

# Provisions relating to Rectification, Reopening and Reassessments under Income Tax Act, 1961

**Organized by**

**Western India Regional Council  
of ICAI**


Date: Saturday, April 20, 2019

By CA Shardul Dilip Shah

# Contents:

Sr. No.	Particular
1.	Reassessment of income escaping income
2.	Section 147
3.	Reasons to believe for reopening and reassessment
4.	Causes for escaping Income
5.	Section 92E
6.	Section 148: Notice to reassessment
7.	Section 149: Time limit to issue notice
8.	Invalid reasons to believe and related case laws

Sr. No.	Particular
9.	Preconditions to reassessment and reopening
10.	Procedure to challenge the reassessment proceedings
11.	What is writ & writ petition
12.	Types of writs
13.	Suspicious transaction report
15.	Tax Evasion Planning
16.	Rectification u/s 154
17.	Rectification u/s 155



## Assessment or reassessment of income escaping assessment (Reopening of cases)

- Where Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any Assessment year then A.O. may assess, reassess such income and also any other income comes to his notice subsequently during the course of proceeding under this section



## Section 147

- If the Assessing Officer has **reason to believe** that any **income chargeable to tax has escaped assessment** for any assessment year,
- He may, subject to the provisions of sections 148 to 153, assess or reassess such income **and** also any other income chargeable to tax which has escaped assessment and
- Which comes to his notice subsequently in the course of the proceedings under this section, or recompute the loss or the depreciation allowance or any other allowance,
- As the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year)

Following  
constitute  
of “reason  
to believe”



A later supreme court  
judgement



Retrospective amendments in  
law



Evidence in possession of A.O.  
that assessee understated  
income



Mistake apparent from  
records

## Reason to Believe

- For action for back assessment, the most important requirement is that the A.O. should have **reason to believe** that the income chargeable for the relevant assessment year has escaped assessment
- **Sudhakar (K.) Shanbhag (S.) v/s ITO (2000) 241 ITR 865 (Bom)**

- Judgement:-

"Since the original assessment had been concluded finally against the assessee, it was not permissible for the assessee in the reassessment proceedings to seek a review/revision of the concluded assessment for the purpose of computation of the escaped income. The High Court clearly fell in error in permitting the assessee to reagitate, in the reassessment proceedings under Section 147(a) of the Act, the finally concluded assessment proceedings and to grant to him relief in respect of items not only earlier rejected, but also unconnected with the escapement of income by assuming as if the original assessment had not been concluded or was 'still open'."

## Reasons – Recorded to be supplied

### Recording of reasons before issue of notice is mandatory

► **CIT v. Blue Star Ltd. (2018) 162 DTR 302 / 301 CTR 38 (Bom)**

*Dismissing the appeal of the revenue the Court held that ;*

*even before recording reasons on 31<sup>st</sup> March 2010, under his signature, a notice u/s. 148 was already issued on 30<sup>th</sup> March, 2010,*

*therefore Tribunal was right in holding that even if case made out in affidavit belatedly filed by AO was correct,*

*it would not advance case of revenue. Court observed that the process of recording reasons as per mandate of Sub-Section (2) of S. 148 was completed when AO signed reasons on 31<sup>st</sup> March, 2010,*

*thus, even before recording reasons under his signature, a notice u/s. 148 was already issued on 30<sup>th</sup> March, 2010,*

*therefore reassessment was held to be bad in law .*



- ▶ **Asian Paints Ltd. vs. Dy. CIT (2008) 296 ITR 90 (Bom.)**
  - Reassessment framed by the assessing officer without disposing of the primary objection raised by the assessee to the issue of reassessment notice issued by him was liable to be quashed.
  
- ▶ **Allana Cold Storage vs. ITO (2006) 287 ITR 1 (Bom.)**
  - Assessee is entitled to be supplied with the reasons in the event he challenges the notice for reassessment; assessee is not estopped from challenging the impugned notice after having submitted to the jurisdiction of the officer by filing returns.

# Causes for escaping of Income

- Income more than basic exemption but return not filed
- Income has been under assessed or excessive loss, depreciation allowed to assessee.
- Taxes paid at lower rate
- Where person is found having any asset located outside India

## Causes for escaping of Income ( Cont.)

- ▶ Where assessee fails to furnish report of transfer pricing. u/s 92E
- ▶ On the basis of information & document received from Income tax authority u/s 133C (2), it is notice by A.O. that assessee under stated the income or has claimed excessive loss, deduction, allowance or relief in return.
- ▶ On the basis of information and document received from Income tax authority u/s 133C (2), it is notice by A.O. that the income is more than basic exemption and assessee not filed return.

# What is Sec 92E?

- ▶ **Report from an accountant to be furnished by persons entering into international transaction as per sec.92 of Income Tax Act, 2019.**
  - ▶ Every person who has entered into an international transaction during a previous year
  - ▶ shall obtain a report from an accountant and furnish such report on or before the specified date
  - ▶ in the prescribed form duly signed and verified in the prescribed manner
  - ▶ by such accountant and setting forth such particulars as may be prescribed


## Under assessment of income

- ▶ Cases of under assessment would arise where all the sources of income have been brought to charge or an entire source have been assessed but the full income of each sources or under each head has not brought to charge or an entire source has been left out of consideration.
- ▶ For E.g. Income may be under assessed by reason of allowance of an item of expenditure which ought not have been allowed at all or in full.
- ▶ This may happen owing to the remissness on the part of either the A.O. or the assessee.
- ▶ If there is no under-assessment as found on completion of assessment, the notice itself has to be treated as invalid.

## CIT vs kelvinator of India Ltd.

If the AO has not taken a conscious decision on the material available to him, the change of opinion can not be a reason to curtail the reopening of assessment proceeding. In this regard, it has been held by the Apex court that

“ The principle that a mere a change of opinion can not be a basis for reopening completed assessment would be applicable only to the situation where the AO has applied in his mind and taken a conscious decision on a particular matter in issue. It will have no application where the order of assessment does not address itself to the aspect which is the basis for reopening of assessment, as was the position in the instant case.”



## Section 148: Notice for assessment u/s 147

- For assessment u/s A.O. has to serve notice u/s 148 to the assessee requiring him to furnish the return within specified time in the notice
- A.O. shall before issuing notice record his reason for doing so.

**Note:** A.O. is bound to supply reason recorded by him ( if demanded by assessee after the assessee has file Return of Income)

# Section 149: time limit to issue notice u/s 148

- ▶ Generally notice u/s 148 can be issued within 4 years from the end of respective assessment year but if-
  - a. Income escaped amount to or likely to amount to Rs.1 lakh or more, then notice can be issued up to 6 years from the end of respective assessment year
  - b. Income escaped related to foreign assets then notice can be issued up to 16 years from end of respective assessment year
  
- **Notice to the Agent of non-resident can be issued within 6 years from the end of respective assessment year**



# INVALID Reason to Believe

## 1) opinion of the District Valuation Officer(DVO) :-

- In **ACIT Vs. Dhariya Construction Co. (2010) 328 ITR 515 (SC)** opinion of the District Valuation Officer(DVO) per se is not information for the purposes of reopening assessment under Section 147 of the Act.

In this case, the Department sought reopening of the assessment based on the opinion given by the District Valuation Officer (DVO). The opinion of the DVO per se is **not an information for the purposes of reopening assessment** under section 147 of the Income-tax Act, 1961. The Assessing Officer has to apply his mind to the information, if any, collected and must form a belief thereon. In the circumstances, there is no merit in the civil appeal. The Department was not entitled to reopen the assessment.

***Civil appeal is, accordingly, dismissed. No order as to costs.***

## Opinion of DVO(District Valuation Officer) is per se not an information for purpose of reopening of an assessment

**HIGH COURT OF DELHI Mahashay Chunnilal v. Deputy Commissioner of Income-tax**

- 1. The petitioner has filed the present petition challenging the order dated 23.08.2010 rejecting the objections filed by the petitioner against two notices, both dated 30.03.2010, under Section 148 of the Income Tax Act, 1961 seeking to re-assess the income of the petitioner for the assessment years 2005-06 and 2006-07.
- 2. The petitioner is a charitable trust and runs hospitals and schools.
- 3. The assessment for the assessment years 2005-06 and 2006-07 was originally completed under Section 153A/143(3) of the Income Tax Act, 1961

- ▶ The assessee was asked the following details as per questionnaire:
2. At Sl.No.17 of the questionnaire— Please file details of investments made and also confirm that the investments have been made in the specified assets mentioned in section 11(5) of the I.T.Act.
- ▶ valuation of school at Byadgi by Valuation Officer in his report the property has been shown at Rs.36,26,490/- as against NIL shown by assessee. Therefore the investment of Rs.36,26,490/- has escaped assessment.

# ACIT 3(1) versus M/s Mashal Hotels Pvt. Ltd

- ▶ In the case of ACIT 3(1) versus M/s Mashal Hotels Pvt. Ltd, Indore bench of ITAT ruled that re-Assessment on the basis of DVO Report is valid since the original assessment was completed without waiting for the report due to the statutory time limit.
- ▶ But in instant case, AO made proper application of mind and if the resistance of completing the assessment as per the statutory time limit provided in the Act would not have been there, then the Assessing Officer would have waited for the Departmental Valuation Officer report and accordingly made the additions in the regular assessment proceedings. Accordingly, the bench held that issuance of notice u/s 148 of the Act as well as reassessment proceedings are valid.

## 2) Where only a Sec. 143(1) Intimation is passed

- Where only a Sec. 143(1) Intimation is passed, no reopening merely to “scrutinize” the return or “verify” the expenditure.
- **Inductotherm (India) Pvt. Ltd vs. DCIT (Gujarat High Court)** -August 23, 2012
- For AY 2002-03, the AO issued an Intimation u/s 143(1) accepting the return. Subsequently, based on objections raised by the audit, he issued a s. 148 notice to reopen the assessment. The AO set out four issues in the recorded reasons and for two he stated that the reopening was to “verify” the expenditure. The assessee filed a Writ Petition to challenge the reopening inter alia on the ground that there was no reason to believe that income had escaped assessment

## **Ankita A. Choksey v. ITO ( 2019) 411 ITR 207 (Bom)(HC)**

- S. 147 Reopening of S. 143(1) Intimations:
- The mere fact that the return is processed u/s 143(1) does not give the AO a right to issue a reopening notice.
- The basic condition precedent of 'reason to believe' applies even to s. 143(1) intimations.
- If the assessee claims the facts recorded in the reasons are not correct, the order on objection must deal with them.
- Otherwise an adverse inference can be drawn against the Revenue

### 3) Notice enquiring into source of funds

- ▶ Notice enquiring into source of funds for purchasing flat by assessee not a reason to issue notice of 147.
- ▶ ***CIT v. Smt. Maniben Valji Shah (Bom):***

The above matter raises the following substantial questions of law for decision of this Court at the instance of the Revenue:-

"Whether on the facts and circumstances of the case, the ITAT, Bombay, is right in law in holding that the action of the Assessing Officer in re-opening the assessment u/s 147 of the [I.T. Act](#), 1961 is invalid and also in deletion of additions made on account of unproved loans and cash credits?"

## Statement of fact:

The relevant assessment year in the above is 1988-1989. It appears that the assessee had filed a return on 25.3.1991 and no regular assessment order was passed, however on 10.10.1991, a notice was sent to the Respondent assessee under [section 143\(1\)](#) for re-opening of the assessment under [section 148](#) of the Income Tax Act. The relevant portion of the said notice dated 10.10.1991 reads as under:-

"The above assessee has filed Return of income for the above asst. year on 25.3.1991 declaring total income of Rs. 19,010/-. It is seen from the Capital A/c. that the assessee had purchased flat for Rs. 2,50,000/-for which no details filed alongwith the return of income such as copy of purchase agreement, source of fund etc. In absence of these details and taking into consideration of the Balance sheet filed, I propose to reopen the assessment u/s. 147 of the [I.T. Act](#), to scrutinise the investment made in the flat purchased.



► **As per court's judgement:-**

There is no question of the assessing officer having any basis to reasonably entertain the belief that any part of the income of the assessee had escaped the assessment and that such escapement was by reason of omission or failure on the part of the assessee to disclose fully and truly all material facts.

Under the aforesaid facts and circumstances, we find no merit in the above Appeal, hence the same stands dismissed, however, no order as to costs.

# Precondition:

- ▶ The general principle is that once an assessment is completed it becomes final.
- ▶ Section 147 of the Indian Income tax Act, 1961 (“Act”) empowers the Assessing Officer to reopen an assessment if the conditions prescribed therein are satisfied.
- ▶ It is well known that powers of the Assessing Officer (“AO”) to reopen a completed assessment are not absolute.
- ▶ Sec. 147 and Section 148 of the Act contains the perquisite conditions to be fulfilled for invoking the jurisdiction to reopen the assessment.

## Preconditions (Cont...)

- ▶ The **Assessing Officer** has to **record the reason** for taking action under section 147. It is on the basis of such reasons recorded in the file that the validity of the order reopening a assessment has to be decided. Recorded reasons must have a live link with the formation of the belief.
- ▶ The Assessing Officer has **reason to believe** that **any income** chargeable to tax **has escaped assessment** for any assessment year.

In absence of recorded reasons for reopening the assessment, the notice issued under section 148(2) of the Act would be bad-in-law

- ▶ Tata International Ltd. vs. Dy. CIT (2012) 52 SOT 465 (Mum.)
- ▶ DCIT Vs. Telco Dadajee Dhakjee Ltd. [2012] 49 SOT 549 (Mum) (TM)
- ▶ Muller & Philpps (India) Ltd. v. ITO (Mum.) (Trib.); (2016) 47 ITR 69 (Mum) (Trib)
- ▶ Jeevanlal Jain ITA No. 910/M/2014 dt 13/01/2016, Bench J; (Mum) (Trib)
- ▶ Inderjeet Singh Sachdeva v. DCIT [2017] 49 ITR(T) 1 (Delhi) (Trib),
- ▶ Ujagar Holding Pvt. Ltd. v. ITO [2017] 51 ITR(T) 343 (Delhi) (Trib)
- ▶ M/s. Synopsys International Ltd (Bang) ITA no. 549/Bang/2011.
- ▶ Prashanth Projects Ltd v. CIT, [2011] 333 ITR 368, (Bom) (HC)

## Preconditions (cont...)

- ▶ The jurisdictional condition under section 147 is the **formation of belief by the Assessing Officer** that income chargeable to tax has escaped assessment for any assessment year.
- ▶ No action can be initiated under section 147 **after the expiry of 4 years** from the end of the relevant assessment year ***unless*** the income chargeable to tax has escaped assessment by reason for the failure on the part of the **taxpayer to disclose fully and truly all material facts** necessary for his assessment

- ▶ **Home Finders Housing Ltd. v. ITO (2018) 256 TAXMAN 59(SC)** held that Reassessment Order passed without following the procedure , said Order passed before disposal of objections raised by assessee on reasons recorded for reopening is curable irregularity does not vitiate the proceedings.
- ▶ Matter can be remitted for compliance with procedure.

- ▶ **In case of Scan Holding P. Ltd. v. ACIT (2018) 402 ITR 290 (Delhi) (HC)** held allowing the appeal that; the Assessing Officer had merely observed and recorded that the objections raised by the assessee were untenable and wrong, without elucidating and dealing with the contentions and issues raised in the objection. The Assessing Officer had not applied his mind to the assertions and contentions raised by the assessee and the core issue to be examined and considered. The reassessment proceedings were not valid.
- ▶ Similarly in case of **Karti P. Chidambaram v. ACIT (2018) 402 ITR 488 (Mad. )(HC)** the court observed that, since reassessment order was passed without disposing of assessee's objections to reopening of assessment and without passing a speaking order, same was unjustified. Court also held that where claim of assessee of exemption of income under section 10(1) on proceeds from sale of coffee subjected to only pulping and drying was accepted for several years and there were hundreds of coffee growers whose income were also exempted, reopening notice issued only against assessee during relevant assessment year was unjustified.

# NEW REASONS

- ▶ New reasons cannot be allowed to be introduced or supplied by way of affidavit. Validity of an order must be judged by the reasons so mentioned therein.
- ▶ Reasons recorded cannot be supplemented by filing affidavit or making oral submission.

- ▶ ***Hindustan Lever Ltd. vs. R.B. Wadkar*[2004] 268 ITR 332 (Bom)**

***Mohinder Singh Gill vs. Chief Election* AIR 1978 SC 851**

***Mrs. Usha A Kalwani vs. S.N. Soni*[2004] 272 ITR 67 (Bom)**

- ▶ **Godrej Industries Ltd. v. B.S. Singh, Dy. CIT (2015) 377 ITR 1 (Bom.)**
- ▶ **Aroni Commercial Ltd v/s DCIT (2014) 362 ITR 403 (Bom).**
- ▶ **Northem Exim Pvt Ltd v/s Dy.CIT (2013) 362 ITR 586 (Del).**



## Reopening is not permissible on borrowed satisfaction of another Assessing Officer

- ▶ Assessing officer recording reasons for assessment and assessing officer issuing notice under section 148 must be the same person.
- ▶ **Successor assessing officer cannot issue notice under section 148 on the basis of reasons recorded by predecessor assessing officer.** Notice issued invalid and deserves to be quashed.
  - Hyoup Food and Oil Industries Ltd. vs. ACIT (2008) 307 ITR 115 (Guj.)
  - Charanjiv Lal Aggarwal v. ITO (2017) 54 ITR 349 (Amritsar) (Trib.)
  - CIT & Anr vs. Aslam Ullakhan (2010) 321 ITR 150 (Kar)

# Time Limit for Issue of Notice u/s 148

## Maximum time limit for notice u/s 148 to be issued

Condition	Time limit
Escaped income < Rs 1 lakh	<b>4 years</b> from the end of relevant A.Y.
Escaped income > Rs 1 lakh	<b>6 years</b> from the end of relevant A.Y.
Escaped income relates to foreign asset	<b>16 years</b> from the end of relevant A.Y.

# Time Limit for Completion of Assessment u/s 148

The I-T Act has specified time limit for completion of reassessment by AO:

<i>Maximum time limit for completion of reassessment u/s 147</i>	
<i>Condition</i>	<i>Time limit</i>
Notice served u/s 148	9/12 months from the end of FY
Notice served u/s 148 and reference made to TPO (Transfer pricing officer)	21 months from the end of FY

# Reply to notice under section 148 of Income Tax Act 1961

The most important thing to keep in mind here is to not take this notice lightly. If the tax department has sent you the notice u/s 148, please take the following actions quickly:

- ▶ Check the notice for reasons to believe as recorded by the AO for issue of income escaping assessment notice u/s 148. In case if notice does not have the reasons mentioned in it, then you can request the AO to send you the copy of recorded reasons.
- ▶ If you are satisfied with the reasons to believe as recorded by AO, file your income tax return as soon as possible. If you had already filed the relevant return, send its copy to the AO.

- ▶ If you are filing the return in response to the notice issued u/s 148, make sure you file it after due diligence declare all your income and expenses carefully. If you miss reporting the income correctly then it can result in huge penalties.
- ▶ In case if you feel that the notice is not validly served or the reasons provided by the AO for opening the assessment u/s 147 are not proper then you can challenge the validity of the notice sent to you before the AO or higher authority as the case may be.
- ▶ If you win this case, the Court will halt the assessment proceedings. However, if the decision goes in the favour of the AO, then he can proceed with the reassessment of your case.

# Consequences of Reassessment under Section 147

If the reassessment of your case results in demand for tax, you may face the following consequences:-

- ▶ Before the beginning of reassessment, you will be asked to pay the tax due along with interest under 234B and 234C.
- ▶ Before the beginning of reassessment, You will be asked to pay the tax due along with interest under sections 234A, 234B and 234C.
- ▶ Failure to comply with any notice issued under 142(1) or section 143(2) or failure to comply with a direction under section 142(2A) will result in penalty of Rs 10,000 for each failure.

- ▶ Along with this you may also have to pay penalty of 100-300% of the tax sought to be evaded u/s 271(1)(c) for concealment of income.
- ▶ However starting AY 2017-18 this penalty will be replaced a new penalty u/s 270A(1) as per which,
  - ▶ penalty of 50% for under-reporting
  - ▶ 200% for misreporting of income will be levied.
- ▶ Willful failure to furnish return of income under section 139(1) or in response to notice under section 142(1)(i) or section 148 or section 153A (non-cognizable offence under section 279A)— can result into prosecution as under:
  - ▶ where tax sought to be evaded exceeds Rs 1 lakh – 6 months to 7 years (Rs 25 lakh w.e.f. 1-7-2012)
  - ▶ in other cases – 3 months to 3 years (2 years w.e.f. 1-7-2012)

# Interest u/s 234A,234B and 234C

## ► Interest u/s 234A-

Interest is charged for defaults in furnishing return of income.

The IT Act has made provisions for a penalty of **1%** every month or part of the month on the amount of tax payable.

This **interest** is calculated from the due date to the date of actually filing the income tax return.



➤ **Interest u/s 234B-**

Interest under section 234B of Income Tax Act is levied upon those taxpayers who **default** in payment of Advance Tax.

Interest is charged @ 1% on Assessed Tax (Tax determined u/s 143(1)/ 147/153A) less Advance Tax paid.

This interest is chargeable from 1<sup>st</sup> April of the Assessment Year up to the date of payment of tax liability.

However, it is also imposed if you have paid advance tax but the amount is less than 90% of the assessed tax.

### ➤ Interest u/s 234c-

Interest under section 234C is imposed when there is a delay in payment of an instalment of advance tax.

You pay interest under Section 234C if,

- Advance Tax is paid on or before 15th June is less than 12% of Assessed Tax
- Advance Tax is paid on or before 15th September is less than 36% of Assessed Tax
- Advance Tax is paid on or before 15th December is less than 75% of Assessed Tax
- Advance Tax is paid on or before 15th March is less than 100% of Assessed Tax

The interest on late payment is calculated at **1%** simple interest on the tax amount due, calculated from individual cut off dates shown above, until the date of actual payment of outstanding taxes.

# Who can send you Notice under Section 148?

- ▶ If your case has been chosen for reassessment u/s 147, then-
  - ▶ An A.O. who holds the rank of Assistant Commissioner or Deputy Commissioner or higher can only send you a notice

## □ unless-

- ▶ The reasons recorded by A.O. are found fit by Joint Commissioner for the issue of notice.
- ▶ If the notice u/s 148 is to be sent after the expiry of 4 years from the end of the relevant assessment year then-
- ▶ It should be sent only after due approvals from Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

## Procedure to challenge the reassessment proceedings:

The Apex Court in the case of **GKN Driveshafts (India) Ltd. v/s D.C.I.T. (2003) 259 ITR 19 (SC)** has laid down the procedure to challenge the reassessment proceedings.

- ▶ When a notice under section 148 of the Income-tax Act, 1961, is issued, the proper course of action:
  - a) Is to file the return ,
  - b) If he so desires, to seek reasons for issuing the notices.
  - c) The assessing officer is bound to furnish reasons within a reasonable time

- d) On receipt of reasons, the assessee is entitled to file objections to issuance of notice , and
- e) the assessing officer is bound to dispose of the same by passing a speaking order.
- f) the assessee if desires can file a writ challenging the order or can proceed with the assessment . However the assessee has still a right to challenge the reopening of assessment after the assessment order is passed, before appellate authority (ITAT).

# CHANGE IN OPINION

- ▶ No new material brought on records – Reassessment on change of opinion of officer not valid.
- ▶ a. Asteroids Trading & Investment P. Ltd. vs DCIT (2009) 308 ITR 190 (Bom)  
b. Asian Paints Ltd. vs. DCIT (2008) 308 ITR 195 (Bom) (198)  
c. ICICI Prudential Life Insurance Co. Ltd. (2010) **325 ITR 471** (Bom)  
d. Aventis Pharma Ltd. vs. Astit. CIT (2010) 323 ITR 570 (Bom) (577)  
e. Nirmal Bang Securities (P) Ltd. v. ACIT. (2016) 382 ITR 93 (Bom.)(HC)  
f. **Aryan Arcade Ltd v. DCIT (2017) 390 ITR 67 (Guj)(HC)**
- ▶ g. Change of opinion- Labour charges – **Subsequent assessment year- Reassessment was held to be bad in law:** CIT v. Srusti Diam (2015) 232 Taxman 127 (Bom.)(HC) ; PCIT v. Jai Prakash Associates Ltd. (2018) 403 ITR 41 (All) (HC)  
h. Reopening on mere change of opinion by **subsequent Assessing Officer is not permissible.** Orient News Prints Ltd. v. Dy. CIT (2017) 393 ITR 527 (Guj.)(HC) ; Ajanta Pvt. Ltd. v. DCIT (2018) 402 ITR 72 (Guj) (HC)

# FRESH MATERIAL

- ▶ Reassessment has to be based on "fresh material". A reopening based on reappraisal of existing material is invalid.
- ▶ DIT v. Rolls Royal Industries Power India Ltd.[Supra] (Delhi)(HC),[www.itatonline.org](http://www.itatonline.org)  
Golden Tobacco Limited v. DCI ITA NO. 5858 & 5859 /M/2012 Dt. 28/10/2015(A. Y. 2005-06 & 2006-07)(Mum.)(Trib.) [www.itatonline.org](http://www.itatonline.org)  
Uttaranchal Jal Vidyut Nigam Ltd v. ACIT (2016) 47 ITR 198 (Delhi) (Trib)  
PCIT v. Anil Nagpal (2017) 291 CTR 272/ 145 DTR 209 (P&H)(HC)  
Lambda Therapeutic Research Ltd. v. ACIT (2018) 402 ITR 177 (Guj) (HC)  
Giriraj Steel v. DCIT (2018) 402 ITR 204 (Guj) (HC)

# AUDIT OBJECTION

- ▶ If the AO disagrees with the information/ objection of the audit party and is not personally satisfied that income has escaped assessment but still reopens the assessment on the direction issued by the audit party, the reassessment proceedings are without jurisdiction.  
**Larsen & Toubro Ltd. v. State of Jharkhand CIVIL APPEAL NO. 5390 OF 2007  
DT. 21/03/2017 (SC)**
- ▶ AO having communicated to the auditor that a certain decision of a HC did not apply to the facts of the petitioners case but later rejected the objections raised by the petitioner to the notice u/s. 148 taking a contrary view without giving any reason as to why he has departed from the earlier view that the decision was not applicable, there was total non application of mind on the part of AO; matter remanded back to AO for de-novo consideration.
- ▶ **Asian Cerc Information Services (P) Ltd vs. ITO (2007) 293 ITR 271 (Bom)**
- ▶ AO having allowed assessee's claim for depreciation in the regular assessment and reopened the assessment pursuant to audit objection, it cannot be said that he had formed his own opinion that the income had escaped assessment, and the reopening being based on mere change of opinion, same was not valid.
- ▶ **IL & FS Investment Managers Ltd. vs. ITO & Ors(2008) 298 ITR 32 (Bom) (Asst year 2003-2004)**



# JURISDICTION

- ▶ **A question relating to jurisdiction which goes to the root of the matter can always be raised at any stage**– Issue of notice or service of notice in the setaside appeal can be raised- Matter was set aside to Tribunal to decide the jurisdictional issue of reassessment. ( ITA No. 87 of 2009, dt. 30.03.2017)(AY. 1997-98). **Teena Gupta v. CIT (All.)(HC)** [ referred Sun Engineering Works P. Ltd. ]
- ▶ Jurisdiction can be challenged in second appeal  
***Investment Corpn Ltd vs. CIT (1992) 194 ITR 548 (Bom) (556)***  
***N. Nagaganath Iyer vs. CIT (1996) 60 ITR 647 (Bom) (655)***  
***Hemal Knitting Industries vs. ACIT (2010) 127 ITD 160 (Chennai)(TM)***  
**Rule 27 of ITAT Rules:** Reassessment ground can be raised.

# What is Writ??

- A writ is a formal written order issued by a Court. Any warrant, orders, directions, and so on, issued by the Supreme Court or the High court are called writs.
- A writ petition can be filed in the High Court (Article 226) or the Supreme Court (Article 32) of India when any of your fundamental rights are violated. The jurisdiction with the High Courts (Article 226) with regards to a writ petition is wider and extends to constitutional rights too.

# Types of Writs

## ➤ Habeas Corpus-

A writ of Habeas Corpus is used by the courts to find out if a person **has been illegally detained**. If the answer is yes, the court can order for his release. If a person has been illegally detained, he himself, a friend or even a relative can file a writ of Habeas Corpus.

### **To file a Habeas Corpus petition**

Although generally a petition is to be filed by the person being detained or arrested, as per Habeas Corpus, any other person can do it on behalf of the detained individual. This writ (written petition) can be issued against a public authority or any particular individual.

## ➤ **Mandamus**

A writ of Mandamus is issued by a **higher court to a lower court, tribunal or a public authority** to perform an act which such a lower court is bound to perform. If a public official is not performing his duty, the court can order it or him/her to do that. **Mandamus means we command.**

## ➤ **To file a Mandamus petition**

Mandamus or the '**we command**' writ can be issued against anyone, including the president or governor of the state, a private person or chief justice. Any individual or a private body can file a writ petition of mandamus, subject to the person/persons having legal rights to do so, in the matter concerned.

# Mandamus

## ► Prohibition:

A writ of prohibition, also known as a '**stay order**', is issued to a lower court or a body to stop acting beyond its powers.

While a writ of mandamus is issued for any activity that is not legal, the writ of petition is issued against the lower courts, such as magistrates and commissions, for inactivity in the matter of concern. The High Court and Supreme Court can issue the Writ of Prohibition.

➤ **Writ of Certiorari:**

The writ of Certiorari is issued by the **Supreme Court to a Lower Court or any other body** to transfer a particular matter to the higher courts than itself.

The Writ of Certiorari is issued by the high court to the lower courts or tribunal, when an error of jurisdiction or law is believed to be committed. Writ of Certiorari is a curative writ.

➤ **Quo Warranto:**

- The writ of Quo Warranto (by what warrant) is issued to inquire about the legality of a claim by a person or authority to act in a public office, which he or she is not entitled to. The writ is only for the public offices and does not include private institutions/offices.

A writ can be filed only if your fundamental rights are being violated. Generally, you can file a writ petition against state and government agencies. However, a writ Petition can also be issued against private authorities when they are discharging public functions.

- ▶ The Hon Bombay High Court in the case of ***Aroni Commercials Ltd vs. ACIT [2017] 393 ITR 637*** observed that the argument, based on JCIT vs. Kalanithi Maran, [2014] 366 ITR 453(Mad) (HC) that this Court should not exercise its writ jurisdiction under Article 226 of the Constitution of India and the petitioner should be left to avail of the statutory remedies available under the Act is not acceptable. **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 .**
- ▶ A similar view has been taken in yet another case by the Hon Bombay High court in case of ***Crompton Greaves Ltd. v. ACIT (2015) 275 CTR 49 / 229 Taxman 545 (Bom).***



## What is a **suspicious transaction report (STR)**?

- ▶ This guidance on **suspicious transactions** is applicable to **reporting** entities (REs) and
- ▶ Individuals employed by **reporting** entities that are
- ▶ Subject to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and associated Regulations.

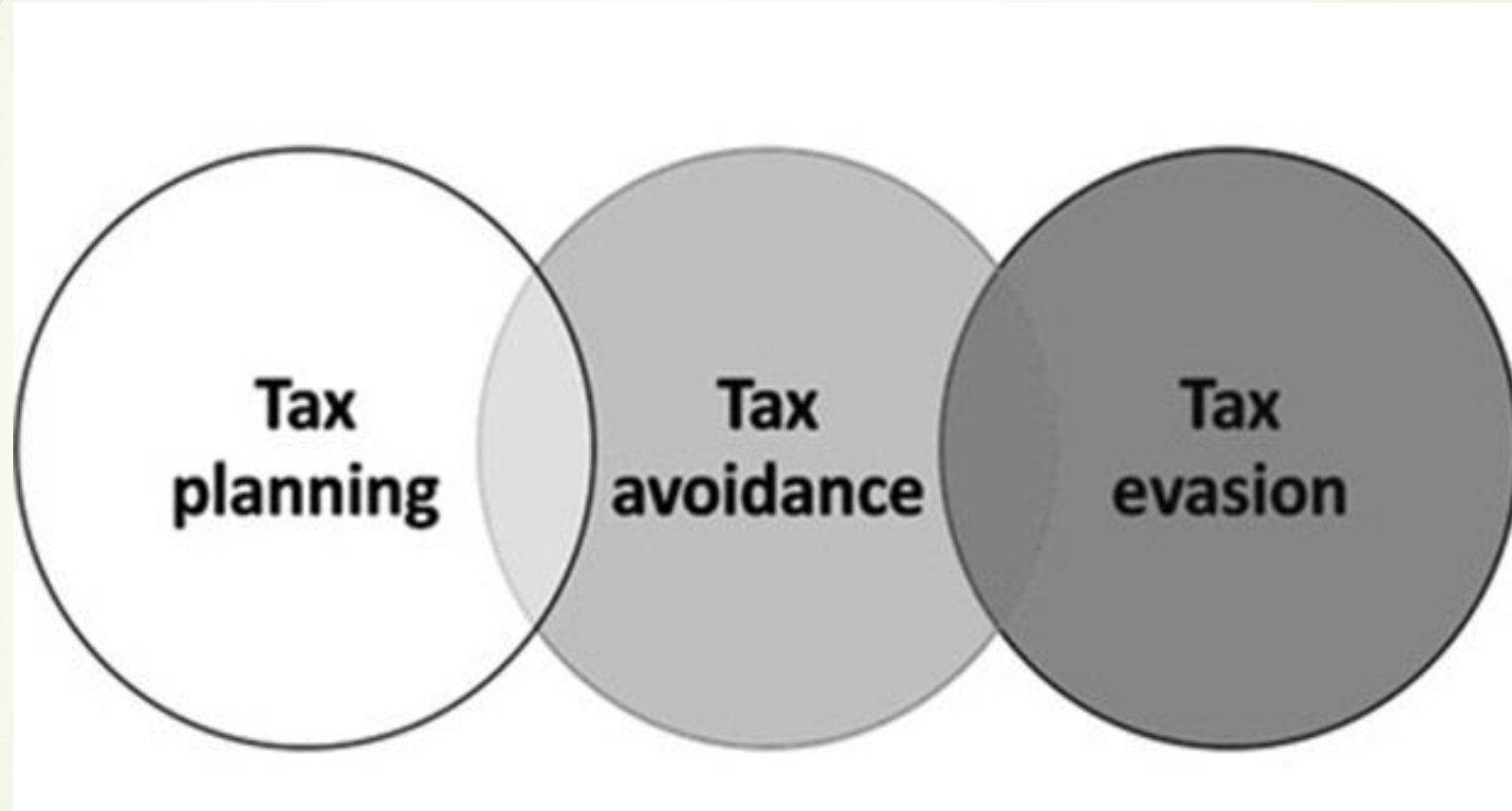
The **Prevention of Money laundering Act, 2002** and the Rules thereunder require every banking company-

- to furnish details of suspicious transactions whether or not made in cash.
- Suspicious transaction means a transaction whether or not made in cash which, to a person acting in good faith-
  - Gives rise to a reasonable ground of suspicion that it may involve the proceeds or crime; or
  - Appears to be made in circumstances of unusual or unjustified complexity; or
  - Appears to have no economic rationale or bonafide purpose.

The **Prevention of Money laundering Act, 2002** seeks to combat money laundering in India and has three main objectives:

- To prevent and control money laundering
- To confiscate and seize the property obtained from the laundered money; and
- To deal with any other issue connected with money laundering in India.

# What is **Tax Evasion Planning (TEP)**?



# Tax Evasion:

- It is an unlawful attempt to reduce one's tax burden.
- Tax Evasion is done with a motive of showing fewer profits in order to avoid tax burden.
- It involves illegal practices such as-
  - making false statements,
  - hiding relevant documents,
  - not maintaining complete records of the transactions,
  - concealment of income,
  - overstatement of tax credit or
  - presenting personal expenses as business expenses
- Tax evasion is a crime for which the assessee could be punished under the law.



**TAX  
EVASION**

# Tax evasion cases:

## 1) Walter Anderson

An American entrepreneur, Mr. Anderson made his millions after the breakup of AT&T Inc. (largest multichannel video service provider in the US by total subscribers (25,172,000)).

He was convicted of the **largest tax evasion scam in U.S. history** for evading more than \$200 million in taxes. It is reported that in 1998, he paid \$495 in taxes on \$67,939 of income. The I.R.S. alleges he paid \$126 million that year.

**Mr. Anderson was sentenced to nine years.**

These famous tax evasion cases show just how high a price you can pay for this crime.

## 2) Cadbury India

- ▶ “Two cases of tax evasion by Cadbury India Ltd have been detected by **DGCEI** (Directorate General Of Central Excise Intelligence) during the years 2009-10 to 2012-13, up to October 31, 2012.”
- ▶ One case is related to evasion of Central excise and the other is concerned with evasion of service tax.
- ▶ He said Central excise duty evasion by the Baddi (Himachal Pradesh) unit of Cadbury India was detected in 2011-12.
- ▶ It involves evasion of approximately Rs 200 crore.
- ▶ The other case, related to service tax evasion of Rs 13.43 crore by Cadbury India, Mumbai, has been adjudicated and a demand of Rs 11.75 crore was confirmed along with a penalty of equal amount.
  
- The investigation arm of the Finance Ministry has detected tax evasion worth Rs 29,088 crore in 1,835 cases during April-October period of the current financial year.

### 3) Tax evasion case by Nirav Modi

- ▶ A local court in Mumbai issued summons against Nirav Modi in connection with an income tax evasion probe against him and his companies
- ▶ The court issued the notice after the Income Tax Department had filed a charge sheet against him for alleged evasion of taxes and the court took cognizance of it on 28<sup>th</sup> feb, 2018
- ▶ The charge sheet was filed under sections-
  - ▶ 276 C (1) [willful attempt to evade tax],
  - ▶ 277 A [false statement in verification],
  - ▶ 278 B [offences by companies] and
  - ▶ 278 E [presumption as to culpable mental state] of the Income Tax Act, 1961.




# Tax Planning:


- ▶ Through tax planning one can reduce one's tax liability.
- ▶ It involves planning one's income in a legal manner to avail various exemptions and deductions.
- ▶ For E.g. Under Section 80C, one can avail tax deduction if specific investments are made for a specific period up to a limit of Rs 1, 50,000.
- ▶ Tax planning is an honest approach of applying the provisions which comes within the framework of taxation law.







**RECTIFICATION OF  
MISTAKE UNDER  
SECTION 154 OF THE  
INCOME TAX ACT,  
1961**



67



## **The Income-tax Authority, may amend his own order u/s 154(1), if there is a mistake apparent from records**

- ▶ The A.O. is empowered to rectify any order of assessment or refund or any other order passed by him.
- ▶ The A.O. is also empowered to amend intimation or deemed intimation
- ▶ The CIT is empowered to rectify his order passed u/s 263 or 264.
- ▶ The CIT(A) may rectify his order passed u/s 250
- ▶ Other income-tax Authorities may also rectify the orders passed by them.

However, if the matter in the order is subject matter of appeal or revision, the A.O. can not amend that order [ Sec. 154(1A) ]

# When Rectification can be made ?

## Rectification can be made :

- ▶ On his own motion, or
- ▶ On application by the assessee.

## Opportunity of being heard [ Sec. 154(3) ]

- ▶ Must, where effect of rectification is ,
  - (a) Enhancement of assessment,
  - (b) Reduction of refund,
  - (c) Increasing liability of the assessee.

## Rectification order [ Sec. 154(4) ]

- ▶ An order of rectification must be in writing.
- ▶ Refusal to make rectification shall also require an order under this section.
- ▶ Refund to be given in case where rectification results into reduction of assessment [ Sec. 154(5) ]
- ▶ Notice of demands should be issued in case rectification results into enhancing assessment [ 154(6) ]
- ▶ Time limit for rectification [ 154(7) ] : Within four years from the end of the F.Y. in which the order sought to be amended was passed.
- ▶ However, this time limit shall not apply to cases where amendment is made u/s 155.
- ▶ Time limit for rectification where assessee has applied [ 154(8) ] : Without prejudice to the provision of section 154(7), within 6 months from the end of the month in which the application has been filed.

# Section 147 reopening for rectifying sections 154 mistakes are invalid.

- ▶ ***Hindustan Unilever Ltd. vs. Dy. CIT (2011) 325 ITR 102 (Bom.)***
- ▶ **CIT v/s. EID Parry Ltd. [(1995) 216 ITR 489 (Mad)]**
- ▶ The jurisdiction under sections 147(b) and 154 are different but in cases where they seem to overlap, the ITO may choose one in preference to the other and once he has done so, he should not give it up at a later stage and have recourse to the other.
- ▶ **Reassessment- Rectification pending – (S.154)**
- ▶ When proceedings under section 154 were pending on the same issue and not concluded, parallel proceedings under section 147 initiated by the Assessing Officer are invalid ab inito, especially when except the return and its enclosures, no other material or information was in the possession of the assessing Officer. (Asst year 2004- 05).  
**Mahinder Freight Carriers v Dy CIT ( 2011) 56 DTR 247 (Mum) (Trib).**
- ▶ **Berger Paint India Ltd. v/s. ACIT & Ors. [(2010) 322 ITR 369 (Cal)]**
- ▶ **Jethalal K. Morbia v/s. ACIT [(2007) 109 TTJ (Mum) 1]**

# OBSERVATION BY TRIBUNALS

- ▶ **Observation of Tribunal in AY. 1990-91 is not a finding or direction u/s. 150 and thus re-assessment proceedings are not sustainable.[S. 45 (4),147, 148, Art. 226]**

In appeal for the assessment year 1991-92 held that if at all the issue of capital gains arises, it shall arise in A.Y.1990-91 and not under A.Y.1991-92 which was the year under consideration before the Tribunal. Based on the observation AO issued notice u/s. 148 for re-opening of assessment of A.Y.1990-91. On writ allowing the petition the Court held that, the observation of Tribunal is not a finding or direction u/s. 150 and thus re-assessment proceedings are not sustainable. (AY. 1990-91)

**Kala Niketan v. UOI (2016) 293 CTR 178/148 DTR 121 (Bom.) (HC)**



# Nature of adjustments under 143(1)

Total income or loss is computed under Section 143(1) after making the following adjustments:

- ▶ **Arithmetical error** in the return
- ▶ Any **incorrect claim** which is apparent from any information in the return where incorrect claim means the following:
  - ▶ Claim of an item in the return which is inconsistent with another entry of the same or some other item in such return –  
For e.g. income from other sources are deducted from business income but not declared under income from other sources
- ▶ Disallowance of **set off of loss** in the financial year which is carried forward from previous years in which return was filed beyond specified due date
- ▶ Disallowance of **expenditure** indicated in the audit report but not indicated in the return of income.

## Action to be taken by the taxpayer after receiving a 143(1)

- ▶ As a first step, review certain things in Section 143(1) intimation to ensure-
- ▶ document pertains to your return itself and
- ▶ data provided pertains to the same financial year as mentioned in Section 143(1) intimation.
- ▶ Check name, PAN, address, assessment year for which notice has been sent, e-filing acknowledgment number.

- ❑ In case you are able to identify the mistakes you have made while filing your return from the 143(1) intimation,
  - They can be rectified by filing a revised return,
  - please do so by logging into income tax e-filing website.
  - Please refer our article on how you can go about revising your return online.
  
- ❑ If no mistakes have been made and you do not agree with the adjustments made by CPC/computerized system,
  - You can file an online rectification application under Section 154(1)
  - Intimating the correction of mistake appearing in the Section 143(1) intimation.

# Sample of an intimation under 143(1)


**आयकर केन्द्र**  
**CENTRALIZED PROCESSING CENTER**  
 INCOME TAX DEPARTMENT

पोस्ट बैग नं. 2, इलेक्ट्रॉनिक सिटी पोस्ट ऑफिस, बंगलूर 560100  
**Post Bag No.2, Electronic City Post Office, Bangalore-560100**  
 फोन: 18004252229 (टोल फ्री) या 080-22546500  
**Telephone: 18004252229 (Toll Free) or 080-22546500**  
 आयकर अधिनियम 1961 के धारा 143(1) के अंतर्गत पत्र  
**INTIMATION U/S 143(1) OF THE INCOME TAX ACT, 1961**

<b>Name &amp; Address:</b>			
<b>लिंग</b> Gender:	पत्रिका वर्ष A.Y.	पत्रिका के प्रकार ITR Type:	पत्रिका के तिथि Date of Order:
MALE	2013-14	ITR-2 ORIGINAL	24-11-2013
<b>व्यक्ति</b> INDIVIDUAL		<b>Communication Reference No:</b>	
<b>Status:</b>		<b>Demand Identification No:</b>	
व्यक्ति 139(1) के अंतर्गत Return filed under section 139(1):		व्यक्ति पहचान संख्या	
<b>Residential Status:</b>		<b>E-Filing Acknowledgement No:</b>	
RESIDENT			
<b>पत्रिका फिलिंग करने के लिए तिथि</b> Due Date for Filing Original Return:		<b>पत्रिका फिलिंग करने के लिए तिथि</b> Date of Filing Return:	
05-08-2013		16-07-2013	
<b>PAN:</b>			

क्र. संख्या	विवरण	विवरण देने वाले शीर्षक	आयकर (विवरण)	आयकर (विवरण)
Sl.No.	Particulars	Reporting Heads	As Provided by Taxpayer in Return of Income	As Computed Under Section 143(1)
1		वेतन से आय INCOME FROM SALARY	3,30,232	3,30,232
2		घर संपत्ति से आय INCOME FROM HOUSE PROPERTY **	0	0
3	<b>HEADS OF INCOME</b>	व्यवसाय या पेशे से आय और हानि INCOME FROM BUSINESS OR PROFESSION **	0	0
4		पूंजी अर्जन INCOME FROM CAPITAL GAINS **	0	0
5		अन्य स्रोतों से आय INCOME FROM OTHER SOURCES **	5,05,369	5,05,369
6		शीर्षक के अंदर के समायोजन INTRA HEAD ADJUSTMENTS	NA	0
		कुल (शीर्षक के अंतर्गत समायोजन के बाद)		

RECTIFICATION  
OF MISTAKE  
UNDER  
SECTION 155

77

## Section 155 (1) & (2)

- On assessment or reassessment of Firm it is found that remuneration to partner is not deductible, AO may amend the order of Partner.
- On assessment or reassessment of AOP/BOI – share of member is not properly assessed - AO may amend the order of Member.
- Time – 4 Years

## Section 155(4)

- Where as a result of proceedings initiated under section 147,
- A loss or depreciation has been recomputed and in consequence thereof
- It is necessary to recompute the total income of the assessee for the succeeding year or years to which the loss or depreciation allowance has been carried forward and set off
- The Assessing Officer may proceed to recompute the total income in respect of such year or years.

# Time Limits:

- ▶ Intimation u/s 143 (1)

Intimation should be sent within one year from the end of the Financial year in which the Return was filed.

- ▶ Assessment u/s 143 / 144

Notice u/s 143(2) is to be served on the assessee within a period of 6 months from the end of the financial year in which the return is furnished (w.e.f. 01.04.2008) - earlier one year from end of month



# NO HARASSMENT

- ▶ The Courts have consistently warned the department not to harass taxpayers by reopening assessments in a mechanical and casual manner.
- ▶ The Pr CIT were directed to issue instructions to AO's to strictly adhere to the law explained in various decisions and make it mandatory for them to ensure that an order for reopening of an assessment clearly records compliance with each of the legal requirements.
- ▶ **Pr. CIT v. Samcor Glass Ltd. Delhi High Court**
- ▶ **CIT .v. Trend Electronics( 2015) 379 ITR 456 (Bom.)(HC).**
- ▶ **Bayer Material Science Pvt. Ltd.v. DCIT(2016) 382 ITR 333 (Bom.)(HC)**

# INVESTIGATION WING INQUIRY

- ▶ Notice issued after the expiry of four years from the end of the relevant assessment year by the assessing officer merely acting mechanically on the information supplied by the Investigation wing about the accommodation entries provided by the assessee to certain entities without applying his own mind was led to be not justified.(A.Y.2004-05, 2006-07)
- ▶ **CIT v. Kamdhenu Steel & Alloys Ltd. (2012) 248 CTR 33 (Delhi)(High Court)**
- ▶ **CIT v. Multiplex Trading & Industrial Co Ltd (2015) 128 DTR 217 (Delhi)(HC)**
- ▶ **Pr. CIT v G. Pharma India Ltd.[2017] 384 ITR 147 (Delhi) (H C)**
- ▶ **CIT vs. Insecticides (India) Ltd. (2013) 357 ITR 300 (Del.)(HC)**
- ▶ **CIT v/s Meenakshi Oversea's Pvt Ltd (2017) 395 ITR 677(Del) (HC)**
- ▶ **CIT vs. Fair Invest Ltd. (2013) 357 ITR 146 (Del.)(HC)**
- ▶ **Sarthak Securities Co. (P.) Ltd. vs. ITO (2010) 329 ITR 110**

# INVESTIGATION WING INQUIRY

- ▶ **In case of Deepraj Hospital (P) Ltd. v. ITO, 41/AGRA/2017, AY: 2010-11 Dtd: 01/06/2018 (Agra)(Trib), [www.itatonline.org](http://www.itatonline.org)** the Tribunal held that; If the reopening is based on information received from the investigation dept, the reasons must show that the AO independently applied his mind to the information and formed his own opinion. If the reopening is done mechanically, it is void. Also, if the reasons refer to any document, a copy should be provided to the assessee. Failure to do so results in breach of natural justice and renders the reopening void.
- ▶ 10.8 Reassessment solely made on the basis of information received from investigation wing as assessee was beneficiaries of accommodation entries was held to be not valid when no cross examination allowed to the assessee. **ITO v. Reliance Corporation (2017) 55 ITR 69 (SN) (Mum.) (Trib.)**

# BOGUS PURCHASES

- ▶ **In the case of PCIT v. Manzil Dineshkumar Shah[2018] 95 Taxmann.com 46 (Guj) HC**, the Court held that; even the assessment which is completed u/s 143(1) cannot be reopened without **proper 'reason to believe'**. If the reasons state that the information received from the VAT Dept that the assessee entered into bogus purchases "**needed deep verification**", it means the AO is reopening for doing a 'fishing or roving inquiry' without proper reason to believe, which is not permissible. Court also observed that, before closing, we can only lament at the possible revenue loss. The law and the principles noted above are far too well settled to have escaped the notice of the Assessing Officer despite which if the reasons recorded fail the test of validity on account of a sentence contained, it would be for the Revenue to examine reasons behind it.

# NOTICE IN WRONG NAME

- ▶ However the recent decision of SC in case of **Skylight Hospitality LLP v. ACIT (2018) 254 Taxman 390 (SC)** held that; notice issued in the name of a company which does not exist upon its conversion into a LLP is valid if there is material to show that the issue in the name of the company was a clerical mistake. The object and purpose behind S. 292B is to ensure that technical pleas on the ground of mistake, defect or omission should not invalidate the assessment proceedings, when no confusion or prejudice is caused due to non – observance of technical formalities. The Court also observed that, in the peculiar facts of this case, we are convinced that wrong name given in the notice was merely a clerical error which could be corrected under S. 292B of the Income-tax Act. (SLP No. 7409/2018, dt. 02. 02. 2018) (AY. 2010 – 11)

# TRANSFER PRICING

- Income had already been disclosed by the Indian subsidiary and found by the Transfer Pricing Officer (TPO) to be at arm's length. Reassessment was held to be bad in law . The AO is not entitled to issue a reopening notice only on the basis that the foreign company has a permanent establishment (PE) in India if the transactions in respect of which it is alleged that there has been an escapement of income had already been disclosed by the Indian subsidiary and found by the Transfer Pricing Officer (TPO) to be at arm's length. (CA. No. 2833 of 2018, dt. 14. 03. 2018)(AY. 2004 – 05)  
**Honda Motor Co. Ltd. v. ADCIT (2018) 301 CTR 601 /255 Taxman 72 (SC)**

## June 30, 2019 – An interim timeline

- ▶ The Central Board of Direct Taxes (CBDT) has set June 30, 2019 as the deadline to clear all demonetisation cases as well as for the issuance of notices to those who have failed to file the statement of financial transactions (SFT) of high-value transactions as per Section 285BA of Income-tax Act by May 15, 2019
- ▶ Section 285BA requires recording and reporting of such transactions by specified persons including banks, mutual funds, institutions issuing bonds, and filing the Annual Information Report with details of these high-value transactions within the required time in the following year.
- ▶ Outlining the April-June interim action plan, the CBDT has also set the deadline for filing of references before NCLT with respect to 'struck off' companies by June 30.

## June 30, 2019 – An interim timeline

- ▶ The board has already asked tax offices to check financial transactions of around 3 lakh companies, which were de-registered by the government for their suspicious financial credentials, for evading taxes and laundering money, particularly at the time of demonetisation and bring under their ambit the time period (over the last two years) when such firms were removed from the RoC records.
- ▶ CBDT has already directed field officers to spot cases where there is a violation of cash payments of loans of Rs 5 lakh and above, as per Section 269SS of Income-tax Act, for only FY 17 and FY18 by June 30.
- ▶ Section 269SS prohibits a person from accepting cash loan or deposit of Rs 20,000 or above from another person.
- ▶ CBDT has further asked field officers to locate cases where income accruing from capital gains on sale of land or real estate is not disclosed, as per Section 50C and income from other sources as per Section 56(2)(vii) and submit the reports by June 30.



## June 30, 2019 – An interim timeline

- ▶ Moreover, the board has also asked Chief Commissioners to allow disposal of appeals of more than Rs 10 lakh in case a Commissioner (Appeals) does not have adequate number of appeals up-to Rs 10 lakh, in order to meet the 150-appeal target by June 30, 2019
- ▶ CBDT has also set a target of verification of at least 8 cases per month for each Deputy Director or Assistant Director of Income-tax and 17 cases per month for each Income Tax Office with respect to non-PAN or demonetisation/FATCA /CRS/Special Pilot Project related data, as per the interim action plan set for April-June to its field formations.
- ▶ June 30, 2019 has also been set as the deadline by the tax body for disposal of assessments in at least 25 cases (20 in international taxation) per assessing officer of limited scrutiny, reopened assessment under Section 147 and demonetisation related cases.
- ▶ The board has directed the officers to undertake these assessments through the e-proceeding platform.



THANK  
YOU