

DIGEST OF RELEVANT JUDGMENTS OF HON'BLE SUPREME COURT/HIGH COURTS/ITATs

**DIGEST OF  
RELEVANT JUDGMENTS  
OF HON'BLE  
SUPREME COURT/  
HIGH COURTS/  
ITATs**

**Circulated by Voice of CA during  
March 2009 - June 2012**

**1ST SEPTEMBER 2012**

Voice of Chartered Accountants (Regd.)(NGO)  
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*VOICE OF CA*  
**DIGEST OF RELEVANT  
JUDGMENTS OF  
HON'BLE SUPREME COURT/  
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**Digest of Relevant Judgments of Hon'ble SC/HC**

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## FROM THE DESK OF THE FOUNDER OF 'VOICE OF CA'

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*On behalf of 'Voice of CA', I express my immense pleasure to present the Digest of Case Laws, circulated by Voice of CA over a period of more than three years, from March, 2009 to June, 2012 through the mails. This digest is the section-wise gist of significant judicial pronouncements of Hon'ble Supreme Court, High Courts and ITATs. I would also like to express gratitude to **Taxmann** for providing official citation to these case laws. The full judgments of the case laws can be viewed on the website of Voice of CA at [www.voiceofca.in](http://www.voiceofca.in) or from the website of Taxmann at [www.taxmann.com](http://www.taxmann.com) (if subscribed).*



*We have made every effort to compile the latest judicial pronouncements in the field of Direct & Indirect Taxation. We hope that this digest will be found useful and will help in better understanding of recent developments in law. I also hope it will be a value addition in your library.*

*I wish to place on record my sincere and grateful thanks to the 'Team - Voice of CA' and its contributors for the contributions made by them in the preparation and printing of this digest.*

**CA AGARWAL SANJAY**

**'Voice of CA'**

*1st September, 2012*

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## AN INITIATIVE OF VOICE OF CA

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We are a registered NGO formally incorporated on 05/03/2009, working with the objective of professional development of members of our esteemed institute "Institute of Chartered Accountants of India". In all spheres of professional, Social & Political exposure, Voice of CA attempted to share thoughts, news and views concerning CA's (after collecting data from our various reliable sources, deep scrutiny and vision) through email from our forum of [www.voiceofca.in](http://www.voiceofca.in). Besides this, issues related to our profession are also brought to the notice of members. Around 35000 members come into its horizon.

Till date over 1000 mails updating members on recent case laws have been sent, more than 4000 queries have been answered and presentation have been circulated covering various aspects of Income Tax such as Penalty, Search & Seizure, Issues on TDS, Charitable Trust, Assessment & Reassessment, Cash Credits, Deemed Dividend, Representation Before Income Tax Appellate Tribunal & CIT(A), Important aspects of Section 14A, Hindu Undivided Family under the Hindu Law & Income Tax Act, 1961, Amendments in Income Tax. Presentation on topics of Service Tax and Excise Duty, other relevant areas such as An Article on Letter of Credit, Foreign Contribution (Regulation) Act, 2010, FEMA - Rules & Procedures, GST Presentation : Compilation of all the updates of GST since July, 2010, article on Haryana VAT and various other topics, Information on relevant tenders daily news is also circulated through Voice of CA.

**The main aims and objectives of this NGO are as follows :**

- a. Enabling members to serve their employers, clients and the nation as a whole in a better manner.
- b. To protest the rights of the members against any discrimination and ill recognition.
- c. Represent members in front of regulators and legislators, below mentioned are some of the instances where Voice of CA represented for the benefit of its members:
  1. Representation has been made against RBI proposed decision about limiting the coverage of audit of bank branches.
  2. Representation before the Commissioner of Service Tax - New Delhi, against additional requirement for registration under Service Tax.



## I-8

## AN INITIATIVE OF VOICE OF CA

3. Voice has been raised against dilution of identity with "Cost Accountants".
4. Representation has been made in respect of an article in Money Market & Business Standard regarding "Banks don't want CA's to appear before DRT".
5. Representation has been made before Central Board of Direct Taxes for delaying the application of new provisions of Rule 30, 31, 31A, 31AA as brought by Notification No. 31/2009, dated March 25, 2009 along with Circular No. 02/2009, in consequence of which CBDT delayed the applicability of the same for indefinite period vide PRESS RELEASE, New Delhi dated 30th June, 2009.
6. Representation has been made before Hon'ble Union Minister of India, Corporate Affairs, Government of India challenging the Notification No. G.S.R. 888(E) dated 24-12-2008, requiring the same should operate in exception to Form No. 5 as fresh filling of this form involves high financial burden.
7. Representation has been made before various internal authorities such as The President, ICAI, for the benefit of students to remove the infirmities and provide better educational and examination facilities.
8. Representation has been made to ICAI on issues related to:
  - ◆ Limit of Tax Audit.
  - ◆ Cap on Concurrent Audit.
  - ◆ Live Telecast of Council proceedings.
  - ◆ Publication of Council decisions.
  - ◆ Increase in Fees of CAG audits.
  - ◆ Panels for IRDA audits.
- d. Creating better infrastructure facilities like improved libraries, shared workstations etc. for members.
- e. Reduction in steep hike in fees for members for various courses as well as membership fee.
- f. Timely & relevant academic updates is the need of the time & are quite valuable for the members & therefore a strong step need to be taken in this direction so that the same can be made available to the members as per their work requirements.
- g. Post qualification courses which are under-promoted, need to be popularized & equipped with better faculties & facilities with assurance of high professional benefits.

## AN INITIATIVE OF VOICE OF CA

## I-9

- h.* To formulate a comprehensive roadmap to avoid recurrence of any fraud like Satyam Scam.
- i.* If a CA in his audit report gives any material qualification regarding financial statements which can have adverse effect on a going concern assumption, such CA's should not be removed unless & until a clean report is received. Also some Alternate Dispute Resolution Mechanism should be included.
- j.* Role of independent director will be reviewed and there should be at least one CA in Board of Directors of every company as an independent director by way of amendment in relevant laws.
- k.* Distinguish between statutory & tax audit in reference to the responsibility of CA towards stakeholders, by advertising in the media and to the public at large, so that our members are not straightaway held guilty by the Press/Media without facing a fair trial from members
- l.* Promoting dual audit criteria rather than Peer review for better Corporate Governance.
- m.* Steps for allotting audits of Listed Companies & all those concerns where public money is at stake, to a CA Firm out of a panel maintained by ICAI, RBI etc. on rotational basis.
- n.* Promotion of Micro, Small & Medium CA firms.
- o.* To make the networking more meaningful & having recognition in public sector work.
- p.* Conduct research in various fields to develop business modules to help members opting to go in business field.
- q.* To identify members in various organizations working on top positions as business ICONs & to bring back them with honour to help younger generations. Create an environment and a platform for interaction with persons of their own fraternity.
- r.* To promote quality service and excellence in the profession of Chartered Accountancy and to press members to be proactive to changes and ensures that our members are in pace with the changes.
- s.* Conduct seminars to enlighten the CAs and CA students about the recent developments and practical aspects of prevailing law. For example, a Mock Search was performed by creating an identical environment of real Search & Seizure conducted under Income Tax Act.

We wish to bring together all the members, so that we know each other better and join hands and to take our profession to greater heights

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## **TEAM - VOICE OF CA**

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A full stream of professionals are working at the backdrop of Voice of CA, who are continuously extending their support since inception and also participating with great enthusiasm at every particular event of importance. On behalf of Voice of CA, I personally express my heartiest gratitude to all those contributors and associated members who are continuously providing their valuable contribution and support to us.

However it is difficult to mention the name of each and every contributor and associated member due to memory constraint but still a list of contributors and associated members has been prepared.

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**LANDMARK  
AND  
OTHER RULINGS**

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## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
29-12-09	<b>2(1A), 115JB</b>	<b>Harrisons Malayalam Ltd. v. Asstt. CIT [2009] 32 SOT 497 (Cochin)</b> - Held that, profits arising on transfer of rural agricultural land amounts to agricultural income u/s 2(1A). This means that such agricultural income shall not form part of the book profit for the purposes of levy of MAT.	ITAT-Cochin
31-12-09	<b>2(5B)</b>	<b>CIT v. Sahara India Savings &amp; Investment Corporation Ltd. [2010] 186 Taxman 19 (SC)</b> - A residuary non-banking company, which only receives deposits from public, cannot be said to be a miscellaneous financial company as defined in sec. 2(5B)(vi).	Supreme Court of India
15-06-09	<b>2(14)</b>	<b>Hindustan Industrial Resources Ltd. v. Asstt. CIT [2009] 180 Taxman 114 (Delhi)</b> - That mere non-carrying of agricultural operations and mere intention to carry industrial activity, without anything more, will not change the character of land from "agricultural".	High Court of Delhi
30-05-10	<b>2(14)</b>	<b>CIT v. Satinder Pal Singh [2010] 188 Taxman 54 (Punj. &amp; Har.)</b> - In respect of rural agricultural land, distance of 2 km for the purpose of sec. 2(14)(iii) has to be taken in terms of approach by road and not as per straight line distance on a horizontal plane.	High Court of Punjab & Haryana
08-06-10	<b>2(14)</b>	<b>Dy. CIT v. Gopal Ramnarayan Kasat [2011] 9 taxmann.com 236 (Bom.)</b>	High Court of Bombay



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
01-09-11	<b>2(14) r.w.s. 194LA</b>	<b>ITO v. The Special Land Acquisition Officer [2011] 46 SOT 458/12 taxmann.com 49 (Mum.)</b> - Definition u/s 2(14) cannot be imported for the purpose of section 194LA; it is not a decisive factor when the land itself is agricultural land though it may not be used for agricultural purposes but unless and until the same is used for non-agricultural purposes it cannot be said that the land cannot be treated as agricultural land for the purposes of section 194LA.	ITAT-Mumbai
04-08-09	<b>2(15)</b>	<b>DIT v. Garden City Educational Trust [2010] 191 Taxman 238 (Kar.)</b> - So long as trust has education as one of its objects which is one of the enumerated heads which qualify and come within scope of sec. 2(15), and if procedural conditions are fulfilled, grant of registration is inevitable.	High Court of Karnataka
13-07-09	<b>2(15) r.w. 12AA</b>	<b>CIT v. National Institute of Aeronautical Engineering Educational Society [2009] 181 Taxman 205 (Uttarakhand)</b> - In expression "charitable purpose", charity is soul of the expression, mere trade and commerce in education cannot be said to be a charitable purpose entitling a society to grant of registration u/s 12AA.	High Court of Uttarakhand
22-10-09	<b>2(15), 11, 80G</b>	<b>Subharam Trust v. DIT (Exmpt.) [2010] 126 ITD 33 (Bang.)</b> - It has been held that if some of the objects of the trust are charitable and some are not charitable, such trust would not be entitled for sec. 80G.	ITAT-Bangalore
22-09-11	<b>2(15)</b>	<b>The ICAI v. DGIT (Exemptions), Writ Petition (Civil) No. 1927 of 2010, dated 19-9-2011</b> - An activity would be considered 'business' if it is undertaken with a profit motive, but in some cases	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		this may not be determinative; in such cases, there should be evidence and material to show that activity has continued on sound and recognized business principles and pursued with reasonable continuity. There is a clear distinction between coaching classes conducted by private coaching institutions and courses and examinations which are held by assessee-institute and these activities undertaken by assessee-institute satisfy requirements of term 'education'. Therefore, DGIT, without examining and considering legal concept of term 'business', has taken a narrow and myopic view by holding that assessee-institute is holding coaching classes and that this amounts to business (Matter remanded)	
23-05-09	<b>2(22)(e)</b>	<b>CIT v. Raj Kumar [2009] 181 Taxman 155 (Delhi)</b> - Trade advance, which is in nature of money transacted to give effect to a commercial transaction, cannot be treated as 'deemed dividend' falling within ambit of provisions of sec. 2(22)(e)	High Court of Delhi
22-06-09	<b>2(22)(e)</b>	<b>Asstt. CIT v. Bhaumik Colour (P.) Ltd. [2009] 118 ITD 1/27 SOT 270 (Mum.) (SB)</b> - If a person is a registered shareholder but not beneficial shareholder then provisions of sec. 2(22)(e) would not apply and similarly if a person is a beneficial shareholder but not a registered shareholder then also provisions of sec. 2(22)(e) would not apply.	ITAT-Mumbai
12-11-09	<b>2(22)(e)</b>	<b>CIT v. Creative Dyeing &amp; Printing (P.) Ltd. [2009] 184 Taxman 483 (Delhi)</b> - It has been held that the 'advance' given for commercial purpose of expansion of business to the sister concern cannot be treated as loan or dividend	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		income in the hands of the shareholders of the assessee-company as the shareholders also contributes the pool of funds required for expansion	
15-04-10	<b>2(22)(e)</b>	<b>CIT v. Sunil Sethi ITA No. 569/2009, dated 3-2-2010</b> - The amount given to the assessee for the purposes of making advance in respect of certain land dealings which were proposed to be entered into by the company through the assessee, cannot be treated as deemed dividend u/s 2(22)(e), being in the nature of imprest payment	High Court of Delhi
24-05-11	<b>2(22)(e)</b>	<b>CIT v. Ankitech (P.) Ltd. [2011] 199 Taxman 341/11 taxmann.com 100 (Delhi)</b> - Whether loan and advances received by the assessee-company cannot be treated as deemed dividend in the hands of the assessee as it was not a shareholder of the lender company in which the shareholders having substantial interest in the assessee-company were also having 10% of the voting power.	High Court of Delhi
05-10-11	<b>2(22)(e)</b>	<b>CIT v. National Travel Services [2011] 202 Taxman 327/14 taxmann.com 14 (Delhi)</b> - Sec. 2(22)(e) is applicable in the case where firm is only the beneficial shareholder and not registered shareholder.	High Court of Delhi
10-12-11	<b>2(22)(e)</b>	<b>CIT v. Arvind Kumar Jain [2012] 205 Taxman 44 (Mag.)/18 taxmann.com 132 (Delhi)</b> - Trade advance which are in the nature of money transacted to give effect to commercial transactions do not fall within the ambit of s. 2(22)(e).	High Court of Delhi
19-12-11	<b>2(22)(e)</b>	<b>Pradip Kumar Malhotra v. CIT [2011] 203 Taxman 110/15 taxmann.com 66 (Cal.)</b> - Where loan or advance is given to a shareholder as a consequence of	High Court of Calcutta

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		any further consideration received from him, then such advance or loan cannot be said to be "deemed dividend" u/s 2(22)(e).	
09-04-12	<b>2(22)(e)</b>	<b>CIT v. Gopal Clothing Co. Pvt. Ltd. [2012] 207 Taxman 134/21 taxmann.com 65 (Delhi)</b> - Even after the amendment with effect from 1988 and introduction of the words "a person who is the beneficial owner of shares" cannot be construed to in a way alter the position that the shareholder has to be the registered shareholder. The amendment imposes an additional condition that the registered shareholder must also be the beneficial shareholder of the company that has furnished loan/advance. The shareholding of a common shareholder cannot be a ground to invoke Sec. 2(22)(e), if the assessee did not have the prescribed voting rights.	High Court of Delhi
23-12-10	<b>2(24)(vii)</b>	<b>CIT v. Bus Operators Association, ITA No. 561 of 2009, dated 1-11-2010</b>	High Court of Kerala
13-04-11	<b>2(24)</b>	<b>Raj Ratan Palace Co-op. Hsg. Society Ltd. v. Dy. CIT [2011] 46 SOT 217 (URO)/12 taxmann.com 172 (Mum.)</b> - Mere grant of consent to TDR to the developer will not amount to transfer of land or any rights therein.	ITAT-Mumbai
07-02-12	<b>2(24)</b>	<b>Kushal K. Bangia v. ITO [2012] 50 SOT 1/18 taxmann.com 31 (Mum.)</b> - In principle, though the scope of "income" in sec. 2(24) is very wide, a capital receipt is not chargeable to tax as income unless there is a specific provision to that effect. As the residential flat owned by the assessee in the society's building was a capital asset in his hands, the compensation was a capital receipt.	ITAT-Mumbai

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
23-07-09	<b>2(30), 2(42) &amp; 6</b>	<b>CIT v. ICL Shipping Limited, ITA No. 251 of 2009, dated 8-6-2009</b> - Indian shipping company need not deduct tax at source with respect to its crew for the days on which the ship was outside the territorial waters of India and the number of such days exceeds 182 in any particular year.	High Court of Madras
22-03-10	<b>2(42A)</b>	<b>Navin Jindal v. Asstt. CIT [2010] 187 Taxman 283 (SC)</b> - For computing capital gains on renunciation of right to subscribe for additional shares, diminution in the value of original shares would be regarded as the cost of acquisition for such right.	Supreme Court of India
24-12-09	<b>2(47), 170</b>	<b>CIT v. Panchraton Hotels Pvt. Ltd. [2010] 188 Taxman 299 (HP)</b> - Held that even if it is accepted that by a transfer of shares u/s 2(47), there is a transfer in the right to use the capital assets of the company, still sec. 170 is not attracted because there is no "transfer of business".	High Court of Himachal Pradesh
15-04-10	<b>2(47)</b>	<b>Tej Pratap Singh v. ACIT, ITA No. 852 of 2009, dated 3-2-2010</b>	High Court of Delhi
29-09-10	<b>2(47), 41(2)</b>	<b>CIT v. Oswal Spinning &amp; Weaving Mills Ltd. I.T.R.No.111 of 1995, dated 12-7-2010</b> - Transfer of assets at W.D.V. in exchange of shares constitute transfer u/s 2(47) and attract tax u/s 41(2).	High Court of Punjab & Haryana
09-09-11	<b>2(47)</b>	<b>CIT v. Dr. T.K. Dayalu [2011] 202 Taxman 531/14 taxmann.com 120 (Kar.)</b> - The date on which possession was handed over to the developer is relevant for computing capital gain	High Court of Karnataka
08-10-11	<b>2(47)</b>	<b>CIT v. Naishadh v. Vachharajani ITA (L) No.1042 of 2011, dated 22-9-2011</b> - The income arising on sale of the shares held as investment were liable as capital gain	High Court of Bombay

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
06-01-12	<b>2(47)</b>	<b>Suraj Lamp &amp; Industries (P.) Ltd. v. State of Haryana [2011] 202 Taxman 607/14 taxmann.com 103 (SC)</b> - It was held that transfer of immovable property through General Power of Attorney Sales (GPA sales), Sale Agreement (SA), will transfer can't be recognized as valid mode of transfer because it does not convey any title nor create any interest in an immovable property. Immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance.	Supreme Court of India
20-04-12	<b>2(47) r.w. 45</b>	<b>ITO v. Hajra I. Memon ITA No. 3848/Mum./2010, dated 18-1-2012</b> - Conversion of tenancy rights into ownership right falls under the realm of 'transfer' as envisaged in sec. 2(47) r.w. sec. 45.	ITAT-Mumbai
05-10-09	<b>3</b>	<b>CIT v. Whirlpool of India Ltd. [2009] 185 Taxman 387 (Delhi)</b> - When can the assessee be said to have set up its business. Is the expression "setting up of the business" same as "commencement of business?"	High Court of Delhi
06-03-09	<b>4</b>	<b>Indian Oil Panipat Power Consortium Limited v. ITO [2009] 181 Taxman 249 (Delhi)</b> - On temporary parking of money in fixed deposits, inducted/in-fused as share capital for acquisition of land by the assessee company to set up its power plant, awaiting acquisition of land due to legal battle, the interest earned could not be treated as income from other sources and interest earned in the present circumstances ought to be capitalized	High Court of Delhi
24-06-09	<b>4</b>	<b>CIT v. Kisan Sahkari Chini Mill [2010] 187 Taxman 273 (Uttarakhand)</b> - Certain sum being received as incentive as levy sugar released for free sale to	High Court of Uttarakhand

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		be treated as capital receipt on following judgment of High Court in <i>CIT v. Kisan Sahakari Chini Mill Ltd.</i> [IT Appeal No. 101 of 2006, dated 26-3-2007].	
23-10-09	4	<b>CIT v. Tata Coffee Ltd., ITA No. 458/2004, dated 31-7-2009</b> - Non -Compete Fees: Received held as taxable receipt and not capital in nature.	High Court of Karnataka
24-11-09	4	<b>CIT v. Standing Conference Public Enterprises, ITA No. 1409 of 2008, dated 15-9-2009</b> - Where the income generated by assessee-society with main objective to improve performance of public enterprises, included rental income from use of convention centre and other premises given to members and non-members and interest on fixed deposits with banks, held that the assessee-society was a mutual concern so as to claim exemption on principle of mutuality and only rental income received by it from non-members was chargeable to tax.	High Court of Delhi
07-07-11	4	<b>Ram Jethmalani v. Union of India [2011] 200 Taxman 171/12 taxmann.com 27 (SC)</b>	Supreme Court of India
15-06-09	5	<b>Trishla Jain v. ITO [2009] 177 Taxman 74 (Punj. &amp; Har.)</b> - Held that income from interest on debentures which was a "foreign exchange asset" was assessable on accrual basis and not on receipt basis.	High Court of Punjab & Haryana
28-04-09	5(2) & 9(1)	<b>DIT v. Galileo International Inc. [2009] 180 Taxman 357 (Delhi)</b>	High Court of Delhi
09-12-10	5 r.w. 145	<b>CIT v. Vasisth Chay Vyapar Ltd. [2011] 196 Taxman 169/[2010] 8 taxmann.com 145 (Delhi)</b>	High Court of Delhi

## LANDMARK RULINGS

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
30-04-09	<b>9 &amp; 115A</b>	<b>Worley Parsons Services (Pty.) Ltd., In re [2009] 179 Taxman 274 (AAR - New Delhi)</b>	AAR- New Delhi
18-06-09	<b>9</b>	<b>Ansaldo Energia SPA v. ITAT [2009] 178 Taxman 57 (Mad.)</b>	High Court of Madras
09-07-09	<b>9</b>	<b>Hyosung Corporation v. DIT (International Taxation) [2009] 181 Taxman 270 (AAR - New Delhi)</b>	AAR - New Delhi
06-11-09	<b>9</b>	<b>DIT v. Ericsson Radio System A.B. CM No. 7319/07 in ITA 508/2007, dated 7-9-2009</b>	High Court of Delhi
09-11-09	<b>9(1)(i)</b>	<b>Jt. CIT v. Siemens Aktiengesellschaft [2009] 34 SOT 16 (Mum.)</b> - When no operation was carried on by assessee in India in regard to supply of equipment to BPL, no part of income as relatable to sale of equipment by assessee could be said to have deemed to accrue or arise to assessee in India within meaning of sec. 9 also and therefore no tax liability could be fastened on assessee.	ITAT- Mumbai
24-12-09	<b>9(1)(vi)</b>	<b>New Skies Satellites N.V. v. Asstt. DIT [2009] 121 ITD 1 (Delhi) (SB)</b> - To constitute "royalty", it is not necessary that the process should be a "secret process" and it is not necessary that the instruments through which the "process" is carried on should be in the control or possession of the payer. The fact that the telecasting companies are enabled to telecast their programmes by uplinking and downlinking the same with the help of that process shows that they have "use" of the same.	ITAT- Delhi
12-01-10	<b>9(1)(vii) &amp; 44BB</b>	<b>Geofizyka Torun SP. ZO. O, In re [2010] 186 Taxman 213 (AAR - New Delhi)</b> - Held that services namely Seismic Data Acquisition, processing and in-	AAR- New Delhi



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		<p>terpretation services rendered to oil and gas exploration production companies in India, does not fall under the ambit of <i>Explanation 2</i> of sec. 9(1)(vii) and the same is covered u/s 44BB. It has been further held that sec. 44BB is a special provision of the Act and sec. 9(1)(vii) is a general, therefore provision of sec. 44BB are to be given full impact.</p>	
25-01-11	9(1)	<p><b>DIT v. LG Cable Ltd. [2011] 197 Taxman 100/9 taxmann.com 15 (Delhi)</b> - There were no operation <i>qua</i> the agreement for supply of equipment, which was carried out in India, and therefore, no income could be deemed to have accrued or arisen in India whether directly or indirectly or through any business connection in India so not liable to pay tax in India in respect of offshore service</p>	High Court of Delhi
07-02-11	9	<p><b>Asia Satellite Telecommunication Co. Ltd. v. DIT [2011] 197 Taxman 263/9 taxmann.com 168 (Delhi)</b> - When process of amplifying and relaying programmes was performed within satellite which was not situated in Indian airspace and even tracking, telemetering and control (TTC) operations were also performed outside India in Hong Kong, sec. 9(1)(i) would not be attracted in instant case. Since in terms of clauses of agreements entered into between assessee and TV channels, control of satellite or transponder would always remain with assessee who had merely given access to a broadband available with transponder to particular customers, amount paid to assessee by its customers would not represent income by way of royalty within meaning of sec. 9(1)(vi)</p>	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
08-03-11	9(1)	<b>GVK Inds. Ltd. v. ITO [2011] 197 Taxman 337/10 taxmann.com 3 (SC)</b> - Parliament does not have the power to legislate "for" any territory, other than the territory of India or any part of it. Parliament can only make laws for India and any law which has no impact on or nexus with India would be <i>ultra vires</i> .	Supreme Court of India
29-06-11	9(1)(vi)	<b>Yahoo India (P.) Ltd. v. Dy. CIT [2011] 46 SOT 105 (URO)/11 taxmann.com 431 (Mum.)</b>	ITAT-Mumbai
13-12-11	9(1)(vi)	<b>CIT v. Samsung Electronics Co. Ltd. [2011] 203 Taxman 477/16 taxmann.com 141 (Kar.)</b>	High Court of Karnataka
20-01-12	9(1)(i)	<b>Vodafone International Holdings B.V. v. Union of India [2012] 17 taxmann.com 202/204 Taxman 408 (SC)</b> - Transfer of shares of a foreign company which has an Indian company as its subsidiary does not amount to transfer of any capital asset situated in India within meaning of 4th limb of section 9(1)(i)	Supreme Court of India
21-02-12	9(1)(vi)	<b>Dy. DIT (IT) v. Solid Works Corpn. [2012] 51 SOT 34/18 taxmann.com 189 (Mum.)</b> - Consideration paid merely for right to use cannot be held to be royalty and the ratio would also apply when "shrink wrap" software is sold. The receipts would constitute business receipts. Admittedly the assessee who is a non-resident does not have a PE and therefore business income of the assessee cannot be taxed in India in the absence of PE.	ITAT-Mumbai
24-09-11	10(2)	<b>Nicholas Piramal India Ltd. v. JCIT ITA No. 4379/Mum/2005 AY : 1997-98, dated 29-04-2011</b>	ITAT-Mumbai

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
13-10-09	10(5B)	<b>CIT v. Anant Jain ITA No.165/2009, dated 22-9-2009</b> - For the purpose of sec. 10(5B), a person can acquire the status of technician by undergoing special experience. It is not necessary that he must possess the requisite qualification for the status of technician.	High Court of Delhi
07-02-12	10(10D)	<b>CIT v. Rajan Nanda [2012] 205 Taxman 138/18 taxmann.com 98 (Delhi)</b> - Once there is an assignment of Keyman insurance policy by employer company to employee, insurance policy gets converted into an ordinary policy and in that case maturity value received by employee would not be subjected to tax in view of sec. 10(10D).	High Court of Delhi
20-10-11	10(20)	<b>CIT v. H.P. Marketing Board [2011] 203 Taxman 159/15 taxmann.com 211 (HP)</b> - H.P. Marketing Board is not a local authority within the meaning of section 10(20) of the Income-tax Act, 1961 or 3(31) of the General Clauses Act, 1897	High Court of Himachal Pradesh
23-06-09	10(23C)	<b>Surajmal Memorial Education Society v. DGIT (Exemp.) dated 11-5-2009</b>	High Court of Delhi
18-09-09	10(23C)	<b>Ajanta Educational Centre v. Chief CIT [2010] 187 Taxman 75 (Punj. &amp; Har.)</b> - Consolidated Application u/s 10(23C) Allowed & 14th proviso in 10(23C) inserted by Finance Act, 2006 dealing with limitation period for application filing: Held applicable from AY 2007-2008	High Court of Punjab & Haryana
30-09-09	10(23C) & 11	<b>CIT v. Mahasabha Gurukul Vidyapeeth, ITA No. 519 of 2007, dated 20-8-2009</b> - If all requisite conditions for exemption u/s 11 have been met, even if conditions u/s 10(23C)(vi) have not been complied with, there will be no bar to seek exemption u/s 11.	High Court of Punjab & Haryana

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
31-10-09	<b>10(23C)(vi)</b>	<b>Jaypee Institute of Information Technology Society v. DGIT (Exemption) [2009] 185 Taxman 110 (Delhi)</b> - Assessee-institute introduced courses with objective of 'greater interface with society through extra-mural extension and field action related programmes' which are not objectives independent of education but are an aid to education and the same was also stipulated in MOA. It fulfilled all requirements of section 10(23C)(vi) and was entitled to grant of registration and exemption under aforesaid provision.	High Court of Delhi
17-11-10	<b>10(23C)(iv)</b>	<b>ICAI v. DIT (Exemption) [2010] 8 taxmann.com 50 (Delhi)</b>	ITAT- Delhi
14-02-11	<b>10(23C)(vi)</b>	<b>St. Lawrence Educational Society (Regd.) v. CIT [2011] 197 Taxman 504/9 taxmann.com 233 (Delhi)</b> - Exemption u/s 10(23C)(vi) can be claimed even in case where surplus is generated by the educational institution	High Court of Delhi
22-09-11	<b>10(23C)(iv) r.w. 263</b>	<b>ICAI v. DIT (Exemption) [2011] 202 Taxman 1/13 taxmann.com 175 (Delhi)</b> - Since DIT had given no finding as far as activities of institute were concerned and had not examined concept of business, findings recorded by him in order u/s 263, that coaching and programmes were held by institute and a fee was being charged for same were not sufficient to hold that institute was carrying on business. Therefore, order passed by DIT u/s 263 was unsustainable.	High Court of Delhi
05-04-12	<b>10(23C)(vi)</b>	<b>Council for the Indian School Certificate Examination v. DGIT [2012] 206 Taxman 466/20 taxmann.com 505 (Delhi)</b> - Held that the holding of classes is not mandatory for an institution to	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		qualify and to be treated as an educational institution. If the activity undertaken and engaged is educational, it is sufficient.	
04-02-11	<b>10A</b>	<b>CIT v. Interra Software India (P.) Ltd. [2011] 199 Taxman 38 (Mag.)/11 taxmann.com 82 (Delhi)</b> - Section 10A is only applicable in case of an industrial undertaking manufacturing or producing articles as approved in the subsection set up in a free trade zone/electronic hardware technology park/software technology park after certain due dates, further the benefit of S. 10A is also available for the profits and gains derived from on site development of-fices outside India.	High Court of Delhi
11-11-11	<b>10A &amp; 10B</b>	<b>CIT v. Yokogawa India Ltd. [2012] 21 taxmann.com 154 (Kar.)</b> - Section 10A is in the nature of an "exemption" provision and the losses suffered by non-eligible units cannot be set-off against the eligible profits.	High Court of Karnataka
06-01-12	<b>10A</b>	<b>CIT v. EHPT India (P.) Ltd. [2012] 204 Taxman 639/[2011] 16 taxmann.com 305 (Delhi)</b> - Merely because there can be more than one method of apportioning common expenses between STP and domestic units, method of head count followed by assessee cannot be discarded, that too mid-way, even though it was not questioned at any time in past	High Court of Delhi
15-05-12	<b>10A</b>	<b>CIT v. Black &amp; Veatch Consulting Pvt. Ltd. [2012] 208 Taxman 144 (Mag.)/20 taxmann.com 727 (Bom.)</b> - Brought forward unabsorbed depreciation and losses shall not be set off against the current profit of the eligible unit for computing the deduction u/s 10A.	High Court of Bombay

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
04-06-09	<b>10B(5)</b>	<b>CIT v. Integrated Databases India Ltd. [2009] 178 Taxman 432 (Delhi)</b> - Provisions of section 10B(5) dealing with filing of audit report with tax return are directory and not mandatory	High Court of Delhi
11-02-12	<b>10(23C)(iv)</b>	<b>Synodical Board of Health Services v. DGIT [2012] 205 Taxman 59 (Mag.)/ 18 taxmann.com 133 (Delhi)</b> - Without considering explanation furnished by petitioner-society in regard to expenditure incurred, denial of registration u/s 10(23C)(iv) on ground that there were abnormal fluctuation in expenditure incurred was not justified.	High Court of Delhi
05-12-09	<b>11(1)(a)</b>	<b>Society of Presentation Sisters v. ITO [2009] 121 ITD 422 (Cochin)(TM)</b> - the issue was whether the exemption can be availed by an assessee who is partly charitable or partly religious	ITAT-Cochin
30-05-10	<b>11 &amp; 12</b>	<b>CIT v. Dharamshila Cancer Research Foundation ITA No. 1416/2009, dated 11-1-2010</b> - Held, as rightly observed by the Ld. CIT(A) that profitability is not the sole criteria to judge the charitable nature of a society. In a charitable activity incident of profit can be there but that would not good any quasi judicial authority to say that society ceases to be a charitable society.	High Court of Delhi
08-06-10	<b>11</b>	<b>CIT v. Mool Chand Sharbati Devi Hospital Trust [2010] 190 Taxman 338 (All.)</b> - Any expenditure incurred for the construction of hospital, nursing home building is the expenditure incurred for charitable purposes. For the construction of the building if the land is taken on lease from PMT Society on which hospital was constructed and is being run, it cannot be said that the amount incurred in the construction of the hos-	High Court of Allahabad

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		pital building on the land taken on lease from PMT Society was not for charitable purposes.	
30-06-10	11	<b>DIT (Exem.) v. Lilavati Kirtilal Mehta Medical Trust, ITA (L) No. 2990 of 2009, dated 9-2-2010</b>	High Court of Bombay
22-09-10	11(5)	<b>DIT (Exemption) v. Acme Educational Society, ITA No. 888 of 2010, dated 28-7-2010</b> - Advancing of an interest-free temporary loan by one society to another society having similar objects, whose president was brother of president of assessee-society, would not amount to an 'investment' or a 'deposit' attracting sec. 13(1)(d).	High Court of Delhi
20-06-11	11 r.w. 12 & 10(22)	<b>Ramalingam Charities v. CIT [2011] 200 Taxman 151/12 taxmann.com 114 (Mad.)</b> - Whether assessee trust is entitled to exemption u/ss 11 & 12 for the amount received as corpus fund as it is not a taxable amount though it is deposited with the sister concern in violation of section 11(5), further whether where the assessee trust is not engaged to carry on the activities solely of educational institutions, it would not be entitled to exemption u/s 10(22).	High Court of Madras
27-06-11	11	<b>DDIT (Exem.) v. Adi Sankara Trust [2011] 46 SOT 230/12 taxmann.com 105 (Cochin)</b> - Whether when assessee, a charitable body, has already claimed deduction for acquisition of capital assets as application of money, the further claim of depreciation on the same assets would amount to double benefits.	ITAT-Cochin
16-11-11	11 & 12	<b>CIT v. State Urban Development Society ITA No. 210 of 2011, dated 19-10-2011</b> - Where the grants have been received for disbursement, it can-	High Court of Punjab & Haryana

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		not be treated as income of the assessee.	
19-11-11	<b>11 &amp; 12</b>	<b>ACIT v. Modi Revlon Pvt. Ltd., ITA No. 3738 (Del.)/2011, AY : 2008-09, dated 21-10-2011</b> - Where the assessee enjoys the complete benefit of the know-how to run its business, the expenditure incurred every year on payment of royalty is revenue in nature and is very much business expenditure.	ITAT-Delhi
23-04-12	<b>11</b>	<b>DIT v. Vishwa Jagriti Mission , ITA No. 140/2012, dated 29-3-2012</b> - Whether the income of the assessee being a trust can be computed on commercial principles and while doing so whether depreciation on fixed assets can be allowed - Held, yes.	High Court of Delhi
15-10-10	<b>12A</b>	<b>CIT v. Aggarwal Sabha Maharaja Aggarsain Bhawan [2011] 198 Taxman 172/9 taxmann.com 291 (Punj. &amp; Har.)</b>	High Court of Punjab & Haryana
31-05-11	<b>12A</b>	<b>CIT v. Delhi Golf Club Ltd., ITA No. 1757 of 2010, dated 30-03-2011</b> - Whether assessee registered u/s 12A can be said to be carrying on commercial activities merely on the ground that the golf course was allowed to be used by casual members or non-members on a higher fee and hence, casual membership fee charged from them is to be construed as business - Held, no.	High Court of Delhi
05-08-09	<b>12AA(2)</b>	<b>CIT v. Saint N.N. Vidyalaya Samiti, ITA No. 49 of 2009, dated 10-7-2009</b> - Failure on part of Commissioner to decide the application within a period of six months as prescribed by sec. 12AA(2), would render the application as allowed.	High Court of Rajasthan



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
19-07-10	12AA	<b>DIT (Exem.) v. Shia Dawoodi Bohra Jamat ITA No. 628 of 2010, dated 12-04-2010</b> - Whether the ITAT was justified in allowing the appeal by merely placing reliance upon certain decisions without recording as to how and in what manner the said decisions are applicable to the facts of the present case?	High Court of Gujarat
16-10-10	12AA	<b>CIT v. Haryana Warehousing Corpn. [2011] 196 Taxman 260/[2010] 8 taxmann.com 235 (Punj. &amp; Har.)</b> - Whether on the facts and in the circumstances of the case, the ITAT was right in law in directing to grant the registration under section 12AA of the Act, even when the assessee-corporation is neither a trust nor a charitable institution and its income is neither derived from the property held under trust wholly or charitable or religious purposes nor from voluntary contributions? Held, yes	High Court of Punjab & Haryana
16-10-10	12AA	<b>CIT v. Haryana Building &amp; Other Construction Works Welfare Board [2011] 196 Taxman 255/[2010] 8 taxmann.com 234 (Punj. &amp; Har.)</b> - "Whether on the facts and circumstances of the case the ITAT was justified in directing the CIT to grant registration to the assessee despite the fact that there is no application of funds towards charitable purpose by the assessee?" Held, yes	High Court of Punjab & Haryana
30-11-11	12AA	<b>CIT v. Baba Deep Singh Educational Society [2012] 206 Taxman 131/21 taxmann.com 38 (Punj. &amp; Har.)</b> - The Commissioner while processing the application under section 12AA of the Act was not to act as an Assessing Authority.	High Court of Punjab & Haryana

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
25-06-12	<b>13(1)(c)(ii) r.w.13(3)</b>	<b>DIT v. Maruti Centre for Excellence [2012] 208 Taxman 236/21 taxmann.com 474 (Delhi)</b> - Held that CIT(A) has not recorded any independent findings but merely recorded that the issue was decided by the Tribunal in the earlier assessment year and he was bound by the said decision. Before applying the ratio/law, they shall first examine and record finding on facts relevant and which are to be examined.	High Court of Delhi
16-03-09	<b>14A</b>	<b>Chemical &amp; Metallurgical Design Co. Ltd., ITA No. 803/2008, dated 15-7-2008</b> - It was held that without any cogent basis and material on record, no artificial disallowance is permissible for expenses, finding merit in assessee's contention that no separate office/expenses is required for making share investment.	High Court of Delhi
19-05-09	<b>14A</b>	<b>CIT v. The Printers House (P.) Ltd. [2010] 188 Taxman 70 (Delhi)</b> - That the expenditure cannot be disallowed on the basis of a mere estimate as to what possibly could have been incurred to earn income exempted from tax. The Tribunal records no evidence has been brought on record to show that the impugned expenditure was incurred to earn exempted income, thus meriting disallowance.	High Court of Delhi
25-09-09	<b>14A</b>	<b>Feedback Ventures Pvt. Ltd., ITA No. 504/2009, dated 04-08-2009</b> - Held that u/s 14A, direct or indirect expenses relating to earning of exempt income is disallowable but disallowance cannot be on proportionate basis in proportion to divided income in certain expenses have been adjudicated	High Court of Delhi

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
30-09-09	<b>14A &amp; 80HHC</b>	<b>CIT v. Kings Exports, ITA No. 486 of 2009, dated 25-8-2009</b> - On perusal of secs. 80HHC and 14A, it is clear that expenditure incurred from export income cannot be held to be for earning income which does not form part of total income, which concept is dealt u/s 10.	High Court of Punjab & Haryana
03-10-09	<b>14A</b>	<b>Axis IT &amp; T Ltd. ITA No. 548/2009, dated 17-8-2009</b>	High Court of Delhi
23-11-10	<b>14A</b>	<b>DCIT v. Reliance Consolidated Enterprises Ltd. ITA No. 5069/Mum/2003, dated 19-11-2010</b>	ITAT-Mumbai
11-01-11	<b>14A</b>	<b>DCIT v. Jindal Photo Limited ITA No. 4539/Del./2010</b> - Rule 8D cannot be applied without pointing out any inaccuracy in the method of apportionment or allocation of expenses adopted by the assessee.	ITAT-Delhi
19-01-11	<b>14A</b>	<b>Pawan Kumar Parmeshwarlal v. ACIT ITA No. 530/Mum/2009</b> - No disallowance u/s 14A can be made where the shares were in the demat account for a long time and dividend was automatically credited to the bank account and no other expenditure was incurred.	ITAT-Mumbai
31-01-11	<b>14A</b>	<b>CIT v. The Catholic Syrian Bank Ltd. [2011] 9 taxmann.com 148 (Ker.)</b> - Held that the proportionate disallowance under section 14A should be limited to only interest liability and not overheads or administrative expenditure; which should be considered for disallowance under Rule 8D from 2007-2008 onwards.	High Court of Kerala
10-03-11	<b>14A</b>	<b>Honda Siel Power Products Limited v. DCIT [2011] 197 Taxman 415/10 taxmann.com 2 (Delhi)</b> - Section 147 Reopening for AY 2000-01 is valid de-	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		spite proviso to section 14A if material facts are not disclosed during assessment proceedings.	
18-04-11	14A	<b>Elegant Marbles &amp; Granite Industries Ltd. v. DCIT ITA No. 1601/Mum/2010, AY : 2006-2007, dated 21-01-2011</b> - Provisions of Rule 8D of the Income Tax Rules which have been notified with effect from 24th March, 2008 shall apply with effect from AY 2008-09	ITAT-Mumbai
18-05-11	14A	<b>Tech Nova Imaging Systems (P) Ltd. v. ACIT ITA Nos. 5514/Mum/2007, AY : 2002-2003, dated 8-4-2011</b> - Whether when the assessee has not incurred any expenditure in relation to earning exempted income, disallowance of 1% of the expenses can be made for administration of transactions on which exempted income was earned.	ITAT-Mumbai
14-07-11	14A	<b>Siva Industries &amp; Holdings Ltd. v. ACIT [2011] 46 SOT 112 (URO)/11 taxmann.com 404 (Chennai)</b> - For applicability of sec. 14A there must be (a) taxable income and (b) tax-free income. If either one is absent, sec. 14A has no applicability. If there is no claim for tax-free income, there cannot be any disallowance u/s 14A.  (i) If the transaction of lending monies between the assessee and the AE is in foreign currency and the transaction is an international transaction, it has to be evaluated by applying the commercial principles applicable to international transaction.	ITAT-Chennai
06-08-11	14A	<b>Honda Siel Power Products Ltd. v. DCIT [2012] 206 Taxman 33 (Mag.)/20 taxmann.com 5 (SC)</b> - The proviso to sec. 14A bars reassessment but not original assessment on the basis of retrospective amendment	Supreme Court of India

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
17-08-11	<b>14A</b>	<b>CIT v. Lubi Submersibles Ltd. ITA No. 868 of 2010, dated 25-7-2011</b> - Section 14A is not applicable in absence of nexus between investment & borrowed funds	High Court of Gujarat
19-08-11	<b>14A</b>	<b>CIT v. K. Raheja Corporation P. Limited, ITA No. 1260 of 2009, dated 8-8-2011</b> - No. 14A disallowance of interest on borrowed funds if AO does not show nexus between borrowed funds & tax-free investment	High Court of Bombay
20-09-11	<b>14A</b>	<b>Sagar Drugs &amp; Pharmaceuticals (P) Ltd. v. ACIT ITA No. 3179/Ahd/2009, AY: 2006-2007, dated 3-6-2011</b> - Disallowance cannot be made prior to A.Y. 2007-08 unless there is a direct nexus established by the AO.	ITAT- Ahmedabad
04-01-12	<b>14A</b>	<b>CIT v. Wimco Seedlings Ltd. [2012] 204 Taxman 97 (Mag.)/17 taxmann.com 83 (Delhi)</b> - Held that unless and until there was actual expenditure for earning the exempted income, there could not be any disallowance under section 14A.	High Court of Delhi
03-04-12	<b>14A</b>	<b>Quippo Telecom Infrastructure Ltd. v. ACIT, ITA No. 4931/Del/2010, dated 29-7-2011</b> - In computing book profits u/s 115JA/JB, if actual expenditure to earn tax-free income not debited in P&L A/c, sec. 14A cannot apply.	ITAT- Delhi
22-05-12	<b>14A</b>	<b>Auchtel Products Ltd. v. ACIT [2012] 52 SOT 39 (URO)/22 taxmann.com 99 (Mum.)</b> - If the assessee proves before the AO that it incurred a particular expenditure in respect of earning the exempt income and the AO is satisfied, then there is no requirement to proceed with the computation under Rule 8D.	ITAT- Mumbai

## LANDMARK RULINGS

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
06-09-10	<b>16</b>	<b>Kulwant Kaur v. DCIT, COCP No. 1553 of 2010, dated 10-8-2010</b> - The grievance of the petitioner is that the AO while making assessment proceedings is deviating from the issues culled down by the Tribunal and asking for information which is outside the domain of the two issues. Thus, the action of the AO is in contravention of the orders passed by the Tribunal. Therefore, it is violation of the order passed by the Tribunal and, thus, a civil contempt. Held there is no contempt.	High Court of Punjab & Haryana
04-06-09	<b>17(3)(iii)</b>	<b>CIT v. Rani Shankar Mishra [2009] 178 Taxman 324 (Delhi)</b> - Compensation received by assessee for being discriminated in offering of job (as also no job offered) by a Government organization, is capital receipt non chargeable to tax and is not covered u/s 17(3)(iii).	High Court of Delhi
09-05-09	<b>22</b>	<b>CIT v. D.S. Promoters &amp; Developers Pvt. Ltd. [2009] 183 Taxman 153 (Delhi)</b>	High Court of Delhi
16-03-10	<b>22</b>	<b>CIT v. Haryana Tourism Corporation Ltd. ITA No. 567 of 2009, dated 4-2-2010</b> - The principle of consistency would show that once the similar proposition has been accepted by the revenue in respect of an earlier assessment year 1997-98, then it is not open to it to challenge a similar finding and deviate from its earlier stand.	High Court of Punjab & Haryana
08-10-09	<b>25, 12A, 10(23C) (iv)</b>	<b>ICAI Accounting Research Foundation v. DGIT (Exemption) [2009] 183 Taxman 462 (Delhi)</b>	High Court of Delhi
23-06-11	<b>25 r.w. 2(15)</b>	<b>CIT v. A Y Broadcast Foundation [2012] 21 taxmann.com 533 (Ker.)</b> - Whether the activities of telecasting and broadcasting of TV and Radio	High Court of Kerala

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		programmes can also be said to be for advancement of general public utility, and thus qualify for registration as a charitable company - Held, no	
04-06-09	28(i)	<b>CIT v. Sholapur Distt. Cooperative Milk Producers [2009] 180 Taxman 533 (Bom.)</b> - When facts revealed that payments were made only to members who were suppliers; that payments were made to suppliers not on basis of shares held by them, but on amounts of milk supplied and on basis of fat content of milk; that resolutions to pay additional price were passed before end of financial year, i.e., before profits could be said to have accrued, amount paid as final rate difference could not be said to be distribution of profit among members of societies	High Court of Bombay
27-03-10	28	<b>CIT v. SMC Credit Ltd. ITA No. 726/2009, dated 7-1-2010</b>	High Court of Delhi
07-05-10	28	<b>CIT v. SMC Credit Ltd. ITA No. 726/2009, dated 7-1-2010</b> - The assessee had significant frequency in dealing with the shares and that the same really constituted stock-in-trade though they were shown as investment in the books of account. The loss on such shares was a result of a systematic activity and, therefore the loss claimed by the assessee should have been accepted as a business loss.	High Court of Delhi
29-07-10	28	<b>CIT v. STS Chemicals Ltd. ITA No. 2747 of 2009, dated 15-06-2010</b> - Whether on the facts and in the circumstances of the case and in law, the ITAT was justified in holding that the non-compete fee received by the assessee of Rs. 80,11,853 is a capital receipt not liable to tax.	High Court of Bombay

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
01-03-11	<b>28(iv) r.w. 41(1)</b>	<b>Logitronics Pvt. Ltd. v. CIT [2011] 197 Taxman 394/9 taxmann.com 302 (Delhi)</b> - Held that where capital assets are acquired by obtaining a loan, and subsequently, the loan amount is waived by the other party, the principal amount of loan waived by the other party cannot be taxed u/s 28(iv) or 41(1)	High Court of Delhi
12-03-11	<b>28</b>	<b>Vardan Buildcon v. ACIT [2012] 207 Taxman 107 (Mag.)/21 taxmann.com 446 (Delhi)</b> - Where real estate developer purchased land, developed same and sold same within a short span of a year or so, income on sale of land would be assessed as business income and not as capital gains.	High Court of Delhi
02-05-11	<b>28</b>	<b>Guffic Chem P. Ltd. v. CIT [2011] 198 Taxman 78/10 taxmann.com 105 (SC)</b> - Whether a payment under an agreement not to compete (negative covenant agreement) is a capital receipt or a revenue receipt - Held a capital receipt.	Supreme Court of India
17-06-11	<b>28</b>	<b>DIT v. Brahamputra Capital Financial Services Ltd. [2011] 201 Taxman 64 (Mag.)/12 taxmann.com 387 (Delhi)</b> - Whether when assessee advances interest-bearing loans to a sister concern but declares the same as NPA in the balance-sheet as per RBI guidelines, even then interest can be treated as realised and the same becomes taxable income.	High Court of Delhi
08-11-11	<b>28</b>	<b>ACIT v. Bharat Oman Refineries Ltd. ITA No. 530/Ind/2010, AY: 2007-08, dated 14-09-2011</b> - Receipts on account of tender form and recovery of house accommodation and furniture & fixture provided with house accommodation are of capital nature	ITAT-Indore



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
27-01-12	28	<b>Radials International v. ACIT [2012] 49 SOT 567/18 taxmann.com 20 (Delhi)</b> - The assessee offered LTCG & STCG on sale of shares which had arisen through a Portfolio Management Scheme. As the purchase and sale of shares under PMS is not in the control of the assessee at all, it cannot be said that the assessee had invested money under PMS with intention to hold shares as investment. The portfolio manager carried out trading in shares on behalf of his clients to maximize the profits. The fact that the transactions were frequent and its volume was high indicated that the portfolio manager had done trading on behalf of the assessee.	ITAT- Delhi
19-06-12	28	<b>Spencer &amp; Co. Ltd. v. ACIT [2012] 21 taxmann.com 459 (Chennai)(TM)</b> - The general reserve being difference between paid up value of shares allotted on amalgamation and the net assets taken over from the transferor company is merely an accounting entry, and therefore, no real income arises. Since no actual benefit or perquisite arises from conduct of business carried on by the assessee, the surplus arising on amalgamation cannot be treated as taxable income.	ITAT- Chennai
23-07-09	31 & 37	<b>CIT v. Sri Mangayarkarasi Mills (P) Ltd. [2009] 182 Taxman 141 (SC)</b> - Replacement of an old machine with a new one would constitute bringing into existence a new asset in place of old one and not repair of old and existing machine to be allowed as deduction u/s 31 and the same cannot be allowed as deduction u/s 37.	Supreme Court of India

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
19-06-10	31 (i)	<b>CIT v. Delhi Press Samachar Patra (P.) Ltd. [2010] 191 Taxman 71 (Delhi)</b>	High Court of Delhi
03-04-09	32	<b>CIT v. Star Resorts (P) Ltd. [2009] 180 Taxman 571 (Punj. &amp; Har.)</b> - In case an assessee is not able to lead actual evidence for actual cost of subject holiday resort, on which depreciation is sought to be claimed, AO may rely on valuation report of Deptt. Valuation Officer to determine actual cost and allow depreciation thereon.	High Court of Punjab & Haryana
23-05-09	32	<b>B.J. Duplex ITA No. 281/2009, dated 12-05-2009</b> - In relation to depreciation on Passive User : "Since there has been a passive user and that the machinery has been kept ready for use which is a pure finding of fact, the assessee is entitled to depreciation."	High Court of Delhi
17-06-09	32	<b>CIT v. Sri Chamundeshwari Sugar Ltd. [2009] 183 Taxman 285 (Kar.)</b> - If a machinery is actually put to use but later on it becomes defective & non-functional then it cannot be said that the machinery was not used for the purpose of business & claim of depreciation will be allowed in such a case.	High Court of Karnataka
06-10-09	32	<b>CIT v. Yamaha Motor India Pvt. Ltd. [2009] 183 Taxman 291 (Delhi)</b> - Actual user of machinery is not required with respect to discarded machinery and condition for eligibility for depreciation u/s 32, that machinery has been used for purpose of business, would mean that discarded machinery has been used for purpose of business in earlier years for which depreciation has been allowed. In such a case depreciation is to be computed after reducing scrap value of assets which have been discarded and written off in books of	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		account for year under consideration from written down value of block of assets	
20-09-10	<b>32(1)</b>	<b>CIT v. Bharat Aluminium Company Ltd. ITA No. 930/2010, dated 6-8-2010</b> - The respondent-assessee has set up a power plant in the premises of NTPC for its own captive consumption. Expenses were incurred wholly and exclusively for the purposes of business. Consequently the expenditure will be on revenue account even though the advantage may endure for an indefinite future. Depreciation could not be allowed to the assessee.	High Court of Delhi
14-02-11	<b>32</b>	<b>Magtron Earth Movers v. ITO ITA No. 818/Bang/2010, AY: 2006-2007</b> - Whether, for depreciation purpose, JCB earth-moving machines can be equated with motor lorry or plant and machinery	ITAT-Bangalore
21-07-11	<b>32</b>	<b>Cosmic Kitchen Pvt. Ltd. v. ACIT ITA No. 5549/Del/2010, AY: 2006-2007, dated 13-05-2011</b> - Whether the depreciation on pre-operative expenses allocated to fixed assets is to be allowed u/s 32 as the expenses incurred were for setting up the fixed assets and were incurred during the running trail.	ITAT-Delhi
30-08-11	<b>32</b>	<b>DCIT v. Pradip N. Desai (HUF) [2012] 21 taxmann.com 151 (Guj.)</b>	High Court of Gujarat
07-09-11	<b>32 &amp; 37</b>	<b>CIT v. Bonanza Portfolio Ltd. [2011] 202 Taxman 545/14 taxmann.com 162 (Delhi)</b> - Whether the expenditure incurred in relation to ongoing business and the business which is yet to be commenced are revenue in nature	High Court of Delhi
19-03-12	<b>32 r.w. 147</b>	<b>Vatika Limited v. ITO [2012] 206 Taxman 301/19 taxmann.com 124</b>	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		<b>(Delhi)</b> - Where the assessee had disclosed full and true particulars relating to claim of depreciation at time of original assessment then AO has no jurisdiction to issue notice u/s 148 after the period of four years from the end of relevant assessment year.	
06-06-12	<b>32(2)</b>	<b>Blue Steel Engineers P. Ltd. v. DCIT ITA No. 6411/2010, dated 11-5-2012</b> - Once the foreign travelling has been accepted for the purpose of business then part of the amount cannot be disallowed on account of personal use unless it is established that there was personal and non business expenditure.	ITAT-Mumbai
09-02-11	<b>32AB</b>	<b>CIT v. Kelvinator of India Ltd. [2011] 201 Taxman 88 (Mag.)/12 taxmann.com 445 (Delhi)</b> - If the AO has adopted one of the courses permissible in law, which resulted in loss of revenue or where two views are possible and the AO has taken one view with which the CIT does not agree, it cannot be treated as an erroneous order prejudicial to the interest of the revenue unless the view taken by the Assessing Officer is unsustainable in law.	High Court of Delhi
18-05-11	<b>32AB</b>	<b>CIT v. Vindhya Telelinks Ltd. [2012] 206 Taxman 58 (Mag.)/20 taxmann.com 64 (MP)</b> - Whether, if assessee gives certain amount as advance towards purchase of machinery but the machinery is not installed during the year, even then deduction u/s 32AB cannot be denied.	High Court of Madhya Pradesh
04-08-09	<b>35</b>	<b>Indian Planetary Society v. CBDT [2010] 187 Taxman 263 (Bom.)</b> - Under sec. 35(1)(ii), Government of India being prescribed authority to grant approval to scientific research organi-	High Court of Karnataka

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		zation, has nowhere appointed under business rules or otherwise CBDT to discharge its functions.	
08-10-11	<b>35AB</b>	<b>CIT v. Sarabhai Piramal Pharmaceuticals Ltd. ITA No. 466 of 2007, dated 14-9-2011</b> - Deduction u/s 35AB would be allowable, where the assessee uses the technical know-how to get the goods manufactured through a third party under its direct supervision and control.	High Court of Bombay
27-10-09	<b>35B</b>	<b>CIT v. The Roadmaster Industries of India (P.) Ltd. ITR No. 29 of 1981, dated 3-7-2009</b> - Expenditure incurred by way of sea freight not eligible for weighted deduction in terms of sec. 35B(1)(b)(iii) - Sub-clause (viii) being a general provision cannot be applied when a specific provision debars eligibility.	High Court of Punjab & Haryana
11-02-11	<b>35B</b>	<b>Frick India Ltd. v. CIT ITA No. 168 of 1993, dated 1-9-2010</b> - There is no relationship between the assessee and those persons to whom the commission was paid was established so weighted deduction under section 35B was not available.	High Court of Delhi
02-05-11	<b>35D</b>	<b>CIT v. Pepsico India Holding Pvt. Ltd. ITA No. 574/2007, dated 9-3-2011</b>	High Court of Delhi
27-04-10	<b>35E</b>	<b>CIT v. ACC Rio Tinto Exploration Ltd. [2011] 198 Taxman 203 (Mag.)/ 10 taxmann.com 72 (Delhi)</b> - The provisions of sec. 35E would not be applicable to the facts and circumstances of the present case as there was no possibility of any commercial production	High Court of Delhi
17-11-09	<b>36(1)(iii)</b>	<b>CIT v. Knorr Bremse India Ltd. ITA No. 467/2007, dated 22-9-2009</b> - It has been held that when the assessee have	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		sufficient funds in his books to invest in the shares then mere allegation of the AO that the funds which were borrowed for the purpose of investment in plant and machinery were invested in shares is not sufficient to disallow the interest component on such funds.	
10-08-09	36(1)(vii)	<b>CIT v. DB (India) Securities Ltd. [2010] 187 Taxman 161 (Delhi)</b> - Merely because shares were not delivered for want of full payment, which was to be made by sub-broker to assessee, it could not be said that there was no transaction between parties. Once there was a valid transaction between assessee and sub-broker and assessee had to make payment on behalf of sub-broker which it could not recover to extent of Rs. 41 lakhs, that sum had to be treated as 'bad debt'. However, since shares remained in possession of assessee, it could sell said shares in market for whatever consideration it could fetch and amount so realised was to be adjusted against amount of Rs. 41 lakhs payable by sub-broker to assessee, before arriving at actual figure of 'bad debt'.	High Court of Delhi
10-03-10	36(1)(vii)	<b>T.R.F. Limited v. CIT Civil Appeal No. 5293 of 2003, dated 9-2-2012</b> - Mere write off required to claim bad debt allowance and no requirement to establish badness.	Supreme Court of India
22-03-10	36(1)(vii)	<b>Southern Technologies Ltd. v. JCIT [2010] 187 Taxman 346 (SC)</b> - Whether the Department is entitled to treat the "Provision for NPA", which in terms of RBI Directions, 1998 is debited to the P&L Account, as "income" u/s 2(24), while computing the profits and gains of the business under sections 28 to 43D.	Supreme Court of India

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
05-04-10	36(1)(vii)	<b>CIT v. Ramakrishna &amp; Sons Ltd. ITA No. 490 of 2004, dated 23-12-2009</b> - Held that the advances have been made during the course of business and they have become irrecoverable as bad debts and hence the assessee is entitled to the benefit u/s 36(1)(vii). The question as to whether a debt had become bad or not is a pure question of fact and cannot be construed as a question of law.	High Court of Madras
05-07-10	36(1)(va)	<b>CIT v. Lakhani Rubber Works ITA No. 634 of 2009, dated 30-3-2010</b> - Power Load Extension (P&E) and purchase of distribution panel (R&M) even though the benefits flowing from extension of load and replacement of old panel were of enduring nature are allowable.	High Court of Punjab & Haryana
09-07-09	36(2)	<b>CIT v. Bala Kaul ITA No. 329/2009, dated 28-5-2009</b> - Loss on account of non-recovery of advance made for purchase of shares on trading account to stock broker, in course of trade, is allowable as trading loss.	High Court of Delhi
07-08-10	36	<b>Kohli Brothers Colour Lab (P.) Ltd. v. CIT Review Petition No. 296 of 2009, dated 20-5-2010.</b>	High Court of Allahabad
09-02-11	36(1) r.w. sec. 36(2)	<b>CIT v. Citi Corp Maruti Finance Limited, ITA No. 1712 of 2010, dated 9-11-2010</b> - In that case the Court held that the amount advanced by the assessee during the course of business could not be recovered would be treated as bad debt allowable u/s 36(2).	High Court of Delhi
14-05-11	36	<b>DCIT v. Maruti Countrywide Auto Financial Services Pvt. Ltd. ITA Nos. 2181 to 2183/ Del/ 2010, AY : 2002-03, 2005-06 &amp; 2006-07, dated 29-04-2011</b> -	ITAT-Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		Whether expenses on account of loss on sale of repossessed assets is allowable as revenue expenditure - Whether provisions of the RBI Act override the provision of Income-tax Act for the purpose of claiming deduction under the Income-tax Act.	
30-07-11	<b>36(1)</b> r.w. sec. <b>36(2)</b>	<b>All Grow Finance and Investment Pvt. Ltd. v. CIT [2012] 20 taxmann.com 260 (Delhi)</b> - That the only condition laid down in second part of sec. 36(2) is that the amount should be advanced in the ordinary course of business which by itself proves its revenue nature and no further conditions are required to be satisfied which are only applicable with regard to debt qualifying as bad debt in the first part of sub-section (2).	High Court of Delhi
12-09-11	<b>36(1)(ii)</b>	<b>DCIT v. CTI Shipbrokers India Pvt. Ltd. ITA No. 84 (Del.)/2011, dated 14-7-2011</b> - Whether the remuneration paid to the director as salary for services rendered, including bonus and commission are not allowable u/s 36(1)(ii).	ITAT-Delhi
19-11-11	<b>36(1)(ii)</b>	<b>DCIT v. CMR Design Automation Pvt. Ltd. ITA No. 493/Del/2011 A.Y. 2006-07, dated 21-07-2011</b> - The payments made to employees as rewards for doing good work are the expenses incurred for business purposes.	ITAT-Delhi
02-02-11	<b>36(1)(iii)</b>	<b>CIT v. Bharti Televenture Limited [2011] 200 Taxman 39 (Mag.)/11 taxmann.com 356 (Delhi)</b> - The facts of the case clearly indicate that the disallowance has been made without establishing nexus between borrowed funds and specific advances to subsidiaries.	High Court of Delhi



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		The appellant company had adequate non-interest bearing funds by way of Share Capital and Reserves. In the result the disallowance cannot be sustained as <i>prima facie</i> the advances were made out of appellant's own capital.	
21-03-12	<b>36(1)(vii), r.w. 36(2)</b>	<b>Shreyas S. Morakhia v. CIT [2012] 206 Taxman 32/19 taxmann.com 64 (Bom.)</b> - In case of share broker, unrealised value of shares from clients are deductible u/s 36(1)(vii), if brokerage is taken to profit and loss account.	High Court of Bombay
21-12-09	<b>36(2)</b>	<b>CIT v. Rajini Investment Pvt. Ltd. ITA No. 912/2009, dated 5-10-2009</b> - It has been held that condition regarding the continuation of business is applicable only for the purpose of setting off of all carry forward of loss. In these circumstances, and not in the case of writing of bad and doubtful debts.	High Court of Madras
06-09-10	<b>36</b>	<b>CIT v. K. Raheja Development [2010] 195 Taxman 412 (Kar.)</b> - When the assessee has shown the amount receivable as income in earlier years and paid taxes thereon, the conditions u/s 36(1)(vii) and 36(2)(i) are complied with and therefore the assessee is entitled for deduction. The fact that the assessee had created charge on the property, civil and criminal proceedings were initiated and there was chances of recovery of the amount is not relevant.	High Court of Karnataka
27-02-12	<b>36(1)(vii)</b>	<b>Catholic Syrian Bank Ltd. v. CIT [2012] 206 Taxman 182/18 taxmann.com 282 (SC)</b> - A bank is eligible to claim a deduction for bad debts u/s 36(1)(vii) in respect of its (rural & urban) advances and also claim a provi-	Supreme Court of India

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		sion for bad and doubtful debts u/s 36(1)(viii) in respect of its rural advances in view of the proviso to sec. 36(1)(vii).	
20-04-12	<b>36(1)(iii)</b>	<b>CIT v. Reliance Communications Infrastructure Ltd. [2012] 207 Taxman 219/21 taxmann.com 118 (Bom.)</b> - Where assessee for furthering its business had utilized borrowed funds for making investments in its subsidiary company and for making interest free advances to a related company, no disallowance of interest paid on borrowed funds could be made	High Court of Bombay
14-06-12	<b>36(1)(ii)</b>	<b>G.B. Morrison Travels v. DCIT ITA No. 1296/Del/2012, AY : 2006-07, 2007-08 &amp; 2008-09, dated 1-6-2012</b> - The bonus and commission paid to the Managing Director as services rendered as per terms of appointment as Executive/ Managing Director of a company is allowable business expenditure.	ITAT- Delhi
05-05-09	<b>37</b>	<b>Yum Restaurant (India) Private Limited v. CIT [2009] 180 Taxman 8 (Delhi)</b> - When assessee was under no obligation to contribute any money to its wholly owned subsidiary company 'Y' and, further, it had not been able to prove that contributions to subsidiary were made in course of its business or on account of commercial expediency, disallowance made by Assessing Officer and sustained by appellate authorities was justified	High Court of Delhi
14-05-09	<b>37</b>	<b>Rotork Controls India (P) Ltd. v. CIT [2009] 180 Taxman 422 (SC)</b> - If historical trend indicates that in past large number of sophisticated goods were being manufactured and defects existed in some of items manufactured	Supreme Court of India

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		and sold, then provision made for warranty in respect of army of such sophisticated goods would be entitled to deduction from gross receipts under section 37(1), provided data is systematically maintained by assessee.	
02-06-09	37	<b>Dy. CIT v. Sun Pharmaceutical Ind. Ltd. ITA No. 274 of 1999, dated 23-03-2009</b> - The Tribunal was justified in holding that the lease rent paid by the assessee to GIDC was allowable as revenue expenditure even that the assessee had acquired a benefit of enduring nature in the form of use of land for a period of 99 years.	High Court of Gujarat
05-06-09	37	<b>Flow Trading &amp; Investment Pvt. Ltd. ITA No. 254/2009, dated 24-04-2009</b> - The expense incurred for purposes of generating a feasibility report for the benefit of the assessee is in the nature of a revenue expense	High Court of Delhi
05-06-09	37	<b>Napcon Turbochargers Ltd. ITA No. 376/2009, dated 1-4-2009</b> - Held that the business of turbo chargers is in existence and merely because orders were not received, there could be no adverse inference. As in the case of preceding year, there is no sale of any plant and machinery or closure of the establishment and on the contrary from the various expenses incurred by the appellant, continuation of business is fully supported	High Court of Delhi
13-06-09	37	<b>Navjivan Roller Flour &amp; Pulse Mills Limited v. DCIT ITA No. 379 of 1999, dated 4-3-2009</b> - Where the assessee follows mercantile system of accounting, liability to pay damages for breach of contract by the assessee, comes into	High Court of Gujarat

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		existence on the date when Trade Association made an award for damages	
02-07-09	37	<b>Dipti Textile Industries v. CIT, IT Reference No. 345 of 1995, dated 15-6-2009</b> - Interest paid by assessee-company for discounting bills with banks during course of business activities is allowable in computing its business income	High Court of Bombay
15-07-09	37	<b>CIT v. Textool Co. Ltd. [2009] 184 Taxman 217 (Mad.)</b> - Additional commission allowed as revenue expenditure not capital expenditure.	High Court of Madras
14-10-09	37	<b>CIT v. Merch Benz ITA No. 1545 of 2009, dated 23-9-2009</b> - When the payment was made on account of termination of distributorship, assessee under compelling necessity decided to abandon the same hence incurred the expenditure akin to the business necessity, thus the amount is allowable as revenue expenditure	High Court of Bombay
19-10-09	37	<b>CIT v. Cannon India Ltd. ITA No. 676/2009, dated 16-9-2009</b> - On pre-operative expenses, held that the assessee's business stood set up and expenses incurred by the assessee before the commencement of business but after the setting-up are allowable as business expenditure.	High Court of Delhi
26-10-09	37	<b>CIT v. Majestic Auto Ltd. [2010] 189 Taxman 199 (Punj. &amp; Har.)</b> - Since the expenditure was incurred with a view to get latest technology know-how, it had direct nexus with the existing business and it is a revenue expenditure.	High Court of Punjab & Haryana
28-10-09	37	<b>CIT v. Sun Rider India P. Ltd. ITA No. 651/2009, dated 15-9-2009</b> - The persons even filed their confirmation	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		with all the supporting evidence to justify the claims of expenditure and genuineness of transaction. We are, therefore, of the opinion that the commission paid to agents is allowable expenditure.	
30-10-09	37	<b>CIT v. OCL India Ltd. ITA No. 314/2009, dated 10-9-2009</b> - The expenditure was incurred for finding out the quality of raw-material, used in the process of manufacture. Since the expenditure was incurred in relation to the raw material, it will only go to enhance the cost of raw-material. The expenditure did not create any new asset or benefit of enduring nature. Therefore, we concur with the learned CIT(A) that the expenditure was revenue in nature.	High Court of Delhi
24-11-09	37	<b>CIT v. Trevani Engg. Pvt. Ltd. ITA No. 213/2007, dated 3-11-2009</b> - It has been held that expenses incurred on trial run, insurance interest paid on loan are revenue expenditure and hence allowable as deduction and further held that when the assessee submitted justification as to the excessiveness of the fuel expenses are allowable	High Court of Delhi
30-11-09	37	<b>Escorts Heart Institute &amp; Research Centre Ltd. v. ACIT [2010] 8 taxmann.com 209 (Delhi)</b> - Profit in any business is a time-tested guiding factor and any dip in it clearly shows its relationship with the persons insured by the assessee - the premium paid for their insurance policies cannot be disallowed.	ITAT- Delhi
08-12-09	37	<b>CIT v. Pran Nath Gupta [2011] 196 Taxman 101 (Punj. &amp; Har.) (Mag.)</b> - When the assessee has maintained proper books of account and has requested the AO to issue commission for verify-	High Court of Punjab & Haryana

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		ing the genuineness of the payments from the contractors, the payments should be allowable.	
17-12-09	<b>37</b>	<b>CIT v. Goetze (India) Ltd. ITA No. 224/2009, dated 17-9-2009</b> - When the interest income from these ICDs/inter- corporate deposits shown as income from business and not as income from other sources and tax was also paid thereon, bad debts were rightly claimed as deduction u/s 37(2)(i).	High Court of Delhi
02-07-09	<b>37, 43(6) (c)(I)</b>	<b>CIT v. Bhartiya Reserve Bank Note Mudran (P.) Ltd. ITA No. 623/2007, dated 1-4-2008</b> - Assessee company ordered for certain machines intended to be used in the process of printing of currency notes, out of which a machine was damaged during transit, from which after reducing insurance compensation, a loss suffered by the assessee can be claimed as business loss.	High Court of Karnataka
23-09-09	<b>37, 43B</b>	<b>Nitco Marble &amp; Granite Pvt. Ltd. ITA No. 512/2009, dated 10-8-2009</b> - Merely because the assessee did not have exports to these countries in that year travelled by the director, the Tribunal opined that it could not be said that expenditure on foreign tours is not in connection with the business of the assessee. There can be a foreign travel with expectation to generate business from those countries.	High Court of Delhi
04-01-10	<b>37</b>	<b>CIT v. Sugavaneeshwara Spg. Mills Ltd. [2010] 190 Taxman 277 (SC)</b> - Is assessee entitled to deduction in view of the law laid down by the Apex Court in the case of <i>Sri Mangayarkarasi Mills Private Limited</i> [2009] 315 I.T.R. 114 - Issue remanded to High Court without	Supreme Court of India

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		expressing any opinion on merits of the case	
16-01-10	<b>37</b>	<b>CIT v. Bharat Aluminium Co. Ltd. ITA Nos. 532, 1484, 1486, 1487, 1592, 1593, 1670 and 1671 of 2006, dated 15-10-2009</b> - Depreciation on an asset which is not put to use in the relevant AY, held that once a particular asset falls within the block, it is added to the WDV and depreciation is to be allowed on the block. The individual asset loses its identity and the question whether an individual asset is put to use in a particular year or not is irrelevant inasmuch as the requirement of law is to establish the use of the block of assets and not the use of particular equipment.	High Court of Delhi
30-01-10	<b>37</b>	<b>CIT v. Triveni Engineering and Industries Ltd. [2009] 181 Taxman 5 (Delhi)</b> - Held that capitalization of administrative expenses in the books of account is not conclusive of the nature of expense. In a continuing business, expenditure incurred for renovation of its existing units, would be of revenue nature. Accordingly, such expense would not be capitalized and no depreciation be allowed thereon.	High Court of Delhi
15-02-10	<b>37</b>	<b>CIT v. M/s SPIC Ltd., Tax Case (Appeal) Nos. 2409 to 2412 of 2008 &amp; TCMP Nos. 43 to 45 of 2008, dated 7-12-2009</b> - Held expenses related to obtaining fixed deposits from the public is a revenue expenditure liable for deduction; depreciation should be allowed on standby spare parts even though they were not taken for use during the year etc.	High Court of Madras
19-02-10	<b>37(1) r.w. sec. 28</b>	<b>DCIT v. Satpuda Tapi Parisar SSK Ltd. [2010] 189 Taxman 81 (SC)</b> - Held, the AO will take into account the man-	Supreme Court of India

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		ner in which the business works, resolutions of the State Government, the manner in which S.A.P. and S.M.P. are decided and if the assessee has made a provision in its accounts, then AO shall enquire whether such provision is made out of profits or from gross receipts and whether such differential payment is relatable to the cost of the sugarcane or relatable to the division of profits amongst the members of the society?	
24-05-10	<b>37 &amp; 36(1)(iii)</b>	<b>CIT v. Premier Poly Sacks (P) Ltd. ITA No. 625 of 2004, dated 6-1-2010</b>	High Court of Madras
15-09-10	<b>37</b>	<b>CIT v. Shell Bitumen India (P) Ltd. ITA No. 815/2010, dated 11-8-2010</b>	High Court of Delhi
29-09-10	<b>37(1)</b>	<b>CIT v. Punjab Tractors Ltd. IT Reference No. 211 of 1995, dated 1-7-2010</b> - On the facts and in the circumstances of the case, the expenditure involved in the cost of tractors gifted away to foreign Government, is allowable u/s 37(1).	High Court of Punjab & Haryana
25-10-10	<b>37(1)</b>	<b>CIT v. Micromatic Machine Tools (P.) Ltd. [2010] 192 Taxman 161 (Delhi)</b>	High Court of Delhi
29-01-11	<b>37</b>	<b>CIT v. Orient Ceramics &amp; Inds. Ltd. [2011] 200 Taxman 64 (Mag.)/11 taxmann.com 417 (Delhi)</b> - It is held that mere book entries are not decisive of any income.	High Court of Delhi
25-02-11	<b>37</b>	<b>CIT v. Info Vergix Technologies Ltd. ITA No. 613/2008, Judgment delivered on 12-1-2010</b> - The assessee had shown expenditure as deferred revenue expenditure in its books. However, it had claimed it as revenue expenditure in its return. The AO had disallowed the same and the CIT(A) had confirmed the disallowance. The ITAT has allowed the deduction on the ground that, although the said sum had been shown differ-	High Court of Delhi



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		ently in the books, the same was allowable as per law.	
09-04-11	<b>37</b>	<b>Crescent Chemicals v. ITO ITA No. 1355/Mum/2010, dated 21-1-2011 AY : 2006-07</b> - The expenditure claims on the basis of self made vouchers cannot be said to be bogus unless there is any adverse finding	ITAT-Mumbai
13-04-11	<b>37</b>	<b>J K Industries Ltd. v. CIT [2011] 11 taxmann.com 72 (Cal.)</b> - The expenditure on foreign travelling of wife of the Managing Director cannot be disallowed merely because she is not an employee of company	High Court of Calcutta
12-05-11	<b>37 r.w. Rule 6B</b>	<b>CIT v. E.I.H. Limited [2011] 11 taxmann.com 128 (Cal.)</b> - Amount spent by assessee-company engaged in hotel business for purpose of purchasing gifts which had been given to its customers as a part of offering hospitality on ceremonial occasions would be business expenditure within meaning of sec. 37. Since on those gifts name or logo of assessee was not used, rule 6B would not apply to assessee's case.	High Court of Calcutta
24-06-11	<b>37</b>	<b>Sami Labs Ltd. v. DCIT [2011] 46 SOT 188 (URO)/10 taxmann.com 167 (Bang.)</b> - Whether expenses incurred on cultivation for adequate and steady supply of medicinal plant are allowable even though there is no agricultural activities done by an assessee directly.	ITAT-Bangalore
09-07-11	<b>37</b>	<b>CIT v. Tata SSL Ltd. ITA No. 1321 of 2010, dated 8-6-2011</b> - Whether expenditure incurred for CNG connection is revenue expenditure.	High Court of Bombay

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
16-09-11	37	<b>Gates India Ltd. v. DCIT ITA Nos. 2534 &amp; 2535/Delhi/2011, dated 29-7-2011</b> - TDS software which is not used in the process of manufacture can be said on functional basis to be a revenue expenditure. Anti-virus software purchased to protect other softwares is of revenue nature. Further, the burden to prove nature of expenditure is on assessee, which has to be discharged by filing relevant facts. Expenses incurred on purchase of backup software is an expenditure on intangible asset particularly when the assessee cannot provide any details regarding its life span, nature and utility. In absence of facts, it cannot be said that the expenditure is revenue in nature.	ITAT-Delhi
11-11-11	37	<b>CIT v. Asahi India Safety Glass Ltd. [2011] 203 Taxman 277/15 taxmann.com 382 (Delhi)</b> - Expenditure incurred which enables the profit making structure to work more efficiently leaving the source of the profit making structure untouched is expense in the nature of revenue expenditure.	High Court of Delhi
04-01-12	37	<b>CIT v. Monto Motors Ltd. [2012] 206 Taxman 43 (Mag.)/19 taxmann.com 57 (Delhi)</b> - Advertisements and sales promotion are conducted to increase sale and their impact is limited and felt for a short duration. No permanent character or advantage is achieved and is palpable, unless special or specific factors are brought on record. Hence these are on-going expenses.	High Court of Delhi
23-01-12	37	<b>Airport Authority of India v. CIT [2012] 205 Taxman 84 (Mag.)/18 taxmann.com 174 (Delhi)</b> - Expenditure incurred by Airport Authority towards	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		removal of illegal encroachments in and around security area of airports and towards rehabilitation of encroachers would be allowed as revenue expenditure.	
05-05-12	37	<b>Punjab Breweries Ltd. v. CIT [2012] 207 Taxman 53/20 taxmann.com 630 (Punj. &amp; Har.)</b> - In absence of material on record showing any services were rendered, payment made by assessee on account of C & F handling charges was to be disallowed.	High Court of Punjab & Haryana
24-05-12	37(1)	<b>Phool Singh Yadav &amp; Co. v. CIT ITA Nos. 278 of 2005 &amp; 79 of 2004, dated 17-4-2012</b> - The assessee has followed mercantile system of accountancy in regard to the expenditure incurred during that year and results were declared on actual receipt and this method is constantly followed by the assessee since last so many years, therefore, addition of the amount received in the next year in the month of April should not have been added in the previous year merely on the basis of bills issued and expenditure shown in the assessment year.	High Court of Punjab & Haryana
15-07-10	40(a)(i)	<b>Maharishi Housing Development Finance Corporation Ltd. v. ACIT ITA No. 222/2009, dated 8-4-2010</b> - The obligation to deduct the tax at source would arise only when the payment was chargeable under the provisions of the Income-tax Act.	High Court of Delhi
16-03-11	40(a)(i)	<b>ABN Amro Bank, N.V. v. CIT [2011] 198 Taxman 376/10 taxmann.com 89 (Cal.)</b> - By virtue of article 5, r.w. article 7, of DTAA between India and Netherlands, PE and head office have to be taken as separate entities for all	High Court of Calcutta

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		purposes and, therefore, neither can PE nor branch and head office can be treated as one entity for purpose of deduction of tax u/s 195(1). In order to attract sec. 195(1), remittance of interest must result in an income which is chargeable under Act. Since by virtue of DTAA, head office of assessee was not liable to pay any tax under Act, there was no obligation on part of assessee's Indian branch to deduct tax while making interest remittance to its head office or any other foreign branch.	
12-03-11	<b>40(a)(ia)</b>	<b>CIT v. Whirlpool of India Ltd. [2012] 20 taxmann.com 683 (Delhi)</b> - Where liability to pay royalty accrued in AY 1995-96, payment was also made and TDS was also deducted in said year, deduction for such payment should have been claimed in AY 1995-96 and it could not be claimed in merely because TDS was deposited with Government only on 10-5-1996, time prescribed under IT Rules, AY 1996-97	High Court of Delhi
14-05-11	<b>40(a)(ia)</b>	<b>ITO v. ONS Creations Pvt. Ltd. ITA No. 3981/Delhi/2010, AY : 2006-07, dated 13-5-2011</b> - No liability to TDS in respect of freight charges (outward) paid on behalf of clients to C&F agents, which amounts were later on reimbursed by the clients. As such no disallowance of the same could be made u/s 40(a)(ia)	ITAT-Delhi
14-09-11	<b>40(a)(ia)</b>	<b>Bharati Shipyard Limited v. DCIT [2011] 132 ITD 53/13 taxmann.com 101 (Mum.)(SB)</b> - When amendment does not remove unintended hardship or is not explanatory, same cannot be held to be retrospective unless it is specifically provided. Therefore, amendment brought out by Finance Act, 2010	ITAT-Mumbai

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		to sec. 40(a)(ia) w.e.f 1-4-2010 being not remedial and curative in nature cannot be declared as having retrospective effect from date of insertion of provision, <i>i.e.</i> , 1-4-2005.	
04-11-11	40(a)(ia)	<b>DCIT v. S. K. Tekriwal [2011] 48 SOT 515/15 taxmann.com 289 (Kol.), S. 40(a)(ia) disallowance cannot be made for short deduction of tax at source</b>	ITAT-Kolkata
12-06-10	40(a)(iii)	<b>CIT v. Information Architects [2010] 191 Taxman 415 (Bom.)</b> - The amounts paid as reimbursement towards overseas maintenance allowance to the employees at a particular amount per day and would not form part of the salary in the hands of the recipients.	High Court of Bombay
07-04-11	40(b)(v)	<b>Durga Dass Devki Nandan v. ITO [2011] 200 Taxman 318/12 taxmann.com 156 (HP)</b> - When the partnership deed provides that the remuneration will be as per the provisions of the Income-tax Act, it clearly means that the remuneration payable to the partners shall be quantified as per the provisions of the Act and shall not exceed the maximum remuneration provided.	High Court of Himachal Pradesh
29-09-11	40(ia)	<b>Hardarshan Singh v. DCIT ITA No. 1447(Delhi)/2011, dated 26-8-2011</b> - When assessee only arranged trucks of other transport companies and merely acted as an intermediary, it cannot be said that assessee really entered into the contract of transportation of goods. Thus, there was no liability on assessee for deduction of tax at source. Hence, no addition could have been made u/s 40(ia).	ITAT-Delhi
26-06-12	40(ia)	<b>KPMG India Pvt. Ltd. v. DCIT [2012] 23 taxmann.com 224 (Mum.)</b> - The	ITAT-Mumbai

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		professional service rendered does not fall in the definition of “royalty” in Article 12 of Indo-US DTAA. It was purely a professional service for consultancy which were rendered outside India and not for supply of scientific, technical, industrial or commercial knowledge or information. Thus, there was no liability to deduct TDS and consequently no disallowance u/s 40(i)a can be made.	
02-06-09	<b>40A(2)</b>	<b>Coronation Floor Mills v. ACIT [2010] 188 Taxman 257 (Guj.)</b> - The contention raised on behalf of the appellant-assessee that the fair market value having not been ascertained by the AO no disallowance could have been made therefore does not merit acceptance.	High Court of Gujarat
05-06-09	<b>40A(2)</b>	<b>M.L.B.D. Books International v. ACIT [2009] 184 Taxman 276 (Delhi)</b> - In this case, assessee’s explanation that difference in rates occurred due to hard bound volume being supplied by related/sister concern, has been held by DHC to be rightly rejected by AO on the ground that bill from sister concern never shown that books supplied were hard bound.	High Court of Delhi
27-10-09	<b>40A(2)(a)</b>	<b>United Exports v. CIT [2009] 185 Taxman 374 (Delhi)</b> - Held that Sec. 40A(2)(a) does not apply to trade discount as it is applicable to only expenditure incurred by the assessee and the payment are made for the same - Assessee’s appeal allowed	High Court of Delhi
16-01-10	<b>40A(2) r.w. 80-IA</b>	<b>CIT v. Glaxo Smithkline Asia (P.) Ltd. [2010] 195 Taxman 35 (SC)</b> - A direction has been given by the Hon’ble Court to provide empirical data so that adhocism would be stopped by the department and law should also be	Supreme Court of India

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		amended to make it compulsory for taxpayers to maintain proper documents and requisite books of account reflecting transactions between related entities at ALP, based on generally accepted methods specified under Transfer Pricing Regulations.	
09-07-10	<b>40A(2)</b>	<b>CIT v. Modi Xerox Ltd. [2011] 199 Taxman 271/10 taxmann.com 73 (All.)</b> - In the present case, having regard to the facts and circumstances referred herein above, the Tribunal has arrived to a conclusion that the Assessing Officer has failed to prove by any comparable case or comparison by market rate that the amount paid by the assessee was excessive or unreasonable.	High Court of Allahabad
20-08-10	<b>40A(2)</b>	<b>CIT v. Patel Field Marshal Industries ITA No. 528/529 of 2009, dated 3-5-2010</b>	High Court of Gujarat
20-08-10	<b>40A(2)(a)</b>	<b>CIT v. Aditya Medisales Ltd. ITA No. 559 of 2009, dated 4-5-2010</b>	High Court of Gujarat
13-09-10	<b>40A(2)(b)</b>	<b>CIT v. Gautam Motors [2010] 194 Taxman 21 (Delhi)</b>	High Court of Delhi
15-09-10	<b>40A(2)</b>	<b>CIT v. Rice India Exports Pvt. Ltd. ITA No. 924/2010, dated 3-8-2010</b> - Though the initial burden of proof lies on the assessee yet when it files purchase bills and affidavits, the onus shifts to the Revenue. One must not forget that it is Revenue which has powers regarding discovery, inspection, production and calling for evidence as well as survey, search, seizure and requisition of books of account. Merely because the assessee was not able to produce the supplier could not lead to the inference that the supplier was bogus. Sec. 40A(2) is not attracted to the case.	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
26-03-11	40A(2)	<b>Mohan &amp; Co. v. DCIT, ITA No. 1069/Mum/2010, dated 22-12-2010</b> - The disallowance had to be restricted to only to the extent the expenditure was excessive or unreasonable.	ITAT-Mumbai
09-04-11	40A(2)	<b>Royal Hydraulic Pvt. Ltd. v. ITO, ITA No. 8814 /Mum/2010, A Y 2006-07, dated 28-2-2011</b> - No part of remuneration paid to director could be regarded as excessive or unreasonable	ITAT-Mumbai
31-05-11	40A(2)	<b>CIT v. Samsung India Electronics Ltd. [2011] 199 Taxman 325 (Mag.)/11 taxmann.com 221 (Delhi)</b> - Section 40A(2)(a) contemplates that there should be some material available before the AO to initiate action to disallow or refuse to deduct the excessive or unreasonable expenditure mentioned there under.	High Court of Delhi
07-06-11	40A(2)	<b>DCIT v. AIG Home Finance India Ltd. [2011] 47 SOT 275/13 taxmann.com 168 (Chennai)</b> - Whether, even without doubting the payment of guarantee fee to third parties within a reasonable range, AO can make disallowance u/s 40A(2) on the ground that the third parties are shareholders in the assessee-company and they would have provided such services free of cost.	ITAT-Chennai
07-09-11	40A(2)	<b>DCIT v. Haldiram Bhujawala Limited ITA Nos. 554 &amp; 555/Kol./2011, dated 28-7-2011</b> - That when the books of account of the assessee are rejected and assessee has not appealed against the same, the GP rate is to be estimated only on reasonable basis. Further, the visit of the director to U.K. cannot be called a visit for non-business purposes merely on the suspicion that a visit after two years of conception of the plan to start	ITAT-Kolkatta



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		a subsidiary company may not be for the same purpose. Therefore, the visit of the director of appellant company to London is for business purpose in absence of any evidence contrary to the claim of appellant. AO cannot refer to sec. 40A(2)(a) unless the expenditure is considered to be excessive and unreasonable having regard to the fair market value of the services rendered by the person.	
13-10-09	<b>40A(3)</b>	<b>CIT v. Surya Vinayak Inds. Ltd. ITA No. 913/2009, dated 17-9-2009</b> - It has been held that when the payments were made <i>via</i> banking channels the provisions of section 40A(3) cannot be invoked, they comes into play only when the payments were made by cash.	High Court of Delhi
24-03-12	<b>40A(3) r.w. Rule 6DD(j)</b>	<b>Basu Distributor Pvt. Ltd. v. ACIT [2012] 206 Taxman 45 (Mag.)/19 taxmann.com 111 (Delhi)</b> - Sec. 40A (3) & Rule 6DD(j) have been incorporated in the Act to check the incurring of bogus and fictitious expenses to non-existing parties. In the present case, there is no dispute on the identity of the payee and genuineness of the transaction, it cannot be said that the assessee had violated the provisions of Sec. 40A(3) read with Rule 6DD(j).	High Court of Delhi
31-03-11	<b>40A(3)</b>	<b>CIT v. Sai Metal Works [2011] 11 taxmann.com 61 (Punj. &amp; Har.)</b> - Section 40A(3) applies to the proceedings under Chapter XIV-B.	High Court of Punjab & Haryana
12-06-12	<b>40A(3)</b>	<b>Purvanchal Construction Works (P.) Ltd. v. ACIT ITA No. 3/D/2011, AY: 2007-08, dated 8-6-2012</b> - Assessee need to prove that why payments could not be made by crossed cheques/de-	ITAT- Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		mand draft or that these were made out of sheer necessity u/s 40A(3).	
04-01-10	<b>40BB(1), &amp; Rule 115(1)</b>	<b>DCIT v. Dolphin Drilling PTE Ltd. ITA No. 266/Del/2007, dated 26-10-2009</b> - Held, Clause 2(c) of the <i>Explanation</i> to Rule 115(1) provides that the exchange rate as on the last day of the relevant financial year is to be adopted for the purpose of conversion of income from profits and gains of business or profession into Indian Rupees. As regards to the allowabilty of depreciation is concerned it has been held that depreciation is fully allowable.	ITAT-Delhi
09-07-09	<b>41(1)</b>	<b>Nectar Beverages Pvt. Ltd. v. DCIT [2009] 182 Taxman 319 (SC)</b> - Notwithstanding, the deletion of Sec. 41(2), since the assessee had obtained the benefit of depreciation in the earlier years as allowance or deduction in respect of expenditure incurred by it when it bought bottles and crates, on recoupment in the assessment years in question, such recoupment was liable to be taxed as deemed income u/s 41(1).	Supreme Court of India
15-02-10	<b>41(1)</b>	<b>CIT v. Sita Devi Juneja [2010] 187 Taxman 96 (Punj. &amp; Har.)</b> - Merely because a liability is outstanding for the last six years, it cannot be presumed that the said liabilities have ceased to exist. It is also conceded position that there is no bilateral act of the assessee and the creditors, which indicates that the said liabilities have ceased to exist.	High Court of Punjab & Haryana
15-02-10	<b>41(1)</b>	<b>CIT v. G.P. International Ltd. [2010] 186 Taxman 229 (Punj. &amp; Har.)</b> - That the liability of the assessee cannot be said to have ceased to exist and the provision of Sec. 41(1) and explanation to this provision are not applicable, be-	High Court of Punjab & Haryana

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		cause the assessee is still showing it as a liability in its books and has not written off the same. Merely because some of the persons did not respond to the notice issued by the AO u/s 133(6), it cannot be taken that the said transaction was ingenuine.	
23-02-10	41(1)	<b>CIT v. Aggarwal Steel Rolling Mills [2010] 190 Taxman 16 (Punj. &amp; Har.)</b> - it is held that the refund of excise duty received during the relevant assessment year, would be taxable in that year and mere show-cause notice to dispute such refund cannot be interpreted to mean that income is not taxable during the said year. The assessee shall be entitled to claim expenditure of such excise duty, if it is found payable in pursuance of the show-cause notices during the assessment year in which such liability is discharged.	High Court of Punjab & Haryana
02-03-10	41(1)	<b>CIT v. Goyal MG Gases Ltd. [ITA 829/2008 of 18-1-2010, dated 18-1-2010]</b> - Upheld: "The amount cannot be included as profit chargeable to tax under 41(1) of the Act." <i>Applied Mahindra and Mahindra Ltd. v. Commissioner of Income Tax</i> 261 ITR 501.	High Court of Delhi
24-03-10	41(1)	<b>CIT v. Jindal Equipments Leasing &amp; Consultancy Services Ltd. ITA No. 51 of 2009 &amp; CM No.15419, dated 23-12-2009</b> - The waiver/written off part of principal amount of loan does not constitute income at the hands of the assessee but is a capital receipt.	High Court of Delhi
13-04-10	41(1)	<b>CIT v. Sarladisha Investment Ltd. ITA No. 2319/2009, dated 5-1-2010</b> - Where the liability continues to be acknowledged by both the parties, it cannot be concluded that there is no re-	High Court of Bombay

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		mission or cessation of a trading liability.	
23-08-10	41(1)	<b>SI Group India Ltd. v. ACIT [2010] 192 Taxman 91 (Bom.)</b> - Remission or cessation of trading liability u/s 41(1)- Where sales tax authorities had declined to grant credit of payment made by assessee to SICOM towards discharge of deferred sales tax liability and, as a matter of fact, a notice of demand under State Sales Tax Act had been issued to assessee, it could not be said that there was remission or cessations of trading liability during assessment years in question.	High Court of Bombay
25-09-10	41(1)	<b>CIT v. Surinder Mohan Jalota ITR No. 106 of 1996, dated 5-7-2010</b> - Appellate Tribunal was right in law in deleting the addition made on account of receipt of Excise Duty Refund when the provisions of section 41(1) read with section 43B of the Income-tax Act, 1961 are applicable in the case of the assessee.	High Court of Punjab & Haryana
10-05-11	41(1)	<b>Vardhaman &amp; Hiranandani Developers v. ITO AY : 2007-08, ITA No. 6455/Mum/2010, dated 28-02-2011</b> - Whether cessation of the liability in the trading account is to be considered to be income of the assessee.	ITAT-Mumbai
26-12-11	41(1)	<b>CIT v. Compaq Electric Ltd. [2012] 204 Taxman 58 (Mag.)/[2011] 16 taxmann.com 385 (Kar.)</b> - Waiver of unsecured loan is a capital receipt non chargeable to tax u/s 41(1) of the Act since there is no prior deduction/allowance of the same to assessee.	High Court of Karnataka
11-02-12	41(1)	<b>Mohan Meakin Limited v. CIT [2012] 205 Taxman 43/18 taxmann.com 47 (Delhi)</b> - <i>Explanation 1</i> to sec. 41(1) in-	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		serted w.e.f. 1-4-1997 does not have a retrospective effect. Further, excess dividend written back cannot be assessed as income u/s 41(1)	
28-04-12	<b>43(1)</b>	<b>Steel Authority of India Ltd. v. CIT [2012] 206 Taxman 574/20 taxmann.com 198 (Delhi)</b> - Waiver of loan from Government of India from Steel Development Fund would reduce the cost of the assets by the amount waived in view of sec. 43(1) and depreciation on assets was to be disallowed to extent of loan so waived off.	High Court of Delhi
03-10-09	<b>43(5)</b>	<b>Dharam Pal Arora ITA No. 1425/2006, dated 19-8-2009</b> - Merely because according to the AO the transaction done on 27-3-92 was not an act of prudence on the part of the assessee, could not be a ground to treat the loss as speculative loss.	High Court of Delhi
27-04-11	<b>43(5)</b>	<b>CIT v. Bharat R Ruia (HUF) [2011] 199 Taxman 87/10 taxmann.com 265 (Bom.)</b> - The exchange traded derivative transactions carried on by the assessee during AY 2003-04 are speculative transactions covered u/s 43(5) of the Act and the loss incurred in those transactions are liable to be treated as speculative loss and not business loss.	High Court of Bombay
17-06-09	<b>43A</b>	<b>CIT v. Samtel India Ltd., Order Dated 21-5-2009</b> - The claim of the assessee for loss suffered on foreign exchange forward contract will be allowed as a revenue loss it is in respect of import of raw materials, components & spare parts.	High Court of Delhi
08-04-09	<b>43B</b>	<b>CIT v. Harig Crank Shaft [2008] 173 Taxman 152 (Delhi)</b>	Supreme Court of India

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
15-05-10	<b>43B</b>	<b>CIT v. AIMIL Ltd. [2010] 188 Taxman 265 (Delhi)</b> - If the employees contribution is not deposited by the due date prescribed under the relevant Acts and is deposited late, the employer can get the benefit if the actual payment is made before the return is filed.	High Court of Delhi
19-06-10	<b>43B</b>	<b>Jay Bharat Maruti Ltd. v. CIT [2010] 191 Taxman 149 (Delhi)</b>	High Court of Delhi
22-01-11	<b>43B</b>	<b>CIT v. Friends Clearing Agency (P.) Ltd. [2011] 199 Taxman 265 (Mag.)/9 taxmann.com 238 (Delhi)</b> - The mere fact that the Bank had not shown the accrual of interest in its books of account would not make the liability contingent. Insofar as the Bank was concerned, it had laid a claim by filing a suit. There is nothing to show that the Bank had not claimed interest for all the three periods i.e. pre-suit, pendente lite and future interest.	High Court of Delhi
18-03-11	<b>43B</b>	<b>CIT v. Narender Anand [2011] 198 Taxman 51/10 taxmann.com 27 (Delhi)</b> - Where time for filing return is extended in terms of proviso to Sec. 139(1) it automatically means extension of the due date for the purpose of Sec. 43B.	High Court of Delhi
20-09-11	<b>44A</b>	<b>ADIT v. Hologram Manufactures Association [2011] 48 SOT 39/14 taxmann.com 80 (Delhi)</b> - Where assessee which was an association of hologram industries and working for anti-piracy in security hologram and was organizing seminar for facilitation of hologram industries and other related activities, had incurred expenses which were not in nature of capital expenditure solely for purpose of protection or advancement of common interest of its	ITAT-Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		members, it would be allowable as deduction u/s 44A	
29-05-12	<b>44AB</b>	<b>Roxar Maximum Reservoir Performance WLL v. AAR (Income Tax) [2012] 207 Taxman 293/21 taxmann.com 128 (AAR - New Delhi)</b> - Payment received by non-resident company for installation, erection and commissioning of manometer gauges in India in connection with prospecting and/or extraction of oil by ONGC, is taxable u/s 44BB.	AAR - New Delhi
23-03-09	<b>44AD</b>	<b>CIT v. Sushila Chaturvedi ITA No. 1076 of 2007, dated 18-3-2009</b> - BHC has upheld ITAT conclusion that since TDS rate u/s 194C is fixed @ 2% of Gross receipts, same can be reasonably used to estimate taxable income in hands of contractor assessee and on the basis of the same, ITAT's conclusion as to 6% of Gross receipts can be taken/estimated as taxable income (approximately equal to 2% tax on gross receipts), has been upheld.	High Court of Bombay
24-05-10	<b>44BBB</b>	<b>CIT v. Franco Tossi Ingegneria SPA [2011] 197 Taxman 1/8 taxmann.com 198 (Mad.)</b>	High Court of Madras
12-10-09	<b>44C</b>	<b>Standered Chartered Grindlays Bank Ltd. ITA No. 629/2009, dated 8-9-2009</b> - Whether deduction allowable in respect of the expenses incurred on soliciting and mobilization of foreign currency deposits from Non-Resident Indians on the assessee's Indian business in the backdrop of sec. 44C.	High Court of Delhi
25-05-09	<b>45</b>	<b>Blue Star Limited. v. JCIT, ITA No. 799 of 2007, dated 10-7-2008</b> - Whether amount received by assessee on giving up its right in Joint Venture is liable to	High Court of Bombay

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		capital gains or is pure capital receipt non-chargeable to tax?	
25-05-09	45	<b>CIT v. S.R. Enterprises, ITA No. 1081 of 2008, dated 19-1-2009</b> - Whether amount received on sale of transferable development right is assessable to tax as business income or under the head capital gains.	High Court of Bombay
31-12-09	45, 48, 92	<b>Dana Corporation v. DIT (Intl. Tax.), [2010] 186 Taxman 187 (AAR - New Delhi)</b> - The expression 'income' in sec. 92 is not used in a sense wider than or different from its scope and connotation elsewhere in the Act.	AAR - New Delhi
31-12-09	45	<b>ACIT v. Kalchuri Corpn. dated 15-4-2009</b> - Held that plot purchased by the partners of the firm before they joined the firm from their own funds and no fund was borrowed for the same and even bank account was opened after the sale - it is a case of long-term investment - such income to be treated as capital gains and not business income	ITAT-Mumbai
05-08-09	45(5)	<b>CIT v. Ghanshyam (HUF) [2009] 182 Taxman 368 (SC)</b> - The year in which enhanced compensation is received is the year of taxability. Consequently, even in cases where pending appeal, the Authority before which appeal is pending, permits the claimant to withdraw against security or otherwise the enhanced compensation (which is in dispute), the same is liable to be taxed u/s 45(5).	Supreme Court of India
08-11-10	45 r.w 28	<b>CIT v. PNB Finance &amp; Industries Ltd. [2011] 198 Taxman 163 (Mag.)/9 taxmann.com 297 (Delhi)</b>	High Court of Delhi



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
10-03-11	45 r.w 28	<b>ACIT v. Vachharajani ITA No. 6429/Mum./2009, dated 25-2-2011</b> - (i) As regards the LTCG, the shares were held for several years and so the assessee has acted as investor and not as a trader and so the gains are assessable as LTCG; (ii) As regards the STCG, the view of the CIT(A) had to be upheld because; (a) there was no intra-day trading, (b) most of the shares were held for a period of 2 to 5 months, (c) In the preceding A.Y., the AO did not assess the STCG as business income and on the principles of consistency; a different view cannot be taken on the same facts.	ITAT-Mumbai
29-06-11	45(1)	<b>CIT &amp; JCIT v. Mangalore Ganesh Beedi Works ITA No. 1305/2006, dated 23-12-2010</b> - Whether when the firm is dissolved prior to the impugned AY but the returns are filed in individual capacity by the erstwhile partners in view of the directions of the Court on a company petition, the sum received through a bid after dissolution is taxable as capital gains u/s 45(1) in the hands of the firm. Held - No	High Court of Karnataka
22-08-11	45	<b>Dr. (Ms) Avimay S. Hakim v. ITO ITA No. 2923 of 2010, dated 10-8-2011</b> - whether the amount received as a compensation for damage caused to the land is a capital asset or a revenue receipt taxable in the hands of the appellant.	High Court of Bombay
15-10-11	45	<b>Bennett Coleman &amp; Co. Ltd. v. ACIT [2011] 133 ITD 1/14 taxmann.com 1 (Mum.)(SB)</b> - Since value of assets of sister concern immediately before and after reduction of share capital remained same and, moreover, assessee's proportionate share in such assets also remained same, loss, if any, at best	ITAT-Mumbai

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		could be regarded as notional loss which could not be allowed	
23-09-09	48	<b>Gian Kaur, ITA No. 463/2009, dated 7-8-2009</b> - MCD land rate on the basis of actual auction would be preferable to the predetermined rates of the DDA, inasmuch as the rates at which actual auction took place at the hands of MCD would be realistic whereas DDA rates are notional.	High Court of Delhi
20-05-10	48	<b>Navin Jindal v. ACIT [2010] 187 Taxman 283 (SC)</b> - In order to determine the nature of the gains/loss on renunciation of right to subscribe for additional shares/debentures, the crucial date is the date on which such right to subscribe for additional shares/debentures comes into existence and the date of transfer [renunciation] of such right. Further diminution in the value of original shares would be regarded as the cost of acquisition for such right.	Supreme Court of India
10-09-10	48	<b>Varinder Kumar v. CIT [2012] 207 Taxman 16 (Mag.)/20 taxmann.com 241 (Punj. &amp; Har.)</b> - In the absence of any acceptable material to support valuation report of registered valuer, cost of acquisition can be determined on the basis of rate of allotment of Housing Board.	High Court of Punjab & Haryana
06-12-11	48(2)	<b>S M Sundaram v. CIT [2012] 204 Taxman 12 (Mag.)/[2011] 16 taxmann.com 211 (Mad.)</b> - Once deduction u/s 48(2) in respect of capital gains has been considered in hands of firm, remaining amount, when it comes to hands of partner, will not continue to be LTCG so as to enable partner to claim deduction u/s 48(2) once again. Therefore, a partner is not entitled to deduc-	High Court of Madras

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		tion u/s 48(2) on share of capital gains allocated to him on computation in assessment of firm.	
27-04-11	49	<b>DCIT v. Shantilal J Shah ITA No. 4085/Mum/2009, AY : 2004-2005, dated 4-3-2011</b> - Fair market value considered for computing the capital gains and redeveloped cost incurred was allowed even that the assessee could not have recovered any sale consideration from such existing tenants.	ITAT-Mumbai
21-02-12	49	<b>Arun Shungloo Trust v. CIT [2012] 205 Taxman 456/18 taxmann.com 261 (Delhi)</b> - In case of transfer by gift, will, trust, etc. indexed cost to be determined with reference to holding by previous owner. Benefit of indexed cost of inflation is given to ensure that taxpayer pays capital gain tax on 'real' or actual 'gain' and not on increase in capital value of property due to inflation; this is object or purpose in allowing benefit of indexed cost of improvement, even if improvement was by previous owner in cases covered by section 49.	High Court of Delhi
22-06-09	50, 32(1)(iii), 47, 49, 14A & 115JA	<b>Mukand Global Finance Ltd. v. Dy. CIT [2009] 117 ITD 20/[2008] 20 SOT 82 (Mum.)</b>	ITAT-Mumbai
27-09-11	50(2)	<b>S Muthurajan v. DCIT [2011] 202 Taxman 356/14 taxmann.com 82 (Mad.)</b> - When the export unit formed part of the business of the assessee, on the expiry of tax holiday period, there is no logic in treating the assets as independent of business of the assessee that they do not form part of block of assets	High Court of Madras

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		for the purpose of working out the relief on capital gains	
10-12-09	<b>50C</b>	<b>N Meenakshi v. ACIT W.P. No. 851 of 2009, dated 11-9-2009</b> - AO passes order before getting Valuation Officer's Report - the right of an assessee conferred u/s 50C is a valuable statutory right: Alternative remedy cannot be a bar for writ where fundamental right is breached or there is violation of the statutory provisions- The proceedings were set-aside and restored to the file of the AO for fresh consideration.	High Court of Madras
03-09-11	<b>50C</b>	<b>ADIT v. Ranjay Gulati [2011] 48 SOT 61 (URO)/14 taxmann.com 161 (Delhi)</b> - Where there was nothing with the AO to suggest that the assessee had received more than what was stated in the sale deed, FVC could not be adopted as per DVO's report	ITAT-Delhi
20-09-11	<b>50C</b>	<b>DCIT v. Sunderdeep Infrastructure Pvt. Ltd. ITA No. 2051/Ahd./2009, AY :2006-07, dated 17-06-2011</b> - Provisions of section 50C are not applicable in the case of the purchaser. Further in the absence of any evidence or material on record to justify the findings of the AO, that the assessee made excess payment over and above the sale consideration shown in the registered documents, the learned CIT(A) on proper appreciation of the facts rightly deleted the addition	ITAT-Ahmedabad
19-03-12	<b>50C</b>	<b>Tejinder Singh v. DCIT [2012] 50 SOT 391/19 taxmann.com 4 (Kol.)</b> - when a leasehold right in "land or building or both" is transferred, the provisions of Sec. 50C cannot be invoked.	ITAT-Kolkata
05-05-12	<b>50C</b>	<b>Yasin Moosa Godil v. ITO [2012] 52 SOT 344/20 taxmann.com 424 (Ahd.)</b> -	ITAT-Ahmedabad

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		For application of Sec. 50C, it is essential that the transfer must be of a capital asset, being land or building or both. Where the assessee has transferred booking rights and received back the booking advance. Booking advance cannot be equated with the capital asset and therefore sec. 50C cannot be invoked.	
27-03-10	54	<b>MB Ramesh v. ITO, ITA No.449/2009, dated 4-1-2010</b> - Held for purpose of availing exemption u/s 54, it is must that transferred asset a constituted HABITABLE RESIDENTIAL HOUSE and mere mud structure cannot be equated to residential house.	High Court of Karnataka
16-06-12	54	<b>B. M. Labroo v. DCIT ITA No. 2756/Del./2011, AY: 2006-07, dated 11-06-2012</b> - Investment of long term capital gain made in new residential house within the time limit prescribed u/s 139(4) is eligible for deduction u/s 54.	ITAT- Delhi
07-06-11	54EC r.w 74	<b>The Tata Power Co. Ltd. v. ACIT [2011] 47 SOT 470/13 taxmann.com 235 (Mum.)</b> - Sec. 54EC deduction has to be given before set-off of losses.	ITAT-Mumbai
13-04-12	54EC	<b>Aspi Ginwala, Shree Ram Engg. &amp; Mfg. Industries v. ACIT [2012] 52 SOT 16/20 taxmann.com 75 (Ahd.)</b> - Exemption should be granted in cases where there is a delay in making investment due to non-availability of the bonds.	ITAT-Ahmedabad
23-11-09	54F	<b>CIT v. Pritam Singh Chail ITA No. 932 of 2008, dated 6-11-2009</b> - It has been held that a property which is held in the capacity of an individual cannot be attributed towards the property of HUF	High Court of Punjab & Haryana

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		on the ground that the same was shown in the Wealth Tax Return of the HUF.	
19-08-11	54F	<b>CIT v. Dinesh Megji Toprani HUF ITA No. 3404 of 2010, dated 4-8-2011</b> - Exemption u/s 54F cannot be denied where the property is purchased in the name of the members of the HUF but in facts belonged to HUF	High Court of Bombay
12-09-11	54F	<b>Shri Jagtar Singh Chawla v. ACIT ITA No. 4923/Del./2010, dated 30-6-2011</b> - Whether for the purpose of investing the amount in another house property for claiming exemption u/s 54F, the due date of filing of return is to be considered as per sec. 139(4).	ITAT-Delhi
04-12-10	55(2)	<b>Ansal Properties &amp; Industries Ltd. presently known as (Ansal Properties &amp; Infrastructure Ltd.) v. CIT [2011] 196 Taxman 45/[2010] 8 taxmann.com 86</b>	High Court of Delhi
27-02-12	55(2)(a)	<b>Late Dr. B.V. Raju v. ACIT [2012]/135 ITD 1/18 taxmann.com 188 (Hyd.)(SB)</b> - The payment received as non-competence fees pursuant to non competence agreement clearly falls under the category of a payment for "not carrying out any activity in relation to any business" which at the relevant point of time of accrual i.e. AY 2000-01 in the hands of B.V.Raju was a capital receipt not chargeable to tax. Such receipts became taxable on and from 1-4-2003, so the provision of sec. 28(va)(a) were not applicable.	ITAT-Hyderabad
17-06-09	55A	<b>Urmila Bawa, ITA No. 774/2007, dated 18-5-2009</b> - In case Deptt. Valuation report do not consider material facts relating to a property, an assessee can rebut/dislodge the same by plac-	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		ing its own valuer's report, which in turn if accurate as compared to DVO report can be relied by appellate authorities.	
21-01-11	<b>55A</b>	<b>CIT v. Puneet Sabharwal [2012] 204 Taxman 16 (Mag.)/[2011] taxmann.com 320 (Delhi)</b> - The primary burden of proof to prove understatement or concealment of income is on the Revenue and it is only when such burden is discharged that it would be permissible to reply upon the valuation given by the DVO. Further the opinion of Valuation officer, per se, was not an information and could not be relied upon without the books of account being rejected.	High Court of Delhi
16-03-09	<b>56</b>	<b>CIT v. Fortis Healthcare Ltd. [2009] 181 Taxman 257 (Delhi)</b> - Reimbursement received from other concern with whom certain facilities were shared, on cost to cost basis (without mark up), is not taxable as income as otherwise also if same is taxed as income, net result will be ZERO, income being squarely off set by equivalent expenses.	High Court of Delhi
18-03-11	<b>56</b>	<b>CIT v. Jaypee DSC Ventures Ltd. [2012] 204 Taxman 169 (Mag.)/17 taxmann.com 257 (Delhi)</b> - The interest earned on the FDRs has intrinsic and insegregable nexus with the work undertaken and, therefore, the interest earned by the assessee is capital in nature and shall go towards adjustment against the project expenditure and the same cannot be assessed as income from other sources.	High Court of Delhi
22-03-11	<b>56</b>	<b>DCIT v. Energy Infrastructure India Ltd. ITA Nos. 2337 &amp; 4337/Del/2010, dated 7-01-2011</b> - Interest, rent, royalty etc. earned on intricably connected activities with the construction activity	ITAT-Delhi

## LANDMARK RULINGS

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
		would be reduced from the cost of the assets and it would not be treated as income.	
24-06-10	<b>56(2)</b>	<b>CIT v. Eastman Industries ITA No. 2 of 2010, dated 8-2-2010</b>	High Court of Punjab & Haryana
17-07-09	<b>57(iii)</b>	<b>CIT v. Tehri Hydro Development Corporation [2009] 183 Taxman 246 (Uttarakhand)</b> - Deductions to the extent of 2.5% towards administrative costs on the interest income on short term deposits allowed and the interest and rent received from employees and oustees had a nature of capital receipt, as the construction process was still on and the assessee had yet not started the business activity.	High Court of Uttarakhand
25-10-10	<b>57</b>	<b>CIT v. Smt. Swapna Roy [2010] 192 Taxman 105 (All.)</b> - The expenditure or investment made in a company where there is no hope of earning profit would not be covered by sec. 57(iii)	High Court of Allahabad
22-01-11	<b>57</b>	<b>CIT v. Taj International Jewellers [2012] 207 Taxman 18 (Mag.)/20 taxmann.com 1 (Delhi)</b> - If there is a clear nexus between the interest earned on the FDRs and the interest paid on loans utilized for purchase of FDRs interest is allowable u/s 57(iii).	High Court of Delhi
28-04-09	<b>68</b>	<b>CIT v. M.N. Securities Pvt. Ltd., ITA No. 1243/2008, dated 20-3-2009</b> - Addition u/s 68 made for not furnishing satisfactory explanation to AO regarding receipt of money in books of account.	High Court of Delhi
04-06-09	<b>68</b>	<b>CIT v. Samir Bio Tech Pvt. Ltd. ITA 415 of 2008, dated 4-12-2008</b> - After taking note of latest SC ruling in Lovely Exports 216 CTR 195 has concluded	High Court of Delhi



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		that once shareholders are identified (by filing of income tax particulars, shareholders audited balance sheets etc) and the transaction is conducted through banking channel, no addition can be made for unexplained cash credit.	
16-06-09	68	<b>CIT v. ITAC Ltd. Special Leave to Appeal (Civil)/2008 CC 17475/2008, dated 9-1-2009</b> - Has given relief to assessee u/s 68 for alleged unexplained creditors etc., where assessee furnished confirmation letters, bank a/c, assessment order and ITR copy of impugned lenders/creditors.	Supreme Court of India
23-06-09	68	<b>CIT v. TDI Marketing Pvt. Ltd., ITA No. 340/2009, dated 19-5-2009</b> - If the shareholders have appeared and confirmed having entered into transaction, in absence of any contrary material, the Assessing Officer could not merely on presumption treat the share capital as unexplained cash credit.	High Court of Delhi
24-08-09	68	<b>Kusum Lat Thakral v. CIT ITA No. 253 of 2009, dated 24-7-2009</b> - For the purpose of verifying the genuineness of gift, the only thing which is relevant is that the natural love and affection and if the same is lacking then gifts are not gifts rather cash credits.	High Court of Punjab & Haryana
25-09-09	68	<b>Kuber Floritech Ltd. ITA No. 516/2009, dated 7-8-2009</b> - Followed Lovely Exports Pvt. Ltd. 216 CTR 195 for the proposition that if the share application money is received by the assessee from the alleged bogus shareholders, whose names are given to the AO, then the department is free to proceed to re-open their individual assessments in	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		accordance with law, but it cannot be regarded as undisclosed income of the assessee company.	
12-10-09	68	<b>Ujagar Singh Oberoi ITA No. 621/2009, dated 4-9-2009</b> - Where the donors not only confirm having given the gifts by filing the affidavits in order to prove their creditworthiness and submits their income tax return as well and it is also established that there are close friends/relations of the assessee, the identity and creditworthiness of these persons stands established.	High Court of Delhi
13-10-09	68	<b>CIT v. Mohindra Fasteners Ltd. ITA No. 557/2009, dated 2-9-2009</b> - It has been held that for making addition u/s 68 of the money received on account of share application money, the burden is on department to bring out material on record to show that the allottees from money was received were bogus.	High Court of Delhi
14-10-09	68	<b>CIT v. Madhavi K. Jain, ITA No.1156 of 2009, dated 22-9-2009</b> - When the person, who gifted, had appeared before the AO and affirmed his writing that he had given gift. The capacity of the person to gift is not doubted. The relationship sought to be explained has been accepted as out of love and affection. The transaction appears to be a genuine transaction.	High Court of Bombay
17-12-09	68	<b>CIT v. Quadra Securities &amp; Financial Services (P.) Ltd. ITA No. 520/2008, dated 16-9-2009</b> - When the assessee had provided PAN, copy of the returns filed, copies of the bank accounts and even the source of deposit in the bank accounts in respect of those shareholders, the identity of the shareholders, who had subscribed to the share capital, had been established.	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
21-12-09	68	<b>CIT v. Creative World Telefilms Ltd. [2011] 203 Taxman 36 (Mag.)/15 taxmann.com 183 (Bom.)</b> - It has been held that once the assessee has given PAN of the shareholders then it is incumbent on the AO to search those persons and mere issuance of summons is not sufficient to hold that the share application money was bogus. It has been clarified that no blame can be attributed to an assessee who submits the PAN of the subscribers and failed to produced them before the AO.	High Court of Bombay
14-01-10	68	<b>CIT v. Kasturbhai Mayabhai Pvt. Ltd., ITA No. 1991 of 2008, dated 3-12-2009</b> - It has been held that since the assessee has proved all the ingredient of sec. 68, no addition could be made to the income of the assessee. In respect of disallowance u/s 14A, held that since the AO did not establish the nexus between the expenses and the exempt income the addition could not sustain	High Court of Gujarat
23-04-10	68	<b>CIT v. Hari Ram Chaggan Lal &amp; Party ITA 1255/2008, dated 2-2-2010</b> - In view of the material supplied by the assessee in the form of confirmation, ITR & Balance sheet of creditor, the identity of the creditor as well as its creditworthiness as also with regard to the genuineness of the transaction were proved	High Court of Delhi
02-06-10	68	<b>CIT v. Ask Brothers Ltd. [2012] 20 taxmann.com 418 (Kar.)</b> - Held applying SC ruling in lovely exports 216 CTR 195 and Stellar Investments 251 ITR 263, that once identity stands established, even if certain persons did not admit for share application subscription, no	High Court of Karnataka

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		addition is possible in hands of company assessee.	
02-06-10	68	<b>CIT v. V.V. Industrial Processors Pvt. Ltd. ITA No. 145/2010, dated 25-2-2010</b> - Where the identity of the subscribers was established and they had also confirmed having made the payments, the onus of assessee stands discharged.	High Court of Delhi
03-06-10	68	<b>ITO v. Le Mans Overseas Pvt. Ltd. ITA No. 4354/Delhi/2009, dated 2-3-2010</b> - Held applying SC Lovely exports: once the identity of the share holders was established and it stands established that the shareholders have invested money in the purchase of shares, hence onus on the part of the assessee company is discharged.	ITAT-Delhi
20-08-10	68	<b>CIT v. Himatsu Bimet Ltd. [2011] 200 Taxman 183 (Mag.)/12 taxmann.com 87 (Guj.)</b>	High Court of Gujarat
15-09-10	68	<b>CIT v. Paramount Communications Ltd. ITA No. 287/201, dated 3-8-2010</b> - As the assessee had produced each and every invoice in respect of goods sold and produced quantity wise details of unsold stock as well as surrendered stock vis-a-vis stock sold before the end of the year duly supported by documents, it is not correct to allege that stock surrendered was not reflected in the books of account and the addition u/s 68 is not justifiable.	High Court of Delhi
25-09-10	68	<b>CIT v. Prayag Hospital &amp; Research ITA No. 917/2010, dated 22-7-2010</b> - Where the identity of the creditors is known, AO can proceed against such creditors in accordance with law. Addition in the hands of assessee could not be sustained.	High Court of Delhi

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
04-10-10	68	<b>CIT v. Dhawan Jewellers Pvt. Ltd. ITA No. 904/2010, dated 2-8-2010</b> - Where the identity of the creditors is known, AO can proceed against such creditors in accordance with law. Addition in the hands of assessee could not be sustained.	High Court of Delhi
09-10-10	68	<b>CIT v. Green Tech Tower Builders Pvt. Ltd. ITA No. 1113/2010, dated 12-8-2010</b> - Where the identity of the creditors is known, AO can proceed against such creditors in accordance with law. Moreover, AO has not brought any material on record to prove and establish that the credits were originated directly or indirectly from the coffers of the assessee company, the amount cannot be considered as undisclosed income.	High Court of Delhi
13-10-10	68	<b>CIT v. Raghvi Finance Ltd. ITA No. 1264/2010, dated 31-8-2010</b> - Where the identity of the creditors is known, AO can proceed against such creditors in accordance with law, share application money cannot be regarded as undisclosed income.	High Court of Delhi
13-10-10	68	<b>CIT v. Orbital Communication (P.) Ltd. ITA No. 989/2010, dated 30-8-2010</b> - Where assessee had produced substantial evidences to establish the identity and creditworthiness of the creditor, AO can proceed against such creditors in accordance with law, share application money cannot be regarded as undisclosed income.	High Court of Delhi
13-10-10	68	<b>CIT v. Moonlight Exim P. Ltd. ITA No. 1243/2010, dated 27-8-2010</b>	High Court of Delhi
15-10-10	68	<b>CIT v. Sidh Vinayak Development Pvt. Ltd. ITA No. 790/2010, dated</b>	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		<b>30-8-2010</b> - The assessee had filed the confirmation letters from the parties, PAN and photocopy of the cheques through which the payments had been received. AO had also directly called for the bank accounts of the two parties along with other documents and the amounts have been duly reflected in the bank accounts of both the parties as well as in the balance sheets. Addition cannot be sustained.	
29-01-11	<b>68</b>	<b>CIT v. Samtel Color Limited ITA No. 660/2008, dated 17-1-2011</b> - The assessee is public company receives the deposit through public notice and not privately and various depositors make the deposits. The deposits of those eight persons are nominal in nature when compared to the total deposits received by the assessee. Moreover, the information given in the application forms submitted by these depositors would have served the purpose and it cannot be said that the assessee did not discharge the onus. Therefore no addition u/s 68.	High Court of Delhi
07-02-11	<b>68</b>	<b>CIT v. Mahindra Finlease Pvt. Ltd. [2012] 204 Taxman 141 (Mag.)/[2011] 11 taxmann.com 362 (Delhi)</b> - Whether the protective assessment can be framed in the proceedings under Section 158BC/158BD.	High Court of Delhi
07-02-11	<b>68</b>	<b>CIT v. Oasis Hospitalities Pvt. Ltd. [2011] 198 Taxman 247/9 taxmann.com 179 (Delhi)</b> - In the case of public issue, the Company concerned cannot be expected to know every detail pertaining to the identity as well as finan-	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		cial worth of each of its subscribers. In absence of any specific finding by the AO, sec. 68 cannot be resorted to.	
27-05-11	68	<b>ITO v. Kailashpati Overseas Pvt. Ltd. ITA No. 4268/Delhi/2009, AY 2001-2002</b> - When assessee submits the relevant details in respect of share application money such as PAN Number, confirmation and the bank particulars it can be said that the assessee has discharged its burden and no addition can be made on the basis of investigation averments, and it is incumbent on the AO to prove that averments of investigation wing applies in the case of the assessee	ITAT-Delhi
19-07-11	68	<b>MRG Developers (P) Ltd. v. ITO ITA No. 1642/Delhi/2009 AY : 2004-2005, dated 20-05-2011</b> - Whether when no information regarding the assessment records of alleged entry operators is considered by the AO due to non completion of assessment in those cases, the assessment is rightly set aside to the AO.	ITAT-Delhi
06-08-11	68	<b>Mayawati v. CIT [2011] 201 Taxman 1/12 taxmann.com 306 (Delhi)</b> - The capacity in context of sec. 68 does not mean what you are earning monthly or annually. The capacity includes how much total assets a person own. Further, it is also not necessary that a person should be a habitual donor. It depends from person to person, thinking to thinking and situation to situation.	High Court of Delhi
05-09-11	68	<b>MOD Creations Pvt. Ltd. v. ITO [2011] 202 Taxman 10 (Mag.)/13 taxmann.com 114 (Delhi)</b> - It is no part of the assessee's burden to prove either the genuineness of the transactions ex-	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		ecuted between the creditors and the sub-creditors nor is it the burden of the assessee to prove the creditworthiness of the sub-creditors	
12-09-11	68	<b>ITO v. Madhav Tech (India) Pvt. Ltd. ITA No. 1312/Delhi/2011, dated 12-05-2011</b> - Addition u/s 68 cannot be sustained where the assessee has submitted the confirmations and the salary slip of the applicant of share capital	ITAT-Delhi
14-09-11	68	<b>Arijit Ghosh v. ACIT ITA No. 01 (Kol.) of 2011, AY: 2005-06, dated 26-8-2011</b> - In view of above sworn statement before the A.O., without bringing on record any contradictory material against the deposition of party, it is not justified to consider the said bank account as belonging to the assessee, when once it is established beyond doubt that all transactions in the said bank account are reflected by that party.	ITAT-Kolkata
16-09-11	68	<b>CIT v. Kinetic Capital Finance Ltd. [2011] 202 Taxman 548/14 taxmann.com 150 (Delhi)</b> - Merely because certain application forms of depositors did not contain their PAN and GIR numbers, cheque numbers and draft numbers or where some investors had chosen not to respond to the notices, or the assessee had not been able to produce the investors, it would not make the forms invalid or creditors not genuine so as to make addition u/s 68.	High Court of Delhi
15-10-11	68	<b>CIT v. Dataware Private Limited ITAT No. 263 of 2011, dated 21-9-2011</b> - The AO is bound to accept the transaction as genuine where the creditor is an income tax assessee and such transaction is not doubted by the AO of creditor	High Court of Kolkata



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
20-10-11	68	<b>DCIT v. Bihariji Ispat Udyog Ltd. ITA Nos. 1982 &amp; 1983/Kol/2010 AY: 2001-02 &amp; 2006-07, dated 6-9-2011</b> - Whether any addition u/s 68 is permissible when the advances are received by account payee cheques and interest and shares have been paid and allotted against these advances.	ITAT-Kolkata
01-12-11	68 r.w 254	<b>CIT v. Gold Leaf Capital Corporation Ltd. [2012] 205 Taxman 16 (Mag.)/18 taxmann.com 166 (Delhi)</b> - Where two course are open, first to draw an adverse inference against the assessee and second to restore the matter back to the AO. In case, where the assessee was non-cooperative, it can naturally be safely concluded that the assessee did not want to produce evidence, as it would have exposed that the transactions in question were not genuine and fraudulent. Therefore, only one course of action is presumed, viz., to draw adverse inference.	High Court of Delhi
22-05-12	68	<b>Azeem Investment Pvt. Ltd. v. CIT [2012] 208 Taxman 220 (Mag.)/23 taxmann.com 353 (Delhi)</b> - The share application money received is not genuine transaction when there is only reference to the bank account entries.	High Court of Delhi
06-03-09	69 & 68B	<b>Chandni Bhuchar v. ACIT ITA 1580/Delhi/2008, dated 27-2-2009</b> - Merely on basis of stamp valuation rates no addition can be made in hands of purchaser. Further it is held that section 50C applicable to seller for capital gains taxation cannot be pressed against assessee purchaser for taxation u/s 69/69B	ITAT- Delhi
05-10-09	69	<b>Sonia Magu v. CIT [2009] 185 Taxman 402 (Delhi)</b> - Once the assessee was able to duly explain the source of	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		purchase of the entire disputed jewellery, we are of the opinion that the CIT(A) committed an error in falling back on the conditional offer given by the assessee before the A.O. along with the return in Form 2B.	
08-12-09	69	<b>Jasbir Singh v. CIT [2011] 196 Taxman 102 (Punj. &amp; Har.)(Mag.)</b> - There was no error in making assessment u/s 144 after notice u/s 142 have been served upon the assessee	High Court of Punjab & Haryana
17-12-09	69	<b>CIT v. Gourdin Herbals India Ltd. ITA No. 665/2009, dated 17-9-2009</b> - We are of the opinion that following the judgment of the Supreme Court in the case of <i>CIT v. Lovely Exports Pvt. Ltd.</i> , 216 CTR 195, the ITAT has rightly held that the assessee had discharged its burden	High Court of Delhi
23-11-09	69, 158BC	<b>CIT v. Balbir Singh Mohinder Singh ITA No. 203 of 2009, dated 5-11-2009</b> - The assessee's income is to be assessed by the AO on the basis of material which is required to be considered for the purpose of assessment and ordinarily not on the basis of the statement of third party unless and until there is a material to corroborate that statement.	High Court of Punjab & Haryana
24-03-10	69	<b>Urmila Gambhir v. CIT ITA 12/2006, dated 23-12-2009</b>	High Court of Delhi
06-10-10	69	<b>CIT v. Smt. Suraj Devi [2011] 197 Taxman 173 (Delhi) (Mag.)</b>	High Court of Delhi
11-10-10	69	<b>CIT v. Kishore Apparels ITA No. 1260/2010, dated 30-8-2010</b> - The assessee had purchased raw material and also got the job work done from the same parties in both earlier and subsequent assessment years. AO in the subsequent AY of 2004-05 has accepted all these parties and transactions as genuine.	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		Moreover, payments had been made to these parties through banking channels and tax had been deducted at source on the payments made towards job work charges, addition could not be sustained.	
11-02-11	69	<b>CIT v. Naresh Kumar Aggarwala [2011] 198 Taxman 194/9 taxmann.com 249 (Delhi)</b> - Addition u/s 69 cannot be made merely on presumption basis where no documentary evidence was brought on record by the Department	High Court of Delhi
26-07-11	69	<b>Ashok Chaddha v. ITO [2011] 202 Taxman 395/14 taxmann.com 57 (Delhi)</b> - It is a normal custom for woman to receive jewellery in the form of "stree dhan" or on other occasions such as birth of a child etc. Collecting jewellery of 906.900 grams by a woman in a married life of 25-30 years is not abnormal. Furthermore, there was no valid and/or proper yardstick adopted by the Assessing officer to treat only 400 grams as "reasonable allowance" and treat the other as "unexplained". Matter would have been different if the quantum and value of the jewellery found was substantial.	High Court of Delhi
27-09-11	69	<b>CIT v. Mahesh Kumar ITA No. 2070/2010, Dated: 20-09-2011</b>	High Court of Delhi
02-03-10	69A	<b>CIT v. Vimal Moulders (India) Ltd. [2011] 200 Taxman 187 (Mag.)/12 taxmann.com 119 (Delhi)</b>	High Court of Delhi
19-08-10	69A	<b>ITO v. Pawan Kumar Gupta [2011] 43 SOT 32 (Delhi) (URO)</b> - The appeal is for the A/Y 2001-02 against the CIT's Action of deleting addition of Rs. 49	ITAT-Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		lakhs made by AO u/s 69A of the Income-tax Act. The order of the CIT is confirmed by the ITAT	
23-03-09	<b>69C</b>	<b>H.S.Raina v. ITO ITA No. 01 of 2008, dated 3-3-2009</b> - Held that there was nothing to suggest receipt of loans and utilization thereof for construction, except assertions, non acceptance of such assertions, cannot be said to be based on suspicion, conjecture or surmise or by applying the rule of thumb. No such procedure of hearing the assessee and giving him reasonable opportunity of being heard has been prescribed for making additions u/s 69	High Court of J&K
06-01-10	<b>69C &amp; 44AB</b>	<b>M Kantilal Exports v. ACIT ITA No. 2186 of 2009, dated 4-12-2009</b>	High Court of Gujarat
27-04-10	<b>69C</b>	<b>CIT v. Anil Bhalla ITA 1415/2009, dated 1-2-2010</b> - The revenue did not bring anything on record suggesting that expenses incurred were more than the one declared and the Valuation report alone cannot constitute basis for making additions	High Court of Delhi
02-07-09	<b>71</b>	<b>CIT v. Foramer France [2009] 181 Taxman 262 (Uttarakhand)</b> - Merely for the reason that the assessee sent some letters and made some offer from Dubai to ONGC does not amount doing business in India. We do agree that 'lull in business' does not mean that the assessee has ceased its business. But, when the assessee has neither permanent office, nor any other office in India, nor any contract was in execution during the relevant period, it cannot be said that they were in business in India, as such, it cannot be said that	High Court of Uttarakhand

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		assessee was entitled to set off claimed by it u/s 71	
23-01-12	<b>72</b>	<b>Nandi Steels Limited v. A.C.I.T [2012] 17 taxmann.com 93 (Bang.) (SB)</b> - The land & building were fixed & capital assets used by the assessee for its business purposes. The gains arising therefrom were assessable as capital gains and were not eligible for set-off against the brought forward business loss u/s 72.	ITAT-Bangalore
12-06-09	<b>73</b>	<b>Prasad Agents Private Limited v. ITO [2009] 180 Taxman 178 (Bom.)</b> - Whether Circular No. 204, dt. 24-7-1976, which contains explanatory notes to Taxation Laws (Amendment) Act, 1975, may be considered to mean that <i>Explanation</i> to sec 73 also includes cases of group companies, but that does not mean that <i>Explanation</i> must be restricted only to group companies and not to other companies who carry on business of sale and purchase of shares either having no controlling interest in other companies or purchasing shares to control other companies. <i>Explanation</i> to sec 73 cannot be read to mean only when there is purchase and sale of shares in course of a financial year, but it will cover both, shares which are stock-in-trade and shares which are traded in course of financial year, for purpose of considering loss and profit for that year.	High Court of Bombay
22-12-09	<b>73 &amp; 32</b>	<b>CIT v. JCL International Ltd. ITA No. 1255/2009, dated 18-5-2009</b> - It has been held that accumulated depreciation of earlier years can be set-off with the long term capital gain	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
27-07-10	73	<b>Porrits &amp; Spencer (Asia) Ltd. v. CIT [2010] 190 Taxman 174 (Punj. &amp; Har.)</b> - Whether the Tribunal was right in law in confirming that the loss of Rs. 51,61,875/- incurred on account of transactions of purchase and sale of 25 lakhs units called 'US-64' was speculative loss under section 73 of the Income-tax Act and that the assessee was not entitled to set off in respect of the aforestated loss accordingly?	High Court of Punjab & Haryana
05-07-11	73	<b>PCBL Industrial Ltd. v. CIT [2012] 20 taxmann.com 748 (Cal.)</b> - Whether when the principal business of the assessee is to grant loans and advances, the loss suffered by the assessee is not covered under <i>Explanation</i> to section 73 as it is covered under the exception to the said explanation.	High Court of Calcutta
20-02-12	73	<b>CIT v. Darshan Securities (P.) Ltd. [2012] 206 Taxman 68/18 taxmann.com 142 (Bom.)</b> - To determine as to whether exception enunciated in <i>Explanation</i> to sec. 73 applies, firstly one has to compute gross total income under normal provisions of Act.	High Court of Bombay
04-01-10	80HHC & 115JB	<b>Dy. CIT v. Glenmark Laboratories Ltd. ITA No.4155/Mum/2007, dated 09-11-2009</b> - It has been held that that Assessee's claim of deduction u/s 80HHC even while computing the book profit u/s 115JB is allowable in view of the Special Bench decision in Syncome Formulations (I) Ltd.	ITAT-Mumbai
21-02-11	80HHC	<b>CIT v. International Research Park Lab. Ltd. ITA No. 8/2001 &amp; 16/2001, dated 6-1-2010</b> - Held that commission received by the assessee on assignment	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		of export orders to another party in India will form part of profits eligible for deduction u/s 80HHC of Income-tax Act, in view of judgment of <i>P. R. Prabhakar v. CIT</i> (2006) 284 ITR 548 (SC) and <i>CIT v. Baby Marine Exports</i> (2007) 290 ITR 323 (SC).	
08-03-11	<b>80HHC</b>	<b>CIT v. Packworth Udyog Ltd. [2011] 198 Taxman 10/10 taxmann.com 5 (Ker.)(FB)</b> - Though the assessee was not entitled to any deduction u/s 80HHC under the normal provisions of the Act owing to losses, it claimed that in computing the book profits u/s 115JA/115JB, deduction u/s 80HHC ought to be computed having regard to the profits as per the P&L A/c as held in <i>GTN Textiles</i> 248 ITR 372 (Ker).	High Court of Kerala
04-06-11	<b>80HHC</b>	<b>CIT v. Elgi Equipments Ltd. ITA Nos. 183 and 184 of 2008, dated 29-04-2011</b> - Whether the income from lease operations, technical service charges and tyre retreading receipts are to be excluded while computing the deduction u/s 80HHC as these are not the main activities of the assessee and are covered under the expression any other receipt of a similar nature included in such profits under Clause (baa)(1) of section 80HHC.	High Court of Madras
24-09-11	<b>80-HHC</b>	<b>CIT v. Padmini Technologies Ltd. ITA No. 1265/2007, dated 14-9-2011</b> - The total turnover of business would only mean total turnover of business of goods to which the section applies. Inclusion of turnover of goods to which the section does not apply, would be doing violence to the language of sub-section (3)(b). Sub-section (3) is inserted only to determine the deductible prof-	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		its out of the total profits of business which can be attributed to the export business	
13-02-12	<b>80HHC &amp; 28(iiid)</b>	<b>Topman Exports v. CIT [2012] 205 Taxman 119/18 taxmann.com 120 (SC)</b> - DEPB represents part of the cost incurred by a person for manufacture of the export product and hence even where the DEPB is not utilized by the exporter but is transferred to another person, the DEPB continues to remain as a cost to the exporter. When DEPB is transferred, the entire sum received on such transfer does not become his profits. It is only the amount that he receives in excess of the DEPB which represents his profits on transfer of the DEPB.	Supreme Court of India
29-02-12	<b>80-HHC</b>	<b>Indian Del. (P.) Ltd. v. CIT [2012] 207 Taxman 177 (Mag.)/20 taxmann.com 542 (Delhi)</b> - In order to attract provisions of Sec 80HHC, the goods needs to be exported out of India and sale made to UNICEF in India would not amount to export of goods. Accordingly the assessee is not entitled to deduction u/s 80HHC.	High Court of Delhi
27-07-09	<b>80HHE</b>	<b>Automated Securities Clearance Inc. v. ITO ITA No. 825 of 2009, dated 24-6-2009</b> - Whether deduction u/s 80HHE is allowable to a company incorporated in the USA in view of Article 26(2) of India -USA DTAA?	High Court of Bombay
18-04-12	<b>80-I</b>	<b>CIT v. Finolex Cables Ltd. ITA No. 129 of 2011 dated 1-3-2012</b> - Where substantial investment has been made and the new plant and machinery is installed in the newly constructed building, it can be said that assessee has set-up a new industrial undertaking and it	High Court of Bombay



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		is not the expansion of earlier unit and hence the depreciation of such unit is not to be set-off with the income of that unit which enjoys deduction u/s 80-I.	
17-05-12	<b>80-I</b>	<b>Krishak Bharati Co-operative Ltd. v. CIT [2012] 208 Taxman 37 (Mag.)/ 21 taxmann.com 518 (Delhi)</b> - In the absence of evidence and material placed by the appellant assessee, the transportation charges cannot be treated as profit and gain derived from the manufacturing activity, which qualifies for deduction u/s 80-I.	High Court of Delhi
25-06-09	<b>80-IA &amp; 80-IB</b>	<b>Hindustan Mint &amp; Agro Products P. Ltd.</b> - Whether in view of the provision of sec 80-IA(9) r.w.s 80-IB(13), the deduction of income under Chapter VI-A can be allowed on entire profit and gains of an undertaking or an enterprise of an assessee or it is to be allowed on such profit and gains as reduced by deduction claimed and allowed u/s 80-IB/80-IA.	ITAT- New Delhi
05-10-09	<b>80-IA</b>	<b>CIT v. Sportking India Limited [2009] 183 Taxman 312 (Delhi)</b> - Amount received by assessee-company from insurance company on account of loss of goods destroyed by fire should be taken into account in determining profits and gains of an industrial undertaking of types specified under section 80-IA.	High Court of Delhi
02-09-09	<b>80-IA, 80-IB</b>	<b>Liberty India v. CIT [2009] 183 Taxman 349 (SC)</b> - Duty drawback receipt/DEPB benefits do not form part of the net profits of eligible industrial undertaking for the purpose of sec. 80-IA/80-IB	Supreme Court of India
04-11-09	<b>80-IA</b>	<b>CIT v. Datamatics Financial Software &amp; Services Ltd. ITA No. 1261 of 2007, dated 8-9-2009</b>	High Court of Bombay

## LANDMARK RULINGS

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
12-01-10	<b>80-IA</b>	<b>ITO v. Arihant Tiles and Marbles (P.) Ltd. [2010] 186 Taxman 439 (SC)</b> - Whether the activities undertaken by the respondent vis-à-vis manufacture/production of polished and finished slab from rough granite would amount to manufacture or production within the meaning of the sec. 80-IA or not.	Supreme Court of India
19-02-10	<b>80-IA</b>	<b>CIT v. Emptee Poly Yarn Pvt. Ltd. [2010] 188 Taxman 188 (SC)</b> - Held, twisting and texturising of partially oriented yarn (POY) by using thermo-mechanical process, which converts POY into a texturised yarn, amounts to manufacture in terms of sec. 80-IA.	Supreme Court of India
24-03-10	<b>80-IA and 41(1)</b>	<b>CIT v. Jacksons Engineers Ltd. ITA No. 251 of 2008, dated 23-12-2009</b>	High Court of Delhi
24-03-10	<b>80-IA</b>	<b>CIT v. Nestor Pharmaceuticals Ltd. [2010] 8 taxmann.com 306 (Delhi)</b>	High Court of Delhi
12-06-10	<b>80-IA</b>	<b>CIT v. ABG Heavy Industries Limited [2010] 189 Taxman 54 (Bom.)</b>	High Court of Bombay
26-08-10	<b>80-IA (2A)</b>	<b>Cyber Bazar (India) Pvt. Ltd. v. ACIT ITA No. 2775, dated 12-4-2010</b> - Whether the services provided by the appellant by way of voice mail and teleconferencing services to corporate customers would fall within the definition of "teleconferencing services" and therefore the profit derived therefrom would be eligible for deduction under section 80-IA(2A)?	High Court of Karnataka
23-02-11	<b>80-IA</b>	<b>Hyderabad Chemicals Supplies Ltd. v. ACIT [2012] 20 taxmann.com 289 (Hyd.)</b> - Profit from eligible business for purpose of determination of quantum of deduction u/s 80-IA has to be computed after deduction of notional brought forward losses and deprecia-	ITAT-Hyderabad

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		tion of eligible business, even though they have been allowed to be set off against other income in earlier years.	
05-10-11	<b>80-IA</b>	<b>CIT v. Kirti Stationers Pvt. Ltd. ITA No. 4925 of 2010, dated 26-9-2011</b> - The activity of producing sharpener blades and Glue & lead amounts to manufacture and accordingly the assessee is entitled to deduction under section 80-IA	High Court of Bombay
30-01-12	<b>80-IA</b>	<b>Doshion Ltd. v. ITO [2012] 208 Taxman 127 (Mag.)/20 taxmann.com 791 (Guj.)</b> - Section 80-IA, read with sections 147 and 148 of the Income-tax Act, 1961 - Deductions - Profits and gains from infrastructure undertakings - Assessment year 2005-06 [In favour of assessee]	High Court of Gujarat
10-06-09	<b>80-IB</b>	<b>Accent for Living v. CIT, Special Leave to Appeal (Civil) No(s). 11654/2009, dated 14-5-2009</b> - That duty drawback gains are not profits derived from industrial undertaking u/s 80-IB.	Supreme Court of India
18-06-09	<b>80-IB</b>	<b>Geo Enpro Petroleum Ltd. v. DCIT [2009] 183 Taxman 374 (Delhi)</b> - Assessee was a member of a consortium which had entered into a production sharing contract dated 16-6-1995 with Government for developing certain oil fields, Assessee claimed that it had commenced work-over operations on oil wells from January, 1998 which were completed in April, 1999 and, therefore, 'initial assessment year' for purpose of deduction u/s 80-IB(9) would be AY 1999-2000. The Tribunal, on consideration of the material on record, had returned a categorical finding of fact that commercial production had commenced in the year relevant to the AY 1996-97	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
06-10-09	<b>80-IB</b>	<b>CIT v. Sophisticated Marbles &amp; Granite Industries [2010] 187 Taxman 251 (Delhi)</b> - Applying the test formulated by the Supreme Court in <i>Aspinwall and Company Limited v. CIT</i> 251 ITR 323, Process involving purchase of raw form blocks and then those slabs undergo various processes before they become marketable and the final product is clearly much different from the product initially purchased by the assessee would clearly fall within the definition of manufacturing process.	High Court of Delhi
09-07-09	<b>80-IB(9)</b>	<b>Niko Resources Ltd. v. Union of India Special Civil Application No. 2955 of 2009, dated 16-6-2009</b> - While giving appeal effect to an ITAT order, AO cannot transgress ITAT order.	High Court of Gujarat
26-05-10	<b>80-IB</b>	<b>CIT v. Dharam Pal Prem Chand Ltd. [2009] 180 Taxman 557 (Delhi)</b> - The refund of excise duty paid was income derived from the industrial undertaking and was entitled for deduction under s. 80-IB.	Supreme Court of India
12-07-10	<b>80-IB</b>	<b>Eagle Fashion Pvt. Ltd. v. CIT Special Civil Application No. 12158 of 2009, dated 5-4-2010</b>	High Court of Gujarat
06-10-10	<b>80-IB</b>	<b>CIT v. Jindal Photo Ltd. ITA No. 192/2010, dated 10-8-2010</b>	High Court of Delhi
20-06-11	<b>80IB(10)</b>	<b>DCIT v. Shah Builders &amp; Developers ITA No. 3195 &amp; 3196/Mum/2010, AY: 2005-06 &amp; 2006-07, dated 6-05-2011</b> - Whether the assessee is entitled to deduction u/s 80-IB(10) for a residential cum commercial building which was approved by the local authority before the insertion of clause (d) in s. 80-IB(10) w.e.f. 1st April, 2005 which is prospective and not retrospective.	ITAT-Mumbai

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
24-08-11	<b>80-IB (11)</b>	<b>CIT v. Ambika Sheet Grah (P) Ltd. ITA No. 385 of 2008, dated 10-8-2011</b> - The business of cold storage alone, without any transportation facility with refrigeration back to back upto consumption and, linking farmer and market also qualifies for deduction in terms of provisions of section 80-1B(11)	High Court of Allahabad
08-11-11	<b>80-IB</b>	<b>Maa Vaishno Devi Ginning Pressing Udhyog Dhamnod v. DCIT ITA No. 538/Ind/2010, AY 2007-08, dated 25-09-2011</b> - That the income which has been "derived from" the business of ginning and pressing of cotton can only be considered for deduction u/s 80-IB of the Act and the income which has been either acquired out of income from undisclosed sources are from different business cannot be allowed to be claimed as deduction u/s 80-IB of the Act.	ITAT-Indore
22-12-11	<b>80-IB</b>	<b>CIT v. Jyoti Plastic Works (P.) Ltd. [2011] 203 Taxman 546/16 taxmann.com 172 (Bom.)</b> - Whether condition imposed under section 80-IB(2)(iv) is that assessee must employ ten or more workers in manufacturing process/production of articles or things and it is immaterial whether workers were employed directly or by hiring workers from a contractor	High Court of Bombay
27-01-12	<b>80-IB (10)</b>	<b>CIT v. Radhe Developers [2012] 204 Taxman 543/17 taxmann.com 156 (Guj.)</b> - Sec. 80-IB(10) allows deduction to an undertaking engaged in the business of developing and constructing housing projects. There is no requirement that the land must be owned by the assessee. The assessee had total and complete control over the land and	High Court of Gujarat

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		could put the land to the agreed use. The Explanation to s. 80-IB inserted w.r.e.f 1.4.2001 has no application as the project is not a "works contract". Further, as the assessee was, in part performance of the agreement to sell the land, it had to be deemed to be the "owner" u/s 2(47)(v) r.w.s. 53A of the TOP Act even though formal title had not passed.	
22-03-11	<b>80-IC</b>	<b>Pine Packing Pvt. Ltd v. ITO ITA No. 4084 (Delhi) of 2010, dated 14-1-2011</b> - Since standing charges received by assessee were reimbursement of expenses incurred by assessee during idle period, it could not be said to have been derived from manufacture of an article or a thing of eligible business carried on by industrial undertaking. Therefore, standing charges would not be eligible for deduction u/s 80-IC.	ITAT-Delhi
02-07-09	<b>80P(2) (a)(I)</b>	<b>CIT v. Solapur Nagari Audyogic Sahakari [2009] 182 Taxman 231 (Bom.)</b> - Where the surplus funds not immediately required for day to day banking were kept in voluntary reserves and invested in KVP/IVP, the interest income received from KVP/IVP would be income from banking business eligible for deduction under 80P(2)(a)(i) of the Act.	High Court of Bombay
30-06-10	<b>80P</b>	<b>CIT v. Haryana State Co-op Apex Bank Ltd. ITA No. 62 of 2010, dated 15-2-2010</b>	High Court of Punjab & Haryana
07-08-10	<b>80P</b>	<b>CIT v. Common Effluent Treatment Plant [2010] 192 Taxman 238 (Bom.)</b>	High Court of Bombay
10-08-10	<b>80RR</b>	<b>CIT v. Tarun R. Tahiliani [2010] 192 Taxman 231 (Bom.)</b> - A dress designer	High Court of Bombay

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
		is an artist entitled to a deduction u/s 80RR.	
09-04-12	<b>90(2)</b>	<b>Sumitomo Mitsui Banking Corporation v. Dy. DIT [2012] 136 ITD 66/19 taxmann.com 364 (Mum.)(SB)</b> - While interest paid by PE of foreign bank to H.O. is deductible in hands of PE, same interest is not taxable in hands of H.O.	ITAT-Mumbai
31-01-11	<b>92(C)(2)</b>	<b>Adobe Systems India (P.) Ltd. v. Addl. CIT [2011] 44 SOT 49 (Delhi)(URO)</b> - Held that Transfer Pricing: Super-normal profit companies must be excluded from comparables.	ITAT-Delhi
05-03-11	<b>92C r.w Rule 10B</b>	<b>Clear Plus India Pvt. Ltd. v. DCIT ITA No. 3944/D/2010, dated 11-2-2011</b> - U/s 92C read with Rule 10B, the most appropriate method has to be applied for determination of arm's length price. In principle, the CUP method (the traditional transaction method) is preferable to the other methods because all other things being equal, the CUP and traditional transactional methods lead to more reliable results vis-a-vis the results obtained by applying transaction profit method	
11-10-11	<b>92CA</b>	<b>Tally Solutions Pvt. Ltd. v. DCIT ITA No. 1235/BANG/2010, (AY 2006-07), dated 26-09-2011</b>	ITAT-Bangalore
25-11-11	<b>92D r.w 271AA</b>	<b>ACIT v. Smith &amp; Nephew Healthcare (P) Ltd. ITA No. 5779/Mum/07, A.Y. 2003-04, dated 9-11-2011</b> - Transfer Pricing - Where assessee-company had entered into international transaction with its AE and in course of assessment, assessee had furnished all details and documents in respect of these transactions which was accepted to be one confirming to arm's length price, no pen-	ITAT-Mumbai

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		alty could be levied on assessee under section 271AA.	
07-02-12	<b>92F(4)</b>	<b>Kodiak Networks (India) (P.) Ltd. v. Asstt. CIT [2012] 51 SOT 191/18 taxmann.com 32 (Bang.)</b> - TPO can rely on "contemporaneous" data even if not available at specified date. There is no cut-off date up to which only the information available in public domain can be taken into consideration by the TPO while making the transfer pricing adjustments and arriving at the ALP. The assessee argument that section 92D and Rule 10D is defeated if the TPO takes the data which is available in the public domain after the specified date is not acceptable. While the TPO is empowered by sections 131(1) & 133(6) to call for information without informing the assessee about the process, he cannot use such information against the assessee without giving the assessee a reasonable opportunity of hearing. If the assessee seeks an opportunity to cross-examine third parties, it has to be given the opportunity.	ITAT-Bangalore
29-03-11	<b>94(7)</b>	<b>Eveready Industries India Ltd. v. CIT [2011] 201 Taxman 278/12 taxmann.com 497 (Cal.)</b> - Povision of section 94(7) was effected from April 1, 2002. In resent case transaction pertains to AY 1990-91, therefore loss on account of purchase and resale of units was allowed on net divided income basis was unjustified.	High Court of Calcutta
19-07-11	<b>113</b>	<b>Dheeraj Construction &amp; Industries Ltd. v. CIT [2012] 20 taxmann.com 691 (Cal.)</b> - When no incriminating document is found during the search, no addition can be made in respect of the transactions reflected in the regular	High Court of Calcutta



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		books in the block assessment even if they are found to be fictitious and can only be considered under regular assessment.	
26-08-11	<b>115J</b>	<b>Peico Electronics &amp; Electricals Ltd. v. CIT [2012] 21 taxmann.com 84 (Cal.)</b> - Once loss is held to be arrived at after taking into account depreciation, the amount of depreciation under the Companies Act is to be set off in terms of clause (iv) of the Explanation to Section 115J(1A). Thus, it was the duty of the AO to set off the said amount as the said duty falls within the purview of the limited power of making increases and reductions as provided for in the Explanation to the said section.	High Court of Calcutta
16-01-10	<b>115JA</b>	<b>CIT v. Premium Taxcons Pvt. Ltd. ITA No. 100 of 2006, dated 14-12-2009</b> - Held that "we are satisfied that the ITAT was fully justified, in not accepting the plea of the Revenue, to include the income received by the assessee, which had earlier been written off as a bad debt, as a part of the "book profit".	High Court of Uttarakhand
23-06-11	<b>115JA(2) (vii)/JB (2)(vii)</b>	<b>Singareni Collieries Company Ltd. v. Asstt. CIT [2011] 133 ITD 213/15 taxmann.com 48 (Hyd.)</b> - Whether book profits is to be computed with reference to each assessment year and whether profits earned during the period of sickness and available for setting off under normal provisions of Income Tax are to be excluded from the ambit of book profit of non-sick years.	ITAT-Hyderabad
12-07-11	<b>115JA(4)</b>	<b>Susi Sea Foods (P.) Ltd. v. Asstt. CIT [2011] 48 SOT 424/15 taxmann.com 232 (Visakhapatnam)</b> - The Income-tax Act no where prescribes the manner of set off or modalities of carry for-	ITAT-Visakhapatnam

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		ward and set off of loss to be followed for book purposes. Hence sec. 115JA(4) cannot have application for the said purpose; it would not be correct on the part of the AO to apply the principles prescribed in sec. 70 – 79 for accumulated losses shown in the books of account	
23-11-11	<b>115JA</b>	<b>CIT v. Bhari Information Tech. Sys. P. Ltd. [2012] 204 Taxman 85/17 taxmann.com 62 (SC)</b> - The deduction is to be worked out not on the basis of regular income tax profits but it has to be worked out on the basis of the adjusted book profits in a case where section 115JA is applicable.	Supreme Court of India
13-02-12	<b>115JA &amp; 115JB</b>	<b>Al-Kabeer Exports Ltd. v. CIT S.L.P.(C) Nos. 33932-33933/2010, dated 03-02-2012</b> - In computing “book profits” u/ss 115JA & 115JB, deduction u/s 80HHC had to be computed on the basis of the “book profits” and not on the basis of the income computed under the normal provisions of the Act.	Supreme Court of India
18-06-09	<b>115JAA, 234B/C &amp; 154</b>	<b>CIT v. Jindal Exports Limited ITA 402/2005, dated 6-2-2009</b> - Interest under section 234B/C is to be charged after MAT credit available u/s 115JA is set off against tax payable on total income. Rectification u/s 154 on afore-said issue is not tenable at law, being a debatable issue.	High Court of Delhi
12-11-09	<b>115JB</b>	<b>Indo Rama Synthetics (I) Ltd v. CIT [2009] 184 Taxman 375 (Delhi)</b> - Amount withdrawn from the revaluation reserve and credited to the profit and loss account is not to be reduced from the net profit as per the profit and loss account unless the book profit had	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		been increased by the amount of the reserve in the year of the creation of such reserve.	
22-12-09	115JB	<b>DCIT v. Bombay Diamond, ITA No. 7488/Mum/07, dated 30-11-2009</b> - It has been held that AO has power to tinker to with the balance sheets result of the assessee under the provision of section 115JB.	ITAT-Mumbai
19-11-10	115JB	<b>CIT v. Sumi Motherson Innovative Engg. Ltd. [2010] 195 Taxman 353/8 taxmann.com 46 (Delhi)</b>	High Court of Delhi
26-12-11	115JB	<b>CIT v. Horizon Capital Ltd. [2012] 204 Taxman 59 (Mag.)/17 taxmann.com 8 (Kar.)</b> - In MAT assessment on book profits u/s 115JB the benefit of rebate u/s 88E is available to assessee as same is in nature of assurance and promise given to taxpayer.	High Court of Karnataka
15-05-12	115-O	<b>A v. DIT AAR No. P of 2010, dated 22-3-2012</b> - The buy-back was a "colourable device" devised to avoid tax on distributed profits u/s 115-O because while it would result in repatriation of funds to the Mauritius company, that would constitute "capital gains" in the hands of the recipient, and not be assessable to tax in India under Article 13 of the India-Mauritius DTAA.	AAR- New Delhi
19-01-10	119	<b>Sitaldas K. Motwani v. DGIT (International Taxation) [2010] 187 Taxman 44 (Bom.)</b>	High Court of Bombay
23-02-10	119, 10(10C)	<b>Vishalakshi v. CIT, WP No. 36406/2009</b>	High Court of Karnataka
17-07-10	119	<b>Lodhi Property Company Limited v. Under secretary (ITA-II) Department of Revenue [2010] 191 Taxman 74 (Delhi)</b> - Being sent from one room to	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		another and waiting in long ques is sufficient cause for the delay of one day in filing the return.	
18-09-09	<b>127</b>	<b>Deep Malhotra v. CCIT, CWP No. 17197 of 2008, dated 4-6-2008</b> - No supplementing of reasons by separate noting allowed when same are required to be part of a single order.	High Court of Punjab & Haryana
29-04-10	<b>127</b>	<b>Noorul Islam Educational Trust v. CIT [2011] 201 Taxman 203 (Mag.)/13 taxmann.com 65 (Mad.)</b> - All the ingredients stated in the judgment are absent and therefore the impugned order is liable to be quashed.	High Court of Madras
13-07-09	<b>131(3)</b>	<b>Subha and Prabha Builders Pvt Ltd v. ITO, W.P.No. 6564/2009 - dated 24-4-2009</b> - Specified authority having power to retain impounded books, under subject provision has no power to keep extending the period repeatedly for years together.	High Court of Karnataka
11-08-11	<b>131 r.w. sec. 143(3)</b>	<b>S.K. Bothra &amp; Sons, HUF v. ITO [2011] 203 Taxman 436/15 taxmann.com 298 (Cal.)</b> - If the initial burden is discharged by the assessee, the onus shifts upon the Assessing Officer and after verification, he can call for further explanation from the assessee and in the process, the onus may again shift from the AO to assessee.	High Court of Calcutta
13-03-09	<b>132</b>	<b>Rajeev Gupta v. CIT ITA 319/2009, dated 3-3-2009</b> - An assessee should diligently answer the queries put to it during survey/search operations under the Act and there should be no incongruity between the version stated in search statement and submission taken during assessment proceedings	High Court of Delhi

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
04-06-09	<b>132 &amp; 281B</b>	<b>Genom Biotech (P.) Ltd. v. DIT [2009] 180 Taxman 395 (Bom.)</b> - Issuing 153A notice and invoking sec. 281B on the same day would not affect the validity of the order passed u/s 281B	High Court of Bombay
04-06-09	<b>132</b>	<b>S. R. Batliboi &amp; Co. v. DIT (Inv.) [2009] 181 Taxman 9 (Delhi)</b> - In terms of sec. 132(1)(iib), revenue is not entitled to demand an unrestricted access to and/or right to acquire electronic records present in laptops, that belong to auditor of assessee and not to assessee himself, including electronic records pertaining to third parties unconnected with assessee.	High Court of Delhi
29-12-09	<b>132(1)</b>	<b>DDIT (Inv.) v. State of Gujarat Criminal Misc. Application No. 5922 of 2009, dated 4-8-2009</b> - Held that once a valid requisition is being made by the authorities mentioned in sec. 132 (a)(b)(c) then the police is bound to supply the money to the department and hence the order of the Metropolitan Magistrate, releasing the money.	High Court of Gujarat
19-10-09	<b>132(4), 158BC, 68</b>	<b>Harish Dargan ITA No. 954/2009 dated 18-9-2009</b>	High Court of Delhi
23-10-09	<b>132(4), 45</b>	<b>CIT v. H.S. Ramachandra Rao, ITA No. 275/2004 dated 12-8-2009</b> - Amount received on account of honorary post of Secretaryship and Life membership in a society: Held Taxable receipt not Capital in Nature.	High Court of Karnataka
30-01-10	<b>132</b>	<b>Ashwani Chopra v. CIT Special Leave to Appeal (Civil)...../2009 (CC 20854-20855/2009), dated 17-12-2009</b>	Supreme Court of India
08-03-10	<b>132, 143(3)</b>	<b>Mukesh Malhotra v. CIT, IT Nos. 3, 4, 5, 6, 7 and 10 of 2008, dated 30-12-2009</b>	High Court of Himachal Pradesh

## LANDMARK RULINGS

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
04-06-11	<b>132B(4)</b>	<b>Mohit Singh v. ACIT [2012] 20 taxmann.com 745 (Delhi)</b> - Assessee is entitled to interest u/s 132B(4) for the period from the date of passing the order and till the date of refund received.	High Court of Delhi
20-02-12	<b>132</b>	<b>Rajendra Singh v. CCIT, Civil Writ Jurisdiction Case No. 10707 of 2011, dated 2-2-2012</b> - Interrogation till late night amounts to "torture" and violation of "human rights. The search and seizure manual does not prescribe any time limit for search and survey operation and the same may continue for days if required, but it has to be in keeping with the basic human rights and dignity of an individual.	High Court of Patna
27-11-10	<b>133(6), 271(1)(c)</b>	<b>Devsons Pvt. Ltd. v. CIT [2011] 196 Taxman 21/[2010] 8 taxmann.com 87 (Delhi)</b>	High Court of Delhi
16-06-09	<b>133A</b>	<b>Reflect Optics Pvt. Ltd. v. DCIT, ITA No. 141 of 2006, dated 6-1-2009</b>	High Court of Bombay
29-07-10	<b>133A</b>	<b>CIT v. J. Gala Builders, ITA No. 2657 of 2009, dated 15-6-2010</b>	High Court of Bombay
31-07-09	<b>133A</b>	<b>CIT v. Uttamchand Jain [2009] 182 Taxman 243 (Bom.)</b> - As the VDIS 1997 certificate issued by the department is valid and subsisting, it is not open to the revenue to contend that there was no jewellery which could be sold by the assessee. Mere fact that jewellery sold by assessee was not found with purchaser 'T' could not be a ground to hold that transaction was bogus and consideration received by assessee was his undisclosed income.	High Court of Bombay
24-08-09	<b>133A</b>	<b>CIT v. Diplast Plastic Limited [2010] 186 Taxman 317 (Punj. &amp; Har.)</b> - It has been held that loose sheets found during survey has no evidently value	High Court of Punjab & Haryana

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		unless and until proved by some cogent material and the books of account of the assessee, which are audited, are of grate evidentiary value.	
17-07-09	<b>139(4)</b>	<b>Shri Rajeshwari Cotton Ginning and Pressing Industries v. CIT WP. No. 12317/2009, dated 11-6-2009</b> - Doctor's certificate for concerned partner's illness, is reliable for condoning delay in ITR/ ROI filing.	High Court of Karnataka
05-04-11	<b>139(1)</b> <b>r.w.s.</b> <b>139(3)</b>	<b>CIT v. Govind Nagar Sugar Ltd. [2011] 11 taxmann.com 274 (Delhi)</b> - As per sec. 32(2), unabsorbed depreciation of a year becomes part of depreciation of subsequent year by legal fiction and when it becomes part of current year depreciation it is liable to be set off against any other income, irrespective of the fact that the earlier years return was filed in time or not.	High Court of Delhi
22-12-11	<b>139</b>	<b>Crawford Bayley &amp; Co. v. UOI [2012] 204 Taxman 598/[2011] 16 taxmann.com 323 (Bom.)</b> - Where the assessee successfully uploaded its return on the official website of income-tax department then merely because the ITR-V sent to CPC was not received for no failure on part of assessee, the return cannot be treated as invalid.	High Court of Bombay
15-06-09	<b>142(2A), 158BC/BE</b>	<b>Shri Rajesh Kumar v. CIT, ITA No. 184/2009, dated 9-4-2009</b>	High Court of Delhi
07-09-10	<b>142(2A)</b>	<b>The Hind Samachar Limited v. ACIT [2011] 196 Taxman 278/[2010] 8 taxmann.com 240 (Punj. &amp; Har.)</b> - Order u/s 142(2A) could not be passed in the absence of accounts being complex. When the order does not indicate the reason due to which such order was	High Court of Punjab & Haryana

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		passed, it could be concluded that impugned order did not meet requirements of sec. 142(2A) and, therefore, it was to be quashed.	
07-07-10	<b>142A</b>	<b>Sunder Carpet Industries v. ITO, Civil Misc. Writ Petition No. 795 of 2004, dated 15-4-2010</b> - Reference to the Valuation Cell cannot be made for the purposes of determination of the investment made in construction of the building as it falls under expenditure incurred by the assessee and is covered u/s 69C.	High Court of Allahabad
11-10-10	<b>142A</b>	<b>CIT v. Naveen Gera [2011] 198 Taxman 93 (Delhi)(Mag.)</b>	High Court of Delhi
13-03-09	<b>143</b>	<b>Ester Industries v. CIT [2009] 185 Taxman 266 (Delhi)</b> - DHC set aside its first order on ground of non-affording of reasonable hearing opportunity, has again been set aside for want of application of mind <i>inter alia</i> because ITAT passed second order with cosmetic change in earlier order and did not apply its mind to the controversy.	High Court of Delhi
21-05-09	<b>143</b>	<b>CIT v. Om Parkash Jain ITA No. 1242/2008, dated 12-01-2009</b> - In context of addition made in consequence of surrender and subsequent retraction, BHC while reversing underlying ITAT order and remanding the matter back to AO, concluded that while relying on retraction, genuineness of documents lead in support thereof must be examined and documentary evidence, if genuine, must prevail over oral testimony. Further, BHC replaced the specific direction of ITAT by general discretion to AO.	High Court of Bombay



<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
18-09-10	<b>143</b>	<b>Sunrise Stock Services (P) Ltd. v. CIT [2012] 208 Taxman 120 (Mag.)/20 taxmann.com 205 (Punj. &amp; Har.)</b>	High Court of Punjab & Haryana
29-04-10	<b>143(1)</b>	<b>CIT v. The Coonoor Tea Estates Company Ltd.-Madras, Tax Case (Appeal) No. 470 of 2004, dated 14-12-2009</b> - Where a return is filed, the law applicable would be the law as it stood on the date of filing of the return	High Court of Madras
28-04-09	<b>143(2)</b>	<b>Cross Investments, ITA No 111/2009, dated 19-03-2009</b> - The assessee was participating in the proceedings, the non-compliance to Section 143(2)(i) would not be debatable. In these circumstances, section 292BB has no role to play.	High Court of Delhi
30-04-09	<b>143(2)</b>	<b>CIT v. Bhagwan Gupta, Special Leave to Appeal (Civil)...CC 3603/2009, dated 30-3-2009</b>	Supreme Court of India
22-07-09	<b>143(2) &amp; 260A</b>	<b>Sumitra Menon v. ACIT, ITA No. 347 of 2009, dated 15-6-2009</b> - Held that since after alleged invalid service of notice, assessee's counsel appeared without objection, invalid service was waived by conduct of assessee and hence the service was proper.	High Court of Madras
08-03-10	<b>143(2)</b>	<b>CIT v. Sri Ravindran Prabhakar, ITA Nos. 720 to 725 of 2004, dated 11-1-2010</b> - Held where original return was filed u/s 143(1) and, thereafter, in response to notice u/s 148 assessee submitted that return filed u/s 143(1) may be treated as filed under section 148, information furnished thereafter by assessee in response to notices u/ss 143(2) & 142(1) could be considered in reassessment proceedings; in absence of any entitlement for AO to form any opinion at stage when proceedings were pending u/s 143(1), Tribunal was not	High Court of Madras

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		right in holding that there was a change of opinion [Case remanded]	
11-05-10	<b>143(2)</b>	<b>ACIT v. Hotel Blue Moon [2010] 188 Taxman 113 (SC)</b> - Even for the purpose of Chapter XIV-B of the Act, for the determination of undisclosed income for a block period under the provisions of sec. 158BC, the provisions of sec. 142 & 143(2)/(3) are applicable and no assessment could be made without issuing notice u/s 143(2)	Supreme Court of India
17-07-10	<b>143(2)</b>	<b>DCIT v. Society for Worldwide Inter Bank Financial, Telecommunications, ITA 441/2010, dated 13-4-2010</b> - Serving of notice on the Authorised representative by hand u/s 143(2) at the time of filing of return amounts to gross violation of the scheme of sec. 143(2)	High Court of Delhi
19-07-10	<b>143(2)</b>	<b>DCIT v. Maxima Systems Limited, ITA No. 386/387 of 1999, dated 13-4-2010</b> - Was the unsigned notice u/s 143(2) deemed to have been served on the assessee because it was posted within the prescribed period, though received by the assessee thereafter?	High Court of Gujarat
03-04-09	<b>143(3)</b>	<b>CIT v. S.K. Kaintal [2010] 187 Taxman 235 (Punj. &amp; Har.)</b> - That the sale of agricultural land at the hands of the respondent-assessee should be treated under the head capital Gain.	High Court of Punjab & Haryana
28-04-09	<b>143</b>	<b>CIT v. Jaipur Golden Transport [2009] 183 Taxman 480 (Delhi)</b>	High Court of Delhi
19-05-09	<b>143(2)</b>	<b>Mesco Pharmaceuticals Ltd., ITA No. 467/2009 and CM No. 5330/2009, dated 17-4-2009</b>	High Court of Delhi
28-05-09	<b>143(3)</b>	<b>Jal Hotels Ltd. v. ADIT [2009] 184 Taxman 1 (Delhi)</b> - When there was no new material in hands of revenue lead-	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		ing to view that there was reason to believe that income had escaped assessment and instead it was a classic instance of a change of opinion, impugned notice was to be quashed.	
07-08-10	143(3)	<b>CIT v. Darius Pandole [2011] 11 taxmann.com 262 (Bom.)</b>	High Court of Bombay
25-09-10	143(3)	<b>CIT v. Saroj Metal Work Pvt. Ltd., ITA No. 97/2010, dated 26-7-2010</b> - Where the revenue authorities fail to point out any specific defects in the books of account maintained by the assessee and the scrap generation shown by the assessee is lower than the other comparative case, disallowance cannot be made on account of inflation of purchases . Moreover, assessee maintained RG register and excise department did not find any defects in its record.	High Court of Delhi
25-04-11	143(3)	<b>Nagindas P. Sheth (HUF) v. ACIT 21 (3), ITA. No. 961/Mum/2010, A.Y. - 2006-07, dated 5-4-2011</b> - The fact that the assessee has transacted in 158 shares should not be the sole criterion to come to the conclusion that assessee is a trader in shares. The gains earned by the assessee deserve to be assessed as capital gains because: (a) the assessee was holding the shares in its books as an investor; (b) the assessee did not have any office or administration set up; (c) the shares were acquired out of own funds and family funds and not through borrowings; (d) there was not a single instance where the assessee had squared-up transactions on the same day without taking delivery of the shares; (e) in the previous and subsequent assessment years, the AO had	ITAT-Mumbai

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		<i>vide</i> scrutiny assessments treated the assessee as an investor.	
09-07-11	<b>143(3)</b>	<b>CIT v. Priyank Gem, ITA 2343 of 2010, dated 9-5-2011</b> - Whether when there are two possible views, the one which favours the assessee should be accepted.	High Court of Gujarat
22-08-11	<b>143(2)</b>	<b>CIT v. Ram Narain Bansal [2011] 202 Taxman 213/13 taxmann.com 216 (Punj. &amp; Har.)</b> - When the assessee had appeared before the Assessing Officer on various dates and participated in the reassessment proceedings u/s 143(2) before the finalization and no objection regarding issuance and service of notice under section 143(2) was raised, the re-assessment order cannot be declared to be invalid.	High Court of Punjab & Haryana
05-09-11	<b>143(2)</b>	<b>ACIT v. Hotel Blue Moon [2010] 188 Taxman 113 (SC)</b> - If an assessment is to be completed u/s 143(3) r.w.s 158-BC, notice u/s 143(2) should be issued within one year from the date of filing of block return.	Supreme Court of India
14-03-12	<b>143(3)</b>	<b>Vijay Corporation v. ITO [2012] 50 SOT 33 (URO)/18 taxmann.com 88 (Mum.)</b> - Provisions of sec. 143(3) contemplate that the AO shall pass an order of assessment in writing. Therefore requirement of signature of the AO is a legal requirement. The omission to sign the order of assessment cannot be explained by relying on the provisions of sec. 292B.	ITAT-Mumbai
23-06-09	<b>144</b>	<b>Taneja Mines (P.) Ltd. STC 1/2008 and CM No. 2161/2008, dated 19-5-2009</b> - If there is any material collected by the AO pertaining to the exact turnover that would be sufficient reason to make a best judgment assessment.	High Court of Delhi

## 102

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
20-09-10	144	<b>CIT v. Silitech Engineering, ITA No. 1082/2010, dated 6-8-2010</b> - While making best judgment assessment u/s 144, AO must make an honest and fair estimate of the income of an assessee by following rules of natural justice, equity and good conscience. It should have a reasonable nexus to the available material and circumstances of the case. AO should have collected the material by exercising his quasi-judicial powers. However, where the AO has not given any reasons for determining the assessee's income, the said finding of the AO is unsustainable.	High Court of Delhi
25-01-11	144	<b>CIT v. Aero Club [2011] 197 Taxman 58/9 taxmann.com 52 (Delhi)</b> - Where the AO had not brought on record any comparable case wherein higher net profit is declared as compared to that of assessee, the net profit as declared by the assessee was not required to be disturbed.	High Court of Delhi
02-08-11	144C	<b>Hyundai Heavy Industries Ltd v. The Union of India [2011] 201 Taxman 237/12 taxmann.com 309 (Uttarakhand)</b> - As the DIT-II was exercising supervisory functions over the AO, the real likelihood of "official bias" cannot be ruled out. Even if the officer is impartial and there is no personal bias or malice, nonetheless, a right minded person would think that in the circumstances, there could be a likelihood of bias on his part. In that event, the officer should not sit and adjudicate upon the matter. He should recuse himself.	High Court of Uttarakhand
16-03-09	145	<b>CIT v. Indo Rama Synthetics (I) Ltd. [2009] 180 Taxman 35 (Delhi)</b> - So long as stock valuation method adopted gets recognition from commercial world	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		and practicing accountants, unless the same is found to be non- <i>bona fide</i> , the method cannot be challenged by revenue, as choice to follow valuation method rests with the assessee.	
13-07-09	145	<b>Vaddanahal Rajanna (HUF) v. ACIT, ITA No. 212/2009, dated 12-6-2009</b> , Addition made by Assessing Officer on account of sale to sister concern at low rate are valid.	High Court of Karnataka
09-12-09	145	<b>CIT v. Annamalai Finance Ltd. [2010] 186 Taxman 296 (Mad.)</b>	High Court of Madras
08-03-10	145	<b>Shakti Cargo Movers Pvt. Ltd. v. ACIT, ITA No. 2324 of 2009, dated 19-1-2010</b>	High Court of Gujarat
16-03-10	145	<b>CIT v. Punjab State Warehousing Corporation, ITA No. 670 of 2008, dated 28-1-2010</b> - Where Tribunal directed that figure of closing stock of immediately preceding year based on provisional accounts should be taken as opening stock of current year instead of figure of opening stock available as per audited accounts and adopted by AO, Tribunal was justified in holding so since once factual position was similar in respect of earlier assessment years, for assessment year in question no different view could be taken.	High Court of Punjab & Haryana
29-09-10	145(2)	<b>ITO v. Upinderjit Singh, ITA No. 69 of 1999, dated 13-7-2010</b> - Rejection of books of account, on failure to produce bills and vouchers is not justified. AO would be entitled to disallow claim of expenditure made by the assessee which are inadmissible in nature and remain unsubstantiated in the absence of proof of bills and vouchers.	High Court of Punjab & Haryana

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
16-02-11	145	<b>Cyber Media India v. CIT [2011] 198 Taxman 185/9 taxmann.com 220 (Delhi)</b> - Held that: (i) the assessee had been following hybrid system of accounting till the preceding assessment year <i>i.e.</i> , Assessment Year 1988-89; (ii). the assessee had been accounting for income received from advertisement on cash basis, which admittedly had been accepted by the revenue in the preceding years ending with Assessment Year 1988-89; and (iii) the Tribunal has returned a finding of fact, in favour of the assessee, that the Assessing Officers observation that because expenses against advertisement and publicity had been recorded on accrual basis while, income from the said sources had been recorded on cash basis had created an “imbalance” was without merit. Hence assessee appeal allowed.	High Court of Delhi
16-02-12	145	<b>CIT v. Virtual Soft Systems Ltd. [2012] 205 Taxman 257/18 taxmann.com 119 (Delhi)</b> - In finance lease “lease equalization charge” as per ICAI Guidelines is allowable claim.	High Court of Delhi
13-03-09	147	<b>CIT v. Mokul Finance Ltd. Special Leave to Appeal (Civil)...CC 2665/2009, dated 6-3-2009</b> - That all the details/information relating to reopening ground are originally put forth by assessee in earlier regular assessment u/s 143(3), no reopening is permissible on said ground after four years from end of relevant AY as the matter stands protected by proviso to sec. 147.	Supreme Court of India
19-05-09	147	<b>Jai Bharat Maruti Ltd. v. CIT ITA No. 501/2007, dated 20-4-2009</b> - At stage of issue of notice u/s 148, only aspect to be examined is whether there was	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		relevant material before AO, based on which a reasonable person could have formed requisite belief that assessee's income chargeable to tax had escaped assessment; one is not concerned at this stage whether material would conclusively prove escapement.	
12-06-09	147	<b>Cartini India Limited v. ACIT [2009] 179 Taxman 157 (Bom.)</b> - BHC in context of reopening within four years (not covered by proviso to sec. 147), held that AO cannot form a <i>prima facie</i> opinion that deduction is not allowable and accordingly reopen the assessment on the ground that income chargeable to tax has escaped assessment.	High Court of Bombay
13-06-09	147	<b>Inducto Ispat Alloys Ltd. v. ACIT, Special Civil Application No. 14611 of 2008, dated 17-3-2009</b> - Without discharging the onus/burden lying on REVENUE/AO under proviso to sec. 147 for proving failure on part of assessee to disclose material facts truly and fully, no reopening can be made after the expiry of four years from end of relevant assessment year.	High Court of Gujarat
22-06-09	147	<b>Lokpriya Housing Development Pvt. Ltd. v. ITO, ITA No.5391/Mum/2004, AY : 1980-90, dated 11-2-2009</b> - It is well settled that there should be reasonable belief and it should be based on record, for coming to a conclusion that income has escaped assessment when the reason cannot be produced, there is no other alternative but to draw adverse inference and agree with the contention of the assessee.	ITAT-Mumbai
27-07-09	147	<b>CIT v. The Industrial Credit and Investment Corporation of India Ltd., ITA(L) No.1564 of 2008, dated 24-6-2009</b> -	High Court of Bombay



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		Assessment re-opened within the period of 4 years from the date of the assessment orders, the benefit of exception under proviso to sec. 147 is not available to the assessee.	
24-08-09	147	<b>CIT v. Shakuntala Devi [2009] 185 Taxman 8 (Punj. &amp; Har.)</b> - In this case it has been held that the provisions of sec. 147 may be invoked to an unprocessed return.	High Court of Punjab & Haryana
04-10-10	147	<b>Vijay Kumar Sharma v. CIT, ITA No. 858 of 2008, datedd 13-7-2010</b>	High Court of Punjab & Haryana
15-10-09	147	<b>Desh Raj v. ITO [2010] 188 Taxman 73 (All.)</b> - If a return is accepted u/s 143(1) then there is no bar on the powers of the AO to reopen the assessment u/s 147 r.w.s. 148 and in this type of case there is no question of any change of opinion. It was also held that the principles of <i>res judicata</i> are not applicable to the income-tax proceedings.	High Court of Allahabad
15-10-09	147	<b>Ema India Ltd. v. CIT, Writ Petition No. 181 (Tax) of 2004, Judgment delivered on 16-9-2009</b> - AO can reopen the assessment on the basis of existing material also if he has overlooked something in the regular assessment proceedings. The taxpayer would not be allowed to take advantage of oversight or mistake of Income-tax Officer.	High Court of Allahabad
21-10-09	147, 143(3)	<b>DCM LTD., ITA No. 104/2009, dated 11-8-2009</b>	High Court of Delhi
09-12-09	147, 143(2)	<b>CIT v. Shakuntala Devi [2009] 185 Taxman 8 (Punj. &amp; Har.)</b> - Held, the lower appellate authorities have overlooked the amendment carried out in sec. 147 by way of <i>Explanation 2(b)</i> which imposes no bar on Revenue to	High Court of Punjab & Haryana

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		initiate proceedings u/s 143(2) even if sec. 147 proceedings are not valid in this case.	
21-12-09	<b>147, 54</b>	<b>CIT v. K.K. Palanisamy, T.C. (A) No. 913 of 2009, dated 6-10-2009</b> - It has been held that once the benefit of sec 54 has been given to the assessee in assessment proceedings of sec. 143(3), the same can not be taken away from the assessee in the garb of sec. 147	High Court of Madras
19-01-10	<b>147</b>	<b>CIT v. Kelvinator of India Limited, [2010] 187 Taxman 312 (SC)</b> - After amendment of sec. 147 w.e.f. 1-4-1989, a mere change in opinion would not confer jurisdiction upon AO to initiate a proceeding u/s 147. Circular No. 549 allay fears that omission of expression 'reason to believe' would give arbitrary powers to AO to reopen past assessments on mere change of opinion. By reason of sec. 147 if ITO exercises its jurisdiction for initiating a proceeding for reassessment only upon mere change of opinion, same may be held to be unconstitutional. However, if 'reason to believe' of AO is founded on an information which might have been received by him after completion of assessment, it may be a sound foundation for exercising power u/s 147 r.w. sec. 148.	Supreme Court of India
02-03-10	<b>147</b>	<b>CIT v. Goetze (India) Ltd. [2010] 8 taxmann.com 303 (Delhi)</b> - Whether the production of books of account and other evidence amounts to the kind of disclosure contemplated in sec. 147 would have to be determined in the facts and circumstances of each case. In the present case, we have seen that there was no failure on the part of the	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		assessee to make a full and true disclosure."	
05-04-10	147	<b>CIT v. Aslam Ulla Khan [2010] 1 taxmann.com 18 (Kar.)</b> - Reopening on dictates of CIT as apparent from reasons recorded without application of mind is bad in law.	High Court of Karnataka
04-05-10	147	<b>DT &amp; TDC Ltd. v. ACIT, W.P. (C) 13603/2004, dated 25-1-2010</b> - Reopening of the completed assessments on the basis of a mere change of opinion is not permissible	High Court of Delhi
12-06-10	147	<b>Prashant S. Joshi v. ITO [2010] 189 Taxman 1 (Bom.)</b> - The reasons which have been recorded could never have led a prudent person to form an opinion that income had escaped assessment within the meaning of sec. 147. In these circumstances, the petition shall have to be allowed by setting aside the notice u/s 148.	High Court of Bombay
12-07-10	147	<b>H K Buildcon Ltd. v. ITO [2012] 21 taxmann.com 83 (Guj.)</b>	High Court of Gujarat
10-08-10	147	<b>Hindustan Petroleum Corporation Limited v. DCIT [2010] 192 Taxman 178 (Bom.)</b>	High Court of Bombay
11-08-10	147	<b>3i Infotech Limited v. ACIT [2010] 192 Taxman 137 (Bom.)</b> - Validity of reopening of assessment has to be determined with reference to reasons which have weighed with AO; those norms cannot be added to or supported on a basis which was not in mind of AO when he issued notice to reopen and disclosures which are made as part of report u/s 44AB can not fall within interdict of <i>Explanation 1</i> to section 147.	High Court of Bombay

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
22-09-10	147	<b>Vijay Kumar Sharma v. CIT, I.T.A. No. 858 of 2008, dated 13-7-2010</b>	High Court of Punjab & Haryana
09-10-10	147	<b>CIT v. Noble Resources &amp; Trading Pvt. Ltd. [2011] 202 Taxman 223/12 taxmann.com 152 (Delhi)</b> - The learned counsel for the revenue submitted that ITAT was not justified in concluding that the re-assessment proceeding initiated by the Assessing Officer was illegal. She further submitted that the issue of mere change of opinion did not arise in the present case as the Assessing Officer in the first instance had not applied his mind and taken a conscious decision on the issue that had arisen for consideration during the re-assessment proceedings.	High Court of Delhi
13-01-11	147	<b>AGR Investment Ltd. v. ACIT [2011] 197 Taxman 177/9 taxmann.com 62 (Delhi)</b> - It is open to the assessee to participate in the re-assessment proceedings and put forth its stand and stance in detail to satisfy the AO that there was no escapement of taxable income.	High Court of Delhi
21-02-11	147(a) r.w.s 148	<b>The Central India Electric Supply Co. Ltd. v. ITO [2011] 202 Taxman 86 (Mag.)/10 taxmann.com 169 (Delhi)</b> - The appellant has made the relevant disclosure in the returns for the relevant AY when the enhanced compensation was received. The amount was invested by the appellant in Bonds, which entitles him to certain benefits in view of the provisions of section 54E of the IT Act. Just because such benefit is available to the appellant for that year in question, which may not have been available for the assessment year 1965-66, cannot be a reason for the assess-	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		ing authority to re-open the assessment for the year 1965-66.	
18-04-11	147	<b>Givaudan Flavours India Pvt. Ltd. v. DCIT ITA No. 2672/ Mum/2009, AY : 2002-03, dated 7-3-2011</b> - Original assessment completed u/s 143(3) and no new material/ tangible material available to AO to reopen the assessment u/s 147. So reopening the assessment is not sustainable in law.	ITAT-Mumbai
21-04-11	147	<b>CIT v. The Simbhaoli Sugar Mills Limited [2011] 202 Taxman 92 (Mag.)/ 11 taxmann.com 192 (Delhi)</b> - Reassessment proceedings u/s 147 read with sec. 148 cannot be initiated merely based on the audit report.	High Court of Delhi
10-05-11	147	<b>Bharat Heavy Electricals Ltd. v. DCIT, ITA Nos. 1833 &amp; 1834/Delhi/2006 AYs: 1997-98 &amp; 1998-99, dated 11-3-2011</b> - Non-compliance with the first proviso to section 147 renders the reopening of a completed assessment in the absence of any failure on the part of the assessee to disclose fully and truly all material facts necessary for its assessment for the relevant assessment year, <i>void ab initio</i> .	ITAT-Delhi
04-08-11	147	<b>Ashok Chaddha v. ITO [2012] 20 taxmann.com 387 (Delhi)</b> - In the absence of any specific provision u/s 147, the issuance of notice u/s 143(2) cannot be held to be a mandatory requirement.	High Court of Delhi
09-08-11	147	<b>Tulsi Developers v. DCIT [2012] 204 Taxman 27 (Mag.)/[2011] 15 taxmann.com 133 (Guj.)</b> - Where AO had considered entire facts regarding FDR bank interest while computing book profit u/s 40(b), reopening of assessment on ground that FDR bank inter-	High Court of Gujarat

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		est should have been excluded while computing book profit u/s 40(b) was unjustified.	
09-08-11	147	<b>Hotel Oasis (Surat) Pvt. Ltd. v. DCIT, Special Civil Application No. 10657 of 2009, dated 5-5-2011</b> - The AO cannot reopen the assessment merely to make inquiries.	High Court of Gujarat
17-08-11	147	<b>Agricultural Produce Market Committee v. ITO [2012] 204 Taxman 22 (Mag.)/[2011] 15 taxmann.com 170 (Guj.)</b> - Assessment cannot be reopened in the absence of reason to believe	High Court of Gujarat
15-12-11	147	<b>Prasad Koch Technik Tech Pvt. Ltd. v. ACIT, Special Civil Appl No. 16074 of 2011, dated 2-12-2011</b> - For the assessee to deduct tax at source, it was necessary that the payee had liability to pay any tax on such payment in India. In the reasons recorded, there is not even a <i>prima facie</i> belief or disclosure that on what basis, the AO has formed his reason to believe that such payment to the foreign supplier attracted tax in India. In absence of any live link with the reasons recorded and the belief formed, we are of the opinion that the notice was wholly invalid.	High Court of Gujarat
27-12-11	147	<b>Cadila Healthcare Ltd. v. ACIT, Special Civil Appl. No. 15566 of 2011, Date of decision 14-12-2011</b> - U/s 147, where the AO could have no reasons to believe that income had escaped assessment, notice u/s 148 is not valid.	High Court of Gujarat
29-12-11	147	<b>ICICI Bank Ltd. v. DCIT [2012] 204 Taxman 65 (Mag.)/[2011] 16 taxmann.com 250 (Bom.)</b> - Whether power to reopen an assessment cannot be exercised to reopen what formed	High Court of Bombay

## 112

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		subject matter of an appeal to Commissioner (Appeals).	
09-03-12	147	<b>SAK Industries Pvt. Ltd. v. DCIT [2012] 19 taxmann.com 237 (Delhi)</b> - The AO was under an obligation to dispose of the objections to the reopening by passing a speaking order.	High Court of Delhi
24-03-12	147	<b>Ganesh Housing Corporation Ltd. v. DCIT, Special Civil Application No. 15067/2011, dated 12-3-2012</b> - Reopening of assessment u/s 147, even within 4 years, on basis of retrospective amendment to section 80-IB(10) is not valid.	High Court of Gujarat
10-05-12	147	<b>Board of Control for Cricket in India v. ACIT [2012] 208 Taxman 236 (Mag.)/21 taxmann.com 103 (Bom.)</b> - Where the assessee claiming exemption u/s 11, during the course of assessment proceedings had not furnished any intimation to AO about the alleged misappropriation of funds by its Secretary, it is a sufficient reason to initiate reassessment proceedings by taking recourse to proviso to section 147.	High Court of Bombay
17-05-12	147	<b>A.G. Holdings (P.) Ltd. v. ITO [2012] 207 Taxman 117 (Mag.)/21 taxmann.com 34 (Delhi)</b> - There is no requirement in Sec. 147 or 148 or 149 that the reasons should also be served on the assessee before the period of limitation. There is also no requirement in section 148(2) that the reasons recorded shall be served along with the notice of reopening the assessment.	High Court of Delhi
06-06-12	147	<b>Acorus Unitech Wireless Pvt. Ltd. v. DCIT Writ Petition (Civil) No. 2155/2012, dated 28-5-2012</b> - For issue of notice u/s 143(2), reasons to believe are not required to be recorded in writ-	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		ing and power of the AO to take up the return for scrutiny is much wider and the jurisdictional pre-conditions stipulated u/s 147 are not required to be satisfied. The respondents have agreed to and will be bound by the statement to withdraw notice u/s 147/148, but will have liberty and right to issue fresh notice u/s 147/148, after recording reasons to believe. The notice u/s 147 will not be barred because the respondents had not initiated proceedings by issue of notice under section 143(2) of the Act or they had earlier issued notice under section 147/148.	
19-06-12	147	<b>Modipon Ltd. v. ACIT [2012] 208 Taxman 143 (Mag.)/23 taxmann.com 130 (Delhi)</b>	High Court of Delhi
23-03-09	148	<b>Supreme Treves Pvt. Ltd. v. DCIT [2009] 182 Taxman 216 (Bom.)</b> - Held that disclosure in P&L account etc. is sufficient enough to attract protection given under Proviso to section 147	High Court of Bombay
19-05-09	148	<b>CIT v. Chakiat Agencies Pvt. Ltd. ITA Nos. 361, 362, 491 and 492 of 2004, dated 24-3-2009</b> - Where AO had completed assessment originally after obtaining complete details as required by him and as provided under Act and assessee itself had filed a revised return which had been scrutinized and ultimately deduction u/s 80-O had been allowed, reopening of assessment to disallow this deduction on ground that services rendered by assessee would not entitle him to the same, was not justified	High Court of Madras
04-06-09	148	<b>JSRS Udyog Limited v. ITO [2009] 180 Taxman 477 (Delhi)</b> - Since in	High Court of Delhi



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		reasons recorded in writing for re-opening case u/s 148, there was no allegation that assessee did not make a full and true disclosure of all material facts, impugned notice was without jurisdiction.	
13-06-09	<b>148</b>	<b>Manjusha Estate Pvt. Limited v. ITO, Special Civil Application No. 28978 of 2007, dated 24-2-2009</b> - Merely receipt of Valuation report u/s 142A (which itself is invalid) which discloses estimated higher cost of construction as compared to the value disclosed in assessee's books/return of income (despite the fact that only section 143(1) & no regular assessment was made), cannot be a justification for reopening the case u/s 148.	High Court of Gujarat
13-06-09	<b>148</b>	<b>Shri Sirmad Buddhisagar Suri Jain Samadhi Mandir v. ACIT, Special Civil Application No. 627 of 2009, dated 9-2-2009</b> - Notice u/s 148 is not valid for being issued by an authority who did not have jurisdiction to issue the notice, and as a consequence, the Assessment Order is quashed and set aside.	High Court of Gujarat
13-07-09	<b>148 &amp; 158BA</b>	<b>Porbandar Coal Agency v. JCIT, Special Civil Application No. 11729 of 2000, dated 16-6-2009</b> - Re-opening notices u/s 148 pertaining to block/search assessment period is not valid when the same is based on search material remaining unused in earlier search assessment.	High Court of Gujarat
25-08-09	<b>148</b>	<b>CIT v. Ramakrishna Hedge, ITA No. 637/2007, dated 23-7-2009</b> - Held reopening u/s 148 can only be based on fresh information. Re-opening is not allowed on what stands already disclosed/contained with ITR's.	High Court of Karnataka

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
31-10-09	148	<b>Eghan Holding P. Ltd. ITA No. 1171/2008, dated 31-8-2009</b> - The notice served by affixture is also not valid service because it was done at the old address, which is not the last-known address, as the new address has already been intimated to the department in the return of income filed for the assessment year 2003-04 and that is the last-known address	High Court of Delhi
15-02-10	148	<b>Ashima Ispat Pvt. Ltd. v. DCIT, Special Civil Application No. 13060 of 2009, dated 14-12-2009</b> - AO issues notice u/s 148 and assessee challenges the same on the grounds that satisfaction was recorded by some other officer but notice being issued by another officer and also the fact that the assessee did not make any purchases in cash from alleged parties mentioned in notice.	High Court of Gujarat
13-03-10	148	<b>Godrej Agrovat Ltd. v. DCIT [2011] 10 taxmann.com 135 (Bom.)</b>	High Court of Bombay
13-03-10	148	<b>Purity Techtexile Private Limited v. ACIT [2010] 189 Taxman 21 (Bom.)</b> - Held that mere existence of the land and building since 1988 is not a circumstance which would disentitle the assessee to the benefit of a deduction under section 80-IB of the Act, once other requirements of the provisions are fulfilled.	High Court of Bombay
05-04-10	148	<b>H Mohan Lal Giriya v. ITO, ITA Nos. 64-72/2004, dated 15-12-2009</b> - Re-opening of assessment without recording the reasons is bad in law. Further held that there cannot be two views on the same issue when the matter was considered by same authority	High Court of Karnataka

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
09-07-10	148	<b>CIT v. Kiran Garg, ITA No.160/2005, dated 31-3-2010</b> - Reopening Held to be bad in law where investigation information on basis of some Third Party statement was basis of reopening and third party never offered for cross examination.	High Court of Allahabad
09-07-10	148	<b>Das Cold Storage v. ACIT, Writ Tax No. 901 of 2004, dated 1-4-2010</b> - The petitioner had not maintained mercantile system of accountancy in respect of rent and had maintained the books of account in accordance to notification issued by the State Government for the cold storage, we can not examine this plea of the petitioner at this stage. It will be open to the petitioner to raise this plea before the assessing authority.	High Court of Allahabad
10-09-10	148	<b>CIT v. Eicher Limited [2011] 10 taxmann.com 228 (Delhi)</b> - When revenue had itself annexed 'office note' of Dy. Commissioner to assessment order, which disclosed that no additions on aforesaid two reasons could be made at all, there was no basis for issuance of a notice u/s 148 insofar as those two reasons were concerned.	High Court of Delhi
01-10-10	148	<b>CIT v. Sachin Hotels (P) Ltd. ITA No. 9 of 2009, dated 26-7-2010</b>	High Court of Uttarakhand
09-10-10	148	<b>CIT v. Vishal Holding &amp; Capital (P.) Ltd. [2011] 200 Taxman 186 (Mag.)/ 12 taxmann.com 150 (Delhi)</b> - Where the assessee has produced best possible evidence to support its claim (copies of accounts, bills and contract notes), AO cannot simply act on the information received from the Investigation Wing	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		without verifying the details furnished by the assessee.	
13-11-10	148	<b>International Business Services v. CIT ITA No. 1805 of 2009, dated 4-10-2010</b>	High Court of Kerala
31-01-11	148	<b>Balwant Rai Wadhwa v. ITO ITA No. 4806/Delhi/10</b> - Non-supply of 'Reasons for reopening' u/s 148 within the time renders the reopening of assessment u/s 147 void.	ITAT-Delhi
05-04-11	148(1)	<b>CIT v. Three Dee Exim Pvt. Ltd. [2012] 20 taxmann.com 146 (Delhi)</b> - When the assessee appears before the Assessing Officer and is given copy thereof before assessment and also makes correspondence and participates in the assessment proceedings, notice issued at old address available on record may constitute service of notice. In such circumstances, the service of copy of notice also would be service of notice within the ambit of sec. 148(1)	High Court of Delhi
11-06-11	148	<b>CIT v. Safetag International India Pvt. Ltd. [2012] 20 taxmann.com 215 (Delhi)</b> - Assessee having not asked for reasons to believe or raised objections thereto before AO, Tribunal could not have restored matter back to file of AO and give another opportunity to assessee to raise objections to 'reasons to believe' recorded by AO.	High Court of Delhi
15-12-11	148	<b>Kimplas Trenton Fitting Ltd. v. ACIT [2012] 204 Taxman 63 (Mag.)/[2011] 16 taxmann.com 413 (Bom.)</b> - Whether assessment can be re-opened beyond four years when all primary facts for making the claim were disclosed to the AO.	High Court of Bombay

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
27-12-11	148	<b>RRB Consultants &amp; Engineers Pvt. Ltd. v. DCIT [2012] 208 Taxman 133 (Mag.)/20 taxmann.com 673 (Delhi)</b> - The AO made an error of judgment and did not form a proper legal opinion. A wrong legal inference was drawn from the facts stated by the assessee and on record. Once primary facts have been disclosed then, it is for the Assessing Officer to draw proper legal conclusion and apply the provisions of the statute. This being the position the jurisdiction pre-conditions required for re-opening of the assessment order are not satisfied in the present case.	High Court of Delhi
29-12-11	148	<b>BLB Limited v. ACIT [2012] 206 Taxman 37 (Mag.)/19 taxmann.com 115 (Delhi)</b> - Notice u/s 148 is not valid where reasons are recorded after the period of 4 years from the end of the AY without compliance of Proviso to sec. 147.	High Court of Delhi
19-01-12	148	<b>CIT v. SPL'S Siddhartha Ltd. [2012] 204 Taxman 115 (Mag.)/17 taxmann.com 138 (Delhi)</b> - Where AO instead of taking approval from Joint Commissioner as per provisions of section 151, obtained approval from Commissioner and issued notice u/s 148 said notice was invalid.	High Court of Delhi
02-02-12	148 r.w.s. 292BB	<b>Alpine Electronics Asia PTE Ltd. v. DGIT [2012] 205 Taxman 190/18 taxmann.com 246 (Delhi)</b> - The principle of estoppel u/s 292BB does not apply if the assessee has raised objection in reply to the notice before completion of assessment or reassessment. As the AO had passed a draft assessment order and the assessee had	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		raised an objection before completion of assessment, the estoppel in section 292BB did not apply and the section 147 proceedings could not continue.	
03-04-12	148	<b>Indivest Pte Ltd. Singapore v. ADIT, [2012] 206 Taxman 351/19 taxmann.com 216 (Bom.)</b> - The validity of the notice for reopening assessment u/s 148 has to be determined on the basis of the reasons which are disclosed to the assessee. Those reasons constitute the foundation of the action initiated by the AO of reopening the assessment. Those reasons cannot be supplemented or improved upon subsequently.	High Court of Bombay
05-04-12	148	<b>Ghanshyam K Khabrani v. ACIT [2012] 20 taxmann.com 716 (Bom.)</b> - Where no new evidence or fresh evidence were produced by AO and the joint-commissioner granted approval without seeing the record for issuance of notice u/s 148, there was no compliance of the mandatory requirements of Secs. 147 and 151(2), the notice reopening the assessment cannot be sustained in law.	High Court of Bombay
23-04-12	148	<b>I M Constructions Pvt. Ltd. v. CIT [2012] 24 taxmann.com 162 (Delhi)</b> - The petitioner was aware and knew that the AO has issued the notice u/s 148 at the address mentioned in the return; the requirement stipulated in Section 149 is "issue of notice" and not "service of notice", which was the requirement u/s 34 of the Income-tax Act, 1922. The assessee can be treated as "served" with the notice u/s 148, which was earlier issued at the address mentioned in the return.	High Court of Gujarat

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
29-05-12	148	<b>Munjal Showa Ltd. v. DCIT, W.P. (C) 4753/2011, dated 14-5-2012</b> - Where the assessee had filed and furnished all details and particulars relating to the royalty payment including agreements, calculation and the approval before the Ld. AO during assessment proceedings. The new AO has observed that royalty payment should have been disallowed as it was capital in nature. This is a question of legal inference or interpretation drawn from the same material facts on record. Therefore, the case falls in the category of change of opinion and cannot be made the subject matter of re-assessment proceedings.	High Court of Delhi
02-08-11	149	<b>Kanubhai M Patel HUF v. Hiren Bhatt or his Successors to office [2011] 202 Taxman 99 (Mag.)/12 taxmann.com 198 (Guj.)</b> - For purposes of sec. 149, the expression "notice shall be issued" means that the notice should go out of the hands of the AO.	High Court of Gujarat
14-05-09	150	<b>CIT v. Green World Corporation, Civil Appeal No. 3312 of 2009, dated 6-5-2009</b> - For reopening of proceedings u/s 150, records of proceedings must be before appropriate authority and it must examine records of proceedings; if there is no proceeding before it or if assessment year in question is also not a matter which would fall for consideration before higher authority, sec. 150 will have no application.	Supreme Court of India
16-03-10	150 r.w.s. 153	<b>Poonja Arcade v. Asstt. CIT [2010] 191 Taxman 291 (Kar.)</b> - When Tribunal has given sufficient indication and has made sufficient observations to enable AO to reassess the tax liability, it was correct to reopen the case u/s 150.	High Court of Karnataka

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
13-01-11	153A	<b>Guruprerna Enterprises v. ACIT, ITA Nos. 255, 256 &amp; 257/Mum/2010</b> - Held that the issues decided in the assessment cannot be reconsidered and re-adjudicated u/s 153A, unless there is some fresh material found during the course of search in relation to such points.	ITAT-Mumbai
10-12-11	153A	<b>DCIT v. Eversmile Construction Co. Pvt. Ltd., ITA No. 4238/Mum/2010, dated 30-8-2011</b> - The assessee can claim any deduction which was not allowed in the original assessment.	ITAT-Mumbai
24-05-12	153A	<b>All Cargo Global Logistics Ltd. v. Dy. CIT [2012] 137 ITD 26/21 taxmann.com 429 (Mum.)(SB)</b> - The Tribunal is not confined only to issues arising out of the appeal before the CIT(A) but has the discretion to allow a new ground to be raised. If a pure question of law arises for which facts are on record of the authorities below, the question should be allowed to be raised if it is necessary to assess the correct tax liability. The submission that the ground could not be raised earlier as the assessee did not have the services of an advocate at its command is reasonable and <i>bona fide</i>	ITAT-Mumbai
06-09-10	153C	<b>Shashi Kiran v. CIT [2010] 195 Taxman 332 (Punj. &amp; Har.)</b>	High Court of Punjab & Haryana
28-07-11	153C	<b>Beejay Security &amp; Finance Ltd. v. ACIT ITA No. 4859/Mum/2009 : AY 2001-02 to A.Y. 2007-08, dated 24-06-2011</b> - In the absence of satisfaction regarding existence of any undisclosed income which warrants proceed-	ITAT-Mumbai



## 122

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		ings u/s 153C, the assessment has to be annulled.	
17-06-09	<b>154</b>	<b>OCL India Ltd., ITA Nos. 1378/2008, 1393/2008, dated 19-5-2009</b> - It is not permissible for AO to invoke sec. 154 to correct what he consider was a mistake after perusing several judgments on the issue.	High Court of Delhi
05-11-09	<b>154</b>	<b>Nokia Corporation v. ADIT ITA No. 321/2008, dated 7-9-2009</b>	High Court of Delhi
09-12-09	<b>154</b>	<b>MEPCO Industries Ltd. v. CIT [2009] 185 Taxman 409 (SC)</b> - Rectifiable Mistake : It must be a patent mistake, which is obvious and whose discovery is not dependant on elaborate arguments. Decision on debatable point of law cannot be treated as "mistake apparent from the record"	Supreme Court of India
24-11-09	<b>154(7)</b>	<b>CIT v. Tony Electronics Ltd. [2009] 185 Taxman 121 (Delhi)</b> - Once we opine that the assessment order had merged with the order of CIT(A) passed on 28.6.2004, the limitation for the purpose of sub-section (7) of section 154 is to be counted from this date.	High Court of Delhi
26-03-11	<b>154</b>	<b>CIT v. India Sea Foods [2012] 20 taxmann.com 500 (Ker.)</b> - The AO can give up the rectification proceedings and then initiating an income escaping assessment u/s 147.	High Court of Kerala
04-05-11	<b>154</b>	<b>CIT v. Eli Lilly &amp; Co. India (P.) Ltd. [2012] 20 taxmann.com 480 (Delhi)</b> - Matter relating to interpretation of the effect which is to be given in provision is not a mistake which can be corrected under sec. 154.	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
15-06-11	<b>154</b> r.w.s. <b>147</b>	<b>CIT v. Haritha Seating Systems Ltd. [2011] 202 Taxman 402/14 taxmann.com 61 (Mad.)</b> - Whether, the labour charges, miscellaneous income and sale of materials are part of business income for the purpose of deduction u/s 80HH - Whether the same can be decided in rectification proceedings u/s 154.	High Court of Madras
05-07-11	<b>154</b>	<b>CIT &amp; JDIT v. Shetron Limited, ITA No. 79/2006, dated 22-11-2010</b> - Whether when rectification order u/s 154 is passed, interest is to be computed only up to the date of regular assessment.	High Court of Karnataka
28-07-11	<b>154</b>	<b>Credit Lyonnais v. DDIT ITA No. 1546/Mum/2010, AY: 2004-05, dated 8-7-2011</b> - Any issue which requires a long drawn argument cannot be considered as a mistake apparent from the record.	ITAT-Mumbai
09-03-12	<b>154</b>	<b>Varindra Construction Company v. CIT [2012] 206 Taxman 14/19 taxmann.com 244 (Punj. &amp; Har.)</b> - AO has rightly invoked the provisions of sec. 154 to disallow excessive depreciation claimed by the assessee on trucks at 40% where rate applicable was 25% as the assessee was not plying trucks owned by it on hire but was utilizing the trucks for its own purposes.	High Court of Punjab & Haryana
04-06-09	<b>158A</b>	<b>Titanor Components Ltd. v. CIT [2009] 184 Taxman 10 (Bom.)</b> - When there was no order passed as required u/s 158A(3) and order passed was only one and u/s 254(1), impugned order could not be read as an order u/s 158A(3) against which no appeal was pending. In view of scheme of sec. 158A, it would	High Court of Bombay

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		have been proper for Tribunal to wait till question of law was adjudicated by Delhi High Court in appeals pending before it. Therefore, impugned order was to be set aside and matter was to be remanded to Tribunal, Panaji for further action in terms of sec. 158A(3)(i) and 158A(5)	
10-06-10	<b>158B</b>	<b>CIT v. Ashwani Gupta [2010] 191 Taxman 51 (Delhi)</b>	High Court of Delhi
03-06-10	<b>158BB</b>	<b>DCIT v. Khandubhai V. Desai, ITA No. 312/1999, dated 7-12-2009</b>	High Court of Gujarat
07-09-10	<b>158BB</b>	<b>CIT v. Girdhari Lal Bassi [2012] 20 taxmann.com 489 (Punj. &amp; Har.)</b> - Where the assessee did not disclose what was the purpose of withdrawal of such a huge amount of cash from bank account, the addition is justifiable on account of unexplained cash. Further, Disclosure of income in a return filed after the search cannot be treated as disclosed income.	High Court of Punjab & Haryana
01-10-10	<b>158BB (1)</b>	<b>Subhash Verma. v. CIT, I.T.A. No.174 of 2010, dated 22-7-2010</b>	High Court of Punjab & Haryana
04-11-11	<b>158BB (4) r.w.s. 153A</b>	<b>Faisal Abbas v. DCIT ITA Nos. 3485 &amp; 3487/MUM/2010, AYs. 2002-03 &amp; 2007-08, dated 25-10-2011</b> - Set off of losses can be claimed even if the return of subsequent years, in which the set off is claimed is filed after due date. It was also held that the loss determined for the immediately preceding year will be available to the assessee for the set off against the current year's income declared in the return filed u/s.153A.	ITAT- Mumbai
06-03-09	<b>158BC</b>	<b>Sudhir Malik v. DCIT IT/SS/09/Delhi/2005, dated 20-02-2009</b> - Search	ITAT- Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		warrant issued by ADIT - Inv. is invalid in eyes of law and consequentially the block/search assessment order passed u/s 158BC has been quashed.	
13-03-09	<b>158BC</b>	<b>CIT v. Shakuntla Devi ITA No. 345/2007, dated 2-3-2009</b> - Held that no addition on account of understatement of purchase consideration merely on basis of Valuation Report.	High Court of Delhi
03-04-09	<b>158BC, 150(1)</b>	<b>Dr. Deepak Agrawal v. Asstt. CIT [2009] 183 Taxman 199 (All.)</b> - Reopening of regular assessment post finding in ITAT order as to genuineness of gift obtained by assessee is valid as it was intended to give effect to said direction/ order of ITAT.	High Court of Allahabad
08-04-09	<b>158 BC</b>	<b>Director of Investigation Aaykar Bhawan v. Jayanti Lal Damjibhai Soni Petition(s) for Special Leave to Appeal (Civil)...../2009 CC 3255/2009, dated 23-3-2009</b>	Supreme Court of India
04-06-09	<b>158BC</b>	<b>Sudhakar T. Pendse v. ITO [2009] 184 Taxman 444 (Bom.)</b> - Having agreed before Commissioner (Appeals) that it was difficult for the assessee to prove that he had changed method of accounting from mercantile system to cash system and, therefore, amount of profit could be taxed as undisclosed income in block period, it was not open to assessee to challenge decision of Commissioner (Appeals) on merits.	High Court of Bombay
20-04-10	<b>158BC</b>	<b>CIT v. Tips Industries P. Ltd., ITA No. 541 of 2009, dated 22-1-2010</b> - In absence of any material on record to suggest that over and above the agreement dated 27/4/1999, the assessee had entered into an agreement with any	High Court of Bombay

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		other person which could be connected to the notings contained in the seized paper	
19-07-10	<b>158BC</b>	<b>Gopal Das Khandelwal v. Union of India [2010] 192 Taxman 54 (All.)</b>	High Court of Allahabad
30-11-09	<b>158BD</b>	<b>Royal Palms (India) Ltd. v. ACIT, IT(SS)A. No. 259/Mum/2006, dated 13-8-2009</b> - Held, since the satisfaction has not been recorded in accordance with law, the proceedings are bad in law and, accordingly, the assessment is annulled.	ITAT-Mumbai
10-12-09	<b>158BD, 132</b>	<b>Kamdhenu Sweets v. ACIT, Civil Misc. Writ Petition No. 1688 (Tax) of 2002, dated 18-9-2009</b> - In this case it has been held that action u/s 158BD is rightly invoked by the department in the case of assessee since only survey was conducted at the premises of the assessee and search was conducted at the premises of the partners.	High Court of Allahabad
23-04-10	<b>158BD</b>	<b>CIT v. Anupam Sweets ITA No. 220/2009, dated 8-2-2010</b> - In absence of recording of satisfaction, as required u/s 158BD by the AO having jurisdiction over the person searched, the proceedings initiated u/s 158BD were bad in law.	High Court of Delhi
23-04-10	<b>158BD</b>	<b>CIT v. Rajesh Sharma, ITA No. 565/2009, dated 4-2-2010</b> - Whether the ITAT had not erred in law in holding that since the procedure of sec. 158BD had not been followed in respect of the diaries seized during parallel search on third party, the same could not form part of the block assessment insofar as the assessee was concerned	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
18-09-10	<b>158BD</b>	<b>CIT v. Rajan Knit Fab (P.) Ltd. ITA No. 317 of 2010, dated 4-8-2010</b> - Action contemplated u/s 158BD against a third party to a search is necessarily to be during course of block assessment proceedings of searched person; it cannot be after conclusion of block assessment in case of searched person.	High Court of Punjab & Haryana
16-10-10	<b>158BD</b>	<b>CIT v. Mridula, Prop. Dhruv Fabrics [2012] 20 taxmann.com 575 (Punj. &amp; Har.)</b>	High Court of Punjab & Haryana
06-04-12	<b>158BD</b>	<b>Kapil Dev v. JCIT, ITA No. 2259/Del/2002, AY - 1997-98, dated 22-3-2012</b> - No addition can be made on protective basis in respect of income from alleged undisclosed sources on the basis of the credit entries supposedly in the name of the appellant found mentioned in the seized note books/ diaries of any other person. There cannot be a protective assessment on the basis of above assumptions and facts with a bald direction that if the addition is not made in the hands of person searched, the same should be added in the hands of the assessee.	ITAT- Delhi
21-12-09	<b>158BFA (2)</b>	<b>CIT v. Purshottam Transport ITA No. 2280 of 2009, dated 14-10-2009</b> - In this case it has been held that if the additions, in block proceedings, have been made on estimated basis no penalty can be imposed on assessee since it is not possible to foresee the quantum of undisclosed income for the block period at the time of filing of return.	High Court of Bombay
26-08-11	<b>158BFA (2)</b>	<b>Triumph International Finance India Ltd. v. ACIT IT(SS)A No. 160/Mum/2007, dated 30-06-2011</b>	ITAT- Mumbai

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
23-12-11	<b>165</b>	<b>P.C. Paulose, M/s. Sparkway Enterprises v. CCE &amp; C, Civil Appeal No. 483 of 2011, dated 13-1-2011</b>	Supreme Court of India
16-03-10	<b>192, 194J</b>	<b>CIT v. Elbit Medical Diagnostics Ltd. ITA No. 168/2009, dated 4-2-2010</b> - Classification of payment made to Directors sitting for long time in company premises is not sufficient to conclude that TDS should be made u/s 192, to be covered u/s 194J.	High Court of Karnataka
28-06-12	<b>194A</b>	<b>CIT v. Cargil Global Trading (P.) Ltd. [2012] 21 taxmann.com 496 (SC)</b> - Discount charges are not contemplated with interest referred in section 194A and accordingly no TDS is deducted on discount charges.	Supreme Court of India
25-05-09	<b>194C</b>	<b>Bajaj Auto Ltd. v. ITO ITA No. 598 of 2005, dated 19-1-2009</b> - Whether assessee (auto manufacturer) is liable for tax withholding u/s 194C on service charges paid to authorized service stations, for discharge of free service coupons?	High Court of Bombay
19-10-09	<b>194C</b>	<b>CIT v. Turag Marketing I.T.A. No. 844/2009, dated 16-9-2009</b>	High Court of Delhi
29-03-11	<b>194C</b>	<b>S K Saifuddin v. ITO ITA No. 964 (Kol.) of 2009, dated 17-2-2011</b> - Following condition to be satisfied for applicability of section 194C - (i) there must be a contract between the person responsible for making payment to contractor, (ii) the contract must be for carrying out of any work, (iii) the work is to be carried through the contractor, (iv) the consideration for the contract should exceed Rs.10,000, i.e., the amount fixed by section 194C and (v) that the payment is made to the contractor for the work carried out by him. In the present case there was no con-	ITAT-Kolkata

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		tract between the assessee and the labour-heads so provision of section 194C shall not apply consequently no disallowance of expenditure made u/s 40(a)(ia).	
10-05-12	<b>194C &amp; 40(a)(ia)</b>	<b>Piyush C. Mehta v. Asstt. CIT [2012] 52 SOT 27/20 taxmann.com 473 (Mum.)</b> - Deposit of TDS u/s 194C after the end of the year, but before the due date of filing the ROI is valid for the reason that the amendment to the provisions of Sec. 40(a)(ia), by Finance Act, 2010 is retrospective from 1-4-2005.	ITAT-Mumbai
16-02-12	<b>194H</b>	<b>CIT v. Mother Dairy India Ltd. [2012] 206 Taxman 157/18 taxmann.com 49 (Delhi)</b> - Tax was not liable to be deducted at source on the payment of commission to agents/concessionaires, who sold milk and other products of the assessee from the booths owned by the assessee u/s 194H.	High Court of Delhi
14-06-12	<b>194H</b>	<b>DCIT v. Surendra Mohan ITA No. 4552/Del/2011, AY : 2008-09, dated 1-6-2012</b> - No application of sec. 194H in respect of discount received on purchase of plots.	ITAT- Delhi
12-11-09	<b>194-I</b>	<b>CIT v. NIIT Ltd. [2009] 184 Taxman 472 (Delhi)</b> - It has been held that the amount of payments made to franchisees was in the nature of profit sharing and not rent and hence the assessee is not liable to deduct the TDS on the amount paid to its franchisees.	High Court of Delhi
25-11-11	<b>194-I</b>	<b>SKIL Infrastructure Ltd. v. ITO ITA Nos. 3419 &amp; 3420/Mum/2010, (AYs : 2007-08 &amp; 2008-09), dated 31-10-2011</b> - The contract for transportation in respect of chartering a helicopter/aircrafts do not attract provisions of TDS u/s 194-I.	ITAT-Mumbai



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
06-12-11	<b>194-I</b>	<b>Indian Newspaper Society v. ITO (TDS) [2012] 20 taxmann.com 572 (Bom.)</b> - The AO at Mumbai cannot proceed against an assessee who is being assessed at New Delhi	High Court of Bombay
13-01-12	<b>194-I</b>	<b>ITO (TDS) v. Indian Oil Corpn. [2011] 15 taxmann.com 210 (Delhi)</b> - It held that the agreement was of the nature of transport agreement and not one for hiring of vehicles because the tank truck owners did not simply confine themselves to providing vehicles at the disposal of the assessee in lieu of rent but also engaged their drivers in driving such vehicles and thereby in transporting petroleum products from one place to the other. The agreement was merely for carriage of petroleum products attracting provisions of sec. 194C and so sec. 194-I was not applicable.	ITAT- Delhi
13-03-09	<b>194J &amp; 194</b>	<b>HCIT v. Moving Picture Co. ITA Nos. 44/2009 and 46/2009, dated 5-3-2009</b> - TDS on Payment of Purchase of Free Commercial Time (based on corresponding Cost of T.V. Serial Production adding certain markup) and Trade Discount u/ss. 194J and 194H are not attracted (Underlying Detailed Delhi ITAT ruling is reported at 20 SOT 120)	High Court of Delhi
10-06-09	<b>194J</b>	<b>CIT v. Bharti Cellular Ltd., Special Leave to Appeal (Civil) ...../2009 CC 6386/2009, dated 14-5-2009</b> - Only those services which are rendered by humans can be regarded as a technical service so as to attract provisions of sec. 194J.	Supreme Court of India
22-10-09	<b>194J</b>	<b>Medi Assist India TPA (P.) Ltd. v. Dy. CIT [2009] 184 Taxman 359 (Kar.)</b> - It has been held that under the provisions of sec. 194J, TPAS are required to de-	High Court of Karnataka

## LANDMARK RULINGS

131

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		duct TDS on the amounts paid to Hospitals since these types of charges are covered by the provisions of sec. 194J	
11-05-10	194J	<b>Dedicated Health Care Services TPA (India) (P.) Ltd. v. Asstt. CIT [2010] 191 Taxman 1 (Bom.)</b> - Payment made on behalf of insurance companies to hospitals for settlement of medical/ insurance claims etc. under various schemes including cashless schemes are liable to deduct tax at source u/s 194J	High Court of Bombay
05-07-10	194J	<b>Paramount Health Services (TPA) (P.) Ltd. v. Asstt. CIT [2011] 202 Taxman 288/11 taxmann.com 285 (Bom.)</b>	High Court of Bombay
27-07-10	194J	<b>Paramount Health Services (TPA) Pvt. Ltd v. ACIT, Writ Petition (Lodg.) No. 684 of 2010, dated 25-3-2010</b> - Garnishee notice issued for the entire amount even after order of stay passed by CIT (TDS) for a part of demand, betrays a lack of application of mind and has to be set aside.	High Court of Bombay
16-11-11	194J r.w.s. 40(a)(ia)	<b>CIT v. Kotak Securities Limited [2012] 20 taxmann.com 846 (Bom.)</b> - Sec. 194J r.w. <i>Explanation 2</i> to sec. 9(1)(vii) clearly shows that the expression 'fees for technical services' includes rendering of any managerial services.	High Court of Bombay
27-07-09	195	<b>Cable &amp; Wireless Networks India Private Limited v. DIT (Intl. Taxation), A.A.R. No. 786 of 2008, Dated: 30/06/2009</b> - In the absence of there being any permanent establishment in India, income is not at all taxable here.	AAR- New Delhi
05-12-09	195 r.w.s. 40(a)(i)	<b>CIT v. Orient Goa Pvt Ltd. [2009] 185 Taxman 131 (Bom.)</b> - In this case the assessee made payments to the non-resident company without deducting TDS, the AO in view of provisions of sec.	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		40(a)(i) disallowed the same. High Court has affirmed the order of the AO.	
08-12-09	195	<b>CIT (International Taxation) v. Samsung Electronics Co. Ltd. [2009] 185 Taxman 313 (Kar.)</b> - In this case it has been held that the payments made by the assessee to the foreign companies for the purchase of software are subject to the provisions of TDS.	High Court of Karnataka
03-11-09	195(1)	<b>CIT v. Kirtilal Kalidas Diamond Exports ITA (LDG.) No. 836 of 2009, dated 2-9-2009</b> - Question sought to be raised revolves around deduction of tax u/s 195(1), as no income accrued to the non-resident of India where services were rendered out of India and payment was made out of India and also PE in India.	High Court of Bombay
12-01-10	195	<b>Van Oord ACZ India (P.) Ltd. v. Dy. CIT ITA No. 1481/Del/2009, dated 30-10-2009</b> - In this case, the request of the counsel of the assessee for constituting special bench is being discarded by the Bench in view of the fact, that the appeal of the assessee is already admitted by the Hon'ble High Court for Previous Year.	ITAT- Delhi
30-01-10	195	<b>GE India Technology Cen. (P.) Ltd. v. CIT [2010] 187 Taxman 110 (SC)</b>	Supreme Court of India
15-07-10	195(2)	<b>Van Oord ACZ India (P.) Ltd. v. CIT [2010] 189 Taxman 232 (Delhi)</b> - Payer cannot take a suo-motu view that payment is non chargeable to tax in India without considering sec. 195(2).	High Court of Delhi
16-11-11	195	<b>Asstt. DIT (Intl. Tax.) v. Neo Sports Broadcast (P.) Ltd. [2011] 133 ITD 468/15 taxmann.com 175 (Mum.)</b> - Payment made towards "live feed" is not	ITAT- Mumbai

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		in the nature of "Royalty payment" and therefore, sec. 195 is not applicable	
26-03-12	<b>195</b>	<b>Crompton Creaves Ltd. v. Dy. CIT (TDS) [2012] 50 SOT 562/19 taxmann.com 272 (Mum.)</b> - No order u/s 201(1) or (1A) holding the payer to be in default can be passed where the Revenue has not taken any action against the payee and the time limit for taking action against the payee u/s 147 has expired.	ITAT-Mumbai
28-06-12	<b>195 &amp; 40(ia)</b>	<b>ITO v. Planet Herbs Life Science, ITA No. 522/Del/2011, dated 25-5-2012</b> - The payments made on account of reimbursement of expenses was in no way income chargeable to tax in India in the hands of the payee and hence did not require any tax deduction at source and therefore addition made u/s 40(a)(ia) was not warranted.	ITAT- Delhi
01-09-11	<b>197A(2)</b>	<b>ITO v. Rajesh Kr. Garg ITA No. 532/Kol/2011, dated 5-8-2011</b> - Whether when the assessee has received Form 15-I from the payee and no deduction is made on that basis, no disallowance can be made u/s 194C only for the reason that the forms were not submitted in time before the jurisdictional CIT.	ITAT-Kolkata
08-06-11	<b>200(3)</b>	<b>ITO (TDS) v. Moraj Building Concepts Pvt. Ltd. ITA No. 1232/ Mum/ 2010, AY: 2006-2007, dated 18-3-2011</b> - Whether penalty can be levied if assessee files delayed return for lack of PAN nos. of payees as they were ordinary laborers but tax was deposited.	ITAT-Mumbai
14-05-11	<b>201 &amp; 201(1A)</b>	<b>ICICI Bank Ltd. v. Dy. CIT [2012] 20 taxmann.com 222 (Luck.)</b> - Whether payment made by cheque is deemed to have been made on the date of deliv-	ITAT-Lucknow

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		ery of cheque and not on the date of encashment.	
28-11-11	<b>201(1)</b>	<b>CIT v. Delhi Public School [2011] 203 Taxman 81/15 taxmann.com 107 (Delhi)</b> - Whether where unless the inference, that the income of the employees has not been calculated correctly while deducting the tax at source, can be reasonably raised against an employer, it cannot be held that he has not deducted tax on the estimated income of the employee and cannot be treated as an assessee in default.	High Court of Delhi
21-03-12	<b>201(3)</b>	<b>Catholic Relief Services v. ACIT, ITA Nos. 2742 to 2744/Del/2011, dated 13-1-2012</b> - Sec. 201(3) inserted by the FA 2009 w.e.f. 1.4.2010 imposes a time limit for the passing of orders u/s 201. The Proviso to sec. 201(3) provides that an order for a FY commencing on or before 1.4.2007 may be passed at any time on or before 31.3.2011. In the present case, the proceedings were initiated after the search on 16.11.2009. On this date, the amended provisions of sec. 201(3) had not come into force, sec. 201 order was consequently beyond limitation.	ITAT- Delhi
18-05-11	<b>205</b>	<b>CIT v. Perfect Communication ITR No. 564 of 2011, dated 7-4-2011</b> - When TDS is claimed on rent on the basis of information by the tenant that TDS has been deducted u/s 194H, but the deductor tenant had not deposited any TDS on his account with the Govt., in this case the revenue cannot demand the amount of TDS directly from the deductee as per sec. 205.	High Court of Delhi
29-09-11	<b>205(1)(b)</b>	<b>CIT v. Madras Fertilizers Ltd. ITA No. 333 of 2005, dated 3-8-2011</b>	High Court of Madras

## LANDMARK RULINGS

135

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
11-08-10	<b>206A</b>	<b>CIT v. Vimal Chawla Charitable Trust I.T.A. No. 94 of 2010, dated 19-5-2010</b>	High Court of Punjab & Haryana
25-06-12	<b>206AA</b>	<b>A Kowsalya Bai v. Union of India [2012] 208 Taxman 208/22 taxmann.com 157 (Kar.)</b> - PAN not required if income of persons below the taxable limit. Sec. 206AA is read down as being inapplicable to persons whose income is less than the taxable limit.	High Court of Karnataka
12-06-12	<b>217</b>	<b>Rahuljee &amp; Co. Pvt. Ltd. v. ITAT [2012] 208 Taxman 146/ 22 taxmann.com 73 (Delhi)</b> - If there is a foreign travel in connection with the business, merely because in the said foreign travel, no business could be transacted or the foreign travel did not result in bagging any contract is not the determinative factor. The relevant factor was as to whether he was sent by the assessee abroad in connection with the business of the assessee.  Further, issuance of show cause notice is not a condition precedent before charging interest under section 217 of the Act.	High Court of Delhi
06-03-09	<b>220(6)</b>	<b>Taneja Developers &amp; Infrastructure Ltd. v. ACIT Writ Petition No. 6956/ 2009, dated 24-2-2009</b> - Where income assessed is twice of returned income or more than the same - stay must be granted in routine manner.	High Court of Delhi
17-07-09	<b>220(2) &amp; 234B</b>	<b>Polyflex (India) Pvt. Ltd. v. DGIT, WP No. 10896/2006, dated 9-6-2009</b> - Waiver of interest u/ss 220(2) and 234B.	High Court of Karnataka
23-02-10	<b>220(2A)</b>	<b>CIT v. Sunil Exports, WP No. 841/ 2006, dated 1-12-2009</b> - When CIT has recorded a finding that payment of interest would result in HARDSHIP and has cooperated in proceedings, it was	High Court of Karnataka

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		fit case for waiver of interest u/s 220(2A).	
19-01-12	<b>220(2)</b>	<b>Girnar Investment Ltd. v. CIT [2012] 204 Taxman 569/17 taxmann.com 69 (Delhi)</b> - The assessee has not paid up the entire tax within the specified period, it is liable to pay interest u/s 220(2) from that date on the unpaid amount and any variation in the amount of the demand favourable to the assessee which was directed by any of the appellate authorities in the interregnum has no effect on the liability of the assessee to pay the interest.	High Court of Delhi
13-04-12	<b>220(6)</b>	<b>Rajsthani Sammelan Sarvoday Balika Vidyalaya v. ADIT (Exemption) [2012] 21 taxmann.com 238 (Bom.)</b> - AOs and Appellate Authorities act as quasi judicial authorities and not merely as tax gatherers of the Revenue. They have a duty of protecting the interests of the Revenue, they need to mitigate the hardship to the assessee and applications for stay must be considered objectively. The assessee does have serious issues to be urged before the CIT(A) and the AO & DIT ought to have granted a complete stay of demand u/s. 220(6).	High Court of Bombay
25-04-11	<b>221(1)</b>	<b>Lok Housing &amp; Constructions Ltd. v. ACIT, ITA Nos. 5224 &amp; 5225/Mum/2009, AYs: 2007-08 &amp; 2008-2009, dated 11-3-2011</b> - Where it is evidents from the records available that assessee had sufficient cash in hand and also bank balances, it cannot be said that assessee was having financial crunch to pay some tax.	ITAT-Mumbai
04-08-09	<b>234A/B</b>	<b>T.P. Indrakumar v. ITO ITA No. 596/2004, dated 8-7-2009</b> - It has been held that since the amount was offered by	High Court of Karnataka

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		the assessee by way of income for the first time through a letter, it cannot be held that the assessee had defaulted in payment of instalments of advance tax.	
13-03-09	<b>234B</b>	<b>CIT v. Maha Maya General Finance and Anand Prakash ITA 116/2007, dated 27-2-2009</b> - That no interest u/s 234B can be charged with respect to an "income" which could not be contemplated in relevant FY by assessee concerned. This is so held on basis of legal principle that "law cannot compel anyone to do the impossible".	High Court of Delhi
21-05-09	<b>234B</b>	<b>DIT v. NSG Network Asia LLC ITA No. 1037 of 2008, dated 14-1-2009</b> - When a duty is cast on payer to deduct and pay the tax at source, on payer's failure to do so interest under section 234B cannot be imposed on payee assessee	High Court of Bombay
30-10-09	<b>234 B/C</b>	<b>Gurneet Singh Sikka v. CIT, W.P.(C) No. 10148/2009, dated 9-9-2009</b> - The Commissioner in his order stated that he is not empowered to entertain any request for waiver of interest u/ss 234B and 234C of the Income-tax Act.	High Court of Delhi
08-01-11	<b>234B/C</b>	<b>JCIT v. Rolta India Ltd. [2011] 196 Taxman 594/9 taxmann.com 36 (SC)</b> - Held that Int. u/ss 234B & 234C are charged on the tax calculated on book profits under section 115JA/115JB.	Supreme Court of India
03-10-11	<b>234B &amp; 234C</b>	<b>CIT v. Jyotindra B. Mody, ITA No. 3741 of 2010, dated 21-9-2011</b> - Whether the cash seized during the search u/s 132 could be adjusted against the AdvanceTax liability while computing the interest under sections 234B and 234C	High Court of Bombay



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
13-01-12	<b>234A/B/C</b>	<b>Ram S Sarda v. DCIT [2012] 17 taxmann.com (Rajkot)</b> - The cash seized during the course of search is required to be adjusted against taxes due including advance-tax for the purpose of computation of interest u/s 234A, 234B and 234C from the date when it was seized and cash seized from third party or cash seized from the assessee would retain the same character.	ITAT- Rajkot
30-03-12	<b>234A/B/C</b>	<b>Gem Sanitary Appliances P. Ltd. v. CCIT [2012] 19 taxmann.com 69 (Delhi)</b>	High Court of Delhi
29-12-09	<b>234D</b>	<b>Turkmenistan Airlines v. ADIT, ITA No. 1562/Del/2008, dated 16-10-2009</b> - Levy of interest is mandatory, granting off opportunity is not necessary. AO directed to levy interest up to the date of original assessment following the decision of the coordinate Bench in Freights Consultants (P.) Ltd.	ITAT- Delhi
30-01-10	<b>244A</b>	<b>CIT v. H.E.G. Ltd. [2010] 189 Taxman 335 (SC)</b> - The interest component which accrued for late refund to the assessee will partake of the character of the "amount due" under section 244A.	Supreme Court of India
20-05-11	<b>244A</b>	<b>CIT v. Sami Labs Limited, ITA No. 231 of 2009, dated 14-2-2011</b> - The MAT credit is to be set off first, thereafter TDS, then the advance tax paid and then the tax paid along with returns. However, no interest is claimable against the MAT credit. Therefore, it is clear that under no circumstances, MAT credit can become the subject matter of refund. It is only liable to be adjusted for five years and it does not carry any interest.	High Court of Karnataka

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
03-12-11	<b>245</b>	<b>Maruti Suzuki India Limited v. Dy. CIT [2012] 204 Taxman 48/[2011] 16 taxmann.com 40 (Delhi)</b> - AO cannot make an adjustment u/s 245 towards a demand on an issue decided in favour of the assessee.	High Court of Delhi
22-10-10	<b>245D</b>	<b>Brij Lal v. CIT [2010] 194 Taxman 566 (SC)</b> - Sections 234A, 234B and 234C are applicable to proceedings of Settlement Commission under Chapter XIX-A up to stage of section 245D(1) and not beyond that. Terminal point for levy of interest under section 234B would be up to date of order under section 245D(1) and not up to date of order of settlement under section 245D(4).	Supreme Court of India
31-07-09	<b>245Q(1)</b>	<b>Fact Set Research Systems Inc. v. DIT (Intrnatl Txtn), A.A.R. No. 787 of 2008, dated 7-7-2009</b> - The subscription fee is not taxable in India as royalty. It is liable to be taxed only as business income if at all it is found by the Department that an agency PE exists.	AAR- New Delhi
14-03-12	<b>245R(2)</b>	<b>SEPCO III Electric Power Construction v. Mr. Vivek Kumar Upadhyay [2012] 205 Taxman 115/18 taxmann.com 44 (AAR-New Delhi)</b> - The amounts received/receivable by the applicant from M/s Jhajjar Power Ltd. for off-shore supply of equipments in terms of the contract dated 1.6.2009 is not liable to tax in India under the provisions of the Income-tax Act, 1961, in view of the decision of the Supreme Court in <i>Ishika Wajima Harima Heavy Industries Ltd.</i> [2007] 228 ITR 408.	AAR- New Delhi
17-06-11	<b>246</b>	<b>DIT v. Modern Charitable Foundation [2012] 20 taxmann.com 693 (Delhi)</b> - Whether when the AO objects to the admission of the additional evidence, even if the same is to be admitted, op-	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		portunity should be granted to the AO to verify the same.	
23-11-09	<b>250 r.w Rule 46A</b>	<b>CIT v. Central Mall [2011] 202 Taxman 268/12 taxmann.com 414 (Punj. &amp; Har.)</b> - It has been held that the provisions of rule 46A are not applicable to those cases where the assessee files affidavit in support of his contentions raised before the AO during the course of proceedings.	High Court of Punjab & Haryana
01-12-11	<b>250 r.w Rule 46A</b>	<b>CIT v. Manish Build Well Pvt. Ltd. [2012] 204 Taxman 106/[2011] 16 taxmann.com 27 (Delhi)</b> - When the CIT(A) exercises his statutory <i>suo motu</i> power u/s 250(4), the requirements of rule 46A need not be followed.	High Court of Delhi
04-05-09	<b>251</b>	<b>Smita Agrawal (Ind) v. CIT [2009] 184 Taxman 59 (All.)</b>	High Court of Gujarat
28-04-12	<b>251</b>	<b>L.G. Electronics India Pvt. Ltd. v. CIT [2012] 21 taxmann.com 13 (All.)</b> - After taking <i>prima facie</i> opinion that total demand raised against assessee ought to have been stayed, ordering 30% deposition was held to be unjustified.	High Court of Allahabad
28-05-09	<b>254(2)</b>	<b>Apex Metchem(P.) Ltd. v. ITAT [2009] 184 Taxman 243 (Raj.)</b>	High Court of Rajasthan
02-06-09	<b>254</b>	<b>Gujarat Mineral Development Corpn. Ltd. v. ITAT [2009] 183 Taxman 317 (Guj.)</b> - Tribunal does not have powers to determine as to whether an appeal should be admitted or not, except to extent provided by section 253(5) in a case where appeal or cross-objections are presented beyond prescribed period of limitation.	High Court of Gujarat
05-06-09	<b>254 r.w Rule 46A(3)</b>	<b>CIT v. Exim Securities and Credits (P.) Ltd. [2010] 187 Taxman 311 (Delhi)</b> - Since violation of rule 46A(3) was not a	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		ground raised before Tribunal, Tribunal could not be legally faulted in not taking said rule into consideration if it did not form a part of appeal at all.	
28-10-09	<b>254</b>	<b>CIT v. Hotline International P. Ltd., ITA No. 599/2008, dated 9-9-2009</b> - Since the order of the Tribunal is based on the concession and therefore there was no need to consider the aforesaid aspect, we are of the opinion that it would be proper for the petitioner to move application u/s 254 before the ITAT.	High Court of Delhi
15-12-09	<b>254(2)</b>	<b>Visvas Promoters P. Ltd. v. ITAT [2009]185 Taxman 145 (Mad.)</b> - Held that non-consideration of non-jurisdictional High Court order did not constitute mistake apparent from records	High Court of Madras
08-03-10	<b>254(2)</b>	<b>CIT v. Self Saving Scheme, ITA No. 799 of 2004, dated 18-1-2010</b> - Held in that view of the matter, we find no merit in this appeal and the same is rejected. No costs. We make it clear that we are not expressing any opinion as to the applicability of the Circular either prospectively or retrospectively in this appeal as it is not the issue raised in this appeal.	High Court of Madras
02-07-10	<b>254(2A)</b>	<b>Jethmal Faujimal Soni v. ITAT, Writ Petition No. 1744 of 2010, dated 12-4-2010</b>	High Court of Bombay
06-01-11	<b>254(2)</b>	<b>Lachman Dass Bhatia Hingwala (P.) Ltd. v. ACIT, WP (C) Nos. 6460/2010, 6461/2010, 6462/2010, 6463/2010, 6464/2010 &amp; 6465/2010, dated 26-11-2010</b> - The tribunal has the power to recall the order in entirety under section 254(2) of the Act.	High Court of Delhi

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
21-04-11	<b>254(2)</b>	<b>CIT v. Krishna Gupta [2011] 202 Taxman 257/12 taxmann.com 430 (Delhi)</b> - The application under section 254(2) of the Act is for rectification or modification of the order of the Tribunal when there is a mistake is apparent from the record. The Tribunal in the garb of mistake cannot give fresh hearing and re-examine the merits as an appellate Court.	High Court of Delhi
11-06-11	<b>254(2B)</b>	<b>Shramjivi Nagari Sahakari Pat Sanstha v. ACIT, ITA No. 477/PN/2010, AY: 2006-07, dated 8-6-2011</b>	ITAT-Pune
24-05-12	<b>254(2B) r.w 154</b>	<b>Ambala Central Cooperative Bank Ltd. v. ITO [2012] 21 taxmann.com 443 (Chd.)</b> - Where loss had already been determined in earlier years, same was required to be allowed as set off against current income.	ITAT-Chandigarh
25-06-12	<b>254(2)</b>	<b>Agni Briquette Pvt. Ltd. v. ACIT [2012] 22 taxmann.com 158 (Ahd.)</b> - Tribunal cannot condone delay in filing miscellaneous petition against its own order beyond 4 years.	ITAT-Ahmedabad
03-02-10	<b>254D, 220(2)</b>	<b>New Skies Satellites NV v. ADIT, ITA No. 1167/2009, dated 2-12-2009</b>	High Court of Delhi
23-07-09	<b>256(1)</b>	<b>CIT v. Ms Fair Deal Traders [2009] 184 Taxman 161 (Punj. &amp; Har.)</b> - Mere fact that sale deed had not been executed was not conclusive for holding that amount received was only earnest money and not trading receipt.	High Court of Punjab & Haryana
30-11-09	<b>256</b>	<b>CIT v. MMTC of India, CM No. 11880/2008 in ITR 23/1989, dated 23-10-2009</b>	High Court of Delhi
21-01-10	<b>256(1)</b>	<b>CIT v. Saran Engineering Co. [2011] 199 Taxman 130 (Mag.)/ 10 taxmann.com 14 (All.)</b>	High Court of Allahabad

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
05-08-09	<b>260</b>	<b>CIT v. Grasim Industries Limited ITA (L) No.3592 of 2008, dated 8-7-2009</b> - Once the Apex Court has held that the High Court has no power to condone delay in filing Appeal u/s 35G of the Excise Act, we have no option but to hold that this Court has no power to condone delay u/s 260A of the I.T. Act because section 260A of the I.T. Act is <i>pari materia</i> with sec. 35G of the Excise Act.	High Court of Bombay
01-07-09	<b>260A</b>	<b>Bangodaya Cotton Mills Ltd. v. CIT [2009] 182 Taxman 151 (Cal.)</b> - In the absence of any corroborative evidence in respect of property sold in the course of recovery proceedings at higher price, the AO cannot rely on the letters found at the purchaser's place without issuing such summons to the person concerned or making him available for cross-examination.	High Court of Calcutta
24-08-09	<b>260A</b>	<b>CIT v. Haryana Coop Sugar Mills Ltd. ITA No. 109 of 2009, dated 21-7-2009</b> - It has been held that the valuation of stock had to be taken as per the books of account and not by applying the average sale rate of the whole year.	High Court of Punjab & Haryana
25-08-09	<b>260A</b>	<b>CIT v. Random Constructions Pvt. Ltd. [2010] 186 Taxman 303 (Punj. &amp; Har.)</b> - Held that the expenditure incurred on account of shuttering expenses had been incurred during the P.Y. and was revenue in nature. The fact that the shuttering material could be used in the subsequent A.Y. is no ground to deny the claim for deduction	High Court of Punjab & Haryana
13-10-09	<b>260A</b>	<b>CIT v. Monitor India Ltd. ITA No. 1365/ 2008, dated 23-9-2009</b>	High Court of Delhi
03-12-11	<b>260A</b>	<b>C&amp;C Construction Pvt. Ltd. v. CIT [2012] 204 Taxman 363/[2011] 16</b>	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		<b>taxmann.com 303 (Delhi)</b> - A contention/ issue, which is not raised and not decided by the Tribunal, cannot form subject matter of an appeal before the High Court.	
23-05-09	<b>263</b>	<b>CIT v. Ashish Rajpal [2009] 180 Taxman 623 (Delhi)</b> - Merely because an assessment order does not refer to queries raised by Assessing Officer during course of scrutiny and response of assessee thereto, it cannot be said that there has been no enquiry. Further it is required u/s 263 to grant an opportunity of being heard in respect of those errors which Commissioner proposes to revise and its absence can result in breach of principles of natural justice	High Court of Delhi
17-11-09	<b>263, 10A(9)</b>	<b>WNS Global Services Pvt Ltd v. ITO ITA No. 348/Mum/ 2008, dated 17-6-2009</b> - It has been held that if the AO fails to considered the provisions of sec. 10A(9), which debar an assessee from claiming deduction if the ownership of the business has been changed, then the order of the AO is prejudicial to the interest of revenue and action of CIT(A) u/s 263 is permissible	ITAT-Mumbai
22-12-09	<b>263</b>	<b>CIT v. DLF Power Ltd. [2009] 185 Taxman 356 (Delhi)</b> - It has been held that no action u/s 263 could be taken against an order of AO which itself is rectified u/s 154.	High Court of Delhi
29-04-10	<b>263</b>	<b>CIT v. Himanshu Engineering Works, Tax Appeal No. 1621 of 2008, dated 23-12-2009</b> - The action of the CIT fails on the touchstone of the twin principles laid down by the Apex Court namely the order is erroneous and also prejudicial to the interest of the Revenue	High Court of Gujarat

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
15-05-10	263	<b>NIIT Ltd. v. Union of India &amp; Ors. Writ Petition (C) No. 4722/ 2008, dated 11-12-2009,</b>	High Court of Delhi
23-07-10	263	<b>CIT v. Raja Shreepal CHS Limited ITA (L) No. 2005 of 2009, dated 17-7-2010</b> - where two views are possible and ITO has taken one view, with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interest of the Revenue unless it is unsustainable in law.	High Court of Bombay
21-01-11	263	<b>CIT v. Hindustan Coca Cola Beverages Pvt. Ltd. [2011] 198 Taxman 104/ 9 taxmann.com 104 (Delhi)</b> - Whether goodwill generated in a business cannot be described as an "asset" so as to be entitled to depreciation u/s 32 and, therefore the depreciation on goodwill was not admissible?	High Court of Delhi
16-02-11	263 r.w 80M	<b>CIT v. Escorts Limited [2011] 198 Taxman 324/9 taxmann.com 222 (Delhi)</b> - Held that CIT could have had no occasion to take recourse to revisional powers u/s 263 of the Act on the fundamental aspects of the transactions in issue on which a view had been taken and, not shown to us as having been challenged and accordingly capital loss on transactions relating to purchase and sale of units issued by the Unit Trust of India, which were ubiquitously referred to at the relevant point in time as Unit-64 was allowable.	High Court of Delhi
07-07-11	263	<b>CIT v. Goyal M.G. Gases Pvt. Ltd. [2012] 206 Taxman 94/ 20 taxmann.com 550 (Delhi)</b> - Even if there is no period of limitation prescribed u/s153 (3)(i) to give effect to section 263 orders, the AO is required	High Court of Delhi



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		to pass the order within a "reasonable period". Non-specification of period of limitation does not mean that the AO can wait for indefinite period before passing the consequential order.	
23-07-11	<b>263</b> r.w. <b>143(3)</b>	<b>Pyramid Infrastructure Pvt. Ltd. v. DCIT ITA No. 793/Hyd/ 2010, dated 18-2-2011, AY: 2005-2006</b> - Where the assessee has furnished all the details in respect of the expenditure claimed by the assessee against various over heads and the AO after considering the same and after considering the explanations with regard to the issues in dispute, allowed the claim of the assessee. The CIT has wrongly directed the AO to reconsider the disallowances made by the AO.	ITAT-Hyderabad
02-02-12	<b>263</b>	<b>CIT v. Software Consultants [2012] 21 taxmann.com 155 (Delhi)</b> - Where AO did not make any addition for the reasons recorded at the time of issue of notice u/s 148. This position is not disputed and disturbed by the CIT in his order u/s 263. Sequitur is that the AO could not have made an addition on account of share application money in the assessment proceedings u/s 147/148. Accordingly, the assessment order is not erroneous. Thus, the CIT could not have exercised jurisdiction under section 263.	High Court of Delhi
26-03-12	<b>263</b>	<b>ITO v. DG Housing Projects Ltd. [2012] 20 taxmann.com 587 (Delhi)</b> - The CIT has to examine the order of AO on merits or the decision taken by AO on merits and then hold and form an opinion on merits that the order passed by the AO is erroneous and prejudicial to the interest of the Revenue. CIT cannot direct the AO to conduct further enquiry to verify and find out whether	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		the order passed is erroneous or not. The CIT is patently wrong in mentioning and stating that Schedule III to the Wealth Tax Act, 1957 was not applicable but the AO should have adopted the said formula/method. The aforesaid reasoning cannot be accepted and does not show or establish that the assessment order was erroneous.	
24-06-09	<b>264</b>	<b>Rana Rohit Singh v. CIT, Writ Petition No. 4748 (MB) of 2009, dated 27-5-2009</b> - Commissioner could not have refused to entertain the revision on the ground that it is not a substitute of appeal, though there may be many more reasons, but such reasons have to be germane to the issue and valid.	High Court of Allahabad
23-03-09	<b>268A</b>	<b>Usha India Ltd. [2009] 184 Taxman 83 (Delhi)</b> - If on an issue for an AY, CIT(A) allowed the assessee's appeal and revenue did not took the matter further (matter became final), revenue cannot be allowed to agitate the said issue, arising in said assessee's case, for other/subsequent years before ITAT. However, if appeal is not filed in view of appeal filing instructions, with respect to an issue for an assessee concerned, same shall not preclude revenue from challenging the said issue in other years (sec. 268A)	High Court of Delhi
06-08-09	<b>269SS/269T</b>	<b>Sanjay Raj Subba ITA No.1277/2008, dated 6-7-2009</b> - In this case DHC held that ITAT & CIT(A) correctly accepted said assessee's explanation and merely because assessee is not aware of purpose of cash withdrawal by said other entities; same cannot be a ground to reject assessee's explanation.	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
19-08-10	<b>269SS</b>	<b>Nehsel Exports Pvt. Ltd v. ACIT ITA No. 1355/Del/2010, dated 18-6-2010</b>	ITAT- Delhi
13-12-11	<b>269SS r.w. 271D</b>	<b>CIT v. I P India Pvt. Ltd. [2012] 204 Taxman 368/[2011] 16 taxmann.com 407 (Delhi)</b> - Share application monies received by assessee-company in cash for allotment of shares would not amount either to a 'loan' or 'deposit' within meaning of section 269SS	High Court of Delhi
26-06-12	<b>269T &amp; 271E</b>	<b>CIT v. Triumph International Finance (I) Ltd. [2012] 208 Taxman 299/22 taxmann.com 138 (Bom.)</b> - That repayment of loan / deposit through journal entries did not violate the provisions of Sec. 269T. However, in the absence of any finding recorded in the assessment order or in the penalty order to the effect that the repayment of loan / deposit was not a <i>bona fide</i> transaction and was made with a view to evade tax, we hold that the cause shown by the assessee was a reasonable cause and, therefore, in view of Sec. 273B, no penalty u/s 271E could be imposed for contravening the provisions of Sec. 269T.	High Court of Bombay
04-01-11	<b>271(1)(a)</b>	<b>CIT v. Rajeev Seth, ITA No. 150 of 2001, dated 22-12-2010</b> - The delay in in filing the partners return on the ground that there was delay in finalization of firm's account, was held sufficient for not imposing penalty u/s 271(1)(a).	High Court of Allahabad
16-03-09	<b>271(1)(c)</b>	<b>Continental Air Express [2009] 176 Taxman 41 (Delhi)</b> - Where in quantum/merit appeal, as issue is restored to file of AO and penalty stands levied before the restoration of issue, it is concluded that subject penalty levied will not survive.	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
08-04-09	271(1)(c)	<b>CIT v. Joyco India Limited, Petition(s) for Special Leave to Appeal (Civil)... CC 3022/ 2009, dated 20-3-2009</b> - That penalty for concealment is not leviable in case the point involved was a debatable point.	Supreme Court of India
05-05-09	271(1)(c)	<b>CIT v. Sohan Lal, Petition(s) for Special Leave to Appeal (Civil)...../2009 CC 4237/ 2009, dated 9-4-2009</b>	Supreme Court of India
21-05-09	271(1)(c)	<b>CIT v. Lata Shanti Lal Shah ITA No. 1261 of 2008, dated 20-1-2009</b> - <i>Explanation 1</i> to sec. 271(1)(c) pointing deemed concealment in specified cases cannot be invoked for first time before HC by revenue, when the same is not pressed before lower authorities.	High Court of Bombay
23-05-09	271(1)(c)	<b>Murli Chaudhary ITA No.1658/2006, dated 12-5-2009</b> - If the addition in respect of which penalty was imposed, had not been deleted by the learned CIT(A) in the quantum proceedings but the issue relating to the said addition was remanded to the file of AO for reconsideration, the very basis of imposition of the said penalty did not survive.	
10-06-09	271(1)(c)	<b>CIT v. Banarasi Lal Passi, Special Leave to Appeal (Civil)./2009 CC 6279/2009, dated 14-5-2009</b> - The claim of deduction made u/s 80-O under a <i>bona fide</i> belief that it was entitled to such a deduction would not attract penalty u/s 271(1)(c).	Supreme Court of India
16-06-09	271(1)(c)	<b>CIT v. E.I. Dupoint India Ltd., Special Leave to Appeal (Civil)..... /2008 CC 17343/2008, dated 9-1-2009</b> , an inaccurate computation of taxable in-	Supreme Court of India

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		come under the provisions of the Act and an application of wrong law by the assessee. The assessee did not furnish inaccurate particulars nor did he conceal its income but merely applied the inaccurate legal position in its return.	
28-07-09	<b>271(1)(c)</b>	<b>Madhushree Gupta v. Union of India [2009] 183 Taxman 100 (Delhi)</b> - Sec 271(1)(c) requires only a manifestation and/or delineation of the AO's <i>prima facie</i> satisfaction that the assessee has infringed the provisions of sec. 271(1)(c).	High Court of Delhi
10-08-09	<b>271(1)(c)/23(1)</b>	<b>Singh Enterprise, ITA No. 80/2006, dated 6-7-2009</b> - Assessee had claimed brokerage deduction out of the total rent received by him, which was disallowed as not admissible u/s 23(1). In this case penalty can not be imposed as it was not the case of giving wrong particulars or concealment.	High Court of Delhi
10-08-09	<b>271(1)(c)</b>	<b>Canyam Constructions Pvt. Ltd. ITA No. 921/2005, dated 6-7-2009</b> - <i>Bona-fide</i> claim made by the assessee not allowed on merit would not lead to the conclusion that there was concealment or furnishing inaccurate particulars	High Court of Delhi
10-08-09	<b>271(1)(c)</b>	<b>Balka Services P. Ltd., ITA No. 791/2005, dated 6-7-2009</b> - Non-entitlement of benefit of the provisions of sec. 72A on the basis of particulars furnished by the assessee would not entitle imposition of penalty, as there was neither any concealment of particulars or furnishing inaccurate particulars of such income.	High Court of Delhi
19-09-09	<b>271(1)(c)</b>	<b>Francis Wacziarg, ITA No. 315/2006, dated 17-8-2009</b> - No concealment penalty even if tax stand taken by assessee contrary to Jurisdictional High Court ruling if Other High Courts are	High Court of Delhi

## LANDMARK RULINGS

151

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
		in favour of assessee and no Supreme Court ruling is there.	
22-09-09	<b>271(1)(c)</b>	<b>Deeksha Holding Ltd. [2010] 186 Taxman 183 (Delhi)</b> - No concealment penalty merely for expense not found incurred for business purpose if genuineness undoubted.	High Court of Delhi
26-09-09	<b>271(1)(c)</b>	<b>CIT v. SSP India Ltd. [2010] 189 Taxman 282 (Punj. &amp; Har.)</b> - Mere erroneous claim in absence of any concealment or giving of inaccurate particulars is no ground for levying penalty.	High Court of Punjab & Haryana
26-09-09	<b>271(1)(c)</b>	<b>CIT v. Indersons Leathers (P) Ltd. [2011] 196 Taxman 103 (Punj. &amp; Har.)</b> - No concealment penalty for Change of Head of Taxation	High Court of Punjab & Haryana
08-10-09	<b>271(1)(c)</b>	<b>CIT v. Dass Trading &amp; Holding (P) Ltd. ITA No. 221 of 2006, dated 19-8-2009</b>	High Court of Delhi
08-10-09	<b>271(1)(c)</b>	<b>CIT v. Escorts Finance Limited [2009] 183 Taxman 453 (Delhi)</b>	High Court of Delhi
17-11-09	<b>271(1)(c)</b>	<b>CIT v. Eastern Medikit Ltd. ITA No. 921/2009, dated 23-9-2009</b> - Penalty u/s 271(1)(c) is not applicable on contravention of sec 80HHC	High Court of Delhi
15-12-09	<b>271(1)(c)</b>	<b>CIT v. U.P. State Bridge Corporation Ltd. ITA No. 18 of 2007, dated 7-9-2009</b> - Before imposing penalty for concealment of income, the AO should bring concrete evidence or material on record for his satisfaction in respect of same. Mere initiation of proceedings under sec. 271(1)(c) cannot be assumed that such a satisfaction was arrived at.	High Court of Allahabad
17-12-09	<b>271(1)(c)</b>	<b>CIT v. LG Chemicals India Pvt. Ltd. ITA No. 579/2009, dated 16-9-2009</b> - Held that the claim preferred by the assessee in the original return, though	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		withdrawn subsequently, was a <i>bona fide</i> move. Therefore, it could not be subjected to penalty.	
24-12-09	<b>271(1)(c)</b>	<b>DCIT v. Vertex Customer Services (India) Pvt. Ltd. [2009] 34 SOT 532 (Delhi)</b> - Held that no penalty is leviable on the assessee if assessee proves that s. 92C computation was made in good faith and with due diligence and in the case at hand accounts were prepared with due diligence and the entries and adjustments were made under good faith, hence no penalty is leviable.	ITAT- Delhi
06-01-10	<b>271(1)(c)</b>	<b>CIT v. West INN Limited ITA No.1980 of 2008, dated 25-11-2009</b> - Depreciation claimed @20% on Hotel Building instead of 10% would not attract penalty on the ground that the Act is a complicated Act and if any mistake is committed by the professional advising company, the company cannot suffer.	High Court of Gujarat
14-01-10	<b>271(1)(c)</b>	<b>CIT v. Shree Bala Finvest Pvt Ltd. ITA No. 1996 of 2008, dated 3-12-2009</b> - Penalty is not leviable on disallowance of expenses, where the appellant has actually incurred the expenses and all the information was duly provided to the AO.	High Court of Gujarat
10-03-10	<b>271(1)(c)</b>	<b>Mohd. Mohtram Farooqui, Mohalla Pirzadgan v. CIT, Civil Appeal No. 8175 of 2003, dated 2-2-2010</b> - Held according to the Tribunal, the AO has failed to apply his mind to the facts of the case. In the circumstances, according to the Tribunal, since the AO did not examine the relevant persons and since he did not find any explanation furnished by the assessee to be false, the entire penalty proceedings came to be quashed. In our view, on the facts of this case, the Tribunal should have re-	Supreme Court of India

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		mitted the case to the AO particularly, in view of the fact that the assessee has raised a legal contention on the applicability of <i>Explanation 5</i> to section 271(1)(c) of the Act.	
13-04-10	271(1)(c)	<b>CIT v. Glorious Realty Ltd. ITA No. 2253/2009, dated 5-1-2010</b> - On the the basis of disallowance of interest expenditure claimed by the assessee, it cannot be said that there was a concealment or furnishing of inaccurate particulars.	High Court of Bombay
20-04-10	271(1)(c)	<b>CIT v. Ultimate Fashion Maker Ltd. ITA 63/2010, dated 29-1-2010</b> - The assessee had disclosed all the primary and material facts and, therefore, it could not be said that the assessee had concealed his income or had furnished inappropriate particulars of income.	High Court of Delhi
20-04-10	271(1)(c)	<b>CIT v. Aero Traders P. Ltd., ITA 1097/2009, dated 25-1-2010</b> - Where additions are based on estimations, no penalty can be imposed for concealment of income	High Court of Delhi
08-06-10	271(1)(c)	<b>CIT v. Panchu Arunachalam, ITA No. 704 of 2004, dated 1-2-2010</b>	High Court of Madras
17-07-10	271(1)(c)	<b>CIT v. JBM Industries Limited, ITA 372/2010, dated 15-4-2010</b>	High Court of Delhi
23-07-10	271(1)(c)	<b>CIT v. Himanand Trading and Services Pvt. Ltd. ITA No. 2739 of 2009, dated 15-7-2010</b> - Where the assessee had furnished all particulars necessary for computation of income, it cannot be said that there was any concealment or furnishing of inaccurate particulars of income.	High Court of Bombay
29-07-10	271(1)(c)	<b>CIT v. IFCI Limited [2011] 199 Taxman 21/9 taxmann.com 114 (Delhi)</b> - In the appeal preferred by the assessee,	High Court of Delhi



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		the only issue that emerged for consideration before the Tribunal pertained to confirmation of penalty in respect of investments written off. The said claim was disallowed by the Assessing Officer. In course of assessment proceedings, the Assessing Officer initiated a penalty proceeding u/s 271(1)(c). The amount of investment written off was disallowed by the AO and the same was affirmed up to the level of the Tribunal.	
10-08-10	271(1)(c)	<b>CIT v. Ashish R. Kacholia, ITA No. 2867 of 2009, dated 16-6-2010</b> - The assessee had filed original return disclosing STCG and revised return excluding STCG. This resulted in claim being disallowed by treating it as "Income from business or profession" and also as LTCG. This consequently resulted in a difference in returned income & assessed income. The explanation of the assessee was not found to be faulted. Hence, <i>Explanation (1)</i> to Sec. 271(1)(c) was attracted. The Commissioner (Appeals) has perused the records filed by assessee & additional evidence which was also forwarded to the AO who had verified the same and found it to be accurate. There is, therefore, no want of <i>bona fides</i> on the part of assessee.	High Court of Bombay
12-08-10	271(1)(c)	<b>Kanta Kwatra v. ITO, I.T.A No. 2579/Del/08, dated 30-4-2010</b>	ITAT- Delhi
12-08-10	271(1)(c)	<b>Devki Nandan Bindal v. ITO, ITA No: 790/791/Del/2010, dated 9-6-2010</b> - The addition was purely based on assessee's concession and not on the basis of any material detected during the search and therefore, it is not a fit case for penalty	ITAT-Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
19-08-10	271(1)(c)	<b>CIT v. Backbone Enterprises [2010] 195 Taxman 200 (Guj.)</b> - Where the assessee had <i>bona fide</i> made a claim for deduction u/s 80-IA, which came to be rectified by filing a revised return withdrawing the claim and that as such there was no concealment or furnishing of inaccurate particulars of income.	High Court of Gujarat
20-09-10	271(1)(c)	<b>CIT v. Shyam Tex International Ltd. [2011] 198 Taxman (Mag.)/ 9 taxmann.com 268 (Delhi)</b>	High Court of Delhi
23-09-10	271(1)(c)	<b>CIT v. Fateh Singh (HUF), ITA No.16 of 2010, dated 15-7-2010</b>	High Court of Punjab & Haryana
01-10-10	271(1)(c)	<b>Trivium Power Engineers (P.) Ltd. v. ITO [2011] 44 SOT 1 (Delhi)(URO)</b> - Penalty levied u/s 271(1)(c) was held to be justified even on conditional/agreed surrender of income if it was established that the surrender was not voluntarily but an afterthought.	ITAT- Delhi
04-10-10	271(1)(c)	<b>Asstt. CIT v. Nuchem Ltd. [2011] 45 SOT 46 (Delhi)(URO)</b> - There is no requirement for AO to record specifically his satisfaction in the assessment order initiating penalty proceedings u/s 271(1)(c), but such satisfaction is only required to be discernible from the assessment order reading as a whole.	ITAT- Delhi
02-02-11	271(1)(c)	<b>CIT v. Splendor Construction [2012] 208 Taxman 302 (Mag.)/ 22 taxmann.com 407 (Delhi)</b> - The period of holding the asset is reckoned from the date when it is converted as 'investment' from 'stock in trade' and not from the date when the land was purchased. Therefore, the gain was to be treated as short term capital gain. The assessee, under the garb "long term capital gain" wanted to pay lesser tax. It had	High Court of Delhi

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		thus clearly furnished inaccurate particulars of income.	
07-04-11	<b>271(1)(c)</b>	<b>CIT v. Dabwali Transport Company ITA No. 872 of 2010 (O&amp;M), dated 3-3-2011</b> - Mere fact that the assessee could not furnish evidence in support of the expenses claimed, was not by itself enough to hold that the assessee had furnished incorrect particulars of income consciously.	High Court of Punjab & Haryana
20-05-11	<b>271(1)(c)</b>	<b>Asstt. CIT v. Jindal Equipment Leasing &amp; Consultancy Services Ltd. [2012] 51 SOT 133 (URO)/[2011] 11 taxmann.com 309 (Delhi)</b> - Whether where the disallowance is made for proportionate expenses claimed in respect of exempted income, no penalty can be levied u/s 271(1)(c) as prior to insertion of Rule 8D by the Finance Act, 2008, the question of disallowance and its quantification was contentious.	ITAT-Delhi
24-05-11	<b>271(1)(c)</b>	<b>CIT v. SAS Pharmaceuticals [2011] 199 Taxman 255 (Mag.)/11 taxmann.com 207 (Delhi)</b> - Penalty u/s 271(1)(c) cannot be levied on the amount surrendered by the assessee during survey though the amount was declared by the assessee in the return filed by it after survey but before the due date of filing of return.	High Court of Delhi
21-07-11	<b>271(1)(c)</b>	<b>Earth Castle v. DCIT ITA No. 3064/Mum/2008, AY: 2006-2007, dated 17-6-2011</b> - Whether when assessee fails to rebut the addition made by the AO in respect of undisclosed income found during the search and also chooses not to file appeal against the huge quantum addition, penalty is warranted in such circumstances.	ITAT-Mumbai

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
23-07-11	271(1)(c)	<b>ITO v. Audyogik Tantra Shikshan ITA No. 106/PN/2010, dated 30-6-2011, AY: 2004-05</b> - AO should have confined himself in making just and proper assessment only, as per the provisions of the law and harassment of the assessee which is not permitted under the statute should have been avoided at all cost.	ITAT-Pune
26-07-11	271(1)(c)	<b>DIT (Internl Tax.) v. Gartner Ireland Limited ITA No. 368 of 2011, dated 20-7-2011</b> - Merely because the assessee's contention that the royalty income is exempt, was not acceptable to the AO, cannot be a ground to impose penalty u/s 271(1).	High Court of Bombay
30-07-11	271(1)(c)	<b>CIT v. Harsh Talwar [2011] 202 Taxman 95 (Mag.)/12 taxmann.com 61 (Delhi)</b> - Assessee has surrender the income and given explanation alongwith the corroborating proof for the same and if such explanation is not dislodged by the AO then penalty cannot be levied on the assessee.	High Court of Delhi
03-09-11	271(1)(c) r.w 276C	<b>Expo Industries v. ITO, Crl. Misc. No. M-37034 of 2001, dated 8-8-2011</b> - Once the penalty is deleted, the criminal proceedings are liable to be quashed.	High Court of Punjab & Haryana
11-10-11	271(1)(c)	<b>Harish P. Mashruwala v. ACIT ITA No. 5195 of 2010, dated 22-9-2011</b> - Once the declaration made in the return itself is found to be incorrect, it is the case of furnishing inaccurate particulars of income	High Court of Bombay
31-10-11	271(1)(c)	<b>The Metal Rolling Works Ltd. v. CIT ITA (LOD) No. 966 of 2011, dated 11-10-2011</b> - When the amount received from time to time have been disclosed by the assessee, it could not be	High Court of Bombay

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		said that the assessee concealed the income or furnished inaccurate particulars of income. Moreover, if AO himself could not take any definite stand regarding the assessment year in which the amount received by the assessee was taxable, it would be improper to penalise the assessee for not offering the amount to tax in AY 2002-03	
28-11-11	<b>271(1)(c)</b>	<b>CIT v. Harnarain ITA No. 2072/2010, dated 31-10-2011</b> - Surrender of the amount after receipt of the questionnaire could not lead to an inference that it was not voluntary, in the absence of any material on record to suggest that it was bogus or untrue.	High Court of Delhi
08-12-11	<b>271(1)(c)</b>	<b>CIT v. Sumangal Overseas Ltd. ITA No. 174 of 2011, dated 18-11-2011</b>	High Court of Delhi
30-01-12	<b>271(1)(c)</b>	<b>Chadha Sugars (P.) Ltd. v. Asstt. CIT [2012] 135 ITD 42/18 taxmann.com 244 (Delhi)</b> - The argument that the assessee does not have expertise in taxation matters and so it relied on expert opinion is not acceptable because the opinion was furnished for accounting purposes. An accountant's view is not really material for deciding the deductibility or otherwise of an expenditure. Where the assessee knew about the problem at the time of filing of return, but still made the claim. Not only this, the claim was pursued even up to the level of the CIT (A) in gross disregard for the decision of the Supreme Court, which the assessee came to know at least after receiving the assessment order. Therefore, the claim was not only wrong but also false and it was persisted with for some time.	ITAT- Delhi
30-03-12	<b>271(1)(c)</b>	<b>Karan Raghav Exports (P.) Ltd. v. CIT [2012] 21 taxmann.com 8 (Delhi)</b> - In	High Court of Delhi

## LANDMARK RULINGS

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		absence of any finding by the AO that any details supplied by the assessee in its return were found to be incorrect or erroneous or false, a mere making of the claim, which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars	
18-04-12	<b>271(1)(c)</b>	<b>Karan Raghav Exports (P.) Ltd. v. CIT [2012] 21 taxmann.com 8 (Delhi)</b> - Where AO had disallowed assessee's claim for depreciation, penalty under section 271(1)(c) not leviable when the assessee had disclosed full and correct facts.	High Court of Delhi
16-06-12	<b>271(1)(c)</b>	<b>ITO v. Agrani Convergence Ltd. ITA No. 2343/Del/11, AY: 2007-08, dated 8-6-2012</b> - Withdrawal of claim by way of revised computation does not assume a character of technical default. Hence penalty cannot be imposed u/s 271(1)(c). Further, when assessee filed all the primary particulars and was under bona fide belief that the amount is irrevocable, the same were allowable as bad debts on write off.	ITAT- Delhi
15-10-09	<b>271A/271B</b>	<b>CIT v. S.K. Gupta &amp; Co. ITA No. 89/2000, dated 10-9-2009</b> - Provisions of sec 271B comes into play only when there are some books and no penalty is leviable if the books of account are not maintained <i>per se</i> .	ITAT- Delhi
29-02-12	<b>271AAA (2)</b>	<b>Dy. CIT v. Pioneer Marbles &amp; Interiors Pvt. Ltd. [2012] 50 SOT 571/19 taxmann.com 301 (Kol.)</b> - In sec. 271AAA, there is no pre-condition that the tax along with interest must be paid before filing of return or any other specified date and accordingly where entire tax and interest has been duly paid well within the time limit for payment of notice of demand u/s 156 and	ITAT- Kolkata

Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		well before the penalty proceedings were concluded, the assessee could not be denied the immunity u/s 271AAA (2).	
12-05-11	<b>271B</b>	<b>Cool Breeze Aircon Pvt. Ltd. v. ITO ITA No. 4189/Del/2010, dated 6-5-2011</b> - Penalty u/s 271B cannot be levied merely because the audit report contains some additional words, which were not required as per prescribed form No. 3CA	ITAT-Delhi
04-05-11	<b>271C</b>	<b>CIT v. Cadbury India Limited [2011] 11 taxmann.com 66 (Delhi)</b> - No <i>mala fide</i> intention of any kind can be attributed to the assessee for deducting tax under one provision of law than the other. This was a case of misconceived belief of applicability of one provision of law. Penalty cannot be levied in this case.	High Court of Delhi
08-12-11	<b>271C</b>	<b>CIT v. Rajajinagar Co-operative Bank Ltd. ITA No. 86 of 2006, dated 20-7-2011</b> - If the assessee is able to show reasonable cause for non-compliance, no penalty is imposable u/s 273B	High Court of Karnataka
04-08-11	<b>271D</b>	<b>CIT v. Shri Madeshwaran M. Vannier ITA No. 456 of 2011, dated 27-7-2011</b> - Penalty u/s 271D cannot be imposed where failure to accept loans in violation of sec. 269SS constituted reasonable cause	High Court of Bombay
18-10-11	<b>271D/271E</b>	<b>Growth Avenues Ltd v. JCIT, ITA No. 1939-1940/AHD/ 2009, AY : 2003-2004, dated 19-5-2011</b> - Whether the penalty can be levied u/s 271D / 271E for the amount received and repaid in cash in the hands of the assessee company though as per the statement of the lender the amount was given to and repaid by the directors in their individual capacity	ITAT-Ahmedabad

## LANDMARK RULINGS

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
23-09-10	<b>271E</b>	<b>CIT v. The Faridkot-Bathinda Kshetriya Gramin Bank ITA No. 159 of 2002, dated 14-7-2010</b> - The assessee made cash payment to its customers for repayment of certain fixed deposits exceeding Rs. 20000/- in violation of sec. 269-T. Penalty u/s 271E on that ground is not imposable as the payments to the customers were genuine transactions and bonafide.	High Court of Punjab & Haryana
31-10-11	<b>271G</b>	<b>DCIT v. Leroy Somer &amp; Controls (India) (P) Ltd., ITA No. 1330/DEL/2011, AY: 2005-06, dated 30-9-2011</b> - Before issuing notice u/s 92D(3), the AO has to apply his mind to what information and documents are relevant and necessary for determining ALP.	ITAT-Delhi
21-01-10	<b>272A(2)</b>	<b>E.E. Minor Irrigation Banda v. CIT Income Tax Reference No. 42 of 1999, dated 17-12-2009</b> - Where there is no loss of revenue in the sense that the tax deducted at source has been deposited within stipulated period, mere late filing of the return by itself is not sufficient to levy penalty u/s 206.	High Court of Allahabad
03-04-09	<b>273B r.w.s 271D, 271E</b>	<b>CIT v. Sunil Kumar Goel [2009] 183 Taxman 53 (Punj. &amp; Har.)</b> - If transactions are between family members or with sister concern, due to business exigency and are bonafide transactions (not aimed to avoid tax liability and/ or in nature of technical/venial breach), same being reasonable cause u/s 273B of the Act, no penalty is leviable even if cash acceptance/repayment of loan transaction, in excess of specified amount, under sections 271D & 271E respectively.	High Court of Punjab & Haryana
22-10-11	<b>275</b>	<b>CIT v. Mohair Investment &amp; Trading Co. P. Ltd. [2012] 18 taxmann.com 239 (Delhi)</b> - Proviso to sec. 275(1)(a)	High Court of Delhi



Date of e-mail	Relevant Section	Particulars	Judgment Passed By
		does not nullify availability to AO of period of limitation of six months from end of month when order of Tribunal is received by AO. Since order passed by AO was within period of six months from order of Tribunal it was within limitation.	
15-05-10	<b>281B</b>	<b>Nimitya Properties Ltd. v. CIT [2010] 194 Taxman 135 (Delhi)</b>	High Court of Delhi
16-03-10	<b>282</b>	<b>CIT v. Naveen Chander, ITA No. 7 of 2010, dated: 8-2-2010</b> - Where Tribunal had taken view that registered AD letter was received back unserved and thereafter service was sought to be effected by affixation which was required to be done in accordance with procedure laid down by Order V, rule 20 of CPC but requirements of Order V, rule 20 of CPC were not complied with, block assessment proceedings in pursuance to such notice were not valid.	High Court of Punjab & Haryana
21-10-09	<b>292B</b>	<b>Suresh Kumar Mittal, ITA No. 525/2009, dated 11-8-2009</b> - Notice on non-existent firm bad in law. It is not a case of an error, omission or defeat etc. which could be rectified u/s 292B as the matter related to assuming the jurisdiction for making an assessment.	High Court of Delhi
18-09-10	<b>292B</b>	<b>CIT v. Arya Cycle Works, ITA No. 231 of 2006, dated 23-7-2010</b> - When the assessee filed the return in pursuance to notice and was, thus, aware of the AY to which the notice related and also had the knowledge of the proceedings. In such circumstances, any defect in the notice or the defect of person on whom the notice was served did not cause any prejudice.	High Court of Punjab & Haryana
12-06-09	<b>292C &amp; 132(4A)</b>	<b>Coca Cola India Pvt. Limited v. ACIT, Writ Petition No. 3225 of 2009, dated</b>	High Court of Bombay

## LANDMARK RULINGS

<b>Date of e-mail</b>	<b>Relevant Section</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
		<b>31-3-2009</b> - In case there's delay in disposition of ITAT Appeal & it is not attributable to assessee, demand must not be enforced	

## OTHER RULINGS

S. No.	Date of e-mail	Particulars	Judgment Passed By
1	16-03-09	<b>Maruti Suzuki, W. P. (C) 405/2009 and CM 910/2009, dated 22-1-2009</b>	High Court of Delhi
2	28-03-09	<b>CCE&amp;C v. Hongo India (P.) Ltd. Civil Appeal No. of 2009 (Arising out of S.L.P. (C) No. 14467 of 2007), dated 27-3-2009</b> - We hold that the High Court has no power to condone the delay in filing the "reference application" filed by the Commissioner under un-amended section 35H(1) of the Central Excise Act, 1944 beyond the prescribed period of 180 days and rightly dismissed the reference on the ground of limitation.	Supreme Court of India
3	28-03-09	<b>C.T.O. (AE), Jodhpur v. Marudhara Motors, Jodhpur, S.B. Civil Sales Tax Revision No.118/2008, dated 16-3-2009</b> - The Tax Board is also justified in upholding the setting aside of interest and penalty because as far as interest is concerned the same is consequential to levy of tax which falls to the ground for the aforesaid reasons and penalty also because same in any case could not have been imposed as all the transactions were duly recorded in the regular books of account and, therefore, the same do not attract any penalty under section 65 of the Act.	High Court of Rajasthan
4	08-04-09	<b>CIT v. Prince Gutka Ltd., Petition(s) for Special Leave to Appeal (Civil)/2009 CC 3217/2009, dated 17-3-2008</b>	Supreme Court of India

## OTHER RULINGS

<b>S. No.</b>	<b>Date of e-mail</b>	<b>Particulars</b>	<b>Judgment Passed By</b>
5	24-04-09	<b>Home Solutions Retail India Ltd. v. UOI WP(C) 1659/2008, dated 18-4-2009</b>	High Court of Delhi
6	29-04-09	<b>Sachdeva and Sons Rice Mills Private Limited v. The State of Punjab VAT Appeal No.2 of 2009, dated 18-3-2009</b> - Whether it is the State or the individual, unless explanation is offered for the delay that it is either reasonable or satisfactory to the satisfaction of the Court, delay cannot be condoned.	High Court of Punjab & Haryana
7	29-04-09	<b>Girnar Impex Ltd. v. State of Punjab VAT No. 69 of 2008, dated 10-3-2009</b>	High Court of Punjab & Haryana
8	29-04-09	<b>Deepak Radio Pvt. Ltd. v. The Union Territory of Chandigarh VATAP No. 56 of 2008 (O&amp;M), dated 18-3-2009</b>	High Court of Punjab & Haryana
9	29-04-09	<b>I.A.S. Products v. CIT, Commercial Tax Revision No. 01 of 2009, dated 23-3-2009</b>	High Court of Uttaran-chal
10	09-05-09	<b>Commissioner Department of Trade &amp; Taxes v. GPS Sensors Indicators Pvt. Ltd., No. 232/CDVAT/2008, dated 23-3-2009</b>	Court of Commissioner, Department of Trade & Taxes, Government of N.C.T. of Delhi
11	25-05-09	<b>Aditya Birla Nuvo Ltd. v. ACIT, ITA No. 687 of 2007, dated 12-1-2009</b>	High Court of Bombay
12	04-06-09	<b>Union of India v. Home Solution Retail India Ltd. Special Leave to Appeal (Civil) No. 13850/2009, dated 2-6-2009</b> - Supreme Court issues notice in respect of Service Tax on Rental of Immovable Property on an	Supreme Court of India

166

## OTHER RULINGS

S. No.	Date of e-mail	Particulars	Judgment Passed By
		SLP being filed by UOI against the order dated 18-4-2009 of Hon'ble DHC.	
13	09-06-09	<b>Suretech International No. 228/CDVAT/2008/02, dated 22-4-2009</b> - Held equipment for recovery and peak performance of batteries being subject matter of determination, do not form part of "Renewable energy devices and spare parts" covered under item No. 58 of third schedule to DVAT Act, 2004 and is taxable under general unspecified items falling u/s 4(1)(e) of DVAT Act, 2004 and attract VAT @ 12.5%	Commissioner, Department of Trade and Taxes
14	09-06-09	<b>The General Machinery Merchants' Association (Regd.), No. 225/CDVAT/2008, dated 1-4-2009</b> - In this determination, in context of the question "What is the rate of tax upon Electric Motors and Switch gears/starters which are used as a part of Machinery", it is held that the subject items do not find any place in any of the schedules of Act, and thus are a general unspecified items falling u/s 4(1)(e) of DVAT Act, 2004 and attract VAT @ 12.5%.	Commissioner, Department of Trade and Taxes
15	15-06-09	<b>CIT v. IAL Shipping Agencies (Mum.) Ltd., ITA No. 451 of 2009, dated 8-4-2009</b> - In context of separate-legal entity approach. It cannot be said that the assessee-company and the other company, which were under the same management, are the same entity.	High Court of Bombay
16	24-06-09	<b>Anant Raj Industries Ltd., WP(C) No. 8427/2009 and CM Nos. 5314-15/2009, dated 26-5-2009</b> - It is not essential or mandatory that each and every point must be reflected in the Assessment Order. A presumption must be drawn that issues which were alive and relevant before the AO were in fact duly considered.	High Court of Delhi

## OTHER RULINGS

S. No.	Date of e-mail	Particulars	Judgment Passed By
17	06-07-09	<b>CCE &amp; C v. Fibre Foils Ltd., Central Excise Appeal No.168 of 2006, dated 23-6-2009</b>	High Court of Bombay
18	15-07-09	<b>CCE &amp; C v. Fibre Foils Ltd., Central Excise Appeal No. 168 of 2006, dated 23-6-2009</b>	High Court of Bombay
19	27-07-09	<b>Commissioner of Sales Tax v. Rolta Computer &amp; Industries Private Limited. Reference Application No. 56 of 1991, dated 29-6-2009</b>	High Court of Bombay
20	25-08-09	<b>CIT v. Ramdev Food Products Ltd., ITA No. 4 of 2009, dated 29-7-2009</b>	High Court of Gujarat
21	18-09-09	<b>CWT v. Rai Bahadur Kishore Chand &amp; Sons (Properties) Pvt. Ltd. WTA No. 39 of 2009 (O&amp;M), dated 6-8-2009 - Held "The Tribunal has come to the conclusion that the notices u/s 17(1) were issued in the wrong name, which were different than that of the assessee. According to the Tribunal the fact that the assessee-respondent duly received and complied with the notices would still not confer any jurisdiction on the AO".</b>	High Court of Punjab & Haryana
22	19-09-09	<b>Senior India Pvt Ltd. I.T.A. No. 198/2009, dated 3-8-2009</b>	High Court of Delhi
23	22-09-09	<b>Rampur Engineering Co. Ltd. I.T.A. No.528/2009, dated 12-8-2009</b>	High Court of Delhi
24	19-10-09	<b>CIT v. Vived Marketing Servicing Pvt. Ltd. ITA No. 273/2009, dated 17-9-2009 - It has been held that no assessment is possible on a company which is already wind up.</b>	High Court of Delhi
25	28-10-09	<b>CIT v. P.S. Bedi &amp; Co. ITA No. 193/2009, dated 15-9-2009</b>	High Court of Delhi
26	03-11-09	<b>CIT v. Zandu Pharmaceuticals Works Limited ITA No. 2065/2009, dated 9-9-2009</b>	High Court of Bombay

168

## OTHER RULINGS

S. No.	Date of e-mail	Particulars	Judgment Passed By
27	04-11-09	<b>CIT v. Jindal Iron and Steel Co. Ltd. ITA No. 861 of 2009, dated 8-9-2009</b>	High Court of Bombay
28	05-11-09	<b>DIT v. C.I.T. ALCATEL ITA No. 30/2008, dated 7-9-2009</b>	High Court of Delhi
29	05-11-09	<b>DIT v. Metapath Software Intl. Ltd. ITA No. 397/2007, dated 7-9-2009</b>	High Court of Delhi
30	05-11-09	<b>Nokia Networks OY v. ADIT, CM No. 10329 in ITA 1138/2006, dated 7-9-2009</b>	High Court of Delhi
31	07-11-09	<b>CCE v. Adani Pharmachem (P.) Ltd. [2009] 19 STT 239 (Ahd.-CESTAT) - CENVAT credit - CESTAT observed that where the sale is on FOB basis or CIF basis, the place of removal has to be the load port only.</b>	CESTAT-Ahmedabad
32	07-11-09	<b>DCM Fabrics v. CCE Excise Appeal No. 1981 of 2006 - SM, dated 26-11-2008 - CENVAT credit - CESTAT held that wherein assessee has closed its factory and surrendered its excise license, refund claim of unutilized Cenvat credit can be made in cash.</b>	CESTAT-Ahmedabad
33	09-11-09	<b>CIT v. N.H.K. Japan Broad Casting ITA Nos. 1188/2007, 603/2006, 1016/2007 and 1193/2007, dated 22-9-2009</b>	High Court of Delhi
34	17-11-09	<b>DIT v. Basanti Devi &amp; Shri Chakhan Lal Garg Education Trust ITA No. 927/2009, dated 23-9-2009 - Corpus Amount- Charitable purpose. It has been held that the donations received towards corpus of the trust would be capital receipt and not revenue receipt chargeable to tax.</b>	High Court of Delhi
35	19-11-09	<b>CCE v. Alidhara Textool Engineers (P.) Ltd. [2009] 21 STT 60 (Ahd.-CESTAT) - Service Tax paid on Erection and Commissioning at Buyer's premises - Entitled for Credit. Rules does not require that service has to be ren-</b>	CESTAT-Ahmedabad

## OTHER RULINGS

S. No.	Date of e-mail	Particulars	Judgment Passed By
		dered at the factory of the manufacturer for the purpose of eligibility for service tax credit.	
36	19-11-09	<b>Moser Bear India Ltd. v. CCE Excise Appeal No. 869 of 2008, dated 22-7-2008</b> - "Whether in respect of a 100% EOU availing sales tax exemption, for determining the excise duty payable based on aggregate value of customs duty, the element of SAD should be taken into account or not?"	CESTAT- New Delhi
37	10-12-09	<b>CIT v. Entee Builders ITA No. 62 of 2006, dated 1-9-2009</b> - It has been held that amount of refundable security received from tenant will not be included in the income of the assessee unless and until it will acquire the colour of rent.	High Court of Allahabad
38	16-01-10	<b>Rakesh Kumar Gupta v. ITAT Appeal No. CIC/AT/A/2006/00586, dated 18-9-2007</b> - The appellant cannot take recourse to the RTI Act to challenge a judicial decision regarding disclosure of a given set of information, which properly belonged to the jurisdiction of that judicial authority. If the appellant is aggrieved with the decision of the ITAT, the remedy lies elsewhere.	Central Information Commission
39	21-01-10	<b>B Nanji Finance Ltd. v. ACIT Tax Appeal No. 1672 of 2008, dated 23-12-2009</b> - Condonation of Delay in filing appeal before the CIT (A)- Hon'ble High Court has condoned the delay of four months occurred because of illness of the partners of the firms and restored the matter to the CIT(A) for fresh consideration.	High Court of Gujarat



170

## OTHER RULINGS

S. No.	Date of e-mail	Particulars	Judgment Passed By
40	30-01-10	<b>DIT v. Galileo INTL INC. Special Leave to Appeal (Civil) ...../ 2009 CC 20416-20423/2009, dated 16-12-2009</b>	Supreme Court of India
41	03-02-10	<b>CIT v. Ansal Properties &amp; Industries ITA No. 762/2007, dated 16-12-2009</b>	High Court of Delhi
42	03-02-10	<b>CIT v. Samtel India Ltd. ITA No. 1220/2009, dated 2-12-2009</b>	High Court of Delhi
43	05-02-10	<b>CIT v. Jet Air Pvt Ltd. ITA No. 1231/2009 with CM 16759/2009, dated 2-12-2009</b>	High Court of Delhi
44	15-02-10	<b>CIT v. S. Chand &amp; Co. Ltd. W.P. (C) No. 1312/200, dated 14-12-2009</b>	High Court of Delhi
45	19-02-10	<b>CIT v. Hemant V Joshi Petition(s) for Special Leave to Appeal (Civil)...../ 2009(CC 10479/2009), dated 22-1-2010</b>	Supreme Court of India
46	23-02-10	<b>R.V.S. Naik v. CCIT WP No. 36919/2009, dated 17-12-2009</b> - On PAN issuance in applicant/petitioner's name and non-processing of application by department, High Court on writ directed department to pass appropriate order in accordance with LAW.	High Court of Karnataka
47	23-02-10	<b>CIT v. Enakshi Silk Mills Pvt. Ltd. ITA No. 2409 of 2009, dated 13-1-2010</b>	High Court of Bombay
48	13-04-10	<b>Shivshahi Punarvasan Prakalp Ltd. v. Union of India Writ Petition No. 2270 of 2009, dated 5-1-2010</b>	High Court of Bombay
49	15-04-10	<b>CIT v. Lear Automotive India Ltd. ITA 110/2010, dated 5-2-2010</b> - If wrong tax has been paid, it is of necessity to be returned, lest the department be charged of unjust enrichment	High Court of Delhi
50	04-05-10	<b>LG Electronics v. Commissioner of Trade &amp; Taxes, WP(C) 6533/2008, dated 29-1-2010</b> - The Petitioner had not passed on the burden of sales tax	High Court of Delhi

## OTHER RULINGS

S. No.	Date of e-mail	Particulars	Judgment Passed By
		to the distributors and dealers and is, as such, entitled to a refund of the same.	
51	07-05-10	<b>Chander Kant v. CIT I.T.A. No. 507 of 2009, dated 17-12-2009</b> - The explanation of assessee for variance in stock statement prepared for bank for obtaining higher credit limit as compared to the quantity as shown in books of account, that the wrong date was put on aforesaid statement cannot be accepted, being not satisfactory.	High Court of Punjab & Haryana
52	15-05-10	<b>Rahuljee &amp; Co. Pvt. Ltd. v. ITAT W.P. (C) No.7792/2008, dated 23-12-2009</b> - The taxing statute namely, the Income Tax Act, provides a complete machinery for assessment of tax and for obtaining relief in respect of any improper orders passed by the authority. The Petitioner must, therefore, resort to the statutory remedies and cannot be permitted to invoke the jurisdiction of the High Court under Article 226 of the Constitution.	High Court of Delhi
53	20-05-10	<b>CIT v. Dharam Pal Prem Chand Ltd. Special Leave to Appeal (Civil) No(s). 24055/2009, dated 11-1-2010</b>	Supreme Court of India
54	10-06-10	<b>DIT v. Sahara India Financial Corporation Ltd. [2010] 189 Taxman 102 (Delhi)</b>	High Court of Delhi
55	24-06-10	<b>Paramjit Singh v. ITO [2010] 195 Taxman 273 (Punj. &amp; Har.)</b>	High Court of Punjab & Haryana
56	24-06-10	<b>CIT v. Neena Jain [2010] 189 Taxman 308 (Punj. &amp; Har.)</b> - The Legislative intent underlying the amended provisions of section 2(ea) is clear and implicit that the legislature sought to bring within the ambit of this all those buildings, which are completed and ready for use of residential, commercial or guest	High Court of Punjab & Haryana

172

## OTHER RULINGS

S. No.	Date of e-mail	Particulars	Judgment Passed By
		house, as the case may be, as incomplete structure cannot be put to any such use.	
57	12-07-10	<b>Gujarat Gas Financial Services Ltd. v. ITO ITA Nos.152/2009 to 155/2009, dated 13-4-2010</b>	High Court of Gujarat
58	07-09-10	<b>V.K. Timber Pvt. Ltd. v. CIT I.T.A. No. 321 of 2010 (O&amp;M), dated 4-8-2010</b>	High Court of Punjab & Haryana
59	22-09-10	<b>CIT v. Givo Ltd. ITA No. 941/2010, dated 27-7-2010</b>	High Court of Delhi
60	29-10-10	<b>Bhai Jaspal Singh v. ACIT Civil Appeal No. 4277 of 2002, dated 22-10-2010</b>	Supreme Court of India
61	12-11-10	<b>CIT v. Khandelwal Cables Ltd. ITA No. 619 of 2007, dated 1-10-2010</b>	High Court of Allahabad
62	04-01-11	<b>CIT v. Krishi Utpadan Mandi Samiti [2012] 20 taxmann.com 645 (All.) - The amount sent to the Board in the form of 'development shulk' is utilisation and application the money received by Samitis.</b>	High Court of Allahabad
63	08-01-11	<b>Association of Leasing and Financial Services Companies v. UOI [2010] 29 STT 316 (SC) - Service tax imposed by sec. 66 of the Finance Act, 1994 on the value of taxable services referred to in sec. 65(105)(zm), r.w.s 65(12), insofar as it relates to financial leasing services including equipment leasing and hire-purchase is within the legislative competence of the Parliament under Entry 97, List I of the Seventh Schedule to the Constitution.</b>	Supreme Court of India
64	11-01-11	<b>Ess Ess Engineering v. CCE [2011] 30 STT 10 (New Delhi - CESTAT) - For imposition of penalty under section 78, some positive evidence of deliberate</b>	CESTAT- New Delhi

## OTHER RULINGS

173

S. No.	Date of e-mail	Particulars	Judgment Passed By
		misdeclaration of value of taxable service must be produced.	
65	04-02-11	<b>CCE v. Ace Auto Comp. Ltd. Civil Appeal No. 3051 of 2003</b> - 'The brand of 'TATA ACE' creates a connection between 'TATA Company' and the assessee. Hence, the assessee shall not be allowed to avail the benefit of the SSI exemption.	Supreme Court of India
66	25-02-11	<b>Electronics Corporation of India Ltd. v. Union of India (SC - 5 Judge Bench), Civil Appeal No.1883 of 2011, Arising out of S.L.P. (C) No. 2538 of 2009, dated 17-2-2011</b>	Supreme Court of India
67	29-04-11	<b>Swaraj Yarn Agency v. CIT Civil Writ Petition No. 3085 of 1994, dated 20-4-2011</b> - If the tax already paid by the assessee to the bank is misappropriated by the employees of the approved bank with whom the amount is deposited, such deposit will be treated to be discharge of the liability of the petitioner even if bank has failed to credit the payments to the Central Government Account.	High Court of Punjab & Haryana
68	29-04-11	<b>Bhagwati Appliance (Now Dairyden Ltd.) v. ITO [2011] 199 Taxman 131/ 10 taxmann.com 329 (Guj.)</b>	High Court of Gujarat
69	15-06-11	<b>CIT v. Softlab Pvt. Ltd. ITA No. 95 of 2008, dated 27-4-2011</b> - Whether when the computers are not shifted out of the assessee's premises after the sale as lease agreement was signed, it can be construed under the circumstances that the sale is not complete without transfer of ownership as per the TP Act.	High Court of Madras
70	24-06-11	<b>Exxon Mobil Company India P. Ltd. v. Dy. CIT [2011] 46 SOT 294 (URO)/ 12 taxmann.com 84 (Mum.)</b> - Whether if two distinct services are rendered to	ITAT-Mumbai

174

## OTHER RULINGS

S. No.	Date of e-mail	Particulars	Judgment Passed By
		the AE and mark-up is received for one and not for the other, the aggregate position can be considered for determining ALP and whether multi-year data can be considered. Whether if loss making comparables are rejected, high profit making comparables should also be rejected?	
71	14-07-11	<b>CIT v. Kewalchand Pratapchand ITR No.38/98, dated 24-2-2011</b> - The Board Circular dated 27-3-2000 was applicable even to the old references which are still pending and are undecided.	High Court of Madhya Pradesh
72	06-08-11	<b>Idea Mobile Communication Ltd. v. C.C.E.&amp;C. Cochin [2011] 12 taxmann.com 307/32 STT 262 (SC)</b> - The value of SIM cards forms part of the activation charges as no activation is possible without a valid functioning of SIM card and the value of the taxable service is calculated on the gross total amount received by the operator from the subscribers.	Supreme Court of India
73	30-08-11	<b>The Commissioner of Gift Tax v. Ajay Bajaj Gift Tax Appeal No. 2929 of 2009, dated 18-8-2011</b> - When it is accepted that the transactions are genuine and bona fide, the additions made in the proceedings under the Gift Tax Act on the footing that the transaction was a colourable device cannot be accepted. Therefore, the payments made to the son being in his capacity as a partner of the firm, the said amount could not be treated as deemed gift given by the assessee to her son.	High Court of Bombay
74	03-10-11	<b>CIT v. Shankar Krishnan ITA No. 3516 of 2010, dated 6-9-2011</b> - Whether when the employer provides security deposit to the landlord in order to ca-	High Court of Bombay

## OTHER RULINGS

S. No.	Date of e-mail	Particulars	Judgment Passed By
		ter rent-free accommodation to the employee, notional interest is to be taken into consideration for computing fair rental value and thus the perquisite value is to be enhanced.	
75	13-10-11	<b>Gupta &amp; Gupta Chartered Accountants v. RBI [2011] 14 taxmann.com 145/110 SCL 68 (Delhi)</b> - Removal of auditors without communication is illegal and against the principle of natural Justice	High Court of Delhi
76	07-12-11	<b>JCCT v. Sasken Communication Technologies Ltd. [2011] 16 taxmann.com 7/33 STT 507 (Kar.)</b> - ST : Where assessee entered into agreement with its clients for development of software and agreed to give up all rights and claims of software to be developed, such contract was not for sale of any software but contract for service simplicitor	High Court of Karnataka
77	07-12-11	<b>CCE v. Ecof Industries (P.) Ltd. [2011] 16 taxmann.com 3/[2012] 34 STT 327 (Kar.)</b> - There is no restrictions under rule 7 of Cenvat Credit Rules in limiting distribution of service tax credit made in respect of one unit solely on ground that services are used in respect of another unit.	High Court of Karnataka
78	28-03-12	<b>Vigyan Gurukul v. CCE [2011] 16 taxmann.com 117/[2012] 34 STT 105 (New Delhi - CESTAT)</b> - It was held that rate of tax shall be of the date of receipt of payment if the assessee has chosen to pay tax on the advance amount received. The rate that was applicable at the time of receipt of value of service will apply in a case where the assessee chose to pay tax on the advance amount received.	CESTAT- New Delhi

176

## OTHER RULINGS

S. No.	Date of e-mail	Particulars	Judgment Passed By
79	28-03-12	<b>Gimatex Industries Pvt. Ltd. v. CCE [2011] 14 taxmann.com 33 (Mum.-CESTAT)</b> - For the period beyond 18-4-2006, whether the appellant entitled to utilize Cenvat credit for payment of Service tax on GTA services while he is person liable to pay service tax u/s 68(2) of Finance Act, 1994 r.w. Rule 2(1)(d) of Service Tax Rules, 1994.	CESTAT-Mumbai
80	05-06-12	<b>Commissioner of Service Tax v. Master Kleen, C.E.A. No. 2 of 2010, dated 8-9-2011</b> - Where the assessee on being pointed out by the authorities for not paying the service tax, has paid the service tax with interest even before the issue of show cause notice, penalty is not leviable.	High Court of Karnataka
81	08-06-12	<b>Comptroller of Income Tax v. AZP [2012] 22 taxmann.com 36 (HC - Singapore)</b> - Information under article 28 of DTAA cannot be disclosed on the basis of un-signed transfer requests of Indian national to a Swiss Bank to transfer money to overseas bank accounts of two foreign companies.	High Court of Singapore
82	21-06-12	<b>CCE v. IFB Industries Ltd. [2012] 17 taxmann.com 7/34 STT 312 (Kar.)</b> - Assessee, a manufacturer, can avail Cenvat credit of service tax paid on outdoor catering service availed for its factory canteen.	High Court of Karnataka