Amendments by Finance Act, 2016

<table>
<tr><th>Section</th><th>Summary</th></tr>
<tr><td></td><td>Rates of Income-tax – ***Annexure A at pg. 9.***</td></tr>
<tr><td></td><td>**Exempt Income**</td></tr>
<tr><td>10(15)(vi)</td><td>Interest on deposit under Gold Monetization Scheme, 2015 shall be exempt.
(see also Capital Gains – section 2(14))</td></tr>
<tr><td>10 (12A)</td><td>Amount received on Withdrawal/ Maturity/ Closure of National Pension Scheme (NPS) u/s. 80CCD to employee to the extent it does NOT *exceed* 40% of total amount payable on such maturity/ withdrawal/ closure shall be exempt.</td></tr>
<tr><td>10(50)</td><td>Specified Income which is chargeable to equalization levy (i.e. online advertisement), shall not be liable for Income-tax, in hands of recipient of income.</td></tr>
<tr><td></td><td>**Income from Salaries**</td></tr>
<tr><td>17</td><td>Employer’s contribution over and above ₹ 1.50 lakhs instead of ₹ 1 lakhs in respect of approved superannuation fund shall be exempt. The provision is synchronized with section 80C.
Employer’s contribution – Salary head – upto ₹ 1.50 lakhs is exempt.
Employee’s contribution – Chapter VIA deduction – allowed u/s. 80C (upto ₹ 1.50 lakhs)</td></tr>
<tr><td></td><td>**Income from House Property**</td></tr>
<tr><td>24</td><td>In respect of SOP, the deduction for interest shall be allowed upto ₹ 2,00,000, if certain conditions are satisfied. One of such conditions is that the house shall be acquisition/ construction is completed ***within ~~3 years~~ 5 years from end of F.Y.*** in which loan is borrowed.</td></tr>
<tr><td>25A</td><td>Realization of Unrealized Rent and Arrears of Rent (Section 25A)
<table>
<tr><th></th><th>Realization of Unrealised Rent</th><th>Arrears of Rent</th></tr>
<tr><td>**Section**</td><td>Section ~~25AA~~ ***25A***</td><td>Section ~~25B~~ ***25A***</td></tr>
<tr><td>**Nature of Amount**</td><td>Earlier the rent as per agreement could NOT be realized. However, now it is realized</td><td>The rent is realized for earlier period.</td></tr>
<tr><td>**Taxable in which year**</td><td>Receipt</td><td>Receipt</td></tr>
<tr><td>**Standard Deduction allowed**</td><td>***Yes***</td><td>Yes</td></tr>
<tr><td>**Whether income is taxable even if the property is transferred**</td><td>Yes</td><td>Yes</td></tr>
</table>
</td></tr>
<tr><td></td><td>**Business/ Profession Head**</td></tr>
<tr><td>2(24)</td><td>As per the existing provision, subsidy received is taxable. However, the same will NOT be considered as income, if: -
(a) if any subsidy, grant etc is required to be deducted from the cost of any asset under Expln. (10) to section 43(1).
(b) ***If any subsidy, grant etc is:***
a. Given by Central Government
b. to institution established by Central/ State Government
c. ***Given for purposes of corpus*** (like Port Trust, Airport Authority, Swatch Bharat Kosh, Mandi Samiti etc.)</td></tr>
<tr><td>28(va)</td><td>Any sum (in cash or kind), whether received or receivable by any person under an agreement (written or oral, legal or illegal), for:
a. Not carrying out any activity in relation to any business ***or profession***; or
However, if right to manufacture, produce or process any article or thing or right to carry on any business ***or profession*** is transferred, same shall be charged under the head “Capital Gains”.</td></tr>
<tr><td>32</td><td>**Additional Depreciation** – shall also be available to assessee who is engaged in business of transmission of power. So, in all, additional depreciation is available to, an assessee, who is</td></tr>
</table>

<table>
<tr><td></td><td>engaged in the business of:
(a) Manufacture or production of article or thing
(b) Generation of power
(c) Generation and Distribution of Power
(d) Transmission of Power</td></tr>
<tr><td>32AC/
32AD</td><td>**Investment allowance** - It is clarified that it is NOT necessary that the plant shall be acquired and installed in same F.Y. It means that if plant acquired in F.Y. 2015-16 and installed in F.Y. 2016-17, investment allowance shall be allowed. It shall be allowed in F.Y. 2016-17.</td></tr>
<tr><td>35ABA</td><td>Similar to amortization of Telecom licence fees, a new section 35ABA has been introduced, which provides for amortization of telecom spectrum. Entire provision is similar to telecom license fees.</td></tr>
<tr><td>36(1)
(viia)</td><td>Provision for Bad debts shall be allowed to NBFCs' also, at 5% of GTI.</td></tr>
<tr><td>40(a)(ib)</td><td>**Payment to Non-resident** – Equalisation Levy
(a) Payment/ payment to non-resident
(b) Nature of payment: - Specified service on which equalisation levy deductible.
(c) Equalisation levy
- NOT deducted; or
- after deduction NOT deposited upto due date of filing of return

SALIENT FEATURES: - Subsequent rectification – Same as 40(a)(i).</td></tr>
<tr><td>43B</td><td>Amount payable to Indian Railways for use of Railway assets shall also be allowed on actual payment basis.</td></tr>
<tr><td>44AB</td><td>Limit of tax audit in case of professionals extended from ₹ 25 lakhs to ₹ 50 lakhs. Limit of tax audit for business assessees' remains at ₹ 100 lakhs.
Further, an assessee opting out of section 44ADA (presumptive taxation for professionals), shall be liable for tax audit, if the total income, exceeds basic exemption limit.
In all, the following assessee's would be required to get their accounts audited:
<table>
<tr><td>**Business**</td><td>If turnover for the P.Y. exceeds ***₹ 100 lacs***</td></tr>
<tr><td>**Profession**</td><td>If gross receipts for the P.Y. exceeds ***₹~~25~~ 50 lacs***.</td></tr>
<tr><td>**44AD/ *44ADA***</td><td>If a person covered by section 44AD/ ***44ADA*** offers lower profit and his total income exceeds basic exemption limit.</td></tr>
<tr><td>**44AE, 44BB, 44BBB**</td><td>If a person covered by these sections offer lower profit</td></tr>
</table></td></tr>
<tr><td>44AD</td><td>**Presumptive taxation for business**
(a) Limit of presumptive taxation extended from ₹ 100 lakhs to ₹ 200 lakhs.
(b) Advance tax shall be payable in one installment i.e. 15th March.
(c) Deduction for salary and interest payable to partners u/s. 40(b) shall not be allowed separately.
(d) In case an assessee opts out of section 44AD in one year by offering lower profit, presumptive taxation shall NOT apply for next five AYs also. Such assessee will have to maintain books and get accounts audited, if his total income exceeds basic exemption limit.
Examples: (assuming assessee is doing business, eligible u/s. 44AD)
<table>
<tr><th></th><th>Eg #1</th><th>Eg # 2</th><th>Eg # 3</th><th>Eg # 4</th><th>Eg # 5</th><th>Eg # 6</th></tr>
<tr><td>Turnover</td><td>70 lakhs</td><td>80 lakhs</td><td>90 lakhs</td><td>150 lakhs</td><td>160 lakhs</td><td>170 lakhs</td></tr>
<tr><td>Profit/ Total Income</td><td>6 lakhs</td><td>5 lakhs</td><td>2 lakhs</td><td>13 lakhs</td><td>6 lakhs</td><td>2 lakhs</td></tr>
<tr><td>44AD applicable</td><td>Yes, profit 6 lakhs</td><td>Opt-out. Profit 5 lakhs</td><td>Opt-out. Profit 2 lakhs</td><td>Yes. Profit 13 lakhs.</td><td>Opt-out. Profit 6 lakhs</td><td>Opt-out. Profit 2 lakhs</td></tr>
<tr><td>Books/ Audit required</td><td>No.</td><td>Yes.</td><td>No.</td><td>No.</td><td>Yes.</td><td>Yes.</td></tr>
</table></td></tr>
<tr><td>44ADA
(new)</td><td>**Presumptive taxation for professionals**
(a) Section applies if
(a) Resident
(b) Carrying specified Profession u/s. 44AA
(c) turnover of such profession does not exceed ₹ 50 lakhs
(b) 50% of "gross receipts" or higher rate, as the case may be, shall be deemed to be profit.</td></tr>
</table>

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<tr><td></td><td>(c) Benefits of presumptive taxation shall apply, i.e. books shall not be required, audit shall not be required, no separate deduction for expenses shall be allowed or disallowed, deduction u/s. 40(b) shall not be allowed. However, advance tax shall be required to be paid normally in four installments. The option is an annual option and not for a block of 5 years.
(d) A professional having lower profits can opt out of the scheme by preparing the books and getting them audited, if the total income exceeds basic exemption limit.

<u>Examples: (assuming assessee is doing profession, eligible u/s. 44ADA)</u>
<table>
<tr><th></th><th>Eg #1</th><th>Eg # 2</th><th>Eg # 3</th></tr>
<tr><td>Turnover</td><td>20 lakhs</td><td>30 lakhs</td><td>40 lakhs</td></tr>
<tr><td>Profit/ Total Income</td><td>12 lakhs</td><td>5 lakhs</td><td>2 lakhs</td></tr>
<tr><td>44AD applicable</td><td>Yes. Profit 12 lakhs.</td><td>Opt-out. Profit 5 lakhs</td><td>Opt-out. Profit 2 lakhs</td></tr>
<tr><td>Books/ Audit required</td><td>No.</td><td>Yes.</td><td>No.</td></tr>
</table>
</td></tr>
<tr><td colspan="2">CAPITAL GAINS</td></tr>
<tr><td>2(14)</td><td>Capital asset excludes, inter-alia, Deposit Certificates issued under Gold Monetization Scheme, 2015. Further, interest on such Deposit scheme is also made exempt u/s. 10(15)(vi)</td></tr>
<tr><td>47</td><td>Transfer excludes redemption of Soverign Gold Bonds (SGB): -
a. Transfer of SGB by Individual
b. On redemption of SGB
c. Issued by RBI under SGB Scheme, 2015
is exempt.
Indexation benefit is available in case of transfer of SGB.</td></tr>
<tr><td>2(42A)</td><td>Long-term capital asset is capital asset held for more than 36 months. <i>However</i>, for following assets, different period shall be taken instead of 36 months: -
<table>
<tr><th>Sr. No.</th><th>12 months</th><th><i><u>24 months</u></i></th></tr>
<tr><td>1</td><td>Listed securities</td><td><i><u>Unlisted shares</u></i></td></tr>
<tr><td>2</td><td>Units of UTI</td><td></td></tr>
<tr><td>3</td><td>Units of Equity oriented Mutual Funds</td><td></td></tr>
<tr><td>4</td><td>Zero Coupon Bonds</td><td></td></tr>
</table>
</td></tr>
<tr><td>10(38), 111A</td><td>If LTCG arises on transaction through International Financial Services Center (IFSC), LTCG is exempt even if STT is NOT paid on such transfer.
Similarly STCG on such transactions shall be liable for 15%.
In short, the treatment of transaction through IFSC shall be same, as for STT paid Capital Gains.</td></tr>
<tr><td>50C</td><td>Where the capital asset is transferred in one F.Y., but the registry is done in another year, the guideline value of the year of transfer shall be considered and NOT registry. This will be done only if the consideration or part consideration was by account payee cheque/ draft/ ECS.</td></tr>
<tr><td>47</td><td><u>Succession of Company to LLP</u>: Apart from 7 conditions, another condition has been added for exemption in respect of such transfer:
Total value of assets as appearing in books of company in any 3 P.Y. preceding the PY in which conversion takes places does NOT exceed ₹ 5 crores.</td></tr>
<tr><td>55(2)</td><td><i>Cost of acquisition</i> in case of Self-generated assets, covers inter-alia, Trade mark or brand name associated with a business <i><u>or profession –</u></i> shall be nil or purchase price
<i>Cost of Improvement</i> in case of right to carry on any business <i><u>or profession</u></i> shall be nil.</td></tr>
<tr><td>49</td><td>If capital gain arises on transfer of asset declared in Income Disclosure Scheme (IDS, 2016) and tax/ surcharge/ penalty has been paid as per scheme, FMV of the asset shall be regards as Cost of Acquisition.</td></tr>
<tr><td>54EE (new)</td><td>Similar to section 54EC, an exemption is given in respect of investment in Units of Specified funds issued upto 31.03.2019. Separate limits of ₹ 50 lakhs are given for section 54EC and 54EE.</td></tr>
<tr><td>54GB</td><td>This section gives deduction for investment to Eligible Company doing eligible business and which purchases “new Plant”.</td></tr>
</table>

	(a) At the first instance, the benefit is now also made available for "eligible start-up". (b) Secondly, Generally "new plant" shall exclude computer. However, in case of an eligible startup, being a Technology Driven start-up (so certified), computer/ computer software shall be eligible.
	Income from "Other Sources"
115QA	In case of Buy-back, tax shall be levied on distributed income (i.e. Redemption price **Less** Issue Price) ***determined in prescribed manner)***
115TC, 115TCA	Securitisation Trust Distribution Tax (STDT) eliminated. New scheme for Securitisation Trusts. ***Annexure B at pg. 11.***
	New two clauses added, for exemption to DDT: (iii) Dividend paid by a 100% subsidiary (SPV) to Business Trust. (iv) Dividend paid by IFSC deriving income solely in convertible foreign exchange, out of its current income.
10(34), 115BBD A	Dividend shall be exempt, in case DDT is leviable on dividend. However, dividend over and above ₹ 10 lakhs shall be taxable @ 10%, following conditions are satisfied: - Resident Individual/ HUF/ Firm - Dividend from Domestic Company in excess of ₹ 10 lakhs [section 2(22)(a) to (d)]

	Eg #1	**Eg # 2**	**Eg # 3**	**Eg # 4**	**Eg # 5**	**Eg # 6**
Company	Domestic	Domestic	Domestic	Domestic	Domestic	Domestic
Shareholder	Resident, Individual	Resident, Individual	Resident, Individual	Resident, Individual	Resident, Company	Resident, Company
Total dividend received by shareholder	3 lakhs [2(22)(a)]	13 lakhs [2(22)(a)]	3 lakhs [2(22)(e)]	13 lakhs [2(22)(e)]	13 lakhs [2(22)(a)]	13 lakhs [2(22)(e)]
Taxation on Company	DDT on 3 lakhs	DDT on 13 lakhs	-	-	DDT on 13 lakhs	-
Taxation on Shareholder	Exempt.	3 lakhs @ 10%	3 lakhs @ normal rate	13 lakhs @ normal rate	Exempt.	13 lakhs @ normal rate

	Eg #7	**Eg # 8**	**Eg # 9**	
Company	Foreign	Foreign	Domestic	Foreign
Shareholder	Resident, Individual	Resident, Individual	Resident, Individual	Resident, Individual
Total dividend received by shareholder	3 lakhs [2(22)(a)]	13 lakhs [2(22)(a)]	13 lakhs [2(22)(a)]	15 lakhs [2(22)(a)]
Taxation on Company	-	-	DDT on 13 lakhs	
Taxation on Shareholder	3 lakhs @ normal rate	13 lakhs @ Normal	(a) 3 lakhs @ 10% (b) 13 lakhs @ normal rate	

	Aggregation of Income
115BBE	Income u/s. 68-69D shall be taxable @ 30%. No deduction for any expenditure or allowance or ***set-off of any loss or*** chapter VIA shall be available.
	Set-off and Carry forward of Losses
80, 139(3)	In case of section 35AD loss also, loss shall be allowed to be carried forward, only if the return is filed upto due date of filing of return.
	Deductions under Chapter VIA
80CCD	Amount received by nominee, on death of assessee, due to closure or opting out of the pension scheme, shall be exempt.
80EE	Deduction for Interest on Loan taken for residential house (Section 80EE) - ***Annexure C at pg. 11***.
80GG	Limit of deduction increased from ₹ 2000 to ₹ 5000 p.m.
80JJAA	Deduction in respect Employee cost of Employment of New Regular Workmen. ***Annexure D at pg. 12.***
80IA-IE	Sun-set in respect of various clauses for business commening after 31.03.2017 (a) Infrastructure Facility

	(b) Developer of SEZ (c) Generation and distribution of power (d) Mineral oil
80IAC, 80IBA	Two new sections for deductions. ***Annexure E at pg. 12.***
	Assessment of Companies
115JB	For unit located in IFSC, and income is derived solely in convertible foreign exchange; instead of 18.50%, 9% shall be taken as rate of MAT.
115JB	**MAT in case of Foreign Companies: -** i. ***If company is resident of Country/ Territory with which DTAA exists*: -** MAT shall NOT apply if such Foreign Company does NOT have Permanent Establishment in India. ii. ***If company is resident of Country/ Territory with which NO DTAA exists*: -** MAT shall NOT apply if assessee was NOT required to seek registration under Companies Act.
115JB	For computing Book profit, following shall also be deducted/ added. Income/ Expenditure for earning royalty income from Patent covered u/s. 115BBF (such income is taxable @ 10%)
	Assessment of Trust
Chapter XII-EB	Taxation of Accreted funds of cancellation of registration. ***Annexure F at pg. 13.***
	Assessment of Misc Entities
	Profit distributed by SPV will be subjected to Distribution tax. The Business Trust will therefore be exempt in regard to Dividend. Further, where Business trust has 100% holding in SPV, distribution tax shall NOT apply. Same goes tax free across the board, and is even NOT taxable in hands of investor. However, this exemption shall not apply for accumulated profits upto the date of acquiring 100% holding in SPV.
	International Taxation
115JH	1. In case of foreign companies, they shall be regarded as resident, if Place of Effective Management (POEM) is in India. This provision was introduced from A.Y. 2016-17, but was postponed to A.Y. 2017-18. 2. Also, section 115JH has been introduced to empower the Central Government to issue notification to provide detailed transition mechanism for companies incorporated outside India, which due to implementation of POEM, would be assessed for the first time as resident of India. The notification will be issued to bring clarity on issues relating to computation of income, treatment of unabsorbed depreciation, set-off or carry forward of losses, applicability of transfer pricing provisions etc. applicable to such foreign companies considered to be resident now.
9(1)(i)	Business Connection in India also excludes in case of Foreign Company engaged in mining of diamonds, no income shall be deemed to accrue in India through or from activities confined to display of uncut and unasserted diamonds in any Notified Special Zone (NSZ). [like Bharat Diamond Bourse, Mumbai – a SNZ]
9A	This provision will apply only if the ~~*fund manager is a resident of country with which India has DTAA*~~ ***fund is established/ registered in a notified specified territory***. Further, the fund should NOT carry on/ control and manage any business in India ~~***or from India.***~~
10(48A)	Following Income shall be exempt - Notified Foreign Company - From storage of crude oil in a facility in India and sale thereof to resident. (eg. Kandhar, Padur, Vizag) Exemption is available if: 1. Agreement is with/ approved by Central Government. 2. Agreement is notified.
92D	**Maintenance of Records in case of Transfer pricing** In case of person (being Constituent Entity) of an International Group shall also keep and maintain records as may be prescribed. Further, the records shall be furnished to prescribed authority in prescribed manner.
112	In case of Non-resident (not being a foreign company), rate of tax @ 10% shall also apply in case of ***Shares of Closely held company.*** Earlier, the rate applied only if it were shares of

	Widely Held company.
115BA (new)	Tax on new domestic company shall be 25%. ***Annexure G at pg. 14.***
115BBF (new)	In case of Resident, Royalty in respect of patent developed and registered in India (Min. 75% expenditure shall be done in India) shall be taxable @ 10%. **Conditions**: (a) This provision is optional. Assessee may opt in on or before due date u/s. 139(1) (b) In case an assessee opts out of this section in one year by offering lower profit, presumptive taxation shall NOT apply for next five AYs also.
	Assessment Procedure
124	**Assessee can challenge to jurisdiction.** In addition to the two cases, already existing, assessee can challenge the jurisdiction further in case of: (iii) Where search u/s. 132/ requisition u/s. 132A done - Within one month of service of notice u/s. 153A/ 153C(2); or - Before completion of assessment. *whichever is earlier.*
133C	**Power to call for information by Prescribed I-T Authority** Any information/ document received in response to notice under this section, prescribed IT Authority may process such information/ document and make available the outcome of such processing to AO.
139(1)	Return mandatory, inter-alia, for any other person, if the total income of - Assessee or - any other person in respect of whom he is chargeable to tax ("representative assessee") during P.Y. (without giving effect to Chapter VIA ***and section 10(38)***) *exceeds* maximum amount not chargeable to tax.
139(4)	Where the assessee could NOT file the return upto *due date*, he may file the return belatedly. The belated return can only be filed - Upto ~~***1 year from***~~ the end of the relevant A.Y.; or - before completion of assessment, ***whichever is earlier***.
139(5)	Return u/s. 139(1) / ***139(4)***/ ~~*142(1)*~~ can be revised.
139(9)	(c) ~~*If tax (alongwith interest), payable on self-assessment is NOT paid alongwith return, the return shall be treated as defective.*~~ Thus, even if the tax is not paid, return would not be treated as defective.
2(23C)	Definition of "Hearing" includes communication of data and documents through electronic mode. This is to introduce e-assessments.
281B	**Bank Guarantee in lieu of Provisional Attachment: -** (a) If assessee furnishes bank guarantee for an amount not less than FMV of property provisionally attached, AO shall, by order in writing, revoke such attachment. Order revoking provisional attachment shall be passed within 15 days of receipt of bank guarantee. (b) For determining the FMV of property provisionally attached, AO may make reference to DVO u/s. 142A. In such case, order revoking provisional attachment shall be passed within 45 days of receipt of bank guarantee. (c) On assessment, if assessee, fails to pay demand within time given u/s. 156, AO may invoke bank guarantee. *(d)* Also, if assessee fails to renew bank guarantee 15 days before the expiry of guarantee, AO shall in the interest of revenue, invoke bank guarantee.
282A	A notice by designated I-T Authority shall be ***signed and issued in paper form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed.*** ~~*signed in manuscript by that authority.*~~
143(1)	Intimation/Processing/ Prima-facie adjustment/ Summary Assessment. ***Annexure H at pg. 14.***
Cross-linking	**Whether intimation u/s. 143(1) can be issued during pendency of such notice [i.e. before passing of order u/s. 143(3)]** - If show cause notice u/s. 143(1) has been already issued, same can already be done. - If show cause notice u/s. 143(1) has NOT already been issued, it seems that intimation cannot be issued once notice u/s. 143(2) is given. Reliance is placed on an earlier judgment in

	CIT vs Haryana State Electricity and Handicrafts Corporation Ltd. (2011)(P & H), where it was held that once notice u/s. 143(2) is issued and scrutiny has been initiated, AO cannot make rectification u/s. 154 of the intimation u/s. 143(1)
147	**Deemed Concealment also covers** [apart from the 5 cases given earlier] (6) Information/ Document u/s. 133C(2) ➢ *Where no return* – such information provides that total income exceeded maximum amount not chargeable to tax. ➢ *Where return furnished* – it is noticed by Assessing Officer on such information that ▪ Assessee has understated income; or ▪ Claimed excessive loss/ deduction/ allowance/ relief in the return.
153	**Time limit for completion of assessment**

Proceedings	**Time-limit**	**Remarks**
Original proceedings u/s. 143(3)/ 144	*~~2 years~~* ***21 months*** from end of the relevant AY	
Original proceedings u/s. 147	*~~1 year~~* ***9 months*** from the end of FY in which notice u/s. 148 is served.	
Set-aside proceedings	*~~1 year~~* ***9 months*** from end of the FY in which order u/s. 254 is *received* by the CCIT/CIT	(a) This covers only set-aside by ITAT. (b) As on date, set-aside by CIT(A) is NOT permissible. (c) When matter is set-aside by High-court/ Supreme Court, no time limit is available.
Revision u/s. 263/ 264 (i.e. Set-aside by CIT)	*~~1 year~~* ***9 months*** from end of the FY in which order u/s. 263/264 is *passed* by the CIT	
Consequential Order	***3 months from the end of month in which order is received by CCIT/ CIT***	***(a) Where it is not possible for AO to give effect to such order within 3 months, for reasons beyond his control, the CIT on receipt of such request in writing from AO, if satisfied, may allow an additional period of 6 months to give effect to order.*** ***(b) All appeal effects pending on 01.06.2016 shall be given effect upto 31.03.2017***
Order in consequence of order of Court otherwise then by appeal under this Act	***12 months from end of month in which such order is received/ passed by CIT***	
Assessment of partner in consequence of Assessment of Firm	***12 months from the end of month in which Assessment order of Firm is passed.***	

153B	**Time Limit in search cases** *Assessment u/s. 153A*: Assessment for earlier 6 years and P.Y. of search shall be completed within ~~*2 years*~~ ***21 months*** from end of the F.Y. in which the last of the authorizations of search/ requisition was executed. *Assessment u/s. 153C*: Time limit shall be: - (a) ~~***2 years***~~ ***21 months*** from end of the F.Y. in which the last of the authorizations of search / requisition was executed or (b) ~~***1 year***~~ ***9 months*** from end of the F.Y. in which the assets/ records were handed over. ***whichever is later.***
253	**Single Member Court** - Where total income computed by AO does NOT exceed ₹ ~~*15*~~ ***50*** lakhs, a single member can also constitute a Bench and take decision.
253	Following amendments shall apply, in respect to appeal to ITAT: (a) Appeal against order u/s. 270A shall apply to ITAT *(b)* Revenue cannot file appeal to ITAT against Assessment made in pursuance of DRP u/s. 144C.
254(2)	Rectification of ITAT Order: - Application can be filed ***within 6 months from end of month of order*** ~~***4 years from the date of order***~~.
271GB	For failure to furnish report or furnishing inaccurate report in respect of Constituent entity of International Group, penalty u/s. 271GB shall be levied by prescribed authority as under: ₹ 5,000/- per day upto one month ₹ 15,000/- per day thereafter
271AAB	Maximum penalty shall be @ 60% ~~30-90%~~
270A, 270AA	Concealment penalty. ***Annexure-I at pg. 15.***
273A(4)	**Waiver/ Reduction of Penalty.** 1. Order granting or rejecting application shall be passed within a period of 12 months from the end of the month in which application is received. 2. Before rejecting application (either in full or part) opportunity of being heard shall be provided to assessee.
	Tax Collection and Recovery
197	Assessee can also apply for Certificate of AO for non-deduction/ short-deduction of TDS to AO, inter-alia, also in respect of 194LBB/ 194LBC.
197A	A self-declaration in Form 15G/ 15H can be submitted even in respect of section 194I.
206AA	Section 206AA shall NOT apply for payments to non-residents: - i. In respect of payments covered u/s. 194LC ii. In respect of other payments, subject to conditions as prescribed.
Revision of limits/ rates of TDS	**Revision of Limits of TDS**

Section No.	**Old Limit**	**New Limit**
194BB	5,000	10,000
194C	75,000	1,00,000
194H	5,000	15,000
192A	30,000	50,000
194D	20,000	15,000
194G	1,000	15,000
194LA	2,00,000	2,50,000

Revision of Rates of TDS

Section No.	**Old Rate**	**New Rate**
194H	10%	5%
194D	10%	5%
194DA	2%	1%
194G	10%	5%
194LBB	Payee Resident/	Resident 10%

<table>
<tr><td></td><td><table><tr><td></td><td>Non-resident 10%</td><td>Non-resident – Rate in force</td></tr></table></td></tr>
<tr><td>194LBC</td><td>TDS on Income from units of securitization funds
a. <i><u>Deductor/ Payer: -</u></i> Securitization Trust
b. <i><u>Deductee/ Payee: -</u></i> Investor
c. <i><u>Nature of payment: -</u></i> Distributed Income [Payment is covered u/s. 115TCA]
d. <i><u>Rate of TDS: -</u></i>
- <i><u>Payment to Resident –</u></i> Individual/ HUF: 25%
- <i><u>Payment to Resident –</u></i> Others: 30%
- <i><u>Payment to Non-resident</u></i>: Rates of Tax in force
e. Time <i><u>limit of deduction: -</u></i> Payment or credit, whichever is earlier.
f. <i><u>Exemptions: -</u></i> None.
g. <i><u>Further clarifications: -</u></i> None.</td></tr>
<tr><td>206C</td><td>New TCS provisions. <i><u>Annexure J at pg. 18.</u></i></td></tr>
<tr><td>207, 234C</td><td><u>Advance tax – How installments shall be paid</u>
<table>
<tr><th>Due date (of P.Y.)</th><th><i><u>All (Except Liable u/s. 44AD)</u></i></th><th><i><u>Assessee liable u/s. 44AD</u></i></th></tr>
<tr><td>Upto 15th June</td><td>Upto 15%</td><td>-</td></tr>
<tr><td>Upto 15th Sept.</td><td>Upto 45%</td><td>-</td></tr>
<tr><td>Upto 15th Dec.</td><td>Upto 75%</td><td>-</td></tr>
<tr><td>Upto 15th Mar.</td><td>Upto 100%</td><td>100%</td></tr>
</table>
In relation to
- capital gains; or
- casual income; or
- <i><u>Income under the head “Profits and gains of business or profession”, in case where the income accrues or arises under the said head for the first time.</u></i>
tax shall be payable as part of the installments falling due after earning such income.

Similarly, interest u/s. 234C shall also be calculated accordingly.</td></tr>
<tr><td>220(2)</td><td><u>Application for waiver/ reduction of interest</u> - Order accepting/ rejecting the application shall be passed within 12 months from end of the month in which application is received. Further, no application shall be rejected before granting opportunity of being heard.</td></tr>
<tr><td>244A</td><td>a. Interest u/s. 244A shall NOT be receivable if the refund is less than 10% of the assessed tax.
b. In case refund arises due to order of appeal/ revision etc, if the refund is not granted within the time specified u/s. 153 (for appeal effect order), additional interest shall further be payable @ 3% p.a. from date of expiry of time allowed u/s. 153.</td></tr>
</table>

Annexure A – Rates of Income-tax

The rates are assessee wise. The rates for A.Y 2017-18 are as follows: -

(a) Individual/ HUF/ AOP/ BOI/ AJP: Slab rates

Individual (male or female) / HUF/ AOP/ BOI/ AJP	**Senior Resident (60-79 years)**	**Super Senior Resident (80 years or above)**	**Rate**
Upto Rs.2,50,000	Upto Rs.3,00,000	Upto Rs.500,000	No Tax
Rs.2,50,001 – 5,00,000	Rs.3,00,001 – 5,00,000	Not Applicable	10%
Rs.5,00,001 – 10,00,000	Rs.5,00,001 – 10,00,000	Rs.5,00,001 – 10,00,000	20%
Above 10,00,000	Above 10,00,000	Above 10,00,000	30%

SALIENT FEATURES: -

In case of non-resident individual (whether female/ senior/ very-senior), basic exemption limit shall be ₹ 2,50,000.

(b) ***Firm:*** 30%

(c) ***Companies***

Domestic ***: Turnover in P.Y. 2014-15 < = ₹ 5 crores – 29%***

Domestic ***: Turnover in P.Y. 2014-15 > ₹ 5 crores – 30%***

Foreign : 40%

Amendment

Domestic Company, set-up and registered from 01.03.2016 may optionally pay tax @ 25%, subject to conditions u/s. 115BA. (Discussed in Annexure G at pg. 14)

(d) ***Local authority:*** 30%

(e) ***Co-operative society***

0-10000	10%
10001-20000	20%
Above 20000	30%

Surcharge:

Person	Total Income upto ₹ 1 crs	Total income above ₹ 1 crs but upto ₹ 10 crs	Total income above ₹ 10 crs
Individual/ HUF/ AOP/ BOI/ AJP	NIL	***15%***	***15%***
Co-operative Societies/ Firm/ Local Authorities	NIL	12%	12%
Domestic Companies	NIL	7%	12%
Foreign Companies	NIL	2%	5%

Amendment

Educational Cess: 2% of (Income-tax + Surcharge)

Secondary & Higher Education Cess: 1% of (Income-tax+ Surcharge)

SALIENT FEATURES: -

1. U/s. 288A, total income shall be rounded off to the nearest multiple of ten rupees. i.e. ₹ 5 or above shall be taken to next higher multiple of ₹ 10.
2. U/s. 288B, tax, advance-tax, TDS, interest, penalty, fine or any other sum payable and refund shall be rounded-off to the nearest multiple of ten rupees.

SALIENT FEATURES: -

a. **Relief for Resident Individual [Section 87A]:** – In case of resident individual having total income between ₹ 2,50,000 and ₹ 5,00,000, relief of lower of the two shall be available: -

- ₹ ~~*2,000*~~ ***5,000*** whichever is less
- Tax liability

Amendment

b. **Marginal Relief:-** In case if Total Income is marginally above the limit of surcharge, and due to application of Surcharge, the tax payable is more than Marginal Income, surcharge shall NOT exceed income earned above limit of surcharge.

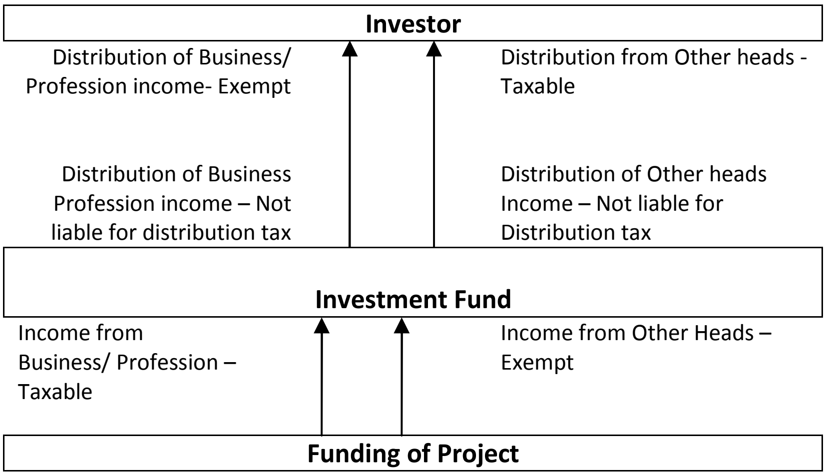
☆ ***Example: -*** Say Income of Company is ₹ 1,01,00,000. Tax after considering marginal relief shall be calculated as under: -

Step 1		**Step 2**		**Step 3**	
Calculate Tax on ₹ 1 crores	₹ 30.90 lacs	Calculate tax on ₹ 1.01 crores (including surcharge)	₹ 33.39 lacs	Tax on ₹ 1 crores Add: ***Lower of*** - Income Above ₹ 1 crores (₹ 1 lacs) - Step 2 *Less* Step 1 (₹ 2.49 lacs) Tax	₹ 30.90 lacs ₹ 1.00 lacs ₹ 31.90 lakhs

Annexure B – Assessment of Securitization Trusts (Section 115TCA)

The taxation of Securitization Trusts shall be as under: -

1. **Taxation of Income of Securitization Trust: -** Income of Securitization Trust is exempt [S. 10(23DA)]
2. **Distribution of Profits: -** Distribution of profits by Securitization Trust shall NOT be liable for any distribution tax.
3. **Share of Income** in hands of unit-holder (whether distributed or not) is taxable, in the same proportion, as if the investment was done by the unit holder himself. (The nature of income shall be same, in the hands of unit-holder, as it was in hands of Securitization Trust)
4. Unlike investment funds, no specific provision is given for treatment of losses in case of Securitization Trusts.
5. **Statement**: - Securitization Trusts shall furnish a Statement in prescribed form, verified in prescribed manner, giving details of the nature of income paid/ credited during the P.Y. and such other details, as may be prescribed.



Annexure C –
Interest on Loan taken for Residential House (Section 80EE)

(a) **Eligible assessee:** Individual

(b) **Eligible Expenditure:**

- (i) Interest paid
- (ii) To financial institution
- (iii) On loan taken for acquisition
- (iv) Of residential house

(c) **Quantum of Deduction:** Interest Expenditure. However, the amount of deduction shall NOT exceed ₹ 50,000 in a F.Y.

SALIENT FEATURES: -

If the deduction is claimed in respect of interest under this section, the deduction of such interest shall NOT be allowable under any other provision.

(d) Additional Conditions:

a. Loan is sanctioned during F.Y. 2016-17
b. Loan sanctioned does NOT exceed ₹ 35 lacs.
c. Value of residential house property does NOT exceed ₹ 50 lacs
d. Assessee does NOT own any residential house property on the date of sanction of loan.

Annexure D –
Employment of New Regular Workmen (Section 80JJAA and Rule 19AB)

(a) Eligible Assessee: - Assessee covered under section 44AB for Tax Audit

(b) Eligible Activity: - "**Employee Cost**" of additional employee.

➡ SALIENT FEATURES: -

(i) **"Additional employee"** means: -

a. **New Business**: - Emoluments paid/ payable to employees employed during that year.
b. **Existing Business**: - Emoluments paid/ payable to Additional Employees. No deduction shall be allowed in this case, if:
    - There is no increase in number of employees during the year; or
    - Emoluments are paid otherwise than by account payee cheque/ draft/ ECS

(ii) **"Additional Employee" excludes**: -

- Employee whose pension contribution is done by Government under Employee Pension Fund and Misc. Provisions Act, 1952.
- Employee who does NOT participate in Recognised Provident Fund
- Employee whose emoluments are more than ₹ 25,000 p.m.
- Employee employed for less than 240 days during current P.Y.

(c) Quantum of Deduction: -

- 30% of
- additional employee cost
- to Additional Employee
- for 3 A.Y.

(d) Additional Conditions:

i. The industrial undertaking is NOT formed by splitting-up or reconstruction of an existing industrial undertaking or amalgamation with another industrial undertaking except covered u/s. 33B.
ii. The business shall NOT be acquired by way of transfer from any other person as a result of any business reorganization.
iii. The company should furnish along with the return of income, the report of a Chartered Accountant in Form No. 10DA giving such particulars in the report as may be prescribed.

Annexure E –
New Deductions u/c. VIA

Sec	Eligible Assessee	Activity	Quantum of Deduction
80IAC	Company/ LLP	Eligible Start-up doing eligible business [note 1-2] "Eligible business" means a business which involves innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property "Eligible start-up" shall fulfill following conditions: (A) It shall be incorporated between 01.04.2016 to 31.03.2019 (B) Turonver of its business does not exceed ₹ 25 crores in any	100% for 3 consecutive AYs out of first 5 AYs

		of the PY between 01.04.2016 to 31.03.2021. (C) It holds a certificate of eligible business from prescribed authority.	
80IBA	Any	Developing and building Housing projects. Conditions: Project shall be: - (A) Approved by competent authority after 01.06.2016 upto 31.03.2019 (B) Project shall be completed within 3 years from the date of approval by the competent authority. (C) Built-up area of shops and other commercial establishments is not more than 3% of aggregate built-up area (D) Project is on a plot not less than 1000 sq mts for Chennai, Delhi, Kolkata, Mumbai or 25 kms from municipal limits of these cities; or 2000 sq mts, where the project is located in any other place. (E) Built-up area of each residential unit does not exceed 30 sq mts for Chennai, Delhi, Kolkata, Mumbai or 25 kms from municipal limits of these cities; or 60 sq mts, where the project is located in any other place. (F) Where a residential unit in the housing project is allotted to an individual, no other residential units shall be allotted to that individual/ his spouse/ minor children. (G) Project utilizes not less than 90% of Floor Area Ratio for Chennai, Delhi, Kolkata, Mumbai or 25 kms from municipal limits of these cities; or 80% of Floor Area Ratio, where the project is located in any other place. (H) Assessee maintains separate books of account in respect of this project. (I) Project shall not be executed as a mere works contractor. If project is not completed in specified period, the deduction claimed in earlier years, will be deemed to be income of year in which time limit expires.	100% of profits

Annexure F –
Tax on Accreted Income of Certain Trusts [Chapter XII-EB]

A trust shall be liable to tax @ MMR, as exit tax on:

Sr. No.	**Circumstance**	**Tax to be paid within 14 days of (called specified date)**
1.	Conversion of the trust into a form not eligible for grant of registration, due to:	
(a)	Registration u/s. 12AA is cancelled; or	- If appeal filed: Date of order rejecting appeal - if no appeal filed: Expiry of time limit for filing appeal
(b)	It has adopted/ undertaken modification of its objects which do not confirm to conditions of registration, and (i) it has not applied for fresh registration u/s. 12AA in said P.Y.; or (ii) it has filed application for fresh registration u/s. 12AA but has been rejected.	End of previous year. - If appeal filed: Date of order rejecting appeal - if no appeal filed: Expiry of time limit for filing appeal
2.	Merger with an entity not having similar objects and registered u/s. 12AA	Date of merger
3.	Non-distribution of assets on dissolution to any charitable institution registered u/s. 12AA/ 10(23C) within 12 months from end of the month in which dissolution takes place.	Date on which period of 12 months expire.

Accreted income = Aggregate FMV of total assets as on “specified date”
Less: Total Liability computed in accordance with prescribed method of valuation.

SALIENT FEATURES: -

a. Accreted income related to agriculture income shall be proportionately be ignored/ exempt.
b. Accreted income related to period prior to registration u/s. 12A/ 12AA shall be ignored/ exempt.
c. The assets & liability of the charitable organization which have been transferred on dissolution to another charitable trust or institution registered u/s. 12AA/ 10(23C) within specified time shall be ignored/ exempt.
d. Exit tax shall be payable even if no Income-tax is payable by the Trust/ institution.
e. No deduction shall be allowed under any other provision of the Act to the trust/ institution/ other person in respect of the income which has been charted to exit tax.
f. Consequences of non-compliance:
  - Interest @ 1% p.m.
  - Trustee/ manager shall be deemed to be officer in default

Annexure G – New Domestic Company

Conditions u/s. 115BA

(a) Setup and registered as on after 01.03.2016
(b) Only manufacture/ production of article or thing/ research i.r.e. such manufacture/ production. No other activity.
(c) No incentive u/s. 10AA/ Addl. Depreciation/ 32AC/ 32AD/ 35/ 35AC/ 35AD/ 35CCC/ 35CCD/ Chapter VIA part C claimed.
(d) Depreciation shall be calculated in manner prescribed.
(e) No brought forward loss in these section calculated. Such loss shall be deemed to have been given full effect to.
(f) Company shall opt in for such option before due date of filing of return for the first year.
(g) These provisions shall override even the MAT provisions.
(h) The option is once in a lifetime option. If the company opts in, it cannot optout.

	Eg #1	Eg # 2	Eg # 3	Eg # 4	Eg # 5
Type of Company	New Domestic Co.	New Domestic Co.	New Domestic Co.	Existing Co.	Existing Co.
Nature of business	Mfg.	Mfg.	Trading	Any	Any
T.O. for F.Y. 2014-15	NA	NA	NA	2 crores	6 crores
Rate of Tax					

Annexure H –
Intimation/Processing/ Prima-facie adjustment/ Summary Assessment [Section 143(1)]

(a) Scheme is applicable only if a return is submitted. Every return shall be processed. ~~*However, in case the return is selected for scrutiny u/s. 143(2), the return shall NOT be processed u/ 143(1).*~~

Amendment

(b) Once return is filed, AO shall process the return as follows: -

STEP 1: AO shall re-compute the income. While processing adjustments can be made regarding the following items: -

(i) Arithmetical errors
(ii) Incorrect claim, if such claim is ***apparent from any information in return***

(iii) Disallowance of loss claimed, if return of PY for which set-off of loss is claimed was filed beyond due date u/s. 139(1)
(iv) Disallowance of expenditure taken in Audit Report, but not considered while doing computation in Report.
(v) Addition of income appearing in Form 26AS/ 16/ 16A which has not been included in computing the total income.
(vi) Disallowance of deduction u/s. 10AA/ 80IA/ 80IAB/ 80IE etc., if return filed beyond due date u/s. 139(1)

Amendment

- "Apparent from any information in return" means a claim on the basis of an entry in the return: -
  - (i) which is inconsistent with another entry in the same return
  - (ii) in respect of which the information required to be furnished under this Act to substantiate such entry has NOT been so furnished
  - (iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount/ percentage/ ratio/ fraction.

STEP 2: Tax and interest shall be recomputed thereafter

STEP 3: Tax liability/ refund shall be determined based on TDS/ TCS, Advance Tax, challans, Relief u/s. 90/90A/91 etc.

STEP 4: Procedure for doing adjustment shall be as follows:
(a) An intimation shall be given to assessee requesting response of proposed adjustments within 30 days.
(b) Assessee's response shall be considered before doing adjustments.
(c) If no response is received in 30 days, adjustment shall be done.
(d) If in meantime notice u/s. 143(2) is issued, processing shall not be necessary in 30 days. Return can be processed before completion of assessment.

STEP 5: In case *demand* is due thereafter, intimation of demand shall be sent.
In case *refund* is due, refund shall be issued.

Amendment

(c) The intimation can be sent ***within 1 year from the end of the F.Y. in which return is furnished.***

- The requirement is of sending the intimation. It may or may NOT be "served" within 1 year.

(d) In case, intimation is NOT issued, acknowledgement of return shall be deemed to be intimation.

(e) An intimation of demand shall be deemed to be a notice of demand u/s. 156. Therefore, no separate notice of demand shall be issued.

(f) As held in ***ACIT vs Rajesh Jhaveri and Others (SC)(2006)***, intimation is NOT an assessment. Therefore, assessee can submit a revised return even after an intimation is issued.

(g) CBDT has framed a scheme for Centralised Processing of I-T Returns.

Annexure I –
Penalty u/s. 270A/ Mis-reporting/ Under-reporting

a. **Who can initiate penalty:**

AO	-	For additions made in assessment.
CIT(A)	-	For enhancement in appeal.
CIT	-	For addition made in revision u/s. 263.

b. ***When penalty is levied: -*** **When there is under-reporting of income. This under-reporting may be due to misreporting or otherwise.**
A person shall be considered to have under reported his income if, A>B in the cases given hereunder:

Case	**(A)**	**(B)**	**Manner of computing under-reported income**
Return of income has been filed	Income assessed	Income determined in the return processed u/s. 143(1)	B – A
No return has been filed	Income assessed	Basic Exemption limit, where applicable	B – A
Reassessment	Income reassessed	Income assessed/ reassessed immediately before such reassessment	B – A
Return filed and assessment/ reassessment has been made on basis of MAT/ AMT	The amount deemed total income assessed/ reassessed under MAT/ AMT	Deemed Total Income determined in the return processed u/s. 143(1)	(A + B) – (C – D) A = Amount of Tax Assessed on Total Income assessed under Normal Provisions B = Amount of Tax that would have been chargeable had the total income assessed as per general provisions been reduced by the amount of income in respect of which particulars have been concealment or inaccurate particulars have been furnished. C = Amout of tax Assessed u/s. 115JB/ 115JC D= Amount of Tax that would have been chargeable had the total income assessed as per the provisions contained u/s. 115JB/ 115JC been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished.
No return of income is filed – assessment/ reassessment made on basis of MAT/ AMT provisions	The amount deemed total income assessed/ reassessed under MAT/ AMT	Basic Exemption limit, if applicable. (like Individual/ HUF etc.)	
Reassessment as per provisions of MAT/ AMT	The amount deemed total income reassessed under MAT/ AMT	Deemed Total Income assessed/ reassessed immediately before such reassessment	

SALIENT FEATURES: -

a. A person would be considered to have under-reported his income if the income assessed or reassessed has the effect of reducing their losses/ converting such loss into income.

b. In a case, where the assessment/ reassessment has the effect of reducing loss/ converting loss into income, under-reported income would mean Loss claimed Less Income or loss assessed/ reassessed.

c. In a case where the source of any receipt, deposit or investment appearing in the current assessment year is claimed to be an amount added to income or deducted while computing loss, as the case may be, in the assessment of such person in any earlier assessment year and no penalty was levied for such preceding year, under-reported income shall include such amount as is sufficient to cover such receipt, deposit or investment. Such amount shall be deemed to be the amount of income under-reported for the preceding year in the following order
   - The preceding year immediately before the year in which the receipt, deposit or investment appears, being the first preceding year; and
   - Where the amount added or deducted in the first preceding year is not sufficient to cover the receipt, deposit or investment, the year immediately preceding the first preceding year and so on.

Following would be cases involving mis-reporting:

i. misrepresentation or suppression of facts;
ii. failure to record investments in books of account;
iii. claim of expenditure not substantiated by any evidence;
iv. recording of any false entry in books of account;
v. failure to record any receipt in books of account having a bearing on total income; and
vi. failure to report any international transaction or deemed international transaction or Specified Domestic Transaction under Chapter X.

c. Cases not included within the scope of under-reported income under section 270A [Section 270A(6)]:

Sr. No.	Case	Condition
1.	The amount of income in respect of which assessee offers explanation	(a) AO/CIT/ CIT(A) is satisfied that explanation is bona-fide; and (b) all material facts have been disclosed to substantiate the explanation.
2.	The amount of under-reported income is determined on estimate	If the accounts are correct and complete to the satisfaction of theincome-tax authority but the method employed is such that the income cannot properly be deduced therefrom.
3.	The amount of under-reported income is determined on estimate	(a) Assessee has, on his estimate, made addition/ disallowance of same on lower side; and (b) included such income in computation of income; and (c) disclosed all material facts relevant to addition/ disallowance
4.	The amount of under-reported income represented by an addition made in conformity with ALP determined by TPO	(a) Assessee has maintained prescribed records u/s. 92D (b) declared international transaction under Chapter X (c) disclosed all material facts relating to the transaction
5.	Amount of undisclosed income on account of search	Where penalty is leviable u/s. 271AAB in respect of such undisclosed income.

d. <u>Quantum of penalty:</u>

- **under-reporting –** 50% of tax on under-reported income
- **mis-reporting –** 200% of tax on under-reported income

Immunity from Imposition of Penalty/ Prosecution (Section 270AA)

1. **When application can be made:** Application can be made by assessee if: -
   (a) Assessee has paid tax and interest payable as per assessment order u/s. 143(3) or u/s. 147;
   and
   (b) no appeal is preferred against such order.

2. **Circumstances in which AO cannot grant immunity from penalty/ prosecution**: No immunity shall be granted in any of the following cases:
   (a) misrepresentation/ suppression of facts
   (b) failure to record investments in books of account
   (c) claim of expenditure not substantiated by any evidence
   (d) recording of any false entry in books of account
   (e) failure to record any receipt in books of account having a bearing on that income
   (f) failure to report any Transaction covered by Transfer Pricing/ Domestic Transfer Pricing.

3. **Time Limit for making application**: - Application in prescribed form and verified in prescribed manner shall be made within one month from the end of the month in which order of assessment/ reassessment is received.

4. **Time limit for passing order accepting or rejecting application**: - Order shall be passed accepting or rejecting application for immunity within one month from the end of the month in which application is received. However, order granting immunity shall be passed after the expirt of period of filing appeal u/s. 249(2).

5. Any order rejecting application shall not be passed, **before giving opportunity of being heard**.

6. **No appeal**: - Order accepting/ rejecting immunity from penalty/ prosecution shall be final and shall not be appellable. No revision u/s. 264 shall against such order. However, Writ petition can be filed.

7. If application is rejected, the assessee can file appeal against the order of assessment/ reassessment. For computing limitation, period within which application for immunity is made and till the date of order rejecting application is served on assessee shall be excluded.

Annexure J –
NEW TCS PROVISIONS

2. TCS on sale/ service in Cash

a. ***Who is required to collect TCS: -*** Seller
b. ***Who is Sellor/ Collector: -***
    - Central Govt./ State Govt/ Local authority/ Statutory corporation
    - Company/ Firm/ Co-operative Society
    - Individual/ HUF whose Sales/ Gross receipts/ turnover exceeded prescribed limit u/s. 44AB (₹ 25 lacs/ ₹ 100 lacs) in immediately preceeding P.Y.

c. ***Who is Buyer/ Collectee: -*** Any person.
d. ***Specified Asset and rate of TCS: - Cash Sale*** *of-*

Nature of Payment	Rate of TCS	No TCS if sale consideration does not exceed
Bullion	1%	₹ 2,00,000
Jewellery	1%	₹ 5,00,000
Sale of any other goods/ providing any service	***1%***	***₹ 2,00,000***

Amendment

e. ***Time of Collection:*** Payment.
f. ***Exemption: -***
    i. *No TCS shall be collected, on any amount, on which TDS has been deducted.*
    ii. *No TDS shall be collected in prescribed cases.*

	Eg #1	Eg # 2	Eg # 3	Eg # 4	Eg # 5	Eg # 6
Asset sold/ Service	Jewellery	Bullion	Bullion	Other	Other	Other (Liable for TDS)
Consideration in cash	6 lakhs	3 lakhs	1 lakhs	5 lakhs	1 lakhs	3 lakhs
Consideration other than cash	-	-	-	-	2 lakhs	-
Liability to collect TCS						

3. TCS on Sale of Motor Car

a. **Who is required to collect TCS: -** Seller
b. **Who is the Collectee: -** Buyer
c. **Nature of Transaction: -** Sale of Motor Car of value exceeding ₹ 10 lakhs
d. **Rate of TCS**: 1%
e. **Time of Collection:** Debit or receipt, whichever is earlier.

Circulars/ Notifications etc.

Sr. No.	**Circular/ Notification No.**	**Date**	**Summary**
	Exempt Income		
1.	Notification No. 72/2015	24.08.2015	Notified News agency exempt u/s. 10(22B) – Press Trust of India notified.
	Income from Salaries		
2.	Notification No. 75/2015	23.09.2015	Transport allowance limit for blind persons was ₹ 3,200 p.m. Now same limit is taken for "deaf and dumb" also.
	Income from Business/ Profession		
3.	Circular No.06/2016	29.02.2016	Shares & Securities income – Capital gains or business income Earlier circular dt. 31.08.1989 and 4/ 2007 dt. 15.06.2007. Further clarified that: (a) If assessee has shown income as business income, same will not be disturbed. (b) If assessee has shown LTCG – same will not be disturbed. However, once assessee takes a stand in one year, same shall be followed subsequently (c) If assessee has shown STCG – same made be disputed as business income/ capital gains, based on earlier Circulars.
4.	Notification No.71/ 2015	17.08.2015	Notified Backward area for section 32 (additional Depreciation) and 32AD – notified.
5.	Notification No. 13/2016	03.03.2016	Depreciation (Block of Plant) for "Oil wells not covered in clauses (a) and (b)" – 15%. Earlier rate was 60%. The new rule is (a) Plant used in field operations (above ground) distribution – Returnable packages – 60% (b) Plant used in field operations (Below ground) but not including kerbside pumps etc. – 60% (c) Oil wells not covered in clauses (a) and (b) – 15%
6.	Circular No.22/2015	17.12.2015	Amendment to section 43B was retrospective – in respect of Employer's contribution to Provident Fund. *Alom Extrusions (SC)* accepted by CBDT.
7.	Circular No.16/2015	06.10.2015	In case of Film producers, the cost of film is written off as per Rule 9A/ 9B. In case of abandoned film, the cost of the film shall be treated as revenue and allowed.
	Capital Gains		
8.	Notification No. 42/ 2016	02.06.2016	Cost Inflation Index for F.Y. 2016-17 - 1125
9.	Notification No. 18/ 2016	17.03.2016	In case of conversion of Bonds/ debentures to shares/ debentures, in case of subsequent transfer, holding period shall be taken as old and new.
	Income from Other Sources		
10.	Circular No. 18/2015	02.11.2015	Investments by banks in non-SLR securities. Department treats the expenditure for earning such income treating it as Income from other sources. Expenditure was disallowed u/s. 57(i). CBDT Directed that investments made by bank are a part of their banking business, and therefore income is business income. Expenditure is allowable.
	Deductions u/c. VIA		
11.	Notification No. 7/ 2016	19.02.2016	Atal Pension Yojna notified for section 80CCD(1).
12.	Circular No. 07/2016	07.03.2016	Consortium of persons doing any infrastructure projects would not be treated as AOP, if it has following attributes: *a.* each member is independently responsible for executing its

			part of work through its own resources and also bears the risk of its scope of work *i.e.* there is a clear demarcation in the work and costs between the consortium members and each member incurs expenditure only in its specified area of work. *b.* each member earns profit or incurs losses, based on performance of the contract falling strictly within its scope of work. However, consortium members may share contract price at gross level only to facilitate convenience in billing. *c.* the men and materials used for any area of work are under the risk and control of respective consortium members; *d.* the control and management of the consortium it not unified and common management is only for the *inter-se* co-ordination between the consortium members for administrative convenience.
Assessment of Trust			
13.	Notification No. 21/ 2016	23.03.2016	Permitted modes of investment u/s. 11(5) – Sovereign Gold Bonds (SGB).
International Taxation			
14.	Notification No. 70/ 2015	17.08.2015	In case of citizen, who is crew member of foreign ship, his stay in India, shall exclude period commencing from date entered into Continious discharge certificate in respect of joining the ship and ending the date entered in Continious discharge certificate in respect of signing off by that individual from the ship.
15.	Notification No. 83/ 2015	19.10.2015	Range concept explained – not relevant for exams.
16.	Notification No. 90/ 2015	08.12.2015	Co-operative societies procuring and marketing milk may opt for Safe Harbour Rules if they offer ALP which is independent of quantity, or control of other enterprise; and such price is in public domain.
17.	Circulars No. 10/2015	10.06.2015	Advance Pricing Arrangement (APA) – The agreement under APA apply for 5 years. However, they will also apply for 4 prior years. Same is called as "Roll Back Provisions". CBDT has issued some FAQs on "roll back provisions", which are reproduced in Supplymentry Material.
18.	Notification No. 5/ 2016	17.02.2016	Safe Harbour Rules – scope expanded – not relevant. Chart in may be referred from Supplementary Material.
Assessment Procedure			
19.	Notification No. 95/ 2015	30.12.2015	Cases where PAN to be quoted increased. Cases where Statement of FTRA to be given increased. Details of transactions covered in FTRA given as ***Note*** below
20.	Circulars No. 24/2015	31.12.2015	Recording of satisfaction u/s. 153C is mandatory for doing assessment of third person in search cases. Even if the AO of person searched and the AO of third person is same, satisfaction shall be recorded. [Manish Maheshwari (SC) accepted by CBDT]
21.	Notification No. 50/ 2015	24.06.2015	A CA having business relationship with the client cannot act as representative in income tax. Now, business relation has been defined to exclude: (a) function of auditor; and (b) sale of goods/ services to such auditor in ordinary course of business at arms length price.
22.	Circulars No. 21/2015	10.12.2015	Limit of Tax effect u/s. 268A. Department shall not file appeal to following forums if tax effect is below specified limits ITAT - 10 lakhs HC - 20 lakhs SC - 25 lakhs

<table>
<tr><td>23.</td><td>Circulars No. 09/2016</td><td>26.04.2016</td><td>Authority to levy penalty u/s. 269SS/ T (271D/ E) is the JCIT. If the AO mentions about the default of section 269SS/ T in the assessment order and states that penalty proceedings shall be initiated, it is just to intimate the JCIT. Only JCIT is competent to issue notice u/s. 271D/ E, and levy penalty.</td></tr>
<tr><td>24.</td><td>Circulars No. 10/2016</td><td>26.04.2016</td><td>It is clarified that the penalty u/s. 271D/ 271E can be levied within 12 months from end of F.Y. in which proceedings, in the course of which, penalty is initiated are completed; or within 6 months from end of month in which penalty is initated whichever is later.
It is clarified that the levy of penalty u/s. 271D/ 271E is not dependent on the pendency of appeal.</td></tr>
<tr><td colspan="4">Tax Collection and Recovery</td></tr>
<tr><td>25.</td><td>Notification No. 51/2015</td><td>24.06.2015</td><td>TDS not required to institutions covered u/s. 10(23FBA) – Investment funds.</td></tr>
<tr><td>26.</td><td>Notification No. 76/ 2015</td><td>29.09.2015</td><td>(a) Declaration u/s. 197A (Form 15G/15H) can be made manually or electronically.
(b) Deductor receiving Form 15G/15H (Bank etc.) shall furnish the details quarterly to government (in the TDS/ TCS quarterly statement).
(c) Form 15G/ 15H can be called and verified by AO within 7 years from deductor.</td></tr>
<tr><td>27.</td><td>Notification No. 30/ 2016</td><td>29.04.2016</td><td>(a) A monthly e-statement in Form No. 24G shall be given within ~~10 days of end of month, giving details of payments so made~~:
○ <i><u>In case statement relates to March – on or before 30th April</u></i>
○ <i><u>In any other case – On or before 15 days from the end of relevant month</u></i>
(b) In case of section 194IA, amount deducted shall be deposited electronically within ~~7 days~~ <i><u>30 days</u></i> from the end of the month in which it is deducted. (Even for March)
(c) Deductor of TDS shall also submit Quarterly returns within prescribed time to authorised agency/ I-T Authority.<table><tr><th><u>Quarter ending</u></th><th><u>Due date</u></th></tr><tr><td>30th June</td><td><i><u>31st July</u></i></td></tr><tr><td>30th September</td><td><i><u>31st Oct.</u></i></td></tr><tr><td>31st December</td><td><i><u>31st Jan.</u></i></td></tr><tr><td>31st March</td><td><i><u>31st Mar</u></i></td></tr></table></td></tr>
<tr><td>28.</td><td>Circulars No. 23/2015</td><td>28.12.2015</td><td>FDR is made in name of court, in case of disputes. It is clarified that TDS u/s. 194A need not be deducted of the courts. When ultimately dispute is resolved, at that stage, TDS shall be deducted. UCO Bank (Del.) accepted by CBDT.</td></tr>
<tr><td>29.</td><td>Circulars No. 04/2016</td><td>29.02.2016</td><td>Whether payments made by the broadcaster/telecaster to production houses is covered u/s 194C or u/s 194J. It is clarified that
(i) a payment for <u>production</u> of content/programme as per the specifications of the broadcaster/ telecaster is a contract.
(ii) a payment for <u>acquisition</u> of broadcasting/telecasting rights of the content already produced is not liable for TDS u/s. 194C.</td></tr>
<tr><td>30.</td><td>Circulars No. 05/2016</td><td>29.02.2016</td><td>Whether payments made by television companies/ news papers etc to commission agents as “commission/ brokerage) for canvassing/ procuring advertisement is liable for TDS u/s. 194H. Accepting the judgment in Jagaran Prakashan (All.), no TDS is required to be deducted.</td></tr>
<tr><td colspan="4">Interest of Refund</td></tr>
<tr><td>31.</td><td>Circulars No. 11/2016</td><td>26.04.2016</td><td>If the Deductor deposits more TDS than deducted, he is entitled to the refund, alongwith interest u/s. 244A. <i>Tata Chemicals Ltd. (SC)</i> accepted by CBDT.</td></tr>
</table>

NOTE
Cases where PAN to be quoted in Transactions

Sl. No.	Nature of transaction	Value of transaction
(1)	(2)	(3)
1.	Sale or purchase of a motor vehicle or vehicle, as defined in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988) which requires registration by a registering authority under Chapter IV of that Act, other than two wheeled vehicles.	All such transactions.
2.	Opening an account [other than a time-deposit referred to at Sl. No.12 and a Basic Savings Bank Deposit Account] with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act).	All such transactions.
3.	Making an application to any banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or institution, for issue of a credit or debit card.	All such transactions.
4.	Opening of a demat account with a depository, participant, custodian of securities or any other person registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).	All such transactions.
5.	Payment to a hotel or restaurant against a bill or bills at any one time.	Payment in cash of an amount exceeding fifty thousand rupees.
6.	Payment in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time.	Payment in cash of an amount exceeding fifty thousand rupees.
7.	Payment to a Mutual Fund for purchase of its units.	Amount exceeding fifty thousand rupees.
8.	Payment to a company or an institution for acquiring debentures or bonds issued by it.	Amount exceeding fifty thousand rupees.
9.	Payment to the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934) for acquiring bonds issued by it.	Amount exceeding fifty thousand rupees.
10.	Deposit with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act).	Deposits in cash exceeding fifty thousand rupees during any one day.
11.	Purchase of bank drafts or pay orders or banker's cheques from a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act).	Payment in cash for an amount exceeding fifty thousand rupees during any one day.
12.	A time deposit with,— (*i*) a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act); (*ii*) a Post Office; (*iii*) a Nidhi referred to in section 406 of the Companies Act, 2013 (18 of 2013); or (*iv*) a non-banking financial company which holds a certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934), to hold or accept deposit from public.	Amount exceeding fifty thousand rupees or aggregating to more than five lakh rupees during a financial year.
13.	Payment for one or more pre-paid payment instruments, as defined in the policy guidelines for issuance and operation of pre-paid payment instruments issued by Reserve Bank of India under section 18 of the Payment and Settlement Systems Act, 2007 (51 of 2007), to a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or institution.	Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than fifty thousand rupees in a financial year.
14.	Payment as life insurance premium to an insurer as defined in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938).	Amount aggregating to more than fifty thousand rupees in a

		financial year.
15.	A contract for sale or purchase of securities (other than shares) as defined in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).	Amount exceeding one lakh rupees per transaction.
16.	Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange.	Amount exceeding one lakh rupees per transaction.
17.	Sale or purchase of any immovable property.	Amount exceeding ten lakh rupees or valued by stamp valuation authority referred to in section 50C of the Act at an amount exceeding ten lakh rupees.
18.	Sale or purchase, by any person, of goods or services of any nature other than those specified at Sl. No. 1 to 17 of this Table, if any.	Amount exceeding two lakh rupees per transaction

Cases where PAN to be quoted for Statement of FTRA

Sl.No.	*Nature and value of transaction*	*Class of person (reporting person)*
(1)	*(2)*	*(3)*
1.	(*a*) Payment made in **cash for purchase of bank drafts** or pay orders or banker's cheque of an amount aggregating to **ten lakh rupees** or more in a financial year. (*b*) Payments made in **cash aggregating to ten lakh** rupees or more during the financial year for purchase of **pre-paid instruments** issued by Reserve Bank of India u/s. 18 of the Payment and Settlement Systems Act, 2007 (51 of 2007). (*c*) **Cash deposits or cash withdrawals** (including through bearer's cheque) **aggregating to fifty lakh rupees** or more in a financial year, in or from one or more current account of a person.	A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act).
2.	Cash deposits aggregating to ten lakh rupees or more in a financial year, in one or more accounts (other than a current account and time deposit) of a person.	(*i*) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); (*ii*) Post Master General as referred to in clause (*j*) of section 2 of the Indian Post Office Act, 1898 (6 of 1898).
3.	One or more **time deposits** (other than a time deposit made through renewal of another time deposit) of a person aggregating to **ten lakh rupees** or more in a financial year of a person.	(*i*) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); (*ii*) Post Master General as referred to in clause (*j*) of section 2 of the Indian Post Office Act, 1898 (6 of 1898); (*iii*) Nidhi referred to in section 406 of the Companies Act, 2013 (18 of 2013); (*iv*) Non-banking financial company which holds a certificate of registration u/s. 45-IA of the Reserve Bank of India Act, 1934 (6 of 1934), to hold or accept deposit from public.
4.	Payments made by any person of an amount aggregating to— (*i*) **one lakh** rupees or more in **cash**; or (*ii*) **ten lakh** rupees or more **by any other mode**, against bills raised in respect of one or more **credit cards** issued to that person, in a financial year.	A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act) or any other company or institution issuing credit card.
5.	Receipt from any person of an amount aggregating to **ten lakh**	A company or institution issuing bonds or

	rupees or more in a financial year for **acquiring bonds or debentures** issued by the company or institution (other than the amount received on account of renewal of the bond or debenture issued by that company).	debentures.
6.	Receipt from any person of an amount aggregating to **ten lakh** rupees or more in a financial year for **acquiring shares** (including share application money) issued by the company.	A company issuing shares.
7.	**Buy back** of shares from any person (other than the shares bought in the open market) for an amount or value aggregating to **ten lakh rupees** or more in a financial year.	A company listed on a recognised stock exchange purchasing its own securities u/s. 68 of the Companies Act, 2013 (18 of 2013).
8.	Receipt from any person of an amount aggregating to **ten lakh** rupees or more in a financial year for acquiring units of one or more schemes of a **Mutual Fund** (other than the amount received on account of transfer from one scheme to another scheme of that Mutual Fund).	A trustee of a Mutual Fund or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.
9.	Receipt from any person for **sale of foreign currency** including any credit of such currency to foreign exchange card or **expense in such currency** through a debit or credit card or through issue of travellers cheque or draft or any other instrument of an amount aggregating to **ten lakh** rupees or more during a financial year	Authorised person as referred to in clause (*c*) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).
10.	**Purchase or sale** by any person of **immovable property** for an amount of **thirty lakh rupees** or more or valued by the stamp valuation authority referred to in section 50C of the Act at thirty lakh rupees or more.	Inspector-General appointed u/s. 3 of the Registration Act, 1908 or Registrar or Sub-Registrar appointed u/s. 6 of that Act.
11.	Receipt of **cash payment exceeding two lakh rupees** for **sale**, by any person, of **goods or services** of any nature (other than those specified at Sl. No. 1 to 10 of this rule, if any.	Any person who is liable for audit u/s. 44AB of the Act.

YOU WILL DEFINITELY CLEAR THE CA FINAL EXAMS IN CURRENT ATTEMPT. BELIEVE IN YOURSELF, YOU WILL DO!!!!

Selected Cases – BY ICAI at a Glance – For May/ Nov. 2017

Case laws Removed from earlier attempts

S.No.	Name
1.	Joseph George and Co. (Ker.)
2.	B. Raveendran Pillai (Ker.)
3.	Controls & Switchgear Contractors Ltd. (2014)(Del.)
4.	J.K. Synthetics Ltd. (All.)
5.	PVS Raju (AP)
6.	CIT vs Chiranjeevi Wind Energy Ltd. (Mad.)
7.	Peterplast Synthetics P Ltd (2014)(Guj)
8.	Deepak Kumar Garg (2010) (MP)
9.	Nayan Builders (2014) (Bom.)
10.	MAK Data P Ltd. (2013)(SC)
11.	CIT vs Reliance Petroproducts (2010) (SC)
12.	CIT vs Indersons Leather P Ltd. (P & H)
13.	CIT vs Amit Jain (2013) (Del.)
14.	CIT vs Celetronix Power India P Ltd. (Bom.)
15.	CIT vs Japan Airlines Co. Ltd.(2010)(Del.)
16.	CIT vs Mother Dairy India Ltd. (2013)(Del.)
17.	Uttar Pradesh Carbon & Chemicals Ltd. (2014) (All.)

Case laws added

Sr. No.	Name	Summary
Business/ Profession Head		
1.	CIT vs NDR Warehousing Pvt. Ltd. (Mad.) (2015) 372 ITR 690	Where assessee was engaged in business of warehousing, handling and transport business and it showed income earned from letting out of warehouses and godowns as income from business, since primary source of income of assessee was letting out of godowns and warehouses to traders carrying on warehousing business, income was assessable as business income
2.	Shyam Burlap Co Ltd v. CIT (Cal) (2016) 380 ITR 151	As per memorandum of Association, the object was developing of properties. 85% of the income was from letting of properties. In the earlier year, the income from letting of properties was treated as House property income by assessee. In current year, assessee paid compensation for getting two of its properties vacated and treated the income as a business income. It was held that although the income was offered in earlier years as house property, the objects clause and the activities showed that the business was renting of properties. Income therefrom was business income. Judgment of *Chennai Properties & Investment (2015)(SC)* followed.
3.	CIT vs Henkel Spic India Ltd.(SC) (2015) 379 ITR 322	Assessee received share application money under public issue in AY 1991-92. Shares were allotted in AY 1992-93 and the process concluded in AY 1993-94. Till that date, share application money was kept in bank and interest income arose. AO treated the interest income as income of AY 1991-92. Assessee contended that the assessee had no right in the application money received, till the date allotment happens. This is so, as u/s. 73 of the Companies Act, 1956, use of application money was prohibited till allotment. Hence, the income if any arose in AY 1993-94.
4.	Taparia Tools Ltd vs Joint CIT (SC) (2015) 372 ITR 605	The assessee issued debentures during the relevant period for 5 years. As regards payment of interest, two options were given to debenture holders. As per terms of issue, the debenture holders could either receive interest periodically, that was every half yearly at the rate of 18 per cent per annum

		over a period of five years, or else, the debenture holders could opt for one time upfront discounted interest payment per debenture. The upfront interest paid was treated as deferred revenue expenditure in books. But in IT, the entire amount was claimed. Held, obligation to pay interest arose as the debentures were issued. Thus, the interest was "incurred". Merely because a different treatment is given in accounts would be immaterial. Deduction is therefore allowable for entire amount.
5.	CIT vs KLN Agrotechs (P) Ltd (Kar) (2015) 375 ITR 301	Assessee took loan from bank. Interest was not paid, and account became NPA. The loan with interest (Rs. 193 lakhs) outstanding was Rs. 635.26 lakhs. Under one time settlement scheme, assessee paid Rs. 378.72 lakhs. Balance Rs. 257 lakhs was offered as income. Assessee claimed Rs. 193 lakhs as interest paid. AO disallowed the deduction u/s. 43B. It was held that Rs. 193 lakhs of interest sub-assumed in the amount of Rs. 257 lakhs offered. Thus the deduction is allowed u/s. 43B.
6.	CIT vs V.S. Dempo & Co P Ltd (Bom) (FB) (2016) 381 ITR 303	Business Disallowance – Assessee was a resident. It made payment to non-resident, which was engaged in business of shipping covered by section 172. TDS not deducted; AO made disallowance u/s. 40(a)(i). Held, section 172 over-rides other provisions. Thus, once section 172 applies, TDS was not required to be deducted, and disallowance cannot be done for non-deduction of TDS.
Capital Gains		
7.	CIT vs S.R Jeyashankar (Mad) (2015) 373 ITR 120	Assessee entered into agreement for purchase of undivided share in property on 22.02.2005. This agreement was registered in Aug. 2005. This property was sold on 10.04.2008. It was held that the holding period shall start from the date of allotment or date of actual sale, i.e. 22.02.2005, and not date of its registry. Capital gain was long-term.
8.	Fibre Boards (P) Ltd vs CIT (SC) (2015) 376 ITR 596	Exemption u/s. 54G – Earlier, there was a section 280ZA, giving certain incentives shifting from urban area. In 1967, Thane was notified as unban area. This section was "omitted" and replaced by another incentive in the form of section 54G later on. Whether the notification given in omitted section 280ZA, would apply to section 54G, and Thane shall be treated as notified urban area. Held u/s. 24 of the General Clauses Act, if the enactment is repealed and re-enacted, the decisions, Circularetc given in the earlier enactment will continue in the subsequent enactment. Thus, Thane which was notified in the earlier enactment, will continue in the subsequent enactment.
Deductions u/c. VIA		
9.	CIT vs Shree Govindbhai Jethalal Nathavani Charitable Trust (Guj) (2015) 373 ITR 619	At time of granting approval of exemption u/s. 80G, only object of trust is required to be examined and, therefore, assessee's application seeking approval u/s. 80G(5) could not be rejected on ground that it failed to incur expenditure to extent of 85 percent of its income during relevant year.
Assessment of Trust		
10.	Queen's Educational Society (SC) (2015) 372 ITR 699	Education per-se is "Charitable purpose" u/s. 2(15). Thus, even if some surplus arises in providing education, still the income is charitable. When surplus is ploughed back for educational purposes, the educational institution exists solely for educational purposes and not for purposes of profit.
International Taxation		
11.	CIT vs Alcatel Lucent Canada (Del) (2015) 372 ITR 476	Assessee, a company incorporated in France, used to manufacture, trade and supply equipments and services for GSM Cellular Radio Telephones Systems. Assessee had supplied ***hardware and software*** to various entities in India. Software licenced by assessee embodied process which was required to control and manage specific set of activities involved in business use of its customers. In course of assessment, AO opined that consideration for supply of software amounted to royalty u/s. 9(1)(vi). The assessee had supplied hardware; and software was subservient to running

		the hardware. The asset supplied was tangible property, and software was only an integral part, which had no independent use. Thus section 9(1)(vi) was no attracted.
	Assessment Procedure	
12.	Hemant Traders vs ITO (Bom) (2015) 375 ITR 167	Assessee filed return, which was processed u/s. 143(1). Later on, a survey u/s. 133A was conducted. Based on survey report, AO initiated reassessment proceedings u/s. 147. Held, neither the survey report, nor any other material indicated that any income chargeable to tax had escaped assessment, reopening was invalid.
13.	Godrej Industries Ltd vs B.S. singh Dy.CIT (Bom) (2015) 377 ITR 1	In this case, reassessment was initiated. At that time, the issue was debatable. However, later on a retrospective amendment was brought. Assessee contended that when reasons were recorded, and notice was issued, the issue was debatable, and therefore reopening was invalid. Held, position of law has to be seen on the date of issue of notice (i.e. date of initiation of jurisdiction). On that date, the amendment was not brought and the notice was invalid, therefore subsequently, even if retrospective amendment is brought, the proceedings would not become valid.
14.	N. Govindaraju vs ITO (kar) (2015) 377 ITR 243	If notice u/s. 148(2) is found to be valid, then addition can be made on all grounds or issues which may come to notice of AO subsequently during course of proceedings u/s. 147, even though reason for notice for 'such income' which may have escaped assessment, may not survive. *Majinder Singh Kang* v. *CIT (P & H)* and *CIT* v. *Mehak Finvest (P.) Ltd.* (P & H) *followed.*
15.	Vipin Walia vs ITO (Del) (2016) 382 ITR 19	A.Y. 2008-09 - Notice u/s. 148 was issued in March 2015. At that time, assesssee "IPW" was dead. Notice returned unserved. Later, notice was issued in June 2015, on Legal Heir "VW". Said notice was beyond limitation. It was held that reopening was invalid, as if the department wanted to proceed with the matter, notice on legal heir should have been issued within limitation. Notice u/s. 148 is barred by limitation.
16.	CIT vs Krishna Capbox (P) Ltd (All) (2015) 372 ITR 310	Where AO passed assessment order after certain queries from assessee, mere non-discussion or non-mention thereof in assessment order could not lead to assumption that AO did not apply his mind; invoking of revision proceeding u/s. 263 on said ground was unjustified
17.	CIT vs Fortaleja Developers (Bom) (2015) 374 ITR 510	Assessee did housing project and claimed deduction u/s. 80IB(10). CIT, in doing revision u/s. 263, held that the manner of distribution of profits between AOP made assessee to claim higher deduction. It was held that allowability of deduction is not dependent on how profit is distributed, but how it is earned. Also, the original assessment, was already decided by CIT(A) where deduction u/s. 80IB(10) was disputed. Thus, on doctrine of merger, revision was not valid.
18.	CIT vs New Mangalore Port Trust (Karn) (2016) 382 ITR 434	Order u/s. 143(3) was passed on 27.12.2009. It was revised u/s. 264, remanded the matter to AO to recompute income. AO recomputed the income on 27.05.2011. Thus, it was clear that original order u/s. 143(3) was not in existence. Revision u/s. 263 was done thereafter of the order dated 27.12.2009. Held, the order u/s. 143(3) dated 27.12.2009, was not-at-all in existence as it was revised u/s. 264. Revision u/s. 263 was invalid.
19.	CIT vs Meghalaya Steel Ltd. (SC) (2015) 377 ITR 112	High Court has power to review its own orders. High Court being court of record, has inherent powers u/a. 215 of Constitution of India to review its order. Section 260A does not curtail the powers.
	Authority for Advance Ruling	
20.	Hyosung Corporation vs AAR (Del) (2016) 382 ITR 371	Assessee can apply to AAR, but application cannot be filed if *"question raised in application is already pending before income-tax authorities"*. In the present case, when application was made to AAR, in one of the year, the notice u/s. 142(1) was issued asking query relating this specific issue. Since the issue was "already pending" before IT authorities, AAR was right

		in rejecting the application before it. However, in other years, although a general notice u/s. 143(2) was issued, specific notice u/s. 142(1) was not issued. Thus, it cannot be said that the "question raised" was pending. AAR should have accepted the application for such years. Also, assessee pleaded that the restriction is unconstitutional, as arbitrary; but said condition cannot be said to be arbitrary as it aims as avoiding judgment from two forums simultaneously.
	Tax Collection and Recovery	
21.	CIT vs Avenue Super Chits (P) Ltd (Kar) (2015) 375 ITR 76	TDS u/s. 194A - The assessee-company was engaged in the business of chit fund. It paid amounts to its subscribers who had participated in its chit scheme. The said amount was called as dividend. Under the scheme, the unsuccessful members in the auction chit would earn dividend and the successful bidders would be entitled to retain the face value till the stipulated period under the scheme. Held, that the amount paid by way of dividend cannot be treated as interest u/s. 2(28A). Further, section 194A has no application to such dividends and, therefore, it was held that there is no obligation on the part of the assessee to make any deductions u/s. 194A before such dividend is paid to subscribers of the chit.
22.	Japan Airlines Co. Ltd vs CIT /CIT vs Singapore Airlines Ltd (SC) (2015) 377 ITR 372	TDS u/s. 194I - Landing and parking charges are not rent u/s. 194I. It was held that the charges which are fixed by the Airport Authority for landing and take-off services as well as for parking of aircrafts are not for the 'use of the land'. That would be too simplistic an approach, ignoring other relevant details which would amply demonstrate that these charges are for services and facilities offered in connection with the aircraft operation at the airport. To point out at the outset, these services include providing of air traffic services, ground safety services, aeronautical communication facilities, installation and maintenance of navigational aids and meteorological services at the airport.
23.	CIT vs Manipal Health Systems (P) Ltd (Kar) (2015) 375 ITR 509	TDS u/s. 194J/ 192 - Payment made to doctors, by the hospital. Assesssee deducted TDS u/s. 194J. AO held that 192 was applicable. Held, section 194J was applicable, as doctors were not in employment as per the agreement. PF, ESI etc was not done. Income of doctors varied according to partients. It was not a "contract of service", but "contract for service". Also CIT (TDS) vs Apollo Hospitals International Ltd. (2013)(Guj.)
24.	CIT vs Kotak Securities Ltd (SC) (2016) 383 ITR 1	TDS u/s. 194J - Service charges paid by members of stock exchange to BSE for their BSE Online Trading (BOLT). AO held that it was a payment for fees for technical services and TDS was required to be deducted by members. Held, 'Technical services' like 'Managerial and Consultancy service' would denote seeking of services to cater to the special needs of the consumer/user as may be felt necessary and the making of the same available by the service provider. It is the above feature that would distinguish/identify a service provided from a facility offered. While the former is special and exclusive to the seeker of the service, the latter, even if termed as a service, is available to all and would, therefore, stand out in distinction to the former. The service provided by the Stock Exchange for which transaction charges are paid fails to satisfy the aforesaid test of specialized, exclusive and individual requirement of the user or consumer who may approach the service provider for such assistance/service.
25.	CIT(TDS) vs. Priya Blue Industries (P) Ltd (Guj) (2016) 381 ITR 210	TCS – Assessee was engaged in ship breaking activity. It sold products obtained out of this activity. AO stated that TCS ought to be collected as "scrap" was sold. It was held that since the product was usable "as such", it was not scrap, no TCS shall be collected.
	Interest on Refund	
26.	CIT vs Bhagat Contraction Co (P) Ltd (SC) 383 ITR 9	Interest - Direction for charging of interest, not contained in the assessment order, but in the Income-tax Computation Form (ITNS-150). It was held that ITNS-150 was part of assessment order and thus the direction was part of assessment order, and levy of interest was valid.