eShiksha # 1

			Income Tax Cases		
S.no	**Date**	**Section**	**Subject**	**Link(Source)**	**Conclusion**
1	24/06/2015	**10(23C)(iiiad)**	For considering the limit of 1 crore, receipts of more than 1 educational institute cannot be clubbed	Income Tax Officer. Vs. M/s Chironji Lal Virendrapal Saraswati Shiksha Parishad (ITAT Lucknow), ITA Nos.713 & 714/LKW/2014 A.Y.:2010-11 & 2011-12, Date of decision – 31st March 2015	For the purpose of limit prescribed in section 10(23C)(iiiad), Rs. One crore limit has to be considered for each institution separately and not for the assessee as a whole.
2	26/06/2015	**143(3)**	No disallowance of interest	Adani Properties Pvt Ltd vs DCIT, ITA no 868&881/Ahem/2011, date of Pronouncement 16.06.2015	No disallowance of Interest if assessee has own fund more than interest free advance
3	26/06/2015	**69C**	Unexplained expenditure	ITO vs Paresh Arvind Gandhi (ITAT Mumbai) Date of Decision: 13 May 2015 ITA .ITA No.5706/Mum/2013.	ITAT further noted that in similar circumstances the Tribunal had deleted the addition made by the AO in the of of DCIT vs Rajiv G Kalathil (ITAT Mumbai) ITA No.6727/Mum/2012 which was relied by the Assessee. Suspicion of highest degree cannot take place
4	26/06/2015	**143(3)**	Accrual concept tested	ACIT vs Naranlala Pvt. Ltd (ITAT Ahmedabad) Date of Decision: 12 June 2015. ITA No. 2600/Ahd/2011 .	ITAT held that It is observed from records that since the right to receive the retention money was not accrued to the assessee at that time and hence the same was not shown in its income during the year under consideration
5	26/06/2015	**32**	Depreciation on Goodwill	M/s. Sujag Fine Chemicals Pvt. Ltd. vs ITO (ITAT Ahmedabad) Date of Decision: 12 June 2015, ITA No. 2497/Ahd/2011	By plain reading the words “any other business or commercial rights of similar nature” in clause (b) of Explanation 3 indicates that goodwill would fall under the expression “any other business or commercial right of a similar nature. The principle of ejusdem generic would apply in the said expression which finds place in Explanation 3(b). In the circumstances, ITAT Held that “goodwill” is an asset under Explanation 3(b) to section 32 (1) of the Act.
6	29/06/2015	**50C**	Full Value of consideration	http://taxguru.in/income-tax/taxability-transactions-real-estate-sector.html	If capital asset is sold at value less than the value adopted by the State Govt. for stamp duty purposesn than value adopted by the state Govt. shall be taken as full value of consideration. But will not apply on Builder/developer as
7	29/06/2015	**43CA**	Full Value of consideration	http://taxguru.in/income-tax/taxability-transactions-real-estate-sector.html	Same as Sec 50C but it is applicable in case of stock in trade.SDV shall be taken on the date of registration of such transfer. Where there is difference between date of “Agreement of sale” and date of “registration of transfer” then SDV on the date of “Agreement of sale” shall be taken only if entire sale consideration or part thereof has received on or before the date of “Agreement of sale” by any mode other than cash.
8	29/06/2015	**56(2)(Vii)**	Gift	http://taxguru.in/income-tax/taxability-transactions-real-estate-sector.html	Section 50C is applicable on the seller (holding the capital asset being immoveable property). However, section 56(2)(vii) is applicable on the buyer (being the individual or HUF) buying the capital asset being immoveable property. This section states that where assesse purchase/receive capital asset being immoveable property at the price less than (more than rs. 50,000) SDV of such Immoveable property then difference shall be taxable as Income from Other Source. Date of Registration & date of agreement of sale provisions same as above.
9	29/06/2015	**269SS & 269T**	Taking loan or deposit or other advance(Amendment for real estate) and their repayment.	http://taxguru.in/income-tax/taxability-transactions-real-estate-sector.html	By an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount of such loan or deposit or such specified sum is Rs. 20,000 or more. If any person involve in this violation of the provision of these section then 100% of the sum involve in the violation shall be imposed as penalty.
10	02/07/2015	**Depreciation**	100% depreciation		LED video display boards being purely temporary structures, assessee was entitled to 100 per cent depreciation
11	02/07/2015	**Vat**	Rajasthan Vat		Renting of tents, cutlery and furniture on occasion of marriage is deemed sales under Rajasthan VAT Act.
12	02/07/2015	**Excise Duty**	Lacquering and laminating		'Lacquering and laminating' of films and converting it into several shapes/sizes for use in packaging amounts to 'manufacture' and therefore, credit may be taken and used for payment of duty thereon

13	24/06/2015	**67**	Valuation of Taxable Services	Tata Tele Services vs. Commissioner of Service Tax (CESTAT Mumbai), Appeal no. ST/79,179/10 Mum; Date of Judgment-March 11, 201	The tribunal considered the rival contentions and observed that Section 67 of the Finance Act, 1994 state the value of any taxable service shall be the gross amount charged by the service-provider for such service rendered by him. In instant case, the amount charged by the assessee (service-provider) is the amount received by them from dealers/distributors and nothing extra was charged by the appellants.
14	27/06/2015	**Rule 2C of Service Tax (Determination of Value) Rules, 2006**	Clarification on rate of service tax on restaurant service	Circular No. 184/3/2015-ST	14% of 40% of total amount charged for such supply i.e. 5.6%
15	29/06/2015	**Abatement @75%**	Taxable @25%	http://www.simpletaxindia.net/2015/04/service-tax-abatement-rate-chart.html	Construction of a complex, building, civil structure or a part thereof, intended for a sale to a buyer, wholly or partly except where entire consideration is received after issuance of completion certificate by the competent authority :- (i)for residential unit having carpet area upto 2000 square feet or where the amount charged is less than rupees one crore. Provided (i) CENVAT credit on inputs used for providing the taxable service has not been taken under the provisions of the CENVAT Credit Rules, 2004. and (ii)The value of land is included in the amount charged from the service receiver.
16	29/06/2015	**Surrender /cancellation charges of flat before its completion**	Attracts Service Tax	http://www.simpletaxindia.net/2015/04/service-tax-abatement-rate-chart.html	Such surrender/ cancellation charges fall under the definition of service u/s 65B (44) of Finance Act, 1994, and these charges are also covered under the definition of declared service u/s 66E (e).
17	29/06/2015	**Rule 6(3) of Service Tax Rule, 1994**	Buy-back of flat before completion	http://www.simpletaxindia.net/2015/04/service-tax-abatement-rate-chart.html	Adjustment of excess service tax paid. Rule 6(3) of Service Tax Rule, 1994
18	29/06/2015	**Re-selling of surrender /cancelled/bought back unit**	After obtaining completion certificate	http://www.simpletaxindia.net/2015/04/service-tax-abatement-rate-chart.html	Non-applicability of service tax.
19	29/06/2015	**Assured Return**	No service tax implication on investor who extending the money/loan/advance to builder in term of negative list u/s 66D(n)(i)	http://www.simpletaxindia.net/2015/04/service-tax-abatement-rate-chart.html	Normally in construction industry the builder receive construction linked payments from their customers and give no assured return to them. When builder want to receive more money they offers assured return. In these kind of transaction, builders are service receiver and investors are service provider. There is no service tax implication on the builder in such kind of transaction
20	29/06/2015	**Sec 65B(44)**	Administration charges/ Transfer charges/restoration charges	http://www.simpletaxindia.net/2015/04/service-tax-abatement-rate-chart.html	Attracts Service Tax