DT Selected Case Law Summary

BASIC CONCEPTS– DT Selected Case Laws	Case Law
What is the nature of liquidated damages received by a company from the supplier of plant for failure to supply machinery to the company within the stipulated time- a capital receipt or a revenue receipt? **Ans: Capital Receipt**	CIT v Saurastra Cement Ltd.(Supreme Court)
Can capital contribution of the individual partners credited to their accounts in the books of the firm be taxed as cash credit in the hands of the firm, where the partners have admitted their capital contribution but failed to explain satisfactorily the source of receipt in their individual hands? **Ans: No**	CIT v. M.Venkateswara Rao (T & AP) -HC
Whether section 14A is applicable in respect of deductions, which are permissible and allowed under Chapter VI-A? **Ans: No**	CIT v Kribhco (Delhi High Court)
Case where the application for registration of a charitable trust is not disposed of within the period of 6 months as required under section 12AA(2), can the trust be deemed to have been registered as per provisions of section 12AA? **Would not amount to "deemed registration"**	Karimangalam Onriya Pengal Semipu Amaipu Ltd. (Madras High Court)
Where a charitable trust applied for issuance of registration under sec 12A within short time span (Nine months, in this case) after its formation , Can registration be denied by the concerned authority on the ground that no charitable activity has been commenced by the trust ? **No**	DIT (Exempions) v Meenakshi Amma Endoment Trust (Karnataka High Court)
In a case where properties bequeathed to a trust could not be transferred to it due to ongoing court litigation and pendency or probate proceedings, can violation of the provisions of section 11(5) be attracted? **No**	DIT (Exemptions) v Khetri Trust (Del)(High Court)

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Is the approval of Civil Court mandatory for amendment of trust deed, even in a case where the settler has given power to the trustees to alter the trust deed? **No**	DIT (Exemptions) v Ramoji Foundation (AP) (High Court)
Can notional interest on security deposit given to the landlord in respect of residential premises taken on rent by the employer and provided to the employee,be included in the perquisite value of rent-free accommodation given to the employee? **No**	Shankar Krishnan(Bombay High Court)
Can the limit of Rs. 1,000 per month per child be allowed as standard deduction, while computing the perquisite value of free or concessional education facility provided to the employee by the employer? **Rs.1000, is Not a standard deduction**	Delhi Public School (Punjab and Haryana High Court)
HP – DT Selected Case Laws	
Whether the rental income derived from the unsold flats which are shown as stock-in-trade in the books of the assessee would be taxable under the head 'Profits and gains from business or profession' or under the head 'Income from house property', in a case where the actual rent receipts formed the basis of computation of income? **"Income from house property"**	New Delhi Hotels Ltd. (Delhi High Court)
Can the rental income from the unsold flats of a builder 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? **"Income from house property"**	Azimganj Estate (P.) Ltd (Calcutta High Court)
Can benefit of self-occupation of house property under section 23(2) be denied to a HUF on the ground that it, being a fictional entity, cannot occupy a house property? **HUF is entitled to claim benefit**	Hariprasad Bhojnagarwala (Gujarat High Court)
Can an assessee engaged in letting out of rooms in a lodging house also treat the income from renting of a building to bank on long term lease as business income? **Income from house property.**	Joseph George and Co. (High Court)

Can notional interest on interest-free deposit received by an assessee in respect of a shop let out on rent be brought to tax as business income or income from house property? **Is neither assessable as business income nor as income from house property.**	Asian Hotels Ltd. (High Court)
Under which head of income is franchise fee received by an assessee in tourism business, against special rights given to franchisees to undertake hotel business in asessee's property, taxable? **Business Income (Reason : Special conditions stipulated in the contract)**	Tamil Nadu Tourism Development Corporation Ltd v. Dy. CIT (Mad) (High Court)
PGBP – DT Selected Case Laws	
Is Interest Income on margin money deposited with bank for obtaining bank guarantee to carry on business, taxable as business income? **PGBP**	CIT v. K and Co. (Del) (High Court)
Is the expenditure on replacement of dies and moulds, being parts of plant and machinery, deductible as current repairs? **Yes, deductible as current repairs U/S 31**	CIT v. TVS Motors Ltd (Mad)
Can depreciation on leased vehicles be denied to the lessor on the ground that the vehicles are registered in the name of the lessee and that the lessor is not the actual user of the vehicles? **Entitled to claim depreciation**	I.C.D.S. Ltd (Supreme Court)
What is the eligible rate of depreciation in respect of computer accessories and peripherals under the Income-tax Act, 1961? **60%**	BSES Yamuna Powers Ltd (Delhi High Court)
Can the second proviso to section 32(1) be applied to restrict the additional depreciation under section 32(1)(iia) to 50%, if the new plant and machinery was put to use for less than 180 days during the previous year? **Yes**	M.M. Forgings Ltd. v. ACIT (Madras High Court)

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Can business contracts, business information, etc., acquired by the assessee as part of the slump sale and described as 'goodwill', be classified as an intangible asset to be entitled for depreciation under section 32(1)(ii)? **Yes**	Areva T and D India Ltd. (Delhi High Court)
Is the assessee entitled to depreciation on the value of goodwill considering it as an asset within the meaning of Explanation 3(b) to Section 32(1)? **Yes**	Smifs Securities Ltd. (Supreme Court)
Is the assessee entitled to depreciation on value of goodwill considering it as "other business or commercial rights of similar nature" within the meaning of an intangible asset? **Yes**	B. Raveendran Pillai (Kerala)
Can EPABX and mobile phones be treated as computers to be entitled to higher depreciation at 60%? **No**	Federal Bank Ltd (Kerala High Court)
Would beneficial ownership of assets suffice for claim of depreciation on such assets? **Yes**	Smt. A. Sivakami and Another (Mad. High Court)
Is guarantee commission paid by a company to its employee directors deductible as its business expenditure, where such guarantee was given by the employee directors to the bank for enabling credit facility to the company? **Yes**	Controls & Swichgear contractors Ltd v. Dy.CIT (Del) (HC)
Is Interest paid by the holding company as guarantor for the amount borrowed by the subsidiary company deductible under section 36 (1)(iii)? **Yes**	JK Synthetics Ltd v. CIT (All) (High Court)
Can employees contribution to provident Fund and Employee's State Insurance be allowed as deduction where the assessee-employer had not remitted the same on or before the "due date" under the relevant act but remitted the same on or before the due date for filing of return of Income U/S 139(1)? **No, not deductible.**	CIT v.Gujarat State Road Transport Corpn (Guj)(High Court)

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Is expenditure incurred for construction of transmission lines by the assessee for supply of power to UPPCL by the assessee deductible as revenue expenditure? **Yes, deductible**	Addtl. CIT v. Dharmpur Sugar Mill (P) Ltd (All) (High Court)
Where the assessee- Company came into existence on bifurcation of a joint Venture Company (JVC), can the amount paid by it to the JVC for use of customer database and transfer of trained personnel be claimed as revenue expenditure? **Yes**	CIT v. IBM Global Services India P Ltd (Kar) (High Court)
What is the nature of expenditure incurred on glow-sign boards displayed at dealer outlets – capital or revenue? **Revenue**	Orient Ceramics and Industries Ltd. (Delhi High Court)
Would the expenditure incurred on issue and collection of convertible debentures be treated as revenue expenditure or capital expenditure? **Revenue**	ITC Hotels Ltd (Karnataka High Court)
Would expenditure incurred on feasibility study conducted for examining proposals for technological advancement relating to the existing business be classified as revenue expenditure, where the project was abandoned without creating a new asset? **Yes**	Priya Village Roadshows Ltd (Delhi High court) .
Can expenditure incurred on alteration of a dam to ensure adequate supply of water for the smelter plant owned by the assessee be allowed as revenue expenditure? **Yes**	Hindustan Zinc Ltd (Raj. High court)
Is *Circular No. 5/2012 dated 01.08.2012* disallowing the expenditure incurred on freebies provided by pharmaceutical companies to medical practitioners, in line with *Explanation* to section 37(1), which disal ows expenditure which is prohibited by law? **Yes**	Confederation of Indian Pharmaceutical Industry (SSI) (H.P)
Can the commission paid to doctors by a diagnostic centre for referring patients for diagnosis be allowed as a business expenditure under section 37 or would it be treated as illegal and against public policy to attract disallowance? **Not allowed as deduction**	Kap Scan and Diagnostic Centre P. Ltd. (P&H)

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Can expenditure incurred by a company on higher studies of the director's son abroad be claimed as business expenditure under section 37 on the contention that he was appointed as a trainee in the company under "apprentice training ", where there was no proof of existence of such scheme? **No Nexus, Not deductible**	Echjay Forgings Ltd (Bombay High Court)
Can the expenditure incurred on heart surgery of an assessee, being a lawyer by profession, be allowed as business expenditure under section 31, by treating it as current repairs considering heart as plant and machinery, or under section 37, by treating it as expenditure incurred wholly and exclusively for the purpose of business or profession? **No**	Shanti Bhushan (Delhi High Court)
Can payment to police personnel and gundas to keep away from the cinema theatres run by the assessee be allowed as deduction? **No This is illegal**	Neelavathi & Others (Karnataka High Court)
Is the amount paid by a construction company as regularization fee for violating building bye-laws allowable as deduction? **No, this is penalty**	Millennia Developers (P) Ltd (Karnataka High Court)
Can remuneration paid to working partners as per the partnership deed be considered as unreasonable and excessive for attracting disallowance under section 40A(2)(a) even though the same is within the statutory limit prescribed under section 40(b)(v)? **No**	Great City Manufacturing Co (All. High Court)
Can unpaid electricity charges be treated as "fees" to attract disallowance under section 43B? **No**	Andhra Ferro Alloys P. Ltd. (A.P High Court)
What are the factors determining the nature of income arising on sale of shares i.e. whether the income is taxable as capital gains or business income? **Investment-CG, Trading Asset-PGBP**	PVS Raju (AP. High Court)

CG – DT Selected Case Laws	
Where a leasehold property is purchased and subsequently converted into freehold property and then sold, should the period of holding be reckoned from the date of purchase or from the date of conversion for determining whether the resultant capital gains is short-term or long-term? **Depends on periodd, Reckoned from date of purchase**	Smt. Rama Rani Kalia (All. High Court)
In determining the period of holding of a capital asset received by a partner on dissolution of firm, can the period of holding of the capital asset by the firm be taken into account? **No, from the date of dissolution**	P. P. Menon (Ker. High Court)
What would be the period of holding to determine whether the capital gains on renunciation of right to subscribe for additional shares is short-term or long-term? **Date of right to date of renounciation**	Navin Jindal (SC)
Whether indexation benefit in respect of the gifted asset shall apply from the year in which the asset was first held by the assessee or from the year in which the same was first acquired by the previous owner? **From the date of previous owner**	Manjula J. Shah (Bombay High Court)
Where a building, comprising of several floors, has been developed and re-constructed, would exemption under section 54/54F be available in respect of the cost of construction of – (i) the new residential house (i.e., al independent floors handed over to the assessee); or (ii) a single residential unit (i.e., only one independent floor)? **On whole**	Gita Duggal (Delhi High Court)
Would an assessee be entitled to exemption under section 54 in respect of purchase of two flats, adjacent to each other and having a common meeting point? **Yes**	Syed Ali Adil (A.P. High Court)
Can exemption under section 54B be denied solely on the ground that the new agricultural land purchased is not wholly owned by the assessee, as the assessee's son is a co-owner as per the sale deed? **No**	Gurnam Singh (P&H High Court)

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Can exemption under section 54F be denied solely on the ground that the new residential house is purchased by the assessee exclusively in the name of his wife? **No**	Kamal Wahal (Delhi High Court)
In case of a house property registered in joint names, whether the exemption under section 54F can be allowed fully to the co-owner who has paid whole of the purchase consideration of the house property or will it be restricted to his share in the house property? **Allowed fully to the co-owner**	Ravinder Kumar Arora (Delhi High Court)
Can exemption under section 54F be denied to an assessee in respect of investment made in construction of a residential house, on the ground that the construction was not completed within three years after the date on which transfer took place, on account of pendency of certain finishing work like flooring, electrical fittings, fittings of door shutter, etc? **No**	Sambandam Udaykumar (Karnataka High Court)
Can the assessee claim exemption under section 54F, on account of capital gain arising on transfer of depreciable assets held for more than 36 months i.e. a long-term capital asset, though the same is deemed as capital gain arising on transfer of short-term capital asset by virtue of section 50? **Yes**	Rajiv Shukla (Delhi High Court)
Where the stamp duty value under section 50C has been adopted as the full value of consideration, can the reinvestment made in acquiring a residential property, which is in excess of the actual net sale consideration, be considered for the purpose of computation of exemption under section 54F, irrespective of the source of funds for such reinvestment? **Yes**	Gouli Mahadevappa (Karnataka High Court)
Can exemption under section 54EC be denied on account of the bonds being issued after six months of the date of transfer even though the payment for the bonds was made by the assessee within the six month period? **No**	Hindustan Unilever Ltd (Bombay High Court)

In the case of an assessee, being a dealer in shares and securities, whose portfolio comprises of shares held as stock-in-trade as well as shares held as investment, is it permissible under law to convert a portion of his stock-in-trade into investment and if so, what would be the tax treatment on subsequent sale of such investment? **Gains on sale of those shares held as investments by the dealer-(i.e., the difference between the sale price and the FMV on the date of conversion) -"Capital gains".**	Yatish Trading Co. Pvt. Ltd. (Bombay High Court)
Other Sources- DT Selected Case Laws	
What are the tests for determining "substantial part of business" of lending company for the purpose of application of exclusion provision under section 2(22)? **Money given by a company whose "substantial part of business" is lending by way of advance or loan is not considered as dividend**	Parle Plastics Ltd. (Bombay High Court)
Can repair and renovation expenses incurred by a company in respect of premises leased out by a shareholder having substantial interest in the company, be treated as deemed dividend? **No**	CIT v. Vir Vikram Vaid (Bom) (High Court)
Can the loan or advance given to a shareholder by the company, in return of an advantage conferred on the company by the shareholder, be deemed as dividend under section 2(22)(e) in the hands of the shareholder? **Not gratuitous, Not deemed dividend in the hands of the shareholder under section 2(22)(e).**	Pradip Kumar Malhotra (Cal. High Court)
Would the provisions of deemed dividend under section 2(22)(e) be attracted in respect of financial transactions entered into in the normal course of business? **No**	Ambassador Travels (P) Ltd. (Delhi High Court)
Can winnings of prize money on unsold lottery tickets held by the distributor of lottery tickets be assessed as business income and be subject to normal rates of tax instead of the rates prescribed under section 115BB? **No, Rate u/s:115BB is applicable i.e 30%**	Manjoo and Co (Kerala High Court)
Can the loss suffered by an erstwhile partnership firm, which was dissolved, be carried forward for set-off by the individual partner who took over the business of the firm as a sole proprietor, considering the succession as a succession by inheritance?	Pramod Mittal (Delhi High Court)

No, since it is not a case of succession by inheritance.	
Deductions- DT Selected Case Laws	
Can unabsorbed depreciation of a business of an industrial undertaking eligible for deduction under section 80-IA be set off against income of another non-eligible business of the assessee? **Yes**	Swarnagiri Wire Insulations Pvt. Ltd. (Karnataka High Court)
Can freight subsidy arising out of the scheme of Central Government be treated as a “profit derived from the business” for the purposes of section 80-IA? **No**	Kiran Enterprises (HP High Court)
Can Duty Drawback be treated as profit derived from the business of the industrial undertaking to be eligible for deduction under section 80-IB? **No**	Orchev Pharma P. Ltd. (SC)
Would grant of transport subsidy, interest subsidy and refund of excise duty qualify for deduction under section 80-IB? **Refund of excise duty had to be taken into account for purposes of section 80-IB.**	Meghalaya Steels Ltd. (Gauhati High Court)
Does income derived from sale of export incentive qualify for deduction under section 80-IB? **Not eligible for deduction under section 80-IB**	Jaswand Sons (P&H High Court)
Would the procurements of parts and assembling them to make windmill fall within the meaning of “manufacture” and “production” to be entitled to deduction under section 80-IB? **Yes**	Chiranjjeevi Wind Energy Ltd. (Madras High Court)
Can an industrial undertaking engaged in manufacturing or producing articles or things treat the persons employed by it through agency (including contractors) as “workers” to qualify for claim of deduction under section 80-IB? **If condition of section 80-IB(2)(iv) had been fulfilled , the deduction under section 80-IB is allowable.**	Jyoti Plastic Works Private Limited (Bombay High Court)
Does the period of exemption under section 80-IB commence from the year of trial production or year of commercial production? Would it make a difference if sale was effected from out of the trial production? **Marketable quality was established.(from that date)**	Nestor Pharmaceuticals Ltd. / Sidwal Refrigerations Ind Ltd. (DelhiHighCourt)

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Can an assessee who has not claimed deduction under section 80-IB in the initial years, start claiming deduction thereunder for the remaining years during the period of eligibility, if the conditions are satisfied? **Yes**	Praveen Soni (Delhi High Court)
Where land inherited by three brothers is compulsorily acquired by the state Govt, whether the resultant capital gain would be assessed in the status of "Association of Persons" (AOP) or in their individual status? **Taxable in their individual hands.**	CIT v.Govindbhai Mamaiya (SC)
Would the ancestral property received by the assessee after the death of his father, be considered as HUF property or as his individual property, where the assessee's father had received such property as his share when he went out of the joint family under a release deed? **It is HUF Property**	Commissioner of Income-Tax v. D.L. Nandagopala Reddy (Individual) (Kar)(High Court)
Under which head of income is rental income from plinths inherited by individual co-owners from their ancestors taxable – "Income from house property" or "Income from other sources"? Further, would such income be assessable in the hands of the individual co-owners or in the hands of the Association of Persons? **Section 56 , "Income from other sources"**	Shudir Nagpal (P & H High Court)
Would the interest earned on surplus funds of a club deposited with institutional members satisfy the principle of mutuality to escape taxability? **Does not satisfy the principle of mutuality and hence The interest earned is, therefore, taxable.**	Madras Gymkhana Club (Madras High Court)
Can transfer fees received by a co-operative housing society from its incoming and outgoing members be exempt on the ground of principle of mutuality? **Yes**	Sind Co-operative Housing Society (Bombay High Court)
Would non-resident match referees and umpires in the games played in India fall within the meaning of "sportsmen" to attract taxability under the provisions of section 115BBA, and consequently attract the TDS provisions under section 194E in the hands of the payer? **Which has accrued and arisen in India, the same are not taxable under the provisions of section 115BBA and thus, the assessee is not liable to deduct tax under section 194E.**	Indcom (Cal High Court)

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In a case where the partnership deed does not specify the remuneration payable to each individual working partner but lays down the manner of fixing the remuneration, would the assessee-firm be entitled to deduction in respect of remuneration paid to partners? **Yes,u/s 40(b)(v)**	Anil Hardware Store (HP High court)
Can interest under sections 234B and 234C be levied where a company is assessed on the basis of book profits under section 115JB? **Yes**	Rolta India Ltd. (SC)
Can long-term capital gain exempted by virtue of section 54EC be included in the book profit computed under section 115JB? **Capital gains cannot be excluded unless provided under the Explanation to section 115J(1A)**	N. J. Jose and Co. (P.) Ltd Kerela High Court)
Can the assessee's application, for adjustment of tax liability on income surrendered during search by sale of seized gold bars, be entertained, where assessment has not been completed? **No**	Hemant Kumar Sindhi & Another v. CIT(All)(High Court)
Where no proceeding is pending against a person, can the Assessing Officer call for information under section 133(6), which is useful or relevant to any enquiry, with the permission of Director or Commissioner? **Yes**	Kathiroor Service Co-operative Bank Ltd (SC)
Is the requirement to grant a reasonable opportunity of being heard, stipulated under section 127(1), mandatory in nature? **The authority cannot deny a reasonable opportunity of being heard to the assessee, wherever it is possible to do so**	Sahara Hospitality Ltd. (Bombay High Court)
Does the Central Board of Direct Taxes (CBDT) have the power under section 119(2) (b) to condone the delay in filing return of income? **Yes**	Lodhi Property Company Ltd (Delhi High Court)
Can unabsorbed depreciation be allowed to be carried forward in case the return of income is not filed within the due date? **Yes**	Govind Nagar Sugar Ltd (Delhi High Court)

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Can an assessee revise the particulars filed in the original return of income by filing a revised statement of income? **No**	Orissa Rural Housing Development Corpn. Ltd. (Orissa High Court)
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?	Smt. A. Kowsalya Bai (Karnataka High Court)
Can the Assessing Officer reopen an assessment on the basis of merely a change of opinion?	Aventis Pharma Ltd (Bombay High Court)
Is it 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)?	ICICI Securities Primary Dealership Ltd. (SC)
Can the Assessing Officer reassess issues other than the issues in respect of which proceedings were initiated under section 147 when the original "reason to believe" on basis of which the notice was issued ceased to exist?	Ranbaxy Laboratories Ltd (Delhi High Court)
	CIT v. Mehak Finvest P Ltd (Punjab & Haryana HC)
Does the finding or direction in an appellate order that income relates to a different assessment year empower reopening of assessment for that AY, irrespective of the expiry of the 6 year time limit?	CIT v. PP Engineering Work (Del) (High Court)
Is initiation of reassessment beyond a period of 4 years on the basis of subsequent Tribunal and HC ruling valid, if there is no failure on the part of the assessee to disclose fully and truly all material facts?	Allanasons Ltd v. Dy. CIT (Bom) (High Court)
Is recording of satisfaction of escaped income a pre-condition for issuing notice U/S 148 after 4 years from the end of the relevant AY?	Amarnath Agrawal v. CIT (All) (High court)

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In case of change of incumbent of an office, can the successor Assessing Officer initiate reassessment proceedings on the ground of change of opinion in relation to an issue, which the predecessor Assessing Officer who framed the original assessment had already applied his mind and come to a conclusion?	H. K. Buildcon Ltd (Gujarat High Court)
Can the Assessing Officer issue notice under section 154 to rectify a mistake apparent from record in the intimation under section 143(1), after issue of a valid notice under section 143(2)?	CIT v. Haryana State Handloom and Handicrafts Corporation Ltd. (P&H High Court)
Would the doctrine of merger apply for calculating the period of limitation under section 154(7)?	Tony Electronics Limited (Delhi High Court)
Should the 4 year time limit for rectification of order by the Tribunal U/S 254 (2) be reckoned from the date of its order or from the date of receipt of order by the assessee?	Peterplast Synthetics P Ltd v. Asstt. CIT (Guj) (High Court)
Can an assessee, objecting to the reassessment notice issued under section 148, directly approach the High Court in the normal course contending that such reassessment proceedings are apparently unjustified and illegal?	Samsung India Electronics P. Ltd. (Delhi High Court)
Should time limit U/S 263 to be reckoned with reference to the date of assessment order or the date of reassessment order, where the revision is in relation to an item which was not the subject matter of reassessment?	CIT v. Lark Chemicals Ltd (Bom) (High Court)
Would the period of limitation for an order passed under section 263 be reckoned from the original order passed by the Assessing Officer under section 143(3) or from the order of reassessment passed under section 147, where the subject matter of revision is different from the subject matter of reassessment under section 147?	ICICI Bank Ltd. (Bombay High Court)
Can an assessee file a revision petition under section 264, if the revised return to correct an inadvertent error apparent from record in the original return, is filed after the time limit specified under section 139(5) on account of the error coming to the notice of the assessee after the specified time limit?	

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Can an assessee file a revision petition under section 264, if the revised return to correct an inadvertent error apparent from record in the original return, is filed after the time limit specified under section 139(5) on account of the error coming to the notice of the assessee after the specified time limit? **Yes**	Sanchit Software and Solutions Pvt. Ltd (Bombay High Court)
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? **Appellate authority- Any manner, AO- only be made by way of filing a revised return of income**	Pruthvi Brokers & Shareholders (Bombay High Court)
Does the Appellate Tribunal have the power to review or re-appreciate the correctness of its earlier decision under section 254(2)? **Different conclusion- No**	Earnest Exports Ltd. (Bombay High Court)
Can the Tribunal exercise its power of rectification under section 254(2) to recall its order in entirety, where there is a mistake apparent from record? **Can recall its order in entirety if it is satisfied that prejudice has resulted to the party which is attributable to the Tribunal's mistake, error or omission and the error committed is apparent**	Lachman Dass Bhatia Hingwala (P) Ltd. (Delhi High Court)
Does the High Court have an inherent power under the Income-tax Act, 1961 to review an earlier order passed on merits? **In that case it was observed that, keeping in view the provisions of section 260A(7), the power of re-admission/restoration of the appeal is always enjoyed by the High Court. However, such power to restore the appeal cannot be treated to be a power to review the earlier order passed on merits**	Deepak Kumar Garg (MP High Court)
Can an assessee who has surrendered his income in response to the specific information sought by the Assessing Officer in the course of survey, be absolved from the penal provisions under section 271(1)(c) for concealment of income? **No, levy of penalty is correct in law**	MAK Data P. Ltd (SC)

Would making an incorrect claim in the return of income *per se* amount to concealment of particulars or furnishing inaccurate particulars for attracting the penal provisions under section 271(1)(c), when no information given in the return is found to be incorrect? **A mere making of a claim, which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars regarding the income of the assessee**	Reliance Petro Products Pvt. Ltd (SC)
Can reporting of income under a different head tantamount to furnishing of inaccurate particulars or suppression of facts to attract penalty under section 271(1)(c)? **No**	Amit Jain (Delhi High Court)
Can penalty under section 271(1)(c) be imposed on the ground of disallowance of a certain deduction under Chapter VI-A owing to the subsequent decision of the Supreme Court? **The additions made on account of disallowance were neither due to the failure on the part of the assessee to furnish accurate particulars nor on account of furnishing inaccurate particulars**	Celetronix Power India P. Ltd. (Bombay High Court)
Can penalty under section 271(1)(c) for concealment of income be imposed in a case where the assessee has raised a debatable issue? **No**	Indersons Leather P. Ltd. (P&H High Court)
Is concealment penalty leviable when the HC admits the quantum appeal as involving substantial question of law? **No**	CIT v. Nayan Builders & Developers(Bom) (High Court)
Is penalty U/S 271D imposable for cash loans/ Deposits received from partners? **The issue being a debatable one, there was reasonable cause for not levying penalty**	CIT v. Muthoot Financiers (Del) (High Court)
Where an assessee repays a loan merely by passing adjustment entries in its books of account, can such repayment of loan by the assessee be taken as a contravention of the provisions of section 269T to attract penalty under section 271E? **Assessee has shown reasonable cause for the failure under section 269T, and therefore, as per the provisions of section 273B, no penalty under section 271E could be imposed on the assessee for**	Triumph International Finance (I.) Ltd. (Bombay High Court)

contravening the provisions of section 269T	
Would prosecution proceedings under section 276CC be attracted where the failure to furnish return in time was not willful? **No**	Union of India v. Bhavecha Machinery and Others (MP High Court)
Can the AO suo moto assume jurisdiction to declare sale of property as void U/S 281? **No**	Dr. Manoj kabra v. ITO (All) (High Court)
Can loan, exceeding the specified limit, advanced by a partnership firm to the sole-proprietorship concern of its partner be viewed as a violation of section 269SS to attract levy of penalty? **The assessee has acted bona fide and that there was a reasonable cause within the meaning of section 273B. Therefore, the transaction cannot be said to be in violation of section 269SS and no penalty is attracted in this case**	Sivakumar (Mad High Court)
Do the tips collected by hotel and disbursed to employees constitute salary to attract the provisions for tax deduction at source under section 192? **Yes**	ITC Ltd. (Delhi High Court)
Is Section 194A applicable in respect of interest on Fixed deposits in the name of Registrar General of HC? **No**	UCO Bank v. Dy. CIT (Del) (High Court)
Where the assessee fails to deduct tax at source under section 194B in respect of the winnings, which are wholly in kind, can he be deemed as an assessee-in-default under section 201? **The High Court held that proceedings under section 201 cannot be initiated against the assessee**	Hindustan Lever Ltd. (Karnataka High Court)
Can the transmission, wheeling and State Load Despatch Centre (SLDC) charges paid by a company engaged in distribution and supply of electricity, under a service contract, to the transmission company be treated as fees for technical services so as to attract TDS provisions	Ajmer Vidyut Vitran Nigam Ltd (AAR)

under section 194J or in the alternative, under 194C? **Transmission and wheeling charges -94J, SLDC charges- Sec 94J nor Sec 94C**	
Can discount given to stamp vendors on purchase of stamp papers be treated as 'commission or brokerage' to attract the provisions for tax deduction under section 194H? **Cash discount and consequently, section 194H has no application in this case**	Ahmedabad Stamp Vendors Association (SC)
Can incentives given to stockists and distributors by a manufacturing company be treated as "Commission" to attract – i) the provisions for TDS U/S 194H; and ii) Consequent disallowance U/S 40(a)(ia) for failure to deduct tax at source? **i) No ii) No disallowance**	CIT v. Intervet India P Ltd (Bom) (High Court)
Can discount given on supply of SIM cards and pre-paid cards by a telecom company to its franchisee be treated as commission to attract the TDS provisions under section 194H? **Indirect payment of commission, liable to deduct tax at source on such commission as per the provisions of section 194H**	Bharti Cellular Ltd (Cal. High Court)
Are TDS provisions under section 194H attracted in a case where an assessee, a dairy, makes an outright sale of milk to its concessionaires at a certain price (which is lower than the MRP fixed by the assessee-dairy) and the concessionaires make full payment for the purchases on delivery and bear all the risks of loss, damage, pilferage and wastage? **Principal to Principal relationship. The High Court, therefore, held that the difference between the purchase price (price paid to the Dairy) and the MRP is the concessionaire's income from business and cannot be categorized as commission to attract the provisions of section 194H**	Mother Dairy India Ltd. (Delhi High Court)
Can the difference between the published price and the minimum fixed commercial price be treated as additional special commission in the hands of the agents of an airline company to attract TDS provisions under section 194H, where the airline company has no information about the exact rate at which tickets are ultimately sold by the agents? **No**	Qatar Airways (Bombay High Court)

Is payment made for use of passive infrastructure facility such as mobile towers s.t tax deduction U/S 194C or Sec 194-I? **Sec 194-I(a)- 2%**	Indus Towers Ltd v. CIT (Del) (High Court)
In respect of a co-owned property, would the threshold limit mentioned in section 194-I for non-deduction of tax at source apply for each co-owner separately or is it to be considered for the complete amount of rent paid to attract liability to deduct tax at source? **The threshold limit mentioned in section 194-I has to be seen separately for each co-owner**	Senior Manager, SBI (All. High Court)
What is the nature of landing and parking charges paid by an airline company to the Airports Authority of India and is tax required to be deducted at source in respect thereof? **Yes, Section 194I**	Japan Airlines Co. Ltd. Delhi High Court)
Can the payment made by an assessee engaged in transportation of building material and transportation of goods to contractors for hiring dumpers, be treated as rent for machinery or equipment to attract provisions of tax deduction at source under section 194-I? **No**	Shree Mahalaxmi Transport Co. (Gujrat High Court)
Is payment made to an overseas agent, who did not perform any service in India, liable for tax deduction at source? **The service rendered by the agent was outside India and hence, was not chargeable to tax in India**	DIT (International Taxation) v. Wizcraft International Entertainment (P) Ltd(Bom) (High Court)
Can the Tax Recovery Officer (TRO) adjudicate disputes regarding quontum of liability between the garnishee (petitioner company, in this case) and the defaulting company, by excercing his powers U/S 226(3)? **No**	Uttar predesh carbon & Chemicals Ltd v. TRO (High Court)

Thank You