Summary of Direct Tax Case Laws for CA Final
(Source: www.icai.org)

1. Jagatjit Industries Limited (2011)

In case the share capital is raised in a foreign country and repatriated to India on need basis from time to time for approved uses, the gain arising on the balance sheet date due to fluctuation in foreign exchange, in respect of that part of share capital which is to be used as working capital, shall be treated as a capital receipt.

For determining the nature of receipts, due consideration should be given to the source of funds and not to the ultimate use of the funds.

Therefore, the entire gain has to be treated as capital receipt as the source of fund in this case is capital in nature.

2. Kribhco (2012)

No disallowance can be made under section 14A in respect of income included in total income in respect of which deduction is allowable under chapter VI-A.

3. Bagri Foundation (2012)

Explanation to section 11(2) can not be applied in respect of the accumulation up to 15% referred to in section 11(1)(a), to treat the donation made to another charitable trust from the permissible accumulation upto 15%, as income of the trust.

The accumulation upto 15% is an absolute exemption and no additional conditions are attached with such accumulation.

4. Director, Delhi Public School (2011)

Rs.1,000 per month per child is not a standard deduction to be provided while calculating a perquisite value of the free or concessional education facility provided to the employee by the employer.

5. Hariprasad Bhojnagarwala (2012)

The benefit of self-occupation of house property under section 23(2) can not be denied to a HUF on the ground that it, being a fictional entity; it cannot occupy a house property.

Since a HUF cannot consist of artificial persons, it cannot be said to be a fictional entity. Also, it was observed that since singular includes plural, the word "owner"

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would include "owners" and the words "his own" used in section 23(2) would include "their own".
Therefore, the Court held that the HUF is entitled to claim benefit of self-occupation of house property under section 23(2).

6. Azimganj Estate (P.) Ltd. (2012)
The rental income from the unsold flats of a builder can not be treated as its business income merely because the assessee has, in its wealth tax return, claimed that the unsold flats were stock-in-trade of its business.

7. Smifs Securities Ltd. (2012)
The assessee is entitled to depreciation on the value of goodwill considering it as an asset within the meaning of Explanation 3(b) to Section 32(1).
Held that A reading of the words 'any other business or commercial rights of similar nature' in Explanation 3(b) indicates that goodwill would fall under the said expression.

8. Federal Bank Ltd. (2011)
EPABX and mobile phones are not computers and therefore, are not entitled to higher depreciation at 60%.

9. Lissie Medical Institutions (2012)
An assessee, being a charitable institution, can not claim depreciation under section 32 in respect of an asset, where the cost of such asset has been treated as application of income for charitable purposes under section 11(1)(a).

10. KJS India P. Ltd. (2012)
Severance cost paid by an assessee to the employees in respect of suspension of one of the activities, in a case where he continues to carry on other business activities is not the capital expenditure but the revenue one.
The logic behind this decision is that though one of the business activities was suspended, it cannot be construed that the assessee has closed down its entire business.

11. Naidunia News and Networking (P.) Ltd. (2012)
The expense incurred by the assessee on the education and travelling of an employee, for acquiring knowledge relating to assessee's business, can not be disallowed merely on the ground that the employee is the son of an ex-director of the assessee company.

12. Catholic Syrian Bank Ltd. (2012)
The deduction on account of provision for bad and doubtful debts under section 36(1)(viia) relating to rural advances of a scheduled bank is distinct and independent of the provisions of section 36(1)(vii), where such bad debts are in respect of urban advances.
where the provision under section 36(1)(viia) is in respect of rural advances and the bad debts write off under section 36(1)(vii) is in respect of urban advances the benefit of deduction under section 36(1)(vii) in respect of urban advances would be available to the bank, subject to provisions of section 36(2).

13. Kap Scan and Diagnostic Centre P. Ltd. (2012)
The commission paid to doctors by a diagnostic centre for referring patients for diagnosis can not be allowed as business expenditure under section 37 & would be treated as illegal and against public policy to attract disallowance.
Same is also disallowed by the latest Board circular.

14. Rajendra Kumar Dabriwala (2012)
Assessee, engaged in money lending business is lawfully entitled to deduct interest paid on the funds borrowed as business expenditure, subject to the provisions contained in section 14A.

15.Triveni Engg. & Industries Ltd. (2012)
Advance given to employees which became irrecoverable, can be allowed as business expenditure and security deposit paid to the landlord, which became irrecoverable, can not be allowed as a business loss because same is paid for tenancy right.
Worth noting that tenancy right is capital asset and above irrecoverable amount is capital loss resulting in no tax treatment.

16. Madhukumar N. (HUF) (2012)
In case an agricultural land is situated within 8 kilometers from the local limit of a municipality, etc. whose population is more than 10,000 but the same is not notified by the Central Government, the said land would not be a capital asset and no capital gain tax would be attracted on its sale.

17. Manjula J. Shah (Bom.)
Indexation benefit in respect of the gifted asset shall apply from the year the same was first acquired by the previous owner.

18. Enam Securities P. Ltd. (2012)

Non-cumulative preference shares carrying a fixed rate of dividend with a fixed holding period can not be said to be equated with bonds or debentures so as to deny the indexation benefit while computing capital gain on its transfer, applying the third proviso to section 48.

Worth noting that As per the third proviso to section 48, benefit of indexation is not available on transfer of a long-term capital asset, being bond or debenture other than capital indexed bonds issued by the government.

19. SREI Infrastructure Finance Ltd. v. Income-tax Settlement Commission (2012)
The scheme approved by the court under sections 391 to 394 of the Companies Act, 1956 shall be treated as slump sale and capital gains provisions would be attracted. The cost of acquisition of the arrangement shall, therefore be determined as per the provisions of section 50B

20. Kan Construction and Colonizers (P) Ltd (2012)
Sale of a plot of land held as stock-in-trade by an assessee engaged in the business of real estate and construction of plots, can not be treated as sale of capital assets, to attract the provisions of section 50C.

Section 50C will not apply in this case and the profit on sale of land will be treated a business income.

21. Radhe Developers (2012)
Held that, as per the provisions of section 80-IB(10), deduction shall be provided to the assessee engaged in the business of developing and building housing projects, in case it satisfies the conditions mentioned therein even if the ownership of the land has not yet been transferred to the assessee and the approval for such housing project is obtained in the name of the original land owner.

22. Pine Packaging (P.) Ltd. (2012)
The standing charges received by an assessee from a client on failure to place the minimum amount of purchase order as per the agreement, cannot be said to be profit or gains derived by an eligible enterprise from its manufacturing or production activities. The said standing charges are in the nature of compensation for non-utilization or under utilization of plant and machinery due to lack of orders.
The said compensation charges is not allowed as deduction under section 80-IC.

23. Praveen Soni (2011)

An assessee not claiming deduction under section 80-IB in the initial years can claim the said deduction for the remaining years during the period of eligibility, if the conditions are satisfied.
Note that section 80-IB nowhere stipulated a condition that the claim for deduction under this section had to be made from the first year of qualification of deduction failing which the claim will not be allowed in the remaining years of eligibility.

24. Secunderabad Club Picket (2012)
Interest earned on fixed deposits made by a social club with its corporate members does not satisfy the concept of principle of mutuality to escape taxability.
Held that the principle of mutuality ends the moment the club deposits the amount with its corporate members, being banks and financial institutions, with the sole aim of earning interest on the deposits. Also, the corporate members, i.e the banks and financial institutions, have treated the club as a regular customer, accepting deposits in the normal course of business.

25. Orissa Rural Housing Development Corpn. Ltd. (2012)
An assessee can not revise the particulars filed in the original return of income by filing a revised statement of income.

Held that, the assessee; can make a fresh claim before the Assessing Officer or make a change in the originally filed return of income only by filing revised return of income under section 139(5). There is no provision under the Income-tax Act, 1961 to enable an assessee to revise his income by filling a revised statement of income.

26. Smt. A. Kowsalya Bai (2012)
Is a person having income below taxable limit, required to furnish his PAN to the deductor as per the provisions of section 206AA, even though he is not required to hold a PAN as per the provisions of section 139A?

Held that it may not be necessary for such persons whose income is below the maximum amount not chargeable to income-tax to obtain PAN and in view of the specific provision of section 139A, section 206AA is not applicable to such persons.

27. ICICI Securities Primary Dealership Ltd. (2012)
It is not permissible under section 147 to reopen the assessment of the assessee on the ground that income has escaped assessment, after a change of opinion as to a loss being a speculative loss and not a normal business loss,

consequent to a mere re-look of accounts which were earlier furnished by the assessee during assessment under section 143(3).

The Supreme Court observed that the assessee had disclosed full details in the return of income in the matter of its dealing in stocks and shares. There was no failure on the part of assessee to disclose material facts as mentioned in proviso to section 147. Further, there is nothing new which has come to the notice of the Assessing Officer. The accounts had been furnished by the assessee when called upon. Therefore, re-opening of the assessment by the Assessing Officer is clearly a change of opinion and therefore, the order of re-opening the assessment is not valid.

28. ICICI Bank Ltd. (2012)
The period of limitation in respect of the order of Commissioner under section 263 in respect of a matter which does not form the subject matter of reassessment shall be reckoned from the date of the original order under section 143(3) and not from the date of the reassessment order under section 147.

29. Pruthvi Brokers & Shareholders (2012)
Can an assessee make an additional/new claim before an appellate authority, which was not claimed by the assessee in the return of income (though he was legally entitled to), otherwise than by way of filing a revised return of income?

Held that, additional grounds can be raised before the Appellate Authority; even otherwise than by way of filing return of income. However, in case the claim has to be made before the Assessing Officer, the same can only be made by way of filing a revised return of income

30. CIT v. Senior Manager, SBI (2012)
In respect of a co-owned property, the threshold limit mentioned in section 194-I for non-deduction of tax at source shall not apply for each co-owner separately rather is it to be considered for the complete amount of rent paid to attract liability to deduct tax at source.

Thank You