out any further enquires which were required to be made by the Assessing Officer. The power under section 263 could not be invoked in such circumstances by the Principal Commissioner. The factual aspects had been completely and thoroughly examined by the Tribunal. The order passed by the Principal

Commissioner was not sustainable and had been correctly quashed by the Tribunal.(AY. 2018-19)
PCIT v. V-Con Integrated Solutions Pvt. Ltd.(2025) 476 ITR 522 /173 taxmann.com 773 (P & H) (HC)
Editorial : SLP of revenue dismissed, PCIT v. V-Con Integrated Solutions Pvt. Ltd (2025] 304 Taxman 598 / 476 ITR 526 (SC)/ V-Con Integrated Solutions Pvt. Ltd. v. Pr. CIT, (2024) 112 ITR 118 (Chad(Trib)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-New issue not in notice-Commissioner cannot revise on ground not raised in notice. [S. 40A(2)(b), 143(3), 260A] 2935
The assessee's assessment was completed under section 143(3). Revision notice u/s 263 was issued on two grounds, but in the final order, the Commissioner also directed the AO to enquire into payments to related parties u/s 40A(2)(b), which was never mentioned in the notice. Tribunal set aside the revision, and the High Court upheld it, holding that revision cannot be based on an issue not part of the show cause notice. (AY. 2009-10)
PCIT v. Universal Music India (P.) Ltd. [2023] 155 taxmann.com 230 (Bom)(HC)
Editorial : SLP dismissed on account of delay of 411 days and also on merits, PCIT v. Universal Music India (P.) Ltd. [2023] 295 Taxman 232 (SC).

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Audit objection-Commercial expediency-Pre closure premium paid to bank-Allowable as revenue expenditure-Tribunal was not justified in affirming the revision order. [S. 37(1), 260A] 2936
The pre closure premium represented additional interest charged by the bank for pre closure of the loan and, on the facts, was rightly treated as allowable revenue expenditure. The Assessing Officer had applied his mind to the audit objection, called for details, and considered the assessee's explanations prior to passing the assessment order; therefore, the Commissioner erred in invoking section 263. The Tribunal was not justified in affirming the revision order. (AY. 2005-06)
EIH Associated Hotels Ltd. v. CIT [2024] 168 taxmann.com 592 / (2025) 475 ITR 3 (Mad)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Depreciation-No reference in the assessment order-Revision order was quashed and set aside. [S. 32, 260A] 2937
The Commissioner sought to revise the assessment on the ground that the assessment order made no reference to depreciation; however, omission of a reference does not automatically establish that an error was committed. The Tribunal had previously decided the identical issue for related assessment years, and those findings had subsequently assumed finality. Since the Tribunal's prior order on identical facts was available and relevant, and because no consequential assessment under section 153(3) had been passed within the statutory period, the revision order was untenable and barred by limitation. The appeal was allowed.(AY.1995-96)
V.G. Panneerdas & Co. v. ACIT (2025) 475 ITR 128 (Mad)(HC)

2938 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Explanation called for and offered by assessee during scrutiny assessment-Order of Assessing Officer neither erroneous nor prejudicial to Revenue and need not be revised. [S.45, 54, 54EC, 143(3), 260A]**

The assessee sold a business and related assets and claimed a short-term capital loss for AY 2004-05. The AO completed assessment under s. 143(3) after calling for and receiving explanations and documents, and made minor additions. The Commissioner invoked s. 263 and held the assessment order erroneous and prejudicial on several grounds, including disallowance of s. 54EC investments as allegedly made before the date of transfer. The Tribunal allowed the assessee's appeal in part. On the Department's appeal to the High Court: Held there was no error warranting intervention under s. 263. The assessee had been asked for and had provided necessary documents; the schedule of payments and the agreement showed advances contemporaneous with the sale agreement (2-01-2003), and investments in bonds were made thereafter from those proceeds (initially routed through mutual funds). The nexus between advances and investments was clear; the assessee was entitled to the s. 54EC exemption. The Circular issued in the context of s. 54E was also held applicable to s. 54EC. (AY.2004-05)

CIT v. Y. Jagan Mohan [2024] 168 taxmann.com 332 / (2025) 475 ITR 432 /344 CTR 48 / 248 DTR 147 (Mad)(HC)

2939 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Business expenditure-Disallowance-Payments liable to deduction of tax at source-Amount offered to tax by payee and tax thereon paid-AO taking one plausible view-Order not erroneous or prejudicial to Revenue-Principal Commissioner cannot invoke revisional power-Not in default. [S. 40(a)(ia), 201(1), 260A]**

For AY 2014-15, the assessee deducted tax at source on fees for technical services and lease rent but deposited it belatedly. The AO accepted the assessee's submission, supported by Form 26A, that the payee had already offered the income and paid taxes; hence no disallowance under section 40(a)(ia) was required. The Principal Commissioner revised the order under section 263, treating the assessee as in default. Held, dismissing the appeal, that once the payee had offered the income and paid tax, the assessee was not in default under section 201(1). Consequently, no disallowance could be made under section 40(a)(ia). The AO's view was plausible; hence, the order was neither erroneous nor prejudicial to Revenue. Revision under section 263 was unjustified.(AY. 2014-15)

PCIT v. Airlink Communications Pvt. Ltd. (2025) 475 ITR 658 (Guj)(HC)

2940 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Bad debt-Provision for doubtful debts-Book profit-Assessing Officer did not show any application of mind and mechanically accepted statement of assessee-Principal Commissioner was justified in exercising his jurisdiction under section 263 of the Act. [S. 36(1)(vii), 115JB]**

Assessee-company claimed deduction towards provision for doubtful debts for purpose of computation of MAT under section 115JB. Assessing Officer accepted the computation without discussion. Commissioner passed the revision order and directed the Assessing Officer to re-examine the issue. Tribunal affirmed the order of the revision. On appeal, the Court held that since the Assessing Officer did not show any application of mind

and mechanically accepted the statement of assessee, the Principal Commissioner was justified in exercising his jurisdiction under section 263 of the Act. (AY. 2012-13)
Cochin International Airport Ltd. v. ACIT (2025) 303 Taxman 615 /344 CTR 423 / 246 DTR 275 (Ker.)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Directions of Principal Commissioner, Assessing Officer passed a fresh order-Appeal against fresh assessment order is pending-Order challenging the Revision order is set aside. [S. 143(3), 260A] 2941
Dismissing the appeal the Court held that in compliance with directions of Principal Commissioner, Assessing Officer passed a fresh order under section 143(3), which is pending for consideration before the Tribunal. Order of the Tribunal is affirmed.(AY. 2018-19)
Veena Shah v. PCIT (2025) 473 ITR 624 /172 Taxmann.com 166 (P&H)(HC)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Commercial substance-Royalty-Fees for technical services-Order of the Tribunal quashing the revision order is affirmed-DTAA-India-Singapore. [S. 9(1)(vi), 9(1)(vii), 260A, Art. 12] 2942
Assessee, a company incorporated in Singapore, is engaged in the business of wholesale distribution of electronic products as well as services related to after-sales, repairs, and technical support services to customers in various parts of the world, including India. The assessee had received a certain amount for rendering technical support, repair, and maintenance services. Assessee filed its income tax return claiming that it had no PE in India and was not liable to pay tax in respect of aforesaid receipts. Assessing Officer accepted the assessee's claim. Commissioner revised the order. On appeal, the Tribunal set aside the revisionary order. High Court affirmed the order of the Tribunal. (AY. 2017-18)
CIT v. Zebra Technologies Asia Pacific Pet. Ltd. (2025) 302 Taxman 380 (Delhi) (HC)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Transfer of shares-Capital gains-Colourable device-Dividend distribution tax-Merely recipient of income and was not an entity which had either declared or paid dividend, revisionary proceedings were not justified-DTAA-India-Singapore.[S. 45, 47(iv), 115-0, 260A, Art. 13] 2943
Assessee, a Singapore-based company, transferred shares held in an Indian company, Genpact India, to its wholly owned Indian subsidiary for certain consideration. Assessee claimed exemption under section 47(iv) of the Act. The AO allowed the exemption. Commissioner held that the transaction entered into by the assessee was sham and a colourable device entered into to avoid payment of DDT under section 115-O. On appeal, the Tribunal held that there is no justification for revision merely on the ground that the recipient of income and was not an entity which had either declared or paid dividend. On appeal, the High Court affirmed the order of the Tribunal.(AY. 2015-16)
CIT v. Genpact Consulting Singapore PTE Ltd. (2025) 302 Taxman 470 (Delhi)(HC)

2944 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Cash credits-Cash deposit-Demonetisation-Revision is held to be justified. [S. 68, 143(3), 260A]**
The Assessment order was revised by the Commissioner on the ground that the Assessing Officer has not properly verified in the course of assessment proceedings. On appeal the Tribunal affirmed the order of the Commissioner. On appeal High Court affirmed the order of the Tribunal. (AY. 2017-18)
Hemalatha Rajan v. Dy. CIT (2025) 302 Taxman 229 (Mad.)(HC)

2945 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Order of High Court on identical issue for different assessment year-Matter remanded to commissioner. [Art. 226]**
On writ allowing the petition the Court held that in an identical matter which related to a different assessment year the court had allowed the writ petition and remanded the matter to the same Principal Commissioner with directions to give an opportunity of hearing and pass appropriate orders, the court remanded the matter to the Principal Commissioner for the assessment years 2015-16 and 2016-17 also to afford an opportunity of hearing to the assessee and pass orders in accordance with law.(AY.2015-16, 2016-17)
Sri Sai Swadhin Commercial Pvt. Ltd. v. PCIT (2025)472 ITR 589 (AP)(HC)

2946 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-The AO had made all inquiries and verifications as required under the law-Order of Tribunal quashing the revision order is affirmed-No substantial question of law.[S. 143(3), 260A]**
Dismissing the appeal of the Revenue, the Court held that the Tribunal has examined the facts in great detail, and only thereafter held in favour of the assessee. Therefore, there is no perversity in the impugned order, and there exists no reason to admit this appeal as there is no substantial question of law involved. (AY.2017-18)
PCIT v. Dharam Singh (2025) 342 CTR 653 / 245 DTR 369 (All)(HC)

2947 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Unaccounted cash sales-Assessing Officer has examined the issue in the original assessment proceedings-Revision is not valid merely because the PCIT has a differing views-Order of Tribunal is affirmed-No substantial question of law.[S.68, 260A]**
The case was reopened based on documents discovered during a search at another firm, revealing financial transactions. The Assessing Officer assessed the income, applying a G.P. rate of 19.40%. The PCIT invoked S.263, alleging that the AO failed to verify cash transactions and ordered a fresh assessment. However, the Tribunal quashed the PCIT's order, ruling that the AO had adequately examined the issue of unaccounted cash sales during the assessment proceedings, held that the s. 263 could not be invoked merely because the PCIT had a differing view. Order of Tribunal is affirmed. (AY. 2012-13)
PCIT v. Asiatic Bearing Co [2025] 172 taxmann.com 646(Guj)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Capital gains-Sale of land-Twin conditions of order being erroneous and prejudicial to Revenue-Lack of inquiry and documents not verified by Assessing Officer-Principal Commissioner correctly invoked power of revision under section 263 of the Act. [S. 2(14), 45, 260A] 2948

Allowing the appeal of the Revenue, the Court held that the sale deed is not a document issued by the revenue authorities or any Government authority which would certify the agricultural nature of the land. The AO had allowed the exemption claimed by the assessee on the ground that the land sold is agricultural in nature and situated beyond municipal limits without inquiry and verification. Tehsildar certificate and reply of District Town Planner not establishing assessee's claim. Thus, the order passed by the AO was prejudicial to the interests of the Revenue amenable under section 263 of the Act. (AY. 2013-14)

PCIT v. Sangeeta Jain (Ms.) [2024] 168 taxmann.com 276 /(2025) 472 ITR 662 / 342 CTR 150 (Delhi) (HC)

S. 263: Commissioner-Revision of orders prejudicial to Revenue-Merely the fact that no inquiry was conducted by the AO on record of the survey before him cannot be the basis for assumption of jurisdiction under S. 263 of the Act. [S. 28(i), 68, 69A, 115BBE, 133A, 263, Explanation 2.] 2949

The Hon'ble Gujarat High Court decided an appeal on the substantial questions of law involving issues relating to S. 263 of the Act. In such circumstances it was observed that since there was nothing on record to point out that documents pertaining to survey could have led to a belief different from one entertained by Assessing Officer, Tribunal was justified in holding that non-examination of records could not be basis for invoking revisional jurisdiction under S. 263 and PCIT could not have assumed the jurisdiction on mere change of opinion on his part, when the Assessing Officer while during the course of regular assessment has made inquiry regarding the issue which is the subject matter of the revision.(AY. 2017-18)

PCIT v. Parshottambhai Maganlal Ramotia [2025] 302 Taxman 448 (Guj)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Non-resident-AO allowed the claim under India-Singapore DTAA-CITA initiated the revisions proceedings on the ground that the assessee conduit company used for treaty shopping-without putting the allegation in the 263 notice-The assessee has not been heard on the said issue-Revision is bad in law-Appeal of Revenue is dismissed-DTAA-India-Singapore. [S.9(1)(vii), 260A, Art. 12] 2950

Dismissing the appeal of the department, Hon'ble Court held that the revision order passed by the Commissioner under section 263 without providing the assessee an opportunity to counter the allegation that it was a conduit company without any substance. In the show-cause notice the Commissioner had faulted the Assessing Officer for not undertaking certain enquiries including verifying whether, (i) the assessee had a permanent establishment in India, (ii) in terms of section 9(1)(vii) of the Act, the income was chargeable as fees for technical services, (iii) tax at source at the rate of 10 per cent. on all the remittances made to the assessee were deducted, (iv) the condition as set out in article 12 of the India-Singapore Double Taxation Avoidance Agreement in regard to taxation of fees for technical services were satisfied, (v) regarding the commercial

substance of the assessee in Singapore and (vi) it was a conduit company formed for obtaining the tax benefits under the Double Taxation Avoidance Agreement. These observations were made only for the purposes of calling upon the assessee to show cause why the proceedings not be initiated under section 263 of the Act but, thereafter, the Commissioner had not put the issue regarding treaty shopping to the assessee. The tentative opinion formed by the Commissioner that the assessee was a conduit company for the reasons as articulated in the revision order was not put to the assessee. Hence, the assessee had not been given an opportunity to satisfy the Commissioner regarding such view for the assessment year 2017-2018.(AY. 2017-18)
CIT (IT) v. Zebra Technologies Asia Pacific Pte. Ltd. (2025) 472 ITR 745 (Delhi) (HC)

2951 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Remittances to non-resident-Import of raw materials-Deduction of tax at source-Tribunal setting aside the order of Commissioner-Commissioner cannot make addition without directing the Assessing Officer to re-examine issue. [S. 40(a)(ia), 195, 254, 260A]**
Dismissing the appeal of the Revenue the Court held that the conclusion of the Tribunal, to the extent, that the Commissioner could not have unilaterally directed the Assessing Officer to add back the sum paid towards the import of raw materials by holding that it was disallowable as expenditure could not have been issued under section 263 without the Assessing Officer re-examining the issue was beyond the jurisdiction of the Commissioner, did not suffer from any legal infirmity. Order of Tribunal is affirmed. No substantial question of law. (AY. 2007-08)
CIT v. Paradeep Phosphates Ltd. (2024) 471 ITR 419 (Orissa) (HC)
Editorial :SLP of Revenue is dismissed, CIT v. Paradeep Phosphates Ltd. (2024) 471 ITR 419 (Orissa) (HC)

2952 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Sale of immovable property-Allowing deduction on amount paid directly by purchaser to release charge of mortgage in property sold under attachment due to personal guarantee given by assessee-Discharge of debt-Order of the Assessing Officer to allow the claim is nether erroneous nor prejudicial to the interest of Revenue. [S. 143(3), 260A]**
On appeal the Tribunal held that it was not a case where no enquiry was made by the Assessing Officer during the course of assessment proceedings or that the Assessing Officer failed to apply his mind to the issues on hand and taken a view which was not legally plausible on the facts and set aside the revision order under section 263 on the ground that merely because the Principal Commissioner had a different opinion he should not have invoked revision jurisdiction. On appeal was not legally plausible on the facts and set aside the revision order under section 263 on the ground that merely because the Principal Commissioner had a different opinion, he should not have invoked revision jurisdiction. On appeal, the Tribunal held that the assessee did not create any mortgage on the property, but he had given a personal guarantee to the entity for discharge of the debt for which there was a charge over the property and for release of the mortgage on the personal guarantee of the assessee, the amount was paid by the buyer directly to the entity, Titco Ltd. It was also not in dispute that the assessee did not avail of any loan on mortgage of the property sold by him. The Tribunal had rightly

held that the assessment order by the Assessing Officer was neither erroneous nor prejudicial to the interests of the Revenue. No substantial question of law. (AY. 2013-14)
PCIT v. Rinki Shashikant Gandhi (2024) 471 ITR 321 (Guj) (HC)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Book profit-Decapitalization of interest-Failure of Assessing Officer to examine computation of book profits-Order of Tribunal affirming the revision order of Commissioner is affirmed. [S. 32AB, 115J, 260A] 2953

The Assessing Officer accepted the assessee's computation of book profits under Section 115J of the Act. The CIT invoked Section 263, stating that the assessment order was erroneous and prejudicial to revenue as the AO failed to examine the issue of decapitalization of interest while computing book profits. The Tribunal upheld the CIT's order, affirming the validity of revisional jurisdiction. On appeal, the High Court dismissed the assessee's challenge, holding that the AO had not applied his mind to key aspects, making the order erroneous. It further held that the CIT's observations were not a final finding but a direction to recompute the book profits, and the assessee failed to challenge the reassessment order, making it final and precluding further contestation. Accordingly, the court held that the CIT's exercise of jurisdiction under Section 263 was justified, and the appeal is dismissed. Followed *CIT, Nagpur v. Ballarpur Industries Ltd. (2017) 85 taxmann.com 10 (Bom)(HC)*. Court has not expressed any opinion on merits. (AY.1998-99)
KEC International Ltd. v. DCIT [2025] 304 Taxman 132 / 480 ITR 138 (Bom)(HC)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Survey-Assessment completed after survey-One possible view taken by Assessing Officer-Explanation 2(a) to section 263 does not confer unfettered powers upon the Principal Commissioner to revise every assessment order merely because another view is possible-Revision not valid.[S 69, 69A, 115BBE, 133A] 2954

The assessee offered the income surrendered during the survey as business income, which was accepted by the Assessing Officer after issuing a specific show-cause notice regarding the applicability of section 115BBE and examining the issue. The Principal Commissioner invoked section 263, holding that the surrendered amount ought to have been assessed under sections 69 and 69A. The Tribunal held that the Assessing Officer had made proper enquiries, applied his mind and adopted one of the legally permissible views. Explanation 2(a) to section 263 does not confer unfettered powers upon the Principal Commissioner to revise every assessment order merely because another view is possible. Since the assessment order was neither erroneous nor prejudicial to the interests of the Revenue, the revision order was quashed. (AY. 2019-20)
Alok Vijawat v. PCIT (2025) 121 ITR 481 / 178 taxmann.com 640 (Jaipur)(Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Book profit-Amalgamation-Depreciation-Revision is invalid where it is based on incorrect facts and the Assessing Officer has already examined the depreciation claim arising from amalgamation.[S. 32, 115JB] 2955

Pursuant to an amalgamation, the transferor company filed a revised return claiming book depreciation in accordance with the revised financial statements. The Principal

Commissioner invoked section 263, alleging excess depreciation by relying on figures pertaining to the transferee company. The Tribunal held that the revision proceedings were founded on incorrect factual assumptions, whereas the depreciation claimed by the transferor company had already been verified by the Assessing Officer and was consistent with the revised financial statements. As there was no error in the assessment order, the revision under section 263 was quashed. (AY. 2017-18)
VITP P. Ltd. v. Dy. CIT (2025) 170 taxmann.com 90 / 121 ITR 19 (SN) (Hyd.)(Trib.)

2956 **263: Commissioner-Revision of orders prejudicial to revenue-Share capital and share premium-Lack of enquiry by the Assessing Officer on valuation of shares justifies revision, though the Commissioner cannot direct a straightaway addition. [S 56(2)(viib), 143(3)]**

The assessee issued shares at a premium supported by a merchant banker's valuation report. In the preceding assessment year, the Assessing Officer had rejected a similar valuation under identical financial circumstances, whereas in the year under consideration, he accepted the valuation without any enquiry. The Principal Commissioner invoked section 263 on the ground that the assessment order was erroneous and prejudicial to the interests of the Revenue. The Tribunal held that the Assessing Officer, while completing a scrutiny assessment under section 143(3), was duty-bound to examine the valuation report and conduct necessary enquiries. Failure to do so rendered the assessment order erroneous and prejudicial to the Revenue, warranting revision under section 263. However, the Principal Commissioner could not direct the Assessing Officer to make a straightaway addition of the share premium and was required to leave the issue open for fresh examination. The Assessing Officer was accordingly directed to carry out a de novo verification of the valuation after considering the evidence produced by the assessee. (AY. 2018-19)
Max Hospitals and Allied Services v. PCIT (2025) 121 ITR 33 (SN) (Mum.)(Trib.)

2957 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Reassessment-Long-term capital gains-Penny stock-Enquiry-Bogus capital gains-Inadequate enquiry-Revision order was set aside.[S. 10(38), 45, 147, 148]**

Where, during reassessment proceedings, the assessee furnished complete documentary evidence including bank statements, demat account, share certificates, contract notes, broker's ledger, capital gains computation and other supporting records establishing the genuineness of the share transactions, and the Assessing Officer, after examining the material, accepted the claim of exemption under section 10(38), the Principal Commissioner was not justified in invoking section 263 merely on the basis of Investigation Wing information alleging penny stock transactions. In the absence of any finding as to what further enquiry was required or how the assessment order was erroneous and prejudicial to the interests of the Revenue, the revision order was held to be invalid. (AY. 2016-17)
Shummy Poulose Puthanangady v. PCIT (2025) 121 ITR 81 (SN) (Mum.)(Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Partnership firm-Remuneration to partner-Minor typographical error in partnership deed-Revision not justified-Delay in filing of appeal was condoned. [S.40(b), 253(5), 254(1)] 2958

The Commissioner invoked section 263 on the ground that one partner's name was omitted in the clause providing for remuneration under the partnership deed, though the partner was otherwise shown as a partner in the deed. The Tribunal held that the omission was merely a typographical error and the Assessing Officer had correctly interpreted the deed while allowing the remuneration. Such a trivial defect neither rendered the assessment order erroneous nor prejudicial to the interests of the Revenue. The revision order was therefore quashed. The delay in filing the appeal before the Tribunal, occasioned by a bona fide misunderstanding regarding the effect of the revision order, was also condoned. (AY. 2017-18)

Ajar Amar Steels v. PCIT (2025) 128 ITR 323 (Chd) (Trib.).

S. 263: Commissioner-Revision of orders prejudicial to revenue-Twin conditions of "erroneous" and "prejudicial to the interests of the Revenue" mandatory-Revision on payment of bonus to director quashed. [S. 40A(2)(b)] 2959

The Assessing Officer completed the assessment after examining the tax audit report which disclosed payment of bonus to a director. The Principal Commissioner invoked section 263 on the ground that the payment was excessive and unreasonable. The Tribunal held that the Principal Commissioner failed to establish how the assessment order was both erroneous and prejudicial to the interests of the Revenue, which are mandatory preconditions for invoking section 263. The increased turnover and profits of the assessee, the Board's approval of the bonus and the fact that the director had paid tax on the bonus at a higher rate than the company were ignored by the Principal Commissioner. Merely because another view was possible, the revisionary jurisdiction could not be exercised. Accordingly, the revision order was quashed. (AY. 2020-21)

Western India Cashew Co. (P.) Ltd. v. PCIT (2025) 128 ITR 712 (Chennai)(Trib.).

S. 263: Commissioner-Revision of orders prejudicial to revenue-Issue already examined during assessment-Proceedings initiated on basis of audit objection-Fresh issues beyond limitation-Revision invalid on legal and merits. [S. 143(3), 147, 148] 2960

The Principal Commissioner invoked section 263 on the basis of an audit objection relating to deposits in an ICICI Bank account, although the issue had been specifically examined by the Assessing Officer during reassessment and an annotated report rejecting the audit objection formed part of the assessment record. After the Tribunal set aside the earlier revision order, the Principal Commissioner issued a fresh notice introducing altogether new issues beyond the original notice and beyond the period of limitation. The Tribunal held that revision merely on the basis of an audit objection was impermissible where the Assessing Officer had already made due enquiries and taken a conscious view. Further, new issues could not be introduced beyond the prescribed limitation. The revision order was quashed both on legal grounds and on merits. (AY. 2011-12)

Vaneet Gupta v. ITO (2025) 128 ITR 352 (Chd.)(Trib.).

2961 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Assessing Officer having accepted the claim that interest received on enhanced compensation formed part of compensation exempt under section 10(37), revision under section 263 was not justified as the issue was debatable and the AO had adopted a possible view. [S. 10(37), 45, 56(2)(viii)]**

The assessee received enhanced compensation on compulsory acquisition of agricultural land, including interest under section 28 of the Land Acquisition Act, and claimed exemption under section 10(37). The AO, after examining the claim during scrutiny, accepted the exemption. The PCIT invoked section 263 on the ground that the interest was taxable as "Income from Other Sources" in view of the decision in Mahender Pal Narang, The Hon'ble Tribunal held that the AO had made due enquiries and accepted the claim by following the Supreme Court decision in Ghanshyam (HUF), which treated interest under section 28 as part of enhanced compensation. Since the issue was debatable and the AO had adopted one of the possible views, the assessment order could not be held to be erroneous and prejudicial to the interests of the Revenue. Accordingly, the order passed under section 263 was quashed. The appeal was allowed. [AY.2018-19]

Pawan Kumar v. Pr. CIT (2025) 130 ITR 132 (Delhi)(Trib.)

2962 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Where the AO, after examining the assessee's eligibility for exemption under section 10(21), adopted a possible view that incidental receipts were eligible for exemption, the Commissioner could not invoke section 263 merely because he held a different opinion on a debatable issue. [S. 10(21)]**

The assessee, a research association approved under section 35(1)(ii), claimed exemption under section 10(21). During reassessment, the AO accepted the claim after considering the assessee's eligibility and records, including receipts from auditorium hire charges, hoarding site and service charges and rent. The Commissioner invoked section 263 on the ground that these receipts were not incidental to the objects of the trust and that the AO had failed to make proper enquiries. The Tribunal held that the AO had examined the material on record and adopted a possible view that the impugned receipts were eligible for exemption under section 10(21). Whether such receipts were incidental to the objects of the trust was a debatable issue and, therefore, the assessment order could not be regarded as erroneous merely because the Commissioner held a different view. Accordingly, the assumption of jurisdiction under section 263 was held to be invalid, and the revision order was quashed. The appeal was allowed. (AY.2013-14)

Synthetic and Art Silk Mills Research Association v. CIT (E) (2025) 130 ITR 13 (Mum) (Trib.)

2963 **S. 263: Commissioner-Revision of orders prejudicial to revenue-No revision where Assessing Officer rightly made no disallowance under section 14A as interest-free funds exceeded investments-Commissioner cannot invoke section 263 on an issue which is the subject matter of appeal before the Commissioner (Appeals)-Failure to refer specified domestic transaction to Transfer Pricing Officer does not render assessment erroneous where CBDT Instruction is not attracted. [S. 14A, 92BA, 92CA 250, Rule 8D]**

The Principal Commissioner invoked section 263 on the ground that the Assessing Officer had failed to make disallowance under section 14A read with rule 8D. The Tribunal held that the assessee possessed interest-free funds far in excess of the investments yielding exempt income and, therefore, no disallowance of interest was called for. As the assessment order was neither erroneous nor prejudicial to the interests of the Revenue, assumption of jurisdiction under section 263 was held to be invalid. The Principal Commissioner exercised revisional jurisdiction under section 263 in respect of disallowance under section 14A, although the same issue was pending before the Commissioner (Appeals). The Tribunal held that Explanation 1(c) to section 263 prohibits exercise of revisional jurisdiction in respect of matters which are the subject matter of appeal before the first appellate authority. Accordingly, the revision order on that issue was quashed. The Principal Commissioner revised the assessment under section 263 on the ground that the Assessing Officer had failed to refer specified domestic transactions to the Transfer Pricing Officer. The Tribunal held that none of the conditions prescribed in CBDT Instruction No. 3 of 2016 requiring mandatory reference to the Transfer Pricing Officer were satisfied. Further, after omission of section 92BA(i), no determination of arm's length price was required in respect of such domestic transactions. Consequently, the assessment order could not be regarded as erroneous or prejudicial to the interests of the Revenue and the revision under section 263 was set aside. (A.Y. 2014-15)
IMC Ltd. v. PCIT (2025) 130 ITR 259 (Kol.)(Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Assessment was completed after duly examining the issue of unsecured loan-Invocation of revision jurisdiction to verify the same issue is not permissible.[S.36(1)(va), 143(3)] 2964
The case of the Assessee's case was selected for complete scrutiny to verify the issue of transactions with a company whose registration has been cancelled by MCA. The assessment order was passed accepting the returned income. Thereafter, PCIT invoked the jurisdiction under section 263 of the Act. On perusal of the records, the PCIT observed that the Assessee has taken an unsecured loan from Alliance Commodities Ltd during the year under consideration. The PCIT noticed that, on the website of MCA, the status of the said company is shown as 'struck off'. The PCIT held that the Assessee failed to establish the genuineness of the loan transaction. Thus, the same needs to be added under section 263 of the Act. Further, the PCIT noticed from Form 3CD-Col 20(b) that the PF contribution received from employees of Rs.14,796/-for which the due date for payment was 15.06.2017; however, the same is made on 23.06.2017. As per the provisions of section 36(1)(va), the contribution of the employees paid after the due date and the amount of Rs.14,796/-was required to be disallowed. Thus, the PCIT held that, the AO should have disallowed the claim under section 36(1)(va) of the Act. The revision order was passed holding the assessment order erroneous and prejudicial to the interest of the revenue. On appeal, the ITAT observed that, during the course of assessment proceedings, the AO vide notice under section142(1) of the Act asked the specific query with respect to loan transaction with Alliance Commodities Ltd. In response to the same, the Assessee furnished all the details like ledger account, loan confirmation. The AO also examined certificate of incorporation and also examined the

genuineness of the transaction. Thus, the ITAT held that the AO made adequate inquiry pertaining to the said loan transaction and then passed the assessment order. Thus, the assessment order cannot be held as erroneous and prejudicial to the interest of the revenue. Further, with respect to the issue of PF under section 36(1)(Va) is concerned, the ITAT held that, the said issue is covered against the Assessee by the decision of supreme court in the case of Checkmate Services Pvt. Ltd. [Civil Appeal No.2833 of 2016 (SC). Thus, the appeal of the Assessee was partly allowed by the ITAT. [AY. 2018-19]

Harmony Yarns P. Ltd. v. Pr. CIT (2025) 131 ITR 478 (Surat)(Trib.)

2965 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Capital gains-Cost of acquisition-Based on FMV as on 1st April, 2001-Revision order is not valid. [S. 48, 49,55(1)(b)]**

Held that the Assessee acquired the property through a registered gift deed from his father which was acquired by the latter well before 1st April, 2001, and the AO having allowed the assessee to compute the capital gains on the sale of said property by adopting the cost of acquisition based on FMV thereof as on 1st April, 2001, the order passed by the AO cannot be held to be erroneous; AO having thus reached a right conclusion in determining the indexed cost of acquisition for working out the capital gains, the revisional jurisdiction exercised by the Principal CIT under s. 263 cannot be sustained. (AY. 2018-19)

Sanjeev Kumar Kathuria v. ITO (2025) 235 TTJ 687 / 173 taxmann.com 9 (Chd) (Trib)

2966 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Assessment order passed pursuant to invalid satisfaction note-PCIT was not empowered to revise the assessment orders by relying on seized documents in respect of which the AO did not record any satisfaction in the satisfaction note-The assessment orders are ab initio void-Invalid orders cannot be subjected to revision-The order passed by the Principal CIT is not sustainable-The revision order was quashed and set aside. [S. 153C]**

Held that the Assessing Officer had not identified and correlated the seized material for the determination of the total income of the assessees, for the relevant assessment years for which satisfaction is purported to have arrived at, the satisfaction recorded by the AO for the purpose of S. 153C for the said assessment years cannot be considered to be a bona fide and legally valid satisfaction and, therefore, the consequential assessment orders passed under S. 153C are ab initio void in the absence of valid jurisdiction to pass the said orders; once the assessment orders are ab initio void, said invalid orders cannot be subjected to revision under S. 263 and therefore, the order passed by the Principal CIT under s. 263 is not sustainable.(AY. 2017-18, 2018-19)

MSN Institute of Medical Sciences (P) Ltd. v. PCIT (2025) 235 TTJ 721 (Hyd)(Trib)
Prathima Resorts & Restaurants (P) Ltd v. PCIT (2025) 235 TTJ 721 (Hyd)(Trib)
Prathima Eggset (P) Ltd v. PCIT (2025) 235 TTJ 721 (Hyd)(Trib)
Spark Vidyut (P) Ltd v. PCIT (2025) 235 TTJ 721 (Hyd)(Trib)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Lack of proper enquiry-Long-term capital gains-PCIT has failed to establish the erroneous character of the assessment order and that too in such a manner that it is prejudicial to the interest of the Revenue-Revision order is quashed and set aside. [S. 45, 143(3)] 2967

Held that the Assessing Officer has raised queries during the course of assessment proceedings regarding the claim of long-term capital gains arising on the sale of shares as well as purchase of two immovable properties by the assessee which were properly replied by the assessee and also carried out checking and verification of the relevant documents submitted by the assessee before accepting the return, it cannot be said that the assessment was made by the AO without conducting any inquiry and verification and the case is one of no inquiry so as to warrant invocation of provision under s. 263. The PCIT has failed to establish the erroneous character of the assessment order, and that too in such a manner that it is prejudicial to the interest of the Revenue. The order is set aside. (AY. 2015-16)

Teena Garg (Smt) v. PCIT (2025) 235 TTJ 749/ 123 ITR 326 / 174 taxmann.com 872 (Chd) (Trib)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Lack of proper enquiry-Credit for tax deducted at source-No double grant of TDS credit-Revision order was set aside. [S. 142(1), 143(2), 148] 2968

Held that the assessee, originally a partnership firm, was converted into an LLP and in response to the notice issued under s. 148, partnership firm having clarified the position to the AO in reply to the notice issued under ss. 142(1) and 143(2) and also explained that the impugned income belongs to the LLP and the AO having completed the assessment without making any addition in the hands of the firm, it cannot be said that the AO has not made due verification; since the credit for TDS as appearing in the name of the partnership firm was only allowed to the firm and not to the LLP, no prejudice has been caused to the Revenue. The revision order was set aside. (AY.2016-17)

United Brothers Multiplast LLP v. PCIT (2025) 235 TTJ 798 (Mum)(Trib)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Lack of proper enquiry-Cost of improvement-Allowed the claim after verification-AO's order was neither erroneous nor prejudicial to the interests of Revenue-Revision order was quashed. [S. 45, 55(1)(b)(2)] 2969

Tribunal held that the Assessing Officer had made an enquiry and the assessee had produced the necessary documents to substantiate the assessee's claim of the cost of improvement of the property. The Assessing Officer has accepted the computation of capital gains as made by the assessee after considering the bank statements and the valuer's report submitted by the assessee. The AO's order was neither erroneous nor prejudicial to the interests of the Revenue for want of adequate enquiry, and therefore, the revisionary order is not sustainable (AY. 2019-20)

Arjun Das Jasuja v. CIT (2025) 236 TTJ 373 (Ahd)(Trib

2970 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Lack of proper enquiry-Assessment order passed by the AO without examining the claim by conducting relevant enquiries which ought to have been carried out-Revision order was affirmed. [S.54]**

Held that the assessee claimed exemption under s. 54 on the basis of purchase of property from his wife under an unregistered sale agreement and filed no evidence to prove that he has made any effort to register the property by presenting the document before the registration authorities, the assessment order passed by the AO allowing the claim for exemption on the basis of said sale agreement without conducting relevant enquires is not only erroneous but also prejudicial to the interest of the Revenue and, therefore, the Principal CIT has rightly set aside the assessment order in terms of provisions of s. 263. (AY. 2021-22)

Anand Boddapaty v. PCIT (2025) 237 TTJ 228 / 178 taxmann.com 423 (Hyd)(Trib)

2971 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Lack of proper enquiry-Short-term capital loss on sale of shares-FIFO method-The issue was examined by the AO during the assessment proceedings, who had taken a correct view-CRS expenditure-Revision order was quashed-Exempt income-Revision order was affirmed. [S. 14A, 80G]**

Held that PCIT has found no fault at all in the reasoned explanation of the assessee demonstrating that its claim of short-term capital loss on the sale of shares was correct even as per the method prescribed by the Principal CIT himself and the assessee having furnished all the facts to the AO during the assessment proceeding, the assessment order cannot be said to be erroneous for having allowed the claimed of short-term capital-loss and, therefore, the finding of the Principal CIT is not sustainable. Tribunal held that the claim of deduction under s. 80G of CSR expenses was in accordance with the law and, therefore, the assessment order allowing such a legally tenable claim to the assessee was not erroneous, causing prejudice to the Revenue. Tribunal also held that the disallowance under s. 14A ought to have been Rs. 42,82,354 as per the assessee's own calculation, the assessment order was erroneous for having allowed the assessee's claim of disallowance of expenses under s. 14A only to the extent of Rs. 4,92,537.(AY. 2020-21)

Torrent Investments Ltd. v. PCIT (2025) 237 TTJ 802 (Ahd) Trib)

2972 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Invalid Reassessment-PCIT cannot revise a reassessment order which is itself void for want of proper sanction under section 151-Reassessment without approval of the competent authority is non est. [147, 148, 148A(d), 151(1), 151(ii)]**

The Tribunal held that where the notice under section 148 and the order under section 148A(d) were issued after expiry of three years from the end of the relevant assessment year, approval was required from the authority prescribed under section 151(ii). Since the approval had been granted only by the Principal CIT under section 151(i), the reassessment proceedings were vitiated for want of valid sanction. The subsequent amendment made by the Finance Act, 2023, was held to be prospective and could not cure the defect. Consequently, the reassessment was non est in law, and the Principal

CIT could not invoke section 263 to revise such an invalid reassessment order. The revision order was accordingly quashed. (AY.2018-19)
Megnanapuram Primary Agricultural Co-operative Credit Society v. PCIT (2025) 238 TTJ 513 (Chennai)(Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Cash deposits during demonetisation period-Assessing Officer having made detailed enquiries regarding source of cash deposit and accepted explanation after verification-Principal Commissioner cannot invoke revision merely because he believes deeper enquiry was required-Revision unwarranted. [S. 143(2), 142(1)] 2973

The assessee's return was accepted after complete scrutiny wherein the AO had called for and examined the assessee's explanation regarding cash deposits of Rs. 38.37 lakhs made during the demonetisation period, verified the purchase bills, purchase account, mode of payment, confirmation from parties and the cash book relating to the assessee's seasonal cloth trading business, and accepted the source of cash deposits as genuine sale proceeds; however, the PCIT invoked revision under section 263(1) holding that detailed and deeper enquiry ought to have been made. On appeal, the Tribunal held that since AO had carried out due enquiry, applied his mind and formed a reasonable view based on the material on record, and since PCIT, without bringing any fresh material or conducting any further enquiry of his own, merely re-appreciated the same material based on suspicion regarding the manner of conduct of business, the revisionary jurisdiction under section 263 could not be sustained; a solitary or seasonal trading activity duly supported by documentary evidence and accepted by AO after examination could not be revised merely on the belief that deeper enquiry was warranted, and the order of PCIT was accordingly set aside and the assessment order revived. (AY. 2017-18)
Manuj Jain (HUF) v. PCIT (2025) 132 ITR 298 (Chd) (Trib.)

S. 263 : Revision-Erroneous and prejudicial to Revenue-Assessee a trust running engineering colleges-Anonymous donations in cash and demand drafts found during search-Receipts offered to tax and taxed under section 115BBC-Principal Commissioner invoking section 263 to deny exemption on capitation fees relying on decision stayed by Supreme Court-Assessment framed after full verification-Twin conditions for section 263 not satisfied-Revision void ab initio-Precedent-Distinction between "stay" of order and "quashing of order"-An order stayed does not become operative from the date of the stay order, whereas quashing restores the position as it stood prior to the order quashed.[S. 11, 12AA, 115BBC, 153A] 2974

The assessee, a trust registered under section 12AA running engineering colleges, following a search, had offered cash receipts as "anonymous donations" taxed under section 115BBC and reclassified demand draft receipts as "voluntary donations" claiming exemption under section 11, which disclosures were accepted by AO after due examination in the order passed under section 153A/153B; however, PCIT invoked section 263 for the AY 2018-19 and 2020-21 to deny exemption on alleged unaccounted capitation fees, relying on the Madras High Court decision in *CIT v. MAC Public Charitable Trust*. On appeal, the Tribunal held that since AO had examined the issue in detail during the search assessment proceedings and taken a plausible view without

any resultant prejudice to the Revenue, the twin conditions for invoking section 263 were not satisfied; further, since the Madras High Court decision relied upon by the PCIT had already been stayed by SC prior to issuance of the section 263 notice, the PCIT ought to have made a preliminary enquiry regarding its applicability, and invocation of jurisdiction under Explanation 2(d) to section 263 on the basis of a non-operative judgment rendered the revision void ab initio; it was further noted that the assessee's registration under section 12AA remained in force and no proceedings for its cancellation or for violation of the Tamil Nadu Educational Institutions (Prohibition of Collection of Capitation Fee) Act, 1992 had been initiated, and that a stayed order, unlike a quashed order, does not restore the pre-existing position from the date of stay. Accordingly, the revision order was set aside.(AY. 2018-19, 2020-21)

St.Joseph's Institute of Science and Technology Trust v. PCIT (2025) 132 ITR 331 (Chennai) (Trib.)

St. Joseph's Educational Trust v. PCIT (2025) 132 ITR 331 (Chennai) (Trib.)

2975 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Real estate business-Change in method of accounting from percentage-of-completion to completed-contract method-Change revenue-neutral, following Accounting Standards, verified by auditors and accepted in subsequent years-No loss to exchequer-Principal Commissioner's directions to reconsider financial expenses, depreciation, current liabilities, deduction under section 80-IAB, house property income, loans and advances to related parties, etc.-Matters already examined by Assessing Officer-No indication of how order erroneous-Revision amounting to fishing and roving enquiries-Assessment order not prejudicial to Revenue-Revision quashed. [S. 2(22)(e), 80-IAB, 145]**

Assessee, a real estate developer, changed its method of revenue recognition from percentage-of-completion to completed-contract method per AS-7, making a one-time claim of deduction for reversal of excess revenue booked in earlier years, which was accepted by NFAC as revenue-neutral and consistently followed in subsequent years, but PCIT invoked revision under section 263 directing reconsideration on the former accounting method as well as several other issues including financial expenses, depreciation, current liabilities, deduction under section 80-IAB, house property income, increase in assets, loans and advances to related parties, corporate guarantee expenditure and applicability of section 2(22)(e). On appeal, the Tribunal held that since the change in accounting method was revenue-neutral, being merely a timing difference with no loss to the exchequer, PCIT could not assume revisional jurisdiction under Explanation (c) to section 263(1); and that on each of the other issues, the assessee had furnished detailed replies to specific queries raised by AO during assessment, no defect was pointed out by PCIT in such replies, and his directions, being vague and issued without indicating how AO's order was erroneous, amounted to impermissible fishing and roving enquiries and an attempt to substitute his own view, particularly where issues such as deduction under section 80-IAB stood already decided in the assessee's favour by the Tribunal; accordingly, the assessment order was not erroneous or prejudicial to the interests of the Revenue, and the revision order was quashed in its entirety. (AY. 2018-19 & 2019-20)

DLF Assets Ltd v. PCIT (2025) 132 ITR 448 (Delhi) (Trib.)

DLF Ltd. v. PCIT (2025) 132 ITR 448 (Delhi) (Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Notice and order issued in name of erstwhile company but mentioning factum of amalgamation in cause title-Not invalid-Nothing to establish that issues on which revision exercised were examined by Assessing Officer during assessment-Duty cast on Assessing Officer to examine issues not performed-Order of Principal Commissioner setting aside assessment order-Proper. [S. 14A, 40(a)(i), 143(3)] 2976

PCIT passed an order under section 263 directing AO to reassess afresh the issues of escapement of income under section 40(a)(i) and under section 14A, which was challenged by the assessee on the ground that since it had merged with another company with effect from October 1, 2009, having a different PAN, the order issued in its name was unsustainable. On appeal, the Tribunal held that since the cause title of the order clearly mentioned the assessee's name along with the fact of its merger, the factum of amalgamation had been duly taken into account by PCIT, and merely because the order was issued in the name of the erstwhile company did not render it without jurisdiction or a nullity, given that the corporate venture and its rights and liabilities continue within the transferee entity even though the transferor company's corporate identity ceases to exist; it further held that since no material was furnished before AO or the Tribunal to show that the issues relating to non-deduction of TDS under section 40(a)(i) or disallowance under section 14A read with rule 8D had actually been examined during assessment proceedings, AO had failed to discharge the duty cast upon him to examine such issues, and the order of the PCIT setting aside the assessment as erroneous and prejudicial to the interests of the Revenue was proper and called for no interference. (AY. 2008-09)

Siemens Healthcare Diagnostics Ltd. (through successor in interest Siemens Ltd.) v. PCIT (2025) 132 ITR 679 (Ahd) (Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Assessing Officer failing to consider applicability of minimum alternate tax provisions to assessee-company-Incorrect assumption of facts and incorrect application of law-Revision justified-Book profits-Exclusion from minimum alternate tax-No specific exemption for company under voluntary liquidation-Provisions of company law regarding preparation of accounts not relevant-ITR-6 pro forma recognising liquidation cannot override the Act-Section 115JB clearly applicable-Provisions of minimum alternate tax clearly applicable-Revision justified-Assessee-company undergoing voluntary liquidation citing impossibility of preparing statement of profit and loss-Held, profits and losses determinable under any system of accounts followed, enabling computation of minimum alternate tax.[S.115JB, Companies Act, 1956, S. 551, Companies Act, 2013, S. 348] 2977

The assessee, a wholly-owned Government company under voluntary liquidation since 2012, declared nil taxable income after setting off its total income against brought-forward business losses, without AO examining the applicability of MAT under section 115JB, leading the PCIT to invoke revision under section 263 on the ground that the assessment order was erroneous and prejudicial to the Revenue. On appeal, the Tribunal held that since the twin conditions under section 263 require an erroneous order prejudicial to the interests of the Revenue, and the Assessing Officer had neither

enquired into nor applied the provisions of section 115JB, there was an incorrect assumption of facts coupled with incorrect application of law, and it was not a case of mere change of opinion; it further held that section 115JB contains no exemption for companies under voluntary liquidation, that the mechanism for accounts prescribed under the Companies Act does not override the Act, that the recognition of liquidation entities in the ITR-6 pro forma exempting them from filing balance-sheet and profit and loss schedules could not be read as a blanket exemption from MAT, and that profits and losses were determinable under any system of accounts followed by the assessee, enabling computation under section 115JB; since the assessee's case did not fall within any statutory exception, the provisions of section 115JB were clearly applicable, and the revision order was upheld. (AY. 2018-19)
Industrial Investment Bank of India Ltd. v. PCIT (2025) 132 ITR 698(Kol) (Trib.)

2978 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Search and seizure-Seized documents showing unaccounted loan/investment transactions with repayments through billing account and large cash payments-Assessment made without proper enquiry-Assessing Officer taxing only commission instead of undisclosed income-Revision upheld. [S. 68, 69, 69A, 132, 153A]**
Following a search action revealing unaccounted loan and investment transactions between the assessee and another party, the AO made additions under sections 68, 69 and 69A in the section 153A assessment, but the PCIT revised the order under section 263, holding it erroneous and prejudicial to the Revenue. On appeal, the Tribunal held that despite seized documents showing repayments through the billing account and substantial cash payments, the Assessing Officer had taxed only the commission on bogus billing instead of the entire undisclosed income, rendering the assessment erroneous and prejudicial to the Revenue, and upheld the revision. (AY. 2016-17)
Naveen Narang v. Pr. CIT (2025) 132 ITR 759 (Delhi) (Trib.)

2979 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Weighted deduction for scientific research-Assessee furnished all requisite particulars-Revision not justified. [S. 35(2AB), 143(3), R. 6]**
The Principal Commissioner revised the assessment on the ground that Forms No. 3CL and 3CLA were not furnished in the prescribed electronic format. The Tribunal held that the assessee had produced all relevant details before the Assessing Officer and there was no lack of enquiry. The amended provisions of rule 6, effective from 1 July 2016, had no application to the previous year relevant to the assessment year under consideration. Further, issuance and filing of Forms No. 3CL and 3CLA were matters within the domain of the Department of Scientific and Industrial Research and not under the control of the assessee. As the assessee's research and development facility stood duly approved and the statutory requirements were otherwise fulfilled, the revision under section 263 was held to be unsustainable, and the original assessment order was restored. (AY. 2016-17).
Genus Power Infrastructures Ltd. v. Pr. CIT (2025) 126 ITR 397 (Lucknow)(Trib.)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Cash credits-Unsecured loans-Inadequate enquiry regarding genuineness and creditworthiness-Revision justified.[S.68, 143(3)] 2980

The Assessing Officer accepted unsecured loans without obtaining loan confirmations, income-tax returns of lenders or satisfactory evidence regarding their creditworthiness. The Tribunal held that the assessment was completed without making enquiries which ought to have been made. As the assessee also failed to establish the genuineness of the transactions even during revision proceedings, the Principal Commissioner was justified in invoking section 263 and restoring the issue to the Assessing Officer for fresh verification. (AY. 2018-19).

EHealthsystem Healthcare Ltd. v. Pr. CIT (2025) 127 ITR 609 (Pune)(Trib.)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Survey-Additional income disclosed as professional income-Assessing Officer examined applicability of section 115BBE and accepted explanation-Revision not justified. [S. 69, 69A, 69B, 69C, 69D, 115BBE, 133A, 142(1), 143(3)] 2981

During a survey, the assessee, a medical practitioner, voluntarily disclosed additional income to cover any discrepancies that might arise on verification of loose papers and consistently treated it as professional income. The Assessing Officer specifically examined the applicability of section 115BBE by issuing a detailed questionnaire, considered the assessee's explanation and completed the assessment by taxing the income at normal rates. The Tribunal held that the Commissioner had not produced any material to establish that the income represented unexplained investment or income falling under sections 69, 69A or 69B. Since the Assessing Officer had taken a possible view after due enquiry, the assessment order was neither erroneous nor prejudicial to the interests of the Revenue. The revision under section 263 was quashed. (AY. 2018-19).

Gulzar Mohd v. Pr. CIT (2025) 127 ITR 1 (Chd.)(Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Reassessment-Scope of revision confined to issues arising from reassessment-Commissioner cannot direct enquiry into matters outside reasons recorded for reopening. [S. 147, 148] 2982

The Principal Commissioner invoked section 263 to revise a reassessment order by directing the Assessing Officer to examine issues and judicial decisions which were neither part of the reassessment proceedings nor the assessment records. The Tribunal held that the jurisdiction under section 263 can be exercised only where the assessment order is both erroneous and prejudicial to the interests of the Revenue. Since the Assessing Officer had confined the reassessment to the issues forming part of the recorded reasons for reopening and had conducted the necessary enquiries on those issues, the Commissioner could not direct investigation into unrelated matters or rely upon material outside the assessment records. The revisionary order was, therefore, quashed. (AY. 2012-13).

Daffodills Pharmaceuticals Ltd. v. Pr. CIT (2025) 129 ITR 63 (Delhi)(Trib.)

2983 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Appeal pending before Commissioner (Appeals)-Revision on issues not forming subject matter of appeal-Revision valid-Penalty initiated under wrong provision-Correction through revision permissible where assessment otherwise erroneous-Addition under section 68 taxed at normal rate instead of mandatory rate under section 115BBE-Revision valid. [S.68, 115BBE, 250, 271AAC]**

The assessee contended that the Principal Commissioner could not invoke section 263 because the assessment order was already under appeal before the Commissioner (Appeals). The Tribunal held that the revisionary jurisdiction under section 263 extends to issues which are not the subject matter of the pending appeal. Since the issues relating to section 115BBE and penalty under section 271AAC were not before the Commissioner (Appeals), the exercise of revisionary jurisdiction was valid. The Assessing Officer initiated penalty proceedings under section 271(1)(c) instead of section 271AAC after making an addition under section 68. The Tribunal held that although revision cannot ordinarily be invoked solely for directing initiation of penalty, where the assessment suffers from other jurisdictional errors causing prejudice to the Revenue, the Principal Commissioner can validly revise the assessment and direct initiation of penalty under the correct provision. The Assessing Officer made an addition under section 68 but taxed it at the normal rate instead of applying the mandatory provisions of section 115BBE. The Tribunal held that there was nothing on record to show that the Assessing Officer had examined the applicability of section 115BBE or had taken a conscious view. Failure to apply the mandatory provision rendered the assessment erroneous and prejudicial to the interests of the Revenue. The revision under section 263 was therefore upheld. (AY. 2017-18).

Vijay Kumar Patel v. Pr. CIT (2025) 122 ITR 436 (Raipur)(Trib.)

2984 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Capital introduced by partners-Burden to explain source lies on partners-Assessment of firm not erroneous-Cash deposits in bank-Cash sales recorded in books and accepted-Revision invalid-Audit objection-Internal audit information can form basis-Independent application of mind by Principal Commissioner sufficient-Unsecured loan-Issue not challenged by assessee-Matter restored to Assessing Officer.[S.68, 143(3)]**

The Principal Commissioner revised the assessment on the ground that the Assessing Officer had not examined the source of capital introduced by the partners. The Tribunal held that the assessee-firm was in its first year of business and the burden to explain the source of capital contribution rested upon the partners in their individual capacity. Any addition, if warranted, could be made only in the hands of the partners and not in the hands of the firm. Accordingly, the assessment of the firm could not be treated as erroneous and prejudicial to the interests of the Revenue. The assessee explained that the cash deposits in its bank account represented cash receipts from sale of small plots and showrooms. The Assessing Officer examined the books of account, cash book, sales records, bills and vouchers and accepted the explanation. The Tribunal held that once the books of account and cash sales had been accepted, the Principal Commissioner could not selectively question individual cash deposits. Revision on this issue was therefore unsustainable. The assessee contended that the revision was initiated solely

on the basis of an internal audit objection. The Tribunal held that there is no legal bar to the Principal Commissioner acting upon information received from the internal audit, provided he independently applies his mind before invoking section 263. The objection was therefore rejected. The Tribunal observed that the assessee had not challenged the revision relating to the unsecured loan received from one creditor. Consequently, that issue was left open and restored to the Assessing Officer for fresh examination in accordance with law. (AY. 2012-13).
J M G Green Promoters and Developers v. Pr. CIT [2024] 164 taxmann.com 1018 / (2025) 122 ITR 426 (Chd.)(Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Survey-Surrender of excess cash and unaccounted advances as professional income-Assessing Officer after due enquiry accepting claim-Revision held invalid. [S.69A, 115BBE, 133A] 2985
Pursuant to a survey under section 133A, excess cash and unaccounted advances were found at the assessee's clinic. The assessee, a medical practitioner, surrendered the amount as professional income, credited it to the profit and loss account and paid tax thereon. The Assessing Officer examined the survey statement, surrender letter and books of account and accepted the income under the head "Business or Profession". The Principal Commissioner invoked section 263 on the ground that the surrendered amount ought to have been taxed under section 115BBE. The Tribunal held that the Assessing Officer had taken a conscious and plausible view after due enquiry and the Principal Commissioner had not recorded any finding establishing the applicability of the deeming provisions. Following the co-ordinate Bench decision on identical facts, the revision order was quashed. (AY. 2017-18).
Renu Singla (Smt.) v. Pr. CIT (2025) 122 ITR 631 / 175 taxmann.com 304 (Chd.)(Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Reassessment initiated to verify alleged accommodation loans-No evidence of receipt of loans found in books or bank accounts-Revision based on suspicion-Order quashed. [S. 68, 147, 148] 2986
Reassessment proceedings were initiated to examine alleged accommodation loans. The assessee consistently denied having received any such loans and produced its audited books of account, bank statements and ledger accounts demonstrating that no such transactions existed. The Assessing Officer completed the reassessment without making any addition. The Principal Commissioner revised the reassessment order under section 263 directing further enquiry into the alleged loans. The Tribunal held that neither the Assessing Officer nor the Principal Commissioner found any entry in the books or bank statements evidencing the alleged accommodation entries. Once the assessee had produced all relevant records, the burden shifted to the Revenue to establish receipt of the alleged loans. Revision based merely on suspicion, without any tangible material, was unsustainable and the order under section 263 was quashed. (AY. 2017-18).
Sanguine Media Ltd. v. Pr. CIT (2025) 122 ITR 601 (Chd.)(Trib.)

2987 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Assessing Officer conducted detailed enquiry-Mere absence of discussion in assessment order not sufficient-Revision quashed-Failure of Principal Commissioner to examine entire assessment record-Earlier reassessment order ignored-Revision without jurisdiction. [S. 143(3)]**

The Principal Commissioner revised the assessment under section 263 on the ground that the Assessing Officer had failed to examine cash purchases made by the assessee. The Tribunal held that the assessment records revealed repeated queries issued under sections 142(1) and 143(2), detailed replies by the assessee and due verification by the Assessing Officer in accordance with CBDT Instruction No. 8 of 2017. Merely because the assessment order did not discuss the issue in detail did not render it erroneous. Since the Assessing Officer had made adequate enquiries and applied his mind, the assumption of jurisdiction under section 263 was invalid. The Tribunal held that while invoking section 263 the Principal Commissioner was required to examine the entire record, including an assessment order passed under section 147 only a few days earlier accepting the returned income. Failure to consider that assessment order, which formed part of the statutory record under section 263(1)(b), vitiated the revision proceedings. As no independent enquiry was conducted by the Principal Commissioner before branding the assessment as erroneous and prejudicial to the interests of the Revenue, the revision order was quashed.(AY. 2018-19).

Exotic Realtors and Developers v. Pr. CIT (2025) 122 ITR 556 (Chd.)(Trib.)

2988 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Limitation-Issue arising from intimation under section 143(1) and not reassessment under section 147-Limitation to be reckoned from date of intimation-Revision barred by limitation-Delay of 96 days-Person responsible for filing appeal on leave due to daughter's marriage-Sufficient cause-Delay condoned. [S. 143(1), 147, 148, 254(1)]**

The Commissioner invoked revisionary jurisdiction under section 263 in respect of issues concluded by an intimation issued under section 143(1), though a reassessment under section 147 had subsequently been completed on unrelated issues. The Tribunal held that, where the subject matter of revision pertained to the original intimation under section 143(1), the limitation prescribed under section 263 had to be computed from the date of such intimation and not from the subsequent reassessment order. As the revision order was passed beyond the prescribed period, it was barred by limitation. The assessee explained that the delay of 96 days in filing the appeal occurred because the person responsible for filing the appeal was on leave owing to his daughter's marriage and the appeal was filed immediately after he became aware of the position. The Tribunal held that the explanation constituted sufficient cause and, adopting a liberal approach, condoned the delay in the interest of justice (AY. 2017-18).

Shiv Vegpro (P.) Ltd. v. Pr. CIT (2025) 124 ITR 64 (Jaipur)(Trib.)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Best judgment assessment under section 144-Estimation of income at 2 per cent. of the bank credits-Different opinion of Principal Commissioner not sufficient-Revision invalid-Best judgment assessment-Statutory discretion of Assessing Officer-Cannot be interfered with merely on difference of opinion.[S. 142(1), 144] 2989

The Assessing Officer completed a best judgment assessment under section 144 after the assessee failed to comply with notices and estimated the business income at 2 per cent. of the bank credits. The Principal Commissioner revised the assessment under section 263 on the ground that the income ought to have been estimated differently. The Tribunal held that section 144 confers statutory discretion on the Assessing Officer to make a best judgment assessment and such exercise of discretion cannot be revised merely because the Principal Commissioner prefers a different estimate. The order was neither erroneous nor prejudicial to the interests of the Revenue. The revision was therefore quashed. The Tribunal held that once an assessment is validly completed under section 144 after considering the available material, the Assessing Officer exercises an independent statutory discretion. Such discretion cannot be interfered with under section 263 merely because the revisional authority considers another estimate to be more appropriate (AY. 2014-15).

Sanjay Umarshi Dand v. Pr. CIT (2025) 124 ITR 399 (Nagpur)(Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Non-resident-Offshore supply contract-Offshore design, engineering and commissioning performed outside India-Receipts not taxable in India-Revision under section 263 not justified.[S. 44BB] 2990

The assessee, a Chinese company, entered into separate offshore supply and onshore service agreements with Indian public sector undertakings for supply of optical ground wire cables and communication equipment. The Commissioner revised the assessment under section 263 by clubbing the offshore and onshore receipts and sought to tax the offshore receipts under section 44BBB. The Tribunal held that the offshore supply contract was independently executed outside India and the onshore activities were carried out through an Indian entity under a separate agreement. Following the decisions of the Supreme Court in Hyundai Heavy Industries Co. Ltd. and Ishikawajima-Harima Heavy Industries Ltd., the offshore receipts were not chargeable to tax in India. Once the receipts were not taxable under the normal provisions, section 44BBB had no application. The revision order under section 263 was therefore quashed. (AY. 2017-18).

Shenzhen SDG Information Co. Ltd. v. CIT (IT) (2025) 125 ITR 523 / 175 taxmann.com 328 (Delhi)(Trib.)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Protective assessment-Substantive assessment confirmed in another person's case-Revision not sustainable-Order passed without considering assessee's submissions-Violation of principles of natural justice-Revision quashed.[S. 143(3)] 2991

The Revenue made a protective assessment in the assessee's case while making a substantive assessment in the hands of another person. Subsequently, the substantive assessment was confirmed in appeal. The Tribunal held that once the substantive assessment had attained finality in the other person's case, the protective assessment

against the assessee could not survive. Consequently, the revision proceedings initiated under section 263 were without jurisdiction and liable to be quashed. The Tribunal found that the Commissioner had passed the revisionary order without dealing with the detailed submissions made by the assessee. Such non-consideration amounted to a serious violation of the principles of natural justice. Accordingly, the order passed under section 263 was set aside (AY. 2013-14).
Dinesh Kumar Chaurasia v. Asst. CIT (2025) 123 ITR 702 (Jaipur)(Trib.)

2992 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Notice under section 143(2) not issued in prescribed format-Assessment invalid-Revision under section 263 without jurisdiction-CBDT Instruction F. No. 225/157/2017/ITA-II dated 23-6-2017.[S. 143(2), 143(3)]**
The assessee challenged the validity of the assessment on the ground that the notice under section 143(2) was not issued in any of the three formats prescribed by the CBDT Instruction dated 23 June 2017. The Tribunal held that the issue involved a pure question of law going to the root of the assessment. Since the notice did not conform to the mandatory prescribed format, the assessment under section 143(3) was invalid, and the consequential revision under section 263 was also without jurisdiction and liable to be quashed. (AY. 2018-19).
Nadia District Central Co-operative Bank Ltd. v. Pr. CIT (2025) 123 ITR 178 (Kol.)(Trib.)

2993 **S. 263 : Commissioner-Revision of orders prejudicial to revenue Long-term capital gains-Reassessment completed after due enquiry-Principal Commissioner making no independent enquiry-Revision invalid-Purchase of immovable property wrongly treated as sale-Documentary evidence ignored-Revision invalid. [S.10(38), 45, 147]**
The Assessing Officer reopened the assessment to verify the assessee's claim of exemption under section 10(38) in respect of long-term capital gains from sale of shares and, after examining the contract notes, bank records and other supporting documents, accepted the claim. The Tribunal held that the assessee had discharged the initial burden by producing all relevant evidence and could not be faulted for the manner in which the Assessing Officer conducted the enquiry. As the Principal Commissioner failed to conduct even a prima facie independent enquiry before invoking section 263, the assessment order could not be regarded as erroneous and prejudicial to the interests of the Revenue. The revision was therefore quashed. The Principal Commissioner proceeded on the erroneous assumption that the assessee had sold immovable properties, whereas the records established that the transactions were purchases supported by purchase deeds, bank statements, loan records and tax deduction details. The Tribunal held that the Principal Commissioner failed to make even the minimum enquiry before directing a fresh assessment and did not establish that the assessment order was either erroneous or prejudicial to the interests of the Revenue. The revision order under section 263 was therefore held to be invalid (AY. 2015-16).
Teena Garg (Smt.) v. Pr. CIT (2025) 123 ITR 326 / 174 taxmann.com 872 (Chd.)(Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Commodity trading-Revision order was quashed and set aside-Cash deposit-No enquiry was made-Revision order was affirmed-Delay in filing of appeal was condoned. [S. 143(3),254(1)] 2994

Tribunal held that the AO having called for the assessee's explanation and documentation to substantiate the commodity trading transactions and accepted the assessee's explanation that the commodity trading transactions were undertaken in his name by his employer along with its associate entity and disallowed the claim of loss, it is not a case where no examination has been carried out by the AO and, therefore, the exercise of revisional jurisdiction by the Principal CIT on these issues is not sustainable; other issues were not part of initial show cause notice issued by the Principal CIT and, therefore, revisional order passed by the Principal CIT qua such issues is also not sustainable. As regards cash deposit, since there is nothing on record to show that the AO made any enquiry regarding the source of cash deposit made by the assessee with a co-operative society, it is clearly a case of no enquiry and, therefore, the order passed by the AO is erroneous insofar as prejudicial to the interest of Revenue. Delay in filing the appeal was condoned, considering the affidavit of the assessee. (AY-2011-12 & 2012-13)
Jarnail Singh v. PCIT (2025) 234 TTJ 505 (Chd)(Trib)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Penalty for under-reporting and misreporting of income-Direction of CIT to invoke the applicable penalty provisions under section 270A(9)(e) on the entire amount of estimated undisclosed income is bad in law. [S.153A, 270A(2), 270A(9)(e)] 2995

AO having quantified assessee's undisclosed income in the assessment under S. 153A by applying gross profit rate to unaccounted sales which was more than the income admitted in the return, sub-s. (9) of s. 270A is not invocable as the case does not fall in any of sub-clauses of sub-s. (2) of s. 270A and therefore, the direction given by the Principal CIT to the AO to invoke the penalty provisions under s. 270A(9)(e) on the entire amount of said estimated undisclosed income is bad in law. (AY. 2020-21)
KAG India (P) Ltd. v. PCIT (2025) 234 TTJ 566/ 170 taxmann.com 45 (Chennai) (Trib)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Limited scrutiny-Deemed dividend-Assessing Officer passed assessment order in accordance with limited scrutiny assessment and did not make inquiries on issue of amount received by assessee company as loan from another company which was outside scope of CASS selection-Order cannot be treated as erroneous-Revision order was quashed-Tribunal also held that the deemed dividend can be taxed only in hands of shareholder of lending company, and not in hands of concern in which such shareholder is interested. [S. 2(22)(e), 143(3)] 2996

Assessee-company filed its return of income, which was selected for scrutiny under CASS with the reason 'Very Low PBDIT as compared to business turnover'.Assessing Officer issued detailed questionnaires in line with the notice, examined the matter, called for supporting evidence, and completed the assessment after being satisfied with the explanations tendered by the assessee. Accordingly, returned loss was accepted in full as assessed income. Subsequently, PCIT invoked revisionary jurisdiction under section 263 on ground that Assessing Officer had failed to examine issue in respect

of loan transaction of certain amount received by assessee from one company Kesar Built system Pvt Ltd. PCIT recorded that as per MCA website, both assessee and 'Kesar Built system Pvt Ltd. PCIT had common management, and two directors of assessee were holding 20 per cent shares each in Kesar Built system Pvt Ltd, thus, transaction of loan received by assessee squarely fell within definition of deemed dividend under section 2(22)(e). Accordingly, the assessment order was both erroneous and prejudicial to the interests of revenue. On appeal, the Tribunal held that the Assessing Officer had recorded the response as 'N.A.' (not applicable) against queries pertaining to limited scrutiny, including whether additional issues were examined. Thus, the Assessing Officer was never required, within the statutory framework of limited scrutiny under the Faceless Assessment Scheme, to travel beyond CASS parameter, unless the case was formally converted into complete scrutiny with prior approval of the competent authority. No such conversion was done. Therefore, the order passed by the Assessing Officer could not be termed erroneous merely because he did not make inquiries on an issue which was outside the scope of CASS selection and, thus, assumption of jurisdiction by PCIT under section 263 was unsustainable. Tribunal also held that the deemed dividend can be taxed only in the hands of the shareholder of the lending company, and not in the hands of the concern in which such shareholder is interested. (AY. 2021-22)

Kesar Buildcon (P.) Ltd. v. PCIT (2025) 215 ITD 1 (Ahd) (Trib.)

2997 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Donation to political party-Bogus donation-Kisan Party of India-Allowed deduction after verifying supporting documents and evidence-No direct incriminating material against assessee-Revision order was quashed.[S.80GGC, 132]**

Assessee donated Rs. 15 lakhs to a political party and claimed a deduction under section 80GGC. Assessing Officer, after recording that the evidence had been verified, accepted the claim and completed the assessment. Subsequently, a search under section 132 was conducted in the case of said political party, and it was found that it was engaged in a bogus donation racket whereby donations received through banking channels were returned to donors in cash after deducting commission. On the basis of the same, the Principal Commissioner issued a notice under section 263 to the assessee proposing to revise the order of the Assessing Officer on the ground that the donation was not genuine. On appeal, the Tribunal held that the assessee had furnished all details in response to notice under section 142(1), including receipts and bank statements, which were verified by the Assessing Officer. Further, no incriminating material, no third-party statement, and no specific adverse fact connecting assessee's donations to any bogus transaction had been brought on record by the Principal Commissioner. Therefore, assumption of jurisdiction by Principal Commissioner under section 263 was unsustainable in law.(AY. 2020-21)

Vitthaldas Nathubhai Shah v. PCIT (2025) 215 ITD 77 (Ahd) (Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Expenditure on scientific research-DSIR's quantification of eligible R&D expenditure in Form 3CL was mandatory-Failure to quantify the deduction-assessment order erroneous and prejudicial to the interests of revenue. [S. 35(2AB), 143(3), R.6(7A)] 2998

Held that post Finance Act, 2015 amendment and corresponding Rule 6(7A) change, DSIR's quantification of eligible R&D expenditure in Form 3CL was mandatory for claiming deduction under section 35(2AB). The Assessing Officer was duty-bound to restrict deduction to the extent of expenditure approved and quantified by DSIR, and failure to do so would make the assessment order erroneous and prejudicial to the interests of revenue. (AY. 2018-19)

Pharmanza Herbal (P.) Ltd. v. PCIT (2025) 215 ITD 273 (Ahd) (Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Charitable purpose-Objects of general public utility-Providing a platform for conducting transactions of member banks-Charging only nominal fees to recover cost of infrastructure and operations-Assessing Officer, after making specific inquiries, allowed exemption under section 11-Revision order was quashed and set aside.[S. 2(15), 11, 12, Companies Act, 1956, S. 25] 2999

Held that the assessee was engaged in providing a platform for conducting transactions of member banks and was charging only nominal fees to recover the cost of infrastructure and operations, and the Assessing Officer, after making specific inquiries, allowed exemption under section 11. Revision order for alleging violation of proviso to section 2(15) was quashed and set aside. (AY. 2020-21)

National Payments Corporation of India v. CIT (E) (2025) 215 ITD 350 (Mum) (Trib.)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Purchase of immovable property-Below circle rate-Sale consideration and DVO-determined FMV for assessee's share was within permissible 10 per cent variation-CBDT Circular No. 8/2018-Revision by PCIT treating variation as taxable and Circular as prospective was an unsustainable, change of opinion not supported by law-Revision order was quashed. [S.50C, 56(2)(viib), 143(3), 147] 3000

Assessee, an individual engaged in the business of manufacturing, export and selling Form-H electrical wiring accessories, filed a return processed under section 143(1). The case was reopened under section 147 on the ground that the assessee purchased an immovable property for consideration significantly lower than the circle rate. The assessee held a 1/3rd share in the property. On the assessee's request disputing the circle rate vis-à-vis FMV, the Assessing Officer referred the matter to DVO, who determined FMV at ₹5.16 crores; the assessee's 1/3rd share came to ₹1.72 crores, leaving a difference of ₹15.14 lakhs, being less than 10 per cent of the consideration. Assessing Officer, after considering the assessee's response, applied the amendment to section 50C and CBDT Circular No. 8/2018 (treated as retrospective), and accepted that a variation below 10 per cent between sale consideration and DVO-determined value was to be ignored, thereby accepting the returned income. PCIT invoked section 263 (including Explanation 2) to revise the assessment, holding that Circular No. 8/2018 applied prospectively and that the difference between the stamp duty value and the sale consideration should have

been added to the assessee's income. On appeal, the Tribunal held that since the view of PCIT was not supported by any judicial authority, his action in treating the assessment order as erroneous and prejudicial to the interest of revenue was merely a change of opinion and unsustainable. (AY. 2016-17)
Mamta Agarwal v. PCIT (2025) 215 ITD 553 (Agra) (Trib.)

3001 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Excess stock-Survey-Additional income was offered-Specific queries raised by Assessing Officer and had explained that the only source of income of assessee was from business-Revision order of CIT for not invoking provision of section 115 BBE was quashed and set aside.[S. 28(i), 69, 115BBE, 133A, 143(3)]**
In the course of survey under section 133A, the assessee had made a total declaration of a certain amount as additional income, out of which a certain amount was on account of excess cash found and a certain amount on account of excess stock. Assessee disclosed the abovesaid amount in ITR. Assessing Officer completed the assessment under section 143(3), accepting the returned income. PCIT held that the order passed by the Assessing Officer was erroneous insofar as it was prejudicial to the interest of revenue on the ground that the Assessing Officer failed to tax excess cash and excess stock found under section 69, read with provisions of section 115BBE. On appeal, the Tribunal held that the Assessing Officer, during the course of assessment proceedings, had raised specific queries to which the assessee had duly replied, and it had been explained that the only source of income of the assessee was from business; such excess cash and excess stock found during the course of the survey had to be treated as business income. Therefore, an order passed by the Assessing Officer cannot be held to be erroneous, although it might be prejudicial to the interest of revenue in the opinion of the PCIT, on account of not invoking the provisions of section 115BBE. Accordingly, the PCIT was not justified in invoking his revisionary powers under section 263 for not invoking the provisions of section 115BBE on additional income. (AY. 2019-20)
Akashdeep Cloth Centre v. PCIT (2025) 215 ITD 597 (Pune) (Trib.)

3002 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Cost of improvement-Limited scrutiny-Allowed claim towards cost of improvement under section 48 without conducting an inquiry or verification-Revision order affirmed. [S. 48, 54B]**
Assessee's return was selected for limited scrutiny to verify capital gain deductions Assessing Officer completed the assessment by disallowing the deduction under section 54B, but allowed the claim towards cost of improvement under section 48. PCIT revised the order. On appeal, the Tribunal held that although the case was selected for limited scrutiny to verify the capital gain deduction claim, the Assessing Officer had not asked for any details or made any enquiry regarding the cost of improvement. The revision order was affirmed. (AY. 2020-21)
Avinash Dattatray Muley v. PCIT (2025) 214 ITD 151 (Pune) (Trib.)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Agricultural income-Coffee curing-Specific queries during original assessment proceedings-Rule 7B deeming part of income as business income-Revision order was quashed. [S. 2(IA), 28(1), 143(3), R.7B] 3003

Assessee filed its return of income claiming agricultural income from sale of coffee. Case was selected for limited scrutiny under CASS to verify substantial increase in agricultural income. PCIT invoked revisionary jurisdiction on ground that as per rule 7B, 25 per cent of income derived from sale of coffee grown and cured and 40 per cent of income derived from sale of coffee grown, cured and roasted and grounded had to be deemed as business income. On appeal, the Tribunal held that the Assessing Officer, vide notice under section 142(1), specifically asked for details of the nature and type of agricultural income along with details of the process undertaken and documentary evidence with regard to the mode of sale of agricultural proceeds along with a copy of contracts, if any. Assessee had specifically replied that coffee was picked, dried and sold as raw coffee without curing. Since a query was raised by the Assessing Officer during the original assessment with respect to agricultural income, which was responded by assessee, invocation of section 263 was not justified. (AY. 2020-21)

C.T. Ramanathan (HUF) v. ITO (2025) 214 ITD 96 (Chennai) (Trib.)

S. 263: Commissioner-Revision of orders prejudicial to revenue-Depreciation-Road Project-Building, operating and transferring a section of national highway-Road construction project-Intangible asset-Eligible depreciation-Mercantile system of accounting-Negative grant-Depreciation on negative grant which was to be paid to NHAI-Depreciation allowable-Revision order set aside.[S. 32, 143(3), 145] 3004

Tribunal held that the assessee-company, engaged in the business of building, operating and transferring a section of the national highway, claimed depreciation on the road construction project as an intangible asset; the assessee was entitled to claim depreciation on road construction as admissible on intangible assets. Tribunal also held that depreciation on negative grant, which was to be paid to NHAI, since the assessee was following the mercantile system of accounting, negative grant being part of the total expenditure incurred or to be incurred by the assessee for the project, was to be included in the cost of the asset for the purpose of calculating depreciation. Revision order set aside. (AY. 2012-13, 2013-14)

IRCON Soma Tollway (P.) Ltd. v. PCIT (2025) 214 ITD 139 (Delhi) (Trib.)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Donations-CSR activities-Allowed deduction under section 80G-Revision order was set aside. [S.80G, 143(3)] 3005

Commissioner invoked revisionary jurisdiction, observing that assessee had incurred expenditure towards its CSR activities and the same was mandatory under the Companies Act, 2013, and, thus, the same could not be allowed as a deduction under section 80G. On appeal, the Tribunal held that the Assessing Officer had raised a specific query and assessee had responded in detail, and the Assessing Officer had accepted the same after due verification. Since there was no material to support that the Assessing Officer failed to apply his mind, the order passed by the Assessing Officer

cannot be characterised as erroneous or prejudicial to the interests of the Revenue. The revision order was quashed and set aside.(AY. 2020-21)
Jashan Jewels (P.) Ltd. v. PCIT (2025) 214 ITD 112 (Mum) (Trib.)

3006 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Limited scrutiny-Commissioner presumed that the Limited scrutiny case was converted into full scrutiny-Unsecured loan- Revision order was quashed.[S. 68]**
Assessee's case was selected for limited scrutiny on two issues: unsecured loans and credit card payments. Assessing Officer raised relevant queries. Assessee explained details of alleged unsecured loans and filed PAN data of creditors and submitted other details. Further, the assessee had also submitted details of credit card payments. Assessing Officer was satisfied with the quality of evidence submitted by the assessee and accepted the return of the assessee. PCIT invoked revisionary proceedings and raised three issues, namely, an increase in opening capital balance, credit card payments, and unsecured loans. On appeal, the Tribunal held that the Commissioner had committed an error in construing that the case was selected for complete scrutiny in the show-cause notice issued under section 263, whereas, there was no detail available on record which suggested that a limited scrutiny case was converted into full scrutiny. Tribunal held that the foundation of the order of the Commissioner was based upon wrong facts, the Commissioner having erred in taking cognisance under section 263, and the order was quashed. (AY. 2017-18)
Sanjeev Garg v. Pr. CIT (2025) 213 ITD 199/236 TTJ 686 (Chd) (Trib.)

3007 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Application of income-Donation to another charitable trust-Revision order affirmed. [S. 11, 12A]**
Assessee-charitable trust made donations to 72 institutions stated to be institutions duly registered under section 12A. Assessee claimed exemption under section 11 and filed a nil return of income. Assessing Officer accepted the return and passed an order under section 143(3). PCIT revised the order on the ground that the Assessing Officer had failed to examine the question of eligibility of donations made by the assessee-trust to another institution for exemption under section 11. On appeal, the Tribunal held that merely because donee trusts were duly registered under section 12AA, ipso facto, they would not qualify for deduction under section 11. On the facts, since the Assessing Officer had failed to examine the aspect of whether donee trusts had similar objects as that of the assessee-trust, the order of revision was affirmed. (AY. 2014-15)
Save A Family Plan (India) Aiswaryagram v. DCIT (E) (2025) 213 ITD 27 (Cochin) (Trib.)

3008 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Limited Scrutiny-Deemed rental income-Order passed after due enquiry cannot be treated as erroneous and prejudicial to the interests of revenue-PCIT cannot revise assessment to include issues beyond the scope of limited scrutiny.[S.143(3), IND AS-115]**
The assessee, an individual builder and developer, filed return declaring income from house property and other sources after setting off business loss. The case was selected for limited scrutiny to verify business loss and agricultural income. The Assessing Officer issued detailed notices u/s 142(1), examined all expenses claimed, verified

supporting evidence, and accepted the returned income. The PCIT invoked s. 263 holding that the assessment order was erroneous and prejudicial to the interests of the revenue, inter alia, for not bringing to tax deemed rental income from a flat at Greater Noida and for not applying IND AS-115. The Tribunal held that since the assessment was made under limited scrutiny, the Assessing Officer was not required to examine issues beyond those specified. Further, detailed enquiries were made and replies furnished by the assessee on the issues of business loss and agricultural income. Hence, the assessment could not be considered as passed without enquiry or application of mind. The Tribunal observed that IND AS-115 applies only to companies and not to individual proprietary concerns. Relying on *Malabar Industrial Co. Ltd. v. CIT (2000) 243 ITR 83 (SC)* and *ITO v. DG Housing Finance Co. Ltd. (2012) 343 ITR 129/ 20 taxmann. com 587/ 212 Taxman 132 (Delhi)(HC),* it held that both conditions of "erroneous" and "prejudicial" must coexist for invoking s. 263 and that the PCIT cannot travel beyond the limited scrutiny scope or direct a roving enquiry without recording a finding of error. Accordingly, the order passed u/s 263 was quashed and the assessee's appeal allowed. (AY 2018-19 (ITA No. 164/Mum/2025; dt. 30.10.2025)
Sameer Ramesh Vashi v. PCIT (Mum)(Trib)www.itatonline.org

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Special category States-Manufacture of essential oils and perfumery-Assessment without incriminating material-Search assessment-Deduction u/s 80IC-Revisionary power cannot be exercised in respect of completed/unabated assessments in absence of incriminating material-Revision order quashed. [S. 80IC, 132, 143(3), 153A, 153C, 153D] 3009

Search u/s 132 was conducted in the case of the assessee, a partnership firm engaged in the manufacture of essential oils and perfumery, which claimed deduction u/s 80IC as its unit was located in Himachal Pradesh. The AO completed assessments u/s 153A r.w.s. 143(3) accepting the returned income without making any addition. The PCIT invoked revisional jurisdiction u/s 263 on the ground that the AO allowed deduction u/s 80IC without making necessary enquiries, holding that the assessee's products were not covered in the eligible list under Schedule XIV and setting aside the assessment for fresh enquiry. On appeal, the Tribunal held that all the years under consideration were unabated assessment years and that no incriminating material was found during the search to justify any addition or disallowance. Following the ratio of *PCIT v. Abhisar Buildwell (P.) Ltd. (2023) 149 taxmann.com 399 (SC)*, it was held that in absence of incriminating material, no addition or disallowance can be made in an assessment u/s 153A for completed/unabated years. Since the PCIT's revision was not based on any such incriminating material and the AO had duly examined the assessee's claim, the assessment could not be treated as erroneous or prejudicial to the interest of Revenue. Accordingly, the order u/s 263 was quashed. (AY 2011-12 to 2018-19) (ITA Nos. 3713-3719/Mum/2025dated 27.10.2025.)
Raj Impex v. PCIT (Central), Mumbai-1 (Mum)(Trib) www.itatonline.org

3010 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Additional depreciation-At rate of 10 per cent on 'plant and machinery' put to use for a period of less than 180 days during preceding year-No error-Revision order is set aside. [S. 32(1)(ii), 43(6)]**

During preceding assessment year 2017-18, assessee had claimed additional depreciation at rate of 10 per cent on plant and machinery put to use for a period of less than 180 days. Balance additional depreciation was carried forward to be claimed in assessment year 2018-19 as per third proviso to section 32(1)(ii). For year under consideration, assessee claimed aggregate depreciation, which included additional depreciation pertaining to assets put to use for less than 180 days in the preceding assessment year. Principal Commissioner revised the assessment order on the ground that the assessee had claimed excess normal depreciation for the year under consideration. On appeal, the Tribunal held that there was no error in depreciation claimed by the assessee and, hence, the revision order is set aside. (AY. 2018-19)

Suzuki Motor Gujarat (P.) Ltd. v. PCIT (2025) 212 ITD 49 (Ahd) (Trib.)

3011 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Scientific research expenditure-Weighted deduction-Allowed deduction under section 35(2AB) at 200 per cent-Allowable 150 per cent-Revision order is affirmed. [S. 35(2AB, Rule 6]**

Tribunal held that provisions of section 35(2AB) read with rule 6 clearly mandate filing of Form 3CL and limit weighted deduction to 150 per cent of eligible expenditure incurred on in-house research and development from assessment year 2018-19 onwards. Since Assessing Officer allowed deduction at 200 per cent in clear contravention of law, and without verifying whether basic condition of submission of Form 3CL by DSIR quantifying eligible expenditure had been fulfilled, Principal Commissioner was justified in invoking revisionary powers under section 263 and setting aside assessment order with a direction to Assessing Officer to frame a fresh assessment after conducting proper verification and affording reasonable opportunity to assessee. (AY. 2018-19)

Gujarat Metal Cast Industries (P.) Ltd. v. PCIT (2025) 212 ITD 178 (Ahd) (Trib.)

3012 **S. 263 : Revision-Capital gains-Exemption u/s 54F-Failure of AO to verify claim-Revision upheld.[S. 54F, 147]**

Assessee claimed exemption u/s 54F on LTCG. AO accepted claim without proper verification. On revision, Pr. CIT noted inconsistency as assessee changed claim of property and lacked registered documents. Tribunal held AO failed in enquiry, order was erroneous and prejudicial, and upheld revision under section 263. (AY. 2016-17)

Himasagar Krishna Muthappagari v. ITO (2025) 212 ITD 292 (Hyd)(Trib.)

3013 **S. 263 : Revision-Capital gains-Interest on enhanced compensation-AO's acceptance of exemption erroneous-Interest taxable [S. 10(37), 56(2)(viii), 145B(1), Land Acquisition Act, 1894, S. 28]**

The assessee received interest on enhanced compensation for compulsory acquisition of agricultural land and claimed exemption under section 10(37). The AO accepted the claim. The Principal Commissioner invoked section 263, holding the order erroneous as interest under section 28 of the Land Acquisition Act is taxable under section 56(2)(viii)

read with section 145B(1). Section 10(37) covers only compensation, not interest. The Tribunal upheld the revision, confirming taxability of interest. (AY. 2017-18)
Om Prakash v. PCIT (2025) 212 ITD 437 (Delhi)(Trib.)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Expenditure on scientific research-Conducted detailed enquiries into claim of deduction-Revision order is quashed. [S. 35(2AB), 143(3)] 3014
Held that AO, having conducted detailed enquiries into assessee's claim of deduction under s. 35(2AB) and arrived at the conclusion that apportionment of R&D expenditure incurred by the assessee-company to its Assam Unit is not required, the Principal CIT has no authority to substitute his views by invoking his revisionary powers under s. 263 of the Act. It is trite law that revisionary power cannot be exercised merely because the revisionary authority holds a view different from that taken by the lower authority (AY. 2018-19)
Anabond Ltd. v. PCIT (2025) 233 TTJ 761/246 DTR 32 (Chennai)(Trib)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Consultation fees in the form of syndication fees for raising Convertible Cumulative Preference Shares-The AO has taken a plausible view-Revision order is set aside. [S. 143(3)] 3015
Held that the assessee has submitted all the details relating to the capital raised by the company, expenses incurred in relation to consultancy, and the fees paid to the Registrar of Companies for increasing the capital base of the company along with documentary evidence, and the AO having taken a conscious decision to allow deduction of consultancy fees, after considering all the aspects in the assessment proceedings. The order of the AO is neither erroneous nor prejudicial to the interest of the Revenue and therefore, the order passed by the Principal CIT under s. 263 cannot be sustained. (AY. 2018-19)
Finova Capital (P) Ltd. v. PCIT 2025) 233 TTJ 699 (Jaipur)(Trib)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Survey-AO raised specific queries-Revision order is quashed.[S. 133A] 3016
Tribunal held that the AO has raised specific queries which were submitted by the assessee; after verification, the assessment order was passed. While passing the order, the Principal CIT has not indicated the failure on the part of the AO that he did not specifically deal with Annex. 3 and annex. 23. The Principal CIT invoked the provision of s. 263 only for the reasons that the AO has not raised any question and the assessee has not filed any reply. The Tribunal held that the conduct itself suggests that the action of the Principal CIT is based on surmises and conjectures. The Tribunal also held that nowhere in the order the Principal CIT invoked the Expln. 2 of s. 263, which implies that she was not sure as to whether the order fell within any of the criteria given vide Expln. 2. Order passed by the Principal CIT is quashed. (AY. 2017-18)
Ganesh Builders v. PCIT (2025) 233 TTJ 257 (Jodhpur)(Trib)

3017 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Enhanced compensation granted under the Land Acquisition Act, 1894-Assessing Officer treated as exempt-Jurisdictional High Court held as taxable-Revision order is affirmed. [S. 10(37), 56(2)(viii), Land Acquisition Act, 1894, 28, 34]**

On appeal against the revision order the Tribunal held that Jurisdictional High Court in the case of *Principal CIT v. Inderjit Singh Sodhi (HUF) in IT Appeal No. 769 of 2023 and Civil Misc. Appln. No. 65057 of 2023 vide order dt. 8th April, 2024, [2024] 161 taxmann.com 301 (Delhi)/[2025] 475 ITR 294 (Delhi)(HC) considered the insertion of cl. (viii) to sub-s. (2) of s. 56 w.e.f. 1st Oct., 2010* and held that the interest on compensation and enhanced compensation granted under the Land Acquisition Act, 1894 is to be considered as income from other sources and is taxable. Once the jurisdictional High Court reiterates the law considering the amendment to the provision and also the previous judgments, the law laid down by the jurisdictional High Court becomes binding precedent and the IT authorities or the Tribunal cannot ignore the same and take different view. The view taken by the AO that the interest on enhanced compensation is part of the compensation and not 'interest' per se and allowing the same as exempt under S. 10(37) cannot be called as plausible view. Revision order is affirmed. (AY.2019-20)

Jagjit Singh Kataria v. PCIT (2025) 233 TTJ 1 / 245 DTR 49 (Delhi)(Trib)

3018 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Assessing Officer partly disallowed the claim-Reassessment order is quashed. [S. 56, 57, 263, Explanation 2.]**

Held that the AO having disallowed part claim of deduction under s. 57 after making a detailed enquiry and satisfying himself that the assessee is eligible to claim deduction under s. 57 in respect of the remaining amount as claimed by the assessee, the assessment order cannot be said to be erroneous insofar as prejudicial to the interests of the Revenue. Order passed by the Principal CIT under s. 263 is quashed. (AY. 2018-19)

Rakesh Kumar Doshi v. PCIT (2025) 233 TTJ 846 (Jodhpur)(Trib)

3019 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Invalid reassessment cannot be set aside under section 263-Reopened to examine cash deposits-No addition was made-Revision on the ground that the AO has wrongly allowed exemption under section 54B and 54F-Revision order is quashed and set aside.[S.54B, 54F, 147, 148]**

The assessment was reopened to examine the cash deposited in his bank account. In the assessment order, AO enquired this aspect and was satisfied with the explanation given by the assessee. Commissioner revised the order on the ground that the the AO wrongly allowed exemption under ss. 54B and 54F to the assessee. On appeal the Tribunal held that when the AO has not made addition on the issue of reasons recorded, he was ousted of his jurisdiction to make any other addition. Hence the Revision order is quashed and set aside on the ground that invalid reassessment cannot be set aside under section 263. Followed *CIT v. Software Consultants (IT Appeal No. 914 of 2010. dt. 17th Jan, 2012) (Delhi) (HC).*(AY. 2009-10)

Ashok Kumar v. PCIT (2025) 233 TTJ 988 (Delhi)(Trib)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Reimbursement of expenditure on account of Employee Stock Option Plan (ESOP) costs incurred by holding company-Allowable as deduction-Revision order is quashed.[S. 37(1)] 3020

Assessee, a subsidiary of a Mauritius based company, was a travel agent and tour operator. It had claimed deduction on account of reimbursement of expenditure on account of Employee Stock Option Plan (ESOP) costs incurred by holding company. Assessing Officer had allowed claim of ESOP. Commissioner passed the revision order. On appeal the Tribunal held that the Assessee had provided complete list of employees, as subscribed to these shares and their current employment status and benefit provided to them and consequent benefit to assessee-company. Revision order is quashed. (AY. 2011-12)

Make My Trip (India) (P.) Ltd. v. DCIT (IT) (2025) 211 ITD 389 / 234 TTJ 153(UR) (Delhi) (Trib.)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Government-funded educational institution-Assessing Officer has allowed the exemption based on a correct appreciation of facts and applicable law-Revision order is set aside. [S. 10(23C)(iiiab)] 3021

Held that the Assessing Officer allowed the exemption based on a correct appreciation of facts and applicable law. Commissioner (E) erred in excluding interest income from government grants and in attempting to apply rule 2BBB retrospectively. Order of Commissioner (E) is set aside.(AY. 2014-15)

Dr. Babasaheb Ambedkar Open University v. CIT (E) (2025) 210 ITD 109 / 234 TTJ 866 (Ahd) (Trib.)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Accumulation of income-Corpus donation-Issue dealt in revision proceedings was unrelated in character from issue of corpus donation received by assessee which was dealt in re-assessment proceedings-Revision order was beyond period of two years-order is barred by limitation-Revision is quashed and set aside.[S. 11, 12A 143(1), 147, 148] 3022

Re-assessment proceedings were initiated against assessee on ground that assessee had received capitation fees or development fund in cash or kind which had not been disclosed in return, resulting in escapement of income. Re-assessment order was passed treating corpus donation received by assessee as general donation to trust and thereby re-computing exemption available under sections 11 and 12. Commissioner passed revision order on 21-3-2024 against said re-assessment order dated 25-3-2022 on ground that Assessing Officer had not verified accumulation and application for year under consideration for purpose of object of trust for which amount was set apart. On appeal the Tribunal held that issue dealt by Commissioner in revision proceedings was altogether unrelated and different in character from issue dealt by Assessing Officer in re-assessment proceedings. The issue raised by Commissioner to invoke revisionary proceedings had to necessarily relate to intimation passed under section 143(1). On facts the revision order passed by Commissioner is beyond period of two years hence the order is barred by limitation hence quashed. (AY. 2016-17)

Indian Education Society v. CIT (E) (2025) 210 ITD 92 (Mum) (Trib.)

3023 **S. 263: Commissioner-Revision of orders prejudicial to revenue-Since all necessary verification and examination of documents in reasonable manner was done, the assessment order cannot be called erroneous and prejudicial within the meaning of s. 263, Expln. 2-Revision order is set aside. [S. 143(3), 147, 148]**
The AO completed the assessment, accepting the returned income consisting of agricultural income after examining the assessee's replies and documents. The Principal CIT later invoked section 263 powers, claiming the assessment order was erroneous and prejudicial to the interests of the revenue. ITAT observed that when an AO had assessed the assessee on the returned income after examining detailed replies and documents explaining the agricultural income, the assessment order cannot be deemed to be erroneous and prejudicial to the interests of revenue for the purposes of section 263. Hence, the order under section 263 by the PCIT was set aside. (AY. 2012-13)
Bhupinder Singh v. PCIT (2025) 233 TTJ 675 /246 DTR 1 / 121 ITR 376 (Chd) (Trib)

3024 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Short term capital loss-Section 263 cannot be used just because the PCIT holds a different view-No finding of lack of enquiry or perversity in AO's conclusion-Reaffirmed that revisional jurisdiction cannot substitute AO's discretion where AO acted judiciously.[S. 143(3)]**
Revision u/s 263 initiated twice by PCIT on short-term capital loss from penny stock (Sulabh Engineering Services Ltd.). AO had already verified the genuineness of the transactions twice (original + reassessment). Judicial resistance to arbitrary or repetitive invocation of section 263 when the Assessing Officer has exercised due diligence and formed a reasoned opinion. The ITAT reiterated that the revisional authority must not act merely as a supervisory authority unless there is palpable error or lack of enquiry that renders the assessment order unsustainable in law.(AY. 2016-16) (ITA No. 2682/Mum/2024, Dated 11/03/2025)
Surplus Finvest Pvt. Ltd. v. PCIT(Mum) (Trib)(UR)

3025 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Capital expenditure-The expenses in dispute were already capitalized-No prejudice to revenue-Revision order is quashed.[S.37(1)]**
The PCIT, during the examination of assessment records u/s. 263, found that the assessee had claimed deduction of capital expenditure, which the AO had allegedly failed to verify during the assessment proceedings.
Held that the PCIT himself noted that the expenses in dispute were already capitalized by the assessee in its books of account. The assessee had not claimed the deduction of these expenses in its profit and loss account. Since the expenses were capitalised and did not reduce the taxable income, there was no loss of revenue. Therefore, the PCIT's revisionary order was invalid and quashed. (AY. 2017-18)
Kool Home Builders v. PCIT [2025] 210 ITD 16 (Cochin)(Trib.)

3026 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-The NFAP was already adjudicating the disallowance of transport charges u/s. 40(a)(ia), the PCIT had no jurisdiction to revise the order.[S.40(a)(ia)]**
The issue of disallowance u/s. 40(a)(ia) was already pending adjudication before the National Faceless Appeal Centre (NFAPC), the Principal Commissioner lacked jurisdiction

to invoke Section 263 in view of clause (c) of Explanation 1 to Section 263. Accordingly, the revisionary order under Section 263 was to be set aside.(AY. 2013-14)
Krishnan Saravanan v. PCIT [2025] 210 ITD 567 (Chennai)(Trib.)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Charitable purpose-Objects of general public utility-Merely because the society's participants included members from the private sector, it does not change the fundamental non-commercial nature of its activities-The society's role as a facilitator for the hydrocarbon industry does not make its activities commercial-Revision order is quashed.[S. 2(15), 11, 12, 12AA] 3027

The assessee society was formed to carry out educational activities in the oil and gas industry. It acted as an interface between the oil industry, government authorities, the public, and representative bodies to promote research, assist in policy-making, and support the hydrocarbon sector. The society provided a platform for experts in the field to exchange knowledge and expertise. It was registered u/s. 12AA and granted an exemption u/s. 80G. The AO allowed the exemption u/s. 11 and 12. The CIT passed an order u/s.263, asserting that the society's activities were commercial in nature and not charitable, thus invoking the second proviso to S.2 (15).
Held that a similar society with identical objectives had been treated as charitable. Since both societies had the same scope and purpose, the impugned order passed by the Commissioner was not sustainable. The assessee was formed as an initiative by the Government of India highlighted that its purpose was to bring all stakeholders together, ultimately benefiting consumers. The involvement of private sector participants did not make the society's activities commercial, as its role was to act as a facilitator for the hydrocarbon industry, supporting the sector's growth. Order u/s.263 was not sustainable, and the society's activities were charitable, and its non-commercial nature was upheld. Revision order is quashed. (AY. 2014-15)
Petroleum Federation of India v. CIT (E) [2025] 210 ITD 205 (Delhi)(Trib.)

S. 263 : Commissioner-Revision of orders prejudicial to revenue-Disallowance of expenditure-Exempt income-Outstanding GST-Revision order is affirmed-Registration and provision for warranty-Revision is not justified. [S. 14A,37(1) 43B] 3028

Held that the Assessing Officer had passed assessment order without making any enquiry or verification in respect of correctness of disallowance under section 14A read with rule 8D as well as in respect of disallowance under section 43B in respect of outstanding GST, impugned assessment order was rightly termed by PCIT as erroneous and prejudicial to interest of revenue. As regards registration and provision for warranty the AO had made detailed enquiry and issues were decided in favour of assessee in earlier years, revision is not justified. (AY. 2016-17, 2018-19)
Sophos Technologies (P.) Ltd. v. PCIT (2025) 210 ITD 614 (Ahd.) (Trib.)

3029 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Income from other sources-Interest-Zero coupon debentures redeemable after 9 years to its directors-Prematurely converted into equity-Interest amount deemed to be received upon conversion of debentures into equity shares in relevant assessment year-Revision order is justified. [S. 2(24)(iv) 47(x),47(x)(a), 49(2A), 56(2),(id), 145]**

Where assessee was a director and shareholder of a company which issued zero-coupon debentures redeemable after 9 years to its directors, the company converted the same prematurely into equity shares during the relevant year, the entire accumulated interest income on the debenture was deemed to be received by assessee upon conversion into equity shares and was to be brought to tax in the relevant assessment year. Revision order is justified. (AY. 2013-14)

Sanjjay Saumyha (Mrs.) v. PCIT (2025) 210 ITD 337 (Chennai) (Trib.)

3030 **S. 263 : Commissioner-Revision of orders prejudicial to revenue-Income from other sources-Purchase of immovable property-difference in actual sale price and the stamp duty value-Addition of total stamp duty value-Matter remanded to CIT for further verification. [S. 56(2)(x), 69A]**

Assessee's case was reopened for purchasing immovable property, and there was a difference between the actual sale consideration and stamp duty value. AO made an addition u/s 56(2(x) to the income of the total stamp duty value. The Pr. CIT observed that AO should have only added the difference to u/s. 56(2(x) and the actual purchase consideration as unexplained investment under s. 69A of the Act. Pr. CIT invoked jurisdiction u/s. 263 and initiated revision proceedings and set aside the order for fresh consideration. On Appeal, the Tribunal held that the Principal CIT has rightly invoked provisions of s. 263 of the Act as an incorrect application of law will satisfy the requirement of the order being erroneous. On the issue of addition of actual purchase consideration as unexplained investment, the Tribunal held that the payments were not made in the current A.Y. and hence cannot be made in the subject assessment year. Due to contrary facts, the matter was set aside to the file of Pr. CIT for further inquiry. (AY. 2018-19)

Kamaluddin Popatlal Surani v. PCIT (2025) 233 TTJ 393 (Surat) (Trib)

3031 **S. 264 : Commissioner-Revision of other orders-Property held for charitable purposes-Receipts from donors who deducted tax at source-No element of trade-Principle of consistency-Entitled to exemption-Rejection of revisional order was set aside-SLP of revenue dismissed. [S. 2(15), 11, 12, 12A, 12AA, 13(8), 80G, 194C, 194J, Art. 136]**

On writ, the High Court held that merely the because receipts from donors who deducted tax at source, receipts it cannot be assessed as trade receipts. Principle of consistency was followed and held that the assessee was Eentitled to exemption, and the rejection of the revisional order was set aside. SLP of the revenue was dismissed.

CIT v. Aroh Foundation (2025) 476 ITR 504/304 Taxman 600 (SC)

Editorial: Aroh Foundation v. CIT [2024] 159 taxmann.com 608/ (2025) 476 ITR 489 (Delhi)(HC)

S. 264 : Commissioner-Revision of other orders-Rejection of application for rectification on ground that error sought to be rectified was not manifest-Commissioner had no power to revise order under section 264.[S. 143(1), 154] 3032

Held, dismissing the writ petition, that the assessee had declared in the return, Rs. 10,08,359 as remuneration paid to the partners which would be exigible to tax in the hands of the partners. However, the remuneration paid to the partners as declared in the very same return came only to Rs. 3,54,000. There were a number of expenses shown in the profit and loss account and it required a process of deduction, as to the expenses claimed, to conclude that those were in fact to be declared as "other expenses" wherein, there was specific indication that the assessee should specify the nature and amount. Hence, it could not be said that even if it were a bona fide mistake, there could be a rectification made under section 154. In such circumstances neither could the order under section 154 be assailed nor could rejection of a revision be made, from that order under section 154.(AY.2016-17)

[The court observed that the assessee could file an appeal or revision from the intimation under section 143(1), the delay in filing which would be condoned on the compelling circumstances of the assessee having pursued his remedy, but under a different provision against a different order.]

Hotel Raj Laxmi v. PCIT (2025) 483 ITR 258 (Patna)(HC)

S. 264 : Commissioner-Revision of other orders-Not submitted any satisfactory explanation regarding the discrepancy at the time of assessment proceedings or at the time of penalty proceedings-Contention that only GP should be added to income was not accepted-Order of single judge rejecting the petition under section 264 against concealment penalty was affirmed.[S. 271(1)(c), Art. 226] 3033

Dismissing the petition the Court held that the assessee has not submitted any satisfactory explanation regarding the discrepancy at the time of assessment proceedings or at the time of penalty proceedings and discrepancy was accepted; contention that only GP should be added to income cannot be accepted; CIT was justified in rejecting the revision petition. Order of single judge affirmed. (AY.2009-10)

Chhattisgarh Steel Castings (P) Ltd. v. PCIT (2025) 347 CTR 857/255 DTR 408/306 Taxman 28 (Chhattisgarh)(HC)

Editorial : Chhattisgarh Steel Castings (P) Ltd. v. CIT (2025) 304 Taxman 447 / 347 CTR 861 / 255 DTR 412 (Chhattisgarh) 412 affirmed.

S. 264 : Commissioner-Revision of other orders-Unexplained money-Non-Resident-Cash deposit in bank-Non-service of notice-Order passed under section 264 was quashed and set aside and matter was to be remanded to Commissioner to pass a fresh order after considering facts of case and submissions of assessee that assessment order was passed on basis of notice never served.[S. 69A, 144, 147, 148, Art. 226] 3034

The assessee is a non-resident. An assessment order was passed under section 144 read with section 147 in case of assessee making an addition by treating cash deposit of certain amount as unexplained cash deposit under section 69A. Assessee filed revision application under section 264 praying for setting aside of assessment order contending that no notice under section 148 or section 142(2) was served upon assessee, and thus,

entire reassessment proceedings were without jurisdiction in absence of valid service of notice. Revision application was rejected. On writ it was contened that notice under section 148 was never served upon assessee. Even notice under section 142(1) was also not served and assessee came to know about passing of assessment order only when bank accounts were put under lien for recovery proceedings. Court held that when notice under section 148 was never served upon assessee, Assessing Officer could not have assumed jurisdiction. Accordingly the order passed under section 264 was quashed and set aside and matter was to be remanded to Commissioner to pass a fresh order after considering facts of case and submissions of assessee that assessment order was passed on basis of notice never served.(AY. 2012-13)
Anjanaben R Shah v. PCIT (2025) 304 Taxman 645 (Guj.)(HC)

3035 **S. 264 : Commissioner-Revision of other orders-Failure to respond questions-Hospitalisation-Genuine reasons-Rejection of application was quashed. [Art. 226]**
On writ the Court held, that the Principal Commissioner had summarily rejected the revision petition on the ground that the assessee had not produced evidence to substantiate the income declared and had not explained the source of cash deposits. However, despite the specific contentions urged by the assessee before the Principal Commissioner, that his inability and omission to appear before the Income-tax Officer and file his objections, was due to hospitalisation and due to bona fide reasons, unavoidable circumstances and sufficient cause, had not been considered. The rejection of the application for revision was not valid.(SJ) (AY.2017-18)
Saremal Jain v. PCIT (2025) 478 ITR 472 (Karn)(HC)

3036 **S. 264 : Commissioner-Revision of other orders-Property held for charitable purposes-Receipts from donors who deducted tax at source-No element of trade-Principle of consistency-No change in law or facts-Department cannot take different view without convincing reasons-Entitle to exemption-Rejection of revisional order was set aside. [S. 2(15), 11, 12, 12A, 12AA, 13(8), 80G, 194C, 194J, Art. 226]**
The assessee, a non-governmental organisation registered under sections 12A, 12AA and 80G, was engaged in social development and welfare activities for upliftment of poor and underprivileged children and women. The Assessing Officer denied exemption under sections 11 and 12, treating these receipts as consultancy fees and contractual income, invoking the proviso to section 2(15). The assessee's revision petition under section 264 was dismissed. In all preceding assessment years 2011-2012, 2012-2013, 2013-2014 and 2015-2016 and the subsequent assessment year 2018-2019, similar receipts with deductions of tax at source were accepted as charitable in nature and exemption under sections 11 and 12 was granted. On a writ allowing the petition, the Court held that the sole reason to construe the receipts from donors was founded on the assumption that they were towards professional or technical services or contractual income since tax was deducted under sections 194C and 194J. This alone could not be the only basis to conclude that the receipts were to be considered under the category of consultancy fees and contractual income. There was no element of activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business. In the absence of any cogent reason, the

receipts in question could not be treated as falling under the sixth limb of section 2(15) "advancement of any other object of general public utility". If the deductor in its Income-tax return, under misconception, had deducted tax under section 194C and section 194J, it would not disentitle the assessee to claim benefit under sections 11 and 12 unless the case of the assessee was specifically hit by the proviso to section 2(15). Rule of consistency was followed. The revenue was directed to grant the exemption. (AY. 2017-18)

Aroh Foundation v. CIT [2024] 159 taxmann.com 608/ (2025) 476 ITR 489 (Delhi)(HC)

Editorial: SLP of revenue dismissed, CIT (E) v. Aroh Foundation. (2025) 304 Taxman 600/ 476 ITR 504 (SC)

S. 264: Commissioner-Revision of other orders-Long-term capital gains-Objections of the assessee were not considered-Order was quashed and set aside-Matter remanded. [S. 45, 48, Art. 226] 3037

Allowing the petition, the Court held that the contention raised by the assessee was that he was entitled to claim a deduction in respect of expenditure incurred wholly or exclusively in connection with the sale of property. This contention was contained in the revision petition. On examining the order, it was clear that the officer had not dealt with this contention. The order was quashed, and the matter was remanded for reconsideration after giving the assessee an opportunity to be heard.(SJ (AY.2021-22)

Mettupalayam Ramamoorthi Rathindran v. PCIT (2025) 474 ITR 120 (Mad)(HC)

S. 264 : Commissioner-Revision of other orders-Ex parte order-Mistake of chartered Accountant-Order of commissioner rejecting the application is quashed and set aside and remanded to Commissioner to be decided in accordance with law. [S. 54F, 142(1), Art. 226] 3038

Assessee filed his return of income claiming deduction under section 54F. Assessee's case was selected for scrutiny, and a notice under section 142(1) was accordingly served on assesse. Assessee engaged a Chartered Accountant to represent him before the department, who had made submissions on issue of capital gains, which according to the assessee, was exempt from tax under section 54F. However, the Chartered Accountant did not comply with notice and consequently the Assessing Officer proceeded to pass an ex parte assessment order. The assessee, being aggrieved by ex-parte assessment order, had approached the Commissioner in revision filed under section 264, praying for deletion of additions. Assessee submitted all materials in that regard. However, the revision came to be rejected by Commissioner as not maintainable. On writ, the Court held that merely on an erroneous presumption in law, the revision was not maintainable for the reason that assessee had failed to produce certain materials in response to notice. The order of revision was quashed and set aside, and assessee's revision application was remanded to the Commissioner to be decided in accordance with law. (AY. 2018-19)

Ramesh Madhukar Deole v. Pr. CIT (2025) 303 Taxman 53 /483 ITR 802 (Bom.)(HC)

3039 **S. 264 : Commissioner-Revision of other orders-Valuation of property-Income from other sources-Stamp valuation-Authorised representative wrongly admitted the addition-No objection was raised before the Assessing Officer prior to the assessment order being passed-Assessee entitled to raise objections before revisional authority or before the CIT(A)-Commissioner's rejection set aside. [S. 50C(2), 56(2)(vii)(b)(ii), 246A, Art. 226]**

The assessment was completed on the basis of stamp valuation. The authorised representative has agreed to the addition. No appeal was filed. The assessee filed the revision application which was rejected by the Commissioner. On writ, the Court held that even if objections were not raised before the AO, the assessee could raise them in revision. Under the proviso to S. 56(2)(vii)(c), r/w s. 50C(2), AO must refer valuation to DVO when disputed. Since rejection of revision was unsustainable, the order was set aside. The Assessee is entitled to raise objections before the revisional authority or before the CIT(A). Commissioner's rejection set aside. Commissioner was directed to pass the order on merits preferably within a period of six months. (AY. 2015-16)

R.C. Kannan v. PCIT (2025) 343 CTR 369 / 246 DTR 137 / 170 Taxmann.com 380 (Mad) (HC)

Kannan Manomani (Smt) v. ACIT (2025) 343 CTR 369 / 246 DTR 137 / 170 Taxmann. com 380 (Mad)(HC)

3040 **S. 264: Commissioner-Revision of other orders-Principle of natural justice-Order passed without giving an assessee adequate opportunity to be heard is set aside.[S. 5, Art. 226]**

Allowing the petition, the Court held that the order passed without giving an assessee adequate opportunity to be heard is set aside as the principle of natural justice is violated. Liberty is granted to the petitioner to produce additional evidence, pleadings, documents, etc. (AY. 2013-14 to 2015-16)

Shameer Razaik v. PCIT (2024) 471 ITR 448 (Karn)(HC)

3041 **S. 268A: Appeal-Instructions-Monetary limits prescribed in CBDT Circulars would apply to pending appeals-Exceptions carved out by CBDT Circulars would apply only prospectively-Appeal of revenue dismissed.[S. 260A]**

Monetary limits prescribed in CBDT Circulars would apply to pending appeals as well; however, exceptions carved out by CBDT Circulars would apply only prospectively. Appeal filed by revenue on 21-5-2015; the exception relied upon by revenue as a justification for prosecuting said appeal was introduced vide Circular dated 15-3-2024, and said exception would have no application. Since the tax effect in the appeal was below the monetary limits as set out in CBDT Circular dated 17-9-2024, the appeal was to be disposed of. Followed, *PCIT v. Premier Industrial Corporation Ltd (2025) 172 taxmann.com 289 (Bom) HC)* Circular No. 9 of 2024, dated 17-9-2024; and Circular No. 5 of 2024, dated 15-3-2024.

CIT (IT) v. Bennet Coleman & Co. Ltd. (2025) 307 Taxman 62 (Bom.)(HC)

S. 268A: Appeal-Application-Instructions-Tax effect of losses of earlier years which were not permitted to be carried forward was not to be taken into account to determine overall tax effect for purpose of filing appeal by revenue. [S.260A] 3042

In terms of Circular No. 5/2024 and Circular No. 9/2024, where the Assessing Officer had enhanced the income of assessee to reflect assessed income, tax effect would be determined on the amount of returned loss plus assessed income. Therefore, tax effect of losses of earlier years which were not permitted to be carried forward was not to be taken into account to determine the overall tax effect for the purpose of filing an appeal by the revenue. (AY. 2018-19)

CIT, IT v. SIS Live (2025) 305 Taxman 212 (Delhi)(HC)

S. 268A : Appeal-Instructions-Circulars-Monetary limits-Unexplained expenditure-Accommodation entries-Tax effect was below ₹2 crores threshold as stipulated in CBDT Circular No. 9/2024 dated 17-09-2024-Appeal dismissed. [S. 69C, 260A] 3043

Assessee-company filed its return of income, which was subjected to scrutiny assessment. Thereafter, the Assessing Officer reopened the assessment based on information from the Investigation Wing suggesting that assessee made bogus purchases from two suppliers but failed to establish any direct nexus between such purchases and alleged bogus transactions. Tribunal deleted addition on ground that assessee had in fact established genuineness of purchases made from named two persons and same could not be considered bogus. Findings of fact, which were premised on cogent material, could not by any stretch of imagination be termed as perverse or unsustainable. Court also held that since there was no material on record which would substantiate that purchases reflected were accommodation entries, and the tax effect was below ₹2 crore threshold as stipulated in CBDT Circular No. 9/2024 dated 17-09-2024, the revenue's appeal was dismissed. (AY. 2011-12)

PCIT (Central) v. Garg Acrylic Ltd. (2025) 305 Taxman 91 (Delhi)(HC)

S. 268A : Appeal-Instructions-Where monetary limit for filing appeals by revenue before High Court had been enhanced to Rs. 2 crores vide circular dated 17-09-2024 and tax liability of assessee was less than Rs. 2 crores-Appeal of revenue dismissed due to monetary limits.[S. 260A] 3044

The appellant claimed that a new circular dated 17-9-2024 had been issued in which monetary limits for filing Income Tax Appeals had been enhanced to Rs. 2 crores and since in the present case the tax liability of the assessee was less than Rs. 2 crores, in light of aforesaid circular dated 17-9-2024, the present appeal may be disposed of. Appeal of the revenue dismissed due to the monetary tax limit. Circular No. 9/2024 [F. NO. 279/MISC./M-74/2024-ITJ], dated 17-09-2024.

PCIT v. Savitri Verma (2025) 304 Taxman 695 (Chhattisharh)(HC)

S. 268A : Appeal-Instructions-Circulars-Monetary limits-2 crores-Applicability of revised CBDT monetary limits (Circular No 3 of 2018 dt 11-7 2028 (2018) 405 ITR 29 (St), Circular 9 of 2024, dated 17 th September, 2024 (2024) 468 ITR 1 (St))-Exceptions Apply Prospectively-Pending Appeals Covered by revised threshold-Appeal of Revenue is dismissed.[S.260A] 3045

In this case, the Revenue had filed an appeal against the assessee before the Bombay High Court. The assessee argued that the appeal should be dismissed as the tax effect

involved was less than Rs.2 crores, in accordance with the monetary threshold laid down by CBDT circulars. The Revenue contended that the appeal was validly filed in 2018, when the applicable limit was Rs.50 lakhs, and that the appeal amount was Rs.74.69 lakhs. The Revenue also relied on a CBDT letter dated 20 August 2018 (2018) 407 ITR 7 (St.) asserting that the appeal fell within an exception to the monetary limit restriction. The Bombay High Court held that though the Revenue had filed the appeal in 2018 when the applicable monetary limit for filing appeals was Rs.50 lakhs, the subsequent increase in the monetary threshold by the CBDT would still apply to pending appeals at the time of disposal. The Court referred *PCIT v. Premier Industrial Corporation Ltd (2025) 172 taxmann.com 289 (Bom)(HC)* to its earlier judgments, including *CIT v. V.M. Salgaonkar and Brothers (P) Ltd (2024) 169 Taxman 597 (Bom)(HC)) and Pr. CIT v. IPL Loan Trust,[2025] 171 taxmann.com 725 (Bom)(HC), PCIT v. Axis AD Print Media (India) Ltd [2025] 172 taxmann.com 114 (Bom)(HC)* where it had held that while revised monetary limits apply retrospectively to pending cases, any exceptions to those limits introduced by later CBDT circulars-such as the letter dated 20 August, 2018 (2018) 407 ITR 7 (St.) relied upon by the Revenue would apply only prospectively, i.e., from the date of their introduction. Since the present appeal was filed before 20 August, 2018 and was not covered by any exception at the time of filing, the Court found no justification to keep it pending merely because an exception was introduced later. Accordingly, the Court upheld the assessee's objection and disposed of the appeal on the ground of low tax effect under the revised monetary limits, without expressing any opinion on the substantive legal issues involved, which were kept open for future adjudication. (ITA No. 1718 of 2018 dt. 11.06.2025)
PCIT v. Hans Chemicals Pvt. Ltd. (Bom)(HC) www.itatonline.org

3046 **S. 268A : Appeal-Instructions-Circulars-Monetary limits-Revision-Penalty-Concealment penalty-Monitory limit is also applicable to proceedings under section 263 of the Act-The CIT u/s.263 of the Income-tax Act directed the AO to initiate a penalty for concealment, which was not originally initiated in the assessment order-Tribunal set aside the order of the Commissioner-On appeal, as the tax effect involved is below threshold limit of 2 crors-The appeal of the Revenue is dismissed.[S.260A,263, 271(1)(c)]**

The appeal was filed by the Revenue challenging the Tribunal's order regarding AY's 2010-11, 2011-12, and 2012-13. The primary issue was whether the CIT u/s.263 of the Income Tax Act could direct the AO to initiate a penalty for concealment, which was not originally initiated in the assessment order. The Revenue relied on the *CIT v. Surendra Prasad Agrawal (2005) 142 Taxman 653 (HC),* which held that such directions could be given under Section 263. However, the High Court observed that the decision, laid down the correct law, the penalty which could be levied would be calculated on the amount surrendered during the course of survey. The tax on this, assuming the rate to tax is 33%, will work out to Rs.42,90,000/-. The minimum penalty which could be levied would be 100% of such tax i.e. Rs.42,90,000/-and the maximum penalty would be 300%, which would be Rs.1,28,70,000/-. In either case, the penalty amount will not exceed Rs.2 Crore, which is the amount prescribed in the CBDT circular dated 17 September 2024 2024) 468 ITR 1 (St). Relied on *PCIT v. Vinodbhai Parekh (2020) 429 ITR*

225 (Guj)(HC) wherein the Court held that CBDT circulars on tax effect limits also apply to orders u/s. 263 of the Act. Court held that since as the tax effect involved was below the prescribed limit as per the CBDT Circular dated 17 September 2024, the appeal being deemed academic and is not entertained. However, the High Court kept open the substantial question of law for future consideration. Appeal of Revenue is dismissed (ITA NO. 1906 & 2713 of 2018 dated 06/03/2025) (AY. 2010-11, 2011-12)
PCIT v. Jayesh V. Sheth, (Bom)(HC) www.itatonline.org.
PCIT v. Pacific Organics Pvt. Ltd., (Bom) (HC) www.itatonline.org

S. 268A : Appeal-Instructions-Circulars-Monetary limits-Departmental appeal-Low tax effect-CBDT Circular No. 9 of 2024-Exception relating to bogus penny stock transactions not applicable where assessee claimed business loss and not short-term capital loss-Revenue's appeal dismissed. (S.28(i), 45, 68, 143(3), 147, 148, 153A, 253) 3047
The assessee had declared loss from trading in shares as business loss, which was accepted in the original assessment. Subsequently, reassessment was made treating the alleged loss as bogus short-term capital loss arising from accommodation entries. The CIT(A) deleted the addition. The Revenue filed an appeal before the Tribunal though the tax effect was below the monetary limit prescribed under CBDT Circular No. 9 of 2024, contending that the case fell within the exception relating to bogus short-term capital loss. The Tribunal held that the assessee had never claimed short-term capital loss but had consistently claimed business loss from share trading. Therefore, the exception contained in the CBDT Circular was inapplicable, and the Revenue's appeal was not maintainable on account of low tax effect. (AY. 2013-14)
Dy. CIT v. Satya Prakash Gupta (2025) 128 ITR 1 (Delhi) (Trib).

S. 268A : Appeal-Instructions-Circulars-Monetary limits-Departmental appeal-Tax effect below prescribed limit-Appeal not maintainable-CBDT Circular No. 5 of 2024, dated 15-3-2024(2004) 462 ITR 273 (St), as amended by Circular No. 9 of 2024, dated 17-9-2024 (2024) 468 ITR 1 (St.) [S.132, 153A, 253, 254(1)] 3048
The Tribunal held that the tax effect involved in the Department's appeal was below the monetary limit prescribed by the CBDT for filing appeals before the Tribunal. Accordingly, the appeal was dismissed as not maintainable. (AY. 2011-12 to 2015-16).
Asst. CIT v. Honey Arora (2025) 127 ITR 14/[2026] 187 taxmann.com 519 (Delhi)(Trib.)

S. 268A : Appeal-Instructions-Circulars-Monetary limits-Appellate Tribunal-Earlier years appeals are admitted by High Court and pending for final hearing-Issue covered by Supreme Court-Tax effect is below monetary limit-Appeal is not maintainable-Delay of 516 days.[S. 253(2)), 253(5)] 3049
Tribunal held that Circular No. 3 of 2018. dt. 11th July, 2018 (2018)405 ITR 29 (St), and subsequent amendment to the said Circular vide F. No. 279/Misc. 142/2007-ITJ(Pt), dt. 20th Aug, 2018(2018)) 407 ITR 7(St) are clear that no appeal is to be led where the tax effect is below the prescribed threshold and even in cases where the tax effect exceeds the prescribed threshold, the appeal has to be filed on the basis the merits of the case and not necessarily in all cases-Even where the appeals have been filed before the High Courts and the Supreme Court which have been admitted as involving

substantial question of law, the CBDT instructions provides that such matters should be withdrawn/not pressed and only criteria for such a decision is that such matters should be involving tax effect below the prescribed limits-Tax effect involved in the present appeal is well below the prescribed threshold. CBDT Circular continues to bind the Revenue even after the decision of the Supreme Court in the case of *Checkmate Services (P) Ltd. v. CIT (2022)448 ITR 518/ 218 DTR 218 /329 CTR 1 /(2023) 290 Taxman 19 (SC).* Appeal is dismissed. *PCIT v. Organon India (P) Ltd (ITAT No. 16/2020, dt. 15th June, 2022 (Cal)(HC))* distinguished. (AY. 2018-19)
ITO v. Partap Industries Ltd (2025)233 TTJ 1 (UO) (Chd) (Trib)

3050 **S. 269ST : Mode of undertaking transactions-Cash transactions Penalty-Whenever, a suit is filed with a claim that Rs. 2,00,000/-and above is paid by cash towards any transaction, courts must intimate same to jurisdictional Income Tax Department to verify transaction and violation of Section 269ST of Income Tax Act-Sale-Suit for permanent injunction-An agreement to sell does not confer any right on proposed purchaser under agreement. An agreement to sell does not create any transferable interest or title in property in favour of proposed purchaser. Where plaintiffs were not in possession of property and defendant had been in settled possession for over a century, suit for permanent injunction restraining defendant from creating any third party interest over property was not maintainable. [Transfer of Property Act, 1882, 7, 54, Code of Civil Procedure, 1908, Order VII, Rule 11]**
Whenever a suit is filed with a claim that Rs. 2,00,000/-or above is paid by cash towards any transaction, courts must intimate same to the jurisdictional Income Tax Department to verify the transaction and violation of Section 269ST of the Income Tax Act, if any. Whenever any such information is received either from the court or otherwise, the jurisdictional Income Tax authority shall take appropriate steps by following due process in law. Whenever a sum of Rs. 2,00,000/-and above is claimed to be paid by cash towards consideration for conveyance of any immovable property in a document presented for registration, the jurisdictional Sub-Registrar shall intimate the same to the jurisdictional Income Tax Authority, who shall follow due process in law before taking any action. Whenever, it comes to knowledge of any Income Tax Authority that a sum of Rs. 2,00,000/-or above has been paid by way of consideration in any transaction relating to any immovable property from any other source or during course of search or assessment proceedings, failure of registering authority shall be brought to knowledge of Chief Secretary of the State/UT for initiating appropriate disciplinary action against such officer who failed to intimate transactions. An agreement to sell does not confer any right on the proposed purchaser under the agreement. An agreement to sell does not create any transferable interest or title in property in favour of the proposed purchaser. Where plaintiffs were not in possession of property and defendant had been in settled possession for over a century, suit for permanent injunction restraining defendant from creating any third party interest over property was not maintainable.(AY. 2018-19)
Correspondence, RBANMS Educational Institution v. B. Gunashekar (2025) 304 Taxman 612 (SC)

S. 269ST : Mode of undertaking transactions-Cash payment-Redevelopment of immovable property-Defendant, seeking rejection of the plaint under Order VII rule 11(d) of the CPC on the ground of statutory violation, is misconceived, as the same fails to establish any express legal prohibition that would preclude the Court from adjudicating the instant claim for recovery.[S.269ST(b), 271DA, 273B, Indian Contract Act, 1872, S.2(h), 10, 23] 3051

Plaintiff entered into a collaboration agreement with defendant for redevelopment of immovable property. Plaintiff paid certain amount in cash. Suspecting certain fraud, plaintiff lodged a police complaint, leading to an FIR against defendant. Despite multiple attempts to resolve dispute and recover funds, no refund was made. In suit, plaintiff claimed refund of amount paid to defendant in cash, along with interest. Defendant contended that this payment in cash made by plaintiff was in direct violation of section 269ST(b), accordingly, Collaboration Agreement, being founded on an illegal consideration, was null and void. Consequently, this Court was precluded from entertaining suit for recovery on account of alleged illegality of transaction. Court held that section 269ST merely regulates the mode of transaction and imposes a fiscal penalty without rendering agreement itself void and thus, mere receipt of cash in violation of section 269ST would not, by itself, render the underlying agreement void or unenforceable in a civil court nor would it preclude initiation of a money recovery proceeding. Further, statutory penalty prescribed for contravention of section 269ST was imposed upon the recipient and not the payer. Accordingly, the defendant could not be allowed to unjustly enrich himself by retaining money under the guise of statutory violation of section 269ST, which drew penal liability solely against him. Defendant, seeking rejection of the plaint under Order VII rule 11(d) of the CPC on the ground of statutory violation, is misconceived, as the same fails to establish any express legal prohibition that would preclude the Court from adjudicating the instant claim for recovery. Circular No. 2/2018, dated 15.02.2018.

Birmala Projects (P.) Ltd. v. Ashwani Ahluwalia (2025) 304 Taxman 115 (Delhi)(HC)

S. 269UC : Purchase by Central Government of immoveable properties-Restrictions on transfer-Failure by Government to deposit apparent consideration within stipulated time pursuant to order of Appropriate Authority for compulsory purchase-Parties terminating agreement and vendors selling property to new purchaser. Suit filed by new purchaser for declaration that order for compulsory purchase stood abrogated and all rights in property vested in its favour-Abrogation of order taking place by operation of law consequent upon failure to deposit consideration within time frame as stipulated in section 269UG-No question of giving a further declaration that order cancelled or set aside-Not a case where order for compulsory purchase being "called in question" by filing suit if decreed will not have effect of setting aside or modifying order of Appropriate Authority-Suit neither barred under provisions of section 269UN or section 293-Order of single judge holding suit barred set aside and suit restored-Called in question"-"Abrogate" [S. 269UD, 269UE(1), 269UF, 269UG, 269UH, 269UN, 293, Civil Procedure Code, 1908, S. 9.] 3052

The Appropriate Authority passed the an order for compulsory purchase of the property vide order dated September 12, 2002. However, the Central Government did not deposit

the apparent consideration after the third compulsory purchase order was passed on September 12, 2002. The original purchaser also called upon the Appropriate Authority to issue a declaration under the Act to the effect that the third compulsory purchase order dated September 12, 2002 stood abrogated under section 269UH(2). However, no such declaration was issued by the Appropriate Authority. Thereafter, the parties terminated the agreement dated July 13, 1991, and the plaintiff purchased the suit property by a registered deed of conveyance dated May 16, 2006. The plaintiff filed a suit seeking a declaration that the third compulsory purchase order, dated September 12, 2002, stood abrogated on and from October 31, 2002, and on and from that date, all the rights, title and interest in the suit property and all rights to the floor space index thereto, stood re-vested in the owners, and that on and from May 16, 2006, the plaintiff was the absolute owner of the suit property. The single judge dismissed the suit filed on the ground that it was barred under the provisions of section 269UN and/or section 293 of the Act. On appeal:

Held, allowing the appeal, the Court held that seeking a declaration that the order passed under section 269UD(1) stood abrogated could not mean that the order was being challenged or being "called in question" as referred to in section 269UN. The declaration sought in the suit that the third compulsory purchase order dated September 12, 2002 stood abrogated on and from October 31, 2002, and from that date the suit property re-vested in the vendors, did not in any way "call in question" the order dated September 12, 2002. In fact, the plaintiff proceeded on the basis that the order was valid, and because the consideration was not paid within the time stipulated in section 269UG, it stood abrogated as provided in section 269UH of the Act. The abrogation took place by operation of law as stipulated in section 269UH(1) as the consideration was not paid within the time frame as stipulated in section 269UG. This by no stretch of imagination could mean that the third compulsory purchase order passed under section 269UD(1) was being "called in question" in the suit.

That any suit which had the effect of setting aside or modifying any proceeding taken under the Act, or to set aside or modify any order made under the Act, it would be barred under section 293. The declarations sought for by the plaintiff did not have any such effect. What was sought in the suit was that the third compulsory purchase order passed by the Appropriate Authority under section 269UD(1) stood abrogated. This declaration was sought on the basis that the consideration payable for the purchase of the immovable property by the Central Government was not paid within the time stipulated in section 269UG. Seeking such a declaration would neither set aside nor modify any proceeding taken or order made under the 1961 Act. If the plaintiff failed to establish this fact at the trial, it would not be entitled to the declaration. This would not mean that this court did not have jurisdiction to entertain the suit. The jurisdiction of civil courts is all embracing except to the extent it is excluded by an express provision of law or by clear intendment arising from such law. This is the purport of section 9 of the Civil Procedure Code, 1908. Order of single judge holding suit barred, set aside and suit restored.

Sasmita Investments Ltd. v. Appropriate Authority & Ors. (2025) 477 ITR 534 /174 taxmann.com 656 (Bom)(HC)

S. 270A : Penalty for under-reporting and misreporting of income-Matter remanded to the Assessing Officer to provide an opportunity of hearing and pass a speaking order. [S.92CD(3) Art. 226] 3053

Assessee filed its return of income declaring NIL income after set-off of brought forward loss. The case was selected for scrutiny, and the assessment was completed, making a transfer pricing adjustment of about Rs. 31.15 crores. The assessee entered into an Advanced Pricing Agreement (APA) with CBDT covering assessment years 2011-12 to 2018-19. Pursuant to section 92CD(1), it filed a modified return offering to tax about Rs. 14.16 crores towards transfer pricing adjustment as per APA. No order under section 92CD(3) on the modified return was passed by the Assessing Officer. A penalty order under section 270A was passed imposing a penalty on the assessee in relation to the assessment year 2017-18. On writ, the Court held that the assessee had entered into an APA with CBDT, filed a modified return under section 92CD(1) offering to tax about Rs. 14.16 crores as per APA, and paid tax thereon, and it was also an admitted fact that no order under section 92CD(3) had been passed on the modified return. However, all these facts had not been taken into consideration by the Assessing Officer before passing the penalty order, and further, no virtual hearing was given to the assessee as mandated by the Faceless Penalty (Amendment) Scheme, 2022. Penalty order was set aside, and matter remanded to the Assessing Officer to give a virtual hearing to the assessee and thereafter pass a fresh order. (AY. 2017-18)

Man Truck & Bus India (P.) Ltd. v. AUID (2025) 307 Taxman 101 (Bom.)(HC)

S. 270A: Penalty for underreporting and misreporting of income-Non-specification of limb under section 270A-No penalty u/s 270A is leviable.[S.270A(9), 274] 3054

The assessee was engaged in the business of construction. The AO made an addition of Rs. 8.33 crores by estimating income from contract work at 10% of turnover as against 7.37% declared by the assessee. Subsequently, he initiated penalty proceedings under section 270A for under-reporting of income in consequence of misreporting. On appeal, the CIT(A) deleted the penalty on account of non-specification of the limb within which the penalty was imposed. On the revenue's appeal to the ITAT, it was held that where neither in assessment order nor in notice issued under section 274 r.w.s. 270A had the AO specified as to under which limb of provisions of section 270A(2) or 270A(9) assessee had misreported or underreported it's income; no penalty under section 270A was leviable. [AY. 2020-21 2021-22]

DCIT v. Chakradhar Contractors and Engineers (P.) Ltd. (2025) 128 ITR 331 (Pune)(Trib.)

S. 270A: Penalty for under-reporting and misreporting of income-Bona fide belief regarding taxability-Reasonable cause-Voluntary offer of income during assessment/ reassessment-Penalty not leviable. [S. 271(1)(c))] 3055

The assessees, non-resident companies, did not initially offer secondment reimbursement receipts to tax as they were under a bona fide belief, supported by a judgment of the jurisdictional High Court and conflicting judicial precedents, that such receipts were not taxable. The receipts were duly disclosed in the tax audit report and were voluntarily offered to tax during assessment proceedings or in returns filed in response to notices under section 148. The Tribunal held that there was neither concealment of income

nor furnishing of inaccurate particulars and that the assessees had acted under a bona fide belief based on prevailing legal uncertainty. Since reasonable cause existed for not offering the receipts to tax in the original returns, levy of penalty under sections 271(1)(c) and 270A was not justified. (AY. 2012-13 to 2019-20)
IBM Canada Ltd. v. Dy. CIT (2025) 128 ITR 656 (Bang.)(Trib.).

3056 **S. 270A: Penalty for under-reporting and misreporting of income-Non-specification of charge/fault in the show-cause notice-Absence of proper charge vitiates the penalty notices-Levy of penalty was quashed. [S. 274]**
Held that the notice which does not specify whether the AO has initiated the penalty for under-reporting of income as per sub-ss. (1) to (7) of s. 270A or for misreporting of income as per sub-ss. (8) to (9) thereof is a vague notice which does not satisfy the requirement of law and, therefore, the levy of penalty is fragile in the eyes of law and is ab initio void. (AY. 2018-19, 2020-21)
St. Joseph's Educational Trust v. DCIT (2025) 236 TTJ 507 / 175 taxmann.com 284 / (2026) 133 ITR 328 (Chennai) Trib)
St.Joseph's Institute of Science & Technology Trust v. Dy.CIT 2025) 236 TTJ 507 / 175 taxmann.com 284 / (2026) 133 ITR 328 (Chennai) Trib)

3057 **S. 270A: Penalty for under-reporting and misreporting of income-Wrong claim of exemption under section 10(10AA)-Bona fide legal claim-Penalty deleted. [S. 10(10AA), 270A(9)]**
The assessee, a retired bank employee, disclosed the entire amount of leave encashment in the return but claimed full exemption under section 10(10AA) on the basis of a judicial pronouncement and the expectation that the Government would enhance the exemption limit, which was subsequently done prospectively. The Tribunal held that misreporting under section 270A(9) requires deliberate falsification, concealment or suppression of facts. A bona fide legal claim based on a plausible interpretation of law, where all material facts are fully disclosed, cannot be regarded as misreporting. As there was neither concealment nor false disclosure and the explanation offered by the assessee was bona fide, the penalty levied under section 270A was deleted. (AY. 2020-21)
Bharatkumar Jaishinh Soni v. ITO (2025) 238 TTJ 1039 / 179 taxmann.com 421 (Mum.) (Trib.)

3058 **S. 270A: Penalty for under-reporting and misreporting of income-Bona fide explanation-Revised computation filed voluntarily before issue of notice-Penalty not leviable.[S. 195, 194LC, 270A(6)(a)]**
The assessee, a non-resident banking company, filed its return on the basis of Form No. 26AS available at the relevant time. On subsequent updation of Form No. 26AS, additional TDS entries were reflected and, during reconciliation, the assessee voluntarily furnished a revised computation before the issue of any statutory notice. The Tribunal held that the assessee had furnished a cogent and bona fide explanation, disclosed all material facts and placed on record the updated Form No. 26AS, reconciliation statements, TDS certificates and supporting documents. As the omission was inadvertent, no revenue loss had occurred since tax had already been deducted at

source, and the case squarely fell within section 270A(6)(a). Accordingly, the penalty levied for under-reporting of income was deleted. (AY. 2020-21)
ING Bank NV v. DCIT (IT) (2025) 238 TTJ 1044 (Mum.)(Trib.)

S. 270A: Penalty-Under-reporting or misreporting of income-Notice not specifying exact charge-Penalty invalid-Employees' contribution to Provident Fund and ESI-Issue debatable at relevant time-Penalty not leviable-Ad hoc disallowance of expenditure-Estimated addition-Penalty not leviable.[S.270A(2)(a), 270A(9)] 3059
The Assessing Officer initiated penalty proceedings for under-reporting of income under section 270A(2), but ultimately levied a penalty for misreporting of income under section 270A(9) without specifying the exact charge in the notice. The Tribunal held that the penalty notice suffered from a jurisdictional defect as it failed to inform the assessee whether the proposed penalty was for under-reporting or misreporting. Accordingly, the penalty was held to be unsustainable. Penalty was levied in respect of the disallowance of employees' contributions to Provident Fund and Employees' State Insurance. The Tribunal held that at the relevant time the issue was highly debatable and, therefore, the assessee could not be subjected to penalty under section 270A merely because the claim was ultimately disallowed. The deletion of penalty by the Commissioner (Appeals) was upheld. The Assessing Officer levied penalty under section 270A in respect of an ad hoc disallowance of business expenditure. The Tribunal held that additions made purely on an estimated or ad hoc basis do not constitute under-reporting or misreporting of income warranting penalty under section 270A. The penalty was therefore deleted (AY. 2017-18 & 2018-19).
Mideast Integrated Steels Ltd. v. Asst. CIT (2025) 126 ITR 653 (Delhi)(Trib.)

S. 270A : Penalty-Under-reporting or misreporting of income-Excessive claim of interest expenditure-Mere disallowance on estimate-Not misrepresentation or suppression of facts-Penalty not leviable-Voluntary admission of income-Does not constitute under-reporting or misreporting-Penalty not leviable.[S.270A(9)] 3060
The assessee claimed deduction of interest under section 57 at 18 per cent., which the Assessing Officer considered excessive and restricted to 12 per cent. The assessee accepted the disallowance. The Tribunal held that merely making an excessive claim, which was partly disallowed on an estimate, did not amount to misrepresentation or suppression of facts. As the Assessing Officer neither recorded any adverse finding nor specified the applicable limb of section 270A(9), the penalty was unsustainable. The Tribunal held that income voluntarily admitted by the assessee cannot by itself be regarded as under-reported or misreported income within the meaning of section 270A. In the absence of any material establishing misrepresentation or suppression of facts, penalty under section 270A was not leviable. (AY. 2017-18).
Sushil Rajendra Kothari v. NFAC (2025) 123 ITR 121 (Mum.)(Trib.)

S. 270A: Penalty for under-reporting and misreporting of income-Vagueness of notice was not accepted-Partly allowed the relief on quantum addition-Assessing Officer was directed to modify the order after giving effect to the order. [S. 43B, 274] 3061
Where the Assessing Officer, after assessment, initiated a penalty under section 270A for under-reporting of income as a consequence of misreporting and specifically recorded

satisfaction for the same in the show-cause notice, assessee's contention regarding the vagueness of the notice was not accepted. Tribunal also held that since the addition made by the Assessing Officer had been partly allowed and relief had been given to assessee, penalty proceedings should be modified by the Assessing Officer after giving effect to the order passed on the issue of additions. (AY. 2018-19)
Magnaquest Technologies Ltd. v. DCIT (2025) 215 ITD 146// 238 TTJ 920 (Hyd) (Trib.)

3062 **S. 270A : Penalty for under-reporting and misreporting of income-Not specifying the charge, whether it was for under-reporting or misreporting of income-Penalty order was void ab initio and not sustainable in law-Penalty was deleted. [S. 45, 54F, 274]**
The Assessing Officer made an addition by disallowing the claim of exemption of capital gains under section 54F. Thereafter, a penalty under section 270A was initiated, notice was issued to assessee, and an order was passed levying penalty at the rate of 200 per cent of tax payable on alleged under-reported income. CIT(A) affirmed the order of the Assessing Officer. On appeal, the Tribunal held that the Assessing Officer, while levying a penalty, had failed to identify a specific charge or default for levying a penalty. Notice initiating penalty proceedings issued under section 274 and penalty order revealed that the Assessing Officer levied a penalty both for under-reporting and for under-reporting as a consequence of misreporting of income. Mentioning of two distinct faults, which have different consequences for the levy of penalty, renders notices so issued to be void ab initio. Therefore, penalty levied without specifying the exact default committed by assessee was not sustainable in law and was deleted.(AY. 2018-19)
Snehalkumar Bhogilal Trivedi v. NFAC (2025) 214 ITD 426 (Ahd) (Trib.)

3063 **S. 271(1)(b): Penalty-Failure to comply with notices-Strike by the Tax Bar Association on the first schedule date-Penalty was deleted-Delay of 24 days in filing of appeal was condoned. [S. 142(1), 253(5), 273B]**
A delay of 24 days in filing the appeal was condoned as the email communication went into the spam/junk folder and was seen by the assessee only after some days. Penalty levied under section 271(1)(b) was deleted as the failure to comply with the notice was due to a strike by the Tax Bar Association on the first scheduled date. (AY.2010-11)
Ravindra Singh v. ITO (2025) 234 TTJ 239 (SMC) (Agra)(Trib)

3064 **S. 271(1)(c): Penalty-Concealment-Not specifying the charge in the notice-None of the relevant columns had been indicated nor had irrelevant columns been struck off-Penalty notice was invalid in law-SLP dismissed. [S. 274, Art. 136]**
High Court held that where a penalty notice issued against assessee was not adverted to a specific limb of section 271(1)(c), thus, Assessing Officer was not clear whether he intended to levy a penalty upon assessee for concealment of particulars of his income or furnishing inaccurate particulars. Tribunal was justified in quashing penalty proceedings under section 271(1)(c) initiated against the assessee. SLP of revenue dismissed. (AY. 2008-09 to 2011-12)
PCIT v. Shyam Sunder Jindal (2025) 481 ITR 568/ 304 Taxman 1 (SC)
Editorial: PCIT v. Shyam Sunder Jindal (2023) 296 Taxman 115 / (2024) 462 ITR 501 (Delhi)(HC)

S. 271(1)(c): Penalty-Concealment-Not specifying the relevant portion of the clause in penalty notice-Order of High Court deleting the penalty is affirmed-SLP of Revenue is dismissed.[S. 274, Art. 136] 3065

High Court dismissed the appeal against order passed by Tribunal holding that where Assessing Officer had not specified relevant portion of clause (c) in notice for initiating penalty proceedings under section 271(1)(c), notices issued under section 274 read with section 271 were invalid and therefore, impugned orders of authorities below levying penalty under section 271(1)(c) are cancelled. SLP of Revenue is dismissed. (AY. 2007-08)

CIT (LTU) v. State Bank of India (2025) 302 Taxman 365 (SC)

Editorial: CIT v. State Bank of India (2024) 169 taxmann.com 304 (Karn)(HC)

S. 271(1)(c): Penalty-Concealment-Not specifying the charge-Order of Tribunal deleting the penalty is affirmed-SLP of Revenue is dismissed. [Art. 136] 3066

Dismissing the appeal of the Revenue, the High Court held that the question raised in this appeal had been answered against it by the court in *CIT v. Manjunatha Cotton and Ginning Factory [2013] 359 ITR 565 (Karm)(HC)*. Followed *CIT v. SSA's Emerald Meadows (2016) 386 ITR 13 (St)*. SLP of Revenue dismissed; question of law is kept open. (AY. 2007-08)

CIT v. State Bank Of Mysore (2024)471 ITR 761 (SC)

Editorial: CIT v. State Bank Of Mysore (2024)471 ITR 760 (Karm) (HC)

S. 271(1)(c): Penalty-Concealment-Bona fide belief-Charitable trust-Registration-Deletion of penalty by the Tribunal is affirmed. [S. 12A, 260A] 3067

Dismissing the appeal, the Court held that the assessee, in its return filed, had mentioned that the matter was pending. Thereafter, it was followed up by filing an application for rectification, asking for exemption from the date the application was filed. Hence, the Tribunal had rightly come to the conclusion that the assessee was under a bona fide belief that its application for registration was likely to be allowed. The deletion of the penalty was justified. (AY. 2008-09, 2009-10)

CIT v. Punjab Heritage and Tourism Promotion Board (2025) 483 ITR 581 (P & H) (HC)

S. 271(1)(c): Penalty-Concealment-Mistake in return-No intention to conceal income or furnishing inaccurate particulars thereof-Order of Tribunal deleting the penalty affirmed. [S. 139] 3068

Held, dismissing the appeal, that the Tribunal had come to a factual finding that there was no intention on the part of the assessee to conceal the income or furnish inaccurate particulars of income. It had also accepted the explanation that the chief financial officer was entrusted with the filing of the return and had made a mistake in not properly uploading the return by filing the return with the disallowances, which were already reported by the auditors in the tax audit report. The Tribunal had come to a factual finding that there was no intention of furnishing any inaccurate particulars or concealment of income. The Tribunal was justified in deleting the penalty.(AY. 2010-11)

PCIT v. Pinstorm Technologies Pvt. Ltd [2024] 158 taxmann.com 511 / (2025) 483 ITR 591 (Bom)(HC)

3069 **S. 271(1)(c) : Penalty-Concealment-Difference between assessed income and returned income-Survey-Presumption not rebutted-Levy of penalty valid. [S. 133A, 260A]**
Held that the record showed that the additions were made on the basis of the clear documentary evidence found during the Income-tax survey proceedings against the assessee. The material on record showed that the Assessing Officer had provided a reasonable opportunity to the assessee and also sought clarification, and having not been satisfied with the explanation provided by the assessee, the Assessing Officer had passed the order and recorded the reasons for his conclusion that there had been concealment of income. The levy of penalty was valid.(AY. 1998-99)
Kawaljit Enterprises v. CIT (2025) 483 ITR 681 (Telengna)(HC)

3070 **S. 271(1)(c) : Penalty-Concealment-Surrender of undisclosed income-Satisfaction recorded in the assessment order-Notice valid-Matter remanded to Tribunal to decide on merits.[S.132, 153A, 260A, Explanation 5A to section 271(1)(c), 274]**
After search and seizure operations, assessee declared certain undisclosed income which was added to income disclosed in returns filed in response to notice issued under section 153A. Assessment orders were followed by notices under section 271(1)(c) read with section 274 and after considering assessee's submissions, Assessing Officer levied penalty under section 271(1)(c). On appeal, Tribunal cancelled penalty on ground that show cause notice under section 274 was defective as it did not spell out grounds on which penalty was sought to be imposed. On appeal by revenue, the Court held that when Assessing Officer had recorded in assessment order particulars of concealed income/undisclosed income of assessee and on that basis initiated penalty proceeding under section 271(1)(c), then consequential notice under section 274 issued by Assessing Officer to assessee to afford him opportunity of hearing, was specifically a notice for penalty for concealment of particulars of income/undisclosed income. Such a notice complied with principles of natural justice and was a valid notice under section 274 and Tribunal had committed a manifest error of law by setting aside penalty orders on ground that 'grounds for imposition of penalty were not mentioned in show cause notice under section 274 and thus, show cause notice was defective'. Matter remanded to the Tribunal to decide on merits. (AY. 2006-07, 2007-08)
PCIT v. Thakur Prasad Sao and Sons Pvt. Ltd. [2024] 163 taxmann.com 449 /(2025) 482 ITR 168 (Cal)(HC)

3071 **S. 271(1)(c) : Penalty-Concealment-Not specifying the charge-None of the relevant columns has been indicated nor have the irrelevant columns been struck off-Appeal of assessee was allowed-Order of Tribunal affirming the penalty was quashed and set aside. [S.260A, 274]**
Court held that the appeal filed by the revenue was dismissed holding that where the Assessing Officer had not specified the relevant portion of clause (c) in the notices for initiating penalty proceedings under section 271(1)(c), the notices issued under section 274 read with 271 were invalid and, therefore, the orders passed by the authorities levying penalty under section 271(1)(c) were cancelled. Court also observed that from perusal of the notice it was noted that none of the relevant columns have been indicated nor have the irrelevant columns been struck off. Thus, the appeals filed by the assessee

are allowed and the substantial questions of law are answered in favour of the assessee. (AY. 2007-08 to 2009-10 and 2011-12)
KPC Medical College and Hospital v. PCIT (Central) (2025) 304 Taxman 679 (Cal.)(HC)

S. 271(1)(c) : Penalty-Concealment-Partition-Dissolution of HUF-Long-term capital loss claimed by dissolved HUF disallowed-Penalty proceedings initiated and order passed in the name of non-existent entity-Reason recorded in penalty order contrary to show-cause notice-Addition in assessment does not automatically justify penalty-Deletion of penalty upheld. [S. 171, 260A] 3072

The assessee-HUF, which stood completely partitioned and dissolved on 26-03-2014, had claimed long-term capital loss on dissolution which was disallowed in assessment and addition of Rs. 7.29 crore was made. Though penalty proceedings were initiated alleging furnishing of inaccurate particulars of income, the Assessing Officer ultimately levied penalty treating the amount as concealed income, thereby adopting a ground entirely different from that mentioned in the show-cause notice, rendering the penalty order invalid in law. The Tribunal further found that both the notice initiating penalty and the penalty order were issued in the name of a non-existent HUF after its dissolution, and since this factual position was undisputed, the penalty proceedings were ab initio void. Even otherwise, reliance on section 171 could not assist the Revenue as the individual members of the erstwhile HUF were never put on notice and complete partition had already been accepted in assessment proceedings. The High Court held that penalty proceedings are independent of assessment proceedings and mere disallowance of a claim does not automatically warrant penalty unless concealment or deliberate furnishing of inaccurate particulars is established. The claim arose due to a bona fide mistake in treating distribution of assets on partition as transfer and the issue was tax neutral. Accordingly, the Tribunal was justified in deleting the penalty, and the order was affirmed. (AY. 2014-15)
PCIT v. Chandravadan Desai (HUF) (2025) 173 taxmann.com 855 / 346 CTR 92 / 251 DTR 322 (Cal)(HC)

S. 271(1)(c) : Penalty-Concealment-Inadvertent data feeding mistake in the return-Audit report-Voluntary disclosure of the income-Penalty deleted. [S. 44B, 115JB, 139(5)] 3073

Allowing the appeal, the Court held that correct book profit was not only shown in the tax audit report, but it was duly uploaded in the income-tax portal and filed before the AO much prior to the case was undertaken for scrutiny assessment; it is the assessee itself who brought correct figures on record informing the AO about the difference in the figures of book profit attributing the same to be inadvertent data feeding mistakes in the return filed. Order of Tribunal affirming the penalty is set aside. (AY. 2016-17)
Chhattisgarh State Power Transmission Company Ltd. v. DCIT (2025) 344 CTR 313 / 249 DTR 97 / 174 taxmann.com 418 (Chhattisgarh)(HC)

S. 271(1)(c): Penalty-Concealment-Non-filing of return-Filing of financial statements and tax audit report and payment of taxes-Bona fide inadvertent human error-No concealment or furnishing of inaccurate particulars-Penalty deleted. [Art. 226] 3074

Where the assessee had duly uploaded its financial statements and tax audit report and had also paid the entire taxes within time; however, the return of income could not be

electronically filed due to bona fide and inadvertent human error, the levy of penalty under section 271(1)(c) was held to be unsustainable. The High Court observed that even as per the Revenue's own stand, there was no tax payable after granting TDS credit and hence no concealment of income within the meaning of Explanation 4(c) to section 271(1)(c). Explanation 3 to section 271(1)(c) was held inapplicable as no satisfaction was recorded by the Assessing Officer that the assessee had taxable income coupled with deliberate non-filing of return. The Court further held that the Assessing Officer failed to apply his mind both in invoking the provision as well as in quantification of penalty. Since the case did not involve concealment of income or furnishing of inaccurate particulars, the impugned penalty orders were set aside. (AY. 2015-16).
Goberdhandhanri Infratech (P.) Ltd. v. UOI (2025) 305 Taxman 664 / 345 CTR 641 / 252 DTR 30 (Patna)(HC)

3075 **S. 271(1)(c) : Penalty-Concealment-Additional bonus liability-Amnesty return-Merely raising claim subsequently found inadmissible in law would not amount to concealment or furnishing of inaccurate particulars-Penalty unsustainable.[S. 43B]**
Allowing the appeal, the Court held that there was nothing on record to indicate that the assessee had made a wrongful claim of having actually paid any amount towards additional bonus to the employees in the relevant accounting year. The claim for additional bonus was disallowed on the ground that the amount was actually paid in the subsequent accounting year. Merely raising claim subsequently found inadmissible in law would not amount to concealment or furnishing of inaccurate particulars, penalty unsustainable. (AY. 1984-85)
Carona Ltd v. Dy. CIT (2025) 478 ITR 1 /176 taxmann.com 983 (Bom)(HC)

3076 **S. 271(1)(c) : Penalty-Concealment-Settlement commission-Burden of proof-Burden on revenue to prove concealment of income-Order of Settlement Commission set aside. [S. 50C, 245D, 271(1) explanation (c), Art. 226]**
On writ, the Court held that the Settlement Commission had not expressed any doubt to disbelieve the explanation furnished by the assessee, as true. The burden on the Revenue authority to establish concealment, remained undischarged. Though the allegation of concealment was made by the Revenue authorities, the assessee did furnish his explanation. Therefore, the Revenue authorities and the Settlement Commission were obligated in law to consider the fact explanation before imposing penalty under section 271(1)(c) of the Act. Without disbelieving the explanation furnished on cogent reasons and without reaching the conclusion of concealment on material evidence on record, the assessee did not stand exposed to levy of penalty as a logical fallout of addition sustained in the assessment of income. Merely because addition may be made on the quantum side by invoking section 50C of the Act, that did not itself establish that such estimated consideration had actually passed on to the assessee. The order of penalty was not valid.(AY. 2007-08)
Rajendra Prasad Agarwal v. ITSC [2024] 161 taxmann.com 638 /(2025) 477 ITR 104 (All) (HC)

S. 271(1)(c) : Penalty-Concealment-Capital gains-Evasion of tax-Construction business-Mere filing of capital account does not amount to full and proper disclosure-Order of Tribunal affirming the penalty was affirmed. [S. 147, 260A, Expln. 1, 271(1)(c)] 3077

The assessee, engaged in real estate and construction, purchased a plot in 1982 for Rs. 25 lakhs and claimed Rs. 26 lakhs towards development. The assessee later revalued the plot at Rs. 1.04 crores and introduced it as capital into a partnership firm (NE). Shortly thereafter the assessee made substantial withdrawals from its capital account. The Assessing Officer treated the withdrawals and the revaluation as arranged events that enabled enjoying benefits without paying tax and brought Rs. 52 lakhs to tax. The Commissioner (Appeals) deleted the addition but the Tribunal restored it and also reinstated the penalty; the assessee's subsequent references were rejected and certain issues had attained finality by earlier orders. On appeal, the court held that on evaluating the materials, the Assessing Officer and Tribunal found that the constitution of the firm and the transactions constituted a device or conduit to evade tax: the assessee inflated asset value, contributed it as capital, and withdrew amounts shortly thereafter. These facts demonstrated suppression of material particulars and timelines, amounting to concealment; the imposition of the minimum prescribed penalty under section 271(1)(c) was justified and did not warrant interference.(AY. 1984-85)

Veena Estate Pvt. Ltd. v. CIT (2025) 475 ITR 115 / 171 taxmann.com 472/343 CTR 585 / 247 DTR 310(Bom)(HC) (Bom)(HC)

Editorial: Refer Veena Estate (P.) Ltd. v. CIT (2024) 158 taxmann.com 341 / 461 ITR 483 / 336 CTR 688 (Bom)(HC)

S. 271(1)(c): Penalty-Concealment-Bogus purchases-Addition on estimation-Rejection of books oaf account-Penalty not leviable.[S. 145(3), 147, 148, 260A] 3078

The assessee, engaged in operating a photo studio, had filed return for AY 2011-12. In reassessment, the AO, relying on Sales Tax Department information, treated purchases from alleged hawala parties as non-genuine, rejected books u/s 145(3), and estimated profit at 12.5% with further addition of 1% towards commission, though the assessee had produced purchase invoices, challans, bank statements and stock records. Penalty u/s 271(1)(c) was levied for concealment. CIT(A) deleted the penalty holding that the addition was based on ad-hoc estimation and not on conclusive evidence of concealment, which was affirmed by the Tribunal. Dismissing Revenue's appeal, the High Court held that penalty cannot be levied where income is determined only on estimation. The AO had accepted sales and only estimated the profit element; penalty proceedings are distinct from assessment and in the absence of cogent evidence of concealment, levy of penalty is unwarranted.(ITA No. 48 of 2022; dt. 16/09/2025) (A.Y. 2011-12)

PCIT v. Colo Colour Pvt. Ltd. (Bom)(HC) www.itatonline.org.

S. 271(1)(c): Penalty-Concealment-Failure to specify the charge-Order of Tribunal quashing the penalty is affirmed. [S. 260A, 274(1)] 3079

Assessee filed its return of income declaring certain loss. Assessing Officer disallowed the claim of loss and made addition to the income of assessee. He also initiated penalty proceedings under section 271(1)(c) for furnishing inaccurate particulars of income.

Tribunal deleted the penalty, holding that the penalty notice was vague as there was no specific charge for initiation of penalty proceedings which assessee could explain. On appeal the Court held that Tribunal rightly held that levy of penalty under section 271(1)(c) in case of assessee was not valid. (AY. 2015-16)
Pr. CIT v. Gragerious Projects (P.) Ltd. (2025) 303 Taxman 14 / 475 ITR 546 (Delhi)(HC)
PCIT v. Sara Sae Pvt Ltd (2025) 303 Taxman 14 / 475 ITR 546 (Delhi)(HC)
PCIT v. Virtual Software and Training Pvt Ltd (2025) 303 Taxman 14 / 475 ITR 546 (Delhi) (HC)

3080 **S. 271(1)(c) : Penalty-Concealment-Natural justice-Due process-Opprtunity of hearing-Less than 24 hours was granted to produce document-Penalty order is quashed and set aside-Matter is remanded to the Assessing Officer. [Art. 226]**
Assessment proceedings against assessee were carried out and finalized and separate proceedings for imposition of penalty were also initiated on same day. The assessee filed an appeal against assessment order which came to be dismissed. Despite appeal having been dismissed, department made no efforts to impose penalty and on one fine day, issued show cause notice under section 271(1)(c) calling upon assessee to submit its response along with supporting documentary evidence, if any, by 4.30 p.m., on next day and case was fixed for oral arguments on next day, on which date it was finally decided. On writ the Court held that notice less than 24 hours' time was granted to assessee to produce documentary evidence and equal time, i.e., less than 24 hours' time was granted for addressing oral arguments, assessee was deprived of its right of fair hearing as contemplated under law. Court held that that the order imposing penalty was not sustainable and matter was remanded back to authority with a direction to afford a meaningful opportunity to assessee to file its response along with documentary evidence and further provide assessee an opportunity of personal hearing.
Inox Wind Ltd. v. Assessment Unit, ITD (2025) 303 Taxman 125 (HP)(HC)

3081 **S. 271(1)(c) : Penalty-Concealment-Revised return-After survey-Additional income-Order of Tribunal confirming the penalty is affirmed. [S. 139(5), 260A]**
Dismissing the appeal, the Court held that there was deliberate omission in the first return and further, the second return filed by the assessee is not a voluntary one, as rightly held by the Tribunal, which was filed after a survey conducted by the Department in AH Ltd. The order of Tribunal is affirmed. (AY. 2003-04 to 2005-06)
Dr. S. Duraisamy v. DCIT (2025) 342 CTR 668 / (2024) 243 DTR 210 (Mad)(HC)

3082 **S. 271(1)(c) : Penalty-Concealment-Not specifying the charge-Order of tribunal deleting the penalty is affirmed. [S. 260A]**
Dismissing the appeal of the Revenue the Court held that the question raised in this appeal had been answered against it by the court in *CIT v. Manjunatha Cotton and Ginning Factory [2013] 359 ITR 565 (Karm)(HC).* (AY. 2007-08)
CIT v. State Bank Of Mysore (2024) 471 ITR 760 (Karn) (HC)
Editorial : SLP of Revenue is dismissed, question of law is kept open, CIT v. State Bank Of Mysore (2024)471 ITR 761 (SC) (HC)

S. 271(1)(c) : Penalty-Concealment-Capital gains-Additional income is accepted in the revised return-Penalty notice not specifying the charge-Order of Tribunal deleting the penalty is affirmed.[S. 143(1), 148] 3083

Dismissing the appeal of the Revenue the Court held that the assessee had disclosed error before notice under section 148 was issued, thus preventing concealment of income A satisfactory explanation has been offered by assessee, well before issuance of a notice to him under section 148 and admission of additional income made by assessee has been accepted by revenue. Honesty of assessee in disclosing mistake and paying differential tax before assessment would not attract penalty provisions under section 271(1)(c). Court also held that when the penalty notice has not specified the charge, deletion of penalty by the Tribunal is justified. (AY. 2011-12)

PCIT v. Ambady Krishna Menon (2024) 471 ITR 366 /163 taxmann.com 141 (Ker) (HC)

S. 271(1)(c) : Penalty-Concealment-Capital gains-Deduction is rejected-Levy of penalty is justified-Undisclosed income-Gift received from non-Resident-Penalty is justified. [S.54B, 54F, 69, 158BC] 3084

Held that in respect of the addition on account of disallowance of claim of capital gains under section 54B and section 54F for which penalty was imposed, in the assessment order, it was found that capital gains were dis-closed in the original return filed but no deductions were claimed under S. 54B and 54F, penaty is deleted. However as regards gift received from his brother, as the assessee failed to prove the receipt, levy of penalty is affirmed. (AY. 1996-97 to 2002-03)

Bishwajit Pandey v. ACIT (2024) 471 ITR 509 (Pat) (HC)

S. 271(1)(c) : Penalty-Concealment-Defective notice-Not specifying the charge-Concealment of income-Inaccurate particulars of income-Non-application of mind-Order of Tribunal quashing the penalty was affirmed.[S. 260A, 274] 3085

Dismissing the appeal of the revenue where AO while issuing show cause notice u/s 271(1)(c) was unsure whether penalty was for concealment or furnishing inaccurate particulars, such vague notice indicated non-application of mind, and penalty order was quashed. (AY. 2006-07)

PCIT v. Jehangir H. C. Jehangir [2023] 155 taxmann.com 209 (Bom)(HC)

S. 271(1)(c): Penalty-Concealment-Addition on account of notional rental income-Rental income-Arithmetical error-There was a shortfall in disclosing rental income-Voluntary disclosure of income to cover any omission-No concealment penalty-Appeal admitted by High Court-No penalty-Penalty order barred by limitation. [S. 245(2C), 245 D(4), 275(1)(c)] 3086

Held that since there is no evidence that the assessee has received any rental income from the house property which was vacant and the addition has been made on account of notional rent, penalty under s. 271(1)(c) is not justified. Assessee having disclosed rental income from two properties, penalty under s. 271(1)(c) is not leviable on account of the shortfall in disclosing the said income. Assessee having voluntarily disclosed a certain amount as buffer income to take care of omission, if any, and the AO having found no omission or error, the amount disclosed by the assessee as buffer income

does not call for levy of penalty under s. 271(1)(c). Tribunal held that the High Court has admitted the appeal on the substantial question of law of residential status of the assessee against the order of the Settlement Commission treating the assessee as 'resident' and, therefore, penalty under s. 271(1)(c) levied by the AO for non-disclosure of salary earned from a foreign entity is not sustainable; even otherwise, the penalty levied by the AO on 26th Sept., 2018 is barred by limitation as per both the time-limits specified in cl. (c) of s. 275(1). (AY-2010-11)
DCIT v. Vinod Ramchandra Jadhav (2025) 235 TTJ 342 (Pune)(Trib)

3087 **S. 271(1)(c): Penalty-Concealment-Surrender of claim of exemption under s. 54F-Debatable issue-Not liable for levy of penalty under s. 271(1)(c) for furnishing inaccurate particulars of income.[S.54F]**
Held that the Assessee has furnished all the requisite details to support his claim of exemption under s. 54F, along with the return of income and during the course of assessment proceedings and eventually surrendered the claim of exemption as the registration of the sale deed and construction of new house property had not been completed within the prescribed time-limit due to the reasons attributable to the builder, the claim of exemption under s. 54F was based upon a bona fide belief and, therefore, the assessee is not liable for the levy of a penalty under s. 271(1)(c) for surrender of claim of exemption under s. 54F.(AY. 2016-17)
DCIT v. Sahil Vachani (2025) 236 TTJ 137 / 126 ITR 172/ 175 taxmann.com 979 ((Delhi)(TM)(Trib)

3088 **S. 271(1)(c): Penalty-Concealment-Legal Representative-Legal heirs are liable for a penalty to the extent of the estate inherited. [S. 159]**
The Tribunal held that the expression "any sum" occurring in section 159(1) is wide enough to include not only tax but also penalty and interest payable by a deceased assessee. Consequently, the legal representatives are liable to discharge the penalty liability of the deceased, subject to the extent of the estate inherited by them. The matter was restored to the Assessing Officer only for determining the value of the estate available for satisfying such liability. (AY. 2007-08)
Late Jagdish through L/H Chajju Ram v. ITO (2025) 238 TTJ 315 (Jaipur)(Trib.)

3089 **S. 271(1)(c) : Penalty-Concealment-Not specifying the Charge-Cash deposits treated as unexplained under section 68 for want of documentary evidence-Explanation found bona fide-Penalty order not specifying applicable limb-Penalty was deleted.[S.274]**
For the assessment year 2008-09, the assessee, a contractor, did not file a return of income. The assessment was reopened under section 147 on account of cash deposits in the assessee's savings bank account. The assessee explained that the deposits represented contract receipts, agricultural income, opening cash balance, withdrawals from the bank and past savings. The Assessing Officer partly rejected the explanation, made an addition under section 68 for want of complete documentary evidence and levied penalty under section 271(1)(c). The Commissioner (Appeals) confirmed the penalty. On appeal the Tribunal held that the addition was based largely on estimation and lack of supporting evidence and not on any conclusive finding that the assessee's

explanation was false or bogus. The explanation offered by the assessee was found to be bona fide. Further, the penalty order failed to specify whether the penalty was imposed for concealment of income or for furnishing inaccurate particulars of income, thereby rendering the penalty proceedings legally unsustainable. Accordingly, the penalty levied under section 271(1)(c) was deleted.
Girdharilal Motilal Agrawal v. ITO [2025] 128 ITR 309 (Nagpur)(Trib)

S. 271(1)(c): Penalty-Concealment-Concealment or furnishing inaccurate particulars-Failure to specify exact charge-Penalty not sustainable. [S. 68] 3090
The assessee explained the source of cash deposits as contract receipts, agricultural income, opening cash balance, bank withdrawals and past savings. The Assessing Officer partly accepted the explanation but sustained an addition under section 68 for want of supporting documentary evidence and levied penalty under section 271(1)(c). The Tribunal held that the addition was based substantially on estimation and the assessee's explanation had not been found to be false or bogus. Further, the Assessing Officer failed to specify whether the penalty was for concealment of income or for furnishing inaccurate particulars of income. In the absence of a clear charge and as the explanation was bona fide, the penalty was deleted. (AY. 2008-09)
Girdharilal Motilal Agrawal v. ITO (2025) 128 ITR 309 (Nagpur)(Trib.)

S. 271(1)(c) : Penalty-Concealment-Licence fee-Interest on delayed payment-Capital or revenue expenditure-Bona fide claim-Penalty not leviable. [S. 35ABB] 3091
The Assessing Officer levied penalty under section 271(1)(c) in respect of interest on delayed payment of licence fee after treating the expenditure as capital in nature. The Tribunal held that the issue had travelled up to the High Court and involved a bona fide legal dispute. At best, the expenditure was liable for amortisation under section 35ABB and could not give rise to penalty for concealment or furnishing inaccurate particulars. The penalty was rightly deleted. (AY. 1999-2000 & 2007-08).
Asst. CIT v. Vodafone West Ltd (2025) 126 ITR 335 / 173 taxmann.com 585 (Delhi)(Trib.)
ACIT v. Vodafone Idea Ltd. (2025) 126 ITR 335 / 173 taxmann.com 585 (Delhi)(Trib.)

S. 271(1)(c): Penalty-Concealment-Furnishing inaccurate particulars-Defective notice-Mere disallowance of claim not sufficient-Penalty deleted.[S. 147, 148, 274] 3092
The Assessing Officer levied penalty under section 271(1)(c) pursuant to reassessment on the ground of furnishing inaccurate particulars of income. The Tribunal held that the notice issued under section 274 did not specify the exact charge and all particulars relating to purchase and sale of land were furnished by the assessee during reassessment proceedings and accepted by the Department. Mere rejection of a claim of expenditure does not amount to furnishing inaccurate particulars of income. Accordingly, the penalty was deleted. (AY. 2010-11).
Pradeep Garg v. ITO (2025) 126 ITR 91 / 175 taxmann.com 44 (Jaipur)(Trib.)

3093 **S. 271(1)(c): Penalty-Concealment-Furnishing inaccurate particulars of income-Penalty based on disallowance of payment treated as Fees for Technical Services-Quantum addition deleted-Penalty deleted.**

The Commissioner (Appeals) confirmed penalty under section 271(1)(c) in respect of the disallowance relating to warehousing charges paid to a non-resident. The Tribunal held that once the very basis of the disallowance failed, the consequential penalty could not survive. Accordingly, the Assessing Officer was directed to delete the penalty. (AY. 2011-12 to 2016-17).

AVTEC Ltd. v. Asst. CIT [2024] 168 taxmann.com 692 / (2025) 129 ITR 483 (Delhi)(Trib.)

3094 **S. 271(1)(c): Penalty-Concealment-Failure to file return-Addition on estimate basis-Levy of penalty is held to be justified, though the addition was made on an estimate basis applying the explanation 3 [S. 139, 148]**

Held that since the assessee neither filed its return of income under s. 139 nor filed the return in response to notice issued under S. 148 despite the fact that it received substantial contract receipts during the relevant year, the case falls in the category of "concealment of particulars of income" for the purpose of S. 271(1)(c) r/w Expln. 3 thereto and, therefore, the levy of penalty is justified, even though the addition has been made by applying the net profit rate. (AY. 2011-12)

Pumpkin Pictures (P) Ltd. v. Dy. CIT (2025) 234 TTJ 34 / 247 DTR 91 (Mum)(Trib)

3095 **S. 271(1)(c): Penalty-Concealment-Disclosure of income in the course of survey-Prior to due date of filing of return-Income returned was accepted-Levy of penalty was deleted. [S.133A, 139(1)]**

Held that the assessee had disclosed the factum of conversion of capital asset, i.e., land into stock-in-trade, during the survey under s. 133A, which was conducted prior to the due date of filing the return and paid a substantial amount of advance tax and TDS. Penalty under s. 271(1)(c) is not leviable, more so when the income returned by the assessee has been accepted without any variation. (AY.2016-17)

Ramchandra Udaysingh Jadhavrao v. ACIT (2025) 234 TTJ 543 (Pune)(Trib)

3096 **S. 271(1)(c) : Penalty-Concealment-Additional evidence obtained under RTI Act-Matter remanded.[S.80IB(10)**

Assessing Officer disallowed the deduction under section 80IB(10) claimed by assessee due to delay in completion and size violation of the housing project and imposed a penalty under section 271(1)(c). Additional evidence which was obtained under the RTI Act was filed before the Tribunal. Tribunal remanded the matter to the Assessing Officer to verify details and cancel the penalty under section 271(1)(c) if proper approval evidence was found. (AY. 2013-14 to 2015-16 & 2020-21)

Vijay Tukaram Raundal v. DCIT (2025) 214 ITD 661 (Pune) (Trib.)

3097 **S. 271(1)(c) : Penalty-Concealment-Failure to specify the charge-Levy of penalty was deleted. [S. 274]**

Held that the Assessing Officer issued penalty show-cause notices to assessee for levy of penalty under section 271(1)(c) for having furnished inaccurate particulars of

income regarding wrong claim of benefits of exemptions under sections 11(1) and 11(2), however, he had not specified corresponding limb(s) in his penalty show-cause notices, his failure to this clinching effect vitiated penalty proceedings itself. Penalty proceedings quashed and set aside. (AY. 2008-09)
Delhi Building & others Construction Workers Welfare Trust Board v. Dy.DIT(E) (2025) 213 ITD 704 (Delhi) (Trib.)

S. 271(1)(c) : Penalty-Concealment-Information from sales-tax authorities-Bogus purchases-Hawala parties-Estimated additions-Quantum restricted to 12. 5% of bogus purchases-Penalty is leviable. [S.69C] 3098
During year, Assessing Officer received information from sales-tax authorities and came to know that assessee had made bogus purchases from hawala parties. The AO has added entire amount to the income of assessee. However, the Tribunal restricted quantum addition at 12.5 per cent of bogus purchases. Pursuant to the Tribunal's order penalty proceedings were initiated and penalty was levied. CIT(A) affirmed the order of the AO. On appeal, the assessee contended that since quantum addition was estimated, no penalty should be levied on estimation of profit. Tribunal held that since there were bogus purchases and only the profit element had been added, which meant that assessee had concealed income to that extent in the garb of purchases which turned out to be bogus. Penalty order is affirmed.(AY. 2009-10)
Sandeep Kewalchand Mehta v. ACIT (2025) 212 ITD 229 (Mum) (Trib.)

S. 271(1)(c): Penalty-Concealment-Estimate of income-Estimation of rate of NP on gross receipts-Rejection of books of account-Penalty is deleted.[S. 145] 3099
The Assessing Officer rejected the books of account of assessee and applied a net profit rate of 24.50 per cent on gross receipts as against 22.72 per cent declared by assessee and also levied penalty under section 271(1)(c) of the Act. CIT(A) affirmed the order of the AO. On appeal, the Tribunal held that, since quantum assessment order was based on the application of an estimated rate of NP levy, the penalty is held to be not valid. [AY. 2016-17)
AKM Resorts v. ACIT (2025) 211 ITD 633 (Chd) (Trib.)

S. 271(1)(c) : Penalty-Concealment-Depreciation-The Charitable trust voluntarily withdrew the depreciation claim, and there is no deliberate concealment or misrepresentation, penalty-Penalty is deleted.[S. 11, 32] 3100
The assessee initially claimed depreciation, which was disallowed because the cost of the asset was already considered as an application of income. However, the claim of depreciation was not made with a deliberate intent to furnish inaccurate particulars. The trust later withdrew its ground of appeal before the Commissioner (Appeals), acknowledging that the depreciation claim was erroneously made.
Held that the voluntary withdrawal of the appeal and acceptance of the disallowance indicates a bonafide mistake rather than an intentional misrepresentation.
Held that the AO was not correct in levying a penalty u/s. 271(1)(c), as the claim of depreciation was not made with a fraudulent or malafide intent. The assessee voluntarily

agreed to the error and withdrew the appeal before the Commissioner (Appeals). Penalty u/s. 271(1)(c) should not be sustained.(AY. 2016-17)
Mumbai Educational Trust v. DCIT (E) [2025] 210 ITD 608 (Mum)(Trib.)

3101 **S. 271(1)(c): Penalty-Concealment-No specific limb in penalty notice-Penalty order is set aside.[S. 274]**
In the notice issued u/s.274 r.w.s 271(1)(c) no specific limb of the penalty was indicated i.e., whether it is for concealment of particulars of income or for furnishing of inaccurate particulars of income. The tribunal relied upon multiple jurisdictional HC and ITAT decisions on the same issue and held that such notice is not sustainable in the eyes of law and illegal, as per the settled law.(AY. 2013-114)
Sudesh Gupta v. ACIT [2025] 121 ITR 1/ 210 ITD 436 (Delhi) (Trib)

3102 **S. 271(1)(c) : Penalty-Concealment-Additional legal ground is admitted-Not specifying the charge-Levy of penalty is not valid-Substantial question of law is admitted before High Court-Penalty cannot be levied-The decision in *Veena Estate P. Ltd v. CIT (2024) 464 ITR 483 (Bom)(HC)* is distinguished. [S. 68, 69, 260A, 274]**
The AO levied the penalty u/s 271(1)(c) of the Act, as the quantum addition is affirmed by the Tribunal. CIT(A) affirmed the order of the AO. On appeal before the Tribunal, the assessee filed an additional grounds and raised the two additional legal grounds, ie. the penalty was levied without specifying the charge and since the substantial question of law has been admitted by the Honourable High Court against quantum additions hence, the penalty cannot be levied. The Honourable Tribunal admitted the additional legal grounds and deleted the penalty on both the grounds. Honourable Tribunal relied on *Mohd. Farhan A. Shaik v. Dy.CIT (2021) 434 ITR 1 (FB) ((Bom)(HC).* The Honourable Tribunal also held that the r in the case of *Veena Estate P. Ltd v. CIT(2024) 461 ITR 483 (Bom)(HC)* has not decided on merits, the decision is merely an interim order and peculiar facts of the case, which has no binding effect on other assesses, relied on State of *Assam v. Barak Upatyaka D.U. Karmacahri Sanstha* (CA No. 6492 of 2002 decided on 17-3 2009)(SC). On admission of substantial question of law the Tribunal relied on *CIT v. Nayan Builders and Developers (2014) 368 ITR 722 (Bom)(HC), CIT v. Advaita Estate Development Pvt Ltd (2017) 98 CCH 97(Bom)(HC).* Penalty is deleted. (ITA No. 6584 / 6585/6586 /Mum/ 2011 dt.13-12-2024)(AY. 2002-03)
Amrish Manoj Dhupalia v. DCIT (Mum)(Trib) www.itatonline.org
Bhavya Manoj Dhupalia (Ms) v. DCIT (Mum)(Trib) www.itatonline.org
Mohan Manoj Dhupalia v. DCIT (Mum)(Trib) www.itatonline.org

3103 **S. 271(1)(c) : Penalty-Concealment-Book profit-Penalty is not leviable. [S. 115JB]**
Tribunal held that that AO computed the tax liability of the assessee under s. 115JB, penalty under s. 271(1)(c) is not attracted with reference to the additions made under the normal provisions; since the assessment year involved is 2012-13, which is prior to asst. yr. 2016-17 where from Expln. 4 to s. 271(1) is applicable, no penalty under s. 271(1)(c) could be imposed, even though the penalty proceedings were pending as on 1st April, 2016. Followed, *CIT v. Nalwa Sons Investments Ltd. (2010) 235 CTR 209 / 45 DTR 345 (Delhi)(HC).* (AY. 2012-13)
Sunborne Energy Services India (P) Ltd. v. Dy.CIT (2025) 233 TTJ 118 (Delhi)(Trib)

S. 271AAA : Penalty-Search initiated on or after 1st June, 2007-Failure to substantiate the manner in which the undisclosed income was earned-Order of High Court is affirmed-SLP of assessee is dismissed. [S. 132(4), 271AA(2), Art. 136] 3104

Dismissing the SLP, the Court held that the view taken by the Delhi High Court about the interpretation of sub-section (2) of section 271AAA of the Income-tax Act, 1961 is correct.

Amul Gabrani v. PCIT (2025)472 ITR 13/302 Taxman 410 (SC)

Editorial: PCIT v. Amul Gabrani (2024) 169 taxmann.com 503 /(2025) 472 ITR 3 (Delhi)(HC)

S. 271AAA: Penalty-Search initiated on or after 1st June, 2007-Undisclosed income-Tax and interest paid-All conditions satisfied-Not mandatory-Discretion means sound discretion guided by law-Conditions under section 271AAA (2) satisfied-No penalty is attracted. [S. 132, 143(3), 271AA(1), 271AA(2), Art. 136] 3105

A search and seizure operation was conducted at the assessee's premises on 25 November 2010, during which the assessee admitted to undisclosed income. Another income, which was not accepted during the course of the search proceedings, was also discovered subsequently during the assessment proceedings, which the assessee accepted. The assessee substantiated the manner in which said undisclosed income was derived and paid tax, together with interest belatedly. The Assessing Officer imposed a penalty under section 271AAA on the ground that the assessee had not paid the tax and penalty within the prescribed period, which was upheld by the CIT (A), the Bangalore Tribunal, and the Karnataka High Court. On further appeal, the Supreme Court observed that the assessing officer has the discretion to levy a penalty, but such discretion must be exercised in a fair and reasonable manner. The Supreme Court held that if the conditions under section 271AAA (2) are satisfied even belatedly, then the penalty under section 271AAA (1) is not applicable in respect of income disclosed in the search in respect of income disclosed during the search. However, for income which was not disclosed during the search, penalty under section 271AAA(1) was held to be applicable since this income was not declared at the time of search but was uncovered based on subsequent evidence and qualified as 'undisclosed income' under section 271AAA(1). Direction is issued to assessee to pay penalty at the rate of 10 percent on Rs. 2, 49, 90,000. (AY. 2011-12)

K. Krishnamurthy v. DCIT (2025) 303 Taxman 499/ 473 ITR 557 / 343 CTR 41 (SC)

Editorial: K. Krishnamurthy v. Dy. CIT(2025) 473 ITR 553 (Karn)(HC) [IT Appeal No. 125 of 2017, dated 2-8-2022] (para 43) reversed.

S. 271AAA : Penalty-Search initiated on or after 1st June, 2007-No specific query on manner of disclosure-Failure to substantiate the manner in which the undisclosed income was earned-Order of Tribunal deleting the penalty is set aside. [S. 132(4),260A, 271AA(2)] 3106

Assessing Officer imposed penalty under section 271AAA of the Act. Commissioner (Appeals) and Tribunal deleted penalty on ground that there was no specific query put to assessee to disclose manner in which undisclosed income was derived. On appeal the Court held that when there is a statutory obligation placed upon assessee to not only

specify manner in which undisclosed income had been derived but also to substantiate statement that may be made under section 132(4). On facts the assessee merely stated that sums advanced were undisclosed income, however, she did not specify how she derived that income and what head it fell in rent, capital gain, professional or business income out of money lending, source of money, etc. Accordingly the lower appellate authorities misdirected themselves in holding that conditions in section 271AAA(2) were satisfied. Order of Tribunal deleting the penalty is set aside.
PCIT v. Amul Gabrani (2025)472 ITR 3/ 169 taxmann.com 503 (Delhi)(HC)
Editorial : Amul Gabrani v. PCIT (2025)472 ITR 13/302 Taxman 410 (SC)

3107 **S. 271AAA: Penalty-Search initiated on or after 1st June, 2007-Undisclosed income-Disclosure in the course of search-Belated payment of tax and interest-Fulfilment of all three conditions stipulated under subsection (2) mandatory-Levy of penalty is justified. [S. 132(4), 260A]**
The assessee admitted an undisclosed income of Rs. 2,27,65,580/-which, according to the revenue, was offered by the assessee during the course of investigation. The Deputy Commissioner of Income tax imposed a penalty under Section 271AAA amounting to Rs.47,80,261/-which was partly confirmed by the Tribunal. The Court dismissed the appeal by deciding in favor of revenue. The court held that it was mandatory to follow all three conditions as listed down by the sub-section (2) of the section 271AAA which was not complied by the assessee and refused to reduce the quantum of penalty as the income was undisclosed at the time of filing the return. The appeal of assessee is dismissed. (AY. 2011-12)
K. Krishnamurthy v. Dy. CIT (2025) 473 ITR 553 (Karn)(HC)
Editorial : K. Krishnamurthy v. Dy. CIT (2025) 473 ITR 557 /303 Taxman 499 / 343 CTR 41 (SC), partly confirmed.

3108 **S. 271AAB : Penalty-Search initiated on or after 1st day of July 2012-Additional ground-Undisclosed income-Penalty at 30 per cent is leviable where the assessee fails to satisfy the conditions prescribed for concessional penalty under section 271AAB(1)(a). [S. 132(4), 153A, 154, 254(1), 271AAB, Rule 11 of the ITAT Rules]**
During the course of a search, the assessee admitted undisclosed income representing fictitious liabilities, unexplained money and unrecorded expenditure. The Assessing Officer levied a penalty under section 271AAB(1)(c), which the Commissioner (Appeals) reduced to 10 per cent under clause (a). The Tribunal held that although an additional legal ground challenging the levy of penalty was admissible under Rule 11 of the Income-tax (Appellate Tribunal) Rules, it had no merit. The assessee had failed to specify and substantiate the manner in which the undisclosed income had been derived, which is a mandatory requirement for claiming the concessional rate of penalty under section 271AAB(1)(a). Accordingly, the order of the Commissioner (Appeals) reducing the penalty was set aside, and the penalty levied by the Assessing Officer under section 271AAB(1)(c) at 30 per cent was restored. (AY. 2016-17)
Dy. CIT v. Subhash Tyagi (2025) 169 taxmann.com 623 / (2025) 121 ITR 54 (SN) (Delhi) (Trib.)

S. 271AAB: Penalty-Search initiated on or after 1st day of July 2012-Not specifying the charge-Omnibus notice betrays application of mind by the AO-Entire penalty proceedings right from issue of notice to imposition of penalty are ab initio void-Penalty quashed. [S.274] 3109

Tribunal held that since the search was initiated against the assessee on 7th Nov., 2019, the AO did not have jurisdiction to issue notice under s. 271AAB(1); AO ought to have issued under sub-s. (1A) of s. 271AAB and also mentioned the specific limb cl. (a) or cl. (b) of s. 271AAB(1A) under which the assessee is being proceeded against for the levy of a penalty. AO having wrongly issued notice under s. 271AAB(1), the entire penalty proceedings are ab initio void and, therefore, quashed. (AY. 2018-19, 2020-21)

St. Joseph's Educational Trust v. DCIT (2025) 236 TTJ 507 / 175 taxmann.com 284 / [2026] 133 ITR 328 (Chennai)(Trib)

St.Joseph's Institute of Science & Technology trust v. Dy.CIT 2025) 236 TTJ 507 / 175 taxmann.com 284 / (2026] 133 ITR 328 (Chennai)(Trib)

S. 271AAB: Penalty-Search initiated on or after 1st day of July 2012-Voluntary surrender of income-Estimated disallowance of expenditure-Not "undisclosed income"-Penalty deleted-Show-cause notice not specifying applicable clause-Penalty void ab initio. [S. 132, 153A, 274] 3110

During the search, cash was found, and the assessee voluntarily offered additional income in the return filed under section 153A by estimating disallowance of marketing expenditure. The Tribunal held that the surrendered income was neither linked to any specified previous year nor represented falsification of entries in the books of account as contemplated by Explanation (c) to section 271AAB. The surrender was based on estimation and was not supported by any specific evidence establishing undisclosed income for the relevant assessment year. Consequently, the penalty under section 271AAB was deleted. The Assessing Officer issued a notice under section 274 read with section 271AAB without specifying whether penalty was proposed under clause (a) or clause (b) of section 271AAB(1A). The Tribunal held that section 271AAB contemplates different conditions and rates of penalty under different clauses, and the assessee must be informed of the precise charge. A vague notice reflected complete non-application of mind and violated the principles of natural justice. Accordingly, the penalty order was held to be void ab initio. (AY. 2019-20).

Enrica Enterprises (P.) Ltd. v. Dy. CIT [2024] 163 taxmann.com 105 / (2025) 125 ITR 340 (Chennai)(Trib.)

S. 271AAB: Penalty-Search initiated on or after Ist day of July 2012-Undisclosed income-Detection of unexplained liabilities and expenses-Incriminating evidence was found in the course of search-Not specifying the limb-Order of levying the penalty is affirmed. [S. 132] 3111

Held that the entries of unexplained liabilities found recorded in the assessee's books of account at the time of search and entries not found recorded in the books towards expenditure incurred by the assessee satisfy the definition of undisclosed income appended in s. 271AAB, more so as the assessee has expressly accepted the existence of undisclosed income; penalty under s. 271AAB(1) as imposed by the AO is not liable

to be deleted simply because the AO vide notice under s. 271AAB(1) did not specify as to under which limb of s. 271AAB(1), the penalty was proposed to be levied. On facts since the assessee has not come forward with any worthwhile explanation as regards the undisclosed income admitted by him, the conditions specified in cl. (a) of s. 271AAB(1) have not been complied with and therefore, penalty levied by the AO under cl. (c) of s. 271AAB(1) is upheld. (AY. 2016-17)
Dy.CIT v. Subhash Tyagi [2024] 169 taxmann.com 623 (2025) 233 TTJ 198 / 245 DTR 33 (Delhi)(Trib)

3112 **S. 271AAB:Peanlty-Search initiated on or after Ist day of July 2012-Assessment completed u/s. 143(3)-Addition made-Reopening u/s. 147-Again additions made-Two penalty proceedings for both addition-Merging of penalty is not valid-Not specifying the charge-Barred by limitation-Penalty order is quashed. [S. 274,275]**
Search seizure at the Assessee company's premises. Addition was made to the total income and separate penalty proceedings were initiated. Further, reopening was done by S.148 notice and further addition was made. Another penalty proceedings were was initiated. On appeal, the Tribunal observed that the AO had tried to merge the penalty proceedings initiated vide order under S. 143(3) with the penalty proceedings initiated in the reassessment order passed under S. 147/143(3) of the Act. Two separate proceedings were initiated for imposition of penalty under S. 271AAB, therefore, in no circumstances, one single order imposing penalty under s. 271AAB on the addition made vide two separate orders could be passed. It was held that the penalty proceedings issued after the order under S. 143(3) were barred by limitation. With respect to penalty proceedings initiated after the order passed under S. 147/143(3), it was held that the AO did not specify the charges of provision of S. 271AAB of the Act in the S. 274 notice, making it defective. Hence, both the penalty proceedings were deleted. (AY. 2015-16)
Panda Infratech Ltd. v. Dy.CIT (2025) 233 TTJ 356 / 122 ITR 1 (Cuttack) (Trib)

3113 **S. 271B : Penalty-Failure to get accounts audited-Delay explained by searches/seizures-Quality of cause shown more important than length of delay. [S. 44AB, 132]**
Multiple searches and seizures led to delays in filing audit reports. The Department imposed the maximum penalty under S.271B while condoning similar delays for sister concerns. On appeal, the assessee argued genuine difficulties and no loss to revenue. The Court allowed the appeal, noting that the principal consideration is the quality of the cause shown, not merely the length of delay. Given the seizures and the prompt filing upon receipt of records, there was no evidence of indolence or wilful default, and the Department suffered no loss. The penalty was therefore set aside.(AY. 1986-87)
Orkay Enterprises v. Dy. CIT, (2025) 474 ITR 503 (Bom) (HC)

3114 **S. 271B : Penalty-Failure to get accounts audited-Delay in obtaining audit reports from statutory auditors under Kerala Co-operative Societies Act and Rules-Reasonable cause-Penalty order is quashed.[S.44AB, 273B]**
Held that delay in obtaining audit reports from statutory auditors under Kerala Co-operative Societies Act and Rules is a reasonable cause. Penalty order is quashed.

Chavakkad Service Co-Operative Bank Ltd. v. ITO (2025) 302 Taxman 305 / (2026) 484 ITR 426 (Ker)(HC)
Elavally Service Co-Operative Bank Ltd. v. ITO [2025] 302 Taxman 305 /(2026) 484 ITR 426 (Ker)(HC)
Kundayam Service Co-Operative Bank Ltd. v. ITO [2025] 302 Taxman 305 (2026) 484 ITR 426 (Ker)(HC)
Paravur Service Co-Operative Bank Ltd. v. ITO [2025] 302 Taxman 305 (2026) 484

S. 271B : Penalty-Failure to get accounts audited-Failure to furnish audit report-Principles of natural justice Quantum assessment-Turnover-Gross receipts-Opportunity of hearing-Matter remanded to the file of CIT (A). [S 44AB, 250] 3115
Penalty under section 271B cannot be sustained without first adjudicating the assessee's appeal against the quantum assessment where the very applicability of section 44AB is disputed. Since the assessee contended that he was not carrying on business requiring tax audit and the Commissioner (Appeals) decided the penalty appeal without first determining the turnover and gross receipts in the quantum appeal, besides issuing only one notice, thereby violating the principles of natural justice, the order was set aside and the matter restored to the Commissioner (Appeals) for fresh adjudication after deciding the quantum appeal. (AY. 2018-19)
Gopal Agarwal v. ITO (2025) 121 ITR 74 (SN) (Agra)(Trib.)

S. 271B : Penalty-Failure to get accounts audited-Applicability of provision of section 271A-Non-maintenance of books of account-Penalty is deleted.[S.44AA, 44AB, 271A] 3116
AO levied penalty under section 271B against assessee for not getting his accounts audited under section 44AB. Assessee contended that he did not maintain books of account, thus, there was no possibility to get them audited. Assessee further contended that penalty under section 271A had already been initiated against him for non-maintenance of books of account under section 44AA, therefore, the penalty under section 271B could not be imposed. *CIT v Bareilly v. Bisauli Tractors (2007) 165 taxmann.ccom 1 (All)(HC))* since assessee had not maintained books of account, the provision of section 271B would not get attracted and the assessee would be liable to the recourse under section 271A. Hence, the impugned penalty under section 271B was deleted. [ITA No. 1035/Del/2023 dated 09/01/2025] (AY 2011-12)
Arvind Aggarwal v. ITO (Delhi)(Trib) (UR)

S. 271C : Penalty-Failure to deduct TDS-Reasonable cause-Reliance on professional/ legal opinions-Penalty deleted.[S. 201(1), 201(1A), 260A, 273B] 3117
The assessee did not deduct TDS on payments to a foreign entity under an offshore contract, relying on professional advice that no income accrued in India. Penalty under S.271C was imposed, but the Commissioner (Appeals) and Tribunal deleted it. The Court dismissed Revenue's appeal, holding no substantial question of law arose. The facts showed the assessee acted on legal opinions from reputable advisors and the foreign entity had sought an advance ruling. Such circumstances constituted reasonable cause for non-deduction and justified deletion of the penalty.(AY. 1996-97, 1997-98)
CIT v. Jindal Tractebel Power Co. Ltd. (2025) 474 ITR 477 (Karn) (HC)

3118 **S. 271C : Penalty-Failure to deduct at source-Action for imposition of penalty is initiated-Penalty proceedings were initiated on receipt of reference on 25-9-2014 and not on issuance of show cause notice on 4-8-2015-Order of penalty passed by Joint Commissioner (TDS) is barred by limitation. [S. 44AD, 260A]**

Assessee filed its return of income declaring certain loss. Tax audit report furnished by assessee had reported that assessee had not deducted certain amount as tax at source which was deductible by assessee. Assessing Officer made a reference to Joint Commissioner (TDS) on 25-9-2014. Joint Commissioner (TDS) issued show cause notice on 4-8-2015 He, thereafter proceeded to pass order dated 25-2-2016, levying penalty under section 271C. Commissioner (Appeals) deleted penalty on ground that it was barred by limitation. Dismissing the appeal of the Revenue the Court held that penalty proceedings were initiated on receipt of reference on 25-9-2014 and not on issuance of show cause notice on 4-8-2015 and, therefore, order of penalty passed by Joint Commissioner (TDS) is barred by limitation. (AY. 2011-12)

CIT (TDS) v. Turner General Entertainment Networks India (P.) Ltd. (2025) 302 Taxman 187 (Delhi)(HC)

3119 **S. 271C : Penalty-Failure to deduct at source-Curable defects-The penalty order for failure to deduct tax at source (TDS) is valid even if issued in the old name of the company after a name change, if the entity remains the same. [S. 260A, 272A(c)(k), 292B]**

The assessee is engaged in the business of rendering call centre services. The Primary issue involved was whether the penalty order issued in the old name of the company after its name change was valid. The revenue contended that the penalty order issued in the former name of the company should be considered valid under Section 292B of the Income-tax Act, which allows for the correction of clerical errors. The assessee argued that the penalty order was invalid as it was issued in the name of an entity that had ceased to exist due to a name change. The Hon'ble Tribunal held that the penalty order was invalid as it was issued in the name of a non-existent entity after the company had changed its name.

The Hon'ble High Court held that the penalty order issued in the former name of the company was valid under Section 292B of the Income-tax Act, as the entity remained the same despite the name change.

CIT (TDS) v. Adma Solutions Pvt. Ltd. (2025) 473 ITR 36/302 Taxman 106 / 342 CTR 643 (Delhi) (HC)

3120 **S.271D: Penalty-Takes or accepts any loan or deposit-Assessing Officer not recording satisfaction in assessment order that there had been violation of section 269SS-High Court quashed the penalty order-SLP dismissed.[S. 269SS, Art. 136]**

High Court following the ration in *CIT v. Jai Laxmi Rice Mills, (2015) 379 ITR 521 (SC)*, dismissed the Department's appeal holding that, there being no mention in the assessment order regarding initiation of penalty proceedings under section 271D of the Income-tax Act, 1961, no satisfaction having been recorded by the Assessing Officer before initiating penalty proceedings, no penalty under section 271D could be levied. SLP dismissed.[BP. 1-4 1995 to 19-12-2001]

PCIT v. Parivar Television Pvt. Ltd. (2025) 481 ITR 14 /(2026) 308 Taxman 186 (SC)

Editorial : PCIT v. Parivar Television Pvt. Ltd (2025) 483 ITR 391/180 taxmann.co 109 (Guj)(HC)

S.271D: Penalty-Takes or accepts any loan or deposit-Acceptance of loan in cash in excess of specified limit-No satisfaction recorded-Order of Tribunal deleting the penalty is affirmed. [S.260A, 269SS] 3121

Dismissing the appeal of the revenue, the Court held that there is no reference in the assessment order about the initiation of penalty under section 271D of the Income-tax Act, 1961, and no satisfaction has been recorded by the Assessing Officer before initiating penalty; no penalty under section 271D could be levied. (AY. 1-4-1995 to 19-12-2001 (BP)

PCIT v. Parivar Television Pvt. Ltd. (2025) 483 ITR 391/ 180 taxmann.com 109 ((Guj)(HC)

Editorial : SLP dismissed, PCIT v. Parivar Television Pvt. Ltd ([2025] 481 ITR 14/2026) 308 Taxman 186 (SC)

S.271D: Penalty-Takes or accepts any loan or deposit-Share application money-Not a loan or deposit-Penalty under section 271D/271E deleted.[S. 269SS, 269T, 271E] 3122

On the facts, the Tribunal's deletion of penalty was affirmed by the High Court as there was no basis to treat share application money as a loan or deposit. Explanation (iii) to section 269T defines "loan or deposit" narrowly as a sum repayable on demand or after a period. Share application money is paid for participation in capital and is not repayable in the manner of a loan or deposit. Therefore, sections 269SS and 269T are not attracted and no penalty under sections 271D or 271E can be imposed for receipt or repayment of share application money. [AY. 2004 05 to 2007 08)

CIT v. Vamshi Chemicals Ltd [2024] 162 taxmann.com 906 / (2025) 474 ITR 422 (Cal)(HC)

S. 271D : Penalty-Takes or accepts any loan or deposit-Receipt of entire sale consideration in cash at the time of execution and registration of sale deed does not violate section 269SS, as the expression "specified sum" applies only to advances received in relation to transfer of immovable property. [S. 269SS, 271D, 274] 3123

The assessee received ₹5.22 lakh in cash as the entire sale consideration for an immovable property at the time of execution and registration of the sale deed. The JCIT levied penalty under section 271D alleging violation of section 269SS. The Tribunal held that the expression "specified sum" inserted in section 269SS by the Finance Act, 2015 covers only advances received in relation to transfer of immovable property and not the entire sale consideration received at the time of registration. Such transactions are governed by section 269ST and not section 269SS. Since no advance had been received by the assessee, invocation of section 269SS and levy of penalty under section 271D were unsustainable. Accordingly, the penalty was deleted. Appeal allowed. [AY.2017-18]

Arati Saraf v. Jt. CIT (2025) 131 ITR 337 (Cuttack)(Trib.)

S. 271D : Penalty-Takes or accepts any loan or deposit-Immovable property-Amount received for providing additional amenities in the houses sold by the builder-Definition of consideration for transfer of immovable property referred to in s. 194-IA cannot be applied to consideration received for additional amenities-Penalty was deleted. [S. 132(4), 194IA, 269SS] 3124

Held that the Assessee-builder received total consideration on sale of row houses through a banking channel and received a certain amount in cash over and above the

agreed consideration for the additional amenities provided as per the specific choices of some customers; the same cannot be said to be consideration for transfer of immovable property, and thus there is no violation of s. 269SS. Levy of penalty was deleted.(AY. 2019-20)
DCIT v. Tapadiya Construction Ltd. (2025) 236 TTJ 216 (Pune)(Trib)

3125 **S.271D: Penalty-Takes or accepts any loan or deposit-Cash received from buyer of immovable property-The applicability of amended provisions by Finance Act, 2015 has taken effect from 1st June, 2015-Agreement to sell was entered on 31st Jan., 2015, and registered sale deed was executed on 31st May, 2016-Penalty not leviable. [S. 269SS]**
Held that the Cash amount of Rs. 7 lakhs was received by the assessee as part of the sale consideration of immovable property at the time of execution of the agreement to sell on 31st Jan., 2015. Since the provisions of s. 269SS were amended by the Finance Act, 2015 w.e.f. 1st June, 2015, there was no violation of the provisions of s. 269SS on the date on which the said money was received in cash. Penalty is not leviable. (AY. 2017-18)
Bhavanishanker Naik v. ITO (2025) 236 TTJ 240 (Bang)(Trib)

3126 **S. 271D : Penalty-Acceptance of loans/deposits otherwise than by crossed cheque-Assessee claiming bank account used by others for demand drafts towards liquor licence applications-Affidavits of depositors stereotyped, not clarifying position at time of repayment-Matter remanded for fresh verification. [S. 269SS, 269T, 271E]**
Assessee accepted cash deposits of Rs. 8,47,900, claiming these belonged to persons who used his account to obtain demand drafts for liquor licence applications and were later repaid, but could not substantiate this beyond stereotyped affidavits stating the depositors had no bank accounts; penalty under section 271D was upheld by CIT(A) as not credible. On appeal, the Tribunal held that the affidavits failed to clarify whether the depositors had bank accounts at the time of repayment, rendering the facts incomplete, and since the assessee's records had not been properly examined below, the matter was remanded for fresh verification and a fresh decision on penalty after affording a hearing. (AY.2011-12)
Prem Singh Saini v. ACIT (2025) 132 ITR 720(Jaipur) (Trib.)

3127 **S. 271D : Penalty-Takes or accepts any loan or deposit-Legal heir-Cash loans accepted or repaid by company-Legal heir not liable for acts of deceased director.[S. 159(6), 269SS, 269ST, 271E]**
Penalty under sections 271D and 271E was levied on the assessee as legal heir of her deceased husband, who was a director of a company alleged to have accepted and repaid loans in cash in violation of sections 269SS and 269ST. The Tribunal held that the assessee was neither a director nor a shareholder of the company and no material was brought on record to establish her involvement in the transactions. She had not inherited any estate or benefit attracting liability under section 159(6). The penalties were therefore rightly deleted. (AY. 2014-15 to 2017-18)
Dy. CIT v. Ira Wasson (2025) 127 ITR 344 / 171 taxmann.com 840 (Delhi)(Trib.)

S. 271D : Penalty-Takes or accepts any loan or deposit-Alleged cash receipt neither loan nor deposit-Quantum addition deleted-Penalty not leviable.[S. 269SS] 3128

The Assessing Officer levied penalty under section 271D alleging that the assessee had accepted cash in violation of section 269SS. The Tribunal held that, once the quantum addition itself had been deleted and the impugned receipt did not constitute a loan or deposit within the meaning of section 269SS, no penalty under section 271D could survive. (AY. 2011-12).

Subhash Chander Gupta v. ITO (2025) 124 ITR 247 (Chd.)(Trib.)

S. 271D : Penalty-Takes or accepts any loan or deposit-Share application money received in cash-Not loan or deposit-Penalty deleted.[S.269SS] 3129

The assessee-company received cash from its promoters and shareholders towards share application money pending allotment. Although the issue of redeemable preference shares was kept in abeyance pursuant to an interim order of the Company Law Board, the Assessing Officer treated the receipts as loans or deposits and initiated penalty proceedings under section 271D. The Tribunal held that the receipts had consistently been disclosed as share application money in the audited financial statements and accepted as such during the assessment proceedings. There was no legal prohibition under the Companies Act against receipt of share application money before increase of the authorised share capital. Since the receipts did not constitute loans or deposits within the meaning of section 269SS, penalty under section 271D was not leviable. (AY. 2012-13).

Dy. CIT v. James Hotels Ltd. (2025) 123 ITR 54 (Chd.)(Trib.)

S.271D: Penalty-Takes or accepts any loan or deposit-Agent-An agent in a transaction of transfer of immovable property between a buyer and seller, cannot be held liable for penal consequence under section 269SS for receiving, for and on behalf of and handing over money to his principal-Not liable for penalty.[S. 269SS, 273B, Indian Contract Act, 1872, S. 226] 3130

Held that an agent in a transaction of transfer of immovable property between a buyer and seller cannot be held liable for penal consequences under section 269SS for receiving, for and on behalf of and handing over money to his principal. Not liable for penalty. Penalty was deleted. (AY.2017-18, 2018-19)

R. Anbuvelrajan v. ACIT (2025) 234 TTJ 113/ 171 taxmann.com 499 (Chennai)(Trib)

S.271D: Penalty-Takes or accepts any loan or deposit-Limitation-Penalty proceedings under section 271D were initiated during reassessment by issuing a show-cause notice on 17-8-2022-Penalty order was passed on 29-3-2023 beyond the limitation period under section 275(1)(c)-Penalty was barred by limitation and was not sustainable. [S. 148, 269SS, 275(1)(c)] 3131

Tribunal held that the penalty proceedings under section 271D were initiated during reassessment by issuing a show-cause notice dated 17-8-2022, but the penalty order was passed on 29-3-2023 beyond the limitation period prescribed under section 275(1)(c); the same was barred by limitation and not sustainable. (AY. 2017-18)

Karia Builders v. ITO (2025) 214 ITD 161 (Pune)(Trib.)

3132 **S. 271DA: Penalty for failure to comply with provisions of section 269ST-Sale consideration over 2 lakhs-Genuineness of transaction was not doubted-Sales to farmers-technical and venial breach-AO is directed to delete the penalty. [S. 269ST, 274]**

Assessee having received sale consideration of farm tractors in excess of Rs. 2 lakhs in cash and furnished all the details in respect of the sales made by it to various farmers who purchased tractors from the assessee thereby proving the identity of the customers, penalty under s. 271DA for contravention of s. 269ST is not leviable. Penalty is not sustainable also for the reason that the assessee was under a bona fide belief that such payments could be accepted in view of the language of S. 269ST, which uses the expression "single transaction". AO is directed to delete the penalty. (AY.2018-19 & 2019-20)

Delta Farm Services v. ITO (2025) 234 TTJ 746 / 175 taxmann.com 61 (Delhi)(Trib)

3133 **S. 271E: Penalty-Repayment of loan or deposit-Book entries discharge of liabilities-Repayment of loan in cash-No evidence that loan was repaid in cash-Penalty not imposable. [S. 269SS, 269T]**

Held, that about the grant of loan by the assessee to Shakiti Sugar Ltd. and repayment thereof made by Shakti Sugar Ltd. to the three entities based on the instructions of the assessee and as regards the discharge of liabilities, suitable entries had been made both in the books of account of the assessee as well as Shakiti Sugar Ltd. and in a similar way, the payments were reflected in the audited books of account. Such being the case, initiation of proceedings against the assessee had been made under a wrong assumption that there was a cash transaction. The imposition of a penalty under section 271E was not valid.(AY. 2018-19) (SJ)

Anamallais Bus Transports Pvt. Ltd v. PCIT [2024] 158 taxmann.com 245 / (2025) 483 ITR 659 (Mad)(HC)

3134 **S. 271E : Penalty-Repayment of loan or deposit-Reasonable cause had been shown by assessee for non-compliance with provisions contained in section 269T and transaction was genuine and bona fide, assessee was not liable to pay penalty under section 271E for non-compliance of section 269T. [S. 269T, 273B]**

Assessee took loan from finance company for purchase of commercial vehicle. Assessee made repayment of said loan in cash. Assessing Officer initiated penalty proceedings under section 271E on ground that repayment of loan by assessee in cash was in violation of section 269T. The assessee contended that on insistence of finance company to pay amount of loan in cash, assessee was persuaded to make cash payment and same was duly reflected in books of account which had also been accepted by Assessing Officer during assessment proceedings. The Assessing Officer levied the penalty, which was affirmed by CIT(A) and Tribunal. On appeal the Court held that penalty under section 271E for non-compliance of section 269T was subject to provisions contained in section 273B and no penalty would be imposable on assessee for any failure referred to in section 271E if assessee proves that there was reasonable cause for said failure. Since reasonable cause had been shown by assessee for non-compliance with provisions contained in section 269T and transaction was genuine and bona fide, assessee was not

liable to pay penalty under section 271E for non-compliance of section 269T. Relied on Supreme Court in *Assistant Director of Inspection v. Kum. A.B. Shanthi [2002] 122 Taxman 574/255 ITR 258 (SC)* (AY. 2015-16)
Sandeep Kaur Gill v. UOI (2025) 305 Taxman 223 (Chhattisgarh) (HC)

S. 271E : Penalty-Repayment of loan or deposit-Limitation-Reference made on 7th June, 2011-The order was barred by limitation which expired on 30th June, 2011-Penalty order dt. 30th Dec., 2011, was barred by limitation. [S. 275(1)(c)] 3135
Assessment order under s. 143(3) was passed by the AO on 31st Dec., 2010 with an observation that the penalty proceeding shall be initiated separately. Reference was made by the AO to the concerned Addl. CIT on 7th June, 2011 and pursuant to the notice issued by the Addl. CIT, the penalty order dt. 30th Dec., 2011 under S. 271E was passed. On appeal the assesseee contended that the order was barred by limitation. CIT(A) upheld the contention of the assessee. Order of the CIT(A) was affirmed by Tribunal. On appeal the Court held that reference having been only on 7th June, 2011, a notice pursuant to the said reference would have been issued after 7th June, 2011, which resulted in the penalty order dt. 30th Dec., 2011, hence the order was barred by limitation which expired on 30th June, 2011. (AY. 2009-10)
PCIT v. Thapar Homes (P) Ltd. (2025) 347 CTR 184/256 DTR 144 (Delhi)(HC)

S. 271E : Penalty-Repayment of loan or deposit-Reasonable cause-Bona fide transaction duly reflected in books-No intention to evade tax-Penalty not sustainable. [S. 269T, 273B] 3136
The assessee had repaid a loan in cash to a finance company, leading the Assessing Officer to levy penalty u/s 271E for violation of s. 269T. The High Court held that a combined reading of ss. 271E and 273B makes it clear that no penalty can be imposed if the assessee proves "reasonable cause" for the failure. The expression "reasonable cause" means a cause beyond the control of the assessee, preventing a reasonable man of ordinary prudence from complying, without negligence or lack of bona fides. Bona fide belief coupled with genuineness of the transaction constitutes reasonable cause. In the present case, the repayment was made under insistence of the finance company, was duly recorded in the books, and the return was accepted without any adverse finding regarding genuineness or mala fides. There was no evidence that the transaction was aimed at tax evasion or avoidance. Penalty imposed merely for a technical breach causing no loss of revenue was therefore unsustainable. Accordingly, the penalty order was quashed. (AY. 2015-16)
Kamaljeet Kaur Gill v. JCIT (2025) 344 CTR 737/249 DTR 433/174 taxmann.com 53 (Chhattisgarh)(HC)

S. 271E : Penalty-Repayment of loan or deposit-Penalty for failure to comply with provisions of section 269T-Adjustments through journal entries for genuine business purposes-Penalty is deleted. [S. 269SS, 269T, 273B] 3137
The Tribunal held that adjustments through journal entries for genuine business purposes, such as recovering outstanding dues from CSAs, constituted reasonable cause under section 273B.The transactions were genuine, duly recorded in books of account,

and did not involve unaccounted money. Accordingly, genuine journal entries, though technically non-compliant with section 269T, did not attract penalty under section 271E. [AY 2016-17]
Nilons Enterprises (P) Ltd. v. ITO [2024] 161 taxmann.com 566 (Pune)(Trib)

3138 **S. 271G : Penalty-Documents-International transaction-Transfer pricing-Prior to amendment in section 271G by Finance (No.2) Act, 2014 w.e.f. from 1-10-2014, TPO had no jurisdiction to impose penalty under section 271G for failure to furnish documents as required by section 92D(3)-SLP of Revenue is dismissed.[S.92D(3), Art.136]**
The assessee had filed its returns which included a transfer pricing report. TPO issued on 18-2-2014, giving time up to 25-3-2014. Assessee did not comply with said notice. On 5-12-2014, second notice was issued by TPO for proposing penalty under section 271G. Assessee contested said notice and it eventually culminated in impugned order dated 22-6-2015 whereby TPO imposed penalty under section 271G. Assessee filed writ petition contending that since jurisdiction and authority to impose penalty under section 271G was with Assessing Officer till 1-10-2014, impugned penalty order passed on basis of show-cause notice issued prior to that date was invalid. High Court held that, on the facts, since the event of default occurred in March, 2014 i.e. well prior to date of coming into force of the amendment in section 271G by the Finance (No.2) Act, 2014, dated 1-10-2014, order was without jurisdiction and set aside. SLP of the Revenue is dismissed. Whether special leave petition filed against order of High Court was to be dismissed. (AY. 2011-12)
ACIT v. Ericsson India (P.) Ltd (2024) 302 Taxman 13 (SC)
Editorial : Ericsson India (P.) Ltd v. Addl.CIT (2018) 98 taxman.com 395/ (2019) 411 ITR 333 (Delhi)(HC)

3139 **S. 272A : Penalty-Failure to answer questions-Sign statements-Furnish information-Failure to comply with summons under section 131-Reasonable cause established-Penalty deleted.[S. 131, 272A(1)(c), 273B]**
Penalty was levied for alleged non-compliance with summons issued under section 131 during investigation proceedings. The Tribunal found that two of the notices had not been served upon the assessee, one notice had been responded to by seeking adjournment and the final notice had been duly complied with. Since the Department failed to controvert the assessee's explanation and reasonable cause within the meaning of section 273B was established, no penalty under section 272A(1)(c) was leviable. (AY. 2019-20).
Deepak Kumar Samtani v. Add. DIT (2025) 122 ITR 617 (Jaipur)(Trib.)

3140 **S. 272A: Penalty-Failure to answer questions-Sign statements-Furnish information-Defaulted in timely furnishing of information but ultimately submitted all requisite details which were duly considered in framing assessment-lapse was only a technical / venial breach-Penalty was not justified.[S. 10(23C), 139, 272A(1)(d)]**
Held that though there were certain failures on the part of assessee in furnishing requisite information before the Assessing Officer, ultimately all details relevant for

framing of assessment had indeed been filed by assessee university before completion of assessment proceedings. Tribunal held that for a mere technical venial breach committed by assessee, a penalty under section 272A(1)(d) could not have been levied, and the same was quashed. (AY. 2018-19)
Bundelkhand University v. DCIT (E) (2025) 214 ITD 688 (Agra) (Trib.)

S. 272A : Penalty-Failure to answer questions-Sign statements-Furnish information-Non-compliance of notices issued under section 142(1)-Assessment order was passed under section 143(3)-Penalty deleted. [S. 142(1), 272A(1)(d)] 3141
Assessing Officer levied penalty under section 272A(1)(d) in respect of non-compliance of notices issued under section 142(1). CIT(A) affirmed the order of the AO. On appeal the Tribunal held that in subsequent assessment order passed under section 143(3), Assessing Officer had expressed satisfaction with compliances made by assessee. Since Assessing Officer himself had deemed to have condoned non-compliance by assessee on earlier occasions, penalty under section 272A(1)(d) could not be imposed. Penalty is deleted. (AY. 2020-21)
Shilpa Shetty Kundra v. DCIT (2025) 212 ITD 173 (Mum) (Trib.)

S. 272A: Penalty-Failure to answer questions-Sign statements-Furnish information-No notice was received-Sufficient and reasonable cause for non-attendance-Without providing sufficient time to reply cannot be treated as non-compliance u/s.272A(1)(d)-Penalty is deleted. [S. 272A(1)(d)] 3142
The assessee has sufficiently explained the reason for non-compliance with the statutory notices issued by the AO during the assessment proceedings. AO under section 142(1) of the Act, seeking details from the
assessee, were issued within a short span of less than 40 days, during which the assessee has claimed that she had gone to her village in Gujarat. There was reasonable cause for such failure. Accordingly, this is not a fit case for the levy of penalty under section 272A(1)(d) of the Act. Accordingly, AO is directed to delete the penalty. (AY. 2016-17) [ITA No. 260/PUN/2024 dated 10/05/2024]
Dhanraj Ramchandra Chandwani v. ITO (Pune)(Trib) (UR)

S. 275 : Penalty-Bar of limitation-First appellate order was received in the financial year 2006-2007-The penalty should have been imposed within March 31, 2008 as per the proviso, especially when the order was one passed after June 1, 2003-The orders were passed on March 31, 2009, much after the limitation period-Not valid.[S.260A, 275(1)(a)] 3143
Allowing the appeal, the Court held that the first appellate order was received in the financial year 2006-2007, and hence the penalty should have been imposed by March 31, 2008 as per the proviso, especially when the order was one passed after June 1, 2003. The orders were passed on March 31, 2009 much after the limitation period. They were not valid.(AY. 1995-96, 1996-97)
Mahesh Kr. Agarwal @ Mahesh Agarwal v. Dy. CIT (2025) 483 ITR 57 (Pat)(HC)

3144 **S. 275: Penalty-Bar of limitation-Concealment-Penalty should be levied within a reasonable time-Order levying penalty eleven years after passing of assessment order and fourteen years after return-Held to be not valid. [S. 271(1)(c), 275(1)(c)]**
Dismissing the appeal of the revenue, the Court held that more than 11 years had passed since the time the assessment order was passed, and if the date of filing of the return were taken into account, there was a 14 year time gap. The proposal for commencing penalty proceedings was submitted by the Joint Commissioner on March 27, 2019. The record showed that the order under section 271(1)(c) of the Act was passed only on October 31, 2019, which was a date well beyond six months, that expired on September 30, 2019. The order levying a penalty was not valid. Order of Tribunal affirmed. (AY. 2005-06)
PCIT v. Hindustan Coca Cola Beverages Pvt. Ltd (2025) 483 ITR 109 (Delhi)(HC)

3145 **S. 275 : Penalty-Bar of limitation-Notice for levy of penalty must be issued before expiry of limitation-Notice was barred by limitation. [S.274, 275(1)(c)]**
Held, that although the decision to initiate penalty proceedings was found embedded in the assessment order dated December 31, 2010 and approval to frame the assessment order was given prior to that date, the notice was issued only on June 13, 2011. The notice was barred by limitation.(AY.2008-09)
PCIT v. Thapar Homes Ltd.(2025) 483 ITR 248 (Delhi)(HC)

3146 **S. 275: Penalty-Bar of limitation-Penalty for failure to deduct tax at source-Date of commencement for determining limitation period-Date of reference by Assessing Officer-Show-cause notice issued after a year of delay by Joint Commissioner on receipt of reference by Assessing Officer-Penalty proceedings barred by limitation. [S. 260A, 271C, 275(1)(c)]**
Dismissing the appeal of the revenue, the Court held that a show-cause notice issued after a year of delay by Joint Commissioner on receipt of a reference by the Assessing Officer-Penalty proceedings barred by limitation. (AY. 2011-12)
CIT v. Turner General Entertainment Networks India Pvt. Ltd (2025) 479 ITR 263 (Delhi) (HC)

3147 **S. 275 : Penalty-Bar of limitation-Cash transactions-Date for reckoning period of limitation proceeding based on reference by Assessing Officer Show-cause notice-Held, limitation to be reckoned from date of reference and not from date of issuance of notice by competent authority-Penalty order barred by limitation-Interpretation of taxing statutes Purposive interpretation-Absence of condonation provision to imply strict adherence to prescribed period-Courts cannot expand statutory timelines-Circular No. 9/DV/2016 dated April 26, 2016 ((2016) 383 ITR (St.) 21) [S. 269SS, 271D, 275(1)(c)]**
Dismissing the appeal of the revenue, the Court held that the reference by the Assessing Officer to the Additional Commissioner was to be treated as the initiating point or initiation of penalty proceedings under section 275. The Assessing Officer by the letter dated November 16, 2016 had admittedly made the reference. The Additional Commissioner issued the show-cause notice only on November 10, 2017, nearly a year later, proposing the levy of penalty under section 271D. The penalty order was

passed on February 22, 2018. If the reckoning point was November 16, 2016, it was clear that the proceedings were completed beyond the period of limitation. The order levying penalty under section 271D was quashed. The court refused to rely on Circular No. 9/DV/2016 dated April 26, 2016 ((2016) 383 ITR (St.) 21). Absence of condonation provision to imply strict adherence to prescribed period. Courts cannot expand statutory timelines.(AY. 2012-13)
PCIT v. K. Umesh Shetty (2025) 479 ITR 270 /303 Taxman 318/343 CTR 359 (Karn)(HC)

S. 275: Penalty-Bar of limitation-Failure to deduct tax at source-Survey-Notice for penalty after five years-The penalty order is barred by limitation if issued after the statutory time frame of six months from the end of the month in which penalty proceedings were initiated-Notice and penalty are unsustainable. [S. 260A, 271C, 272A(2)(c) (k), 275(1)(c)] 3148

The assessee, engaged in providing call centre services, contested the penalty order, arguing that it was issued beyond the statutory time frame. The assessee contended that the penalty order was barred by limitation as it was passed well after the six-month period specified under Section 275(1)(c) of the Income-tax Act. The revenue, however, argued that the limitation period for issuing the penalty order should start from the date of the Show Cause Notice (SCN), not from the date of the survey or the initiation of penalty proceedings as claimed by the Assessee.
The Hon'ble Tribunal ruled that the penalty order was invalid, as it was issued beyond the six-month statutory limit from the initiation of penalty proceedings.
The Hon'ble High Court upheld the Tribunal's decision, agreeing that the penalty order was time-barred due to the delay in issuing the SCN and passing the order, rendering it unsustainable.
CIT (TDS) v. Adma Solutions Pvt. Ltd. (2025) 473 ITR 36/302 Taxman 106 / 342 CTR 643 (Delhi) (HC)

S. 275 : Penalty-Bar of limitation-Recording of satisfaction-Cross objection-CBDT Circular binding on department-Period of limitation is to be reckoned from the date of recording of satisfaction by the AO in the assessment order and not from the date of notice issued by the Joint/Additional CIT. [S.119, 269SS, 271D, 271E, 271AAA, 275(1)(c)] 3149

Assessment order having been passed on 30.12.2022 after obtaining prior approval of the Addl. CIT and satisfaction recorded therein for violation of s. 269SS, the limitation for levy of penalty u/s 271D expired on 30.06.2023. Penalty order passed on 30.08.2023 held barred by limitation. CBDT Circular No. 10/2016 [F.NO.279/Misc./M-140/2015-ITJ], dated 26-4-2016, applied. Circular binding on the Department. AO's satisfaction is mandatory precondition for initiation of penalty proceedings even if he is not the competent authority to impose penalty. JCIT/Addl. CIT cannot extend limitation by issuing notice at his convenience. Period of limitation to be computed from the date of recording of satisfaction by AO. Tribunal held that the expression "action for imposition of penalty is initiated" refers to recording of satisfaction by the AO and not to issuance of notice by the competent authority. Revenue's contention rejected. Penalty order quashed as time-barred. Relied on *CIT v. Jai Laxmi Rice Mills Ambala City [2016] 74 taxmann.com 22 /243 Taxman 174/ 386 ITR 719 (SC), PCIT v. Thapar Homes Ltd [2024] 159 taxmann.com*

450 (Delhi) (HC), CIT v. Narayani & Sons (P) Ltd [2016] 73 taxmann.com 21 (Cal)(HC). Jagdish Chandra Suwalka v. JCIT [2023] 154 taxmann.com 504 /105 ITR 480 (Jaipur) (Trib). Cross objection of assessee was allowed. (AY.2021-22) (ITA No.1899/Chny/2025 & No.65/Chny/2025, dt. 30.10.2025)
Jayapriya Company v. DCIT (Chennai)(Trib.) www.itatonline.org

3150 **S. 276 : Offences and prosecutions-Removal-Concealment-Transfer-Delivery-Property-Thwart recovery-Transfer of Car to daughter-in-law of director-Company was not made as accused. [S.278B, 281, Art. 226]**
The company failed to discharge tax liabilities for the relevant assessment years 2014-15, 2015-16, and 2016-17, leading the Income Tax Department to raise a demand for tax dues amounting to Rs. 4.44 crores. During pendency of recovery proceedings, it was found that the company, through its director Rakesh Agarwal, transferred an Audi Car in favour of his daughter-in-law without adequate consideration. The Department treated this transfer as void under section 281 and proceeded to prosecute the directors under section 276. Sanction for prosecution was accorded by the Principal Commissioner of Income Tax to prosecute the petitioner under section 276. The complaints were filed against the petitioners before the trial court, but notably, the company itself was not arrayed as an accused. On writ, the Court held that where an offence is committed by a company, section 278B creates a deeming fiction whereby both the company and every person in charge of, and responsible to the company for the conduct of its business are deemed guilty and thus, the company must first be arraigned and only then can its officers be fastened with vicarious liability. Omission to implead the company is not a mere technical irregularity but goes to the root of jurisdiction. Referred to *Aneeta Hada v. Godfather Travels & Tours (P.) Ltd. [2012] 21 taxmann.com 43/113 SCL 564 (SC), Sharad Kumar Sanghi v. Sangita Rane (2015) 12 SCC 781, Sushil Sethi v. State of Arunachal Pradesh (2020) 3 SCC 240.* Accordingly, the orders passed by the ACMM (Special Acts), Central District, Tis Hazari Courts in complaint cases titled "*ITO v. Nilesh Agarwal" and "ITO v. Rakesh Agarwal"* and all proceedings emanating therefrom stand quashed. However, the Department was given liberty to pursue other remedies in accordance with law. (SJ) (AY. 2014-15, 2015-16 & 2016-17)
Nilesh Agarwal v. ITO (2025) 307 Taxman 512 (Delhi)(HC)
Rakesh Agarwal v. ITO (2025) 307 Taxman 512 (Delhi)(HC)

3151 **S. 276B : Offences and prosecutions-Failure to pay to the credit tax deducted at source-Tax deducted at source could not be remitted to the Central Government within time due to delay in grant of fee reimbursement by the State Government-Reasonable cause-High Court quashed the criminal prosecution-SLP of revenue dismissed. [S.201(1)(a), 278AA, 279, Art. 136]**
Assessee was engaged in imparting engineering and management education. During relevant assessment years, assessee deducted tax at source but failed to credit the same into the Central Government account within the stipulated time frame. Commissioner filed criminal complaints against the assessee for offence under section 276B. The assessee contended that 90 per cent of students were admitted on the fee reimbursement scheme and assessee had furnished information that they did not receive fee

reimbursement from the State Government within time and immediately after receiving fee reimbursement amount, they had remitted the amount to Central Government account along with interest for late payment under section 201(1)(a).High Court held that since tax deducted at source could not be remitted to the Central Government within time due to delay in grant of fee reimbursement by the State Government, assessee was able to establish reasonable cause in view of section 278AA and thus, criminal prosecution against assessee was not warranted. SLP filed by the revenue was dismissed. (AY. 2014-15, 2015-16 and 2016-17)

ITO (TDS) v. Aditya Institute of Technology and Management (2025) 304 Taxman 661 (SC)

Editorial : Aditya Institute of Technology and Management v. State of Andhra Pradesh (2024) 163 taxmann.com 738 (AP)(HC)

S. 276B : Offences and prosecutions-Failure to pay to the credit tax deducted at source-Delay not caused with mala fide intention but due to absence of concerned staff on maternity leave Subsequent compliance by delayed remittance-Criminal proceedings quashed-SLP of revenue dismissed. [S. 200(1), 278AA-Criminal Procedure Code, 1973, S. 482, Art. 136] 3152

The assessee trust managed an engineering college. It failed to remit the tax deducted at source to the Government within the prescribed time, resulting in a delay of about seven months for each instance. This delay happened because the staff member responsible for accounts went on maternity leave. The Department initiated criminal proceedings under sections 276B and 278AA of the Income-tax Act, 1961 for violation of section 200(1). On criminal petitions, allowing the petitions, that there was no deliberate or dishonest intent behind the lapse to remit the tax deducted at source. Though there was a delay on the part of the assessee, the delay was not caused wantonly, but only due to the concerned staff having gone on maternity leave, which had caused the delay. Furthermore, it was subsequently rectified and thereafter, the assessee had deducted the tax amount properly and remitted it without any delay. In view of the conduct of the assessee, the proceedings initiated against it were quashed. SLP of revenue dismissed.

ITO v. Sengoda Gounder Educational and Charitable Trust (2025) 478 ITR 356/176 taxmann.com 476 (SC)

Editorial : Sengoda Gounder Educational and Charitable Trust and others v. ITO (2024) 298 Taxman 776 (2025) 478 ITR 354 (Mad)(HC)

S. 276B : Offences and prosecutions-Failure to pay to the credit tax deducted at source-Delay was due to crisis in company-No mala fide intention-Prosecution after a lapse of more than three years High Court quashing-Delay of 239 days-SLP dismissed on Supreme Court Special leave petition dismissed on ground of delay. [Art. 136] 3153

The High Court quashed the prosecution. Delay of 239 days in filing SLP. SLP dismissed on the ground that the reasons assigned for seeking condonation of delay in filing the petition were neither sufficient in law so as to condone the delay nor satisfactory.

ITO v. SVSVS Projects Pvt. Ltd. and others (2025) 474 ITR 312 /304 Taxman 271 (SC)

Editorial : SVSVS Projects Pvt. Ltd. and Others v State of Telangana and Another(2025) 474 ITR 306 /172 taxmann.com 14 (Telangana) (HC)

3154 **S. 276B : Offences and prosecutions-Failure to pay to the credit tax deducted at source-Failure to remit tax deducted at source in time to Central Government-Assessee furnishing supporting documents to show that delay was due to late receipt of fee reimbursement from state Government-Explanation for delay plausible and sufficient cause established-tax deducted at source deposited with interest for delay payment-Criminal proceedings quashed-Supreme Court-Special Leave Petition dismissed. [S. 278AA, Code of Criminal Procedure, 1973, S. 482, Art. 136]**

Dismissing the appeal of the department, Hon'ble Supreme Court upheld the decision of the Hon'ble High Court that the assessee, an educational institution, had filed documents to show that it had not received fee reimbursement from the State Government within time and immediately after receiving the fee reimbursement, it had remitted the tax to the Central Government with interest and the reason provided for the delay in remitting the amount was sufficient to constitute "reasonable cause" under section 278AA of the Act. Therefore, criminal prosecution of the assessee was not warranted and quashed the prosecution. (AY. 2014-15, 2015-16, 2016-17)

ITO (TDS) v. Aditya Institute of Technology and Management (2025) 472 ITR 638/170 taxmann.com 708 (SC)

Editorial : Aditya Institute of Technology and Management v. State of Andhra Pradesh (2024) 471 ITR 262/ 163 taxmann.com 738 (AP) (HC). (para 4)

3155 **S. 276B: Offences and prosecutions-Failure to pay to the credit tax deducted at source-Failure to deposit tax deducted at source-Tax and interest had been deposited before prosecution was launched-Prosecution not valid.[S. 278B, Art. 226]**

Allowing the petition, the Court held that the assessee had filed a reply disclosing that the tax deducted at source with interest had already been deposited on May 11, 2016, whereas the sanction order was passed on February 14, 2018, and the prosecution was launched on April 13, 2018, i.e., after much delay. It was not the case that a prosecution was filed earlier, and thereafter the tax deducted at source was deposited. Further, no penalty proceedings had been initiated against the assessee. The prosecution was not valid.(AY. 2016-17)

A.M. Enterprises v. State of Jharkhand (2025) 483 ITR 146 (Jharkhand)(HC)

3156 **S. 276B: Offences and prosecutions-Failure to pay to the credit tax deducted at source-Assessee depositing tax deducted at source belatedly with penalty-Deputy Commissioner directed to consider assessee's reply and afford opportunity of hearing [S. 276BB, Art. 226]**

Held that the notice under challenge was a show-cause notice for prosecution under sections 276B and 276BB calling for certain particulars from the assessee to which the assessee had sent a reply by way of a letter. Thereafter, through an e-mail the Deputy Commissioner had provided final opportunity to provide the details which the assessee had not produced within the time prescribed by the Deputy Commissioner. The assessee was to have provided the particulars called for. Under such circumstances, the Deputy Commissioner was to be directed to consider the reply of the assessee and provide an opportunity of personal hearing. The assessee was to participate in the personal hearing with necessary documents, and the Deputy Commissioner should decide the issue,

taking into consideration the judgment of the Jharkhand High Court and the decision of the Supreme Court in the special leave petition against such judgment.(AY.2013-14) (SJ) *Sooriya Hospital v. Dy. CIT (2025) 483 ITR 428 (Mad)(HC)*

S. 276B : Offences and prosecutions-Failure to pay to the credit tax deducted at source-Sanction for prosecution source-Delay in depositing with Revenue-Tax deposited with interest-Circulars issued by Central Board of Direct Taxes-Interpretation of provisions of section 276B to include delay in deposit of tax deducted at source manifestly arbitrary Prosecution quashed-Non-issue of notice and order to treat any of them as principal officer of assesse. No order imposing penalty as "deemed to be an assessee-in-default" on assessee or its directors-Criminal complaints against directors of assessee not stating consent, connivance or negligence on their part as required under section 278B(2)-Directors of assessee cannot be prosecuted-Conduct of business of company must have nexus with offence committed-Amendment in law from year 1997-Use of phrase "as required by or under provisions of Chapter XVII-B" Linked only with and explains manner of deduction of tax and payment-Assessee deposited entire tax deducted at source with Revenue for assessment years 2012-2013 to 2018-2019 with interest belatedly-Prosecution quashed.[S. 2(20), 2(35(b), 201(1A), 221, 276B, 278B(2), 279(1)-Criminal Procedure Code, 1973, S. 482.] 3157

The petitioners filed application before the High Court by filing criminal Writ petition to quash the continuation of proceedings before the Magistrate court. Quashing the proceedings the Court held that complaint had been filed against company and its directors for delay in deposit of TDS deducted, which had already been deposited with interest as provided in section 201(1A), since no notice was issued to any of directors under section 2(35)(b) to treat them as principal officer of company and no averments had been made in complaint regarding 'Consent', 'Connivance' or 'negligence' as required under section 278B(2), complaint was bereft of essential ingredients and statutory requirements of section 278B and thus liable to be quashed. Court also held that section 276B (as amended by Finance Act, 1997) covers cases of 'Failure to pay' and not mere 'Delay in deposit' of TDS and thus in case TDS has been paid in full, even with some delay, section 276B would not be attracted. Court also held that merely issuance of notice would not ipso facto become a final "determination" of classification and identification of a person as 'Principal Officer'.Term 'Principal Officer' has been used singular and not in 'plural' and word officer is further premised by word 'Principal' which signifies main officer and not all officers who may someway be connected with management and administration of company and said determination can be done while passing an order under section 201(1). The term 'Director' which is separately defined under section 2(20) has not been used in section 278B and as such, the director is not covered thereunder. Court also observed that the Revenue had not invoked the provisions of section 221 read with section 201(1) to impose penalty against the assessee or the principal officer of the assessee for "failure to pay the whole or any part of tax, as required by or under this Act" and hence could not be permitted to prosecute the petitioners for the same substantive act which was also categorized as an "offence" under section 276B. As such, further trial of the petitioners by the criminal court was not permissible, which would be tantamount to abuse of process of the court. The

orders of issuance of process by the Additional Chief Metropolitan Magistrates and the orders rejecting the criminal revision applications by the Additional Sessions Court were quashed and set aside. (AY. 2012-13 to 2018-19)
Hemant Mahipatray Shah v. Anand Upadhyay [2024] 165 taxmann.com 605 /(2025) 482 ITR 1(Bom)(HC)
Hemant Mahipatray Shah v. Sahil Arora [2024] 165 taxmann.com 605 / (2025) 482 ITR 1 (Bom)(HC)

3158 **S. 276B : Offences and prosecutions-Failure to pay to the credit tax deducted at source-Sentence of fine as imposed by ACMM was to be modified, and the company was sentenced to admonition. [S.278AA, 278B, Code of Criminal Procedure, 1973, S. 378]**
Assessing Officer filed a complaint before ACMM under section 276B read with section 278B.ACMM held assessee-company guilty and was sentenced to a fine of Rs. 25 lakhs. Sessions Court set aside said conviction on the ground that TDS along with fine was deposited. The assessee had failed to establish its defence under section 278AA as no documentary evidence was produced to reflect its poor financial condition so as to prove that it had any reasonable cause for failure to deposit TDS within the prescribed period. There was a delay of 4-15 months in the deposit of TDS, which showed that the assessee was functioning and had the financial capacity to pay, though delayed by 4 months to 15 months. The company was to be held guilty for an offence under section 276B for not depositing TDS in time, and the judgment of the Sessions Judge was based on a wrong appreciation of facts and was to be set aside. However, considering that it was a technical offence and the company had already deposited the entire amount of TDS along with compensatory interest and that the company was facing liquidation proceedings, reflecting its poor financial status, further imposition of a fine was not merited. The sentence of fine imposed by ACMM was to be modified, and the company was sentenced to admonition.
ITO v. Great Indian Nautanki Co. (P.) Ltd. (2025) 307 Taxman 462 (Delhi)(HC)

3159 **S. 276B : Offences and prosecutions-Failure to pay to the credit tax deducted at source-Belated deposit of TDS-Voluntarily deposited TDS along with interest before issuance of show cause notice-Delayed compliance of provision of deducting and depositing TDS would not suffice for grant of prosecution sanction. [S. 279, Art. 226]**
The assessee challenged the order for sanctioning of prosecution for delay in depositing the TDS amount. Allowing the petition the court held that explanation given by the assessee was neither doubted nor rejected. Before issuance of show-cause notice, the TDS was deposited voluntarily by the assessee-company along with the interest; the delayed compliance of provision of deducting and depositing TDS alone shall not suffice for grant of prosecution sanction. *Hindustan Steel Ltd. v. State of Orissa (1969) 2 SCC 627* (AY. 2014-15)
Fortune Infovision (P) Ltd. v. CIT (2025) 174 taxmann.com 648/ 345 CTR 752 / 251 DTR 263 (Raj)(HC)

S. 276B : Offences and prosecutions-Failure to pay to the credit tax deducted at source-Summons to directors treating them as principal officers of assessee-Application for discharge-Trial court discharging accused directors on grounds that no notices issued and no documents produced to treat them as principal officers of assessee-Accused directors accepting delay in remittance of tax deducted in reply to notices from complainant-Defence cannot be raised at time of considering discharge application Material available to be considered at time of trial-Court can exercise its revisional jurisdiction when order suffers from illegality and incorrectness-Order was set aside. [S. 2(35), 276BB 278B, Criminal Procedure Code, 1973, S. 200, 245, Art. 226] 3160

Allowing the criminal revision petition, that with regard to the fact that the averments are made in the complaint under section 200 of the 1973 Code, that respondent Nos. 2 to 6 were responsible for the affairs of the assessee that could be considered in the trial. Before launching of the prosecution, a notice was issued which was acknowledged while giving reply that with reference to the facts and with regard to the launching of prosecution when notice was issued under section 276B read with section 278B of the Act that notices were given to the assessee and its principal officers and had received notices from the complainant and also categorically mentioned that notice was acknowledged with regard to the proposal to launching of prosecution against the principal officers of the assessee for delaying remittance of tax deducted at source and in the reply also, they had admitted reasons for delay in remittance of the tax deducted at source. When such material was available before this court and when specific averment was made in the complaint itself that respondent Nos. 2 to 6 and others were in the helm of affairs of the assessee and that they were the directors and principal officers and notices were also given and the very contention that no notice was served and they were not in charge of the affairs of the assessee, the trial court had committed an error in making an observation that no notice was served as contemplated under section 2(35) of the 1961 Act and also that they had not been in charge of the assessee was nothing but perversity. The order discharging the accused respondent Nos. 2 to 6 suffered from legal infirmity. The court could exercise its revisional jurisdiction when the order suffered from illegality and incorrectness. When specific allegation was made in the complaint itself for making an averment and even the same has been extracted by the trial court in the order in the beginning itself with regard to the specific averments made in the complaint, defence could not be raised at the time of considering the discharge application under section 245(1) of the Code. Only the court had to consider the material available on record and the same was a matter of trial. The Special Court for Economic Offences, had committed an error in discharging accused respondent No. 2. Hence, its order was set aside.

ITD v. Vishweshwara Rao Chava (2025) 476 ITR 599/304 Taxman 66/ 344 CTR 62 / 248 DTR 161 (Karn)(HC)

S. 276B : Offences and prosecutions-Failure to pay to the credit tax deducted at source-Delay was due to crisis in company-No mala fide intention of evasion on part-Prosecution after a lapse of more than three years quashed. [S.133A] 3161

Allowing the petition the court held that the delay had occurred on 39 occasions and since the payments were delayed, the interest component was collected. The assessee

had clarified that the delay in crediting the tax deducted at source to the Central Government account was on account of crisis in the company. In such circumstances, it could not be said that the company entertained any fraudulent intention to avoid payment of the tax deducted at source. When the entire amount of tax deducted at source with interest had been paid even prior to the first communication from the Department and the balance interest amount had been paid after notice. Prosecution was quashed.(AY. 2011-12) (SJ)

SVSVS Projects Pvt. Ltd v. State of Telangana and Another (2025) 474 ITR 306 /172 taxmann.com 14 (Telangana) (HC)

Editorial : SLP of revenue dismissed, ITO v. SVSVS Projects (P.) Ltd (2025) 304 Taxman 271 /474 ITR 312 (SC),

3162 **S. 276B : Offences and prosecutions-Failure to pay to the credit tax deducted at source-Salary-Compounding application-If application is moved before the Court below, the same shall be considered on its merit without being influenced by the observation of this Court in the present order-Circular F. No. 285/08/2014-IT(INV. V)/163, dated 17-10-2024-[S. 192, 278AA, Code of Criminal Procedure, 1973, S. 320]**

Assessee had deducted tax at source (TDS) in respect of various payments made to employees towards salary but did not deposit TDS amount into the Central Government account by the stipulated due dates. A complaint was instituted against assessee for prosecution under section 276B. Assessee had already deposited entire TDS amount deducted along with delayed interest. Assessee sought benefit contemplated under section 278AA. Application of assessee seeking discharge from criminal prosecution initiated by revenue was turned down. On appeal the Court held that in view of Circular F. No. 285/08/2014-IT(INV. V)/163, dated 17-10-2024 issued by CBDT, wherein the department had harmonized entire procedure for compounding all kinds of offences under Income-tax Act arising out of curable defects, assessee could resort to a procedural remedy under section 320 of Cr.P.C. and seek compounding of the offence.

If an application is moved before the Court below, the same shall be considered on its merit without being influenced by the observation of this Court in the present order.

Binod Pattanayak v. UOI (2025) 303 Taxman 359 (Orissa)(HC)

3163 **S. 276B : Offences and prosecutions-Failure to pay to the credit tax deducted at source-Educational institution-Fee reimbursement-90 per cent of students delayed the payment of fees-Reasonable cause-Criminal prosecution is quashed. [S. 192B, 194A, 194C, 194J, 201(1)(a), 278AA, 279, Criminal Procedure Code, 1976, S. 482]**

The assessee deducted tax at source under different sections in expenditure incurred but failed to credit the same into the Central Government account within the stipulated time frame. Commissioner filed criminal complaints against the assessee for an offence under section 276B. The petitioner has filed a petition to quash the Criminal proceedings. Allowing the petition, the Court held that 90 per cent of students were admitted on the fee reimbursement scheme and assessee had furnished information that they did not receive fee reimbursement from the State Government within time. Immediately after receiving fee reimbursement amount, they had remitted the amount to the Central

Government account along with interest for late payment under section 201(1)(a). Court held that since tax deducted at source could not be remitted to the Central Government within time due to delay in grant of fee reimbursement by the State Government, the assessee was able to establish reasonable cause; hence, criminal prosecution is quashed. (AY. 2014-15 to 2016-17)
Aditya Institute of Technology and Management v. State of Andhra Pradesh (2024)471 ITR 262/ 163 taxmann.com 738 (AP)(HC)

S. 276C : Offences and prosecutions-Willful attempt to evade tax-Set off of short term capital loss against long term capital gains-Search-Revised return-Delayed payment of tax as revised return was filed after search was conducted on assessee and merely because claims of deductions were not accepted or were not acceptable to revenue, that by itself would not amount to wilful evasion of tax and accordingly, proceedings pending before Special Court against assessee were quashed-SLP filed by revenue was dismissed [S. 139, Art. 136] 3164

Assessee claimed deductions in respect of long-term capital gain/short-term capital loss while filing his returns under section 139. Claims were accepted by the Assessing Officer. Later, search proceedings were initiated against the assessee and his family members and companies owned by him. They immediately filed revised returns, waiving claims of deductions. Complaints were lodged against them for an offence punishable under section 276C. Assessees submitted that they had sold certain shares and earned long-term capital gains all through banking transactions with stockbrokers in relation to advice stockbrokers had rendered. However, stocks in respect of which gains were made were not the same as stocks in respect of which deductions were claimed. It was further submitted that it was not a case where ipso facto evasion of tax could be laid against the assessee. High Court held that it was a case of delayed payment of tax as revised return was filed after search was conducted on assessee and merely because claims of deductions were not accepted or were not acceptable to revenue, that by itself would not amount to wilful evasion of tax; accordingly, proceedings pending before the Special Court against the assessee were quashed. SLP filed by the revenue was dismissed. (AY. 2010-11 to 2012-13)
ITD v. Anurag Bagari (2025) 304 Taxman 263 (SC)
Editorial: Anurag Bagaria v. ITD (2024) 158 taxmann.com 546 (Karn)(HC)

S. 276C: Offences and prosecutions-Wilful attempt to evade tax-Penalty waived-Circular of Board and prosecution manual of Department providing for prosecution only in cases where penalty exceeding Rs. 50,000 imposed-Circular binding on revenue-Circulars dated 24-4-2008 and 9-9-2019-Circular binding on revenue-Settlement Commission granting immunity-continuation of prosecution an abuse of process of law-Strictures-Costs of Rs, 2,00,000 was awarded against the Department, payable to the appellant. [S. 119, 245H, 245I, 279(IA), Art. 226] 3165

Allowing the petition and reversing the order of High Court, the Court held that Circular is binding on the revenue. Department providing for prosecution only in cases where penalty exceeding Rs. 50,000 imposed. The circular is binding on revenue. Court also held that where the Settlement Commission grants immunity, continuation

of prosecution is an abuse of process of law. Continuation of prosecution in blatant disregard of binding circular and in defiance of guidelines of Department. Such wilful non-compliance of its own directives reflected a serious lapse, and undermined the principles of fairness, consistency, and accountability, which could not be treated as justified or lawful. Honourable Court imposed Costs of Rs. 2,00,000 against the Revenue payable to the appellant.

Vijay Krishnaswami alias Krishnaswami Vijayakumar v. Dy. DIT (2025) 479 ITR 467 / 347 CTR 10 / 254 DTR 1 / 177 taxmann.com 807 (SC)

Editorial: Vijay Krishnaswami alias Krishnaswami Vijayakumar v. Dy. CIT (2025) 479 ITR 442 (Mad)(HC)

3166 **S. 276C: Offences and prosecutions-Willful attempt to evade tax-Long term capital gains-Search-Long term capital gains-Revised return-Delayed payment of tax-Order of High Court quashing the prosecution proceedings was affirmed-SLP of revenue was dismissed. [S. 45, 132(4), 139, Code of Criminal Procedure, 1973, 482, Art.136]**

Assessee claimed deductions in respect of long-term capital gain/short-term capital loss while filing his returns under section 139. Claims were accepted by the Assessing Officer. Later, search proceedings were initiated against assessee and his family members and companies owned by him. They immediately retracted and filed revised returns, waiving claims of deductions. Complaints were lodged against them for an offence punishable under section 276C. Assessee submitted that they had sold certain shares and earned long-term capital gains all through banking transactions with stockbrokers in relation to advice, stockbrokers had rendered. However, stocks in respect of which gains were made were not the same as stocks in respect of which deductions were claimed. The assessee also submitted that it was not a case where ipso facto evasion of tax could be laid against the assessee. On appeal, the High Court held that, on facts, it was a case of delayed payment of tax as revised return was filed after the search was conducted on assessee and merely because claims of deductions were not accepted or were not acceptable to revenue, that by itself would not amount to wilful evasion of tax; therefore, proceedings pending before Special Court against assessee were to be quashed. SLP filed by revenue against the order of High Court was dismissed. (AY. 2010-11 to 2012-13)

Income-tax Department v. Kum Kum Bagaria (2025) 303 Taxman 183 (SC)

Income-tax Department v. Bioworth India (P.) Ltd. (2025) 303 Taxman 518 (SC)

Editorial : Aunurag Bagaria v. Income-tax Department(2024) 158 taxmann.com 546 (Karn)(HC)

3167 **S. 276C: Offences and prosecutions-Wilful attempt to evade tax-Delay in payment of tax does not amount to evasion of tax-Prosecution is not valid.[S. 278B]**

Allowing the petition of the assessee, the Hon'ble High Court held that it is not in dispute that the Income-tax was self-assessed and payment thereof was also made, though belatedly. The tax, along with interest, was paid on July 10, 2013. The show-cause notice for delayed payment was sent only on February 11, 2014, and February 24, 2014, pursuant to which the complaint was instituted. Therefore, by no stretch of imagination could it be held that there was any evasion of tax on the part of the

assessee, though there was a delay in the payment of the tax for which interest was paid. The prosecution is not valid.(AY. 2012-13) (SJ)
Hansa Metallics Ltd. v. Dy. CIT [2024] 298 Taxman 67 / (2025) 472 ITR 737 (P&H) (HC)

S. 276C: Offences and prosecutions-Wilful attempt to evade tax-HSBC (Suisse) accounts-Unauthenticated DTAA-sourced information from France about alleged Swiss bank accounts, coupled with no incriminating material found in search and no corroboration, cannot sustain prosecution.[S.132, 132(4), 276D, 277, 278E] 3168
The Assessee's returns were completed, but information received under the Indo-France DTAA alleged undisclosed HSBC (Suisse) accounts. A search under Sec. 132 yielded no incriminating material, yet reassessment / additions were made, and criminal complaints were filed.
The Assessee argued the DTAA material was unauthenticated and unverified (not obtained from Swiss primary sources) and there was no independent corroboration linking him to any Swiss account. Since no incriminating material was found in the search and the Hon'ble Tribunal had set aside the assessment additions, the basis for prosecution did not survive. The Assessee also contended that insisting on a "Consent Waiver Form" to seek Swiss information was a roving enquiry and refusal to sign could not be treated as evidence of guilt; there was no material showing willful tax evasion. The Revenue argued that the absence of recovery in search is not decisive, that assessment outcomes do not bind criminal courts, and that the Hon'ble Tribunal's order was only on jurisdiction/technical grounds (no incriminating material) rather than merits. Revenue also claimed that signing the waiver and non-compliance with s. 142(1) notices constituted separate offences. The Hon'ble Delhi High Court quashed both complaints, holding there was no credible corroborative evidence establishing the essential ingredients of Sec. 276C (1)(i), 276D and 277(1). The case rested on unauthenticated DTAA inputs with no incriminating recovery, and non-signing of the consent waiver on such inputs could not justify criminal prosecution. (AY. 2006-07, 2007-08]
Anurag Dalmia v. ITO (2025) 306 Taxman 304 (Delhi)(HC)

S. 276C : Offences and prosecutions-Willful attempt to evade tax-Bailable nature-Magistrate had mechanically passed order issuing non-bailable warrant against petitioner in a bailable offence-Order was quashed and set aside. [S. 276(2), Code of Criminal Procedure, 1973, S. 428, Bharatiya Nagarik Suraksha Sanhita, 2023 S. 528] 3169
Additional Chief Metropolitan Magistrate issued a non-bailable warrant against the petitioner for an offence punishable under section 276C(2). Petitioner filed a petition to quash the proceedings. Court held that the offence under section 276C(2) was bailable in nature. It was also held that no reasons were recorded in said order and it was a cryptic order which lacked application of mind. Court held that since Magistrate had mechanically passed an order issuing a non-bailable warrant against the petitioner in a bailable offence, the order was quashed and set aside.
Arjun Amarjeet Rampal v. Income-tax Department (2025) 305 Taxman 384 (Bom.)(HC)

3170 **S. 276C: Offences and prosecutions-Wilful attempt to evade tax-Established beyond reasonable doubt that non-payment of Income Tax dues was wilful and not on account of financial inability-Upheld the conviction [S. 276(2)]**

Assessee was charged for an offence under section 276C(2) for wilful evasion of payment of income tax. The assessee contended that failure to make payment was not 'wilful' but on account of his 'financial constraints' and his entire capital had been taken by his brother-in-law, SCK. Court held that there was no finite finding of any amount being due from brother-in-law-Evidently, there were business transactions between assessee and brother-in-law under which money transfers had taken place and in case the assessee was claiming that it was an amount due to him from brother-in-law, he needed some kind of better evidence to establish his assertions. No civil suit or other civil litigation was initiated by him for his alleged recovery of amounts due to him. It was found that assessee had earned profit of Rs. 4.06 crores during the relevant year and had also shown profits from licensing and interest from FDRs but did not file return. Court held that since it was established beyond reasonable doubt that non-payment of income tax dues was wilful and not on account of financial inability, as asserted by the assessee, upheld the conviction and sentence of the assessee under section 276C(2). (AY. 1995-96)

Harish Chadha v. State (2025) 347 CTR 163 / 305 Taxman 473 (Delhi)(HC)

3171 **S. 276C: Offences and prosecutions-Wilful attempt to evade tax-Rejection of discharge petition-Trial Court erred in treating 53-month delay as fatal-Foundational lack of territorial jurisdiction and invalid sanction make out a prima facie case for discharge under s. 245 of Cr.P.C-Criminal revision case was allowed. [S.276, 276CC, 278E, CrPC, 245]**

In the present case, the assessee claims residence at Krishnagiri, and the assessment also took place there. The property sale also occurred within Krishnagiri. These facts raise a substantial doubt on the jurisdiction of the Madurai Court. The sanction order marked as Ex. P1, mentions only s. 276CC, while the complaint includes ss. 276, 276C and 276CC. Thus, the inclusion of charges beyond the scope of the sanction makes the complaint legally untenable at the threshold. While s. 278E provides for a presumption of culpable mental state, the same is rebuttable. However, whether the delay was wilful or due to bona fide reasons is a matter for trial, not summary rejection at the discharge stage. The Trial Court erred in treating a 53-month delay as fatal. Court held that the Trial Court misdirected itself by rejecting the discharge petition without properly appreciating the jurisdictional objections and the infirmities in the sanction order. While this Court does not adjudicate on factual aspects requiring evidence, the foundational lack of territorial jurisdiction and invalid sanction make out a prima facie case for discharge under s. 245 of Cr.P.C.The Trial Court erred in treating a 53-month delay as fatal; foundational lack of territorial jurisdiction and invalid sanction make out a prima facie case for discharge under s. 245 of Cr.P.C. (AY.2013-14)(SJ)

Solaimalai Kumari v. State through Income Tax Department (2025) 347 CTR 885 / 254 DTR 468 (Mad)(HC)

S. 276C : Offences and prosecutions-Wilful attempt to evade tax--Search and seizure-Settlement commission-Cash during election expenditure monitoring-Undisclosed income-Admitting in sworn statement that seized cash was undisclosed income of assessment year 2016-2017-Prosecution initiated-Application filed by assessee before Settlement Commission for assessment year 2016-2017 after initiation of prosecution-Question of fact to be proved at trial-Settlement for different assessment years not ground for quashing criminal proceedings-Authorisation-Commissioner Definition Principal Director competent authority to authorise Deputy Director (Investigation) for initiation of prosecution. [S. 2(16), 132(4). 245C, 276C(1), Criminal Procedure Code, 1973, S. 482.] 3172

During the course of election expenditure monitoring for the Tamil Nadu State legislative assembly election of 2016, a search under section 132 of the Income-tax Act, 1961 was conducted at the residence of the assessee and cash was seized. The statement of the assessee was recorded under section 132(4) in which the assessee deposed that the seized amount was his unaccounted income earned through various activities like mediating for contracts and working as a commission agent for various transactions with the Government during the assessment year 2016-2017. The assessee had filed his return of income for the assessment year 2017-2018 declaring nil income. The Deputy Director (Inv) filed a complaint for the offence punishable under section 276C(1) of the Act. Subsequently, the assessee filed an application under section 245C before the Settlement Commission, which accepted the income shown by the assessee for the assessment year 2016-2017 and granted him immunity from penalty. On a petition to quash the criminal proceedings, dismissing the petition, the Court held that the assessee had failed to disclose the income for the assessment year 2017-2018 and had declared his income as nil. The only contention raised by the assessee was that the cash seized did not pertain to the assessment year 2017-2018 but pertained to the assessment year 2016-2017. The settlement application had been filed before the Settlement Commission and was duly accepted by the Settlement Commission. The complaint had been filed for not showing the income for the assessment year 2017-2018. If the complaint had been filed for the assessment year 2016-2017, then the assessee easily would have taken a stand that the seized money was the income of the assessment year 2017-2018. It was also evident from the settlement application submitted by the assessee. The complaint was filed before the assessee filed the settlement application before the Settlement Commission. Therefore, the assessee had conveniently taken the stand that the seized amount pertained to the income for the assessment year 2016-2017. Even assuming that the seized money was the income for the assessment year 2016-2017, it had to be proved during the trial. The word "Commissioner" had been defined under section 2(16) to include a person appointed as Principal Director and therefore, he was competent to authorise the Deputy Director (Investigation) to initiate prosecution under section 276C(1). There were no grounds to quash the criminal proceeding pending before the Additional Chief Metropolitan Magistrate.

Vijay Krishnaswami alias Krishnaswami Vijayakumar v. Dy. CIT (2025) 479 ITR 442 (Mad) (HC)

Editorial: Decision of High Court reversed, Vijay Krishnaswami alias Krishnaswami Vijayakumar v. Dy. DIT (2025) 479 ITR 467 (SC)

3173 **S. 276C : Offences and prosecutions-Wilful attempt to evade tax-Failure to pay self-assessment tax along with return-Mere delay in payment of self-assessment tax does not amount to wilful attempt to evade tax-Continuation of prosecution would be abuse of process of law-Complaint quashed and dismissed. [S.139, 140A, 143(1), 276C(1), 276(2), 276B, 278E, 279(1), Art. 227]**

The assessee, a partner in firms engaged in stone crushing and pipe manufacturing, filed his return of income for AY 2022-23 on 05.11.2022 declaring income of ₹2.17 crore and self-assessment tax of ₹94.22 lakh. He paid the tax on 16.01.2023 with interest. The department launched prosecution under section 276C(2) alleging wilful default in not paying self-assessment tax along with the return, for which sanction was granted by the Principal CIT (Central), Pune. The assessee contended that there was no wilful default and the tax had been subsequently paid. The Court held that section 276C(2) contemplates a "wilful attempt to evade tax" and not a mere failure or delay in payment. There was no material to infer wilfulness, and the assessee's subsequent payment along with the explanation of financial difficulties negated intention to evade. Since the ingredients of section 276C(2) were not satisfied, continuation of prosecution would amount to abuse of process. Accordingly, the order issuing process and the complaint were quashed. (SJ) (AY. 2022-23)

Vilas Babanrao Kalokhe v. PCIT (2026) 308 Taxman 227 (Bom)(HC)

3174 **S. 276C : Offences and prosecutions-Wilful attempt to evade tax-Strictures-Citizens should not be dragged into prosecution without concrete evidence-Failure to produce books of accounts-documents-False statement-Verification-HSBC, Switzerland-Unauthenticated documents from a third party-Alleged foreign bank accounts-Fraud-Unauthenticated information under DTAA-Search conducted-No incriminating material found-Identity not established-Assessment reopened-Penalty imposed-ITAT quashed reassessment-No prima facie case-Reopening held unjustified-Prosecution quashed-Repeated harassment due to baseless allegations-Quashing of criminal complaints upheld-DTAA-India-Switzerland (French). [S.5, 69, 90, 132(4), 153A, 271(1)(b), 276C(1)(i), 276D, 277(1), 278E,Criminal Procedure Code, 1973, S. 482, 483, Art, 26 Art. 227]**

The petitioner, Anurag Dalmia, challenged two criminal complaints filed under Sections 276C(1)(i), 276D, and 277(1) of the Income-tax Act, 1961, arising from an assessment order dated 23.03.2015 based on information received under the Double Taxation Avoidance Agreement (DTAA) from the French Government. The information suggested the petitioner held undisclosed bank accounts in HSBC, Switzerland. A search under Section 132 was conducted on 20.01.2012, but yielded no incriminating material. The petitioner consistently denied the allegations and refused to sign a consent-waiver form to allow Swiss authorities to share information. Despite lack of evidence, the Assessing Officer made additions to income under Section 69, which were upheld by the CIT(A) but subsequently set aside by the ITAT on 15.02.2018. The ITAT held that no incriminating material had been found to justify the additions or penalties. The petitioner argued that once the ITAT had quashed the assessment order, the foundation of the criminal prosecution ceased to exist. The respondent countered that the criminal prosecution was independent of assessment proceedings.

1. Whether the information received from France under DTAA can be relied upon to initiate criminal case against the accused?
2. Whether on the basis of the aforesaid information, could the Assessee be compelled to sign the Consent Waiver Form?
3. Whether the Criminal Complaints under Sections 276(1), 276D, and 277(1) of the IT Act can be sustained when the Assessment Order has been set aside by ITAT for want of incriminating material?

The High Court held that the entire prosecution was based on unauthenticated documents from a third party (French Government) without corroboration from Swiss authorities or any material recovered during search. The assessment order had been quashed not merely on technical grounds but for want of incriminating evidence. The refusal to sign the consent waiver form, without credible underlying basis, could not be criminalised.

The Bench relied heavily on various judgments:

- *K.C. Builders v. ACIT, (2004) 2 SCC 731,* where the Supreme Court held that once the basis for penalty or assessment is set aside by the appellate authority, the prosecution based on such assessment cannot be sustained.
- *G.L. Didwania v. ITO (1997) 224 ITR 687 (SC),* where it was held that once the finding of concealment is overturned by the Tribunal, prosecution under Section 276C fails automatically.
- *Ram Jethmalani v. UOI (2011) 8 SCC 1,* which held that the mere appearance of names in unauthenticated foreign bank data does not justify legal action without proper verification or evidence.
- *Jayappan v. S.K. Perumal, (1984) 149 ITR 696 (SC),* affirming that criminal prosecution and assessment proceedings are distinct, but prosecution cannot survive where the assessment itself is held to be baseless.
- *Best Infrastructure (India) Pvt. Ltd. v. DDIT, (2017) 397 ITR 82 (Delhi)(HC),* which held that additions in search-based assessments under Section 153A require incriminating material found during search itself.

The Hon'ble Court also observed that, "State seeking to prosecute an individual must first establish a prima facie case. Mere presence of a name in unauthenticated foreign documents cannot be used to ruin a citizen's peace or liberty."

The High Court found no prima facie case against the petitioner. The unauthenticated documents and failure to sign the consent form could not sustain prosecution in the absence of independent, corroborated evidence. The complaints were quashed and the petitions allowed. *Mrs. Jayanti Dalmia v. Dy. CIT (2022) 139 taxmann.com 54 (Delhi) (HC) (para 84),* Distinguished.

Anurag Dalmia v. Income Tax Office (2025] 306 Taxman 304 (Delhi)(HC)

S. 276CC: Offences and prosecutions-Failure to furnish return of income-Adjudicating proceedings would not be binding on proceedings for criminal prosecution and both proceedings could be launched simultaneously-Tribunal in adjudicating proceedings disposed appeals merely on ground of limitations and merits raised in complaint with regard to non-filing of return of income, non-payment of advance tax, non-payment of tax demanded, suppression of true and correct income were not considered-Criminal 3175

prosecution initiated against petitioner could not be quashed-SLP filed against impugned order of High Court was dismissed [S. 139(1) 148, 153A, 276C, Art. 136]
Petitioner failed to comply with statutory requirements under sections 139(1), 148 and 153A for relevant assessment years. Petitioner was issued show cause notice for prosecution under section 276CC for concealing his true income by not filing return and on failure to pay advance tax. Consequently, a complaint was filed stating that petitioner committed offences under sections 276CC and 276C. Petitioner requested quashing of said complaint on the ground that Tribunal declared the assessment orders as null and void and, thus, prosecution of criminal cases would not be sustainable. High Court held that adjudicating proceedings would not be binding on proceedings for criminal prosecution and both proceedings could be launched simultaneously. High Court further held that since the Tribunal, in adjudicating proceedings, disposed appeals merely on ground of limitations and merits raised in the complaint with regard to non-filing of return of income, non-payment of advance tax, non-payment of tax demanded, and suppression of true and correct income were not considered, criminal prosecution initiated against the petitioner could not be quashed. SLP filed against impugned order of High Court was dismissed.(AY. 2002-03 to 2006-07)
S.J. Suryah v. Dy. CIT (2025) 304 Taxman 261 (SC)
Editorial: S.J. Suryah v. Dy. CIT (2022) 288 Taxman 621 (Mad)(HC)

3176 **S. 276CC: Offences and prosecutions-Failure to furnish return of income-First offence under compounding guidelines-Supreme Court allows compounding-Letter F. No. 285/35/2013 IT (INV.V)/108, dated 23-12-2014. [S. 119, 139(1), 139(4), 139(8), 148, 153A, Guidelines for Compounding Offences, 2014, (2015) 371 ITR 7 (St), 279(2), Art. 136]**
The assessee belatedly filed his return of income for AY 2011-12. Consequently, prosecution under section 276CC was initiated against the assesse. Assessee filed a compounding application. Thereafter, the assessee filed a return of income for AY 2013-14 after the due date, and prosecution under section 276CC was initiated for AY 2013-14. In reply, assessee filed a compounding application which was rejected on the ground that it was not a 'first offence' under the Guidelines for Compounding of Offences under Direct Tax Laws, 2014, which was upheld by the Gujarat High Court. On further appeal, the Supreme Court observed that the expression 'first offence' is also defined to include any offence which has not been detected by the Department but has been voluntarily disclosed by a person prior to the filing of the compounding application. The Supreme Court overturned the decision of the High Court, holding that since an offence under section 276CC is said to have been committed on date immediately following the due date for furnishing return under section 139(1), offences with respect to both assessment years were committed prior to the date of issue of any show cause notice for prosecution and would be covered by expression 'first offence'. (AY.2011-12, 2013-14)
Vinubhai Mohanlal Dobaria v. CCIT (2025) 303 Taxman 415 /473 ITR 394/343 CTR 1 / 246 DTR 169 (SC)
Editorial : Vinubhai Mohanlal Dobaria v. Chief CIT [2017] 247 Taxman 253/ 153 DTR 118 / (2025) 473 ITR 387 (Guj) (HC) (para 82) reversed. Prakash Nath Khanna v. CIT [2004] 135 Taxman 327/266 ITR 1 (SC) (para 44) followed.

S. 276CC : Offences and prosecutions-Failure to furnish return of income-High Court refusing to quash criminal proceedings-Filed revised Income-tax return-Penalty proceedings dropped and refund ordered-On facts continuing criminal proceedings would be unnecessary prosecution quashed. [Criminal Procedure Code, 1973, S 482, Art. 136] 3177

Criminal proceedings were initiated against the assessee under section 276CC of the Income-tax Act, 1961 for failure to file the revised Income-tax return within time. The High Court, refused to quash the prosecution proceedings. On appeal, the Court held that allowing the appeal, that continuing the criminal proceedings would be unnecessary. The assessee did in fact file the revised Income-tax return, and penalty proceedings which were initiated against the assessee had been dropped. As a consequence, refund was also ordered. Considering the facts of the case in their totality, the order of the High Court was to be set aside, and consequently, the criminal proceedings initiated under section 276CC of the Act, 1961 against the assessee, quashed.(AY. 2012-13)

R.P. Darrmalingam v. ACIT (2025) 478 ITR 80/304 Taxman 348 (SC)

Editorial : R.P. Darrmalingam v. ACIT (2024) 471 ITR 769 (Mad)(HC)

S. 276CC: Offences and prosecutions-Failure to furnish return of income-Illness of assessee-Prosecution is not valid-Discharge application is allowed. [S. 139(1), Criminal Procedure Code, S. 245] 3178

Allowing the petition, the Court held that though the order dated March 31, 2011 recorded that the reply of the assessee was not satisfactory, it did not assign any reason for arriving at that conclusion when the assessee had taken the stand that on account of his ill health the return was not filed on time and delayed filing was not wilful nor intentional. The order was not valid. Discharge application is allowed. (AY.2009-10)(SJ)

Ravi Prakash Khetan v. UOI (2025)472 ITR 147 (Pat)(HC)

S. 276CC : Offences and prosecutions-Failure to furnish return of income-Interest is levied-Presumption that office has extended the time for filing of return-No mens rea-Criminal appeal of Revenue is dismissed-Judgment of acquittal is affirmed-Delay in filing income-tax return-Entire tax is deposited.[S. 139, 142, 148, 278E] 3179

Dismissing the petition of the Revenue, the Court held that the assessee explained reasons, in detail, about delay in filing income-tax returns and depositing the entire tax amount with penalty subsequently; it showed that assessee had no mens rea to evade payment of tax and, prosecution under section 276CC is rightly quashed by the Court. (AY. 1978-79)

ITO v. Rajendra Prasad Vaish (2024) 471 ITR 179 /161 taxmann.com 711 (Raj) (HC)

S. 276CC : Offences and prosecutions-Failure to furnish return of income-Subsequent filing of return-Adjudication in assessment proceedings is not relevant for prosecution-Petition to quash the proceeding is dismissed. [S. 139, 153A, 276C, Criminal Procedure Code, 1973, S. 468] 3180

Dismissing the petition, that under section 482 of the Code of Criminal Procedure, 1973, the assessee failed to file his return of income. After inspection, the seized materials showed that the assessee had concealed the income. He was issued notice under section

153A of the Act and filed the income tax return for the assessment year 2012-13 on November 20, 2015, showing his income. He had suppressed and concealed the income in the income-tax return filed by him on April 18, 2013. The Tribunal dropped the penalty proceedings solely on the ground of limitation. There was concealment by the assessee while filing his first return of income for the assessment year 2012-13. The assessee is now facing prosecution under section 276CC of the Act. In that part, the mens rea of the assessee was clearly established by the respondent. The prosecution under section 276CC is justified. (AY. 2012-13)(SJ)
R. P. Darrmalingam v. ACIT (2024) 471 ITR 769 (Mad) (HC)

3181 **S. 278AA : Offences and prosecutions-Reasonable cause-For failure to deposit TDS-No punishment-Order of the Trial Court acquitted the respondents primarily on the ground that the respondents had satisfactorily demonstrated the existence of a 'reasonable cause' for the delay in depositing TDS, within the meaning of section 278AA-High Court affirmed. [S.201(IA), 234E, 276B, 278E, 279 Code of Criminal Procedure, 1973, S. 378(4)]**

The respondents were prosecuted for non-depositing of TDS at the appropriate time. The defence advanced by the respondents was that during the relevant assessment years, the company was undergoing an acute financial crisis, including non-receipt of substantial dues from clients, particularly government agencies, which led to a severe cash flow shortage and hindered timely TDS compliance. Despite these constraints, the respondents eventually deposited the entire TDS amounts, albeit belatedly, along with applicable interest and late fees, even prior to the filing of the complaint. The Trial Court acquitted the respondents primarily on the ground that the respondents had satisfactorily demonstrated the existence of a 'reasonable cause' for the delay in depositing TDS, within the meaning of section 278AA. On appeal by the revenue the Court held that section 278AA carves out an express exception to penal liability under section 276B, where accused can establish a 'reasonable cause' for failure to deposit TDS. Section 278AA specifically provides intent of legislature that no person shall be punished for failure to comply with section 276B if it is established that failure occurred due to a reasonable cause. Respondents were prosecuted for non-depositing of TDS at the appropriate time. Defence advanced by respondents was that during relevant assessment years, it was undergoing an acute financial crisis. Trial Court acquitted respondents primarily on the ground that respondents had satisfactorily demonstrated existence of a 'reasonable cause' for delay in depositing TDS, within meaning of section 278AA. Prosecution's case hinged more on occurrence of default than on requisite mental element necessary to sustain conviction under section 276B, read with section 278E. Trial Court had adopted a legally tenable interpretation of section 278AA and rendered findings which were not only supported by the record but also resonated with the underlying objective of the provision-namely, to shield individuals from criminal prosecution where non-compliance was neither wilful nor mala fide.
ITO v. MKY Constructions (P.) Ltd. (2025) 305 Taxman 507 (Delhi)(HC)

S. 279: Offences and prosecutions-Sanction-Chief Commissioner-Commissioner-First offence-3 per cent compounding charges were leviable upon the petitioner and not 5 per cent. [S.279(2), Art. 226] 3182

Petitioner, a director of the company, failed to deposit TDS of a certain amount for the financial year 2009-10 within the stipulated time and deposited the same after a few months' delay, which resulted in criminal prosecution against him. He filed an application for compounding of the offence under section 279(2), and the same was accepted, and compounding charges at a rate of 3 per cent were levied upon him. However, subsequently, he was asked to pay compounding charges at a rate of 5 per cent on the ground that the petitioner had applied for compounding for the second time and the petitioner had furnished wrong information in the application regarding the previous compounding. Petitioner contended that, as per guidelines issued by CBDT in the year 2014, since he had applied for compounding of the first offence but no such offence had been compounded earlier, compounding charges at the rate of 5 per cent could not have been levied upon him. On writ, the Court held that 5 per cent was only chargeable when an earlier offence had been compounded, and the conditions stipulated in said order were complied with. Since, in the instant case, the first application of the petitioner for compounding was rejected, there was no question of a compounding order being passed or any payments thereof. Thus, 3 per cent compounding charges were leviable upon the petitioner and not 5 per cent. Referred to *Maspar Industries (P.) Ltd. v. Chief Commissioner of Income Tax [2023] 333 CTR 10 (Delhi) (HC)*
Sangeet Seth v. CCIT (2025) 307 Taxman 12 (Delhi)(HC)

S. 279: Offences and prosecutions-Sanction-Chief Commissioner / Commissioner-Compounding of offences-Rejection of application for compounding solely on ground of delay of 36 months from date of complaint as per CBDT Guidelines-Act does not prescribe limitation-Mechanical rejection without exercising discretion held improper-Order set aside and matter remanded for fresh consideration. [S. 279(2), Art. 226] 3183

The Chief Commissioner rejected the assessee's application for compounding of offence under section 279(2) on the sole ground that it was filed beyond 36 months from the date of filing of the complaint, relying on CBDT Guidelines dated 16-9-2022 though the Act itself prescribed no limitation period. On a writ petition, the Court held that the CBDT Guidelines cannot be treated as a binding statutory bar and even the earlier guidelines contemplated that in appropriate cases the competent authority may consider the explanation and exercise discretion notwithstanding the stipulated period. The Chief Commissioner had mechanically rejected the application without examining the facts and circumstances and proceeded on the erroneous premise that he had no jurisdiction to entertain the application beyond 36 months. Such an approach was unsustainable. Accordingly, the rejection order was set aside, and the matter was remanded to the Chief Commissioner to reconsider the assessee's application for compounding by exercising proper discretion in accordance with law.
L.T. Stock Brokers Pvt. Ltd. v. Chief CIT (2025) 480 ITR 26 / 180 taxmann.com 214 (Bom) (HC).

3184 **S. 279 : Offences and prosecutions-Sanction-Chief Commissioner-Commissioner-Certain categories of offences not to be compounded other than first offence-Wilful failure to file returns in due time-"First offence" as defined in Guidelines-Failure to file return before due date for assessment year 2013-2014 despite issue of notice for not filing in time for assessment year 2011-2012-Offence committed by assessee not first offence-Rejection of application in consonance with Guidelines; Guidelines for Compounding of Offences under Direct Tax Laws, 2008 (2015) 371 ITR 7 (St). [S. 139, 276CC, 279(2), Art. 226]**

Dismissing the petition, the court rejected the Compounding Application on the ground that the offence committed for the assessment year 2013-14 was not the "first offence" as per the Guidelines for Compounding of Offences because prior to that already a Show Cause Notice had been issued for the assessment year 2011-2012 under Section 276CC. Therefore, the assessee had again committed the same offence, which would not fall under the ambit of "first offence", and the rejection was in consonance with the 2014 Guidelines. (AY. 2013-14)

Vinubhai Mohanlal Dobaria v. Chief CIT [2017] 247 Taxman 253/ (2025) 473 ITR 387 (Guj.) (HC)

Editorial: Decision of High Court is reversed, Vinubhai Mohanlal Dobaria v. Chief CIT (2025) 473 ITR 394/ 303 Taxman 415 (SC) and directed that fresh application for compounding before the competent authority has to be filed within two weeks and the same shall be adjudicated by the competent authority having regard to the conduct of the appellant, the nature of the offence and the facts and circumstances of the case within a period of four weeks from the date on which the application is filed by the appellant. Accordingly, the proceedings pending before the Trial Court shall remain stayed pending the decision of the competent authority on the compounding application of the appellant.

3185 **S. 281 : Certain transfers to be void-Recovery of tax-Notice of demand-Deceased-Transfer of property-First charge of State-Transfer becomes void-Over-riding effect of section 26B of 1963 Act-Creating first charge on State-Properties were subsequently purchased by petitioner from auction, buyer, Income-tax Department could not proceed against said properties lawfully in possession of petitioner for realizing arrears payable by deceased assessee under Income-tax Act. [S. 156, Kerala General Sales Tax Act, 1963, s. 26B, Art.226]**

Allowing the petition, the Court held that properties of the deceased assessee were attached and sold for realisation of tax payable under Kerala General Sales Tax Act, 1963 and properties were subsequently purchased by the petitioner from auction buyer, Income-tax Department could not proceed against said properties lawfully in possession of petitioner for realizing arrears payable by the deceased assessee under the Income-tax Act. (AY. 1995-96)

Job G. Oommen v. UOI [2024] 169 taxmann.com 407 / (2025) 481 ITR 638 /342 CTR 315 (Ker)(HC)

S. 281 : Certain transfers to be void-Writ-Recovery of tax-Attachment of property-Transfer of property-Validity-Assessee denying sale of attached property to petitioner-Transfer void ab initio-Tax Recovery Officer not required to declare sale as invalid-Petitioner given liberty to file Civil suit in Civil Court. [S. 220(6), Sch II R.11 Art. 226] 3186
The assessee failed to pay the demand raised against him under Section 156, and after issuing demand notices, because of non-compliance, his property was attached by the Tax Recovery Officer in an order dated May 25, 2012. The petitioner had entered into a sale agreement dated February 19,2009 and a sale deed was registered dated February 24, 2012 which the assessee denied, claiming that the sale agreement was cancelled on February 27,2021 by a deed of cancellation. The petitioner challenged the order by the Tax Recovery Officer. The court, dismissing the petition, held that it was unsustainable and contrary to Section 281. The transaction was not to be declared invalid as it was void ab initio, and liberty was given to the petitioner to file a civil suit. (AY. 2008-09, 2009-10) (SJ)
K. N. Subramaniam v. PCIT (2025) 473 ITR 439 (Mad.) (HC)

S. 281B: Provisional attachment-Provisional attachment order dated 1-6-2017 was valid for a period of six months as per section 281B(2) until 1-12-2017, and in the absence of any extension, the order ceased to have effect thereafter. [Art. 226] 3187
On writ, the Assessee contended that as per section 281B, a provisional attachment order could remain in operation only for a period of six months unless it was extended by a separate order. Since, in the instant case, said period had expired long ago, the order of attachment could not be treated as subsisting. It was held that revenue also submitted that a provisional attachment order, unless extended by a specific order in writing, ceases to have effect after expiry of six months from the date of the order issued under section 281B(1). The provisional attachment order dated 1-6-2017 was valid for a period of six months as per section 281B(2) until 1-12-2017, and in the absence of any extension, the order ceased to have effect thereafter. On facts, impugned provisional attachment order passed against the assessee was no longer in force, and respondents were to update land records accordingly. (SJ)
Brijesh M. v. ITO (2025) 307 Taxman 91 (Ker.)(HC)

S. 281B: Provisional attachment-Additions were set aside-Entire arrears were paid-The tax recovery officer was directed to release attached property.[S. 153A, 153C, 225, 226, Art. 226] 3188
Additions were deleted by the Tribunal; however, the attachment order was not lifted. On writ, the Court held that the entire arrears had already been paid by the assessee; thus, the Tax Recovery Officer was directed to release attached property within four weeks. (AY. 2011-12 to 2017-18)
JSR Infra Developers (P.) Ltd. v. Tax Recovery Officer (2025) 307 Taxman 401 (Madras) (HC)

3189 **S. 281B: Provisional attachment-Bank account-Reassessment proceedings-Seizure of cash from car-Attachment unsustainable in absence of tangible material and in view of security already furnished before Magistrate Court-Bank account not covered under s. 281B [S 132B, 142A, 226(4); Bharathiya Nagarik Suraksha Samhitha, 2023, S. 497; Code of Civil Procedure, 1908, S. 60(1); GST Act, 2017; Code of Criminal Procedure, 1973, S. 451; Art. 226]**

The Department provisionally attached the bank account of the assessee under s. 281B during pendency of reassessment proceedings consequent to seizure of cash from a car. The assessee challenged the action contending that adequate security had already been furnished before the Magistrate Court pursuant to directions of the High Court, on the basis of which the seized amount was released, and that there was no tangible material to justify apprehension of evasion of tax. Allowing the writ petition, the Court held that sub-s. (3) of s. 281B contemplates furnishing of a bank guarantee equivalent to the fair market value of the property attached and reference to valuation under s. 142A, which indicates that the provision is intended to apply to immovable or similar properties requiring valuation and not to bank accounts, the value of which is self-evident. The impugned orders merely stated that reassessment proceedings were initiated and prior approval obtained, but did not disclose any tangible material forming the basis of the opinion that provisional attachment was necessary. In the absence of final adjudication of liability and particularly in view of security already furnished before the Magistrate Court, there was no justification for presuming that the assessee would evade payment of tax. Reference to r. 26 of Sch. II was also misplaced. Accordingly, the impugned provisional attachment orders were quashed.

Mohammed Salih v. ACIT (2025) 345 CTR 514 / 251 DTR 396 (Ker.)(HC).

Editorial: ACIT v. Mohammed Salih (2025) 303 Taxman 529 / 345 CTR 503 / 251 DTR 385 (Ker.)(HC).

3190 **S. 281B : Provisional attachment-Seizure of cash from a car-Reassessment proceedings-Attachment of bank account-Money in a bank is a property liable for provisional attachment-Single judge held that bank account was not a property hence canot be subjected to provisional attachment-On appeal division Bench upheld that provisional attachment-Order of single judge was set aside. [S. 132B, 226(4), Bharathiya Nagarik Suraksha Samhitha, 2023, S. 497, Code of Civil Procedure, 1908 (CPC) S 60(1), GST Act, 2017, Code of Criminal Procedure, 1973, S.451, Art. 226]**

Police seized huge amount of cash from a car in which assessee and others were riding. Upon investigation and being satisfied that there was no explanation for cash nor was it accounted, proceedings were initiated in relation to same by issuance of notice under section 148. Finding that expected demand on assessment including penalty would be a substantial amount exceeding two crores, competent authority of department, ordered provisional attachment of bank accounts of assessees. On writ the single judge quashed the provisional attachment order on bank. On appeal by the Revenue, the division Bench held that mere fact that bank account is not explicitly provided under section 281B could not lead to conclusion that bank account was not liable to be attached under section 281B. Money in bank accounts is a property liable for provisional attachment under section 281B. Security furnished before Magistrate's Court in relation

to proceedings under section 281B could not be considered as sufficient security for purpose of Act, therefore order of provisional attachment under section 281B was upheld. Appeal of revenue was allowed.
ACIT v. Mohammed Salih (2025) 303 Taxman 529/345 CTR 503 / 251 DTR 385 (Ker.)(HC)
Editorial : Mohammed Salih v. ACIT (2025) 345 CTR 514 / 251 DTR 396 (Ker) (HC)(SJ)

S. 282: Service of notice-Income tax Appellate Tribunal-Speed post-Registered post-Envelope containing notice under section 148 was not returned-Service of notice through personal service as specified by Order V rule 17 of CPC and Part II of section 282(i) was not validly made-The service of notice through the Income Tax Inspector was also not made upon the appellant by affixing the same on the address of the assessee in absence of personal service upon the assessee-Order passed by Tribunal is set aside-Interpretation of statutes: Rule of strict interpretation.[S. 142(1), 144, 147, 148, 254(1), 260A, Code of Civil Procedure, 1908, Order V rule 17 of Code of Civil Procedure, Indian Post Office Act, 1898, the Post Office Act, 2023, the Indian Post Office Rules, 1933, the Post Office Rules, 2024, R. 2(1)(k), 58, 60, 62, General Clauses Act, 1897, S. 27, Indian Evidence Act 1872, S.114(f)] 3191
Assessee filed return of income for assessment year 2002-03. Based on information from Central Excise Department, Assessing Officer issued notices under section 148 for assessment years 2001-02, 2002-03, and 2003-04 through speed post, but no return was filed. Subsequent notices under section 142(1) were also not complied with. The inspector reported the assessee as untraceable. Assessing Officer, therefore, completed reassessment under section 147 read with section 144. Section 148, as well as Section 282, clearly provide that a notice sent through post must be delivered personally to the addressee and not merely at his address. Consequently, in the absence of personal service on assessee, the legal presumption of service under section 27 of the 1897 Act and section 114(f) of the 1872 Act can only be applied when notice is sent via registered post and not by speed post. Since, in the instant case, notice was sent by speed post without any acknowledgement, consequently, presumption of service under section 27 of the 1897 Act read with section 114(f) of the 1872 Act could not be invoked even if the envelope containing notice under section 148 was not returned. Therefore, there was no service of notice under section 148 through post upon the assessee, and accordingly, the order was quashed. Referred, *Milan Poddar v. CIT, Ranchi [2012] 24 taxmann.com 27/357 ITR 619/[2012] 211 Taxman 403 (Jharkhand) (HC), CIT v. Hotline International (P.) Ltd [2007] 161 Taxman 104/296 ITR 333 (Delhi) (HC), Lala Madan Lal Agarwal v. CIT [1983] 13 Taxman 120/144 ITR 745 (All)(HC).* (AY. 2001-02, 2002-03 & 2003-04)
Mahesh Gautam v. CIT (2025) 307 Taxman 207 (All.)(HC)

S. 285BA : Obligation to furnish annual information return-Penalty-No proper explanation for delay-Imposition of penalty justified [S.273B, Art. 226] 3192
Dismissing the petition the Court held, that the petitioner was the Sub-Registrar who took charge on July 12, 2011, and no reason whatsoever had been shown for not filing the annual information return in time. The respondents had specifically considered the contention raised by the petitioner and had held that the reasons stated by the petitioner

did not constitute a reasonable cause to excuse the delay of 525 days in submitting the returns. It was also clear that though the provision permits the imposition of Rs. 500 per day as penalty, only Rs. 100 per day had been levied. The penalty was valid.(AY. 2021-22)

Sub Registrar, Sri. V.G. Cleetus v. DIT (IT) (2023) 154 taxmann.com 546 / (2025) 483 ITR 21 (Ker)(HC)

3193 **S. 292BB : Notice of demand to be valid in certain circumstances-Notice under section 142(1) at its email ID-notices were sent to assessee at email address as available at website of MCA-Participated in inquiry relating to assessment-Precluded from raising any objection that notice was not served or was served in an improper manner-The provisions of section 292BB would be applicable-Petition was dismissed. [S. 142(1), 143(3), 282(2), ITAT Rules,127, Art. 226]**

Assessee-company was issued notice under section 142(1) at its email ID. Assessee claimed that said email address was wrong and its correct email ID was different. However, assessee had submitted a partial reply to the notice and certain explanations and stated that the remaining documents and explanations would be submitted by a later date. Later, assessee failed to provide any further information, which was sought by notice issued under section 142(1). Assessing Officer passed assessment order under section 143(3). On writ, the assessee contended that the order had been passed without issuance of notices, hence liable to be set aside. Dismissing the petition, the Court held that notices were sent to assessee at the email address as available at website of MCA. Furthermore, notices had been duly put up on the portal and the assessee was aware of assessment proceedings. Accordingly, the provisions of section 292BB would be applicable as the assessee had participated in the inquiry relating to assessment and it was precluded from raising any objection that notice was not served or was served in an improper manner. The petition was dismissed. (AY. 2022-23)

Kalkajee Kraft Paper (P.) Ltd. v. Assessment Unit, ITD (2025) 305 Taxman 261 (Delhi)(HC)

Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. (2015) 375 ITR 1(St), (2015) 375 ITR 97(St)/ (2015) 375 ITR 107(St)

S. 4: Undisclosed foreign income and assets-Offences and prosecution-Personal appearance of accused Effect of section 205 of the Code of Criminal Procedure-Discretion to dispense with personal appearance Black Money (Undisclosed Foreign Income and Assets) and Imposition of tax Act, 2015-Criminal Procedure Code, 1973, S. 205. 3194

Under a section of the Criminal Procedure Code, 1973, the Magistrate is competent to dispense with personal attendance of the accused. While exercising discretion in this regard, the Magistrate may take into account the nature of the controversy. Besides that, the Magistrate has to consider whether any useful purpose would be served by requiring the personal attendance of the accused or whether the progress of the trial is likely to be hampered on account of his absence. If any attempt is made to prolong the proceeding, the Magistrate is competent to pass any order as he deems fit and proper. On revision application against the order of Judicial Magistrate, Court held, that since the complaint was based on documents, personal appearance of the assessee could be dispensed with subject to certain conditions: (i) that the assessee shall submit a written undertaking before the trial court that he will not challenge his identity and the trial will proceed in his absence but in the presence of his advocate-on-record; (ii) the assessee shall give a written undertaking before the trial court that he will appear as and when required by that court; and (iii) the assessee shall not leave the country without the prior permission of the trial court. (SJ)

Gaurav Kumar Chopra v. UOI (2025) 483 ITR 324 (Cal)(HC)

S. 10(1) : Undisclosed Foreign Assets-Assets acquired prior to commencement of the Act-Settlement Commission-Proceedings cannot continue once dispute is settled under Chapter XIX-A of the Act. [Income-tax Act 1961, S. 148, 245C, Art. 226] 3195

On writ, the court held that proceedings under the Black Money Act are intended to be directed against persons who failed to disclose foreign assets or file returns under the Income-tax Act, 1961. In the present case, the assessees had admittedly filed their return of income on 21.05.2015, i.e., prior to the coming into force of the Black Money Act w.e.f. 01.07.2015. Further, the assessees had approached the Settlement Commission and the dispute for AYs 2005-06 to 2011-12 stood settled under Chapter XIX-A of the Act. The Court noted CBDT Circular No. 12 of 2015 dated 02.07.2015 granting a one-time compliance opportunity and reiterated that the enactment of the Black Money Act did not bar settlement proceedings. Once the dispute was settled, continuance of proceedings under notices issued u/s 10(1) of the Black Money Act could not be countenanced and was liable to be quashed. (AY. 2005-06 to 2011-12)(SJ)

Arun Mammen v. DCIT (Inv) (2025) 344 CTR 398 / 248 DTR 481/ 171 taxmann.com 570 (Mad)(HC)
Kandathil M. Mammem v. DCIT (Inv) (2025) 344 CTR 398 / 248 DTR 481/ 171 taxmann.com 570 (Mad)(HC)

3196 **S. 10(1) : Undisclosed Foreign Assets-Assessment-Undisclosed asset located outside India-Bank account outside India-Documents were given to the bank much before the enactment of Black Money Act-Inheritance-Income earned abroad-Addition was deleted. [S. 10(3)]**

Held that the Assessee explained that the bank accounts in foreign country were initially opened by his father and later the said accounts were independently operated by his mother till the time she was alive, though the accounts were standing in the joint names of the assessee and his mother, the AO was not justified in assessing the deposits in the said accounts in the assessee's hands under S. 10(3) of the Black Money Act. (AY-2019-20)

Nirmal Jethalal Modi v. DCIT (2025) 235 TTJ 575 / 173 taxmann.com 400 (Mum)(Trib)

3197 **S. 10(3) : Assessment-Charge of tax Undisclosed foreign asset-Asset ceased before 1.7.2015-Not taxable-Penalty-Non-disclosure of asset-Ceased before AY 2012-13-Penalty not leviable-Doctrine of election/approbate and reprobate-Once proceedings under the IT Act are consciously chosen, the Revenue cannot subsequently invoke BMA. [S. 2(11), 3(1), 41, 43,BMA Valuation Rule, 3, Income tax Act, 1961, S. 90, 131(IA), 132, 132(4), 132(4A), 292C]**

Information from ICIJ and FT&TR revealed Deepak Jain's nominal shareholding (1/1000 shares each) in two BVI companies Alabama Assets Ltd. and Meadow Offshore Ltd incorporated jointly with a UAE resident, Mr. Alhammadi, who held 999 shares and infused funds. Bank accounts were closed by 2010-11, and MOU with Alhammadi was terminated in 2010. The AO invoked S. 10(3) of BMA, treating entire credits of ₹31.48 crore as assessee's beneficially owned assets and levied penalty u/ss. 41 & 43. CIT(A) restricted the addition to assessee's proportionate holding (₹3.14 lakh) and partly deleted penalties. Both the assessee and the Revenue appealed. The Tribunal held that the Act applies prospectively from 1.7.2015 and only to assets "held" thereafter. As the entities and accounts had ceased before 2015, no addition could be made. Reliance placed on *Nirmal Jethalal Modi v. ADIT (Inv.) (2025)173 taxmann.com 400 (Mum)(Trib)*. The Department had already initiated proceedings under the Income-tax Act (summons u/s 131, search u/s 132) even after the BMA came into force, and only later shifted to BMA. The Tribunal held this impermissible, applying the doctrine of election/approbate and reprobate. Once proceedings under the IT Act are consciously chosen, the Revenue cannot subsequently invoke BMA. Reliance placed on *PCIT v. IT SC (2020)420 ITR 149, Guj HC), Hiralal Alias Hiranand v. Commr. of Customs 2013 SCC Online Cal 17620 dated 19.09.2013 (Cal HC), and CBDT Circular No. 13/2015 (2015) 374 ITR 97 (St) (Q.12-16)*. (AY. 2018-19)

Deepak Jain v. ACIT [2025] 179 taxmann.com 39 (Delhi)(Trib)

S.18: Appeal to Appellate Tribunal-Rectification of mistake apparent from the record-Failure to consider written submission-Mistake apparent from record-Order is recalled-Tribunal in the original order Rashesh Manhar Bhansali v. Add.CIT (2022)193 ITD 141 (Mum)(Trib) has upheld the provisions of the Black Money (Undisclosed Foreign Income & Assets) and Imposition of Tax Act, 2015 can indeed be pressed into service in respect of an undisclosed foreign asset or income even if it was already in the knowledge of any Governmental authorities, other than the jurisdictional Assessing Officer, as at the point when the said legislation came into force.-Accounts not in existence at the Black Money Act, 2015 came into force-The new legislation operates for those accounts and assets too. [S. 2(11), 5(1)(i), 18(7), 40(1), 40(2), ITAct, 132(4), 254(2) R. 3(1)(e)] 3198

Assessees had an offshore bank account which was credited with a certain amount. Assessing Officer made additions to the income of the assessee under Black Money Act. Commissioner (Appeals) deleted additions. Tribunal restored additions made by Assessing Officer on ground that submissions made by assessees were not substantiated on the basis of any documents. The assessee filed a miscellaneous application and contended that they had furnished detailed written submissions along with relevant bank/portfolio statements prior to conclusion of hearing. However, the Tribunal had completely overlooked the written submissions so given by them. Allowing the petition, the Tribunal held that non-consideration of detailed written submissions furnished by assessees along with relevant evidence would result in a mistake apparent from the record in the orders passed by the Tribunal. The order passed by the Tribunal is recalled for fresh consideration. (AY. 2017-18)

Rashesh Manhar Bhansali v. ACIT (2025) 212 ITD 210 (Mum) (Trib.)

Editorial: Rashesh Manhar Bhansali v. Add.CIT (2022)193 ITD 141 (Mum)(Trib), recalled.

S. 43 : Penalty for failure to furnish return of income or furnish inaccurate particulars of an asset (Including financial interest in any entity) outside India-Non-disclosure of foreign assets-Use of word "may" in section 43 is directory and not mandatory-Assessing Officer has discretion to impose or waive penalty depending on facts-Mere failure to disclose foreign investment does not automatically warrant penalty-Interpretation of statutes. [S. 46(3)] 3199

A Special Bench of the Tribunal was constituted to decide whether the use of the word "may" in section 43 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 should be construed as "shall", i.e., whether the imposition of penalty is mandatory once the requirements of section 43 are satisfied. The assessees, husband and wife, had not disclosed in Schedule FA of their income tax return foreign investments in Avestar Global Opportunities SPC (Cayman Islands). The Assessing Officer levied a penalty of Rs.10 lakhs each under section 43 for such non-disclosure, which was confirmed by the CIT(A). The Tribunal held that the word "may" in section 43 indicates discretion and cannot be read as "shall". The requirement under section 46(3) to afford an opportunity of hearing before imposing penalty also shows that the penalty is not automatic. The Bench observed that if imposition of penalty were mandatory, such an opportunity would be redundant. Relying on *Hindustan Steel Ltd. v. State of Orissa*

(1972)83 ITR 26 (SC) and Ankit International v. ACST (2011) 46 VST 1 (Bom),(HC) it was held that even where the statute prescribes a minimum penalty, the authority can refrain from levying penalty where the breach is technical, venial, or due to bona fide oversight. The Tribunal distinguished Revenue's reliance on *Nirmal Bhanwarlal Jain v. CIT(A)-51 [BMA No.13 (Mum) of 2023, dated 31-7-2023]* and *Ms. Shobha Harish Thawani v. JCIT, [2023] 154 taxmann.com 564 (Mum)(Trib*) holding that in those cases, the claim of bona fide mistake was unsubstantiated. It held that when two interpretations of a fiscal provision are possible, the view favourable to the assessee should prevail. Accordingly, it was held that the imposition of penalty under section 43 is not mandatory, and the Assessing Officer has discretion to impose or waive the penalty depending on the facts of the case. The matter was directed to be placed before the Division Bench for decision on merits. (BMA Nos. 33 & 34/Mum/2024, dt. 14/10/2025]

Vinil Venugopal v. DDIT (Inv.), FAIU-4(1) [2025] 179 taxmann.com 618 (SB) (Mum) (Trib) Ranjeeta Vinil v. DDIT (Inv.), FAIU-4(1) [2025] 179 taxmann.com 618 (SB). (Mum)(Trib)

3200 **S. 51 : Punishment for wilful attempt to evade tax-Return of income-Prosecution under section 51 cannot be dependent on completion of assessment, as offence, if proved, stands completed as soon as conditions as required under section 51(3) are fulfilled, irrespective of return of income-Writ petition to quash the proceeding is dismissed. On SLP the Court held that the assessee was to be permitted to raise all contentions legal as well as factual available to him before concerned authority under provisions of Black Money Act, 2015 and relevant contentions were to be considered on their own merits without being influenced by impugned order. SLP filed against order of High Court was to be disposed of SLP [S.2(12), 10(1), 48, 51(3), ITACT, 1961, S. 6(6), 131(IA),132, Fugitive Economic Offenders Act, 2018, S. 4, 10, 12, Code of Criminal Procedure, 1973, S. 482, Art. 136]**

A search and seizure operation was conducted on assessee's premises and incriminating documentary evidence and information were discovered, establishing that assessee held undisclosed bank accounts and properties outside India. Further, it was alleged that assessee was preparing to alienate his foreign assets and offshore entities by backdating documents to evade taxes under Black Money Act, 2015. Accordingly, the Additional Commissioner of Income-tax (Central) had filed complaint under section 51(1) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. Assessee filed petition seeking quashing of criminal complaint filed against him on ground that prosecution was initiated without completing assessment proceedings, there was no finding that he had evaded any tax and there was no evidence showing that alleged foreign assets belonged to him. Dismissing the petition the Court held that initiation of prosecution is not dependent on completion of assessment, as offence, if proved, stands completed as soon as conditions as required under section 51(3) are fulfilled, irrespective of return of income. An act of an assessee who is found to have undisclosed foreign income and assets, amounted to preparation or attempt to evade tax, is a matter for trial. On SLP the Court held that the assessee was to be permitted to raise all contentions legal as well as factual available to him before concerned authority under provisions of Black Money Act, 2015 and relevant contentions were to be considered on their own merits without being influenced by the impugned order.

Accordingly, the SLP filed against the order of the High Court was disposed of. Partly in favour of assessee. (AY. 2012-13)
Sanjay Bhandari v. ITO (2025) 303 Taxman 513/ 477 ITR 3 (SC)
Editorial: Sanjay Bhandari v. ITO (2025) 302 Taxman 122 / 473 ITR 294 (Delhi)(HC)

S. 51: Pushishment for wilful attempt to evade tax-Return of income-Prosecution under section 51 cannot be dependent on completion of assessment, as offence, if proved, stands completed as soon as conditions as required under section 51(3) are fulfilled, irrespective of return of income-Writ petition to quash the proceeding is dismissed. [S.2(12), 10(1), 48, 51(3), ITACT, 1961, S. 6(6), 131(IA), 132, Art. 226] 3201
A search and seizure operation was conducted on assessee's premises and incriminating documentary evidence and information were discovered, establishing that assessee held undisclosed bank accounts and properties outside India. Further, it was alleged that assessee was preparing to alienate his foreign assets and offshore entities by backdating documents to evade taxes under Black Money Act, 2015. Accordingly, the Additional Commissioner of Income-tax (Central) had filed complaint under section 51(1) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. Assessee filed a petition seeking quashing of the criminal complaint filed against him on the ground that prosecution was initiated without completing assessment proceedings, there was no finding that he had evaded any tax, and there was no evidence showing that alleged foreign assets belonged to him. Dismissing the petition, the Court held that initiation of prosecution is not dependent on completion of assessment, as the offence, if proved, stands completed as soon as conditions as required under section 51(3) are fulfilled, irrespective of return of income. An act of an assessee who is found to have undisclosed foreign income and assets, amounting to preparation or attempt to evade tax, is a matter for trial. (SJ)
Sanjay Bhandari v. ITO (2025) 302 Taxman 122/473 ITR 294 /344 CTR 843 (Delhi) (HC)
Editorial: Sanjay Bhandari v. ITO (2025) 303 Taxman 513 (SC), On SLP, the Court held that the assessee was to be permitted to raise all contentions, legal as well as factual, available to him before the concerned authority under the provisions of Black Money Act, 2015 and relevant contentions were to be considered on their own merits without being influenced by the impugned order.

Direct Tax Vivad Se Vishwas Scheme, 2024 (2024) 467 ITR 107 (St) (2025) 472 ITR ITR 1(St), (2025) 472 ITR 9 (St), (2025) 472 ITR 25 (St) Direct Tax Vivad Se Vishwas Scheme, 2024 (2024) 467 ITR 1 (St)(63)

3202 **S 91 : Filing of declaration and particulars to be furnished-Appeal disposed as withdrawn-Liberty to assessee to approach authority for purpose of availing benefits under the scheme. [S.91(2). 91(3), Art. 136]**

As per section 91(3) of scheme assessee is required to withdraw appeals and furnish proof thereof along with intimation of payment under section 92(2) of scheme.Therefore, where assessee wanted to avail benefit as provided under scheme, appeals were to be disposed of as withdrawn with liberty to assessee to approach authority for purpose of availing benefits under scheme. CBDT Circular no. 12 of 2024 dated 15-10-2024. Followed, *JCIT v. Rolta India Ltd (2011) 196 Taxman 594/ 330 ITR 470 (SC)*
Electrex (India) Ltd. v. CIT (2025) 304 Taxman 188/347 CTR 675 / 256 DTR 181 (SC)

3203 **S 91 : Filing of declaration and particulars to be furnished-Appellant-time for filing appeal has not expired-Benefit of Vivad Se Vishwas Scheme is available even to those assessees who are aggrieved by virtue of an order passed by Income Tax Authorities and intend to challenge the same by way of appeal and in whose cases, time for filing appeal has not expired. [Art. 226]**

Court held that the benefit of the Vivad Se Vishwas Scheme is available even to those assessees who are aggrieved by virtue of an order passed by Income Tax Authorities and intend to challenge the same by way of appeal and in whose cases, time for filing appeal has not expired. Referred the notification No.8 /2025 /F.No. 370153/01/2025-TPL (2024) 467 ITR 1 (St)
Srinivasan Jayaprakasam v. CBDT (2025) 473 ITR 245 / 171 taxmann.com 101(Mad)(HC)

Direct Tax Vivad Se Vishwas Act, 2020 (DTVSV Act) (2020) 420 ITR 115 (St), (2020) 422 ITR 8 (St), (2020) 422 ITR 121 (St)

S. 2(1)(a): Application-Pendency of appeal-Maintainability-Certified order given on 10-7-2020-Application dated 2-5-2020 maintainable-Directed to entertain the application. [S. 2(1)(a)(ii), Art. 226] 3204

On the application made by the assessee on May 2, 2020, was rejected on the ground that no appeal was pending before any appellate forum. This was upheld by the single judge holding that even if the assessment order was received by the assessee on July 10, 2020, the very fact that he had made an application under the Act, on May 2, 2020, this date of May 2, 2020 had to be taken as to be the date of knowledge of the order, and in that eventuality, the assessee's case would fall under section 2(1)(a)(i) and not under section 2(1)(a)(ii). On appeal, division bench held that the certified copy of the order dated December 9, 2019 was given by the Income-tax Department on July 10, 2020. Hence, for all intents and purposes the cause of action to file an appeal before the appellate authority arose on July 10, 2020. The assessee could have made an application under the Act and his case could not have been rejected on the ground that he had made an application on May 2, 2020 under the Act. Since the certified copy was given on July 10, 2020, the assessee had thirty days' time to file an appeal. The Income-tax Officer had to consider the application dated May 2, 2020, keeping in view that the certified copy was given to the assessee on July 10, 2020, and his case fell section 2(1)(a)(ii).

Sukhdev Singh Vedwal v. ITO (2025) 482 ITR 208 (Uttaranchal)(HC)

S. 2(1)(a) : Appellant-Pendency of appeal-Rejection of declaration-Pendency of writ petition-Assessee covered within definition of "appellant"-AO directed to process declaration in Form No. 1. [S. 89(1)(a), 89(1)(j), 91, ITACT, S. 144C, Art. 226] 3205

The assessee filed declaration in Form No. 1 under the DTVV Scheme, 2024 during pendency of writ petition challenging reassessment proceedings and the same was rejected by the Designated Authority on the ground that the case was not covered under the Scheme. The High Court held that since the writ petition was admittedly pending on the specified date, the assessee squarely fell within the definition of "appellant" under section 89. The Court observed that a draft assessment order under section 144C having already been passed and the assessee having opted for settlement under the Scheme, it was evident that no objections would be filed before the DRP and consequently the income determined in the draft assessment order would attain finality for purposes of settlement. The rejection of declaration based on CBDT FAQ No. 26 was held to be misconceived. Accordingly, the impugned order rejecting Form No. 1 was quashed and the Assessing Officer was directed to process the declaration under the DTVV Scheme, 2024. (AY. 2015-16).

Kasturben @ Kanchanben Girdharbhai Gajera v. Designated Authority (2025) 346 CTR 113 / 252 DTR 309 (Guj)(HC)

3206 **S. 2(1)(a) : Declarant-Rejection of declaration-Pendency of writ petition treated as pendency of appeal-Tax arrears-CBDT FAQ/Circular not binding on Court-Declaration under DTVSV Act maintainable-Application directed to be processed. [S. 2(1)(h), 2(1)(j), 2(1)(o), 3, Art. 226]**

The Madras High Court held that the assessee was entitled to file a declaration under the Direct Tax Vivad Se Vishwas Act, 2020, since the definition of "appellant" in S. 2(1)(a)(i) expressly includes the filing of a writ petition. The assessee had challenged the Chief CIT's order rejecting waiver of interest by filing a writ petition, which was pending on the "specified date" under the Act, and therefore the dispute relating to "tax arrears" (which includes disputed interest) was eligible for settlement under S. 3. The Court observed that writ proceedings in peculiar circumstances may partake the character of an appeal for the purposes of the Act. It was further held that CBDT clarifications/FAQ relied upon by the Department were not binding on the Court and could not override the statutory definition. Accordingly, the rejection of the declaration was unsustainable and the respondents were directed to process the assessee's application dated 29 January 2021 in accordance with law under Ss. 3 and 5 of the DTVSV Act. (AY. 1995-96 to 1997-98)(SJ)

TVL Sanmac Motor Finance Ltd. v. CBDT [2024] 168 taxmann.com 577 / (2025) 344 CTR 869 (Mad)(HC)

3207 **S.2(1)(j): Disputed tax-Interest-Department appeal before Tribunal-Assessee is liable to pay the amount of differential tax but also the interest paid to the assessee under s. 244A of the Act. [S. 2(1)(o), 244A Art. 226]**

Dismissing the petition the Court held that the Department's appeal before the Tribunal is accepted, the assessee will be liable to pay the amount of differential tax but also the interest paid to the assessee under S. 244A of the Act.

United Capital Partners India (P) Ltd. v. PCIT (2025) 344 CTR 192 / 248 DTR 280(SJ) (Mad)(HC)

3208 **S. 2(1)(j): Disputed tax-Additional ground of appeal-Non search case-Computation could not be @ 125 per cent but had to be @ only 100 per cent-Competent authority is directed to accept the form as claimed by the assessee. [S. 2(1)(n), 3, ITAct, S. 10(38), 45, 68, Art.226]**

The assessee filed its return of income for assessment year 2014-15, declaring a total income of Rs.10.46 lakhs after claiming a deduction of LTCG under section 10(38). During the assessment, the Assessing Officer, relying upon the information received from the Investigation wing, doubted the genuineness of the LTCG deduction. Accordingly, the assessee was granted an opportunity to show cause and clear such doubts. The assessee tried to contend that the claim under section 10(38) was genuine and supportable by documents. However, to buy peace and avoid litigation, the assessee voluntarily offered this LTCG amount of Rs.2.02 crores to tax under section 68. The Assessing Officer made an assessment order under section 143(3), making addition of Rs.2.02 crores by denying the claim of LTCG under section 10(38) and further made a disallowance of Rs.9.11 lakhs towards commission allegedly paid by the assessee under section 69C. On appeal, the assessee appealed the assessment order only to the extent of disallowance of

Rs.9.11 lakhs under section 69C. Appeal was only restricted to challenging the penalty levy on the two added amounts. In the statement of facts filed along with the appeal memo, the assessee contested the additions made in the assessment order only for the limited purpose of quashing the penalty order. When both appeals were pending, the DTVSV Act 2020 came into force, providing for an amnesty scheme. The assessee filed a declaration under the DTVSV Act, 2020 The declaration sought to include Rs. 2.02 crores as part of the 'disputed tax' for determining the amount payable, based on the outcome of the pending appeals as of 31-1-2020 (specified date). However, the revenue rejected this claim, emphasizing that the addition of Rs. 2.02 crores was based on the assessee's earlier voluntary concession and acknowledgment. On writ allowing the petition the Court held that determining the amount payable at the rate of 100 per cent of the disputed tax for the assessment year 2014-15 is allowed, and the respondents are directed to issue the revised Form-3 as undertaken by them in their Affidavit within 30 days from today along with all consequential benefits. (AY. 2014-15)
Umesh Navnitlal Shah (HUF) v. ITO (2025) 342 CTR 563 / 245 DTR 425 / 170 taxmann.com 674 (Bom)(HC)

S. 2(i)(j): Disputed tax-Pendency of appeal-Binding circular-Review pending before Supreme Court on specified date-Review petition was dismissed-Rejection application was set aside-Interpretation of taxing statutes Beneficial legislation requires purposive construction. [S. 2(1)(a)(i), ITAct, 1961, S.119, Art, 226] 3209

Allowing the petition the Court held that the Department was bound by the circulars or instructions of the Central Board of Direct Taxes and had to comply with them. It was bound by the circular of the Central Board of Direct Taxes issuing clarification. According to the Central Board of Direct Taxes' circulars pendency of arbitration proceedings and miscellaneous applications in certain cases, as on cutoff date would meet the requirement of section 2(1)(j) of the 2020 Act, even though no appeal, writ petition or special leave petition was pending in any appellate forum in terms of this section. Even though a review petition's scope was limited and statutorily different from an appeal, the jurisdiction of the court extended to the power to modify, review or recall its own order. Therefore, the special leave petition could not be said to have attained finality when a review petition was still pending on the specified date. The Department itself had mellowed down the strict interpretation of section 2(1)(j) of the 2020 Act by including pending arbitration proceedings and miscellaneous applications under the scheme. There was no reason why pendency of a review petition after dismissal of the special leave petition should not be similarly covered. A review petition also partook the character of pending proceedings, and, therefore, the assessee should not have been treated as ineligible for claiming benefit under the 2020 Act. Consequently, the order rejecting the declaration was set aside, and the Department was directed to accept the revised declaration and process it in accordance with the 2020 Act. Though the review petition had since been dismissed by the Supreme Court, the right of the assessee as on the cutoff date, when the review petition was still pending, had to be considered. As on the cutoff date, the possibility of reaching a different conclusion could not have been ruled out. The reasons given by the Department in rejecting the declaration filed by the assessee on January 28, 2021, could not be sustained since they were not in consonance

with the scheme of the 2020 Act and did not conform to the intent and purpose of the legislation. The Department was directed to accept the revised declaration form filed by the assessee and process it in accordance with the 2020 Act and pass requisite orders in terms thereof. Court also held that a beneficial legislation should be given purposive interpretation to fulfil its objectives. (AY. 2009-10)

NRA Iron and Steel Pvt. Ltd v. ITO [2024] 169 taxmann.com 85 / (2025) 342 CTR 502 / 476 ITR 13 (Delhi)(HC)

Editorial : Refer, PCIT v. NRA Iron and Steel Pvt. Ltd (2019) 412 ITR 161 (SC)/ PCIT v. NRA Iron and Steel Pvt. Ltd (2019) 419 ITR 449 (SC), NRA Iron and Steel Pvt. Ltd v.PCIT (2020) 11 SCC 722/ 2020 SCC OnLine SC 319

3210 **S. 2(i)(j): Disputed tax-Pendency of appeal-Appeal decided by Tribunal-Delay in serving order on assessee-Appeal cannot be treated as pending-Rejection of assessee's declaration Justified [Art. 226]**

Dismissing the petition the Court held that the facts were that the assessee was aware about the order dated May 7, 2019 passed by the Full Bench of the Tribunal and the order dated June 4, 2019 passed by the Division Bench of the Tribunal. In such circumstances, merely because the assessee received certified copy of the order from the Tribunal on December 22, 2020, it could not contend that the appeal was pending before the Tribunal on the date of filing of the application in forms 1 and 2 under the provisions of the Direct Tax Vivad se Vishwas Act, 2020. The rejection of the declaration under the 2020 Act was justified.

Redex Protech Ltd v. PCIT [2024] 159 taxmann.com 134 (2025) 477 ITR 514 (Guj)(HC)

3211 **S. 2(i)(j): Disputed tax-Pendency of appeal-Non-resident-Authority for Advance Rulings holding taxable capital gains arose out of conversion of Indian subsidiary company to limited liability partnership-Pendency of writ-Capital gains from conversion of shares to interest in limited liability partnership brought to tax in reassessment proceedings-Not disclosing pending writ petition-Pendency of appeal before CIT(A)-Designated authority directed to process declaration considering date of original declaration and issue appropriate certificate. [S. 245Q(1), 245R(4), 250 Art.226]**

The assessee filed a revised declaration mentioning the writ petition and also an affidavit affirming that it would withdraw the writ petition pending before the court as well as the appeal pending before the Commissioner (Appeals). The designated authority rejected the assessee's declaration stating that the assessee's initial declaration was disregarded as it did not refer to the pending writ petition, that the revised declaration was rejected for the reasons that the assessee had not taken into account that the amount payable would be 110 per cent. of the disputed tax, that the Authority for Advance Rulings had not determined the income arising out of capital gains, which was chargeable to tax and that therefore, the dispute stemming from the decision of the Authority for Advance Rulings was not covered by the Scheme. On a writ petition, allowing the petition the court held that premise that the disputed income was yet to be determined was ex facie erroneous. The designated authority was directed to process the assessee's declaration and determine the amount payable by the declarant in accordance with the provisions of the Scheme by construing the date of declaration filed by the assessee as December 23, 2024 and issue

an appropriate certificate in the prescribed form within the stipulated period.(AY. 2017-18)
Domino Printing Sciences plc. v. CIT (2025) 476 ITR 372 /174 taxmann.com 865 /344 CTR 655 / 249 DTR 273 (Delhi)(HC)

S. 2(j): Disputed tax-Only 50% payable where appeal is decided in Revenue's favour-Higher demand illegal-Fresh Form-3 was directed to be issued. [S. 3(1), Art. 226] 3212
For AY 2009-10, additions were made including disallowance of freight charges. CIT(A) partly allowed relief based on DTAA; ITAT confirmed in assessee's favour. Revenue filed appeal before High Court. Meanwhile, assessee opted under DTVSV Act, 2020. PCIT issued Form-3 demanding full disputed tax instead of 50%. On writ the Court held that under S. 2(j) and s. 3(1) proviso, only 50% of disputed tax is payable when appeal is in Revenue's favour. Higher demand by the Department was contrary to the scheme and therefore illegal. Fresh Form-3 was directed to be issued.(AY. 2009-10)
PCIT v. Mangalore Refinery & Petrochemicals Ltd. (2025) 343 CTR 153 / 246 DTR 121 / 171 taxmann.com 622 (Karn)(HC)

S. 3: Dispute resolution-Fundamental aim to settle matters and issues that existed on the relevant date; not to create liability on issues on which parties were already ad idem-Failure to make requisite disclosures does not defeat reliefs granted in assessment-Designated authority may rectify apparent mistakes in Form 3-Beneficial statutes to be interpreted liberally. [S. 4, 5, Form No. 3; Art. 226] 3213
The 2020 Act is intended to resolve disputes existing on the relevant date and cannot impose a liability greater than that forming the subject matter of contestation. Once a declaration under s. 3 is accepted and Form 3 issued under s. 5(1), the amount determined becomes conclusive for matters stated therein; however, the designated authority must not ignore reliefs already granted in the original assessment. Where Form 3 omitted acknowledgment of carry forward/set off of losses and unabsorbed depreciation (which the original assessment had allowed), the designated authority was obliged to rectify the apparent mistake because denying such relief would place the declarant in a worse position than under the assessment order. The High Court directed that Form 3 be issued afresh to reflect the reliefs recorded in the assessment order.
Fresh Pet Pvt. Ltd. v. PCIT [2024] 167 taxmann.com 223 / (2025) 475 ITR 269 / 2026)349 CTR 431 (Delhi HC)

S. 4 : Declaration-Declarant-Appellant-Tax arrear-Disputed tax-Settling of one issue-Disallowance of loss-Revenue can not compel assessee to settle disputes which were not subject matter of declaration made by assessee-Competetnt Authority is directed to issue the certificate. [S.2(1)(c), 2(1)(o), 2(1)(j), 3, 5(1), Form No 3, ITACT, S. 68, Art.226] 3214
Assessee-company, engaged in business of real estate, had filed its return of income which was selected for scrutiny and an assessment order was passed making certain additions. Assessee filed an appeal before Commissioner (Appeals) who partly allowed assessee's appeal. Both assessee and revenue preferred their respective appeals before Tribunal. Tribunal allowed assessee's appeal but did not accede to revenue's appeal. The assessee filed a declaration under section 3 of DTVSV scheme in respect of its appeal which was confined to only one issue regarding disallowance of loss claimed by it in

respect of trading in derivatives. Revenue contended that assessee sought to settle only one of three matters which formed part of dispute. On writ, the Court held that the assessee could confine settlement of disputes to only one issue regarding disallowance of loss claimed by it in respect of trading in derivatives and revenue could not compel assessee to settle disputes which were not subject matter of declaration made by assessee. Therefore, certificate issued by designated authority was to be confined to declaration made by assessee. Competent Authority is directed to issue the certificate. CBDT Circular No.9/2020 dt. 22.04.2020. (AY. 2011-12)
Rose Wood Buildwell (P.) Ltd. v. PCIT (2025) 303 Taxman 42 (Delhi)(HC)

3215 **S.89: Appellant-Declaration-Circular restricting benefit to cases,where miscellaneous applications to Tribunal "dismissed in limine"-The rejection order passed by the Principal Commissioner was quashed and set aside. The Principal Commissioner was directed to issue acknowledgment in form 3 against the application made by the assessee in forms 1 and 2 under the 2020 Act.[S. 119, 254(2), Art. 226]**
The Principal Commissioner rejected that assessee's declaration under the Direct Tax Vivad se Viswas Act, 2020 on the ground that the miscellaneous application filed by the assessee under section 254(2) of the Income-tax Act, 1961 was not covered under the 2020 Act since it was not filed in pursuance of an appeal "dismissed in limine". On a writ petition: allowing the petition, that "Frequently Asked Question No. 61", of the Circular No. 21 of 2020 dated December 4, 2020 ((2020) 429 ITR (St) 1) issued by the Cental Board of Direct Taxes to the extent that it restricts the benefit to appeals "dismissed in limine" was not only adverse to the interests of the assessee but also contrary to the objects and reasons of the 2020 Act and therefore, was liable to be struck down. The rejection order passed by the Principal Commissioner was quashed and set aside. The Principal Commissioner was directed to issue acknowledgement in Form 3 against the application made by the assessee in Forms 1 and 2 under the 2020 Act.
Oerlikon Balzers Coating India Pvt. Ltd. v. UOI (2023] 294 Taxman 5 / (2025) 482 ITR 951 (Bom)(HC)

3216 **S. 89: Definitions-Appellant-Benefit of Vivad Se Vishwas Scheme, 2024 extended to those assesses in whose case the time for filing appeal has not expired as on 22 July 2024.[S.89(1)(a)) DTVSV Act, 2020, S. 2(1)(a), Art. 226]**
The assessee had filed a writ challenging the constitutional validity of the Vivad Se Vishwas Scheme, 2024, inasmuch as it has confined the meaning of an 'Appellant' to a person in whose case an appeal or a writ petition or a special leave petition has been filed as on 22 July 2024. The Hon'ble Madras High Court vide its interim order 19 December 2024 had directed the Central Board of Direct Taxes ('CBDT') to consider extending the benefit of the Vivad Se Vishwas Scheme, 2024 to those assesses in whose case the time for filing appeal has not expired as on 22 July 2024 which was duly accepted by CBDT vide its circular dated 20 January 2025. Accordingly, the writ stands disposed.
Srinivasan Jayaprakasam v. CBDT (2025) 171 taxmann.com 101 /473 ITR 245 (Mad)(HC)

Expenditure-Tax Act, 1987

S. 11: Reassessment-Expenditure-tax-Reassessment-No limitation was prescribed-Not barred by limitation-Appeal-High Court-Court cannot reappreciate evidence to record a different finding of fact even if another view possible on basis of material on record-SLP dismissed.[S. 8, 9, 11(1)(a), 11(1)b), Art. 136] 3217

Dismissing the appeal, Court held that all the authorities had concurrently found that there was non-disclosure, omission and failure on the part of the assessee to make returns regarding the items covered under the Act in the returns as filed on the basis of which assessment was done by the Assessing Officer. Under section 11 of the Act, if the case was covered under clause (a) the question of reassessment being barred by limitation would not arise. It was only if the case was covered under clause (b) of section 11 of the Act, that the limitation of four years from the end of the assessment year had been specified by law. The concurrent finding of fact was that it was a case of omission and failure of the assessee to disclose the liability to pay expenditure-tax in respect of chargeable expenditure for the relevant period. On this finding the case would be clearly covered by clause (a) of section 11 of the Act. As a concomitant of that finding, the reassessment by the Assessing Officer in terms of notice served on the assessee could not be barred by limitation. On merit the Court held that the court could not reappreciate the evidence to record a different finding of fact even if another view was possible on the basis of the material on record. SLP dismissed. (AY. 1994-1995 to 1996-1997)

Himachal Pradesh Tourism Development Corporation Ltd. v. CIT (2025) 477 ITR 355 (SC)

Editorial : Himachal Pradesh Tourism Dev. Corp. Ltd v. CIT (2025) 477 ITR 349 (HP)(HC)

S.11: Expenditure-tax-Reassessment-No limitation was prescribed-Not barred by limitation-Appeal-High Court-Court cannot reappreciate evidence to record a different finding of fact even if another view possible on basis of material on record [S. 8, 9, 11(1)(a), 11(1)b), ITAct, 260A] 3218

Dismissing the appeal the Court held that all the authorities had concurrently found that there was non-disclosure, omission and failure on the part of the assessee to make returns regarding the items covered under the Act in the returns as filed on the basis of which assessment was done by the Assessing Officer. Under section 11 of the Act, if the case was covered under clause (a) the question of reassessment being barred by limitation would not arise. It was only if the case was covered under clause (b) of section 11 of the Act, that the limitation of four years from the end of the assessment year had been specified by law. The concurrent finding of fact was that it was a case of omission and failure of the assessee to disclose the liability to pay expenditure-tax in respect of chargeable expenditure for the relevant period. On this finding the case would be clearly covered by clause (a) of section 11 of the Act. As a concomitant of that finding, the reassessment by the Assessing Officer in terms of notice served on the assessee could not be barred by limitation. On merit the Court held that the court could not reappreciate the evidence to record a different finding of fact even if another view was possible on the basis of the material on record. (AY. 1994-1995 to 1996-1997)

Himachal Pradesh Tourism Dev. Corp. Ltd v. CIT (2025) 477 ITR 349 (HP)(HC)

Editorial : SLP dismissed, Himachal Pradesh Tourism Development Corporation Ltd. v. CIT (2025) 477 ITR 355 (SC)

Income Declaration Scheme 2016 ((2016) 384 ITR (St.) 87)/(2016) 384 ITR (St.) 1)

3219 **S. 88: Settlement of tax payable-Declaration-Person-Settlement of Income-tax dispute under Scheme-Assessment proceedings cannot continue Kar Vivad Samadhan Scheme. [S. 87(k), 92, Art.226]**

On writ the Court held that in view of law laid down by the Supreme Court in the case of *Killick Nixon Ltd. v. Dy. CIT, (2002) 258 ITR 627 (SC)*, shows that once a litigant has accepted to settle the matter under the Kar Vivad Samadhan Scheme, 1998, then the Income-tax authorities would not have any further scope of pursuing the same assessment.(AY. 1996-97)

Jeevan Prakash v. CIT (2025) 478 ITR 584 (Telangana)(HC)

3220 **S. 183: Declaration under Scheme-Assessee fulfilling Amounts paid as advance tax and on condition prescribed by Scheme; tax payable by assessee self-assessment to be deducted-Directed to give credit of advance tax and self-assessment tax. [Art. 226**

On a writ petition, the Court held that the assessee was entitled to settle the dispute under the 2016 Scheme. Regarding the tax liability of the assessee for the assessment year 2012-2013 in the declaration filed by the assessee under the 2016 Scheme, there was no impediment in allowing the assessee to adjust the amount paid as "advance tax" and "self-assessment tax" towards tax liability of the assessee under the 2016 Scheme. (AY. 2017-18)

RJPN Developers v. PCIT [2024] 162 taxmann.com 569 / (2025) 477 ITR 506 (Mad)(HC)
Kar Vivad Samadhan Scheme, 1998 (1998) 231 ITR 136 (St) / (1988)232 ITR 79/ (1998) 233 ITR 36 (St)

Allied laws

Assam Goods and Services Act, 2017

S. 132(5) : Punishment for certain offences-Arrest-Bail-Cognizable-Non-bailable-Alleged wrongful availment of input tax credit-Offence non-cognizable and bailable-Custodial interrogation not required-Bail granted. [S. 132, BNSS, 2023 S.483, Art. 226] 3221

The assessee, proprietor of M/s BKS Enterprises, was arrested under s. 132(5) of the Assam GST Act, 2017 on the allegation of availing ineligible input tax credit (ITC) relating to transactions with 12 firms. The taxable value of transactions was ₹ 17.73 crore and the alleged ineligible ITC was around ₹ 3 crore. It was contended that since the tax amount was below ₹ 5 crore, the offence was non-cognizable and bailable, and hence arrest was unwarranted. It was further argued that the authorisation for arrest was vague and lacked material particulars. The Gauhati High Court observed that the allegations were based on documents and no justification for continued detention or custodial interrogation was made out. Considering that the petitioner was in custody since 08.10.2025, the Court held that further detention was unnecessary and granted regular bail on furnishing a bond of ₹ 25,000 with two local sureties, subject to conditions not to tamper with evidence, to appear before the Investigating Officer when required, and not to leave jurisdiction without permission. (SJ) [Bail Appln. No. 3350 of 2025, dt. 23-10-2025)

Ujjawal Kumar Agarwal v. State of Assam (Gau)(HC) www.itatonline.org

Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)

3222 **S. 35 : When police may arrest without warrant-Notice by Investigating Agency-Inquiry-Electronic communication-Liberty of individual involved-Cannot be served via WhatsApp or electronic communication-Standing order must follow CrPC/BNSS modes only-Application to modify earlier order rejected-State must ensure personal service-Application dismissed.[S.2(i), 2(k), 35(3), 35(4), 35(5), 35(6),39, 63, 64(2), 71, 94, 193, 530, CrPC, 1973,S. 41A Art. 21, 32, 136]**

The State of Haryana filed an interim application seeking modification of the Supreme Court's earlier order dated 21.01.2025 in *Satender Kumar Antil v. CBI*, directing all States to ensure that notices under Section 41-A CrPC/Section 35 BNSS are served only as per the legally prescribed modes (i.e., physical service), and not via WhatsApp or other electronic means.

The State argued that under the new BNSS, Sections 64 and 71 permit service of summons via electronic communication, and this should also apply to notices under Section 35 BNSS, which merely require the accused to join investigation and do not result in immediate arrest. It further relied on Section 530 BNSS, which enables electronic modes for various proceedings.

Now, the issue for consideration before the Hon'ble Court is whether the usage of electronic communication can be extended to the procedure governing the service of a notice under Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023, particularly in light of the legislative scheme and the fundamental right to personal liberty under Article 21 of the Constitution?

The Supreme Court rejected this contention, holding that Section 35 of BNSS involves the liberty of an individual, since non-compliance with the notice could lead to arrest. The BNSS specifically excludes service of notice under Section 35 via electronic means, unlike Court-issued summons under Sections 63, 64, and 71. Section 530, which permits electronic modes for trials, inquiries, and proceedings, does not cover investigation. The procedure for a judicial act (like summons by court) cannot be equated with that for an executive act (like notice by police). The only instances where electronic communication is permitted for police under BNSS are for summons for documents (S.94) and reporting to magistrates (S.193)-not for notice of appearance under S.35.

The Court emphasized that the right to life and liberty under Article 21 demands strict compliance with the procedure prescribed by law. Allowing electronic service for such crucial notices, without explicit legislative backing, would violate legislative intent and potentially harm due process.

"A summons issued by a Court is a judicial act, whereas a notice issued by the Investigating Agency is an executive act. Hence, the procedure prescribed for a judicial act cannot be read into the procedure prescribed for an executive act," the Court said. The application was dismissed, and the earlier direction was reaffirmed.(IA No. 63691/2025 in MA No. 2034/2022 in MA No. 1849/2021 in SLP (CRL.) No. 5191/202 Dt. 16-07-2025)

State of Haryana v. Satender Kumar Antil & Anr. 2025 INSC 909, www.itatonline.org

S. 132 : Professional communications-Advocate-Client Privilege-Summoning of Advocates-Investigating Officer cannot directly summon a lawyer appearing for a party to elicit facts of the case-Privileged communication protected under S. 132 of the Bharatiya Sakshya Adhiniyam, 2023-Summons valid only if it falls within statutory exceptions and approved by a superior officer-No need for Vishaka-type guidelines as statutory safeguards under BNSS and BSA are adequate [Bharatiya Nagarik Suraksha Sanhita, 2023, S. 132, 133,134, 175, 179, 528, Indian Evidence Act, 1872, S. 126, Indian Penal Code, 1860 (IPC), S.34, 304-A, Art.14, 15, 19(1)(g), 20(3), 21,142, Advocates Act, 1961, Bar Council of India Rules 1975 Rule 11 of Section 200 of Part VI of the Bar Council of India Rules, 1975, titled 'Standards of Professional Conduct and Etiquette'] 3223

A suo motu writ petition was initiated by the Supreme Court on the issue of investigating agencies summoning advocates who represent accused persons or have given legal opinions. The matter arose from a notice issued to an advocate under S. 179 of the BNSS by the Ahmedabad Police to appear for questioning regarding a case in which he had appeared for the accused. The High Court refused to interfere. The Supreme Court held that compelling an advocate to disclose information received from a client would violate the statutory privilege under S. 132 of the BSA and the client's fundamental rights under Arts. 19(1)(g), 20(3) and 21. It was observed that the advocate-client privilege is sacrosanct and extends even to advice not connected with pending litigation. Investigating agencies cannot summon an advocate merely for representing a client; only when the case falls within the statutory exceptions-such as communication made in furtherance of an illegal purpose or facts showing fraud or crime during engagement-can a summons be issued, that too with prior written approval of a superior officer not below the rank of Superintendent of Police, recording reasons. The Court held that the existing statutory framework under Ss. 132-134 of the BSA and S. 528 of the BNSS provides sufficient safeguards, and hence, no guidelines like those in Vishaka or Jacob Mathew were warranted. The summons issued in the present case was quashed as illegal and violative of privilege.

In Re: Summoning Advocates who give legal opinion or represent parties during investigation of cases and related issues Suo Motu Writ Petition (Crl.) No. 2 of 2025, WP (civil) (No.632 of 2025 and SLP (Criminal) No.9334 of 2025 dt. 31-10-2025. (2025) INSC 1275 (SC)

Constitution of India

3224 **Art. 142: Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc-The Term Lower Court is against the ethos of the Constitution-Record of Trial Court should not be referred as lower Court record.**

Honourable Court observed that as per the direction issued in the order dated 8th February, 2024, that the record of the Trial Court should not be referred as "Lower Court Record". Describing any Court as a " Lower Court" is against the ethos of our Constitution. The Registry has issued a Circular dated 28th February 2024 for giving effect to the order. The High Courts must take note of the direction and act upon the same.

Sakhwat and another v. State of Uttar Pradesh AIR SC 2635 : AIROnline 2025 SC 415.

3225 **Art. 226 : High Court – Power to issue directions, orders or writs - Cyber-Fraud Claim-Customer Liability under RBI Circular (RBI Circular dated 06-07-2017-Customer Protection-Limiting Liability of Customers in Unauthorised Electronic Banking Transactions)-RBI Circular protects customers only in cases of third-party breach or where no negligence is attributable to the account holder; it cannot be used as a "sword" to recast personal transactions as cyber fraud-Writ petition was dismissed. [Art. 227]**

Petitioners sought mandamus directing restoration of ₹38,78,000 alleged to be fraudulently withdrawn from their accounts, relying on RBI Circular dated 06.07.2017 and decisions in *State Bank of India v. Pallabh Bhowmick & Ors. in S.L.P. No. 30677/2024 dt. 3-1-2025* and a Bombay High Court Judgment in *Jaiprakash Kulkarni and others v. The Banking Ombudsman and others (W.P. no. 1150 of 2023 dt. 30-6-2024)* reported in MANU/MH/3477/2024. The Court held that the transactions were carried out by the petitioners themselves after logging into net-banking, adding beneficiaries, generating OTPs, and modifying passwords. Debit logs, IP addresses and beneficiary-addition records produced by the Bank established that the transactions were not a third-party breach but deliberate internal transfers. The petitioners received SMS alerts on 19.06.2022 yet reported the matter belatedly on 20/21 June, indicating an afterthought. RBI Circular protects customers only in cases of third-party breach or where no negligence is attributable to the account holder; it cannot be used as a "sword" to recast personal transactions as cyber fraud. The precedents cited were held inapplicable. Pallabh Bhowmick concerned genuine third-party fraud reported immediately, and Jaiprakash Kulkarni involved beneficiary additions without customer intimation. Unlike the present case where records demonstrated petitioners' own involvement. Finding gross negligence and no proof of hacking, the Court dismissed the writ petition. (Writ-C No. 24192 of 2022,dt. 17-07-2025.)(SJ)

Suresh Chandra Singh Negi & Ors v. Bank of Baroda (All)(HC) MANU/UP/1956/2025.

Art. 226 : High Court-Power to issue directions, orders or writs-Cyber fraud-Unauthorized electronic banking transactions-Zero liability of customer (RBI Circular)-Bank's duty of prompt action-Fraudulent siphoning of ₹ 94,204.80 on downloading app at behest of fraudster impersonating brand customer-care-Customer informed bank within one working day-No proof of customer sharing OTP/MPIN-Failure of Bank to lodge complaint, initiate charge-back or take timely steps-Third-party breach admitted by merchant-Negligence of customer not established-Liability of bank to refund entire amount-RBI Circular dated 06-07-2017, clauses, 7(1) 8, 9&10] 3226

In a case where the assessee-customer's SBI savings account was fraudulently debited by three unauthorized transactions on 18.10.2021 after he downloaded an application believing it to be from Louis Philippe customer care, the Gauhati High Court held that the transactions were clearly unauthorized and the Bank failed to establish any negligence on the part of the customer. The Court noted that the petitioner reported the fraud within one working day, attracting Clause 8 (zero liability in third-party breach cases) of the RBI Circular RBI/2017-18/15 dated 06.07.2017. The Bank neither lodged any complaint with cyber-crime authorities nor raised a charge-back request with the beneficiary bank despite timely intimation. Although the Bank alleged that OTP/MPIN had been shared, it produced no evidence. The merchant (respondent No. 3) admitted breach of customer data. Relying on *DAV Public School v. Indian Bank (2019) 20 SCC 31 and Justice (Retd.) Basudev Agarwal v. SBI, [WP(C) 3474/2022]* the Court affirmed that the Bank cannot shift liability to the customer without proving negligence; mere downloading of an app does not constitute negligence. The Division Bench upheld the Single Judge's direction to SBI to refund ₹94,204.80 with liberty to recover the amount from the merchant, dismissing SBI's writ appeal. (Appeal against the order WP(C) No. 1900/2022, dated 30.09.2022). (WA 364/2022, dt. 13.09.2024)

State Bank of India v. Pallabh Bhowmick (Gauhati) (HC) (GAHC010232752022) www.itatonline.org.

Editorial : SLP of petitioner dismissed, State Bank of India v. Pallabh Bhowmick &Ors(SLP (C) No.30677 of 2024 dt.3-1-2025 (SC)

Contempt of Courts Act, 1971

3227 **S. 12: Punishment for contempt of court-Dy. CIT, Range-2, Lucknow (now retired) to be guilty under s. 12 of the Contempt of Courts Act, 1971-Accordingly, a fine of Rs. 25,000 along with simple imprisonment for a period of one week is awarded to the contemnor-Dy. CIT, Range-2, Lucknow (now retired)-In case of default, he would suffer one day's further simple imprisonment. [S. 124(2), 127, Art. 226]**

The contempt application under section 12 of the Contempt of Courts Act was filed alleging wilful and deliberate disobedience of the judgement and order dt. 31 st March, 2015 passed by a Division Bench in Writ petition No. 9525 (MB) of 2013, where by certain directions were issued. Court held that disobedience of this Court's order strikes at the very root of the rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. Hence, it is not only the third pillar but also the central pillar of the democratic State. If the judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted to it, the dignity and authority of the Courts have to be respected and protect at all costs. Otherwise, the very corner stone of our constitutional scheme will give way and with it will disappear the rule of law and the civilized life in the society. That is why it is imperative and invariable that Court's orders are to be followed and complied with. Considering in totalities of facts and circumstances of the case as well as law-reports the Court held that Dy. CIT, Range-2, Lucknow (now retired) to be guilty under s. 12 of the Contempt of Courts Act, 1971. Accordingly, a fine of Rs. 25,000 along with simple imprisonment for a period of one week is awarded to the contemnor-Dy. CIT, Range-2, Lucknow (now retired). In case of default, he would suffer one day's further simple imprisonment. (SJ)

Prashant Chandra v. Harish Gidwani, DYCIT [2024] 165 taxmann.com 471 / (2025) 342 CTR 53 / (2024) 244 DTR 1 (All)(HC)

Code of Criminal Procedure, 1973

S. 439 : Bail-Allegation of foreign nationality-Forged Indian identity documents-Aadhaar Card, PAN, Voter ID, Passport and Ghumasta Licence-Alleged Civil contractor-Suspected Bangladeshi origin-National security-Bail denied. [Bharatiya Nyaya Sanhita, 2023, S.3(5) 193(8), 335, 336(3), 340, Passport (Entry into India) Act, 1950, S. 3(a), 6(a); Foreigners Order, 1948, S. 3(1), 3(2), 14; Citizenship Act, 1955; Foreigners Act, 1946, S. 9, Art. 5 to 11] 3228

The applicant sought regular bail under section 439 of the Cr.P.C. in connection with offences relating to illegal entry into India, forged identity documents (Aadhaar, PAN, Voter ID), and suspected Bangladeshi origin. Digital evidence, including birth certificates purportedly issued in Bangladesh, was recovered from his mobile phone. Verification from UIDAI and other authorities regarding authenticity of documents was pending. The Court held that possession of Aadhaar or other IDs does not confer citizenship; the claim must be tested under the Citizenship Act, 1955. Under S. 9 of the Foreigners Act, once credible suspicion arises, the burden shifts to the person to prove citizenship. Considering the gravity of allegations, ongoing investigation, potential risk of absconding, and possible interference with evidence, the Court found no case for bail at this stage. Liberty granted to reapply if the trial is not concluded within one year. (BA No. 1510 of 2025, dt. 12-8-2025)

Babu Abdul Ruf Sardar v. State of Maharashtra (Bom)(HC)(UR)

Companies Act, 2013

3229 **S. 2(62): One person company-The separate legal personality and limited liability shield of an One Person Company (OPC) under Indian corporate law-The separate legal personality and limited liability shield of an OPC under Indian corporate law-Set aside the direction of the Arbitration Tribunal against Mr Savan Prasad. [S. 3(1), Arbitration and Conciliation Act, 1996, S. 17, 37(2)(b)]**

A Production Agreement was entered into on March 10, 2021, under which Endemol was to produce regional versions of the "Masterchef" television show.Endemol raised four invoices amounting to ₹ 15.93 crores. Innovative paid ₹ 4.45 crores and adjusted ₹1.08 crores under a different contract, leaving ₹ 10.40 crores in dispute. Arbitral Tribunal passed an interim order under Section 17 directing, deposit of ₹10.40 crores in a fixed deposit and Extensive personal and corporate financial disclosures by Mr. Prasad and Innovative. The petitioner challenged the order of the Arbitral Tribunal before the Honourable High Court. The issue before the Court was ;

1. Whether the Arbitral Tribunal could impose interim directions on Mr. Saravana Prasad, a non-party to the contract, in the absence of any independent personal liability?
2. Whether the limited liability protection under the Companies Act, 2013 for a One Person Company (OPC) bars interim relief against its sole member?
3. Whether a balance confirmation letter issued by the OPC constitutes sufficient prima facie basis for interim relief under Section 17 of the Arbitration and Conciliation Act, 1996?

Petitioner contended that,the OPC is a separate legal entity with limited liability., prasad is not a party to the Production Agreement, the Tribunal's direction breaches fundamental company law principles by treating the company and its sole shareholder as one. Respondent contended that, Prasad, being the sole director and operator, effectively controlled all decisions of Innovative. A "Confirmation Letter" issued by Innovative acknowledging the outstanding ₹10.40 crores formed the basis of the claim. The deposit was necessary to safeguard dues during the arbitration. The court held that the Tribunal's directions against Mr. Prasad personally (for deposit and disclosures) violated the limited liability principle of OPCs under the Companies Act, 2013,No prima facie case or contractual liability against Mr. Prasad was established. Therefore, directions against Mr. Prasad were set aside. As to Directions Against Innovative, The court upheld the order requiring Innovative to deposit the sum in a fixed deposit without loss of control and to disclose its own assets and financial records. The tribunal's reliance on the Confirmation Letter was valid for prima facie purposes. The court observed that interim measures under Section 17 do not need strict CPC standards like Order 38 Rule 5. The latitude available to arbitral tribunals to pass interim measures even if they don't conform strictly to CPC standards. (CAP (L) no 22714 of 2024 / 22746 of 2024 dt. 3-7-2025)

Saravana Prasad v. Endemol India Pvt. Ltd. & Anr.(Bom)(HC) www.itatonlline.org

Central Goods and Services Tax Act, 2017

S. 54 : Refund of tax-Input tax credit-Inverted duty structure-Notification No. 09/2022 dated 13-07-2022 applicable prospectively-Refund cannot be denied for period up to 18-07-2022-Circular restricting refund claims only if filed before 18-07-2022 held arbitrary and violative of Article 14-Refund application filed within limitation period of two years cannot be rejected. [S. 5(3), Art. 14, 226] 3230

The assessee, engaged in manufacture of edible oil (HSN 1514), claimed refund of accumulated ITC under the inverted duty structure for the period prior to 18-07-2022. Notification No. 09/2022-CT (Rate) dated 13-07-2022, effective from 18-07-2022, disallowed refunds for goods under HSN 1514 prospectively. The assessee filed refund applications on 04-01-2023 within the statutory two-year limit under section 54. Authorities, relying on CBIC Circular No. 181/13/2022 dated 10-11-2022, refused to process the claim, holding that only applications filed before 18-07-2022 were eligible. The High Court held that *ITC is an indefeasible right (CC Excise, Pune v. Dai Ichi Karkaria Ltd. 1999 (112) ELT 353(S.C.) : (1999) 7 SCC 448* and the right accrued up to 18-07-2022 cannot be retrospectively taken away by a circular. The restriction created two irrational classes of assessees and violated Article 14. Following rulings of Gujarat High Court in *Patanjali Foods Ltd. v. UOI R/Special Civil Application No. 17298/2024 dt. 12-2-2025,AP High Court in Priyanka Refineries Pvt. Ltd. v. Dy. CST & and Gemini Edibles and Fats India Ltd. v. ACCT (2025) 143 GSTR 636 : 2025 SCC OnLine AP 1435. and dismissal of SLP by Supreme Court, 09.05.2025 (2025) 143 GSTR 644 : 2025 SCC OnLine SC 1580.* The Court quashed Point No. 2 of Circular 181/13/2022 as illegal and arbitrary. Authorities were directed to decide refund claims within three months without relying on the quashed circular. (D.B. CWP No. 2932/2023, dt. 08-09-2025)

Shree Arihant Oil and General Mills v. UOI (Raj)(HC) www.itatonline.org

S. 73 : Determination of tax not paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts-Demands and recovery-Mere claim of demand being without jurisdiction does not warrant waiver of statutory pre-deposit requirement for filing appeal against GST order-Review-Maintainability-Procedural Lapse-Absence of Proper Advocate's Certificate-No new grounds for review-Review petition is dismissed with costs of Rs 10000. [S.107, Maharashtra Goods and Services Tax Act, 2017, 226, Bombay High Court (O.S.) Rules, Art. 226] 3231

The petitioner, Supreme Construction & Developers Pvt. Ltd., filed a Review Petition against the High Court's earlier order dated 28 November 2024, *Supreme Construction & Developers (P.) Ltd v. Sate of Maharashtra [2024] 169 taxmann.com 555 (Bom)(HC)* which had relegated the petitioner to file an appeal, subject to fulfilling a 10% pre-deposit requirement. The petitioner sought review, contending that the pre-deposit condition was contrary to CBIC Circulars and that as a loss-making unit, it should have been exempted from such a requirement. The Bombay High Court, rejected the review petition, noting two key issues, first being, Procedural Lapse i.e. The review petition

was not accompanied by a valid Advocate's Certificate as mandated under Chapter IV Rule 23(iii) of the Bombay High Court Rules, which ensures accountability for the grounds raised in the review and second, the Court found that the petitioner merely sought to re-argue the matter without presenting any fresh or valid grounds for review. The arguments regarding CBIC Circulars and financial hardship had already been considered in the original hearing. The Court emphasized that review jurisdiction is limited and cannot be used to bypass statutory requirements like pre-deposit conditions. The review petition was dismissed with token costs of Rs. 10,000, payable to the Tata Memorial Hospital, Mumbai, within four weeks, and the petitioner was directed to file a compliance affidavit. (Review Petition (L) No. 39242 of 2024, dt. 03/02/2025)

Supreme Construction & Developers Pvt. Ltd. v. State of Maharashtra & Anr. (Bom) (HC) www.itatonline.org

Electricity Act, 2003

S. 3 : Writ-Maintainability-State instrumentality-Tariff determination-Renewable energy-Wind power-Accelerated depreciation-The Nigam could not take advantage of its dominant position to bind them to an inapplicable tariff for the entire project life-The plea of estoppel based on execution of power purchase agreements was rejected-Orders of the Electricity Commission and the Appellate Tribunal were upheld.-Order No. 1 of 2010 dated 30-1-2010. [S, 61(h), 62(1)(a), 86(1)(e) Income-tax Act, 1961, S. 32, Art.12, 226] 3232

Gujarat Urja Vikas Nigam Ltd., being an instrumentality of the State, is bound by State policy directives and the tariff orders of the Electricity Regulatory Commission and cannot act like a private commercial entity or unilaterally fix tariff in power purchase agreements contrary to the Commission's mandate; under the statutory scheme of the Electricity Act, the price at which power is procured by a distribution licensee is not a matter of private contract but is to be determined by the Appropriate Commission; tariff order dated 30-1-2010 clearly stipulated that the levelised tariff of Rs. 3.56 per unit applied only to wind energy projects availing accelerated depreciation under the Income-tax Act, 1961, and projects not availing such benefit were entitled to seek project-wise determination of tariff; the discretion given to an assessee to opt for accelerated depreciation before filing its return of income could not be curtailed by the Nigam by fixing a binding tariff in advance in the power purchase agreement; in the absence of any written commitment from the power producers that they would avail accelerated depreciation, the Nigam could not take advantage of its dominant position to bind them to an inapplicable tariff for the entire project life; the plea of estoppel based on execution of power purchase agreements was rejected; orders of the Electricity Commission and the Appellate Tribunal were upheld.

Gujarat Urja Vikas Nigam Ltd. v. Green Infra Corporate Wind Power Ltd. (2025) 478 ITR 617(SC)

Goods and Service-Tax Act, 2017

3233 **S. 73 : Demands and recovery-Determination of tax-Joint Development Agreement-Real estate developer-Time of supply of service-Time of supply under Joint development agreement is governed by Notification 04/2018, i.e., on conveyance/allotment, not agreement date-Any deposit obtained without authority of law is refundable with interest, regardless of whether made under protest or otherwise. [S. 13(2(b), 74, Art. 226]**

The petitioner, a real estate developer, entered into a Joint Development Agreement (JDA) on 13.10.2017 with Trinitas Realtors India LLP. The DGGI initiated investigation and issued summons in December 2021 alleging that GST liability arose on the date of execution of the JDA. Under threat of attachment and coercion, the petitioner deposited ₹7 crores through DRC-03 on 21.12.2021 and immediately challenged the departmental action by filing a writ petition. The Revenue initially maintained that tax was payable on the JDA date relying on Section 13(2)(b) CGST Act (time of supply when service completion not linked to invoice/payment). However, in subsequent affidavits, the Department itself admitted that Notification No. 04/2018-CT (Rate) dated 25.01.2018, read with Notification No. 11/2017-CT (Rate) dated 28.06.2017, clarified that in case of construction services under JDAs, the time of supply arises only upon issuance of an allotment letter or conveyance deed, not at the JDA execution stage. The Court further noted that a later sale deed extinguished the rights under the JDA, which confirmed that no supply arose on the JDA date. The High Court held that the deposit of ₹7 crores was wholly without authority of law, as there was no tax liability on the JDA execution. Court held that once the Department itself conceded in affidavits that the liability would not arise until possession/transfer, the collection became unsustainable. Accordingly, the Court ordered refund of ₹7 crores with interest at 6% per annum from the date of deposit (21.12.2021) till realization, directing that the refund be processed within six weeks. The judgment reinforces two critical GST principles: (i) time of supply under JDAs is governed by Notification 04/2018, i.e., on conveyance/allotment, not agreement date, and (ii) any deposit obtained without authority of law is refundable with interest, regardless of whether made under protest or otherwise. (WP No.5 of 2022 dt. 21-8-2025) *Provident Housing Ltd. v. UOI (Goa Bench) (Bom)(HC) www.itatonline.org*

3234 **S. 132 : Punishment for certain offences-Fraud-Fraudulent misuse of Aadhaar and Permanent Account No (PAN)-Identity theft-Strictures-Opened a bank account and obtained GST registration-Opened a bank account-Inaction by statutory authorities and law enforcement agencies-Directions for cancellation and redressal-Compensation denied-Liberty to file criminal complaint-Citizens of the Country who toils hard to make both ends meet cannot be made to run from pillar to post by leaving his livelihood to defend various proceedings arising of fraud by an individual impersonating the Petitioner's identity-Cost of Rs 10000 each is imposed on respondents Nos 1, (Unique Identification Authority of India (UIDAI), 2 (Chief Commissioner Gujarat Sate GST) 5,(Chief Commissioner of Income Tax Mumbai, 6(Manager Union Bank of India) and 7 (Commissioner of State Tax Government of Gujarat. The Respondents Nos 1 and 6 are directed to pay Cost of Rs 25,000 each to**

the petitioner. [Aadhaar Act, 2016, S. 7, Income-tax Act. 1961, 139A, 139AA, Goods and Service-Tax Act, 2017 S.132, Negotiable Instrument Act, 1881, S.138, Art. 226]

The petitioner, a small-time businessman from Mumbai, approached the Bombay High Court under Article 226 after suffering repeated harassment and criminal proceedings due to the fraudulent misuse of his Aadhaar and PAN details by an unknown person who opened a bank account and obtained GST registration in his name. The petitioner sought cancellation of the bogus Aadhaar, PAN, GST registration, and bank account, as well as restoration of his own identity credentials.

1. Whether statutory authorities failed to act despite being informed of identity theft involving the petitioner's Aadhaar and PAN?
2. Whether the bank violated KYC and Aadhaar authentication norms while opening the fraudulent account?
3. Whether the petitioner is entitled to relief under Article 226, including cancellation of fraudulent records and quashing of proceedings?
4. Whether the petitioner is entitled to compensation for the hardship caused by the inaction of authorities?

The Court expressed strong displeasure at the inaction of Unique Identification Authority of India (UIDAI), Income Tax Department, GST authorities, and the concerned bank, noting that despite being statutory and regulatory bodies, they failed to act on multiple complaints for over five years. No FIRs were filed, no corrective action was taken, and criminal proceedings continued against the petitioner based on forged credentials.

The Court emphasized that Respondent No.6 (Union Bank of India) failed to conduct mandatory Aadhaar e-KYC authentication under RBI's Master Directions and Aadhaar Authentication Regulations, 2016. UIDAI and Income Tax Department failed to protect the identity of the citizen or initiate criminal action despite being aware of the fraud. GST authorities acted punitively against the petitioner without verifying the genuineness of the registration. Even police authorities took no concrete steps after the petitioner filed a complaint. However, the Court refrained from granting compensation, instead directing the respondents to take appropriate criminal action against the impersonator and to restore the petitioner's identity. Allowing the writ petition the Court directed statutory authorities to initiate investigation, lodge appropriate criminal complaints, and take corrective action to redress the petitioner's grievances. It strongly criticized the inaction and apathy of regulatory bodies in responding to identity theft and emphasized the need for accountability. Liberty was reserved for the petitioner to pursue other appropriate remedies, if required. The Court also observed that " This is indeed a very sad state of affairs where a citizen of this country was made to run from pillar to post for seeking redressal of his grievances where none of the authorities entrusted for enforcing and regulating their respective acts took any action. We hope that such inaction is not repeated in the future and that the authorities of the Respondents would take appropriate timely action when such fraud is brought to their notice". The Court also directed the Respondents to pay Cost of Rs 10000 each is imposed on respondents Nos 1, (Unique Identification Authority of India (UIDAI), 2 (Chief Commissioner Gujarat Sate GST) 5,(Chief Commissioner of Income Tax Mumbai, 6(Manager Union Bank of India) and 7 (Commissioner of State Tax Government of Gujarat. The Respondents Nos

1 and 6 are directed to pay Cost of Rs 25,000 each to the petitioner. (W P No. 3586 of 2021, Judgment dated 21 July 2025)
Vilas Prabhakar Lad v. UIDAI & Ors. (Bom HC) [www.itatonline.org]

3235 **S. 132(1)(a) : Punishment for certain offences-Arrest-Bail-Arrest for alleged GST evasion-Mandatory compliance with procedure under BNSS, 2023-Violation of Supreme Court guidelines in Arnesh Kumar and Satender Kumar Antil-Bail granted.[S. 69, 70, 132(5), BNSS, 2023, 35(1)(b) (ii), 35(3), 47, 48, Criminal Procedure Code, 1973 S.41A, Indian Penal Code 1860, S. 498A, Dowry Prohibition Act, 1961, S. 4, Art. 226]**
In connection with alleged clandestine supply of goods by M/s Balaji Steel Rolling Mills and M/s Balaji Concast involving GST evasion of ₹15.25 crore, the petitioner, a partner in the said firms, was arrested by DGGI, Guwahati Zone. The petitioner contended that he had already recorded his statement, admitted tax liability, and deposited part payment. It was argued that arrest was illegal as no notice under s. 35(3) BNSS, 2023 (corresponding to s. 41A CrPC) was issued, contrary to the law laid down in *Arnesh Kumar v. State of Bihar (2014) 8 SCC 273 and Satender Kumar Antil v. CBI (2022) 10 SCC 51*. The Gauhati High Court held that the alleged offence under s. 132(1)(a) being punishable with imprisonment up to 5 years, issuance of notice under s. 35(3) BNSS before arrest was mandatory. The arresting authority failed to record reasons or justification as required under s. 35(1)(b)(xii) BNSS. Relying on *Radhika Agarwal v. UOI 2025 SCC OnLine SC 449,* the Court held that though CGST is a special Act, the provisions of the BNSS (CrPC equivalent) apply unless expressly excluded. Non-compliance with mandatory procedure vitiated the arrest. Custodial interrogation was unnecessary since investigation was based on documents already seized. Bail granted with conditions including appearance before the DGGI and restriction on travel. [Bail Appln. No. 3440 of 2025, dt. 24-10-2025) (SJ)
Mukesh Agarwal v. UOI & Ors (Gau)(HC) www.itatonline.org

Indian Registration Act, 1908

S. 17 : Documents of which registration is compulsory-Assignment of decree for specific performance-Decree for specific performance does not create or transfer any right, title or interest in immovable property-Assignment of such decree is not an instrument falling under Section 17(1)(e)-Assignment deed was valid even without registration and execution could not be denied on that ground. [S. 17(1)(c), Code of Civil Procedure, 1908, Order 21,Rule 16] 3236

The assignees of an unregistered 1995 assignment of a decree for specific performance sought execution. The judgment-debtors' legal heirs objected on the ground that the assignment was unregistered and therefore unenforceable. The Executing Court accepted this objection relying on K. Bhaskaram v. Mohammad Moulana (died) and others AIR 2005 AP 524 holding that the assignment of a decree involving immovable property requires compulsory registration under Section 17(1)(e). On revision, the High Court reversed the Executing Court's order. On appeal, the Supreme Court held that a decree for specific performance does not create or transfer any right, title or interest in immovable property; rights arise only when a registered sale deed is executed pursuant to the decree. The contract of sale subsists even after a decree, and a decree for specific performance is in the nature of a "preliminary decree" which merely enables the decree-holder to obtain a sale deed through the court. Since the decree itself does not purport to create, declare, assign, limit, or extinguish any right or interest in immovable property, Section 17(1)(e) is not attracted. Consequently, an instrument assigning such a decree does not require registration. The Court approved the Bombay High Court view in *Amol v. Deorao 2011 SCC OnLine Bom 11* and overruled the contrary view in K. Bhaskaram, and further held that Order 21 Rule 16 CPC permits execution by an assignee of a decree. Upholding the High Court, the Supreme Court held that the assignment deed was valid even without registration and execution could not be denied on that ground.(CA No. 13835 of 2025 (SLP (C) No. 3532 of 2028, Dt. 19.11.2025.
Rajeswari & Ors v. Shanmugam & Anr (2025 INSC 1329) (SC)

Indian Succession Act, 1925

3237 **S. 63 : Execution of unprivileged wills-Registered will-Presumption of due execution-Registered will carries a strong presumption of genuineness and due execution under law-Oral family settlement-Testamentary disposition upheld where will is registered and signature admitted-Separate possession corroborates arrangement-High Court erred in treating property as joint family asset-Trial Court's decree restoring full title and injunction in favour of legatee upheld.[Hindu Succession Act, 1956, S. 6, Indian Evidence Act, 1872, 68, 69; CPC, 1908, Order 22 Rule 10.]**

The dispute concerned inheritance rights over ancestral property measuring 18 acres 6 guntas, located in Telangana, among the legal heirs of late Metpalli Rajanna. The property included lands in Dasnapur, Mavala, and Savaragaon villages. Rajanna, after the death of his first wife Narsamma, married Lasum Bai (plaintiff) who had no children. From his first marriage, he had a son (Muthaiah, defendant) and a daughter (Rajamma). Rajanna executed a registered will in 1974, distributing specific shares of the property between his son Muthaiah, daughter Rajamma, and second wife Lasum Bai. Lasum Bai received 6 acres 16 guntas in Dasnapur and parts of land in Mavala and Savaragaon. Muthaiah challenged Lasum Bai's right after she sold part of the land (2 acres) by a registered deed in 1987 and agreed to sell the remaining land to one Janardhan Reddy. An earlier injunction suit filed by Muthaiah was decreed without examining title, prompting Lasum Bai to file a title suit in 1991.

The Trial Court decreed in favour of Lasum Bai, upholding the will and her possession. It declared her as the lawful owner and granted permanent injunction. However, the High Court reversed the decree, holding the properties as joint family property, giving ¾ share to Muthaiah and only ¼ to Lasum Bai. Both sides appealed to the Supreme Court.

1. Whether the registered Will dated 24.07.1974 executed by M. Rajanna in favour of Lasum Bai was valid and enforceable?
2. Whether the properties in question were self-acquired by M. Rajanna or joint family properties?
3. Whether the High Court rightly interfered with the trial court's findings and substituted its own assessment of evidence?

The Supreme Court held that the registered will was proven through reliable evidence including admission of signature by defendant-Muthaiah. The oral family settlement aligned with the distribution under the Will and was corroborated by consistent possession patterns. The Court observed that Muthaiah's conduct, including admissions of separate possession and not challenging the 1987 sale deed, fortified Lasum Bai's case.

Reiterating its legal position, the Court emphasized that a registered Will carries a strong presumption of genuineness and due execution under law. In this case, the Will had been admitted by the respondent to bear his father's signature, and it was further noted that the will did not solely benefit the appellant but also conferred a substantial portion to Muthaiah himself and his sister Rajamma. This rebutted the suggestion of fabrication or manipulation.

The apex Court ruled that Rajanna had the authority to bequeath the properties, especially given the revenue records showing his exclusive ownership post his father's

death. The High Court had erred in holding the Will invalid and reducing Lasum Bai's share arbitrarily. Accordingly, it restored the trial court's decree granting Lasum Bai absolute title over the suit schedule properties.

The sale to Janardhan Reddy, being under a valid title, was upheld.

The appeal filed by Lasum Bai and Janardhan Reddy's LRs was allowed. The appeal filed by Muthaiah's LRs was dismissed. (Civil Appeal Nos. 5921 & 5922 of 2015) (Decided on 21/07/2025)

Metpalli Lasum Bai (Since Deceased) & Ors. v. Metpalli Muthaiah (Dead) by LRs (SC)/ (2025) INSC 879

Insolvency and Bankruptcy Code, 2016

3238 **S. 7: Initiation of corporate insolvency resolution process-Limitation-Acknowledgement of debt-Balance sheet entries-Validity of acknowledgment under S. 18 of the Limitation Act even where name of creditor is not specifically mentioned-Liberal interpretation-Prior financial statements and cash flow disclosures may be relied on-Substantive jural relationship and continuing liability inferred-COVID-19 extension-Applicability of Para 5(I) of Supreme Court's order dated 10.01.2022-Entire period from 15.03.2020 to 28.02.2022 to be excluded-Application filed in 2024 held to be within limitation-Appeal allowed-Matter remitted to NCLT for adjudication on merits. [S. 238A; Limitation Act, 1963, S. 18, Companies Act, 2013, S. 134, Sch. III; Art. 137, First Schedule, Art. 141]**

The Appellant, IL&FS Financial Services Ltd., extended a ₹ 30 crore secured loan to Adhunik acknowledgment Meghalaya Steels Pvt. Ltd. in 2015. The account became an NPA on 01.03.2018. A Section 7 IBC application was filed in January 2024. IL&FS argued that the Respondent's Balance Sheet for F.Y. 2019-20, signed on 12.08.2020, acknowledged the debt and thus restarted limitation under Section 18 of the Limitation Act. It also claimed benefit under the Supreme Court's COVID-19 orders excluding time between 15.03.2020 and 28.02.2022.

The NCLT and NCLAT dismissed the application, stating that the creditor's name was not mentioned in the balance sheet and hence no valid existed. They also held that limitation expired by 30.05.2022 as per Para 5(III) of the Supreme Court COVID order.

The Supreme Court framed the following issues:

1. Whether the NCLT and NCLAT were justified in rejecting the Section 7 application as time-barred?
2. Whether the entry in the Balance Sheet for F.Y. 2019-20 constituted a valid acknowledgment of debt under Section 18 of the Limitation Act?
3. Whether the COVID-19 extension order (10.01.2022) required applying Para 5(I) (full exclusion) or 5(III) (limited extension)?
4. Whether absence of specific mention of creditor's name in the balance sheet invalidates acknowledgment?
5. Whether entries in a balance sheet, filed under statutory obligation, can still amount to acknowledgment of debt under Section 18?

The Supreme Court held that acknowledgment of debt under Section 18 of the Limitation Act can be inferred from entries in a company's balance sheet, even if the creditor's name is not expressly mentioned, provided the overall tenor of the documents indicates a subsisting liability. The Court further held that the Balance Sheet for F.Y. 2019-20, when read alongside the previous years' financial statements and cash flow disclosures, clearly demonstrated the existence of a continuing financial obligation and thus constituted a valid acknowledgment of debt. It also held that courts should adopt a liberal and contextual approach when interpreting such entries, placing emphasis on the surrounding circumstances and past conduct rather than rigid formalism. Finally, the Court held that Para 5(I) of its COVID-19 order dated 10.01.2022 was applicable to the case, and therefore, the period from 15.03.2020 to 28.02.2022 was to be excluded for the purpose of limitation, making the Section 7 application filed in January 2024 well within time.

The two-Judge Bench of Justice Manoj Misra and Justice K.V. Viswanathan enunciated, "It was not disputed before us that entries in Balance Sheets could constitute a valid acknowledgement and in fact it could not have been disputed, in view of the categoric pronouncement of this Court in *Asset Reconstruction Co. (India) Ltd. v. Bishal Jaiswal and Another, (2021).*"

In conclusion, the Supreme Court set aside the decisions of the NCLT and NCLAT, and remitted the case to the NCLT to consider the Section 7 application on merits, treating it as filed within limitation. (CANo. 5787 of 2025dt. 30.07.2025)

IL & FS Financial Services Ltd. v. Adhunik Meghalaya Steels Pvt. Ltd. 2025 INSC 911. www.itatonline.org

S. 14 : Corporate Insolvency Resolution Process-Moratorium-Jurisdiction of NCLT-NCLT cannot exercise jurisdiction over every issue concerning corporate debtor simply because corporate debtor is in insolvency, it is only those issues which arise solely out of insolvency of corporate debtor that can be adjudicated upon by NCLT under section 60(5)(c) [S. 60(5), Code of Civil Procedure, 1908, S.60] 3239

NCLT cannot exercise jurisdiction over every issue concerning corporate debtor merely because it is undergoing insolvency; only those issues which arise solely out of insolvency can be adjudicated under section 60(5)(c). Deposit made in Court for stay of decree ceases to be the asset of corporate debtor; hence, such amount is unaffected by moratorium, and judgment creditor can withdraw the same. Held that NCLT is a statutory Tribunal with jurisdiction confined to matters conferred by IBC. Unlike civil courts under CPC, it has no general jurisdiction and cannot sit in appeal over decrees of civil courts. Amount deposited in Court by judgment debtor before CIRP does not remain property of the debtor; therefore, moratorium under section 14 does not bar withdrawal by decree holder.

Reliance Communication Ltd. v. Rajendra P. Bansal [2023] 146 taxmann.com 156 / 177 SCL 68 / 237 Comp Case 30 (Bom)(HC)

Maharashtra Co-operative Societies Act, 1960

3240 **S. 92: Limitation-Co-Operative Housing Society-Recovery of maintenance charges-Continuous cause of action-Claim not time-barred-Section 92 is a special provision of limitation which overrides the Limitation Act-Orders of the Co-operative Court and Appellate Court were set aside and the dispute was allowed--The opponent was directed to pay arrears of Rs. 12,15,141 with 9% interest per annum from the respective dates of default till realization. [S.92(1(b), Limitation Act, 1963, Art 226]**

The assessee, a co-operative housing society, filed a dispute for recovery of arrears of maintenance charges from the legal heir of a deceased member who continued to occupy the flat since 1992 without paying maintenance. The Co-operative Court and the Appellate Court dismissed the society's claim holding it barred by limitation under section 92(1)(b). On writ, the High Court held that the cause of action for recovery of maintenance was continuous and recurring so long as the opponent continued to occupy the flat and enjoy the amenities. The society restricted its claim to arrears from 2009 and filed the dispute in 2015, which was within the six-year limitation period under section 92(1)(b). The findings of the lower courts were based on a misinterpretation of the provision. Section 92 is a special limitation provision overriding the Limitation Act and intended to protect genuine claims of societies for recovery of dues from members or their successors. The occupant could not evade payment on a technical plea of limitation. Orders of the Co-operative Court and Appellate Court were set aside and the dispute was allowed. The opponent was directed to pay arrears of Rs. 12,15,141 with 9% interest per annum from the respective dates of default till realization. (W.P. No. 11466 of 2023; dt. 16.10.2025) (SJ)

Giri Chhaya Co-operative Housing Society Ltd. v. Sushila Laliwala (since deceased) through heirs and legal representatives (Bom)(HC) www.itatonline.org.

Maharashtra Goods and Service Tax (MGST Act), 2017

S. 73: Demands and Recovery-Tax evasion-Reward for providing information related to tax evasions-Reward determined but not paid by the government-Reward scheme should be operated fairly and avoid frivolous objections-Government directed to pay the reward with interest in case of delay-Circular GR No.STA-2004/CR-103 Taxation-2 dt-5-6-2007. [S. 74] 3241

The petitioner, a 64-year-old Mumbai resident, sought a reward for providing information regarding tax evasion since 1992, which aided in recoveries from Public Sector Oil Companies and Fisherman Co-operative Societies under a circular/resolution dated 01 January 1976. Despite court orders, the government authorities delayed payment by citing appeals, irrevocable revenue needs, and a disproven Form-A issue. The Bombay High Court confirmed a Rs. 12.93 crore recovery under the 2019 Amnesty Scheme due to the petitioner's information, setting a reward of Rs. 19,44,802. The court emphasized that the government must operate its reward scheme fairly and transparently, ensuring informers who take risks are not made to struggle for rightful payments, and that unreasonable delays or frivolous objections to avoid legitimate payments must cease. The court ordered payment of the determined reward within six weeks from June 24, 2025, with an 8% per annum interest for delays, to be recovered from the responsible officers. It also directed the Sales Tax Commissioner and Finance Secretary to finalise the full reward amount within six months and disburse it within two months thereafter, maintaining transparency. The petitioner may accept the payment under protest and pursue additional claims legally. (W.P No. 2283 of 2013 dt. 24-06-2025)

Darshan Singh Parmar v. UOI(Bom)(HC) www.itatonline.org

S: 83: Provisional attachment to protect revenue in certain cases-Cash credit accounts-Not a property of the account holder-Cannot be attached provisionally u/s 83-Directed to withdraw the attachment within 24 hours. [S.83(1), Art. 226] 3242

The petitioner's cash credit account with ICICI Bank was provisionally attached under Section 83 of the Maharashtra Goods and Service Tax (MGST) Act. The question before the court was whether a cash credit account qualifies as "property" that can be attached under section 83. The court held that a cash credit account, being a liability owed by the account holder to the bank, does not constitute property belonging to the taxable person as defined under Section 83 of the MGST Act. The phrase "including bank account" in the section was interpreted to exclude cash credit accounts, as they are not assets of the account holder. Relied on *Manish Scrap Traders v. Principal Commissioner, (2022) 141 taxmann.com 153 (Guj) (HC); J.L. Enterprises v. Assistant Commissioner, (2023) 152 taxmann.com 278 (Cal) (HC) ; Sargam Foods Pvt. Ltd. & Anr. v. State of Maharashtra & Ors, Writ Petition No. 4313 of 2008. [WP.No. 1928 of 2025 dt. 10-06-2024]*

Skytech Rolling Mill Pvt. Ltd. v Joint Commissioner of State Tax Nodal (Bom)(HC) www.itatonline.org

Maharashtra Stamps Act, 1958

3243 **S. 48 : Application for relief under section 47-Period for application for relief-Refund Of Stamp Duty-Amended limitation period-Deed of cancellation-Deed of rectification-Accrued right to claim refund arose the moment the cancellation deed is validly executed-Entitled to the benefit of unamended provision of S.48(1)-No Power with Chief Controlling Revenue Authority, Maharashtra State, Pune (CCRA) to recall its own order-Directed to refund the amount with interest @ 6 percent from the date of first order. [S. 47, 50, Limitation Act, 1963, S.30, Registration Act, 1908, S. 47]**

The appellant entered into a Sale Agreement with a Developer and paid the applicable stamp duty and registration charges. The developer later informed the appellant about unavoidable delay in handing over the possession according to the envisaged date due to the issues regarding adjacent slums. The appellant chose to cancel the booking and executed the Deed of cancellation on 17.03.2015, it came before the Sub-registrar on 28.03.2015. A deed of rectification was also executed by the appellant on 23.05.2016. In the meantime there was an amendment (dt. 24.04.2015) to S.48(1) of the Act which set a limitation for refund to six months from two years. On 06.08.2016 the appellants filed for refund of stamp duty. In its 1st order Chief Controlling Revenue Authority, Maharashtra State, Pune (CCRA) allowed refund, later it recalled the order and rejected the refund claiming that appellant fell in the after-amended limitation period. The appellant appealed to CCRA, which was dismissed. He filed a writ petition. The High Court held that the appellant was not heard by the CCRA and set aside its order and remanded the matter to CCRA for fresh hearing. The CCRA again rejected the refund. Aggrieved, the appellant filed a Writ in the Bombay High Court for the right to seek refund accrued on the date of execution, invoking unamended two year limitation period and CCRA having no power to recall its initial order. High Court dismissed the petition. Aggrieved, the appellant approached the Supreme Court. The issue before the Supreme Court is whether the six months period of limitation i.e. the before-amendment period was applicable to the appellant and whether the CCRA had power to recall its own order. The Supreme Court held that the appellant's accrued right to claim refund arose the moment the cancellation deed was validly executed. Therefore, the Court held that the Appellant was entitled to the benefit of unamended provision of S.48(1), it further held the CCRA's order recalling its previous order is illegal. Directed to refund the amount with interest @ 6 percent from the date of first order. The Respondents are also directed to process and disburse the refund of stamp duty, already paid by the Appellants along with accrued interest as directed within a period of four weeks. Any further delay will entail further interest component @ 12% p.a. (SLP (C) No. 21778 of 2024 dt. 24-1-2025)

Harshit Harish Jain v. The State of Maharashtra MANU/SC/0103/2025(SC)

Power of Attorney Act, 1882

S. 2: Execution of power-of-Attorney-General power of attorney-Transfer-Power of attorney and agreement to sell were not registered-In absence of registration under section 17(1)(b) of Registration Act, it would not be open for holder of power of attorney (POA) to content that she had a valid right, title and interest in immovable property to execute registered sale deed in favour of appellant-Sale deed executed by General Power of attorney (POA) holder after death of original owner was invalid. [S. 1A, Indian Contract Act, 1872, 201, 202, Indian Income-tax Act, 1961, 2(47), Indian Registration Act,1908, 17(1))(b), 49, Limitation Act, 1963, Article. 58, 65, Transfer of Property Act, 1882, S.40, 53A, 54, 55, Specific Relief Act, 1877] 3244

Appellant filed a suit for declaration of ownership and possession of an immovable property based on a sale deed executed in his favour by an agent (holder of General Power of Attorney). Respondents contended that sale deed was executed after death of original owner (principal) and was, therefore, invalid. Appellant contended that original owner (principal) had executed a General Power of Attorney (POA) and an Agreement to Sell in favour of agent, who subsequently, in her capacity as agent, executed a registered sale deed in favour of appellant. Court held that POA was general in nature and did not secure agent's right in subject matter of agency and, an agreement to sell simpliciter did not confer ownership in immovable property so as to transfer a better title to anyone else. Transfer of immovable property by way of sale could only be by a deed of conveyance, an agreement to sell is not a conveyance and it is not a document of title or a deed of transfer of deed of property and does not confer ownership right or title. Even though POA and agreement to sell were contemporaneous documents executed by original owner in favour of same beneficiary, this could not be sole factor to conclude that she had an interest in subject-matter. In absence of registration of POA and agreement to sell under section 17(1)(b) of Registration Act, it would not be open for holder of POA to content that she had a valid right, title and interest in immovable property to execute registered sale deed in favour of appellant. Court held that the High Court rightly held that sale deed executed by General POA holder after death of original owner was invalid. (CA Nos. 3266-3267 of 2025 dt. 27-2-2025)

M. S. Ananthamurthy v. J. Manjula [2025] 172 taxmann.com 7 (SC)

Prohibition of Benami Property Transactions Act, 1988-Benami Transactions (Prohibition) Amendment Act, 2016

3245 **S. 2(8) : Benami property-Authorities concerned could not initiate or continue criminal prosecution or confiscation proceedings for transactions entered into prior to coming into force of 2016 Act viz. 25-10-2016-SLP dismissed-Review petition is also dismissed. [S. 3, 5, Art. 136]**

High Court held that provisions under sections 3 and 5 of unamended 1988 Act, prior to coming into force of Benami Transactions (Prohibition) Amendment Act, 2016, were unconstitutional for being manifestly arbitrary and thus, authorities concerned could not initiate or continue criminal prosecution or confiscation proceedings for transactions entered into prior to coming into force of 2016 Act viz. 25-10-2016. SLP against order of High Court was dismissed-Revenue filed review petition by relying on *UOI v. Ganpati Dealcom (P.) Ltd. [2024] 167 301 Taxman 313/474 ITR 354 (SC)* wherein it was held that where any other proceeding had been disposed of by relying on judgment of Supreme Court in *UOI v. Ganpati Dealcom Private Ltd. [2022] 289 Taxman 177/447 ITR 108/(2023) 3 SCC 315,* liberty was granted to aggrieved party to seek a review. Following judgment of *Government of NCT of Delhi v. K.L. Rathi Steels Ltd. (2024) 7 SCC 315*, review petition against SLP was not maintainable.

Dy. Director of Income-tax (BPU Unity) v. Kokilaben Chhaganbhai Patel (2025) 305 Taxman 418 (SC)

Editorial : Dy. Director of Income-tax (BPU Unity) v. Kokilaben Chhaganbhai Patel (2025)174 taxxmann.com 693 (SC) affirmed, Governrmrnt of NCT of Delhi v.K.L. Rathu Steels Ltd (2024) 7 SCC 315, followed.

3246 **S. 2(8) : Benami property-Provisions of 1988 Act (Ss. 3 & 5) prior to 2016 amendment unconstitutional-SLP not maintainable-Review dismissed.[S. 3, 5, Art. 136]**

The High Court had held that Ss. 3 & 5 of the unamended Benami Act, 1988 were unconstitutional and hence no prosecution/confiscation could be initiated for transactions prior to the 2016 Amendment. The Revenue's SLP was dismissed by the Supreme Court. A review petition was later filed citing *UOI v. Ganpati Dealcom Pvt. Ltd. (2024) 167 taxmann.com 525(SC).* The Court held, following *Govt. of NCT of Delhi v. K.L. Rathi Steels Ltd. (2024) 7 SCC 315*, that review against dismissal of an SLP was not maintainable. Accordingly, the review petition was dismissed.

DCIT v. Kokilaben Chhaganbhai Patel (2025) 343 CTR 280/247 DTR 297/174 taxmann.com 796 (SC)

Editorial : UOI v. Ganpai Dealcom (P) Ltd (Review Petn. (Civil) No. 359 of 2023 in Civil Appeal No. 5783 of 2022, review petition was declined.

S.2(9) : Benami transaction-Availability of alternative remedy-Writ-Statutory appeal-Supreme Court-Observations of Division Bench on merits not to be treated as findings on merits. [S. 26(3), 46, Art. 136, Art. 226] 3247

The Adjudicating Authority held that certain property was benami under S.26(3). A single judge quashed that order on limitation grounds. The Division Bench held the writ was not maintainable due to the availability of an efficacious statutory appeal under S. 46. The Supreme Court allowed the appeal and clarified that observations of the Division Bench on merits should not be treated as final findings; appellants may rely on precedent *UOI v. Ganpati Dealcom Pvt Ltd (2022) 447 ITR 108 (SC)* in subsequent proceedings. The matter highlights limits on entertaining writs where statutory remedies exist, but also the necessity of deciding appeals on their merits when filed.

Advance Infradevelopers Pvt. Ltd. v. Adjudicating Authority, (2025) 474 ITR 512 (SC)

Editorial: The Division Bench's decision in Adjudicating Authority v. Anuttam Academic Institutions (2022) 442 ITR 509 (Mad) is reversed.

S. 5: Property held benami liable to confiscation-Benami transactions-Change of law-Order of Tribunal following Supreme Court decision holding amendments brought in 2016 not retrospective-Appeal against order passed by Tribunal Department given liberty to proceed based on outcome of review petition filed before Supreme Court. [S. 2(9), 3, 4, Art. 226] 3248

On miscellaneous appeals challenging the order passed by the Tribunal in favour of the assessees, following the decision of the Supreme Court in *Union of India v. Ganpati Dealcom Pvt. Ltd., (2022) 447 ITR 108 (SC); (2023) 3 SCC 315* holding that the provisions under the Prohibition of Benami Property Transactions Act, 1988 as amended in 2016 did not have retrospective effect: Following the earlier order passed by the court in a batch of appeals, the assessees were given liberty to proceed further on the basis of the outcome of the review petition filed before the Supreme Court against the decision in *Union of India v. Ganpati Dealcom Pvt. Ltd., (2022) 447 ITR 108 (SC)*

Dy. CIT (Benami Prohibition) v Anjani Constructions Pvt. Ltd.(2025) 478 ITR 670 (Mad) (HC)

S. 26(3) : Appeal-Order of adjudicating authority-Writ cannot be issued. [S.24, Art. 226] 3249

Dismissing the petition the Court held that the document dated January 5, 2024 was merely a show-cause notice. The scope of interference by the court at this stage was limited. The "provisional assessment order" as the name suggests, was "provisional" in nature. The adjudicating authority was best suited to decide the question of the benami nature of the property. The show-cause notice was a detailed notice running to several pages containing several factual basis and it was within the province of 'adjudicating authority' to decide whether the property was "benami" in nature and whether the petitioners were liable for any action under the Act. The petitioners could avail of the remedies under the Act and take all possible factual and legal grounds before the adjudicating authority.

Santosh Bhadoriya v. UOI (2025) 467 ITR 467 (MP)(HC)

3250 **S.50: Benami transactions-Change of law Order passed by Tribunal allowing assessees' appeals following Supreme Court ruling to effect that amendments brought in 2016 did not have retrospective effect Pendency of review petition before Supreme Court not ground to disturb order of Tribunal-But Department given liberty to proceed based on outcome of review petition filed before Supreme Court.[Art. 226]**

Tribunal allowed the appeals filed by the assessees following the decision of the Supreme Court in the case of *UOI v. Ganpati Dealcom Pvt. Ltd., (2022) 447 ITR 108 (SC); (2023) 3 SCC 315; (2023) 1 SCC (Cri) 798; 2022 SCC OnLine SC 1064* to the effect that the provisions under the Prohibition of Benami Property Transactions Act, 1988 (as amended in 2016) did not have retrospective effect, on appeals on the ground that the Department had sought review of the Supreme Court decision. Following the earlier order passed by the court in a batch of similar appeals the court did not interfere with the orders of the Tribunal, but granted liberty to the Department to proceed further depending on the outcome of the review petition pending before the Supreme Court.

Dy. CIT (Benami Prohibition) v. Marg Ltd (2025) 477 ITR 521 (Mad)(HC)

3251 **S. 50 : Benami transactions-Offences and prosecution-Demonetisation-Jurisdiction of court-Complaint filed before Special Court under Benami Prohibition of Benami Property Transactions Act Cognizance of offence by trial court, valid Act, 1988. [S. 53, Criminal Procedure Code, 1973, S. 200, 482]**

During search it transpired that a cash amount of Rs. 30 Lakhs had been deposited in account of STC maintained with bank in Ghaziabad and on same date, an amount of Rs. 7.50 lakhs was transferred from that account to bank account of applicant. Proprietor of STC denied ownership of amount. On enquiry by Benami Prohibition Unit, applicant admitted that sum of Rs. 7.50 lakhs deposited into bank account of STC was applicant's unaccounted cash, which was deposited during demonetization period and had been transferred to his bank account. Thereafter complaint was filed before Special Court and Additional Session Judge, Lucknow took cognizance of the alleged offence and summoned applicant to face trial. Applicant contended that since applicant resided at New Delhi, i.e. beyond territorial jurisdiction of Court which had passed summoning order, as per statutory provision contained in section 202 Cr.P.C., it was mandatory for Court to have conducted an inquiry before taking cognizance of offence and summoning applicant. Section 202 Cr.P.C. merely directs that Magistrate shall hold an enquiry to inquire into case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for purpose of deciding whether or not there is sufficient ground for proceeding; it does not prescribe the manner of holding an enquiry under this provision. Summoning order passed after taking into consideration averments made in the complaint filed by Union of India through public servant, after perusing documents filed with complaint and after recording satisfaction that there was sufficient ground for proceeding against applicant, fulfilled requirement of holding an enquiry under section 202 Cr.P.C. and therefore, application filed by applicant was to be dismissed. Notification dated October 16, 2018 (2018) 408 ITR (St) 30)

Sandeep Miglani v. UOI [2024] 164 taxmann.com 168 /(2025) 482 ITR 375 (All)(HC)

Prevention of Money Laundering Act, 2002

S. 2 (1)(u) : "Proceeds of crime" means any property derived or obtained directly by property derived or obtained directly or indirectly,by any person as a result of criminal activity relating to a schedule offence or value of any such property-Offence of money laundering-Punishment for money-laundering-Allowing the Criminal Revision application the Court awarded exemplary cost Rs 1 lakh each on complainant and Enforcement Director (ED) for invoking criminal action and harassing the Developer with criminal action-Breach of agreement-Purchaser and Developer-Law Enforcement Agencies like ED should conduct them selves within parameters of law and that they cannot take law in to their own hands without application of mind and harass citizens. [S. 3, 4, Indian Penal Code 1860, S 120B, 406, 418, 420] 3252

Police station forwarded the charge sheet to the Enforcement Director (ED). The ED lodged a criminal case against the developer. Criminal Revision Application was filed challenges legality and validity of the order dated 08.08.2014, issuing process passed by the learned Special Judge, Mumbai under the Prevention of Money Laundering Act, 2002 seeking setting aside of the order, principally on the ground that prima facie no offence whatsoever is made out under Sections 406, 418, 420 read with 120B Indian Penal Code, 1860. Allowing the petition the Court held that a mere breach of promise, agreement or contract does not, ipso facto, constitute an offence of criminal breach of trust without there being a clear case of entrustment-Clearly, the allegation / charge under Section 406 of the IPC has no basis. Once it is established that there is no cheating involved under the IPC then there is no proceeds of crime involved under Section 2(1)(u) of PMLA and therefore there is no Money Laundering involved under Section 3 of PMLA in the present case prosecution and ED has not made out any case whatsoever for proceeding against the Applicants before the Court under the PMLA or even under IPC. At the highest if Complainant is aggrieved due to delay in receiving possession, his remedy lies in a Civil Court under the Sale Agreement which he has already invoked. No offense of cheating or Money Laundering exists qua the prosecution and ED has not made out any case whatsoever for proceeding against the Applicants before the Court under the PMLA or even under IPC. At the highest if Complainant is aggrieved due to delay in receiving possession, his remedy lies in a Civil Court under the Sale Agreement which he has already invoked. No offense of cheating or Money Laundering exists qua the ED for reasons best known to it have supported Complainant's false case without application of mind or without going through the record delineated herein above. ED for reasons best known to it have supported Complainant's false case without application of mind or without going through the record delineated. CRA is allowed in terms of prayer clauses (c) and (d). The attachment of the two flats and garage purchased by Applicant No.1 by Respondent No. 3-ED is cancelled. Interim Application No. 2936 of 2024 filed by Respondent No. 3-ED is dismissed and disposed of accordingly. CRA No. 379 of 2016, with Interim Application No.2936 of 2024 dt.21-1 2025)

Rakesh Brijal Jain v. State of Maharashtra (Bom)(HC) (UR)

3253 **S. 5 : Prevention of Money Laundering Act, 2002-Attachment of property-Rights of secured creditor-Pending decision on validity of provisional attachment, interim arrangement was necessary to avoid wastage or encroachment. Sale proceeds were safeguarded with Court. [S.8]**

Where mortgaged properties provisionally attached under PMLA were also secured to appellant under SARFAESI, and interim protection was necessary to preserve value, Court directed sale of such properties under SARFAESI and deposit of proceeds with Registrar, subject to final orders. Held that pending decision on validity of provisional attachment, interim arrangement was necessary to avoid wastage or encroachment. Sale proceeds were safeguarded with the Court. No finding was given on priority rights of secured creditor vis-à-vis ED; issue kept open.

Aditya Birla Finance Ltd. v. Directorate of Enforcement, Govt. of India [2023] 148 taxmann.com 399 (Bom)(HC)

Rajasthan Rent Control Act, 2001

S. 9: Eviction of tenants-Partnership firm-Tenancy created in individual capacity-Non-joinder of firm or other partners immaterial-Landlord's bona fide need proved-Tenant cannot dictate choice of premises-Writ not maintainable-Petition dismissed.[S.2(i),21, Succession Act, 1956, Order 6 Rule 17 CPC, Order 14 Rule 5, 30 CPC, Ss. 2(i), 21, Art. 226] 3254

The petitioners, Arun and Deepak Fatehpuria, challenged the order dated 31.05.2025 passed by the Appellate Rent Tribunal, affirming the eviction order dated 12.10.2022 passed by the Rent Tribunal No. 2, Jaipur Metropolitan-I, under Section 9 of the Rajasthan Rent Control Act, 2001. The eviction was sought by the respondent, Tarachand Tholia HUF, on the grounds of personal bona fide necessity and sub-letting, along with revision of rent. It was contended that the premises were originally let out in 1954 to Shankar Lal Fatehpuria, the petitioners' father, who carried on business under the name of M/s Vyapar Udhyog Pratisthan. The rent had been paid from the firm's account for decades. The petitioners argued that the tenancy had evolved into one by the firm, which included a third partner, Ankit Fatehpuria. They claimed that non-joinder of the firm and the third partner rendered the eviction petition defective and non-maintainable. They also argued that the landlord's claim of bona fide need was unfounded as he possessed other properties and had let out shops during the pendency of proceedings.

The issues for consideration before the High Court were:

1. Whether the eviction application was maintainable without impleading the partnership firm and all its partners?
2. Whether the landlord's claim of bona fide personal necessity could be rejected on the basis of availability of other premises?

The Court held that the tenancy was created in favour of an individual, Shankar Lal Fatehpuria, and not the partnership firm. Payment of rent from the firm's account did not alter the nature of the tenancy. There was no material to show that the landlord had ever accepted the firm as tenant. The legal definition of "tenant" under Section 2(i) includes persons on whose account rent is paid, but it does not convert an unregistered business entity into a tenant without a specific landlord-tenant relationship.

The Court further held that even if the landlord had other properties, it was within his right to choose which premises he wishes to reclaim. A tenant cannot dictate the landlord's business strategy or question his choice of premises for establishing a showroom or expanding commercial activity. The concurrent findings of the Rent Tribunal and the Appellate Tribunal affirming the landlord's bona fide need were based on evidence and warranted no interference under Article 226.

The Court relied on authoritative precedents including:

Bhupinder Singh Bawa v. Asha Devi, (2016) 10 SCC 209, holding that the landlord may choose a more suitable premises for his business.

Dhanalal v. Kalawati Bai, (2002) 6 SCC 16, stating that a landlord cannot be compelled to continue business in rented premises.

Kanahaiya Lal Arya v. Md. Ehshan, SLP (C) No. 21965/2022, holding that a landlord cannot be forced to initiate eviction proceedings against other tenants merely because he owns other properties.

The Court held that neither the firm nor Ankit Fatehpuria had any tenancy rights and hence were not necessary parties. The landlord's requirement was genuine, and the findings of the lower tribunals required no interference. The writ petition is dismissed. (B. Civil Writ Petition No. 10566/2025, dt. 25-07-2025)

Arun Fatehpuria & Anr. v. Tarachand Tholia (HUF), (Raj(HC) (Jaipur Bench) [2025:RJ-JP:26949] www.itatonline.org

Securities and Exchange Board of India Act, 1992

S. 28A : Securities, Markets and Exchanges-Offences and Penalties-Recovery of tax-Attachment and sale of property-Auction sale-Recovery of penalty by modes such as attachment and sale of properties Auction sale of property by Securities and Exchange Board of India for recovery of penalty-Failure by successful bidder to pay balance of consideration Whether forfeiture of entire earnest money deposit justified Provisions under income-tax law to apply with necessary modifications-Automatic forfeiture of entire deposit not contemplated Provisions giving Tax Recovery Officer discretion to order forfeiture of entire deposit or limit it to extent of actual loss incurred by authorities discretion Securities and Exchange Board of India Act, 1992-Attachment of property-Recovery of Tax/Arrears of Tax/Crown Debt/Debt owed to State-Has discretion to order forfeiture of entire deposit or limit it to extent of actual loss incurred by authorities discretion-Recovery of penalty-Auction sale of property-Failure by successful bidder co pay balance of consideration-Default In payment by purchaser within period specified Provision for forfeiture of deposit to secured creditor and resale of property with defaulting purchaser forfeiting all claims to property or Co any part of sum for which it may be subsequently sold No discretion with authorities as under income-tax law to quantify actual loss or damages incurred-Security Interest (Enforcement) Rules, 2002 B 9/5. [Income Tax Act, 1961-Sch. II, R. 58-Civil Procedure Code, 1908, Or. 21 R. 86, Indian Contract Act, 1872, S.73, 74] 3255

On appeal against the order of the single judge, the Court held that in pursuance of an e-auction notice issued by the Securities and Exchange Board of India, the appellant participated in the e-auction and was declared the highest bidder in respect of certain property mentioned in the e-auction notice. Its bid was confirmed by the Board upon finalisation of the e-auction process and the appellant paid a sum towards earnest money deposit and made further deposits as well. However, on the appellant having failed to make payment of the remaining amount of consideration money towards such purchase by the stipulated time, the Board informed the appellant of the forfeiture of the entire money paid by the appellant, declared the sale cancelled and put the property to auction afresh. The appellant's writ petitioner challenging the decision of the Board to forfeit the entire amount paid by the appellant was dismissed by the single judge. Allowing the appeal, the High Court of Calcutta held that the proceedings for e-auction of the properties, confirmation and cancellation of the auction sale were taken in accordance with relevant provisions of the Rules contained in the Second Schedule to the Income Tax Act, 1961 with necessary modifications. No such discretion was exercised by the Board and the Board proceeded to forfeit the entire deposit amount in a manner as if it was automatic. No opportunity of hearing was afforded to the appellant. The entire earnest money deposit was directed to be forfeited without taking into consideration the loss and damage suffered by the Board owing to the default on the part of the appellant in making the payment of balance consideration money. The judgment of the single judge, so far as it related to the rejection of the prayer of the appellant for return of earnest money deposit, was to be set aside. The Board shall

proceed to determine the nature and extent of forfeiture of the earnest money deposit amount afresh. In doing so, the Board shall provide sufficient opportunity of being heard to the appellant. The Board is at liberty to hear any other parties and consult any document as it deemed necessary.

The purport of Rule 9(5) of the Security Interest (Enforcement) Rules, 2002 (framed under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002) is that in the case of a sale by auction of secured assets, in case of default in payment by the purchaser within the period mentioned in sub-rule (4), the deposit shall be forfeited to the secured creditor. The property shall be resold and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may be subsequently sold. The provision does not any discretion with the authorities to determine and quantify the actual loss or damages incurred. Appellant had not challenged the finding of the single judge rejecting the case of the appellant to the effect that he was prevented by the intervention of COVID-19 in making payment of the balance consideration money within time specified in the contract. Therefore, there was no justification to interfere with the finding. Order of single judge set aside and order so far as it relates to the rejection of the prayer of the appellant for return of earnest money deposit.

Dolphin Suppliers (P) Ltd. v. UOI (2025) 477 ITR 7 (Cal)(HC)

Editorial : Dolphin Suppliers (P) Ltd.v. UOI (W.P.A. No. 5994 of 2022 dt. 4-4-2022),Single Judge.

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARAESI, Act)

S. 13: Enforcement of security interest-Unregistered lease agreement-Monthly tenant-Mortgage-Tenant cannot object to eviction without establishing that Tenancy was created before Mortgage-Alternative remedy-Writ is not maintainable-Appeal is allowed. [S.13(2), 13(4), 14, 17(4A), 18, 35, Transfer of Property Act, 1882, S. 65A, Art. 132, 226, 227] 3256

The 1st Respondent, Dr. Manoj Saha, claimed to be a tenant of a property located at 1 Allenby Road, Kolkata under an unregistered lease agreement from 1987 with M/s Janapriya Finance (the original owner). The property was later sold to the 2nd Respondent, who mortgaged it to the Appellant (PNB Housing Finance Ltd.) to secure loans. Due to default in loan repayments, the account became a Non-Performing Asset. SARFAESI proceedings were initiated, and symbolic possession was taken on 02.12.2021. On 02.08.2023, physical possession of the asset was taken by the Appellant with the help of the District Magistrate. Respondent No. 1 then filed a securitization application before the DRT and also sought interim relief. The DRT denied interim relief citing lack of registered tenancy and no prior notice to the lender about tenancy. The High Court, however, allowed Respondent No.1's plea under Article 227 and directed restoration of possession. The issues for the Consideration before the Apex Court were ;

1. Whether the High Court was justified in entertaining a writ petition under Article 227 despite the existence of alternate remedy under Section 18 of SARFAESI?
2. Whether the 1st Respondent was entitled to restoration of possession based on his claim of tenancy?
3. What is the legal effect of tenancy created by unregistered agreements under SARFAESI, especially post the 2016 amendment introducing Section 17(4A)?

The Supreme Court held that the High Court erred in entertaining the writ petition, especially when an adequate appellate remedy was available under Section 18 of SARFAESI. The High Court wrongly relied on the Harshad Govardhan Sondagar precedent, which had become obsolete post the 2016 amendment to SARFAESI. The Court emphasized that oral or unregistered tenancy agreements cannot survive beyond one year from the date of notice under Section 13(2) of SARFAESI unless supported by convincing evidence (like rent receipts, electricity bills, etc.). In this case, Respondent No.1 failed to prove tenancy through reliable evidence prior to issuance of notice. Payments to the Rent Controller started only in 2022, after proceedings had begun. The Court also noted the passive conduct of Respondent No.1, who did not act despite multiple public notices.

The Honourable Court relied on various judgments:

I. *Bajarang Shyamsunder Agarwal v. Central Bank of India, (2019) 9 SCC 94*, which clarified that tenants claiming under unregistered or oral tenancy must establish their status through independent documentary evidence. Even then, such tenancies cannot survive beyond one year from the date of the SARFAESI demand notice,

after which the occupant becomes a "tenant in sufferance".

II. *Harshad Govardhan Sondagar v. International Assets Reconstruction Co. Ltd., (2014) 6 SCC 1*, which had previously protected tenants under registered leases from SARFAESI eviction, was rendered inapplicable post the 2016 amendment to the Act which introduced Section 17(4A), allowing tenants to approach the DRT.

III. *Varimadugu Obi Reddy v. B. Sreenivasulu, (2023) 2 SCC 168* and

IV. *South Indian Bank Ltd. v. Naveen Mathew Philip, (2023) 17 SCC 311,*

that High Courts must refrain from interfering in SARFAESI proceedings under Article 226/227 when alternative remedies like appeals under Section 18 are available.

In light of the above, the Court concluded that the Respondent's failure to prove tenancy before the mortgage or to produce contemporaneous evidence invalidated his claim, and no direction restoring possession could be granted.

The Supreme Court allowed the appeal and set aside the High Court's order restoring possession. Directed that the status quo be maintained in respect of the secured asset until disposal of the securitisation application pending before the DRT, which must be concluded within 2 months.(SLP (c) No 7288 of 2024 dt. 15-7-2025)

PNB Housing Finance Ltd. v. Manoj Saha & Anr. [2025 INSC 847], MANU /SC / 913 / 2025

3257 **S. 34 : SARFAESI Act-Jurisdiction-DRT-Civil Court-Only DRT which would have exclusive jurisdiction to try such matters, to total exclusion of Civil Court. [S. 13, 17]**

Jurisdiction of DRT under sections 13 and 17 is exclusive. Where borrower defaulted and Bank initiated recovery under SARFAESI, Civil Court had no jurisdiction to entertain borrower's suit challenging NPA classification or seeking injunction. Held that Section 34 expressly bars jurisdiction of civil courts in matters relating to SARFAESI. DRT alone has authority over disputes concerning security interest. Order of Civil Court granting relief to borrower was without jurisdiction and liable to be set aside.

Regional Manager v. Punya Coal Road Lines [2023] 154 taxmann.com 599 (Bom)(HC)

Real Estate (Regulation and Development) Act, 2016 (RERA, Act)

S. 43: Real Estate Appellate Tribunal-Powers of Tribunal-Maharashtra Real Estate Regulatory Authority-Right to legal representation-A Hybrid system of hearing-Execution of orders-Delay in enforcement-Virtual-only hearings-Hybrid hearing not offered-Absence of mechanism for urgent listing and execution-Access to justice is an important of any courts / Tribunals exists, must be given an opportunity of hearing-Tribunals were constituted with the sole objective of delivering speedy, inexpensive and decentralised adjudication of disputes in various matters-Exclusive reliance on virtual hearings is unsustainable-Guidelines issued to ensure access to justice-Writ petition allowed. [S. 20, 53,56 RERA Regulations 2017, Circular No. 34A dated 08.04.2025, Sarvesh Mathur v. Registrar General, (2023) MANU/SCOR/03900/2025, Art. 226, 227, 323A] 3258

The Petitioner, Mayur L. Desai, filed a writ petition under Article 226 of the Constitution before the Bombay High Court, seeking (a) expedited final orders in his execution proceedings pending before Maharashtra Real Estate Regulatory Authority (MahaRERA), and (b) issuance of guidelines to streamline execution processes, introduce hybrid hearings, and address systemic delays.

The Petitioner contended that despite obtaining a favourable order from MahaRERA, he was unable to enjoy its benefits due to lack of an effective enforcement mechanism. He highlighted the absence of (i) structured processes for urgent hearing, (ii) a clear listing procedure for execution matters, (iii) in-person mentioning, and (iv) effective communication with the Authority. Post-COVID, MahaRERA continued to hold only virtual hearings, unlike other tribunals and courts that adopted a hybrid model.

The Court took note of the serious procedural shortcomings, observing that procedural fairness includes the right to opt for physical or virtual hearing. It found MahaRERA's insistence on virtual-only hearings to be contrary to the spirit of access to justice, especially when facilities for hybrid hearings existed.

The Court referred to the Supreme Court's binding judgment in *Sarvesh Mathur v. Registrar General [2023 SCC OnLine SC 1293/ MANU/SCOR/03900/2025]*, which mandated all Courts and Tribunals to provide hybrid hearing infrastructure and emphasized that denying either mode constitutes procedural injustice.

MahaRERA's exclusive reliance on virtual hearings was unsustainable. The High Court directed MahaRERA to:

1. Restore hybrid hearing facility within 4 weeks.
2. Review Circular 34A (08.04.2025) and relevant SOPs to ensure:
   - o Mechanism for urgent listing.
   - o Proper execution of non-compliance orders.
   - o Mentioning procedures.
   - o Time-stamped pronouncement of orders.
3. Align its procedures with the Sarvesh Mathur judgment.
4. Maintain a register of praecipes with reasons for acceptance/rejection.
5. Assign fixed hearing dates and notify adjournments clearly.

6. Publicly display SOPs, contact information, Bench calendars, and cause lists.

Quoting President John F. Kennedy, the Court observed:

"The time and the world do not stand still. Change is the law of life. And those who look only to the past or present are certain to miss the future."

In this spirit, it reminded institutions like MahaRERA that procedural reform is not optional, but a constitutional imperative to ensure meaningful access to justice.

The High Court allowed the writ petition, holding that denial of hybrid hearings and absence of execution infrastructure undermined RERA's objectives of expeditious and transparent dispute resolution. Rule was made absolute, and MahaRERA was directed to comply with the directions by 4th September 2025. Request for stay of judgment was rejected. (WP-LD No. 11502 of 2025, Bombay High Court dt. 24.07.2025)

Mayur L. Desai v. State of Maharashtra & Anr. (Bom)(HC) www.itatonlline.org

Tribunals Reforms Act, 2021

Constitution of India-Tribunals-Independence of Judiciary-Constitutional validity of the Tribunals Reforms Act, 2021-Legislative override of judicial directions-Doctrine of separation of powers-Validity of the Act is struck down-Tribunals being substitutes for High Courts in many fields, must meet the same constitutional standards of independence and cannot be exposed to executive control in matters of appointments, tenure, remuneration, or administration-Court directed the Union of India a period of four months from the date of this judgment to establish a National Tribunals Commission-The commission so constituted must adhere to the principles articulated by this Court, particularly concerning independence from executive control, professional expertise, transparent processes, and oversight mechanisms that reinforce public confidence in the system-Court also clarified and directed that the service conditions of all such Members of ITAT who were appointed by order dated 11th September 2021 shall be governed by the old Act and the old Rules. [Art. 14, 21, 50,141, 323-A, 323-B] 3259

In a comprehensive judgment examining the constitutional validity of the Tribunals Reforms Act, 2021, the Supreme Court held that several provisions of the Act were unconstitutional as they re-enacted, almost verbatim, provisions earlier struck down in Madras Bar Association (V), thereby amounting to an impermissible legislative override of binding precedent under Article 141. The Court traced the entire jurisprudential evolution beginning from *S.P. Sampath Kumar, v. UOI (1987) 1SCC 124, R.K. Jain, v. UOI (1993) 4 SCC 119, L. Chandra Kumar, v. UOI (1997) 3 SCC 261, UOI v. R. Gandhi (MBA-I), (2010) 11 SCC 1, NTT case, Roger Mathew, and MBA (IV),* emphasising that Tribunals being substitutes for High Courts in many fields, must meet the same constitutional standards of independence and cannot be exposed to executive control in matters of appointments, tenure, remuneration, or administration. It held that norms relating to age limits, qualifications, tenure, selection process, and eligibility criteria for tribunal appointments are not mere policy matters but constitutional safeguards flowing from the structure of Articles 323-A & 323-B and the basic features of judicial independence and separation of powers. The Court found that the Act's bar on appointment of persons below 50 years, despite its earlier rejection in MBA (V), was designed to exclude meritorious younger advocates and was, therefore, discriminatory and violative of Article 14. Similarly, the requirement that the Search-cum-Selection Committee recommend a panel of two names, rather than one name with a waiting list as directed in MBA (IV), was held unconstitutional as it reintroduced executive discretion and defeated the purpose of insulating appointments from governmental influence. The Court reaffirmed that the law declared by it under Article 141 is binding, and the legislature cannot nullify judicial directions except by curing the underlying defect, which the impugned Act failed to do. The provision fixing a four-year tenure for Chairpersons and Members, previously struck down as too short, was again invalidated as a short tenure is "anti-merit" and discourages capable applicants, undermining tribunal independence; the retrospective application of this four-year tenure was held to be a direct attempt to undo judicial decisions. The Court strongly criticised the Government for persistently disregarding its repeated directions on tribunal

appointments, observing that such non-compliance has caused massive vacancies, rendering several tribunals "on the verge of closure" and leading to a complete denial of access to justice. It directed the Government to ensure timely appointments and strictly adhere to the constitutional parameters earlier laid down. At the same time, the Court upheld the retrospective enhancement of housing allowance (HRA) for tribunal members, finding it consistent with prior directions that suitable housing or enhanced HRA was essential for judicial independence. The Court reiterated that while Parliament has wide latitude to legislate on tribunals, it cannot repackage invalidated provisions without addressing their constitutional defects, nor can it encroach upon the core constitutional principles governing independent adjudication. In conclusion, the challenge was partly allowed, with the Court striking down provisions relating to the minimum age requirement, panel-based selection process, and four-year tenure, while upholding provisions that complied with earlier jurisprudence, reaffirming that the Constitution, not Parliament or the Executive, ultimately governs tribunal design. Court directed the Union of India a period of four months from the date of this judgment to establish a National Tribunals Commission. The commission so constituted must adhere to the principles articulated by this Court, particularly concerning independence from executive control, professional expertise, transparent processes, and oversight mechanisms that reinforce public confidence in the system. Court also clarified and directed that the service conditions of all such Members of ITAT who were appointed by order dated 11th September 2021 shall be governed by the old Act and the old Rules. The ITAT Bar Association Mumbai and ITAT Bar Association Mumbai, have file the application before the Court and made representation on behalf of the Bar Associations to maintain the independency of the ITAT. (WP No. 1018 of 2021 /626 of 2021 dt 19-11-2025)
Madras Bar Association v. UOI [2025] 180 taxmann.com 608 (SC) www.itatonline.org.

Vivad se Vishwas I Relief for MSMEs Scheme, 2023 (Micro, Small and Medium Enterprise Development Act, 2006)

S. 7: Reclassification of assessee as not micro or small or medium enterprise-Vivad se Vishwas I Scheme-Micro or small or medium enterprise-Eligibility for non-tax benefits-Entitled to avail of all non-tax benefits of category before reclassification for three years from date of reclassification. [Micro, Small and Medium Enterprise Development Act, 2006, S. 7, 8, 9, Art.226] 3260

The assessee was registered as a medium enterprise under the 2006 Act and was unable to deliver or complete various projects contracted with the Government or public sector undertakings due to constraints that arose from the covid-19 pandemic lockdown. Due to these defaults, the contracting Government undertaking or authority deducted liquidated damages under the contracts entered into with the assessee. On a writ petition whether the assessee was entitled to take the benefits of "Vivad se Vishwas I-Relief MSME Scheme" introduced by the Finance Ministry by an Office Memorandum dated April 11, 2023, while in February 2024 it was reclassified as "not a micro, small and medium enterprise" with effect from May 9, 2023, allowing the petition to the extent of eligibility of the assessee to avail of the benefits of the scheme without going into the merits of the assessee's claim, the Court held that even though the assessee was reclassified as "not a micro, small and medium enterprise" (by virtue of upward reclassification) with effect from May 9, 2023, for a period of three years from May 9, 2023, it was entitled to avail of all non-tax benefits available to a medium enterprise. Since the scheme was a non-tax benefit applicable even to a medium enterprise the assessee was entitled to make a claim under the scheme. Such view was also supported by the affidavit-in-reply of the Ministry of Micro, Small and Medium Enterprises. Therefore, it was wrongly held that the assessee was not entitled to make claim under the Vivad se Vishwas | Scheme. It was clarified that the merits of the claim had not been gone into by the court but only the eligibility of the assessee to avail of the scheme had been decided. The merits thereof would have to be considered and decided by the respondents in accordance with the provisions of the scheme.

Marine Electricals India Ltd v. UOI (2025) 474 ITR 239 (Bom)(HC)

Reference to Finance Bill, Act, Circulars, Notifications, Schemes and Articles etc.

Finance Bill, 2025
Finance Act, 2025 (Assent of the President on 29 th March, 2025) (2025) 474 ITR 17 (St)

Taxation Laws (Amendment) Act, 2025, (Assent of the President on 21 st August 2025) (2025) 478 ITR 12 (St)

Circulars /Orders.

Order No. S.O. 348(E), dated 20 th January, 2025(Direct Tax Vivad Se Vishwas Scheme, 2024-Order passed on or before the specified date. i. e. the 22 nd July 2024) (2025) 472 ITR 25 (St)
Circular No. 1 of 2025, dated 21 st January 2025-Guidance for application of the Principal Purpose Test (PPT) under India 's Double Taxation Avoidance Agreements-Regarding (2025) 472 ITR 18 (St)

Circular No. 2 of 2025, dated 18 th February, 2025-Extension of due date for filing of Form No 56F under the Income-tax Act, 1961-Regarding (2025) 473 ITR 9 (St)

Circular No. 3 of 2025, dated 20 th February, 2025-Income-tax deduction from salaries during the financial year 2024-25 under section. 192 of the Income-tax Act, 1961 (2025) 473 ITR 9 (St)

Circular No 4 of 2025, dated March 17, 2025-Frequently Asked Questions (FAQs) on guidelines for compounding of offences under the Income-tax Act, 1961 dated 17-10-2024 (2025) 474 ITR 2 (St)
Circular No.5 of 2025, dated March, 28, 2025-Order under section 119 of the Income-tax Act, 1961 for waiver on levy of interest under section 201(IA)(ii) / 206C(7) of the Act, as the case ay be in specific cases-Regarding (2025) 474 ITR 95 (St)

C.B.D.T. Order-Order dated March, 26, 2025. Subject-Order under section 119 of the Income-tax Act, 1961-Regarding-(Financial year 2024-25 closes on March, 31, 2025 (Monday)((2025) 474 ITR 97 (St)
Circular No. 6 of 2025, dated 27 Th May, 2025-Exteension of due date for funrinshing return of income for the assessment year 2025-26-Regrading-(2025) 476 ITR 9 (St)

Order dated 6 th June, 2025 : Order under section 138(1)(a) of the Income-tax Act, 1961 (2025) 476 ITR 7 (St)

Order dated 9 th June, 2025 : Order under section 119(2)(a) of the Income-tax Act, 1961, regarding processing of returns filed under section 139 of the Income-tax Act, 1961, beyond prescribed tile limit-Regarding (2025) 476 ITR 9 (St)

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NOTES



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