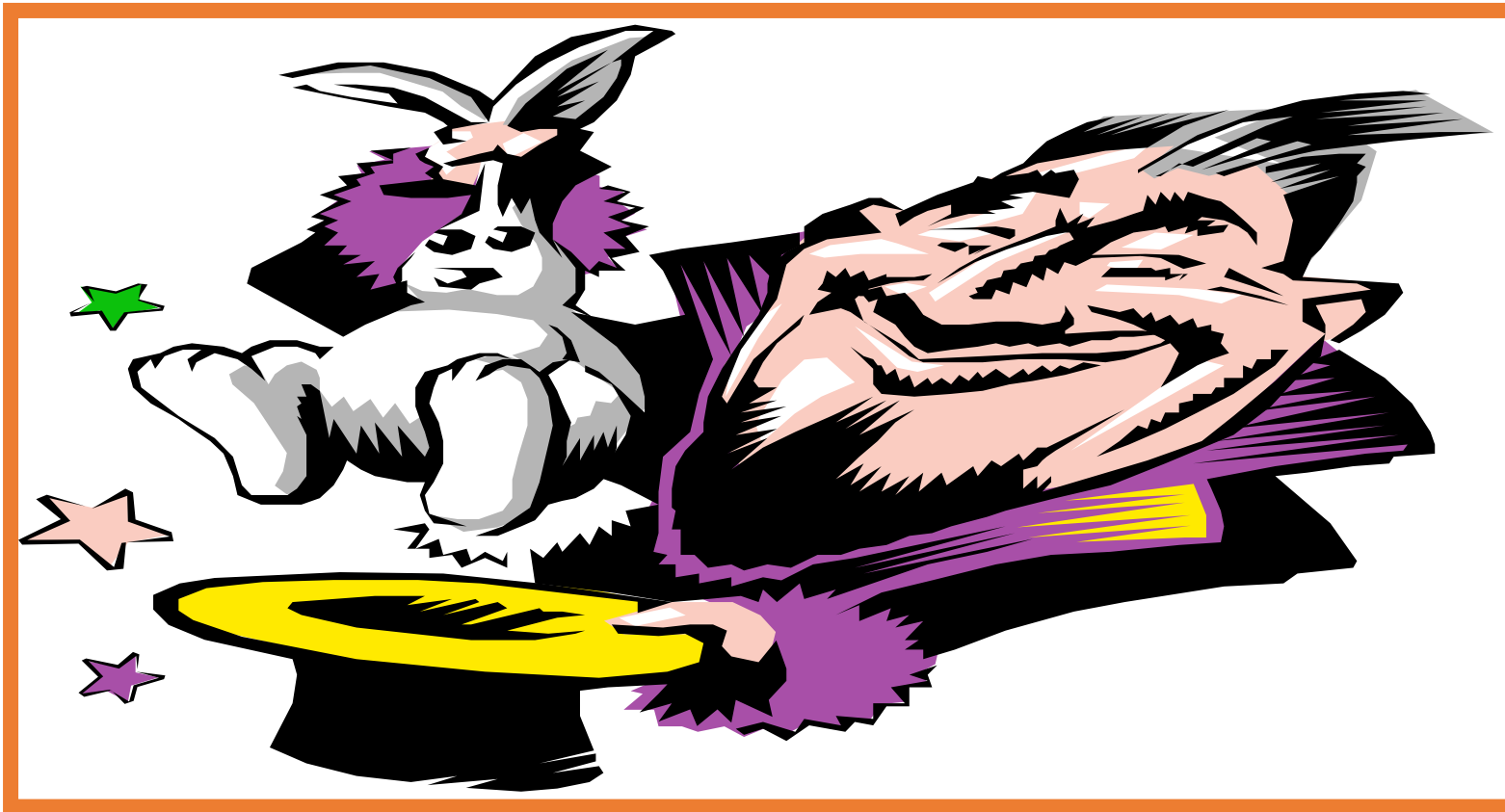


**Accounting of Expenses Under AS / Ind AS –  
Deductibility under Income Tax Act  
Computation of Income from Business / Profession.**

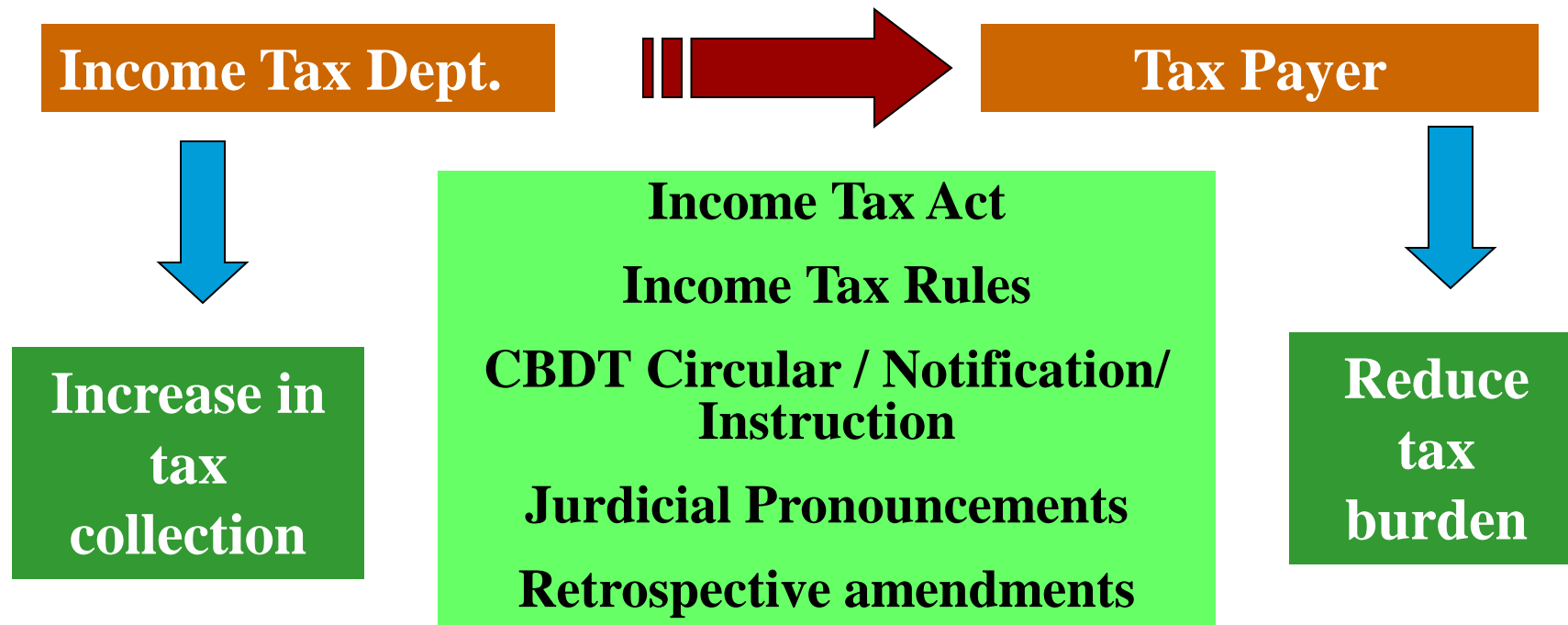
**Niranjan Swain, BCom, LLB, ACS, FCMA: Advocate & Tax Consultant**



**Money Saved is Money Earned**



# Provisions of Laws - Assessee & CBDT / Income Tax Department?



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6/7/2020

## Scope of delegated legislation

- ❑ **Settled law that a notification cannot override the statute. This view is supported based on following decisions :**
  - **CIT v. Sirpur Paper Mills [(1999)(237 ITR 41)(SC)]**
  - **CIT v. Taj Mahal Hotels [(1971)(82 ITR 44)(SC)]**
- “It is settled law that the CBDT cannot issue a circular, which goes against the provisions of the Act. The CBDT can only clarify issues but cannot insert terms and conditions which are not part of the main statute; A delegate or person authorized to issue delegated legislation cannot virtually set at naught the provisions of the main statute.”**
- **Durga Dass Devki Nandan Vs. ITO (200 Taxman 318)(HP) :**

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## Commercial Accounting principles- Basis for Taxable Profits

**Section 145(1) – Income chargeable under the heads “Profits and Gains from Business or Profession”– subject to 145(2) - as per method of accounting regularly followed**

**Section 145(2) – the Central Government has notified “ICDS”**

**Prior to introduction of ICDS , the taxable profits were computed based on the commercial accounting principles subject to express provision of the Act. :-**

- **Miss Dhun Dadabhai Kapadia v. CIT [(1967) 63 ITR 651(SC)]**
- **CIT v. U.P. State Industrial Development Corporation [(1997) 225 ITR 703 (SC)] it was held that :-**
  - *“for the purposes of ascertaining profits and gains the ordinary principles of commercial accounting should be applied, so long as they do not conflict with any express provision of the relevant statute”*

**Preamble to every ICDS clearly states that in case of conflict between the provisions of the Act and the ICDS - the provisions of the Act shall prevail.**

## **Overview of Profits and Gains from Business or Profession**

- **Financial Statement V. Income Computed under Profits / gains from Business & Profession.**
- **Expenses accounted in compliance to GAAP, AS / Ind AS and Companies Act**
- **Expenses Allowed under Income Tax Act in computation of Income from Business & Profession.**
- **Capital and Revenue Expenses under Accounting**
- **Capital and Revenue Expenditure in Income Tax**
- **Concept of Deferred Revenue Expenses under Accounting V. under Income Tax Act**

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## List of Notified ICDS

ICDS	Income Computation and Disclosure Standards	Equivalent AS	Equivalent IND AS
ICDS I	Accounting Policies	AS-1/5	IND AS-1 and 8
ICDS II	Valuation of Inventories	AS-2	IND AS-2
ICDS III	Construction contracts	AS-7	IND AS-11
ICDS IV	Revenue Recognition	AS-9	IND AS-18
ICDS V	Tangible Fixed Assets	AS-10	IND AS-16
ICDS VI	Effects of Changes in Foreign Exchange Rates	AS-11	IND AS-21
ICDS VII	Government Grants	AS-12	IND AS-20
ICDS VIII	Securities	AS-13	IND AS-32
ICDS IX	Borrowing Costs	AS-16	IND AS-23
ICDS X	Provisions, Contingent Liabilities and Contingent Assets	AS-29	IND AS-37

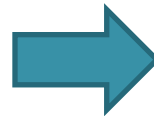
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## Reporting requirement in Tax Audit Report

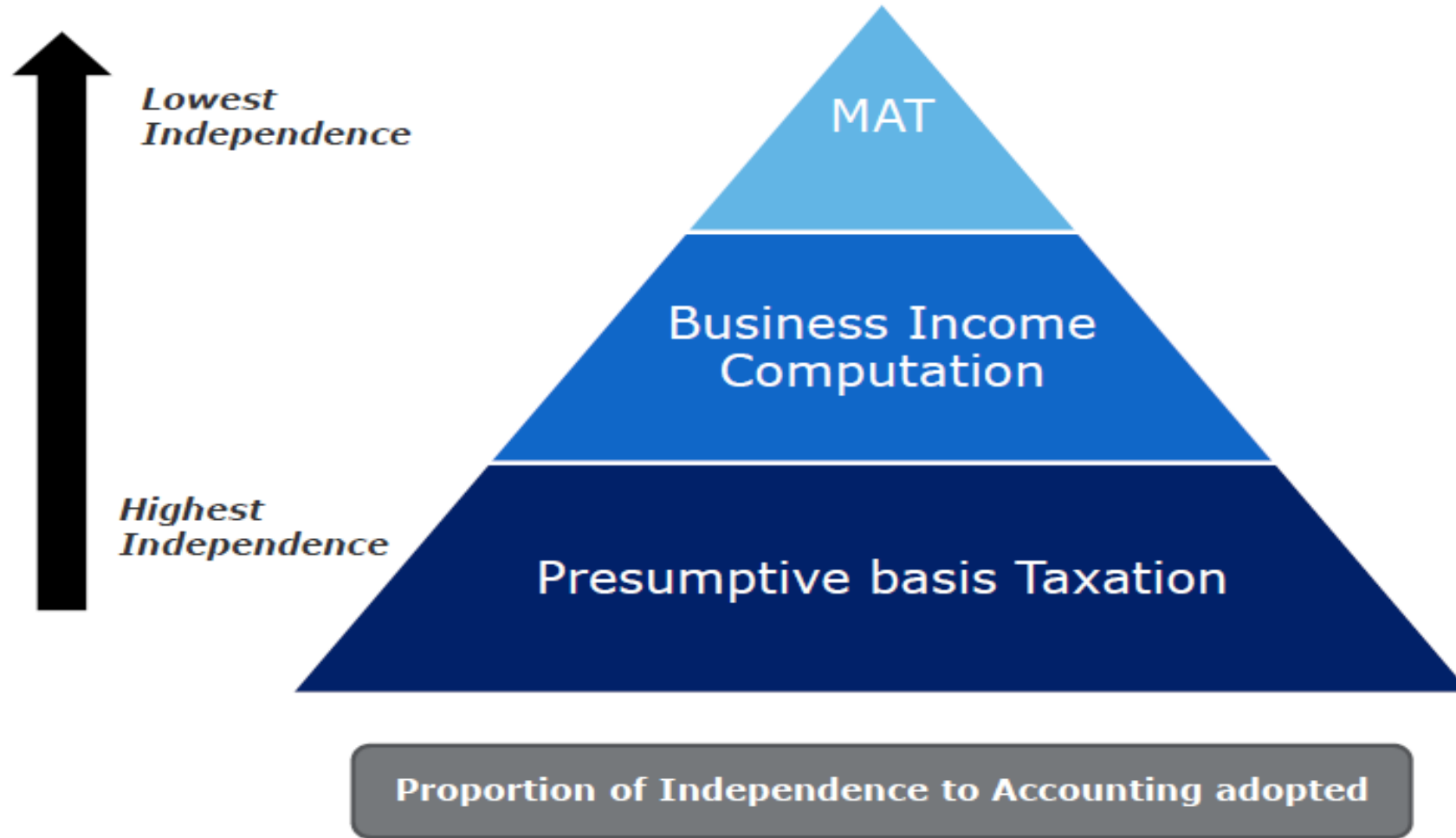
		<b>Increase in Profit (Rs.)</b>	<b>Decrease in Profit (Rs.)</b>	<b>Net Effect (Rs.)</b>
ICDS I	Accounting Policies			
ICDS II	Valuation of Inventories			
ICDS III	Construction Contracts			
ICDS IV	Revenue Recognition			
ICDS V	Tangible Fixed Assets			
ICDS VI	Changes in Foreign Exchange Rates			
ICDS VII	Governments Grants			
ICDS VIII	Securities			
ICDS IX	Borrowing Costs			
ICDS X	Provisions, Contingent Liabilities and contingent assets			
<b>Total</b>				

**(f) Disclosure as per ICDS:**



- i) ICDS-I Accounting Policies**
- ii) ICDS-II Valuation of Inventories**
- iii) ICDS-III Construction Contracts**
- iv) ICDS-IV Revenue Recognition**
- v) ICDS-V Tangible Fixed Assets**
- vi) ICDS-VII Governments Grants**
- vii) ICDS-IX Borrowing Costs**
- viii) ICDS-X Provisions, Contingent Liabilities and contingent Assets**

## Interplay between Ind AS and Income Tax



Accounting Standard



## Specimen for computing Taxable Income under ICDS framework

Particulars	Amt	Amt
Profit / loss as per profit and loss statement	XXX	
Add/ Less: Adjustments as per ICDS		xxx
<b>Adjusted Income as per ICDS*</b>		<b>XXX</b>
Add/ Less: Adjustments as per the provisions of the Act		xxx
<b>Total Income</b>		<b>XXX</b>

\* For any non compliance with ICDS appropriate disclosure should be made.

## Applicability of Income Tax Rate under IT Act

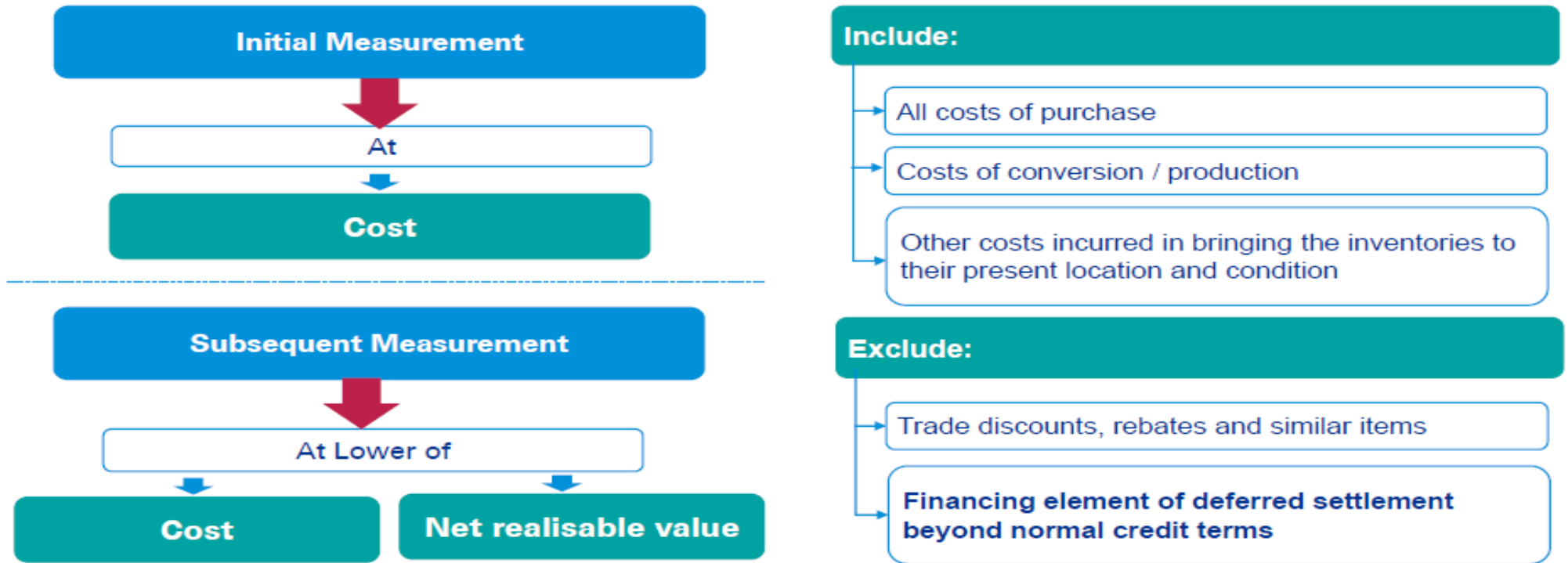
Provisions	Tax Rate	Available To	Optional or Mandatory
Section 115BA	25% / MAT @15%	Old manufacturing domestic companies incorporated on or after 1 <sup>st</sup> March 2016	<b>Optional.</b> Total income of the company is computed without claiming the specified deductions, exemptions or incentives available.
Section 115BAA	22% / MAT not applicable	All domestic companies. From 1.10.2019	<b>Optional.</b> Total income is computed without providing for specified exemption, deduction or incentive available. Once opted for Section 115BA then it cannot opt out from this provision in subsequent years
Section 115BAB	15% / MAT not applicable	New manufacturing domestic companies. From 1.10.2019	<b>Optional.</b> Total income is computed without providing for specified exemption, deduction or incentive available
First Schedule to Finance Act	25% / MAT @15%	All domestic companies subject to turnover threshold limit of Rs.400 Crores	<b>Mandatory</b>
First Schedule to Finance Act	30% / MAT @15%	All other domestic companies	<b>Mandatory</b>

15th April 2020

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# Valuation of Inventory under Accounting V. Under Income Tax Act

## Measurement



**Closing stock & opening stock should be valued on the same basis.  
Mahendra Mill Ltd v.AAC (1975) 99ITR 135 (SC)**

# Accounting v. Treatment under IT Act - Depreciation

Cost of Individual Assets v. Block of Asset Concept

Cost of Improvement & Repair

Meaning of Actual Cost of Asset

Revaluation of Assets

Assets held for disposal - discarded, Research Assets

Dismantling Cost / Decommissioning Cost

Impact of Differed Taxes

# Depreciation

**Assets must be used during the previous year**

**Unitex Products Ltd. v. ITO [2018]22 SOT 430 (Mum.) ,**

**CIT v. Bharat Alumimum Co. Ltd. [2010]187 Taxman 111 (Delhi),**

**Swati Synthetics Ltd.V. ITO [2010] 38 SOT 208 (Mum.)**

**CIT v. Oswal Agro Mills Ltd, [2011]197 Taxman 25 (Delhi),**

**Sony India (P) Ltd.v CIT [2017] 292 CTR (Delhi) 396,**

**CIT v. Galileo India (P) Ltd [2016] 52 ITR (Trib.) 294 (Delhi).**



# Depreciation

**One Asset is ready to use means it is used – Depreciation is allowable even if not used during the year.**

**Whittle Anderson Ltd. v CIT [1971] 79 ITR 613 (Bom.),**

**Capital Bus Service (P) Ltd. v. CIT [1980] 123 ITR 404 (Delhi),**

**CIT v. Viswanath Bhaskar Sathe [1937] 5 ITR 621 (Bom.).**

**CIT v. Refrigeration & Allied industries Ltd [2001] 247 ITR 12 (Delhi),**

**CIT v. Yamaha Motor India (p) Ltd. [2009] 183 Taxman 228 (Mad.)**

**NTPC Ltd v. CIT 2012] 211 Taxman 505 (Delhi).**

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# Depreciation

- ❑ **Forced idleness of the machinery cannot disentitle the assessee from getting the benefit of allowance.**

**CIT V. Natural Peroxide Ltd. (2003) sot 321 (Mumb)**

- ❑ **Provisions of Sec 32 may be given a wider meaning and embrace passive as well as active user**

**Vindhyanchal Distilleries (P) Ltd. (2005) 147 Taxman 127(MP).**

**Viswanath Bhaskar Sethe V. CIT 10 ITC 386(Bomb)**



## Few – Issues - Depreciation

❑ Capitalisation CSR Expenses incurred as a condition to clearance of Project execution & depreciation on capitalized assets

❑ **Treatment of machinery spares – Depreciation there on u/s 32**

*The expression 'used for purposes of business' appearing in section 32 takes into account emergency spares also which even though ready for use are not as a matter of fact consumed or used during relevant period as these are spares specific to a fixed asset and will, in all probability, be useless once asset is discarded. Depreciation u/s 32 is allowable in respect of emergency spares of plant and machinery even though they have not been used during relevant period.*

**CIT, New Delhi v. Insilco Ltd. [2009] 179 Taxman 55 (Delhi)**

**Judgment Applied: CIT v. Southern Petrochemical Industries Corpn. Ltd.**

**[2007] 292 ITR 362 (2007) (Mad)**

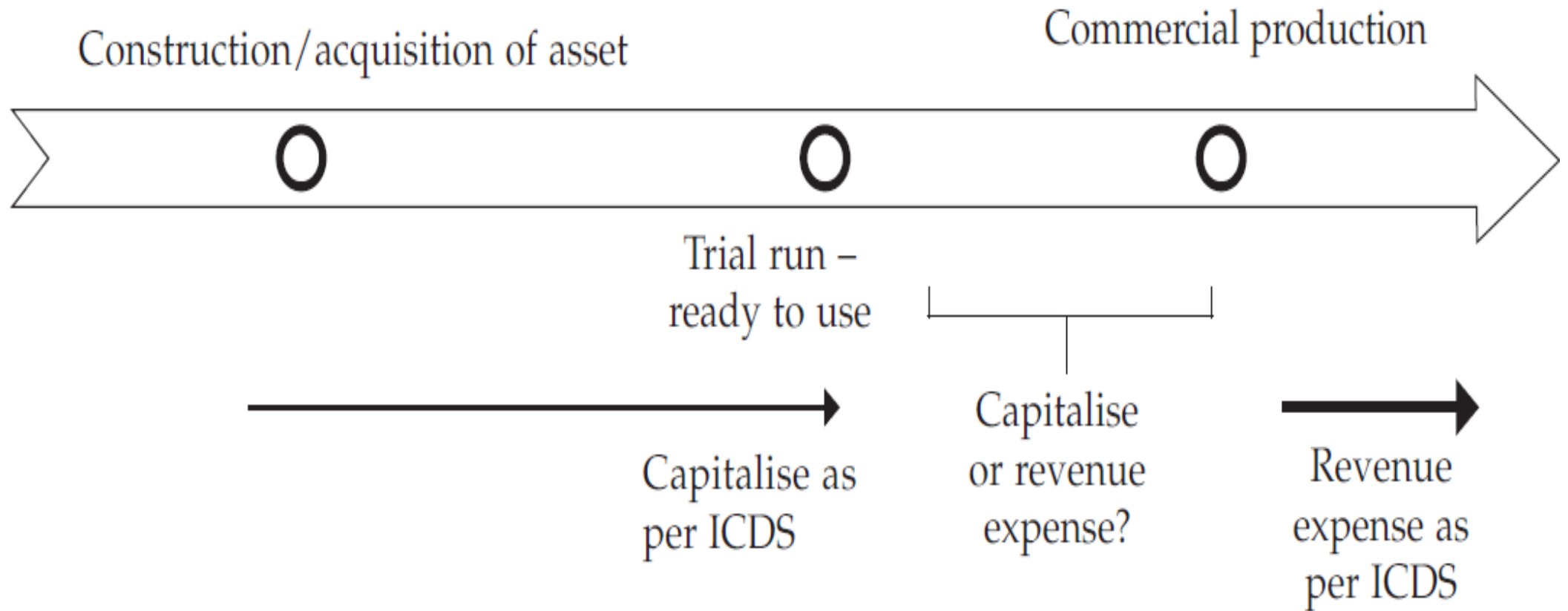
## Few Issues – Land cost – Depreciation / Amortisation

Particulars	Treatment as per Accounts	Treatment as per Tax
<b>Free Hold Land</b>	<b>No Depreciation</b>	<b>Not Deductibility</b>
<b>Lease hold land</b>	<b>As per Ind.AS 116 – Leases</b>	<b>Land not a Depreciable Asset.</b>
<b>Permissible land</b>	<b>Amortised and charged to SPL</b>	<b>No amortisation of cost allowed</b>
<b>Asset laid on permissible land - Used by Public</b>	<b>Depreciation Claimed in P/L</b>	<b>Deductible Expenses</b>
<b>Asset laid on permissible land - Assessee Use</b>	<b>Depreciation Claimed in P/L</b>	<b>Deductible Expenses</b>
<b>Contribution for Asset Creation</b>	<b>Revenue Expenses</b>	<b>Deductible Expenses</b>

## Few Issues – Construction of Road – Contribution to Outsiders

- ❑ Expenditure on road construction is a capital expenditure which is eligible for depreciation. Contribution to outsiders for road construction is deductible if it is advantageous to the assessor's business-
  - ❖ *L. H. Sugar Factory & Oil Mills (P) Ltd. v. CIT*[1980] 125 ITR 293 (SC),
  - ❖ *Panipat Co-operative Sugar Mills Ltd. v. CIT* [1977] 108 ITR 111 (Punj. & Har.),
  - ❖ *D. P. Chairania & Co. v. CIT*[1978]112 ITR 12 (Kar.),
  - ❖ *Hindustan Machine Tools Ltd. v. CIT*[1988] 40 Taxman 43 (Kar.).
- ❑ Expenditure on repairing of an existing road (e.g., expenditure for conversion of metal road into concrete road) is deductible.
  - ❖ *CIT v. Shree Cement Ltd.*[2016] 76 taxmann.com. 130 (Raj.)
- ❑ On the other hand, if construction of a road is not advantageous to the assessee's business contribution towards its construction is not an allowable deduction-
  - ❖ *L. H. Sugar Factory & Oil Mills (P) Ltd.v.CIT* [1980]125 ITR 293 (SC).

# Period of capitalization - Depreciation



## Accounting V. Allowability of Bad debt / Trade Receivable Written Off– Sec 36(i)(vii)

### ❑ Condition of allow ability

- ❖ There must be a debt.
  - ❖ Debt must be incidental to Business.
  - ❖ Debt must have been taken into account in computing taxable income.
  - ❖ Debt must have written off in the books of Accounts.
- 
- *No requirement for charging to statement of P/L – Circular No.19/ 2015 dtd.27<sup>th</sup> Nov 2015.*
  - *No Proof is required to demonstrate the debt had become bad.*
  - *Witten off is sufficient to claim deduction.*

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## Accounting V. Allowability of Bad debt / Trade Receivable Written Off– Sec 36(i)(vii)

- **Witten off is sufficient to claim deduction.**
- *“After 1.4.1989, for allowing deduction for the amount of any bad debt or part thereof under section 36(1)(vii) of the Act, it is not necessary for assessee to establish that the debt, in fact has become irrecoverable; it is enough if bad debt is written off as irrecoverable in the books of accounts of assessee.”*

**T.R.F. Ltd. V. CIT (2010) 190 Taxman 391(SC)**

**CBDT Circular No.12/2016 dated.30.05.2016**

- **Adjustment of Recovery of Bad debt as Income – Sec.41(4)**

## Few Issues – Accounting of Expenses v. Disallowability of Expenditure on Cash payment

### ❑ **Payment to Political Parties:**

- ❖ *Expenditure on Advertisement Sec 37(2B) – Souvenir, Brochure, Tract, Pamphlet etc published by Political Parties*
- ❖ *Contribution to political parties – U/s 80GGB/80 GGC – by Cheque*

### ❑ **Expenditure subject to 40A (3) / 40A (3A)– Payment made in excess of Rs.10,000 otherwise than by Account Payee Cheque / Account Payee Bank Draft / through electronics mode in a banking channel**

- ❖ *Section 40A(3): Payment against expenses accounted during the year*
- ❖ *Section 40A(3A): Payment against expenses accounted during past years.*
- ❖ *Exception Under Rule 6DD*



## Allowability of Expenses – Default in TDS / Equalisation Levy / Royalty / Levy

- ❑ **Payment made without deduction of tax at source**
  - ❖ ***When recipient is Non Resident – Section 40(a)(i)***
    - ***Interest, Royalty, technical fee and other sum ( other than salary)***
- ❑ **Salary Payable Outside India Section 40(a)(iii)–**
  - ❖ **Resident or Non Resident / In India to Non Resident**
- ❑ **Any sum payable to a Resident – 40(a)(ia) -**
  - ❖ ***Expenses covered under TDS provisions except Sections 192 / 195***
- ❑ ***Non deduction of Equalisation Levy 40(a)(ib)***
  
- ❑ ***Salary Payable Outside India without deduction of tax at source-40(a)(iii)***
  - ❖ ***Chargeable to tax, paid / payable in India or Outside India***

## Allowability of Expenses – Default in TDS / Equalisation Levy / Royalty / Levy

### ❑ **Whether disallowability default of deduction**

#### ❖ *On Capital Expenses V. Revenue Expenses*

- ❑ *TDS default u/s 194A for interest, depreciation on interest component capitalized cannot be denied by involving the provisions of section 40(a)(ia)*

#### ❖ *Sonic Biochem Extraction (P) V.ITO (2013) 59 SOT 4 (Mumbai)*

#### ❖ *Kawasaki Microelectronics Inc. V.DCIT(2015) taxmann.com 256 (Bang- Trib)*

#### ❖ *SAB Miller India Ltd. V.CIT (2015) 63 taxmann.com 341 (Mumb)*

### ❑ **TDS Defaults is applicable on amount paid or payable:**

#### ❖ *Palm Gas Service v. CIT [2017] 81 taxmann.com 43 (SC)*

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## Allowability of Expenses – Default in TDS / Equalisation Levy / Royalty / Levy

### ❑ **Consequences in TDS default:**

- ❖ *Disallowances 100% / 30% of expenditure & allowable during year of deduction / deposit of TDS*
  - ❖ *Assessee in default u/s section 201(1)*
  - ❖ *Levy of Penalty ( Sec-271C/ Prosecution 276B / Interest 201(1A) –*
- 
- ❑ **No penalty / imprisonment / disallowances if tax deposited by the Payee and Income taken in filling return u/s 139(1). Interest is only Payable.**
- 
- ❖ **Notification No. 37/2012 dated 12-9-2012, (Rule 31ACB & Form No. 26A for submission of Certificate)**
  - ❖ *Hindustan Coca cola Beverage (P) Ltd. v. CIT (2007) 163 Taxman 355(SC)*
  - ❖ *CIT v. Sahara India Commercial Corporation Ltd (2017) 395 ITR 734 (All)*
  - ❖ *Gaziabad Development Authority V. Union of India (2017) 395 ITR 597 (All)*
  - ❖ *CIT v. Punjab Infa. Development Board (2017) 394 ITR 216 (P & H)*

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## Few Issues – Default in TDS

- ❑ **Short deductions – not treated as assessee in default u/s 201(1)**
  - ❖ *CIT V. S.K.Tekeriwal(2011) 15 taxmann.com 289(Kol Trb)*
  - ❖ *CIT V. chandabhoy & Jassobhoy (2012) 49SOT448(Mumb)*
  - ❖ *UE Trade Corpn(India)Ltd. V. C.I.T.(2012)5480/ T 596(/Delhi)*
  - ❖ *Three star Grantees(P)Ltd. V. CIT(2014) 49 Taxmann.com 578(Coachin)*
  - ❖ *C.I.T. V. KK. Builders(P)Ltd. (2015) 62 taxmann.com 187(Patna)*
  - ❖ *C.IT V. Kishore Rao(2016) 387 ITR 196(Kar)*
  - ❖ *Dish TV India Ltd. V. CIT (2017) 86 taxman.com 117(Mumb)*

### Contrary Ruling

- ❖ *CIT V. PVS Memorial Hospital Ltd. (2015) 234 Taxman 46(Ker)*
- ❑ **Increase in Income due to TDS default / disallowance of expenses also eligible for deduction under Chapter VIA**
- ❑ **TDS default is not applicable in case delay in filing return**
- ❑ **TDS default is not applicable in case expenses claimed deduction under other head of income ( not under profits and gains from business)**



## **Deduction Not allowed even debited to Statement of Profit and Loss**

- ❑ **Dis-allowances of Royalty, licence fees etc in case of State Government Undertakings – Sec 40(a)(iib)**
- ❑ **Provident Fund payment without – 40(a)(iv) –**
  - ❖ **Management of the Company to draw attention of the Trust that TDS to be deducted as per provision of IT Act and to be confirmed by the Secretary of the PF Trust: CIT v. Delhi Cloth Mills Co Ltd [1981] 127 ITR 22 (Delhi)**
- ❑ **Tax on Perquisites paid by the employers - 40(a)(v) –**
  - ❖ **Income Tax : 40(a)(ii)- includes interest, penalty / fine , tax paid outside India (section 90/90A/91).**
  - ❖ **Indirect tax are allowable expenses.**
  - ❖ **Tax paid outside India ((section 90/90A/91) however allowable as tax credit.**
- ❑ **Payment to Relatives – Section 40A(2)**

## **Deduction u/s 43B -**

- ❑ Allowable of expenditure on cash basis or paid by due date of filing return.**
- ❖ Any tax, duty, cess or fee paid under any law in force**
- ❖ Contribution by Employer to any recognized employee's benefit fund:**
- ❖ PF fund, Superannuation fund, Gratuity fund before the due date for depositing those funds or before the due date of filing income tax returns.**
- ❖ Bonus or commission payable to employees-**
- ❖ Interest on borrowings from Public Financial Institutions or State Financial Corporation, Schedule banks etc. ( No Govt. Loan / Other Loan)**
- ❖ Leave encashment provided by an employer to his employees**
- ❖ Payment to Indian Railways**

## **Leave Salary – Allowable on payment basis**

### **Section 43B – Constitutionally Valid**

#### **Union of India v. Exide Industries Ltd, [2020] 116 taxmann.com 378 (SC)**

- ❑ SC upholds constitutional validity of clause (f) in Section 43B of the 1961 Act is held to be constitutionally valid and operative for all purposes 43B
- ❑ Allowable as deduction of leave encashment on payment basis

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## Issues in deduction 43-B

- ❑ **Employees Contribution to PF / welfare Fund not deductible U/S 36(I) (va), if not paid before statutory due date / even if credited/paid on or before due date of submission of return of income u/s 139(I)**
  - ❖ **CIT v. South India Corporation Ltd.[2015] 232 Taxman 241(Ker.).**
  - ❖ **CIT v. Merchem Ltd. [2015] taxmann.com 119(Ker.).**

### **Contrary Rulings:**

- ❖ **CIT v. Kichha Sugar Co.Ltd [2013]217 Taxman 64(Raj.),**
- ❖ **CIT v. Hemla Embroidery Mills (P) Ltd.[2013] 217 Taxman 207 (Punj. & Har.),**
- ❖ **CIT v. Ozer Merchant Co-operative Bank Ltd.(2014) SOT 14 (Pune),**
- ❖ **CIT v. State Bank of Bikaner & Jaipur [2014] 225 Taxman 6 (Raj.).**
- ❖ **CIT v. Jaipur Vitran Nigam Ltd. [[2015]228 Taxman 214 (Ran.).**
- ❖ **Sadbhav Engg. Ltd v. CIT[2014] 45 Taxmann.com 333 (Ahd.),**
- ❖ **CIT v. Magus Customers Dialog (P) Ltd.[2015] 231 Taxman 379 (Kar.)**
- ❖ **Bihar State Warehousing Corpn. Ltd.v CIT[2017] 393 ITR 386 (Pat.),**
- ❖ **CIT v. Rajasthan State Ganganagar Sugar Mills Ltd. [2017] 393 ITR 421 (Raj.).**
- ❖ **CIT v. Rajasthan State Beverage Corpn. Ltd [2017] 84 taxmann.com 173 (Raj.).**

## Issues in deduction 43-B

- ❑ Contribution to welfare funds have been brought at par with the other duty, cess, fee, etc. and the deduction is allowable to the employer assessee if he deposits the contributions to welfare funds on or before the 'due date' of filing of return of income.
- ❖ CIT v. Alom Extrusions Ltd (2009) 185 Taxman 416 (SC)
- ❖ Circular No.22/2015 dated.17<sup>th</sup> Dec 2015
  
- ❑ Deduction of Gratuity u/s Section 43B v. 40A(7)
- ❑ Payment made to Gratuity Fund, maintained with Life Insurance Corporation, where assessee has no control over irrevocable trust created exclusively for the benefit of employees, is allowable as deduction
  
- ❖ CITv. Verizon Data Services India (P) Ltd. [2015] 43 ITR (Trib.) 436
- ❖ (Chennai), Narasu's Spinning Mills v.CIT[2016]66 taxmann.com 277(Chennai).

# Key differences between IGAAP, Ind AS & ICDS - Provisions

Particulars	AS 29	Ind AS	ICDS/ Tax impact
<b>Recognition of provisions</b>	<ul style="list-style-type: none"> <li>A provision is recognised only when a past event has created a <u>legal or constructive obligation</u>, an outflow of resources is probable, and the amount of the obligation can be estimated reliably.</li> </ul>	<ul style="list-style-type: none"> <li>A provision shall be recognised when all of the following conditions are met:                             <ol style="list-style-type: none"> <li>an enterprise has a <u>present obligation as a result of a past event</u>;</li> <li>it is <u>probable</u> that an outflow of resources embodying economic benefits will be required to settle the obligation; and</li> <li>a <u>reliable estimate</u> can be made of the amount of the obligation.</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>As per ICDS, Provisions shall be recognised if it is <u>reasonably certain</u> that outflow of economic resources will be required.</li> <li>Provision is not discounted to NPV</li> <li>The criteria for recognition of provisions on the basis of the test of 'probable' (i.e. more likely than not criteria) replaced with the requirement of 'reasonably certain'.</li> <li>In the absence of definition and scope of 'reasonably certain' criteria, an ambiguity would arise on assessment of 'reasonably certain' criteria.</li> <li>In the Act, there is no specific provision for recognition of provisions. However, provisions are allowed based on accrued liabilities as per ordinary principles of commercial accounting.</li> </ul>

Provision for Warranty is allowed as an expenditure upholding the test of 'probable' warranty obligation in the following judgments.

- Rotork Controls India P. Ltd. (2009) 314 ITR 62 (SC)
- Himalaya Machinery (P) Limited v DCIT 334 ITR 64
- CIT vs. Luk India P. Ltd. 52 DTR 117.
- Siemens Public communication Networks Limited v CIT
- CIT v Indian Transformer Limited. 270 ITR 259

## **Provision of expenses in Accounts - Allowability in computation of PGBP**

- ❑ **Business liability has definitely arisen in accounting year, deduction should be allowed although liability may have to be quantified and discharged at a future date but what should be definite is incurring of liability.**

**Metal Box Co. of India Ltd. v. Their Workmen [1969] 73 ITR 53 (SC)**

**BEML v. CIT, [2000] 112 Taxman 61 (SC)**

- ❑ **The liability would be an accrued liability and would not convert into a conditional one merely because the liability was to be discharged at a future date. There may be some difficulty in the estimation thereof but that would not convert the accrued liability into a conditional one.**

**Calcutta Co. Ltd. v. CIT [1959] 37 ITR 1 (SC),**

- ❑ **Provision to qualify for recognition, there must be a present obligation arising from past events, settlement of which is expected to result in an outflow of resources and in respect of which a reliable estimate of amount of obligation is possible and deductible from gross receipt.**

**Rotork Controls India (P.) Ltd. v. CIT, Chennai. [2009] 180 Taxman 422 (SC)**



# Is deduction under Chapter VIA is available ?

- ❑ ***Increase in Profit due to disallowances Section 32, 40(a)(ia), 40A(3), 43B—eligible for deduction under Chapter VIA***
- ❖ ***Circular No. 37/2016- Dated: November 2, 2016***
- ❖ ***ITO, Ward 5(1) vs. Keval Construction (Tax Appeal No. 443 of 2012, December 10, 2012), (Gujarat) -***
- ❖ ***CIT -IV, Nagpur vs. Sunil Vishwambharnath Tiwari, (IT Appeal No. 2 of 2011, September 11, 2015) (Mub)***
- ❖ ***Principal CIT, Kanpur vs. Surya Merchants Ltd., (I.T. Appeal No. 248 of 2015, May 03, 2016) (All.)***
  
- ❑ **Whether above benefit is available to other expenses disallowed?**

## Penalty Provisions

Section	Particulars	Quantum of Penalty	Effective From
Sec.271(l) (c)	Concealment of Income	100% to 300% tax sought to be evaded	Upto A.Y 2016-17
Sec.270A	Under reporting (except section 68 to 69D.	50% tax payable on under reporting / 200% in case of misreporting	From A.Y 2017-18
Sec 271 AAC	Sec . 68 to 69D	10% of the tax payable u/s 115BBE. (77.25% for AY 2017-18 / 78% for AY 2019-20)	From A.Y 2017-18

**A mere making of the claim, which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars regarding the income of the assessee.**

**Reliance Petro products Pvt. Ltd. 322 ITR 158 (SC)**

# Q&A



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