

ITRV CASE LAW DIGEST FOR YEAR 2011

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SECTION 14A

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-ITAT-DEL-001	Continental Carriers P. Ltd. vs. ACIT	ITAT (Delhi)	S. 14A law laid down in Minda Investments cannot be followed as later decisions have remanded matter to AO
2011-ITRV-ITAT-DEL-002	DCIT vs. Jindal Photo Ltd	ITAT (Delhi)	For s. 14A disallowance, even under Rule 8D, onus is on AO to show nexus between expenditure and tax-free income
2011-ITRV-ITAT-DEL-004	Dy. CIT vs. Maharashtra Seamless Ltd.	ITAT (Delhi)	No s. 14A disallowance of interest on borrowed funds if AO does not show nexus between borrowed funds & tax-free investment
2011-ITRV-ITAT-MUM-006	Pawan Kumar Parmeshwarlal vs. ACIT	ITAT (Mumbai)	No s. 14A disallowance for personal tax-free investments if business expenditure not disallowed on ground of being for personal purposes.
2011-ITRV-HC-KER-023	CIT vs. The Catholic Syrian Bank Ltd.	Kerala High Court	There would be no s. 14A Disallowance of administrative expenses pre Rule 8D
2011-ITRV-HC-KAR-053	Mahesh Shetty & Onrs vs. CIT	Karnataka High Court	Despite Proviso to s.14A, s. 14A disallowance can be made for earlier years
2011-ITRV-HC-DEL-056	Honda Siel Power Products Ltd. vs. Dy. CIT	Delhi High Court	Section 147 Reopening for AY 2000-01 is valid despite Proviso to s. 14A. Material facts must be disclosed during assessment proceeding
2011-ITRV-HC-GUJ-066	CIT vs. Gujarat Power Corporation Ltd	Gujarat High Court	S. 14A disallowance of interest on borrowings on ground that assessee ought not to have used own funds for tax-free investments is invalid
2011-ITRV-ITAT-MUM-071	Yatish Trading Co. P. Ltd. vs. ACIT	ITAT (Mumbai)	No s. 14A disallowance of interest on borrowed funds used to buy shares for trading purposes.
2011-ITRV-ITAT-MUM-082	Hoshang D Nanavati vs. ACIT	ITAT (Mumbai)	Section 14A disallowance cannot be made for “depreciation” and mediclaim premium
2011-ITRV-ITAT-MUM-096	Godrej Industries ltd. vs. DCIT	ITAT (Mumbai)	S. 14A disallowance of interest on borrowings on ground that assessee ought to have repaid borrowings instead of investing in tax-free investments is invalid
2011-ITRV-SC-181	Honda Siel Power Products Ltd. vs DCIT	Supreme Court	Despite bar in Proviso to s. 14A, s. 147 reopening for earlier years is valid
2011-ITRV-HC-MUM-184]	CIT v. K. Raheja Corporation Pvt. Ltd	Mumbai High Court	No s. 14A disallowance of interest on borrowed funds if AO does not show nexus between borrowed funds & tax-free investment

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2011-ITRV-HC-GUJ-191	CIT vs. Lubi Submersibles Ltd	Gujarat High Court	Disallowance of interest on borrowed funds u/s 14A could not be made because the assessee were having mixed pool of funds and also investment were made in the preceding years as no fresh investment was made during the year under consideration
2011-ITRV-ITAT-DEL-229	CIT vs. Jindal Photo Ltd	ITAT (Delhi)	Assessing Officer cannot apply Rule 8D read with section 14A without showing how assessee's method is incorrect
2011-ITRV-ITAT-CHD-230	ACIT vs. Punjab State Coop. & Marketing Fed Ltd	ITAT (Chandigarh)	No S. 14A disallowance in absence of nexus between investment in tax-free securities & borrowed funds and S. 14A disallowance cannot exceed exempt income
2011-ITRV-HC-DEL-253	Maxopp Investments Ltd. vs. CIT	Delhi High Court	No S. 14A or Rule 8D disallowance can be made without showing how assessee's calculation is wrong and only real expenditure can be disallowed

MAT – SECTION 115JB / 115JA

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-SC-003	Indo Rama Synthetics (I) Ltd. vs CIT	Supreme Court	Amount withdrawn from revaluation reserve & credited to P&L A/c cannot be reduced from book profit even if in year of creation of reserve, the P&L A/c was not debited
2011-ITRV-SC-005	Jt. CIT vs. Rolta India Ltd	Supreme Court	Even s. 115J / 115JA Book Profit Cos liable for advance-tax & s. 234B interest
2011-ITRV-SC-009	CIT vs. Tulsyan NEC Ltd	Supreme Court	S. 115JAA MAT credit to be set off before computing advance-tax shortfall and liability for s. 234B/C interest
2011-ITRV-HC-KER-060	CIT vs. Packworth Udyog Ltd.	Kerala High court	For s. 115JA/JB, s. 80HHC deduction to be computed as per normal provisions & not on P&L profits
2011-ITRV-HC-KOL-186	Pieco Electronics & Electricals Ltd. vs. CIT	Kolkatta High Court	For the purpose of computing book profits u/s 115J, the loss to be considered should be before appropriation of any reserve
2011-ITRV-SC-243	CIT vs. Bhari Information Tech. Sys. Pvt. Ltd	Supreme Court	For s. 115JA/JB, deduction u/s 80HHC is to be computed as per P&L Profits & not normal provisions

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PENALTY

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-ITAT-MUM-087	Nayan Builders & Developers P. Ltd. vs. ITO	ITAT (Mumbai)	Mere admission of Appeal by High Court is sufficient to disbar s. 271(1)(c) penalty.
2011-ITRV-ITAT-MUM-094	Renu Hingorani vs. ACIT	ITAT (Mumbai)	Failure to voluntarily apply s. 50C does not attract penalty u/s 271(1)(c)
2011-ITRV-ITAT-MUM-095	Ruchi Strips & Alloys Ltd. vs. DCIT	ITAT (Mumbai)	Despite concealment, no s. 271(1)(c) penalty if assessment is under deeming provision of s. 115JB book profits
2011-ITRV-HC-DEL-112	CIT vs. SAS Pharmaceuticals	Delhi High Court	Despite detection in survey, no s. 271(1)(c) penalty if income is offered in Return of Income
2011-ITRV-ITAT-DEL-114	DCIT v. Nalwa Investments Ltd	ITAT (Delhi)	No s. 271(1)(c) penalty for failure to disallow u/s 14A.
2011-ITRV-ITAT-DEL-117	ACIT vs. Multiple Zones India P. Ltd	ITAT (Delhi)	No penalty u/s 271(1)(d), if a bonafide mistake which had been voluntarily corrected by assessee during assessment proceedings.
2011-ITRV-ITAT-DEL-118	Hero Honda Motors Ltd. vs. DCIT	ITAT (Delhi)	No penalty could be levied where question of law is being admitted in the High Court and also where the issue is debatable in nature which leads to constitution of Special Bench
2011-ITRV-ITAT-HYD-121	KEI Rsos Maritime Ltd. vs. Dy CIT	ITAT (Hyderabad)	Penalty u/s 271(1)(c) could not be levied where addition has been deleted in quantum appeal
2011-ITRV-ITAT-AHD-124	Surat Fashions Ltd. vs. ACIT	ITAT (Ahmedabad)	Penalty u/s 271(1)(c) could not be levied where addition has been made on estimate basis
2011-ITRV-HC-CAL-156	EIH Ltd. vs. CIT	Kolkatta High Court	Penalty u/s 271(1)(c) could not be levied merely because the additions made by the assessing officer was sustained by the appellate authorities
2011-ITRV-ITAT-PUNE-173	ITO vs. Audyogic Tantra Shikshan Sanstha	ITAT (Pune)	Reprimanded AO for harassing the assessee by wrongly levying penalty
2011-ITRV-HC-GUJ-193	ACIT vs. Transpek Silox Industry Ltd.	Gujarat High Court	Penalty u/s 271(1)(c) could not be levied on the simultaneous claim of the deduction u/s 80IB & 80HHC since the same were highly debatable
2011-ITRV-ITAT-MUM-195	DCIT vs. RBS Equities India Ltd	ITAT (Mumbai)	No penalty can be levied under Expl 7 to s. 271(1)(c) for dispute regarding ALP method used in Transfer Pricing
2011-ITRV-	ACIT vs.	ITAT (Delhi)	Despite disclosure, legal opinion, favourable

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ITAT-DEL-211	Khanna & Annadhanam		CIT(A) order & High Court admitting appeal on merits, s. 271(1)(c) penalty is leviable if issue is not “debatable” in Tribunal’s view
2011-ITRV-ITAT-MUM-213	ACIT vs. Metropolis Health Services (India) Pvt. Ltd	ITAT (Mumbai)	Where income surrendered during course of search/survey was duly disclosed in return of income filed pursuant thereto, then no penalty could be levied u/s 271(1)(c) in case no variation is made to returned income by the AO
2011-ITRV-HC-DEL-221	CIT vs. Splendor Construction	Delhi High Court	Despite disclosure of conversion of stock into investment and acceptance by AO, claim that gains is LTCG attracts s. 271(1)(c) penalty
2011-ITRV-HC-DEL-227	CIT vs. Mohair Investment & Trading Co. Pvt. Ltd	Delhi High Court	S. 275(1)(a) Penalty limitation period is not curbed by its Proviso.
2011-ITRV-HC-DEL-231	CIT vs. MTNL Ltd	Delhi High Court	There can be no penalty u/s 271(1)(c) without AO’s Finding on “Inaccurate Particulars”
2011-ITRV-ITAT-DEL-232	Dy. CIT vs. Leroy Somer & Controls (India) Pvt. Ltd	ITAT (Delhi)	No s. 271G Penalty (TP) for failure to respond to “omnibus” notice.
2011-ITRV-HC-MUM-236	The Metal Rolling Works Ltd. vs. CIT	Mumbai High Court	No penalty u/s 271(1)(c) where there was difference of opinion between assessee and AO as to the year of chargeability of capital gains and where the AO by issuing various SCN itself changes the stand to be adopted
2011-ITRV-HC-DEL-272	CIT vs. Sumangal Overseas Ltd	Delhi High Court	Despite conceding “bad debts”, assessee can raise new plea of “trading loss” for advances written off; penalty not leviable u/s 271(1)(c)
2011-ITRV-HC-DEL-279	Jet Life India Ltd. vs. CIT	Delhi High Court	Penalty u/s 271E could not be levied since prior to amendment in section 269T by 01.06.2002, only repayments of deposits was covered therein, and not the repayments of loans
2011-ITRV-ITAT-PUNE-281	Dy. CIT vs. Inderchand Surajmal Bothra	ITAT (Pune)	Benefit of immunity provided under Explanation-5 to s. 271(1)(c) could not be denied to assessee merely because the assessee, in its statement recorded during the course of search, did not specify the manner in which the undisclosed income was earned
2011-ITRV-ITAT-MUM-283	Narayansingh J. Deora vs. ACIT	ITAT (Mumbai)	Penalty u/s 271(1)(c) could not be levied where the addition was made on an estimate basis

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CAPITAL GAINS

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-ITAT-MUM-054	Kumpal Amrutlal Doshi vs. DCIT(A)	ITAT (Mumbai)	S. 54EC relief is available if cheque <i>is issued</i> within 6 months of transfer, even if cheque <i>cleared</i> , and bonds <i>issued</i> , <i>after 6 months</i>
2011-ITRV-ITAT-MUM-070	Rajesh Keshav Pillai vs. ITO	ITAT (Mumbai)	S. 54 Relief is available to multiple sales and purchases of residential houses
2011-ITRV-ITAT-MUM-076	Bharat Bijlee Ltd. vs. Addl. CIT	ITAT (Mumbai)	Despite s. 50B, transfer of undertaking for non-money consideration not taxable if “cost of acquisition” not determinable
2011-ITRV-ITAT-MUM-093	Raj Ratan Palace Co-op Group Housing Society Ltd. vs. DCIT	ITAT (Mumbai)	Granting permission for development is not “transfer” & consideration is not assessable in society’s hands
2011-ITRV-ITAT-MUM-098	ITO vs. United Marine Academy	ITAT (Mumbai)	S. 50C is applicable to depreciable assets
2011-ITRV-ITAT-MUM-100	ITO vs. Sh. Hemandas J. Pariyani	ITAT (Mumbai)	As Transferable Development Rights (TDR) has no cost of acquisition, amount received not taxable as Capital Gains
2011-ITRV-ITAT-MUM-107	Atul G. Puranik vs. ITO	ITAT (Mumbai)	Section 50C does not apply to transfer of “leasehold rights” as it is not “land or building”.
2011-ITRV-ITAT-MUM-111	Chiranjeev Lal Khanna vs. ITO	ITAT (Mumbai)	Granting development rights for demolition & reconstruction of building results in “transfer of land & building”
2011-ITRV-ITAT-MUM-129	Tata Power Co. Ltd. vs. Addl. CIT	ITAT (Mumbai)	S. 54EC deduction is allowable before set-off of brought-forward loss.
2011-ITRV-ITAT-MUM-225	Bennett Coleman & Co. Ltd. vs. Addl. CIT	ITAT (Mumbai)	Loss on pro-rata reduction of share capital is “Notional”. In absence of consideration, capital gains provisions do not apply
2011-ITRV-HC-MUM-263	CIT vs. Manuja J. Shah	Mumbai High Court	Indexed cost of gifted assets has to be determined with reference to previous owner for the purposes of computing capital gains

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SHARE TRANSACTIONS / DERIVATIVES

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-HC-DEL-008	CIT vs. PNB Finance & Industries Ltd	Delhi High Court	Though main object is to do business in shares, shares can be held as a capital asset & not stock-in-trade
2011-ITRV-HC-KOL-033	Paharpur Cooling Towers Ltd. vs. CIT	Kolkatta High Court	Under Expl to s. 73 even delivery-based loss on shares is “speculation” loss.
2011-ITRV-ITAT-KOL-034	ACIT vs. R.K.B.K. Financial Services Ltd.	ITAT (Kolkatta)	Share sale price cannot be apportioned towards transfer of “controlling interest”
2011-ITRV-ITAT-MUM-059	ACIT vs. Naishadh V. Vachharajani	ITAT (Mumbai)	Despite high volume & short holding period, shares gain is Short Term Capital Gain
2011-ITRV-ITAT-MUM-062	Sh. Ramesh Babu Rao vs. ACIT	ITAT (Mumbai)	Large volume in shares is not a deciding factor to hold assessee trader in shares.
2011-ITRV-ITAT-MUM-065	Nagindas P. Sheth (HUF) vs. ACIT	ITAT (Mumbai)	Despite Large number of transactions in shares, profit assessable as capital gains.
2011-ITRV-HC-GUJ-074	CIT vs. Niraj Amidhar Surti	Gujarat High Court	Merely because shares are purchased by taking loan at high interest does not mean gains are taxable as business profits
2011-ITAT-HC-MUM-088	CIT vs. Bharat K. Ruia (HUF)	Mumbai High Court	Prior to 1.4.2006, derivatives Loss is “Speculation” Loss u/s 43(5) as amendment in S. 43(5)(d) is not retrospective.[
2011-ITRV-ITAT-MUM-099	Shantilal M Jain vs. ACIT	ITAT (Mumbai)	Despite large volume etc of share transactions, AO is bound by Rule of Consistency to treat share gains as STCG.
2011-ITRV-ITAT-MUM-108	ITO vs. Radha Birju Patel	ITAT (Mumbai)	Gains arising from PMS transactions are capital gains & not business profits.
2011-ITRV-ITAT-MUM-113	Mahendra C Shah vs. Addl. CIT	ITAT (Mumbai)	Despite borrowing, shares gain can be STCG & not business profits
2011-ITRV-ITAT-MUM-127	Gajendra Kumar T Agarwal vs. ITO	ITAT (Mumbai)	Post s. 43(5) amendment, pre-AY 2006-07 derivatives “speculation” losses have to be treated as “non-speculation” business losses for purposes of set-off

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2011-ITRV-ITAT-PUNE-128	ARA Trading & Investments P. Ltd. vs. Dy. CIT	ITAT (Pune)	Shares PMS transaction gains are STCG and not business profits
2011-ITRV-ITAT-PUNE-135	KRA Holding & Trading P. Ltd. vs. Dy. CIT	ITAT (Pune)	Shares PMS fee, even if NAV based, is deductible in computing PMS capital gains
2011-ITRV-SC-140	CIT vs. Gopal Purohit	Supreme Court	Dismissed the department's SLP against the Bombay High Court judgment which laid down the tests to determine whether shares gains assessable as STCG or business profits
2011-ITRV-ITAT-MUM-168	Hitesh Satishchandra Doshi Etemia vs. Jt. CIT	ITAT (Mumbai)	Even gains on shares held for 30 days & less is STCG & not business profits
2011-ITRV-ITAT-MUM-176	Sanjay Gala vs. ITO	ITAT (Mumbai)	Bonus shares are eligible for s. 115F relief if original shares are acquired in foreign currency
2011-ITRV-ITAT-MUM-222	Shri Homi K. Bhabha vs. ITO	ITAT (Mumbai)	PMS Fees is not deductible against capital gains. Despite dissenting orders, reference to Special Bench is not necessary
2011-ITRV-HC-MUM-228	CIT vs. Naishadh V. Vachharajani	Mumbai High Court	Despite high volume & short holding period, shares gain is STCG
2011-ITRV-ITAT-DEL-238	ACIT vs. Shri Jugmandar Dass Bansal	ITAT (Delhi)	Profit on sale of shares in the case of assessee who is a broker at stock exchange is taxable as "STCG"

ASSESSMENT / RE-ASSESSMENT / REVISION / APPEALS / DEMAND

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-ITAT-MUM-007	DHL Express (India) P. Ltd. vs. Addl. CIT	ITAT (Mumbai)	Stay Application in Tribunal is maintainable despite non-filing of stay petition before lower authorities
2011-ITRV-ITAT-DEL-012	Shri Hersh W. Chadha v. DDIT	ITAT (Delhi)	Despite lack of direct evidence, tax evasion can be assessed
2011-ITRV-HC-MUM-021	VIP Industries Ltd. vs. CCE	Mumbai High Court	High Court has power to review its judgement u/s 260A
2011-ITRV-ITAT-DEL-024	Sh. Balwant Rai Wadhwa vs. ITO	ITAT (Delhi)	Despite service of s. 148 notice in time, non-supply of 'Reasons For Reopening' within time renders the reopening void

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2011-ITRV- HC-DEL-037	CIT vs. Escorts Ltd	Delhi High Court	Due to consistency principle, CIT not permitted to change view & revise u/s 263 without changed circumstances
2011-ITRV- HC-P&H-038	CIT vs. Rockman Cycle Inds. P. Ltd	Punjab & Haryana High Court	AO can lift veil & determine legal effect but cannot ignore legal effect on ground of “substance”
2011-ITRV- ITAT-DEL-044	Sh. Sanjay Kumar Garg vs. ACIT	ITAT (Delhi)	S. 148 notice, even if unserved, is valid & second s. 148 notice issued to meet assessee’s claim of non-service, is invalid & renders assessment void
2011-ITRV- HC-DEL-046	The Central India Electric Supply Co. Ltd. vs. ITO	Delhi High Court	CIT’s Sanction u/s 148/151 if mechanical and without reasons is invalid. Assessee cannot be expected to disclose what he does not know
2011-ITRV- HC-DEL-047	CIT vs. Delhi Race Club Ltd	Delhi High Court	CBDT Circular on monetary limits for filing appeals applies to pending appeals
2011-ITRV- HC-KER-051	CIT vs. India Sea Foods	Kerala High Court	Assessing officer is entitled to issue s. 154 notice, drop it, & issue s. 148 notice
2011-ITRV- HC-P&H-052	CIT vs. Varindera Construction Co	Punjab & Haryana High Court (FB)	CBDT Circular on monetary limits for filing appeals does not apply to pending appeals
2011-ITRV- ITAT-DEL-057	UKT Software Technologies P. Ltd. vs. ITO	ITAT (Delhi)	Non-issue of s. 143(2) notice renders s. 147 assessment order invalid.
2011-ITRV- ITAT-DEL-058	Shri Padam Prakash (HUF) vs. ITO	ITAT (Delhi)	Mistake in s. 254(2) order cannot be rectified
2011-ITRV- HC-KOL-063	I. K. Agencies P. Ltd. vs. CWT	Kolkatta High Court	Reopening Notice issued to Amalgamating Company is Void and is not saved by s. 292B
2011-ITRV- ITAT-PUNE- 083	Honeywell Automation India Ltd. vs. DCIT	ITAT (Pune)	Direct Stay Application to Tribunal is maintainable, it is not necessary that lower authorities must be approached first
2011-ITRV- ITAT-MUM- 085	Tata Communications Ltd. vs. ACIT	ITAT (Mumbai)	Despite Third Proviso to s. 254(2A), Tribunal has power to extend stay beyond 365 days if delay not attributable to assessee
2011-ITRV- ITAT-MUM- 086	Synergy Entrepreneur Solutions P. Ltd. vs. Dy. CIT	ITAT (Mumbai)	Section 263 Revision order, if for reason not stated in show-cause notice, is invalid
2011-ITRV- HC-DEL-092	Areva T&D vs. ADIT	Delhi High Court	Despite view taken in s. 195(2)/197 order, s. 147 reopening is valid.
2011-ITRV-	Sh. Biswanath	ITAT	No revision under section 263 is permissible

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2011-ITRV-ITAT-HYD-123	Nagajuna Fertilizers & Chemicals Ltd. vs. Addl CIT	ITAT (Hyderabad)	No revision under section 263 is permissible where two views are available and A.O. took one possible view
2011-ITRV-HC-DEL-130	Ranbaxy Laboratories Ltd. vs. CIT	Delhi High Court	If AO does not assess income for which reasons were recorded u/s 147, he cannot assess other income u/s 147
2011-ITRV-ITAT-MUM-132	ITO vs. Laxmi Jewel P. Ltd	ITAT (Mumbai)	CBDT Circular on monetary limits for filing appeals applies to pending appeals.
2011-ITRV-ITAT-PUNE-133	Shramjivi Nagari Sahakari Pat Sanstha vs. Addl CIT	ITAT (Pune)	Directed the AO to pay costs for “recovery harassment”
2011-ITRV-HC-DEL-134	CIT vs. Safetag International India Ltd	Delhi High Court	If assessee does not ask for s. 147 reasons & object to reopening, ITAT cannot remand to AO & give assessee another opportunity
2011-ITRV-HC-DEL-136]	Geofin Investments P. Ltd. vs. CIT	Delhi High Court	Tribunal entitled to do “own research” & rely on non-cited cases
2011-ITRV-SC-141	CIT vs. Indian Hotels Co. Ltd	Supreme Court	Dismissing the department's SLP has held that long delay due to <i>procedural reasons</i> in filing Dept appeals cannot be condoned
2011-ITRV-HC-MUM-145	Titanor Components Ltd. vs. Union of India & Ors.	Mumbai High Court	Despite “Wrong Claim”, s. 147 reopening invalid
2011-ITRV-HC-DEL-147	CIT vs. Goyal M.G. Gases Pvt. Ltd	Delhi High Court	S. 263 order becomes “infructuous” if effect order is not passed in “reasonable time”
2011-ITRV-HC-MUM-158	CIT vs. Mukesh J Upadhyay	Mumbai High Court	No revision under section 263 of the I.T.Act could be carried by the CIT if the impugned issue has already been considered by the A.O. as well as by CIT(A)
2011-ITRV-SC-171	CEC vs. Doaba Steel Rolling Mills	Supreme Court	CBDT and CBEC to formulate uniform policy with strict parameters on appeal filing
2011-ITRV-HC-GUJ-175	Kanubhai M Patel HUF vs. Hiren Bhatt	Gujarat High Court	To decide whether s. 148 notice is “issued” in time, date of handing over by AO to post office is to be seen
2011-ITRV-ITAT-MUM-183	DCIT vs. Summit Securities Ltd.	ITAT (Mumbai)	Even issues “sub-judice” before High Court can be heard by Tribunal

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2011-ITRV-HC-KOL-187	Jai Mica Supply Co. Pvt. Ltd. vs. CIT	Kolkatta High Court	In case there was some controversy related to the subject issue which was settled by the later decision of Supreme Court and such SC decision was available when CIT invokes jurisdiction u/s 263, then revision u/s 263 is permissible
2011-ITRV-HC-KOL-188	Surajmall Lalchand & Sons vs. ACIT	Kolkatta High Court	An appellate authority has every right to remand a matter on a specific point if the mistake of the lower authorities is limited to that very point and in such a situation, there is no necessity of passing an order of fresh assessment on all points
2011-ITRV-ITAT-MUM-202	CIT vs. Simoni Gems	ITAT (Mumbai)	CIT-DR's "false & frivolous" submissions constitute "criminal contempt" and justify recovery of costs from his salary
2011-ITRV-SC-203	CIT vs. Surya Herbal Ltd	Supreme Court	CBDT's low tax effect circular is not applicable to matters having "cascading effect"
2011-ITRV-HC-DEL-220	Dalmia Pvt. Ltd. vs. CIT	Delhi High Court	Despite specific & pointed queries in s. 143(3) assessment, AO cannot be said to have formed any opinion if explicit opinion not recorded u/s 147
2011-ITRV-HC-MUM-237	Yash Raj Films Pvt. Ltd. vs. ACIT	Mumbai High Court	Initiation of reassessment proceedings by AO u/s 147 within 4 years on the ground that there was sufficient tangible material before the AO in form of reconciliation statement filed by assessee and various other documents impounded during the course of survey is valid
2011-ITRV-ITAT-DEL-248	Gomti Textiles Pvt. Ltd. vs. ITO	ITAT (Delhi)	If reasons are not supplied within the time limits u/s 149, then re-opening u/s 147 is invalid
2011-ITRV-HC-DEL-254	Atma Ram Properties Pvt. Ltd. vs. DCIT	Delhi High Court	AO must specify what facts are failed to be disclosed. Lapse by AO is no ground for reopening u/s 147 if primary facts are disclosed
2011-ITRV-HC-DEL-255	CIT vs. Manish Buildwell Pvt. Ltd	Delhi High Court	If the CIT (A) acts on an application under Rule 46A for admission of additional evidence, then the requirement of giving the AO an opportunity as per Rule 46A(3) is mandatory
2011-ITRV-HC-MUM-258	CIT vs. K. Mohan & Co	Mumbai High Court	For the purposes of section 147, retrospective amendment does not mean failure to disclose material facts
2011-ITRV-HC-MUM-259	The Indian Hume Pipe Co. Ltd. vs. ACIT	Mumbai High Court	For purposes of section 147, "Full & true disclosure of material facts" means "specific" disclosure of "each" fact
2011-ITRV-HC-DEL-264	Maruti Suzuki India Ltd. vs. Dy. CIT	Delhi High Court	Refund arising in earlier year on issue cannot be adjusted against demand on same issue in subsequent year and adjustment of refund u/s 245 is recovery of tax

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2011-ITRV- HC-DEL-265	C & C Construction Pvt. Ltd. vs. CIT	Delhi High Court	A contention/ issue, which is not raised, dealt with or answered by the Tribunal, cannot be raised before the High Court for the first time in an appeal u/s 260A
2011-ITRV- ITAT-MUM- 271	Eversmile Construction Co. Pvt. Ltd. vs. Dy. CIT	ITAT (Mumbai)	Assessee can agitate claim under assessment u/s 153A, which was given up at assessment u/s 143(3) stage
2011-ITRV- ITAT-MUM- 273	Star India Ltd. vs. Addl. CIT	ITAT (Mumbai)	Revision u/s 263 is right if the AO does not raise demands on issues which have been decided in favour of the assessee by the jurisdictional High Court, even though the department is in appeal against the same, the interests of the revenue will be prejudiced and remain unprotected
2011-ITRV- HC-DEL-278	CIT vs. Purolator India Ltd	Delhi High Court	There can be no reopening u/s 147 after 4 years if there is no failure on the part of the assessee to disclose any material facts
2011-ITRV- ITAT-MUM- 280	Asst DIT(E) vs. India Itme Society	ITAT (Mumbai)	Refused to condone the delay of 1747 days in filing cross objections whereby the assessee challenged the jurisdiction u/s 148, on the ground that the assessee cannot take shelter of ignorance of law when he himself has engaged professional for arguing the department appeal 3 years back
2011-ITRV- HC-DEL-284	RRB consultants & Engineers Pvt. Ltd. vs. Dy. CIT	Delhi High Court	Once the assessee had disclosed the primary facts during the course of original assessment, then merely because in the original assessment, the AO draws the wrong legal inference on the stated facts as disclosed by the assessee, could not make valid reasons for reopening the assessment u/s 147
2011-ITRV- HC-ALL-286	CIT vs. Shaila Agarwal	Allahabad High Court	For the purpose of s. 153A the pendency of an appeal does not mean that the assessment proceedings are pending
2011-ITRV- HC-CHG-287	ACIT vs. Major Deepak Mehta	Chattisgarh High Court	AO cannot assess other “escaped income” u/s 147 if AO does not assess the income in respect of which the s. 148 notice was issued
2011-ITRV- HC-GUJ-289	Cadila Healthcare Ltd. vs. ACIT	Gujarat High Court	If AO disputes Audit objection, she cannot use that as “reason to believe” for reassessment u/s 147
2011-ITRV- HC-DEL-297	CIT vs. SPL's Siddhartha Ltd	Delhi High Court	Sanction of CIT instead of JCIT renders reopening u/s 147 invalid

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SEARCH AND SEIZURE

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-HC-DEL-010	CIT vs. Late Sh. Raj Pal Bhatia	Delhi High Court	S. 158BD proceedings without recording written satisfaction void. Statement recorded in search cannot form sole basis for s. 158BD addition
2011-ITRV-HC-DEL-035	CIT vs. Mahindra Finlease P.Ltd	Delhi High Court	Protective assessment can be framed u/s 158BC & 158BD
2011-ITRV-HC-P&H-077	CIT vs. Sai Metal Works	Punjab and Haryana High Court	S. 40A(3) disallowance can be made in Block Assessment even if GP estimated
2011-ITRV-ITAT-PUNE-115	Sinhgad Technical Education Society vs. ACIT	ITAT (Pune)	S. 153C assessment sans “speaking” & “incriminating” documents is void.
2011-ITRV-HC-DEL-116	CIT vs. Radhey Shyam Bansal	Delhi High Court	S. 158BD order is void if referring AO’s “satisfaction” is not recorded.
2011-ITRV-BHRC-131	In Re Rajendra Singh	Bihar Human Rights Commission	If Search & Seizure action violates “human rights”, officers personally liable to pay compensation
2011-ITRV-ITAT-MUM-213	ACIT vs. Metropolis Health Services (India) Pvt. Ltd	ITAT (Mumbai)	Where the income surrendered during the course of search/survey was duly disclosed in the return of income filed pursuant thereto, then no penalty could be levied u/s 271(1)(c) in case no variation is made to the returned income by the assessing officer
2011-ITRV-ITAT-MUM-271	Eversmile Construction Co. Pvt. Ltd. vs. Dy. CIT	ITAT (Mumbai)	Assessee can agitate claim under assessment u/s 153A, which was given up at assessment u/s 143(3) stage
2011-ITRV-HC-ALL-286	CIT vs. Shaila Agarwal	Allahabad High Court	For the purpose of s. 153A the pendency of an appeal does not mean that the assessment proceedings are pending
2011-ITRV-ITAT-RAJK-292	Ram S. Sarada vs. Dy. CIT	ITAT (Rajkot)	Cash seized in search has to be adjusted against “Advance Tax”

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INTERNATIONAL TAXATION / TRANSFER PRICING / 10A / 10B

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-ITAT-MUM-011	Serdia Pharmaceuticals (I) P. Ltd. vs. ACIT	ITAT (Mumbai)	TPO is entitled to substitute 'CUP' for 'TNMM' to determine arms' length price. For generic drugs, CUP is appropriate method despite quality differences
2011-ITRV-ITAT-MUM-014	Nimbus Communications Ltd. vs. ACIT	ITAT (Mumbai)	If commercial transaction is at arms' length, no transfer pricing addition can be made for non-charging of interest on overdue debt
2011-ITRV-HC-DEL-015	DIT vs. L.G. Cable Ltd.	Delhi High Court	Even in Turnkey Contract, off-shore supply profits is not taxable if transfer of title to purchaser takes place abroad
2011-ITRV-ITAT-DEL-017	Asst. CIT vs. UE Trade Corporation (I) P. Ltd.	ITAT (Delhi)	Transfer Pricing benefit u/s 92C of +/- 5% variation from ALP is not available if only one is price determined
2011-ITRV-ITAT-BANG-018	Logix Micro Systems Ltd. vs. ACIT	ITAT (Bangalore)	Even if commercial transaction is at arms' length, debt overdue for long period attracts transfer pricing interest
2011-ITRV-ITAT-DEL-022	Adobe Systems India P. Ltd. vs. Addl CIT	ITAT (Delhi)	Super-normal profit cos must be excluded from comparables in TP. DRP must not pass cursory / laconic orders
2011-ITRV-ITAT-VIZAG-025	ACIT vs. Essar Steel Ltd	ITAT (Visakhapatnam)	+/- 5% Variation only if more than one price determined for purposes of Transfer Pricing. CBDT Circular No. 12 dated 23.8.2001 is otiose
2011-ITRV-HC-DEL-026	Asia Satellite Telecommunications P. Ltd. v. DIT	Delhi High Court	No income is deemed to accrue in India from use of satellite outside India to beam TV signals into India even if bulk of revenue arises due to viewers in India
2011-ITRV-ITAT-BANG-032	Intel Asia Electronics Inc. India vs. Asst. DIT	ITAT (Bangalore)	For TP - CUP method, arms length price of slump sale should be determined with valuation report and failing that on Income tax WDV but not on Company law WDV.
2011-ITRV-HC-DEL-039	Ericsson AB. vs. Addl. DIT	Delhi High Court	S. 144C DRP must act to expectations & not have perfunctory approach
2011-ITRV-ITAT-DEL-043	Clear Plus India P. Ltd. vs. Dy. CIT	ITAT (Delhi)	CUP method is preferable to TNMM in transfer pricing
2011-ITRV-ITAT-MUM-049	Tata Sons Ltd. vs. Dy. CIT	ITAT (Mumbai)	Despite DTAA restricting credit to 'Federal' taxes, Foreign 'State' taxes also eligible for credit u/s 91

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2011-ITRV- HC-GUJ-061	Pankaj Extrusion Ltd. vs. ACIT	Gujarat High Court	S. 144C order cannot be passed if no TP adjustments made by TPO.
2011-ITRV- HC-KOL-073	Amro Bank N.V. vs. CIT	Kolkatta High Court	Interest paid by a branch of a Foreign Bank to its HO is deductible in the hands of the branch. Such interest is not taxable in the HO's hands.
2011-ITRV- CANADA-079	The Queen vs. General Electric Capital Canada Inc	Court of Appeal, Canada	Despite "Implicit support" by holding company, subsidiary entitled to pay holding company at arms' length for "explicit support"
2011-ITRV- ITAT – DEL - 080	Marubeni India P. Ltd. vs. Addl. CIT	ITAT (Delhi)	For TNMM (TP), interest on surplus & abnormal costs is to be excluded.
2011-ITRV- ITAT-BANG- 081	TNT India P. Ltd. vs. ACIT	ITAT (Bangalore)	Prior Years' data cannot ordinarily be relied upon to justify Arm's length Price (ALP). Non-operating income & expenditure should be excluded while comparing
2011-ITRV- ITAT-PUNE- 084	Cummins India Ltd. vs. Dy. CIT	ITAT (Pune)	If Arms Length Price by determined by arithmetical mean, 5% deduction is allowable
2011-ITRV- HC-KAR-089	Richter Holding Ltd. vs. Astt. DIT & Anrs	Karnataka High Court	Corporate Veil can be lifted to tax sale of Foreign Co shares by one Non-Resident to another Non-Resident if Foreign Co holds shares in Indian Co.
2011-ITRV- ITAT-MUM- 097	DHL Express (India) P. Ltd. vs. ACIT	ITAT (Mumbai)	In TP, low turnover companies are not comparable. Only operational profits to be considered for comparison.[
2011-ITRV- ITAT-DEL-102	ACIT vs. Clough Engineering Ltd	ITAT (Delhi) (SB)	Interest on Tax refund not "effectively connected" with PE.
2011-ITRV- ITAT-DEL-103	Sapient Corporation P. Ltd. vs. Dy. CIT	ITAT (Delhi)	Loss-making & super-profit companies are not comparable for TP
2011-ITRV- ITAT-DEL-119	M. L. Outsourcing Services P. Ltd. vs. ITO	ITAT (Delhi)	Deduction u/s Section 10A is available in respect of services provided by transmission of electronic data abroad, of the eligible candidates for employment in software industry
2011-ITRV- ITAT-HYD- 122	ACIT vs. Viceroy Hotels Ltd.	ITAT (Hyderabad)	Discussed proceedings u/s 201(1)/(1A)- non deduction of tax at source-analyzed various treaties on the scope of FTS on the facts of the case- discussed the concept of 'make available' etc.- admission of additional evidence u/R- 46A when CIT(A) calls for remand report

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2011-ITRV-ITAT-MUM-126	Symantec Software Solutions P. Ltd. vs. ACIT	ITAT (Mumbai)	Discussed Transfer Pricing principles on use of multi-year data, turnover filter, risk adjustment and +/- 5% adjustment
2011-ITRV-ITAT-MUM-138	Exxon Mobil Company India P. Ltd. vs. Dy. CIT	ITAT (Mumbai)	Loss/High-Profit companies need not per se be excluded in Transfer Pricing cases.
2011-ITRV-ITAT-DEL-139	Raytheon Company vs. Dy. DIT	ITAT (Delhi)	Software embedded in off-shore supply may be taxable even if supply not taxable.
2011-ITRV-ITAT-DEL-144	Yum ! Restaurants (India) P. Ltd. vs. Addl. CIT	ITAT (Delhi)	Despite FAR matching, Loss Co to be excluded in transfer pricing, if failure to disclose not alleged
2011-ITRV-SC-148	Ram Jethmalani & Ors vs. Union of India & Ors	Supreme Court	DTAA does not protect tax evaders. Special Investigation Team (SIT) formed to probe Black Money
2011-ITRV-HC-KAR-149	Richter Holding Ltd. vs. ADIT & Ors	Karnataka High Court	AO has to decide “preliminary issue” whether sale of shares of Foreign Co by Non-Resident to Non-Resident attracts Indian tax
2011-ITRV-ITAT-DEL-165	iPolicy Network Pvt. Ltd. vs. ITO	ITAT (Delhi)	CBDT’s view, that +/-5% variation amendment applies to pending proceedings is incorrect
2011-ITRV-ITAT-PUNE-166	Patni Computer Systems Ltd. vs. Dy. CIT	ITAT (Pune)	Disallowance of costs on ground that Associated Enterprises also benefited is not permissible
2011-ITRV-HC-MUM-169	Adiya Birla Nuvo Ltd. & Ors vs. Dy. DIT & Ors	Mumbai High Court	Sale of shares by Mauritius Co can be treated as sale by 100% USA parent. Sale of shares of foreign company is taxable if object is to acquire the Indian assets
2011-ITRV-CANADA-170	Triad Gestco Ltd. vs. Her Majesty the Queen	Court of Appeal Canada	Explained the General Anti Avoidance Rule (GAAR) Law
2011-ITRV-HC-UTK-174	Hyundai Heavy Industries Ltd. vs. Union of India & Ors	Uttarakhand High Court	Jurisdictional CIT should not be part of DRP to avoid likelihood of bias
2011-ITRV-ITAT-MUM-177	Adl. CIT vs. Star Cruise India Travel Services Pvt. Ltd.	ITAT (Mumbai)	Non-resident, even with “business connection”, can be taxed only in respect of business operations carried out in India. While canvassing agent is not “business connection”, fair fee extinguishes non-resident’s liability to tax
2011-ITRV-ITAT-HYD-178	DCIT vs. Deloitte Consulting India P. Ltd.	ITAT (Hyderabad)	Stated important Principles on comparability & +/-5% adjustment under Transfer Pricing

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2011-ITRV-AAR-179	In Re Crain U.K. Holding Ltd	Authority for Advance Ruling	Non-residents not eligible for benefit of second proviso to s. 112
2011-ITRV-AAR-182	In Re LS Cable Ltd	Authority for Advance Ruling	Off-shore supplies are not taxable despite composite contract & PE's role in clearance
2011-ITRV-HC-KAR-185	GE India Technology Centre Pvt. Ltd. vs. DRP	Karnataka High Court	If AO has allowed s. 10A deduction, DRP cannot withdraw it
2011-ITRV-HC-DEL-190	General Electric Company & Anrs vs. Dy. DIT & Ors	Delhi High Court	An Indian agent of a non-resident can be held as a representative assessee of the latter, only in respect of income with which the agent has connection
2011-ITRV-ITAT-MUM-197	ITO vs. Bajaj Hindustan Ltd	ITAT (Mumbai)	FTS second exception mentioned in Sec.9(1)(vii)(b) would cover even payment made in relation for future source of income
2011-ITRV-ITAT-MUM-198	Addl. CIT vs. TII Team Telecom International P. Ltd	ITAT (Mumbai)	Income from license of software is not assessable as "royalty"
2011-ITRV-AUS-199	International Business Machines Corporation vs. Commissioner of Taxation	Federal Court of Australia	Software License income is assessable as "Royalty"
2011-ITRV-ITAT-MUM-200	ACIT vs. Anchor Health and Beauty Care Pvt. Ltd	ITAT (Mumbai)	Fee for "user of name" and "accreditation" not taxable as "royalty"
2011-ITRV-ITAT-DEL-204	Samsung Heavy Industries Ltd. vs. ADIT	ITAT (Delhi)	Laid down important principles on "splitting of turnkey contracts", role of PE & taxability of profits from offshore supply
2011-ITRV-HC-DEL-206	General Electric Company & Anrs vs. DDIT	Delhi High Court	Even if a person is assessed as "Representative Assessee", there is no liability for unconnected income
2011-ITRV-ITAT-BANG-207	ING Vysya Bank Ltd. vs. DDIT	ITAT (Bangalore)	Fee for use of software is taxable as "Royalty"
2011-ITRV-HC-DEL-209	Rolls Royce Singapore Pvt. Ltd. vs. ADIT	Delhi High Court	Profits attributable to "Dependent Agent Permanent Establishment" is Taxable in India
2011-ITRV-ITAT-HYD-214	Four Soft Ltd. vs. Dy. CIT	ITAT (Hyderabad)	TP legislation cannot be applied in case of corporate guarantee given by the assessee on behalf of its subsidiary
2011-ITRV-	Dresser-Rand India	ITAT (Mumbai)	Explained the Transfer Pricing and "Cost

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ITAT-MUM-216	Pvt. Ltd vs. Addl CIT		Contribution Agreements” Law
2011-ITRV-ITAT-MUM-217	Dredging International N.V. vs. Asst. DIT	ITAT (Mumbai)	DRP’s power to “enhance” confined to issues raised in draft assessment order. “Future losses” allowable as deduction
2011-ITRV-ITAT-MUM-218	Diageo India Pvt. Ltd. Vs. Dy. CIT	ITAT (Mumbai)	Even unrelated parties can be “associated enterprises” if there is “de facto” control. High profit/loss companies are not per se un-comparable. TPO cannot go into issues not specifically referred to him
2011-ITRV-ITAT-BANG-223	Tally Solutions Pvt. Ltd. vs. Dy. CIT	ITAT (Bangalore)	Explained the important principles of Transfer Pricing & Sale of IPRs
2011-ITRV-AAR-226	In Re Millennium IT Software Ltd.	Authority for Advance Rulings	License fee for Software, even if “copyrighted article”, is taxable as “royalty”
2011-ITRV-HC-UTK-234	CIT vs. BKI / HAM	Uttarakhand High Court	Fact of “Office PE” under Article 5(2) is irrelevant if there is no “Construction Site PE” under Article 5(3)
2011-ITRV-HC-KAR-246	CIT & Anrs vs. Yokogawa India Ltd.	Karnataka High Court	S. 10A/B continue to “exempt” profits and so loss of other units (eligible & non-eligible, including B/f loss) are not liable for set-off against s. 10A/B profits
2011-ITRV-ITAT-MUM-257	Asst DIT vs. Neo Sports Broadcast Pvt. Ltd	ITAT (Mumbai)	Payment for “live telecast” of event is not “royalty” nor arising from “business connection”
2011-ITRV-ITAT-MUM-261	ACIT vs. Maersk Global Service Centre (India) P. Ltd	ITAT (Mumbai)	If TPO does not give cogent reasons to reject a comparable, it must be presumed to be comparable & DR cannot argue to the contrary
2011-ITRV-AAR-266	In Re Groupe Industrial Marcel Dassault	Authority for Advance Rulings	Gains arising on sale of shares of foreign company by Non-Resident to Non-Resident is taxable in India if the foreign co only held Indian assets
2011-ITRV-HC-KAR-268	CIT vs. Samsung Electronics Co. Ltd	Karnataka High Court	Income from licence of software assessable as “royalty” u/s 9(1)(vi) and tax was to pay tax u/s 201
2011-ITRV-HC-DEL-290	DIT vs. Ericsson AB	Delhi High Court	Profits from offshore supply of equipment & software is not taxable in India u/s 9
2011-ITRV-ITAT-DEL-293	Aithent Technologies Pvt. Ltd. vs. ITO	ITAT (Delhi)	CUP method will determine ALP of interest-free loan for transfer pricing purposes
2011-ITRV-	Ranbaxy	Delhi High	AO’s self-determination of ALP without

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HC-DEL-295	Laboratories Ltd. vs. CIT	Court	referring to TPO is “erroneous & prejudicial to interests of revenue”
2011-ITRV-ITAT-BANG-298	Genisys Integrating Systems (India) Pvt. Ltd. vs. Dy. CIT	ITAT (Bangalore)	Set out important Principles on scope, data & comparability for determining ALP for the purpose of transfer pricing

INCOME FROM HOUSE PROPERTY

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-ITAT-MUM-013	DCIT vs. Reclamation Reality India P. Ltd.	ITAT (Mumbai)	For s. 23(1)(a) only municipal valuation has to be taken. Notional Interest on deposit not includible in “Annual Value” u/s 23(1)(a) & 23(1)(b)
2011-ITRV-HC-DEL-068	CIT vs. Moni Kumar Subba	Delhi High Court	For Annual Value u/s 23, <i>notional interest</i> on deposit not includible. Municipal value is ordinarily ALV for s. 23 though AO entitled to depart for sufficient cause.
2011-ITRV-ITAT-MUM-104	Tivoli Investment and Trading Co. P. Ltd. vs. ACIT	ITAT (Mumbai)	For s. 23(1)(a) ALV, AO not bound by standard rent/ rateable value & can adjust if interest-free deposit reason for low actual rent
2011-ITRV-ITAT-MUM-162	ITO vs. Shanaya Enterprises	ITAT (Mumbai)	Property rental assessable as “business profits” if commercial activities carried out
2011-ITRV-HC-ALL-208	The Scientific Instrument Co. Ltd. vs. CIT	Allahabad High Court	Rent from Leave and License of office premises taxable as “business profits”

DEDUCTIONS UNDER CHAPTER VIA

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-HC-MUM-016	Associated Capsules P. Ltd. vs. Dy CIT	Mumbai High Court	S. 80-IA(9) cannot be interpreted to mean that s. 80-IA deduction has to be reduced for computing s. 80HHC deduction
2011-ITRV-ITAT-MUM-030	Reliance Infrastructure Ltd. v. Adl. CIT	ITAT (Mumbai)	For s. 80-IA (8), tariff fixed by MERC for sale of power does not reflect “market value”

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2011-ITRV-ITAT-HYD-036	Hyderabad Chemical Supplies Ltd. vs. ACIT	ITAT (Hyderabad)	Despite absorption in earlier year, s. 80-IA unit loss to be set-off against s. 80-IA profits
2011-ITRV-ITAT-AHD-048	Shri Rajeev Sureshbhai vs. ACIT	ITAT (Ahmedabad)	Despite bar in s. 80HHE, Non-Residents eligible for deduction in view of non-discrimination clause in DTAA
2011-ITRV-HC-MUM-055	CIT vs. Brahma Associates	Mumbai High Court	Pre AY 05-06, a project approved as “housing project” by local authority is eligible for deduction u/s 80-IB(10) irrespective of extent of commercial user
2011-ITRV-ITAT-DEL-105	J.K. Aluminium Co. vs. ACIT	ITAT (Delhi)	Despite Supreme Court in Liberty India, Excise Refund is Eligible for s. 80IB
2011-ITRV-ITAT-PUNE-167	Laxmi Civil Engg. P. Ltd. vs. Addl CIT	ITAT (Pune)	S. 80-IA(4) deduction is available even to contractor who merely develops but does not operate & maintain the infrastructure facility
2011-ITRV-HC-KOL-189	EIH Ltd. vs. CIT	Kolkatta High Court	Foods & beverages supplied to International Airlines would qualify for export sales u/s 80HHC
2011-ITRV-ITAT-KOL-196	Dy. CIT vs. Rajesh Kr. Drolia	ITAT (Kolkatta) (SB)	Deduction u/s 80IB would be admissible in respect of the job charges received and sale of spare parts of moulds sold, but not in respect of receipt of repairs and maintenance charges of moulds sold to the customers
2011-ITRV-HC-DEL-241	CIT vs. Nectar Life Science Ltd.	Delhi High Court	Interest on FDR placed as margin money for opening LC is assessable as business income & should be netted off against the interest paid on borrowings for claiming deduction u/s 80HHC
2011-ITRV-ITAT-MUM-249	Addl. CIT vs. The Total Packaging Services	ITAT (Mumbai)	For s. 80-IB deduction, Modvat credit is “derived” from industrial undertaking
2011-ITRV-ITAT-BANG-250	Anil H. Lad vs. DCIT	ITAT (Bangalore)	Loss & Depreciation of eligible unit prior to “initial assessment year”, if set-off against other income, can not be notionally carried forward for purposes of section 80IA(5)
2011-ITRV-HC-MUM-251	CIT vs. Jyoti Plastic Works Pvt. Ltd	Mumbai High Court	For claiming deduction u/s. 80-IB “workers” need not be “employees”, even persons employed through agency would be workers
2011-ITRV-HC-DEL-300	Cosmo Films Ltd. vs. CIT	Delhi High Court	Assessee should have set off the losses of the amalgamating company pertaining to export business as well as that of non-export business from the profits of the business for the purpose of computing deduction under section 80HHC

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DEPRECIATION

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-HC-DEL-019	CIT vs. Oswal Agro Mills Ltd.	Delhi High Court	Despite non-user of asset, depreciation admissible if it is part of “block of assets”
2011-ITRV-HC-DEL-020	CIT vs. Hindustan Coca Cola Beverages P. Ltd	Delhi High Court	“Goodwill” is an “intangible asset” u/s 32(1)(ii) & eligible for depreciation
2011-ITRV-HC-DEL-172	CIT vs Cosmo Films Ltd	Delhi High Court	Despite Tax Avoidance, 100% Depreciation on Sale & Lease Back is allowable

SECTION 68

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-HC-DEL-027	CIT vs. Samtel Color Ltd.	Delhi High Court	In a case where public company it is possible that at relevant time, the assessee is not in a position to take the confirmation from each and every depositor, hence no addition u/s 68 on this ground
2011-ITRV-HC-DEL-031	CIT vs. Oasis Hospitalities P. Ltd.	Delhi High Court	Laid down Principles of 'Cash Credits' for share application money u/s 68.
2011-ITRV-HC-DEL-215	Mod Creations Pvt. Ltd. vs. ITO	Delhi High Court	No addition u/s 68 in case of loans taken from the directors and shareholders if authenticity of transactions as executed between the assessee and its creditors is proved
2011-ITRV-HC-KOL-235	CIT vs. Dataware Pvt. Ltd	Kolkatta High Court	Assessee's AO cannot question Creditor's I. T. Return for section 68 satisfaction
2011-ITRV-HC-DEL-242	CIT vs. Kinetic Capital Finance Ltd	Delhi High Court	Assessee is not required to prove the genuineness of transactions as between its creditors and that of the creditor's source of income i.e., sub-creditors u/s 68
2011-ITRV-HC-P&H-277	CIT vs. Amar Chand & Sons	Punjab & Haryana High Court	No onus on the assessee to prove source of the credit worthiness of the creditor

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CAPITAL VS. REVENUE

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-HC-DEL-028	CIT vs. Orient Ceramics & Inds. Ltd.	Delhi High Court	Mere book entries are not decisive of any income.
2011-ITRV-HC-DEL-050	Logitronics P. Ltd. vs. CIT	Delhi High Court	Question whether waiver of loan is income or not, depends on whether loan was used for capital or revenue purposes
2011-ITRV-ITAT-MUM-072	Dy. CIT vs. Edelweiss Capital Ltd	ITAT (Mumbai)	If claim is not allowed as “Bad Debt”, it can be claimed as “Business loss”. Website development expense is not capital expenditure
2011-ITRV-SC-075	Guffic Chem P. Ltd. vs. CIT	Supreme Court	Prior to AY 2002-03 non-compete compensation is a capital receipt, hence not taxable
2011-ITRV-HC-J&K-090	Shree Balaji Alloys vs. CIT	Jammu & Kashmir High Court	Refund of Excise Duty under subsidy scheme is a capital receipt & not taxable
2011-ITRV-ITAT-DEL-150	Sharp Business Systems (India) Ltd. vs. Dy. CIT	ITAT (Delhi)	Non compete fee is a capital expenditure and no depreciation or spread over is allowed
2011-ITRV-HC-KOL-154	CIT vs. Rasoi Ltd	Kolkatta High Court	Subsidy granted by State Govt. to the assessee for expansion of their capacities, modernisation and improving their marketing capabilities, hence assistance was on capital account and same therefore, constitutes capital receipt
2011-ITRV-HC-MUM-157	CIT vs. Tata SSL Ltd	Mumbai High Court	Payments made for obtaining connection of CNG which would facilitate manufacturing operations, but since ultimate ownership of it remained with Mahanagar Gas Ltd., such payments is not capital expenditure as no enduring benefit is accrued to assessee.
2011-ITRV-HC-MUM-164	CIT vs. Raychem RPG Ltd.	Mumbai High Court	ERP software package is allowable as revenue expenditure
2011-ITRV-HC-GUJ-194	ACIT vs. Panama Petrochem Ltd	Gujarat High Court	Interest earned from share application money statutorily required to be kept in separate bank account is in nature of business income & should be adjusted towards cost of raising share capital
2011-ITRV-HC-DEL-245	CIT vs. Asahi India Safety Glass Ltd. and CIT vs. Amway India Enterprises	Delhi High Court	Expenditure on ‘Application Software’ is revenue in nature

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2011-ITRV-SC-267	CIT vs. Reliance Industries Ltd	Supreme Court	High Court is to decide whether sales-tax subsidy is a capital receipt
2011-ITRV-HC-DEL-291	Pitney Bowes India Pvt. Ltd. vs. CIT	Delhi High Court	Amount paid for non-compete rights while acquiring business is capital expenditure
2011-ITRV-HC-DEL-294	Airport Authority of India vs. CIT	Delhi High Court (FB)	Explained the distinction between capital & revenue expenditure

CHARITY / EXEMPT INCOMES U/S 10

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-HC-DEL-029	Central Warehousing Corporation vs. ACIT.	Delhi High Court	Only income derived from the letting out of godowns qualifies for exemption u/s 10 (29)
2011-ITRV-HC-DEL-040	St. Lawrence Education Society vs. CIT	Delhi High Court	S. 10(23C)(vi) exemption cannot be rejected merely because there is a surplus
2011-ITRV-ITAT-DEL-041	Disha India Micro Credit vs. CIT	ITAT (Delhi)	Activity of giving micro-finance & earning interest is “charitable purpose”
2011-ITRV-ITAT-MUM-137	Grameen Initiative for Women vs. DIT(E)	ITAT (Mumbai)	Registration as Public Trust not necessary for s. 12A “Charity” registration

CARRY FORWARD AND SET-OFF OF LOSSES

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-ITAT-MUM-045	DCIT vs. Gagan Trading Co. Ltd	ITAT (Mumbai)	Brought forward Business Loss can be set-off against dividends assessed as “income from other sources” if shares held for business
2011-ITRV-ITAT-MUM-129	Tata Power Co. Ltd. vs. Addl CIT	ITAT (Mumbai)	S. 54EC deduction is allowable before set-off of brought-forward loss.
2011-ITRV-HC-CAL-153	PCBL Industrial Ltd. vs. CIT	Kolkatta High Court	As the assessee’s principal business was granting of loans, therefore, explanation to section 73 would not be applicable

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TAX DEDUCTION AT SOURCE

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-HC-DEL-064	CIT vs. Cadbury India Ltd.	Delhi High Court	No penalty for TDS breach if no “mala fide intention” or “deliberate defiance” of law.
2011-ITRV-HC-P&H-069	CIT vs Swaraj Mazda Ltd	Punjab & Haryana High Court	If s. 195(2) certificate is not withdrawn, assessee is not in s. 201 TDS default.
2011-ITRV-ITAT-AHD-101	Ahmedabad Urban Development Authority vs. ACIT	ITAT (Ahemdabad)	Even fixed charges for hire of vehicles are not “rent” for s. 194-I.
2011-ITRV-ITAT-MUM-110	Standard Chartered Bank vs. Dy. DIT	ITAT (Mumbai)	“Equipment-Use” is not royalty if payer has no control over equipment
2011-ITRV-ITAT-MUM-143	Yahoo India P. Ltd. vs. DCIT	ITAT (Mumbai)	For “Equipment Royalty” u/s 9(1)(vi), control of equipment by is payer essential.
2011-ITRV-ITAT-MUM-210	Bharti Shipyard Ltd. vs. Dy CIT	ITAT (Mumbai)	S. 40(a)(ia) amendment by Finance Act 2010 is not retrospective.
2011-ITRV-HC-KOL-212	Bhura Exports Ltd. vs. ITO	Kolkatta High Court	There is no time bar for passing order u/s 201(1)/(1A).
2011-ITRV-ITAT-KOL-233	Dy. CIT vs. S. K. Tekriwal	ITAT (Kolkatta)	No s. 40(a)(ia) disallowance for short-deduction of TDS default
2011-ITRV-HC-MUM-244	CIT vs. Kotak Securities Ltd.	Mumbai High Court	“Transaction charges” paid to BSE is “fees for technical services” & TDS deductible u/s 194-J
2011-ITRV-ITAT-DEL-252	ITO (TDS) vs. Indian Oil Corporation	ITAT (Delhi)	Laid down the Tests to distinguish “transportation contract” from “hire contract” for TDS under 194-I or 194C
2011-ITRV-HC-MUM-262	Indian Newspaper Society vs. ITO (TDS)	Mumbai High Court	For TDS purposes Assessing Officer in place of payment has no jurisdiction if assessee is assessed outside
2011-ITRV-HC-KAR-268	CIT vs. Samsung Electronics Co. Ltd	Karnataka High Court	Income from licence of software assessable as “royalty” u/s 9(1)(vi) and tax was to pay tax u/s 201
2011-ITRV-ITAT-MUM-275	SKIL Infrastructure Ltd. vs. ITO (TDS)	ITAT (Mumbai)	For purposes of deduction u/s 194 I there is a distinction between “hire of vehicles” & “transportation contract”
2011-ITRV-ITAT-MUM-276	Chattisgarh State Electricity Board vs. ITO(TDS)	ITAT (Mumbai)	For purposes of section 194-I to be “Rent”, payee must have “control” over asset. There is a distinction between ‘the use of an asset’ and the ‘benefit derived from an asset’

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2011-ITRV-ITAT-DEL-296	SRL Ranbaxy Ltd. vs. Addl. CIT	ITAT (Delhi)	Tests to determine “Principal-Agent” Relationship explained for purpose of commission u/s 194H
2011-ITRV-HC-DEL-299	CIT vs. Expeditors International (India) P. Ltd.	Delhi High Court	Payments made by assessee to its parent company for Global Management expenses is in nature of reimbursement which are not chargeable to tax, and thus, no TDS u/s 195
2011-ITRV-HC-DEL-301	CIT vs. Maruti Udyog Ltd	Delhi High Court	Not deducting TDS on VRS paid to employees over and above the admissible exemption u/s 10(10C) was not a default as there was sufficient and reasonable reasons for not deducting such TDS

PARTNERSHIP

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-HC-HP-067	Durga Dass Devki Nandan vs. ITO	Himachal Pradesh High Court	CBDT Circular which specifies that for s. 40(b)(v), the partnership deed should specify the remuneration, is invalid
2011-ITRV-HC-DEL-78	Madhu Rani Mehra vs. CIT	Delhi High Court	Capital asset treated as stock-in-trade of proprietary business received on dissolution of partnership firm has to be valued at market value
2011-ITRV-HC-DEL-247	Sood Brij & Associates vs. CIT	Delhi High Court	Partnership Deed must quantify or lay down the manner of quantifying remuneration to partners for allowability u/s 40(b)(v).

DEEMED DIVIDEND

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-HC-DEL-109	CIT vs. Ankitech P. Ltd	Delhi High Court	S. 2(22)(e) “deemed dividend” not assessable if recipient not shareholder.
2011-ITRV-HC-DEL-224	CIT vs. National Travel Services	Delhi High Court	For purpose of s. 2(22)(e), firm is “shareholder” though shares are held in names of partners
2011-ITRV-HC-DEL-270	CIT vs. Arvind Kumar Jain	Delhi High Court	“Trade Advances” are not “loans & advances” for the purposes of s. 2(22)(e)
2011-ITRV-HC-KOL-274	Pradip Kumar Malhotra vs. CIT	Kolkatta High Court	“Non-gratuitous” advances to substantial shareholder is not deemed dividend u/s 2(22)(e).

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SECTION 36 / 37 / OTHER DISALLOWANCE

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-HC-DEL-106	Mohan Meakin Ltd. vs. CIT	Delhi High Court	If “bad debt” not allowable u/s 36(1)(vii), claim for deduction u/s 37(1) can be raised for first time even before High Court
2011-ITRV-HC-DEL-125	Shanti Bhushan vs. CIT	Delhi High Court	Professional’s heart surgery expense not deductible u/s 31 or 37(1).[
2011-ITRV-ITAT-MUM-142	Dalal Broacha Stock Broking P. Ltd. vs. Addl. CIT	ITAT (Mumbai)	S. 36(1)(ii) bars tax avoidance scheme of paying commission instead of dividend.
2011-ITRV-HC-GUJ-192	CIT vs. Hi Rel Electronics Pvt. Ltd	Gujarat High Court	If an expenditure is undisputedly incurred for business purposes, then the same would be allowed irrespective whether the same is in the nature of prior period expense
2011-ITRV-HC-MP-201	CIT vs. Khemchand Motilal Jain Tobbaco Products Pvt. Ltd	Madhya Pradesh High Court	While kidnapping is an offense, paying ransom is not; Bar in Explanation 1 to s. 37(1) not attracted and the payment is allowable as business expenditure
2011-ITRV-ITAT-MUM-210	Bharti Shipyard Ltd. vs. Dy CIT	ITAT (Mumbai)	S. 40(a)(ia) amendment by Finance Act 2010 is not retrospective.
2011-ITRV-ITAT-KOL-233	Dy. CIT vs. S. K. Tekriwal	ITAT (Kolkatta)	No s. 40(a)(ia) disallowance for short-deduction of TDS default
2011-ITRV-HC-MUM-260	CIT vs. The Stock and Bond Trading Company	Mumbai High Court	Penalty/ Fine for violation of procedural law is not hit by Explanation to s. 37(1) and the same is allowable as deduction
2011-ITRV-ITAT-PUNE-282	Dy. CIT vs. Sandvik Asia Ltd	ITAT (Pune)	VRS expenditure incurred by the assessee company is an allowable business expenditure under section 37(1) of the Act

GP RATIO / BOOKS OF ACCOUNTS / VALUATION OFFICER

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-HC-	CIT vs. Sai	Punjab &	S. 40A(3) Disallowance can be made in Block

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P&H-077	Metal Works	Haryana High Court	Assessment even if GP estimated
2011-ITRV-ITAT-DEL-159	Lalsons Jewellers Ltd. vs. Dy. CIT	ITAT (Delhi)	Non filing of confirmation from the loaner cannot be a basis for rejection of books of accounts
2011-ITRV-ITAT-DEL-160	ACIT vs. R. L. Traders	ITAT (Delhi)	No addition is warranted simply because there is fall in Gross Profit ratio in certain years
2011-ITRV-ITAT-DEL-161	ADIT vs. Shri Ranjay Gulati	ITAT (Delhi)	No addition could be made, on the facts of the case, merely on the basis of DVO's report.

MISCELLANEOUS

<i>Citation</i>	<i>Appellant vs. Respondent</i>	<i>Court</i>	<i>Held</i>
2011-ITRV-ITAT-SC-042	Electronics Corporation of India Ltd. vs. UOI & Anrs.	Supreme Court	The law requiring PSUs to obtain COD approval is recalled
2011-ITRV-SC-059	GVK Inds. Ltd & Anrs vs. ITO & Anrs	Supreme Court	Parliament can only make laws for India and any law which has no impact on or nexus with India would be ultra-vires.
2011-ITRV-HC-P&H-077	CIT vs. Sai Metal Works	Punjab and Haryana High Court	S. 40A(3) disallowance can be made in Block Assessment even if GP estimated
2011-ITRV-HC-UTR-091	DIT vs Maersk Co. Ltd	Uttarakhand High Court	Employee is not liable to pay s. 234B interest for failure to pay advance tax on salary.
2011-ITRV-ITAT-RJT-146	VineetKumar Raghavjibhai Bhalodia vs. ITO	ITAT (Rajkot)	HUF is a "relative" for gifts exemption u/s 56(2)(v), (vi) & (vii)
2011-ITRV-HC-MUM-151	CIT vs. Loknete Balasaheb Desai S.S.K. Ltd.	Mumbai High Court	Excisable goods lying in closing stock, the liability to pay excise duty would crystallise only on the date of clearance of such goods, and not on the date of manufacture of the same, the same cannot be added under section 43B
2011-ITRV-ITAT-DEL-152	Delight Developers P. Ltd. vs. ACIT	ITAT (Delhi)	Mere advance for the commercial space was given by the assessee would be treated as the date of setting up business
2011-ITRV-HC-CAL-155	Goodricke Ltd. vs. CIT	Kolkatta High Court	Addition u/s 41(1) could not be made merely because the creditor had failed to encash the cheque issued by the assessee and the same could not be held to be remission/cessation of

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			the liability
2011-ITRV-SC-163	Justice P.D. Dinakaran vs. Hon'able Judges Inquiry Committee & Ors	Supreme Court	Question of "bias" in judicial function must be seen from "reasonable man's" perspective
2011-ITRV-HC-MUM-180	Sahney Kirkwood P. Ltd. vs Addl CIT	Mumbai High Court	Tax Planning transaction is not "Sham" if parties assessed
2011-ITRV-ITAT-PUNE-205	Maharashtra State Warehousing Corporation vs. ACIT	ITAT(Pune)	There would be no s. 40A(9) disallowance for statutory corps as their Service Regulations have "force of law"
2011-ITRV-ITAT-MUM-219	DCIT vs. Stup Consultants Pvt. Ltd	ITAT (Mumbai)	Despite s. 209(3) of the Co's Act, company can follow cash system for tax purposes
2011-ITRV-ITAT-DEL-239	Addl DIT vs. Alcatel Lucent USA INC	ITAT (Delhi)	Interest u/s 234B would not be charged where the income of the non-resident assessee was subject to TDS u/s 195, irrespective whether such tax was actually deducted or not
2011-ITRV-ITAT-MUM-240	K P Power Pvt. Ltd. vs. ITO	ITAT (Mumbai)	Lease rental which was accepted as business income in earlier years cannot be treated differently where there is temporary lull in the business of the assessee during the year as against the cessation of business
2011-ITRV-SC-256	UOI & Anrs vs. Pradeep Kumar Kedia & Anrs	Supreme Court	Govt's decision not to appoint ITAT Members till amendment providing for 2 years' appointment
2011-ITRV-HC-MAD-269	Uttam Bir Singh Bedi vs. Union of India	Madras High Court	The President of the Tribunal has no power to write the Members' ACR
2011-ITRV-HC-DEL-285	Bill & Peggy Marketing India Pvt. Ltd. vs. ACIT	Delhi High Court	Interest u/s 234C is mandatory and automatic
2011-ITRV-AAR-288	In Re Nuclear Power Corporation of India Ltd	Authority for Advance Ruling	Pendency of question in payee's hands disbars payer's application for advance ruling u/s 245R

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