

Exploring Provisions

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**Handbook on 2015
Announcement &
Pronouncement**

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YathaDrishti, TathaSrishti- As the vision, so the world”

PREFACE

The list in the handbook contains synopses of interpretations of Supreme Court, Tribunal and DTAA citations, which is a one stop compendium of announcements and Pronouncements, notifications and circulars beginning with those issued January 1, 2015 till date. We have created the tables listing showing relevant section in the citation, subject matter and favoring party. We are hopeful that the readers will find the publication useful

Purpose of this Document

This Tax Alert attempts to highlight various announcements and pronouncements in the year 2015

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I. Introduction

An attempt has been made to compile major announcements and pronouncements in 2015 as a list of citations.

II. Supreme Court Pronouncements

Supreme Court Pronouncements					
S.No	Relevant Sections	Subject	Citation	Favoring	Interpretation
1	Art. 32 and 226 of the Constitution of India.	Writ-Maintainability-Disputes falling within the domain of contractual obligations.	(2015) 119 DTR (SC) 313		Extraordinary remedy of writ under art. 226 or art. 32 of the Constitution cannot be invoked in pure contractual matters; such remedies are available only when the non-Government contracting party is able to demonstrate that it is a public law remedy which such party seeks to invoke in contradistinction to the private law remedy simplicitor under the contract.
2	Sec 9(1)(vii)	ECB Loan Services/Financial advisory services rendered from outside India	(2015) 115 DTR (SC)313	Revenue	Applying the principle of nexus or more commonly called the doctrine of source rule taxation the SC held that in the instant case the services rendered by the nonresident company to the

					<p>assessee include advice on financial structure and security package to be offered to the lender, study of various lending alternatives for local and foreign borrowing, assessment of export credit agencies worldwide and obtaining commercial bank support, assistance in loan negotiations and documentations with the lenders, etc, all of which come within the ambit and sweep of the term consultancy services and therefore the amount paid to that company as success fee for such services is taxable under the head fees for technical services and consequently, tax was deductible at source. As per the SC the basis of taxation in such a scenario would be to ascertain where the commercial need for the product or service is originated, that is, for example, where the</p>
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					consultancy is utilized. In the reverse one were to find out where the income is physically or economically produced or even source state would signify where the business activity is wholly or partly performed.
3	Sec 9(1)(vii), 44B & 44D	Applicability of sec 44BB vis-à-vis sec 44D.	(2015) 121 DTR (SC) 289	Assessee	ONGC having entered into agreement with certain foreign companies whereby the said companies agreed to make available supervisory staff and personnel for operation and management of drilling rigs, the pith and substance of the agreements is inextricably connected with prospecting, extraction or production of mineral oil and, therefore, the payments made by ONGC to non-residents or foreign companies under the said contracts are assessable under the provisions of sec 44BB and not sec 44D.

					Consequently using the proximity test any payment would be outside the purview of FTS.
4	Sec 10(23C)(iiiad), 10(23C)(vi) & 11.	Education institution- Surplus vs. Profit motive	(2015) 117 DTR (SC) 1	Assessee	Where an educational institution carries on the activity of education primarily for educating persons, the fact that it makes a surplus does not lead to the conclusion that it has ceased to exist solely for educational purposes and has become an institution for the purpose of making profit; when a surplus is ploughed back for educational purposes, the educational institution exists solely for educational purposes and not for purposes of profit. The Apex Court left a directive for the revenue authorities to continuously monitor such institutions from

					year to year for grant of exemption.
5	Sec 11(2)	Option to accumulate whether restricted to the extent of 25% of income	(2015) 125 DTR (SC) 345	Revenue	If the option under sec 11(2) is exercised when the return is filed, it would be conformity with the provisions of sec 11; since the provision entitles the assessee to exercises such an option only to the extent of 25 per cent of its total income, no exemption can be allowed in respect of excess amount.
6	Sec 22 & 28(i)	When income from letting out of properties could be chargeable under the head business?	(2015) 119 DTR (SC) 130	Assessee	Where primary object of assessee 's company as per memorandum objects is to acquire and hold properties and to let out the same or where letting of the properties is in fact the business of the assessee the rental income derived by the assessee would be assessable as business income and cannot be treated as income from house property.

7	Sec 27(iib), 269UA(d) & 269UA(f)	Long lasting property lease terms- Tenant deemed as owner of property under Income tax Act, 1961	(2015) 114 DTR (SC)375	Assessee with Remand	Tribunal and the High Court held that the assessee being a tenant of the property for a long period was deemed owner covered by sec27 (iib) and the income derived by it by letting out the said premises was income from house property. The SC further added that for computing the period of 12 years vide sub-cl. (i) of s. 269UA(f) it is not necessary that initial term of lease must be less of 12 years but if the lease provides for extension of lease and such lease has been extended by a further term or terms and the aggregate of such term is not less than 12 years , it is deemed to the transfer of property and such transferee is deemed to be owner of such immovable property u/s 27 (iib) of the Act. Matter restored to ITAT to ascertain aggregate period of lease for final disposal.
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8	Sec 32 & 43(3)	whether intellectual property rights (IPRs) such as trade mark, copy rights and knowhow constitute plant	(2015) 126 DTR (SC) 233	Assessee	Intellectual property such as trademarks, copyrights and know-how come within the definition of 'plant' and, therefore, assessee was entitled to depreciation on trademarks, copyrights and know-how acquired by it along with running business.
9	Sec 32(1)(i)	Allowability of depreciation gas cylinders leased out	(2015) 120 DTR (SC) 40	Assessee	Once the income from leasing out gas cylinders pending start of manufacturing unit has been treated as "business income", depreciation on these gas cylinders cannot be disallowed on the ground that the cylinders were not purchased for leasing business.
10	Sec 32(1)(ii)	Allowability of depreciation on sale and lease-back transaction with APSEB	(2015) 120 DTR (SC) 309	Revenue	All the authorities below having found as a fact that there was no purchase of machinery by the assessee and that the alleged transaction of lease back is sham, claim of depreciation on the said machinery was rightly disallowed.

11	Sec 32(1)(ia)	Additional depreciation- failure to furnish Form No. 3AA along with return	(2015) 125 DTR (SC) 38	Assessee	Even if Form No. 3AA was not filled along with return but the same was filled during the assessment proceedings and before the final order of the assessment was made that would amount to sufficient compliance and, therefore, additional depreciation cannot be denied to the assessee on the ground that it failed to furnish Form No. 3AA along with the return.
12	Sec 32(1)(ii) & 43(3)	Aquaculture business- Deprecation on specially designed ponds	(2015) 125 DTR (SC) 117	Assessee	Ponds specially designed for rearing/breeding of prawns have to be treated as tools of the business of aqua culture carried on by the assessee and, therefore, depreciation is admissible on these ponds.

13	Sec 32(2)	Depreciation (unabsorbed)- Carry forward and set off- Priority vis-a-vis investment allowance (unabsorbed).	(2015) 119 DTR (SC) 361	Revenue	Once the depreciation is claimed by the assessee it is the entire depreciation namely, the depreciation of the CY as well as the carried forward unabsorbed depreciation which is to be taken into account prior to setting off the carried forward unabsorbed investment allowance; it is not open to the assessee to bifurcate the same and exercise its choice to claim the depreciation of the CY under sec 32(1) alone and take the unabsorbed depreciation cannot be thrust it.
14	Sec 36(1)(iii) & 43(2).	Upfront payment of interest on debentures.	(2015) 117 DTR (SC) 33	Assessee	The Court held that payment of upfront interest by the assessee-company to debentures-holders who exercised the option of upfront payment interest on the debentures in the very first year as per the terms of issuance of debentures is fully allowable as

					deduction in this year itself once the assessee has claimed such deduction in its return in the year of payment; merely because assessee itself has spared the interest over a period of five years i.e., term of debentures in the books of accounts cannot be a factor to deprive the assessee from claiming the entire expenditure as deduction in the relevant year. Thus the option vest with the assessee either to claim such expense in one year or spread it over the period of debentures drawing analogy from the matching principle.
15	Sec 37(1)	Allowability- Genuineness of commission payment or service charges.	(2015) 116 DTR (SC)233	Revenue	HC upon reappraisal of evidence went on to hold that the assessee did not actually discharge the burden of proof that lay on it in support of the claim and that mere acceptance of agreements, affidavits and proofs of payment for

					commission would not debar the AO to go into the question whether the commission expense claimed would still be allowable. The SC affirmed HC stance after it found that affidavits are signed by husbands of the partners and that further when the MD of customer stated in s. 131 statement that the commission agent had not done any liaising work with them.
16	Sec 37(1)	Whether legal expenses incurred to defend/protect business of the dissolved firm taken over admissible	(2015) 126 DTR (SC) 233	Assessee	Tribunal having arrived at a clear finding of fact that the legal expense incurred by the assessee-AOP in connection with the proceedings instituted by certain partners of the erstwhile firm against the members of AOP were for protecting its business, and there being nothing to conclude that the said finding of fact was perverse in any manner whatsoever, HC was not justified in upsetting the said finding of fact.

17	Sec 40(3)(vi)	Factory building partly used by subsidiary company	(2015) 120 DTR (SC) 33	Revenue	Factory building of the assessee company which is partly used by its subsidiary company for doing job work for the assessee against payment of monthly license fee to the assessee cannot be treated as factory used by the assessee for the purpose of its business as the two companies are doing their own businesses and are separately assessed as such and, therefore the said building is not eligible for exemption under sec 40(3)(vi) of Finance Act, 1983.
18	Sec 40A(3)	Disallowance under sec 40A(3)	(2015) 120 DTR (SC) 145	Revenue	Amendment made in sec 40A (3) w.e.f 1st April, 1996 restricting disallowance to 20 per cent being substantive in nature, it cannot be applied retrospectively and therefore, the benefit of this amendment cannot be allowed over the entire block period beginning from 1st April, 1986 and

					ending on 13th sept., 1996 simply because the date of amendment falls within the aforesaid block period.
19	Sec 42	Business Expenditure-Deduction under sec 42.	(2015) 119 DTR (SC) 313	Revenue	Benefits of sec 42 not having been incorporated in the production sharing contracts entered into by the assessee with the Union of India, assessee is not entitled to said benefits notwithstanding the fact that the IT authorities have allowed such deduction in the earlier years and the assessee shared the profits with Government on this premise. The Apex Court went by the plain reading of the section.
20	Sec 80HHC(3), third & fourth provisos	Constitutional validity of third and fourth provisos to sec 80HHC(3).	(2015) 119 DTR (SC) 352	Assessee	Amendment of sec 80HHC (3) made by insertion of certain conditions in the third and fourth provisos thereto with retrospective effect by Taxation Laws (Second Amendment) Act, 2005 is quashed;

					exporters having turnover below Rs 10 crores and those having turnover above Rs 10 crores should be treated similarly.
21	Sec 80-IA(7) & 80-IB	Allowability of deduction in case failure to file audit report in Form No. 10CCB along with return.	(2015) 125 DTR (SC) 38	Assessee	Assessee is entitled to deduction under sec 80IB even though it has not filled the audit report in Form No. 10CCB along with the return but has filed the same before the completion of assessment.
22	Sec 80-IB(10)	Deduction under sec 80IB.	(2015) 119 DTR (SC) 237	Assessee	Upto 31st March, 2005 deduction under sec 80IB(10) is allowable to housing projects approved by the local authority as housing projects with commercial user to the extent permitted under DC Rules/Regulations framed by the respective local authority; Cl. (d) inserted in sec80IB(10) w.e.f 1st April,2005 is prospective and not retrospective.
23	Sec 94(7)	Set off-Loss on sale of securities vis-à-vis dividend stripping transaction.	(2015) 120 DTR (SC) 311	Assessee	Loss arising in course of a dividend stripping transaction before the insertion of sec

						94(7) w.e.f. 1st April, 2002 cannot be disallowed.
24	Sec 115JB	Whether applicable to FIIs/FPIs	MAT to	(2015) 126 DTR (SC) 153	Assessee	In view of the clarification issued vide Instruction No. 9 of 2015, dt 2nd Sept., 2015 and Press Release dt. 24 Sept., 2015 that the provisions of sec 115JB are not applicable to a foreign company w.e.f. 1st April, 2001 if the foreign company is a resident of a country having DTAA with India and such company does not have a permanent establishment within the definition of the term in the relevant DTAA, or the foreign company is a resident of a country which does not have a DTAA with India and such foreign company is not required to seek registration under section 592 of the Companies Act 1956 or sec 380 of the Companies Act, 2013, appeals can be disposed of in terms there of.

25	Sec 132(1), Article 226 Constitution of India	Search and seizure manual - doubts expressed by High Court on multiple set of satisfaction notes issued by ADIT, Addl DIT , DIT and the DGIT Director of IT (Inv.)	(2015) 119 DTR (SC) 201	Revenue	Director of IT (Inv.) having duly recorded his satisfaction that authorization for search should be issued on the basis of the materials produced before him and the Director General (Inv.) having accorded administrative approval, the competent authorities have scrupulously followed the steps delineated in the decision-making process laid down in the search and seizure manual of the Department; possibility of manipulation of records as found by the HC cannot be accepted; authorization under sec 132(1) could not therefore be quashed. The Apex Court held that suspicion ought not to be the basis of any judicial order. The Apex Court summed up the search and seizure principles which continue to hold the field even today
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					<p>viz.:(i) The authority must have information in its possession on the basis of which a reasonable belief can be founded that-(a) the concerned person has omitted or failed to produce books of account or other documents for production of which summons or notice had been issued, or such person will not produce such books of account or other documents even if summons or notice is issued to him, or (b) such person is in possession of any money, bullion, jewelry or other valuable article which represents either wholly or partly income or property which has not been or would not be disclosed. (ii) Such information must be in possession of the authorized official before the opinion is formed. (iii) There must be application of mind to the material and the</p>
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					<p>formation of opinion must be honest and bona fide. Consideration of any extraneous or irrelevant material will vitiate the belief/satisfaction.(i v) Though rule 112(2) of the Income-tax Rules which specifically prescribed the necessity of recording of reasons before issuing a warrant of authorization had been repealed on and from October 1, 1975, the reasons for the belief found should be recorded.(v) The reasons, however, need not be communicated to the person against whom the warrant is issued at that stage.(vi) Such reasons, however, may have to be placed before the court in the event of a challenge to formation of the belief of the authorised official in which event the court (exercising jurisdiction under article 226) would</p>
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					beentitled to examine the relevance of the reasons for the formation of the belief though not the sufficiency or adequacy thereof.
26	Sec 143(1A)	Constitutional validity of retrospective amendment of Sec 143(1A) by the Finance Act,1993.	(2015) 116 DTR (SC)417	Revenue	Retrospective amendment of Sec 143(1A) made in the year 1993 for levy of additional tax on reduction of loss is held to be clarificatory drawing reference from the settled law that the word 'income' would include within it both profits as well as losses.
27	Sec 194C & 194I	Whether payment of Aircraft landing and parking charges to Airports Authority of India constitute rent	(2015) 123 DTR (SC) 103	Assessee	Charges for landing and take-off services as well as for parking aircrafts paid by airlines to AAI are in substance charges for various services and facilities offered in connection with the operation of aircrafts at the airport and not for the 'use of the land' which was only a minor or insignificant aspect in the whole arrangement and, therefore, such

					charges cannot be treated as 'rent' within the meaning of sec 194L.
28	Sec 234B	Charge of interest being automatic whether specific direction required	(2015) 124 DTR (SC) 17	Revenue	Levy of interest under sec 234B by calculating the same in form ITNS 150 is valid even though the assessment order did not contain any direction to charge interest under sec 234B.
29	Sec 256	i)Power of HC-Setting aside of tribunal order.	(2015) 116 DTR (SC)233	None	HC has no power to set aside the order of the tribunal in exercise of reference jurisdiction.
30	Sec 256	ii) HC Jurisdiction- Reframe questions and Reappreciation of evidence vis-à-vis finding of Tribunal.	(2015) 116 DTR (SC)233	None	HC has power to reframe questions and reappreciate evidence where the ITAT fails to correctly appreciate the issue from all angles, in order to draw the correct legal inference from the facts already recorded by the tribunal without setting aside of the judgment.
31	Sec 260A	Review validity of Appeal to HC.	(2015) 124 DTR (SC) 33	Assessee	No interference is called for with the order of HC passed on review petition recalling its order where the appeal was decided on merits without

					formulating question of law.
32	Sec 260A	Power of HC to review order passed under sec 260A.	(2015) 124 DTR (SC) 33	Assessee	HC being court of Record power of review inheres in it; sub sec (7) of sec 260A neither excludes the application of provisions of CPC other than those of appeals nor does it affect the inherent jurisdiction of HC.
33	Sec 260A	Rule of precedence	(2015) 125 DTR (SC) 117	Assessee	Division of HC having disagreed with the earlier opinion of the Co-ordinate Bench ought to have referred the matter to a larger Bench instead of rendering a contrary decision.
34	Sec 260A & 268A	Maintainability- Small tax effect.	(2015) 120 DTR (SC) 308	Revenue	Liberty is given to the Department to move the HC pointing out that the circular dt. 9th Feb., 2011, should not be applied ipso facto, particularly, when the master has a cascading effect.

35	Sec 260A & 268A	Maintainability of appeal-Small tax effect.	(2015) 124 DTR (SC) 169	Revenue	CBDT Instruction No. 3 of 2011, dt. 9th Feb., 2011 expressly state that they shall not govern the appeal which has been filed before the year 2011 and, therefore, impugned orders passed by the HC dismissing Revenue's appeals preferred prior to year 2011 are set aside and the matters are remitted back to the HC for readjudication of the appeals on merits.
36	Sec 261	Appellant company wound up.	(2015) 120 DTR (SC) 312	Revenue	Appeals are dismissed solely on the ground that appellant company has already been wound up and there is no body to pursue.
37	Sec 271(1)(c) ,Explan. 5A	Loss of immunity for failed disclosure in original return.	(2015) 125 DTR (SC) 40	Revenue	Assessee having filed return without disclosing income which was disclosed in return filed subsequent to voluntary disclosure made during search was liable to penalty under sec 271(1)(c) and not eligible for immunity under cl. (b) of Explanation 5A of that section.

III. ITAT Pronouncements

S. No	Relevant Section/rule	Subject	Citation	Bench	Favoring	Interpretation
1	Rule 29	Additional evidence admissibility - Download from internet	(2015) 113 DTR (Del) 44	Delhi	Revenue	Factual Information relevant to the case not filed by the assessee but obtained from the internet by the departmental representative is admitted by way of additional evidence. ITAT is duty bound to take on board complete spectrum of facts for adjudication of a dispute.
2	Proviso to Sec 2(15)	Applicability in case of incidental receipts which constitute a token amount viz., less than 2% of total receipts (grants plus processing fee)	(2015) 114DTR (Del)(Trib) 257	Delhi	Assessee	In a situation in which an assessee receives fees or consideration for rendition of services to the business, trade or commerce and such a service is subservient to the charitable cause and is not in nature of business itself, the disability

						under second limb of first proviso to Sec 2(15) would not come into play; in the absence of anything on record to suggest that realization of fees by the assessee National Horticulture Board for processing the subsidy applications from the applicants in the nature of a business, first proviso to Sec 2(15) is not attracted to the facts of the case.
3	Proviso to Sec 2(15),12A & 12AA(3)	Withdrawal of registration	(2015) 115DTR (Del)(Trib) 217	Delhi	Assessee	Director of IT(Exemption) having accepted in his order that the assessee is carrying on an activity of general public utility and not held that the assessee is not carrying on its activities in accordance with its objects,

						<p>the withdrawal of registration is bad in law and not sustainable, more so as the main and predominant activity is promotion of the game of cricket; incomes viz. health club charges, sponsorship money, sale of tickets, advertisements, souvenirs and other such receipts being intrinsically related, inter connected and interwoven with the activity of organizing matches and tournaments for the promotion of cricket, there receipts do not convert the charitable activity of the assessee into trade, commerce or business.</p>
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4	Sec 2(15), 12A & 12 AA(3).	Charitable trust- Registration on cancellation.	(2015) 118 DTR (Del)(Trib) 121	Delhi	Revenue	Assessee- society formed with the main object to engage in medical, biological, social, environmental and allied sciences research having not undertaken any research work as per its per main object or activities in consonance with the objects incidence or ancillary to the attainment of the main object and carried on the activity of running its hospital totally on commercial lines by entering into agreements on onerous terms with a corporate Group (MAX) which was in full control of the hospital, it cannot be said that the activity of the assessee is directed towards advancement of
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						ant charitable purpose, therefore, Director of IT (Exemptions) was justified in cancelling the registration under sec 12A granted to the assessee since its inception.
5	Sec 2(15), proviso & Sec 12A	Rejection of application for registration under 12A and applicability of proviso to 2(15)	(2015) 115DTR (Del)(Trib) 245	Delhi	Assessee	The object of assessee's organization to promote the well being of retired army personnel and the widows and dependants of deceased army men and help them to integrate with the help them to integrate with the civil society by taking up suitable employment is an object of general public utility second limb to 2(15) has no application and, therefore the fact that the the assessee is charging a fee for registration

						from the registrants cannot change the fundamental character of this charitable activity. DIT (E) directed to grant registration under Sec 12A to the assessee.
6	Sec 2(15),11& 12A.	Charitable purpose vis-à-vis imparting education .	(2015) 117 DTR (Del)(Trib) 291	Delhi	Assessee	AO having accepted assessee's audited books of account, assessee having been granted exemption under 11 for earlier assessment years in assessments under sec 143(3), assessee's registration under sec 12A having not been withdrawn, AO was not justified in refusing exemption under sec 11 holding that assessee was not educational institution within the

						<p>meaning of sec 2(15) as it was not conducting regular classes. Word education in s. 2(15) has to be construed as regarded in common parlance with an unrestricted and broad connotations. AO was not justified in drawing adverse inference on the ground that assessee was charging fees as accumulated surplus thereof is further to be applied for charitable purposes.</p>
7	Sec 2(15), proviso & 10(23C)(iv)	Applicability of proviso to sec 2(15).	(2015) 121 DTR (Del)(Trib) 105	Delhi	Assessee	<p>Assessee-society having been formed to promote understanding and amity among different communities by understanding and promoting study of their past and present culture, disseminating or exchanging knowledge</p>

						thereof and to provide facilities for organizing study courses, conferences, seminars, lectures etc, it cannot be said that the assessee was doing trade or business merely because it earned incidental income from the provision of hostel and catering facilities to its members/invitees and, therefore, proviso to 2(15) is not applicable to the facts of the case.
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8	Sec 2(15), proviso, 10(23C)(iv) & 263.	Revision- Lack of proper enquiry.	(2015) 121 DTR (Del)(Trib) 105	Delhi	Assessee	Assessee having claimed part of its income as exempt on account of concept of mutuality as in earlier years, there was no basis for the AO to take any contrary view and, therefore the proceedings under sec 263 initiated by the Director of IT on this count are not tenable; since the third proviso to sec 143(3) requiring the AO to examine the applicability of proviso to sec 2(15) in the case of institution notified under sec 10(23C)(iv) in view of insertion of seventeenth proviso to sec 10(23C) was not on the statute book at the time when the assessment order was passed, it
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						cannot be said that AO's order was in any manner erroneous or prejudicial to the interests of Revenue.
9	Sec 2(22)(e)	Business transactions between group companies whether assessable as deemed dividend	(2015) 121 DTR (Del)(Trib) 241	Delhi	Assessee	All the transactions among the group companies being in the nature of current account transaction and business transactions, the impugned amounts cannot be assessed as deemed dividend under sec 2(22)(e) in the hands of the assessee who has substantial shareholding in those companies.

10	Sec 2(29B) & 2(42B)	Sale of shares held under ESOP.	(2015) 116 DTR (Del)(Trib) 185	Delhi	Revenue	Sale of shares held under ESOP on the date of exercise of option gives right to short-term capital gain.
11	Sec 5	Reimbursement of expense.	(2015) 116 DTR (Del)(Trib) 82	Delhi	Assessee	Assessee a customs clearing agent incurring clearing expenses on behalf of its clients, reimbursement of such expenses by the clients without any markup, cannot be added as income of assessee.
12	Sec 9(1)(vi) & 9(1)(vii).	Revenue earned from customers located outside India	(2015) 122 DTR (Del)(Trib) 37	Delhi	Assessee	AO having not brought anything on record to show that the customers located in Sri Lanka/Middle-East have used the right in the assessee's IPs/services for carrying on business in India or for the purpose of making or earning income

						from any source in India, revenue earned from the such customers is not taxable under sec 9(1)(vi)(c)/9(1)(vii)(c).
13	Sec 9(1)(vi), 9(1)(vii), 44BB, 44DA & 115A.	Applicability of sec 44BB- oil companies	(2015) 116 DTR (Del)(Trib) 201	Delhi	Assessee	Where a non-resident assessee is imparting services in relation to oil exploration, the royalty/fees for technical services would necessarily be taxable under sec 44BB and not under sec 9(1)(vi) / 9(1)(vii).
14	Sec 22, 24(a) & 56	Rental income from installation of antennas.	(2015) 114DTR (Del)(Trib) 237	Delhi	Assessee	Rent received by the assessee from the two companies for installation of mobile antennas on the terrace of the building owned by him was rent for the space provided for installation of antennas and, therefore, the same taxable as income from

						house property and not under the head income from other source and accordingly, deduction under Sec 24(a) is admissible.
15	Sec 37(1)	Allowability payment of export commission	(2015) 113 DTR (Del) (Trib) 273	Delhi	Revenue	Assessee having failed to adduce any positive evidence whatsoever to show that services were actually rendered by its AE, to whom commission was paid for promotion of assessee's export of colour TVs and also failed to justify the payment of such commission on the basis its export performance vis-à-vis colour TVs during the relevant year, deduction of commission was not allowable.

16	Sec 37(1)	Capital or Revenue expenditure re-Royalty for use of technical information and industrial property rights.	(2015) 113 DTR (Del) (Trib) 273	Del hi	Asse ssee	License having given to the assessee on non-transferable basis to use technical information and IPRs with the stipulation that the assessee shall not divulge the relevant information during the continuation of the agreement or any time thereafter; and that respective rights or obligation shall cease on termination of agreement and that there is no power with the assessee to sub lease, the royalty paid by the assessee was for use of license which did not confer any ownership rights in the assessee and, therefore, the royalty payment held to be of revenue character.
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17	Sec 37(1)	whether liability for damages and interest contested in civil proceedings is admissible deduction	(2015) 126 DTR 187(Del)(SB)(Trib)	Delhi	Revenue	<p>Assessee cannot take diverse views in civil proceedings and income tax proceedings. Division Bench of the HC having stayed, vide its order dt. 28th Feb.,2001, liability for interest created against assessee by the decree of Single Judge which remained operative till the passing of the consequential judgment and decree by the HC in September, 2010, no legally enforceable liability existed for the payment of interest as at the end of the AY 2001-02 and 2002-03 under consideration and, therefore, no deduction is allowable for the liability for interest.</p>
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18	Sec 37(1)	Whether genuineness can be questioned if the third party does not respond to notice of AO	(2015) 123DTR (Del) (Trib) 138	Delhi	Assessee	In their answer the bench desired the AO to check on the veracity of documents submitted in that case instead of forming a view based on no response to his notice
19	Sec 40(a)(i)	Sec 40(a)(i) does not attract in situation where a sum paid is otherwise not deductible	(2015) 126 DTR187 (Del)(SB)(Trib)	Delhi	Assessee	If deduction is otherwise not allowable under the head 'Profits and gains of business or profession', then there cannot be any further disallowance under sec 40(a)(i) in the computation of income for want of deduction of tax at source etc.
20	Sec 40(a)(ia)	Disallowance of reimbursements- Absence of claim for deduction	(2015) 116 DTR (Del)(Trib) 82	Delhi	Assessee	Amount disallowed must be deductible expenditure. Assessee is custom clearing agent paying godown rent on behalf of its client, rental

						bill raised in the name of client, such amount reimbursed by client not claimed as deduction nor shown as income, disallowance under sec 40(a)(ia) is not attracted.
21	Sec 43(1), Explan. 3	Inflated cost finetuned	(2015) 124 DTR (Del)(Trib) 54	Delhi	Revenue (partly)	Assessee having declared purchase price of Rs. 75 lacs for the equipment purchased by its from another company as against the WDV of Rs. 32,91,746 in the hands of the vendor company, by including certain unrealistic and inflated payments in the purchase price, AO was justified in not accepting the declared price as the actual cost of equipments by

						<p>taking recourse to the provisions of Explan. 3 to sec 43(1), after conducting due enquiries from the vendor and other related parties; it would be appropriate to take the total cost of the said equipments at Rs. 35 lacs on all inclusive basis and allow depreciation accordingly.</p>
22	Sec 43(5), proviso(d) & 73 Explan.	Loss incurred on trading in derivatives whether speculative in nature	(2015) 121 DTR (Del)(Trib) 195	Delhi	Assessee	<p>As per sec 43(5) of the Income Tax Act, any derivatives transaction entered in any recognized stock exchange is not treated as speculative transaction and loss in such transaction can be set off against normal business profit. Any such loss incurred by the assessee from trading in derivatives could not be treated as speculative</p>

						loss.
23	Sec 43B	Disallowance of employee's contribution towards ESI.	(2015) 115DTR (Del)(Trib) 57	Delhi	Assessee	Employees' contribution to ESI which was deposited within the relevant PY though beyond the due date under the respective Act cannot be disallowed under Sec 43B.
24	Sec 43B.	Transfer of interest liability to subsidiary company vis-à-vis actual or constructive payment.	(2015) 124 DTR (Del)(Trib) 222	Delhi	Revenue	Transfer of interest liability by the assessee to its subsidiary company can, under no circumstances, be considered as a substitute for actual payment of interest within the meaning of sec 43B as such interest has not been actually paid by the assessee to the banks/financial institutions and, therefore in view of the main provisions of sec 43B r/w Expls. 3C and 3D, deduction

						of interest cannot be allowed.
25	Sec 44B	NR-Business of exploration etc of mineral oil- Receipts for supplying consumables.	(2015) 116 DTR (Del)(Trib) 201	Delhi	Assessee	Consumables supplied by the non-resident assessee along with plant and machinery given on hire in connection with prospecting for, or extraction or production of mineral oil fell within the ambit of provision of services and, therefore, receipts therefore were taxable under sec 44BB.
26	Sec 44BB	Applicability of sec 44BB vis-à-vis alleged reimbursement of expenses by AE.	(2015) 120 DTR (Del)(Trib) 93	Delhi	Assessee (Partly)	Assessee, a UK company, having not produced any document to substantiate the expenses incurred by it for rendering services to its associate concern BGEPIIL for which it raised debit notes and failed to establish one-to-one nexus

						between the services rendered and the alleged reimbursement, the impugned amount received by assessee from BGEPIIL is taxable under sec 44BB as it is providing services to BGEPIIL which is engaged in prospecting mineral oils.
27	Sec 50C	Stamp duty rate prevailing as on date of registration.	(2015) 115DTR (Del)(Trib) 99	Delhi	Assessee	Sale consideration for the sale of property worked out on the basis of the circle rate prevailing as on the date of registration of the agreement to sell has to be taken into consideration for computation the capital gain under Sec 50C and not the amount worked out by applying the revised circle rate as on the of execution of sale deed.

28	Sec 80-IA(4)(i) & 263	No shadow of doubt of lack of proper enquiry when the view of the AO is found to be reasonable and plausible	(2015) 125 DTR (Del)(Trib) 55	Delhi	Assessee	Assessee-company being engaged in the development, operation and maintenance of six-lane access controlled expressway, the view taken by the AO that the assessee is eligible for deduction under sec 80-IA (4)(c) r/w cl.(a) of Explanation thereto is a reasonable and plausible view which cannot be held to be legally unsustainable. Much reference was placed on the intention of the legislation to promote infrastructure development as the term expressway is also understood in common with the terms 'toll' or 'highway' used in the section/
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29	Sec92, Sec92C, Rule10A(d) & Rule10B(1)(e)	Royalty payment viz a viz Applicability of TNMM at entity level	(2015) 113 DTR (Del) (Trib) 273	Delhi	Revenue	ALP is to be determined in respect of each international transaction separately. Only closely-linked plural transactions can be considered as a singular transaction for the purposes of bench marking. Royalty being a separate transaction cannot be considered as closed linked transaction.
30	Sec92C & Rule10B(1)(a)	Most appropriate method (MAP) vis-à-vis payment of royalty to AE.	(2015) 113 DTR (Del) (Trib) 273	Delhi	Revenue	CUP is the most preferred method in such scenario. RBI maximum permissible royalty rates are found to have a mere persuasive value and cannot be considered as a conclusive benchmark.
31	Sec 115JB	Prior period expense	(2015) 114DTR (Del)(Trib) 50	Delhi	Asset	No addition is to be made on account of disallowance of prior period expenses while

						computing the book profit under Sec 115JB.
32	Sec 145(3)	Non-production of books of account during draft assessment proceedings.	(2015) 120 DTR (Del)(Trib) 46	Delhi	Assessee	When the DRP allowed the assessee to produce books of accounts and other related books and vouchers before the AO, the AO is duty bound to accept the same during the remand proceeding.
33	Sec 145(3).	Whether discrepancies in quantitative details could lead to rejection of accounts	(2015) 124 DTR (Del)(Trib) 68	Delhi	Assessee	AO having nowhere rebutted the explanation of the assessee for the alleged difference in quantity of motorcycles shown in Form No. 3CEB and the quantitative details of production furnished by the assessee or the explanation for lower sales during the relevant year as compared to the preceding year or the reasons furnished by

						the assessee for the loss incurred by it, assessee's books of account could not be rejected.
34	Sec 147	Communication of law vide audit objection /report of internal audit party could form information for reopening	(2015) 118 DTR (Del)(Trib) 242	Delhi	Revenue	Audit objection communicating /suggesting application of certain provision to the instant case may constitute an information justifying initiation of reassessment
35	Sec 147	Nittigrities of change of opinion	(2015) 124 DTR (Del)(Trib) 222	Delhi	Revenue	Unless some material is brought on record to demonstrate formation of opinion or application of mind or discussion regarding a claim during the course of original assessment, it cannot be held that the initiation of reassessment on that issue is based on

						change of opinion.
36	Sec 147	Whether interpretation of provision of law by audit party could form basis for reopening	(2015) 124 DTR (Del)(Trib) 222	Delhi	Revenue	Audit party having simply suggested that the impugned interest which was only transferred by the assessee to its subsidiary company and not actually paid should have been disallowed and that this omission on the part of the AO resulted in over-assessment of loss to that extent, the audit objection constituted more 'information' to the AO about escapement of income, thereby justifying the initiation of reassessment.
37	Sec 147 & 147, Exln. 2(b)	Reassessment-Full and true disclosure-Claim of excessive relief in return.	(2015) 119 DTR (Del)(Trib) 381	Delhi	Revenue	If an assessee offered income by applying lower rate of tax and it was not determined by way of an assessment order then, to

						that extent assessee would get relief in the return and would fall in the ambit of escaped income.
38	Sec 147 & 148	Reassessment-Full and true disclosure-Notice after expiry of four years for non production of MLA.	(2015) 119 DTR (Del)(Trib) 381	Delhi	Assessee	Alleged Master License Agreement (MLA) having been examined in assessment order in assessment for AY 2001-02 framed under sec 147/148, reopening of assessment for AY 2003-04 and 2004-05 on the ground of non-production of said agreement was invalid, the facts remaining the same. AO could have used the information obtained in A Y 2001-02 for A Y 2003-04 and 2004-05.

39	Sec 147 & 148	Recording of reasons vis-à-vis communication to assessee	(2015) 124 DTR (Del)(Trib) 222	Delhi	Revenue	Fact that the assessee filed a distorted version of the reasons recorded by the AO for reopening of assessment before the CIT(A) apparently with an ulterior motive indicates that the assessee was supplied the reasons leading to initiation of reassessment proceedings and, therefore, the contention of the assessee's counsel that the assessee was not supplied with such reasons cannot be accepted.
40	Sec 153C	Assessee has duly audited books of accounts and no negative comment in audit report.	(2015) 113 DTR (Del) (Trib) 121	Delhi	Assessee	Lump sum disallowance is not sustainable in case of audited accounts.

		Whether AO could make lump sum disallowance.				
41	Sec 153C	Nullity of order when notice issued in the name of non-existing amalgamating company post merger	(2015) 122 DTR (Del)(Trib) 156	Delhi	Assessee	Notice under sec 153C issued in the name of the assessee-company which had already merged and amalgamated with another company and ceased to exist prior to the issuance of the notice was void and, therefore assessment completed in pursuance of the said notice is quashed.
42	Sec 192 & 194J	Payment to consultant doctor whether assessable as fees for professional services or salary	(2015) 122 DTR (Del)(Trib) 1	Delhi	Assessee	Assessee-hospital having engaged consultant doctors who are free to treat the patients at their own convenience and are not subject to any supervision or control by the hospital and are not

						governed by the services rules and leave rules which are applicable to the employees of the hospital, there is no element of employer-employee relationship between the assessee and the doctors and therefore, TDS has to be deducted from the payments made to the said doctors under sec 194J and not under sec 192.
43	Sec 192 & 194J	TDS-Fees for professional services vis-à-vis salary	(2015) 122 DTR (Del)(Trib) 1	Delhi	Assessee	Junior consultant doctors engaged by the assessee-hospital under consultancy agreements who are rendering professional medical services at their convenience and not under the control and supervision of the management of

						the hospital and are not entitled to employment benefits viz., performance bonus, provident fund, gratuity, etc as applicable to employee doctors, are independent professionals and not employees of the hospital and, therefore, TDS was deductible from the retainer ship fees paid to the said doctors under sec 194J and not under sec 192.
44	Sec 234B	Income subject to TDS vis a vis request for non deduction of tax to payers.	(2015) 113 DTR (Del) 44	Delhi	Revenue	Once assessee who denies its liability to pay tax and request to the payer not to deduct TDS cannot subsequently claim immunity from charge of interest under sec 234B.

45	Sec 234B	Chargeability- Income subject to TDS.	(2015) 122 DTR (Del) 37	Del hi	Asse ssee	Since the entire income received by the assessee was subject to TDS under sec 195 at appropriate rates and there is nothing on record to prove that the assessee induced the Indian payers to believe that tax was deductible at lower rates, interest under sec 234B is not chargeable.
46	Sec 251 (1) (a)	Whether CIT (A) can direct the AO to tax a new source of income and impose penalty u/s 201(1)	(2015) 123DTR (Del) (Trib) 138	Del	Asse ssee	In their answer the bench held that the CIT (A) clearly exceeded jurisdiction as the right course was invoking of sections 147/148 and s. 263 of the Act.
47	Sec 253(1)(a)	whether appeal maintain able against order of CIT(A) rejecting stay petitions	(2015) 122 DTR (Del)(Trib) 476	Del hi	Asse ssee	Order passed by the CIT (A) rejecting stay petitions being an order under sec 250, appeal is clearly maintainable under cl (a) of sub section (1)

						of sec 253 against the impugned order. And the ITAT even granted stay till disposal of appeal by CIT (A) so to say on the basis of spirity of CBDT circulars and instructions.
48	Sec 254(1)	Decision of non-jurisdictional High Court vis-à-vis decision of special bench of tribunal.	(2015) 114DTR (Del)(Trib) 50	Delhi	Asseesee	Any bench of the Tribunal, whatever be its numerical strength, is placed a tier below the High Courts and, therefore, a decision of a non-jurisdictional High Court is binding on the Tribunal and has to be followed in preference to Special Bench decision.
49	Sec 254(1).	Additional ground-Admissibility at later stage	(2015) 117 DTR (Del)(Trib) 40	Delhi	Asseesee	Tribunal has jurisdiction to examine a question of law for the first time which arises from the facts as found by the authorities

						below and having a bearing on the tax liability of the assessee, notwithstanding the fact that the same was not raised before the lower authorities.
50	Sec 254(1); Rule 11	Additional ground admissibility	(2015) 121 DTR (Del)(Trib) 1	Delhi	Assessee	There is no bar against challenge to legality of survey if questioned by additional ground being a pure legal issue.
51	Sec 263	Issue not subject-matter of notice.	(2015) 125 DTR (Del)(Trib) 53	Delhi	Assessee	It is not permissible for the CIT to revise the assessment order on the ground(s) which has not been motioned in the notice under sec 263 and on which assessee was not show-caused in the said notice.
52	Sec 269SS & Sec 271D	Cash received from wife for purchase of house.	(2015) 116 DTR (Del)(Trib) 56	Delhi	Assessee	Acceptance of cash by the assessee from the wife for the purpose of acquisition of a property jointly

						which was eventually returned to her for the reason that the deal could not materialize cannot be said to be loan or advance in strict sense of sec 269SS and, therefore, penalty under sec 271D is not leviable.
53	Sec 269T & Sec271E	Payment by pay orders.	(2015) 116 DTR (Del)(Trib) 56	Delhi	Asseesee	There is no violation of the provisions of sec 269T when repayment is made through a pay order by writing the word only after the name of the payee and consequently, penalty under sec 271E is not leviable.
54	Sec 269T & Sec271E	Payment of share application money.	(2015) 116 DTR (Del)(Trib) 56	Delhi	Asseesee	Payment for allotment of shares as share application money cannot be said to be repayment of loan or advance so as to violate provisions of sec 269T and therefore,

						penalty under sec 271E is not leviable.
55	Sec 271(1)(c)	Concealment-Surrender of share capital after search operation.	(2015) 120 DTR (Del)(Trib) 305	Delhi	Assessee	Assessee having admittedly disclosed all the information relating to the increase in share capital and the AO having accepted the explanation of the assessee during the course of regular assessment proceeding under sec 143(3) it cannot be said that the assessee concealed the particulars or information relating to the increase in share capital and, therefore, AO was not justified in levying penalty under sec 271(1)(c) merely because the assessee surrendered the amount of its paid up share

						capital during the course of assessment under sec 153A; that apart, since the search took place on 4 th Sept. , 2008 i.e, after 1 st June, 2007, penalty, if any, could be levied under sec 271AAA and not under sec 271(1)(c) .
56	Sec 271(1)(c) , Expln.1	Whether, when the assessee who concede to a bonafide mistake in the audit report and submit revised claim during assessment proceedings would suffer penalty	(2015) 127 DTR (Del)(Trib) 33	Del	Assessee	Assessee having corrected the bona fide typographical error in claiming depreciation by filling revised and conceded other disallowances during the assessment proceeding, penalty under sec 271(1)(c) is not leviable, there being no conclusive evidence of concealment; levy of penalty is not valid also for the reason

						that the AO initiated penalty proceeding under sec 271(1)(c) on the basis that the assessee has concealed particulars of income but ultimately levied penalty for furnishing inaccurate particulars by invoking Explan. 1 to sec 271(1)(c). The bench also held that mere disallowances of expenses do not amount to concealment. In this case the value of plant and machinery was taken at Rs. 1,85,56,622 instead of Rs. 18,55,862.
57	Sec 271AAA	Agreed addition vis-à-vis excess stock declared during survey/se arch.	(2015) 124 DTR (Del)(Trib) 132	Delhi	Assessee	Assessee having admitted undisclosed income representing excess stock in his statement recorded during the course of search and

						<p>clearly explained that the stock was valued on estimate basis as stock records were not maintained owing to practical difficulties, and paid the tax together with interest in respect of such undisclosed income, all the three ingredients of sub-sec (2) of sec 271AAA stand fulfilled and, therefore, penalty under 271AAA is not leviable.</p>
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IV. DTAA Interpretations

S. No.	Relevant Section	Citation	Subject	Treaty Country	Treaty Article	Court /Tribunal	Favoring	Interpretation

1	Sec 4,5(2)(b), 90 & 195	(2015) 115 DTR (Jab)(Trib) 1	Permanent establishment vis-à-vis installation or assembly or commissioning or supervision services linked to import of plant and machinery and embedded in the invoice value of related plant and machinery	i) Austria ii) Belgium iii) China iv) Germany v) Switzerland vi) UK vii) USA	5, 7 &12 5, 7 &12 5, 7 &12 5, 7 &12 12, 5,7 &13 5,7 &12	Jab	Assessee	Assessee having made foreign remittances for purchase of plant, equipment and machinery to non-resident vendors who had no PE in India either under the basic rule i.e., art 5(1), or by virtue of any installation or assembly project or supervisory activities connected therewith exceeding the threshold time limits as specified in the
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										<p>respective DTAA's, the income cannot be brought to tax as business income under article 7 r/w article 5 of the respective DTAA's nor such consideration for installation, commissioning or assembly activities or supervision services connected therewith constitute d fees for technical services or fees for technical services or fees for included services as defined in the relevant</p>
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												DTAAs and, therefore, assessee was under no obligation to deduct TDS under Sec 195. Further in such transactions deeming fiction has no place in DTAA as the bench remarked that article 12/13 cannot be invoked on the notion of fiction of an element of FTS or FIS qua supervision services being embedded in the business receipts for sale of plant,
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								machiner y or equipmen t. This position is held uniform in seven treaties.
2	Sec 9(1)(i) & 90	(2015) 116 DTR (Mumbai)(Tri b) 385	Business Connectio n-Wholly owned subsidiary in India.	Switz erlan d	5	Mumb ai	Ass esse ee	Activities of rendering risk assessme nt services, market insurance and administr ation support in India by the India subsidiar y to the assessee, a Swiss insurance company, do not satisfy any of the condition specified in cls (a), (b) and (c) of expln. 2 to 9(1)(i) so as to constitute

								business connection of the assessee in India, nor the Indian subsidiary can be treated as PE of the assessee within the meaning of art. 5 of Indo-Switzerland DTAA in as much as the employees of that company are not providing services to the assessee as its employees and, therefore, income of the assessee is not taxable in India.
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3	Sec 9(1)(i) & 90.	(2015) 123 DTR (Kol)(Trib) 81	Whether offshore sale and supply of equipments to Indian customers could prompt business connection	Germ any	5 & 7	Kol	Ass ess ee	Assessee having sold equipments to Indian customers on export sale basis after carrying out all the activities relating to designing, fabrication and manufacturing outside India and transferred the title/ownership in the equipments outside India, the sale of equipments stood concluded outside India and, therefore the profit arising to the assessee from the sale of
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								equipments is not taxable in India. Deferred payment arrangement or acceptance tests or liquidated damages clauses are understood to be normal commercial arrangement clauses which cannot have any bearing on the factum of transfer or sale having taken place outside India
4	Sec 9(1)(i) & 90.	(2015) 123 DTR (Kol)(Trib) 81	Apportionment of profit attributable of Supervisory PE	Germany	5 & 7	Kol	Revenue	Settlement Commission having applied net profit rate of 27.5 per

								cent to arrive at the income of the assessee from supervisory services in India in the earlier years, AO was justified in applying the same profit rate to the revenue from supervisory activities in India.
5	Sec 9(1)(i), 90 & 195	(2015) 119 DTR (Bom) 73	PE when the Mauritius company is found as engaged in the business of telecasting of TV channels.	Mauritius	5 & 7	Bom	Assessee	Assessee's agent in India was not a dependent agent as it had no power to conclude the contract and the only activity carried out in

								India consisted of collection from time slots given to advertisers from India and therefore assessee had no PE in India and its income was not taxable in India.
6	Sec 9(1)(vi) & 90	(2015) 113 DTR (Del) 44	Subscription agreement for news articles/news stories and pics/images whether qualifies as royalty	France	13	Delhi	Revenue	PTI, HT Media, IANS subscribing for access to archived data/news/distribution rights/commercial rights to news etc. are required to deduct tax

7	Sec 9(1)(vi) & 90	(2015) 116 DTR (Del) 89	Royalty for right to use trade name, technology, etc. with confidential parameters	Germ any	VIIIA, & 3	Delhi	Rev enue	Various clauses of the agreement between ADC, West Germany and the assessee showed that the agreement postulated grant of permission to use or right to use intellectual property rights or know-how and it is not a case of outright sale; ADC continued and remained the owner; Absolute and complete transfer is clearly missing in the present
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								case; payment made by assessee to ADC constituted royalty and was liable to tax.
8	Sec 9(1)(vi) & 90	(2015) 114 DTR (AP) 41	Collaboration-cum-service agreements- Lumpsum consideration for supply, installation, and erection of machinery with relevant know how.	UK	13-1981 Convention	AP	Assessee	Amount paid by the assessee to the foreign company for imparting technical know-how for the limited purpose of erection of machinery that was supplied under collaboration-cum-service agreements and not in the nature of any working knowhow so that it

								will form only part of consideration for installation and erection of machinery and cannot be treated as royalty. Even if the said amount is to be treated as royalty, it is covered by the exclusion clauses under Indo-UK DTAA and, therefore, it is not liable to tax in India.
9	Sec 9(1)(vi) & 90	(2015) 116 DTR (Del)(Trib) 113	Royalty vis a vis application development platform to download and run applications	USA	12	Delhi	Assessee	Amount received by the assessee under Binary Runtime Environment for Wireless

								agreement for use of an application development platform developed by it for mobile phones that enables the users to download and run applications is payment for software which is for copyrighted article and not the copyright itself and, therefore, it is not taxable as royalty under art.12 of Indo-US treaty.
10	Sec 9(1)(vi), 9(1)(vii) & 90.	(2015) 126 DTR (Mum) (Trib) 129	How would a payment by BCCI for live	UK	13	Bom	Assessee	Assessee having undertaken the

			production and delivery of audio-visual coverage of IPL cricket matches chargeable in India					activity to produce live audio-visual coverage of the cricket matches conducted by BCCI and deliver the feed (program content) to the licensed broadcasters under an agreement with BCCI, it only delivers the "final product in the form of program content" produces by it using its technical expertise and does not deliver or make available any
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								<p>technology/knowledge to BCCI and, therefore, the amount received by the assessee from BCCI for producing the program content cannot be considered as “fees for technical services” in terms of art. 13(4)(c) of Indo-UK DTAA; payment received by the assessee cannot even be considered as “royalty” as BCCI becomes the owner of the program content</p>
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								produced by the assessee and there is no question of transfer of all or any right therein.
1 1	Sec 9(1)(vi), 9(1)(vii), 90 & 195	(2015) 123 DTR (AAR) 17	Payment under reselling agreement for sale of course content/databse and software whether amounting to royalty or fees for technical services.	Ireland	5 & 12	AAR	Revenue	Applicant's products consisted of two components namely the course content and the software through which the course content is delivered to the end customer and computer databases created by the applicant are included within the ambit of 'literary work' and therefore

								covered under art. 12(3)(a) of DTAA between India and Ireland as in the nature of royalty; irrespective of use of words like non-exclusive and non-transferable in agreements, there is definitely transfer of certain rights of which the applicant is the owner. Treaty definition of royalty as per AAR does not warrant transfer of any rights so to say that even user of confidenti
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								al info would be in the nature of royalty.
1 2	Sec 9(1)(vii), 40(a)(i), 90 & 195.	(2015) 118 DTR (Kol)(Trib) 171	Reimbursement of reworking costs to distributor .	Australia	5 & 7	Kol	Assessee	Payment made by the assessee to its foreign distributor by way of reimbursement of the actual cost incurred by the latter on carrying out repairing or manufacturing facility outside India on the unfinished products sent by assessee to that company for sale is not chargeable to tax

								under the IT Act and, therefore, there was no requirement of deduction of TDS under sec 195 in the absence of PE and consequently, no disallowance under sec 40(a)(i) can be made. Even these would come under exclusion clause under Expl. 2 to s. 9 (1) (vii) as amounting to assembly activity.
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1 3	Sec 9(1)(vii), 40(a)(i), 90 & 195.	(2015) 117 DTR (Del)(Trib) 97	Payroll management service whether FTS	USA	12	Delhi	Assessee	Payment made by the assessee to its AE, a US company for the 'payroll and related services' rendered by the latter in USA in respect of assessee's employees sent there on secondment basis not covered within the ambit of art.12 of the Indo-US DTAA and, therefore the same is not chargeable to tax in the hands of the foreign AE as per the DTAA and conseque
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								ntly, there was no obligation on the payer- assessee to deduct TDS and hence, the provisions of sec 40(a)(i) cannot be invoked.
14	Sec 9(1)(vii), 90 & 115A	(2015) 120 DTR (Bom) 147	Fees for technical services vis-à-vis income from operation of ships.	Den mark	9 & 12	Bom	Assessee	Amount received by assessee from its shipping agents for providing a global telecommunication facility was not for providing any technical services and it related to shipping business and therefore could not for providing any

								technical services.
15	Sec 9(1)(viii), 90 & 195	(2015) 120 DTR (Hyd)(Trib) 1	Royalty vis-à-vis payment for user of software.	Singapore	12	Hyd	Assessee	Assessee having acquired a software from a Singaporean company under a non-exclusive and non-transferable licence which is to be used only for assessee's own business and in view of the restriction terms of the licensing agreement with the stipulation that all copyrights and intellectual property rights in the

								software and copies thereof are exclusively owned by the licensor, it is a case of mere transfer of a copyright ed article and not transfer of payments made by the assessee to the licensor were not 'royalties' falling within the ambit of art. 12 of Indo-Singapore DTAA and consequently, no tax was to be deducted under sec 195.
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1 6	Sec 9(i), 9(1)(vi) & 90	(2015) 123 DTR (Kol)(Trib) 81	whether supply of designs and drawings for setting up plants meant in the nature of royalty	Germ any	12	Kol	Ass ess ee	Designs and drawings supplied by assessee to customer s in India for setting up plants partake the character of a product and, therefore, income earned from supply of designs and drawing is in the nature of business income and not royalty; since the entire work relating to the preparatio n of designs and drawings was done outside
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								India and the sale was also effected outside India, the income from supply of designs and drawings is not taxable either under the provisions of the Act or the DTAA.
17	Sec 9(1)(vi) & Sec90	(2015) 113 DTR (Mad) 359	Payment for use of dredging equipment on bareboat basis without crew and master	Netherlands	5 & 12	Madras	Assessee	Payment for the use of equipment was not taxable under the DTAA after 1st April, 1998. Treaty being beneficial the provisions of the Act would not apply. Further for the fact that the

								dredging equipment was leased out on bareboat basis viz., without master and crew it will not come under the PE definition since the entire control over the equipment was not with the foreign company, but with the Indian company.
18	Sec 10A & 90	(2015) 126 DTR (Mum) (Trib) 266	Credit for tax paid in Japan vis-à-vis income eligible for relief under Sec 10A.	Japan	23 & 24	Mumbai	Assessee	Assessee is held entitled to credit of tax paid in Japan in respect of income which is eligible for deduction under sec 10A.

19	Sec 40(a)(i) & 90	(2015) 123 DTR (Mumbai)(Tri b) 77	Payments to Thailand tax resident for shooting abroad	Thailand	7 & 14	Mumbai	Assessee	Payments made to tax resident of Thailand for shooting of film abroad etc. could not be disallowed under sec 40(a)(i) since the payment was taxable in Thailand as per art. 7 of the DTAA.
20	Sec 40(a)(i) & 90	(2015) 123 DTR (Mumbai)(Tri b) 77	Payments to UK Models for shooting abroad.	UK	15 & 23	Mumbai	Assessee	Payments made to individual models who are residents of UK for a shoot carried out in Nepal not being chargeable to tax in India as per art. 15 of DTAA between

								India and UK, could not be subjected to disallowance under sec 40(a)(i).
21	Sec 40(a)(i), 90 & 195	(2015) 119 DTR (Pune)(Trib) 336	Fees for legal services.	Morocco	4 & 14	Pune	Assessee	Moroccan firm S & Co. being involved in filing lawsuit before the Tribunal of Commerce in Morocco against infringement of assessee's trade mark by another entity, the services rendered by S & Co. are in the nature of legal services covered by art. 14 of Indo-Morocco DTAA;

								since S & Co. has no fixed base in India, S & Co. is not taxable in India in respect of the fees paid by the assessee-company and consequently, the said payments cannot be disallowed under sec 40(a)(i) on account of non-deduction of TDS.	
2 2	Sec 45,90 & 195	(2015) DTR 414	116 (Bom)	TDS- Remittanc e of sale proceeds on governmen t securities.	UAE	13	Bom	Ass ess ee	Assessee bank remitting sale proceeds of Governme nt securities to residents of UAE, was not liable to TDS as

								capital gains to residents of UAE, was not liable to deduct TDS as capital gains so arising was exempt under art.13 of DTAA between India and UAE. CA certificate s in Form 15CB and undertaki ngs in Form 15CA were obtained by the bank for all the remittees.
23	Sec 90	(2015) 126 DTR (AAR) 193	Whether market developme nt services constitute FTS	China	12	AAR	Revenue	Services provided by the applicant, a Chinese company, to an Indian company in connectio

								<p>n with procurem ent of goods from the vendors in China which includes identifin g the products, generatin g new ideas, evaluatin g the credit, organizati on, finance, productio n facility, etc. apart from supplying informatio n on new developm ents regarding technolog y, product, process, upgrading being specialize d services requiring special skill, acumen</p>
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								and knowledge are definitely in the nature of 'consultancy services' and therefore, services fees received by the applicant from the Indian company for providing the said consultancy services are taxable in India as fees for technical services as per art. 12 of Indo-China DTAA to the extent of full amount @ 10 per cent of the gross amount.
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2 4	Sec 90	(2015) 127 DTR (Rjt)(Trib) 297	Income from shipping business.	Den mark	4 & 9	Rjt	Ass ess ee	Assessee, a Danish company, was carrying on its business from Denmark and its effective place of managem ent was in Denmark, and therefore it is entitled to Indo- Denmark treaty benefits; as far as art. 4(1) of Indo- Denmark DTAA is concerned , all that is required of a Danish company to be entitled to treaty protection in India is that its profits, on global
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								basis should be liable to tax in Denmark, irrespective of whether or not the assessee earns any profits taxable in Denmark or whether or not such profits are actually subjected to tax in Denmark.
25	Sec 90	(2015) 127 DTR (Bom) 55	Whether the AO/DRP having invoked Article 5 (5)/(6) applicability cannot push for article 5(1)/(2) before the ITAT/High Court without any previous finding	France	5	Bom	Assessee	No material was placed on record, which would prima facie demonstrate or even indicate that the transactions between the assessee and the

								agent are not at arm's length conditions and therefore there was no PE of the assessee in India as per arts.5(5) r/w 5(6) of DTAA between India and France; when the AO or the DRP failed to render the finding which would indicate the applicability art. 5(1), matter could not be remanded to consider applicability of art. 5(1).
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2 6	Sec 90	(2015) 122 DTR (Mumbai)(Tri b) 422	Constructi on/installa tion PE when more than one contract is undertake n	Singa pore	5	Mumb ai	Ass esse ee	Activity of the assessee being purely installatio n services, it is to be scrutinize d under art 5(3) only and not under art 5(6); test of 183 days i.e., threshold limit applies to each site of project independe ntly except where such sites or projects form a coherent whole, commerci ally and geographi cally; period of stay of assessee's employees in India for each
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								project separately being less than the threshold time-limit of 183days, the installation activities carried out by the assessee in terms of various contracts in India did not constitute PE in India under art 5(3) and, therefore, revenue from the said contracts or installation activities is not taxable in India.
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2 7	Sec 90	(2015) 122 DTR (Del)(Trib) 37	Case of transfer of copyrighted software	USA	12	Delhi	Ass ess ee	Assessee, a US company, having supplied "contract solution" i.e., combinati on of software and compatibl e hardware, to customers in India under agreement s whereby it retained all the intellectu al property rights in the software and merely provided the end user with limited rights to use the licensed product solely for internal use, it
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								was a case of mere transfer of a copyright ed article and not transfer of any right in respect of copyright by the assessee and, therefore, the considera tion received by the assessee for the supply of the said product along with licence of software is not royalty under art 12 of the Indo-US DTA.
28	Sec 90	(2015) 122 DTR (Del)(Trib) 37	Implement ation and mainten an ce services whether	USA	12	Delhi	Assessee	Implemen tation service rendered by the assessee

			FTS					being inextricably linked to the supply of software and the revenue earned by the assessee from the supply of software not being taxable as "royalty" under the provisions of Indo-US DTAA on the facts of the case, cl(a) of art 12(4) is not applicable to both implementation and maintenance services, and there being nothing to show that these services made available any
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								technical knowledge, experience, skill, know-how or processes to the end user/channel partners so as to enable them to apply the said technology, revenue earned by the assessee from the rendering of the said implementation services and maintenance services to customers in India did not constitute fees for included services under art 12(4).
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2 9	Sec 90	(2015) 122 DTR (Mumbai)(Tri b) 449	Secondme nt arrangeme nt whether giving rise to PE or chargeable as FTS	USA	7 & 12	Mumb ai	Ass esse ee	Amount received by assessee non- resident towards reimburse ment by Indian subsidiar y of salary paid by assessee to its employees deputed with the subsidiar y cannot be treated as fees for included services under art. 12(2) of the DTAA between India and USA but can be charged as business profit under art 7 in which case salary paid is to be treated as
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								allowable deduction
30	Sec 90 & 195	(2015) 122 DTR (Del)(Trib) 267	Review/quality audit Services whether make available technical knowledge etc.	Finland	7 & 13	Delhi	Assessee	Services provided by Finnish company OG to ensure that the HVAC, electrical and fire protection systems to be installed at the assessee's factory in India are of the right design and quality neither 'make available' any technical knowledge, skill or experience to the assessee nor

								consisted of development and transfer of a technical plan or technical design to the assessee and, therefore, payments made by the assessee to OG for provision of said services did not constitute fees for technical services under the provisions of art 13 of Indo-Finland DTAA.	
31	Sec 90 & 195	(2015) DTR 34	123 (AAR)	Whether routine managerial services are FTS	UK	13	AAR	Applicant	Services concerning review and general guidance on financial operations, human

								resources, setting up targets and performance related matters are routine managerial activities and cannot be classified as technical or consultancy service; further, these services did not result in making available any technical knowledge of enduring benefit; amount received by the applicant was not therefore chargeable to tax in India as
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								per the provisions of the India-UK tax treaty.
3 2	Sec 90, 9 (1) (vii)	(2015) 121 DTR (Del) 62	Commission payments whether assessee obliged to deduct tax on the remittances made to its liaisoning agents	UAE	3(e) & 14	Delhi	Assessee	Since the income of CGS and MAC in the absence of FTS article can only be classified under art 14 or art 22 of the DTAA both of which provide that the income shall be taxable in the State of residence (UAE) the issue as to whether the services provided by the two UAE entities fall within the scope of

								‘professional services’ under art 14 is irrelevant to the outcome of this case; assessee was not obligated to deduct tax on the remittances made to its agent. Moreover according to the Court liaison services are not FTS under the Act
33	Sec 90, 119 & 195	(2015) 125 DTR 81 (P&H)	Capital gains on sale of shares of Indian company by Mauritius company	Mauritius	1, 4 & 13	P & H	Assessee	In view of tax residence certificate issued to seller Mauritius companies by Mauritius authorities, capital gains on sale of

								shares of Indian company by Mauritius companies were not taxable in India as per art. 13 of DTAA between India and Mauritius .
34	Sec 90	(2015) 114 DTR (Del)188	Supply of Knowhow and implementation services	Australia	VI & VII (1965 Treaty)	Delhi	Revenue (Partly)	Assessee had agreed to furnish to PPGML, know-how and technical assistance for setting up and commissioning manufacturing facilities. The Court held that that component of consideration for supply of technical knowhow

								would be in the nature of royalty and the component for technical services would be taxable in India insofar as such amount is attributable to the activities actually performed in India i.e in the country of source. Those performed outside India would remain out of Indian tax by reason of the 'attributable to' clause in article VII.
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3 5	Sec 90	(2015) 113 DTR (Pune)(Trib) 89	Principle of MFN Clause	Swed en	12(3) (b)	Pune	Ass esse ee	As per article 12(4) of Indo- Portugal DTAA, fees for included technical services are not taxable unless the condition of make available is fulfilled, and the assessee, a Swedish company, can claim the benefit of said DTAA on the basis of the protocol to the DTAA between India and Sweden and, therefore, payments in the nature of fees for technical
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								services received by the assessee from its Indian subsidiaries cannot be brought to tax in view of Indo-Sweden DTAA read with protocol thereto on the principle of MFN clause.
36	Sec 244A & 260A	(2015) 126 DTR (Bom) 156	Interest on refund under sec 244A.	France	12	Bom	Assessee	No fault can be found with the impugned order of the Tribunal in restoring the issue to the AO to adopt the rate of tax on refund in the light of the relevant clauses of Indo-

									France DTAA and the decision of Special Bench in 55DTR(S B) 34 (Del).
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V. Circulars

S.No.	Subject/content	Citation	Date	No.	Class Assessee Affected	Of
1	<u>Admissions of undisclosed income:</u> It is emphasized that any recording of statement of disclosure of undisclosed income under pressure/coercion shall be viewed by the board adversely.	113 St 1	18-Dec-14	-		All
2	New Guidelines for compounding of offences under Direct Tax Laws	113 St 9	23-Dec-14	-		Applicable to applications received on or after 1.1.2015

3	Disclosure of information about taxpayers to media: Vide this office memorandum department officials are reminded of their statutory obligation to maintain privacy of taxpayer's information failing which he or she will be punishable with imprisonment which may extend up to six months and shall also be liable to fine.	113 St 22	01- Jan- 15	-	All the officers and officials of the department
4	Request for exchange of information from the field offices of the time barring assessment cases: All requests for exchange of information getting time barred on 31.03.2015 to FT&TR division latest by 15th of Feb 2015.	114 St 1	06- Jan- 15	-	All the CsIT/Officers
5	Applicability of Sec 143(1D); It is opined by CBDT that processing of a return for refunds cannot be undertaken after the said case has been selected for scrutiny except for	114 St 1	13- Jan- 15	-	All

	their expeditious disposal.				
6	Explanatory notes to the provisions of the Finance (No.2) Act,2014	114 St 9	21-Jan-15	-	
7	Acceptance of order of High Court of Bombay in case of Vodafone India Services Pvt Ltd: The CBDT informed that it has accepted the decision of High Court of Bombay in case of Vodafone for AY 09-10, wherein the court has held, inter-alia, that the premium on share issue was on account of a capital account transaction and does not give rise to income and hence not liable to transfer pricing adjustment.	114 St 73	29-Jan-15	-	Assessees who have received premium on share capital issue

8	Chargeability of Interest under Sec 234A on self assessment tax paid before the due date of filing of return of income: It is clarified therein that no interest under Sec 234A of the Act is chargeable on the amount of self-assessment tax paid by the assessee before the due date of filing of return of income.	115 St 1	10- Feb- 15	2 of 2015	All
9	Clarification regarding Amount not deductible under sub clause(i) of clause (a) of section 40 of IT Act, 1961: It is clarified that for the purpose of making disallowance of 'other sum chargeable' under section 40 (a) (i) of the Act, the appropriate portion of the sum which is chargeable to tax under the Act shall form the basisn of such disallowance and shall be the same as determined by the AO having jurisdiction for the purpose or sub-section (1) o section	115 St 2	12- Feb- 15	3 of 2015	All

	195 of the Act as per Instruction No. 2/2104 dated 26.02.2014 of CBDT.				
10	In regard to the query whether the provisions of Explanation 5 of Cl.(i) of sub sec (1) of sec 9 would come into effect in the event of declaration of dividend by a foreign company the CBDT has clarified that declaration of dividend outside India does not have the effect of transfer of any underlying assets located in India so that dividends declared and paid by a foreign company outside India in respect of shares which derive their value substantially from assets situated in India would not be deemed to be income accruing or arising in India by virtue of the provisions of Explanation 5.	117 St 1	26- Mar- 15	4 of 2015	Companies

11	Capital gain in respect of units of Mutual Funds under Fixed Maturity Plans on extension of their term: It is clarified that no capital gains will arise at the time of exercise of the option by the investor to continue in the same scheme and that the capital gains will however arise at the time of redemption of the units or opting out of the scheme.	117 St 41	09- Apr- 15	6 of 2015	All
12	Notice of Amendments to Finance Bill, 2015	118 St 97	29- Apr- 15	-	General
13	MOU between the competent authorities of India and UK regarding suspension of collection of taxes during the pendency of MAP on submission of bank guarantee by the taxpayer- resident of UK or resident in India	118 St 89	10- Apr- 15	Instruction no. 3 of 2015	UK Transactions
14	Requirement of TDS in case corporations whose income unconditionally exempt under sec 10 (26BBB) and who are statutorily not required to file	118 St 95	23- Apr- 15	7 of 2015	Corporations covered under s. 10(26BBB)

	return of income as per sec 139, there would be no requirement for TDS from the payment made to them w.e.f 01-04-04				
15	Claim of treaty benefits by FII under provisions of DTAA: All cases of FII seeking treaty benefits under the provisions of respective DTAA's, decision may be taken in such claims within one month from the date such claim is filled.	118 St 96	24- Apr- 15	Instruction No.500/36/2015-FTD-I) dated 24.4.2015	FII
16	Procedure for online response to arrear demand by taxpayer and verification and correction of demand by AOs along with Format for Indemnity Bond furnishing in TDS mismatch scenario	119 St 79	14- Apr- 15	8 of 2015	All
17	Modification of instruction no. 3 of 2007: The annual target of audit of minimum number of cases to be audited stands modified.	119 St 97	14- May- 15	Instruction No. 4 of 2015	General

18	<p>Condonation of delay in filing refund claim and claim of carry forward of losses under sec 119(2)(b): No condonation application for claim of refund /loss shall be entertained beyond six years from the end of the AY for which application /claim is made. In case refund claim has arisen consequent to court order, the period for which any such proceedings were pending before any court of law shall be ignored while calculating the said period of six years, provided such condonation application is filed within six months from the end of the month in which the court order was issued or the end of financial year, whichever is later.</p>	120 St 17	09- Jun- 15	9 of 2015	All
19	<p>FAQs on Rollback provisions of Advance Pricing Agreement Scheme (S.92CC(9A); As many as fourteen clarifications are provided on rollback</p>	120 St 25	10- Jun- 15	10 of 2015	APA applicants

	provisions				
20	Authorization is issued to admit application for revision under sec 25 of the Wealth-tax Act from assessee seeking refund arising due to grant of retrospective exemption of urban land in cases where the same is classified as agriculture land in the records of the government and being used for agriculture purposes. Accordingly, such land stands exempt from wealth tax.	121 St 129	11- Jun- 15	11 Of 2015	Applicable to Wealth tax assessee from 1.4.1993
21	It is emphasized by the Board that appellate orders by Commissioners of Income Tax (Appeals) should be issued with 15 days of last hearing warning adverse action for any lapse.	121 St 130	19- Jun- 15	F. NO. 279/Misc.53/2003- ITJ	All

22	Explanatory Notes on provisions relating to tax compliance for undisclosed foreign income and assets as provided in Chapter VI of the Black Money And Imposition of Tax Act, 2015	121 St 197	02-Jul-15	12 of 2015	All
23	Clarifications on Tax Compliance for Undisclosed Foreign Income and Assets.	122 St 203	06-Jul-15	13 of 2015	All
24	Extension of due date of filing return of wealth for 2015-16: The due date for filing Return of wealth for AY extended from 31st July 2015 to 31st Aug 2015.	122 St 203	27-Jul-15	F. NO. 328/08/2015-WT	Wealth tax assesseees
25	India and USA signs Inter Governmental Agreement (IGA) to implement FATCA	122 ST 11	09-Jul-15	PIB Press Release	All
26	Clarification on scope of inquiry in the course of grant of approval/exemption under sec 10(23C)(vi) of IT Act,1961.	123 St 281	17-Aug-15	14 of 2015	Educational Institutions
27	Agreement between India and San Marino for the exchange of information	123 St 294	12-Aug-15	63 of 2015	Residents having assets/financial interests in San Marino

					Jurisdiction
28	Compulsory manual selection of cases for scrutiny during FY 2015-16	124 St 121	31- Aug- 15	Instruction No. 8	All
29	Report on applicability of MAT on FIIs/FPIs for the period prior to 01.04.2015 and acceptance of the Government thereof: It is placed on record that Government accepts Justice A P Shah Committee recommendation that sec 115JB of the Income tax Act, 1961 may be amended to clarify the inapplicability of the provision of sec 115JB to FIIs/FPIs having no permanent establishment / place of business in India for the period prior to 01.04.2015.	124 St 122	02- Sep- 15	Instruction NO. 9	FII/ FPI
30	Clarification on Tax Compliance for Undisclosed Foreign Income and Assets.	124 St 123	03- Sep- 15	15 of 2015	All

31	Extension of due date of filing of return of wealth for AY 2015-16 : Vide this Circular the 'due date' for filing return of wealth by assessees for assessment year 2015-16 is extended from 31st August 2015 to 7th September 2015.	124 St 137	04-Sep-15	Letter F No. 328/08/2015-WTJ	Wealth Tax Assesseees
32	Clarifications on application of compounding guidelines under Income-Tax Act, 1961/ Wealth-tax Act,1957 in cases of persons holding undisclosed foreign bank accounts/assets	124 St 137	04-Sep-15	F No. 285/90/2013 IT (Inv-V)	All
33	Extension of date of filing of return in Gujarat till September 7, 2015 who were required to e-file their returns by 31st August 2015	124 ST 135	31-Aug-15	Order	Gujarat Assessee's
34	All across extension of date of filing of return till September 7, 2015 of assessee's who were required to e-file their returns by 31st August 2015	124 ST 135	02-Sep-15	Order	All

35	Guidelines Notes on implementation of reporting requirements under rules 114F to 114H of the Income-tax Rules, 1962 about account holders having financial assets in India but resident in other countries, under IGAs and MCAA	125 St 73	31- Aug- 15	F 500/137/2011- FTTR-III	No. No.	Fls, Banks, depositories, Specified Insurance companies, Investment entities, NPS trusts,
36	Cases involving SDT shall be handled by the TPOs working under CIT (TP).	125 ST 18	16- Sep- 15	Instruction No 11		All
37	Revised jurisdiction of the Income-tax authorities in respect of Dossier cases	125 St 17	16- Sep- 15	Instruction No. 10		-
38	Refunds-Custody of refund vouchers: All manual refunds upto Rs. 1 Lakh are to be issued with the approval of Range Head, and in cases involving refund amount of more than 1 Lakh with the approval of Pr. CIT/CIT. In view same board has directed that refund vouchers should be responsible for the safe custody and proper use of the	125 St 18	17- Sep- 15	Instruction No. 12		-

	refund vouchers.				
39	Agricultural land criteria- method of measuring the distance from the municipality is to be by shortest road distance for periods upto A Y 2013-14. Effective A Y 2014-15 the measurement of distance will be made on aerial basis.	125 St 19	06- Oct- 15	Instruction No. 17	All
40	Instruction No. 14 of 2015; Framing of scrutiny assessments in cases of assessee engaged in the business if Mining.	126 St 1	14- Oct- 15	-	All
41	Use of email based communication for paperless assessment proceedings; CBDT has decided to initiate the concept of using email for corresponding with taxpayers and sending through emails the questionnaires, notice etc at the time of scrutiny proceeding and getting responses from them using the same medium on a	126 St 2	19- Oct- 15	-	All

	pilot basis. This would eliminate the necessity of visiting the Income tax offices by the taxpayers is able to provide details required by the AO without necessitating his physical presence.				
42	Interest from Non-SLR securities of banks.	126 St 65	02- Nov- 15	18 of 2015	All
43	Following the prescribed time limit in passing order under section 12AA of the Income tax Act, 1961 : It is stressed that time limit of six months must be followed in granting or refusing registration failing which suitable administrative action will be taken.	127 St 17	06- Nov- 15	Instruct No. 16	Charitable Institutions
44	Constitution of Local Committees to deal with taxpayers grievances from high-pitched scrutiny assessment: Such committees will be set up even for the subject of international tax, exemptions charges of Pr. CIT in	127 St 9	09- Nov- 15	Instruct No. 17	All

	addition to constitution in each Pr. CCIT region.				
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VI. Notifications

S.No.	Subject/content	Citation	Date	No.	Class Of Assessee Affected
1	<u>Admissions of undisclosed income</u> : It is emphasized that any recording of statement of disclosure of undisclosed income under pressure/coercion shall be viewed by the board adversely.	113 St 1	18-Dec-14	-	All
2	New Guildelines for compounding of offences under Direct Tax Laws	113 St 9	23-Dec-14	-	Applicable to applications received on or after 1.1.2015
3	Disclosure of information about taxpayers to media: Vide this office memorandum department officials are reminded of their statutory obligation to maintain privacy of taxpayer's information failing which he or she will be punishable with imprisonment which may extend up to six months and shall also be liable to fine.	113 St 22	01-Jan-15	-	All the officers and officials of the department

4	Request for exchange of information from the field offices of the time barring assessment cases: All requests for exchange of information getting time barred on 31.03.2015 to FT&TR division latest by 15th of Feb 2015.	114 St 1	06- Jan -15	-	All the CsIT/Officers
5	Applicability of Sec 143(1D); It is opined by CBDT that processing of a return for refunds cannot be undertaken after the said case has been selected for scrutiny except for their expeditious disposal.	114 St 1	13- Jan -15	-	All
6	Explanatory notes to the provisions of the Finance (No.2) Act,2014	114 St 9	21- Jan -15	-	

7	Acceptance of order of High Court of Bombay in case of Vodafone India Services Pvt Ltd: The CBDT informed that it has accepted the decision of High Court of Bombay in case of Vodafone for AY 09-10, wherein the court has held, inter-alia, that the premium on share issue was on account of a capital account transaction and does not give rise to income and hence not liable to transfer pricing adjustment.	114 St 73	29- Jan -15	-	Assessee who have received premium on share capital issue
8	Chargeability of Interest under Sec 234A on self assessment tax paid before the due date of filing of return of income: It is clarified therein that no interest under Sec 234A of the Act is chargeable on the amount of self-assessment tax paid by the assessee before the due date of filing of return of income.	115 St 1	10- Feb -15	2 of 2015	All

9	<p>Clarification regarding Amount not deductible under sub clause(i) of clause (a) of section 40 of IT Act, 1961: It is clarified that for the purpose of making disallowance of ' other sum chargeable' under section 40 (a) (i) of the Act, the appropriate portion of the sum which is chargeable to tax under the Act shall form the basis of such disallowance and shall be the same as determined by the AO having jurisdiction for the purpose or sub-section (1) o section 195 of the Act as per Instruction No. 2/2104 dated 26.02.2014 of CBDT.</p>	115 St 2	12- Feb -15	3 of 2015	All
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10	<p>In regard to the query whether the provisions of Explanation 5 of Cl.(i) of sub sec (1) of sec 9 would come into effect in the event of declaration of dividend by a foreign company the CBDT has clarified that declaration of dividend outside India does not have the effect of transfer of any underlying assets located in India so that dividends declared and paid by a foreign company outside India in respect of shares which derive their value substantially from assets situated in India would not be deemed to be income accruing or arising in India by virtue of the provisions of Explanation 5.</p>	117 St 1	26- Mar -15	4 of 2015	Companies
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11	Capital gain in respect of units of Mutual Funds under Fixed Maturity Plans on extension of their term: It is clarified that no capital gains will arise at the time of exercise of the option by the investor to continue in the same scheme and that the capital gains will however arise at the time of redemption of the units or opting out of the scheme.	117 St 41	09- Apr -15	6 of 2015	All
12	Notice of Amendments to Finance Bill, 2015	118 St 97	29- Apr -15	-	General
13	MOU between the competent authorities of India and UK regarding suspension of collection of taxes during the pendency of MAP on submission of bank guarantee by the taxpayer-resident of UK or resident in India	118 St 89	10- Apr -15	Instruction. 3 of 2015	UK Transactions

14	Requirement of TDS in case corporations whose income unconditionally exempt under sec 10 (26BBB) and who are statutorily not required to file return of income as per sec 139, there would be no requirement for TDS from the payment made to them w.e.f 01-04-04	118 St 95	23- Apr -15	7 of 2015	Corporations covered under s. 10(26BBB)
15	Claim of treaty benefits by FII under provisions of DTAA: All cases of FII seeking treaty benefits under the provisions of respective DTAA's, decision may be taken in such claims within one month from the date such claim is filled.	118 St 96	24- Apr -15	Instruction No.500/36/2015-FTD-I) dated 24.4.2015	FII
16	Procedure for online response to arrear demand by taxpayer and verification and correction of demand by AOs along with Format for Indemnity Bond furnishing in TDS mismatch scenario	119 St 79	14- Apr -15	8 of 2015	All

17	Modification of instruction no. 3 of 2007: The annual target of audit of minimum number of cases to be audited stands modified.	119 St 97	14- Ma y- 15	Instruction No. 4 of 2015	General
18	Condonation of delay in filing refund claim and claim of carry forward of losses under sec 119(2)(b): No condonation application for claim of refund /loss shall be entertained beyond six years from the end of the AY for which application /claim is made. In case refund claim has arisen consequent to court order, the period for which any such proceedings were pending before any court of law shall be ignored while calculating the said period of six years, provided such condonation application is filed within six months from the end of the month in which the court order was issued or the end of financial year, whichever is later.	120 St 17	09- Jun -15	9 of 2015	All
19	FAQs on Rollback provisions of Advance Pricing Agreement Scheme (S.92CC(9A): As many as fourteen clarifications are provided on rollback provisions .	120 St 25	10- Jun -15	10 of 2015	APA applicants

20	Authorization is issued to admit application for revision under sec 25 of the Wealth-tax Act from assessee seeking refund arising due to grant of retrospective exemption of urban land in cases where the same is classified as agriculture land in the records of the government and being used for agriculture purposes. Accordingly, such land stands exempt from wealth tax.	121 St 129	11- Jun -15	11 of 2015	Applicable to Wealth tax assessee from 1.4.1993
21	It is emphasized by the Board that appellate orders by Commissioners of Income Tax (Appeals) should be issued with 15 days of last hearing warning adverse action for any lapse.	121 St 130	19- Jun -15	F. NO. 279/Misc.53/20 03-ITJ	All
22	Explanatory Notes on provisions relating to tax compliance for undisclosed foreign income and assets as provided in Chapter VI of the Black Money And Imposition of Tax Act, 2015	121 St 197	02- Jul- 15	12 of 2015	All
23	Clarifications on Tax	122 St	06-	13 of 2015	All

	Compliance for Undisclosed Foreign Income and Assets.	203	Jul-15		
24	Extension of due date of filing return of wealth for 2015-16: The due date for filing Return of wealth for AY extended from 31st July 2015 to 31st Aug 2015.	122 St 203	27-Jul-15	F. NO. 328/08/2015- WT	Wealth tax assesseees
25	India and USA signs Inter Governmental Agreement (IGA) to implement FATCA	122 ST 11	09-Jul-15	PIB Press Release	All
26	Clarification on scope of inquiry in the course of grant of approval/exemption under sec 10(23C)(vi) of IT Act,1961.	123 St 281	17-Aug-15	14 of 2015	Educational Institutions
27	Agreement between India and San Marino for the exchange of information	123 St 294	12-Aug-15	63 of 2015	Residents having assets/finan cial interests in San Marino Jurisdiction
28	Compulsory manual selection of cases for scrutiny during FY 2015-16	124 St 121	31-Aug-15	Instruction No. 8	All
29	Report on applicability of MAT on FIIS/FPIs for the period prior to 01.04.2015 and acceptance of the Government thereof: It is placed on record that Government accepts Justice A P Shah Committee recommendation that sec 115JB of the Income tax	124 St 122	02-Sep-15	Instruction NO. 9	FII/ FPI

	Act, 1961 may be amended to clarify the inapplicability of the provision of sec 115JB to FIIs/FPIs having no permanent establishment / place of business in India for the period prior to 01.04.2015.				
30	Clarification on Tax Compliance for Undisclosed Foreign Income and Assets.	124 St 123	03- Sep -15	15 of 2015	All
31	Extension of due date of filing of return of wealth for AY 2015-16 : Vide this Circular the 'due date' for filing return of wealth by assesseees for assessment year 2015-16 is extended from 31st August 2015 to 7th September 2015.	124 St 137	04- Sep -15	Letter F No. 328/08/2015- WTJ	Wealth Tax Assesseees
32	Clarifications on application of compounding guidelines under Income-Tax Act, 1961/ Wealth-tax Act,1957 in cases of persons holding undisclosed foreign bank accounts/assets	124 St 137	04- Sep -15	F No. 285/90/2013 IT (Inv-V)	All
33	Extention of date of filing of return in Gujarat till September 7, 2015 who were required to e-file their returns by 31st August 2015	124 ST 135	31- Aug -15	Order	Gujarat Assessee's

34	All across extension of date of filing of return till September 7, 2015 of assessee's who were required to e-file their returns by 31st August 2015	124 ST 135	02- Sep -15	Order	All
35	Guidelines Notes on implementation of reporting requirements under rules 114F to 114H of the Income-tax Rules, 1962 about account holders having financial assets in India but resident in other countries, under IGAs and MCAA	125 St 73	31- Aug -15	F No. 500/137/2011- FTTR-III	FIs, Banks, depositories, Specified Insurance companies, Investment entities, NPS trusts,
36	Cases involving SDT shall be handled by the TPOs working under CIT (TP).	125 ST 18	16- Sep -15	Instruction No 11	All
37	Revised jurisdiction of the Income-tax authorities in respect of Dossier cases	125 St 17	16- Sep -15	Instruction No. 10	-
38	Refunds-Custody of refund vouchers: All manual refunds up to Rs. 1 Lakh are to be issued with the approval of Range Head, and in cases involving refund amount of more than 1 Lakh with the approval of Pr. CIT/CIT. In view same board has directed that refund vouchers should be	125 St 18	17- Sep -15	Instruction No. 12	-

	responsible for the safe custody and proper use of the refund vouchers.				
39	Agricultural land criteria-method of measuring the distance from the municipality is to be by shortest road distance for periods up to A Y 2013-14. Effective A Y 2014-15 the measurement of distance will be made on aerial basis.	125 St 19	06- Oct -15	Instruction No. 17	All
40	Instruction No. 14 of 2015; Framing of scrutiny assessments in cases of assessee engaged in the business if Mining.	126 St 1	14- Oct -15	-	All
41	Use of email based communication for paperless assessment proceedings; CBDT has decided to initiate the concept of using email for corresponding with taxpayers and sending through emails the questionnaires, notice etc at the time of scrutiny proceeding and getting responses from them using the same medium on a pilot	126 St 2	19- Oct -15	-	All

	basis. This would eliminate the necessity of visiting the Income tax offices by the taxpayers is able to provide details required by the AO without necessitating his physical presence.				
42	Interest from Non-SLR securities of banks.	126 St 65	02- Nov -15	18 of 2015	All
43	Following the prescribed time limit in passing order under section 12AA of the Income tax Act,1961 : It is stressed that time limit of six months must be followed in granting or refusing registration failing which suitable administrative action will be taken.	127 St 17	06- Nov -15	Instruct No. 16	Charitable Institutions
44	Constitution of Local Committees to deal with taxpayers grievances from high-pitched scrutiny assessment: Such committees will be set up even for the subject of international tax, exemptions charges of Pr. CIT in addition to constitution in each Pr. CCIT region.	127 St 9	09- Nov -15	Instruct No. 17	All

45	Draft Guiding Principles for determination of Place of Effective Management of a Company-a company would be said to be resident in India in any previous year, if it is an Indian company or its Place of Effective Management in that year is in India.	-	23- Dec -15	Press Release	All
46	Income-Tax Deduction from salaries during the financial year 2015-16 under section 192 of the Income-tax act, 1961.	-	02- Dec -15	C/N 20	Salaried Assessee
47	Revision of monetary limits for filing of appeals by the department before ITAT and HC and SLP before SC – Measures for reducing litigation.	-	10- Dec -15	C/N 21	General
48	Allowability of employer's contribution of funds for the welfare of employees in terms of section 43B(b) of the Income Tax Act.	-	17- Dec -15	C/N 22	Profession & Business
49	Agreement between India and Macedonia for the double taxation and the prevention of fiscal evasion with respect to taxes on income.	-	21- Dec -15	N/N 94	India & Macedonia

50	Interest on FDRs made in the name of Registrar General of the Court or the depositor of the fund on the directions of the Court, will not be subject to TDS till the matter is decided by the Court	-	28-Dec-15	C/N 23	-
51	Scrutiny cases- The initial notice issued under section 143(2) should itself be accompanied with the questionnaire containing details of specific documents/information/evidences etc. that are required to be furnished	-	29-Dec-15	Instruction No.19	-
52	Scrutiny cases- where the AO proposes to make additions or disallowances, the assessee would be given a fair opportunity to explain his position on the proposed additions/disallowances in accordance with the principle of natural justice	-	29-Dec-15	Instruction No.20	-
53	Conduct of scrutiny assessments selected through CASS- two type of cases have been selected for scrutiny in the current Financial Year – one is 'Limited Scrutiny' and other is Complete Scrutiny'. The assessee concerned have duly been intimated about their cases falling either in 'Limited Scrutiny' or 'Complete Scrutiny' through	-	29-Dec-15	Instruction No.20	-

	notices issued under section 143(2).				
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VII. 15 CA/ CB new procedure

CBDT has made a 21st amendment with notification no. 93/2015 dated 16 December 2015 making changes in rule 37BB and notified new forms 15CA, 15CB and 15CC.

Compliance Procedure for Furnishing of information in respect of payment to Non-Residents

1. Class of payment and necessary compliance

S. No.	Class of Payment	Amount of Payment	Compliance
1	When the remittance is chargeable to tax under the provisions of the Income-tax Act, 1961 and other than 2, 3, 4 and 5 below	Amount is less than Rs 5 lakh (<5 Lac)	15 CA Part A upload by remitter.
2	When the remittance is chargeable to tax under the provisions of the Income-tax Act, 1961 and an order/ certificate u/s 195(2)/ 195(3)/ 197 of Income-tax Act has been obtained from the AO- International Tax.	Amount is less than Rs 5 lakh (<5 Lacs)	15 CA Part B upload by remitter.
3	Where the remittance is chargeable to tax under the provisions of the Income-tax Act, 1961 and no order/ certificate u/s 195(2)/ 195(3)/ 197 of Income-tax Act is available.	Amount is more than Rs 5 lakh (>5 Lacs)	15 CA Part C upload by remitter after obtaining a certificate in Form No. 15CB from a CA
4	Where the remittance is not chargeable to tax under the provisions of the Income-tax	Any Amount	15 CA Part D upload by remitter after obtaining a certificate in Form No.

	Act, 1961		15CB from a CA
5	Exempted *	N.A	Zero Compliance.

2. Exemptions

Category I

No Form 15CA and 15CB will be required to be furnished for following class of remittances by an individual:

- i. Private visits to any country (except Nepal and Bhutan).
- ii. Gift or donation.
- iii. Going abroad for employment.
- iv. Emigration.
- v. Maintenance of close relatives abroad.
- vi. Travel for business, or attending a conference or specialised training or for meeting expenses for meeting medical expenses, or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/ check-up.
- vii. Expenses in connection with medical treatment abroad.
- viii. Studies abroad.
- ix. Any other current account transaction

Category II- List extended from 28 to 33 categories

Sl. No.	Purpose code as per RBI	Nature of payment
(1)	(2)	(3)
1	S0001	Indian investment abroad-in equity capital (shares)
2	S0002	Indian investment abroad-in debt securities
3	S0003	Indian investment abroad-in branches and wholly owned subsidiaries
4	S0004	Indian investment abroad-in subsidiaries and associates
5	S0005	Indian investment abroad-in real estate
6	S0011	Loans extended to Non-Residents
7	S0101	Advance payment against imports

8	S0102	Payment towards imports-settlement of invoice
9	S0103	Imports by diplomatic missions
10	S0104	Intermediary trade
11	S0190	Imports below ₹ 5,00,000-(For use by ECD offices)
12	S0202	Payment for operating expenses of Indian shipping companies operating abroad.
13	S0208	Operating expenses of Indian Airlines companies operating abroad
14	S0212	Booking of passages abroad – Airlines companies
15	S0301	Remittance towards business travel.
16	S0302	Travel under basic travel quota (BTQ)
17	S0303	Travel for pilgrimage
18	S0304	Travel for medical treatment
19	S0305	Travel for education (including fees, hostel expenses etc.)
20	S0401	Postal services
21	S0501	Construction of projects abroad by Indian companies including import of goods at project site
22	S0602	Freight insurance – relating to import and export of goods
23	S1011	Payments for maintenance of offices abroad
24	S1201	Maintenance of Indian embassies abroad
25	S1202	Remittances by foreign embassies in India
26	S1301	Remittance by non-residents towards family maintenance and savings
27	S1302	Remittance towards personal gifts and donations
28	S1303	Remittance towards donations to religious and charitable institutions abroad
29	S1304	Remittance towards grants and donations to other Governments and charitable institutions established by the Governments
30	S1305	Contributions or donations by the Government to international institutions
31	S1306	Remittance towards payment or refund of taxes
32	S1501	Refunds or rebates or reduction in invoice value on account of exports
33	S1503	Payments by residents for international bidding.

3. Core Compliance
15 CA- Part A

- ✓ Where the remittance is chargeable to tax under the provisions of the Income-tax Act, 1961.
- ✓ Amount of payment to non-resident is less than Rs 5 lakh.
- ✓ Non DTAA Case.

15 CA- Part B

- ✓ Where the remittance is chargeable to tax under the provisions of the Income-tax Act, 1961.
- ✓ An order/ certificate u/s 195(2)/ 195(3)/ 197 of Income-tax Act has been obtained from the AO- International Tax.
- ✓ Amount of payment to non-resident is less than Rs 5 lacs.
- ✓ Non DTAA Case.

15 CA- Part C

- ✓ Where the remittance is chargeable to tax under the provisions of the Income-tax Act, 1961.
- ✓ Amount of payment to non-resident is more than Rs 5 lacs.
- ✓ DTAA Applicable.

15 CA - Part D

- ✓ Where the remittance is not chargeable to tax under the provisions of the Income-tax Act, 1961.
- ✓ Non DTAA Case.
- ✓ Independent view/opinion held by the remitter.
- ✓ Examples such as pure costs reimbursements, amounts payable under exclusionary clauses u/s 9.

4. Penalty

A penalty of INR 1,00,000 would be levied for non-furnishing of information or furnishing of incorrect information in Form 15CA.

5. Purpose Code

As per Annexure II enclosed

6. Inference

A person making a remittance to a Non Resident or a Foreign Company has to submit Form 15CA. This form is submitted online. The existing Form 15 CA of two parts is now made into four parts. Part A remains exempted category with widened scope; Part B of existing Form is now divided into two parts namely Part B and Part C including the remittances requiring tax deduction as per the upper limits of remittances and new Part

D is introduced to report the remittances not requiring tax deduction as not being chargeable under the Act.

In some cases, a certificate from a Chartered Accountant in Form 15CB is required before uploading Form 15CA online. Form 15CB is the Tax Determination Certificate where a Chartered Accountant determines the taxability of the remittance as per Income tax Act along with the provisions of Double Tax Avoidance Agreement with the Recipient's Residence Country. If the remittance is taxable, then the same shall be remitted only after deduction of withholding tax (i.e. TDS). Part C of 15 CA categorically requires 15 CB from an accountant as defined in the *Explanation* below sub-section (2) of section 288 but obtainability of 15 CB from a CA for Part D of Form 15 CA cannot be ruled out as CA (accountant) is the tax determination center and chargeability or non-chargeability to tax can solely be determined by a CA. Reference can be made to the decision of the Karnataka High Court. The Karnataka High Court in CIT v. Filtrex Technologies (P) Ltd. (2015) 232taxmann811/126DTR (Kar) 221 held that no penalty is leviable in regard to a disallowance u/s 40(a)(ia) where the assessee acting on the advice of the Chartered Accountant did not deduct tax on payments to a non-resident. In this case the Chartered Accountant has given a certificate to the effect that the assessee is not required to deduct tax at source while making the payment to Singapore party. Further, Clause 8 (i) & (ii) of the new 15 CB clearly requires disclosure as to whether the remittance is chargeable to tax and if not the reasons thereof.

It should be noted that even in cases, where Form 15CB is not required to be filed, Form 15CA has to be mandatorily furnished by the remitter before making the foreign remittance in all cases

VIII. BIBLIOGRAPHY

1. DTR publications
2. Incometaxindia.gov.in
3. itatonline.org

Annexure II

NEW PURPOSE CODES FOR REPORTING FOREX TRANSACTIONS PAYMENT PURPOSES

Gro up No.	Purpose Group Name	Purpose Code	Description
00	Capital Account	S0001	Indian investment abroad -in equity capital (shares)
		S0002	Indian investment" abroad -in debt securities
		S0003	Indian investment abroad -in branches
		S0004	Indian investment abroad -in subsidiaries and associates
		S0005	Indian investment abroad -in real estate
		S0006	Repatriation of Foreign Direct Investment in India- in equity shares
		S0007	Repatriation of Foreign Direct Investment in India- in debt securities
		S0008	Repatriation of Foreign Direct Investment in India- in real estate
		S0009	Repatriation of Foreign Portfolio Investment in India- in equity shares
		S0010	Repatriation of Foreign Portfolio Investment in India- in debt securities
		S0011	Loans extended to Non-Residents
		S0012	Repayment of loans received from Non-Residents (Long & medium term loans)
		S0013	Repayment of short term loans received from Non-Residents
		S0014	Repatriation of Non-Resident Deposits (FCNRB/N.RERA etc)
		S0015	Repayment of loans & overdrafts taken by Ads on their own account
		S0016	Sale of a foreign currency against another foreign currency

		S0017	Purchase of intangible assets like patents, copyrights, trade marks etc.
01	Imports	S0018	Other capital payments not included Elsewhere
		S0101	Advance payment against imports
		S0102	Payment towards imports- settlement of Invoice
		S0103	Imports by diplomatic missions
		S0104	Intermediary trade
		S0190	Imports below Rs. 500,000- (For use by ECD offices
02	Transportation	S0201	Payments for surplus freight/passenger fare by foreign shipping companies operating in India.
		S0202	Payment for operating expenses of Indian shipping companies operating abroad
		S0203	Freight on imports - Shipping companies
		S0204	Freight on exports - Shipping companies
		S0205	Operational leasing (with crew) -Shipping companies
		S0206	Booking of passages abroad -Shipping companies
		S0207	Payments for surplus freight/passenger fare by foreign Airlines companies operating in India,
		S0208	Operating expenses of Indian Airlines companies operating abroad
		S0209	Freight on imports - Airlines companies
		S0210	Freight on exports - Airlines companies
		S0211	Operational leasing (with crew) -Airlines companies
		S0212	Booking of passages abroad - Airlines companies
		S0213	Payments on account of stevedoring, demurrage, port handling charges etc.
03	Travel	S0301	Remittance towards Business travel.
		S0302	Travel under basic travel quota (BTQ)
		S0303	Travel for pilgrimage
		S0304	Travel for medical treatment
		S0305	Travel for education (including fees, hostel expenses etc.)
		S0306	Other travel (international credit cards)
04	Communication Service	S0401	Postal services
		S0402	Courier services
		S0403	Telecommunication services
		S0404	Satellite services
05	Construction Service	S0501	Construction of projects abroad by Indian companies including import of goods at project site

		S0502	Payments for cost of construction etc. of projects executed by foreign companies in India.
06	Insurance Service	S0601	Payments for Life insurance premium
		S0602	Freight insurance - relating to import & export of goods
		S0603	Other general insurance premium
		S0604	Reinsurance premium
		S0605	Auxiliary services (commission on insurance)
		S0606	Settlement of claims
07	Financial Services	S0701	Financial intermediation except investment banking - Bank charges, collection charges, LC charges, cancellation of forward contracts, commission on financial leasing etc.
		S0702	Investment banking - brokerage, underwriting commission etc.
		S0703	Auxiliary services - charges on operation & regulatory fees, custodial services, depository services etc.
08	Computer & Information Services	S0801	Hardware consultancy
		S0802	Software implementation/consultancy
		S0803	Data base, data processing charges
		S0804	Repair and maintenance of computer And software
		S0805	IT agency services
		S0806	Other information services-Subscription to newspapers, periodicals
09	Royalties & License Fees	S0901	Franchises services - patents, copyrights, trade marks, industrial processes, franchises etc.
		S0902	Payment for use, through licensing arrangements, of produced originals or prototypes (such as manuscripts and films)
10	Other Business Services	S1001	Merchandising services –net payments (from Sale & purchase of goods without crossing the border).
		S1002	Trade related services - commission on exports / imports

		S1003	Operational leasing services (other than financial leasing) without operating crew,including charter hire
		S1004	Legal services
		S1005	Accounting, auditing, book keeping and tax consulting services
		S1006	Business and management consultancy and public relations Services
		S1007	Advertising, trade fair, market research and public opinion polling Service
		S1008	Research & Development services
		S1009	Architectural, engineering and other technical services
		S1010	Agricultural, mining and on-site processing services - protection against insects & disease,increasing of harvest yields, forestry services,mining services like analysis of ores etc.
		S1011	Payments for maintenance of offices Abroad
		S1012	Distribution services
		S1013	Environmental services
		S1019	Other services not included elsewhere
11	Personal, Cultural & Recreational services	S1101	Audio-visual and related services -services and associated fees related to production of motion pictures, rentals, fees received by actors,directors, producers and fees for distribution rights.
		S1102	Personal, cultural services such as those related to museums, libraries, archives and sporting activities; fees for correspondence courses abroad.
12	Government not include elsewhere (G.n.i.e.)	S1201	Maintenance of Indian embassies abroad
		S1202	Remittances by foreign embassies in India
13	Transfers	S1301	Remittance by non-residents towards family maintenance and savings

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