

significant case laws

Direct Tax Laws - CA(Final) - Nov, 2013

This case law tracking sheet enables the reader to locate commentary on specific provisions. Opposite to each case law **an issue involved along with page numbers** highlighted in the text at which the relevant commentary appears.

Case law		Year	Held	Issue involved	Page
→	Amit Jain	2013	Del	Treatment of the income fell under some other head	32
→	Bhartia Industries Ltd	2013	Cal	Circular is in conflict with the law of the land	25
→	Celetronix Power India P. Ltd.	2013	Bom	Penalty u/s. 271(1) (c)	32
→	Court On Its Own Motion	2013	Del	Strict guidelines to end Department harassment	52
→	Credit Suisse First Boston (Cyprus) Ltd.	2013	Bom	Consideration received in respect of sale of securities	207
→	Crescent Export Syndicate	2013	ITAT	Section 40(a)(ia) applies to all expenses	155
→	Dixon Technologies (I) (P.) Ltd.	2013	ITAT	Air conditioner, DVD, microwave are 'manufacture'	175
→	Dewan Chand Satyapal	2013	Del	Facilities provided by a diagnostic centre	171
→	Great City Manufacturing Co.	2013	All	Remuneration is within the limits prescribed u/s 40(b)(v)	179
→	Groz Beckert Asia Ltd.	2013	P&H	Corporate membership fees	16
→	Hardayal Charitable & Educational Trust	2013	All	Registration u/s 12AA for exemption u/s 11 and 12	192
→	I.C.D.S. Ltd.	2013	SC	Section 32 reference to ownership and usage for business	83
→	Jitendra Singh Rathore	2013	Raj	Penalty proceedings u/s 271D	101
→	Jananamandal Ltd	2013	All	Books cannot be rejected without pointing out specific defects	106
→	Pardesi Developers and Infra Pvt. Ltd.	2013	Del	Notice u/s. 148 is not established even ex facie	35
→	Rassi Cement Ltd.	2013	AP	Purpose should determine the nature of the receipt	16
→	Right Florists Pvt. Ltd	2013	ITAT	A website does not constitute a 'permanent establishment'	204
→	Shri Ram Honda Power Equipment Ltd	2013	SC	Cenvat credit is allowable expenditure u/s 37	106
→	Spectrum Consultants India (P) Ltd	2013	Kar	Contribution under EPF & ESI Act before 139(1) due date	110
→	S.P. Suguna Seelan	2013	Mad	The incentive scheme of the NSC is not a lottery	16
→	Supreme Agro Foods Private Ltd	2013	P&H	Consideration means independent examination of the evidence	58
→	UTI Bank Ltd.	2013	Guj	Reasonableness of the expenditure has to be adjudged	35

Case law		Year	Held	Issue involved	Page
→	Areva T and D India Ltd.	2012	Del	Other business or commercial rights of similar nature	85
→	B4U International Holdings Ltd	2012	ITAT	Royalty in view of explanation 2 to section 9 (1) (vi)	162
→	Bharti Gupta Ramola	2012	Del	Month refers to calendar month	117
→	Bell Granito Cermica Ltd	2012	Guj	Excise duty is included only twin condition satisfied	106
→	Catholic Syrian Bank Ltd.	2012	SC	Bad debts write off in respect of urban advances	98
→	Cello Plast	2012	Bom	The time to invest in the bonds get automatically extend	130
→	Citibank N.A.	2012	SC	Supreme Court flays department for “peculiar phenomenon”	53
→	Columbia Sportswear Company	2012	SC	Binding nature of the AAR ruling	222
→	Darshan Securities (P.) Ltd.	2012	Bom	Unabsorbed speculation loss can be set off	104
→	Delite Enterprises	2012	Bom	The interest on the borrowed funds	179
→	EKL Appliances Ltd	2012	Del	TPO has no power to question business transaction	218
→	Enam Securities P. Ltd	2012	Bom	Non-cumulative preference shares cannot be a bond	118
→	ICICI Bank Ltd.	2012	Bom	Doctrine of merger cannot be applied for re-assessment	39
→	ICICI Securities Primary Dealership Ltd	2012	SC	Re-opening the assessment is clearly a change of opinion	35
→	J.K. Investors	2012	Bom	Service agreement is dependent upon the rental agreement	75
→	Jagran Prakashan Ltd	2012	All	Discount was not commission	159
→	Kan Construction and Colonizers (P) Ltd	2012	All	Investment in purchase and sale of plots by builder	119
→	Kap Scan and Diagnostic Centre P. Ltd.	2012	P&H	Commission paid to doctors for referring patients	99
→	KJS India P. Ltd.	2012	Del	Suspension of business activities	16
→	Naidunia News and Networking (P) Ltd.	2012	MP	Foreign education of a regular employee outside India	99
→	Nalwa Sons Investment Ltd	2012	SC	No concealment if book profit is assessed u/ s 115JB	32
→	Pine Packaging (P) Ltd	2012	Del	Standing charges paid by the client	175
→	Price Waterhouse Coopers Pvt. Ltd	2012	SC	Genuine mistake penalty u/s 271(1)(c)	32
→	Pruthvi Brokers & Shareholder	2012	Bom	Additional grounds before the ITAT	47
→	Qualcomm Incorporated	2012	ITAT	A stay of the demand u/s 254(2A)	52
→	Radhe Developers	2012	Guj	Deduction for housing project u/s 80-IB	173
→	Rajendra Kumar Dabriwala	2012	Cal	Interest paid on the funds borrowed subject to section 14A	96
→	Rajendra Singh (State of Bihar)	2012	Patna	Sleep deprivation method of interrogation	44
→	Ravinder Kumar Arora	2012	Del	House should be purchased by the assessee u/s 54F	128
→	Sahara Hospitality Ltd.	2012	Bom	A reasonable opportunity of being heard u/s 127(1)	30
→	Sanchit Software and Solutions Pvt. Ltd.	2012	Bom	Circular always be borne in mind by the officers	53
→	Sardar Sarovar Narmada Nigam Ltd.	2012	ITAT	One of categories of its business is started	99
→	Senior Manager, SBI	2012	All	Co-owned property threshold limit	160
→	Shree Ram Lime Products Ltd	2012	ITAT	Panchnama documents the conclusion of a search	44
→	Shri Gurinder Singh Bawa	2012	ITAT	U/s 153A only if incriminating material is found in search	45
→	Singapore Airlines Ltd	2012	Mad	Runway by an aircraft analogy of a road	

Case law		Year	Held	Issue involved	Page
→	SREI Infrastructure Finance Ltd.	2012	Del	Approved scheme by court u/s 391 of the Companies Act	122
→	Steel Authority of India Ltd.	2012	Del	43(1) covers only a case of subsidy, grant or reimbursement	86
→	Sundaram Finance Ltd.	2012	SC	Contingent deposit from its customers	82
→	Swarnagiri Wire Insulations Pvt. Ltd.	2012	Kar	Set off of depreciation on windmill	171
→	Tata International Ltd	2012	ITAT	Supply of reasons belatedly render order invalid	35
→	Tecnimont ICB Private Limited	2012	ITAT	ALP comparison with uncontrolled transactions	207
→	Telco Dadajee Dhackjee Ltd	2012	ITAT	Decision of the third member order is not a final order	52
→	Topman Exports	2012	SC	Excess of the DEPB is his profits on transfer of the DEPB	82
→	Triumph International Finance (I.) Ltd	2012	Bom	Repayment of loan by passing book adjustment entries	102
→	Triveni Engg. & Industries Ltd.	2012	Del	Security deposits given to the landlord	16
→	Vandana Properties	2012	Bom	Size of the plot of land minimum 1 acre u/s 80-IB	173

Case law		Year	Held	Issue involved	Page
→	B. Raveendran Pillai	2011	Kar	Depreciation is allowable on goodwill	84
→	Bharat Gears Ltd.	2011	Del	Outlived machinery treatment	83
→	Cable Corporation of India Ltd.	2011	Bom	WDV is fair market value in case of scrap of an asset	86
→	Chiranjeevi Wind Energy Ltd.	2011	Mad	Manufacture refers bringing new goods by a process	172
→	Gavin Nagar Sugar Ltd	2011	Del	Carrying forward of unabsorbed depreciation	26
→	H. K. Buildcon Ltd	2011	Guj	Reassessment subject to fulfillment of certain precondition	37
→	Indcom	2011	Cal	Non-resident match referees are professionals	161
→	ITC Hotels Ltd	2011	Kar	Expenditure for issue convertible debenture	99
→	Jagatjit Industries Ltd	2011	Delhi	The nature of receipts determines the source of funds	16
→	K.G.Rukminiamma	2011	Kar	Joint development agreement with builder	127
→	Kisan Sahkari Chini Mills Ltd	2011	All	Incentive for capital employed	16
→	Lachman Dass Bhatia Hingwala (P) Ltd.	2011	Del	Tribunal inherent power of review	51
→	Manjoo and Co.	2011	Ker	Unsold lottery tickets cease to be stock-in-trade	135
→	Meghalaya Steels Ltd.	2011	Gau	Direct nexus with the manufacturing activity	172
→	Modi Industries Ltd	2011	Del	Demolition and re-erection of a cell room	82
→	Parle Plastics Ltd	2011	Bom	Substantial part of the business u/s 2(22) (e)	140
→	Praveen B. Gada (HUF)	2011	MP	Penalty u/s. 271(1)(c)	33
→	Praveen Soni	2011	Del	Claim for deduction u/s 80-IB	172
→	Priya Village Road shows Ltd.	2011	Del	Feasibility study conducted for examining proposals.	99
→	Rajiv Shukla	2011	Del	Computation of capital gain in case of depreciable asset	130
→	Ranbaxy Laboratories Ltd	2011	Del	The word 'such income' used u/s 147	37
→	Rollatainers Ltd	2011	Del	Waiver of term loan principal and interest element	103
→	S. Ambika	2011	Ker	Abkari licence is a business right	85

Case law		Year	Held	Issue involved	Page
→	Shanthi Bhushan	2011	Del	Whether Heart is considered as plant and machinery	82
→	Shree Balaji Alloys	2011	J&K	Refund of excise duty and grant of interest subsidy	16
→	Shree Mahalaxmi Transport Co	2011	Guj	Transportation of building material	160
→	Subhash Kumar Jain	2011	P&H	Order on an agreement cannot give rise to grievances	49
→	Tulip Star Hotels Ltd.	2011	Del	Aim of formation of subsidy company	96
→	Vodafone Essar Cellular Ltd	2011	Ker	Discount given on supply of SIM cards	159

Case law		Year	Held	Issue involved	Page
→	Assam Mineral Development Corp. Ltd.	2010	Gau	Section 234B,234C is an integral part of assessment	31
→	Bhavecha Machinery and Others	2010	MP	The term willful used u/s 276CC	25
→	DCM Ltd.	2010	Del	Closure of one textile mill unit	99
→	Dolat Investment Ltd	2010	Mum	Access to confidential information by ITA	57
→	Dr. Aswath N. Rao	2010	Kar	Date of sale transaction was complete	84
→	East India Hotels Ltd.	2010	Bom	The term carrying out any work extend only to services	158
→	Hindustan unilever ltd	2010	Bom	Date of payment is relevant criteria for deposit	130
→	Hindustan Zinc Ltd	2010	Raj	Expenditure for alteration of the dam	99
→	Indersons Leather P. Ltd	2010	P&H	Raising of a debatable issue not concealment of income	33
→	Jaswand Sons	2010	P&H	Sale of export incentive u/s 80-IB	172
→	Lodhi Property Company Ltd	2010	Del	Avoid genuine hardship in case delay in filing return	25
→	Millennia Developers (P) Ltd	2010	Kar	Regularization fee for violating building bye-laws	99
→	Navin Jindal	2010	SC	Renunciation of right to subscribe for additional shares	117
→	Nestor Pharmaceuticals Ltd.	2010	Del	80-IB deduction is available even during trail run	172
→	Reliance Petro Products Pvt. Ltd.	2010	SC	Details supplied by the assessee in its return are incorrect	33
→	Saurashtra Cement Ltd.	2010	SC	Compensation for sterilization of the profit earning source	16
→	T.R.F. Ltd.	2010	SC	Bad debts are written off as irrecoverable in the accounts	97
→	Vijay Kumar Jain	2010	Chhat	Information given in the return is found to be incorrect	33
→	Yamaha Motor India Pvt. Ltd.	2010	Del	Depreciation on discarded machinery	84

ABBREVIATION USED IN ABOVE CITATION

Short Form	Abbreviation
AAR	Authority for Advance Ruling
AP	Andhra Pradesh
All	Allahabad
Bom	Bombay
Cal	Calcutta
Chhat	Chhattisgarh
Del	Delhi
Gau	Gauhathi
Guj	Gujarath
HP	Himachal Pradesh

Short Form	Abbreviation
ITAT	Income Tax Appellate Tribunal
J&K	Jammu and Kashmir
Ker	Kerala
Kar	Karnataka
Mad	Madras
MP	Madhya Pradesh
Ori	Orissa
P&H	Punjab & Haryana
Raj	Rajasthan
SC	Supreme Court

NOVEMBER 2013 EXAMINATION

Direct Tax Laws – Quick Insight The Highlights of the Book are

- ➔ For the first time **MULTI-COLOUR** presentation for the subject Direct Tax Laws
- ➔ Finance Act, 2012 along with recent Circulars, Notifications and Citations up to 30 April, 2013 have been incorporated. Relevant for November 2013 examination.
- ➔ Track sheet for significant case laws (2013, 2012, 2011, 2010) to act as a ready refresher before the day of examination
- ➔ Every section is independently dealt without diluting the concepts
- ➔ Use of simple language without going into complex legal terms, handy for practioners also
- ➔ Majority of the sections have operative words, which must be used without interchanging with another word. All such operative words are highlighted in bold letters for easy identification and quick recapitulation
- ➔ Useful for all professional students, Finance Professionals who are dealing in Direct Taxes, and who have time constraint in reading voluminous books
- ➔ Lucid explanation of case laws
- ➔ Special issues such as provisions relating to International taxation, double taxation and transfer pricing are presented in a friendly manner
- ➔ Challenging areas such as assessment procedure, search and seizure, appeals & revision and Settlement Commission are dealt with methodically
- ➔ The book has been compiled with the help of many qualified professionals to bring out the entire syllabus in **just 230 pages** along with illustrations.

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