

LIST OF DECISIONS FOR STUDY GROUP MEETING

Sr.No	Case Law	Court/ITAT		Citation	Reference Case Laws
SUPREME COURT					
1	CIT vs. Gujarat Cypromet Ltd.	SC	The conversion of outstanding interest into loan does not amount to "actual payment" of the interest in order to qualify for deduction in view of the retrospective insertion of Explanation 3C to s. 43B	Civil Appeal No(s). 5347/2010	Eicher Motors [2009] 315 ITR 312 & Pennar Profiles [2015] 376 ITR 355 (T&AP) approved
HIGH COURT					
2	Indo Star vs. ACIT	Bom HC	HC quashes AO's order u/s 197 which denied Mauritius treaty benefit on sale of shares of an Indian company acquired prior to April 1, 2017. However, HC leaves window open for revenue to examine the genuineness of the transaction in the course of assessment proceedings.	[2019] 105 taxmann.com 96 (Bom HC)	
3	CIT(IT) vs. MSM Satellite (Singapore) Pte. Ltd.	Bom HC	HC upholds that payment for TV channels distribution rights is not in the nature of royalty for 'use of copyright'.	ITA NO. 103 & 207 OF 2017	
4	CIT (IT) vs. Reliance Infocomm Ltd	Bom HC	The insertions of Explanations 5 & 6 to s. 9(1)(vi) by Finance Act 2012 w.r.e.f. 01.04.1976, even if declaratory and clarificatory of the law, will not apply to the DTAA's. The DTAA's are a bilateral agreement between two countries and cannot be overridden by a unilateral legislative amendment by one country.	ITA No. 1395 of 2016	New Skies Satellite BV 382 ITR 114 (Del) & Siemens AG 310 ITR 320 (Bom) followed
5	CIT (IT) vs. MUFG Bank Ltd.	Del HC	HC to examine taxability in the hands of assessee-bank on interest accrued/received by Indian Branches from head office/other overseas branches.	ITA 1459/2018	- DIT vs. Credit Agricole Indosuez [2015] 377 ITR 102 (Bom HC) followed; - Sumitomo Mitsui Banking Corpn.[2012] 145 TTJ 649 (Mumbai) (SB)

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6	Rajbhushan Omprakash Dixit vs. DCIT	Bom HC	The fact that the assessee did not disclose the material is not relevant if the AO was otherwise aware of it. If the AO had the information during the assessment proceeding, irrespective of the source, but chooses not to utilize it, he cannot allege that the assessee failed to disclose truly and fully all material facts & reopen the assessment (Scope of Explanation 1 to S. 147 explained).	WRIT PETITION NO.3546 OF 2018	
7	National Company vs. ACIT	Madras HC	Taxability of remunertaion paid to partners u/s 45(4).	TCA Nos. 365 & 366 of 2009	- Mohanbhai Pannabhai [1987] 165 ITR 166 (SC) - A K Naik and Associates [2004] 265 ITR 346 (Bom HC) - Dynamic Enterprises [2013] 359 ITR 83 (Karn HC) - Recent case law on similar facts - Savitri Kadur (Bang Trib)
8	ITO vs. Firoz Abdul Gafar Nadiadwala	ACMM, Mumbai	S. 276B Prosecution for delay in payment of TDS: The default is complete if the TDS is not deposited in time. Late deposit does not absolve the accused. The accused has no right to retain the TDS amount and use it for any other purpose. Pleas of financial problem, incompetent staff, accountant's negligence, unawareness about law etc are not acceptable as a defense.	Court Case 95/SW/2014	Madhumilan Syntex Ltd. [2007] 290 ITR 199 (SC) followed
ITAT					
9	Bengal DCL Housing Development vs. DCIT	ITAT Kolkatta	ALV of the unsold units which constitutes stock in trade of the appellant as "Income from house Property" u/s 22 of the Act.	ITA No. 210 & 429/Kol/2018	M/s Kanakia Spaces Pvt. Ltd. (Recent case laws on similar ground)
10	Aditya Khanna vs. ITO(IT)	ITAT Delhi	ITAT upholds availability OF Foreign Tax Credit (FTC) u/s 91 TO Resident but not ordinarily resident (RNOR) for us federal and state laws even though India had entered into DTAA with USA which provides for credit for federal taxes only. Follows Karnataka High Court's ruling in Wipro Ltd [2016] 382 ITR 179.	ITA No. 6668/Del/2015	- Followed Wipro Ltd. [2016] 382 ITR 179. - Tata Sons Ltd; Dr. Rajiv I. Modi vs DCIT (OSD), Range-1,
11	Hical Infra Private Limited vs. ITO	ITAT Bangalore	Export commission constitutes FTS as foreign agents engaged in 'quality check.	ITA No. 1575/Bang/2018	

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12	ITO vs. M/s Shanti Constructions	ITAT Agra	S. 145(2) "Project Completion Method" vs. "Percentage Completion Method": Dept's argument that assessee should have declared profit on percentage completion method because according to AS-7, revised in 2002 with effect from 01.04.2003, the 'Completed Contract method' has been scrapped & ICAI guidelines prefer the percentage completion method is not acceptable.	ITA No. 289/Agra/2017	- Realest Builders 307 ITR 202 (SC) distinguished - Sudhir V. Shetty Trib.) [2014] 66 SOT 239 (Mumbai - Trib.)
13	India Today Online (P.) Ltd. vs. ITO	ITAT Delhi	Where assessee allotted shares of a company held by it on premium and substantiated valuation of shares to satisfaction of Assessing Officer that same was on basis of valuation report provided by valuer of said company whose shares were held by it wherein valuer had applied Direct Cash Flow (DCF) method and said report was certified by an independent Chartered Accountant and Assessing Officer accepted such valuation, Commissioner (Appeals) was unjustified in rejecting impugned valuation or valuation method.	[2019] 104 taxmann.com 385 (Del Trib)	
14	DICT vs. Michelin India Tyre Pvt. Ltd	ITAT Delhi	AMP expenditure is an international transactions. ITAT confirms ALP determination though reimbursed amount offered to tax	ITA No. 3166 & 3306/Del/2013	
15	Ashok G. Chauhan vs. ACIT	ITAT Mum	Where Assessing Officer rejected assessee's claim for deduction under section 54F on ground that at time of sale of capital asset, assessee was owner of more than one residential house properties, in view of fact that one residential property was co-jointly owned in name of assessee and his wife and he could not be treated as 'absolute owner' of said property, deduction under section 54F could not be denied to him	[2019] 105 taxmann.com 204 (Mum Trib)	
16	Bharat Serums And Vaccines Ltd vs. ACIT	ITAT Mum	No capital gains on assignment of know-how under development, absent ascertainable cost	I.T.A. No.4701 & 5228/Mum/2012	
17	DCIT vs. Lok Housing and Construction	ITAT Mum	ITAT denies housing project deduction u/s 80IB(10) claimed vide revised return	I.T.A. No. 5351/Mum/2013	Monarch Innovative (Mum Trib) - Sec. 80IC deduction claimed through revised return sustainable as original return files on time