PRECAUTIONS IN I.TAX ASSESSMENTS

by

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SIRC of ICAI, CHENNAI

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Normal causes of Scrutiny

- Bank deposits credit more than ROI T.O.
- 26-AS mis match
- Third party evidences-Bogus purchases/loans/agreements
- Non-filing of Return
- Under-reporting of Income/ Sales

  Eg:- Real Estate/Doctors/Colleges
- Assets not in match with income
- Big New constructions – EOTs
- Closing stock –un-matched. Eg:-Jewellery shops
- Money Lending- in cash Bank deposits
- TDS non-payment, as per Form 3CD
- Survey and Search cases

Income-tax Act Provisions

Assessment Provisions		
Old Section	**Subject**	**New Sec.**
142(1)	Enquiry before Assessment	268
143(1)	Summary Assessment /Intimation	270(1)
143(2)	Statutory Notice	270(8)
143(3)	Scrutiny Assessment Order	270(10)
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153	Time limit for completion of Asst & Reassmnt	286
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TECHNICAL VALIDITY OF NOTICES & ORDERS.

- **For every return filed with in 139 time or in response to Sec.148 notice ---to take up for scrutiny issuing Notice U/sec.143(2) is a must.**
- 143(2)—Six months from the end of the Return filing fin Year – upto 31.3.2021
- Three months with effect from 31.3.2021
- 148-Time limit Under sec. 149. To issue Notice
- Below 50.0 lakhs income chargeable to tax
- – 3 years 3 months.
- Above 50.0 lakhs income chargeable to tax
- – 5 years 3 months.
- Proper Authority prior permission is taken or not
- Sec. 153(3) –ITAT de-novo Asst Order – not done within the statutory time limit

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148A- Time limit Under sec. 149. To issue Notice Approval U/sec. 151

- Below 50.0 lakhs income chargeable to tax – 3 years .-Pr. CIT
- Above 50.0 lakhs income chargeable to tax – 5 years Pr .CCIT.
- To the right person at right address .

Eg:- Deceased person, P.F. converted as LLP or as Pvt Ltd Co, Mergers & Acquisitions

Proper Authority approval is necessary

H and M Hennes and Mauritz Retail P Ltd vs ACIT reported in 174 taxmann.com 1113 (Del HC) dated 14-5-2025

- To issue Sec.148A Notice :-
- Mere information is not sufficient- to apply mind independently
- Relevant material has to be given to Assessee
- Not to make Roving 0r Fishing enquiries. There is prima facie evidence
- **Chhugamal Rajput 79 ITR 603 (SC)**
- Assessee's reply has to be considered in full. Otherwise the proceedings are invalid.
- **C.C.Dangi Associates Vs. ACIT(Bombay HC) dt 26.11.2024**

EVIDENCE TO BE RELIED UPON

- Sec.65B of Evidence Act –Seizing of Original Electronic gadget is necessary
- **DCIT vs. Balar Marketing P Ltd (2026) 184 taxmann.com 480 dt 18.3.2026**
- **Third party statement alone is not reliable**
- **Sec.292C has a limited Application a more holistic view has to be taken**

Eg:- Photo copy is not a reliable evidence

Without primary evidence , secondary evidence has no legs to stand

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Filing the return in response to Sec.148 Notice

- Proper Head of income … Evaluate the evidence with the department
- Evidence to be relied upon by the Assessee.

  Eg. School Fees , Business nature,
- Paying the taxes –regular or updated
- Filing the objections if any
- Within the time given in the notice
- Keeping the final probable penalties

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NORMAL COMPUTATION OF INCOME IN ASSESSMENT

- It is the burden of the Assessee to prove that what he has returned is correct with documentary evidence—Both for Income and for Expenditure.
- Proper Head-BUSINESS Vs. H.P/Capital Gains
- No room for some for other inference
- Fool proof evidence of facts
- In the absence of the same –AO starts :-
- Applying Sec.68,69,69A,69C etc with 115 BBE.
- Here comes the Interpretation of facts and Law
- If it is pure question of Law--- Ratio Decidendi or Obiter dicta.
- **CBDT Circular No 14 of 1955 dt 11.4.1955 and the CBDT Instruction No. 574of 1973 dt 27.7.1973.**

PRINCIPLES OF NATURAL JUSTICE

- Evidence with Department has to be shared
- Reasonable opportunity to submit replies shall be given
- A Show Cause notice as per Sec. 144B(6)(vii) shall be given with proposed additions, before completion of the final assessment. **Inox Wind Energy Ltd V. ACIT (2024) 466ITR 463 Guj HC**
- If assessee requests for Personal hearing it shall be allowed. **Satia Industries Limited v NFAC TS-423-HC-2021-(DEL)**
- If cross examination of any person is requested it shall be granted. **MAA Padmavathi Exports vs. ITO 471 ITR 683dt 6.5.24 Guj HC**
- If principles of Natural justice is not followed the Asst order is Void ab initio. **Thakur V. Hariprasad v. CIT [1987] 32 Taxman 196 (AP HC)**

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Alternate Arguments

1. Peak Credit Theory
2. Telescoping Theory
3. Removal of the Difficulty theory
4. Principle of Mutuality
5. Heydon's Rule of Interpretation
6. Rule of Consistency
7. Real Income Theory
8. Percentage of Income Theory
9. No income to be taxed twice principle
10. Human Probability theory
11. Commercial Expediency
12. Doctrine of impossibility

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Peak Credit Theory

- It means When an assessee has multiple unexplained cash deposits and cash withdrawals in a bank account, the **peak credit** method is applied, assuming earlier withdrawals were the source of later deposits.
- Similarly U/Sec.68 Bank transfers in and Transfers out which cannot be proved , can be covered by this Peak /credit theory to reduce the maximum taxable income.
- **Case Laws:**
- **DCIT Vs. N.Anbalagan ITAT Chennai I. T. A. No. 344 Chny2022 dt 28.8.2024**
- **Shakti Singh Vs. NFAC 175 taxmann.com 48 (2025) dt 15.5.2025**
- **Smt. Snajeet Kanwar Vs. ITO (2022) 98 ITR (T) 12 (Amritsar ITAT)**
- **Kamal Chand Sisodiya Vs.ITO ITA.206.Indore of 2024 dt 11.10.24**
- **CIT v. Naresh K. Sukhani [220 CTR 128 (MP)]**

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Peak Credit Theory

- Peak credit can be accepted even when entries span multiple accounts.
- **Nemi Chand Kothari v. CIT [264 ITR 254 (Gau.)]**
  - If credits are rotation of same funds, peak credit theory is applicable.
- **ACIT v. Baldev Raj Charla [121 TTJ 366 (Del)]**
  - Even where multiple bank accounts are involved, peak credit works if money is in circulation.

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Telescoping Theory

- **Telescoping theory** in income tax refers to an approach used by tax authorities and courts to avoid double taxation of the same income in different forms or years. This theory allows the **adjustment or set-off of one addition (e.g., unexplained investment or expenditure)** against another (e.g., unexplained income), where there is a **clear nexus or source and application of income**.
- Here are key **examples of telescoping theory in Income Tax provisions and case law**:
- **1. Cash Credits vs. Unexplained Investments**
- **Section 68**: Unexplained cash credit
- **Section 69**: Unexplained investment

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Telescoping Theory

- **Example**:
  An assessee has an unexplained cash credit of ₹10 lakhs in the books (added u/s 68), and the same ₹10 lakhs is found to be invested in a property (added u/s 69).
- The assessee can **claim telescoping**: the cash credit can be considered as the source of the investment — so only one of the two should be taxed.
- **2. Unexplained Income vs. Unexplained Expenditure**
- **Section 69C**: Unexplained expenditure
- **Example**:
  Suppose an assessee has unaccounted income of ₹5 lakhs (say, from suppressed sales) and has also incurred unaccounted marriage expenses of ₹5 lakhs.
- If the assessee establishes that the **unaccounted income is the source of expenditure**, the addition for the marriage expenses can be **telescoped** against the unaccounted income.

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Telescoping Theory

- **3.Peak Credit Theory in Bank Transactions**
- **Example**:

  When an assessee has multiple unexplained deposits and withdrawals in a bank account, the **peak credit** method is applied, assuming earlier withdrawals were the source of later deposits.
- This is **telescoping** within the same bank account — to **avoid taxing each deposit individually** and instead taxing the peak of unexplained credits.
- **4. Business Suppression vs. Personal Assets**
- **Example**:

  An assessee is found with personal gold jewellery not recorded in books. At the same time, sales are suppressed in the business.
- If the assessee proves that **suppressed business profits** were used to purchase the jewellery, then **telescoping is allowed**, and only the income once will be taxed.

TELESCOPING THEORY

- **5.Cash Found During Search Operations**
- **Example**:
  During a search, ₹20 lakhs in cash is found. Simultaneously, the assessee's books reflect undisclosed business turnover of ₹20 lakhs.
- If a **clear link is shown between cash and turnover**, **only one addition** will survive.
- 6. **Intangible Additions** of earlier years can be telescoped to current year Unexplained Credits. Eg:- Earlier three years the Income is assessed on estimation basis higher than the Retuned Income. This is an Intangible addition. In the current year the Assessee is not able to prove the Cash credits U/sec.68. Then these credits can be telescoped /offset against that earlier years addition on FIFO basis.

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TELESCOPING THEORY

- **Case Laws for Telescoping Theory**
- **CIT v. K.S.M. Guruswamy Nadar & Sons (1984) 149 ITR 127 (Mad)**
  It was held that income once taxed as suppressed turnover cannot be taxed again as unexplained investment.
- **CIT v. D.P. Sandu Bros. Chembur (P) Ltd. (2005) 273 ITR 1 (SC)**
  Supreme Court stated income once taxed under one head should not be taxed under another if it's the same.
- **Anantaram Veerasinghaiah &co Vs.CIT (1980) 123 ITR 457(SC)**
- **DCIT Vs.Smt.Rajpriyam ITA No. 2047.Chny. 2024 dt 10.1.2025**
- **CIT Vs.Tyarymal Balchand 165 ITR 453 (Raj HC)**
- **Limitations /Conditions**
- By Telescoping **option though Tax is not liable , penalty is leviable by virtue of Sec.271(1)(C).Explanation 2 and 270A(4) it is deemed as concealed income and under reported Income.**

- There must be a **clear nexus** between the income and the asset or expenditure.
- Assessee must **furnish reasonable explanation** and linkage.
- It is **not automatic**; depends on facts of each case.

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REMOVAL OF DIFFICULTY THEORY

- Here the Statute initially prescribes a stringent or rigorous provisions or penal provisions. Later they are by amendment modified to reduce the genuine difficulty. Then the Amendment is deemed to have been made from an earlier date only.

- The **Removal of Difficulty Theory** allows tax authorities or courts to interpret tax laws **liberally or purposefully** to **remove ambiguities**, **hardships**, or **unintended consequences** that arise from the **literal reading** of the law, without defeating legislative intent. Often backed by **CBDT circulars or Rule-making powers.**

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REMOVAL OF DIFFICULTY THEORY

- The **Supreme Court** in **J.H. Gotla v. CIT [156 ITR 323 (SC)]** observed that if strict interpretation causes **unfairness**, a **more equitable and reasonable construction** should be adopted.
- In **Principal CIT v. Alchemist Ltd. (Bombay HC, 2024),** it was held that a "for removal of doubts" Explanation added later **could not be presumed retrospective** and must be read in favor of the assessee.
- Eg:-50-C a margin of 10% preceded by 5%.SRO value Vs. Actual consideration
- Sec.40-(a)(ia)- non-TDS exp 30% disallowance preceded by 100% disallowance. **. Ansal Land Mark Township Pvt. Ltd 2015 377 ITR 635 (Delhi)**
- **Pr.CIT Vs. Manoj Kumar Singh (2018) 402 ITR 238**

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REMOVAL OF DIFFICULTY THEORY

- **12AB Regn Cancellation**
- Sec.11 exemption forfeiture for Sec.13(1)(C) related party transactions.
- wef 1.4.22 taxable @30% 115BBI with 271AAE 100% penalty. Earlier Regn Cancellation is the penal action. Now diluted. Hence for earlier years default now Regn cannot be cancelled.

- **Case Laws**
- **Myadam Krishna Rao Charitable Trust ITAT Hyd ITA No. 445 Hyd 2023 dt 28.6.24-Sec.**12AB Regn Cancellation
- **Islamic Academy of Education NITHYANANDA NAGAR Vs. Pr.CIT Bangalore ITAT (2024) 160 taxmann.com 217,**

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REPEAL OF A SECTION OR RULE

- The concept is deeply rooted in the legal principle of "**Obliteration,**" which states that when a law is repealed or omitted, it is treated as if it never existed on the statute books. In the case of **Kolhapur Cane sugar Works Ltd. & Anr. v. Union of India & Ors (2000). (**S.C.) while interpreting a similar repeal in the context of the Central Excises Act, held that when a rule is omitted, it is as if it "had never been passed, and the statute must be considered as if the rule had never existed." The court further clarified that the only way to counter this legal "blotting out" effect is with an explicit saving provision only.
- **M/S. Fibre Boards (P) Ltd. v. CIT Bangalore (2015) 10 SCC 333**
- **General Finance Company & Anr. v. ACIT (2002) 7 SCC 1,**

PRINCIPLE OF MUTUALITY

- The **Mutuality Theory** states that **a person cannot make a profit out of themselves.** Therefore, any **surplus or income generated by a mutual association** (like a club or Residents' Welfare society, Cooperative Society) from its **own members** is **not taxable.**
- To apply this , there must be a **complete identity** between:

  Contributors (people who fund the association)

  Participants/Beneficiaries (people who enjoy the benefits.)
- **To claim mutuality exemption:**
- The entity must operate **only for and among its members**
- There must be **no dealings with outsiders**
- Surplus must be **shared** or **used for members' benefit**, not for private gain
- **Taxable Income (even if mutual) received from third Party:**

  Interest from fixed deposits in banks

  Letting out space to non-members

  Commission income from third parties

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PRINCIPLE OF MUTUALITY

- **Chelmsford Club v. CIT [243 ITR 89 (SC)]**
  - No income tax on surplus from mutual activities.
- **Bangalore Club v. CIT [350 ITR 509 (SC)]**
  - Interest earned from non-member bank deposits not covered under mutuality.
- Even a Cooperative Society can claim the Income exemption based on principle of Mutuality and also Sec.80-P(2)(a)(i) for SB Account interest if business funds are parked in that account . Similarly Dividend and Interest can be claimed under Sec. 80-P(2)(d) if they are from another Cooperative Society.
- **Sri Saidatta Mutually Aided Co-op.Society Ltd.Anantapur. Vs.ACIT. ITA.No.888/Hyd/2016.**
- **CIT Vs. West Godavari District Rice Millers Association, 150 ITR 394 (AP).**
- **Venus Parkland Co-op Housing Society ITA No. 1039-Ahd-2023 dt .7.8.2024.**

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PRINCIPLE OF MUTUALITY

- **Trade or Professional Associations.**
- Under S. 28(iii), income derived by a trade, professional or similar association from specific services performed for its members is chargeable to income-tax under the head "profits and gains of business or profession".
- Sec.44A Deals specifically with these Trade associations.
- **CIT Vs. East India Jute & Hessian Exchange Ltd (Cal-HC) :(1991) 189 ITR 422**

Jewellers Association Vs. ACIT ITA No. 197/ JP/ 2022 dt. 27.7.2022

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Heydon's Rule of Interpretation

- Heydon's Rule, also known as the Mischief Rule, is a method of statutory interpretation that focuses on understanding the intent behind a law by examining the "mischief" or problem the law was designed to address.
- Four Key Aspects

  1) the common law before the statute,
  2) the mischief or defect the law is meant to remedy,
  3) the remedy Parliament intended to provide, and
  4) the true reason for the remedy.
- Eg:- Trusts Loan repayment—5 years limit
- Sec.11 Explanation wef 1.4.2022 Applicable for loans borrowed after 1.4.2021 only

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Heydon's Rule of Interpretation

- **Common Law Before the Act:** Judges first need to understand the legal landscape before the statute was enacted. This involves identifying the existing common law rules relevant to the issue.
- **Mischief or Defect:** The next step is to determine the "mischief" or problem that the new law was intended to fix. What specific issue or inadequacy in the existing law did Parliament aim to address?
- **Parliament's Remedy:** Judges then need to analyze the remedy that Parliament intended to provide through the new statute. What changes or solutions did the law introduce to correct the identified mischief?
- **Reason for the Remedy:** Finally, the rule requires judges to understand the true reason behind the remedy. What was the underlying purpose or justification for Parliament's chosen solution?

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Heydon's Rule of Interpretation

- The rule is used in various common law jurisdictions, including the UK and India, and is particularly helpful in situations where the wording of a statute might be open to multiple interpretations.
- Case Law:
- **DCIT Vs. British Agro Products(India)Pvt Ltd.Chennai ITAT ITA Nos. 969 & 970Chny2022 dt 5.4.23-**Held Mushroom Growing is Agrl .Income. Land includes soil.
- **CIT v. Raja Benoy Kumar Sahas Roy** reported in 32 ITR 466 (SC).Both primary and Secondary operations are to be carried out by Assessee

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RULE OF CONSISTANCY

- The Rule of Consistency says that if the **facts and legal position remain unchanged**, the **Income Tax Department should not take a different stand** in a subsequent year, or in a co-owners case, especially when it has accepted the same stand in earlier years or in the same year in some persons hands. This rule is not written in the Income Tax Act but has been evolved through **judicial pronouncements** by the High Courts and the Supreme Court.
- **Applicable if all the following are satisfied:**
- **Facts must be identical** across years/assessees
- **No new material** or **change in law** must exist
- Accepted position in past must have **attained finality**
- Eg:-Two co-owners of land –JV- for one if it is considered as stock in trade , for other it cannot be Taxable as

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RULE OF CONSISTANCY

- **Radhasoami Satsang v. CIT [193 ITR 321 (SC)]**
  - Consistency must be maintained when no material change in facts/law.
- **CIT v. Excel Industries Ltd. [358 ITR 295 (SC)]**
  - When facts are identical and accepted earlier, they must be accepted later.
- **Ramanbhai Ukabhai Patel HUF 102 taxmann.com 109 ITAT Surat (2019)**
- **DCIT Vs. JAYANTI MISRIMAL SANGHAVI AND ANR. 1168 of 2024 Ahmdbd ITAT**
- **CIT Vs. Smt.Kumararani Meenakshi Achi [2007] 158 Taxman 4 (Madras HC)**

wealth tax case

- **Jaswant Roy Vs. CWT 107 ITR 477 (P &H HC) (1977)**
- **DILIP MANIBHAI PRAJAPATI Vs. ITO.Ahmbad ITAT .164 taxmann.com 224 (2024) dt 28.6.2024. 50-C.DVO- reference**

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REAL INCOME THEORY

- This theory says **only real income** (that has actually accrued or received) can be taxed—not notional, hypothetical, or anticipated income. Income must be **earned in substance**, not just in legal form.

- Avoids taxing income that has not yet reached the assessee and **might never materialize**, thereby aligning taxation with **commercial reality.**

- **Applicable situations:**
- Interest not recoverable due to NPA status
- Book profits where revenue has not actually accrued
- Unrealized rental income due to disputes or court stay
- Rescinded sales or contracts

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REAL INCOME THEORY

- **CIT Vs. Vatika Township Pvt Ltd .(S.C.)(2014) 49 taxmann.com 249 dt 15.9.2014**
- **Godhra Electricity Co. Ltd. v. CIT [225 ITR 746 (SC)]**
  - No tax on unrealised income due to pending tariff approval.
- **CIT v. Shoorji Vallabhdas & Co. [46 ITR 144 (SC)]**
  - Real income is income that reaches the assessee.
- **Southern Technologies Ltd. v. JCIT [320 ITR 577 (SC)]**
  - RBI norms vs. real income—income not realizable is not taxable.
- **State Bank of Travancore v. CIT [158 ITR 102 (SC)]**
  - Interest not collectible due to legal disability = no real income.
- **CIT v. Vasisth Chay Vyapar Ltd. [330 ITR 440 (Del)]**Mere entries without income realization do not create tax liability.
- **ICDS are brought in to Tax the income at the earliest.**

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PERCENTAGE OF INCOME THEORY

- **If the Books of accounts are not maintained as per Law, it is a better option to be utilised by the Assessee, if the actual profits are lesser than that reasonable percentage.**
- When the AO finds the books of accounts **unreliable or incomplete**, he can **reject the books** (u/s 145(3)) and **estimate income based on a reasonable percentage** of turnover or past results.
- This is done under **Section 145(3)** of the Income Tax Act, which empowers the AO to reject books if:

  They are **not complete or correct**, or

  They are **not maintained in accordance with accounting standards**, or

  The **method of accounting is not regularly followed**

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PERCENTAGE OF INCOME THEORY

- **Works contracts**.
- Chennai-ITA 2668 of2019 -Lakshmanan Vs. ITO -GP. **3.0 %**
- JSR Constructions 159 ITD 749 Bangalore. **1.95%**
- Deluxe_Roadlines P Ltd ITA No.16 Bang of 2013 - **2.5%**
- **Cheques Discounting Business**.
- Pr CIT Vs. Alag Securities Bombay HC 425 ITR 658 (2020)
- dt 12.06.2020- **0.15%**
- Pankaj_Pyarelal_Khemka_vs___ITO169_taxmann.com690
- Mumbai_Trib_07.11.2024 - **1.0%**
- ChintanNiketanBhandariAhmedabadITAT dt 29.11.22 **0.25%**
- ITA Nos. 495 of 500 & 1604 of 2019
- **Transport Business**
- Balaji Transport Agency Vs. ACIT ITA No. 284/Hyd/2012-**2.0%**
- **Kachwala Gems v. JCIT [288 ITR 10 (SC)]**
  - AO justified in estimating income on discrepancies in books.
- **CIT v. Poonam Rani [326 ITR 223 (Del)]**
  - Low GP rate and non-verifiable expenses justify rejection.
- **Brij Bhushan Lal Parduman Kumar v. CIT [115 ITR 524 (SC)]**
  . Presumptive rate valid where accounts are not trustworthy.

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PERCENTAGE OF INCOME THEORY

- **Benefits:- Once the overall income is estimated:**
- **No separate additions for Non-TDS-Exp, Cash exp, etc disallowances.**
- **Sec.270A penalty can be avoided. telescoping can be availed.**
- But cash Credits or excess stock like Balance sheet items can still be added as income, after arriving Business Head income by % method, if such income is not sufficient to source the assets .

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No income to be taxed twice principle

- Courts have **firmly upheld** the principle that income **once taxed cannot be taxed again**, unless **fresh facts** justify it. It is the burden of the Assessee who **must prove** that the income was already taxed, and is being considered again **without fresh source or accrual**.
- **Sale proceeds** already taxed as business income cannot be taxed again as unexplained cash U/sec.69A
- When clubbing provisions in sec.64 are applied.
- A **loan received** can't be taxed again as capital or revenue receipt
- **Income accrued and taxed in India** can't be taxed again when received abroad. India's treaties with other countries prevent **international double taxation** and allow for **tax credit** under **Sections 90 and 91**.

NO INCOME TO BE TAXED TWICE PRINCIPLE

- **DVIT Vs. JAYANTI MISRIMAL SANGHAVI AND ANR. 1168 of 2024 Ahmdbd ITAT.**
- **Smt. P.K. Kochammu Amma v. CIT [125 ITR 624 (SC)]**
  - Amount once taxed cannot be taxed again in hands of others.
- **CIT v. R. Dalmia [133 ITR 169 (Del)]**
  - Only real income should be taxed; double taxation disallowed.
- **Union of India v. Azadi Bachao Andolan [263 ITR 706 (SC)]** Income once taxed in foreign jurisdiction cannot be taxed again in India
- **Pr CIT Vs. SURYA AGROTECH INFRASTRUCTURE Ltd. 6.9.2023 Del HC.** Share capital once taxed in Flagship Company – not to be taxed in group companies again.
- **ACIT Vs.Rajendra Rasiklal Shah ITA No.1015PUN2024 dt 20.3.2025.** Capital gains offered in 5 hands-not to be taxed in the 1st seller hands,, just because be executed the single sale deed.
- **Vasant Traders ITA No. 801 of Surat ITAT 2023 dt. 5.2.24** P.Firm PAN. Already Individual admitted the same .

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HUMAN PROBABILITY

- Human Probability Theory is a principle where **tax authorities and courts evaluate the genuineness of transactions based on what is likely or believable in normal human conduct**, not just on documentary evidence.
- It aims to **look beyond mere paperwork** or legal form and examine **whether a transaction makes sense in the real world**, considering human behavior and practical logic.
- First laid down in **Durga Prasad More v. CIT [82 ITR 540 (SC)]**, where the Supreme Court said taxing authorities are entitled to "look into the surrounding circumstances" and not accept facts blindly.
- □ **Key Application Areas:**
- Bogus capital gains or loans
- Fake gifts from unrelated persons
- Unexplained share transactions
- Accommodation entries or shell companies
- Lottery winnings -manipulated

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HUMAN PROBABILITY

- **Sumati Dayal v. CIT [214 ITR 801 (SC)]**
  - Courts must consider human probability and common sense.
- **CIT v. P. Mohanakala [291 ITR 278 (SC)]**
  - Burden to prove creditworthiness can't be discharged by mere paperwork.
- **Rajshree Synthetics Pvt. Ltd. v. CIT [254 ITR 686 (MP)]**
  - Assessing officer can go beyond the face of documents.
- **ITO v. Diza Holdings (P) Ltd. [255 ITR 573 (Ker)]**
  - Applied probability theory to disallow accommodation entries.
- **A. Rajendran & Ors. vs.ACIT (2006) 204 CTR (Mad) 9**
- **Hacienda Farms (P) LTD. vs. CIT (2011) 239 CTR (Del) 212**
- **Major Metals Ltd. vs. UOIAND ORS (2012) 251 CTR (Bom) 385**

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COMMERCIAL EXPEDIENCY

- The **Commercial Expediency Theory** allows a business to claim **deductions for expenses** that are **not necessarily revenue-generating** but are incurred for **legitimate business purposes** or **benefit**, directly or indirectly.
- Based on **Section 37(1)** of the Income Tax Act, which allows deduction for business expenditure incurred **"wholly and exclusively" for the purpose of business**—even if not immediately profitable.
- The **businessman's decision**—not the tax officer's opinion—determines whether an expense is commercially justified, provided it is **not bogus, illegal, or personal**.

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COMMERCIAL EXPEDIENCY

- **Examples:**
- Interest-free loans to sister concern to protect business relationship
- Payments to settle disputes or litigation to avoid business risk
- Payments to group companies for strategic supply chain management
- Employee welfare or CSR-type expenses for long-term goodwill

Courts check whether there is a **nexus between the expense and the business purpose**—even **indirect benefit** or long-term advantage is enough.

- **K. Ravindranathan Nair Vs. CIT, (SC) (2001) 247 ITR 178**
- **S.A. Builders Ltd. v. CIT [288 ITR 1 (SC)]**: SC held that interest-free loan to sister concern was allowable since it was for business need and not for personal benefit.
- **Hero Cycles (P) Ltd. v. CIT [379 ITR 347 (SC)]**
  - No need to show immediate benefit from expenditure.
- **CIT v. Dalmia Cement [254 ITR 377 (Del)]**
  - Commercial justification suffices, even if no direct return.
- **ACIT Vs. SOCIEDADE DE FOMENTO INDUSTRIAL Pvt.Ltd (2024) 164 taxmann.com139.Bombay HC. Temple repairs & School Donations.-Allowable Sec.37(1)**
- **CIT Vs. Star Investments Pvt Ltd (2025)) 175 taxmann.com 274(Madras HC)-Held allowable**
- Guarantee for the sake of HO. Bad debt-write-off .Sec.36(1)(vii)

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DOCTRINE OF IMPOSSIBILITY

- " Lex non Cogit Ad impossibilia" and
- "Impotentia excusat legam"
- Eg:- 20% of Demand to be paid for Stay granting
- **Krishna swamy S. PD. v. Union of India [2006] 151 Taxman 286/281 ITR 305 (S.C.)**
- **Escorts Ltd. v. CIT [2002] 257 ITR 468, Hon'ble Delhi High Court**
- Eg:- Sec. 244 interest –delay cannot be attributed to the assessee.
- Eg:- Sec, 153(3) ITAT order for de novo Asst not taken up within in the statutory period.
- **United Spirits Vs.ACIT .464 ITR 167 (Karnataka HC)** /W.P. No.13953/2020 (T-IT).

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CONCLUSION

- **Conclusion:-** Interpretation of any Law is a special subject ever dynamic. There are many more theories evolved in the past and many more may evolve in future. One needs to fight legally for a genuine cause.



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