Presentation on

CAPITAL GAINS

Part-I

For the students

of

Semester – IV

B.Com.(Hons. & General)

By

DR. ASIM KUMAR MANNA

Meaning: Any **profit or gain** arising from **transfer** of any **capital asset** is called capital gains.

Essential conditions:

- There must be a capital asset
- The assessee transfers such capital asset
- There must be profit or gain on such transfer

Basis of charge

This income is chargeable to tax in the previous year in which the transfer took place. In some cases, it is taxable in the previous year in which consideration is received (e.g. compulsory acquisition by the Government.)

Capital Asset

Any property (fixed or circulating, movable or immovable, tangible or intangible) held by an assessee, whether or not connected with his business or profession, but excluding the following:

- Stock-in-trade, consumable stores, or raw materials held for the purpose of business or profession.
- Personal effect: Any movable property held for personal use (i.e. refrigerator, furniture, motor car, electric appliances, wearing apparel etc.) but excludes jewellery (ornaments made of gold, silver, platinum etc.), archaeological collections, drawings, paintings, sculptures or any work of art.
- Agricultural land in rural area in India
- 6½% gold bond,1977, 7% Gold Bond,1980, National Defence Gold Bond,1980, special Bearer Bond, 1991 issued by the Central Govt., Gold deposit Bonds.

Types of Capital asset

Nature of asset	Holding period	
	Short Term	Long Term
Shares (Listed)/Securities/Zero-Coupon Bonds/Units of UTI	Not more than 12 months	More than 12 months
Shares (Non-listed)/Land/Building/ Any Immovable Property	Not more than 24 months	More than 24 months
Others(Including Debt-Oriented Mutual Fund)	Not more than 36 months	More than 36 months

Transfer of Capital Asset

The term "Transfer" includes sale, exchange or relinquishment of asset, extinguishment of any right in an asset, compulsory acquisition of an asset, conversion of asset into stock-in-trade, any transaction of immovable property, maturity or redemption of a zero-coupon bond.

Computation of Capital Gains

1. Computation of Short Term Capital Gain (STCG)

Particulars	`	`
Full value of consideration		***
Less: Expenses on transfer		***
Net Sale Consideration		***
Less: i) Cost of acquisition	***	
ii) Cost of improvement	***	***
Short Term Capital Gain		***
Less: Exemption u/s 54B, 54D, 54G & 54GA		***
Taxable Short Term Capital Gain		***

2. Computation of Long Term Capital Gain (LTCG)

Particulars	`	`
Full value of consideration		***
Less: Expenses on transfer		***
Net Sale Consideration		***
Less: i) Indexed cost of acquisition	***	
ii) Indexed cost of improvement	***	***
Long Term Capital Gain		***
Less: Exemption u/s 54B, 54D, 54EC,54ED,54EE,54F,54G,54GA & 54GB		***
Taxable Long Term Capital Gain		***

Expenditure on Transfer

Brokerage, commission, cost of stamp, registration fees borne by vendor, travelling expenses (excluding Securities Transaction Tax)

Cost of Acquisition: The cost by which a capital asset can be acquired by the assessee (in case of self-generated asset e.g. goodwill, trademark, tenancy right, route permit and bonus shares acquired by the previous owner on or after 1.4.2001, cost of acquisition is nil.)

Situation	Before 01.04.2001	On or after 01.04.2001
A. Assets directly acquired by the assessee		
1. STCG: Cost of Acquisition	Higher of: i) Actual cost of acquisition ii)FMV as on 1.4.2001	Actual cost of acquisition
2. LTCG: Indexed Cost of Acquisition	Higher of cost of acquisition or FMV as on 1.4.2001 x CII for the year of transfer CII for the year 2001-02(i.e.100)	Cost of acquisition x CII for the year of transfer CII for the year of acquisition
B. Assets acquired by the assessee from the previous owner specified in sec.49(1),i.e. gift, inheritance, etc		
1. STCG: Cost of Acquisition	Higher of: i) Actual cost to the previous owner ii)FMV as on 1.4.2001	Actual cost to the previous owner
2. LTCG: Indexed Cost of Acquisition	Higher of cost of acquisition or FMV as on 1.4.2001 x CII for the year of transfer CII for the year 2001-02(i.e.100)	**(a) Previous owner acquired the asset before 1.4.2001** Higher of cost of acquisition or FMV as on 1.4.2001 x CII for the year of transfer CII for the year in which the Asset is first held by the assessee **(b) Previous owner acquired the asset on or after 1.4.2001** Actual cost to the previous owner x CII for the year of transfer CII for the year in which the Asset is first held by the assessee

Cost of Improvement: Expenditure incurred to increase the productive efficiency of capital asset (addition, alteration to capital assets)

Situation	Before 1.4.2001	On or after 1.4.2001
A. Expenses incurred by the assessee himself		
1. STCG: Cost of improvement	Nil	Actual cost of improvement
2. LTCG: Indexed Cost of iimprovement	Nil	Cost of improvement x <u>CII for the year of transfer</u> CII for the year of improvement
B. Expenses incurred by the previous owner [other than a mode of acquisition specified in sec.49(1),i.e. gift, inheritance, etc.]		
1. STCG: Cost of improvement	Nil	Actual cost of improvement
2. LTCG: Indexed Cost of improvement	Nil	Cost of improvement x <u>CII for the year of transfer</u> CII for the year of improvement
C. Expenses incurred by the previous owner [in a mode of acquisition specified in sec.49(1), i.e. gift, inheritance, etc]		
1. STCG: Cost of improvement	Nil	Actual cost of improvement
2. LTCG: Indexed Cost of improvement	Nil	Cost of improvement x <u>CII for the year of transfer</u> CII for the year in which improvement was made by the previous owner

Cost Inflation Index (CII): 75% of average rise in the Consumer Price Index (urban) as notified by the Central Government in the Official Gazette. CII for different financial years is as follows:

Financial Year	(CII)
2001–02	100
2002–03	105
2003–04	109
2004–05	113
2005–06	117
2006–07	122
2007–08	129
2008–09	137
2009–10	148
2010–11	167
2011–12	184
2012–13	200
2013–14	220
2014–15	240
2015–16	254
2016–17	264
2017–18	272
2018–19	280
2019–20	289

Prob. No. [illegible]: Mr. Mitra furnishes the following particulars for the previous year 2019–20: **[2008]**

(1) He sold his residential house on 15 December 2019 for Rs. 7,70,000. He purchased the house on 2 March 1998 at a cost of Rs. 75,000 (fair Market value on 1 April 2001 was Rs. 1,50,000).

(2) He sold the shares of AB Co. Ltd. on 12 February 2020 for Rs. 18,700 (purchased on 21 March 2019 for Rs. 15,300). Compute his income from capital gain/loss for the A/Yr. 2020–21.

☞ **Solution:**

Computation of Capital Gains of Mr. Mitra for the A/Yr. 2020–21

Particulars	**Amount**
House	
Sale Proceeds	7,70,000
Less: Expenses on transfer	Nil
Net Sale consideration	7,70,000
Less: Indexed Cost of acquisition [Rs. 1,50,000 × 289/100]	4,33,500
Long-term Capital Gain	**3,36,500**
Shares	
Sale proceeds	18,700
Less: Expenses on transfer	Nil
Net sale consideration	18,700
Less: Cost of acquisition	15,300
Short-term Capital Gain	**3,400**

Prob. No. 1: Mr. Saha furnishes the following information for the previous year 2019–20. Compute his taxable income from Capital Gains for the Assessment year 2020–21. **[2007]**

Particulars	**Building**	**Shares**
Date of Acquisition	03.05.2007	21.07.2012
Date of sale	21.08.2019	02.09.2012
Cost of acquisition	3,50,000	10,000
Sale proceeds	7,90,000	15,000

Solution:

Computation of income under the head 'Capital Gains' of Mr. Saha, a resident individual, for the A/Yr. 2020–21, relating to P/Yr. 2019–20

Particulars	**Amount**	**Amount**
Building	7,90,000	
Full value of consideration	7,84,108	
Less: Indexed Cost of Acquisition $\left\{3.5L \times \frac{289}{129}\right\}$		
Long-term capital gains		5,892
Shares:		
Full value of consideration	15,000	
Less: Indexed Cost of acquisition $\left\{10000 \times \frac{289}{200}\right\}$	14,450	
Long-term capital gains		550
Income under the head 'Capital gains'		6,442

Prob. No. 4: Amal Mitra sold his residential house on 1.7.2019 for Rs. 15,00,000. The house was purchased on 1.6.1979 for Rs. 30,000 (Fair market value on 1.4.2001 was Rs. 50,000). During 2003–04, he constructed two more rooms at a cost of Rs. 1,50,000. He paid brokerage @2% on sales value to sell the house. Compute taxable amount of Capital gain of Shri Mitra for the A/Yr. 2020–21. **[2011]**

☞ **Solution:**

Computation of income under the head 'Capital Gains' of Mr. Mitra, a resident individual, for the A/Yr. 2020–21, relating to P/Yr. 2019–20

Particulars	**Details**	**Amount**	**Amount**
FVC		15,00,000	
Less: Brokerage	[15L × 2%]	30,000	
NVC			14,70,000
Less: Indexed COA	$\left[50,000 \times \frac{289}{100}\right]$	1,44,500	
Indexed COI	$\left[1,50,000 \times \frac{289}{109}\right]$	3,97,706	5,42,206
Long-term Capital Gains			**9,27,794**

Prob. No. 10: Mr. Sardar acquired an inherited property on 30.08.2006 from his grandfather who purchased it at Rs. 2,10,000 on 30.06.2000. The market value of the property as on 1.4.2001 was Rs. 5,10,000. On 1.7.2005, he purchased gold valued Rs. 1,50,000, the market value of which was Rs. 1,47,000 as on 1.4.2005. He sold both the assets on 30.11.2019 for Rs. 60,00,000 and Rs. 21,00,000, respectively. Calculate the amount of capital gain of Mr. Sardar for the assessment year 2020–21. **[2015]**

☞ **Solution:**

Computation of income under the head 'Capital Gains' of Mr. Sardar, a resident individual, for the A/Yr. 2020–21 relating to P/Yr. 2019–20

Particulars	Building	Gold
Sale consideration	60,00,000	21,00,000
Less: Expenses on transfer	Nil	Nil
Net sale consideration	60,00,000	21,00,000
Less: Indexed cost of acquisition		
5,10,000 × 289/122	12,08,115	
1,50,000 × 289/117		3,70,513
Less: Indexed cost of improvement	Nil	Nil
Taxable Long-term capital gain	**47,91,885**	**17,29,487**


Thank
you

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CLUBBING OF INCOME

PART - I

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CLUBBING OF INCOME

As per the Indian Income Tax laws, every person is liable to pay taxes on his/ her income, if the taxable income exceeds the basic exemption limit and he is not liable to tax for income of another person. However, in certain situations a taxpayer may have to pay tax on the income of another person.

The practices of diverting self income to some other person like spouse, minor child, etc. to reduce own Income-tax liability was very popular in India. The same was noticed by the Income-tax Department. Accordingly amendments were made in the Income Tax Act specifying certain cases where income of one person is statutorily required to be included in the income of another person if some conditions are satisfied. The situation in which the income of another person is included in the income of the taxpayer is called clubbing of income and the income which is so included is called deemed income. Besides, one very important aspect of these clubbing of income provisions is that they are applicable only for individuals and no other type of assessee like firm, Company etc.

Example: If a husband diverts some part of his income to his wife to reduce his tax burden, then, such transferred income of a wife is added and taxed as income of husband only and not his wife. The clubbing provisions are applicable even if there is no intention to reduce tax liability.

AN OVERVIEW OF CLUBBING OF INCOME

The Following are the circumstances where the income of the other person is included in the income of the assessee.

1. Transfer of income without the transfer of asset (Sec 60).
2. Revocable transfer of assets (sec 61)
3. Income of an individual to include income of spouse, minor child etc. (Sec 64)

i. Remuneration of a spouse from a concern in which the other spouse has substantial interest. [Sec 64(1)(ii)]

ii. Income from assets transferred to the spouse. [64(1)(iv)]

iii. Income from assets transferred to son's wife [64(1)(vi)]

iv. Income from assets transferred to a person for the benefit of Spouse of the transferor[64(1)(vii)]

v. Income from assets transferred to a person for the benefit of son's wife of the transferor [64(1)(viii)]

vi. Clubbing of income of a minor child [64(1A)]

TRANSFER OF INCOME WITHOUT THE TRANSFER OF ASSET (SEC 60)

When a taxpayer, while retaining the ownership of an asset, transfers the income from such asset to another person by an agreement or in any other way, such income will be taxable in the hands of the taxpayer. It does not matter whether such transfer is revocable or not and whether this has taken place before or after the commencement of Income Tax Act.

This section is applicable if-

- Taxpayer owns an asset;
- He transfers the income earned from this asset to another person;
- But he keeps the ownership of that asset with himself;

Then such income is clubbed in the income of transferor.

Example 1: Mr. Ajay is having an FD with a bank. He transfers interest earned on FD Rs. 1,60,000/- to his friend Mr. Boman. However, Mr. Ajay kept the ownership of FDs with him. In this case, interest earned of Rs. 1,60,000/- shall be treated as income of Mr. Ajay only and not of Mr. Boman.

Example 2: Ankit owns a house property in Delhi. He has rented the property for Rs. 25,000 per month. However, he has requested the tenant to make the payment of rent in his father's bank account. In this situation, though the income is received by his father, Ankit has to report the rental income as part of his income, since he is the legal owner of the house property.

2. REVOCABLE TRANSFER OF ASSETS (SEC 61)

Any income arising to any person by virtue of revocable assets is chargeable to tax as the income of the transferor.

This section is applicable if-

- Taxpayer owns an asset;
- He transfers the ownership of this asset to another person;
- But the transfer is revocable* or cancellable;
- Then such income is clubbed in the income of transferor.

- **Revocable/Cancellable transfer:** A taxpayer transfers his asset to another person on the condition that such transfer can be cancelled by him at any time, then this transfer shall be treated as Cancellable transfer.

Following are the various examples of Cancellable Transfer-

Example 1: Mr. Sujay transfers his land to Mr. Yogesh under an agreement with a condition that Mr. Sujay can cancel the agreement anytime and take back the asset. Then income earned from such land is added in the income of Mr. Sujay.

Example 2: Mr. Pranav transfer his land to Mr. Shaan under an agreement where the agreement states that Mr. Pranav can re-transfer the land in his name at anytime. Then income earned from the land is added in the income of Mr. Pranav.

3. INCOME OF AN INDIVIDUAL TO INCLUDE INCOME OF SPOUSE, MINOR CHILD ETC. (SEC 64)

a). Remuneration of spouse from a concern in which other spouse has substantial interest. [Sec 64(1) (ii)].

Spouse's income is required to be clubbed in the hands of the taxpayer if any payment is received by the spouse by way of salary, commission, fees or any other form of remuneration, from a concern in which the taxpayer has a substantial interest.

This section is applicable if-

- Taxpayer is an individual;
- He/she has a substantial interest* in any organisation;
- Spouse of the taxpayer is working in that organisation;
- Spouse is not having **any** technical or professional knowledge or experience.

Then the salary paid to spouse is clubbed in the income of the taxpayer.

*Substantial interest

In case of company	**He beneficially holds not less than 20% of its *equity* shares at *any* time during the previous year. Such share may be held by the assessee *or* partly by assessee *and* partly by one or more of his relatives.**
Other concern	He is entitled to not less than 20% of the profits of such concern at any time during the previous year. Such share of profit may be held by the assessee himself *or together* with his relatives.
Relative here includes spouse, brother or sister or any lineal ascendant or descendant of that individual [Sec. 2(41)].	

Where both, husband and wife, have substantial interest in a concern

When both, husband and wife have substantial interest in a concern and both are drawing remuneration from that concern without possessing any specific qualification.

Remuneration from such concern will be included in the total income of husband or wife, whose total income excluding such remuneration, is higher.

Where such income is once included in the total income of either of the spouse, then such income arising in any subsequent years cannot be included in the total income of the other spouse unless the Assessing Officer is satisfied that it is necessary to do so. However, Assessing Officer will do so only after giving to the other spouse an opportunity of being heard.

When both, husband and wife, are not having any other income

When both, husband and wife have substantial interest in a concern and both are drawing remuneration from that concern without possessing any specific qualification and both are not having any other income apart from the said remuneration or having equal taxable income excluding such remuneration.

Remuneration from such concern will not be clubbed.

Computation of salary, fee, commission, remuneration etc

Income prescribed in sec. 64(1)(ii) shall be first computed (allowing all deductions from the respective income) in the hands of recipient and thereafter net income shall be clubbed in the hands of the other spouse e.g. salary, remuneration, etc shall be first calculated as per provisions of sec. 15 to 17, in the hands of recipient and thereafter, net taxable salary shall be clubbed in the hands of the other spouse.

Following is the income of Mr Y and Mrs Y for the previous year 2018–19.

Particulars	Mr Y (₹)	Mrs Y (₹)
Gross salary from ABC Ltd	3,00,000	1,50,000
Professional tax paid	1,800	1,560
Income from interest on fixed deposit in bank	80,000	60,000
Business income	-	1,50,000

Compute total income of Mr Y and Mrs Y for the assessment year 2019–20 under the following situations.

Case 1: Mr Y holds 12% equity share capital of ABC Ltd.

Case 2: Mr Y holds 25% equity share capital of ABC Ltd and Mrs Y does not have any technical and professional qualification.

Case 3: Mr Y holds 25% equity share capital of ABC Ltd and Mrs Y is a lawyer and is appointed as a legal adviser of ABC Ltd.

Case 4: Mr Y and Mrs Y hold 25% and 30% equity share capital of ABC Ltd, respectively.

Solution

Particulars	Case 1		Case 2		Case 3		Case 4	
	Mr Y (₹)	Mrs Y (₹)	Mr Y (₹)	Mrs Y (₹)	Mr Y (₹)	Mrs Y (₹)	Mr Y (₹)	Mrs Y (₹)
Income from Salary	2,98,200	1,48,440	2,98,200	Nil	2,98,200	1,48,440	Nil	1,48,440
Income from Business	-	1,50,000	-	1,50,000	-	1,50,000	-	1,50,000
Income from Other Sources (bank interest)	80,000	60,000	80,000	60,000	80,000	60,000	80,000	60,000
Clubbing of remuneration of spouse u/s [64(1)(ii)]	-	-	1,48,440	-	-	-	-	2,98,200
Total Income	3,78,200	3,58,440	5,26,640	2,10,000	3,78,200	3,58,440	80,000	6,56,640

Mr. Roy and Mrs. Roy are working in RMP Ltd. without possessing any technical or professional qualifications. From the following information compute taxable income of Mr. Roy and Mrs. Roy for the assessment year 2020–2021 under different alternatives.

Particulars	Mr. Roy	Mrs. Roy
Holding of Equity shares in RMP Ltd.	12%	13%
Net income from salary (from RMP Ltd.)	3,60,000	2,40,000
Income from other sources		
Alternative (I)	80,000	50,000
Alternative (II)	50,000	80,000
Alternative (III)	50,000	50,000
Alternative (IV)	Nil	Nil

☞ **Solution:**

Computation of taxable income of Mr. Roy and Mrs. Roy for the assessment year 2020–2021, relating to previous year 2019–2020.

Particulars	Alt I		Alt II		Alt III		Alt IV	
	Mr. Roy	Mrs. Roy	Mr. Roy	Mrs. Roy	Mr. Roy	Mrs. Roy	Mr. Roy	Mrs. Roy
Income from salaries	3,60,000	–	–	2,40,000	3,60,000	2,40,000	3,60,000	2,40,000
Income from other sources	80,000	50,000	50,000	80,000	50,000	50,000	Nil	Nil
Clubbing of remuneration of spouse as per Section 64(1) (ii)	2,40,000	–	–	3,60,000	–	–	–	–
GROSS TOTAL INCOME	6,80,000	50,000	50,000	6,80,000	4,10,000	2,90,000	3,60,000	2,40,000
Less: Deduction as per Chapter VIA	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
TAXABLE INCOME	6,80,000	50,000	50,000	6,80,000	4,10,000	2,90,000	3,60,000	2,40,000

NOTES

(1) When both husband and wife have substantial interest in a company [(12%+13%)>20%] and both draw remuneration therefrom without possessing any technical or professional qualifications, then such remuneration shall get clubbed in the taxable income of husband or wife, whose taxable income excluding such remuneration is higher.

Alternative I: Income from other sources of Mr. Roy is more than that of Mrs. Roy, so salary income of Mrs. Roy will get clubbed with the income of Mr. Roy.

Alternative II: Income from other sources of Mrs. Roy is more than that of Mr. Roy, so salary income of Mr. Roy will get clubbed with the income of Mrs. Roy.

(2) When both husband and wife have substantial interest in a company and both of them are drawing remuneration therefrom without possessing any technical or professional qualifications and have equal taxable income excluding such remuneration (Alternative III) or are not having any other income apart from the said remuneration (Alternative IV), then the clubbing of income shall not be done.

B). INCOME FROM ASSET TRANSFERRED TO SPOUSE [SEC 64(1)(IV)]

Where an asset (other than house property) is transferred by an individual to his or her spouse directly or indirectly otherwise than for adequate consideration or in connection with an agreement to live apart, any income from such asset will be deemed to be the income of the transferor.

This provision is not applicable to the house property because in that case, the transferor is deemed to be the owner of the house property and the annual value of the property is taxed in the hands of the transferor as per section 27. However, when there is a capital gain on the transfer of such house property, such capital gain will be first be computed in the hands of the transferee and thereafter the same will be clubbed with the income of the transferor as per provisions of this section.

B). INCOME FROM ASSET TRANSFERRED TO SPOUSE [SEC 64(1)(IV)]

This section is applicable if-

- Taxpayer is an individual;
- He/she owns an asset;
- He/she transferred this asset to his/her spouse directly or indirectly;
- Asset is transferred without adequate consideration (i.e. lower amount than its fair market value) or in connection with an agreement to live apart;

Then the income earned from this asset is clubbed in the income of the taxpayer.

The income from the transferred assets shall not be clubbed in the following cases:-

- If the transfer is for adequate consideration
- If the transfer is under an agreement to live apart.
- If the relationship of husband and wife does not exist, either at the time of transfer of such asset or at the time of accrual of the income.

Points to remember:

- The asset so transferred need not remain in its original form, i.e., the transferred asset may be held by the transferee spouse in the same form or in different form.

Example: Mr. A transferred jewellery to Mrs. A and Mrs. A converted jewellery into Debentures. Interest on such Debentures shall be clubbed in the total income of Mr. A.

- Pin money Income from assets acquired by spouse out of pin money or household savings is not subject to clubbing.

- Consideration must be measurable in terms of money. Therefore natural love and affection, spiritual or religious benefit cannot be treated as adequate consideration.

•Capital gain Profit on sale of property, which is gifted to spouse, shall be clubbed in hands of the transferor.

Example: Mr. A transferred to his wife shares worth Rs. 1,00,000. Mrs. A sold such shares for Rs. 1,20,000 and acquired 10% Debentures of another company.

Here capital gain of Rs. 20,000 and interest on Debentures of Rs. 10,000 (IL × 10%) will be clubbed in the total income of Mr. A as per Section 64(i)(iv), but the interest of Rs. 2,000 (20,000 × 10%) will not be clubbed and will be taxable in the hands of Mrs. A.

•Accretion of asset Income arising to the transferee from the accretion of such property or Income arising to the transferee from the accumulated income of such property shall not be clubbed in the total income of the transferor.

Example: Mr. A transferred to his wife 1,000 equity shares of ITC Ltd. Later the company declares bonus shares of 100.

Here, profit on sale of Original Equity Shares will be clubbed in the hands of Mr. A but profit on sale of bonus shares will not be clubbed in the hands of Mr. A, it will be taxable in the hands of Mrs. A.

•After the death of either husband or wife clubbing provision of Sec. 64(1)(iv) will not be attracted, as a widow or widower is not a spouse.

Inadequate consideration

If property has been transferred to spouse directly or indirectly for a consideration which is inadequate (i.e., less than the fair market value), then only the part of income which is referable to transfer for inadequate consideration, shall be clubbed.

Example: 5% Debentures of value of Rs. 1,00,000 is transferred by Mr. A to his wife at a value of Rs. 10,000. Interest accrued from that debentures for the year is Rs. 5,000; Rs. 4,500 $\left(5{,}000 \times \frac{90{,}000}{1{,}00{,}000}\right)$ will be clubbed in the hands of Mr. A and the remaining Rs. 500 $\left(5{,}000 \times \frac{10{,}000}{1{,}00{,}000}\right)$ will be taxed in the hands of Mrs. A.

Asset invested in the business

If assets so transferred, is invested in business then tax treatment shall be as under:

If invested in Proprietary business

$$\text{Income of such business} \times \frac{\text{Value of such assets as on the 1st day of the P.Y.}}{\text{Total investment in the business by the transferee as on the same day}}$$

Example: Mr. A makes a gift of Rs. 1,00,000 to his wife which is invested in a business by Mrs. A during the P/Y 2019–2020. Total capital of the business as on 1.4.2019 Rs. 5,00,000. Taxable profit for the year Rs. 50,000.

Here, amount of profit taxable in the hands of Mr. A $= 50{,}000 \times \frac{1{,}00{,}000}{5{,}00{,}000} = 10{,}000$

Rs. 10,000 profit of Mrs. A to be clubbed in the hands of Mr. A.

If invested in Partnership business

Profit from the firm shall not be clubbed as it is exempted u/s 10(2A).

$$\text{Interest on capital} \times \frac{\text{Value of such assets as on the 1st day of the P.Y.}}{\text{Total investment in the firm by the transferee as on the same day}}$$

Example: Mr. A makes a gift of Rs. 1,00,000 to his wife which is invested by Mrs. A in a firm as capital. Total capital investment of Mrs. A on 1.4.2019 is Rs. 5,00,000. During the P/Y 2019–2020, the receivable amount of interest on capital is Rs. 10,000.

Here, the amount is to be clubbed with the income of Mr. A in respect of income of Mrs. A from the firm.

$$\text{Interest on Capital} \times \frac{\text{Capital invested out of transferred asset on the } 1^{st} \text{ day of the P/Y}}{\text{Total capital invested by the transferee on the } 1^{st} \text{ day of the P/Y}}$$

$$10{,}000 \times \frac{1{,}00{,}000}{5{,}00{,}000} = 2{,}000$$


Thank you

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By

DR. ASIM KUMAR MANNA

Mr. Jana gifted his wife Rs. 50,00,000 out of love and affection on 1.6.2019. Mrs. Jana purchased a house property from such gifted money on 1.7.2019. Rent received from such house property is Rs. 90,000. State who is liable to pay tax.

☞ **Solution:**

Computation of taxable income from house property for the previous year 2019–2020.

Rent received	90,000
Less: Statutory Deduction u/s 24(a) (30% × 90,000)	27,000
Income from house property	63,000

Rs. 63,000 shall be first computed in the hands of Mrs. Jana and then shall be clubbed in the total income of Mr. Jana by virtue of Section 64(i)(iv).

Mr. Sat gifted 10% Debentures of company of Rs. 1,00,000 (acquired on 10.1.2019) to Mrs. Sat out of love and affection on 10.4.2019. On 31.1.2020, Mrs. Sat received interest of Rs. 10,000 on such Debentures. Mrs. Sat sold such Debentures for Rs. 3,00,000 on 1.3.2020. On 2.3.2020 Mrs. Sat invested Rs. 3,10,000 in a newly started proprietorship and contributed as capital; profit accrued for the P/Y 2019–2020 is Rs. 6,200 from that business. Compute taxable income in the hands of both Mr. Sat and Mrs. Sat for the A/Y 2020–2021.

☞ **Solution:**

Computation of taxable income of Mr. Sat and Mrs. Sat for the assessment year 2020–2021, relating to previous year 2019–2020.

Particulars	**Mr. Sat**	**Mrs. Sat**
Profit and gains from business or profession		
Profit from business (Note 1)	20,000	42,000
Capital gains:		
Short-term capital gain (3L – 1L)	2,00,000	–
Income from other sources:		
Interest on Debentures	10,000	–
GROSS TOTAL INCOME	2,30,000	42,000
Less: Deduction as per Chapter VIA	Nil	Nil
TAXABLE INCOME	2,30,000	42,000

NOTES

(1) Since new investment has been acquired out of gift money Rs. 1,00,000 + capital gain Rs. 2,00,000 + interest Rs. 10,000, the income shall be clubbed in the hands of Mr. Sat as follows:

$$\text{Mr. Sat} = 62{,}000 \times \frac{1{,}00{,}000}{3{,}10{,}000} = 20{,}000$$

$$\text{Mrs. Sat} = 62{,}000 \times \frac{2{,}10{,}000}{3{,}10{,}000} = 42{,}000$$

(2) Since the Debentures have been gifted by Mr. Sat to Mrs. Sat the provision of clubbing of Section 64(i)(iv) will be applicable and such capital gain will be taxable in the hands of Mr. Sat.

C). INCOME FROM ASSETS TRANSFERRED TO SON'S WIFE [SEC. 64(1)(VI)]

In computing the total income of an individual, income arising (directly or indirectly) from assets transferred to son's wife (after 31.5.1973), without adequate consideration, shall be included in income of that individual. Aforesaid relationship must subsist on the date of transfer of assets as well as on the date of accrual of income.

This section is applicable if-

- Taxpayer is an individual;
- He/she owns an asset;
- He/she transferred this asset to his/her son's wife;
- Asset is transferred for lower amount than its fair market value;
- Asset is transferred after 31.5.1973 directly or indirectly

Then the income earned from this asset is clubbed in the income of the taxpayer.

Points to remember:

- The asset so transferred need not remain in its original form, i.e., the transferred asset may be held by the son's wife in the same form or in different form.
- Consideration must be measurable in terms of money. Therefore natural love and affection, spiritual or religious benefit cannot be treated as adequate consideration.
- Capital gain Profit on sale of property, which is gifted to son's wife, shall be clubbed in hands of the transferor.
- At the time of transfer of such asset or at the time of accrual of the income the relationship of father-in-law or mother-in-law and daughter-in-law does exist.

Mr. Ghose has transferred Equity shares of a foreign company to Miss Jaya on 1.4.2016. On 1.4.2018 Jaya married Ram, who is the son of Mr. Ghose. The dividend from the equity shares received by Jaya during the P/Y 2019–2020 is Rs. 50,000. The Assessing Officer (AO) has clubbed the above income in the hands of Mr. Ghose. Is the action of AO tenable under the law?

☞ **Solution:**

The relationship between father-in-law and daughter-in-law must exist as on the date of transfer as well as on the date of accrual income. But here that relationship did not exist at the time of transfer of asset, but existed at the time of accrual of income. So, the dividend of Rs. 50,000 will not be clubbed with the total income of Mr. Ghose but it will be taxable in the hands of daughter-in-law Jaya.

Mr. Jana transferred Debentures of Rs. 50,000 to his daughter-in-law on 1.7.2019 without any consideration. The daughter-in-law Rinki earned interest on debentures of Rs. 10,000 during the P/Y 2019–2020. The AO has clubbed the above income in the hands of Mr. Jana. Is the action of AO tenable under the law?

☞ **Solution:**

The relationship between father-in-law and daughter-in-law must exist as on the date of transfer as well as on the date of accrual income.

Here, the relationship does exist on the date of transfer as well as accrual of income. So, the interest of Rs. 10,000 will be clubbed with the total income of Mr. Jana and he is liable to pay tax on such interest.

INCOME FROM ASSETS TRANSFERRED TO ANOTHER PERSON (FOR THE BENEFIT OF SPOUSE) [SEC. 64(1) (VII)]:

In case an asset is transferred to other person or an association of persons, otherwise than for adequate consideration, for immediate or deferred benefit of spouse, then income on asset so transferred shall be clubbed in the hands of the transferor (to the extent income from such asset is for the immediate or deferred benefit of his or her spouse).

This section is applicable if-

- Taxpayer is an individual;
- He/she owns an asset;
- He/she transferred this asset to any other person or persons;
- Asset is transferred for the benefits of the spouse of the taxpayer;
- Asset is transferred for lower amount than its fair market value.

Then the income earned from this asset is clubbed in the income of the taxpayer.

Mr. Sen transferred a fixed deposit of Rs. 1,00,000 to Mr. Sharma without any consideration on the condition that the interest from such fixed deposit will be utilized for the benefit of Mrs. Sen. Discuss the taxability of such income.

☞ **Solution:**

The asset has been transferred without any consideration for immediate or deferred benefit of his wife to a person, so the income from such asset will be clubbed as per Section 64(i)(vii). Here, the interest income will be included in the total income of Mr. Sen, i.e., Mr. Sen will be liable to pay tax on such interest.

INCOME FROM ASSETS TRANSFERRED TO ANOTHER PERSON (FOR THE BENEFIT OF SON'S WIFE) [SEC. 64(1)(VIII)]:

Where an asset is transferred to any other person or association of persons, without adequate consideration for the benefit of Son's wife of the individual as well as for some other persons, income on such asset to the extent of benefit which accrues to the Son's Wife, shall be included in the total income of the individual.

This section is applicable if-

- Taxpayer is an individual;
- He/she owns an asset;
- He/she transferred this asset to any other person or persons;
- Asset is transferred for the benefits of son's wife of the taxpayer;
- Asset is transferred for lower amount than its fair market value.
- At the time of transfer of such asset or at the time of accrual of the income the relationship of spouse and son's wife does exist.

Then the income earned from this asset is clubbed in the income of the taxpayer.

INCOME OF MINOR CHILD [SEC.64(1A)]:

Any income earned by a minor child (including married minor daughter) will get clubbed with income of the parent whose total income is higher (before inclusion of income of minor child).

•From next year onwards whenever the minor child earns any income again, this income is clubbed in the income of same parent as it was clubbed earlier, unless the Tax Officer believes it is necessary to change the same.

•In case the marriage of the parents does not subsist(divorce), then the income of minor is added in the income of a parent who maintains that minor in that financial year.

•If both the parents of a minor are not alive, then income of minor shall not be clubbed in the income of any grandparents, relatives, guardian or any other person or even the minor.

•Child in relation to an individual includes a stepchild & adopted child but does not include a grandchild [Sec. 2(15B)]

•Capital gain Profit on sale of the property, which is gifted to minor child, shall be clubbed in hands of parent as per the provision of sec. 64(1A)

Exemption [Sec. 10(32)]

In case income of a minor child is clubbed in hands of parent as per provision of sec. 64(1A), the assessee (parent) can claim exemption of an amount being minimum of the following:

(i) Rs. 1,500; or

(ii) Income so clubbed

Such exemption shall be available for each child (irrespective of the number of children) whose income is so clubbed.

Situations when income of minor is not clubbed:

- If a minor is suffering from a disability covered U/s. 80U of the Income Tax Act, 1961 (i.e. Blindness, low vision, mental retardation, mental illness, locomotors disability, autism etc.), then income of such minor is not clubbed in the income of parent;
- If minor has earned the income using his own manual work;
- If minor has earned the income using his skills, talent or experience.

Example: Kapil, a minor, received Rs. 1,50,000/- during a year as gifts from his relatives on the occasion of his birthday. For that year, Gross Total Income (before clubbing under this section) of his father is Rs. 5,00,000 whereas that of his mother is Rs. 4,20,000/-. Hence, the income of minor shall be clubbed in the income of his father since his Gross Total Income is more than mother.
Also, father can claim the exemption of Rs. 1,500/- from clubbed income of Rs. 1,50,000/-.

Example: Rohit has 2 daughters and he has opened fixed deposits in their names. The fixed deposits earned interest income of Rs. 5,000 each. Rohit should report interest income of Rs. 10,000 as a part of his total income. However, he would be eligible claim exemption of Rs. 3,000 on this income (i.e. 1500 for each child). Hence, the taxable interest income for him from these fixed deposits (on account of the clubbing provisions) would be Rs. 7,000.

Example: Hari is the minor child of Mr. Ray and Mrs. Ray. Hari attained major on 31.1.2020. Income from interest on fixed deposit at SBI of Mr. Hari is Rs. 25,500 during the P/Y 2019–2020.

Here, the taxable income of Rs. 24,000 [25,500 – 1,500 (exception as per Section 10(32))] will be proportionately taxable in the hands of both Mr. Hari and his parent. Rs. 20,000 (24,000 × 10/12) will be clubbed with the total income of either parent of Mr. Hari and remaining 4,000 (24,000 × 1/12) will be taxed in the hands of Mr. Hari.

Example: Master Jony (15 years old) is a dancer who earned income of Rs. 50,000 during the P/Y 2019–2020 and invested in Debentures of ITC Ltd. and earned interest on Debentures of Rs. 4,000.

Here, Rs. 4,000 as interest on debenture will be clubbed with the total income of either parent of Jony.

Prob. No. 4: State whether the provisions of clubbing of income of minor shall be applicable or not in each of the following cases: **[2018]**

(i) Chanchal deposited Rs. 5,00,000 in the name of his minor grandson, Raj, Fixed Deposit Account carrying annual interest of Rs. 50,000.

(ii) Debdip, a child artist aged 10 years, acted in a Bengali movie and earned Rs. 2,00,000.

(iii) Continuing with case (ii) above, further assume that Rs. 2,00,000 earned by Debdip is deposited in a Fixed Deposit Account with SBI in his name. The Fixed Deposit carries interest @8% p.a.

(iv) Smita, a minor aged 12 years, has physical disability specified u/s 80U. Her father has deposited Rs. 10,00,000 in her name in a Fixed Deposit Account with SBI. The rate of interest is 10% p.a.

(v) Roop, a boy aged 14 years, received Rs. 30,000 as interest on fixed deposit in SBI. The deposit of Rs. 3,00,000 was made by his father in the name of Roop.

☞ **Solution:**

(i) Interest income of Raj will be clubbed with the income of his parents whose income is more.

(ii) Debdip's income will not be clubbed, as this income is derived from the application of his skill.

(iii) Interest income will be clubbed.

(iv) Income of a minor child suffering from any disability of the nature specified in Section 80U, clubbing provision of Section 64(1A) is not applicable

(v) Interest income of Rs. 30,000 of Roop, a minor child, will be clubbed with the income of his father.


Thank you

Presentation on

INCOME FROM OTHER SOURCES

For the students

of

Semester – IV

B.Com.(Hons. & General)

By

DR. ASIM KUMAR MANNA

Income from Other Sources

Any income which is not chargeable to tax under any other heads of income and which is not to be excluded from the total income shall be chargeable to tax as residuary income under the head **“Income from Other Sources”.**

Income from other sources examples

- Interest on saving bank account, bank deposits (fixed, recurring), loans or company deposits,
- Family pension (received by legal heirs of an employee)
- Dividend: Dividend is the payment made by a company to its shareholders or members out of the profit earned by the company.
- Gift
- Interest received from the IT Dept.
- Examiner-ship fees received by a teacher (not from the employer),
- Income from royalty,
- Insurance commission,

Income from other sources examples

- Income from sub-letting of house property by a tenant,
- Agricultural income from agricultural land situated outside India,
- Remuneration received by Members of Parliament,
- Casual receipts and receipts of non-recurring nature,
- Director's commission for standing as guarantor to bankers,
- Winnings from Lotteries, Crossword Puzzles, Horse Races, and Card Games,
- Interest on securities,
- Income from letting out of machinery, plant or furniture, etc.

Dividend [sec.56(2)(i)]

A. **Dividend received from Indian Company:**

(i) If amount of dividend ≤ `10,00,000, then fully exempt u/s 10(34)(if it is chargeable to dividend distribution tax under Section 115-O)

(ii) If amount of dividend > `10,00,000, then taxable u/s 115BBDA @10% on excess of

` 10,00,000(i.e.,10%+ 4%HEC)

B. **Dividend received from foreign Company / Co-operative society:**

-- Fully Taxable

Casual Income

Casual income means income in the nature of winning from lotteries, crossword puzzles, races including horse races, card games and other games of any sort, gambling, betting etc.

Conditions:

a. No expenditure or allowance can be allowed from such income.

b. Deduction under Chapter VI-A is not allowable from such income.

c. Adjustment of unexhausted basic exemption limit is also not permitted against such income.

Tax is charged on such income (Gross amount) at a flat rate of 30% + HEC(4%) u/s 115BB.

Grossing up if it is given net of TDS:

Gross amount = $\dfrac{Net\ amount}{[1-(30\%+HEC)}$

Any sum received by an employer from his employees as contribution towards PF/ESI/ Superannuation Fund etc., if same is not deposited in the relevant fund and it is not taxable under the head 'Profits and Gains from Business or Profession'.

--- Shall be treated as income of the employer (Deduction is available when such amount is credited to employee's account on or before the due date)

Interest on Securities:

Chargeable to tax if such income is not charged under the head "PGBP"

Interest exempt from tax [Sec.10(15)]

i. 12-year National Savings Annuity certificates
ii. National Defence Gold Bonds,1980
iii. Special Bearer Bonds,1991
iv. Post office cash certificates (5 years)
v. Post office National Savings Certificates (12 years / 7 years)
vi. National Plan Certificates (10 years)
vii. Interest on notified bonds / debentures on Public Sector Companies
viii. Interest on bonds issued by a local authority
ix. Post office savings bank account interest – up to `3,500 for an individual account and `7,000 in case of join account.

Grossing up if it is given net of TDS:

Gross amount = $\dfrac{Net\ interest}{(1 - Tax\ rate\ deducted\ at\ source)}$

GIFT

In the following cases, any sum of money or property received by a person from any person (except from relatives or member of HUF or in given circumstances) shall be taxable under the head 'Income from other sources':

Gift in Cash:

a) If any sum is received without consideration in excess of Rs. 50,000 during the previous year, the whole amount shall be chargeable to tax.

Aggregate amount of gift > `50,000

=> Entire cash gift will be taxable

Gift in Kind

Without consideration		With consideration	
Immovable Property	**Movable Property**	**Immovable Property**	**Movable Property**
If stamp duty value (SDV) >50,000	If aggregate fair market value(AFMV) of all properties >50,000	1. SDV > sale consideration 2. (SDV – sale consideration) > Higher of (i) 50,000 and (ii) 5% of the sale consiideration	If Aggregate Fair Market Value (AFMV) – 50,000 > Sale consideration
Entire stamp duty value will be taxable	Entire fair market value of all properties will be taxable	(SDV – sale consideration) will be taxable	(AFMV – Sale consideration) of all properties will be taxable

Gifts not chargeable to tax [Sec. 56(2)(vii)]

Any sum of money or property received by any person [on or after 01-04-2017] in the following circumstances shall not be chargeable to tax:

a) Gifts received from relatives;

b) Gifts received by an individual on occasion of his/her marriage;

c) Gifts received by way of Inheritance/will;

d) Gifts received in contemplation of death of the payer;

e) Gifts received from any local authority;

f) Gifts received from any fund, foundation, university, educational institution, hospital, medical institution, any trust or institution referred to in Section 10(23C);

Gifts not chargeable to tax [Sec. 56(2)(vii)]

g) Gifts received from any trust or institution registered under section 12A/12AA.

h) Share received as a consequences of demerger or amalgamation of a company under clause (vid) or clause (vii) of section 47, respectively.

i) Share received as a consequences of business reorganization of a co-operative bank under section 47(vicb)

j) from such class of persons and subject to such conditions as may be prescribed

‘Relative’ shall mean

1. Spouse of the individual
2. Brother or sister of the individual
3. Brother or sister of the spouse of the individual
4. Brother or sister of either of the parents of the individual
5. Any lineal ascendant or descendant of the individual
6. Any lineal ascendant or descendant of spouse of the individual
7. Spouse of the person referred in point 2-6 above

Mr. Das receives the following gifts during the P/Yr. 2019–2020. Compute the amount chargeable to tax in the hands of Mr. Das u/h 'Income from Other Sources' for the A/Yr. 2020–2021.

(i) A gift of Rs. 4,00,000 from his grandfather.

(ii) Laptop received from employer for appreciation of work – Rs. 90,000.

(iii) Purchases a building from his friend Mr. Dutta for Rs. 2,00,000 (stamp duty value is Rs. 9,00,000).

(iv) Gift of a commercial flat from elder brother of his father-in-law (stamp duty value is Rs. 20,00,000).

(v) Gift of a wrist watch (FMV Rs. 50,000) from his friend Mr. Sen.

(vi) Purchased a work of art for Rs. 15,00,000 from an exhibition in New York (FMV on the date of purchase Rs. 1,80,000).

(vii) Purchased a commercial property for Rs. 25,00,000 (stamp duty value Rs. 25,50,000).

Solution:

Computation of income under the head 'Income from other sources' of Mr. Das for the AY 2020-21 relating to PY 2019-20.

Particulars	Reason	Amount(Rs.)
(i) Gift from Grandfather	Relative	Nil
(ii) Laptop from employer	Perquisite(Income from salary)	Nil
(iii) Purchase of building from friend	SDV(9L)>SC(2L), SDV(9L) - SC(2L) >50K (Higher of 50K and 5% of SC i.e. Rs.10K), Then, SDV – SC	7,00,000
(iv) Gift of flat from elder brother of father-in-law	Not Relative (20L>50,000)	20,00,000
(v) Gift of wrist watch from friend	Not a property	Nil
(vi) Purchase of work art	AFMV(18L) – 50K > SC(15L) Then, AFMV(18L) – SC(15L)	3,00,000
(vii)Purchase of commercial property	SDV(25.5L)>SC(25L), SDV(25.5L) - SC(25L) > 50K (Higher of 50K and 5% of SC i.e. Rs.12.5K),	Nil
Income from other sources		**30,00,000**

Deductions [Sec. 57]:

S.N.	Nature of Income	Deductions allowed
1.	Dividend or Interest on securities	Any reasonable sum paid by way of commission or remuneration to banker or any other person for purpose of realizing dividend (other than dividends referred to in section 115-O) or interest on securities
2.	Employee's contribution towards Provident Fund, Superannuation Fund, ESI Fund or any other fund setup for the welfare of such employees	If employees' contribution is credited to their account in relevant fund on or before the due date
3.	Rental income letting of plant, machinery, furniture or building	Rent, rates, taxes, repairs, insurance and depreciation etc.

Deductions [Sec. 57]:

S.N.	Nature of Income	Deductions allowed
4.	Family Pension	1/3rd of family pension subject to maximum of Rs. 15,000.
5.	Any other income	Any other expenditure (not being capital expenditure) expended wholly and exclusively for earning such income
6.	Interest on compensation or on enhanced compensation	50% of such interest (subject to certain conditions)
7.	Income from activity of owning and maintaining race horses.	All expenditure relating to such activity.

Expenses not deductible [Section 58]:

S.N.	Nature of Income
1.	Personal expenses
2.	Interest chargeable to tax which is payable outside India on which tax has not been paid or deducted at source
3.	‘Salaries’ payable outside India on which no tax is paid or deducted at source
4.	Income tax and Wealth-tax
5.	Expenditure of the nature specified in section 40A
6.	Expenditure in connection with winnings from lotteries, crossword puzzles, races, games, gambling or betting
7.	Any cash payment in excess of Rs.10,000
8.	Any payment to relatives in excess of requirement

Recovery of loss or expenditure previously allowed as deduction [Sec.59]

---The amount so received is chargeable to tax as the income of previous year.

Prob. No. 5: Mr. Mithun Mukherjee furnished the following information for the financial year 2019–2020. **[2015]**

Director's fees Rs. 22,000, interest on Post Office Savings Bank deposit Rs. 700, rent received from subletting a house Rs. 33,250, rent payable by Mukherjee for the above house Rs. 19,000, other expenses incurred in connection with the house amounted to Rs. 8,000, dividend from a foreign company Rs. 2,500.

You are required to calculate income from other scources of Mr. Mukherjee for the assessment year 2020–2021.

☞ **Solution:**

Computation of income from other sources of Mr. Mukherjee for the assessment year 2020–2021.

Particulars		**Amount**	**Amount**
(i) Director's fees			22,000
(ii) Interest on Post Office Savings Bank deposit			700
(iii) Rent from subletting		33,250	
Less: expenses allowed u/s 57			
Rent paid	19,000		
Other expenses	8,000	27,000	6,250
(iv) Dividend from foreign company			2,500
Income from Other Sources			34,150

Prob. No. 7: Sri Somnath Manna furnishes the following particulars of his income for the previous year 2019–2020. You are required to calculate income from other sources of Sri Somnath Manna for the assessment year 2020–2021. [2018]

(i) Director's fees received from ITC Company Rs. 15,000

(ii) Dividend from foreign company Rs. 18,000 (expenses for the collection of dividend Rs. 500)

(iii) Family pension received Rs. 1,20,000

(iv) Gift received from a friend on occasion of marriage Rs. 60,000

☞ **Solution:**

Computation of income from other sources of Mr. Manna for the assessment year 2020–2021.

Particulars	**Amount**	**Amount**
(i) Family pension received [Rs. 4000 × 12]		1,20,000
Less: exemption u/s 57(iia), whichever is lower,		
(i) 1/3rd of family pension	40,000	
(ii) Maximum limit	15,000	15,000
		1,05,000
(ii) Dividend from foreign company	18,000	
Less: Exp. for collection	500	17,500
(iii) Director's fees		15,000
(iv) Marriage gift (exempted)		Nil
Income from Other Sources		1,37,500


Thank you

Presentation on

PROFITS AND GAINS OF BUSINESS OR PROFESSION

Part-I

For the students of Semester – IV B.Com.(Hons. & General)

By

DR. ASIM KUMAR MANNA

Business includes any trade, commerce or manufacture.

Trade: Activity of purchase and sale of goods with an object of making profit

Commerce: Trade repeated on a large scale

Manufacture: When as a result of certain process(es) applied on a product, a new and commercially different product comes into existence which is known to the market as different from the raw material.

Profession: An exercise of intellectual skill or manual skill on the basis of some special learning and qualification gathered through past training or experience e.g. C.A., Doctor, Lawyer etc. and includes vocation.

Vocation implies natural ability of a person to do some particular work e.g. singing, dancing, etc. It must have earning feature and it does not require a degree or special training.

General Principles for computation of business income:

1. The owner of the business is chargeable (not necessary to be carried on personally)
2. Carried on during the previous year
3. Profits of the previous year are chargeable
4. IT law is not concerned with the legality of business.
5. Profits should be understood in a commercial sense

Computation of Income from Business

Particulars	Amount (`)
Net Profit as per Profit and Loss Account	xxx
Add: Expenses debited to Profit and Loss Account but disallowed	xxx
Less: Expenses allowable / eligible as deduction but not debited to Profit and Loss Account	(xxx)
Less: Incomes wrongly credited to the Profit and Loss Account but to be treated under separate heads of income	(xxx)
Add: Deemed income	xxx
Profits from Business	xxx

Incomes chargeable under the head "Profits & Gains of Business or Profession"

1. Any income including income from speculative transaction related to business
2. Any compensation or other payment relating to business
3. Income derived by a trade, professional or similar association from specific services performed for its members
4. The value of any benefit or perquisite arising from business
5. Any sum received under a Keyman Insurance Policy including bonus on such policy

Incomes not chargeable under the head "Profits & Gains of Business or Profession"

1. Rental income from house property
2. Dividend income
3. Income from letting out of commercial assets
4. Winning from lotteries, races etc.
5. Exempted income by virtue of sec.10,10AA,11 or 13A

Expenditures not allowed as deduction:

1. Capital expenditure
2. Expenditure of a non-assessable business (Agricultural income)
3. Anticipated loss i.e. Provision for bad debt
4. Income earned for himself (salary to proprietor, interest on capital, notional rent)
5. Expenditure for illegal transactions

Expenditures allowed as deduction:

1. Rent, Rates, Taxes, Repairs and Insurance for Building
2. Repairs and Insurance of Machinery, Plant and Furniture
3. Depreciation allowance

Classification:

- Normal Depreciation
- Addiitional Depreciation
- Terminal Depreciation
- Unabsorbed Depreciation

1. Normal Depreciation

Conditions => For getting deduction in case of normal depreciation the following conditions should satisfy:

(i) The asset must be owned by the assessee.

(ii) The asset must be used for the purpose of business or profession during the relevant previous year.

(iii) Depreciation is available on both tangible and intangible assets, i.e., ***Tangible assets*** refer to building, machinery, plant, furniture. ***Intangible assets*** refer to those assets that are acquired after 31.3.1998, i.e., patents, copyrights, trademarks, licences, franchises, know-how.

NOTES

(1) 'Building' refers to super structure only and does not include site.

(2) 'Plant' includes ships, vehicle, books, and scientific apparatus, surgical equipment used for the purpose of business or profession. It does not include tea bushes or live stock or buildings or furniture and fittings.

(3) Payment for acquisition of a depreciable asset, otherwise than by account payee cheque or, bank draft or, use of electronic clearing system through bank a/c, exceeds Rs. 10,000 shall not be eligible for normal depreciation or additional depreciation.

Computation of Depreciation

Depreciation is admissible for '*block of assets*' under written down value (WDV) method. But in case of an **undertaking engaged in generation and distribution of power**, depreciation is calculated under **straight line method on individual asset or, on block of assets under WDV method.**

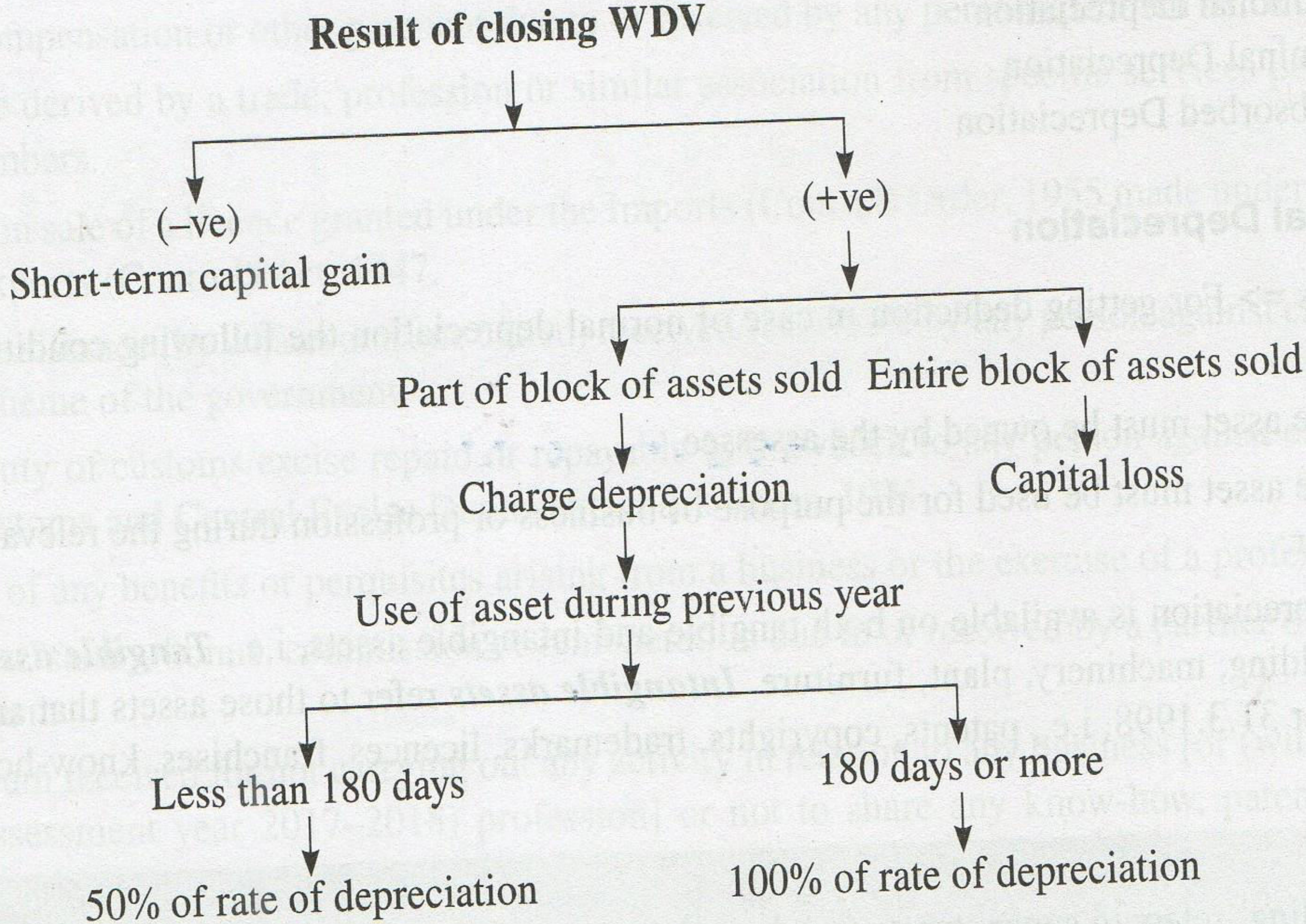
Here **'block of assets'** refers to a group of assets, which follows the following conditions:

(i) same nature of assets

(ii) same rate of depreciation

Format for Computation of Depreciation:

Opening WDV of the block		**
Add: Additions the block during the previous year	*	
Cost of improvement	*	*
		***
Less: Proceeds of transfer from the block during the previous year	*	
Expenses related with transfer	*	*
Closing WDV ------->		**



NOTE

If an asset is kept ready for use for more than 180 days before the end of the previous year and actually used for less than 180 days, but depreciation should be charged 100% rate of depreciation, i.e., here 'use' includes 'ready to use'.

2. Additional Depreciation

Conditions =>

(i) The assessee must be an industrial undertaking which **manufactures or produces any article or thing or generation and distribution of power (Note 2).**

(ii) Assessee must acquire and install a new plant and machinery **after 31.3.2005 (Note 3).**

(iii) Additional depreciation is available only on **eligible plant** and **machinery**, not on other assets.

(iv) It is available only in the year of acquisition and installation of plant and machinery and not afterwards **(Note 4).**

(v) Additional depreciation is not available if the new plant and machinery is sold in the year of acquisition.

Rate of Depreciation =>

Rate of depreciation is 20% on ***actual cost*** of such plant and machinery **(Note 5).** *Actual cost* includes:

(i) Interest pertaining to the period till the asset is put to use. But interest related to any period after the asset is first put to use cannot be included in actual cost, whether it is paid by a newly started concern or an existing concern.

(ii) Expenditure on travelling incurred for acquiring the asset.

NOTES

(1) Additional depreciation shall be allowed even if the block has nil or negative value.

(2) Additional depreciation is not available in case of power-generating units which claims normal depreciation on straight line basis [Section 32(1)(i)], but additional depreciation is available only to those cases where normal depreciation is claimed on the basis of WDV block of assets[Section 32(1)(ii)].

(3) If a plant and machinery is acquired before 1.4.2005 but installed after 31.3.2005, then additional depreciation is not available.

(4) If new P&M is used less than 180 days during the year of purchase then it will allow 50% of rate of depreciation, i.e., 10% and balance 50% of rate of depreciation, i.e., 10% will be available in the next assessment year (other than notified backward area).

(5) Any new eligible P&M acquired and installed between 1.4.2015 and 31.3.2020 for manufacturing and production in **notified backward area** in the state of Andhra Pradesh, Bihar, Telangana, West Bengal, the **applicable rate is 35%.**

(6) Eligible plant and machinery means any plant and machinery that has been acquired and installed after 31.3.2005 is qualified for additional depreciation. Non-eligible refers to ships and aircrafts, old plant and machinery, office appliances, road transport vehicles, plant and machinery for residential accommodation, and so forth.

ILLUSTRATION 1: On Depreciation (Normal and Additional)

(i) Nature of business = Manufacturing concern

(ii) Nature of block = Plant and machinery [@10% depreciation]

(iii) WDV on 1.4.2019 = Rs. 10,000 [Plant A =Rs. 4,000, Plant B – Rs. 6,000]

(iv) Acquisition of new machinery (C) on 1.1.2020 = Rs. 5,000

(v) Date of sale of plant = 20.03.2020

(vi) Selling price of plant under different alternatives:

(i) Plant B – Rs. 7,000, (ii) Plant B – Rs. 12,000, (iii) Plant B – Rs. 17,000, (iv) Plant B – Rs. 20,000, (v) All plants – Rs. 19,000, (vi) All plants – Rs. 12,000, (vii) Plant B – Rs. 15,000

☞ **Solution on Depreciation:**

Particulars	**I**	**II**	**III**	**IV**	**V**	**VI**	**VII**
WDV of block of P&M on 1.4.019	10,000	10,000	10,000	10,000	10,000	10,000	10,000
Add: Acquisition of plant C on 1.1.2020	5,000 15,000	5,000 15,000	5,000 15,000	5,000 15,000	5,000 15,000	5,000 15,000	5,000 15,000
Less: Sale of plant/ plants on 20.3.2020	7,000	12,000	17,000	2,000	19,000	12,000	15,000
WDV on 31.3.2020 (before charging depreciation)	8,000	3,000	(2,000)	13,000	(4,000)	3,000	Nil
(A) Normal depreciation:	C = 5,000 × 10% × 1/2 = 250 Remaining = 3,000 × 10% = 300 Total = 550	C = 3,000 × 10% × 1/2 = 150 Total = 150	Short-term capital gain	C = 5,000 × 10% × 1/2 = 250 Remaining =8,000 × 10% =800 Total – 1,050	Short-term capital gain NA	Short-term capital loss NA	–
(B) Additional depreciation:	C = 5,000 × 20% × 1/2 = 500	C = 5,000 × 20% × 1/2 = 500	C=5,000 × 20% × 1/2 = 500	C = 5,000 × 2 0% × 1/2 = 500			C = 5,000 × 20% × 1/2 = 500
(C) Total depreciation: (A+B) For the P/Yr 2019–2020	1,050	650	500	1,550	–	–	500

RTZ Ltd., a manufacturing company owns two plants A and B on 1.4.2019 (rate of depreciation 15%, depreciated value Rs. 14,00,000). It purchases on 10 December 2019 plant C for Rs. 3,00,000 (rate of depreciation 15%) and sells plant A on 20 January 2020 for Rs. 8,50,000.

(a) Compute amount of depreciation admissible for the previous year 2019–2020.

(b) If plant A is sold for Rs. 15,00,000, then what will be the amount of depreciation? All information remain the same.

(c) If it is assumed that a single time payment of Rs. 1,00,000 was made in respect of plant C in cash and sold at Rs. 10,00,000. What would be the amount of depreciation for the P/Yr 2019–2020?

☞ **Solution:**

Computation of allowable depreciation of RTZ Ltd. a manufacturing concern for the A/Yr 2020–2021, relating to previous year 2019–2020.

Particulars		**Option–I**	**Option–II**
WDV of plants on 1.4.2019 (A+B)		14,00,000	14,00,000
Add: Acquisition of plant of C on 10.12.2019		3,00,000	3,00,000
		17,00,000	17,00,000
Less: Sale proceeds of plant A		8,50,000	15,00,000
WDV of plants on 31.3.2020 (before charging depreciation)		**8,50,000**	**2,00,000**
(A) Normal depreciation:	C = 3L × 15% × ½ Remaining = 5.5L × 15%	22,500 82,500 **1,05,000**	C = 2L × 15% × ½ **=15,000**
(B) Additional depreciation:	C = 3L × 20% × ½	**30,000**	C = 3L × 20% × ½ **=30,000**
Total depreciation (A+B) for the P/Yr 2019–2020		**1,35,000**	**45,000**

Particulars	Option–III
WDV of plant 1.4.2019	14,00,000
<u>Add:</u> Acquisition of Plant C (3L – 1L)	<u>2,00,000</u>
	16,00,000
<u>Less:</u> Sale proceeds of Plant A	<u>10,00,000</u>
WDV on 31.3.2020 ------->	<u>6,00,000</u>
Normal depreciation: C = 2L × 15% × ½	15,000
Remaining = 4L × 15%	<u>60,000</u>
	75,000
Additional depreciation: C = 2L × 20% × ½	<u>20,000</u>
Total depreciation P/Yr 2019–2020	**<u>95,000</u>**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Presentation on

PROFITS AND GAINS OF BUSINESS OR PROFESSION

Part-II

For the students of Semester – IV B.Com.(Hons. & General)

By

DR. ASIM KUMAR MANNA

3. Power-Generating Unit

In case of power-generating unit, depreciation may be computed as follows:

WDV of the depreciable asset on the first day of the previous year in which such asset is sold, discarded, demolished or destroyed	**
Less: Sale consideration	*
Result ------->	*

Result

↓

(+ve) → Deficiency/loss be deductible as **'Terminal depreciation'**

(–ve) → Surplus or gain be taxable

- Surplus equals the amount of Depreciation already claimed, be taxable as **'Balancing charge'** U/s 41(2) as **Business Income**
- Surplus in excess of the amount of depreciation, i.e., remaining surplus (if any) be taxable as per Section 45 under the head **'Capital gains'**.

Terminal Depreciation:

It represents the unrecovered cost of the fixed asset concerned. So it is not possible to ascertain the amount for an asset forming part of a block. In other words, terminal depreciation is allowed to an assessee who is engaged in the business of generation and distribution of power and in relation to the asset for which the assessee concern opted for calculation of depreciation on individual asset basis, i.e., **on straight line basis.**

Balancing Charge:

It represents the amount of depreciation recovered on transfer of fixed asset for an assessee engaged in the business of generation and distribution of power and in creation to such fixed asset for which the assessee concern opted for calculation of depreciation on individual asset basis. In other words, if in the year of transfer of such a fixed asset the proceeds of transfer is more than the WDV, balancing charge is calculated as lower of:

(i) surplus amount, i.e., excess of proceeds over WDV

(ii) depreciation allowed in relation to such asset

NOTES

(1) When the individual asset is sold in the previous year in which it is *first put to use*, any loss or gain arising therefrom will not be allowed as 'terminal depreciation' or 'balancing charge' but will be treated as 'capital loss' or 'capital gain'. And the capital gain will be taxable as per Section 45 under the head 'capital gains'.

(2) Terminal depreciation cannot be allowed as deduction if the asset is not used for the purpose of business or profession of the assessee at least for some time during the previous year in which the sale takes place.

(3) Terminal depreciation is allowed only if it is actually written off in the books of assessee under straight line method.

(4) Balancing charge is taxable u/s 41(2) in the previous year in which sale price, insurances, salvage or compensation money becoming due, whether the business is in existence in that year or not. But in case of compulsory acquisition, it is taxable in the year of receipt of compensation. In case of additional compensation, it is taxable in the year of receipt of additional compensation.

4. Unabsorbed Depreciation:

If current previous year's income (except salary income) of the assessee is not sufficient to recover depreciation admissible u/s 32, the unrecovered portion is called unabsorbed depreciation.

- Such unabsorbed deprecation can be carried forward for indefinite no. of previous years, i.e., it can be carried forward till recovery of the same.
- In the subsequent previous years, it can be set off against any income whether chargeable under the head 'profits and gains of business or profession' or under any other heads of income (except income under the head 'salaries').

- In case of set off and carry forward of unabsorbed depreciation, it is not necessary of continuity of business.
- Deprecation can be carry forward by the same assessee. But if it so happens that before recovery of the entire amount of unabsorbed depreciation an **amalgamation** has taken place, the amalgamated company will enjoy the benefit of carry forward on fulfilment of certain conditions.

The unabsorbed depreciation can be set off in the subsequent years by maintaining the following orders:

(a) current depreciation

(b) brought forward business loss

(c) unabsorbed deprecation

But if there is no brought forward business loss, then the unabsorbed depreciation can be added to current depreciation for the purpose of claiming deduction.

7.3.4 Rate of Depreciation

Assets	Rate
Buildings (residential)	5%
Buildings (office/factory)	10%
Furniture and fixtures	10%
Plant and machinery:	
(a) Plant and machinery, motor car, oil wells	15%
(b) Ship and vessels	20%
(c) Computers including computer software, books, air/water pollution control equipment, energy savings devices (including wind mills)	40%
Intangible assets	25%

The WDV of a block of machineries having the depreciation rate of 25% is Rs. 3 lakhs as on 1.4.2019. A new machine X (depreciation rate 25%) is purchased for Rs. 1 lakh on 1.11.2019 and put to use on 30.11.2019. Another machine Y with same rate of depreciation is purchased (for Rs. 50,000) on 1.7.2019 and put to use on 15.7.2019. An existing machine of the block was sold for Rs. 1.50 lakhs on 1.12.2019.

Compute the amount of depreciation u/s 32 for the previous year 2019–2020.

☞ **Solution:**

Computation of allowable depreciation of company for the A/Yr 2020–2021, relating to previous year 2019–2020.

Particulars	**Option–I**	**Option–II**
WDV on 1.4.2019 of block of machines	3,00,000	3,00,000
Add: Acquisition of machinery X on 1.7.2019	50,000	50,000
Acquisition of machinery Y on 1.11.2019	1,00,000	1,00,000
	4,50,000	4,50,000
Less: Sale proceeds of existing machine of block	1,50,000	5,50,000
WDV on 31.3.2020 (before charging depreciation)	**3,00,000**	**(1,00,000)** ↓
Depreciation for the P/Yr 2019–2020:		
On machinery Y = 1,00,000 × 25% × ½	12,500	Short-term capital gain
On machinery X = 50,000 × 25%	12,500	
On remaining assets of block =1,50,000 × 25%	37,500	
Total	**62,500**	

(Problem on Power-Generating Sector)/(Terminal Depreciation) LD Ltd. is a power-generating unit. On 1.6.2017 it purchases a plant of Rs. 10,000 which eligible for depreciation @10% on straight line basis. The plant is sold for @Rs. 6,000 (b) 9,000 (c) 13,000. Show the tax incidence of this machinery for the A/Yr 2020–2021.

☞ **Solution:**

Computation of tax consequences under different alternatives:

Particulars	**Details**	**(a)**	**(b)**	**(c)**
Original cost on 1.6.2017	10,000			
(–) Depreciation for 2017–2018 and 2018–2019	2,000			
(10 K × 10% × 2)	8,000	8,000	8,000	8,000
WDV on 1.4.2019		6,000	9,000	13,000
Less: Sale proceeds		**2,000**	(1,000)	(5,000)
Result		2,000	–	
(i) Terminal depreciation deductible for the P/Yr 2019–2020.		–	1,000	2,000
(ii) Balancing charge u/s 41(2) taxable for the P/Yr 2019–2020. [not to exceed the depreciation claimed]		–	–	3,000
(iii) Capital gains (short term) u/s 50A for the P/Yr 2019–2020.				

7.3.4.1 Investment Allowance for Investment in New Plant and Machinery in Notified Backward Areas in Certain States [Section 32AD]

Investment allowance under this section would be in addition to depreciation allowance under Section 32.

Conditions: (1) An assessee (corporate or, non-corporate assessee) sets up a manufacturing unit on or after 1 April 2015.

(2) The manufacturing unit is set up in any notified backward area in the State of Andhra Pradesh, Bihar, Telangana or West Bengal.

(3) The assessee acquires and installs any new asset for the purpose of the said unit during the period beginning on 1 April 2015 and ending before 1 April 2020.

Meaning of 'new asset': For the purpose of this section, 'new asset' means any new plant or machinery other than the following:

(a) Any ship or aircraft

(b) Any plant or machinery, which before its installation by the assessee, was used either within or outside India by any other person.

(c) Any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house.

(d) Any office appliances including computers or computer software.

(e) Any vehicle or

(f) Any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head 'profits and gains of business or profession' of any previous year.

Rate of investment allowance: Investment allowance @15% of actual cost of such new asset will be allowed for the assessment year relevant to the previous year in which such new asset is installed.

If the new asset is sold or otherwise transferred: If any new asset acquired and installed by the assessee is sold or otherwise transferred within a period of 5 years from the date of its installation, the deduction allowed under this section in respect of such new asset shall be deemed to be the income of the assessee chargeable under the head 'Profits and gains of business or profession'. Such income shall be chargeable to tax in the previous year in which the new asset is sold or otherwise transferred. Capital gain which would arise as per Section 45 shall also be taxable.


Thank
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Presentation on

PROFITS AND GAINS OF BUSINESS OR PROFESSION

Part-III

For the students of Semester – IV B.Com.(Hons. & General)

By

DR. ASIM KUMAR MANNA

Expenditure on Scientific Research (Section 35)

Any activity for the extension of knowledge in the fields of natural or applied sciences.

Scientific Research may be carried on:

1. by the assessee, relating to his business (i.e. In House research)

2. by making payment to outside agencies engaged in scientific research work

1. Carried on by the Assessee relating to his business (i.e. In House research)

Assessee	Nature of Expenditure	After commencement of business	Before commencement of business
Non-Corporate	Revenue (Salary to employees, purchase of material etc)	100% deduction (to the extent certified by the prescribed authority, excluding perquisites)	All expenses (100%) during 3 years immediately preceding the commencement of business shall be allowed as deduction.
	Capital (Building, Plant, Equipment and other assets)	100% deduction (excluding cost of Land)	All expenses (100%) during 3 years immediately preceding the commencement of business shall be allowed as deduction.
Corporate	Revenue (Salary to employees, purchase of material etc)	150% deduction (to the extent certified by the prescribed authority, excluding perquisites)	All expenses (100%) during 3 years immediately preceding the commencement of business shall be allowed as deduction.
	Capital (Building, Plant, Equipment and other assets)	Building (100%), Others (150%) (excluding cost of Land)	All expenses (100%) during 3 years immediately preceding the commencement of business shall be allowed as deduction.

2. Carried on by making payment to outside agencies engaged in scientific research work (may be related/unrelated with business)

Approved scientific research association, university, colleges: **For Natural Science Research** **For Social/ Statistical Research**	 **150%** **100%**
National Laboratory	150%
Indian Scientific Research Company	100%

East India Phrmaceuticals Ltd. submitted the following list of expenses incurred in connection with research during the previous year 2019-20.

For in-house research relating to its business : cost of land ₹ 50,000, purchase of machinery ₹ 75,000 and ₹ 80,000 towards salary of research personnel.

Contribution for carrying out approved research : ₹ 40,000 to Calculate University for carrying out approved social research project.

Calculate the amount of deduction admissible for scientific research.

[C.U., B.Com.(Hons.), 2005]

Solution

Computation of the amount of deduction admissible for scientific research u/s 35

For in-house research relating to business	₹
Cost of machinery (₹ 75,000×150%)(Note)	1,12,500
Salary of research personnel (100% Deduction)	80,000
Contribution for carrying out approved research	
Amount paid to Calcutta University (₹ 40,000 $\times \frac{100}{100}$)	40,000
Total amount of deduction	2,32,500

Sale of an asset used for scientific research

1. Sold after having been used for business purpose

Opening WDV of Block	**
Add: Cost of acquisition of asset Used for scientific research [allowed as deduction u/s 35]	Nil
Less: Sale proceeds	**
Closing WDV	*
	*

- (+ ve) → Charged depreciation on closing WDV
- (– ve) → Short-term capital gain

2. Sold without having been used for business purpose

Business Income u/s 41(3)

Least of

(i) Sale proceeds

(+) Deduction allowed u/s 35

(–) Cost of acquisition

(ii) Deduction allowed u/s 35

Capital Gains u/s 45

Sale proceeds	**
Less: COA/ICOA	✓
	*

ST/LT capital gain

SB Ltd. purchased asset for scientific research purpose at a cost of Rs. 8,00,000 during 2019–2020 and sold the same during 2019–2020 for (i) Rs. 5,00,000; (ii) Rs. 11,00,000. Discuss the tax implication, assuming that (a) the asset was used for business purpose before sale. Opening WDV of the block of assets Rs. 9,00,000. Depreciation is admissible at the rate 15%.

☞ **Solution:**

Computation of allowable depreciation and STCG for the A/Yr 2020–2021 relating to previous year 2018–2019:

(a) Assets are sold after used in general business

Particulars	I	II
WDV as on 1.4.2019 of existing block	9,00,000	9,00,000
Add: WDV of the asset which is used for SR purpose on 1.4.2019 (Ded. Section 35)	Nil	Nil
	9,00,000	9,00,000
Less: Sale of asset which is used for SR purpose	5,00,000	11,00,000
	4,00,000	(2,00,000)
Depreciation as per Section 32 (4,00,000 × 15%) for existing asset	60,000	–
STCG	–	2,00,000

ABC Ltd. for its Research & Development department purchased a machinery on 15th March, 2017 for ₹18,00,000 for the purpose of advanced research in medicines.

(1) Calculate the deduction under section 35 for the assessment year 2017-18.

(2) The research activity for which machine was purchased ceases in 2018 and after that it is used for other purposes of the business from October 15, 2018 (market value of the machine : ₹6,90,000); depreciation admissible is 10% and depreciated value of the block on 1.4.2018 is ₹42,00,000. On 24th April, 2019 the machine is sold for ₹5,00,000. Calculate the amount of depreciation for the assessment year 2019-20 and the amount capital gain or loss.

(3) If the machine purchased for research purposes is not used for other purposes of the business (market value of the machine : ₹6,90,000), and the machine is sold on 24th April, 2019 for ₹5,70,000 or ₹20,00,000. Calculate the amount chargeable to tax under section 41(3).

Solution :

(1) In this case the capital expenditure of ₹18,00,000 for the A.Y. 2017-18 is related to the business of the assessee. Therefore the whole expenditure is allowed as deduction under section 35.

(2) After using the machine for research purpose it is used for other purposes of the business.

Calculation of Capital Gain or Loss for the Assessment Year 2020-21.

	Amount (₹)
Depreciated value of the block on 1.4.2018	42,00,000
Add : Cost of machinery transferred from R & D department on October 15, 2018 for other purposes of the business (₹18,00,000 – deduction claimed u/s 35 : ₹18,00,000)	Nil
Written down value	42,00,000
Less : Depreciation @10% for the previous year 2018-19 (10% × ₹42,00,000)	4,20,000
Depreciate value on 1.4.2019	37,80,000
Less : Sale proceeds of machinery sold on 24th April, 2019	5,00,000
Written down value	32,80,000
Less : Depreciation @10% for the previous year 2019-20 (10% × ₹32,80,000)	3,28,000
Depreciated value on 1.4.2020	29,52,000

In this case there is no capital gain or loss.

3. *Calculation of amount chargeable under section 41(3)* : Amount chargeable under section 41(3) is sale proceeds but which is restricted to a maximum amount of deduction claimed under section 35 for the assessment year 2020-21.

	When the asset is sold for ₹5,70,000	When the asset is sold for ₹20,00,000
Amount chargeable u/s 41(3)	₹5,70,000	₹18,00,000

Calculation of Capital Gain under section 45

	Amount(₹)	Amount(₹)
Sale proceeds	5,70,000	20,00,000
Less : Cost of acquisition	18,00,000	18,00,000
Short- term capital gain	(–)12,30,000	2,00,000

Note : The assessee can claim double deduction. One is short-term capital loss of ₹12,30,000 and deduction claimed under section 35 when the asset is not used for other purposes of the business.


Thank you

Presentation on

PROFITS AND GAINS OF BUSINESS OR PROFESSION

Part-IV

For the students of Semester – IV B.Com.(Hons. & General)

By

DR. ASIM KUMAR MANNA

Amortisation of Preliminary Expenses [Sec. 35D & Rule 6AB]

Applicable to: An Indian company or a resident non-corporate assessee.

Conditions to be satisfied

1. Assessee has incurred certain amount as preliminary expenditure:
   a) Before commencement of business; or
   b) After commencement of business in connection with setting up a new unit; or
   c) In connection with extension of his undertaking.

2. In the case of a non-corporate assessee, an audit report from a Chartered Accountant should be submitted along with the return in which such expenditure was 1st claimed.

Following expenses are known as preliminary expenses: -

a) Expenses for preparation of project report.

b) Expenses for preparation of feasibility report.

c) Expenses for conducing market survey.

d) Expenses for engineering services.

e) Expenses for drafting & printing of Memorandum of Association & Articles of Association.

f) Registration fees.

g) Expenses in connection with public issue of shares or debenture of the company, underwriting commission, brokerage & charges for drafting, typing, printing & advertisement of the prospectus.

h) Any other prescribed expenditure.

Qualifying Expenditure:

Corporate Assessee	Least of the following: (i) Actual preliminary expenses incurred (ii) Higher of: (a) 5% of cost of project (b) 5% of capital employed
Non-Corporate Assessee	Least of the following: (i) Actual preliminary expenses incurred (ii) 5% of cost of project

Amount of deduction: Qualifying expenditure shall be allowed in 5 equal installments from the year in which the business is commenced or the extension work is completed.

"Cost of Project" means actual cost of fixed assets as on the last day of the previous year in which the business commences or extension of industrial unit is completed.

"Capital employed" means total of issued share capital, debentures & long-term borrowings (i.e. repayable after 7 years) on the last day of the previous year in which the business commences or extension of industrial unit is completed.

On 10.08.2018 ABC Ltd. was incorporated in Kolkata. The commencement of business started on 20.02.2019. The following expenses are incurred before the commencement of business.

(a) Legal expenses for preparing Memorandum and Articles of Association : ₹80,000.

(b) Cost of preparing feasibility report : ₹2,00,000.

(c) Cost of market survey report : ₹1,10,000.

(d) Engineering services not approved by the Board : ₹2,50,000.

The position of fixed assets and capital on March 31, 2018 is given below :

	Amount(₹)
Cost of Fixed Assets	80,00,000
Share Capital	50,00,000
Debentures	20,00,000
Borrowing from IDBI for a period of 10 years	10,00,000

Calculate the amount eligible for amortization.

Solution :

(a) 5% of the cost of the project i.e. ₹80,00,000 × 5% = ₹4,00,000.

(b) 5% of capital employed i.e. 5% of ₹(50,00,000+20,00,000+10,00,000) i.e. ₹4,00,000.

(1) *Qualifying expenditure is higher of (a) and (b) i.e. ₹4,00,000.*

(2) *Qualifying Preliminary Expenditure*	**Amount(₹)**
(a) Legal expenses for preparing Memorandum and Articles of Association	80,000
(b) Cost of preparing feasibility report	2,00,000
(c) Cost of market survey report	1,10,000
(d) Engineering services not included as it is not approved by the Broad	—
	3,90,000

So the amount eligible for amortization is lower of (1) or (2) i.e. ₹3,90,000.

The amount is deductible in next five years from 2019-20 to 2023-24 i.e. ₹3,90,000 × $^1/_5$ = ₹78,000 every year.

7.3.9 Insurance Premium for Health of Employees [Section 36(1)(ib)]

On the basis of fulfilment of following conditions the assessee will avail deduction U/S 36(1)(ib)

(i) Premium paid on the insurance on the health of employees.

(ii) Premium must be paid in any mode other than cash.

(iii) The policy is framed by General Insurance Corporation of India and approved by Central Government.

7.3.10 Bonus or Commission to Employees [Section 36(1)(ii)]

On the basis of fulfilment of following conditions the assessee will avail deduction u/s 36(1)(ii)

(i) Bonus or commission is paid other than in lieu of profit or dividend.

(ii) Bonus or commission actually paid before the due date of furnishing return [Section 43B]

7.3.11 Interest on Borrowed Capital [Section 36(1)(iii)]

On the basis of fulfilment of following conditions the assessee will avail deduction u/s 36(1)(iii)

(i) The borrowed capital must use for business or profession purposes of the assessee.

(ii) If loan is taken for construction or acquisition of capital asset, then interest on loan till the date when asset is put to use is capitalized and added to cost of the capital asset, i.e., interest cannot allowed as deduction.

(iii) The interest includes any service fee or other charges incurred in respect of borrowed capital. But brokerage, commission for arranging loan is not allowed as deduction under this Section but allowed under Section 37(1).

7.3.12 Contribution Towards RPF and SAF [Section 36(1)(iv)]

Any contribution towards Recognized Provident Fund and Approved Superannuation Fund is allowed as deduction in full. But contribution towards URPF is not allowed as deduction and contribution towards SPF is allowed as deduction u/s 37(1).

Bad Debts [Sec.36(1)(vii)]:

Any debt or part thereof, which becomes bad shall be allowed as deduction.

Conditions:

1. Debt must be incidental to the business or profession of the assessee.
2. The debt has been considered as income of the assessee of that previous year or of earlier previous years.
3. It must have been written off in the accounts of the assessee.

Recovery of Bad Debts [Sec.41(4)]

Particulars	`	`
Amount recovered		***
Less: Bad Debt claimed Less: Bad Debt allowed as deduction	*** ***	 ***
Taxable Bad Debt Recovery		***

Problem.

Bad debt claimed by the assessee was `1,00,000 in the A.Y. 2014-15, deduction allowed by the A.O. in that year was `85,000. In the P.Y. 2019-20, `60,000 is recovered. Discuss.

Solution:

Particulars	`	`
Amount recovered		60,000
Less: Bad Debt claimed Less: Bad Debt allowed as deduction	1,00,000 85,000	 15,000
Taxable Bad Debt Recovery		45,000

Consequences of payment exceeding `10,000 otherwise than by account payee cheque or demand draft or use of electronic modes [Sec.40A(3)]

100% of such payment shall be disallowed

Advertisement Expenditure [Sec.37(2B)]

Any expenditure incurred by an assessee an advertisement in any souvenir, brochure, pamphlet, published by a political party will not avail any deduction but other remaining expenses on advertisement are deductible as per section 37(1).

Overvaluation and undervaluation of opening and closing stock

Particulars	Over-Valuation	Under-Valuation
Opening Stock	+	-
Closing Stock	-	+

Goods withdrawn by the Proprietor generally valued at cost price as per Kikabhai Premchand vs. CIT

Particulars	`
Cost price	***
Less: Charged out price	***
Balance	***

If the balance is a positive one <u>add</u> the difference and if If the balance is negative one <u>less</u> the difference

7.10 Computation of Income From Business

Computation of income from business of Mr. – an individual and resident in India, for the assessment year 2020–2021 relating to previous year 2019–2020.

	Particulars	Rs.	Rs.
	Net profit as per P and L A/c	***	
Add:	Disallowed Expenses		
	(1) Personal expenses of proprietor	***	
	(2) Provision for bad debt	***	
	(3) Bad debt written off (treated separately)	***	
	(4) Depreciation (treated separately)	***	
	(5) Life insurance premium (personal expenses)	***	

Particulars	Rs.	Rs.
(6) Income tax (personal expenses)	***	
(7) Loss on sale of asset (capital in nature)	***	
(8) Proprietor's salary	***	
(9) Interest on capital	***	
(10) Donation (treated separately)	***	
(11) Capital expenditure	***	
(12) Exp. for acquiring capital asset	***	
(13) Illegal expenses	***	
(14) Legal expenses for infringement of law	***	
(15) Penalty	***	
(16) Contribution to Staff Welfare Fund	***	
(17) Fine paid to excise dept., custom dept. etc.	***	
(18) Cultivation expenses	***	
(19) Difference in trial balance	***	
(20) Unexplained expenditure	***	
(21) Rent of business building owned by proprietor	***	
(22) Expenditure of shifting of office	***	
(23) Expenditure in cash excess of Rs. 10,000 (entire)	***	
(24) Payment to relatives and associates [excess amount paid as per Section 40A(2)]	***	
(25) Certain payments not paid within the specified period u/s 43(B) (such as GST, bonus or commission to employee, interest on loan from any public financial institution, employer's contribution to provident fund)	***	***
(26) Any expenses paid outside India without deducting tax at source	***	***

Less: **Disallowed Income**

(1) Dividend received (income from other sources)		***
(2) Interest received (income from other sources)		***
(3) Profit on sales of assets (being capital gain)		***
(4) Refund of income tax (as payment of tax is not allowable)		***
(5) Interest from Govt. securities (income from other sources)		***
(6) Share of profit from partnership firm exempted u/s 10(2A)		***
(7) Bad debt recovery (If previously not allowed by ITO as bad debt)		***
(8) Sales of agricultural product (being agricultural income)		***
(9) Revenue from fisheries (income from other sources)		***
(10) Rent from agricultural land (agriculture income)		***
(11) Rent from house property (income from house property)	***	
(12) Gift received from others (except business gift)	***	
(13) Winning from horse race (income from other sources)	***	
(14) Interest from post office cash certificate	***	***
		***

Less:	Exp. Not debited to Profit and Loss A/c		
	Cap. expenditure on scientific research	***	
	Preliminary expenses	***	
	Any other expenses allowed by ITO	***	
			***
			***
Add:	Income to be credited		
	Amount received not credited in P/L A/c	***	
	Goods taken over by proprietor not recorded in P/L A/c or recorded as below cost	***	
	Undervaluation of closing stock	***	
	Overvaluation of opening stock	***	
			***
	Income from Business		***

7.11 Computation Of Income From Profession

Computation of income from profession of Mr. – an individual and resident in India, for the assessment year 2020–2021 relating to previous year 2019–2020.

Particulars	Rs.	Rs.
Professional Receipts		
A. **Chartered Accountant and Lawyer with Teaching**		
Fees from Client	***	
Consultation Charges	***	
Income from accounting work	***	
Fees received for conducting IT appeals	***	

(Continued)

	Particulars	Rs.	Rs.
	Gift from client relating to profession	***	
	OR	***	
B.	**For Medical Practitioner**		
	Consultation fees	***	
	Operation charges	***	
	Visiting fees	***	
	Sales of medicine	***	
	Gift received from patient for profession	***	
	Commission in respect of profession	***	***
			***

Less: **Professional Payment**

A. For Lawyer and Chartered Accountant

Remuneration to article clerk	***
Institute expenses	***
Staff Salary	***
Membership and Certificate fees	***
Rent	***
Electric charges	***
Postage and stationery	***
Telephone Expenses	***
Car expenses and conveyance	***
Depreciation on car	***
OR	***

B. For Medical Practitioner

Purchase of medicine	***
Staff Salary	***
Clinic rent	***
Rent, rates and taxes	***
Entertainment Expenses	***
Audit fees or accounting charges	***
Purchase of Periodicals and Journals	***
Membership fees	***
Printing and Stationery	***
Telephone expenses	***

Particulars	Rs.	Rs.
Electricity expenses	***	
Salary to compounder and assistants	***	
Consulting room expenses	***	
Depreciation on Surgical equipment	***	
Depreciation on book (40%)	***	
Depreciation on car	***	
Proportionate car expenses	***	
		***
Professional Income		***


Thank you

Presentation on

SET-OFF AND CARRY FORWARD OF LOSSES

For the students

of

Semester – IV

B.Com.(Hons. & General)

By

DR. ASIM KUMAR MANNA

Set-off and carry forward of losses

According to the Income Tax Act, a person can opt for 'setting off and carrying forward of losses' for the losses that have been incurred. This provides some relief to the person who has incurred the losses.

"Set-off" means adjustments of losses against the profit from another source/head of income in the same assessment year.

If losses cannot be set-off in the same year due to inadequacy of eligible profit, then such losses are carrying forward to next assessment year for adjustment against the eligible profit of that year.

The maximum period for which different losses can be carried forward for set-off has been provided in the Act.

Provisions pertaining to Set-Off and carry forward of losses

Provisions pertaining to Set-Off and carry forward of losses are divided in 3 parts:

Part 1 deals with Set off of loss from one source against income from another source under the same head of income i.e., **intra-head adjustment** (Section 70)

Part 2 deals with Set off of loss from one head against income from another head i.e., **inter-head adjustment** (Section 71)

Part 3 deals with **Carry forward of losses to** subsequent years (Section 71B, 72, 73, 73A, 74, 74A)

Part 1 : Set off of loss from one source against income from another source under the same head of income

Loss from one source of Income can be set off against Income from another source of Income under same head subject to few exceptions as under:

- Loss from speculation business can be set off only against profit from speculation business
- Long term capital loss can be set off only against **Long term capital gain**
- Loss from activity of owning and maintaining race horses can be set off only against same income.
- Loss from specified business referred u/s 35AD can be set off only against another specified business.
- Loss cannot be set off against winnings from lotteries, crossword puzzles, races, card games, and other games.

Part 2 : Set off of loss from one head against income from another head

Loss under one head of Income can be set off against Income under another head of Income subject to few exceptions as under:

- Loss from speculation business cannot be set off against any other head of Income.
- Loss under the head **“Capital gains”** cannot be set off against any other head of Income.
- Loss from activity of owning and maintaining race horses cannot be set off against any other head of Income.
- Loss from specified business referred u/s 35AD cannot be set off against any other head of Income.
- Loss cannot be set off against winnings from lotteries, crossword puzzles, races, card games, and other games.
- Normal business loss cannot be set off against Income under the head “Salaries”
- Loss under the head “**Income from House property”** can be set off against any other head of income subject to maximum of Rs.2 lacs for particular assessment year.

Part 3 : Carry forward of losses to subsequent years

Loss which could not be set off as per Part 1 i.e., under the same head or as per Part 2 i.e., under different head in the same year can be set off against income of subsequent year.

Order of set-off of losses

As per provisions of section 72(2), brought forward business loss is to be set-off before setting off unabsorbed deprecation. In case where profits are insufficient to absorb brought forward losses, current depreciation and current business losses, the same should be deducted in the following order :

i) Current year depreciation/ current year capital expenditure on scientific research and current year expenditure on family planning, to the extent allowed.

ii) Brought forward loss from business/profession.

iii) Unabsorbed expenditure on family planning

iv) Unabsorbed depreciation

v) Unabsorbed capital expenditure on scientific research

Table of Set off and Carry Forward Losses

S. N.	Section	Type of loss	Set-off against income in the same assessment year		Carry forward losses to be set-off against	Time limit to carried forward	Mandatory filing of return of income
			Intra-head Adjustment	Inter-head Adjustment			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	71B	House Property: a. Let out property b. Self-occupied Property (On account of interest on borrowed capital)	Income from House property head	Any other head* up to Maximum of Rs. 2,00,000 from AY 2018-19.	Income from House property.	8 years	No

Table of Set off and Carry Forward Losses

S. N.	Section	Type of loss	Set-off against income in the same assessment year		Carry forward losses to be set-off against	Time limit to carried forward	Mandatory filing of return of income
			Intra-head Adjustment	Inter-head Adjustment			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2.	**Business Loss:**						
2.1	73	Business (Speculation)	Speculation Profit	Not allowed	Speculation Profit	4 years	Yes
2.2	72	Business or Profession (Non-Speculation other than Depreciation)	Business Income Head	Any other head* except salaries [Sec. 71(2A)]	Business Income Head	8 years	Yes
2.3.	32	Unabsorbed Depreciation, capital expenditure on scientific research and family planning	Business Income Head	Any other head* except salaries [Sec. 71(2A)]	Any head except salaries [Sec. 71(2A)]	Indefinitely	No
2.4.	73A	Losses by specified Businesses under section 35AD	Only against Specified business income	Not allowed	Business income of specified business	Indefinitely	Yes

Table of Set off and Carry Forward Losses

S. N.	Section	Type of loss	Set-off against income in the same assessment year		Carry forward losses to be set-off against	Time limit to carried forward	Mandatory filing of return of income
			Intra-head Adjustment	Inter-head Adjustment			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
3.	Capital Loss:						
3.1.	70/74	Short-term capital loss	Capital gains(both short and long term)	Not allowed	Capital gains(both short and long term)	8 years	Yes
3.2	70/74	Long-term capital loss	Long-term capital gain	Not allowed	Long-term capital gain only	8 years	Yes
4.	74A	Running and Maintaining Race Horses	Such income only	Not allowed	Such income only	4 years	Yes
5	71	Other sources	Other sources	Any other head	No carry forward	N. A.	

Notes

- *Loss cannot be set off against winnings from lotteries, crossword puzzles, races including horse races, card games or any other games or from gambling or betting of any form.
- Loss from a source can be set off only if its profit is taxable. If profits from a source are exempt then its loss cannot be set off.
- Loss from lotteries, gambling, crossword puzzles etc. cannot be set off or carry forward.

Master Problem

From the following information compute gross total income of Mr. A for the AY 2020-21.

	`
Income from salaries	3,60,000
Income from house property: Let out	60,000
Self occupied	(1,40,000)
Profit from speculative business I	35,000
Loss from speculative business II	20,000
Brought forward loss from speculative business I for the AY 2018-19	5,000
Paper business: Profit for the current year	31,000
Brought forward loss for the AY 2016-17	15,000
Unabsorbed depreciation for the AY 2016-17	20,000
Jute business: Loss for the year (before depreciation)	18,000
Current year depreciation	20,000
Brought forward loss for the AY 2017-18 (before depreciation)	13,000
For the year 2018-19 (loss of return not submitted)	20,000
Business in dealing shares – profit for the year	35,000
LTCG	75,000
LTCL	25,000
Brought forward LTCL for the AY 2016-17	20,000
STCG	25,000
STCL	15,000
Brought forward STCL for the AY 2017-18	30,000
Profit from owning and maintaining race horses	80,000
Loss from owning and maintaining race horses	50,000
Brought forward loss from owning and maintaining race horses for the AY 2017-18	40,000
Dividend from foreign co.	70,000

Solution:

Computation of Gross Total Income of Mr. A, a resident individual for the AY 2020-21 relating to the PY 2019-20.

Particulars	Rs.	Rs.	Rs.
Income from salaries		3,60,000	
Income from House Property:			
Let out	60,000		
Self occupied	(1,40,000)		
	(80,000)		
Less: set off loss of S.O. property from salary		(80,000)	2,80,000

Particulars	Rs.	Rs.	Rs.
Profit and gains of business or profession:			
Profit from speculative business I	35,000		
Less: Set off loss from speculative business II	(20,000)		
	15,000		
Less: B/F loss from speculative business I for the AY 2018-19	5,000		
	10,000		
Profit from business in dealing shares	35,000		
Profit from paper business	31,000		
	76,000		
Less: Set off loss from jute business	(18,000)		
	58,000		
Less: Set off of current years depreciation of jute business	(20,000)		
	38,000		
Less: Set off B/F loss of paper business (2016-17)	(15,000)		
Less: Set off B/F loss of jute business (2017-18)	(13,000)		
Less: Unabsorbed depreciation of paper business	(10,000)		
Unabsorbed depreciation can be set off through any heads of income except income from salaries and casual incomes.		(10,000)	

Particulars	Rs.	Rs.	Rs.
Capital Gains:			
LTCG	75,000		
Less: Set off of LTCL	(25,000)		
	50,000		
Less: Set off B/F LTCL	20,000		
	30,000		
Add: STCG	25,000		
	55,000		
Less: Set off of STCL	15,000		
	40,000		
Less: Set off of B/F STCL	30,000	10,000	

Particulars	Rs.	Rs.	Rs.
Income from other sources:			
Profit from owning and maintaining race horses	80,000		
Less: Set off loss from owning and maintaining race horses	50,000		
	30,000		
Less: Set off B/F loss from owning and maintaining race horses	30,000		
(Rs.10,000 to be carried forward)	Nil		
Dividend from foreign Co.	70,000	70,000	70,000
Gross Total Income			3,50,000

Notes:

1. Unabsorbed B/F loss of Rs.10,000 from owning and maintaining race horses will be C/F
2. Unabsorbed depreciation can be set off through any heads of income except income from salaries and casual incomes.
3. B/F loss from jute business (2018-19) of Rs.20,000 cannot be set off as the loss of return not submitted by the assessee.


Thank you