

LATEST SUPREME COURT DEVELOPMENTS ON CONCEALMENT PENALTY VIS A VIS DEBATABLE CLAIM; SHARE CAPITAL; REVENUE'S SLP ADMITTED OVER NALINI MAHAJAN/BLOCK ASSESSMENT ISSUE & SUBSIDY TAXATION

Name of the Case	<u>SC observations</u>	<u>Underlying HC/ITAT/CIT-A order</u>
Sohan Lal	<p><u>"Delay condoned.</u></p> <p>Since the point involving interpretation of Section 45(5) of the Income Tax Act is a <u>debatable point</u>, question of imposing penalty u/s 271(1)(c) would not arise.</p> <p>Special Leave Petition is dismissed. This S.L.P. is confined only to question of penalty."</p>	<p><u>Reported at 302 ITR 262</u></p>
Preeti Aggarwala	<p>"On the issue of penalty under Section 271(1)(c), we find that an <u>arguable case</u> was made out by the assessee, hence the Special Leave Petitions stand dismissed.</p> <p>On the interpretation of Section 271(1)(B), we express no opinion."</p>	<p><u>"On the contrary, we find that the Assessee was not very clear about the interpretation of the accounting standards issued by the Institute of Chartered Accountants of India.</u></p> <p><u>Consequently, the Assessee was under a bona fide belief that she is entitled to file a return in the manner in which she did."</u></p>
Dwarkadish Investment (P) Ltd	<p>Revenue's SLP Dismissed against DHC order on issue of Share Capital Section 68</p> <p>Further refer:</p>	<p><u>Applied DHC ruling in Divine Leasing in 207 CTR 38</u></p>

	<p>a) <i>SC in Lovely Exports etc (SLP dismissed by Speaking order) 216 CTR</i></p> <p>b) <i>DHC in Gangour; M.N.Securities; Bhav Shakti Steels; Value Capital, Esteem Towers; Samir Bio Tech</i></p> <p>c) <i>Mad HC in Electro Ploychem (SLP Dismissed by SC)</i></p> <p>d) <i>Kar HC in Madhuri Investments</i></p> <p>e) <i>All HC in Jaya Securities P Ltd (SLP dismissed by SC) 166 Taxman 7</i></p> <p>f) <i>Delhi ITAT in Anu Industries</i></p>	
<p>Chand Chaurasia</p>	<p>Issue notice limited to the question as to why the material found during the search, even if the search is assumed to be illegal, cannot be used for computation of undisclosed income under Chapter XIV-B of the Income Tax Act, 1961.</p>	<p>The Revenue is aggrieved by an order dated 29th June, 2007 passed by the Income Tax Appellate Tribunal, Delhi Bench 'B' in a batch of matters.</p> <p>Learned counsel for the Revenue points out that a similar appeal arising out of the same order in respect of some other assessee was dismissed by this Court being Commissioner of Income Tax v. Vinita Chaurasia (ITA No.248/2008) decided on 18th March, 2008.</p> <p>In view of the above, this appeal is also dismissed.</p> <p>In these appeals noteworthy, ITAT has quashed block assessment following DHC in Nalini Mahajan, treating warrant by ADD DIT as invalid.</p>
<p>Nirma Industries</p>	<p>Issue notice limited to the question as to whether the High Court had erred in not framing the following question of law at the time of admission of the Tax Appeal under Section 260A:</p> <p>"Whether Backward Area Development Subsidy received</p>	<p>Refer latest SC ruling in Ponni Sugars by Justice Kapadia</p>

	by the assessee was capital in nature or revenue."	
Rameshwar Dayal Ghasi Ram	<p>Delay condoned.</p> <p>The Special Leave Petition is dismissed</p>	<p>Following the order passed by us in Commissioner of Income Tax v. M/s. Gulati Industrial Fabrication (ITA No.1661/2006- 217 CTR 494) decided on 22nd November, 2007, this appeal is also dismissed.</p> <p><u><i>In this case, DHC held that for reopening u/s 148 on basis of third party information, there must be specific reference to assessee concerned. (followed by Del ITAT in COSMOS)</i></u></p>
NOTE	<p><i>ONLY DISMISSAL OF SLP BY SPEAKING ORDER ATTRACTS BINDING FORCE (FOR SPEAKING OBSERVATIONS) UNDER ART 141 OF INDIAN CONSTITUTION</i></p> <p><i>REFER SC IN 245 ITR 360 (LB)</i></p>	<p><i>ALSO IF SOME SLP AFTER ADMISSION IS DISMISSED BY ONE WORD (UNDER CIVIL APPEAL) THERE SHALL BE MERGER OF ORDER OF HC IN SC ORDER.</i></p> <p><i>(REFER BHC IN SNOWCEM AND ALLHC IN JAYA SECURITIES)</i></p>