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Sr no	CASE NAME	ISSUE	HELD	References
1.	**CIT v. Ashok Kumar Rathi. (2018) 404 ITR 173 (Mad) (HC)** **A.Y. 2010-11**	S. 2(14)(iii) : Capital asset - Agricultural land – Land entered in revenue records as agricultural - Onus is on department to prove contrary — Profits on sale of land is not assessable to capital gains tax. [S.45]	The land was recorded as agricultural land in the revenue records, the presumption that it was agricultural land and also when the agricultural income shown by the assessee was accepted by the revenue in earlier years. Merely income generated is meagre not a ground to discredit the assessment and determine the character of land. Referred Sarifabibi Mohamed Ibrahim v. CIT (1993) 204 ITR 631 (SC).	**1. Shankar Dalal & Ors v. CIT (2017) 294 CTR 107 (Bom.) (HC)** S. 2 (14) (iii) : Capital asset-Agricultural land-Sale of agricultural land to non – agriculturist cannot be the ground to deny the exemption - Capital gains cannot be chargeable to tax.[In favour of assessee] **2. Mohit Suresh Harchandrai v. ACIT (2017) 164 ITD 1 (Mum) (Trib.)** S.2 (14) (iii) : Capital asset - Agricultural land – Mere conversion of land by the purchasers into non-agricultural would not make, land considered as non-agricultural not liable to be assessed as capital gains. [In favour of assessee **3. Indian Bank v. K. Pappireddiyar, Civil Appeal 6641/2018 dt 20/07/2018** The question as to whether the land is agricultural has to be determined on the basis of the totality of facts and circumstances including the nature and character of the land, the use to which it was put and the purpose and intent of the parties on the date on which the security interest was created.

				4. Synthite Industrial Ltd. *v.* CIT (2018) 404 ITR 605 (Ker)(HC), Where assessee purchased a rubber estate and converted said land by cutting trees into housing plots, and sold same to several people for construction of villas, said land had ceased to be an agricultural land, and, consequently, assessee could not claim exemption from levy of capital gains.
2.	**Pr. CIT v M/s. Quest Investment Advisors Pvt. Ltd. ITA No. 280 OF 2016, dtd:28/06/2018 (Bom) (HC)** **A.Y. 2008-09**	S. 37 (1) : Business expenditure – Prorata allocation between earning of capital gains and professional income– Allowable on the principle of consistency . In taxation matters, the strict rule of res judicata as envisaged by section 11, CPC 1908 has no application. However principle of consistency will be applicable	The principle accepted by the Revenue for 10 earlier years and 4 subsequent years to the AYs. 2007-08 and 2008-09 was that the entire expenditure is to be allowed against business income and no expenditure is to be allocated to capital gains. Once this principle was accepted and consistently applied and followed, the Revenue was bound by it. Unless of course it wanted to change the practice without any change in law or change in facts therein.	**1. Radhasoami Satsang Vs. Commissioner of Income Tax, 193 ITR 321(SC)** on application of the principles of consistency[In favour of assessee] **Followed in :** **Municipal Corporation of City of Thane vs. Vidyut Metallics Ltd & Anr. (2007) 8 SCC 688** **2. Bharat Sanchar Nigam Ltd. Vs. Union of India 282 ITR 273(SC)** on application of the principles of consistency[In favour of assessee] **3. Kindly refer my Article on www.itatonline.com.**
3.	**Jaya Aggarwal v. ITO (2018) 165 DTR 97 (Delhi)(HC)** **A.Y. 1998-99**	S. 68 : Cash credits – Cash withdrawn from Bank was redeposited after seven months, addition cannot be made as cash credits.	Cash withdrawn from Bank was redeposited after seven months, addition cannot be made as cash credits. Explanation given by assessee that deposit was made out of sum	**1. Jaspal Singh Sehgal v. ITO (2016) 47 ITR 193 (Mum)(Trib)** S. 68 : Cash credits -Onus is on AO to establish that cash withdrawn from bank is utilized

		Explanation of Assessee should be accepted.	withdrawn earlier was not fanciful and sham story and it was perfectly plausible. One should not consider and reject an explanation as concocted and contrived by applying prudent Man's behaviours test . Principle of preponderance of probability as a test is to be applied and is sufficient to discharge onus.	elsewhere – No unexplained cash credits in hands of assessee[In favour of assessee] **2. CIT v. Manoj Indravadan Chokshi (2015) 229 Taxman 56 (Guj.)(HC)** S. 68 : Cash credits –Once source of cash deposit in bank account is explained, subsequent withdrawal is not required to be explained-Addition cannot be made as cash credits. [In favour of assessee] **3. Sumati Dayal Vs.CIT (1995) 214 ITR 801 (SC)**
4.	**CIT v. Lalitkumar Bardia (2018) 404 ITR 63 (Bom.) (HC)** **SLP dismissed(2018) 401 ITR (st) 172** **A.Y. 1989-90, 1999-2000**	S. 127 : Power to transfer cases – Assessment - Jurisdiction - Though the assessee has taken part in the assessment proceedings, waiver will not confer jurisdiction on Assessing Officer. Irregular exercise of jurisdiction and absence of jurisdiction.	The notice dated 22.9.1999 issued u/s.158BC of the Act was issued by the DCIT, who was not the Assessing Officer of the assessee. Consequently, the notice being without jurisdiction, all the proceedings subsequent thereto were without authority of law. High Court further held that transfer of proceedings u/s.127 cannot be retrospective so as to confer jurisdiction on a person who does not have it. Though the assessee has taken part in the assessment proceedings, waiver will not confer jurisdiction on Assessing Officer hence the order passed was held to be not valid **.**	**1. Tata Sons Ltd. v. ACIT (2017) 162 ITD 450 (Mum.) (Trib.)** S. 127 : Income tax authorities – Additional ground on jurisdiction was admitted-Power to transfer cases – Assessment order passed without authority of law was held to be bad in law. [In favour of assessee]

5.	**PCIT v. Sesa Resources Ltd. (2017) 404 ITR 707 (Bom.) (HC)**	S. 31 : Repairs - Expenditure incurred on repair of vessels was to be allowable S. 36 (1) (iii) : Interest on borrowed capital – Advance of loan to sister concern the purpose of business hence interest was held to be allowable .	The expenditure incurred by assessee were 'current repairs' which was necessary to keep vessel in good working condition and to keep them seaworthy. Increased expenditure did not result in an increase of capacity of vessels or any new advantage or capital asset coming into existence. The expression "**commercial expediency"** is an expression of wide import and includes such expenditure as a prudent businessman incurs for the purposes of business. The expenditure may not have been incurred under any legal obligation, but yet it is allowable as a business expenditure if it was incurred on grounds of commercial expediency .	**1. ABC Bearings Ltd v. ACIT (2017) 157 DTR 242 (Mum) (Trib)** S. 31 : Repairs - Expenditure on repairs and maintenance of existing assets without creating any new assets was held to be revenue and not capital in nature . [S. 37 (1)] **CIT v. Mira Exim Ltd. (2018) 400 ITR 28 (Delhi) (HC)** Interest on borrowed capital – Advance to director for the purpose of business - Disallowance of interest cannot be made. **CIT v/s. Gujarat Reclaim & Rubber Prod. 383 ITR 236 (Bom)**
6.	**CIT v. Mahindra and Mahindra Ltd (2018) 404 ITR 1 (SC)** **A.Y: 1976-77**	S. 28(iv) : Business income - Waiver of loan - Remission or cessation of trading liability–Loan waiver cannot be assessed as cessation of liability, if the assessee has not claimed any deduction u/s 36(1)(iii) of the Act qua	S. 28(iv) of the IT Act does not apply on the present case since the receipts are in the nature of cash or money and S. 41(1) of the IT Act does not apply since waiver of loan does not amount to cessation of trading liability. It is a matter of record that the assessee has not claimed any deduction under S. 36	**1. CIT .v. Santogen Silk Mills Ltd. (2015) 231 Taxman 525 (Bom.)(HC)** S. 28(iv) : Business income-Value of any benefit or perquisites- Converted in to money or not – Loan for capital asset-One time settlement–Waiver of loan was held to be not assessable as business income.

		the payment of interests in any previous year and S. 28(iv) does not apply if the receipts are in the nature of cash or money	(1) (iii) of the Act *qua* the payment of interest in any previous year	**2. CIT v. Xylon Holdings (P.) Ltd. (2012) 90 DTR 205(Bom.)(HC)** S. 28(iv) : Business income –Waiver of loan-Value of benefit arising from exercise of business or profession –Cessation of liability being in respect of loan taken for purchase of a capital asset nether section 41(1) did not apply nor section 28(iv) did not apply where assessee's liability to pay loan towards purchase of a car taken over by holding company.[S. 41(1)]
7.	**Pr.CIT-5 *v.* Shodiman Investments (P.) Ltd (2018) 167 DTR 290 (Bom)(HC),** **A.Y: 2003-04**	Section 147– Non furnishing of reasons would make an assessment order bad – Partial furnishing of reasons will also necessarily meet the same fate.	The A.O has merely issued a reassessment notice on basis of notice from DDIT (Inv.), this is clearly in breach of settled position in law that re-opening notice has to be issued by A.O on his own satisfaction and not on borrowed satisfaction. The reasons as made available to assessee for reopening assessment merely indicated information received from Director (Investigation) about a particular entity, entering into suspicious transactions and, that material was not further linked by any reason to come to conclusion that assessee had indulged in any activity	**1. PCIT v. Manzil Dineshkumar Shah[2018] (Guj) HC)** Reassessment - Bogus purchases – Even the assessment which is completed u/s 143(1) cannot be reopened without proper 'reason to believe'. If the reasons state that the information received from the VAT Dept that the assessee entered into bogus purchases "needed deep verification", it means the AO is reopening for doing a 'fishing or roving inquiry' without proper reason to believe, which is not permissible. **2. Amar Jewellers Ltd. v. Dy. CIT (2018) 254 Taxman 384 (Guj.)(HC)** Reassessment – Cash credits - Accommodation entries - information from

			which could give rise to reason to believe on part of Assessing Officer that income chargeable to tax had escaped assessment, reassessment was an evidence of a fishing enquiry and not a reasonable belief that income chargeable to tax had escaped assessment	investigation wing - No nexus with reasons recorded for initiating reassessment proceedings – Reassessment was held to be bad in law. 3. ***Muller & Philipps India (Mum) ITAT .*** ***4. CIT v/s. Videsh Sanchar Nigam Ltd .*** ***(2012) 340 ITR 66 (BOM)*** **5. Harikishan Sunderlal Virmani v. DCIT (2017) 394 ITR 146 (Guj.) (HC)** Reassessment-After the expiry of four years - Information from investigation wing—No allegation of failure to disclose material facts necessary for assessment, notice was held to be not valid .
8.	**Venkatesan Raghuram Prasad v ITO (2018) 94 taxmann.com 249(Madras),**	S. 148 : Income escaping Assessment – Issue of service of Notice – **Not raised any objection before A.O – could not raised before FAA.**	Where A.O reopened assessment of assessee and assessee participated in assessment proceeding **without raising any objection** before A.O to effect that there was no valid issuance or service of reassessment notice upon assessee, such an objection could not be raised before first Appellant Authority.	

9.	**PCIT v. Shree Gopal Housing & Plantation Corporation(2018) 167 DTR 236 (Bom)(HC) A.Y: 2006-07**	S. 271(1)(c) : Penalty – Concealment - Admission of appeal by High Court - There can be no universal rule to the effect that no penalty can be levied if quantum appeal is admitted on a substantial question of law	It cannot be a universal rule that once an appeal from the order of the Tribunal has been admitted in the quantum proceedings, then, ipso facto the issue is a debatable issue warranting deletion of penalty by the Tribunal. There could be cases where the finding of the Tribunal in quantum proceedings deleting addition could be perverse, then, in such cases, the admission of appeal in quantum proceedings would indicate that an appeal against deletion of penalty on the above account will also warrant admission	1. **ACIT v. G. M. Finance & Trading Co., (2016) 135 DTR 57 (Mum.)(Trib.)** S.271(1)(c):Penalty–Concealment–Capital gains- Confirmation in quantum proceedings- Levy of penalty was held to be not justified. 2. **CIT v. Harsha N. Biliangady (Dr.)(2015) 379 ITR 529 (Karn.)(HC)** S. 271(1)(c) : Penalty-Concealment– Quantum appeal is admitted by High Court on substantial question of law hence addition itself becomes debatable, hence the levy of penalty was held to be not justified. 3. **CIT v Nayan Builder & Developers(2014) 368 ITR 722 (Bom.)(HC).**

10.	**HUMBOLDT WEDAG INDIA PRIVATE LIMITED vs. COMMISSIONER OF INCOME TAX – (2018) 167 DTR 241 (Del)(HC),** **A.Y: 2007- 08**	Revision – Validity – Opportunity of being heard – Third party statement not provided to the assessee. CIT was under an obligation to provide that statement.	The Tribunal held that while the CIT was free to exercise his jurisdiction on consideration of all relevant facts, full opportunity to controvert same and to explain circumstances surrounding such facts as might be considered relevant by assessee must be afforded to him by CIT prior to finalization of decision. It noted that the addition was based on a certain X's statement which was not provided to assessee. Accordingly, it directed the CIT to provide a copy of the statement and any other material that he chooses to rely upon to the assessee and after hearing the objections of the assessee, proceed to make the final order.	
11.	**PCIT v. Yes Power and Infrastructure Pvt Ltd(2018) ITA.NO. 813 OF 2015 (Bom) (HC)** **A.Y: 2005-06**	S. 145 : Method of accounting.	The Court held that, Rejection of accounts was held to be not justified on the basis that the goods are sold at the price lower than the market price or purchase price – ***Law cannot oblige or compel a trader to make or maximise its profits*** .	**1. CIT v/s. A Raman & Co . (1968) 67 ITR 11** **2. S A Builders v/s. CIT 288 ITR 1**

12.	**PCIT vs. Bhanuprasad D. Trivedi HUF [2018] 256 Taxman 66 (SC)** **Arising out of Pr. CIT vs Bhanuprasad D. Trivedi (HUF) [2017] 87 Taxmann.com 137 (Guj)(HC).** **A.Y. 2005-06**	S : 45 r.w.s 28(i) : sale of shares - Capital gains. Sec 68 – Cash credit dept. SLP dismissed.	Assessee had purchased shares with clear intention of being an investor and held shares by way of investment, gain arising out of transfer of shares should be treated as capital gains and not business income. Cash credit – Assessee demonstrated, Genuineness of transaction & creditworthiness of donor. Shares purchased from one RP who was found indulging in fictitious application in IPO's – source of shares wouldn't change nature of income from sale of shares.	**1. Pr CIT v M/s. Ketan S. Shah, HUF ITA NO. 155 OF 2015, dtd: 07/07/2017(Bom) (HC)** **2. CIT v. Tejas J. Amin (2018) 402 ITR 431 (Guj) (HC)** S. 45 : Capital gains — Business income – Profit on sale of shares was held to be assessable as capital gains and not as business income [S. 28(i)] **3. CIT v. Pavitra Commercial Ltd. (2018) 402 ITR 66 (Delhi) (HC)** S. 45 : Capital gains - Business income – Profit earned on sale of Shares or Units of Mutual Funds was held to be assessable as capital gains. [S. 28(i)] **4. Gopal Purohit (2010) 188 Taxman 140 (Bom)(HC)** **Dismissed the Department's Special Leave PetitionCIT v. Gopal Purohit (2011) 334 ITR 308 (St.)(SC) .**
13.	**CIT v Gayatri Chakraborty (2018) 94 taxmann.com 244 (Ker)(HC),** **A.Y. 2009-10**	S. 2(22)(e) – Deemed Dividend – LOAN AND Advance to shareholder.	Where transaction between shareholder and company were in nature of current account, provision of section 2(22)(e) would not be applicable.	**1. ITO v. Gayatri Chakraborty (Smt.) (2016) 45 ITR 197 (Kol.)(Trib.)** S. 2(22)(e):Deemed dividend- Loan account is different from a current account on which provisions of s. 2(22)(e) are not applicable.

				2. CIT v. India Fruits Ltd. (2015) 274 CTR 67(AP) (HC) S. 2(22)(e) : Deemed dividend – Current account –Subsidiary company- In the course of business- Deeming provision is not attracted. **3.** CBDT Circular: 19/2017 dt 12/6/2017
14.	**CIT v Jamnagar District Co-operative bank Ltd (2018) 94 taxmann.com 300(SC),**	S. 5 – Income – Accrual – Bank interest on NPA - RBI Guidelines Under section 45Q of the RBI Act read with the NBFCs Prudential Norms (Reserve Bank) Directions 1998, it was mandatory on the part of the assessee not to recognize the interest on the ICD as it had become a NPA. The assessee was bound to compute income having regard to the recognized accounting principles set out in Accounting Standard AS-9.	Interest on non-performing assets is not taxable on accrual basis looking to guidelines of Reserve Bank of India Considered Amendment to section 43D of the Act wherein co-op bank were also brought at par with schedule banks.	**1. CIT v. Vasisth Chay Vyapar (2018) 253 Taxman 401 (SC)** **Editorial :** Order in CIT v. Vasisth Chay Vyapar (2011) 330 ITR 440 (Delhi)(HC) Interest on Inter – Corporate Deposits (ICDs) which had become non performing asset (NPA) in terms of prudential norms by RBI, having not accrued not assessable on "accrual" basis, in the hands of non – banking financial company **2. CIT (A) *v.* Bijapur District Central [2018] 93 taxmann.com 211 (Kar)(HC)** Income - Accrual of (Interest) - Whether assessee, a co-operative society, carrying on banking business, was not required to pay tax on interest income on bad debts/doubtful debts or Non-Performing Assets (NPAs) without such interest being actually received

				or credited in profit & loss account of assessee - Held, yes [Paras 11 and 14] [In favour of assessee]
15.	**Dulraj U. Jain vs. ACIT W.P NO. 1641 OF 2018, dtd: 06/07/2018 (Bom) (HC)** **Interim order passed**	S. 147/148: If the recorded reasons do not specify, prima-facie reason to belief	Further, the reasons also do not specify, prima-facie, the quantum of tax which has escaped assessment but merely states that it would be atleast be Rs.1,00,000/-. Prima-facie, court was of the view that the reasons recorded do not indicate reasonable belief of the Assessing Officer himself to issue the impugned notice	
16.	**Jaison S. Panakkal vs. Pr.CIT.[W.P no 1122 of 2018 dt : 26/04/2018 (Bom) (HC)]**	S.179(1) : Liability of director.	Show cause notice issued u/s 179(1) did not indicate or give any particulars in respect of steps taken by department to recover tax dues from defaulting private company - order was to be set aside	
17.	**CIT Vs. Shankardas B. Pahajani..[Income tax Appeal no 1432 of 2007 dt : 24/04/2018 (Bombay High Court)]** **A.Y. 1994-95**	S.147 : Reassessment – Audit objection - change of opinion	Reopening on basis of same set of facts available at time of original assessment - change of opinion – reassessment was held to be invalid.	

18.	**CIT(E) V Indian Institute of Banking and Finance.[ITA.No 1368 of 2015 dt : 28/03/2018 (Bom) (HC)].** **A.Y. 2008-09**	S. 11 : Education Institution [S. 2(15)]	The Education Institution purpose of development of banking personnel for/in the banking industry. By holding courses and also disbursing knowledge by lectures, discussions, books, correspondence with public bodies and individuals or otherwise etc - Trust entitle to exemption.	
19.	**D. K. Garg v.CIT (2018) 404 ITR 757.** **SLP granted to assessee 402 ITR(st) 29** **A.Y. 1995-96**	S. 68 : Cash credits-Peak credits – Accommodation entries— the theory of peak credits. Assessee to explain the sources of deposits and corresponding payments.	Cash credits (Bank deposit) - Assessment year 1995-96 - High Court by impugned order held that premise underlying concept of peak credit is squaring up of deposits in account with corresponding payments out of account to same person and, hence, where assessee an accommodation entry provider was unable to explain all sources of deposits and corresponding payments, he would not be entitled to benefit of peak credit - SLP against impugned order was granted.	1. **Piyush Poddar v. CIT (2017) 393 ITR 381 (Cal.) (HC)** S.68 : Cash credits-Peak credit-Unexplained entry in bank statement-Claim for benefit of peak credit-Implication after application of section 68 to opening balance of assessee vis-avis further transactions-Matter remanded. 2. **M. Saravana Kumar v. ITO (2017) 58 ITR 54 (Chennai) (Trib.)** S. 69 : Unexplained investments – Cash deposits in the bank accounts – the AO was directed to consider only peak credit in the bank account and the matter was remanded back to the AO for the same [S. 144] 3. **ITO v. Pawan Kumar (2015) 153 ITD 448 (Delhi)(Trib.)** S. 68 : Cash credits-Peak credit-Unexplained cash deposits- Addition was held to be justified.

20.	**Meena V. Pamnani (Smt.) v. CIT (2017) 404 ITR 548 (Bom) (HC)** **A.Y. 1992-93**	S : 50 : Capital gains - Depreciable assets - Block of assets - Once depreciation is allowed on an asset it would remain a business asset and any profit earned on sale of such asset would be taxed	Computation in case of depreciable assets (Application of provision) - Assessee an individual carried on weaving work on job basis in all her concerns being operated from gala No.210 and gala No.211 purchased in 1977 - Assessee sold gala No.210 in 1990 for profit and treated this gain as long-term capital gain and claimed deduction under section 48(2) - Assessing Officer concluded that gain arising on sale of industrial gala No.210 was not long-term capital gain, as claimed by assessee, but short-term capital gain under section 50 - CIT(A) as well as Tribunal concurred with view of Assessing officer - It was noted that initially depreciation was claimed and allowed on both galas and it was only during last four years that no depreciation was claimed or allowed, as assets were not used for purpose of business - Whether, once depreciation had been granted on gala No.210, even if business operations were not carried out therefrom, it continued to be part of block of assets on which depreciation was allowed and merely at convenience of assessee, it did not	1. **Sidamshetty Ramesh (HUF) v. ITO (2017) 154 DTR 82 (Hyd.) (Trib.)** S. 50 : Capital gains - Depreciable assets - Block of assets – Where an asset is demolished, and the block of asset ceases to exit, the difference between the written down value and the salvage received shall be treated as short term capital gain or short term capital loss . [S. 2 (11), 43 (6), 45, 148] 2. **G. Shoes Exports v.ACIT (2017) 162 ITD 619 (Mum.) (Trib.)** S. 50 : Capital gains - Depreciable assets - Block of assets - Asset on which depreciation is not allowable on account of its non-user for business purpose during relevant year, would not form part of said block for calculation purpose. [S. 2 (11), 32]

			cease to be a business asset - Held, yes - Whether thus, profit earned on sale of said asset would be taxed under section 50 - Held, yes	
21.	**PCIT v Milroc Good Earth Property & Developers LLP (2018) 93 taxmann.com 484(Bom)(HC),**	S. 36 (1) (iii) : Interest on borrowed capital.	Where assessee had taken bank overdraft for working capital requirement and it was not case of revenue that inventories were acquirement out of borrowings, disallowance of interest on such borrowing on ground that such interest was included in closing work-in-progress, was not justified.	
22.	**DCIT v Finproject India p. Ltd (2018) 171 ITD 82 (Mum)(Trib),** **A.Y. 2012-13**	S.56(2)(viib) r.w.s 2(24)(xvi): Income from other sources-Share premium- Addition cannot be made in respect of share premium received by assessee from non-residents.	Addition cannot be made in respect of share premium received by assessee from its holding companies as said share premium was on account of capital transaction and was not an income within charging sections of Act . S 56(2)(viib) read with section 2(24)(xvi) are not made applicable to shares issued to non-residents mainly to encourage foreign investments.	
23.	**ACG Arts & Properties P Ltd v DCIT (2018) 93 taxmann.com 486 (Mum)(Trib),**	S. 69: Bogus Purchases	Where addition u/s 69C was made on account of bogus purchase in respect of paintings, since existence of transaction between assessee and	

	A.Y. 2006-07 & 2007-08		suppliers could not be doubted and all payments are made by account payee cheques. Paintings were in possession of assessee and were duly reflected as a part of closing stock, impugned addition was unjustified.	
24.	**ACIT vs. M/s. Protego India Pvt. Ltd., ITA No.1268/Mum/2016, AY 2012-13 dated 23-5-2018 (Mum.)(Trib.)** **A.Y. 2012-13**	S. 28(i): Business loss - The claim of loss arises out of write-off of obsolete stock as a business loss - was incidental to its regular business – Allowable	The actual stock write-off was because of the redundancy of the stock of castings due to change in the engineering design of the devices and rusting of the materials therefore, there was no justifiable for disallowing the claim of the assessee. It also observed that the ground raised regarding overlooking of closing stock for theyear and opening stock of next year does not arises from the order of the CIT(A).	1. **ACIT v/s. Aishwarya Rai (2018) 127 ITD 204 (Mum).** 2. **ITO v/s. Anant Y Chavan (2009) 126 TTJ 984 (Pune)**
25.	**DCIT vs. Umesh H. Gandhi, ITA No. 2745/Mum/2016 & CO.No289/Mum/2017, AY 2007-08,dated28-2-2018,(Mum)(Trib)** **A.Y. 2007-08**	S. 153C : Assessment – Search – No incriminating material or evidence was found in the course of search / survey - Addition merely based on the disclosure made by Co-owner – And statement of third person – Held no	There is no evidence to indicate that the assessee has received any cash over and above what has been declared by him, even the addition made of Rs.25 lakh purely on estimate basis cannot be sustained. Therefore, the entire addition made by the Assessing Officer in the instant case was deleted.	1. **CIT vs. S. Khader Khan Son (2013) 352 ITR 480,** S. 133A does not empower any ITO to examine any person on oath 2. **CIT v. IBC Knowledge Park P. Ltd. (2016) 385 ITR 346 (Karn)(HC)** S. 153C : Assessment - Income of any other person - Search and seizure-Satisfaction- No incriminating materials found - Assessment was held to be not valid.

		addition can be made [S. 132]		**3. Mohan Meakin Ltd. v. ACIT (2018) 168 ITD 99 (Delhi) (Trib.)** S. 153C : Assessment -Addition made on the basis of third party statement who have retracted and without giving an opportunity of cross examination initiation of proceedings was held to be not valid **CIT v. M.P. Scrap Traders (2015) 372 ITR 507 (Guj.) (HC) -** Retraction of statement - No other evidence of suppression of income - Addition of income not justified
26.	**ACT vs. Zaireen Travel Services,ITA Nos. 1145 & 1146/Mum/2015, (Mum.)(Trib.)**	S.153A : Assessment – Search – Noting on loose papers – Additions cannot be made as undisclosed income	The assessee has offered more income compared to the rough noting mentioned in the seized profit & loss account. The assessee is merely entitled to commission in the business of travelling. The assessee justifiably explained the factual matrix. The figures explained by the assessee are matching with the audited books of accounts. In view of this factual matrix, Tribunal upheld the CIT (A) order, thus, the appeal of the Revenue was dismissed.	**1. Common Cause (A Registered Society) v. UOI (2017) 394 ITR 220 (SC)** S. 2 (12A) : Books of accounts - Entries in loose papers/sheets are irrelevant and inadmissible as evidence - Offences and prosecution - Settlement commission. [S. 132, 143 (3), 245D, Evidence Act, S.34]
27.	**Mavani & Sons v. ITO,ITA Nos. 1374 &**	**S**. 80IB(10) : Housing projects - Completion	Tribunal held that, Time limit prescribed for completion of project	**1. CIT v. Aakash Nidhi Builders & Developers (2016) 243 Taxman 517 (SC)** S. 80IB(10)

	1373/Mum/2017(Mum) (Trib) **A.Y. 2007-08 & 2008-09**	certificate – Time limit prescribed for completion of project prescribed for completion of project and production of completion certificate have to be treated as applicable prospectively to projects approved on or after 1 - 4 - 2015.	prescribed for completion of project and production of completion certificate have to be treated as applicable prospectively to projects approved on or after 1 - 4 - 2015. Amendments made to S. 80IB(10) w. e. f. 1 - 4 - 2005 cannot be made applicable to a housing project which has obtained approval before 1 - 4 – 2015	:Housing projects-Proportion deduction on the housing project was held to be proper. **<u>Projects approved prior to 01/04/2004. Therefore no requirement of completion certificate .</u>** **CIT .v. CHD Developers Ltd. (2014)362 ITR 177 (Delhi)(HC) para 10** **CIT v. Jain Housing & Construction Ltd. (2013) 256 CTR 408 (Mad.)(HC) para 7 & 9** **ITO v Sai Krupa Developers, I.T.A no-3661/Mum/2011, dated-14/03/2012 (ITAT)(Mum) para 8 Affirmed by High Court Nagarjuna Homes v. ITO (2011) 46 SOT 287 (Hyd.) (Trib.) para 5** **<u>Provisions as stood on the date of approval required to be seen :</u>** **CIT v. Sarkar Builders (2015) 375 ITR 392 (SC) paras 12-15**
28.	**K. Vijaya Lakshmi, Hyderabad *v.* ACIT(2018) 270 DTR 236 (Hyd)(Trib),** **A.Y. 2009-10**	Capital gains – Accrual – Transfer of land to developer under development agreement. Registration is only a conclusive evidence but ownership can be obtained much earlier also	The assessee did permit developer to enter into premises of its land and do all necessary things for construction of apartments, it could be said that assessee did hand over possession to developer and, therefore, section 2(47)(v) was clearly attracted and stand of Assessing Officer that capital gains did arise during year when	**1. Saamag Developers (P.) Ltd. v. ACIT (2018) 168 ITD 649 (Delhi) (Trib.)** S. 2(47)(v) : Transfer – Development rights – Transfer of development rights as per share holder agreement with financial partner for development of integrated township by unregistered agreements, no liability of tax could be fastened on assessee on basis that possession of land had been handed over. [S.

			agreement was entered into was justified	28(i), 45, Registration Act 1908,S. 17(IA), Transfer property Act 1882, S. 53A] **2. Dr. Joao Souza Proenca. v. ITO (2018) 401 ITR 105(Bom) (HC)** **Sara Proenca (Mrs) v. ITO (2018) 401 ITR 105 (Bom) (HC)** Capital gains — Transfer — Power of attorney was executed in the year 1993 - 94 but actual possession was given in the year AY. 2003 - 04, capital gain was held to be taxable in the year of handing over of possession. [S. 27(v), Transfer of Property Act, 1882, S. 53A] **3. Ashwin C. Jariwala v. ITO (2017) 164 ITD 255 (Mum.) (Trib.)** Capital gains – Possession - Registration of sale deed related to back date on which agreement for sale was executed hence capital gains arose from such sale was to be assessed in year of execution of sale deed.
29.	**Oricon Enterprises Limited vs. ACIT[2018] 94 taxmann.com 325 (ITAT Mumbai)** **A.Y. 2007-08**	S. 2(42C)/ 50B: A transaction by which an undertaking is transferred in consideration of the allotment of shares is an "exchange" and not a "sale".	A transaction by which an undertaking is transferred in consideration of the allotment of shares is an "exchange" and not a "sale". The fact that the agreement refers to the parties as "seller" and "purchaser" is irrelevant. S. 2(42C)/ 50B apply only to "sale" and	**1. Bennett Coleman & Co. Ltd. v. ACIT (2018) 168 ITD 631(Mum) (Trib.)** S. 50B : Capital gains – Slump sale – Cost of acquisition - Transfer of its business division to its subsidiary against shares and debentures is not a slump sale but exchange

		Reopening – Additional Ground raised.	not to "exchange". Entire law on "estoppel" explained. As there is no estoppel against a statute, an assessee is entitled to raise the claim regarding non-taxability at any stage of the proceedings	hence provision would not be applied. [S. 2(42C), 45] **2. CIT .v. Bharat Bijlee Ltd.(2014) 365 ITR 258 (Bom.)(HC)** S.50B: Capital gains–Slump sale–Section applies only to a "sale" for a "monetary consideration" and not to a case of "exchange" of the undertaking for shares under a s. 391/394 scheme of arrangement-No monetary consideration for transfer-Exchange and not a sale-Not a slump sale. [S.2(42C),2(47), 45, Companies Act, S.391, 394]

Thank You
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