

## ITRV DIRECT TAX CASE LAW DIGEST FOR YEAR 2014

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Compiled by  
**CA. Pramod Jain**  
B. Com (H), FCA, FCS, FCMA, LL.B, MIMA, DISA  
[pramodjain@lunawat.com](mailto:pramodjain@lunawat.com)  
+919811073867

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**ASSESSMENT / REVISION / APPEALS / DEMAND / REFUND**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-MAD-014	Dishnet Wireless Ltd. vs. ACIT & Anrs	Madras High Court	<b>AO cannot exercise coercive measures to recover tax u/s 220 during the period available for filing an appeal</b>
2014-ITRV-HC-MUM-025	DIT vs. Maharashtra Housing & Area Development Authority	Mumbai High Court	<b>AO's action of coercive recovery u/s 220 is illegal and shocks the conscience. The Tribunal cannot remain a silent spectator to such illegal action</b>
2014-ITRV-HC-MUM-028	Tata Teleservices (Maharashtra) Ltd. vs. MOF	Mumbai High Court	<b>Action to recover tax before expiry of statutory period for filing appeal is high-handed &amp; in defiance of law</b>
2014-ITRV-HC-AP-033	M. Jaffer Saheb (Decd.) vs. CIT	Andhra Pradesh High Court	<b>Interest u/s 244A is not taxable in the year of grant of refund but has to be spread over the respective AYs to which it relates</b>
2014-ITRV-HC-DEL-040	Dholadhar Investment Pvt. Ltd vs. CIT	Delhi High Court	<b>Tribunal is not required to consider pleadings, material etc to which its pointed attention is not drawn while passing order u/s 254</b>
2014-ITRV-HC-MUM-046	Deloitte Consulting India Pvt.Ltd vs. ACIT	Mumbai High Court	<b>Rejection of stay application by ITAT on the ground that "the financial position of the assessee is very sound" and "government also needs liquid funds to manage its day to day affairs" &amp; without discussing prima facie case is in disregard of law laid down in KEC International 251 ITR 158 (Bom)</b>
2014-ITRV-HC-MUM-049	Emco Ltd vs. UOI	Mumbai High Court	<b>Undue delay in passing order causes prejudice &amp; results in loss of confidence in the judicial body. Such a delayed order has to be set aside</b>
2014-ITRV-HC-DEL-052	CIT vs. Maruti Suzuki (India) Limited	Delhi High Court	<b>Tribunal has no power to extend stay of demand beyond 365 days u/s 254(2A) even if the assessee is not at fault. If department seeks an adjournment, ITAT may either refuse it or department should undertake not to recover the demand</b>
2014-ITRV-HC-MUM-059	Thermax Babcock & Wilcox Ltd vs.	Mumbai High Court	<b>Laid down zero-tolerance policy over adjournments. Threatens to dismiss appeals, hear them ex-parte or and/or</b>

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	CIT		<b>impose costs if counsel are not prepared</b>
2014-ITRV-HC-DEL-062	Sony India Pvt. Ltd vs. ACIT	Delhi High Court	<b>After rejecting stay application AO must give reasonable time before taking steps for coercive recovery u/s 220</b>
2014-ITRV-HC-RAJ-069	CIT Vs. Ram Singh	Rajasthan High Court	<b>Passed strictures regarding poor quality of orders of the ITAT. Government urged to ensure that only competent persons are appointed Members of the ITAT</b>
2014-ITRV-HC-DEL-074	A. T. Kearney India Pvt. Ltd vs. ITO	Delhi High Court	<b>Warned AO of contempt action for seeking to overreach ITAT's stay order for recovery of tax u/s 226</b>
2014-ITRV-HC-MUM-077	CIT vs. Kisan Ratilal Choksey Share & Securities	Mumbai High Court	<b>Levied costs of Rs. 1 lakh on department for "gross abuse of process of Court". However, it Later revoked on assurance that judicial orders would be abided</b>
2014-ITRV-HC-MUM-089	CIT vs. Sairang Developers and Promoters Pvt. Ltd	Mumbai High Court	<b>Imposed costs of Rs. 50,000 on AO for filing frivolous appeal &amp; wasting public money &amp; judicial time</b>
2014-ITRV-HC-DEL-093	Adobe Systems Software Ireland Ltd vs. ADIT	Delhi High Court	<b>A writ involving disputed factual issues cannot be entertained</b>
2014-ITRV-SC-097	Kushalbai Ratanbhai Rohit vs. State of Gujarat	Supreme Court	<b>Despite pronouncement of verdict in open court &amp; signing of draft judgement, Judge entitled to alter verdict until judgement is signed &amp; sealed</b>
2014-ITRV-HC-ALL-107	Rakesh Kumar Gupta vs. UOI	Allahabad High Court	<b>Assessee cannot be denied credit for TDS on the ground of Form 26AS mismatch because he is not at fault. Non-grant of TDS credit causes harassment, inconvenience &amp; makes the assessee feel cheated. Department to pay interest plus costs of Rs. 25,000</b>
2014-ITRV-HC-MUM-110	Kansai Nerolac Paints Ltd vs. DCIT	Mumbai High Court	<b>If a legal issue is raised (even for the first time) ITAT has the duty to deal with it and cannot remand it to lower authorities u/s 254</b>
2014-ITRV-ITAT-MUM-117	LSG Sky Chef (India) Pvt. Ltd vs. DCIT	ITAT (Mumbai)	<b>Assessee cannot be denied credit for TDS on the ground of discrepancy in Form 26AS filed by the deductor</b>
2014-ITRV-ITAT-MUM-121	ITO vs. Growel Energy Co. Ltd	ITAT (Mumbai)	<b>Issued strictures against AO &amp; CIT &amp; fines them for filing a frivolous appeal</b>
2014-ITRV-	CIT vs. J. L.	Kolkata High	<b>CIT can revise an assessment u/s 263 only</b>

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HC-KOL-123	Morrison (India) Ltd	Court	if he can show unmistakably that the order of the AO is unsustainable. Fact that the AO has passed a non-speaking order does not mean that he has not applied his mind
2014-ITRV-ITAT-MUM-130	RW Promotions Pvt. Ltd vs. ACIT	ITAT (Mumbai)	Pendency of an appeal filed in the High Court u/s 260A bars the hearing of a MA filed u/s 254(2) even if the appeal is not admitted
2014-ITRV-ITAT-DEL-137	GE Energy Parts Inc vs. ADIT	ITAT (Delhi)	Explained Rule 29 of the ITAT Rules i.e., Law on admission of additional evidence
2014-ITRV-ITAT-PUNE-150	Parkar Medical Foundation vs. DCIT	ITAT (Pune)	Even though action of the CIT in cancelling registration u/s 12AA(3) is illegal, costs cannot be awarded as the said action is in discharge of duty & not mala fide u/s 254(2B)
2014-ITRV-HC-RAJ-153	M/s Unique Artage vs. UOI	Rajasthan High Court	Statutory body like the ITAT is expected to show consistency. Change in constitution of Bench does not mean diametrically opposite views can be taken
2014-ITRV-HC-GUJ-164	Sumit Devendra Rajani vs. ACIT	Gujarat High Court	Upon issue of Form 16A TDS certificate, TDS credit has to be given to the payee even if there is Form 26AS mismatch or deductor is at fault for non-deposit of TDS with Govt
2014-ITRV-ITAT-LKN-173	U.P. State Industrial Development Corp (UPSIDC) vs. DCIT	ITAT (Lucknow)	Fact that case is selected for scrutiny under CASS does not mean s. 143(2) notice & assessment order are void for non-application of mind by AO
2014-ITRV-ITAT-BANG-176	DCIT vs. SAP Labs India Pvt. Ltd	ITAT (Bangalore)	Termed AO's action of giving effect to a quashed s. 263 revision order "assault on rule of law" & "contempt of court"
2014-ITRV-HC-KAR-177	CIT vs. SAP Labs Pvt. Ltd	Karnataka High Court	TPO's acceptance of ALP shows two views are possible & CIT has no jurisdiction to revise assessment u/s 263
2014-ITRV-HC-MUM-178	Coca-Cola India Private Limited vs. ITAT	Mumbai High Court	Unnecessary remand by the ITAT causes prejudice and amounts to a failure to exercise jurisdiction u/s 254 (1)
2014-ITRV-ITAT-MUM-179	ACIT vs. M/s. Veena Developers	ITAT (Mumbai)	Filing appeals u/s 253 in disregard & wilful disobedience to the law laid down constitutes gross abuse of power and deserves to be punished for contempt of court and by award of exemplary costs.

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			Action not pursued in view of written apology of concerned officials
2014-ITRV-HC-MUM-184	CIT vs. Indian Oil Corporation Ltd	Mumbai High Court	Refund of Self-Assessment tax is also entitled to interest u/s 244A(1)(b)
2014-ITRV-ITAT-MUM-186	Sanjay Badani vs. DCIT	ITAT (Mumbai)	A strict procedure has to be followed for service by affixture u/s 282(1). If done improperly, the notice and the resultant assessment order are null and void
2014-ITRV-HC-MUM-190	CIT vs. Reliance Infrastructure Ltd	Mumbai High Court	Summoned the Senior officers of the department and passed strictures for 'Irresponsible conduct' of filing an appeal on a point which is admittedly covered against the department by a judgement of the Supreme Court
2014-ITRV-ITAT-KOL-197	Parmanand Tiwari vs. ITO	ITAT (Kolkata)	Rule 37BA (credit for TDS) inserted w.e.f. 01.04.2009 to mitigate hardship to taxpayers has to be treated as being retrospective in nature
2014-ITRV-ITAT-DEL-227	Kanchenjunga Greenlands Pvt. Ltd vs. DCIT	ITAT (Hyderabad)	The only requirement of s. 249(4) is payment of tax due on returned income. There is no time limit prescribed for payment of such taxes. The delay in filing an appeal after payment of SA tax can be condoned
2014-ITRV-HC-MUM-239	CIT vs. Teletronics Dealing Systems P. Ltd	Mumbai High Court	AO is not entitled to reject books of account u/s 145 (3) in a casual and high-handed manner

**AOP / BOI / PRIVATE TRUST**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-DEL-083	Linde A. G. vs. DDIT	Delhi High Court	Explained the entire law on formation of AOP & taxability of off-shore supply & services
2014-ITRV-SC-100	CWT vs. Estate of Late HMM Vikramsinghji of Gondal	Supreme Court	Explained the important principles of law on taxation of discretionary & specific trust

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2014-ITRV-ITAT-BANG-201	DCIT vs. India Advantage Fund-VII	ITAT (Bangalore)	Explained the entire law on taxation of private specific/ discretionary trusts under revocable & irrevocable transfers and AOPs
2014-ITRV-ITAT-MUM-244	Mohan Manoj Dhupelia vs. DCIT	ITAT (Mumbai)	Information received by the AO that the assessee is a beneficiary in a "discretionary" trust set up in Liechtenstein can form the basis of assessment of undisclosed income in the assessee's hands. Argument that the trust is "discretionary" and that the amount has not "accrued" to him or that the documents are "not corroborated" is not acceptable

### CAPITAL GAIN

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-ITAT-HYD-011	Fibars Infratech P. Ltd. vs. ITO	ITAT (Hyderabad)	A development agreement by which possession is transferred to developer is not a "transfer" for capital gains purposes if developer's willingness to perform his part of the contract is not ascertainable with certainty u/s 2(47)(v)
2014-ITRV-HC-MUM-012	CIT vs. Sadia Shaikh	Mumbai High Court	Mere execution of a development agreement is not a "transfer" u/s 2(47)(v) if possession as per s. 53A of the Transfer of Property Act is not given
2014-ITRV-ITAT-AHD-071	Alkaben B. Patel vs. ITO	ITAT (Ahemdabad) (Special Bench)	The term "month" in s. 54E, 54EA, 54EB & 54EC does not mean "30 days" but the "calendar month". So, the expression "within a month" means "before the end of the calendar month"
2014-ITRV-HC-MUM-072	Crompton Greaves Limited vs. DCIT	Mumbai High Court	Write-off of irrecoverable advances is not a "transfer" and the loss cannot be claimed as a capital loss u/s 45
2014-ITRV-ITAT-KOL-088	Aravali Polymers LLP vs. JCIT	ITAT (Kolkata)	<ul style="list-style-type: none"> <li>• Giving of interest-free loans to partners of the LLP does not contravene Proviso (c), though it contravenes Proviso (f), to s. 47(xiiiib).</li> <li>• Capital gains have to be computed on the</li> </ul>

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			<p>book value of assets transferred &amp; not on market value.</p> <ul style="list-style-type: none"> <li>For taxability due to contravention u/s 47A(4), it should first be eligible u/s 47(xiiib)</li> </ul>
2014-ITRV-HC-MUM-099	CIT vs. Bharat Bijlee Ltd	Mumbai High Court	<b>S. 50B applies only to a “sale” for a “monetary consideration” and not to a case of “exchange” of the undertaking for shares under a s. 391/394 scheme of arrangement</b>
2014-ITRV-ITAT-AHD-111	ACIT vs. Bilakhia Holdings P. Ltd	ITAT (Ahmedabad)	<b>Transfer of shares under a family arrangement is for a determinable “consideration” &amp; is not “voluntary”. Consequently, the shares are not received under a “gift” &amp; the transferee cannot claim benefit of cost, and holding period, of the transferor</b>
2014-ITRV-ITAT-HYD-113	Binjusaria Properties Pvt. Ltd vs. ACIT	ITAT (Hyderabad)	<b>Despite handing over possession &amp; receiving advance, development agreement is not a “transfer” u/s 2(47)(v) for capital gains purposes if developer has not performed his part of the contract</b>
2014-ITRV-HC-AP-115	Potla Nageswara Rao vs. DCIT	Andhra Pradesh High Court	<b>Transfer under a development agreement takes place on handing over possession u/s 2(47)(v). Capital gains are chargeable to tax even if no consideration is received by assessee</b>
2014-ITRV-HC-KOL-127	Sunil Kumar Agarwal vs. CIT	Kolkata High Court	<b>If the stamp duty valuation is higher than the consideration received, the AO must refer the valuation to the DVO even if there is no request by the assessee u/s 50C</b>
2014-ITRV-ITAT-MUM-129	Smita Conductors Ltd vs. DCIT	ITAT (Mumbai)	<b>Though gains on depreciable assets held for more than 3 years have to be treated as STCG u/s 50, the gains have to be taxed at the rate applicable to a LTCG u/s 112</b>
2014-ITRV-SC-133	Sanjeev Lal vs. CIT	Supreme Court	<b>If an agreement to sell is entered into within the prescribed period, there is a transfer of some rights in favour of the vendee u/s 2(47). Fact that sale deed could not be executed within the time limit owing to supervening problem is not a bar for s. 54 exemption</b>
2014-ITRV-HC-MUM-139	CIT vs. Devdas Naik	Mumbai High Court	<b>Two flats, even though acquired under different agreements &amp; from different sellers, are one residential unit if there is a common kitchen for purposes of s. 54 / 54F</b>

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2014-ITRV-ITAT-KOL-142	Mohan Kant Bansal vs. ITO	ITAT (Kolkata)	Hauled up CPC for harassing assessee by imposing tax of 60% on LTCG & refusing to rectify
2014-ITRV-ITAT-AHD-224	Amitkumar Ambalal Shah vs. ITO	ITAT (Ahemdabad)	Explaining the verdict in Suraj Lamp and Industries 340 ITR 1 (SC) has held that transfer u/s 2(47) takes place in year of execution of sale deed, handing over of possession & receipt of sale consideration & is not deferred to year of registration
2014-ITRV-ITAT-MUM-229	Seksaria Industries Pvt. Ltd vs. ITO	ITAT (Mumbai)	Reference to DVO cannot be made if assessee has challenged the valuation by the stamp authorities and even if the said challenge is dismissed on ground that as purchaser paid the duty, assessee had no locus standi to challenge stamp valuation u/s 50C(2).
2014-ITRV-HC-MAD-238	CIT vs. C. Jaichander	Madras High Court	Assessee is eligible for deduction of Rs.1 Crore u/s 54EC in respect of investment of Rs.50 Lakhs made in two different financial years. Proviso to s. 54EC seeking to curb this has effect from AY 2015-16

### CAPITAL V/S REVENUE / CHARGE TO TAX

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-ITAT-JPR-016	Shree Cement Ltd. vs. Addl. CIT	ITAT (Jaipur)	Carbon Credit receipts are not chargeable to tax as “income”.
2014-ITRV-HC-GUJ-080	Amarshiv Construction Pvt. Ltd vs. DCIT	Gujarat High Court	Retention money received, after TDS, but subject to bank guarantee, is not chargeable to tax as income till all conditions are satisfied
2014-ITRV-ITAT-JDH-104	Smt. Supriya Kanwar vs. ITO	ITAT (Jodhpur) (Third Member)	Discussed the law on when an isolated transaction can be regarded as an “adventure in the nature of trade” and the taxability of agricultural land situate beyond municipal limits
2014-ITRV-ITAT-HYD-172	Maruti Securities Ltd	ITAT (Hyderabad)	Even if assessee is following mercantile system, income cannot be assessed, on “real

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	vs. ACIT		income” theory u/s 145, if its collection/ receipt is not certain
2014-ITRV-ITAT-PUNE-188	The Solapur District Central Co-op. Bank Ltd vs. ACIT	ITAT (Pune)	Interest on NPAs, even if credited to the Profit & loss account, is not chargeable to tax
2014-ITRV-ITAT-PUNE-208	The Nanded District Central Co-op. Bank Ltd vs. DCIT	ITAT (Pune)	Grant given to safeguard the interests of depositors, though used for meeting SLR requirements of RBI relating to its banking activity, is still capital in nature
2014-ITRV-ITAT-HYD-220	DCIT vs. M. Kalyan Chakravarthy	ITAT (Hyderabad)	Gains from sale of agricultural land u/s 2(1A) is exempt even though purchaser intends to use the land for commercial purposes
2014-ITRV-ITAT-PUNE-230	ACIT vs. Solapur Siddheshwar Sahakari Bank Ltd	ITAT (Pune)	Interest on NPAs is not taxable. As there is a conflict on the point between Vasisth Chay Vyapar Ltd 330 ITR 440 (Del) and Sakthi Finance Ltd., (2013) 31 taxmann.com 305 (Mad), the view in favour of the assessee has to be followed

#### CBDT LOW EFFECT CIRCULARS

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-GUJ-086	CIT vs. Shambhubhai Mahadev Ahir	Gujarat High Court (Full Bench)	CBDT’s low tax effect circulars have prospective effect

#### CHARITY / EXEMPT INCOMES

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-KAR-039	Visvesvaraya Technological University vs. ACIT	Karnataka High Court	An institution which regularly makes more than 10% – 15% surplus is existing for profit & is not eligible for exemption u/s 10(23C)
2014-ITRV-SC-067	CIT vs. M/s Dawoodi	Supreme Court	A charitable and religious trust which does not benefit any specific religious community

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	Bohara Jamat		is not hit by s. 13(1)(b) & is eligible to claim exemption u/s 11
2014-ITRV-HC-GUJ-126	DIT (E) vs. Ahmedabad Management Association	Gujarat High Court	Proviso to s. 2(15) which denies exemption to a charitable institution carrying on commercial activities does not apply to institutions carrying out relief to the poor, education or medical relief but applies only to those carrying out “advancement of any other object of general public utility”
2014-ITRV-ITAT-HYD-220	DCIT vs. M. Kalyan Chakravarthy	ITAT (Hyderabad)	Gains from sale of agricultural land u/s 2(1A) is exempt even though purchaser intends to use the land for commercial purposes

**DEDUCTIONS UNDER CHAPTER VIA**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-ITAT-JPR-016	Shree Cement Ltd. vs. Addl. CIT	ITAT (Jaipur)	For s. 80-IA(8) if there are multiple “market values” assessee has the right to choose the suitable one
2014-ITRV-HC-GUJ-020	CIT vs. Jafari Momin Vikas Co-op Credit Society Ltd	Gujarat High Court	Exclusion in s. 80P(4) applies only to credit co-operative banks but not to credit co-operative societies
2014-ITRV-ITAT-MUM-053	ITO vs. M/s Yash Developers	ITAT (Mumbai)	Limit on extent of commercial area imposed by clause (d) of s. 80IB (10) inserted w.e.f. 1.4.2005 does not apply to projects approved before that date
2014-ITRV-HC-GUJ-075	CIT vs. Moon Star Developers	Gujarat High Court	If developer does not (without just cause) develop to full extent of FSI, a part of the sale proceeds has to be treated as being for sale of FSI and denied s. 80-IB(10) deduction
2014-ITRV-HC-GUJ-076	CIT vs. M/s Atul Intermediates	Gujarat High Court	The effect of s. 80-IA(9) is that s. 80-IA deduction has to be reduced for s. 80HHC deduction in all cases and not only when the combined deduction exceeds the profits
2014-ITRV-HC-GUJ-079	CIT vs. Mitesh Impex	Gujarat High Court	Explained the concept of “manufacture”. Non-claiming of s. 80-IB deduction in return is no bar for claiming it before

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			<b>CIT(A) competent persons are appointed Members of the ITAT</b>
2014-ITRV-SC-096	CIT vs. Punjab Stainless Steel Industries	Supreme Court	<b>Explained the meaning of the word “turnover” in s. 80HHC. Sale proceeds of scrap is not “turnover” for s. 80HHC. Revenue should encourage assesseees to bring in foreign exchange</b>
2014-ITRV-HC-KAR-160	Ace Multi Axes Systems Ltd vs. DCIT	Karnataka High Court	<b>If the undertaking satisfies the conditions for eligibility u/s 80-IB in the initial year, it must get deduction for 10 years &amp; non-compliance in a subsequent year is irrelevant</b>
2014-ITRV-HC-MUM-170	CIT vs. Jyoti Prakash Dutta	Mumbai High Court	<b>An “industrial undertaking” can be formed by taking P&amp;M on hire to take benefit of s. 80-IB. It is not necessary for the assessee to “own” the P&amp;M. Dept’s tendency to try to unsettle matters strongly disapproved</b>
2014-ITRV-HC-MUM-182	CIT vs. M/s Happy Home Enterprises	Mumbai High Court	<b>Limit on extent of commercial area of housing project inserted w.e.f. 1.4.2005 u/s 80-IB(10)(d) does not apply to projects approved before that date</b>
2014-ITRV-ITAT-PUNE-235	Naresh T. Wadhvani vs. DCIT	ITAT (Pune)	<b>Area of projected terrace (open to sky) is not liable to be included within the meaning of expression “built-up area” u/s 80-IB(10)(c)</b>

**DEEMED DIVIDEND [SECTION 2(22)(e)]**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-MUM-112	CIT vs. Impact Containers Pvt. Ltd	Mumbai High Court	<b>The law laid down in Universal Medicare 324 ITR 263 (Bom) (approving Bhaumik Colour 313 ITR 146 (SB)), that s. 2(22)(e) does not apply to a non-shareholder, is good law</b>

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**DEPRECIATION**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-ITAT-HYD-008	DCIT vs. Swarna Tollway P. Ltd.	ITAT (Hyderabad)	<b>Road constructed on Build-Operate-Transfer (“BOT”) terms is eligible for depreciation u/s 32 even though assessee is not the legal owner of the road</b>
2014-ITRV-ITAT-MUM-092	ICICI Bank Ltd vs. JCIT	ITAT (Mumbai)	<b>Assessee (Bank) is entitled to depreciation u/s 32 on assets given on lease</b>

**INCOME FROM HOUSE PROPERTY**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-MUM-155	CIT vs. Tip Top Typography	Mumbai High Court	<b>Explained the entire law on determination of “annual value” u/s 23(1)(a)</b>

**INCOME FROM OTHER SOURCES**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-ITAT-MUM-061	Sudhir Menon HUF vs. ACIT	ITAT (Mumbai)	<b>S. 56(2)(vii) does not apply to bonus &amp; rights shares offered on a proportionate basis even if the offer price is less than the FMV of the shares</b>
2014-ITRV-ITAT-AGRA-159	Raj Kumari Agarwal vs. DCIT	ITAT (Agra)	<b>Interest paid on a loan taken to avoid premature encashment of a fixed deposit is deductible against the interest earned on the fixed deposit u/s 57(iii)</b>

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**INTERNATIONAL TAXATION / TRANSFER PRICING**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-UTK-003	Samsung Heavy Industries Co. Ltd. vs. DIT (International Taxation)	Uttarakhand High Court	<b>Even in a composite contract, Department cannot assess off-shore profits without showing how it is attributable to the permanent establishment (Article 7 of DTAA)</b>
2014-ITRV-ITAT-HYD-010	Infotech Enterprises Ltd. vs. Addl. CIT	ITAT (Hyderabad)	<b>Concept of “business connection” u/s 9(1)(i) &amp; “fees for technical services” u/s 9(1)(vii) explained</b>
2014-ITRV-ITAT-DEL-013	ACIT vs. Casio India Co. P. Ltd.	ITAT (Delhi)	<b>Argument, based on BMW India P. Ltd. case, that the AMP adjustment law laid down in L. G. Electronics (SB) does not apply to a full-risk distributor is not correct</b>
2014-ITRV-ITAT-DEL-019	ITO vs. Net Freight (India) P. Ltd.	ITAT (Delhi)	<b>Explained the law for applying Profit Split Method for Transfer Pricing purposes as per Rule 10B (1) (d)</b>
2014-ITRV-HC-DEL-029	DIT vs. E Funds IT Solution	Delhi High Court	<b>Laid down important law on taxability of Permanent Establishment under DTAA, impact of Mutual Agreement Procedure (MAP) and computation of profits attributable to PE explained</b>
2014-ITRV-ITAT-MUM-034	Tata Communications Limited vs. DCIT	ITAT (Mumbai)	<b>CIT u/s 263 cannot revise the TPO’s transfer pricing order passed u/s 92CA(3). CIT also cannot revise s. 143(3) order because such order is not erroneous if it follows binding order of TPO</b>
2014-ITRV-HC-AP-035	DIT vs. Nisso Lwai Corporation, Japan	Andhra Pradesh High Court	<b>Design &amp; Engineering drawings are in the nature of “plant” and consideration thereof is not assessable as “fees for technical services” (FTS) if delivered outside India</b>
2014-ITRV-ITAT-AGRA-036	Arvind Singh Chauhan vs. ITO	ITAT (Agra)	<b>Salary income accrues at the place where the services are rendered and not where the appointment letter is received. If salary, after accrual abroad, is brought into India, it is not taxable on receipt basis. S. 6(5) which deals with residential status is redundant</b>
2014-ITRV-ITAT-DEL-042	DCIT vs. Panasonic AVC Networks	ITAT (Delhi)	<b>Adjustment to profit margin under Transfer Pricing for “capacity</b>

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	India Co Ltd		<i>underutilization”</i> can be made. In choosing comparables, there cannot be a cherry picking for deciding parameters of rejection. All comparables must face the same test
2014-ITRV-ITAT-HYD-043	DCIT vs. Air Liquide Engineering India	ITAT (Hyderabad)	TPO cannot sit in judgment on commercial expediency. RBI approval means the payment is at ALP. If overall TNMM analysis done, royalty cannot be analyzed separately for Transfer Pricing purpose
2014-ITRV-ITAT-DEL-044	Tilda Riceland Pvt Ltd vs. ACIT	ITAT (Delhi)	There is no bar on reliance of private database u/R 10D(3) (Transfer Pricing). Nuances of the CUP Method under Rule 10B(1)(a)(i) explained
2014-ITRV-ITAT-DEL-045	Lummus Technology Heat Transfer BV vs. DCIT	ITAT (Delhi)	Unaudited segmental accounts can be relied upon for comparing profitability of controlled transactions with uncontrolled transactions for Transfer Pricing purpose. While size is relevant in entity level comparison, it is not relevant in transaction level comparison within the same entity
2014-ITRV-AAR-050	Re Booz & Company (Australia) Pvt. Ltd	Authority for Advance Ruling	Explained the entire law on what constitutes a “ <i>Permanent Establishment</i> ” and “ <i>Business Connection</i> ”
2014-ITRV-ITAT-HYD-054	IJM (India) Infrastructure Ltd vs. ACIT	ITAT (Hyderabad)	Transfer Pricing provisions do not apply if the AE is assessed in India and there is no chance of shifting of profits outside India or erosion of tax base
2014-ITRV-ITAT-DEL-055	POSCO Engineering & Construction Co Ltd vs. ADIT	ITAT (Delhi)	Explained the entire law on taxability of “composite” contracts for supply of offshore & onshore supply & services under Act & DTAA

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2014-ITRV-ITAT-MUM-060	Maersk Global Centres (India) Pvt. Ltd vs. ACIT	ITAT (Mumbai) (Special Bench)	<ul style="list-style-type: none"> <li>Companies in ITES cannot be classified into low-end BPO services and high-end KPO services for comparability analysis but have to be classified based on the functions performed.</li> <li>Comparables with abnormal profit margins cannot be discarded per se but must be examined to determine whether the high margins are due to normal business conditions or not for Transfer Pricing purpose</li> </ul>
2014-ITRV-ITAT-DEL-065	Bharti Airtel Limited vs. ACIT	ITAT (Delhi)	Hauled up AO & DRP for “ <i>blatantly frivolous &amp; unsustainable</i> ” additions. Suggests that accountability mechanism be set up to put a check on AO. Rationale for existence of ineffective DRP questioned
2014-ITRV-ITAT-DEL-066	Whirlpool of India Ltd vs. DCIT	ITAT (Delhi)	After TPO determines the AMP expenditure incurred for benefit of AE under transfer pricing provisions, balance is deemed to be incurred for assessee’s business & is automatically allowable u/s 37(1)
2014-ITRV-HC-DEL-090	Centrica India Offshore Pvt. Ltd vs. CIT	Delhi High Court	Explained the tax implications of employee secondment contracts for determination of service PE
2014-ITRV-HC-MUM--091	DIT vs. Wizcraft International Entertainment Pvt. Ltd	Mumbai High Court	Commission paid to an agent for services rendered abroad and payment by way of reimbursement of expenses are not taxable in India
2014-ITRV-ITAT-DEL-125	Nortel Networks India International Inc vs. DDIT	ITAT (Delhi)	<ul style="list-style-type: none"> <li>Explained the circumstances leading to formation of PE and estimation of profit attributable thereto under Rule 10.</li> <li>Foreign assesseees are also liable for interest u/s 234B</li> </ul>
2014-ITRV-ITAT-MUM-146	Reuters Transaction Services Ltd vs. DDIT	ITAT (Mumbai)	Fee received for “ <i>foreign exchange deal matching system services</i> ” constitutes “ <i>royalty</i> ” under Article 12 of India-UK DTAA & s. 9(1)(vi).
2014-ITRV-ITAT-DEL-151	Kohinoor Foods Ltd vs. ACIT	ITAT (Delhi)	Explained Transfer pricing implications of interest-free loans, corporate guarantee & export turnover adjustments

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2014-ITRV- HC-ALL-161	LG Electronics Inc vs. ADIT	Allahabad High Court	<b>Fact that TPO has examined international transactions in payer's hands and found them to be at arm's length does not mean the PE of payee cannot be assessed u/s 147</b>
2014-ITRV- ITAT-MUM- 163	Allcargo Global Logistics Ltd vs. ACIT	ITAT (Mumbai)	<b>Share application money, though not allotted into shares for a long time, cannot be treated as a "loan" for taxing notional interest under Transfer Pricing Regulations</b>
2014-ITRV- HC-MUM-191	Vodafone India Services Pvt. Ltd vs. UOI	Mumbai High Court	<b>Neither the capital receipts received by the Petitioner on issue of equity shares to its holding company, a non-resident entity, nor the alleged short-fall between the so called fair market price of its equity shares and the issue price of the equity shares can be considered as income within the meaning of the expression as defined under the Act</b>
2014-ITRV- ITAT-HYD- 193	DCIT vs. Owens Corning Industries (India) Pvt. Ltd	ITAT (Hyderabad)	<b>TPO cannot question commercial expediency of payment to AE. RBI approval to a transaction implies it is at arms' length price</b>
2014-ITRV- ITAT-HYD- 203	Vijay Electricals Limited vs. ACIT	ITAT (Hyderabad)	<b>Fraud in determination of LIBOR/ EURIBOR is no reason to discard it as ALP for Transfer Pricing purposes</b>
2014-ITRV- ITAT-DEL-210	Mitsubishi Corporation India Pvt. Ltd vs. DCIT	ITAT (Delhi)	<b>In a case of "sogo shosha" business model (high volume, low risk, trading of goods), the "berry ratio" (benchmarking gross profit and/ or net revenues (after subtraction of cost of sales) against operating expenses is an appropriate PLL. To avoid discrimination under Article 24(3) of the India-Japan DTAA, the benefit of no disallowance u/s 40(a)(ia) (in the case of residents) for want of TDS if the recipient has paid the tax has to be extended to non-residents u/s 40(a)(i).</b>
2014-ITRV- ITAT-HYD- 219	HSBC Electronic Data Processing India vs. ACIT	ITAT (Hyderabad)	<b>Explained the Transfer pricing principles on right of TPO to collect info u/s 133(6), exclusion of high profit comparables, adjustment for limited risk environment, exclusion of reimbursement costs for computing operation margins</b>
2014-ITRV-	BMW India Pvt. Ltd	ITAT	<b>In resolving controversy over conflict</b>

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ITAT-DEL-223	vs. ACIT	(Delhi)	with Special Bench Verdict on Transfer Pricing of AMP Exp has held that “Umbrage” taken in Casio that BMW did not follow L. G. Electronics is based on “wrong head note”. L. G. does not deal with a case of distributor and so there is no conflict with the law laid down therein
2014-ITRV-ITAT-DEL-226	Yamaha Motor India Pvt. Ltd vs. ACIT	ITAT (Delhi)	Resale Price Method under Rule 10B(1)(b) for transfer pricing purposes applies even where the goods are bought from an AE and sold to another AE
2014-ITRV-ITAT-DEL-231	Nokia India (P) Ltd vs. DCIT	ITAT (Delhi)	<ul style="list-style-type: none"> <li>• Discussed method of applying Resale Price Method (RPM) method,</li> <li>• High advertisement expenses has no bearing on the RPM,</li> <li>• Comparables with more than 25% of related party transactions (RPTs) have to be excluded,</li> <li>• Transactions which do not impact the profitability should be excluded from the formula,</li> <li>• Potentially comparable companies cannot be expelled only on the ground of high or low turnover</li> </ul>
2014-ITRV-ITAT-DEL-232	Consulting Engineering Corporation vs. JDIT	ITAT (Delhi)	<ul style="list-style-type: none"> <li>• As the work done by the branch in India required high technical and managerial skill, it is not preparatory and auxiliary work of a back office but constitutes a permanent establishment</li> <li>• Attribution of profits under Rule 10B(2) on the basis of the H.O's profits in the absence of data on uncontrolled transactions is proper,</li> <li>• As risks were shared by the H.O. and the PE, 50% 50% of the profits determined as per rule 10 are attributable to operations carried out by the PE in India.</li> </ul>
2014-ITRV-ITAT-DEL-236	DCIT vs. Insilco Ltd	ITAT (Delhi)	If assessee has followed CUP method, it cannot argue at the appellate stage that TNMM should be followed even if TPO has for later years accepted TNMM and the Most Appropriate Method

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**MINIMUM ALTERNATIVE TAX (MAT)**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-DEL-026	CIT vs. Goetze (India) Ltd	Delhi High Court	<b>S. 14A disallowance has to be applied while computing book profits under clause (f) of Explanation to s. 115JA</b>
2014-ITRV-ITAT-COCN-206	Padinjarekara Agencies Pvt. Ltd vs. ACIT	ITAT (Cochin)	<b>AO is entitled to tinker with P&amp;L A/c u/s 115JB, if assessee's claim is not permitted by accounting principles</b>
2014-ITRV-ITAT-MUM-212	HSBC Invest Direct (India) Ltd vs. DCIT	ITAT (Mumbai)	<b>Discussed the quantum of disallowance under Explanation (f) to s. 115JA/ 115JB considered</b>

**PENALTY / PROSECUTION**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-DEL-004	CIT (TDS) vs. DHTC Logistic Ltd.	Delhi High Court	<b>Penalty u/s 272B on deductor for wrong/non-stating of PAN in TDS return is not applicable if information is not furnished by deductee. Penalty is Rs. 10000 per deductor and not per wrong PAN</b>
2014-ITRV-SC-015	Sasi Enterprises vs. ACIT	Supreme Court	<b>Prosecution for offence u/s 276CC for failure to file ROI can be initiated during the pendency of assessment proceedings. The statement in the individual returns of the partners that the firm has not filed a ROI as its' accounts are not finalized does not absolve the firm of prosecution for non-filing of ROI</b>
2014-ITRV-HC-ALL-095	CIT vs. Jindal Polyester & Steel Ltd	Allahabad High Court	<b>There would be no s. 271(1)(c) penalty for concealment under normal provisions if assessment is u/s. 115JB book profits</b>
2014-ITRV-HC-ALL-109	CIT vs. Triveni Engineering & Industries Ltd	Allahabad High Court	<b>If, in the assessment order, AO directs initiation of penalty on specific issues u/s. 271(1)(c)/ 271(1B) but not on others, he is not</b>

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			<b>entitled to levy penalty on the other issues</b>
2014-ITRV-ITAT-DEL-118	Toscana Lasts Limited vs. ITO	ITAT (Delhi)	<b>Fact that assessee has huge carry forward losses and depreciation and filed a nil return suggests that there is no motive or incentive to make a bogus claim in the return, hence no penalty u/s 271(1)(c)</b>
2014-ITRV-ITAT-MUM-120	Deloitte Consulting India Pvt. Ltd vs. ACIT	ITAT (Mumbai)	<b>Giving up of a bogus claim for deduction to eschew inquiry by AO/ TPO is not voluntary &amp; bona fide &amp; attracts levy of penalty u/s 271(1)(c)</b>
2014-ITRV-HC-DEL-131	CIT vs. WorldWide Township Projects Ltd	Delhi High Court	<ul style="list-style-type: none"> <li>• <b>Bar in S. 269SS/ 269T does not apply to loans/ advances accepted/ repaid via journal entries.</b></li> <li>• <b>Limitation period for s. 271D penalty is as per s, 275(1)(c) &amp; not 275(1)(a).</b></li> </ul>
2014-ITRV-ITAT-MUM-132	Lodha Builders Pvt Ltd vs. ACIT	ITAT (Mumbai)	<ul style="list-style-type: none"> <li>• <b>Though accepting/ repaying loans/ advances via journal entries contravenes s. 269SS &amp; 269T, penalty cannot be levied if the transactions are bona fide &amp; genuine.</b></li> <li>• <b>The time limit for penalty u/s 271D &amp; 271E is governed by s. 275(1)(c) &amp; not 275(1)(a)</b></li> </ul>
2014-ITRV-HC-ALL-136	CIT vs. Saurabh Enterprises	Allahabad High Court	<b>S. 269SS/ 269T is not attracted to book entries not involving cash transactions</b>
2014-ITRV-HC-MUM-147	CIT vs. M/s Nayan Builders and Developers	Mumbai High Court	<b>Mere admission of Appeal by High Court is sufficient to debar s. 271(1)(c) penalty</b>
2014-ITRV-ITAT-MUM-149	Salman Khan vs. ACIT	ITAT (Mumbai)	<b>Relief by CIT(A) on merits (though reversed by ITAT) means claim is debatable and there would be no penalty u/s 271(1)(c)</b>
2014-ITRV-ITAT-MUM-154	Harish Voovaya Shetty vs. ITO	ITAT (Mumbai)	<b>There would be no S. 271(1)(c) penalty for failure to compute capital gains as per s. 50C. Direct judgments on the topic have to be followed</b>
2014-ITRV-HC-MUM-183	CIT vs. Fortune Hotels and Estates Pvt. Ltd	Mumbai High Court	<b>Non-offering of stamp duty/DVO value as consideration u/s 50C for capital gains does not attract penalty u/s 271(1)(c) if facts are on record</b>
2014-ITRV-HC-DEL-185	New Holland Tractors (India) Pvt. Ltd vs. CIT	Delhi High Court	<b>Explained what is accrual of income. It also held that the word "conceal" inherently and per-se refers to an element of mens rea, albeit</b>

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			the expression "furnishing of inaccurate particulars" is much wider in scope
2014-ITRV-ITAT-BANG-187	Mohd. Khasim vs. ACIT	ITAT (Bangalore)	There is a perceptual difference in the operative force of section 271(1)(c) vis-à-vis section 158BFA(2). The charge against the assessee u/s 158BFA(2) could be, why they failed to compute true disclosed income out of the seized material
2014-ITRV-ITAT-MUM-198	Times Guaranty Ltd vs. ACIT	ITAT (Mumbai)	Wrong claim for depreciation by showing a finance or loan transaction as a lease transaction attracts penalty u/s 271(1)(c)
2014-ITRV-HC-GUJ-205	Shanti Enterprise vs. ACIT	Gujarat High Court	Assessee's claim for refund of penalty with interest u/s 275 (1A) cannot be defeated by inaction of revenue
2014-ITRV-ITAT-MUM-241	ACIT vs. Cecilia Haresh Chaganlal	ITAT (Mumbai)	Explanation that bona fide mistake was committed on advice of CA is a reasonable one as per Explanation 1B of s. 271(1) and does not attract penalty u/s 271(1)(c)
2014-ITRV-ITAT-HYD-242	G. K. Properties Pvt. Limited vs. ITO	ITAT (Hyderabad)	Apart from falsity of the explanation, the department must have cogent material or evidence from which it could be inferred that assessee has consciously concealed particulars of income or deliberately furnished inaccurate particulars of income to attract penalty u/c 271(1)(c)

**RE-ASSESSMENT / RE-OPENING / SECTIONS 147 / 148**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-ITAT-AGRA-009	ITO vs. Haresh Chand Agarwal HUF	ITAT (Agra)	Failure to compute capital gains u/s 50C does not lead to escapement of income u/s 147
2014-ITRV-HC-MUM-041	Crown Consultants Pvt. Ltd. vs. CIT	Mumbai High Court	Assessee is not entitled to challenge validity of reopening on a ground not stated in objections to AO u/s 147
2014-ITRV-HC-DEL-047	Mohan Gupta (HUF) vs. CIT	Delhi High Court	Even s. 143(1) Intimation cannot be reopened u/s 147 in the absence of new information

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2014-ITRV- HC-DEL-057	BBC World News Limited vs. ADIT	Delhi High Court	Court was alarmed at shoddy record-keeping by department and allegations of tampering. S. 147 reopening quashed
2014-ITRV- HC-DEL-063	Acorus Unitech Wireless Pvt. Ltd vs. ACIT	Delhi High Court	Court can examine existence but not adequacy of reasons. AO is only required to provide material on which he relies to reopen the assessment u/s 147
2014-ITRV- HC-DEL-093	Adobe Systems Software Ireland Ltd vs. ADIT	Delhi High Court	Assessee is bound to furnish a return in response to a s. 148 notice. The reasons for reopening can be given only thereafter.
2014-ITRV- HC-GUJ-102	Sadbhav Engineering Ltd vs. DCIT	Gujarat High Court	Reopening u/s 147, even within 4 years, solely on the basis of a clarificatory retrospective amendment is not permissible
2014-ITRV- HC-GUJ-103	Sahkari Khand Udyog Mandal Ltd vs. ACIT	Gujarat High Court	Laid down strict guidelines to streamline procedure for reopening of assessments u/s 147
2014-ITRV- HC-MUM-135	Bombay Stock Exchange Ltd vs. DDIT (E)	Mumbai High Court	Bald statement that assessee has failed to make a full & true disclosure of material facts not sufficient. Details must be given as to which fact was not disclosed for reopening u/s 147
2014-ITRV- HC-MAD-143	JCIT vs. Kalanithi Maran	Madras High Court	In view of the verdicts of the Supreme Court in GKN Driveshafts & Chhabil Dass Agarwal a s. 148 notice & order on objections cannot be challenged in a Writ Petition
2014-ITRV- ITAT-DEL-145	G.K. Consultants Limited vs. ITO	ITAT (Delhi)	Retracted statement cannot form the basis of reopening u/s 147. Protective assessment without substantive assessment is not permissible
2014-ITRV- HC-MUM-158	Aroni Commercials Ltd vs. ACIT	Mumbai High Court	Writ Petition challenging lack of jurisdiction to issue s. 148 notice on the ground that it is based on 'change of opinion' & preconditions of s. 147 are not satisfied is maintainable
2014-ITRV- HC-ALL-161	LG Electronics Inc vs. ADIT	Allahabad High Court	Fact that TPO has examined international transactions in payer's hands and found them to be at arm's length does not mean the PE of payee cannot be assessed u/s 147
2014-ITRV- HC-DEL-167	Madhukar Khosla vs. ACIT	Delhi High Court	If "reasons to believe" are not based on new, "tangible materials", the reopening

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			<b>u/s 147 amounts to an impermissible review</b>
2014-ITRV-HC-GUJ-194	Raaj Ratna Metal Industries Ltd vs. ACIT	Gujarat High Court	<b>If AO contests the audit objection but still reopens u/s 147 to comply with the audit objection, it means he has not applied his mind independently and the reopening is void</b>
2014-ITRV-ITAT-KOL-209	Munshi Mini Rice Mill vs. ITO	ITAT (Kolkata)	<b>Failure to record detailed reasons in assessment order does is not required to justify s. 147 action. There is a statutory presumption that AO has applied his mind while passing assessment order</b>
2014-ITRV-HC-DEL-214	Global Signal Cables (I) Pvt. Ltd vs. DCIT	Delhi High Court	<b>While reopening u/s 147, the reasons must specifically indicate as to which material fact was not disclosed by the petitioner in the course of its original assessment</b>
2014-ITRV-ITAT-MUM-233	Investeringsforeningen BankInvest vs. DDIT	ITAT (Mumbai)	<b>Reopening u/s 147 on the possibility that the assessee AOP may or may not be a taxable unit is based on surmise and presumption &amp; is invalid</b>

**SECTION 10A / 10B**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-KAR-048	CIT vs. Motorola India Electronics (P) Ltd	Karnataka High Court	<b>Interest income out of surplus funds in Banks and sister concerns &amp; EEFC account is eligible for exemption u/s 10A / 10 B</b>
2014-ITRV-ITAT-PUNE-225	Clarion Technologies Pvt. Ltd vs. DCIT	ITAT (Pune)	<b>Though approval of Director of STPI to EOU is sufficient for s. 10A, it is not so for s. 10B. For s. 10B, the approval of the Board appointed under I(D&amp;R) Act is necessary. Claim for s. 10A can be made before CIT(A)</b>

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**SECTION 14A / RULE 8 D**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-ITAT-KOL-017	ITO vs. Narain Prasad Dalmia	ITAT (Kolkata)	<b>For disallowance u/s. 14A/ Rule 8D(2)(ii), interest expenditure on loans taken for taxable business purposes has to be excluded</b>
2014-ITRV-HC-KOL-022	CIT vs. REI Agro Ltd.	Kolkata High Court	<b>S. 14A / Rule 8D disallowance cannot be made without showing how assessee's claim/computation is wrong</b>
2014-ITRV-HC-DEL-026	CIT vs. Goetze (India) Ltd	Delhi High Court	<b>S. 14A disallowance has to be applied while computing book profits under clause (f) of Explanation to s. 115JA</b>
2014-ITRV-ITAT-PUNE-027	Kalyani Steels Ltd vs. ACIT	ITAT (Pune)	<b>If AO does not deal with assessee's arguments, it means that he has not reached objective satisfaction u/s 14A that assessee's method is incorrect &amp; cannot invoke Rule 8D</b>
2014-ITRV-ITAT-MUM-031	Garware Wall Ropes Ltd. vs. Addl. CIT	ITAT (Mumbai)	<b>There would be no S. 14A/ Rule 8D disallowance if primary object of investment is to hold controlling stake in group concern and not to earn tax-free income</b>
2014-ITRV-ITAT-MUM-038	Garware Wall Ropes Ltd vs. ACIT	ITAT (Mumbai)	<b>There would be no S. 14A/ Rule 8D disallowance if primary object of investment is to hold controlling stake in group concern and not to earn tax-free income</b>
2014-ITRV-ITAT-MUM-085	JM Financial Limited vs. ACIT	ITAT (Mumbai)	<b>There would be no s. 14A/ Rule 8D disallowance for investment in shares of subsidiaries &amp; Joint Ventures</b>
2014-ITRV-HC-ALL-101	CIT vs. Shivam Motors (P) Ltd	Allahabad High Court	<b>There would be no s. 14A &amp; Rule 8D disallowance if there is no tax-free income</b>
2014-ITRV-HC-GUJ-105	CIT vs. Cortech Energy Pvt. Ltd	Gujarat High Court	<b>No disallowance u/s 14A &amp; Rule 8D can be made if the assessee does not have tax-free income &amp; no claim for exemption is sought</b>
2014-ITRV-HC-P&H-108	CIT vs. Lakhani Marketing	Punjab & Haryana High Court	<b>S. 14A disallowance cannot be made if the assessee has no tax-free income in the year</b>
2014-ITRV-HC-MUM-148	CIT vs. HDFC Bank Ltd	Mumbai High Court	<b>There would be no s. 14A disallowance of interest paid on borrowings if assessee's own funds and non-interest bearing funds exceeds investment in tax-free securities</b>
2014-ITRV-ITAT-CHN-162	EIH Associated Hotels Ltd vs. DCIT	ITAT (Chennai)	<b>Investments in subsidiaries are to be excluded while computing disallowance u/s 14A read with Rule 8D</b>
2014-ITRV-	ACIT vs. M.	ITAT	<b>No disallowance can be made u/s 14A read</b>

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ITAT-CHN-165	Baskaran	(Chennai)	with Rule 8D if there is no exempt income. Cheminvest (SB) & CBDT Circular are not good law
2014-ITRV-ITAT-MUM-166	ACIT vs. Iqbal M. Chagala	ITAT (Mumbai)	S. 14A & Rule 8D cannot be applied in a mechanical manner. Disallowance cannot exceed expenditure claimed as a deduction
2014-ITRV-ITAT-HYD-168	Bellwether Microfinance Fund Pvt. Ltd vs. ITO	ITAT (Hyderabad)	<ul style="list-style-type: none"> <li>For s. 14A disallowance computation in Rule 8D(2)(i) only expenditure relating to investments resulting in tax-free income can be considered.</li> <li>For Rule 8D(2)(iii) all investments, whether yielding tax-free income or not, have to be considered</li> </ul>
2014-ITRV-ITAT-COCN-195	Geojit Investment Services Ltd vs. ACIT	ITAT (Cochin)	In applying Rule 8D(2)(ii) for purposes of s. 14A interest expenses directly attributable to tax exempt income as also directly attributable to taxable income, are required to be excluded from computation of common interest expenses to be allocated
2014-ITRV-ITAT-DEL-196	Interglobe Enterprises Ltd vs. DCIT	ITAT (Delhi)	No disallowance u/s 14A & Rule 8D can be made towards exempt income earned on strategic investments
2014-ITRV-HC-DEL-199	CIT vs. Holcim India P. Ltd	Delhi High Court	S. 14A & Rule 8D disallowance cannot be made if there is no exempt income or if there is a possibility of the gains on transfer of the shares being taxable
2014-ITRV-ITAT-BANG-200	Alliance Infrastructure Projects Pvt. Ltd vs. DCIT	ITAT (Bangalore)	S. 14A & Rule 8D disallowance cannot be made if there is no exempt income. Cheminvest Ltd. vs. ITO 121 ITD 318 (Ahd) (SB) is not good law
2014-ITRV-ITAT-MUM-212	HSBC Invest Direct (India) Ltd vs. DCIT	ITAT (Mumbai)	Discussed various arguments on the applicability of s. 14A & Rule 8D where the AO has not recorded satisfaction, where the shares are held in strategic/ subsidiary companies, held as stock-in-trade, where there are surplus funds and the quantum of disallowance under Explanation (f) to s. 115JA/ 115JB considered
2014-ITRV-ITAT-MUM-215	ITO vs. Reliance Share and Stock Brokers (P) Ltd	ITAT (Mumbai)	There would be no S. 14A/ Rule 8D Disallowance if accounts are not examined.
2014-ITRV-ITAT-KOL-217	DCIT vs. Baljit Securities Private Limited	ITAT (Kolkata)	Rule 8D(ii) & 8D(iii) do not apply to shares held as stock-in-trade.

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**SECTION 36 / 37 / OTHER BUSINESS DEDUCTIONS**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-GUJ-002	CIT vs. Gujarat State Road Transport Corporation	Gujarat High Court	<b>Employees' PF/ ESI Contribution is not covered by s. 43B &amp; is only allowable as a deduction u/s 36(1)(va) if paid by the "due date" prescribed therein</b>
2014-ITRV-HC-RAJ-006	CIT vs. Jaipur Vidyut Vitran Nigam Ltd.	Rajasthan High Court	<b>Employees' PF/ ESI Contribution is also covered by s. 43B &amp; allowable as a deduction u/s 36(1)(va) if paid by the "due date" for filing ROI</b>
2014-ITRV-HC-KOL-021	CIT vs. Vijay Shree Ltd.	Kolkata High Court	<b>Employees' PF/ ESI Contribution is also covered by s. 43B &amp; allowable as a deduction if paid by "due date" of filing ROI. ITC Ltd 112 ITD 57 (Kol) (SB) impliedly reversed</b>
2014-ITRV-HC-ALL-051	CIT vs. Commercial Motors Finance Ltd	Allahabad High Court	<b>Explained the distinction between "hire purchase transactions" and "loan transactions"</b>
2014-ITRV-HC-DEL-056	Kostub Investment Ltd vs. CIT	Delhi High Court	<b>Expenditure on foreign education of employee (son of director) is deductible if there is business nexus</b>
2014-ITRV-ITAT-DEL-138	Jai Surgicals Ltd vs. ACIT	ITAT (Delhi)	<b>If the purpose of the expenditure is not an offense/ prohibited by law, fact that prior approval of the Govt. was not obtained cannot be basis of disallowance under Explanation to s. 37</b>
2014-ITRV-HC-MUM-141	Shreenath Motors Pvt. Ltd vs. CIT	Mumbai High Court	<b>Expenditure on education of director is personal expenses &amp; not allowable deduction u/s 37(1). Assessee to pay costs of Rs. 50,000 to department</b>
2014-ITRV-HC-MUM-192	CIT vs. N.G.C. Network (India) P. Ltd	Mumbai High Court	<b>Advertisement expenditure incurred by agent to popularize the business of the channel run by the foreign principal is allowable as there is a direct business between the expenditure and the assessee's business as agent. The fact that the foreign principals also benefited does not entail right to deny deduction under section 37(1).</b>
2014-ITRV-ITAT-MUM-	ITO vs. Reliance Share and Stock	ITAT (Mumbai)	<b>Consent fee paid to SEBI is not penalty for infraction of law</b>

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215	Brokers (P) Ltd		
2014-ITRV-HC-MUM-222	CIT vs. Ghatge Patil Transports Ltd	Mumbai High Court	<b>Even employees' contribution to PF etc is allowable if deposited before due date of filing ROI u/s. 2(24)(x) r.w.s 36(1)(va) &amp; 43B</b>
2014-ITRV-ITAT-DEL-237	Praveen Saxena vs. JCIT	ITAT (Delhi)	<b>Explained the law on deductibility of expenditure incurred on legal fees to defend criminal proceedings u/s 37(1)</b>

### SECTION 40A(3)

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-GUJ-024	Anupam Tele Services vs. ITO	Gujarat High Court	<b>There would be no s. 40A(3) disallowance for cash payments even if Rule 6DD(j) exception does not apply if there is no dispute as to genuineness of payment and business compulsion</b>
2014-ITRV-HC-GUJ-078	Rajmoti Industries vs. ACIT	Gujarat High Court	<b>There is a difference between "crossed cheque" and "account payee cheque". Payment by crossed cheque attracts s. 40A(3) disallowance</b>

### SECTION 41

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-GUJ-030	CIT vs. Bhogilal Ramjilal Atara	Gujarat High Court	<b>Unclaimed liabilities (of earlier years), which are shown as payable in the accounts, are not taxable u/s 41(1) as income even if creditors untraceable &amp; liabilities are non-genuine</b>
2014-ITRV-HC-KAR-189	CIT vs. McDowell & Co Ltd	Karnataka High Court	<b>Premature payment of sales-tax deferral loan by paying an amount equal to the net present value of the deferred tax by which the entire liability to pay tax/loan stood discharged is not a "benefit" taxable u/s 41 (1)</b>
2014-ITRV-ITAT-MUM-	ITO vs. Sajjankumar	ITAT (Mumbai)	<b>Unclaimed &amp; unproven liabilities are deemed to have ceased and are assessable as income</b>

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218	Didwani	u/s 41(1)
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**SECTION 68**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-ITAT-DEL-005	DCIT vs. Sahara India Financial Corporation Ltd.	ITAT (Delhi)	<b>A bank, NBFC etc is not required to give conclusive proof of the identity, credit worthiness etc of the depositor u/s 68. Practical view has to be taken of deficiencies in KYC norms, absence of PAN card etc</b>
2014-ITRV-ITAT-DEL-144	Mithila Credit Services Ltd vs. ITO	ITAT (Delhi)	<b>Primary burden is on AO to show that share application money is assessable as unexplained cash credit u/s 68. AO cannot sit back with folded hands &amp; simply reject assessee's evidences</b>
2014-ITRV-HC-GUJ-174	CIT vs. Nangalia Fabrics Pvt. Ltd	Gujarat High Court	<b>Purchases cannot be treated as "bogus" u/s 68 only on the ground that the suppliers are not traceable</b>
2014-ITRV-ITAT-MUM-175	DCIT vs. Rajeev G. Kalathil	ITAT (Mumbai)	<b>Fact that alleged supplier is not traceable and has been termed a "hawala dealer" by the VAT authorities is not sufficient to treat the purchases as "bogus" u/s 68</b>
2014-ITRV-ITAT-DEL-181	ITO vs. Sunrise Developers P. Ltd	ITAT (Delhi)	<b>Onus to prove in the case the sale of an asset by assessee is less stringent than the onus which is casted upon the assessee in the case of receipt of share application money u/s 68</b>
2014-ITRV-ITAT-DEL-207	ITO vs. Rakam Money Matters P. Ltd	ITAT (Delhi)	<b>Explained the law regarding addition of share application money as unexplained credit u/s 68</b>
2014-ITRV-ITAT-JPR-213	Anuj Kumar Varshney vs. ITO	ITAT (Jaipur)	<b>Filing of confirmation of suppliers with PAN and TIN number are not sufficient to prove the purchases are genuine (bogus purchases) if they are not supported by other facts including delivery of goods &amp; presence of suppliers</b>
2014-ITRV-ITAT-MUM-245	Ganpatraj A Sanghavi vs. ACIT	ITAT (Mumbai)	<b>Purchases cannot be treated as bogus solely on the ground that suppliers are not traceable if the assessee has paid by a/c payee cheques and produced the income-tax and sales-tax documents and bank statements of</b>

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**SEARCH AND SEIZURE / SURVEY**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-DEL-058	Pradyot K. Misra vs. ACIT	Delhi High Court	<b>Court was irked at abuse of law to settle personal vendetta between top-level IRS officers</b>
2014-ITRV-SC-070	CIT vs. Calcutta Knitwears	Supreme Court	<b>Explained the law on how &amp; when “satisfaction” has to be recorded by AO to attain jurisdiction over non-searched person u/ss 158BC / 158BD</b>
2014-ITRV-ITAT-AGRA-116	Gaurav Luthara vs. ITO	ITAT (Agra)	<b>Benefit of extended period of limitation to pass assessment order u/s. 153(3) Expl 3 pursuant to finding/ direction of appellate authority not available if affected party not heard</b>
2014-ITRV-ITAT-DEL-124	Sanjay Aggarwal vs. DCIT	ITAT (Delhi)	<b>Addition in a search assessment u/s 153A for a AY which is not pending can be made only if incriminating material is found during search</b>
2014-ITRV-ITAT-AGRA-152	ITO vs. Ram Prakash	ITAT (Agra)	<b>No addition can be made on the basis of a surrender simplicitor even if the surrender is during the course of s. 133A survey proceedings</b>
2014-ITRV-HC-KAR-156	Canara Housing Development Co vs. DCIT	Karnataka High Court	<b>AO is required to assess the “total income” u/s 153A and is not confined only to income which was unearthed during search. Law laid down in All Cargo Global Logistics disapproved</b>
2014-ITRV-HC-MUM-157	CIT vs. Murli Agro Products Ltd	Mumbai High Court	<b>No addition can be made in respect of an unabated assessment which has become final if no incriminating material is found during the search u/s 153A</b>
2014-ITRV-SC-180	CIT vs. Vatika Township	Supreme Court (Full Bench)	<b>S. 113 Proviso inserted by FA 2002 w.e.f. 01.06.2002 to impose surcharge in search assessments is <i>not</i> clarificatory or retrospective. Suresh Gupta 297 ITR 322 (SC) overruled</b>
2014-ITRV-	Mohd. Khasim	ITAT	<b>There is a perceptual difference in the</b>

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ITAT-BANG-187	vs. ACIT	(Bangalore)	operative force of section 271(1)(c) vis-à-vis section 158BFA(2). The charge against the assessee u/s 158BFA(2) could be, why they failed to compute true disclosed income out of the seized material
2014-ITRV-ITAT-DEL-204	DCIT vs. Spaze Tower Pvt. Ltd	ITAT (Delhi)	Expl 2 to S. 132B, though inserted w.e.f. 1.6.2013, is retrospective and seized cash cannot be adjusted against advance-tax liability
2014-ITRV-ITAT-DEL-240	Jasjit Singh vs. ACIT	ITAT (Delhi)	Date of receiving seized documents is the "date of initiation of search" and six years period has to be reckoned from that date. An assessment order passed u/s 143(3) instead of u/s 153C is void

**SHARE TRANSACTIONS / DERIVATIVES / SPECULATION / HEDGING / PMS**

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-P&H-081	CIT vs. Pooja Investment Pvt. Ltd	Punjab & Haryana High Court	Even a solitary transaction of redemption of mutual fund units amounts to a business activity for an assessee if the intention was to earn profits and be treated as dealing in securities
2014-ITRV-HC-DEL-082	CIT vs. M/s D&M Components Ltd	Delhi High Court	Not keeping separate books together with frequent transactions means that gains from shares has to be assessed as business profits instead of as STCG
2014-ITRV-HC-DEL-094	Radials International vs. ACIT	Delhi High Court	Gains arising from PMS transactions are capital gains & not business profits
2014-ITRV-HC-KOL-114	CIT vs. Baljeet Securities Pvt. Ltd	Kolkata High Court	Speculation loss on transactions in derivatives can be set off against the gains of delivery shares under Explanation to s. 73
2014-ITRV-ITAT-MUM-202	Araska Diamond Pvt. Ltd vs. ACIT	ITAT (Mumbai)	Loss on foreign currency forward contracts by a manufacturer/ exporter is a "speculation loss" according to s. 43(5)(a) and not a "hedging loss"
2014-ITRV-ITAT-MUM-211	Harsha L. Tahilramani vs. ACIT	ITAT (Mumbai)	Explained the law on the tests to distinguish whether gains on sale of shares is short-term or business profits

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2014-ITRV-ITAT-KOL-217	DCIT vs. Baljit Securities Private Limited	ITAT (Kolkata)	Loss arising out of derivatives is to be deducted from the income arising out of buying and selling of shares for applicability of Explanation to s. 73.
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### SPECIAL AUDIT

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-DEL-064	AT&T Communication Services India (P) Ltd vs. CIT	Delhi High Court	AO need not examine books of account before directing special audit u/s 142(2A). Question whether accounts are “complex” has to be decided by AO & Court can interfere sparingly

### TAX DEDUCTED AT SOURCE / SECTION 40(a)(i) / 40(a)(ia) / 234E

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2014-ITRV-HC-KER-1	Narath Mapila LP School vs. UOI & Anrs	Kerala High Court	Granted interim stay on levy of fee for failure to file TDS statement u/s 234E
2014-ITRV-HC-RAJ-007	CIT (TDS) vs. Rajasthan Urban Infrastructure	Rajasthan High Court	If as per the terms of the agreement between the payer and the payee, the amount of service-tax is to be paid separately and was not included in the fees for professional services or technical services, no TDS is required to be made on the service-tax component u/s 194J of the Act
2014-ITRV-ITAT-HYD-010	Infotech Enterprises Ltd. vs. Addl. CIT	ITAT (Hyderabad)	There would be no disallowance u/s 40(a)(i) for TDS not deducted for amounts made taxable due to retrospective amendment.
2014-ITRV-ITAT-KOL-018	ITO vs. M K J Enterprises Ltd.	ITAT (Kolkata)	Expenditure on discounting/factoring charges is not in the nature of interest for purposes of TDS u/s 194A or disallowance u/s 40(a)(ia)
2014-ITRV-ITAT-AGRA-	DCIT vs. Gupta Overseas	ITAT (Agra)	Disallowance of payment to Non-residents without TDS u/s 40(a)(i) violates ‘deduction

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023			<i>neutrality non-discrimination</i> clause in DTAA as there is no similar bar for residents as per Merilyn Shipping 136 ITD 23 (SB) [2012-ITRV-ITAT-VIZ-117]
2014-ITRV-HC-KAR-032	Adithya Bizorp Solutions India Pvt. Ltd & Others vs. UOI	Karnataka High Court	Granted interim stay on enforcement of notices for levy of fee for failure to file TDS statement u/s 234E
2014-ITRV-ITAT-AGRA-037	DCIT vs. Virola International	ITAT (Agra)	S. 195 TDS obligation depends on law prevailing on date of payment and is not affected by retrospective amendment. No s. 40(a)(i) disallowance can be made if that law did not require TDS to be deducted
2014-ITRV-SC-068	UOI vs. Tata Chemicals Ltd	Supreme Court	Deductor entitled to interest on refund of excess TDS from date of payment u/s 244A
2014-ITRV-HC-MUM-073	CIT vs. Intervet India Pvt. Ltd	Mumbai High Court	S. 194-H TDS does not apply to all sales promotional expenditure if relationship is not that of principal & agent
2014-ITRV-HC-MUM-084	Rashmikant Kundalia vs. UOI	Mumbai High Court	Granted ad-interim stay against operation of notices levying fee for failure to file TDS statement u/s 234E
2014-ITRV-HC-DEL-087	Samsung India Electronics Pvt. Ltd vs. DDIT	Delhi High Court	If it is held by the dept that no income arose to the recipient then notices to payer for TDS default u/s 201 & s. 40(a)(i) disallowance are bad
2014-ITRV-SC-098	Kone Elevator India Pvt. Ltd vs. State of T. N.	Supreme Court in 5 Judge Bench	Explained the important principles on distinction between “contract for sale of goods” and “works contract”.
2014-ITRV-ITAT-AGRA-106	Rajeev Kumar Agarwal vs. ACIT	ITAT (Agra)	<ul style="list-style-type: none"> <li>There would be no s. 40(a)(ia) disallowance for failure to deduct TDS on payment if payee has offered amount to tax.</li> <li>Second Proviso to s. 40(a)(ia) inserted by Finance Act 2013 w.e.f. 1.4.2013 should be treated as curative and to have retrospective effect from 1.4.2005</li> </ul>
2014-ITRV-ITAT-CHN-122	Kerala Vision Ltd vs. ACIT	ITAT (Cochin)	If an amount is made taxable by a retrospective amendment, the payer cannot be held liable to deduct TDS on a payment made earlier and to suffer disallowance u/s 40(a)(ia)
2014-ITRV-ITAT-AGRA-	Allahabad Bank vs. ITO	ITAT (Agra)	The payer is not liable for TDS default u/s 201 / 201 (IA) if the Dept does not prove that

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128			the tax could not be recovered from the recipient
2014-ITRV-SC-134	in CIT vs. Vector Shipping Services (P) Ltd	Supreme Court	Dismissed Dept's SLP against High Court's verdict that s. 40(a)(ia) disallowance applies only to amounts "payable" as of 31st March and not to amounts already "paid" during the year.
2014-ITRV-HC-MUM-140	DIT (IT) vs. Mahindra & Mahindra Limited	Mumbai High Court	Even if the statute does not lay down a time limit, proceedings must be completed within a limited period u/s 201
2014-ITRV-HC-MP-169	M/s Shree Builders vs. UOI	Madhya Pradesh High Court	Granted ad-interim stay against operation of notices levying fee for failure to file TDS statementu/s 234E
2014-ITRV-ITAT-DEL-210	Mitsubishi Corporation India Pvt. Ltd vs. DCIT	ITAT (Delhi)	To avoid discrimination under Article 24(3) of the India-Japan DTAA, the benefit of no disallowance u/s 40(a)(ia) (in the case of residents) for want of TDS if the recipient has paid the tax has to be extended to non-residents u/s 40(a)(i).
2014-ITRV-ITAT-COCN-216	Mathewsons Exports & Imports vs. ACIT	ITAT (Cochin)	Charter hire payment is not assessable as royalty, there is no obligation to deduct TDS and no disallowance u/s 40(a)(i) can be made
2014-ITRV-ITAT-HYD-221	AMD Research & Development Center vs. DCIT	ITAT (Hyderabad)	In view of the finding of the service-tax authorities that services were rendered, argument that amount paid is a reimbursement of actual cost without profit element is not acceptable and it is chargeable as "fee for included services" and tax deductible u/s 195
2014-ITRV-ITAT-MUM-228	ACIT vs. Maharashtra State Electricity Distribution Company Ltd	ITAT (Mumbai)	Payment for use of an asset simpliciter, whether with control and possession in its legal sense or not, could be said to be for the use of an asset for purposes of s. 194 -I. However, payment for a specific act such as power transmission and even if an asset is used in the said process, cannot be said to be for the use of an asset
2014-ITRV-ITAT-KOL-234	DCIT vs. Ernst & Young Pvt. Ltd	ITAT (Kolkata)	Reimbursement of share of costs towards administrative and management support services in connection with technology updates etc is not taxable, hence no TDS requirement u/s 195

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