LEGAL DATA BASE OF INCOME TAX DEPARTMENT

Direct Tax Case Laws

Circulars Are Binding Only The I.T. Authorities And Not On The Assessees:- Section - 119

U C O BANK

If Undisclosed Income Of Partner Only Then The Firm Will Also Be Taxed Section - 69 .

JAGMOHAN RAM CHANDER

Settler Direct Trustee To Divert The Income To Beneficiaries Is Not Taxable .

MANILAL DHANJI

Charity Collected Is Not Income

AGRA BULLIAN EXCHANGE LIMITED.

Grant Received By 100 % Govt Co. Is Taxable.

STEEL AUTHORITY OF INDIA.

Insurance Receipt For Loss Of Sit Is Taxable If Business Continued

WILLIAM EXECUTERS

Income From Property Settled For Benefits Through Trust Is Not Taxable I.E. Charge Created On Any Type Of Income Of Any Assessee By The Overriding Title Is Allowed As Deduction.

SITALDAS TIRATH DAS

6(1) Stay Will Begun When Source Arises In India.

ROBERT W. SMITH

6(1) Going Abroad For Tour & Training Then Proviso 1 Will Not Apply

PATEL K.Y.

Explanation 3 To Section 9(1)(I) Only Income Attributable Will Be Considered

UAE EXCHANGE CENTRE.

Erection Charges Not Taxable Received By NR If The Contract Is For Consolidation Consideration

NAVBHARAT ALLOYES LTD.

Salary Of NR Technician Paid In USA For Worked In India Is Taxable But Daily Allowance Or Benefits Provided Are Exempted Provided He Is Employed To Render Services In India. Section 9(1)(Ii)

HINDUSTAN POWER PLUS LTD.(SEE AMENDMENT 2007)

17(2) Employee Should Have Right Vested In Perks To Make It Taxable, So , If Group Accident Policy Taken By The Employer And Afterwards Employee Received Compensation then Both Premium And Compensation Exempted.

L.W. RUSSEL.

Asessee Can Claim Relief U/S 89(1) On Section 10(10c) V.R.S. On Taxable Portion.

G.V. VENUGOPAL RAO.

IFHP. Independent & Commercial Income Of A Land Apprutant To A Builbing Is A Taxable As P&G OR IFOS No IFHP

RAMA LAKSHMI REDDY.

If Assessee Is Not The Owner Of The Hp Then IFOS, Even Property/ Complexes Are Constructed On Leasehold Land It Will Be Taken U/S 22 Av

LAL CHOUDHARY.

Property Used For Partnership Business Is Not Taxable As IFHP.

MUSTFA KHAN

Property Owned By The HUF And Used By The Firm In Which Karta Of HUF Is Partner At His Individual CapaCity And Not At His Representtative CapaCity , Then The HUF Is Taxable U/S 22 Not The Partnership Firm.

SHIV MOHAN LAL.

Income From The House Property Occuipied By The Employees Of The Sister Concern Of The Assessee Shall Be Taxable U/S 22

SUNDRAM LYENGER & SONS LTD.2004

Where Assessee Gives Certain Quarters On Rent To His Emoloyees And Charges Rent From Them Then It Is Business Income U/S 28.

DELHI CLOTH & GENERAL MILLS CO.LTD.1966

Where The Premises Of The Assessee Are Given To Any Govt. Agency For Locating A Branch Of : Bank Or Police Station, Excise Office Etc. For The Purpose Of Runninf Of The Business Of Assessee More Efficiently Then The Rental Income From Such Building Would Be Taxable As Income U/S 28

V.S.T. MOTORS PVT. LTD.

Note:- 1. Only Rent Of Building Are Chargable Asn IFHP In All Cases. 2. Where Businiss Of The Assessee Was Governed By The Doctrine Of Mutuality , Not Only The Surplus From Activity Of Club But Annual Value Of Club House Would Also Be Exempted

Where Property Leased To Relative And Then Sublet By That Relative At The Higher Rent, Thenn That Higher Rent Will Be The Expected Rent U/S 22,23 . If Subletting Is Gennune Then Amount Actually Received By Land Lord Is Av.

N. NATRAJ VS. DCIT.

In the Case Of NR Non CITizen, No Tax But If Resident But Non CITizen Having The IFHP Situated Abroad, Then He Is Liable For That Income Adjusting [Arv-Mt] X Ttbr

VENUGOPAL REDDIAR.

I F O S. :- He Has Interest Income As Interest On Fdr And Interest On Loan Taken By The Assessee On The Security Of Fdr Is Not Allowed As Deduction U/S 56,57 From Interest On Fdr

DR. V. GOPINATHAN.

Amount Received From The Debitors After The Discontinuance Of Business U/S 176(4) By His Legal Heirs Is Ifos In Their Hands

RAMABOSE VS ITO.

Interest Received From Debtors Not On Account Of Late Payment/Or As Penal Interest Will Be Regarded As Ifos In The Hands Of Company.

RADICO KHAITAN LTD.

Interest By Investing The Surplus Money On Public Issue(Deposted Into Bank) By That Company Is Ifos.

SHREE KRISHNA POLYSTER LTD. VS DCIT.

Bonus Share Issued Is Not Deemed Dividen U/S 2(22)(A)

SHASHIBALA NAVANTILAL.MARKET

Value Of Assets Distributed Shall Be Considered As Dividend U/S 2(22)(A);, 115-O Applies ; 10(34) Applies ;Mv Up To Accumulated Profits

CENTRAL INDIA INDUSTRIES LTD.

Loans Advanced By A Co.Engaged In The Money Lending Businees Is Not Deemed Dividend U/S 2(22)(E).

SHIVSUBRAMANIAM.

Companies Are Not Liable To Tax On Normal Dividends Which Are Adjusted Against The Loans Deemed As Dividend U/S U/S 2(22)(E).

WALCHAND & CO. (P) LTD. EVEN REPAID HAS NO RELEVANCE.

If Accumulated Profits Exceeds The Loan Then Entire Amount Is Deemed Dividend U/S 2(22)(E).

ARTI DEBI.

Persons May Be Given Loan Any Times (As We Know Repayment Has No Effect)But He Or They Are Taxable Only To The Extent Of Accumulated Profits

G. NARSIMAHAN.

U/S 2(22) Share Holder May Even Be A Corporate Entity Whether Closely Held Or Widly Held.

SADHANA TEXTILES MILLS(P) LIMITED.

Every Payment On Behalf Of Shareholder And Any Payment Indirectly Is A Deemed Dividend U/S 2(22) (E).

SRINIVASAN.

Accumulated Profits Are The Accounting Profits Not The Assessed Profits Ie. Agriculture Profit Also Includible If Accumulated.

P.K. BADIANI

Capital Gain Arise On Redemption Of Preference Shares U/S 2(22)(D)

ANARKALI SARABHAI. SC

Prize Money On Unsold Tickets Is Business Income Of Lottery Agent ;So No TDS Also

DIRECTOR OF STATE LOTTERIES.

Interest On Moneys Borrowed And Kept For Short Term Investments Is Ifos

BOKARO STEEL LTD.

Embezzlement Is Also A Deemed Dividend To The Extent Of Accumulated Profits.

G. VENKATRAMAN.

Deductions: ----

Donation In Kind Not Qualify For The Deduction U/S 80g

RAMA VERMA

Donation Paid To Trust Wholly For Religious Purpose Is Not Qualify For The Deduction

UPPER GANGA SUGER MILLS LTD.

Interest On Securities U/S -2, Subsidies From Govt., Dividend Etc. Earned By A Co-Operative Society Carrying On The Banking Business By Transactions With Non Members Is Eligible For Deduction U/S – 80p(2)(A)(I). But Interest From Non Members Is Not Qualified .

RAMANATHPURAM DISTT. CO-OP CENTRAL BANK.

U/S 80p(2) Or (1) :- Interest On Govt. Securities / Deposits Is Also Eligible For Deduction Whether Held As Sit Or Not But Purpose Should Be Banking And In Compliance With The Statutary Provisions.

KARNATKA STATE CO-OP APEX. BANK.

Selling Of Auto Rickshaws To Members On Hire Purchase Basis (Interest) The Deduction Is Not Available

MADRAS AUTO RICKSHAW DRIVERS CO-OP SOCIETY SC IN CIT

80p(2)(D) Deduction Only On Interest Which Is Includes U/S 80 Ab

DUGADH UTPADAK SANGH LTD.

Cold Storage Entitled To Deduction U/S 80p

DISTT CO-OP FEDERATION.

Ifos Interest Earned On Fdr Cannot Be Treated As Income Derived From Exports Of Sez Unit.

SHAMS TABRAJ VANTI

Leave Encashment On Vrs Is Fully Exempted

DP MALHOTRA VS. BOMBAY HIGH COURT IN CIT.

Tax On Lottery Is Paid On Receipts

ARVIND SOOD.

Interest On Deposit With Electric Board Is Not Business Income & Not Entitled To Deduction U/S 80 Ib

PANDIAN CHEMICALS

Duty Draw Back Shall Not Be Treated As Incomeas Derived From Industrial Undertakingand Assessee Cannot Claim Deduction U/S 80 Ia , 80 Ib.

Clubbing _

Relationship Should Exist At Both The Times 64(1)(Vi)

PHILIP JOHN PLASKET THOMAS

Income From Trust For The Benefits For Children Minor Only Is Not To Be Clubbed.

KJ RAMASWAMY/ 2 / MR DOSHI

Clubbing Of Agriculture Income Subject To Provisions Of This Act Ie. For Determining The Rate Of Tax.

SURESH CHANDER TALERA VS. UNION OF INDIA.

Income On Income Is Not To Be Clubbed/ But Capital Gain On Assets Transferred By The Transfree Spouse Is To Be Clubbed

SEVANTILAL MANEKLAL SETH

Even Income From The Changed Form Of The Taxable Asset Will Be Clubbed As Per Explanation To Section 64

MOHINI THAPER.

If The Property Is Transferred By The Karta of HUF I.e. Gifting The Coparce nary Property To His Wife Then No Clubbing.

L.HIRDAY NARAIN.

Income For The Purposes For Clubbing Includes Losses. Explanation - 2 To Section 64 Set Off The Business Loss On Business Income Of Minor / Spouse Which Is Clubbed As Per The Provisions Of This Section.

P. DORAISWAMI CHETTY.

Share Of Income Of The Wife Of Assessee If Wife Was A Partner In A Firm In Representative CapaCity As Karta Of HUF Is Not To Be Clubbed In The Income Of Assesse.

SMT RAVA BAN B. MISTRY

Assessee Pays Premium On The Policy In Wife's Name Under MWP Act 1874 & On Maturity Interest On Investment Made Out Of Proceeds Of Policy Will Not Be Exempted And Will Be Clubbed In Husband's Income

DAMODAR K SHAH.

Note ------- Income Of Professional Spouse Is Not To Be Clubbed

Cross Gifts To Daughters In Laws Liable To Be Include In The Partners Income

OM DUTT VS. P&H HC IN CIT.

Clubbed Income Shall Be Retained Under The Same Head

JH.GOTLA SC

Set Off------__ Section.- 78 On Death, Legal Heirs Can Carry Business Of Partnership Firm & Can C/F Losses But Not Cannot C/F Unabsorbed Dep. U/S 32(2)

MADHUKANT MEHTA.

78(2) Successor Can Carry Forward Losses Of Predecessor If Only Inherited And Any Other Form Of Transfer Of Ownership Is Irrelevant Consider Sections 72a, 72aa, 47(Xii), 47(Xiv)(Iii)(Iv)

SAROJ AGGARWAL.

Section – 78 CDBT Has The Power To Condone The Delay In Filing Return Of Loss.

ASSOCIATED ELECTRO CERAMICS.

Loss From Any Source of Income Which Is Exempted U/S – 10 Cannot Be Set Off.

THYAGARAJAN (S.S.)

Damages For Breach Of Contract Is Not A Speculation Loss

SHANTILAL

Section Does Not Restrict C/F Of Unabsorbed Depreciation.

CONCORD INDUSTRIES LIMITED.

Loss From Non taxable Source Cannot Be Set-Off

HARPARSAD AND COMPANY.

Where Carry Forward Losses Cannot Be Set Off In The Immediately Succeeding Year It Cannot Be C/F Further.

B.C.S.K. CHIT FUND & FINANCE COMPANY. CIT IN P&H H.C.

78(1)(2) C/F And Set Off In The Case Of Change In Constitution Due To Retirement Then Proportionate Share Of Retired/ Deceased Only Not To Be Carry forward.

MADHUKANT M. MEHTA.

Agri Income Rule -7 Manufacturing Of Sugar From Sugarcane Produced By The Assessee From His Own Land The Rule -7 Applies.

AROORAN SUGARS LTD.

Sale Of Spontaneously Grown Forest Trees Does Not Constitute The Agri Income And Also Not Taxable

MAHARAJA DHIR RAJ SRI KAMESHWER-------- MUSTFA ALIKHAN

H U F :-______________

There Should Be 2 Members Left To Constitute HUF May Be Females (Partition Should Not Exist)------------- Duties Of Ito To See That Properties Are Fully Partioned And In The Definite Proportion Th The Time Of Partition.

LAKSMI CHAND BAIJNATH.

Gift By Karta Bona Fidely To The Daughter Wife On Occasions Then It Is Regarded As Eligible Transaction

R. KUPPAYEE IN SC.

Salary Paid To Karta Bona fidely Is Allowable As Deduction

JUGAL KISHORE BALDEO SAHAI.

Sum Received From The Impartible Estate Is Also Exempted U/S 10(2). However Income Of Impartible Estate Is Taxable In The Hands Of Holder Of Impartible Estate.

Where Property Inherited By The Son Then He Is Assessble As Individual Capacity Not At The Status Of Karta Of That HUF

DR. H.N. MEHROTRA –

Note :- Effect Of The Partial Partition Under Section [U/S 171(9)] The HUF Continued To Be Assessed As Such,
:- Partner At Individual Capacity Means :- They Are Partners At The Personal Capacity And Not On Behalf Of Others I.e. HUF.Etc. If Karta Have The Property In The HUF And He Is Partner On Behalf Of HUF And He Uses The Property For The Business Of The Firm Then Av U/S 22 Of Such Property Will Not Be Taxable In The Hands Of The HUF Because It Is Used For The Business.

Son Received The Compensation After The Deceased Of The Karta Will Be Assessed As Individual Capacity Of Sons.

DELHI HIGH COURT VS. BANSI DHAR & SONS

Firms::---------------------------

A Firm Cannot Be Partner At Any Capacity

DULICHAND LAXMI NARAYN

Remuneration Paid To Individual Who Is Partner In The Firm In Representative Capacity Of HUF Then Such Remuneration Cannot Be Regarded As The Payment To HUF If Paid For His Skill And Such Remuneration Cannot Be Regarded As The Income Of The HUF Also Section 40 (B) Applies On Such Remuneration And Such Remuneration Is Assessed In the Hands Of That Individual Whether He Is A Representative.

RASIK LAL & COMPANY

In Some Case Swhen Skill Etc. Is Not Involved Then HUF Is Liable For Tax For Such Remuneration

K.S. SUBBAIAH PILLAI

Explanation (2) To Section 40(B) Loan Paid On Individual Capacity, Partner Entitled To Interest Without Any Bar U/S 40(B)

BRIJ MOHAN DAS LAXMAN DAS VS. CIT.

Partner Deed Should Specify The Exact Profit Sharing Ratio Other Wise Interest & Sallary Will Be Disallowed

J.K.DOSHI

Remuneration Is Not Admissible Unless It Is Specified And Quantified In The Definite Manner Under The Partnership Deed.
Also Bonus Commission And Salary

KAJAH COMPANY

Where Firm Dissolved U/S 187 And Reconstituted Then Regarded As Succession For The Purpose Of Section188 And Only One Assessment Is To Be Made.

HINDUSTAN MOTORS FINANCE CO.

If The Partnership Deed Specify That Firm Will Dissolved On The Death Of The Partner, Then Reconstituted Then Two Assessments Will Be Made

AYYANARAPPAN CO.

Charge Is Created On The Firms Income By The Overriding Title Is Allowed As Expenditure N.B.B. & Sons.Insurance Premium Paid On The Lives Of The Partner Is Disallowed.

KHODIDAS MOTIRAM.

45(4) Stock Shall Be Valued At The Fair Market Value Price At The Time Of Dissolution And Surplus Shall Be Taxed In The Hands Of Firm As The Business Income [Final Settlement Ie. If Only Discontinued & Nothing Ells]

ALA FIRM IN SC.

Upon Retirement Or Death If Business Continues After Dissolution Then Sit Shall Be Valued At Cost Or Mp Which Ever Is Less; And;For Other Assets ,If Partnership Deed Specifically States That Firm Would Not Get Dissolved On The Death Of The Partner Then On Transfer Of Other Assets To The Reconstituted Firm Would Not Attract The Capital Gain Tax (Otherwise Other Assets Will Be Considered At Their Market Values And Capital Gain Will Be Taxable.)

SHAKTI TRADING COMPANY.

When Stock Is Taken over At The Cost By One Of The Partner Who Continues The Business As A Proprietary Concern Without Any Revaluation Then No Profit Arises In The Hand Of The Dissolved Firm.

CHUNILAL KUSHAL DAS PATEL.

Companies--------------:-

Cases Are Up To Nov. 2007. Only Income Tax Is Added Back U/S 115jb, No Interest on Income Tax. And 115 Jb Applies To Foreign Companies Also. Fertilizers & Chemicals

TRAVANCORE LTD.

Company Even Liable To Pay Advance Tax On The 115-Jb Profits.

KOTAK MAHINDRA FINANCE LTD.

Book Profits As Per Audited Financial Statements Will Be Final.

APOLLO TYERS LTD.

Book Profits Cannot Be Increased By Adding Back The Provision For Bad & Doubtful Debts Since It Is Not An Unascertained Liability

EICHER LIMITED.

Amount Of Brought Forward Losses Or The Unabsorbed Depreciation which Ever Is Less (As Per Books Only) Is Deducted From The 115-Jb But Loss Shall Not Include The Depreciation.

RASHTRIYA ISPAT NIGAM

Note—Both To Be Carried Forward Separately Considering The Every Year Adjustments.

Co-Operative Society :-------------------

100% Of Deduction Only Available Where The Income Is From The Activities Specified U/S 80P(2) And Any Activity Which Is Not Specified Then Deduction Shall Be Reduced, And Remaining Will Be 100 % Allowed Net Estimated By The A O.

CO-OP CRANE UNION.

If The GTI Includes The Exempted Activity Then Only Net Income I.e.[Exempted Income – Expenses To It]Will Be Allowed As Deduction

GANDEVI TALUKA KHEDUT.

Mere Income By The Investment In The Govt Securities Lying In The Scheduled Banks Is Not Exempted Subject To The Provisions Of Section 80P(2)(C)

MP CO-OP BANK LIMITED VS. ACIT.

Interest On Securities Earmarked For The Reserve Fund Or Gratuity Fund Is Not Exempted So Purpose Should Be Banking

JILA SAHIHARI KENDRIYA BANK MARYADIT.

In case The Interest On Govt Securities, FDR Interest With Other Banks, Locker Rents Etc. Are Exempted Under Section 80p(2); Income From Collection Of The Electricity Charges On Behalf Of The Elec. Company Is Also Exempted; The Nexus Should Be Banking.

SURAT DIST. CO-OP BANK LTD. VS ITO.

Credit Facility Only By Way Of Money Is To Be Considered Section 80p(2)(A)(I)

CORAL MILLS WORKERS CO-OP STORES LTD.

[Now Co-Op Banks Shall Not Be Eligible For Deduction U/S 80(2)(A)(I)But Some Exceptions Are Primary Agriculture Society Having Not Any Member As Co-Op Society And Rural Development Bank. For These Deduction Is Available.

Section 80P(2)(Iii) Marketing Of The Agriculture Produce Of Its Members Referred To Only Direct Agri Produce Not Processed Agri Products.

SOUTH ACROT DISTT. CO-OP SUPPLY & MARKETING SOCIETY.

UNRelated Activity I.e. Rent Of Building Etc Is Taxable.

KERELA HIGH COURT IN CIT VS. KOTTAYAM DIST.CO-OP BANK LIMITED.

Some Notes :- Adhoc Deduction U/S 80P(2)(C)(I)(Ii) Rs. 50000/Rs. 1 Lakh.----Interest Received From Other Co-Op Societies For Giving The Loans (Not As Co-Op Bank) Shall Also Be Allowed U/S 80p(2)(D)

Trusts --

Advancement Of Object Beneficial To Public Or A Section Of Public As It Is Distinguished From The Individual Or Group Of Individual: Would Be Charitable Purpose

ANDHRA CHAMBER OF COMMERCE.

File Audit Report Before The Completion Of The Assessment But Exemption Is Only Available When Audit Report Is Filed

ANDRAPRADESH STATE ROAD TRANS PORT CORPORATION.

A Charitable Trust Can Be Created By Words But Something Like Deed Should Be There

SANT BABA MOHAN SINGH TRUST.

Purchase Of Capital Asset Is Also Allowable As Application

SRCMT TIRUPANI TRUST.

Repayment Of Debt Is Application

JANMBOOMI PRESS TRUST.

Expenses For Carrying Out The Object Of The Trust Is Application

BIRLA JANHIT TRUST.

Loans Advanced By An Educational Trust To Students For Higher Studies Only Is Application (When Returned Then Income)

COOTCHI MEMON UNION.

Depreciation Is Application Even That Capital Asset Fully Allowed As Application

INSTITUTE OF BANKING PERSONNEL SELECTION.

Creation Of Liability Whether For Donation To Other Trust Is Allowable.

TANTHI TRUST.

Fixed Deposits With Public Sector Companies/ Banks Amounts To Acquisition Of Fixed Assets If For The Purpose.

EAST INDIA CHARITABLE TRUST.

Trust Can Be Created By The Book Entries Vesting Rights Madhav Parsad Jatia.Excess Expenditure Can be Carried Forward To The Subsequent Year

MAHARANA OF MEWAR CHARITABLE FOUNDATION.

Where The Primary Objects Are Charitable Then Exemption Cannot Be Denied If The Subsidiary Objects Are Not Charitable , But Non Charitable Objects Intended To Sub serve The Religious And Charitable Objects.

YOGRAJ CHARITY TRUST

Mutual Associations--------------------

Section 44A All The Conditions Should Be Satisfied

GENERAL FAMILY PENSION FUND.

Club Is Taxable For The Non Members.

RAJ PATH CLUB .

Transfer Fees Received By The Co-Op Society Is Mutual Activity.

DIT VS. ALL INDIA ORIENT BANK OF COMMERCE WELFARE SOCIETY.

Advance Rulings-------------------------

No Advance Ruling Can Be Sought By A Resident In Respect Of His Own Tax Liability

TANGIRALA RAMASARAMA VS.AAR

A NR Company Cannot Seek The Advance Rulings On The Question Relating To Loan Transactions Between Two Indian Subsidiaries Companies. X Ltd.

NETHERLANDS VS AAR.

Advance Rulings Can Be Sought Only By In Respect Of Transactions Undertaken Or Proposed To be Under Taken By A NR. The NR Company Cannot Sought Ar On The Question Relating To tax Liability Of The Indian Company.

CONNECTERS CLINCH S.A. VS AAR.

Issue Involving The Transfer Pricing Cannot Be Soughted

INSTRUMENTARIUM CORPORATION. VS AAR.

If The Question Raised Before The AAR Are Not The Same As Pending Before Any Income Tax Authority or The Tribunal Or Court Then Disqualification Is Not Attracted

ROTEM COMPANY VS AAR.

Applicant May Not Be The NR At The Time Of Filing Of Application

ROBERT W. SMITH. VS. CIT

An Application Can Be Dismissed Only If The Issue Is Already Pending Before An I T Authority, ITAT, Court And Filed By The Same Person, Another Party's Application To That Case Cannot Be Rejected.

ERRICSSON TELEPHONE CORP. INDIA. VS AAR.

NR------------------

NRI Not Entitled To The Deduction- Vi A If Liable To Pay Tax U/S 115 E

K.C. JOHN

NRI Residing In UAE Liable To Pay The Cg Tax On The Transfer Of Shares Held In The Indian Company.

ABDUL RAZZAK A MEMON

DTAA--------------------

U/S 90(2) In case Of Conflict Between The Income Ta Act And The Provisions Of DTAA Then The Provisions Of DTAA Would Prevail Over The It Act

P.V.A.L. KULANDAGAN CHETTIER.

Unilateral Relief Consider Via (Vi)

DR. R.V. JHANGI

P.E. Should Be There

SPECIALITY MAGZINES(P) LTD.

NR--------

Financial Investment Institutions U/S 115 Ad Not Entitled To Opt Out Of The Provisions Of The Section 115 Ad, And Cannot Claim The Benefits Of Indexation For Computing The Capital Gain/Losses For Investment Activities In India.

UNIVERSITY SUPER ANNUATION SCHEME LTD.

Sale Of Shares By NR To NR Held In Indian Company Is Taxable To

CAPITAL GAIN TAX. ANURAG JAIN

B I R Provided Through The Internet And Royalties Etc. Received, Then Foreign Company/ NR Is Not Liable To Any Tax In India Because Open To All Subscribers.

ABC LTD 284 ITR. VS. AAR.

Business Reconstruction-------------------------

Amalgamation Company Is Not Liable To Tax For Bad Debts Recovery; Other Recoveries U/S 41(1) Are Taxable.

P.K. KAIMAL.

New Bad Debts Are Allowed As Deduction After Reconstruction.

VEERABHADRA RAO.

Tax Planning--------------

Avoidance Of Tax Is Permitted Within The Framework Of Law.

MC DOWELLS & CO. LIMITED VS. C.T.O.

TDS.--------------------------

Guaranteed, Monthly Payment Made By The Financer To The Investor And Falling U/S 2(28) Then TDS U/S 194 A

VISHVA PRIYA SERVICES & SECURITIES LTD.

Where The Tax Has Been Already Recovered From The Payee, It Is Not Open To The Deptt. To Recover The Same From The Deductor.

MAHENDRA & MAHENDRA LTD.

Section 194 A When A Trust Is Assessed As Individual U/S 161, It Cannot Be Liable To Deduct Tax Under This Section.

ARIHANT TRUST.

TDS Can Be Deposited From The Any Office Of The Assessee

LARSON & TUBRO LTD.

U/S 192 Decree Compensation Paid By The Employer For The Wrongful Termination Is Valid Even TDS Not Deducted; Even Any Compensation Containing Arrears.So Nom Need To Deduct TDS Under This Section.

ALL INDIA PROPERTIES VS. RAMCHANDRA D. DATAR.

Interest On The Compensation For The Land Acquisition Then TDS Is To Be Deducted. Section 194 A .

STATE OF MP ADJ VS. PARWATIBAI.

MACT Compensation Exceeding (Interest Portion) Exemption Limit Then TDS Is To Be Deducted.

UNITED INDIA INSURANCE VS. MITABEN DHARAMESHVHAI SHAH.

Supply Of Printed Labels By The Printing Company Is A Sale And Not A Works Contract U/S 194 C.

BDA LTD. VS. I.T.O. SECTION - 194 H.

TDS Is Not Applicable In Case Of Discount Given On The Principal To Principal Basis

HINDUSTAN COCA COLA BEVERAGES (P) LTD.

Section 194 H   If Only Ware House And Land Related To It Is Provided Then TDS Is To Be Deducted.

194 J Payments For Fees For Use Of A Standard Facility Provided Is Not A Technical Fees.

SKY CELL LTD.

TDS On Interest U/S 194 A Is To Be Deducted On The Gross Amount & Not On The Mutual Adjustments.

SK SUNDARARMIER & SONS.

Section 206c Licence Fees Paid To The Govt For Permitting The Licence To Carry On The Liquor Business Is Not Covered U/S 206c & No Liability To Collect Tax Source.

OM PARKASH & CO..

Tax Is To Be Collected At The Cost Price Of The Liquor & Not On The Excise Duty Inclusive

UOI. VS. HARVANSH & SONS.

Limit of Rs. 2500 Applied To Each Payment U/S 194 Bb

ROYAL CALCUTTA TURF CLUB.

Agriculture Produce Cultivated By The Assessee In Forest Attracts The 206c.

A.P. FOREST CORPORATION.

Consultancy Services Used In India Attracts Section 195.

SOUTH WEST MINING LTD.

Once Penalty Imposed U/S 271 C Then U/S 272 A(C) & (G) It Cannot Be Imposed.

SHRI RAM MEMORIAL EDUCATION SOCIETY.

Payment In The Kind Then TDS Is To Be Deducted U/S 195 , 194 Bb

KANCHANGANGA SEA FOODS LTD.

No TDS For The Retainer ship Fees Or The Commission Payable To NR Entities On The Export Earnings.

INDIA TELESOFT (P) LTD.

Advance Tax-------------

Payment By The Cheque Would Be Date Of Presentation Of The Cheque If It Were Not Dishonoured.

OGLE GLASS WORKS LTD.

Interest---------------If The Return Filed Belatedly But Tax Is Paid U/S 140 A Before Due Date Then No Interest U/S 234A Is Levible.

DR. PRANNOY ROY.

Section – 234B Settlement Commission Has No Power To Reduce Interest Payable U/S 234B For Default In Payment Of The Advance Tax.

SANT RAM MANGAT RAM JEWLLERS.

Section 220(2): Assessee Is Entitled To Interest If Interest Paid Under This Section Becomes Refundable Subsequently.

MODIPON LTD.

Interest On The Delayed Payment Of The Interest Is Allowed & To Be Given (If On Advance Tax)

R.K. JAIN & SONS.

Liability In Special Cases ---------

Before Passing Any Assessment Order For Any Proceeding The Legal Representative Even One Of Them Must Brought On Records Otherwise Assessment Held Void-ab-intio.

R.C.JAIN-----J.P.SINGH.

Penalty Proceeding For The Default Committed By The Deceased Can Be Initiated And Continues Against The LR Including The Penalty On His Own Default Section 159(2).

SMT. TAPATIPAL.

Amount Received By The Executer After Deceased Of The Profession Cannot Be Taxed In The Hands Of The Executers U/S 168 Or Clubbed With The Estate But Executor Is Separately Liable For Tax For Such Fees.

ESTATE OF LATE AV VISHAVNATH SHASTRI.

Liability Of Directors Of Private Company U/S 179 Arisen Only When Co. Unable To Pay The Arrears Of Tax.

U O I. VS. DIPAK DUTTA.

Section -170 If The Predecessor's Office Etc. Available Then He Is Liable For His Portion Of Income.

TACALEMIT INDIA LTD.

Wealth Tax ----------------------------::::::--

Motors Cars Covers All The Motor Cars Other Than Heavy Vehicles, Includes Matadors.

SOUTHERN ROADWAYS LIMITED.

Life Interest In The Property Is Also Asset.

JAI BAHADUR CHAMLI JAN

Right To Wear Jewellery On The Ceremonial Occasions Vested To Any Beneficiary Of The Jewellery Fund Cannot Be Considered Property

S.B. ANWER BAGUM.

God Seized By The Custom Authorities But Not Confiscated On The Valuationdate, The Market Value Of Such Gold Is Includable In The Nw.

JAYANTILAL AMRIT LAL.

Un built Area Or Unfinished Area Of Building May Be Treated As Land But Cannot Be Treated As Buildings.

PREM NATH MOTORS.

Assets Transferred U/S - 4 May Change The Form & Such Changed Form If Falls U/S 2(ea) Then Includable In The Net Wealth Of The Transferror.

M.G. KOLLANKULLAM.

Accretion To The Assets Transferred Shall Not Be Covered U/S – 4 A.

VENKATERWARAN.

U/S 4(7) If Member's Interest In The Open Plot Of Land Belonging To That Co-Op Society, Is Not Includable In The Nw Of The Member.

KISHORE .B. SETALVAD.

Trust Created For The Charitable Purpose Only For The Benefits Of The Family Members Of The Settler Is Not Entitled To The Exemption U/S 5(I).

GORDHAN DAS GOVINDRAM FAMILY CHARITABLE TRUST.

U/S 5(i) It Is Not Necessary That The Property Must Be In India But Charitable Purpose Must Be In India.

TRUSTEES OF H.E.H THE NIZAM PILGARIMAGE MONEY TRUST.

Ex-Rulaer U/S (Iii) If A Palace Have Many Residential Units And Some Of Them Are Let Out Then For That Portion No Exemption Is Available.

MOHAMMAD ALIKHAN.

Exemption U/S 5(Iii) Is Available Even Though The Palace Was.

RECONSTRUCTED VIRAWALA SURAJ WALA.

U/S 5(Iv) If The Ex-Rular Has Already Opted House For The Exemption He will Not Entitled To The Exemption To The Another House..

GAJ SINGH.

U/S 5(V) It Requires The Residence Of Long Duration Outside The Country.

PERIANNAN.(V.E.)

(Funds Brought To India) This Exemption Does Not Extended To The Income Or Interest Earned Out Of The Use Of The Aforesaid Funds In India.

DR. MRS. ISSAC.

Exemption Is Not Available In Respect Of Assets Purchased By An Assessee Out Of The Money Remitted From Abroad By The Others.

NOORJAHAN JAMAL.

The Assessee Had Admittedly Purchased A Car , Merely Because In View Of Some Dispute With The Seller, It Had Not Been Registered In Assessee's Name , He Could Not Take A Plea That Car Was Not Includable In Its Taxable Wealth

OSWAL CHEMICALS & FERTILIZERS LTD.

Exemption U/S 5(V) Will Be Available Even On Coverted Assets.

K.O.MATHEWS.

Section 5 (Vi) Exemption Is Available For One House Whether Residential Or Commercial Let Out Or Self Occuipied,, (Schools, Godowns No Question Of Exemption)

MAHAL CHAND PANDIA.

Several Self Contained Units Which Are Contiguous And Situate In The Same Compound And With The Common Boundaries And Having The Units Of Structure Could Be Regarded As The One Building Even If Four Showrooms Had Different Municipal Numbers.

SHIV NARAYIN CHOUDHARY.

Cinema Halls Cannot Be Regarded As House But Entitled To Exemption As Complexes.

BHAGWATI AMMAL.

Section 7(2) The Words Exclusively Used For The Self Occupation Do Not Mean The Assessee Should Have Actually Lived In The House For The Entire Prescribed Period, But It Should Not Have Been Let Out.

MUTHU ZULAIKHA.

The Delay In Filing The Income Tax Return Cannot Be An Automatic Reasonable Cause For The Delay In Filing Of Wealth Tax Return.

MAHARAJA ARMINDER SINGH.

Belated Return Cannot Be Revised U/S 15, However Return May Be Revised If Not Belated As Per The Legal Provisions.

JAGDISH CHANDER SINGH.

Wealth Tax Of The Deceased To Be Paid By His Executors, Administrators Or Other Legal Representative Section – 19

KESHUB MAHINDRA.

The Legal Representative Of The Deceased May Be Called Upon To Produce Any Document

V. VARADARJAN.

Penalty U/S 18 Cannot Be Imposed On The Legal Representative As Section 19(3) Does Not Cover Section-18.

H.S. CHAUHAN.

Where Under The Trust Deed, The Purposes For Which The Property Could Be Put To Use Were Not defined To The Charitable Or Religious Purpose And The Property Could Be Used For The Social, Cultural And Allied Purposes At The Discretion Of The Trust Then The Trust Was Not Entitled To The Exemption U/S 5(I)

GANGA BAI CHARITIES.

Note—Exemption Only One House 5(Vi) To The I & HUF Only ; If The Director Has The Gross Annual Salary Of Rs. 5 Lakhs Or More Then No Exemption

There Is No Need To Seek The Permission From The A.O. Regarding The Revised Return U/S 15

WAMAN PADMANABH.

If The Omission Or The Wrong Statement Is Discovered By The Department As A Result Of The Inquiry And There After A Revised Return Is Furnished Making The Amendments, That Will Not Amount To The Revised Return.

F.C. AGGARWAL.

Income Tax Refund---

By Virtu Of Power Conferred On The CDBT U/S 119(2)(B) It Is Fully Competent To Admit An Application For The Refund Even After The Expiry Of The Period Prescribed U/S 239 For Avoiding The Genuine Hard Ship In Any Class Of Case.

JASWANT SINGH BAMBHA.

When The Order Of The Assessment Is Set Aside Ten Assessee Is Not Entitled To Any Claim On The Self Assessment Tax And Advance Tax , He Can Claim Only The Excess Of The Advance Tax Etc/ TDS On Tax Liability Only.

SHELLY PRODUCTS & OTHERS.

Interest Paid By The Assessee U/S 220(2);But The Same Was Become Refundable Then He Is Entitled To The Interest On Interest Of Only Section 244A Not 240 & 244.

MODIPON LTD.

Interest Is Not Required To Be Paid U/S 220(2) If The Assessee Firstly Paid The Demand U/S 156 And Afterwards It Is Refunded But Again Demanded U/S 156 & Deposited U/S 156.

VIKRANT TYERS LTD.

Note--------------------------- Intimation U/S 143(1) Is Also A Notice Of Demand And Assessee Has To Pay Within The 30 Days Other Wise Along With Interest U/S 220(2) --------------- Successor Is Also Entitled To The Refund.

Section 234C Interest Is Not First Return Not Revised Return.

SOUTH ESTERN COAL FEILDS LTD.

220(2) Interest Is Payable Even On The Fresh Notice Of The Demand.

B.INDIRA IRANI.

Settlement Commission Can Grant Relief For The 234 A/B/C And CBDT Can Waive It.

M.H. GHASWALA.

No Interest U/S 234 A/B/C On The Enhanced Interest/Compensation Income Whether Bifurcated To The Previous Years (Provided The Enhanced Interest's Tax Paid U/S 156.

ASHWANI DHINGRA. CCIT.

Refund Due To The Firm Cannot Be Adjusted Against The Tax Of The Partners .

HIRA LAL & SONS.

---------- Note ; Refund Due To Any Order Passed Under Any Proceedings Or Appeal,-- Interest On Refund When No Claim Is Needed

Interest U/S 244 Is Payable In All The Cases , If Any Refund Is Due Under Section 240 From The Expiry Of 3 Months Of The Date On Which Refund Is Granted By The Court Etc. & 15 % P.A. Even Without Claim Is Refundable Clearly Mentioned In Section.

DDA VS CIT IN SC.

Refund And Interest U/S 244(IA) Cannot Be Withheld By The Department On The Ground That Appeal Is Pending Before Court , After The Order Of Refund Has Been Passed.

HANSA AGENCIES (P) LTD.

And Proviso (a) Section 240 If The Fresh Assessment Was Made And Any Refund Becomes Due Then Interest Will Be Calculated On The Basis Of The Fresh Assessment Order.

CHITOOR ELECTRICITY SUPPLY CORPORATION.

Penalties And Prosecution-----------------------------------

Recording Of The Satisfaction Necessary For The Levy Of Penalty U/S 271(1)(C)

VIKAS PROMOTERS.(P) LTD.

Mere Omission then No Penalty U/S 271(1)(C)

ASHIM KUMAR AGGARWAL.

Penalty U/S 271(1)(C) Cannot Be Imposed On The Official Liquidator.

POLY STEELS (INDIA) LTD.

Filing Of The Revised Return Before The Detection By The A O Then No U/S Penalty U/S 271(1)(C)

SHRI RAJARAM CLOTH STORE.

Provisions Of Section 269 Ss Not Applicable If The Payment Is Made By A Partner To The Firm.

SREEPACK ENTERPRISES.

Even On The Transactions Between The Family Members, Section 269 SS Applies.

DR. DG PANDA.

Share Application Money Till Allotment Or Refund Is Considered As The Deposit U/S 269 Ss

BHALOTIA ENGINEERING WORKS.

Settlement Commission-----------------------------

Smc Can Grant The Immunity Under All The Central Acts But Not Levy Of Penalty Under The State Legislation.

P T ANTONY & SONS

SMC Can Review Its Own Order

OM PARKASH MITTAL.

Income Tax Authorities.---------------------------------------

Circulars Issued By The CBDT Prejudicial To The Interest Of The Assessee Are Bad In Law And Not To Be Held Valid

UOI VS. AZADI BACHAO ANDOLAN.

Entry Into The Business Premises Must Be During The Business Hours And Can Be Continued After The Business Hours.

N.K. MOHNOT

Assessment Procedure------------------------------------

Loss U/S 72, 74, 74a Can Be C/F Only If The Return Is Filed U/S 139(1)

EAST ASIATIC CO.

Return Can Be Revised Many Times Within The Prescribed Time.

NIRANJAN LAL RAM CHANDRA.

Revised Return Substitute The Orignal Return

DHAMPUR SUGAR MILLS.

Section 139 (5) Omission / Mistake Should Be Found By The Assessee Himself To Make The Revised Return

HAZI P MOHMMAD.

Return Unsigned Is Invalid And Void ab Initio.

KRISHAN LAL DAYAL.

15 Days U/S 139(9) May Be Given In The Fresh Assessment

SEEYAN PLY WOODS.

143(1) Is Not The Assessment So 246 A , 264, 263 Not Applicable

MANAK RAM & COMPANY / HILTOP HOLDING INDIA LTD.

But Contrary View Has Been Taken By The Bombay Hc In The Anderson Marine & Sons (P) Ltd.

Before Passing The Order U/S 142(2A) Assessee Must Be Given An Opportunity To Be Heard Before Giving Direction To Get His Accounts Audited.

RAJESH KUMAR &OTHER.

Report Of The Valuation Officer Is Only The Opinion So Reassessment U/S 147 Can't Be Opened After The Period Of 4 Years.

HOTAL MOUNT VIEW.

A Fresh Notice To Be Served When The Status Changed For The Assessment U/S 143(3).

ASSOCIATED CEMENT & STEEL AGENCIES.

U/S 139 (4), (5) The Belated Return Cannot Be Revised

KUMAR JAGDISH CHANDER SINHA.

Interest On The Moneys Invested From Borrowed Funds Before The Purchase Or Erection Of The Asset That Is Borrowed For The Purpose Of That Asset And Also interest Paid For The Borrowed Funds. Then The Interest Earned Is The IFOS And Interest On The Borrowed Funds Is To Be Capitalised (Section - 57 Does Not Applies.)

CONSOLIDATED FIBRES & CHEMICALS LTD.

Where The HP Is Transferred To The Wife In Lieu Of The Mehar Without Any Registered Deed And The Transfer Is Clear And Wife Paying The Tax And Letting It Then The Income from Such Property Would Not Be Clubbed U/S 64.

SEKH MOHAMMAD ARIF.

Assessee Is Entitled To The Deduction U/S 80C In Respect Of NSCS From The Proceeds Of The PF Received From The Previous Employer.

H.C. VERMA.

Conversion of Paper Into The Laminated Sheets Cartoons Is Manufacture & Eligible For The Deduction U/S 80-IB.

SUPREME GRAPHICS CREATIONS (P) LTD.

Duty Draw Back Is Not The Profit Of The Industrial Undertaking For The Purpose Of Taking The Deduction U/S 10A, 10AA, 80.

RITESH INDUSTRIES LTD.

Assessee Is The Employee Of The Nationalised Bank & Opted For The VRS He Will Get Both The Benefits. I.e. U/S 10(10C) & U/S 89.

SURENDRA PARSAD P .

Where Loans By The Trust To Poor Sections And Becomes Bad Then Amounts To Application

SACRED HEART CHURCH

Assessment Procedure-----------------------------------

Payment By The Post Dated Cheque , It Does Not Amount To The Actual Payment & Books , Because Unrealisable & To Be Rejected U/S 145.

ORIENTAL TEXTILES.

Serve Notice U/S 148 Before The Initiating Any Reassessment Against The Assessee

BRAHAM PRAKASH.

Assessment Cannot Be Reopened On The Basis Mere Change Of The Opinion.

J.P. BAJPAI (HUF).

Search & Seizure-------------------------------

In The Case Of Undisclosed Sales, Only The Profits On The Sales Should Be Treated As The Undisclosed Income

BALCHAND AJIT KUMAR

Interest-------------------

Assessee Is Not Entitled To The Interest On Interest If The Interest Is Not Late U/S 244 & To 240.

SANDVIK ASIA LTD.

Appeals & Revisions---

Non Considering Of The Jurisdictional HC's Decision In The Case Decided By The ITAT , Then ITAT Can Rectify The Order U/S 254 (2) As It Is Mistake Apparent From The Record.

SUBODH CHANDRA S. PATEL.

The Tribunal Cannot Give The Contradictory Decision To The Cases Of Same Classes

ARIHANT BUILDERS , DEVELOPERS, INVESTORS PVT . LTD.

If The deptt. Do Not Challenged The Order Of The ITAT Earlier On The Same Issue , It Cannot Challenge For The Relevant Year.

VIKAS CHEMI GUM INDIA.

The Order Of The ITAT Should Be The Speaking Order.

VIKAS CHEMI GUM INDIA.

Section 263 Is Applicable Even On The Orders Passed By The Ao On The Directions Of The Superior Authority U/S 144A, 144B

T.N. CIVIL SUPPLIES CORPORATION LIMITED.

Disagreement Of The CIT For A Particular View Taken By The AO After The Production Of Relevant Material And Explanation(And Conclusions Made By CIT On That Production By The Assessee) Cannot Form The Basis For The Action U/S 263 For CIT.

ARVIND JEWELLERS.

U/S 263 The CIT Can Correct Both Error Of Law And Error Of Fact, Error Of Fact Should Be Prejudicial To The Revenue.

JUBLICANT ORGANOSYS.

U/S 264 CIT Can Give Relief To The Assessee In The Case Assessee Detect The Mistake (I.E. Not Claim Deductions) After The Assessment Was Completed It Is Open U/S 264 To Hear It Even Not Urged Before The Lower Authorities. Whether It Was The Fault Of The Assessee To Be Over Assessed By Not Claiming The Deductions

PHOOL LATA SOMANI.

Penalties: -------------------------------

No Penalty If The Facts Of The Transactions Are Disclosed And Mistake Is Under The Ignorance & under Bona fide beleif.

CHANDAR PAL BAGGA VS. ITAT.

If The Books Are Impounded By The Department During The Survey but The Assessee Was Supplied With The Photocopies Of The Relevant Documents & Books & Then He Fails To Get His Accounts Audited For The Subsequent Years Within the Relevant Time Period Then Penalty Can Be Levied On Him U/S 271 B

KHUBI RAM OM PARKASH.

Unsigned Show Cause Notice For The Section 271B For The Non Submission Of The Audit Report U/S 44AB. Is A Invalid Notice & No Penalty Can Be Levied

APARNA AGENCY (P) LTD.

The Commissioner Must Give His Reasons While Passing The Order on Waiver Of The Penalty [Section-273 A].

SHRI GANESH TRADING COMPANY.

Section-2(24); 2(22)(e)Money Embezzled Is The Income U/S 17(3) In The Hands Of The Person And Not The Type Of Loan

TRILOKAYA CHANDRA BORA.

Interest, After Allotment Is Completed In All Respect Will Belongs To The Assessee Co.

HENKEL SPIC INDIA LTD.

In Case Of NR No Provision Of Section 9(1) Would Applies If He Join The Meetings In India.

AIRPORT AUTHORITY OF INDIA.

Where The Prime Object Is To Let Out The Property Along With Additional Right Of Using The Furniture & Fixtures Etc. , The Income Is Chargeable As The Av U/S - 22

SHAMBU INVESTMENTS (P) LTD.

U/S -72a The Benefit Is Not Available On The Merger Of Two Co-Op Societies.

RRSS & GINNING MILLS FEDERATION LIMITED. VS. ITAT.

Section 64(1)(iv) Where The NR Gifted The Certain Shares Of The Indian Companies To His Wife And Out Of Those Shares, Wife Sold Some Shares And Earned The Capital Gain Then Income Would Be Clubbed In The Income Of NR.

GOVIND RAM. T. JARANI.

HUF:----------------------------

Property Received Under Will Could Only Be Treated As The Co-Owned Property And Not The Joint Family Property And The Physical Division Is Not Required For The Purpose Of The Wealth Tax , So That Each Co-Owner Would Liable On His Share , It Is Not Possible To Make The Collective Assessment.

SRINIVASAN

Assessment Procedure:- Section 143(2) A Fresh Notice U/S 143(2) Must Be Served On The Assessee If He Furnish A Revised Return U/S 139(5) Otherwise The Fresh Assessment Order Becomes Invalid.

GOPAL DAS PARSHOTAM DAS.

Reference to Wrong Section in the Assessment Order Does Not Vitiate the Assessment.

HUKUM CHAND MILLS LTD .VS STATE OF MP.

Where The Assessing Officer Comes Into The Possession Of The Fresh Information Or New Facts, Which Lead Him To Form A Reasonable Belief That Income Has Escaped The Assessment, He Can Re Open The Assessment.

PHOOL CHAND BAJRANG.

The Information Given By The Audit Party Which Was Not In The Knowledge Of The A.O. Then It Constitute Information For The Purpose Of Re Opening The Assessment. If Only An Opinion On Any Issue Then Does Not Consider,. Nagrath Chemicals Works (P).Reference To The V.O.:- There Should Be The Pending Assessment For The Exercise Of The Power To Communication. i.e. Where A Return Had Been Processed U/S 143(1) & No Notice U/S 143(2) Had Been Issued Then No Reference Can Be Made To The VO In Case Of Completed Assessments.

DR. ARJUN D BHARAD VS. I T O .

Reason For The Re Opening Of The Assessment Must Be Noticed To The Assessee Along With The Notice U/S 148 I.e. Notice Must Be Speaking Notice.

GEHNA VS. U O I

Even The Rectified Order Can Be Further Amended And Time Limit Will Begun From The Previous Rectification

HIND WARE INDUSTRIES LIMITED.

Rectification Of Mistakes U/S 154 May Go To The Root Of The Order

BLUE STAR ENGINEERING COMPANY(P) LTD.

T D S ----------------------------

If After The Completion Of The Year There Found The Short Deduction Of The Tax Due To The Honest And Bona Fide Belief By The Employer And Employee Make Good This Short Fall In His Own Return & Employer Do Not Recover Such Short Fall And So He Cannot Be Penalised. And He Cannot Be Treated As Assessee In Default U/S 201/ 221; (If The A.O. Ultimately Assesses The Higher Salary, Provided His Estimation Should Be Bona Fide)

GWALIOR RAYON SILK LTD.

No T D S On The Interest Payable By A Society To Its Members Whether Registered Or The Associate Section 194 A

JALGAON DISTT. CO-OP BANK LTD. VS U O I

Interest------------------------------

Section 234 A Interest During The Period For Which The Books Of Accounts Were Kept By The Department Should Be Waived, Interest Up To The Date Seizure And After Release And Up To The Furnishing Of The Return Will Only Be Considered.

PARAS BANSILAL PATEL VS. B.M. JINDAL.

Interest U/S 234 Cannot Be Charged Unless There Is A Clear And Specific Written Order By The AO To Charge.

INSILCO LTD.

The Interest U/S 201 (1A) Is Mandatory & Cannot Be Denied

KANOL INDUSTRIES LIMITED. VS A C I T.

If The Assessee Fails To Deduct The TDS U/S 194C But The Contractor Paid The Self Assessment Tax, Advance Tax More Than What Is Required Then Interest U/S 201 (1A)

RISHIKESH APARTMENT CO-OP HOUSING SOCIETY.

Appeals & Revision ------------------------------------

The Period Of Limitation Would Begun From The Second Notice Of The Demand

KARMANI INDUSTRIAL BANK LIMITED.

I T A T Has The Power To Set Aside His Own Orders On The Fraud Based Injections Electric Research Ltd.

The High Court Can't Determine The Issue Not Raised Before The Tribunal

TATA CHEMICALS LTD.

U/S 263 The Revision Can Only Be Made If (A) The Order Of The Tribunal Is Sought To Be Revised (B) Its Order Is Prejudicial To The Interests Of Revenue.

MALABAR INDUSTRIES CO.LTD.

Penalties---------------------------------

The Penalty Will Be Imposed As Per The Law Applicable On The Date Of The Date Of Furnishing Of The Original Return Of Income (Or Revised)

ONKAR SARAN & SONS.

Where The Particular Item Was Not Included Under The Bona fide Belief Then The Penalty U/S 271(1)(C) May Be Waived.

CEMENT MARKETING CORPORATION OF INDIA.

Penalty Cannot Be Waived If The Revised Return Is Filed After The Detection By The A O.

DR. A. MOHAMMAD ABDUL KADIR.

Section – 145 :- The Method Of The Valuation Of The Finished Stock At The R/M Cost Is Incorrect. Every Year Assessment Is Separate Assessment And A O Can Take The Different Views In The Later Years.

BRITISH PAINTS INDIA LTD.

Assessment Procedure---------------------------------------

(A) On Re- Assessment, The Original Assessment Remains And Is Not Wiped – Off (B) The Matters Lost In The Original Assessment, Which Is Not Required To Re- Opened And Acquired The Finality(Ie. No Appeal Etc. Is Filed) Cannot Be Claimed In The Re- Assessment Proceedings. (C) Expenses Not Claim In The Original Assessment Cannot Be Claimed In The Re Assessment Proceedings , However The Expenses Related To The Income Which Has Escaped The Assessment Can Be Claimed.(D) Income Cannot Be Assessed Below The Original Assessment Or Returned Income.

SUN ENGINEERING (P) LTD.

Section -153 The Assessment Or The Reassessment Is An Integral Process Involving Not Only The Determination Of The Total Income , But Also The Determination Of The Tax, Notice Of Demand Also Be Prepared Within The Time Prescribed U/S 153

PURSHOTTAM DAS T. PATEL.

Section271 (1)(C) A.O. Can Levy Penalty Only On The Additions Made By Him & Not On The Additions Made By The C I T (A). And Vice Verca.

ANANTHARAM VEER SINGHAIAH & COMPANY.

If The Accrual System Of Accounting Is Followed , Then Interest On The Additional Compensation Will Be Spread Over From Date The Govt. Acquires The Asset To The Date Court Passes The Additional Compensation.

RAM BAI---/--------- SUTLEJ COTTON MILLS LIMITED .

U/S 251 A Claim For The Deduction Can Be Admitted By The First Appellate Authority Even No Claim Is Made In The Return Filed Or The In Earlier Assessments. I.E. If That Ground Could Not Have Been Raised At The Time Of Filing Of Return Or At The Assessment And Such Ground Become Available To The Ist. Appellate Authority Because Of Change In Law Or Circumstances .

JUTE CORPORATION OF INDIA LTD.

U/S 251 No Claim For The Deduction Can Be Admitted By The Ist Appellate Authority If No Claim Was Made Before The Assessing Officer And There Was No Material On Record Supporting Such Claim, So For, The Assessee Could Have Made A Claim For Such Deduction At The Time Of Filing Of The Return Or During The Assessment Proceedings.

GURJARGRAVURES (P) LTD.

U/S 251 The I T A T Has The Power To Consider Any Ground Raised By The Assessee Or The Department For The First Time Before The Tribunal ,Although It Has Not Been Raised Before The Lower Authorities , An Appellant ‘ Before’ The Tribunal ,Can Urge A New Ground Of The Appeal Only With The Permission Of The Tribunal.

NATIONAL THERMAL POWER CO. LIMITED.

Section 44 B The Tax Paid Under Section172 Will Be Treated As The Advance Tax For All The Purposes, Excess Will Be Refunded To The Assessee If He Opts For The Normal Provisions And The Assessee Is Entitled To The Interest On The Refund Of The Excess Advance Tax Also.

A.S. GLITTER.

Interests Incomes---------------------------

Interests Paid During The Construction Period Is To Be Determined And Capitalised To The Cost Of The Assets To Which It Relates And Interest Earned During The Construction Period Is The I F O S.

TOICORN ALKALI CHEMICALS LTD.

Where He Is In The Financing Business & Subscribed To Un Subscribed Portion Of The Public Issue & Received The Under-Writing Commission, That Commission Is Not The Income But It Reduces The Cost Of Shares.

U P INDUSTRIES DEVELOPMENT CORPORATION

Interest U/S 234 A B C:- -----------------

Interest U/S 234 B Shall Be Charged On Tax On The Consolidated Amounts I.E. Disclosed / Un-Disclosed Which Is Assessed By The Settlement Commissioner Plus Already Disclosed In The R O I ; Interest From The 01-04-2008 To The Assessment Order Passed By The Settlement Commissioner.

HINDUSTAN BULK CARRIERS.

Mutual Concerns-----------------

Income From The Mutual Concerns Is Exempt From The Tax So Far Received From Its Members (All The Receipts Should Be From The Members. I.E. Any Sale To Them , Interests) .

BANIKPUR CLUB LTD.

Temporary Members Are Not Fall Under The Concept Of The Mutuality. Transactions Only With The Members Are Exempt

TRIVENDRUM CLUB.

Deduction----------------------

The Deduction U/S 80-Ia , 80 –Ib Is Available In The Assessment Years In Which Old Plant & Machinery Does Not Exceeds The 20% Of The Total Value Of The P & M , It Is Not Available In The Assessment Years In Which It Exceeds I.E. Every Assessment Year To Be Considered Separately.

SEEYAN PLY WOODS.

Interest 244 A--------------------

Interest On Interest U/S 244 A To Be Granted From The Date Of The Order To The Actual Repayment Of The Interest.

SANDVIK ASIA LTD.

P&G---------------------

Expenses On Issue Of Bonus Shares Is Allowable Expenses U/S 37(1)

G.I.C. LTD.

A P ----------------------

Deduction Can Be Claimed Only Through The Revised Return And Not By Mere Intimation.

GOETZE (INDIA) LTD.

Company-----------------------

Provision For Bad& Doubtful Debts Is Not To Be Added Back

EICHER LIMITED.

P&G---

S I T Seized Is A Trading Loss And Can Be Set Off And Carry Forward (Drugs)

DR. T.A. QURESHI .

No depriciation On The Items Which Are Not Covered By The Section32(2), So Gratuity Taken Over By The Company Is Not Eligible For The Depreciation Even Capital Expenditure.

HOOGLY MILLS CO. LTD.

Once The Net Profit Rate Was Applied No Further Addition U/S 68 To 69 Can Be Made .

AGGARWAL ENGINEERING CO.

Transfer Pricing-----------------------------

The Transfer Pricing Officer Is Expected To Perform The Same Exercise As Envisaged U/S 92 A (3) And Ao Not Bound To Accept The Armed Length Price Determined By Him. He Can Determines Himself.

SONY INDIA LIMITED.

P& G-----------------------------

Donation to A Bus Where The Children Of The Employees of The Assesse Are Studying Can Be Treated As The Expenditure For The Welfare Of The Employees.

RAJSTHAN SPINNING & WEAVING MILLS LTD.

Interest On The Delayed Purchase Of The Shares Already Bought By His Share Broker Is Allowable As Business Expenditure

RAGHAV BEHL.

Section 36[(v), (iv)]Are The Specific Sections ; Contributions To Unapproved Or Non Prescribed & Non-Specified Irrevocable Trusts Is Not Allowed As Deduction.

SONY INDIA(P) LIMITED.

Un Absorbed Depreciation Can Be C/F Even Return Filed After The Due Date.

BRIGADIER PARMANAND .ALLAHABAD HIGH COURT.

Salary Paid By The Assessee Firm Toa Person Representing His HUF Has To Be Disallowed U/S 40(b), Further Also, Salary Paid To The Partners In Their Individual Capacity Who Had Joined Firms As The Partners Representing Their H U Fs Has Also To Be Disallowed

KISHORILAL & SONS

C G -----------------------------

For The Purpose Of Claiming The Deduction U/S 54 F There Must Be The Real Construction Of Residential House, Exemption Is Not Available On The Extension Of The Existing House Or Building.

PARDEEP KUMAR.

A A R ---------------------------------

F I I U/S 115 Ad Is A Specific Section And Overrides The General Provisions Of The Act(I.E. Notwithstanding)So, Section 112&48 Not Applies

UNIVERSITIES SUPERANNUATION SCHEME LTD.

Where In The Case Of Surrender Of Income To Buy Peace But He Was Unable To Offer any Satisfactory Explanation As To Source Of Such Sum, In View Of Explanation To Section 271(1) (C) , Levy Of Penalty On Assessee Was Justified.

KAMAL CHAND JAIN.

Seizure--------------------------------

The High Court Held The Seizure Of Jewellery Invalid and Direct The Department To Pay The Interest (However The Assessee Did Not Demand For The Interest In His Appeal To The H C) Afterwards It Department Refuses To Pay The Interest Then Sc Affirmed That Interest Was Not Demanded.

D G I T VS. DIAMOND STAR EXPORTS LTD.

Company --------------------

U/S 115jb Has Been Held That A.O. Has No Right To Disturb The Book Profits If The Same Is Certified By The Statutory Auditors And R O C. Appolo Tyers Limited

A S- 13 The Capital Profits Is The Part Of Book Profits U/S 115 J B.

VEEKAYLAL.

Dividend------------------------

Amount Withdrawn From The Company Through The Adjustment Of The Debtors Accounts Even Repaid Before The Year End And Debtors Account Again Readjusted And Its Effect On The Year End Becomes Nil Even Then Such Withdrawn Is Deemed As Dividend U/S 2(22) (E).

MISS. P. SARADA.

Even The Advance Given To Be Adjusted Against The Lease Rent Payable To Director (I.E. Company Taken The Building Floor From The Directors) The Advance Is Deemed Dividend U/S 2(22)(E).

P.K. ABUBCKER

Trust--

U/S 11(2) It Is Mandatory For The Assessee Claiming The Benefits Of The Accumulation U/S 11(2) To Intimate The Objects/ Facts/ The Particulars Of The Accumulation of Section 11(5) Under The Provisions Of Rule 17 Form 10 A To The Assessing Officer Before The Completion Of The Assessment (Other Wise He Cannot Claim Deduction)

Any Excess Of The Application Over 85 % Income Can Be Utilised In The Application Of The Income To The Subsequent Ay.

MATRISEVA TRUST .

D T A A ----------------------------------

On The Amount Of The Doubly Taxed Income So Ascertained, Income Tax Calculated At The Indian Rate Of Tax And The Rate Of Tax Of The Foreign Country, The Foreign Tax Rate Has To Be Calculated Separately For The Each Country.

BOMBAY BURMAH TRADING CORPORATION LTD.

Assessment Procedure--

An Invalid Return Is Void ab Initio And The Notice U/S 143(2) Cannot Be Sent, Even Assessment Made U/S 143(3), 144 Is Void.

MAYADEVI BANSAL.

A.O. Has The Same Powers At The Time Of Fresh Assessment Or At The Time Of Original Assessment U/S 143(3)

K.P.MOIDEEN KUTTY.

Power To Grant The Stay Of Collection Of Tax Is An Inherent & Incidentals Powers Of The C I T(A), He Has The Inherent Powers During The Pendency Of Appeals Before Him To Grant The Stay Of Collection On Application Made By The Assessee.

DEBASISH MOULIK.

If The Application For The Settlement Of Income Is Filed Before The Settlement Commission Prior To The Prosecution Launched Under The I T Act Or The I P C Code 1860 And Settlement Commission Grants The Immunity Then Prosecution Proceeding Are To Be Quashed.

ASHIRWAD ENTERPRISES VS. STATE OF BIHAR.

Once The Penalties U/S 271(1) (C) Are Cancelled, Quashing Of Prosecution U/S 276 C Is Automatic.

K.C. BUILDERS.

Infraction To File The Return U/S 139 (1) Will Not Be Condoned Even If A Return Filed U/S 139(4) I.E. He May Be Prosecuted U/S 276 C C .

PARKASH NATH KANNAY.

Where The Decision Of The A.O. Was Based On The Jurisdictional High Court Decision Which Was Operative At The Time Of His Order Then C I T Cannot Use The Section 263, He Can Use Only Section 263 When The Decision Of The H C Is Overruled By The Supreme Court's Decision Later On.

GM MITTAL STAINLESS STEEL (P) LTD.

P& G --

The Trade Incentives/ Performance Incentives Received During The Trade Whether In The Monitory Terms Or Otherwise Would Be Taxable U/S 28(Iv).

BOING 2002

Losses Of The Illegal Speculation Business Cannot Be Set-Off Against The Profit Of The Legal Speculation Business But Not Any Vice Versa Available.

SHIVLAL DHIRAJLAL.

C I T(A) And AO Can Only Initiate Penalty Proceedings U/S 271(1)(C) Only On Their Respective Findings Of The Unexplained Incomes.

SHADIRAM BAL MUKUND.

Order U/S 273 A Should Be The Speaking Order That Why The Relief Is Not Granted To The Assessee Full Or The Partial.

ANWAR ALI.

U/S 273 A Application On The Different Dates On Different Assessment Years Have To Be Accepted By The C I T.

DR. P.K.P.MOHAMMAD.

The Basis Of Issue Of Notice And For Imposition Of The Penalty Should Be The Same Otherwise Make The Fresh Notice For The Initiation Of The Penalty On Any Fresh Issue U/S 274.

A M SHAH & COMPANY.

U/S 263 The C I T. Cannot Give The Direction To The A O To Set Aside The Assessment For Failure Of Non Issuance Of The Notice U/S 274 To The Assessee. (Penalty Proceedings)

LINOTYPE & MACH LTD.

Circulars Are Not Binding On The I T A T And C I T (A) , However The Tribunal Can Set Aside The Order Of The A O If The A O Not In Compliance With The Circulars.

BELA SINGH DAULAT SINGH.

Circulars Are Also Not Binding On The Courts.

DELHI FLOUR MIILS.

Even If The Directions Given In A Circular Issued By The C B D T Deviates From The Income Tax Act They Are Binding On The Assessee., However The Assessee Can File The Writ Petition To The HC,& HC Will Quash The Circular.

ELLERMAN LINES LTD SC.

The C I T(A) Has The Power To Add New Sources Of Income Not Find Out By The A O.

NIRBHERAM DALURAM

The Assessee Can Claim The Deductions From The ITAT With The Permission Of The I T A T As Per Rule -11 Of I T A T Rules(Either Not Filed In The R O I, Or Not Raised Before The C I T (A), Or Before A.O.)

KERELA STATE CO-OP MARKET FEDERATION LIMITED.

Settlement Obtained By The Fraud Is Void Ab Initio.

HINDUSTAN BULK CARRIERS.

Section 271(1)(C), 271(1)(iii)------ The C I T(A) Can Cancal The Penalty But Cannot Set aside The Penalty Order And Direct The A O And Direct The A O To Levy The Fresh Penalty.

RAMESHWAR DAS RAM NARAYAN.

Where The Notice U/S 143(2) Has Been Issued, Then Afterwards Intimation U/S 143(1) (A) Cannot Be Sent By The A O.

GUJRAJ ELEC. BOARD.

AO Is Duty Bound To Supply The Reasons For Issuing Notice U/S 148 Along With Notice Otherwise Any Assessment Is Made Is Void Ab Initio.

JAWAHAR LAL GUPTA.

U/S 149(1) , 148; Notice Should Be Issued Before The Time Limit, Whether Served After The Time Limit

R.K. UPADHYAYA VS. SHENEBHAI P PATEL IN S C.

If The Notice U/S 149(3) Cannot Be Issued(Consider U/S 148)To The Agent Of The N R Within 2 Years ,It Can Be Issued To The N R Directly With In 4 Years.

CLAGGET BRACHI CO LIMITED.

Completion Of Assessment U/S 144/143(3) Within 21 Months Means The Preparation Of The Demand Notice U/S 156; It Can Be Issued Up To 21 Months Whether Served After 21 Months.

PURSHOTAM DAS T. PATEL.

Bank Draft Presented By The Customer Cannot Be Requisitioned From The Bank By Authority U/S 132 A.

SMTA CONSTRUCTION VS. PAWAN KUMAR SHARMA. M.P. H C.

Assessee Is Not Entitled To A Copy Of Reasons Recorded For Issuing A Search Warrant.

SOUTHERN HERBALS LTD.

P & G -------------------------------

Where The Interest Paid To The Partners On The Current Account Was Not Authorised Under The Partnership Deed, In View Of The Provisions In Section 40(b)(Iv) Such Interest Will Be Disallowed Even Assessee Firm Recorded Said Transaction In The Books And Partners Had Included The Said Amount In Their Return Of The Income & Paid Tax Thereon.

NOVEL DISTRIBUTERY ENTERPRISES.

Insurance Premium Paid On The Life Of The Partners Is Disallowed.

KHODIDAS MOTIRAM PANCHAL.

Capital Gains ---------------------------------

No Capital Gain On Asset Having No Cost Or Where Cost is Not Tracable(In Absence Of Any Deeming Provision)

MANOHAR SINGHJI P . JADEJA.

Loan Advanced To A Company Which Become Sick Afterwards And B I F R Allowed The Deferred Interest, Then It Was Held That It Is Not A Extinguishment Of Right Resulting In The A Transfer, So The Capital Loss Not Allowed To C/F Or Set Off.

THIRUMBADI RUBBER CO.LTD.

Where The Payment Is Made To Any Confirming Party Out Of Sale Consideration & Such Party Have Not Any Interest In The Said Property Then Such Payment Cannot Be Regarded U/S 48 (I).

ASHOK SOI.

Right Debentures Issued On the Basis Of The Shares Held As The SIT Are Capital Asset So Consider The Capital Gain Or Loss.

MOTI CHAND CONSTRUCTION CO.(P).

Expenditure Incurred By An Assessee To Remove An Encumbrance Created By The Assessee Himself (I.E. On Property Which Was Acquired By Him From Any Encumbrance) Shall Not Be Allowed As Deduction U/S 48 As C O I: C O A

V S M R JAGDISH CHANDERAN

When There Is A Transfer Of Entire Business As Lump Sum Without Identifying The Asset's Values Then The WDV To Be Ignored & Whole Gain Is The Long Term Capital Gain.

RAKA FOOD PRODUCTS.

Section 45(4) Is Attracted Even In The Case Of Retirement Of The Partner.

A.N. NAIK ASSOCIATES.

There Will Be No Tax Implication In The Hands Of The Partner [Section-45(4)] Even The Surplus Amount Over The Capital Contribution Have No Tax Implication , Even Loss Would Have No Treatment.

LING MALLU RAGHU KUMAR.

To Attract The Section 45(4) There Must Be The Distribution Of Assets, No Capital Gain Arise When A Surviving Partner Continue With All The Assets And Liabilities As The Going Concern.

MOPED & MACHINES.

Section 46 (1);(2) If The Company On The Liquidation Gives The Rural Agricultural Land U/S 46(1) To The Share Holder, Then S H Is Liable To C G Tax U/S 46(2) Even On The Rural Agri Land, However If It Is Further Sold By The S H Then No Capital Gain Arise Under Section 48.

N. BAGHAVATI AMMAL.

Where The Conditions Of The Section 45(5) Not Satisfied The Compensation Will Be Dealt As Per Section 45(1).

C.P. LOANAPPAN & SONS.

Section-50 Is Not Applicable To The Land, As Land Is Not The Depreciable Asset And Should Be Separated.

CITIBANK. N A

Section 54 :- To Get The Exemption Of Section 54 If The Building And Land Apprutant Thereto Is Sold , The Condition Is That The Both Should Be Owned By The Same Person.

P.K. LAHIRI.

Note:- Section 269 SS Not Attracted Where No Loan Or No Deposit And Not Attracted On The Bona Fide Book Entries.

The Benefit Under Section 54 E C Is Available Even On The Transfer Of The Depreciable Assets If Held For More Than 36 Months.

ACC BUILDERS (P) LTD.

The 54 E C Not Available On The Deemed C G I.E. On The Amount Received On The Liquidation Of A Company.

RUBY TRADING COMPANY.

Conversion of The Preference Shares Into The Ordinary Shares Amounts Transfer For The Share Holder.

Expenditure Incurred For Obtaining The Loan Amount Which Is To Be Utilised For Obtaining The Capital Assets.:- Will Not Be Capitalised

PATEL FILTERS LIMITED.

Interest Paid On The Money Borrowed For The Purchase Of The Open Plot Of Land Will Be Added To The C O A.

MITHILESH KUMARI.

Bona Fide Settlement Of The Interests Of The Property In The Family Members Would Not Amount To Transfer.

A.L. RAMANATHAN.

Land Purchased Firstly & Then Buildings Constructed On Sale The Land Amounts To L T C G And Building S T C G.

C.R. SUBRAMAIAM.

U/S 54 The Assessee Used The Consideration For The Construction Of The New Floor of Another H.P. It Is Held That He Is Entitled To The Exemption.

NARSIMHAN. (P V).

Section 54 Construction May Be Started Before The Transfer But Should Be Completed After The Transfer Only.

J.R. SUBRAMANIAM

Compensation To The Hutment Dwellers Of The Land Allowable As The Cost Of Improvement.

MISS PIROJA C PATEL.

U/S 49(1) :- Expenses Incurred To Free The Mortgage Will Be Regarded As The COI

R M ARUNACHALAM.

Assessee Engaged In The Business Of Selling Rubber Only, And Made The Agreement To Sell Old Trees And Subsequently Forfeits The Advances As Sale Not Materialised Then Such Advance Is Not The Revenue Receipts. Section 51 Says That (A) Advances To Be Deducted From The C O A If Forfeited (B) If The Advances Forfeited Are More Than The C O A Then The Excess Of The C O A Is Capital Receipt Not Taxable.

TRAVANCORE RUBBER & TEA LIMITED.

Section 2 (42 A) And Section 49(2) If The Consideration For The Transfer Of The Shares In Amalgamating Company Consists Of Something More Than Shares In The Amalgamated Company, Then Exemption U/S 47 Will Not Be Available.. This Is Because The Composite Consideration Is Not Contemplated By This Section Ie. Entire Taxable.

GAUTUM SARABHAI TRUST.

U/S 54 Exemption Is Available Even Covered U/S 53 Of The Transfer Of Property Act I.e. Repossessed And Paid.

SHAHZADA BEGUM.

Section 54 - B Applicable Only To The Individual.

DEARAJULA (G.K.)

Section46(2), 45 47(Iv) And 46(1)

Y Ltd ====== Is The 100 % Subsidiary Of X Limited.

For Rs.1.11crore B Ltd ======= Is The 100% Subsidiary Of The X Ltd

X Ltd Transfers All The Shares Of B Ltd To The Y Ltd. For Rs. 0.55 Crores Not Transfer Under Section 47 , In This Case C O A To Y Limited Is Rs. 1.11 Crores U/S 49.

Now The B Limited Is 100 % S Of The Y Limited.

B Limited Went Into Liquidation And Distribute Assets, Then Under Section 46(2) Y Limited Will be Taxed On The COA ==== 1.11 Crores Deducted From Any Face Value Of The Assets Received On The Liquidation.

THE CASE LAW IS BRAMHI INVESTMENT (P) LIMITED.

Giving By An Assessee Of Right To Claim Specific Performance To Get The Conveyance Of The Immovable Property, In Lieu Of Receiving The Consideration, Would Be Regarded As The Extinguishment Of The Right In The Property Hence Transfer, So The Consideration Received Is Capital Gain (Even No C O A) ; Earlier Advances To Be Adjusted In As The C O A. And (There Should Be Right To Claim)

LAXMI DEVI RATANI.

Transfer Of The Immoveable Property Belonging To The Firm To Its Partner By The Means Of The Book Entries Was Not Valid In Law And Capital Gain On The Transfer Of Such Property Only Taxable In The Hands Of The Firm.

J M MEHTA & BROTHERS.

Where The Property Is Owned By The Co-Owners And Other Co-Owners Release His On Their respective Rights / Shares Or Interests In the Property In The Favour Of One Of The Co-Owner, It Can Be Held That The Property Is Purchased By Such Person And He Can Avail The Benefits U/S 54 For That Purchase.

T.N. ARAVINDA REDDY.

Section 46(1) Do Not Applies Where The Liquidator Sells The Assets Himself And Distributes The Cash To Share Holders.

SRI KANNAN RICE MILLS LIMITED.

Reduction Of Share Capital Would Amount To Transfer If The balance Is Paid To The Share Holders. Capital Gain === Cash Paid – C O A Of That Portion.

KARTIKEYA/ SARA BHAI.

Share Held In Company And Then A New Company Formed And Gives The Offer To The Assessee To Get His Shares In Exchange Of The Original Shares Held Then That: Offer Price - Price On Which The Shares Already Held. Would Be The C G. The New C O A Will Bethe Price Offered By The New Company.

ORIENT TRADING COMPANY.

No Capital Gain On The Self Generated Assets As Cost Is Not Traceable

B C SHIRINIVASA SHETTY.

Where The Assessee Has Purchased The Property And On The Same Day Mortgaged It To Raise Loan To Pay The Part Consideration Of The Property, The Mortgage Expenses Incurred In connection With The Acquisition Of The Property And The Interest Payable On The Mortgage Amounts, Which Has Been Utilised As The Part Of The Consideration Would Form Part Of The C O A Of The Property For The Purpose Of The Computation Of The Capital Gain Tax.

RAJAGOPALA RAO.

Transfer Of The Leasehold Interests In The Immovable Property For A Long Period Of Time Amounts To The Transfer For The Purpose Of The Capital Gain Tax.

A.R. KRISHNA MURTHY VS A.R. RAJGOPALAN.

Sale Proceeds Of The Trees Of The Spontaneous Growth Will Not Result In The Capital Gains As They Do Not Bring In Any Profit Or Gain.C O A Is Not Traceable.

SUMAN TEA AND PLY WOODS INDUSTRIES.

There Is A Full Transfer When The Assessee Converts A Capital Asset Into The S I T Of The Business Section 45(2) , 2(47)

R. KRISHNA SWAMY.

Section 45(1 A) Compensation Received From The Insurance Company For Loss Of Stock In Trade Is Not Taxable As The Capital Gain, But Under The P & G As The Trading Receipts.

NEEDLE INDUSTRIES LIMITED.

Conversion Of Firm Into The Company Is Not A Transfer.

TEXPIN ENGINEERING & MANUFACTURING WORKS.

Section 45 (4) Not Applies On The Death Of The Partner Provided Assets Are Not Distributed To The Legal Heirs.

MOPED & MACHINES.

Interest On The Enhanced Compensation Is I F O S.

K S KRISHNA RAO.

Estate Duty Paid On The Inherited Property Urban Land , Corporation Tax Are Not Treated As The Cost Of Improvement And Not Allowed.

S.A.S. HOTELS (P) LTD.

Betterment Charges Paid To The Municipality Under A Town Planning Scheme Are Considered As Part Of C O I But Contrary View In The Arvind Mills Ltd.

MATHURA DAS MANGAL DAS PAREKGH.

Embezzlement Is Not Allowed In The CG As The C O I.

G Y CHENRY.

U/S Only One House Purchased Is Exempted But The Contrary View Is Taken Also.

K C KAUSHIK.

Profit And Gains & Business And Professions.=====

Retrenchment Compensation Is The Allowable Deduction U/S 37 (1) (On The Close Down Of The Business Or Other Wise. Sasson J David & Company. But the Contrary View Has Been Taken In The Case

NATHU LAL ASHRAM....

The Firm Succeeded By The Company And Afterwards Debts Become Bad Then It Is Allowed As Deduction U/S 36 (1)(Vii); 36(2).

VEERBHADRA RAO.

The Loss of Stock In Trade Is Allowable As Deduction And The Compensation Received From The Insurance Company Is Taxable U/S 41(1)

INVESTORS CORPORATIONS .

The Exchange Fluctuations On The Capital Account I.E. Share Capital, Capital Assets Are The C O A As Per Arvind Mills Hence Capital Receipts Are not Taxable

KIRLOSKER ELECTRIC COMPANY.........

If The Subsidy Is Received For The Setting Up An Industry In The Backward Area and It Is Received With Reference To The Fixed Assets Then Such Subsidy Will Be [C O A - Subsidy] As Per Explanation 10 To Section 43(1).. But If The Subsidy Is Received By Way Of Assistance to The Assessee In Carrying On The Business Or Trade On The Commencement Of The Commercial Production As A Helping Hand Then Such Subsidy Will Be Treated As Trading Receipts. U/S 28.

SAHNEY STEEL & PRESS WORKS LIMITED

The Penalties Imposed For The Infraction Of Law Are Not Allowable As Deduction.

HAZI AZIZ AND ABDUL SHAKOOR BROTHERS.

The Penalty On The Infraction Of The Sales Tax Is Disallowed But The Sales Tax Portion Of The Overall Demand Will Be Allowed.

MALWA VANASPATI AND CHEMICALS COMPANY.

The Assessee Failed To Deduct Tax On The Fees Paid To N R And After Wards Paid The Tax Out Of His Pocket And Claim The Deduction Of Such Sum i.E. (Fees Paid) Is Not Allowable Since Such Sum Is Paid In The Consequences Of The Default And Is In The Nature Of Penalty Section 37(1)

INDIAN ALUMINIUM CO. LTD.

Section37(1) Expenses For The Issue Of Shares Is Capital Expenses And Not Allowed But Expenses On Issue Of Bonus Shares Is Allowable.

BROOKBOND INDIA LIMITED.

Section37(1) The Discount On The Issue Of Bonds And Debentures Is Allowed As The Deferred Revenue Expenditures And Shall Be Allowed Proportionately Over The Over The Period Of Debentures.

MADRAS INDUSTRIAL INVESTMENT CORPORATION LTD.

The Income Earned By The Promoters Prior To The Incorporation Is Not Taxable In The Hands Of The Company But Their Separate Income U/S 167, A O P , B O I

CITY MILLS DISTRIBUTION (P) LTD.

The Company Contributed To The Housing Board For The Construction Of Flats For Its Employees But Not Owns Those Flats It Was Held That Such Expenses Are Welfare Expenses Not Capital Expenses And Allowed U/S 37(1)

BOMBAY DYING AND MANUFACTURING COMPANY LIMITED.

The Betterment Charges Given To The Govt In Connection With The Land Is A Capital Expenditure Will Not Be Added To The Cost Also And Not Allowed As Deduction U/S 37(1) Too.

ARVIND MILLS LIMITED

U/S 43 (6) From The W D V Of The Block The Money Payable Will Be Deducted Only If Such Are In Cash/ Cheque Or Draft Only.[Not In Kind]

KASTURI AND SONS.

The Theatre Used For The Running Of The Cinema Business Cannot Be Treated As The Plant

ANAND THEATRES.

In Case Of Sale Of Land And Building The Capital Gain Will Be Bifurcated Between The Long term On Land And The S T C G On The The Building

C.R. SUBRAMANIAM.

Where The Company Erecting The Plant And Machinery And Not Put To Use And Received The Certain Amounts From The Contractors Such As Rent For Using Company's Assets / Workers/Facilities/Interest On Advances Given To Contractors/ Realities For Excavation Etc. Would Be Deducted From The Cost Of The Plant And Machinery Not Yet Erected And Such Sums Are Not Taxable.

BOKARO STEELS LIMITED.

Expenses On The Teat Runs Of The Machinery Prior To The Production Are The Part Of The C O A

FOOD SPECIALISATION LTD.

Section 43 A Increase Or Decrease In The Foreign Currency Loan Of Capital Assets Then Depreciation Is To Be Calculated For That Year After Adjusting The Fluctuation

ARVIND MILLS LTD.

If The Vehicle Taken In His Name Whether Registered Or Not Under The Transfer Of Property Act Section 53 A Then Depreciation Is Allowable.

MYSORE MINERALS LTD.

Depreciation Is Allowable When The Asset Is Actually Put To Use , Depreciation Is Not Allowed If The Asset Is Ready For The Use And Is Not Put To Use Section - 32(2).

DINESH KUMAR G CHAND AGGARWAL

The Temple Inside The Factory Will Form Part Of The Factory Building So, Depreciation And Deductions U/S 37 Are Allowed.

ATLAS CYCLES INDIA LIMITED.

Depreciation May Be Allowed On The Fractional Ownership In Any Asset.

BANARSI DAS GUPTA.

Where The Assessee Bank Take The Margin Money From Its Customers And Subsequently Forfeited It Then It Is Taxable

LAXMI VILAS BANK.

Where The Damaged S I T Adjusted Against The Bank Overdraft Then Such Adjustment Is Taxable Because S I T :[Adjustment Amount – C O A Of S I T] Is Taxable.

RAMESH NARAIN SEXENA.

Any Capital Expenditure Incurred Which Is Incidental To The Scientific Research Programme Will Not Be Denied Of Being Amortised U/S 35(1)(Iv).

SANDAJ INDIOA LIMITED / SMITH KLINE & FRIENDS.

If The Company Transferred The Assets U/S 35(1)(Iv) Then The W D V Is Allowed As The Deduction

SUNDARAM FASTENERS LTD.

U/S 44 B , An Assessee Can Claim Setoff C/F Business Loss But Not Of C/F , Set Off Of The Unabsorbed Depreciation

UNIVERSAL CARGO CARRIERS .

Section 44 B Overrides The Other Provisions Of The Act

O N G C.

It Is Not Required That The Purpose Of The Capital Borrowed Only To Earn The Income Or To Generate Income , The Interest May Be Claimed

MADAN LAL JAIN..

Interest Is Allowed Even The Capital Is Borrowed For The Capital Asset Brokerage On Loan Also Allowed .

ALEMBIC GLASS INDUSTRIES LTD.

The Interest Is Not Deductible Where Borrowed Money Is Loaned To A Director Without Charging Any Interest

SUJANI TEXTILES (P) LTD.

Interest On Moneys Borrowed To Pay The Income Tax Is Not Allowable.

WALDIES LTD.

Interest Even Paying For The Delayed Payment Of The Income Tax Is Not Deductible.

FEDERAL BANK LIMITED.

Interest Paid To The Sales Tax Department On The Arrears Of The Sales Tax Is An Allowable Expenses U/S 37(1).

WESTEND INDIAN STATE MOTORS.

The Penalty Levied Under The Sales Tax Act Is Not Allowed , If The Penalty Is To Compensate The Sales Tax Demand Then Allowable, Extra Penalty Will Be Disallowed If The Interest Is Paid In The Nature Of Penalty Then Disallowed Otherwise Allowed.

SWADESHI COTTEN MILLS LTD.

Demurrage Paid To The Port Authorities In Connection With The Release Of The Confiscated Goods Is Not A Fine / Penalty So Allowable U/S 37(1).

NANHOOMAL JYOTI PRASAD.

Interest Paid For The Delayed Payment Of The P F Or Not As Per P.F. & Miscellaneous. Provisions act Act 1952 , Is Allowable If It Is Compensatory In Nature And Not The Penal.

HYDRABAD ALLWYN METAL WORKS LTD.

Penalty Paid/ Damages Paid For The Non Completion Of The Contract In Time Is Allowed.

R.D. SHARMA & COMPANY.

The Penalty For Failure To Supply goods Under A Contract Are Allowable . Penal Interest Paid To Bank Is Allowable.

CENTRAL TRADING AGENCY.

Gurantee Commission Paid To The Bank On The Purchase Of The Capital Assets For Giving The Guarantee To The Foreign Company Even On The Devaluated Loan Balance Was Held As The Allowable Expenses And Not The C O A.

SHIVAKAMI MILLS LIMITED.

U/S 40(ba) Any Salary Paid By The A O P To Member If Received As His Individual Capacity Is Disallowed.

RASHIK LAL & CO.

If The Subsequent Recovery Of The Bad debts U/S 41 (4) Is Received By The Remaining Partners After The Death Of The Partner(Here The Firm Is Reconstituted As The Going Concern)Then It Is Taxable, If Firm Etc Is Dissolved Then Not Taxable.

P.K. KAIMAL.

Sale Proceeds Of The Spontaneously Grown Trees Will Not Result In Any Capital Gain And The Amount Received By The Assessee On The Sale Of Such Trees Is A Capital Receipt Not Chargeable To The Income Tax The Cost Of Acquisition And The Cost Of Improvement Are Indeterminate Since The Assessee Had Not Sown Any Seeds. The Growth Of Such Trees Depends On The Nature.

SUMAN TEA & PLY WOODS INDUSTRIES.

Section 41(1) Would Not Be Attracted If The Liability Becomes The Time Barred

M.R. DHAWAN.

Remission And Cessation Takes Place Only When The Matter Relating To That Liability Is Finally Settled Then Chargeable U/S 41(1).

J.K. SYNTHETICS LTD.

If The Amount Is Received From The Department, Still The Final Settlement Is Not Made, The Same Would Became Taxable, Then Above Case Would Not Apply

POLY FLEX INDIA LTD.

If The Amount Is Collected On Condition Of The Bank Guarantee Then Not Taxable

NIZZAM SUGAR FACTORY.

Where The Investment Is Made By Way Of The Commercial Expediency For The Purpose Carrying On The Assessee's Business , The Loss Suffered On The Sale Of Such Investment Must Be Regarded As The Revenue Loss And Not A Capital Loss.

PATNAIK & COMPANY

Devolution Losses Due To Currency Fluctuations During The Export Is Allowable As The Business Expenditure

HINDUSTAN TRADING CORPORATION

Loss In The Cash Embezzle Ment Is Allowed In The Py Inwhich It Is Discovered ..

BADRIDAS DAGA.

The Firm Is Not Taxable In Respect Of The Fees Paid To The Retiring Partners ,Whenever Paid , It Is Allowable.

G. BASU & CO.

The Cost Of Removing The Obstructions On The Lease Land To Carry Out The Mining Operation Is Not A Capital Expenses Hence Allowed.

BIKANER GYPSUMS LTD.

Legal Fees Paid For The Transfer Of The Registered Office Is Allowable.

ASHOKA MARKETING LTD.

The Assessee Purchased The Capital Asset Which Was Financed By The Bank. Subsequently The Bank W/O The Balance Debt Then 41(1)Not Applies Since This Not A Remission Of The Trading Liability Further The Cost Of Capital Asset Will Also Not To Be Reduced U/S 43(1) There Is No Tax Implication.

COCHIN CO. LTD.

If The Trees Are Sold Along With The Land Then No Capital Gain Arise Separately For The Trees.

TRAVANCORE RUBBER CO. LTD.

The Right To Obtain The Conveyance Of The Immoveable Property Is A Capital Asset So The Gain Arises Will Be The Capital Gain.

VIJAY FLEXIBLE CONTAINERS.

There Can Be No Partition Merely Because Of Decree Of Court Or An Agreement, The Property Should Be Physically Divided.

N.K. SARDA THAMPATTY.

Fee Paid To The R O C For The Expansion Of The Authorised Capital Of The Company Is A Capital Expenditure.

PUNJAB STATE INDUSTRIES DEVELOPMENT CORPORATION LIMITED.

The Assessee Who Is Only Engaged In The Business Of Leasing Out The Commercial Vehicles , Was Entitled To The Depreciation At The Higher Rate 30% Not 15 %.

ANNAMALAI FINANCE LTD.

Deduction Can Be Allowed Of Bad debts Only When It Is Actually W/O As Irrecoverable In The Books, And Not On The Basis Of A Mere Provision.; Even If The Omission To W/O Debt Is Inadvertent, The Debt Will Not Be Allowable, Further Making A Provision Is Not The Same Thing As The W/O A Debt As The Irrecoverable.

MICROMAX SYSTEMS (P) LTD.

The Salary Paid By The Assessee Firm To The Partner Who Is Representing His H U F , To Be Disallowed U/S 40(b); Even the Salary Paid To The Partner In Their Individual Capacity Who Had Joined The Firm As A Partner Representing Their Respective H U Fs Has Also To Be Disallowed U/S 40(B)...

KISHORILAL & SONS --/ G.T. COLD STORAGE AND ICE FACTORY.

The Company Even Entitled To Claim The Depreciation , If The Assets Not Got Registered To Their Name Section 53 A Of The T O P Act Applies.

Depreciation Is Only Allowed If Put Into Use , Not On Ready To Use.

DINESHKERMAR GULABCHAND AGGARWAL.

Section 33 A B (1)(B); Read With Rule –8(1) The Taxable Portion 40 % Will Only Be Arrived After Deducting The Deposit Made In The Tea Deposit Scheme I.E. On The Balance , The 40% Will Be Applied And Tax Will Be Levied.

MAHAVIR PLANTATIONS.

If The Debts W/O And No Credit Is Simultaneously Made In The Debtors Account, In View Of The Explanation , The Bad debts Would Not Be Allowed U/S 36(1)(Vii)

JUBLILANT ORGANOSYS.

The Remission Of The Unsecured Loans By The Creditors Cannot Be Subjected To The Tax By Invoking The Provisions Of Section 28(Iv), Read With Section 41(1).

CHETAN CHEMICALS (P) LIMITED.

Explanation 8 To Section 43(1) Where The Assessee Purchase The Assets On The Instalments, The Interest Payable On The Instalment For The Period After Machinery Was First Put To Use, Was Not To Be Included In The Actual Cost Of The Asset.

ANANG POLYFIL LTD.

The Expenditures Incurred By The Company On The Foreign Traval Of The Wife Of The M D , Who Went On The Foreign Tour, Was Assessable Under Section 2(24)(Iv)

SMT. SUREKHA P KATHORI.

Compounding Fees Paid By The Assessee For Putting Up The Unauthorised Construction Is Not Deductible U/S 37(1)

MAMTA ENTERPRISES.

The Premium On The Redemption Of The Debentures Will Also Be Allowed As Deduction Every Year Up To The Period Of Redemption In The Equal Proportion.

S.M. HOLDING AND FINANCE.

Explanation To Section 73 It Applies Only To Sale And Purchase Of The Shares (If The Company Is Not An Investment Company)It Is Not Applies To The Units Of The U T I Containing The Shares , So Loss On The Sale Of Such Units Can Be Set Off Against The Company,s Business Which Is Engaged In The Business If Units Also.

APPOLO TYERS LTD.

Any Incidental Expenses To Close Down Any Unit Of Unit Trust Is Allowable As The Deduction In Running Business Even Additional Wages To The Retrenched Workers Is Allowed As The Expenses U/S 37(1)

K. RAVINDERNATHAN. NAIR.

The Sales Tax Should Be Routed Through The P/L Account, And Any Refund Or Liability In The Hands Of The Commission Agent Have Not Any Tax Implication. Shankaraiah

Expenses On The Public Issue And Right Issue Not Allowed As Deduction

KODEK INDIA LIMITED.

The Interest On F D R Is Not To Be Adjusted Against The Interest Loan Taken Against The Security Of Such Deposit

V.P. GOPINATHAN.

The Liability Can Be Claimed In The Year Of Provision Whether It Is Disputed On The Question Of Law On Interpretation Of The Clauses Of The Agreement.

KEDAR NATH JUTE MILLS LIMITED.

Where The Advances Received From The Customers And The Liability Is Created Afterwards Unclaimed Then Section-41(1) Not Applicable Because These Are Not Credited For The Goods Etc. And Earlier Not Allowed As Deduction, However These May Be Taxable U/S 28 As The Trading Receipt

BATLIBOI & CO.-/- T.V. SUNDARAM LYENGER & SONS LTD.

The Interest Bearing Securities Are Purchased And Payment Is Made Along With The Interest, Held That Interest Also C O A Not The Revenue Expenditure.

VIJAYA BANK LIMITED.

Where The Foreign Holding Company Transfers The Machinery To Its Indian Subsidiary Company Free Of Cost And Also Incurs The Expenditures On The Transfer And Installation In India; The Cost To Indian Company Will Includes Those Expenses Also Plus Cost Of That Machinery In Section 43 (1) Explanation---2

CIBA (INDIA) LTD.

The Payment Of The Gratuity On The Deceased Of The Director While On The Business Trip Is Allowable As Expenditures

LAXMI CEMENT DISTRIBUTERS.

The Lease Of Work Shop , Cold Storage , Mater Garage And Pump Not Being The Permanent Agreement, The Lease Rent Would Be Regarded As The Business Income. If Permanent Then Income From Other Sources.

PATESHWARI ELECTRICAL & ASSOCIATED INDUSTRIES.(P) LIMITED.

The Forfeiture For The Advance Given For The Capital Assets Is Allowed As The Revenue Expenditures.

ANJANI KUMAR & CO. LTD.

Loss On Account Of Cancellation Of The Hedging Contract For Foreign Currency Is An Allowable Expense

BADRI DAS GAURIDU(P) LTD..

/////--------- The Loss On Account Of Embezzlement Can Be Recognised Only When The Loss Is Quantified.

The Losses Sustained In The Pre – Incorporation Periods Cannot Be Set Off Against The Post Incorporation Profits.

TEA PRODUCING COMPANY OF INDIA.

Mere Reimbursement Of The Construction Cost Shall Not Amount To Obtaining The Title Of The Property Hence Depreciation Disallowed. Because Agreement Did Not Contain The Definite Terms Pertaining To The Transfer Of The Title Of The Property.

MOTHER HOSPITAL.

Where The Assessee Is In Leasing Business, The Depreciation Allowable On The Leased Assets ; And Claim Depreciation U/S 32 ;,;; If Not Then Income From Other Sources And Can Claim Depreciation. Any Super Structure Made By The Lessee ON THE LEASE HOLD LAND Then Depreciation Is Allowed To Him. For Claiming The Depreciation It Must Be Used For The Business Purpose By The Lesser Or Lessee Or Any Other Assessee.

K.M. SUGER MILLS LIMITED.

The Depreciation Is Not Allowed To The Hire Purchaser Till The Last Instalment Is Paid And The Property Is Transferred.

ATLES SYCLES INDIA LIMITED.

Interest Received On The Surplus Funds Before The Commencement Is I F O S And Would Not Reduce The Cost But Interest On The Advances Given For The Construction Would Reduce The Cost

BOKARO STEELS LIMITED.

The Interest On Deposit To Open The L O C For The Purchase Of Machine Would Reduce The Cost . It Is Not The Surplus Money Lying Idle.

KARNAL CO-OP SUGER MILLS LTD.

Amount Recovered From The Sale Of Any Product Generated By The Trial Runs After Deducting The Expenses On It I.E. Any Surplus Would Be Reduced From The Cost Of The Machinery.

FOOD SPECIALITIES LIMITED

Where The Firm Is Reconstituted, The Reconstituted Firm Is Not Entitled To The Depreciation On The Basis Of Re-Valued Figures & Can Claim Only On The W D V.

ALAGAPPA COTTON MILLS LIMITED.

The Property Taken On The Partition Of The H U F Will Not Amount To The Inheritance By The Members And Explanation -- 2 To Section 43(1) Will Not Be Applicable.

P.N. KRISHNA LYER.

The Depreciation Is To Be Considered Whether 50% Or 100% From The Date Of The Trial Runs Completed.

VIDHYACHAL DISTILLERIES.(P)

For Claiming The Deduction U/S 35(1)(I) It Is Not Required That Research Must Be Carried By The Assessee Himself. It May Be Done By The Third Party For The Benefits Of The Business Of The Assessee.

NATIONAL RAYAN CORPORATION LTD.

Deduction Under Section 35(1)(I) Has Been Allowed On The Closing W I P, Machinery In Transit/ Erection.

Mere Mention Of A Partner As The "Representative As Karta" Will Not Make The H U F As The Partner

R.S. SINGH & CO.

Capital Expenditure On The Construction Of The Building For The Scientific Research Is Allowable U/S 35 Even If The Building Is Not Completed And Allowed Every Year 1/5 Etc.

GUJRAT ALUMINIUM EXTRUSIONS (P) LTD.

Assets used For The Business Can Be Transferred To The Scientific Research And Can Claim The Deduction On The W D V Of The Assets

SUNDRAM FASTENERS LTD..

On Sale Of The Capital Assets Held For The Scientific Research Will Be Bifurcated Between The Business Income And Capital Gain.

ARTEX MANUFACTURING CO. LTD.

If The Assessee Carries On More Than One Business And One Of The Business Is Closed Down Under The Same Management, Then The Interest On The Loan Taken For The Closed Down Business Can Be Deducted From The Profits Of The Running Business.

VEECUMSEES.

Expenditures Extra Incurred For Obtaining The Loan Amount For Acquiring The Capital Asset Is Not The Part Of The C O A.

PATEL FILTERS.

It Is Not Necessary That The Investments Made Out Of The Borrowed Funds Should Yield Any Profit To Claim The Deduction Of Interest

CALICO DYEING & PRINT WORKS.

Interest Paid On The Debentures Is Allowed U/S 37 Not U/S 36

EASTREN INVESTMENTS LIMITED.

Excess Contribution To The Gratuity My Be Allowed U/S 37(1) And Gratuity Payments Made Voluntary Would Not Be Allowed As Deduction.

PREMIER COTTON & SPINNING MILLS.

Only A Trading Bad debts Is Allowed As Deduction Which Was Earlier Considered As The Income Through The Sale.

BIRLA BROTHERS (P) LTD.

Bad Debts Are Allowed Only When It Is W/O And Is Immaterial Whether The Bad Debts Shown After Or Before The Close Of The Financial Year.

TURNER & MORISON CO. LIMITED.

Fees Paid To The R O C For The Change In The M O A And A O A Is Not Allowable. However The Litigation Expenses For The Alteration Is Allowable As The Expense Day To Day Payments To The R O C Is Allowable.

ADITYA MILLS LIMITED.

Any Asset Given For The Staff Welfare Along With The Ownership Shall Be Considered As The Expenses Of Revenue Nature. Even The Building Is Constructed By The Employer But The Ownership Of Which Is Held With State Govt, Will Be Treated As The Revenue Expenditures.

WOLKEM (P) LTD.---//////// RAJSTHAN SPINNING & WEIVING MILLS.

Where The Assessee Changes The System Of His Accounting The Allow ability Will Follow And Depends Upon The Changed System And Not On The Old System.

SETH CHEMICALS WORKS.

The Provisions For The Contingent , Un Accrued, Unascertained , Un-quantified Liabilities Will Not Be Allowed As Deduction However If The Contingent Liability Is Ascertainable Whether It Is Disputed In Any Court Of Law Or Not shall Be Allowed As Deduction..

INDIAN MOLASSES CO. (P) LTD.

The Provisions For The Warranty Although Contingent, Is Allowable Whether For 10 Years

CARBON INDUSTRIES (P) LIMITED.

Sales Promotion By Way Of Gift Is Allowable Expenditure.

NATIONAL INDUSTRIES CORPORATION LIMITED.

Social Costs Incurred In The Good Faith (& Bona Fide) And To Earn The Goodwill Shall Be Allowed As Expenditure.

MADRAS REFINERIES LTD.

Amount Spent For The Securing The Use Of The Trade Mark Is Allowable U/S 37(1) , So The Registration Of The Trade Mark Is Allowable As Expenditure.

ARVIND MILLS VS ADDITIONAL C I T.

The Annual Payments And Premiums Paid For The Lease Of 99 Years Is Allowed As Deduction From The Business Income .

Registration Fees , Stamp Duty And Solicitor’s Fees On The Lease Will Be Allowed As Revenue Expenses (Lease Of Land)

CINCEITA (P) LTD.

Expenses Incurred For The Preservation Or The Protection Of The Business Asset Is Revenue Expenses.

DALMIA JAIN & CO.

Expenses Incurred For The Acquisition Of The Lease Hold Rights In The Capital Land To Set Up The Unit Is Capital Expenses..

GOBIND SUGER MILLS LIMITED.

Damages Paid For The Breach Of The Contract Of Capital Asset Is Not An Allowable Expenditure Incurred In Connection With The Business Activities But For The S I T It Is Allowed.

RAM KRISHNA ENGINEERING INDUSTRIES LTD COIMBATORE.

Expenditure Incurred In Order To Avoid The Competition Permanently Is Capital Expenditure I.E. When The Benefit Is Of The Enduring Nature And Expenses For Short Term Is Allowable Expenses.

JABBER (M.A.)---/--- COAL SHIPMENT (P) LTD.

Where The Litigation Expenses Are Incurred For The Purpose Of Creating Or Completing The Assessee's Title To The Asset Then It Will Be Added To The Cost Of The Asset Fees Paid For The Revaluation Of The Fixed Assts Is Revenue Expenditure.

DALMIA JAIN & COMPANY LIMITED.

Expenses Incurred For Curing The Defect In The Capital Asset Is A Capital Expenditure But Incurred For Defending Or Maintaining The Existing Title Of The Asset Is Allowable As Expenses (If For Curing The Illegal Defective Title Then Not Allowed I.E. Not In Good Faith)

BENGAL ASSAM INVESTORS LTD.

Litigation Expenses On The Income Tax / Wealth Tax Matters And C S T Matters And Excise Matters And Professional Fees Paid To Any Person In Connection With The Business Is Allowable Expenses.

CENTURY SPINNING AND MANUFACTURING COMPANY LTD.

Criminal Litigation Prosecuted By The Company Against Others Is Allowable . But For The Prosecution Against The Company Is Not Allowable Expenses Incurred For Suits On Employees Is Allowed. If Charged By The Govt. For Irregularities And Not Penal Then Allowable.

SAHARANPUR ELECTRIC SUPPLY COMPANY LIMITED.

The Nomenclature Does Not Determine Whether It Is Penal Or Compensatory.

CATHOLIC SYRIAN BANK LIMITED.

Penalty / Fine Paid In Lieu Of The Confiscation Of Goods Without Valid Licence Is Not Allowed. Even For Clearing The Confiscation Of The Goods.

MIHIR TEXTILES LIMITED.

Damages Paid For The Delay In The Payment Of The Contribution To The E P F Is Not Allowed.

SARAYA SUGER MILLS LIMITED.

Penalty Imposed For The Delay In Filing The Sales Tax Return Is No Allowed.

RATANCHAND BHOLA NATH.

Expenditure Incurred On The Inauguration Ceremony Of The Factory Is Allowable

NIRLON SYNTHETICS FIBERS & CHEMICALS (P) LIMITED

Section 38(2) If The Building, Machinery ,Plant Or Furniture Is Not Exclusively Used For The Business Then Depreciation Is Only Allowed For That Portion Which Is Used For The Business.

VANKADAM LAXMI NARAYANA

If The TDS Is Deducted In The P Y But Paid In The Next Year But Before The Period Mentioned In Section 200(1) Then Such Expenses Is Allowed U/S 40A (I)

NESTLE INDIA LTD.

The Payments Cannot Be Dissolved U/S 40 A (2) Merely Because It Is Made To Relative, If It Is Bona Fide Then Allowable .

SHREE CONSTRUCTION & INVESTMENT LIMITED.

Where The Sales Tax Payable Is Exempted, Adjusted Or Set Off As Per The Sales Tax Rules , Such Sales Tax Should Be Treated As Actually Paid And Allowed As The Deducted U/S 43 B Of The I T Act.

NATIONAL STANDARD DUNCAN

Deduction U/S 43 B Is Allowed Even If Not Charged To The P/L Account Or Debit Not Made For The Provision.

CHEMICALS AND PLASTICS INDIA LIMITED 2003.

Reality Payments To The Govt. Is A Tax Hence Covered U/S 43 B.

POPULAR MINERALS LIMITED.

Section 43 B Applies To The Interest On The Sales Tax Payable.

MEWAR MOTORS LIMITED.

Sales Tax Refund Attract Section 41(1) Even it Is Refundable To The Customers When Refunded Then Allowed

THIRUMALAISAWAMY NAIDU & SONS

A Cessation Of The Liability U/S 41(1) Means The Irrecoverable Cessation So That There Is No Possibility Of Receiving.

J.K SYNTHETICS.

Amount Paid To The Creditors On The Part % Age Basis Then Remaining Amount Will Be Taxable.

CHAUDHARY COTTON GINNING & PRESS FACTORY.

Interest Paid On The Bank Overdraft For Arranging The Payment Of The Dividend Is An Allowable Expenditure.

CHANGDEO SUGER MILLS LIMITED.

When A Person Draws From Own S I T For The Personal Use Then Not Any Profit To The Business Even That Withdrawals Will Be Reduced From The Books.

KIKABHAI PREMCHAND.

Deferred Payments Guaranteed By A Bank To Which Guarantee Commission Is Paid, Allowable U/S 37(1) However The (Contrary View Has Also Been Given In The Fort Gloster Industries Limited)

SHIV KAMI MILLS LIMITED.

Replacement Is Current Repairs; Entire Textile Mill Is Considered As One Single Plant And The Machines Are To Be Treated As Part Of Such Plant, Replacement Of Worn Out Machines Is Considered As The Revenue Expenditures Since No New Asset Is Created Of Higher Capacity For The Benefits Of The Enduring Nature For The Long Term.

JANAKI RAM MILLS LIMITED.

The Amount Received From The Govt. To Commence The Production Or To Set Up The Unit In The ; Backward Area Should Not Be Reduced From The Actual Cost Of The Project For The Depreciation Purposes.

K C A Ltd.

Bonus In Excess Of 20% Of The Bonus Act Shall Be Allowed As Deduction U/S 37(1).

DAI ICHI KARKARIA.(P) LIMITED.

Interest On Current Account Of The Partner Will Be Disallowed

NOVAL DISTRIBUTION ENTREPRENEURS.

Set Off Of Liability Of The Sales Tax Against The Purchase Tax Amounts To The Deemed Actual Payments For The Purpose Of Section 43 B.

NATIONAL STANDARD DUNCAN LIMITED.

In Case Of The Acquisition Of The Property Under Any Law, The Balancing Charge U/S 41 (2) Is Taxable As Income Of The P Y In Which It Becomes Due And Not In The Year In Which It Was Settled.

UNITED PROVINCES ELECTRIC SUPPLY LIMITED.

Expenses Incurred After The Date Of The Newly Setting Up Of The Business Is Allowed As Expenses ,Not Allowed Even Incurred On The Date Of The Commencement Of The Business.

L G ELECTRONICS (INDIA) LIMITED.

Interest Paid On The Borrowed Capital Under The Deferred Payments Scheme Then Interest Up To The Put To Use Is Added To The Cost.

J C T VS. D C I T.

Where The Ascertained Liability Is Taken Over By The Successor (I.E. Gratuity) And Further Paid By Him, Then No Deduction U/S 37(1)

SHREE AKILANSHWARI MILLS LIMITED

Expenses On The Furnishing Of The Bank Guarantee Cannot Be Equated With The Actual Payments For Section 43 B .

UDAIPUR DISTILLERY CO. LIMITED.

Change In The Method Of Accounting In Accordance With The A S Is Valid.

HELA HOLIDAYS. (P).

Explanation -3 To Section 43(1) Requires The Determination Of The Actual Cost And Not The Market Value For Calculating The Depreciation

ASHWIN VANASPATI INDUSTRIES LIMITED.

Unabsorbed Depreciation Can Be Set- Off Against The Other Income In The Subsequent Year Even If The Business Is Discontinued.

FABRIQUIP PRIVATE LTD.

Purchases Are Also Covered U/S 40A(3)

ATTER SINGH GURMUKH SINGH.

Expenses Covered U/S 43 B Can Be Claimed As A Deduction In The Year Of The Payment Although It Is An Expenditure Of The Subsequent Year.

C.L. GUPTA & SONS.

The Company Cannot Claim The Deduction U/S 80- I B Without Filing The Revised Return

GOETZE (INDIA) LIMITED.

The A.O. Cannot Make The Separate Additions On Account Of Unexplained Cash Or Un Explained Payments For Purchases Where He Has Applied The N.P. Rate On The Contract Receipts For Estimating The Income From The Contract Work.

AGGARWAL ENGINEERING CO. LTD.

PRESENTATION IN EXAMINATION

The Provisions Made For Warranty On The Basis Of The Past Experience Is Revenue Expenditure.

SONY INDIA LIMITED.2007

Expenses Incurred On The Partly Convertible Debentures Is Allowable Although The Issue Of Shares Is A Future Event Which May Or May Not Happen At Present The Expenditures Were Incurred On The Issue Of Debentures Only I.E For Obtaining The Loan

SOUTH INDIA (CORPORATION) AGERIS LTD. 2007

Where The Goods Are Purchase Against The Cash Whether The Payment Is Made Prior To The Delivery Of The Goods Or After Delivery Of The Goods, It Is Payment In Cash And It Is Payment Of Consideration For The Goods Purchased And The Same Is Covered By Section 40 A(3).

SANTOSH JAIN. 2007

Income From House Property-----------

Where Thw Assessee Right From The Beginning Held The Property As Stock In Trade It Was Held That The Rental Income From The Property Held As Stock In Trade Is The Income From The Business And Not The Income From House Property

NEHA BUILDERS.(P) LIMITED .2007

Capital Gain.-----

Redemption Of Bonds Constitute The Transfer As There Is Extinguishment If Right By The Operation Of Contract And Also The Relinquishment Of Right In The Asset In Lieu Of Which The Assessee Received Cash From The Competent Authority. These Were Covered By The Section 2(47).

PERVIJ WANG CHUK BASI V JCIT.2007

Other Sources----------------------

As Lottery Income Is Taxed At The Flat Rate, The Basic Maximum Exemption Of The Income Is Not Available To The Assessee.

K.B. SYAM KUMAR VS. I T O 2007

Assessment Procedure.----------------------------

The Affixation Of The Notice Can Be Done Only When The Assessee Or His Authorised Agent Refuse To Sign The Acknowledgement Or Could Not Be Found

HOTLINE INTERNATIONAL (P) LIMITED 2007

T D S :---

Where An Assessee Has Not Deducted Any Tax From The Payment Made, The Penalty Under Section 272 A (2) (C).

SAHARA INDIA CORPORATION LIMITED.2007

Where The Payer ,Who Has Deducted The Tax At Source , Has Not Paid Tax To The Central Govt Only Such Payer Can Be Considered As An Assessee In Default In Respect Of The Amounts So Deducted And The Department Cannot Recover The Amount From The Payee

YASHPAL SAHNI/REKHA HAJARNAVIS VS A C I T . 2007

Construction Work Concerning Broadcasting And Telecasting Is Covered By The Specific Provision In Section 194 C And Not By Section 194 J So The Rate Applicable Is 26 And Not 5%

PRASAR BHARTI . 2007.

Appeals & Revisions --------------------------

Where An Issue Covered In The Appeal Is Resolved By An Order Of The Tribunal In Another Case , The Same Is Required To Be Accepted By The Department In Respect Of Identical Orders In Respect Of Other Assesses As The Rule Of Consistency Must Be Followed By The Revenue.

MUTHOOT M. GEORGE BANKERS 2007.

Although The Legislation Have Used The Words That The Appeal Under Section 260A Shall Be Filed Within The 120 Days But Section 29(2) Relating To The Condonation Of Delay In Filing Of An Appeal Shall Be Applicable.

VELINGKAR BROATHERS 2007.

Where The Part Of The Assessment Order B Passed Earlier , Which Was Not Subject Matter Of The Appeal Filed By An Assessee, Was Take Up Under Section 263 By The C I T, The Court Upheld The Action Under Section 263 By Stating That Jurisdiction By The Commissioner To Take The Proceedings Under Section 263 Was Well With In Law.

INDO PERSIAN RUGS 2007.

Penalties And Prosecution-----------------------------------

An Order Imposing The Penalty For The Failure To Carry Statuary Obligation Is The Result Of The Quasi Criminal Proceedings And Penalty Will Not Ordinarily Be Imposed Unless The Parties Either Acted Deliberately In Defiance Of Law Or Was Guilty Of Conduct, Contumacious Or Dishonest Or Acted In Conscious Disregard Of His Obligation. Even If A Minimum Penalty Is Prescribed, The Apriority Competent To Impose Penalty Will Be Justified In Refusing To Impose Penalty, Where There Is A Technical Or Venial Breach Of The Provisions Of The Act Or Where A Breach Flows from The Bona fide Belief That The Offender Is Not Liable To Act In The Manner Prescribed By The Statue. Hence, Before Imposition Of Penalty Under Section 271 D, The A O Must Be Satisfied Not Arbitrarily But Judiciously, That The Assessee Has Without Reasonable Cause Failed To Comply With The Provisions.

O.M.E.C. ENGINEERS 2007

Section 271 B Is Not Attracted In Case Where No Account Has Been Maintained And Instead Recourse Under Section 271 A Can Be Taken

BISANLI TRACTORS. 2007

The Case Has Announced The Following Rules For The Imposition Of The Penalty

1. Both The Expressions " Concealment Of Income" And The "Furnishing Of The Inaccurate Particulars" Indicate Some Deliberation On The Part Of The Assessee, Though The World 'Deliberately' And The Word 'Wilfully' Are No Longer Part Of The Statue.

2. Mere Omission Or Negligence Would Not Constitute A Deliberate Act.

3. Though There Is No Doubt, That The Assessee Is Expected To Take Care To Disclose His Income Fully, Where The Income Is Based Upon The Opinion Of The Registered Valuer, There Is No Scope For The Levy Of Penalty.

4. The Primary Burden Of Proof Is On Revenue. The Statue Requires The Satisfaction On The Part Of The A O . He Is Required To Arrive At A Satisfaction So As To Show That There Is Primary Evidence To Establish That The Assessee Had Concealed The Amount Or Furnished The Inaccurate Particulars. And This Onus Is To Be Discharged By The Department.

5. The A O While Considering The Levy Of Penalty Should Consider Whether The Assessee Has Been Able To Discharge His Part Of The Burden. He Should Not Begin With The Presumption That The Assessee Is In Guilty.

6. It Has To Be Under Stood That The Explanation To Section 271 (1)(C) Is An Exception To The General Rule Raising A Legal Fiction By Which The Burden Which Is Ordinarily With The Department Is Sought To Be Placed On The Assessee.This Burden On The Assessee Is Subject To " Condition Precedent", Which Are Required To Be Satisfied Before The Explanation Could Be Applied.

The Case Law :------------- Dilip N. Shroff V J C I T. 2007

Even After Inserting The Proviso To Section 275(1)(A)Which Has Extended The Period Of Limitation From 6 Months To One Year. Where The Appeal Has Been Filed Against The Assessment Order To The Commissioner (Appeals) , Such Proviso Shall Not Be Applicable To Cases Where Further Appeal Has Been Preferred To The Tribunal Under Section 353 Against The Order Of The C I T (A). In Such Cases, The Limitation Period For Levy Of The Penalty Would Be As Provided In Section275 (1)(b) I.E. 6 Months From The End Of The Month In Which Order Of Tribunal Is Received By The Chief Commissioner Or The Commissioner Of Income Tax.

RAYALA CORPORATION (P) LTD VS. UNION OF INDIA.2007

Capital Gain-------

The Relevant Date For The C O A. Of A Capital Asset U/S 2(14) Will Be The Date When It Become The Taxable Asset As Per This Act

GURUCHARAN SINGH. 2007

Section-4 The Moneys Received From The Members. (Co-Op)And Kept In The Bank Is Utilised For Purchasing The Agriculture Land And Converting It Into Residential Plots For Its Members. There For, The Moneys Kept In The Saving Bank Account Have Direct Link With The Acquisition Of Land. Hence The Interest Earned On The Said Deposits Would Be A Capital Receipt

SARASWATI KUNJ CO-OP HOUSE BUILDING SOCIETY.2007

The I T A T Is The Highest Fact Finding Authority And Ought To Have Considered The Same As To How The Amount Could Be Considered As Undisclosed Income Under The Provisions Of The Act Or Not. It Is Not Always Right To Confirm The Additions Made By The Lower Authorities.

PYRAMID FILMS INTERNATIONAL. 2007.

The Provisions Of Section 68 Not Attracted If The A O Does Not Reject The Explanation Offered By The Firm. Section 68 Is The Charging Section And Also The A Deeming Provision. Unless The Circumstances Exist, The Revenue Cannot Rely On The Section 68 Of The Act Unless And Until The Explanation Found Not Genuine The A O Could Not Invoke The Provisions Of Section 68.

TAJ BORE WELLS 2007.

The Tribunal Was Right In Holding That The Unexplained Investments Should Be Considered In The Hands Of The Firm , During The Survey The Proper Course Would Be To Call Upon The Person In Whose Books The Deposit Appears Or The Person In Whose Name The Deposit Stands To Explain Such Deposit. The Department May Not Always Right To Conclude That The Partner’s Explanation Was Not Genuine And The Income From The Un Explained Investments Cannot Be Considered To Be Factitious In The Hands Of Firm

K. CHINNATHAMBAN. 2007

Section 6(1) The Fact Was That Non Resident Partner Would Take Decisions Regarding Policy Matters And The Resident Partner Would Have Effective Control Over The Affairs: - Under Section 6(2) The Control And Management Of Its Affairs If Situated Wholly Outside India Then The Firm Is N. R. The Expression Control And Management Meant De Facto Control And Management And Not Merely The Right Or Power To Control And Manage. Hence, The Control And Management Of The Affairs Of The Firm Would Be With The Resident Partner, The Firm Could Not Be Said To Be Non Resident.

MS. MENU SAHI MAMIK 2007

Exemptions U/S 10------------------------------

Section 10(5). When The Accounts Were Audited By C A G Auditors. And The Auditors Had Pointed Out No Discrepancy. And The L T C Facility Bona Fide Provided Then Exemption Is Available.

SEMICONDUCTOR COMPLEX LIMITED. 2007

Section 10 (14) The Educational Institutions Were Not Entitled For The Exemption U/S 10 (23C) Of The Act In Respect Of Application of Income For The Educational Purposes Out Side India. The Conditions Laid Down Section 10 (23 C)(a) Of Third Proviso Not Satisfied

AMERICAN HOTAL AND LODGING ASSOCIATION EDUCATIONAL INSTITUTE. 2007.

The Assessee Claiming The Exemption Under Section 10 B Have A Right To Withdraw The Application For Exemption Provided That Such Declaration Is Given On Or Before The Due Date Of Filing Return Under Section 139(1).

TAMILNADU JAI BHARAT MILLS LIMITED. 2006.

The Assessee Can Claim The Exemption Of The Amount Of Ex- Gratia Received Under The V R S Scheme , Both Under Section 10 (10 C) And 89(1) In Relation To Every Assessment Year (Every Assessment Tear Is An Independent Year)

TRICHY VS. S. SRINIVASAN IN C I T. 2007

Trusts--

Section 11 (2) : - The Assessee Seeking Exemption U/S 11(2) Need To Specifically Indicate The Purpose For Which The Amount Was Accumulated ,They Required To Be More Specific With Regard To The Utilisation Of Fund , They Cannot Say That The Funds Were Accumulated For All The Objects . So, If The Trust Has Different Objects, They Are Not Entitled To Accumulate The Income For The Objects Of The Charitable Trust Without Specifying The Purpose For Which The Income Was Accumulated.

BHARAT KALIAN PRATISTHAN.... 2007.

Section 13 (1)(bb) The Assessee Was Not Entitled To Get Exemption Under Section 11 As A Charitable Trust Since The Business Carried On By The Assessee Was Not In The Course Of Actual Accomplishment Of The Primary Object Of The Trust Of Relief To Poor, Education Or Medical Relief Etc.

P. IYYA NADIR CHARITABLE TRUST. 2006.

The Accumulation Of Income Is Permissible For The Plurality Of Purposes I.E. For The Achievements Of The Other Objects.

ETERNAL SCIENCE OF MAN‘S SOCIETY. 2007

The Payment Of Interest Subsidy By The Company Directly To The Financial Institution From Which Employees Had Availed Of Loan Is A Perquisite U/S 17 (2) (Iv), Because Under The Agreement’s Clause The Financial Could Directly Claim The Interest Subsidy From The Company If Any Default Committed By The Employees.

K. RAJENDRA PILLAI VS. U O I. 2007.

House Property--

The Rental Income From Letting Out The Kutcha Plinths On The Open Land Shall Assessable Under The Head Income From Other Sources. Section 22 Provides That Rental Income Only From The Building And Land Appurtenant Thereto.

GOWARDHAN DAS & SONS. 2007

Section 27 (iiib) :--Actual Lessee Had The Option To Retain The Possession For Further Period Of 2 Years On The Monthly Rent Payable In Advance Every Month. Section27 (iiib) States That The Assessee By Virtue Of Its Right By Way Of Lease From Month To Month Or For A Period Not Exceeding 12 Months Was Excluded From The Definition Of Owner Of The House Property So Income To Assessed As Business Income.

A.V.K. CONSTRUCTIONS P. LIMITED......2007.

P & G --------------------------------------

Section 37 :- Business Income From Illegal Activity Then Loss From Such Business Is Business Loss The Explanation To Section37 Has Not Really Nothing To Do With This Case. As It Was Not Case Of Business Expenditure, But Of Business Loss. Business Losses Are Allowable On The Ordinary Commercial Principles In Computing Profits. Once It Was Found That Heroin Becomes Part Of Stock In Trade Then Seized Then It Is A Part Of Trading Loss.

DR. T. A. QUERESHI. 2007

Section 28 (i) Assessee Can Not Claim Deduction Of Loss Incurred On The Sale Units Of Mutual Funds Purchased By The Assessee For Two Days To Get The Benefits Of The Dividend Income Under Section 10(33). Investment Was Made Merely To Get The Benefits And He Is Not Otherwise Engaged In The Said Business.

VANEET JAIN 2007.

Section 28 (i) The Foreign Gain Earned By The Assessee In The Course Of Export Was Revenue In Nature.

MOTORS INDUSTRIES CO. LIMITED.2007

Section 31 The Expenditures Incurred On The Relocating Or Reconditioning Of The Aluminium Smelters Would Be Regarded As The Current Repairs Since No New Asst Or New Advantage Had Come Into Existence, The Expenditure Incurred By The Assessee Was Revenue Expenditure Only.

BHARAT ALUMINIUM. 2007

The Assessee Cannot Claim Depreciation On The Machinery That Was Actually Not Used By The Assessee For The Purpose Of Business Or Profession But Ready To Use. So Should Be Actually Used.

YELLAMMA DASAPPA HOSPITAL 2007.

Section 32(1)(iii) :-The Assessee Can Not Claim The Write Off Of Any Plant And Machinery Sold, Discarded, Demolished Or Destroyed Which Has Not Been Used For The Business During The Previous Year In Which It Was , Sold , Discharged , Demolished Or Destroyed.

ALLIED ELECTRONICS AND MANUFACTURING LIMITED. 2007.

The Spares Of The Critical Parts Of The Plant And Machinery Kept As Stand By (Ready To Use) Are Entitled To Depreciation Under Section 32.

SOUTHERN PETRO CHEMICALS CORPORATION LIMITED. 2007

The Premium Collected By The Company On Its Share Capital Was Not Tantamount To Capital Employed In The Business Of The Company Within The Meaning Of Section 35 D. Held That It Was No Body's Case That The Premium Collected By The Assessee On The Issue Of Shares Was A Long Term Borrowing Either In Fact Or By The Fiction Of The Law. The Expression Capital Employed In the Business Of The Company Is The Aggregate Of Three Distinct Components, Namely , Share Capital, Debentures And Long Term Borrowings As On The Dates Relevant Under Sub Clauses (i) And (ii) Of Clause (B) Of The Explanation To Sub Section (3) Of Section 35 D .

BERGER PAINTS INDIA LIMITED. 2007.

Section 36(1)(iii) Any Type Of Bona Fide Provision Of Any Bad Debts, Which Are Irrecoverable Would Be Allowed As Deduction. The Factors Would Be Relevant In The Eyes Of Revenue If The Transaction Itself Was Sham Or False. Once It Was Accepted That The Transaction Actually Took Place Genuinely , Then Disallowance Of The Bad Debts Was Not Justified.

S. A. BUILDERS LIMITED. 2007

Where The Interest On Money Borrowed From The Bank And Lent To The Sister Concern Without Charging Interest May Be Allowed As Deduction Under Section 36 (1)(iii) If Bona Fide And For Business Purposes Of The Assessee The Fact That The Borrowed Amount Not Utilised By The Assessee In Its Own Business Activity But Had Been Advanced As The Interest Free Loan To Its Sister Concern Is Not Relevant. What Is Relevant That Whether The Amount Was Advanced As A Measure Of Commercial Expediency And Not From The Point Of View Whether The Amount Was Advanced For Earning Profits. The Expression Commercial Expediency Is One Of The Wide Import And Includes Such Expenditures As A Prudent Businessman Incurs For The Purpose Of The Business. The Expenditure May Not Have Been Incurred Under Any Legal Obligation, But Yet It Is Allowable As The Business Expenditure If It Was Incurred On The Grounds Of Commercial Expediency . Once It Is Established That There Was A Nexus Between The Expenditures And The Purpose Of The Business (Which Need Not Necessarily Be The Business Of The Assessee Itself) The Revenue Cannot Justifiably Claim To Put Itself In The Arm Chair Of The Businessman And Assume That How Much Is Reasonable Expenditure As Per The Circumstances Of The Case.

S. A. BUILDERS LTD. 2007.

The Amount Paid By The Assessee For Becoming The Member Of Stock Exchange Is The Capital Expenditure. Held That The Very Enduring Benefit Was Accruing To The Assessee On The Payment Of The Development Charges, Whether It Differed In Many Years It Cannot Be Said That It Is A Revenue Expenditure.

RAJENDRA KUMAR BACHHAWAT.2007.

Section 37 (1) The Premium Paid On The Redemption Debentures Is A Revenue Expenditures, Held That The Liability To Pay Premium Arose At The Expiry Of The Period And It May Or May Not Arise (If Repurchased By The Co. And Not Redeemed) Here The Entire Amount Of Premium Is Allowed In One Year As The Revenue Expenditure.

INDUSTRIAL CABLES LIMITED (P). 2007.

The Excess Charges Paid Only As Surcharge To Electricity Department For Drawl Of Excess Load As Per P S E B Rules Is Not The Penalty And Excess Load Was Used Only For The Purpose Of The Business, Hence Allowable Expenditures.

INDUSTRIALS CABLES (INDIA) LIMITED. 2007.

Any Amount Paid By The Assessee As A Royalty Charges To Use The Technical Know How For The Limited Period Is Allowable As Revenue Expenditure. As After The Expiry Of The Agreement The Assessee Would Continue To Manufacture Using That T K H Tribunal Had Recorded A Finding That The Right Acquired By The Assessee Was Not Exclusive And That It Was For Limited Period And Could Be Terminated Earlier Within The Period Of The Agreement And Payment Was Dependent On The Quantum Of The Items Manufactured. In View Of These Findings, The Tribunal Had Rightly Concluded That The Payment Towards Royalty As Revenue Expenditure.

KANPUR CIGARETTES (P) LTD. 2007

Section 37 The Expenditures Incurred On The Upgrading Of The Computers By Charging Certain Parts Thereby Enhancing The Configuration Of The Computers For Improving Their Efficiency , But Without Making Any Structural Alternations Is Not Change Of An Enduring Nature. Therefore, The Expenditure Incurred By The Assessee Had To Be Treated As The Revenue Expenditure.

SOUTHERN ROADWAYS. LIMITED. 2007.

The Contributions Made By The Company Towards The Building Of The Chamber Of Commerce Whose Activities Were Closely Linked With The Welfare Of The Corporate Entities Who Were Members Thereof And Whose Interests Were Taken Care Of By The Chamber Of Commerce. Irrespective Of Whether The Expense Incurred Was Compulsory Or Otherwise, It Was Deductible.

CHEMICALS AND PLASTICS INDIA LIMITED. 2007.

The Upfront Fees Paid By The Assessee For Obtaining The Loan For The Purchase Of Machinery Are To Be Treated As Bank Charges Hence Allowed.

SRI MEENAKSHI MILLS LTD.2007.

The Cash Payments Made To The Un Organised Sector Of Payees May Attract The Disallowance U/S 40 (A) (3). [Rule 6 D D]. Idea Under Rules Is That If The Identity Of The Payee Is Known , It Would Be Possible For The Income Tax Officer To Cross Check Whether The Transaction Had In Fact Taken Place., If The Revenue Questioned The Genuineness Of The Cash Payments Made To Shandy Persons, From Whom The Assessee Obtained Not Even The Letters Of Confirmation The Cash Payments Would Be Held Indispensible , So Assessee Have To Produce The Necessary Grounds For Making The Cash Payments.

K.K.S.K. LEATHER PROCESSOR P LIMITED. 2007.

The Cash Payments Made By The Assessee To The Un Registered Dealer On The Ground That It Is Not Possible To Issue The Cheques Because That Dealer Is Insisted On The Cash Payments Will Violate The Provisions Of Section 40 A (3) And Rule 6 D D (J).

SRI SARASWATHI IRON FOUNDRY (2007).

Section 41 (1) :- Where The Amount Of Refund Received By The Assessee On Account Of The Sales Tax Already Paid (Or Any Refund Towards An Expenditure Allowed As Deduction Earlier) Is Neither The Cessation Nor The Remission Of The Trading Liability And The Amount Of Refund Is To Be Treated As Trading Receipts Deemed To Be The Income In The Previous Year In Which It Has Been Refunded U/S 41 (1)

MOTI LAL PADAMPAT UDYOG LIMITED. 2007.

The Amount Remitted Shown As Liability In The Balance Sheet As Group Gratuity Scheme With L I C , The Assessee Surrendered The Policy And Received Amount Would Not Be Taxable Under Section 41(1), Whether Liability Is Cancelled Because It Is Not The Cessation Or Remission Of The Trading Liability.

TAMILNADU WAREHOUSING CORPORATION 2007

Section 43 B :------ In Respect Of The Amount Payable By The Assessee To The State Govt. As KIST Is Only A Statutory Liability Which Is In The Nature Of Tax , Duty , Cess Or Fees, To Which The Provisions Of Section 43 B Applies. Hence , Kist/Or/ Rental Amounts Payable To Govt Could Not Be Brought Within The Purview Of Section 43 B.

SATISH CHANDER HEGDE FAMILY TRUST. 2007.

Section 43 B The Payments Made Towards The Employees State Insurance And Provident Fund Within The Grace Period Allowed By The Statute Can Be Treated As Allowable Expenditure

MODI SPINNING AND WEAVING MILLS CO. LIMITED. 2007.

Section 32 And 80:- The Unabsorbed Depreciation Can Be Carry Forward And Set Off Even If The Losses For The Previous Year Had Not Been Determined Section 80 Confines Itself About This.

BRIGADIER PARMANAND 2006.

Capital Gains ------------------

Section 45------------------- The Profits Earned On The Sale Of Shares , Held For Earning The Dividend Only Are To Be Treated As Capital Gains Not The Business Income Because The Assessee Never Treated The Shares As Stock In Trade And Held For Only Earning Dividend.

N.S.S. INVESTMENT (P) LIMITED. 2007.

Section 45 (5) The Additional Compensation Was Received On The Compulsory Acquisition Of The Property :---- These Amounts Were Received Pending Appeal There To But Received On The Basis Of The Conditional Interim Order Passed By The Court. Afterwards It Was Held That The Right Of Assessee On The Amount Received By Them As Enhanced Compensation Was Only An In-Choate Right During The Pendency Of Appeals And The Amounts Could Be Assessed Only When The Appeals Were Finally Determined By The Same Court, Therefore It cannot Be Said That The Right Over The Amounts Had Accrued To The Assessee On The Date Of Interim Receipt. So Amounts Received On The Basis Of Interim Order Were Not Liable To Tax.

ANIL KUMAR FORMA (H U F).2007.

Section 45 & 2(14) Question: - Whether The Transfer Of Property By Way Of Sublease Could Be Treated As A Capital Asset And Liable To Capital Gain Tax. Answer :- As Per Section 2(14) The Word Capital Asset Means The Property Of Any Kind Held By An Assessee. Therefore, It Does Not Necessarily Means That The Property, Which The Assessee Holds, Must Be His Own. According To Definition, Any Kind Of Property Held By An Assessee Would Come Within The Definition Of Capital Asset. Transfer By Way Of Lease Is Treated As Transfer Of The Capital Asset On The Principle That The Lease Creates An Interest In The Property And Therefore To The Extent, It Extinguishes The Right Of The Transferor. Even An Assessee Transfers His Lease Hold Rights In Property In His Occupation By Way Of Sub Lease To Another Person, It Amounts To The Extinguishment Of Rights In The Property And Since The Leasehold Rights Had Created An Interest In The Property. The Transaction Of Sublease Constituted Transfer And The Gains Arising There From Were Assessable As The Capital Gain.

SUJATHA JEWELLERS. 2007.

Section 45 & 47 (via) The Amalgamation Of The Wholly Owned Subsidiary Foreign Company With The Parent Company Incorporated Outside India Would Not Give Rise To The Capital Gain Tax U/S 45.

HOECHST GMB H , IN RE. 2007

Section 54 E -----Question. ;- Whether The Interest Income Generated On The Investment On Specified Assets Would Constitute The Part Of Net Consideration For Claiming The Exemption Under Section54 E :---- It Was Held That The Net Consideration Defined In Explanation 5 To Section 54 E (1) Does Not Include Any Accruals On The Investments From Out Of The Net Consideration Of The Asset Transferred. It Is Only The Net Sale Value Obtained On The Transfer Of Capital Asset , Which Is The Full Value Received As Reduced By The Expenditure Incurred For And In Connection With Transfer, Hence Interest Income Generated On The Investment In The Specified Assets Under Section 54 E Could Not Be Treated As Net Consideration For Reinvestment In The Same Or Another Specified Asset For Claiming The Exemption On Such Amount Also. Smt. P.G.

BHANUMATHY , BHAVI BOOKS.2007.

Clubbing Provisions--------------------------------

Section64 (1)(iii) It Was Held That On The Facts No Trust Was Ever Created By The Testator Under The Will . If The Executer Of The Will Was To Join The Partnership To Represent The Interest Of The Minors And Was To Deposit The Business Income In A Separate Account Of Each Of The Beneficiaries, Then Such Executer Would Not Gain The Capacity Of A Trustee And Would Only Be An Executer Of The Will . Therefore, The Provisions Of The Explanation 2 A To Section 64 (1) (iii)

Were Not Applicable.

ABDULGAFUR A MISTRY 2007.

Deductions Via Chapter VIA. ---

Section – 80 HH & 80 –I :- These Two Sections Are Independent Sections And Therefore Deductions Can Be Claimed By The Newly Established Industrial Undertaking Both Under Section 80 HH And Section 80-I on The Gross Total Income.

MANDIDEEP ENGINEERING AND PACKING INDIA LIMITED. 2007.

Section 80-IA :--- Income On Sale Of Import Licences Cannot Be Held To Constitute Profits And Gains Derived From The Assessee's Industrial Undertaking And The Receipts Cannot Be Included In The Income Of The Assessee For The Purpose Of Computing The Deduction Under Section 80-I A. And Also The Interest Income On The Same.

NAHAR EXPORTS LIMITED. 2007.

Section 80P:- It Was Held That For Claiming The Deduction Under Clause (A) Of Subsection (2) Of Section 80P The Assessee Is Required To Establish That The Income Is Attributable To Carrying On The Business Of Banking. The Business Of Banking Could Not Be Carried Out Without The Aid Of Employees And Therefore Whatever The Amount The Assessee Had Received Either Towards The Excess Provision Of Pay Recovered From The Resigned Staff, Training Cost, Recovery And Forfeiture Of Security Of Employees Was Attributable To The Activity Of Carrying On The Business Of Banking.

GORAKHPUR KSHETRIYA GRAMIN BANK. 2007.

Section 80 AB The Losses From One Unit Had To Be Adjusted From The Profits Of Other Unit While Computing The Special Deduction U/S 80 I : It Was Held That Section 80-AB Would Overrides All The Other Sections For The Purpose Of Deduction Under Chapter VI-A. While Calculating The Gross Total Income Of The Company, One Has To Adjust The Losses From One Priority Unit Against The Profits Of Other Priority Unit And If The Resultant Gross Total Income Is Nil Then The Assessee Cannot Claim The Deduction Under Chapter VI-A. Hence The Eligible Profits On Which The Special Deduction Was Allowable Had To Be Reduced By The Loss Incurred By The Assessee In Its Leasing Business.

R.P.G. TELECOMS LTD. 2007.

Income Tax Authorities----------------------------

Section 260 A :- When The Jurisdiction In Respect Of Case Had Been Shifted From One Place To Another Place ,Where The Revenue Department Could File An Appeal Under This Section.:- In This Case :- Consequent To The Order Passed Under Section 127(2) , The Assessee's Case Was Transferred From Lukhnow To Delhi And The Assessee's S L P Against The Order Of The Allahabad Court Confirming The Transfer Order Was Dismissed By The Supreme Court And, The Transfer Order Has Attain Finality By Virtue Of Explanation To Explanation To Section 127(4), All the Future Proceeding Would Now Have To Be In The Harmony With The Order Passed Under Section 127(2)And , Consequently, The Jurisdiction In Respect Of Case And The Assessee Having Been Shifted From Lucknow To Delhi. The Revenue Could File Appeal Under Section 260A Only In Delhi.

SAHARA INDIA FINANCIAL CORPORATION LIMITED 2007.

Section 133A :- The ITO On The Basis Of Authorisation Issued By The J C I T Impounded The Voluminous Documents , Books Of Accounts And Other Incriminating Materials. The Section 133 A Of The Income Tax Act, Confers Power Upon The I T O To Survey The Premises Keeping In View The Rights Of The citizens And To Impound The Documents For Further Course Of Action , But If The Court Rightly Ordered/Allowed To I.T. Authorities To Return The Original Impounded Documents And To Retain The Authenticated Copies (By Assessee) Of Impounded Documents Accepting The Contention Of The Assessee That No Reasons Were Assigned For The Retention Of The Documents Impounded , Is Not Bad In Law , However Liberty Was Also Given To The Authorities To Take The Action In Accordance With Law. So The Apprehension Of The Department That Public Interest Would Be Affected And The Officers Could Not Function Effectively In The Absence Of The Original Documents Could Be Brushed Aside .

I T O VS. RAJ AND RAJ INVESTMENTS. 2007.

Assessment Procedure --

Section 80 And 139. The Assessee Is Entitled To Carry Forward And Set Off Loss In Case Of Late Filing Of Return. The A O Passed An Order Refusing To Extend Time For The Filing Of Return. The Refusal Of Extension Of Time Was Not Conveyed To The Assessee. The Assessee Had Claimed Carry Forward Of The Assessed Loss But The Assessing Officer Did Not Allow It, Proviso To Section 139(1) Provides That The Assessing Officer Is Empowered To Take The Decision On The Application For Extension Of Time For Filing The Return And To Communicate The Decision To The Assessee Concerned, Non Communication Of Order Make The Order Ineffective And Incomplete. Therefore, The Assessee Is Entitled To Carry Forward The Assessed Loss Even Though The Return Was Filed Late, In View Of The Specific Provisions Of Section 80.

DHATU SANSKAR (P) LTD. 2007.

The Assessing Officer Can Refuse To Process The Return On The Ground That It Was Not Filed On The Time Prescribed U/S 139 . The Petitioner Had Received The Amount As Result Of The Voluntary Retirement Scheme. The Employer At The Time Of Paying This Amount Deducted Tax At Source/S 192. And Acknowledgement In Form No – 16 A Was Issued To The Petitioner. The Petitioner Contended That In Respect Of The Amount That He Had Received, In Terms Of The Provisions Of Section 10(10 C), 17(3) And 89 Read With Rule 21 A Not Liable To Pay Any Tax. But The Court Held That Section 139 Applies Here, He Has Income Over And Above The Exempted Limit And Whose Income Is Taxable, So Bound To Follow The Period.

A. BALAKRISHNAN VS. G M HINDUSTAN MACHINE TOOLS LTD. 2007.

Proviso To Section 142(2A) :- The Order Passed By The Deputy Commissioner U/S 142 (2A) Without Giving The Opportunity Of Being Heard Cannot Sustain. This Section Provides That The A O Has To Consider The Factors Such As: (A) The Nature Of Accounts (B) Complexity Of Accounts And (C)

RAJESH KUMAR 2006.

The Closing Stock Would Not Be Valued At Market Price In Case Of Conversion Of Proprietary Business Into The Partnership Firm. Because There Is No Discontinuance Of Business It Cannot Be Said That The Assessee Ceased To Remain In The Same Business. Section 145.

M.K. KATHIRESAN. 2007.

Section 147 / 148 :- Question:- Whether The A O Could Again Initiate The Reassessment Annulled By The Appellate Authority ; Answer :--- The Books Were Impounded And Examined And Reassessment Order Was Passed The Appellate Assistant Commissioner Annulled The Order Of Re Assessment As Without Jurisdiction .The A O Issued The Notice U/S 148and Again Computed The Income Of The Assessee(Which Was Annulled). Again The Asessee Challenged The Order Of Re-assessment Before The Same Appellate Assistant Commissioner Framed By The A O. Then A C I T Cancelled The Order Same By I T A T, But The Court Was Held That After The Reassessment Order Had Been Set Aside By The Appellate A C The A O Had No Jurisdiction Once Again Embark Upon The Same Proceedings.

AIR CRAFT RADIO CORPORATION .2007

Question Of Law :- Whether The Rectification Proceedings Under Section 154 Of The Act Was Justified, In Case The Assessing Officer Accepted Once The Books Of Accounts. -------- The Assessee Was A Dealer In The Fertilizers And Also Derived Income From Playing Three Lorries . He Filed His Return Disclosing The Loss , A O Served A Notice U/S 143(2), Then He Completed The Assessment U/S 143(3) Accepting The Total Loss. He Also Made Further Additions U/S 44 A For Two Lorries Only And Some Other Mistakes And Now Wants To Rectify The Assessment Order. The High Court Held That Assessment Was Made U/S 143(3) And Assessee Has Maintained The Books Of Accounts And Filed The Profit And Loss Account Which Was Used By The A O For Section 143(3).So Once The Books Of Accounts Accepted, Proceedings Initiated U/S 154 Are Not Justified.

THIRUMALAI FERTILIZERS AND CO. . 2007.

Question Of Law :-- Whether The Rectification U/S 154 Can Be Made For The Order That Is Not In Conformity With The Decision Of The Supreme Court (There Is Mistake Apparent From The Record-Section 154 & 80- I A, --- The Assessee Had Filed The Return And Claimed Special Deduction U/S 80- I A On Its Gross Income And This Was Allowed. Subsequently The Order Was Rectified On The Ground That The Assessee's Claim Of Deduction Under Section 80-I A Had Been Allowed Before Setting Off The Earlier Year Losses From The Profits And Gains Of The Industrial Undertaking And High Court Held That Only Apparent Mistake And A Non Debatable Issue Would Be The Subject Matter Of The Rectification U/S 154, In This Case , The Order Sought To Be Amended/ Rectified Is Not In Conformity With The Law Declared By The Supreme Court, Which Amounts To The Mistake Apparent On The Face Of The Record. Hence The Action Of The Assessing Officer In Rectifying The Order U/S 154 Is Perfectly Justified.

DINOSAUR STEELS LIMITED. 2007.

Appeals And Revisions ---

Question Of Law :- Whether The Assessee Can Raise The Additional Grounds Of Appeal Before The Appellate Tribunal. --------- > Section 254 :- The High Court Held That The Only Pre Condition For Permitting An Assessee To Raise The Additional Ground Is That The Request Should Be Reasonable. The Request Made By The Assessee For Raising The Additional Grounds Of Appeal In The Instant Case Was Reasonable, Firstly For The Reason That The Facts With Regard To The Legal Issues, Being Raised By The Assessee As Additional Grounds Of Appeal, Were Already On Record And Secondly On Merits, The Issue Sought To Beraised Had Already Been Decided By The Tribunal In Favour Of The Assessee For Other Years. Therefore, The Assessee Was Allowed To Raise Additional Ground Of Appeal.

ABHISHEK INDUSTRIES LTD. 2006.

Section 254 :--- Question Of Law ------- > Whether The Appellate Authority Has Power To Pass An Order Of Stay In Appropriate Cases Even In The Absence Of Specific Provision :- The Appeal Is Pending. The Matter Is Settled That The Appellate Authority Even In The Absence Of A Scientific Provision Has The Power Vested In By Virtue Of Being An Authority To Grant Stay In The Appropriate Cases.. Accordingly, If The Proper Application Is Filed Before The Appellate Authority , The Appellate Authority Will Exercise Its Discretion And Pass A Speaking Order In Accordance With Law.

AGRICULTURE PRODUCE MARKET COMMITTEE. 2007

Section 263 :- Whether The Period Of Limitation For Revision Proceeding By The C I T Begins From The Date Of Original Assessment Or From The Date Of Reassessment, In A Case Where The Revision Proceedings Are Related To An Item, Which Was Not The Subject Matter Of The Re Assessment. :--------- In The Original Assessment Order The Assesses Claim Was Accepted And The Same Claim Was Not The Subject Matter Of The Reassessment Which Was Initiated In Respect Of Other Items. Thereafter The C I T The Revision Proceedings Only In Relation To Item Which Was Accepted In The Original Assessment. And Court Found That The Revision Proceedings Were Barred By The Limitation As They Initiated Four Years After The Original Assessment. The Supreme Court Observed That Though There Was No Doubt That Once An Order Of Assessment Is Reopened, The Previous Assessment Will Be Held To Be Set Aside and The Whole Proceeding Would Start Afresh. However, It Would Not Mean That Even When The Subject Matter Of Reassessment Is Distinct And Different , The Entire Proceeding Would Be Deemed To Have Been Re Opened. The Doctrine Of Merger Would Apply Only In The Case Where The Subject Matter Of The Reassessment And The Subject Matter Of The Assessment Are Same.. However, In This , Case, The Revision Proceeding Relating To Items Of Original Assessment Order (Accepted) Is Not The Subject Matter Of The Re Assessment. There Fore, The Doctrine Of Merger Does Not Applyon This Case And The Revision Proceedings Are Barred By The Limitation.

ALRGGENDRAN FINANCE LIMITED. 2007.

Whether There Is Substantial Question Of Law. That The Assessee Ought To Be Taxed , On Account Of Perquisite Benefits Provided To Him By The Company Section 263 :------ The High Court Held That The Company Had Claimed A Deduction On The Expenses Incurred In Respect Of Perquisites Benefits Provided To The Assessee. The Deductions Were Disallowed And The Company Was Taxed On That Amount, Once The Company Has Been Taxed On That Amount, The Assessee Cannot Be Taxed On The Same Amount..

SUBRATA ROY 2007.

The Question Is Whether The Tribunal Was Right In Holding That The Assessment Cannot Be Reopened Where The Assessee Had Not Returned The Income Which Was Subjected To Tax Deducting At Source Section 260 A In This Case The Return Was Not Filed For The First Two Years Afterwards It Is Filed And Processed U/S 143(1)(A) The A O Noticed That The Assessee Had Deposited Some Amount With A Financial Enterprise And Aforesaid Company Had Credited The Account Of The Assessee As Interest And Also Deducted Tax At Source. And To Department. , Based On The Above Information The A O Initiated The Proceeding U/S 147 For The Failure Of The Assessee To File The Return Of Income In Respect Of The Aforesaid Interest Income And Treat The Interest Income As The Income Of The Assessee From Other Sources., (The Amount Of Tax Deducted At Source Will Always Not Be Equal To The Tax Payable By The Assessee) So The A O Had Correctly Invoked The Provisions Of Section 147 And Rightly Assessed The Interest Income

GOYAL’S INTERNATIONAL HOTELS AND RESORTS LIMITED 2007.

Section 244 The Assessee Would Be Entitled To The Interest U/S 244(1 A) , In Respect Of Payments Made U/S 220(2).

R.D. RAMNATH COMPANY 2007.

There Is No T D S Is Deducted Tends To Failure To File The T D S Return U/S 206 Or Failure To Issue The Certificate Of Tax Under 203 , Then The Penalty Under Section 272 A (2)(C) Cannot Be Levied, Because The Assessee Has No Reason To File The Details Of The Tax Or To File Return Or Issue Certificate.

SAHARA INDIA FINANCIAL CORPORATION LTD. 2007.

Section 271 (1)(C)...After The Survey , The Assessee Filed A Revised Return Disclosing The Additional Income , On Receiving The Assessing Officer Imposed The Penalty Under Section271 (1)(C) And Tribunal Upheld This; But The High Court Held That Te Question Whether There Is Concealment Of Income Or Not Has To Be Decided With Reference To The Facts Of A Given Case And The Fact Finding Authorities Under The Act Having Come To The Conclusion That In The Fact Of Case, The Assessee Had Concealed The Income Initially With A View To Avoid The Payment Of Tax, The Imposition Of Penalty Was Valid .

JYOTI LAXMAN KONKAR ... 2007.

Section 276 C :- It Was Held That Once The Penalties U/S 271(1)(C) Are Cancelled On The Ground That There Is No Concealment And No Penal Cause Was Made Under This Section, The Quashing Of Prosecution Under Section 276C Is Automatic.

INDIAN PLYWOOD MANUFACTURING CO. LIMITED. 2007.

Question :-- Whether The Penalty Imposed U/S 271 B Can Be Set Aside On The Ground Of Ignorance Of The Income Tax Act. ----------- > It Was Held That The Ignorance Of The Income Tax Act Could Not Be A Ground For Non Writing Of Books Or Other Violations As Are The Basis For The Concealment Of Income. So Penalty Can Be Imposed.

SARASWATI ELECTRONICS. 2007.

T D S -- >

Where The Loans Taken For The Benefits Of Directors Only And To Be Repaid By The Directors Routed Through Company's Accounts If The Company Did Not Deduct The Tax It Will Be Liable For Penalty Under 201 (1A).

CENTURY BUILDING INDUSTRIES. 2007.

The Revenue Cannot Resort To The General Provisions Of Section 194 J , When There Is The Specific Provisions In Section 194 C By Way Of An Explanation Regarding Production Of Programmes For Broadcasting And Telecasting.. It Was Held That If On The Same Date , Two Provisions Are Introduced In The Act One Specific To The Activity Sought To Be Taxed And The Other Provision In More General Terms., Resort Must Be Made To The Specific Provision Which Manifests The Intention Of Legislature. There Was No Infirmity In The View Taken By The Tribunal...

PRASAR BHARTI. (BROADCASTING CORPORATION OF INDIA) 2007.

Section 194C:- It Was Held That The Liability To Pay Tax Is Created On The Contractor And His Tax Is Deducted. And Agents Appointed By The Contractors (Not Subcontractors) Not Falls Within The Preview Of Section 194 C, These Were Appointed For The Own Purposes Of The Contractors As Principal To Agent Basis. So No Penalty To Be Charged For Non Deducting Of Tax At Source Whenever The Commissions Are Paid To These Agents.

KUMAON MANDAL VIKAS NIGAM LIMITED. VS. I T O. 2007.

Section 194-I ---- > Security Deposits.:- The Court Observed That Had The Amount Been A Security Deposit, It Would Have Been In The Nature Of A Refundable Amount At The Time Of Termination Of Lease Or Agreement. Also As Per The Agreement, The Assessee Was Under An Obligation To Refund The Unadjusted Portion, If Any, Of The Security Deposits. This Means That The Amount Was Adjustable Against Rental Payment And The Same Was So Adjusted. Therefore , The Payment Was In The Nature Of Advance Rent And Tax Was Deductible At Source Under Section 194 – I.

REEBOK INDIA.CO. 2007.

Section 194 –I :-- The Word Rent , As Defined Has The Wider Meaning Than Rent In The Common Parlance. It Shows That Even The Landing Of Air Craft Amounts To User Of Land Of The Airport. Hence, The Landing Fees And Parking Fees Will Amount To Rent.

UNITED AIRLINES. 2007.

Wealth Tax Act :---------------------------

Section : 4 :- Question :- Whether The Land Allotted To The Assessee Being A Member Of Co-Operative Housing Society, Transferred By Him To His Wife, Assessable In His Hands :------ Answer :- The Husband Member Afterwards Substituted The Name Of His Wife With His Name In The Society's Member's Register. It Was Held That The Assessee Ceased To Be A Member Of The Society. And Could Not Be Treated To Be The Owner Of The House Property And The Value Of House Property Was Not Assessable In His Hands.

RAM SARAN DAS TANDON. 2007.

Section - 5 (1)(iv):- Can Palace Transferred By The Husband To His Wife Through Will , Entitled For Exemption Under Section 5 (1)(Iv).... Held That Since The Life Interest Was Included In The Net Wealth Of The Assessee, So The Assessee Was Entitled To Claim Exemption Under Section 5 (1)(Iv).

DILHERKUNVERBA C JADEJA. 2006.

Question :- Whether The Various Factors And Reasons Explain By The Assessee For Failure To Non- Filing Of The Return Within The Time Prescribed Under The Act, Can Be Considered As Reasonable Cause. Answer :- The High Court Held That The Assessee’s Explanation In The Reply Filed To The Notice Issued Under Section 18 (1)(a) Was The Bona fide Belief Of The Assessee. This Belief Was Not Without Any Reason. The Various High Courts Had Held That Since The Club Is An Association Of Persons , It Is Not Taxable Under The Provisions Of The Wealth Tax Act In View Of The Language Employed In The Charging Provisions Of The Act.

CHIKMAGALUR CLUB 2007.
