FOR DEPARTMENTAL USE ONLY

The Tributum

(Income-tax Judgments of Hon'ble Gujarat High Court in favour of Revenue)

Compiled by
Chandra Prakash Bhatia, IRS

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(A Brief Collection of Citations of Income Tax judgments of Hon’ble Gujarat High Court in favour of Revenue)

“No matter what anyone may say about making the rich and the corporations pay taxes, in the end they come out of the people who toil” — Calvin Coolidge

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EVERY POSSIBLE PRECAUTION HAS BEEN TAKEN IN SELECTION OF RELEVANT CASE LAWS, SECTIONS AND KEY WORDS. CHANCES OF INADVERTENT ERRORS ARE POSSIBLE. READERS ARE ADVISED TO REFER TO THE ORIGINAL TEXTS OF THE RELEVANT CASE LAWS/JUDGMENTS/ORDERS, THE STATUS OF REVIEW PETITION FILED (IF ANY) AND SLP PREFERRED BEFORE HON'BLE SUPREME COURT BEFORE TAKING ANY ACTION OR FOLLOW UP OF LEGAL PROCEEDINGS. EDITOR OF THIS BOOK WILL NOT BE LIABLE FOR ANY LOSS INCURRED IN THIS REGARD.

FOR THE SAKE OF CONVINIENCE, CASES RELATED TO DIRECT TAXES, OTHER THAN INCOME TAX HAVE BEEN OMITTED. CARE HAS BEEN TAKEN TO INCLUDE THE CASES RELATED TO SECTIONS ON STATUTE AND THEIR PRESENT RELEVANCE. PRESENT VOLUME COVERS IMPORTANT JUDGMENTS DELIVERED UP TO 30/06/2018.

Front Cover –Office of the Principal Chief Commissioner, Gujarat- at Ashram Road, Ahmedabad, Photo Courtesy Sri K C Unnikrishnan, ITO. Ahmedabad.

Back- The City of Amadavath (Ahmedabad), Drawing by Dutch traveller Father Philippus Baldaeus based on description of city around 1672. Appeared in his original Dutch book 'A true and Exact Description of the Most Celebrated East-India Coast of Malabar and Coromandel and Also of the Isle of Ceylon', later published in English.

सत्यमेव जयते

अजय दास मेहरोत्रा, भा.रा.से.
AJAI DAS MEHROTRA, I.R.S.

प्रधान मुख्य आयकर आयुक्त, गुजरात
आयकर भवन, आश्रम रोड, नवरंगपुरा, अहमदाबाद-३८० ००९.
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MESSAGE

I extend my good wishes to Sri Chandra Prakash Bhatia, Joint Commissioner, for bringing out a compilation of major judgments/Orders delivered by the Hon'ble Gujarat High Court in favour of Revenue over the years. It will be very helpful to our Officers in their day-to-day working.

As a quasi-judicial authority, we have a duty to collect taxes for the Government, however, we are bound to collect the exact tax, not a rupee less and not a rupee more than what is legally enforceable. The present compilation will serve as a guide to understand the correct legal interpretations of the Statute.

I tend to agree with the view of great Economist Adam Smith, who once said – "Little else is requisite to carry a state to the highest degree of opulence but peace, easy taxes and a tolerable administration of justice".

I hope that the officers of our Department will gain immensely from this compilation.

Place: Ahmedabad
Date: 07.02.2019

(AJAI DAS MEHROTRA)
Principal Chief Commissioner of
Income Tax, Gujarat, Ahmedabad

DEDICATED TO THE TAXPAYERS OF GUJARAT

ABBREVIATIONS USED

Sl	Items	Abb. form
1	Additional Commissioner of Income Tax	Addl CIT
2	Additional Director of Income Tax	Addl DIT
3	Assessing Officer	AO
4	Assessment Year	AY
5	Assistant Commissioner of Income Tax	ACIT
6	Assistant Director of Income Tax	ADIT
7	Chief Commissioner of Income Tax	CCIT
8	Commissioner of Income Tax	CIT
9	Commissioner of Income Tax (Appeals)	CIT(A)
10	Criminal Appeal	CA
11	Cross Objection	CO
12	Departmental Representative	DR
13	Deputy Commissioner of Income Tax	DCIT
14	Deputy Director of Income Tax	DDIT
15	Director General of Income Tax	DGIT
16	Director of Income Tax	DIT
17	Gujarat	Guj
18	High Court	HC
19	Income Tax Act 1961	IT Act
20	Income Tax Appeal	ITA
21	Income Tax Appellate Tribunal	ITAT
22	Income Tax Officer	ITO
23	Income Tax Rules 1962	IT Rule
24	Income Tax Settlement Commission	ITSC
25	Joint Commissioner of Income Tax	JCIT
26	Joint Director of Income Tax	JDIT
27	Long Term Capital Gains	LTCG
28	Miscellaneous Application	MA
29	Principal Chief Commissioner of Income Tax	PCCIT
30	Principal Commissioner of Income Tax	PCIT
31	Principal Director of Income Tax	PDIT
32	Short Term Capital Gains	STCG
33	Special Civil Application	SCA
34	Special Leave Petition	SLP
35	Supreme Court	SC
36	Tax Appeal	TA
37	Tax Recovery Officer	TRO
38	Tax Deduction at Source	TDS
39	Transfer Pricing	TP
40	Under Section	U/s
41	Union of India	UOI
42	Wealth Tax Act 1957	WT Act
43	Writ Petition	WP

<u>CHAPTERWISE INDEX TO THE CASES</u>

DECESIONS OF HON'BLE GUJARAT HIGH COURT IN FAVOUR OF REVENUE (INCOME TAX CASES)

Sl.	Income Tax section	Related Sections	Key Words	Summary of the Order/judgment
1	2(1A)	260A	Agricultural Income	Kalpataru Agro Farms *v.* ITO, Ward -1 TAX APPEAL NO. 445 OF 2011 Where all three authorities (AO and Appellate) found that assessee's claim of income having been generated from agricultural operations was not believable and treated such income as assessee's undisclosed income, no question of law arise [2014[45 Taxmann.com 418(Gujarat)
2	2(1A)	45	Agricultural Income Capital gains	Sajjansinh N. Chauhan *v.* ITO TAX APPEAL NOS. 376 AND 377 OF 1999 AND CIVIL APPLICATION NO. 287 OF 2006 Section 2(1A) of the Income-tax Act, 1961 - Agricultural income Section 45 of the Income-tax Act, 1961 - Capital gains - Chargeable as [2012] 25 Taxmann.com 105 (Gujarat)
3	2(14)		STCL	*Patel Brass Works* v. *CIT* IT REFERENCE NO. 61 OF 1995 Manufacturer assessee paid earnest money for supply of machinery but decided not to expand. Asked for a refund, supplier deducted cancellation charges. Assessee claimed short term loss, refused by AO. As assessee was not holding any capital asset, it could not be said that there was transfer of any capital asset - Assessee was not entitled to deduction of cancellation charges as short-term capital loss. [2007] 163 Taxman 279 (Gujarat)
4	2(14)		Asset Writ	Ambalal Maganlal *v.* UOI SPECIAL CIVIL APPLICATION NO. 759 OF 1971 Whether it was competent for Parliament to

				enact section 2(14)(iii) so as to provide for tax on capital gains arising from sale of agricultural lands - Held, yes – Whether, therefore, section 2(14)(iii) is not violative of Article 14 of Constitution - Held, yes [1975] 98 ITR 237 (Gujarat)
5	2(14)	5	Accrual of income Chargeability	Sureshchandra M. Shah *v.* ACIT TAX APPEAL NO. 873 OF 2013 Interest from investment in Kisan Vikas Patra is taxable on accrual basis [2014] 45 taxmann.com 490 (Gujarat)
6	2(14)	147	Capital asset Reopening of assessment	Thakorbhai Maganbhai Patel *v.* ITO SPECIAL CIVIL APPLICATION NO. 4756 OF 2016 Where assessee claimed his land to be an agricultural land on basis of fake certificate, order of reopening of assessment could not be quashed [2016] 74 Taxmann.com 225 (Gujarat)
7	2(14)	2(45)	STCG	Patel Brass Works v. CIT IT REFERENCE NO. 61 OF 1995 Whether only right that assessee had, till point of time it cancelled contract was to seek performance of contract from its suppliers and same could not be termed to be a capital asset - Held, yes - Whether since assessee was not holding any capital asset, it could be said that there was transfer of any capital asset - Held, no - Whether, therefore, assessee was not entitled to deduction of Rs. 80,000 as short-term capital loss - Held, yes [2007] 163 Taxman 279 (Gujarat)
8	2(15)	10(22) 11(1)(a)	Charitable Purpose Exempt income	Saurashtra Education Foundation *v.* CIT IT REFERENCE NO. 91 OF 1987 Educational institution which is recognised by any competent authority and imparts formal education systematically and has control over its trainees, is eligible for exemption under section 10(22) of IT Act (2004) 141 Taxman 26 [Guarat]
9	2(15)	64(1) 147	Step children Clubbing of income	CIT *v.* Abdul Rahim Khan M. Pathan IT REFERENCE NO. 243 OF 1984 Children include step children for provisions of section 64(1)(iii) , AO can reopen the case if

			Reopening	income of step children not included. (2002) 123 Taxman 196 (Gujarat)
10	2(18)		Company in which public is substantively interested	CIT *v.* Light Publication Ltd. IT REFERENCE NOS. 369 OF 1984, 135 OF 1985 AND 39 OF 1986 Shares of company not freely transferrable as per articles of association, it would be non obedience of section 2(18)(b)(B) leaving it neither a public limited company nor was it a company in which public were substantially interested, even though it had become a public company by virtue of provision of section 43A of the Companies Act, 1956. [2001] 119 Taxman 1006 (Gujarat)
11	2(22)(e)		Deemed dividend Accumulated profit	CIT *v.* Mayur Madhukant Mehta IT REFERENCE NO. 3 OF 1968 Loan was provided to assessee shareholder by company in which public were not substantially interested - Said loan exceeded accumulated profits of company - Whether to the extent of accumulated profits, entire payment made by company and not merely proportionate to shareholdings of assessee shareholder should be deemed to dividend in hands of shareholder - Held, yes [1972] 85 ITR 230 (Gujarat)
12	2(22)(e)	147	Deemed dividend Reopening	Sunrise Broking (P.) Ltd. *v.* ITO SPECIAL CIVIL APPLICATION NO. 19091 OF 2016 Where assessee claimed that no amount could be taxed in its hands as deemed dividend if it was not a shareholder of payee company but had not disputed other conditions of section 2(22)(e), return of assessee was accepted without scrutiny, reassessment was justified [2017] 86 Taxmann.com 149 (Gujarat)
13	2(22)(e)	194	Deemed dividend	Ravindra D. Amin *v.* CIT I.T. REFERENCES NOS. 360 AND 347 OF 1980 Whether if payment which is made by company to a shareholder is in nature of advance or loan or if payment is made to a third party on behalf of a shareholder or for his benefit, then there should not be any difficulty in treating that payment as dividend in hands of shareholder and

				deducting tax there from - Held, yes - Whether section 194 can have application in a case where advance or loan is given by company to its shareholders in middle of accounting year or where such loan or advance is given not voluntarily and at instance of shareholder but because of an order of court - Held, yes . [1994] 208 ITR 815 (Gujarat)
14	2(24)	56	Mutual concern Other sources	CIT *v.* Shree Jari Merchants Association IT Reference No 82 of 1972 A registered trade union was 'mutual concern' and annual subscription received by it from its members did not fall within ambit of definition of word 'income'. If at time of its dissolution its surplus was liable to be distributed amongst non-members, not liable to be returned to members, identity of contributors with recipients would be lost, mitigating against principle of mutuality - Held, yes. If it is no more a mutual concern, subscription could not be charged to tax under head 'profits and gains of business or profession' under head 'income from other sources'. [1977] 106 ITR 542 (Gujarat).
15	2(28A)	195	Interest Income TDS	CIT *v.* Vijay Ship Breaking Corporation TAX APPEAL NOS. 128, 129, 195 TO 199, 257 TO 259, 273, 285, 286, 299, 300, 348, 359 TO 362, 374 TO 377 AND 380 TO 385 OF 2002 AND 22 AND 23 OF 2003 Whether usance interest paid by buyer on unpaid purchase price by means of irrevocable letter of credit would fall within scope of definition of term ‘interest’ under section 2(28A) - Held, yes Whether even if sum payable to non-resident received outside India from intermediatory bank, such sum was liable to withholding under section 195 - Held, yes - Whether when price of ship and interest thereon were calculated separately and assessee paid custom duty on purchase price of ship excluding interest, still liability to withhold tax u/s 195 - Held, yes [2003] 129 Taxman 120 (Gujarat) **Reversed by SC in (2008) 175 Taxman 77 (SC**).

16	2(42A)	263	Short term capital asset Investment Stock in trade	Cambay Investment Corporation Ltd. *v.* DCIT, TAX APPEAL NO. 240 OF 2006 Where shares purchased were shown as stock-in-trade until these were converted into investment by Board resolution on 31-3-1993, on sale of these shares, capital gains would be computed and relevant date of acquisition would be 31-3-1993 [2016] 73 taxmann.com 124 (Gujarat)
17	2(42A)	45	Short term capital asset Capital gains	Smt. Sanatkumar Jayantilal *v.* CIT IT REFERENCE NO. 304 OF 1981 Whether though bonus shares would be issued out of accumulated profit, said accumulated profits reach in hands of shareholders only on date when bonus shares are issued - Held, yes – Whether, therefore, relevant date for determination of capital asset, as provided under section 2(42A) would be date on which bonus shares are issued to shareholders and their issue would not relate back to date of holding of original shares - Held, yes [1995] 211 ITR 755 (Gujarat)
18	2(47)	45	Transfer in relation to capital asset Capital gains Leasehold property	CIT *v.* Hormasji Mancharji Vaid IT REFERENCE NO. 116 OF 1982 Assessee executed lease-deed in assessment year 1974-75 but presented document before sub-Registrar and got registration completed in assessment year 1975-76 - Whether for purpose of capital gains under section 45 transfer is effected when lease is executed rather than when it is registered - Held, yes [2001] 118 Taxman 276 (Gujarat)
19	2(47)	45	Transfer	CIT *v.* Leena A. Sarabhai IT REFERENCE NO. 351 OF 1980 The assessee contributed various shares of companies held by her as capital contribution to a firm and recorded entries in her books of account that shares were converted into stock-in-trade - Whether transaction in question amounted to transfer within meaning of section 2(47) and Tribunal was not justified in taking a

				contrary view - Held, yes - Whether since finding of Tribunal on transfer could not be sustained and it had not decided as to whether transfer was with or without consideration, matter was to be sent back to Tribunal for reconsideration - Held, yes [1987] 35 Taxman 359 (Gujarat)
20	2(47)	45	Capital gains	Kartikeya V. Sarabhai/Smt. Bhartidevi Sarabhai *v.* CIT When a company reduces its share capital by paying off a part of paid up capital in exercise of powers under section 100(1)(c) of the companies Act, does it result in extinguishment of right of shareholders to the extent of reduction of face value of shares - Held, yes - Whether any profits or gains arising from such extinguishment are chargeable to income-tax under section 45 - held, yes [1982] 8 Taxman 214 (Guj). **Affirmed by SC in (1997) 94 Taxman 164 (SC)**.
21	2(47)		Capital gains Transfer Liquidation of Company	Bijal Investment Co. (P.) Ltd. *v.* ITO TAX APPEAL NO. 827 OF 2006 No transfer under section 2(47) as shares were transferred during liquidation without relevant approval under Companies Act [2016] 72 Taxmann.com 243 (Gujarat)
22	2(47)	45	Capital gains	Anarkali Sarabhai *v.* CIT Assesses held certain preference shares in a company bought by it at less than their face value—company redeemed these shares and paid to assesses an amount equal to face value of these shares—whether redemption of assessee's shares by company would result in extinguishment of rights of assessee and hence amount to 'transfer' within the meaning of section 2(47) so that assessee was liable to pay capital gains tax arising out of such redemption—held, on facts, yes [1983] 12 Taxman 120 (Gujarat) **SC affirmed it in (1997) 94 Taxman 164 (SC)**
23	2			See One more case at Sl. 7
24	4	147	Chargeability	Sun Pharmaceuticals Industries Ltd. *v.* ACIT SPECIAL CIVIL APPLN NO. 17781 & 18698 OF 2011

			Reassessment	Where elaborate reasons had been recorded by AO which demonstrated how prima facie it could be shown that technology developed by assessee through use of its research and development facilities was routed through shell companies to avoid payment of tax, same could form basis for reopening of assessment [2016] 75 Taxmann.com 212 (Gujarat)
25	4		Chargeability	Ajanta Transistor Clock Mfg. Co. *v.* DCIT, SPECIAL CIVIL APPLICATION NO. 17105 OF 2015 Where assessee's royalty income was taxed substantially in assessment year 1996-97 and protectively in assessment year 1997-98 and on assessee's request, Tribunal deleted protective assessment for assessment year 1997-98 holding that assessee having offered such income in AY 1996-97, same income could not be taxed in assessment year 1997-98 even on protective basis and adjusted refund resulted in assessment year 1997-98 against demand for assessment year 1996-97, on basis of said order of Tribunal, assessee could not claim refund of entire tax, as Tribunal had not decided issue of taxability of royalty in its order. [2017] 88 Taxmann.com 453 (Gujarat)
26	4		Chargeability Subsidy	JCIT (Asstt) *v.* Colourman Dyechem (P.) Ltd. TAX APPEAL NO.1240 OF 2006 For assessment year 1996-97 subsidy received by assessee in installments after commencement of production and subject to condition of increase in production over existing capacity would be treated as revenue receipt [2015] 63 Taxmann.com 138 (Gujarat)
27	4	37(1) 28(i)	Diversion of income Allowable expenditure	CIT, Gujarat-I, Ahmedabad *v.* Mehsana Distt. Co-op. Milk Producers' Union Ltd. IT REFERENCE NO. 65 OF 1997 Assessee claimed that there was diversion of income at source and, therefore, amount transferred to reserve fund account was not an income liable to tax - Whether when society was in a position to use funds lying in reserve, it was not liable to be taxed - Held, no. Whether amount transferred to reserve fund

				account could be treated as a business expenditure deductible under section 28(i) or section 37 - Held, no [2009] 176 Taxman 416 (Gujarat)
28	4	37(1)	Diversion of income Allowable expenditure	Mehsana District Co-op. Milk Producers' Union Ltd. *v.* CIT, Gujarat-I IT REFERENCE NO. 72 OF 1997 Whether in view of decision in assessee's own case in order dated 10-3-2008, Tribunal was right in holding that amount transferred to Reserve Fund Account as per provisions of section 67 of Gujarat Co-operative Societies Act, 1961, was not a diversion of income at source by overriding title - Held, yes Whether in view of decision in assessee's own case, Tribunal was right in holding that transfer to reserve fund could not be treated as a business expenditure - Held, yes [2009] 177 Taxman 70 (Gujarat)
29	4		HUF Reconstitution of firm	Hemantkumar Chimanlal *v.* CIT IT REFERENCE NO. 476 OF 1980 A partner in firm in individual capacity up to 30-10-1970 - introduced himself as partner of firm in capacity of karta of HUF in place of his individual capacity on 31-10-1970 by book entries passed in account books of firm and HUF for converting amount standing to credit' with firm into capital of HUF - By a tripartite agreement between individual, HUF and firm, HUF brought in more assets which were not only to be treated as assets of firm but income arising therefrom was also to be treated as income of firm – Whether firm was entitled to claim that, with effect from 31-10-1970, share of income received from partnership was to be assessed in hands of HUF and not in his hands in his capacity as an individual - Held, yes [1995] 80 Taxman 521 (Gujarat)
30	4	64(1)(ii)	Chargeability Transfer	CIT *v.* Ramanlal Nagindas Shah IT REFERENCE NO. 27 OF 1980 (REFERENCE APPLICATION NO. 138 (AHD.) OF 1979) Whether income properly allocated on partition to a single coparcener of a HUF, who has female members in family, is assessable in his hands of

				HUF - Held, yes Whether when assessee is partner in firm in representative capacity as karta of his HUF share income of his wife or minor son from firm can be clubbed with his income - Held, no [1992] 64 Taxman 74 (Guj)
31	4		Chargeability HUF	CIT *v.* N.D. Mehta. IT REFERENCE NO. 165 OF 1979 Whether incidents of coparcenary property did not attach to self-acquired property of deceased which devolved on assessee-widow - Held, yes - Whether she took a defined share equal to that of son in self-acquired property of her husband at time of death and such share was assessable in her individual hands and not in hands of HUF - Held, yes [1992] 61 Taxman 118 (Gujarat)
32	4	44A	Mutual Concern Trade Professional Association	Sports Club of Gujarat Ltd. *v.* CIT IT REFERENCE NO. 27 OF 1976 Mutual concern - Assessee-company was incorporated with sole object to encourage and promote game of cricket and other games and sports - Members of assessee were authorised to raise moneys by way of fees, subscriptions, grant, etc., and invest and deal with moneys of assessee not immediately required - It was also stated in article of association that in case of winding up or dissolution, if there remains any surplus, same should be paid or distributed amongst the members - Whether interest received by assessee on fixed deposits made with banks were to be exempted - Held, no Whether expression 'similar association' used in section 44A is in pari materia with expression 'similar association' used in section 28(iii) and, thus, in view of facts stated under head 'Mutual concern' assessee was not entitled to benefit under section 44A - Held, yes [1988] 37 Taxman 38 (Gujarat)
33	4	45	Capital gains	Janak Kanakbhai Trivedi *v.* ITO, Ward 5(2)(3) R/TAX APPEAL NO. 842 OF 2018, ARISING OUT OF ORDER OF ITAT IN IT APPEAL NO. 418 (AHD.) OF 2014, Where assessee did not disclose capital gain

				arising from sale of a property in his return of income on ground that said property belonged to HUF, in view of fact that assessee had executed sale deed of property in his individual capacity and, moreover, sale consideration had not been deposited in bank account of HUF, assessee's plea was to be rejected and amount in question was to be added to his taxable income [2018] 96 Taxmann.com 278 (Gujarat)
34	4		Chargeability	CIT *v.* Axis Bank Ltd TAX APPEAL NO. 1028 OF 2005 Where assessee-bank purchased equipment as per requirement of lessee and delivery of equipment was directly given by manufacturer to lessee, transaction was in substance a financial lease and assessee was liable to pay tax on of finance interest component [2016] 66 Taxmann.com 365 (Gujarat)
35	4	280D	Chargeability	P.M. Ghiya *v*. CIT income—chargeable as—assesses, since deceased, had made an annuity deposit and certain installments payable out of said deposit were returned to deceased's estate which was represented by his executor—it was contended on behalf of assessee that impugned instalment of annuity deposit was an income in hands of executor and was, therefore, not includible in income of assessee's estate—whether claim made on assessee's behalf was justified—held, no [1985] 23 Taxman 162 (Gujarat)
36	4		Chargeability HUF	Bipinbhai Vadilal *v.* CIT IT REF Nos. 218 of 1978 & 178 & 357 of 1977 & 158 OF 1976 & 11 OF 1975 & 163 of 1978 & 186 of 1976 By a declaration assessee threw shares of company C and other companies in hotch-potch of joint families and company C to credit managing director's remuneration and director's sitting fees to HUF account in its books - Company C made necessary entries accordingly from 1-3-1964 onwards - ITO included income of managing director's impugned remuneration and director's sitting fees in respecting assessments in assessee's hands in "individual" status and not

				HUF as claimed - Tribunal eventually sustained ITO's assessment - Whether Tribunal justified in law in holding that impugned incomes were assessee's individual income and there was no diversion of income at source but it was only a case of application of income after its accrual - Held, on facts, yes [1981] 5 Taxman 51 (Gujarat)
37	4		Chargeability AOP	Vahiwatdars of Ambaji Temple *v.* CIT IT REFERENCE NO. 6 OF 1963 One P managed a temple - Offering made by public were collected by him and retained as his income - Later on temple passed on to his descendent-assessees - Each of them attended temple on particular days allotted to them and offerings collected by them on these days were retained as their separate individual income - On festival days they jointly worked and divided offerings amongst themselves according to their shares - Further assessees jointly owned properties of temple, ornaments, jewelleries of deity - They all followed certain well defined tradition of pooja, aarti etc. - Time of offerings and visit of devotees were also followed - Whether on facts it could be said that assessees joined together in a common purpose or common action with object of producing income in shape of offerings to deity and therefore, they jointly constituted an association of person and income by way of offerings would be assessable in their hands in status of 'AOP' and not in their individual status - Held, yes [1965] 58 ITR 675 (Gujarat)
38	4			See one more case at Sl. 203
39	5		Accural of income	CIT *v.* Sarabhai Chemical (P.) Ltd IT REFERENCE NO. 57 OF 1987 In its earlier order, for years 1979-80 and 1980-81, Tribunal held that interest on deferred sale consideration/unpaid purchase price was not chargeable to tax on ground that as per revised agreement dated 30-6-1978, interest on unpaid purchase price was to accrue on and with effect from 1-7-1979 instead of 1-7-1978 - Whether Tribunal was justified in following same order in assessment years 1981-82 and 1982-83 - Held, no

				[2002] 122 Taxman 734 (Gujarat)
40	5		Assessble Income Previous year	CIT *v.* Motilal C. Patel & Co. IT REFERENCE NO. 44 OF 1979 Previous year of assessee-firm, a dealer in land, for assessment year 1973-74 commenced on 20-10-1971 and ended on 6-11-1972 - Assessee entered into an agreement on 31-5-1971 with a housing society to sell certain land and received a sum of Rs. 66,066 from society up to 19-10-1971 which was taxed in assessment year 1972-73 - Transaction of sale of land was, however, completed during assessment year 1973-74 - Whether amount of Rs. 66,066, which was received by assessee in previous year relevant to assessment year 1972-73, was advance towards price of land and that would not become or represent assessee's profit unless and until sale transaction in favour of society was completed which was stated to be completed in previous year relevant to assessment year 1973-74 and thus entire profit or income which included aforesaid advance was assessable in assessment year 1973-74 - Held, on facts, yes [1988] 40 Taxman 336 (Gujarat)
41	5		Accrual	CIT *v.* Shah Doshi & Co. Assessee firm, dealing in land, agreed to sale of land, which it. had agreed to purchase from original owner, to third party though no sale deed had been executed in assessee's favour by original owner—whether assessee could treat part of profit arising from such transaction as value of its stock-in-trade in assessment year prior to execution of sale deed in favour of third party by original owner—Held, on facts, no—Whether Profits arising from impugned transaction accrued to assessee only in assessment year in which sale deed was executed in favour of third party—held, yes [1981] 6 Taxman 343 (Gujarat)
42	5	145	Accrual of Income Estimation of Profit	Jyoti Ltd. *v.* CIT IT REFERENCE NO. 20 OF 2000 Whether payments being under agreements with foreign companies and receipt of payments having been acknowledged by authorized person of assessee-company, it was possible to accept that assessee-company had no knowledge of fact

				that amount of commission had already been received by its authorized agent - Held, no - Whether, therefore, amount of commission was taxable in hands of assessee in relevant assessment year - Held, yes [2009] 180 Taxman 455 (Gujarat)
43	5			More cases at Sl. 5,410
44	6		Residential status	Pradip J. Mehta *v.* CIT I.T. REFERENCE NO. 7 OF 1988 Whether a resident in India will be an ordinarily resident in India unless he qualifies to be a 'not ordinarily resident in India' under section 6(6)(a) - Held, yes - Whether to say that an individual who has been resident in India for eight years out of ten preceding years should be treated as 'not ordinarily resident' in India, does not stand to reason and such contention flies in face of clear provision of sub-clause (a) of section 6(6) which contemplates period of nine years out of ten preceding years of not being a resident in India before an individual could be said to be 'not ordinarily resident' in India - Held, yes – Contention raised by assessee was that section 6(6)(a) was applicable to him and he must be treated to be 'not ordinarily resident' in India, because he was resident in India in eight out of ten years preceding previous year 1981-82 and not nine out of ten years - Assessee contended that only if he had been resident in India for nine out of ten years, he would be 'ordinarily resident in India', otherwise he would be 'not ordinarily resident in India' - Whether there was any merit in assessee's contention - Held, no [2002] 123 Taxman 1118 (Gujarat). **SC reversed it in (2009) 169 Taxman 454 (SC).**
45	6			More cases at Sl.46,329
46	9	195 263	TDS Non resident Revision	Designmate India (P.) Ltd. *V.* CIT-1 SPECIAL CIVIL APPLICATION NO. 2686 OF 2016 Efficacious remedy is available under statute in respect of revision-notice issued for imposing TDS liability on transaction charges paid for services provided by a non-resident outside India; writ petition against revision-notice was to be dismissed

				[2017] 85 Taxmann.com 204 (Gujarat)
47	9			More cases at Sl. 114-116, 246,321
48	10(1)	147	Agricultural income Reopening	Greenwell Orchard *v.* ITO SPECIAL CIVIL APPLICATION NO.18368 OF 2014 Where in a subsequent year assessee could not prove agricultural income by way of sale of teakwood and, thus, disclosed unaccounted income, in view of fact that income for earlier year under consideration was from similar source, reopening of assessment was justified [2017] 82 Taxmann.com 461 (Gujarat)
49	10(1)		Agricultural income	H.H. Digverendrasinhji of Bansda *v.* CIT IT REFERENCE NO. 7 OF 1963 Assessee's father gifted forest land together with trees standing thereon, assessee spent certain amount on clearing these forests and expenditure incurred was allowed as expenses – Whether since gift was made so that trees could be disposed of at future date and income would be disposed of at some future date and income could be realised therefrom, gains on sale would be taxable - Held, yes – Whether mere fact that such sales would result in diminution of capital assets, even assuming that trees were capital assets – Held, yes – Whether further since assessee had failed to lead satisfactory evidence to discharge burden to establish that an integrated agricultural activity was carried out by him which included planting and dibbling, income derived on sale of forest produce could not be regarded as agricultural income - Held, yes [1965] 55 ITR 580 (Gujarat)
50	10(14)		Exempt income	Oil & Natural Gas Corporation Ltd. *v.* ACIT, (TDS) TAX APPEAL NOS. 368 AND 371 OF 2016 Dress code worn by employees is not uniform for purpose of exemption as uniform allowance under section 10(14)(i) [2016] 73 Taxmann.com 273 (Gujarat)
51	10(14)		Exempt income	J.G. Mankad *v.* CIT IT REFERENCE NO. 18 OF 1962 Assessee, carried on his profession of chartered

				accountant at Ahmedabad – He was appointed as part time lecturer at Bhavnagar – For delivering lectures to students assessee had to incur certain expenditure on travelling from Ahmedabad to Bhavnagar - His salary was inclusive of this expenditure – Whether since this expenses were incurred before and after conclusion of duty and not in performance of duty and this was incurred become of his own choice of residing at a distant place, it would neither be allowed as exemption under section 4(3)(vi) or as deduction under section 17(2)(iii) of 1922 Act - Held, yes – Expenditure incurred by assessee could be said to be expenses wholly and necessarily incurred in performance of his duties and thus was exempted under section 4(3)(vi) – Held, no [1965] 55 ITR 448 (Gujarat)
52	10(20A)		Exemption from taxes Statutory Authority	Gujarat Industrial Development Corporation *v* CIT Whether, a state industrial corporation, a statutory authority, is a 'state' within the meaning of article 289(1) for the purpose of exemption from union taxation—Held, no Whether an authority set up to secure orderly establishment of industries in industrial areas would qualify for exemption under section 10(20A)—Held, no. [1985] 21 Taxman 250 (Gujarat) **SC reversed it in (1997) 94 Taxman 64 (SC)**
54	10(22)		Exemption	CIT *v.* Sheth Sorabji Nasarwanji Parekh IT REFERENCE NO. 390 OF 1981 Whether where assessee-trust was not imparting any knowledge or learning to students and was simply giving scholarship to needy students for technical education without keeping any control over them, it could not be said that assessee was carrying on any educational activity or that it was an educational institution established for educational purposes, and, thus, it was not entitled for exemption under section 10(22) - Held, yes [1995] 211 ITR 633 (Gujarat)
55	10(22)	11(1)	Exemption	CIT *v*. Sorabji Nusserwanji Parekh. IT REFERENCE NO. 138 OF 1978 Whether on facts it could be said that assessee was not an educational institution and thus was

				not entitled to total exemption under section 10(22) although its income would be exempt under section 11(1) to extent it was applied for its objects - Held, yes .[1993] 66 Taxman 411 (Gujarat)
56	10(38)		Exemption Set off	Kishorebhai Bhikhabhai Virani *v.* ACIT TAX APPEAL NO. 440 OF 2013 Loss arising on sale of capital asset covered under section 10(38) would not be available for set off [2015] 55 Taxmann.com 91 (Gujarat)
57	10A		Free Trade Zone	Expo Packaging *v.* ACIT TAX APPEAL NO. 104 OF 2000 *Sub-section (3)* - Provisions of sub-section (3) of section 10A as substituted with effect from 1-4-1987 cannot be given retrospective effect [2012] 26 Taxmann.com 230 (Gujarat)
58	10A	147	Exemption Reopening	Naren Sadashiv Burade *v.* ITO SPECIAL CIVIL APPLICATION NOS. 2358,2359 & 2361 OF 2015 Where assessee's claim for exemption under section 10A was allowed by mere issuing intimation under section 143(1), Assessing Officer could reopen assessment subsequently taking a view that assessee had failed to fulfill conditions laid down in clauses (ii) and (iii) of section 10A(2) and thus, exemption was wrogly allowed [2015] 61 Taxmann.com 182 (Gujarat)
59	10B	80IA 147	Deduction Reopening	Nabros Pharma (P.) Ltd. *v.* DCIT, SPECIAL CIVIL APPLICATION NO. 18771 OF 2014 Where there was no disclosure of relevant material facts on part of assessee regarding huge interest free borrowings from its directors and, thus, exemption under section 10B was wrongly allowed, reassessment by Assessing Officer beyond a period of four years would be justified [2016] 74 Taxmann.com 272 (Gujarat)
60	10B		Export Oriented Unit Manufacturing	Deepkiran Foods (P.) Ltd. *v.* ACIT, Range -1 TAX APPEAL NO. 413 OF 2013 Where assessee, engaged in business of manufacturing and exporting of food items, claimed benefit of section 10B, in view of fact that snacks were manufactured by suppliers and

				assessee merely took a follow-up action for packing and storing products, it would not partake character of 'manufacturing' activity and, thus, assessee's claim was to be rejected [2014] 46 Taxmann.com 415 (Gujarat)
61	11	12AA 147	Charitable trust Exemption	Gujarat State Board of School Textbooks *v.* ACIT, Gandhinagar Circle SPECIAL CIVIL APPLICATION NO. 15716 OF 2010 Where assessee, an educational Board, was registered under section 12AA and in relevant assessment year it claimed exemption under section 11(1)(a) and Assessing Officer accepted return without scrutiny assessment and later on he reopened said assessment on ground that mere registration under section 12AA would not give automatic exemption under section 11, reassessment proceedings were valid [2016] 76 Taxmann.com 312 (Gujarat)
62	11(1)	164	Exemption	Dr. D.E. Anklesharia *v.* CIT. IT REFERENCE NO. 292 OF 1980 Assessee-trust claimed exemption under section 11(1) - Object of trust was to make good shortfall, if any, in income or corpus of beneficiary-trusts - ITO found that object of trust was not charitable or religious, income was not spent for any charitable or religious purposes and shares of individuals who were beneficiaries were unknown or indeterminate - Whether assessee-trust was entitled to exemption under section 11(1) - Held, no Section 164(1) of the Income-tax Act, 1961 - Trust -Charge of tax where shares of beneficiaries were unknown - Assessment years 1971-72 and 1972-73 - Whether in view of facts stated under heading 'Charitable or religious trust exemption of income from property held under', sub-section (2) or (3) of section 164 was applicable to assessee -Held, no - Whether income of assessee-trust was chargeable to tax under section 164(1) at the rate of 65 per cent - Held, yes [1994] 76 Taxman 417 (Gujarat)
63	10-12			More cases at Sl. 8,55,61
64	14A	Rule 8D	Disallowance	Devarsons Industries (P.) Ltd. *V.* ACIT (OSD) TAX APPEAL NO. 522 OF 2017

				Where Assessing Officer gave detailed reasons for making disallowance under section 14A in respect of exempt dividend income and LTCG earned by assessee discarding assessee's theory that to earn assessable income assessee incurred no expenditure whatsoever, mere fact that Assessing Officer did not arrive at satisfaction in a particular manner while making said disallowance, would not per se destroy mandate of section 14A [2017] 84 Taxmann.com 244 (Gujarat)
65	14			More cases under 'Exempt income' and 'Business expenditure'.
66	19(ii)	80P(2)(a)(I)	Income from securities Cooperative	Gujarat Co-operative Housing Finance Society Ltd. *V.* CIT. IT REFERENCE NO. 158 OF 1975 Assessee, a cooperative housing finance society, derived income from its business of advancing loans to co-operative housing societies and from interest on government securities—It claimed deduction under section 80P(2)(a)(I) of its business income attributable to providing credit facilities and alternatively under section 19(ii) qua interest payable on its borrowings from LIC for investment in government securities—ITO disallowed claim for interest derived from government securities—AAC allowed proportionate deduction under section 19(ii) against interest income but tribunal disallowed the same—Whether tribunal right in law—Held, on facts, yes [1980] 4 Taxman 423 (Gujarat)
67	22	28(i)	House property income Business income	Jyoti Estate *v.* DCIT, TAX APPEAL NO. 618 OF 2006 Where letting out of warehouse together with various services did not constitute a business activity of assessee, rental income therefrom was to be assessed as income from house property [2015] 54 taxmann.com 410 (Gujarat)
68	22	28(I)	HP Income Business income	CIT v. Neha Builders (P.) Ltd. IT REFERENCE NO. 220 OF 1994 Whether if property is used as stock-in-trade, then said property would become or partake character of stock and any income derived from

				stock would be 'income from business' and not 'income from property'- held yes. [2007] 164 Taxman 342 (Gujarat)
69	23		HP Income	Shri Bipinbhai Vadilal Family Trust No. 1 *v.* CIT I.T. REFERENCE NO. 261 OF 1991 Whether aforesaid rent charged from Settlor's brother was only a nominal rent having regard to value of property shown in gift deed – Held, yes – Whether annual value of Rs. 18,000 fixed by revenue authorities could be considered excessive or unreasonable – Held, no [1994] 77 Taxman 370 (Gujarat)
70	22		Income from House Property	Ramanlal R. Sanghvi *v.* CIT IT REFERENCE NO. 109 OF 1979 REFERENCE APPLICATION NOS. 154 AND 157 OF 1978-79) Property purchased in 1960 by assessee in name of his wife was shown in his books maintained for business as an asset – Income from property was disclosed by assessee in his returns of income up to assessment year 1971-72 – From assessment year 1972-73 assessee did not disclose property income on ground that same was purchased in name of wife and that he had given Rs. 45,000 to her with intention to give gift for purchase of property – ITO held that property belonged to assessee and included income therefrom in his hands – Tribunal also, on appreciation of evidence on record and past conduct of assessee, confirmed action of ITO – Whether Tribunal's finding was a finding of fact and was justified – Held, yes [1992] 61 Taxman 104 (Gujarat)
71	23(2)		Income from House Property-Annual Value	Smt. Jashvidaben C. Mehta *v.* CIT IT REFERENCE NO. 179 OF 1977 Whether assessee, who was owner of a property occupied by her cousin, was entitled to statutory deduction under section 23(2) for determining annual value of property – Held, no [1988] 37 Taxman 249 (Gujarat)
72	24		Deductions from HP Income	Gujarat Ginning & Mfg. Co. Ltd. *V.* CIT. IT REFERENCE NO. 210 OF 1974 Assessee company paid interest on loan secured by mortgage of properties together with machineries kept in those properties – Assessee claimed deduction of interest so paid – Whether

				interest had to be apportioned between properties on one hand and machineries on other and assessee would be entitled to deduction of only interest attributable to mortgage of properties, annual value of which was included in assessee's total income and not of interest paid on mortgage of machineries – Held, yes [1977] 107 ITR 590 (Gujarat)
73	24		Trade Association	CIT *v.* Rajkot Seeds, Oil & Bullion Merchants Association Ltd. IT REFERENCE NO. 80 OF 1970. A trade association had taken money from its members by way of security deposit for due performance of obligation of member under rules of association – Association resolved that out of aggregate amount of deposit, certain amount be 29tilized for construction of building and that interest would be paid by it to deposit account in respect of said moneys–Subsequently association incorporated as company – All existing assets and liabilities in books of unregistered association and deposits of members of association as well as building reserve account transferred to books of assessee company – Assessee paid interest in respect of those deposits and claimed deduction in respect of same under section 24(1)(vi) of 1961 Act on ground that those amounts of interest were paid as interest on capital borrowed for acquiring house property in question – Whether association being an unregistered association, it could not be said that association was lending money to itself by utilizing part of deposit money for construction of building and, thus, there was no real transaction of borrowing or lending between members and association – Held, yes – Whether even assuming that there was borrowing, it could not be said that by taking over liability in respect of these deposit amounts assessee-company borrowed any money from members or that there was any real transaction of lending and borrowing between assessee-company and members – Held, yes – Whether, therefore, assessee company would not be entitled to deduction of interest under section 24(1)(vi) of 1961 Act – Held, yes [1975] 101 ITR 748 (Gujarat)

74	22-24			More cases at Sl. 161,346
75	28		Business income	CIT *v.* Smt. Minal Rameshchandra IT REFERENCE NO. 262 OF 1978 Whether in view of fact that it was found that past history of purchase of said land by assessee, her mother and brother showed that said purchase was an adventure in nature of trade and not just an investment, aforesaid surplus of Rs. 4,11,192 was to be treated as transaction in course of business and was, thus, taxable under head 'Profits or gains of business or profession' - Held, yes [1987] 30 Taxman 282 (Gujarat)
76	28(i)		Deduction of expenses	Pravinbhai Mohanbhai Kheni *v.* ACIT, Central Circle-2 TAX APPEAL NO. 181 OF 2012 Loss in foreign currency transaction entered by partner on behalf of firm from its account, cannot be claimed by individual partner as deduction [2013] 33 Taxmann.com 230 (Gujarat)
77	28(i)	37(1) 45 57	Business expenditure Other sources Capital gains	Kailash Investments (P.) Ltd. v. CIT IT REFERENCE NO. 297 OF 1995 Whether since discount allowed to SCPL was relatable to a debt due to assessee on capital account, it could not be regarded as either business loss admissible under section 28 or a business expenditure deductible under section 37 - Held, yes Whether on facts stated under heading ‘Business loss/deduction - Allowable as’, since discount allowed to SCPL was relatable to debt due to assessee on capital account, same could not be regarded as having been incurred for purposes of making or earning any income and, therefore, it was not allowable under section 57(iii) - Held, yes Whether on facts stated under heading ‘Business loss/deduction - Allowable as’, since assessee was not in possession of or entitled to any asset, there was no question of transfer of capital asset and, therefore, basic condition for invoking section 45 was not fulfilled - Held, yes - Whether, therefore, amount forgone by way of discount by assessee could not be regarded as capital loss - Held, yes

				[2006] 153 Taxman 430 (Gujarat)
78	28(i)		Business loss Allowable deduction	CIT v. Ashwin Vanaspati Industrial (P.) Ltd IT REFERENCE NO. 109 OF 1993 Whether a demand from a third party calling upon assessee to make payment would not result in a situation whereby assessee would incur a loss, if assessee is disputing demand so made and, therefore, assessee cannot claim said demand/loss as business loss - Held, yes [2006] 151 Taxman 94 (Gujarat)
79	28(I)		Business Income	Plastic Products Engg. Co. *v.* CIT IT REFERENCE NO. 174 OF 1984 Whether excise duty received by assessee as part of sale price would be assessable as trading receipt in assessee's hands - Held, yes - Whether, as per law declared by Supreme Court in Chowringhee Sales Bureau (P.) Ltd. v. CIT [1973] 87 ITR 542 assessee would be entitled to claim deduction when occasion for same arose and it was for assessee to raise claim before Tribunal - Held, yes [2002] 125 Taxman 541 (Gujarat)
80	28(i)	41(1)	Business income Remission of liability	CIT *v*. Ravindra C. Gajiwala IT REFERENCE NO. 81 OF 1979 Certain dealers/creditors allowed a sum of Rs. 53,803 as kasar in favour of assessee - ITO brought said amount of Rs. 53,803 to tax in assessee's hands ignoring assessee's plea that there was a promise to pay such amount back to creditors when assessee's financial position would permit it to do so - Tribunal held that said kasar amount in question could be taxed only if it fell within ambit of section 41(1) and upheld inclusion of part of it in assessee's income - Whether view taken by Tribunal was wrong and kasar amount could be considered for purpose of taxing under relevant provisions of the Act including section 28 - Held, yes Whether on facts stated under heading 'Remission or cessation of liability' kasar amount could be taken into consideration while computing business income under section 28 - Held, yes [1993] 70 Taxman 241 (Gujarat)
81	28(I)	36(1)(vii	Business	CIT *v.* Shivlal Dhirajlal.

		) 43(5)	deduction Bad debt Speculation	IT REFERENCE NO. 149 OF 1979 Whether Tribunal was justified in allowing assessee's claim for deduction of Rs. 27,035 under section 28(i) on ground that it was not concerned with legality or illegality of transaction and that assessee being commission agent, was under obligation to discharge liability of its constituent towards third parties and loss suffered in discharging such liability was business loss - Held, no Whether in view of facts stated under head 'Business deduction/loss', assessee was entitled to claim deduction of impugned amount as a bad debt - Held, no Whether in view of facts stated under head 'Business deduction/loss' transaction entered into by assessee was illegal speculative transaction and loss suffered by assessee therein could have been set off only against profits of illegal speculative business - Held, yes [1992] 63 Taxman 130 (Gujarat)
82	28(i)		Business expenditure	Hindustan Trading Corpn. *v.* CIT IT REFERENCE NO. 250 OF 1978 Assessee-firm, following mercantile system of accounting, was engaged in export of certain items to foreign countries - Sale price of exported items was fixed in U.S. dollars - In relevant previous year rupee was devalued against dollar as a result of which, on conversion of export price from dollars into rupees, assessee received certain amount in excess of original rupee equivalent of export price - Said excess receipt pertained partly to sales made during year under consideration and partly to unrealised sale price of goods exported in preceding year - Whether aforesaid additional amount received by assessee was trading receipt and, thus, taxable as business income in year under consideration - Held, yes [1986] 27 Taxman 582 (Gujarat)
83	28(i)		Business income	Addl. CIT *v.* Speciality Paper Ltd. IT REFERENCE NO. 205 OF 1974 Assessee had set up business of producing paper – Trial production indicated that unless wet press was erected, quality paper could not be produced – Wet press was under eraction by about June,

				1966 and went into trial production in early part of September, 1966 – Said trial production indicated that monthly production of 35 tons was not economically satisfactory and, therefore, additional plant and machinery to achieve production of 100 tons was required to be installed – Whether in view of facts, it could not be said that assessee had set up its business by about end of June 1966 – Held, yes [1982] 133 ITR 879 (Gujarat)
84	28(i)	37(i) 32	Capital Asset Stock in trade Depreciation	H. Mohmed & Co. *v.* CIT IT REFERENCE NOS. 79 OF 1970 AND 37 OF 1971 Assessee derived income from business of hiring out furniture for public functions – Whether furniture acquired by assessee for purposes of its business was not its stock-in-trade but its capital asset and, therefore, deficit in stock of furniture due to destruction when let out and spoilage could not be allowed as trading loss – Held, yes Section 37(1) read with section 32 of the Income-tax Act, 1961 – Business expenditure – Allowability of – Assessment year 1962-63 – Whether when during relevant assessment year, assessee had spent large amount for buying new items of furniture and also for purpose of carrying out repairs but there were no facts to point out how much was spent for repairing individual articles of furniture and how much was spent by assessee for buying brand new articles of furniture, question of allowing amount in question as revenue expenditure could not be considered – Held, yes – Whether question whether in previous years, furniture that was purchased by assessee for purposes of its business was allowed as a revenue item or as capital expenditure item was not material for purposes of section 32(1)(iii), if written down value of particular item of capital asset was same as original price – Held, yes [Matter remanded back] [1977] 107 ITR 637 (Gujarat)
85	28(iii)b		Business income Revenue Receipt	CIT *v.* Deversons (P.) Ltd. IT REFERENCE NO. 193 OF 1989 Whether in view of clause (iiib) of section 28 inserted by the Finance Act, 1990 with

				retrospective effect from 1-4-1967, amount of export cash assistance is a revenue receipt and liable to be taxed - Held, yes [2002] 124 Taxman 472 (Gujarat)
86	32		Depreciation	Bhagwati Appliance *v.* ITO TAXAPPEAL NO. 100 OF 2000, 103 & 105 OF 2002 Whether basic requirement for being entitled to depreciation at higher rate of 50 per cent under Entry No. III(2)(ii) of Appendix-I to IT Rules is user of vehicles in business of transportation or business of hire - Held, yes - Whether assessee-company engaged in leasing of motor vehicles, etc., to its clients did not pass test for applicability of Entry No. III(2)(ii) of Appendix-I appended to Rules and, therefore, it was entitled to depreciation at rate of 33.33 per cent and not at rate of 50 per cent - Held, yes [2011] 199 Taxman 131 (Gujarat)
87	32(1)(ii)		Depreciation	CIT V. Suhrid Geigy Ltd IT REFERENCE NO. 384 OF 1977 Assessee-company constructed a building for installing a new plant — Machinery installation completed prior to 1-3-1965 but commenced functioning for business purposes on 7-3-1965—Assessee claimed depreciation in assessment year 1965-66 relevant to accounting year ending 31-3-1965—Whether impugned building could bb said to have been used for business for more than one month and was therefore eligible for depreciation—Held, on facts, no as mere preparation for user could not amount to user [1981] 7 Taxman 183 (Gujarat)
88	32	72	Unabsorbed depreciation	CIT V. Gujarat State Warehousing Corporation INCOME-TAX REFERENCE NO. 70 OF 1974 Whether provisions of section 72(2) have an overriding effect on deeming fiction contained in section 32(2) - Held, yes - Whether therefore, carried forward losses should be first adjusted towards profits and gains of business before adjusting carried forward allowances - Held, yes - Whether before carried forward losses are adjusted against profits and gains of business for purpose of particular assessment year, current depreciation for that year must be deducted in

				order to arrive at correct figure of net profits and gains - Held, yes [1976] 104 ITR 1 (Gujarat) **Approved in (1985) 23 Taxman 8 (SC)**
89	32		Depreciation	CIT *v.* Cama Hotels Ltd. TAX APPEAL NO.1394 OF 2006 A hotel is not entitled to depreciation on swimming pool at rate of 33.33 per cent by treating it as plant and machinery [2015] 55 Taxmann.com 186 (Gujarat)
90	32		Depreciation	Torrent Power Sec Ltd. *v.* ACIT SPECIAL CIVIL APPLICATION NO. 22991 OF 2005 Where original assessment was not framed after scrutiny, reassessment to disallow excess depreciation on meters and capacitors could not be termed based on change of opinion [2015] 55 Taxmann.com 90 (Gujarat)
91	32		Extra shift allowance	CIT *v*. Kiran Crimpers. IT REFERENCE NO. 346 OF 1983 Whether entry (2) of sub-item (ii)B of item III of Part I of Appendix I to the IT Rules dealt with all types of air-conditioning machinery, whether used in a room, factory or office or any other place of business irrespective of any particular use to which it was put and therefore, assessee was not entitled to extra shift allowance on air-conditioners necessarily used for crimping yarn machine - Held, yes [1997] 94 Taxman 502 (Gujarat)
92	32	147	Depreciation Income escaping assessment Audit objection	N.K. Industries Ltd. *v.* ITO (OSD) SPECIAL CIVIL APPLICATION NO. 24743 OF 2006 Where Assessing Officer was convinced that depreciation was wrongly claimed at full rate, reassessment notice could not be quashed merely on ground that she formed opinion on basis of audit objection [2014] 49 Taxmann.com 216 (Gujarat)
93	32	37(1) 256	Depreciation ITAT	CIT-II *v.* Gujarat Mineral Development Corporation Ltd. TAX APPEAL NO. 943 OF 2012 Question as to whether Tribunal was right in

				deleting disallowance in respect of depreciation on multimodal project, was a question of law Question as to whether Tribunal was right in allowing partial relief to assessee in respect of prior period expenses, was a question of law [2014] 42 taxmann.com 142 (Gujarat)
94	32	32	Depreciation	DCIT *v.* Pradip N. Desai (HUF) TAX APPEAL NO. 311 OF 2001 Where assessee was neither in business of hire nor it used vehicle in question in business of transportation, higher rate of depreciation on vehicles was not allowable [2012] 21 Taxmann.com 151 (Gujarat)
95	32	147	Depreciation Income escaping assessment	Aquagel Chemicals (P.) Ltd. *v.* ACIT SPECIAL CIVIL APPLICATION NO. 10889 OF 2010 When no opinion had been expressed in assessment order and no details or explanation in relation to claim of depreciation had been called for by Assessing Officer, reopening of assessment was valid If reopening is sustainable on one issue, even if on other issue exercise of power under section 147 is not justified, it would not render assumption of jurisdiction under section 147 invalid [2013] 35 Taxmann.com 611 (Gujarat)
96	32	43(1)	Actual cost	CIT *v.* Anang Polyfil (P.) Ltd. IT REFERENCE NO. 47 OF 1992 Interest paid or payable in connection with acquisition of asset for period after asset is first put to use cannot be included in actual cost of such asset either for purpose of depreciation or investment allowances [2004] 136 Taxman 692 (Gujarat)
97	32	32	Depreciation	CIT *v.* Utkarsh Builders. IT REFERENCE NO. 104 OF 1991 Whether, while constructing a road, since ‘Hot Mixing Plant’ and ‘Paver Finishing Machine’ are not used for purpose of moving earth from one

				place to another but are used only in process of road making, said machines fall under clause III-B(14) of 1962 Rules - Held, yes - Whether, therefore, depreciation was to be allowed on said machines at the rate of 15 per cent for relevant assessment year - Held, yes [2004] 134 Taxman 701 (Gujarat)
98	32A	32A	Investment allowance	Commissioner of Income-tax *v.* Ajay Builders. IT REFERENCE NO. 196 OF 1990 Whether claim of investment allowance can be allowed on plant and machinery engaged in business of construction - Held, no [2002] 123 Taxman 842 (Guj)
99	32A	147	Investment allowance Reopening of assessment	Mamta Type Setting Works *v.* ACIT TAX APPEAL NOS. 5, 176 AND 177 OF 2002 Whether provisions of section 32A cast a duty on assessee to inform Assessing Officer about transfer of machinery or plant, on which investment allowance has been claimed or its carry forward has been claimed in return, if such transfer takes place at any time before expiry of eight years from end of previous year in which asset was acquired or installed - Held, yes Whether since assessee failed to disclose fact of transfer before Assessing Officer during course of original assessments, he was justified in reopening assessments and withdrawing investment allowance - Held, yes [2004] 134 Taxman 34 (Gujarat)
100	32	32	Initial Depreciation	G.K. Choksi & Co. *v.* CIT IT REFERENCE NO. 194 OF 1986 Assessee, being a firm of Chartered Accountants, made a claim in respect of initial depreciation under section 32(1)(iv) on cost of building erected during accounting period relevant to assessment year under consideration - Claim was disallowed on ground that said provision was meant to apply only in case of assessees carrying on ‘business’ and not in case of assessees involved in ‘profession’ - Whether expression ‘business’ as defined in section 2(13) can be extended to include ‘profession’ - Held, no - Whether, therefore, assessee was disentitled to

				deduction under section 32(1)(iv) in instant case - Held, yes [2002] 122 Taxman 316 (Gujarat) **Affirmed by SC in (2007) 165 Taxman 299 (SC)**
101	32A		Investment Allowance	CIT *v.* Nipa Twisting Works IT REFERENCE NO. 295 OF 1985 Whether in cases where an assessee disables himself from continued exclusive user of plant or machinery for purpose of his business for period specified in section 32A(5), consequences specified in said section will follow, provided machinery or plant is 'otherwise transferred' - Held, yes - Whether in cases where machinery or plant is not wholly used by assessee for purpose of business carried on by him for specified period and such user is given over to another, it can be stated that machinery or plant is 'otherwise transferred' by assessee to another person - Held, yes - Whether, therefore, ITO was justified in withdrawing investment allowance granted to assessee - Held, yes [2003] 130 Taxman 649 (Gujarat)
102	32		Depreciation Extra shift allowance	CIT *v.* Garden Silk Mills (P.) Ltd. IT REFERENCE NO. 89 OF 1985 Whether extra shift allowance on air-conditioning plant is allowable - Held, no [2002] 124 Taxman 284 (Gujarat)
103	32(1)(vi)		Small scale industrial undertaking	CIT *v*. J.H. Kharawala. IT REFERENCE NO 440 OF 1980 Whether for purpose of determining whether an industrial undertaking is a small scale undertaking or not, resort has to be taken to Explanation to section 32(1)(vi) and not to any other provision of law whereby an industrial undertaking was to be regarded as small scale industrial undertaking for other purposes - Held, yes - Whether merely because assessee was registered as small scale industrial undertaking with Small Scale Industries Department, benefit of section 32(1)(vi) was available to it irrespective of different provision made by that Explanation in that behalf - Held, no - Whether, in order to determine whether an industrial undertaking was a small scale industrial undertaking, what was required to be taken into

				consideration was aggregate value of machinery and plant installed as on last day of the previous year and not aggregate value of machinery and plant installed during previous year - Held, yes - Whether term 'actual cost' for purposes of Explanation would mean written down value of asset in case of an asset installed earlier than the previous year - Held, no [1994] 75 Taxman 286 (Gujarat)
104	33(1)(b)(B)(i)		Developement rebate	CIT V. Tensile Steel Ltd Assesses purchased special steel from market and subjected it to heat process to produce wire therefrom which it marketed—Whether it was eligible for development rebate at higher rate under section 33(1)(b)(B)(i)—Held, on facts, no [1982] 8 Taxman 207 (Gujarat)
105	33		Developement rebate	Keshavlal Vithaldas v. CIT I.T. REFERENCE NO. 152 OF 1974 Whether where development rebate reserve was not created when profit and loss account was prepared but was created subsequently by drawing up a general profit and loss account, it could not be said that conditions for allowing development rebate were fulfilled - Held, yes - Whether, therefore, assessee-firm in such a situation, was not entitled to get benefit of development rebate - Held, yes [1976] 105 ITR 601 (Gujarat)
106	33		Developement rebate	Addl CIT V. Nagardas Bechardas & Bros. (P.) Ltd INCOME-TAX REFERENCE NO. 62 OF 1974 Whether when a machinery is found to be falling within a particular category, it is not permissible to place that machine for purpose of development rebate under category to which it does not belong - Held, yes Whether creation of necessary reserve is condition precedent to earning of any rebate under section 33 and if that condition precedent is not satisfied, there is no scope for making an adjustment regarding rate of rebate allowable under section 33 - Held, yes - Whether therefore, where assessee was entitled to development rebate at rate of 35 per cent in respect of five machineries but reserve created by it was not

				sufficient to earn uniform rate of 35 per cent, assessee was not entitled to claim that said rebate rate should be bifurcated so as to give rebate at rate of 35 per cent on two machineries and at rate of 20 per cent on three machines - Held, yes [1976] 104 ITR 123 (Gujarat)
107	33	154	Developement rebate	Surat Textile Mills Ltd V. CIT IT REFERENCE NO. 11 OF 1968 Whether where while making up profit and loss account of relevant assessment year neither reserve fund was credited nor was amount for reserve fund debited before profit and loss account was made up, benefit of development rebate was not allowable to assessee - Held, yes Whether where ITO while completing assessment allowed development rebate even though assessee company had neither credited reserve fund when profit and loss account was made nor debited amount for reserve fund before making of profit and loss account, it could be said that there was mistake apparent from record which could be rectified under section 154 of 1961 Act - Held, yes [1971] 80 ITR 1 (Gujarat)
108	33	43	Development rebate	CIT *v.* Gujarat State Fertilizers Co. Ltd IT REFERENCE NO. 349 OF 1983 Whether, as held by Supreme Court, once sub-section (1) of section 43A is attracted, its application qua development rebate was excluded by virtue of provisions of sub-section (2) thereof - Held, yes - Whether Tribunal committed an error in holding that assessee was entitled to development rebate in respect of increase in cost of assets on account of realignment of currency - Held, yes [1999] 102 Taxman 463 (Gujarat)
109	33		Development rebate	Atlas Radio & Electronics Pvt. Ltd. *v.* CIT IT REFERENCE NO. 591 OF 1980 Whether even though amount of sales tax was paid in assessment year 1972-73, liability to pay sales-tax arose in assessment year 1971-72 and,

				therefore, claim for development rebate in respect of said liability could only be considered for assessment year 1971-72 and not in assessment year 1972-73 - Held, yes [1994] 207 ITR 329 (Gujarat)
110	34	155	Development rebate Development allowance	CIT V. Shantilal Rugnathji Desai IT REFERENCE NO. 191 OF 1978 Whether conversion of proprietary business into partnership business by assessee amounts to transfer within meaning of section 34(3)(b) warranting withdrawal of development rebate allowed in original assessment - Held, yes [1987] 163 ITR 245 (Gujarat)
111	34(3)(b)	155(5)	Development rebate	Kalindi Investment (P.) Ltd. *v.* CIT. IT REFERENCE NO. 14 OF 1982 R.A. NO. 1036 (AHD.) OF 1980 Whether, where assessee-company transferred its business and undertaking as a whole to its wholly owned subsidiary company, it could be said that there was a transfer of assets by assessee-company to its subsidiary company so as to warrant withdrawal of development rebate earlier granted to assessee-company - Held, yes [1995] 79 Taxman 62 (Guaratj)
112	35AC		Deduction Amendment	Prashanti Medical Services & Research Foundation *v.* UOI SPECIAL CIVIL APPLICATION NO. 7558 OF 2017 Legislature is competent to enact suitable amendatory legislation, hence withdrawal of deduction under section 35AC to any donations made to assessee-trust and other institutions after 1-4-2017 could not have been annulled on ground of being harsh [2017] 85 taxmann.com 266 (Gujarat)
113	35B		Export Market Development Allowance	CIT *v.* Patidar Oil Cake Industries IT REFERENCE NO. 328 OF 1984 Whether, where assessee incurred expenditure in India for analysis of product for obtaining certificate of standard for export, assessee would get benefit of weighted deduction for said expenditure - Held, no [2002] 121 Taxman 261 (Gujarat)

114	35B	37(1) 32A	Export Market Dev Allowance Business Expenditure Investment Allowance	CIT *v.* Windsor Foods Ltd IT REFERENCE NO. 227 OF 1985 Whether expenditure by way of interest paid to bank on packing credit account having been incurred by assessee in India, did not fall under any of sub-clauses of section 35B(1)(b), and, therefore, would not qualify for weighted deduction - Held, yes Whether additional liability arising due to exchange rate fluctuation in respect of repayment of foreign loans taken for purchase of machinery installed in earlier year was referable to liabilities of a capital nature and hence not allowable as revenue loss - Held, yes [1998] 99 Taxman 355 (Gujarat) **Affirmed partly (2003) 126 Taxman 572 (Guj)(FB)**
115	35B		Exp Market Dev Allowance	Sonal Gum Industries v. CIT IT REFERENCE NO. 179 OF 1984 Section 35B of the Income-tax Act, 1961 - Export markets development allowance - Assessment years 1976-77 to 1978-79 - Whether even though assessee's business consisted of 100 per cent export, assessee was not entitled to relief under section 35B on certain items of expenditure incurred in India falling under sub-clause (iii) of clause (b) of section 35B(1) - Held, yes [1993] 66 TAXMAN 652 (Gujarat)
116	35B		Export Market Dev Allowance	Isabgul Export Corpn v CIT IT REFERENCE NO. 94 OF 1982 Section 35B of the Income-tax Act, 1961 - Export markets development allowance - Assessment year 1977-78 - Whether expenditure incurred in India in connection with supply or distribution of goods would not be admissible for weighted deduction under section 35B(1)(b)(iii) - Held, yes - Whether, therefore, packing charges incurred before export would not qualify for weighted deduction under section 35B - Held, yes - Whether as expenditures on payment of interest and bank charges do not fall under any of sub-clauses of clause (b) of section 35B(1), such expenditures also would not qualify for weighted deduction under section 35B - Held, yes

				[1994] 205 ITR 227 (Gujarat)
117	35B		Export Market Development Allowance	Isabgul Export Corpn v CIT IT REFERENCE NO. 95 OF 1982 Whether transport charges, insurance and shipping and forwarding charges would not be entitled to weighted deduction - Held, yes [1993] 200 ITR 797 (Gujarat)
118	35B		Export Market Development Allowance	Parashuram Pottery Works Co. Ltd. V CIT IT REFERENCE NO. 89 OF 1983 Whether expenditure incurred in India by way of inspection fees, dock dues and wharfage, cart and cooly hire, railway, truck and steamer freight, postage and telephone, insurance and commission, octroi, miscellaneous and export packing, was eligible for weighted deduction under section 35B - Held, no [1992] 64 Taxman 184 (Gujarat)
119	35B		Export Market Development Allowance	CIT *v.* Girdharlal Vithaldas IT REFERENCE NO. 267 OF 1985 Assessee an exporter of Isabgul claimed weighted deduction under section 35B on amount paid to a clearing agent at Bombay and to a bank as interest on packing credit account - Whether assessee was entitled to weighted deduction on expenditure in question - Held, no [1992] 64 Taxman 479 (Gujarat)
120	35B		Export Market Development Allowance	CIT *v.* Jay Industries IT REFERENCE NO. 337 OF 1984 Assessee had maintained with its bank an export packing credit account and advances from this account were given to it for purchase of raw materials for manufacturing goods to be exported out of India – Assessee claimed weighted deduction in respect of interest paid on aforesaid advances – Whether since expenditure had been incurred in India for supply of good outside India, it would not qualify for weighted deduction under section 35B - Held, yes [1992] 196 ITR 313 (Gujarat)
121	35B		Export Market Development Allowance	CIT *v.* Girdharlal Vithaldas IT REFERENCE NO. 267 OF 1985

				Assessee an exporter of Isabgul claimed weighted deduction under section 35B on amount paid to a clearing agent at Bombay and to a bank as interest on packing credit account - Whether assessee was entitled to weighted deduction on expenditure in question - Held, no [1992] 64 Taxman 479 (Gujarat)
122	35B		Export Market Development Allowance	Shri Ambica Mills Ltd. *v.* CIT IT REFERENCE NO. 195 OF 1983 Whether where expenditure on foreign travelling was not incurred for export but for starting a new project, assessee's claim for weighted deduction under section 35B(1)(b) was inadmissible - Held, yes -Whether expenses allegedly incurred by assessee on export inspection fees but not supported by relevant evidence of material as well as export freight paid in India qualify for weighted deduction under section 35B - Held, no [1993] 66 Taxman 457 (Gujarat)
123	35B	80HH	Deductions	CIT *v.* Swastik Industries INCOME-TAX REFERENCE NO. 23 OF 1990 Whether deduction under section 80HH can be allowed before allowing weighted deduction under section 35B - Held, no [2002] 125 Taxman 175 (Gujarat)
124	28 32-35			More cases at Sl. 27,67,68,148,304 More cases at Sl. 84,94,97,98,100,114,152,225, 200, 229, 231,
125	36(1)(i)	37(1)	Business expenditure	CIT *v.* Khodidas Motiram Panchal IT REFERENCE NO. 67 OF 1977 Assessee, a PF, insured the lives of its partners to provide for liquid cash to pay off outgoing partner or legal heirs of deceased partner to enable surviving partners to continue business without interruption – Assessee paid insurance premia and was entitled to sum assured on maturity of policy or in event of death of partner – Whether it could be said life insurance policies were taken out against risk of damage or destruction to the stocks so that insurance premium paid could be allowed under section 36(1)(i) –Held, on facts, no

				Whether in view of facts under the heading 'Insurance premium qua insurance of stocks or stores' insurance premium paid by assessee-firm was a capital expenditure and, hence, not allowable under section 37(1) – Held, on facts, yes [1986] 27 Taxman 208 (Gujarat)
126	36(1)(ii)	57(iii)	Interest on borrowed capital	H.K. (Investment) Co. (P.) Ltd. *V.* CIT IT REFERENCE NO. 219 OF 1981 Whether in absence of any record to establish that entire amount of interest was paid in respect of capital borrowed for purposes of its business, Tribunal was right in not allowing entire interest payment as business expenditure – Held, yes – Whether allocation of interest payment against various heads, should be of net interest payment after deducting interest received by assessee – Held, no [1995] 78 Taxman 497 (Gujarat)
127	36(1)(iii)		Interest on borrowed capital	CIT, Ahmedabad-I *v.* Cornerstone Exports (P.) Ltd. TAX APPEAL NO. 240 OF 2007 Where action of assessee-company to make advances to group companies at a lower rate of interest than interest rate at which assessee-company borrowed such funds, was not shown to be in any manner actuated by business expediency, disallowance of differential interest was justified. [2016] 67 taxmann.com 345 (Gujarat)
128	36(1)(iii)		Interest on borrowed capital	Jivraj Tea Co. *v.* ACIT, SPECIAL CIVIL APPLICATION NO. 1715 OF 2015 Where Assessing Officer at time of framing original assessment did not examine interest-free loan paid to partners and also payment of interest, reopening of assessment was not based on mere change of opinion [2016] 68 taxmann.com 105 (Gujarat)
129	36(1)(iii)		Interest on borrowed capital	Jayesh Raichand Shah *v.* ACIT TAX APPEAL NO. 705 OF 2012 Where assessee first diverted money from his business disguising it as gift to three persons and thereafter same money was taken back from said persons on which interest was claimed, assessee was not entitled to deduction under section

				36(1)(iii) [2015] 55 taxmann.com 108 (Gujarat)
130	36(1)(iii)		Allowable expenditure	DCIT v. Amola Holdings (P.) Ltd TAX APPEAL NOS. 1519 AND 1520 OF 2007 Whether since Commissioner (Appeals) as well as Tribunal found that shares were purchased not for acquiring controlling rights in another company, impugned order passed by said authorities did not require any interference [2011] 197 Taxman 18 (Gujarat)
131	36(1)(vii)	80HHC	Bad debts Export	Dhall Enterprises & Engineers (P.) Ltd. V. CIT IT REFERENCE NO. 68 OF 1998 Whether for purpose of claiming deduction on account of bad debts, bad debts should be written off as irrecoverable and mere debiting of amount is not sufficient – Held, yes Whether for purposes of claiming deduction under section 80HHC(1)/(3), export of goods or merchandise should be from India and not from any other country – Held, yes – Whether, therefore, deduction under section 80HHC could not be available to assessee in respect of goods which were purchased by assessee from some country outside India and exported from that country to some another country [2007] 162 Taxman 114 (Gujarat)
132	36(1)(iii)		Interest on borrowed capital	Arun Family Trust v. CIT. IT REFERENCE NO. 88 OF 1996 Assessee- a specific trust with six minor beneficiaries – Income earned by it was to be spent for mainten-ance, education, advancement, etc., of such beneficiaries – During relevant accounting year assessee credited said income to accounts of beneficiaries and same was not withdrawn by beneficiaries and same remained with trust – Trust treated it as loan – Interest paid to beneficiaries on said loans was claimed as deduction – There was no loan agreement between beneficiaries and trust – Whether amount credited to account of beneficiaries could not be treated as loan and, thus, interest paid to beneficiaries on such

				amounts could not be claimed as deduction – Held, yes [2007] 165 Taxman 15 (Gujarat)
133	36(1)(ii)		Business expenditure Bonus	Bhavnagar Bone & Fertilizer Co. (P.) Ltd. *V.* CIT IT REFERENCE NO. 71 OF 1980 Whether, where as a gesture of goodwill towards staff, bonus in excess of prescribed limits was sanctioned at Board meeting held after the close of previous year, relevant to assessment year 1973-74, excess amount of bonus could be allowed as deduction for assessment year 1973-74 – Held, no [1995] 78 Taxman 576 (Gujarat)
134	36(1)(i)	37(1)	Business expenditure	CIT *v.* Khodidas Motiram Panchal IT REFERENCE NO. 67 OF 1977 Assessee, a partnership firm, insured the lives of its partners to provide for liquid cash to pay off outgoing partner or legal heirs of deceased partner to enable surviving partners to continue business without interruption – Assessee paid insurance premia and was entitled to sum assured on maturity of policy or in event of death of partner – Whether it could be said life insurance policies were taken out against risk of damage or destruction to the stocks so that insurance premium paid could be allowed under section 36(1)(i) –Held, on facts, no Whether in view of facts under the heading 'Insurance premium qua insurance of stocks or stores' insurance premium paid by assessee-firm was a capital expenditure and, hence, not allowable under section 37(1) – Held, on facts, yes [1986] 27 Taxman 208 (Gujarat)
135	36(1)(va)	43B	Disallowance Actual payment	CIT-II *v.* Gujarat State Road Transport Corporation TAX APPEAL NOS. 1711 & 2577 OF 2009, 925, 949, 965, 1655, 2365, 2378 & 2644 OF 2010 & 814 OF 2011 AND 637 OF 2013 Where assessee did not deposit employees' contribution to employees' account in relevant fund before due date prescribed in Explanation to section 36(1)(va), no deduction would be admissible even though he deposits same before due date under section 43B

				[2014] 41 taxmann.com 100 (Guaratj)
136	36(1)(viii)		Business expenditure Allowable	Inara Housing Finance Ltd. *V.* ITO TAX APPEAL NOS. 1728 AND 1729 OF 2010 Where loans advanced by assessee were not utilized by borrowers for constructing residential units, assessee's claim for deduction under section 36(1)(viii) was to be rejected [2012] 19 taxmann.com 152 (Gujarat)
137	36(1)(iii)		Interest on borrowed capital	*CIT* v. *Arun Family Trust* IT APPEAL NO. 88 OF 1996 Assessee-trust had credited certain amount on account of interest to account of beneficiaries – Assessee's case was that as money credited in account of beneficiaries was not withdrawn by beneficiaries, same remained with trust and was treated as a loan and as trust was paying interest to beneficiaries, it was entitled to claim deduction to such an extent – Authorities below rejected assessee's claim – Whether in absence of an agreement between parties or a direction from beneficiaries that amount deemed to be paid still lying with trust, be deemed to be loan, deposit would continue to be deposit – Held, yes – Whether, therefore, interest paid to beneficiaries could be claimed as deduction – Held, no [2007] 163 TAXMAN 285 (Gujarat)
138	36			More cases at Sl.
139	37(1)	147	Business expenditure Reassessment	HVK International (P.) Ltd *v.* DCIT, Central Circle-3 SPECIAL CIVIL APPLICATION NO.4054 OF 2016 Where even though Assessing Officer relied on report of investigation wing that labour contractors were paid sizable amount of labour charges without such labour work having been done, he having applied his mind to materials on record and formed his own belief that income chargeable to tax had escaped assessment, notice for reopening assessment was justified [2016] 72 taxmann.com 208 (Gujarat)
140	37(1)		Business Expenditure	Patel Brothers *v.* DCIT, TAX APPEAL NO. 205 OF 2002

				Where assessee claimed deduction of secret commission paid to employees of different companies who had given business to assessee, since assessee had not kept any accounts as to where and to whom such commission was paid, Tribunal was justified in allowing assessee's claim to extent of one per cent of total sale. [2016] 67 taxmann.com 257 (Gujarat)
141	37(1)		Business expenditure	Torrent Pharmaceuticals Ltd. *V.* ACIT, TAX APPEAL NO. 770 OF 2007 Expenditure on issue of convertible debentures is directly related to expansion of capital base of company and is a capital expenditure [2015] 55 taxmann.com 170 (Gujarat)
142	37(1)		Business expenditure	Gujarat Ambuja Cotspin Ltd. *V.* ACIT, TAX APPEAL NO. 73 OF 200 Issue as to whether expenditure incurred on issue of convertible debentures is a capital expenditure or not, was referred to Apex Court [2015] 57 taxmann.com 210 (Gujarat)
143	37(1)		Business expenditure	CIT V. Mihir Textiles Ltd. INCOME-TAX REFERENCE NO. 23 OF 1974 Whether where payment of betterment charges was made to Municipal Corporation under provisions of Bombay Town Planning Act, 1934, same was not allowable as a deduction under section 37 – Held, yes [1976] 104 ITR 167 (Gujarat)
144	37(1)		Business expenditure	Overseas Trading & Shipping Co. (P.) Ltd. *V.* ACIT TAX APPEAL NO. 729 OF 2013 Where assessee got contract of import of furnace oil executed through its sister concern, subsequent purchases of very furnace oil, its storage and consequent sale being in complete breach of Solvent, Raffinate & Slop [Acquisition, Safe, Storage & Prevention of Use in Automobiles] Order, 2000, any payment made by assessee to sister concern could not be allowed as commission. [2013] 38 taxmann.com 86 (Guj) **SLP of 'A' rejected (2014) 51 Taxmann.com 374**

				(SC)
145	37(1)	73	Allowablity of expenses	Anjalee Exim (P.) Ltd. *V.* DCIT TAX APPEAL NO. 672 OF 2012 Where assessee was engaged in business of trading of shares, gold bullion and commodities and it claimed deduction of administrative and other expenses, which were relatable to both speculative and non-speculative activities, bifurcation of said expenses in ratio of 2:3 between speculative and non-speculative income was justified [2013] 35 taxmann.com 374 (Gujarat)
146	37(1)		Business expenditure Allowable	Gujarat Insecticides Ltd. *V.* ACIT TAX APPEAL NO. 1883 OF 2010 Commission payment disallowed, where genuineness of payment not established by cogent evidence. [2012] 19 taxmann.com 70 (Gujarat)
147	37(1)		Business expenditure	CIT *v.* Shree Laxmi Textiles & Allied Corporation INCOME-TAX REFERENCE NO. 165 OF 1988 Whether said payment could not be allowed as expenditure incurred by firm wholly and exclusively for purpose of business but was a capital payment – Held, yes [2003] 128 Taxman 176 (Gujarat)
148	36(1)(iii)	37(1) 28(i)	Business expenditure	Packart (P.) Ltd. *V.* CIT IT REFERENCE NO. 74 OF 1992 Interest paid on amount borrowed for paying income tax, Whether such interest would amount to business expenditure – Held, no [2003] 131 Taxman 239 (Gujarat)
149	37(1)		Business expenditure	CIT *v.* Bharat Vijay Mills Ltd. IT REFERENCE NO. 172 OF 1989 Whether where ownership of deferred annuity policy is with company, and company has discretion to pay amounts, premium paid on such deferred annuities is not deductible – Held, yes Whether expenditure incurred on issue of bonus shares is capital in nature and, therefore, not deductible – Held, yes [2002] 124 Taxman 60 (Gujarat)

150	37(1)			Kalindi Investments (P.) Ltd. *V.* CIT IT REFERENCE NO. 37 OF 1990 Whether Tribunal was justified in disallowing assessee's claim in view of fact that assessee's claim on account of interest had been disallowed on similar facts in earlier assessment years – Held, yes [2002] 124 Taxman 475 (Gujarat)
151	37(1)		Business expenditure	CIT *v*. Shahibag Entrepreneurs (P.) Ltd. REFERENCE APPLICATION NO. 190 OF 1980 Whether expenditure incurred under section 37(1) must be for carrying on of business and assessee should incur it in his capacity as a person carrying on business – Held, yes – Whether where expenditure incurred by assessee-company on foreign tour of wife of one of its directors, in absence of any evidence that visit of wife was necessary for facilitating negotiations at top level with foreign corporations, expenditure incurred was wholly gratuitous and for a purpose outside the course of its business and, therefore, same was not allowable business expenditure – Held, yes [1995] 215 ITR 810 (Gujarat)
152	37(1)	35B	Business expenditure	Shahibag Entrepreneurs (P.) Ltd. *V.*CIT IT REFERENCE NO. 555 OF 1980 Whether foreign tour expenses of directors and employees of assessee-company for exploring possibility of establishing joint venture units in foreign countries would be capital expenditure – Held, yes Section 35B of the Income-tax Act, 1961 – Export markets development allowance – Assessment year 1972-73 – Whether, since, foreign tour expenses of directors and employees of assessee-company for exploring possibility of establishing joint venture units in foreign countries was capital expenditure, it would not be entitled to weighted deduction under section 35B – Held, yes [1994] 210 ITR 998 (Gujarat)

153	37(1)	57	Business expenditure	Gopaldas Dahyabhai Lavsi *v.* CIT IT REFERENCE NO. 66 OF 1974 Assessee was partner in two firms – During relevant accounting years, assessee paid interest on outstanding amounts borrowed from one firm and received interest from deposits with other firm – Assessee claimed that as he had offered for assessment interest received from one firm, interest paid to other firm should be set off and only balance should be assessed – Tribunal allowed deduction of a part of amount borrowed holding that only said part of money borrowed had been 52tilized for purpose of investment and rest of amount had been used to discharge personal liabilities of assessee – Whether, since, only a part of amount borrowed from one firm was used for investment in other firm in order to earn income, expenditure in form of payment of interest in respect of that amount alone could be allowed as deduction – Held, yes – Whether payment of interest in respect of money borrowed for meeting personal expenses of assessee could not be allowed under section 37 – Held, yes – Whether, consequently order of Tribunal was to be affirmed – Held, yes Section 57 of the Income-tax Act, 1961 – Income from other sources – Deductions – Assessment years 1965-66 and 1966-67 – Whether in view of facts stated under head 'Business Expenditure – Allowability of, payment, of interest was allowable under section 57(iii) – Held, no [1977] 108 ITR 531 (Gujarat)
154	37(1)		Business expenditure	Bombay Mineral Supply Co. (P.) Ltd. *V.* CIT assessee-company's managing director had undertaken foreign tour and was accompanied by his wife due to his indifferent health to look after him though she was not a qualified nurse—whether expenditure incurred on foreign tour of wife of managing director could be allowed as business expenditure under section 37(1)—held, on facts, no [1985] 23 Taxman 549 (Gujarat)
155	37(1)	3	Business expenditure	CIT *v.* Sarabhai Sons (P.) Ltd. IT REFERENCE NO. 85 OF 1970 Assessee-company, in order to start a new

				business for manufacture of scientific instruments and communication equipment, placed orders for machinery and equipment in Jan, 1966, received some of them in Feb, 1966 and also ordered for raw materials and stores, besides taking certain premises on lease – These preparations went on for a few months and in July, 1966 machinery was installed and production commenced – Assessee, claimed deduction of expenses incurred in connection with new business, during period ending 31-3-1966 – Whether new business could not be said to be set up by assessee until July, 1966, when machinery was installed and factory was ready to commence business – Held, yes – Whether, therefore, finding of Tribunal that business of assessee was set up in previous years, that is, prior to 31-3-1966, was contrary to evidence or based on no evidence at all – Held, yes [1973] 90 ITR 318 (Gujarat)
156	37(1)		Business expenditure	Jansatta Karyalaya *v.* CIT INCOME-TAX REFERENCE NO. 3 OF 1963 Allowability of – Assessee carrying on business of publishing daily newspaper incurred expenditure on purchase of types for purpose of its business and claimed it as allowable expenditure under section 10(2)(xv) of 1922 Act – ITO as also Tribunal disallowed assessee's claim – Whether types were ancillary to printing machine and without them such a machine could not be put to use for which it was acquired – Held, yes – Whether aim and object of expenditure in question was purchase or acquisition of apparatus or instrument for earning profits as distinguished from expenditure incurred in continual process of its use or employment for that purpose – Held, yes – Whether, therefore, Tribunal was justified in disallowing expenses in question – Held, yes [1964] 54 ITR 792 (Gujarat)
157	37(1)		Business expenditure	Zaverchand Laxmichand and Co. *v.* CIT IT REFERENCE NO. 1 OF 1963 Business expenditure – Allowability of – Assessment year 1951-52 – Assessee was appointed as managing agents by a company and were entitled to payment of commission – As per

				agreement in case of low profit of managed company, amount of commission would be reduced – There was mistake in calculating profit of managed company and low profit was declared – Therefore, assessee was paid lesser amount of commission – Whether mere forbearance from insisting upon payment of correct amount of commission would not mean surrendering it making it claimable as deduction under section 10(2)(xv) – Held, yes [1965] 55 ITR 486 (Gujarat)
158	37(1)		Business expenditure	J.R. Patel & Sons (P.) Ltd. *V.* CIT IT REFERENCE NO. 7 OF 1961 Assessee-company was managing agent of managed company – Under agreement assessee was entitled to certain allowance and commission – One 'P' was managing director of assessee and also director of managed company – He was appointed by managed company on monthly remuneration and acting as selling agent of managed company on commission basis – As Companies Act, 1956 came into force on 1-4-1956, he ceased to be selling agent of managed company and also technical advisor – He suggested that assessee-company should remunerate him out of its earnings – In pursuance of that request board of directors of assessee in its annual general body meeting decided payment of certain amount to 'P' – Whether since 'P' had not rendered any extra services to assessee-company, could not be said that additional expenditure was incurred wholly and exclusively for purpose of business of assessee and was liable to be allowed as deduction – Held, yes [1964] 51 ITR 717 (Gujarat)
159	37(1)		Business expenditure	CIT *v.* Sandesh Ltd. INCOME-TAX REFERENCE NO. 1 OF 1964. By deed of lease, assessee-company took over a plot of land on lease for a period of ninety-nine years – Deed of lease gave option to both parties i.e., lessor to sell said land and lessee to purchase it at agreed price – Subsequently lessor exercised his option and thereupon assessee-company became liable to purchase leased land at certain price – Assessee company however, made default

				in consequence of which lessor filed a suit against it – later on, parties took a consent decree as per terms of which assessee-company had to pay certain amount in installments along with interest to purchase leased land in question – In respect of amount of interest, assessee-company claimed deduction under section 10(2)(xv) or in alternative under section 10(2)(iii)of 1922 Act – Whether in view of fact that interest payable by assessee-company on reducing balances was to from part of purchase price, clause (xv) of section 10(2) would not apply – Held, yes – Whether, further, having regard to fact that obligation to pay purchase price was founded upon assessee's liability arising from decree and not on basis of any borrowings or loan, transaction in question could not amount to borrowing within meaning of clause (iii) of section 10(2) of 1922 Act – Held, yes – Whether, in view of aforesaid, amount of interest paid on installments could not be claimed as deduction either under clause (iii) or clause (xv) of section 10(2) of 1922 Act – Held, yes. [1965] 56 ITR 399 (Gujarat)
160	37(1)		Business	CIT, Gandhinagar *v.* Aashadeep Industries R/TAX APPEAL NO Industries Question as to whether Tribunal erred in law and on facts of case in restricting addition to 25 per cent of value of alleged purchases after categorically finding it to be bogus, was to be admitted for consideration (2018) 95 Taxmann.com 135 (Gujarat)
161	37(1)		Business expenditure	Gujarat Ambuja Protiens Ltd. *V.* ACIT TAX APPEAL NO. 409 OF 2012 Where assessee claimed deduction of godown rent, in view of fact that recipient of rent was neither owner nor in possession of godowns at time of entering into rent agreement or at any time thereafter, assessee's claim was to be rejected [2013] 32 taxmann.com 119 (Gujarat)
162	37(1)		Business expenditure Commission	Gujarat Insecticides Ltd. *V.* DCIT TAX APPEAL NO. 1409 OF 2011

				Where assessee in support of commission expenses, failed to prove that it had infact availed of certain services from recipients of commission, authorities below were justified in rejecting assessee's claim in respect of said expenses [2013] 40 taxmann.com 166 (Gujarat)
163	37(1)	145	Business expenditure	CIT *v.* Super Scientific Clock Co. IT REFERENCE NO. 124 OF 1984 - Whether very foundation of assessee's plea was against basic principle that in no case, he could employ for part of transactions or events relating to one source of income, different system of accounting – Held, yes – Whether, Tribunal erred in allowing sum in question as deduction by holding that liability in preceding year was contingent and became due and payable in year in question only – Held, yes [1999] 104 Taxman 126 (Gujarat)
164	37(1)		Business expenditure	CIT *v.* Standard Makings & Allied Products Corporation IT REFERENCE NO. 351 OF 1983 Assessee-firm claimed compensation paid to retiring partners as business expenditure on the ground that those partners were not working efficiently due to which the firm suffered losses – Assessing Officer disallowed claim holding that payments were made by one group of partners to other for purchase of proprietary rights in business and, therefore, were not allowable as revenue expenditure – It was also found that as per deed of retirement payments made to retiring partners, claimed to be compensation, were in fact payments made to them in lieu of their rights, title, and interest in firm including its assets and goodwill – Whether aforesaid payment was an allowable business expenditure under section 37(1) – Held, no [1998] 96 Taxman 422 (Gujarat)
165	37(1)	37(2)	Business expenditure	Saraspur Mills Ltd. *V.* CIT IT REFERENCE NO. 227 OF 1983 Whether interest paid for delayed payment of tax could be said to be expenditure incurred wholly and exclusively for purpose of business and was, therefore, allowable under section 37(1) – Held,

				no Whether fact that expenses were incurred to meet basic bare necessity of assessee's employees or for non-employees required consideration in light of Supreme Court's decision in CIT v. Patel Bros. & Co. Ltd.(1995) 81 Taxman 156 (SC) – Held, yes [matter remanded back to Tribunal] [1997] 93 Taxman 20 (Gujarat)
166	37(1)		Business expenditure	Rainbow Dyestuff Ltd. *V.* CIT IT REFERENCE NO. 186 OF 1982 [R.A. NO. 997 (AHD.) OF 1981] Assessee was a dealer in dyes – He borrowed funds to set up a factory for manufacturing dyes at different places and paid interest thereon – Whether said expenditure by way of interest paid was allowable as revenue expenditure – Held, no [1995] 79 Taxman 31 (Gujarat)
167	37(1)		Business expenditure	CIT *v.* Ahmedabad Mfg. and Calico Printing Co. Ltd. I.T. REFERENCE NO. 312 OF 1981 Whether payment of betterment charges and interest on such payment to Municipal Corporation had no direct nexus with day to day running of business of assessee-company – Held, yes – Whether therefore, interest on installments of betterment charges could not be treated as revenue expenditure – Held, yes [1995] 215 ITR 735 (Gujarat)
168	37(1)		Business expenditure	CIT *v.* Ajit Mills Ltd. IT REFERENCE NO. 375 OF 1981 Whether expenditure incurred for issuing bonus shares is capital expenditure – Held, yes [1994] 210 ITR 658 (Gujarat)
169	37(1)		Business expenditure	Garden Silk Weaving Factory *v.* CIT IT REFERENCE NO. 560 OF 1980, Ref Appln No. 537 (AHD.) OF 1978-79 Whether amount of penalty paid by assessee represented loss suffered by it in commercial transaction so as to entitle assessee to claim it as business expenditure – Held, no [1994] 74 Taxman 600 (Gujarat)
170	37(1)		Business expenditure	M. Gaw Ravindran Laboratories (India) Ltd. *V.* CIT IT REFERENCE NO. 590 OF 1980 AND RA NO. 170

				(AHD.) OF 1980 Whether expenditure incurred on foreign tour of general manager of assessee-company in connection with establishment of a unit for manufacturing a new product is capital expenditure – Held, yes [1994] 73 Taxman 312 (Gujarat)
171	37(1)		Business expenditure	Orient Trading Co. *v.* CIT IT REFERENCE NO. 73 OF 1980 Whether penalty paid by assessee-company under section 45 of Gujarat State Sales Tax Act, 1969, is for infraction of law, and, hence, its deduction is impermissible – Held, yes [1994] 72 Taxman 241 (Gujarat)
172	37(1)		Business expenditure	Alembic Glass Industries Ltd. *V.* CIT IT REFERENCE NO. 2 OF 1981 Whether expenditure incurred by way of filing fees for increasing authorized capital is capital expenditure – Held, yes – Whether surtax liability is not deductible in computation of business income as revenue expenditure – Held, yes [1993] 202 ITR 214 (Gujarat) **Approved in (1997) 93 Taxman 5 (SC)**
173	37(1)		Business expenditure	Saurashtra Cement & Chemical Industries Ltd. *V.* CIT IT REFERENCE NO. 36 OF 1980 Whether expenditure incurred on obtaining techno-economic feasibility report and by way of payment of consultancy fees in connection with acquisition of capital asset, is capital expenditure –Held, yes [1992] 64 Taxman 522 (Gujarat)
174	37(1)		Business expenditure	Nathalal Asharam *v.* CIT. IT REFERENCE NO. 151 OF 1979 Whether retrenchment compensation paid on account of closure of business is allowable as business expenditure – Held, no [1992] 63 Taxman 15 (Gujarat)
175	37(1)		BUSINESS EXPENDITURE	S.L.M. Maneklal Industries Ltd. *V.* CIT IT REFERENCE NO. 6 OF 1979 Whether payment of surtax is an expenditure deductible under section 37(1) – Held, no [1988] 39 Taxman 42 (Gujarat)

176	37(1)		Business expenditure	CIT *v.* Chandravilas Hotel IT REFERENCE NOS. 15 AND 138 OF 1978 Assessee-firm alleged to have paid certain commission to R and claimed its deduction as business expenditure – On enquiry by ITO, R stated that he had only signed vouchers but had not received any amount as commission – Opportunity to cross-examine R was given to assessee but it did not avail same – No other sufficient evidence was produced by assessee in support o£ said claim – Claim of said deduction was thus rejected by ITO – On appeal, Tribunal, however, held that since R had admitted his signatures on vouchers, it should be presumed that he had received amounts mentioned in vouchers and denial of receipt of such commission by R was just to save his own skin from income-tax authorities – Whether in view of facts (i) that statement of R was only piece of evidence to prove payment of said commission, and (ii) that statement of R had gone unchallenged and there was no reason to disbelieve him, Tribunal was justified in allowing said deduction – Held, no [1987] 32 Taxman 53 (Gujarat)
177	37(1)	80HH 80HHC 80I	Deductions	Alembic Chemical Works Ltd. *V.* DCIT TAX APPEAL NO. 562 OF 1999 Whether where liability was pending in adjudication by way of appeal in Supreme Court and till point of time same was not finally adjudicated, liability in question would remain a contingent liability – Held, yes Industrial division of appellant transferred its entire goods to main division and recorded consideration for such transfer in its accounts – Assessing Officer recomputed profits of division for purpose of arriving at figure which should be permitted as deduction under sections 80HH and 80-I when he noticed that appellant had debited entire indirect expenses like commission to selling agents, publicity and medical literature expenses, etc., in its books without allocating same to its industrial division, which increased profits of said division putting appellant in a position to claim higher deduction under those

				sections – Whether Assessing Officer was justified – Held, yes Whether once sums or receipts of nature specified in sub-clause (1) of clause (baa) of Explanation to section 80HHC are included while computing profits and gains of business, such sums or receipts are to be reduced to extent of 90 per cent from profits of business – Held, yes [2003] 133 Taxman 833 (Gujarat)
178	37(1)		Business Expenditure	Gujarat Mineral Development Corporation Ltd. *V.* CIT Assessee-company was engaged in business of developing minerals and mines, extraction of ores, etc.—It had mining lease of survey no. 40 at a certain place—Another company, MMC, having prospective license for extracting fluorspar in respect of adjacent survey no. 30, had preferential right for obtaining a lease thereon, but government rejected MMC’s application for lease—MMC took legal proceeding and obtained interim orders restraining government from giving lease on survey no. 30 to any other party pending final outcome of litigation—Assessee-company also needed survey no. 30 to run its beneficiation plant for desired number of years—To expand business and ward off competition, assessee paid Rs. 3 lakhs to mmc on the latter agreeing to withdraw aforesaid legal proceedings, thus facilitating way for assessee to obtain long-term lease on survey no. 30—Whether said expenditure was capital or revenue in nature—Held, on facts, it was capital expenditure [1983] 12 Taxman 266 (Gujarat)
179	37(3)	Rule 6D	Business expenditure	CIT *v.* Nutan Mills Ltd. IT REFERENCE NO. 54 OF 1988 Whether unit of expenditure for purposes of rule 6D is trip and not individual employee and, hence, limits drawn in rule 6D have to be applied with reference to each trip of an employee and all tours undertaken by an employee during a year are not to be grouped together – Held, yes [2002] 125 Taxman 1028 (Gujarat)
180	37(3A)		Business disallowance	Innosearch Ltd. *V.* CIT IT REFERENCE NO. 292 OF 1984 Assessee claimed deduction of expenses incurred

				by way of supply of danglers, posters, streamers to dealers for display at retail counter shops – Tribunal reached a finding that though these items were stated to be as discount to dealers and, they were more in nature of aid to consumers and, therefore, it upheld reduction of assessee's claim by 15 per cent by taking recourse to section 37(3A) – Whether Tribunal's conclusion that expenses on these items were primarily aimed to attract consumer and were part of publicity expenditure, was a conclusion of fact and, hence, no question of law arose – Held, yes [2001] 114 Taxman 455 (Gujarat)
181	37			More cases at Sl. 27,28,77,84,93,114,125,134, 148, 165,203, 257,531
182	40(b)		Business Disallowance	CIT *v.* Manalal N. Chokshi. IT REFERENCE NO. 48 OF 1998 Whether remuneration in form of salary paid to partners in individual capacity is disallowable under section 40(b) when they are partners in firm in representative capacity as karta of HUF – Held, yes [2002] 125 Taxman 460 (Gujarat)
183	40(b)	40A(2)	Business expenditure	CIT *v.* Yoganand Textiles IT REFERENCE NO. 66 OF 1982 Whether it is possible to accept proposition that when an individual is a partner, his capacity can be split up for ascertaining whether particular remuneration is admissible or not for purpose of section 40(b) – Held, no – Whether section 40(b) does not envisage splitting of capacities of a partner in which he can work and does not warrant a distinction between a partner obliged to work and the one not obliged to work under the terms of a contract or the provision of law – Held, yes – Whether prohibition against deduction of amounts of nature covered under clause (b) of section 40 is made dependent on fact whether such payment is made for purpose of earning profit or not or whether it is made out of profit – Held, no – Whether there is no scope for contending that, despite the embargo under clause (b) of section 40, the amount of the nature referred to therein would be deductible under

				the provisions of section 28 – Held, yes – Whether a statutory prohibition against deductions such as contained in clause (b) of section 40 can be by-passed by reference to fact that profit and loss of a business are to be ascertained on commercial principles – Held, no – Whether provisions of sub-section (2) of section 40A can be construed so as to read that deductions which are made impermissible under section 40(b) should be read as permissible under section 40A(2) – Held, no – Whether payment made by assessee-firm by way of 'Majuri' to its partners for job work done for assessee was disallowable under section 40(b) after deducting expenses therefrom incurred for work done – Held, yes [1994] 72 Taxman 285 (Gujarat)
184	40(b)		Business disallowance	Vrajlal Trikamlal *v.* CIT IT REFERENCE NO. 10 OF 1970 'V', who was partner in assessee firm, died without leaving widow or children – Property belonging to 'V' was inherited by his brother 'M' who was also admitted as partner in assessee firm – However, credit balance in name of 'V' with assessee remained in name of 'V' and interest on said credit balance was continued to be credited in same name by assessee – Said interest income was assessed in hands of 'M' as his individual income – On 31-8-1958 'M' filed declaration that credit balance in name of 'V' was joint family property of 'M' and his two sons and interest received in account of 'V' be treated as income of HUF – ITO accepted said position upto assessment year 1962-63-However, in course of assessment of assessee firm for assessment year 1962-63, he held that credit balance in name of 'V' had not 62artner62 character of joint family property and it continued to be separate property of 'M' – Whether since there was no overt act on part of 'M' that he voluntarily threw credit balance into common hotchpot of joint family, amount of interest paid to account of 'V' belonged to 'M' as his personal income and it was not allowable as deduction in assessing income of assessee – Held, yes [1971] 80 ITR 299 (Gujarat)

185	40(a)(ia)		Disallowance	CIT –IV *v.* Sikandarkhan N. Tunvar TAX APPEAL NOS. 709, 710, 832, 857, 894, 905 & 928 OF 2012 & 12, 51, 58, 218 & 333 OF 2013 Section 40(a)(ia) would cover not only amounts which are payable as on 31st March of a particular year but also which are payable at any time during relevant year [2013] 33 taxmann.com 133 (Gujarat)
186	40(a)(ii)	189	Income Taz liability of firm	Himson Textile Engg. Industries (P.) Ltd. *V.* CIT IT REFERENCE NO. 77 OF 1992 Whether income-tax liability of erstwhile firm paid by assessee could not be allowed as deduction in view of provisions of section 40(a)(ii) while computing taxable income in hands of assessee – Held, yes – Whether under provisions of section 189 also, assessee was bound to pay income-tax dues of erstwhile firm and, therefore, it was not open to assessee to contend that payment of income-tax dues of its predecessor firm should be allowed as a deduction notwithstanding provisions of section 40(a)(ii) – Held, yes [2004] 137 Taxman 432 (Gujarat)
187	40(b)		Business disallowance	Industrial Linnings *v.* CIT IT REFERENCE NO. 66 OF 1992 Whether Tribunal was justified in disallowing under section 40(b), salary, consultancy and professional fees paid to partners, in their individual capacities even though each of them was a 63artner in assessee-firm in his capacity as karta of his HUF – Held, yes [2003] 130 Taxman 258 (Gujarat)
188	40(b)		Business disallowance	CIT *v.* Simplex Rayon & Silk Processors IT REFERENCE NO. 75 OF 1990 Interest, salary, etc., paid by firm to partner – Whether interest paid to HUF partner is allowable under section 40(b) – Held, no [2002] 123 Taxman 838 (Gujarat)
189	40(b)		Business Disallowance	National Wire Mfg. Co. *v.* CIT IT REFERENCE NO. 22 OF 1986 Whether even if a person joins partnership in a representative capacity in firm, position of such a person is as an individual only and, therefore,

				disallowance of salary paid to said partners was justified – Held, yes [2002] 125 Taxman 521 (Gujarat)
190	40 I		Business disallowance	CIT *v.* Mehta Parikh & Co. (P.) Ltd. IT REFERENCE NO. 190 OF 1988 Whether payment on account of bonus and leave encashment to directors is required to be excluded for computing disallowance under section 40I – Held, no [2002] 124 Taxman 466 (Gujarat)
191	40 I		Business Disallowance	Peass Industrial Engineers Private Limited *v.* CIT IT REFERENCE NO. 259 OF 1981 Whether, on facts, it could be concluded that engineer was an employee of assessee and provisions of section 40I(iii) were attracted – Held, yes [1995] 211 ITR 348 (Gujarat)
192	40 I		Business disallowance	Alembic Glass Industries Ltd. *V.* CIT. IT REFERENCE NOS. 162 AND 162A OF 1979 Whether 'remuneration' would include all that is quantifiable in money and paid to person for – his services or work –Held, yes – Whether, therefore, director's fee and committee meetings fees paid to directors in respect of services rendered by them in their capacity as directors would fall within meaning of word remuneration under section 40I(i)(A) and were to be included while calculating ceiling prescribed therein – Held, yes [1994] 205 ITR 200 (Gujarat)
193	40 I		Business disallowance	CIT *v.* Rohit Mills Ltd. IT REFERENCE NO. 371 OF 1983 [REFERENCE APPLICATION NO. 120 (AHD.) OF 1983] Whether commission paid to three directors of assessee-company should be included in remuneration for purpose of determining disallowance under section 40I, even if it is not covered by definition of remuneration – Held, yes [1996] 85 Taxman 532 (Gujarat)
194	40A(2)		Payment to related persons	Coronation Flour Mills *v.* ACIT TAX APPEAL NO. 345 OF 1999 Whether for making disallowance under section 40A(2) Assessing Officer is required to record a finding as to whether expenditure is excessive or

				unreasonable in relation to any one of three requirements prescribed in section which are independent and alternative to each other; for making disallowance, all three requirements need not exist simultaneously – Held, yes [2010] 188 Taxman 257 (Gujarat)
195	40A(2)		Payment to related persons	Sirhind Steel (P.) Ltd. *V.* CIT IT REFERENCE NO. 1 OF 1988 Whether, on facts, Tribunal was right in law in invoking provisions of section 40A(2) and disallowing amount paid to extent of 50 per cent – Held [in view of difference in opinion of Division Bench, matter was referred to Chief Justice, where assessee did not press reference, accordingly, it was returned unanswered] [2003] 133 Taxman 883 (Gujarat)
196	40A(3)	Rule 6DDJ	Cash payment	DCIT Ahmedabad v. Hynoup Food & Oil Ind. (P.) Ltd IT REFERENCE NO. 19 OF 1993 Whether since assessee for availing benefit of rule 6DD(j) did not establish business expediency; genuineness of payment; identity of payee; and had also failed in establishing any exceptional or unavoidable circumstances for making payment in cash instead of crossed cheque, assessee could not be covered by exceptions provided in rule 6DD(j) – Held, yes – Whether, therefore, Assessing Officer was justified in making disallowance under section 40A(3) – Held, yes [2006] 150 Taxman 194 (Gujarat)
197	40A(3)		Disallowance of cash payment	Rajmoti Industries *v.* ACIT TAX APPEAL NOS. 105 & 106 OF 2014 When payment exceeding Rs. 20,000 was made by assessee through crossed cheque and not by account payee cheque, it amounted to violation of section 40A(3) [2014] 45 taxmann.com 72 (Gujarat) **SLP accepted (2017) 78 Taxmann.com 338 (SC)**
198	40A(3)		Business disallowance	Nathalal Jethalal *v.* CIT IT REFERENCE NO. 243 OF 1978 Assessee-firm dealing in grains and grocery made payments exceeding Rs. 2,500 to certain parties in cash and claimed that payments were made in advance towards purchase of stock-in-trade –

				Whether aforesaid payments were expenditure within meaning of section 40A(3) and, thus, liable to be disallowed – Held, yes [1993] 66 Taxman 177 (Gujarat)
199	40A(5)		Business disallowance	CIT *v.* Rajesh Textile Mills Ltd. IT REFERENCE NO. 54 OF 1979 Whether expenditure incurred by assessee-company on providing motor-cars and giving furnished accommodation to its managing directors amounted to perquisites, which would be taken into consideration on actual basis while computing permissible deduction under section 40A(6) and these perquisites could not be valued as per rule 3 while determining the taxable income of the assessee-company under the head 'Profits and gains of business or profession' – Held, yes – Whether in view of section 4CA(5)(a)(ii) read with the proviso, operation of the limit of allowable deduction of expenditure as contemplated by clause (c) of section 40A(5) gets excluded – Held, no [1988] 39 Taxman 170 (Gujarat) **Case approved (2001) 118 Taxman 461 (SC)**
200	40A(7)	32A 35	Business expenses Depreciation Development rebate	Synbiotics Ltd. *V.* CIT IT REFERENCE NO. 193 OF 1980 Whether even if no provision for gratuity is made by assessee, section 40A(7) will apply and unless conditions laid down therein are satisfied, gratuity amount paid to employees will not be deductible – Held, yes Whether where a capital asset used for scientific research related to business of assessee is also ipso facto an asset used for purpose of business double deduction in respect of same expenditure, one by way of depreciation under section 32 and other by way of allowance under section 35(1)(iv) of a part of capital expenditure on scientific research is not permissible – Held, yes [1993] 203 ITR 162 (Gujarat)
201	40A(7)		Business disallowance	CIT *v.* Gaekwar Mills Ltd. IT REFERENCE NO. 80 OF 1979 Whether assessee, which was following mercantile system of accounting, was entitled to a deduction under provisions of section 28 or

				section 37 of its actuarially valued gratuity liability under Payment of Gratuity Act, 1972, for which no provision had been made – Held, no [1993] 202 ITR 272 (Gujarat)
202	40A(7)		Business disallowance	Maharana Mills Ltd. *V.* CIT. IT REFERENCE NOS. 72 AND 72A OF 1980 Whether where provision for gratuity was made by assessee not by way of contribution to a recognized gratuity fund created under an irrevocable trust, conditions laid down by section 40A(7)(b)(ii) were not fulfilled by assessee, and, therefore, its claim for provision for gratuity was rightly disallowed – Held, yes [1994] 207 ITR 863 (Gujarat)
203	40A(7)	4 37(1)	Business Disallowance	Sarabhai Technological Development Syndicate (P.) Ltd. *V.* CIT IT REFERENCE NO. 99 OF 1986 Whether since workmen were effectively in service of company till that date, there was no closure of establishment within meaning of provisions of section 25FFF of the Industrial Disputes Act during assessment year under consideration, i.e., 1978-79 – Held, yes – Whether in absence of any termination of services of workmen before 31-3-1978, there was no occasion for any liability to arise within meaning of provisions of the Payment of Gratuity Act and even under mercantile system there was no accrual as event of retrenchment took place only after close of accounting period – Held, yes – Whether assessee's claim for deduction of gratuity liability in assessment year 1978-79 was rightly disallowed – Held, yes [2002] 121 Taxman 696 (Gujarat)
204	40A(7)	37	Business disallowance Gratuity	Navsari Cotton and Silk Mills Ltd. *V.* CIT IT REFERENCE NO. 282 OF 1983 Whether unless provisions of section 40A(7) were satisfied, deduction of liability arising from payment of gratuity could not be allowed to assessee and sections 30 to 39 would not come to its rescue – Held, yes [1993] 202 ITR 111 (Gujarat)
205	40A(8)		Business disallowance	Agew Steel Mfrs. (P.) Ltd. *V.* CIT. IT REFERENCE NO. 131 OF 1986

			Interest on Deposit	Whether word 'deposit' in section 40A(8) does not in any manner contemplate persons and/or nature or character of persons, from whom assessee may receive amounts by way of loan and borrowings – Held, yes – Amounts received by assessee-company from its directors/shareholders and their friends and relatives, by way of loans and borrowings and paid interest to them – Whether 15 per. Cent. Of interest paid by assessee was disallowable under section 40A(8) – Held, yes [1994] 209 ITR 77 (Gujarat)
206	40A(8)		Business disallowance	Parikh Enterprises (P.) Ltd. *V.* CIT. IT REFERENCE NO. 168 OF 1988 Whether interest paid on any money received by a company other than a banking company or a financial company which does not fall in any of exceptions contained in clauses (i) to (viii) of Explanation(b) to section 40A(8) and its deduction, which is an allowable expenditure, is governed by section 40A(8) during its operation – Held, yes [2002] 124 Taxman 468 (Gujarat)
207	40A(8)		Business disallowance	CIT *v.* Navjivan Roller & Pules Mills (P.) Ltd. IT REFERENCE NO. 247 OF 1984 Whether term 'deposit' in section 40A(8) has been used in its widest possible meaning so as to include 'current accounts' of directors/shareholders also – Held, yes [2002] 121 Taxman 200 (Gujarat)
208	40A(8)		Business disallowance	CIT *v.* Jagdish Processors (P.) Ltd IT REFERENCE NO. 16 OF 1985 Assessee-company claimed that out of amount covered by provisions of section 40A(8), certain sum paid to its agents was to be allowed under section 40A(8), Explanation (b)(vii) – Assessing Officer rejected claim on ground that said interest was given on 'Sharafi' accounts maintained by agents – Tribunal allowed assessee's claim – Whether in view of fact that assessee neither led any evidence nor placed on record any material to show that interest paid to its agents was covered by Explanation (b)(vii) to section 40A(8), assessee could not claim any

				benefit under that Explanation – Held, yes [2002] 121 Taxman 594 (Gujarat)
209	41(1)		Remission of liability	Gujtron Electronics (P.) Ltd. *V.* ITO TAX APPEAL NO. 462 OF 2017, CIVIL APPLN (OJ) NO. 511 OF 2017 Where assessee company collected a huge sum of advance from its customers under a sales promotion scheme and showed same as outstanding liability for several years, since scheme itself had terminated many years back, and there was absolutely no correspondence between assessee and its customers with respect to deposited amount, there was cessation of liability; thus, amount was to be added to income of assessee [2017] 83 taxmann.com 389 (Gujarat)
210	41(1)		Remission of liability Excise duty refund	DCIT, (Assessment) *v.* Ahmedabad Advance Mills Ltd. TAX APPEAL NO. 4 OF 2001 Where excise duty refund received by assessee under section 41(1), same was held to be taxable [2015] 57 taxmann.com 61 (Gujarat)
211	41(1)		Remission of liability	CIT *v.* Pranlal P. Doshi. IT REFERENCE NO. 110 OF 1978 Assessee declared loss after making interest provision in suspense account minus receipt from sales of stores – ITO rejected assessee's claim for loss on ground that assessee was not engaged in any business during relevant year – Tribunal presumed that certain stores were in possession of assessee in earlier years and were sold in year in question and as such, income from their sale during relevant assessment year would give rise to legal fiction under section 41(1) – Tribunal held that assessee's business, therefore, could be presumed to have continued and hence loss was allowable – Whether Tribunal was justified in raising fiction under section 41(1) in absence of finding of fact that conditions precedent for invoking section 41(1) were satisfied – Held, no [1993] 66 Taxman 630 (Gujarat)
212	41(2)		Balancing Charge	CIT *v.* Shahibaug Entrepreneurs (P.) Ltd IT REFERENCE NOS. 243 AND 243A OF 1985

				Assessee sold some undertakings to its wholly-owned subsidiaries (WOS) – Consideration included goodwill, as determined by Chartered Accountants, though accounts of sold undertakings did not have any goodwill – Assessee did not declare any income chargeable to tax in respect of said transactions – ITO charged excess value of goodwill under section 41(2) as balancing charge – AAC held that income was taxable under section 41(2) but remanded matter to ITO for fresh valuation of goodwill – On second appeal, Tribunal held in favour of assessee on ground of transactions being slump sales – Whether, even if in agreement of sale there is no reference to value of plant, machinery and dead stock, if on basis of information that is made available to ITO, it becomes evident that said assets are sold at a higher price than book value, provisions of section 41(2) would be applicable – Held, yes – Whether, on facts, goodwill adopted by assessee was exaggerated in view of loss made by undertakings and, hence, AAC was right in remanding matter to ITO for fresh valuation of goodwill – Held, yes (1992) 198 ITR 351 (Gujarat)
213	43B		Allowable on actual payment	CIT *v.* Gujarat Urja Vikas Nigam Ltd. IT REFERENCE NO. 155 OF 1995 Duty paid on sale of electricity has to be considered as an inadmissible item under section 43B [2010] 322 ITR 539 (Gujarat)
214	43B		Business disallowance	CIT *v.* Ideal Sheet Metal Stampings & Pressing (P.) Ltd IT REFERENCE NO. 89 OF 1996 Whether where assessee collected excise duty and instead of paying same to Government, it kept separately in excise deposit account in books of account on ground that in dispute between assessee and Government, High Court had stayed its payment, provisions of section 43B were attracted [2008] 166 Taxman 91 (Gujarat)
215	43B		Business disallowance	Mugat Dyeing & Printing Mills *v.* ACIT TAX APPEAL NOS. 193 AND 194 OF 2003 WITH 8

				OF 2004 Certain deductions to be allowed only on actual payment – Plain meaning of expression 'actually paid' is that sum should have been actually paid to coffers of revenue, i.e., really paid and not constructively [2007] 290 ITR 282 (Gujarat)
216	43B		Disallowance	Deepak Nitrite Ltd. *V.* DCIT TAX APPEAL NO. 292 OF 2013 Where Commissioner (Appeals) had upheld assessee's claim for deduction of sales tax paid for earlier years and Tribunal in absence of any proof that in earlier years sales tax that remained unpaid was added to income of assessee remitted matter before Assessing Officer to verify necessary details, no question of law arose for consideration [2013] 34 taxmann.com 121 (Gujarat)
217	43(1)		Actual cost	CIT *v.* Anang Polyfil (P.) Ltd.. IT REFERENCE NO. 47 OF 1992 Interest paid or payable in connection with acquisition of asset for period after asset is first put to use cannot be included in actual cost of such asset either for purpose of depreciation or investment allowances [2004] 136 Taxman 692 (Gujarat)
218	44AC	Article 226 of Constitu tion	Writ	R. Laxmidas & Co. *v.* UOI SPECIAL CIVIL APPLICATION NO. 8083 OF 1989 Whether aforesaid corporation being outside limits of Gujarat and action of deducting tax at source having taken place outside territory of Gujarat, no cause of action could be said to have arisen against said corporation within Gujarat State, and, thus, interim relief restraining said corporation against recovery of income-tax under those provisions could not be granted to petitioners – Held, yes – Whether ordinarily in taxation matters at the interim stage recovery of amount of tax should not be stayed – Held, yes [1990] 50 Taxman 165 (Gujarat)

219	40-44			More cases at Sl. 32,80,96,108,135,183
220	45		Capital gains	Rustom Spinners Ltd. *v.* CIT. IT REFERENCE NO. 216 OF 1990 Assessee acquired right to purchase textile mill under an agreement and paid earnest money to vendor by cheque - Meanwhile, High Court passed an interim order restraining vendor from dealing with its properties - Said interim order was subsequently withdrawn - Thereafter, assessee assigned rights so acquired to assignee by deed of assignment and received consideration for same - Vendor in question was confirming party to said deed of assignment and he returned cheque of earnest amount to assessee - Whether fact that same rights and liabilities were assigned in favour of assignee, under deed of assignment to which vendor was confirming party, clearly showed that no fundamental or radical change was brought about merely by virtue of temporary injunction and that it was not as if any situation which was not foreseen by parties had arisen - Held, yes – Whether, therefore, there was no frustration of original contract for purchase and as such assessee-company would be liable for tax on capital gains in respect of amount received by it in consideration of assignment of said contract - Held, yes [1992] 198 ITR 351 (Gujarat)
221	45		Capital gains	Dinesh Babulal Thakkar *v.* ACIT TAX APPEAL NOS. 1762 & 1763 OF 2010 Where by impugned transaction no assets were owned by assessee and nothing was transferred, claim of capital loss could not be allowed [2013] 33 taxmann.com 625 (Gujarat)
222	47	148	Transfer	Takshashila Gruh Nirman *v.* DCIT, 4(1)(2) MISC. CIVIL APPLN NOS. 576,577 & 579 OF 2017 SPECIAL CIVIL APPLN NOS. 13971, 14071 & 14794 OF 2016 Where on question whether on a conversion of partnership firm to company, there was any transfer, decision of Tribunal cited was not considered by High Court and further there was omission to cited appropriate authority of law, same would not amount to error apparent on

				face of record for reviewing HC order [2017] 81 Taxmann.com 422 (Gujarat)
223	47	45	Capital gains	Dilip Chinubhai Shah *v.* CIT IT REFERENCE NO. 58 OF 1986 House property devolving upon assessee and his three brothers was divided equally amongst HUFs of four brothers by deed/memorandum dated 26-3-1973 - There was, however, no partition by metes and bounds - By executing a partition deed of property on 7-7-1978, assessee disposed of his share to HUF of another brother and claimed that as per provisions of section 47(ii) there was no transfer within meaning of section 45, because upon dissolution of BOI or an AOP, capital asset was distributed among brothers - Assessing Officer, however, treated it as sale and included amount of capital gain in income of assessee - Whether there was actually no AOP or BOI as on 7-7-1978 which was owner of entire property and assessee, who was owner of one- fourth share of said property, had sold its share - Held, yes - Whether, therefore, transaction of sale of his share in HUF property by assessee amounted to transfer and gave rise to capital gains - Held, yes [2003] 126 Taxman 523 (Gujarat)
224	47(vii)		Capital gains	CIT *v.* Gautam Sarabhai Trust No. 31 IT REFERENCE NO. 78 OF 1987 Whether when besides shares of A, assessee was also allotted bonds in consideration of transfer of its shares in amalgamating company S, assessee would not be entitled to benefit of exemption under section 47(vii) - Held, yes [1988] 40 Taxman 178 (Gujarat)
225	48	32 35(2)(iv)	Capital gains Depreciation	Alembic Chemical Works Co. Ltd. *v.* CIT IT REFERENCE NO. 39 OF 1980 Whether, for purpose of computing capital gains on sale of original shares and bonus shares, cost of original shares has to be spread over original shares and bonus shares taken together - Held, yes Whether depreciation can be allowed in respect of assets used for scientific research, entire cost of which had been deducted under section 35(2)(iv) - Held, no

				[1992] 64 Taxman 105 (Gujarat)
226	48		Capital gains	Manubhai Bhikhabhai *v.* CIT. I.T. REFERENCE NOS. 224 TO 226 OF 1980 Whether sale price of shares included release and discharge of three brothers from their liabilities and obligations and, thus, assessees could be said to have received by way of consideration full amount of Rs. 50 per share, and in reality, had not suffered any loss in selling those shares at rate of Re. 1 per share - Held, yes [1994] 77 Taxman 569 (Gujarat)
227	48		Capital Gains	Ravjibhai Nagarbhai Patel *v.* ITO, Ward-6(2) SPECIAL CIVIL APPLICATION NO. 3447 OF 2016 Reopening of assessment was justified to ascertain issue of capital gain on sale of shares where assessee effectively sold shares of company K for acquiring shares of other company A and neither had assessee placed on record cost of acquisition of shares of K nor did nature of transaction of transfer of investment from K to A was visible from declaration made by assessee [2017] 81 taxmann.com 268 (Gujarat)
228	48		Capital gains	Alembic Chemical Works Ltd. (No. 1) *v.* CIT IT REFERENCE NO. 35 OF 1980 Whether for purpose of working out capital gains arising out of sale of original shares, cost of shares to be deducted from sale proceeds should be worked out by spreading cost at which original shares were purchased and bonus shares – Held, yes [1992] 194 ITR 497 (Gujarat) **Approved in (1996) 88 Taxman 453 (SC)**
229	48	32 35(2)(iv)	Capital gains Depreciation	Alembic Chemical Works Co. Ltd. *v.* CIT IT REFERENCE NO. 39 OF 1980 Whether, for purpose of computing capital gains on sale of original shares and bonus shares, cost of original shares has to be spread over original shares and bonus shares taken together - Held, yes Whether depreciation can be allowed in respect of assets used for scientific research, entire cost of which had been deducted under section 35(2)(iv) - Held, no [1992] 64 Taxman 105 (Gujarat)
230	48		Capital gains	Smt. Shreyaben R. Mukharjee *v.* CIT

				IT REFERENCE NO. 237 OF 1977 Whether while working out capital gains arising out of sale of shares of a company, cost of shares to be deducted from sale proceeds should be worked out by spreading cost at which original shares were purchased over original shares and bonus shares - Held, yes [1993] 201 ITR 653 (Gujarat)
231	48	32 35(2)(iv)	Capital gains Depreciation	Alembic Chemical Works Co. Ltd. *v.* CIT IT REFERENCE NO. 39 OF 1980 Whether, for purpose of computing capital gains on sale of original shares and bonus shares, cost of original shares has to be spread over original shares and bonus shares taken together - Held, yes Whether depreciation can be allowed in respect of assets used for scientific research, entire cost of which had been deducted under section 35(2)(iv) - Held, no [1992] 64 Taxman 105 (Gujarat)
232	48		Income escaping assessment	CIT *v.* Smt. Ninochaka A. Kothari. IT REFERENCE NO. 491 OF 1980 Whether cost of acquisition of shares should be computed on basis of averaging out cost of original shares purchased and bonus shares received thereon - Held, yes - Whether principle of averaging out cost of acquisition would apply only where shares which are subject-matter of sale have been followed by issuance of bonus shares, on shares so purchased from market - Held, yes [1994] 77 Taxman 342 (Gujarat)
233	48		Capital gains	Smt. Shreyaben R. Mukharjee *v.* CIT IT REFERENCE NO. 237 OF 1977 Whether while working out capital gains arising out of sale of shares of a company, cost of shares to be deducted from sale proceeds should be worked out by spreading cost at which original shares were purchased over original shares and bonus shares - Held, yes [1993] 201 ITR 653 (Gujarat)
234	48		Capital gains Computation	L.M. Patel & B.M. Patel (HUF) *v.* CIT TAX APPEAL NO. 112 OF 2000

				Payment made by assessee to a company for relinquishment of fabricated tenancy rights could not be considered in computing capital gain [2012] 27 taxmann.com 234 (Gujarat)
235	49(1)		Capital asset	B.N. Vyas *v*. CIT IT REFERENCE NO. 207 OF 1977 Whether in order to attract provisions of section 49, it is necessary that the capital asset which is sold must be a capital asset as defined in section 2(14) at time when it was acquired - Held, no [1986] 25 Taxman 133 (Gujarat)
236	50	49	Capital gains depreciable assets Cost wrt certain modes	Rajnagar Vaktapur Ginning, Pressing and Manufacturing Co. Ltd. *v.* CIT SPECIAL CIVIL APPLICATION NO. 103 OF 1972 AND IT REFERENCE NO. 26 OF 1971 Whether classification of assessees owning depreciable assets into two groups, namely, i. assessees purchasing or acquiring assets themselves from their own funds, and ii. (ii) assessees acquiring depreciable assets as successors to original owners free of cost, intelligible enough and it has got a rational basis, namely, that assessees owning depreciable assets in their own right as being purchasers of assets themselves and assessees acquiring depreciable assets as successors free of cost – Held, yes Section 49 of the Income-tax Act, 1961 - Capital gains - Cost with reference to certain modes of acquisition - Assessment year 1968-69 – Assessee-company under voluntary liquidation disposed of building and machinery purchased before 1-4-1954 - Assessee claimed that it should be permitted to substitute market value of machinery as on 1-4-1954 – Whether it is only those assessees who acquired depreciable assets in any one of modes prescribed under section 49 that have benefit of option to select either fair market value of assets on 1-1-1954, or cost of acquisition by previous owner – Held, yes – Whether assessee-company was not an assessee

				acquiring depreciable assets in any of modes mentioned in section 49 and, therefore, its case fell within section 50(1), and therefore, adjusted written down value as defined under section 43(6) would be cost of acquisition - Held, yes [1975] 99 ITR 264 (Gujarat) **Approved in (1997) 94 Taxman 137 (SC)**
237	50C	147	Capital gains Reassessment	Chunibhai Ranchhodbhai Dalwadi *v.* ACIT, SPECIAL CIVIL APPLICATION NO. 5376 OF 2015 Reopening of assessment within four years to determine long-term capital gain under section 50C was justified where sale value of property in question as determined by stamp duty authorities was much higher than declared by assessee in sale deed but neither did assessee declare long-term capital gain in original return of income nor did Assessing Officer consider said issue in original assessment proceedings [2017] 81 Taxmann.com 136 (Gujarat)
238	50C	142A	Capital gains Reference to DVO	Kanaiyalal Dhansukhlal Sopariwala *v.* DVO SPECIAL CIVIL APPLICATION NO. 16233 OF 2010 Where assessee filed writ petition challenging power of Assessing Officer to obtain report of DVO for computing capital gain arising from sale of land on ground that same had been assessed on basis of Jantri rates prevailing at time of sale, since those Jantri rates had not been revised for a long time, petition filed by assessee was to be dismissed [2016] 75 Taxmann.com 271 (Gujarat)
239	50C	147	Capital gains Reassessment	Surat District Co-op Milk Producers Union Ltd. *v.* ITO SPECIAL CIVIL APPLICATION NO.18608 OF 2011 Where assessee filed its return declaring long term capital gain. arising from sale of land, since it did not disclose that section 50C was applied to said sale and higher valuation had been adopted by stamp duty authority, Assessing Officer was justified in initiating reassessment proceedings [2017] 77 Taxmann.com 351 (Gujarat)
240	54		Capital gains	R. Krishnamurthy *v.* CIT IT REFERENCE NO. 269 OF 1980 Whether use of words 'was being used' in section

				54 denotes continuity of user - Held, yes - Whether in order to qualify for benefit of exemption under section 54, property should have been used by assessee for his own residence for full period of two years prior to its sale - Held, yes [1993] 204 ITR 47 (Gujarat)
241	54	45	Capital gains	Smt. Shantaben P. Gandhi *v.* CIT IT REFERENCE NO. 25 OF 1975 Capital gains—Profit on sale of property used for residence—Assessee had a large plot, with a building, and a small plot—It constructed a building on small plot on 31-3-1968—House property on large plot sold on 20-3-1970—Major portion of cost of construction of building on small plot paid out of sale proceeds of larger plot on 20-3-1970 and assessee took possession of newly constructed building also on the same date—Whether it could be said that assessee had constructed new building within a period of two years after the date of transfer of its house property on larger plot—Held, on facts, no—Whether assessee entitled to benefit of section 54—Held, on facts, no [1981] 6 Taxman 356 (Gujarat)
242	54		Capital gains	CIT *v.* Tikyomal Jasanmal IT REFERENCE NO. 1 OF 1970 ITO rejected assessee's claim for exemption under section 54 on grounds that new property constructed by him after sale of his previous house was not exclusively used for his own residence, and that its construction was not completed within stipulated period of two years – Whether since ground floor of new building was completed within stipulated period and there was an interregnum of a period of more than a year and a half between completion of construction of ground floor and commencement of construction of first floor of new building, ground floor could be taken as a unit of house property for purpose of determining applicability of exempting provision - Held, yes – Whether, however, when more than 50 per cent, of area of ground floor of new building was let out by assessee to tenants as soon as the construction

				was completed, it could not be said that ground floor of new building was constructed by assessee for purpose of his own residence - Held, yes – Whether, therefore, claim of assessee for exemption in respect of capital gain resulting from sale of old house property was not sustainable under section 54 - Held, yes [1971] 82 ITR 95 (GUJ.)
243	54		Capital gains	Ravindra Gunvantlal Shah *v.* CIT. I.T. REFERENCES NOS. 52 AND 61 OF 1988 Whether section 54 applies to individuals only and not to Hindu Undivided Families - Held, yes [1994] 208 ITR 995 (Gujarat)
244	45-54			More cases at Sl. 2,17-20,22,33,223,236,241,434
245	56		Other sources	CIT *v.* Nathalal Dahyabhai. IT REFERENCE NO. 503 OF 1980 Whether aforesaid amount received by assessee as interest on failure of transaction, could be taxed under head 'Other sources' – Held, yes – Whether, since assessee was not a dealer in land, amount in question could not be assessed as business income – Held, yes – Whether, since there was no capital asset which was transferred from which any capital gain could possibly accrue, amount in question could not be assessed as capital gain – Held, yes [1995] 81 Taxman 497 (Gujarat)
246	56		Other sources	Morvi Mercantile Bank Ltd. *V.* CIT IT REFERENCE NO. 19 OF 1974 Whether where assessee a banking company was wound up and its license to carry on business of banking had been suspended by Reserve Bank of India, it could not be said that liquidator when he was realizing assets and investing realization in short-term deposits with permission of Court pending distribution amongst creditors was really carrying on business – Held, yes – Whether therefore, interest received by liquidator in such deposits was taxable as income from other sources and not as business income – Held, yes [1976] 104 ITR 568 (Gujarat)
247	56	15	Other sources	Smt. Dhirajben R. Amin V CIT IT REFERENCE NO. 23 OF 1965 Section 56, read with section 15 of the Income-tax Act, 1961 [Corresponding to section 12, read

				with section 7 of Indian Income-tax Act, 1922] – Income from other sources – Chargeable as – Assessment years 1955-56 to 1958-59 – Assesse's family had substantial interest in two companies – Companies made payments to assessee though no services were rendered to these companies – Whether since payments from two companies were received by assessee periodically and these payments were received from definite sources, these were income in hands of assessee – Held, yes – Whether since payment was made out of profits of companies and entire arrangement recorded in resolutions of companies regarding such payments was a camouflage which paying companies had put round arrangement and payments were nothing but transfer of profits to a person who was a member of family controlling companies, it could not be said that payments of these amounts were received by assessee as salary – Held, yes – Whether amounts in question could be treated as income from other sources and assessee would not be entitled to earned income relief in respect of amounts received – Held, yes [1968] 70 ITR 194 (Gujarat)
248	56	15 256	Other sources	Smt. Dhirajben R. Amin *v.* CIT IT REFERENCE NO. 23 OF 1965 Assessee received payments from companies without doing any service-Assesse's family had substantial interest in two companies – whether these were income in hands of assessee – Held, yes – Whether payments were nothing but transfer of profits to a person who was a member of family controlling companies, such payments were received as salary – Held, yes – Whether amounts are income from other sources and assessee would without corresponding relief – Held, yes All questions of law arising out of Tribunal's order can be referred to High Court for its determination – Held, yes [1968] 70 ITR 194 (Gujarat)
249	56		Other sources	CIT *v.* Petro-Fils Co-operative Ltd. IT REFERENCE NO. 295 OF 1983

				Whether interest income and miscellaneous income which assessee received during relevant previous year was revenue in nature required to be taxed as income from other sources and these receipts were not to be treated as reduction in project cost – Held, yes [2003] 127 Taxman 498 (Gujarat)
250	56		Income from other sources	CIT *v.* Petro-Fils Co-operative Ltd. IT REFERENCE NO. 62 OF 1984 - During relevant year, assessee-company was in process of setting up of business and had not commenced any production – As assessee could not 81tilize all funds it borrowed for establishing and manufacturing apparatus, it kept same in short-term deposits and earned interest – Whether assessee would not be entitled to set off amount of interest earned against its interest liability and said earning would be liable to be assessed as income of assessee – Held, yes [2002] 123 Taxman 356 (Gujarat)
251	57	37(1)	Other sources Business expenses	Smt. Virmati Ramkrishna *v.* CIT IT REFERENCE. NOS. 134 AND 135 OF 1974 Whether interest on loan taken by assessee to meet her personal expenses and tax liability was not deductible in computing assessee's income under head 'other sources' – Held, yes – Whether expenditure incurred by assessee on account of payment of fees to various tax-practitioners could not be said to have been laid out or expended wholly and exclusively for purpose of earning dividend income and, therefore, it was not permissible deduction under section 57(iii) – Held, yes Section 57, read with section 37(1) of the Income-tax Act, 1961 – Income from other sources – Deductions – Whether implication of section 57(iii) is narrower than that of section 37(1) and, therefore, decisions given in context of section 37(1) cannot be straightaway applied to cases falling under section 57(iii) – Held, yes [1981] 131 ITR 659 (Gujarat)
252	57(iii)		Other sources Expenses	Sarabhai Sons (P.) Ltd. *V.* CIT IT REFERENCE NO. 38 OF 1980 Whether connection between expenditure

				incurred and income earned need not be direct, even if connection is indirect or incidental, that can be regarded as sufficient for purpose of section 57(iii) – Held, yes – Whether, however, in view of fact that shares were purchased by assessee not for purpose of earning income but with a clear purpose or object of getting 100 per cent control over company 'S', expenditure incurred in that behalf fell outside purview of section 57(iii) – Held, yes – Whether in such circumstances, Tribunal was justified in disallowing assessee's claim – Held, yes [1993] 201 ITR 464 (Gujarat)
253	57(iii)		Deductions in respect of income from other sources	Jaswantrai P. Mehta *v*. CIT. IT. REFERENCE NO. 167 OF 1979 AND R.A. NO. 118 (AHD.) OF 1979 Whether in a case where assessee has borrowed moneys for making investments, interest paid on account of failure to pay interest for preceding year can be considered as an expenditure laid out or expended wholly or exclusively for purpose of making or earning income – Held, no [1992] 61 Taxman 71 (Gujarat)
254	57(iii)		Deductions in respect of income from other sources	Kalindi Investment (P.) Ltd. *V.* CIT IT REFERENCE NO. 122 OF 1988 Assessee-limited company borrowed certain sum, major part of which was invested in purchasing of shares of certain company which were subsequently transferred to its wholly owned subsidiary company for consideration to be received in instalments without interest – Assessee's claim for deduction of interest on borrowed fund was disallowed on ground that expenditure was not incurred wholly and exclusively for purpose of making or earning interest – Whether on plain reading of provision of section 57(viii) in light of facts found there was no making or earning of income relatable to transaction in question and as assessee admittedly was not carrying on any business and, thus, was not having income from business, Tribunal was right in holding that assessee was not entitled to deduction of interest under section 57(iii) – Held, yes [2003] 129 Taxman 219 (Gujarat)

255	56-57			More cases at Sl. 14,77,126,153,396
256	64	256	Transfer Reference	CIT *v.* Mohmadmiya A. Topiwala. IT REFERENCE NOS. 302 AND 302A OF 1978 Whether since transfers were made on same day and they were of equal value and further there was no reason or explanation given for effecting such transfers, it could be said that said two transfers were inter-connected and formed part of same transaction and by such transfers, assessee had indirectly transferred land in favour of his wife with view to escape from provisions of section 64(1)(iii) - Held, yes Whether wherever an inference is require to be drawn on basis of facts found and in doing so, some principle for appreciation of evidence or provision of law is to be applied, it becomes a mixed question of law and fact - Held, yes [1994] 207 ITR 711 (Gujarat)
257	64		Transfer of asset	CIT *v.* Mehmoodmian A. Topiwala. IT REFERENCE NO. 297 OF 1981 Whether transfer of share in land made by assessee's brother in favour of assessee's wife had a proximate connection with transfer of asset made by assessee and was indirectly a transfer by assessee as contemplated under section 64(1)(iii) - Held, yes - Whether amount of interest paid by assessee to his wife could be included in income of assessee under section 64 - Held, yes . [1994] 75 Taxman 406 (Gujarat)
258	64		Clubbing	CIT *v.* Mahendrasingh Mohansingh (deceased) IT REF. NOS. 18 OF 1975, AND 141 & 146 OF 1976 Transfer of assets for benefit of spouse/minor child - Initially, assessee was a partner in firm as karta of HUF consisting of himself, wife and minor son - Under an agreement, after partial partition relating to capital of HUF in the firm, assessee, his wife and son each held one-third share in the capital of the firm - Assessee became a partner in the firm on behalf of himself, wife and son - Whether one-third share of profits from the firm belonging to the wife and son includible in the hands of assessee by virtue of section 64 - Held that the agreement between assessee, his wife and son amounted to a sub-partnership and their share of income out of the share of profits of the

				firm was taxable in the hands of assessee [1979] 2 Taxman 13 (Gujarat)
259	64		Clubbing Transfer of assests	CIT *v.* Shardaben Kishorebhai Patel IT REFERENCE NO. 44 OF 1998 Where amount credited in account of minor in partnership firm was to be treated as capital investment, interest paid on such account would be clubbed under section 64(1)(iii) with income of assessee [2014] 48 taxmann.com 296 (Gujarat)
260	64		Transfer of asset for benefit of spouse	Damodar K. Shah *v.* CIT IT REFERENCE NO. 116 OF 1985 Whether interest income earned by wife by deposit/investment of maturity value of insurance policy was income which arose directly from cash asset transferred by assessee in shape of premia to his wife, and, therefore, Tribunal was justified in including full amount of interest so derived by wife as assessee's income under section 64(1)(iv) - Held, yes [2001] 119 Taxman 882 (Gujarat)
261	64		Transfer for benefit of spouse	CIT *v.* Chinubhai M. Modi IT REFERENCE NO. 20 OF 1965 Consequent to partial partition of HUF, an amount of Rs. 2 lakhs standing in books of business of HUF was divided among assessee, his one major son, his one minor son and his wife - Assessee and his two sons got Rs. 47,500 each while his wife was given Rs. 57,500 - Subsequently, assessee and his major sons started a partnership firm and minor son was admitted to benefits of partnership - Wife was given a higher share at time of partition because she was not to be made a partner in business - Whether formation of partnership was in contemplation at time when partition deed was executed and share of minor was kept in partnership firm because both partition and formation of partnership were parts of one and same transaction - Held, yes - Whether in view of casual connection between bringing in amount of share of minor into partnership and minor being admitted to benefits of partnership, portion of interest which was attributable to amount of Rs.

				47,500 and accumulated on interest paid for previous year on that amount of Rs. 47,500 arose directly or indirectly to minor from his admission to benefit of partnership - Held, yes - Whether, therefore, income of minor must be included in total income of assessee - Held, yes [1968] 69 ITR 76 (Gujarat)
262	64			More cases at Sl. 9,30
263	68	147	Cash credit	MSK Real Estates (P.) Ltd. *V.* DCIT, Central Circle-1 R/SPECIAL CIVIL APPLICATION NO. 22827 OF 2017 Where AO initiated reassessment proceedings on basis of information supplied by Investigation Wing that assessee received accommodation entries in form of share capital and share premium from paper/shell companies, validity of said proceedings deserved to be upheld [2018] 95 Taxmann.com 241 (Gujarat)
264	68	147	Cash credit	Kottenz India Manufacturing (P.) Ltd. *V.* DCIT, Circle 2(1)(2) R/SPECIAL CIVIL APPLICATION NO. 21109 OF 2017 Where AO initiated reassessment proceedings on basis of information received from Investigation wing that assessee had received accommodation entries in form of share capital and share premium from paper/shell companies, validity of proceedings so initiated deserved to be upheld [2018] 95 Taxmann.com 291 (Gujarat)
265	68			CIT *v.* Mansurali Valibhai Dudhani IT REFERENCE NO. 119 OF 1976 Assessee showed in his capital account amount of Rs. 72,000 on first day of accounting period and could not explain its source to ITO's satisfaction—ITO added said amount under section 68—Addition upheld by AAC—Tribunal opined that said amount could not have been earned on the first day of accounting year and, therefore, it could not be added—Whether tribunal's view correct in law—Held, on facts, no [1981] 7 Taxman 296 (Guj.)
266	68	147	Share capital	Aishwarya Dying Mills (P.) Ltd. *V.* DCIT, Circle (1)(1) R/SPECIAL CIVIL APPLICATION NO. 22523 OF 2017 There are no fetters on Assessing Officer carrying out preliminary inquiries even before issuance of

				notice of reopening in order to collect information on basis of which, he may either form a belief that income chargeable to tax had escaped assessment or abandon any further inquiry, upon being satisfied that no such belief could be formed [2018] 94 Taxmann.com 430 (Gujarat)
267	68	147	Share capital Premium	Khatu Shyam Processors (P.) Ltd. *V.* DCIT, Circle 1(1)(2) R/SPECIAL CIVIL APPLICATION NO. 22933 OF 2017 Where AO, on basis of information supplied by Investigation Wing of department, initiated reassessment proceedings on ground that a company provided accommodation entries to assessee in form of share capital and premium, there being a prima facie case to believe that income chargeable to tax had escaped assessment, validity of reassessment proceedings was to be upheld [2018] 94 Taxmann.com 429 (Gujarat)
268	68	147	Cash credit Bogus loans	Jayant Security & Finance Ltd. *V.* ACIT Circle 1(1) SPECIAL CIVIL APPLICATION NO. 18921 OF 2017 Initiation of reassessment proceedings on basis of information received from Investigation wing that assessee had received certain amount as a loan from a company, working as entry operator and earning bogus funds to provide advances to various person, was justified [2018] 91 Taxmann.com 181 (Gujarat)
269	68		Cash credit Loan	Pavankumar M. Sanghvi *v.* ITO TAX APPEAL NO. 1037 OF 2017 Where assessee received loan from two companies, in view of fact that on date assessee was given loan there were credit entries of almost similar amounts and balance after these transactions was a small amount and moreover assessee failed to produce these lenders for verification, impugned amount was rightly brought to tax under section 68 [2018] 90 Taxmann.com 386 (Gujarat) SLP dismissed [2018] 97 taxmann.com 398 (SC)
270	68		Cash credit Advance	Om Land Realty (P.) Ltd. *V.* DCIT TAX APPEAL NO. 772 OF 2017

				Where assessee claimed to have received advances towards booking of plots but could not produce details of all applicants who paid said sum, Tribunal was justified in making additions under section 68 to extent where details of applicants were not produced [2017] 86 Taxmann.com 226 (Gujarat)
271	68	148	Cash credit Share capital	Aradhna Estate (P.) Ltd. *V.* DCIT, Circle-1(1) SPECIAL CIVIL APPLICATION NO. 21999 OF 2017 Where reassessment proceedings were initiated on basis of information received from Investigation wing that assessee had received certain amount from shell companies working as an accommodation entry provider, merely because these transactions were 87horoughly87 by Assessing Officer during original assessment, reassessment could not be held unjustified [2018] 91 Taxmann.com 119 (Gujarat)
272	68		Cash credit	PCIT, Vadodara *v.* RSA Digi Print TAX APPEAL NO. 470 OF 2017 Where in earlier years pursuant to search proceedings, certain additions were made to assessee income under section 68 which were set aside by Tribunal, in view of fact that for assessment year in question Assessing Officer had come to an independent finding regarding bogus loan transaction and Tribunal had not disturbed said finding, in such a situation deletion of disallowance of interest on said loan was not correct [2018] 94 Taxmann.com 432 (Gujarat)
273	68		Unexplained cash credit	Truptiben Bakulbhai Patel *v.* ITO TAX APPEAL NO. 480 OF 2017 Where assessee did not disclose bank account no. in which various cash deposits were made neither in return filed for relevant assessment year nor in earlier assessments, said sum represented unaccounted income of assessee [2017] 87 Taxmann.com 41 (Gujarat)
274	68	148	Cash credit Accomodation entry	Pushpak Bullion (P.) Ltd. *V.* DCIT – Circle-3(1) SPECIAL CIVIL APPLICATION NO. 3279 OF 2016 Where investigation wing of department had during course of investigation in case of a third

				party found that he was indulged in providing accommodation entries and bogus bills, and assessee had made sizeable purchases from him, reopening notice against assessee was justified. [2017] 85 Taxmann.com 84 (Gujarat)
275	68		Cash credit Onus to prove	Blessing Construction *v.* ITO TAX APPEAL NO. 16 OF 2013 Where sizeable amounts were deposited in cash in account of depositors only before their withdrawal through cheques in favour of assessee, addition was justified [2013] 32 Taxmann.com 366 (Gujarat)
276	68	254	Cash credits	White Silco (P.) Ltd. *V.* ACIT, Central Circle 2(2) TAX APPEAL NO. 2012 OF 2009 Appeal was to be dismissed where addition made under section 68 was reversed by CIT(A) after positive findings in favour of assessee and Tribunal merely remanded matter to provide further opportunity to assessee [2012] 20 Taxmann.com 302 (Gujarat)
277	68		Cash credit Gift	Shatishkumar Kantilal Shah (HUF) *v.* ITO TAX APPEAL NO. 856 OF 2011 Where assessee failed to prove any close relation with donor and her creditworthiness to make gift to assessee, said gift could be added as unexplained cash credit in hands of assessee [2013] 35 Taxmann.com 640 (Gujarat)
278	68	148	Cash credit Accommodati on entry	Pushpak Bullion (P.) Ltd. *V.* DCIT,Circle-3(1) SPECIAL CIVIL APPLICATION NO. 18512 OF 2015 Where assessment of assessee was framed under section 143(1) and thereafter during search on other group it was found that assessee had taken accommodation entries from that group by way of bogus share capital, reopening of assessment was justified [2017] 88 Taxmann.com 603 (Gujarat)
279	68		Cash credit Loans	Umesh Krishnani *v.* ITO TAX APPEAL NO. 800 OF 2012 Where substantial amount was deposited in bank accounts of lenders shortly prior to issuance of

				cheques by them, transaction in question being sham, loan amount was to be added to assessee's taxable income under section 68 [2013] 35 Taxmann.com 598 (Gujarat)
280	68		Cash credit Gifts	Kaushal H. Patel *v.* ITO TAX APPEAL NOS. 884 & 885 OF 2013 Where assessee received huge amount through banking channels as cash credits in its bank account but failed to render an explanation for same, said amount was to be treated as income in hands of assessee [2014] 50 Taxmann.com 136 (Gujarat)
281	68	147	Cash credit Share capital	Olwin Tiles (India) (P.) Ltd. *V.* DCIT, SPECIAL CIVIL APPLICATION NOS. 17307, 18388 & 18389 OF 2015 Assessing Officer could initiate reassessment proceedings taking a view that having regard to net worth of assessee-company, huge premium received by it on issue of share capital represented unexplained cash credit which escaped assessment to tax [2016] 66 Taxmann.com 8 (Gujarat)
282	68	147 151	Cash credit Reassessment	Ankit Financial Services Ltd. *V.* DCIT Circle 1(1)(2) SPECIAL CIVIL APPLICATION NO. 18961 OF 2016 Where material recovered in search of another person indicated that assessee had received bogus share applications through accommodation entries, since assessee was beneficiary, initiation of re-opening was justified [2017] 78 Taxmann.com 58 (Gujarat)
283	68		Cash credits Gifts	Laxmandas Sujandas Dalpat *v.* ITO TAX APPEAL NO. 1383 OF 2007 Where assessee did not have any close relation with alleged donors and no cogent material had been brought on record to prove their financial capacity, gifts received by assessee in his capital account could not be treated as genuine and would be added to his income under section 68 [2015] 64 Taxmann.com 180 (Gujarat)
284	68		Cash credit Loan	Manoj Kumar *v.* ITO, OSD-II

				TAX APPEAL NO. 1496 OF 2011 Where even though assessee took unsecured loan through cheques, yet he could not establish identity and creditworthiness of lenders, amount of loan was rightly added to assessee's taxable income under section 68 [2014] 45 Taxmann.com 63 (Gujarat)
285	68		Cash credit Loan	Vajubhai N. Kanani *v.* ITO. TAX APPEAL NO. 825 OF 2012 Where assessee received loan from creditors who were not even taxpayers and, moreover, Assessing Officer had made sufficient inquiries and found that entire loan transaction was not genuine and essentially amounted to routing cash amount of assessee through alleged source, in such a situation, addition made under section 68 in respect of loan amount was to be confirmed [2014] 42 Taxmann.com 280 (Gujarat)
286	68		Cash credit NRE Accounts	Aiyub Umarji Patel *v.* ITO TAX APPEAL NO. 502 OF 2012 Where assessee received certain amount from NRE account of his brother but he could not give any further details of either source or creditworthiness thereof, authorities below were justified in bringing said amount to tax as unexplained cash credits [2014] 42 Taxmann.com 471 (Gujarat)
287	68		Cash credit	Ariel Sarees (P.) Ltd *v.* ITO TAX APPEAL NO.399 OF 2014 Where assessee had not brought any evidence on record to substantiate its claim, addition under section 68 was justified [2014] 46 Taxmann.com 417 (Gujarat)
288	68	133A	Cash credit	PCIT *v.* Chintan H. Sampat TAX APPEAL NO. 11 OF 2017 Where findings recorded by authorities in respect of addition under section 68 on account of bogus purchases and disallowance of expenses were on minute analysis of loose papers impounded during survey, same couldn't be interfered with

				[2017] 78 Taxmann.com 268 (Gujarat)
289	68	147	Cash credit Accommodation entry	Peass Industrial Engineers (P.) Ltd. *V.* DCIT, SPECIAL CIVIL APPLICATION NO. 3250 OF 2016 Where after 91horough assessment Assessing Officer received information from Investigation wing that two well known entry operators of country provided bogus entries to various beneficiaries, and assessee was one of such beneficiary, Assessing Officer was justified in reopening assessment [2016] 73 Taxmann.com 185 (Gujarat)
290	68		Cash credit Loan	Ashwinbhai B Pokiya *v.* ACIT TAX APPEAL NO. 472 OF 2011 Where in support of loan transactions, assessee could not bring any evidence on record including names and addresses of creditors, authorities below rightly concluded that said transactions were bogus and, thus, loan amount was to be added to assessee's income under section 68 [2014] 45 Taxmann.com 62 (Gujarat)
291	68		Cash credit Gifts	Seema Anil Modani *v.* ITO, Ward -2(6), Baroda TAX APPEAL NO. 278 OF 2012 Where in order to prove genuineness of gift, assessee had only filed an affidavit and copies of cheques and pay orders but did not file any of documents such as copy of proof of income of donor, copy of bank account of donor from where withdrawals were made along with proof of his identity, Tribunal rightly concluded that transaction of gift was sham and, thus, amount in question was to be added to assessee's taxable income under section 68 [2013] 40 Taxmann.com 456 (Gujarat)
292	68		Cash credit	Gujarat Fertilisers *v.* CIT IT REFERENCE NO. 227 OF 1995 Where alleged creditor had no money with him, he was having certain agricultural lands and from agricultural operations, he could hardly meet both ends, cash credit shown in his name could not be taken as genuine

				[2007] 293 ITR 70 (Gujarat)
293	68	147	Cash credit	Peass Industrial Engineers (P.) Ltd. *V.* DCIT, SPECIAL CIVIL APPLICATION NO. 3277 OF 2016 Where Assessing Officer had reopened assessee's assessment for assessment year 2012-13 for reasons that information was received from Competent Authority, Kolkata that one 'K' was very known entry operator and instant assessee was also a beneficiary of 'K' to extent of Rs. 183 lakhs pertaining to assessment year 2012-13, reasons were sufficient enough to reopen assessment [2016] 72 Taxmann.com 302 (Gujarat)
294	69	147	Unexplained investment	Kiran Ravjibhai Vasani *v.* ACIT , Circle 5(3) R/SPECIAL CIVIL APPLICATION NOS. 16385 OF 2017 AND OTHERS Where Assessing Officer issued a notice seeking to reopen assessment on ground that assessee had purchased a piece of land for which a part of purchase consideration was paid in cash not disclosed in books of account, in view of assessee failed to rebut evidence on record such as cash vouchers, summary of sale deed etc., and, moreover, original return filed by her had been accepted without scrutiny, a case for reopening of assessment was clearly made out. [2018] 94 Taxmann.com 354 (Gujarat)
295	69		Unexplained investment	Bhanuvijaysingh M. Vaghela *v.* ITO TAX APPEAL NO. 1799 OF 2010 Where loose paper seized from residence of a third party was signed by assessee as well as third party which indicated that amount in question was given by assessee by way of loan, same was rightly taxed under section 69 in hand of assessee [2013] 33 Taxmann.com 555 (Gujarat)
296	69	147	Unexplained income	Vicky Rajesh Jhaveri *v.* DCIT, SPECIAL CIVIL APPLICATION NOS. 18080,18081,18090,19382 & 19383 OF 2015 Where revenue authorities had given details and also verified accommodation entries in share transaction in respect of sale of share of a fake company by assessee and concluded escapement of income, reopening was justified

				[2016] 76 Taxmann.com 96 (Gujarat) **Affirmed in (2016) 76 Taxmann.com 97 (SC)**
297	69		Unexplained investment	Silk Museum *v.* CIT IT REFERENCE NO. 6 OF 1986 Whether affidavit of 'V' denying receipt of pagri which was belatedly produced by assessee was obviously an afterthought to bolster up assessee's case and could not dislodge reliable version of 'B' – Held, yes – Whether, therefore, addition was to be sustained – Held, yes [2003] 131 Taxman 491 (Gujarat)
298	69	158BC	Unexplained Investment	Rajesh Trade Link (P.) Ltd. *V.* DCIT TAX APPEAL NO. 500 OF 2013 Where assessee failed to explain purchase which were found as undisclosed during search, addition was to be made [2013] 37 taxmann.com 392 (Gujarat)
299	69		Un explained investment Bank deposits	Bhagwandas D. Vachhani *v.* ACIT, TAX APPEAL NOS. 324, 326 TO 329 OF 2002 Where in course of search certain amount was found deposited in bank account of assessee-HUF, in absence of any evidence on record showing co-relation between under invoking of goods sold and amount so credited, authorities below rightly added said amount to assessee's taxable income under section 69 [2015] 56 taxmann.com 284 (Gujarat)
300	69		Unexplained Investment	Subodhchandra & Co. *v.* DCIT, TAX APPEAL NOS. 855 & 859 OF 2016 Where in documents regarding manufacture of gold ornaments, percentage of gold purity was recorded as 93.37 per cent and in export documents as well as in certificate of Customs authorities, it was recorded that ornaments sold were carrying purity of 91.66 per cent, excess consumption of gold was to be considered as unaccounted local sales of assessee [2017] 80 taxmann.com 70 (Gujarat)
301	69A	69C	Unexplained money	Fakir Mohmed Haji Hasan *v.* CIT. IT REFERENCE NO. 267 OF 1993

				Whether scheme of sections 69, 69A and 69C shows that no question of giving any deduction under provisions would arise – Held, yes – Whether Tribunal was right in holding that value of gold in question was liable to be included in assessee's income, it being explained and that assessee had no right to claim that its value should be allowed as deduction from his income – Held, yes [2002] 120 Taxman 11 (Gujarat)
302	69A	148	Share capital	Amit Polyprints (P.) Ltd. *V.* DCIT SPECIAL CIVIL APPLN NO. 22489 & 22514 OF 2017 Where reassessment proceedings were initiated on basis of information received from Investigation wing that assessee had received certain amount from shell companies working as an accommodation entry provider, reassessment could not be held unjustified [2018] 94 taxmann.com 393 (Gujarat)
303	69A	133A	Unexplained cash	Zafarulla I Malek Sevalia *v.* DCIT TAX APPEAL NO. 261 OF 2013 Where assessee at time of survey conducted under section 133A stated that cash in question represented its unaccounted money and lower authorities during assessment proceedings did not accept assessee's altogether different explanation made with respect to said cash and added same to its income, no question of law arose for consideration [2013] 33 taxmann.com 348 (Gujarat)
304	69A	28(i)	Unexplained money	Manharlal C. Soni *v.* CIT. IT REFERENCE NO. 310 OF 1982 Whether Tribunal's conclusion that explanation furnished by assessee about possession of cash and expenses for purchase of two air tickets was not satisfactory was neither perverse nor had been arrived at contrary to legal principles, and thus, Tribunal was justified in sustaining addition as assessee's income from undisclosed sources – Held, yes Whether on facts stated under 'Unexplained investments', since addition was not made as income from any particular business activities of

				assessee, further question of allowing any loss or expenditure as incidental to or arising directly as a result of its distinct business activities did not arise – Held, yes [1996]86 Taxman 407 (Gujarat)
305	69A	147	Unexplained money	Atul Ratilal Makadia *v.* ITO SPECIAL CIVIL APPLICATION NO. 17823 OF 2017 Where AO initiated reassessment proceedings in case of assessee on basis of information from Investigation wing that assessee had received certain unaccounted income from firm which was not brought to tax, in view of fact that original return was processed under section 143(1) and, moreover, Investigation Wing had carried out a detailed investigation into dealings of partnership and partners and there was concrete information of transaction in question, validity of reassessment proceedings was to be upheld [2018] 94 Taxmann.com 435 (Gujarat)
306	69A		Unexplained money	CIT-I *v.* Sarwankumar TAX APPEAL NO. 252 OF 2014 Where assessee declaring income from salary and interest, was found in possession of certain cash, in view of fact that assessee failed to bring any evidence on record in support of his explanation that said amount belonged to his business transactions, AO was justified in adding same to assessee's taxable income as unexplained money 2014] 49 Taxmann.com 101 (Gujarat)
307	69A	147	Unexplained money Accommodati on entry	Yogendrakumar Gupta *v.* ITO AKIL KURESHI AND MS. SONIA GOKANI, JJ. SPECIAL CIVIL APPLICATION NO.4299 OF 2014 Where subsequent to completion of assessment, Assessing Officer, on basis of search carried out in case of another person, came to know that loan transactions of assessee with a finance company were bogus as said company was engaged in providing accommodation entries, it being a fresh information, he was justified in initiating reassessment proceeding in case of assessee [2014] 46 Taxmann.com 56 (Gujarat) **SLP dismissed (2014) 51 Taxmann.com 383 (SC)**
308	69A	132 133A	Unexplained cash	Ashokbhai H. Jariwala *v.* ACIT

				TAX APPEAL NO. 148 OF 2017 Where there was nothing on record to show that sister of assessee was in exclusive possession of bedroom in assessee's house from where cash was seized and further, there was contradiction in statements of assessee and his sister with respect of ownership of actual amount in cash, seized cash would be included as unexplained under section 69A in hands of assessee [2017] 80 Taxmann.com 175 (Gujarat)
309	69B	148	Undisclosed Investment Share capital	PCIT, Vadodara-1 *v.* Laxmiraj Distributors (P.) Ltd TAX APPEAL NO. 472 OF 2017 Where pursuant to survey, assessee company had voluntarily disclosed certain amount as its undisclosed income towards allotment of shares to several companies but director of assessee company failed to give details of investors of companies and investment made by them, reassessment was justified [2017] 85 Taxmann.com 357 (Gujarat) **SLP dismissed (2018) 256 Taxman.com 109 (SC)**
310	69B		Undisclosed stock	Vipul Kumar Kirtilal Shah *v.* ITO, Ward – 1 TAX APPEAL NO. 1512 OF 2011 Where assessee agreed to computation of closing stock, but later attributed discrepancy in stock to error in computer program which was not established, addition of excess stock as undisclosed investments was justified [2013] 33 Taxmann.com 370 (Gujarat)
311	69B	148	Undisclosed investment Accommodati on entries Information	Aaspas Multimedia Ltd. *V.* DCIT, Circle 1(1) SPECIAL CIVIL APPLICATION NOS. 21052 & 21087 OF 2016 Where reassessment was made on basis of information received from Principal DIT (Investigation) that assessee was beneficiary of accommodation entries by way of share application provided by a third party, same was justified [2017] 83 Taxmann.com 82 (Gujarat)
312	69B	245D	Undisclosed investment	Baldevbhai Bhikhabhai Patel *v.* ITSC Additional Bench &1 SPECIAL CIVIL APPLICATION NO. 12157 OF 2017

				Where before Settlement Commission assessee offered an unaccounted income earned from sale of plot in association with a person but that person denied entering into any such transaction, in fact, he denied knowing assessee, Commission was justified in denying application of assessee [2017] 85 Taxmann.com 250 (Gujarat)
313	69B	132	Undisclosed investment Confession	Sudharshan P. Amin *v.* ACIT TAX APPEAL NO. 386 OF 2012 Where assessee admitted a certain sum as his undeclared investment in two confessional statements and thereafter he retracted from said statements, but did not assign any reason for same, addition in hands of assessee was to be made [2013] 35 Taxmann.com 370 (Gujarat)
314	69B		Undisclosed investment Stock	Razakbhai R. Arabiani *v.* ITO –Ward 10(4) TAX APPEAL NO. 1543 OF 2011 Where in course of survey, assessee admitted that he was unable to explain unaccounted stock, authorities below were justified in making addition in respect of same under section 69B [2013] 40 Taxmann.com 245 (Gujarat)
315	69C	148	Unexplained expenses Bogus purchases	Gujarat Ambuja Exports Ltd. *V.* DCIT, Circle-2(1) SPECIAL CIVIL APPLICATION NO. 10745 OF 2016 Where purchases made by assessee from a properietory concern were bogus and entries were in nature of accommodation entries, merely because assessee had disclosed such entries in return filed and also showed such purchases in books of accounts would hardly be sufficient to advance arguments of full and true disclosure by assessee [2017] 86 Taxmann.com 69 (Gujarat)
316	69C		Unexplained expenditure	Kalind Stainless Steel Products (P.) Ltd. *V.* ITO TAX APPEAL NO. 763 OF 2012 Where assessee had not produced any evidence to show actual purchases, shortage in stock could be added as bogus purchases [2013] 34 Taxmann.com 216 (Gujarat)

317	69C	147	Unexplained expenditure	Peass Industrial Engineers (P.) Ltd. *V.* DCIT, SPECIAL CIVIL APPLICATION NO. 3249 OF 2016 Where Assessing Authority had tangible material in form of specific information received by Investigation Wing that assessee had been beneficiary of bogus transactions, it was 98 horoughly justified in issuing notice for reassessment [2016] 76 Taxmann.com 106 (Gujarat)
318	69C	147	Unexplained expenditure	Peass Industrial Engineers (P.) Ltd. *V.* DCIT, SPECIAL CIVIL APPLICATION NO. 3278 OF 2016 Where in case of assessee, return was processed under section 143(1), Assessing Officer could initiate reassessment proceedings subsequently on basis of information supplied by Investigation wing of department that assessee had taken bogus purchase entries from two parties [2016] 76 Taxmann.com 122 (Gujarat)
319	69C	147	Unexplained expenditure	Choksi Vachharaj Makanji & Co. *v.* ACIT SPECIAL CIVIL APPLICATION NO. 2119 OF 2016 Where even though Assessing Officer completed assessment under section 143(3) in case of assessee engaged in manufacturing and selling diamond ornaments, yet he could initiate reassessment proceedings on basis of information received from Investigation Wing of Department that assessee had shown fake purchases of raw diamonds from 'S' Ltd. Which was involved in providing accommodation entries [2016] 76 Taxmann.com 17 (Gujarat)
320	68-73			More cases at Sl 58,145,301,433,526,509,517, 555,
321	73		Speculation	Ratnamani Seamless (P.) Ltd. *V.* ITO TAX APPEAL NO. 1132 OF 2006 Where assessee-company was dealing with purchase and sale of shares, loss suffered by it in share transactions was to be treated as a speculative loss within meaning of section 73 [2017] 88 Taxmann.com 669 (Gujarat)
322	80G		Deduction for Donations	CIT *v.* Smt. Dhirajben R. Amin IT REFERENCE NO. 170 OF 1978

				Assessee donated shares worth Rs. 1,70,000 to two charitable trusts and claimed deduction under section 80G on the ground that even donations in kind qualified for deduction – Whether assessee entitled to deduction claimed by it – Held, no [1983] 12 Taxman 75 (Gujarat) **Approved in (1991) 57 Taxman 149 (SC)**
323	80HH		Deduction	Paushak Ltd. *V.* CIT IT REFERENCE NO. 79 OF 1984 Whether for determination of relief under section 80HH, gross total income should be worked out after deducting unabsorbed losses and unabsorbed depreciation – Held, yes [1994] 210 ITR 535 (Gujarat)
324	80HHC	80IA 80IB	Deduction	CIT *v.* Atul Intermediates TAX APPEAL NO. 508 OF 2007 If an assessee has claimed deduction of profit or gains under section 80-IB, deduction to that extent is not to be allowed under section 80HHC [2014] 45 Taxmann.com 275 (Gujarat)
325	80HHC		Deduction Total income	ACIT *v.* Nirma Ltd TAX APPEAL NO. 535 OF 2003 Benefit of deduction under section 80HHC can be claimed on total income after allowing deduction of unabsorbed loss, unabsorbed investment allowance and unabsorbed depreciation therefrom [2015] 55 Taxmann.com 185 (Gujarat)
326	80HHC		Deduction Export	Devraj R. Agarwal *v.* ACIT, TAX APPEAL NOS. 1553 OF 2007 & 2639 OF 2010 For calculating deduction under section 80HHC turnover of all independent businesses is to be clubbed. [2017] 79 Taxmann.com 424 (Gujarat)
327	80HHA		Deduction	CIT *v.* Madhav Industrial Corporation IT REFERENCE NO. 23 OF 1997 Whether an assessee engaged in ship breaking business can be said to be engaged in a manufacturing activity – Held, no [2004] 136 Taxman 416 (Gujarat)

328	80HHC		Deduction Exports	Mahalaxmi Fabric Mills Ltd. *V.* ACIT, Company Circle-7(2), Ahmedabad TAX APPEAL NO. 373 OF 1999 Whether profit should be reduced by amount of carried forward depreciation and investment allowance before allowing deduction under section 80HHC- held yes. [2009] 176 Taxman 153 (Gujarat)
329	80HHC		Deduction	CIT *v.* Gaskets & Radiators Distributors IT REFERENCE NO. 11 OF 1999 Whether interest on deposits, export incentive and octroi refund received by assessee-company could not be treated as business income for purpose of computing relief under section 80HHC – Held, yes Whether only an assessee being an Indian company or a person resident in India can claim benefit/deduction under section 80HHC – Held, yes Whether where assessee-company was not an Indian company, it would not be entitled to deduction under section 80HHC in respect of income earned from sales in India – Held, yes [2007] 163 Taxman 39 (Gujarat)
330	80H, HH, HHA,HHC			More cases at Sl. 123,131,177,336,338,339
331	80I		Deduction	Himson Fadis Machinery (P.) Ltd. *V.* CIT IT REFERENCE NO. 17 OF 1998 Where factually it was found by Tribunal that machines and plant used by assessee were not new, it was not necessary to enter into larger controversy as regards ownership of plant and machines, a necessary requisite for claiming relief under section 80-I; it was justified in holding that assessee-company was not entitled to relief under section 80-I [2010] 327 ITR 61 (Gujarat)
332	80IA	80IB	Deduction	Sintex Industries Ltd. *V.* ACIT (OSD) TAX CASE NOS. 261 & 375 OF 2012 Profit derived from one industrial undertaking should be adjusted against loss suffered in another undertaking

				[2013] 37 Taxmann.com 217 (Gujarat)
333	80IA	254	Deduction	CIT *v.* Atul Ltd TAX APPEAL NOS. 635 OF 2012 & 740 OF 2013 Mere installation of turbine for power generation would not lead to setting up of a new industrial unit; assessee would not be entitled for deduction on same under section 80-IA [2016] 74 Taxmann.com 255 (Gujarat)
334	80IA		Deduction Initial year	Anand Food & Dairy Products *v.* ITO TAX APPEAL NOS. 174, 175 & 176 OF 2016 In terms of definition of 'initial assessment year' defined under section 80-IB(14)I(iv), initial assessment year is assessment year relevant to previous year in which undertaking begins such business and fact that assessee was entitled to benefit under section 80-IB in a later year would not change 'initial assessment year' [2017] 88 Taxmann.com 452 (Gujarat)
335	80IA	148	Deduction Escapement of income	Ajanta (P.) Ltd. *V.* ACIT, SPECIAL CIVIL APPLICATION NO. 15863 OF 2016 Where assessee-company having more than one divisions, had not debited any administrative expenses and financial charges while computing profits from its windmill business division, re-opening assessment to deny deduction allowed to said unit under section 80-IA on ground of non-disclosure of true and correct facts was justified [2017] 78 Taxmann.com 48 (Gujarat)
336	80IA	80HHC	Deduction	Sun Pharmaceutical Industries Ltd. *V.* DCIT, TAX APPEAL NO. 648 OF 2016 Provisions of section 80IA(9) have to be applied while considering assessee's claim for deduction under section 80HHC [2016] 75 Taxmann.com 143 (Gujarat)
337	80IA		Deduction	Katira Construction Ltd. *V.* UOI SPECIAL CIVIL APPLICATION NOS. 10828 TO 10835 OF 2009 Explanation inserted in section 80-IA(4) by Finance (No. 2) Act of 2009 with retrospective effect from 1-4-2000 is constitutionally valid [2013] 31 Taxmann.com 250 (Gujarat)

338	80IA	80HHC	Deduction	ADCI DYE CHEM (P.) Ltd. *V.* DCIT, TAX APPEAL NOS. 1346 TO 1348 OF 2005 A assessee would not be entitled to deduction under section 80-IA on Central Excise Duty set off as well as Sales Tax set off [2014] 50 Taxmann.com 451 (Gujarat)
339	80IB	80HHC	Deduc3tion	Banpal Oil Chem (P.) Ltd. *V.* ACIT, TAX APPEAL NO.188 OF 2011 Assessee having eligible industry and availing deduction under section 80-IB, will not be entitled for same in respect of income from DEPB and DEPB Premium [2016] 71 Taxmann.com 342 (Gujarat)
340	80IB		Form 10CCB Deduction	Panasonic Energy India Co. Ltd. *V.* ACIT Circle – IV TAX APPEAL NO. 596 OF 2013 CIVIL APPLICATION NO. 585 OF 2013 Where assessee claimed deduction under section 80-IB and filed audit report in Form No. 10CCB for first time before High Court, without any justification, assessee could not file such report before High Court and sought benefit of deduction [2014] 42 Taxmann.com 170 (Gujarat)
341	80IB	147	Deduction Income escaping assessment	Sanidhya *v.* DCIT,Circle- 1(3) SPECIAL CIVIL APPLICATION NO. 21762 OF 2017 Where in case of assessee engaged in construction related activities, assessment was completed under section 143(3), in view of fact that AO subsequently noted that assessee did not deduct interest on partner's capital and remuneration to working partners while computing amount of net profit which resulted in allowing excess deduction under section 80-IB(10), he was justified in initiating reassessment proceedings [2018] 94 Taxmann.com 427 (Gujarat)
342	80IB		Deduction	CIT-I *v.* Desai Developers TAX APPEAL NO. 150 OF 2014 Profit relatable to sale of unutilized FSI would not be eligible for deduction under section 80-IB(10)

				[2014] 52 Taxmann.com 331 (Gujarat)
343	80IB		Deduction	CIT – I *v.* Moon Star Developers TAX APPEAL NOS. 549 OF 2008 & OTHERS In view of provisions of section 80-IB(10), an assessee cannot claim full deduction in respect of development of a housing project where 103 ssesses 103 on of FSI is way short of permissible limits and there does not exist any special ground for under 103ssesses103on of FSI [2014] 45 Taxmann.com 181 (Gujarat)
344	80I,IA,IB, IC			More cases at Sl. 59,324,332
345	80P(2)	263	Deduction Revision	Gandevi Taluka Khedut Sahakari Sangh Ltd. *V.* CIT IT REFERENCE NO. 410 OF 1981 Whether a cooperative society is entitled to deduction only of net amount of profits from eligible activities rather than amount of its gross profits from such activities – Held, yes Whether order of Assessing Officer allowing deduction to co-operative society on gross trading receipts from its specified activities is prejudicial to interests of revenue so as to justify action under section 263 – Held, yes [1994] 76 Taxman 36 (Gujarat)
346	80P		Deduction	CIT *v.* Ahmedabad Maskati Cloth Dealers Co-operative Warehouses Society Ltd. I.T.REF NO. 202 OF 1976, 79 OF 1978 & 33 OF 1981 Whether rental income derived from letting of shops used for business in cloth could not be said to be income derived from letting of godowns and warehouses and, therefore, exemption under section 80P(2)(e) would not be available in respect of such rental income – Held, yes [1986] 162 ITR 142 (Gujarat) **Approved in (1989) 45 Taxman 328 (SC)**
347	80P		Deduction	Mehsana District Co-operative Bank Ltd. *V.* ITO TAX APPEAL NOS. 150 AND 151 OF 2000 CIVIL APPLICATION NOS. 111 AND 112 OF 20 Income of co-operative societies – Assessment years 1994-95 and 1995-96 – Whether interest

				income of assessee, a co-operative society carrying on banking business, on investments from its total reserves was eligible for deduction under section 80P(2)(a)(i) – Held, no [2002] 120 Taxman 838 (Gujarat) **Partly affirmed in (2001) 119 Taxman 785 (SC)**
348	80P		Deduction	CIT *v*. Chalthan Vibhag Khand Udyog Sahakari Mandali Ltd IT REFERENCE NO. 298 OF 1984 Whether unabsorbed losses of earlier years have to be set off before considering claim of deduction under section 80P – Held, yes [2000] 113 Taxman 321 (Gujarat)
349	80P		Deduction	State Bank of India (SBI) *v.* CIT, TAX APPEAL NOS.486 & 487 OF 2015 In case of a society engaged in providing credit facilities to its members, income from investments made in banks is not deductible under section 80P [2016] 72 Taxmann.com 64 (Gujarat)
350	80P			One more case at Sl. 66.
351	92BA		Transfer Pricing	D.B. Corp Ltd. *V.* DCIT, Circle 1(1)(2) & 2 SPECIAL CIVIL APPLICATION NO. 5035 OF 2016 Where directors of assessee-company, in aggregate, held more than 20 per cent of shares in voting power in W Ltd. And expenditure incurred by assessee in respect of such company exceeded Rs. 5 crores, there was a specified domestic transaction covered by section 92BA [2017] 84 Taxmann.com 115 (Gujarat)
352	92BA			For more cases see 194,195
353	104		Additional income tax on undistributed profits of company	Alkapuri Investments (P.) Ltd. *V.* CIT. IT REFERENCE NO. 28 OF 1989 Whether time-limit of 12 months for declaration of distributable profits is mandatory – Held, yes – Whether Tribunal was, therefore, justified in confirming levy of additional tax even though there was delay of only three days in declaring dividends – Held, yes [2002] 124 Taxman 36 (Gujarat)

354	115JA	234A 234B	MAT Charging of interest	JCIT *v.* Sumit Industries Ltd. TAX APPEAL NOS. 676 & 677 OF 2006 Assessee was liable to pay interest under sections 234B and 234C in respect of tax determined on basis of book profit under section 115JA [2015] 54 Taxmann.com 345 (Gujarat)
355	115JB		MAT Revaluation reserve	Alembic Ltd. *V.* ACIT TAX APPEAL NO. 529 OF 2012 Where revaluation reserve is created after 1-4-1997, in terms of proviso to clause (i) of second part of Explanation to section 115JB, amount withdrawn from said reserve in an assessment year commencing after 1-4-1997 would not be reduced from book profit unless book profit of such year had been increased by those reserves [2014] 41 Taxmann.com 266 (Gujarat)
356	115JA-JB			See some cases under section 143(1)(a)
357	119	139A	Direction to Subordinate Authorities	Tulsi Mall (Association of Person) *v.* CIT,Valsad SPECIAL CIVIL APPLICATION NO. 8193 OF 2015 Where assessee, an AOP, applied for grant of PAN on 19-1-2005 and department erroneously issued PAN in favour of partnership firm and thereafter assessee in year 2014 applied to Commissioner pointing out error in PAN and requested for giving suitable directions by exercising powers under section 119, this was not a case where hardship could be removed under section 119 [2016] 65 Taxmann.com 115 (Gujarat)
358	124		Assessing Officer	Jayamal Jayantilal Thakore *v*. CCIT SPECIAL CIVIL APPLICATION NOS. 7417 AND 9390 OF 1996 Whether where averments made on oath on behalf of income-tax authorities in affidavit filed clearly indicated that authorities were quite aware of their functions under Act in context of allegations made against department and that they had been doing investigations in accordance with law, it could not be said that there was any failure of any statutory duty on their part and, therefore, there was no need to issue any writ to

				income-tax authorities as sought for by petitioners – Held, yes [1997] 95 Taxman 248 (Gujarat)
359	127		Transfer of cases	Shree Ram Vessel Scrap (P.) Ltd. *V.* CIT –VI SPECIAL CIVIL APPLICATION NOS. 16883, 16886, 16888 & 16896 OF 2012 Where Commissioner, pursuant to search proceedings carried out at different places in case of 106 ssesses belonging to same group, transferred their pending assessments to one particular place for centralization of cases and for effective and co-ordinated investigation after giving a sufficient opportunity of being heard to 106 ssesses, said order of Commissioner was justified and it did not require any interference [2013] 32 Taxmann.com 120 (Gujarat)
360	127		Transfer of cases	Shivabhai Khodabhai Patel *v.* CIT SPECIAL CIVIL APPLICATION NO. 9922 OF 1999 In response to notice under section 127(1) for transfer of case, assessee filed objections but case was finally transferred and assessee was asked to file return – Assessment was then completed and an appeal was also filed against assessment order – Whether where order transferring case was passed and communicated to assessee and assessee permitted Assessing Officer to complete assessment, instant petition challenging transfer order had no merit and had to be rejected – Held, yes [2000] 110 Taxman 446 (Gujarat)
361	127		Transfer of case	Genus Electrotech Ltd. *V.* UOI SPECIAL CIVIL APPLICATION NO. 10328 OF 2017 When competent authority grants a hearing to assessee and, thereafter, passes a reasoned order transferring assessment, his action would not fail merely because in writing he did not record Principal Commissioners agreement to transfer case [2017] 86 Taxmann.com 39 (Gujarat)
362	124-127			More cases at Sl. 369,439,493,525
363	131	132	Search Summons	Neesa Leisure Ltd. *V.* UOI SPECIAL CIVIL APPLICATION NO. 13498 OF 2010 Issuance of notices under section 131(1A) post-

				search would not, in any manner, render proceedings under section 132 invalid, if they were otherwise initiated pursuant to a valid authorization issued after recording satisfaction on basis of material available on record [2011] 16 taxmann.com 163 (Gujarat)
364	132		Search	Prabhubhai Vastabhai Patel *v.* R.P. Meena. SPECIAL CIVIL APPLICATION NOS. 10107 TO 10115 AND 10766 OF 1995 Whether payment of customs duty absolved persons who brought gold from their liability to satisfy that gold was purchased from income lawfully earned by them and that income earned out of sale of such gold would be disclosed for purpose of Act – Held, no – Whether clandestine manner in which gold was brought in was sufficient to give rise to suspicion of income-tax authorites that income earned from sale of gold would not be disclosed for purposes of Act and, as such, search and seizure was justified – Held, yes. [2000] 112 Taxman 277 (Gujarat)
365	132A		Search and seizure	Rajiv Agrawal, DDIT v. State of Gujarat CRIMINAL REVISION APPLN NO. 636 OF 2004 Whether since trial court had not properly appreciated provisions of section 132A, it could be said that it had committed error in passing an order in favour of respondent No. 2 – Held, yes – Whether, therefore, order passed by trial court was required to be set aside – Held, yes. [2006] 154 Taxman 172 (Gujarat)
366	132A		Article 226 of Constitution	Sunil Vidhyasagar GAT *v.* Shalini Verma, DDIT (INV.) SPECIAL CIVIL APPLICATION NO. 324 OF 2012 Authority had prima facie reason to believe that any of conditions to exercise jurisdiction under section 132A existed, it is not open to High Court, exercising powers under Article 226 of Constitution, to set aside warrant of authorization on a re-appraisal of evidence [2012] 20 Taxmann.com 751 (Gujarat)
367	132(1)	158BD Art 14	Search Writ	Khandubhai Vasanji Desai *v.*DCIT SPECIAL CIVIL APPLN NOS. 3021 & 3160 TO 3176 OF 1998 Whether satisfaction for purpose of issuance of

				108uthorized108on under section 132(1) and satisfaction for purpose of proceeding against 'other person' to whom undisclosed income belonged as per section 158BD are entirely distinct matters – Held, yes – Whether such 'other person' can make a grievance that in his case satisfaction was to be reached by Assessing Officer, while in case of raided person it was to be reached by higher designated authorities like Director General or Director, Chief Commissioner or Commissioner, etc., so as to say section 158BD is violative of article 14 of the Constitution – Held, no – Whether block period of 10 years as provided in search cases is more onerous than upper period of ten years for initiating escaped assessment proceeding under section 148 – Held, no – Whether since 'other person' is not known when 108 uthorized 108 on for search or requisition is issued and he may be identified after search only, starting point of limitation in relation to any person in whose case warrant of 108uthorized108on is issued and that in relation to 'other person' is different and, therefore, provision made for considering different starting point of limitation is not discriminatory – Held, yes – Whether since assessment or reassessment is done under section 147 when Assessing Officer has reason to believe that income has escaped assessment for assessment year concerned whereas undisclosed income is detected and a difficult question of relating same to relevant previous year would arise, special procedure for block assessment of undisclosed income treating it as a separate class of income is based on an intelligible differentia – Held, yes – Whether separate provision of assessment of undisclosed income of block period with a provision of flat rate of tax has a direct and reasonable nexus with object to provide a less cumbersome and more efficient machinery for assessment of undisclosed income in search cases and, therefore, section 158BD in no way violates right of equality guaranteed by article 14 – Held, yes – Whether section 158BD is only a taxing provision devised specially which takes care of bringing to tax undisclosed income for a block of period detected in search cases and even extending meaning of word 'life' to extreme, there is no

				question of depriving a person of his life or personal liberty in violation of article 21 – Held, yes – Whether section 158BD does not regulate any profession, occupation or business and, thus, not offending fundamental rights in any way under article 19(1)(g) – Held, yes [1999] 103 Taxman 181 (Gujarat)
368	132		Search	Madhupuri Corporation *v.* Prabhat Jha, DDIT SPECIAL CIVIL APPLICATION NO. 840 OF 2000 Whether there is merit in contention that whenever any 109uthorized109on is to be issued, it should be with reference to one single individual or person and not in respect of a number of persons or individuals – Held, no – Whether as per provisions of section 2 of the General Clauses Act, 1897, singular includes plural and there is also no prohibition against issuance of common 109uthorized109on when competent authority has reason to believe that a number of persons were involved in interconnected transactions – Held, yes – Whether where nothing was brought on record to show that any prejudice was caused by retention of documents by a few days beyond 15 days specified in section 132(9A), retention of documents for 15-20 days beyond 15 days would not vitiate notices and summons issued under sections 158BC and 131(1A) – Held, yes [2002] 125 Taxman 309 (Gujarat)
369	132	127	Search Transfer of cases	Arti Ship Breaking *v.* DIT SPECIAL CIVIL APPLICATION NO. 860 OF 2000 Based on notes submitted by subordinate officers, Director of Income-tax (Investigation) 109uthorized search of petitioner's premises – Whether in such circumstances 109uthorized109on of search could be said to be without application of mind – Held, no Section 127 of the Income-tax Act, 1961 – Income-tax authorities – Transfer of case – Whether transfer of a case for administrative reasons which are duly recorded on file but are not communicated to petitioner can be said to be just and reasonable – Held, yes – Whether simply because reasons for transfer of a case have not been incorporated in order of search and seizure,

				those reasons would become non est – Held, no [2000] 110 Taxman 457 (Gujarat)
370	132	158BD	Search Block Assessment	Goyal Industries Ltd. *V.* ACIT, SPECIAL CIVIL APPLN NOS. 15311 & 15315 OF 2004 Where in course of search proceedings in case of 'M' group, certain incriminating material relating to assessee-company was seized, initiation of block assessment proceedings under section 158BD against assessee could not be challenged by raising a plea that material seized related to director of assessee-company only and not to company itself. [2014] 49 Taxmann.com 203 (Gujarat)
371	132	131	Search Summons	Arti Gases *v.* DIT (Inv.) SPL. CIVIL APPLICATION NOS. 2048, 2049 AND 2371 OF 2000 Whether, where there was sufficient material on record and sufficient application of mind on part of income-tax authorities for issuance of warrants of 110uthorized110on for carrying out search and seizure operations against petitioners, contention that search and seizure proceedings were bad in law would be unsustainable- Held, yes – Whether, where 110uthorized officer was also officer having jurisdiction over petitioner, it would be unnecessary for him to part with seized material in terms of section 132(9A) within prescribed period of 15 days – Held, yes – Whether non-furnishing of reasons at earlier stage for retention of seized materials beyond prescribed period would make proceedings void, especially when reasons had later been communicated to petitioners – Held, no Whether it is correct to say that notice under section 131(1A) can be issued only before initiation of proceedings under section 132 – Held, no – Whether issuance of notice during or after search would be valid – Held, yes [2000] 113 Taxman 68 (Gujarat)
372	132		Search & seizure	Chandulal Jethalal Jaiswal *v.* ITO SPECIAL CIVIL APPLICATION NO. 1328 OF 2009 Gold ornaments seized during course of search operation could not be treated as 'muddamal articles' and, thus, application seeking release of

				those ornaments was to be rejected. [2017] 87 taxmann.com 138 (Gujarat)
373	132		Search	Alay Rakesh Shah *v.* Department of Income Tax R/SPECIAL CIVIL APPLICATION NO. 13477 OF 2018 Where karta of HUF had initiated litigation against alleged illegal search action of department on HUF at relevant time, a member of HUF individually could not restart same litigation long many years after cause of action had arisen [2018] 98 Taxmann.com 448 (Gujarat)
374	132A		Search & Seizure	DDIT (Investigation) *v.* State of Gujarat CRIMINAL REVISION APPLN NO. 206 OF 2009 CRIMINAL MISC. APPLN NO. 5922 OF 2009 When proceedings were initiated by Department under section 132A, Magistrate is not at all within his powers to order handing over seized muddamal currency notes to employees of person from whom currency notes had been seized; it is duty of police authority to comply with requisition issued by 111uthorized officer of Department [2009] 319 ITR 292 (Gujarat)
375	132B	153A	Search Assessment Release	Jinkal Dineshbhai Virvadiya *v.* CIT SPECIAL CIVIL APPLICATION NO. 736 OF 2014 Where there were inherent contradictions in stand of assessee regarding source of asset and source of asset was not explained, release of seized assets was not possible [2014] 42 taxmann.com 543 (Gujarat)
376	132-133			More cases at Sl. 288,303,308,313,363,371, 386, 455,456,498,509,557,592
377	139	264	Filing of return Revision	Gopal Glass Works (P.) Ltd. *V.* CIT SPECIAL CIVIL APPLICATION NO. 5669 OF 1995 Revision application of assessee-company under section 264(1) against order of Assessing Officer treating return of income filed by it as invalid for its failure to submit audited accounts for previous year relevant to assessment year in question along with return, was dismissed – Though assessee was given an opportunity to rectify defect, assessee neither rectified defect nor asked for extension of time – Whether assessee had failed to point out that impugned orders

				passed under section 264(1) or section 139(9) were in anyway influenced by extraneous or hostile consideration which would warrant interference by High Court – Held, yes – Whether having regard to fact that audited accounts for relevant period were not submitted, even by time impugned order of dismissal was passed, nor duly signed tax audit report submitted nor any specific request for extension of time made, return of income in question was rightly treated as invalid return by Assessing Officer u/s 139(9) and revision application against it was rightly dismissed – Held, yes [2002] 121 Taxman 174 (Gujarat)
378	139		Belated return	Laljibhai Mohanbhai Ghori *v.* CIT-1 SPECIAL CIVIL APPLICATION NO. 14411 OF 2016 Where assessee did not mention specific nature of illness of his wife, its duration and kind of treatment and, further, assessee's wife underwent operation long after due date of filing of return, reason of wife's severe illness could not be held to be satisfactory reason for condonation of delay [2016] 75 Taxmann.com 53 (Gujarat)
379	139		Return of income	All Gujarat Federation of Tax Consultants* v. UOI. SPECIAL CIVIL APPLICATION NO. 18793 OF 2007 Petitioner submitted that new tax return Forms introduced by said notification are so complicated that it is impossible for a genuine taxpayer to file returns with supporting details – Whether in view of fact that about 6,77,330 taxpayers out of about 25 lakhs have already filed their tax returns, as per new return Forms by 29-7-2007, contention canvassed by petitioner could not be accepted – Held, yes [2007] 163 Taxman 196 (Gujarat)
380	139(8)	154 209	Rectification Belated return Advance tax	Life Bond Fabric (P.) Ltd. *V* CIT IT REFERENCE NO. 193 OF 1981 Whether question that payments made by assessee after close of relevant financial year could not be regarded as advance tax was a question in regard to which two interpretations were reasonably possible – Held, no – Whether, action under section 154 was justified – Held, yes Whether, in view of provisions of sections 207 to

				219 term 'Advance tax' has clearly been defined and cannot be equated with 'tax paid' in advance – Held, yes – Whether, unless payment of advance tax is made in manner provided for in the Act, it cannot be deemed that advance tax has been paid, and as such, installments of payments made after close of financial year cannot be regarded as advance tax – Held, yes [1995] 82 Taxman 447 (Guj)
381	139(8)	217	Interest chargeable Deduction	Kashiram Textile Mills (P.) Ltd. *V.* CIT SURTAX REFERENCE NO. 3 OF 1988. Whether amount of income-tax could not include amount of interest payable by assessee for delay in discharging liability of pay income-tax – Held, yes – Whether, therefore, amount of interest charged under sections 139(8) and 217(1A) of the Income-tax Act, 1961 is not deductible while computing chargeable profits – Held, yes [1995] 211 ITR 889 (Gujarat)
382	139		Return of Income	Hargovind Damaji *v.* CIT. INCOME-TAX REFERENCE NO. 393 OF 1984 Before expiry of due date of filing return under section 139(1), CBDT extended period for filing return – Assessee filed return before expiry of extended period – Subsequently, he filed revised return – Whether it could not be said that assessee had furnished first return under section 139(4) and not under section 139(1) – Held, no [2002] 125 Taxman 194 (Gujarat)
383	140A		Penalty	CIT *v.* Shah Electrical Corporation. IT REFERENCE NO. 319 OF 1980 Whether Tribunal of another state would be justified in proceeding on basis that provision has ceased to exist because it has been declared as ultra vires by High Court only when there is some material to show that said decision had been accepted by department – Held, yes – Whether, therefore, order of Tribunal in instant case was not justified – Held, yes Whether while deciding reference, High Court has to consider legal position obtaining on date on which it is deciding reference and not legal position which existed when Tribunal decided appeal – Held, yes [1994] 207 ITR 350 (Gujarat)

384	139-140			More cases at Sl. 357,405,558
385	142(2A)		Special Audit	Takshashila Realties (P.) Ltd. *V.* DCIT, Circle-4(1)(2) SPECIAL CIVIL APPLICATION NO. 4691 OF 2017 Merely because assessee along with return of income submitted a Statutory Audit Report and Tax Audit Report, order of Special Audit under section 142(2A) cannot be said to be invalid [2017] 83 Taxmann.com 125 (Gujarat)
386	142(2A)	132	Special Audit	Dhanpati Marketiers (P.) Ltd. *V.* DCIT, 1(4) SPECIAL CIVIL APPLICATION NO. 5483 OF 2017 Where Assessing Officer passed order of special audit against petitioner on basis of requisitioned material, statements and loose papers found during search of Asharam Bapu's ashram after obtaining proper approval of Principal Commissioner and giving opportunity of hearing, same could not be said to be illegal [2017] 82 taxmann.com 263 (Gujarat)
387	142(2A)		Special Audit Assessment	Sant Asharamji Ashram *v.* DCIT, SPECIAL CIVIL APPLICATION NO. 2705 OF 2017 Where during search of Asharam Bapu's ashram across country, large scale money laundering was revealed and looking at multiplicity and complexity of transactions found in requisitioned documents in 45 gunny bags, Assessing Officer passed order of special audit after obtaining proper approval of Principal Commissioner and giving opportunity of hearing, same could not be said to be illegal [2017] 82 taxmann.com 207 (Gujarat)
388	142(2A)		Special Audit	Pratius Merchants (P.) Ltd. *V.* DCIT, SPECIAL CIVIL APPLICATION NO. 4916 OF 2017 Where large number of papers found during search were required to be verified, and while looking at multiplicity and complexity of such papers, Assessing Officer had found it fit to refer documents to special auditor, it could not be said that he had committed any illegality [2017] 82 Taxmann.com 282 (Gujarat)
389	142(2A)	153C	Special Audit Assessment	Asharam Thaumal Harplani (Asaram Bapu) *v.* DCIT, SPECIAL CIVIL APPLICATION NO. 7620 OF 2017 Where in course of search proceeding carried out

				in case of entities having business connection with assessee, various documents were seized disclosing sham share transactions carried out by assessee, in view of complexity and multiplicity of said material, Assessing Officer was justified in directing assessee to get his accounts audited by Special Audit [2017] 82 Taxmann.com 265 (Gujarat)
390	142(2A)		Special Audit	Takshashila Realties (P.) Ltd. *V.* DCIT,-4(1)(2) SPECIAL CIVIL APPLICATION NOS. 4613,4614,4619 & 4620 OF 2017 While forming an opinion to get accounts audited by special auditor considering specialized nature of business activities of assessee, there need not be any books of account before Assessing Officer [2017]80 Taxmann.com 176 (Gujarat)
391	142(2A)		Special Audit	Neesa Leisure Ltd. *V.* DCIT, Central Circle 2(2) & 1 SPECIAL CIVIL APPLICATION NO. 6811 OF 2013 Proviso to section 142(2A) does not envisage any personal hearing to assessee before an order under sub-section (2A) can be passed [2013] 35 taxmann.com 216 (Gujarat)
392	143		Assessment	Patel Chemical Works *v.* CIT IT REFERENCE NO. 157 OF 1989 Whether once it was established that payment of tax had been avoided by assessee, there-after, it was not necessary for Tribunal to ascertain whether any loss was caused to revenue on account of non-inclusion of income in question in assessee’s assessment - Held, yes - Whether, therefore, Tribunal was right in including in assessee’s assessment that amount of profit which had been transferred by assessee to its sister concerns - Held, yes [2004] 134 Taxman 694 (Gujarat)
393	143		Assessment	Laxmanbhai J. Patel *v.* ACIT TAX APPEAL NO. 105 OF 2000 Where Tribunal after taking into account all relevant factors and examining all evidences on record, reduced addition made by Assessing Officer, decision of Tribunal being a factual conclusion could not be interfered with by High Court

				[2012] 26 Taxmann.com 172 (Gujarat)
394	143	Art 226(3)	Writ Appeal	Setalvad Bros. *v.* M.K. Meerani, Addl CIT SPECIAL CIVIL APPLICATION NO. 1434 OF 2001 Whether having regard to fact that assessee had already gone in appeal against impugned order where very grounds as raised in instant writ petition could be agitated, petitioner was not to be permitted to challenge said order in writ petition - Held, yes [2001] 117 Taxman 426 (Gujarat)
395	143		Assessment	CIT *v.* C. Lajpatrai Ltd TAX APPEAL NO. 498 OF 2004 Where Assessing Officer called upon assessee to explain discrepancy, namely, excess stock as recorded by excise authorities vis-a-vis stock as per books, and made addition on that account which was sustained by Commissioner (Appeals) but without dealing with reasons assigned by Commissioner (Appeals) for sustaining addition, Tribunal deleted addition, Tribunal's order could not be sustained [2008] 296 ITR 629 (Gujarat)
396	143	56 256	Assessment Other sources Reference to HC	Bankim J. Shah *v.* CIT IT REFERENCE NO. 15 8 OF 1979 Whether on facts it could be said that amount of prize received by assessee and commission paid to agent, on account of prize money, were not genuine and, thus, were assessable in hands of assessee as income from other sources - Held, yes Whether finding recorded by Tribunal that sum of Rs. 70,000 included by assessee in Part IV of his return of income did not represent genuine prize money received by him for correct solution of cross-word puzzle and that it represented assessee's income from undisclosed source, was a finding of fact - Held, yes [1992] 64 Taxman 331 (Gujarat)
397	143		Issue of notice Assessment	Udhna Udyog Nagar Sahkari Sangh Ltd. *v.* Shailendra Lodha SPECIAL CIVIL APPLICATION NO. 13956 OF 2008 Notice under section 143(2) for assessment year 2007-08 could be issued prior to expiry of six months from end of financial year in which return

				was filed [2016] 75 Taxmann.com 185 (Gujarat)
398	143		Assessment	Gargi Construction Co. *v.* ITO TAX APPEAL NO. 797 OF 2011 Where assessee itself contended before lower authority that assessee would earn profit in ratio of 35 per cent on on-money and same should be considered assessee's income, subsequent claim of assessee that it had incurred some expenditure to earn said profit and same should be reduced could not be accepted [2013] 40 Taxmann.com 24 (Gujarat)
399	143(3)		Assessment Benami transaction	Chandulal J. Jaiswal *v.* CIT IT REFERENCE. NO. 204 OF 1986 ITO found from return filed by assessee, who was sole proprietor of a transport business, that all ingredients of benami transaction were present in respect of three trucks - From record, it was found that source of capital for purchase of these trucks come from assessee, their control and management vested in assessee and they were plied and maintained by assessee - Whether income from these trucks was assessable in hands of assessee even though these trucks were in name of some other persons and assessee had shown it 'as hired' - Held, yes [1993] 66 Taxman 503 (Gujarat)
400	143(1)a		Prima facie adjustment	Shree Digvijay Cement Co. Ltd. *v.* CIT IT REFERENCE NO. 225 OF 1995 Interest on the outstanding sales-tax amount is part of sales-tax and can be disallowed in the course of making 'prima facie' adjustments under section 143(1)(a); this issue is not debatable [2007] 289 ITR 250 (Gujarat)
401	143(1)a	147	Processing Income escaping assessment	Bharat V. Patel *v.* UOI SPECIAL CIVIL APPLICATION NO. 8761 OF 2003 Whether in liberalised and simplified tax-collection regime, mere acceptance and acknowledgement of return and issuance of refund cannot be elevated to status of regular assessment and formation of opinion about incident of tax on a particular claim or item mentioned in return of income, and in absence of

				any formation of opinion about taxability of non-compete fees, in facts of instant case, there could be no question of change of opinion - Held, yes - Whether in view clause (c) of Explanation 2 to section 147 even where an assessment is made, but income chargeable to tax has been under-assessed, it has to be deemed that such income has escaped assessment - Held, yes - Whether impugned notice issued by Assessing Officer proposing to re-assess income of petitioner was legal and valid - Held, yes [2004] 134 Taxman 178 (Gujarat)
402	143		Addition to income	Sanjay Oilcake Industries *v.* CIT IT REFERENCE NO. 279 OF 1995 Where certain additions were made on account of inflated purchase price and alleged sellers were not traceable and though payments had been made by account-payee cheques, entire amounts so deposited had been withdrawn by bearer cheques, Tribunal was justified in sustaining addition [2009] 316 ITR 274 (Gujarat)
403	144	154 220(6) Art 226 of Constitu tion	Ex-parte assessment Rectification Recovery Writ	Vikrambhai Punjabhai Palkhiwala *v*. S. M. Ajbani, Recovery Officer. SPECIAL CIVIL APPLICATION NO. 2761 OF 1989 Whether said notice being a procedural one and where a decision for arrest of petitioner was to be taken by TRO after getting satisfied as to advisability of arrest and detention in civil prison, writ filed by petitioner against said notice issued under rule 73 of Second Schedule was liable to be dismissed-Held, yes- Whether mere filing of an appeal by petitioner under section 220(6) could not stay proceedings in tax recovery matters - Held, yes [1990] 51 Taxman 490 (Gujarat)
404	144	254	Best judgment Non compliance	PCIT-3 V Ashokji Chanduji Thakor R/Tax Appeal No 710-714 & 717 of 2018 Date of Order 27/06/2018 ITAT not justified in setting aside the assessment to CIT(A), without assigning any reason, when the appellant had failed to appear before the AO as well as CIT(A) despite several opportunities. The order of AO/CIT(A) restored.

				Not reported
405	144B	139(5)	Reference to IAC Revised return	Panch Mahal Steel Ltd. *v*. U.A. Joshi SPECIAL CIVIL APPLICATION NO. 574 OF 1980 Whether, once a draft order is made by the ITO under section 144B, the assessee can, thereafter, file a revised return - Held, No [1994] 75 Taxman 348 (Gujarat) **Affirmed in (1997) 93 Taxman 1 (SC)**
406	142-144			More cases at Sl. 238,425,428,452,478,538
407	145	148	Method of accounting	PCIT, Rajkot-3 *v.* Gokul Ceramics TAX APPEAL NO. 542,547,550,557,558,560,564, 580,585,590,597,632 & 637 OF 2015 & 2,9,10,17, 37,44,80,87,90,91,93 & 96 OF 2016 On basis of detailed investigation report of Excise Department consisting of corroborative evidence, Assessing Officer could form belief of suppression of sale for evading excise duty, and issue, notice for re-opening of assessment, not with starting pendency of excise proceedings [2016] 71 taxmann.com 341 (Gujarat)
408	145		Method of accounting Valuation of stock	DCIT *v.* Gujarat State Investments Ltd. TAX APPEAL NO. 316 OF 2002 Method of accounting – Valuation of stock- Where assessee had been regularly following the method of valuation either at market value or cost, whichever was lower for working out value of closing stock of debentures, it was open to assessee to adopt market value if it was lower in year under consideration; however, market value was not to be reduced further by way of any notional brokerage and therefore, the assessee was not justified in claiming loss. [2010] 229 CTR 201 (Gujarat)
409	145		Rejection of books	Sage Infrastructure (P.) Ltd. *V* ACIT TAX APPEAL NO. 754 OF 2012 Where decisions of all three authorities below on rejection of books of account were on facts by giving cogent reasons, same could not be interfered with by High Court [2013] 37 Taxmann.com 32 (Gujarat)
410	145	5	Method of accounting	CIT *v.* Godhra Electricity Co. Ltd Assessee-company maintained accounts on

				mercantile system—In 1963 it unilaterally increased rates of electricity supplied to consumers who filed suit against assessee and also obtained interim injunction—For assessment years 1964-65 to 1967-68, assessee showed amount due because of increased rates under separate head in its books and deducted the same from its total income on the ground that it had not recovered them—It undertook to offer the same for taxation if and when it succeeded in litigation—Matter eventually reached supreme court which decided it in assessee's favour on 26-2-1969—ITO thereafter brought accumulated balance under dispute to tax in assessment year 1969-70 in view of assessee's aforesaid undertaking, although, because of certain developments, assessee had not actually recovered impugned amounts—ITO made similar assessments on accrual basis in respect of relevant amounts for assessment years 1970-71 to 1972-73 also—Tribunal deleted impugned amounts from assessee's total income on the ground that these did not represent assessee's income in relevant years—Whether by postponing assessment of impugned amounts till supreme court's decision, department could be said to have accepted that assessee had changed over from mercantile to hybrid (part cash, part mercantile) system of accounting—Held, on facts, no—Whether tribunal correct in holding that impugned amounts did not represent assessee's income and could not be included in computation of its total income—Held, on facts, no [1983] 12 Taxman 145 (Gujarat) **Reversed in (1997) 91 Taxman 351 (SC)**
411	145		Method of accounting	Rajmoti Industries *v.* JCIT TAX APPEAL NO. 1153 OF 2013 Where production of oil recorded by assessee in its books of account was completely inconsistent with pattern of power consumed, books of account were rightly rejected [2014] 44 Taxmann.com 491 (Gujarat)
412	145			More cases at Sl. 42,163
413	147		Income escaping	Rhythm Chemicals (P.) Ltd. *V.* DCIT SPECIAL CIVIL APPLICATION NO. 3569 OF 2013

			assessment	Since intimation under section 143(1) does not amount to assessment, question of change of opinion does not arise, and therefore, reopening of assessment based on sufficient material, forming reason to believe that income has escaped assessment, is valid [2013] 33 Taxmann.com 426 (Gujarat)
414	147		Income escaping assessment	A G Group Corporation *v.* Harsh Prakash SPECIAL CIVIL APPLICATION NO. 2891 OF 2001 When an earlier order stood annulled on ground of lack of fulfillment of basic requirement for exercise of jurisdiction under section 147, there is no bar against reopening assessment once again on same grounds after following due procedure in accordance with law. [2013] 35 Taxmann.com 48 (Gujarat)
415	147		Income escaping assessment	I.P. Patel and Co. *v.* DCIT SPECIAL CIVIL APPLICATION NO. 16261 OF 2010 Investigation report of custom authority which came to notice of Assessing Officer after completing original assessment could be relied upon to reopen assessment [2012] 27 Taxmann.com 200 (Gujarat)
416	147		Income escaping assessment	Gala Gymkhana (P.) Ltd. *V.* ACIT, Circle-4 SPECIAL CIVIL APPLICATION NO. 6318 OF 2009 Where Assessing Officer seeks details from assessee-club as to number of its members and assessee in addition informs about total membership fees it has received and Assessing Officer without expressing any opinion on membership fees passed its order not imposing any tax thereupon, it cannot be said that Assessing Officer had expressed its opinion on membership fees; and, therefore, membership fees can be taxed subsequently by re-opening assessment [2012] 27 Taxmann.com 294 (Gujarat)
417	147		Income escaping assessment	Sun Pharmaceutical Industries Ltd. *V.* DCIT SPECIAL CIVIL APPLICATION NO. 652 OF 2005 Where to inflate claim for deduction under section 80-IA, assessee charged interest at 24 per cent from sister concern on overdue payments

				which was not discernible from record, reopening of assessment was justified [2012] 25 Taxmann.com 509 (Gujarat)
418	147		Income escaping assessment	Inductotherm (India) (P.) Ltd. *V.* M. Gopalan, DCIT SPECIAL CIVIL APPLICATION NO. 858 OF 2006 Reopening of assessment is permissible even if there was no scrutiny assessment, provided there is reason to believe that income chargeable to tax has escaped assessment [2013] 36 Taxmann.com 401 (Gujarat)
419	147		Income escaping assessment	Sun Pharmaceutical Industries Ltd. *V.* DCIT SPECIAL CIVIL APPLICATION NO. 12468 OF 2004 Where in course of assessment, assessee did not disclose that it charged higher rate of interest on delayed payment of goods from its sister concern so as to increase its profits eligible for deduction under section 80-IA, Assessing Officer was justified in initiating reassessment proceedings [2013] 29 Taxmann.com 262 (Gujarat)
420	147	154	Income escaping assessment Rectification	Damodar H. Shah *v.* ACIT SPECIAL CIVIL APPLICATION NO. 5453 OF 1994 Whether if Assessing Officer resorts to section 154 on ground that mistake in order apparent from record has resulted in escapement which could be rectified by amending order and enhancing assessment, then, he, on finding that there is no such mistake apparent from record warranting rectification, since view taken is plausible, can in absence of any other ground on basis of which he has still reason to believe that income has escaped assessment, start proceedings again under section 147 – Held, no – Whether where process of rectification under section 154 fails on merits and Assessing Officer intends to initiate proceedings under section 148, it is incumbent on him to demonstrate how he still has reason to believe that said income had escaped assessment though no mistake was obvious from record – Held, yes [2001] 114 Taxman 26 (Gujarat)
421	147		Income escaping	Gruh Finance Ltd. *V.* JCIT SPECIAL CIVIL APPLICATION NOS. 10446, 10604

			assessment	OF 1999 AND 96 OF 2000 Income escaping assessment – Position after 1-4-1989 Assessment year 1996-97 – Whether reassessment was justified where bogus claim of depreciation was made on non-existence machinery and allowed – Held, yes 2002] 123 Taxman 196 (Gujarat)
422	147		Income escaping assessment	Praful Chunilal Patel *v.* M.J. Makwana, ACIT SPECIAL CIVIL APPLICATION NOS. 4201 AND 4203 OF 1996 Whether power to make assessment or reassessment within four years of end of relevant assessment year would be attracted even in cases where there has been a complete disclosure of all relevant facts upon which a correct assessment might have been based in first instance, and whether it is an error of fact or law that has been discovered or found out justifying belief required to initiate proceedings – Held, yes – Whether words "escaped assessment" where return is filed, are apt to cover case of discovery of a mistake in assessment caused by either an erroneous construction of transaction or due to its non-consideration, or caused by a mistake of law applicable to such transfer or transaction even where there has been a complete disclosure of all relevant facts upon which a correct assessment could have been based – Held, yes – Whether if Assessing Officer has a cause or justification to think or suppose that income had escaped assessment, he can be said to have a 'reason to believe' that such income had escaped assessment – Held, yes – Whether unless it is shown that Assessing Officer never enquired into matter at all or that he never honestly believed that a mistake has been made, result of his investigation and initiation of proceedings under section 147 could not be challenged on ground of want of jurisdiction – Held, yes [1999] 236 ITR 832 (Gujarat)
423	147		Income escaping assessment	Labella Construction Company *v.* CIT. IT REFERENCE NO. 284 OF 1980 Whether an audit note can be a source of information – Held, yes – ITO having noted that assessee had not maintained quantity stock register and other relevant registers, estimated

				income by considering profits made in earlier assessment years – Subsequently, ITO received an audit note which pointed out that account books of assessee disclosed more profit than estimated by ITO – On basis of said information ITO reopened assessment and estimated gross profit at higher rate – Whether on facts, reopening of assessment on basis of audit note was valid – Held, yes [1994] 207 ITR 657 (Gujarat)
424	147	143(1) 148 263	Issue of notice Revision	Orient Trading Co. *v*. CIT Whether on initiation of proceedings under section 147 by issuance of notice under section 148, assessment-order made earlier under section 143(1) stands set aside—Held, no. Whether in case where assessee's original assessment was made under section 143(1) and, subsequently, reassessment notice was issued under section 148, commissioner would be precluded from revising original assessment order made under section 143(1)—Held, no. [1985] 20 Taxman 330 (Gujarat)
425	147	143	Income escaping assessment Set aside	Krishna Developers & Company *v.* DCIT, Circle-7(2) SPECIAL CIVIL APPLICATION NO. 8352 OF 2017 Merely because reasons recorded by Assessing Officer proceeded on same basis on which Assessing Officer initially desired to make additions but which failed on account of setting aside order of assessment, it would not preclude Assessing Officer from carrying out exercise of reopening of assessment [2017] 84 Taxmann.com 166 (Gujarat)
426	147		Income escaping assessment	Garden Finance Ltd. *V.* Addl CIT SPECIAL CIVIL APPLICATION NO. 6056 OF 2001 Whether Assessing Officer could form a belief that by not disclosing 6-4-1987, as date of acquisition of shares in amalgamating company and by showing 1989-90 as year of acquisition of shareholding in question, assessee had failed to make a true and full disclosure of all material facts necessary for his assessment during concluded assessment proceedings for assessment year 1994-95 – Held, yes

				[2003] 132 Taxman 543 (Gujarat)
427	147	263	Income escaping assessment	Inductotherm (India) (P.) Ltd. *V.* James Kurian, ACIT SPECIAL CIVIL APPLICATION NOS. 2353 OF 2005, 16306 OF 2006 AND CIVIL APPLICATION NO. 1777 OF 2007 Whether there is no bar under provisions of Act for parallel proceedings in consequence of notice under section 148 issued by Assessing Officer and notice under section 263 issued by Commissioner; both authorities are empowered under different provisions of Act, though both have to see that income escaped in original assessment should be taxed – Held, yes [2008] 169 Taxman 240 (Gujarat)
428	147	148	Income escaping assessment	PCIT-2, Vadodara *v.* Sagar Developers TAX APPEAL NOS. 392, 395, 396 & 797 OF 2015 AND 127 & 212 OF 2016 Where assessee raised objections to notice of reopening of assessment and Assessing Officer without disposing of objections passed order of reassessment and Tribunal held that order of reassessment was liable to be set aside, order of reassessment though should stand set aside, it would be open for Assessing Officer to frame fresh assessment after first disposing of objections [2016] 72 Taxmann.com 321 (Gujarat)
429	147		Income escaping assessment	CIT – III *v.*Kiranbhai Jamnadas Sheth (HUF) TAX APPEAL NOS. 1480 & 1481 OF 2011 Assessment without scrutiny would mandate reassessment beyond 4 years even if assessee made true disclosure [2013] 39 Taxmann.com 116 (Gujarat)
430	148		Income escaping assessment	Atulbhai Hiralal Shah *v.* C.P. Meena, DCIT, SPECIAL CIVIL APPLICATION NOS. 2552 & 2553 OF 2016 Where Assessing Officer had reopened assessment of assessee and sent notice to him through postal department at address contained in his PAN card, which was returned back with remark 'left', and assessee challenged reopening of assessment contending that remark 'left' was

				totally incorrect, since assessee had not joined postal department to question why remark 'left' was made, only on ground of non service of notice, reassessment proceedings could not be terminated [2016] 73 Taxmann.com 320 (Gujarat)
431	149		Limitation to serve notice	Rajesh Sunderdas Vaswani *v.* DCIT, SPECIAL CIVIL APPLICATION NOS. 2548, 2549 & 2550 OF 2016 Where reassessment notice was handed over to Postal Department before stipulated time, it would not be barred by time factor [2017] 88 Taxmann.com 602 (Gujarat)
432	149		Time limit	Dishman Pharmaceuticals & Chemicals Ltd. *v.* DCIT (OSD) (No. 1) SPECIAL CIVIL APPLICATION NO. 15304 OF 2010 Principles governing jurisdiction of Assessing Officer to reopen assessment beyond four years from end of assessment year. [2013] 30 Taxmann.com 67 (Gujarat)
433	149	151 147 69	Time limit Sanction Income escaping taxation Unexplained money	Lalita Ashwin Jain *v.* ITO SPECIAL CIVIL APPLICATION NOS. 1626 & 1627 OF 2014 Where Assessing Officer while placing reasons recorded for approval of Commissioner prior to issuance of notice under section 148, recorded in Form No. ITNS-10 that income which escaped assessment was more than Rs. one lakh, statutory bar imposed against reopening of assessment under section 149(1)(b) would not operate in such a case Where Joint Commissioner nodded in favour of Assessing Officer by writing 'yes' to reasons recorded and accorded permission for reopening of assessment, notice of reopening on that count alone cannot fail holding that assumption of jurisdiction under section 147 was invalid, if application of mind is otherwise demonstrable from material on record Where Assessing Officer having completed assessment under section 143(3), initiated reassessment proceedings on basis of information supplied by Investigation wing that

				companies funding assessee's investment were bogus, since assessee herself admitted that investment transactions in question were name sake/sham transactions, validity of impugned reassessment proceedings deserved to be upheld [2014] 45 Taxmann.com 404 (Gujarat)
434	150	46 148	Appeal effect Income escaping assessment Capital gains	Senitax Chemicals Ltd. *v.* ITO SPECIAL CIVIL APPLICATION NO. 13881 OF 2017 Where during appellate proceedings before Commissioner (Appeals), assessee had itself taken a stand that correct cost of acquisition should be lesser than what it had claimed before, and also produced documents in support of same, reopening notice issued in terms of section 150 was justified [2017] 87 Taxmann.com 17 (Gujarat)
435	150	153	Limitation	Kalyan Ala Barot *v.* M.H. Rathod SPECIAL CIVIL APPLICATION NO. 10726 OF 1996 Whether on facts, instant case clearly fell within ambit of provisions of section 150 as well as section 153(3)(ii) read with Explanation 2 to section 153 and as such there was no infirmity in action of Assessing Officer in initiating reassessment proceedings, same being in consonance with provisions of law and within prescribed time-limit - Held, yes - Whether, therefore, petition filed by assessee was to be dismissed - Held, yes [2011] 9 Taxmann.com 246 (Gujarat)
436	151	148	Approval for issue of notice	Baldevbhai Bhikhabhai Patel *v.* DCIT R/SPECIAL CIVIL APPLICATION NO. 21092 OF 2017 Where revenue produced bunch of documents to suggest that entire proposal of reopening of assessment along with reasons recorded by Assessing Officer for same were placed before Additional Commissioner who, upon perusal of same, recorded his satisfaction that it was a fit case for issuance of notice for reopening assessment, reassessment notice issued against assessee was justified [2018] 94 Taxmann.com 428 (Guj)

437	151	147	Approval for issue of notice	Mayurbhai Mangaldas Patel *v.* ITO R/TAX APPEAL NO. 29 OF 2018/OJCA/2018 Where Joint Commissioner had, in clear terms, expressed his satisfaction that on basis of reasons recorded by Assessing Officer, it was a fit case for issuance of notice for reopening assessment under section 148, merely because for some erroneous reason, papers were also placed before Commissioner who also recorded similar satisfaction, reassessment proceedings would not be vitiated [2018] 93 Taxmann.com 220 (Gujarat)
438	147-151			See more at Sl. 6,9,12,24,48,58,59,61,82,95,99, 139,222,237,239,263,264,266,267,268,271,274, 278,281,282,289,293,294,286,302,305,307,309, 311,315,317-319,335,341,428,407,433,434, 436, 437,446
439	153	119	Limitation	Hargovind Damji *v.* CIT IT REFERENCE NO. 393 OF 1984 Whether original return filed was actually return under section 139(1) and as such time-limit for completing assessment had to be computed from date of filing revised return as per provisions of section 153(1)© and, hence, assessment completed on 15-3-1977 was not barred by limitation – Held, yes [2002] 123 Taxman 949 (Gujarat)
440	153C		Search and Seizure Satisfaction	Rajesh Sunderdas Vaswani *v.* ACIT, SPECIAL CIVIL APPLICATION NOS. 15980 & 15985 OF 2010 IT: Where Assessing Officer of search person recorded that document found during search was copy of a ledger of books of account of assessee company which evidenced certain cheque payments as well as cash payments to a company by assessee, there was prima facie material to suggest that satisfaction as per section 153C was duly recorded and thus, notice issued to file return to assessee was justified [2016] 76 Taxmann.com 311 (Gujarat)
441	153C		Search assessments	Kamleshbhai Dharamshibhai Patel *v* CIT – 3 SPECIAL CIVIL APPLICATION NOS.13635, 13636 & 13643 OF 2012 Where assessee sold certain land to purchaser,

				documents, viz., sale deeds of said land and agreements executed between assessee and erstwhile tenants regarding their eviction, found during search upon purchaser, would be said to be belonging to assessee for purpose of section 153C [2013] 31 Taxmann.com 50 (Gujarat)
442	153			See more at Sl.375,389,435,454,584
443	153C		Writ Search assessment	Rajhans Builders *v.* DCIT SPECIAL CIVIL APPLICATION NO.30788 OF 2007 Statutory remedy is available against notices issued under section 153C; hence, writ petition cannot be entertained [2014] 46 Taxmann.com 34 (Gujarat)
444	154		Rectification	CIT *v.* Sandeep Bipinchandra IT REFERENCE NO. 172 OF 1977 Assessee who was a minor, was admitted to benefits of a partnership firm – Besides share income from said firm, assessee also derived income from interest, dividends and house property – Whether income earned by assessee was unearned income and, hence, non-charging of additional surcharge on unearned income of assessee in original assessment was a mistake apparent on face of record – Held, on facts, yes [1986] 27 Taxman 562 (Gujarat)
445	154		Rectification	Standard Radiators *v.* CIT IT REFERENCE NO. 468 OF 1980 In original assessment order ITO did not determine tax payable by assessee, a registered firm, on capital gains – ITO's rectification order was however set aside by AAC on ground that question whether capital gains was taxable in hands of a registered firm was disputable – ITO's rectification order was made after the above decision – Later AAC rectified his order on basis of decision in case of CIT v. Hasanali Khanbhai & Sons 1974 Tax 36(3)-4 (Guj.) in which it was held that registered firm was liable to pay tax on capital gains – Whether AAO was justified in rectifying his order on basis of abovesaid decision – Held, yes – Whether fact that assessment order was passed before aforesaid case was decided had no material bearing on question whether said order disclosed any mistake apparent on

				record –Held, yes [1987] 33 Taxman 151 (Gujarat)
446	154	151	Rectification Limitation	Saurashtra Cement & Chemical Industries *v.* CIT I.T. REFERENCE NO. 267 OF 1980 Assessee applied for rectification of assessment order by granting deduction of surtax paid by him – AAC rejected said application on ground that it was barred by limitation – Whether in view of well-settled law that amount paid by way of surtax is not deductible, reference on question of limitation need not be answered – Held, yes [1993] 203 ITR 540 (Gujarat)
447	154		Rectification	Bharat Suryodaya Mills *v.* CIT. IT REFERENCE NO. 176 OF 1982 – Whether, since, in view of specific provision in item III(iv)(1) of Appendix I, it was clear that extra shift allowance was not available for electrical machinery, ITO had therefore, committed a mistake which he could validly rectify under section 154 by withdrawing extra shift allowance on electrical machinery – Held, yes [1995] 212 ITR 6 (Gujarat)
448	154	234B	Charging of interest Rectification	AIMS Oxygen Ltd. *V.* Add CIT TAX APPEAL NO.162 OF 2005 Interest under section 234B can be charged when income of assessee is modified under section 154 even if no interest had been so charged at time of framing regular assessment on nil income [2015] 55 Taxmann.com 269 (Gujarat)
449	154	161	Rectification Share of beneficiary	Ganesh Chhababhai Vallabhai Patel *v.* CIT IT REFERENCE NO. 28 OF 1988 Whether assessment of trustee would have to be made in same status as that of beneficiary whose interest was sought to be taxed in hands of trustees – Held, yes – Whether total income of beneficiary, i.e., share of income of trust receivable by such beneficiary under deed as well as other income of beneficiary which would make up his total income, was required to be taken into account for purpose of ascertaining rate at which total income of such beneficiary was to be taxed – Held, yes – Whether merely because payment of income which had accrued and which was credited to accounts of beneficiaries since it was receivable each year, was delayed over a period,

				it could not be said that income did not accrue in relevant previous year – Held, yes – Whether, therefore, ITO was justified in passing rectification order – Held, yes 2003] 130 Taxman 163 (Gujarat)
450	154		Rectification	CIT v. Super Cast Alloy Foundries Ltd IT REFERENCE NO. 308 OF 1992 Whether in view of amendment carried out in section 154(7) by Taxation Laws (Amendment) Act, 1984 w.e.f. 1-10-1984 rectification order passed by assessing authority on 31-3-1986 was well within period of limitation – Held, yes [2006] 153 Taxman 175 (Gujarat)
451	154			See more at Sl. 107,110,111,350,403,420,482, 489, 542
452	158B	143	Block assessment Reference	N.R. Paper & Board Ltd. *V.* DCIT SPECIAL CIVIL APPLICATION NOS. 1144, 1147 TO 1150 AND 1152 TO 1154 OF 1998 Whether there is no overlapping in nature of assessment made under Chapter XIV-B of undisclosed income and regular assessment made under section 143(3) and these provisions operate entirely for different purposes, one for assessing undisclosed income of block period while other for assessing total income or loss of previous year in regular assessment – Held, yes – Whether, where there is a pending regular assessment for one of previous years falling in block period for which proceedings under Chapter XIV-B are commenced as a result of search under section 132, there is nothing to prevent Assessing Officer to proceed with and complete regular assessment of such previous year – Held, yes – Whether contention that this will result in double taxation is baseless, as all taxes paid by assessee are required to be taken into account and adjustments given in regular assessment and there would be no scope in such regular assessment for assessment of its undisclosed income already assessed in block assessment – Held, yes Whether, however, in cases where decision is sub-silentio, per incuriam, obiter dicta or based on a concession or takes a view which it is

				impossible to arrive at or there is another view in field or there is a subsequent amendment of statute or reversal or implied overruling decision by a High Court or some such or similar infirmity is manifestly perceivable in decision, a different view can be taken by High Court – Held, yes [1998] 101 Taxman 525 (Gujarat)
453	158B		Block assessment	ACIT *v.* Minoobhai D. Irani TAX APPEAL NO. 448 OF 2000 Tax to be deducted at source being also computed on estimated income of an assessee for relevant financial year, such deduction can not result in disclosure of total income for relevant assessment year Where return was filed by assessee after block assessment proceedings were initiated by Assessing Officer, intention of assessee was not to disclose income and therefore, same is required to be treated as undisclosed income as per section 158B(b) [2014] 47 taxmann.com 289 (Gujarat)
454	158BC	153C	Writ	Ashit Jain *v.* Assistant Director of Income-tax SPECIAL CIVIL APPLICATION NO.10512 OF 2011 HC not to entertain writ on section 153C notice if such grievance could be addressed by filing reply to said notice [2016] 74 taxmann.com 11 (Gujarat)
455	158BD	132	Block assessment Search	Gunjan Girishbhai Mehta *v.* DIT SPECIAL CIVIL APPLICATION NO. 9395 OF 2004 There is no requirement under provisions of Act that block assessment proceedings under section 158BD can be initiated only in pursuance of legal and valid search proceedings under section 132 [2014] 49 Taxmann.com 69 (Gujarat)
456	158BD	132(4)	Search assessment	Premjibhai & Sons *v.* JCIT CIVIL APPLICATION NO. 10733 OF 2000 Whether having regard to averments made in reply affidavit pointing out that petitioner had converted unaccounted money into accounted money in garb of bogus sales to non-existent party or non-genuine firm and its corroboration by raidee in statement recorded under section 132(4), it would be incorrect to say that said

				notice suffered from vice of non-application of mind or for want of any material on record – Held, yes [2002] 120 Taxman 57 (Gujarat)
457	158BD	158BC	Block Assessment	Priya Blue Industries (P.) Ltd. *V.* JCIT SPECIAL CIVIL APPLICATION NO. 10731 OF 2000 Whether it is correct to say that action under section 158BD cannot be taken against another person unless in search operations against particular person books of account or other documents or assets belonging to another person showing undisclosed income of that person are found – Held, no – Whether proceedings under section 158BD, instead of being separate and independent proceedings, form part of search operations followed by special procedure for assessment of undisclosed income as contained in Chapter XIV-B and, therefore, contention that provisions of sections 68 and 69 cannot be relied upon at time of issuance of notice under section 158BD has no merit – Held, yes – Whether there is merit in contention that proceedings under section 158BD can be initiated only after proceedings under section 158BC are completed against raidee – Held, no – Whether having regard to averments made in reply affidavit which pointed out that petitioner deposited large sums in cash with raidees and obtained cheques and demand draft in garb of sales to non-existent firms and by way of loan and statement of one raidee recorded under section 132(4) corroborating these averments, there was no merit in contention that issuance of notice by respondent in question suffered from vice of non-application of mind or for want of any material on record – Held, yes [2002] 120 Taxman 696 (Gujarat)
458	158BD		Block Assessment	Rushil Industries Ltd. *V.* Harsh Prakash SPECIAL CIVIL APPLICATION NO. 10396 OF 2000 Whether requirement of section 158BD is only prima facie satisfaction of Assessing Officer that in search operation there is material to show undisclosed income of person other than one who is searched – Held, yes – Whether there is

				merit in contention that action under section 158BD cannot be taken unless in search operations against a particular person books of account or other documents or assets showing undisclosed income of any other person are found – Held, no Section 158B(b) of the Income-tax Act, 1961 – Block assessment in search cases – Undisclosed income – Whether definition of 'undisclosed Income' would include any entries in books of account or other documents showing concealment of real source of income – Held, yes [2002] 120 Taxman 67 (Gujarat)
459	158BD	158BC	Block assessment Recording Satisfaction	CIT-II *v.* Bipinchandra Chimanlal Doshi TAX APPEAL NOS. 866 OF 2008 AND 1002 & 2397 OF 2010 In case of assessee, other than searched person, block assessment order cannot be set aside on mere ground that satisfaction note was recorded subsequent to assessment framed in case of searched person [2017] 79 Taxmann.com 211 (Gujarat)
460	158BFA		Interest	Kandoi Bhogilal Mulchand *v.* DCIT TAX APPEAL NO. 2467 OF 2010 Penalty under sub-section (2) of section 158BFA is leviable where Assessing Officer computes income in excess of what is declared by assessee for block period [2012] 21 Taxmann.com 153 (Gujarat)
461	158			See more at Sl. 298,367,370,457,459,543
462	164		Charge of tax	CIT *v.* Ambalal Sarabhai D. Trust IT REFERENCE NO.100 OF 1991 It is not open to a discretionary trust to convert nature of trust from discretionary to specific [2004] 137 Taxman 503 (Gujarat)
463	164		AOP Maximum marginal rate	CIT *v.* Kantilal Harilal Family Trust TAX APPEAL NOS. 104 TO 110 OF 2003 In terms of Explanation 2 to section 164 income of trust is to be assessed at maximum marginal rate which means rate applicable to highest slab of income provided for AOP in relevant Finance

				Act [2015] 55 Taxmann.com 410 (Gujarat)
464	164		Trust- Charge of tax where shares of beneficiary is unknown	CIT *v.* Goser Family Trust. IT REFERENCE NO. 74 OF 1989 Whether in view of fact that second group of beneficiaries consisted of persons having 'other income' chargeable under the Act exceeding maximum not chargeable to tax in case of an 'AOP' and they were also beneficiaries under other trusts, assessee-trust was liable to be taxed at maximum marginal rate and was not entitled to concessional rate of tax – Held, yes [1991] 59 Taxman 108 (Gujarat)
465	168A	260A	Tax effect Appeal	CIT –I *v.* Anjani Fabrics Ltd TAX APPEAL NOS. 977 OF 2009 AND 108, 170, 208, 881, 959, 1102 & 1271 OF 2010 Appeal cannot be dismissed without considering merits of case, solely on ground of low tax effect, where notional tax effect exceeds monetary limit prescribed by Board [2014] 41 Taxmann.com 361 (Gujarat)
466	168		Executor	Maharani Vijaykunverba Saheb *v.* CIT Deceased left two wills covering different properties situated in India and England and appointed different and distinct sets of executors for each will—ITO made single assessment under section 168 in status of AOP for aggregate income from 135ecogn and foreign estate in the hands of executor of one of the wills without serving notices on all other executors—Executors present voluntarily furnished all requisite details and did not object to inclusion of income from foreign property covered by other will—Whether properties comprised in each will constituted one single composite estate after death of deceased—Held, yes—Whether impugned single assessment under section 168 in status of aop valid under law—Held, on facts, yes [1982] 8 Taxman 60 (Gujarat)
467	171		Partition of HUF	Punjalal L. Shah (HUF) *v.* CIT IT REFERENCE NOS. 120 AND 276 OF 1985 Whether in view of provisions of section 171(9), partial partition in question being effected after

				31-12-1978, was not 136recognizable and liability of erstwhile HUF for assessment for payment of tax continued to be same as it existed before partial partition – Held, yes – Whether, therefore, entire share of profit from three firms was taxable in hands of assessee-HUF – Held, yes – Whether interest income earned by alleged smaller HUFs was also to be included in total income of assessee-HUF – Held, yes [2002] 125 Taxman 734 (Gujarat)
468	171		Partition of HUF	CIT *v.* Maganlal Mohanlal Panchal IT REFERENCE NO. 139 OF 1988 Whether in view of provisions of section 171(9) introduced with effect from 1-4-1980, Assessing Officer was justified in refusing to 136ecognize partial partition claimed to have taken place amongst members of HUF on 3-3-1979 – Held, yes – Whether Tribunal was not right in law in directing Assessing Officer to pass an order under section 171 for partial partition – Held, yes 2002] 124 Taxman 34 (Gujarat)
469	179		Company in liquidation	Ajay Surendra Patel *v.* DCIT, SPECIAL CIVIL APPLICATION NO. 6580 OF 2016 Where company's actual business had commenced only after petitioner joined company as additional director and during his tenure, there were substantial accommodation entries giving rise to huge tax demand, uplifting of corporate veil to hold petitioner liable for said demand was justified [2017] 78 Taxmann.com 339 (Gujarat)
470	185		Registration of firm	CIT *v.* Nathalal Karsandas IT REFERENCE NO. 244 OF 1984 During accounting period 12-11-1977 to 30-8-1978, minor 'G' attained majority on 9-8-1978, whereafter a new partnership deed was executed, admitting 'G' to a partnership effective from 12-11-1977 – Commissioner, acting under section 263, cancelled registration granted by ITO on view that a valid partnership deed could not be said to be in existence from 12-11-1977 onwards – Tribunal granted registration to firm – Whether Tribunal was right – Held, no [2002] 120 Taxman 424 (Gujarat)

471	161-185			See more at Sl. 62,449,530
472	194A	276B	Offence and Prosecution	M.L. Family Trust *v.* State of Gujarat MISCELLANEOUS CRIMINAL APPLICATIONS NOS. 2440 TO 2445 OF 1989 Whether section 194A is not applicable in case where assessee is trust having individual beneficiaries – Held, yes – Whether, therefore, there being no question of deduction of tax or paying tax after deduction, no question of commission of offence would arise for failure to deduct tax and payment thereof and as such, prosecution under section 276B could not be allowed – Held, yes [1995] 82 Taxman 556 (Gujarat)
473	194C		TDS	Essar Oil Ltd. *V.* ITO TAX APPEAL NO. 33 OF 2000 Where three different contracts entered into by assessee with its sister concern were found to be in nature of a single integrated agreement for construction of refinery plant which could be termed as 'works contract', assessee was required to deduct tax at source under section 194C while making payments to its sister concern Validity of certificate under section 197(1) would be there till it is cancelled, however, no retrospective effect is to be given to it [2013] 30 Taxmann.com 39 (Gujarat)
474	195	9 263	TDS Non resident Revision	Designmate India (P.) Ltd. *V.* CIT-1 SPECIAL CIVIL APPLICATION NO. 2686 OF 2016 Efficacious remedy is available under statute in respect of revision-notice issued for imposing TDS liability on transaction charges paid for services provided by a non-resident outside India; writ petition against revision-notice was to be dismissed [2017] 85 Taxmann.com 204 (Gujarat)
475	197		TDS Lower deduction certificate	OPJ Trading (P.) Ltd. *V,* Income-tax Officer, TDS-2 R/SPECIAL CIVIL APPLICATION NO. 6088 OF 2018 Where Assessing Officer on tentative re-working of assessee's accounts formed a prima facie opinion and suggested collection of tax at

				reduced rate of 1 per cent, but since projection of losses by assessee were found questionable, assessee's application for reduced rate of TDS could not be granted [2018] 98 Taxmann.com 117 (Gujarat)
476	194-200			See more at Sl. 13,15,46,491,582
477	208		Direct tax Dispute Resolution Scheme	Parbatbhai J. Golakia HUF *v.* PCIT-1 SPECIAL CIVIL APPLICATION NOS. 9164 & 9166 OF 2017 Where AO on basis of material seized during survey reassessed assessee and also imposed penalty and during pendency of penalty appeal before Commissioner (Appeals) assessee made declaration under Direct Tax Dispute Resolution Scheme, 2016, declaration was not maintainable [2017] 85 Taxmann.com 83 (Gujarat)
478	214	143	Advance tax Interest payable by Govt	CIT *v.* Mihir Textiles Ltd IT REFERENCE NO. 323 OF 1984 Whether for purpose of interest under section 214, 'regular assessment' occurring in this section does not include order of reassessment and/or order of rectification – Held, yes [2002] 123 Taxman 1082 (Gujarat)
479	216		Advance tax	Baroda Electric Meters Ltd. *V.* CIT. INCOME-TAX REFERENCE NO. 55 OF 1989 Whether since assessee had underestimated advance tax payable by it and had not given any satisfactory explanation for same, Tribunal was right in holding that interest under section 216 was rightly charged – Held, yes [2003] 128 Taxman 72 (Gujarat)
480	220		Collection Recovery	Montecarlo Ltd. *V.* DCIT SPECIAL CIVIL APPLICATION NO. 594 OF 2013 Where assessee prayed for adjustment of its tax liability against refund due but its right to refund was not crystallized at time of assessment, charge of interest for delay in payment of tax was justified [2013] 34 Taxmann.com 68 (Gujarat)
481	220(2)		Recovery of tax	Gujarat State Fertilizers Co. Ltd. *V.* ITO section 220(2), read with section 154, of the

				income-tax act, 1961—recovery of tax—interest on delayed payment—as demand notice issued by ITO under section 156 contained some patent mistakes, assessee returned it to ito without paying tax, along with a request for rectification—following rectification, ito demanded interest, under section 220(2) on rectified amount of tax on the ground that assessee failed to pay tax pursuant to demand notice initially sent to it—whether assesses liable to pay such interest—held, on facts, yes—whether in view of aforesaid circumstances, provisions of section 220(2) can be said to be arbitrary and as such ultra vires of article 14 of constitution—held, no [1983] 13 Taxman 432 (Gujarat)
482	220(2)	156	Collection and recovery	Roopali Dyeing & Printing Works *v*. ACIT SPL. CIVIL APPLICATION NO. 9568 OF 1994 Whether in terms of section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964 there was continuity of proceedings during their pendency in appeal against order of assessing authority in different stages, and notice of demand issued at time of original assessment was kept alive all along and was brought upon surface on finality of proceedings – Held, yes – Whether, therefore, contention of assessee that in absence of any notice of demand on enhancement by Tribunal, claim for interest under section 220(2) was vitiated, could be upheld – Held, no – Whether, on basis of original notice of demand on finality of proceedings, assessee was liable to pay interest under section 220(2) – Held, yes [1995] 80 Taxman 605 (Gujarat) **Reversed in (2001) 117 Taxman 129 (AP)**
483	222		Collection and Recovery	M.H. Pandya *v*. TRO SPECIAL CIVIL APPLICATION NO. 2250 OF 1984 To recover income-tax dues income-tax authorities auctioned certain lands – A petition for setting aside auction sale was made by competent authority under the Urban Land (Ceiling and Regulation) Act on ground that such lands were liable to be surrendered as 'excess land' under said Act – Whether obligation under

				the Urban Land (Ceiling and Regulation) Act remained unaffected by auction sale and, therefore, it was not necessary to quash or set aside auction sale – Held, yes [1990] 49 Taxman 40 (Gujarat)
484	222		Collection Recovery Certificate	Panchratna Real Estate (P.) Ltd. *V.* CCIT SPECIAL CIVIL APPLICATION NO. 4787 OF 2015 Where petitioner did not pay entire bid amount within stipulated time as per terms and conditions on which bids were invited by income-tax department for subject property, decision of Chief Commissioner for forfeiting amount already paid by petitioner was justified [2015] 62 Taxmann.com 23 (Gujarat)
485	222	Rule 86 of Second Schdule	Collection Recovery Certificate	Jadeja Jitendrasinh Chandrasinh *v.* TRO, Range 3 & 2 SPECIAL CIVIL APPLICATION NOS. 4600, 4601, 4603, 4605 & 4615 OF 2002 Where a public auction is conducted to recover income-tax dues of defaulting assessee, highest bidder does not get a vested right in property sold during such auction [2012] 27 Taxmann.com 10 (Gujarat)
486	220-226			See more at Sl. 403,589
487	234A	234B 140	Interest chargeable	Roshanlal S. Jain (AOP) *v.* DCIT SPECIAL CIVIL APPLICATION NO. 8976 OF 1995 Whether there is an inherent indication in statutory scheme that any payment of advance tax made beyond financial year has to be considered but such payment has to be accompanied by interest payable for default committed in filing of return of income or default in payment of advance tax during financial year – Held, yes [2009] 176 Taxman 95 (Gujarat)
488	234B		Interest (Charging of) Pending Proceedings	Devdip Malls Developers (P.) Ltd. *V.* Secretary SPECIAL CIVIL APPLICATION NOS. 4325,7112 & 7124 OF 2017 Section 234B(2A) would apply to all pending proceedings pending as on 1-6-2015 [2017] 85 Taxmann.com 47 (Gujarat)
489	234B	156	Charging of interest	ACIT *v.* Norma Detergent (P.) Ltd. TAX APPEAL NOS. 321,428 OF 2000, 937,941 &

			Demand notice	1048 OF 2005 & 1479 OF 2007 It is not sine qua non for Assessing Officer to mention/levy/charge interest under section 234B in assessment order before he raises demand for same in notice issued under section 156 [2016] 67 Taxmann.com 256 (Gujarat)
490	234D		Interest withdrawn	CIT –II *v.* Gujarat State Financial Services Ltd TAX APPEAL NOS. 897, 1675, 1941,2297 OF 2010 AND 246 & 936 OF 2011 Whether in case of any assessment completed after 1-6-2003, regardless of year of assessment, provisions of section 234D would be applicable to such assessment year – Held, yes [2014] 49 Taxmann.com 221 (Gujarat)
491	234E	200A	Charging for delay	Rajesh Kourani *v.* UOI SPECIAL CIVIL APPLICATION NO. 302 OF 2014 Section 234E is a charging provision creating a charge for levying fee for certain defaults in filing statements, and fee prescribed under section 234E could be levied even without a regulatory provision being found in section 200A for computation of fee Taking into account complex transactions involved, slightly longer period granted to Government agencies to file return of deduction of tax was perfectly valid [2017] 83 Taxmann.com 137 (Gujarat)
492	234			See more at Sl. 354,448,487,508,566
493	244A	119A of Rule	Interest on refund	CIT –I *v.* Arvind Mills Ltd. NO. 2486 OF 2009 For purposes of section 244A term 'month' must be given ordinary sense of term, i.e., 30 days of period, and not British calendar month as defined under section 3(35) of General Clauses Act [2011] 16 Taxmann.com 291 (Gujarat)
494	244A	Art 14 of Constitution	Refund Claim	Pranlal Chimanlal Thakore *v.* UOI SPECIAL CIVIL APPLICATION NO. 1854 OF 1979 Whether, where benefit for payment of interest on refund from date of payment and not from date on which order for tax or penalty was set

				aside was granted to 142ssesses who had paid tax or penalty after 31-3-1975 by Legislature because of suggestion made by Select Committee, it could be said that such date i.e., 31-3-1975, was prescribed arbitrarily or capriciously – Held, no – Whether provisions of sub-section (1A) of section 244 are violative of article 14 of Constitution merely because benefit of calculation of interest from date of payment is not extended to 142ssesses who had paid excess tax or penalty on or before 31-3-1975 but is extended only to those 142 ssesses who paid tax/penalty after said date – Held, no [1994] 76 Taxman 355 (Gujarat)
495	244A			See more at Sl. 478
496	245		Settlement Commission	Vikas Shipping Co *v.* UOI SPECIAL CIVIL APPLICATION NO. 6854 OF 2008 Where proceedings in case of assessee before Settlement Commission abated due to non-compliance of provisions of section 245D(2D) and thereupon Commission directed Assessing Officer to dispose of proceedings in accordance with provisions of sub-sections (2), (3) and (4) of section 245HA, in such a situation, plea raised by assessee that material produced before Commission should not be allowed to be used by revenue authorities, was to be rejected [2017] 86 Taxmann.com 68 (Gujarat)
497	245		Settlement Commission	Arpan Associates *v.* ITSC SPECIAL CIVIL APPLICATION NO. 11830 OF 2003 Where Settlement Commission made addition over and above amount offered, as one partner's statement did not tally with records submitted, order could not be interfered with [2013] 37 Taxmann.com 317 (Gujarat)
498	245	132	Settlement Commission	Mathurbhai Bhimjibhai Rudani *v.* ITSC SPECIAL CIVIL APPLICATION NO. 17523 OF 2003 IT: Settlement Commission was perfectly justified in estimating undisclosed income of a builder and constructor when relevant details of on money receipts against booking of flats were not produced [2013] 37 Taxmann.com 333 (Gujarat)

499	245		Settlement Commission	Sanjaybhai R. Patel *v.* Assessing Officer. SPECIAL CIVIL APPLICATION NOS. 8442, 15995 TO 16003 OF 2003 Whether Settlement Commission cannot issue circulars which power is vested in CBDT under section 119, but it is certainly an income-tax authority to confer benefit available to assessee under circular and for that purpose, section 245F can be pressed into service – Held, yes – Whether scope and ambit of section 245F is wide enough to enable Commission to rectify order and presence of provisions like section 254(2) in Chapter XIX-A, may not be considered to be indispensable – Held, yes – Whether if one assumes that Settlement Commission is not an income-tax authority for purpose of exercising powers under section 154, it is certainly an income-tax authority to give effect to judgment of Supreme Court which says that but for circular, Settlement Commission has no power to waive or reduce interest under sections 234A, 234B and 234C and if such powers are exercised by Settlement Commission within four years from date of original order passed under section 245D, same can certainly be in accordance with provisions contained in section 154 – Held, yes [2004] 135 Taxman 210 (Gujarat) **Overruled (2010) 194 Taxman 566 (SC)**
500	245		Settlement Commission	Vishnubhai Mafatlal Patel *v.* ACIT SPECIAL CIVIL APPLICATION NOS. 12060, 12061 & 12063 OF 2012 It is well within jurisdiction of Commission at stage of sub-section (1) of section 245D to examine whether application for settlement fulfils statutory requirements contained in sub-section (1) of section 245C Unless decision of Commission is contrary to statutory provisions contained in Act, no interference would be warranted in exercise of writ jurisdiction [2013] 31 Taxmann.com 99 (Gujarat)
501	245C		Settlement Commission	CIT – VI, Ahmedabad *v.* ITSC & 1 SPECIAL CIVIL APPLICATION NO. 859 OF 2012 Where assessments had become time barred and even final time limit for passing orders had

				expired, assessee's settlement application was not maintainable [2012] 25 Taxmann.com 551 (Gujarat)
502	245C		Settlement Commission	Commissioner of Income-tax *v.* ITSC SPECIAL CIVIL APPLICATION NO. 859 OF 2012 Where for relevant assessment years, assessment had become time-barred without any notice under section 143(2) by time assessee filed application for settlement of cases, such application was not maintainable [2013] 36 Taxmann.com 551 (Gujarat)
503	245C	245D	Settlement Commission	Shalibhadra Developers *v.* Secretary, Settlement Commission SPECIAL CIVIL APPLICATION NOS. 7256 & 7412 OF 2016 For purpose of maintainability of a settlement application, a case would be pending only as long as order of assessment is not passed and date of dispatch of service of order on assessee would not be material for such purpose [2016] 74 Taxmann.com 152 (Gujarat) **SLP accepted (2018) 91Taxman.com 272 (SC)**
504	245C		Settlement Commission	Unipon (India) Ltd. *V.* ITSC SPECIAL CIVIL APPLICATION NO. 6382 OF 2008 CIVIL APPLICATION NO. 2273 OF 2009 For computing additional tax for settlement application, total income has to be considered as if aggregate of total income returned and income disclosed would be total income [2014] 44 Taxmann.com 250 (Gujarat)
505	245C		Settlement Commission	Maheshbhai Shantilal Patel *v.* Secretary Income Tax Settlement Commission SPECIAL CIVIL APPLICATION NO. 2894 OF 2018 Where Settlement Commission rejected assessee's application for settlement on ground that he shifted his stand number of times either on quantum of undisclosed income or its source, order so passed did not require any interference [2018] 94 taxmann.com 460 (Gujarat)
506	245D	245C	Settlement Commission	Amrapali Fincap Ltd. *V.* Vice Chairman/Members /ITSC SPECIAL CIVIL APPLICATION NOS. 9990 & 10001

				OF 2016 Where Settlement Commission denied assessee for cross-examination of different witnesses, whose statements were recorded behind its back, and relying upon statements of these witnesses to some extent rejected application for settlement, since Settlement Commission had also taken into consideration other facts available on record, there was no scope for interference [2016] 73 Taxmann.com 97 (Gujarat)
507	245D	245C	Settlement Commission	PCIT Vadodara *v.* Shree Nilkanth Developers SPECIAL CIVIL APPLICATION NO. 14239 OF 2015 Where assessee applied for settlement of cases and declared a sum of Rs. 34 lakhs as undisclosed income and later on it with permission of Settlement Commission declared additional income of Rs. 56 lakhs and Settlement Commission accepted it on ground that it was difficult to ascertain exact undisclosed income on basis of impounded documents, said ground was not a valid ground to accept declaration of additional income [2016] 73 taxmann.com 76 (Gujarat) **SLP accepted (2017) 77 Taxmann.com 348 (SC)**
508	245D	234B	Settlement Commission Interest chargeable	Sahitya Mudranalaya *v.* ITSC SPECIAL CIVIL APPLICATION NO. 2896 OF 1996 Whether while passing an order under section 245D(4), Settlement Commission exercises powers of an income-tax authority as provided under section 245F and it can fasten liability to pay interest for that portion of income which is forming part of total income as determined by Commission and which had not been disclosed earlier before Assessing Officer, even if no interest could have become leviable if originally disclosed income would have been considered in isolation by operation of section 234B(1) – Held, yes [2008] 175 Taxman 30 (Gujarat)
509	245D	69A 132	Settlement Commission	Manojkumar Babulal Agrawala *v.* Secretary SPECIAL CIVIL APPLICATION NO. 5116 OF 2017 Where assessee claimed that off market commodity transactions/hedging transactions found in seized documents were entered into by him only in capacity of a broker and entire

				unaccounted income from such transactions did not belong to him but failed to substantiate same, Settlement Commission was justified in rejecting application of assessee [2017] 83 Taxmann.com 139 (Gujarat) **SLP accepted (2018) 255 Taxman 170 (SC)**
510	245H		Settlement Commission	Ashvin Kumar Vadilal Patel *v.* S. Rajguru CRIMINAL REVISION APPLICATION NOS. 258 AND 259 OF 1986 Immunity from prosecution and penalty – Whether prosecution proceedings under section 193 of the Indian Penal Code, 1860, before a criminal court can be stayed merely because an application for granting immunity from prosecution under section 245H has been made to Settlement Commission and is pending – Held, no [1987] 33 Taxman 426 (Gujarat)
511	245 I		Settlement Commission	Mahavir Rolling Mill (P.) Ltd. *V.* ITO TAX APPEAL NO. 954 OF 2013 Assessing Officer cannot go beyond order passed by Settlement Commission and it is only a consequential demand that can be raised by Assessing Officer while giving effect to order passed by Settlement Commission [2014] 45 Taxmann.com 431 (Gujarat)
512	245			See more at Sl. 312,503,506,507
513	250	Rule 46A	CIT(Appeals)	CIT – VI *v.* Pradyuman M. Patel TAX APPEAL NO. 264 OF 2013 Unless and until Assessing Officer is given an opportunity to cross-examine witnesses who are examined during pendency of appeal in exercise of powers under sub-rule (4) of rule 46A of 1962 Rules, Commissioner (Appeals) cannot rely upon statements/depositions of such witnesses, as it would be in violation of principles of natural justice [2014] 41 Taxmann.com 405 (Gujarat)
514	251		CIT(A)	Smt. Vijaykunverba *v.* CIT I.T. REFERENCES NOS. 270, 270A AND 270B OF 1978 Whether powers of AAC are wider than powers

				of ordinary court of appeal and they are not confined to subject matter of appeal but extend to subject matter of assessment – Held, yes – Whether, therefore, while deciding appeal to set aside assessment order, it was open to AAC to consider question of status of assessee for first time though in respect of that point no appeal was filed – Held, yes [1994] 208 ITR 312 (Gujarat)
515	253		ITAT Condonation of delay	CIT –II *v.* Gruh Finance Ltd. TAX APPEAL NO. 1154 OF 2013 Where delay in filing appeal by Revenue took place due to unusual circumstances of failure on part of concerned Assessing Officer to handover charge to successor officer, delay should be condoned [2014] 45 Taxmann.com 448 (Gujarat)
516	253		Tax effect	CIT-I *v.* Amtrex Ambience Ltd. TAX APPEAL NO. 2493 OF 2009 While considering tax effect for purpose of preferring appeal by revenue, Tribunal was required to consider notional tax effect in case of negative income of assessee [2013] 40 Taxmann.com 308 (Gujarat)
517	253	69A	ITAT	Jay Builder *v.* ACIT, Circle 6 (2) TAX APPEAL NO. 255 OF 2012 Where assessee received on money while selling properties and Tribunal substantially accepting contention of assessee that not entire on money received but only profit element could be taxed in its hands and sustained addition at rate of 15 per cent of on money received by assessee, appeal by assessee against order of Tribunal did not survive [2013] 33 Taxmann.com 62 (Gujarat)
518	253		ITAT	Vareli Textile Industries *v.* CIT IT REFERENCE NO. 101 OF 1995 Whether while rejecting application for condonation of delay in filing appeal/cross-objections, meritorious case is not to be thrown out on ground of limitation – Held, yes – Tribunal

				rejected assessee's application for condonation of delay in filing cross-objections on ground that same was filed after delay of more than a year – Whether since assessee failed to show that it had a meritorious case which was not considered by Tribunal on ground of limitation, Tribunal was justified in rejecting assessee's application – Held, yes [2006] 154 Taxman 33 (Gujarat)
519	254	260A	ITAT Power to recall	CIT –III *v.* Muni Seva Ashram TAX APPEAL NOS. 609 OF 2012 & 661 OF 2013 In view of appeal admitted by High Court against order of Tribunal, Tribunal's subsequent order recalling said order was to be quashed [2013] 38 taxmann.com 110 (Gujarat)
520	254		ITAT	N.B. Surti Family Trust v. CIT IT REFERENCE NO. 146 OF 1994 Tribunal rejected assessee's request of admitting in evidence trust deed, which was not filed at any earlier stage and was for first time filed before Tribunal – Whether Tribunal was justified in doing so – Held, yes [2006] 153 Taxman 31 (Gujarat)
521	254		ITAT Rectification	CIT *v.* Smt. Vasantben H. Sheth IT REFERENCE NO. 21 OF 2000 When first rectification application was rejected by Tribunal, second rectification application on same issue is not maintainable at all [2014] 48 Taxmann.com 287 (Gujarat)
522	254		ITAT Rectification	PCIT-1 *v.* Chartered Logistics Ltd. SPECIAL CIVIL APPLICATION NOS. 12439 & 12441 OF 2017 When Tribunal's order was passed on clearly incorrect factual premise and such factual premise being very foundation of order, such order must be set aside [2017] 85 Taxmann.com 258 (Gujarat)
523	254		ITAT Rectification	PCIT *v.* Nirma Ltd TAX APPEAL NO. 524 OF 2017 Where Tribunal had rejected assessee's claim of deduction under section 36(1)(iii) after talking into consideration facts on record and finding

				recorded by authorities below in detail, rectification order passed by it subsequently under sec. 254 deserved to be set aside. [2017] 88 Taxmann.com 188 (Gujarat)
524	254		ITAT Rectification	CIT (Exemptions) *v.* Gujarat Institute of Housing Estate Developers SPECIAL CIVIL APPLICATION NOS. 11130,11135 OF 2017 TAX APPEAL NOS. 327 & 332 OF 2017 While accepting an assessee's rectification applications, Tribunal should not undertake equally painstaking and elaborate consideration of very same issues and very same facts to come to a contrary conclusion [2017] 84 Taxmann.com 148 (Gujarat)
525	254	119	Direction to lower authorities	CIT –II *v.* Parmar Kanubhai Somabhai SPECIAL CIVIL APPLICATION NO. 16524 OF 2013 Order rejecting application for condonation of delay in filing return being an administrative order, neither any appeal nor any rectification application thereof is maintainable [2014] 42 Taxmann.com 435 (Gujarat)
526	254	69	ITAT Power to rectify	Rajesh Trade link (P.) Ltd. *V.* ACIT TAX APPEAL NO. 626 OF 2012 Where Tribunal confirmed a part of addition made under section 69, it was open to assessee to seek further remedy of appeal in accordance with law however, application for rectification of Tribunal's order was not maintainable in such a case [2013] 33 Taxmann.com 517 (Gujarat)
527	254		ITAT	DDIT (Exemption) *v.* Shia Dawoodi Bohra Jamat TAX APPEAL NOS. 628 & 629 OF 2010 CIVIL APPLICATION NOS. 117 & 118 OF 2010 Tribunal cannot allow appeal by merely placing reliance upon certain decisions without recording as to how and in what manner said decisions are applicable to facts of case [2012] 25 Taxmann.com 90 (Gujarat)
528	254		ITAT	CIT *v.* Mira S. Khurana TAX APPEAL NO. 287 OF 2009 Tribunal is duty bound to consider reasons given by appellate authority for its decision before

				upsetting order made by appellate authority [2011] 15 Taxmann.com 315 (Gujarat)
529	254		ITAT Additional evidence	Fairdeal Filaments Ltd. *V.* CIT IT REFERENCE NO. 107 OF 1996 Where both Commissioner (Appeals) and Tribunal found that sufficient opportunities had been granted by Assessing Officer to assessee, regarding production of additional evidence but assessee did not care to file same, they were justified had in rejecting plea of assessee for admission of additional evidence [2008] 302 ITR 173 (Gujarat)
530	254	160	ITAT Representative assessee	Hemesh Family Trust v. CIT IT REFERENCE NO. 248 OF 1995 Whether where a statement is recorded by Tribunal in its order or judgment or proceedings, then that would be taken to be correct unless person aggrieved by such report makes an application and files an affidavit of counsel who has appeared in matter or party who is present in person contending that such statements which have become part of proceedings, etc. are wrong and bad – Held, yes Settlor was employee with 'S' and 'S' had not come forward to say that he ever authorized his employee to use stamps which were purchased for and on its behalf – Whether Tribunal was justified – Held, yes [2007] 165 Taxman 233 (Gujarat)
531	256	37(1)	Reference Business Expenditure	CIT *v.* Deepak Nitrite Ltd. IT REFERENCE NO. 86 OF 1984 Whether on a mixed question of fact and law, findings of Tribunal on facts found have to be treated as final, legal effect of such finding is a question of law and can be reviewed by High Court – Held, yes – Whether, a finding on a question of fact is open to challenge if there is 'no evidence' to support such finding or finding is perverse or is such as could not have been arrived at by a 'reasonable man' on facts and in circumstances of case – Held, yes Whether, where Commissioner (Appeals) in no uncertain terms, recorded a finding about

				assessee-company's admission that it had decided to 151rganiz its own plant to produce adequate ammonia for its own captive use, and in pursuance of implementation of that scheme foreign tour was undertaken for an on the spot study of suitability of erecting such a plant; assessee's argument before Tribunal that foreign trips were exploratory in nature, could have been assumed as fact by Tribunal – Held, no – Whether admission recorded by Commissioner (Appeals) in his order had become an evidence on record, while plea before Tribunal was merely an argument having no force of evidence – Held, yes – Whether, therefore, conclusion of Tribunal that foreign tour was undertaken to 151rganize supply of ammonia was in disregard to evidence on record, and Tribunal had, thus, committed error in law in recording its finding – Held, yes – Whether where foreign tours were undertaken to see that a plant could be established in India, and, thus, purpose and object was to create a capital asset, expenses incurred could be said to be capital expenditure, disentitling assessee to deduction – Held, yes [2000] 108 Taxman 479 (Gujarat)
532	256		Reference to HC	Gujarat State Co-operative Bank Ltd. *V.* CIT IT REFERENCE NOS. 48 AND 49 IT APPEAL NOS. 5 TO 8 AND 11 OF 1999 Whether High Court is precluded from considering all relevant aspects of question merely because Tribunal has chosen to frame it in particular manner highlighting only one particular aspect when question is very much before it – Held, no [2001] 119 Taxman 160 (Gujarat) Reversed in (2001) 119 Taxmann 785 (SC)
533	260A	254	Appeal Rectification	Saroj Ceramics Industries *v.* ITO SPECIAL CIVIL APPLICATION NO. 15074 OF 2013 Once an appeal under section 260A against order passed by Tribunal is dismissed, there cannot be any rectification application to rectify order passed by Tribunal in appeal [2014] 42 Taxmann.com 372 (Gujarat)
534	263		Revision of orders	CIT *v.* Vallabhdas Vithaldas IT REFERENCE NOS. 65 AND 66 OF 1988

				Whether use of plural 'records' and 'relating to any proceeding under this Act' in Explanation to section 263 shows that there is no limitation that power under section 263(1) can be exercised only on basis of statements which are recorded in course of search and seizure operations in respect of very assessee and not in respect of any other person – Held, yes – Whether exercise of power by Commissioner under section 263(1) is obviously in respect of assessee's case but for purpose of exercising that power, examination by Commissioner is not required to be confined to record of that assessee's case as such record can be any record relating to any proceeding under the Act – Held, yes – Whether Tribunal was unjustified in holding that statement of G did not form part of record under section 263(1) for exercising powers in respect of assessee – Held, yes – Whether matter was to be considered by Tribunal on merits – Held, yes [2002] 123 Taxman 110 (Gujarat)
534A	263		Revision	CIT *v.* Vallabhdas Vithaldas IT REFERENCE NOS. 65 & 66 OF 1988 Statements recorded at time of search of premises of assessee's son can form basis of any action under section 263 against assessee [2015] 56 Taxmann.com 300 (Gujarat)
535	263		Revision	Adani Agro (P.) Ltd. *V.* DCIT – Circle-1 TAX APPEAL NO. 254 OF 2012 Where Commissioner took revisional proceedings against assessee and remanded proceedings before Assessing Officer for full enquiry and fresh consideration without giving any specific directions and Tribunal upheld action of Commissioner, no question of law arises for consideration [2013] 32 Taxmann.com 356 (Gujarat)
536	263		Revision	CIT *v.* Paushak Ltd. I.T. REFERENCE NO. 8 OF 1984 Whether, under section 263, Commissioner had ample authority to adjudicate upon those aspects which never arose in appeal – Held, yes – Whether Tribunal was, therefore, in error in

				setting aside order of Commissioner made under section 263 on ground that order of assessment should be treated as having merged with appellate order – Held, yes [1997] 227 ITR 216 (Gujarat)
537	263	254	Revision ITAT	Harsiddh Specific Family Trust v CIT D.A. MEHTA AND MS. H.N. DEVANI, JJ. IT REFERENCE NO. 62 OF 1995 Whether where Commissioner passed an order under section 263 directing disallowance of additional commission on ground that Assessing Officer had not made proper inquiries and had not verified claim regarding additional commission, Tribunal while deciding assessee's appeal against aforesaid order passed by Commissioner, had jurisdiction to modify order of Commissioner by restoring matter to file of Assessing Officer with a direction to make proper investigation and then decide question of allowability of additional commission in accordance with law – Held, yes 2007] 163 Taxman 603 (Gujarat)/[2006]
538	263	144	Revision Assessment	New Jagat Textile Mills (P.) Ltd. *V.* CIT IT REFERENCE NO. 126 OF 1993 Whether section 263 is not limited to exercising revisional powers qua order of assessment only; it would take within its sweep even orders wherein either proceedings are dropped or proceedings are filed – Held, yes [2006] 282 ITR 399 (Gujarat)
539	263		Power to review	CIT *v.* Arunaben Sumankumar. IT REFERENCE NO. 180 OF 1989 Whether power of Commissioner under section 263 is wide enough to empower it to make enquiry in case of assessee on basis of any other person's record – Held, yes – Whether where Commissioner found that assessee had filed her wealth-tax return for first time just because of a search conducted at residential premises of her brother-in-law, Commissioner had power under section 263 to direct Assessing Officer to reframe assessment which was earlier accepted by Assessing Officer without conducting any enquiry – Held, yes

				[2002] 124 Taxman 57 (Gujarat)
540	263		Revision	CIT *v.* Panna Knitting Industries IT REFERENCE NOS. 286 AND 287 OF 1985 During assessment proceedings, assessee was allowed weighted deduction under section 35B in respect of 3 items – Deduction was disallowed in respect of 'export freight' – Assessee filed appeal against disallowance of weighted deduction in respect of 'export freight' – On appeal, Commissioner (Appeals) confirmed ITO's order – Later on, Commissioner passed an order under section 263 directing ITO to withdraw deduction allowed by him in respect of 3 items – Whether there was merger of Assessing Officer's order in appellate order in respect of three items so as to bar Commissioner's revisionary jurisdiction under section 263 – Held, no [2002] 123 Taxman 216 (Gujarat)
541	263		Revision	Jyoti Electric Motors Ltd. *V.* CIT. IT REFERENCE NO. 281 OF 1983 Whether since it appeared from terms of agreement that assessee had acquired a benefit of enduring nature, Commissioner had lawfully exercised his powers under section 263 and Tribunal was justified in confirming his order – Held, yes [1999] 237 ITR 280 (Gujarat)
542	264	154	Revision Rectification	Vinay Extraction (P.) Ltd. V. Vijay Khanna. SPECIAL CIVIL APPLICATION NO. 3191 OF 1996 Whether since assessee had not offered any explanation as to why he did not move any revision application or rectification application after pronouncement of Court in Grace Paper Industries (P.) Ltd.'s case (supra) in year 1990, it could be said that assessee had abandoned his right to challenge rectification orders passed in year 1986 – Held, yes – Whether since assessee had also failed to produce any material to show that subsidy availed of by it at relevant time was a general subsidy and not specific one, it could not be assumed that he had received general subsidy – Held, yes [2004] 140 Taxman 67 (Gujarat)

543	264	158BD	Revision	Jayantilal Pravinkumar No Co. *v.* CIT, SPECIAL CIVIL APPLICATION NO. 7795 OF 2010 CIT rightly dismissed revision petition as assessee did not specify why assessment order required interference [2016] 75 Taxmann.com 41 (Gujarat)
544	250-260A 263-264			See more at Sl. 276,333,404,533,537,256,1, 465,519,93,396,,345,427,377 See more at Sl 424,46,16,345,427,377
545	268A		Appeal Notional tax effect	CIT –IV *v.* Vishal Intermediate (P.) Ltd TAX APPEAL NO. 14 OF 2009 For presentation of an appeal before Tribunal, where tax effect involve is nil and it is a case of loss, notional tax effect is to be considered [2014] 42 Taxmann.com 558 (Gujarat)
546	268A		Filing of appeal	CIT *v.* Kaushik K. Zaveri TAX APPEAL NO. 31 OF 2013 Where decision of larger bench was pending on issue of applicability of CBDT circular, specifying monetary limit of permissible appeals, appeal of revenue having tax effect less than limit prescribed in such circular was to be allowed [2013] 36 Taxmann.com 121 (Gujarat)
547	269SS		Loans and deposit	Sukhdev Rathi *v.* UOI SPECIAL CIVIL APPLICATION NO. 3358 OF 1993 Whether prohibition under section 269SS can be held to be violative of articles 14 and 19(1)(g) of Constitution on ground that in case of a loan concerned parties are the borrower and the lender and similarly in case of a deposit, they are the borrower and the person giving the deposit and leaving the lender out of the purview of section 269SS amounts to discrimination – Held, no [1994] 77 Taxman 7 (Gujarat) **Approved in (2002) 122 Taxman 574 (SC)**
548	269UD		Purchase of property by Govt	Laxmi Charan Co-operative Housing Society *v.* Appropriate Authority. SPECIAL CIVIL APPLICATION NO. 7233 OF 1993 Purchase of property by Central Government orders by appropriate authority – Petitioner-

				society entered into an agreement for purchase of plot in question and, accordingly, a statement in Form No. 37-I under Income-tax Rules, 1962 was filed with appropriate authority – Appropriate authority acting under section 269UD(1) exercised power to purchase and take over aforesaid property – Earnest money paid by petitioner was refunded which was accepted without any protest – An order dated 16-5-1991 to that effect was passed which was communicated to the petitioner – Petitiones filed a petition challenging that order after a period of two years without explaining any reason for that delay – Later on it withdrew that petition which enabled department to publicly auction aforesaid property – Whether on facts conduct of petitioner amounted to its acceptance of order passed by department dated 16-5-1991 – Held, yes – Whether, when delay in filing of petition was not justifiably explained, it could be said that it was barred by limitation – Held, yes [1995] 80 Taxman 503 (Gujarat)
549	269UD		Purchase of property by Central Govt Appropriate Authority	Shivram Vishwanath Deshmukh *v*. P. Saxena, CIT SPECIAL CIVIL APPLICATION NOS. 8606 OF 1996, 2171 AND 3399 OF 1997 Whether in view of consensus between vendors and purchasers, all of whom were agreeable to order of purchase being operated, acted upon and implemented, appropriate authority was to be directed to encash fixed deposit and pay it to parties in view of aforesaid arrangement between parties – Held, yes [2005] 277 ITR 363 (Gujarat)
550	268-269			See more under section 153, 256 and 260A
551	271(1)(a)		Penalty for late filing of return	CIT *v.* Dipak Construction Co. IT REFERENCE NO. 249 OF 1993 Whether Tribunal was justified in cancelling penalty merely because assessment had resulted in refund – Held, no [2002] 125 Taxman 252 (Gujarat)
552	271(1)(a)		Penalty for late filing of return	CIT *v.* Natverlal Jivanlal IT REFERENCE NO. 6 OF 1993 Tribunal held that no penalty under section

				271(1)(a) could be levied against assessee, a registered firm, for delay in filing return when advance tax paid by firm exceeded assessed tax payable by firm and assessment resulted in refund – Whether order of Tribunal was justified – Held, no [2003] 259 ITR 739 (Gujarat)
553	271(1)(a)		Penalty for not filing return	Godiji Parshwanathji, Jain *v.* CIT. IT REFERENCE NO. 80 OF 1984 Whether fact that ultimately entire income was exempt from payment of tax by invoking provisions of sections 11 and 12 had no bearing on question of levy of penalty when obligation to file return within time had not been discharged and explanation for late filing of return had not been found to be acceptable by Tribunal – Held, yes – Whether, therefore, Tribunal was justified in confirming penalty levied under section 271(1)(a) – Held, yes [1997] 226 ITR 798 (Gujarat)
554	271(1)(a)		Penalty for late filing of return	Ganpatlal N. Dalwadi *v.* CIT IT REFERENCE NO. 7 OF 1979 Whether merely because assessee could not get his share from income of partnership business, that by itself would constitute a sufficient cause for not filing his return in time – Held, no – Whether levy of penalty upon assessee for late filing of return was justified – Held, yes – Whether initial burden to show absence of reasonable cause for late filing of return is on revenue – Held, no [1993] 70 Taxman 213 (Gujarat)
555	271(1)(c)	68	Penalty	Bharatkumar G. Rajani *v.* DCIT TAX APPEAL NO. 180 OF 2013 IT APPEAL NO. 123(RJT) OF 2011 Where after completion of assessment, consequent upon inquiry assessee surrendered amount of certain loan as bogus loan and interest on said loan, concealment of income was established making a case rightly for levy of penalty under section 271(1)(c) [2013] 40 Taxmann.com 344 (Gujarat)
556	271(1)(c)		Penalty	CIT *v.* Prakash S. Vyas TAX APPEAL NO. 606 OF 2010

				Unless there is any indication in order of admission passed by High Court, simply because tax appeal is admitted, would not give rise to presumption that issue is debatable; penalty under section 271(1)(c) could not be deleted on this groun [2015] 58 Taxmann.com 334 (Gujarat)
557	271(1)(c)	133A	Penalty	Snita Transport (P.) Ltd. *V.* ACIT TAX APPEAL NO. 474 OF 2012 Where in pursuance of survey, assessee filed its revised return declaring higher taxable income, since it was undisputed that at time of filing original return assessee was aware of concealment, it was to be concluded that there was no compliance with provisions of section 139(5) and, therefore, revised return being non-est, impugned penalty order passed under section 271(1)(c) did not require any interference [2014] 42 Taxmann.com 54 (Gujarat)
558	271(1)(c)	139	Penalty for concealment Revised return	LMP Precision Engg. Co. Ltd. *V.* DCIT (Asstt.), Spl. Range-2 IT REFERENCE NO. 50 OF 1999 Whether where omission of income is intentional, revised return cannot absolve an assessee from presumption as to concealment of income in original return of income – Held, yes [2009] 183 Taxman 12 (Gujarat)
559	271(1)(c)		Penalty for concealment	Subhash S. Shah *v.* ITO – Ward 11 (2) TAX APPEAL NO. 129 OF 2012 In case of loss return also, penalty could be imposed if by virtue of wrong claim not made bona fide, computation of loss is likely to reduce [2013] 30 Taxmann.com 244 (Gujarat)
560	271(1)(c)		Penalty for concealment	Deepak Construction Co. v. CIT, Ahmedabad. IT REFERENCE NO. 269 OF 1995 Whether where detection of concealment of income by Assessing Officer was much before filing of revised return by assessee, assessee would be entitled to any benefits of amnesty scheme – Held, no

				[2007] 164 Taxman 334 (Gujarat)
561	271(1)(c)		Penalty for concealment	CIT v. Chandra Vilas Hotel IT REFERENCE NO. 72 OF 1995 Whether, on facts, there was no escape from clutches of words 'gross/willful neglect' on part of assessee and therefore, Tribunal was unjustified in setting aside penalty – Held, yes [2007] 163 Taxman 298 (Gujarat)
562	271(1)(c)		Penalty for concealment	Kholwadwala Dyeing & Printing Mills *v.* CIT IT REFERENCE NO. 253 OF 1995 Where assessee was found by Excise Department to have removed goods without payment of duty and processing charges were not shown in books, taking into consideration fact that in original return nothing had been mentioned about excise raid but revised return came to be filed only after things had started precipitating on surface of records, imposition of penalty on assessee was justified [2008] 296 ITR 475 (Gujarat)
563	271(1)(c)		Penalty for concealment	G.S. Nanjee & Sons v. CIT. IT REFERENCE NO. 87 OF 1995 Whether, on facts, it could be said that amount of suppressed sales represented concealed income of assessee and, therefore, levy of penalty under section 271(1)(c) was justified [2006] 154 Taxman 40 (Gujarat)
564	271(1)(c)		Penalty for concealment	Usha Fertilizers v. CIT. IT REFERENCE NO. 42 OF 1987 Whether explanation of assessee that it had borrowed certain funds and instructed accountant to pass necessary credit entries in its books of account remained a bald averment without establishing that it had issued any such direction and in absence of details regarding names of lenders, amount advanced or even dates when borrowings were made or repaid – Held, yes – Whether, therefore, burden which was cast on assessee remained undischarged and Tribunal was right in upholding penalty levied under section 271(1)(c)– Held, yes

				[2005] 142 Taxman 414 (Gujarat)
565	271(1)(c)		Penalty for concealment	Ganesh Textiles *v.* CIT. IT REFERENCE NO. 96 OF 1985 Whether Tribunal was justified in holding that assessee had concealed particulars of its income by not revealing fact that interest which was, in fact, paid to its partner was shown as interest paid to a depositor and thereby an effort was made to avoid disallowance under provision of section 40(b) – Held, yes [2002] 125 Taxman 690 (Gujarat)
566	271(1)(c)		Penalty for concealment	CIT *v.* Vidyagauri Natverlal. IT REFERENCE NO. 140 OF 1983 Whether particulars furnished by assessee are true and correct or whether particulars furnished are inaccurate and whether particulars furnished are in accurate or incorrect to his knowledge, all are questions which require an inquiry into facts and consideration of material on record before arriving at any conclusion whether penalty is to be imposed or not, depending on finding reached as a result of that inquiry – Held, yes – Whether examination of source of cash credit commences only on disclosure of receipt from one or other party in books of assessee and if on enquiry, explanation and information in regard to source of cash credit furnished by assessee is not found satisfactory, same is deemed to be income of that year so much as to question of assessment of income for previous year in which disclosure about cash credit finds place – Held, yes – Whether where assessee had disclosed cash credits in Part III of return filed by him, but could not explained its source, it could not be concluded that assessee was not guilty of concealing particulars of his income or for furnishing inaccurate particulars – Held, yes [1999] 238 ITR 91 (Gujarat.)
567	271(1)(c)		Penalty for concealment	A.M. Shah & Co. *v.* CIT. IT REFERENCE NO. 185 OF 1983 Whether words 'inaccurate particulars' would cover falsity in final figure as also constituent elements or items and they would simply mean inaccurate in some specific or definite respect, whether in constituent or subordinate items of income or end result – Held, yes – Whether,

				therefore, any concealment or inaccuracy in particulars of income in return occurring at any stage upto and inclusive of ultimate stage of working out of total income, would attract penalty provisions of section 271(1)(c)– Held, yes – Whether basis for issuing notice and levying penalty must be same – Held, yes – If the notice is issued in the context of concealment of income, then the penalty cannot be levied by shifting the basis to inaccuracy of particulars – Held, yes Penalty was levied invoking Explanation to section 271(1)© – Penalty order was challenged on ground that assessment being on estimate basis, penalty could not be sustained – Whether assessee having not rebutted presumption arising out of Explanation to section 271(1)(c), penalty was justified – Held, yes Whether it could be said that IAC himself had not imposed penalty and delegated his jurisdiction to ITO so as to say penalty order was vitiated – Held, no – Whether, even otherwise if there was any defect in penalty order, that stood cured by virtue of section 292B – Held, yes [2000] 108 Taxman 137 (Gujarat)
568	271(1)(c)		Penalty for concealment	Nandial Kanaiyalal *v.* CIT. I.T. REFERENCE NO. 271 OF 1980 Whether, as difference between income returned and income assessed was more than 20 per cent and assessee failed to explain how mistake occurred and how it came to his notice, it could be said that assessee deliberately concealed his income and, thus, penalty under section 271(1)(c) was leviable upon him – Held, yes [1994] 77 Taxman 428 (Gujarat)
569	271(1)(c)		Penalty for concealment	CIT *v.* Somnath Oil Mills. IT REFERENCE NO. 280 OF 1981 Based on documents seized by sales tax authorities income from undisclosed sources on account of unaccounted purchases of groundnut was finally sustained by Tribunal at Rs. 35,220 – Besides this, suppressed profits on unaccounted transactions of oil and oil cakes, estimated by AAC at Rs. 50,000, was reduced by Tribunal to Rs. 31,020 after deducting sales tax liability of Rs.

				38,000 from estimated turnover – AAC imposed penalty of Rs. 31,021 under section 271(1)(c) for concealment of income of Rs. 31,020 in respect of suppressed profits –Tribunal set aside penalty although it concluded that assessee had not recorded all transactions of purchases and sales in their regular books of account – It observed that it would be difficult to sustain penalty for concealing particulars of income or furnishing inaccurate particulars thereof, because if assessee's income was considered at Rs. 31,021 and sales tax liability of Rs. 38,000 was deducted, there would be a loss – Whether Tribunal was justified in deleting penalty imposed by AAC – Held, no [1995] 83 Taxman 4 (Gujarat)
570	271(1)(c)		Penalty for concealment	CIT *v.* Abdulgafur Ahmed Wagmar IT REFERENCE NO. 122 OF 1978 Difference between returned income and assessed income was more than 20 per cent – Whether presumption of concealment or willful furnishing of inaccurate particulars was rebutted – Held, no – Whether assessee was liable to be penalized under section 271(1)(c), Explanation – Held, yes [1993] 68 Taxman 311 (Gujarat)
571	271(1)(c)		Penalty for concealment	Pradip Chandulal Patel *v.* P.G. Karode, ACIT SPECIAL CIVIL APPLN. NO. 7704 OF 1991 A sum of Rs. 41,80,900 was seized by police during search of petitioner's house, and later said amount was requisitioned by department – During further search of locker, a sum of Rs. 1,01,400 and a diary were found which were also seized by department – In his statement petitioner stated that entire amount represented profit from satta betting, earned between 2-4-1990 and 5-4-1990 – He agreed to disclose concealed income and take benefit of Explanation 5 to section 271(1)(c)– Assessing Officer was not satisfied with his explanation, as according to him, it was incredible for a person of assessee's status to earn income of Rs. 43,62,705 from satta betting in just four days – He, therefore, passed an order under section 132(5) estimating petitioner's income, calculated tax

				thereon and imposed penalty under section 271(1)© – On appeal, Commissioner while upholding order of Assessing Officer, allowed benefit of Explanation 5 to section 271 with respect to amount of Rs. 1,01,400 to petitioner – Whether levy of penalty was justified – Held, yes [1992] 65 Taxman 513 (Gujarat)
572	271(1)(c)		Penalty	Yamuna Restaurant *v* CIT IT REFERENCE NO. 228 OF 1978 Whether where assessee-firm tampered with its books of account so as to reduce its sales which resulted in understatement of income, it could be said that assessee had concealed its income, and thus, was liable to pay penalty under section 271(1)(c)– Held, yes [1993] 201 ITR 99 (Gujarat)
573	271(1)(c)		Penalty	Rajaram & Co. *v.* CIT. IT REFERENCE NO. 301 OF 1978. Whether since material on record clearly indicated that requisite satisfaction was arrived at by ITO before initiating proceedings under section 271(1)(c), merely because an obvious typing error had occurred in his order, it could not be said that he might not have arrived at requisite satisfaction – Held, yes – Whether, therefore, imposition of penalty was valid – Held, yes [1992] 193 ITR 614 (Gujarat)
574	271(1)(c)		Penalty	CIT *v.* Smt. Vilasben Hasmukhlal Shah IT REFERENCE NO. 49 OF 1978 Whether disclosure of prize money received in Part IV of return of income could not be considered as a true and full disclosure within meaning of section 271(1)(c) – Held, yes – Whether, therefore, levy of penalty was justified – Held, yes [1991] 192 ITR 214 (Gujarat)
575	271(1)(c)		Penalty	Garden Silk Weavimg Factory *v.* CIT. IT REFERENCE NO. 299 OF 1978 Assessee-firm purchased yarn from local market and it also imported same – Profit earned by sale of yarn was not disclosed in original return – Subsequently, it filed revised return disclosing profit on sale of import licence of Rs. 3 lakhs – However, it was found that assessee had earned

				profit of Rs. 5,28,547 – ITO levied penalty on assessee under section 271(1)(c) – Tribunal rejected assessee's contention that it had sold import license and accordingly confirmed penalty – Whether mere filing of revised return voluntarily and in response to advertisement by CBDT's would not absolve assessee from liability to pay penalty for concealment of aforesaid income or furnishing inaccurate particulars thereof – Held, yes – Whether penalty imposed by Tribunal was, therefore, reasonable and justified – Held, yes [1988] 172 ITR 575 (Gujarat)
576	271(1)(c)		Penalty	CIT *v.* Namlabhai Bhanabhai IT REFERENCE NO. 164 OF 1977 Assessing Officer found that claim was false and assessee had brought out unaccounted money by showing it as prize won in cross-word competition - He, therefore, taxed said amount as assessee's income from undisclosed sources – Whether in view of aforesaid facts and having regard to decision in CIT v. Suleman Abdul Sattar [1983] 139 ITR 8 (Guj.), ITO was justified in imposing penalty upon assessee under section 271(1)(c)– Held, yes [1987] 163 ITR 189 (Gujarat)
577	271(1)(c)		Penalty	CIT *v.* Shri Imtiaz U. Digmar IT REFERENCE NO. 266 OF 1981 While filing return, assessee had shown certain amount in Part-IV as prize from cross-word competition – Finding of fact was that prize money was not won in any cross-word competition but same was fraudulently mentioned in return with view to converting unaccounted money into white money – Whether having regard to aforesaid finding, ITO was justified in levying penalty under section 271(1)(c)– Held, yes [1987] 163 ITR 229 (Gujarat)
578	271(1)(c)		Penalty	CIT *v.* Jamnadas & Co.. IT REFERENCE NO. 492 OF 1980 Whether provisions of Explanation to clause © of section 271(1) will be attracted if assessee fails to discharge burden placed on it by said Explanation

				to prove that failure to return correct income did not arise from any fraud or any gross or 165illful neglect on his part, even though returned income does not fall short of 80 per cent of correct income – Held, yes – Whether Tribunal was justified in deleting penalty imposed on assessee under section 271(1)(c) – Held, no [1995] 78 Taxman 573 (Gujarat)
579	273	212	Penalty	CIT *v.* Krishnakant Somabhai & Co. IT REFERENCE NO. 453 OF 1980 Penalty levied under section 273© by ITO was deleted by Tribunal on ground that there was no provision for penalty on date when offence was committed – Whether by amendment made in section 212 by Finance Act, 1969, statutory liability or obligation to furnish an estimate of advance tax had come into existence on 1-4-1969 – Held, yes – Whether since penalty under section 273 for default contemplated by section 212 (3A) was made effective from assessment year commencing in 1-4-1970, Tribunal was not justified in holding that no penalty could have been imposed under section 273(c) – Held, yes [1994] 207 ITR 905 (Gujarat)
580	275		Penalty	CIT *v.* Vakharia Cotton Traders IT REFERENCE NO. 144 OF 1977 Assessee's original assessment for assessment year 1957-58 completed on 29-1-1959 was reopened under section 34 of the Indian Income-tax Act, 1922, and fresh assessment was made on 8-4-1964 with certain addition to assessee's income – In consequential proceedings IAC levied penalty under section 271(1)(c) on 1-4-1968 for concealment of income – Matter was remanded by Tribunal to IAC who passed order imposing a lesser penalty on 18-3-1975 – Tribunal, however, allowed assessee's appeal on ground that order of penalty, being in connection with assessment completed under section 34 of the 1922 Act, was time barred – Whether Tribunal was justified in holding so –Held, no [1986] 27 Taxman 423 (Gujarat)
581	271-275			See more at Sl. 169,171,383,460,477,494,510
582	276B	194C	Offences and	S.A. Bohra *v.* Krishna Construction Co..

			Prosecution	CRIMINAL APPEAL NOS. 411 TO 430, 455 AND 456 OF 1995 Whether, since question regarding validity of sanction for prosecution of assessee, accorded by Commissioner, was not canvassed before Trial Court at any stage but was raised for first time at appellate stage, it was in interest of justice to give an opportunity to revenue to bring on record relevant material to show that a valid sanction to prosecute was accorded by Commissioner – Held, yes [case remanded back] [1998] 96 Taxman 53 (Gujarat)
583	276C	277	Offences and Prosecution	Vinodchandra C. Patel *v.* State of Gujarat. CRL. MISC. APPLN NOS. 959 TO 967 OF 1992 Whether in view of fact that provision of section 276C(1) had not been invoked nor was it alleged in complaints filed that payment of tax, etc., was attempted to be evaded by petitioners, they would have to be discharged and complaints and criminal proceedings for alleged offence under section 276C(2) had to be quashed – Held, yes – Whether, where there were clear allegations of late filing of income-tax returns and 166illful attempt at evading tax, it would be impermissible to quash complaint in this regard only on ground that petitioners had averred that there was no element of mens rea in their alleged defaults or that in hundreds of similar cases Department was desisting from filing criminal complaints – Held, yes [2001] 118 Taxman 526 (Gujarat)
584	276CC	153A	Prosecution mens-rea	Samta Ravikant Manglani *v.* State of Gujarat SPECIAL CRIMINAL APPLN (QUASHING) NO. 7131 OF 2015 SPECIAL CRIMINAL APPLN NOS. 7132, 7134, 7136, 7138, 7139, 7141, 7142 , 7144, 7147, 7295, 7297, 7405, 7535, 7647, 7649 & 7651 OF 2015 Where assessee challenged notice seeking to initiate prosecution proceedings under section 276-CC by raising a plea that delay in filing return under section 153A happened in unavoidable circumstances and without any guilty mind, since said allegations could be considered by Court at stage of trial, instant petition seeking quashment of prosecution proceedings was to be rejected

				[2016] 70 Taxmann.com 131 (Gujarat)
585	276CC		Prosecution Compounding	Vinubhai Mohanlal Dobaria *v.* CCIT SPECIAL CIVIL APPLICATION NO. 5386 OF 2017 Where there was already a show cause notice for prosecution issued under section 276CC for non-filing of return before due date for previous assessment year and despite same, assessee did not file return of income for subsequent assessment year within prescribed time, offence for subsequent assessment year could not be compounded [2017] 81 Taxmann.com 60 (Gujarat)
586	276			See more at Sl. 35,472,583
587	279		Offence and Prosecution	Shree Sonal Gum Industries *v.* ITO SPECIAL CIVIL APPLICATION NO. 6310 OF 1994 Petitioner objected to Commissioner's order fixing amount of compounding fees for offence of not depositing tax deducted in accordance with statutory provisions – There was no material on record to show that Commissioner failed to exercise his discretion under section 279(2) in conformity with instructions issued by Board from time to time – Whether it could be said that impugned order was bad in law – Held, no [2000] 112 Taxman 509 (Gujarat)
588	281		Transfer Scheme of demerger	Vodafone Essar Gujarat Ltd., In re CO. PETITION NO. 183 OF 2009 CO. APPLICATION NO. 254 OF 2009 Where scheme of demerger was void under section 281 and said scheme was created to avoid capital gain tax, such scheme could not be sanctioned [2013] 33 taxmann.com 544 (Gujarat) **Set aside (2013) 35 Taxman.com 397 (Guj)** **Affirmed in [2016] 66 Taxmann.com 374 (SC), partly in favour of assessee.**
589	281	226(3)	Property	Stock Exchange, Ahmedabad *v.* ACIT SPECIAL CIVIL APPLICATION NO. 9089 OF 1995 Whether right to nominate available under rules of stock exchange, is a right to property and it can be attached for purpose of recovery of income-tax payable by assessee – Held, yes – Whether scheme of rules and regulations of stock

				exchange indicates that only a living member can be declared as a defaulter and there is no provision for declaring a dead member as a deemed defaulter – Held, yes – Whether only procedure for clearing and settling account of a defaulter is required to be followed when a death occurs of a member during clearing and there is no scope of declaring him as a deemed defaulter after his death under provision of regulation 8.38 – Held, yes Whether words 'any property' under section 281B are words of widest amplitude and would include proprietary rights of legal heirs of a deceased member of stock exchange to make nomination to stock exchange – Held, yes – Whether property right of a member's card of stock exchange can be attached – Held, yes Whether where a statement on oath is made objecting to notice under section 226(3) a garnishee cannot be forced to make payment – Held, yes – Whether burden of showing that statement on oath is false, would be on department and concerned authority before coming to conclusion that statement was false in any material particular would be bound to conduct a quasi-judicial enquiry disclosing to person concerned relevant material on which he proposes to rely, and reach a quasi-judicial decision and if statement on oath had been filed by petitioner objecting against garnishee notice, no drastic action could be taken against him unless an adequate enquiry was made – Held, yes [1998] 100 Taxman 626 (Gujarat) **Reversed in (2011) 115 Taxman 471 (SC)**
590	281B		Provisional attachment	UCO Bank – Regional Office *v.* UOI LETTERS PATENT APPEAL NO. 1258 OF 2008 MISC. CIVIL APPLICATION NO. 3135 OF 2007 SPECIAL CIVIL APPLICATION NO. 17941 OF 2007 Whether on facts, when bank invoked section 13(2) of Securitisation Act much after property was attached by Income-tax Department, impugned notice issued by TRO to bank was valid in law and deserved to be sustained – Held, yes [2009] 182 Taxman 26 (Gujarat)
591	292C		Presumption as to books,	Hiren Vasantlal Shah *v.* ACIT. TAX APPEAL NOS. 2500 TO 2505 OF 2009

			cash etc	On basis of document recovered during search showing a loan transaction, revenue authorities rightly drew presumption under section 292C and made addition of amount of loan to assessee's income [2012] 19 taxmann.com 241 (Gujarat)
592	293	132 80 of CPC 1908	Bar on suits in Civil courts	UOI *v.* Natwerlal M. Badiani. SPECIAL CIVIL APPLN NOS. 6213 & 6214 OF 1986 Whether in suit to which provisions of section 80 of Code are applicable, Court could not grant ex parte interim order or ad interim relief without giving reasonable opportunity of showing cause to Government or a public officer – Held, yes – Whether Civil Courts have jurisdiction to entertain suit against proceedings for search and seizure which are being taken under section 132 – Held, no – Warrant of 169uthorization was issued for search under section 132 – While ITOs were acting under said warrant, civil suits were filed by assessee and Civil Court entertaining same passed ex parte ad interim order preventing revenue from searching – Whether order of Civil Court was illegal and without jurisdiction and, therefore, both civil suits and ex parte injunction orders required to be dismissed – Held, yes [2001] 119 Taxman 931 (Gujarat) (FB)
593	293		Bar on suits	Jayantkumar Motichand Dosh *v.* UOI CIVIL REVISION APPLICATION NO. 296 OF 1994 Bar of suits in Civil Court In course of assessment, Assistant Commissioner added certain amount to total income of petitioner on account of income from undisclosed sources – Whether petitioner having filed an appeal under Act against assessment order, was not entitled to assail same by instituting a suit in Civil Court – Held, yes [1997] 226 ITR 742 (Gujarat)

TAXATION, BUSINESS AND GUJARAT: SOME HISTORICAL FACTS

Areas falling under present Gujarat state have witnessed human habitation for thousands of years. There are many traces of primeval life here. Archaeologists have found ruins of port towns, factories and agricultural operations, which existed in the 3rd or the 2nd millennium BC. Gujarat is known for its industry, trade and navigation from ancient times and its trade links with many ancient civilizations.

Historical information about the ports of Gujarat is found in Mahabharat, Harivansh Purana, Bhagvat and in Matsaya Purana. Kautilya has mentioned in his 'Arthashstra' about navigation as major activity in coastal areas. The ancient Greek and Roman books refer to ports of Gujarat famous during that period.

Historical evidences show that the Rann of Kutch was once a Gulf and was suitable for shipping and up to the seventh century ships were plying in this area. The busiest Port of India at Kandla, was built by Maharao Khengarji III of Kutch (1876-1942) on a deep water creek.

Around 6th BC, during the Buddha period, Bharuch, in south Gujarat, was a prosperous port. Trade relations were established with the Middle East countries. Ships were plying in the Gulf of Khambhat for centuries. Some instances of taxation history of Gujarat are being mentioned below.

JUNAGARH

JUNAGARH state was ruled by Nawabs till independence. However, it had many important pilgrimage centres of Hindus as well as Jains, which were subject to 'Pilgrimage tax' before East India Company came into picture. An inscription[1] dating back to 1596 was found in Una-Delvada, recording the fact that Akbar, the greatest of Mughal Emperors, abolished the pilgrim tax at the Shatrunjaya hill and also repealed the Jazia and other dues: so that Junagadh can boast with every justification that she enshrines mementoes of the two greatest Emperors, India has ever known, Asoka and Akbar.

TAX COLLECTION IN CUTCH (KUTCH)

The following instance of tax collection in Kutch & Kathiawar is found in a book published in 1839[2]- *"In connection with the duties of these retainers of his Highness, is a singular custom called Mohsulsee. The Rao, when he may happen to require submission from a Rajpoot chief to any particular demand, notifies the same to the party; when, if uncomplied with, his Highness sends a horseman to the particular town or village governed by the rebellious chief, who is compelled by original contract to pay whatever fine per diem his Highness may choose to levy, until the demand is complied with. The servant of the Rao who levies the fine, is called a Mohsul.*

There is no fixed amount of tax; this depends on the will of the enforcing authority, and is usually regulated by the urgency of the case. The highest fine which I believe has been levied in Cutch,

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[1] From The Ruling Princes of India- Being a Historical, Archeological, Political and Statistical Account of The Premier State of Kathiawar, by S. M. Edwards, 1907

[2] Cutch: Random Sketches,taken during a Residence in One of the Northen Provinces of Western India- By Mrs. Postans. Pub by Smith, Elder & Co. Cornhill,London, 1839.

was twenty coories a-day ; but in the province of Kattywar, where Mohsuls are even more used than in Cutch, a fine was levied on the Jam of Noanugger, of five hundred rupees a-day. The case, however, seems to have been considered insufficient to authorize the imposition of this immense fine, as it was levied only to compel the prince to produce some papers, connected with a trifling pecuniary dispute".

GUJARATI- THE BUSINESS LANGUAGE OF INDIA

During British occupation, on the occasion of visit of Prince of Wales (King Edward VII) to India in 1875-76, a message[3] was read out by prominent citizen (Nuggerseth) in Baroda state which says- "*The people of this Province are to be found engaged in trade in distant parts of this great country and even beyond it. Hence the language of Guzerath (Gujarat) is, properly speaking, the commercial language of India*."

Books of accounts are still written in Gujarati and no one seems to disagree about the status of Gujarati as the business language of India. In fact, as early as in 1860, the Government had acknowledged this fact by publishing the First ever Indian Income Tax Act in Gujarati language. It was titled- **Ayepat Upar Kar Levano Dharo**[4].

PROTEST BY POET NARMAD

After imposition of Income Tax in India by the Act of 1860, an interesting incidence happened involving Sri Narmadashankar Lalshankar Dave, (1833 –1886). Popularly known as Narmad, he was a prominent Gujarati poet, playwright and reformer, considered as the founder of modern Gujarati literature. He was issued a notice from the Income Tax in 1863 by Curtis, the Commissioner of Surat. The following interesting description about Income tax is found in '*Mari Hakikat*', the first autobiography in Gujarati, published after the death of this celebrated poet:-

"*A notice for the surcharge for the year 1862-63 was issued to me on 28th January, 1863. At that time I was living at Majgam. I was so angry that I thought why a public figure like me, should be doubted for his honesty when I have declared solemnly. I worried too much for four days. On the 3rd February, against the desire of my friends and assessors, I went to see the Income Tax Commissioner, Mr. Kartis who was very obstinate. They feared that I would definitely be sent to jail on that day. I went inside the office directly and said to the officer, "This is the detail of the income, this is my reputation and this is my spirit. I am ready to pay the surcharge if demanded more but I have declared here what I believe to be true." The officer was annoyed too much but looking at my appearance he said, "Give such lectures at your home." and then he asked me to leave. However, the surcharge was cut down a bit afterwards".*

BARODA-A WELFARE STATE SHOWED THE WAY

State of Baroda was under the rule of Gaekwars and had its own civil administration. Sureshwar Desai and Dala Patel helped Pilajirao Gaekwar takeover Baroda around 1724. Sureshwar was awarded 'Desaigiri' (Revenue collection) of Baroda for this help.

[3] The Prince of Wales' Tour, A Diary in India; With Some Account- by William Howard Russell,1877.

[4] Published by Government. The Income Tax Act- Published at press- Bajibhai Amichand- Ahmedabad. Year I860 pages. 87. Price Annas 8

The following detail about imposition of Income tax is found in records:-*The Survey and Settlement Commissioner submitted a report in the year 1892 on the verso (taxes in Gujarati). The report made proposals to reform the Non Agricultural taxes in one uniform system. It was found that there were one hundred and eighty two non-agricultural taxes of which only major nine were continued and the rest were abolished. The long established taxes on the non-agricultural population however could not be so speedily removed. The 'veros' as they were termed formed an enormous list and much investigation went into ascertaining the area of the taxes and the nature of taxes. The complication arose when multiple taxation were implemented in the same area. These were met with opposition from the people. People appealed to the Maharaja to lessen the burden by nullifying few of them. Sayajirao-III asked the Suba of Baroda district to submit a scheme of the abolition of a number of small taxes. The Suba recommended Aypat vero or Income tax. Income tax was thus introduced in the Padra Taluka of Baroda prant of the State in 1896; then in Baroda prant and later in 1904 in the whole State with uniform rates both in towns and villages. However the Income Tax Act or 'Aypat Vero Nibandh' was passed in the year 1908 on the lines of British Income Tax Act of 1886 with necessary changes to suit the Baroda administration.*

Up to 1939-40, experiments were made with the minimum taxable income, the amount varied from Rs. 100/- to Rs. 300/- and from 300/- to 500/-. It was in 1907 the minimum taxable income was raised to 750/- which remained the same up to the year 1939-40 when it was raised to Rs. 2000/-. The advantages of the new system were that it made a clean sweep of all the numerous and oppressive Veros used to be levied before; and it exempted the poor from taxation and was imposed only on the wealthier class[5].

BORSAD SATYAGRAH

Borsad, a small town in Anand, faced dual tyranny in 1922; a string of daylight robberies by armed dacoits Babar Deva and Ali. The British imposed a 2.4 lakh one time punitive tax on the entire population of the town. Deva had committed 22 murders and to counter him the British had secretly provided arms to Ali. The peasants approached Mahatama Gandhi and Sardar Patel. On Bapu's direction, Patel, who was a lawyer- gave Borsad residents the confidence to refuse to pay taxes. On January 4, 1924, the British revoked the tax.

PORBANDAR

Savaji Kabanji Parekh of Porbandar was another important Jain trader. He complained to Shah Jahan when the local administrator raised tax from 3 p.c. to 6 p.c. on goods sold by him. He succeeded in securing an imperial firman from the Mughal Emperor in Delhi which ordered all the local officials not to exact more than 3 p.c. as tax.

THE BARDOLI SATYAGRAHA

Organized in 1928, it was a major episode of civil disobedience and revolt in the Indian Independence Movement. The movement was eventually led by Sardar Vallabhbhai Patel, and he became one of the

[5] (BSA- Baroda Administrative Report-1908-1909, p-54)

main leaders of the independence movement In 1925, the taluka of Bardoli in Gujarat suffered from floods and famine, causing crop production to suffer and leaving farmers facing great financial troubles. However, the government of the Bombay Presidency had raised the tax rate by 30% that year, and despite petitions from civic groups, refused to cancel the rise in the face of the calamities. The situation for the farmers was grave enough that they barely had enough property and crops to pay off the tax, let alone for feeding themselves afterwards. In 1928, an agreement was finally brokered by a Parsi member of the Bombay government. The Government agreed to restore the confiscated lands and properties, as well as cancel revenue payment not only for the year, but cancel the 30% raise until after the succeeding year. The farmers celebrated their victory, but Patel continued to work to ensure that all lands and properties were returned to every farmer, and that no one was left out. When the Government refused to ask the people who had bought some of the lands to return them, wealthy sympathizers from Bombay bought them out, and returned the lands to the rightful owners.

DANDI MARCH OR SALT SATYAGRAHA,

It was a major nonviolent protest action in India led by Mahatma Gandhi in March–April 1930. Salt production and distribution in India was monopoly of the British. Indians were prohibited from producing, storing or selling salt independently, and were required to buy expensive, heavily taxed salt that often was imported. This affected the great majority of Indians, who were poor and could not afford to buy it.

Indian protests against the salt tax began in 19th century and remained a major contentious issue throughout the period of British rule of the subcontinent. In early 1930 Gandhi decided to mount a highly visible demonstration against the increasingly repressive salt tax. It was a major civil protest targeted against taxation on salt, a commodity, used by masses daily.

OTHERS

In 1684 A.D., there was a great famine (dukaal) in Ahmadabad and prices of grain soared high. Aurangzeb stayed all taxes for one year.

There were violent protests by businessmen in Surat, after imposition of the License Tax in 1878[6].

SOME HISTORICAL BUSINESS ICONS OF GUJARAT

There was a trader named 'Jagadusha', in 13th century, who owned many ships, which he used to travel west to Persia, Arabia and Africa. He traded mainly in grains, cotton and spices. He had a vast maritime trade empire. The *Jagaducharita* is a thirteenth century verse biography by Sarvananda Suri. It deals with episodes from the life of Jagadu and his philanthropy. Biography may not be historically accurate and praises Jagadu, yet it is a good source of information about trade and influence of traders of that era. He was a great philanthropist and built famous Harsidhhi Mata temple at Porbandar and many

[6] India in 1880 by Sir Richard Temple, Late Governor of Bombay, Lt. Governor of Bengal and Finance Minister of India, London, John Murray 1880

other Jain temples. He also helped people by providing grains during famine years from 1256 to 1258 CE. His biography ends with death of Jagadu. His funeral was attended by royals.

Besides trading and navigation, Gujarat is known to be a leader in providing financial services, almost like an indigenous bank from medieval times. Persons engaged in such trade were called 'Shroffs or Sarrafs in Indian context and their business houses were called as 'Pedhis'.

Jn Mughal period, land revenue was regularly transferred from the provinces to the capital. The reverse flow was also made for running the administration and military operations and procuring supplies. Such work was handled by Sarrafs not only within the Kingdom but outside the territories also. They had to maintain offices, branches and agents for such work.

Shantidas Jhaveri (c. 1580s–1659) was an influential jeweller, bullion trader (*sarraf*) and money lender (*sahukar*) during the Mughal era. He was the wealthiest merchant in the Ahmedabad city during the 17th century. He was also a philanthropist, who made donations to temples and schools Shantidas Jhaveri had personal relation with the family members of the Mughal Emperors, Jahangir and Aurengjeb. He was consulted by the Mughal authorities on matters affecting the state of economy in the city. The other traders accepted him as their spokesman and he was definitely 'the first' among them.

In seventeenth century, Virji Vora of Surat, (1590–1670) was one of such trader and financier. His opinion was sought by Mughal Emperors in respect of financial policies. He had such excellent terms with the custom and administration that English and Dutch were at his mercy for import and export as well as for banking services at Surat.

The East India Company Factory Records describe him as the richest merchant in the world at the time. According to the English records, his personal worth was estimated to be worth 8 million rupees, a substantial amount of money in those days. He has been described as a merchant prince. From 1619 to 1670, Virji Vora dominated the business scene in Surat, the premier port of India. He had offices and agents outside India as well.

Bhimji Parekh (1610-1680) is remembered today primarily for introducing the first printing press to Bombay in 1674-75. Bhimji intended to use this printing press for "the common good" by printing ancient manuscripts. At various times Bhimji Parekh worked as broker for the East India Company, as a money lender, and as a printer. For services to the East India Company, Parekh was awarded a medal and chain of gold in 1683.

Seth Hutheesing, also amassed a colossal fortune from trading during the first half of the 19th century. He built a great Jain temple in Ahmedabad. He also built a school for girls in Ahmedabad. Tsis was a time, when people were not inclined towards female education. His business interests included wooden furniture in association with Lockwood de Forest which had a craze in the US. He also exported kundan jewellery to Tiffany's in the US.

SUBJECT INDEX

BRIEF INRODUCTION OF THE EDITOR OF PRESENT VOLUME

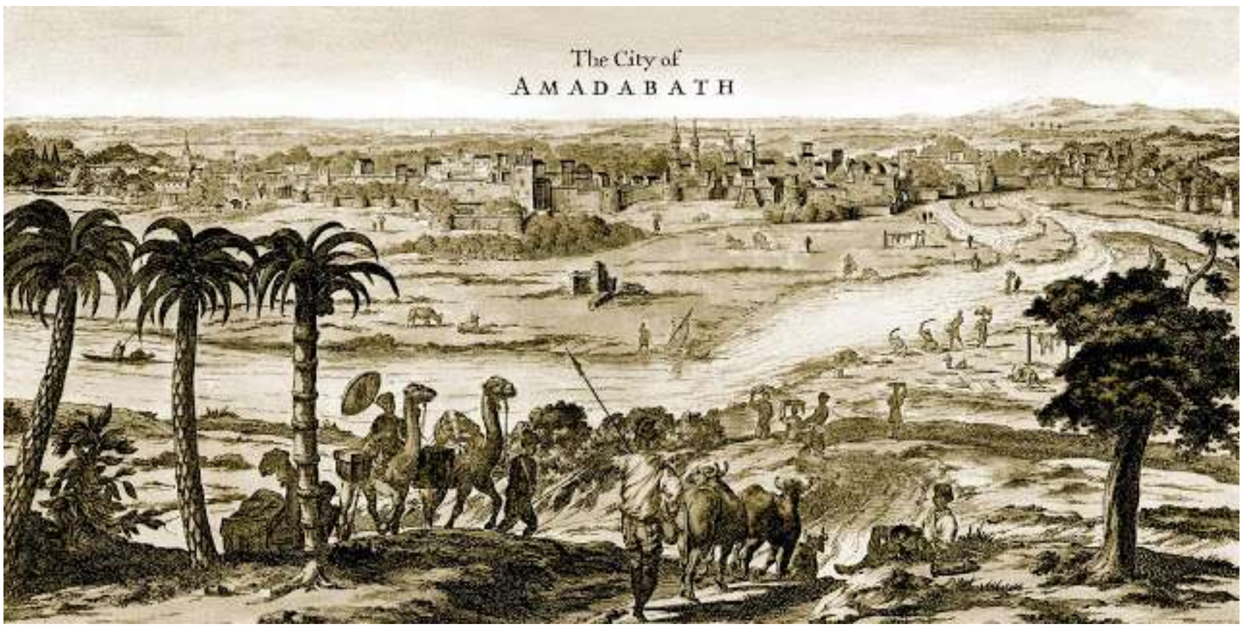
Chandra Prakash Bhatia, IRS, is an Officer of 2006 batch. He is presently posted as the Joint Commissioner (Judicial), Headquarters, in the Office of the Pr. Chief Commissioner of Income Tax, Gujarat at Ahmedabad. He has special interest in Legal research, Financial History and Taxation related issues of the Colonial period.

He is accessible on his e-mail ID for responses, remarks or suggestions etc at, **chandra.p.bhatia@incometax.gov.in**

Chandra Prakash Bhatia, IRS, has collected historical facts and compiled another book titled **'The First Budget of India and the Birth of Income Tax'** in 2015, published by Radiance, Kolkata.

This book contains the text of the speech, the first budget presented in Indian Parliament in 1860, the first Income Tax Act (XXXII of 1860), forms, reports, circumstances and correspondence leading to presentation of the first Indian budget. A brief introduction of the Member Finance of the Governor General's Cabinet, Rt. Hon'ble James Wilson has also been given. It is useful for researchers and all others interested in Financial history of India,

THE CITY OF AMADABATH (AHMEDABAD)



Drawing by Dutch traveller Father Philippus Baldaeus based on description of city in 1752. Some of his lithographs appeared in his Dutch book –"A True and Exact Description of the Most Celebrated East-India Coasts of Malabar and Coromandal and Also of the Isle of Ceylon".