

LANDMARK CASES—VOLUME 422S. RAJARATNAM¹**Transfer pricing***Effect of Board Circulars*

Board Circulars are binding on the authorities, but not on the courts. Matter of determination of arm's length price is covered by section 144C, which provides for the method by which disputes relating to transfer pricing can be resolved. This section 144C can only be prospectively applied from assessment year 2011-12. A Board circular altering the year of application cannot have any legal effect as a mere circular does not have the effect of a provision in law. It was under these circumstances, a circular issued in 2013 proposing to make variations in income under section 144C on or after October 1, 2009 cannot, it was held, apply to a matter relating to 2009 by the circular issued three years thereafter as was held in *Vedanta Ltd. v. Asst. CIT* [2020] 422 ITR 262 (Mad). In other words, a legal provision can be effective only from the date on which it becomes law and a circular making it effective for a period even earlier is not binding on the courts and has to be ignored as not valid in law. It is based upon the general proposition that Board circulars are binding on the authorities and not on courts.

Schedular system of taxation*Property or business ?*

A property meant for deriving rental income therefrom is to be treated as a source of property income. But where it is used for the assessee's business and not solely for deriving rental income, such income will be business income. Where in a rare case, the assessee's business itself is finding tenants for property owners, then the assessee's activity is one of business, so that the rental income received by him or the lease amount received from the lessees will be assessable as business income and not income from property as was decided in the facts of the case in a group of two cases in *PSTS Heavy Lift and Shift Ltd. v. Deputy CIT* [2020] 422 ITR 497 (Mad). In coming to the conclusion, the law laid down by the Supreme Court in *Rayala Corporation P. Ltd. v. Asst. CIT* [2016] 386 ITR 500 (SC) and the decision in *Raj Dadarkar and Associates v. Asst. CIT* [2017] 394 ITR 592 (SC) was followed.

Income*(i) Disallowance under section 14A*

Section 14A read with rule 8D has come into prospective operation from assessment year 2008-09. Section 14A bars any expenditure, which is not

1. Retd. Member, I. T. A. T.

for earning the income brought to tax. It, therefore, disallows expenditure in earning exempt income. Where expenditure was allowed on estimate at 5% in respect of dividend income, such allowance was upheld by the High Court in *CIT v. Syndicate Bank* [2020] 422 ITR 298 (Karn). In coming to the conclusion, the High Court pointed out that the substantial question of law arising in this case was squarely covered by the decision of the Supreme Court in *CIT v. Essar Teleholdings Ltd.* [2018] 401 ITR 445 (SC), wherein it was held that section 14A read with rule 8D, being prospective, could not be applied for a year earlier to amendment.

(ii) *Cash credits*

Cash credits can be added only in the year in which they were introduced in the assessee's books and not in any other year. A borrowing justified on the test of commercial expediency cannot be added on mere suspicion. Where a credit has been accepted without any unreasonability or perversity, the High Court would not interfere as mere suspicion is not good enough to warrant addition as was decided in *Ivan Singh v. Asst. CIT* [2020] 422 ITR 128 (Bom).

The tendency of the Income-tax Department to suspect and add every cash credit as income has come in for adverse criticism of the High Court in *Adhithiya Gears P. Ltd. v. Asst. CIT* [2020] 422 ITR 218 (Mad) in a case of cash credits of Rs. 4,10,000 in three names supported by affidavit of the lender, a close relative, in a transaction before a chartered accountant, without any further examination. Even the appellate authorities, who have similar duties had failed to exercise the same. The High Court found that the law, that the burden of proof is on the assessee, could not be applied without examining all the relevant facts. It is the duty of not only the Assessing Officer, but also the appellate authorities, including the Tribunal, to ensure that there is a foolproof case for addition of credits in the name of a third party. An addition cannot be made without a solemn exercise on the part of the authorities to find the truth. Where it has not been done, the High Court remanded the matter back to the assessing authority to be decided afresh within six months after examining on summons all the three concerned creditors amounting in all to Rs. 4,10,000, because of lack of proper enquiry as to the identity and creditworthiness and genuineness of the transaction without which, no addition could have been made even as pointed out by the Supreme Court in *Roshan Di Hatti v. CIT* [1977] 107 ITR 938 (SC), notwithstanding the law that the burden of proof is on the assessee. The law also provides that a further burden lies on the Revenue to show that the income is undisclosed by the assessee indicating the source from which the amount is presumed to have been earned by the

assessee. In the hierarchy of powers, it is often also overlooked by appellate authorities, who have the same powers and duties as an Assessing Officer. Hence, it was found in this case, there was no proper enquiry enjoined by law. The addition disputed by the assessee before the High Court in this case was remanded back to the Assessing Officer to be decided afresh after proper examination of all the witnesses, subject to cross-examination.

In a matter of a decision relating to cash credits, the decision is usually one relating to the facts and not law, so that the High Court will not entertain any appeal against the Tribunal decision on cash credits; where concurrent findings of the first appellate authority and the Tribunal were in favour of the assessee, the Departmental appeal was dismissed as not involving any question of law by the High Court, in *Pr. CIT v. Omprakash Dhanwani* [2020] 422 ITR 315 (MP) following *Santosh Hazari v. Purushottam Tiwari* [2001] 3 SCC 179, *Mangalore Ganesh Beedi Works v. CIT* [2015] 378 ITR 640 (SC), *Sir Chunilal V. Mehta and Sons Ltd. v. Century Spg. and Mfg. Co. Ltd.* [1962] AIR 1962 SC 1314 and *Hero Vinoth (Minor) v. Seshammal* [2006] 5 SCC 545. However, the special leave petition has been granted to the Department against this judgment—[2020] 420 ITR (St.) 1.

(iii) Undisclosed income – section 69C

Where an assessee with substantial turnover made its main purchases from ITC, the Assessing Officer still felt that the expenditure on account of purchases from two parties were bogus. The reasoning of the Assessing Officer was that the lorry receipts and other related documents reflecting the movement of goods from purchase to sale, were not established. Since the addition was based upon a negative presumption, it was deleted in first appeal. The Tribunal upheld the order in first appeal pointing out that the purchases were made through regular banking channels and no part of the purchases was shown to be bogus in *Pr. CIT v. Vaman International P. Ltd.* [2020] 422 ITR 520 (Bom).

Exemptions

(i) Interest on foreign currency loan

Interest on foreign currency loan may be either exempt under section 10(15)(iv)(f) or taxable where it is not exempt, it has not been subject matter of tax deduction at source, where such deduction is required. Where an assessee claimed deduction of interest on foreign currency loan without, however, deducting tax at source, such interest was disallowed under section 40(a). However, in view of the wider right to exemption under section 10(15)(iv)(f), the amount was allowed as a deduction in first appeal in the view that section 40(a) was not attracted in view of specific exemption

granted by the Department of Economic Affairs. It has also been made further clear that tax was not deductible at source, where the assessee had utilised the borrowing for repayment of domestic loan. It was in this context, the deduction allowed in first appeal was upheld by the Tribunal. The High Court held in *CIT v. Seven Seas Distillery (Pvt.) Ltd.* [2020] 422 ITR 229 (Mad), that in view of the specific exemption granted by the Ministry of Finance, which permitted the borrowing, even if the borrowing is not for repayment of domestic loan there could have been no need for tax deduction at source. On the fact that the foreign loan was utilised as working capital, the exemption under section 10(15)(iv)(f) would have application as such use would mean that utilisation is for industrial development. Apart from grant of this specific exemption, there was no other justification in respect of deductibility of interest on foreign loan used for industrial development in India.

(ii) *Section 10(17A)*

Section 10(17A) exempts a reward awarded to an individual for his public service in protecting public interest and service to society in a significant manner as are ascertainable from the materials available in public domain. It is under this law that the awards given by the Central Government in respect of meritorious service in Kashmir and similar award for nabbing the notorious activities of one Veerappan in Karnataka and Tamil Nadu came up for exemption for President's police medal among other awards. Such awards received from the State Government were held to be exempt under section 10(17A) in *K. Vijaya Kumar v. Pr. CIT* [2020] 422 ITR 304 (Mad), while pointing out the merits of the award relating to action against Veerappan and to the sordid story of his kidnapping of the film star Rajkumar and three others, so as to justify the award for distinguished services given to the police personnel in the light of the notoriety of Veerappan and the threat he posed to the country.

(iii) *Section 10A/10B*

Where stock options given to the employees were reversed, the profits consequent thereon would have necessarily to be taken as export profits eligible for exemption under sections 10A and 10B. But the Assessing Officer considered that the amount originally allowed for stock option to the employees attracted tax though eligible to be treated as export income of the assessee, so that the assessee is entitled to exemption of the amount of gain resulting from non-exercise of the employee's right to conversion of stock option into equity shares. The reversal of stock option entries rendered the income for exemption under section 10A/10B as decided in this case in *California Software Co. Ltd. v. CIT* [2020] 422 ITR 514 (Mad) following

Camiceria Apparels India P. Ltd. v. Asst. CIT [2019] 13 ITR-OL 193 (Mad) and *CIT v. Hewlett Packard Global Soft Ltd.* [2018] 403 ITR 453 (Karn) [FB].

Charities

Registration

In order that a trust is exempt as a charitable institution, it should have been registered under section 12A at the time of allowing the exemption. Though the proviso to section 12A(2) justifies the exemption, it cannot override the main provision nor could it be given retrospective effect. At any rate, it is not a matter, which can be considered in appeal as the power of registration is not vested in the appellate authority. In this context, the proviso to section 12A(2) could not have been interpreted without considering the main section because the proviso has to be understood harmoniously with the main section, so that the Tribunal's grant of exemption with reference to the proviso to section 12A(2) is mistaken as it does not override the main provision. The exemption allowed was, therefore, found to be erroneous in *CIT (Exemptions) v. Shiv Kumar Sumitra Devi Smarak Shikshan Sansthan* [2020] 422 ITR 468 (All). In this context, where the benefit of the Board circular was sought to be availed of, the High Court pointed out that where the statute is clear, it is the statute, which has to be followed and not the instruction. The instruction of the Board more liberal in this regard also could not help the assessee as instruction of the Board cannot override the statute.

A belated application may be considered for subsequent years as also decided in this case. The right to exemption starts from the date of application of registration, where it is finally registered. The proviso to the provision enables recognition of exemption on application for registration. But this power is given to the Assessing Officer and not the Tribunal, where no assessment was pending before the Assessing Officer. Instruction contrary to this law is not valid as it cannot run counter to statute. It is only where application for registration had been ultimately accepted and the trust registered, the benefit of exemption would be available.

Business expenditure

(i) Interest on borrowed capital

Interest on borrowed capital lent to a sister concern interest-free as a measure of commercial expediency, does not justify disallowance as decided in *Pr. CIT v. Gaursons Realty Pvt. Ltd.* [2020] 422 ITR 123 (Delhi).

In another case, where the assessee lent its borrowed monies to sister concerns at a lower rate, interest was partly disallowed. Commercial expediency was not considered. The concept of matching principles cannot be

blindly applied for every transaction on the part of assessee. The rate of interest charged is one of business decisions, on which the Revenue cannot lightly disregard the agreement between parties, even where they are members of the same group. Where similar issue has been decided in favour of the assessee, disallowance of interest on borrowed capital under section 36(1)(iii) was held unjustified in *CIT v. Shriram Investments* [2020] 422 ITR 528 (Mad). The High Court, in coming to its conclusion, referred to the decision of the Supreme Court in *S. A. Builders Ltd. v. CIT (Appeals)* [2007] 288 ITR 1 (SC).

(ii) Bad debt

Section 36(1)(vii) provides for deduction of any provision made in the accounts towards bad debt. The language is clear and unambiguous. It is not necessary for the assessee to prove that there was any bad debt during the year as long as the provision was made. It was this law, which was pointed out in *CIT v. Syndicate Bank* [2020] 422 ITR 460 (Karn) explaining that this provision was intended as a matter of State policy to help scheduled commercial banks against the risk of non-realisation to ensure that only real income is assessed to tax and not merely realisable income, which may not be realised. The policy behind the law is available in Board Circular No. 346, dated June 30, 1982 [1982] 138 ITR (St.) 10 explaining the object of promoting rural banking, where the risk of bad debt is significantly large. A mere provision is, therefore, clearly deductible. The provision could not be disallowed as a mere provision on grounds of equity. Since there is no equity about the tax, where the language of law is clear, the law has to be followed as was pointed out in *CIT v. Kasturi and Sons Ltd.* [1999] 237 ITR 24 (SC) and *Mahim Patram (P.) Ltd. v. Union of India* [2007] 3 SCC 668.

(iii) Corporate social responsibility

The Gujarat High Court, in *Pr. CIT v. Gujarat Narmada Valley Fertilizer and Chemicals Ltd.* [2020] 422 ITR 164 (Guj), had occasion to deal with general principles applicable for deduction as business expenditure under section 37(1). It has listed the six conditions for deductions, viz.

- (1) The expenditure should not be covered under the specific sections, i.e., sections 30 to 36 ;
- (2) The expenditure should not be of capital nature ;
- (3) The expenditure should be incurred during the previous year ;
- (4) The expenditure should not be of personal nature ;
- (5) The expenditure should have been incurred wholly or exclusively for the purpose of the business or profession ;
- (6) The business should have commenced.

The above principles have been elicited from 55 cases, which have been discussed by the High Court. In summary, in order that a deduction may be admissible under section 37(1), the connection established between the expenditure and the object of such expenditure should be one of business at the time the expenditure was incurred. The High Court pointed out to some change in law in *Explanation 2* to section 37(1) with effect from April 1, 2015 apart from the provision under section 135 of the Companies Act, 2013.

As regards *Explanation 2* to section 37(1) barring deduction of amount incurred in discharging corporate social responsibility, this provision, which does not appear to have any justification in law was not questioned as regards vires, but the expenditure incurred by the assessee was found deductible in the light of its social obligation towards the society because of its responsibility as a polluting company compensating the damage caused by pollution as a social obligation for the undertaking. This law is all the more applicable to a Government undertaking, which is obliged to follow the State policy enshrined in the constitution. It is in this context, the various expenses incurred by this polluting company towards what it considered it to be its social obligation, was found to be admissible and not barred under section 37(1), which is a general one against amount of expenditure on corporate social responsibility and is not meant to be a total bar for all its expenses towards social obligation especially in the light of the fact that the assessee being a polluting company was obliged to undo the damage caused by its pollution.

In this case, there were as many as 16 items of expenses, being either donation or direct expenses, all for a social purpose. The High Court, notwithstanding the bar under section 37(1) found its way to allow these expenses as not being barred under section 37(1) but admissible as per established precedents falling under section 37. The High Court examined as many as 55 precedents covering 45 printed pages for its conclusion on various items of expenditure incurred on social obligations in the light of the fact that it is a polluting company not falling within the bar under section 37(1) for expenses against what is meant for merely discharging corporate social responsibility. Notwithstanding the bar under section 37(1), the nature of expenses have to be considered for admissibility for deduction and it was for this reason expenditure claimed under various heads was discussed in detail along with precedents cited by either party to arrive at the conclusion that the deduction allowed by the Tribunal was found to be rightly admissible primarily because of commercial expediency, which is a paramount consideration as pointed out by the Supreme Court in *Panipat Woollen and General Mills Co. Ltd. v. Union of India* [1986] AIR 1986 SC 2082, where it was decided that commercial expediency is a matter

exclusively falling under the jurisdiction of the court as it is a matter to be decided from a business point of view of a businessman and not to be characterised in the shape of a ritualistic formula. It is only the expenses to bring in profit of an enduring nature that may be disallowed as capital expenditure, while all expenses relating to the assessee's commercial activity would be required to be allowed. It is true, as observed by the High Court, that the borderline between revenue and capital expenditure may sometimes be too thin, but on proper application of law in relation to the facts of the case, the decision should not be difficult.

(iv) *Section 40(a)(ia)*

An elaborate decision as regards deductibility of expenses in the light of section 40(a)(ia), where tax is not deducted at source, points out to the likelihood of loss of revenue from omission to apply these provisions. The failure to deduct tax has been less harshly treated under section 271C than the previous law limited to section 40(a)(ia). The Government recognised the difficulties caused by bona fide failure to deduct tax, so that in a case, which came up before the High Court in *CIT v. S. M. Anand* [2020] 422 ITR 209 (Karn), it was held that the disallowance under section 40(a)(ia) for failure to deduct tax at source, could not have application for payments made by the assessee, a contractor, to his sub-contractors, where the sub-contractors have admitted their income and paid tax thereon following *CIT v. Ansal Land Mark Township P. Ltd.* [2015] 377 ITR 635 (Delhi) and *Pr. CIT v. Perfect Circle India Pvt. Ltd.* [2019] 13 ITR-OL 78 (Bom) while dissenting from *Pr. CIT v. Manoj Kumar Singh* [2018] 402 ITR 238 (All). The decision on this case has taken a practical view that where there is no loss of revenue, there should be sparing of liability for failure on the part of the deductor. The High Court discussed the matter elaborately citing the precedents to depart from the rigid view taken by the Supreme Court in *CIT v. Vatika Township P. Ltd.* [2014] 367 ITR 466 (SC) in the light of further development of law in *Ansal Land Mark Township P. Ltd's* case (supra) with which both Bombay and Allahabad High Court had agreed. However, the matter is pending before the Supreme Court in *CIT v. Tide Water Marine International Inc.* [2019] 412 ITR (St.) 38 (SC), which has to be finally decided on the basis of outcome of the above pending case before the Supreme Court.

In another case, a legitimate business expenditure may still be not deductible, if tax is not deducted at source, where it is so required by law as provided under section 40(a)(ia). Where the assessee had failed to deduct tax on payments to transporters in violation of section 194C, there was non-deduction of tax at source, but then assessee was merely a commission agent not undertaking the transaction for which payment made was

its own, so that failure to deduct tax under section 194C even without following the requirement of Form 15-I did not attract disallowance under section 40(a)(ia) as was decided in *Pr. CIT v. Dilipkumar Bapusaheb Patole* [2020] 422 ITR 426 (Guj). It was also noticed in this case that it was an order passed after remand without noticing that the assessee was acting merely as an agent, while there has been compliance with law by the truck owners on whose behalf the assessee had acted. It was under these circumstances, that there was no failure to deduct tax at source under section 194C as was decided in this case following a decision of another Bench in *ITO v. Andhra Roadways* [2015] 61 taxmann.com 203 (Ahd-Trib).

Fringe Benefits Tax

Constitutional validity of FBT

Constitutional validity of Fringe Benefits Tax (FBT) was upheld in view of the wide power, which the Parliament has under Entry 97 of the Seventh Schedule in Chapter XII-H as was decided by the High Court in *T.T.K. Prestige Ltd. v. Union of India* [2020] 422 ITR 13 (Karn). In coming to the conclusion, the High Court referred to the Supreme Court decision in *Bengal SREI Infrastructure Development v. Union of India* [2017] 397 ITR 757 (Cal) at page 759. It was in this context, the petition challenging the constitutional validity of Fringe Benefits Tax was unsuccessfully questioned.

Incentive deductions

(i) Section 80IB(10)

Incentive deduction under section 80-IB meant for housing was sought to be availed of for a housing project. It was found in *Bashyam Constructions P. Ltd. v. Deputy CIT* [2020] 422 ITR 346 (Mad), that what is contemplated for relief is development and not mere building. A developer of a housing project need not be the owner, so that the relief under section 80-IB(10) was allowed in first appeal on the inference that the assessee was a developer, but was reversed by the Tribunal. The High Court found the order of the Tribunal to be untenable, because the project was one of joint venture agreement sponsored by the assessee as a developer along with the builder with mutual rights and obligations inextricably linked. It is under these circumstances, the deduction allowed in first appeal, though reversed by the Tribunal, was found by the High Court to be a clear case of a housing project meriting deduction under section 80-IB(10); the court brought out a clear distinction between development and mere building and dismissed the Tribunal order as erroneous, in first appeal. The High Court found that the denial by the Tribunal did rise a substantial question of law, so as to justify its interference.

(ii) Section 80JJA

The assessee-company commenced its business of manufacturing and exporting biological agents (enzymes) during the financial year 1999-2000. The claim under section 80JJA was disallowed by the Assessing Officer on his impression that it is available only for five years, while it is allowable for 8 years. The Tribunal noticed that the first year of business was a matter of record. It was, therefore, found that, relief was available with reference to the records. It is in this context that it was found that assessee was in the fifth year of business under section 80JJA and deduction, therefore, was allowed by the Tribunal and upheld by the High Court in *Pr. CIT v. Maps Enzymes Ltd.* [2020] 422 ITR 554 (Guj).

Set-off of loss*Losses of amalgamating company on amalgamation*

Losses of amalgamating company is deductible, subject to the satisfaction of the requirement under section 72(2) read with section 72A. Before enactment of section 72A, it was admissible for carry-forward and set off under Sick Industrial Companies (Special Provisions) Act, 1985. Where amalgamation is approved by the Central Board of Direct Taxes required under section 72A as a part of sanction of rehabilitation scheme, the requirement of section 72A should be understood to have been satisfied. Where this right to carry forward and set-off of carried-forward loss in the light of section 72A had been overlooked by the Assessing Officer, it is open to the Commissioner to exercise his powers under section 263 and set right the matter as was done in this case in *CIT v. Lakshmi Machine Works Ltd.* [2020] 422 ITR 235 (Mad), which pointed out that the sanction of the Board for scheme of amalgamation met the requirement of section 72A, so that the Commissioner's order under section 263 revising the order of assessment to be in accord with this law under section 72A as was found in this case of amalgamation of two companies in pursuance of a rehabilitation scheme. Where the Assessing Officer had allowed the right to carry forward loss in the light of sanction of amalgamation scheme by the Board for Industrial and Financial Reconstruction (BIFR), the Commissioner was of the view that there was no application of mind on the part of the Assessing Officer before allowing the set off as he had recorded no reasons for the set off. This order in first appeal that there was non-application of mind by the Assessing Officer before set off was an erroneous view of the Tribunal as was evident from the very fact of approval by BIFR, which justified the action of the Assessing Officer. It was under these circumstances, the Commissioner's order under section 263 in favour of the assessee was not found by the High Court to be valid, as it was not a case, where the power

under section 263 could be legitimately exercised because jurisdiction under section 263 is available only where both the conditions for revision are satisfied. In this case, it was not so as it was not an erroneous decision though found to be prejudicial to the Revenue as the Assessing Officer had followed the law laid down by the Supreme Court in *Indian Shaving Products Ltd. v. BIFR* [1996] 218 ITR 140 (SC). Since the concurrent requirement of error and prejudice are not present in this case, the action of the Commissioner under section 263 was not found to be valid in the light of the aforesaid decision, apart from the decision of the Supreme Court in *CIT v. Mahindra and Mahindra Ltd.* [1983] 144 ITR 225 (SC). The High Court pointed out that the powers of revision can be exercised only when there is both error and prejudice.

Minimum alternate tax

Section 115JB

Insurance, banking and companies engaged in generation or supply of electricity are excluded from the scope of section 211(1) of the Companies Act, 1956. Book profits tax under section 115JB is not leviable on such income in view of the amendment to section 115JB with effect from April 1, 2013 brought in to align with the provisions of the Income-tax Act as decided in a group of cases in *CIT v. ING Vysya Bank Ltd.* [2020] 422 ITR 116 (Karn) as the profits so covered are not intended to fall within the charging sections, so that such income, irrespective of whether shown in the balance-sheet to be from investments or otherwise, cannot be brought to tax when such income falls outside the scope of section 115JB.

Assessment

(i) Transfer of a case

A transfer of a case has to be done on the basis of recorded reasons. Mere suspicion that the materials found are incriminating cannot justify transfer. A mere observation that the transfer is necessary for purposes of co-ordinated investigation is too general. In absence of more details, the transfer order was set aside by the High Court in *H.M. Steels Ltd. v. Pr. CIT* [2020] 422 ITR 160 (P&H).

The transfer order is based upon the inference that the assessee is covered by transfers as between the members of the same group being “related concerns”. There is no material whatsoever to justify the inference of relationship, so that the transfer order was found to be invalid for not containing justifiable reasons and being cryptic, that too without putting the Departmental inference to the assessee. The order cannot, therefore, stand, so that it had to be set aside. However, in the light of further material not earlier considered, the matter should receive further consideration. It was

under these circumstances, the assessee's petition was allowed with right for the Revenue to cure the illegality in the present order after having access to the material against which further objection can be filed within three weeks, by which the matter can be decided afresh and a fresh order passed after considering the further arguments in the context that the order of the Deputy Director of Income-tax on which action was taken, had not been put to the assessee, so that the assessee is entitled to one more opportunity within three weeks, so that the lack of opportunity in the order gets cured.

(ii) Special audit under section 142(2A)

It is the opinion of the Assessing Officer that the accounts are complex that special audit will be ordered after giving an opportunity to the assessee to meet the Assessing Officer's inference, where the account books and material furnished are complex, so as to require special audit for Assessing Officer to compute the income in accordance with law. The decision taken by the Assessing Officer after application of his mind satisfies the requirement of law. Where the special audit was ordered, but the assessee had not availed of the opportunity given to him before such order, the special audit ordered could not be questioned as was decided in *NBCC (India) Ltd. v. Addl. CIT* [2020] 422 ITR 429 (Delhi).

(iii) Notice under section 143(2)

Where corrections are made in the return at the suggestion of the Assessing Officer himself, the corrected return is on par with original return, so that the time limit for notice runs from the date on which original return is filed. The corrected return in such cases cannot be put on par with revised return and apply the law related to extended time available for revised return, so that the period of limitation does not get extended as was decided in *Kunal Structure (India) Pvt. Ltd. v. Deputy CIT* [2020] 422 ITR 482 (Guj) following *Dhampur Sugar Mills Ltd. v. CIT* [1973] 90 ITR 236 (All). Where the notice under section 143(2) was issued by treating the corrected return as an original return, the assumption of time limit under section 143(2) by assuming the corrected return as the original return was not correct, so that the notice under section 143(2) issued in this case being belated with reference to the original return was held to be invalid being barred by limitation.

In another similar case, where the assessee had merely rectified the mistakes in the return filed, it was held that there could be no inference of revised return, so as to justify extension of time limit for issue of notice under section 143(2). It is under these circumstances, the notice issued was found to be time-barred as mere removal of defects in the original return did not justify the inference of a fresh revised return, so that the notice under section

143(2) within the extended time reckoned from the date of filing the rectified return, was found to be barred by limitation, so as to be invalid as decided in *Atul Projects India (Pvt) Ltd. v. Union of India* [2020] 422 ITR 478 (Bom) following *Prime Securities Ltd. v. Varinder Mehta, Asst. CIT* [2009] 317 ITR 27 (Bom) and *CIT v. Sohan Lal Chhajan Mal* [2008] 307 ITR 53 (P&H).

Reassessment

(i) Valid

In *Deepak Gupta v. Asst. CIT* [2020] 422 ITR 92 (All), the High Court decided that reassessment is valid by stressing the importance of the expression “reason to believe”. A reason should be such as to cause justification for reassessment, so as to protect the Revenue as was pointed out after an elaborate review of the case law on the subject especially of the decisions of the Bombay High Court in *Prashant S. Joshi v. ITO* [2010] 324 ITR 154 (Bom) ; *N. D. Bhatt, IAC of I. T. v. I. B. M. World Trade Corporation* [1995] 216 ITR 811 (Bom) and *Hindustan Lever Ltd. v. R. B. Wadkar, Asst. CIT (No. 1)* [2004] 268 ITR 332 (Bom).

Reassessment jurisdiction arises, where there is failure on the part of assessee to disclose all material facts with possible additional liability. The Assessing Officer, even where he receives report from the Intelligence Wing of the Department, has to make his own enquiries and have reason to believe escapement of income to assume reassessment jurisdiction. It is only then the requirement of “reason to believe” essential for reassessment jurisdiction will be satisfied. The law places greater responsibility, where reassessment is sought to be initiated four years from the end of the assessment year. It is only where there is failure to disclose fully and truly all the material facts for assessment at the time of original assessment, there is scope for reassessment jurisdiction as decided in a group of two cases in *Experion Developers P. Ltd. v. Asst. CIT* [2020] 422 ITR 355 (Delhi). The scope of “reason to believe” to justify reassessment jurisdiction has been elaborately examined in this case involving tax implications of amalgamation.

(1) The assessee-company was engaged in the business of construction-development projects, which on amalgamation with a company, had invested Rs. 36.91 crores in the amalgamating company and Rs. 183 crores in the other. Investing companies were not in active business, so as to raise a possible inference that these were floated merely as a conduit to funnel funds into Indian companies. In such cases, notices may have to be issued both to amalgamating and amalgamated companies, where original assessment has been completed in amalgamated company. Reassessment jurisdiction is possible where justified by facts. Where investment has been made in the amalgamating company and such investment is sought to be

taxed as undisclosed income, it is not necessary that action should be taken both in the hands of investor and the investee. In the case of amalgamation, therefore, where there is liability for one, it is not necessary to issue notice to both amalgamating and amalgamated company. This was the first issue decided in this case.

(2) Since the investor in this case was not in regular business and a report from the Directorate of Income-tax (Intelligence and Criminal Investigations) reported complex legal arrangements doubting the creditworthiness and genuineness on the part of investors mainly as regards the source of funding and genuineness of the transactions, there is reason to believe. This was the second matter decided in this case.

(3) It was also decided in this case, where amounts were shown to have been received from the assessee's holding company, the requirement of examining the identity and creditworthiness of the holding company is not spared, unless the source is explained.

In the facts of the case, reassessment jurisdiction was held justified in the context of the claim of amalgamation being found to be not genuine. There was no default in not issuing notice independently on the amalgamating and the amalgamated companies as only the company, which is liable to tax need be the subject matter of reassessment. In respect of money receivable in holding company, the genuineness of the source and the creditworthiness of investors were found to be not fully disclosed, so that the jurisdiction for reassessment was held justified even for this reason. Reassessment jurisdiction was examined in this case in the light of 30 precedents on the subject in a long order running to 45 printed pages.

(4) The law expects tangible materials for the inference of escapement of income to justify reassessment jurisdiction even as explained in *Asst. CIT v. Rajesh Jhaveri Stock Brokers P. Ltd.* [2007] 291 ITR 500 (SC). The matter to be examined is not only escapement of income, but also that there was reason to believe that income chargeable to tax has escaped liability as was pointed out by the Supreme Court in *Sri Krishna P. Ltd. v. ITO* [1996] 221 ITR 538 (SC) and the decision of the Delhi High Court in *G. S. Engineering and Construction Corporation v. Deputy DIT (International Taxation)* [2013] 357 ITR 335 (Delhi).

It was also pointed out in this case that mere change of opinion will not justify reassessment jurisdiction as pointed out by the Full Bench decision of the Delhi High Court in *CIT v. Usha International Ltd.* [2012] 348 ITR 485 (Delhi) [FB] following the guidelines of the Supreme Court decision in *Pr. CIT v. NRA Iron and Steel P. Ltd.* [2019] 412 ITR 161 (SC), which itself had followed the decision of the Supreme Court in *Kale Khan Mohammad Hanif v. CIT* [1963] 50 ITR 1 (SC) and *Roshan Di Hatti v. CIT*

[1977] 107 ITR 938 (SC), besides the decision of the Supreme Court in *CIT v. P. V. S. Beedies P. Ltd.* [1999] 237 ITR 13 (SC) which was followed in *New Light Trading Co. v. CIT* [2002] 256 ITR 391 (Delhi). The law on the subject based upon the requirement of full and true disclosure of all material facts by the assessee was also to be considered in the light of the decision of the Supreme Court in *Honda Siel Power Products Ltd. v. Deputy CIT* [2012] 340 ITR 53 (Delhi). Other precedents were also cited.

(5) A proper sanction by the authority required to sanction initiation of reassessment proceedings is another basic requirement. Approval has to be on proper exercise of mind and not made in a mechanical manner as had been pointed out in a number of precedents.

(6) Notice is required only against the party on whom reassessment is proposed to be made and not to others involved in the scheme of non-disclosure of income. The assessee against whom action is taken should be in existence, so that action against an amalgamated company, which has ceased to exist will not be valid even as pointed out in *Pr. CIT v. Maruti Suzuki India Ltd.* [2017] 397 ITR 681 (Delhi). Notice should be not only in the assessee's name but in the capacity in which it is sought to be assessed, as for example, in the case, where it may be assessable in the hands of individual or Hindu Undivided Family as was pointed out in *CIT v. K. Adinarayana Murty* [1967] 65 ITR 607 (SC). It is in this context, the notice on the amalgamated company in respect of undisclosed income of the amalgamating company as a successor was upheld.

(ii) *Not valid*

Reassessment jurisdiction is not to be lightly invoked on mere suspicion. Where four years have elapsed with the assessee having disclosed all the relevant facts in original assessment, there can be no jurisdiction. It was so held in *Asianet Star Communications Pvt. Ltd. v. Asst. CIT* [2020] 422 ITR 47 (Mad) after an elaborate review of the case law and a number of decisions of the Supreme Court including one of locus classicus in *Calcutta Discount Co. Ltd. v. ITO* [1961] 41 ITR 191 (SC) and other decisions of the apex court in *Kantamani Venkata Narayana and Sons v. First Addl. ITO* [1967] 63 ITR 638 (SC) ; *ITO v. Lakhmani Meawal Das* [1976] 103 ITR 437 (SC) and *Indo-Aden Salt Mfg. and Trading Co. P. Ltd. v. CIT* [1986] 159 ITR 624 (SC). Particular reference was made to the decision of the Supreme Court in *Parashuram Pottery Works Co. Ltd. v. ITO* [1977] 106 ITR 1 (SC).

In a similar case, reassessment notice was held to be not valid in *Vanita Sanjeev Anand v. ITO* [2020] 422 ITR 1 (Delhi), where reassessment proceedings were initiated on wrong inference that no return was filed, while a return had actually been filed and such return was accepted in normal course.

The scope of reassessment power was brought out by the High Court in *Pr. CIT v. Shodiman Investments Pvt. Ltd.* [2020] 422 ITR 337 (Bom) following the law laid down by the Supreme Court in *ITO v. Lakhmani Mewal Das* [1976] 103 ITR 437 (SC) and *S. Narayanappa v. CIT* [1967] 63 ITR 219 (SC), where the reassessment power was described as an extraordinary power to be exercised, where there are clear reasons, which link or bring out the nexus with any escaped income.

This decision also stresses the importance of recorded reasons for reopening the assessment, which should reasonably justify the belief of escapement on the basis of tangible material as explained by the Supreme Court in *Asst. CIT v. Rajesh Jhaveri Stock Brokers P. Ltd.* [2007] 291 ITR 500 (SC).

Yet another point decided by the High Court in this case on the same issue of reassessment pointed out that a search on the basis of which suspicious transactions are inferred was not by itself enough justification for reopening an assessment following *CIT v. Videsh Sanchar Nigam Ltd.* [2012] 340 ITR 66 (Bom). It was incidentally also pointed out in this case that the expression "reason to believe" implies the existence of tangible materials, which alone can justify such belief, following *CIT v. Sun Engineering Works P. Ltd.* [1992] 198 ITR 297 (SC).

In another case, where an assessment originally made accorded with law, but the relief granted in this assessment had to be withdrawn because of retrospective amendment made later, there is no scope for reassessment in such a case as the assessment at the time it was made accorded with the then law as was decided in *CIT v. Saint Gobain Glass India Ltd.* [2020] 422 ITR 417 (Mad) following the decision of the Supreme Court in *CIT v. HCL Connet Systems and Services Ltd.* [2008] 305 ITR 409 (SC).

Interest

Grant from Government

In bringing to tax the amount of interest on surplus of Government grant over and above the actual expenses, so as to require refund of the amount with interest, the amount of interest on the balance in the bank, though retained after it has become due for refund, the accrued interest can be taken as additional grant in absence of any provision of refund of such interest by itself. On such a decision on the part of the Tribunal, no question of law can be understood to arise as was decided by the High Court in *Pr. CIT v. Punjab Police Housing Corporation Ltd.* [2020] 422 ITR 244 (P&H).

Search

Income from undisclosed sources

Where undisclosed income is discovered during the search at the premises of a partner of a real estate brokerage firm, an addition based upon

some loose sheets found during search was made to the extent of Rs. 78,88,222, upheld in first appeal and the Tribunal. On further appeal, the High Court found that the search had not revealed any document disclosing undisclosed amounts nor was any unaccounted cash found in the premises. There was no other record to justify the addition. When the matter went up to the High Court, it was found that there was nothing on record to justify the addition, so that the deletion was upheld by the High Court in *Navneet Jhamb v. Asst. CIT* [2020] 422 ITR 332 (P&H). While coming to the conclusion, the High Court referred to the decision in *K. P. Varghese v. ITO* [1981] 131 ITR 597 (SC), which places the burden of proof squarely on the Revenue. A similar view was taken as regards alleged on-money transaction by the Supreme Court in *CIT v. P. V. Kalyanasundaram* [2007] 294 ITR 49 (SC).

Post-search assessment

(i) Section 153A

Where there is a valid jurisdiction under section 153A on the basis of materials found during search, the assessment is open not only for the Assessing Officer but also for the assessee, so that any legitimate claim, even if it had not been raised in original assessment, can be raised during the proceedings under section 153A as was pointed out by the High Court in *Pr. CIT v. JSW Steel Ltd.* [2020] 422 ITR 71 (Bom) in the light of Circular No. 8 of 2003, dated September 18, 2003 [2003] 263 ITR (St.) 61 at 107, where the scope of post-search assessment under section 153A has been explained. The broad scope of proceedings under section 153A as understood by the Special Bench was, therefore, upheld by the High Court in this case on the ground that appeal filed by the Revenue does not give rise to any substantial question of law in questioning jurisdiction under section 153A of the Act.

(ii) Third-party jurisdiction

Where a search of a firm revealed undisclosed income of persons other than the firm and its partners, action against them as third parties under section 158BD is justified. So is the assessment in the status of Association of Persons (AOP), when the income of such persons is assessed in the same assessment. Levy of interest in such cases under section 158BFA(1) on the assessee in the status of AOP in the assessment under section 158BD is valid. It was so decided by the High Court in *Sri Venkatesha Bottles v. Asst. CIT* [2020] 422 ITR 284 (Karn). It has been found in this case that section 158BD was correctly applied in the light of clandestine parallel businesses by the assessee firm along with four other partners, so as to justify jurisdiction under section 158BD. The normal law relating to the firm under section 184 could not be applied, where there is discrepancy

between the partnership deed, which contained the names of five partners, while there were actually nine partners. It is under these circumstances, the jurisdiction under section 158BD and the consequent levy of interest under section 158BFA(1) was found to be valid.

(iii) Section 158BC

For invoking section 158BC, there should have been a search. It follows that it should be a valid search. If it is a valid search, the income discovered during such search is taxable. Where validity of the search is not established, the addition for undisclosed income solely based on materials found during invalid search could not be a valid one. On going through the records, the High Court noticed the computation of undisclosed income was not confined to materials found during search as the same materials were found in regular records of the assessee. It was found that the assessment in this case suffered from various defects. Warrant of authorisation for search was not produced before the Court in spite of an order fixing a time limit. It was also found that there was no seizure at all of any material, so that the jurisdiction under section 158BC itself was questionable. Further, the amount of undisclosed income related to years not covered by the search. It is under these circumstances, the block assessment was found to be invalid in *Ramnath Santu Angolkar v. Deputy CIT* [2020] 422 ITR 508 (Karn).

Recovery of tax

(i) Sale of attached properties

Where the matter of recovery by invoking section 179 of the Act has attained finality with the auction of immovable properties, there can be no grievance on alleged irregularities or illegalities after the proceedings under section 179 as was pointed out by the High Court in *Gauravbhai Hargovindbhai Dave v. TRO* [2020] 422 ITR 134 (Guj). In this case, a writ petition was filed by the directors of the company for quashing the order of attachment and proclamation of sale of property after the auction proceedings had attained finality. If there is any irregularity or illegality, it could have been questioned only during auction proceedings and not after the auction by way of a writ petition before the High Court. Incidentally, the High Court noticed that the writ applicants had also filed an application for rectification under section 154 to the Deputy Commissioner and that this could be subject matter of a hearing by the Deputy Commissioner and disposal of the petition under the law.

(ii) Stay of demand

Recovery proceedings undertaken by the authorities often becomes questionable, where the demand itself is in dispute in appeal with a strong case in

favour of the assessee or where the assessee is in such financial difficulties to justify postponement of liability. It is only where the authorities come to the conclusion that the recovery itself will be defeated, if coercive action is not taken, that they can refuse stay. The power of stay is to be exercised by the Department as a quasi-judicial authority vested with public duty, which would mean that while protecting the interests of the Revenue, the hardship of the assessee would require mitigation, were justified. The High Court, in *General Insurance Corporation of India v. Asst. CIT* [2020] 422 ITR 248 (Bom), discussed the law relating to the circumstances in which recovery proceedings are bound to be stayed. The Board Circular No. 530, dated March 6, 1989 [1989] 176 ITR (St.) 240 concedes stay of demand, where there are conflicting decisions of different Benches of the Tribunal or the High Court besides giving further guidelines, which can be taken to be illustrative.

In another case, disputed tax pending resolution, it was held, could be stayed, subject to conditions, where found necessary. In a case of a post-search assessment on a trust, which claimed exemption under section 10(23C)(vi) and section 11, but was found ineligible under both, an appeal against the cancellation of approval for exemption under section 10(23C)(vi) was also pending before the Tribunal, but the appeals were dismissed. Pending such dismissal, the demand was subject to a petition for stay against the order in first appeal before the Tribunal. Since coercive action was taken, the assessee filed writ petitions, which were dismissed as the law does not provide for interference with any proceedings before the Tribunal by the High Court. The assessments themselves cannot be questioned as they were telescoped by the appellate orders in first appeal and the Tribunal. Stay was sought before the Tribunal for the demand. But meanwhile the movables had been attached, so that the assessee filed a writ petition against the attachment of buses meant for facility of students. The attachment of the buses towards the pending demand was questioned by way of writ petition by the assessee-trust since the attachment of buses affected the students more, who cannot be made to suffer in a conflict between the assessee and the Department. It is under these circumstances, the writ petitions against attachment of buses were allowed by the High Court in *Prathyusha Educational Trust v. TRO* [2020] 422 ITR 291 (Mad). The High Court also directed the Department to deal with the stay petition afresh taking into consideration the interest of the students in the matter of attachment of buses. The High Court, while passing the order, pointed out that it had not concerned itself with the merits of the issue before the Tribunal but only with the stay petition, which has been decided in accordance with law.

Stay of disputed tax especially in the case of a high-pitched assessment is a matter to be seriously considered. There is a prima facie case for stay,

where the assessee had obtained exemption as a charitable institution being a registered society from 1973 onwards. The Department raised for the first time an objection during assessment year 2016-17 that the exemption was not justified due to some tenancy agreement with associated companies though this arrangement was continued from 1973. With the return of income for the year disclosing the tenancy, whatever be the justification for taking a different view in assessment, stay was bound to be granted as was held in *TVS Charities v. ITO (Exemptions)* [2020] 422 ITR 548 (Mad), so that the order refusing stay was quashed restraining further recovery action till the disposal of appeal within next three months.

(iii) Liability of directors

Section 179(1) provides for joint and several liability of directors of a private company for the dues of the company, subject to conditions. The provision provides for liability of the directors only when the taxes could not be recovered at all from the company. Where a notice issued is against the director for the dues of the company, notice should express the satisfaction that the amount had not become recoverable from the company. Notice is otherwise invalid as pointed out in *Sonal Nimish Patel v. Asst. CIT* [2020] 422 ITR 275 (Guj). At the same time, in this case, it was also pointed out, in the particular facts and circumstances of the case mentioned in an affidavit, where the recovery proceedings had been initiated prematurely, that it was open to the Department to prove by filing an affidavit-in-reply that the action taken is within the scope of section 179.

Refund

Condonation of delay

Where the assessee is entitled to refund, it is ordinarily expected that it will be granted by the Assessing Officer himself as soon as such right arises as on completion of assessment or appeal proceedings. Where it has not been done, it has to be granted on application by an assessee. Even if such application is delayed, such delay is required to be condoned as conceded by the instruction of the Central Board of Direct Taxes under section 119(2)(b) of the Act. Where the delay was not condoned by the Board on the ground that the delay was inordinate and suffered from laches, the High Court found that in such circumstances, the request for condonation of delay can be rejected. It is not that in every case, the application for condonation should be conceded. Where the delay was more than six years, the upper time limit fixed for condonation and the assessee had not explained the inordinate further delay, it was held that the refusal on the part of Central Board of Direct Taxes to condone the delay in the application for refund was justified as held by the High Court in *R. Ramakrishnan v. CBDT* [2020] 422

ITR 257 (Karn). The High Court pointed out, where the assessee petitioner had “slept over the matter” for a period of five years without any satisfactory reason therefor, that the Board was justified in declining to condone the delay in the facts and circumstances of the case.

Revision

Section 263

Mere error in an assessment order does not confer revisional jurisdiction on the Commissioner unless it causes prejudice to the Revenue. This is the law laid down by the Supreme Court in *Malabar Industrial Co. Ltd. v. CIT* [2000] 243 ITR 83 (SC), which was followed in *CIT v. Madura Coats Ltd.* [2020] 422 ITR 390 (Mad). Since there should be both error and prejudice, mere prejudice to the Revenue may not justify revisional jurisdiction as was noticed in the facts of this case in a matter of working of relief under section 80HHC. In this case, where the assessee had independent source of income like rent, commission, brokerage, etc., requiring 90% of such income to be reduced from gross total income to arrive at business income, any failure to observe the correct head of income may result in erroneous conclusion in respect of admissible expenditure, so that the mistakes in this regard can justify revisional jurisdiction.

In the same case, where the assessee had income from processing raw cashewnuts for third parties, which having nothing to do with the assessee’s export business, was treated by the assessee as merely incidental, there could be an error falling under revisional jurisdiction, where an income not falling under export profits has been wrongly accepted. In computation of export profits not all receipts can be attributed to exports. Indirect taxes like excise duty cannot be included as part of export turnover as was also decided in this case following *CIT v. Lakshmi Machine Works* [2007] 290 ITR 667 (SC). At the same time, it was also pointed out that every mistake or error is not covered by jurisdiction as pointed out in *Malabar Industrial Co. Ltd.’s* case (supra). It is on application of this law, the Tribunal order setting aside the Commissioner’s revisional order was upheld by the High Court.

Tax collection at source

Tendu leaves

Tax collection at source is attracted in respect of any payment for processing, where the tax is collected from the recipient of the service. Exemption, however, is permitted under section 206C. But payments for trading in alcoholic liquor, forest produce, scrap, etc., are outside the purview of this tax. In view of the exception for goods utilised for manufacturing, processing or producing articles or things, this exemption has to be construed strictly with the burden on the assessee. Where the processing is an inter-

mediary process in the course of manufacture, the application of provision is spared. The interpretation of this provision came up in the case of tendu (leaves) used for manufacture of beedies. The processor himself being exempt, the liability being confined to traders by a circular dated January 10, 1996, the validity of which was challenged by an association in the case of *Gondia Beedi Leaves Contractors Association v. Union of India* [2020] 422 ITR 404 (Bom). But the challenge was unsuccessful in view of the activities of the contractors involved during sprinkling of water to maintain moisture, sorting out and screening leaves, bundling them and preserving the quality and colour. In spite of all these activities, tendu leaves did not lose their character as tendu leaves. Since the assessee was not manufacturing beedies, the exemption from tax collection at source under section 206C was held unavailable as no processing was involved as the activities undertaken by assessee did not constitute processing. The High Court in this case relied upon the decision of the Supreme Court in *Chowgule and Co. P. Ltd. v. Union of India* [1981] 1 SCC 653 for its conclusion that unless the processing results in bringing about a different produce, the matter is not covered for taxation. Processing only, where it is understood as an intermediary process as in the case of manufacture of beedies, exemption could be availed of and not where the assessee merely purchases tendu leaves from forest department of the State Government.

Tribunal

Its powers

The Tribunal can recall its order, where the original assessment had been made without opportunity to the parties concerned or wrongly decided ex parte for non-prosecution. In such case, where there has been no adjudication, the power of the Tribunal to recall the order made earlier would be justified as was decided after a review of some precedents on the subject especially one rendered by the Supreme Court in *Sree Ayyanar Spinning and Weaving Mills Ltd. v. CIT* [2008] 301 ITR 434 (SC). The High Court, for its conclusion in *Golden Times Services Pvt. Ltd. v. Deputy CIT* [2020] 422 ITR 102 (Delhi), relied upon the decisions of the Supreme Court in *D. Saibaba v. Bar Council of India* [2003] 6 SCC 186, *Raja Harish Chandra Raj Singh v. Deputy Land Acquisition Officer*, AIR 1961 SC 1500, *Assistant Transport Commissioner (Administration) v. Nand Singh* [1979] 4 SCC 19 and *Raj Kumar Dey v. Tarapada Dey* [1987] 4 SCC 398. It also pointed out to the decision of the Supreme Court in *CIT v. S. Chenniappa Mudaliar* [1969] 74 ITR 41 (SC).

Penalty

Section 271(1)(c)

Penalty in international transaction may require reference to the Double Taxation Avoidance Agreements, if any, between the two countries in actions giving rise to penalty. In a matter of income covered by the Double Taxation Avoidance Agreements between India and Japan, the assessee questioned in a group of cases in *Toyota Kirloskar Motor P. Ltd. v. Union of India* [2020] 422 ITR 138 (Karn), the validity of section 271(1)(c) itself in respect of such income. The High Court dismissed the petition on the finding that there is no absolute bar for levy of concealment penalty under the agreement. All that the assessee has to do is to show that there was due diligence on his part and the exercise of good faith, so that the omission does not automatically justify levy of penalty. There is absolutely no bar for levy of penalty merely because income may be covered by the Double Taxation Avoidance Agreements. Levy of penalty always involves questions of fact to be considered on merits and not considered to be immune from penalty in the context of the Double Taxation Avoidance Agreements between India and Japan, where there is no bar against levy of penalty, which is otherwise justified. Reference was made to the Supreme Court decision in *CIT v R. M. Muthaiah* [1993] 202 ITR 508 (Karn), where it was explained that the law including one of penalty would require to be enforced following the principles laid down by the Supreme Court in *Union of India v. Azadi Bachao Andolan* [2003] 263 ITR 706 (SC). Penalty in such cases depends on facts of the case. Unless there is a bar in the agreement, penalty cannot be avoided. It was under these circumstances, writ petitions filed by a group of two non-residents were dismissed with direction both to the Assessing Officer and the appellate authorities to consider the merits of the case in accordance with law.

Jay Chemical Industries Ltd.'s case

The following issues were decided by the High Court in *Pr. CIT v. Jay Chemical Industries Ltd.* [2020] 422 ITR 449 (Guj).

Exemption under section 80-IA : Section 80-IA allows relief for industrial undertakings engaged in production of power. The question, whether steam produced could be treated as power on par with electricity, wind or thermal energy came up before the High Court in this case. The issue in this case related to generation of steam, which was accepted as energy constituting a power, so as to be eligible for relief under section 80-IA(4).

Disallowance under section 14A : Assessee had incurred expenditure on interest to the extent of Rs.32,64,147 as capital expenditure towards capital work-in-progress, so that it has necessarily to be capitalised and could not be allowed as a deduction as decided by the Tribunal and upheld by the High Court.

Interest on borrowed capital : Additional interest cannot be disallowed as different following the guidelines issued by the chartered accountants. The High Court found that the Tribunal order did not involve any question of law to justify the interference.

Lakshmi Machine Works Ltd.'s case

The following issues were decided by the High Court in *CIT v. Lakshmi Machine Works Ltd.* [2020] 422 ITR 540 (Mad).

(1) *Carry-forward and set-off of losses in the case of amalgamation* : Where Sick Industrial Companies (Special Provisions) Act, 1985 was in force, the accumulated loss and unabsorbed depreciation could be availed of by the amalgamated company under the above special Act.

Where the carried-forward loss was allowed to the amalgamated company, the Commissioner acting under his revisional jurisdiction under section 263 felt the adjustments as unjustified. The objection of the Commissioner was regarding the claim for additional depreciation, which was allowed. According to the Commissioner, this was not admissible as the assessee was not in the business of production and generation of electricity by setting up windmills. But then section 32(1)(ia) entitled the assessee to additional depreciation, so that revisional order in assuming the set off and deduction of additional depreciation to be unlawful, was found to be erroneous in the light of section 72A, which permitted such set off, while additional depreciation was a matter of right under section 32(1)(ia) of the Act.

Since reference has been made to the Sick Industrial Companies (Special Provisions) Act, 1985 which required approval of the Board for Industrial and Financial Reconstruction (BIFR) in absence of which, the set off was felt to be incorrect, the exercise of power of revision under section 263 was justified. Such approval being no longer a requirement, the Tribunal decided both issues in favour of the assessee.

(2) *Revision* : As regards revisional order under section 263, it was found that the revisional order did not show that the assessment order was both erroneous and prejudicial, so that it was liable to be set aside following *Indian Shaving Products Ltd. v. BIFR* [1996] 218 ITR 140 (SC) and *CIT v. Lakshmi Machine Works Ltd.* [2020] 422 ITR 235 (Mad).

(3) *Depreciation* : The High Court held that the Tribunal was also right in confirming the deduction of additional depreciation for purchase of windmills, since section 32(1)(ia) would permit such deduction, though the assessee was not in the business of production and generation of electricity. In coming to this conclusion, it followed the decision in *CIT v. VTM Ltd.* [2009] 319 ITR 336 (Mad).

End of Volume 423

THE INCOME TAX REPORTS

THE DIRECT TAX LAW WEEKLY

FOUNDED IN 1933

BY

A. N. AIYAR

[English Cases which appear are reprinted from The Law Reports and The Weekly Law Reports by special permission of the Incorporated Council of Law Reporting for England and Wales, London, U. K.]

EDITORS :

LAKSHMI R. SUNDARESAN, M.A., B.A.L.

T. A. RAMAKRISHNAN, B.Sc., B.L.
Advocate, High Court, Madras.

AMBUJAM VENKATARAMAN, M. A., LL.B.
Advocate, High Court, Madras.

T. N. CHANDRASHEKAR, B.Sc., B.L., M.B.A.
Advocate, High Court, Madras.

MODE OF CITATION

Statutes : [2020] 423 ITR (St.)

Reports : [2020] 423 ITR

VOLUME 423

2020

COMPANY LAW INSTITUTE OF INDIA PRIVATE LTD.,
2, VAITHYARAM STREET,
CHENNAI-600 017.

Reporters :

<i>Supreme Court</i>	... Mrs. Rajani Krishnaprasad, Advocate
<i>Allahabad High Court</i>	... Praveen Kumar Misra, Advocate
<i>(Lucknow Bench)</i>	... D. D. Chopra, Advocate
<i>Andhra Pradesh High Court</i>	... S. Dwarakanath, Advocate
<i>Bombay High Court</i>	... Dr. Birendra Saraf, Advocate
<i>Bombay High Court</i>	
<i>(Nagpur Bench)</i>	... C. J. Thakar & N. J. Thakar, Advocates
<i>(Panaji Bench : Goa)</i>	... Mrs. Shanta G. Amonkar, Advocate
<i>Calcutta High Court</i>	... Dilip Roy Chowdhury, Advocate
<i>Chhattisgarh High Court</i>	... Neelabh Dubey, Advocate
<i>Delhi High Court</i>	... Mrs. Rajani Krishnaprasad, Advocate
<i>Gauhati High Court</i>	... Dr. Ashok K. Saraf, Advocate
<i>Gujarat High Court</i>	... Manish K. Kaji, Advocate
<i>Himachal Pradesh High Court</i>	... Kapil Dev Sood & Sanjeev Sood, Advocates
<i>Jammu & Kashmir High Court</i>	...
<i>Jharkhand High Court</i>	... K. K. Jhunjunwala, Advocate
<i>Karnataka High Court</i>	... K. V. Siva Prasad, Advocate
<i>Kerala High Court</i>	... Ajay V. Anand, Advocate
<i>Madhya Pradesh High Court</i>	... Sumit Nema, Senior Advocate
<i>Madhya Pradesh High Court</i>	
<i>(Gwalior Bench)</i>	... D. D. Bansal, Advocate
<i>(Indore Bench)</i>	... Mohammed Altaf Khan, Advocate
<i>Madras High Court</i>	... Ramasamy, K., Advocate
<i>Orissa High Court</i>	... Siddhartha Ray, Advocate
<i>Patna High Court</i>	... Sushanta Kumar Das, Advocate
<i>Punjab & Haryana High Court</i>	... Dr. N. L. Sharda, Advocate
<i>Rajasthan High Court</i>	... Lekh Raj Mehta, Advocate
<i>Rajasthan High Court</i>	
<i>(Jaipur Bench)</i>	... Narendra Kumar Baid, Advocate
<i>Sikkim High Court</i>	... N. K. P. Saraf, Advocate
<i>Uttarakhand High Court</i>	... Surendra Kumar Posti, Advocate

CONTENTS

	PAGES
1. TABLE OF CASES REPORTED . . .	i — iv
2. TABLE OF CASES CITED . . .	v — xvii
3. INDEX TO JOURNAL SECTION . . .	xviii
4. INDEX TO STATUTES, RULES, CIRCULARS AND NOTIFICATIONS . . .	xviii — xx
5. JOURNAL SECTION . . .	1 — 80
6. STATUTES, RULES, CIRCULARS AND NOTIFICATIONS . . .	1 — 76
7. REPORTS OF CASES . . .	1 — 660
8. SUBJECT INDEX . . .	i — xxix
9. SECTIONWISE INDEX . . .	xxx — lii



Disclaimer : While every effort has been made to ensure that this journal/book is free from errors or omissions, the authors, editors, publishers, printers, the company and/or its directors and other officers, shall not be liable in any manner whatsoever for any action taken or omitted to be taken, opinions expressed, advice rendered or accepted based on any materials or information published in this journal/book.

Views expressed by the editors in the notes and comments and by authors in the articles published in the Journal section are exclusively their own.

Published by S. Ayyappan on behalf of Company Law Institute of India Pvt. Ltd.,
No. 2 (old No. 36), Vaithyaram Street, T. Nagar, Chennai-600 017
and printed by him at Company Law Institute Press, No. 2 (old No. 36),
Vaithyaram Street, T. Nagar, Chennai-600 017.

**THE
INCOME TAX REPORTS
VOLUME 423 — 2020**

TABLE OF CASES REPORTED

		PAGE
Amol C. Shah (HUF) <i>v.</i> ITO	(Bom)	408
Belgaum Urban Development Authority <i>v.</i> CIT	(Karn)	373
Bharat Mehta (Dr.) <i>v.</i> Deputy CIT	(Mad)	568
Bhupendra Murji Shah <i>v.</i> Deputy CIT	(Bom)	300
Canbank Financial Services Ltd. <i>v.</i> Chief CIT	(Karn)	113
CIT <i>v.</i> AKZO Noble India Ltd.	(Cal)	208
CIT (Principal) <i>v.</i> Aker Powergas Pvt. Ltd.	(Bom)	536
CIT (Principal) <i>v.</i> Akshay Sobti	(Delhi)	321
CIT (Principal) <i>v.</i> Andrew Telecommunications P. Ltd.	(Bom)	503
CIT (Principal) <i>v.</i> Aristo Pharmaceuticals P. Ltd.	(Bom)	295
CIT (Principal) <i>v.</i> Ashok Apparels (P.) Ltd.	(Bom)	412
CIT <i>v.</i> Ashok Leyland Finance Ltd.	(Mad)	394
CIT (TDS) <i>v.</i> Asian Heart Institute and Research Centre Pvt. Ltd.	(Bom)	75
CIT (Principal) <i>v.</i> Binod Kumar Singh	(Bom)	175
CIT <i>v.</i> Chetak Enterprises Pvt. Ltd.	(SC)	267
CIT (Principal) <i>v.</i> Dakshin Haryana Bijli Vitran Nigam Ltd.	(P&H)	402
CIT <i>v.</i> Endeka Ceramics (India) Pvt. Ltd.	(Karn)	117
CIT (Principal) <i>v.</i> Govind Gopal Goyal	(Guj)	106
CIT (Principal) <i>v.</i> Gujarat Narmada Valley Ferti- lizer and Chemicals Ltd.	(Guj)	54

ii	INCOME TAX REPORTS	[VOL. 423
		PAGE
CIT (Principal) <i>v.</i> Hari Om Stones	(Raj)	198
CIT (Principal) <i>v.</i> Himalayan Expressway Ltd.	(P&H)	40
CIT (Principal) <i>v.</i> Hindustan Oil Exploration Co. Ltd.	(Bom)	465
CIT <i>v.</i> Jagadeeswari (A.) (Smt.)	(Mad)	8
CIT (TDS) <i>v.</i> Jeevan Telecasting Corporation Ltd.	(Ker)	496
CIT (Principal) <i>v.</i> Kesoram Industries Ltd.	(Cal)	180
CIT (Principal) <i>v.</i> Krome Planet Interiors Pvt. Ltd.	(Bom)	62
CIT (Principal) <i>v.</i> Lee and Muirhead Pvt. Ltd.	(Bom)	167
CIT (Principal) <i>v.</i> Pradeep Sobti	(Delhi)	321
CIT <i>v.</i> Purushothaman (M. P.)	(Mad)	248
CIT (Principal) <i>v.</i> Rajasthan Co-operative Dairy Federation Ltd.	(Raj)	89
CIT <i>v.</i> Rane TRW Steering Systems Ltd.	(Mad)	291
CIT (LTU) <i>v.</i> Reliance Industries Ltd.	(Bom)	236
CIT, LTU <i>v.</i> Royal Sundaram Alliance Insurance Co. Ltd.	(Mad)	122
CIT <i>v.</i> Sant Lal	(Delhi)	1
CIT (Principal) <i>v.</i> Smt. Seema Sobti	(Delhi)	321
CIT (Principal) (Exemptions) <i>v.</i> Shri Nathji Goverdhan Nathji Charitable Trust	(Cal)	69
CIT (Principal) <i>v.</i> Shapoorji Pallonji and Co. Ltd.	(Bom)	220
CIT <i>v.</i> South India Corporation Ltd.	(Ker)	158
CIT (Principal) <i>v.</i> Suzlon Energy Ltd.	(Guj)	608
CIT (Principal) <i>v.</i> Torrent Private Limited	(Guj)	455
CIT (Exemptions) <i>v.</i> United Way of Baroda	(Guj)	596
CIT (Principal) <i>v.</i> Vardhman Chemtech P. Ltd.	(P&H)	241
CIT (Principal) <i>v.</i> Vilson Particle Board Industries Ltd.	(Bom)	227
CIT (Principal) <i>v.</i> Yash Associates	(Bom)	215
CIT (Principal) <i>v.</i> Zee Media Corporation Ltd.	(Bom)	304
Deccan Agency <i>v.</i> Deputy CIT	(Mad)	418
DIT (Exemptions) <i>v.</i> Krupnidhi Education Trust	(Karn)	616

2020]	TABLE OF CASES REPORTED	iii
		PAGE
Ernakulam District Co-operative Bank Ltd. <i>v.</i> CIT	(Ker)	308
FCI Technologies Services Ltd. <i>v.</i> Asst. CIT	(Ker)	368
Fiitjee Ltd. <i>v.</i> Principal CIT	(Delhi)	354
Gangothri Textiles Ltd. <i>v.</i> Asst. CIT	(Mad)	382
Gaurav Triyugi Singh <i>v.</i> ITO	(Bom)	531
GE Energy Parts Inc. <i>v.</i> Deputy CIT	(Delhi)	93
GE Engine Services Distribution LLC <i>v.</i> Deputy CIT	(Delhi)	93
GE Japan Ltd. <i>v.</i> CIT	(Delhi)	93
Hitachi Power Europe GmbH <i>v.</i> ITSC	(Mad)	472
IDS Infotech Ltd. <i>v.</i> Principal CIT	(P&H)	82
Kapadia Money Changers Pvt. Ltd. <i>v.</i> Asst. CIT	(Guj)	633
Kerala State Co-operative Agricultural and Rural Development Bank Ltd. <i>v.</i> Deputy CIT	(Ker)	350
Khem Chand Mukim <i>v.</i> Principal DIT (Investiga- tion)	(Delhi)	129
Kumar Rajaram <i>v.</i> ITO (International Taxation)	(Mad)	185
Lunawat Gems Corporation <i>v.</i> CIT	(Raj)	171
Mahender Pal Narang <i>v.</i> CBDT	(P&H)	13
Malanadu Tourist Home <i>v.</i> CIT	(Ker)	262
Multi Commodity Exchange of India Ltd. <i>v.</i> Dep- uty CIT	(Bom)	445
Nirai Mathi Azhagan (K.) <i>v.</i> Union of India	(Mad)	339
Nuovo Pignone <i>v.</i> Deputy CIT	(Delhi)	93
PEB Steel Lloyd (India) Ltd. <i>v.</i> Principal Chief CIT	(MP)	29

iv	INCOME TAX REPORTS	[VOL. 423
		PAGE
Perfect Circle India Ltd. <i>v.</i> Asst. CIT	(Bom)	65
Prasad Multi Services Private Ltd. <i>v.</i> Deputy CIT	(Guj)	542
Rajasthan State Industrial Development and Investment Corporation Ltd. <i>v.</i> Asst. CIT	(Raj)	625
Ram Ji Lal Meena <i>v.</i> ITO	(Raj)	439
Salem Sree Ramavilas Chit Co. Pvt. Ltd. <i>v.</i> Dep- uty CIT	(Mad)	525
Samdariya Builders Pvt. Ltd. <i>v.</i> ITSC	(MP)	203
Sesa Goa Ltd. <i>v.</i> Joint CIT	(Bom)	426
Shashi Garg <i>v.</i> Principal CIT	(Delhi)	150
Siva Equipment P. Ltd. <i>v.</i> Asst. CIT	(Bom)	20
Skyview Consultants Pvt. Ltd. <i>v.</i> ITO	(Delhi)	645
Subhash Sharma <i>v.</i> CIT	(Chhattisgarh)	47
Suman Poddar <i>v.</i> ITO	(Delhi)	480
Sumeru Soft P. Ltd. <i>v.</i> ITO	(Mad)	518
Super Malls Private Limited <i>v.</i> Principal CIT	(SC)	281
Suresh Kumar T. Jain <i>v.</i> ITO	(Karn)	489
Tenzing Match Works <i>v.</i> Deputy CIT	(Mad)	312
Tropex Promotion and Trading Ltd. <i>v.</i> CIT	(Delhi)	510
Yenepoya Resins and Chemicals <i>v.</i> Deputy CIT	(Karn)	161

TABLE OF CASES CITED

	PAGE
A. G. S. Tiber and Chemicals Industries P. Ltd. v. CIT [1998] 233 ITR 207 (Mad) <i>applied</i>	426
AGR Investment Ltd. v. Addl. CIT [2011] 333 ITR 146 (Delhi)	645
A. P. Steel Re-Rolling Mill Ltd. v. State of Kerala [2007] 2 SCC 725	321
Abdul Rahim v. ITSC [2018] 408 ITR 467 (Mad) <i>distinguished</i>	472
Ahmedabad Electricity Co. Ltd. v. CIT [1993] 199 ITR 351 (Bom) [FB]	20, 426
Ahmedabad Urban Development Authority v. Asst. CIT (Exemptions) [2017] 396 ITR 323 (Guj)	373
Ajanta Industries v. CBDT [1976] 102 ITR 281 (SC)	82
Alembic Chemical Works Co. Ltd. v. CIT [1989] 177 ITR 377 (SC) <i>applied</i>	158
Alpasso Industries (P) Ltd. v. ITO [2019] 410 ITR 212 (Delhi)	354
Amway India Enterprises v. Deputy CIT [2008] 301 ITR (A.T.) 1 (Delhi) [SB]	536
Andaman Timber Industries v. CCE [2016] 38 GSTR 117 (SC)	489
Areva T and D India Ltd. v. Asst. CIT [2010] 326 ITR 540 (Mad)	321
Arunachalam (R. M.) v. CIT [1997] 227 ITR 222 (SC) <i>distinguished</i>	185
Ashok Leyland Finance Limited v. Asst. CIT [1997] 59 TTJ (Mad) 736	394
Ashok Prasad Gupta v. CIT (I. T. A. No. 282 of 2012, dated 13-9-2012)	1
Associated Cement Companies Ltd. v. State of Bihar [2004] 7 SCC 642	321
Atul G. Puranik v. ITO [2011] 11 ITR (Trib) 120 (Mumbai)	439
B. Malini and Co. v. CIT [1995] 214 ITR 192 (Bom) <i>distinguished</i>	312
B. S. E. Brokers' Forum v. Securities and Exchange Board of India [2001] 104 Comp Cas 506 (SC)	339
Balakrishnan Nair (C.) (Dr.) v. CIT [1999] 237 ITR 70 (Ker)	568
Berger Paints India Ltd. v. CIT [2004] 266 ITR 99 (SC)	542
Bharat Earth Movers v. CIT [2000] 245 ITR 428 (SC)	122
Brig. Sukhjeet Singh v. State of UP [2019] SCC Online SC 72 <i>relied on</i>	382
Cambay Electric Supply Industrial Co. Ltd. v. CIT [1978] 113 ITR 84 (SC)	350
Cenzer Industries Ltd. v. ITO (I. T. A. (L) Nos. 2079 and 2077 of 2014, dated 15-1-2016) <i>relied on</i>	65
Chakra Financial Services Ltd. v. CIT [2013] 350 ITR 396 (AP)	394

vi	INCOME TAX REPORTS	[VOL. 423
		PAGE
Chambal Fertilisers and Chemicals Ltd. v. CIT (Income Tax Appeal No. 52 of 2018, dated 31-7-2018) (Raj)		426
Charan Pal Singh v. CIT [2008] 307 ITR 132 (P&H)		82
Checkmate Facility and Electronic Solutions Pvt. Ltd. v. Deputy CIT (Tax Appeal No. 1256 of 2018, dated 15-10-2018)		608
Cheminvest Ltd. v. CIT [2015] 378 ITR 33 (Delhi)		241, 412
Chetak Enterprises P. Ltd. v. Asst. CIT [2006] 281 ITR (AT) 162 (Jodhpur)		267
City Corporation of Calicut v. Thachambalath Sadasivan [1985] 2 SCC 112 ; [1985] SCC (Tax) 211		339
Clagett Brachi Co. Ltd. v. CIT [1989] 177 ITR 409 (SC)		510
Collector, Land Acquisition v. Mst. Katiji [1987] 167 ITR 471 (SC)		65
Commissioner of Commercial Taxes v. Ramkishan Shrikishan Jhaver [1967] 66 ITR 664 (SC)		47
Commissioner v. Mahindra and Mahindra Ltd. [2018] 404 ITR 1 (SC)		236
Commissioner, Trade Tax v. DSM Group of Industries [2005] 1 SCC 657		321
Commissioners of Inland Revenue v. John Blott [1921] 8 T.C. 101 (HL)		412
Commr. and Secy. to Govt., Commercial Taxes and Religious Endowments Department v. Sree Murugan Financing Corporation [1992] 3 SCC 488		339
CCE v. Favourite Industries [2012] 7 SCC 153		321
CCE v. Ginni Filaments Ltd. [2005] 3 SCC 378		117
CCE v. Ratan Melting and Wire Industries [2008] 12 STR 416 (SC)		241
CIT (Dy.) v. Ace Multi Axes Systems Limited [2018] 400 ITR 141 (SC)		117
CIT v. Alpana Talkies [1983] 139 ITR 1055 (Bom)		542
CIT v. Alvares and Thomas [2017] 394 ITR 647 (Karn)		489
CIT v. Andhra Pradesh State Road Transport Corporation [1986] 159 ITR 1 (SC)		373
CIT v. Artex Manufacturing Co. [1997] 227 ITR 260 (SC)		208
CIT v. Arvinda Reddy (T.N.) [1979] 120 ITR 46 (SC)		321
CIT v. Ashok Leyland Finance Ltd. [2012] 210 Taxman 95 (Mad)		394
CIT v. Bagalkot Town Development Authority [2015] SCC Online Karn 6951		373
CIT v. Bajaj Allianz General Insurance Co. Ltd. [2016] 76 taxmann.com 308 (Bom) <i>relied on</i>		122
CIT v. Balbir Singh Maini [2017] 398 ITR 531 (SC) <i>followed</i>		518
CIT v. Bharati C. Kothari (Smt.) [2000] 244 ITR 352 (Cal)		321
CIT v. Bharti Cellular Ltd. [2011] 330 ITR 239 (SC)		496
CIT v. Bharti Mishra [2014] 265 CTR (Delhi) 374		321

2020]	TABLE OF CASES CITED	vii
		PAGE
CIT <i>v.</i> Bipinchandra Chimanlal Doshi [2017] 395 ITR 632 (Guj)		281
CIT <i>v.</i> Bombay Samachar Ltd. [1969] 74 ITR 723 (Bom)		161
CIT <i>v.</i> Bush Boake Allen (India) Ltd. [1982] 135 ITR 306 (Mad)		536
CIT <i>v.</i> Calcutta Knitwears [2014] 362 ITR 673 (SC)		281
CIT <i>v.</i> Chetak Enterprises P. Ltd. [2010] 325 ITR 405 (Raj) <i>approved</i>		267
CIT <i>v.</i> Chhabil Dass Agarwal [2013] 357 ITR 357 (SC)		93
CIT <i>v.</i> Chidambaranatha Mudaliar (R.) [1999] 240 ITR 552 (Mad) <i>distinguished</i>		418
CIT (Dy.) <i>v.</i> Control Risks India Pvt. Ltd. (Special Leave Petition (Civil) No. 7090 of 2018)		503
CIT <i>v.</i> Coromandel Industries Ltd. [2015] 370 ITR 586 (Mad)		321
CIT <i>v.</i> Cutchi Memon Union [1985] 155 ITR 51 (Karn)		616
CIT <i>v.</i> Dakshin Haryana Bijli Vitran Nigam Ltd. (I. T. A. No. 209 of 2014, dated 1-10-2014) <i>followed</i>		402
CIT <i>v.</i> Dalmia Cement Ltd. [1945] 13 ITR 415 (Patna)		312
CIT <i>v.</i> Dilip Singh Sardarsingh Bagga [1993] 201 ITR 995 (Bom)		542
CIT <i>v.</i> Echjay Forgings Pvt. Ltd. [2001] 251 ITR 15 (Bom)		236
CIT <i>v.</i> Eli Lilly and Co. (India) P. Ltd. [2009] 312 ITR 225 (SC)		496
CIT <i>v.</i> Escorts Tractors Ltd. [2015] 56 taxmann.com 333 (Delhi) <i>relied on</i>		312
CIT <i>v.</i> Excel Industries Ltd. [2013] 358 ITR 295 (SC)		542, 625
CIT <i>v.</i> Express Newspaper Ltd. [1994] 206 ITR 443 (SC)		472
CIT <i>v.</i> Forbes Campbell Finance Ltd. [2013] 352 ITR 602 (Mad)		291
CIT <i>v.</i> Gabriel India Ltd. [1993] 203 ITR 108 (Bom)		185, 198
CIT <i>v.</i> Geo Tech Construction Corporation [2000] 244 ITR 452 (Ker) <i>relied on</i>		312
CIT <i>v.</i> Ghanshyam (HUF) [2009] 315 ITR 1 (SC) <i>distinguished</i>		13
CIT <i>v.</i> Gotla (J. H.) [1985] 156 ITR 323 (SC)		117, 321
CIT (TDS) <i>v.</i> Grant Medical Foundation (Ruby Hall Clinic) [2015] 375 ITR 49 (Bom)		75
CIT <i>v.</i> Greenfield Hotels and Estates Pvt. Ltd. [2016] 389 ITR 68 (Bom)		439
CIT <i>v.</i> Gujarat Maritime Board [2007] 295 ITR 561 (SC)		373
CIT (Pr.) <i>v.</i> Gujarat Narmada Valley Fertilizer and Chemicals Ltd. [2019] 416 ITR 144 (Guj) <i>followed</i>		54
CIT <i>v.</i> Gujarat State Road Transport Corporation [2014] 366 ITR 170 (Guj)		608
CIT <i>v.</i> Gulshan Mercantile Urban Co-operative Bank Ltd. [2013] 29 taxmann.com 8 (All)		350
CIT <i>v.</i> Gupta Abhushan P. Ltd. [2009] 312 ITR 166 (Delhi)		645
CIT (Addl.) <i>v.</i> Gurjargravures P. Ltd. [1978] 111 ITR 1 (SC)		20, 368

viii	INCOME TAX REPORTS	[VOL. 423
		PAGE
CIT <i>v.</i> Gurupada Dutta [1946] 14 ITR 100 (PC)		426
CIT <i>v.</i> HCL Comnet Systems and Services Ltd. [2008] 305 ITR 409 (SC)		455
CIT <i>v.</i> HDFC Bank Ltd. [2014] 366 ITR 505 (Bom)		412
CIT <i>v.</i> Hi Tech Arai Ltd. [2010] 321 ITR 477 (Mad)		312
CIT <i>v.</i> Hilla J. B. Wadia (Mrs.) [1995] 216 ITR 376 (Bom)		321
CIT <i>v.</i> Hindustan Housing and Land Development Trust Ltd. [1986] 161 ITR 524 (SC)		625
CIT <i>v.</i> Holcim India (P.) Ltd. [2014] 272 CTR (Delhi) 282		241
CIT (Principal) <i>v.</i> IL and FS Energy Development Co. Ltd. [2017] 399 ITR 483 (Delhi)		241
CIT <i>v.</i> Imperial Chemical Industries (India) (P.) Ltd. [1969] 74 ITR 17 (SC)		185
CIT <i>v.</i> Indian Petrochemicals Corporation Ltd. [2017] 10 ITR-OL 275 (Guj)		455
CIT <i>v.</i> Industrial Engineering Projects Pvt. Ltd. [1993] 202 ITR 1014 (Delhi)		122
CIT <i>v.</i> Institute of Banking [2003] 264 ITR 110 (Bom)		616
CIT <i>v.</i> Jaichander (C.) [2015] 370 ITR 579 (Mad)		321
CIT <i>v.</i> Jasvinder Kaur (Smt.) [2013] 357 ITR 638 (Gauhati)		480
CIT <i>v.</i> Kabra (G. K.) [1995] 211 ITR 336 (AP)		180
CIT <i>v.</i> Kanpur Coal Syndicate [1964] 53 ITR 225 (SC)		20
CIT <i>v.</i> Kelvinator of India Ltd. [2010] 320 ITR 561 (SC)		510
do. <i>v.</i> do. <i>followed</i>		304
CIT <i>v.</i> Kirloskar Systems Ltd. [2013] 40 taxmann.com 124 (Karn)		455
CIT <i>v.</i> Kisenchand Chellaram (India) (P.) Ltd. [1981] 130 ITR 385 (Mad)		536
CIT <i>v.</i> Kotak Securities Ltd. [2012] 340 ITR 333 (Bom)		167
CIT <i>v.</i> Kotak Securities Ltd. [2016] 383 ITR 1 (SC)		167
CIT <i>v.</i> Kuldeep Singh [2014] 270 CTR (Delhi) 561		321
CIT <i>v.</i> Lakhani Marketing Incl. [2015] 4 ITR-OL 246 (P&H)		241
CIT <i>v.</i> Lakhmi Chand (I. T. A. No. 1124 of 2017, dated 8-12-2017)		1
CIT (Pr.) <i>v.</i> Larsen and Toubro Ltd. [2018] 403 ITR 248 (Bom) <i>relied on</i>		312
CIT <i>v.</i> Lord Krishna Bank Ltd. [2011] 339 ITR 606 (Ker)		308
CIT <i>v.</i> Lucknow Development Authority [2014] 98 DTR 183 (All)		373
CIT <i>v.</i> Madan Gopal Radhey Lal [1969] 73 ITR 652 (SC)		412
CIT <i>v.</i> Mahabir Prasad Gupta (I. T. A. No. 814 of 2015, dated 20-10-2015)		1
CIT <i>v.</i> Malayala Manorama Co. Ltd. [2018] 409 ITR 358 (Ker)		368
CIT <i>v.</i> Maps Tours and Travels [2003] 260 ITR 655 (Mad) <i>distinguished</i>		312

2020]	TABLE OF CASES CITED	ix
		PAGE
	CIT (Asst.) <i>v.</i> Micro Labs Ltd. [2016] 380 ITR 1 (SC)	161
	CIT <i>v.</i> Minalben S. Parikh (Smt.) [1995] 215 ITR 81 (Guj)	198
	CIT <i>v.</i> Morgan Finvest Pvt. Ltd. [2014] 2 ITR-OL 219 (Delhi) <i>distin- guished</i>	40
	CIT <i>v.</i> Motors and General Stores P. Ltd. [1967] 66 ITR 692 (SC)	426
	CIT <i>v.</i> Mugneeram Bangur and Co. (Land Department) [1965] 57 ITR 299 (SC)	208
	CIT <i>v.</i> Munisuvrat Jain [1994] Tax LR 1084 (Bom)	616
	CIT (Dy.) <i>v.</i> Nagarjuna Investment Trust Limited [1998] 65 ITD 17 (Hyd) [SB]	394
	CIT <i>v.</i> Narayana Pai (T.) [1975] 98 ITR 422 (Karn)	198
	CIT <i>v.</i> Narendra Doshi [2002] 254 ITR 606 (SC)	542
	CIT <i>v.</i> Naroda Enviro Projects Ltd. [2019] 419 ITR 482 (Guj)	596
	CIT <i>v.</i> Narsee Nagsee and Co. [1960] 40 ITR 307 (SC) <i>relied on</i>	106
	CIT <i>v.</i> Neo Poly Pack P. Ltd. [2000] 245 ITR 492 (Delhi)	542
	CIT <i>v.</i> Nidish Transport Corporation [1990] 185 ITR 669 (Ker)	542
	CIT <i>v.</i> Nipun Builders and Developers Pvt. Ltd. [2013] 350 ITR 407 (Delhi)	480
	CIT (Principal) <i>v.</i> NTPC Sail Power Co. P. Ltd. [2019] 103 tax- mann.com 398 (Delhi) <i>applied</i>	312
	CIT <i>v.</i> Odeon Builders (P.) Ltd. [2017] 393 ITR 27 (Delhi) [FB] <i>applied</i>	93
	CIT (Exemptions) <i>v.</i> Ohio University Christ College [2018] 408 ITR 352 (Karn)	616
	CIT <i>v.</i> Orient (Goa) P. Ltd. [2010] 325 ITR 554 (Bom) <i>followed</i>	426
	CIT (Dy.) <i>v.</i> Pradip N. Desai (HUF) [2012] 341 ITR 277 (Guj)	542
	CIT <i>v.</i> Pruthvi Brokers and Shareholders P. Ltd. [2012] 349 ITR 336 (Bom)	20, 426
	CIT <i>v.</i> Radhe Developers [2012] 341 ITR 403 (Guj)	426
	CIT <i>v.</i> Rajasthan and Gujarati Charitable Foundation [2018] 402 ITR 441 (SC) <i>followed</i>	616
	CIT (Principal) <i>v.</i> Rajasthan State Beverages Corporation Ltd. [2017] 397 ITR (St.) 3 (SC)	608
	CIT (Dy.) <i>v.</i> Rakesh Sarin [2014] 362 ITR 619 (Mad)	568
	CIT <i>v.</i> Rajendra Prasad Moody [1978] 115 ITR 519 (SC)	241
	CIT (Asst.) <i>v.</i> Rajesh Jhaveri Stock Brokers P. Ltd. [2007] 291 ITR 500 (SC)	445
	CIT <i>v.</i> Refrigeration and Allied Industries Ltd. [2001] 247 ITR 12 (Delhi)	312
	CIT (LTU) <i>v.</i> Reliance Industries Ltd. [2019] 410 ITR 466 (SC)	220
	CIT <i>v.</i> Reliance Utilities and Power Ltd. [2009] 313 ITR 340 (Bom)	220, 412

x

INCOME TAX REPORTS

[VOL. 423]

	PAGE
CIT <i>v.</i> Rotork Controls India Ltd. [2007] 293 ITR 311 (Mad)	291
CIT <i>v.</i> Salkia Transport Associates [1983] 143 ITR 39 (Cal)	542
CIT <i>v.</i> Saravana Spinning Mills P. Ltd. [2007] 293 ITR 201 (SC)	54
CIT <i>v.</i> Sayed Rafiqur Rahman [1991] 189 ITR 476 (Patna) <i>relied on</i>	106
CIT (Asst.) <i>v.</i> Seema Sobti [2019] 72 ITR (Trib) 546 (Delhi) <i>affirmed</i>	321
CIT <i>v.</i> Shahbad Co-op. Sugar Mills Ltd. [2011] 12 taxmann.com 421 (P&H)	312
CIT <i>v.</i> Shivsagar Estate [2002] 257 ITR 59 (SC)	542
CIT <i>v.</i> Shoorji Vallabhdas and Co. [1962] 46 ITR 144 (SC)	625
CIT <i>v.</i> Shriram Investment [2020] 422 ITR 528 (Mad)	161
CIT <i>v.</i> Siemens Aktiongesellschaft [2009] 310 ITR 320 (Bom)	122
CIT <i>v.</i> Sinhgad Technical Education Society [2017] 397 ITR 344 (SC) <i>distinguished</i>	248
CIT <i>v.</i> Sitaldas Tirathdas [1961] 41 ITR 367 (SC)	185
CIT <i>v.</i> Society of the Sisters of St. Anne [1984] 146 ITR 28 (Karn)	616
CIT <i>v.</i> Sood (R. L.) [2000] 245 ITR 727 (Delhi)	321
CIT <i>v.</i> Southern Petrochemical Industries Corporation Ltd. [2009] 311 ITR 202 (Mad) <i>relied on</i>	312
CIT <i>v.</i> Sri Mangayarkarasi Mills (P.) Ltd. [2009] 315 ITR 114 (SC)	54
CIT <i>v.</i> Steelcrete (P.) Ltd [1983] 142 ITR 45 (Cal)	542
CIT <i>v.</i> Subramanya Bhat (J.R.) [1987] 165 ITR 571 (Karn)	321
CIT <i>v.</i> Sunbeam Auto Ltd. [2011] 332 ITR 167 (Delhi)	185
CIT (Pr.) <i>v.</i> Super Malls Pvt. Ltd. [2017] 393 ITR 557 (Delhi) <i>affirmed</i>	281
CIT <i>v.</i> T. V. Sundaram Iyengar and Sons Ltd. [1996] 222 ITR 344 (SC)	236
do. <i>v.</i> do. <i>distinguished</i>	89
CIT (LTU) <i>v.</i> Tata Consultancy Services Ltd. [2015] 374 ITR 112 (Bom) <i>followed</i>	295
CIT <i>v.</i> Trinity Hospital [2003] 264 ITR 317 (Raj) <i>distinguished</i>	117
CIT <i>v.</i> Trustee of H. E. H. the Nizam's Supplemental Religious Endowment Trust [1981] 127 ITR 378 (AP)	616
CIT (Addl.) <i>v.</i> Tulip Star Hotels Ltd. [2012] 21 taxmann.com 97 (SC)	418
CIT (Addl.) <i>v.</i> U. P. State Agro Industrial Corporation Ltd. [1981] 127 ITR 97 (All)	542
CIT <i>v.</i> V. S. Dempo and Co. P. Ltd. [2015] 378 ITR 323 (Bom)	426
CIT <i>v.</i> V. S. Dempo and Co. P. Ltd. [2016] 381 ITR 303 (Bom)	426
CIT (Pr.) <i>v.</i> Veedhata Tower Pvt. Ltd. [2018] 403 ITR 415 (Bom) <i>relied on</i>	531
CIT (Dy.) <i>v.</i> Viraj Profiles Ltd. [2016] 46 ITR (Trib) 626 (Mumbai)	220
CIT <i>v.</i> Viswanath Bhaskar Sathe [1937] 5 ITR 621 (Bom)	312
CIT <i>v.</i> Vodafone Essar Gujarat Ltd. [2017] 397 ITR 55 (Guj) [FB]	455

2020]	TABLE OF CASES CITED	xi
		PAGE
CIT <i>v.</i> Walfort Share and Stock Brokers P. Ltd. [2010] 326 ITR 1 (SC)		241
CIT <i>v.</i> Wolkem India Ltd. [2009] 315 ITR 211 (Raj)		625
CIT <i>v.</i> Woodward Governor India Pvt. Ltd. [2009] 312 ITR 254 (SC)		220
CIT (Dy.) <i>v.</i> Yellamma Dasappa Hospital [2007] 290 ITR 353 (Karn) <i>distinguished</i>		312
CIT <i>v.</i> Yokogawa India Ltd. [2012] 17 taxmann.com 15 (Karn)		455
CWT <i>v.</i> Allied Finance (P.) Ltd. [2007] 289 ITR 318 (Delhi)		542
Control Risks India Pvt. Ltd. <i>v.</i> Deputy CIT (W.P. (C) No. 5722 of 2017, dated July 27, 2017) (Delhi)		503
Coromandal Fertilizers Ltd. <i>v.</i> Deputy CIT [2004] 84 TTJ (Hyd)		370 208
Dawjee Dadabhoy and Co. <i>v.</i> S. P. Jain [1957] 31 ITR 872 (Cal)		198
Deep Malhotra <i>v.</i> Chief CIT [2011] 334 ITR 232 (P&H)		82
Devindraben I. Barot (Smt.) <i>v.</i> ITO [2016] 159 ITD 162 (Ahm-ITAT)		439
Dineshkumar Gulabchand Agrawal <i>v.</i> CIT [2004] 267 ITR 768 (Bom) <i>distinguished</i>		312
DGIT (Investigation) <i>v.</i> Spacewood Furnishers (P.) Ltd. [2015] 374 ITR 595 (SC)		47, 129
DIT (Exemption) <i>v.</i> Apparel Export Promotion Council (No. 1) [2000] 244 ITR 734 (Delhi)		542
DIT (Exemption) <i>v.</i> Framjee Cawasjee Institute [1993] 109 CTR (Bom) 463		616
DIT <i>v.</i> Foundation of Ophthalmic and Optometry Research Education Centre [2013] 355 ITR 361 (Delhi) <i>relied on</i>		69
DIT (Exemptions) <i>v.</i> Gujarat Cricket Association [2019] 419 ITR 561 (Guj)		596
DIT (Exemptions) <i>v.</i> Meenakshi Amma Endowment Trust [2013] 354 ITR 219 (Karn) <i>relied on</i>		69
Eagle Flask Industries Ltd. <i>v.</i> CCE [2004] 7 SCC 377		117
Energetic Investment and Consultants Pvt. Ltd. <i>v.</i> Pr. CIT (M. A. T. No. 125 of 2019)		82
Entertainment Society of Goa <i>v.</i> CIT [2013] 23 ITR (Trib) 635 (Panaji)		596
Escorts Limited <i>v.</i> Union of India [1993] 199 ITR 43 (SC)		616
Eskayef <i>v.</i> CIT [2000] 245 ITR 116 (SC)		295
G. P. Ceramics (P.) Ltd. <i>v.</i> Commissioner, Trade Tax [2009] 2 SCC 90		321
Ganpati Fincap Services Pvt. Ltd. <i>v.</i> CIT [2017] 395 ITR 692 (Delhi)		281
Giridhar G. Yadalam <i>v.</i> CWT [2016] 384 ITR 52 (SC)		267
GKN Driveshafts (India) Ltd. <i>v.</i> ITO [2003] 259 ITR 19 (SC)		445, 633

xii	INCOME TAX REPORTS	[VOL. 423
		PAGE
Godrej and Boyce Mfg. Co. Ltd. v. Deputy CIT [2010] 328 ITR 81 (Bom)		241
Goetze (India) Ltd. v. CIT [2006] 284 ITR 323 (SC)	20, 368,	426
Goodyear India Ltd. v. State of Haryana [1991] 188 ITR 402 (SC)		426
Government of Andhra Pradesh v. Smt. P. Laxmi Devi [2008] 4 SCC 720		339
Grindwell Norton Ltd. v. Deputy CIT [2004] 91 ITD 412 (Mum)		418
Guffic Chem (P.) Ltd. v. CIT [2011] 332 ITR 602 (SC) <i>distinguished</i>		248
Gujco Carriers v. CIT [2002] 256 ITR 50 (Guj)		542
Gulshan Malik v. CIT [2015] 4 ITR-OL 275 (Delhi)		321
Gupta (L. R.) v. Union of India [1992] 194 ITR 32 (Delhi)		129
H. H. Shri Swamiji of Shri Admar Mutt v. Commissioner, Hindu Religious and Charitable Endowments Department [1979] 4 SCC 642 ; [1980] AIR 1980 SC 1		339
H. H. Sundhundra Thirtha Swamiar v. Commissioner for Hindu Religious and Charitable Endowments, Mysore [1963] AIR 1963 SC 966		339
Hardayal Charitable and Educational Trust v. CIT [2013] 355 ITR 534 (All) <i>relied on</i>		69
HCL Technologies Ltd. v. Deputy CIT [2017] 397 ITR 469 (Delhi)		510
Hindustan Coca Cola Beverage P. Ltd. v. CIT [2007] 293 ITR 226 (SC)		496
Hotel Roopa v. CIT [2015] 231 Taxman 425 (Karn)		161
Hoystead v. Commissioner of Taxation [1926] AC 155 (PC)		542
I.C.D.S. Ltd. v. CIT [2013] 350 ITR 527 (SC)		542
ITC Ltd. v. CCE [2004] 7 SCC 591		117
do. v. do. <i>relied on</i>		13
ITO v. Lakhmani Mewal Das [1976] 103 ITR 437 (SC)		645
do. v. do. <i>relied on</i>		510
ITO v. RBK Share Broking Pvt. Ltd. [2013] 37 taxmann.com 128 (Mum)		220
ITO v. Seth Brothers [1969] 74 ITR 836 (SC)		47
ITO v. Shamin M. Bharwani [2016] 69 taxmann.com 65 (Mum)		480
ITO v. Tara Chand Jain [2015] 155 ITD 956 (JP-ITAT)		439
ITO v. Vilsons Particle Board Industries Ltd. [2017] 55 ITR (Trib) 114 (Pune) <i>affirmed</i>		227
India Cements Ltd. v. CIT [1966] 60 ITR 52 (SC)		536
India Trade Promotion Organisation v. DGIT (Exemptions) [2015] 371 ITR 333 (Delhi)		596

2020]	TABLE OF CASES CITED	xiii
		PAGE
Indian Oil Corporation <i>v.</i> ITO [1986] 159 ITR 956 (SC)		445
International Air Transport Association <i>v.</i> Deputy CIT [2016] 7 ITR-OL 227 (Bom)		503
Jaipuria Samla Amalgamated Collieries Ltd. <i>v.</i> CIT [1971] 82 ITR 580 (SC)		426
Jalandhar Development Authority <i>v.</i> CIT [2009] 124 TTJ 598 (Asr)		596
JCB India Ltd. <i>v.</i> Deputy CIT [2017] 398 ITR 189 (Delhi)		503
Jindal Stainless Steel <i>v.</i> State of Haryana [2006] 145 STC 544 (SC)		339
Jute Corporation of India <i>v.</i> CIT [1991] 187 ITR 688 (SC)		20
Jyotendrasinhji <i>v.</i> S. I. Tripathi [1993] 201 ITR 611 (SC) <i>followed</i>		472
K. L. Johar and Co. <i>v.</i> Deputy Commercial Tax Officer [1965] 16 STC 213 (SC)		542
Kalyanji Mavji and Co <i>v.</i> CIT [1976] 102 ITR 287 (SC)		510
Kannur District Co-operative Bank Ltd. <i>v.</i> CIT [2014] 365 ITR 343 (Ker) <i>followed</i>		308
Kanoi Paper and Industries Ltd. <i>v.</i> Asst. CIT [2002] 75 TTJ (Cal) 448		608
Kedarnath Jute Mfg. Co. Ltd. <i>v.</i> CIT [1971] 82 ITR 363 (SC)		368
Kedarnath Singh <i>v.</i> State of Bihar [1962] AIR 1962 SC 955		339
Kerala State Co-operative Marketing Federation Ltd. <i>v.</i> CIT [1998] 231 ITR 814 (SC)		350
Kuldeep Industrial Corporation <i>v.</i> ITO [1997] 223 ITR 840 (SC) <i>followed</i>		472
Kunnathat Thathunni Moopil Nair <i>v.</i> State of Kerala [1961] 3 SCR 77		339
Lachminarayan Madan Lal <i>v.</i> CIT [1972] 86 ITR 439 (SC) <i>applied</i>		248
Liquidators of Pursa Ltd. <i>v.</i> CIT [1954] 25 ITR 265 (SC)		312
Lissie Medical Institutions <i>v.</i> CIT [2012] 348 ITR 344 (Ker)		616
Machinery Manufacturers Corporation Ltd. <i>v.</i> CIT [1957] 31 ITR 203 (Bom)		312
Madhav Sharan Agrawal <i>v.</i> CIT [1996] 221 ITR 809 (All)		82
Madras Industrial Investment Corporation Ltd. <i>v.</i> CIT [1997] 225 ITR 802 (SC)		40
Mahindra and Mahindra Ltd. <i>v.</i> CIT [2003] 261 ITR 501 (Bom)		236
Malabar Industrial Co. Ltd. <i>v.</i> CIT [2000] 243 ITR 83 (SC)	180, 198	
Malappuram District Co-operative Bank Ltd. <i>v.</i> ITO (I. T. A. No. 214 of 2013 dated 29-10-2014)(Ker)		308

xiv	INCOME TAX REPORTS	[VOL. 423
		PAGE
Mangalore Chemicals and Fertilisers Ltd. v. Deputy Commissioner of Commercial Taxes [1992] Supp (1) SCC 21		321
Max Ventures Investment Holdings P. Ltd. v. ITO [2019] 415 ITR 395 (Delhi)		510
Maxopp Investment Ltd. v. CIT [2018] 402 ITR 640 (SC)		220, 241
McDowell and Co. Ltd. v. CTO [1985] 154 ITR 148 (SC)		161
do. v. do. <i>relied on</i>		248
Mohinder Singh Gill v. Chief Election Commissioner [1978] AIR 1978 SC 851		82
Morley (Inspector of Taxes) v. Tattersall [1939] 7 ITR 316 (CA)		89
Moti Lal Chhadami Lal Jain v. CIT [1991] 190 ITR 1 (SC)		185
Movaliya Bhikhubhai Balabhai v. ITO (TDS) [2016] 388 ITR 343 (Guj) <i>distinguished</i>		13
Municipal Corporation of Delhi v. Mohd. Yasin [1983] 142 ITR 737 (SC)		339
N. N. Desai Charitable Trust v. CIT [2000] 246 ITR 452 (Guj)		596
National Thermal Power Co. Ltd. v. CIT [1998] 229 ITR 383 (SC)		368, 503
New Shorrock Spinning and Manufacturing Co. Ltd. v. N. U. Raval, ITO [1959] 37 ITR 41 (Bom)		426
Nilofer Hameed (Smt.) v. ITO [1999] 235 ITR 161 (Ker) <i>relied on</i>		106
Novopan India Ltd. v. CCE & Customs [1994] Supp (3) SCC 606		321
Om Prakash Gargi v. State of Punjab [1996] 11 SCC 399		608
Omaxe Ltd. v. Asst. CIT [2012] 25 Taxmann.com 190 (Delhi)		472
Oracle India Pvt. Ltd. v. Asst. CIT [2017] 397 ITR 480 (Delhi)		510
Parashuram Pottery Works Co. Ltd. v. ITO [1977] 106 ITR 1 (SC)		106, 542
Partap Singh (Dr.) v. Director of Enforcement [1985] 155 ITR 166 (SC)		47
Pepsi Foods Pvt. Ltd. v. Asst. CIT [2014] 367 ITR 112 (Delhi)		281
Phool Chand Bajrang Lal v. ITO [1993] 203 ITR 456 (SC)		445, 510, 645
PNB Finance Ltd. v. CIT [2008] 307 ITR 75 (SC) <i>applied</i>		208
Pooran Mal v. Director of Inspection [1974] 93 ITR 505 (SC)		47
Provat Kumar Mitter v. CIT [1961] 41 ITR 624 (SC)		185
Puspa Ranjan Sahoo v. Asst. DIT (Inv.) [2012] 210 Taxman 217 (Orissa) (Mag.)		129
R. B. Jodha Mal Kuthiala v. CIT [1971] 82 ITR 570 (SC)		542
R.B. Shreeram Durga Prasad and Fatechand Nursing Das v. Settlement Commission (IT and WT) [1989] 176 ITR 169 (SC) <i>followed</i>		472

2020]	TABLE OF CASES CITED	xv
		PAGE
Radhasoami Satsang <i>v.</i> CIT [1992] 193 ITR 321 (SC)		542
Raj Dadarkar and Associates <i>v.</i> Asst. CIT [2017] 394 ITR 592 (SC) <i>distinguished</i>		62
Rajesh Kumar <i>v.</i> Deputy CIT [2006] 287 ITR 91 (SC)		227
Rajeswar Prasad Misra <i>v.</i> State of West Bengal [1965] AIR 1965 SC 1887 <i>relied on</i>		382
Rakesh Kumar Jain (A.) <i>v.</i> Joint CIT [2012] 254 CTC 576 (Mad) ; [2012] 80 DTR 257 (Mad) ; [2013] 214 Taxman 39 (Mad)		568
Rama Bai <i>v.</i> CIT [1990] 181 ITR 400 (SC)		13
Ramaiah Reddy (C.) <i>v.</i> Asst. CIT (IMV) [2011] 339 ITR 210 (Karn)		568
Rambhau <i>v.</i> State of Maharashtra [2001] 4 SCC 759 <i>relied on</i>		382
Ramkrishna Ramnath <i>v.</i> ITO [1970] 77 ITR 995 (Bom)		645
Rampyari Devi Saraogi <i>v.</i> CIT [1968] 67 ITR 84 (SC)		198
Redington (India) Ltd. <i>v.</i> Addl. CIT [2017] 392 ITR 633 (Mad)		241
Reiz Electrocontrols (P.) Ltd. <i>v.</i> CCE [2006] 6 SCC 213		321
Renowned Auto Products Mfrs. Ltd. <i>v.</i> ITO [2013] 354 ITR 127 (Mad)		291
Renusagar Power Co. Ltd. <i>v.</i> ITO [1979] 117 ITR 719 (All)		633
Research Foundation for Science, Technology and Ecology <i>v.</i> Ministry of Agriculture [1999] 1 SCC 655		339
Rt. Rev. Msgr. Mark Netto <i>v.</i> State of Kerala [1979] 1 SCC 23 ; [1979] AIR 1979 SC 83		339
S. A. Builders Ltd. <i>v.</i> CIT (Appeals) [2007] 288 ITR 1 (SC)		161
do. <i>v.</i> do. <i>relied on</i>		418
Sahara India (Firm) <i>v.</i> CIT [2008] 300 ITR 403 (SC)		227
Sanjay Bimalchand Jain <i>v.</i> ITO [2018] 89 taxmann.com 196 (Bom)		480
Sanjeev Lal <i>v.</i> CIT [2014] 365 ITR 389 (SC)		321
Sanjeev Woolen Mills <i>v.</i> CIT [2005] 279 ITR 434 (SC)		394
Secunderabad Hyderabad Hotel Owners' Association <i>v.</i> Hyderabad Municipal Corporation [1999] 2 SCC 274		339
Secy. to Govt. of Madras <i>v.</i> P. R. Sriramulu [1996] 1 SCC 345		339
Self Employers Service Society <i>v.</i> CIT [2001] 247 ITR 18 (Ker) <i>relied on</i>		69
Seshasayee Steels P. Ltd. <i>v.</i> Asst. CIT [2020] 421 ITR 46 (SC) <i>followed</i>		518
Shailendra Kumar <i>v.</i> State of Bihar [2002] 1 SCC 655		382
Shree Ram Vessel Scrap Pvt. Ltd. <i>v.</i> CIT [2013] 355 ITR 255 (Guj)		82
Shri Ram Krishna Dalmia <i>v.</i> Shri Justice S. R. Tendolkar [1959] SCR 279		339
Shrikant Textiles <i>v.</i> CIT [1971] 81 ITR 222 (Bom)		122
Shrilekha Banerjee <i>v.</i> CIT [1963] 49 ITR (S.C.) 112 <i>distinguished</i>		525

xvi	INCOME TAX REPORTS	[VOL. 423
		PAGE
Sirsilk Ltd. v. Textiles Committee [1989] Supp (1) SCC 168 ; [1989] SCC (Tax) 219		339
Sky View Consultants P. Ltd. v. ITO [2017] 397 ITR 673 (Delhi)		645
Sole Trustee, Loka Shikshana Trust v. CIT [1975] 101 ITR 234 (SC)		373
Sona Chandi Oal Committee v. State of Maharashtra [2005] 2 SCC 345		339
Southern Pharmaceuticals and Chemicals, Trichur etc. v. State of Kerala etc. [1981] 4 SCC 391		339
Southern Technologies Ltd. v. Joint CIT [2010] 320 ITR 577 (SC)		455
Sree Anjaneya Medical Trust v. CIT [2016] 382 ITR 399 (Ker) <i>relied on</i>		69
Sreenivasa General Traders v. State of A. P. [1983] 4 SCC 353		339
Sri Krishna Pvt. Ltd. v. ITO [1996] 221 ITR 538 (SC)		633
State Level Committee v. Morgardshammar India Ltd. [1996] 1 SCC 108		321
State of A. P. v. NTPC Ltd. [2002] AIR 2002 SC 1895		312
State of Jharkhand v. Ambay Cements [2005] 139 STC 74 (SC)		117
State of Jharkhand v. Tata Cummins Ltd. [2006] 4 SCC 57		117
State of Manipur v. Thingujam Brojen Meetai [1996] 9 SCC 29		608
Sumati Dayal v. CIT [1995] 214 ITR 801 (SC)		480
Sumeru Soft P. Ltd. v. ITO [2017] 9 ITR (Trib)-OL 340 (Chennai) <i>modified</i>		518
Sun Export Corporation v. Collector of Customs [1997] AIR 1997 SC 2658		608
T. R. F. Ltd. v. CIT [2010] 323 ITR 397 (SC)		418
T.M.M Sankaralinga Nadar and Bros. v. CIT [1929] 4 ITC 226 (Mad)		542
Tara Devi Aggarwal (Smt.) v. CIT [1973] 88 ITR 323 (SC)		198
The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt [1954] AIR 1954 SC 282 ; [1954] SCR 1005		339
The Hingir-Rampur Coal Co. Ltd. v. State of Orissa [1961] AIR 1961 SC 459 ; [1961] 2 SCR 537		339
TISCO Ltd. v. State of Jharkhand [2005] 4 SCC 272		321
Toyota Motor Corporation v. CIT [2008] 306 ITR 52 (SC)		262
Trimurti Fragrances P. Ltd v. CIT [2006] 283 ITR 547 (All)		82
Trustees of H. E. H. The Nizam's Supplemental Family Trust v. CIT [2000] 242 ITR 381 (SC) <i>relied on</i>		106
Turner International India Pvt. Ltd. v. Deputy CIT [2017] 398 ITR 177 (Delhi)		503

2020]	TABLE OF CASES CITED	xvii
		PAGE
Unicorn Industries <i>v.</i> Union of India [2019] SCC Online SC 1567		426
Union of India <i>v.</i> Kaumudini Narayan Dalal [2001] 249 ITR 219 (SC)		542
Union of India <i>v.</i> Wood Papers Ltd. [1990] 4 SCC 256		321
Unitech Ltd. <i>v.</i> Deputy CIT [2017] 397 ITR 547 (Delhi)		510
Vam Organic Chemicals Ltd. <i>v.</i> State of U. P. [1997] 2 SCC 715		339
Varghese (K. P.) <i>v.</i> ITO [1981] 131 ITR 597 (SC)		248
Venkatakrishna Rice Co. <i>v.</i> CIT [1987] 163 ITR 129 (Mad)		198
Vesuvius India Ltd. <i>v.</i> CIT [2012] 54 SOT 172 (ITAT-Kolkata)		180
Vijaya Bank <i>v.</i> CIT [2010] 323 ITR 166 (SC)		455
Whirlpool Corpn. <i>v.</i> Registrar of Trade Marks [1998] 8 SCC 1 <i>followed</i>		93
Zahira Habibulla H. Sheikh <i>v.</i> State of Gujarat [2004] AIR 2004 SC 346; [2004] 4 SCC 158 <i>relied on</i>		382
Zuari Cement Ltd. <i>v.</i> Asst. CIT (W. P. (C) No. 5557 of 2012, dated 21-2-2013)		503

INDEX TO JOURNAL SECTION

Articles :	PAGE
Amount received by a retiring partner from firm : Taxable under section 56(2)(x) ?— <i>Jignesh R. Shah, Advocate, High Court, Mumbai</i> ...	16
Finance Act, 2020 : Amendments and subsequent developments to Finance Bill, 2020— <i>S. Rajaratnam, Retd. Member, I. T. A. T. and V. G. Aravindanayagi, B.Sc., F. C. A., L. L. B.</i> ...	1
Industrial Infrastructure Development Corporation (Gwalior) M.P. Ltd. v. CIT – Whether per incuriam ?— <i>Sanjay Bansal, Senior Advocate, High Court of Punjab and Haryana, Chandigarh and Amit Parsad, Advocate, High Court of Punjab and Haryana, Chandigarh</i> ...	25
Landmark Cases to Volume 422— <i>S. Rajaratnam, Retd. Member, I. T. A. T.</i> ...	57
Mutual Fund – Conversion of dividend payout units into growth units—What is the income-tax implication of converting dividend payout units of a Mutual Fund into growth units under the same scheme of that Mutual Fund ?— <i>S. Bapu, Former Chief Commissioner of Income-tax and Member CAT</i> ...	46
No TDS on any payment to a charitable/religious trust, registered u/s. 12A(a)/12AA(1)—[Also no TDS under section 194A on interest payable by banks to such trusts, on their deposits with the banks]— <i>S. K. Tyagi, Advocate</i> ...	39
Registration of pension trust under section 12AA— <i>V. N. Muralidharan, FCS, FCMA, BGL</i> ...	52

INDEX TO STATUTES, RULES, CIRCULARS, NOTIFICATIONS, ETC.

	PAGE
Circulars :	
<i>C. B. D. T. Circulars :</i>	
Circular No. 10 of 2020, dated 24th April, 2020—Order under section 119 of the Income-tax Act, 1961 ...	39
Circular No. 11 of 2020, dated May 8, 2020—Clarification in respect of residency under section 6 of the Income-tax Act 1961 ...	40

2020] INDEX TO STATUTES, RULES, CIRCULARS, NOTIFICATIONS, ETC. xix

Circulars : (Contd.)	PAGE
<i>C. B. D. T. Circulars : (Contd.)</i>	
Circular No. 12 of 2020, dated 20th May 2020—Clarification in respect of prescribed electronic modes under section 269SU of the Income-tax Act, 1961—reg. ...	41
Circular No. CI of 2020, dated April 13, 2020—Clarification in respect of option under section 115BAC of the Income-tax Act, 1961 ...	42
<i>Circulars/Notifications :</i>	
Notification, dated 18th March, 2020—Notification of “designated authority” under “the Direct Tax Vivad Se Vishwas Act, 2020”—reg. ...	44
<i>Circulars/Orders :</i>	
Circular dated 31st March, 2020—Order under section 119 of the Income-tax Act, 1961 on issue of certificates for lower rate/nil deduction/collection of TDS or TCS under sections 195, 197 and 206C(9)—reg. ...	47
Rules :	
Direct Tax Vivad se Vishwas Rules, 2020 ...	1
Income-tax (8th Amendment) Rules, 2020 ...	25
Income-tax (9th Amendment) Rules, 2020 ...	29
Income-tax (10th Amendment) Rules, 2020 ...	30
Income-tax (11th Amendment) Rules, 2020 ...	36
Income-tax (13th Amendment) Rules, 2020 ...	61
Income-tax (14th Amendment) Rules, 2020 ...	61
Income-tax (15th Amendment) Rules, 2020 ...	63
Income-tax (16th Amendment) Rules, 2020 ...	69
Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2020 ...	38
Prevention of Money-laundering (Maintenance of Records) (2nd Amendment) Rules, 2020 ...	39
Schemes :	
Kisan Vikas Patra (Amendment) Scheme, 2020 ...	49
National Savings (Monthly Income Account) (Amendment) Scheme, 2020 ...	57

xx INCOME TAX REPORTS [VOL. 423]

Schemes : (Contd.)

PAGE

National Savings Certificates (VIII Issue) (Amendment) Scheme, 2020	...	51
National Savings Recurring Deposit (Amendment) Scheme, 2020	...	54
National Savings Time Deposit (Amendment) Scheme, 2020	...	59
Public Provident Fund (Amendment) Scheme, 2020	...	60
Senior Citizens' Savings (Amendment) Scheme, 2020	...	57
Sukanya Samriddhi Account (Amendment) Scheme, 2020	...	58

Notifications :*Income-tax Act, 1961 :*

Notification under section 10(46) :

Exemption to Board/Trust/Commission/Authority/Society constituted with object of regulating/administering an activity for benefit of general public	...	64
---	-----	----

Notification under section 48 :

Cost inflation index	...	49
----------------------	-----	----

Notification under section 80G(2)(b) :

Place of historic importance and place of public worship	...	45
--	-----	----

Notification under section 115AD *Expln., clause (a) :*

Foreign institutional investor for purposes of transaction in securities	...	45
--	-----	----

Notification under section 280A(1) :

Constitution of Special Courts	...	46
--------------------------------	-----	----

**THE
INCOME TAX REPORTS
VOLUME 423—2020**

SUBJECT INDEX

	PAGE
<p>Accounting—Method of accounting—Assessee engaged in business of giving vehicles on hire purchase basis—Assessee adopting equated monthly instalments method—Method approved by High Court—Assessee subsequently changing method of accounting to sum of digits but submitting returns on EMI basis—Method of accounting was proper—Income-tax Act, 1961—CIT <i>v.</i> ASHOK LEYLAND FINANCE LTD. (Mad) . . .</p>	394
<p>Accrual of income—Mercantile system of accounting—Business of distribution of electricity to consumers—Surcharge levied on delayed payment of bills—Assessee liable to tax on receipt of such surcharge—PRINCIPAL CIT <i>v.</i> DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD. (P&H) . . .</p>	402
<p>Acquisition of land—Heads of income—Capital gains or income from other sources—Compensation—Interest on enhanced compensation—Specific provision introduced treating interest as income from other sources—Effect of amendment in law—Interest was income from other sources and not capital gains—MAHENDER PAL NARANG <i>v.</i> CBDT (P&H) . . .</p>	13
<p>Additional depreciation—Windmill—Assessee in business of manufacture of matches setting up windmill for production of electricity—That main business of assessee was not producing electricity immaterial—Assessee entitled to additional depreciation—TENZING MATCH WORKS <i>v.</i> DEPUTY CIT (Mad) . . .</p>	312
<p>Advance tax—Interest—Order of Supreme Court in assessee's favour in dispute with bank—Direction to bank to release of suit money to assessee—Income accrued on date of order of Supreme Court—Assessee liable to pay advance tax—Mere filing of review petition before Supreme Court not be ground for not paying advance tax—Income-tax Act, 1961, s. 234C—CANBANK FINANCIAL SERVICES LTD. <i>v.</i> CHIEF CIT (Karn) . . .</p>	113

	PAGE
Appeal —Offences and prosecution—Wilful default in payment of penalty for concealment of income—Conviction of managing director and executive director of assessee by Judicial Magistrate—Evidence—Documents to prove there was no wilful default left out to be marked due to inefficiency and inadvertence—Interest of justice—Appellate court has power to allow documents to be let in as additional evidence— GANGOTHI TEXTILES LTD. v. ASST. CIT (Mad) . . .	382
—Powers of appellate authorities—Appellate authorities can consider claim not raised before Assessing Officer—Income-tax Act, 1961— SESA GOA LTD. v. JOINT CIT (Bom) . . .	426
—Recovery of tax—Appeal pending before Commissioner (Appeals)—Request to Assessing Officer to keep recovery in abeyance—Assessing Officer refusing and directing assessee to pay 20 per cent. of demand—Not proper—No payment of demand to be called for during pendency of appeal— BHUPENDRA MURJI SHAH v. DEPUTY CIT (Bom). . .	300
Appeal to Appellate Tribunal —Delay in filing appeal—Condonation of delay—Factors relevant for condoning delay—Filing of contradictory affidavits by assessee—Inordinate delay of 10 years not satisfactorily explained—Order of Tribunal declining condonation of delay need not be interfered with—Income-tax Act, 1961, s. 253— PERFECT CIRCLE INDIA LTD. v. ASST. CIT (Bom) . . .	65
—Powers of Tribunal—Power to remand case—Power cannot be used without applying mind merely following decision of Supreme Court—Income-tax Act, 1961— CIT (TDS) v. JEEVAN TELECASTING CORPORATION LTD. (Ker) . . .	496
—Powers of Tribunal—Tribunal has power to admit additional ground of appeal—Income-tax Act, 1961— PRINCIPAL CIT v. ANDREW TELECOMMUNICATIONS P. LTD. (Bom) . . .	503
Appeal to Commissioner (Appeals) —Competency of appeal—Claim not made before Assessing Officer—No evidence to substantiate claim—Claim cannot be raised for first time before Commissioner (Appeals)—Income-tax Act, 1961— FCI TECHNOLOGIES SERVICES LTD. v. ASST. CIT (Ker) . . .	368
—Powers of Commissioner (Appeals)—Power to hear new grounds of appeal—Commissioner (Appeals) considering new claims in perfunctory manner—Matter remanded—Income-tax Act, 1961— SIVA EQUIPMENT P. LTD. v. ASST. CIT (Bom) . . .	20
Arm's length price —Determination of arm's length price—Assessment—Draft assessment order—International transaction—Order under section 144C—Order set aside and fresh assessment ordered—Fresh draft assessment order necessary— PRINCIPAL CIT v. ANDREW TELECOMMUNICATIONS P. LTD. (Bom) . . .	503

2020]	GENERAL INDEX	iii
		PAGE
	Assessment —Draft assessment order—International transaction—Determination of arm's length price—Order under section 144C—Order set aside and fresh assessment ordered—Fresh draft assessment order necessary—Income-tax Act, 1961, s. 144C— PRINCIPAL CIT v. ANDREW TELECOMMUNICATIONS P. LTD. (Bom) . . .	503
	—Unexplained money—Chit company—Effect of electronic proceedings—Possibility of erroneous assessment if transactions and statement of account of assessee not properly understood—Assessing Officer to call for assessee's explanation in writing to conclude that cash deposits made by assessee post-demonetization of currency was unusual—Income-tax Act, 1961, s. 69A— SALEM SREE RAMAVILAS CHIT CO. PVT. LTD. v. DEPUTY CIT (Mad) . . .	525
	Assessment in search cases —Search and seizure—Capital gains—Transfer of shares—Group concerns controlled by assessee and family members holding shares—Finding of Assessing Officer that shares sold at low price by one group company sold back by another company in group at higher price—Capital gains set off against losses of group company which sold at higher price—Receipt of non-compete fee—Sequence of events prior to share transfer and surrounding circumstances—Tax avoidance device—Seized material basis of assessment proceedings—Finding rendered by Tribunal that price for which shares were agreed to be sold was justified and reasonable—Not substantiated by evidence and perverse—Order of Assessing Officer restored— CIT v. M. P. PURUSHOTHAMAN (Mad) . . .	248
	—Search and seizure—Notice—Warrant of authorisation for search and seizure—Reasonable belief—Satisfaction of authority—Authority in possession of information on basis of which reasonable belief was founded—Application of mind by authority to material and formation of opinion honest and bona fide and not based on any extraneous or irrelevant material—No illegality or infirmity in issuance of warrant under section 132 and notice under section 153A— SUBHASH SHARMA v. CIT (Chhattisgarh) . . .	47
	—Search and seizure—Assessment of third person—Conditions precedent—Satisfaction of Assessing Officer—Assessing Officer of person in respect of whom search conducted and of third person, the same—Satisfaction note clearly stating that documents seized from person in respect of whom search conducted belonged to assessee and not to person in respect of whom search conducted—Requirements fulfilled— SUPER MALLS PRIVATE LIMITED v. PRINCIPAL CIT (SC) . . .	281
	Assessment of third person —See SEARCH AND SEIZURE	1, 281

	PAGE
Audit —Direction for special audit—Condition precedent—Opportunity to be heard—Income-tax Act, 1961, s. 142(2A)— <i>PRINCIPAL CIT v. VILSON PARTICLE BOARD INDUSTRIES LTD.</i> (Bom) . . .	227
Bad debts —Business expenditure—Bad debts written off—Finding that assessee had purchased certain assets on slump sale basis and certain debts which were part of current assets were reduced—Deletion of disallowance proper— <i>PRINCIPAL CIT v. LEE AND MUIRHEAD PVT. LTD.</i> (Bom) . . .	167
—Conditions precedent for deduction—Assessee found to be carrying on financing business—Amounts written off in accounts—Deductible—Income-tax Act, 1961, s. 36(1)(vii)— <i>DECCAN AGENCY v. DEPUTY CIT</i> (Mad) . . .	418
Block assessment —Search and seizure—Limitation—Commencement of limitation—Law applicable—Effect of insertion of clause (iib) in section 132(1)—Time taken to obtain information stored in electronic records to be taken into account—Search started in January 2001—Assessee not giving access to records stored in computer till June 2001—Block assessment in June 2003—Not barred by limitation— <i>DR. BHARAT MEHTA (DECEASED) v. DEPUTY CIT</i> (Mad) . . .	568
Bogus purchases —Income from undisclosed sources—Purchases shown established to be bogus by Investigation Wing according to statement recorded during a search and seizure operation conducted in another concern—Disallowance of 15 per cent. of unverifiable purchases—Justified— <i>LUNAWAT GEMS CORPORATION v. CIT</i> (Raj) . . .	171
Book profits —Company—Insurance company—Computation—Provision towards solatium fund—Estimation done according to directions given by Government of India as per decision taken by General Insurance Company—Not liable to taxation— <i>CIT, LTU v. ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD.</i> (Mad) . . .	122
—Company—Minimum alternate tax—Insurance company—Provisions not applicable to insurance companies— <i>CIT, LTU v. ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD.</i> (Mad) . . .	122
—Fluctuations in foreign exchange rates—Income-tax Act, 1961, ss. 14A, 115JB— <i>PRINCIPAL CIT v. SHAPOORJI PALLONJI AND CO. LTD.</i> (Bom) . . .	220
Burden of proof —Cash credit—Identity and creditworthiness of creditor and genuineness of transaction—Assessee discharging onus by satisfying all three conditions—Assessee not bound to explain sources of source—Addition of unsecured loan as undisclosed cash not justified— <i>GAURAV TRIYUGI SINGH v. ITO</i> (Bom) . . .	531

2020]	GENERAL INDEX	v
Burden of proof (<i>Contd.</i>)—		PAGE
—Cash credits—Assessee not discharging onus to prove source of amounts deposited in bank or explain frequency of withdrawals and deposits—Reasoning of Assessing Officer and findings of fact by Tribunal based on evidence—Addition of cash deposits as income of assessee—Justified—SHASHI GARG <i>v.</i> PRINCIPAL CIT (Delhi) . . .		150
—Exemption—Long-term capital gains—Concurrent finding of fact on appreciation of evidence by Assessing Officer and appellate authorities that transactions not genuine—No evidence of actual sale produced by assessee—Denial of exemption—Proper—SUMAN PODDAR <i>v.</i> ITO (Delhi) . . .		480
Business expenditure —Bad debts written off—Finding that assessee had purchased certain assets on slump sale basis and certain debts which were part of current assets were reduced—Deletion of disallowance proper—Income-tax Act, 1961, s. 36(1)(vi)—PRINCIPAL CIT <i>v.</i> LEE AND MUIRHEAD PVT. LTD. (Bom) . . .		167
—Capital or revenue expenditure—Assessee engaged in business of construction of building and berths in ports—Preliminary expenditure incurred for submission of tender in another port—Not new line of business—Expenditure incurred revenue in nature and allowable—Income-tax Act, 1961, s. 37—CIT <i>v.</i> SOUTH INDIA CORPORATION LTD. (Ker) . . .		158
—Capital or revenue expenditure—Assessee manufacturer of fertilizers—Expenses incurred for replacement of damaged parts of existing machinery—No acquisition of new asset—Allowable business expenditure—Income-tax Act, 1961, s. 37—PRINCIPAL CIT <i>v.</i> GUJARAT NARMADA VALLEY FERTILIZER AND CHEMICALS LTD. (Guj) . . .		54
—Capital or revenue expenditure—Computer software expenses—Finding that payment was for actual use of software and not for acquisition of software—Expenses incurred cannot be treated as capital in nature—Justified—Income-tax Act, 1961, s. 37—PRINCIPAL CIT <i>v.</i> AKER POWERGAS PVT. LTD. (Bom) . . .		536
—Capital or revenue expenditure—Legal expenses incurred in connection with sale of capital assets—Expenses revenue in nature—Income-tax Act, 1961, s. 37—PRINCIPAL CIT <i>v.</i> AKER POWERGAS PVT. LTD. (Bom) . . .		536
—Co-operative bank—Deduction for 10 per cent. of aggregate advances of rural branches—Whether assessee entitled to benefit under second limb of clause (viiia) of section 36(1) without reference to definition of rural branch in <i>Explanation (ia)</i> under section 36—Effect of earlier decision and sustainability of dictum laid down therein—Income-tax Act, 1961, s. 36(1)(viiia)—ERNAKULAM DISTRICT CO-OPERATIVE BANK LTD. <i>v.</i> CIT (Ker) . . .		308

Business expenditure (Contd.)—

PAGE

—Disallowance—Rates or taxes—Scope of section 40(a)(ii)—Cess not covered by section 40(a)(ii)—Education cess deductible—Income-tax Act, 1961, section 40(a)(ii)—*SESA GOA LTD. v. JOINT CIT* (Bom) . . . 426

—Employees' contribution to provident fund and employees' State insurance—Delay in payment—Duty of employer under section 38 of Employees' Provident Funds and Miscellaneous Provisions Act, 1952 to pay contribution deducted from employee's wages "within fifteen days of the close of every month"—Order of Tribunal restoring issue of additions made on account of late payment of employees' contribution to provident fund and employees' State insurance—Erroneous—Income-tax Act, 1961, ss. 2(24)(x), 36(1)(va)—Employees' Provident Funds and Miscellaneous Provisions Act, 1952, s. 38—*PRINCIPAL CIT v. SUZLON ENERGY LTD.* (Guj) . . . 608

—Expenditure on early termination of lease and licence—Finding that termination was business decision and expenditure was incurred wholly and exclusively for purpose of business—Deletion of disallowance proper—Income-tax Act, 1961, s. 37(1)—*PRINCIPAL CIT v. LEE AND MUIRHEAD PVT. LTD.* (Bom) . . . 167

—Exploration and extraction of oil—Conditions precedent for deduction—Expenditure should be infructuous or abortive exploration expenses and area should be surrendered prior to commencement of commercial production—Meaning of expression "surrender"—Does not always connote voluntary surrender—Assessee entering into production sharing contract with Government of India and requesting for extension at end of contract period—Government refusing extension—Assessee entitled to deduction under section 42(1)(a)—Income-tax Act, 1961, s. 42(1)(a)—*PRINCIPAL CIT v. HINDUSTAN OIL EXPLORATION CO. LTD.* (Bom) . . . 465

—Finding based on evidence that assessee was not able to prove genuineness of expenses—Disallowance of claims justified—No question of law arose—Income-tax Act, 1961, s. 37—*FIIITJEE LTD. v. PRINCIPAL CIT* (Delhi) . . . 354

—Interest on borrowed capital—Finding that investment from interest-free funds available with assessee—Presumption that advances made out of interest-free funds available with assessee—No facts pleaded for apportionment under rule 8D—Deletion of addition made under section 14A—Justified—Income-tax Act, 1961, ss. 14A, 36(1)(iii)—*PRINCIPAL CIT v. SHAPOORJI PALLONJI AND CO. LTD.* (Bom) . . . 220

Business income—Heads of income—Income from house property or business income—Assessee not merely renting out commercial space but providing common facilities and amenities to occupiers to run their

2020]	GENERAL INDEX	vii
	Business income (<i>Contd.</i>)—	PAGE
	business—Receipt of charges from licensees for services provided— PRINCIPAL CIT <i>v.</i> KROME PLANET INTERIORS PVT. LTD. (Bom) . . .	62
	—Remission or cessation of liability—Amounts shown as credits— Finding that liabilities did not exist—Assessment of amounts under section 41 justified—SURESH KUMAR T. JAIN <i>v.</i> ITO (Karn) . . .	489
	—Remission or cessation of liability—Condition precedent—Assessee, a co-operative society, obtaining loan from National Dairy Development Board for which State Government stood guarantee on payment of commission—Commission claimed by assessee as revenue expenditure in earlier assessment years—State Government writing off liability and allowing it to be treated as capital grant to be used only for capital and rehabilitation purposes—Assessee continues to remain liable to repay those amounts—No remission or cessation of liability under section 41(1)(a)—Cannot be treated as revenue receipts—Income-tax Act, 1961, s. 41(1)(a)—PRINCIPAL CIT <i>v.</i> RAJASTHAN CO-OPERATIVE DAIRY FEDERATION LTD. (Raj) . . .	89
	—Remission or cessation of trading liability—Condition precedent for application of section 41(1)—Deduction must have been claimed for the liability—Gains on repurchase of debenture bonds—Not assessable under section 41(1)—CIT (LTU) <i>v.</i> RELIANCE INDUSTRIES LTD. (Bom) . . .	236
	Capital gains —Computation of capital gains—Difference between consideration shown in sale deed and valuation for purposes of stamp duty—Stamp duty valuation to be taken into account—Transfer of land—No evidence that land was not in possession of transferor—Section 50C applicable—Income-tax Act, 1961, s. 50C—RAM JI LAL MEENA <i>v.</i> ITO (Raj) . . .	439
	—Exemption—Sale of residential house and purchase or construction of new residential house within stipulated time—Construction of new residential house need not begin after sale of original house—Income-tax Act, 1961, s. 54—PRINCIPAL CIT <i>v.</i> AKSHAY SOBTI (Delhi) . . .	321
	—Income from other sources—Consideration for transfer of rights in property—Tribunal finding in appeal by transferee that assessee was tenant of transferee—Consideration cannot be treated as income from other sources merely on basis of suspicion—Income-tax Act, 1961, ss. 45, 54EC, 56—AMOL C. SHAH (HUF) <i>v.</i> ITO (Bom) . . .	408
	—Search and seizure—Assessment in search cases—Transfer of shares—Group concerns controlled by assessee and family members holding shares—Finding of Assessing Officer that shares sold at low price by one group company sold back by another company in group at higher price—Capital gains set off against losses of group company which sold at higher price—Receipt of non-compete fee—Sequence of events prior to	

viii	INCOME TAX REPORTS	[VOL. 423
	Capital gains (Contd.)—	PAGE
	share transfer and surrounding circumstances—Tax avoidance device— Seized material basis of assessment proceedings—Finding rendered by Tribunal that price for which shares were agreed to be sold was justified and reasonable—Not substantiated by evidence and perverse—Order of Assessing Officer restored—CIT v. M. P. PURUSHOTHAMAN (Mad) . . .	248
	—Slump sale—Transfer of entire assets including intangible assets by holding concern to subsidiary for total consideration—Finding that transaction was slump sale—Order need not be interfered with—Income- tax Act, 1961, ss. 2(42C), 45, 48, 50—CIT v. AKZO NOBLE INDIA LTD. (Cal) . . .	208
	—Transfer of bonus shares—Bonus shares in respect of shares held as stock-in-trade—No presumption that bonus shares constituted stock- in-trade—Tribunal justified in treating bonus shares as investments— PRINCIPAL CIT v. ASHOK APPARELS (P.) LTD. (Bom) . . .	412
	—Transfer—Definition—Assessee entering into joint venture agree- ment with developer, handing over possession of property and accepting refundable deposit—Transfer when takes place—Contention that no development had taken place and assessee might have to refund deposit—Applicability of section 2(47)(v) read with section 53A of Trans- fer of Property Act, 1882—Matter remanded to Assessing Officer for determination in light of CIT v. Balbir Singh Maini [2017] 398 ITR 531 (SC)—Income-tax Act, 1961, ss. 2(47)(v), 45—Transfer of Property Act, 1882, s. 53A—SUMERU SOFT P. LTD. v. ITO (Mad) . . .	518
	Capital gains or income from other sources —Heads of income— Acquisition of land—Compensation—Interest on enhanced compensa- tion—Specific provision introduced treating interest as income from other sources—Effect of amendment in law—Interest was income from other sources and not capital gains—MAHENDER PAL NARANG v. CBDT (P&H) . . .	13
	Capital or revenue expenditure —Business expenditure—Assessee engaged in business of construction of building and berths in ports—Pre- liminary expenditure incurred for submission of tender in another port— Not new line of business—Expenditure incurred revenue in nature and allowable—CIT v. SOUTH INDIA CORPORATION LTD. (Ker) . . .	158
	—Business expenditure—Assessee manufacturer of fertilizers— Expenses incurred for replacement of damaged parts of existing machin- ery—No acquisition of new asset—Allowable business expenditure— PRINCIPAL CIT v. GUJARAT NARMADA VALLEY FERTILIZER AND CHEMI- CALS LTD. (Guj) . . .	54
	—Business—Computer software expenses—Finding that payment was for actual use of software and not for acquisition of software—	

2020]	GENERAL INDEX	ix
	Capital or revenue expenditure (<i>Contd.</i>)—	PAGE
	Expenses incurred cannot be treated as capital in nature—Justified—PRINCIPAL CIT <i>v.</i> AKER POWERGAS PVT. LTD. (Bom) . . .	536
	—Business—Legal expenses incurred in connection with sale of capital assets—Expenses revenue in nature—PRINCIPAL CIT <i>v.</i> AKER POWERGAS PVT. LTD. (Bom) . . .	536
	Cash credit —Burden of proof—Identity and creditworthiness of creditor and genuineness of transaction—Assessee discharging onus by satisfying all three conditions—Assessee not bound to explain sources of source—Addition of unsecured loan as undisclosed cash not justified—Income-tax Act, 1961, s. 68—GAURAV TRIYUGI SINGH <i>v.</i> ITO (Bom) . . .	531
	—Credits found to be fictitious—Amounts assessable under section 68—Income-tax Act, 1961, s. 68—SURESH KUMAR T. JAIN <i>v.</i> ITO (Karn) . . .	489
	—Burden of proof—Assessee not discharging onus to prove source of amounts deposited in bank or explain frequency of withdrawals and deposits—Reasoning of Assessing Officer and findings of fact by Tribunal based on evidence—Addition of cash deposits as income of assessee—Justified—Income-tax Act, 1961, s. 68—SHASHI GARG <i>v.</i> PRINCIPAL CIT (Delhi) . . .	150
	Central Board of Direct Taxes —Circulars—Circulars not binding on court—Decision of High Court or Supreme Court on particular issue—Circular cannot override such decisions—Income-tax Act, 1961—PRINCIPAL CIT <i>v.</i> VARDHMAN CHEMTECH P. LTD. (P&H) . . .	241
	—Effect of Circular—Interest received on compensation or on enhanced compensation for acquisition of land—Assessable as income from other sources—Income-tax Act, 1961, ss. 10(37), 145A(b)—MAHENDER PAL NARANG <i>v.</i> CBDT (P&H) . . .	13
	Change of law —See SEARCH AND SEIZURE . . .	568
	Charge of tax —Fringe benefits tax—Condition precedent—Relationship of employer and employee—Free samples distributed to doctors by pharmaceutical company—Not fringe benefit—Amount spent not liable to fringe benefits tax—PRINCIPAL CIT <i>v.</i> ARISTO PHARMACEUTICALS P. LTD. (Bom) . . .	295
	Charitable institution —Exemption—Denial of exemption—Activity for profit—Effect of proviso to section 2(15)—Concurrent finding of appellate authorities that the assessee was charitable institution—Event organised to raise money—Amount earned entitled to exemption—Income-tax Act, 1961, ss. 2(15), 11—CIT (EXEMPTIONS) <i>v.</i> UNITED WAY OF BARODA (Guj) . . .	596
	Charitable purpose —Computation of income—Depreciation—Charitable institution entitled to depreciation—Income-tax Act, 1961, s. 11—DIT (EXEMPTIONS) <i>v.</i> KRUPANIDHI EDUCATION TRUST (Karn) . . .	616

x	INCOME TAX REPORTS	[VOL. 423
		PAGE
	Charitable purpose (Contd.)—	
	—Exemption—Registration of trust—Factors to be considered—Satisfaction about objects and genuineness of assessee—If objects later found not genuine authority has option to cancel registration—Income-tax Act, 1961, ss. 11, 12, 12A, 12AA(3)—PRINCIPAL CIT (EXEMPTIONS) <i>v.</i> SHRI NATHJI GOVERDHAN NATHJI CHARITABLE TRUST (Cal) . . .	69
	—Registration—Meaning of charitable purposes—Statutory body for urban development under control of State Government—Charitable institution entitled to registration—Effect of rule 17A—Income-tax Act, 1961, ss. 2(15), 11, 12A—BELGAUM URBAN DEVELOPMENT AUTHORITY <i>v.</i> CIT (Karn) . . .	373
	Chit company —Assessment—Unexplained money—Effect of electronic proceedings—Possibility of erroneous assessment if transactions and statement of account of assessee not properly understood—Assessing Officer to call for assessee’s explanation in writing to conclude that cash deposits made by assessee post-demonetization of currency was unusual—SALEM SREE RAMAVILAS CHIT CO. PVT. LTD. <i>v.</i> DEPUTY CIT (Mad) . . .	525
	—Unexplained money—Tax on income included under section 69A—Monthly subscriptions/dues—Cash deposits of collection made post-demonetization of currency by Government—Cash deposits during period in question not in variance with same period during preceding year—Addition of amount as unexplained money—Provisions of section 115BBE cannot be invoked—SALEM SREE RAMAVILAS CHIT CO. PVT. LTD. <i>v.</i> DEPUTY CIT (Mad) . . .	525
	Circulars —Central Board of Direct Taxes—Circulars not binding on court—Decision of High Court or Supreme Court on particular issue—Circular cannot override such decisions—PRINCIPAL CIT <i>v.</i> VARDHMAN CHEMTECH P. LTD. (P&H) . . .	241
	Co-operative bank —Business expenditure—Deduction for 10 per cent. of aggregate advances of rural branches—Whether assessee entitled to benefit under second limb of clause (vii) of section 36(1) without reference to definition of rural branch in <i>Explanation (ia)</i> under section 36—Effect of earlier decision and sustainability of dictum laid down therein—ERNAKULAM DISTRICT CO-OPERATIVE BANK LTD. <i>v.</i> CIT (Ker) . . .	308
	Co-operative society —Special deduction—Scope of section 80P—Interest from credit to employees—Not entitled to special deduction under section 80P—Income-tax Act, 1961, s. 80P(2)—KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD. <i>v.</i> DEPUTY CIT (Ker) . . .	350
	Company —Computation of book profits—Effect of <i>Explanation</i> to section 115JB(2)—Amount set aside as provision for diminution in value of asset—Material on record showing that such provision had been	

2020]	GENERAL INDEX	xi
		PAGE
Company (Contd.)—		
reduced from assets side of the balance-sheet—Provision cannot be added to book profits—Income-tax Act, 1961, s. 115JB—PRINCIPAL CIT <i>v.</i> TORRENT PRIVATE LIMITED (Guj) . . .		455
—Computation of book profits—Effect of section 115JB—Provision for wealth tax not includible—Income-tax Act, 1961, s. 115JB—CIT (LTU) <i>v.</i> RELIANCE INDUSTRIES LTD. (Bom) . . .		236
—Insurance company—Book profits—Computation—Provision towards solatium fund—Estimation done according to directions given by Government of India as per decision taken by General Insurance Company—Not liable to taxation—Income-tax Act, 1961, s. 115JB—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD. (Mad) . . .		122
—Insurance company—Deduction of tax at source—Commission on reinsurance premium—No liability to deduct tax at source—Income-tax Act, 1961—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD. (Mad) . . .		122
—Minimum alternate tax—Insurance company—Book profits—Provisions not applicable to insurance companies—Income-tax Act, 1961, s. 115JB—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD. (Mad) . . .		122
Compounding of offence —Offences and prosecution—Failure to pay tax deducted at source to Government account—Application for compounding of offence—Submission of application before competent authority mandatory—Applications for compounding of offence not filed before proper authority—Filing of application before appropriate competent authority upon intimation—Levy of compounding fee at 5 per cent. treating application as second application—Proper—Order of Principal Chief Commissioner need not be interfered with—PEB STEEL LLOYD (INDIA) LTD. <i>v.</i> PRINCIPAL CHIEF CIT (MP) . . .		29
Computation of book profits —Company—Effect of <i>Explanation</i> to section 115JB(2)—Amount set aside as provision for diminution in value of asset—Material on record showing that such provision had been reduced from assets side of the balance-sheet—Provision cannot be added to book profits—PRINCIPAL CIT <i>v.</i> TORRENT PRIVATE LIMITED (Guj) . . .		455
—Company—Effect of section 115JB—Provision for wealth tax not includible—CIT (LTU) <i>v.</i> RELIANCE INDUSTRIES LTD. (Bom) . . .		236
Computation of capital gains —Difference between consideration shown in sale deed and valuation for purposes of stamp duty—Stamp duty valuation to be taken into account—Transfer of land—No evidence that land was not in possession of transferor—Section 50C applicable—RAM Ji LAL MEENA <i>v.</i> ITO (Raj) . . .		439

	PAGE
Computation of income —Charitable purpose—Depreciation—Charitable institution entitled to depreciation—DIT (EXEMPTIONS) <i>v.</i> KRUPANIDHI EDUCATION TRUST (Karn) . . .	616
—Disallowance of expenditure on earning non-taxable income—Scope of section 14A—No receipt of income—Section 14A not applicable—PRINCIPAL CIT <i>v.</i> VARDHMAN CHEMTECH P. LTD. (P&H) . . .	241
—Disallowance of expenditure relating to exempt income—Presumption that investments made from interest-free funds—Presumption not rebutted—Interest cannot be disallowed—PRINCIPAL CIT <i>v.</i> ASHOK APPARELS (P.) LTD. (Bom) . . .	412
Computer software expenses —Business—Capital or revenue expenditure—Finding that payment was for actual use of software and not for acquisition of software—Expenses incurred cannot be treated as capital in nature—Justified—PRINCIPAL CIT <i>v.</i> AKER POWERGAS PVT. LTD. (Bom) . . .	536
Concealment of income —See PENALTY . . .	40, 262
Condonation of delay —See APPEAL TO APPELLATE TRIBUNAL . . .	65
Deduction of tax at source —Company—Insurance company—Commission on reinsurance premium—No liability to deduct tax at source—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD. (Mad) . . .	122
—Double taxation avoidance—Insurance company—Surveyors' fees paid for services rendered in U. K. and not taxable in India according to DTAA—Absence of permanent establishment and recipient not taxable in India—No technical knowledge that could be independently applied by assessee has been obtained—No liability to deduct tax at source—Income-tax Act, 1961—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD. (Mad) . . .	122
—Payment to contractor—Payments made to contractor towards annual maintenance charges of hospital equipment—Services rendered not in nature of providing technical services—Deduction of tax under section 194C—Proper—Income-tax Act, 1961, ss. 192, 194C—CIT (TDS) <i>v.</i> ASIAN HEART INSTITUTE AND RESEARCH CENTRE PVT. LTD. (Bom) . . .	75
—Salary—Support service rendered to doctors by assessee, hospital, on sharing basis—No employer-employee relationship between assessee and doctors—Tax not deductible treating payment as salary—Income-tax Act, 1961, ss. 192, 194J—CIT (TDS) <i>v.</i> ASIAN HEART INSTITUTE AND RESEARCH CENTRE PVT. LTD. (Bom) . . .	75
Depreciation —Additional depreciation—Windmill—Assessee in business of manufacture of matches setting up windmill for production of electricity—That main business of assessee was not producing electricity	

2020]	GENERAL INDEX	xiii
	Depreciation (Contd.)—	PAGE
	immaterial—Assessee entitled to additional depreciation—Income-tax Act, 1961, ss. 32, 32(1)(ia)—TENZING MATCH WORKS <i>v.</i> DEPUTY CIT (Mad) . . .	312
	—Charitable purpose—Computation of income—Charitable institution entitled to depreciation—DIT (EXEMPTIONS) <i>v.</i> KRUPANIDHI EDUCATION TRUST (Karn) . . .	616
	—Cost of construction of roads on build-operate-transfer basis—Penalty—Concealment of income—Disallowance of depreciation on ground assessee not owner of asset—Clarificatory circular issued by Central Board of Direct Taxes as to treatment of expenditure—Appellate authorities setting aside of penalty proceedings—Need not be interfered with—PRINCIPAL CIT <i>v.</i> HIMALAYAN EXPRESSWAY LTD. (P&H) . . .	40
	—Rate of depreciation—Assessee hiring out construction equipment—Assessee granted depreciation at the rate of 30 per cent. in prior years—Depreciation cannot be reduced to 15 per cent. in assessment year 2011-12—Income-tax Act, 1961, s. 32—PRASAD MULTI SERVICES PRIVATE LTD. <i>v.</i> DEPUTY CIT (Guj) . . .	542
	—Rate of depreciation—Uninterrupted power supply system for computers—Assessee entitled to depreciation at 60 per cent.—Income-tax Act, 1961, s. 32—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE Co. LTD. (Mad) . . .	122
	—Windmill—Assessee in business of manufacture of matches setting up windmill for production of electricity—Order of Assessing Officer disallowing claim for depreciation on ground that windmill used only for trial run during accounting year upheld by Tribunal reversing order of Commissioner (Appeals)—Erroneous—Assessee entitled to depreciation—Income-tax Act, 1961, s. 32—TENZING MATCH WORKS <i>v.</i> DEPUTY CIT (Mad) . . .	312
	Difference between consideration shown in sale deed and valuation for purposes of stamp duty— See CAPITAL GAINS . . .	439
	Direction for special audit— Condition precedent—Opportunity to be heard—PRINCIPAL CIT <i>v.</i> VILSON PARTICLE BOARD INDUSTRIES LTD. (Bom) . . .	227
	Disallowance— See BUSINESS EXPENDITURE . . .	426
	Diversion of income by overriding title— Revision—Interpretation of will—Testator's direction to executor of will to sell property and pay balance to assessee after payment to trusts and expenses—Expenses and payments to trusts stood diverted before they reached assessee—Order of Assessing Officer after due inquiry accepting assessee's offer of amount to tax amount of sale consideration—Revision erroneous—KUMAR RAJARAM <i>v.</i> ITO (INTERNATIONAL TAXATION) (Mad) . . .	185

<p>Double taxation avoidance—Deduction of tax at source—Insurance company—Surveyors' fees paid for services rendered in U. K. and not taxable in India according to DTAA—Absence of permanent establishment and recipient not taxable in India—No technical knowledge that could be independently applied by assessee has been obtained—No liability to deduct tax at source—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD. (Mad) . . .</p> <p>Draft assessment order—Assessment—International transaction—Determination of arm's length price—Order under section 144C—Order set aside and fresh assessment ordered—Fresh draft assessment order necessary—PRINCIPAL CIT <i>v.</i> ANDREW TELECOMMUNICATIONS P. LTD. (Bom) . . .</p> <p>Employees' contribution to provident fund and employees' State insurance—Business—Delay in payment—Duty of employer under section 38 of Employees' Provident Funds and Miscellaneous Provisions Act, 1952 to pay contribution deducted from employee's wages "within fifteen days of the close of every month"—Order of Tribunal restoring issue of additions made on account of late payment of employees' contribution to provident fund and employees' State insurance—Erroneous—PRINCIPAL CIT <i>v.</i> SUZLON ENERGY LTD. (Guj) . . .</p> <p>Exemption—Capital gains—Sale of residential house and purchase or construction of new residential house within stipulated time—Construction of new residential house need not begin after sale of original house—PRINCIPAL CIT <i>v.</i> AKSHAY SOBTI (Delhi) . . .</p> <p>—Charitable institution—Denial of exemption—Activity for profit—Effect of proviso to section 2(15)—Concurrent finding of appellate authorities that the assessee was charitable institution—Event organised to raise money—Amount earned entitled to exemption—CIT (EXEMPTIONS) <i>v.</i> UNITED WAY OF BARODA (Guj) . . .</p> <p>—Charitable purpose—Registration of trust—Factors to be considered—Satisfaction about objects and genuineness of assessee—If objects later found not genuine authority has option to cancel registration—PRINCIPAL CIT (EXEMPTIONS) <i>v.</i> SHRI NATHJI GOVERDHAN NATHJI CHARITABLE TRUST (Cal) . . .</p> <p>—Long-term capital gains—Concurrent finding of fact on appreciation of evidence by Assessing Officer and appellate authorities that transactions not genuine—Burden of proof—No evidence of actual sale produced by assessee—Denial of exemption—Proper—Income-tax Act, 1961, s. 10(38)—SUMAN PODDAR <i>v.</i> ITO (Delhi) . . .</p> <p>Exploration and extraction of oil—Business expenditure—Conditions precedent for deduction—Expenditure should be infructuous or abortive exploration expenses and area should be surrendered prior to</p>	<p>122</p> <p>503</p> <p>608</p> <p>321</p> <p>596</p> <p>69</p> <p>480</p>
---	---

2020]	GENERAL INDEX	xv
	Exploration and extraction of oil (<i>Contd.</i>)—	PAGE
	commencement of commercial production—Meaning of expression “surrender”—Does not always connote voluntary surrender—Assessee entering into production sharing contract with Government of India and requesting for extension at end of contract period—Government refusing extension—Assessee entitled to deduction under section 42(1)(a)— PRINCIPAL CIT v. HINDUSTAN OIL EXPLORATION CO. LTD. (Bom) . . .	465
	Fringe benefits tax —Charge of tax—Condition precedent—Relationship of employer and employee—Free samples distributed to doctors by pharmaceutical company—Not fringe benefit—Amount spent not liable to fringe benefits tax—Income-tax Act, 1961, s. 115WA— PRINCIPAL CIT v. ARISTO PHARMACEUTICALS P. LTD. (Bom) . . .	295
	Heads of income —Capital gains or income from other sources—Acquisition of land—Compensation—Interest on enhanced compensation—Specific provision introduced treating interest as income from other sources—Effect of amendment in law—Interest was income from other sources and not capital gains—Income-tax Act, 1961, ss. 45, 56(2)(viii), 264— MAHENDER PAL NARANG v. CBDT (P&H) . . .	13
	—Income from house property or business income—Assessee not merely renting out commercial space but providing common facilities and amenities to occupiers to run their business—Receipt of charges from licensees for services provided—Business income—Income-tax Act, 1961, ss. 14, 22— PRINCIPAL CIT v. KROME PLANET INTERIORS PVT. LTD. (Bom) . . .	62
	Housing project —Special deduction—Condition precedent—Finding that assessee had planned entire project as composite one—Decision in assessee’s own case for earlier assessment year that assessee entitled to deduction—No question of law arose—Income-tax Act, 1961, s. 80-IB(10)— CIT v. SMT. A. JAGADEESWARI (Mad) . . .	8
	—Special deduction—Period for completion of project—Date of approval of project—Project of assessee different from project that previous developer had conceived—Finding of Tribunal that project completed within time—Deduction cannot be denied—Income-tax Act, 1961, s. 80-IB(10)— PRINCIPAL CIT v. YASH ASSOCIATES (Bom) . . .	215
	Income —Accrual of income—Mercantile system of accounting—Business of distribution of electricity to consumers—Surcharge levied on delayed payment of bills—Assessee liable to tax on receipt of such surcharge—Income-tax Act, 1961— PRINCIPAL CIT v. DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD. (P&H) . . .	402
	—Business income—Remission or cessation of liability—Amounts shown as credits—Finding that liabilities did not exist—Assessment of amounts under section 41 justified—Income-tax Act, 1961, s. 41— SURESH KUMAR T. JAIN v. ITO (Karn) . . .	489

xvi	INCOME TAX REPORTS	[VOL. 423
		PAGE
	Income (Contd.)—	
	—Business income—Remission or cessation of trading liability—Condition precedent for application of section 41(1)—Deduction must have been claimed for the liability—Gains on repurchase of debenture bonds—Not assessable under section 41(1)—Income-tax Act, 1961, s. 41(1)—CIT (LTU) <i>v.</i> RELIANCE INDUSTRIES LTD. (Bom) . . .	236
	—Computation of income—Disallowance of expenditure on earning non-taxable income—Scope of section 14A—No receipt of income—Section 14A not applicable—Income-tax Act, 1961, s. 14A—PRINCIPAL CIT <i>v.</i> VARDHMAN CHEMTECH P. LTD. (P&H) . . .	241
	—Computation of income—Disallowance of expenditure relating to exempt income—Presumption that investments made from interest-free funds—Presumption not rebutted—Interest cannot be disallowed—Income-tax Act, 1961, s. 14A—PRINCIPAL CIT <i>v.</i> ASHOK APPARELS (P) LTD. (Bom) . . .	412
	—Disallowance of expenditure in relation to exempt income—Finding that assessee had hardly incurred any expenses in respect of dividend and substantial investments were made temporarily to invest idle funds—Deletion of disallowance proper—Income-tax Act, 1961, s. 14A—Income-tax Rules, 1962, r. 8D—PRINCIPAL CIT <i>v.</i> LEE AND MUIRHEAD PVT. LTD. (Bom) . . .	167
	—No evidence of receipt of amount—Amount not assessable—Income-tax Act, 1961—PRINCIPAL CIT <i>v.</i> AKSHAY SOBTI (Delhi) . . .	321
	Income deemed to accrue or arise in India —Non-resident—Amount received as demurrage charges from seller in India—Not income arising in India within meaning of sections 5 and 9—Not assessable—Income-tax Act, 1961, ss. 5, 9—SESA GOA LTD. <i>v.</i> JOINT CIT (Bom) . . .	426
	Income escaping assessment —Reassessment—Notice—Validity—Information received from Investigation Wing that payments made by assessee to contractor were bogus—Cannot be extrapolated to other assessment years—Enquiries conducted by Assessing Officer in original assessment—No new or tangible material available—Notice and reassessment proceedings quashed—SKYVIEW CONSULTANTS PVT. LTD. <i>v.</i> ITO (Delhi) . . .	645
	Income from house property or business income —Heads of income—Assessee not merely renting out commercial space but providing common facilities and amenities to occupiers to run their business—Receipt of charges from licensees for services provided—Business income—PRINCIPAL CIT <i>v.</i> KROME PLANET INTERIORS PVT. LTD. (Bom) . . .	62
	Income from other sources —Capital gains—Consideration for transfer of rights in property—Tribunal finding in appeal by transferee that assessee was tenant of transferee—Consideration cannot be treated as	

2020]	GENERAL INDEX	xvii
	Income from other sources (<i>Contd.</i>)—	PAGE
	income from other sources merely on basis of suspicion—AMOL C. SHAH (HUF) <i>v.</i> ITO (Bom) . . .	408
	Income from undisclosed sources —Bogus purchases—Purchases shown established to be bogus by Investigation Wing according to statement recorded during a search and seizure operation conducted in another concern—Disallowance of 15 per cent. of unverifiable purchases—Justified—Income-tax Act, 1961, ss. 132, 147—Constitution of India, art. 226—LUNAWAT GEMS CORPORATION <i>v.</i> CIT (Raj) . . .	171
	Industrial undertaking in backward area —Special deduction under section 80-IA—Condition precedent—Location of undertaking in area designated as backward in official gazette—Undertaking set up in area designated subsequently as backward—Assessee not entitled to special deduction under section 80-IA—Income-tax Act, 1961, s. 80-IA—CIT <i>v.</i> ENDEKA CERAMICS (INDIA) PVT. LTD. (Karn) . . .	117
	Infrastructure facility —Special deduction—Conditions precedent—Assessee must be an enterprise owned by a company registered in India and carrying on business of (i) developing, (ii) maintaining and operating or (iii) developing, maintaining and operating any infrastructure facility which has entered into agreement with Government therefor—Agreement initially executed between firm and State Government with understanding that when firm converted into company, name of company would be recorded in agreement recognising change—After conversion of firm into company authorities providing fresh registration code to assessee—Effect of conversion of firm into company under Part IX of Companies Act, 1956—Assessee qualified for deduction under section 80-IA—Income-tax Act, 1961, s. 80-IA(4)(i)(a), (b)—Companies Act, 1956, Part IX, s. 575—CIT <i>v.</i> CHETAK ENTERPRISES PVT. LTD. (SC) . . .	267
	Insurance company —Book profits—Computation—Provision towards solatium fund—Estimation done according to directions given by Government of India as per decision taken by General Insurance Company—Not liable to taxation—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD. (Mad) . . .	122
	—Deduction of tax at source—Commission on reinsurance premium—No liability to deduct tax at source—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD. (Mad) . . .	122
	—Deduction of tax at source—Double taxation avoidance—Surveyors' fees paid for services rendered in U. K. and not taxable in India according to DTAA—Absence of permanent establishment and recipient not taxable in India—No technical knowledge that could be independently applied by assessee has been obtained—No liability to deduct tax at source—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD. (Mad) . . .	122

xviii

INCOME TAX REPORTS

[VOL. 423]

Insurance company (<i>Contd.</i>)—	PAGE
—Minimum alternate tax—Book profits—Provisions not applicable to insurance companies—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD. (Mad) . . .	122
Interest —Advance tax—Order of Supreme Court in assessee's favour in dispute with bank—Direction to bank to release of suit money to assessee—Income accrued on date of order of Supreme Court—Assessee liable to pay advance tax—Mere filing of review petition before Supreme Court not be ground for not paying advance tax—CANBANK FINANCIAL SERVICES LTD. <i>v.</i> CHIEF CIT (Karn) . . .	113
Interest on borrowed capital —Business expenditure—Finding that investment from interest-free funds available with assessee—Presumption that advances made out of interest-free funds available with assessee—No facts pleaded for apportionment under rule 8D—Deletion of addition made under section 14A—Justified—PRINCIPAL CIT <i>v.</i> SHAPOORJI PAL-LONJI AND CO. LTD. (Bom) . . .	220
—Condition precedent for deduction—Amount borrowed not used for assessee's business but to assist sister concern—Interest not deductible—Income-tax Act, 1961, s. 36—YENEPOYA RESINS AND CHEMICALS <i>v.</i> DEPUTY CIT (Karn) . . .	161
International transaction —Assessment—Draft assessment order—Determination of arm's length price—Order under section 144C—Order set aside and fresh assessment ordered—Fresh draft assessment order necessary—PRINCIPAL CIT <i>v.</i> ANDREW TELECOMMUNICATIONS P. LTD. (Bom) . . .	503
Interpretation of statutes —Purposive interpretation—PRINCIPAL CIT (EXEMPTIONS) <i>v.</i> SHRI NATHJI GOVERDHAN NATHJI CHARITABLE TRUST (Cal) . . .	69
Interpretation of taxing statutes —Aids to interpretation—Language of section plain and unambiguous—External aids cannot be adopted to interpret provision—Income-tax Act, 1961, s. 56(2)(viii)—MAHENDER PAL NARANG <i>v.</i> CBDT (P&H) . . .	13
—Legislative intent—Liberal interpretation—PRINCIPAL CIT <i>v.</i> HINDUSTAN OIL EXPLORATION CO. LTD. (Bom) . . .	465
—Literal interpretation—SESA GOA LTD. <i>v.</i> JOINT CIT (Bom) . . .	426
Interpretation of will —Revision—Diversion of income by overriding title—Testator's direction to executor of will to sell property and pay balance to assessee after payment to trusts and expenses—Expenses and payments to trusts stood diverted before they reached assessee—Order of Assessing Officer after due inquiry accepting assessee's offer of amount to tax amount of sale consideration—Revision erroneous—KUMAR RAJARAM <i>v.</i> ITO (INTERNATIONAL TAXATION) (Mad) . . .	185

2020]	GENERAL INDEX	xix
		PAGE
	Limitation —Commencement of limitation—Search and seizure—Block assessment—Law applicable—Effect of insertion of clause (iib) in section 132(1)—Time taken to obtain information stored in electronic records to be taken into account—Search started in January 2001—Assessee not giving access to records stored in computer till June 2001—Block assessment in June 2003—Not barred by limitation— DR. BHARAT MEHTA (DECEASED) v. DEPUTY CIT (Mad) . . .	568
	—Penalty—Receipt of copy of order by Tribunal including Commissioner (Judicial) in Department will activate period of limitation—Internal arrangements by Department of jurisdiction of officers cannot override statutes and alter period of limitation— GE ENERGY PARTS INC. v. DEPUTY CIT (Delhi) . . .	93
	Long-term capital gains —Exemption—Concurrent finding of fact on appreciation of evidence by Assessing Officer and appellate authorities that transactions not genuine—Burden of proof—No evidence of actual sale produced by assessee—Denial of exemption—Proper— SUMAN PODDAR v. ITO (Delhi) . . .	480
	Mercantile system of accounting —Income—Accrual of income—Business of distribution of electricity to consumers—Surcharge levied on delayed payment of bills—Assessee liable to tax on receipt of such surcharge— PRINCIPAL CIT v. DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD. (P&H) . . .	402
	Method of accounting —Assessee engaged in business of giving vehicles on hire purchase basis—Assessee adopting equated monthly instalments method—Method approved by High Court—Assessee subsequently changing method of accounting to sum of digits but submitting returns on EMI basis—Method of accounting was proper— CIT v. ASHOK LEYLAND FINANCE LTD. (Mad) . . .	394
	Minimum alternate tax —Company—Insurance company—Book profits—Provisions not applicable to insurance companies— CIT, LTU v. ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD. (Mad) . . .	122
	Non-resident —Income deemed to accrue or arise in India—Amount received as demurrage charges from seller in India—Not income arising in India within meaning of sections 5 and 9—Not assessable— SESA GOA LTD. v. JOINT CIT (Bom) . . .	426
	Notice —See REASSESSMENT 106, 304, 445, 510, 518, 633, 645	
	See SEARCH AND SEIZURE . . .	47
	Offences and prosecution —Compounding of offence—Failure to pay tax deducted at source to Government account—Application for compounding of offence—Submission of application before competent authority mandatory—Applications for compounding of offence not filed	

xx

INCOME TAX REPORTS

[VOL. 423

Offences and prosecution (*Contd.*)—

PAGE

before proper authority—Filing of application before appropriate competent authority upon intimation—Levy of compounding fee at 5 per cent. treating application as second application—Proper—Order of Principal Chief Commissioner need not be interfered with—Income-tax Act, 1961, ss. 200(1), 276B, 279(2)—PEB STEEL LLOYD (INDIA) LTD. *v.* PRINCIPAL CHIEF CIT (MP) . . . 29

—Wilful default in payment of penalty for concealment of income—Conviction of managing director and executive director of assessee by Judicial Magistrate—Appeal—Evidence—Documents to prove there was no wilful default left out to be marked due to inefficiency and inadvertence—Interest of justice—Appellate court has power to allow documents to be let in as additional evidence—Income-tax Act, 1961, ss. 271(1)(c), 276C(2), 278B(3)—Criminal Procedure Code, 1973, s. 391—GANGOTHRI TEXTILES LTD. *v.* ASST. CIT (Mad) . . . 382

Payment to contractor—Deduction of tax at source—Payments made to contractor towards annual maintenance charges of hospital equipment—Services rendered not in nature of providing technical services—Deduction of tax under section 194C—Proper—Income-tax Act, 1961, ss. 192, 194C—CIT (TDS) *v.* ASIAN HEART INSTITUTE AND RESEARCH CENTRE PVT. LTD. (Bom) . . . 75

Penalty—Concealment of income—Depreciation—Cost of construction of roads on build-operate-transfer basis—Disallowance of depreciation on ground assessee not owner of asset—Clarificatory circular issued by Central Board of Direct Taxes as to treatment of expenditure—Appellate authorities setting aside of penalty proceedings—Need not be interfered with—Income-tax Act, 1961, ss. 32(1)(ii), 271(1)(c)—PRINCIPAL CIT *v.* HIMALAYAN EXPRESSWAY LTD. (P&H) . . . 40

—Concealment of income—Evidence of concealment—Consent of assessee to additions to income—Not relevant—Penalty had to be imposed—Income-tax Act, 1961, s. 271—MALANADU TOURIST HOME *v.* CIT (Ker) . . . 262

—Limitation—Receipt of copy of order by Tribunal including Commissioner (Judicial) in Department will activate period of limitation—Internal arrangements by Department of jurisdiction of officers cannot override statutes and alter period of limitation—Income-tax Act, 1961, ss. 260A, 275(1)(a)—GE ENERGY PARTS INC. *v.* DEPUTY CIT (Delhi) . . . 93

—Writ petition—Maintainability—Alternative remedy—Orders levying penalty issued beyond period of limitation—Writ petitions maintainable even if alternative statutory remedy available—Constitution of India, art. 226—GE ENERGY PARTS INC. *v.* DEPUTY CIT (Delhi) . . . 93

Powers and duties of Settlement Commission—Settlement of cases—Application for settlement—Duty of Commission either to reject or

2020]	GENERAL INDEX	xxi
	Powers and duties of Settlement Commission (<i>Contd.</i>)—	PAGE
	proceed with application filed by assessee—Settlement Commissioner relegating assessee to Assessing Officer—Not proper— SAMDARIYA BUILDERS PVT. LTD. v. ITSC (MP) . . .	203
	Powers of Appellate Authorities —Appeal—Appellate authorities can consider claim not raised before Assessing Officer— SESA GOA LTD. v. JOINT CIT (Bom) . . .	426
	Powers of Commissioner (Appeals) —Appeal to Commissioner (Appeals)—Power to hear new grounds of appeal—Commissioner (Appeals) considering new claims in perfunctory manner—Matter remanded— SIVA EQUIPMENT P. LTD. v. ASST. CIT (Bom) . . .	20
	Powers of Commissioner —Revision—Assessing Officer taking possible view and estimating income of assessee—Commissioner cannot enhance assessment in revision proceedings— MALANADU TOURIST HOME v. CIT (Ker) . . .	262
	—Revision—Order of Tribunal setting aside revision order on ground issues raised by Commissioner had been considered by Assessing Officer and order not erroneous—Reasoned order based on facts—Need not be interfered with— PRINCIPAL CIT v. KESORAM INDUSTRIES LTD. (Cal) . . .	180
	Powers of Settlement Commission —Settlement of cases—Application for settlement of case—Settlement Commission cannot consider merits of case at that stage— HITACHI POWER EUROPE GMBH v. ITSC (Mad) . . .	472
	Powers of Tribunal —Appeal to Appellate Tribunal—Power to remand case—Power cannot be used without applying mind merely following decision of Supreme Court— CIT (TDS) v. JEEVAN TELECASTING CORPORATION LTD. (Ker) . . .	496
	—Appeal to Appellate Tribunal—Tribunal has power to admit additional ground of appeal— PRINCIPAL CIT v. ANDREW TELECOMMUNICATIONS P. LTD. (Bom) . . .	503
	Precedent —Effect of decision of Supreme Court in <i>Jute Corporation of India</i> — SIVA EQUIPMENT P. LTD. v. ASST. CIT (Bom) . . .	20
	—Effect of decision of Supreme Court in <i>Madan Gopal Radhey Lal's</i> case— PRINCIPAL CIT v. ASHOK APPARELS (P.) LTD. (Bom) . . .	412
	—Effect of decision of Supreme Court in <i>Rajesh Kumar v. Deputy CIT</i> [2006] 287 ITR 91 (SC)— PRINCIPAL CIT v. VILSON PARTICLE BOARD INDUSTRIES LTD. (Bom) . . .	227
	—Effect of Supreme Court decision in <i>GKN Driveshafts (India) Ltd.</i> — KAPADIA MONEY CHANGERS PVT. LTD. v. ASST. CIT (Guj) . . .	633
	Rate of depreciation —Assessee hiring out construction equipment—Assessee granted depreciation at the rate of 30 per cent. in prior years—	

xxii	INCOME TAX REPORTS	[VOL. 423
	Rate of depreciation (<i>Contd.</i>)—	PAGE
	Deprecation cannot be reduced to 15 per cent. in assessment year 2011-12—PRASAD MULTI SERVICES PRIVATE LTD. <i>v.</i> DEPUTY CIT (Guj) . . .	542
	—Uninterrupted power supply system for computers—Assessee entitled to depreciation at 60 per cent.—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD. (Mad) . . .	122
	Reassessment —Notice—Assessment proceedings pursuant to notice under section 142(1) pending and time for completion of assessment not having lapsed—Issue of notice under section 148 not permissible—That assessee had not objected to jurisdiction of Assessing Officer not relevant—Income-tax Act, 1961, ss. 124(3), 142(1), 143(3), 147, 148—PRINCIPAL CIT <i>v.</i> GOVIND GOPAL GOYAL (Guj) . . .	106
	—Notice—Reason to believe that income had escaped assessment—Notice based on disallowances made in assessment for subsequent year—No information available with Assessing Officer specific to assessment year for which notice issued—Reassessment order invalid—Income-tax Act, 1961, ss. 68, 147, 148—TROPEX PROMOTION AND TRADING LTD. <i>v.</i> CIT (Delhi) . . .	510
	—Notice—Reason to believe that income has escaped assessment—There must be tangible material for formation of belief—No new tangible material other than material on record during scrutiny assessment—Reassessment based on change of opinion—Impermissible—Income-tax Act, 1961, ss. 147, 148—PRINCIPAL CIT <i>v.</i> ZEE MEDIA CORPORATION LTD. (Bom) . . .	304
	—Notice—Reopening of assessment depends on facts and circumstances of each case—Income-tax Act, 1961, ss. 147, 148—SUMERU SOFT P. LTD. <i>v.</i> ITO (Mad) . . .	518
	—Notice—Validity—Income escaping assessment—Information received from Investigation Wing that payments made by assessee to contractor were bogus—Cannot be extrapolated to other assessment years—Enquiries conducted by Assessing Officer in original assessment—No new or tangible material available—Notice and reassessment proceedings quashed—Income-tax Act 1961, ss. 147, 148—SKYVIEW CONSULTANTS PVT. LTD. <i>v.</i> ITO (Delhi) . . .	645
	—Notice—Validity—Special audit report at direction of Forward Markets Commission—Report showing escapement of income from tax—Report considered by Assessing Officer—Notice of reassessment based on report—Valid—Income-tax Act, 1961, ss. 147, 148—MULTI COMMODITY EXCHANGE OF INDIA LTD. <i>v.</i> DEPUTY CIT (Bom) . . .	445
	—Validity—Objection to notice must be considered—Notice after four years—No failure to disclose material facts necessary for assessment—Non-application of mind to objections to notice—Reassessment proceedings—Not valid—Income-tax Act, 1961, ss. 147, 148—KAPADIA MONEY CHANGERS PVT. LTD. <i>v.</i> ASST. CIT (Guj) . . .	633

2020]	GENERAL INDEX	xxiii
		PAGE
	Recovery of tax —Appeal—Appeal pending before Commissioner (Appeals)—Request to Assessing Officer to keep recovery in abeyance—Assessing Officer refusing and directing assessee to pay 20 per cent. of demand—Not proper—No payment of demand to be called for during pendency of appeal—Income-tax Act, 1961, ss. 226, 246A— BHUPENDRA MURJI SHAH v. DEPUTY CIT (Bom) . . .	300
	Registration —Charitable purposes—Meaning of charitable purposes—Statutory body for urban development under control of State Government—Charitable institution entitled to registration—Effect of rule 17A— BELGAUM URBAN DEVELOPMENT AUTHORITY v. CIT (Karn) . . .	373
	Registration of trust —Charitable purpose—Exemption—Factors to be considered—Satisfaction about objects and genuineness of assessee—If objects later found not genuine authority has option to cancel registration— PRINCIPAL CIT (EXEMPTIONS) v. SHRI NATHJI GOVERDHAN NATHJI CHARITABLE TRUST (Cal) . . .	69
	Remission or cessation of liability —Business income—Condition precedent—Assessee, a co-operative society, obtaining loan from National Dairy Development Board for which State Government stood guarantee on payment of commission—Commission claimed by assessee as revenue expenditure in earlier assessment years—State Government writing off liability and allowing it to be treated as capital grant to be used only for capital and rehabilitation purposes—Assessee continues to remain liable to repay those amounts—No remission or cessation of liability under section 41(1)(a)—Cannot be treated as revenue receipts— PRINCIPAL CIT v. RAJASTHAN CO-OPERATIVE DAIRY FEDERATION LTD. (Raj) . . .	89
	—Income—Business income—Amounts shown as credits—Finding that liabilities did not exist—Assessment of amounts under section 41 justified— SURESH KUMAR T. JAIN v. ITO (Karn) . . .	489
	Remission or cessation of trading liability —Income—Business income—Condition precedent for application of section 41(1)—Deduction must have been claimed for the liability—Gains on repurchase of debenture bonds—Not assessable under section 41(1)— CIT (LTU) v. RELIANCE INDUSTRIES LTD. (Bom) . . .	236
	Res judicata —Principle not strictly applicable in income-tax assessment but consistency essential— PRASAD MULTI SERVICES PRIVATE LTD. v. DEPUTY CIT (Guj) . . .	542
	Residence —Finding that assessee migrated to foreign countries for higher studies and had business interests abroad with permanent resident status—Findings of fact by Tribunal based on records—Assessee's travels to India in nature of visits—Assessee not ordinarily resident in India—Income-tax Act, 1961, ss. 6(1)(a), 68, 69— PRINCIPAL CIT v. BINOD KUMAR SINGH (Bom) . . .	175

	PAGE
Retention of seized articles —Search and seizure—Effect of section 132B— <i>KHEM CHAND MUKIM v. PRINCIPAL DIT (INVESTIGATION)</i> (Delhi) . . .	129
Return —Delay in filing return—Constitutional validity of provision—Section 234F levying fees for delay in filing return—Parliament competent to enact provision—Provision does not contravene article 14—Section 234F valid—Income-tax Act, 1961, s. 234F—Constitution of India, arts. 14, 226— <i>K. NIRAI MATHI AZHAGAN v. UNION OF INDIA</i> (Mad) . . .	339
Revision —Condition precedent—Order erroneous and prejudicial to interests of Revenue—Assessing Officer making enquiries pertaining to remuneration of partners and expenses and receipts on assessee's submission of details—Finding of fact—Assessment order neither erroneous nor prejudicial to interests of Revenue—Income-tax Act, 1961, s. 263— <i>PRINCIPAL CIT v. HARI OM STONES</i> (Raj) . . .	198
—Diversion of income by overriding title—Interpretation of will—Testator's direction to executor of will to sell property and pay balance to assessee after payment to trusts and expenses—Expenses and payments to trusts stood diverted before they reached assessee—Order of Assessing Officer after due inquiry accepting assessee's offer of amount to tax amount of sale consideration—Revision erroneous—Income-tax Act, 1961, s. 263— <i>KUMAR RAJARAM v. ITO (INTERNATIONAL TAXATION)</i> (Mad) . . .	185
—Order of revision disallowing provision for warranty—Finding that provision for warranty was justified—Order of revision not valid—Income-tax Act, 1961, s. 263— <i>CIT v. RANE TRW STEERING SYSTEMS LTD.</i> (Mad) . . .	291
—Powers of Commissioner—Assessing Officer taking possible view and estimating income of assessee—Commissioner cannot enhance assessment in revision proceedings—Income-tax Act, 1961, s. 263— <i>MALANADU TOURIST HOME v. CIT</i> (Ker) . . .	262
—Powers of Commissioner—Order of Tribunal setting aside revision order on ground issues raised by Commissioner had been considered by Assessing Officer and order not erroneous—Reasoned order based on facts—Need not be interfered with—Income-tax Act, 1961, ss. 253, 254, 263— <i>PRINCIPAL CIT v. KESORAM INDUSTRIES LTD.</i> (Cal) . . .	180
Salary —Deduction of tax at source—Support service rendered to doctors by assessee, hospital, on sharing basis—No employer-employee relationship between assessee and doctors—Tax not deductible treating payment as salary— <i>CIT (TDS) v. ASIAN HEART INSTITUTE AND RESEARCH CENTRE PVT. LTD.</i> (Bom) . . .	75
Sale of residential house —Sale of residential house and purchase or construction of new residential house within stipulated time—Capital gains—Exemption—Construction of new residential house need not	

2020]	GENERAL INDEX	xxv
	Sale of residential house (<i>Contd.</i>)—	PAGE
	begin after sale of original house—PRINCIPAL CIT <i>v.</i> AKSHAY SOBTI (Delhi) . . .	321
	Search and seizure —Assessment in search cases—Assessment of third person—Conditions precedent—Satisfaction of Assessing Officer— Assessing Officer of person in respect of whom search conducted and of third person, the same—Satisfaction note clearly stating that documents seized from person in respect of whom search conducted belonged to assessee and not to person in respect of whom search conducted— Requirements fulfilled—Income-tax Act, 1961, s. 153C—SUPER MALLS PRIVATE LIMITED <i>v.</i> PRINCIPAL CIT (SC) . . .	281
	—Assessment in search cases—Capital gains—Transfer of shares— Group concerns controlled by assessee and family members holding shares—Finding of Assessing Officer that shares sold at low price by one group company sold back by another company in group at higher price— Capital gains set off against losses of group company which sold at higher price—Receipt of non-compete fee—Sequence of events prior to share transfer and surrounding circumstances—Tax avoidance device—Seized material basis of assessment proceedings—Finding rendered by Tribunal that price for which shares were agreed to be sold was justified and rea- sonable—Not substantiated by evidence and perverse—Order of Assess- ing Officer restored—Income-tax Act, 1961, ss. 132, 143(3), 153A, 153C— CIT <i>v.</i> M. P. PURUSHOTHAMAN (Mad) . . .	248
	—Assessment in search cases—Notice—Warrant of authorisation for search and seizure—Reasonable belief—Satisfaction of authority— Authority in possession of information on basis of which reasonable belief was founded—Application of mind by authority to material and formation of opinion honest and bona fide and not based on any extraneous or irrel- evant material—No illegality or infirmity in issuance of warrant under sec- tion 132 and notice under section 153A—Income-tax Act, 1961, ss. 132, 153A—Constitution of India, art. 226—SUBHASH SHARMA <i>v.</i> CIT (Chhattisgarh) . . .	47
	—Assessment of third person—Undisclosed income—Assessment based solely on statement of party against whom search conducted— Assessing Officer not making any further inquiry or investigation on infor- mation received from Deputy Commissioner—No cogent material pro- duced to fasten liability on assessee—Concurrent findings of fact by appellate authorities—Deletion of addition proper—Income-tax Act, 1961, ss. 69A, 132, 143(3), 147, 153C—CIT <i>v.</i> SANT LAL (Delhi) . . .	1
	—Block assessment—Limitation—Commencement of limitation— Law applicable—Effect of insertion of clause (iib) in section 132(1)—Time taken to obtain information stored in electronic records to be taken into account—Search started in January 2001—Assessee not giving access to	

Search and seizure (*Contd.*)—

PAGE

records stored in computer till June 2001—Block assessment in June 2003—Not barred by limitation—Income-tax Act, 1961, s.132(1)(iib)—**DR. BHARAT MEHTA v. DEPUTY CIT** (Mad) . . . 568

—Retention of seized articles—Effect of section 132B—Income-tax Act, 1961, s. 132B—**KHEM CHAND MUKIM v. PRINCIPAL DIT (INVESTIGATION)** (Delhi) . . . 129

—Warrant of authorisation—Conditions precedent—No reasons recorded before search—Seizure of jewellery at airport from jeweller who stated that they were his stock-in-trade—Seizure not lawful—Income-tax Act, 1961, s. 132—**KHEM CHAND MUKIM v. PRINCIPAL DIT (INVESTIGATION)** (Delhi) . . . 129

Settlement of cases—Powers and duties of Settlement Commission—Application for settlement—Duty of Commission either to reject or proceed with application filed by assessee—Settlement Commissioner relegating assessee to Assessing Officer—Not proper—Income-tax Act, 1961, ss.245C(1), 245D(4)—**SAMDARIYA BUILDERS PVT. LTD. v. ITSC (MP)** . . . 203

—Powers of Settlement Commission—Application for settlement of case—Settlement Commission cannot consider merits of case at that stage—Income-tax Act, 1961, Chap. XIX-A—**HITACHI POWER EUROPE GMBH v. ITSC** (Mad) . . . 472

Slump sale—Capital gains—Transfer of entire assets including intangible assets by holding concern to subsidiary for total consideration—Finding that transaction was slump sale—Order need not be interfered with—**CIT v. AKZO NOBLE INDIA LTD.** (Cal) . . . 208

Special deduction—Co-operative society—Scope of section 80P—Interest from credit to employees—Not entitled to special deduction under section 80P—**KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD. v. DEPUTY CIT** (Ker) . . . 350

—Housing project—Condition precedent—Finding that assessee had planned entire project as composite one—Decision in assessee's own case for earlier assessment year that assessee entitled to deduction—No question of law arose—**CIT v. SMT. A. JAGADEESWARI** (Mad) . . . 8

—Housing projects—Period for completion of project—Date of approval of project—Project of assessee different from project that previous developer had conceived—Finding of Tribunal that project completed within time—Deduction cannot be denied—**PRINCIPAL CIT v. YASH ASSOCIATES** (Bom) . . . 215

—Infrastructure facility—Conditions precedent—Assessee must be an enterprise owned by a company registered in India and carrying on business of (i) developing, (ii) maintaining and operating or (iii) developing, maintaining and operating any infrastructure facility which has

2020]	GENERAL INDEX	xxvii
	Special deduction (<i>Contd.</i>)—	PAGE
	entered into agreement with Government therefor—Agreement initially executed between firm and State Government with understanding that when firm converted into company, name of company would be recorded in agreement recognising change—After conversion of firm into company authorities providing fresh registration code to assessee—Effect of conversion of firm into company under Part IX of Companies Act, 1956—Assessee qualified for deduction under section 80-IA— <i>CIT v. CHETAK ENTERPRISES PVT. LTD.</i> (SC) . . .	267
	—Special deduction under section 80-IA—Industrial undertaking in backward area—Condition precedent—Location of undertaking in area designated as backward in official gazette—Undertaking set up in area designated subsequently as backward—Assessee not entitled to special deduction under section 80-IA— <i>CIT v. ENDEKA CERAMICS (INDIA) PVT. LTD.</i> (Karn) . . .	117
	Stock-in-trade —Valuation—Valuation of land held as stock-in-trade—Encroached and litigated land—Cannot be valued at nil value—Tribunal remitting matter to Assessing Officer for earlier years for consideration of actual status of each piece of land and its value—Tribunal remitting issue to Assessing Officer for year in question—Proper—Income-tax Act, 1961— <i>RAJASTHAN STATE INDUSTRIAL DEVELOPMENT AND INVESTMENT CORPORATION LTD. v. ASST. CIT</i> (Raj) . . .	625
	Transfer —Definition—Capital gains—Assessee entering into joint venture agreement with developer, handing over possession of property and accepting refundable deposit—Transfer when takes place—Contention that no development had taken place and assessee might have to refund deposit—Applicability of section 2(47)(v) read with section 53A of Transfer of Property Act, 1882—Matter remanded to Assessing Officer for determination in light of <i>CIT v. Balbir Singh Maini</i> [2017] 398 ITR 531 (SC)— <i>SUMERU SOFT P. LTD. v. ITO</i> (Mad) . . .	518
	Transfer of bonus shares —Capital gains—Bonus shares in respect of shares held as stock-in-trade—No presumption that bonus shares constituted stock-in-trade—Tribunal justified in treating bonus shares as investments— <i>PRINCIPAL CIT v. ASHOK APPARELS (P) LTD.</i> (Bom) . . .	412
	Transfer of case —Centralization of assessee's cases—Supply of reasons to assessee—Purpose of transfer for co-ordinated investigation of connected cases—Possibility of involvement of assessee in scam having international ramifications—Discretion of Department for public purpose—Assessee aware of reasons for transfer—Transfer order valid—Income-tax Act, 1961, s. 127— <i>IDS INFOTECH LTD. v. PRINCIPAL CIT</i> (P&H) . . .	82
	Transfer of shares —Search and seizure—Assessment in search cases—Capital gains—Group concerns controlled by assessee and family members holding shares—Finding of Assessing Officer that shares sold at	

Transfer of shares (*Contd.*)—

PAGE

low price by one group company sold back by another company in group at higher price—Capital gains set off against losses of group company which sold at higher price—Receipt of non-compete fee—Sequence of events prior to share transfer and surrounding circumstances—Tax avoidance device—Seized material basis of assessment proceedings—Finding rendered by Tribunal that price for which shares were agreed to be sold was justified and reasonable—Not substantiated by evidence and perverse—Order of Assessing Officer restored—CIT *v. M. P. PURUSHOTHAMAN* (Mad) . . .

248

Undisclosed income—Search and seizure—Assessment of third person—Assessment based solely on statement of party against whom search conducted—Assessing Officer not making any further inquiry or investigation on information received from Deputy Commissioner—No cogent material produced to fasten liability on assessee—Concurrent findings of fact by appellate authorities—Deletion of addition proper—CIT *v. SANT LAL* (Delhi) . . .

1

Unexplained expenditure—Suspicion that certain purchases were bogus based on information from sales-tax authority—Neither independent enquiry conducted by Assessing Officer nor due opportunity given to assessee—Deletion of addition by appellate authorities—Justified—Income-tax Act, 1961, ss. 36(1)(iii), 69C—PRINCIPAL CIT *v. SHAPOORJI PALLONJI AND CO. LTD.* (Bom) . . .

220

Unexplained money—Assessment—Chit company—Effect of electronic proceedings—Possibility of erroneous assessment if transactions and statement of account of assessee not properly understood—Assessing Officer to call for assessee's explanation in writing to conclude that cash deposits made by assessee post-demonetization of currency was unusual—SALEM SREE RAMAVILAS CHIT CO. PVT. LTD. *v. DEPUTY CIT* (Mad) . . .

525

—Chit company—Tax on income included under section 69A—Monthly subscriptions/dues—Cash deposits of collection made post-demonetization of currency by Government—Cash deposits during period in question not in variance with same period during preceding year—Addition of amount as unexplained money—Provisions of section 115BBE cannot be invoked—Income-tax Act, 1961, ss. 69A, 115BBE—SALEM SREE RAMAVILAS CHIT CO. PVT. LTD. *v. DEPUTY CIT* (Mad) . . .

525

Valuation—Valuation of land held as stock-in-trade—Encroached and litigated land—Cannot be valued at nil value—Tribunal remitting matter to Assessing Officer for earlier years for consideration of actual status of each piece of land and its value—Tribunal remitting issue to Assessing Officer for year in question—Proper—RAJASTHAN STATE INDUSTRIAL DEVELOPMENT AND INVESTMENT CORPORATION LTD. *v. ASST. CIT* (Raj) . . .

625

2020]	GENERAL INDEX	xxix
		PAGE
	Warrant of authorisation —Search and seizure—Conditions precedent—No reasons recorded before search—Seizure of jewellery at airport from jeweller who stated that they were his stock-in-trade—Seizure not lawful— KHEM CHAND MUKIM v. PRINCIPAL DIT (INVESTIGATION) (Delhi) . . .	129
	—Warrant of authorisation for search and seizure—Assessment in search cases—Notice—Reasonable belief—Satisfaction of authority—Authority in possession of information on basis of which reasonable belief was founded—Application of mind by authority to material and formation of opinion honest and bona fide and not based on any extraneous or irrelevant material—No illegality or infirmity in issuance of warrant under section 132 and notice under section 153A— SUBHASH SHARMA v. CIT (Chhattisgarh) . . .	47
	Windmill —Depreciation—Additional depreciation—Assessee in business of manufacture of matches setting up windmill for production of electricity—That main business of assessee was not producing electricity immaterial—Assessee entitled to additional depreciation— TENZING MATCH WORKS v. DEPUTY CIT (Mad) . . .	312
	—Depreciation—Assessee in business of manufacture of matches setting up windmill for production of electricity—Order of Assessing Officer disallowing claim for depreciation on ground that windmill used only for trial run during accounting year upheld by Tribunal reversing order of Commissioner (Appeals)—Erroneous—Assessee entitled to depreciation— TENZING MATCH WORKS v. DEPUTY CIT (Mad) . . .	312
	Words and phrases	
	charitable purposes . . .	373
	surrender . . .	465
	transfer . . .	518
	Writ —Scope of jurisdiction—Constitution of India, art. 226— IDS INFOTECH LTD. v. PRINCIPAL CIT (P&H) . . .	82
	Writ petition —Maintainability—Alternative remedy—Penalty—Orders levying penalty issued beyond period of limitation—Writ petitions maintainable even if alternative statutory remedy available—Income-tax Act, 1961, ss. 271(1)(c), 275(1)(a)—Constitution of India, art. 226— GE ENERGY PARTS INC. v. DEPUTY CIT (Delhi) . . .	93

End of Volume 423

**THE
INCOME TAX REPORTS
VOLUME 423—2020**

SECTIONWISE INDEX

ACTS :

Companies Act, 1956 :

Part IX, s. 575—Infrastructure facility—Special deduction—Conditions precedent—Assessee must be an enterprise owned by a company registered in India and carrying on business of (i) developing, (ii) maintaining and operating or (iii) developing, maintaining and operating any infrastructure facility which has entered into agreement with Government therefor—Agreement initially executed between firm and State Government with understanding that when firm converted into company, name of company would be recorded in agreement recognising change—After conversion of firm into company authorities providing fresh registration code to assessee—Effect of conversion of firm into company under Part IX of Companies Act, 1956—Assessee qualified for deduction under section 80-IA—*CIT v. CHETAK ENTERPRISES PVT. LTD.* (SC) . . . 267

Constitution of India :

Art. 14—Return—Delay in filing return—Constitutional validity of provision—Section 234F levying fees for delay in filing return—Parliament competent to enact provision—Provision does not contravene article 14—Section 234F valid—*K. NIRAI MATHI AZHAGAN v. UNION OF INDIA* (Mad) . . . 339

Art. 226—Income from undisclosed sources—Bogus purchases—Purchases shown established to be bogus by Investigation Wing according to statement recorded during a search and seizure operation conducted in another concern—Disallowance of 15 per cent. of unverifiable purchases—Justified—*LUNAWAT GEMS CORPORATION v. CIT* (Raj) . . . 171

—Return—Delay in filing return—Constitutional validity of provision—Section 234F levying fees for delay in filing return—Parliament competent to enact provision—Provision does not contravene article 14—Section 234F valid—*K. NIRAI MATHI AZHAGAN v. UNION OF INDIA* (Mad) . . . 339

—Search and seizure—Assessment in search cases—Notice—Warrant of authorisation for search and seizure—Reasonable belief—Satisfaction of authority—Authority in possession of information on basis of which reasonable belief was founded—Application of mind by authority to material and formation of opinion honest and bona fide and not based

2020]	GENERAL INDEX	xxxi
		PAGE
	on any extraneous or irrelevant material—No illegality or infirmity in issuance of warrant under section 132 and notice under section 153A— SUBHASH SHARMA v. CIT (Chhattisgarh) . . .	47
	—Writ—Scope of jurisdiction— IDS INFOTECH LTD. v. PRINCIPAL CIT (P&H) . . .	82
	—Writ petition—Maintainability—Alternative remedy—Penalty—Orders levying penalty issued beyond period of limitation—Writ petitions maintainable even if alternative statutory remedy available— GE ENERGY PARTS INC. v. DEPUTY CIT (Delhi) . . .	93
	Criminal Procedure Code, 1973 :	
	S. 391 —Offences and prosecution—Wilful default in payment of penalty for concealment of income—Conviction of managing director and executive director of assessee by Judicial Magistrate—Appeal—Evidence—Documents to prove there was no wilful default left out to be marked due to inefficiency and inadvertence—Interest of justice—Appellate court has power to allow documents to be let in as additional evidence— GANGO-THRI TEXTILES LTD. v. ASST. CIT (Mad) . . .	382
	Employees' Provident Funds and Miscellaneous Provisions Act, 1952 :	
	S. 38 —Business expenditure—Employees' contribution to provident fund and employees' State insurance—Delay in payment—Duty of employer under section 38 of Employees' Provident Funds and Miscellaneous Provisions Act, 1952 to pay contribution deducted from employee's wages "within fifteen days of the close of every month"—Order of Tribunal restoring issue of additions made on account of late payment of employees' contribution to provident fund and employees' State insurance—Erroneous— PRINCIPAL CIT v. SUZLON ENERGY LTD. (Guj) . . .	608
	Income-tax Act, 1961 :	
	S. 2(15) —Charitable institution—Exemption—Denial of exemption—Activity for profit—Effect of proviso to section 2(15)—Concurrent finding of appellate authorities that the assessee was charitable institution—Event organised to raise money—Amount earned entitled to exemption— CIT (EXEMPTIONS) v. UNITED WAY OF BARODA (Guj) . . .	596
	—Charitable purposes—Registration—Meaning of charitable purposes—Statutory body for urban development under control of State Government—Charitable institution entitled to registration—Effect of rule 17A— BELGAUM URBAN DEVELOPMENT AUTHORITY v. CIT (Karn) . . .	373
	S. 2(24)(x) —Business expenditure—Employees' contribution to provident fund and employees' State insurance—Delay in payment—Duty of employer under section 38 of Employees' Provident Funds and Miscella-	

	PAGE
neous Provisions Act, 1952 to pay contribution deducted from employee's wages "within fifteen days of the close of every month"—Order of Tribunal restoring issue of additions made on account of late payment of employees' contribution to provident fund and employees' State insurance—Erroneous—PRINCIPAL CIT <i>v.</i> SUZLON ENERGY LTD. (Guj) . . .	608
S. 2(42C) —Capital gains—Slump sale—Transfer of entire assets including intangible assets by holding concern to subsidiary for total consideration—Finding that transaction was slump sale—Order need not be interfered with—CIT <i>v.</i> AKZO NOBLE INDIA LTD. (Cal) . . .	208
S. 2(47)(v) —Capital gains—Transfer—Definition—Assessee entering into joint venture agreement with developer, handing over possession of property and accepting refundable deposit—Transfer when takes place—Contention that no development had taken place and assessee might have to refund deposit—Applicability of section 2(47)(v) read with section 53A of Transfer of Property Act, 1882—Matter remanded to Assessing Officer for determination in light of <i>CIT v. Balbir Singh Maini</i> [2017] 398 ITR 531 (SC)—SUMERU SOFT P. LTD. <i>v.</i> ITO (Mad) . . .	518
S. 5 —Income deemed to accrue or arise in India—Non-resident—Amount received as demurrage charges from seller in India—Not income arising in India within meaning of sections 5 and 9—Not assessable—SESA GOA LTD. <i>v.</i> JOINT CIT (Bom) . . .	426
S. 6(1)(a) —Residence—Finding that assessee migrated to foreign countries for higher studies and had business interests abroad with permanent resident status—Findings of fact by Tribunal based on records—Assessee's travels to India in nature of visits—Assessee not ordinarily resident in India—PRINCIPAL CIT <i>v.</i> BINOD KUMAR SINGH (Bom) . . .	175
S. 9 —Income deemed to accrue or arise in India—Non-resident—Amount received as demurrage charges from seller in India—Not income arising in India within meaning of sections 5 and 9—Not assessable—SESA GOA LTD. <i>v.</i> JOINT CIT (Bom) . . .	426
S. 10(37) —Central Board of Direct Taxes—Effect of Circular—Interest received on compensation or on enhanced compensation for acquisition of land—Assessable as income from other sources—MAHENDER PAL NARANG <i>v.</i> CBDT (P&H) . . .	13
S. 10(38) —Exemption—Long-term capital gains—Concurrent finding of fact on appreciation of evidence by Assessing Officer and appellate authorities that transactions not genuine—Burden of proof—No evidence of actual sale produced by assessee—Denial of exemption—Proper—SUMAN PODDAR <i>v.</i> ITO (Delhi) . . .	480
S. 11 —Charitable purpose—Computation of income—Depreciation—Charitable institution entitled to depreciation—DIT (EXEMPTIONS) <i>v.</i> KRUPANIDHI EDUCATION TRUST (Karn) . . .	616

2020]	GENERAL INDEX	xxxiii
		PAGE
—Charitable institution—Exemption—Denial of exemption—Activity for profit—Effect of proviso to section 2(15)—Concurrent finding of appellate authorities that the assessee was charitable institution—Event organised to raise money—Amount earned entitled to exemption—CIT (EXEMPTIONS) <i>v.</i> UNITED WAY OF BARODA (Gu) . . .		596
—Charitable purpose—Exemption—Registration of trust—Factors to be considered—Satisfaction about objects and genuineness of assessee—If objects later found not genuine authority has option to cancel registration—PRINCIPAL CIT (EXEMPTIONS) <i>v.</i> SHRI NATHJI GOVERDHAN NATHJI CHARITABLE TRUST (Cal) . . .		69
—Charitable purposes—Registration—Meaning of charitable purposes—Statutory body for urban development under control of State Government—Charitable institution entitled to registration—Effect of rule 17A—BELGAUM URBAN DEVELOPMENT AUTHORITY <i>v.</i> CIT (Karn) . . .		373
S. 12 —Charitable purpose—Exemption—Registration of trust—Factors to be considered—Satisfaction about objects and genuineness of assessee—If objects later found not genuine authority has option to cancel registration—PRINCIPAL CIT (EXEMPTIONS) <i>v.</i> SHRI NATHJI GOVERDHAN NATHJI CHARITABLE TRUST (Cal) . . .		69
S. 12A —Charitable purpose—Exemption—Registration of trust—Factors to be considered—Satisfaction about objects and genuineness of assessee—If objects later found not genuine authority has option to cancel registration—PRINCIPAL CIT (EXEMPTIONS) <i>v.</i> SHRI NATHJI GOVERDHAN NATHJI CHARITABLE TRUST (Cal) . . .		69
—Charitable purposes—Registration—Meaning of charitable purposes—Statutory body for urban development under control of State Government—Charitable institution entitled to registration—Effect of rule 17A—BELGAUM URBAN DEVELOPMENT AUTHORITY <i>v.</i> CIT (Karn) . . .		373
S. 12AA(3) —Charitable purpose—Exemption—Registration of trust—Factors to be considered—Satisfaction about objects and genuineness of assessee—If objects later found not genuine authority has option to cancel registration—PRINCIPAL CIT (EXEMPTIONS) <i>v.</i> SHRI NATHJI GOVERDHAN NATHJI CHARITABLE TRUST (Cal) . . .		69
S. 14 —Heads of income—Income from house property or business income—Assessee not merely renting out commercial space but providing common facilities and amenities to occupiers to run their business—Receipt of charges from licensees for services provided—Business income—PRINCIPAL CIT <i>v.</i> KROME PLANET INTERIORS PVT. LTD. (Bom) . . .		62
S. 14A —Book profits—Fluctuations in foreign exchange rates—PRINCIPAL CIT <i>v.</i> SHAPOORJI PALLONJI AND Co. LTD. (Bom) . . .		220

	PAGE
—Business expenditure—Interest on borrowed capital—Finding that investment from interest-free funds available with assessee—Presumption that advances made out of interest-free funds available with assessee—No facts pleaded for apportionment under rule 8D—Deletion of addition made under section 14A—Justified— <i>PRINCIPAL CIT v. SHAPOORJI PAL-LONJI AND CO. LTD.</i> (Bom) . . .	220
—Income—Computation of income—Disallowance of expenditure on earning non-taxable income—Scope of section 14A—No receipt of income—Section 14A not applicable— <i>PRINCIPAL CIT v. VARDHMAN CHEMTECH P. LTD.</i> (P&H) . . .	241
—Income—Computation of income—Disallowance of expenditure relating to exempt income—Presumption that investments made from interest-free funds—Presumption not rebutted—Interest cannot be disallowed— <i>PRINCIPAL CIT v. ASHOK APPARELS (P.) LTD.</i> (Bom) . . .	412
—Income—Disallowance of expenditure in relation to exempt income—Finding that assessee had hardly incurred any expenses in respect of dividend and substantial investments were made temporarily to invest idle funds—Deletion of disallowance proper— <i>PRINCIPAL CIT v. LEE AND MUIRHEAD PVT. LTD.</i> (Bom) . . .	167
S. 22 —Heads of income—Income from house property or business income—Assessee not merely renting out commercial space but providing common facilities and amenities to occupiers to run their business—Receipt of charges from licensees for services provided—Business income— <i>PRINCIPAL CIT v. KROME PLANET INTERIORS PVT. LTD.</i> (Bom) . . .	62
S. 32 —Depreciation—Additional depreciation—Windmill—Assessee in business of manufacture of matches setting up windmill for production of electricity—That main business of assessee was not producing electricity immaterial—Assessee entitled to additional depreciation— <i>TENZING MATCH WORKS v. DEPUTY CIT</i> (Mad) . . .	312
—Depreciation—Rate of depreciation—Assessee hiring out construction equipment—Assessee granted depreciation at the rate of 30 per cent. in prior years—Depreciation cannot be reduced to 15 per cent. in assessment year 2011-12— <i>PRASAD MULTI SERVICES PRIVATE LTD. v. DEPUTY CIT</i> (Guj) . . .	542
—Depreciation—Rate of depreciation—Uninterrupted power supply system for computers—Assessee entitled to depreciation at 60 per cent.— <i>CIT, LTU v. ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD.</i> (Mad) . . .	122
—Depreciation—Windmill—Assessee in business of manufacture of matches setting up windmill for production of electricity—Order of Assessing Officer disallowing claim for depreciation on ground that wind-	

2020]	GENERAL INDEX	xxxv
		PAGE
	mill used only for trial run during accounting year upheld by Tribunal reversing order of Commissioner (Appeals)—Erroneous—Assessee entitled to depreciation—TENZING MATCH WORKS <i>v.</i> DEPUTY CIT (Mad) . . .	312
	S. 32(1)(ii) —Penalty—Concealment of income—Depreciation—Cost of construction of roads on build-operate-transfer basis—Disallowance of depreciation on ground assessee not owner of asset—Clarificatory circular issued by Central Board of Direct Taxes as to treatment of expenditure—Appellate authorities setting aside of penalty proceedings—Need not be interfered with—PRINCIPAL CIT <i>v.</i> HIMALAYAN EXPRESSWAY LTD. (P&H) . . .	40
	S. 32(1)(iia) —Depreciation—Additional depreciation—Windmill—Assessee in business of manufacture of matches setting up windmill for production of electricity—That main business of assessee was not producing electricity immaterial—Assessee entitled to additional depreciation—TENZING MATCH WORKS <i>v.</i> DEPUTY CIT (Mad) . . .	312
	S. 36(1)(va) —Business expenditure—Employees' contribution to provident fund and employees' State insurance—Delay in payment—Duty of employer under section 38 of Employees' Provident Funds and Miscellaneous Provisions Act, 1952 to pay contribution deducted from employee's wages "within fifteen days of the close of every month"—Order of Tribunal restoring issue of additions made on account of late payment of employees' contribution to provident fund and employees' State insurance—Erroneous—PRINCIPAL CIT <i>v.</i> SUZLON ENERGY LTD. (Guj) . . .	608
	S. 36 —Interest on borrowed capital—Condition precedent for deduction—Amount borrowed not used for assessee's business but to assist sister concern—Interest not deductible—YENEPOYA RESINS AND CHEMICALS <i>v.</i> DEPUTY CIT (Karn) . . .	161
	S. 36(1)(iii) —Business expenditure—Interest on borrowed capital—Finding that investment from interest-free funds available with assessee—Presumption that advances made out of interest-free funds available with assessee—No facts pleaded for apportionment under rule 8D—Deletion of addition made under section 14A—Justified—PRINCIPAL CIT <i>v.</i> SHAPOORJI PALLONJI AND Co. LTD. (Bom) . . .	220
	—Unexplained expenditure—Suspicion that certain purchases were bogus based on information from sales-tax authority—Neither independent enquiry conducted by Assessing Officer nor due opportunity given to assessee—Deletion of addition by appellate authorities—Justified—PRINCIPAL CIT <i>v.</i> SHAPOORJI PALLONJI AND Co. LTD. (Bom) . . .	220
	S. 36(1)(vi) —Business expenditure—Bad debts written off—Finding that assessee had purchased certain assets on slump sale basis and certain	

xxxvi

INCOME TAX REPORTS

[VOL. 423

	PAGE
debts which were part of current assets were reduced—Deletion of disallowance proper—PRINCIPAL CIT <i>v.</i> LEE AND MUIRHEAD PVT. LTD. (Bom) . . .	167
S. 36(1)(vii) —Bad debts—Conditions precedent for deduction—Assessee found to be carrying on financing business—Amounts written off in accounts—Deductible—DECCAN AGENCY <i>v.</i> DEPUTY CIT (Mad) . . .	418
S. 36(1)(viii) —Business expenditure—Co-operative bank—Deduction for 10 per cent. of aggregate advances of rural branches—Whether assessee entitled to benefit under second limb of clause (viii) of section 36(1) without reference to definition of rural branch in <i>Explanation (ia)</i> under section 36—Effect of earlier decision and sustainability of dictum laid down therein—ERNAKULAM DISTRICT CO-OPERATIVE BANK LTD. <i>v.</i> CIT (Ker) . . .	308
S. 37 —Business expenditure—Capital or revenue expenditure—Assessee engaged in business of construction of building and berths in ports—Preliminary expenditure incurred for submission of tender in another port—Not new line of business—Expenditure incurred revenue in nature and allowable—CIT <i>v.</i> SOUTH INDIA CORPORATION LTD. (Ker) . . .	158
—Business expenditure—Capital or revenue expenditure—Assessee manufacturer of fertilizers—Expenses incurred for replacement of damaged parts of existing machinery—No acquisition of new asset—Allowable business expenditure—PRINCIPAL CIT <i>v.</i> GUJARAT NARMADA VALLEY FERTILIZER AND CHEMICALS LTD. (Guj) . . .	54
—Business expenditure—Capital or revenue expenditure—Computer software expenses—Finding that payment was for actual use of software and not for acquisition of software—Expenses incurred cannot be treated as capital in nature—Justified—PRINCIPAL CIT <i>v.</i> AKER POWERGAS PVT. LTD. (Bom) . . .	536
—Business expenditure—Capital or revenue expenditure—Legal expenses incurred in connection with sale of capital assets—Expenses revenue in nature—PRINCIPAL CIT <i>v.</i> AKER POWERGAS PVT. LTD. (Bom) . . .	536
—Business expenditure—Finding based on evidence that assessee was not able to prove genuineness of expenses—Disallowance of claims justified—No question of law arose—FIITJEE LTD. <i>v.</i> PRINCIPAL CIT (Delhi) . . .	354
S. 37(1) —Business expenditure—Expenditure on early termination of lease and licence—Finding that termination was business decision and expenditure was incurred wholly and exclusively for purpose of business—Deletion of disallowance proper—PRINCIPAL CIT <i>v.</i> LEE AND MUIRHEAD PVT. LTD. (Bom) . . .	167

2020]	GENERAL INDEX	xxxvii
		PAGE
	S. 40(a)(ii) —Business expenditure—Disallowance—Rates or taxes—Scope of section 40(a)(ii)—Cess not covered by section 40(a)(ii)—Education cess deductible— <i>SESA GOA LTD. v. JOINT CIT</i> (Bom) . . .	426
	S. 41 —Income—Business income—Remission or cessation of liability—Amounts shown as credits—Finding that liabilities did not exist—Assessment of amounts under section 41 justified— <i>SURESH KUMAR T. JAIN v. ITO</i> (Karn) . . .	489
	S. 41(1) —Income—Business income—Remission or cessation of trading liability—Condition precedent for application of section 41(1)—Deduction must have been claimed for the liability—Gains on repurchase of debenture bonds—Not assessable under section 41(1)— <i>CIT (LTU) v. RELIANCE INDUSTRIES LTD.</i> (Bom) . . .	236
	S. 41(1)(a) —Business income—Remission or cessation of liability—Condition precedent—Assessee, a co-operative society, obtaining loan from National Dairy Development Board for which State Government stood guarantee on payment of commission—Commission claimed by assessee as revenue expenditure in earlier assessment years—State Government writing off liability and allowing it to be treated as capital grant to be used only for capital and rehabilitation purposes—Assessee continues to remain liable to repay those amounts—No remission or cessation of liability under section 41(1)(a)—Cannot be treated as revenue receipts— <i>PRINCIPAL CIT v. RAJASTHAN CO-OPERATIVE DAIRY FEDERATION LTD.</i> (Raj) . . .	89
	S. 42(1)(a) —Business expenditure—Exploration and extraction of oil—Conditions precedent for deduction—Expenditure should be infructuous or abortive exploration expenses and area should be surrendered prior to commencement of commercial production—Meaning of expression “surrender”—Does not always connote voluntary surrender—Assessee entering into production sharing contract with Government of India and requesting for extension at end of contract period—Government refusing extension—Assessee entitled to deduction under section 42(1)(a)— <i>PRINCIPAL CIT v. HINDUSTAN OIL EXPLORATION CO. LTD.</i> (Bom) . . .	465
	S. 45 —Capital gains—Income from other sources—Consideration for transfer of rights in property—Tribunal finding in appeal by transferee that assessee was tenant of transferee—Consideration cannot be treated as income from other sources merely on basis of suspicion— <i>AMOL C. SHAH (HUF) v. ITO</i> (Bom) . . .	408
	—Capital gains—Slump sale—Transfer of entire assets including intangible assets by holding concern to subsidiary for total consideration—Finding that transaction was slump sale—Order need not be interfered with— <i>CIT v. AKZO NOBLE INDIA LTD.</i> (Cal) . . .	208

	PAGE
—Capital gains—Transfer—Definition—Assessee entering into joint venture agreement with developer, handing over possession of property and accepting refundable deposit—Transfer when takes place—Contention that no development had taken place and assessee might have to refund deposit—Applicability of section 2(47)(v) read with section 53A of Transfer of Property Act, 1882—Matter remanded to Assessing Officer for determination in light of <i>CIT v. Balbir Singh Maini</i> [2017] 398 ITR 531 (SC)— <i>SUMERU SOFT P. LTD. v. ITO</i> (Mad) . . .	518
—Heads of income—Capital gains or income from other sources—Acquisition of land—Compensation—Interest on enhanced compensation—Specific provision introduced treating interest as income from other sources—Effect of amendment in law—Interest was income from other sources and not capital gains— <i>MAHENDER PAL NARANG v. CBDT</i> (P&H) . . .	13
S. 48 —Capital gains—Slump sale—Transfer of entire assets including intangible assets by holding concern to subsidiary for total consideration—Finding that transaction was slump sale—Order need not be interfered with— <i>CIT v. AKZO NOBLE INDIA LTD.</i> (Cal) . . .	208
S. 50 —Capital gains—Slump sale—Transfer of entire assets including intangible assets by holding concern to subsidiary for total consideration—Finding that transaction was slump sale—Order need not be interfered with— <i>CIT v. AKZO NOBLE INDIA LTD.</i> (Cal) . . .	208
S. 50C —Capital gains—Computation of capital gains—Difference between consideration shown in sale deed and valuation for purposes of stamp duty—Stamp duty valuation to be taken into account—Transfer of land—No evidence that land was not in possession of transferor—Section 50C applicable— <i>RAM JI LAL MEENA v. ITO</i> (Raj) . . .	439
S. 54 —Capital gains—Exemption—Sale of residential house and purchase or construction of new residential house within stipulated time—Construction of new residential house need not begin after sale of original house— <i>PRINCIPAL CIT v. AKSHAY SOBTI</i> (Delhi) . . .	321
S. 54EC —Capital gains—Income from other sources—Consideration for transfer of rights in property—Tribunal finding in appeal by transferee that assessee was tenant of transferee—Consideration cannot be treated as income from other sources merely on basis of suspicion— <i>AMOL C. SHAH (HUF) v. ITO</i> (Bom) . . .	408
S. 56 —Capital gains—Income from other sources—Consideration for transfer of rights in property—Tribunal finding in appeal by transferee that assessee was tenant of transferee—Consideration cannot be treated as income from other sources merely on basis of suspicion— <i>AMOL C. SHAH (HUF) v. ITO</i> (Bom) . . .	408

2020]	GENERAL INDEX	xxxix
		PAGE
S. 56(2)(viii) —Heads of income—Capital gains or income from other sources—Acquisition of land—Compensation—Interest on enhanced compensation—Specific provision introduced treating interest as income from other sources—Effect of amendment in law—Interest was income from other sources and not capital gains— MAHENDER PAL NARANG v. CBDT (P&H) . . .		13
—Interpretation of taxing statutes—Aids to interpretation—Language of section plain and unambiguous—External aids cannot be adopted to interpret provision— MAHENDER PAL NARANG v. CBDT (P&H) . . .		13
S. 68 —Cash credits—Burden of proof—Assessee not discharging onus to prove source of amounts deposited in bank or explain frequency of withdrawals and deposits—Reasoning of Assessing Officer and findings of fact by Tribunal based on evidence—Addition of cash deposits as income of assessee—Justified— SHASHI GARG v. PRINCIPAL CIT (Delhi) . . .		150
—Cash credit—Burden of proof—Identity and creditworthiness of creditor and genuineness of transaction—Assessee discharging onus by satisfying all three conditions—Assessee not bound to explain sources of source—Addition of unsecured loan as undisclosed cash not justified— GAURAV TRIYUGI SINGH v. ITO (Bom) . . .		531
—Cash credit—Credits found to be fictitious—Amounts assessable under section 68— SURESH KUMAR T. JAIN v. ITO (Karn) . . .		489
—Reassessment—Notice—Reason to believe that income had escaped assessment—Notice based on disallowances made in assessment for subsequent year—No information available with Assessing Officer specific to assessment year for which notice issued—Reassessment order invalid— TROPEX PROMOTION AND TRADING LTD. v. CIT (Delhi) . . .		510
—Residence—Finding that assessee migrated to foreign countries for higher studies and had business interests abroad with permanent resident status—Findings of fact by Tribunal based on records—Assessee's travels to India in nature of visits—Assessee not ordinarily resident in India— PRINCIPAL CIT v. BINOD KUMAR SINGH (Bom) . . .		175
S. 69 —Residence—Finding that assessee migrated to foreign countries for higher studies and had business interests abroad with permanent resident status—Findings of fact by Tribunal based on records—Assessee's travels to India in nature of visits—Assessee not ordinarily resident in India— PRINCIPAL CIT v. BINOD KUMAR SINGH (Bom) . . .		175
S. 69A —Assessment—Unexplained money—Chit company—Effect of electronic proceedings—Possibility of erroneous assessment if transactions and statement of account of assessee not properly understood—Assessing Officer to call for assessee's explanation in writing to conclude that cash deposits made by assessee post-demonetization of currency was		

xl

INCOME TAX REPORTS

[VOL. 423

	PAGE
unusual—SALEM SREE RAMAVILAS CHIT CO. PVT. LTD. <i>v.</i> DEPUTY CIT (Mad) . . .	525
—Search and seizure—Assessment of third person—Undisclosed income—Assessment based solely on statement of party against whom search conducted—Assessing Officer not making any further inquiry or investigation on information received from Deputy Commissioner—No cogent material produced to fasten liability on assessee—Concurrent findings of fact by appellate authorities—Deletion of addition proper—CIT <i>v.</i> SANT LAL (Delhi) . . .	1
—Unexplained money—Chit company—Tax on income included under section 69A—Monthly subscriptions/dues—Cash deposits of collection made post-demonetization of currency by Government—Cash deposits during period in question not in variance with same period during preceding year—Addition of amount as unexplained money—Provisions of section 115BBE cannot be invoked—SALEM SREE RAMAVILAS CHIT CO. PVT. LTD. <i>v.</i> DEPUTY CIT (Mad) . . .	525
S. 69C —Unexplained expenditure—Suspicion that certain purchases were bogus based on information from sales-tax authority—Neither independent enquiry conducted by Assessing Officer nor due opportunity given to assessee—Deletion of addition by appellate authorities—Justified—PRINCIPAL CIT <i>v.</i> SHAPOORJI PALLONJI AND CO. LTD. (Bom) . . .	220
S. 80-IA —Industrial undertaking in backward area—Special deduction under section 80-IA—Condition precedent—Location of undertaking in area designated as backward in official gazette—Undertaking set up in area designated subsequently as backward—Assessee not entitled to special deduction under section 80-IA—CIT <i>v.</i> ENDEKA CERAMICS (INDIA) PVT. LTD. (Karn) . . .	117
S. 80-IA(4)(i)(a), (b) —Infrastructure facility—Special deduction—Conditions precedent—Assessee must be an enterprise owned by a company registered in India and carrying on business of (i) developing, (ii) maintaining and operating or (iii) developing, maintaining and operating any infrastructure facility which has entered into agreement with Government therefor—Agreement initially executed between firm and State Government with understanding that when firm converted into company, name of company would be recorded in agreement recognising change—After conversion of firm into company authorities providing fresh registration code to assessee—Effect of conversion of firm into company under Part IX of Companies Act, 1956—Assessee qualified for deduction under section 80-IA—CIT <i>v.</i> CHETAK ENTERPRISES PVT. LTD. (SC) . . .	267
S. 80-IB(10) —Housing project—Special deduction—Condition precedent—Finding that assessee had planned entire project as composite	

2020]	GENERAL INDEX	xli
		PAGE
one—Decision in assessee’s own case for earlier assessment year that assessee entitled to deduction—No question of law arose—CIT <i>v.</i> SMT. A. JAGADEESWARI	(Mad) . . .	8
—Housing projects—Special deduction—Period for completion of project—Date of approval of project—Project of assessee different from project that previous developer had conceived—Finding of Tribunal that project completed within time—Deduction cannot be denied—PRINCIPAL CIT <i>v.</i> YASH ASSOCIATES	(Bom) . . .	215
S. 80P(2) —Co-operative society—Special deduction—Scope of section 80P—Interest from credit to employees—Not entitled to special deduction under section 80P—KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD. <i>v.</i> DEPUTY CIT	(Ker) . . .	350
S. 115BBE —Unexplained money—Chit company—Tax on income included under section 69A—Monthly subscriptions/dues—Cash deposits of collection made post-demonetization of currency by Government—Cash deposits during period in question not in variance with same period during preceding year—Addition of amount as unexplained money—Provisions of section 115BBE cannot be invoked—SALEM SREE RAMAVILAS CHIT CO. PVT. LTD. <i>v.</i> DEPUTY CIT	(Mad) . . .	525
S. 115JB —Book profits—Fluctuations in foreign exchange rates—PRINCIPAL CIT <i>v.</i> SHAPOORJI PALLONJI AND CO. LTD.	(Bom) . . .	220
—Company—Computation of book profits—Effect of <i>Explanation</i> to section 115JB(2)—Amount set aside as provision for diminution in value of asset—Material on record showing that such provision had been reduced from assets side of the balance-sheet—Provision cannot be added to book profits—PRINCIPAL CIT <i>v.</i> TORRENT PRIVATE LIMITED	(Guj) . . .	455
—Company—Computation of book profits—Effect of section 115JB—Provision for wealth tax not includible—CIT (LTU) <i>v.</i> RELIANCE INDUSTRIES LTD.	(Bom) . . .	236
—Company—Insurance company—Book profits—Computation—Provision towards solatium fund—Estimation done according to directions given by Government of India as per decision taken by General Insurance Company—Not liable to taxation—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD.	(Mad) . . .	122
—Company—Minimum alternate tax—Insurance company—Book profits—Provisions not applicable to insurance companies—CIT, LTU <i>v.</i> ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD.	(Mad) . . .	122
S. 115WA —Fringe benefits tax—Charge of tax—Condition precedent—Relationship of employer and employee—Free samples distributed		

xlii

INCOME TAX REPORTS

[VOL. 423

	PAGE
to doctors by pharmaceutical company—Not fringe benefit—Amount spent not liable to fringe benefits tax—PRINCIPAL CIT <i>v.</i> ARISTO PHARMACEUTICALS P. LTD. (Bom) . . .	295
S. 124(3) —Reassessment—Notice—Assessment proceedings pursuant to notice under section 142(1) pending and time for completion of assessment not having lapsed—Issue of notice under section 148 not permissible—That assessee had not objected to jurisdiction of Assessing Officer not relevant—PRINCIPAL CIT <i>v.</i> GOVIND GOPAL GOYAL (Guj) . . .	106
S. 127 —Transfer of case—Centralization of assessee's cases—Supply of reasons to assessee—Purpose of transfer for co-ordinated investigation of connected cases—Possibility of involvement of assessee in scam having international ramifications—Discretion of Department for public purpose—Assessee aware of reasons for transfer—Transfer order valid—IDS INFOTECH LTD. <i>v.</i> PRINCIPAL CIT (P&H) . . .	82
S. 132 —Search and seizure—Assessment in search cases—Capital gains—Transfer of shares—Group concerns controlled by assessee and family members holding shares—Finding of Assessing Officer that shares sold at low price by one group company sold back by another company in group at higher price—Capital gains set off against losses of group company which sold at higher price—Receipt of non-compete fee—Sequence of events prior to share transfer and surrounding circumstances—Tax avoidance device—Seized material basis of assessment proceedings—Finding rendered by Tribunal that price for which shares were agreed to be sold was justified and reasonable—Not substantiated by evidence and perverse—Order of Assessing Officer restored—CIT <i>v.</i> M. P. PURUSHOTHAMAN (Mad) . . .	248
—Search and seizure—Assessment in search cases—Notice—Warrant of authorisation for search and seizure—Reasonable belief—Satisfaction of authority—Authority in possession of information on basis of which reasonable belief was founded—Application of mind by authority to material and formation of opinion honest and bona fide and not based on any extraneous or irrelevant material—No illegality or infirmity in issuance of warrant under section 132 and notice under section 153A—SUBHASH SHARMA <i>v.</i> CIT (Chhattisgarh) . . .	47
—Search and seizure—Assessment of third person—Undisclosed income—Assessment based solely on statement of party against whom search conducted—Assessing Officer not making any further inquiry or investigation on information received from Deputy Commissioner—No cogent material produced to fasten liability on assessee—Concurrent findings of fact by appellate authorities—Deletion of addition proper—CIT <i>v.</i> SANT LAL (Delhi) . . .	1

2020]	GENERAL INDEX	xliii
		PAGE
	—Income from undisclosed sources—Bogus purchases—Purchases shown established to be bogus by Investigation Wing according to statement recorded during a search and seizure operation conducted in another concern—Disallowance of 15 per cent. of unverifiable purchases—Justified—LUNAWAT GEMS CORPORATION <i>v.</i> CIT (Raj) . . .	171
	—Search and seizure—Warrant of authorisation—Conditions precedent—No reasons recorded before search—Seizure of jewellery at airport from jeweller who stated that they were his stock-in-trade—Seizure not lawful—KHEM CHAND MUKIM <i>v.</i> PRINCIPAL DIT (INVESTIGATION) (Delhi) . . .	129
	S. 132(1)(iib) —Search and seizure—Block assessment—Limitation—Commencement of limitation—Law applicable—Effect of insertion of clause (iib) in section 132(1)—Time taken to obtain information stored in electronic records to be taken into account—Search started in January 2001—Assessee not giving access to records stored in computer till June 2001—Block assessment in June 2003—Not barred by limitation—DR. BHARAT MEHTA <i>v.</i> DEPUTY CIT (Mad) . . .	568
	S. 132B —Search and seizure—Retention of seized articles—Effect of section 132B—KHEM CHAND MUKIM <i>v.</i> PRINCIPAL DIT (INVESTIGATION) (Delhi) . . .	129
	S. 142(1) —Reassessment—Notice—Assessment proceedings pursuant to notice under section 142(1) pending and time for completion of assessment not having lapsed—Issue of notice under section 148 not permissible—That assessee had not objected to jurisdiction of Assessing Officer not relevant—PRINCIPAL CIT <i>v.</i> GOVIND GOPAL GOYAL (Guj) . . .	106
	S. 142(2A) —Audit—Direction for special audit—Condition precedent—Opportunity to be heard—PRINCIPAL CIT <i>v.</i> VILSON PARTICLE BOARD INDUSTRIES LTD. (Bom) . . .	227
	S. 143(3) —Search and seizure—Assessment in search cases—Capital gains—Transfer of shares—Group concerns controlled by assessee and family members holding shares—Finding of Assessing Officer that shares sold at low price by one group company sold back by another company in group at higher price—Capital gains set off against losses of group company which sold at higher price—Receipt of non-compete fee—Sequence of events prior to share transfer and surrounding circumstances—Tax avoidance device—Seized material basis of assessment proceedings—Finding rendered by Tribunal that price for which shares were agreed to be sold was justified and reasonable—Not substantiated by evidence and perverse—Order of Assessing Officer restored—CIT <i>v.</i> M. P. PURUSH-OTHAMAN (Mad) . . .	248
	—Reassessment—Notice—Assessment proceedings pursuant to notice under section 142(1) pending and time for completion of assess-	

xliv

INCOME TAX REPORTS

[VOL. 423

	PAGE
ment not having lapsed—Issue of notice under section 148 not permissible—That assessee had not objected to jurisdiction of Assessing Officer not relevant— PRINCIPAL CIT v. GOVIND GOPAL GOYAL (Guj) . . .	106
—Search and seizure—Assessment of third person—Undisclosed income—Assessment based solely on statement of party against whom search conducted—Assessing Officer not making any further inquiry or investigation on information received from Deputy Commissioner—No cogent material produced to fasten liability on assessee—Concurrent findings of fact by appellate authorities—Deletion of addition proper— CIT v. SANT LAL (Delhi) . . .	1
S. 144C —Assessment—Draft assessment order—International transaction—Determination of arm's length price—Order under section 144C—Order set aside and fresh assessment ordered—Fresh draft assessment order necessary— PRINCIPAL CIT v. ANDREW TELECOMMUNICATIONS P. LTD. (Bom) . . .	503
S. 145A(b) —Central Board of Direct Taxes—Effect of Circular—Interest received on compensation or on enhanced compensation for acquisition of land—Assessable as income from other sources— MAHENDER PAL NARANG v. CBDT (P&H) . . .	13
S. 147 —Income from undisclosed sources—Bogus purchases—Purchases shown established to be bogus by Investigation Wing according to statement recorded during a search and seizure operation conducted in another concern—Disallowance of 15 per cent. of unverifiable purchases—Justified— LUNAWAT GEMS CORPORATION v. CIT (Raj) . . .	171
—Reassessment—Notice—Assessment proceedings pursuant to notice under section 142(1) pending and time for completion of assessment not having lapsed—Issue of notice under section 148 not permissible—That assessee had not objected to jurisdiction of Assessing Officer not relevant— PRINCIPAL CIT v. GOVIND GOPAL GOYAL (Guj) . . .	106
—Reassessment—Notice—Reason to believe that income has escaped assessment—There must be tangible material for formation of belief—No new tangible material other than material on record during scrutiny assessment—Reassessment based on change of opinion—Impermissible— PRINCIPAL CIT v. ZEE MEDIA CORPORATION LTD. (Bom) . . .	304
—Reassessment—Notice—Reason to believe that income had escaped assessment—Notice based on disallowances made in assessment for subsequent year—No information available with Assessing Officer specific to assessment year for which notice issued—Reassessment order invalid— TROPEX PROMOTION AND TRADING LTD. v. CIT (Delhi) . . .	510

2020]	GENERAL INDEX	xliv
		PAGE
	—Reassessment—Notice—Reopening of assessment depends on facts and circumstances of each case— <i>SUMERU SOFT P. LTD. v. ITO</i> (Mad) . . .	518
	—Reassessment—Notice—Validity—Income escaping assessment—Information received from Investigation Wing that payments made by assessee to contractor were bogus—Cannot be extrapolated to other assessment years—Enquiries conducted by Assessing Officer in original assessment—No new or tangible material available—Notice and reassessment proceedings quashed— <i>SKYVIEW CONSULTANTS PVT. LTD. v. ITO</i> (Delhi) . . .	645
	—Reassessment—Validity—Objection to notice must be considered—Notice after four years—No failure to disclose material facts necessary for assessment—Non-application of mind to objections to notice—Reassessment proceedings—Not valid— <i>KAPADIA MONEY CHANGERS PVT. LTD. v. ASST. CIT</i> (Guj) . . .	633
	—Reassessment—Notice—Validity—Special audit report at direction of Forward Markets Commission—Report showing escapement of income from tax—Report considered by Assessing Officer—Notice of reassessment based on report—Valid— <i>MULTI COMMODITY EXCHANGE OF INDIA LTD. v. DEPUTY CIT</i> (Bom) . . .	445
	—Search and seizure—Assessment of third person—Undisclosed income—Assessment based solely on statement of party against whom search conducted—Assessing Officer not making any further inquiry or investigation on information received from Deputy Commissioner—No cogent material produced to fasten liability on assessee—Concurrent findings of fact by appellate authorities—Deletion of addition proper— <i>CIT v. SANT LAL</i> (Delhi) . . .	1
	S. 148 —Reassessment—Notice—Assessment proceedings pursuant to notice under section 142(1) pending and time for completion of assessment not having lapsed—Issue of notice under section 148 not permissible—That assessee had not objected to jurisdiction of Assessing Officer not relevant— <i>PRINCIPAL CIT v. GOVIND GOPAL GOYAL</i> (Guj) . . .	106
	—Reassessment—Notice—Reason to believe that income has escaped assessment—There must be tangible material for formation of belief—No new tangible material other than material on record during scrutiny assessment—Reassessment based on change of opinion—Impermissible— <i>PRINCIPAL CIT v. ZEE MEDIA CORPORATION LTD.</i> (Bom) . . .	304
	—Reassessment—Notice—Reason to believe that income had escaped assessment—Notice based on disallowances made in assessment for subsequent year—No information available with Assessing Officer	

xlvi	INCOME TAX REPORTS	[VOL. 423
		PAGE
specific to assessment year for which notice issued—Reassessment order invalid—	TROPEX PROMOTION AND TRADING LTD. v. CIT (Delhi) . . .	510
—Reassessment—Notice—Reopening of assessment depends on facts and circumstances of each case—	SUMERU SOFT P. LTD. v. ITO (Mad) . . .	518
—Reassessment—Notice—Validity—Income escaping assessment—Information received from Investigation Wing that payments made by assessee to contractor were bogus—Cannot be extrapolated to other assessment years—Enquiries conducted by Assessing Officer in original assessment—No new or tangible material available—Notice and reassessment proceedings quashed—	SKYVIEW CONSULTANTS PVT. LTD. v. ITO (Delhi) . . .	645
—Reassessment—Validity—Objection to notice must be considered—Notice after four years—No failure to disclose material facts necessary for assessment—Non-application of mind to objections to notice—Reassessment proceedings—Not valid—	KAPADIA MONEY CHANGERS PVT. LTD. v. ASST. CIT (Guj) . . .	633
—Reassessment—Notice—Validity—Special audit report at direction of Forward Markets Commission—Report showing escapement of income from tax—Report considered by Assessing Officer—Notice of reassessment based on report—Valid—	MULTI COMMODITY EXCHANGE OF INDIA LTD. v. DEPUTY CIT (Bom) . . .	445
S. 153A —Search and seizure—Assessment in search cases—Capital gains—Transfer of shares—Group concerns controlled by assessee and family members holding shares—Finding of Assessing Officer that shares sold at low price by one group company sold back by another company in group at higher price—Capital gains set off against losses of group company which sold at higher price—Receipt of non-compete fee—Sequence of events prior to share transfer and surrounding circumstances—Tax avoidance device—Seized material basis of assessment proceedings—Finding rendered by Tribunal that price for which shares were agreed to be sold was justified and reasonable—Not substantiated by evidence and perverse—Order of Assessing Officer restored—	CIT v. M. P. PURUSHOTHAMAN (Mad) . . .	248
—Search and seizure—Assessment in search cases—Notice—Warrant of authorisation for search and seizure—Reasonable belief—Satisfaction of authority—Authority in possession of information on basis of which reasonable belief was founded—Application of mind by authority to material and formation of opinion honest and bona fide and not based on any extraneous or irrelevant material—No illegality or infirmity in issuance of warrant under section 132 and notice under section 153A—	SUBHASH SHARMA v. CIT (Chhattisgarh) . . .	47

2020]	GENERAL INDEX	xlvi
		PAGE
S. 153C —Search and seizure—Assessment in search cases—Capital gains—Transfer of shares—Group concerns controlled by assessee and family members holding shares—Finding of Assessing Officer that shares sold at low price by one group company sold back by another company in group at higher price—Capital gains set off against losses of group company which sold at higher price—Receipt of non-compete fee—Sequence of events prior to share transfer and surrounding circumstances—Tax avoidance device—Seized material basis of assessment proceedings—Finding rendered by Tribunal that price for which shares were agreed to be sold was justified and reasonable—Not substantiated by evidence and perverse—Order of Assessing Officer restored—CIT <i>v.</i> M. P. PURUSHOTHAMAN (Mad) . . .		248
—Search and seizure—Assessment in search cases—Assessment of third person—Conditions precedent—Satisfaction of Assessing Officer—Assessing Officer of person in respect of whom search conducted and of third person, the same—Satisfaction note clearly stating that documents seized from person in respect of whom search conducted belonged to assessee and not to person in respect of whom search conducted—Requirements fulfilled—SUPER MALLS PRIVATE LIMITED <i>v.</i> PRINCIPAL CIT (SC) . . .		281
—Search and seizure—Assessment of third person—Undisclosed income—Assessment based solely on statement of party against whom search conducted—Assessing Officer not making any further inquiry or investigation on information received from Deputy Commissioner—No cogent material produced to fasten liability on assessee—Concurrent findings of fact by appellate authorities—Deletion of addition proper—CIT <i>v.</i> SANT LAL (Delhi) . . .		1
S. 192 —Deduction of tax at source—Payment to contractor—Payments made to contractor towards annual maintenance charges of hospital equipment—Services rendered not in nature of providing technical services—Deduction of tax under section 194C—Proper—CIT (TDS) <i>v.</i> ASIAN HEART INSTITUTE AND RESEARCH CENTRE PVT. LTD. (Bom) . . .		75
—Deduction of tax at source—Salary—Support service rendered to doctors by assessee, hospital, on sharing basis—No employer-employee relationship between assessee and doctors—Tax not deductible treating payment as salary—CIT (TDS) <i>v.</i> ASIAN HEART INSTITUTE AND RESEARCH CENTRE PVT. LTD. (Bom) . . .		75
S. 194C —Deduction of tax at source—Payment to contractor—Payments made to contractor towards annual maintenance charges of hospital equipment—Services rendered not in nature of providing technical services—Deduction of tax under section 194C—Proper—CIT (TDS) <i>v.</i>		

	PAGE
ASIAN HEART INSTITUTE AND RESEARCH CENTRE PVT. LTD.	
(Bom) . . .	75
S. 194J —Deduction of tax at source—Salary—Support service rendered to doctors by assessee, hospital, on sharing basis—No employer-employee relationship between assessee and doctors—Tax not deductible treating payment as salary—CIT (TDS) <i>v.</i> ASIAN HEART INSTITUTE AND RESEARCH CENTRE PVT. LTD.	
(Bom) . . .	75
S. 200(1) —Offences and prosecution—Compounding of offence—Failure to pay tax deducted at source to Government account—Application for compounding of offence—Submission of application before competent authority mandatory—Applications for compounding of offence not filed before proper authority—Filing of application before appropriate competent authority upon intimation—Levy of compounding fee at 5 per cent. treating application as second application—Proper—Order of Principal Chief Commissioner need not be interfered with—PEB STEEL LLOYD (INDIA) LTD. <i>v.</i> PRINCIPAL CHIEF CIT	
(MP) . . .	29
S. 226 —Recovery of tax—Appeal—Appeal pending before Commissioner (Appeals)—Request to Assessing Officer to keep recovery in abeyance—Assessing Officer refusing and directing assessee to pay 20 per cent. of demand—Not proper—No payment of demand to be called for during pendency of appeal—BHUPENDRA MURJI SHAH <i>v.</i> DEPUTY CIT	
(Bom) . . .	300
S. 234C —Advance tax—Interest—Order of Supreme Court in assessee's favour in dispute with bank—Direction to bank to release of suit money to assessee—Income accrued on date of order of Supreme Court—Assessee liable to pay advance tax—Mere filing of review petition before Supreme Court not be ground for not paying advance tax—CANBANK FINANCIAL SERVICES LTD. <i>v.</i> CHIEF CIT	
(Karn) . . .	113
S. 234F —Return—Delay in filing return—Constitutional validity of provision—Section 234F levying fees for delay in filing return—Parliament competent to enact provision—Provision does not contravene article 14—Section 234F valid—K. NIRAI MATHI AZHAGAN <i>v.</i> UNION OF INDIA	
(Mad) . . .	339
Chap. XIX-A —Settlement of cases—Powers of Settlement Commission—Application for settlement of case—Settlement Commission cannot consider merits of case at that stage—HITACHI POWER EUROPE GMBH <i>v.</i> ITSC	
(Mad) . . .	472
S. 245C(1) —Settlement of cases—Powers and duties of Settlement Commission—Application for settlement—Duty of Commission either to reject or proceed with application filed by assessee—Settlement Commis-	

2020]	GENERAL INDEX	xlix
		PAGE
	tioner relegating assessee to Assessing Officer—Not proper— SAMDARIYA BUILDERS PVT. LTD. v. ITSC (MP) . . .	203
	S. 245D(4) —Settlement of cases—Powers and duties of Settlement Commission—Application for settlement—Duty of Commission either to reject or proceed with application filed by assessee—Settlement Commissioner relegating assessee to Assessing Officer—Not proper— SAMDARIYA BUILDERS PVT. LTD. v. ITSC (MP) . . .	203
	S. 246A —Recovery of tax—Appeal—Appeal pending before Commissioner (Appeals)—Request to Assessing Officer to keep recovery in abeyance—Assessing Officer refusing and directing assessee to pay 20 per cent. of demand—Not proper—No payment of demand to be called for during pendency of appeal— BHUPENDRA MURJI SHAH v. DEPUTY CIT (Bom) . . .	300
	S. 253 —Appeal to Appellate Tribunal—Delay in filing appeal—Condonation of delay—Factors relevant for condoning delay—Filing of contradictory affidavits by assessee—Inordinate delay of 10 years not satisfactorily explained—Order of Tribunal declining condonation of delay need not be interfered with— PERFECT CIRCLE INDIA LTD. v. ASST. CIT (Bom) . . .	65
	—Revision—Powers of Commissioner—Order of Tribunal setting aside revision order on ground issues raised by Commissioner had been considered by Assessing Officer and order not erroneous—Reasoned order based on facts—Need not be interfered with— PRINCIPAL CIT v. KESORAM INDUSTRIES LTD. (Cal) . . .	180
	S. 254 —Revision—Powers of Commissioner—Order of Tribunal setting aside revision order on ground issues raised by Commissioner had been considered by Assessing Officer and order not erroneous—Reasoned order based on facts—Need not be interfered with— PRINCIPAL CIT v. KESORAM INDUSTRIES LTD. (Cal) . . .	180
	S. 260A —Penalty—Limitation—Receipt of copy of order by Tribunal including Commissioner (Judicial) in Department will activate period of limitation—Internal arrangements by Department of jurisdiction of officers cannot override statutes and alter period of limitation— GE ENERGY PARTS INC. v. DEPUTY CIT (Delhi) . . .	93
	S. 263 —Revision—Condition precedent—Order erroneous and prejudicial to interests of Revenue—Assessing Officer making enquiries pertaining to remuneration of partners and expenses and receipts on assessee's submission of details—Finding of fact—Assessment order neither erroneous nor prejudicial to interests of Revenue— PRINCIPAL CIT v. HARI OM STONES (Raj) . . .	198
	—Revision—Diversion of income by overriding title—Interpretation of will—Testator's direction to executor of will to sell property and pay	

1	INCOME TAX REPORTS	[VOL. 423
		PAGE
	balance to assessee after payment to trusts and expenses—Expenses and payments to trusts stood diverted before they reached assessee—Order of Assessing Officer after due inquiry accepting assessee’s offer of amount to tax amount of sale consideration—Revision erroneous—KUMAR RAJARAM <i>v.</i> ITO (INTERNATIONAL TAXATION) (Mad) . . .	185
	—Revision—Order of revision disallowing provision for warranty—Finding that provision for warranty was justified—Order of revision not valid—CIT <i>v.</i> RANE TRW STEERING SYSTEMS LTD. (Mad) . . .	291
	—Revision—Powers of Commissioner—Assessing Officer taking possible view and estimating income of assessee—Commissioner cannot enhance assessment in revision proceedings—MALANADU TOURIST HOME <i>v.</i> CIT (Ker) . . .	262
	—Revision—Powers of Commissioner—Order of Tribunal setting aside revision order on ground issues raised by Commissioner had been considered by Assessing Officer and order not erroneous—Reasoned order based on facts—Need not be interfered with—PRINCIPAL CIT <i>v.</i> KESORAM INDUSTRIES LTD. (Cal) . . .	180
	S. 264 —Heads of income—Capital gains or income from other sources—Acquisition of land—Compensation—Interest on enhanced compensation—Specific provision introduced treating interest as income from other sources—Effect of amendment in law—Interest was income from other sources and not capital gains—MAHENDER PAL NARANG <i>v.</i> CBDT (P&H) . . .	13
	S. 271 —Penalty—Concealment of income—Evidence of concealment—Consent of assessee to additions to income—Not relevant—Penalty had to be imposed—MALANADU TOURIST HOME <i>v.</i> CIT (Ker) . . .	262
	S. 271(1)(c) —Offences and prosecution—Wilful default in payment of penalty for concealment of income—Conviction of managing director and executive director of assessee by Judicial Magistrate—Appeal—Evidence—Documents to prove there was no wilful default left out to be marked due to inefficiency and inadvertence—Interest of justice—Appellate court has power to allow documents to be let in as additional evidence—GANGOTHRI TEXTILES LTD. <i>v.</i> ASST. CIT (Mad) . . .	382
	—Penalty—Concealment of income—Depreciation—Cost of construction of roads on build-operate-transfer basis—Disallowance of depreciation on ground assessee not owner of asset—Clarificatory circular issued by Central Board of Direct Taxes as to treatment of expenditure—Appellate authorities setting aside of penalty proceedings—Need not be interfered with—PRINCIPAL CIT <i>v.</i> HIMALAYAN EXPRESSWAY LTD. (P&H) . . .	40

2020]	GENERAL INDEX	li
		PAGE
	—Writ petition—Maintainability—Alternative remedy—Penalty—Orders levying penalty issued beyond period of limitation—Writ petitions maintainable even if alternative statutory remedy available— GE ENERGY PARTS INC. v. DEPUTY CIT (Delhi) . . .	93
	S. 275(1)(a) —Penalty—Limitation—Receipt of copy of order by Tribunal including Commissioner (Judicial) in Department will activate period of limitation—Internal arrangements by Department of jurisdiction of officers cannot override statutes and alter period of limitation— GE ENERGY PARTS INC. v. DEPUTY CIT (Delhi) . . .	93
	—Writ petition—Maintainability—Alternative remedy—Penalty—Orders levying penalty issued beyond period of limitation—Writ petitions maintainable even if alternative statutory remedy available— GE ENERGY PARTS INC. v. DEPUTY CIT (Delhi) . . .	93
	S. 276B —Offences and prosecution—Compounding of offence—Failure to pay tax deducted at source to Government account—Application for compounding of offence—Submission of application before competent authority mandatory—Applications for compounding of offence not filed before proper authority—Filing of application before appropriate competent authority upon intimation—Levy of compounding fee at 5 per cent. treating application as second application—Proper—Order of Principal Chief Commissioner need not be interfered with— PEB STEEL LLOYD (INDIA) LTD. v. PRINCIPAL CHIEF CIT (MP) . . .	29
	S. 276C(2) —Offences and prosecution—Wilful default in payment of penalty for concealment of income—Conviction of managing director and executive director of assessee by Judicial Magistrate—Appeal—Evidence—Documents to prove there was no wilful default left out to be marked due to inefficiency and inadvertence—Interest of justice—Appellate court has power to allow documents to be let in as additional evidence— GANGOTHRI TEXTILES LTD. v. ASST. CIT (Mad) . . .	382
	S. 278B(3) —Offences and prosecution—Wilful default in payment of penalty for concealment of income—Conviction of managing director and executive director of assessee by Judicial Magistrate—Appeal—Evidence—Documents to prove there was no wilful default left out to be marked due to inefficiency and inadvertence—Interest of justice—Appellate court has power to allow documents to be let in as additional evidence— GANGOTHRI TEXTILES LTD. v. ASST. CIT (Mad) . . .	382
	S. 279(2) —Offences and prosecution—Compounding of offence—Failure to pay tax deducted at source to Government account—Application for compounding of offence—Submission of application before competent authority mandatory—Applications for compounding of offence not filed before proper authority—Filing of application before appropriate competent authority upon intimation—Levy of compounding fee at 5 per	

cent. treating application as second application—Proper—Order of Principal Chief Commissioner need not be interfered with—PEB STEEL LLOYD (INDIA) LTD. *v.* PRINCIPAL CHIEF CIT (MP) . . . 29

Transfer of Property Act, 1882 :

S. 53A—Capital gains—Transfer—Definition—Assessee entering into joint venture agreement with developer, handing over possession of property and accepting refundable deposit—Transfer when takes place—Contention that no development had taken place and assessee might have to refund deposit—Applicability of section 2(47)(v) read with section 53A of Transfer of Property Act, 1882—Matter remanded to Assessing Officer for determination in light of *CIT v. Balbir Singh Maini* [2017] 398 ITR 531 (SC)—SUMERU SOFT P. LTD. *v.* ITO (Mad) . . . 518

Income-tax Rules, 1962 :

R. 8D—Income—Disallowance of expenditure in relation to exempt income—Finding that assessee had hardly incurred any expenses in respect of dividend and substantial investments were made temporarily to invest idle funds—Deletion of disallowance proper—PRINCIPAL CIT *v.* LEE AND MUIRHEAD PVT. LTD. (Bom) . . . 167

End of Volume 423