

**Case Laws of the Honourable
Supreme Court of India
and the
Honourable High Courts of India
in favour of Revenue**

Compiled by
Sarita Mishra Kolhe
Additional Director of Income Tax (Training)
Direct Taxes Regional Training Institute
Kolkata



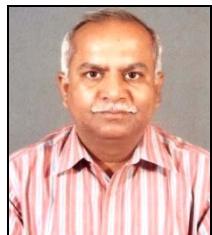
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Foreword

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Director,**



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1. The interpretation of the direct tax statute is the domain of the Honourable Supreme Court of India and the Honourable High Courts. The pronouncements of these august institutions constitute the wisdom for guidance of subordinate authorities.

2. While numerous commentaries and compilations in respect of case laws on direct tax statute are available, a need is always felt by the officers of the Department for a compilation of latest pronouncements in favour of revenue.

3. The DTRTI, Kolkata had published “One Thousand Judgements of the Honourable Supreme Court of India and the Honourable High Courts of India in Favour of Revenue” in January 2010. The publication is now updated to include selected case laws up to ITR 336. The publication is also recast by arranging the case laws in ascending order of reference to sections of the Income Tax Act, 1961. Further for each indexed item, based on section referred, the case laws are arranged in descending order of year of citation.

4. Smt. Sarita Mishra Kolhe, Addl. Director, DTRTI, Kolkata has painstakingly selected numerous citations and carefully compiled the gists of the case laws in the publication. She deserves praise for successful completion of this publication.

5. It is hoped that the compilation in the present form will be of immense help to the Officers of the Department in discharge of their functions.

Kolkata
Dated 15.09.2011

kksrivastava
(K.K.Srivastava)
Director,
DTRTI, Kolkata



Preface

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1. Almost every day the Honourable Supreme Court of India and the Honourable High Courts of India settle a number of disputes arising out of the interpretation and applicability of the various sections of the Income Tax Act 1961.
2. The needs of the Assessing Officers and their Supervisory Officers functioning in the Income Tax Department for apprising themselves about the scope of effective application of the statutory provisions of the Income Tax Act 1961, in a given situation and under a given set of facts cannot be overemphasized.
3. From the midst of thousands of judgements pronounced by the Honourable Supreme Court of India and the Honourable High Courts of the country it is not always very easy to locate a decision favourable to the Department on a specific issue or on a particular aspect of a section of the Income Tax Act, 1961. Although a lot of citations are available in numerous tax publications such as Taxmann's Direct Tax Laws Online, Tax India Online and others, still, the task of locating a favourable judgement on a pin-pointed issue is difficult, unless one is an avid reader of a bevy of judgments, and regularly follows up the judicial rulings of the Honourable Supreme Court of India and of the Honourable High Courts of India pertaining to the Income Tax Act, 1961.
4. With this constraint in view, an attempt has been made in this Publication to present a gist of several judgements, including several landmark judgements, of the Honourable Supreme Court of India and of the Honourable High Courts of India in favour of the Department on a spectrum of issues under the Income Tax Act, 1961. Care has been taken to include quite a large number of judgments section wise, including many recent judgements.
5. The Publication is so designed that the user will not only get the citation and the relevant section of the Income Tax Act, 1961 but also the gist of the judgement so that the Assessing Officers, their Supervisory Officers, CsIT, CsIT(A), Officers in the ITAT and other Officers may readily match the facts and circumstances of the case at hand with those covered in the judgements.
6. In this compilation, a gist of several judgements favourable to revenue from **ITR 2 to ITR 336** are included. To compile this Publication reliance has been placed on several publications like

ITRs, Taxmann, Taxmann's Direct Tax Laws Online, Current Tax Reporter, Taxman's Corporate Professional Today etc. However this compilation is not an exhaustive one, in as much as, several judgements favourable to revenue in several ITRs on several sections of the Income Tax Act, 1961 have remained to be included.

7. In the compilation, the case laws have been presented section wise. In some judgements, there are references to many sections, and sub-sections of the Income Tax Act, 1961. For the benefit of readers it is mentioned here that wherever some judgments have references to more than one section of the Income Tax Act, 1961 the section wise order is maintained and referred to in bold. Subsequently, such judgments are repeated in respect of relevant section/sections which are again made bold in respective places. There may also be some inadvertent mistakes and omissions in this compilation.

8. The first edition of this Publication was made by DTRTI Kolkata in January 2010 titled '**One Thousand Judgements of the Honourable Supreme Court of India and the Honourable High Courts of India in Favour of Revenue**' which was compiled by the undersigned containing one thousand judgements in favour of revenue from ITR 2 to ITR 319.

9. My special thanks to Shri K. K. Srivastava, Director of Income Tax, DTRTI Kolkata for his help, guidance, encouragement and support and for his tireless efforts in software sorting the compilation section wise. I also thank the faculty members DTRTI Kolkata for their support. My special thanks to Shri Lalji Bhartiya Stenographer DTRTI, Kolkata for the efforts put in by him in providing the secretarial assistance during preparation of this compilation.

10. The case laws compiled in this publication span from **ITR 2 (1934) to ITR 336 (2011)**. It is hoped that this compilation of judgements in favour of revenue will be useful and relevant for the Officers of the Income-tax Department.

11. Reader's views, comments and suggestions for improvement of this compilation are welcome which can be e-mailed to saritamishrakolhe@yahoo.com.

Place : Kolkata
Dated: 15.09.2011


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DISCLAIMER

The contents of this publication should not be construed as exhaustive statements of law. There may be some inadvertent mistakes and omissions in this compilation. In the event of any doubt, reference may please be made to the relevant Income Tax Reports, Taxmann, Taxmann's Direct Tax Laws online, Current Tax Reporter, Taxman's Corporate Professionals Today, stated in the citation as well as to the relevant provisions of the Direct Tax Laws, Rules, Allied Acts and wherever necessary, Circulars, Notifications, Instructions issued by the C.B.D.T. from time to time.

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2(1A)	CIT v. AJIT KUMAR ARYA [2009]180 TAXMAN 333[2009]15 CPT 692 (RAJ) Income arising from transfer of agricultural land that falls within terms of items (a) and (b) of sub-clause(iii) of clause (14) of section 2 falls outside ambit of ‘revenue derived from land’ and, therefore, outside ambit of ‘agricultural income’.
2(1A)	SMT. KUSUM SHARMA v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2008]303 ITR 389 (P & H) Agricultural income—Evidence Furnished in respect of sale of Agricultural produce found to be unreliable—Genuine claims in terms of entries in revenue records estimated and relief to that extent granted—Excessive claim made by Assessee rejected-- Income Tax Act, 1961
2(1A)	K. LAKSHMANAN AND CO. v. CIT(1999) 239 ITR 597(SC) Income from sale of silk cocoons obtained from silk worms fed on mulberry leaves grown by assessee. Appellant-assessee growing mulberry leaves--- Purchasing silk worm eggs and when they are hatched principally feeding the worms mulberry leaves—Obtaining silk cocoons from the silk worms and selling them in the market—Income derived from sale of silk cocoons, whether can be regarded as agricultural income—Held, No.
2(7)	MARUTI COUNTRY WIDE AUTO FINANCIAL SERVICES LTD. v. ITO [INTEREST TAX APPEAL NO. 26 of 2004, DECIDED ON 29.12.2008] / [2009] 14 CPT 349 (DELHI-SB) Where assessee-company gave finance on lease to customers for purchase of motors vehicles and earned interest income on same, since said transactions were in nature of finance/loan transaction, interest income earned on same would be chargeable to tax u/s.2(7) read with sec.8(2).
2(7)	ITO v. DELHI DEVELOPMENT AUTHORITY(2001)252 ITR 772(SC) Term “assessee” includes actual assessee as well as deemed assessee. Whether, unless there are actual assessment proceedings pertaining to any person, he cannot be considered to be an assessee—Held, No—Term “assessee” includes actual assessees as well as deemed assessees.
2(7)(c)	BHAI SUNDER DASS SARDAR SINGH (P) LTD. v. COMMISSIONER OF INCOME-TAX [2008] 306 ITR 159 (DELHI) Industrial company-concessional rate of tax-assessee processing and cooking raw food for purposes of sale to its customers in restaurant-does not amount to manufacture-cannot claim status of industrial company-finance Act, 1978, s. 2(7)(c) – Finance Act, 1979, s. 2(7)(c).

2(7A), 120, 132	DR. N.S.D. RAJU v DIRECTOR GENERAL OF INCOME-TAX (INVESTIGATION) AND ANOTHER, [2006] 283 ITR 154(KER) Search and seizure—Retention of seized assets—Provision for authorized officer to hand over seized assets to Assessing Officer having jurisdiction over assessee—Object of speedy assessment—“Assessing Officer”, meaning of – Not merely officer having powers of assessment –Assistant Director of Investigation authorized by Director of investigation to make appraisal reports—Has jurisdiction over assessee as Assessing Officer—Retention valid—Income-tax Act, 1961, S 2(7A), 120(2), 132(9A).
2(8),(40), 143(3), 144B,147, 153	COMMISSIONER OF INCOME TAX v. SUNDARAM SPINNING MILLS [2001] 249 ITR 213 (SC) Reassessment – Limitation – Extension of time – Assessment – Draft assessment order – Procedure for draft order of assessment and forwarding to IAC for direction in cases where variation of income or loss returned exceeds prescribed amount – Period of limitation extended by 180 days – Applies also to reassessments – Income-tax Act, 1961, ss. 2(8), (40), 143(3), 144B, 147, 153, Expln. (1)(iv).
2(14), 5, 9, 195	VODAFONE INTERNATIONAL HOLDINGS B.V. v. UNION OF INDIA AND ANOTHER [2010] 329 ITR 126(Bom) Deduction of tax at source—Non- resident –Scope of section 195—Transfer of share in non-resident company from one non-resident to another non-resident—that share through indirect holdings and agreements representing controlling interest in Indian Business—Actual Transaction of disinvestment of interest in mobile telecommunication services in India—Rights and entitlements constituted capital assets—source of income in India –Liability to deduct tax at source from income arising from transaction—Income-Tax Act, 1961, ss.2(14), 5, 9, 195. The basic test under section 195 is that the payment has been made to a non-resident of a sum chargeable under the provisions of the Act. Any person responsible for paying such a sum to a non-resident is liable to deduct income tax at the time when a credit of such income is effected or at the time when payment is made. The provisions of section 195 of the Act are in the nature of a machinery provision enacted in order to effectuate the collection and recovery of tax. Given a sufficient territorial connection or nexus between the person sought to be charged and the country seeking to him, income-tax may extend to that person in respect of his foreign income. The connection can be based on residence or business connection within the taxing state or the situation within the state of an asset or source of income from which the taxable income is derived. Once the nexus is shown to exist, the provisions of section 195 would operate. Even though the revenue laws of a country may not be enforceable in another, that does imply that the courts of a country shall not enforce the law against the residents of another within their own territories.
2(14)	COMMISSIONER OF INCOME TAX, JAIPUR v. AJIT KUMAR ARYA [2009] 180 TAXMAN 333(RAJ.) Section 2(14) of the Income-tax Act-1961—Capital gains – Capital assets- Assessment year 1973-74- Whether income arising from transfer of agricultural land that falls within terms of items(a) and (b) of sub-clause(iii) of

	clause(14) of section 2 falls outside ambit of revenue derived from land and, therefore, outside ambit of ‘agricultural income’ - Held, yes- Whether such income, therefore, is liable to capital gains tax chargeable under section 45- Held, yes.
2(15), 11,197	INFOPARKS KERALA v DEPUTY COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 329 ITR 404(Ker) Deduction of tax at source – certificate for non- deduction –assessee claiming income was exempt under section 11 –amendment of section 2(15) w.e.f. 1-4-2009 not challenged –union of india not impleaded as a party—effect of amendment of section 2(15) could not be considered –refusal to issue certificate for non-deduction of tax at source—justified—income-tax act, 1961, ss 2(15), 11,197.
2(15), 11(1)(a), (4A)	IDEAL PUBLICATIONS TRUST v. COMMISSIONER OF INCOME-TAX [2008] 305 ITR 143 (KER.) Charitable purpose—Exemption—Trust engaged in publication of newspaper run on commercial lines including charging of commercial tariff for Advertisements and charging price for profit—Business not incidental to attainment of objects of trust—Business not with an object of general public utility—Trust not entitled to exemption -- Income tax Act, 1961, s. 2(15), 11(1)(a), (4A).
2(15)	DELHI STOCK EXCHANGE ASSOCIATION Ltd. v CIT(1997)225 ITR 235(SC)(1997) 138 TAXATION 146 (SC): (1997) 91 TAXMAN 273(SC) Charitable purpose –Exemption –Company limited by shares—Object of conducting a stock exchange—Claim for exemption of income under section 11—Income not derived from property held under trust wholly for religious or charitable purposes—Assessee not entitled to exemption. Sections 2(15) and 11, Income-tax Act, 1961.
2(22)(e), 147	COMMISSIONER OF INCOME-TAX v. S.R. TALWAR [2008]305 ITR 286(ALL) Company—Dividend—Deemed dividend—Company having accumulated balance—Loan to Director—Deemed dividend-- Income-tax Act, 1961, s 2(22)(e). Reassessment –Failure to disclose material facts necessary for assessment—Assessee Director of Company—Company having Accumulated Balance—Loan from company not disclosed—Reassessment proceedings valid -- Income-tax Act, 1961, s.147.
2(22)	CIT v MUKUNDRAY K. SHAH (2007) 290 ITR 433(SC) Sums withdrawn from capital account for making investments taxable as Deemed dividend. Where the assessee had closely held companies and from the capital account of such companies he withdrew monies for making investments and the sums withdrawn were debited to his account the transactions satisfied the test for taxing the amounts as deemed dividend.

2(22)(e)	COMMISSIONER OF INCOME-TAX v. P. K. ABUBUCKER [2003] 259 ITR 507 (MAD) Company – Dividend – Deemed dividend – Advance to shareholder – Advance for construction of building to be taken on lease by company – Advance to be set off against future rent – Advance assessable as deemed dividend – Income-Tax Act, 1961, s. 2(22)(e).
2(31)(v)	COMMISSIONER OF INCOME-TAX v. LAXMI PD. AND SON [2009] 316 ITR 330 (ALL.) Association of persons-association must be voluntary-forced association of persons by inheritance under will – does not constitute association of persons – Income-tax Act, 1961, s. 2(31)(v).
2(31)(v)	COMMISSIONER OF INCOME-TAX v. T. GEORGE AND M. SYED ALAVI [2009] 316 ITR 333 (KER.) Association of persons-documents seized in search establishing assessees carrying on business as association of persons-assessment of assessees in status of association of persons justified – Income-tax Act, 1961. Association of persons – need not be provided through an agreement.
2(31)(ii)	COMMISSIONER OF INCOME TAX v. SANDHYA RANI DUTTA (2001) 248 ITR 200 Capacity of Hindu females to form among themselves a Hindu Undivided Family—Male Hindu, governed by Dayabhaga school of Hindu law, died intestate, leaving behind his widow(assessee) and two daughters—Assessee and the two daughters who inherited self-acquired properties of deceased in equal shares entered into an agreement claiming to form a Hindu undivided family—Assessee threw her share of inherited property into the kitty of this Hindu Undivided Family—assessee and her two daughters, whether were capable of forming a joint Hindu family or of throwing interest of any one of them in the inherited property therein—Held, No. The concept of Hindu females forming a joint Hindu family by agreement amongst themselves is contrary to a basic tenet of the Hindu personal law.
2(31)	MEERA AND CO. VS. CIT 224 ITR 635 (SC) Meaning of Expression “BODY OF INDIVIDUALS” and “ASSOCIATION OF PERSONS” Body of Individuals: A combination of individuals who have unity of interest and are actively engaged in the business carried on for the benefit of all of them or by one of them. Business is the joint venture of the individuals joining together to make profit. Association of persons is not something distinct and separate from a body of individuals. The latter expression i.e. body of individual has been added in section 2(31)(v) to obviate any controversy as to whether only combinations of human beings are to be treated as a unity of assessment. Comments (not from the Court) An AOP is the one in which two or more persons join in a common purpose or common action whose objective is to produce income or profit or gains. It is a combination of persons to promote a joint enterprise, which is not a partnership. Volition on the part of the members of the AOP to join the Association is an essential ingredient. A minor can also join an AOP if his

	guardian gives consent. There may or may not be a formal agreement between members of AOP. However, there is certainly an understanding between them to act together for a common objective of earning profit. On the other hand, body of individuals include a combination of individuals who have unity of interest but who are not actuated by common design and one or more of whose members produced or helped to produce income for the benefit of all. (206 ITR 647 and 120 ITR 564). It is a group of individuals who happened to come together to carry on some activity to earn income. Body of individual is not identical with association of persons, but they have some similarities. An AOP may consist of non-individual, but BOI has to consist of individuals only. There has to be a common tie and common interest to form a BOI. Even in BOI there has to be some element of volition. In AOP there is greater element of involvement, sharing of information and responsibilities whereas, in BOI a common tie and a common interest is sufficient. That degree of activity by all for all may not present in the members of BOI. Every association of persons is a body of persons, but every body of individuals is not an association of individuals.
276B, 2(35)(b), 204	INCOME TAX OFFICER V. DELHI IRON WORKS (P.) LTD. [2011] 331 ITR 5 (DELHI)/[2011] 198 TAXMAN 174 (DELHI) Section 276B, read with sections 2(35) and 204, of the Income-tax Act, 1961 – Offence and prosecution – Failure to pay tax on distributed profits of domestic companies/deducted at source –Whether if Income-Tax Officer seeks to prosecute director of a company along with company for an offence punishable under section 276B, then he has to issue a notice under section 2(35)(b) to such director expressing his intention to treat him as ‘principal officer’ of company – Held, yes – Whether, however, merely because director of a company has been acquitted for non-compliance of notice under section 2(35), that would not mean that company would also be acquitted of charge under section 276B – Held, yes.
2(8),(40), 143(3), 144B, 147,153 Expln. (1)(iv)	COMMISSIONER OF INCOME TAX v. SUNDARAM SPINNING MILLS [2001] 249 ITR 213 (SC) Reassessment – Limitation – Extension of time – Assessment – Draft assessment order – Procedure for draft order of assessment and forwarding to IAC for direction in cases where variation of income or loss returned exceeds prescribed amount – Period of limitation extended by 180 days – Applies also to reassessments – Income-tax Act, 1961, ss. 2(8), (40), 143(3), 144B, 147, 153, Expln. (1)(iv).
2(42A)	P. P. MENON v. CIT [2009] 183 TAXMAN 242/[2009] 16 CPT 565 (KER.) As per Explanation (1)(i)(b) to section 2(42A), period of holding of asset prior to dissolution of firm could be taken into account for deciding whether it was long-term or short-term asset only when distribution had taken place prior to 1.4.1987 and not when firm was dissolved thereafter.
2(47)(v)	C. RAVI v. COMMISSIONER OF INCOME-TAX & ANOTHER [2010]325 ITR 417(Ker) Capital gains-Transfer-Finding that possession given following agreement for sale-Gains assessable in hands of transferor-Income Tax Act 1961, S. 2(47)

	(v).Cash credits no books of account or evidence of credits produced-Amount assessable-Income Tax Act, 1961.
2(47)	CIT v. GHANSHYAM (HUF) [2009] 315 ITR 1 (SC) Capital gains-Compulsory acquisition-Enhancement of compensation-Amount by which enhanced-When taxable-Law after amendment of section 45(5) with effect from April 1, 1988-Amount of enhancement is deemed to be income of previous year in which it is received-Even if received under orders of court pending decision and assessee has to offer security -CBDT Circular No. 621,dated December 19,1991.
2(47), 45	J.K. KASHYAP v. ASSISTANT COMMISSIONER OF INCOME-TAX [2008]302 ITR 255 (DELHI) Capital Gains—Transfer —Definition —Relinquishment of Right in Capital Asset—Assessee Making payment for acquisition of property by an agreement in 1990—Transaction not materializing ---Relinquishment of right in favour of New Vender in 1995—Consideration received for relinquishment of interest in property—Liable to long-term capital gains tax-- Income-tax Act, 1961, ss.2(47),45.
2(47)(vi), 45(4)	COMMISSIONER OF INCOME-TAX v. SOUTHERN TUBES [2008] 306 ITR 216 (KER.) Capital gains – transfer-firm-dissolution of firm consisting of two partners – one partner taking over land and factory building and continuing business-transaction is transfer within meaning of section 2(47)(vi) – liable to be assessed for capital gains in terms of section 45(4) – Income-tax Act, 1961, ss. 2(47)(vi), 45(4).
2(47)	CIT v. GRACE COLLIS (2001)248 ITR 323(SC) Transfer of shares—Amalgamation of companies—Assessee, who were shareholder of the amalgamating company received shares in amalgamated company, in lieu of shares held in the amalgamating company—Whether there was “transfer” within the meaning of section 2(47)—Held, Yes.
3(4)	SHREEPATI DISTRIBUTORS LTD. AND ANOTHER v. INCOME-TAX OFFICER AND OTHERS. [1987] 168 ITR 530 (CAL) Previous year – Change of previous year – Power of ITO to allow change – Discretionary power – Refusal to allow change because it would involve loss of revenue – Refusal justified – Income-tax Act, 1961, s. 3(4) – Constitution of India, Art. 226
4, 5, 201(1A)	V. GANESH v. ASSISTANT COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 327 ITR 564 (Mad) Deduction of tax at source –Double taxation relief –Verification of certificates of tax deducted at source in two different countries –Letter informing assessee verification not practicable –Writ petition not maintainable – Income-Tax Act, 1961, s. 4, 5, 201(1A) –Constitution of India, art. 226.The assessee claimed the benefit of the Double Taxation Avoidance Agreement in respect of income

	<p>earned from Hong Kong and the United States. The Assessing Officer rejected the claim and issued a letter stating that the assessee's request for verification of the certificates furnished by him of tax deduction at source was not practicable. On a writ petition.Held, dismissing the petition, that the proper remedy for the assessee would be to file an appeal or place the materials as required under the Income-tax Act, 1961 to claim the benefit before the authorities concerned</p>
4	<p>CIT v. T. GEORGE & M. SYED ALAVI [2009] 177 TAXMAN 424/[2009] 14 CPT 829 (KER.)</p> <p>Where documents and records seized from residential premises of two assessees during search showed that said two persons were engaged in contract work for slaughter ,tapping and sale of rubber trees from two rubber estates, as accounts seized from assessees had proved beyond doubt that both assessees undertook business together, carried on business together, and shared profit, status of said AOP did not need to be proved through an agreement and status of said persons was rightly taken as an AOP.</p>
4	<p>SAJIV VOHRA (HUF) v. COMMISSIONER OF INCOME-TAX [2009] 316 ITR 267 (P&H)</p> <p>Assessment-Hindu Undivided family or individual income-investments, bank declarations and all documents in name of individual-no evidence to establish business in name of Hindu undivided family – finding that no Hindu undivided family exists and Income derived belongs to assessee-finding of fact-Income-tax Act, 1961.</p>
4	<p>MADRAS GYMKHANA CLUB v. DEPUTY COMMISSIONER OF INCOME-TAX, BUSINESS CIRCLE-VI [2009]183 TAXMAN 333 (MAD.)</p> <p>Section 4, of the Income tax Act, 1961- Mutual concerns- Assessable as – Assessment year 1997-98-Assessee was a sports club providing its members various facilities such as restaurant, gymnasium, library, bar, coffee shop, swimming pool and other facilities for indoor and outdoor games- apart from surplus fund derived from such activities, assessee club also earned interest from its corporate members on investment of surplus funds as fixed deposits with them-It did not offer such income to tax contending that same was governed by concept of mutuality and, thus, was exempt from tax-Whether even though existence of club and its activities and facilities were for mutual interest of its members and such mutual interest in respect of its regular activities vis-à-vis its members continued to remain, yet based on that alone, it could not be held that its other activities such as its financial management of depositing surplus funds in various banking institutions and thereby earning substantial amount of interest should also be held to have nexus with regular and normal activities of club vis-à-vis its members-Held yes-Whether investment of surplus funds with some of member banks and other institutions in form of fixed deposits and securities which, in turn, resulted in earning of huge interest could not be held to satisfy mutuality concept and, therefore, such interest income was liable to be taxed -Held, yes.</p>

4	SWAMI PREMANANDA v. COMMISSIONER OF INCOME-TAX-I, TIRUCHIRAPALLI [2009] 180 TAXMAN 368(MAD.) Section 4 of the Income-tax Act-1961— Chargeable as- Assessment years 1985-86- Assessee, who headed an ashram, accumulated properties, both movable and immovable- His premises were searched wherein certain documents showing substantial investments in bank deposits and immovable properties were found and seized- During assessment proceedings, assessee's case was that bank deposits and other assets standing in his name belonged to trust or ashram and not to him and they had been acquired out of donations received from foreign nationals, who were his devotees; and that he had received said funds as a representative of ashram – Assessing Officer found that donations were given to assessee in his individual capacity a remuneration for his Vedanta teachings; and that trust came into existence only in 1994, whereas said donations had been coming in from 1985 and assessee had dealt with them as if they were his own properties – Assessing Officer, therefore, held that amounts received by assessee constituted his 'income' and were assessable as profits and gains arising out of his vocation- Whether, on facts, Assessing Officer-had taken a correct view –Held, yes.
4	BENGALI SINGH v. CIT [M. A. NO. 76 OF 2007 & CWJC NO.,497 OF 2008 DECIDED ON 16-4-2008]/[2009] 14 CPT 733 (PAT.) Where land upon which building was constructed belonged to assessee-HUF and though assessee claimed that there was family arrangement lead to disruption of family, yet there was no evidence of any family arrangement to show that partition of family took place, income from such property was assessable in assessee's hands.
4	SWAMI PREMANANDA ALIAS PREMUKUMAR v. CIT [W.P. NOS. 15527, TO 15537 OF 2003, W.P. NOS. 19502,19504, 19506, 19508, 19510, 19514, 19516, 19518, 19520, 19522 OF 2003, DECIDED ON 16.12.2008]/[2009] 14 CPT 829 (MAD.) Where assessee, founder of an ashram, taught Vedanta and conducted discourses and had been receiving amounts as gifts from foreign followers since 1984 which were credited to his personal account, it was his income from vocation and could not be treated as income of his trust/ashram, which was founded only in 1994.
4	DEVI AHILYA NEW CLOTH MARKET CO. LTD. v. CIT [ITA NO. 54 OF 2005, DECIDED ON 23-1-2008]/ [2009] 15 CPT 357 (MP) Where Memorandum of Association of assessee-company set out various kinds of businesses it could carry on, interest earned by it on FDR could not be claimed to be exempt on ground of mutuality notwithstanding fact that assessee-company had been formed by certain shopkeepers essentially for benefit of its members.
4	H. P. MINERAL AND IND. DEVELOPMENT CORPORATION v. COMMISSIONER OF INCOME TAX [2008]302 ITR 120(HP) Income—Accrual —Mercantile system of Accounting —Temporary Loans to subsidiary companies —Interest—Decision to waive must be taken in previous

	year resolution to waive interest passed after close of accounting year—income has already accrued—assessable on accrual basis —concept of real income not applicable --Income Tax Act, 1961,s.4
4	Dr. H. N. MEHROTRA v COMMISSIONER OF INCOME-TAX [2005] 276 ITR 158 [ALL] Hindu undivided family – individual or HUF property – property inherited by son from his father – effect of Hindu Succession Act, 1956 – property devolves on son in his individual capacity – blending of individual property with HUF property – no independent act of throwing property into common hotpot – property is not HUF property – Hindu Succession Act, 1956, ss. 4,8.
4	SAHNEY STEEL & PRESS WORKS LTD v CIT(1997) 228 ITR 253(SC) :(1997)142CTR 261(SC)(1997) 94 TAXMAN 368(SC):(1997)141, TAXATION 169 (SC) Subsidy receipts, when revenue in nature : Income—Subsidy—Income or capital—Purpose of subsidy relevant—Subsidy granted after commencement of production –Refund of sales tax—Power subsidy—Water charges exemption—No obligation to spend the money for a particular purpose—Amounts were actually assistance in carrying out business operations—Production incentives—Subsidies revenue in nature. Section 4, Income-tax Act, 1961.
4	VELLORE ELECTRIC CORPN LTD v CIT (1997) 227 ITR 557(SC) : 1997 141 CTR 398 (SC) : (1997) 140 TAXATION 152 (SC) : (1993) 93 TAXATION 401(SC) Amounts transferred to mandatory reserves not deductible in computing income of assessee. Income—Electricity supply company—Computation of Income—Amounts transferred for creation of mandatory reserves : Tariffs and Dividend Control Reserve, Consumers' Rebate Reserve, Contingencies Reserve and Development Reserve—No deduction in respect of such sums while computing income of assessee, Section 4, Income-tax Act, 1961, Section 57, Electricity (Supply) Act, 1948.
4	CIT v LAKSHMI VILAS BANK LTD(1996) 220 ITR 305(SC) : (1996) 133 CTR 139(SC): (1996) 132 TAXATION 700(SC):(1996) 86 TAXMAN 231(SC). Assessee, a Bank, purchasing securities in its own name on behalf of its constituents on taking a percentage of the face value of the securities as advance by way of deposit—Balance amount of the purchase price to be paid by constituent within the stipulated time, failing which the amount of the deposit stood forfeited to the Bank—Amount forfeited by the Bank under the stipulation, whether income of the assessee from business and assessable to tax as such—Held, yes.
4	CIT V BAZPUR CO-OPERATIVE SUGAR FACTORY LTD (1988)172 ITR 321(SC):(1988) 70 CTR (SC) 94 : (1988) 38 TAXMAN 195 : (1988) AIR 1263 : (1988) TAX LR 1095 : (1988) TAX 90(2) 12 Assessee, a registered co-operative society, running sugar factory, providing by

	its bye-laws for deduction from price of sugarcane payable by it as deposit to constitute fund to be used for adjustment of its losses, repayment of loans, redeeming Government shares in its business and balance amount for conversion into share capital Amounts received by assessee, whether deposits—Held, no—Whether capital receipt or revenue receipt or business liable to tax—Held, revenue receipt liable to tax.
4	STATE BANK OF INDIA v CIT(1986) 157 ITR 67 (SC) : (1985) 19 TAX LAW REVIEW 448 : (1985) 49 CTR (SC) 379: (1985) Tax 79(3)-332(1985) 3 COMP LJ 451 Increase in value of foreign exchange which was stock-in-trade of assessee : Assessee, a banking company, purchasing as part of its banking business cheques, payment orders, mail transfer, etc, drawn in foreign currencies and even currencies from its clients and selling or encashing the same through foreign banks who credited the proceeds in the current accounts of the assessee—Amounts credited to assessee in foreign banks registered increase due to devaluation of the Indian rupee—Excess realization on devaluation, whether income or capital receipt in the hands of the assessee—Held, revenue receipt.
4	CIT v KUNJI LAL GUPTA (1971) 81 ITR 474(SC) Assessee holding ordinary shares of company as his stock-in trade Bonus shares allotted to assessee in proportion to existing holding of ordinary share—Sale proceeds of bonus shares, whether revenue receipt –Held, yes.
4	KARAM CHAND THAPAR & BROS P. LTD v CIT(1969) 74 ITR 26 (SC) Assessee engaged in various business including working of certain coal mines obtaining prospecting licence for a colliery—Sale of colliery after prospecting for coal – Tribunal holding prospecting for coal a part of coal mining business of assessee—Profit made on sale of colliery, whether income or capital receipt—Held, business income liable to tax. Where the assessee-company, which was engaged in various businesses, including the working of certain coal mines, obtained prospecting licence for a colliery and sold the colliery after prospecting for coal and made a profit thereby and the Income-tax Appellate Tribunal found as a fact that the company was carrying on coal mining and the prospecting for coal was a part of its coal mining business, it was held that the profit made by the assessee on the sale of the coal mine was not a capital receipt of the assessee but was liable to tax as income from the assessee's business.
4	GILLANDERS ARBUTHNOT & CO. LTD v CIT (1964) 53 ITR 283(SC) Assessee conducting business as selling or distributory agent of numerous principals—Compensation received for cancellation of one of the agencies in an amount computed on the basis of the profits of business for three successive years—Whether income or capital receipt –Held, income liable to tax. Where the assessee, who was conducting business as selling or distributory agent of numerous principals received compensation for three consecutive years for the cancellation of one of the agencies of an amount which was computed on the basis of the profits of the business of the principal for those years, it was held

	that the amount received by the assessee as compensation was income liable to tax in its hands.
4	ANDHRA PRADESH STATE ROAD TRANSPORT CORPORATION v ITO(1964) 52 ITR 524 (SC) Income of a State Transport Corporation, whether immune from income-tax in view of the provisions of Article 289 of the Constitution of India—Held, no. The income derived by a State Road Transport Corporation is not immune from liability to income-tax under Article 289 of the Constitution of India, on the ground that the trading activities of the Corporation are carried on by or on behalf of the Government of the State. The income derived by such corporation from trading activities is liable to income-tax under the Income-tax Act
4	CIT v. SITALDAS TIRATHDAS (1961) 41 ITR 367(SC) Maintenance paid by assessee to his wife and children under decree of court, not made a specific charge upon property or its income, whether could be excluded in computing the income of the assessee—Held, no. Where the assessee paid to his wife and children under a decree of the Court passed by consent of the parties and the maintenance allowance was not made a specific charge upon the property or its income, it was held that the payment made by the assessee under the decree could not be excluded in computing the income of the assessee assessable to tax
4	CIT/EPT v SOUTH INDIA PICTURES LTD (1956) 29 ITR 910(SC) Assessee carrying on business of distribution of films for commission and also of production and purchase of films and distributing them for exhibition, advancing money to producers of three films to get distribution rights thereof for five years—Cancellation of agreements for the three films after exploitation by assessee of distribution rights therein for sometime —Payments by producer to assessee on such cancellation “towards commission”, whether capital or revenue receipt in the hands of the assessee—Held, revenue receipt.
2(14), 5, 9, 195	VODAFONE INTERNATIONAL HOLDINGS B.V. v. UNION OF INDIA AND ANOTHER [2010]329 ITR 126(Bom) Deduction of tax at source—Non- resident —Scope of section 195—Transfer of share in non-resident company from one non-resident to another non-resident—that share through indirect holdings and agreements representing controlling interest in Indian Business—Actual Transaction of disinvestment of interest in mobile telecommunication services in India—Rights and entitlements constituted capital assets—source of income in India —Liability to deduct tax at source from income arising from transaction—Income-Tax Act, 1961, ss.2(14), 5, 9, 195. The basic test under section 195 is that the payment has been made to a non-resident of a sum chargeable under the provisions of the Act. Any person responsible for paying such a sum to a non-resident is liable to deduct income tax at the time when a credit of such income is effected or at the time when payment is made. The provisions of section 195 of the Act are in the nature of a machinery provision enacted in order to effectuate the collection and recovery of tax. Given a sufficient territorial connection or nexus between the person sought to be charged and the country seeking to him, income-tax may extend to that person in respect of his foreign income. The

	<p>connection can be based on residence or business connection within the taxing state or the situation within the state of an asset or source of income from which the taxable income is derived. Once the nexus is shown to exist, the provisions of section 195 would operate. Even though the revenue laws of a country may not be enforceable in another, that does imply that the courts of a country shall not enforce the law against the residents of another within their own territories.</p>
4, 5, 201(1A)	<p>V. GANESH v. ASSISTANT COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 327 ITR 564 (Mad)</p> <p>Deduction of tax at source –Double taxation relief –Verification of certificates of tax deducted at source in two different countries –Letter informing assessee verification not practicable –Writ petition not maintainable – Income-Tax Act, 1961, s. 4, 5, 201(1A) –Constitution of India, art. 226.The assessee claimed the benefit of the Double Taxation Avoidance Agreement in respect of income earned from Hong Kong and the United States. The Assessing Officer rejected the claim and issued a letter stating that the assessee's request for verification of the certificates furnished by him of tax deduction at source was not practicable. on a writ petition.Held, dismissing the petition, that the proper remedy for the assessee would be to file an appeal or place the materials as required under the Income-tax Act, 1961 to claim the benefit before the authorities concerned.</p>
5	<p>JYOTI LTD. V. CIT [2009] 180TAXMAN 495[2009]15 CPT 692 (GUJ.)</p> <p>Where assessee-company had received a sum in US dollars on 16-4-1985 as agency commission from a Japanese company, but same had not been entered in books of account of assessee and assessee denied receiving such commission on said date and contended that it had received said amount from its managing director 'R' on 4.5.1987 which had been credited to company's account as commission, payments being under agreements with foreign companies and not possible to accept that assessee-company had no knowledge of fact that amount of commission had already been received by its authorized agent; and therefore, amount of commission was taxable in hands of assessee in that assessment year in question.</p>
5	<p>JYOTI LTD v. COMMISSIONER OF INCOME TAX [2009] 180 TAXMAN 455(GUJ.)</p> <p>I. Section 5 of the Income-tax Act-1961—Income- Accrual of- Assessment year 1985-86- During assessment proceedings for relevant assessment year, Assessing Officer found that assessee-company had received a sum in US dollars on 16-4-1985 as agency commission from a Japanese company but same had not been entered in its books of account- Assessee denied having received such commission on such date-Its case was that it was not having any knowledge as to amount of commission having been received by its managing director 'R' on that date ; and that it had returned said amount as income in assessment year1988-89 on basis of actual receipt of said amount from 'R'- Whether payments being under agreements with foreign companies and receipt of payments having been acknowledged by authorized person of assessee-company, it was possible to accept that assessee-company had no knowledge of fact the amount of commission had already been received by its authorized agent- Held, no- Whether, therefore, amount of commission was taxable in</p>

	hands of assessee in relevant assessment year- Held, yes. II. Section 145 of the Income-tax Act-1961— Method of accounting- Estimation of profit-Assessment year 1981-82- Assessing Officer made addition of certain sum to income of assessee on account of sale of scrap outside its books-Commissioner (Appeals), while holding that state of record maintained by assessee was not foolproof so as to allow Assessing Officer to properly deduce correct income, sustained a token addition to extent of around 10 per cent of income on account of sale of scrap-Whether, on facts, Tribunal was right in upholding order of Commissioner (Appeals)- Held, Yes
5(2)(b)	SMT. TRISHLA JAIN v. COMMISSIONER OF INCOME-TAX (AND CONNECTED REFERENCES) [2009] 310 ITR 274 (P&H) Non-resident – foreign exchange asset – liability to assessment – accrual and receipt of income – effect of section 5 – non-resident is assessable on income which has accrued to him – interest on debentures payable on specified dates – amount assessable in hands of non-resident with respect to such dates – Income-tax Act, 1961, s. 5(2)(b).
5	U. P. BHUMI SUDHAR NIGAM VS. CIT (ALL.) 450 CTR : VOL. 195 : DTD. 20.5.05 Scope of total income – Interest earned on fixed deposits of government grant is taxable in the hands of the Govt. corporations and not to be treated as diversion of income by overriding title.
5	BIKRAM SINGH VS. LAND ACQUISITION OFFICER 224 ITR 551 (SC) Interest earned on delayed payment of Compensation on acquisition of land is a revenue receipt taxable under the I.T. Act. [Followed in – 238 ITR 113(Del.)]
5	CIT VS. RAM KUMAR AGARWAL AND BROS. 205 ITR 251 (SC) In the case of a dealer in share-where shares are held as stock in trade and surplus is received on liquidation of a company, such surplus is revenue receipt.
5	CIT VS. KAMALINI KHATAU 209 ITR 101(SC) In the case of discretionary trust amount actually received by beneficiary can be assessed in the hands of the beneficiary – no principle that only trustee should be assessed. [Followed /applied in – 231 ITR 524 (SC) ; 231 ITR 540 (GUJ) ; 236 ITR 37 (SC)]
5	ADDITIONAL CIT VS T. NAGGI REDDY 202 ITR 253 (SC) Sales tax collected but not paid due to dispute is revenue receipt for assessee following mercantile system in the year of collection. In the case of an assessee who maintains his accounts on Mercantile system, sales tax collected but not paid to the sales tax department as some dispute was pending for adjudication over his liability to pay sales tax, is a revenue receipt of the year in which it was collected. [Followed – Jonnalla Narsimharao and company –

	Vs. – CIT 200 ITR 588 (SC)]
5	<p>STATE BANK OF TRAVANCORE v CIT(1990) 186 ITR 187 (SC)</p> <p>Assessee, a banking company, following mercantile system of accounting, showing interest on sticky, advances in “Interest Suspense Account”—Interest income so shown, whether had accrued to assessee for purposes of taxation — Held, yes.</p>
5	<p>STATE BANK OF TRAVANCORE v CIT(1986) 158 ITR 102(SC): (1986) 24 TAXMAN 337 (1986) 50 CTR (SC) 290:(1986) TAX 80(2) 37 (1986) 20 TAX LAW REVIEW 52; KERALA FINANCIAL CORPORATION v CIT(1994) 210 ITR 129 (SC)(1994) 119 CTR 164 (SC):(1994)121 TAXATION 124(SC)(1994) 75 TAXMAN 573(SC):BANARAS STATE BANK v CIT(1994) 210 ITR 129 (SC); ANZ GRINDLAYS BANK v CIT(1994) 210 ITR 129(SC)</p> <p>Assessee, a banking company, maintaining accounts on mercantile basis of accounting charging interest on extremely doubtful advances by debiting the accounts of the customers and crediting the same to “Interest Suspense Account” and not to Profit and Loss Account—Interest on such sticky advances so charged, whether chargeable to Income-tax on the basis of accrual of income, though not real income —Held, yes. Where the assessee, a banking company, which maintained its accounts on the mercantile system of accounting, charged interest on extremely doubtful advances by debiting the accounts of the customers concerned and crediting the same to “Interest Suspense Account and did not take that amount to its Profit and Loss Account, it was held that the interest amount having accrued to the assessee was chargeable to tax as the income of the assessee, as the assessee had not treated the amount in its accounts as a bad debt or irrecoverable debts in accordance with the provisions contained in section 36(I)(vii) read with section 36(2) of the Income-tax Act, 1961.</p>
5	<p>KESHAV MILLS LTD v CIT(1953) 23 ITR 230 (SC)</p> <p>Non-resident assessee manufacturing goods outside India effecting sales in India through guaranteed brokers or by sending railway receipts through banks or shroffs in India—Guaranteed brokers, banks and shroffs crediting the amounts in assessee’s bank accounts in India—Profits on sales whether received in India and chargeable to tax under section 4(1)(a) of the Indian Income-tax Act, 1922 (corresponding to section 5(1)(a)(2)(a) of the Income-tax Act, 1961)—Held, yes.</p>
2(14), 5, 9, 195	<p>VODAFONE INTERNATIONAL HOLDINGS B.V. v. UNION OF INDIA AND ANOTHER [2010]329 ITR 126 (Bom)</p> <p>Deduction of tax at source—Non- resident —Scope of section 195—Transfer of share in non-resident company from one non-resident to another non-resident—that share through indirect holdings and agreements representing controlling interest in Indian Business—Actual Transaction of disinvestment of interest in mobile telecommunication services in India—Rights and entitlements constituted capital assets—source of income in India —Liability to deduct tax at source from income arising from transaction—Income-Tax Act, 1961, ss.2(14), 5, 9, 195. The basic test under section 195 is that the payment</p>

	<p>has been made to a non-resident of a sum chargeable under the provisions of the Act. Any person responsible for paying such a sum to a non-resident is liable to deduct income tax at the time when a credit of such income is effected or at the time when payment is made. The provisions of section 195 of the Act are in the nature of a machinery provision enacted in order to effectuate the collection and recovery of tax. Given a sufficient territorial connection or nexus between the person sought to be charged and the country seeking to him, income-tax may extend to that person in respect of his foreign income. The connection can be based on residence or business connection within the taxing state or the situation within the state of an asset or source of income from which the taxable income is derived. Once the nexus is shown to exist, the provisions of section 195 would operate. Even though the revenue laws of a country may not be enforceable in another, that does imply that the courts of a country shall not enforce the law against the residents of another within their own territories.</p>
9	<p>ANSALDO ENERGIA SPA v. INCOME-TAX APPELLATE TRIBUNAL [TAX CASE NO.1303 OF 2007, DECIDED ON 12-1-2009]/14 CPT 350 (MAD.)</p> <p>Where assessee, a foreign company was awarded a turnkey contract by 'NLC', an Indian company, on single bidder basis but it divided said contract into four contracts out of which two contracts relating to onshore supplies and services were awarded to its Indian subsidiary company, ASPL., on its giving undertaking to NLC that it would take responsibility of entire contract as a single bidder and Tribunal had found that there was intimate, real and continuous relationship between assessee and its Indian subsidiary company, Tribunal was justified in holding that it was a composite contract and assessee, having permanent establishment in India and having business connection with ASPL., its income relating to activities conducted in India would be taxed in India</p>
9(4)	<p>VANIAMPARA RUBBER CO. LTD. v. STATE OF KERALA [2009] 316 ITR 167 (KER.)</p> <p>Agricultural income-deduction – plantation- investment in new industrial undertaking out of plantation income-condition precedent – investment must not be ancillary to plantation- investment in industry engaged in centrifuging latex-not qualified for deduction-Kerala agricultural Income-tax Act, 1961, 1991, s. 9(4). Agricultural Income Tax deduction – investment-more than income-deduction not permissible- Kerala agricultural Income-tax Act, 1961, 1991, s. 9(4)</p>
9	<p>CIT v HYUNDAI HEAVY INDUSTRIES CO. LTD (2007) 291 ITR 482 (SC)</p> <p>Income of non-resident—Accrual of –Korean Company entering into agreement with ONGC for designing, fabricating and commissioning of oil platform on Bombay High—Fabrication work carried out at Korea—Korean company establishing a permanent establishment in India after completion of the fabrication work carried out at Korea—Held profits attributable to fabrication work done at Korea cannot be brought to tax in India but income attributable to the installation work done in India is taxable in India.</p>

9(1)(ii)	READING & BATES DRILLING CO. VS. CIT (UTTAR-ANCHAL) 66 CTR : VOL. 199 : DTD. 18.11.2005 Salary received by non-resident technicians working in off-shore oil-rigs in India, is taxable in India, even though such salary relates to off period.
9	CIT v SRI MEENAKSHI MILLS LTD (1967) 63 ITR 609 (SC); CIT v SRI RAJENDRA MILLS LTD(1967) 63 ITR 609(SC); CIT v SRI SAROJA MILLS LTD (1967) 63 ITR 609(SC) Interest on fixed deposits in branch of bank outside India: Assesseees having branches outside India making deposits in the branch outside India of the bank having head office in India—Assessee taking loans from head office of bank in India on the security of fixed deposits made in the branch of the bank outside India—Assesseees having preponderant voice in creation, running and management of the bank—Interest on fixed deposits earned by branches of assesseees outside India, whether liable to tax in India—Held, yes. Whether the assessee had branches outside India and made deposits in the branch outside India of the bank having its head office in India and having made fixed deposits there took loans from the head office of the bank in India on the security of those deposits and the assesseees had preponderant voice in the creation, running and management of the bank, it was held that the interest on fixed deposits earned by the branches of the assesseees outside India was assessable to tax under section 42(1) of the Indian Income-tax Act, 1922(corresponding to section 9(1)(v) of the Income-tax Act-1961)
10(1)	RAJESH KUMAR MOTITAL SONI V. CIT [2006] 153 TAXMAN 536 (M.P.) Assessee's claim for exemption of certain sum as agricultural income is not admissible, if assessee fails to show that such income did represent agricultural income.
10(10C)	COMMISSIONER OF INCOME-TAX v. M. CHELLADURAI [2009] 176 TAXMAN 31 (MAD.) Section 10(10C) of the Income-tax Act-1961—Voluntary retirement payments—Assessment year 2004-05- Whether in order to entitle a person to benefit under section 10 (10C), provisions of section 10(10C) and rule 2BA of Income-tax Rules, 1962 should be complied with cumulatively and compliance of some of them would not entitle an employee to such benefit—Held, yes—Whether where scheme, by which assessee had availed of voluntary retirement had not been introduced for purpose of making over reduction in existing strength of employees and did not provide that vacancy caused by voluntary retirement or voluntary separation would not be filled up, requirements(iii) and (iv) of the rule 2BA had not been fulfilled and, therefore, assessee would not be entitled to benefit under section 10(10C)— Held, yes.
10(10C)	CIT V.M. CHELLADURAI [T.C(A) NOS.22,101, 419, 425, 1353, 1360 & 1397 OF 2007, DECIDED ON 25.02.2008](MAD.) REPORTED IN TAXMAN'S CPT VOL. 13 (OCT. 16 TO 31) 2008 Employees opting for retirement under Early Retirement Option Schemes of ICICI Bank and SBI were not entitled to exemption u/s. 10(10C).

10(13A)	COMMISSIONER OF INCOME-TAX v. P. D. SINGHANIA (INDIVIDUAL), [2006]287 ITR 19 (ALL). Exemption—House rent allowance—Effect of introduction of explanation to section 10(13A) with retrospective effect from 1-4-1976—Assessee residing in his own house—No payment of rent—assessee not entitled to exemption under section 10(13A)—Income-tax Act, 1961, s. 10(13A) (As amended by Taxation Laws (Amendment) Act, 1984, w.e.f.1-4-1976
10(14)	D.C. ACHARAYA v. ITO (2005) 276 ITR 60 (RAJ) Conveyance and additional conveyance allowance. Under section 10(14)(ii) of the Income-tax Act, 1961, the requirement for claiming exemption is that the amount should be actually used wholly, necessarily and exclusively in the performance of the duties of employment. The assessee was an officer of the Life Insurance Corporation. He claimed exemption of conveyance and additional conveyance allowance u/s 10(14)(ii) but had not submitted any evidence that the amount had been reimbursed only because of actual use of that amount for performance of duty during the course of employment. There was no evidence of actual expenditure incurred for performance of duty. It was held that the Tribunal had rightly disallowed the claim for exemption.
10(14)	GENERAL INSURANCE EMPLOYEES ASSOCIATION v. UOI (2000) 160 CTR (RAJ) 327 Conveyance allowance paid to LIC employees is not exempt u/s 10(14)
10(14)	L.I.C. OF INDIA v. UOI (2000) 160 CTR (RAJ) 331 Conveyance allowance and additional conveyance allowance paid to LIC employees are not exempt u/s. 10(14) of the Act.
10(14)	CIT v. E.A. RAJENDRAN (1999) 235 ITR 514 (MAD) Additional conveyance allowance received by Development Officer of LIC from employer is not exempt u/s 10(14)(i)
10(14)	LIC CLASS-I OFFICER ASSCN. V. LIC OF INDIA (1988) 229 ITR 510 (BOM) Whether conveyance allowance with is paid to the officers represented by the LIC Class-I Officers Association is salary or is it an allowance as set out in rule 2BB(1)C of the Income-tax Rules and, therefore, exempt and as such is exempted from taxation? The conveyance allowance payable in terms of rule 9(b) of the Life Insurance Corporation of India Class I Officers (Revision of Terms and Conditions of Service) Rules, 1985, is not reimbursement for expenditure incurred on conveyance in the performance of duties of office. It is an allowance paid to all employees whether on duty or not irrespective of the place of residence and the place of work and also irrespective of whether the employee is posted in any of the 2000 offices of the Life Insurance Corporation of India. Therefore, the said allowance would not be exempt u/s 10 (14) of the Income-tax Act, 1961, read with rule 2BB(1)(c) of the Income –tax Rules, 1962

10(20)	CALCUTTA STATE TRANSPORT CORPORATION v CIT(1996) 219 ITR 515 (SC) : (1996)132 CTR 283(SC) : (1996) 131 TAXATION 318 (SC): (1996) 85 TAXMAN 402 (SC) State road transport corporation not entitled to avail of the exemption: State Road Transport Corporation, whether a “local authority” within the contemplation of section 2(31)(vi) of the Income-tax Act-1961, and hence entitled to exemption contained in section 10(20) of the Act in respect of its income –Held, no—Characteristics of a local authority specified. Where the assessee a State road transport corporation claimed exemption in respect of its income under section 10(20) of the Income-tax Act-1961, on the ground that it was a local authority within the contemplation of section 2(31)(vi) of the Act, it was held that the assessee corporation was not a “local authority” and therefore, not entitled to claim exemption of its income by virtue of clause (20) in section 10 of the Income-tax Act-1961
10(20A)	COMMISSIONER OF INCOME-TAX AND ANOTHER v. STATE INDUSTRIAL PROMOTION CORPORATION OF TAMIL NADU LTD. [2009] 311 ITR 197 (MAD.) Exemption-development authority condition precedent for exemption under section 10(20A) authority should be constituted in India under law for the purpose – state Government undertaking to promote industry – undertaking constituted under companies Act- not entitled to exemption under section 10(20A)-Income-tax Act, 1961, s.10(20A).
10 (22), 11	REGIONAL COMPUTER CENTRE v. COMMISSIONER OF INCOME-TAX [2009] 311 ITR 182 (P&H) Charitable purposes – charitable institution – exemption – regional computer centre manned by government officers – object of centre to promote electronic data processing and disseminate knowledge about electronic data processing systems – centre earning mainly through consultancy services – business not carried on by beneficiaries – centre not a charitable institution – not entitled to exemption under section 11 – Income-tax Act, 1961, s. 11.
10(22)	OXFORD UNIVERSITY PRESS v CIT(2001) 247 ITR 658 (SC) Condition precedent for granting exemption to University or other educational institution. Assessee engaged in business of printing, publishing and selling, books in India—It claimed exemption from payment of tax under section 10(22) on ground that it is a part of the Oxford University incorporated in the United Kingdom and income earned by it is income of the University—Whether assessee is exempt from payment of income-tax by virtue of the provisions of section 10(22) –Held (per majority), No—Section 10(22) is intended to cover income of an university or other educational institution existing solely for educational purposes and not for purposes of profit – However it is not necessary that the University should be incorporated in India—Assessee not being engaged in any educational activity in India and its existence in India being for profit, is not entitled to exemption under section 10(22).

10(22), 11,12,272A (2)(e)	<p>DIRECTOR OF INCOME TAX (EXEMPTIONS) v. 1. MALAD JAIN YUVAK MANDAL MEDICAL RELIEF CENTRE 2.SUSHMAVATI EDUCATIONAL TRUST. [2001] 250 ITR 488(BOM)</p> <p>Penalty—Return—Delay in filing return—Scope of section 139(4A)—Charitable Trust—Educational institution—Exemption—Income of Educational Institution exempted under section 10(22)—Exemption available each year on basis of evaluation—Evaluation requires filing of return—Delay in filing return—Imposition of penalty—Valid —Income-tax Act-1961, ss. 10(22), 11, 12, 139(4A), 272A(2)(e).</p>
10(22)	<p>COMMISSIONER OF INCOME-TAX v. MAHARAJA SAWAI MANSINGH JI MUSEUM TRUST. [1988] 169 ITR 379 (RAJ)</p> <p>Exemption – Educational institution – Meaning of “education” – Museum not an educational institution – Not entitled to exemption – Income-tax Act, 1961, s. 10(22).</p>
10(23C) (vi)	<p>SCIENTIFIC EDUCATIONAL ADVANCEMENT SOCIETY v. UNION OF INDIA AND ANOTHER [2010] 323 ITR 84(P&H)</p> <p>Exemption –Educational institution –Condition precedent for exemption – Institution should exist solely for purposes of education –Assessee-Society not solely for educational purposes –Rejection of exemption –Valid –Income-tax Act, 1961, s. 10(23C)(vi).</p>
10(23C)	<p>SCIENTIFIC EDUCATIONAL ADVANCEMENT SOCIETY v. UNION OF INDIA [2009] 179 TAXMAN 155 (PUN & HAR)</p> <p>Section 10(23C) of the Income-tax Act-1961- Charitable / religious institutions-Assessment years 2008-09 to 2010-11- A piece of land belonging to assessee society was sold at a profit to a private builder on plea that it would be hit by industrial zone-However, builder built flats on said land— Subsequently, assessee-society purchased two farm houses constructed by same builder who had built residential units- Chairman of assessee-society along with his family members used to visit farm houses on week end and no permission from any prescribed authority had been obtained for opening any educational institute on property purchased-Chief Commissioner thus took a view that there was nothing on record to show that assessee-society intended to carry out any educational activities on land purchased and, accordingly, rejected assessee’s claim seeking exemption under section 10(23C)(vi) and (via)-Whether, on facts, impugned order of Chief Commissioner did not suffer from any legal infirmity and, thus, same was to be upheld -Held, yes.</p>
10(23C)	<p>Dr. MAHARAJ KRISHANA KAPUR EDUCATIONAL CHARITABLE TRUST AND MANAGEMENT SOCIETY v. UNION OF INDIA [2009] 180 TAXMAN 420(PUN. & HAR.)</p> <p>Section 10(23C) of the Income-tax Act-1961—Charitable / religious institution—Assessment year 2008-09 to 2010-11- Assessee- trust filed an application seeking exemption under section 10(23C)(vi)- Chief Commissioner referred to accounts of assessee for last 10 years which revealed that it was generating substantial surplus and that percentage of income applied for education purposes was less than limit prescribed under clause(a) of third</p>

	proviso to section 10(23C)- Thus, Chief Commissioner rejected assessee's claim –Whether, on facts, Chief Commissioner had rightly concluded that assessee trust was required to apply 75 per cent of its income for educational purposes up to assessment year 2001-02, and, thereafter, from assessment year 2002-03, application of income had to be 85 per cent- Held, yes –Whether, therefore, assessee-trust could accumulate only 15 per cent of income and if there was any excess accumulation, then it had to be applied for objects of society within a period of five years- Held, yes- Whether since assessee trust had failed to do so, Chief Commissioner rightly refused exemption to it- Held, yes.
10(23C)	SCIENTIFIC EDUCATIONAL ADVANCEMENT SOCIETY v. UNION OF INDIA [2009] 179 TAXMAN 155/[2009] 15 CPT 357 (PUNJ. &HAR.) Where Chief Commissioner, took a view that there was nothing on record to show that assessee-society intended to carry out any educational activities on land purchased and in fact had sold such land to a builder, denial of approval to assessee under section 10(23C) (vi) was justified.
10(23C)	ROLAND EDUCATIONAL & CHARITABLE TRUST v. CHIEF CIT [W.P. NO. 8531 OF 2008, DECIDED 17-09-2008] / [2009]14 CPT 575 (ORI.) Act nowhere provides any provisions for condonation of delay in presenting an application u/s. 10(23C) (vi) for grant of exemption.
10(23C)	AMERICAN HOTEL AND LODGING ASSOCIATION EDUCATIONAL INSTITUTE v. CENTRAL BOARD OF DIRECT TAXES AND OTHERS [2007] 289 ITR 46 (DELHI) Exemption – Educational institution – Condition precedent for application of section 10(23C) – Income must be Applied for educational purpose in India – Application of Income in U. S. A. – Assessee not entitled to exemption under section 10(23C) – Income-tax Act, 1961, s. 10(23C). Interpretation of taxing statutes – interpretation in conformity with object of provision.
10(29), 256(3)	COMMISSIONER OF INCOME TAX v. RAJASTHAN STATE WAREHOUSING CORPORATION [2001] 250 ITR 218 (RAJ.) Exemption—Warehousing corporation —Income from letting of godowns or warehouses for storage, processing or facilitating marketing of commodities alone is exempt—Income from ancillary activities—Not exempt—Whether business indivisible and income not to be apportioned—Question does not arise from order of tribunal—Income-tax Act-1961, ss. 10(29), 256(2). Supreme Court—Precedent –Question referred to large bench—Existing decision after considering conflicting views is binding—Constitution of India, Art.141.
10(33), 14A	PRADEEP KAR v. ASSISTANT COMMISSIONER OF INCOME-TAX [2009] 319 ITR 416 (KARN) Exemption – Other sources – Interest on capital borrowed for investment in shares – Deductions – Dividend – Dividend not assessable as income from other sources –Dividend exempt from tax – Expenditure related to exempted income – Not deductible – Income-tax Act, 1961, ss. 10(33), 14A. Dividend

	income is exempted under section 10(33) of the Income-tax Act, 1961, from tax liability and cannot be computed under the head "Other sources". Expenditure relating to exempted income is not allowable in view of section 14A of the Act.
10(33), 28	VANEET JAIN v. COMMISSIONER OF INCOME-TAX AND ANOTHER, [2007] 294 ITR 432 (P & H). Business loss—Purchase of units worth Rs.1crore by investment of Rs.5 lakhs with finance for Balance—sale of units after five days ex-dividend at a loss—Single Transaction, Not in nature of Trade—Manipulation merely to claim exemption on dividend—Disallowance of loss justified—Income-tax Act, 1961, ss. 10(33), 28.
10A	INDIA COMNET INTERNATIONAL v. INCOME-TAX OFFICER [2008] 304 ITR 322 (MAD.) Export business-free trade zone-exemption-interest-interest income earned out of export realization and kept in foreign currency deposit account-no direct nexus between interest earned and industrial undertaking-interest not "Derived" from export-not entitled to exemption Income-tax Act, 1961, s. 10A.
10A	INDIA COMNET INTERNATIONAL v. ITO [T.C.A. NO. 980 OF 2007, DECIDED ON 4-7-2007] (MAD.) Interest income earned out of export realization and kept in foreign currency deposit account, as permitted by FERA under banking regulations, will not be entitled to exemption under section 10A.
10A	COMMISSIONER OF INCOME-TAX v. MENON IMPEX P. LTD. [2003] 259 ITR 403 (MAD) Free trade zones – Newly established undertaking – Special exemption – Export of light engineering goods – Deposit in banks for opening letters of credit – Interest on deposits – Not "Derived" from export – Not entitled to exemption in relation to interest – Income-tax Act, 1961, s. 10A.
2(15); 11,197	INFOPARKS KERALA v DEPUTY COMMISSIONER OF INCOME TAX AND ANOTHER [2010]329 ITR 404(Ker) Deduction of tax at source – certificate for non- deduction –assessee claiming income was exempt under section 11 –amendment of section 2(15) w.e.f. 1-4-2009 not challenged –union of india not impleaded as a party—effect of amendment of section 2(15) could not be considered –refusal to issue certificate for non-deduction of tax at source—justified—income-tax act, 1961, ss 2(15), 11,197.
10(22), 11	REGIONAL COMPUTER CENTRE v. COMMISSIONER OF INCOME TAX [2009] 311 ITR 182 (P&H) Charitable purposes – charitable institution – exemption – regional computer centre manned by government officers – object of centre to promote electronic data processing and disseminate knowledge about electronic data processing systems – centre earning mainly through consultancy services – business not

	carried on by beneficiaries – centre not a charitable institution – not entitled to exemption under section 11 – Income-tax Act, 1961, s. 11.
11	KERALA RURAL EMPLOYMENT AND WELFARE SOCIETY v. ASSTT-DIT [W.P.(C). No 139 OF 2008, DECIDED ON 19.01.2009] / [2009] 15 CPT 624 (KER) By no stretch of imagination can extended period given u/s.139(4) be made available for giving notice for accumulation of income by a charitable trust or an institution beyond period mentioned in sec.139(1).
11	U.P. FOREST CORPORATION v DCIT(2008) 297 ITR 1(SC) Registration of charitable trust under section 12A of the Income-tax Act, 1961 is a condition precedent for claiming the exemption under section 11
11,12, 13(3)	KANAHYA LAL PUNJ CHARITABLE TRUST v. DIRECTOR OF INCOME-TAX (EXEMPTION), [2007]294 ITR 66 (DELHI) Charitable purpose Exemption Condition precedent No benefit “Directly or indirectly” to “Any person” referred to in section—Huge sums of money advanced to company having substantial interest in trust—No interest charged nor adequate security taken—Denial of exemption proper—Income-tax Act, 1961, ss.11, 12, 13(3).
11	ASST.CIT v THANTHI TRUST(2001) 247 ITR 785(SC) Founder of daily newspaper created trust –Property settled upon trust was business of said newspaper as a going concern—Income of trust’s newspaper business employed to achieve its objectives of education and relief to poor—Separate books of account maintained in respect thereof—Claim of trust for exemption under section 11 for assessment years 1979-80 to 1983-84 during which period section 13(1)(bb) was in operation—Requirement of section 13(1)(bb), that exemption under section 11 will not be available to a trust that carries on any business unless that the business is carried on in the course of actual carrying out of primary purpose of trust –Held, the business that the trust carries on is that of running a newspaper, which cannot be held to be carried on in course of actual accomplishment of the trust’s objects of education and relief of the poor—The trust is therefore not entitled to exemption under section 11.
10(22), 11,12,272A (2)(e)	DIRECTOR OF INCOME TAX (EXEMPTIONS) v. 1. MALAD JAIN YUVAK MANDAL MEDICAL RELIEF CENTRE 2.SUSHMAVATI EDUCATIONAL TRUST. [2001] 250 ITR 488(BOM) Penalty—Return—Delay in filing return—Scope of section 139(4A)—Charitable Trust—Educational institution—Exemption—Income of Educational Institution exempted under section 10(22)—Exemption available each year on basis of evaluation—Evaluation requires filing of return—Delay in filing return—Imposition of penalty—Valid –Income-tax Act-1961, ss.10(22), 11, 12, 139(4A), 272A(2)(e).
11	GANGABAI CHARITIES v CIT (1992) 197 ITR 416 (SC) Execution of deed, described as deed of trust, expressing desire to construct

	building for benefit of public to be used for religious, charitable, cultural and social purposes—Objects of the trust not specified specifically—Manner of utilization of income from trust property not mentioned—Land purchased by person who executed the deed and building constructed with the funds contributed by her son and obtained by way of donations—Income derived from letting building as marriage mandapam and running printing press, whether exempt from tax under section 11(1)(a) of the Income-tax Act-1961.
2(15), 11(1)(a), (4A)	IDEAL PUBLICATIONS TRUST v. COMMISSIONER OF INCOME-TAX [2008]305 ITR 143 (KER.) Charitable purpose—Exemption—Trust engaged in publication of newspaper run on commercial lines including charging of commercial tariff for Advertisements and charging price for profit—Business not incidental to attainment of objects of trust—Business not with an object of general public utility—Trust not entitled to exemption -- Income tax Act, 1961, s. 2(15), 11(1)(a), (4A).
11(1)(a)	SHRI AKHEY RAM ISHWARI PRASAD TRUST v. COMMISSIONER OF INCOME-TAX [2004] 266 ITR 281(RAJ) Trust – Exemption – Tribunal finding trust incurring more expenses than income earned – Trust not entitled to exemption – Income-tax Act, 1961, s. 11(1)(a).
11,12, 13(3)	KANAHYA LAL PUNJ CHARITABLE TRUST v. DIRECTOR OF INCOME-TAX (EXEMPTION), [2007]294 ITR 66 (DELHI) Charitable purpose Exemption Condition precedent No benefit “Directly or indirectly” to “Any person” referred to in section—Huge sums of money advanced to company having substantial interest in trust—No interest charged nor adequate security taken—Denial of exemption proper—Income-tax Act, 1961, ss.11, 12, 13(3).
10(22), 11,12, 272A (2)(e)	DIRECTOR OF INCOME TAX (EXEMPTIONS) v. 1. MALAD JAIN YUVAK MANDAL MEDICAL RELIEF CENTRE 2.SUSHMAVATI EDUCATIONAL TRUST. [2001] 250 ITR 488(BOM) Penalty—Return—Delay in filing return—Scope of section 139(4A)—Charitable Trust—Educational institution—Exemption—Income of Educational Institution exempted under section 10(22)—Exemption available each year on basis of evaluation—Evaluation requires filing of return—Delay in filing return—Imposition of penalty—Valid –Income-tax Act-1961, ss.10(22), 11, 12, 139(4A), 272A(2)(e).
13	CIT V. SHREE P. SUBRAMANIAM RELIGIOUS TRUST [2009] 179 TAXMAN 144/[2009] 15 CPT 358 (KER.) While certain amounts were advanced by assessee-trust to a trader for purchase of cement for construction of a pilgrim centre and there was nothing to indicate that any approval or permission was granted or expected within a reasonable time for construction of pilgrim centre so as to justify advance made to trader, it was held that advance was only siphoning off funds of trust as there was no immediate requirement of cement; and advance in question was nothing but

	investment or deposit which was ineligible for deduction.
11,12, 13(3)	KANAHYA LAL PUNJ CHARITABLE TRUST v. DIRECTOR OF INCOME-TAX (EXEMPTION), [2007]294 ITR 66 (DELHI) Charitable purpose Exemption Condition precedent No benefit “Directly or indirectly” to “Any person” referred to in section—Huge sums of money advanced to company having substantial interest in trust—No interest charged nor adequate security taken—Denial of exemption proper—Income-tax Act, 1961, ss.11, 12, 13(3).
13	PT. KANAHYA LAL PUNJ. CHARITABLE v. DIRECTOR OF INCOME-TAX (EXEMPTION) [ITA NO. 1651 OF 2006. DECIDED ON 14-05-2007 (DELHI) REPORTED IN TAXMAN'S CPT VOL.13 (OCT. 16 TO 31) 2008. Where assessee –society had given an interest-free advance to an interested party and even adequate security was not taken, there being clear violation of sections 13(1)(a) and 13(2)(a), denial of exemption to assessee was justified.
10(33), 14A	PRADEEP KAR v. ASSISTANT COMMISSIONER OF INCOME-TAX [2009] 319 ITR 416 (KARN) Exemption – Other sources – Interest on capital borrowed for investment in shares – Deductions – Dividend – Dividend not assessable as income from other sources –Dividend exempt from tax – Expenditure related to exempted income – Not deductible – Income-tax Act, 1961, ss. 10(33), 14A. Dividend income is exempted under section 10(33) of the Income-tax Act, 1961, from tax liability and cannot be computed under the head ”Other sources”. Expenditure relating to exempted income is not allowable in view of section 14A of the Act.
14A, 32	HARYANA LAND RECLAMATION AND DEVELOPMENT CORPORATION v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2008]302 ITR 218 (P & H) Deduction—Expenditure incurred in relation to income not includable in total income substantial income generated out of agriculture –Assessee not able to prove that expenditure for business purposes—Section 14A Applies--Income tax Act, 1961, s.14A, 32.
15	CIT v. S.C. WADHWA, DEVELOPMENT OFFICER, LIC OF INDIA (2006) 283 ITR 384 (P&H) Development Officers working in Life Insurance Corporation of India, are whole-time employees, who are employed for promoting and developing life insurance business and not doing work in a different capacity while working in field. Incentive bonus received by Development Officers are assessable under the head “Salary”
15	CIT v. RAMESH CHANDRA AGARWAL (2006) 286 ITR 655 (ALL) Incentive bonus received by Development Officer of LIC is part of salary.

	Expenditure incurred in earning such bonus in excess of standard deduction is not deductible.
15	CIT v. A.K. GHOSH (2003) 263 ITR 536 (MP) Any deduction is not permissible in respect of incentive bonus received by Development Officer of LIC. 40 per cent of incentive bonus is not deductible as claimed by the assessee.
15	CIT v. T.K. GINARAJAN, DEVT. OFFICER, LIC OF INDIA. (2002) 253 ITR 463 (KER) Incentive bonus given to development officers by LIC of India is assessable as salary. The assessee was entitled only to standard deduction.
15	CIT v. RAMLAL AGARWALA (2001) 250 ITR 828 (CAL) Incentive bonus payable to Development Officer of LIC is part of salary. The assessee will be entitled to standard deduction alone. No further deduction of expenses incurred to earn bonus was permissible.
15	CIT v. GOPAL KRISHNA SURI (2001) 248 ITR 819 (BOM.) Development Officers are full-time employees of LIC. Incentive bonus is payable only to those officers whose cost ratio is less than a stipulated percentage. Thus, the amount paid as incentive bonus received by Development Officers of LIC will be taxable as income from salary. Deduction, other than standard deduction, cannot be allowed there from.
15	CIT v. SHEO RAJ BHATIA (1999) 235 ITR 7 (RAJ.) Incentive bonus received by Development Officers of LIC constitute salary. It is not a personal gift but is paid as remuneration for his services as an employee. Incentive bonus, being part of salary, is eligible to tax as salary and the assessee is entitled only for standard deduction. 50% of the incentive bonus is not deductible.
15	RAM PRASHAD v CIT(1972) 86 ITR 122(SC) Assessee appointed as managing director of the company to manage the business of the company under its articles of association, who was to work under the Board of Directors and the Board of Directors only authorized to take decisions in certain matters—Appointment of the managing director for a term of twenty years but could be removed at any time earlier than that for not discharging the work diligently or in the interest of the company—Assessee whether a servant of the company and his remuneration was chargeable to tax under section 7 of the Indian Income-tax Act, 1922 (corresponding to section 15 of the Income-tax Act-1961)—Held, yes—Test for determining assessability of income under the head “Salaries” indicated.
16,17	COMMISSIONER OF INCOME-TAX v. SURENDRA KUMAR GUPTA [2009] 319 ITR 253 (ALL) Salary – Development Officer of LIC – Incentive bonus is part of salary –

	Assessee entitled only to standard deduction – not entitled to deduction of expenses incurred to earn bonus – Income-tax Act, 1961, ss. 16, 17.
16, 17	MAHINDER SINGH (Tax Case No.27 of 1998) BASANT KUMAR RUNGTA (Tax Case No.16 of 2000) v. COMMISSIONER OF INCOME-TAX [2008] 300 ITR 90(JHARKHAND) Salary—Life Insurance Corporation—Incentive Bonus Given to Development Officer—Assessable as salary—only standard deduction available – Income Tax Act, 1961, ss. 16, 17.
16	CIT v. M.D. PATIL (1988) 229 ITR 71 (KAR) (FB) Incentive commission received by Development Officer of LIC is taxable only under the head ‘Salary’ and not under the head ‘Profits and gains of business or profession’. Deductions allowable there from are only those specified in s.16.
17(2)	BHEL WORKERS UNION v. UNION OF INDIA [2009] 178 TAXMAN 1 (SC) Section 17(2), of the Income-tax Act-1961, read with rule 3, of the Income-tax Rules, 1962 and article 14 of the Constitution of India- Salaries- Perquisites- Whether rule 3 as amended by Income-tax (Twenty second Amendment) Rules, 20001 is in line and consistent with provision of section 17(2)(ii) and is also not ultra vires article 14 of Constitution of India – Held, yes
16,17	COMMISSIONER OF INCOME-TAX v. SURENDRA KUMAR GUPTA [2009] 319 ITR 253 (ALL) Salary – Development Officer of LIC – Incentive bouus is part of salary – Assessee entitled only to standard deduction – not entitled to deduction of expenses incurred to earn bonus – Income-tax Act, 1961, ss. 16, 17.
17(2) ITR 1962, R3	ALL INDIA STATE BANK OF INDORE OFFICERS' CO-ORDINATION COMMITTEE AND ANOTHER v CENTRAL BOARD OF DIRECT TAXES AND OTHERS, [2008]297 ITR 447 (MP)[FB] Salary Perquisites Housing Accommodation provided by employer Rules for computation Rule 3 as amended in 2001—Not ultra vires and not contrary to section 17(2)—Income-tax Rules, 1962, r. 3 (As amended in 2001)—Income-tax Act, 1961, s.17(2). Rule 3 of the Income-tax Rules, 1962, as amended in 2001, is not ultra vires, invalid and it does not run contrary to the provisions of section 17(2) of the Income- tax Act, 1961. It is also not discriminatory on arbitrary or violative of article 14 of the Constitution.
17	LALJI PRASAD v. CIT [M. N. NOS.170, 513 OF 2002, DECIDED ON 11-11-2008]/[2009] 15 CPT 156.(PAT.) Pay and allowances received by Chief Minister of a State are assessable as salary and not as income from other sources.

16, 17	MAHINDER SINGH (Tax Case No.27 of 1998) BASANT KUMAR RUNGTA (Tax Case No.16 of 2000) v. COMMISSIONER OF INCOME-TAX [2008] 300 ITR 90(JHARKHAND) Salary—Life Insurance Corporation—Incentive Bonus Given to Development Officer—Assessable as salary—only standard deduction available – Income Tax Act, 1961, ss. 16, 17.
17,192, ITR 1962, R3	A.P. CIRCLE OF ALL INDIA BHARAT SANCHAR NIGAM LTD. EXECUTIVES ASSOCIATION AND ANOTHER v GENERAL MANAGER (FINANCE), TELECOM AND OTHERS, [2006] 283 ITR 388 (AP). Deduction of tax at source—Salary—Perquisites—Value of rent-free accommodation provided by employer—Rules laying down method of valuation—Value Constitutes perquisite—Tax to be deducted at source on such perquisite—Income- tax Act, 1961, s.17,192—Income Tax Rules, 1962, R. 3.
17(1)(iv)	CIT VS. BASHIR AHMAD BAZAZ (ALL.) 688 CTR : VOL. 198 : DTD. 11.11.2005 Commission received from employer for promoting export sales is a part of salary. Hence, no deduction of expenses is allowable.
17	KARMACHARI UNION v UNION OF INDIA(2000) 243 ITR 143 (SC) Salary in context to section 17—Phrase”profits in lieu of salary”—What does it signify—Held, because of the inclusive meaning given to the phrase,”profits in lieu of salary” would include “any payment” due to or received by an assessee from an employer, even though it has no connection with profits of the employer—Word “profits” in the context is required to be understood as gain or advantage to the assessee—For assessee, receipt of such amount would be a profit, gain or advantage in addition to salary, even though it is not named as salary—By giving an exhaustive and inclusive meaning, the word “profits” cannot be given a meaning only when it pertains to sharing of profits by the employer—Taxability of receipts on account of City Compensatory Allowance, House Rent Allowance and Dearness Allowance
22, 28	MANGLA HOMES P. LTD. V. INCOME TAX OFFICER AND OTHERS [2010] 325 ITR 281 (Bom)] Property business – business Income or Income from property -Rental Income from letting out flats - Assessable as Income from house property -Income Tax Act, 1961, ss. 22, 28.
22	K. BHASKARAN NAIR v. CIT [2009] 177 TAXMAN 478/[2009] 14 CPT 832 (KER.) Where assessee let out lodging house charging separate rent for building and furniture and claimed that entire income returned was income from other source, since Income-tax Act provides for assessment after classifying income under appropriate head, petitioner could not ask for shifting of head of income to another merely because agreement provided for collection of rent for building along with furniture, thus rental income from building was assessable

	as income from house property and not as income from other source.
22	<p>MANGLA HOMES (P.) LTD v. INCOME TAX OFFICER [2009] 182 TAXMAN 55 (BOM.)</p> <p>Section 22 of the Income-tax Act-1961- Income from house property- Chargeable as –Assessee-company was incorporated with main object to carry on business of dealing with and investment in properties, flats warehouses, shops, commercial and residential houses- It purchased certain flats for trading purposes- Due to recession in market, said flats could not be sold and, hence, it let out same on licence basis for temporary period and earned monthly income as license fees- Assessee treated said rental income as income from business but revenue authorities treated said income as income from house property- Whether in view of decision in East India Housing & Land Development Trust Ltd. v. CIT[1961] 42 ITR 49 (SC), decision of lower authorities was justified- Held, yes.</p>
22, 28	<p>KEYARAM HOTELS P. LTD v. ASSISTANT COMMISSIONER OF INCOME –TAX, [2008] 300 ITR 118(MAD)</p> <p>Property—Business—Business income or Income from Property—Lease of property by company—finding that there was no commercial exploitation of property by company—Income from lease assessable as income from property—Income Tax Act, 1961, ss. 22, 28.</p>
22	<p>CIT VS. T. V. SUNDARAM IYENGAR & SONS LTD. (MAD.) 50 CTR : VOL. 193 : DTD. 7.1.2005</p> <p>House property income – Income on letting out to employees of subsidiary company is also income from house property.</p>
22, 28	<p>COMMISSIONER OF INCOME-TAX v. T. V. SUNDARAM IYENGAR AND SONS LTD [2004] 271 ITR 79 (MAD)</p> <p>Property—Business Income from property or business income property held for business purposes—Effect of section 22—Income from property let out to employees or sister concern—Property not used for business of assessee— Income assessable as income from Property—Income-tax Act, 1961, ss.22, 28.</p>
22,28,56	<p>COMMISSIONER OF INCOME-TAX v SURAT TEXTILE MARKET CO-OPERATIVE SHOPS AND WAREHOUSE SOCIETY LTD.. [2003] 264 ITR 289 (GUJ)</p> <p>Business—Property—Other sources—Business income, Income from property of income from other sources—Co-operative Society for promotion of textile Trade—Co-operative society constructing building complex with godowns and shops for its members—Godowns and shops let out to members at nominal rent—Services such as lift, Air-conditioning provided for a charge—banks, canteens and post-office in premises owned by Co-operative society—Banks, canteens and post office rendering services to members of assessee-society— Nominal rent for godowns and shops constitutes income from other sources— Income from services and rent from banks post office, canteens and auditoriums constitute business income—Income from revolving restaurant and residential hotel belonging to assessee—Assessable as income from</p>

	property—Income-tax Act, 1961, ss. 22, 28, 56.
22, 28	<p>COMMISSIONER OF INCOME TAX v. SHAMBHU INVESTMENT PVT. LTD. [2001] 249 ITR 47 (Cal)</p> <p>Income from property or business income – Tests – Assessee letting out portion of premises to occupants – No separate agreement for furniture and fixtures or for providing other amenities – Intention in agreement to allow occupants table space together with furniture and fixtures – Security advance covering entire cost of property – Income derived by assessee from premises is income from property – Income-tax Act, 1961, ss. 22, 28.</p>
22	<p>CIT VS. PODDAR CEMENT LTD. 226 ITR 625 (SC)</p> <p>In the context of section 22 of the I.T. Act- an owner of House property is the person who is entitled to receive the income in his own right (and not on behalf of others). Sec 22 does not require registration of sale deed and hence power of attorney holder will also be owner U/s 22. Amendment of Sec 27 by Finance Act 1987 is clarificatory in nature- Rule against retrospectively is not applicable to declaratory provisions. [Followed/applied/explained in - 233 ITR 453 (AP); 239 ITR 142 (Mad.); Mysore Minerals Ltd. Vs CIT 239 ITR 775 (SC); 240 ITR 191 (Del.); 248 ITR 94 (J&K); 249 ITR 120 (Ker.); 249 ITR 295 (Gau); 250 ITR 542 (Guj.); 254 ITR 22 (Del); 254 ITR 625 (Guj.); 240 ITR 291 (Guj.)]</p>
23,24	<p>COMMISSIONER OF INCOME-TAX v. PREMNATH MOTORS (RAJ) P. LTD. [2007] 297 ITR 83 (RAJ)</p> <p>Property— annual value—Determination of annual value lease—Stamp duty for drawing up lease and amount paid for registration—Not deductible—Income tax Act, 1961, ss.23, 24.</p>
23(1)	<p>P. N. SHUKLA v. COMMISSIONER OF INCOME-TAX [2005] 276 ITR 642 [ALL]</p> <p>House property – deductions – deduction under clause (c) of proviso 2 to section 23(1) – condition precedent – unit must be used for residential purposes – construction of property for letting out to corporation for non-residential purposes – assessee not entitled to deduction under section 23(1) – Income-tax Act, 1961, s. 23(1).</p>
23	<p>P. N. SHUKLA VS. CIT (ALL.) 555 CTR : VOL. 193 : DTD. 11.2.2005</p> <p>Income from house property – Deductions u/s.23(1) are applicable only when the property is house for residential purposes.</p>
23	<p>T. A. ABDUL KHADER VS. COMMISSIONER OF WEALTH TAX (KER.) 513 CTR : VOL. 195 : DTD. 27.5.05</p> <p>Valuation of let out property – Rent receivable can be determined by the Assessing Officer on the basis of annual value assessed by local authority, or on the basis of rent received in a comparable building.</p>

73,24,292BB 143(2)	<p>ARAVALI ENGINEERS (P.) LTD. V. COMMISSIONER OF INCOME TAX [2011] 335 ITR 508 (P &H)/[2011] 200 TAXMAN 81 (P&H)</p> <p>Section 73 of the Income-tax Act, 1961 – Losses – In speculation business – Assessment year 1997-98 – Whether in view of provisions of section 73, assessee could not be allowed to set off speculation loss arising from sale and purchase of shares against its income from house property – Held, yes.</p> <p>Section 24 of the Income tax Act 1961 – Income from house property – Deductions –Assessment year 1997-98 – Assessee claimed deduction of brokerage paid on sale and purchase of shares while computing income from house property – Whether wherever deductions out of income from income cannot be allowed Held, yes- Whether, therefore, assessee's claim for deduction was to be rejected – Held, yes.</p> <p>Section 292BB, read with section 143, of the Income-tax Act, 1961 – Notice, deemed to be valid in certain circumstances –Assessment year 1997-98 – In proceedings before Tribunal, assessee raised a new plea that since notice under section 143(2) was not served within stipulated time, assessment was barred by limitation Tribunal refused to entertain plea raised by assessee – Whether in view of provisions of section 292BB, question of validity of notice could not be allowed to be rased for first time in appeal – Held, yes – Whether, therefore, impugned order of Tribunal refusing to entertain assessee's plea, was to be upheld – Held, yes.</p>
23,24	<p>COMMISSIONER OF INCOME-TAX v. PREMNATH MOTORS (RAJ) P. LTD. [2007]297 ITR 83 (RAJ)</p> <p>Property— annual value—Determination of annual value lease—Stamp duty for drawing up lease and amount paid for registration—Not deductible—Income tax Act, 1961, ss.23, 24.</p>
22, 28	<p>MANGLA HOMES P. LTD. V. INCOME TAX OFFICER AND OTHERS [2010] 325 ITR 281 (Bom)]</p> <p>Property business – business Income or Income from property -Rental Income from letting out flats - Assessable as Income from house property -Income Tax Act, 1961, ss. 22, 28.</p>
28(i)	<p>COMMISSIONER OF INCOME-TAX v. BANK OF RAJASTHAN LTD [2009] 178 Taxman 304 (RAJ)</p> <p>Section 28(i) of the Income-tax Act-1961- Business loss/ deductions-Allowable as- Assessment years 1990-91 to 1992-93- Assessee bank purchased Government securities after certain time of date of their issue and as by that time, certain amount of interest had already accrued thereon payable by Government to bank, purchased price comprised of issue price and accrued interest upto date of purchase (known as broken period interest)-Whether amount of broken period interest paid by assessee bank could be claimed as allowable deduction from its income-Held, no.</p>
28(i)	<p>SALEM MANGNESITE (P.) LTD. v. COMMISSIONER OF INCOME-TAX-III, BOMBAY [2009] 180 TAXMAN 545(BOM.)</p> <p>Section 28(i) of the Income-tax Act-1961—Business loss / deductions- Allowable as – Assessment year 1980-81-Assessee-company, which was solely</p>

	<p>in business of mining, had lent certain amount to its wholly owned subsidiary company for construction of a jetty- Subsequently, subsidiary company suffered loss and was not in a position to repay said loan- Therefore, assessee accepted a small amount in full and final settlement of said loan and wrote off remaining amount- It claimed deduction of amount written off on ground that it was loss incidental to its business- Whether when loan granted to subsidiary company did not spring directly from business of assessee company and was not incidental to it, amount written off by assessee could be allowed as a deduction under section 28- Held, no.</p>
28, 56	<p>EAST WEST HOTELS LTD. v. DEPUTY COMMISSIONER OF INCOME-TAX [2009] 309 ITR 149 (KARN.)</p> <p>Income from other sources – business income – hotel –lease of hotel under agreement –agreement of lease for 33 years with option of further renewal for 33 years – assessee having no intention to resume hotel business – amount received by assessee is income from other sources and not business income – Income-tax Act, 1961, ss. 28, 56.</p>
28	<p>MAGNUM POWER GENERATION LTD. v. ADDITIONAL COMMISSINOER OF INCOME-TAX [2009] 311 ITR 332 (DELHI)</p> <p>Income-accrual-inter corporate deposit-mercantile system of accounting-finding that company to be solvent and debt not sticky debt-assessee receiving entire principal amount and interest in part-interest accruing in relevant assessment years-liable to tax- Income Tax Act, 1961.</p>
28(1)	<p>CIT v. FAITH REAL ESTATE (P.) LTD. [2008] 173 TAXMAN 405 (DELHI)</p> <p>Where assessee had given out on rent premises owned by it and assessee was to receive 2 percent commission on sales made by lessee by use of premises and Tribunals finding was that arrangement was not a sham and it was not a mere rent agreement but, in fact, required involvement of assessee in management of lessee's store, amount received by assessee could not be treated as 'income from house property' and was to be treated as 'business income'.</p>
28	<p>CIT v. PIONEER PRESS (P) LTD. [T.C.A. NO. s 127 & 128 OF 2004, DECIDED ON 21.12.2008]/[2009]14 CPT 736 [MAD.]</p> <p>Where the assessee-company, engaged in offset printing, had collected contingency deposits for payment of possible tax liability, same were assessable as trading receipts and deductible in year in which refund of deposits was effected.</p>
22, 28	<p>KEYARAM HOTELS P. LTD v. ASSISTANT COMMISSIONER OF INCOME -TAX, [2008] 300 ITR 118(MAD)</p> <p>Property—Business—Business income or Income from Property—Lease of property by company—finding that there was no commercial exploitation of property by company—Income from lease assessable as income from property—Income Tax Act, 1961, ss. 22, 28.</p>

28	<p>SUNDARAM FINANCE LTD. v. DEPUTY COMMISSIONER OF INCOME-TAX /JOINT COMMISSIONER OF INCOME-TAX [2008] 303 ITR 364 (MAD)</p> <p>During the accounting year relevant to the assessment year 1995-96, the assessee, a non-banking company collected a sum of Rs.63,74,680 from its customers as contingent deposit. The collection was in anticipation of the sales tax liability which was in dispute. Since there was a contingent liability fastened on the deposit, the assessee did not treat the amount as trading receipt. However, the Assessing Officer rejected the contention of the assessee and brought to tax a sum of Rs.49,83,021 after reducing Rs.13,91,839/-which was taxed earlier. This was upheld by the Tribunal. On appeal to the High Court: Held, dismissing the appeal, that the amount of Rs.49,83,201 collected as contingent deposit was assessable.</p>
10(33), 28	<p>VANEET JAIN v. COMMISSIONER OF INCOME-TAX AND ANOTHER, [2007] 294 ITR 432 (P & H).</p> <p>Business loss—Purchase of units worth Rs.1crore by investment of Rs.5 lakhs with finance for Balance—sale of units after five days ex-dividend at a loss—Single Transaction, Not in nature of Trade—Manipulation Merely to claim exemption on dividend—Disallowance of loss justified—Income-tax Act, 1961, ss. 10(33), 28.</p>
28(iii)(b)	<p>CAWNPORE TEXTILES LTD. VS. CIT (ALL.) 203 CTR : VOL. 200 : DTD. 20.01.2006</p> <p>Cash incentive received under export promotion scheme – Chargeable to tax u/s.28(iii)(b).</p>
28	<p>KHAN INTERNATIONAL EXPORTS (P) LTD. VS. CIT (ALL.) 165 CTR : VOL. 201 : DTD. 17.03.2006</p> <p>Cash assistance, duty draw back and premium entitlements are taxable as business income as per section 28 of Finance Act 1990.</p>
28	<p>GOOGLE ONLINE INDIA (P) LTD., IN REAUTHORITY FOR ADVANCE RULINGS 245 : CTR : VOL. 200 : DTD. 27.01.2006</p> <p>Displaying advertisement in the website is a business activity, termed as business exhibition services. If such a businessman also provides some other technical services in preparation on advertisement material, the business will be of advertisement agency which is a taxable service.</p>
28(ii)	<p>CIT VS. SRIKRISHNA BOTTLEDERS (P) LTD. (A.P.) 681 CTR : VOL. 193 : DTD. 25.2.2005</p> <p>Capital or revenue receipt - Destruction of equipment on discontinuance of brands is taxable as revenue receipt.</p>
28	<p>CIT VS. KISAN SAHKARI CHINI MILLS LTD. (ALL.) 683 CTR : VOL. 199 : DTD. 30.12.2005</p> <p>Incentive received in the form of quota for free sale is a revenue receipt.</p>

22, 28	<p>COMMISSIONER OF INCOME-TAX v. T. V. SUNDARAM IYENGAR AND SONS LTD [2004] 271 ITR 79 (MAD)</p> <p>Property—Business Income from property or business income held for business purposes—Effect of section 22—Income from property let out to employees or sister concern—Property not used for business of assessee - Income assessable as income from Property—Income-tax Act, 1961, ss.22, 28.</p>
28, 56	<p>COMMISSIONER OF INCOME-TAX v. GAMBHIR MAL PANDEY P. LTD. [2004] 266 ITR 274 (RAJ)</p> <p>Business – business income or income from other sources – Assessee giving mill on lease which was not its business – Income from lease – Not business income but income from other sources – Income-tax Act, 1961, ss. 28, 56.</p>
22,28,56	<p>COMMISSIONER OF INCOME-TAX v SURAT TEXTILE MARKET CO-OPERATIVE SHOPS AND WAREHOUSE SOCIETY LTD.. [2003] 264 ITR 289 (GUJ)</p> <p>Business—Property—Other sources—Business income, Income from property of income from other sources—Co-operative Society for promotion of textile Trade—Co-operative society constructing building complex with godowns and shops for its members—Godowns and shops let out to members at nominal rent—Services such as lift, Air-conditioning provided for a charge—banks, canteens and post-office in premises owned by Co-operative society—Banks, canteens and post office rendering services to members of assessee-society—Nominal rent for godowns and shops constitutes income from other sources—Income from services and rent from banks post office, canteens and auditoriums constitute business income—Income from revolving restaurant and residential hotel belonging to assessee—Assessable as income from property—Income-tax Act, 1961, ss. 22, 28, 56.</p>
22, 28	<p>COMMISSIONER OF INCOME TAX v. SHAMBHU INVESTMENT PVT. LTD. [2001] 249 ITR 47 (Cal)</p> <p>Income from property or business income – Tests – Assessee letting out portion of premises to occupants – No separate agreement for furniture and fixtures or for providing other amenities – Intention in agreement to allow occupants table space together with furniture and fixtures – Security advance covering entire cost of property – Income derived by assessee from premises is income from property – Income-tax Act, 1961, ss. 22, 28.</p>
28	<p>CIT v. GOVINDA CHOWDHURY & SONS 203 ITR 881 (SC)</p> <p>Interest on delayed payments of contract receipt is business income. Interest received on delayed payment of contract receipts has character of business receipts and not “income from other sources”. A receipt will fall in residual category i.e. “other sources” only when it cannot be covered under other heads e.g. business income. [Followed in 208 ITR 914 (KER); 238 ITR 450 (ALL.) 257 ITR 305 (Mad); 259 ITR 754 (SC)]</p>

28, 56, 57	MURLI INVESTMENT COMPANY v. COMMISSIONER OF INCOME-TAX [1987] 167 ITR 368 (RAJ) Income from business or income from other sources – Assessee after purchasing property, investing its surplus funds and earning interest there from amount withdrawn for making alterations to property and for payment to creditors – Mere investment of surplus funds, instead of keeping them idle, does not constitute money lending business – Interest earned on investment not assessable as business income – Income-tax Act, 1961, ss. 28, 56, 57.
29, 144, 145	COMMISSIONER OF INCOME-TAX v. GIAN CHAND LABOUR CONTRACTORS [2009] 316 ITR 127 (P. & H.) Accounting – rejection of accounts –best judgment assessment – adoption of net profit rate of 8 per cent. No further separate deduction allowable – Income-tax Act, 1961, ss. 29, 144, 145.
37(1), 30(b)	CIT VS. HOTEL SHAH & CO. (KER.) 314 CTR : VOL. 196 :DTD. 15.07.2005. One time payment cannot be deducted as business expenditure u/s. 30(b) or u/s.37(1).
30, 31, 37(4)	COMMISSIONER OF INCOME-TAX v. BISWANATH TEA CO. LTD. [2003] 264 ITR 166 (CAL.) Business expenditure—Disallowance –Expenditure incurred on Guest House—Effect of sub-section(4) of section 37—Expenses covered by sections 30 and 31 in respect of guest house—Not allowable—Income-tax Act, 1961, s. 30, 31, 37(4)
30, 31, 37(4)	COMMISSIONER OF INCOME-TAX v. BISWANATH TEA CO. LTD. [2003] 264 ITR 166 (CAL.) Business expenditure—Disallowance –Expenditure incurred on Guest House—Effect of sub-section(4) of section 37—Expenses covered by sections 30 and 31 in respect of guest house—Not allowable—Income-tax Act, 1961, s. 30, 31, 37(4)
32	ANURENA TRISTAR V. ITO [2011] 330 ITR 168 DELHI Section 32 of the Income-tax Act, 1961 – Depreciation – Allowance/rate of – Assessee claimed benefit of additional depreciation in respect of machinery under section 32(1)(ii) – Authorities below rejected assessee's claim as he failed to establish that he had installed a new machinery in his unit – Whether finding of fact arrived at by all three authorities blow that machinery in question was old/used machinery, could not be interfered by Court and, therefore, impugned order of Tribunal holding that assessee was not entitled to benefit of additional depreciation, was to be upheld – Held, yes.
32(1)(ii)	COMMISSIONER OF INCOME-TAX v. TECHNO SHARES AND STOCKS LTD. [2010] 323 ITR 69 (Bom) Depreciation –Law applicable –Effect of amendment of section 32 w.e.f.

	1.4.1998 –Depreciation for “Licences” –Meaning of “Licence” –Term confined to licence in relation to intellectual property rights –Stock exchange membership card –Licence to trade in stock exchange –Not covered by section 32–Not entitled to depreciation–Income-tax Act, 1961, s. 32(1)(ii).Interpretation of taxing of “Licence”.
32(1)(ii)	COMMISSIONER OF INCOME-TAX v. TECHNO SHARES & STOCKS LTD. & ORS [2009] 225 CTR(BOM) 337 Depreciation—Allowability—Stock Exchange Membership Card Depreciation is allowable under s.32(1)(ii) on intangible assets i.e. know-how, patents copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature acquired on or after 1 st April, 1988—Expression ‘licences’ is a very wide term and it embraces within its sweep not only the permission to use immovable property for lawful purposes but also permission to carry on any trade, business, profession etc. including the right to acquire intellectual property rights—However, all the intangible assets specifically enumerated in s.32(1)(ii), except the expression licences, belong to the class of intellectual properties—Expression’licences’ in s.32(1)(ii) has to be construed restrictively so as to apply to licences relating to acquisition / user of intellectual property rights and not all licences—Applying the rule of noscitur a sociis the expression ‘licences’ in s.32(1)(ii) would take colour from the expressions preceding and succeeding it which are all relatable to intellectual properties—It is reasonable to construe that the expression ‘licences’ is used in s.32(1)(ii) to apply to licences relatable to intellectual properties only and not to all licences—This reasoning is further fortified by the expression ‘any other business or commercial rights of similar nature’ used in s.32(1)(ii) which clearly postulates that the business or commercial rights which are not similar to the categories specified in s.32(1)(ii) are not entitled to depreciation—What s.32(1)(ii) contemplates is the business or commercial rights relating to intellectual properties and not all categories of business or commercial rights—Accordingly, the alternative argument of the assessee that the BSE card is a business or commercial right and therefore, entitled to depreciation is also liable to be rejected—Further argument of the assessee that since the BSE card is a capital asset and is liable for capital gains tax when sold at a profit, depreciation must be allowed on the BSE card is also without merit as depreciation is not allowable under s.32 on all capital assets but only on capital assets, which fall in any of the categories enumerated in the section—Since the BSE card does not fall in any of the categories specified in s.32(1)(ii), depreciation cannot be allowed on the BSE card.
32(1)(iv), ITR 1962, Appx I, Part A, II(2)	COMMISSIONER OF INCOME-TAX v. KOVAI MEDICAL CENTRE AND HOSPITALS LIMITED [2009] 313 ITR 262 (MAD) Depreciation-rate of depreciation-hospital-furniture and fittings-welfare centre-hospital is not welfare centre-hospital not entitled to higher rate of depreciation-income-tax act, 1961, s. 32(1)(iv) – Income-tax rules, 1962, appx., part A, II(2).
32	KEC INTERNATIONAL LTD. v. CIT [2009]177 TAXMAN 229/ [2009] 14 CPT 736 [BOM.] Revised rate of depreciation as per the Income-tax Fourth Amendment Rules, 1983, inserted with effect from 2-4-1983, would not be applicable to

	assessment year 1980-81.
32	COMMISSIONER OF INCOME TAX, CENTRAL-II v. BAJAJ AUTO LTD. [2009] 182 TAXMAN 163 (BOM.) I. Section 32 of the Income-tax Act-1961—Depreciation – Allowance / rate of Whether depreciation on canteen building is to be allowed at higher rate as applicable to factory building-Held, yes. II. Section 37(3A), read with section 37(3B)[omitted by the Finance Act, 1985 with effect from 1-4-1986], of the Income-tax Act, 1961- Advertisement / sales promotion expenses- Whether expenditure incurred by assessee on advertisement for appointment of dealers was not akin to recruitment of personnel as contemplated under section 37(3B)(ii) and, as such, it was not outside purview of disallowance under section 37(3A)- Held, yes.
32	COMMISSIONER OF INCOME-TAX, MUMBAI v. TECHNO SHARES AND STOCKS LTD. [2009] 184 TAXMAN 103(BOM) Depreciation- whether expression ‘licences’ is used in section 32(1)(ii) to apply to licences relatable to intellectual properties only and not to all licences-Held, Yes. Whether since BSE card is not a business or commercial right relating to Intellectual Property Rights, depreciation cannot be allowed on same, Held, Yes.
32	MCORP GLOBAL PVT.LTD. v CIT(2009) 308 ITR 434(SC) Withdrawal of depreciation: When permissible Where depreciation was allowed on the ground that it was a case of lease of bottles and the purported lease was found to be a sham one, the Assessing Officer would be justified in disallowing depreciation.
ITR 1962, Appex I, entry III(8)(ix)	COMMISSIONER OF INCOME-TAX v. ADAR TEA PRODUCTS COMPANY [2009] 314 ITR 38 (MAD) Depreciation – rate of depreciation – 100 per cent. Depreciation for energy saving devices – meaning of “being” used in table of depreciation – list of items enumerated is exhaustive – 100 per cent. Depreciation not allowable for fluid bed drier – Income-tax Rules, 1962, Appex. I, entry III (8)(ix).
32	CIT v. BIMALCHAND JAIN [2009] 180 TAXMAN 317/[2009]15 CPT 693 (RAJ) The assessee-firm was engaged in purchase and sale of limestone and transportation work. It owned two trucks and claimed depreciation at rate of 40 per cent on the ground that the same were hired by outsiders from whom total receipts of Rs.28,940 were shown. The ITO was of view that the assessee was not engaged in transportation business, and therefore, it was not entitled to higher rate of depreciation and accordingly, allowed depreciation at rate of 30 per cent. The Tribunal, however, allowed depreciation at rate of 40 per cent. Held that in view of the decision of the High Court in the case of CIT v. Manjeet Stone Co.[1991] 190 ITR 183/55 Taxman 365 (Raj.), the Tribunal was not justified in holding that the assessee was entitled to depreciation on trucks at rate of 40 per cent as against 30 per cent allowed by ITO .

32(1)(iii), 256(2)	COMMISSIONER OF INCOME-TAX v. ANOP UDAI WORKS, [2008]304 ITR 35(RAJ) Reference-Question of law-Obsolescence – terminal allowance-claim in respect of item necessary for manufacturing process – rejection of claim by Assessing Officer and Commissioner (Appeals) on ground that specified item had not been discarded-Tribunal allowing claim without considering question-question whether assessee was entitled to obsolescence allowance to be referred –Income-Tax Act, 1961, ss. 32(1)(iii), 256(2).
14A, 32	HARYANA LAND RECLAMATION AND DEVELOPMENT CORPORATION v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2008]302 ITR 218 (P & H) Deduction—Expenditure incurred in relation to income not includable in total income substantial income generated out of agriculture –Assessee not able to prove that expenditure for business purposes—Section 14A Applies–Income tax Act, 1961, s.14A, 32.
32, 254	INDIAN MANAGEMENT ADVISORS AND LEASING P. LTD. v. COMMISSIONER OF INCOME-TAX [2007] 289 ITR 179 (DELHI) Appeal to appellate tribunal – Powers of tribunal – Scope of section 254 – Tribunal can consider evidence on record – claim for depreciation based on lease agreement – Tribunal can analyse lease agreement – Income-tax Act, 1961, s. 254. Depreciation – Condition precedent – Ownership of asset lease agreement – Finding that lease agreement was not genuine and that assessee was not owner of asset – Assessee not entitled to depreciation – Income-tax Act, 1961, s. 32.
32(1)(ii) 43(3)	COMMISSIONER OF INCOME-TAX v. HOOGLY MILLS CO. LTD. [2006]287 ITR 333 (SC). Depreciation—Purchase of undertaking—Accrued and future gratuity liability of vendor also taken over—Purchaser has no right to depreciation—Land—No Depreciation—Payment of Gratuity Act, 1972, s.4(1)—Income-tax Act, 1961, ss. 32(1)(ii), 43(3).
32	M. M. FISHERIES (P.) LTD. v. CIT [2006] 152 TAXMAN 247 (DEL.) Depreciation – Clear cut ownership and use of asset by the claimant is a must for claiming depreciation.
32	CIT VS. J. K. OIL MILLS CO. LTD. [2005] 277 ITR 359 (ALL.) Depreciation – Rate of depreciation – Higher rate admissible only to specified plant and machinery – Machinery used in ice factory – Not entitled to depreciation at higher rate.
32,80VV, 37, 80-O, 35 B	ATLAS CYCLE INDUSTRIES LTD. v. COMMISSIONER OF INCOME-TAX [2004] 270 ITR 108 (P & H) Depreciation – Owner – Houses acquired under hire purchase agreement – Agreement clearly stating that property would be held as tenant during hire

	puchase period. Assessee not owner of houses – Not entitled to depreciation – Income-tax Act, 1961, s. 32. Special deduction – Litigation expenditure – Expenditure allowable up to rupees five thousand in aggregate – Income-tax Act, 1961, s. 80VV. Business expenditure – Capital or revenue expenditure – Foreign exchange – Fluctuations in rate of exchange – Loss due to fluctuation on repayment of loan – Capital expenditure – Income-tax Act, 1961, s. 37. Business expenditure – Surtax not deductible – Income-tax Act, 1961, s. 37. Business expenditure – Disallowance – Company – Director – perquisites – Free use of car by director – Actual expenditure to be taken into Account – Income-tax Act, 1961, s. 40(c)(i). Royalty – Special deduction – Special deduction only in respect of amount actually received in convertible exchange in India – Income-tax Act, 1961, s. 80-O. Export market development allowance – weighted deduction – Freight and transportation expenses – Not entitled to weighted deduction – Weighted deduction in respect of salaries – Restricted to those of persons employed in export and design departments – Income-tax Act, 1961, s. 35B.
32	CIT v. A. B. A. SONS. 264 ITR 469 (SC) Cinema are premises and are not “plant” for the purposes of depreciation and extra shift allowance u/s 32 and 43(3) of the I. T. Act, 1961. The cinema building is not a tool or an apparatus for carrying on business activity. The assessee is not entitled for depreciation and extra shift allowance applicable to a plant in relation to the cinema theatre. CIT V Anand Theatres [2000] 244 ITR 92 (SC); [2000] 5 SCC 393 followed. CIT V Hotel Luciya [1998] 231 ITR 422 (Ker) [FB] referred to.
32	COMMISSIONER OF INCOME-TAX v. UTKARSH BUILDER [2003] 264 ITR 697 (GUJ) Depreciation—Hot mixing plant and paver finishing machine for construction of roads—Not earth moving machinery—Not entitled to depreciation at thirty per cent. Income-tax Rules, 1962, Appx. I, item III-B(14).
263, 32	DHARMAPURI DISTRICT CO-OPERATIVE SUGAR MILLS LTD. v. COMMISSIONER OF INCOME-TAX [2003] 259 ITR 598 (MAD) Revision – Power of Commissioner – matter not considered by appellate authority – Can be considered by Commissioner – Income-tax Act, 1961, s. 263. Depreciation – Actual cost – Construction of tenements – part of cost met by state subsidy – subsidy deductible in computing actual cost – Income-tax Act, 1961, s. 32.
32, 43	COMMISSIONER OF INCOME-TAX v. LAKE PALACE HOTELS AND MOTELS (P.) LTD. [2001] 249 ITR 593 (RAJ) Depreciation – Extra depreciation – Hotel building – Is not “Plant” – Depreciation allowable at rate applicable to building and not plant – Income-tax Act, 1961, ss. 32, 43.
32(1)	CIT v MAHENDRA MILLS (2000) 243 ITR 56 (SC) Assessee did not claim depreciation and did not furnish particulars required for allowing of depreciation—Whether depreciation ought to be granted in such a

	<p>case—Held, No. If the assessee has not claimed deduction of depreciation in any past year it cannot be said that it was notionally allowed to him. A thing is allowed when it is claimed. A privilege cannot be to a disadvantage and an option cannot become an obligation.</p>
32	<p>CIT v. Dr. B. VENKATA RAO (2000) 243 ITR 81 (SC)</p> <p>Nursing home, whether plant. Building specifically equipped to function as a nursing home, whether constitutes plant – Held, Yes.</p>
32	<p>CIT v. TATA IRON AND STEEL CO.LTD. 231 ITR 285(SC)</p> <p>Actual cost depends upon the amount paid by the assessee to acquire the asset. Manner or mode of repayment of loan or non-repayment of loan, fluctuation in rate of foreign exchange resulting in gain or loss, repayment of instalment of foreign loan or not paying back any loan, will not alter the actual cost of purchase of asset for computing depreciation. [Followed – 259 ITR 122 (Guj.)]</p>
32	<p>CIT v. VIRMANI INDUSTRIES PVT. LTD. AND OTHERS 216 ITR 607 (SC)</p> <p>For allowing set off of brought forward depreciation in the current year there is no necessity that same business should continue in the current year also or that same asset (on which depreciation was allowed in the earlier year but could not be set off and had to be carried forward to current year) should continue to exist. [Followed /applied in 232 ITR 634 (Mad.); 232 ITR 637 (Mad.); 238 ITR 221 (Guj); 258 ITR 23 (Del.)]</p>
32(1)	<p>BUILDERS ASSOCIATIONS OF INDIA v UNION OF INDIA (1994)209 ITR 877(SC)(1994) 122 CTR 543 (SC):(1994) 121 TAXATION 567(SC);(1994) 75 TAXMAN 658(SC); CIT v SHANKAR CONSTRUCTION CO.(1993) 204 ITR 412 (SC); CIT v SURESH MALPANI & CO(1993) 204 ITR 412(SC), CIT v BUILDMET P LTD(1993)204 ITR 412(SC); CIT v UNIVERSAL BOREWELL AGENCIES (1993) 204 ITR 412(SC)</p> <p>Plant and machinery used for construction of dams, bridges, buildings, etc. Assessee engaged in construction of dams and canals or engaged in execution of civil engineering and structural work on contract basis and digging borewells, whether entitled to investment allowance in respect of the new machinery and plant installed for the purpose—Held, no. Where the assessees engaged in the construction of dams and canals, in execution of civil engineering work on contract basis and in digging tubewells, claimed investment allowance under section 32A of the Income-tax Act, 1961, in respect of the new machinery and plant used by them in the said operations, it was held that the assessees were not entitled to avail of the said allowance as they did not satisfy the conditions requisite for the grant of that allowance.</p>
32A	<p>COMMISSIONER OF INCOME-TAX v. ANIL KUMAR BISHNOI (AND OTHER REFERENCES) [2009] 311 ITR 449 (DELHI)</p> <p>Investment allowance – conditions precedent – dewatering equipment used in construction business – not entitled to investment allowance – Income-tax act,</p>

	1961, s. 32A. Precedent – effect of supreme court decision in <i>CIT V. N. C. Budharaja and co. [1993] 204 ITR 412.</i>
32A, 35B, 37, 40, 40A	HMM LTD. v. COMMISSIONER OF INCOME-TAX [2009] 313 ITR 401 (P&H) Business expenditure – disallowance – perquisites to employees – cash payments not covered by section 40A(5) or 40(c) – Income-tax Act, 1961, ss. 40(c), 40A(5). Business expenditure – surtax – surtax not deductible – Income-tax Act, 1961, s. 37. Investment allowance – roads – amount spent on construction of roads – not entitled to investment allowance under section 32A – Income-tax Act, 1961, s. 32A. Export markets development allowance – weighted deduction – freight expenses, octroi duty, bank charges, trunk call charges and insurance charges – not entitled to weighted deduction – Income-tax Act, 1961, s 35B.
32A	COMMISSIONER OF INCOME-TAX V. DR. YOGENDER SHARMA [2009] 311 ITR 372 (DELHI) Investment allowance-industrial undertaking-X-ray machine installed in clinic-hospital or clinic not an industrial undertaking-not entitled to deduction-Income Tax Act, 1961, s.32A.
32A	COMMISSIONER OF INCOME-TAX v. ANIL KUMAR BISHNOI [2009] 311 ITR 449 (DELHI) Investment allowance-conditions precedent-dewatering equipment used in construction business – not entitled to investment allowance-Income-Tax Act, 1961, s.32 A.
32A	MOTORS & DIESELS (P.) LTD. v. COMMISSIONER OF INCOME-TAX [2009] 180 TAXMAN 328(ALL.) Section 32A of the Income-tax Act-1961—Investment allowance-Assessment year 1985-86- Whether where assessee was running a cold storage which preserved vegetables, fruits and several other articles, it could not be said to be engaged in processing or manufacturing and, therefore, it was not entitled to claim investment allowance- Held, yes.
32A	COMMISSIONER OF INCOME-TAX v. PREMIER EXPORT INTERNATIONAL [2004] 271 ITR 308 (KER) Investment Allowance—Condition precedent—Manufacture or production of Article—Processing of prawns—Not manufacture or production of article—Plant and machinery used in such processing—Not entitled to investment allowances—Income-tax Act, 1961, s.32A.
32A	BROOKE BOND INDIA LTD v. COMMISSIONER OF INCOME-TAX [2004] 269 ITR 232 (CAL.) Investment allowance Condition precedent—Manufacture or production of article –Blending of different types of tea—No manufacture or production of article—Assessee not entitled to investment allowance in respect of machinery used—Income-tax Act, 1961, s.32A.

32A, 80HH	COMMISSIONER OF INCOME TAX v. GEORGE MAINO EXPORTS (P.) LTD [2001] 250 ITR 445 (MAD.) Investment Allowance—New industrial undertaking in backward areas—Special deduction—Assessee engaged in processing of shrimps for export—Processing of shrimps does not amount to manufacture—Assessee not entitled to investment allowance or deduction under section 80HH—Income-tax Act-1961, ss.32A, 80HH.
32A	CIT V. VENKATESWARA HATCHERIES (P) LTD. 237 ITR 174 (SC) The assessee company is running hatchery. It claimed investment allowance on the ground that it is a new Industrial undertaking. For special deduction of investment allowance for new industrial undertaking, condition precedent is that there should be manufacture or production of article and thing. Hatcheries do not manufacture or produce articles. The formation of chicks is a natural and biological process over which the assessee has no hand or control. In hatcheries, the assessee only helps the natural or biological process of giving birth to chicks. The mechanical process (by using machines) only helped to preserve and protect the eggs at a particular temperature. But the coming out of chicks from the eggs is a natural process. However, the only difference assessee would create would be to reduce mortality rate and get more number of chicks. This would not mean that assessee is producing articles or things. The assessee is not an industrial undertaking. [Followed in 249 ITR 458 (Mad.); Indian Poultry Vs. CIT 250 ITR 664 (SC)]
32AB	INDUSTRIAL CABLES (INDIA) LTD. v. COMMISSIONER OF INCOME-TAX [2008] 304 ITR 272 (P&H) Investment deposit account-scope of section 32AB-benefit for income generated during the year-investment out of borrowed funds not entitled to benefit under section 32AB Income-Tax Act, 1961, s.32AB.
80HH, 80I and 32AB	CIT V. SHIVALIK POULTRIES [2005] 146 TAXMAN 449 (P & H) (i) Section 80HH, 80-I and 32AB – Poultry farming is not an industrial undertaking. (ii) Section 43(3) - Poultry shed is not an apparatus or tool and they are not ‘plants’ also.
33, 34(3), 155(5)	COMMISSIONER OF INCOME-TAX v. MODIPON LTD. [2008] 303 ITR 438 (DELHI) Development Rebate—Withdrawal of Rebate—Development Rebate allowed in respect of plant and machinery—Sale of part of machinery and plant as scrap within eight years—Proportionate portion of Development rebate has to be withdrawn—Income-tax Act, 1961.
33, 34(3), 155(5)	COMMISSIONER OF INCOME-TAX v. MODIPON LTD. [2008]303 ITR 438 (DELHI) Development Rebate—Withdrawal of Rebate—Development Rebate allowed in respect of plant and machinery—Sale of part of machinery and plant as scrap within eight years—Proportionate portion of Development rebate has to

	be withdrawn – Income-tax Act, 1961.
35	<p>ESCORTS LTD v UNION OF INDIA (1993) 199 ITR 43(SC):(1993) 112 TAXATION 105 (SC); GODREJ SOAPS LTD v UNION OF INDIA (1993) 199 ITR 43(SC): J.K. SYNTHETICS LTD v UNION OF INDIA (1993) 199 ITR 43(SC): HINDUSTAN COMPUTERS LTD v UNION OF INDIA (1993) 199 ITR 43(SC); EICHER GOODEARTH LTD v UNION OF INDIA (1993) 199 ITR 43(SC); UNITED CATALYSTS INDIA LTD v UNION OF INDIA (1993) 199 ITR 43(SC); ECHJAY INDUSTRIES P LTD v UNION OF INDIA(1993) 199 ITR 43(SC); SIDDARTH SRINIVAS JHAVER v UNION OF INDIA(1993) 199 ITR 43(SC); PANCHMAHAL STEEL LTD v UNION OF INDIA(1993) 199 ITR 43(SC);I.D.L. CHEMICALS LTD v UNION OF INDIA (1993) 199 ITR 43(SC); DEEPAK NITRITE LTD v UNION OF INDIA(1993) 199 ITR 43(SC)</p> <p>Amendment effected in section 35(2)(iv) of the of the Income-tax Act, 1961, by the Finance (No.2) Act, 1980, with retrospective effect from the 1st day of April, 1962, whether offends fundamental rights of assessee under Articles 14 and 19(1)(g) of the Constitution of India—Held, no. The amendment effected in section 35(2)(iv) of the Income-tax Act, 1961, by the Finance (No.2) Act, 1980, with retrospective effect from the 1st day of April, 1962, i.e. the day on which the Income-tax Act, 1961, came into force to the effect that where a deduction is allowed to the assessee under section 35 of the Act in respect of any asset no depreciation allowance shall be allowed for the same or any other previous year in respect of that asset, does not affect the fundamental rights of the assessee under Articles 14 and 19(1)(g) of the Constitution of India, as it is neither unreasonable nor oppressive and does not take away existing rights nor imposes any new levy.</p>
35AB, ³⁷	<p>COMMISSIONER OF INCOME-TAX v. DRILCOS (INDIA) PVT. LTD. [2004] 266 ITR 12 (Mad)</p> <p>Business expenditure –Effect of section 35AB – Technical know-how – expenditure on acquiring know-how deductible in terms of section 35AB – Know-how becoming useless subsequently – not relevant – expenditure not deductible under section 37 – Income-tax Act, 1961, ss.35AB,37.</p>
35 ABB	<p>CIT v. FASCEL LTD.[ITA NO.111 OF 2007 DECIDED ON 4-12-2008]/[2009] 14CPT 736 [DELHI]</p> <p>Question as to whether Tribunal was correct in law in deleting addition on account of interest payable on licence fee in view of section 35 ABB, is a substantial question of law.</p>
35B(1) (b)(iv)	<p>COMMISSIONER OF INCOME-TAX v. RAJJAB CARPETS [2010] 328 ITR 42 (All)</p> <p>Export markets development allowance –Weighted deduction –No requirement for assessee to maintain agency of foreign party outside India –Only required to pay commission as per agreement –Assessee not entitled to weighed deduction under section 35B (1)(b)(iv).The assessee cannot be said to maintain the agency of the foreign party outside India where it was only required to pay commission in accordance with the contract order procured by the foreign agency. In such a case the assessee is not entitled to weighted deduction under</p>

	section 35B of the income tax Act 1961.
35B, ITR 1962, r 5, Appx I	KEC INTERNATIONAL LTD. v. COMMISSIONER OF INCOME-TAX [2010] 322 ITR 465(Bom) Export markets development allowance –Weighted deduction –insurance and freight charges –Export inspection charges –Interest on export packing credit loans –Not entitled to weighted deduction –Income-tax Act, 1961, s. 35B.Depreciation –Rate of depreciation –Law applicable –Law in force on 1 st day of April of financial year –Subsequent amendment enhancing rate of depreciation –Not applicable –Income-Tax Rule, 1962,r.5, Appex I. Held, (i) that the expenditure on insurance and freight were not eligible for weighted deduction under section 35B of the Income-tax Act, 1961.
35B(1)(b) (iii)	CIT v. ROAD MASTER INDUSTRIES OF INDIA (P.) LIMITED (P&H) [FB] [2009] 315 ITR 66 (P & H) Export markets development allowance-Weighted deduction-Sea freight-Specifically made ineligible by one clause-Cannot be allowed under general clause-Assessee not entitled to weighted deduction.
35B(1) (b) (viii)	CIT v. ROAD MASTER INDUSTRIES OF INDIA (P.) LIMITED (P&H) [2009] 315 ITR 66 (P & H) Export markets development allowance-Weighted deduction-Sea freight-Specifically made ineligible by one clause clause-Cannot be allowed under general clause-Assessee not entitled to weighted deduction.
32A, 35B, 37, 40, 40A	HMM LTD. v. COMMISSIONER OF INCOME-TAX [2009] 313 ITR 401 (P&H) Business expenditure – disallowance – perquisites to employees – cash payments not covered by section 40A(5) or 40(c) – Income-tax Act, 1961, ss. 40(c), 40A(5). Business expenditure – surtax – surtax not deductible – Income-tax Act, 1961, s. 37. Investment allowance – roads – amount spent on construction of roads – not entitled to investment allowance under section 32A – Income-tax Act, 1961, s. 32A. Export markets development allowance – weighted deduction – freight expenses, octroi duty, bank charges, trunk call charges and insurance charges – not entitled to weighted deduction – Income-tax Act, 1961, s 35B.
35B	CIT v. OFFICIAL LIQUIDATOR [ITR NO. 82 OF 1996, DECIDED ON 11.2.2008] (GUJ.) REPORTED IN TAXMAN'S CPT VOL.13 (OCT.16 TO 31) 2008 Weighted deduction was not allowable in respect of commission paid to Indian in respect of export sales.
35B	COMMISSIONER OF INCOME-TAX v. J.C. BHATIA, [2006]287 ITR 356 (ALL). Export markets development allowance—Weighted deduction—Small scale exporter—Definition—Small scale industrial undertaking should be owned by assessee—Income-tax Act, 1961, s.35B

35B	ORIENT ARTS AND CRAFTS VS. CIT [2005] 279 ITR 581 (ALL.) Assessee should export goods manufactured in industrial undertaking owned by him for claiming deduction u/s.35B(1A) - The finding that assessee had not installed machinery or plant – Assessee not entitled to weighted deduction u/s. 35B.
35B	CIT VS. J. C. BHATIA (ALL.) 384 CTR : VOL. 198 : DTD. 21.10.2005 Assessee does not own any industrial undertaking in terms of Explanation to section 35B(IA) – Hence, the assessee is not a small scale exporter. No deduction u/s.35B.
35B	COMMISSIONER OF INCOME-TAX v. GANESHI LAL AND SONS [2004] 266 ITR 203 (ALL) Export markets development allowance – Weighted deduction – Weighted deduction not allowable in respect of sales within India – Income-tax Act, 1961, s. 35B.
32,80VV, 37, 80-O, 35B	ATLAS CYCLE INDUSTRIES LTD. v. COMMISSIONER OF INCOME-TAX [2004] 270 ITR 108 (P & H) Depreciation – Owner – Houses acquired under hire purchase agreement – Agreement clearly stating that property would be held as tenant during hire purchase period. Assessee not owner of houses – Not entitled to depreciation – Income-tax Act, 1961, s. 32. Special deduction – Litigation expenditure – Expenditure allowable up to rupees five thousand in aggregate – Income-tax Act, 1961, s. 80VV. Business expenditure – Capital or revenue expenditure – Foreign exchange – Fluctuations in rate of exchange – Loss due to fluctuation on repayment of loan – Capital expenditure – Income-tax Act, 1961, s. 37. Business expenditure – Surtax not deductible – Income-tax Act, 1961, s. 37. Business expenditure – Disallowance – Company – Director – perquisites – Free use of car by director – Actual expenditure to be taken into Account – Income-tax Act, 1961, s. 40(c)(i). Royalty – Special deduction – Special deduction only in respect of amount actually received in convertible exchange in India – Income-tax Act, 1961, s. 80-O. Export market development allowance – weighted deduction – Freight and transportation expenses – Not entitled to weighted deduction – Weighted deduction in respect of salaries – Restricted to those of persons employed in export and design departments – Income-tax Act, 1961, s. 35B.
35B(1) (b)(iii)	KAMAL SILK EMPORIUM v. COMMISSIONER OF INCOME-TAX [2003] 264 ITR 520 (DEL) Export markets development allowance – weighted deduction – Expenditure on Account of sale of goods to foreign tourists in return for foreign exchange – Not entitled to weighted deduction – Income-tax Act, 1961, s. 35B(1)(b)(iii).
35B	NAVIN CHEMICALS MANUFACTURING AND TRADING CO. (P.) LTD. v. COMMISSIONER OF INCOME-TAX [2003] 259 ITR 111 (DELHI) Export markets development allowance – Weighted deduction – Condition

	precedent – Assessee must prove that expenditure was incurred exclusively for purpose enumerated in clause (b) of section 35B(1) – Expenses on shipping and forwarding, audit fee, insurance, legal and professional charges, charity and donation and expenses on handling export business – Not entitled to weighted deduction – Income-tax Act, 1961, s. 35B.
35B	CIT v STEPWELL INDUSTRIES LTD(1997) 228 ITR 171(SC):(1997) 141 TAXATION 182 (SC):(1997) 142 CTR 345(SC);(1997) 94 TAXMAN 280(SC) Export markets development allowance—Weighted deduction—Onus on the assessee to prove that he is entitled to the weighted deduction. Section 35B, Income-tax Act, 1961. Export markets development allowance—Weighted deduction —Goods sold by State Trading Corporation to parties outside India—Advertisement expenses—Maintenance of branch office outside India—Expenses incurred by State Trading Corporation—No proof that expenditure incurred on behalf of assessee—Not entitled to weighted deduction. Section 35B, Income-tax Act, 1961.
35B(1) (b)	COMMISSIONER OF INCOME-TAX v. K. RAVINDRANATHAN NAIR [1988] 170 ITR 411 (KER.) Export markets development allowance – Weighted deduction – commission paid to Indian agents on foreign sales – Not eligible for weighted deduction – Income-tax Act, 1961, s. 35B (1)(b).
35D, 254(2)	COMMISSIONER OF INCOME-TAX AND ANOTHER V. McDOWELL AND COMPANY LTD. [2009] 310 ITR 215(KARN.) Appeal to appellate tribunal – powers of tribunal – power to rectify mistakes in its order – scope of power – no power to recall and review order – Income-tax Act, 1961, s. 254(2). Business expenditure – expenditure in connection with issue of shares – tribunal allowing deduction of one-tenth of expenditure under section 35D-On application allowing entire sum as revenue expenditure – not permissible – Income-tax Act, 1961, ss. 35D, 254(2)
36(1)(iii), 43A, Expln 3	ASSISTANT COMMISSIONER OF INCOME-TAX v. ELECON ENGINEERING CO. LTD. [2010] 322 ITR 20 (SC) Business income –Computation –Special provision regarding changes in the rate of exchange –Purchase of plant and machinery –Loan taken in foreign exchange to be repaid in instalments –Premium paid to bank to ensure delivery of foreign exchange on stipulated dates at predetermined rates –Not admissible as interest on capital borrowed for purposes of business –To be added to capital cost –Income-Tax Act, 1961, s. 36(1)(iii), 43A, Expln 3 (prior to amendment in 2002).
36(1)(vii) (viia), (2)(v)	COMMISSIONER OF INCOME-TAX v SOUTH INDIAN BANK LTD. [2010]326 ITR 174(Ker) [FB] Bad debt –banks—provision for bad and doubtful debts—no distinction between bad debts written off in respect of advances by rural branches and bad debts pertaining to advances by other branches—deduction for bad debt written off under clause(vii) allowable only on excess over provision created and

	allowed under clause (vii)—Income-tax Act, 1961, S. 36(1)(vii), (viiia), (2)(v).
36(1)(vii) Expln	COMMISSIONER OF INCOME-TAX AND ANOTHER v. VIJAYA BANK [2010] 323 ITR 163 (Karn) Bad debts –Writing off of debt –Closing of each individual debtor's account essential –mere debit entries in profit and loss account and credit entries in bad debt reserve account not sufficient to write off debts –Income-Tax Act, 1961, s. 36(1)(vii), Expln. Where the tribunal set aside the concurrent findings of the Assessing Officer and the Commissioner (Appeals) that mere creation of provision for “non-performing assets” did not amount to writing off of debts, the department preferred appeals raising a question of law whether the tribunal was justified in holding that for the purpose of writing off of bad debts, it was not essential to square off each individual account of every debtor and it would be sufficient if the debit entries were made into the profit and loss account and corresponding credit entries were made in a bad debt reserve account in view of the provision of the Act and Explanation to clause (vii) of section 36(1) of the Act brought into effect retrospectively from April 1, 1989, by the finance Act , 2001:Held, that there was a clear finding of fact by the Assessing Officer that the provision for “non-performing assets” created by the assessee and deduction of provision for non-performing assets out of advances did not amount to writing off of debts. The tribunal was not justified in holding that it was not essential to square off each individual account of every debtor and it would be sufficient if the debit entries were made in the profit and loss account and corresponding credit entries were made in a bad debt reserve account.CIT v. WIPRO INFOTECH LTD. [2010] 323 ITR 151 (Karn) relied on.
36(1)(vii) 143(1)(a)	SOUTH INDIAN BANK LTD. v. COMMISSIONER OF INCOME-TAX [2009] 316 ITR 306 (KER.) Assessment-prima facie adjustments-bad debt-banking company-debt not written off in books of account-deduction prima facie inadmissible-Income-tax Act, 1961 ss. 36(1)(vii), 143(1)(a). Bad debt-amendment to section 36(1)(vii)-scope of explanation-bad debt written off does not include provision for bad and doubtful debts made in accounts- Explanation clarificatory in nature-Income-tax Act, 1961, s. 36(1)(vii), Expln.
36(1)(vii)	COMMISSIONER OF INCOME-TAX, AMRITSAR v. LAL WOOLLEN & SILK MILLS (P.) LTD.[2009]183 TAXMAN 145 (PUNJ. & HAR.) Section 36(1)(vii), read with sections 36(2), of the Income tax Act, 1961-Bad debts-Assessment year 1973-74-Whether to claim deduction under section 36(1)(vii), assessee has to establish fulfillment of ingredients of section 36(2)-Held, yes-For relevant assessment year, assessee, after having partly taken over business of a firm ‘L’, Declared amount of certain debt recoverable at hands of ‘L’ as irrecoverable and, therefore, wrote off same as bad debt-Admittedly, said debt had never been depicted as income of assessee in its accounts and, therefore, one of essential conditions of section 36(2) had not been met-Whether assessee would be entitled to deduction under section 36(1)(vii) on basis of its having written off said debt-Held, no

36(1) (viii), 147	KERALA FINANCIAL CORPORATION v. JOINT COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 308 ITR 434 (KER) Reassessment – income escaping assessment – deduction wrongly allowed under section 36(1)(viii) though no income after setting off carried forward losses – reassessment proceedings – valid – Income-tax Act, 1961, ss. 36(1)(viii), 147.
36 (1) (vii)	BALAJI ENTERPRISES (P) LTD. v. DY. CIT [ITA NO. 2839 OF 2004, DECIDED ON 7-3-2008]/[2009] 14 CPT 737 (DELHI). Loss due to alleged dacoity which arose in year in which business was carried on as proprietary concern by assessee-company's director, could not be allowed as bad debt in hands of assessee company which had taken over said proprietary business.
36 (1)(iii)	CIT v. M.M. NAGALINGA NADAR SONS [ITA No.81 of 2000, DECIDED ON 17.06.2008] / [2009] 15 CPT 257[KER.] Where assessee had borrowed monies and at same time had advanced its own funds as interest-free loans to its partners, proportionate disallowance of interest on borrowed capital was justified.
36(1)(iii)	SIKKA STEEL & HEAT TREATMENT v. CIT [2008] 173 TAXMAN 413 (DELHI) Where a substantial amount of borrowed capital was withdrawn by partners from their capital account, interest paid by assessee-firm on borrowed capital was not allowable.
36(1)(iii)	PUNJAB AUTO INDUSTRIES P. LTD. v. COMMISSIONER OF INCOME-TAX [2008] 306 ITR 149 (ALL) Interest on borrowed capital-borrowed capital utilized to buy agricultural land and not for business purposes –interest not deductible-Income-tax Act, 1961.
36(1)(iii), 43(1) Expln 8	COMMISSIONER OF INCOME -TAX v. VARDHMAN POLYTEX LTD. [2008] 300 ITR 243 (DELHI) (FULL BENCH) Business Expenditure –Interest on Borrowed Capital– General Principles—Capital Borrowed for Establishment of New Unit—New Unit Not set up—Interest not deductible -- Income Tax Act, 1961, ss 36(1)(iii), 43(1), Expln.8.
36(1)(iv)	PORRITTS & SPENCER (ASIA) LTD..v.CIT[2008] 175 TAXMAN533/ [2009] 14 CPT 352 (PUNJ. & HAR.) Where assessee-company contributed certain sum towards employee's provident fund, which had no recognition during relevant assessment year, it was not entitled to deduction on account of said contribution.

36(2)	KERALA TRANSPORT COMPANY v COMMISSIONER OF INCOME-TAX . [2007]294 ITR 91 (KER) Bad debt—Business Loss —Assessee engaged in transportation of goods—Cost of goods damaged in transit —Audit report showing damage occurred in 1983 and matter settled in 1986—Loss not allowable as bad debt —Amount not allowable as business loss in assessment year 1988-89—Income-tax Act, 1961, s.36(2).
36(1)(vii)	SOUTH INDIA SURGICAL CO. LTD. VS. ASSTT. CIT [2006] 153 TAXMAN 491 (MAD.) Assessee's claim of bad debt is not allowable u/s. 36(1)(vii) as there is nothing on record which shows that all the debtors were financially not in a position to pay debt, or had ever refused or expressed desire not to pay.
36(1) (viiia)	T. N. POWER FINANCE INFRASTRUCTURE DEVELOPMENT CORPN. LTD. V. JT. CIT [2006] 153 TAXMAN 466 (MAD.) Provision for non-performing assets which are predominantly capital in nature – A.O. justified in disallowing provision for non-performing assets.
36 (1)(ii)	COMMISSIONER OF INCOME-TAX v. CHAMPARAN SUGAR CO. LTD. [2005] 276 ITR 112 [ALL] Business expenditure – remuneration to employees – bonus paid to senior employees – assessee not making a profit – no evidence that payment was necessary for business – bonus not deductible – Income-tax Act, 1961, s. 36 (1)(ii).
36(1)(iii)	ELMER HAVELL ELECTRICS V. CIT [2005] 148 TAXMAN 57 (DEL.) Non-trading utilisation of interest bearing borrowed fund – Interest suffered cannot be allowed as a deduction.
36(1)(vii)	CIT VS. MICROMAX SYSTEMS (P) LTD. (MAD.) 578 CTR : VOL. 198 : DTD. 04.11.2005 Claim of bad debt not allowable if the debt is not written off in the books – Mere creation of provision is not enough.
36(1)(iii)	S. A. BUILDERS LTD. v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2004] 269 ITR 535 (P & H) Interest on borrowed capital – Appeal to High Court – Loan taken but amount given to sister concern without charging interest – No evidence that transaction benefited assessee's business – Disallowance of interest justified – No substantial question of law arises – Income-tax Act, 1961, s. 36(1)(iii).
36, 43B	COMMISSIONER OF INCOME-TAX v. JAIRAM AND SONS [2004] 269 ITR 285 (KER) Business Expenditure—Deduction only on actual payment—Group Gratuity Scheme—Payment of premium to LIC—Renewal Premium paid after due

	<p>date—Employees' Contribution to gratuity fund paid after due date—Disallowance justified—“Due date”, meaning of —Income -tax Act, 1961, ss.36, 43B.</p>
36, 43B	<p>COMMISSIONER OF INCOME-TAX v. G.T. N. TEXTILES LTD. [2004] 269 ITR 282 (KER.)</p> <p>Business expenditure—Deduction only on actual payment—Contribution to employees' Gratuity fund after due date—Not deductible—“Due Date”, Meaning of -- Income-tax Act, 1961, s.36, 43B.</p>
36(1)(iii)	<p>COMMISSIONER OF INCOME TAX v. SARASWATI CHEMICALS AND ALLIED INDUSTRIES (P.) LTD. [2001] 249 ITR 235 (DELHI)</p> <p>Interest on borrowed capital – Undisbursed salaries – interest paid to directors on undisbursed salaries – will not constitute interest on capital borrowed for purpose of business – Income-tax Act, 1961, s. 36(1)(iii).</p>
37(1)	<p>COMMISSIONER OF INCOME TAX-III, LUDHIANA V. S.G. EXPORTS [2011] 336 ITR 2 (P&H)/[2011]200 TAXMAN 132 (P&H)</p> <p>Section 37(1) of the Income Tax Act, 1961 – Business expenditure – Allowability of – Assessment year 2004-05 – Assessee was engaged in business of manufacturing and export of hosiery goods – During assessment proceeding, Assessing Officer disallowed labour expenses claimed by assessee on ground that same were bogus and assessee was not able to substantiate genuineness of same – On appeal, Commissioner (Appeals) and Tribunal deleted disallowance holding that onus laid on revenue to show that payment were made to some in genuine or non-existent parties – Whether authorities below wrongly placed onus on revenue to establish in genuineness and non-existence of parties inasmuch as when assessee claimed expenses on labour charges, onus was on it to prove said fact by producing cogent and convincing evidence including identity of parties along with evidence of payment to those persons Held, yes [Matter remanded]</p>
37	<p>COMMISSIONER OF INCOME-TAX v. ENGLISH INDIAN CLAYS LTD. [2010] 328 ITR 647 (Ker)</p> <p>Loss –Business loss- Lease transaction found to be bogus –Claim for business loss arising from such transaction –Not allowable –Income-tax Act, 1961.The assessee-company filed its return admitting income of Rs. 34,480 for the assessment year 1996-97. The assessee claimed to have entered into a lease agreement with P whereby air pollution control equipment and flameless furnaces purchased by the assessee from PE and AE, respectively were leased out to P. the assessee claimed 100 percent depreciation as cost of the equipment. The Assessing Officer as well as the first appellate authority considered the claim and arrived at a finding against the assessee that the purchase of machinery and the lease arrangement were bogus and the assessee was not entitled to depreciation as cost of the machinery purchased and leased out to P. The Assessing Officer had arrived at a conclusion that the deduction was sought on the basis of purchase of assets that never existed from an alleged concern that never existed and transported the non-existing assets through the alleged transporter that never existed. It was also found by the Assessing Officer that the search conducted by the Department had revealed a huge fraud.</p>

	The claim was rejected.
37, 69, 263	<p>COMMISSIONER OF INCOME-TAX v. JAGDISH CHAND GUPTA [2010] 329 ITR 583(P & H)</p> <p>Commissioner—revision—assessing officer failing to tax cash seized and later surrendered by assessee—assessment order erroneous and prejudicial to interest of revenue —invocation of section 263 proper—Income-tax Act, 1961, s. 263.Undisclosed income—assessee surrendering amount seized—statement admitting sum paid as illegal gratification for car dealership—statement corroborated by circumstances not shown to be erroneous —retraction after four months —is an afterthought—sum represents undisclosed income of assessee—Income- Tax Act, 1961, s. 69.Business expenditure-business loss—illegal gratification for procuring car dealership not reflected in books of accounts —no business set up —loss not allowable —not permissible expenditure—Income - Tax Act, 1961, s. 37</p>
37	<p>COMMISSIONER OF INCOME-TAX & ANOTHER v. IAS OFFICERS ASSOCIATION [2010]325 ITR 254(Karn)</p> <p>Business expenditure—legal expenses —association whose object is to secure equitable service conditions for ias officers—expenditure on defending member in proceedings for contempt of court —not an expenditure to promote objects of association—not deductible-- Income Tax Act, 1961, s. 37</p>
37	<p>SOUTHERN FOUNDATION P. LTD v. ASSISTANT COMMISSIONER OF INCOME-TAX & ANOTHER [2010]324 ITR 76(Mad)</p> <p>Business expenditure—assessee engaged in promotion of real estate and construction—following project completion method of accounting—assessing officer with assessee's acceptance disallowing direct expenditure in respect of four projects—brokerage and commission not considered in assessment order—issue not taken in assessment order cannot be taken in appeal -- Income-Tax Act, 1961, S.37.</p>
37	<p>EMPEE DISTILLERIES LTD v. ASSISTANT COMMISSIONER OF INCOME-TAX [2010] 324 ITR 82(Mad)</p> <p>Business expenditure—assessee manufacturing IMFL—Expenditure on purchase of old bottles, interest on lease and non-compete fees—Finding that purchase price was excessive—Disallowance of ten per cent of price—No evidence of lease—Disallowance of interest —Remand in respect of non-compete fees—Order justified-- Income-Tax Act, 1961, S.37.</p>
37	<p>COMMISSIONER OF INCOME-TAX AND ANOTHER v. NEELAVATHI AND OTHERS [2010] 322 ITR 643(Karn)</p> <p>Business expenditure —Payments to police personnel and rowdies to ensure security of business premises —Payments not legal —Not deductible - Income-tax Act, 1961, s. 37.</p>
37	<p>INGERSOLL-RAND (INDIA) LTD. v. [2010] 320 ITR 513 (Bom)</p> <p>Business expenditure —Surtax —Not deductible —Income-tax Act, 1961, s.</p>

	37.Business expenditure –Bonus Act – Set-on liability under section 15 of payment of bonus Act –Contingent liability –Not deductible –Income-tax Act, 1961, s. 37.Held, (i) that surtax payable pursuant to the Companies (profits) Surtax Act, 1964, was not an admissible deduction in computing that total income for the year under reference.
37 (1)	CLIMATE SYSTEMS INDIA LTD. v. ASSTT. CIT [2009] 27, SOT 218/[2009] 14 CPT 577 (DELHI) Where assessee had entered into an agreement with certain company whereby said company was to provide various technologies and technical services in connection with assessee's business in lieu of payment of royalty by assessee, since as per said agreement assessee could use technical information even after termination of agreement and nothing had been brought on record to show that any technical service was to be provided on a regular basis. Assessing Officer was right in holding those royalty expenses to be capital in nature.
37(1)	INGERSOLL-RAND (INDIA) LTD. v. COMMISSIONER OF INCOME-TAX, BOMBAY CITY-IV [2009]183 TAXMAN 410 (BOM) I. Section 37(1), read with section 36(1)(ii) of the Income tax Act, 1961- Business expenditure-Allowability of-Whether provision for set-on liability under section 15 of the payment of Bonus Act is allowable as a deduction in computing total income of assessee- Held, no. II. Section 37(1) of the Income tax Act, 1961- Business expenditure-Allowability of-Whether surtax payable pursuant to Companies (profits) Surtax Act, 1964 is an admissible deduction- Held, no.
37(1)	YUM! RESTAURANTS (INDIA) (P.) LTD. v. COMMISSIONER OF INCOME-TAX [2009] 180 TAXMAN 8 (DELHI) Section 37(1) of the Income-tax Act, 1961- Business expenditure-Year in which deductible- Assessment year 2001-02- Main business of assessee company was to develop and manage franchisees for running restaurants- It had obtained licences from 'KFC' and Pizza Hut and franchisees operated restaurants under a sub-licence arrangement with assessee-company- Assessee-company had created an intermediary in form of a wholly owned subsidiary, that is, 'Y' to carry on 'co-operative advertising' on behalf of the franchisees based on contributions received from franchisees which was equivalent to 5 per cent of their gross sales under tripartite agreement executed between assessee-company, 'Y' and its franchisees in September, 2000- Thereafter, assessee-company, in order to incentivise development of Pizza Hut brand in India, formulated a scheme in April, 2001, whereby it offered to reimburse contributions made towards advertisement to extent of 2 per cent of sales of franchisees outlets for period from 01.12.2000 to 30.11.2001, provided they commenced operations / business at or from three from three additional outlets by 30.11.2001- For relevant assessment year, it claimed deduction of certain amount on account of accrued marketing expenditure, which was in nature of incentive paid by assessee to its franchisees in terms aforesaid incentive scheme to be calculated at 2 per cent of sales made by them for period from December, 2000 to March, 2001- Whether since incentive scheme came to knowledge of franchisees only in April, 2001, assessee-company could not have predicted liability on that account and therefore, its claim with respect to accrued marketing expenditure was not sustainable in year under

	consideration- Held, yes. Section- 37(1) of the Income-tax Act-1961— Business expenditure- Allowability of – Assessment Year2001-02- Assessee-company claimed deduction of certain amount contributed to its subsidiary ‘V’ for purpose of advertisement and marketing activities- Out of total contributions, Assessing Officer disallowed certain amount which remained unspent in hands of ‘Y’- Whether when assessee was under no obligation to contribute any money to its wholly owned subsidiary company ‘Y’ and, further, it had not been able to prove that contributions to subsidiary were made in course of its business or on account of commercial expediency, disallowance made by Assessing Officer and sustained by appellate authorities was justified - Held, yes.
37(1)	COMMISSIONER OF INCOME TAX v. Pt. VISHWANATH SHARMA [2009] 182 TAXMAN 63 (ALL.) Section 37(1) of the Income-tax Act-1961— Business Expenditure-Allowability of- Assessment year 1989-90- Whether payment of commission to Government doctors for obtaining a favour therefrom by prescribing medicines in which assessee is dealing will come within category of ‘illegal gratification’ or ‘bribe’ and, therefore, cannot be allowed as business expenditure under section 37- Held, yes.
37	SHIVALIK WOOLLEN MILLS P. LTD. v. ASSISTANT COMMISSIONER OF INCOME-TAX [2009] 309 ITR 157 (P&H) Assessment –low gross profit rate explained as on account of theft of raw material – theft not proved – raw material to be treated the way assessee had used similar raw material in preceding years – presumption that assessee manufactured goods out of raw material and sold in open market – claim of loss due to theft disallowed – addition sustained.
37	SEASON RUBBER LTD. v.COMMISSIONER OF INCOME-TAX [2009] 311 ITR 15 (KER.) Business expenditure – contribution to school and hospital development committee – no direct benefit to business of assessee – amounts contributed not deductible – Income-tax Act, 1961, s. 37.
37	COMMISSIONER OF INCOME-TAX v. R. G. SCIENTIFIC ENTERPRISES P. LTD. [2009] 311 ITR 401 (DELHI) Business loss or capital loss – money advance for purchase of capital asset but non-recovery of advance money – capital loss and not a business loss – not deductible – Income-tax act, 1961.
32A, 35B, 37, 40, 40A	HMM LTD. v. COMMISSIONER OF INCOME-TAX [2009] 313 ITR 401 (P&H) Business expenditure – disallowance – perquisites to employees – cash payments not covered by section 40A(5) or 40(c) – Income-tax Act, 1961, ss. 40(c), 40A(5). Business expenditure – surtax – surtax not deductible – Income-tax Act, 1961, s. 37. Investment allowance – roads – amount spent on construction of roads – not entitled to investment allowance under section 32A – Income-tax Act, 1961, s. 32A. Export markets development allowance –

	weighted deduction – freight expenses, octroi duty, bank charges, trunk call charges and insurance charges – not entitled to weighted deduction – Income-tax Act, 1961, s 35B.
37	CENTRAL GOVERNMENT EMPLOYEES CONSUMER COOPERATIVE SOCIETY LTD. v. CIT[2009] 178 TAXMAN 5/[2009] 15 CPT 45 (DELHI) Where Tribunal's finding was that as on 31-3-1998 Board's decision was that there would be no wage revision before 1-7- 1999 and it was only in Board meeting held on 28.9.1998 that Board had decided that scales of pay be revised with effect from 1.7.1997, as very decision to revise pay scales came into existence only after 31.3.1998, that is, after end of assessment year in question i.e., 1998-99, deduction on account of provision for revised wages was not allowable in assessment year 1998-99
37	COMMISSIONER OF INCOME-TAX v. BANK OF RAJASTHAN LTD. [2009] 316 ITR 391 (RAJ.) Business expenditure – bank-transaction in securities-purchase price inclusive of broken period interest – interest not deductible – Income-tax Act, 1961, s. 37. Precedent-effect of Supreme Court decision in Vijaya Bank V. Addl. CIT [1991] 187 ITR 541.
37	COMMISSIONER OF INCOME-TAX v. PF. VISHWANATH SHARMA [2009] 316 ITR 419 (ALL.) Business expenditure-Commission paid to Government doctors for prescribing assessee's medicines to patients-contravenes public policy – cannot be treated as expenditure incurred for purpose of business or profession – not deductible-Income-tax Act, 1961, s. 37.
37	UNITED FILM EXHIBITORS v. COMMISSIONER OF INCOME-TAX v. [2009] 316 ITR 432 (KER.) Business expenditure-disallowance-lease agreement providing for payment of electricity charges by lessee-assessee's claim of deduction in respect of reimbursement of electric charges paid to lessee on account of change in lease agreement-no evidence furnished-disallowance justified –Income-tax Act, 1961, s. 37.
37	BUDHEWAL CO-OPERATIVE SUGAR MILLS LTD. v. COMMISSIONER OF INCOME-TAX [2009] 316 ITR 461 (P & H) Business expenditure-sugar industry-additional cane price paid to sugarcane growers –finding that transaction was not genuine-amount not deductible-Income-tax Act, 1961, s. 37.
32A, 35B, 37, 40, 40A	HMM LTD. v. COMMISSIONER OF INCOME-TAX [2009] 313 ITR 401 (P&H) Business expenditure – disallowance – perquisites to employees – cash payments not covered by section 40A(5) or 40(c) – Income-tax Act, 1961, ss. 40(c), 40A(5). Business expenditure – surtax – surtax not deductible –

	Income-tax Act, 1961, s. 37. Investment allowance – roads – amount spent on construction of roads – not entitled to investment allowance under section 32A – Income-tax Act, 1961, s. 32A. Export markets development allowance – weighted deduction – freight expenses, octroi duty, bank charges, trunk call charges and insurance charges – not entitled to weighted deduction – Income-tax Act, 1961, s 35B.
37 (1)	CIT v. FASCEL LTD. [ITA NO. 111 OF 2007 DECIDED ON 4.12.2008]/[2009] 14 CPT 737 [DELHI] Expenditure by way of payment made to Registrar of Companies for increase in share capital, is capital in nature.
37(1)	SEASON RUBBER LTD. v. CIT [ITR NO.58 OF 2000, DECIDED ON 15-1-2008]/ [2009]15 CPT 625 (KER.) Contributions made by assessee to a school and to a hospital development committee were not allowable where assessee's prospects were not advanced by these contributions.
37(1)	CIT v. PT VISHWANATH SHARMA [ITR NO. 27 OF 1999, DECIDED ON 21.02.2008] [ALL] REPORTED IS TAXMAN CPT VOL. 13 (DEC. 1 TO 15) 2008. Commission paid by assessee to Government doctors for obtaining favour from them by prescribing medicines in which assessee was dealing, cannot be said to be a 'business expenditure', amount paid to Government doctors by assessee clearly would come within category of 'illegal gratification' or 'bribe and would not be allowable in view of Explanation to sec.37(1).
37(1)	COCHIN MALABAR ESTATES & INDUSTRIES LTD v. CIT [2008] 174 TAXMAN 231 (KER) REPORTED IN TAXMAN CPT VOL. 13 (DEC. 1 TO 15) 2008 Where assessee-company deposited an amount of Rs.10 lakhs with Calcutta-based company for appointing assessee as a distributor of another company but Calcutta-based company never started production and after 10 years assessee could recover Rs.7 lakhs by foregoing Rs.3 lakhs, as expenditure incurred was for acquiring a capital asset, i.e. an advantage of an enduring, nature in form of distribution rights, when part of such capital asset was written –off to retrieve balance, obviously written-off part represented capital outlay and, therefore, assessee was not entitled to deduction of Rs.3 lakhs u/s.37(1).
37	SCHNEIDER ELECTRIC INDIA LTD. v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2008]304 ITR 360 (DELHI) Business expenditure disallowance sales commission-no details of any services rendered by selling agent-no confirmation of any arrangement between parties-transaction on basis of oral understanding-no long standing relationship between assessee and selling agent- Tribunal disallowing commission-justified-Income-tax Act, 1961, s. 37.

37	ASSISTANT COMMISSIONER OF INCOME-TAX v. WARDEX PHARMA-CEUTICALS P. LTD [2008] 307 ITR 387 (MAD.) Income or capital-subsidy from government-subsidy to assist business-revenue receipt-Income-tax Act, 1961.
37	J.K. MANUFACTURERS LTD. v. COMMISSIONER OF INCOME-TAX, [2008]300 ITR 297 (ALL.) Business Expenditure—Finding that no business was carried on in the relevant accounting year -- Expenditure not deductible--Income Tax Act, 1961.
37	NATIONAL COOPERATIVE DEVELOPMENTAL COUNCIL v. COMMISSIONER OF INCOME-TAX, [2008]300 ITR 312 (DELHI) Business Expenditure —Amount received by statutory corporation for disbursement to co-operative Societies—Amount invested and interest advanced as loans to State Governments and Apex co-operative societies—Not an expenditure—Not Deductible—Income Tax Act, 1961.
37, 80HHA, 80-I	MENTHA AND ALLIED PRODUCTS P. LTD. v. COMMISSIONR OF INCOME-TAX, [2008]302 ITR 144 (ALL.) Business Expenditure —Liability to pay compensation—Only Against Shipping—Contingent Liability—Deduction Not Permissible —Income-tax Act, 1961, s.37. Industrial Undertaking —Special Deduction—Loss of Head Office to be adjusted against profit of branch office—Income-tax Act,1961, s.80HHA Export—Special Deduction—Computation—Cash Compensatory support and profits on sale of import entitlements—not entitled to special deduction-- Income-tax Act,1961, ss.80HHA,80I. Industrial Undertaking —special deduction—profits derived from duty drawback—not includable in income from computing special deduction-- Income-tax Act,1961, ss.80HHA, 80-I.
37, 256	INTERNATIONAL AIRPORTS AUTHORITY OF INDIA v. COMMISSIONER OF INCOME-TAX [2008]303 ITR 433 (DELHI) Reference —High Court—Ex parte order—Recall—Capital or Revenue Expenditure—Airports Authority —Extension of Airport—Amount spent for removal and rehabilitation of squatters in village—High Court Holding Capital Expenditure—Recall or expert order—Fresh Evidence contrary to facts sought to be placed on record – Not permissible—No appreciable difference in answering question even if fresh evidence were admitted – High Court Decision Reaffirmed--Income Tax Act, 1961. ss. 37, 256.
37(2A), 271E	ELECTRA INDIA LTD. v. COMMISSIONER OF INCOME-TAX [2008]303 ITR 242 (ALL) Business Expenditure Disallowance — Entertainment Allowance—Definition—Distribution of sweets and gifts on festival and food provided to visitors —Hospitality Falls within enlarged meaning given by Explanation 2 to Section 37(2A)—Tribunal justified.

37(1)	CIT VS. SMT. AMARJEET KAUR & ORS. (KAR.) 134 CTR : VOL. 201 : DTD. 17.03.2006 Expenditure incurred for unlawful business activity cannot be allowed as per Explanation to section 37(1).
37(1)	CIT V. BHOR INDUSTRIES (P.) LTD. [2006] 152 TAXMAN 252 (BOM.) Expenditure of foreign tour – Not for the purpose of assessee's business is not allowable.
37(1)	MALAYALA MANORAMA CO. LTD. VS. CIT (KER.) 662 CTR : VOL. 200 : DTD. 24.02.2006 Business expenditure – Contribution towards welfare or earthquake victims is not business expenditure. Hence no deduction u/s.37(1) but deduction u/s.80-G allowable, subject to conditions of that section.
37	CIT V. PHILIPS PETROLEUM INTERNATIONAL CORPN. [2006] 146 TAXMAN 81 (DELHI) Loss incurred on conversion from Indian rupees \$US cannot be allowed as expenditure – When the relevant contract provides for payment in US currency.
37	VARELI TEXTILE INDUSTRIES VS. CIT (GUJ.) 403 CTR : VOL. 201 : DTD. 07.04.2006 Business expenditure – All kinds of expenses on issue of new shares are capital expenditure.
37	CIT VS. SAYAJI IRON & ENGG. (P) LTD. (GUJ.) 115 CTR : VOL. 200 : DTD. 13.01.2006 Travelling expenses u/R. 6D – Must consider trip-wise expenses separately.
37	COMMISSIONER OF INCOME-TAX v. SMT. AMARJEET KAUR (AND CONNECTED REFERRED CASES) [2006] 283 ITR 71 (KARN) Business Expenditure—Expenditure prohibited by law—Effect of Amendment of Section 37 with retrospective amendment from 1-4-1962—Amount spent on Deposit Linked Incentive Scheme—Scheme prohibited by Prize Chits and Money Circulation Schemes (Banning) Act, 1978—Expenditure not deductible—Income-tax Act, 1961, s.37.
37(1)	ELECTRA INDIA LTD. V. CIT [ITR NO. 1 OF 1992 DECIDED ON 1.3.2005] (ALL.) Expenditure incurred by assessee-company in making donation in cash and kind to educational institution for development of playground with a deer park, containing a sign board of donor, could not be allowed as deduction u/s. 37.

37(1), 30(b)	CIT VS. HOTEL SHAH & CO. (KER.) 314 CTR : VOL. 196 :DTD. 15.07.2005. One time payment cannot be deducted as business expenditure u/s. 30(b) or u/s.37(1).
37(1)	CIT V. PREMIER BREWERIES LTD. [2005] 147 TAXMAN 340 (KER.) Contract or agreement is not a conclusive proof of expenditure paid wholly or exclusively for the purpose of business.
37	BRITANNIA INDUSTRIES LTD. v CIT(2005) 278 ITR 546 (SC) Depreciation, rent, repairs and maintenance expenses held not allowable in respect of guest houses in view of sec.37(4) specifically providing for the items deductible.
37	CIT VS. CHAMPARAN SUGAR CO. LTD. (ALL.) 239 CTR : VOL. 197 : DTD. 26.08.2005 Allowability of bonus paid – No profit in the business – Payment of bonus to employees not covered under Payment of Bonus Act is not allowable.
37	SHIVNARAIN KARMENDRA NARAIN VS. CIT (ALL.) 561 CTR : VOL. 193 : DTD. 11.2.2005 Business loss – Embezzlement by employees will be allowed in the year of actual embezzlement not in the year when the fact of embezzlement came to light.
37	RAJENDRA KUMAR BACHHAWAT VS. CIT (CAL.) 489 CTR : VOL. 197 : DTD. 9.9.2005 Capital or revenue expenditure – Development charges paid to Stock Exchange for becoming member is capital expenditure.
37	CIT V. DOONGAJI & CO. DISTILLERY [2005] 146 TAXMAN 154 (M.P.) Retrenchment compensation payable to workers cannot be allowed as a deduction when the business was not discontinued nor any workman was retrenched.
37	COMMISSIONER OF INCOME-TAX v.PREMIER BREWERIES LTD. [2005] 279 ITR 51 (KER.) Business expenditure – General principles – Burden on assessee to prove that expenditure was for business purposes – mere existence of agreement not sufficient – amounts claimed as payments for liaison work and corporate management charges had been paid for business purposes – amounts not deductible –Income-tax Act, 1961, s. 37. Reference- powers of High Court – Finding of fact not based on evidence can be set aside – I.T. Act, 1961, s. 256.

37	COMMISSIONER OF INCOME TAX v. UDAIPUR MINERAL DEVELOPMENT SYNDICATE PVT. LTD. [2004] 269 ITR 263 (RAJ.) Business expenditure—Burden of proof—Company—Medical expenses of managing director incurred in a foreign country —No evidence that expenses had been incurred for purposes of business—Expenditure not deductible Depreciation —No business carried on in accounting year—Depreciation not allowable—Income-tax Act, 1961, s.32.
35AB,37	COMMISSIONER OF INCOME-TAX v. DRILCOS (INDIA) PVT. LTD. [2004] 266 ITR 12 (Mad) Business expenditure —Effect of section 35AB — Technical know-how — expenditure on acquiring know-how deductible in terms of section 35AB — Know-how becoming useless subsequently — not relevant — expenditure not deductible under section 37 — Income-tax Act, 1961, ss.35AB,37.
37	COMMISSIONER OF INCOME-TAX v. MAMTA ENTERPRISES [2004] 266 ITR 356 (KARN) Business expenditure — Fines and penalties — Compounding fee paid to municipal corporation for condoning violation of law relating to construction of property — Not deductible — Income-tax Act, 1961, s. 37.
32,80VV, 37, 80-O, 35 B	ATLAS CYCLE INDUSTRIES LTD. v. COMMISSIONER OF INCOME-TAX [2004] 270 ITR 108 (P & H) Depreciation — Owner — Houses acquired under hire purchase agreement — Agreement clearly stating that property would be held as tenant during hire purchase period. Assessee not owner of houses — Not entitled to depreciation — Income-tax Act, 1961, s. 32. Special deduction — Litigation expenditure — Expenditure allowable up to rupees five thousand in aggregate — Income-tax Act, 1961, s. 80VV. Business expenditure — Capital or revenue expenditure — Foreign exchange — Fluctuations in rate of exchange — Loss due to fluctuation on repayment of loan — Capital expenditure — Income-tax Act, 1961, s. 37. Business expenditure — Surtax not deductible — Income-tax Act, 1961, s. 37. Business expenditure — Disallowance — Company — Director — perquisites — Free use of car by director — Actual expenditure to be taken into Account — Income-tax Act, 1961, s. 40(c)(i). Royalty — Special deduction — Special deduction only in respect of amount actually received in convertible exchange in India — Income-tax Act, 1961, s. 80-O. Export market development allowance — weighted deduction — Freight and transportation expenses — Not entitled to weighted deduction — Weighted deduction in respect of salaries — Restricted to those of persons employed in export and design departments — Income-tax Act, 1961, s. 35B.
37	COMMISSIONER OF INCOME-TAX v. UDAIPUR MINERAL DEVELOPMENT SYNDICATE PVT. LTD. [2004] 269 ITR 263 (RAJ) Business expenditure — Burden of proof — Company — Medical expenses of managing director incurred in a foreign country — no evidence that expenses had been incurred for purposes of business — Expenditure not deductible — Income-Tax Act, 1961, s. 37. Depreciation — No business carried on in accounting year — Depreciation not allowable — Income-tax Act, 1961, s. 32.

37(2A)	COMMISSIONER OF INCOME-TAX v. MANGALAM CEMENT LTD. [2004] 266 ITR 385 (RAJ) Business expenditure – Disallowance – Entertainment expenditure – Expenditure on giving gifts amount to entertainment expenditure – Income-tax Act, 1961, s. 37(2)(A).
37	COMMISSIONER OF INCOME-TAX v. ARAWALI CONSTRUCTIONS CO. (P.) LTD. [2003] 259 ITR 30 (RAJ) Capital or revenue expenditure – Expenditure on acquiring computer software – Capital expenditure – Income-tax Act, 1961, s. 37
37,217, 220(2)	RAJ NARAIN AGARWAL v. COMMISSIONER OF INCOME-TAX [2003] 259 ITR 720 (DELHI) Business expenditure – Interest paid for delay in paying tax demand and for failure to estimate and pay advance tax within time – Not deductible – Income-tax Act, 1961, ss. 37, 217, 220(2).
30, 31, 37(4)	COMMISSIONER OF INCOME-TAX v. BISWANATH TEA CO. LTD. [2003] 264 ITR 166 (CAL.) Business expenditure—Disallowance –Expenditure incurred on Guest House—Effect of sub-section(4) of section 37—Expenses covered by sections 30 and 31 in respect of guest house—Not allowable—Income-tax Act, 1961, s. 30, 31, 37(4)
37	INDIAN SMELTING AND REFINING CO. LTD. VS. CIT (2001) 248 ITR 4 (SC) Provision towards excise duty. Assessee made provision towards excise duty on basis of notices to show cause as to why demand should not be made for payment of that amount – But no demand for excise duty had been raised – Assessee did not admit liability and showed cause – Cause shown was accepted and proceedings initiated against the assessee were dropped – Whether the Assessee was entitled to deduction on the provision made – Held, No – Liability for excise duty was only a contingent liability, hence, was not allowable as deduction.
37	COMMISSIONER OF INCOME-TAX v. INDUSTRIAL DEVELOPMENT CORPORATION OF ORISSA LTD. [2001] 249 ITR 401 (ORISSA) Business expenditure – Condition precedent – Expenditure must be related to carrying on of business or must result in benefit to business – Burden of proof on assessee – Donation to Chief Minister's relief fund – No evidence that donation resulted in benefit to assessee's business – Amount of donation not deductible as business expenditure – Income-tax Act, 1961, s. 37.
143(1), 263, 37	COMMISSIONER OF INCOME-TAX v. RAJKUMAR DIPCHAND PHADE [2001] 249 ITR 520 (BOM) Revision – Condition precedent – Order which is erroneous and prejudicial to

	Revenue – Assessing Officer passing order of summary assessment under section 143(1) – Not bar for Commissioner to invoke section 263 – Income-tax Act, 1961, ss. 143(1), 263. Business expenditure – firm – Goodwill - Interest – Goodwill amount payable by incoming partners and not by firm – Firm not liable to pay any interest for liability of goodwill – Firm not entitled to deduction on account of interest – Income-tax Act, 1961, s. 37.
37(3A)	COMMISSIONER OF INCOME TAX v. WOCKHARDT PVT. LTD [2001] 250 ITR 118 (BOM) Business Expenditure—Disallowance—Expenditure on Advertisement and sales promotion—Expenditure incurred by pharmaceutical company on distribution of free samples to doctors to test efficacy of products—Expenditure in nature of publicity and sales promotion—Section 37(3A) is applicable--Income-tax Act-1961, s. 37(3A).
37	COMMISSIONER OF INCOME TAX v GOPAL BANSILAL INANI (2000) 245 ITR 2 (SC) Interest payments made to coparceners on amounts lent by them to HUF, whether deductible –Held, no.
37(3A)	ESKAYEF VS. CIT (2000) 245 ITR 116 (SC) Restrictions on allowability of deduction under sub-section (3A) of section 37. Expenditure incurred by pharmaceutical companies on distribution of free samples of prescription drugs to doctors, whether tantamounts to expenditure incurred on publicity and sales promotion and is hence subject to restrictions on allowability contained in sub-section (3A) of section 37 – Held, Yes.
37	MADDI VENKATRAMAN & CO.(P) LTD V. CIT 229 ITR 534 (SC) Fines/penalties for infringement of law is not allowable. If a sum is paid by an assessee because in conducting his business he had infringed a law, it cannot be claimed as a deduction. Infraction of law is not a normal incidence of business. Expenses incurred for evading the provisions of some Act and also penalty levied there under for such evasion could not be allowed as deduction under income tax Act. It would be against public policy to allow under one statute deduction of fines/ penalty or expenses imposed on the assessee in violation of provisions, of another statute. [Followed – 241 ITR 62 (Mad)]
37	BHARAT COMMERCE AND INDUSTRIES LTD. VS. CIT ; JINDAL INDUSTRIES LTD. VS. CIT 230 ITR 733 Following Payment of interest is not allowable :- Interest levied for failure to pay advance tax upto statutory percentage. Interest levied for delay in filing the return. Interest paid under VDIS. [Followed – Smt. Padmavati Jaikrishna Vs. CIT 166 ITR 176 (SC); East India Pharma Vs. CIT 224 ITR 627 (SC)] [Followed in – 254 ITR 145 (Del); 259 ITR 720 (Del).]

37	<p>MALWA VANASPATI & CHEMICAL CO. v CIT(1997) 225 ITR 383 (SC) : 1997 142 CTR 137 (SC) : (1997) 139 TAXATION 419(SC): (1997) 92 TAXATION 537(SC)</p> <p>Penalty—Sales tax —Use of raw material purchased at lower rate of sales tax for purpose other than specified—Comprises both elements of compensation and penalty—Amount to be bifurcated and allowable to the extent it is compensatory in nature —Penalty for failure to file return and comply with requirements of notice—No element of compensation involved —Not allowable as business expenditure. Section 37, Income-tax Act, 1961</p>
37	<p>JONAS WOODHEAD AND SONS (INDIA) VS. CIT 224 ITR 342 (SC)</p> <p>Whether expenditure under terms of an agreement is capital or revenue would depend upon several factors e.g. Whether assessee obtained a completely new plan with a complete new process and completely new technology for manufacture of the produce ‘or’ the payment was made for the technical know-how which was for the betterment of the product in question which was already being produced. Whether improvisation made is part and parcel of existing business or a new business was set up with the so-called technical know how for which payments were made. Whether on expiry of period of agreement the assessee is required to give back the plans and designs, which were obtained. Whether the assessee is deriving benefits into capital account for which the payment was made. Where composite payment is made for supply of technical know how and services for setting up plant and machinery and also there was no bar on manufacture even after expiry of agreement there was an enduring benefit to the assessee and thus part of the expenditure was of Capital nature. [FOLLOWED/APPLIED IN 237 ITR 280 (Guj.); 239 ITR 83 (Mad.); 242 ITR 67 (Mad.); 243 ITR 239 (Del.); 245 ITR 686 (Mad.); 251 ITR 155 (Cal.)]</p>
37(1)	<p>PRAKASH COTTON MILLS PVT. LTD. VS. CIT 201 ITR 684 (SC)</p> <p>Impost of penal nature is to be disallowed. Whenever any statutory impost paid by an assessee by way of damages or penalty or interest is claimed as an allowable expenditure u/s 37(1) of IT Act, the A.O. is required to examine the concerned statute to find out whether such payment of impost is compensatory or penal in nature. Impost purely of compensatory in nature has to be allowed while that penal in nature has to be disallowed. If payment is of composite in nature, the A.O. has to make bifurcation on reasonable basis and allow that part only which is compensatory in nature. [Followed /applied in – 245 ITR 314 (MAD): 212 ITR 105 (MAD); 218 ITR 173 (AP) : 33 ITR 757 (MAD): 236 ITR 881 (BOM): 240 ITR 167 (BOM): 248 ITR 285 (DEL): 206 ITR 302 (BOM) :209 ITR 840 (BOM) : 211 ITR 444 (SC) & 233 ITR 199 (SC)]</p>
37	<p>COMMISSIONER OF INCOME-TAX v. FLOUR AND FOOD LTD. [1988] 170 ITR 469(M.P.)</p> <p>Capital or revenue expenditure – Assessee-company carrying on business of manufacturing flour mill products, foodstuff, etc. managing director and chief executive of assessee sent to foreign country for helping foreign Government in setting up a plant there work of managing director in the nature of consultancy service – Consultancy service not authorized by memorandum of association of assessee – No report submitted to RBI – Expenditure on foreign</p>

	<p>tour of managing director – Incurred for initiation of new business and not for expansion of business carried on by assessee – Expenditure incurred was for exploring possibility of export of technical know-how – Expenditure not allowable as business expenditure.</p>
37	<p>COMMISSIONER OF INCOME-TAX v. KARUNA MICA CO. [1987] 167 ITR 292 (PATNA)</p> <p>Capital or revenue expenditure – General principles – Expenditure on securing asset or advantage of enduring nature – Capital expenditure – Mica mines taken on lease from state Government – Expenditure on concreting walls and roof to prevent flooding of the mines during rainy season – Capital expenditure.</p>
37, 40(b)	<p>CHANDMULL RAJGARHIA v. COMMISSIONER OF INCOME-TAX v. [1987] 167 ITR 433 (PATNA)</p> <p>Business expenditure – Entertainment expenditure – “Expenditure in the nature of entertainment”, meaning of – Expenditure on entertaining foreign guests and visitors – Entertainment expenditure – Not deductible as business expenditure under section 37(1) Income-tax Act, 1961, s. 37(2A), (2B). Firm – Business expenditure – Expenditure not deductible – salary and interest paid by firm to partner – Not deductible – Income-tax Act, 1961, s. 40(b).</p>
37	<p>INDIAN ALUMINIUM CO LTD v CIT (1971) 79 ITR 514(SC)</p> <p>Payment made to non-resident towards retainership fees in respect of know-how, etc., without deduction of tax at source which had to be deducted under the Income-tax Act –Payment of tax which was not deducted to the Department and non-resident refusing to reimburse the same –Amount paid by the assessee, whether allowable as deduction under section 10(2)(xv) of the Indian Income-tax Act,1922 (Corresponding to section 37(1) of the Income-tax Act, 1961)—Held, no.</p>
37	<p>CIT v INDIAN MOLASSES CO. P LTD(1970) 78 ITR 474(SC)</p> <p>Amounts transferred by assessee to trustees to take out deferred annuity policy to provide for pension to managing director after retirement and to his wife after his death made in earlier years not allowed as deduction under section 10(2)(xv) of the Indian Income-tax Act, 1922(corresponding to sec.37(1) of the Income-tax Act, 1961) on the ground that it did not constitute expenditure—Further amounts transferred to the fund to cover enhanced pension—Death of managing director before retirement and claim made for deduction of the entire amount including that which was disallowed in the past—Tribunal allowing deduction on the ground that amount effectively disbursed in the accounting year and was not capital expenditure without considering whether it was expenditure wholly and exclusively for business purposes—Deduction, whether could be allowed without considering this aspect of the deduction under sec.10(2)(xv)—Held, no.</p>
37	<p>BADRIDAS DAGA v CIT(1958) 34 ITR 10 (SC)</p> <p>Loss resulting to business by reason of embezzlement by employee or agent of business, whether could be allowed as a deduction under section 10(2)(xv) of</p>

	the Indian Income-tax Act,1922 (corresponding to section 37(1) of the Income-tax Act,1961)—Held, no.
37	CIT v MOTIRAM NANDRAM (1940) 8 ITR 132 (PC) Assessee carrying on money-lending business making deposit with all company for being appointed organizing agents entitled to commission on sales and also interest on deposit—Loss of part of deposits due to all company going into liquidation, whether capital loss or trading loss deductible in computing the taxable income of the assessee—Held, loss not deductible.
40(a)(ia), 200(1); Constn of India, art 14	RAKESH KUMAR AND CO. v. UNION OF INDIA AND OTHERS [2010]325 ITR 35 (P&H) Deduction of tax at source –business expenditure disallowance—for failure to deposit tax deduction at source—provision valid—constitutional validity--income tax act, 1961, as 40(a)(ia), 200(1)—constitution of India, art.14.
40(a)(ia)	RAKESH KUMAR & CO. v. UNION OF INDIA [2009] 178 TAXMAN 481/[2009] 15 CPT 158 (PUNJ. & HAR.) Provisions of section 40(a) (ia) are neither harsh and discriminatory nor can be declared ultra vires.
40(a)(ia), 194C	DEY'S MEDICAL (U.P.) P. LTD. v. UNION OF INDIA OTHERS [2009] 316 ITR 445 (ALL.) Business expenditure-disallowance-sum paid towards advertisement for advancement of business –tax to be deducted at source under section 194C – failure to deduct tax at source – expenses not allowable – Income-tax Act, 1961, ss. 40(a)(ia), 194C.
40(b)	ONAM AGARBATHI CO. v. DEPUTY COMMISSIONER OF INCOME-TAX[2009] 310 ITR 56 (KARN) Business expenditure – disallowance – firm – payments to partners – assessee-firm paying commission to firm – partners in both firms the same – no evidence regarding any other services rendered by firm except to assessee – creation of firm a device for siphoning off profits of assessee in form of commission and marketing and sales promotion expenses – amounts not deductible – Income-tax Act, 1961, s. 40(b).
40(b), 80HH	BOMBAY SNUFF CO. v. COMMISSIONER OF INCOME-TAX [2008]304 ITR 330(BOM) New industrial undertaking in backward area-special deduction under section 80HH-computation-firm-interest and remuneration paid to partners-to be excluded from gross total income-Income-tax Act 1961, ss. 40(b), 80 HH.
40(b)	COMMISSIONER OF INCOME-TAX v. HARI NATH AND CO. [1987] 168 ITR 440 (ALL) Precedents –Decision of a division bench given in an earlier case – Binding on a subsequent bench of same High Court – Central legislation – Necessity of

	obviating divergent views by different High Courts. Firm – Karta of HUF partner in firm – Karta depositing funds in firm – Interest paid on those amounts – Amounts to interest paid to partner – Not allowable as deduction in assessment of firm – Income-tax Act, 1961, s. 40(b).
37, 40(b)	CHANDMULL RAJGARHIA v. COMMISSIONER OF INCOME-TAX v. [1987] 167 ITR 433 (PATNA) Business expenditure – Entertainment expenditure – “Expenditure in the nature of entertainment”, meaning of – Expenditure on entertaining foreign guests and visitors – Entertainment expenditure – Not deductible as business expenditure under section 37(1) Income-tax Act, 1961, s. 37(2A), (2B). Firm – Business expenditure – Expenditure not deductible – salary and interest paid by firm to partner – Not deductible – Income-tax Act, 1961, s. 40(b).
32A, 35B, 37, 40(c) , 40A	HMM LTD. v. COMMISSIONER OF INCOME-TAX [2009] 313 ITR 401 (P&H) Business expenditure – disallowance – perquisites to employees – cash payments not covered by section 40A(5) or 40(c) – Income-tax Act, 1961, ss. 40(c), 40A(5). Business expenditure – surtax – surtax not deductible – Income-tax Act, 1961, s. 37. Investment allowance – roads – amount spent on construction of roads – not entitled to investment allowance under section 32A – Income-tax Act, 1961, s. 32A. Export markets development allowance – weighted deduction – freight expenses, octroi duty, bank charges, trunk call charges and insurance charges – not entitled to weighted deduction – Income-tax Act, 1961, s 35B.
40A, 158BC	GANESH FOUNDRY AND CASTING LTD. v. INCOME-TAX APPELLATE TRIBUNAL AND ANOTHER [2010] 328 ITR 202 (Patna) Search and seizure –Block assessment –Undisclosed income-Discovery of payments violative of section 40A(3) –Amounts assessable as undisclosed income –Income-tax Act, 1961, s. 40A, 158BC.The assessee-company submitted its return for the period 1994-95. While assessment proceeding were pending there was a search in the premises of the assessee. A notice was issued under section 142(1) read with section 158BC of the Income-tax Act, 1961. On a consideration of the material it was found that the assessee had issued two cheques amounting to Rs. 4,00,000 and Rs. 4,30,000 which were initially issued as account-payee cheques but were manipulated to be converted into bearer cheques and the amounts were found credited to the assessee. These amounts were treated as undisclosed income of the assessee. This was upheld by the tribunal. On appeal to the High Court:Held, dismissing the appeal, that the transactions in question were violative of section 40A(3) of the Act, were acts of fraud, and were directly and clearly relatable to the materials found during the course of search and seizure. The assessee had not disclosed this income in its original return. The amounts were assessable as undisclosed income.
40A(7) (a)	COMMISSIONER OF INCOME-TAX v. PRADESHIYA INDUSTRIAL AND INVESTMENT CORPN. OF U.P. LTD. [2010]325 ITR 583(All) Business expenditure—Gratuity—Effect of section 40A(7)—Insurance against liability under payment of gratuity act –Conditions laid down in section

	40A(7)(a) not fulfilled—Amount not deductible—Income-tax Act, 1961, S. 40A(7)(a).
40A(9)	INDIAN HUME PIPE CO. LTD. v. DEPUTY COMMISSIONER OF INCOME-TAX AND OTHERS [2009] 311 ITR 146 (BOM.) Business expenditure disallowance employees welfare expenses assessee failing to satisfy that amount donated towards staff welfare expenditure in furtherance of its business interest-not entitled to deduction-Income-Tax Act, 1961, S.40A(9).
40A(3)	CIT v. MUTHOOT M. GEORGE BANKERS [2008] 173 TAXMAN 424 (KER.) Interest paid in cash to minor daughter of partner in excess of prescribed limit was rightly disallowed under section 40A(3)/40(b).
40A(3), ITR 1962, R 6DD	COMMISSIONER OF INCOME-TAX v. DALIP CHAND AND SONS [2008] 301 ITR 276 (HP) Business expenditure-disallowance – payments in cash exceeding specified limit – finding that no exceptional circumstances existed necessitating cash payment – amount had to be disallowed – CBDT circular no. 220, dated may 31, 1977 – Income-tax Act, 1961, S. 40A(3) – Income-tax Rules, 1962, r. 6DD.
40A(3)	CIT, AHMEDABAD V. HYNOUP FOOD & OIL IND. (P.) LTD. [2006] 150 TAXMAN 194 (GUJ.) Section 40A(3) - 6DD(j) will not come into play when genuineness of payment, identity of payee and existence of any exceptional circumstances for paying in cash could not be proved by the assessee.
40A(3), ITR 1962, R. 6DD(j)	ASSISTANT COMMISSIONER OF INCOME-TAX v. SRI SARASWATHI IRON FOUNDRY, [2006]287 ITR 313 (KARN.). Business expenditure—Disallowance—Payments in cash exceeding prescribed limit—Assessee Making cash purchases for several lakhs of rupees—Explanation that payments made to unregistered dealers who insisted on cash payment—Not one falling under Rule 6DD(j)—Subsequent proof of documentary evidence—allowance permissible to this extent – Income-tax Act, 1961, s.40A(3)—Income-tax rules, 1962, R.6DD(j).
40A(5)	CAWNPORE TEXTILES LTD. VS. CIT (ALL.) 203 CTR : VOL. 200 : DTD. 20.01.2006 Perquisite includes rent free accommodation and depreciation on the same.Value of rent-free accommodation and depreciation on assets is to be included while computing disallowance u/s.40A(5).
40A (2)(b)	COMMISSIONER OF INCOME-TAX v. V. N. A. S. CHANDRAN [2004] 269 ITR 578 (MAD) Appeal – addition in original assessment under section 40A(3) – Reassessment – Further addition made under section 40A(2) – Appeal against original

	assessment regarding addition under section 40A(3) – Dismissed on ground original assessment does not subsist after reassessment – Appeal against reassessment – Tribunal confirming deletion of disallowance under section 40A(3) – No right to reagitate matter attaining finality in original assessment – Question referred answered against assessee ground of fairness – Reopening of appeal against original assessment to be permitted to assessee if he desires – Income-tax Act, 1961, ss. 40A(2)(b), (3), 147.
40A(3)	COMMISSIONER OF INCOME-TAX v. HIMACHAL TEREPEENE PRODUCTS PVT. LTD [2004] 269 ITR 538 (CAL.) Business expenditure—Disallowance of expenditure—Cash payments exceeding specified limit—No finding that exceptional circumstances existed warranting cash payments—Disallowance justified— Income-tax Act, 1961, s.40A(3).
40A, 43B	COMMISSIONER INCOME-TAX v. (1) COMMONWEALTH TRUST (P.) LTD. (I.T.A. NO.7 OF 2000), (2) COMMONWEALTH TRUST (I) LTD. (I.T.A. NO.37 OF 2000) [2004] 269 ITR 290 (KER) Business expenditure Disallowance—Contribution to approved gratuity fund—Scope of section 40A(7)(b) and section 43B(b)—No conflict between the provisions—Contribution to Approved gratuity fund—Cannot be disallowed—Income -tax Act, 1961, ss.40A, 43B. Business expenditure—Disallowance—amounts not actually paid—Contribution to ESI fund after due date—Not deductible—Income-tax Act, 1961, ss.36(1)(va), 43B.
41(1)	COMMISSIONER OF INCOME TAX v. AGGARWAL STEEL ROLLING MILLS [2010] 321 ITR 290(P & H) Business income –Remission or cessation of trading liability –Amount received on account of refund of excise duty –Has to be treated as taxable income-Income tax Act, 1961, s. 41(1).
41(1)	JAY ENGINEERING WORKS LTD. v. COMMISSIONER OF INCOME-TAX [2009] 311 ITR 299 (DELHI) Business income – cessation of liability – unilateral writing off of unclaimed liability- not statutory but contractual liability – taxable as income- income-tax act, 1961, s. 41(1). The assessee had written back in its accounts unclaimed balances totaling Rs. 1,16,240. The Inspecting Assistant Commissioner added back this amount to the income of the assessee, This was upheld by the Commissioner (Appeals) as well the Tribunal. On a reference: Held, that he amounts were not statutory liabilities but contractual liabilities, These amounts were unilaterally written off by the assessee. Therefore, the unclaimed liability written off by the assessee was taxable as income. CIT v. T. V. SUNDARAM IYENGAR AND SONS LTD. [1996] 22 ITR 344 (SC) applied.
41 (1)	SOLID CONTAINERS LTD. v. DY. CIT [2009] 178 TAXMAN 192/[2009] 14 CPT 738 [BOM.] Where assessee had taken a loan for business purposes and it had written back same, section 41 (1) was clearly attracted and assessee's claim that it was a capital receipt had no merit.

41(1), 263	COMMISSIONER OF INCOME-TAX v. MARKANDA VANASPATI MILLS LTD. [2009] 311 ITR 306 (P&H) Income-cessation of liability-excess amount in sales tax account –neither paid to department nor refunded to customers-Income in hands of assessee-deductible when refunded to customers-Income-tax Act, 1961, ss. 41(1), 263.
41(1), 271(1)(c)	KAMAL BASHA v. DEPUTY COMMISSIONER OF INCOME-TAX [2009] 316 ITR 58 (MAD.) Penalty-concealment of income-Assessing Officer rejecting claim of sundry creditors offered for taxation and initiating penalty proceeding – inconsistent stand taken by assessee before lower authorities with no supportive evidence-levy of penalty – proper – Income-tax Act, 1961, ss. 41(1), 271(1)(c).
41(1)	CIT v. MARKANDA VANASPATI MILLS LTD[ITA NO.51 OF 1990, DECIDED ON 30-10-2006]/ [2009]15 CPT 626 (P&H) Amount collected towards sales tax which remained unpaid and unpayable to Department, which was also not refunded to customers, was liable to be treated as income in hands of assessee u/s.41(1)
41(1)	COMMISSIONER OF INCOME-TAX v. LONDON MACHINERY CO. [2006] 280 ITR 271 (ALL) Income-Business Income-remission of liability – scope of section 41(1) – unclaimed excise duty credited to profit and loss account – Assessable under section 41(1) – Income –Tax Act, 1961, s. 41(1)
41(2)	CIT VS. J.K. COTTON SPINNING & WEAVING MILLS CO. LTD. (ALL.) 73 CTR : VOL. 197 : DTD. 12.08.2005 Taxing of profit u/s.41(2) – Applies even when the relevant WDV of the asset is not ascertainable.
41(2)	CIT VS. GANESH DASS & SONS (P) LTD. (ALL.) 453 CTR : VOL. 198 : DTD. 28.10.2005 Section 41(2) will apply on compensation received for destruction of business assets.
41(2)	CIT VS. UNITED PROVINCES ELECTRIC SUPPLY COMPANY (2000) 244 ITR 764 Where compensation amount and its receipt is admitted, which is business profit under section 41(2), it is to be taxed in the previous year of its receipt. State Government compulsorily purchased electricity undertakings of Respondent-assessee and handed over possession of the same to State Electricity Board – Compensation of Rs. 3.35 crores – Assessee accepted the amount without prejudice to its right to claim compensation payable under Electricity Act, 1910 – Pendency of arbitration proceedings for determining compensation under the Electricity Act – ITO took the amount of Rs. 3.35 crores as sale proceeds of depreciable assets of the assessee and computing the written down value of those assets at Rs. 2.06 crores, determined profit of Rs.

	1.29 crores under section 41(2) and added the same to the income of the assessee – Whether no profit under section 41(2) could be taxed in the assessment year under consideration because claim of assessee for compensation was not settled during the year and that dispute was still pending before the arbitrators – Held, pendency of litigation for getting additional amount was irrelevant as regards taxability of compensation received – No requirement that compensation should be finally determined – Whether compensation amount and its receipt is admitted, which is business profit under section 41(2), it is to be taxed in previous year of its receipt – Addition of Rs. 1.29 crores under section 41(2) in the assessment year 1965-66 was therefore justified.
36(1)(iii), 43(1) Expln 8	COMMISSIONER OF INCOME -TAX v. VARDHMAN POLYTEX LTD. [2008] 300 ITR 243 (DELHI) (FULL BENCH) Business Expenditure –Interest on Borrowed Capital– General Principles—Capital Borrowed for Establishment of New Unit—New Unit Not set up—Interest not deductible -- Income Tax Act, 1961, ss 36(1)(iii), 43(1), Expln.8.
43(1), Expln 8	COMMISSIONER OF INCOME-TAX v. TRACTORS AND FARM EQUIPMENTS LTD. [2007]294 ITR 163 (MAD) Investment allowance—Plant and Machinery—Actual cost—Interest Paid under deferred payment scheme –Cannot be treated as part of actual cost for purpose of investment allowance—Income-tax Act, 1961, s43(1), Expln.8.
43(1)	CIT VS. UNION CO. (MOTORS) (P) LTD. (MAD.) 549 CTR : VOL. 201 : DTD. 14.4.2006 Interest payable against funds received under deferred payment scheme cannot be added to actual cost for the purpose of claiming depreciation.
32(1)(ii) 43(3)	COMMISSIONER OF INCOME-TAX v. HOOGLY MILLS CO. LTD. [2006]287 ITR 333 (SC). Depreciation—Purchase of undertaking—Accrued and future gratuity liability of vendor also taken over—Purchaser has no right to depreciation—Land—No Depreciation—Payment of Gratuity Act, 1972, s.4(1)—Income-tax Act, 1961, ss. 32(1)(ii), 43(3).
32, 43	COMMISSIONER OF INCOME-TAX v. LAKE PALACE HOTELS AND MOTELS (P.) LTD. [2001] 249 ITR 593 (RAJ) Depreciation – Extra depreciation – Hotel building – Is not “Plant” – Depreciation allowable at rate applicable to building and not plant – Income-tax Act, 1961, ss. 32, 43.
36(1)(iii), 43A, Expln 3	ASSISTANT COMMISSIONER OF INCOME-TAX v. ELECON ENGINEERING CO. LTD. [2010] 322 ITR 20 (SC) Business income –Computation –Special provision regarding changes in the rate of exchange –Purchase of plant and machinery –Loan taken in foreign exchange to be repaid in instalments –Premium paid to bank to ensure delivery of foreign exchange on stipulated dates at predetermined rates –Not admissible

	as interest on capital borrowed for purposes of business –To be added to capital cost –Income-Tax Act, 1961, s. 36(1)(iii), 43A, Expln 3(prior to amendment in 2002).
43A	COMMISSIONER OF INCOME-TAX v. OIL AND NATURAL GAS CORPORATION LTD. [2008] 301 ITR 415 (UTTARAKHAND) Business expenditure – Business loss-borrowings in foreign exchange-revaluation of whether loss allowable – borrowings not used entirely on capital account – terms of repayment under agreement not produced – no liability quantified nor payment made – notional liability – not allowable-losses not to be taken into account for determining actual cost – Income –tax Act, 1961, s. 43A.
43B	COMMISSIONER OF INCOME-TAX v. PAMWI TISSUES LTD. [2009] 313 ITR 137 (BOM) Business expenditure-deduction only on actual payment-law applicable – effect of Commission of second proviso to section 43B w.e.f. from 01/04/2004 – amendment not retrospective-contribution to provident fund beyond prescribed time in assessment year 1990-91-amount not deductible-Income-tax Act, 1961, s.43B.
43B	COMMISSIONER OF INCOME-TAX v GODAVERI (MANNAR) SAHAKARI SAKHAR KARKHANA LTD. [2008] 298 ITR 149 (BOM) Business expenditure—Deduction only on actual payment—Law applicable – Effect of omission of second proviso to section 43B w.e.f 1-4-2004—Amendment not retrospective—Contribution to provident fund beyond prescribed time in accounting years relevant to assessment Years-1991-92 and 1994-95—Amount not deductible—Income- tax Act, 1961, s.43B. Interpretation of taxing statutes—Amendment –Whether Retrospective.
43B, 143(1)(a)	SHREE DIGVIJAY CEMENT CO. LTD. v. COMMISSIONER OF INCOME-TAX [2007] 289 ITR 250 (GUJ) Business expenditure-deduction only on actual payment – Interest on arrears of sales tax part of tax – Can be disallowed if not actually paid – Income-tax Act, 1961, s. 43B. Assessment – Intimation under section 143(1)(a) - Scope of section 143(1)(a) – Supreme Court decision that interest on arrears of sales tax in part of tax- Disallowance of interest under section 43B – Intimation of Disallowance Under section 143(1)(a) – Valid – Income-tax Act, 1961, ss. 43B, 143(1)(a).
36, 43B	COMMISSIONER OF INCOME-TAX v. JAIRAM AND SONS [2004] 269 ITR 285 (KER) Business Expenditure—Deduction only on actual payment—Group Gratuity Scheme—Payment of premium to LIC—Renewal Premium paid after due date—Employees' Contribution to gratuity fund paid after due date—Disallowance justified—“Due date”, meaning of —Income -tax Act, 1961, ss.36, 43B.

40A, 43B	COMMISSIONER OF INCOME-TAX v. (1) COMMONWEALTH TRUST (P.) LTD. (I.T.A. No.7 OF 2000), (2) COMMONWEALTH TRUST (I) LTD. (I.T.A. No.37 OF 2000) [2004] 269 ITR 290 (KER) Business expenditure Disallowance—Contribution to approved gratuity fund—Scope of section 40A(7)(b) and section 43B(b)—No conflict between the provisions—Contribution to Approved gratuity fund—Cannot be disallowed—Income -tax Act, 1961, ss.40A, 43B. Business expenditure—Disallowance—amounts not actually paid—Contribution to ESI fund after due date—Not deductible—Income-tax Act, 1961, ss.36(1)(va), 43B.
36, 43B	COMMISSIONER OF INCOME-TAX v. G.T. N. TEXTILES LTD. [2004] 269 ITR 282 (KER.) Business expenditure—Deduction only on actual payment—Contribution to employees' Gratuity fund after due date—Not deductible—“Due Date”, Meaning of -- Income-tax Act, 1961, s.36, 43B.
44A	SMT. KIRAN LATA v. ITAT [2009] 177 TAXMAN 420/ [2009] 14 CPT 835 (UTTRAKHAND) It is true that section 44A nowhere provides that books of account maintained by media professional and other professionals, must be based on valuation report of technically qualified persons, however, that does not mean that whatever has been shown by assessee must be taken as a gospel truth.
44AB, 271B	K. RAVINDRANATH NAIR v. DEPUTY COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 319 ITR 108 (KER) Penalty – Compulsory audit of accounts – Delay in filing audit report – No explanation regarding delay – Penalty imposable – Income-tax Act, 1961, 1961, ss. 44AB, 271B.
44AB, 271B, 274	SHRI SWASTIK STEELS PRIVATE LTD. v. ASSISTANT COMMISSIONER OF INCOME-TAX [2003] 264 ITR 447 (BOM) Penalty – Delay in submission of audit report – Waiver of penalty – Dispute between directors of assessee – company – Not a reasonable cause for default – Penalty not to be waived – Income-tax Act, 1961, ss. 44AB, 271B, 274.
44AD	SURINDER PAL NAYYAR v. CIT [2009] 177 TAXMAN 207/ [2009] 14 CPT 739 [PUNJ. & HAR.] Where income in case of a civil contractor has been assessed/computed by applying net profit rate to gross receipts, he would not be entitled to depreciation separately.
44AD(1)	COMMISSIONER OF INCOME-TAX v. SOBTI CONSTRUCTION (INDIA) [2008] 307 ITR 374 (DELHI) Business income-presumptive method of taxation-civil construction-contractor-gross receipts from construction business of assessee more than Rs. 40 lakhs although undisclosed receipts less than 40 lakhs – section 44AD not applicable-tribunal directing assessing officer to restrict addition by estimating

	net profits at 8 per cent of unaccounted receipts-not proper – matter remanded – Income-Tax Act, 1961, s. 44AD(1).
44BB	COMMISSIONER OF INCOME-TAX, DEHRADUN v. SUNDOWNER OFFSHORE INTERNATIONAL (BURMUDA) LTD. [2009]183 TAXMAN 365 (UTTARAKHAND) Section 44BB, of the Income tax Act, 1961-Non-residents- Mineral Oil business for prospecting/exploration, etc, in case of –Assessment year 2004-05- Assessee, a non-resident company, entered into a contract with ONGC for charter-hire of one light modular work over rig-It did not offer to tax amount of revenue on account of mobilization of rig from outside India-Assessing Officer-however, included those receipts in its gross revenue under section 44BB-Whether in view of decision in Sedo Forex International Drilling Inc. v. CIT[2008]299 ITR 238/170 Taxman 459 (Uttaranchal), Assessing Officer had taken correct decision- Held, yes.
44BB	COMMISSIONER OF INCOME TAX AND ANOTHER v. HALLIBURTON OFFSHORE SERVICES INC. [2008] 300 ITR 265 (UTTARAKHAND) Mineral Oils Non-Resident—Prospecting, Extraction or Production of Mineral Oils—Presumptive Taxation—Reimbursement of Freight and Transportation Charges—Includible –Income-tax Act, 1961, S. 44BB.
44D	CIT v. ONGC LTD. (NO. 1) [ITA NO. 118 OF 2007, DECIDED ON 10.4.2008]/[2009] 15 CPT 45 (UTTARAKHAND) CIT v. ONGC LTD. (NO. 2) [ITA NO. 112 OF 2007, DECIDED ON 8.4.2008]/[2009] 15 CPT 45 (UTTARAKHAND) Where assessee, non-resident company, was engaged by ONGC, which was representative of assessee-company, to render services in connection with maintenance of four modules of software, income of assessee being a technical service provider, was assessable under section 44D, read with section 115A, and not under section 44BB.
44D	COMMISSIONER OF INCOME TAX v. ONGC LTD.(No. 2) [2009] 180 TAXMAN 1 (UTTARAKHAND) Section 44D, read with section 115A, of the Income-tax Act-1961—Foreign companies, computation of income by way of royalties, etc., in case of – Assessment year 2001-02- Assessee, a non-resident company, had rendered its services to ONGC for exploration extraction and production of mineral oil- It claimed that tax was to be charged on its income under section 44BB— Whether services provided by assessee were technical services and therefore, fee received by it for such technical services was chargeable to tax under section 44D, read with section 115A and not under section 44BB- Held, Yes.
45	COMMISSIONER OF INCOME-TAX AND ANOTHER v. N. SRIRAMA REDDY [2010] 328 ITR 71 (Karn) Capital gains – Computation of capital gains –Perpetual lease of land –Lessee constructing flats and selling them –Lesser having residuary rights and right of pre-emptive purchase –Capital gains to be determined by taking into account

	discounted value of flats and interest-free advance received from lessee – Income-tax Act, 1961, s. 45.
45(1)	CIT v. GHANSHYAM (HUF) [2009] 315 ITR 1 (SC) Capital gains-Compulsory acquisition-Enhancement of compensation-Amount by which enhanced-When taxable-Law after amendment of section 45(5) with effect from April 1, 1988-Amount of enhancement is deemed to be income of previous year in which it is received-Even if received under orders of court pending decision and assessee has to offer security –CBDT Circular No. 621, dated December 19, 1991.
45(5)	CIT v. GHANSHYAM (HUF) [2009] 315 ITR 1 (SC) Capital gains-Compulsory acquisition-Enhancement of compensation-Amount by which enhanced-When taxable-Law after amendment of section 45(5) with effect from April 1, 1988-Amount of enhancement is deemed to be income of previous year in which it is received-Even if received under orders of court pending decision and assessee has to offer security - CBDT Circular No. 621, dated December 19, 1991.
2(47), 45	J.K. KASHYAP v. ASSISTANT COMMISSIONER OF INCOME-TAX [2008]302 ITR 255 (DELHI) Capital Gains—Transfer –Definition –Relinquishment of Right in Capital Asset—Assessee Making payment for acquisition of property by an agreement in 1990—Transaction not materializing ---Relinquishment of right in favour of New Vender in 1995—Consideration received for relinquishment of interest in property—Liable to long-term capital gains tax-- Income-tax Act, 1961, ss.2(47),45.
45	SHIVA GASES v. COMMISSIONER OF INCOME-TAX [2008]302 ITR 318 (DELHI) Loss—Sale of shares to sister concerns –sale at a loss accounts of sister concerns debited later and transfer deeds lodged in subsequent year—Sale price not received by Assessee and no entry in books of Account—Finding that Transactions not genuine—Loss not Allowable-- Income-tax Act,1961.
2(47)(vi), 45(4)	COMMISSIONER OF INCOME-TAX v. SOUTHERN TUBES [2008] 306 ITR 216 (KER.) Capital gains – transfer-firm-dissolution of firm consisting of two partners – one partner taking over land and factory building and continuing business-transaction is transfer within meaning of section 2(47)(vi) – liable to be assessed for capital gains in terms of section 45(4) – Income-tax Act, 1961, ss. 2(47)(vi), 45(4).
45	V. K. JAIN VS. CIT (DEL.) 501 CTR : VOL. 195 : DTD. 27.5.05 Capital gains – U/s.45(5) can be invoked only when the full and final amount of compensation is known.

45	CIT VS. SMT. LAXMIDEVI RATANI & ORS. (M.P.) 336 CTR : VOL. 198 : DTD. 21.10.2005 Amount received against relinquishment right to claim specific performance of the contract or acquisition of an asset is capital receipt on which capital gains tax is to be levied.
45, 48, 260A	IQBAL HUSSAIN v. COMMISSIONER OF INCOME-TAX [2003] 264 ITR 179 (ALL) Capital gains – Appeal to High Court – Computation of capital gains – Tribunal considering evidence and fixing fair market value of land – Computation valid – No substantial question of law – Income-tax Act, 1961, ss. 45, 48, 260A.
45	KARTIKEYA V. SARABHAI v CIT (1997) 228 ITR 163 (SC) (1997) 142 CTR 150 (SC) : (1997) 26 CLA 328 (SC) : (1997) 94 TAXMAN 164(SC) Capital gains—Capital asset—Transfer—Reduction in face value of shares—Amounts to extinguishment of right—Amount received on such reduction, taxable as capital gains. Section 2 (47) and 45, Income-tax Act, 1961.
45	CIT VS. GEMINI PICTURES CIRCUIT PRIVATE LTD. 220 ITR 43(SC) Capital gains arise on sale of land, apparently used for growing vegetables but situated in urban area. Capital gains on transfer of land used for agriculture-test used to determine whether land is agriculture-totality of relevant facts must be taken into consideration – the land in dispute was situated in most important business center of the city – land was entered into municipal record as urban land and urban land tax was paid-part of the land was used for constructing non- residential building-Growing vegetables on such land is only a stop-gap activity –not conclusive that land is agriculture –profit on sale of such land will be taxable as capital gains.
45	SARIFABIBI MOHMED IBRAHIM v CIT (1993) 204 ITR 631 (SC) : (1993) 114 CTR 467 (SC) : (1993) 117 Taxation 256(SC) : (1993) 70 TAXMAN 301 (SC) Land registered as agricultural land in revenue records and payment of land revenue thereon till the year 1968-69 but actually cultivated till agricultural year 1964-65 –Situated within municipal limits at a distance of one kilometer from Surat Railway Station—Application made by assessee in 1968-69 to sell the land for non-agricultural purposes and permission granted in April, 1989—Sale of land to housing society for construction of buildings at the rate of rupees twenty-five per sq. yard in May, 1969—Whether land sold by the assessee a capital asset and the capital gains arising to the assessee on the sale were liable to tax under section 45 of the Income-tax Act, 1961—Held, yes.
46, 54E	COMMISSIONER OF INCOME-TAX v. RUBY TRADING CO. PVT. LTD. [2003] 259 ITR 54 (RAJ) Capital gains – Exemption from tax where sale proceeds are invested in specific securities – Transfer of capital assets is a condition precedent for gaining exemption – Distribution of assets to shareholders on liquidation of

	company – Section 46(1) lays down that such distribution will not be regarded as transfer Shareholder not entitled to benefit under section 54E – Income-tax Act, 1961, ss. 46, 54E.
48	COMMISSIONER OF INCOME-TAX v. SHARAD SHARMA [2008]305 ITR 24 (ALL) Income—Diversion of Income by overriding title—Capital Gains—Assessee Mortgaging Property to Bank—Bank Enforcing recovery of loan by sale of property—Amount repaid to bank—Not diverted by overriding title —Not deductible in computing capital gains -- Income-tax Act, 1961, s48.
45, 48, 260A	IQBAL HUSSAIN v. COMMISSIONER OF INCOME-TAX [2003] 264 ITR 179 (ALL) Capital gains – Appeal to High Court – Computation of capital gains – Tribunal considering evidence and fixing fair market value of land – Computation valid – No substantial question of law – Income-tax Act, 1961, ss. 45, 48, 260A.
49	CIT v. MAHINDRA & CO. LTD. [2009] 179 TAXMAN 131/ [2009] 15 CPT 359 (RAJ.) Where assessee-company claimed loss on sale of certain shares which had come to it on account of amalgamation of two companies with it though it had acquired entire assets of said two companies for a consideration which was less than value of said assets shown in their books of account at time of amalgamation, Tribunal was not justified in holding that the value of assets taken over on amalgamation should be taken at book value as was existing in hands of amalgamated company for working out the cost of shares for purposes of determining gains or loss thereon.
49	COMMISSIONER OF INCOME-TAX v. MAHINDRA & CO. LTD. [2009] 179 TAXMAN 131 (RAJ) Capital gains—Cost with reference to certain modes of acquisition-Assessment year 1973-74-Assessee –company claimed loss on sale of certain shares which had come to it on account of amalgamation of two companies with it-It computed said loss by taking cost of said shares at figures as shown in books of amalgamated companies though it had acquired entire assets of said two companies for a consideration which was less than value of said assets shown in their books of account at time of amalgamation-Assessing Officer, however, on basis of purchase consideration paid by assessee, took proportionate value of said shares and computed loss on sale of shares at much lesser figure than claimed by assessee –Whether Assessing Officer had taken a correct view-Held, yes.
49	DELHI SAFE DEPOSITS CO. v. COMMISSIONER OF INCOME-TAX [2004] 269 ITR 66 (Delhi) Capital gains – Firm – Partner – Computation of capital gains – Dissolution of firm – Sale of assets obtained on dissolution by partner who had advanced money to firm – Decree of court Treating suit as one for dissolution of firm – Cost of acquisition of assets by firm to be treated as cost of assets – Income-tax

	Act, 1961, s. 49 – Indian partnership Act, 1932, s. 48.
49	CWT VS. KISHANLAL BUBNA 204 ITR 600 (SC) The value of assets, which were transferred to spouse or minor child directly or indirectly, for inclusion purposes, will be the value as on the valuation date and not the original cost or the value of asset so transferred.
50C	RAJINI VENUGOPAL v. ADDL. CIT [W.P. NO. 37859 OF 2007, DECIDED ON [13.06.2008]/[2009] 14 CPT 579 (MAD.) Where contention of assessee was that purchasers, aggrieved by orders passed by stamp valuation authority, had taken matter by way of a writ petition before High Court and until final orders were passed in writ petition, assessment of capital gains in assessee's hands on transfer of land could not be finalized by taking full value of consideration as determined by lower authorities under Stamp Act, it was held that there was no merit in assessee's contention and assessment could not be kept pending.
53	COMMISSIONER OF INCOME-TAX v. MADAN PARNAMI FAMILY TRUST [2004] 269 ITR 16 (RAJ) Capital gains – Exemption – Transfer of residential house – Scope of section 53 – Section 53 applies only to individuals – Not applicable to association of persons – Trust assessed as AOP – Exemption not available though income is ultimately received by individual beneficiaries – Income-Tax Act, 1961, s. 53.
54, 260A	M. B. RAMESH v. INCOME –TAX OFFICER [2010] 320 ITR 451 (Karn) Capital gains –Exemption –Tribunal denying exemption relying on panchayat records finding no residential property on site claimed to be held and sold by assessee –Finding of fact –Court will not disturb –Income-tax Act, 1961, s. 54, 260A.The Assessing Officer refused the claim of the assessee under section 54 of the Income-tax Act, 1961, on a factual verification of the place where the assessee claimed to have had the residential property as the assessing authority found only a mud structure. The Commissioner (Appeals) took the view that the property had already been demolished and accepted the claim of the assessee that the assessee had in turn sold that property in which the gains had been reinvested by some other person and that person had reinvested for profits. The Tribunal found that there was never any structure fitting into the description of habitable residential house on the property which had been initially sold by the assessee. The Tribunal relied upon the panchayat records which on verification the Tribunal found did not indicate the structure being in place in respect of the property held and sold by the assessee. On appeal:Held, dismissing the appeal, that whether there was a structure of both sites or one site or whether there was no structure at all was a finding of fact which the court could not disturb in an appeal under section 260A.
54	P. K. LAHIRI v. COMMISSIONER OF INCOME-TAX [2005] 275 ITR 17 [ALL] Capital gains – exemption – sale of residential building or land appurtenant thereto and purchase or construction of residence within prescribed period – meaning of ‘Appurtenant’ – Huge piece of land in which residence of father of

	assessee was situated – part of land received by assessee as gift from his father – sale of part of land and construction of residence in the other part within prescribed period – land sold not appurtenant to building – assessee not entitled to exemption under section 5 – Income-tax Act, 1961, s. 54.
54	P. K. LAHIRI VS. CIT (ALL.) 406 CTR : VOL. 196 :DTD. 22.07.2005. Exemption from capital gains u/s.54 is not available against sale of land adjoining a building which is not owned by the same assessee who sold the land.
54	DR. A. S. ATWAL VS. CIT (P & H) 353 CTR : VOL. 195 : DTD. 13.5.05 Capital gains – Exempt u/s.54 – Just a tin shed without any facilities at all cannot be called a house. Hence exemption u/s.54 is not applicable on capital gains earned against transfer of such an asset.
54	DR. A. S. ATWAL v. COMMISSIONER INCOME-TAX [2005]277 ITR 462 (P & H) Capital Gains—Exemption—Sale of house used as residence by assessee or his parent and purchase or construction of another such residence within the prescribed period—Finding that house was not used as residence—Exemption not available—Income -tax Act, 1961, s.54.
54E, 115J, CA 1956, Sch VI	N. J. JOSE AND CO. (P.) LTD. v. ASSISTANT COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 321 ITR 132 (Ker) Capital gains –Exemption –Company –Total income computed less than 30 per cent. of book profit –Assessment under section 115J –Book profit –Capital gains part of profit included in profit and loss account –Income from capital gains to be included in book profit –No provision for deduction under section 54E in computation of book profit –Income-Tax Act, 1961, S. 54E, 115J – Companies Act, 1956, Sch. VI.
46, 54E	COMMISSIONER OF INCOME-TAX v. RUBY TRADING CO. PVT. LTD. [2003] 259 ITR 54 (RAJ) Capital gains – Exemption from tax where sale proceeds are invested in specific securities – Transfer of capital assets is a condition precedent for gaining exemption – Distribution of assets to shareholders on liquidation of company – Section 46(1) lays down that such distribution will not be regarded as transfer Shareholder not entitled to benefit under section 54E – Income-tax Act, 1961, ss. 46, 54E.
54F	MRS. MEERA JACOB v. INCOME-TAX OFFICER [2009] 313 ITR 411 (KER.) Capital gains – long-term capital gain – computation – deductions – investment in expansion of existing residential house – not entitled to deduction under section 54F – Income-tax Act, 1961, s. 54F. Held, that since the assessee had only made addition to the plinth area, which was in the form of modification of an existing house, she was not entitled to deduction claimed under section 54F of the Income-tax Act, 1961.

54F	PAWAN KUMAR GARG v. COMMISSIONER OF INCOME-TAX [2009] 311 ITR 397 (P&H) Capital gains-exemption-investment of gains in residential house-burden on assessee to prove such investment-finding that no residential house had been constructed within the stipulated time-assessee not entitled to exemption under section 54F-Income-tax Act, 1961, s. 54F.
54F	RANJIT NARANG v. COMMISSIONER OF INCOME-TAX v. [2009] 317 ITR 332 (ALL) Capital Gains – Exemption – Sale of shares and investment of capital gains in bank – Capital gains not utilized under section 54F – To be charged under section 45 as income of previous year after expiry of three years from date of sale of asset – Income tax Act, 1961, s. 147, 149(b).
55A	KRISHAN KUMAR JHAMB v. ITO [2009] 179 TAXMAN 141/ [2009] 15 CPT 359 (PUNJ. & HAR.) Where valuation report of approved valuer submitted by assessee suffered from grave infirmity inasmuch as it did not take into account a number of items used by assessee for construction of property, revenue was correct in adopting value determined by DVO based on CPWD rates.
55A, 142	B. INDIRA DEVI v. COMMISSIONER OF INCOME-TAX [2004] 270 ITR 44 (KER) Assessment – Powers of Assessing Officer – Power to make enquiry under section 142(2) – Construction of building – Assessing Officer can refer matter to valuation Officer for gathering information – report of Valuation Officer not binding on Assessing Officer – Income-tax Act, 1961, ss. 55A, 142.
56, 80P(2) (a)(i), 148, 149, 151	TOTGARS CO-OPERATIVE SALE SOCIETY LTD. v. INCOME-TAX OFFICER [2010] 322 ITR 272 (Karn) Co-operative society – Special deduction –Society engaged in marketing agricultural produce of members – Not engaged in business of banking – Interest earned on surplus funds invested in securities and deposits – Not business income but income from other sources –Not entitled to special deduction –Income-tax Act 1961, s. 56, 80P(2)(a)(i),Reassessment – Notice – Condition precedent –Sanction of additional Commissioner –Amendment with effect from June 1, 2001 restricting reopening to six years –Sanction for reopening assessment for 1991-92 obtained before this date but communicated later –Notice valid –Income-Tax Act, 1961, s. 148, 149, 151.
28, 56	EAST WEST HOTELS LTD. v. DEPUTY COMMISSIONER OF INCOME-TAX [2009] 309 ITR 149 (KARN.) Income from other sources – business income – hotel –lease of hotel under agreement –agreement of lease for 33 years with option of further renewal for 33 years – assessee having no intention to resume hotel business – amount received by assessee is income from other sources and not business income – Income-tax Act, 1961, ss. 28, 56.

56	CIT v. VENAD CONDUCTORS (P) LTD [2009]180 TAXMAN 2987[2009] 15 CPT 695 (KER.) Interest on short-term deposits cannot be treated as income from business.
56	ORIENT HOSPITAL LTD. v. DY. CIT [T.C.A. NO. 321 OF 2009 & M.P. NO. 1 OF 2009 DECIDED ON 26.6.2009]/[2009][2009] 16 CPT 570 (MAD) Where assessee-company had constructed a hospital building and it was running hospital from assessment year 1991-92 to 1997-98, as it suffered loss in running business, hospital building, along with various equipments and machineries, was leased out to 'Apollo Hospital' on a monthly lease of Rs. 3,00,000 per month, lease rental income was assessable as business income and not as income from other sources.
56	COMMISSIONER OF INCOME-TAX v. WINSOME DYEING AND PROCESSING LTD. [2008] 306 ITR 340 (HP) Income from other sources-interest-loan for construction work and installation of machinery-part of loan utilised for capital investment and balance kept in short-term deposit-interest on short-term deposit assessable as income from other sources- Income-tax Act, 1961, s. 56.
28, 56	COMMISSIONER OF INCOME-TAX v. GAMBHIR MAL PANDEY P. LTD. [2004] 266 ITR 274 (RAJ) Business – business income or income from other sources – Assessee giving mill on lease which was not its business – Income from lease – Not business income but income from other sources – Income-tax Act, 1961, ss. 28, 56.
22,28,56	COMMISSIONER OF INCOME-TAX v SURAT TEXTILE MARKET CO-OPERATIVE SHOPS AND WAREHOUSE SOCIETY LTD.. [2003] 264 ITR 289 (GUJ) Business—Property—Other sources—Business income, Income from property of income from other sources—Co-operative Society for promotion of textile Trade—Co-operative society constructing building complex with godowns and shops for its members—Godowns and shops let out to members at nominal rent—Services such as lift, Air-conditioning provided for a charge—banks, canteens and post-office in premises owned by Co-operative society—Banks, canteens and post office rendering services to members of assessee-society—Nominal rent for godowns and shops constitutes income from other sources—Income from services and rent from banks post office, canteens and auditoriums constitute business income—Income from revolving restaurant and residential hotel belonging to assessee—Assessable as income from property—Income-tax Act, 1961, ss. 22, 28, 56.
56	CIT v AUTOKAST LTD.(2001) 248 ITR 110 (SC) Assessee kept moneys borrowed from Industrial Development Bank of India for purchase of plant and machinery in short-term deposits with bank and used it in bill discounting until payment for the plant and machinery –Interest earned on the deposits, whether taxable in hands of the assessee as income from other sources -Held, Yes.

56	MALABAR INDUSTRIAL CO. LTD. VS. CIT (2000) 243 ITR 83 (SC) Receipt in modification of the terms of contract – Agreement for sale of rubber plantation – Consideration payable in instalments – Purchaser failed to adhere to time schedule – Parties agreed to extension of time for payment of instalments on condition of the purchaser paying compensation – Amount received as compensation, whether a taxable receipt under the head “income from other sources” – Held, Yes.
56	EMILL WEBBER v CIT (1993) 200 ITR 483 (SC) : (1993) 110 CTR 257(SC) : (1993) 113 TAXATION 214(SC) : (1993) 67 TAXMAN 532 (SC) Services of assessee, a foreign personnel, provided by foreign company to an Indian concern for setting up plant and machinery in India for Indian concern—Assessee not an employee of the Indian concern—Agreement between foreign company and Indian concern for payment of salary to assessee free of tax—Income-tax paid by Indian concern in pursuance of the agreement on salary income of assessee, whether income of the assessee chargeable to tax under section 56(1) of the Income-tax Act, 1961, under the head “Income from other sources” --Held, Yes.
28, 56, 57	MURLI INVESTMENT COMPANY v. COMMISSIONER OF INCOME-TAX [1987] 167 ITR 368 (RAJ) Income from business or income from other sources – Assessee after purchasing property, investing its surplus funds and earning interest there from amount withdrawn for making alterations to property and for payment to creditors – Mere investment of surplus funds, instead of keeping them idle, does not constitute money lending business – Interest earned on investment not assessable as business income – Income-tax Act, 1961, ss. 28, 56, 57.
57	CIT v. PUNJAB STATE WAREHOUSING CORPN. [2009] 177 TAXMAN 237 [2009] 14 CPT 740 [PUNJ. & HAR.] Where assessee had earned interest on loans given by it to its employees to purchase houses and motor vehicles and it accepted that such interest income was income from other sources falling u/s.56 and claimed same to be set off against interest paid by it to NABARD for taking loan from it, when it was not case of assessee that interest being paid by it to NABARD was an expenditure incurred for purpose of earning interest income, it could not be allowed to set off aforesaid interest income against interest paid to NABARD.
57(iii)	COMMISSIONER OF INCOME-TAX v. PUNJAB STATE WAREHOUSING CORPORATION [2009] 317 ITR 288 (P&H) Other sources – Scope of section 57(iii) – Interest on Loans to employees assessed as income from other sources – Interest paid by Assessee on loans not deductible from such interest – Income-tax Act, 1961, s.57(iii).
57(iii)	U. P. STATE BRASSWARE CORPN. LTD. VS. CIT (ALL.) 353 CTR : VOL. 194 : DTD. 1.4.2005 Deduction of interest in industrial activity not yet started – Interest on seed loan cannot be allowed as deduction.

57(iii)	COMMISSIONER OF INCOME TAX v. TRUSTEES OF H.E.H. THE NIZAM'S JEWELLERY FOR FAMILY TRUST [2001] 250 ITR 632 (AP) Income from other sources—Deductions—Expenditure laid out of expended wholly and exclusively for the purpose of making or earning such income—Loan taken against fixed deposits to discharge wealth-tax and income-tax liability—Income-tax and Wealth-tax are personal liability of assessee—Amount borrowed expended for discharging personal liability of Assessee—Interest paid on such borrowing not allowable as deduction from interest income or fixed deposits—Income-tax Act-1961, s.57(iii).
28, 56, 57	MURLI INVESTMENT COMPANY v. COMMISSIONER OF INCOME-TAX [1987] 167 ITR 368 (RAJ) Income from business or income from other sources – Assessee after purchasing property, investing its surplus funds and earning interest there from amount withdrawn for making alterations to property and for payment to creditors – Mere investment of surplus funds, instead of keeping them idle, does not constitute money lending business – Interest earned on investment not assessable as business income – Income-tax Act, 1961, ss. 28, 56, 57.
64(1)(vi)	OM DUTT VS. CIT [2005]144 TAXMAN 824 (P & H) In the case of indirect transfer of assets or money through cross gifts provisions of section 64(1)(vi) applies.
64(1)(iii)	COMMISSIONER OF INCOME-TAX v. S. KRISHNA IYER (DECD) [2001] 249 ITR 498(MAD) Total income – inclusions – Minor – Father having no income – Share income of minor sons admitted to benefits of partnership – Income liable for inclusion in hands of father – Income-tax Act, 1961, s. 64(1)(iii).
64(1)(iii)	COMMISSIONER OF INCOME TAX v. AR. RM. M.R. SUBRAMANIAM CHETTIAR [2001] 250 ITR 358 (MAD.) Total income—Inclusions in total income –Firm –Share income of assessee's minor married daughter—To be included in Hands of parent—Income tax Act-1961, s.64 (1)(iii)
64	SMT. RUKMANI AGRAWAL v. COMMISSIONER OF INCOME-TAX [1988] 170 ITR 133 (M.P.) Total income – Inclusions – Firm – Husband and wife partners in firm – Husband partner representing HUF – Assessment of wife in individual capacity – Husband's share includible in wife's assessment – Income-tax Act, 1961, s. 64.
64(1)(iv)	MOHINI THAPAR v CIT (1972) 83 ITR 208 (SC) Assessee making gifts of cash to his wife—Wife investing the amounts in shares of companies or making deposits for interest—Income from dividends on shares and interest on deposits whether could be included in the income of the assessee under section 16(3)(a)(iii) of the Indian Income tax Act-1922

	(corresponding to section 64(1)(iv) of the Income-tax Act,1961) Held, yes.
64(1)(iv)	SEVANTILAL MANEKLAL SHETH v CIT(1968) 68 ITR 503(SC) Transfer of assets by assessee to his wife—Sale of assets so transferred – Capital gains arising to the wife on the sale of assets transferred to her by her husband, whether liable to be included in the total income of the assessee-husband under section 16(3)(a)(iii) of the Indian Income-tax Act, 1922, corresponding to section 64 of the Income-tax Act 1961 –Held, yes.
65, 67, 68	TIRUVENGADAM INVESTMENTS P. LTD. v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 323 ITR 44(Mad) Voluntary disclosure of income scheme, 1997 –Beneficial scheme –No scope for extension of scheme beyond period mentioned under scheme –Finance Act, 1997, s. 65, 67, 68.The voluntary Disclosure of Income Scheme, 1997, being a beneficial scheme the assessee availing of the benefit under the Scheme is bound by the terms contained therein. The assessee seeking relief under the Scheme cannot seek extension beyond the period mentioned in the Scheme. HEMALATHA GARGYA v. CIT[2003] 259 ITR 1(SC) applied. The assessee filed a declaration under the Scheme disclosing the total income for the assessment year 1992-93 to 1996-97. Thereafter, is paid the tax on March 31, 1998. The commissioner rejected the declaration field by the assessee on the ground that under the Scheme the tax payable along with interest must have been paid within three months from the date of declaration. The assessee sought condonation of delay which was also rejected. On a writ petition, the single judge held that in the absence of any specific provisions under the Scheme extending the period of payment of tax along with interest, the court could not exercise such power. On appeal:Held, affirming the decision of the single judge, (i) that the contention that the delay being of one day, the order of the Commissioner would have to be set aside could not be accepted. When there is an express provision providing for a time within which the assessee concerned will have to avail of the benefit, the court cannot extend the same. Normally, in a writ of certiorari the court cannot go into the decision rendered by the competent authority but can only consider as to whether the decision-making process was proper.(ii) That a factual finding recorded by the single judge that the order had been passed by the Commissioner and the decision having been arrived at on a perusal of records, the contention that the order was one without jurisdiction also could not be accepted.
65, 67, 68	TIRUVENGADAM INVESTMENTS P. LTD. v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 323 ITR 44(Mad) Voluntary disclosure of income scheme, 1997 –Beneficial scheme –No scope for extension of scheme beyond period mentioned under scheme –Finance Act, 1997, s. 65, 67, 68.The voluntary Disclosure of Income Scheme, 1997, being a beneficial scheme the assessee availing of the benefit under the Scheme is bound by the terms contained therein. The assessee seeking relief under the Scheme cannot seek extension beyond the period mentioned in the Scheme. HEMALATHA GARGYA v. CIT[2003] 259 ITR 1(SC) applied. The assessee filed a declaration under the Scheme disclosing the total income for the assessment year 1992-93 to 1996-97. Thereafter, is paid the tax on March 31, 1998. The commissioner rejected the declaration field by the assessee on the ground that under the Scheme the tax payable along with interest must have

	<p>been paid within three months from the date of declaration. The assessee sought condonation of delay which was also rejected. On a writ petition, the single judge held that in the absence of any specific provisions under the Scheme extending the period of payment of tax along with interest, the court could not exercise such power. On appeal:Held, affirming the decision of the single judge, (i) that the contention that the delay being of one day, the order of the Commissioner would have to be set aside could not be accepted. When there is an express provision providing for a time within which the assessee concerned will have to avail of the benefit, the court cannot extend the same. Normally, in a writ of certiorari the court cannot go into the decision rendered by the competent authority but can only consider as to whether the decision-making process was proper.(ii) That a factual finding recorded by the single judge that the order had been passed by the Commissioner and the decision having been arrived at on a perusal of records, the contention that the order was one without jurisdiction also could not be accepted.</p>
67	<p>COMMISSIONER OF INCOME-TAX v (1) AJIT PRASAD (I.T.R. NO.226 of 1992) (2) ANIL PRASAD AND SONS (I.T.R. No.82 of 1997) [2006] 283 ITR 142(ALL)</p> <p>Firm—Partner—Assessment of partner—Deduction—Interest on borrowed capital—Scope of section 67(3)—Interest on debit balance in Firm—Amount borrowed used for personal expenses—Interest not deductible—Income-tax Act, 1961, s.67</p>
68	<p>SUCH CHAIN CHITS PVT. LTD. v. COMMISSIONER OF INCOME TAX [2010] 321 ITR 471(P&H)</p> <p>Unexplained income –Assessee claiming expenditure in respect of chit amount paid to directors – Assessee, a private company managed by recipient of amount –Amount available with assessee itself and payments representing expenditure never incurred –Finding that amount available with assessee as undisclosed income –Findings of fact –Income Tax Act1961, s.68</p>
65, 67, 68	<p>TIRUVENGADAM INVESTMENTS P. LTD. v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 323 ITR 44(Mad)</p> <p>Voluntary disclosure of income scheme, 1997 –Beneficial scheme –No scope for extension of scheme beyond period mentioned under scheme –Finance Act, 1997, s. 65, 67, 68.The voluntary Disclosure of Income Scheme, 1997, being a beneficial scheme the assessee availing of the benefit under the Scheme is bound by the terms contained therein. The assessee seeking relief under the Scheme cannot seek extension beyond the period mentioned in the Scheme. HEMALATHA GARGYA v. CIT[2003] 259 ITR 1(SC) applied.The assessee filed a declaration under the Scheme disclosing the total income for the assessment year 1992-93 to 1996-97. Thereafter, is paid the tax on March 31, 1998. The commissioner rejected the declaration field by the assessee on the ground that under the Scheme the tax payable along with interest must have been paid within three months from the date of declaration. The assessee sought condonation of delay which was also rejected. On a writ petition, the single judge held that in the absence of any specific provisions under the Scheme extending the period of payment of tax along with interest, the court could not exercise such power. On appeal:Held, affirming the decision of the single judge, (i) that the contention that the delay being of one day, the order of</p>

	<p>the Commissioner would have to be set aside could not be accepted. When there is an express provision providing for a time within which the assessee concerned will have to avail of the benefit, the court cannot extend the same. Normally, in a writ of certiorari the court cannot go into the decision rendered by the competent authority but can only consider as to whether the decision-making process was proper.(ii) That a factual finding recorded by the single judge that the order had been passed by the Commissioner and the decision having been arrived at on a perusal of records, the contention that the order was one without jurisdiction also could not be accepted.</p>
68	<p>MAHAVIR PRASAD v. INCOME-TAX OFFICER [2010] 327 ITR 178 (P&H)</p> <p>Cash credit –Finding that explanation regarding creditors was false –Addition of amount representing cash credits –Justified –Income-tax Act, 1961, s. 68.The assessee filed his return for the assessment year 1997-98 which was processed under section 143(1) of the Income-tax Act, 1961, and a refund was granted to him. Subsequently on the basis of the information gathered from the file of O, it was revealed that the assessee had deposited a sum of Rs. 4,00,000 by cheque. The assessee had taken a categoric stand that four credits were received by him from four different persons, namely S, P, B and S. in support thereof, he placed on record letters of confirmations, affidavits, their statements of income, etc. the Assessing Officer found that the stand taken by the assessee was wrong, as the credits did not flow from the four persons. However, it was observed that the credits in the hands of the assessee were received to the extent of Rs. 3.08 lakhs from S and D and the money was advanced by the assessee to O along with an amount of Rs. 68,000, which was deposit by the assessee in cash. Therefore, on the basis of that reasoning, the deposited by the Assessing Officer had made an addition of Rs. 68,000. On revision the Commissioner came to the conclusion that the Assessing Officer had wrongly accepted the explanation with regard to an amount of Rs. 3,08,000 and therefore, directed the Assessing Officer to make an addition of Rs. 3,08,000 being unexplained investment over and above the addition of Rs. 68,000 already made as income from undisclosed sources. This was upheld by the tribunal. On appeal to the High Court:Held, dismissing the appeal, that both the Commissioner and the tribunal had categorically found that in the facts and circumstances of the case, the Assessing Officer had wrongly accepted that the amount was received by the assessee from S and D, because the fact was totally contrary to the stand taken by the assessee and the evidence and material produced by the assessee himself. The addition was justified.</p>
68	<p>YASH PAL GOEL. v. COMMISSIONER OF INCOME-TAX [2009] 310 ITR 75 (P&H)</p> <p>Cash credits – burden of proof – gift – genuineness – donee to establish not only identity of donor but also his capacity to make a gift and actual receipt from him – financial position of donor not suggesting his capacity to make gift or assessee source from where gift made – donor never visited house of assessee – no love and affection – transaction not genuine – amount claimed as gift assessable as income of assessee – Income-tax Act, 1961, s. 68.</p>

68	LATHA S. NAIR v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 309 ITR 256 (KER.) Income from undisclosed sources – assessee claiming loss of value of goods on transfer – assessee not maintaining proper bills or vouchers – articles stated to be transferred not found on inspection and assessee's manager giving statement confirming this – assessing officer taking transfer value as unaccounted sale – loss claimed disallowed – proper – income-tax act, 1961.
68	SUBHASH CHAND VERMA v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 311 ITR 239 (P & H) Income from undisclosed sources – gift – genuineness – mere identification of donor and showing movement through banking channels – not sufficient – failure to establish financial capacity of donor – addition proper – Income-tax Act, 1961.
68	MANGILAL JAIN V. ITO [2009] 315 ITR 105 (MAD) Income from other sources-Cash credit-Assessee failed to prove the genuineness of credit-Mere proof of creditor or that transaction was given by cheques not sufficient-finding that sum was assessee's income from undisclosed sources – Addition of credit and disallowance of interest proper.
68	UPLAKSH METAL INDUSTRIES v. CIT[2009] 177 TAXMAN 298 / [2009] 14 CPT740 [PUNJ. & HAR.] Where assessee-company claimed trade credits in respect of its liability to make payment to trade creditors but their identities and genuineness of transactions had not been proved, Assessing Officer had rightly made addition to income of assessee.
68	SANIL K.M.P. v. CIT [2009] 177 TAXMAN 481/ [2009] 14 CPT 836 (KER.) Want of source of fund affects genuineness of transaction and unless source is proved, loan creditors cannot be said to have discharged duty of proving that loans shown in accounts were genuinely advanced by them to assessee.
68	KRISHAN KUMAR JHAMB v. ITO [2009] 179 TAXMAN 141/[2009] 15 CPT 359 (PUNJ. & HAR.) Where assessee had received certain money in cash as advances from six persons as a consequence of agreements for sale of shops and sale agreement was found to be incomplete and unsigned and no sale was actually affected, advance received by assessee was rightly treated as cash credit u/section 68.
68	P.P. KOYA v. DY. CIT [2008] 175 TAXMAN 4/[2009] 14 CPT 177(KER.) Where certain credit entry in assessee's bank account was claimed by assessee to represent gifts from NRIs', but he had not produced local address of any of so-called donors, addition on account of those gifts was justified.

68	<p>ASHOK MAHINDRU & SONS (HUF) v. CIT [2008] 173 TAXMAN 178 (DELHI)</p> <p>Where there was no apparent reason for assessee being showered with gifts by a person who was stated to be only a family friend and same person had showered gifts of enormous amounts on several other persons as well, there was no perversity in conclusion arrived at by authorities below in holding that gifts were not genuine.</p>
68	<p>INDUS VALLEY PROMOTERS LTD.v. CIT[ITA NO. 495 of 2003, DECIDED ON 1-4-2008] (DELHI) REPORTED IN TAXMAN CPT VOL. 13 (DEC. 1 TO 15) 2008</p> <p>Where assessee had not been able to prove creditworthiness of creditors with respect to cash credits in question and all persons involved did not respond to summons and assessee had received all payments in cash, even though most of persons had bank accounts, addition on account of those cash credits was justified.</p>
68	<p>BLOWELL AUTO (P) LTD.v. ASSTT. CIT [ITA NO. 430 OF 2007, DECIDED ON 27-3-2008] (PUNJ. & HAR.) REPORTED IN TAXMAN CPT VOL. 13 (DEC. 1 TO 15) 2008</p> <p>Where, though assessee had established identity of creditors by filling their affidavits, but in those affidavits they had not mentioned any specific source of money which was advanced by them, it was to be held that assessee had failed to prove capacity of its creditors to advance money and genuineness of transaction.</p>
68	<p>TIRATH RAM GUPTA COMMISSIONER OF INCOME-TAX [2008] 304 ITR 145 (P&H)</p> <p>Income from undisclosed sources-gift-genuineness-mere identification and showing movement through banking channels-not sufficient-failure to establish that gift was genuine-tribunal confirming additions-justified-Income-tax Act, 1961.</p>
68	<p>BANARSI PRASAD v. COMMISSIONER OF INCOME-TAX[2008] 304 ITR 239 (All)</p> <p>Cash credits-burden of proof-cash credits from assessee's wife and minor son having no source of income-assessee to establish nature and source of depositors-assessee merely explaining that he received money from wife and minor son explanation not satisfactory-Income Tax Act, 1961, s. 68 .</p>
68	<p>SOM NATH MAINI v. COMMISSIONER OF INCOME-TAX [2008] 306 ITR 414 (P&H)</p> <p>Income from undisclosed sources-burden of proof-burden of revenue to show that amount was assessable in the hands of assessee-burden on assessee to prove transaction was genuine-Income-tax Act, 1961.</p>

68	FATHUDHINGA RICE MILLS v. COMMISSIONER OF INCOME-TAX [2008] 307 ITR 343(P&H) Income from undisclosed sources-transactions not disclosed-assessment on the basis of estimate-justified-Income-tax Act, 1961.
68, 256(2)	MARU RAM MAKHAN LAL v. COMMISSIONER OF INCOME-TAX [2008] 300 ITR12 (P&H) Reference—question of law—cash credit—burden of proof—assessee to prove genuineness of credits—assessee not able to prove credits were genuine—Addition to income justified—no question of law—Income Tax Act, 1961, ss.68,256(2).
68	SHIV RICE AND GENERAL MILLS v. COMMISSIONER OF INCOME TAX , [2008]300 ITR 19(P&H) Cash Credits---Burden of Proof-- assessee to prove identity of Creditor, His Creditworthiness and Genuineness of Transaction not proved by Assessee-- Income Tax Act, 1961, s.68
68	INDUS VALLEY PROMOTERS LTD. v. COMMISSIONER OF INCOME-TAX [2008]305 ITR 202(DELHI) Cash credits---Assessee failing to prove identity or creditworthiness of creditors and source of deposits –Additions justified—Income-tax Act,1961, s.68
68, 271(1)(c)	LONDU LAL RABHUBIR PRASAD v. COMMISSIONER OF INCOME-TAX, [2008]298 ITR 37 (ALL). Penalty—Concealment of Income—Cash credit—Assessee’s explanation found false by Tribunal—Levy of Penalty valid—Income-tax Act, 1961, ss.68, 271(1)(c).
68	CHAND PRAKASH VIJ v. CIT [ITR NO. 626 OF 2008, DECIDED ON 12.12.2008]/[2009] 16 CPT 570 (PUNJ. & HAR.) Tribunal’s finding that assessee had not been able to explain source of cash deposit in bank account, is a finding of fact.
68	CIT v. P. MOHANAKALA (2007) 291 ITR 278 (SC) Cash credits; Burden of proof Unexplained cash credits – Burden of proof – concurrent findings of fact that cash credits were not genuine – If such a finding could be interfered with by the High Court – The burden was upon the assessee to prove to the satisfaction of the Assessing Officer that the cash credits were genuine – The assessee in the instant case having failed to discharge the burden the Assessing Officer rightly treated the cash credits as income of the assessee which finding of fact having been upheld by the Commissioner (Appeals) as well as the Tribunal, the High Court erred in disturbing the concurrent finding of fact of the forums below under its appellate jurisdiction when there was no question of law much less substantial question of law arising from the decision of the Tribunal.

68	COMMISSIONER OF INCOME-TAX v. VIJAY AGRICULTURAL INDUSTRIES, [2007] 294 ITR 610 (ALL) Cash credits—Income from undisclosed sources—Principle that only amount of peak credit should be added as unexplained cash credit—Not applicable where there has been no transaction of deposits and repayment between depositor and assessee —Unexplained deposits to be treated as income from undisclosed sources—Income-tax Act, 1961, s.68
68	SANDEEP KUMAR(HUF) -v- CIT 293 ITR 294 (DEL) In this case Hon'ble Delhi High Court has held that mere identification of donor and showing movement of the gift amount through banking channels is not sufficient to prove the genuineness of the gift. Since the claim of the gift is made by the assessee, the onus lies on him to establish not only the identity of the person making the gift but also his capacity to make such a gift.
68	RAM LAL AGARWAL VS. CIT (ALL) 44 CTR : VOL. 201 : DTD. 10.3.06 Cash credit – Gifts receipt – Creditworthiness of donors not proved – Addition u/s.68 justified.
68	CIT VS. N. JAYAPRAKASH, PACKAGE INDIA TIN FABRICATORS (KER.) 111 CTR : VOL. 202 : DTD. 28.04.2006 Artificial inflation of cash can be assessed as unexplained income u/s. 68.
68	BHARTESH JAIN VS. DCIT (DEL.) 483 CTR : VOL. 201 : DTD. 07.04.2006 Cash credit – Could not be satisfactorily explained by the assessee which means that onus u/s. 68 has not been discharged. Hence addition u/s. 68 is valid.
68	JAGMOHAN RAM RAM CHANDRA VS. CIT (ALL.) 153 CTR : VOL. 193 : DTD. 14.01.05 Cash credits – Unexplainable cash credits allowed by partners in the firm is to be added in the case of the firm – Not in the case of partners – No double taxation both in firm and in partners.
68	PRABHU DAYAL LALLU RAM VS. CIT (P & H) 434 CTR : VOL. 195 : DTD. 20.5.05 Findings regarding genuineness of cash credits are question of facts and hence no reference to High Court is admissible.
68	BHOLA SHANKAR COLD STORAGE PVT LTD. v. COMMISSIONER OF INCOME-TAX [2004] 270 ITR 487 (CAL) Cash credits – Share capital raised by company – Finding that so-called shareholders were poor farmers and could not produce share certificates –

	Transaction not genuine – Amount shown as share capital assessable under section 68 – Income-Tax Act, 1961, s. 68.
68	ITC CLASSIC FINANCE LTD. v. DEPUTY COMMISSIONER OF INCOME-TAX AND ANOTHER [2003] 264 ITR 154 (BOM) Income from undisclosed sources – Assessee obtaining shares at par from promoters' quota – sale of shares to broker before listing on stock exchange – Finding that transaction was not genuine – Addition to income based on market value of shares – Valid – Income-tax Act, 1961.
68	SAJAN DASS & SONS -v- CIT 264 ITR 435 (DEL). It has been held that mere identification and showing movement through banking channels is not sufficient to prove genuineness of transaction. The donor himself had contradicted the assertions of the assessee and had sent a letter to the Directorate of Enforcement wherein he denied having made any gift to any person at any point of time. Where there was failure to establish that gift was actually received, the finding that amount claimed as gift was income from disclosed sources was justified.
68	COMMISSIONER OF INCOME TAX v. LA MEDICA [2001] 250 ITR 575 (DELHI) Income from undisclosed sources—Raw material purchased by assessee—Assessing Officer finding seller non-existent and treating amount of purchase price as income from undisclosed sources—Tribunal holding that notwithstanding suspicious circumstances purchases were made and payments not to be doubted—Tribunal Acting partly on relevant and partly on irrelevant materials—No material to conclude that sum not to be treated as income from undisclosed source—Finding of Tribunal vitiated—Income-tax Act-1961.
68	SUMATI DAYAL v. CIT (1995) 214 ITR 801 (SC): (1995) 125 CTR 124 (SC): (1995) 80 TAXMAN 89 (SC): (1995) 125 TAXATION 446 (SC) Assessment of cash credits on rejection of assessee's explanation relating thereto as false. Cash credits appearing in the books of account of the assessee – Burden of proof that amounts credited in books did not constitute income, whether lies on the assessee – Held, yes – Assessee explaining amounts credited as race winnings – Rejection of explanation furnished by assessee as false after consideration of surrounding circumstance and applying the test of human probabilities – Amounts credited in the accounts, whether could be assessed under section 68 of the Income-tax Act, 1961, as income of the assessee – Held, yes.
68	CIT -v- PRECISION FINANCE PVT. LTD. 208 ITR 465 (CAL) Income from undisclosed sources - credit in the names of various persons - burden of proof - assessee must prove identity of creditors and their creditworthiness - fact that transactions were through bank not conclusive - no material to establish identity of creditors and their creditworthiness - amount assessable as income from undisclosed sources - Income Tax Act, 1961.

68	<p>CIT -v- UNITED COMMERCIAL AND INDUSTRIAL Co. (P) Ltd. 187 ITR 596 (CAL)</p> <p>The primary onus lies on the assessee to prove the nature and source of credits in its accounts. It is necessary for the assessee to prove <i>prima facie</i> the identity of his creditors, the capacity of such creditors to advance the money and lastly the genuineness of the transactions. Only when these things are proved by the assessee <i>prima facie</i> and only after the assessee has adduced evidence to establish the aforesaid facts does the onus shift on to the Department. It is not enough to establish the identity of the creditors. Mere production of the confirmation letters before the Income Tax Officer would not by itself prove that the loans have been obtained from those loan creditors or that they have creditworthiness. Held, that, in the instant case, the Tribunal misdirected itself in holding that the transactions were genuine simply because some of the transactions were made by cheques. The assessee had failed to prove the creditworthiness of the alleged lenders.</p>
68	<p>CIT -v- BIJU PATNAIK 160 ITR 674 (SC)</p> <p>It has been held that evidences to prove creditworthiness to donor/creditor is very vital and that the assessee is required to prove even the source of the source.</p>
68	<p>KALE KHAN MOHAMMAD HANIF v. CIT (1963) 50 ITR 1 (SC)</p> <p>Assessment of unexplained cash credits in the account of business assessable as income from undisclosed sources. Cash credits appearing in accounts relating to business remaining unexplained – whether can be assessed as income from another and undisclosed source – Held, yes – Burden of proof relating to cash credits.</p>
69,132(4A)	<p>COMMISSIONER OF INCOME TAX V. NARESH KUMAR AGGARWALA [2011] 331 ITR 530 (DELHI)/[2011] 198 TAXMAN 194 (DELHI)</p> <p>Section 69, read with section 132, of the Income-tax Act, 1961 – Unexplained investments – Assessment year 1992-93 During search operation conducted in assessee's case, a fax message was seized which showed that assessee had purchased a property for certain consideration – However, in books of account maintained by assessee, lesser payment was shown for purchase of said property – Assessee contended that fax had to be read with letter written by same person on next day clarifying that he had wrongly mentioned price in fax message without verifying facts – Assessing Officer, not being satisfied with assessee's explanation in that regard, made addition of amount of difference between amount shown in fax message and that shown in assessee's books of account as his undisclosed investment in property – Whether there was a presumption raised under section 132(4A) on seizure of fax message and it was upon assessee to rebut that presumption by offering a plausible explanation – Held, yes – Whether mere production of letter purported to have been written by same person who had sent fax message would be sufficient to rebut presumption – Held, no – whether since no effort seemed to have been made by assessee to rebut presumption, addition made by Assessing Officer was to be upheld – Held, yes.</p>

37, 69 , 263	<p>COMMISSIONER OF INCOME-TAX v. JAGDISH CHAND GUPTA [2010] 329 ITR 583(P & H)</p> <p>Commissioner—revision—assessing officer failing to tax cash seized and later surrendered by assessee—assessment order erroneous and prejudicial to interest of revenue —invocation of section 263 proper—Income-tax Act, 1961, s. 263.Undisclosed income—assessee surrendering amount seized—statement admitting sum paid as illegal gratification for car dealership—statement corroborated by circumstances not shown to be erroneous —retraction after four months —is an afterthought—sum represents undisclosed income of assessee—Income- Tax Act, 1961, s. 69.Business expenditure-business loss—illegal gratification for procuring car dealership not reflected in books of accounts —no business set up —loss not allowable —not permissible expenditure—Income - Tax Act, 1961, s. 37</p>
69	<p>SURINDER KUMAR v. INCOME TAX OFFICER [2010]326 ITR 21(P&H)</p> <p>Unexplained investment—Fixed deposit —explanation given by assessee not satisfactory—Finding that fixed deposit represents undisclosed income of assessee—Finding of fact —Income-Tax Act, 1961, S. 69.</p>
69 , 132 (4A), 292C	<p>SURENDRA M. KHANDHAR v. ASSISTANT COMMISSIONER OF INCOME-TAX AND OTHERS [2010] 321 ITR 254 (Bom)</p> <p>Search and seizure —Unexplained investment —Document discovered during search —presumption that contents of document are true —Document stating that amount had been advanced by assessee — Presumption of truth of document not rebutted by assessee —Amount shown in document assessable as unexplained investment —Inocme-tax Act, 1961, s. 69, 132(4A), 292C.</p>
69 , 147, 148	<p>JAGJIT PAL SINGH ANAND v. COMMISSIONER OF INCOME-TAX [2010] 320 ITR 106 (Delhi)</p> <p>Reassessment -Notice —Income escaping assessment —Information from commissioner of customs (Air Cargo) implicating assessee for fraud and holding assessee real owner of materials imported —reasons given by assessing officer his own and independent application of mind —Not influenced by, superior officer —Notice valid —Commissioner of customs' finding confirmed by CEGAT showing assessee made unexplained investment —Addition under section 69 valid —Income-tax Act, 1961, s. 69, 147, 148.</p>
69	<p>CIT v. MOTILAL KHATRI [I.T.A. NO. 58 OF 2005, DECIDED ON 23-4-2008] (RAJ.) REPORTED IN TAXMAN CPT VOL. 13 (NOV.16 TO 30) 2008</p> <p>Where investment made in purchase of 8 gold bar biscuits was not recorded in books of account, and no explanation was coming forth from assessee about the source of investment, it could very well be added under section 69, and if discretion of making addition was exercised by Assessing Officer and confirmed by Commissioner (Appeals), there was no reason to take a different view.</p>

69	R. P. VASHISHT v. DEPUTY COMMISSIONER OF INCOME-TAX [2008] 301 ITR 37 (P & H) Assessment-income tax proceedings criminal proceedings distinction order passed in assessment proceedings not binding on criminal court.Unexplained investment-search and seizure loose papers found relating to expenditure incurred by assessee for renovation of his ancestral house-addition based on loose papers coupled with entries in diary of liaison agent who was supplying goods to assessee's office-diary indicating payments of illegal gratification to assessee-expenditure recorded in loose papers corroborated by entries made in diary- tribunal holding material sufficient to fasten tax liability upon assessee-view taken possible one-contention that decision of authorities may be in conflict with decision taken in criminal case no merit.
69	ISHWAR CHAND BANSAL v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2007] 294 ITR 95 (P & H) Unexplained investment –Finding that there was no reasonable explanation regarding investment –Addition to income justified-- Income-tax Act, 1961, s.69.
69	RAMILABEN RATILAL SHAH v CIT (2006) 282 ITR 176 (GUJ) Diary found during search – Cost of acquisition mentioned in the diary more than disclosed by the assessee – AO made addition u/s 69 – Assessment was valid.
69	TECHNICAL GLASS INDUSTRIES VS. CIT [2006] 281 ITR 61 (ALL.) Unexplained investments – Burden of proof on assessee – No proper explanation by assessee – Amounts assessable u/s. 69.
69	RAMILABEN RATILAL SHAH VS. CIT (GUJ.) 340 CTR : VOL. 199 : DTD. 09.12.2005 Search & seizure – Seized documents shows additional investment in property which was undisclosed and unexplained. Section 69 applies.
69	C. K. SUDHAKARAN VS. ITO & ANR. (KER.) 677 CTR : VOL. 199 : DTD. 30.12.2005 The purchase agreement found during the course of survey showed the full amount of consideration. Though the assessee had admitted part payment made till the date of survey, the department was justified to add the whole amount as per agreement.
69	ITC CLASSIC FINANCE LTD v. DEPUTY COMMISSIONER OF INCOME TAX AND ANOTHER [2003] 264 ITR 154(BOM) Income from undisclosed sources—Assessee obtaining shares at par from promoters' quota—sale of shares to broker before listing on stock exchange— Finding that transaction was not genuine—Addition to income based on market value of shares—Valid.

69A	MAHENDRA D. JAIN v. ITO [2008] 173 TAXMAN 336 (BOM.) Where assessee, doing business of making gold ornaments, had committed infraction of law by smuggling gold into country, loss caused to him pursuant to confiscation of contraband gold could not be said to be a trading or commercial loss connected with or incidental to his business, further deemed income of assessee under section 69A in respect of confiscated gold bars could not be set off against loss to confiscation of foreign gold bars.
69A	CIT v. CHINNATHAMBAN (2007) 292 ITR 682 (SC) Burden of proof: Unexplained money – addition – search in the business premises of firm resulting in seizure of unexplained money - Firm running financing business – Person running the business himself found to have made deposits in the names of relatives – Held the onus was upon the persons in whose names the deposits were found to disclose the source of the funds and failure would result in the amount being treated as their unexplained money.
69A	SMT. DHANVIDYA A. DALAL v COMMISSIONER OF INCOME-TAX, [2007] 294 ITR 277 (BOM). Unexplained investment—Search and seizure—Explanation given by Assessee not satisfactory—Addition of amount justified—Income-tax Act, 1961, s.69A.
69A, 147(a), 148	A. PUSA LAL v. COMMISSIONER OF INCOME-TAX [1988] 169 ITR 214 (A.P.) Reassessment – Power of ITO under section 143(2) to correct assessment made under section 143(1) – Does not exclude power to reopen assessment under section 147 – Assessment for assessment year 1974-75 completed under S. 143(1) – During assessment proceeding for 1975-76, ITO finding that assessee had lent monies to a party – Loans related to assessment year 1974-75 – Assessee unable to explain nature and source of acquisition of money lent – Reassessment proceedings initiated and amount treated as income from undisclosed sources and assessed as “deemed income” under section 69A for assessment year 1974-75 – Reassessment valid – Income-tax Act, 1961, ss. 69A, 147(a), 148.
69B	SAKTHI TOURIST HOME v.CIT[2008] 175 TAXMAN 152/[2009] 14 CPT 177 (KER) Assessee's request for spreading over of unexplained investment for several years could not be allowed because sec.69B specifically states that unexplained investment should be treated as income of year in which investment is made.
69C	R.S. RAINA v. ITO [ITA NO. 1 OF 2008, DECIDED ON 3.32009]/[2009] 15CPT 695 (J&K) Where assessee had incurred large sums on construction of a house, in view of assessee's failure to support his explanation that certain payments were made for purchase of material and certain payments were repayments of loans taken, addition on account of unexplained expenditure was justified.

70	<p>SHARDABEN RASIKLAL ACHARYA v. CIT [ITR No.21 of 1997, DECIDED ON 10-3-2008] (GUJ.) REPORTED IN TAXMAN'S CPT VOL. 13 (OCT. 16 TO 31) 2008.</p> <p>Where assessee had filed return claiming loss stated to have arisen from alleged proprietary business of running of a hotel but it was found that hotel business was actually a partnership business, assessee's claim for set-off of loss could not be allowed.</p>
71	<p>COMMISSIONER OF INCOME-TAX, DEHRADUN v. FORAMER FRANCE [2009] 181 TAXMAN 262 (UTTARAKHAND)</p> <p>Section 71 of the Income-tax Act,1961- Losses – Set off of from one head against income from another –Assessment Years1996-97, 1997-98 and 1999-2000- Assessee, a non-resident company, having no permanent establishment in India, entered into contract with ONGC in connection with work of drilling operation in oil exploration-Business under said contract was to be completed by end of 1993- Thereafter, assessee made efforts for its business, but could get fresh contract only in 1999-For relevant assessment years, assessee received income on account of interest on income-tax refunds and against those receipt it claimed deduction of administrative charges, audit fee and depreciation on furniture and fixtures-Whether when assessee had neither permanent office, nor any other office in India, nor any contract was in execution during relevant period, it could not be said to be in business in India during relevant period, and therefore, expenses claimed by it could not be allowed or set off-Held, yes.</p>
72	<p>SESHASAYEE PAPER & BOARDS LTD. VS. DCIT (MADRAS) 641 CTR : VOL. 193 : DTD. 18.2.2005</p> <p>Unabsorbed depreciation will have precedence in the matter of set off over unabsorbed investment allowance.</p>
139(3),72	<p>CIT VS. HARYANA HOTELS LTD. (P & H) 449 CTR : VOL. 197 : DTD. 9.9.2005</p> <p>Carry forward and set off of loss – Filing of return and completion of assessment are must.</p>
72	<p>INDORE MALWA UNITED MILLS LTD v. CIT (1992) 45 ITR 210 (SC)</p> <p>Loss incurred in business outside India by non-resident. Assessee, a non-resident, incurring loss in respect of business outside the taxable territories – loss so incurred, whether could be carried forward and set off under section 24 of the Indian Income-tax Act, 1922 (corresponding to section 72 of the Income-tax Act, 1961) in the subsequent year when the assessee is assessed as a resident in India under the Income-tax Act, 1922 – Held, no.</p>
72A	<p>INDIAN SHAVING PRODUCTS LIMITED v. BOARD OF INDUSTRIAL AND FINANCIAL RECONS-TRUCTION (1996) 218 ITR 140 (SC): (1996) 84 TAXMAN 614 (SC): (1996) 132 CTR 53 (SC)</p> <p>Sanction for amalgamation of companies allowing for set off of carried forwarded losses and depreciation. Board for Industrial and Financial Reconstruction, whether can accord sanction to a scheme of amalgamation of a</p>

	sick industrial undertaking with any other company without declaring carry forward by amalgamated company of accumulated loss and unabsorbed depreciation of amalgamating company, as contemplated by section 72A of the Income-tax Act, 1961 – Held, no.
73,24,292BB, 143(2)	ARAVALI ENGINEERS (P.) LTD. V. COMMISSIONER OF INCOME TAX [2011] 335 ITR 508 (P &H)/[2011] 200 TAXMAN 81 (P&H) Section 73 of the Income-tax Act, 1961 – Losses – In speculation business – Assessment year 1997-98 – Whether in view of provisions of section 73, assessee could not be allowed to set off speculation loss arising from sale and purchase of shares against its income from house property – Held, yes. Section 24 of the Income tax Act 1961 – Income from house property – Deductions –Assessment year 1997-98 – Assessee claimed deduction of brokerage paid on sale and purchase of shares while computing income from house property – Whether wherever deductions out of income from income cannot be allowed Held, yes- Whether, therefore, assessee's claim for deduction was to be rejected – Held, yes. Section 292BB, read with section 143, of the Income-tax Act, 1961 – Notice, deemed to be valid in certain circumstances –Assessment year 1997-98 – In proceedings before Tribunal, assessee raised a new plea that since notice under section 143(2) was not served within stipulated time, assessment was barred by limitation Tribunal refused to entertain plea raised by assessee – Whether in view of provisions of section 292BB, question of validity of notice could not be allowed to be rased for first time in appeal – Held, yes – Whether, therefore, impugned order of Tribunal refusing to entertain assessee's plea, was to be upheld – Held, yes.
73	PRASAD AGENTS (P.) LTD. v. ITO [2009] 180 TAXMAN 178 / [2009] 15 CPT 628 (BOM.) Explanation to sec.73 covers both, shares which are stock-in-trade and shares which are traded in course of financial year for purpose of considering loss and profit for that year, purchase and sale of share in course of financial year is not essential for said purpose.
74	H. H. SIR RAMA VARMA VS. CIT 205 ITR 433 (SC) Long term Capital losses brought forward from earlier years to be first set off against the long term capital gains of the current assessment year before allowing deduction u/s 80T. [Relying on Distributors (Baroda) Pvt. Ltd Vs Union of India 155 ITR 120 (SC)]
80, 139(1)	COMMISSIONER OF INCOME-TAX v. RAJESH KUMAR, NATIONAL SPICES [2003] 259 ITR 629 (KER) Loss – Return – Carry forward of loss – Return of loss not submitted within time provided under section 139(1) or section 139(3) – Assessee not entitled to carry forward of loss – Income-tax Act, 1961, ss. 80, 139(1).
80AB, 80HHC	CIT v. HINDUJA EXPORTS (KARN) [2009] 312 ITR 61 (KARN) Export – special deduction – scope of deduction – deduction only on positive profit earned – Income-tax Act, 1961, ss. 80AB, 80HHC. Held, allowing the

	appeal, that the Tribunal was not right in holding that the negative export profits had to be ignored when aggregating the total turnover including the other exports in view of the specific definition adduced in section 80HHC read with section 80AB of the Income-tax Act, 1961, for the purpose of deduction under section 80HHC of the Act. IPCA LABORATORY LTD. v. DEPUTY CIT [2004] 266 ITR 521 (SC) and A.M. MOOSA v. CIT [2007] 294 ITR 1 (SC) followed. IPCA LABORATORY LTD. v. DEPUTY CIT [2004] 266 ITR 521 (SC) (para 3) and A.M. MOOSA v. CIT [2007] 294 ITR 1 (SC) (paras 3,4) referred to.
80AB, 80HHC	COMMISSIONER OF INCOME-TAX v. SALZER ELECTRONICS LTD. [2008] 304 ITR 118(MAD) Export-special deduction under section 80HHC-computation of profits-unabsorbed business losses of earlier years to be set off-Income-Tax Act, 1961, ss. 80AB, 80HHC.
272, 80AB, 80HHC	COMMISSIONER OF INCOME-TAX v. VISWAS FOOTWEAR COMPANY LIMITED [2008] 127 ITR 118(MAD) Export-special deduction under section 80HHC-determination of profit-unabsorbed business losses of earlier years to be set off-Income-Tax Act, 1961, ss.72, 80AB, 80HHC.
80AB, 80HHC	COMMISSIONER OF INCOME-TAX v. SHARON VANEERS P. LTD [2007]294 ITR 18 (MAD) Export—Special deduction under section 80HHC—Computation of business profits for purposes of section 80HHC—Business loss and unabsorbed depreciation to be taken into account—Income-tax Act, 1961, ss.80AB, 80HHC.
80G	VISHWA BUDHA PARISHAD v. COMMISSIONER OF INCOME-TAX [2003] 264 ITR 357 (PATNA) Donation for charitable purposes – Special deduction – writ – exemption for institution receiving donation – Refusal to renew exemption on the ground that expenses out of donation were low - refusal valid – Income-tax Act, 1961, s. 80G.
80G	MADANI MUSAFIR KHANA WELFARE SOCIETY v. COMMISSIONER OF INCOME TAX AND ANOTHER [2003] 264 ITR 481(PATNA) Special Deduction—Charitable purposes—Donations—Renewal of approval of institution under section 80G—Memorandum of assessee indicating a large number of charitable activities—Assessee not carrying out any charitable activity but using funds for construction of shopping complex —Commissioner rejecting renewal of approval—Justified— Income-tax Act, 1961,80G.

80G	MADANI MUSAFIR KHANA WELFARE SOCIETY v. COMMISSIONER OF INCOME-TAX-AND ANOTHER [2003] 264 ITR 481 (PATNA) Special deduction –Charitable purposes—Donations—Renewal of approval of institution under section 80G—Memorandum of association indicating a large number of charitable activity but using funds for construction of shopping complex commissioner rejecting renewal of approval—Justified—Income-tax Act-1961, s.80G.
80G	UPPER GANGES SUGAR MILLS LTD v CIT (1997) 227 ITR 578 (SC): (1997) 140 TAXATION 550 (SC): (1997) 93 TAXMAN 645 (SC): (1997) 141 CTR 384 (SC) Trusts of a religious nature not entitled to deduction. Donations to certain funds, charitable institutions, etc. – Donation – charitable trust – One clause of the deed permitting trustee to support prayer halls and places of worship – Trust is of a religious nature – Donation to such trust not entitled to exemption. Section 80G, Income-tax Act, 1961.
80G	SRI RAMA VERMA (H.H.) v CIT (1991) 187 ITR 308 (SC); VIJAIPAT SINGHANIA v CIT (1992) 193 ITR 274 (SC); SRIPAT SINGHANIA v CIT (1992) 193 ITR 274 (SC); AJAIPAT SINGHANIA v CIT (1992) 193 ITR 274 (SC); GOPAL KRISHNA SINGHANIA v CIT (1992) 193 ITR 274 (SC) Donations other than by payment of money. Donations to charitable institutions made other than by payment of an amount in money, whether allowable as deduction from total income under section 80G of the Income-tax Act, 1961 – Held no.
80H, 80-I, 234B, 234C	INJECTO PLAST v. UNION OF INDIA AND OTHERS [2010]323 ITR 287 (All) Recovery of tax –Kar vivad samadhan scheme –Amount paid specifically towards interest –Subsequent declaration under KVSS –Amount cannot be adjusted against tax due –Income-tax Act, 1961, s. 80H, 80-I, 234B, 234C-CBDT instruction No. 1936, dated March 31, 1996 –Finance (No. 2) Act, 1998, s. 87(c), (f), (m), 88, 90(1) –Kar vivad samadhan scheme.
80HH, 80-IB, 143(1)(a)	MARLBOROUGH POLYCHEM LTD. v. COMMISSIONER OF INCOME TAX [2010] 321 ITR 395(Raj) Assessment –Prima facie adjustments –Additions made on ground issue not debatable –Assessee contending that at time of making assessment issue was debatable –Assessee does not have right to claim that uninformed about judgment –Judgment operative from date it is pronounced –Assessing Officer entitled to make additions – Income tax Act, 1961, 80HH, 80-IB, 143(1)(a).
80HH	CIT v R. PRATAP (2009) 310 ITR 405 (SC) Conditions to be satisfied for availing the deduction. Profits and gains from new industrial undertakings in backward areas – conditions applicable for availing the deduction. As assessee did not satisfy the conditions it was not

	entitled to claim the benefit of S.80HH.
80HH	MAHAVIR SPG. MILLS LTD. v. CIT [I.T.R. NOS. 102 & 103 OF 1992, DECIDED ON 16-1-2008] (PUNJ. & HAR.) REPORTED IN TAXMAN CPT VOL. 13 (NOV.16 TO 30) 2008 Deduction under section 80HH is not allowable without deducting investment allowance.
40(b), 80HH	BOMBAY SNUFF CO. v. COMMISSIONER OF INCOME-TAX [2008]304 ITR 330(BOM) New industrial undertaking in backward area-special deduction under section 80HH-computation-firm-interest and remuneration paid to partners-to be excluded from gross total income-Income-tax Act 1961, ss. 40(b), 80 HH.
80HH	CIT v. PRATAP [C.A. NO. 2327 OF 2005, DECIDED ON 29-11-2007]/[2009] 15 CPT 492 (SC) Where assessee, a processor of cashew kernels, had outsourced its activity to sister concerns and it was not shown by assessee that sister concerns were located in backward areas, assessee was not entitled to claim deduction in respect of profits from processing of cashew.
80HH & 80-I	D. P. AGRAWAL VS. CIT (M.P.) 297 CTR : VOL. 193 : DTD. 28.01.05 Business income – Deductions u/s.80HH and 80-I – Profits on sale of raw-material not put in the process of manufacturing will not attract deductions u/s.80HH and 80-I.
80HH	CIT V. JANTA COLD STORAGE [2005] 146 TAXMAN 402 (ALL.) Deduction u/s.80HH not applicable to a cold storage for not being an industrial undertaking.
80HH, 80I and 32AB	CIT V. SHIVALIK POULTRIES [2005] 146 TAXMAN 449 (P & H) (i) Section 80HH, 80-I and 32AB – Poultry farming is not an industrial undertaking. (ii) (ii) Section 43(3) - Poultry shed is not an apparatus or tool and they are not ‘plants’ also .
80HH & 80-I	CIT VS. ALPINE SOLVEX LTD. [2005] 276 ITR 92 (M.P.) The assessee is entitled to claim deduction u/s.80HH and 80-I which derives as direct profit by sale of manufactured goods in its newly set up industrial undertaking – Any indirect or incidental profit cannot be regarded as profit earned out of the main business activity.
80HH	COMMISSIONER OF INCOME-TAX v. CHHATA SUGAR CO. LTD. [2005] 277 ITR 256 (ALL) New Industrial Undertaking—Special deduction under section 80HH—Computation of special deduction—Set off of losses to be done before

	allowing special deduction—Resultant Loss—Special deduction not allowable—Income-tax Act, 1961, s. 80HH.
80HH & 80-I	R & P EXPORTS VS. CIT (ALL.) 45 CTR : VOL. 196 : DTD. 10.06.05 If no employer – employee relationship exists between the karigars / artisans and the assessee, they cannot be counted to find the minimum stipulated number of workers for the purpose of 80HH & 80-I.
80HH, 80-I	COMMISSIONER OF INCOME-TAX v. HARSHWARDHAN CHEMICALS [2004] 270 Section: ITR 308 (RAJ) Industrial undertaking – Special deduction under sections 80HH and 80-I – Condition precedent – profits and gains from industrial activity – Subsidy claimed on bogus sales – special deduction under section 80HH and 80-I not available in respect of such subsidy – Income-tax Act, 1961, ss. 80HH, 80-I.
80HH	PANDIAN CHEMICALS LTD. v. COMMISSIONER OF INCOME-TAX [2004] 270 ITR 448 (MAD) New industrial undertaking in backward areas – Special deduction- Scrap not a necessary by-product in process of manufacture – Income from sale of scrap does not qualify for special deduction – Income-tax Act, 1961, s. 80HH. New industrial undertaking in backward areas – Special deduction- Import of goods – Loss in transit – Amount in excess of value of goods received from insurer – Not derived from industrial undertaking – Not entitled to special deduction- Income-Tax Act, 1961, s.80HH.
80HH	PANDIAN CHEMICALS LTD. VS. CIT 262 ITR 278 (SC) Interest derived by the industrial undertaking of the assessee on deposits with Tamil Nadu Electricity Board for the supply of electricity for running the industrial undertaking could not be said to flow directly from the industrial undertaking itself and was not profits or gains derived by the undertaking for the purpose of special deduction U/s. 80HH. The words “derived from” in Sec. 80HH of the I. T. Act, 1961 must be understood as something which has a direct or immediate nexus with the assessee’s industrial undertaking. CIT V Raja Bahadur Kamakhya Narayan Singh [1948] 16 ITR 325 (PC) and Mrs. Bacha F. Guzdar V CIT [1998] 233 ITR 497 (Mad.) Approved. Cambay Electric Supply Industrial Co. Ltd. V CIT [1978] 113 ITR 84 (SC) referred to. Decision of Madras High Court affirmed. Civil Appeal No. 3220 of 2000.
80HH, 80HHC	JAI BHARATH TANNERS v. COMMISSIONER OF INCOME-TAX [2003] 264 ITR 673 (MAD) Revision—Assessment—Summary assessment accepting return and claims in respect of premium on sale of import entitlements and cash compensatory support under sections 80HH and 80HHC—No enquiry regarding claims—Order erroneous and prejudicial to revenue—Revision of order—Valid—Income-tax Act-1961, ss.80HH, 80HHC, 143(1)(a), 263.

32A, 80HH	COMMISSIONER OF INCOME TAX v. GEORGE MAINO EXPORTS (P.) LTD [2001] 250 ITR 445 (MAD.) Investment Allowance—New industrial undertaking in backward areas—Special deduction—Assessee engaged in processing of shrimps for export—Processing of shrimps does not amount to manufacture—Assessee not entitled to investment allowance or deduction under section 80HH—Income-tax Act-1961, ss.32A, 80HH.
80HH	LUCKY MINMAT PVT. V CIT (2000) 245 ITR 830 (SC) Cutting and sizing of mined lime stones and marble blocks and thereafter cutting and sizing the same before being sold in the market – whether business activity of assessee is in the nature of manufacture or production and therefore entitled to special deduction under section 80HH – Held, no.
80HH	CIT V. RELISH FOODS 237 ITR 59 (SC) Living items like raw shrimps –do not change even after cutting heads/ tails, peeling, deveining, cleaning, and freezing. They do not become other distinct commodity. They are not entitled to deduction under section 80HH. [Followed /applied in – 240 ITR 445 (Ker.); 241 ITR 195 (Ker); CIT-Vs-Kala Kartoons (P) Ltd.; 252 ITR 661 (Ker); 252 ITR 658 (SC)]
80HH	CIT VS. STERLING FOODS 237 ITR 579 (SC) The assessee is engaged in the processing and export of seafoods. It earned import entitlement from Central Govt. under Export Promotion Scheme. It sold these import entitlements instead of using it for some imports. It earned income from such sale and claimed deduction under section 80HH in respect of sale proceeds of import entitlements. Hon'ble Supreme Court held that for getting relief u/s. 80HH income should be “derived from export”. The word derive is followed by word ‘from’ and it means to “get, to trace from a source, arise from, originate in”. The source of income in import entitlement and whose source is not the industrial undertaking but the Export Promotion Scheme of Central Govt. There is no direct nexus between income and Industrial Undertaking. The enquiry for finding the source should stop the moment it is found. The source of income is import entitlement and not the Industrial Undertaking. [Relied/applied in 242 ITR 204 (Cal.); 245 ITR 849 (Bom.)]
80HH	CIT v N.C. BUDHARAJA & CO (1993) 204 ITR 412 (SC): (1993) 70 TAXMAN 312 (SC): (1993) 114 CTR 420 (SC): (1993) TAXATION 267 (SC) Profits from construction of dam in backward area. Assessee firm constituted of contractors for constructing a dam in backward area, whether an industrial undertaking and entitled to a deduction under section 80 HH of the Income-tax Act, 1961, from its total profits from construction of the dam as such – Held, no
80HHA,80-I, 80JJ, 263	SIMRAN FARMS LTD. v. COMMISSIONER OF INCOME-TAX, [2008]300 ITR 270 (MP) Revision—Special deduction granted to Assessee carrying on hatchery

	business—Subsequent decision by Supreme Court that such Business were not entitled to special deduction—Order of Assessing Officer was erroneous—No appeal to commissioner (Appeals) regarding special deduction—Order of Assessing Officer did not merge with that of Commissioner (Appeals)—Order could be Revised--Income Tax Act, 1961, ss. 80HHA, 80I, 80JJ, 263.
37, 80HHA, 80-I	MENTHA AND ALLIED PRODUCTS P. LTD. v. COMMISSIONR OF INCOME-TAX, [2008]302 ITR 144 (ALL.) Business Expenditure —Liability to pay compensation—Only Against Shipping—Contingent Liability—Deduction Not Permissible —Income-tax Act, 1961, s.37. Industrial Undertaking —Special Deduction—Loss of Head Office to be adjusted against profit of branch office—Income-tax Act,1961, s.80HHA Export—Special Deduction—Computation—Cash Compensatory support and profits on sale of import entitlements—not entitled to special deduction--Income-tax Act,1961, ss.80HHA,80I. Industrial Undertaking —special deduction—profits derived from duty drawback—not includable in income from computing special deduction-- Income-tax Act,1961, ss.80HHA, 80-I.
80HHA, 80-I	COMMISSIONER OF INCOME-TAX v. SRI MEENAKSHI ASPHALTS [2004] 266 ITR 626 (MAD) New industrial undertaking— Special deduction under sections 80HHA and 80-I – Condition precedent – Manufacture of article – Heating raw bitumen to obtain solid bitumen – No addition or chemical change in article – Assessee not entitled to special deduction under sections 80HHA and 80-I – Income-tax Act, 1961, ss. 80HHA, 80-I.
80 IB, 80HHC	COMMISSIONER OF INCOME TAX V. DRESSER RAND INDIA (P.) LTD.[2011] 330 ITR 453 (BOM/[2011] 200 TAXMAN 84 (BOM) Section 80-IB of the Income Tax Act , 1961 – Deductions – Profits and gains from Industrial undertakings other than infrastructure development undertakings – Whether interest on deposits would be allowable as deduction under section 80-IB held, no. Section 80HHC of the Income-tax Act, 1961 – Deductions- Exporters – Assessment year 2003-04 Whether 90 per cent of receipts from freight and insurance, packing charges, sales tax set off and gross service income are to be excluded from profits of business in terms of Explanation (baa) to section 80HHC as there is no direct nexus between source of these receipts and export business- Held, yes.
80HHC	COMMISSIONER OF INCOME-TAX v. ASIAN STAR CO. LTD. [2010] 326 ITR 56(Bom) Export —special deduction under section 80HHC—Computation of special deduction Reduction of profits by ninety per cent, of receipts by way of interest, etc.—gross interest and not net interest on fixed deposits in banks to be taken into account-- Income-Tax Act, 1961, S. 80HHC.
80HHC	COMMISSIONER OF INCOME-TAX v. DEVRAJ NENSEE AND CO. [2010] 322 ITR 430 (Mad) Export —Special under section 80HHC —Computation of special deduction –

	Interest –Reduction of 90 per cent from interest –Gross amount of interest to be taken into account –Income-Tax Act, 1961, s. 80HHC.The Explanation to section 80HHC of the Income-tax Act, 1961, in clause (baa) defines “profits of the business” for the purpose of that section. The clause does not refer to net interest. It refers, inter alia, to the interest included in the profits and gains of the business or profession. What the provision stipulates is that “profits of the business as computed under the head “Profits and gains of business or profession”. While computing such profits under the head “Profits and gains of business or profession”, if any receipt by way of brokerage, commission, interest, rent, charges or any other receipt of a similar nature is included in such profits, it has to be reduced by 90 percent from the profits computed. The deductions to be made are from the amount of profits so computed and not from the amount computed under any other head of income of that assessee. No reference to net interest is mentioned in clause (baa). Once the receipt of the interest is known, 90 per cent of the same is to be reduced from the profits without deducting any amount.
80HHC (2)(b)(ii) 256 (2)	COMMISSIONER OF INCOME-TAX V. HARYANA MINERALS LTD. [2009] 313 ITR 318 (P&H) Reference – question of law – export business – special deduction – whether merchandise constitutes “minerals and ores” – effect of amendment of section 80HHC w.e.f. 1-4-1991 – questions already answered for earlier year in favour of department – no necessity of calling for reference – question answered in favour of department – Income-tax Act, ss. 80HHC (2)(b)(ii), 256(2)
80HHC(3)	COMMISSINOER OF INCOME-TAX v. VICTOR CYCLES P. LTD. [2009] 311 ITR 272 (P&H) Export-special deduction-incremental turnover-available only if goods exported in immediately preceding previous year-assessee merely a partner and not exporting any goods itself in previous year-not entitled to deduction in respect of incremental turnover – Income-tax Act, 1961, s. 80HHC(3).
80HHC	COMMISSIONER OF INCOME-TAX AND ANOTHER v. WELCAST STEEL LTD. [2009] 314 ITR 36 (KARN) Export – special deduction – computation – negative export profits – not to be ignored when aggregating total turnover including other export – Income-tax Act, 1961.s. 80HHC.
80AB, 80HHC	CIT v. HINDUJA EXPORTS (KARN) [2009] 312 ITR 61 (KARN) Export – special deduction – scope of deduction – deduction only on positive profit earned – Income-tax Act, 1961, ss. 80AB, 80HHC. Held, allowing the appeal, that the Tribunal was not right in holding that the negative export profits had to be ignored when aggregating the total turnover including the other exports in view of the specific definition adduced in section 80HHC read with section 80AB of the Income-tax Act, 1961, for the purpose of deduction under section 80HHC of the Act. IPCA LABORATORY LTD. v. DEPUTY CIT [2004] 266 ITR 521 (SC) and A.M. MOOSA v. CIT [2007] 294 ITR 1 (SC) followed. IPCA LABORATORY LTD. v. DEPUTY CIT [2004] 266 ITR 521 (SC) (para 3) and A.M. MOOSA v. CIT [2007] 294 ITR 1 (SC) (paras 3,4) referred to.

80HHC	COMMISSIONER OF INCOME-TAX v. DELHI BRASS AND METAL WORKS LTD. [2009] 313 ITR 352 (DELHI) Export – special deduction – interest on fixed deposits – no immediate nexus with export – to be treated as “income from other sources” – interest paid to bank on overdraft facilities – not expenditure laid out wholly and exclusively for purpose of earning interest on fixed deposits – benefit of “netting” not allowable – Income-tax Act, 1961,s. 80HHC.
80HHC	CIT v. COSMOS INTERNATIONAL [2009] 177 TAXMAN 363[2009] 14 CPT 742 [DELHI]. Interest income earned on fixed deposit is to be treated as ‘income from other sources’ and, therefore, it is not eligible for deduction u/s. 80HHC.
80HHC	CIT v. DELHI BRASS & METAL WORKS LTD. [2009] 178 TAXMAN 215 / [2009] 15 CPT 48 (DELHI) Where assessee-exporter had put surplus funds in FDs in form of fixed deposits, interest earned on those FDs was not to be treated as profit for purposes of section 80HHC.
80HHC, 143, 154	SILVER IMPEX v. ASSISTANT COMMISSIONER OF INCOME-TAX [2009] 311 ITR 244 (DELHI) Appeal-assessing officer amending computation of income-assessee not challenging this order but later filing appeal against order passed under section 154-proceedings under sections 143(3) and 154 separate and independent-appeal not maintainable-Income-tax Act, 1961, ss. 80HHC, 143, 154.
80 HHC	CIT v. MAHAVIR SPINNING MILLS LTD. [ITA NO.107 OF 2008, DECIDED ON 5-11-2008] / [2009] 14 CPT 742 [PUNJ. & HAR.] Interest received from customers on belated payment is to be reduced from ‘profits and gains of business’ clause (baa) of Explanation below sec.80HHC(4B)
80HHC	AMBATTUR CLOTHING CO. LTD v. ASSTT. CIT [TCA NO.1164 OF 2008, DECIDED ON 11.08.2008] / [2009] 14 CPT 581 (MAD) Ninety per cent of gross interest and commission received without deducting expenses incurred has to be excluded from business profits while computing deduction u/s.80HHC.
80HHC	CIT v. AHUJA RADIOS [ITA NOS. 337, 289 OF 2007 & 1054, 1127 OF 2006, DECIDED ON 20-10-2008]/ [2009]14 CPT 355(DELHI.) MODVAT credit is not to be included in total turnover.
80AB, 80HHC	COMMISSIONER OF INCOME-TAX v. SALZER ELECTRONICS LTD. [2008] 304 ITR 118(MAD) Export-special deduction under section 80HHC-computation of profits-unabsorbed business losses of earlier years to be set off-Income-Tax Act, 1961,

	ss. 80AB, 80HHC.
272, 80AB, 80HHC	COMMISSIONER OF INCOME-TAX v. VISWAS FOOTWEAR COMPANY LIMITED [2008] 127 ITR 118(MAD) Export-special deduction under section 80HHC-determination of profit-unabsorbed business losses of earlier years to be set off-Income-Tax Act, 1961, ss.72, 80AB, 80HHC.
80HHC	COMMISSIONER OF INCOME-TAX v. JINDAL FINE INDUSTRIES [2008] 307 ITR 307 (P&H) Export-special deduction under section 80HHC-computation-assessee carrying on export as well as domestic activities-clause (b) of section 80HHC(3) applicable-Income-tax Act 1961, s. 80HHC.
80HHC	COMMISSIONER OF INCOME-TAX v. MYSODET (P) LTD. [2008]305 ITR 242(KARN.) Export—Special deduction—Condition precedent for grant of deduction— Assessee should make profit out of export--Income tax Act, 1961, s. 80HHC.
80HHC	COMMISSIONER OF INCOME-TAX v. DEODHAR ELECTRO DESIGN P. LTD. [2008]300ITR 103(BOM) Export —Special Deduction under section 80HHC—Computation of Special Deduction—Development Charges and service charges not part of profits of Export Business-- Income Tax Act, 1961, s. 80HHC.
80HHC	CIT v. VICTOR CYCLES (P.)LTD[ITA NO.591 OF 1995, DECIDED ON 25-7-2007]/ [2009] 15 CPT 628 (PUNJ. & HAR.) Where it was a firm, in which assessee-company was a partner, which had made exports, assessee was not entitled to deduction u/s.80HHC(1)(b).
80HHC	PAREKH BROS. v. CIT [C.A.NO. 2774 OF 2002, DECIDED ON 12.12.2007]/[2009] 15 CPT 48 (SC) Where reserve created is of lesser amount, deduction under section 80HHC is to be allowed for lesser sum as supported by creation of reserve.
80HHC	MOOSA A.M. v CIT (2007) 294 ITR 1 (SC) Deductibility of losses. Deduction in respect of export profits – Export houses - Scope of section 80 HHC as it stood during the assessment year 1992-93 – profits from business computed under section 80HHC indicating a negative figure – claim for deduction accordingly disallowed by the Assessing Officer and confirmed by the Commissioner (Appeals), Tribunal as well as High Court - Validity – dismissing the appeal held that profit means positive profits and adjusted profit of the business means the profits as reduced by the derived from the business of export of trading goods – In arriving at the profits from export of both self manufactured goods and trading goods the profits and losses in both trades have to be taken into consideration – If only after adjustments the assessee has a positive profit it would be entitled to the deduction under section

	80HHC and not where there is no positive profits. Section 80HHC read with section 80AB, Income-tax Act, 1961.
80AB, 80HHC	COMMISSIONER OF INCOME-TAX v. SHARON VANEERS P. LTD [2007]294 ITR 18 (MAD) Export—Special deduction under section 80HHC—Computation of business profits for purposes of section 80HHC—Business loss and unabsorbed depreciation to be taken into account—Income-tax Act, 1961, ss.80AB, 80HHC.
80HHC	COMMISSIONER OF INCOME-TAX v. YAK GRANITE INDUSTRIES P. LTD. [2007]294 ITR 153 (MAD). Export —Special deduction—Law Prior to 1-4-1991—Export of granites, whether cut into blocks and polished or not —Deduction not available—Income-tax Act, 1961, s.80HHC. Export of granites, whether cut into blocks and polished or not, is not entitled to deduction under section 80HHC of the Income-tax Act, 1961, for the period prior to April 1, 1991 .
80HHC	ITO v INDUFLUX PRODUCTS P. LTD. (2006) 280 ITR 1 (SC) & CIT v B. MOHANACHADRAN NAIR (2006) 285 ITR 226 (SC) Deduction permissible only when there is positive profits. The deduction in respect of profits retained for export business under section 80HHC can be availed by an assessee only if he earns positive profits and if there is no profits from export business it is not permissible to allow the deduction under the section.
80HHC	CIT V. V. CHINNAPANDI (MADRAS) 13 CTR : VOL. 201 : DTD. 10.3.06 Deduction u/s.80HHC – Other receipts like brokerage, commission, interest, rent etc. have to be deducted from profits for the purpose of arriving at the business profits on which section 80HHC will apply.
80HHC	SANJEEV MALHOTRA VS. CIT (DEL) 21 CTR : VOL. 201 : DTD. 10.3.06 Deduction u/s. 80HHC can be allowed only when actual export is proved .
80HHC	KHAN INTERNATIONAL EXPORTS (P) LTD. VS. CIT (ALL.) 165 CTR : VOL. 201 : DTD. 17.03.2006 Deduction u/s. 80HHC – Cash assistance, duty draw back and premium entitlements are not turnovers of export. Hence, section 80HHC is not applicable against such receipts.
80HHC	CIT VS. HIMALAYA CUTLERY WORKS (ALL.) 167 CTR : VOL. 201 : DTD. 17.03.2006 Amount received as duty draw back, cash incentive and transfer of import licence do not form part of export turnover. Therefore, not entitled to relief u/s. 80HHC

80HHC	LIBERTY FOOTWEAR CO. v COMMISSIONER OF INCOME-TAX, [2006]283 ITR 398 (P & H). Export—Special deduction under section 80HHC—Computation of profits for purposes of section 80HHC—Law Applicable—Effect of insertion of explanation to section 80HHC w.e.f. 1-4-1992—90 per cent of rent and hire charges to be excluded—Income- tax Act, 1961, s.80HHC.
80HHC	COMMISSIONER OF INCOME-TAX v, HIMALAYA CUTLERY WORKS, [2006]287 ITR 505 (ALL). Export—Special deduction—Computation—Duty drawback, Cash incentive and transfer of import licence—Does not form part of export turnover—Not entitled to special deduction under section 80HHC—Income-tax Act, 1961, s. 80HHC.
80HHC	CIT VS. SUNDARAM CLAYTON LTD. [2006] 281 ITR 425 (MAD.) Special deduction u/s.80HHC – Sales tax, Excise duty, Commission and miscellaneous income not part of turnover.
80HHC	G.T.N. TEXTILES LTD. v. DEPUTY COMMISSIONER OF INCOME-TAX (ASSESSMENT) AND ANOTHER [2005] 279 ITR 72 (KER.) Export – special deduction under section 80HHC – computation of special deduction – Bank interest, interest on Income-Tax refund and commission received on sale of machinery and canvassing – not profits derived from export – Not entitled to special deduction – Income-tax Act, 1961, s. 80HHC.
80HHC	CIT VS. JANATHA CASHEW EXPORTING CO. (KER.) 117 CTR : VOL. 197 : DTD. 19.08.2005 Deduction not available against profit on sales to export house – Deduction available against direct export only.
80HHC	G. T. N. TEXTILES LTD. VS. DCIT & ANR. (KER.) 506 CTR : VOL. 195 : DTD. 27.5.05 Deduction u/s.80HHC – Applicable strictly only on export profits and not on receipts of interest or any other type of income.
80HHC	CIT VS. JYOTI OVERSEAS LTD. (M.P.) 406 CTR : VOL. 194 : DTD. 8.4.2005 Deduction u/s.80HHC – High Court cannot examine issues of facts for the first time – Matter relates to allowability of direct cost of export packing credit, interest on term loan and depreciation – Case remanded to Tribunal.
80HHC	AMEENA ENTERPRISES VS. CIT [2005] 275 ITR 8 (KER.) A supporting manufacturer is not entitled to claim exemption without production of a valid disclaimer certificate in time issued by the export house in Form No.10CCAB.

80HHC	IPCA LABORATORY v DEPUTY COMMISSIONER OF INCOME-TAX (2004) 266 ITR 521 Entitlement to deduction when assessee exporting self-manufactured goods as also goods of supporting manufacturers. Assessee Export House, exporting self-manufactured goods as also goods of supporting manufacturers, i.e. trading goods – profit of Rs. 3.78 crores in export of self-manufactured goods – loss of Rs. 6.86 crores in export of trading goods – Deduction claimed under section 80HHC in respect of sum of Rs. 3.78 crores by ignoring loss of Rs. 6.86 crores? – Held, no – In arriving at profits earned from export of both self-manufactured goods and trading goods, profits and losses in both trades have to be taken into consideration-There being a net loss from export of goods, assessee not entitled to any deduction.
80HHC	GEM GRANITES v CIT (2004) 271 ITR 322: (2004) 192 CTR 481 (SC) Granite exports: Whether entitled to the deduction. Assessee engaged in exporting granite after cutting and polishing the same – Assessee claiming deduction under section 80HHC for the assessment year 1987-88 department rejecting the claim holding that since the assessee was exporting mineral it was not eligible for the deduction rejecting the contention of the assessee that when the granite is cut and polished it ceases to be a mineral – High Court also holding against the assessee in view of the contention made by the counsel of the assessee was the question was concluded against the assessee by the decision of the Supreme Court in Stone Craft Enterprises v CIT (1993) 3 SCC 343 as also the decision of the Madras High Court in CIT v Pooshy Exports pvt. Ltd. (223) 262 ITR 417 – Dismissing the appeals held that the benefit of the deduction under section 80HHC having been made available to cut and polished granites only with effect from 1.4.1991 by virtue of insertion of item (x) in the Twelfth Schedule to the Act, the assessee was not entitled to the deduction for the assessment year 1987-88.
80HHC	MITHY GRANITE (P.) LTD. v. INCOME-TAX OFFICER (I.T.A. No. 31 of 2001) ORIENTAL SELECT GRANITES PVT. LTD. v. COMMISSIONER OF INCOME-TAX v. [2004] 266 ITR 151 (KARN)[F.B.] Export – Special deduction – Cut and polished granite – Law applicable – Effect of amendment to section 80HHC(2)(b) w.e.f. 1.4.1991 – Amendment not retrospective – Cut and polished granite not entitled to special deduction prior to amendment – Income-tax Act, 1961, s. 80HHC. Income-tax – General principles – Law in force in assessment year applicable. Interpretation of taxing statutes - No ambiguity in provision – Subsequent amendment not relevant.
80HH, 80HHC	JAI BHARATH TANNERS v. COMMISSIONER OF INCOME-TAX [2003] 264 ITR 673 (MAD) Revision—Assessment—Summary assessment accepting return and claims in respect of premium on sale of import entitlements and cash compensatory support under sections 80HH and 80HHC—No enquiry regarding claims—Order erroneous and prejudicial to revenue—Revision of order—Valid—Income-tax Act-1961, ss.80HH, 80HHC, 143(1)(a), 263.

80HHC	JEYAR CONSULTANT AND INVESTMENT PVT. LTD. v. COMMISSIONER OF INCOME-TAX [2003] 259 ITR 250 (MAD) Export – Special deduction – Condition precedent – Profits should be derived from export business – loss sustained – Assessee not entitled to special deduction under section 80HHC – Income-tax Act, 1961, s. 80HHC.
80HH, 80HHC, 143(1)(a), 263	JAI BHARATH TANNERS v. COMMISSIONER OF INCOME TAX [2003] 264 ITR 673(MAD) Revision—Assessment –Summary assessment accepting return and claims in respect of premium on sale of import entitlements and cash compensatory support under section 80HH and 80HHC—No enquiry regarding claims—Order erroneous and prejudicial to revenue—Revision of order –Valid—Income-tax Act, 1961, ss.80HH, 80HHC, 143(1)(a), 263.
80HHC	SEA PEARL INDUSTRIES VS. CIT (2001) 247 ITR 578 (SC) Deduction in respect of exports not done directly by the assessee but through export house. Not entitled to deduction u/s 80HHC.
80HHD	HOTEL AND ALLIED TRADES P. LTD v. DEPUTY COMMISSIONER OF INCOME-TAX (ASSESSMENT) [2007]294 ITR 67 (KER) Hotel—Special deduction—Earnings in convertible foreign exchange—Assessee having two hotels treating both hotels as separate units and claiming special deduction—Computation of benefits cannot be given separately to each hotel—Profits of entire business of assessee to be reckoned as a whole – Income tax Act, 1961, s. 80HHD.
80-I(6)	DAYA ENGINEERING WORKS LTD. v. COMMISSIONER OF INCOME TAX AND ANOTHER [2010] 322 ITR 55 (Patna) Industrial undertaking –Special deduction –Assessee setting off loss from new unit against profit from another unit in assessment year 1992-93 –New unit making profit in assessment year 1993-94 –Loss of earlier assessment year to be set off against profit of assessment year 1993-94 to determine claim of deduction under section 80-I-Income tax Act 1961, s. 80-I(6)
80H, 80-I, 234B, 234C	PLAST v. UNION OF INDIA AND OTHERS [2010]323 ITR 287(AII) Recovery of tax –Kar vivad samadhan scheme –Amount paid specifically towards interest –Subsequent declaration under KVSS –Amount cannot be adjusted against tax due –Income-tax Act, 1961, s. 80H, 80-I, 234B, 234C-CBDT instruction No. 1936, dated March 31, 1996 –Finance (No. 2) Act, 1998, s. 87(c), (f), (m), 88, 90(1) –Kar vivad samadhan scheme.
80-I, 147, 148	ROPAR DISTRICT CO-OPERATIVE MILK PRODUCERS UNION LTD. v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 311 ITR 42 (P&H) Reassessment – discovery of new and important facts not present at time of original assessment constitute “reason to believe that any income chargeable to tax has escaped assessment” – industrial undertaking – special deduction under

	section 80-I – deduction claimed under section 80-I as if milk plant constructed by assessee and deduction allowed – on investigation milk plant found to be constructed by Punjab dairy development corporation – <i>prima facie</i> belief of assessing officer that income escaped assessment justified – initiation of reassessment proceeding based on basis of facts collected after investigation and not a mere change of opinion – Income-tax Act, 1961, ss. 80-I,147,148.
80-I	COMMISSIONER OF INCOME-TAX-I, LUDHIANA, v. KANIN (INDIA) BEHIND AARTI STEELS LTD. [2009] 176 TAXMAN 162 (PUN. & HAR.) Section-80-I of the Income-tax Act-1961-Deductions-Profits and gains from industrial undertakings, etc, after certain dates- Assessment year 2000-01- Whether in view of decisions in CIT v. Sterling Foods[1999] 237 ITR 579/104 Taxman 204 and Liberty India v. CIT [2007]293 ITR 520/158 Taxman 462, assessee was not entitled to deduction under section 80-I on export incentives /DEPB entitlements when same were not profits derived from an industrial undertaking- Held, yes.
37, 80HHA, 80-I	MENTHA AND ALLIED PRODUCTS P. LTD. v. COMMISSIONR OF INCOME-TAX, [2008]302 ITR 144 (ALL.) Business Expenditure –Liability to pay compensation—Only Against Shipping—Contingent Liability—Deduction Not Permissible –Income-tax Act, 1961, s.37. Industrial Undertaking –Special Deduction—Loss of Head Office to be adjusted against profit of branch office—Income-tax Act,1961, s.80HHA Export—Special Deduction—Computation—Cash Compensatory support and profits on sale of import entitlements—not entitled to special deduction-- Income-tax Act,1961, ss.80HHA,80I. Industrial Undertaking –special deduction—profits derived from duty drawback—not includable in income from computing special deduction-- Income-tax Act,1961, ss.80HHA, 80-I.
80-I	VINYL CHEMICALS (INDIA) LTD. V.DY. CIT[IT APPEAL NOS. 4093 TO 4095 OF 2003, DECIDED ON 12-8 2008] (MUM.) REPORTED IN TAXMAN'S CPT, VOL -13 (OCT. 1 TO 15) 2008 Interest received from the debtors in connection with the late payment of the sales debt is incidental to such late payment which bears the same character as the sale amount itself, it has direct nexus with the industrial undertaking and its business, and, hence, the assessee will be entitled to deduction u/s.80-I in respect of the interest so received. Interest earned in connection with the income-tax refunds is to be charged under the head ‘Income from other sources’ and an assessee will not be entitled to deduction u/s.80-I on such interest receipts. Interest derived from the security deposit with the MSEB(state electricity board) should also be charged to tax under the head ‘Income from other sources’ and, hence, an assessee would not be entitled to deduction u/s.80-I on such interest receipts. Where inter-corporate-deposits (ICDs) were given by the assessee out of its surplus funds with the intention to earn interest income, interest on such ICDs was not business receipts, and, hence, deduction u/s.80-I was not allowable on such interest receipts. Interest earned by the assessee in connection with the late payment of allotment money in respect of the right-shares floated by it is certainly not derived from the business, as its immediate source is the application money for issue of right – shares. Hence, the assessee is not entitled to deduction u/s.80-I on such interest

	receipts.
80HHA,80-I, 80JJ, 263	SIMRAN FARMS LTD. v. COMMISSIONER OF INCOME-TAX, [2008]300 ITR 270 (MP) Revision—Special deduction granted to Assessee carrying on hatchery business—Subsequent decision by Supreme Court that such Business were not entitled to special deduction—Order of Assessing Officer was erroneous—No appeal to commissioner (Appeals) regarding special deduction—Order of Assessing Officer did not merge with that of Commissioner (Appeals)—Order could be Revised--Income Tax Act, 1961, ss. 80HHA, 80-I, 80JJ, 263.
80-I	CIT VS. J. B. EXPORTS LTD. (DEL) 30 CTR : VOL. 201 : DTD. 10.3.06 Deduction u/s. 80-I – Deduction not applicable on duty drawback.
80-I	AMEENA ENTERPRISES v. COMMISSIONER OF INCOME-TAX [2005] 275 ITR 8 [KER] Export – special deduction – export through export house – condition precedent for claiming special deduction – disclaimer certificate to be produced – disclaimer certificate must be filed in time – Income-tax Act, 1961, s. 80 HHC. Industrial undertaking – special deduction under section 80-I – assessee engaged in fish processing and packing – not entitled to special deduction under section 80-I – Income-tax Act, 1961, s. 80-I.
80-I	CIT VS. KHEMKA CONTAINER (P) LTD. (P & H) 427 CTR : VOL. 193 : DTD. 4.2.2005 Deduction u/s.80-I – Insurance claim receipt is not income from industrial undertaking – Hence no deduction u/s.80-I is admissible but the insurance claim received in excess of materials destroyed only is to be taxed.
80HH & 80-I	D. P. AGRAWAL VS. CIT (M.P.) 297 CTR : VOL. 193 : DTD. 28.01.05 Business income – Deductions u/s.80HH and 80-I – Profits on sale of raw-material not put in the process of manufacturing will not attract deductions u/s.80HH and 80-I.
80HH, 80-I and 32AB	CIT V. SHIVALIK POULTRIES [2005] 146 TAXMAN 449 (P & H) (i) Section 80HH, 80-I and 32AB – Poultry farming is not an industrial undertaking. (ii) Section 43(3) - Poultry shed is not an apparatus or tool and they are not ‘plants’ also.
80HH & 80-I	CIT VS. ALPINE SOLVEX LTD. [2005] 276 ITR 92 (M.P.) The assessee is entitled to claim deduction u/s.80HH and 80-I which derives as direct profit by sale of manufactured goods in its newly set up industrial undertaking – Any indirect or incidental profit cannot be regarded as profit earned out of the main business activity.

80-I	MAHENDER KUMAR AGARWAL v. COMMISSIONER INCOME-TAX [2005]277 ITR 71 (ALL) Industrial undertaking—Special deduction under section 80-I—Conditions precedent—Ownership of plant and machinery and employment in manufacturing process of ten or more persons assessee purchasing yarn and getting it woven and dyed—work done on job basis by others—No machinery owned by assessee—Assessee not entitled to special deductions under section 80I—Income-tax Act, 1961, s. 80I
80HH & 80-I	R & P EXPORTS VS. CIT (ALL.) 45 CTR : VOL. 196 : DTD. 10.06.05 If no employer – employee relationship exists between the karigars / artisans and the assessee, they cannot be counted to find the minimum stipulated number of workers for the purpose of 80HH & 80-I.
80-I	COMMISSIONER OF INCOME-TAX v. MUNAK ENGINEERS (P) LTD. [2004] 271 ITR 361 (P & H) Reference—Application for directing reference—Powers of High Court—No dispute regarding facts—High Court has power to answer question straightforwardly—Income-tax Act, 1961, s. 256(2). Industrial undertaking—Special deduction under section 80I—Condition precedent—Manufacture or production of article—Construction Activity—No manufacture or production of article—Assessee not entitled to special deduction under section 80-I—Income-tax Act, 1961, s. 80-I.
80HHA, 80-I	COMMISSIONER OF INCOME-TAX v. SRI MEENAKSHI ASPHALTS [2004] 266 ITR 626 (MAD) New industrial undertaking— Special deduction under sections 80HHA and 80-I – Condition precedent – Manufacture of article – Heating raw bitumen to obtain solid bitumen – No addition or chemical change in article – Assessee not entitled to special deduction under sections 80HHA and 80-I – Income-tax Act, 1961, ss. 80HHA, 80-I.
80HH, 80-I	COMMISSIONER OF INCOME-TAX v. HARSHWARDHAN CHEMICALS [2004] 270 Section: ITR 308 (RAJ) Industrial undertaking – Special deduction under sections 80HH and 80-I – Condition precedent – profits and gains from industrial activity – Subsidy claimed on bogus sales – special deduction under section 80HH and 80-I not available in respect of such subsidy – Income-tax Act, 1961, ss. 80HH, 80-I.
256(2), 80-I	COMMISSIONER OF INCOME TAX v. MUNAK ENGINEERS (P.) LTD [2004] 271 ITR 361(P & H) Reference –Application for directing reference—Powers of High Court—No dispute regarding facts—High Court has power to answer question straightforwardly—Income-tax Act-1961, s.256(2). Industrial undertaking—Special deduction under section 80-1—Condition Precedent –Manufacture or production of article—Construction Activity—No manufacture or production of article. –Assessee not entitled to special deduction under section 80-1—Income-tax Act-1961, S. 80-1.

80-I	CIT v GEM INDIA MANUFACTURING CO. (2001) 249 ITR 307 (SC) Cutting and polishing of uncut raw diamonds not entitled to deduction under section 80-I. Cutting and polishing of uncut raw diamonds, whether amounts to manufacture or production of any article or thing, and is hence entitled to deduction under section 80-I – Held, No.
80-I	COMMISSIONER OF INCOME-TAX v. RAMBAL (P.) LIMITED [1988] 169 ITR 50 (MAD) Development rebate – Machinery installed for manufacture of items listed in Schedule V-Need not be exclusively used for manufacture of such items – Use for manufacture of other items irrelevant for grant of development rebate – Income-tax Act, 1961, s. 33(1)(b)(B)(i)(a). Special deduction – Relief under section 80-I –Available only after computation of “gross total income” as per provisions of the Act – after setting off carried forward loss and unabsorbed depreciation of earlier years – Net taxable income determined at nil – Assessee not entitled to relief under s. 80-I – Income-tax Act, 1961, 80-I.
80-IB	COMMISSIONER OF INCOME TAX, NEW DELHI-IV V.GITWAKO FARMA (I.)(P.) LTD. [2011] 332 ITR 471 (DELHI)/[2011]241 CTR 449 (DELHI) Section 80-IB of the Income tax Act, 1961 – Deductions – Whether activity of conversion of raw fish into tinned fish for consumption would amount to ‘manufacture’ under section 80IB – Held, no.
80-IB, 80HHC	COMMISSIONER OF INCOME TAX V. DRESSER RAND INDIA (P.) LTD.[2011] 330 ITR 453 (BOM/[2011] 200 TAXMAN 84 (BOM) Section 80-IB of the Income Tax Act , 1961 – Deductions – Profits and gains from Industrial undertakings other than infrastructure development undertakings – Whether interest on deposits would be allowable as deduction under section 80-IB held, no. Section 80HHC of the Income-tax Act, 1961 – Deductions- Exporters – Assessment year 2003-04 Whether 90 per cent of receipts from freight and insurance, packing charges, sales tax set off and gross service income are to be excluded from profits of business in terms of Explanation (baa) to section 80HHC as there is no direct nexus between source of these receipts and export business- Held, yes.
80HH, 80-IB, 143(1)(a)	MARLBOROUGH POLYCHEM LTD. v. COMMISSIONER OF INCOME TAX [2010] 321 ITR 395(Raj) Assessment –Prima facie adjustments –Additions made on ground issue not debatable –Assessee contending that at time of making assessment issue was debatable –Assessee does not have right to claim that uninformed about judgment –Judgment operative from date it is pronounced –Assessing Officer entitled to make additions – Income tax Act, 1961, 80HH, 80-IB, 143(1)(a).
80-IB	COMMISSIONER OF INCOME-TAX v. 1. LAKHWINDER SINGH, 2.G.S. EXPORTS [2009] 317 ITR 209 (P&H) Industrial undertaking-Special deduction-Computation of profits –Duty

	Drawback Received by Assessee-Not Income “Derived From” Industrial undertaking – Not entitled to deduction – Income-tax Act, 1961, s.80IB
80 -IB	COMPUTER GRAPHICS v. ACIT T.C.A. NO. 1160 TO 1162 OF 2008 M.P. NO. I. OF 2008 DECIDED ON 6.8.2008][2009] 14 CPT 581 (MAD) Conversion of jumbo rolls into saleable packets/rolls of standard size does not amount to manufacture or production of article or thing.
80-IB	SAKTHI FOOTWEAR v. ASSTT. CIT[T. C.(A) Nos. 1066 & 1067& 1067 OF 2008, DECIDED ON 6-8-2008]/[2009] 14 CPT 46(MAD.) Assessee is not entitled to deduction u/s.80-IB in respect of duty drawback.
80-IB	D.D. SHAH & BROTHERS VS. UNION OF INDIA & ANR. (RAJ.) 1 CTR : VOL. 197 : DTD. 12.08.2005 Deduction u/s.80-IB – Blending of tea does not amount to production of a new commodity.
80J	COMMISSIONER OF INCOME-TAX v. TITANIUM EQUIPMENT AND ANODE MANUFACTURING CO. LTD. [2003] 259 ITR 487 (MAD) New industrial undertaking – Special deduction – Condition precedent – Profits should be derived from new industrial undertaking – Lease of machinery belonging to new undertaking – Income from lease – Not entitled to special deduction under section 80J – Income-tax Act, 1961, s. 80J.
80J	INDIAN HOTELS CO. LTD. VS. ITO (2000) 245 ITR 538 (SC) Difference between industrial undertaking and trading activity of business of a hotel. Requirement for deduction under section 80J – Production of a new article or bringing into existence some new commodity by an industrial undertaking – Inapplicability in cases where only processing activity is carried out – Further such production activity must be by an industrial undertaking and not by an assessee having mainly trading activity – Assessee carrying on trading activity of business of a hotel, whether can claim benefit granted to an industrial undertaking by contending that it also produces foodstuff or food packets – Held, No .
80J	COMMISSIONER OF INCOME-TAX v. LODHA ENTERPRISES [1988] 170 ITR 107 (RAJ) Newly established industrial undertaking – Special deduction – Special deduction not allowable in respect of borrowed capital – Income-tax Act, 1961, s. 80J.
80J	COMMISSIONER OF INCOME-TAX V. KERALA BALERS LIMITED [1988] 169 ITR 364 (KER) New industrial undertaking – Deduction – Profits derived from new industrial undertaking in current year – Unabsorbed development rebate of rebate of earlier years adjusted first against income of new industrial undertaking and

	balance against income of other businesses – Assessee not entitled to set off deficiency carried forward under section 80J (3) of earlier assessment years in current year – Income-tax Act, 1961, s. 80J(3)
80HHA,80-I, 80JJ, 263	SIMRAN FARMS LTD. v. COMMISSIONER OF INCOME-TAX, [2008]300 ITR 270 (MP) Revision—Special deduction granted to Assessee carrying on hatchery business—Subsequent decision by Supreme Court that such Business were not entitled to special deduction—Order of Assessing Officer was erroneous—No appeal to commissioner (Appeals) regarding special deduction—Order of Assessing Officer did not merge with that of Commissioner (Appeals)—Order could be Revised--Income Tax Act, 1961, ss. 80HHA, 80I, 80JJ, 263.
80M	COMMISSIONER OF INCOME-TAX v. CENTRAL BANK OF INDIA [2003] 264 ITR 522 (BOM) Intercorporate dividends—Special deduction—Computation of dividends for purposes of section 80M—Actual expenditure deductible —Estimated proportionate expenses under section 20 not deductible—Income-tax Act-1961, ss. 20, 80M
80-O 271(1)(c)	COMMISSIONER OF INCOME TAX, ECS LTD. [2011] 336 ITR 162 (DELHI)/[2010]194 TAXMAN 311 (DELHI) Section 271(1)(c) of the Income Tax Act, 1961 – Penalty – for concealment of income –Assessment years 1994-95 to 1996-97 – Assessee was engaged in business of providing consultancy services to foreign clients from whom it earned foreign exchange – While claiming deduction under section 80-O, it reduced expenses incurred in foreign currency from foreign consultancy income but no expenses incurred in India were allocated/apportioned to earning of foreign consultancy income – Assessing Officer, being of view that deduction under section 80-O is restricted to net income and therefore, expenditure incurred in India for earning foreign exchange also had to be deducted from foreign exchange income, asked assessee to furnish details of expenses – As assessee did not furnish any details, Assessing Officer estimated such expenditure in ratio of proportion of foreign income to total income and computed deduction under section 80-O – In view of short allowance of deduction, Assessing also levied penalty under section 271 (1)(c) for all assessment years – Whether, on facts, prima facie satisfaction of Assessing Officer about non-furnishing of particulars/inaccurate particulars was clearly discernible from assessment order and, therefore, he was justified in levying penalty – Held, yes.
80-O 143(1)(a)	KVAVERNER JOHN BROWN ENGINEERING (INDIA) P. LTD V. ASSISTANT COMMISSIONER OF INCOME-TAX [2008]305 ITR 99(KARN) Assessment –intimation on basis of return--Whether Deduction under section 80-O is on net income or on gross income—Issue not debatable —Claim disallowed while issuing intimation under section 143(1)(a)—Justified -- Income Tax Act, 1961, ss. 80-O, 143(1)(a).

32,80VV, 37, 80-O , 35 B	<p>ATLAS CYCLE INDUSTRIES LTD. v. COMMISSIONER OF INCOME-TAX [2004] 270 ITR 108 (P & H)</p> <p>Depreciation – Owner – Houses acquired under hire purchase agreement – Agreement clearly stating that property would be held as tenant during hire purchase period. Assessee not owner of houses – Not entitled to depreciation – Income-tax Act, 1961, s. 32. Special deduction – Litigation expenditure – Expenditure allowable up to rupees five thousand in aggregate – Income-tax Act, 1961, s. 80VV. Business expenditure – Capital or revenue expenditure – Foreign exchange – Fluctuations in rate of exchange – Loss due to fluctuation on repayment of loan – Capital expenditure – Income-tax Act, 1961, s. 37. Business expenditure – Surtax not deductible – Income-tax Act, 1961, s. 37. Business expenditure – Disallowance – Company – Director – perquisites – Free use of car by director – Actual expenditure to be taken into Account – Income-tax Act, 1961, s. 40(c)(i). Royalty – Special deduction – Special deduction only in respect of amount actually received in convertible exchange in India – Income-tax Act, 1961, s. 80-O. Export market development allowance – weighted deduction – Freight and transportation expenses – Not entitled to weighted deduction – Weighted deduction in respect of salaries – Restricted to those of persons employed in export and design departments – Income-tax Act, 1961, s. 35B.</p>
80-O	<p>CBDT VS. OBEROI HOTELS (INDIA) PVT.LTD. 231 ITR 148 (SC)</p> <p>For the purposes of claiming deduction under 80-O, ‘technical services’ would also include ‘professional services’ so that such services provided to running hotel business abroad would be entitled for approval. [APPLIED IN 256 ITR 761 (Del)]</p>
80P(2) (a)(i)	<p>COMMISSIONER OF INCOME TAX v. SIROHI S. B. V. BANK LTD. [2010] 321 ITR 533 (Raj)</p> <p>Co-operative society –Special deduction –Interest –Co-operative Bank – Scheme by bank to advance loans to employees –Such loans not part of normal banking activities –Interest on such loans not entitled to special deduction under section 80P –Income tax Act, 1961, s. 80P(2)(a)(i) – Banking Regulation Act, 1949, s. 5(b), 6(a), (j).</p>
56, 80P(2) (a)(i), 148, 149, 151	<p>TOTGARS CO-OPERATIVE SALE SOCIETY LTD. v. INCOME-TAX OFFICER [2010] 322 ITR 272 (Karn)</p> <p>Co-operative society – Special deduction –Society engaged in marketing agricultural produce of members – Not engaged in business of banking – Interest earned on surplus funds invested in securities and deposits – Not business income but income from other sources –Not entitled to special deduction –Income-tax Act 1961, s. 56, 80P(2)(a)(i),Reassessment – Notice – Condition precedent –Sanction of additional Commissioner –Amendment with effect from June 1, 2001 restricting reopening to six years –Sanction for reopening assessment for 1991-92 obtained before this date but communicated later –Notice valid –Income-Tax Act, 1961, s. 148, 149, 151.</p>

80P(2)(e)	UDAIPUR SAHKARI UPBHOKTA THOK BHANDAR LTD. v. CIT [2009] 315 ITR 21 (SC) Co-operative society-special deduction-Income from letting of godowns of warehouses for storage, processing or facilitating the marketing of commodities-Exemption does not extend to any other activity-Assessee keeping controlled commodities in its godown and delivering to retailer shops – Commission received from State Government –Not entitled to exemption.
80P	CIT v. SIROHI S.B.V. BANK Ltd.[2009] 176 TAXMAN [2009] 14 CPT 582 (Raj.) Interest received by assessee co-operative societies engaged in banking, on loans given to their employees against PF deposits or for house building would not be exempt u/s.80P(2)(a)(i)
80P	COMMISSIONER OF INCOME TAX v. SIROHI S.B. V. BANK LTD. [2009] 176 TAXMAN 404 (Raj) Section 80P of the Income-tax Act-1961- Deduction –income of co-operative societies-Assessment years 1998-99, 2000-01 and 2003-04-Assessee was a co-operative society carrying on banking activities-During relevant assessment years, it received interest on loans given to its staff / employees against PF deposits or for house building and claimed same to be exempted under section 80P(2)(a)(i)- Whether when advancement of loan by assessee to its employees was not in capacity of banker but was in capacity of it being an employer to its employees, interest earned by assessee on loans in question could be said to be amount of profits and gains of business attributable to carrying on business of banking by assessee and it would be exempt under section 80P(2)(a)(i)- Held, no.
80P(2) (a)(iii), 143 (1)(a)	PUNJAB STATE CO-OPERATIVE SUPPLY AND MARKETING FEDERATION LTD. v. JOINT COMMISSIONER OF INCOME-TAX [2008] 304 ITR 70 (P&H) Co-operative society-special deduction-amendment of section 80P(2)(a) with retrospective effect-law as amended applicable-Income-tax Act, 1961, ss80P(2)(a)(iii),143(1)(a)
80P (2)(a)(i)	MADRAS AUTO RICKSHAW DRIVERS' CO-OPERATIVE SOCIETY v. COMMISSIONER OF INCOME-TAX [2001] 249 ITR 330 (SC) Co-operative society – Exemption – Providing credit facilities to members – Society purchasing auto-rickshaws and selling them to members under hire purchase agreement – Cannot be treated as proving credit facilities – Not entitled to exemption – Income-tax Act, 1961, s. 80P(2)(a)(i).
80RRA	K. R. PRADEEP VS. CENTRAL BOARD OF DIRECT TAXES [2006] 282 ITR 526 (DELHI) Deduction u/s.80RRA – For getting deduction services should be rendered outside India and recipient of services should be present outside India and remuneration should be received in foreign currency.

32,80VV, 37, 80-O, 35 B	<p>ATLAS CYCLE INDUSTRIES LTD. v. COMMISSIONER OF INCOME-TAX [2004] 270 ITR 108 (P & H)</p> <p>Depreciation – Owner – Houses acquired under hire purchase agreement – Agreement clearly stating that property would be held as tenant during hire purchase period. Assessee not owner of houses – Not entitled to depreciation – Income-tax Act, 1961, s. 32. Special deduction – Litigation expenditure – Expenditure allowable up to rupees five thousand in aggregate – Income-tax Act, 1961, s. 80VV. Business expenditure – Capital or revenue expenditure – Foreign exchange – Fluctuations in rate of exchange – Loss due to fluctuation on repayment of loan – Capital expenditure – Income-tax Act, 1961, s. 37. Business expenditure – Surtax not deductible – Income-tax Act, 1961, s. 37. Business expenditure – Disallowance – Company – Director – perquisites – Free use of car by director – Actual expenditure to be taken into Account – Income-tax Act, 1961, s. 40(c)(i). Royalty – Special deduction – Special deduction only in respect of amount actually received in convertible exchange in India – Income-tax Act, 1961, s. 80-O. Export market development allowance – weighted deduction – Freight and transportation expenses – Not entitled to weighted deduction – Weighted deduction in respect of salaries – Restricted to those of persons employed in export and design departments – Income-tax Act, 1961, s. 35B.</p>
92CA(3), 144C	<p>INTIMATE FASHIONS (INDIA) P. LTD. v. JOINT COMMISSIONER OF INCOME-TAX, TRANSFER PRICING OFFICER AND ANOTHER [2010] 321 ITR 265(Mad)</p> <p>International transactions – Arm's length price – Assessee filing written objections but not availing of opportunity of personal hearing – Not entitled to complain that transfer pricing order passed without personal hearing – Remedy available before dispute resolution panel – Income-Tax Act, 1961, s. 92CA(3), 144C.</p>
94	<p>COMMISSIONER OF INCOME-TAX-III, v. SAMBHU MERCANTILE LTD. [2009]183 TAXMAN 251 (DELHI)</p> <p>Section 94 of the Income-tax Act-1961- Avoidance of tax by certain transactions in securities-Assessment year 2004-05-Whether conditions prescribed in clauses(a) to (c) of sub-section (7) of section 94 are cumulative in nature-Held, yes-Whether, therefore, it is only when transaction of purchase and sale is in relation to a security or a unit in respect of which dividend or income received is exempt and it is within statutory period of three months, as prescribed in clauses(a) and (b) of section 94(7), that loss, if any, would stand disallowed to extent of dividend or income received or receivable on such securities or units in computing assessee's income chargeable to tax – Held , yes.</p>
104	<p>INDIA LEATHER CORPN PVT. LTD. V. CIT (1997) 227 ITR 552 (SC): (1997) 95 TAXMAN 78 (SC)</p> <p>Additional tax on undistributed profits – Exemption – company engaged mainly in the manufacture or processing of goods – Fifty-one per cent of the total income must be attributable to manufacture or processing of goods – Attributable to, meaning of – Casual connection necessary – Assessee engaged in business of tanning hides and skins exporting leather – Importing chemicals</p>

	on the strength of import licenses – More than 51 per cent income derived from sale of chemicals – Only 10 per cent of goods exported manufactured by assessee – Assessee not entitled to exemption under section 104(4).
113	CIT v. RAJIV BHATARA [2009] 178 TAXMAN 285/[2009] 15 CPT 160 [SC] Proviso to section 113 inserted by Finance Act, 2002 with effect from 1-6-2002, is clarificatory in nature and, therefore, surcharge would be leviable in those cases also where search had taken place prior to 1-8-2002.
113	CIT v. ANSAL PROPERTIES & IND. (P.) LTD. [2009] 178 TAXMAN 201/[2009] 15 CPT 49 (DELHI) Proviso to section 113 is clarificatory in nature and, therefore, surcharge on undisclosed income would be leviable even where search has been conducted before insertion of said proviso.
113	LALIT HOSIERY v. UNION OF INDIA [W.P. NO. 2046 OF 2005, DECIDED ON 18.10.2006]/CIT v. DR. O.P. MIGLANI [I.T.A. NO. 379 OF 2007 & CM NO. 18192, OF 2007, DECIDED ON 2.7.2008]/[2009] 14 CPT 838 (PUNJ. & HAR.) Proviso to section 113 levying surcharge though incorporated with effect from 1.6.2002, applicable to block period 1-4-1990 to 24-5-2000
113	CIT v SURESH N. GUPTA (2008) 297 ITR 322 (SC): (2008) 166 TAXMAN 313 (SC) Levy of surcharge to be extra. Search and seizure – Block assessment – Computation of undisclosed income – levy of surcharge in terms of section 113 – Scope and nature of the proviso to section 113 – Search conducted on 17.1.2001 yielding unexplained investment and unexplained marriage expenses – In the block assessment for the years 1991-92 to 2000-01 Assessing Officer determining the undisclosed income and levying a surcharge at the rate of 17 per cent in terms of Finance Act, 2001 – Whether Finance Act, 2001 applied in respect of search carried out on 17.1.2001 – Whether Proviso to section 113 inserted by Finance Act, 2002 is clarificatory – Held surcharge leviable under the Finance Act was a distinct charge not dependent upon assessee's liability to pay income-tax but on assessed tax – Therefore even without the proviso to section 113 inserted by Finance Act, 2002, Finance Act 2001 was applicable in respect of search carried out on 17.1.2001 and the Assessing Officer was correct in computing the surcharge at the rate of 17 per cent of the tax on undisclosed income- Proviso to section 113 was merely clarificatory regarding the determination of the relevant date
115E, 115H	V. K. SUBRAMANIAN v. ASSISTANT COMMISSIONER OF INCOME-TAX [2009] 316 ITR 56 (KARN) Non-resident-concessional rate of tax-non-resident becoming resident and subsequently filing declaration to change his status to resident-foreign exchange converted into Indian rupee and invested in bank earning interest-not entitled to benefit under section 115H – Income-tax Act, 1961, ss. 115E, 115H.

115E, 115H	V. K. SUBRAMANIAN v. ASSISTANT COMMISSIONER OF INCOME-TAX [2009] 316 ITR 56 (KARN) Non-resident-concessional rate of tax-non-resident becoming resident and subsequently filing declaration to change his status to resident-foreign exchange converted into Indian rupee and invested in bank earning interest-not entitled to benefit under section 115H – Income-tax Act, 1961, ss. 115E, 115H.
54E, 115J, CA 1956, Sch VI	N. J. JOSE AND CO. (P.) LTD. v. ASSISTANT COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 321 ITR 132 (Ker) Capital gains –Exemption –Company –Total income computed less than 30 per cent. of book profit –Assessment under section 115J –Book profit –Capital gains part of profit included in profit and loss account –Income from capital gains to be included in book profit –No provision for deduction under section 54E in computation of book profit –Income-Tax Act, 1961, S. 54E, 115J – Companies Act, 1956, Sch. VI.
115J 234B, 234C	COMMISSIONER OF INCOME-TAX v. UPPER INDIA STEEL MFG. AND ENGG. CO. LTD. [2005] 279 ITR 123 (P&H) Interest – Advance Tax – book profits- non-payment or short payment due to computation of income under section 115J – Levy of interest – Inescapable – Income-tax Act, ss. 115J, 234B, 234C.
115J, 234B, 234C	ITARSI OILS AND FLOURS PVT. LTD. v. COMMISSIONER OF INCOME TAX [2001] 250 ITR 636 (MP) Advance tax –Interest—Company—Deemed income—Assessee’s Income computed under section 115J of Act—Shortfall in payment of advance tax—Interest under sections 234B and 234C leviable —Income-tax Act-1961, ss.115J, 234B, 234C.
115JA, 234B	COMMISSIONER OF INCOME-TAX AND ANOTHER v. BRINDAVAN BEVERAGES LTD. [2010] 321 ITR 197(Karn) Company –Book profit –Advance tax –Failure to pay advance tax –Levy of interest under section 234B –Where section 115JA is applied –Valid –Income-Tax Act, 1961, S. 115JA, 234B. Company –Book profit –Capital gains – Transfer of undertaking in June 1998 –Even if transaction was a slump sale gains could be computed –Matter remanded to Assessing Officer for proper computation –Income-Tax Act, 1961, S. 115JA. The Legislature has consciously brought a change by introducing sub-section (4) in section 115JA of the Income-tax Act, 1961, while replacing the provisions of section 115J of the Act by the provisions of section 115JA. The provisions of section 115J and section 115JA are not identical.
115JA, 115 JB	CIT v. AJANTA PHARMA [2009] 180 TAXMAN 494, 15CPT 695 (BOM). For purpose of calculating book profit under Explanation I(iv) to sec.115JB(2), export profits to be excluded from book profit would be export profits allowed as a deduction u/s.80HHC after restricting deduction as per provisions of sub-sec.(1B) of sec.80HHC and not export profits calculated as per sub-sections (3) and (3A) of section 80HHC before applying restriction contained in sub-sec.

	(1B) of sec.80HHC.
115JAA, 234B, 234C, 260A	COMMISSIONER OF INCOME-TAX v. XPRO INDIA LTD. [2008]300 ITR 337 (SC) High Court –Appeal-Substantial question of Law-Assessment-Book profits basis-Tax credit in respect of tax paid on demand income of certain companies-Short Payment-Interest-Whether penal or mandatory-Substantial question of law-Income tax Act, 1961, ss, 115JAA, 234B,234C, 260A .
115JA, 115 JB	CIT v. AJANTA PHARMA [2009] 180 TAXMAN 494, 15CPT 695 (BOM). For purpose of calculating book profit under Explanation I(iv) to sec.115JB(2), export profits to be excluded from book profit would be export profits allowed as a deduction u/s.80HHC after restricting deduction as per provisions of sub-sec.(1B) of sec.80HHC and not export profits calculated as per sub-sections (3) and (3A) of section 80HHC before applying restriction contained in sub-sec. (1B) of sec.80HHC .
115JB	CIT VS. JYOTI LTD. 219 ITR 388 (SC) Distinction between provision and reserve :- Provisions are made against anticipated losses and contingencies and they are charge against profits and therefore debitible in Profit & Loss account to arrive at correct profits. On the other hand – reserves are appropriation of profits; the assets representing them are shown as capital employed in the business, whereas provisions are shown in the balance sheet as deduction from assets of which they are made. Reserves are shown as proprietor's interest. Any amount set apart but not to meet any liability –contingent, ascertained, committed, or diminution in the value of the assets shown to exist on the date of Balance sheet is a reserve. A fund assigned to meet a liability, though accurately not ascertained cannot be a reserve. Fund sets apart to meet a liability not fallen due – will be “other reserve”.[Followed in – 232 ITR 267 (Mad)]
115WB	R & B FALCON (A) PTY. LTD. v CIT (2008) 301 ITR 309 (SC) Transportation cost in respect of expatriates. Matters enumerated in sub-section 115 WB are not covered by sub-section (3) thereof, and the amenity in the nature of free or subsidized transport is covered by sub section (1) Transportation cost incurred for bringing non-resident employees to the place of their work in India and taking them back to their place of residence is includable as fringe benefit.
119(1), 276C, 277, 279(2)	SANGEETA EXPORTS P. LTD. AND OTHERS v. UNION OF INDIA AND OTHERS [2009] 311 ITR 258 (DELHI) Offences and prosecution-composition of offences-concealment of income-Central Board of Direct Taxes can issue instructions-discretion of Commissioner in respect of composition of offences to be exercised in conformity with instructions of Board-proof of concealment of facts in returns filed by assessee-amounts to evasion of tax-Board refusing request for composition-Commissioner not entitled to accept-Income-tax Act, 1961, ss. 119(1), 276C, 277, 279(2).

119	UNION OF INDIA v. AZADI BACHAO ANDOLAN (2003) 263 ITR 706 (SC) Circular making clarification regarding application of DTAC; if within power exercisable by CBDT under section 119. Double Taxation Avoidance Convention (DTAC) between India and Mauritius – Circular issued by Central Board of Direct Taxes (CBDT) making clarification with regard to application of provisions of the DTAC, whether fell within parameters of power exercisable by CBDT under section 119 – Held, yes
120, 158BC	ALLEPPEY FINANCIAL ENTERPRISES v. COMMISSIONER OF INCOME-TAX [2009] 313 ITR 389 (KER) Jurisdiction - income authorities - assistant commissioner, kottayam, notified as officer having exclusive jurisdiction to make assessment of search cases for various taluks and districts including district of appellee-assessee normally assessed at alleppey-search-shifting of file to assessing officer at kottayam after search for making assessment-not a transfer of file as visualised under section 127-no need to give hearing to assessee-block assessment made by assessing officer, Kottayam-valid-Income tax Act, 1961, ss.120, 15BC.
120	ALLEPPEY FINANCIAL ENTERPRISES v. COMMISSIONER OF INCOME TAX, THIRUVANANTHAPURAM [2009] 176 TAXMAN 1 (KER) Section 120, read with section 127, of the Income-tax Act-1961—Income-tax authorities—Jurisdiction of—Assessee’s business premises was searched— Even though it was an assessee before Assessing Officer at Alleppey, yet its file was sent to Assistant Commissioner at Kottayam for completing block assessment pursuant to a search in terms of notification, dated 24-4-1991 issued by Commissioner under section 120, whereby Commissioner had notified Asstt. Commissioner, Kottayam as officer having exclusive jurisdiction to make an assessment in search cases for various taluks and revenue districts, including revenue district of Alleppey-Assessing Officer at Kottayam made assessment accordingly—On appeal, assessee questioned jurisdiction of officer at Kottayam to make assessment, contending that before transferring file from one officer to another officer under section 127(1), assessee should have been given a hearing –Whether when officer at Alleppey had ceased to have jurisdiction and assessment had to be made by another officer who had exclusive jurisdiction in matter, it was not a case of transfer of file as visualized under section 127 but only a matter of conveying file by an officer who was making assessment until search to officer who had jurisdiction to make assessment after search and, hence, there was no need to give any hearing to assessee-Held, yes- Whether, therefore, Tribunal was justified in rejecting assessee’s jurisdictional objection and in upholding assessment made by Assessing Officer at Kottayam-Held, yes
120	K.P. MOHAMMED SALIM v CIT (2008) 300 ITR 302 (SC) Transfer of block assessment cases permissible. The power to transfer cases from one jurisdiction to another can be exercised even in respect of block assessments.

2(7A), 120, 132	<p>DR. N.S.D. RAJU v DIRECTOR GENERAL OF INCOME-TAX (INVESTIGATION) AND ANOTHER, [2006] 283 ITR 154(KER)</p> <p>Search and seizure—Retention of seized assets—Provision for authorized officer to hand over seized assets to Assessing Officer having jurisdiction over assessee—Object of speedy assessment—“Assessing Officer”, meaning of – Not merely officer having powers of assessment –Assistant Director of Investigation authorized by Director of investigation to make appraisal reports—Has jurisdiction over assessee as Assessing Officer—Retention valid—Income-tax Act, 1961, s2(7A), 120(2), 132(9A).</p>
127	<p>(1) SAHARA INDIA COMMERCIAL CORPORATION LTD. (W. P. NO. 1920 OF 2005) (2) GORA PROJECTS LIMITED (W. P. NO. 1921 OF 2005) v. COMMISSIONER OF INCOME-TAX [2009] 310 ITR 372 (CAL)</p> <p>Transfer of case – assessee must be given opportunity to be heard – reasons for transfer should be recorded – assessee part of a group of companies – transfer to facilitate co-ordinated investigation – order of transfer – valid – Income-tax Act, 1961, s. 127.</p>
127	<p>ATS INFRASTRUCTURE LTD. v. COMMISSIONER OF INCOME-TAX, BOMBAY CITY-IV [2009]183 TAXMAN 486 (DELHI)</p> <p>Section 127, of the Income tax Act-Income-tax authorities-Power to transfer cases-Assessee’s cases were transferred from Delhi to Meerut by an order under section 127 on ground that a search was conducted in cases of ATS group which included assessee’s case as well and there being an intimate connection between assessee and said group, it was necessary that cases be centralized with Assessing Officer handling other cases of group-Assessee filed writ petition challenging transfer of its cases-Whether-on facts there being no material to come to conclusion that decision to transfer assessee’s cases out of Delhi was mala fide, writ petition was liable to be dismissed –Held, yes.</p>
127, contn of India, art 226	<p>CHARAN PAL SINGH v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2008] 306 ITR 132 (P&H)</p> <p>Transfer of case-search operations revealing nexus between company searched and company of which assessee was director-transfer on account of centralization of cases for co-ordinated investigation-nothing to show any extraneous consideration or that reasons given not-existent or irrelevant-transfer of case of assessee from Ferozepur to Baroda to facilitate investigation held justified-writ-no interference-constitution of India, art. 226-Income-tax Act, 1961, s. 127-CBTD instruction No. 5 of 2001, dated September 20, 2001.</p>
127	<p>KESAR ENTERPRISES LTD. v. K.C. SARANGI COMMISSIONER OF INCOME-TAX [2008]305 ITR 427 (DELHI)</p> <p>Transfer of case—Finding that Distilleries Association Acting as a nodal agency to make illegal payments to public servants—Authority Proposing to centralize Distilleries situated in U.P. with one Assessing Officer—Prima Facie evidence that petitioner’s unit made illegal payment –Transfer proper – Income tax Act, 1961, s.127.</p>

127	<p>CHARAN PAL SINGH v.CIT [C.W.P. NO. 13315 OF 2006, DECIDED ON 30-11-2006] / [2009]14 CPT 356 (PUNJ. & HAR.)</p> <p>Where assessee was a director in a company which was agent of a company at Baroda, and following search at premises of company at Baroda assessee's case was transferred from Ferozepur to Baroda for effective and co-ordinated investigation, order of transfer could not be faulted with.</p>
127	<p>SAHARA AIRLINES LTD. VS. DGIT (INV.) [2006] 152 TAXMAN 522 (ALL.)</p> <p>There is no arbitrariness or illegality in the transfer of cases of several assessees in a group by the I.T. authorities in which there is an element of interlacing of funds and intermixing of activities.</p>
127	<p>TRIMURTI FRAGRANCES (P) LTD. V. CIT [2006] 153 TAXMAN 598 (ALL.)</p> <p>Order of transfer u/s. 127 for coordinated investigation cannot be said to be unreasonable or arbitrary.</p>
127	<p>REDWOOD HOTEL (P.) LTD. v. CHIEF COMMISSIONER OF INCOME-TAX AND OTHERS [2003] 259 ITR 191 (KER)</p> <p>Transfer of case – Assessee has no vested right to be assessed in any place – Order of transfer of case of assessees belonging to a group – Order to facilitate search operations – Valid – Income-tax Act, 1961, s. 127.</p>
127	<p>CIT v BIDHU BHUSAN SARKAR (1967) 63 ITR 278 (SC)</p> <p>Pendency of assessment proceedings not necessary for transfer of case. Whether transfer of case of the assessee under section 5(7A) of the Indian Income-tax Act, 1922 (corresponding to section 127 of the Income tax Act, 1961) could be effected from one officer to another only if proceedings of assessment of the assessee concerned are actually pending – Held, no.</p>
131, 142, 142A, 144, 145	<p>COMMISSIONER OF INCOME-TAX AND ANOTHER v. BHAWANI SHANKAR VYAS [2009] 311 ITR 8 (UTTARAKHAND)</p> <p>Assessment – accounting – production of evidence –valuation of assets – scope of section 142A – assessing officer need not reject accounts before making reference under section 131(I)(d) or calling for a report of valuer under section 142A – Income-tax act, 1961, ss. 131, 142, 142A, 144, 145.</p>
131	<p>CIT v. BHAWANI SHANKAR VYAS [ITA NOS. 125 TO 127, 131,153, 156 & 158 OF 2007 DECIDED ON 18-11-2008]/ [2009]15 CPT 630 (UTTARAKHAND)</p> <p>It is not mandatory for Assessing Officer to reject books of account first before making reference u/s. 131(1)(d) or calling for a report of valuer u/s.142A.</p>
132	<p>CIT v. RAMESHWAR LAL AHUJA [2009] 312 ITR 216 (HP)</p> <p>Block assessment-Undisclosed income-Deduction allowed by Tribunal due to</p>

	accrual of interest on fixed deposits-Not contrary to law-No material indicating addition not justified-Assessee not entitled to any further deduction on account of accrual of interest on fixed deposits.
132, 158BC	PARVEEN KUMAR v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 310 ITR 192 (HP) Search and seizure – block assessment – undisclosed income – additions based on search proceedings, record and assessee’s reply to questionnaire – business functional in relevant year –failure on part of assessee to point out additions made contrary to provisions of act – additions made not on higher side – Income-Tax Act, 1961, ss. 132, 158BC.
132	SELF KNITTING WORKS v. UNION OF INDIA [2009] 179 TAXMAN 139/[2009] 15 CPT 360 (PUNJ. & HAR.) Even where petitioner alleged that search was on account of hostility of Assistant DIT (Inv.), it would not be appropriate to go into issue of validity of search, particularly when formal satisfaction had been duly recorded.
132, 132A	DEPUTY DIRECTOR OF INCOME-TAX (INVESTIGATION) v. STATE OF GUJARAT AND ANOTHER [2009] 319 ITR 292 (GUJ) Requisition – Employee arrested for stealing cash from employer – Police seizing currency notes and informing department – Requisition of cash – No power in criminal court to release currency notes to employer – No power in police authority to retain currency notes nor to hand it over to employer – Direction for handing over notes to Department – Code of Criminal procedure, 1973, s. 451 – Income-tax Act, 1961, ss. 132,132A.
132, 271(1)(c)	DR. MRS. SHANTI ROY v. CHIEF COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 319 ITR 350 (PATNA) Search and seizure – Search in residence-cum-clinic of assessee – Additions on account of amount spent towards marriage reception of daughter and referral income- Finding that there were no inhibiting factors to prevent parents from celebrating marriage of daughter and documents disclosing receipt of illegal money by sharing fee of doctors and x-ray clinics – Additions justified – Income-tax Act, 1961, s. 132. Search and seizure – Search in residence-cum-clinic of assessee – Penalty – Dishonest intention to avoid lawful taxation attributable to assessee – Assessee conceding before Tribunal that minimum penalty be imposed – Penalty imposed – Justified – Income-tax Act, 1961, s. 271(1)(c).
132	P. MURUGESAN v. DIRECTOR OF INCOME-TAX (INVESTIGATION) [W.P. NOS. 3112 OF 2007 & M.P. 1 OF 2007, DECIDED ON 3-7-2008]/[2009] 15 CPT 360 (MAD.) Seized money could be retained beyond sixty days during pendency of ongoing assessment proceedings and no direction could be issued to return seized cash in such a case.

132	<p>MUDIT VERMA v. ASSTT. CIT [IT APPEAL NOS. 445 AND 461 (LUCK.) OF 2006, DATED 31.12.2008]/[2009] 15 CPT 53</p> <p>Where search was conducted at premises of assessee under section 132 wherein certain documents were found which revealed that assessee had incurred certain expenses on vegetables, clothes, shoes and other household items, since assessee gave no explanation in respect of said expenses Assessing Officer was justified in estimating household expenses in block assessment and in making addition, keeping in view high standard of living of assessee.</p>
132	<p>SMT. NANDITA ACHARJEE v. UNION OF INDIA AND OTHERS, [2008]302 ITR 75 (GUWAHATI)</p> <p>Search and Seizure—Appeal Against Assessment---Search Operations during pendency of Appeal—Valid—Income-tax Act, 1961, s.132</p>
132(1)	<p>RAGHU RAJ PRATAP SINGH v. ASSTT. CIT [W.P.NOS. 5729 – 5731 & 5933 OF 2004 WITH 5005, 5015 & 5017 OF 2004 DECIDED ON 14-7-2006] / [2009] 14 CPT 583(ALL).</p> <p>A perusal of sec.132 leaves no ambiguity in assuming that it does not call for any notice, much less prior notice, of information to be given to person for purpose of search nor it requires any service of warrant of authorization upon such a person.</p>
132(1)	<p>HARVEST GOLD FOODS (INDIA) (P) LTD. & ORS. VS. UNION OF INDIA & ORS. (RAJ.) 231 : CTR : VOL. 202 : DTD. 05.05.2006</p> <p>Search and seizure u/s. 132(1) – Satisfaction of the issuing authority of warrant of authorisation is proved to be correct by the very fact of seizure of unaccounted assets, and incriminating documents.</p>
132	<p>RAGHU RAJ PRATAP SINGH v. ASSTT. CIT [W.P.NOS. 5729 – 5731, 5931& 5933 OF 2004 WITH 5005, 5015 & 5017 OF 2004 DECIDED ON 14-7-2006] / [2009] 14 CPT 583(ALL).</p> <p>In case of search and seizure, where search has illegally been conducted, mere disclosure of undisclosed income and property may not justify illegal search nor would it allow block assessment proceedings to be carried out; on the other hand bare fact that after making search on a reasonable belief, no incriminating documents or undisclosed income could be unearthed, it would not make search itself bad.</p>
132	<p>DR. N.S.D. RAJU V. DIRECTOR GENERAL OF INCOME-TAX (INV.) [2006] 151 TAXMAN 247 (KER.).</p> <p>The search and seizure proceeding can be declared as illegal and void only if it is established that the conditions precedent for issuance of a search warrant is not satisfied and in the course of search, the search party has acted in material irregularities/violated the procedure prescribed so as to vitiate the search. The assessee could not succeed in establishing so, since there was a valid search and since the officer had got jurisdiction to proceed with the search as well, and also to conduct post-search enquiries. Hence, there was no reason to exercise jurisdiction under article 226 of the Constitution.</p>

2(7A), 120, 132	DR. N.S.D. RAJU v DIRECTOR GENERAL OF INCOME-TAX (INVESTIGATION) AND ANOTHER, [2006] 283 ITR 154(KER) Search and seizure—Retention of seized assets—Provision for authorized officer to hand over seized assets to Assessing Officer having jurisdiction over assessee—Object of speedy assessment—“Assessing Officer”, meaning of – Not merely officer having powers of assessment –Assistant Director of Investigation authorized by Director of investigation to make appraisal reports—Has jurisdiction over assessee as Assessing Officer—Retention valid—Income-tax Act, 1961, s2(7A), 120(2), 132(9A).
132, 132A, 147, Chap XIV-B	CHANDRA PRAKASH AGRAWAL v. ASSISTANT COMMISSIONER OF INCOME-TAX AND OTHERS, [2006] 287 ITR 172 (ALL) Reassessment—Search and seizure—Block assessment—Special procedure—Scope of Chapter XIV-B—Special procedure under chapter XIV-B applicable in case of search under section 132 of requisition under section 132A—No search under section 132—Requisition not complete—Reassessment proceedings valid – Income-tax Act, 1961, ss. 132, 132A 147, Chapter XIVB
132(1)	SIKKIM SUBBA ASSOCIATES VS. UNION OF INDIA & ORS. (SIKKIM) 241 CTR : VOL. 196 : DTD. 08.07.2005 Search & Seizure operation – Basis of satisfaction in issuance of search warrant cannot be divulged to the assessee.
132(1)	TAKSHILA EDUCATIONAL SOCIETY VS. DIT (INV.) & ORS. (PAT.) 193 CTR : VOL. 193 : DTD. 21.01.05 Search & seizure – Authorisation u/s.132(1) issued after observing all formalities by DIT(Inv.) – Post search complaint about personal malice on the part of DDIT(Inv.) would not unjustify the search.
132(1)	M. B. LAL VS. CIT (DEL.) 571 CTR : VOL. 199 : DTD. 23.12.2005 Validity of search can be questioned only in a writ petition filed before courts of law. It cannot be questioned before appellate authority.
132(1)	BABU LAL V. DIT [2005] 147 TAXMAN 318 (ALL.) Existence of unaccounted bankers cheque in favour of the assessee lying as security with a government department – Sufficient reasons for invoking provisions of section 132(1).
132(1)	M.S. ASSOCIATES V. UNION OF INDIA [2005] 147 TAXMAN 172 (GAU.) Report of C&AG can be a basis of satisfaction of the DIT (Inv.) for issuing warrant of authorisation u/s. 132(1). There is no restriction regarding the source of information received by the DIT.
132	MAN MOHAN GUPTA vs ACIT (2005) 274 ITR 179 (RAJ) In this case, books of accounts were seized u/s 132, in which amounts received

	were shown as advance. There was no evidence that the goods were delivered. It was held that presumption u/s 132(4A) does not absolve the assessee of the burden to prove genuineness of the transaction. The so called advances were held as concealed income and levy of penalty was held as justified.
132, 158BC	DR. OSWALD ANTHONY v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2004] 270 ITR 204 (PATNA) Search and seizure – Appeal to appellate Tribunal – Contention that search proceedings were not valid raised for the first time before Tribunal – Finding in case of colleague of assessee who was involved in fodder scam case that there were unexplained investments in the name of assessee's wife – Search proceedings valid – Income-tax Act, 1961, s/ 132. Search and seizure – Block assessment – limitation – search on 9.1.1997 – Warrant of authorisation in the names of assessee and others – Valid – Order of block assessment on 28.1.1998 – Not barred by limitation – Income-tax Act, 1961, ss. 132, 158BC.
132(iii)	RAGHU RAJ PRATAP SINGH v. ASSTT. CIT [W.P.NOS. 5729 – 5731, 5931& 5933 OF 2004 WITH 5005, 5015 & 5017 OF 2004 DECIDED ON 14-7-2006] / [2009] 14 CPT 583(ALL) Warrant of authorization cannot be faulted only on account of fact that it names more than one person or a common warrant of authorization has been issued.
132(iv)	RAGHU RAJ PRATAP SINGH v. ASSTT. CIT [W.P.NOS. 5729 – 5731, 5931& 5933 OF 2004 WITH 5005, 5015 & 5017 OF 2004 DECIDED ON 14-7-2006] / [2009] 14 CPT 583(ALL) The word ‘person’ in sec.132, does not mean that no search can be conducted upon any place, building, vessel, vehicle or aircraft, unless person whose concealed income and properties are to be traced out and detected, himself is present at place where search is to be made, there is no requirement that person against whom belief has been formed by authorizing officer of being possessed of undisclosed income or property be either served with warrant of authorization or he be necessarily shown same, when premises searched is a premises like bank or any other such premises, namely, building , place, vessel, vehicle or aircraft.
132(v)	RAGHU RAJ PRATAP SINGH v. ASSTT. CIT [W.P.NOS. 5729 – 5731, 5931& 5933 OF 2004 WITH 5005, 5015 & 5017 OF 2004 DECIDED ON 14-7-2006] / [2009] 14 CPT 583(ALL). There is no force in argument that if warrant of authorization has been issued by authorizing officer to conduct search in bank or premises of bank, it would be a search upon bank and undisclosed income and property in that case would be of bank which cannot be taken to be income and property of person, named in warrant of authorization, who is said to be in possession of any undisclosed income.
132(4), 133A	BACHITTAR SINGH v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 328 ITR 400 (P&H) Income from undisclosed sources –Additions to income on basis of statement given by assessee during survey –Assessee later contending that income was

	from agriculture –Assessee failing to produce books of account or any other authentic contemporaneous evidence of agricultural income –Some entries in a diary not sufficient and conclusive to hold that statement made earlier false – Addition proper –Income-tax Act, 1961, s. 132(4), 133A.
69,132(4A)	COMMISSIONER OF INCOME TAX V. NARESH KUMAR AGGARWALA [2011] 331 ITR 530 (DELHI)/[2011] 198 TAXMAN 194 (DELHI) Section 69, read with section 132, of the Income-tax Act, 1961 – Unexplained investments – Assessment year 1992-93 During search operation conducted in assessee's case, a fax message was seized which showed that assessee had purchased a property for certain consideration – However, in books of account maintained by assessee, lesser payment was shown for purchase of said property – Assessee contended that fax had to be read with letter written by same person on next day clarifying that he had wrongly mentioned price in fax message without verifying facts – Assessing Officer, not being satisfied with assessee's explanation in that regard, made addition of amount of difference between amount shown in fax message and that shown in assessee's books of account as his undisclosed investment in property – Whether there was a presumption raised under section 132(4A) on seizure of fax message and it was upon assessee to rebut that presumption by offering a plausible explanation – Held, yes – Whether mere production of letter purported to have been written by same person who had sent fax message would be sufficient to rebut presumption – Held, no – whether since no effort seemed to have been made by assessee to rebut presumption, addition made by Assessing Officer was to be upheld – Held, yes.
69, 132 (4A), 292C	SURENDRA M. KHANDHAR v. ASSISTANT COMMISSIONER OF INCOME-TAX AND OTHERS [2010] 321 ITR 254 (Bom) Search and seizure –Unexplained investment –Document discovered during search –presumption that contents of document are true –Document stating that amount had been advanced by assessee – Presumption of truth of document not rebutted by assessee –Amount shown in document assessable as unexplained investment –Income-tax Act, 1961, s. 69, 132(4A), 292C.
132 (4A)	MAN MOHAN GUPTA vs ACIT (2005) 274 ITR 179 (RAJ) Presumption and burden of proof as mentioned in Section 132(4A) of IT Act, 1961 is applicable to Block Proceedings u/s 158BC of IT Act, 1961. In this case books of accounts were seized u/s 132, in which amounts were shown as advance. There was no evidence that the goods were delivered. It was held that presumption u/s 132(4A) does not absolve the assessee of the burden to prove genuineness of the transaction. The so called advances were held as concealed income and levy of penalty was held as justified.
132A	KRISHNAGOPAL v. DIRECTOR OF INCOME-TAX (INVESTIGATION) AND ANOTHER [2009] 308 ITR 273 (M P) Search and seizure – requisition of assets – seizure of assets and cash by police – police after investigation finding seized assets had no nexus with any crime – magistrate directing handing over assets to income-tax department – writ –no allegation of malice against income-tax authority or that he acted mala fide in

	issuing warrant of requisition – information coming to authority tangible and having nexus with formation of his belief about assets – warrant of requisition valid – Income-tax Act, 1961, s. 132A.
132, 132A	DEPUTY DIRECTOR OF INCOME-TAX (INVESTIGATION) v. STATE OF GUJARAT AND ANOTHER [2009] 319 ITR 292 (GUJ) Requisition – Employee arrested for stealing cash from employer – Police seizing currency notes and informing department – Requisition of cash – No power in criminal court to release currency notes to employer – No power in police authority to retain currency notes nor to hand it over to employer – Direction for handing over notes to Department – Code of Criminal procedure, 1973, s. 451 – Income-tax Act, 1961, ss. 132,132A.
132A	KRISHNAGOPAL v. DIRECTOR OF INCOME-TAX (INVESTIGATION) [W.P. NO. 12696 OF 2007, DECIDED ON 3.7.2008]/[2009] 14 CPT 744 (MP) The belief required u/s.132A is subjective and not open to objective test; where there was no allegation of malice against respondent in petition nor was it argued that he acted mala fide while issuing warrant of requisition, it could not be held to be invalid.
132, 132A, 147, Chap XIV-B	CHANDRA PRAKASH AGRAWAL v. ASSISTANT COMMISSIONER OF INCOME-TAX AND OTHERS, [2006]287 ITR 172 (ALL) Reassessment—Search and seizure—Block assessment—Special procedure—Scope of Chapter XIV-B—Special procedure under chapter XIV-B applicable in case of search under section 132 of requisition under section 132A—No search under section 132—Requisition not complete—Reassessment proceedings valid – Income-tax Act, 1961, ss. 132, 132A 147, Chapter XIVB
132A, 271(1)(c)	COMMISSIONER OF INCOME TAX v. ABOO MOHMED [2001] 250 ITR 313 (KARN.) Penalty—concealment of Income—Search and seizure—Effect of order of requisition under section 132A—Immunity cannot be claimed under Amnesty Scheme in respect of amount requisitioned. Amount Requisitioned included in revised return—No proof of source of Acquisition of amount—Penalty can be levied in respect of amount—Income tax Act-1961, ss.132A, 271(1)(c).
133(6)	KARNATAKA BANK LTD. v SECRETARY, GOVERNMENT OF INDIA (2002) 255 ITR 508 (SC) Power to call for information in absence of pending enquiry. Whether it is necessary that any inquiry should have commenced with the issuance of notice or otherwise before section 133(6) could have been invoked –Held, no – It is with the view to collect information that power is given under section 133(6) to issue notice, inter alia, requiring a banking company to furnish information in respect of such points or matters as may be useful or relevant – Second proviso makes it clear that such information can be sought for even when no proceeding under the Act is pending – Only requirement is that before this power can be invoked approval of the Director or the Commissioner, as the case may be, has to be obtained.

133(6)	MANIPAL CO-OPERATIVE BANK VS. ITO 255 ITR 509 (SC) While calling for information u/s. 133(6) it is not necessary that any proceeding should be pending in the case except that approval of director or CIT is necessary.
133(6)	MANIPAL CO-OPERATIVE BANK VS. ITO 255 ITR 509 (SC) Invocation of S.133(6). It is not necessary that any proceeding should be pending in the case except that approval of Director or CIT is necessary
132(4), 133A	BACHITTAR SINGH v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 328 ITR 400 (P&H) Income from undisclosed sources –Additions to income on basis of statement given by assessee during survey –Assessee later contending that income was from agriculture –Assessee failing to produce books of account or any other authentic contemporaneous evidence of agricultural income –Some entries in a diary not sufficient and conclusive to hold that statement made earlier false – Addition proper –Income-tax Act, 1961, s. 132(4), 133A.
133A	COMMISSIONER OF INCOME-TAX v. KAMAL AND COMPANY [2009] 308 ITR 129 (RAJ) Survey – addition on basis of material collected during illegal survey – competence of inspector to hold survey questionable – illegality does not vitiate evidence collected during survey – Income-tax Act, 1961, s. 133A.
133A	CIT v. RAMESHWAR LAL AHUJA [2009] 312 ITR 216 (HP) Block assessment-Undisclosed income-Deduction allowed by Tribunal due to accrual of interest on fixed deposits-Not contrary to law-No material indicating addition not justified-Assessee not entitled to any further deduction on account of accrual of interest on fixed deposits.
133A	LATHA S. NAIR v. CIT [ITR] NO. 222 OF 1999 & O.P. NO. 27035 OF 1999. DECIDED ON 10.6.2008]/[2009] 15 CPT 50 (KER.) Where during survey assessee's manager gave a statement that certain goods allegedly transferred by assessee to another business concern of such goods was taken as unaccounted sale, no question of law arose from Tribunal's order sustaining addition.
136, 193, 276C(1),277; IPC 1860, ss 420, 511; Constn of India, art 226	P. SOUNDARYA v. CHIEF COMMISSIONER OF INCOME TAX AND ANOTHER, S. MANIKUMAR J. [2008]300 ITR 19(P&H) [2008]300 ITR 70 (MAD) Offences and prosecution –False Statement in declaration –Compounding of Offence—Rejection of Offer –Not Necessary to Provide Opportunity to offender -- Income Tax Act, 1961, ss 136, 193, 276C(1), 277—Indian Penal Code, 1860, ss 420, 511; Constn of India, art 226.

136, 230A, 276C, 277	<p>P. SOUNDARYA v. INCOME TAX OFFICER [2001] 249 ITR 77 (MAD)</p> <p>Offences and prosecution – Income-tax proceedings – willful attempt to evade tax – False verification – Income-tax proceedings are judicial proceedings – Tax clearance certificate – False statement in application under section 230A for settlement of immovable property in favour of minor – undervaluation of property – Amount representing undervaluation assessed in hands of a third person – Protective assessment in hands of declarant – Not offence under section 276C or 277 – Offence punishable under Section 136 of Income-tax Act, 1961, ss. 136, 230A, 276C, 277 – Indian penal code, 1860, ss. 193, 420, 511.</p>
136	<p>LALJI HARIDAS v STATE OF MAHARASHTRA (1964) 52 ITR 423 (SC)</p> <p>Criminal court to take cognizance of offence on complaint of Income-tax Officer. False statement made before Income-tax Officer in proceedings under the Income-tax Act – Complaint by Income-tax Officer whether necessary for cognizance of offence – Held, yes.</p>
139	<p>BINDRA CONTRACTORS v. UNION OF INDIA AND OTHERS [2010] 321 ITR 269(P & H)</p> <p>Return – delay in filing return –Application for condonation of delay – Finding that there was no satisfactory explanation for delay – Refusal to condone delay valid – Income-tax Act, 1961, s. 139.</p>
139	<p>PUREWAL& ASSOCIATES v. CIT [ITR NO. 7 OF 1995, DECIDED ON 10.3.2008 (HP) REPORTED IN TAXMAN'S CPT,VOL. 13 (SEPT.15 TO 30) 2008</p> <p>Where loss return was not filed within time prescribed in terms of section 139(10), said return was rightly held to be non-est.</p>
139, 140, 143(2), 271(1)(a)	<p>ELECTRICAL INSTRUMENT COMPANY v. COMMISSIONER OF INCOME TAX [2001] 250 ITR 734 (DELHI)</p> <p>Return—Unsigned and unverified return—Notice under section 143(2) issued—Another Return duly signed and verified filed –Return filed earlier invalid—Issuance of notice under section 143(2) would not validate invalid return—Penalty and interest for delay in filing return justified-- Income-tax Act-1961, s.139, 140, 143(2), 271(1)(a).</p>
139	<p>KUMAR JAGDISH CHANDRA SINHA v CIT (1996) 220 ITR 67 (SC): (1996) 133 CTR 143 (SC)</p> <p>Revising of return filed under section 139(4) Whether a return of income furnished by the assessee under section 139(4) of the Income-tax Act can be revised by the assessee under section 139(5) of the Act – Held, no.</p>
139	<p>CIT VS. DALMIA CEMENT (BHARAT) LTD. 216 ITR 79 (SC)</p> <p>Returns of loss were filed. The ITO refused to take cognizance of the return on the ground that they were filed beyond time and informed the assessee that no</p>

	cognizance could be taken of the said returns. Assessee did not file appeal against the order of ITO refusing to take cognizance of the returns. It was held that assessee cannot now claim in assessment proceedings of subsequent year that losses in the above years (for which belated returns were filed and assessments were not done) should be determined, carried forward and set off against the profits in such subsequent year. Principles laid down in Khusal Chand Daga's case 42 ITR 177 (SC) could not be applied here as default is anterior in stage-assessments were not framed whereas in Khusal Chand Daga's case assessment were made on the loss return but intimation was not given.
139(1), 148, 276CC, 278E	R. INBAVALLI v. INCOME-TAX OFFICER [2010] 327 ITR 226 (Mad) Offences and prosecution –Failure to file returns in time –Issue of notice under section 148 and filing of returns in response thereto –Will not exonerate assessee of liability to prosecution –Mens rea –Statutory presumption as to culpable mental state –Assessee entitled at trial to prove absence of mens rea –Income-tax Act, 1961, S. 139(1), 148, 276CC, 278E.Three complaints were filed against the assessee for not filing the income-tax returns before the statutory due date in accordance with section 139(1) of the Income-tax Act, 1961 and thereby rendering the assessee to prosecution under section 276CC of the Act. The assessee filed a petition seeking discharge but the petitions were dismissed. On revision petitions contending that subsequently a notice was issued to the assessee under section 148 of the Act granting 30 days time to file the returns and the assessee filed the returns, that once notice was given under section 148 of the Act, time for filing returns was extended and there was no violation of section 139 of the Act and no prosecution could have been initiated against the assessee: Held, dismissing the petitions, (i) that even after the notice had been issued under section 142 of the Act. The assessee did not file returns but filed them only after issuance of the notice under section 148 of the Act. The contention raised by the assessee that by filing returns within the time prescribed in the notice under section 148 of the Act the assessee was exonerated from prosecution under section 276CC of the Act for not filing the returns within the statutory due date in accordance with section 139(1) of the Act was not tenable.
80, 139(1)	COMMISSIONER OF INCOME-TAX v. RAJESH KUMAR, NATIONAL SPICES [2003] 259 ITR 629 (KER) Loss – Return – Carry forward of loss – Return of loss not submitted within time provided under section 139(1) or section 139(3) – Assessee not entitled to carry forward of loss – Income-tax Act, 1961, ss. 80, 139(1).
139(3),72	CIT VS. HARYANA HOTELS LTD. (P & H) 449 CTR : VOL. 197 : DTD. 9.9.2005 Carry forward and set off of loss – Filing of return and completion of assessment are must.
139(5)	GOLDEN INSULATION AND ENGG. LTD. v. COMMISSIONER OF INCOME-TAX [2008]305 ITR 427 (DELHI) Valuation of Stock—Method of valuation – Change in method on ground that method adopted not reflecting correct state of affairs—New method in revised

	return showing increase in original loss –Not a valid reason nor bona fide— Change in method not justified and permissible-- Income tax Act, 1961, s 139(5).
139(8) & 217	ABDUL MAJID V. CIT [2006] 153 TAXMAN 131 (ALL.) Charging of interest valid u/s. 139(8) & 217 for A.Y.81-82 in the case of assessment being made u/s. 148.
140	CIT v. MOTIRAM [2008] 175 TAXMAN 27[2009]14CPT 47 (PUNJ.& HAR.) Where on date on which return was filed, assessee had already expired, return filed with signatures of assessee after his death could not be taken as a valid return filed by assessee himself.
139, 140, 143(2), 271(1)(a)	ELECTRICAL INSTRUMENT COMPANY v. COMMISSIONER OF INCOME TAX [2001] 250 ITR 734 (DELHI) Return—Unsigned and unverified return—Notice under section 143(2) issued—Another Return duly signed and verified filed –Return filed earlier invalid—Issuance of notice under section 143(2) would not validate invalid return—Penalty and interest for delay in filing return justified-- Income-tax Act-1961, s.139, 140, 143(2), 271(1)(a).
140A, 260A	RAJESH KUMAR v. DY. COMMISSIONER OF INCOME TAX [2004] 271 ITR 494 (DELHI) Self-assessment—Penalty—Appeal to High Court—Finding that there was no reasonable cause for non-payment of tax Tribunal justified in sustaining penalty—No substantial question of law arises-- Income-tax Act-1961, ss. 140A, 260A.
142(1), 143(2)	ANUPAM ENTERPRISES v. INCOME TAX OFFICER [2010] 322 ITR 230 (Karn) Firm –Doctrine of mutuality –Firm formed to carry on business of money lending, trading in fabrics and garments –In one year doing no business but advancing loan to its partners –Doctrine of mutuality not applicable –Income tax Act, 1961, S. 142, 143
142(1), 143(2), 148	GAURAV AGARWAL v. INCOME-TAX OFFICER [2009] 314 ITR 123 (CAL) Reassessment – notice – writ – allegation that order of assessment passed without considering objections – objections bald and not specific – cannot be considered – assessee represented by an advocate before authority – cannot question jurisdiction of authority – Income-tax Act, 1961, ss. 142(1). 143(2), 148.
131, 142, 142A, 144, 145	COMMISSIONER OF INCOME-TAX AND ANOTHER v. BHAWANI SHANKAR VYAS [2009] 311 ITR 8 (UTTARAKHAND) Assessment – accounting – production of evidence –valuation of assets – scope

	of section 142A – assessing officer need not reject accounts before making reference under section 131(I)(d) or calling for a report of valuer under section 142A – Income-tax act, 1961, ss. 131, 142, 142A, 144, 145.
142	LUDHIANA IMPROVEMENT TRUST v. COMMISSIONER OF INCOME TAX -III, LUDHIANA [2009] 182 TAXMAN 18 (PUNJ. & HAR.) Section 142 of the Income-tax Act-1961— Assessment- Inquiry before assessment- Assessment year 2006-07- Assessee-trust filed the return in respect of relevant assessment year- Department issued a letter dated 26.11.2008 to it which posed a number of queries and called for details / supporting evidence on various issues- It neither appeared before Assessing Officer nor sent any information despite fact that it was duly informed that time-barring assessment was involved and, as such, compliance to above queries was to be ensured by 05.12.2008- On 18.12.2008, it produced its books of account which were quite voluminous- Department impounded said books and upon test checking, found various discrepancies and complexity in maintenance of books of account- Keeping in view fact that in preceding years also, special audit had to be ordered and there was a possibility of ignoring any income from assessment, impugned order was passed ordering special audit- Whether, on facts, there was nothing unwarranted and no lack of bona fide and, therefore, writ petition filed by assessee against impugned order was liable to be dismissed - Held, yes.
142(1), 143(2), 144, 282, GCA 1897, s 27	COMMISSIONER OF INCOME-TAX v. MADHSY FILMS P. LTD. [2008] 301 ITR 69 (DELHI) Assessment-notice-notice under section 143(2)- record not disclosing envelope undelivered or received back – presumption that notice served not rebutted by assessee – valid notice served within time-Income-Tax Act, 1961, ss. 143(2), 282-general clauses Act, 1897, s. 27.
55A, 142(2)	B. IINDIRA DEVI v. COMMISSIONER OF INCOME-TAX [2004] 270 ITR 44 (KER) Assessment – Powers of Assessing Officer – Power to make enquiry under section 142(2) – Construction of building – Assessing Officer can refer matter to valuation Officer for gathering information – report of Valuation Officer not binding on assessing Officer – Income-tax Act, 1961, ss. 55A, 142.
142(2A); Constn. of India, art 226	PURVANCHAL VIDYUT VITRAN NIGAM LTD. v. UNION OF INDIA AND OTHERS [2010] 329 ITR 508(All) Audit—order for special audit—writ—high court can consider whether there was material for issuing order –sufficiency of material cannot be considered – income-tax act, 1961s. 142(2a)—constitution of india, art.226.Audit –special audit—accounts found to be complex –order in the interests of revenue—order for special audit—valid –income-tax act, 1961, s. 142(2a).The proceeding under section 142(2A) of the Income-tax Act, 1961, is not strictly a judicial proceeding and, therefore, elaborate reasoning is not required to be given. Under article 226 of the Constitution of India, in writ jurisdiction, the court can consider whether there was material for the issue of direction but not the sufficiency of the material.

142(2A)	LUDHIANA IMPROVEMENT TRUST v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 328 ITR 183 (P&H) Audit –Order for special audit –Order after application of mind and giving assessee opportunity to be heard –Order valid –Income-tax Act, 1961, s.142(A).
142(2A); Constn of India, art 226	1(1) SAHARA INDIA FINANCIAL CORPORATION LTD. (2) SAHARA INDIA (FIRM) v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2007] 289 ITR 397 (DELHI) Accounting – Auditing of accounts – Direction for special audit – Order does not determine liability – rigid compliance with principles of natural justice not required – facts showing accounts were complex –Application of mind by Assessing Officer and Commissioner – Writ would not issue to quash direction – Income-Tax Act, 1961, s. 142(2A) – Constitution of India, art 226. Writ – Powers of High Court – Decision on facts – High Court will not interfere – Constitution of India, art, 226.
142(2A)	WELSPUN INDIA LTD. V. ACIT AND OTHERS [2006] 282 ITR 395 (BOM) Appointment of Special Auditor accepted by the assessee – No subsequent writ lies challenging the order for special audit.
142(2A)	ATLAS COPCO (INDIA) LTD. VS. V. S. SAMUEL, ASST. CIT [2006] 283 ITR 56 (BOM.) Assessee need not be heard before issuing directions for Special Audit u/s. 142(2A).
142(2A)	ATLAS COPCO (INDIA) LTD. v V. S. SAMUEL, ASSISTANT COMMISSIONER OF INCOME-TAX AND OTHERS, [2006] 283 ITR 56 (BOM) Auditing of Accounts—Direction for special Audit—Scope of Section 142(2A)—Asessee need not be heard before issue of directions—Finding that accounts were complicated –Direction for special audit justified—Income- tax Act, 1961, s.142(2A).
142(2A)	U.P. FINANCIAL CORPORATION v. JOINT COMMISSIONER OF INCOME-TAX AND OTHERS [2006] 280 ITR 100 (ALL) Audit – direction for special audit – Scope of section 142(2A) – Assessee admitting that it would take several months to compile information required – discrepancies in accounts pointed out by statutory auditors – Commissioner considering matter and approving direction –direction valid – Income-tax Act, 1961, s. 142(2A).
142(2A)	YUM RESTAURANTS INDIA (P) LTD. VS. CIT (DEL.) 435 CTR : VOL. 196 : DTD. 22.07.2005. Special Audit u/s.142(2A) can be conducted when the Assessing Officer has applied his mind on the various complexity of the accounts even though the

	assessee filed audited statement of accounts.
142(2A)	RAJESH KUMAR PROP. SURYA TRADING VS. DCIT (DEL.) 377 CTR : VOL. 194 : DTD. 1.4.2005 Special audit u/s.142(2A) – Application of mind by the A.O. is required before ordering special audit – Submission of audited statement of accounts does not strip the A.O. of his power to order special audit.
142(2A)	CIT VS. VIJAY KUMAR RAJENDRA KUMAR & CO. (M.P.) 245 CTR : VOL. 193 : DTD. 21.01.05 Special audit – Time taken for special audit will be excluded from the period of limitation.
142(2A)	RAJESH KUMAR, PROPRIETOR, SURYA TRADING VS. DCIT [2005] 275 ITR 641 (DEL.) Search operations – Seizure of records and books – No satisfactory explanation regarding amount shown in record – Order of special audit u/s.142(2A) justified.
142(2A)	U. P. FINANCIAL CORPN. VS. JCIT (ALL.) 155 CTR : VOL. 199 : DTD. 25.11.2005 Appointment of Special Auditor u/s.142(2A) – Objective satisfaction of the A.O. and CIT is sufficient about the complexity of the accounts.
142(2A)	JHARNESHWAR NAGRIK SAHAKARI BANK MARYADIT VS. UNION OF INDIA & ORS. (M.P.) 345 CTR : VOL. 198 : DTD. 21.10.2005 Complexity of accounts may be determined on the basis of seized material for forming satisfaction about conducting of special audit u/s.142(2A).
131, 142, 142A, 144, 145	COMMISSIONER OF INCOME-TAX AND ANOTHER v. BHAWANI SHANKAR VYAS [2009] 311 ITR 8 (UTTARAKHAND) Assessment – accounting – production of evidence –valuation of assets – scope of section 142A – assessing officer need not reject accounts before making reference under section 131(I)(d) or calling for a report of valuer under section 142A – Income-tax act, 1961, ss. 131, 142, 142A, 144, 145.
142A	SMT. KIRAN LATA v. ITAT [2009] 177 TAXMAN 420/[2009] 14 CPT 838 (UTTARAKHAND) Where assessee, a medical professional, maintaining her books of account under section 44A, had shown certain investment but by her own admission accounts maintained were not complete and more amount might have been spent in construction of building, Assessing Officer rightly decided to get value of building assessed through Departmental Valuation Officer.

143,147, 148	<p>MAVIS SATCOM LTD v. DY. COMMISSIONER OF INCOME-TAX & ANOTHER [2010]325 ITR 428(Madras)</p> <p>Reassessment –Notice-Writ Direction of court to assessee to file objections – objections considered and rejected -Writ High Court order passed in compliance with natural justice and under direction of court-Failure by assessee to disclose nature of expenditure in accordance with accounting standards-Assessing Officer entitled to reopen assessment-Consequent orders of assessment order rejecting objections merges in order of assessment- Assessee entitled to raise all issues on merits and on procedural irregularities in order of rejection in appeal against assessment-Writ petitions dismissed – Income Tax Act, 1961, ss. 143, 147, 148- Constitution of India, Art. 226.</p>
143	<p>WCI (MADRAS) (P) LTD. v. ASSISTANT COMMISSIONER OF INCOME-TAX [2010] 324 ITR 181(Mad)</p> <p>Business income –Addition on account of difference between income shown in TDS certificate and that credited in profit and loss account—Assessee failing to procedure sufficient material to establish its case—Tribunal remanding to give assessee opportunity to submit proper reconciliation—Proper -- Income-Tax Act, 1961.Assessment –Intimation under section 143(1) –cannot be treated as assessment order-- Income-Tax Act, 1961, S. 143(1).Reassessment –Non-disclosure of material facts—Finding that income escaped assessment –Plea of limitation of four years to be rejected-- Income-Tax Act, 1961.</p>
143, 148	<p>COMMISSIONER OF INCOME TAX v. SHIV SHAKTI FLOUR MILLS P. LTD. [2010] 327 ITR 430 (Gauhati)</p> <p>Reassessment –Notice –Grounds of reassessment –Law applicable –Effect of amendment of section 147 w.e.f. 1.4.1989 –Reason to believe that income had escaped assessment – Sufficient for initiating reassessment proceedings – Meaning of “reason to believe” –Transport subsidies shown in reserve and surplus account and not in profit and loss account in original return –return processed under section 143(1)(a) –Subsequent reassessment proceedings – Valid –Income-tax Act, 1961, s. 143, 148.</p>
80HHC, 143, 154	<p>SILVER IMPEX v. ASSISTANT COMMISSIONER OF INCOME-TAX [2009] 311 ITR 244 (DELHI)</p> <p>Appeal-assessing officer amending computation of income-assessee not challenging this order but later filing appeal against order passed under section 154-proceedings under sections 143(3) and 154 separate and independent-appeal not maintainable-Income-tax Act, 1961, ss. 80HHC, 143, 154.</p>
143, 158BC	<p>COMMISSIONER OF INCOME-TAX AND OTHERS v. MD. RIZWAN[2009] 316 ITR 317 (PATNA)</p> <p>Assessment-regular assessment-search and seizure-block assessment-notice under section 158BC for block period covering year of regular assessment-regular assessment not to merge with assessment under section 158BC-Income-tax Act, 1961, ss. 143, 158BC.</p>

143	<p>Dr. PREM CHAND SHARMA v. COMMISSIONER OF INCOME-TAX [2009] 181 ITR 186 (P & H)</p> <p>Section 143 of the Income-tax Act,1961-Assessment- Additions to income Assessee claimed that he had entered into an agreement with one ‘B’ for sale of his agricultural land for certain consideration; that in terms of agreement ‘B’ had paid a sum of Rs.7,00,000 to him as earnest money; that said amount stood forfeited to him as ‘B’ could not comply with terms and conditions of agreement ; and that , therefore, said amount of Rs.7,00,000 should be treated as a capital receipt in his hands-During assessment proceedings. Assessing Officer noticed that assessee had no intention of selling that land and as a matter of fact, he had purchased more lands in subsequent year; that said agreement was not written on any stamp paper which undermined legal sanctity of document; and that alleged purchaser ‘B’ did not ask or request seller even once to extend time for execution of registration deed-Assessing Officer also made enquiry from ‘B’ which revealed that he had already mortgaged his personal agricultural land for loan taken from bank and did not have financial capacity to enter into any transaction like purchase of land value of which would go up to Rs.31.06 lakhs-Assessing Officer, therefore, held that agreement set up by assessee was a bogus document / transaction and added amount of Rs.7,00,000 to his income-On appeal, Commissioner (Appeals) and also Tribunal upheld order of Assessing Officer-Whether on facts, inferences drawn by revenue authorities were wholly justified and no question of law arose therefrom-Held, yes.</p>
143	<p>CIT v. KERALA SOLVENT EXTRACTIONS LTD. [ITA NO. 181 OF 2001, DECIDED ON 4-2-2008(KER.) REPORTED IN TAXMAN'S CPT, VOL 13(SEPT 15 TO 30)2008</p> <p>The question whether an item is prima facie inadmissible or not has to be found out from the return and statement of accounts furnished by the assessee. If deduction claimed is not allowable even according to the statement of the assessee, then it is a prima facie inadmissible deduction which can be added back in proceedings under section 143(1)(a).</p>
143	<p>M.K. JHA v. ITAT [M.A. NOS. 33 TO 35 OF 2002, DECIDED ON 10.1.2006] (PATNA) REPORTED IN TAXMAN'S CPT VOL.13 (OCT. 15 TO 31) 2008.</p> <p>Where wife of assessee had no independent income acquisition made in her name will be treated as acquisition made by assessee.</p>
143, 147, 148	<p>P.G. AND SAWOO P. LTD. AND ANOTHER v. ASSISTANT COMMISSIONER OF INCOME-TAX AND OTHERS [2008] 307 ITR 243 (CAL)</p> <p>Reassessment-income escaping assessment-retrospective increase of rent-intimation under section 143(1)(a)-notice valid-Income-tax Act, 1961, ss. 143, 147, 148.</p>
143, 148	<p>K. J. THOMAS v. COMMISSIONER OF INCOME-TAX [2008] 301 ITR 301 (KER.)</p> <p>Reassessment-validity-failure to give notice under section 143(2)-assessee</p>

	given opportunity to be heard-reassessment valid-Income-tax Act, 1961, ss. 143, 148. Held, that the procedure under section 143(2) of the Income-tax Act, 1961, is to ensure that an adverse order is issued only after proper opportunity is given to the assessee. In this case, it is conceded that the assessee got opportunity to file reply and detailed reply was in fact filed and reassessment notice and final order were also issued within the time limit prescribed under the Act. The order of reassessment could not be held invalid on the ground that written notice was not issued to the assessee before completion of assessment u/s 143(2).
143, 282	COMMISSIONER OF INCOME-TAX v. VINS OVERSEAS INDIA LTD. [2008]305 ITR 320(DELHI) Assessment—Notice—Service of Notice—Service Through Registered Post—Presumption of proper service—Assessee participating in assessment proceedings on subsequent notice—Affidavit for first time before Tribunal denying service of earlier notice—No valid rebuttal of presumption of proper notice—Earlier Notice validly served— Income tax Act, 1961, ss 143, 282.
143, 154	JANATHA TILE WORKS LTD. v. COMMISSIONER OF INCOME-TAX, [2006]283 ITR 35 (KER) Assessment— Rectification of mistakes—Intimation under section 143(1)(a)— Intimation survives after order of assessment under section 143(3)—Intimation can be rectified and additional tax can be imposed under section 143(1A)— Income-tax Act, 1961, ss.143, 154.
143	KARAN CHAND THAPAR AND BROTHERS v. ASSISTANT COMMISSIONER OF INCOME-TAX AND ANOTHER [2005] 276 ITR 105[CAL] Assessment – Appeal to appellate Tribunal – direction by tribunal to Assessing Officer to decide issues relating to depreciation and travel expenditure – reassessment proceedings in relation to payment of sales tax – subsequent notice to decide issues as directed by Tribunal – Valid – Income –tax Act, 1961, s. 143.
143, 263	COMMISSIONER OF INCOME-TAX v. ANDERSON MARINE AND SONS PVT. LTD. [2004] 266 ITR 694 (BOM) Assessment – law applicable – Effect of amendment of section 143(1) w.e.f. 1.4.1989 – Intimation under section 143(1) is an order of assessment – Commissioner can revise such and order – Income-tax Act, 1961, ss. 143, 263. Revision – Powers of Commissioner – Intimation under section 143(1) – Order can be revised – Income-tax Act, 1961, ss. 143, 263.
143(1), 147	KESRIMAL (DECD.) AND OTHERS v. INCOME TAX OFFICER AND ANOTHER [2003] 264 ITR 119 (MP) Reassessment—Notice—HUF—HUF claiming that a certain amount had been transferred to its members on the basis of a family settlement in October, 1979—Claim accepted in original assessment for 1980-81 but rejected subsequently on revision in 1984—Assessments for 1983-84, 1984-85 and 1985-86 under section 143(1)—Notice under section 147 in November, 1986,

	asking for details of investment of amount allegedly transferred by HUF in 1979—Notice valid—Income-tax Act, 1961, ss. 143(1), 147.
143(1), 263, 37	COMMISSIONER OF INCOME-TAX v. RAJKUMAR DIPCHAND PHADE [2001] 249 ITR 520 (BOM) Revision – Condition precedent – Order which is erroneous and prejudicial to Revenue – Assessing Officer passing order of summary assessment under section 143(1) – Not bar for Commissioner to invoke section 263 – Income-tax Act, 1961, ss. 143(1), 263. Business expenditure – firm – Goodwill - Interest – Goodwill amount payable by incoming partners and not by firm – Firm not liable to pay any interest for liability of goodwill – Firm not entitled to deduction on account of interest – Income-tax Act, 1961, s. 37.
80HH, 80-IB, 143(1)(a)	MARLBOROUGH POLYCHEM LTD. v. COMMISSIONER OF INCOME TAX [2010] 321 ITR 395(Raj) Assessment –Prima facie adjustments –Additions made on ground issue not debatable –Assessee contending that at time of making assessment issue was debatable –Assessee does not have right to claim that uninformed about judgment –Judgment operative from date it is pronounced –Assessing Officer entitled to make additions – Income tax Act, 1961, 80HH, 80-IB, 143(1)(a).
36(1)(vii) 143(1)(a)	SOUTH INDIAN BANK LTD. v. COMMISSIONER OF INCOME-TAX [2009] 316 ITR 306 (KER.) Assessment-prima facie adjustments-bad debt-banking company-debt not written off in books of account-deduction prima facie inadmissible-Income-tax Act, 1961 ss. 36(1)(vii), 143(1)(a). Bad debt-amendment to section 36(1)(vii)-scope of explanation-bad debt written off does not include provision for bad and doubtful debts made in accounts- Explanation clarificatory in nature-Income-tax Act, 1961, s. 36(1)(vii), Expln.
80P(2) (a)(iii), 143 (1)(a)	PUNJAB STATE CO-OPERATIVE SUPPLY AND MARKETING FEDERATION LTD. v. JOINT COMMISSIONER OF INCOME-TAX [2008] 304 ITR 70 (P&H) Co-operative society-special deduction-amendment of section 80P(2)(a) with retrospective effect-law as amended applicable-Income-tax Act, 1961, ss80P(2)(a)(iii),143(1)(a).
80-O 143(1)(a)	KVAVERNER JOHN BROWN ENGINEERING (INDIA) P. LTD V. ASSISTANT COMMISSIONER OF INCOME-TAX [2008]305 ITR 99(KARN) Assessment –intimation on basis of return--Whether Deduction under section 80-O is on net income or on gross income—Issue not debatable –Claim disallowed while issuing intimation under section 143(1)(a)—Justified -- Income Tax Act, 1961, ss. 80-O, 143(1)(a).

143(1) (a)	TAMIL NADU MAGNESITE LTD. V. DY. CIT [T.C. (A) NO. 903 OF 2007 DECIDED ON 3.7.2007] (MAD.) REPORTED IN TAXMAN'S CPT VOL. 13 (OCT. 15 TO 31) 2008 Where bonus provision was added back while making prima facie adjustment as amount was not paid within due date for filing return, as there was no dispute that the impugned deduction was inadmissible in view of sec.43B, which overrides sec.36(1) by operation of law, viz., sub-clause (iii) of the first proviso to sec.143(1)(a), the Assessing Officer was well within the power to make a prima facie adjustment in the computation of taxable total income while passing order u/s.143(1)(a).
43B, 143(1)(a)	SHREE DIGVIJAY CEMENT CO. LTD. v. COMMISSIONER OF INCOME-TAX [2007] 289 ITR 250 (GUJ) Business expenditure-deduction only on actual payment – Interest on arrears of sales tax part of tax – Can be disallowed if not actually paid – Income-tax Act, 1961, s. 43B. Assessment – Intimation under section 143(1)(a) - Scope of section 143(1)(a) – Supreme Court decision that interest on arrears of sales tax in part of tax- Disallowance of interest under section 43B – Intimation of Disallowance Under section 143(1)(a) – Valid – Income-tax Act, 1961, ss. 43B, 143(1)(a)
143(1)(a)	KVAVERNER JOHN BROWN ENGG.(INDIA)(P.) LTD. v. ASSTT. CIT [ITA NOS. 164 & 216 of 2003, DECIDED ON 4-12-2006] (KAR.) Fact that deduction u/s.80-O can only be on net income and not on gross income is not debatable. Thus, where assessing authority, had issued an intimation u/s.143(1)(a) and in that intimation it had disallowed claim of assessee under provisions of sec.80-O, being of view that allowance could only be on the net income and not on gross income, no fault could be found with order of Assessing Officer u/s.143(1)(a)
143(1)(a) 147, 148	SRI KRISHNA MAHAL v. ASSISTANT COMMISSIONER OF INCOME-TAX [2001] 250 ITR 333 (MAD.) Reassessment – Jurisdiction—Intimation—does not bar notice for reassessment—Income escaping assessment—Cost of construction—assessing Officer calling for valuation by department valuer—Substantial difference between value estimated by approved valuer and value returned by assessee—Notice of Reassessment valid—Income tax Act-1961, ss.143(1)(a), 147, 148.
143 (1A)	HARYANA CO-OPERATIVE SUGAR MILL LTD v. COMMISSIONER OF INCOME-TAX AND ANOTHER, [2005] 277 ITR 80 (P & H) Assessment—Additional tax—Law applicable—Amendment of section 143(1A) w.e.f. 1.4.1989—Law as amended applicable where return has been filed after 1-4-1989—Reduction in loss—Additional Tax can be levied—Income-tax Act,1961 s.143(1A).
73,24,292BB,143(2)	ARAVALI ENGINEERS (P.) LTD. V. COMMISSIONER OF INCOME TAX [2011] 335 ITR 508 (P &H)/[2011] 200 TAXMAN 81 (P&H) Section 73 of the Income-tax Act, 1961 – Losses – In speculation business –

	<p>Assessment year 1997-98 – Whether in view of provisions of section 73, assessee could not be allowed to set off speculation loss arising from sale and purchase of shares against its income from house property – Held, yes.</p> <p>Section 24 of the Income tax Act 1961 – Income from house property – Deductions –Assessment year 1997-98 – Assessee claimed deduction of brokerage paid on sale and purchase of shares while computing income from house property – Whether wherever deductions out of income from income cannot be allowed Held, yes- Whether, therefore, assessee's claim for deduction was to be rejected – Held, yes.</p> <p>Section 292BB, read with section 143, of the Income-tax Act, 1961 – Notice, deemed to be valid in certain circumstances –Assessment year 1997-98 – In proceedings before Tribunal, assessee raised a new plea that since notice under section 143(2) was not served within stipulated time, assessment was barred by limitation Tribunal refused to entertain plea raised by assessee – Whether in view of provisions of section 292BB, question of validity of notice could not be allowed to be raised for first time in appeal – Held, yes – Whether, therefore, impugned order of Tribunal refusing to entertain assessee's plea, was to be upheld – Held, yes.</p>
142(1), 143(2)	ANUPAM ENTERPRISES v. INCOME TAX OFFICER [2010] 322 ITR 230 (Karn) Firm –Doctrine of mutuality –Firm formed to carry on business of money lending, trading in fabrics and garments –In one year doing no business but advancing loan to its partners –Doctrine of mutuality not applicable –Income tax Act, 1961, S. 142, 143
142(1), 143(2), 148	GAURAV AGARWAL v. INCOME-TAX OFFICER [2009] 314 ITR 123 (CAL) Reassessment – notice – writ – allegation that order of assessment passed without considering objections – objections bald and not specific – cannot be considered – assessee represented by an advocate before authority – cannot question jurisdiction of authority – Income-tax Act, 1961, ss. 142(1). 143(2), 148.
143(2), 144, 282, CPC, 1908, O. V. R 19A	COMMISSIONER OF INCOME-TAX v. YAMU INDUSTRIES LTD. [2008] 306 ITR 306 (DELHI) Assessment-notice-service of notice – presumption of valid service-notice sent by registered post well before expiry of time limit and not received unserved – presumption that notice served within time-Assessment valid – Income-tax Act, 1961, SS. 143(2), 144, 282-code of Civil procedure 1908, O. V. R. 19A.
142(1), 143(2), 144, 282, GCA 1897, s 27	COMMISSIONER OF INCOME-TAX v. MADHSY FILMS P. LTD. [2008] 301 ITR 69 (DELHI) Assessment-notice-notice under section 143(2)- record not disclosing envelope undelivered or received back – presumption that notice served not rebutted by assessee – valid notice served within time-Income-Tax Act, 1961, ss. 143(2), 282-general clauses Act, 1897, s. 27.

143(2)	COMMISSIONER OF INCOME -TAX v. SHANKER LAL VED PRAKASH [2008] 300 ITR 243 (DELHI) Assessment — Notice—Limitation—Notice Under Section 143(2)—Presumption that Notice served within time— Burden on Assessee to prove that there was no service within time-- Income Tax Act, 1961, s. 143(2).
143(2)(b) 147	SHYAM SUNDAR GUPTA v. COMMISSIONER OF INCOME-TAX [2006] 276 ITR 592 [MP] INDORE BENCH Assessment – enquiry in assessment under section 143(2)(b) – different from reassessment – no requirement that Assessing Officer must have recorded reasons – No co-operation from assessee despite notice under section 143(2)(b) – Assessing Officer assuming jurisdiction and completing assessment without recording reasons for reopening – not illegal – Income-tax Act, 1961, ss. 143(2)(b), 147.
139, 140, 143(2), 271(1)(a)	ELECTRICAL INSTRUMENT COMPANY v. COMMISSIONER OF INCOME TAX [2001] 250 ITR 734 (DELHI) Return—Unsigned and unverified return—Notice under section 143(2) issued—Another Return duly signed and verified filed –Return filed earlier invalid—Issuance of notice under section 143(2) would not validate invalid return—Penalty and interest for delay in filing return justified-- Income-tax Act-1961, s.139, 140, 143(2), 271(1)(a).
143(3), 147	MADRAS GYMKHANA CLUB v. DEPUTY COMMISSIONER OF INCOME-TAX [2010] 328 ITR 348 (Mad) Income –principle of mutuality –Club –Surplus funds deposited with institutional members –Interest on such deposits –Does not satisfy principle of mutuality –Chargeable to tax –Income-tax Act, 1961, Reassessment – Limitation –No assessment made under section 143(3) –Time limit of four years not applicable –Income-tax Act, 1961, s. 143(3), 147 The assessee was a club providing various facilities to its members such as restaurant, gymnasium, library, bar, coffee shop, swimming pool and other indoor and outdoor games. The club made certain investments in the form of fixed deposits with its corporate members and earned interest from these institutions. The assessee claimed that the interest was exempt on the principle of mutuality and also challenged as barred by limitation, the reopening of assessments for the assessment years 1996-97, 1997-98 and 1998-99 by notices served on April 4, 2003, under section 147 of the Income-tax Act, 1961:Held, dismissing the appeals (i) that the investment of surplus funds in the form of fixed deposits and securities which in turn resulted in earning of interest could not satisfy the mutuality concept. The interest earned from deposits with institutional members was not exempt. (ii) That the period of four years mentioned in section 147 would have no application, where there was no order under section 143(3) or any provisional order passed under section 147 itself on the ground of escaped assessment. Hence, the reassessments were within time.
2(8),(40), 143(3), 144B,147153	COMMISSIONER OF INCOME TAX v. SUNDARAM SPINNING MILLS [2001] 249 ITR 213 (SC) Reassessment – Limitation – Extension of time – Assessment – Draft

	assessment order – Procedure for draft order of assessment and forwarding to IAC for direction in cases where variation of income or loss returned exceeds prescribed amount – Period of limitation extended by 180 days – Applies also to reassessments – Income-tax Act, 1961, ss. 2(8), (40), 143(3), 144B, 147, 153, Expln. (1)(iv).
131, 142, 142A, 144 , 145	COMMISSIONER OF INCOME-TAX AND ANOTHER v. BHAWANI SHANKAR VYAS [2009] 311 ITR 8 (UTTARAKHAND) Assessment – accounting – production of evidence –valuation of assets – scope of section 142A – assessing officer need not reject accounts before making reference under section 131(I)(d) or calling for a report of valuer under section 142A – Income-tax act, 1961, ss. 131, 142, 142A, 144, 145.
144 , 145	BRIJ MOHAN BANSAL INCOME-TAX OFFICER [2009] 311 ITR 317 (P & H) Best judgment assessment – rejection of accounts – estimate of gross profit – finding by tribunal that assessee failed to maintain record of purchase – failure to produce record contrary to data confronted to assessee – rejection justified – Income-tax Act, 1961.
29, 144 , 145	COMMISSIONER OF INCOME-TAX v. GIAN CHAND LABOUR CONTRACTORS [2009] 316 ITR 127 (P. & H.) Accounting – rejection of accounts –best judgment assessment – adoption of net profit rate of 8 per cent. No further separate deduction allowable – Income-tax Act, 1961, ss. 29, 144, 145.
144	ENDEAVOUR ESTATES P. LTD. v. ASSISTANT COMMISSIONER OF INCOME-TAX [2009] 316 ITR 250 (KARN.) Assessment-assessee executing a sale deed and also entering into an agreement regarding easementary rights-authorities holding sale deed to be composite and amount received as long term capital gain – finding of fact – Income-tax Act, 1961, s. 144.
144	PUSHAM BANSAL v. COMMISSIONER OF INCOME-TAX [2009] 316 ITR 256 (P&H) Assessment-best judgment assessment-additions-tribunal directing Assessing Officer to frame de-novo assessment-no prejudice caused to assessee-no infirmity in Tribunal's order-Income-tax Act, 1961, s. 144.
143(2), 144 , 282, CPC, 1908, O. V. R 19A	COMMISSIONER OF INCOME-TAX v. YAMU INDUSTRIES LTD. [2008] 306 ITR 306 (DELHI) Assessment-notice-service of notice – presumption of valid service-notice sent by registered post well before expiry of time limit and not received unserved – presumption that notice served within time-Assessment valid – Income-tax Act, 1961, SS. 143(2), 144, 282-code of Civil procedure 1908, O. V. R. 19A.

142(1), 143(2), 144 , 282, GCA 1897, s 27	<p>COMMISSIONER OF INCOME-TAX v. MADHSY FILMS P. LTD. [2008] 301 ITR 69 (DELHI)</p> <p>Assessment-notice-notice under section 143(2)- record not disclosing envelope undelivered or received back – presumption that notice served not rebutted by assessee – valid notice served within time-Income-Tax Act, 1961, ss. 143(2), 282-general clauses Act, 1897, s. 27.</p>
144	<p>C. PACKIRISAMY v. ASSTT. CIT [T.C. (A) NO. 1585 OF 2008</p> <p>Where disallowance of opening capital was made on account of failure of assessee to explain source of opening capital and how it accumulated for years in a satisfactory manner, disallowance of opening capital was justified.</p>
2(8),(40), 143(3), 144B ,147, 153	<p>COMMISSIONER OF INCOME TAX v. SUNDARAM SPINNING MILLS [2001] 249 ITR 213 (SC)</p> <p>Reassessment – Limitation – Extension of time – Assessment – Draft assessment order – Procedure for draft order of assessment and forwarding to IAC for direction in cases where variation of income or loss returned exceeds prescribed amount – Period of limitation extended by 180 days – Applies also to reassessments – Income-tax Act, 1961, ss. 2(8), (40), 143(3), 144B, 147, 153, Expln. (1)(iv).</p>
92CA(3), 144C	<p>INTIMATE FASHIONS (INDIA) P. LTD. v. JOINT COMMISSIONER OF INCOME-TAX, TRANSFER PRICING OFFICER AND ANOTHER [2010] 321 ITR 265(Mad)</p> <p>International transactions –Arm's length price –Assessee filing written objections but not availing of opportunity of personal hearing –Not entitled to complain that transfer pricing order passed without personal hearing –Remedy available before dispute resolution panel -Income-Tax Act, 1961, s.92CA(3), 144C.</p>
145	<p>SALEM STEEL COMPANY v. COMMISSIONER OF INCOME-TAX [2010] 322 ITR 349 (Mad)</p> <p>Accounting –Rejection of accounts –Estimate of profits –Estimate based on comparable cases –Valid –Income-Tax Act, 1961.Held, that the assessment order showed that the Assessing Officer had pointed out categorically that the accounts of the assessee had not been maintained regularly and were not properly supported by basic materials. The survey conducted in the fag end of the accounting year pointed out that the statutory accounts maintained by the assessee were incomplete or not updated for several months. The books of account were incomplete. Huge discrepancies were noticed during the survey which remained unexplained. There were no contemporary evidence to support the data produced at the time of survey. Consequently, the Assessing Officer went for comparison of cases similar to that of the assessee and ultimately came to the conclusion that the gross profit admitted by the assessee at 2.77 percent could not be accepted. The commissioner of Income-tax (Appeals) found that the difference of .715 per cent. had to be added in the gross profit of the assessee on the basis of the comparable cases produced by the assessee and the relative advantage that the assessee enjoyed over others. In the circumstances, rightly the Tribunal held that there was no infirmity in the order</p>

	of the Commissioner of Income-tax (Appeals) in arriving at the gross profit. The Tribunal ultimately upheld the order of the authorities below. Considering the analytical manner, in which the Commissioner of Income-tax (Appeals) had considered the case, the Tribunal rightly confirmed the findings on facts. As the issue involved was one of fact, it could not be interfered with.
145	PRAKASH AUTOMOBILES v. COMMISSIONER OF INCOME-TAX [2010] 322 ITR 435 (Ker) Accounting – Rejection of accounts – Estimate of income – Books of account not maintained – Estimate of income can be made on rational basis – Income-tax Act 1961. In the absence of books of account, the Assessing Officer is free to conduct enquiry and estimate income on a rational basis under section 144 of the Income tax Act, 1961. Though the assessee was an automobile dealer and obviously registered under the Kerala General Sales Tax Act, it maintained the stand for several years that it was not in the habit of keeping books of account. Income-tax returns were filed for the assessment years 1994-95 to 1997-98 on estimation basis. The Assessing Officer adopted the turnover fixed for the year 1988-89 at Rs. 16 lakhs, which became final, as the basis for completion of assessments. He made a progressive addition to the turnover at the rate of Rs. 2 lakhs each for every year and estimated the income at 8 per cent of the turnover. The Commissioner (Appeals) reduced the addition from Rs. 2 lakhs to Rs. 1 lakh for every year. On further appeal, the Tribunal fixed the turnover at Rs. 15 lakhs for all the years, which was less by Rs. 1 lakh from the turnover finally assessed for 1988-89. On further appeal to the High Court: Held, dismissing the appeals, that on the facts and in the circumstances of the case the order of the Tribunal was justified.
145	NATIONAL PLASTICS INDUSTRIES v. INCOME-TAX OFFICER [2009] 309 ITR 191 (BOM) Accounting – finding that books of account not properly maintained and suffered from deficiencies – assessing officer computing income on reasonable basis – justified – Income-tax Act, 1961, s. 145.
131, 142, 142A, 144, 145	COMMISSIONER OF INCOME-TAX AND ANOTHER v. BHAWANI SHANKAR VYAS [2009] 311 ITR 8 (UTTARAKHAND) Assessment – accounting – production of evidence – valuation of assets – scope of section 142A – assessing officer need not reject accounts before making reference under section 131(I)(d) or calling for a report of valuer under section 142A – Income-tax act, 1961, ss. 131, 142, 142A, 144, 145.
144, 145	BRIJ MOHAN BANSAL INCOME-TAX OFFICER [2009] 311 ITR 317 (P & H) Best judgment assessment – rejection of accounts – estimate of gross profit – finding by tribunal that assessee failed to maintain record of purchase – failure to produce record contrary to data confronted to assessee – rejection justified – Income-tax Act, 1961.

145	<p>MRS. KRISHNA GUPTA v. ASSISTANT COMMISSIONER OF INCOME-TAX [2009] 311 ITR 322 (DELHI)</p> <p>Rejection of accounts – estimate of income – gross profit – assessing officer finding that gross profit declared unreliable and rejecting books of account and estimating at 10 per cent. – Commissioner (appeals) finding assessee declaring gross profit rate of 4.3 per cent. for eleven months of accounting year and 1.5 per cent. for march – assessee failing to give any reasons – estimate at rate of 5 per cent. – Justified – Income-tax Act, 1961.</p>
145	<p>SRIRAM & CO. v. ASSTT. CIT [2009] 176 TAXMAN 426/ [2009] 14 CPT 584 (RAJ.)</p> <p>Where assessee had only produced computerized cash book, ledger, journal and few vouchers but neither stock register was produced nor labour registers with proof of payments were brought on record, in such circumstances, authorities below were justified in rejecting books of account.</p>
145	<p>SHREE GANPATI EMBROIDERY (P.) LTD. v. CIT [2009] 178 TAXMAN 176/[2009] 15 (CPT 51 (PUNJ. & HAR.)</p> <p>Once there is a valid basis for rejecting accounts, assessment is not capricious or vindictive and estimate is rational, some amount of guess work has to be allowed and such estimate of income cannot be interfered with merely because a different view can be taken.</p>
145	<p>MRS. KRISHNA GUPTA v. ASSISTANT COMMISSIONER OF INCOME-TAX [2009] 311 ITR 322 (DELHI)</p> <p>Rejection of accounts-estimate of income-gross profit-assessing officer finding that gross profit declared unreliable and rejecting books of account and estimating at 10 per cent.- Commissioner (Appeals) finding assessee declaring gross profit rate of 4.3 per cent. For eleven months of accounting year and 1.5 per cent. For march-assessee failing to give any reasons – estimate at rate of 5 per cent.-justified – Income-tax Act, 1961.</p>
29, 144, 145	<p>COMMISSIONER OF INCOME-TAX v. GIAN CHAND LABOUR CONTRACTORS [2009] 316 ITR 127 (P. & H.)</p> <p>Accounting – rejection of accounts –best judgment assessment – adoption of net profit rate of 8 per cent. No further separate deduction allowable – Income-tax Act, 1961, ss. 29, 144, 145.</p>
145	<p>SRIRAM AND COM. v. ASSISTANT COMMISSIONER OF INCOME-TAX [2009] 316 ITR 139 (RAJ)</p> <p>Accounting-rejection of books of account-admitted to be correct-best judgment assessment-estimation of income-estimation based on facts-valid – Income-tax Act, 1961.</p>
145	<p>SREE GANPATI EMBROIDERY (P.) LTD. v. COMMISSIONER OF INCOME-TAX-II, AMRITSAR [2009] 178 TAXMAN 176 (PUN & HAR)</p> <p>Section 145 of the Income-tax Act-1961- Method of accounting- Rejection of</p>

	accounts-Assessment year 2003-04- Whether once there is valid basis for rejecting accounts; assessment is not capricious or vindictive; and estimate is rational some amount of guesswork has to be allowed and such estimate of income cannot be interfered with, merely because a different view can be taken -Held, yes.
145	MATHUR MARKETING (P) LTD. V. CIT (DELHI) [2006] 151 TAXMAN 123 Assessee was engaged in trading of rice - It showed profits in two transactions and loss in two transactions - Assessing Officer after considering entire material including account books held that loss-making transactions were bogus and, accordingly, disallowed loss. Assessee's case was that Assessing Officer was not justified in accepting two entries in books of account relating to profits and disregarding other two entries concerning losses. High Court held that since books of account or any other material produced before Assessing Officer by assessee were simply meant to support disclosure of profit or loss set out in its return and it was always open to Assessing Officer to scrutinise such material or entries in books of account before accepting same for purpose of assessment, there was no merit in assessee's case.
145	OMAX SHOE FACTORY V. CIT [2005] 148 TAXMAN 517 (ALL.) Section 145 applies when production register and raw-material consumption register etc. are not maintained.
145	ORIENTAL TEXTILES VS. CIT [2005] 142 TAXMAN 520 (ALL.) Books of account maintained by the assessee are clearly unreliable - Invoking the provisos to section 145(1) and 145(2) are justified.
145	N.U. JOSEPH V. CIT [2005] 146 TAXMAN 283 (KER.) Section 145 – Estimation of profit can be done when it is established that the assessee is definitely showing low rate of profit.
145	LADHA TRADERS v. COMMISSIONER INCOME-TAX [2004]269 ITR 183 (MP-INDORE BENCH) Accounting—Rejection of Accounts— General principles—Finding that there had been suppression of sales—Rejection of accounts and addition of income—Valid—Income -tax Act, 1961, s. 145.
145	ACTION ELECTRICALS V. DY. CIT 258 ITR 188 (DEL.) Amount discovered during search surrendered as unaccounted sales. Books of accounts can be rejected.
145	KASHRI CHAND JAISUKHANI V. CIT 248 ITR 47 (GAU.) Books do not reflect actual transactions. Books of accounts can be rejected.

145	CHETAN DASS LACHMAN DASS V. CIT 255 ITR 197 (DEL.) No evidence in respect of expenses. Books of accounts can be rejected.
145	MANI & CO. V. CIT 256 ITR 373 (KER.) Books of original entry not produced and expenses also not properly vouched. Books of accounts can be rejected.
145	AWADHESH PRATAP SINGH ABDUL RAHMAN & BROS. V. CIT 210 ITR 406 (ALL.) Absence of vouchers against purchases and expenses coupled with low profits. Books of accounts can be rejected.
145	B. N. MAHESHRI V. CIT 210 ITR 438 (BOM). Day-to-day manufacturing account, quantitative consumption a/c not furnished. Books of accounts can be rejected.
145	ORCHA TRANSPORT CO. V. CIT 167 ITR 561 (M.P.) Counterfoils of tickets issued in a transport business not maintained. Books of accounts can be rejected.
145	CIT V. PAREEK BROS. 167 ITR 344 (PAT) No day to day stock register, distinctive numbers of purchases and sales not furnished. Books of accounts can be rejected.
145	COMMISSIONER OF INCOME-TAX v.PARECK BROTHERES [1987] 167 ITR 344 (PATNA) Accounting – Rejection of accounts – Estimation of income – Assessee dealing in hosiery and readymade garments – No day to day stock account – No details of purchases or sales – Sales tax received from customers included in sale price – Sales tax paid not debited to trading accounts – Rejection of accounts justified – Sales tax to be deducted in computing gross profits.
145	JAICHAND KANJI & CO. V. CIT 157 ITR 451 (RAJ) CIT V. PREM SINGH & CO. 163 ITR 434 (DEL.) S. MURUGAPPA CHETTIAR V. CIT 174 ITR 245 (KER.) Inflation of stocks in statements filed before Bank. Books of accounts can be rejected.
145	CIT V. SHRI V. GOKULDAS 141 ITR 110 (MAD) Improper valuation of Stocks. Books of accounts can be rejected.
145	RATANLAL OMPRAKASH V. CIT 132 ITR 640 (ORI) Proper books absent and also daily stock register not maintained. Books of accounts can be rejected.

145	BHARAT MILK PRODUCTS V. CIT 128 ITR 682 (ALL) Day to day manufacturing and production a/c not maintained. Books of accounts can be rejected.
145	KISHINCHAND CHELARAM V. CIT 114 ITR 671 (BOM) No stock tally and sales are not recorded with identifiable details. Books of accounts can be rejected.
145	ORISSA FISHERIES DEV. CORPN. LTD. V. CIT 111 ITR 923 (ORI) No details regarding wastage, shortage, shrinkage. Books of accounts can be rejected.
145	RAZA TEXTILES LTD. V. CIT 86 ITR 673 (ALL.) No correlation between yarn issued and cloth woven in a weaving mill. Books of accounts can be rejected.
145	BHAI SUNDARDAS SARDAR SINGH (P) LTD. V. CIT 84 ITR 106 (DEL) No proper accounts of stores consumed. Books of accounts can be rejected.
145	DHONDIRAM DALICHAND V. CIT 81 ITR 609 (BOM) GHANSHYAM DAS PARMANAND V. CIT 21 ITR 79 (NAG) Where, in the circumstances of the case, absence of stock book is a fatal defect. Books of accounts can be rejected.
145	STEELWORTH LTD. V. CIT 69 ITR 366 (GAU) No day-to-day consumption register or Production Register. Books of accounts can be rejected.
145	CIT v K. Y. PILLIAH AND SONS (1967) 63 ITR 411 (SC) Rejection of accounts when transactions of considerable value not entered therein and low rate of gross profit disclosed. Assessee firm not entering transactions of considerable value in its books of accounts – Accounts disclosing gross profit rate of less than 4 per cent on turnover disclosed as compared to 6 to 7 per cent of other dealers in the same trade – Rejection of accounts, estimation of turnover and application of gross profit rate of 6.5 per cent by the Income-tax Officer, whether legal and proper – Held, yes.
145	ASIAN TOOL AND PLASTIC CO. V. CIT 55 ITR 392 (CAL) Purchases made from a sister concern at inflated rates. Books of accounts can be rejected.
145	ROYAL MEDICAL HALL V. CIT 46 ITR 748 (AP) Proper vouchers and Stock Register not maintained. Books of accounts can be

	rejected.
145	ALLAHABAD GLASS WKS. V. CIT 42 ITR 439 (ALL.) Stock book looks quite fresh and appears to be written in a few sittings. Books of accounts can be rejected.
145	RAMCHANDRA SINGH RAMNIK LAL V. CIT 42 ITR 780 (PAT) No stock register and register of work in progress in contract business. Books of accounts can be rejected.
145	G. K. PADMARAJU V. CIT 37 ITR 365 (AP) Several discrepancies, alterations and omissions found in the Books. Books of accounts can be rejected.
145	SUNDARAN & CO. LTD. V. CIT 36 ITR 162 (MAD) Commission earned on purchases not disclosed. Books of accounts can be rejected.
145	BOMBAY CYCLE STORES V. CIT 33 ITR 13 (BOM) Some sales are verifiable but not all. Books of accounts can be rejected.
145	CIT V. ABDUL AZIZ SAHIB 7 ITR 647 (MAD) No vouchers for majority of purchases. Books of accounts can be rejected.
145	HIRABAID. DESAI & SONS V. CIT 4 ITR 95 (BOM) Market price of goods sold is shown instead of price actually received. Books of accounts can be rejected.
145	BADRI S. S. LAL V. CIT 4 ITR 387 (LAH) Volume of business increased but profits declined and vouchers not produced. Books of accounts can be rejected.
145	DIWAN CHAND V. CIT 2 ITR 382 (LAH.) Purchases not entered in the accounts. Books of accounts can be rejected.
147	AGR INVESTMENT LTD. V. ADDL. COMMISSIONER OF INCOME TAX [2011] 333 ITR 146 (DELHI)/[2011] 197 TAXMAN 177 (DELHI) Section 147 of the Income-tax Act, 1961 – Income escaping assessment – Non-disclosure of primary facts – Assessment year 2003-04 – whether in exercise of power under article 226 of Constitution, Court can adjudge sufficiency of material for reopening assessment under section 147 – Held, no – Whether where Assessing Officer had specific information from office of DIT (Investigation) as regards transactions entered into by assessee-company with a number of concerns which had made accommodation entries and they were not

	genuine transactions, it could be said that there was material on basis of which notice under section 148 could be issued – Held, yes.
147, 148	KARTIKEYA INTERNATIONAL v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2010]329 ITR 539(All) Reassessment –notice—notice within four years—notice based on supreme court decision—notice valid –Income-Tax Act, 1961, ss. 147,148. Appeal to supreme court—effect of decision of supreme court –interpretation of provision from the beginning of its existence—Income-tax Act, 1961.Precedent—effect of decision in liberty India v. CIT [2009]317 ITR 218. The decision of the Supreme Court which declares the law from the very beginning of the existence of the provision itself would constitute material to reopen the proceeding under section 147 of the Income- tax Act-1961. Held, that in the case of Liberty India v. CIT [2009] 317 ITR 218 the Supreme Court considered the scheme of the duty drawback and held that the duty drawback received from the Central Government under the scheme does not fall within the purview of income derived from the business of the industrial undertaking so as to entitle the assessee to deduction under section 80-IB of the Act. In this view of the matter the petitioner was not entitled for the deduction on the duty drawback amount under section 80-IB of the Act and since it had been allowed in the assessment order passed under section 143(1) of the Act, it had escaped assessment. On these facts the initiation of the proceedings u/s.148 read with section 147 of the Act for the assessment years 2005-06 and 2006-07 was legal and in accordance with law.
143,147, 148	MAVIS SATCOM LTD v. DY. COMMISSIONER OF INCOME-TAX & ANOTHER [2010]325 ITR 428(Madras) Reassessment –Notice-Writ Direction of court to assessee to file objections – objections considered and rejected -Writ High Court order passed in compliance with natural justice and under direction of court-Failure by assessee to disclose nature of expenditure in accordance with accounting standards-Assessing Officer entitled to reopen assessment-Consequent orders of assessment order rejecting objections merges in order of assessment- Assessee entitled to raise all issues on merits and on procedural irregularities in order of rejection in appeal against assessment-Writ petitions dismissed – Income Tax Act, 1961, ss. 143, 147, 148- Constitution of India, Art. 226.
147	COMMISSIONER OF INCOME-TAX v. ARORA ALLOYS LTD. [2010]326 ITR 34(P & H) Reassessment –reassessment on basis of proceedings under central excise act— reassessment proceedings could not be kept pending till decision of excise tribunal -- Income-Tax Act, 1961.
147, 149, 153(3), Expln 3	POONJA ARCADE v. ASSISTANT COMMISSIONER OF INCOME-TAX [2010]326 ITR 123(Karn) Reassessment—firm—dissolution of firm –land belonging to firm transferred at its cost of acquisition to company—share—holders of company erstwhile partners of firm—revision—assessment treating difference between market value of land and its cost of acquisition as income of firm—appeal against assessment by partners—tribunal upholding assessment—consequent

	reassessment of firm—valid —escaped income more than Rs. 50,000— reassessment not barred by limitation-- Income-Tax Act, 1961, S.147, 149, 153(3), expln. 3.
147	MULTISCREEN MEDIA PRIVATE LIMITED v. UNION OF INDIA AND ANOTHER (No. 2) [2010]324 ITR 54(Bom) Reassessment—reassessment within four years—condition precedent—reason to believe income had escaped assessment—additional material discovered in assessment proceedings of a subsequent year—reassessment proceedings on the basis of such subsequent assessment—valid-- Income-Tax Act, 1961, S.147.
147, 148	JAYARAM PAPER MILLS LTD. v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 321 ITR 56 (Mad) Reassessment-Business loss set off against interest income-Reopening of assessment on ground expenditure claimed not incidental to earning of income-Justified-Income-Tax Act 1961, S. 147, 148.The assessee filed the return for the assessment year 2004-05 disclosing interest earned from money-lending under the head of business and claiming admissible expenses and set off against brought forward losses. The Assessing Officer reopened the assessment on the ground that expenditure unconnected with the earning of interest was wrongly set off against income from other sources, contrary to the provisions of section 72 of the Income-tax Act 1961. On a writ petition:Held, dismissing the petition, that the assessee admittedly earned income solely from interest on fixed deposits and intercorporate deposits and debited significant amount of expenditure. The Assessing Officer had taken a view, <i>prima facie</i> , that the expenditure debited to the profit and loss account under various heads was not incidental to the earning of interest income. Therefore his view that he had reason to believe that certain income chargeable to tax escaped assessment, could not be vague, irrational or devoid of any basis.
147, 148	ASHOK ARORA v. COMMISSIONER OF INCOME-TAX [2010] 321 ITR 171 (Delhi) Reassessment –Notice –Assessee contending that notice not served upon him but on a third person –Order of court to serve a copy of notice –Assessing Officer making assessment after service of notice –Assessee not filing a return –Writ –Issues regarding assessment to be taken in an appeal –Writ petition not proper –Income-tax Act, 1961, S.147, 148 –Constitution of India, Art. 226.
147, 148, 149, GCA 1897, S. 27	MAYAWATI v. COMMISSIONER OF INCOME TAX AND OTHERS [2010] 321 ITR 349(Delhi) Reassessment –Notice –Notice under section 149 –Notice should be issued within prescribed period –Not necessary that notice should be served within prescribed period –Notice served by inspector of income-tax –information that assessee had shifted her residence and consequent service by speed post – Presumption that notice had been served –Income-Tax Act, 1961, s. 147, 148, 149, GCA 1897, S. 27.

147	COMMISSIONER OF INCOME-TAX v. C. V. JAYACHANDRAN [2010] 322 ITR 520(Ker) Reassessment –Capital gains –Compulsory acquisition of land when gains taxable –Amendment providing for levy of tax on receipt of initial compensation –prior to amendment taxable in assessment year relevant to previous year in which transfer took place –Income on capital gain not disclosed either in accordance with unamended provisions or with amended provision –Reassessment valid –Assessing Officer to follow law in force as on date of initiation of proceeding –Income-tax Act, 1961, s. 147.
147	COMMISSIONER OF INCOME-TAX v. DR. SADIQUE UMMER [2010] 322 ITR 602(Ker) Reassessment –Notice –Assessee an anesthetists doctor –Assessee not maintaining any books of account –Reassessment based on information collected from hospitals –Reopening of assessment valid –Income-tax Act, 1961, s. 147.
147, 148	MAVIS SATCOM LTD. v. DEPUTY COMMISSIONER OF INCOME-TAX [2010] 320 ITR 46 (Mad) Reassessment –Notice –Assessee after receiving notice appearing before Assessing Officer and obtaining further time to submit explanation –Matter posted for further hearing –Writ –Court not interfering with notice but granting one week time to assessee to file explanation before Assessing Officer – Income-tax Act, 1961, s. 147, 148. The assessments of the petitioner for the assessment years 2003-04 and 2004-05 were repented by issuing notices under section 148 of the Income tax Act 1961. On writ petitions questioning the correctness of the issuance of the notices contending that the authorities erroneously issued the notices on the basis of audit objection raised in respect of some of the assessments: Held, dismissing the petitions, that the petitioner after receiving the notices had appeared before the Assessing Officer and obtained further time to submit explanation. The matter was posted for further hearing. Therefore, the court would not interfere with the notices which had called upon the petitioner to give explanation. The court granted one week time to the petitioner to file a detailed explanation before the Assessing Officer. The authorities were directed not to pass final order till them.
69, 147, 148	JAGJIT PAL SINGH ANAND v. COMMISSIONER OF INCOME-TAX [2010] 320 ITR 106 (Delhi) Reassessment -Notice –Income escaping assessment –Information from commissioner of customs (Air Cargo) implicating assessee for fraud and holding assessee real owner of materials imported –reasons given by assessing officer his own and independent application of mind –Not influenced by, superior officer –Notice valid –Commissioner of customs' finding confirmed by CEGAT showing assessee made unexplained investment –Addition under section 69 valid –Income-tax Act, 1961, s. 69, 147, 148.
143(3), 147	MADRAS GYMKHANA CLUB v. DEPUTY COMMISSIONER OF INCOME-TAX [2010] 328 ITR 348 (Mad) Income –principle of mutuality –Club –Surplus funds deposited with

	institutional members –Interest on such deposits –Does not satisfy principle of mutuality –Chargeable to tax –Income-tax Act, 1961, Reassessment – Limitation –No assessment made under section 143(3) –Time limit of four years not applicable –Income-tax Act, 1961, s. 143(3), 147 The assessee was a club providing various facilities to its members such as restaurant, gymnasium, library, bar, coffee shop, swimming pool and other indoor and outdoor games. The club made certain investments in the form of fixed deposits with its corporate members and earned interest from these institutions. The assessee claimed that the interest was exempt on the principle of mutuality and also challenged as barred by limitation, the reopening of assessments for the assessment years 1996-97, 1997-98 and 1998-99 by notices served on April 4, 2003, under section 147 of the Income-tax Act, 1961:Held, dismissing the appeals (i) that the investment of surplus funds in the form of fixed deposits and securities which in turn resulted in earning of interest could not satisfy the mutuality concept. The interest earned from deposits with institutional members was not exempt. (ii) That the period of four years mentioned in section 147 would have no application, where there was no order under section 143(3) or any provisional order passed under section 147 itself on the ground of escaped assessment. Hence, the reassessments were within time.
36(1) (viii) 147	KERALA FINANCIAL CORPORATION v. JOINT COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 308 ITR 434 (KER) Reassessment – income escaping assessment – deduction wrongly allowed under section 36(1)(viii) though no income after setting off carried forward losses – reassessment proceedings – valid – Income-tax Act, 1961, ss. 36(1)(viii), 147.
147, 148, Chap x	COCA COLA INDIA INC. v. ASSISTANT COMMISSIONER OF INCOME-TAX AND OTHERS [2009] 309 ITR 194 (P&H) Transfer pricing – constitutional validity of provisions – chapter x dealing with transfer pricing – valid – Income-tax Act, 1961, Chapter x. Reassessment – notice – validity of notice – multinational company entering into service agreement with Indian company – order of transfer pricing officer – notice of reassessment based on such order – valid – Income-tax Act, 1961, ss. 147, 148.
80-I, 147, 148	ROPAR DISTRICT CO-OPERATIVE MILK PRODUCERS UNION LTD. v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 311 ITR 42 (P&H) Reassessment – discovery of new and important facts not present at time of original assessment constitute “reason to believe that any income chargeable to tax has escaped assessment” – industrial undertaking – special deduction under section 80-I – deduction claimed under section 80-I as if milk plant constructed by assessee and deduction allowed – on investigation milk plant found to be constructed by Punjab dairy development corporation – prima facie belief of assessing officer that income escaped assessment justified – initiation of reassessment proceeding based on basis of facts collected after investigation and not a mere change of opinion – Income-tax Act, 1961, ss. 80-I,147,148.
147	YUVRAJ v. UNION OF INDIA. & ANOTHER [2009] 315 ITR 84 (BOM) Reassessment –Notice-Sale of right to purchase open plot-No determination of

	Value of land- Whether income to be treated as capital gain or casual income-Issues not decided while passing assessment order under section 143(3)-Not a case of change of opinion-Assessing Officer justified in issuing notice.
147	M.A. UNNERIKUTTY v. CIT[2009] 180 TAXMAN366/[2009] 15 CPT 696 (KER) Where Assessing Officer reopened assessee's assessment on ground that assessee had not disclosed unaccounted purchase of copra as assessee could not prove that copra really belonged to agriculturists and was not copra purchased and held as stock by him as claimed by him, it was rightly held that assessee had not disclosed full and true facts in accounts.
147	SUNIL BHASEEN v. CIT [2009] 179 TAXMAN 148/[2009]15 CPT 361 (PUNJ. & HAR.) Merely because of technicality that person on basis of whose statement of assessment was reopened, was not allowed to be cross-examined, reassessment could not be set aside.
147	PUNJAB STATE CO-OP. SUPPLY & MARKETING FEDERATION LTD. v. JT. CIT [2009] 178 TAXMAN 165/[2009] 15 CPT 52 (PUNJ. & HAR.) Where Assessing Officer had issued notice under section 148 for reopening assessment on basis of a decision of Supreme Court, validity of notice would not be affected merely because, subsequently, Supreme Court had taken a different view, however, while framing an assessment Assessing Officer would have to take into consideration subsequent judgment and development of law.
147	COMMISSIONER OF INCOME TAX, PATIALA v. SANT RAM MANGAT RAM [2009] 180 TAXMAN 177(PUNJ. & HAR.) Section 147 of the Income-tax Act-1961—Income escaping assessment-General –Whether in view of decision of Supreme Court in Indian & Eastern Newspaper Society v. CIT[1979]119 ITR 996/2 Taxman 197, opinion of an audit party of department on a point of law cannot be regarded as ‘information’ within meaning of section 147(b) for purpose of reopening of assessment – Held, yes.
147	DEPUTY COMMISSIONER OF INCOME TAX v. K. S. SURESH [2009] 319 ITR 1 (MAD) Reassessment – Notice – Writ-court can only consider whether there was prima facie case for reassessment – Transfer of shares – Facts regarding transaction not properly disclosed – Misuse of CGS deposit – Notice of reassessment valid – Concession on behalf of revenue that objections of assessee not considered – Concession not factually correct – Concession not binding on Revenue – Writ petition against notice after objection had been considered and rejected – Exemplary costs awarded – Income-tax Act, 1961, s. 47.

147	SAT NARAIN v. CIT [2009] 183 TAXMAN 401/[2009] 16 CPT 573 (PUNJ. & HAR.) Reopening of assessment was justified on basis of information received by Assessing Officer from Assistant Commissioner that though assessee had filed a declaration under VDIS, 1997 disclosing income of Rs. 2 lakhs in form of cash for relevant assessment year, he had not paid due tax and, therefore, said declaration was deemed not to have been filed as per provisions of VDIS.
147, 149(b)	NAVEEN MEENA JAIN (HUF) v. COMMISSIONER OF INCOME-TAX AND OTHERS [2009] 317 ITR 327 (ALL) Reassessment – Notice – Limitation – Issuance of Notice within six-year period under section 149(b) – Within jurisdiction – Noticee filing reply and return – Entitled to reasons for issuing such notice Income Tax Act, 1961, s. 147, 149(b).
147	COMMISSIONER OF INCOME TAX, BIKANER V. DR. DEVENDRA GUPTA [2011] 336 ITR 59 (RAJ)/[2008]174 TAXMAN 438 (RAJ) Section 147 of the Income-Tax Act, 1961 – Income escaping assessment – General – Whether when there exists material on record to arrive at a conclusion about escapement of certain income from assessment and in reassessment proceedings such income is not found to have escaped assessment, it is still open to Assessing Officer to complete reassessment proceedings on basis of certain other materials in respect of certain other income found to have escaped assessment – Held, yes.
147	SARDARNI UTTAM KAUR EDUCATIONAL SOCIETY v. CIT [IT APPEAL NOS. 266 TO 270 OF 2007, DECIDED ON 2-7-2008] (PUNJ.& HAR.) REPORTED IN TAXMAN'S CPT VOL. 13 (OCT. 1 TO 15) 2008. Where before initiating reassessment proceedings u/s.147, Assessing Officer had already initiated enquiries to find out as to how donations given to assessee-trust had been utilized by it but assessee-trust had not fully complied with furnishing of required information and Assessing Officer had found that assessee was not running any educational institution/school/college or vocational institute at given place as claimed, he had reason to believe that income chargeable for tax in form of donations, etc. had escaped assessment.
147	STERLITE INDUSTRIES (I) LTD. v. ASSTT. CIT [W.P. NO.27780 OF 2007 & M.P. NO.1 OF 2007, DECIDED ON 12-3-2008] (MAD.) REPORTED IN TAXMAN'S CPT VOL. 13 (OCT. 1 TO 15) 2008. Reassessment notice based on information from Enforcement Directorate showing possible inflation of purchases was a valid notice.
143, 147, 148	P.G. AND SAWOO P. LTD. AND ANOTHER v. ASSISTANT COMMISSIONER OF INCOME-TAX AND OTHERS [2008] 307 ITR 243 (CAL) Reassessment-income escaping assessment-retrospective increase of rent-intimation under section 143(1)(a)-notice valid-Income-tax Act, 1961, ss. 143, 147, 148.

147, 148	STERLITE INDUSTRIES (INDIA) LTD. v ASSISTANT COMMISSIONER OF INCOME-TAX AND ANOTHER [2008]302 ITR 275 (MAD.) Reassessment –Notice—Validity of Notice - Information From Enforcement Directorate showing possible inflation of purchases –notice valid –Income-tax Act,1961, ss.147,148
147, 148	P.G. FOILS LTD. v. INCOME-TAX SETTLEMENT COMMISSION AND ANOTHER [2008]302 ITR 331 (MAD) Reassessment - Notice Income escaping assessment –Observations by Settlement Commission Adverse to assessee in settlement proceedings relating to party with whom assessee had transactions Assessee not entitled to Challenge order of Settlement Commission Observations can form reason for reopening assessment of assessee but not conclusive proof-- Income tax Act, 1961, ss.147A, 148.
147, 148	VIDYA SAGAR v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2008]303 ITR 124 (P & H) Reassessment –Notice—Notice to file return—Assessing Officer bound to furnish reasons if sought by notice—Noticee entitled to file objections and Assessing Officer bound to dispose of them by speaking order—Noticee not filing reply to notice though filing return—Writ will not Issue to restrain authority from taking any further action in pursuance of notice -- Noticee to follow procedure—Constitution of India, Art. 226– Income tax Act, 1961, ss 147, 148.
2(22)(e), 147	COMMISSIONER OF INCOME-TAX v. S.R. TALWAR [2008]305 ITR 286(ALL) Company—Dividend—Deemed dividend—Company having accumulated balance—Loan to Director—Deemed dividend-- Income-tax Act, 1961, s 2(22)(e). Reassessment –Failure to disclose material facts necessary for assessment—Assessee Director of Company—Company having Accumulated Balance—Loan from company not disclosed—Reassessment proceedings valid -- Income-tax Act, 1961, s.147.
147, 263	INDUCTOTHERM (INDIA) P. LTD. (FORMERLY INDUCTOTHERM INDIA) v JAMES KURIAN, ASSISTANT COMMISSIONER OF INCOME, [2007]294 ITR 341(GUJ). Reassessment–Revision—Notice Issued under section 263—Reassessment proceedings can be initiated-- Income-tax Act, 1961, s.147.
147	COMMISSIONER OF INCOME-TAX v. HUKAM SINGH AND OTHERS [2006] 276 ITR 347 [P&H] Reassessment – notice – legal representative – notice not served on all legal representatives – no objection raised and return filed in response to notice – non-issuance of notice to some legal representatives – mere irregularity – reassessment not invalid – Income-tax Act, 1961, ss. 147, 148.

147,148	AUROBINDO SANITARY STORES v. COMMISSIONER OF INCOME-TAX [2006] 276 ITR 549 [ORISSA] Reassessment- failure to disclose fully and truly all material facts – substantial difference between figures of liabilities towards sundry creditors in party ledgers of assessee-firm seized from partner in search and figures of liabilities towards sundry creditors in balance –sheet of assessee-firm – Direct link and nexus for forming belief that income had escaped assessment – reassessment valid – Income-tax Act, 1961, ss. 147, 148.
143(2)(b) 147	SHYAM SUNDAR GUPTA v. COMMISSIONER OF INCOME-TAX [2006] 276 ITR 592 [MP] INDORE BENCH Assessment – enquiry in assessment under section 143(2)(b) – different from reassessment – no requirement that Assessing Officer must have recorded reasons – No co-operation from assessee despite notice under section 143(2)(b) – Assessing Officer assuming jurisdiction and completing assessment without recording reasons for reopening – not illegal – Income-tax Act, 1961, ss. 143(2)(b), 147.
147	ATUL TRADERS VS. ITO : [2006] 282 ITR 536 (ALL.) Reassessment u/s.147 against third party – Third party was allowed opportunity of being heard – Service of actual notice not required.
132, 132A, 147, Chap XIV-B	CHANDRA PRAKASH AGRAWAL v. ASSISTANT COMMISSIONER OF INCOME-TAX AND OTHERS, [2006]287 ITR 172 (ALL) Reassessment—Search and seizure—Block assessment—Special procedure—Scope of Chapter XIV-B—Special procedure under chapter XIV-B applicable in case of search under section 132 of requisition under section 132A—No search under section 132—Requisition not complete—Reassessment proceedings valid – Income-tax Act, 1961, ss. 132, 132A 147, Chapter XIVB
147, 148	ANUSANDHAN INVESTMENTS LTD. v M. R. SINGH, DEPUTY COMMISSIONER OF INCOME-TAX AND ANOTHER, [2006] 287 ITR 482 (BOM) Reassessment—Notice—Notice based on assessment of subsequent assessment year—Valid –Appeal pending from such assessment—Not relevant—Income-tax Act, 1961, ss. 147, 148.
147, 148	ADITYA AND CO. v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2005] 279 ITR 47 (P&H) Reassessment – Notice – validity of notice – Return submitted by firm showing rental income as business income – intimation issued under section 143(1) accepting return – subsequent notice under section 148 on the ground that income was assessable as income from other sources and that assessee was not a firm – Notice valid – Income-tax Act, 1961, ss. 143(1), 147, 148.

147	AUROBINDO SANITARY STORE VS. CIT (ORISSA) 230 CTR : VOL. 196 : DTD. 08.07.2005 Reassessment u/s.147 – Difference in regards the ledger and in the balance sheet – Reassessment valid.
147	CIT VS. KESHORAM INDUSTRIES LTD. (CAL.) 116 CTR : VOL. 193 : DTD. 14.01.05 Reassessment – New claim or deduction cannot be allowed in reassessment stage.
147	CIT VS. HUKAM SINGH & ORS. (P & H) 92 CTR : VOL. 198 : DTD. 30.9.2005 Re-assessment u/s. 147 is valid even though notice u/s.148 was served on only one legal heir.
147	CIT VS. INDO MARINE AGENCIES (KERALA) P. LTD. [2005] 279 ITR 372 (KER.) Return not filed – Non-compliance with notices issued u/s.139(2) and 142(1) – Assessment closed as N.A. in view of past records of assessee – Amounts to order under section 144 – That order not communicated to assessee – Not a bar for reassessment proceedings – Reassessment valid.
147	U. P. STATE BRASSWARE CORPORATION LTD. v. COMMISSIONER OF INCOME-TAX [2005] 277 ITR 40 (ALL) Other Sources—Deductions—Interest paid to State Government on loan for establishment of industrial estate—Industrial Estate not yet established—Interest not deductible—Income-tax Act, 1961, s.57. Reassessment – Validity—Original Assessment granting particular deductions –Subsequent High Court decision that deduction was not allowable—Reassessment proceedings to withdraw deduction—Valid—Income-tax Act, 1961, s.147.
147	ARUN KUMAR MAHESHWARI & ORS. VS. ITO & ORS. (ALL.) 207 CTR : VOL. 196 : DTD. 08.07.2005. Important facts not disclosed in Income Tax Return but disclosed in W.T. Return – filing of inaccurate particulars still persist in income tax proceedings.
147, 148	DHARAM PAL SINGH RAO v. INCOME-TAX OFFICER AND ANOTHER [2004] 271 ITR 223 (ALL) Reassessment—Notice—Limitation—Sufficient if notice is issued within period of limitation—Income-tax Act, 1961, ss. 147, 148. Reassessment—Notice—Validity—Proceedings dropped because of objection to territorial jurisdiction—Subsequent Notice after obtaining sanction of Additional CIT—Notice valid—Income -tax Act, 1961, ss 2(28C), 117,147,151

147, 148	RATNACHUDAMANI S. UTNAL v. INCOME-TAX OFFICER [2004] 269 ITR 212 (KARN) Reassessment—Notice —Writ—Prima Facie belief that income had escaped assessment—Sufficient for issue of notice—Reasons for notice need not be disclosed—Assessee showing only salary income in returns but admitting to income-tax authorities that he had made capital gains—Notice under section 148 based on reasons—Fact of admission not disclosed while filing writ petition—Notice valid—Writ would not also issue because assessee had suppressed material facts-- Income-tax Act, 1961, ss. 147,148—Constitution of India Art. 226.
147, 148	INCOME-TAX OFFICER AND OTHERS v. SHREE BAJRANG COMMERCIAL CO. (PVT.)LTD.[2004] 269 ITR 338 (Cal) Reassessment—Notice—Reason to believe that income had escaped assessment—Discovery that assessee had transactions with a name-lender—Prima facie reason to believe that income had escaped assessment—Notice of reassessment valid -- Income-tax Act, 1961, ss.147, 148. Reassessment—Writ—Notice of Reassessment—Prima facie reason to believe that income had escaped assessment—Court can not consider sufficiency of reasons —Notice valid-- Income-tax Act, 1961, ss.147,148—Constitution of India, Art, 226.
147,148	INCOME-TAX OFFICER AND OTHERS v. SHREE BAJRANG COMMERCIAL CO. (PVT.) LTD. [2004] 269 ITR 338 (CAL) Reassessment – Notice – Reason to believe that income had escaped assessment – Discovery that assessee had transactions with a name-lender – Prima facie reason to believe that income had escaped assessment – Notice of reassessment valid – Income-tax Act, 1961, ss. 147, 148. Reassessment –Writ – Notice of reassessment – Prima facie reason to believe that income had escaped assessment – Court cannot consider sufficiency of reasons – Notice valid – Income-tax Act, 1961, ss. 147, 148 – Constitution of India, art. 226.
143(1), 147	KESRIMAL (DECD.) AND OTHERS v. INCOME TAX OFFICER AND ANOTHER [2003] 264 ITR 119 (MP) Reassessment—Notice—HUF—HUF claiming that a certain amount had been transferred to its members on the basis of a family settlement in October, 1979—Claim accepted in original assessment for 1980-81 but rejected subsequently on revision in 1984—Assessments for 1983-84, 1984-85 and 1985-86 under section 143(1)—Notice under section 147 in November, 1986, asking for details of investment of amount allegedly transferred by HUF in 1979—Notice valid—Income-tax Act, 1961, ss. 143(1), 147.
2(8),(40), 143(3), 144B,147 153	COMMISSIONER OF INCOME TAX v. SUNDARAM SPINNING MILLS [2001] 249 ITR 213 (SC) Reassessment – Limitation – Extension of time – Assessment – Draft assessment order – Procedure for draft order of assessment and forwarding to IAC for direction in cases where variation of income or loss returned exceeds prescribed amount – Period of limitation extended by 180 days – Applies also to reassessments – Income-tax Act, 1961, ss. 2(8), (40), 143(3), 144B, 147, 153, Expln. (1)(iv).

147	MULCHAND RAMPURIA v ITO (2001) 252 ITR 758 (CAL) It is not necessary to communicate reasons for issuance of notice.
147	ESS ESSKAY ENGINEERING CO. P. LTD. v CIT (2001) 247 ITR 818 (SC) Reopening of assessment on basis of fresh materials obtained in course of assessment of next assessment year. Reopening of assessment of an earlier year on basis of findings of fact on basis of fresh material obtained in course of assessment of the next assessment year, whether permissible – Held, yes.
147, 148	VIPPY PROCESSORS PVT. LTD. v. COMMISSIONER OF INCOME TAX AND ANOTHER [2001] 249 ITR 7 (MP) Reassessment – Notice – Difference in value of properties disclosed and report submitted by valuation officer – Assessing Officer recording reasons before issuance of notice under section 148 – Reasons adequate and based on relevant facts and material – Notice valid – Income-tax Act, 1961, ss. 147, 148 – Constitution of India, arts. 226, 227.
143(1)(a), 147, 148	SRI KRISHNA MAHAL v. ASSISTANT COMMISSIONER OF INCOME-TAX [2001] 250 ITR 333 (MAD.) Reassessment – Jurisdiction—Intimation—does not bar notice for reassessment—Income escaping assessment—Cost of construction—assessing Officer calling for valuation by department valuer—Substantial difference between value estimated by approved valuer and value returned by assessee—Notice of Reassessment valid—Income tax Act-1961, ss.143(1)(a), 147, 148.
147	ITO v SARADBHAI M. LAKHANI (2000) 243 ITR 1 (SC) Initiation of reassessment proceedings on basis of High Court decision. Reassessment proceedings can be initiated on basis of information received by the Income Tax Officer – Information received by the Income Tax Officer was a decision of High Court – Initiation of reassessment proceedings on basis of High Court decision, whether valid – Held, yes – when the Income-tax Officer became aware of this decision, he could initiate proceedings under section 147(b)
147	ITO v PURUSHOTTAM DAS BANGUR (1997) 224 ITR 362 (SC): (1997) 90 TAXMAN 541 (SC) Letter of Deputy Director of Investigation, whether constitutes information. Reassessment – Notice – Information – what constitutes – Assessment completed accepting loss on sale of shares on the basis of market quotation – letter from Deputy Director of Investigation stating Stock Exchange quotation manipulated – Constitutes information to believe that income escaped assessment – Merely because notice was sent on next day of receipt of letter does not mean ITO did not apply his mind Section 147(b), Income-tax Act, 1961.

147	<p>SRI KRISHNA PVT. LTD VS. ITO AND OTHERS 221 ITR 538 (SC)</p> <p>The power conferred on the assessing officer to reopen the assessment under section 147(a)/148 is no unbridled one. Firstly, there should be reasons to believe existing. Secondly the assessing officer should record such reasons in writing. Thirdly, the CIT/Board has to satisfy themselves on the basis of reasons recorded that it is a fit case for reopening. On the other hand, the assessee is also required to make a true and full disclosure of all material facts necessary for making assessment for that year. The enquiry at the stage of issuance of notice for reopening is to see whether there are reasonable grounds for the assessing officer to believe that and not to see whether the omission or failure and the escape of income is established. Sufficiency of reasons for formation of belief is not for the court to judge but it can examine whether there existed any belief or whether belief was bonafide, or was not based on vague, irrelevant and non-specific information. Thus Court can examine existence of material for formation of belief and also a rational connection or a live link with the formation of the requisite belief. [Followed – Phoolchand Bajranglal – Vs- ITO 203 ITR 456 (SC)] [Applied in 225 ITR 588 (Bom.); 227 ITR 549 (Bom.)]</p>
147	<p>CIT VS. MAJOR TIKKA KHUSWANT SINGH 212 ITR 650 (SC) R. K. UPADHYAYA VS. SHANABHAI PATEL 166 ITR 163 (SC)</p> <p>Issuance of a notice of reassessment within the period of limitation gave jurisdiction to the A.O. to make re-assessment (notice of reassessment should be dispatched by registered post) (thus, service of the notice before the limitation is not necessary).</p>
147	<p>PHOOL CHAND BAJRANG LAL AND ANOTHER VS. ITO & ANOTHER 203 ITR 456 (SC)</p> <p>Sufficiency of reasons for reopening assessments is not for the court to judge. Section: 147(a) – failure to disclose truly and fully material facts – cash loans – originally accepted as genuine subsequent information from A.O. of a company that its M.D. has confessed – he or his company has not advanced any loan to any person during the relevant period – subsequent information is definite, specified and reliable. Sufficiency of reasons for formation of belief is not for the court to judge. Reassessment notices are valid. [Applied/followed in – 208 ITR 196 (RAJ) : 208 ITR 266 (DEL): 209 ITR 01 (BOM) :209 ITR 135 (BOM) : Assam Forest Products (P) Ltd. – Vs.-CIT : 211 ITR 447 (SC): 214 ITR 669 (RAJ) : 221ITR 538 (SC) :226 ITR 352 (GUH): 237ITR 549 (BOM): 248 ITR 493 (P&H) :ITO – VS- Selected Dalurband Coal Co.Pvt. Ltd. 217 ITR 597 (SC) :253 ITR 83 (DEL) 257 ITR 481 (Guj)]</p>
147	<p>CENTRAL PROVINCES MANGANESE ORE CO. LTD. v ITO (1991) 191 ITR 662 (SC)</p> <p>Non-disclosure of all material facts necessary for assessment and information relating to under-invoicing of foods exported. Assessee Non-resident Company with head office in London and office in India, exporting manganese ore - Production of Indian account books and London profit and loss account and balance sheet only and not other accounts and original contracts for sale at the time of original assessment – Finding by Customs Authorities that there was under-invoicing of goods exported by assessee – Initiation of reassessment</p>

	proceedings after four years of the end of the assessment year concerned under section 147(a) of the Income-tax Act, 1961, whether valid – Held, yes.
147	ITO v BIJU PATNAIK (1991) 188 ITR 247 (SC): (1990) 4 JT 731: (1991) 91 CTR 95: AIR 1991 SC 464 Where capital gains not charged as assessee falsely stated that capital assets were transferred on a date when capital gains tax not leviable. Assessee claiming transfer of mining business having been effected on March 31, 1956 in respect of which levy of capital gains tax not effective and assessment completed without levy of capital gains tax under section 12B of the Indian Income-tax Act, 1922 (corresponding to section 45 of the Income-tax Act, 1961) – Information received by Income-tax Officer subsequently that transfer took place not on March 31, 1956 but on November 3, 1956 and assessee liable to capital gains tax – Initiation of reassessment proceedings under section 147(a) read with section 148 of the Income-tax Act, 1961 – Legality – Held, legal.
147	S. NARAYANAPPA v CIT (1967) 63 ITR 219 (SC) The reasons for reopening, though required to be recorded, are not required to be communicated.
147	KANTAMANI VENKATA NARAYANA & SONS v FIRST ADDITIONAL INCOME-TAX OFFICER (1967) 63 ITR 638 (SC) Notice for reassessment need not specify clause (a) or (b) under which it is issued – Reassessment proceedings could be initiated where wealth disproportionate to incomes in discovered. Notice for reassessment of income, whether should specify the clause of section 34(1) of the Indian Income-tax Act, 1922 (corresponding to section 147 of the Income-tax Act, 1961) under which it is issued – Held, no – Production of accounts and other evidence before the Income-tax Officer, whether amounts to disclosure of material facts fully and truly for purposes of assessment – Held, no – Discovery of wealth disproportionate to known source of income of assessee, whether could afford reason to believe that income had escaped assessment – Held, yes.
147(a)	RAMILABEN RATILAL SHAH VS. CIT (GUJ.) 340 CTR : VOL. 199 : DTD. 09.12.2005 Reassessment – Seized diary shows additional investment in property, which was not disclosed – Section 147(a) applies.
147(a)	MARKANDA VANASPATI MILLS LTD. VS. CIT (P & H) 619 CTR : VOL. 195 : DTD. 03.06.05. Reassessment – Assessee did not furnish facts pertaining to sales tax liability – Reopening justified.
147(a), 148	HANUMAN TRADING CO. v. COMMISSIONER OF INCOME TAX [2001] 250 ITR 365 (DELHI) Reassessment –Failure to disclose material facts necessary for assessment—Necessity of live link between material and relief—Subsequent information

	that creditors were bogus name-lenders—Nexus between material and relief—Reassessment proceedings valid –Income-tax Act-1961, ss.147(a), 148
147(a)	PHOOL CHAND BAJRANG LAL AND ANR. VS. ITO & ANR. 203 ITR 456 (SC.) Sufficiency of reasons for Re-opening assessments is not for the Court to judge.
69A, 147(a), 148	A. PUSA LAL v. COMMISSIONER OF INCOME-TAX [1988] 169 ITR 214 (A.P.) Reassessment – Power of ITO under section 143(2) to correct assessment made under section 143(1) – Does not exclude power to reopen assessment under section 147 – Assessment for assessment year 1974-75 completed under S. 143(1) – During assessment proceeding for 1975-76, ITO finding that assessee had lent monies to a party – Loans related to assessment year 1974-75 – Assessee unable to explain nature and source of acquisition of money lent – Reassessment proceedings initiated and amount treated as income from undisclosed sources and assessed as “deemed income” under section 69A for assessment year 1974-75 – Reassessment valid – Income-tax Act, 1961, ss. 69A, 147(a), 148.
147(b)	U. P. STATE BRASSWARE CORPN. LTD. VS. CIT (ALL.) 353 CTR : VOL. 194 : DTD. 1.4.2005 Reassessment–Information derived from a subsequent decision of High Court – Reassessment valid.
147(b)	TAMIL NADU SMALL INDUSTRIES DEVELOPMENT CORPORATION LTD. v. COMMISSIONER OF INCOME TAX [2001] 250 ITR 695 (MAD.) Reassessment Information—Reopening of assessment of subsequent assessment year on basis of information in order of Tribunal for an earlier assessment year valid Income-tax Act-1961, s.147(b).
147(b)	ITO VS. SARADBHAI M. LAKHANI [2000] 243 ITR 1 (SC) Initiation of reassessment proceedings on basis of High Court decision.
147(b)	CIT VS. P. V. S. BEEDIES PVT. LTD. 236 ITR 13 (SC) The factual information/error provided by the internal audit party would constitute information for the purposes of reopening of assessment.
147(b)	CIT V. P. V. S. BEEDIES PVT. LTD. 236 ITR 13 (SC) Reopening of assessment under section 147(b) :- The factual information/error provided by the internal audit party would constitute information for the purposes of reopening of assessment.

147(b)	<p>COMMISSIONER OF INCOME-TAX v. WEST COAST INDUSTRIAL COMPANY LIMITED. [1987] 168 ITR 72 (KER)</p> <p>Capital or revenue receipt – Subsidy received from rubber board towards reimbursement of expenditure incurred in replantation, development, maintenance and upkeep of rubber trees – Is revenue receipt. Reassessment – Informations – Subsidy received for replantation of rubber trees from rubber board not included in assessee's income – pronouncement by Supreme Court that rubber plantation subsidy is income – Circular issued by CBDT conveying such information – Object of circular was merely conveyance of information regarding pronouncement by highest court of land – ITO entitled to act on information communicated – Reassessment valid – Income-tax Act, 1961, s. 147(b).</p>
147, 148	<p>KARTIKEYA INTERNATIONAL v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2010]329 ITR 539(All)</p> <p>Reassessment –notice—notice within four years—notice based on supreme court decision—notice valid –Income-Tax Act, 1961, ss. 147,148. Appeal to supreme court—effect of decision of supreme court –interpretation of provision from the beginning of its existence—Income-tax Act, 1961.Precedent—effect of decision in liberty India v. CIT [2009]317 ITR 218. The decision of the Supreme Court which declares the law from the very beginning of the existence of the provision itself would constitute material to reopen the proceeding under section 147 of the Income- tax Act-1961. Held, that in the case of Liberty India v. CIT [2009] 317 ITR 218 the Supreme Court considered the scheme of the duty drawback and held that the duty drawback received from the Central Government under the scheme does not fall within the purview of income derived from the business of the industrial undertaking so as to entitle the assessee to deduction under section 80-IB of the Act. In this view of the matter the petitioner was not entitled for the deduction on the duty drawback amount under section 80-IB of the Act and since it had been allowed in the assessment order passed under section 143(1) of the Act, it had escaped assessment. On these facts the initiation of the proceedings u/s.148 read with section 147 of the Act for the assessment years 2005-06 and 2006-07 was legal and in accordance with law.</p>
143,147, 148	<p>MAVIS SATCOM LTD v. DY. COMMISSIONER OF INCOME-TAX & ANOTHER [2010]325 ITR 428(Madras)</p> <p>Reassessment –Notice-Writ Direction of court to assessee to file objections – objections considered and rejected -Writ High Court order passed in compliance with natural justice and under direction of court-Failure by assessee to disclose nature of expenditure in accordance with accounting standards-Assessing Officer entitled to reopen assessment-Consequent orders of assessment order rejecting objections merges in order of assessment- Assessee entitled to raise all issues on merits and on procedural irregularities in order of rejection in appeal against assessment-Writ petitions dismissed – Income Tax Act, 1961, ss. 143, 147, 148- Constitution of India, Art. 226.</p>
147, 148	<p>JAYARAM PAPER MILLS LTD. v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 321 ITR 56 (Mad)</p> <p>Reassessment-Business loss set off against interest income-Reopening of</p>

	assessment on ground expenditure claimed not incidental to earning of income-Justified-Income-Tax Act 1961, S. 147, 148.The assessee filed the return for the assessment year 2004-05 disclosing interest earned from money-lending under the head of business and claiming admissible expenses and set off against brought forward losses. The Assessing Officer reopened the assessment on the ground that expenditure unconnected with the earning of interest was wrongly set off against income from other sources, contrary to the provisions of section 72 of the Income-tax Act 1961. On a writ petition:Held, dismissing the petition, that the assessee admittedly earned income solely from interest on fixed deposits and intercorporate deposits and debited significant amount of expenditure. The Assessing Officer had taken a view, <i>prima facie</i> , that the expenditure debited to the profit and loss account under various heads was not incidental to the earning of interest income. Therefore his view that he had reason to believe that certain income chargeable to tax escaped assessment, could not be vague, irrational or devoid of any basis.
147, 148	ASHOK ARORA v. COMMISSIONER OF INCOME-TAX [2010] 321 ITR 171 (Delhi) Reassessment –Notice –Assessee contending that notice not served upon him but on a third person –Order of court to serve a copy of notice –Assessing Officer making assessment after service of notice –Assessee not filing a return –Writ –Issues regarding assessment to be taken in an appeal –Writ petition not proper –Income-tax Act, 1961, S.147, 148 –Constitution of India, Art. 226.
147, 148 , 149, GCA 1897, S. 27	MAYAWATI v. COMMISSIONER OF INCOME TAX AND OTHERS [2010] 321 ITR 349(Delhi) Reassessment –Notice –Notice under section 149 –Notice should be issued within prescribed period –Not necessary that notice should be served within prescribed period –Notice served by inspector of income-tax –information that assessee had shifted her residence and consequent service by speed post – Presumption that notice had been served –Income-Tax Act, 1961, s. 147, 148, 149, GCA 1897, S. 27.
56, 80P(2) (a)(i), 148 , 149, 151	TOTGARS CO-OPERATIVE SALE SOCIETY LTD. v. INCOME-TAX OFFICER [2010] 322 ITR 272 (Karn) Co-operative society – Special deduction –Society engaged in marketing agricultural produce of members – Not engaged in business of banking – Interest earned on surplus funds invested in securities and deposits – Not business income but income from other sources –Not entitled to special deduction –Income-tax Act 1961, s. 56, 80P(2)(a)(i),Reassessment – Notice – Condition precedent –Sanction of additional Commissioner –Amendment with effect from June 1, 2001 restricting reopening to six years –Sanction for reopening assessment for 1991-92 obtained before this date but communicated later –Notice valid –Income-Tax Act, 1961, s. 148, 149, 151.
139(1), 148 , 276CC, 278E	R. INBAVALLI v. INCOME-TAX OFFICER [2010] 327 ITR 226 (Mad) Offences and prosecution –Failure to file returns in time –Issue of notice under section 148 and filing of returns in response thereto –Will not exonerate assessee of liability to prosecution –Mens rea –Statutory presumption as to culpable mental state –Assessee entitled at trial to prove absence of mens rea-

	<p>Income-tax Act, 1961, S. 139(1), 148, 276CC, 278E.Three complaints were filed against the assessee for not filing the income-tax returns before the statutory due date in accordance with section 139(1) of the Income-tax Act, 1961 and thereby rendering the assessee to prosecution under section 276CC of the Act. The assessee filed a petition seeking discharge but the petitions were dismissed. On revision petitions contending that subsequently a notice was issued to the assessee under section 148 of the Act granting 30 days time to file the returns and the assessee filed the returns, that once notice was given under section 148 of the Act, time for filing returns was extended and there was no violation of section 139 of the Act and no prosecution could have been initiated against the assessee: Held, dismissing the petitions, (i) that even after the notice had been issued under section 142 of the Act. The assessee did not file returns but filed them only after issuance of the notice under section 148 of the Act. The contention raised by the assessee that by filing returns within the time prescribed in the notice under section 148 of the Act the assessee was exonerated from prosecution under section 276CC of the Act for not filing the returns within the statutory due date in accordance with section 139(1) of the Act was not tenable.</p>
143, 148	<p>COMMISSIONER OF INCOME TAX v. SHIV SHAKTI FLOUR MILLS P. LTD. [2010] 327 ITR 430 (Gauhati)</p> <p>Reassessment –Notice –Grounds of reassessment –Law applicable –Effect of amendment of section 147 w.e.f. 1.4.1989 –Reason to believe that income had escaped assessment – Sufficient for initiating reassessment proceedings – Meaning of “reason to believe” –Transport subsidies shown in reserve and surplus account and not in profit and loss account in original return –return processed under section 143(1)(a) –Subsequent reassessment proceedings – Valid –Income-tax Act, 1961, s. 143, 148.</p>
147, 148	<p>MAVIS SATCOM LTD. v. DEPUTY COMMISSIONER OF INCOME-TAX [2010] 320 ITR 46 (Mad)</p> <p>Reassessment –Notice –Assessee after receiving notice appearing before Assessing Officer and obtaining further time to submit explanation –Matter posted for further hearing –Writ –Court not interfering with notice but granting one week time to assessee to file explanation before Assessing Officer – Income-tax Act, 1961, s. 147, 148.The assessments of the petitioner for the assessment years 2003-04 and 2004-05 were repented by issuing notices under section 148 of the Income tax Act1961. On writ petitions questioning the correctness of the issuance of the notices contending that the authorities erroneously issued the notices on the basis of audit objection raised in respect of some of the assessments: Held, dismissing the petitions, that the petitioner after receiving the notices had appeared before the Assessing Officer and obtained further time to submit explanation. The matter was posted for further hearing. Therefore, the court would not interfere with the notices which had called upon the petitioner to give explanation. The court granted one week time to the petitioner to file a detailed explanation before the Assessing Officer. The authorities were directed not to pass final order till them.</p>
69, 147, 148	<p>JAGJIT PAL SINGH ANAND v. COMMISSIONER OF INCOME-TAX [2010] 320 ITR 106 (Delhi)</p> <p>Reassessment -Notice –Income escaping assessment –Information from</p>

	commissioner of customs (Air Cargo) implicating assessee for fraud and holding assessee real owner of materials imported –reasons given by assessing officer his own and independent application of mind –Not influenced by, superior officer –Notice valid –Commissioner of customs' finding confirmed by CEGAT showing assessee made unexplained investment –Addition under section 69 valid –Income-tax Act, 1961, s. 69, 147, 148.
142(1), 143(2), 148	GAURAV AGARWAL v. INCOME-TAX OFFICER [2009] 314 ITR 123 (CAL) Reassessment – notice – writ – allegation that order of assessment passed without considering objections – objections bald and not specific – cannot be considered – assessee represented by an advocate before authority – cannot question jurisdiction of authority – Income-tax Act, 1961, ss. 142(1). 143(2), 148.
147, 148 , Chap x	COCA COLA INDIA INC. v. ASSISTANT COMMISSIONER OF INCOME-TAX AND OTHERS [2009] 309 ITR 194 (P&H) Transfer pricing – constitutional validity of provisions – chapter x dealing with transfer pricing – valid – Income-tax Act, 1961, Chapter x. Reassessment – notice – validity of notice – multinational company entering into service agreement with Indian company – order of transfer pricing officer – notice of reassessment based on such order – valid – Income-tax Act, 1961, ss. 147, 148.
80-I, 147, 148	ROPAR DISTRICT CO-OPERATIVE MILK PRODUCERS UNION LTD. v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 311 ITR 42 (P&H) Reassessment – discovery of new and important facts not present at time of original assessment constitute “reason to believe that any income chargeable to tax has escaped assessment” – industrial undertaking – special deduction under section 80-I – deduction claimed under section 80-I as if milk plant constructed by assessee and deduction allowed – on investigation milk plant found to be constructed by Punjab dairy development corporation – prima facie belief of assessing officer that income escaped assessment justified – initiation of reassessment proceeding based on basis of facts collected after investigation and not a mere change of opinion – Income-tax Act, 1961, ss. 80-I,147,148.
148	YUVRAJ v. UNION OF INDIA. & ANOTHER [2009] 315 ITR 84 (BOM) Reassessment – Notice-Sale of right to purchase open plot-No determination of value of land- Whether income to be treated as capital gain or casual income-Issues not decided while passing assessment order under section 143(3)-Not a case of change of opinion-Assessing Officer justified in issuing notice.
148	AJAI VERMA v. CIT [C.M.W.P. NO. 1753 OF 2007, DECIDED ON 17.12.2008] (ALL.) REPORTED IN TAXMAN'S CPT VOL.13 (SEPT. 15 TO 30) 2008 There is no merit in submission that a notice, after expiry of four years from relevant assessment year, cannot be issued by the ITO.

143, 147, 148	P.G. AND SAWOO P. LTD. AND ANOTHER v. ASSISTANT COMMISSIONER OF INCOME-TAX AND OTHERS [2008] 307 ITR 243 (CAL) Reassessment-income escaping assessment-retrospective increase of rent-intimation under section 143(1)(a)-notice valid-Income-tax Act, 1961, ss. 143, 147, 148.
143, 148	K. J. THOMAS v. COMMISSIONER OF INCOME-TAX [2008] 301 ITR 301 (KER.) Reassessment-validity-failure to give notice under section 143(2)-assessee given opportunity to be heard-reassessment valid-Income-tax Act, 1961, ss. 143, 148. Held, that the procedure under section 143(2) of the Income-tax Act, 1961, is to ensure that an adverse order is issued only after proper opportunity is given to the assessee. In this case, it is conceded that the assessee got opportunity to file reply and detailed reply was in fact filed and reassessment notice and final order were also issued within the time limit prescribed under the Act. The order of reassessment could not be held invalid on the ground that written notice was not issued to the assessee before completion of assessment u/s 143(2).
147, 148	STERLITE INDUSTRIES (INDIA) LTD. v ASSISTANT COMMISSIONER OF INCOME-TAX AND ANOTHER [2008]302 ITR 275 (MAD.) Reassessment –Notice—Validity of Notice - Information From Enforcement Directorate showing possible inflation of purchases –notice valid –Income-tax Act,1961, ss.147,148
147, 148	P.G. FOILS LTD. v. INCOME-TAX SETTLEMENT COMMISSION AND ANOTHER [2008]302 ITR 331 (MAD) Reassessment - Notice Income escaping assessment –Observations by Settlement Commission Adverse to assessee in settlement proceedings relating to party with whom assessee had transactions Assessee not entitled to Challenge order of Settlement Commission Observations can form reason for reopening assessment of assessee but not conclusive proof-- Income tax Act, 1961, ss.147A, 148.
147, 148	VIDYA SAGAR v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2008]303 ITR 124 (P & H) Reassessment –Notice—Notice to file return—Assessing Officer bound to furnish reasons if sought by notice—Noticee entitled to file objections and Assessing Officer bound to dispose of them by speaking order—Noticee not filing reply to notice though filing return—Writ will not Issue to restrain authority from taking any further action in pursuance of notice -- Noticee to follow procedure—Constitution of India, Art. 226- Income tax Act, 1961, ss 147, 148.
148	RAMBALLABH GUPTA v ACIT (2007) 288 ITR 347 (MP) Notice u/s 148 was issued for AY 1997-98 not falling within 6 years period

	provided u/s 153A – The notice u/s 153A was issued for AYs 1998 - 99 to 2003-04. S.148 and 153A operate in different spheres & fields – On the strength of material collected during the search belief of escapement of income could be validly formed for reopening - The notice u/s 148 for AY 1997-98 is a valid notice.
147,148	AUROBINDO SANITARY STORES v. COMMISSIONER OF INCOME-TAX [2006] 276 ITR 549 [ORISSA] Reassessment- failure to disclose fully and truly all material facts – substantial difference between figures of liabilities towards sundry creditors in party ledgers of assessee-firm seized from partner in search and figures of liabilities towards sundry creditors in balance –sheet of assessee-firm – Direct link and nexus for forming belief that income had escaped assessment – reassessment valid – Income-tax Act, 1961, ss. 147, 148.
148	CIT VS. N. JAYAPRAKASH, PACKAGE INDIA TIN FABRICATORS (KER.) 111 CTR : VOL. 202 : DTD. 28.04.2006 Notice u/s.148 – More than one notice is valid under the law, if issued within time limit.
147, 148	ANUSANDHAN INVESTMENTS LTD. v M. R. SINGH, DEPUTY COMMISSIONER OF INCOME-TAX AND ANOTHER, [2006] 287 ITR 482 (BOM) Reassessment—Notice—Notice based on assessment of subsequent assessment year—Valid –Appeal pending from such assessment—Not relevant—Income-tax Act, 1961, ss. 147, 148.
147, 148	ADITYA AND CO. v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2005] 279 ITR 47 (P&H) Reassessment – Notice – validity of notice – Return submitted by firm showing rental income as business income – intimation issued under section 143(1) accepting return – subsequent notice under section 148 on the ground that income was assessable as income from other sources and that assessee was not a firm – Notice valid – Income-tax Act, 1961, ss. 143(1), 147, 148.
148, 150	ASHWANI DHINGRA v CHIEF COMMISSIONER OF INCOME-TAX AND OTHER [2005] 276 ITR 98 [ALL] Reassessment – notice – limitation – law applicable – effect of amendment of section 150(1) w.e.f. 1.4.1989 – acquisition of land by Government in 1973 – order passed by High Court and interest on compensation received in 2001 – notice of reassessment as a consequence of order, relating to assessment years 1989-90 to 1994-95 – not barred by limitation – Income-tax Act, 1961, ss. 148, 150.
148	JAGDISH PRASHAD GUPTA VS. JCIT & ANR. (DEL.) 292 CTR : VOL. 197 : DTD. 26.08.2005 No writ lies on reopening and reassessment u/s.148, unless the very jurisdiction is challenged.

148	SMT. PUSHPA DEVI VS. ITO & ANR (RAJ.) 344 CTR : VOL. 195 : DTD. 13.5.05 Writ – No writ lies against notice u/s.148 – Since the assessee has ample opportunities before the departmental authorities for agitating his points.
148	RAMBALLABH GUPTA VS. ACIT & ORS. (M.P.) 649 CTR : VOL. 199 : DTD. 30.12.2005 Notice u/s.148 if the same is in conformity with the requirement of the said notice, can be issued even for any year falling under the block period.
148	CIT V. SUNDER LAL CHATURBHUJ [2005] 147 TAXMAN 296 (MP) Reopening of case u/s.148 – Notice served indicating erroneous status does not make the notice invalid when the assessee later on take cognizance of the correct status.
147, 148	DHARAM PAL SINGH RAO v. INCOME-TAX OFFICER AND ANOTHER [2004] 271 ITR 223 (ALL) Reassessment—Notice—Limitation—Sufficient if notice is issued within period of limitation—Income-tax Act, 1961, ss. 147, 148. Reassessment—Notice—Validity—Proceedings dropped because of objection to territorial jurisdiction—Subsequent Notice after obtaining sanction of Additional CIT—Notice valid—Income -tax Act, 1961, ss 2(28C), 117,147,151
147, 148	RATNACHUDAMANI S. UTNAL v. INCOME-TAX OFFICER [2004] 269 ITR 212 (KARN) Reassessment—Notice —Writ—Prima Facie belief that income had escaped assessment—Sufficient for issue of notice—Reasons for notice need not be disclosed—Assessee showing only salary income in returns but admitting to income-tax authorities that he had made capital gains—Notice under section 148 based on reasons—Fact of admission not disclosed while filing writ petition—Notice valid—Writ would not also issue because assessee had suppressed material facts-- Income-tax Act, 1961, ss. 147,148—Constitution of India Art. 226.
147, 148	INCOME-TAX OFFICER AND OTHERS v. SHREE BAJRANG COMMERCIAL CO. (PVT.)LTD.[2004] 269 ITR 338 (Cal) Reassessment—Notice—Reason to believe that income had escaped assessment—Discovery that assessee had transactions with a name-lender—Prima facie reason to believe that income had escaped assessment—Notice of reassessment valid -- Income-tax Act, 1961, ss.147, 148. Reassessment—Writ—Notice of Reassessment—Prima facie reason to believe that income had escaped assessment—Court can not consider sufficiency of reasons —Notice valid-- Income-tax Act, 1961, ss.147,148—Constitution of India, Art, 226.
147,148	INCOME-TAX OFFICER AND OTHERS v. SHREE BAJRANG COMMERCIAL CO. (PVT.) LTD. [2004] 269 ITR 338 (CAL) Reassessment – Notice – Reason to believe that income had escaped

	assessment – Discovery that assessee had transactions with a name-lender – Prima facie reason to believe that income had escaped assessment – Notice of reassessment valid – Income-tax Act, 1961, ss. 147, 148. Reassessment –Writ – Notice of reassessment – Prima facie reason to believe that income had escaped assessment – Court cannot consider sufficiency of reasons – Notice valid – Income-tax Act, 1961, ss. 147, 148 – Constitution of India, art. 226.
147, 148	VIPPY PROCESSORS PVT. LTD. v. COMMISSIONER OF INCOME TAX AND ANOTHER [2001] 249 ITR 7 (MP) Reassessment – Notice – Difference in value of properties disclosed and report submitted by valuation officer – Assessing Officer recording reasons before issuance of notice under section 148 – Reasons adequate and based on relevant facts and material – Notice valid – Income-tax Act, 1961, ss. 147, 148 – Constitution of India, arts. 226, 227.
143(1)(a), 147, 148	SRI KRISHNA MAHAL v. ASSISTANT COMMISSIONER OF INCOME-TAX [2001] 250 ITR 333 (MAD.) Reassessment – Jurisdiction—Intimation—does not bar notice for reassessment—Income escaping assessment—Cost of construction—assessing Officer calling for valuation by department valuer—Substantial difference between value estimated by approved valuer and value returned by assessee—Notice of Reassessment valid—Income tax Act-1961, ss.143(1)(a), 147, 148.
147(a), 148	HANUMAN TRADING CO. v. COMMISSIONER OF INCOME TAX [2001] 250 ITR 365 (DELHI) Reassessment –Failure to disclose material facts necessary for assessment—Necessity of live link between material and relief—Subsequent information that creditors were bogus name-lenders—Nexus between material and relief—Reassessment proceedings valid –Income-tax Act-1961, ss.147(a), 148
69A, 147(a), 148	A. PUSA LAL v. COMMISSIONER OF INCOME-TAX [1988] 169 ITR 214 (A.P.) Reassessment – Power of ITO under section 143(2) to correct assessment made under section 143(1) – Does not exclude power to reopen assessment under section 147 – Assessment for assessment year 1974-75 completed under S. 143(1) – During assessment proceeding for 1975-76, ITO finding that assessee had lent monies to a party – Loans related to assessment year 1974-75 – Assessee unable to explain nature and source of acquisition of money lent – Reassessment proceedings initiated and amount treated as income from undisclosed sources and assessed as “deemed income” under section 69A for assessment year 1974-75 – Reassessment valid – Income-tax Act, 1961, ss. 69A, 147(a), 148.
147, 149, 153(3), Expln 3	POONJA ARCADE v. ASSISTANT COMMISSIONER OF INCOME-TAX [2010]326 ITR 123(Karn) Reassessment—firm—dissolution of firm –land belonging to firm transferred at its cost of acquisition to company—share—holders of company erstwhile partners of firm—revision—assessment treating difference between market value of land and its cost of acquisition as income of firm—appeal against

	assessment by partners—tribunal upholding assessment—consequent reassessment of firm—valid —escaped income more than Rs. 50,000—reassessment not barred by limitation-- Income-Tax Act, 1961, S.147, 149, 153(3), expln. 3.
147, 148, 149 , GCA 1897, S. 27	MAYAWATI v. COMMISSIONER OF INCOME TAX AND OTHERS [2010] 321 ITR 349(Delhi) Reassessment –Notice –Notice under section 149 –Notice should be issued within prescribed period –Not necessary that notice should be served within prescribed period –Notice served by inspector of income-tax –information that assessee had shifted her residence and consequent service by speed post – Presumption that notice had been served –Income-Tax Act, 1961, s. 147, 148, 149, GCA 1897, S. 27.
56, 80P(2) (a)(i), 148, 149 , 151	TOTGARS CO-OPERATIVE SALE SOCIETY LTD. v. INCOME-TAX OFFICER [2010] 322 ITR 272 (Karn) Co-operative society – Special deduction –Society engaged in marketing agricultural produce of members – Not engaged in business of banking – Interest earned on surplus funds invested in securities and deposits – Not business income but income from other sources –Not entitled to special deduction –Income-tax Act 1961, s. 56, 80P(2)(a)(i),Reassessment – Notice – Condition precedent –Sanction of additional Commissioner –Amendment with effect from June 1, 2001 restricting reopening to six years –Sanction for reopening assessment for 1991-92 obtained before this date but communicated later –Notice valid –Income-Tax Act, 1961, s. 148, 149, 151.
149	UPADHYAYA (R.K.) v SHANABHAI P. PATEL (1987) 166 ITR 163 (SC): (1987) 62 CTR (SC) 17: (1987) 3 SCC 96: AIR 1987 SC 1378 Notice under section 148 issued within time limit laid down in section 149 confers jurisdiction to reassess income. Whether issue of notice for reassessment within the time limit laid down in section 149 of the Income-tax Act, 1961, confers jurisdiction on the Income-tax Officer to proceed to reassess – Held, yes.
147, 149(b)	NAVEEN MEENA JAIN (HUF) v. COMMISSIONER OF INCOME-TAX AND OTHERS [2009] 317 ITR 327 (ALL) Reassessment – Notice – Limitation – Issuance of Notice within six-year period under section 149(b) – Within jurisdiction – Noticee filing reply and return – Entitled to reasons for issuing such notice Income Tax Act, 1961, s. 147, 149(b).
148, 150	ASHWANI DHINGRA v CHIEF COMMISSIONER OF INCOME-TAX AND OTHER [2005] 276 ITR 98 [ALL] Reassessment – notice – limitation – law applicable – effect of amendment of section 150(1) w.e.f. 1.4.1989 – acquisition of land by Government in 1973 – order passed by High Court and interest on compensation received in 2001 – notice of reassessment as a consequence of order, relating to assessment years 1989-90 to 1994-95 – not barred by limitation – Income-tax Act, 1961, ss. 148, 150.

56, 80P(2) (a)(i), 148, 149, 151	<p>TOTGARS CO-OPERATIVE SALE SOCIETY LTD. v. INCOME-TAX OFFICER [2010] 322 ITR 272 (Karn)</p> <p>Co-operative society – Special deduction –Society engaged in marketing agricultural produce of members – Not engaged in business of banking – Interest earned on surplus funds invested in securities and deposits – Not business income but income from other sources –Not entitled to special deduction –Income-tax Act 1961, s. 56, 80P(2)(a)(i),Reassessment – Notice – Condition precedent –Sanction of additional Commissioner –Amendment with effect from June 1, 2001 restricting reopening to six years –Sanction for reopening assessment for 1991-92 obtained before this date but communicated later –Notice valid –Income-Tax Act, 1961, s. 148, 149, 151.</p>
147, 149, 153(3) , Expln 3	<p>POONJA ARCADE v. ASSISTANT COMMISSIONER OF INCOME-TAX [2010]326 ITR 123(Karn)</p> <p>Reassessment—firm—dissolution of firm –land belonging to firm transferred at its cost of acquisition to company—share—holders of company erstwhile partners of firm—revision—assessment treating difference between market value of land and its cost of acquisition as income of firm—appeal against assessment by partners—tribunal upholding assessment—consequent reassessment of firm—valid —escaped income more than Rs. 50,000—reassessment not barred by limitation-- Income-Tax Act, 1961, S.147, 149, 153(3), expln. 3.</p>
153	<p>RANDHIR SINGH v. UNION OF INDIA [2009] 177 TAXMAN 479/[2009] 14 CPT 839 (PUNJ. & HAR.)</p> <p>Where while reassessment proceedings were pending, assessee filed application before Settlement Commission and matter concerning assessee was pending before Settlement Commission and, subsequently, proceedings before Settlement Commission abated because of assessee's failure to make payment of additional tax, limitation period under section 153 for completing reassessment had to be seen from date on which Assessing Officer received intimation of termination of proceedings before Settlement Commission.</p>
153(2)	<p>CIT VS. ASHOK KUMAR JAIN (M.P.) 70 CTR : VOL. 193 : DTD. 14.01.05</p> <p>Reassessment u/s.147 - Limitation to be calculated as per position of law on the date of issuance of notice u/s.148.</p>
2(8),(40), 143(3), 144B,147 153	<p>COMMISSIONER OF INCOME TAX v. SUNDARAM SPINNING MILLS [2001] 249 ITR 213 (SC)</p> <p>Reassessment – Limitation – Extension of time – Assessment – Draft assessment order – Procedure for draft order of assessment and forwarding to IAC for direction in cases where variation of income or loss returned exceeds prescribed amount – Period of limitation extended by 180 days – Applies also to reassessments – Income-tax Act, 1961, ss. 2(8), (40), 143(3), 144B, 147, 153, Expln. (1)(iv).</p>

153	<p>K.S. RASHID AND SON v ITO (1964) 52 ITR 355 (SC): BHAWANI PRASAD GIRDHARLAL v ITO (1964) 52 ITR 355 (SC)</p> <p>Assessee not entitled to a copy of reasons recorded by Income-tax Officer for issue of notice for reassessment. Assessee, whether entitled to copy of the reasons recorded by Income-tax Officer for issue of notice under section 34(1A) of the Indian Income-tax Act 1922 (corresponding to the provisions of section 151 of the Income-tax Act, 1961) – Held, no.</p>
153A	<p>PAWAN KUMAR GARG v. CHIEF [CWP NO. 4830 OF 2008, DECIDED ON 26-3-2008] /[2009] 15 CPT 362 (PUNJ. & HAR.)</p> <p>Where assessee had given a reply to notice under section 153A and no final order had been passed, writ petition challenging such notice had to be dismissed as premature.</p>
153A	<p>TAPASYA PROJECT LTD. v. ASSTT. CIT [C.M.W.P. NO. 1962 OF 2007, DECIDED ON 18-12-2007]/[2009] 14 CPT 839 (ALL.)</p> <p>Word ‘person’ as used in section 153A cannot be given a restricted interpretation so as to exclude servants and agents of that ‘person’ thus; search conducted on premises of directors has to be treated to be a search initiated in respect of petitioner-company.</p>
80HHC, 143, 154	<p>SILVER IMPEX v. ASSISTANT COMMISSIONER OF INCOME-TAX [2009] 311 ITR 244 (DELHI)</p> <p>Appeal-assessing officer amending computation of income-asseesee not challenging this order but later filing appeal against order passed under section 154-proceedings under sections 143(3) and 154 separate and independent-appeal not maintainable-Income-tax Act, 1961, ss. 80HHC, 143, 154.</p>
154	<p>CIT v. RAM BAHADUR THAKUR LTD. [2008] 173 TAXMAN 280 (KER.) REPORTED IN TAXMAN CPT VOL. 13 (NOV.16 TO 30) 2008</p> <p>Where assessee filed appeal against assessment, yet assessment of capital gain as short-term capital gain was not disputed at all and Commissioner (Appeals) remanded matter to Assessing Officer and while giving effect to order of Commissioner (Appeals), Assessing Officer noticed that rate of tax applied to short-term capital gain was wrong and, therefore, he corrected mistake under section 154, no fault could be found with order of Assessing Officer.</p>
154	<p>COMMISSIONER OF INCOME-TAX v. SHERWANI SUGAR SYNDICATE LTD. [2007]294 ITR 247 (ALL)</p> <p>Rectification of mistakes—Mistake must be obvious —Method of valuing stock—Debatable Question—Change of method cannot be made in rectification proceedings—Income-tax Act, 1961, s.154. Valuation of stock—Methods—Same Method must be adopted in respect of entire stock—Part of closing stock cannot be valued by Adopting a different method-- Income-tax Act, 1961.</p>

143, 154	JANATHA TILE WORKS LTD. v. COMMISSIONER OF INCOME-TAX, [2006]283 ITR 35 (KER) Assessment— Rectification of mistakes—Intimation under section 143(1)(a)—Intimation survives after order of assessment under section 143(3)—Intimation can be rectified and additional tax can be imposed under section 143(1A)—Income-tax Act, 1961, ss.143, 154.
154	CIT VS. SUPER CAST ALLOY FOUNDRIES LTD. (GUJ.) 194 CTR: VOL. 194 : DTD. 25.3.2005 Rectification – Date of limitation to be considered as per law existing on the day of rectification, not on the basis of the date of assessment order.
154	NORTHERN AIR PRODUCTS (P) LTD. VS. CIT (M.P.) 220 CTR : VOL. 194 : DTD. 25.3.2005 Mistake apparent from record – Matter to be decided on merits separately in each year – Benefit wrongly granted in an earlier year cannot continue for next Assessment years.
154	HIND HIND WIRE INDUSTRIES LTD. VS. CIT 212 ITR 639 (SC) A rectification order can further be rectified if application is within four years of the order to be rectified. Limitation for 4 years for Rectification need not run from the date of original assessment order but would run from the date of the order sought to be rectified. [Followed in 230 ITR 139 (Mad)]
154	VENKATACHALAM (M.K.), ITO v BOMBAY DYEING AND MANUFACTURING CO. LTD. (1958) 34 ITR 143 (SC) Glaring and obvious mistake of law can be rectified. Assessment of assessee for the assessment year 1952-53 completed by Income-tax Officer by giving credit of interest on tax paid in advance under section 18A(5) of the Indian Income-tax Act, 1922 (corresponding to section 214 of the Income-tax Act, 1961) – Retrospective amendment of section 18A(5) with effect from 1 st April, 1952, by insertion of a proviso thereto restricting payment of interest on difference of advance tax paid and amount of tax determined on regular assessment – Rectification of assessment of assessee under section 35 of the Act (corresponding to section 154 of the Income-tax Act, 1961) and demand for repayment of excess interest paid to assessee – Order of rectification whether valid – “Mistake apparent from record” , whether includes obvious mistake of law? – Held, yes.
33, 34(3), 155(5)	COMMISSIONER OF INCOME-TAX v. MODIPON LTD. [2008]303 ITR 438 (DELHI) Development Rebate—Withdrawal of Rebate—Development Rebate allowed in respect of plant and machinery—Sale of part of machinery and plant as scrap within eight years –Proportionate portion of Development rebate has to be withdrawn – Income-tax Act, 1961.

155,182	COMMISSIONER OF INCOME-TAX v. SANJAI KUMAR GUPTA [2005] 276 ITR 73 [ALL] Firm – partner – assessment of firm – consequent rectification of assessment of partner – scope of section 155 – assessment of firm treating it as unregistered firm – subsequent grant of registration to firm – consequent amendment of assessment of partner – valid – Income-tax Act, 1961, ss. 155, 182.
156, 220(2A)	M.V. AMARASHETTY v. CHIEF COMMISSIONER OF INCOME-TAX AND ANOTHER (No. 1) [2009] 309 ITR 89 (KARN) Recovery of tax – delay in payment of tax – interest – waiver of interest – order rejecting waiver of interest not only showing –awareness to requirements of section 220(2A) but also showing non-co-operation of assessee with department for concluding assessment – assessee not entitled to benefit of waiver under section 220(2A) – Income-tax Act, 1961, ss. 156, 220(2A).
158B	PARVEEN KUMAR v. CIT [ITA NO. 6 OF 2000, DECIDED ON 8-8-2008] / [2009] 15 CPT 362 (HP) Where assessee had not maintained any record of income from hotel business and assessee pleaded that undisclosed income added as income from hotel was on higher side, but assessee had not produced any material on record indicating that occupancy of hotel rooms was negligible, the Tribunal and Assessing Officer were right in assuming that hotel was functional throughout the year and occupancy was normal and to extent of other hotels in town.
158B	DR. BRIJESH LAHOTI VS. CIT AND ORS. [2006] 282 ITR 349 (M.P.) Block assessment – Amount not disclosed in return filed u/s. 139(1) – Amount shown in books of account and included in revised return filed after search – Amount constitutes undisclosed income.
158BA	COMMISSIONER OF INCOME-TAX, AMRITSAR v. SATYA BHUSHAN GUPTA. [2009]183 TAXMAN 231 (DELHI) Section 158BA of the Income-tax Act-1961- Block assessment in search cases- Assessment of undisclosed income-Block period 1986-87 to 1996-97- A search and seizure operation was conducted at residential premises of assessee during which some –dividend and interest warrant counter-foils were recovered – By time assessment proceedings commenced, assessee had passed away and his legal representatives were unable to furnish details of 48 persons in respect of whom dividend and interest warrant counter foils were found at premises of assessee-Assessing Officer calculated quantum of shares on basis of dividend and interest warrant counter foils and made addition accordingly- On appeal, Tribunal held that counter-foils found during course of search would not give a true and correct picture in respect of quantum of shares held and, therefore, set aside assessment order to that extent – Whether Tribunal was not right in setting aside assessment, but it should have remitted matter to file of Assessing Officer to reconcile particulars of dividend and interest warrants with numbers of shares—Held , yes.

158BB (1)(d)	RAJESH SYAL v. COMMISSIONER OF INCOME-TAX [2009] 225 CTR (P & H) 405 Search and seizure—Block assessment—Computation of undisclosed income—Even though time for filing return had not expire, there was no disclosure by the assessee in any manner—Benefit of s. 158BB(1)(d) could be available only when there was disclosure in the books of account and other documents maintained in the normal course on or before the date of search—Disclosure could be in the form of advance tax also—Assessee having neither filled return before the date of search nor maintained any books of account, income declared in the return for the period 1 st April, 1995 to 7 th Sept., 1995 was rightly assessed as undisclosed income.
158BB	HOTEL KUMAR PALACE v COMMISSIONER OF INCOME-TAX [2006] 283 ITR 110 (P & H) Search and seizure —Block assessment—Estimate of income based on statements recorded during search and documents seized—Block assessment valid—Income-tax Act, 1961, s.158BB.
158BB	B. NOORSINGH v. UNION OF INDIA AND OTHERES [2001] 249 ITR 379 (MAD) Search and seizure – Block assessment – Constitutional validity of provisions – special procedure for assessment of persons who fail to disclose taxable income in full – No discrimination among similar offenders – Provision for aggregation of undisclosed income with income of year in block period in section 158BB(1)(c) valid – Income-tax Act, 1961, s. 158BB – Constitution of India, arts. 14, 226.
158BC	SUDHAKAR T. PENDSE v. INCOME-TAX OFFICER [2010] 323 ITR 22(Bom) Search and seizure —Block assessment —Undisclosed income —No proper explanation regarding amount —Addition as undisclosed income —Justified —Income –tax Act, 1961, s. 158BC.The assessee was a director XZ of N. On December 19, 2001, the premises of the assessee as well as the premises of N and its accountant were searched. The search resulted in seizing the minutes of the board of directors of N held on June 22, 2000, wherein it was decided to share the profits in the ratio of 66 percent to the assessee and 34 percent to the company. In implementation of the resolution, 66 percent profit had been credited to the ledger account of the assessee in the books of the company for the previous year ending March 31, 2000 at Rs. 3.17 crores. A notice was issued seeking to tax the amount. The assessee contended that he was following the cash system of accounting and since the amount of Rs. 3.17 crores was not actually received, it was not offered to tax. The Assessing Officer rejected the contention of the assessee and passed a block assessment order under section 158BC of the Income-tax Act, 1961, holding that the assessee was following the mercantile system of accounting and, therefore, the amount of Rs. 3.17 crores was assessable as undisclosed income in the hands of the assessee on accrual basis. On appeal to the Commissioner (Appeals) the assessee wrote a letter to the effect that it would be difficult for him to prove his claim of changing the method of accounting from mercantile system to cash system and, therefore, the amount of Rs. 3.17 crores be treated as undisclosed

	income of the assessee in the block period. Accordingly the appeal filed by the assessee was dismissed by the Commissioner (Appeals). However, challenging the order of the Commissioner (Appeals) the assessee filed an appeal before the Income-tax Appellate Tribunal. The Tribunal held that the amount of Rs. 3.17 crores was liable to be taxed as undisclosed income in the hands of the assessee and that no addition was called for in the hands of the company.
40A, 158BC	GANESH FOUNDRY AND CASTING LTD. v. INCOME-TAX APPELLATE TRIBUNAL AND ANOTHER [2010] 328 ITR 202 (Patna) Search and seizure –Block assessment –Undisclosed income-Discovery of payments violative of section 40A(3) –Amounts assessable as undisclosed income –Income-tax Act, 1961, s. 40A, 158BC.The assessee-company submitted its return for the period 1994-95. While assessment proceeding were pending there was a search in the premises of the assessee. A notice was issued under section 142(1) read with section 158BC of the Income-tax Act, 1961. On a consideration of the material it was found that the assessee had issued two cheques amounting to Rs. 4,00,000 and Rs. 4,30,000 which were initially issued as account-payee cheques but were manipulated to be converted into bearer cheques and the amounts were found credited to the assessee. These amounts were treated as undisclosed income of the assessee. This was upheld by the tribunal. On appeal to the High Court:Held, dismissing the appeal, that the transactions in question were violative of section 40A(3) of the Act, were acts of fraud, and were directly and clearly relatable to the materials found during the course of search and seizure. The assessee had not disclosed this income in its original return. The amounts were assessable as undisclosed income.
132, 158BC	PARVEEN KUMAR v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 310 ITR 192 (HP) Search and seizure – block assessment – undisclosed income – additions based on search proceedings, record and assessee's reply to questionnaire – business functional in relevant year –failure on part of assessee to point out additions made contrary to provisions of act – additions made not on higher side – Income-Tax Act, 1961, ss. 132, 158BC.
120, 158BC	ALLEPPEY FINANCIAL ENTERPRISES v. COMMISSIONER OF INCOME-TAX [2009] 313 ITR 389 (KER) Jurisdiction - income authorities - assistant commissioner, kottayam, notified as officer having exclusive jurisdiction to make assessment of search cases for various taluks and districts including district of appellee-assessee normally assessed at alleppey-search-shifting of file to assessing officer at kottayam after search for making assessment-not a transfer of file as visualised under section 127-no need to give hearing to assessee-block assessment made by assessing officer, Kottayam-valid-Income tax Act, 1961, ss.120, 15BC.
158BC	CIT v. RAMESHWAR LAL AHUJA [2009] 312 ITR 216 (HP) Block assessment-Undisclosed income-Deduction allowed by Tribunal due to accrual of interest on fixed deposits-Not contrary to law-No material indicating addition not justified-Assessee not entitled to any further deduction on account of accrual of interest on fixed deposits.

158BC	VENGAT BAVA v. CIT [2008] 175 TAXMAN 190/[2009] 14 CPT 180 (KER.) Additions under sections 68 and 69 are also permitted in assessment u/s.158BC.
143, 158BC	COMMISSIONER OF INCOME-TAX AND OTHERS v. MD. RIZWAN[2009] 316 ITR 317 (PATNA) Assessment-regular assessment-search and seizure-block assessment-notice under section 158BC for block period covering year of regular assessment-regular assessment not to merge with assessment under section 158BC-Income-tax Act, 1961, ss. 143, 158BC.
158BC	COMMISSIONER OF INCOME TAX AND ANOTHER v. RAM BABU ROY, PROP. SHREE RAM ENTERPRISES [2009] 319 ITR 103 (PATNA) Search and seizure – Undisclosed income – Assessee not submitting confirmation of accounts and documents in respect of two sundry creditors – Addition in respect of two creditors deleted by Tribunal without assigning reason – Assessee not discharging onus – Order of Tribunal set aside – Income-tax Act, 1961, s. 158BC.
158BC	RELLA RAM SANT RAM v. COMMISSIONER OF INCOME-TAX [2008] 301 ITR 392 (DELHI) Search and seizure-block assessment-valuation of stock - assessee not maintaining stock register – addition on ground of undervaluation of stock – valid – Income-tax Act, 1961, s. 158 BC.
158BC	DR. S. RAJAMONY v. ASSISTANT COMMISSIONER OF INCOME – TAX, [2008]300 ITR 128 (MAD) Search and seizure---Block Assessment – undisclosed Income—Finding regarding undisclosed income—finding of fact—Assessment of Undisclosed Income—Justified-- Income Tax Act, 1961, s.158BC
158BC	MAHABIR PRASAD v. COMMISSIONER OF INCOME-TAX [2008]303 ITR 328 (ALL) Income from undisclosed sources—Seizure of ornaments and cash—Assessee failing to explain source of Acquisition—Finding by Tribunal That Entries in Books of Account Manipulated –Finding of Fact—Not to be interfered with-- Income Tax Act, 1961.
158BC	HARISH KUMAR SINGAL v. ASSISTANT COMMISSIONER OF INCOME-TAX (INVESTIGATION) [2006] 276 ITR 355 [P&H] Search and seizure – block assessment – Appeal to High Court – Court will not disturb findings of fact – Finding that claim of gift from non-resident not genuine – admission by assessee regarding investment in plot – additions made in block assessment – valid – no substantial question of law – Income-tax Act, 1961, ss. 158BC, 260A.

158BC	V. DHIVAKARAN VS. DCIT [2006] 282 ITR 225 (MAD) Transfer of case – Notice for block assessment issued by Transferee Office – Writ petition against transfer of case – Dismissal of writ petition – Fresh notice need not be issued – Income-tax Act, 1961, ss. 127, 158BC.
158BC	COMMISSIONER OF INCOME-TAX v. MAIKU LAL (HUF) [2005] 276 ITR 671 [ALL] Income from undisclosed sources – finding that articles found during search did not belong to assessee – deletion of addition by Tribunal – justified – Income-tax Act, 1961.
132, 158BC	DR. OSWALD ANTHONY v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2004] 270 ITR 204 (PATNA) Search and seizure – Appeal to appellate Tribunal – Contention that search proceedings were not valid raised for the first time before Tribunal – Finding in case of colleague of assessee who was involved in fodder scam case that there were unexplained investments in the name of assessee's wife – Search proceedings valid – Income-tax Act, 1961, s/ 132. Search and seizure – Block assessment – limitation – search on 9.1.1997 – Warrant of authorisation in the names of assessee and others – Valid – Order of block assessment on 28.1.1998 – Not barred by limitation – Income-tax Act, 1961, ss. 132, 158BC.
158BD	SANJAY KUMAR MODI V. DIT [2006] 150 TAXMAN 175 (CAL.) Application of section 158BD is valid even when documents relating to the assessee are found in the premises not owned by the assessee and assessee's name is not mentioned in the warrant of authorisation.
158BD	SMT. HARBANS KAUR BHATIA VS. CIT (M.P.) 725 CTR : VOL. 193 : DTD. 25.2.2005 Capital gains – Suppression of sale consideration – No deduction is admissible on the suppressed part of sale consideration – Assessee to be taxed at 60% u/s.113.
158BE	COMMISSIONER OF INCOME-TAX v. DURGA SHANKAR KANSARA [2008]305 ITR 249(RAJ.) Search and seizure—Block Assessment—Limitation—Law Applicable—Amendment of Section 158BE—Amendment has retrospective effect from July 1, 1995—Actual receipt of assets on 5.6.1997—Assessment Order on 13.11.1997—Not barred by limitation-- Income tax Act, 1961, s. 158BE.
245-I, 245-D 158 BFA	DR. ATTUKAL RADHAKRISHNAN V. ASST. COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE TRIVANDRUM [2011] 335 ITR 533 (KER)/[2011] 197 TAXMAN 193 (KER) Section 245-I, read with sections 245D and 158BFA, of the Income-tax Act, 1961 – Settlement Commission- Order of to be conclusive – Whether finality to order passed under section 245D(4) is conferred only in respect of ‘matters stated therein’ – Held, yes – Consequent upon a search conducted at residential

	<p>and business premises of assessee, a notice for block assessment was issued to assessee and Assessing Officer passed block assessment order – Thereafter, a demand was raised for income tax with surcharge and interest under section 158BFA(1) from assessee – Assessee moved an application before Settlement Commission for settlement of his case –Settlement Commission passed final order accepting amount offered by assessee as his undisclosed income – In pursuance of order of Settlement Commission was final, conclusive and binding as per section 245-I, and, therefore, Assessing Officer could not have added something more into it, like interest under section 158BFA(1) – Whether since no grievance had been raised in respect of interest payable under section 158BFA in application moved by assessee under section 245C and in order of Settlement Commission also there was absolutely no reference to dispute with regard to liability to pay said interest, said liability to satisfy ‘interest’ by virtue of specific statutory prescription under section 158BFA(1) could not be contended as a matter covered by order passed by Settlement Commission, so as to attract ‘Ban’ under section 245-I in respect of liability to pay ‘interest’ under said head –Held, yes – Whether, thus, petition filed by assessee was to be dismissed – Held, yes.</p>
158BFA (1)(a)	<p>DINESH SHARMA v. CHIEF COMMISSIONER OF INCOME-TAX [2010] 321 ITR 89 (P & H)</p> <p>Interest-Waiver-Settlement of cases –Block assessment-Interest under section 158BFA(1)(a) – Settlement Commission directing levy of interest –Power of waiver not available with Chief Commissioner –Income-Tax Act 1961, s. 158BFA(1)(a) Block assessment was completed and undisclosed income was assessed in the case of the assessee for the block period 1988-1999. The assessee approached the Settlement Commission. The Settlement Commission held that the assessee was liable to pay interest under section 158BFA(1)(a) of the Income-Tax Act, 1961. The Chief Commissioner dismissed the application for waiver of interest holding that in view of the provisions of section 245-I the order of the Settlement Commission could not be amended and the Chief Commissioner could not waive interest contrary to the decision of the Settlement Commission. On a writ petition: Held, that the working of the Settlement Commission under the scheme of law is <i>sui generis</i> and is not at par with the assessing authorities. Even though after the liability to pay interest is crystallized, it may be permissible for an income tax authority, to waive interest in accordance with the circular the power cannot be exercised by other authority in respect of a matter dealt with by the Settlement Commission particularly when the Settlement Commission expressly directed levy of interest. Even if the Settlement Commission may be able to waive the interest, if so provided under a particular circular, such power could not be exercised by any other authority in the matter dealt with by the Settlement Commission.</p>
158BFA(2)	<p>P. P. UMMERKUTTY VS. ACIT (KER.) 1 CTR : VOL. 199 DTD. 18.11.2005</p> <p>Penalty u/s. 158BFA(2) in a search case is constitutionally valid, even though, there are other provisions for penalising concealment of income.</p>
159	<p>CIT v JAI PRAKASH SINGH (1996) 219 ITR 737 (SC): (1996) 132 CTR 262 (SC): (1996) 131 TAXATION 665 (SC): (1996) 85 TAXMAN 407 (SC)</p> <p>Assessment made after service of notice on one of the several legal</p>

	representatives in not invalid. Death of an individual without furnishing returns of his income – One of his ten legal representatives furnishing his returns of income, complying with notices under section 142(1) and 143(2) of the Income-tax Act, 1961, and assessments for the assessment year completed by Income-tax Officer – Objection raised for the first time in appeal before the Appellate Assistant Commissioner that assessments were invalid as notice under section 143(2) of the Act not served on all the legal representatives of the deceased – Held, assessments not invalid but non-service on notice on other legal representatives was merely an irregularity.
159	JANAKI S. MENON AND OTHERS v. Dr. V.R.S. KRISHNAN AND OTHERS (1996) 223 ITR 771 (SC) The income-tax and other dues are a first charge on the estate of the deceased.
159	ITO (FIRST ADDL.) v SUSEELA SADANANDAN (1965) 57 ITR 168 (SC) Proceedings binding on all legal representatives where legal representatives brought on record after diligent and bona fide enquiry. Individual executing will appointing more than one executor or dying intestate leaving behind more than one heir – Proceedings under section 24B of the Indian Income-tax Act, 1922 (corresponding to section 159 of the Income-tax Act, 1961), whether to be taken against all executors and legal representatives – Held, yes – Legal representative brought on record after diligent and bona fide enquiry proceeded against – Other legal representative, whether bound – yes.
159	CIT VS. JAIPRAKASH SINGH 219 ITR 737 (SC) Non service of notice on one or two legal heirs is only an irregularity. Notice for assessment on all legal representatives is necessary. If no notice is served on one or two – it will only be irregularity but assessment will not be null and void. Liability to pay tax arises due to charging section and any irregularity in the notice or service of notice will not erase such liability. [Followed in – 249 ITR 148 (Del.); 249 ITR 331 (Del.) and applied in 258 ITR 361 (AP)]
171 (9)	COMMISSIONER OF INCOME-TAX v. GYAN CHAND AND SONS [2008]303 ITR 267 (ALL) Hindu undivided family -Partial Partition not recorded—Income of property after date of partition assessable in hands of family— Income Tax Act, 1961, s. 171(9). Interpretation of Taxing Statutes –No literal meaning.
171	TUNKI SAH BAIDYANATH PRASAD (R.B.) v CIT (1995) 212 ITR 632 (SC) Hindu undivided family to continue to be assessed as such until enquiry and order recognizing partition. Widow of karta of Hindu undivided family getting limited interest in family property on the death of karta which enlarged in absolute ownership right – Son inheriting her share in the property on her death in 1960 and adopting a son to him in 1961 – Execution of gift deed by son in favour of his adopted son in 1969 in respect of the property inherited by him from his mother – No enquiry made regarding partition and no order under section 171 of the Income-tax Act, 1961, regarding partition have been

	effected – Whether entire income from property including income from property gifted to adopted son, includable in the total income of the family and taxable as such – Held, yes.
171	SAT PAL BANSAL v CIT (1986) 162 ITR 582 (P&H) (FB) No partition possible in case family has sole male member as coparcener partition of Hindu Undivided Family consisting of one male members or sole coparcener – power of karta of family to effect partition of such Hindu undivided family. The karta of such HUF cannot affect partition of the family.
171	KALWA DEVADATTAM v UNION OF INDIA (1963) 49 ITR 165 (SC) Power of Income-tax Officer to disbelieve oral and documentary evidence produced in support of partition. Claim of partition under section 25A of the Indian Income-tax Act, 1922 (corresponding to section 171(2) of the Income-tax Act, 1961) having taken place among the members of Hindu undivided family – Income-tax Officer, whether could disbelieve oral or documentary evidence to prove partition – Held, yes.
178	ASSTT. CIT v. OFFICIAL LIQUIDATOR [2009] 178 TAXMAN 171/[2009] 15 CPT 54 (DELHI) Where it was contended by respondent-company-in liquidation that Official Liquidator had invited claims but Income-tax Department did not prefer any claims, as was clear from certain communication addressed by Income-tax Department to Official Liquidator that Income-tax Department had lodged its claim with official Liquidator, aforesaid letters were to be treated as claims with official liquidator and Official Liquidator should proceed further accordingly.
155,182	COMMISSIONER OF INCOME-TAX v. SANJAI KUMAR GUPTA [2005] 276 ITR 73 [ALL] Firm – partner – assessment of firm – consequent rectification of assessment of partner – scope of section 155 – assessment of firm treating it as unregistered firm – subsequent grant of registration to firm – consequent amendment of assessment of partner – valid – Income-tax Act, 1961, ss. 155, 182.
184	CIT v NITYANAND DEVKINANDAN (1997) 227 ITR 154 (SC): (1997) 141 CTR 363 (SC): (1997) 139 TAXATION 700 (SC): (1997) 93 TAXMAN 392 (SC) Order for continuation of registration can be revised. Firm – Registration – continuation of –Revision of orders prejudicial to assessee – Power of CIT – Order granting continuation of registration passed by ITO – CIT can revise such order. Sections 184(7) and 263, Income-tax Act, 1961.
184	KHANJAN LAL SEWAK RAM v CIT (1972) 83 ITR 175 (SC): (1972) TLR 36: AIR 1972 SC 61 Refusal of renewal of registration of firm for non-compliance with the relevant rule. Renewal of registration of a firm, whether could be refused on the ground that the condition prescribed in paragraph 3 of rule 6 of the Indian Income-tax

	Rules, 1922 is not complied with, if a portion of profits of firm is not divided among the partners nor credited in the books of account of the firm, -Held, yes.
185	COMMISSIONER OF INCOME-TAX v. Y. NARAYANA MURTHY (DEC'D.) [2004] 270 ITR 275 (A.P.) Firm – Registration – Business – Contemplates continuous activity from year to year – Assessee letting out godowns – No evidence to prove that assessee had undertaken any such systematic business activity of construction of godowns and letting them out as business property – Income from such letting out is assessable as income from property – Firm not entitled to registration and continuation of registration – Income-tax Act, 1961, s. 185.
185(1)	COMMISSIONER OF INCOME-TAX v. ANANDA JOTHI FINANCE CORPORATION [2003] 259 ITR 144 (MAD) Firm – Registration – Genuineness of firm – law applicable – Effect of Explanation (b) to sub-section (1) of section 185 – all partners of assessee-firm entering into sub-partnership and sharing their income from partnership with others – Factum of sub-partnership not conveyed to Assessing Officer though each partner had knowledge about same – Firm not entitled to registration – Income-tax Act, 1961, s. 185(1), Expln. (b).
185	UTTAM KUMAR PRAMOD KUMAR v CIT (1990) 186 ITR 188 (SC) Firm not entitled to registration where dominant intention disclosed by deed was that minor was a full partner. Preamble of the deed of partnership of the assessee firm reciting that minor were admitted to benefits of partnerships – dominant intention of the parties shown from other terms of deed that minors taken as full partners – Firm, whether could be registered under section 185 of the Income-tax Act, 1961 – Held, no.
185	METHARAM LEKHUMAL v. COMMISSIONER OF INCOME-TAX [1988] 169 ITR 194 (RAJ) Firm – Registration – Genuineness of firm – Minor admitted to benefits of partnership in firm – Partnership deed not specifying expressly or by necessary implication proportion in which adult partners are to share losses of firm – Firm not genuine and not entitled to registration.
187(2)	COMMISSIONER OF INCOME-TAX v. ASSOCIATED ENGINEERING CO. [1988] 169 ITR 372 (PATNA) Appeal to AAC – Firm – Competency of appeal – Order refusing continuation of registration to firm – Appeal lies from such order to AAC – Income-tax Act, 1961, ss. 184(7), 246. Firm – Change in constitution of firm – Firm consisting of two partners – Retirement of the firm – Firm not entitled to continuation of registration – Income-tax Act, 1961, s. 187(2).
189	CIT v ANGIDI CHETTIAR (S.V.) (1962) 44 ITR 739 (SC) Levy of penalty on registered firm after its dissolution is legal. Levy of penalty under section 28 of the Indian Income-tax Act, 1922 (corresponding to section 271 of the Income-tax Act, 1961) on a registered firm after its dissolution –

	legality. Penalty can be levied by the ITO.
190	CIT V. ELI LILLY AND CO. (INDIA) P. LTD. [2009] 312 ITR 225 (SC) Deduction of tax at source-Scheme of –Meant for tentative deduction of income-tax subject to regular assessment-Non resident paying abroad home salary to employees in India-payment having nexus with service in India-salary earned by employees in India-Tax to be deducted at Source.
192	CIT v ELI LILLY & COMPANY (INDIA) PVT. LTD. (2009) 312 ITR 225 (SC) Tax deductible from home salary paid to expatriates. If payments of Home Salary abroad by the Foreign Company to the expatriate has any connection or nexus with his rendition of service in India then such payment would constitute income which is deemed to accrue or arise to the recipient in India as salary earned in India in terms of section 9(1)(ii) – Tax is deductible at source in such cases under section 192 . TDS provisions are in the nature of machinery provisions enabling collection and recovery of tax and are independent of the charging provision which determines the assessee's ability in the hands of the employee-assessee.
192, 276B, 279	SUSHIL SURI AND OTHERS (CR. REV. P. NOS. 323-28 OF 2005) SANJAY SURI (CR. REV. P. NO. 337 OF 2005) v. STATE AND OTHERS [2008]303 ITR 86(Delhi) Offences and Prosecution—Deduction of tax at source—Salary—Company—Failure to deposit TDS with Revenue —Managing Director is Principal Officer of Company—Separate Notice To Managing Director Not Necessary—Prosecution of Company and its Managing Director —Valid-- Income Tax Act, 1961, ss.192, 276B, 279.
192	CIT v CENTURY BUILDING INDUSTRIES P. LTD. (2007) 293 ITR 194 (SC) Tax deduction at source from interest payments: Consequences of failure. Search operations in the premises of company revealing certain loan transactions between the directors and creditors through the company – Loans received by cheques drawn in favour of the company – Amounts subsequently transferred to the individual accounts of the directors – Interest as well as loan repayments through the company – Books of accounts of the directors revealing the transactions, but books of accounts of the assessee company not reflecting such transactions – Department holding the company liable to deduct tax from interest payments and proceeding to levy penalty for the failure – Company contending that since the transactions were between the directors and creditors, it was not liable to deduct tax and hence cannot be penalized – Tribunal holding in favour of the assessee – Allowing the appeal held that whenever interest is credited to the account of the payee, the payer has to deduct tax at source – There being no resolution authorizing the company to act as the medium for routing the borrowings and repayments Department justified in invoking the provisions of sections 194A and 201.

17, 192 , ITR 1962, R3	<p>A.P. CIRCLE OF ALL INDIA BHARAT SANCHAR NIGAM LTD. EXECUTIVES ASSOCIATION AND ANOTHER v GENERAL MANAGER (FINANCE), TELECOM AND OTHERS, [2006] 283 ITR 388 (AP).</p> <p>Deduction of tax at source—Salary—Perquisites—Value of rent-free accommodation provided by employer—Rules laying down method of valuation—Value Constitutes perquisite—Tax to be deducted at source on such perquisite—Income-tax Act, 1961, s.17,192—Income Tax Rules, 1962, R. 3.</p>
192	<p>NATIONAL FEDERATION OF INSURANCE FIELD WORKERS OF INDIA AND OTHERS v. UNION OF INDIA AND OTHERS [2005] 276 ITR 127 [JHARKHAND]</p> <p>Deduction of tax of source – LIC – conveyance allowance and additional conveyance allowance given to development Officers – Exemption of allowances conditional – LIC bound to deduct tax at source in the allowances – Income-tax Act, 1961, ss. 10(14), 192.</p>
136, 193 , 276C(1),277; IPC 1860, ss 420, 511; Constn of India, art 226	<p>P. SOUNDARYA v. CHIEF COMMISSIONER OF INCOME TAX AND ANOTHER, S. MANIKUMAR J. [2008]300 ITR 19(P&H) [2008]300 ITR 70 (MAD)</p> <p>Offences and prosecution –False Statement in declaration –Compounding of Offence—Rejection of Offer –Not Necessary to Provide Opportunity to offender -- Income Tax Act, 1961, ss 136, 193, 276C(1), 277—Indian Penal Code, 1860, ss 420, 511; Constn of India, art 226.</p>
194A(3)	<p>UNITED INDIA INSURANCE CO. LTD v. MITABEN DHARMESHBHAI SHAH [2004] 269 ITR 63 (GUJ.)</p> <p>Deduction of tax at source—Interest—Compensation Awarded by Motor Accidents Claims Tribunal—Law Applicable—Effect of insertion of clause (ix) in sub-section (3) of section 194A—Interest on compensation deposited after 1-6-2003—Tax deductible at source on interest—Income-tax Act, 1961, s. 194A(3)(ix).</p>
194C, 194I,	<p>COMMISSIONER OF INCOME TAX v. JAPAN AIRLINES CO. LTD [2010]325 ITR 298(Delhi)</p> <p>Deduction of tax at source –rent –meaning of rent in section 194-I landing fee and parking fee for aircraft amounts to rent –failure by assessee to deduct tax at source on landing and parking charges paid to airports authority—assessee in default—Income-Tax Act, 1961, s.194-I, expln.(i).</p>
40(a)(ia), 194C	<p>DEY'S MEDICAL (U.P.) P. LTD. v. UNION OF INDIA OTHERS [2009] 316 ITR 445 (ALL.)</p> <p>Business expenditure-disallowance-sum paid towards advertisement for advancement of business –tax to be deducted at source under section 194C – failure to deduct tax at source – expenses not allowable – Income-tax Act, 1961, ss. 40(a)(ia), 194C.</p>

194C, 201(1A)	COMMISSIONER OF INCOME-TAX v. K. K. ENGINEERING CO. [2001] 249 ITR 447 (KER) Deduction of tax at source – Interest – Shortfall in deduction of tax at source – Levy of interest automatic – that shortfall in deduction of tax on payment would in loss of revenue – Not relevant – Levy of interest is justified – Income-tax Act, 1961, ss. 194C, 201 (1A).
194C	ASSOCIATED CEMENT CO. LTD. v CIT (1993) 201 ITR 435 (SC): (1993) 111 CTR 65 (SC): (1993) 67 TAXMAN 346 (SC): (1993) 114 TAXATION 55 (SC) Scope of sub-section (1) of section 194C. Provisions of section 194C(1) of the Income-tax Act, 1961, relating to deduction of tax from payments to contractors, whether restricted to payments in relation to works contracts – Held, no – Deduction of tax at source, whether to be made with reference to the entire amount credited or paid to the contractor or with reference to the income comprised in the payment – Held, deduction of tax to be made with reference to the entire amount credited or paid to the contractor.
194H	COMMISSIONER OF INCOME-TAX v. IDEA CELULAR LTD [2010]325 ITR 148(Delhi) Deduction of tax at source—commission—meaning of commission—assessee providing cellular telephone network—appointing distributor for selling pre-paid sim cards—discount allowed by assessee to distributor constituted commission—assessee liable to deduct tax at source on such commission – Income Tax Act, 1961, s.194H
194C, 194-I	COMMISSIONER OF INCOME TAX v. JAPAN AIRLINES CO. LTD [2010]325 ITR 298(Delhi) Deduction of tax at source –rent –meaning of rent in section 194-I—landing fee and parking fee for aircraft amounts to rent –failure by assessee to deduct tax at source on landing and parking charges paid to airports authority—assessee in default—Income-Tax Act, 1961, s.194-I, expln.(i).
194-I	CIT v. ASIANA AIRLINES [2008]175 TAXMAN 177/[2009] 14 CPT 180 (DELHI) Payments made by airline for landing charges and parking charges to Airport Authority of India are in nature of rent, and, hence, assessee-airline would be liable to deduct tax at source u/s.194-I and not u/s.194C.
194-I	UNITED AIRLINES VS. CIT & ORS. (DEL.) 184 CTR : VOL. 202 : DTD. 05.05.2006 TDS – Section 194-I - Parking fee and Landing fee of aircrafts are nothing but rent within the meaning of section 194-I.
194-I, Expln(i)	UNITED AIRLINES v. COMMISSIONER OF INCOME-TAX AND OTHERS, [2006]287 ITR 281 (DELHI) Deduction of tax at source—Rent Meaning of rent in section 194-I- Landing

	fee and parking fee for aircraft amounts to rent—Income-tax Act, 1961, s.194-I Expln.(i).
194LA	NALINI v DEPUTY COLLECTOR, LAND ACQUISITION [2007]294 ITR 423 (KER). Deduction of tax at source—Land—Compensation on acquisition of land—Duty of Land Acquisition Officer to deduct tax at source if amount paid after 1.10.2004 and amount exceed prescribed limit—Claim that land was agricultural—Land Acquisition Officer has no jurisdiction to adjudicate claim—Income-tax Act, 1961, s.194LA.
2(14), 5, 9, 195	VODAFONE INTERNATIONAL HOLDINGS B.V. v. UNION OF INDIA AND ANOTHER [2010]329 ITR 126(Bom) Deduction of tax at source—Non- resident —Scope of section 195—Transfer of share in non-resident company from one non-resident to another non-resident—that share through indirect holdings and agreements representing controlling interest in Indian Business—Actual Transaction of disinvestment of interest in mobile telecommunication services in India—Rights and entitlements constituted capital assets—source of income in India —Liability to deduct tax at source from income arising from transaction—Income-Tax Act, 1961, ss.2(14), 5, 9, 195. The basic test under section 195 is that the payment has been made to a non-resident of a sum chargeable under the provisions of the Act. Any person responsible for paying such a sum to a non-resident is liable to deduct income tax at the time when a credit of such income is effected or at the time when payment is made. The provisions of section 195 of the Act are in the nature of a machinery provision enacted in order to effectuate the collection and recovery of tax. Given a sufficient territorial connection or nexus between the person sought to be charged and the country seeking to him, income-tax may extend to that person in respect of his foreign income. The connection can be based on residence or business connection within the taxing state or the situation within the state of an asset or source of income from which the taxable income is derived. Once the nexus is shown to exist, the provisions of section 195 would operate. Even though the revenue laws of a country may not be enforceable in another, that does imply that the courts of a country shall not enforce the law against the residents of another within their own territories.
195, 201(1), (1A)	KARNATAKA URBAN INFRASTRUCTURE DEVELOPMENT FINANCE CORPORATION v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 308 ITR 297 (KARN) Deduction of tax at source – reimbursement of expenditure incurred towards accommodation and conveyance of employees of non-resident consultant companies – tax not deducted from reimbursement of expenditure under bona fide belief – tax deducted from consultancy fee – imposition of penalty set aside – levy of interest mandatory and confirmed – Income-tax Act, 1961, ss. 195, 201 (1), (1A).
195,201, Constn of India, art 226	VODAFONE INTERNATIONAL HOLDINGS B. V. v. UNION OF INDIA AND ANOTHER [2009] 311 ITR 46 (BOM.) Deduction of tax at source – payments to non-resident – writ – transfer by non-

	resident – of controlling interest in Indian company to a non-resident – notice under section 201 – writ petition against notice – no evidence that notice was totally non-est. in law – relevant documents not produced – petitioner had alternative remedy – mixed question of law and fact – writ could not issue – income-tax act, 1961, ss. 195,201 – constitution of India, art. 226. Writ – question regarding taxability – question cannot be determined on basis of affidavits in writ proceedings – constitution of India, Art. 226.
195	TRANSMISSION CORPORATION OF A.P. LTD. v CIT (1999) 239 ITR 587 (SC) Applicability of section 195 to cases where sum paid to non-resident does not wholly represent income. Deduction of tax at source in cases where payment is to be made to a non-resident – Whether the words “any other sum chargeable under the provisions of this Act” occurring in section 195 do not contemplate inclusion of trade receipts in their ambit and that section 195 applies only to cases where the sums paid are “pure income profits”- Held, the scheme of tax deduction at source applies not only to the amount paid which wholly bears “income” character such as salaries, dividends, interest on securities, etc. but also to gross sums, the whole of which may not be income or profits of the recipient, such as payment to contractors and sub-contractors and the payment of insurance commission – Section 195 provides for tentative deduction of income-tax subject to regular assessment – Rights of the payee or the recipient is however fully safeguarded – Only thing required to be done by them is to file an application for determination by the Assessing Officer that such sum would not be chargeable to tax in the case of the recipient, or for determination of the appropriate proportion of such sum so chargeable – On such determination, tax at appropriate rate could be deducted at the source – If no such application is filed, income-tax on such sum is to be deducted and it is the statutory obligation of the person responsible for paying such “sum” to deduct tax thereon before making payment.
2(15); 11,197	INFOPARKS KERALA v DEPUTY COMMISSIONER OF INCOME-TAX AND ANOTHER [2010]329 ITR 404(Ker) Deduction of tax at source – certificate for non- deduction –assessee claiming income was exempt under section 11 –amendment of section 2(15) w.e.f. 1-4-2009 not challenged –union of India not impleaded as a party—effect of amendment of section 2(15) could not be considered –refusal to issue certificate for non-deduction of tax at source—justified—income-tax act, 1961, ss 2(15), 11,197.
40(a)(ia), 200(1); Constn of India, art 14	RAKESH KUMAR AND CO. v. UNION OF INDIA AND OTHERS [2010]325 ITR 35 (P&H) Deduction of tax at source –business expenditure disallowance—for failure to deposit tax deduction at source—provision valid—constitutional validity-- income tax act, 1961, as 40(a)(ia), 200(1)—constitution of India, art.14.
195, 201(1), (1A)	KARNATAKA URBAN INFRASTRUCTURE DEVELOPMENT FINANCE CORPORATION v.COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 308 ITR 297 (KARN) Deduction of tax at source – reimbursement of expenditure incurred towards

	accommodation and conveyance of employees of non-resident consultant companies – tax not deducted from reimbursement of expenditure under bona fide belief – tax deducted from consultancy fee – imposition of penalty set aside – levy of interest mandatory and confirmed – Income-tax Act, 1961, ss. 195, 201 (1), (1A).
195, 201(1), (1A)	KARNATAKA URBAN INFRASTRUCTURE DEVELOPMENT FINANCE CORPORATION v.COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 308 ITR 297 (KARN) Deduction of tax at source – reimbursement of expenditure incurred towards accommodation and conveyance of employees of non-resident consultant companies – tax not deducted from reimbursement of expenditure under bona fide belief – tax deducted from consultancy fee – imposition of penalty set aside – levy of interest mandatory and confirmed – Income-tax Act, 1961, ss. 195, 201 (1), (1A).
4, 5, 201(1A)	V. GANESH v. ASSISTANT COMMISSIONER OF INCOME-TAX AND ANOTHER [2010] 327 ITR 564 (Mad) Deduction of tax at source –Double taxation relief –Verification of certificates of tax deducted at source in two different countries –Letter informing assessee verification not practicable –Writ petition not maintainable – Income-Tax Act, 1961, s. 4, 5, 201(1A) –Constitution of India, art. 226.The assessee claimed the benefit of the Double Taxation Avoidance Agreement in respect of income earned from Hong Kong and the United States. The Assessing Officer rejected the claim and issued a letter stating that the assessee's request for verification of the certificates furnished by him of tax deduction at source was not practicable. on a writ petition.Held, dismissing the petition, that the proper remedy for the assessee would be to file an appeal or place the materials as required under the Income-tax Act, 1961 to claim the benefit before the authorities concerned.
195, 201, Constn of India, art 226	VODAFONE INTERNATIONAL HOLDINGS B. V. v. UNION OF INDIA AND ANOTHER [2009] 311 ITR 46 (BOM.) Deduction of tax at source – payments to non-resident – writ – transfer by non-resident – of controlling interest in Indian company to a non-resident – notice under section 201 – writ petition against notice – no evidence that notice was totally non-est. in law – relevant documents not produced – petitioner had alternative remedy – mixed question of law and fact – writ could not issue – income-tax act, 1961, ss. 195,201 – constitution of India, art. 226. Writ – question regarding taxability – question cannot be determined on basis of affidavits in writ proceedings – constitution of India, Art. 226.
201(1A)	WEST BENGAL STATE ELECTRICITY BOARD VS. DCIT & ANR. (CAL.) 122 CTR : VOL. 198 : DTD. 7.10.2005 Charging of interest of non-deduction of TDS is mandatory. It can neither be waived nor reduced.

194C, 201(1A)	COMMISSIONER OF INCOME-TAX v. K. K. ENGINEERING CO. [2001] 249 ITR 447 (KER) Deduction of tax at source – Interest – Shortfall in deduction of tax at source – Levy of interest automatic – that shortfall in deduction of tax on payment would in loss of revenue – Not relevant – Levy of interest is justified – Income-tax Act, 1961, ss. 194C, 201 (1A).
276B, 2(35)(b), 204	INCOME TAX OFFICER V. DELHI IRON WORKS (P.) LTD. [2011] 331 ITR 5 (DELHI)/[2011] 198 TAXMAN 174 (DELHI) Section 276B, read with sections 2(35) and 204, of the Income-tax Act, 1961 – Offence and prosecution – Failure to pay tax on distributed profits of domestic companies/deducted at source – Whether if Income-Tax Officer seeks to prosecute director of a company along with company for an offence punishable under section 276B, then he has to issue a notice under section 2(35)(b) to such director expressing his intention to treat him as ‘principal officer’ of company – Held, yes – Whether, however, merely because director of a company has been acquitted for non-compliance of notice under section 2(35), that would not mean that company would also be acquitted of charge under section 276B – Held, yes.
214	CIT VS. AMALGAMATIONS LTD. 232 ITR 318 (SC) Where original assessments were set aside and fresh assessment were completed, then assessee is entitled to interest under section 214 up to the date of original assessment only and not up to fresh assessment.[Followed 216 ITR 759 (SC)]
139(8) & 217	ABDUL MAJID V. CIT [2006] 153 TAXMAN 131 (ALL.) Charging of interest valid u/s. 139(8) & 217 for A.Y.81-82 in the case of assessment being made u/s. 148.
37, 217, 220(2)	RAJ NARAIN AGARWAL v. COMMISSIONER OF INCOME-TAX [2003] 259 ITR 720 (DELHI) Business expenditure – Interest paid for delay in paying tax demand and for failure to estimate and pay advance tax within time – Not deductible – Income-tax Act, 1961, ss. 37, 217, 220(2).
156, 220(2A)	M.V. AMARASHETTY v. CHIEF COMMISSIONER OF INCOME-TAX AND ANOTHER (No. 1) [2009] 309 ITR 89 (KARN) Recovery of tax – delay in payment of tax – interest – waiver of interest – order rejecting waiver of interest not only showing – awareness to requirements of section 220(2A) but also showing non-co-operation of assessee with department for concluding assessment – assessee not entitled to benefit of waiver under section 220(2A) – Income-tax Act, 1961, ss. 156, 220(2A).
220	SHRI PREMANANDA TRUST v. DEPUTY COMMISSIONER OF INCOME-TAX [2008] 303 ITR 335 (MAD) Recovery of Tax—Writ—Auction sale of Property—Objection to sale by

	person claiming to be owner—Property not standing in his name—Rejection of Application filed under Rule 11 —No Locus Standi to file writ petition--Income tax Act, 1961, Constitution of India, Art. 226(3).
220(2A)	M.V. AMRASHETTY v. CHIEF CIT [W.P.NO. 16436 OF 2007, DECIDED ON 23.11.2007]/[2009] 14 CPT 840 (KAR.) Where a perusal of order rejecting assessee's request for waiver of interest under section 220(2A) indicated that Commissioner had not only shown his awareness of requirements in terms of statutory provisions, but had also recorded a finding that in terms of report given by Assessing Officer assessee had not even co-operated with Department for concluding assessment, order of Commissioner rejecting request under section 220(2A) for waiver of interest was justified.
220(2)	T.M. CHACKO VS. INCOME TAX OFFICER (KER.) 149 CTR : VOL. 201 : DTD. 17.03.2006 Interest u/s. 220(2) cannot be waived or reduced on the ground of financial hardship when the assessee used to receive substantial income under different heads.
220(2A)	N. GOPALA KRISHNAN VS. CIT AND ANR. [2006] 280 ITR 592 (KER.) Assessee not co-operating in recovery proceedings – Interest u/s. 220(2A) need not be waived.
220 (2A)	JACOB VARGHESE v CHIEF COMMISSIONER OF INCOME-TAX, [2006]287 ITR 442 (KER) Recovery of tax—Interest for delay in payment of tax—Waiver of interest—Application for waiver rejected by Commissioner After considering facts—Order of rejection—Valid—Income-tax Act, 1961, s.220(2A).
37,217, 220(2)	RAJ NARAIN AGARWAL v. COMMISSIONER OF INCOME-TAX [2003] 259 ITR 720 (DELHI) Business expenditure – Interest paid for delay in paying tax demand and for failure to estimate and pay advance tax within time – Not deductible – Income-tax Act, 1961, ss. 37, 217, 220(2).
220(2A)	KISHANLAL V. UNION OF INDIA AND ANOTHER 230 ITR 85 (SC) An order granting waiver or reduction of interest under section 220(2A) to be passed by CBDT is a quasi-judicial order and it must be supported by reasons. Such an order is subject to judicial review under Article 226 of the constitution, and hence it is imperative that some reasons are given by the authority disposing of the application.

220(2A)	<p>CARBORUNDUM UNIVERSAL LTD. v CENTRAL BOARD OF DIRECT TAXES (1998) 180 ITR 171 (SC): (1989) 4 JT 56: 80 CTR 85: 47 TAXMAN 156</p> <p>No personal hearing to assessee contemplated. Income-tax Officer making order against assessee under section 220(2) of the Income-tax Act, 1961, levying interest to be paid by assessee for non-payment of demand of tax within stipulated time – Application made by assessee to the Central Board of Direct Taxes under section 220(2A) of the Act for waiver of interest – Board declining to waive – Whether personal hearing had to be necessarily given by the Board before disposing of the petition of the assessee – Held, no – Nature of the proceedings under section (2A) of the Act – Assessee, whether must have been supplied with a copy of the report of the Commissioner to the Board – Held, no.</p>
221	<p>PRAKASH TUBES LTD.v. UNION OF INDIA [2009] 180 TAXMAN 467 [2009]15 CPT 697 (DELHI)</p> <p>Contention that no demand on account of interest under section can be raised for period when interim order of Court is in operation has no merit.</p>
222	<p>SMT. MALTI DEVI v. TAX RECOVERY OFFICER AND ANOTHER [2009] 314 ITR 7 (ALL)</p> <p>Recovery of tax – attachment and sale of property by auction – writ petition against attachment – purchaser of property not impleaded as party to petition – concealment of material fact – judgements of civil court and of court upholding attachment order valid concealed – order of tax recovery officer conclusive and binding – writ petition not maintainable – Income-tax Act, 1961.</p>
222	<p>Mrs. FARHANA SAIF v. ASSTT. COMMISSIONER OF INCOME-TAX [2009] 181 TAXMAN 105 (MAD)</p> <p>Section 222 of the Income-tax Act, 1961-Collection and recovery of tax-Certificate proceedings-TRO issued notice to appellant for attachment of certain properties for recovery of tax arrears of her ex-husband-Appellant contended that properties in question were gifted to her by her ex-husband by two different documents, dated 16.3.1999 and 5-5-2001 and since thereafter ‘Talaq’ had been pronounced on 21.03.2002, it was not open for authorities to attach said properties in a proceeding against her ex-husband. TRO rejected appellant’s contentions and passed an order of attachment of properties in question – Whether when appellant had not brought on record any evidence as to alleged gift and, moreover, recovery proceedings related to assessment years prior to pronouncement of ‘Talaq’ by appellant’s husband, TRO was justified in ordering attachment of properties in question- Held, yes.</p>
222	<p>MRS. FARHANA SAIF v. ASSTT. CIT [W.A. NO. 862 OF 2006 & M.P. NO. 1 OF 2006. DECIDED ON 21.10.2008]/[2009] 14 CPT 748 (MAD)</p> <p>Where property of appellant-writ-petitioner and her ex-husband was attracted for recovery of dues against her and her plea was that property in question had been orally gifted to her and that she had been divorced by her, and, hence, attachment was not valid, but it was found that proceedings in question related to period prior to date of pronouncement of Talaq and that there was no</p>

	evidence of alleged gift, no interference was called for with recovery proceedings.
222	<p>ITO (ADDL.) v ALFRED (E.) (1962)44 ITR 442 (SC)</p> <p>Penalty on legal representative of deceased. Assessee assessed to tax under section 24B(2) of the Income-tax Act, 1922 (corresponding to section 159 of the Income-tax Act, 1961) as legal representative in respect of income of the deceased – Whether penalty could be imposed on legal representative under section 46(1) of the Act (corresponding to section 221(1) of the Income-tax Act, 1961) for failure to pay tax assessed on him in that capacity – Held, yes.</p>
Sch. II, R. 2.	<p>S. AIYADURAI NADAR v. T.R. SAKKU BAI AND OTHERS. [1987] 168 ITR 161 (MAD)</p> <p>Recovery of tax – Income-tax dues – Government debts – Not necessary for department to file suit and get decree – Mere application for payment out of monies in court deposit sufficient – Issue of notice under rule 2 of second schedule to Income tax Act, 1961 – Subsequent attachment of properties of defaulting assessee by a creditor –Claim of Income-tax department gets precedence – Income-tax Act, 1961, Sch. II, R. 2.</p>
226(3)	<p>SUBASHREE v. CANARA BANK AND ANOTHER [2010] 321 ITR 285(Mad)</p> <p>Recovery of tax –Writ –Attachment of property –Attachment of fixed deposit – intimation by bank –Does not give cause of action for writ petition –Income-Tax Act, 1961, s. 226(3).</p>
226(3)	<p>ROSHAN COMMERCIAL TRADERS P. LTD. v. INCOME TAX OFFICER AND OTHERS [2008]303 ITR 166(MAD)</p> <p>Recovery of Tax—Garnishee Proceedings—Amounts due from Assessee to tax defaulter—Notice to assessee and recovery of amount from assessee's banker—Notice to assessee was valid --Income tax Act, 1961, s. 226(3)</p>
226	<p>BIHAR STATE CO-OPERATIVE BANK LTD. VS. UNION OF INDIA AND ORS. [2006] 281 ITR 169 (PATNA)</p> <p>Recovery of tax – Stay of proceedings – Appeal pending – Assessee agreeing to pay amount in instalments – Assessee cannot apply for stay of realisation of amount in appeal proceedings.</p>
226(3)	<p>DIVISIONAL MANAGER, NEW INDIA ASSURANCE CO. LTD. VS. ITO & ANR (KAR.) 360 CTR : VOL. 195 : DTD. 13.5.05</p> <p>Recovery – Garnishee proceedings u/s.226(3) cannot be entertained by court when main dispute namely, penalty levied u/s.194A is still before appellate authority.</p>

226(4)	LAXMAN SWAROOP OM PRAKASH –VS- UNION OF INDIA AND OTHERS 229 ITR 662 (SC) If as on the date of filing an application u/s. 226(4) for recovery of tax dues of a defaulter whose money was lying with the court, money was not disbursed to the decree holders, being creditors of the company, then such an application would not become infructuous.
226	DOORGA PROSAD v SECRETARY OF STATE (1945) 13 ITR 285 (PC) Specification of year to which tax dues relate not necessary in recovery certificate. Whether specification of the year for which tax is due is necessary for the validity of the certificate for recovery of tax – Held, no .
136, 230A, 276C, 277	P. SOUNDARYA v. INCOME TAX OFFICER [2001] 249 ITR 77 (MAD) Offences and prosecution – Income-tax proceedings – willful attempt to evade tax – False verification – Income-tax proceedings are judicial proceedings – Tax clearance certificate – False statement in application under section 230A for settlement of immovable property in favour of minor – undervaluation of property – Amount representing undervaluation assessed in hands of a third person – Protective assessment in hands of declarant – Not offence under section 276C or 277 – Offence punishable under Section 136 of Income-tax Act, 1961, ss. 136, 230A, 276C, 277 – Indian penal code, 1860, ss. 193, 420, 511.
234A, 234B, 234C; Consn of India, arts 14, 20	ROSHANLAL S. JAIN v. DEPUTY COMMISSIONER OF INCOME-TAX (ASSESSMENT) [2009] 309 ITR 174 (GUJ) Return – advance tax – interest – constitutional validity of provisions – return filed after due date and tax paid after close of financial year – section 234A and 234B valid – levy of interest under both sections valid – levy of interest on interest valid – income-tax act, 1961, ss, 234A, 234B, 234C – constitution of India, arts. 14, 20. Precedent – decision of another high court – different view can be taken.
234A 234B	HARI NARAIN SONI v. ITO [C.W.P. NO.4849 OF 2001, DECIDED ON 13.5.2008]/[2009] 15 CPT 163 (RAJ.) Contention that Assessing Officer must indicate his ‘satisfaction’ in an assessment order for charging interest is without force.
234A	COMMISSIONER OF INCOME-TAX v. KALPAKA TRANSPORT CO. LTD. [2006]287 ITR 15 (KER). Return—Delay in filing return—Interest—Assessing Officer Accepting delayed return as one filed in response to notice under section 148—Assessee not absolved of liability to pay interest under section 234A—Income-tax Act, 1961, s.234A.
234A, 234B, 234C	K. VENUGOPALAN NAMBIAR V. UNION OF INDIA [2005] 148 TAXMAN 616 (KER.) Section 234A, 234B and 234C are compensatory in nature and cannot be

	challenged.
234A, 234C	H.M. SATHYANARAYANA SETTY AND OTHERS v. CHIEF COMMISSIONER OF INCOME-TAX [2004] 269 ITR 375 (KARN) Return—Advance tax—Interest—Delayed filing of return and delayed payment of Advance tax—Waiver or reduction of interest—Assessee not covered by notification dated 23-5-1996 authorising reduction or waiver to specified persons—Letter rejecting application for waiver or reduction—Valid—Income-tax Act, 1961, ss.234A, 234C.
234A, 234B, 234C	HARI NARAIN SONI v. INCOME TAX OFFICER AND ANOTHER [2010] 322 ITR 444 (Raj) Advance tax –interest –Interest chargeable under sections 234A, 234B and 234C –Law applicable –effect of changes made by finance act, 1997 –Charge of interest under sections 234A, 234B and 234C mandatory –Computation in form ITNS-150 accompanying order of assessment clearly specifying provision of law and amount of interest charged –Order valid –Income-tax Act 1961, s. 234A, 234B, 234C.
234B, 234C	COMMISSIONER OF INCOME-TAX v. (1) INSILCO LTD. (2) SAW PIPES LTD. [2010] 321 ITR 105 (Delhi) Advance tax –Interest –Compensatory in nature –Plea of bona fide default totally alien –Interest chargeable under section 234B –Income-tax Act, 1961, s. 234B, 234C. Interest is payable under section 234B of the Income-tax Act, 1961, in case advance tax is not paid by the stipulated dates and there is a default. It would be immaterial whether such a default is intentional or bona fide because the provision is compensatory in nature inasmuch as the Revenue is deprived of such payment which should have been made on an earlier date and therefore becomes entitled to charge the interest for the period of delay in receiving the payment of tax.
115JA, 234B	COMMISSIONER OF INCOME-TAX AND ANOTHER v. BRINDAVAN BEVERAGES LTD. [2010] 321 ITR 197(Karn) Company –Book profit –Advance tax –Failure to pay advance tax –Levy of interest under section 234B –Where section 115JA is applied –Valid –Income-Tax Act, 1961, S. 115JA, 234B. Company –Book profit –Capital gains –Transfer of undertaking in June 1998 –Even if transaction was a slump sale gains could be computed –Matter remanded to Assessing Officer for proper computation –Income-Tax Act, 1961, S. 115JA. The Legislature has consciously brought a change by introducing sub-section (4) in section 115JA of the Income-tax Act, 1961, while replacing the provisions of section 115J of the Act by the provisions of section 115JA. The provisions of section 115J and section 115JA are not identical.
234A, 234B, 234C	HARI NARAIN SONI v. INCOME TAX OFFICER AND ANOTHER [2010] 322 ITR 444 (Raj) Advance tax –interest –Interest chargeable under sections 234A, 234B and 234C –Law applicable –effect of changes made by finance act, 1997 –Charge of interest under sections 234A, 234B and 234C mandatory –Computation in

	form ITNS-150 accompanying order of assessment clearly specifying provision of law and amount of interest charged –Order valid –Income-tax Act 1961, s. 234A, 234B, 234C.
80H, 80-I, 234B 234C	INJECTO PLAST v. UNION OF INDIA AND OTHERS [2010]323 ITR 287 (All) Recovery of tax –Kar vivad samadhan scheme –Amount paid specifically towards interest –Subsequent declaration under KVSS –Amount cannot be adjusted against tax due –Income-tax Act, 1961, s. 80H, 80-I, 234B, 234C-CBDT instruction No. 1936, dated March 31, 1996 –Finance (No. 2) Act, 1998, s. 87(c), (f), (m), 88, 90(1) –Kar vivad samadhan scheme.
234A, 234B, 234C; Constn of India, arts 14, 20	ROSHANLAL S. JAIN v. DEPUTY COMMISSIONER OF INCOME-TAX (ASSESSMENT) [2009] 309 ITR 174 (GUJ) Return – advance tax – interest – constitutional validity of provisions – return filed after due date and tax paid after close of financial year – section 234A and 234B valid – levy of interest under both sections valid – levy of interest on interest valid – income-tax act, 1961, ss, 234A, 234B, 234C – constitution of India, arts. 14, 20. Precedent – decision of another high court – different view can be taken.
234B, 245D, 245F	SAHITYA MUDRANALAYA AND OTHERS V. INCOME TAX SETTLEMENT COMMISSIONER AND OTHERS [2009] 312 ITR 115 (GUJ) Settlement of cases-settlement commission-powers-interest payable by assessee on shortfall in payment of advance tax arising upon order of settlement commission-commission has power to levy interest – Income tax Act, 1961, ss.234B, 245D, 245F.
234A, 234B	HARI NARAIN SONI v. ITO [C.W.P. NO.4849 OF 2001, DECIDED ON 13.5.2008]/[2009] 15 CPT 163 (RAJ.) Where I.T.N.S.- 150 Form accompanying assessment order not only revealed fact that interest was chargeable u/s. 234A, 234B and 234C but also included computation of amount charged as interest under specific provisions and such form was also signed by Assessing Officer, it could not be held that assessment order did not reveal specific provision of law under which interest was to be charged.
234B	PARKASH AGRO INDUSTRIES v. DEPUTY COMMISSIONER OF INCOME-TAX [2009] 316 ITR 149 (P&H) Advance tax – interest-shortfall in payment of advance tax-law applicable-effect of amendment of section 234B w e f. 1.4.1989-interest to be levied on tax on assessed income less advance tax paid and tax deducted at source-Income-tax Act, 1961, s. 234B.
234B & 234C	CIT v. UNITED VANASPATI LTD [ITA NO.1 OF 2001, DECIDED ON 6-8-08] (HP.) Assessee is liable to pay interest u/s.234B and 234C even if the Assessing

	Officer has assessed the income by applying the provisions of section 115J.
115JAA, 234B, 234C, 260A	COMMISSIONER OF INCOME-TAX v. XPRO INDIA LTD. [2008]300 ITR 337 (SC) High Court –Appeal-Substantial question of Law-Assessment-Book profits basis-Tax credit in respect of tax paid on demand income of certain companies-Short Payment-Interest-Whether penal or mandatory-Substantial question of law-Income tax Act, 1961, ss, 115JAA, 234B, 234C, 260A.
234B	SEAPEarl ENTERPRISES v Dy. CIT (2007) 294 ITR 374 (KER) Interest u/s 234B is leviable on tax on total income determined under regular assessment and not on income returned by the assessee – the amendment made to explanation is merely clarificatory in nature.
115J , 234B 234C	COMMISSIONER OF INCOME-TAX v. UPPER INDIA STEEL MFG. AND ENGG. CO. LTD. [2005] 279 ITR 123 (P&H) Interest – Advance Tax – book profits- non-payment or short payment due to computation of income under section 115J – Levy of interest – Inescapable – Income-tax Act, ss. 115J, 234B, 234C.
234A, 234B, 234C	K. VENUGOPALAN NAMBIAR V. UNION OF INDIA [2005] 148 TAXMAN 616 (KER.) Section 234A, 234B and 234C are compensatory in nature and cannot be challenged.
234B	SHADIRAM & SONS v Dy. CIT (2005) 92 ITD 22 LUCKNOW Interest u/s 234B is to be charged upto the date of regular assessment.
234B	PRITHVIRAJ CHOUHAN v CIT (2004) 267 ITR 450 (MP) Judgement of Supreme Court in Ranchi Club Ltd (2001) 247 ITR 209 no longer applicable – Subsequent to this judgement, Explanation 1 has been substituted in Sections 234A & 234B by Finance Act, 2001 w.e.f. 1.4.89 - Interest u/s 234B is leviable on tax on total income determined under regular assessment and not on income returned by the assessee.
234B	CIT v ANJUM M H GHASWALA (2001) 252 ITR 1 (SC), KALYAN KUMAR RAY v CIT (1991) 191 ITR 634 (SC) Charging of interest u/s 234B. Charging of interest is mandatory.
234B, 234C	UNIVERSAL TRADES CORPORATION v. CHIEF COMMISSIONER OF INCOME TAX AND OTHER [2001] 249 ITR 291 (KER) Advance tax – Interest – Waiver – Exporter of sea foods – Double taxation relief – No supporting documents – Levy of interest – CBDT circular dated 23.5.96 – Conditions not satisfied – Waiver not permissible – Income-tax Act, 1961, ss. 234B, 234C – CBDT circular dated 23.5.96.

115J, 234B , 234C	ITARSI OILS AND FLOURS PVT. LTD. v. COMMISSIONER OF INCOME TAX [2001] 250 ITR 636 (MP) Advance tax –Interest—Company—Deemed income—Assessee's Income computed under section 115J of Act—Shortfall in payment of advance tax—Interest under sections 234B and 234C leviable —Income-tax Act-1961, ss.115J, 234B, 234C.
234B, 234C	COMMISSIONER OF INCOME-TAX v. (1) INSILCO LTD. (2) SAW PIPES LTD. [2010] 321 ITR 105 (Delhi) Advance tax –Interest –Compensatory in nature –Plea of bona fide default totally alien –Interest chargeable under section 234B –Income-tax Act, 1961, s. 234B, 234C. Interest is payable under section 234B of the Income-tax Act, 1961, in case advance tax is not paid by the stipulated dates and there is a default. It would be immaterial whether such a default is intentional or bona fide because the provision is compensatory in nature inasmuch as the Revenue is deprived of such payment which should have been made on an earlier date and therefore becomes entitled to charge the interest for the period of delay in receiving the payment of tax.
234A, 234B, 234C	HARI NARAIN SONI v. INCOME TAX OFFICER AND ANOTHER [2010] 322 ITR 444 (Raj) Advance tax –interest –Interest chargeable under sections 234A, 234B and 234C –Law applicable –effect of changes made by finance act, 1997 –Charge of interest under sections 234A, 234B and 234C mandatory –Computation in form ITNS-150 accompanying order of assessment clearly specifying provision of law and amount of interest charged –Order valid –Income-tax Act 1961, s. 234A, 234B, 234C.
80H,80-I, 234B, 234C	INJECTO PLAST v. UNION OF INDIA AND OTHERS [2010]323 ITR 287 (All) Recovery of tax –Kar vivad samadhan scheme –Amount paid specifically towards interest –Subsequent declaration under KVSS –Amount cannot be adjusted against tax due –Income-tax Act, 1961, s. 80H, 80-I, 234B, 234C– CBDT instruction No. 1936, dated March 31, 1996 –Finance (No. 2) Act, 1998, s. 87(c), (f), (m), 88, 90(1) –Kar vivad samadhan scheme.
234A, 234B, 234C; Consn of India, arts 14, 20	ROSHANLAL S. JAIN v. DEPUTY COMMISSIONER OF INCOME-TAX (ASSESSMENT) [2009] 309 ITR 174 (GUJ) Return – advance tax – interest – constitutional validity of provisions – return filed after due date and tax paid after close of financial year – section 234A and 234B valid – levy of interest under both sections valid – levy of interest on interest valid – income-tax act, 1961, ss, 234A, 234B, 234C – constitution of India, arts. 14, 20. Precedent – decision of another high court – different view can be taken.
115JAA, 234B, 234C, 260A	COMMISSIONER OF INCOME-TAX v. XPRO INDIA LTD. [2008]300 ITR 337 (SC) High Court –Appeal-Substantial question of Law-Assessment-Book profits

	basis-Tax credit in respect of tax paid on demand income of certain companies-Short Payment-Interest-Whether penal or mandatory-Substantial question of law-Income tax Act, 1961, ss, 115JAA, 234B, 234C, 260A.
115J 234B, 234C	COMMISSIONER OF INCOME-TAX v. UPPER INDIA STEEL MFG. AND ENGG. CO. LTD. [2005] 279 ITR 123 (P&H) Interest – Advance Tax – book profits- non-payment or short payment due to computation of income under section 115J – Levy of interest – Inescapable – Income-tax Act, ss. 115J, 234B, 234C.
234A, 234B, 234C	K. VENUGOPALAN NAMBIAR V. UNION OF INDIA [2005] 148 TAXMAN 616 (KER.) Section 234A, 234B and 234C are compensatory in nature and cannot be challenged.
234C	MRS. PRABHA LAL v. COMMISSIONER OF INCOME-TAX AND OTHERS [2004] 269 ITR 212 (PAT) Advance tax—Interest—Shortfall in payment of 1 st and 2 nd instalments of advance tax—Interest under section 234 is mandatory –Section 234C constitutionally valid –Unanticipated income accruing in last quarter of financial year—Not a ground not to deposit advance tax—Assessing authority charging interest under section 234C for short payment of advance tax in first and second instalments from assessee—Justified -- Income -tax Act, 1961, s.234C.
234A, 234C	H.M. SATHYANARAYANA SETTY AND OTHERS v. CHIEF COMMISSIONER OF INCOME-TAX [2004] 269 ITR 375 (KARN) Return—Advance tax—Interest—Delayed filing of return and delayed payment of Advance tax—Waiver or reduction of interest—Assessee not covered by notification dated 23-5-1996 authorising reduction or waiver to specified persons—Letter rejecting application for waiver or reduction—Valid- - Income-tax Act, 1961, ss.234A, 234C.
234C	MRS. PRABHA LAL v. COMMISSIONER OF INCOME-TAX AND OTHERS [2004] 269 ITR 212 (PATNA) Advance tax – Interest – Shortfall in payment of 1 st and 2nd instalments of advance tax-Interest under section 234C is mandatory – section 234C constitutionally valid – Unanticipated income accruing in last quarter of financial year – Not a ground not to deposit advance tax – Assessing authority charging interest under section 234C for short payment of advance tax in first and second instalments from assessee – Justified – Income-tax Act, 1961, s. 234C.
234B & 234C	CIT v. UNITED VANASPATI LTD [ITA NO.1 OF 2001, DECIDED ON 6-8-08] (HP.) Assessee is liable to pay interest u/s.234B and 234C even if the Assessing Officer has assessed the income by applying the provisions of section 115J.

234B, 234C	<p>UNIVERSAL TRADES CORPORATION v. CHIEF COMMISSIONER OF INCOME TAX AND OTHER [2001] 249 ITR 291 (KER)</p> <p>Advance tax – Interest – Waiver – Exporter of sea foods – Double taxation relief – No supporting documents – Levy of interest – CBDT circular dated 23.5.96 – Conditions not satisfied – Waiver not permissible – Income-tax Act, 1961, ss. 234B, 234C – CBDT circular dated 23.5.96.</p>
115J, 234B, 234C	<p>ITARSI OILS AND FLOURS PVT. LTD. v. COMMISSIONER OF INCOME TAX [2001] 250 ITR 636 (MP)</p> <p>Advance tax –Interest—Company—Deemed income—Assessee's Income computed under section 115J of Act—Shortfall in payment of advance tax—Interest under sections 234B and 234C leviable —Income-tax Act-1961, ss.115J, 234B, 234C.</p>
240, 243, 244A	<p>(1) MOTOR AND GENERAL FINANCE LTD.(I.T.A. Nos. 27, 29, 32, 35, 38 and 39 of 2009)(2) MGF INDIA LTD.(I.T.A. Nos. 31, 33 and 37 of 2009)(3) GOODWILL (INDIA) LTD.(I.T.A. Nos. 26, 28, 34 and 36 of 2009)(4) MGM (INDIA) LTD.(I.T.A. Nos. 30 of 2009)v.COMMISSIONER OF INCOME-TAX [2010] 320 ITR 88 (Delhi)</p> <p>Refund –Interest –Interest on interest –Payable only where refund is made without interest and there is delay in payment of interest –Income-tax Act, 1961, s. 240, 243, 244A. When the refund of tax becomes payable as a result of orders passed in appeal or other proceedings under the Income-tax Act, 1961, this refund is to be given along with interest, which is to be calculated as per section 244A of the Act. If that interest is paid along with the excess tax, no further payment is to be made. It is only when the excess amount of tax is refunded but the interest is not refunded therewith, that the retention of interest amount would become unjustified and interest on interest would also become payable. The reason is simple. It is the tax which was paid in excess by the assessee which became refundable. The assessee would be compensated by paying interest thereupon. It is only when the interest is not refunded along with excess tax that the withholding of the interest becomes unjustified and it become an “amount due” to the assessee on which the assessee can claim further interest. Held, that while issuing the intimation under section 143(1)(a) of the Act, refund along with interest was given of the excess tax deducted at source and advance tax. Again, after the orders of the Tribunal were passed and the refund become payable as a consequence thereof, the excess amount of tax was refunded along with interest payable thereon. Hence interest on interest was not payable.</p>
240, 243, 244A	<p>(1) MOTOR AND GENERAL FINANCE LTD.(I.T.A. Nos. 27, 29, 32, 35, 38 and 39 of 2009)(2) MGF INDIA LTD.(I.T.A. Nos. 31, 33 and 37 of 2009)(3) GOODWILL (INDIA) LTD.(I.T.A. Nos. 26, 28, 34 and 36 of 2009)(4) MGM (INDIA) LTD.(I.T.A. Nos. 30 of 2009)v.COMMISSIONER OF INCOME-TAX [2010] 320 ITR 88 (Delhi)</p> <p>Refund –Interest –Interest on interest –Payable only where refund is made without interest and there is delay in payment of interest –Income-tax Act, 1961, s. 240, 243, 244A. When the refund of tax becomes payable as a result of orders passed in appeal or other proceedings under the Income-tax Act, 1961, this refund is to be given along with interest, which is to be calculated as per</p>

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244	<p>CIT VS. CHITTOOR ELECTRICITY SUPPLY CORP. 212 ITR 404 (SC)</p> <p>Where an assessment is set aside in appeal and fresh assessment is made then interest u/s 244(1) runs from the date of fresh assessment order and not from the date of appellate order-refund will arise on fresh assessment and only then interest thereon will arise. [Followed in 231 ITR 607 (Ker)]</p>
240, 243, 244A	<p>(1) MOTOR AND GENERAL FINANCE LTD.(I.T.A. Nos. 27, 29, 32, 35, 38 and 39 of 2009)(2) MGF INDIA LTD.(I.T.A. Nos. 31, 33 and 37 of 2009)(3) GOODWILL (INDIA) LTD.(I.T.A. Nos. 26, 28, 34 and 36 of 2009)(4) MGM (INDIA) LTD.(I.T.A. Nos. 30 of 2009)v.COMMISSIONER OF INCOME-TAX [2010] 320 ITR 88 (Delhi)</p> <p>Refund –Interest –Interest on interest –Payable only where refund is made without interest and there is delay in payment of interest –Income-tax Act, 1961, s. 240, 243, 244A.When the refund of tax becomes payable as a result of orders passed in appeal or other proceedings under the Income-tax Act, 1961, this refund is to be given along with interest, which is to be calculated as per section 244A of the Act. If that interest is paid along with the excess tax, no further payment is to be made. It is only when the excess amount of tax is refunded but the interest is not refunded therewith, that the retention of interest amount would become unjustified and interest on interest would also become payable. The reason is simple. It is the tax which was paid in excess by the assessee which became refundable. The assessee would be compensated by paying interest thereupon. It is only when the interest is not refunded along with excess tax that the withholding of the interest becomes unjustified and it become an “amount due” to the assessee on which the assessee can claim further interest.Held, that while issuing the intimation under section 143(1)(a) of the Act, refund along with interest was given of the excess tax deducted at source and advance tax. Again, after the orders of the Tribunal were passed and the refund become payable as a consequence thereof, the excess amount of tax was refunded along with interest payable thereon. Hence interest on interest was not payable.</p>

245C	M. LOGANATHAN v. GOVERNMENT OF INDIA REPRESENTED BY COMMISSIONER OF INCOME-TAX AND OTHERS, [2008]302 ITR 139(MAD) Settlement of cases—Application for Settlement –Condition Precedent—pendency of income-tax proceedings—Withdrawal or Appeals During pendency of application –relates back date of application—effect—No appeal pending on date of application for settlement—settlement application not maintainable Income Tax Act, 1961, s 245C
245-I,245-D 158 BFA	DR. ATTUKAL RADHAKRISHNAN V. ASST. COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE TRIVANDRUM [2011] 335 ITR 533 (KER)/[2011] 197 TAXMAN 193 (KER) Section 245-I, read with sections 245D and 158BFA, of the Income-tax Act, 1961 – Settlement Commission- Order of to be conclusive – Whether finality to order passed under section 245D(4) is conferred only in respect of ‘matters stated therein’ – Held, yes – Consequent upon a search conducted at residential and business premises of assessee, a notice for block assessment was issued to assessee and Assessing Officer passed block assessment order – Thereafter, a demand was raised for income tax with surcharge and interest under section 158BFA(1) from assessee – Assessee moved an application before Settlement Commission for settlement of his case –Settlement Commission passed final order accepting amount offered by assessee as his undisclosed income – In pursuance of order of Settlement Commission was final, conclusive and binding as per section 245-I, and, therefore, Assessing Officer could not have added something more into it, like interest under section 158BFA(1) – Whether since no grievance had been raised in respect of interest payable under section 158BFA in application moved by assessee under section 245C and in order of Settlement Commission also there was absolutely no reference to dispute with regard to liability to pay said interest, said liability to satisfy ‘interest’ by virtue of specific statutory prescription under section 158BFA(1) could not be contended as a matter covered by order passed by Settlement Commission, so as to attract ‘Ban’ under section 245-I in respect of liability to pay ‘interest’ under said head –Held, yes – Whether, thus, petition filed by assessee was to be dismissed – Held, yes.
234B, 245D 245F	SAHITYA MUDRANALAYA AND OTHERS V. INCOME TAX SETTLEMENT COMMISSIONER AND OTHERS [2009] 312 ITR 115 (GUJ) Settlement of cases-settlement commission-powers-interest payable by assessee on shortfall in payment of advance tax arising upon order of settlement commission-commission has power to levy interest – Income tax Act, 1961, ss.234B, 245D, 245F.
245D	CIT VS. HINDUSTAN BULK CARRIERS 259 ITR 449 (SC) Interest chargeable u/s. 234B would be from the first day of assessment year till the order u/s.243D(4) is passed. Settlement Commission does not have power to waive or reduce tax or interest which have to be determined as per the provisions of the Act. Interest payable u/s. 245D(2C) and 245D(6A) are for defaults different from those under section 234A, 234B and 234C. Mere application for settlement has no effect on earlier assessment or recovery

	<p>proceedings. Order allowing or admitting such application is necessary when jurisdiction will transfer to ITSC. Interest u/s. 234A, 234B and 234C will be on the consolidated amount of income one disclosed before the I. T. authorities and other undisclosed, which is for the first time disclosed before the Commission.</p>
245D	<p>CIT VS. DAMANI BROTHERS 259 ITR 475 (SC)</p> <p>1. The I.T. authorities are free to proceed with the matter pending before them till application is admitted by the ITSC. The situation before I.T. authorities and ITSC are different. The return filed before I. T. Authorities would be in respect of disclosed income whereas application before ITSC is in respect of undisclosed income. 2. Even though for computation of tax both disclosed and undisclosed income is to be clubbed by ITSC but it does not empower the Commission to deal with the disclosed income before deciding to proceed with Application for Settlement. The assessment order passed by the A.O. prior to the admission of the application for settlement will subsist and recovery proceedings continue. The assessment order does not automatically get set-aside on the admission of the application for settlement. 3. The commission can consider waiving interest u/s. 220(2A) provided conditions laid down therein are satisfied. 4. Interest levied for different infraction is not a double levy of interest. Section 234B, 245D(2C) and 245D(6A) operate in different field and hence there is no double levy, if all the three interest are charged.</p>
245D	<p>CIT VS. ANJUM M. H. GHASWALA 252 ITR 1 (SC)</p> <p>ITSC, while exercising its power u/s. 245D(4) and 245D(6) does not have power to reduce or waive interest chargeable statutorily u/s. 234A, 234B & 234C. 245D(4) is substantive provision. ITSC can pass orders as it thinks fit on the matters covered by the application. 245D(6) is only procedural in nature providing for fixing terms by which the amount settled u/s. D(4) have to be paid. It is not a provision to empower ITSC to waive or reduce tax, penalty, or interest. Passing of an order u/s. 245D(4) has to be in accordance with the provisions of the Act. Expression “Terms” used in Section 245D(6) only means that the commission can stipulate the condition of payments like instalments, last date of payment etc. it does not authorize, waiver or reduction of tax, penalty or interest settled u/s. 245D(4). ITSC has also the power of an Income tax authority. Hence it can waive / reduce interest chargeable u/s. 234A/234B, 234C in accordance with the circular no. 400/234/95 IT – B, dated 28/5/96. ITSC is a quasi-judicial body. Its order is not amenable to either supervisory or appellate jurisdiction of the Ministry of Finance. It cannot equate itself with CBDT or claim the right to exercise the power vested in the Board u/s. 119, which is an administrative power.</p>
234B, , 245F 245D	<p>SAHITYA MUDRANALAYA AND OTHERS V. INCOME TAX SETTLEMENT COMMISSIONER AND OTHERS [2009] 312 ITR 115 (GUJ)</p> <p>Settlement of cases-settlement commission-powers-interest payable by assessee on shortfall in payment of advance tax arising upon order of settlement commission-commission has power to levy interest – Income tax Act, 1961, ss.234B, 245D, 245F.</p>

245F	CIT v. SETTLEMENT COMMISSION (IT& WT) [2009] 176 TAXMAN 421/[2009] 14 CPT 586 (KER.) Where petitioner, relying upon decision of Supreme Court, filed rectification petition to correct an error in order passed by Settlement Commission regarding terminal date for charging interest u/s.234B and Settlement Commission rejected application on ground of limitation, as view taken by Settlement Commission was a plausible view, rejection of application for rectification was justified.
245-I, 245-D 158 BFA	DR. ATTUKAL RADHAKRISHNAN V. ASST. COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE TRIVANDRUM [2011] 335 ITR 533 (KER)/[2011] 197 TAXMAN 193 (KER) Section 245-I, read with sections 245D and 158BFA, of the Income-tax Act, 1961 – Settlement Commission- Order of to be conclusive – Whether finality to order passed under section 245D(4) is conferred only in respect of ‘matters stated therein’ – Held, yes – Consequent upon a search conducted at residential and business premises of assessee, a notice for block assessment was issued to assessee and Assessing Officer passed block assessment order – Thereafter, a demand was raised for income tax with surcharge and interest under section 158BFA(1) from assessee – Assessee moved an application before Settlement Commission for settlement of his case –Settlement Commission passed final order accepting amount offered by assessee as his undisclosed income – In pursuance of order of Settlement Commission was final, conclusive and binding as per section 245-I, and, therefore, Assessing Officer could not have added something more into it, like interest under section 158BFA(1) – Whether since no grievance had been raised in respect of interest payable under section 158BFA in application moved by assessee under section 245C and in order of Settlement Commission also there was absolutely no reference to dispute with regard to liability to pay said interest, said liability to satisfy ‘interest’ by virtue of specific statutory prescription under section 158BFA(1) could not be contended as a matter covered by order passed by Settlement Commission, so as to attract ‘Ban’ under section 245-I in respect of liability to pay ‘interest’ under said head –Held, yes – Whether, thus, petition filed by assessee was to be dismissed – Held, yes.
249	ASSTT. COMMISSIONER OF CENTRAL EXCISE & ORS. VS. V. KRISHNA PODUVAL & ORS. (KER.) 581 CTR : VOL. 199 : DTD. 23.12.2005 Proceedings gone barred by limitation cannot be revived by a writ.
250(4), ITR 1962, r.46A	COMMISSIONER OF INCOME-TAX v. SHREE KANGRA STEEL PVT. LTD. [2010] 320 ITR 691 (HP) Appeal to commissioner (Appeals) –Powers –Power to admit additional evidence –Effect of Rule 46A –Opportunity to Assessing Officer to examine document and produce evidence to contrary –Rule embodies provision of natural justice –Rule 46A mandatory –Income-tax Act, 1961, S. 250(4), ITR 1962, r.46A

250, 260A	<p>ANIL GOEL v. COMMISSIONER OF INCOME-TAX (APPEALS) AND ANOTHER [2008] 306 ITR 212 (P&H)</p> <p>Appeal-appeal to appellate tribunal-appeal to commissioner (Appeals)-assessee not appearing despite several opportunities –finding by Commissioner(Appeals) that assessee not interested in prosecuting appeal-tribunal considering matter on record and agreeing with Commissioner (Appeals)-failure to record reasons in support of order does not render order illegal-Income-Tax Act, 1961, ss. 250, 260A.</p>
251, 253	<p>1. DR. VINOD KUMAR RAI (ITA NO. 14 of 2008) 2. SUBHASH CHANDRA KESARWANI (ITA NO.476 OF 2007) v. INCOME TAX APPELLATE TRIBUNAL AND OTHERS [2008]302 ITR 148(ALL)</p> <p>Appeal to Appellate Tribunal—Limitation—Limitation Starts from date of communication of order—Order dated 3-10-2006 received on 17.11.2006 – Appeal Filed on 12.1.2007—Not barred by Limitation --Income Tax Act, 1961,s.253 Appeal to Appellate Tribunal – Competency of Appeal—Order of Commissioner (Appeals) Acted Upon—Not a Bar for Appeal—Appeal Maintainable--- Income-tax Act, 1961, s. 253.</p>
251	<p>CIT VS. KASHI NATH CANDIWALA [2005]144 TAXMAN 840 (ALL.)</p> <p>CIT(Appeals) has power of enhancement of total income of assessee in respect of an issue which is not subject matter of appeal.</p>
251	<p>KAMLAPAT MOTILAL v CIT (1962) 45 ITR 266 (SC)</p> <p>Power to levy penalty. Appellate Assistant Commissioner/Deputy Commissioner (Appeals)/ Commissioner (Appeals), whether can levy penalty on the assessee even though the Income-tax Officer has not levied the penalty – Held, yes.</p>
253	<p>SUSHIL THOMAS v. ASSTT. CIT [WP(C) NO. 28277 OF 2004, DECIDED ON 23-7-2008]/[2009] 14 CPT 586 (KER.)</p> <p>Where Commissioner (Appeals) had rejected appeal as not maintainable for non-payment of admitted tax u/s. 249(4)(a), Tribunal had no authority to consider merits of assessment in an appeal filed against such order of Commissioner (Appeals) declining to entertain appeal filed against assessment.</p>
251, 253	<p>1. DR. VINOD KUMAR RAI (ITA NO. 14 of 2008) 2. SUBHASH CHANDRA KESARWANI (ITA NO.476 OF 2007) v. INCOME TAX APPELLATE TRIBUNAL AND OTHERS [2008]302 ITR 148(ALL)</p> <p>Appeal to Appellate Tribunal—Limitation—Limitation Starts from date of communication of order—Order dated 3-10-2006 received on 17.11.2006 – Appeal Filed on 12.1.2007—Not barred by Limitation --Income Tax Act, 1961,s.253 Appeal to Appellate Tribunal – Competency of Appeal—Order of Commissioner (Appeals) Acted Upon—Not a Bar for Appeal—Appeal Maintainable--- Income-tax Act, 1961, s. 253.</p>

254(2), 260A, Consn of India, art 226	<p>VISVAS PROMOTERS (P) LTD. v. INCOME -TAX APPELLATE TRIBUNAL AND ANOTHER [2010] 323 ITR 114(Mad).</p> <p>Appeal to appellate tribunal –Rectification of mistake –High Court –Precedent –Commissioner (Appeals) allowing deduction on basis of order of tribunal of different jurisdiction –Tribunal disallowing assessee's claim without referring to that order or decision of High Court confirming it –No mistake apparent from record –decision of High Court of different jurisdiction not binding on tribunal –Rectification sought on that basis under section 254(2) not valid –Income-tax Act, 1961, s. 254(2), 260A.Appeal to high Court –Writ –Alternative remedy –Appeal not maintainable against order of rectification passed by tribunal under section 254(2) –Writ petition maintainable –Income tax Act,1961, s. 254(2), 260A, Consn of India, art 226.</p>
254	<p>COMMISSIONER OF INCOME-TAX v. PANCHU ARUNACHALAM [2010] 323 ITR 31(Mad)</p> <p>Appeal to appellate tribunal –Rectification of mistakes –Dismissal of application on merits –Another application for rectification –Not maintainable –Income-tax Act, 1961, s.254Whatever power is conferred on the authorities must be exercised and orders passed thereon should have a finality attached to them, as otherwise the parties aggrieved by such order would be entitled to file any number of applications seeking rectification and that would amount to reviewing the earlier order which power does not vest in the Tribunal under section 254 of the Income-tax Act, 1961.</p>
254	<p>COMMISSIONER OF INCOME-TAX v. K. D. WIRES P. LTD. [2010] 323 ITR 257 (MP)</p> <p>Appeal to appellate tribunal –Powers of tribunal –Power to rectify mistakes –Scope of power –No power to review its order –Income-tax Act, 1961, s. 254.The scope of the proceedings under section 254(2) of the Income-tax Act, 1961, is limited and is narrower than proceedings for review. The power of rectification under section 254(2) of the income-tax Act, 1961, does not imply the power to recall or review the order.Held, that is was not disputed that on an application under section 254(2) of the Act having been filed, the tribunal set aside its own order in its entirety for passing an order afresh. This was tantamount to reviewing the order and not rectifying it. Under these circumstances, the order to the tribunal passed under the provisions of section 254(2) of the Act and the subsequent fresh order passed on April 23, 2004, could not be sustained.</p>
254(1)	<p>DR. R. P. PATEL v. COMMISSIONER OF INCOME-TAX [2009] 225 CTR (KER) 378</p> <p>Appeal (Tribunal)—Additional ground/ claim—Admissibility—Claim of deduction of salary paid to doctors, staff and depreciation on car, furniture etc. made for the first time before the Tribunal—Facts pertaining thereto were not available on record—That apart, professional income of the assessee has been refixed by the Tribunal on estimation basis by granting additional deduction towards overhead expenditure over and above the relief granted in the first appeal—This deduction allowed by authorities cover eligible deductions, allowances, and rebates admissible under the Act in full—Admittedly, assessee did not maintain books of account and returned professional income on</p>

	estimation basis—Thus, Tribunal was justified in rejecting the assessee's claim as it was raised for the first time before it –No substantial question of law arises.
35D, 254(2)	COMMISSIONER OF INCOME-TAX AND ANOTHER V. McDOWELL AND COMPANY LTD. [2009] 310 ITR 215(KARN.) Appeal to appellate tribunal – powers of tribunal – power to rectify mistakes in its order – scope of power – no power to recall and review order – Income-tax Act, 1961, s. 254(2). Business expenditure – expenditure in connection with issue of shares – tribunal allowing deduction of one-tenth of expenditure under section 35D-On application allowing entire sum as revenue expenditure – not permissible – Income-tax Act, 1961, ss. 35D, 254(2)
254	A.B. HOTELS LTD. v. CIT [2009] 178 TAXMAN 301 [2009] 15 CPT 164 (DELHI) Where Tribunal's order u/s. 254(2) just sought to make explicit what was already implicit in its earlier order, such an order could not be interfered with.
254	CIT v. M.M. NAGALINGA NADAR SONS [ITA No.81 of 2000, DECIDED ON 17.06.2008] / [2009] 15 CPT 263[KER.] Where regular assessment in case of assessee's sister concern in which same addition was sustained stood remanded to Assessing Officer, Tribunal should also have remanded protective assessment in case of assessee in same matter.
254	COMMISSIONER OF INCOME-TAX v. MADHYA PRADESH TYRES CO. [2009] 316 ITR 202 (M.P.) Appeal to appellate Tribunal – duty of Tribunal –duty to formulate question and reasons for decision – Income-tax Act, 1961, s. 254. The Tribunal is under legal obligation to formulate in short the question involved. If it has already decided the issue on the merits one way or other in detail by assigning reasons in some earlier case, it should quote its reasoning already arrived at in its main leading order in extensor in case the Tribunal does not wish to add any more reasoning. CIT v. ABHAY KUMAR JAIN [2006] 281 ITR 431 (MP) (Para 8) referred to.
254	DR. S. PANNEERSELVAM v. ASSISTANT COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 319 ITR 135 (MAD) Appeal to appellate tribunal – Rectification of mistake – Order under section 254(2) merges with original order – Second application for rectification – Not maintainable – Income-tax Act, 1961, s. 254. Writ – Existence of alternative remedy – Delay in filing writ petition – Writ would not issue – Constitution of India, art 226.
254(2)	C. MALATHY v. ITO [TCA NO.1589 OF 2008, DECIDED ON 14.10.2008] / [2009] 14 CPT 580 (MAD) Where before Tribunal assessee took a specific plea that matter should be remanded in respect of one creditor only and Tribunal remitted matter in respect of just one creditor, there was no merit in assessee's subsequent

	contention that Tribunal should have remitted matter in entirety.
254(2)	COMMISSIONER OF INCOME-TAX v. CHHABRA GINNING UDHYOG [2008]303 ITR 182 (MP) Appeal to Appellate Tribunal - Rectification of mistake. Well reasoned order passed in favour of Revenue reversed on a Rectification application Not permissible Income-tax (Appellate Tribunal) Rules, 1963, r. 34A Income tax Act, 1961, s.254(2).
254	CIT v. KANSARA MODLER LTD [IT APPEAL NO.79 of 2005, DECIDED ON 25.4.2008] (RAJ.) REPORTED IN TAXMAN'S CPT VOL.13 (OCT.15 TO 31) 2008 Court, proceeding on different lines of reasons and both stand on their own logical footing, in that event if Tribunal has accepted one line of reasoning, supported by one set of judgments, it cannot be said that Tribunal was legally not justified in following decision, as followed by it, simply because it might have been possible, or it might be more appropriate to follow other set of judgments, by following other line of reasoning.
254	UPLAKSH METAL INDUSTRIES [2009] 177 TAXMAN 145/ [2009] 14 CPT 749 [PUNJ. & HAR.] Scope of rectification is confined to correction of mistake apparent on face of record and not a mistake with regard to debatable questions.
254	GUWAHATI ROLLER FLOUR MILLS LTD. v. UNION OF INDIA [W.P. No.5706 OF 2002 DECIDED ON 25.04.2008]/[2009] 4 CPT 75 (GUWAHATI) Where assessee filed miscellaneous petition for recall of Tribunal's ex-parte order on ground that a reasonable opportunity of being heard in appeal was not made available to assessee as regards adjourned hearing but postal department had confirmed service of notice on assessee regarding adjourned date of hearing, Tribunal was justified in dismissing miscellaneous petition.
254	COMMISSIONER OF INCOME-TAX v. D AND H SECHERON ELECTRODES LTD. [2008] 301 ITR 20 (MP) Appeal-appeal to appellate tribunal-assessing officer allowing deduction of sales tax penalty on ground amount voluntarily surrendered-Commissioner in revision setting aside order and directing fresh assessment-tribunal upholding this order-assessee not challenging tribunal's order-assessing officer passing consequential order-Appeal-appellate Tribunal-no jurisdiction to decide issue again on merits-Income-tax Act, 1961, s. 254.
254(2)	CIT vs. HINDUSTAN COCA COLA BEVERAGES P. Ltd. (2007) 293 ITR 163 (DEL) Under section 254(2) of the Income Tax Act the Tribunal has the power to rectify a mistake in its order. However, it is plain that the power to rectify mistakes is not equivalent to a power to review or recall the order sought to be rectified.

32, 254	<p>INDIAN MANAGEMENT ADVISORS AND LEASING P. LTD. v. COMMISSIONER OF INCOME-TAX [2007] 289 ITR 179 (DELHI)</p> <p>Appeal to appellate tribunal – Powers of tribunal – Scope of section 254 – Tribunal can consider evidence on record – claim for depreciation based on lease agreement – Tribunal can analyse lease agreement – Income-tax Act, 1961, s. 254. Depreciation – Condition precedent – Ownership of asset lease agreement – Finding that lease agreement was not genuine and that assessee was not owner of asset – Assessee not entitled to depreciation – Income-tax Act, 1961, s. 32.</p>
254	<p>CIT v. CHHABRA GINNING UDHYOG [ITA NO. 63 OF 2003, DECIDED ON 28.2.2006] (MP) REPORTED IN TAXMAN'S CPT VOL 13 (OCT 15 TO 31) 2008.</p> <p>A well-reasoned decision which has gone in favour of revenue in regularly constituted appeal, cannot be upturned by taking recourse to provisions of section 254(2) like an appellate court.</p>
254(2)	<p>CHEM AMIT VS. ACIT (BOMBAY) 141 CTR : VOL. 194 : DTD. 18.3.2005</p> <p>No appeal to High Court against order of ITAT which has not passed an appeal.</p>
254(2)	<p>SARDAR MACHHI SINGH VS. CIT (M.P.) 633 CTR : VOL. 193 : DTD. 18.2.2005</p> <p>Appeal to High Court – Whether the firm is genuine or benami of the assessee is a question of fact – Hence no appeal lies in the High Court and it is not a question of law.</p>
254	<p>ASSISTANT COMMISSIONER OF INCOME-TAX v. C. N. ANANTHRAM [2004] 266 ITR 470 (KARN)</p> <p>Appeal to appellate tribunal – Powers of tribunal – Power to rectify mistakes in its order – Scope of power – Tribunal must refer to materials on record which were not considered or were misread – No application of mind in this aspect – order of rectification not valid – Income-tax Act, 1961, s. 254.</p>
254, 260A	<p>COMMISSIONER OF INCOME-TAX v. RAMESH CHAND MODI [2001] 249 ITR 323 (RAJ)</p> <p>Appeal to appellate Tribunal – Powers of Tribunal – Rectification of mistake – Failure to consider grounds taken by appellant in memorandum of appeal – Tribunal recalling order for decision afresh – Does not amount to review – Within category of procedural mistakes which tribunal must correct Ex Debito justitiae to prevent abuse of process – Income-tax Act, 1961, ss. 254, 260A.</p>
254	<p>NATIONAL THERMAL POWER CO. LTD. v. CIT 229 ITR 383 (SC) ITAT HAS POWER TO DECIDE QUESTIONS RAISED FOR THE FIRST TIME BEFORE IT.</p> <p>Under section 254, the ITAT has powers to pass such order as it thinks fit. The</p>

	powers of ITAT to deal with appeals is thus expressed in widest possible terms. Thus, so long as the relevant facts are on records, there are no reasons why the assessee should be prevented from raising an issue before the ITAT, if such issue involves taxability of items and thus helps in determining correct taxable income. Thus ITAT has powers to decide issues raised before it for the first time, so long as all the facts are on record. [Followed /Applied in – 238 ITR 268(Del); 250 ITR 856 (Del); 253 ITR 425 (Mad); 259 ITR 318 (Mad.)
254(2)	CIT vs. GENERAL ELECTRIC CO. OF INDIA LTD. (1978) 112 ITR 246 (CAL) That it is essential that the apparentness of a mistake from the record has to be considered and established objectively, that such mistake ought to be capable of being demonstrated objectively and the determination of the apparentness subjectively is not sufficient.
80HHC (2) (b)(ii) 256 (2)	COMMISSIONER OF INCOME-TAX V. HARYANA MINERALS LTD. [2009] 313 ITR 318 (P&H) Reference – question of law – export business – special deduction – whether merchandise constitutes “minerals and ores” – effect of amendment of section 80HHC w.e.f. 1-4-1991 – questions already answered for earlier year in favour of department – no necessity of calling for reference – question answered in favour of department – Income-tax Act, ss. 80HHC (2)(b)(ii), 256(2)
32(1)(iii), 256(2)	COMMISSIONER OF INCOME-TAX v. ANOP UDAI WORKS, [2008]304 ITR 35(RAJ) Reference-Question of law-Obsolescence – terminal allowance-claim in respect of item necessary for manufacturing process – rejection of claim by Assessing Officer and Commissioner (Appeals) on ground that specified item had not been discarded-Tribunal allowing claim without considering question-question whether assessee was entitled to obsolescence allowance to be referred –Income-Tax Act, 1961, ss. 32(1)(iii), 256(2).
68, 256(2)	MARU RAM MAKHAN LAL v. COMMISSIONER OF INCOME-TAX [2008] 300 ITR12 (P&H) Reference—question of law—cash credit—burden of proof—assessee to prove genuineness of credits—assessee not able to prove credits were genuine—Addition to income justified—no question of law—Income Tax Act, 1961, ss.68,256(2).
256 , Income Tax Rules 1963, R29	FAIRDEAL FILAMENTS LTD. v. COMMISSIONER OF INCOME-TAX, [2008]302 ITR 173 (GUJ.) Reference –Appeal –Production of Additional evidence—Additional Evidence not produced before assessing Officer despite grant of time—concurrent finding by Appellate authorities that sufficient opportunity was granted – Question of Fact—Income-tax Act,1961s.256—Income-tax Rules,1962, r.46A - Income Tax Rules, 1963, r.29.

37, 256	<p>INTERNATIONAL AIRPORTS AUTHORITY OF INDIA v. COMMISSIONER OF INCOME-TAX [2008]303 ITR 433 (DELHI)</p> <p>Reference –High Court—Ex parte order—Recall—Capital or Revenue Expenditure—Airports Authority —Extension of Airport—Amount spent for removal and rehabilitation of squatters in village—High Court Holding Capital Expenditure—Recall or ex parte order—Fresh Evidence contrary to facts sought to be placed on record – Not permissible—No appreciable difference in answering question even if fresh evidence were admitted – High Court Decision Reaffirmed--Income Tax Act, 1961. ss. 37, 256.</p>
256, 271	<p>COMMISSIONER OF INCOME-TAX v. SMT. ASHA S. KHURANA, [2007]294 ITR 339 (BOM).</p> <p>Reference—Penalty—Concealment of income—Amnesty Scheme—Amnesty Scheme whether applicable and whether penalty could be levied –Questions of Law—Income-tax Act, 1961, ss.256, 271</p>
256(2)	<p>PREMIER PROTEINS LTD. VS. CIT (M.P.) 37 CTR : VOL. 193 : DTD. 7.1.2005</p> <p>Reference – Disallowance rightly upheld by Tribunal – No question of law – Hence no reference lies as High Court cannot probe question of facts.</p>
256(2), 80-1	<p>COMMISSIONER OF INCOME TAX v. MUNAK ENGINEERS (P.) LTD [2004] 271 ITR 361(P & H)</p> <p>Reference –Application for directing reference—Powers of High Court—No dispute regarding facts—High Court has power to answer question straightforwardly—Income-tax Act-1961, s.256(2). Industrial undertaking—Special deduction under section 80-1—Condition Precedent –Manufacture or production of article—Construction Activity—No manufacture or production of article. –Assessee not entitled to special deduction under section 80-1—Income-tax Act-1961, S. 80-1.</p>
10(29), 256(3)	<p>COMMISSIONER OF INCOME TAX v. RAJASTHAN STATE WAREHOUSING CORPORATION [2001] 250 ITR 218 (RAJ.)</p> <p>Exemption—Warehousing corporation —Income from letting of godowns or warehouses for storage, processing or facilitating marketing of commodities alone is exempt—Income from ancillary activities—Not exempt—Whether business indivisible and income not to be apportioned—Question does not arise from order of tribunal—Income-tax Act-1961, ss. 10(29), 256(2). Supreme Court—Precedent –Question referred to large bench—Existing decision after considering conflicting views is binding—Constitution of India, Art.141.</p>
256	<p>K. MAHINUDMA v. COMMISSIONER OF INCOME TAX [2001] 249 ITR 71 (KER)</p> <p>Income from other sources – Property purchased in names of three persons – Assessee incurring expenses in making compound wall in property – Municipal taxes paid by assessee – Finding of Tribunal that property purchased with funds of assessee – Finding of fact – Addition made by Tribunal – Court will not interfere – Income-tax Act, 1961, s. 256. Income from other sources –</p>

	Smuggled goods – Confiscation by customs authorities – Penalty imposed on assessee – Contention of assessee that order of confiscation stayed and matter pending before tribunal – No records to prove- Addition of value of smuggled goods as income of assessee – Court will not interfere. Income from property – Finding that property belonged to assessee – Income from that property is income of assessee – Tribunal justified in sustaining addition. Reference – Question of law – Tribunal appreciating evidence and concluding – No question of law arises – Income-tax Act, 1961, s. 256.
260A	COMMISSIONER OF INCOME TAX KOLKATA- II V. WEST BENGAL INFRASTRUCTURE DEVELOPMENT FINANCE CORPN. LTD. [2011] 334 ITR 269 (SC)/[2011] 196 TAXMAN 321 (SC) Section 260A of the Income-tax Act, 1961 – High Court, appeals to – Whether in cases where huge stakes of revenue are involved, High Court should examine cases on merits and should not dispose of same merely on ground of delay on part of department – Held, yes.
254(2), 260A, Constn of India, art 226	VISVAS PROMOTERS (P) LTD. v. INCOME –TAX APPELLATE TRIBUNAL AND ANOTHER [2010] 323 ITR 114(Mad). Appeal to appellate tribunal –Rectification of mistake –High Court –Precedent –Commissioner (Appeals) allowing deduction on basis of order of tribunal of different jurisdiction –Tribunal disallowing assessee's claim without referring to that order or decision of High Court confirming it –No mistake apparent from record –decision of High Court of different jurisdiction not binding on tribunal –Rectification sought on that basis under section 254(2) not valid – Income-tax Act, 1961, s. 254(2), 260A.Appeal to high Court –Writ – Alternative remedy –Appeal not maintainable against order of rectification passed by tribunal under section 254(2) –Writ petition maintainable –Income tax Act,1961, s. 254(2), 260A, Constn of India, art 226
260A , Constn of India, art 226	RAHULJEE AND COMPANY P. LTD. v. INCOME-TAX APPELLATE TRIBUNAL AND OTHERS [2010]323 ITR 327 (Delhi) Writ –Writ petition against order of tribunal –Proper remedy is appeal under section 260A –Writ petiotion dismissed –Constitution of India, art 226 – Income-tax Act, 1961, s. 260A.Writ –Petition clearly state facts, right infringed and grounds on which relief claimed –Constitution of India, art, 226.
260A	INDIAN ROADLINES v. COMMISSIONER OF INCOME-TAX [2010]323 ITR 362 (P&H). Appeal to High Court –Delay in filing appeal –Application for condonation of delay under section 5 of limitation act not competent –Incime-tax Act, 1961, s. 260A –Limitation Act, 1963, s. 5.Wherever the legislature desired to provide for condonation of delay, a specific provision has been made in the Income-tax Act, 1961, and, therefore, if no such provision has been made, then no application under section 5 of the limitation Act, 1963, could be filed as the Act itself is a complete code.Held, accordingly, dismissing the appeal, that the application seeking condonation of delay filed under section 5 of the limitation Act for appeal to the High Court under section 260A of the Act was not competent.

54, 260A	M. B. RAMESH v. INCOME –TAX OFFICER [2010] 320 ITR 451 (Karn) Capital gains –Exemption –Tribunal denying exemption relying on panchayat records finding no residential property on site claimed to be held and sold by assessee –Finding of fact –Court will not disturb –Income-tax Act, 1961, s. 54, 260A.The Assessing Officer refused the claim of the assessee under section 54 of the Income-tax Act, 1961, on a factual verification of the place where the assessee claimed to have had the residential property as the assessing authority found only a mud structure. The Commissioner (Appeals) took the view that the property had already been demolished and accepted the claim of the assessee that the assessee had in turn sold that property in which the gains had been reinvested by some other person and that person had reinvested for profits. The Tribunal found that there was never any structure fitting into the description of habitable residential house on the property which had been initially sold by the assessee. The Tribunal relied upon the panchayat records which on verification the Tribunal found did not indicate the structure being in place in respect of the property held and sold by the assessee. On appeal:Held, dismissing the appeal, that whether there was a structure of both sites or one site or whether there was no structure at all was a finding of fact which the court could not disturb in an appeal under section 260A.
260A	PUNJAB SMALL INDUSTRIES AND EXPORT CORPORATION LTD. v. COMMISSIONER OF INCOME-TAX [2009] 316 ITR 239 (P&H) Appeal to High Court-competency of appeal – order of remand referring to Supreme Court-appeal to High Court not maintainable from such order – Income-tax Act, 1961, s. 260A. Held, dismissing the appeal, that even though the Tribunal may not have discussed the judgment of the Supreme Court cited in detail in its order, still in terms of the provisions of article 141 of the Constitution, the law laid down by the Supreme Court is binding on all the courts/authorities subordinate to it and no court or authority is expected to overlook it even if no judgment is cited in the order remanding the case to a lower authority. Moreover, the matter had only been remanded to the Assessing Officer for fresh determination with liberty to the assessee to lead any further evidence if required. The issue had not been finally determined. In case the issue was determined against the assessee, it had its remedies in accordance with law. No question of law arose from the order.
250, 260A	ANIL GOEL v. COMMISSIONER OF INCOME-TAX (APPEALS) AND ANOTHER [2008] 306 ITR 212 (P&H) Appeal-appeal to appellate tribunal-appeal to commissioner (Appeals)-assessee not appearing despite several opportunities –finding by Commissioner(Appeals) that assessee not interested in prosecuting appeal-tribunal considering matter on record and agreeing with Commissioner (Appeals)-failure to record reasons in support of order does not render order illegal-Income-Tax Act, 1961, ss. 250, 260A.
115JAA,234B, 234C, 260A	COMMISSIONER OF INCOME-TAX v. XPRO INDIA LTD. [2008]300 ITR 337 (SC) High Court –Appeal-Substantial question of Law-Assessment-Book profits basis-Tax credit in respect of tax paid on demand income of certain companies-Short Payment-Interest-Whether penal or mandatory-Substantial question of

	law-Income tax Act, 1961, ss, 115JAA, 234B, 234C, 260A.
260A	STEEL INGOTS LTD. VS. DCIT (M.P.) 278 CTR : VOL. 197 : DTD. 26.08.2005 Appeal to the High Court is limited only to the question framed by the court during the course of admission of the appeal.
140A, 260A	RAJESH KUMAR v. DY. COMMISSIONER OF INCOME TAX [2004] 271 ITR 494 (DELHI) Self-assessment—Penalty—Appeal to High Court—Finding that there was no reasonable cause for non-payment of tax Tribunal justified in sustaining penalty—No substantial question of law arises-- Income-tax Act-1961, ss. 140A, 260A
45, 48, 260A	IQBAL HUSSAIN v. COMMISSIONER OF INCOME-TAX [2003] 264 ITR 179 (ALL) Capital gains – Appeal to High Court – Computation of capital gains – Tribunal considering evidence and fixing fair market value of land – Computation valid – No substantial question of law – Income-tax Act, 1961, ss. 45, 48, 260A.
254, 260A	COMMISSIONER OF INCOME-TAX v. RAMESH CHAND MODI [2001] 249 ITR 323 (RAJ) Appeal to appellate Tribunal – Powers of Tribunal – Rectification of mistake – Failure to consider grounds taken by appellant in memorandum of appeal – Tribunal recalling order for decision afresh – Does not amount to review – Within category of procedural mistakes which tribunal must correct Ex Debito justitiae to prevent abuse of process – Income-tax Act, 1961, ss. 254, 260A.
261	CIT v. SETTLEMENT COMMISSION (IT & WT) [2009] 176 TAXMAN 421/ [2009] 14 CPT 586 (KER.) When there is a decision of Constitution Bench of Apex Court upon an issue, no inferior Court or Tribunal can say that issue is a debatable issue for reason that a Bench of two Judges of Apex Court has doubted correctness of decision of Constitution Bench.
261	COMMISSIONER OF INCOME-TAX v. ORIENTAL INSURANCE CO. LTD. [2008] 304 ITR 55 (SC) Union of India-public sector undertaking – litigation-ruling of Supreme Court-necessity for obtaining clearance of high powered committee within one month of institution-scope of rule-not a rigid time framework-one month was used to indicate urgency-mere existence of some delay in applying for clearance-does not make action illegal.
37, 69, 263	COMMISSIONER OF INCOME-TAX v. JAGDISH CHAND GUPTA [2010] 329 ITR 583(P & H) Commissioner—revision—assessing officer failing to tax cash seized and later

	surrendered by assessee—assessment order erroneous and prejudicial to interest of revenue –invocation of section 263 proper—Income-tax Act, 1961, s. 263.Undisclosed income—assessee surrendering amount seized statement admitting sum paid as illegal gratification for car dealership—statement corroborated by circumstances not shown to be erroneous—retraction after four months –is an afterthought—sum represents undisclosed income of assessee—Income- Tax Act, 1961, s. 69.Business expenditure-business loss—illegal gratification for procuring car dealership not reflected in books of accounts –no business set up –loss not allowable –not permissible expenditure—Income - Tax Act, 1961, s. 37
263	COMMISSIONER OF INCOME-TAX v. GANESH STEEL INDUS [2010]325 ITR 99 (P&H) Revision – powers of commissioner –change in law by finance act,1989, with retrospective effect from 1-6-1988—commissioner can invoke power under section 263even if order of assessment subject-matter of appeal--Income Tax Act, 1961, s 263.
263	RAJ KUMAR v. UNION OF INDIA [2009] 177 TAXMAN 178 / [2009] 14 CPT 749 [J. & K.] Pendency of assessee's appeal against a part of assessment order before Commissioner (Appeals) would not be an impediment to Commissioner exercising his jurisdiction u/s.263.
263	RAJ KUMAR v. UNION OF INDIA [2009] 177 TAXMAN 178 / [2009] 14 CPT 749 [J. & K.] While exercising jurisdiction u/s.263, Commissioner can place reliance on material collected after passing of assessment order and during survey conducted u/s.133A.
41(1), 263	COMMISSINOER OF INCOME-TAX v. MARKANDA VANASPATI MILLS LTD. [2009] 311 ITR 306 (P&H) Income-cessation of liability-excess amount in sales tax account –neither paid to department nor refunded to customers-Income in hands of assessee-deductible when refunded to customers-Income-tax Act, 1961, ss. 41(1), 263.
263	COMMISSIONER OF INCOME TAX v. SUNIL GOYAL [2009] 176 TAXMAN 184 (UTTARAKHAND) Section 263, read with section 143, of the Income-tax Act-1961— Revision-Of orders prejudicial to interest of revenue – Assessment year 2001-02- Assessing Officer completed assessment under section 143(3) on certain income of assessee- Commissioner while perusing order of assessment found that a large sum towards sundry credit was not proved to be genuine by assessee-Accordingly, Commissioner issued notice under section 263- Since there was no response from assessee's side, Commissioner quashed assessment and remanded matter to Assessing Officer for disposal afresh- On assessee's appeal, Tribunal set aside order of Commissioner passed under section263- Whether for invoking jurisdiction under section 263, twin conditions i.e. (i) order passed by Assessing Officer is erroneous; (ii) said order is prejudicial to

	interest of revenue must be satisfied- Held, yes – Whether word ‘erroneous’ used in section 263 includes expression ‘ erroneous in law’ as well as ‘erroneous in fact’- Held, yes – Whether, in instant case, when Commissioner was satisfied that sundry credits were not duly verified, he rightly recorded finding that Assessing Officer had erred in accepting said credits- Held , yes- Whether so far as requirement of ‘prejudicial to interest of revenue’ was concerned, if amount shown on sundry credits was not found verified and became part of taxable income, interest of revenue was certainly prejudicially affected- Held, yes- Whether, therefore, both conditions were fulfilled in instant case for invoking section 263 and, consequently, Tribunal erred in quashing impugned order passed by Commissioner - Held, yes. Words & Phrases: Word ‘erroneous’ as occurring in section 263 of the Income-tax Act-1961.
263	VEDICATTU ENGINEERING CO. v. CIT [ITA NO. 185 OF 2000, DECIDED ON 21-1-2008] (KER.) REPORTED IN CPT VOL.13(SEPT. 15 TO 30) 2008 Where subsequent to estimation and assessment of it a income at 10 per cent of its gross receipts Assessee - contractor got an arbitration award in its favour and returned 10 per cent of arbitration awards income, Commissioner was justified in holding assessment order to be erroneous and prejudicial to interest of revenue.
263	CIT v. MCDERMOTT INTERNATIONAL INC [2008] 172 TAXMAN 460 (UTTARAKHAND) REPORTED IN TAXMAN’S CPT VOL. 13(OCT. 1 TO 15) 2008. Jurisdiction of Commissioner to revise assessment is not lost on acceptance of an application under KVSS.
263	CIT v. HIMACHAL PRADESH FINANCIAL CORPN.[ITR NO. 2 OF 2006, DECIDED ON 29-5-2008]/ [2009] 14 CPT 181(HP) Where without there being any material on record Assessing Officer had allowed assessee’s claim regarding interest due on sticking loans, Commissioner was justified in setting aside Assessing Officer’s order by resorting to section 263.
80HHA,80-I, 80JJ, 263	SIMRAN FARMS LTD. v. COMMISSIONER OF INCOME-TAX, [2008]300 ITR 270 (MP) Revision—Special deduction granted to Assessee carrying on hatchery business—Subsequent decision by Supreme Court that such Business were not entitled to special deduction—Order of Assessing Officer was erroneous—No appeal to commissioner (Appeals) regarding special deduction—Order of Assessing Officer did not merge with that of Commissioner (Appeals)—Order could be Revised--Income Tax Act, 1961, ss. 80HHA, 80I, 80JJ, 263.
263	VEDICATTU ENGINEERING CO. v. COMMISSIONER OF INCOME TAX [2008]302 ITR 142(KER.) Revision –Condition precedent –10 per cent of gross receipts from contract assessed as income—Subsequent Arbitration and Receipt of Sum Under

	Award—Assessment of 10 per cent of sum—Order erroneous and prejudicial to Revenue—Revision of order—Valid—Income tax Act, 1961, s. 263.
147, 263	INDUCTOTHERM (INDIA) P. LTD. (FORMERLY INDUCTOTHERM INDIA) v JAMES KURIAN, ASSISTANT COMMISSIONER OF INCOME, [2007]294 ITR 341(GUJ). Reassessment—Revision—Notice Issued under section 263—Reassessment proceedings can be initiated-- Income-tax Act, 1961, s.147.
263	PANCHAMAN TRADERS VS. CIT & ANR. (KER.) 224 CTR : VOL. 202 : DTD. 05.05.2006 Revision of erroneous and pre-judicial order – Any order passed after a decision reached by the Hon’ble Supreme Court should follow the principles laid down by the Supreme Court – When it is not done CIT is correct to invoke powers u/s.263.
263	PANCHAMAN TRADERS VS. CIT & ANR. (KER.) 224 CTR : VOL. 202 : DTD. 05.05.2006 Revision u/s.263 – Limitation will apply on the basis of second order of assessment, when the first order of the assessment was set-aside by the CIT(A) and remanded back.
263	MOTILAL BIMALCHAND JAIN (HUF) VS. CIT & ANR. (M.P.) 150 CTR : VOL. 201 : DTD. 17.03.2006 (a) Revision u/s. 263 - Order 263 is appealable hence no writ applies. (b) Action u/s. 263 invoked following discovery of large amount of cash and other valuables is valid action, since the issue needs detailed probe.
263	MANNULAL MATADEEN V. CIT [2006] 152 TAXMAN 125 (ALL.) Liability of interest so-called loan account is created by the transfer entry without actually receiving money, interest paid against such paper loan cannot be allowed. When such interest is allowed section 263 applies.
263	PANCHAMAN TRADERS v COMMISSIONER OF INCOME-TAX AND ANOTHER, [2006]283 ITR 50 (KER) Revision—Condition precedent—Order erroneous and prejudicial to revenue – Assessment order not following Supreme Court Decision—Order erroneous and prejudicial to revenue—Order can be revised—Income tax Act, 1961, s.263. Collection of tax at source—Liquor Business—Effect of Supreme Court Decision in Union of India v. A. Sanyasi Rao [1960] 219 ITR 330.
263	CIT VS. ASSOCIATED CONTRACTORS CORPORATION (ALL.) 593 CTR : VOL. 198 : DTD. 04.11.2005 Revision u/s.263 - CIT can direct to initiate penalty proceedings which was not initiated earlier during the course of assessment.

263	CIT VS. BRAJ BHUSHAN COLD STORAGE (ALL.) 490 CTR : VOL. 197 : DTD. 9.9.2005 Revision – Dropping penalty proceedings u/s.271(1)(c) is pre-judicial to the interest of revenue – Hence can be revised.
263	CIT V. ASHOK CONSTRUCTION CO. [2005] 147 TAXMAN 37 (ALL.) Revision u/s. 263 – Failure to initiate penalty proceedings during the course of assessment makes assessment order erroneous and pre-judicial to the interest of revenue. Thus the provision of section 263 will apply.
263	CIT VS. SURENDRA PRASAD AGRAWAL [2005] 142 TAXMAN 653 (ALL.) Omission to initiate penalty proceedings in course of assessment, renders assessment order erroneous and prejudicial to the interest of revenue. Section 263 applies.
263	CIT VS. AMRIT BANASPATI CO. LTD. [2005] 277 ITR 559 (ALL.) Issues not considered on appeal – CIT has power to revise order with regard to such issues u/s. 263.
263	MANNULAL MATADEEN v. COMMISSIONER OF INCOME TAX[2005] 277 ITR 346 (ALL) Revision—Finding that Assessing Officer had not made necessary enquiries before allowing deduction of interest –Order of Revision—Valid—Income-tax Act, 1961, s.263.
263	JAGDISH KUMAR GULATI v. COMMISSIONER OF INCOME-TAX [2004] 269 ITR 71(ALL) Revision—Commissioner—Scope of powers—Office note by assessing officer that proper enquiry had not been made –Report of Income-tax Inspector that property had been undervalued—Revision proceedings justified—Income -tax Act, 1961, s.263
263	NAVEEN HARDWARE AND ELECTRICAL STORES v. COMMISSIONER OF INCOME-TAX AND ANOTHER v. [2004] 266 ITR 308 (GAUHATI) Valuation of stock – Firm – Dissolution of firm – Stock to be valued at market price – Income-tax Act, 1961. Revision – Condition precedent – Assessment order should be erroneous and also prejudicial to revenue – Valuation of stock at cost on dissolution of firm – Order erroneous and prejudicial to revenue – Revision of order valid – Income-tax Act, 1961, s. 263.
143, 263	COMMISSIONER OF INCOME-TAX v. ANDERSON MARINE AND SONS PVT. LTD. [2004] 266 ITR 694 (BOM) Assessment – law applicable – Effect of amendment of section 143(1) w.e.f. 1.4.1989 – Intimation under section 143(1) is an order of assessment –

	Commissioner can revise such and order – Income-tax Act, 1961, ss. 143, 263. Revision – Powers of Commissioner – Intimation under section 143(1) – Order can be revised – Income-tax Act, 1961, ss. 143, 263.
263	PANKAJ GOYAL v. COMMISSIONER OF INCOME-TAX AND ANOTHER [2004] 270 ITR 201 (H P) Revision – Notice – writ – Commissioner finding <i>prima facie</i> that assessment order was erroneous and prejudicial to revenue – Notice cannot be quashed – Income-tax Act, 1961, s. 263 – Constitution of India, Art, 226, 227.
263	JAGDISH KUMAR GULATI v. COMMISSIONER OF INCOME-TAX [2004] 269 ITR 71 (ALL) Revision-Commissioner-Scope of powers – Office note by Assessing Officer that proper enquiry had not been made – Report of Income-tax inspector that property had been undervalued – Revision proceedings justified – Income-tax Act, 1961, s. 263.
263, 32	DHARMAPURI DISTRICT CO-OPERATIVE SUGAR MILLS LTD. v. COMMISSIONER OF INCOME-TAX [2003] 259 ITR 598 (MAD) Revision – Power of Commissioner – matter not considered by appellate authority – Can be considered by Commissioner – Income-tax Act, 1961, s. 263. Depreciation – Actual cost – Construction of tenements – part of cost met by state subsidy – subsidy deductible in computing actual cost – Income-tax Act, 1961, s. 32.
80HH, 80HHC, 263	JAI BHARATH TANNERS v. COMMISSIONER OF INCOME TAX [2003] 264 ITR 673(MAD) Revision—Assessment –Summary assessment accepting return and claims in respect of premium on sale of import entitlements and cash compensatory support under section 80HH and 80HHC—No enquiry regarding claims—Order erroneous and prejudicial to revenue—Revision of order –Valid—Income-tax Act, 1961, ss.80HH, 80HHC, 143(1)(a), 263.
143(1), 263, 37	COMMISSIONER OF INCOME-TAX v. RAJKUMAR DIPCHAND PHADE [2001] 249 ITR 520 (BOM) Revision – Condition precedent – Order which is erroneous and prejudicial to Revenue – Assessing Officer passing order of summary assessment under section 143(1) – Not bar for Commissioner to invoke section 263 – Income-tax Act, 1961, ss. 143(1), 263. Business expenditure – firm – Goodwill - Interest – Goodwill amount payable by incoming partners and not by firm – Firm not liable to pay any interest for liability of goodwill – Firm not entitled to deduction on account of interest – Income-tax Act, 1961, s. 37.
263	MALABAR INDUSTRIAL CO. LTD VS. CIT 243 ITR 83 (SC) For invoking section 263, the CIT has to be satisfied with two conditions. The order sought to be revised is erroneous, and It is prejudicial to the revenue. An incorrect assumption of facts or an incorrect application of law will make the order erroneous. Expression “Prejudicial to the interest of revenue” is not

	<p>an expression of art. It is not defined in the act. It is of wide import and is not confined to mere loss of revenue. Non application of mind by the A.O. may result into an erroneous order so also not applying principles of natural justice. [Applied in –248 ITR 292 (Ker); 249 ITR 520 (Bom.); 250 ITR 747 (Gau); 259 ITR 502 (Guj).]</p>
263	<p>CIT v JAYAKUMAR B. PATIL (1999) 236 ITR 469 (SC)</p> <p>Power of CIT to initiate revision proceedings in respect of issues not dealt with by CIT (Appeals) in his appellate order. Whether the CIT has jurisdiction and powers to initiate proceedings under section 263, in respect of issues not touched by the CIT (Appeals) in his appellate order – Held, yes.</p>
269SS, 271D, 273B	<p>KASI CONSULTANT CORPORATION v. DEPUTY COMMISSIONER OF INCOME-TAX [2009] 311 ITR 419 (MAD)</p> <p>Penalty-deposits in cash exceeding specified limit – no reasonable explanation for such deposits-levy of penalty valid-Income-Tax, 1961, ss. 269SS, 271D, 273B.</p>
269SS, 271D, 273B	<p>KASI CONSULTANT CORPORATION v. DEPUTY COMMISSIONER OF INCOME-TAX [2009] 311 ITR 419 (MAD)</p> <p>Penalty – deposits in cash exceeding specified limit – no reasonable explanation for such deposits – levy of penalty valid – Income-tax Act, 1961, ss. 269SS, 271D, 273B.</p>
269T, 271E	<p>CHAUBEY OVERSEAS CORPORATION v. COMMISSIONR OF INCOME-TAX [2008] 303 ITR 9 (ALL)</p> <p>Penalty - repayment of deposit exceeding prescribed limit in cash—Meaning of “Any deposit” in section 269T—Expression wide and includes trade deposits—Amounts received for supply of commodity—Amount shown as deposits in account—Repayment of Amount in cash—Penalty Leviable -- Income-tax Act, 1961, ss.269T, 271E.</p>
269UC, 269UD, 269UL (2), 276AB	<p>SOFFIA SOFTWARE LTD. AND ANOTHER v. MRS. KALPAGAM BHASKARAN , MEMBER I, APPROPRIATE AUTHORITY [2010] 321 ITR 122 (Mad)</p> <p>Offences and prosecution – Purchase of immovable property by Central Government –Property owned as a single unit –Splitting of single unit into two undivided halves –Transfer of equal undivided shares by two sale deeds - Violation of section 269UC –Complaint filed by one member specifically authorized by appropriate authority –Competent –No provision requiring notice prior to prosecution –Income-tax Act, 1961, S. 269UC, 269UD, 269UL(2), 276AB</p>
269UD; Constn of India, arts 226, 227	<p>MASS TRADERS PVT. LTD. V. APPROPRIATE AUTHORITY, INCOME-TAX DEPARTMENT AND OTHERS [2010] 329 ITR 302(Karn)</p> <p>Purchase of immovable property by central government- comparable sales showing gross understatement of consideration –opportunity to be heard</p>

	given—purchase by central government in 1993 and consideration accepted – writ would not issue to set aside sale to central government—order of pre-emptive purchase—valid –income-tax act, 1961, s. 269UD Writ –powers of high court—high court will interfere only in case of illegality or material irregularity—constitution of India, art. 226, 227.
269UC, 269UD, 269UL (2), 276AB	SOFFIA SOFTWARE LTD. AND ANOTHER v. MRS. KALPAGAM BHASKARAN , MEMBER I, APPROPRIATE AUTHORITY [2010] 321 ITR 122 (Mad) Offences and prosecution – Purchase of immovable property by Central Government –Property owned as a single unit –Splitting of single unit into two undivided halves –Transfer of equal undivided shares by two sale deeds - Violation of section 269UC –Complaint filed by one member specifically authorized by appropriate authority –Competent –No provision requiring notice prior to prosecution –Income-tax Act, 1961, S. 269UC, 269UD, 269UL(2), 276AB
269UG	DAMODAR GULABRAI BELANI AND ANOTHER v. S.C. PRASAD AND OTHERS (AND OTHER APPEALS) [2008] 303 ITR 35 (BOM) Purchase of immovable property by Central Government—Payment of consideration—Dispute Regarding title to property and regarding apportionment of amount –payment into public deposit account –valid -- Income Tax Act, 1961,s.269UG.
269UC, 269UD, 269UL(2), 276AB	SOFFIA SOFTWARE LTD. AND ANOTHER v. MRS. KALPAGAM BHASKARAN , MEMBER I, APPROPRIATE AUTHORITY [2010] 321 ITR 122 (Mad) Offences and prosecution – Purchase of immovable property by Central Government –Property owned as a single unit –Splitting of single unit into two undivided halves –Transfer of equal undivided shares by two sale deeds - Violation of section 269UC –Complaint filed by one member specifically authorized by appropriate authority –Competent –No provision requiring notice prior to prosecution –Income-tax Act, 1961, S. 269UC, 269UD, 269UL(2), 276AB
271(1)(a)	COMMISSIONER OF INCOME-TAX & ANOTHER v. U. MANOHAR RAO [2010]325 ITR 402(Karn) Penalty—delay in furnishing return –plea that assessee did not have funds to pay tax –pleas found to be untrue—imposition of penalty valid-- Income-Tax Act, 1961, s. 271(1)(a).
271(1)(a)	JANESHWAR LAL RAJESHWAR LAL v. COMMISSIONER OF INCOME-TAX [2010] 323 ITR 274 (HP) Penalty –Delay in filing return –Firm –Assessee surrendering certain amount upon survey –Extension of time sought –No reasonable or sufficient cause shown for further extension –Levy of penalty –Valid –Tribunal granting time as sought in application in form No. 6 –Not proper –Income-tax Act, 1961, s.271(1)(a).The assessee failed to file his return within the prescribed time for the assessment years 1983-84 and 1984-85. On a survey being conducted the

	assessee surrendered an income of Rs. 1 lakh for each of the assessment years. Penalty was levied for each of the assessment years for late submission of returns. On appeal the tribunal held that no extension of time was sought by the assessee and dismissed the appeals. Thereafter, the assessee sought rectification of the order of the tribunal by producing Form No. 6 filed before the Assessing Officer wherein extension of time was sought by him. The tribunal partly allowed the application and gave benefit of two months as prayed for by the assessee in the application. On a reference:Held, that the tribunal had granted time up to September 30, 1983, as sought by the assessee in the application. There was no material on record showing that the managing partner was under treatment and was not attending to business after September, 1983. There was neither any prayer nor explanation seeking extension of time after September 30, 1983, and hence no further extension of time could have been granted.
271(1)(a)	CIT VS. ORIENTAL DYEING & FINISHING MILLS (P & H) 405 CTR : VOL. 198 : DTD. 21.10.2005 Charging of interest u/s. 139(8) does not preclude the department from imposition of penalty u/s. 271(1)(a).
139, 140, 143(2), 271(1)(a)	ELECTRICAL INSTRUMENT COMPANY v. COMMISSIONER OF INCOME TAX [2001] 250 ITR 734 (DELHI) Return—Unsigned and unverified return—Notice under section 143(2) issued—Another Return duly signed and verified filed –Return filed earlier invalid—Issuance of notice under section 143(2) would not validate invalid return—Penalty and interest for delay in filing return justified-- Income-tax Act-1961, s.139, 140, 143(2), 271(1)(a).
271(1)(a)	JAMUNADAS MANNALAL v CIT (1985) 152 ITR 261 (PAT) (FB): (1985) 20 TAXMAN 437 Penalty for failure to file return of income, whether could be levied even where interest under section 139(8) is levied and assessee registered firm had paid advance tax and no tax is payable on assessment. Failure to file return of income in time – Levy of interest under section 139(8) of the Income-tax Act, 1961 – Period for which interest is chargeable – Penalty under section 271(1)(a) of the Act, whether could be levied in spite of the fact that interest is levied under section 139(8) of the Act – Held, yes – Assessee, a registered firm paying advance tax and no tax payable on assessment – Penalty, whether still could be levied – Held, yes.
80-O, 271(1)(c)	COMMISSIONER OF INCOME TAX, ECS LTD. [2011] 336 ITR 162 (DELHI)/[2010]194 TAXMAN 311 (DELHI) Section 271(1)(c) of the Income Tax Act, 1961 – Penalty – for concealment of income –Assessment years 1994-95 to 1996-97 – Assessee was engaged in business of providing consultancy services to foreign clients from whom it earned foreign exchange – While claiming deduction under section 80-O, it reduced expenses incurred in foreign currency from foreign consultancy income but no expenses incurred in India were allocated/apportioned to earning of foreign consultancy income – Assessing Officer, being of view that deduction under section 80-O is restricted to net income and therefore,

	<p>expenditure incurred in India for earning foreign exchange also had to be deducted from foreign exchange income, asked assessee to furnish details of expenses – As assessee did not furnish any details, Assessing Officer estimated such expenditure in ratio of proportion of foreign income to total income and computed deduction under section 80-O – In view of short allowance of deduction, Assessing also levied penalty under section 271 (1)(c) for all assessment years – Whether, on facts, <i>prima facie</i> satisfaction of Assessing Officer about non-furnishing of particulars/inaccurate particulars was clearly discernible from assessment order and, therefore, he was justified in levying penalty – Held, yes.</p>
271(1)(c), expln	<p>DELHI KANPUR GONDIA TRANSPORT COMPANY v. COMMISSIONER OF INCOME-TAX [2010] 323 ITR 254 (All)</p> <p>Penalty –Concealment of income –Change of law –Law applicable is law operating on date when return is filed –Income-tax Act, 1961, s. 271(1)(c), expln.</p>
271(1)(c)	<p>KALPAKA BAZAR v. COMMISSIONER OF INCOME-TAX [2009] 313 ITR 413 (KER.)</p> <p>Penalty – concealment of income – accounting of bogus expenses – levy of penalty – valid – Income-tax Act, 1961, S. 271 (1) (c). For the assessment year 1984-85, the assessee filed a return disclosing income of Rs. 1,54,713. Search was carried out in the premises of the assessee and books of account and other documents were seized. Statutory audit was done under section 142(2A). The auditor brought out bogus purchases accounted by the assessee to the extent of Rs. 1,11,193 which represented proforma invoices not representing any actual purchases. The Tribunal sustained penalty pertaining to inflation of purchases amounting to Rs. 1,11,193. On a reference: Held, that admittedly the disputed amount represented proforma invoices which did not represent actual purchase accounted by the assessee. Accounting of bogus purchase expenditure was nothing but concealment and, therefore, penalty was rightly levied and confirmed.</p>
271 (1)(c)	<p>OM PARKASH HARBANS LTD. v. CIT [2009] 177 TAXMAN 291/[2009] 14 CPT 750 [PUNJ. & HAR.]</p> <p>Where during search at assessee-firm premises, certain documents were found and seized, scrutiny whereof indicated certain cash credits in names of 11 persons and assessee-firm was called upon to furnish complete names and addresses of said persons, their GIR numbers and names of Assessing Officers where they were being assessed to tax , etc, to prove source and genuineness of those credits, but no information to that effect was furnished by assessee, addition of cash credits to assessee's income and imposition of penalty for concealment was justified.</p>
271(1)(c)	<p>CIT v. BACHU & Co.[2008] 174 TAXMAN 511/ [2009] 14 CPT 49(KER.)</p> <p>Where income determined was three / four times higher than the returned income and assessee had not offered any bona fide explanation, levy of penalty was justified.</p>

41(1), 271(1)(c)	KAMAL BASHA v. DEPUTY COMMISSIONER OF INCOME-TAX [2009] 316 ITR 58 (MAD.) Penalty-concealment of income-Assessing Officer rejecting claim of sundry creditors offered for taxation and initiating penalty proceeding – inconsistent stand taken by assessee before lower authorities with no supportive evidence-levy of penalty – proper – Income-tax Act, 1961, ss. 41(1), 271(1)(c).
271(1)(c)	CIT v R.M.P. PLASTO P. LTD. (2009) 313 ITR 397 (SC) Penalty can be imposed where positive income is reduced to nil after allowing set off of carried forward losses.
271(1)(c)	LMP PRECISION ENGG. CO. LTD v. DEPUTY COMMISSIONER INCOME-TAX (ASSTT.) SPL. RANGE. [2009]183 TAXMAN 12 (GUJ.) Section 271(1)(c) of the—Income -tax Act, 1961—Penalty—For concealment of income—Assessment years 1985-86 to 1987-88-Whether merely because a return is revised, that fact, by itself, cannot lead to any presumption as to concealment in original return of income, because Legislature itself has provided for furnishing a revised return in case of any omission in original return, albeit such omission is to be inadvertent and bona fide- Held, yes- Whether where such omission is intentional, revised return cannot absolve an assessee from presumption as to concealment of income in original return of income-Held, yes- After original assessments of assessee for relevant assessment years had been completed a survey was conducted upon it and on verification certain purchases made by it did not appear to be genuine- Statement of chairman-cum -managing director of assessee was also recorded- Before said proceedings could be finally concluded, assessee filed revised returns for all three assessment years disclosing additional income in relation to purchases made from certain parties-Assessing Officer, by issuing notices under section 148, regularized said returns and completed reassessment for said years-He also imposed penalty under section 271(1)(c) upon assessee-Whether, on facts, it could be said that assessee filed revised return voluntarily and in good faith-Held, no-Whether factum of concealment stood established on facts of case and, therefore, penalty was rightly levied upon assessee-Held, yes.
132, 271(1)(c)	DR. MRS. SHANTI ROY v. CHIEF COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 319 ITR 350 (PATNA) Search and seizure – Search in residence-cum-clinic of assessee – Additions on account of amount spent towards marriage reception of daughter and referral income- Finding that there were no inhibiting factors to prevent parents from celebrating marriage of daughter and documents disclosing receipt of illegal money by sharing fee of doctors and x-ray clinics – Additions justified – Income-tax Act, 1961, s. 132. Search and seizure – Search in residence-cum-clinic of assessee – Penalty – Dishonest intention to avoid lawful taxation attributable to assessee – Assessee conceding before Tribunal that minimum penalty be imposed – Penalty imposed – Justified – Income-tax Act, 1961, s. 271(1)(c).

271 (1)(c)	CIT v. SMT. CHANCHAL KATYAL [2008] 173 TAXMAN 71 (ALL). REPORTED IN TAXMAN'S CPT VOL.13 (OCT. 15 TO 31) 2008 Where assessee had not offered any explanation in respect of interest paid on loans taken from close relations, clause (A) of Explanation 1 was clearly attracted and imposition of penalty on assessee could not be faulted.
271(1)(c)	COMMISSIONER OF INCOME-TAX v. RATTAN SINGH GREWAL [2008] 304 ITR 70 (P&H) Penalty-concealment of Income-unexplained investments-explanation found unsatisfactory – assessee failing to discharge onus-penalty rightly levied-Income-Tax Act, 1961, s.271(1)(c).
271(1)(c) (iii), Expln 4	COMMISSIONER OF INCOME-TAX v. GOLD COIN HEALTH FOOD P. LTD. [2008] 304 ITR 308 (SC) Penalty-concealment of income-provision for imposing penalty even if after addition of concealed income there was no positive income-is clarificatory and retrospective in nature-applies with effect from April 1, 1976-Income-Tax Act, 1961, S.271(1)(c)(iii), Expln. 4-circular No. 204, dated July 24, 1976.
271(1)(c)	CRN INVESTMENTS P. LTD. v. COMMISSIONER OF INCOME-TAX, [2008] 300 ITR 342 (MAD.) Penalty-Concealment of income-Bogus claim for depreciation on non-existing assets-Withdrawal of claim in revised return after search- Levy of penalty was justified-Income-tax Act, 1961, s.271(1)(c).
271(1)(c)	COMMISSIONER OF INCOME-TAX v. GURUVIJAYA KURI CO. LTD. [2008] 302 ITR 239 (KER.) Penalty—concealment of Income—Credit shown in Balance Sheet as liability pertaining to Kuri terminated during 1977-1983—Explanation Offered by assessee lacking Bona fides—Tribunal Casting Burden of proof on Department—Not proper—Levy of penalty by Assessing Officer—Proper --Income-tax Act, 1961, s.271(1)(c).
68, 271(1)(c)	LOND LAL RABHUBIR PRASAD v. COMMISSIONER OF INCOME-TAX, [2008] 298 ITR 37 (ALL). Penalty—Concealment of Income—Cash credit—Assessee's explanation found false by Tribunal—Levy of Penalty valid—Income-tax Act, 1961, ss.68, 271(1)(c).
271(1)(c)	COMMISSIONER OF INCOME-TAX v. MAHABIR PRASAD BAJAJ, [2008] 298 ITR 109 (JHARKHAND) Penalty—Concealment of Income—Incriminating documents found during search—Contention by assessee that -Revised return accepted -Revised return filed not voluntarily but owing to search and seizure—Levy of penalty proper—Income tax Act, 1961, s.271(1)(c).

271(1)(c)	COMMISSIONER OF INCOME-TAX v SREE VALLIAPPA TEXTILES [2007]294 ITR 322 (KARN) Penalty—Concealment of Income—Depreciation and investment allowance claimed in respect of machinery—Machinery not reaching assessee's premises before close of relevant accounting year—Assessee Later withdrawing claim—Tribunal Accepting Assessee's explanation and allowing claim—Tribunal Accepting Assessee's Explanation and Allowing claim—Tribunal not justified in cancelling penalty—Income tax Act, 1961, s.271(1)(c).
271(1)(c)	RAJ KUMAR CHAURASIA v CIT (2007) 288 ITR 329 (ALL) New evidence is not necessary where the assessment order itself contains facts, which justifies an inference of concealment and in such cases penalty order is sustainable.
256, 271(1)(c)	COMMISSIONER OF INCOME-TAX v. SMT. ASHA S. KHURANA, [2007]294 ITR 339 (BOM). Reference—Penalty—Concealment of income—Amnesty Scheme—Amnesty Scheme whether applicable and whether penalty could be levied —Questions of Law—Income-tax Act, 1961, ss.256, 271
271(1)(c)	SUKH RAM v ACIT (2006) 285 ITR 256 (DEL) When an assessee is found in possession of currency, it is for him to prove that he is not the owner of the currency and it is not for the revenue to prove that the assessee is the owner of the currency found in his possession.
271(1)(c)	CIT VS. BENDA AMTEK LTD. (DEL) 344 CTR : VOL. 201 : DTD. 31.03.2006. Penalty u/s.271(1)(c) – Penalty for concealment is leivable even if the assessed income is loss.
271(1)(c)	CIT V. HANDLOOM EMPORIUM [2006] 282 ITR 431 (ALL.) Penalty u/s. 271(1)(c) is applicable even when concealment of income is admitted by filing a revised return after detection of concealment.
271(1)(c)	G. S. NANJEE & SONS VS. CIT (GUJ.) 393 CTR : VOL. 201 : DTD. 07.04.2006 Penalty u/s. 271(1)(c) is justifiable when it is established by various authorities that sale was suppressed and the related addition was not disputed by the assessee.
271(1)(c)	CIT VS. MANGHA RAM OM PARKASH [2006] 150 TAXMAN 476 (P&H) Alleged loan creditor retracts his earlier statements confirming the loan – Penalty u/s.271(1)(c) applies.

271(1)(c)	SREE NITHYAKALYANI TEXTILES LTD. VS. DCIT [2006] 282 ITR 154 (MAD.) Penalty u/s. 271(1)(c) – Applies on under valuation of stock.
271(1)(c)	M. S. MOHAMMED MARZOOK (LATE) AND ANOTHER (REPRESENTED BY LEGAL HEIRS) v. INCOME-TAX OFFICER, [2006]283 ITR 254 (MAD) Penalty—concealment of income—revised return filed after search proceedings—Finding by Tribunal that there had been concealment of income—levy of penalty valid—Income-tax Act, 1961, s.271(1)(c). Held, that the Tribunal on the facts of the case, found that the omission or wrong statement by the assessee in the original return was not bona fide or due to any inadvertence or mistake on his part, but the revised return was filed only after the search action. The levy of penalty was valid.
271(1)(c), Expln 5	ASHOK KUMAR GUPTA v COMMISSIONER OF INCOME-TAX, [2006]287 ITR 376(P&H). Penalty—Concealment of Income—Search and seizure—Effect of Explanation 5 to section 271(1)(c)—Surrender of income found during search—No filing of return in respect of such income and no payment of tax—Levy of penalty—Valid-- Income-tax Act, 1961, s.271(1)(c), Expln.5
271(1)(c)	CIT vs KESAVAN NAIR (2006) 287 ITR 276 When undisclosed income is discovered during search, the assessee cannot avoid penalty, merely because he agreed to the same. The inference might have been different if assessee had admitted it during search, paid taxes and shown it in return. In such a case, Explanation 5 to Sec. 271(1)(c) would have protected the assessee.
271(1)(c)	RUKMINI BAI v CIT (2005) 276 ITR 650 (MP) Where some explanation was offered during assessment proceedings and it was not believed and no explanation was offered in the course of penalty proceedings, it was held that explanation offered earlier cannot be taken into consideration and levy of penalty was justified.
271(1)(c)	CIT v MANGHA RAM OM PRAKASH (2005) 276 ITR 362 (P&H) Mere assertion that the claim is genuine does not avoid penalty. Where penalty proceedings were initiated for additions made for unproved cash credits and the assessee merely repeated the claim that the cash credits were genuine, it was held that penalty was rightly levied.
271(1)(c)	KAMAL CHAND JAIN v ITO (2005) 277 ITR 429 (DEL) When there is no proper explanation from the assessee except surrendering certain amount for taxation to buy peace and avoid further litigation, it was held that levy of penalty u/s 271 (1)(c) was justified.

271 (1)(c)	SARDAR BHAGWAN SINGH CHAWLA v. COMMISSIONER OF INCOME-TAX[2005] 279 ITR 142 (ALL) Penalty – Concealment of income – cash found during search proceedings – No satisfactory explanation regarding cash – imposition of penalty under section 271(1)(c) valid – Income-Tax Act, 1961, s. 271(1)(c).
271(1)(c)	COMMISSIONER OF INCOME-TAX v. JAGJIT ENGINEERING WORKS P. LTD. [2005] 275 ITR 239 [P&H] Penalty – concealment of income-failure to include rejected goods in closing stock – finding that there was a bona fide mistake – cancellation of penalty – justified – Income-tax Act, 1961, s. 271(1)(c).
271(1)(c)	CIT VS. N. NANDAKUMAR (KER.) 386 CTR: VOL. 196 :DTD. 22.07.2005. Penalty for concealment of income – Explanation to section 271(1)(c) apply when no documentary evidence could be produced in support of the assessee's contention – Burden of proof strictly lies on the assessee only.
271(1)(c)	MADANLAL KISHORILAL VS. CIT (ALL.) 144 CTR : VOL. 197 : DTD. 19.08.2005 Penalty for concealment – No evidence filed in support of the contention of the assessee- Explanation to section 271(1)(c) applicable.
271(1)(c)	VIMAL GINNING & PRESSING FACTORY VS. CIT (M.P.) 397 CTR : VOL. 199 : DTD. 09.12.2005. Penalty u/s. 271(1)(c) – Three authorities below sustained the penalty – High Court cannot interfere.
271(1)(c)	SMT. KUSUM JAISWAL VS. CIT (ALL.) 651 CTR :VOL. 193 : DTD. 18.2.2005 Penalty u/s.271(1)(c) – Nil return filed – Concealment detected before filing of nil return – No benefit in penalty matter on the basis of income shown in a revised return filed subsequently.
271(1)(c)	SOM ENGINEERING CORPORATION VS. CIT (ALL.) 693 CTR : VOL. 193 : DTD. 25.2.2005 Penalty u/s.271(1)(c) – Same purchases entered twice reducing taxable profits – Assessee fails to discharge the onus of willful filing of incorrect return – Imposition of penalty is justified.
271(1)(c)	CIT, TRIVANDRUM V. N. NANDAKUMAR [2005] 147 TAXMAN 398 (KER.) Penalty u/s.271(1)(c) – Unaccounted purchase of materials – Claim of material received on loan could not be proved – Thus penalty u/s.271(1)(c) applies.

271(1)(c)	CIT V. ADITYA CHEMICALS LTD. [2005] 147 TAXMAN 688 (DEL.) Penalty u/s.271(1)(c) does not depend on whether income assessed is a positive figure or a negative figure.
271(1)(c)	SHANTI SWARUP BHATNAGAR VS. CIT [2005] 279 ITR 451 (ALL.) Penalty – Concealment of income – Returned income less than 80 per cent of assessed income – Amount surrendered after search operations and initiation of reassessment proceedings – Presumption of concealment of income not rebutted – Levy of penalty valid – Income Tax Act, 1961, s. 271(1)(c).
271(1)(c)	CIT VS. SATISH MEDICAL AGENCIES [2005] 277 ITR 394 (ALL.) Assessed income more than double returned income – Search proceedings showing suppression of purchases and sales – Imposition of penalty u/s. 271(1)(c) valid.
271(1)(c)	SOM ENGINEERING CORPORATION v. COMMISSIONER OF INCOME-TAX [2005] 277 ITR 92 (ALL) Penalty—Concealment of income—Effect of Explanation to section 271(1)(c)—Returned income less than 80 per cent of assssed income—Burden on assessee to prove that there had been no concealment of income—No explanation regarding disparity between assessed income and returned income—Finding by Tribunal that there had been concealment of income – Levy of penalty valid –Income-tax Act,1961, s. 271(1)(c).
271(1)(c)	COMMISSIONER OF INCOME-TAX v. SATISH MEDICAL AGENCIES [2005] 277 ITR 394 (ALL) Penalty—Concealment of income –assessed income more than double returned income—Search proceedings showing suppression of purchases and sales—Imposition of penalty—Valid-- Income-tax Act, 1961, s.271(1)(c).
271(1)(c)	USHA FERTILIZERS v. COMMISSIONER OF INCOME-TAX [2004] 269 ITR 591 (GUJ) Penalty – Concealment of income- Returned income less than 80 per sent of assessed income – Presumption of concealment of income- Finding that assessee had not been able to explain payments without sufficient cash balance – Imposition of penalty valid – Income-tax Act, 1961, s. 271(1)(c).
271(1)(c)	PRADEEP LAMP WORKS VS. CIT 249 ITR 797 (SC) An ITO issues a notice for imposing penalty and assessee does not make any oral submission but gives a reply in writing. In absence of any demand by the assessee for re-hearing, a successor ITO may continue the proceedings and impose the penalty without giving fresh notice to the assessee. The Income Tax Act, does not make it obligatory upon the successor ITO to give a fresh notice or personal hearing also where penalty is levied on Registered Firm as Unregistered Firm, taxes paid by partners are not deducted for quantification of penalty.

271(1)(c)	COMMISSIONER OF INCOME TAX v. GURBACHAN LAL. [2001] 250 ITR 157 (DELHI) Penalty— Concealment of Income —Effect of Explanation added to section 271(1)(c) by Finance Act, 1964—Burden on assessee to prove there has been no concealment—Tribunal not justified in placing onus on revenue—Levy of penalty upheld—Income-tax Act-1961, s. 271(1)(c), Explanation (As inserted w.e.f. 1-4-1964).
132A, 271(1)(c)	COMMISSIONER OF INCOME TAX v. ABOO MOHMED [2001] 250 ITR 313 (KARN.) Penalty—concealment of Income—Search and seizure—Effect of order of requisition under section 132A—Immunity cannot be claimed under Amnesty Scheme in respect of amount requisitioned. Amount Requisitioned included in revised return—No proof of source of Acquisition of amount—Penalty can be levied in respect of amount—Income tax Act-1961, ss.132A, 271(1)(c).
271(1)(c)	B.A. BALASUBRAMANIAN AND BROS. CO. VS. CIT 236 ITR 977 (SC) It is for the assessee to prove that there is no concealment of income, when he fails to discharge the onus, levy of penalty is justified.
271(1)(c)	B. A. BALASUBRAMANIAN AND BROS. CO. VS. CIT 236 ITR 977 (SC) After introduction of Expln. in section 271(1)(c), the law laid down in Anwar Ali's case 76 ITR 696 (SC) no longer holds the field. It is for the assessee to prove that there had been no concealment of income where income shown in the return is less than 80% of the assessed income. Where he fails to discharge the onus, levy of penalty is justified. [Followed – 165 ITR 14(SC); 185 ITR 49 (SC); and 205 ITR 244 (SC)]
271(1)(c)	B. N. SHARMA VS. CIT 226 ITR 442 (SC) The amount of Penalty for concealment of income should be worked out on the basis of the law in force at the time of filing of the return whether original and /or revised which contained the alleged concealment or misstatement. [Followed – CIT – Vs- Onkar Saran & Sons 195 ITR 1 (SC)]
271(1)(c)	ADDITIONAL CIT VS. JEEVANLAL SAH 205 ITR 244 (SC) Where burden of proof is shifted on the assessee by “presuming concealment in the Act” the burden remains on the assessee, unless discharged, that failure to return correct income did not arise from fraud or wilful neglect on his part. [Followed /applied in 213 ITR 64 (DEL); 219 ITR 131 (ALL); 236 ITR 977 (SC); 250 ITR 157 (DEL) 259 ITR 132 (RAJ)]
271(1)(c)	VARKEY CHACKO v CIT (1993) 203 ITR 885 (SC): (1993) 70 TAXMAN 152 (SC): (1993) 114 CRT 207 (SC): (1993) 116 TAXATION 375 (SC) Income-tax Officer held empowered to impose penalty due to amendment of law. Assessee furnishing return of income for the assessment year 1968-69 on April 16, 1970 – Amendment of section 274(2) of the Income-tax Act, 1961,

	<p>with effect from 1st April, 1971, investing Income-tax Officer with the power to impose penalty for concealment in the cases where concealed income did not exceed rupees twenty-five thousand – Concealed income of assessee not exceeding rupees twenty-five thousand – Order of assessment made by Income-tax Officer on March 27, 1972 and initiation of penalty proceedings by him against the assessee under section 271(1)(c) of the Act, - Income-tax Officer, whether had jurisdiction to impose penalty on the assessee for concealment of income – Held, yes.</p>
271(1)(c) 274	<p>274 UMA MAHESWARI AND COMPANY v. COMMISSIONER OF INCOME-TAX v. [1987] 167 ITR 628 (A.P.)</p> <p>Penalty – Concealment of income – Jurisdiction to levy penalty – Jurisdiction arises on discovery of concealment of income on the passing of an order of assessment or reassessment – Return filed in July, 1970 – Concealment of income less than Rs. 25,000 discovered in order of reassessment passed in November, 1974 – ITO has jurisdiction to levy penalty – Income-tax Act, 1961, ss. 271(1)(c), 274.</p>
271(1)(c)	<p>SHIV DUTT RAI FATEH CHAND v UNION OF INDIA (1984) 148 ITR 664 (SC): OM PRAKASH SHEO PRAKASH v UNION OF INDIA (1984) 148 ITR 664 (SC)</p> <p>Provision imposing penalty on the basis of tax sought to be avoided does not offend article 14 of the Constitution. Provision enabling imposition of minimum and maximum amount of penalty based on tax sought to be avoided by assessee, whether offends Article 14 of the Constitution of India – Held, no.</p>
271(1)(c)	<p>120 ITR 144 (MAD) 127 ITR 679 (CAL) 122 ITR 622 (MP) 166 ITR 39 (PAT) 153ITR376(MAD) 221 ITR 849 (MAD) 251 ITR 302 (DEL)</p> <p>In the face of assessee's own admission that the amount in question represents his own income, there is absolutely no other evidence required to show that the amount represents his income and that it has been concealed from the returns.</p>
271(1)(c)	<p>113 ITR 587 (CAL) 114 ITR 124 (KER) 120 ITR 144 (MAD)</p> <p>If an admission is made by an assessee that he has concealed certain income, it is not the law that the Department should prove again that the assessee has concealed its income in the penalty proceedings.</p>
271(1)(c)	<p>97 ITR 431 (MAD) 111 ITR 440 (P&H) 162 ITR 393 (P&H)</p> <p>It cannot be contended that in all cases there should be fresh material in penalty proceedings and that Tribunal cannot act on the material produced at the assessment stage. There cannot be any tenable reason as to why the authorities cannot analyse the same evidence and materials produced earlier in the course of assessment proceedings and base their findings thereon.</p>
271(1)(c)	<p>CIT v ANWAR ALI (1970) 76 ITR 696 (SC)</p> <p>Findings given in the assessment proceedings is a good evidence.</p>

44AB, 271B	K. RAVINDRANATHAN NAIR v. DEPUTY COMMISSIONER OF INCOME-TAX AND ANOTHER [2009] 319 ITR 108 (KER) Penalty – Compulsory audit of accounts – Delay in filing audit report – No explanation regarding delay – Penalty imposable – Income-tax Act, 1961, 1961, ss. 44AB, 271B.
271B	COMMISSIONER OF INCOME-TAX v. KHUBI RAM OM PRAKASH [2005] 275 ITR 131 [RAJ] Penalty – compulsory audit of accounts – failure to submit audit report within due date – books of account of earlier years impounded – photo copies supplied to assessee – failure to file audit report for subsequent assessment years – penalty imposed justified – Income-tax Act, 1961, ss. 44AB, 271B.
271B	CIT VS. KHUBI RAM OM PRAKASH [2005] 275 ITR 131 (RAJ.) Compulsory audit of accounts – Failure to submit audit report within due date – Penalty imposed u/s.271B justified.
44AB, 271B, 274	SHRI SWASTIK STEELS PRIVATE LTD. v. ASSISTANT COMMISSIONER OF INCOME-TAX [2003] 264 ITR 447 (BOM) Penalty – Delay in submission of audit report – Waiver of penalty – Dispute between directors of assessee – company – Not a reasonable cause for default – Penalty not to be waived – Income-tax Act, 1961, ss. 44AB, 271B, 274.
271C	TOYOTA MOTOR CORPORATION v CIT (2008) 306 ITR 52 (SC) Where penalty proceedings were dropped without a reasoned Order Commissioner was justified in exercising revision powers. Where the Assessing Officer dropped penalty proceedings initiated under section 271C without passing a reasoned order, the Commissioner was correct in exercising revision jurisdiction and directing the Assessing Officer to pass a reasoned order.
269SS, 271D, 273B	KASI CONSULTANT CORPORATION v. DEPUTY COMMISSIONER OF INCOME-TAX [2009] 311 ITR 419 (MAD) Penalty – deposits in cash exceeding specified limit – no reasonable explanation for such deposits – levy of penalty valid – Income-tax Act, 1961, ss. 269SS, 271D, 273B.
271D	R.K. SINGHAL v. CIT [I.T.A. NO. 85 OF 2002, DECIDED ON 25.1.2008]/[2009] 14 CPT 842 (RAJ.) Where assessee had taken deposit in cash of a sum of Rs. 1,65,000 in violation of section 269SS and explanation given was that assessee's mother having become ill, she was required to be taken to Bombay and in receiving amount by cheque, it would have involved sometime, which he could not wait for but it was found that she was never taken to Bombay, there was no reasonable cause and, hence, penalty imposed was justified.

271D	BHALOTIA ENGINEERING WORKS PVT. LTD. v. COMMISSIONER OF INCOME-TAX [2005] 275 ITR 399 [JHARKHAND] Penalty – acceptance of deposit in cash exceeding prescribed limit – share application money – amount to “Deposit” within the meaning of section 269SS – share application money in excess of prescribed limit received in cash – penalty can be imposed under section 271D – Income-tax Act, 1961, ss. 269SS, 271D.
271D	BHALOTIA ENGINEERING WORKS (P) LTD. VS. CIT (JHARKHAND) 619 CTR : VOL. 196 : DTD. 05.08.2005 Application of section 269SS to share application money paid in cash.
271D & 271E	CIT VS. SUNIL KUMAR GOEL (P & H) 145 CTR : VOL. 194 : DTD. 18.3.2005 Penalties – Ignorance of law cannot be sufficient ground for not imposing penalties.
269T, 271E	CHAUBEY OVERSEAS CORPORATION v. COMMISSIONR OF INCOME-TAX [2008]303 ITR 9 (ALL) Penalty - repayment of deposit exceeding prescribed limit in cash—Meaning of “Any deposit” in section 269T—Expression wide and includes trade deposits—Amounts received for supply of commodity—Amount shown as deposits in account—Repayment of Amount in cash—Penalty Leviable -- Income-tax Act, 1961, ss.269T, 271E.
37(2A), 271E	ELECTRA INDIA LTD. v. COMMISSIONER OF INCOME-TAX [2008]303 ITR 242 (ALL) Business Expenditure Disallowance — Entertainment Allowance—Definition—Distribution of sweets and gifts on festival and food provided to visitors –Hospitality Falls within enlarged meaning given by Explanation 2 to Section 37(2A)—Tribunal justified.
271D & 271E	CIT VS. SUNIL KUMAR GOEL (P & H) 145 CTR : VOL. 194 : DTD. 18.3.2005 Penalties – Ignorance of law cannot be sufficient ground for not imposing penalties.
272, 80AB, 80HHC	COMMISSIONER OF INCOME-TAX v. VISWAS FOOTWEAR COMPANY LIMITED [2008] 127 ITR 118(MAD) Export-special deduction under section 80HHC-determination of profit–unabsorbed business losses of earlier years to be set off-Income-Tax Act, 1961, ss.72, 80AB, 80HHC.

10(22), 11,12, 272A (2)(e)	DIRECTOR OF INCOME TAX (EXEMPTIONS) v. 1. MALAD JAIN YUVAK MANDAL MEDICAL RELIEF CENTRE 2.SUSHMAVATI EDUCATIONAL TRUST. [2001] 250 ITR 488(BOM) Penalty—Return—Delay in filing return—Scope of section 139(4A)—Charitable Trust—Educational institution—Exemption—Income of Educational Institution exempted under section 10(22)—Exemption available each year on basis of evaluation—Evaluation requires filing of return—Delay in filing return—Imposition of penalty—Valid –Income-tax Act-1961, ss.10(22), 11, 12, 139(4A), 272A(2)(e).
273A	GEEJAI CONSTRUCTIONS v. ASSISTANT COMMISSIONER OF INCOME-TAX AND OTHERS [2008] 301 ITR 425 (KER.) Penalty-interest-failure to file returns in time – waiver of penalty and interest – conditions precedent –no satisfactory arrangement for payment of interest or penalty-refection of petition for waiver of interest and penalty-justified-Income-tax Act, 1961, s. 273A.
273A	S.T.S. ENTERPRISES VS. ACIT (KER.) 557 CTR : VOL. 198 : DTD. 04.11.2005 Waiver of penalty u/s.273A – CIT's rejection of the petition on merits, and not on the fact that no appeal was filed against the penalty order is valid.
273A	D. SRINIVASAN CHETTIAR v. COMMISSIONER OF INCOME-TAX AND ANOTHER. [2001] 249 ITR 229 (MAD) Interest – Waiver of interest – Discretion of Commissioner – Discrepancies in account books and unexplained cash credits found – Returns filed for earlier years after investigation by Assessing Officer – Returns filed to avoid penal consequences – Not voluntary – Refusal to waive interest – Justified – Income-tax Act, 1961, s. 273A.
269SS, 271D, 273B	KASI CONSULTANT CORPORATION v. DEPUTY COMMISSIONER OF INCOME-TAX [2009] 311 ITR 419 (MAD) Penalty – deposits in cash exceeding specified limit – no reasonable explanation for such deposits – levy of penalty valid – Income-tax Act, 1961, ss. 269SS, 271D, 273B.
44AB, 271B, 274	SHRI SWASTIK STEELS PRIVATE LTD. v. ASSISTANT COMMISSIONER OF INCOME-TAX [2003] 264 ITR 447 (BOM) Penalty – Delay in submission of audit report – Waiver of penalty – Dispute between directors of assessee – company – Not a reasonable cause for default – Penalty not to be waived – Income-tax Act, 1961, ss. 44AB, 271B, 274.
271(1)(c), 274	UMA MAHESWARI AND COMPANY v. COMMISSIONER OF INCOME-TAX v. [1987] 167 ITR 628 (A.P.) Penalty – Concealment of income – Jurisdiction to levy penalty – Jurisdiction arises on discovery of concealment of income on the passing of an order of assessment or reassessment – Return filed in July, 1970 – Concealment of

	income less than Rs. 25,000 discovered in order of reassessment passed in November, 1974 – ITO has jurisdiction to levy penalty – Income-tax Act, 1961, ss. 271(1)(c), 274.
269UC, 269UD, 269UL(2), 276AB	SOFFIA SOFTWARE LTD. AND ANOTHER v. MRS. KALPAGAM BHASKARAN , MEMBER I, APPROPRIATE AUTHORITY [2010] 321 ITR 122 (Mad) Offences and prosecution – Purchase of immovable property by Central Government –Property owned as a single unit –Splitting of single unit into two undivided halves –Transfer of equal undivided shares by two sale deeds - Violation of section 269UC –Complaint filed by one member specifically authorized by appropriate authority –Competent –No provision requiring notice prior to prosecution –Income-tax Act, 1961, S. 269UC, 269UD, 269UL(2), 276AB
276B , 2(35)(b), 204	INCOME TAX OFFICER V. DELHI IRON WORKS (P.) LTD. [2011] 331 ITR 5 (DELHI)/[2011] 198 TAXMAN 174 (DELHI) Section 276B, read with sections 2(35) and 204, of the Income-tax Act, 1961 – Offence and prosecution – Failure to pay tax on distributed profits of domestic companies/deducted at source –Whether if Income-Tax Officer seeks to prosecute director of a company along with company for an offence punishable under section 276B, then he has to issue a notice under section 2(35)(b) to such director expressing his intention to treat him as ‘principal officer’ of company – Held, yes – Whether, however, merely because director of a company has been acquitted for non-compliance of notice under section 2(35), that would not mean that company would also be acquitted of charge under section 276B – Held, yes.
192, 276B , 279	SUSHIL SURI AND OTHERS (CR. REV. P. NOS. 323-28 OF 2005) SANJAY SURI (CR. REV. P. NO. 337 OF 2005) v. STATE AND OTHERS [2008]303 ITR 86(DELHI) Offences and Prosecution—Deduction of tax at source—Salary—Company—Failure to deposit TDS with Revenue –Managing Director is Principal Officer of Company—Separate Notice To Managing Director Not Necessary—Prosecution of Company and its Managing Director –Valid-- Income Tax Act, 1961, ss.192, 276B, 279.
276B	M. V. JAVALI VS. MAHAJAN BORE WELL AND CO. & OTHERS 230 ITR 1 (SC) Mandatory sentence of imprisonment and fine, in respect of offences committed by a company or a firm under section 276B or other provisions of I.T. Act, can be imposed on persons (i) who at the time when offence was committed was in charge of, or was responsible to the company for the conduct of its business and (ii) any director (who in relation to a firm, means a partner), manager, secretary or other officer of the company with whose consent or connivance the offence was committed. Where such imprisonment cannot be imposed on a person, like company, being a juristic person, fine will be the only punishment. [Relied on – 236 ITR 357 (Mad)]

279, 276C ,278B	<p>ANIL TOOLS AND FORGINGS V. CHIEF COMMISSIONER OF INCOME TAX LUDHIANA [2011] 334 ITR 265 (P & H)/[2009] 183 TAXMAN 1 (P&H)</p> <p>Section 279, read with sections 276C and 278B, of the Income-tax Act, 1961 – Offence and prosecution – Prosecution to be at instance of Chief Commissioner/Commissioner –Assessment year 1993-94 – on 29.03.1996, a complaint under section 276C(2), read with section 278B, was filed by Assistant Commissioner against all partners of assessee – firm alleging therein that they deliberately failed to make payment of tax under section 140A – Department, vide letter dated 11.12.1997, offered assessee – firm to avail an opportunity of compounding of offence, but it refused to avail that opportunity on 14.08.2006, Chief Judicial Magistrate passed an order convicting partners of assessee – Thereafter, on 16.02.2008, assessee filed an application for compounding of offence – Whether, on facts, Chief Commissioner was justified in dismissing said application – Held, yes.</p>
119(1), 276C , 277, 279(2)	<p>SANGEETA EXPORTS P. LTD. AND OTHERS v. UNION OF INDIA AND OTHERS [2009] 311 ITR 258 (DELHI)</p> <p>Offences and prosecution-composition of offences-concealment of income-Central Board of Direct Taxes can issue instructions-discretion of Commissioner in respect of composition of offences to be exercised in conformity with instructions of Board-proof of concealment of facts in returns filed by assessee-amounts to evasion of tax-Board refusing request for composition-Commissioner not entitled to accept-Income-tax Act, 1961, ss. 119(1), 276C, 277, 279(2).</p>
136, 193, 276C(1) , 277; IPC 1860, ss 420, 511; Constn of India, art 226	<p>P. SOUNDARYA v. CHIEF COMMISSIONER OF INCOME TAX AND ANOTHER, S. MANIKUMAR J. [2008]300 ITR 19(P&H) [2008]300 ITR 70 (MAD)</p> <p>Offences and prosecution –False Statement in declaration –Compounding of Offence—Rejection of Offer –Not Necessary to Provide Opportunity to offender -- Income Tax Act, 1961, ss 136, 193, 276C(1), 277—Indian Penal Code, 1860, ss 420, 511; Constn of India, art 226.</p>
276C & 277	<p>V. GOPAL VS. ASSTT. CIT (SC) 392 CTR : VOL. 193 :DTD. 4.2.2005</p> <p>Prosecution u/s. 276C and 277 – Discharge application u/s. 245(2) of Cr. P.C. was dismissed – Subsequently penalty proceedings set aside by Tribunal – Fresh discharge application may be considered by the magistrate as per law.</p>
276C	<p>STANDARD CHARTERED BANK AND ORS. VS. DIRECTORATE OF ENFORCEMENT AND ORS. 275 ITR 81 (SC.)</p> <p>Offence – Company or Corporate Body – Where imprisonment compulsory – Can be prosecuted – Punishment with fine alone permissible.</p>
276C , 277, 278	<p>ASSISTANT COMMISSIONER, ASSESSMENT II, BANGALORE & ORS VS. VELLIAPPA TEXTILES LTD. AND ANR. 263 ITR 550 (SC)</p> <p>No opportunity for hearing was required to be afforded to the assessee by the CIT before grant of sanction by the CIT.</p>

136, 230A, 276C , 277	<p>P. SOUNDARYA v. INCOME TAX OFFICER [2001] 249 ITR 77 (MAD)</p> <p>Offences and prosecution – Income-tax proceedings – willful attempt to evade tax – False verification – Income-tax proceedings are judicial proceedings – Tax clearance certificate – False statement in application under section 230A for settlement of immovable property in favour of minor – undervaluation of property – Amount representing undervaluation assessed in hands of a third person – Protective assessment in hands of declarant – Not offence under section 276C or 277 – Offence punishable under Section 136 of Income-tax Act, 1961, ss. 136, 230A, 276C, 277 – Indian penal code, 1860, ss. 193, 420, 511.</p>
139(1), 148, 276CC , 278E	<p>R. INBAVALLI v. INCOME-TAX OFFICER [2010] 327 ITR 226 (Mad)</p> <p>Offences and prosecution –Failure to file returns in time –Issue of notice under section 148 and filing of returns in response thereto –Will not exonerate assessee of liability to prosecution –Mens rea –Statutory presumption as to culpable mental state –Assessee entitled at trial to prove absence of mens rea –Income-tax Act, 1961, S. 139(1), 148, 276CC, 278E.Three complaints were filed against the assessee for not filing the income-tax returns before the statutory due date in accordance with section 139(1) of the Income-tax Act, 1961 and thereby rendering the assessee to prosecution under section 276CC of the Act. The assessee filed a petition seeking discharge but the petitions were dismissed. On revision petitions contending that subsequently a notice was issued to the assessee under section 148 of the Act granting 30 days time to file the returns and the assessee filed the returns, that once notice was given under section 148 of the Act, time for filing returns was extended and there was no violation of section 139 of the Act and no prosecution could have been initiated against the assessee: Held, dismissing the petitions, (i) that even after the notice had been issued under section 142 of the Act. The assessee did not file returns but filed them only after issuance of the notice under section 148 of the Act. The contention raised by the assessee that by filing returns within the time prescribed in the notice under section 148 of the Act the assessee was exonerated from prosecution under section 276CC of the Act for not filing the returns within the statutory due date in accordance with section 139(1) of the Act was not tenable.</p>
276CC, 278E	<p>PRAKASH NATH KHANNA AND ANOTHER VRS. CIT AND ANOTHER 266 ITR 1 (SC)</p> <p>Offence and prosecution – failure to file return “in due time” – “due time” is that specified for furnishing return in sub-sections (1) and (2) of section 139 – permissibility under sub-section (4) for filing return before assessment – does not extend time prescribed for filing return – income-tax act, 1961, ss. 80, 139(1), (2), (4), 276CC. Offence – mens rea – court has to presume culpable state of mind – income-tax act, 1961, s. 278E. Interpretation of statutes – primary rule – statute read as a whole – casus ommissus – marginal note. Words and phrases – “in due time”, meaning of. One of the significant terms used in section 276CC (offence of failure to furnish return of income) of the Income-tax Act, 1961, is “in due time”. The time within which the return of income is to be furnished is indicated only in sub-section (1) of section 139 and not in sub-section (4). Even if a return is filed Under section 139(4) that would not dilute the infraction in not furnishing the return within the time as prescribed under sub-section (1) of section 139. Section 276CC refers to “due time” in relation to sub-sections (1) and (2) of section 139 and not sub-section</p>

	(4). It cannot be said that the Legislature without any purpose or intent specified only sub-sections (1) and (2) and the conspicuous omission of sub-section (4) has no meaning or purpose behind it. Sub-section (4) of section 139 cannot control the operation of sub-section (1) wherein a fixed period for furnishing the return is stipulated. The mere fact that for the purposes of assessment and carry forward and set off of losses the return filed under sub-section (4) is treated as one filed within sub-section (1) or (2) would not amount to the return having been filed within due time. CIT v. KULU VALLEY TRANSPORT CO. P. LTD. [1970] 77 ITR 518 (SC) explained and distinguished. Whether there was failure to furnish the return is a matter which is to be adjudicated factually by the court which deals with the prosecution case. There is a statutory presumption prescribed in section 278E : the court has to presume the existence of culpable mental state and absence of such mental state can be pleaded by an accused as a defence in respect of the act charged as an offence in the prosecution. Rules of interpretation of statutes stated. Decision of the Himachal Pradesh High Court in PRAKASH NATH v. CIT [1997] 225 ITR 305 affirmed. <u>Cases referred to</u> : Artemiou v. Procopiou [1996] 1 QB 878 (CA) ; [1965] 3 All ER 539 (CA). Board of Muslim Wakfs v. Radha Kishan [1979] 2 SCC 468. Kalawatibai v. Soiryabai [1991] AIR 1991 SC 1581. Padmasundara Rao v. State of Tamil Nadu [2002] 255 ITR 147 (SC) ; [2002] 3 SCC 533.
119(1), 276C, 277 , 279(2)	SANGEETA EXPORTS P. LTD. AND OTHERS v. UNION OF INDIA AND OTHERS [2009] 311 ITR 258 (DELHI) Offences and prosecution-composition of offences-concealment of income-Central Board of Direct Taxes can issue instructions-discretion of Commissioner in respect of composition of offences to be exercised in conformity with instructions of Board-proof of concealment of facts in returns filed by assessee-amounts to evasion of tax-Board refusing request for composition-Commissioner not entitled to accept-Income-tax Act, 1961, ss. 119(1), 276C, 277, 279(2).
136, 193, 276C(1), 277 ; IPC 1860, ss 420, 511; Constn of India, art 226	P. SOUNDARYA v. CHIEF COMMISSIONER OF INCOME TAX AND ANOTHER, S. MANIKUMAR J. [2008]300 ITR 19(P&H) [2008]300 ITR 70 (MAD) Offences and prosecution –False Statement in declaration –Compounding of Offence—Rejection of Offer –Not Necessary to Provide Opportunity to offender -- Income Tax Act, 1961, ss 136, 193, 276C(1), 277—Indian Penal Code, 1860, ss 420, 511; Constn of India, art 226.
276C & 277	V. GOPAL VS. ASSTT. CIT (SC) 392 CTR : VOL. 193 :DTD. 4.2.2005 Prosecution u/s. 276C and 277 – Discharge application u/s. 245(2) of Cr. P.C. was dismissed – Subsequently penalty proceedings set aside by Tribunal – Fresh discharge application may be considered by the magistrate as per law.
276C, 277 , 278	ASSISTANT COMMISSIONER, ASSESSMENT II, BANGALORE & ORS VS. VELLIAPPA TEXTILES LTD. AND ANR. 263 ITR 550 (SC) No opportunity for hearing was required to be afforded to the assessee by the CIT before grant of sanction by the CIT.

136, 230A, 276C 277	<p>P. SOUNDARYA v. INCOME TAX OFFICER [2001] 249 ITR 77 (MAD)</p> <p>Offences and prosecution – Income-tax proceedings – willful attempt to evade tax – False verification – Income-tax proceedings are judicial proceedings – Tax clearance certificate – False statement in application under section 230A for settlement of immovable property in favour of minor – undervaluation of property – Amount representing undervaluation assessed in hands of a third person – Protective assessment in hands of declarant – Not offence under section 276C or 277 – Offence punishable under Section 136 of Income-tax Act, 1961, ss. 136, 230A, 276C, 277 – Indian penal code, 1860, ss. 193, 420, 511.</p>
277	<p>PRATAP M.R. v MUTHUKRISHNAN V.M., ITO (1992) 196 ITR 1 (SC)</p> <p>Managing director of company signing return of income with false verification could be proceeded against under section 277 of the Act. Whether the managing director of a company signing the return of income of the company with false verification could be proceeded against under section 277 of the Income-tax Act, 1961 in accordance with the provisions of the Act as they stood before amendment by the Taxation Laws (Amendment) Act, 1975 with effect from the 1st October, 1975 – Held, yes.</p>
278	<p>STANDARD CHARTERED BANK AND OTHERS v. DIRECTORATE OF ENFORCEMENT AND OTHERS [2005] 275 ITR 81 [SC].</p> <p>Offence – company or corporate body – where imprisonment compulsory – can be prosecuted – punishment with fine alone permissible. Interpretation of statutes – penal law – strict interpretation – scope of – Intention of legislature. Foreign exchange – offence – authorized dealer of company – can be prosecuted for offences even if imprisonment compulsory – foreign exchange regulation Act, 1973, ss. 13, 18(1)(a), 18A, 19(1)(a), 44(2), 50, 51(1)(i), (ii) – Indian Penal Code, 1860, s.11.</p>
276C, 277, 278	<p>ASSISTANT COMMISSIONER, ASSESSMENT II, BANGALORE & ORS VS. VELLIAPPA TEXTILES LTD. AND ANR. 263 ITR 550 (SC)</p> <p>No opportunity for hearing was required to be afforded to the assessee by the CIT before grant of sanction by the CIT.</p>
279,276C,278B	<p>ANIL TOOLS AND FORGINGS V. CHIEF COMMISSIONER OF INCOME TAX LUDHIANA [2011] 334 ITR 265 (P & H)/[2009] 183 TAXMAN 1 (P&H)</p> <p>Section 279, read with sections 276C and 278B, of the Income-tax Act, 1961 – Offence and prosecution – Prosecution to be at instance of Chief Commissioner/Commissioner –Assessment year 1993-94 – on 29.03.1996, a complaint under section 276C(2), read with section 278B, was filed by Assistant Commissioner against all partners of assessee – firm alleging therein that they deliberately failed to make payment of tax under section 140A – Department, vide letter dated 11.12.1997, offered assessee – firm to avail an opportunity of compounding of offence, but it refused to avail that opportunity on 14.08.2006, Chief Judicial Magistrate passed an order convicting partners of assessee – Thereafter, on 16.02.2008, assessee filed an application for compounding of offence – Whether, on facts, Chief Commissioner was</p>

	justified in dismissing said application – Held, yes.
139(1), 148, 276CC, 278E	R. INBAVALLI v. INCOME-TAX OFFICER [2010] 327 ITR 226 (Mad) Offences and prosecution –Failure to file returns in time –Issue of notice under section 148 and filing of returns in response thereto –Will not exonerate assessee of liability to prosecution –Mens rea –Statutory presumption as to culpable mental state –Assessee entitled at trial to prove absence of mens rea–Income-tax Act, 1961, S. 139(1), 148, 276CC, 278E.Three complaints were filed against the assessee for not filing the income-tax returns before the statutory due date in accordance with section 139(1) of the Income-tax Act, 1961 and thereby rendering the assessee to prosecution under section 276CC of the Act. The assessee filed a petition seeking discharge but the petitions were dismissed. On revision petitions contending that subsequently a notice was issued to the assessee under section 148 of the Act granting 30 days time to file the returns and the assessee filed the returns, that once notice was given under section 148 of the Act, time for filing returns was extended and there was no violation of section 139 of the Act and no prosecution could have been initiated against the assessee: Held, dismissing the petitions, (i) that even after the notice had been issued under section 142 of the Act. The assessee did not file returns but filed them only after issuance of the notice under section 148 of the Act. The contention raised by the assessee that by filing returns within the time prescribed in the notice under section 148 of the Act the assessee was exonerated from prosecution under section 276CC of the Act for not filing the returns within the statutory due date in accordance with section 139(1) of the Act was not tenable.
276CC, 278E	PRAKASH NATH KHANNA AND ANOTHER VRS. CIT AND ANOTHER 266 ITR 1 (SC) Offence and prosecution – failure to file return “in due time” – “due time” is that specified for furnishing return in sub-sections (1) and (2) of section 139 – permissibility under sub-section (4) for filing return before assessment – does not extend time prescribed for filing return – income-tax act, 1961, ss. 80, 139(1), (2), (4), 276CC. Offence – mens rea – court has to presume culpable state of mind – income-tax act, 1961, s. 278E. Interpretation of statutes – primary rule – statute read as a whole – casus ommissus – marginal note. Words and phrases – “in due time”, meaning of. One of the significant terms used in section 276CC (offence of failure to furnish return of income) of the Income-tax Act, 1961, is “in due time”. The time within which the return of income is to be furnished is indicated only in sub-section (1) of section 139 and not in sub-section (4). Even if a return is filed Under section 139(4) that would not dilute the infraction in not furnishing the return within the time as prescribed under sub-section (1) of section 139. Section 276CC refers to “due time” in relation to sub-sections (1) and (2) of section 139 and not sub-section (4). It cannot be said that the Legislature without any purpose or intent specified only sub-sections (1) and (2) and the conspicuous omission of sub-section (4) has no meaning or purpose behind it. Sub-section (4) of section 139 cannot control the operation of sub-section (1) wherein a fixed period for furnishing the return is stipulated. The mere fact that for the purposes of assessment and carry forward and set off of losses the return filed under sub-section (4) is treated as one filed within sub-section (1) or (2) would not amount to the return having being filed within due time. CIT v. KULU VALLEY TRANSPORT CO. P. LTD. [1970] 77 ITR 518 (SC) explained and distinguished. Whether there was failure to furnish the return is a matter

	which is to be adjudicated factually by the court which deals with the prosecution case. There is a statutory presumption prescribed in section 278E : the court has to presume the existence of culpable mental state and absence of such mental state can be pleaded by an accused as a defence in respect of the act charged as an offence in the prosecution. Rules of interpretation of statutes stated. Decision of the Himachal Pradesh High Court in PRAKASH NATH v. CIT [1997] 225 ITR 305 affirmed. <u>Cases referred to</u> : Artemiou v. Procopiou [1996] 1 QB 878 (CA) ; [1965] 3 All ER 539 (CA). Board of Muslim Wakfs v. Radha Kishan [1979] 2 SCC 468. Kalawatibai v. Soiryabai [1991] AIR 1991 SC 1581. Padmasundara Rao v. State of Tamil Nadu [2002] 255 ITR 147 (SC) ; [2002] 3 SCC 533
279, 276C, 278B	ANIL TOOLS AND FORGINGS V. CHIEF COMMISSIONER OF INCOME TAX LUDHIANA [2011] 334 ITR 265 (P & H)/[2009] 183 TAXMAN 1 (P&H) Section 279, read with sections 276C and 278B, of the Income-tax Act, 1961 – Offence and prosecution – Prosecution to be at instance of Chief Commissioner/Commissioner –Assessment year 1993-94 – on 29.03.1996, a complaint under section 276C(2), read with section 278B, was filed by Assistant Commissioner against all partners of assessee – firm alleging therein that they deliberately failed to make payment of tax under section 140A – Department, vide letter dated 11.12.1997, offered assessee – firm to avail an opportunity of compounding of offence, but it refused to avail that opportunity on 14.08.2006, Chief Judicial Magistrate passed an order convicting partners of assessee – Thereafter, on 16.02.2008, assessee filed an application for compounding of offence – Whether, on facts, Chief Commissioner was justified in dismissing said application – Held, yes.
119(1), 276C, 277, 279(2)	SANGEETA EXPORTS P. LTD. AND OTHERS v. UNION OF INDIA AND OTHERS [2009] 311 ITR 258 (DELHI) Offences and prosecution-composition of offences-concealment of income-Central Board of Direct Taxes can issue instructions-discretion of Commissioner in respect of composition of offences to be exercised in conformity with instructions of Board-proof of concealment of facts in returns filed by assessee-amounts to evasion of tax-Board refusing request for composition-Commissioner not entitled to accept-Income-tax Act, 1961, ss. 119(1), 276C, 277, 279(2).
279	ANIL TOOLS & FORGINGS v. CHIEF COMMISSIONER OF INCOME-TAX, LUDHIANA [2009]183 TAXMAN 1 (PUNJ. & HAR.) Section 279, read with sections 276C and 278B, of the Income-tax Act, 1961- Offence and prosecution- Prosecution to be at instance of Chief Commissioner/ Commissioner-assessment year 1993-94-On 29-3-1996, a complaint under section 276C(2), read with section 278B, was filed by Assistant Commissioner against all partners of assessee-firm alleging therein that they deliberately failed to make payment of tax under section 140A-Department, vide letter dated 11.12.1997, offered assessee-firm to avail an opportunity of compounding of offence, but it refused to avail that opportunity –On 14-8-2006, Chief Judicial Magistrate passed an order convicting partners of assessee-Thereafter, on 16-02-2008, assessee filed an application for compounding of offence-Whether-on facts, Chief Commissioner was justified

	in dismissing said application-Held, yes.
192, 276B, 279	SUSHIL SURI AND OTHERS (CR. REV. P. NOS. 323-28 OF 2005) SANJAY SURI (CR. REV. P. NO. 337 OF 2005) v. STATE AND OTHERS [2008]303 ITR 86(DELHI) Offences and Prosecution—Deduction of tax at source—Salary—Company—Failure to deposit TDS with Revenue —Managing Director is Principal Officer of Company—Separate Notice To Managing Director Not Necessary—Prosecution of Company and its Managing Director —Valid-- Income Tax Act, 1961, ss.192, 276B, 279.
281B	UCO BANK – REGIONAL OFFICE v. UNION OF INDIA [2009] 182 TAXMAN 26 (GUJ.) Section 281B of the Income-tax Act-1961, read with section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002- Provisional attachment to protect revenue in certain cases- Assessment year-2002-03- Whether in absence of any specific provision under Securitisation Act creating first charge on bank, section 281B, read with rule 16 of Second Schedule to Act will have an overriding effect on section 13(2) of Securitisation Act- Held, yes-Assessee having failed to make payment of outstanding tax dues, Income-tax department issued a notice of demand under section 156 on 31.03.2005- Department also passed an order of provisional attachment under section 281B on 30.03.2005 and attached certain movable and immovable properties of assessee- Even thereafter, assessee failed to discharge its tax liability and, therefore, final order of attachment of movable and immovable properties was passed on 14.09.2005 invoking rule-48 of Second Schedule- Later on, department came to know that on 20.12.2005, assessee had created equitable mortgage in respect of aforesaid properties in favour of petitioner-bank so as to secure term loan granted by bank and as it was found to be a defaulter, bank had taken measures under section 13(2) of Securitisation Act and had also issued notice for sale of aforesaid properties-TRO, therefore, issued notice under section 226(3) calling upon bank to pay sale proceeds of said properties over which Income- tax Department had got a charge- Whether on facts, when bank invoked section 13(2) of Securitisation Act much after properties was attached by Income-tax Department, impugned notice issued by TRO to bank was valid in law and deserved to be sustained-Held, yes.
281B	STATE BANK OF BIKANER & JAIPUR VS. NATIONAL IRON AND STEEL ROLLING CORP. AND OTHERS 212 ITR 428(SC) A charge is wider than mortgage – it would cover within its ambit mortgages also. Therefore when a first charge is created by operation of law under Sales Tax Act or Income Tax Act, over any property, that charge will have precedence over an existing mortgage.
282	MAYAWATI v. CIT [W.P.(C) NOS.8768 & C.M.16842 OF 2008, DECIDED ON 13-2-2009]/ [2009]15 CPT 166 (DELHI). Where petitioner- assessee declined to accept notice u/s.148 three times at three different address which belonged to assessee at relevant time, service of notice was to be presumed u/s.27 of General Clauses Act, 1897.

143(2), 144, 282 , CPC, 1908, O. V. R 19A	COMMISSIONER OF INCOME-TAX v. YAMU INDUSTRIES LTD. [2008] 306 ITR 306 (DELHI) Assessment-notice-service of notice – presumption of valid service-notice sent by registered post well before expiry of time limit and not received unserved – presumption that notice served within time-Assessment valid – Income-tax Act, 1961, SS. 143(2), 144, 282-code of Civil procedure 1908, O. V. R. 19A.
142(1), 143(2), 144, 282 , GCA 1897, s 27	COMMISSIONER OF INCOME-TAX v. MADHSY FILMS P. LTD. [2008] 301 ITR 69 (DELHI) Assessment-notice-notice under section 143(2)- record not disclosing envelope undelivered or received back – presumption that notice served not rebutted by assessee – valid notice served within time-Income-Tax Act, 1961, ss. 143(2), 282-general clauses Act, 1897, s. 27.
143, 282	COMMISSIONER OF INCOME-TAX v. VINS OVERSEAS INDIA LTD. [2008]305 ITR 320(DELHI) Assessment—Notice—Service of Notice—Service Through Registered Post—Presumption of proper service—Assessee participating in assessment proceedings on subsequent notice—Affidavit for first time before Tribunal denying service of earlier notice—No valid rebuttal of presumption of proper notice—Earlier Notice validly served— Income tax Act, 1961, ss 143, 282.
73,24, 292BB , 143(2)	ARAVALI ENGINEERS (P.) LTD. V. COMMISSIONER OF INCOME TAX [2011] 335 ITR 508 (P &H)/[2011] 200 TAXMAN 81 (P&H) Section 73 of the Income-tax Act, 1961 – Losses – In speculation business – Assessment year 1997-98 – Whether in view of provisions of section 73, assessee could not be allowed to set off speculation loss arising from sale and purchase of shares against its income from house property – Held, yes. Section 24 of the Income tax Act 1961 – Income from house property – Deductions –Assessment year 1997-98 – Assessee claimed deduction of brokerage paid on sale and purchase of shares while computing income from house property – Whether wherever deductions out of income from income cannot be allowed Held, yes- Whether, therefore, assessee's claim for deduction was to be rejected – Held, yes. Section 292BB, read with section 143, of the Income-tax Act, 1961 – Notice, deemed to be valid in certain circumstances –Assessment year 1997-98 – In proceedings before Tribunal, assessee raised a new plea that since notice under section 143(2) was not served within stipulated time, assessment was barred by limitation Tribunal refused to entertain plea raised by assessee – Whether in view of provisions of section 292BB, question of validity of notice could not be allowed to be rased for first time in appeal – Held, yes – Whether, therefore, impugned order of Tribunal refusing to entertain assessee's plea, was to be upheld – Held, yes.
69, 132 (4A), 292C	SURENDRA M. KHANDHAR v. ASSISTANT COMMISSIONER OF INCOME-TAX AND OTHERS [2010] 321 ITR 254 (Bom) Search and seizure –Unexplained investment –Document discovered during search –presumption that contents of document are true –Document stating that amount had been advanced by assessee – Presumption of truth of document not

	rebutted by assessee –Amount shown in document assessable as unexplained investment –Income-tax Act, 1961, s. 69, 132(4A), 292C.
88,of F(2) Act 1998	SOUTH INDIA CORPORATION LTD. v. COMMISSIONER OF INCOME-TAX [2009] 310 ITR 189 (KER.) Kar vivad samadhan scheme – condition precedent for application of scheme – pending reference, revision or reference – application for reference – effect of draft statement – draft statement received on July 9, 1998 and November 7, 1998 not containing question for which benefit of scheme sought – assessee could not avail of benefit of scheme in respect of question – kar vivad samadhan scheme – Finance (no. 2) Act, 1998, s. 88.
2(ea) of W.T. Act 1957	COMMISSIONER OF WEALTH TAX V. SMT. K.R. USHASREE [2011] 332 ITR 81 (P & H)/[2010] 186 TAXMAN 454 (P & H) Cash –in-hand in excess of Rs. 50,000 in hands of individuals and HUFs forms part of asset under section 2(ea)(vi)[in favour of revenue] While cash in hand in excess of Rs. 50,000 has to be treated as an “asset” of the individuals and HUFs, any cash in hand in case of other persons, namely, companies, not recorded in the books of account is an asset. There is no provision in the definition clause or in any other section of the Act authorizing the WTO to exclude cash in hand if it is found to be productive asset. Once the statute identified non-productive assets for the purpose of assessment in the definition clause, there is no scope for any adjudication as to whether any such asset is productive warranting exclusion. In fact, the Parliament deliberately brought to tax cash in hand in the case of individuals and HUFs for the purpose of levy of wealth-tax in excess of the limit of Rs. 50,000 by treating it as non-productive asset. Therefore, the argument that cash in hand of businessmen should be treated as productive asset also is meaningless.
2(e) of W.T. Act.	CIT v. SUKHPAL SINGH [2009] 177 TAXMAN 309/[2009] 14 CPT 751 [PUNJ. & HAR.] Where lands owned by assessee had been put to sale in shape of plots as per planned map for construction of buildings thereon, said lands could not be considered as agricultural lands for purpose of computing assessee’s net wealth.
40(3)(vi), WTA 1957, s 2(ea)	ANAND ESTATE PVT. LTD. v. DEPUTY COMMISSIONER OF INCOME-TAX [2009] 316 ITR 94 (BOM.) Wealth-tax-assets-closely-held companies-finding that company had leased its godowns – not used for business-value of godowns includible in net wealth of company – wealth-tax Act, 1957, s. 2(ea) – finance Act, 1983, s. 40(3)(vi).
2(ea)(i) of W.T. Act.	BENNETT COLEMAN AND CO. LTD. v. ASSISTANT COMMISSIONER OF WEALTH-TAX AND ANOTHER [2008] 304 ITR 235 (BOM.) Wealth-tax asset – building - tenant-co-partnership society-right of occupation of flat due to being member of society-flat a building and consequently an asset-chargeable to tax-wealth-tax Act, 1957, s. 2(ea)(i).

2(ea), of WTA 1957	RAMNORD RESEARCH LABORATORIES P. LTD. v. WEALTH-TAX OFFICER [2008] 305 ITR 299 (BOM) Wealth-tax –Net wealth –Asset—Exemption — Premises not occupied by assessee for any business or profession carried on by it but given on leave and licence basis to Bank—Premises an asset in hands of assessee and includible in its net wealth—Wealth-tax Act, 1957, s.2(ea).
5(1) of W.T. Act	COMMISSIONER OF INCOME-TAX v. JAI KISHAN GUPTA [2003] 264 ITR 482 (ALL) Wealth-Tax –Exemption—One House belonging to assessee meaning of ‘House’—Cinema hall cannot be considered to be a House—Assessee not entitled to exemption in respect of cinema hall—Wealth tax Act, 1957, s. 5(1)(iv).
5(1)(iv) of WTAct, 1957	COMMISSIONER OF WEALTH-TAX v. HIRO J. NAGPAL [2009] 313 ITR 28 (RAJ) [FULL BENCH] Wealth tax – exemption-hotel not covered within definition of house – assessee not entitled to exemption u/s. 5(1) (iv) – wealth tax act, 1957 s.5(1)(iv). Words and phrases – “house” – meaning of. Section 5(1)(iv) of the W T Act, 1957 was amended on April 1, 1972, taking away the words “exclusively used for dwelling purposes”. The word “house” has neither been defined under the W.T Act nor under the General Clause Act. The word “building” has been used in section 5(1) (iii) and the word “property” has been used in U/S.5 (1)(i) of the Act. In common parlance, “house” means a dwelling place where people live. However, a residential building or house can also be used for commercial purposes. The assessee claimed exemption U/S.5 (1)(iv) of the Act in respect of a hotel building. The valuation officer valued the interest of the assessee in the hotel property. The W.T. Officer issued a demand u/s.16 (3) of the Act. The Appellate Assistant Commissioner of Wealth Tax upheld the order of the WTO. The Tribunal granted the benefit of exemption U/S.5 (1)(iv) of the Act. On a reference to the Full Bench : Held, that a hotel could not be considered to be house so as to qualify for the exemption U/S.5 (1)(iv) of the Act.
5(1)(iv) of W.T.Act	COMMISSIONER OF INCOME TAX AND ANOTHER v. JAI KISHAN GUPTA [2003] 264 ITR 482(ALL) Wealth-tax –Exemption—One House belonging to assessee—Meaning of “House”—Cinema Hall cannot be considered to be a House—Assessee not entitled to exemption in respect of cinema hall—Wealth -Tax Act, 1957, s 5(1)(iv)
7,16A, 23(5) of W.T. Act 1957	COMMISSIONER OF WEALTH-TAX v. PRASAD PRODUCTIONS (P.) LTD. [2003] 259 ITR 88 (MAD) Wealth-tax – Valuation – Reference to valuation officer – Assessing Officer estimating value without referring matter to valuation cell – Appeal – Commissioner (Appeals) – Scope of power to direct assessing officer to recompute value after referring matter to valuation cell – Wealth-tax Act, 1957, ss. 7, 16A, 23(5) – Wealth –tax Rules, 1957, r. 3B.

8 of W.T. Act-1957	COMMISSIONER OF WEALTH TAX v. A. M. BHIWANDIWALLA [2009] 182 TAXMAN 198 (BOM.) Section 8 of the Wealth-tax Act, 1957 read with section 127 of the Income-tax Act, 1961- Wealth-tax authorities – Jurisdiction of – Assessment years 1976-77 and 1978-79 to 1982-83- Whether once a notification is issued under section 127 of 1961 Act, officer, in whom jurisdiction is conferred, would act both as Assessing Officer under 1961 Act as also Assessing Officer under 1957 Act and for this purpose, a separate notification under section 8AA of 1957 Act is not required- Held, yes.
8AA, of W.T. Act.	CWT v. A.M. BHIWANDIWALLA [WTR NOS. 28 & 42 OF 1998, DECIDED ON 13-2-2009]/ [2009] 15 CPT 498 (BOM.) Once notification is issued under section 127 (1) ITO notified would exercise jurisdiction in matter of wealth-tax also as WTO in such a case no separate notification is required under section 8AA.
16(3) of W.T. Act	LOKNATH AND CO. VS CWT 217 ITR 310 (SC) Assessment order erroneously described as passed under section 16(3) but purported to be under section 16(1) is valid.
7,16A, 23(5) of W.T. Act 1957	COMMISSIONER OF WEALTH-TAX v. PRASAD PRODUCTIONS (P.) LTD. [2003] 259 ITR 88 (MAD) Wealth-tax – Valuation – Reference to valuation officer – Assessing Officer estimating value without referring matter to valuation cell – Appeal – Commissioner (Appeals) – Scope of power to direct assessing officer to recompute value after referring matter to valuation cell – Wealth-tax Act, 1957, ss. 7, 16A, 23(5) – Wealth –tax Rules, 1957, r. 3B.
18, 35 of W.T. Act	COMMISSIONER OF WEALTH-TAX v. DALIP KUMAR WORAH AND ANOTHER. [1987] 167 ITR 811 (PATNA) Wealth-tax – Penalty – delay in filing return – Is a continuing offence – For assessment year 1968-69 return due on 30-6-1968 Return filed in February, 1970 – Amendment of section 18 by finance Act, 1969, w.e.f. 1-4-1969 – Enhancement in rate of penalty after amendment – Date of decision of authority to initiate proceedings governs law applicable for quantification of amount of penalty – Levy of penalty as per amended law valid – Wealth-tax Act, 1957, s. 18 (as amended by Finance Act, 1969, with effect from 1-4-1969). Wealth-tax –Rectification of mistakes – Appeal – Penalty – No appeal filed against original order imposing penalty – Order of penalty cannot be challenged in appeal against order of rectification – Wealth-tax Act, 1957, ss. 18, 35.
19A of W.T. Act	COMMISSIONER OF INCOME-TAX v. S. M. BHANDARI [1987] 167 ITR 642 (A.P.) Wealth-tax – Executor – Assessment – Deduction – Difference between specific legatee and residuary legatee – Amount paid to residuary legatee – Not deductible – Wealth-tax Act, 1957, s. 19A, Indian Succession Act, 1925, s. 142.

20A,of W.T. Act.	COMMISSIONER OF WEALTH-TAX v. PARMATMA SARAN (HUF) [2004] 270 ITR 389 (ALL) Wealth-tax HUF- Partial partition – Law applicable – effect of insertion of section 20A w.e.f. 1.4.1980 – Partial partition after 31.12.1978 will not be recognised – Wealth-tax Act, 1957, s. 20A.
7,16A, 23(5) of W.T. Act 1957	COMMISSIONER OF WEALTH-TAX v. PRASAD PRODUCTIONS (P.) LTD. [2003] 259 ITR 88 (MAD) Wealth-tax – Valuation – Reference to valuation officer – Assessing Officer estimating value without referring matter to valuation cell – Appeal – Commissioner (Appeals) – Scope of power to direct assessing officer to recompute value after referring matter to valuation cell – Wealth-tax Act, 1957, ss. 7, 16A, 23(5) – Wealth-tax Rules, 1957, r. 3B.
25 of W. T. Act	COMMISSIONER OF WEALTH –TAX v. SMT. SHANTI MEATTLE [2005] 276 ITR 201 [ALL] Wealth-tax – revision – valuation of assets – no reference to Valuation Officer for assessment year 1971-72 – valuation for subsequent years available before assessment made for 1971-72 – Wealth-tax Officer grossly undervaluing asset – revision proceedings valid – Wealth-tax Act, 1957, s. 25.
18, 35 of W.T. Act	COMMISSIONER OF WEALTH-TAX v. DALIP KUMAR WORAH AND ANOTHER. [1987] 167 ITR 811 (PATNA) Wealth-tax – Penalty – delay in filing return – Is a continuing offence – For assessment year 1968-69 return due on 30-6-1968 Return filed in February, 1970 – Amendment of section 18 by finance Act, 1969, w.e.f. 1-4-1969 – Enhancement in rate of penalty after amendment – Date of decision of authority to initiate proceedings governs law applicable for quantification of amount of penalty – Levy of penalty as per amended law valid – Wealth-tax Act, 1957, s. 18 (as amended by Finance Act, 1969, with effect from 1-4-1969). Wealth-tax –Rectification of mistakes – Appeal – Penalty – No appeal filed against original order imposing penalty – Order of penalty cannot be challenged in appeal against order of rectification – Wealth-tax Act, 1957, ss. 18, 35.
40(3)(vi) of W.T. Act 1957	MOTWANE MANUFACTURING CO. PVT. LTD. V. COMMISSIONER OF WEALTH TAX [2010]329 ITR 413(Bom) Wealth –tax-company- exemption- asset. used for business –land used for internal roads and playground—not entitled to exemption—wealth-tax act,1957—finance act, 1983—s.40(3)(vi). The issue of ownership of the asset is not dependent upon the provisions of the Income-tax Act, 1961. Since the ownership of the asset is an independent facet which can be determined independently of the Income-tax Act. For the assessment year 1990-91, the Assessing Officer passed an order valuing the open land of the assessee-company based on the value determined for earlier assessment years 1988-89 and 1989-90. the Commissioner (Appeals) granted exemption in respect of the land appurtenant but refused to grant exemption in respect of the open land over which there were internal roads and a playground. The Tribunal held that the land used for internal road of the factory and playground for the workers of

	the factory was taxable as wealth of the company and the approach road and internal roads were treated as part of the building for the purpose of depreciation under the Income-tax Act, 1961. On a reference: Held (i) that according to section 40 of the Finance Act, 1983, the assessee company was liable to pay wealth-tax. The internal approach roads or playgrounds were not within the exceptions carved out by section 40(3)(vi). The Tribunal was right in holding that the land used for internal roads of the factory and playground for workers of the factory was taxable as wealth of the company, when the factory building had not been charged to wealth-tax.
40(3)(vi), WTA 1957, s 2(ea)	ANAND ESTATE PVT. LTD. v. DEPUTY COMMISSIONER OF INCOME-TAX [2009] 316 ITR 94 (BOM.) Wealth-tax-assets-closely-held companies-finding that company had leased its godowns – not used for business-value of godowns includable in net wealth of company – wealth-tax Act, 1957, s. 2(ea) – finance Act, 1983, s. 40(3)(vi).
40(3)(vi) of W.T. Act 1957	COMMISSIONER OF WEALTH TAX v. INDIAN WAREHOUSING INDUSTRIES LTD. [2004]269 ITR 203 (MAD) Wealth-tax—Company—Exemption—Building used as godown, warehouse, hotel or office—Scope of section 40(3)(vi), Finance Act-1983—Nature of use important—Building leased out and lessee using building as warehouse—Assessee not using building as warehouse—Not entitled to exemption—Wealth-tax Act, 1957—Finance Act, 1983, s. 40(3)(vi).
Rule 1D of W.T. Rules	COMMISSIONER OF WEALTH-TAX v. YADUPAT SINGHANIA [2004] 271 ITR 368 (ALL) Wealth-tax –Valuation of assets—Shares—Amount set apart for dividends but dividends not declared before valuation date—Depreciation not provided in income-tax proceedings—Not deductible—Wealth tax Rules, 1957, R. ID, Expln.II.
Valuation of closing Stock	AMBA RICE MILLS v. COMMISSIONER OF INCOME-TAX [2010]325 ITR 33(P&H) Valuation of closing stock—additions on account of discrepancies in record – no proof of perversity in not appreciating evidence in from of comparative results of other mill owners—tribunal finding additions made due to absence of proper and complete record—finding of fact- Income Tax Act, 1961.
Valuation of closing stock	MAHABIR RICE MILL VS. ITO (ALL.) 359 CTR : VOL. 194 : DTD. 1.4.2005 Valuation of closing stock—Average cost of stock purchased during the year – Only relevant – Average cost of opening stock not to be considered.
Supreme Court Decision –Binding nature	CIT VS. RATILAL BACHARILAL & SONS (BOMBAY) 324 CTR : VOL. 198 : DTD. 21.10.2005 Supreme Court decision is binding to all courts even if a particular line of argument was not considered in the decision.

Doctrine of Merger	CIT VS. RATILAL BACHARILAL & SONS (BOMBAY) 324 CTR : VOL. 198 : DTD. 21.10.2005 Doctrine of Merger will not apply on the order of CIT(A) vis-a-vis order u/s. 263 of the CIT, where the relevant issue was not a subject matter before the CIT(A).
226, Constn of India, art 226	MOLLY TRADING COMPANY PVT. LTD. AND ANOTHER v. UNION OF INDIA AND OTHERS [2010] 322 ITR 76 (Bom) Recovery of tax –writ –Garnishee proceedings –Petitioner guarantor for loan taken by director of sister company for that company –Recovery of amount from petitioner –Valid –Facts not disclosed –Writ would not issue – Income tax Act, 1961, s. 226 –Constitution of India, art 226.