

## Discussion on recent Judgements of 'Supreme Court' and 'High Court'

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### Supreme Court decisions:

- 1. ACIT vs. Marico Ltd. [2020] 117 Taxmann.com 244 (SC)**  
Reopening – section 147 & 148 – Change of Opinion – notice issued u/s 148(1) rightly quashed.  
**Marico Ltd vs. ACIT [2019] 111 taxmann.com 253 (Bom)**
- 2. UOI vs. Exide Industries Ltd [2020] 116 Taxmann.com 378 (SC)**  
Validity of section 43B – Loan Encashment scheme – allowable on payment only.
- 3. Shiv Raj Gupta vs. CIT [2020] 117 taxmann.com 877(SC)**  
Non-Compete Fee - capital receipt – not taxable prior to 01/04/2003 – Sec 28(ii) and 28(va)
- 4. National Co-operative Development Dorporation vs. CIT [2020] 119 taxmann.com 137 (SC)**  
Business Expenditure – Allowability – mere circumstances that the Assessee did not carry on business activity for profit motive was not material.
- 5. Ananda Social & Educational Trust vs CIT [2020] 114 taxmann.com 693 (SC)**  
The Trust is entitled to get registration under section 12AA of the Act with the proposed object to carry on the chartable activity.
- 6. Maruti Suzuki India Ltd. vs. CIT [2020] 114 taxmann.com 129 (SC)**  
Disallowance under section 43B cannot be made if there is when there is no actual payment

## High Court Decisions:

**7. PCIT vs. JSW Steel Ltd. [2020] 115 taxmann.com 165 (Bom)**

In view of second proviso to section 153A (1) once assessment gets abated pursuant to search action 132(1), it is open for Assessee to lodge a new claim

**8. P P Mahant vs. ACIT [2020] 112 taxmann.com 253 (Bom)**

Amount received on settlement of case of property usurped by relatives was taxable as Capital Gains

**9. Navin Jolly vs ITO [2020] 117 taxmann.com 323 (Karnataka)**

When the residential units are being used for commercial purpose, the conditions of section 54F are not violated.

**10. N Rajarajan vs. ACIT [2020] 120 taxmann.com 402 (Madras)**

When Assessee had inherited property with encumbrances. Expenditure incurred for removing the same is to be treated as cost of acquisition or cost of improvement

**11. J S & M F Builders vs A K Chauhan [2020] 117 taxmann.com 228 (Bom)**

Computation of capital gains under section 45(2) – relevant year

**12. Essar Shipping Ltd vs CIT [2020] 117 taxmann.com 389 (Bom)**

Waiver of loan cannot be brought to tax under section 28(iv)

**13. CIT vs. Vummudi Amarendran [2020] 120 taxmann.com 171 (Madras)**

Proviso to section 50C (1) introduced by the Finance Act 2016 is retrospective in nature

**14. Asian Satellite Broadcast (P) Ltd. Vs. ITO [2020] 119 taxmann.com 481 (Bom)**

Reopening on the basis of change of opinion is not sustainable

**15. PCIT vs V Hotel Ltd. [2020] 119 taxmann.com 487 (Bombay)[21-09-2020]**

Additional FSI is not a commercial right falling within scope of intangible asset and hence, the same is eligible for depreciation at rate applicable to building i.e. 10 % & not 25 % as applicable to an intangible right under section 32(1)(ii)

**16. CIT vs. Naroda Enviro Projects Ltd. [2020] 120 taxmann.com 126 (Gujarat)**

When the dominant object of the Trust is to carry on charitable activity then, the Trust is entitled to seek an exemption under section 11

**17. Visalakshi Anandkumar vs. ACIT [2020] 121 taxmann.com 97 (Madras)**

The Claim of refund on admitted income is not sustainable

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