TAXATION ISSUES RELATING TO CAPITAL MARKET TRANSACTIONS

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CAPITAL MARKET TRANSACTION

- CASH MARKET
  - DELIVERY BASED
    - INVESTMENTS
    - BUSINESS
  - DAILY JOBBING (NO DELIVERY)
    - SPECULATIVE BUSINESS
- DERIVATIVE MARKET
  - FUTURE
    - INDEX
    - STOCKS
  - OPTIONS
    - INDEX
    - STOCK

BUSINESS U/S 43 (5) (d)

ACCOUNTING FOR DERIVATIVES

AS PER THE GUIDANCE NOTE ISSUED BY THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA(ICAI) ACCOUNTING FROM THE VIEW POINT OF PARTIES WHO ENTER INTO SUCH FOLLOWING CONTRACTS AS BUYER & SELLER:

1. EQUITY INDEX FUTURES
2. EQUITY STOCK FUTURES
3. EQUITY INDEX OPTIONS
4. EQUITY STOCK OPTIONS

ACCOUNTING TREATMENT IN THE BOOKS OF THE CLIENT

(A) ACCOUNTING FOR INITIAL MARGIN

(B) ACCOUNTING FOR SECURITY TRANSACTION TAX

(C) ACCOUNTING FOR EQUITY INDEX AND EQUITY STOCK FUTURES.

- Accounting for payment/receipt of mark–to-market margin.
- Accounting for open interests in futures contracts as on the balance sheet date.
- Accounting at the time of final settlement or squaring – up.
- Accounting in case of default.

ACCOUNTING TREATMENT IN THE BOOKS OF THE CLIENT

(D) ACCOUNTING FOR EQUITY INDEX OPTIONS AND EQUITY STOCK OPTIONS

- Accounting for payment/receipt of the premium.
- Accounting for open interests in options contracts as on the balance sheet date.
- Accounting at the time of squaring – up of an option contract.
- Method for determination of profit/loss in multiple options situation.

ACCOUNTING TREATMENT IN THE BOOKS OF THE CLIENT

- **Accounting at the time of final settlement :**

  1.1 Index options and cash – settled stock options contracts :

  1.1.1 In the books of buyer/holder
  1.1.2 In the books of seller/writer

  1.2 Delivery-settled stock options contracts

  1.2.1 In the case of buyer/holder
  1.2.2 In case of seller/writer

(E) DISCLOSURE

ACCOUNTING FOR CASH MARKET TRANSACTIONS

1. ACCOUNTING FOR DAILY JOBBING TRANSACTIONS.

2. ACCOUNTING FOR DELIVERY BASED TRANSACTIONS AS BUSINESS.

3. ACCOUNTING FOR DELIVERY BASED TRANSACTIONS AS INVESTMENT.

ACCOUNTING TREATMENT IN THE BOOKS OF THE CLIENT

1. ACCOUNTING FOR DAILY JOBBING TRANSACTIONS.

- **Speculation business account should be debited or credited.**
- **Entries should be made on the bill date.**
- **STT paid should be debited & treated as an expenditure.**

ACCOUNTING TREATMENT IN THE BOOKS OF THE CLIENT

2. ACCOUNTING FOR DELIVERY BASED TRANSACTIONS AS BUSINESS.

- **Separate purchases account and sales account should be opened.**
- **Entries should be made on the bill date.**
- **STT paid should be debited to separate STT account & treated as an expenditure.**
- **AS 2 is <u>not applicable</u> in accounting for inventories for shares, debentures and other financial instruments held as stock in trade.**
- **The accounting policies adopted in measuring inventories, including the cost formula used should be disclosed in financial statements.**
- **As per AS 9, dividends from investments in shares are not recognized in the statement of profit and loss until a right to receive payment is established.**

ACCOUNTING TREATMENT IN THE BOOKS OF THE CLIENT

(A) ACCOUNTING FOR DELIVERY BASED TRANSACTIONS AS INVESTMENT.

- **Purchase and sale entries should be made through investment account.**
- **FIFO Method will be applicable in case of dematerialized holding**

  Circular No 768, Dated 24/06/1998.
- **Entries should be made on the bill date.**
- **STT paid should be debited to separate STT account & treated as drawings from the capital. STT will neither be the part of Cost of Acquisition nor it will be deducted from sale value.**
- **As per AS 13, cost of an investment includes acquisition charges such as brokerage, fees and duties.**
- **Accounting for Right & Bonus Issues**

TAXATION OF DERIVATIVES

(A) DERIVATIVE TRANSACTIONS TO BE TAXED AS BUSINESS INCOME AS PER SEC. 43(5)(d).

(B) TURNOVER FOR THE PURPOSE OF TAX AUDIT U/s 44AB AS PER CLAUSE 5.11 OF GUIDANCE NOTE ON TAX AUDIT BY ICAI.

(C) ALL USUAL BUSINESS EXPENDITURE ARE DEDUCTIBLE.

(D) INTEREST ON BORROWED MONEY.

(E) SECURITY TRANSACTION TAX – TREATED AS EXPENDITURE.

(F) CARRY FORWARD & SET OFF OF LOSSES U/s 70, 71, 72.

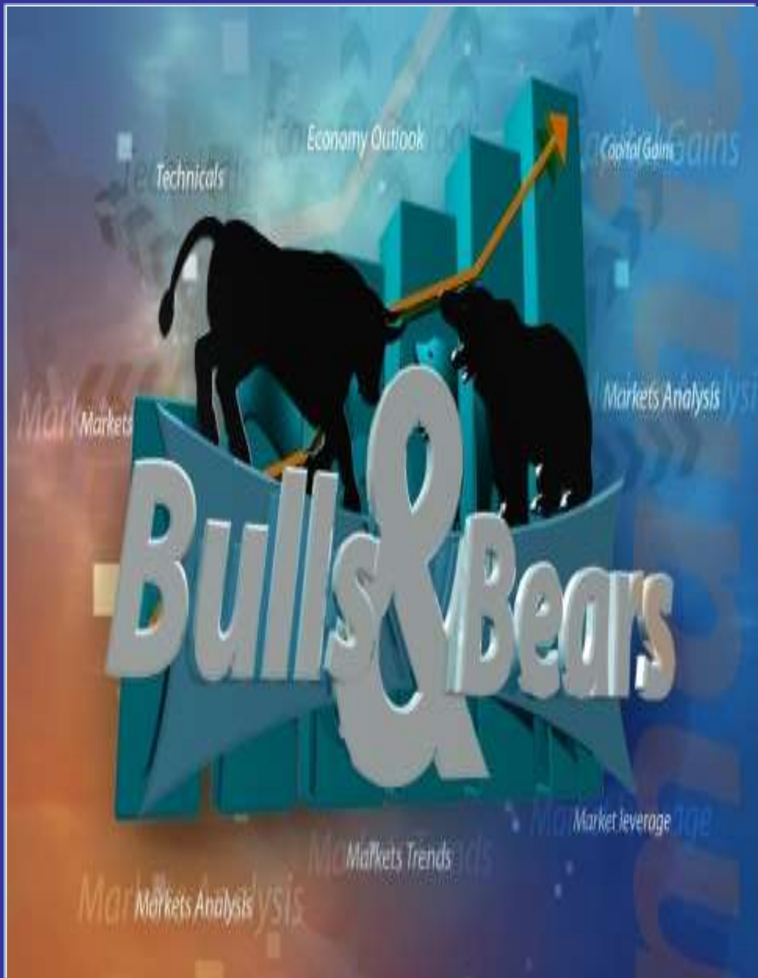
(G) SET OFF WITH COMMODITY TRANSACTIONS.

(H) APPLICABILTY OF SECTION 44 AD.

TAXATION OF DERIVATIVES

(A) DERIVATIVE TRANSACTIONS TO BE TAXED AS BUSINESS INCOME`

<u>SECTION 43 (5)</u>



Speculative transaction means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips:

Provided that for the purposes of this clause

(*a*) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him; or

(*b*) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations; or

TAXATION OF DERIVATIVES

(*c*) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member; [or]

[(*d*) an eligible transaction in respect of trading in derivatives referred to in clause [(*ac*)] of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) carried out in a recognized stock exchange;]

[(e) an eligible transaction in respect of trading in commodity derivatives carried out in a recognised association [77][, which is chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013 (17 of 2013),]]

shall not be deemed to be a speculative transaction;

[**Provided Further** *that for the purpose of clause (e) of the first proviso, in respect of trading in agricultural commodity derivatives, the requirement of chargeability of commodity transaction tax under Chapter VII of the Finance Act, 2013 (17 of 2013) shall not apply.*]

[*Explanation 1.* For the purposes of this clause (d), the expressions

(*i*) eligible transaction means any transaction,

(*A*) carried out electronically on screen-based systems through a stock broker or sub-broker or such other intermediary registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) and the rules, regulations or bye-laws made or directions issued under those Acts or by banks or mutual funds on a recognized stock exchange; and

TAXATION OF DERIVATIVES

(*B*) which is supported by a time stamped contract note issued by such stock broker or sub-broker or such other intermediary to every client indicating in the contract note the unique client identity number allotted under any Act referred to in sub-clause (*A*) and permanent account number allotted under this Act;

(*ii*) recognized stock exchange means a recognized stock exchange as referred to in clause (*f*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and which fulfils such conditions as may be prescribed and notified by the Central Government for this purpose;]

[*Explanation 2.*—For the purposes of clause (*e*), the expressions—

(*i*) "commodity derivative" shall have the meaning as assigned to it in Chapter VII of the Finance Act, 2013;

(*ii*) "eligible transaction" means any transaction,—

(*A*) carried out electronically on screen-based systems through member or an intermediary, registered under the bye-laws, rules and regulations of the recognised association for trading in commodity derivative in accordance with the provisions of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) and the rules, regulations or bye-laws made or directions issued under that Act on a recognised association; and

(*B*) which is supported by a time stamped contract note issued by such member or intermediary to every client indicating in the contract note, the unique client identity number allotted under the Act, rules, regulations or bye-laws referred to in sub-clause (*A*), unique trade number and permanent account number allotted under this Act;

(*iii*) "recognised association" means a recognised association as referred to in clause (*j*) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) and which fulfils such conditions as may be prescribed[82] and is notified by the Central Government for this purpose;

TAXATION OF DERIVATIVES

(B) TURNOVER FOR THE PURPOSE OF TAX AUDIT U/s 44AB AS PER CLAUSE 5.11 OF GUIDANCE NOTE ON TAX AUDIT BY ICAI.

- **The total of favorable and unfavorable differences shall be taken as turnover.**
- **Premium received on sale of options is also to be included in turnover.**
- **In respect of any reverse trades entered, the differences thereon, should also form part of the turnover.**

(C) ALL USUAL BUSINESS EXPENDITURE ARE DEDUCTIBLE.

(D) INTEREST ON BORROWED MONEY IS DEDUCTIBLE.

TAXATION OF DERIVATIVES

(E) SECURITY TRANSACTION TAX – TREATED AS EXPENDITURE.

- STT will be treated as business expenditure from the A. Y. 2009-2010. Earlier u/s 40(a)(ib)

- STT will be levied on **sale of a derivative (payable by seller)** where the transaction of such sale is entered into in a recognized stock exchange at the following rate :-

Purchase: NIL at the time of purchase of option. However the purchaser has to pay 0.125% of the Settlement Price i.e. (Number of Lots * Lot Size * Strike Price), in case of option exercise
Sell: 0.017% of Premium

(F) CARRY FORWARD & SET OFF OF LOSSES U/s 70, 71, 72.

SECTION 70

Set off of loss from one source against income from another source under the same head of income.

70. (1) Where the net result for any assessment year in respect of any source falling under any head of income, other than Capital gains, is a loss. Such loss can be set off against his income from any other source under the same head.

(2) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset.

(3) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any capital asset (other than a short-term capital asset) is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset not being a short-term capital asset.]

SECTION 71

Set off of loss from one head against income from another.

1. Where in respect of any assessment year the net result of the computation under any head of income, other than "Capital gains", is a loss and the assessee has no income under the head "Capital gains", he shall, subject to the provisions of this Chapter, be entitled to have the amount of such loss set off against his income, if any, assessable for that assessment year under any other head.

2. Where in respect of any assessment year, the net result of the computation under any head of income, other than "Capital gains", is a loss and the assessee has income assessable under the head "Capital gains", such loss may, subject to the provisions of this Chapter, be set off against his income, if any, assessable for that assessment year under any head of income including the head "Capital gains" (whether relating to short-term capital assets or any other capital assets). **(2A)** Notwithstanding anything contained in sub-section (1) or sub-section (2), where in respect of any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is a loss and the assessee has income assessable under the head "Salaries", the assessee shall not be entitled to have such loss set off against such income.

TAXATION OF DERIVATIVES

3. Where in respect of any assessment year, the net result of the computation under the head "Capital gains" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to have such loss set off against income under the other head.

3(A). Notwithstanding anything contained in sub-section (1) or sub-section (2), where in respect of any assessment year, the net result of the computation under the head "Income from house property" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to set off such loss, to the extent the amount of the loss exceeds two lakh rupees, against income under the other head.

4. Where the net result of the computation under the head "Income from house property" is a loss, in respect of the assessment years commencing on the 1st day of April, 1995 and the 1st day of April, 1996, such loss shall be first set off under sub-sections (1) and (2) and thereafter the loss referred to in section 71A shall be set off in the relevant assessment year in accordance with the provisions of that section.

SECTION 72

Carry forward and set off of business losses.

72. [(1) Where for any assessment year, the net result of the computation under the head Profits and gains of business or profession is a loss to the assessee, not being a loss sustained in a speculation business, and such loss cannot be or is not wholly set off against income under any head of income in accordance with the provisions of section 71, so much of the loss as has not been so set off or, where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and

(*i*) it shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year ;

(*ii*) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on :]

(3) No loss shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.

Carry Forward & Set Off Losses u/s 70,71 & 72. (Summary)

Incomes	Salary	House Property	Non - Speculative Business	Speculative Business	LTCG	STCG	Owning & Maintenance of Race Horses	Maxm. Period for CF of Losses
Speculative Business Loss	×	×	×	✓	×	×	×	4 AY
Other Business & Professional Loss	×	✓	✓	✓	✓	✓	✓	8 AY
LTCL	×	×	×	×	✓	×	×	8 AY
STCL	×	×	×	×	✓	✓	×	8 AY

LTCG/LTCL : Long Term Capital Gain/Loss
STCG/STCL : Short Term Capital Gain/Loss

CF : Carry Forward
AY : Assessment Year

TAXATION OF DERIVATIVES

(G) SET OFF WITH COMMODITY TRANSACTIONS.

- Delivery based commodity transactions are business income.
- CTT paid commodity derivative transactions are business income.
- Agriculture commodity derivative transaction is also business income.
- Other commodity transactions settled otherwise than delivery are speculative in nature.
- Profit in capital market derivative transactions can not be set off against loss in commodity transactions speculative in nature and settled otherwise in delivery.
- Profit in capital market transactions can be set off with the loss of delivery based commodity transactions and vice versa.
- Profit in speculative commodity transactions settled otherwise in delivery can be set off with the loss of capital market derivative transactions.

TAXATION OF CASH MARKET TRANSACTIONS

(DAILY JOBBING)

(A) CASH MARKET (DAILY JOBBING) TRANSACTIONS ARE SPECULATIVE IN NATURE AS PER SECTION 43(5).

(B) TURNOVER FOR THE PURPOSE OF TAX AUDIT U/s 44AB AS PER CLAUSE 5.11 OF GUIDANCE NOTE ON TAX AUDIT BY ICAI.

(C) ALL USUAL BUSINESS EXPENDITURE ARE DEDUCTIBLE.

(D) INTEREST ON BORROWED MONEY IS DEDUCTIBLE.

(E) SECURITY TRANSACTION TAX – AS EXPENDITURE.

(F) CARRY FORWARD & SET OFF OF LOSSES U/s 70, 71, 72.

(G) SET OFF WITH COMMODITY TRANSACTIONS

(A) CASH MARKET (DAILY JOBBING) TRANSACTIONS ARE SPECULATIVE IN NATURE AS PER SECTION 43(5).

Speculative Transactions

- **There is a contract for the purchase or sale.**
- **Purchase or sale is of any commodity [including stocks and shares].**
- **The contract is periodically or ultimately settled.**
- **The settlement is otherwise than by the actual delivery or transfer of such commodity or scripts.**

(B) TURNOVER FOR THE PURPOSE OF TAX AUDIT U/s 44AB AS PER CLAUSE 5.11 OF GUIDANCE NOTE ON TAX AUDIT BY ICAI.

- **In speculative transactions the difference amount is ‘turnover’.**
- **There can be both positive and negative differences.**
- **The aggregate of both positive and negative differences is to be considered as the turnover for the purpose of section 44AB**

(C) ALL USUAL BUSINESS EXPENDITURE ARE DEDUCTIBLE.

(D) INTEREST ON BORROWED MONEY IS DEDUCTIBLE.

(E) SECURITY TRANSACTION TAX – EXPENDITURE.

- STT will be levied on **sale of an equity share (payable by seller)** in a company or a unit of an equity oriented fund, where the transaction of such sale is entered into in a recognized stock exchange and settled otherwise than actual delivery. The rates are :

Intra-day Transactions
Purchase: NIL
Sell: 0.025% of Turnover i.e. (Number of Shares * Price)

(F) CARRY FORWARD & SET OFF OF LOSSES U/s 70, 71, 72.

- Sec. 70 - Set off of loss from one source against income from another source under the same head of income.
- Sec. 71 - Set off of loss from one head against income from another.
- Sec. 72 - Carry forward and set off of business losses.
- Sec. 73 – Losses in speculation business.
  - Loss in speculation business shall not be set off except against profit and gains, if any, of another speculation business.
  - In respect of allowance on account of depreciation or capital expenditure on scientific research, the provisions of sub-section (2) of section 72 shall apply in relation to speculation business as they apply in relation to any other business.
  - No loss shall be carried forward under this section for more than four assessment years immediately succeeding the assessment year for which the loss was first computed.

Explanation to Section 73

- Where any part of the business of a company ([other than a company whose gross total income consists mainly of income which is chargeable under the heads Interest on securities, Income from house property, Capital gains and Income from other sources], or a company the principal business of which is the business of trading in shares or banking or the granting of loans and advances) consists in the purchase and sale of shares of other companies, such company shall, for the purposes of this section, be deemed to be carrying on a speculation business to the extent to which the business consists of the purchase and sale of such shares.

- Buying or selling of units of UTI by assessee-company cannot be treated as speculation business under the Explanation to section 73 for the purpose of allowing set off of loss suffered in such a business [Apollo Tyres Ltd. V. CIT{2002}255 UTR 273(SC)].

(G) SET OFF WITH COMMODITY TRANSACTIONS.

- ➢ Delivery based commodity transactions are business income.
- ➢ commodity transactions covered under section 43 (5)(e) are business transactions.
- ➢ Profit in capital market daily jobbing transactions can be set off against loss in speculative commodity transactions settled otherwise in delivery and vice versa.
- ➢ Loss in capital market daily jobbing transactions can not be set off with the profit of delivery based commodity transactions / derivative transactions.
- ➢ Profit in capital market daily jobbing transactions can be set off with the loss of delivery based commodity transactions / derivative transactions.

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS BUSINESS)

(A) CBDT CIRCULAR NUMBER 4/2007 DATED 15 JUNE 2007.

(B) TURNOVER FOR THE PURPOSE OF TAX AUDIT U/s 44AB AS PER CLAUSE 5.11 OF GUIDANCE NOTE ON TAX AUDIT BY ICAI.

(C) ALL USUAL BUSINESS EXPENDITURE ARE DEDUCTIBLE.

(D) INTEREST ON BORROWED MONEY IS DEDUCTIBLE.

(E) SECURITY TRANSACTION TAX – TREATED AS EXPENDITURE.

(F) CARRY FORWARD & SET OFF OF LOSSES U/s 70, 71, 72.

(G) SET OFF WITH COMMODITY TRANSACTIONS.

(H) VALUATION OF INVENTORIES.

(I) DIVIDEND INCOME AS PER SECTION 10(34)

(J) APPLICABILTY OF SECTION 44 AD.

TAXATION OF CASH MARKET TRANSACTIONS
(DELIVERY BASED AS BUSINESS)

(A) CASH MARKET (DELIVERY BASED) TRANSACTIONS CAN BE TREATED AS BUSINESS INCOME OR AS INVESTMENT.

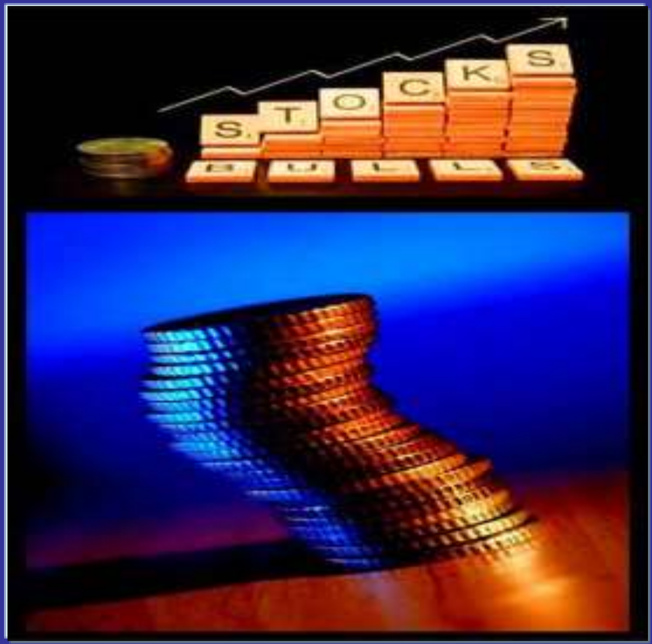
- **CBDT circular no. 4/2007 dated 15 June 2007.**
  - Treatment of a particular transaction as investment or stock in trade during the particular financial year.
  - Accounting & Intention.
  - Frequency & Volume of Transactions
  - Circular does not lay down any clear cut guidelines.
  - Mixed questions of law and fact.

    [CIT, Bombay vs. H. Holck Larsen (160 ITR 67) SC]
  - *Generate a lot of litigation.*
- **CBDT circular no. 6/2016 dated 29 Feb 2016.**

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS BUSINESS)

(B) TURNOVER FOR THE PURPOSE OF TAX AUDIT U/s 44AB AS PER CLAUSE 5.11 OF GUIDANCE NOTE ON TAX AUDIT BY ICAI.



- Where the transaction for the purchase or sale of any commodity including stocks and shares is delivery based whether intended or by default, the total value of the sales is to be considered as turnover.
- Sale of investment will not be included in the turnover.
- Dividend will be the part of turnover.

(C) ALL USUAL BUSINESS EXPENDITURE ARE DEDUCTIBLE.

(D) INTEREST ON BORROWED MONEY IS DEDUCTIBLE.

(E) SECURITY TRANSACTION TAX – TREATED AS EXPENDITURE.

- STT have to be paid by buyer as well as seller in the delivery based trade.
- STT will be levied on **sale or purchase of an equity share** **(payable by seller or buyer)** in a company or a unit of an equity oriented fund, where the transaction of such sale or purchase is entered into in a recognized stock exchange and settled by actual delivery or transfer. The rates are :

Delivery Transactions
Purchase: 0.10% of Turnover i.e. (Number of Shares * Price)
Sell: 0.10% of Turnover i.e. (Number of Shares * Price)

(F) CARRY FORWARD & SET OFF OF LOSSES U/s 70, 71, 72.

(G) SET OFF WITH COMMODITY TRANSACTIONS.

(H) VALUATION OF INVENTORIES.

- AS 2 is not applicable on valuation of shares, debentures and other financial instruments held as stock-in-trade.
- One can use FIFO, Weighted Average method for cost and any other method for valuation.
- Closing stock can be valued on cost or cost or market price, whichever is less.
- Same method have to be followed for subsequent years.

(I) DIVIDEND INCOME U/S 10(34).

- Proportionate business expenditure will not be allowed.
- **Normal Dividend** – Normal dividend passed in AGM is deemed to be the income of the previous year in which AGM held.
- **Deemed Dividend** – Notional dividend U/s 2(22) is treated as the income of previous year in which it is so distributed or paid.
- **Interim Dividend** – Interim dividend is deemed to be the income of the previous year in which the amount of such dividend is unconditionally made available by the company to a shareholder. Interim dividend is assessable when the dividend warrant is issued by the company.
- Dividend income is assessable under income from other sources Sec. 56(2)(i).

- **Dividend Income as per Section 10(34)**

> any income by way of dividends referred to in section 115-O :

Provided that nothing in this clause shall apply to any income by way of dividend chargeable to tax in accordance with the provisions of section 115BBDA;

> **Following second proviso shall be inserted after the first proviso to clause (*34*) of section 10 by the Finance Act, 2020, w.e.f. 1-4-2021:**

Provided further *that nothing contained in this clause shall apply to any income by way of dividend received on or after the 1st day of April, 2020 other than the dividend on which tax under section 115-O and section 115BBDA, wherever applicable, has been paid;*

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS BUSINESS)

- **Tax on certain dividends received from domestic companies as per Section – 115BBDA**
    - Notwithstanding anything contained in this Act, where the total income of a specified assessee, resident in India, includes any income in aggregate exceeding ten lakh rupees, by way of dividends declared, distributed or paid by a domestic company or companies [on or before the 31st day of March, 2020], the income-tax payable shall be the aggregate of—
        - the amount of income-tax calculated on the income by way of such dividends in aggregate exceeding ten lakh rupees, at the rate of ten per cent; and
        - the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the amount of income by way of dividends.
    - No deduction in respect of any expenditure or allowance or set off of loss shall be allowed to the assessee under any provision of this Act in computing the income by way of dividends referred to in clause (a) of sub-section (1).
- Explanation.—For the purposes of this section,—
    - "dividend" shall have the meaning assigned to it in clause (22) of section 2 but shall not include sub-clause (e) thereof;
    - "specified assessee" means a person other than,—
        - a domestic company; or
        - a fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10; or

- **Dividend stripping Sec. 94(7)**

❖Where (*a*) any person buys or acquires any securities or unit within a period of three months prior to the record date;

[(*b*) such person sells or transfers

(*i*) such securities within a period of three months after such date; or

(*ii*) such unit within a period of nine months after such date;]

(*c*) the dividend or income on such securities or unit received or receivable by such person is exempt,

then, the loss, if any, arising to him on account of such purchase and sale of securities or unit, to the extent such loss does not exceed the amount of dividend or income received or receivable on such securities or unit, shall be ignored for the purposes of computing his income chargeable to tax.

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS BUSINESS)

- **Bonus stripping Sec. 94(8)**

❖Where (*a*) any person buys or acquires any units within a period of three months prior to the record date;

(*b*) such person is allotted additional units without any payment on the basis of holding of such units on such date;

(*c*) such person sells or transfers all or any of the units referred to in clause (*a*) within a period of nine months after such date, while continuing to hold all or any of the additional units referred to in clause (*b*),

then, the loss, if any, arising to him on account of such purchase and sale of all or any of such units shall be ignored for the purposes of computing his income chargeable to tax and notwithstanding anything contained in any other provision of this Act, the amount of loss so ignored shall be deemed to be the cost of purchase or acquisition of such additional units referred to in clause (*b*) as are held by him on the date of such sale or transfer.]

TAXATION OF CASH MARKET TRANSACTIONS
(DELIVERY BASED AS INVESTMENT)

(A) PROFIT OR GAINS ON TRANSFER OF A CAPITAL ASSET U/S 45(1).

(B) PROFIT AND GAINS ON CONVERSION OF CAPITAL ASSET INTO STOCK IN TRADE U/S 45(2).

(C) PROFITS AND GAINS ON TRANSFER MADE BY THE DEPOSITORY U/S 45(2A).

(D) SHORT/LONG TERM CAPITAL ASSET U/S 2(42A).

(E) EXEMPTION TO LONG TERM CAPITAL GAIN U/S 10(38).

(F) TAX ON SHORT TERM CAPITAL GAIN U/S 111A.

(G) RIGHT AND BONUS SHARES.

(H) INTEREST ON BORROWED MONEY.

TAXATION OF CASH MARKET TRANSACTIONS
(DELIVERY BASED AS INVESTMENT)

(I) SECURITY TRANSACTION TAX – NO REBATE U/s 88 E.

(J) CARRY FORWARD & SET OFF OF LOSSES U/s 70, 71, 74.

(K) DIVIDEND INCOME IS EXEMPT U/S 10(34).

(L) TRANSACTIONS NOT REGARDED AS TRANSFER U/s 47.

(M) SPECIAL PROVISION WITH RESPECT TO CAPITAL GAINS IN THE CASE OF A NON RESIDENT U/S 48 RULE 115A.

(N) COST WITH REFERENCE TO CERTAIN MODE OF ACQUISITION.

(O)"ADJUSTED", "COST OF IMPROVEMENT" AND "COST OF ACQUISITION" FOR THE PURPOSE OF SECTION 48 & 49 U/S 55.

(P)OFF MARKET TRANSACTIONS.

(Q)SECTION 115AC, 115ACA AND 115AD.

TAXATION OF CASH MARKET TRANSACTIONS
(DELIVERY BASED AS INVESTMENT)

(A) PROFIT OR GAINS ON TRANSFER OF A CAPITAL ASSET SEC. 45(1).

- Profit or gains should arise from the transfer of an asset.
- Such asset should be a capital assets.
- Transfer should be effected in the previous year.
    - Date of transaction is not the date of transfer.
- Liability to capital gain arises only when the assessee acquire the right to receive the profits or gains arising from such transfer.

(B) PROFIT AND GAINS ON CONVERSION OF CAPITAL ASSET INTO STOCK IN TRADE U/S 45(2).

- Taxable in previous year in which such stock in trade is sold or transferred and not in the year in which the conversion takes place.
- Full value of consideration for this purpose is the fair market value of the asset on the date of such conversion.
- For the purpose of indexation, the year of conversion is taken to be the year of transfer of the capital asset.
- The period of holding the asset runs from the date of acquisition of the asset of the date of such conversion.

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS INVESTMENT)

(C)PROFITS AND GAINS ON TRANSFER MADE BY THE DEPOSITORY U/S 45(2A).

- The depository is not assessed to capital gain although it is deemed to be the registered owner of securities by virtue of section 10(1) of the Depositories Act, 1996.
- Determination of the period of holding of securities and their cost of acquisition is made on the basis of **FIFO method**. [*Circular No. 768 dated 24th June 1998*]

(D) SHORT/LONG TERM CAPITAL ASSET U/S 2 (42A).

- short-term capital asset" means a capital asset held by an assessee for not more than thirty-six months immediately preceding the date of its transfer to be read with clauses (29A)/(29B)/(42B) of section 2.

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS INVESTMENT)

- **Provided** that in the case of [*a security (other than a unit) listed in a recognized stock exchange in India*] or a unit of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963) or [22][*a unit of an equity oriented fund*] or a zero coupon bond, the provisions of this clause shall have effect as if for the words "thirty-six months", the words "twelve months" had been substituted:
- **Provided further** *that in case of a share of a company (not being a share listed in a recognised stock exchange) or a unit of a Mutual Fund specified under clause (23D) of section 10, which is transferred during the period beginning on the 1st day of April, 2014 and ending on the 10th day of July, 2014, the provisions of this clause shall have effect as if for the words "thirty-six months", the words "twelve months" had been substituted.*
- *Explanation 1*.—(*i*) In determining the period for which any capital asset is held by the assessee—

  (*a*) in the case of a share held in a company in liquidation, there shall be excluded the period subsequent to the date on which the company goes into liquidation ;

(*b*) in the case of a capital asset which becomes the property of the assessee in the circumstances mentioned in sub-section (1) of section 49, there shall be included the period for which the asset was held by the previous owner referred to in the said section ;

(ba) in the case of a capital asset referred to in clause (via) of section 28, the period shall be reckoned from the date of its conversion or treatment;

(*c*) in the case of a capital asset being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a transfer referred to in clause (*vii*) of section 47, there shall be included the period for which the share or shares in the amalgamating company were held by the assessee ;

(*d*) in the case of a capital asset, being a share or any other security (hereafter in this clause referred to as the financial asset) subscribed to by the assessee on the basis of his right to subscribe to such financial asset or subscribed to by the person in whose favour the assessee has renounced his right to subscribe to such financial asset, the period shall be reckoned from the date of allotment of such financial asset ;

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS INVESTMENT)

(*e*) in the case of a capital asset, being the right to subscribe to any financial asset, which is renounced in favour of any other person, the period shall be reckoned from the date of the offer of such right by the company or institution, as the case may be, making such offer ;

(*f*) in the case of a capital asset, being a financial asset, allotted without any payment and on the basis of holding of any other financial asset, the period shall be reckoned from the date of the allotment of such financial asset ;

(*g*) in the case of a capital asset, being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a demerger, there shall be included the period for which the share or shares held in the demerged company were held by the assessee ;

(*h*) in the case of a capital asset, being trading or clearing rights of a recognised stock exchange in India acquired by a person pursuant to demutualisation or corporatisation of the recognised stock exchange in India as referred to in clause (*xiii*) of section 47, there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS INVESTMENT)

(*ha*) in the case of a capital asset, being equity share or shares in a company allotted pursuant to demutualisation or corporatisation of a recognised stock exchange in India as referred to in clause (*xiii*) of section 47, there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;

(*hb*) in the case of a capital asset, being any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), the period shall be reckoned from the date of allotment or transfer of such specified security or sweat equity shares;

[(*hc*) in the case of a capital asset, being a unit of a business trust, allotted pursuant to transfer of share or shares as referred to in clause (*xvii*) of section 47, there shall be included the period for which the share or shares were held by the assessee;]

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS INVESTMENT)

(hd) in the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in clause (xviii) of section 47, there shall be included the period for which the unit or units in the consolidating scheme of the mutual fund were held by the assessee;

(he) in the case of a capital asset, being share or shares of a company, which is acquired by the non-resident assessee on redemption of Global Depository Receipts referred to in clause (b) of sub-section (1) of section 115AC held by such assessee, the period shall be reckoned from the date on which a request for such redemption was made;

(hf) in the case of a capital asset, being equity shares in a company, which becomes the property of the assessee in consideration of a transfer referred to in clause (xb) of section 47, there shall be included the period for which the preference shares were held by the assessee;

(hg) in the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in clause (xix) of section 47, there shall be included the period for which the unit or units in the consolidating plan of a mutual fund scheme were held by the assessee;

[(hh) in the case of a capital asset, being a unit or units in a segregated portfolio referred to in sub-section (2AG) of section 49, there shall be included the period for which the original unit or units in the main portfolio were held by the assessee;]

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS INVESTMENT)

- As per clause (29A) of section 2 "long-term capital asset" means a capital asset which is not a short-term capital asset ;

- As per clause (29B) of section 2 "long-term capital gain" means capital gain arising from the transfer of a long-term capital asset ;

- As per clause (42B) of section 2 "short-term capital gain" means capital gain arising from the transfer of a short-term capital asset ;

SUMMARY OF STCA AND LTCA PERIOD WISE

STCA, if held for <= 12 Months
LTCA, if held for > 12 Months

- Security (Other than unit) listed in recognised stock exchange
- Unit of equity oriented fund/ Unit of UTI
- Zero coupon bond

STCA, if held for <= 24 Months
LTCA, if held for > 24 Months

- Unlisted Shares
- Land or Building or Both

STCA, if held for <= 36 Months
LTCA, if held for > 36 Months

- Unit of Debt oriented fund
- Unlisted securities other than shares
- Other Capital Assets

(E) EXEMPTION TO LONG TERM CAPITAL GAIN U/S 10(38).

- Exemption is for equity shares and equity oriented fund.
- Transaction should be taken place in a recognized stock exchange.
- STT should be paid.
- If STT not paid, normal tax rates regime shall apply.
- Exemption is available from assessment year 2005-06.
- Exemption is available to resident as well as non-resident.
- Acquisition may be through recognized stock exchange or otherwise.
- Exemption is for transaction of sale entered into On or After October 1, 2004.
- Transaction of purchase may be before October 1, 2004.

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS INVESTMENT)

(F) TAX ON SHORT TERM CAPITAL GAIN U/S 111A.

- Concession is for equity shares and equity oriented fund.
- Transaction should be taken place in a recognized stock exchange.
- STT should be paid.
- If STT not paid, normal tax rates regime shall apply.
- Concession is available from assessment year 2005-06.
- Concession is available to resident as well as non-resident.
- Acquisition may be through recognized stock exchange or otherwise.
- Concession is for transaction of sale entered into On or After October 1, 2004.
- Transaction of purchase may be before October 1, 2004.
- Tax payable by the assessee on the total income shall be aggregate of :
    - 15% of short term capital gain.
    - On the balance total income as if such balance were the total income.

TAX ON LONG TERM CAPITAL GAINS (SECTION-112)

- Where the total income of an assessee includes any income, arising from the transfer of a long-term capital asset, which is chargeable under the head "Capital gains", the tax payable by the assessee on the total income shall be the aggregate of,—
  - in the case of an **individual or a Hindu undivided family**, being a resident,—
  - in the case of a **domestic company**,—
  - in any other case of a **resident,**—
    - the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been his total income ; and
    - the amount of income-tax calculated on such long-term capital gains at the rate of twenty per cent :

TAX ON LONG TERM CAPITAL GAINS (SECTION-112)

- in the case of a **non-resident (not being a company) or a foreign company,**—
  - the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been its total income ; and
  - the amount of income-tax calculated on long-term capital gains [except where such gain arises from transfer of capital asset referred to in sub-clause (*iii*)] at the rate of twenty per cent; and
  - the amount of income-tax on long-term capital gains arising from the transfer of a capital asset, being unlisted securities or shares of a company not being a company in which the public are substantially interested, calculated at the rate of ten per cent on the capital gains in respect of such asset as computed without giving effect to the first and second proviso to section 48;

- Provided that where the tax payable in respect of any income arising from the transfer of a long-term capital asset, being listed securities (other than a unit) or zero coupon bond, exceeds ten per cent of the amount of capital gains before giving effect to the provisions of the second proviso to section 48, then, such excess shall be ignored for the purpose of computing the tax payable by the assessee :

TAX ON LONG TERM CAPITAL GAINS (SECTION-112)

- **Provided further** that where the tax payable in respect of any income arising from the transfer of a long-term capital asset, being a unit of a Mutual Fund specified under clause (*23D*) of section 10, during the period beginning on the 1st day of April, 2014 and ending on the 10th day of July, 2014, exceeds ten per cent of the amount of capital gains, before giving effect to the provisions of the second proviso to section 48, then, such excess shall be ignored for the purpose of computing the tax payable by the assessee.

- Explanation.—For the purposes of this sub-section,—

(a) the expression "securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (32 of 1956);

(aa) "listed securities" means the securities which are listed on any recognised stock exchange in India;

(ab) "unlisted securities" means securities other than listed securities.

- Where the gross total income of an assessee includes any income arising from the transfer of a long-term capital asset, the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.
- Where the total income of an assessee includes any income arising from the transfer of a long-term capital asset, the total income shall be reduced by the amount of such income and the rebate under section 88 shall be allowed from the income-tax on the total income as so reduced.

TAX ON LONG TERM CAPITAL GAINS ON CERTAIN CASES (SECTION-112A)

(1) Notwithstanding anything contained in section 112, the tax payable by an assessee on his total income shall be determined in accordance with the provisions of sub-section (2), if—

(*i*) the total income includes any income chargeable under the head "Capital gains";

(*ii*) the capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust;

(*iii*) securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004) has,—

(*a*) in a case where the long-term capital asset is in the nature of an equity share in a company, been paid on acquisition and transfer of such capital asset; or

(*b*) in a case where the long-term capital asset is in the nature of a unit of an equity oriented fund or a unit of a business trust, been paid on transfer of such capital asset.

(2) The tax payable by the assessee on the total income referred to in sub-section (1) shall be the aggregate of—

(i) the amount of income-tax calculated on such long-term capital gains exceeding one lakh rupees at the rate of ten per cent; and

(ii) the amount of income-tax payable on the total income as reduced by the amount of long-term capital gains referred to in sub-section (1) as if the total income so reduced were the total income of the assessee:

TAX ON LONG TERM CAPITAL GAINS ON CERTAIN CASES (SECTION-112A)

Provided that in the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by such long-term capital gains is below the maximum amount which is not chargeable to income-tax, then, the long-term capital gains, for the purposes of clause (*i*), shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax.

(3) The condition specified in clause (iii) of sub-section (1) shall not apply to a transfer undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transfer is received or receivable in foreign currency.

(4) The Central Government may, by notification in the Official Gazette, specify the nature of acquisition in respect of which the provisions of sub-clause (a) of clause (iii) of sub-section (1) shall not apply.

(5) Where the gross total income of an assessee includes any long-term capital gains referred to in sub-section (1), the deduction under Chapter VI-A shall be allowed from the gross total income as reduced by such capital gains.

(6) Where the total income of an assessee includes any long-term capital gains referred to in sub-section (1), the rebate under section 87A shall be allowed from the income-tax on the total income as reduced by tax payable on such capital gains.

TAX ON LONG TERM CAPITAL GAINS ON CERTAIN CASES (SECTION-112A)

Explanation.—For the purposes of this section,—

(*a*) "equity oriented fund" means a fund set up under a scheme of a mutual fund specified under clause (*23D*) of section 10 and,—

(*i*) in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange,—

(*A*) a minimum of ninety per cent of the total proceeds of such fund is invested in the units of such other fund; and

(*B*) such other fund also invests a minimum of ninety per cent of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and

(*ii*) in any other case, a minimum of sixty-five per cent of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange:

Provided that the percentage of equity shareholding or unit held in respect of the fund, as the case may be, shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

(*b*) "International Financial Services Centre" shall have the meaning assigned to it in clause (*q*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

(*c*) "recognised stock exchange" shall have the meaning assigned to it in clause (*ii*) of *Explanation 1* to clause (*5*) of section 43.

TAX ON LONG TERM CAPITAL GAINS GRANDFATHERING RULE

The Finance Bill 2018 reintroduced tax on LTCG made from listed shares and **equity-oriented mutual funds**. With Effective 1 April 2018, LTCG arising from the sale of these shares and equity oriented funds that are held for more than 12 months are taxable at the rate of 10% if such LTCG exceeds Rs.1 lakh in the given Financial Year.

The LTCG can be taxable under two things—the exemption for LTCG up to Rs.1 lakh, and the grandfathering provision.If you had invested in equity mutual funds or shares before 31 January 2018, any gains till that date will be considered as grandfathered and thus will be exempt from tax.

Method of determining Cost of Acquisition:

A method of determining the **Cost of Acquisition** (COA) of such investments has been specifically laid down according to which the COA of such investments shall be deemed to be the **higher** of-

1.The **actual COA** of such investments; and

2.The **lower** of-

  1. **Fair Market Value ('FMV')** of such investments; and
  2. the **Full Value of Consideration** received or accruing as a result of the transfer of the capital asset i.e. the **Sale Price**

TAX ON LONG TERM CAPITAL GAINS GRANDFATHERING RULE

Tax Implications under grandfathering rule:-

S.NO.	SCENARIO	TAX IMPLICATIONS
1.	Purchase and Sale before 31/01/2018	Exempt under section 10(38)
2.	Purchase before 31/01/2018 Sale after 31/01/2018 but before 01/04/2018	Exempt under section 10(38)
3.	Purchase before 31/01/2018 and Sale on or After 01/04/2018	LTCG Taxable Gains accrued before 31/01/2018 exempt
4.	Purchase after 31/01/2018 Sale on or after 01/04/2018	LTCG Taxable

MODE OF COMPUTATION (SECTION-48)

The income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely :—

(*i*) expenditure incurred wholly and exclusively in connection with such transfer;

(*ii*) the cost of acquisition of the asset and the cost of any improvement thereto:

Provided that in the case of an assessee, who is a non-resident, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company shall be computed by converting the cost of acquisition, expenditure incurred wholly and exclusively in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares or debentures, and the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so, however, that the aforesaid manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every reinvestment thereafter in, and sale of, shares in, or debentures of, an Indian company :

Provided further that where long-term capital gain arises from the transfer of a long-term capital asset, other than capital gain arising to a non-resident from the transfer of shares in, or debentures of, an Indian company referred to in the first proviso, the provisions of clause (ii) shall have effect as if for the words "cost of acquisition" and "cost of any improvement", the words "indexed cost of acquisition" and "indexed cost of any improvement" had respectively been substituted:

Provided also that nothing contained in the first and second provisos shall apply to the capital gains arising from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust referred to in section 112A:

MODE OF COMPUTATION (SECTION-48)

Provided also that nothing contained in the second proviso shall apply to the long-term capital gain arising from the transfer of a long-term capital asset, being a bond or debenture other than—

(*a*) capital indexed bonds issued by the Government; or

(*b*) Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015:

Provided also that in case of an assessee being a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company held by him, shall be ignored for the purposes of computation of full value of consideration under this section:

Provided also that where shares, debentures or warrants referred to in the proviso to clause (*iii*) of section 47 are transferred under a gift or an irrevocable trust, the market value on the date of such transfer shall be deemed to be the full value of consideration received or accruing as a result of transfer for the purposes of this section :

Provided also that no deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004.

MODE OF COMPUTATION (SECTION-48)

Explanation.—For the purposes of this section,—

(i) "foreign currency" and "Indian currency" shall have the meanings respectively assigned to them in section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);

(*ii*) the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf;

(*iii*) "indexed cost of acquisition" means an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the 1st day of April, 2001, whichever is later;

(*iv*) "indexed cost of any improvement" means an amount which bears to the cost of improvement the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset took place;

(*v*) "Cost Inflation Index", in relation to a previous year, means such Index as the Central Government may, having regard to seventy-five per cent of average rise in the Consumer Price Index (urban) for the immediately preceding previous year to such previous year, by notification in the Official Gazette, specify, in this behalf.

MODE OF COMPUTATION (SECTION-48)

[Rule – 115A]

For the purpose of computing capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company, in the case of an assessee who is a non-resident Indian, the rate of exchange shall be :—

- for converting the cost of acquisition of the capital asset, the average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of its acquisition;

- for converting expenditure incurred wholly and exclusively in connection with the transfer of the capital asset referred to in clause (*a*), the average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of transfer of the capital asset;

- for converting the full value of consideration received or accruing as a result of the transfer of the capital asset referred to in clause (*a*), the average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of transfer of the capital asset;

- for reconverting capital gains computed in the foreign currency initially utilized in the purchase of capital asset into rupees, the telegraphic transfer buying rate of such currency, as on the date of transfer of capital asset.

SPECIAL PROVISIONS FOR FULL VALUE OF CONSIDERATION FOR TRANSFER OF SHARE OTHER THAN QUOTED SHARE IN CERTAIN CASE (SECTION - 50CA)

Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed, the value so determined shall, for the purposes of section 48, be deemed to be the full value of consideration received or accruing as a result of such transfer:

[**Provided** that the provisions of this section shall not apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions as may be prescribed.]

Explanation.—For the purposes of this section, "quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.

(G) RIGHT AND BONUS SHARES.

- The period of holding shall be counted from the date of allotment of right / bonus shares.
- Cost of acquisition of bonus shares shall be taken as **NIL** at the time of sale of bonus shares.
- Cost of acquisition in right entitlement is **NIL**.
- Cost of acquisition of right shares should be taken as **amount actually paid** for the right shares.
- Cost of acquisition in case of right entitlement purchased and right share applied on that basis shall be **purchase price paid to renouncer plus amount paid** for the right shares.

(H) INTEREST ON BORROWED MONEY.

- If borrowed money is utilized in earning non assessable income or which does not form part of the total income, no deduction is allowed **U/s 14A**.

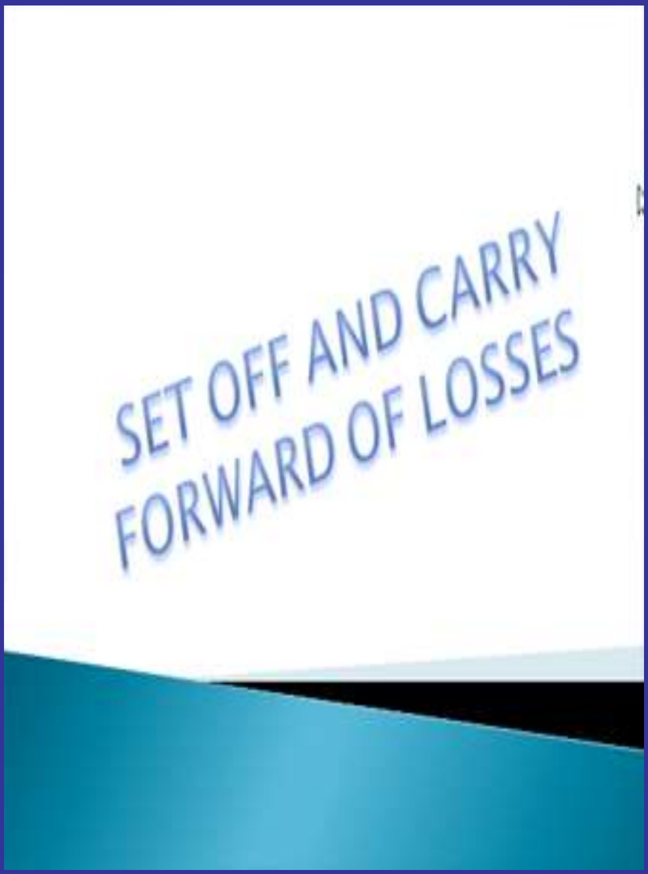
(I)SECURITY TRANSACTION TAX – NO REBATE U/s 88 E.

(J) CARRY FORWARD & SET OFF OF LOSSES U/s 70, 71, 74.

- Where in respect of any assessment year, the net result of the computation under any head of income, other than Capital gains, is a loss and the assessee has income assessable under the head Capital gains, such loss may be set off against his income, if any, assessable for that assessment year under any head of income including the head Capital gains (whether relating to short-term capital assets or any other capital assets).

- Where in respect of any assessment year, the net result of the computation under the head Capital gains is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to have such loss set off against income under the other head.]

TAXATION OF CASH MARKET TRANSACTIONS
(DELIVERY BASED AS INVESTMENT)



- Loss from a source of income that is totally exempt from tax cannot be set off against taxable income.
- Short term capital loss can be set off against income under the head capital gain even the long term capital gain for the same assessment year.
- Long term capital loss can not be set off with the short term capital gain.
- STT based short term capital loss can also be set off against other short term capital gain.
- No loss under this section can be carried forward for more than 8 assessment years.

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS INVESTMENT)

(K) DIVIDEND INCOME IS EXEMPT U/S 10(34).

(L) TRANSACTIONS NOT REGARDED AS TRANSFER U/s 47.

- Any transfer of any capital asset under gift or will or an irrevocable trust not transfer, but if capital assets being shares, debentures or warrants allotted by the company directly or indirectly to its employees under ESOP or scheme of the company offered to such employees in accordance with the guidelines issued by the central govt. in this behalf.

- Shares given on loan not treated as transfer U/s 47(XV). As per guidelines issued by SEBI under SEBI Act, 1992 or by RBI under RBI Act, 1934.

- Some other cases mentioned U/s 47.

(M) SPECIAL PROVISION WITH RESPECT TO CAPITAL GAINS IN THE CASE OF A NON RESIDENT U/S 48 and RULE 115A.

- Benefit of indexation not available in case of long term capital gain on other than STT transaction.
- Provision applicable only for transfer of shares or debentures of an Indian company.
- Such capital asset must be acquired by utilizing foreign currency.
- Assessee is not covered U/s 115AC or 115AD at the time of transfer of the asset.
- Computation is to be done according to rule 115A.

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS INVESTMENT)

- The income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely :—
- (*i*) expenditure incurred wholly and exclusively in connection with such transfer;
- (*ii*) the cost of acquisition of the asset and the cost of any improvement thereto:
- **Provided** that in the case of an assessee, who is a non-resident, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company shall be computed by converting the cost of acquisition, expenditure incurred wholly and exclusively in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares or debentures,

and the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so, however, that the aforesaid manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every reinvestment thereafter in, and sale of, shares in, or debentures of, an Indian company .

- **Provided further** that where long-term capital gain arises from the transfer of a long-term capital asset, other than capital gain arising to a non-resident from the transfer of shares in, or debentures of, an Indian company referred to in the first proviso, the provisions of clause (*ii*) shall have effect as if for the words "cost of acquisition" and "cost of any improvement", the words "indexed cost of acquisition" and "indexed cost of any improvement" had respectively been substituted.
- **Provided also** that nothing contained in the second proviso shall apply to the long-term capital gain arising from the transfer of a long-term capital asset being bond or debenture other than capital indexed bonds issued by the Government .

TAXATION OF CASH MARKET TRANSACTIONS

(DELIVERY BASED AS INVESTMENT)

- **Provided also** that where shares, debentures or warrants referred to in the proviso to clause (*iii*) of section 47 are transferred under a gift or an irrevocable trust, the market value on the date of such transfer shall be deemed to be the full value of consideration received or accruing as a result of transfer for the purposes of this section .
- **Provided also** that no deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004.
- For the purpose of computing capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company, in the case of an assessee who is a non-resident Indian, the rate of exchange shall be for reconverting capital gains computed in the foreign currency initially utilised in the purchase of the capital asset into rupees, the telegraphic transfer buying rate of such currency, as on the date of transfer of the capital asset.

(N) COST WITH REFERENCE TO CERTAIN MODE OF ACQUISITION.

- Allotment of shares/securities by a company to its employees under ESOP or scheme approved by central govt.

  - If the option is exercised by the employee during the previous year 1999-2000: Market value at the time of subscription.

  - If the option is exercised in any other year: Amount actually paid by the employer.

  - If the option is exercised by the employee from the previous year 2007-08 for any issue of specified securities or sweat equity shares allotted or transferred free of cost or at concessional rates: Fair Market value which has been taken into account while computing the value of FBT under section 115WC(1)(ba).

(O) "ADJUSTED", "COST OF IMPROVEMENT" AND "COST OF ACQUISITION" FOR THE PURPOSE OF SECTION 48 & 49 U/S 55.

- Where the capital asset, being a share or a stock of a company, became the property of the assessee on
  - The consolidation and division of all or any of the share capital of the company into shares of larger amount than its existing shares.
  - The conversion of any shares of the company into stock.
  - The re-conversion of any stock of the company into shares.
  - The sub-division of any of the shares of the company into shares of smaller amount.
  - The conversion of one kind of shares of the company into another kind.

means the cost of acquisition of the asset calculated with reference to the cost of acquisition of the shares or stock from which such asset is derived.

(P) OFF MARKET TRANSACTIONS.

(Q) SECTION 115AC, 115ACA AND 115AD.

- **Section 115AC** - Tax on income from bonds or Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

- **Section 115ACA** - Tax on income from Global depository receipts purchased in foreign currency or capital gains arising from their transfer.

- **Section 115AD** - Tax on income of Foreign Institutional Investors from securities or capital gains arising from their transfer.

Thank you

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