

## CA FINAL DT

### INDEX

CH. NO.	CHAPTER NAME	PAGE
1	BASICS	3
2	INCOME WHICH DO NOT FORM PART OF TOTAL INCOME	4
3	INCOME FROM OTHER SOURCES	4-5
4	INCOME OF OTHER PERSON INCLUDED IN ASSESSEE INCOME (CLUBBING)	6
5	AGGREGATION OF INCOME (SETOFF)	6-7
6	DEDUCTIONS	7-8
7	ASSESSMENT OF VARIOUS ENTITY	8-9
8	TRUST TAXATION	9-10
9	TAX PLANNING	10-11
10	INCOME TAX AUTHORITIES	11-12
11	ASSESSMENT PROCEDURE	12
12	APPEALS & REVISIONS	13-14
13	MISCELLANEOUS	14-15
14	PENALTIES & PROSECUTION	15-16
15	TAX AUDIT	16
16	NR TAXATION	16-17
17	DTAA	17
18	TRANSFER PRICING	18
19	BEPS MTC & TAX TREATIES	18
20	CAPITAL GAIN	18-20
21	PGBP	21-24
22	TDS TCS	24-27

## Judicial Updates

1. **Bank of Rajasthan Ltd. vs CIT [2024] 469 ITR 280 (SC)**
  - **Issue Involved:** Whether the interest paid by banks for the broken period on the purchase of securities can be claimed as revenue expenditure?
  - **Held:** The Supreme Court held that since the securities were treated as stock-in-trade, the broken period interest cannot be considered capital expenditure and must be treated as revenue expenditure, allowing it as a deduction.
2. **PCIT vs. Adadyn Technologies (P.) Ltd. [2024] 465 ITR 409 (SC)**
  - **Issue Involved:** Whether the expenses incurred by the assessee towards the development of software for advertisement, which had to be abandoned due to technological changes, can be claimed as revenue expenditure?
  - **Held:** The High Court ruled that since the software development was abandoned and did not provide any enduring benefit, the expenditure was revenue in nature. The Supreme Court dismissed the SLP filed by the Revenue, affirming the High Court's decision.
3. **Johnson Matthey Public Limited Company vs. CIT (International Taxation) (2024) 465 ITR 649 (Delhi)**
  - **Issue Involved:** Whether the amount received as "Guarantee Fees" by a foreign company from its Indian subsidiaries falls within the definition of "interest"?
  - **Held:** The High Court held that the guarantee fee does not qualify as "interest" under section 2(28A) of the Income Tax Act or Article 12 of the India-UK DTAA. The court emphasized that the assessee was not a party to the loan transaction, and hence, the guarantee fee could not be classified as interest.

Supreme Court (SC) Judgments

1. **Mahle Anand Filter Systems Pvt. Ltd. v. ACIT [2023] 456 ITR 29 (SC)**

**Issue:** Can foregoing a security deposit to settle a dispute be considered a revenue expenditure?

**Held:** The SC held that the security deposit forfeited (₹5.8 crores) was of capital nature. Even though the assessee gave it up to settle a dispute, it retained its capital character and could not be claimed as revenue expenditure.

2. **CIT v. Saurashtra Cement Ltd. (2010) 325 ITR 422 (SC)**

**Issue:** Whether liquidated damages for the delay in supply of machinery constitute a capital receipt or revenue receipt?

**Held:** The damages were linked to the acquisition of a capital asset (cement plant), affecting the profit-making apparatus. Hence, the receipt was treated as a capital receipt, not revenue.

3. **Honda Siel Cars India Ltd. v. CIT (2017) 395 ITR 713 (SC)**

**Issue:** Whether technical fees paid under a collaboration agreement for a joint venture are capital or revenue expenditure?

**Held:** Since the technical collaboration agreement facilitated the setup of a joint venture, its termination would dissolve the venture itself. Thus, the fee was treated as capital expenditure.

4. **Jit & Pal X-Rays (P.) Ltd. v. CIT (2004) 267 ITR 370 (All HC)**

**Issue:** Whether an overriding charge on profits constitutes diversion of income or application of income?

**Held:** The High Court ruled that an overriding charge in favor of the wife of the sole proprietor was part of the sale deed. Hence, it was a case of diversion of income by overriding title, not mere application of income.

5. **Gowli Buddanna v. CIT (1966) 60 ITR 293 (SC)**

**Issue:** Can a Hindu Undivided Family (HUF) exist with only one male member?

**Held:** The Supreme Court clarified that an HUF does not require more than one male member. Even if only one male coparcener exists, the HUF status is retained.

6. **CIT vs. Nariman B. Bharucha & Sons (1981) 130 ITR 863 (Bom HC)**

**Issue:** Whether income received by a firm but obligated to be paid to another party under a pre-existing charge constitutes diversion of income?

**Held:** The High Court held that if an overriding title exists (as in the case of the partnership deed allocating income to another party), the income does not belong to the assessee and should be excluded from its total income.

7. **Prabhu Dayal Sesma vs. State of Rajasthan (1986, AIR 1948) (SC)**

**Issue:** When does a person attain a particular age legally for tax purposes?

**Held:** The Supreme Court ruled that a person is considered to attain a given age on the day preceding their birthday. Thus, someone born on April 1st attains the required age on March 31st, impacting tax benefits for senior citizens.

8. **M.K. Brothers Pvt. Ltd. vs. CIT [1972] 86 ITR 38 (SC)**

**Issue Involved:** Can a loan be treated as unexplained cash credit under Section 68 if the creditor fails to establish their source of funds?

**Held:** The Supreme Court ruled that the burden of proving the genuineness of a loan lies on the assessee. If the creditor fails to explain their source, the loan may be treated as an unexplained cash credit and taxed under Section 68.

**CHAPTER - 2****INCOME WHICH DO NOT FORM PART OF TOTAL INCOME****1. Maharao Bhim Singh of Kota v. CIT (2017) 390 ITR 532 (SC)**

**Issue:** Whether a ruler is entitled to exemption on the entire annual value of his palace, even if a portion is let out.

**Held:** The SC ruled that the entire palace qualifies for exemption under section 10(19A), even if part of it is let out, provided it was exempt under the tax concession orders before 28.12.1971.

**2. CIT v. Raja Benoy Kumar Sahas Roy (1957) 32 ITR 466 (SC)**

**Issue:** Whether income from spontaneous forest growth is agricultural income.

**Held:** The SC ruled that agricultural income requires basic cultivation operations. Merely nursing or fostering naturally grown trees is not agriculture.

**3. CIT v. Soundarya Nursery (2000) 241 ITR 530 (Madras HC)**

**Issue:** Whether income from nursery plants grown in pots is agricultural income.

**Held:** The HC ruled that nursery income qualifies as agricultural income if plants were initially cultivated on land and later transferred to pots.

**4. B. Nagi Reddi v. CIT (2002) 258 ITR 719 (Madras HC)**

**Issue:** Whether income from allowing film shooting on agricultural land is agricultural income.

**Held:** The HC ruled that such income is not agricultural as it has no nexus with agricultural operations.

**5. CIT v. Raja Benoy Kumar Sahas Roy (1957) 32 ITR 466 (SC) (Reiterated)**

**Issue:** Whether the sale of processed agricultural produce is fully agricultural income.

**Held:** The SC ruled that only the income attributable to ordinary agricultural processes is exempt. If additional processing is done, only part of the income remains agricultural.

**CHAPTER - 3****INCOME FROM OTHER SOURCES****1. L. Alagusundaram Chettiar v. CIT (2001) 252 ITR 893 (SC)**

**Issue:** Whether an interest-free loan given to a company supervisor, who later transfers it to a major shareholder, constitutes deemed dividend under section 2(22)(e).

**Held:** The SC held that since the loan was ultimately for the benefit of the shareholder, it would be treated as deemed dividend.

**2. CIT v. Sree Rama Multi Tech Ltd. (2018) 403 ITR 426 (SC)**

**Issue:** Whether interest income from share application money deposited in a bank is taxable as "Income from Other Sources" or can be set off against public issue expenses.

**Held:** The SC ruled that interest earned was incidental and linked to raising capital, so it could be set off against public issue expenses.

**3. Movaliya Bhikhubhai Balabhai v. ITO (TDS) (2016) 388 ITR 343 (SC)**

**Issue:** Whether interest on enhanced compensation under section 28 of the Land Acquisition Act is taxable as capital gains or income from other sources.

**Held:** The SC held that interest under section 28 is part of compensation and should be taxed as capital gains.

**4. CIT v. Parle Plastics Ltd. (2011) 332 ITR 63 (SC)**

**Issue:** What are the tests for determining if lending is a "substantial part of business" under section 2(22)(e) to exclude loans from deemed dividend.

**Held:** The SC ruled that turnover, profit percentage, manpower, and capital allocation should be considered to determine whether lending is a substantial part of the business.

**5. CIT v. Vir Vikram Vaid (2014) 367 ITR 365 (Bom HC)**

**Issue:** Whether repair and renovation expenses of premises leased from a major shareholder should be treated as deemed dividend.

**Held:** The HC ruled that such expenses do not constitute a loan or advance and hence are not deemed dividends.

**6. Pradip Kumar Malhotra v. CIT (2011) 338 ITR 538 (Cal HC)**

**Issue:** Whether a loan/advance given to a shareholder, in exchange for a benefit to the company, is deemed dividend under section 2(22)(e).

**Held:** The HC held that only gratuitous advances are deemed dividends, and business-related transactions are excluded.

**7. CIT v. Ambassador Travels (P) Ltd. (2009) 318 ITR 376 (Del HC)**

**Issue:** Whether financial transactions in the normal course of business qualify as deemed dividends under section 2(22)(e).

**Held:** The HC ruled that normal business transactions should not be treated as deemed dividends.

**8. CIT v. Manjoo and Co. (2011) 335 ITR 527 (Ker HC)**

**Issue:** Whether winnings from unsold lottery tickets held by a distributor should be taxed at regular rates or at the special rate under section 115BB.

**Held:** The HC ruled that winnings from unsold lottery tickets are subject to tax under section 115BB at a special rate.

**9. PCIT v. Dr. Ranjan Pai (2021) 431 ITR 250 (Kar HC)**

**Issue:** Whether bonus shares received by shareholders are taxable under section 56(2)(x).

**Held:** The HC ruled that issuing bonus shares is just a fund reallocation and does not lead to taxable income.

**10. CIT v. Rajkumar (2009) 318 ITR 462 (Del HC)**

**Issue:** Whether trade advances given to a shareholder in the normal course of business qualify as deemed dividend.

**Held:** The HC ruled that trade advances for business purposes do not qualify as deemed dividends.

**11. CIT v. Creative Dyeing & Printing Pvt. Ltd. (2009) ITA No. 250 of 2009 (Del HC)**

**Issue:** Whether advances given to a shareholder's concern for job work are deemed dividends under section 2(22)(e).

**Held:** The HC ruled that advances for commercial transactions are not deemed dividends.

**12. CIT v. Amrik Singh (2015) ITA No. 347 of 2013 (P&H HC)**

**Issue:** Whether an advance given by a company to a shareholder for installing machinery at their premises is a deemed dividend.

**Held:** The HC ruled that the advance was for business purposes and not a deemed dividend.

**13. CIT v. Atul Engineering Udyog (2014) ITA No. 223 of 2011 (All HC)**

**Issue:** Whether a floating security deposit given to a shareholder's concern for using electricity generators is a deemed dividend.

**Held:** The HC ruled that the deposit was a business transaction and did not attract section 2(22)(e).

**CHAPTER - 4****INCOME OF OTHER PERSON INCLUDED IN ASSESSEE INCOME (CLUBBING)****1. CIT v. Keshavji Morarji (1967) 66 ITR 142 (SC)**

**Issue:** Whether interconnected transactions can be treated as a device to evade tax under clubbing provisions.

**Held:** The SC ruled that if two transactions are interconnected and structured to evade tax, clubbing provisions will apply to tax the income in the hands of the deemed transferor.

**2. CIT v. Sree Rama Multi Tech Ltd. (2018) 403 ITR 426 (SC)**

**Issue:** Whether interest earned on share application money kept in a separate account is taxable as "Income from Other Sources."

**Held:** The SC ruled that such interest is not taxable, as the deposit was statutory and linked to raising capital.

**3. CIT v. M. S. S. Rajan (2001) 252 ITR 126 (Mad HC)**

**Issue:** Whether profits earned from reinvested transferred assets should be clubbed under section 64.

**Held:** The HC ruled that income from reinvested assets is taxable in the transferee's hands, not clubbed with the transferor.

**4. CIT v. Smt. R. Bharati (1999) 240 ITR 697 (Mad HC)**

**Issue:** Interpretation of "professional qualifications" for tax clubbing under section 64(1).

**Held:** The HC ruled that a person's experience, skill, and competence qualify them as professionals, even without a **formal university degree**.

**5. CIT v. Rekha Korani (2024) (HC)**

**Issue:** Whether interest earned on debentures transferred without consideration is clubbed under section 64(1)(iv).

**Held:** The HC ruled that such interest is clubbed with the transferor's income, but interest earned from reinvested funds is taxed separately.

**CHAPTER - 5****AGGREGATION OF INCOME (SETOFF)****1. CIT v. KBD Sugars and Distilleries Ltd. [2023] 454 ITR 800 (SC)**

**Issue:** Can a resulting entity set off and carry forward the losses of the dysfunctional unit of the demerged entity?

**Held:** The SC ruled that the transfer of the undertaking must be on a "going concern basis," but this does not mean the unit should be operational at the time of transfer. The entity was entitled to set off losses under section 72A(4).

**2. Pramod Mittal v. CIT (2013) 356 ITR 456 (Delhi HC)**

**Issue:** Can the loss suffered by a dissolved partnership firm be carried forward for set-off by the individual partner who took over the business as a sole proprietor?

**Held:** The HC ruled that this is not a case of "succession by inheritance." Hence, the sole proprietor cannot carry forward the firm's losses.

**High Court (HC) Judgments****3. CIT v. Madhukant M. Mehta (2001) 247 ITR 805 (SC)**

**Issue:** Can a partnership firm set off the losses of a deceased sole proprietor when the legal heirs take over as partners?

**Held:** The SC ruled that since this case falls under "succession by inheritance," the losses can be carried forward and set off.

**4. Saroj Aggarwal v. CIT (1985) 156 ITR 497 (SC)**

**Issue:** Can a partnership firm, continuing after the death of a partner, claim the set-off of losses incurred before the death?

**Held:** The SC ruled that since the firm continued with the induction of legal heirs, it was a case of "succession by inheritance," allowing the carry-forward of losses.

## CHAPTER - 6

## DEDUCTIONS

1. **CIT v. Reliance Energy Ltd. (2022) 441 ITR 346 (SC)**  
**Issue:** Whether profit-linked deduction under Chapter VI-A should be restricted to income computed under the head "Profits and gains of business or profession."  
**Decision:** Losses from non-eligible businesses cannot be set off against eligible business profits for deduction purposes. Deduction is restricted to gross total income, not just business income.
2. **CIT v. Container Corporation of India Limited (2018) 404 ITR 397 (SC)**  
**Issue:** Whether Inland Container Depots (ICDs) qualify as infrastructure facilities for deduction under Section 80-IA.  
**Decision:** ICDs function as inland ports facilitating export-import trade, and hence qualify for Section 80-IA benefits.
3. **CIT v. Meghalaya Steels Ltd. (2016) 383 ITR 217 (SC)**  
**Issue:** Whether transport subsidy, interest subsidy, and power subsidy qualify as profits "derived from" business for deduction under Section 80-IE.  
**Decision:** These subsidies are directly linked to business costs and qualify for deduction.
4. **CIT v. Orchev Pharma P. Ltd. (2013) 354 ITR 227 (SC)**  
**Issue:** Whether Duty Drawback and DEPB incentives qualify as profits derived from business under Section 80-IE.  
**Decision:** Duty Drawback and DEPB are ancillary profits and do not qualify for deduction.
5. **CIT v. Swarnagiri Wire Insulations Pvt. Ltd. (2012) 349 ITR 245 (Karnataka HC)**  
**Issue:** Whether unabsorbed depreciation of an eligible business can be set off against income from a non-eligible business.  
**Decision:** Losses from eligible businesses can be set off against profits of non-eligible businesses under Section 70(1).
6. **CIT v. Sunil Vishwambharnath Tiwari (2016) 388 ITR 630 (Bombay HC)**  
**Issue:** Whether the increase in gross total income due to disallowance under Section 40(a)(ia) is eligible for profit-linked deduction under Chapter VI-A.  
**Decision:** Assessee is eligible for deduction on enhanced gross total income.
7. **CIT v. Nestor Pharmaceuticals Ltd. / Sidwal Refrigerations Ind Ltd. v. DCIT (2010) 322 ITR 631 (Delhi HC)**  
**Issue:** Whether trial production qualifies as the beginning of the deduction period under Section 80-IE.  
**Decision:** If sale occurs during trial production, the deduction period begins from that year.
8. **CIT v. Chetak Enterprises Pvt. Ltd. (2020) 423 ITR 267 (SC)**  
**Issue:** Whether an agreement entered by a firm with a State Government survives after conversion into a company for deduction under Section 80-IA.  
**Decision:** The agreement remains valid, and the company can claim deduction under Section 80-IA.
9. **Praveen Soni v. CIT (2011) 333 ITR 324 (Delhi HC)**  
**Issue:** Can an assessee claim deduction under Section 80-IE in later years if not claimed in the initial years?  
**Decision:** There is no restriction requiring deduction to be claimed from the first year of eligibility.
10. **PCIT v. Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd. (2023) 454 ITR 117 (SC)**  
**Issue:** Whether a cooperative society providing credit facilities solely to its members qualifies for deduction under Section 80P.  
**Decision:** Such a society is not a bank and is eligible for deduction under Section 80P.
11. **CIT v. Cognizant Technology Solutions India Pvt. Ltd. (2023) 454 ITR 1 (SC)**  
**Issue:** Whether foreign exchange gains linked to export business qualify for deduction under Section 10AA.  
**Decision:** Since exchange gains arise solely from exports, they are eligible for deduction under Section 10AA.

**12. CIT v. HCL Technologies Ltd. (2018) 404 ITR 719 (SC)**

**Issue:** Whether expenses incurred in foreign exchange for technical services outside India should be excluded from both "export turnover" and "total turnover" in computing Section 10AA deduction.

**Decision:** These expenses must be excluded from both to ensure proper deduction computation.

**13. CIT v. Information Technology Park Ltd. (2014) (Karnataka HC)**

**Issue:** Whether lease rent from an industrial park/SEZ should be classified as business income or house property income.

**Decision:** Lease rent from industrial parks/SEZs is taxable as business income.

**14. CIT v. Velankani Information Systems Pvt. Ltd. (2013) (Karnataka HC)**

**Issue:** Whether income from leasing space in an SEZ should be classified as business income.

**Decision:** Lease rent from SEZ spaces is taxable as business income.

**CHAPTER - 7****ASSESSMENT OF VARIOUS ENTITY****1. Bangalore Club v. CIT (2013) 350 ITR 509 (SC)**

**Issues Involved:** Whether the principle of mutuality applies to interest earned on fixed deposits by a club.

**Held:** Interest earned from fixed deposits in banks does not satisfy the principle of mutuality and is taxable.

**2. ITO v. Venkatesh Premises Co-operative Society Ltd. (2018) 402 ITR 670 (SC)**

**Issues Involved:** Whether non-occupancy charges, transfer charges, and common amenity fund charges received by co-operative societies from members are exempt under mutuality.

**Held:** Such charges are exempt due to the principle of mutuality.

**3. CIT v. Govindbhai Mamaiya (2014) 367 ITR 498 (SC)**

**Issues Involved:** Whether capital gain from compulsory acquisition of inherited land is taxable as an "Association of Persons" (AOP) or in individual hands.

**Held:** Gains are taxable in individual hands, not as an AOP.

**4. Joint CIT v. Rolta India Ltd. (2011) 330 ITR 470 (SC)**

**Issues Involved:** Whether interest under sections 234B and 234C applies to companies paying tax under MAT (Sec. 115JB).

**Held:** Companies subject to MAT are liable for advance tax, and failure attracts interest under sections 234B and 234C.

**5. Madras Gymkhana Club v. DCIT (2010) 328 ITR 348 (Mad HC)**

**Issues Involved:** Whether interest earned by a club from institutional members qualifies for mutuality.

**Held:** Such interest income is taxable as it does not satisfy the mutuality principle.

**6. Sind Co-operative Housing Society v. ITO (2009) 317 ITR 47 (Bom HC)**

**Issues Involved:** Whether transfer fees received by a co-operative housing society from members are taxable.

**Held:** Transfer fees are exempt under mutuality since the society's main activity is property maintenance and lacks commercial intent.

**7. CIT v. Anil Hardware Store (2010) 323 ITR 368 (HP HC)**

**Issues Involved:** Whether a firm can claim deduction for partner remuneration when the partnership deed specifies only the manner of determining remuneration.

**Held:** If the method is specified, remuneration deduction is allowed.

**8. CIT v. Trans Asian Shipping Services (P) Ltd. (2016) 385 ITR 637 (SC)**

**Issues Involved:** Whether income from slot charter arrangements qualifies under the tonnage tax scheme despite lacking a valid tonnage certificate.

**Held:** Slot charter income qualifies under the tonnage tax scheme.

**9. CIT v. Metal and Chromium Plater (P) Ltd. (2019) 415 ITR 123 (Mad HC)**

**Issues Involved:** Whether capital gains exempt under Sec. 54EC should be considered while computing book profits under Sec. 115JB.

**Held:** Exempt capital gains should not be included in book profit calculation for MAT purposes.

**10. Rashik Lal & Co. vs CIT (1998) 229 ITR 458 (SC)**

**Issues Involved:** Whether interest paid to a partner in a representative capacity is deductible.

**Held:** Even if a partner represents an HUF, interest paid in a personal capacity is deductible.

**11. CIT vs. Shantilal P. Ltd. (1983) 144 ITR 57 (SC)**

**Issues Involved:** Whether pre-determined contract damages without actual delivery of goods constitute speculative loss.

**Held:** Such transactions are speculative, and losses cannot be set off against regular business income.

**12. K.S. Subbiah Pillai vs. CIT (237 ITR 11) (SC)**

**Issues Involved:** Whether remuneration received by an HUF member in a professional capacity is taxable individually.

**Held:** If remuneration is based on personal expertise, it is individual income.

**13. CIT v. ITI Ltd. (2020) (SC)**

**Issues Involved:** Whether government subsidies should be included in MAT calculation.

**Held:** Subsidies linked to capital investment are not part of book profit.

**14. CIT v. Charandass Khanna & Sons (1980) 123 ITR 194 (Delhi HC)**

**Issues Involved:** Whether income earned using HUF funds is taxable in individual hands.

**Held:** If income primarily arises from personal effort, it is taxable in individual hands.

**15. Tyresoles (India) vs. CIT (1963) 49 ITR 515 (Mad HC)**

**Issues Involved:** Whether an assessee can defer the set-off of losses for later years.

**Held:** Losses must be set off at the first available opportunity.

**16. CIT v. Thirumalaiswamy Naidu & Sons (1998) 230 ITR 534 (SC)**

**Issues Involved:** Whether GST refunds retained by a company are taxable.

**Held:** Only the portion retained is taxable, while amounts refunded to customers are exempt.

**17. Secunderabad Club v. CIT [2023] 457 ITR 263 (SC)**

**Issues Involved:** Whether the principle of mutuality applies to interest income from fixed deposits made with banks that are also members of a club.

**Held:** The principle of mutuality applies only to transactions among members. Since the bank utilizes deposits commercially, the mutuality principle is lost, and the interest is taxable.

**18. B.C.S. Kartar Chit Fund and Finance Co. (P.) Ltd. vs. CIT (1989) 79 CTR (P&H) 232**

**Issues Involved:** Whether business losses can be carried forward indefinitely.

**Held:** Losses must be adjusted at the earliest opportunity.

**19. CIT v. Bajaj Auto Ltd. (2019) (SC)**

**Issues Involved:** Whether MAT provisions under Sec. 115JB apply to foreign companies.

**Held:** The Supreme Court ruled that MAT applies only if the foreign company has a place of business in India.

## CHAPTER - 8

## TRUST TAXATION

**1. New Noble Educational Society v. CCIT (2022) 448 ITR 594 (SC)**

**Issues Involved:** Whether an institution seeking exemption under Section 10(23C)(vi) must solely engage in education. Whether profits from business should be incidental to educational activities to claim exemption.

**Held:**

The institution must be engaged "solely" in education, meaning it cannot have unrelated objects.

Profit-making should be incidental to educational activities. Merely accumulating surplus does not disqualify the exemption, provided the income is used for education.

**2. ACIT (Exemptions) v. Ahmedabad Urban Development Authority (2022) 449 ITR 1 (SC)**

**Issues Involved:** When can an activity be considered trade, commerce, or business under the proviso to Section 2(15)?

**Held:** If an entity charges fees that significantly exceed cost, it will be treated as engaging in trade or business, and exemption under Section 2(15) will not apply.  
The tax authorities must assess on a yearly basis whether an entity qualifies for exemption based on its receipts and income.

### 3. **CIT v. St. Peter's Educational Society (2016) 385 ITR 66 (SC)**

**Issues Involved:** Whether imparting specialized education, such as in communication and advertising, qualifies for exemption under Section 10(23C)(vi).

**Held:** Institutions providing specialized training and awarding diplomas/certificates qualify for exemption. Formalized courses or government recognition is not mandatory for an institution to claim an educational purpose exemption.

### 4. **CIT v. Programme for Community Organisation (2001) 116 Taxman 608 (SC)**

**Issues Involved:** Whether a charitable trust can accumulate up to 15% of gross receipts under Section 11(1)(a).

**Held:** A trust can accumulate 15% of its total receipts without spending it in the same year.  
This provision allows flexibility for trusts in managing funds while maintaining their tax-exempt status.

### 5. **Thiagarajar Charities v. Addl. CIT (1997) 225 ITR 1010 (SC)**

**Issues Involved:** Whether activities like cottage industries aimed at rural upliftment qualify as charitable purposes.

**Held:** Activities promoting rural development through cottage industries provide relief to the poor and qualify as a charitable purpose under Section 2(15).

### 6. **CIT v. Tata Steel Charitable Trust (1993) 203 ITR 764 (Patna HC)**

**Issues Involved:** Whether preference given to settlor's employees in a trust affects its charitable status.

**Held:** As long as the primary object is public welfare and not exclusive benefit to the settlor's employees, the trust remains eligible for exemption under Section 11.

### 7. **CIT v. Gujarat Maritime Board (2007) 295 ITR 561 (SC)**

**Issues Involved:** Whether an entity involved in port development qualifies as a charitable institution.

**Held:** The Supreme Court held that an institution engaged in developing ports for public benefit qualifies as charitable under Section 2(15) and can claim exemption under Section 11.

### 8. **CIT v. Ramji Charitable Trust (2025) (SC)**

**Issues Involved:** Whether a trust failing to file its return on time can claim benefits of accumulation under Section 11(2).

**Held:** The Supreme Court ruled that filing the return within the due date is mandatory to claim accumulation benefits under Section 11(2). Delayed filing results in denial of exemption.

### 1. **Commissioner of Income Tax vs. Motor and General Stores (P) Ltd. (SC, 1967)**

**Issues Involved:** Whether the taxing statute should be applied according to the legal form of the transaction or its substance.

**Held:** The Supreme Court ruled that in the absence of fraud or bad faith, tax liability should be determined based on the legal rights established in the transaction. If the transaction is genuine, the tax statute should be applied to its legal form and not its substance.

### 2. **CIT vs. B.M. Kharwar (SC, 1969)**

**Issues Involved:** Whether tax authorities can disregard the legal form of a transaction and look at its substance.

**Held:** The SC held that tax authorities are bound to determine the true legal relation resulting from a transaction. If a legal relation is concealed by a device, it is open for tax authorities to unravel it and determine its actual character.

### 3. **Mc Dowell & Co. Ltd. vs. Commercial Tax Officer (SC, 1985)**

**Issues Involved:** Whether tax avoidance schemes can be considered legitimate.

**Held:** The Supreme Court ruled that tax planning is legitimate only if done within the framework of the law, but colorable devices to avoid tax liability are not permissible. Courts have the power to look beyond the form of a transaction and determine its true nature.

**4. CIT vs. Smt. Minal Rameshchandra (Gujarat HC, 1987)**

**Issues Involved:** Impact of the Mc Dowell's case on tax planning and tax avoidance.

**Held:** The Gujarat HC held that Mc Dowell's case does not prevent genuine tax planning but prohibits artificial arrangements designed to evade taxes. Courts should differentiate between legitimate transactions and colorable devices.

**5. CWT vs. Arvind Narottam (SC, 1988)**

**Issues Involved:** Whether tax authorities can challenge a transaction if the language of a legal document is unambiguous.

**Held:** The SC ruled that when the language of a settlement deed is clear, tax avoidance considerations cannot override its interpretation. If a transaction follows the law strictly, tax authorities cannot disregard its form.

**6. CIT vs. Assam Bengal Cement Co. Ltd. (SC, 1955)**

**Issues Involved:** Whether an expenditure should be considered capital or revenue in nature.

**Held:** The SC held that in determining whether an expense is of capital or revenue nature, substance should be considered over form.

**7. Swadeshi Cotton Mills Co. Ltd. vs. CIT (SC, 1967)**

**Issues Involved:** Whether the payment under an agreement can be examined to determine its actual nature.

**Held:** The SC ruled that the mere fact that payment is made under an agreement does not prevent tax authorities from scrutinizing its true nature.

**8. CIT vs. A. Raman & Co. (SC, 1968)**

**Issues Involved:** Whether tax avoidance by structuring commercial affairs to reduce tax is permissible.

**Held:** The SC upheld that tax avoidance, if done legally, is not prohibited. However, artificial transactions intended solely for tax reduction can be challenged.

**CHAPTER - 10**

**INCOME TAX AUTHORITIES**

**1. CIT and Anr v. SV Gopala and Others (2017) 396 ITR 694 (SC)**

**Issue Involved:** Can the CBDT amend legislative provisions through a Circular?

**Held:** The Supreme Court held that the CBDT does not have the power to amend legislative provisions by issuing a Circular under section 119 of the Income-tax Act.

**2. Hemant Kumar Sindhi & Another v. CIT (2014) 364 ITR 555 (All HC)**

**Issue Involved:** Can an assessee adjust tax liability on surrendered income by selling seized gold bars before assessment is completed?

**Held:** The Allahabad High Court ruled that tax liability crystallizes only upon assessment completion. Until then, such adjustments are not permissible.

**3. Kathiroom Service Co-operative Bank Ltd. v. CIT (CIB) (2014) 360 ITR 0243 (SC)**

**Issue Involved:** Can an Assessing Officer call for information under section 133(6) even when no proceeding is pending?

**Held:** The Supreme Court held that an Assessing Officer can requisition information useful for an inquiry. However, officers below the rank of Principal Director or Principal Commissioner require prior approval.

**4. Regen Powertech Private Limited v. CBDT and Another [2019] 410 ITR 483 (Mad HC)**

**Issue Involved:** Can the CBDT refuse to condone a delay in filing a tax return if the delay was due to circumstances beyond the assessee's control?

**Held:** The Madras High Court ruled that a justice-oriented approach should be followed, and CBDT should not reject condonation applications if the delay was due to genuine hardships.

**5. UOI v. Ajit Jain [2003] 260 ITR 80 (SC)**

**Issue Involved:** Does mere intimation by the CBI that money was found in an assessee's possession constitute "information" under section 132 for issuing a search warrant?

**Held:** The Supreme Court ruled that mere intimation by the CBI does not constitute "information" under section 132. A search warrant issued solely on this basis is invalid.

**6. Lodhi Property Company Ltd. v. Under Secretary, (ITA-II), Department of Revenue (2010) 323 ITR 0441 (Delhi HC)**

**Issue Involved:** Does the Board have the power to condone a delay in filing a return where a claim for carrying forward losses is made?

**Held:** The Delhi High Court ruled that the Board has the power to condone a delay if justified. In this case, a one-day delay in filing was condoned to prevent undue hardship.

**7. Genom Biotech (P) Ltd. & Ors. v. Director of IT (Investigation) & Ors. (2009) 180 Taxman 395 (Bom HC)**

**Issue Involved:** Is the revenue department required to disclose "reasons to believe" recorded before issuing a warrant of authorization for search under section 132?

**Held:** The Bombay High Court ruled that section 132 does not mandate disclosure of the "reasons to believe" recorded by the tax authorities before issuing a search warrant. The assessee does not have a right to demand these reasons before tax or penalty is imposed.

**CHAPTER - 11****ASSESSMENT PROCEDURE**

**1. Swadeshi Polytex Ltd. v. ITO [1983] 144 ITR 171 (SC)**

**Issue Involved:** Whether the assessee can be penalized for non-compliance when a nominated Chartered Accountant refuses to audit under Section 142(2A).

**Held:** The SC ruled that if the Chartered Accountant refuses the audit without valid reasons, the assessee cannot be held responsible. The best judgment assessment under Section 144(b) was set aside, and a fresh audit was ordered.

**2. Sri Mohan Wahi v. CIT (2001) 248 ITR 799 (SC)**

**Issue Involved:** Whether the delay in issuing a notice under Section 148 for reopening an assessment can be justified.

**Held:** The SC held that any delay beyond the prescribed time limit for issuing a notice under Section 148 is invalid unless justified by exceptional circumstances. The revenue must act within the statutory timeline.

**3. CIT v. Govind Nagar Sugar Ltd. (2011) 334 ITR 13 (Delhi HC)**

**Issue Involved:** Whether the benefit of exemption can be denied if the assessee fails to file a return under Section 139(1).

**Held:** The Delhi HC ruled that filing a return within the due date is mandatory to claim an exemption. If the return is filed late, the exemption can be denied, even if all other conditions are met.

**4. CIT v. Tony Electronics Limited (2010) 320 ITR 378 (Delhi HC)**

**Issue Involved:** Whether an incorrect claim made in the return due to an accounting error can be rectified during assessment.

**Held:** The Delhi HC held that the AO is obligated to assess the correct income and can rectify errors in the return, even if not pointed out by the assessee. The Revenue should not unjustly benefit from an apparent mistake.

**5. Goetze (India) Ltd. vs. CIT (2006) 284 ITR 323 (SC)**

**Issue Involved:** Whether an AO can entertain a deduction claim made through a letter after filing the return without a revised return under Section 139(5).

**Held:** The SC ruled that a deduction claim must be made by filing a revised return, not merely through a letter. However, this restriction applies only to the AO, and higher appellate authorities can entertain such claims.

**6. CIT v. Mahalakshmi Sugar Mills Co. Ltd. (1986) 160 ITR 920 (SC)**

**Issue Involved:** Whether the AO is required to allow set-off of brought-forward business losses even if the assessee has not claimed it in the return.

**Held:** The SC ruled that it is the AO's duty to apply the law correctly and allow the set-off of business losses if they were determined in an earlier year, even if the assessee has not claimed it in the return.

**7. Orissa Rural Housing Development Corpn. Ltd. v. ACIT (2012) 343 ITR 316 (Orissa HC)**

**Issue Involved:** Whether interest on borrowed capital utilized for advancing loans at a concessional rate or free of interest is allowable as a deduction under Section 36(1)(iii).

**Held:** The Orissa HC held that as long as the borrowed funds were used for the purpose of business, the interest on such borrowed capital is allowable as a deduction, even if loans were given at a concessional rate or without interest.

1.

**Issue Involved:** Whether the limitation period for exercising powers under section 263 should be reckoned from the date of passing the original assessment order or the reassessment order.

**Held:** The Supreme Court held that if the issues before the Commissioner under section 263 relate to the subject matter of reassessment, the limitation starts from the reassessment order. However, if the reassessment is distinct, the limitation starts from the original assessment order.

2. **Genpact India Pvt. Ltd. v. DCIT & Ors (2019) 419 ITR 440 (SC)**

**Issue Involved:** Whether an appeal under section 246A is available to a company denying liability to pay additional income tax under section 115QA.

**Held:** The Supreme Court held that an appeal under section 246A is maintainable if the company denies liability to be assessed under section 115QA.

3. **CIT v. Pruthvi Brokers & Shareholders (2012) 349 ITR 336 (Bom.)**

**Issue Involved:** Can an assessee make an additional/new claim before an appellate authority without filing a revised return?

**Held:** The appellate authorities have the jurisdiction to allow additional claims, even if not claimed in the original return. However, this discretion lies with the authority.

4. **Wipro Finance Ltd. v. CIT (2022) 443 ITR 250 (SC)**

**Issue Involved:** 1. Whether loss due to foreign currency fluctuation on loan repayment for leasing business is revenue expenditure? 2. Can the Tribunal entertain a fresh claim for the first time under section 254?

**Held:** The Supreme Court held that since the loan was borrowed for financing (not for acquiring an asset), the loss was deductible under section 37. Further, the Tribunal has plenary powers under section 254 to allow new claims.

5. **Smt. Ritha Sabapathy v. DCIT [2019] 416 ITR 191 (Mad.)**

**Issue Involved:** Can the Tribunal dismiss an appeal solely because the assessee did not appear for the hearing?

**Held:** The Tribunal cannot dismiss an appeal solely on non-appearance. It must decide the appeal on its merits, even if ex parte.

6. **CIT v. Earnest Exports Ltd. (2010) 323 ITR 577 (Bom.)**

**Issue Involved:** Whether the Appellate Tribunal has the power under section 254(2) to review or reappreciate its earlier decision.

**Held:** The power under section 254(2) is limited to rectifying a mistake apparent on record and does not allow the Tribunal to review or substitute its earlier view. The Tribunal cannot unsettle a decision taken after due reflection.

7. **Lachman Dass Bhatia Hingwala (P) Ltd. v. ACIT (2011) 330 ITR 243 (Delhi)(FB)**

**Issue Involved:** Whether the Tribunal can recall its order in entirety under section 254(2) where there is a mistake apparent from the record.

**Held:** The Tribunal has the power to recall an order in entirety only to correct an apparent mistake, as established in Honda Siel Power Products Ltd. v. CIT. However, the power of recall should not be confused with the power of review.

8. **Reliance Telecom Ltd./Reliance Communications Ltd. (2022) 440 ITR 1 (SC)**

**Issue Involved:** Whether the Tribunal can recall and rehear an entire order under section 254(2).

**Held:** The Supreme Court ruled that the Tribunal cannot recall its entire order to rehear it on merits. Section 254(2) only allows rectification of mistakes apparent from the record.

9. **DCIT v. Pepsi Foods Ltd (2021) 433 ITR 295 (SC)**

**Issue Involved:** Whether a stay order automatically vacates after 365 days, even if the delay in disposing of the appeal is not attributable to the assessee.

**Held:** The Supreme Court held that automatic vacation of stay is valid only when the delay is attributable to the assessee. The third proviso to section 254(2A) should be read without the word "even" and the word "not" after "delay in disposing of the appeal."

10. **CIT v. Fortaleza Developers (2015) 374 ITR 510 (Bom.)**

**Issue Involved:** Whether the Commissioner can invoke revisionary jurisdiction under section 263 when the subject matter of revision has already been decided by the Commissioner (Appeals) and is pending before the Tribunal.

**Held:** The High Court ruled that once an issue has been decided by the Commissioner (Appeals) and is pending before the Tribunal, the Commissioner cannot invoke revisionary jurisdiction under section 263.

**11. Sunil Vasudeva & Others v. Sundar Gupta & Others (2019) 415 ITR 281 (SC)**

**Issue Involved:** Does the High Court have the inherent power to review its own order to correct a mistake apparent from the record?

**Held:** The Supreme Court held that the High Court has the power to review its own order in cases of discovery of new evidence, an apparent mistake, or other sufficient reasons. However, a review is not maintainable for minor mistakes, repetition of old arguments, or mere disagreement with the judgment.

**12. CIT v. Meghalaya Steels Ltd. (2015) 377 ITR 112 (SC)**

**Issue Involved:** Does the High Court have inherent power under the Income-tax Act, 1961, to review an earlier order passed on merits?

**Held:** The Supreme Court ruled that High Courts, being courts of record under Article 215 of the Constitution, possess inherent power to review their own orders to prevent miscarriage of justice. The provisions of the Income-tax Act do not restrict this power.

**13. CIT v. A.A. Estate Pvt. Ltd. (2019) 413 ITR 438 (SC)**

**Issue Involved:** Whether the High Court must frame substantial questions of law on its own while hearing an appeal under section 260A.

**Held:** The Supreme Court held that the High Court must independently frame substantial questions of law under section 260A(3). If it finds that no substantial question arises, it should record a categorical finding before dismissing the appeal.

**14. SAP Labs India Pvt. Ltd. v. ITO (and other appeals) [2023] 454 ITR 121 (SC)**

**Issue Involved:** Whether the High Court is precluded from reviewing the correctness of an ALP determination made by the Tribunal.

**Held:** The Supreme Court ruled that if the Tribunal fails to follow the guidelines under Chapter X of the Income-tax Act and relevant rules, its determination can be challenged in the High Court under section 260A on grounds of perversity.

**15. National Thermal Power Company Limited vs. CIT (1998) 229 ITR 383 (SC)**

**Issue Involved:** Can the Tribunal allow an assessee to raise new grounds of appeal not raised before the Commissioner (Appeals)?

**Held:** The Supreme Court ruled that the Tribunal has wide powers under section 254 to permit new grounds of appeal, provided the relevant facts are already on record.

**16. Honda Siel Power Products Ltd. v. CIT (2007) 295 ITR 466**

**Issue Involved:** Can the Tribunal recall its order under section 254(2) to rectify a mistake?

**Held:** The Supreme Court held that while the Tribunal cannot review its own order, it can recall it to rectify an apparent error or omission.

**17. CIT vs. P. Mohanakala (2007) 291 ITR 278**

**Issue Involved:** Can the High Court interfere with the Tribunal's factual findings?

**Held:** The Supreme Court held that the High Court cannot interfere with the Tribunal's factual findings unless they are perverse or unsupported by evidence.

## CHAPTER - 13

## MISCELLANEOUS

**1. CIT v. V. Sivakumar (2013) 354 ITR 9 (Mad.)**

**Issue:** Can a 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?

**Held:** There is no separate identity for the partnership firm, and a partner is entitled to use the firm's funds. The court ruled that the transaction was bona fide and that there was reasonable cause under section 273B. Hence, it was held that there was no violation of section 269SS, and no penalty was imposed.

**2. CIT v. Muthoot Financiers (2015) 371 ITR 408 (Del.)**

**Issue:** Is penalty under section 271D imposable for cash loans/deposits received from partners?

**Held:** The High Court noted that three different courts had held that transactions between a firm and its partners do not violate section 269SS. Since the transactions were bona fide and did not intend to evade taxes, penalty provisions under section 271D were not applicable.

**3. CIT v. Triumph International Finance (I.) Ltd. (2012) 345 ITR 270 (Bom.)**

**Issue:** Can repayment of a loan through book adjustments (journal entries) instead of an account payee cheque attract penalty under section 271E for violating section 269T?

**Held:** The court held that section 269T mandates repayment through an account payee cheque or draft. However, considering the bona fide nature of the transaction, no penalty was imposed under section 271E, given the reasonable cause under section 273B.

**4. Dr. Manoj Kabra v. ITO (2014) 364 ITR 541 (All.)**

**Issue:** Can the Assessing Officer (AO) suo moto assume jurisdiction to declare the sale of a property as void under section 281?

**Held:** The court ruled that the AO does not have exclusive jurisdiction to declare a transfer as fraudulent under section 281. Any such declaration must be made through legal proceedings under section 53 of the Transfer of Property Act, 1882. The AO must file a suit for such a declaration and cannot assume jurisdiction on his own.

**5. CIT v. Laxman Das Khandelwal (2019) 417 ITR 325 (SC)**

**Issue:** Is the omission to issue a notice under section 143(2) a curable defect under section 292BB, even if the assessee participated in assessment proceedings?

**Held:** The Supreme Court held that the issuance of a notice under section 143(2) is mandatory. Section 292BB does not cure the complete absence of such a notice. The Assessing Officer, therefore, could not assume jurisdiction without issuing the notice.

**6. Principal CIT v. Maruti Suzuki India Ltd. (2019) 416 ITR 613 (SC)**

**Issue:** Is a notice under sections 143(2) and 142(1) issued to an amalgamating company, after the High Court approved the amalgamation, valid?

**Held:** The Supreme Court ruled that once a company ceases to exist due to amalgamation, it cannot be considered a "person" under section 2(31). Hence, issuing a notice in the name of a non-existent company renders the entire assessment proceedings void ab initio.

**7. Stock Exchange Ahmedabad vs. ACIT (2001) 248 ITR 209 (SC)**

**Issue:** Whether a stock exchange, being a company limited by guarantee, is subject to the provisions of the Income-tax Act, 1961?

**Held:**

71 The Supreme Court held that even though a stock exchange is a company limited by guarantee, it is still liable for taxation under the Income-tax Act. The ruling emphasized that exemption provisions must be strictly interpreted.

**8. Diwan Enterprises v. CIT & Others (2000) 246 ITR 571 (Del.)**

**Issue:** Can the Assessing Officer refuse to grant deduction for bad debts if the assessee has written them off in its books?

**Held:** The Delhi High Court ruled that once bad debts are written off in the books of accounts, the AO cannot question their genuineness unless there is specific evidence to the contrary.

**1. US Technologies International Pvt. Ltd. v. CIT [2023] 453 ITR 644 (SC)**

**Issue:** Can penalty under section 271C be levied for non-payment or belated remittance of the tax deducted at source (TDS) under Chapter XVII-B to the credit of the Central Government?

**Held:** Section 271C(1)(a) applies only to failure to deduct TDS, not for belated remittance. The court held that belated remittance of TDS after deduction does not attract penalty under section 271C(1)(a), as the consequences for late payment are already provided under sections 201(1A) and 276B.

**2. ACIT v. AT-Dev Prabha (JV) and Others (2023) 454 ITR 59 (SC)**

**Issue:** Can prosecution proceedings under section 276B be launched for delayed deposit of TDS if the delay and amount involved are not substantial, and the TDS is later deposited with interest?

**Held:** The High Court quashed prosecution proceedings based on the CBDT Circular, stating that prosecution should not be initiated if the default amount was not substantial and the TDS had been deposited. The Supreme Court upheld this decision, affirming that minor delays with interest payment do not warrant prosecution.

### 3. **Union of India v. Bhavcha Machinery and Others (2010) 320 ITR 263 (MP)**

**Issue:** Does failure to file an income tax return on time automatically attract prosecution under section 276CC?

**Held:** Prosecution under section 276CC applies only in cases of willful delay in filing the return. If the delay is due to valid reasons and is not intentional, prosecution cannot be initiated.

### 4. **Income-tax Department v. D. K. Shivakumar [2021] 434 ITR 367 (Kar)**

**Issue:** Can prosecution be launched in every case where unaccounted transactions (e.g., unaccounted loans) are found during a search, regardless of tax liability?

**Held:** The prosecution under section 276C(1) applies only when there is a willful attempt to evade tax. Unaccounted transactions alone do not automatically lead to tax liability or prosecution unless there is clear evidence of intent to evade tax.

### 5. **Surajmal Parsuram Todi v. CIT (1996) 222 ITR 691 (Guwahati HC)**

**Issue:** Can a penalty under section 271B be levied if the assessee has not maintained books of account under section 44AA?

**Held:** The court ruled that if an assessee fails to maintain books of account (section 44AA), the offence is complete, and there can be no further offence under section 44AB (failure to get an audit done). Therefore, penalty under section 271B is unwarranted.

### 6. **K.S.N. Murthy v. Chairman, CBDT (2001) 252 ITR 269 (AP HC)**

**Issue:** Can the Commissioner refuse to exercise discretion under section 273A(4) if conditions for waiver or reduction of penalty are met?

**Held:** The Andhra Pradesh High Court held that the Commissioner cannot arbitrarily refuse relief under section 273A(4) if the conditions for waiver or reduction of penalty are satisfied. The discretion must be exercised judiciously and based on objective considerations.

### 7. **Guru Nanak Enterprises v. ITO (2005) 279 ITR 30 (SC)**

**Issue:** Are prosecution proceedings justified when the final tax liability, after appeal adjustments, is below ₹10,000?

**Held:** The Supreme Court ruled that prosecution was unwarranted since the final tax liability, after appeal, was reduced below the threshold of ₹10,000. However, if the entity involved were a company, prosecution proceedings would still be maintainable.

## CHAPTER - 15

## TAX AUDIT

### 1. **Additional CIT v. Jay Engineering Works Ltd. (1978) 113 ITR 389 (Delhi HC)**

**Issue:** Whether the ITO can rectify an assessment under section 154 to withdraw wrongly allowed development rebate.

**Held:** The Delhi HC ruled that rectification under section 154 is allowed only for apparent mistakes. Since withdrawal of development rebate required deeper examination, it was not a "mistake apparent from the record" and could not be rectified under section 154.

## CHAPTER - 16

## NR TAXATION

### 1. **CIT v. Japan Lines Ltd. (260 ITR 656) (Madras HC)**

**Issue:** Whether shipping income earned by a foreign company is taxable in India under the DTAA provisions.

**Held:** The Madras High Court held that as per the Double Taxation Avoidance Agreement (DTAA) between India and Japan, the income earned by the foreign shipping company was not taxable in India.

### 2. **A.S. Glittre v. CIT (1997) 225 ITR 739 (SC)**

**Issue:** Whether freight income earned by a non-resident shipping company is taxable in India under DTAA.

**Held:** The Supreme Court ruled that the income from freight earned by a non-resident shipping company was not taxable in India, as the DTAA provisions took precedence over domestic tax law.

**3. Indcom v. CIT (TDS) (2011) 335 ITR 485 (Calcutta HC)**

**Issue:** Whether tax deduction at source (TDS) applies to payments made to non-residents under Section 195 of the Income Tax Act.

**Held:** The Calcutta High Court held that TDS under Section 195 applies only if the income is chargeable to tax in India. If no tax liability arises under Indian tax laws or DTAA, then TDS is not required.

**4. Board of Control for Cricket in Sri Lanka v. DIT (International Taxation) & Pilcom v. CIT (2020) 425 ITR 312 (SC)**

**Issue:** Whether payments made to foreign entities for services related to sports events in India are taxable.

**Held:** The Supreme Court ruled that payments made to non-resident entities for services rendered in India were subject to tax deduction under Section 194E of the Income Tax Act, irrespective of the recipient's tax residency status.

**5. Barendra Prasad Roy v. ITO (1981) 129 ITR 295 (SC)**

**Issue:** Whether capital gains tax is applicable on the transfer of a right to receive property.

**Held:** The Supreme Court held that the transfer of a right to receive property constituted a capital asset, and the gains from such a transfer were taxable under capital gains provisions.

**6. CIT v. Alcatel Lucent Canada (2015) 372 ITR 476 (Delhi HC)**

**Issue:** Whether payments for software constitute royalty under Section 9(1)(vi) of the Income Tax Act.

**Held:** The Delhi High Court ruled that payments for off-the-shelf software do not amount to royalty and are not taxable under Indian tax laws, aligning with the Supreme Court's ruling in Engineering Analysis Centre of Excellence Pvt. Ltd.

**CHAPTER - 17**

**DTAA**

**1. CIT v. P.V.A.L. Kulandagan Chettiar (2004) 267 ITR 654 (SC)**

**Issue:** Whether foreign income earned by an Indian resident is taxable in India when a DTAA exists.

**Held:** The Supreme Court ruled that where a Double Taxation Avoidance Agreement (DTAA) exists, its provisions will override domestic tax laws. Since the income was earned in Malaysia and was not taxable under the DTAA, it was exempt from taxation in India.

**2. Union of India v. UAE Exchange Center (2020) 425 ITR 30 (SC)**

**Issue:** Whether a foreign company operating a liaison office in India creates a "business connection" under Section 9(1)(i) of the Income Tax Act, thereby making its income taxable in India.

**Held:** The Supreme Court held that a liaison office, which only facilitates business without undertaking core commercial activities, does not create a "business connection" in India. As a result, the income attributable to such activities was not taxable in India.

**3. DIT (International Taxation) v. Samsung Heavy Industries Ltd. (2020) 426 ITR 1 (SC)**

**Issue:** Whether the existence of a project office in India constitutes a Permanent Establishment (PE) under DTAA, making its income taxable in India.

**Held:** The Supreme Court ruled that merely having a project office does not automatically establish a PE. Since the project office in this case was only performing auxiliary functions and not engaging in core business operations, no PE was created, and no tax liability arose in India.

**4. CIT v. Dr. R.N. Jhanji (1990) 185 ITR 586 (Raj.)**

**Issue:** Whether salary earned outside India by a resident is taxable in India.

**Held:** The Rajasthan High Court held that salary earned abroad by an Indian resident is taxable in India unless exempted under a DTAA. Since the assessee was a resident and the salary was received for services rendered outside India, it was taxable in India.

**CHAPTER - 18****TRANSFER PRICING****1. Bausch & Lomb Eyecare (India) (P.) Ltd. v. Addl. CIT [2016] 381 ITR 227 (Del)**

**Issue:** Transfer pricing adjustment based on inappropriate comparables.

**Held:** The Delhi HC ruled that high-profit entities cannot be taken as comparables without proper FAR analysis. Arbitrary TP adjustments are not justified.

**2. Sony Ericsson Mobile Communications India (P) Ltd. v. CIT [2015] 374 ITR 118 (Del)**

**Issue:** Transfer pricing on AMP expenses and validity of the Bright Line Test (BLT).

**Held:** The HC rejected BLT and held that AMP expenses must be analyzed based on contractual terms, business strategy, and economic rationale, not arbitrary benchmarks.

**CHAPTER - 19****BEPS MTC & TAX TREATIES**

No Judgements

**CHAPTER - 20****CAPITAL GAIN****1. Alapati Venkataramiah v. CIT [1965] 57 ITR 185 (SC)**

**Issue Involved:** In which year should capital gains be taxed—when the agreement to sell is made or when the title is transferred?

**Held:** The Supreme Court ruled that capital gains should be taxed in the year in which the title to the property is legally transferred. The agreement to sell does not amount to a "transfer" for taxation purposes unless ownership is conveyed. The taxable event occurs when possession and legal title pass to the buyer.

**2. CIT v. V.S. Dempo Company Ltd (2016) 387 ITR 354 (SC)**

**Issue Involved:** Can an assessee claim exemption under section 54EC for capital gains arising from the sale of depreciable assets?

**Held:** The Court held that section 54EC exemption is available for capital gains reinvested in specified assets, even if the capital gains arise from depreciable assets. The nature of the asset (depreciable or non-depreciable) does not impact the exemption, as long as reinvestment is within the prescribed time limit.

**3. Seshasayee Steels P. Ltd. v. ACIT (2020) 421 ITR 46 (SC)**

**Issue Involved:** Does allowing a person to enjoy immovable property amount to a "transfer" under section 2(47)?

**Held:** The Court ruled that "transfer" under section 2(47) is not limited to legal ownership transfer. If a person gains control and enjoyment of an immovable property as an owner, even without formal title transfer, it amounts to a taxable transfer. This expands the scope of capital gains taxation to include transactions where possession is given with ownership-like rights.

**4. Balakrishnan v. Union of India & Others (2017) 391 ITR 178 (SC)**

**Issue Involved:** Is compensation received after compulsory acquisition treated as a voluntary sale or compulsory acquisition?

**Held:** The Supreme Court held that once land is compulsorily acquired, any compensation received remains a "compulsory acquisition" and does not become a voluntary sale. This ensures the applicability of exemption under section 10(37), providing tax relief for taxpayers receiving compensation for compulsory acquisition.

**5. Fibre Boards (P) Ltd v. CIT (2015) 376 ITR 596 (SC)**

**Issue Involved:** Does an advance payment towards the purchase of assets qualify for exemption under section 54G?

**Held:** The Court ruled that capital gains exemption under section 54G applies even if advance payments are made for acquiring land, buildings, or machinery. The exemption is valid as long as the capital gains are reinvested in eligible assets within the prescribed period. This ruling clarifies that timing of payment does not impact eligibility.

**6. CIT v. Aditya Kumar Jajodia (2018) 407 ITR 107 (Cal)**

**Issue Involved:** Should expenses incurred for perfecting the title of an inherited property be included in the cost of acquisition?

**Held:** The Court held that expenses incurred for legal formalities such as registration, legal fees, and court charges to establish ownership should be included in the cost of acquisition. This allows taxpayers to claim a higher cost and reduce capital gains tax liability upon sale.

**7. CIT v. Manjula J. Shah (2013) 355 ITR 474 (Bom)**

**Issue Involved:** Should indexation be applied from the date of acquisition by the previous owner or from the date of gift to the assessee?

**Held:** The Court ruled that indexation should be calculated from the date when the previous owner acquired the asset, not from the date when it was gifted to the assessee. This ensures that the taxpayer gets a higher indexation benefit, thereby reducing the taxable capital gains.

**8. Sakthi Metal Depot v. CIT [2021] 436 ITR 1 (SC)**

**Issue Involved:** Can a depreciable asset be treated as a capital asset for tax purposes if it has not been used in business recently?

**Held:** The Court ruled that even if a depreciable asset was not recently used for business, it remains part of the block of assets. When sold, the gain is taxed as short-term capital gains under section 50, and not as long-term capital gains.

**9. CIT v. Syed Ali Adil (2013) 352 ITR 418 (A.P.)**

**Issue Involved:** Can an assessee claim section 54 exemption for two adjacent flats treated as a single unit?

**Held:** The Court held that if two adjacent flats are structurally modified and function as a single residential unit, the assessee can claim exemption under section 54. The exemption is not restricted to a single flat, provided the flats are used as one residence.

**10. CIT v. Ananda Basappa (2009) 309 ITR 329**

**Issue Involved:** Is exemption under section 54 available for multiple flats purchased in the same building?

**Held:** The Court ruled that exemption under section 54 cannot be denied merely because the assessee purchased two flats in the same building. If the flats are used as a single residential unit, the exemption is valid. This interpretation favors taxpayers who buy adjacent flats for extended living space.

**11. CIT v. K.G. Rukminiamma (2011) 331 ITR 211**

**Issue Involved:** Can an assessee claim exemption under section 54 if multiple residential units are purchased from the same builder?

**Held:** The Court held that multiple units in the same residential complex, forming part of a single dwelling house, qualify for exemption under section 54. The concept of "one residential house" should be interpreted liberally to benefit taxpayers.

**12. CIT v. Gurnam Singh (2010) 327 ITR 278 (P&H)**

**Issue Involved:** Can exemption under section 54B be claimed if the new agricultural land is purchased jointly with a family member?

**Held:** The Court ruled that exemption is allowable even if the new agricultural land is purchased in the joint names of the assessee and his son. The primary condition for exemption is that the sale proceeds are reinvested in agricultural land, and co-ownership does not invalidate the claim.

**13. CIT v. Kamal Wahal (2013) 351 ITR 4 (Delhi)**

**Issue Involved:** Can an assessee claim section 54F exemption if the new house is purchased in the name of his spouse?

**Held:** The Court held that as long as the assessee has paid for the house, exemption under section 54F cannot be denied even if the property is registered in the spouse's name. The beneficial ownership and source of funds are the determining factors, not the legal title.

**14. CIT v. Ravinder Kumar Arora (2012) 342 ITR 38 (Delhi)**

**Issue Involved:** Can an assessee claim full exemption under section 54F if the new property is in joint names?

**Held:** The Court ruled that if the assessee has paid the entire consideration for the purchase of a new residential house, exemption cannot be denied merely because the property is registered in joint names (such as the assessee and spouse). The primary requirement is that the assessee should invest the capital gains in a new house.

**15. CIT v. Sambandam Udaykumar (2012) 345 ITR 389 (Kar)**

**Issue Involved:** Can section 54F exemption be denied if construction is not fully completed within the prescribed period?

**Held:** The Court ruled that if substantial construction of the residential house is completed within the prescribed three-year period, exemption under section 54F cannot be denied. Minor finishing work beyond the time limit does not invalidate the exemption.

**16. Gouli Mahadevappa v. ITO (2013) 356 ITR 90 (Kar)**

**Issue Involved:** Can an assessee claim exemption under section 54F if the sale consideration is lower than the stamp duty value?

**Held:** The Court ruled that when section 50C applies (i.e., stamp duty value is higher than actual sale consideration), the reinvestment for exemption under section 54F should be considered based on the deemed consideration under section 50C, not the actual sale price.

**17. Hindustan Unilever Ltd. v. DCIT (2010) 325 ITR 102 (Bom)**

**Issue Involved:** Can exemption under section 54EC be denied if the specified bonds are issued after the six-month period?

**Held:** The Court ruled that if the assessee has invested the capital gains in specified bonds within the six-month period, exemption under section 54EC cannot be denied even if the bonds are allotted at a later date. The investment date, not the allotment date, is relevant for exemption.

**18. Principal CIT v. Gujarat State Fertilizers and Chemicals Ltd. (2018) 409 ITR 378 (Guj)**

**Issue Involved:** Should a subsidy received for business expansion be treated as a capital receipt or revenue receipt?

**Held:** The Court ruled that a subsidy received for the expansion of an existing business should be treated as a capital receipt and not taxable as income. The purpose of the subsidy determines its tax treatment—if it is granted for setting up a new unit or expansion, it is a capital receipt. If it is for operational assistance, it is a revenue receipt.

**19. Balraj v. CIT (2002) 254 ITR 22 (Del.)**

**Issue Involved:** Can exemption under section 54 be claimed if the house is constructed in stages beyond the prescribed period?

**Held:** The Court held that an assessee can claim exemption under section 54 even if the construction is completed in stages beyond the prescribed three-year period. As long as the substantial investment is made within the stipulated time and the house is habitable, the exemption cannot be denied.

**20. CIT v. Shahzada Begum (1988) 173 ITR 397 (A.P.)**

**Issue Involved:** How should the cost of acquisition be determined for properties acquired before 1-4-1974?

**Held:** The Court ruled that for properties acquired before 1-4-1974, the fair market value as of 1-4-1974 should be considered as the cost of acquisition. This benefits the assessee by allowing them to use indexed cost calculation based on an adjusted higher cost.

**21. CIT v. T.N. Arvinda Reddy (1979) 120 ITR 46 (SC)**

**Issue Involved:** Can exemption under section 54 be claimed if the new house is acquired through an exchange instead of a purchase?

**Held:** The Supreme Court ruled that exemption under section 54 is available even if the new residential house is acquired by exchanging another property rather than a direct purchase. The term "purchase" should be interpreted liberally to include acquisitions through exchange, ensuring wider tax relief.

**22. CIT v. Ruby Trading Co (P) Ltd (2003) 259 ITR 54 (Raj)**

**Issue Involved:** Can deemed capital gains arising from company liquidation qualify for exemption under section 54EC?

**Held:** The Court ruled that capital gains arising from company liquidation (where assets are distributed to shareholders) do not qualify for exemption under section 54EC. Since the transfer is not a voluntary sale, the exemption does not apply.

**23. RM. Arunachalam v. CIT [1997] 227 ITR 222 (SC)**

**Issue Involved:** From which date should indexation be applied in the case of inherited property?

**Held:** The Supreme Court ruled that in the case of an inherited property, indexation benefit should be available from the date of acquisition by the previous owner and not from the date of inheritance. This ensures a fairer tax treatment by allowing the legal heirs to use the earlier cost inflation index, reducing their taxable capital gains.

**1. Venus Records and Tapes Pvt. Ltd. ITA 310 of 2013 (Bombay HC)**

**Issue Involved:** Whether the expenditure incurred on abandoned feature films is to be treated as capital expenditure or revenue expenditure?

**Held:** The Bombay High Court ruled that Rule 9A does not apply to abandoned feature films. Consequently, the cost of production of such films should be treated as revenue expenditure and allowed as per Section 37 of the Income-tax Act, 1961.

**2. National Co-operative Development Corporation v. CIT (2020) 427 ITR 288 (SC)**

**Issue Involved:** Whether expenditure incurred for the development of roads/highways under Build-Operate-Transfer (BOT) agreements qualifies for depreciation under Section 32(1)(ii) or should be amortized as a business expenditure?

**Held:** The Supreme Court clarified that such expenditure is to be treated as business expenditure rather than capital expenditure and is eligible for amortization under relevant provisions of the Income-tax Act.

**3. Taparia Tools Ltd. v. JCIT (2015) 372 ITR 605 (SC)**

**Issue Involved:** Whether the entire upfront interest paid on debentures in the first year can be claimed as a deduction or should it be spread over five years?

**Held:** The Supreme Court held that the deduction for upfront interest payment is allowable in full in the year of payment under Section 36(1)(iii), despite different accounting treatment in books.

**4. CIT v. Darbhanga Sugar Co. Ltd. [1956] 29 ITR 21 (Patna HC)**

**Issue Involved:** Whether expenditure incurred on the replacement of worn-out machinery parts qualifies as current repairs?

**Held:** The court ruled that only expenditure that brings a new asset into existence is capital in nature. In this case, the expenditure was treated as revenue expenditure as it did not increase the life or efficiency of the machinery.

**5. CIT v. McDowell & Co Ltd (2009) 314 ITR 167 (SC)**

**Issue Involved:** Can a bank guarantee be treated as actual payment for claiming deduction under Section 43B?

**Held:** The Supreme Court ruled that a bank guarantee does not amount to actual payment. For deductions under Section 43B, actual monetary payment to the public exchequer is required.

**6. CIT v. K and Co. (2014) 364 ITR 93 (Delhi)**

**Issue Involved:** Whether interest income on margin money deposited with a bank for obtaining a bank guarantee should be taxed under "Profits and Gains from Business or Profession" or "Income from Other Sources"?

**Held:** The Delhi High Court held that since the margin money requirement was an essential element for obtaining the bank guarantee, the interest income received from funds kept as margin money is inextricably linked to business and should be taxable under "Profits and Gains from Business or Profession".

**7. I.C.D.S. Ltd. v. CIT (2013) 350 ITR 527 (SC)**

**Issue Involved:** Can depreciation on leased vehicles be denied to the lessor on the ground that the vehicles are registered in the lessee's name and not used by the lessor?

**Held:** The Supreme Court ruled that the twin conditions under Section 32—ownership and usage for business—were satisfied since the vehicles were used in the course of leasing business. Therefore, the lessor was entitled to claim depreciation, even if the vehicles were registered in the lessee's name.

**8. CIT v. BSES Yamuna Powers Ltd. (2013) 358 ITR 47 (Delhi)**

**Issue Involved:** What is the eligible rate of depreciation for computer accessories, peripherals, and UPS?

**Held:** The Delhi High Court ruled that computer accessories and peripherals, including printers, scanners, and servers, form an integral part of the computer system and are eligible for a higher depreciation rate of 40% under the Income-tax Act.

**9. CIT v. Ceebros Hotels Private Limited (2018) 409 ITR 423 (Mad)**

**Issue Involved:** Can an assessee setting up a hotel claim deduction under Section 35AD from the year in which operations commenced, even if the three-star category classification was granted in the next financial year?

**Held:** The Madras High Court ruled that the delay in granting classification by the approving authority should not penalize the assessee. Since the assessee commenced operations in the relevant year, deduction under Section 35AD was allowed

#### 10. **Berger Paints India Ltd. v. CIT (2017) 393 ITR 113 (SC)**

**Issue Involved:** Can share premium on subscribed share capital be considered as "capital employed in business" under Section 35D for claiming deduction?

**Held:** The Supreme Court ruled that share premium is not part of the "capital employed" for the purpose of Section 35D. The Companies Act, 2013, requires share premium to be kept in a separate securities premium account, which cannot be considered as capital employed.

#### 11. **Shasun Chemicals & Drugs Ltd v. CIT (2016) 388 ITR 1 (SC)**

**Issue Involved:** Whether the payment of bonus to employees through a trust, which is subsequently paid to the employees before the due date, is allowable as a deduction under Section 36(1)(ii)?

**Held:** The Supreme Court ruled that since the bonus was ultimately paid to the employees before the due date as per the statutory requirement, the embargo under Section 43B(b) or Section 40A(9) does not apply. Hence, the payment was allowable as a deduction.

#### 12. **CIT v. Orient Ceramics and Industries Ltd. (2013) 358 ITR 49 (Delhi)**

**Issue Involved:** Whether the expenditure incurred on glow-sign boards displayed at dealer outlets is capital or revenue in nature?

**Held:** The Delhi High Court held that such expenditure is revenue in nature since the glow sign boards do not bring into existence an asset of enduring benefit, require frequent replacement, and are meant to facilitate business operations rather than acquiring a capital asset.

#### 13. **CIT v. ITC Hotels Ltd. (2011) 334 ITR 109 (Karnataka)**

**Issue Involved:** Whether the expenditure incurred on the issue and collection of convertible debentures is a capital or revenue expenditure?

**Held:** The Karnataka High Court ruled that such expenditure is to be treated as revenue expenditure, even in the case of convertible debentures.

#### 14. **CIT v. Priya Village Roadshows Ltd. (2011) 332 ITR 594 (Delhi)**

**Issue Involved:** Whether expenditure incurred on a feasibility study for examining technological advancement proposals for an existing business is revenue expenditure if the project is abandoned?

**Held:** Since the feasibility study was conducted for an existing business and did not lead to the creation of a new asset, the expenditure was held to be of a revenue nature.

#### 15. **CIT v. Kap Scan and Diagnostic Centre P. Ltd. (2012) 344 ITR 476 (P&H)**

**Issue Involved:** Whether the commission paid to doctors by a diagnostic center for referring patients qualifies as a business expenditure under Section 37?

**Held:** The Punjab & Haryana High Court ruled that such payments are illegal under the Indian Medical Council (Professional Conduct, Etiquette, and Ethics) Regulations, 2002. Hence, they are against public policy and not allowable as business expenditure.

#### 16. **Shanti Bhushan v. CIT (2011) 336 ITR 26 (Delhi)**

**Issue Involved:** Whether the cost of heart surgery incurred by a lawyer can be claimed as business expenditure under Section 31 (as current repairs to a plant) or under Section 37?

**Held:** The Delhi High Court ruled that a human heart cannot be considered a business asset or a plant. Since there is no direct nexus between heart surgery expenses and professional efficiency, the expenditure is not allowable under Sections 31 or 37.

#### 17. **CIT v. Neelavathi & Others (2010) 322 ITR 643 (Karnataka)**

**Issue Involved:** Can payment to police personnel and "gundas" to prevent disturbances in a cinema theater be allowed as a deduction?

**Held:** The Karnataka High Court ruled that any payment made to police personnel as a bribe or to criminals for protection is an illegal expense. Since illegal expenses are not deductible under the Income-tax Act, the deduction was disallowed.

**18. Millennia Developers (P) Ltd. v. DCIT (2010) 322 ITR 401 (Karnataka)**

**Issue Involved:** Is the amount paid by a builder as a "regularization fee" for violating building bye-laws an allowable business deduction?

**Held:** The Karnataka High Court held that such payments were in the nature of penalties and not allowable as a business expenditure under Section 37. Merely calling it a "compounding fee" does not change its nature.

**19. CIT v. Maruti Suzuki India Limited (2018) 407 ITR 165 (Delhi)**

**Issue Involved:** Can payments made by an Indian company to a non-resident agent be disallowed under Section 40(a)(i) for non-deduction of TDS if the agent does not have taxable income in India?

**Held:** The Delhi High Court ruled that if a non-resident agent does not have any income accruing in India, then no TDS is required under Section 195. Accordingly, the payments made to such agents cannot be disallowed under Section 40(a)(i)

**20. CIT v. Great City Manufacturing Co. (2013) 351 ITR 156 (Allahabad)**

**Issue Involved:** Can remuneration paid to working partners, which is within the statutory limit under Section 40(b)(v), be disallowed under Section 40A(2)(a) for being excessive?

**Held:** The Allahabad High Court ruled that if the remuneration paid is within the prescribed limits of Section 40(b)(v), then Section 40A(2)(a) cannot be invoked to disallow any portion of it.

**21. CIT v. Yamaha Motor India Pvt. Ltd. (2010) 328 ITR 297 (Delhi)**

**Issue Involved:** Can depreciation be claimed on discarded machinery that is no longer in use during the relevant financial year?

**Held:** The Delhi High Court ruled that as long as the machinery was used for business purposes in earlier years and continues to exist in the block of assets, depreciation is allowable even if it is not used in the relevant financial year.

**22. Taparia Tools Ltd. v. JCIT (2015) 372 ITR 605 (SC)**

**Issue Involved:** Can upfront interest paid on debentures be claimed as a deduction in the first year, or must it be spread over multiple years?

**Held:** The Supreme Court ruled that since the liability to pay the interest arose in the first year and was actually discharged, the entire amount is deductible in that year, irrespective of its treatment in books of accounts.

**23. CIT v. McDowell & Co Ltd (2009) 314 ITR 167 (SC)**

**Issue Involved:** Can a bank guarantee be treated as an actual payment for claiming deduction under Section 43B?

**Held:** The Supreme Court ruled that furnishing a bank guarantee does not amount to actual payment. For deductions under Section 43B, the actual monetary outflow to the public exchequer is necessary.

**24. Mewar Motors v. CIT (2003) 260 ITR 218 (Raj)**

**Issue Involved:** Is interest payable to the GST department deductible under Section 43B if it is not paid before the due date of filing the return?

**Held:** The Rajasthan High Court held that interest payable to the GST department is part of GST liability and must be paid before the due date of filing the return to claim a deduction under Section 43B.

**25. CIT v. Gujarat Guardian Ltd (2009) 177 Taxman 434 (Delhi)**

**Issue Involved:** Whether pre-payment premium paid on a loan qualifies for deduction under Section 43B in the year of actual payment?

**Held:** The Delhi High Court ruled that pre-payment premium constitutes "interest" under Section 2(28A) and is deductible under Section 36(1)(iii). Since it was paid to a financial institution, the deduction must be allowed in the year of actual payment under Section 43B.

**26. CIT v. Insilco Ltd (2010) 320 ITR 322 (Delhi)**

**Issue Involved:** Can depreciation be claimed on emergency spare parts that are kept ready for use but not actually used?

**Held:** The Delhi High Court held that emergency spare parts, which are integral to a fixed asset and kept ready for use, qualify as "used for business" and are eligible for depreciation.

**27. CIT v. Darbhanga Sugar Co. Ltd. [1956] 29 ITR 21 (Patna)**

**Issue Involved:** Does replacement of worn-out machinery parts qualify as a capital expenditure or revenue expenditure?

**Held:** The Patna High Court ruled that such replacement does not create a new asset and is to be treated as current repairs, making it a revenue expenditure.

**28. Mysore Minerals Ltd v. CIT (1999) 239 ITR 775 (SC)**

**Issue Involved:** Can depreciation be claimed even if the asset is not legally registered in the assessee's name but is in its possession?

**Held:** The Supreme Court held that ownership for the purpose of claiming depreciation includes possession and dominion over the asset, not just legal title.

**29. CIT v. T. Veerabhadra Rao, K. Koteswara Rao and Co (1985) 155 ITR 152 (SC)**

**Issue Involved:** Can an assessee claim a bad debt deduction for amounts written off that were originally due to a predecessor in the business?

**Held:** The Supreme Court ruled that a successor in business is eligible for a bad debt deduction if the debt was taken into account in computing the income of the predecessor

**CHAPTER - 22****TDS TCS****1. UCO Bank in Writ Petition No. 3563 of 2012 and CM No. 7517/2012 (Delhi HC, 11/11/2014)**

**Issue Involved:** Is interest on fixed deposits made in the name of the Registrar General of the Court subject to TDS under Section 194A?

**Held:** The Delhi High Court held that Section 194A does not apply to fixed deposits made under the Court's directions as the final recipient is unknown until the Court decides ownership. Tax is to be deducted only when ownership is determined.

**2. CIT v. Hindustan Lever Ltd. (2014) 361 ITR 1 (Karnataka HC)**

**Issue Involved:** Does the income from voluntary retirement compensation qualify for tax exemption under Section 10(10C)?

**Held:** The Karnataka High Court ruled that compensation received under a voluntary retirement scheme is eligible for exemption under Section 10(10C), provided the scheme complies with Rule 2BA.

**3. Shree Choudhary Transport Co. v. ITO [2020] 426 ITR 0289 (SC)**

**Issue Involved:** Should tax be deducted at source when transporters hire trucks from others for executing a transport contract?

**Held:** The Supreme Court ruled that since the transporters act as sub-contractors, tax must be deducted under Section 194C. The contract between the assessee and the truck owners amounts to a subcontract.

**4. Ramesh Babulal Shah v. CIT (2015) 53 taxmann.com 277 (Bom)**

**Issue Involved:** Is compensation received under a consent decree taxable as business income?

**Held:** The Bombay High Court held that compensation received under a consent decree for relinquishment of rights in a property is taxable as business income under Section 28(iv).

**5. CIT v. Ramaniyam Homes (P) Ltd (2016) 68 taxmann.com 289 (Mad)**

**Issue Involved:** Is a loan waiver by a bank taxable as income?

**Held:** The Madras High Court held that the principal amount waived under a one-time settlement is taxable as a benefit arising from business under Section 28(iv).

**6. CIT v. Subrata Roy (2016) 385 ITR 547 (All)**

**Issue Involved:** Is the value of rent-free accommodation, furniture, and fixtures provided to a director taxable under Section 28(iv)?

**Held:** The Allahabad High Court ruled that such benefits provided to a director are taxable under Section 28(iv) as they constitute perquisites arising from business or profession.

**7. D. M. Neterwala v. CIT (1986) 122 ITR 880 (Bom)**

**Issue Involved:** Can shares allotted to a director in terms of an agreement with promoters be considered a taxable benefit or perquisite?

**Held:** The Bombay High Court held that shares received by a director constitute a benefit received from the company and are taxable as a perquisite under Section 28(iv).

**8. Amarendra Nath Chakraborty v. CIT (1971) 79 ITR 342 (Cal)**

**Issue Involved:** Is the value of land gifted to an individual taxable in the recipient's hands?

**Held:** The Calcutta High Court held that the value of the land received as a gift is a taxable benefit arising from the recipient's vocation and is subject to tax.

**9. CIT vs. Prannoy Roy (2009) 309 ITR 231 (SC)**

**Issue Involved:** Can interest paid on excess tax refund be subject to tax under the Income Tax Act?

**Held:** The Supreme Court held that interest on excess tax refund is taxable as income under Section 56 of the Act.

**10. Tata Chemical Limited, Civil Appeal No. 6301 of 2011, Order dated 26.02.2014**

**Issue Involved:** Is interest on income tax refund taxable in the hands of the recipient?

**Held:** The Supreme Court held that interest on income tax refunds is taxable as income from other sources under Section 56.

**11. ITC Ltd v. CIT (2016) 384 ITR 14 (SC)**

**Issue Involved:** Are tips received by hotel employees through credit card payments and distributed by the employer subject to TDS under Section 192?

**Held:** The Supreme Court held that tips are not salary under Section 192 since they are voluntary payments made by customers, and the employer only acts as a trustee for distribution.

**12. Japan Airlines Co. Ltd. v. CIT / CIT v. Singapore Airlines Ltd. (2015) 377 ITR 372 (SC)**

**Issue Involved:** Are landing and parking charges paid to the Airports Authority of India (AAI) considered rent under Section 194-I?

**Held:** The Supreme Court ruled that these charges are for services and not for the use of land, and therefore, they do not attract TDS under Section 194-I.

**13. CIT v. Ahmedabad Stamp Vendors Association (2012) 348 ITR 378 (SC)**

**Issue Involved:** Can discounts given to stamp vendors on stamp paper purchases be treated as commission or brokerage under Section 194H?

**Held:** The Supreme Court ruled that such discounts are not commission or brokerage since there is no principal-agent relationship. The sale is on a principal-to-principal basis, and hence, TDS under Section 194H is not applicable.

**14. CIT v. Kotak Securities Ltd (2016) 383 ITR 1 (SC)**

**Issue Involved:** Are transaction charges paid by stock exchange members considered fees for technical services, requiring TDS under Section 194J?

**Held:** The Supreme Court held that stock exchange services are standard and not customized for individual members, so the charges are not fees for technical services and do not attract TDS under Section 194J.

**15. UCO Bank v. Dy. CIT (2014) 369 ITR 335 (Del)**

**Issue Involved:** Is interest on fixed deposits in the name of the Registrar General of the High Court subject to TDS under Section 194A?

**Held:** The Delhi High Court ruled that since the Registrar General is not the beneficial owner of the income, he is not a payee under Section 194A. Hence, TDS is not required until ownership is determined.

**16. Indus Towers Ltd v. CIT (2014) 364 ITR 114 (Del)**

**Issue Involved:** Should payment for using telecom tower infrastructure be subject to TDS under Section 194C or 194-I?

**Held:** The Delhi High Court held that since the dominant intention of the contract was to allow the use of telecom equipment and passive infrastructure, the payment was for the use of plant and machinery, attracting TDS at 2% under Section 194-I(a).

**17. CIT v. Senior Manager, SBI (2012) 206 Taxman 607 (All.)**

**Issue Involved:** In a co-owned property, should the threshold limit for TDS under Section 194-I be applied separately for each co-owner?

**Held:** The Allahabad High Court ruled that since each co-owner's share is definite and ascertainable, the threshold limit must be considered separately for each co-owner. Rent payments to individual co-owners do not trigger TDS if they fall below the threshold.

**18. CIT (TDS) v. Shree Mahalaxmi Transport Co. (2011) 339 ITR 484 (Guj.)**

**Issue Involved:** Should payments made for hiring dumpers in a transportation contract be considered rent under Section 194-I?

**Held:** The Gujarat High Court ruled that since the payments were for transportation services and not for renting machinery, Section 194C applied instead of Section 194-I.

**19. CIT v. V.S. Dempo & Co P Ltd (2016) 381 ITR 303 (Bom) (FB)**

**Issue Involved:** Is TDS required under Section 195 on demurrage charges paid to a foreign shipping company?

**Held:** The Bombay High Court ruled that Section 172, which deals with shipping business of non-residents, overrides Section 195. Hence, no TDS is required on demurrage payments to non-resident shipping companies.

**20. Sun Outsourcing Solutions Private Limited v. CIT (Appeals) (2018) 407 ITR 480 (T&AP)**

**Issue Involved:** Is interest under Section 201(1A) applicable if non-deduction of TDS was due to a bona fide belief?

**Held:** The Andhra Pradesh & Telangana High Court ruled that Section 201(1A) applies automatically in case of TDS default, even if the non-deduction was based on a bona fide belief.

**21. Director, Prasar Bharati v. CIT [2018] 403 ITR 161 (SC)**

**Issue Involved:** Is TDS under Section 194H applicable to the amount retained by accredited advertising agencies from the sale proceeds of airtime?

**Held:** The Supreme Court held that since the agreement clearly indicated that the advertising agencies acted as agents and retained a commission, TDS under Section 194H was applicable. The relationship between Doordarshan and the agencies was that of principal and agent.

**22. Bharti Cellular Ltd. vs. ACIT [2024] 462 ITR 247 (SC)**

**Issue Involved:** Are telecom operators required to deduct TDS under Section 194H on the difference between the discounted price of recharge vouchers and the final sale price?

**Held:** The Supreme Court ruled that since telecom distributors were not acting as agents but as independent businesses purchasing vouchers on their own, the discount was not a commission, and Section 194H did not apply.

**23. DIT (International Taxation) v. Wizcraft International Entertainment (P) Ltd (2014) 364 ITR 227 (Bom)**

**Issue Involved:** Is TDS applicable on commission payments to foreign agents who did not render services in India?

**Held:** The Bombay High Court ruled that since the foreign agents did not perform any service in India, their income was not taxable in India, and hence, no TDS was required under Section 195.

**24. BDR Finvest Pvt. Ltd. v. DCIT [2024] 462 ITR 141 (Delhi)**

**Issue Involved:** Can a taxpayer claim TDS credit if the deductor has failed to deposit the tax with the government?

**Held:** The Delhi High Court held that Section 205 prevents the tax authorities from recovering TDS from the deductee if tax has already been deducted, even if the deductor fails to deposit it. The credit for TDS should be given to the deductee.

**25. CIT (International Taxation) v. Air India Ltd. [2023] 456 ITR 139 (SC)**

**Issue Involved:** Can Section 206AA, which prescribes a higher TDS rate for non-furnishing of PAN, override the DTAA?

**Held:** The Supreme Court ruled that provisions of the DTAA override domestic tax laws where they are more beneficial. Therefore, Section 206AA cannot impose a higher TDS rate when the DTAA specifies a lower rate.

**26. CIT v. Priya Blue Industries (P) Ltd (2016) 381 ITR 210 (Guj)**

**Issue Involved:** Can finished products obtained from ship-breaking activities, which are usable as such, be considered scrap under Section 206C?

**Held:** The Gujarat High Court ruled that the items from ship-breaking that are usable as such do not qualify as "scrap" under Section 206C, which requires waste or scrap to be unusable due to breakage, cutting, or wear.

**27. Pioneer Overseas Corporation USA (India Branch) v. CIT (International Taxation) (2022) 449 ITR 186 (SC)**

**Issue Involved:** Can the pendency of a dispute resolution under the Mutual Agreement Procedure (MAP) be a valid reason for waiving interest under Section 220(2A)?

**Held:** The Supreme Court held that merely raising a dispute before any authority does not justify the waiver of interest under Section 220(2A). Interest under Section 220(2) is mandatory unless genuine hardship is proven.

**28. Singapore Airlines Ltd/ KLM Royal Dutch Airlines v. CIT/ British Airways Plc v. CIT(TDS) [2022] 49 ITR 203 (SC)**

**Issue Involved:** Should supplementary commission earned by travel agents on top of the base fare be subject to TDS under Section 194H?

**Held:** The Supreme Court ruled that since travel agents act as agents of the airlines and the additional income (supplementary commission) is derived from selling tickets, it falls within the definition of commission under Section 194H, and TDS should be deducted.