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Reopening and Review: Debate and Controversy

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Abstract
This paper deals with the issue of reopening of a closed income tax assessment under Section 147 of the Income Tax Act 1961. The introduction elucidates the clash between reopening proceedings and the law of limitation. It is followed by a discussion of case laws involving reopening of claims. The next section delves into the judiciary's interpretation of reason to believe, application of mind, formation of opinion, fault theory, and review powers of the court. Major case laws are analyzed to understand the thresholds for justifying re-assessment of completed income tax matters. Further, the jurisprudence on materiality of information unearthed subsequently, commissioner's powers to review and time restrictions are exposited. A brief overview of the nature and practice of block assessments is also provided. The conclusion draws inferences from the case law discussion and highlights that the judicial trends and legislative approach favor the protection of the rights of the assessee.

Keywords: *Income tax, Section 147, Reopening, Assessment, Review*

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INTRODUCTION
Reopening of a completed assessment under S. 147 of the Income Tax Act is a widely debated issue. This legal provision has withstood a challenge on grounds of its constitutional validity under Article 14 of the Indian Constitution and it has been upheld as a necessary check against escapement of disallowable income [1]. This provision is an exception to the law of limitation, which envisages the finality of legal proceedings. The essence of laches is that it disfavors the unsettling of a settled and concluded status and reassessment proceedings prima facie strike at the very root of this idea. Moreover, every party ought to be entitled to a sense of satisfaction and such reassessment proceedings would revisit the assessee with harassment, beyond time. There has to be a finality to an assessment at least for the sake of evidence, which would become harder to substantiate as the clock ticks away. Reopening a concluded proceeding also problematizes the claims of certainty and objectivity inherent in positive law. The judiciary has taken a variegated approach to addressing questions of reassessment and several patterns can be identified. Recent trends suggest that the essence of proceedings u/s147/148 has been reduced to the fault theory. Considering the same in light of new legal amendments, suggests that the judicial approach is not perfectly consistent with the legislative approach.

PRECEDENTIAL ANALYSIS
Reason to Believe
The new provision after the 1989 Direct Taxation Amendment provides that 'reason to believe' that certain income has escaped assessment on part of the AO shall be the sole criterion to determine the legality of the reopening of a completed assessment. The same could be warranted by several factors including, and most importantly, the following:

- Evidence in possession of AO that the assessee has understated his income.
- Evidence in possession of AO that the assessee has claimed excessive loss/deductions, allowances, reliefs [2].

Prima facie, this fresh change in the requisite standard gives a wider berth to the AO since he no longer has to rely upon a non-disclosure on part of the assessee [3] to warrant his belief. But, this pervasively vague phrase has been subject to multiple judicial interpretations. The court has adopted the standard of an 'honest and reasonable man' to analyze the AO's behavior against that of a constructed rational being who would consider all material reasons before arriving at a rational conclusion. Hence, the predominantly subjective standard of satisfaction on part of the AO could be seen to have been replaced by a stronger and a more objective criteria based on, 'reason to believe' [4].

In *Ram Swarup Cold Storage & Allied Industries v. ACIT* [5] and *Britannia Industries Ltd. v. Dy. CIT* [6], it was held that the word 'reason to believe', does not signify the established fact of escapement of income. "At the stage of issue of notice, the only question is whether there was relevant material on which a reasonable person could have formed the requisite belief. Whether such material would conclusively prove escapement of income is not the concern at that stage." Such a view provides large room for subjectivity. The Supreme Court clarified its stance in *Shamsuddin Ansari v. Union of India* [7] wherein it held that the 'formation of the belief may be within the subjective realm of satisfaction of the AO insofar as it is not necessary for the belief to be a conclusive fact, but it shall be based on reasonable reasons'. Though damage control was done through the apex court ruling, this pronouncement still leaves room for subjective thinking. However, it is agreed that 'reason to believe' indeed merits more than a mere 'reason to suspect'. Thus, the AO's claim could be based on direct or circumstantial evidence, but it should amount to something more than a gossip or a rumor [8].

Furthermore, it can be added that the said belief must be held in good faith and also that it cannot be merely a pretense. It is open to the court to examine whether the reasons for the belief have a rational nexus or a relevant bearing to the information of the belief and are not extraneous or irrelevant for the purpose of the section. To that limited extent, the action of the AO in initiating proceedings u/s 147 can be challenged in a court of law [9].

Fault Theory

Precedential analysis persuades one to conclude that the courts have been reluctant to allow a reopening u/s 147/148 unless there has been an incomplete or untrue disclosure on part of the assessee [10]. The courts have shown a predilection for deciding in the assessee's favor unless he is debarred from claiming a remedy in law for the reason of not having acted in accordance with it. Thus, it is posited herein that the essence of the requirement for a reassessment has been reduced to mere wrong conduct or fault of the assessee. Thus, reopening has been allowed when the assessee had not given cogent reasons as to why the notice under S.148 should be declared illegal and merely claimed that the AO had no jurisdiction [11]. It has also been allowed when he had outright refused to declare the sufficient information to satisfy the inquiry by the AO [12]; throughout, the rationale being that he hadn't come to the court of law with clean hands.

For instance, in April 2015, the Allahabad High Court found that the assessee had failed to disclose fully and truly the complete facts in respect of L.G. Electronics, Korea, having a P.E. in India to which payments had been made. So, a rational nexus was found between the reasons recorded and the belief that income had escaped assessment because of full and true information having not been furnished by the assessee. These grounds were found to be valid reasons to believe that income had escaped assessment. Hence, the Court found no illegality in the notice issued u/s148 and decided the matter against the assessee [13].

Further, when the assessee had already disclosed all relevant records the fact that a subsequent business loss, which is beyond his control has occurred shall be no ground to reopen the completed assessment [14]. The Allahabad High Court has held in the case of *Foramer v. CIT & Ors* [15] that in cases where there was no failure to disclose material facts by an assessee, a reopening may not be sustainable. Hence, it can be seen from the slew of cases cited herein that misconduct on part of the assessee has been given undue importance while considering the merit of reopening proceedings.

Power of Review

While favoring the assessee, the Delhi High Court has held that the legislative intent could not have been to allow a power of review to the AO since such a legal position would grant excessive and arbitrary power to the AO to revise the final speaking order as per his changing moods, whim and fancy [16]. It is submitted herein that the purpose of the legislature should be to devise as many safeguards as possible to preclude this legal provision from vesting the AO with blanket power to deter the rampant misuse of this law. Hence, the intention of the legislature was contra to awarding such arbitrary powers to the AO. Therefore, AO does not have any jurisdiction to review his own order. His jurisdiction is confined to only rectification of apparent mistakes u/s 154 and the said powers cannot be exercised where the issues are debatable. According to the Court, what cannot be done directly cannot be done indirectly by taking recourse to provisions relating to reassessment or by way of rectification of mistake since this would defeat the object of the legislation [17].

Before settling the issue of interpretation of statutory language, it is crucial to take note of the moot point as to the applicability of a particular rule. Whether the rule of strict interpretation or construction or *contra preferentum* should be adopted has always been debatable. But the Court has put this debate at rest by saying that this legal provision should be interpreted in favor of the assessee [18].

That the AO lacks the power to review his own order has been reasoned out differently in the landmark ruling in *CIT v Kelvinator of India,* which has settled this issue once and for all with a constitutional substantiation. Article 14 has been favorably relied upon by the Court to support the contention that permitting an AO to review his order results in violation of the Constitution which guarantees equal protection against such excessive administrative action [19].

Change of Opinion

When it comes to the question whether a mere ‘change of opinion’ could be a valid ground to reopen an assessment, Gujarat High Court in the case of *Praful Chunilal Patel* [20] has answered in the positive. It was held that the word ‘assessment’ would mean the ascertainment of the amount of taxable income and the tax payable thereon. In other words, where there is no ascertainment of amount of taxable income and the tax payable thereon, it can never be said that such income was assessed. It was further held that merely because during the assessment proceedings, the relevant material was on record, it could not be inferred that the AO must necessarily have deliberated over it and taken it into account while ascertaining the taxable income or that he had formed an opinion in respect thereof. Looking back, if it appears to the AO (albeit, within four years from the end of the relevant assessment year) that particular item even though reflected on the record was not subjected to assessment and was left out while working out the taxable income earlier, that would enable him to initiate the proceedings for reassessment. Such a view was also upheld in *EMA India v ACIT* [21], wherein according to the Allahabad High Court, ‘there could be no change of opinion when no opinion was formed by the Assessing Officer.’ This premise upheld by the High Court is inextricably tied to the concept of application of mind, which is discussed under the next subhead. Further, reopening is legal when a mere intimation order is passed u/s 143(1) since this does not amount to an “assessment” and in the absence of an assessment, there may not be a question of “change of opinion”. The Court has again upheld the principle that there must be “reason to believe”, i.e., “cause or justification” that income had escaped assessment [22].

Thus, it is generally agreed upon that when all the true facts had already been disclosed by the assessee and the assessment is completed, after closing the assessment, on a second thought, if the AO decides that a new inference is possible from the same documents, he can’t seek to reopen the completed assessment. That would be a ‘mere change of opinion in his mind.’ If there is no failure on part of assessee to disclose fully and truly material facts, wrong interpretation of accounts by AO leading to excessive relief cannot be a ground for reopening and, thus, it cannot confer jurisdiction on AO [23]. It is important to note here that the judicial reasoning has again tilted towards 'The Theory of Wrong Conduct.'

The debate was settled by *CIT v Kelvinator of India*, wherein the Court opined that it would be irrational and arbitrary to allow for reopening on account of change in AO's opinion [24]. There has to be a reason to believe which predicates that the AO must hold a belief by the existence of reasons for holding such a belief. In other words, it contemplates existence of reasons on which the belief is founded and not merely a belief in the existence of reasons inducing the belief. Such a belief may not be based merely on reasons, but it must be founded on material information, which has a rational nexus to the belief [25].

Non-Application of Mind

The next question is whether non-application of mind by the AO would be sufficient reason to reopen the case. S. 114 of the Indian Evidence Act vide clause (e) provides for the presumption that due care has been taken by a public officer in performing his duty. Therefore, on completion of assessment, it can be presumed that the AO has examined the material produced before him. So, the requirement that the discussions as to the inquiry should be made available in the AO's report to infer an application of his mind has an unintended but serious reflection on the state of affairs in the revenue department, indicating that orders as a rule are passed without due diligence, unless otherwise sufficiently established [26].

When the AO had formed his belief merely on the direction of his superiors, it was held that the reopening wasn't tenable since he hadn't applied his mind [27]. Moreover, reopening on the basis of an opinion formed by the internal auditor of the department also cannot be treated as valid and it's bad in law because it would amount to a change of opinion. An audit is principally intended for the purpose of satisfying the auditor with regard to sufficiency of rules and procedures prescribed for the purpose of securing an effective check on the assessment, collection and proper allocation of revenue. So, reassessment proceedings can't be initiated on the basis of tax audit report objections [28].

A distinction has been drawn between 'change of opinion' and failure or omission on part of the AO to form an opinion on the subject matter, claim, entry or deduction [29]. Producing voluminous records before the AO does not absolve the assessee of all responsibility. The AO in spite of best efforts or intention can miss out and not examine and go into a subject matter, claim, entry or deduction. An assessee cannot contend or state that in the reams and plethora of papers, notes and entries, entry, a statement was made, or claim or entry was explained and the principle of better beware applies. When a subject matter, entry, claim or deduction is not explicit but remains hidden or unexamined by the AO, be it for any reason, it is not a case of 'change of opinion', since there was no opinion formed in the first place. It should be clarified herein that non-application of mind to a particular fact is a valid ground, but it shall not be inferred from non-discussion of a particular issue in the speaking order since that would lead to the dangerous presumption that the revenue department does not perform its functions properly unless otherwise sufficiently established.

From this line of cases, it can be seen that overemphasis has been placed on the AO exercising his mental faculties. Also, unless the assessee had failed to 'properly disclose' or bring an information to the notice of the AO, the courts have hesitated to allow a reopening.

Material Information Unearthed Subsequently

New information chanced upon by the AO after the completion of the assessment is also a valid ground on which a reason to believe can be founded provided that the information received subsequent to the assessment is material and definite [30]. The material for the formation of the belief must be definite and relevant not vague, distant, remote, far-fetched and fanciful. For instance, the reasons recorded should not be "to make further investigation" or "there is huge concealment of income", since these are general [31]. Unless they are specific, they cannot form a direct link with the formation of the belief. Even after the new information qualifies this scrutiny, the Court can decline to allow reassessment on the ground that the addition sought to be made by the AO is not approved by the Court [32]. Nevertheless, the sufficiency of the material unearthed cannot be challenged for taking action u/s 147/148 and, therefore, to some extent, the formation of belief of the AO is within the realm of subjective satisfaction [33]. When, it was attempted to make a reopening on the basis of information contained in the tax audit report furnished by the assessee at the time of assessment, it was held to be illegal because no new tangible material has come into possession of AO. It was held to be just a 'change of opinion' in the mind of the AO and reopening proceedings initiated by the AO was quashed. It can be seen that the various heads elucidated herein are interlinked and interconnected [34].

Time Limitation

Time-barred cases are also those in which the court has declined to allow a reopening. Hence, after 4 years the AO's power to reassess elapses if the income which has escaped is less than Rs. 1 lac, or it lasts for 6 years if the amount exceeds Rs. 1 lac, both counted from the date when the assessment is closed. The importance of the time limit can be understood by noting that non-recording of finding as to escapement of income above Rs. 1 lac while invoking extended period of six years u/s 149 can invalidate the reopening itself [35]. However, the time limitation could be ignored when the assessment is in pursuance of an order or appeal [36].

Block Assessments

Mention should also be made of provisions available for Block assessments u/s 158B–158BH. The procedural aspect in this law has been amended to facilitate and ease the assessment of undisclosed income discovered during search operation undertaken u/s 132 or requisition u/s 123A. To avoid the requirement to place the income escaped in a particular assessment year, a block period has been legally constructed. It would run backwards to 10 previous assessment years from the one in which the said raid was conducted. So, w/o qualms about appropriate chronological location of the tax evaded income, mandatory notice u/s 143(2) can be issued and the assessment proceedings can be taken forward from there [37]. The relevant question is whether reopening is possible u/s 147 in the case of a block assessment. It has been held that once the AO proceeds to make assessment u/s 158BC, reopening u/s 147/148 is illegal when it is on the basis of the same material [38]. However, it has also been opined that reopening as such would be abhorrent to the special provisions made for block assessments. The Gujarat HC reiterated that the first proviso u/s158BC(a) of the Act specifically provided that no notice u/s148 of the Act was required to be issued for the purpose of proceeding under Chapter XIVB of the Act. The specific provision shall have primacy over the general provisions of the Act [39].

Further, the Hon'ble M.P. High Court in case of *Ramballabh Gupta v. ACIT & Ors.* [40] has held that the AO does not have jurisdiction to issue notice u/s 148 of the Act in respect of those 6 assessment years, which fall within the exclusive jurisdiction of section 153A of the Act. Therefore, the wide powers that obtain u/s 147 can indeed be curtailed and block assessments are one of those instances. It should be noted here that the contrary judgment in *Peer Chand Ratan Lal Baid* [41] has been sidelined in light of these well-reasoned pronouncements.

Therefore, it can be seen that the assessee is clearly being favored by preventing reopening after block assessments. Here, there can be no question of non-disclosure since the material is searched and found by the personnel from the Tax Office. Therefore, no fault could be attributed to the assessee and he is protected from reassessment proceedings.

Mere Opinion of DVO

Finally, a reopening on mere opinion of District Valuation Officer is illegal though the AO is bound to follow his opinion during the assessment. In *Assistant Commissioner of Income-tax v. Dhariya Construction Co.* [42], it was held that the mere opinion of DVO is not sufficient to reopen a completed assessment. The assessing officer should apply his mind and form a belief thereon on reopening the assessment. The rationale behind this may be that the DVO's report may be based only on his opinion or on some tangible material. In the former case it would be only estimation or guesswork. If AO has relied mainly on the report of the DVO without pointing out any discrepancy much less any material defect in the books of account of the assessee, and the expenditure incurred by the assessee in construction and shown in the books of account are duly supported by bills it would be unfair to reopen the completed assessment [43].

Further, it is to be noted that the question of illegality in including a particular item of income can arise after the reopening proceedings have been initiated. Herein, the Court can refuse to approve the addition if it is seen that the basis of the information was roving, and fishing enquiries conducted during the said proceedings [44].

Commissioner's Power to Review

A power of review vests in the Commissioner u/s 263 of the IT Act of 1961 (S. 33B of the IT Act of 1922). The jurisdiction of the Commissioner to proceed u/s 263 does not require notice to be given before assuming the jurisdiction under that section and commencing the enquiry. All that he is required to do, before reaching his decision and not before commencing his enquiry, is to give the assessee an opportunity of being heard (audi alterum partum) and make or cause to make such enquiry as he deems necessary. These requirements have nothing to do with the jurisdiction of the Commissioner. They only pertain to the question of natural justice [45].

Further, the power of the Commissioner extends to all orders including assessment orders passed by the Assessing Officer if the Commissioner considers that such orders are erroneous insofar as they are prejudicial to the interests of the revenue [46]. So, there is a "twofold requirement: (i) the order of the Assessing Officer sought to be revised is erroneous; and (ii) it is prejudicial to the interests of the revenue. If one of them is absent – if the order of the Income-tax Officer is erroneous but is not prejudicial to the revenue or if it is not erroneous but is prejudicial to the revenue – recourse cannot be had to S. 263(1) of the act" [47]. It is crucial to note that this provision can't be invoked to correct every mistake made by the AO. It is only when an order is erroneous, i.e., an incorrect assumption of facts or an incorrect application of law, orders passed without applying the principles of natural justice or without application of mind, that the section will be attracted.

Furthermore, the phrase 'prejudicial to revenue' has not been statutorily defined and judicial interpretation has rendered it a meaning that is deeper than a mere loss of tax [48]. However, this doesn't give the Commissioner arbitrary power to overturn a decision of the AO if there is a non-concurrence of opinion between them; his revision u/s 263 has to be justified [49]. In addition, he bears immense responsibility while invoking this section since it shall reflect upon the work done by the AO and he should refrain so long as there is no definite error or when there is more than one plausible view on the subject-matter. In brief, he should only intervene when the view adopted by the AO could not have been adopted in law, keeping in mind the interests of the revenue.

Miscellaneous Situations

The principle of partial merger is applicable to reassessment proceedings. The AO may not assess or reassess income which is the subject matter of any appeal, reference or revision, which is chargeable to tax and has escaped assessment. Such matters are left for decisions by above-mentioned higher authorities only [50].

If reasons for reopening aren't supplied within a reasonable time (construed to mean the period of 4 years u/s 147- or 6-years u/s 149 as applicable) then, the validity of the notice under section 148 and any proceedings pursuant thereto could not be upheld [51]. This ruling clearly supports the interests of the assessee and his right to know the reasons for which he is being questioned. Where there is a mistake, which is tax-neutral while computing the income, no reassessment can be initiated as the basic condition of income escaping assessment is not satisfied [52]. No reopening is allowed even within the time period on the basis of any amendment by way of explanation, instruction or circular. This means that the law remains the same and these additions have a retrospective effect from the date the particular section was included in the statute. Therefore, when AO seeks a reopening on the basis of this it only means that he has changed his opinion based on the same facts already disclosed; no new material has come before him. Hence it would be illegal [53]. Further, no reopening is allowed on the basis of any amendment in the law. Amendments to the law have a prospective effect unless otherwise specified [54]. Therefore, they cannot act in retrospection to grant the AO jurisdiction to reopen.

If notice u/s 143(2) had been resorted to and assessment was pending, reassessment cannot be made. "While assessment proceedings remain inchoate, no 'fresh evidence or material' could possibly be unearthed. If any such material or evidence is available, there would be no restrictions or constraints on its being taken into consideration by the AO for framing the then regular assessment." So parallel proceedings cannot be instituted u/s 147 when the notice u/s 142 is served w/o the permission of Joint Commissioner as mandated in proviso (a) to S. 142(1)(iii) was challenged by the assessee. Further, if the Commissioner has already taken up a case for review u/s 263, the AO cannot initiate parallel proceedings u/s 147 [55]. However, where no proceedings are initiated u/s 143(2), the scenario changes. If the notice is not issued before the expiry of 6 months from that particular assessment year, it would have to be assumed that since proceedings had not been opened u/s 143(2), the return filed u/s 139 or in response to notice u/s 142(1) had been accepted as correct. Only the sum payable or refundable is communicated through an intimation u/s 143(1). When new evidence emerges subsequently and if the condition of Section 147 of the Act is fulfilled (reason to believe), there is no legal bar to proceed under the said provision of S. 147 of the Act. Power u/s 147 is wide and recourse needn't be taken to S. 143(2) before invoking S. 147 [56].

Jurisdictional and non-compliance issues could invalidate the reopening in case of non-recording of reasons u/s 148 [57]. Earlier, when wrong sanction was received, it illegitimated the reopening. However, it has been recognized over the past few years that a sanction from a higher authority than the requisite authority should be good, but a lesser officer can't assume the power unless delegated by a written letter. In case of sanction required from JCIT but taken from the ACIT, it could prove fatal to the legality of the reopening [58].

The words "such income and also any other income" in S. 147 indicate that the escaped income for which reassessment proceedings are initiated should continue to exist so as to clothe the AO with requisite jurisdiction [59]. A fresh notice needs to be served on the assessee before assessing an entity in a different status from the status in which it was previously assessed, without which the AO is not competent to assess the assessee in a different status [60]. If the constitutional position of the Enterprise has changed, then it has acquired a new identity. Therefore, the earlier notice which speaks to the old identity would be vague and unspecific. Where the name of assessee was not correctly mentioned in notice issued under section 148, such notice was vague and not valid and, therefore, consequent reassessment proceedings were null and void [61]. When assessment order is set aside on technical ground like assessment being time barred, AO cannot issue another notice u/s 148 on very same facts. However, if the notice was quashed on any other technical ground like for instance, the non-specification of the reasons, a second notice shall be in order [62]. There is no necessity to disclose the reasons for reopening in the notice u/s 148 for its validity. Where the assessee makes an application for getting a copy of reasons recorded by AO, then the reasons shall be communicated subject to necessity of protecting the source if the AO thinks that such protection is necessary [63]. If the assessee has submitted objections to the reasons recorded for reopening, then if the assessment order hasn't considered these objections, it would have to be quashed.

CONCLUSION

To conclude, it can be held forth that the judicial decisions have favored the assessee in a move to encourage business and support the commercial interests. Such a move is purported to be in the overall interests of the larger community since the increase in business activities is believed to do good to society. Further, it can be seen that the AO doesn’t have plenary or arbitrary powers to reopen for the sake of recomputation when he has no valid reason to believe in the escapement of disallowable income. Even the Commissioner’s power of review is subject to reasonable limits. Thus, evident safeguards have been devised to protect the interests of the assessee as far as ‘legally’ possible.

REFERENCES

1. Held to be ‘intra vires the powers of the Parliament’ in Vimal Chandra Golecha 134 ITR 119 (Raj.).
2. Infra 16.
3. Parshuram Pottery Works Co. Ltd. v. CIT [1977] 106 ITR 1 (SC).
4. Ganga Saran and Sons P. Ltd. v. ITO, (1981) 130 ITR 1 (SC).
5. [1991] 192 ITR 537.
6. [1999] 238 ITR 57.
7. [Civil Misc. writ Petition No. 1603 (Tax) of 2006 decided on 27.8.2010].
8. Calcutta Discount Co. Ltd. vs. ITO (1961) 41 ITR 191(SC).
9. S. Narayanappa v. CIT (1967) 63 ITR 219.
10. Asian Paints Ltd. v. DCIT & Ors., 308 ITR 195; Idea Cellular Ltd. v. DCIT, 301 ITR 407; & CIT v. Eicher Ltd., 294 ITR 310.
11. CIT& others v. Chhabil Dass Agarwal (2014) 1 SCC 603.
12. Adobe Systems Software Ireland Ltd. v. Assistant Director of Income-tax (International Taxation), Circle (1), New Delhi in the SC.
13. The Principal Officer, LG Electronics Pvt. Ltd. v. Asst. Commissioner of Income Tax & Anr. Writ Tax No. 177 of 2014, Writ Tax No. 126 of 201, dated 22-4-2015.
14. ACIT & Ors. v. ICICI Securities Primary Dealership Ltd. [2012] 348 ITR 299 (SC).
15. 247 ITR 436.
16. Ram Swarup & Allied Industries v. ACIT (1991).
17. Supra 9.
18. CIT v. Kelvinator of India 256 ITR 1.
19. Ibid.
20. Praful Chunilal Patel v. MJ Makwana, Asst. CIT [1999] 236 ITR 832.
21. [2009] 226 CTR 659(All.).
22. Asst. CIT v. Rajesh Jhaveri Stock Brokers (P.) Ltd, reported in 291 ITR 500 (SC).
23. Amiya Sales & Industries v. ACIT 274 ITR 25(Cal.).
24. Supra 4.
25. Bawa Abhai Singh v. DCIT [2002] 253 ITR 83.
26. Supra 18.
27. CIT v. Sfil Stock Broking Ltd. reported in 325 ITR 285.
28. CIT v. The Simbhaoli sugar mills Ltd., 2011-TIOL-293-HC-DEL-IT; preceded by Indian and Eastern Newspaper Society v. CIT, New Delhi, (1979) 119 ITR 996 & CIT v. Lucas T.V.S. Ltd., (2001) 249 ITR 306.
29. 3i Infotech Ltd. v. Assistant Commissioner of Income Tax& Others (2010) 329 ITR 257 (Bom.).
30. ITO v. Lakhmani Dewal Dass [1976] 103 ITR (SC) 437.
31. ITO vs. Selected Daluband Coal Co. (P) Ltd. (1996) 217 ITR 597 (SC).
32. DCIT v. Gujarat Narmada Valley Fertilizers Co. Ltd. Case reference against High court SCA NO. 25090/2006. Raymond Woollen Mills Ltd. vs. ITO (1999) 236 ITR 34 (SC)].
33. CIT Vs Modipon Ltd., reported in 2011-TIOL-355-HC-DEL-IT.
34. ITO v. Satya Narayan Parwal 96 ITD 362.
35. Income Tax Act 1961, S. 150 (1).
36. ACIT & Anr. v. Hotel Blue Moon CIVIL APPEAL NO.1198 OF 2010 (Arising out of SLP(C) No. 22973 of 2007); also see per contra Dr. Pratap Singh vs. Director of Enforcement, [1985] 155 ILR 166 (SC).
37. Western India Baker (P) Ltd. v. ACIT 87 ITD 607 (Mum.); CIT v. Sivanandan (52 DTR) Ker. 428; followed in ACIT, Jhansi v. Vidit Kumar Agarwal IT APPEAL NO. 279 (AGRA) of 2011 C.O. No. 57 (Agra) of 2011 [ASSESSMENT YEAR 1999-2000] OCTOBER 12, 2012.
38. Cargo Clearing Agency (Gujarat) v. JCIT, 307 ITR 1 (Guj).
39. 288 ITR 347 (M.P.).
40. CIT v. Peer Chand Ratan Lal Baid HUF [2010] 322 ITR 544.
41. [2010] 328 ITR 515.
42. Commissioner of Income-tax v. Vrindaban

Real Estate (P.) Ltd. All HC IT Appeal NOS. 486 OF 2008 AND 344, 347 & 609 of 2011 JULY 24, 2012.
43. K.G. Baliga (ITA No. 3840/Del/2003).
44. CIT v. Electro House, (1971) 82 ITR 824 (SC).
45. CIT v. Christian Mica Industries Ltd., (1979) 120 ITR 627 (Cal.).
46. Malabar Industrial Co. Ltd., (2000) 243 ITR 83 (SC).
47. CIT v. T. Narayana Pai, (1975) 98 ITR 422.
48. CIT v. Arvind Jeweller, 259 ITR 502 (Guj.).
49. Second proviso to S. 147, Income Tax Act 1961.
50. GKN Driveshaft Ltd. v. ITO & Or. Del HC.
51. Givaudan Flavours Ltd. (India) v. DCIT, reported in 2011-TIOL-195-ITAT-MUM.
52. Parixit Industries (P.) Ltd. Vs ACIT Gujarat High Court, [2012] 20 taxmann.com 750 (Guj.).
53. Denish Industries Ltd. v. ITO (2004) 271 ITR 340 (Guj).
54. Trustees of H.E.H. The Nizam’s Supplemental Family Trust v. CIT: (2000) 159 CTR (SC) 114.
55. Asstt. CIT v. Rajesh Jhaveri Stock Brokers (P) Ltd.: (2007) 210 CTR (SC) 30.
56. Jharkhand High Court in Kavee Enterprises 301 ITR 156 relying on SC in G.K.N Driveshaft 259 ITR 19.
57. Shanti Vijay 60 TTJ 748, R.P.Gupta & Sons 157 Taxman 158 (Mag), Santosh Gupta ITA 2361/del/2004 etc.
58. Travancore Cements Ltd. v. ACIT [2008].
59. CIT vs Associated Cement & Steel Agencies 147 ITR 776 (Bom.).
60. Sri Nath Suresh Chand Ram Naresh v. CIT [2005] 145 Taxman 186 (All.).
61. R. Kakkar Glass & Crockery House Vs. CIT (2002) 254 ITR 274 (P&H).
62. Jindal Products v. ITO (1993) 70 Taxman 111(All.).
63. KS Suresh v. Dy. CIT [2005] 279 ITR 61 (Mad.).

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