

CONTENTS

LANDMARK JUDGMENTS OF SUPREME COURT IN DIRECT TAX LAWS

CHAPTER 1—INTRODUCTION

What are the landmark Judgments?	1
Great judgment v. Landmark judgment	1
Landmark Judgments	1
Supreme Court set up	2
Sitting of the court	2
Binding force of a Supreme Court Judgment	2
Appeal before the Supreme Court against the order of the High Court	3
When appeal lie to the Supreme Court – Appeal to Supreme Court [Section 261]	3
Special Leave Petitions in India (SLP)	4
SLP under Article 132 of the Constitution of India	4
Text of Article 132 of Constitution of India	4
Text of Article 136 of Constitution of India	5
Scope of Article 136 of Constitution of India	5
Acceptance or Rejection of Petition for Special Leave to Appeal	6
Dismissal of a SLP in limine	7
Text of Article 133 of Constitution of India	7
Reliance on Decisions	8
Ratio Decidendi, Obiter Dicta, and Casual Observations	8

CHAPTER 2—PRELIMINARY

Section 1 : Short title, extent and commencement	10
Section 2(1A) : Agricultural Income	12
Section 2(12A) : Books of account	24
Section 2(14) : Capital asset	25
Section 2(15) : Charitable purpose	28
Section 2(19) : Co-operative society	41
Section 2(22)(c) : Distribution to shareholders on liquidation	43
Section 2(22)(d) : Distribution to the shareholders by a company on reduction of its share capital to the extent of accumulated profits	47

Section 2(22)(e) : Deemed dividend	48
Section 2(23) : Firm	54
Section 2(24) : Income	55
Section 2(31) : Person	61
Section 2(43) : Tax.....	65
Section 2(47) : Transfer	68
CHAPTER 3—BASIS OF CHARGE	
Section 4 : Charge of Income-tax	76
Section 5 : Scope of total income	82
Section 6 : Residence in India	87
Section 8 : Dividend	87
Section 9 : Income deemed to accrue or arise in India	89
CHAPTER 4—INCOME WHICH DO NOT FORM PART OF TOTAL INCOME	
Section 10(1) : Agricultural Income	95
Section 10(4) : Interest income of non-resident	99
Section 10(5) : Leave travel concession	99
Section 10(10B) : Compensation received by workman under industrial disputes Act	100
Section 10(10C) : Voluntary Retirement Schemes	100
Section 10(14) : Exempt allowance	101
Section 10(19A) : Annual value of any one palace	101
Section 10(20) : Income of a Local authority	103
Section 10(22) : Educational institution	104
Section 10(23C) : Educational society	105
Section 10(23EA) : Income by way of contribution received from recognized stock exchanges	112
Section 10(37) : Compulsory acquisition	112
Section 10(38) : Long-term capital gain	113
Section 10A : Free trade zone	116
Section 10AA : Special economic zones	119
CHAPTER 5—CHARITABLE OR RELIGIOUS TRUST	
Section 11 : Income from Property held for charitable or religious purposes	121
Section 11(1)(d) : Corpus contributions	127
Section 11(2) : Accumulation of income in excess of 15% of the income earned	127

Section 11(4) : Income from a business carried on by the trust	129
Section 11(4A) : Profits and Gains from Incidental Business	133
Section 11(5) : Forms and modes of investing or depositing the money for income accumulated under section 11(2).....	134
Section 11(6) : Restricting depreciation – Acquisition of which have been claimed as application shall not be allowed	135
Section 12 : Voluntary contributions (Donations).....	135
Section 12AA : Trust Registration	137
Section 13 : Section 11 do not apply in certain cases	144
Section 13(1)(b) : Charitable purpose is not for the benefit of a particular religious community or caste	144
Section 13(1)(c) : Benefit to interested persons	146
Section 13(1)(d) : Investment of funds of the trust / institution in modes or forms other than those specified	146
CHAPTER 6—EXPENDITURE INCURRED IN RELATION TO INCOME NOT INCLUDIBLE IN TOTAL INCOME	148
CHAPTER 7—SALARY	
Section 15 : Salary	161
Section 17 : Salary, “perquisite” and “profit in lieu of salary”	164
CHAPTER 8—INCOME FROM HOUSE PROPERTY	
Section 22 : Income from house property	168
Section 23 : Annual value how determined	176
Section 24 : Deductions from Income from house property	181
Section 27 : “Owner of house property”, “annual charge”, etc.	181
CHAPTER 9—PROFITS AND GAINS OF BUSINESS OR PROFESSION	183
CHAPTER 10—ADMISSIBLE DEDUCTION	
Section 31 : Repair and insurance of machinery, plant and furniture	193
Section 32 : Depreciation	196
Section 32A : Investment allowance	218
Section 32AB : Investment deposit account	221
Section 33 : Development rebate	223
Section 35 : Expenditure on Scientific Research	224
Section 35AB : Expenditure on know-how	225
Section 35AC : Expenditure on eligible projects schemes	226
Section 35CCA : Rural development programmes	227
Section 35D : Amortisation of certain preliminary expenses	227

CHAPTER 11—OTHER DEDUCTIONS

Section 36(1)(ii) : Any sum paid to an employee as bonus or commission	229
Section 36(1)(iii) : Interest paid on borrowed capital	229
Section 36(1)(v) : Contribution towards an approved Gratuity Fund	244
Section 36(1)(vii) : Bad Debts	246
Section 36(1)(viii) : Special Reserve Created by Financial Corporation	256

CHAPTER 12—GENERAL BUSINESS EXPENDITURE 258**CHAPTER 13—AMOUNTS NOT DEDUCTIBLE**

Section 40(a)(ia) : Disallowance for non-deduction or non-payment of TDS	299
Section 40(a)(iib) : Disallows any amount: (i) paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on OR (ii) which is appropriated, directly or indirectly, from a State Government undertaking by the State Government	300
Section 40(b) : Allowability of remuneration and interest paid to partners	302

CHAPTER 14—EXPENSES OR PAYMENTS NOT DEDUCTIBLE IN CERTAIN CIRCUMSTANCES

Section 40A(2) : Business disallowance—Excessive or unreasonable payments	310
Section 40A(3) : Cash payments exceeding prescribed limits	311
Section 40A(7) : Deduction and Gratuity	314

CHAPTER 15—PROFITS CHARGEABLE TO TAX

Section 41(1) : Remission or cessation of trading liability	315
Section 41(2) : Balancing charge	320

CHAPTER 16—SPECIAL PROVISION FOR DEDUCTIONS, PLANT, SPECULATIVE TRANSACTION, ETC.

Section 42 : Special provision for deductions in the case of business for prospecting, etc., for mineral oil	324
Section 43(3) : Plant	325
Section 43(5) : Speculative transaction	326
Section 43(6) : Written down value	329
Section 43A : Special Provisions Consequential to Changes in Rate of Exchange of Currency	329

CHAPTER 17—CERTAIN DEDUCTIONS TO BE ONLY ON ACTUAL PAYMENT 334

**CHAPTER 18—INSURANCE BUSINESS , SPECIAL PROVISION
FOR COMPUTING PROFITS AND GAINS, ETC.**

Section 44 : Insurance business	340
Section 44AB : Audit of accounts of certain persons carrying on business or profession	344
Section 44AD : Special provision for computing profits and gains of business on presumptive basis	344
Section 44BB : Special provision for computing profits and gains in connection with the business of exploration, etc., of mineral oils	345

CHAPTER 19—CAPITAL GAINS

Section 45 : Capital Gains arising out of ‘transfer’ of a capital asset	346
Section 45(3) : Profits or gains arising from the transfer of a capital asset by a person to a firm or other association of persons or body of individuals (not being a company or a co-operative society)	350
Section 45(4) : Capital gain on transfer of capital assets by a firm / AOP / BOI to partner / member on its reconstitution	351
Section 45(5) : Enhanced compensation	352
Section 45(5A) : Special provisions for computation of capital gains in case of Joint Development Agreement	361
Section 46 : Capital gains on distribution of assets by companies in liquidation	362
Section 47 : Transactions not treated as Transfer	363
Section 48 : Mode of computation	364
Section 49 : Cost with reference to certain modes of acquisition	365
Section 50 : Special provision for computation of capital gains in case of depreciable assets	366
Section 50B : Capital gains in case of Slump Sale	370
Section 50C : Special provision for full value of consideration in certain cases	371
Section 51 : Advance money received	372
Section 54 : Profit on sale of property used for residence	373
Section 54E : Capital gain on transfer of capital assets not to be charged in certain cases	374
Section 54F : Capital gain on transfer of certain. capital assets not to be charged in case of investment in residential house	375
Section 54G : Capital gains Exemption on transfer of assets in case of shifting of industrial undertaking from urban areas	376
Section 55 : Meaning of “adjusted”, “cost of improvement” and “cost of acquisition”	377
Section 55A : Reference to valuation officer	378

CHAPTER 20—INCOME FROM OTHER SOURCES

Section 56 : Income from other sources	379
Section 56(2)(i) : Dividends	381
Section 56(2)(ib) : Winnings from Lotteries, Crossword Puzzles, Horse Races and Card Games etc.	382
Section 56(2)(iii) : Income from composite letting of Plant, Machinery or Furniture and Building	382
Section 56(2)(vii)(b) : Share Premium in Excess of Fair Market Value to be Taxed as Income	382
Section 56(2)(viii) : Interest received on compensation or enhanced compensation	384
Section 57 : Deductions	385

**CHAPTER 21—INCOME OF OTHER PERSONS, INCLUDED IN
ASSESSEE'S TOTAL INCOME**

Section 60 : Transfer of income where there is no transfer of assets	390
Section 61 : Revocable Transfer of assets	391
Section 62 : Transfer irrevocable	392
Section 64 : Income of individual to include income of spouse, minor child, etc.	393

CHAPTER 22—TAXATION OF UNDISCLOSED INCOME

Section 68 : Cash credits	398
Section 69 : Unexplained investments	421
Section 69A : Unexplained money, etc.	427
Section 69B : Amount of investments, etc., not fully disclosed in books of account	429
Section 69C : Unexplained expenditure, etc.	430

CHAPTER 23—SET-OFF OR CARRY FORWARD AND SET-OFF

Section 70 : Set off of loss from one source against income from another source under the same head of income	436
Section 71 : Set off of from one head against income from an other	438
Section 72 : Carry forward and set off of business losses	440
Section 72A : Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc.	444
Section 73 : Losses in Speculation Business	447
Section 75 : Losses of Firms	449
Section 78 : Carry-forward and set-off of losses in case of change in constitution of firm or on succession	449

Section 79 : Carry-forward and set-off in case of certain companies	451
Section 80 : Submission of return for losses	454
CHAPTER 24—DEDUCTIONS TO BE MADE IN COMPUTING TOTAL INCOME	
Section 80AB : Deductions to be made with reference to the income included in the gross total income	455
Section 80G : Deduction in respect of donations to certain funds, charitable institutions, etc.	455
Section 80HH : Deduction in respect of profits and gains from newly established industrial undertakings or hotel business in backward areas	458
Section 80HHC : Deduction in respect of export turnover	458
Section 80HHE : Deduction in respect of profits from export of computer software, etc.	462
Section 80-I : Deduction in respect of profits and gains from industrial undertakings after a certain date, etc.	463
Section 80-IA : Deduction in respect of profits and gains from Industrial undertakings or enterprises engaged in infrastructure development, etc.	465
Section 80IB : Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings	469
Section 80IC : Special provisions in respect of certain undertakings or enterprises in certain special category States	477
Section 80-O : Deduction in respect of royalties, etc. from certain foreign enterprises	479
Section 80P : Deduction in respect of income of Co-operative societies	482
Section 89 : Relief when salary, etc., is paid in arrears or in advance	493
CHAPTER 25—DOUBLE TAXATION RELIEF	
Section 90 : Agreement with foreign countries or specified territories	495
CHAPTER—SPECIAL PROVISIONS RELATING TO AVOIDANCE OF TAX	
Section 92C : Computation of arm's length price	498
Section 94(7) : Dividend stripping	498
CHAPTER 27—DETERMINATION OF TAX IN CERTAIN SPECIAL CASES	
Section 113 : Tax in the case of block assessment of search cases	500
Section 115J : Special provisions relating to certain companies	502
Section 115JB : Special provision for payment of tax by certain companies	505

CHAPTER 28—INCOME-TAX AUTHORITIES

Section 119 : Instructions to subordinate authorities	508
Section 127 : Power to transfer cases	513

CHAPTER 29—POWERS

Section 131 : Power regarding discovery, production of evidence, etc.	518
Section 131(1A) : Empower the officers of the Investigation Wing (also to include officers authorized to carry out search operations i.e 'authorised officers'), to exercise the powers mentioned in the section 131(1)	518
Section 132 : Search and seizure	519
Section 132(3) : Order prohibiting the person in possession or control of any books, documents, money. Bullion, jewellery or other valuable article or things not to remove without prior permission	525
Section 132(4) : Statement during Search Operation	526
Section 132(4A) : Presumptions as to assets, books of account, etc.	529
Section 132(8) : Time limit for retention books of account or other documents seized or deemed to be seized	530
Section 132A : Powers to requisition books of account, etc.	532
Section 132B : Application of seized or requisitioned assets	534
Section 133A : Power of survey	536

CHAPTER 30—PROCEDURE FOR ASSESSMENT

Section 139 : Return of Income	542
Section 139(5) : Furnish a revise return	543
Section 142(2A) : Special audit	544
Section 143 : Assessment	547
Section 143(1A) : Processing of returns under Section 143(1)	548
Section 143(2) : Notice for scrutiny	550
Section 143(3) : Assessment	554
Section 144 : Best judgment assessment	558
Section 145 : Method of accounting	561

CHAPTER 31—INCOME ESCAPING ASSESSMENT

Section 147 : Income Escaping Assessment	573
Section 148 : Issue of notice where income has escaped assessment	606
Section 150 : Power of Appellate Authority	613
Section 151 : Sanction for issue of Notice under section 148.....	614
Section 153 :Time limit for completion of assessment, reassessment and recomputation	616

CHAPTER—ASSESSMENT IN CASE OF SEARC

Section 153A : Assessment in case of search or requisition 621

Section 153C : Assessment of income of any other person 623

CHAPTER 33—RECTIFICATION OF MISTAKES, ETC.

Section 154 : Rectification of mistake 629

Section 155 : Other amendments 638

Section 156 : Notice of demand 639

Section 157 : Intimation of Loss 641

**CHAPTER 34—SPECIAL PROVISIONS/PROCEDURE & LIABILITY
IN SPECIAL CASES**

Section 158BB : Computation of undisclosed income of the block period 644

Section 160 : Representative assessee 645

Section 164 : Charge of tax where share of beneficiaries unknown 647

Section 166 : Direct assessment or recovery not barred 648

Section 168 : Executors 650

Section 170 : Succession to business otherwise than on death 653

Section 171 : Assessment after partition of a Hindu undivided family 653

Section 172 : Shipping Business of Non-residents 662

Section 176 : Discontinued Business 663

Section 177 : Association dissolved or business discontinued 667

Section 178 : Company in liquidation 668

Section 179 : Liability of directors of private Company in liquidation 669

Section 182 : Assessment of registered firms 671

CHAPTER 35—SPECIAL PROVISIONS APPLICABLE TO FIRMS

Section 184 : Assessment as a firm 676

Section 185 : Assessment when section 184 not complied with 682

Section 186 : Cancellation of registration 684

Section 187 : Change in constitution of a firm 684

Section 188 : Succession of one firm by another firm 688

Section 188A : Joint and several liability of partners for tax payable
by firm 691

Section 189 : Firm dissolved or business discontinuance 692

CHAPTER 36—COLLECTION AND RECOVERY OF TAX

Section 192 : Salary 696

Section 194 : Dividends 698

Section 194A : Interest other than “Interest on securities” 699

Section 194C : Payments to contractors 702

Section 194E : Payment to non-resident sportsmen or sports associations	705
Section 194H : TDS on Commission or Brokerage	706
Section 194-I : Rent	708
Section 194J : Fees for professional or technical services	709
Section 194L : Payment of compensation on acquisition of capital asset	710
Section 194LA : Payment of compensation on acquisition of certain immovable property	710
Section 195 : Deduction at source - Non-Resident	711
Section 197 : Certificate for deduction at lower rate	717
Section 199 : Credit for tax deducted	718
Section 201 : Consequence of failure to deduct or pay	721
Section 219 : Credit for advance tax	722
CHAPTER 37—COLLECTION AND RECOVERY	
Section 220 : When tax payable & when assessee deemed in default	725
Section 220(2A) : Reduce or Waiver of interest paid or payable by an assessee under section 220(2A) by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner	727
Section 220(3) : Petition of assessee to keep the demand in abeyance	728
Section 222 : Certificate by Tax Recovery Officer	730
Section 223 : Tax Recovery Officer by whom recovery is to be effected	731
Section 226 : Other modes of recovery	733
CHAPTER 38—INTEREST CHARGEABLE & RELIEF RESPECTING TAX ON DIVIDENDS IN CERTAIN CASES	
Section 234A : Interest for defaults in furnishing return of income	740
Section 234B : Interest for defaults in payment of advance tax	742
CHAPTER 39—REFUNDS	
Section 237 : Refunds	746
Section 240 : Refund on appeal, etc.	746
Section 241A : Withholding of refund in certain cases	749
Section 243 : Interest on delayed refunds	750
Section 244 : Interest on refund where no claim is needed	751
Section 244A : Interest on refunds	754
Section 245 : Set off of refunds against tax remaining payable	755
CHAPTER 40—SETTLEMENT OF CASES	757

CHAPTER 41—ADVANCE RULINGS

Section 245N : Definitions	766
Section 245R : Procedure on receipt of application	766

CHAPTER 42—APPEALS TO THE COMMISSIONER (APPEALS)

Section 246 : Appealable order	768
Section 248 : Appeal by a person denying liability to deduct tax in certain cases	769
Section 249 : Form of appeal and limitation	770
Section 250 : Procedure in appeal	774
Section 251 : Powers of Commissioner (Appeals).....	775

CHAPTER 43—APPEALS TO THE APPELLATE TRIBUNAL

Section 252 : Appellate Tribunal	777
Section 252A : Qualifications, terms and conditions of service of President, Vice-President and Member	777
Section 253(5) : Condonation of delay of time limit	777
Section 254(1) : Orders of Appellate Tribunal	778
Section 254(2) : Appellate Tribunal - Rectification of Mistake	779
Section 254(2A) : Grant of stay by Tribunal on Stay applications	783
Section 255 : Procedure of Appellate Tribunal	784

CHAPTER 44—APPEALS TO HIGH COURT

Section 260A : Appeal to High Court	786
Section 260A(2A) : Condonation of delay	799

CHAPTER 45—APPEAL TO SUPREME COURT

Section 261 : Appeal to Supreme Court	805
---	-----

**CHAPTER 46—REVISION BY THE PRINCIPAL COMMISSIONER
OR COMMISSIONER**

Section 263 : Revision of orders prejudicial to revenue	823
Section 264 : Revision of other orders	839

CHAPTER 47—GENERAL

Section 268A : Filing of appeal or application for reference by Income-tax authority	843
---	-----

CHAPTER 48—PENALTIES IMPOSABLE

Section 271(1)(a) : Penalty - For late filing of return	845
Section 271(1)(c) : Failure to furnish returns, comply with notices, concealment of income, etc.	847
Section 271AAA : Penalty where search has been initiated on or after 01.06.2007 but before 01.07.2012	860

Section 271AAB : Penalty where search has been initiated on or after 01.07.2012	860
Section 271C : Penalty for failure to deduct tax at source	861
Section 271D : Penalty for failure to comply with the provisions of section 269SS	862
Section 271E : Penalty for failure to comply with the provisions of section 269T	867
Section 271G : Penalty for failure to furnish information or document under section 92D	867
Section 273 : For false estimate or failure to pay advance tax	868
Section 274 : Procedure	868
Section 275 : Bar of limitation for imposing penalties	868
CHAPTER 49—OFFENCES AND PROSECUTIONS	
Section 276B : Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B	870
Section 276C : Wilful attempt to evade tax, etc.	872
Section 276CC : Failure to furnish returns of income	879
Section 277 : False statement in verification etc.	880
Section 278 : Abetment of false return, etc.	885
Section 278B : Offences by companies	885
Section 278E : Presumption as to culpable mental state	886
Section 279(1) : Prosecution at Instance of Chief Commissioner / Commissioner	887
Section 279(2) : Compounding of Offences	889
Section 280 : Disclosure of particulars by public servants	892
CHAPTER 50—MISCELLANEOUS	
Section 281 : Certain transfers to be void	894
Section 281B : Provisional attachment to protect revenue in certain cases	896
Section 282 : Service of notice generally	897
Section 288 : Appearance by authorized representative	899
Section 292 : Cognizance of offences	900
Section 292A : Section 360 of the Code of Criminal Procedure, 1973, and the Probation of Offenders Act, 1958, not to apply	901
Section 292BB : Notice deemed to be valid in certain circumstances	901
Section 293 : Bar of suits in civil court	903
Section 295 : Power to make rules	904
Section 297 : Repeals and savings	905

CHAPTER 51—AMENDMENT WHICH HAS NULLIFIED THE PRINCIPAL LAID DOWN BY THE APEX COURT	
Section 2(24)(xviii) : Subsidies are no longer capital receipts	908
Section 14A : Expenditure incurred in relation to income not includible in total income	910
Explanation 5 to section 32(1) : It is mandatory to claim depreciation	912
Section 45 : Capital Gains	912
Section 45(1A) : Capital Gains when Insurance is received	915
Section 45(2) : Capital gains on conversion of capital assets into stock-in-trade	915
Section 45(3) : Capital gain on transfer of capital asset by a partner, member to a firm or association of persons or body of individuals, as capital contribution	916
Section 45(4) : Capital gain on transfer of capital assets by a firm / AOP / BOI to partner / member on its dissolution or reconstitution	916
[9] .. Section 55(2)(a) : Capital gain on self-generated capital asset	918
Explanation 2 to section 132B : Seized assets cannot be adjusted against the advance tax liability	918
Finance Act, 2022 through amendment by inserting section 170(2A) overruled the decision of Hon'ble Supreme Court in the case of PCIT v. Maruti Suzuki India Ltd. Case	919
Section 268A : Filing or appeal or applicable for reference by income-tax authority	920
CHAPTER 52—CENTRAL GOODS AND SERVICES TAX ACT, 2017	921
CHAPTER 53—OTHER SUPREME COURT JUDGMENTS OF LEGAL IMPORTANCE	929
CHAPTER 54—DOCTRINE FOR INCOME-TAX PURPOSES	932
Doctrine of mutuality for Income-tax purposes	932
Doctrine of Res-Judicata in Income-tax proceedings	934
CHAPTER 55—PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT, 1988	936
CHAPTER 56—THE CONSTITUTION OF INDIA— THE FOUNDATIONAL LAW OF INDIA	938
CHAPTER 57—LAW OF LIMITATION	942
CHAPTER 58—OTHER ACTS	951

