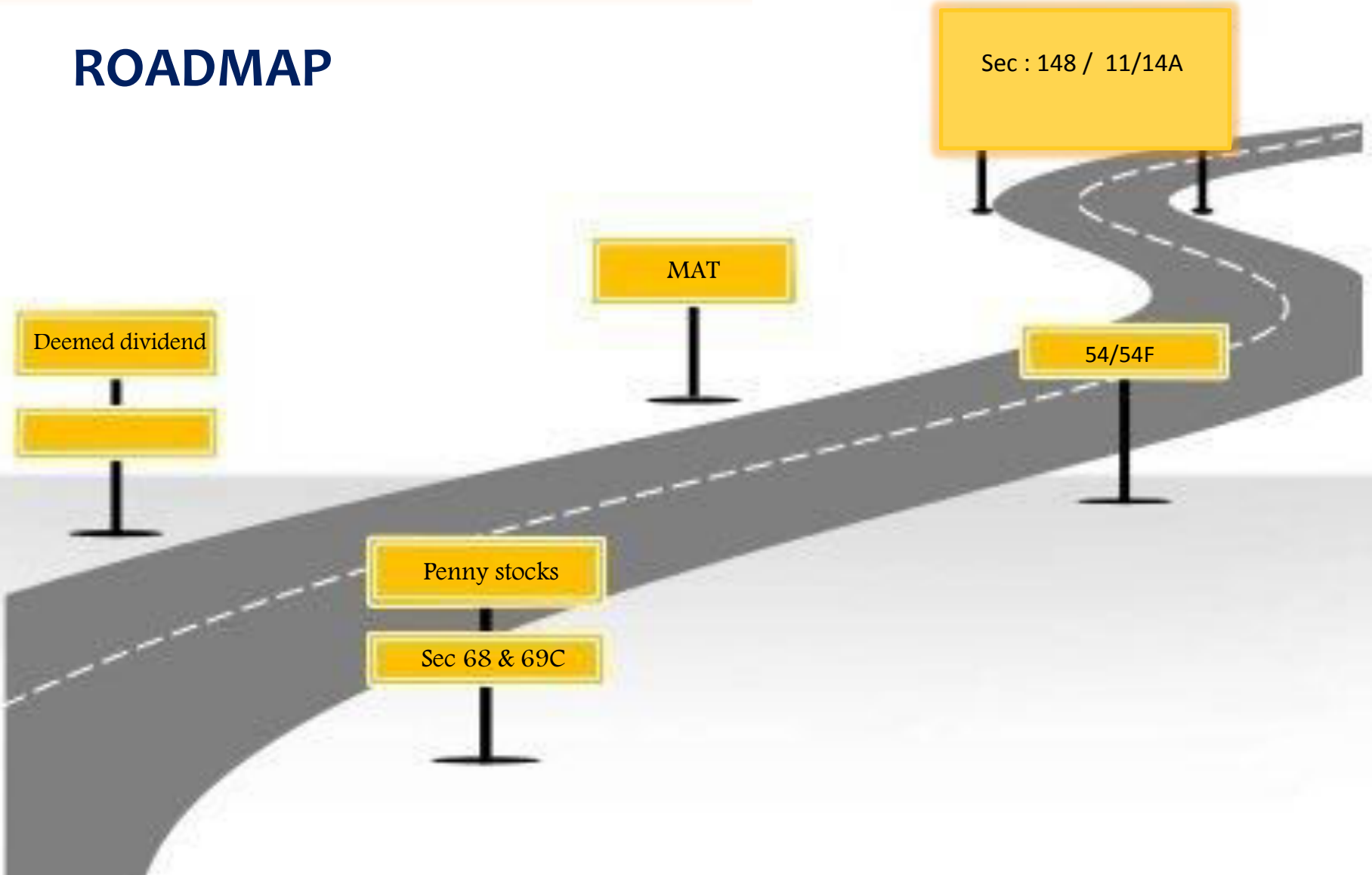




**STUDY CIRCLE**  
**CASE LAWS ON BURNING ISSUES**

# ROADMAP



# SEC 11

## ISSUE

C/f deficit of earlier years and set it off against income of current year

### Decision in Favour of Assessee

DIT vs Mumbai Education Trust (SLP granted by SC) [2016] 76 taxmann.com 331 (Bom HC)

ACIT vs K.J. Somaiya Trust [2016] 68 taxmann.com 9 (Mum Trib.)

CIT vs Krishi Upaj Mandi Samiti, Raisinghnagar [2016] 69 taxmann.com 425 (Raj HC)

ADIT vs Sri Shanmukhananda Fine Arts and Sangeetha Sabha [2014] 51 taxmann.com 539 (Mum Trib.)

# SEC 54 & 54F

## ISSUE

Municipal records vis-à-vis Actual usage

- ✓ Smt. K. Pratibha vs ITO [2014] 44 taxmann.com 282 (Hyd Trib.) (Sec. 54)
- ✓ Shyamlal Tandon vs ITO [2014] 43 taxmann.com 155 (Hyd Trib.) (Sec. 54F)
- ✓ Mahavir Prasad Gupta vs JCIT (2005) 24 CCH 0676 (Del Trib) (Sec. 54F)
  - ❑ Invested in residential property used for commercial purpose
  - ❑ Held that municipal records and assessee's intention showing residential purpose is relevant and not usage and hence claim u/s 54/54F is allowable

# SEC 54 & 54F

## ISSUE

Actual usage vis-à-vis Municipal records

- ✓ Sanjeev Puri vs DCIT [2016] 72 taxmann.com 147 (Del Trib.) (Sec 54F)
  - ❑ 2 residential properties out of which property B was used for office purpose
  - ❑ Held that actual usage is relevant and not municipal records for purpose of 54F benefit

# SEC 54 & 54F

## ISSUE

Investment benefit is not restricted to investment period u/s 139(1) but up to 139(4)

## Decision in Favour of Assessee

Nand Lal Sharma vs ITO [2015] 61 taxmann.com 271 (Jaip Trib.)

Kishore H. Galaiya vs ITO [2012] 24 taxmann.com 11 (Mum. Trib)

CIT vs Ms. Jagriti Aggarwal [2011] 15 taxmann.com 146 (P&H HC)

CIT vs Rajesh Kumar Jalan (2006) 157 Taxman 398 (Gau. HC)

# SEC 54 & 54F

## ISSUE

Construction contract – starting date vs completion date?

### Decision in favour of Assessee

DCIT vs Dr. Chalasani Mallikarjuna Rao [2016] 75 taxmann.com 270 (Viskp Trib.)

ACIT vs Smt. Sunder Kaur Sujan Singh Gadh [2005] 3 SOT 206 (Mum Trib)

CIT vs J.R. Subramanya Bhat (1987) 165 ITR 571 (Kar HC)

# SEC 54 & 54F

## ISSUE

Taking possession of constructed flat within one year before date of transfer – whether 54 available?

### Decision Against Assessee

Farida A. Dungerpurwala vs ITO (2014) 35 ITR 0205 (Mum Trib)

ACIT vs Sagar Nitin Parikh I.T.A. No.6399/Mum/2011



# SEC 54 & 54F

## ISSUE

Whether benefit allowable in case construction is not completed within 3 years from date of transfer

## Decision in favour of Assessee

CIT vs Girish L. Ragma [2016] 69 taxmann.com 95 (Bom HC)

Rajeev B. Shah vs ITO [2016] 71 taxmann.com 198 (Mum. Trib.)

Vishal Dutt vs ITO [2016] 68 taxmann.com 337 (Mum. Trib.)

PCIT v. C. Gopaldaswamy (2016) 384 ITR 307 (Karn.)(HC)

CIT vs Smt. B.S. Shanthakumari [2015] 60 taxmann.com 74 (Kar HC)

Kishore H. Galaiya vs ITO [2012] 24 taxmann.com 11 (Mum. Trib)

# SEC 54 & 54F

## ISSUE

Whether benefit allowable in case construction is not completed within 3 years from date of transfer

## Decision Against Assessee

Yashovardhan Sinha v. ITO (2016) 156 ITD 540 (Patna Trib)

Vegesina Kamala v. ITO (2016) 157 ITD 457 (Visakha) ( Trib.)

# SEC 54 & 54F

## ISSUE

Property acquired but not registered – whether benefit available

### Decision in Favour of Assessee

CIT vs Kapil Nagpal (2016) 381 ITR 0351 (Del HC)

PCIT v. C. Gopaldaswamy (2016) 384 ITR 307 (Karn.)(HC)

Balraj vs CIT (2002) 254 ITR 0022 (Del HC)

CIT v. Podar Cements (P) Limited (SC) (1997) 226 ITR 625 (SC)

# SEC 54 & 54F

## ISSUE

Whether investment benefit is available if investment is not in assessee's name

### Decision in Favour of Assessee

CIT vs Kamal Wahal (2013) 351 ITR 0004 (Del HC) (Wife)

CIT vs Ravinder Kumar Arora (2012) 342 ITR 0038 (Del HC) (assessee & wife)

DIT vs Mrs. Jennifer Bhide (2012) 349 ITR 0080 (Kar HC) (assessee & husband)

CIT vs Gurnam Singh (2010) 327 ITR 0278 (P&H HC) (Assessee & son)

ITO vs Shekhar Sood (2004) 23 CCH 0704 (Asr Trib) (1/3rd co-owner)

# SEC 54 & 54F

## Other Matters

Point of taxability of capital gains in case of redevelopment of property –  
Possession/agreement date

### Decision in Favour of Assessee

(2014) 43 taxmann.com 335 (Article)

(2013) 40 taxmann.com 364 (Article)

Ravinder Singh Arora vs ACIT (2012) 24 taxmann.com 364 (Hyd Trib)

ACIT vs Mrs. Geetadevi Pasari (2007) 14 SOT 63 (Mum Trib)

### Decision Against Assessee

Durdana Khatoon vs ACIT (2013) 33 taxmann.com 311 (Hyd Trib)

Taher Alimohammed Poonawala vs ACIT (2009) 124 TTJ 387 (Pune Trib)

# SEC 54 & 54F

## Other Matters

- ✓ Benefit is available in case residential house property is purchased on **credit basis** – Gopal Saran Darbari vs. ITO [2017] 77 taxmann.com 49 (Del Trib.)
- ✓ Benefit of investment in same property can be claimed under **both sections 54 & 54F** being mutually exclusive and independent provisions – Venkata Ramana Umareddy vs DCIT [2013] 32 taxmann.com 157 (Hyd Trib.)
- ✓ Transfer of property through settlement deed without any consideration falls under the **category of gift** – T.T. Siddarth vs DCIT[2016] 71 taxmann.com 117 (Chen.Trib.)
- ✓ Benefit is available in case **invested property** is transferred to relative under **gift/settlement** deed within prescribed time limit

Abdul Hameed Khan Mohammed[2016] 65 taxmann.com 211 (Chen.)

Smt. Rukmani Santhanam[2016] 73 taxmann.com 125 (Chen. Trib.)

# SEC 2(22)(e)

## ISSUE

Deemed dividend is taxable in the hands of shareholder and not concern

## Decision in Favour of Assessee

[2016] 75 taxmann.com 33 (Bombay)-ALFA SAI MINERALS VS CIT

[2016] 76 taxmann.com 10 (Madras)-Farida holidng vs CIT.

[2016] 67 taxmann.com 108 (Kolkata Trib.)-SHIV TRANSPORT VS ITO

[2009] 27 SOT 270 270 (Mumbai)-ACIT VS BHAUMIK COLOURS (P) LTD-(SB)

Clause iii of 2(22)(e) -

“any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (e), to the extent to which it is so set off”

# SEC 2(22)(e)

## ISSUE

Deemed dividend is attracted only when shareholder is register and beneficial shareholder

### Decisions in Favour of Assessee

[2011] 10 taxmann.com Agra tri -DCIT VS ATUL ENGG UDYOG.

[2015] 61 taxman.com 9 (Ahd tri)-BIOTECH VS ITO.

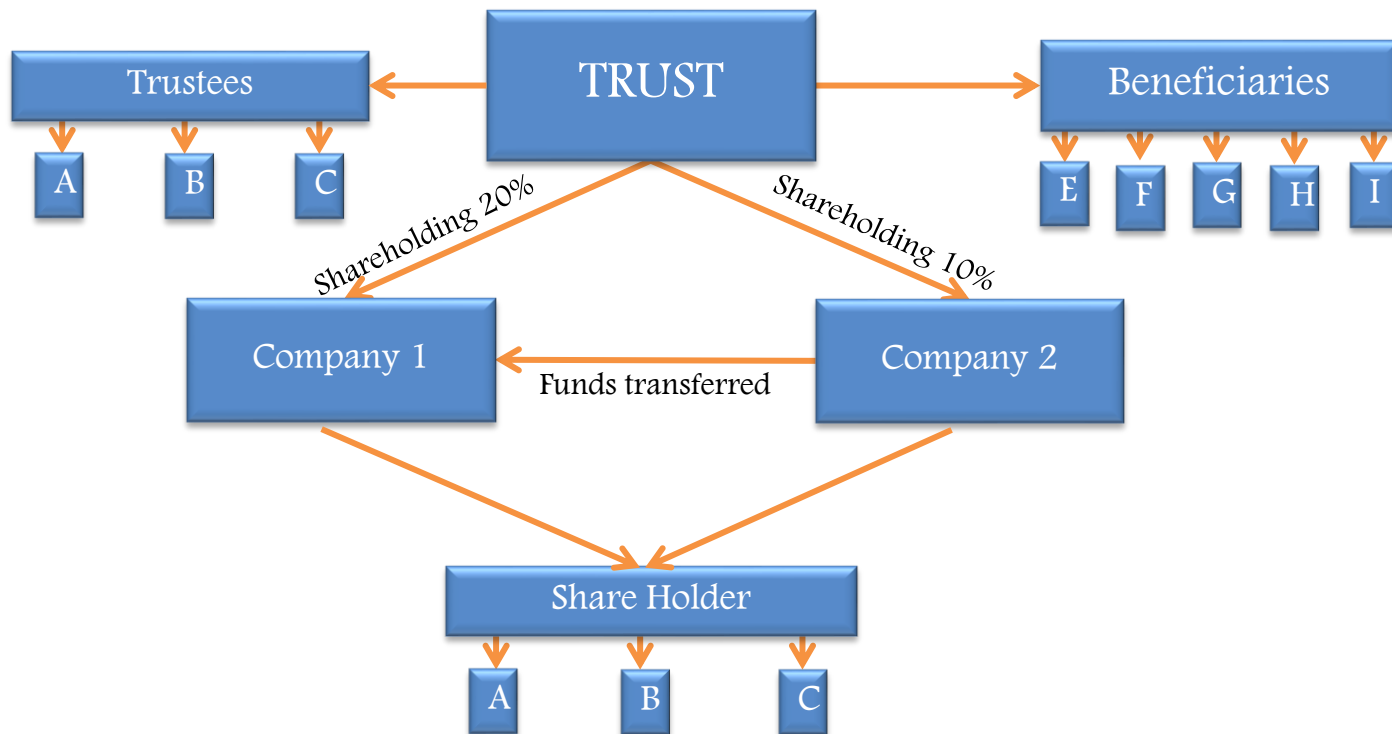
[2011] 15 taxmann.com 252 (kolkata)-MADHUSUDHAN INVESTMENT AND DCIT.

[2016] 67 taxmann.com 358 (Karnataka)-RAJEEV CHANDRASHEKAR VS CIT .



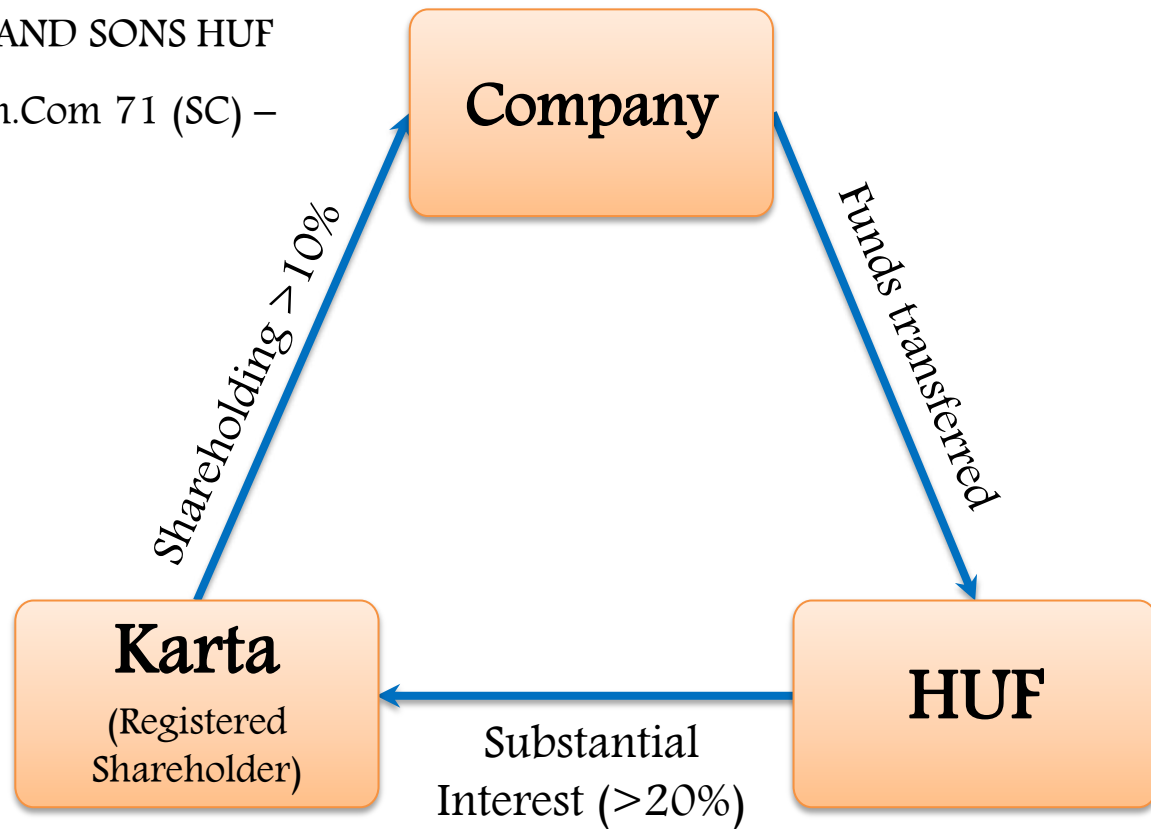
# SEC 2(22)(e)

[2009] 27 SOT 270 270 (Mumbai)-ACIT VS BHAUMIK COLOURS (P) LTD-(SB)



# SEC 2(22)(e)

SUPREME COURT - GOPAL AND SONS HUF  
VS ITO- [2017] 77 Taxmann.Com 71 (SC) –



## SEC 2(22)(e)

Outcome of Supreme Court, whether will change legal position

- ✓ HUF is beneficial Shareholder
- ✓ Q of whether HUF can be a registered Shareholder. is irrelevant
- ✓ Karta being registered and having interest >20% in any HUF – Explanation 3 covered
- ✓ Deemed dividend taxed in the hands of HUF was accepted by SC

# SEC 115JB

## Legal Matrix

- ✓ Role of 115JB(5) in incorporating exemption clause of normal computation ?
- ✓ Extent of power of AO in taxing profit which is credited directly to balance-sheet ?
- ✓ Can Notes to accounts direct inclusion or exclusion of profit for calculation of book profit ?

# SEC 115JB

## ISSUE

Whether section 54EC benefit available to MAT companies ? – 115JB(5)

“Save as otherwise provided in this section; all other provision of this Act shall apply to every assessee, being a company, mention in this section”

### Decision in Favour of Assessee

[2016] 76 taxmann.com 229 (Madras)-CIT V/s Metal & Chromium Plater (P) Ltd.

[2005] 4 SOT 376 (Mumbai)-FRIGSALES INDIA LTD VS ITO.

### Decision Against Assessee

(2008) 305 ITR 409 (SC) - HCL Comnet system & Services Ltd

[2012] 17 ITR 192 (Ahd)-CITY GOLD MEDIA VS ITO

[2015] 155 ITD 356 (Chennai Tribunal) DCIT VS WESTERN CASHEW COMPANY LTD.

[2011] 46 SOT 294 (MUMBAI)-TECHNICARTS (P) LTD VS ITO.

# SEC 115JB

## ISSUE

Whether income from capital gain transfer directly to reserve & surplus will be liable to tax u/s 115JB ?

## Decision in Favour of Assessee

[2016] 285 CTR 190 (Karnataka) –Sri Hariram Hotels (P.) Ltd v/s CIT.

- ✓ *The Assessing Officer has no power to re-compute the book profit and has to rely upon the authentic statements of account of the company, the accounts being scrutinized and certified by the statutory auditors **though with a qualification**, approved by the company in general body meeting and thereafter filed before the Registrar of Companies, who has a statutory obligation to examine and be satisfied that the accounts of the company are maintained in accordance with the requirements of the Companies Act.*

[2002] 122 TAXMAN 562 (SC)– Apollo Tyres Ltd. V/S CIT

[2011] 13 taxmann.com 179 (Mumbai)–ITO V/s Galaxy Saws (P) Ltd.

# SEC 115JB

## ISSUE

Whether income from capital gain transfer directly to reserve & surplus will be liable to tax u/s 115JB ?

### Decision Against Assessee

[2001] 249 ITR 597 (Bombay)-CIT v/s Veekaylal Investment Co (P) Ltd.

[2009] 119 ITD 355 (Mumbai)-Kopran Pharmaceuticals Ltd v/s DCIT – followed Bombay High Court

[2008] 217 CTR 479 (Kerala) -N J Jose & Co (P) Ltd Vs ACIT. – Overruled by Metal Chromium

# SEC 115JB

## ISSUE

Transfer of Assets not considered as transferred u/s 47 can it be liable to MAT?

Shivalik Venture Pvt. Ltd. v. DCIT (2015) 70 SOT 92 (Mum.)(Trib.)

- ✓ Where Assessee has given an explanation in the notes to the Accounts regarding the Items mentioned in Profit/loss Account, the same should be considered while computing Book profit because the notes to Account forms part of Financial statements.
  - i. [2012] 52 SOT 381-K K Nag Ltd vs ACIT.
  - ii. [2010] 6 ITR 407-Hindustan Shipyard Ltd vs DCIT.
  - iii. [2010] 325 ITR 565-CIT VS Sain processing & Wvg Mills (P) Ltd.
  
- ✓ Since the profit on transfer of asset to subsidiary is covered u/s 47 (iv) – it is not income and therefore not liable to MAT
  - i. Cadell Weaving Mill Co. (P.) Ltd. v. CIT [2001] 249 ITR 2653 (Bom.) approved by SC
  - ii. ITO v. Suraj Jewellery (India) Ltd. [2008] 21 SOT 79 (Mum.).



# SEC 115JB

## ISSUE

Transfer of Assets not considered as transferred u/s 47 can it be liable to MAT?

## Decision Against Assessee

Rain Commodities Ltd. v. Dy. CIT [2010] 40 SOT 265 (Hyd.) (SB)

✓ It has been held that Assessing officer has the power to alternate the net profit shown unless and until there are some allegations regarding fraud or misrepresentations made in Profit/loss Account ,Now even if the Income exempted under section 47(iv) under the normal provisions and credited to Profit/loss Account the same cannot be provided as exclusion from Sec 115JB Computation Mechanism. Following decisions which are relied upon:

- i. [2002] 255 ITR 273 –Apollo tyres vs CIT.
- ii. [2008] 305 ITR 409–HCL Comnet systems & Services Ltd
- iii. [2001] 116 Taxman 104 (Bombay)–CIT v/s Veekaylal Investment Co (P)

[2016] 76 taxmann.com 188 (Karnataka)– B & B Infratech Ltd. v/s Income tax Officer, Ward 12(1), Bangalore.

# SEC 115JB

## ISSUE

Can penalty be initiated u/s 115JB where addition has been made in normal tax which does not lead to additional tax as assessee is MAT?

## Decision in Favour of Assessee

[2012] 22 taxmann.Com 155 (Mum.)-Bsel infrastructure realty ltd vs acit.

[2013] 38 taxmann.Com 288 (Allahabad) -CIT VS ALEO MANALI HYDRO POWER (P) LTD.

[2013] 36 taxmann.Com 533 (Gujarat)-cit VS GUJARAT FERTILIZERS & CHEMICALS LTD.

[2013] 40 taxmann.Com 237 (Delhi)-unison HOTELS LTD VS DCIT.

# SEC 115JB – 148

## ISSUE

Is there any escapment of income when reopening is for adjustment in normal computation and taxpayer is into MAT?

## Decision in Favour of Assessee

[2016] 386 ITR 280 (Gujarat) –Motto Tiles (P) Ltd vs ACIT.

[2016] 389 ITR 281 (Gujarat)– Meghmani Energy Ltd vs DCIT.

[2012] 339 ITR 585 (Gujarat)–PKM Advisory Services (P) Ltd vs ITO.

[2014] 364 ITR 649 (Gujarat)–India Gelatine & Chemicals Ltd vs ACIT.

# SEC 148

## ISSUE

Reopening of assessment merely based on information from investigation wing is invalid

### Decision in Favour of Assessee

Kothi Steel Ltd vs ACIT [2016] 72 taxmann.com 252 (Guj HC)

CIT vs. Insecticides (I) Ltd. (2013) 357 ITR 330 (Del HC)

Signature Hotels Pvt. Ltd. vs. ITO (2011) 338 ITR 51 (Del HC)

CIT vs. SFIL Stock Broking Ltd. (2010) 325 ITR 285 (Del HC)

ITO vs. On Exim Pvt. Ltd. (2013) 26 ITR (Trib) 697 (Del Trib)

ITO vs Deepak Popatlal Gala I.T.A. No.5920/Mum/2013

# SEC 148

## ISSUE

Reopening of assessment merely based on information from investigation wing is invalid

### Decision Against Assessee

Peass Industrial Engineers (P.) Ltd. vs DCIT [2016] 73 taxmann.com 185 (Guj HC)

Choksi Vachharaj Makanji & Co. vs ACIT [2016] 76 taxmann.com 17 (Guj HC)

PCIT vs Gokul Ceramics\_Guj HC [2016] 71 taxmann.com 341 (Guj HC)

Nickunj Eximp Enterprises (P.) Ltd. vs ACIT [2014] 49 taxmann.com 10 (Bom HC)

# SEC 148

## ISSUE

AO cannot solely rely on third party statements for making addition

### Decision in Favour of Assessee

Cannon Industries vs DCIT (2014) 41 CCH 597 (Mum Trib)

Innovators Facade Systems Pvt. Ltd. vs ACIT (2016) 47 CCH 0481 (Mum Trib)

ITO vs Rajkumar B. Mutreja [2016] 72 taxmann.com 76 (MumTrib.)

ACIT vs Ramila Pravin Shah\_Mum Trib (I.T.A. No.5246/Mum/2013)

CIT vs Concorde capital management Co Ltd (2009) 183 taxman 172(del HC)

# SEC 69C

## ISSUE

Bogus Purchase – Outcome – Manufacturing/Contractors

### Decision in Favour of Assessee

Innovators Facade Systems Pvt Ltd vs ACIT (2016) 47 CCH 0481 MumTrib

ACIT vs Tarla R Shah (2016) 46 CCH 0080 MumTrib

Cannon Industries vs DCIT (2014) 41 CCH 597 MumTrib

Ramila shah vs ACIT I.T.A. No.5246/Mum/2013

Ashwin Purshotam bajaj vs ITO I.T.A. No. 4736/Mum/2014

Shivshankar R.Sharma vs DCIT (Mum Trib)

### Decision in Favour of Assessee

Kalyani Medical Stores v. CIT (2016) 386 ITR 387 (Cal)(HC)

# SEC 69C

## ISSUE

Bogus Purchase – Outcome – Wholesalers/Traders

### Decision in Favour of Assessee

Imperial Imp & Exp vs ITO (Mum Trib) (2016) 46 CCH 0358 MumTrib

Hiralal Chunilal Jain vs ITO (2016) 46 CCH 0020 MumTrib

Ganesh Dass Piaralal Jain vs ITO (2016) 49 ITR 0036 (Chd Trib)



# SEC 69C

## OUTCOME – Grounds in favour

- ✓ Opportunity of cross examination not given
- ✓ Relying on third party statements solely
- ✓ GP addition would result into absurd figures as compared to industry margins
- ✓ Purchase items are essential products for construction activity
- ✓ GP of hawala parties were lower than normal GP
- ✓ Non-rejection of consumption ratio
- ✓ Sales cannot be made without corresponding purchases
- ✓ Non-rejection of stock statements
- ✓ Non-rejection of books of accounts
- ✓ Non-production of parties does not lead to bogus purchases
- ✓ No independent enquiries conducted by AO

# SEC 68

## ISSUE

Penny stocks

### Decision in Favour of Assessee

[2015] 54 TAXMANN.COM 108 (BOMBAY)-CIT VS SHYAM PAWAR.

✓ Where DMAT A/c and contract note showed details of share transaction, No addition u/s 68.

[2014] 41 taxmann.com 118 (Hyd) ITO VS AARTI MITTAL.

✓ Where shares are sold through recognized Stock exchange after paying STT,DMT A/c reflecting the shares, No addition can be made.

[2016] 46 CCH 0535 (Mum) FARRAH MARKER VS ITO.

✓ Where identity of the payer, Source of funds received from sale of the same shares and the genuineness of the transaction is proved, Onus is discharged.

[2016] 159 ITD 54 (Chd)-ACIT VS Pradeep Agrawal.

✓ No addition could be made only because buyers had not shown such purchase in their balance sheet

# SEC 68

## ISSUE

Penny stocks

### Decision Against Assessee

[2016] 69 taxmann.com 65 (mum tri) -ITO VS SHAMIM BARWAN.

- ✓ Purchase of shares from off market and selling rates were hiked artificially with no credentials of the company, Section 68 is attracted.

[2006] 7 SOT 202 (CHD)-ACIT VS SOM NATH MAIN.

- ✓ Payment for shares were received from brokers in different instalments and record of brokers not available, AO is justified in Addition.

# SEC 68

## Amendment to Section 68 – Share Capital/Premium

### Objective of Amendment:

Certain **judicial pronouncements** have created doubts about the onus of proof and the requirements of this section, particularly, in cases where the sum which is credited as share capital, share premium etc. Judicial pronouncements, while recognizing that the pernicious **practice of conversion of unaccounted money** through masquerade of investment in the share capital of a company needs to be prevented, have advised a **balance** to be maintained regarding onus of proof to be placed on the company. The Courts have drawn a distinction and emphasized that in case of **private placement of shares** the legal regime should be different from that which is followed in case of a company seeking share capital from the public at large.

[2015] 60 taxmann.com 60 (Kolkata)–SUBHLAKSHMI VANIJYA VS CIT. – retrospective

# SEC 68

## *Silent features of new proviso*

- ✓ Additional onus on the closely held Company to prove source of source besides identity; genuine and creditworthiness
- ✓ Applicable to Share application/capital/premium amounts invested by resident
- ✓ Dependency on investor to prove his Source of funds
- ✓ Extension of powers of AO to tax investee Company

# SEC 68

## ISSUE

Unexplained shares/premium – Is legal position in question?

### Decision in Favour of Assessee

[2008] 216CTR 195 (SC )-CIT VS LOVELY EXPORTS LTD.

- ✓ AO should free to reopen the individual assessment but amount of share money cannot be taxed in the hands of Company.

[2001] 251 ITR 263 (SC) CIT VS STELLAR INVESTMENTS.

- ✓ Once Satisfactory explanation is provided regarding the credits in the books, No addition can be made.

[2009] 124 TTJ 25 (Chennai Trib)-MIDAS GOLDEN DISTILLERIES VS CIT.

- ✓ Merely because source of availability of money with shareholders is not established -No addition.

[2015] 45 CCH 0021 (Mum Trib)-KANIYA AND ASSOCIATES VS DCIT.

- ✓ When Identity as well as Creditworthiness as well genuine proved, No addition.

# SEC 68

## ISSUE

Unexplained shares/premium

### Decision Against Assessee

[2015] 58 taxmann.com 367 (Delhi)-RIDDHI PROMOTERS VS CIT.

✓ Mere establishing the identity is not suffice under 68.

[2011] 13 taxmann.com 56 (Punjab & Haryana)-POWER DRUGS LTD VS CIT.

✓ Assessee liability to discharge the primary onus

[2014] 41 taxmann.com 143 (Punjab & Haryana)-BABA RUPADAS VS CIT.

✓ Even if amount intro prior to business commenced need to prove -genuineness & creditworthiness.

# SEC 68

## ISSUE

Unexplained cash credit

### Decision in Favour of Assessee

2016] 72 taxmann.com 110 (**Bombay**)-H R MEHTA VS ACIT.

- ✓ If loan is repaid and no confirmation letter given does not lead to addition and cross examination opportunity should be provided on whose statements relied upon.

[2011] 333 ITR 119 (Delhi) CIT VS OASIS HOSPITALITIES (P) LTD.

- ✓ Once Identity, Genuiness and Creditworthiness is established ,No additon required.

[1985] 22 Taxman 3 (Patna)-BAHRI BROTHERS VS ACIT.

- ✓ Once nature and source of income is prove, no addition.



# SEC 68

## ISSUE

Unexplained cash credit

### Decision Against Assessee

[2014] 50 taxmann.Com 368 (delhi)-cit vs T S Kishan & co ltd.

- ✓ Mere giving name of the party ,bank payee cheque does not established it creditness and identity.

[1998] 232 itr 820 (calcutta)-Cit vs Korlap Trading Co Ltd.

[1995] 82 taxman 31 (cal.)-Precision Finance vs Cit.

- ✓ Mere filing income tax file number does not prove credit & genuineness.

# SEC 68

## ISSUE

Addition on peak credit basis to be adopted in case deposits were recycled

### Decision in Favour of Assessee

CIT vs. Manoj Indravadan Chokshi [2014] 50 taxmann.com 419 (Guj HC)

S. Venkat Reddy vs ITO [2016] 76 taxmann.com 128 (Hyd Trib.)

CIT vs Tirupati Construction Co. [2015] 55 taxmann.com 308 (Guj HC)

Late Mr. M.H. Raney vs ITO (2013) 36 CCH 0016 Mum Trib

# SEC 14A

## ISSUE

Whether 14A can be invoked in case of shares held as stock-in-trade ?

### Decision in Favour of Assessee

[2016] 70 taxmann.com 23 (Mumbai - Trib.)- Fiduciary Shares & Stock (P.) Ltd v/s ACIT.

[2012] 20 taxmann.com 196 (Kar.)- CCI Ltd. VS JCIT.

CIT v. India Advantage Securities Ltd. [IT Appeal No. 6711/Mum/2011, dated 14-09-2012].

# SEC 14A

## ISSUE

Whether 14A can be invoked in case of shares held as stock-in-trade ?

### Decision Against Assessee

[2016] 71 taxmann.com 269 (Kolkata - Trib.)- DCIT VS Teenlok Advisory Services (P.) Ltd.

[2011] 12 taxmann.com 227 (Cal.)-Dhanuka\* & Sons VS CIT.

[2014] 41 taxmann.com 352 (Mumbai - Trib.)- D.H. Securities (P.) Ltd. Vs DCIT.

[2014] 41 taxmann.com 462 (Mumbai - Trib.)-DCIT VS Damani Estates & Finance (P.) Ltd

[2014] 49 taxmann.com 291 (Mumbai - Trib.)- Doubledot Finance Ltd vs DCIT.

# SEC 14A

## ISSUE

Sec 271(1)(c)-vis-a-vis 14A ?

### Decision in Favour of Assessee

[2015] 61 taxmann.com 254 (Chandigarh - Trib.)- Aarge Drugs (P.) Ltd. VS DCIT.

[2010] 189 Taxman 322 (SC)-CIT VS Reliance Petroproducts (P.) Ltd.

[2007] 14 SOT 80 (MUM.)- Sunash Investment Co.vs ACIT.

# SEC 36(1)(iii)

## ISSUE

Interest on borrowings used for expansion of existing business whether allowable as business expenditure

### Decision in Favour of Assessee

Cit vs Nicholas Piramal (India) Ltd (glass bottles) [2016] 69 Taxmann.Com 164 (Bom Hc)

CIT vs. Bharat Hotels Ltd. (hotel business) (2015) 93 Cch 0421 Delhc

CIT vs Nirma Ltd (soap & soda ash/Lab for captive consumption) (2014) 52 Taxmann.Com 88 (Guj HC)

ACIT vs. Ms. Geeta Bhatia (Pre-school business) (2014) 41 CCH 0660 (Mum Trib)

CIT vs U.P. Asbestos Ltd. (asbestos sheet) (2013) 357 ITR 0509 (All)



Thank you

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## Disclaimer

Author has expressed his view on the subject and shared distinguishing rulings where-ever possible . Author shall suggest to take expert opinion based on facts of case beside relying on decisions discussed any of the topic.

Thank you

