

**How to manage and minimize
tax liabilities under income tax
law**

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Webinar.

BY CA P P SINGH



CA PP SINGH. B.SC(H), FCA, CS
CONTACT NO. +91-9711521060, 9871229590
CAPPSINGH@GMAIL.COM



- ❑ Post-qualification experience of around 22 years in the field of direct & indirect tax particularly income tax, service tax and VAT ,sales tax and GST.
- ❑ Experience of handling the litigation matters and advisory matters of Direct taxes particularly income tax and indirect tax like GST, service tax, DVAT, CST, Central Excise and other related matters.
- ❑ Authored the book **DNA of GST Audit and Annual return, The DNA of TDS&TCS (including withholding tax, advance tax and equalisation levy)** ,Background material on GST for empowerment of girl students ICAI, New Delhi
- ❑ Guest faculty for certification course on GST & Certification course on appeal and representation ICAI , New Delhi
- ❑ Corporate trainer and guest Faculty with **Indian Institute of Management(IIM)**, NIFMS, Faridabad(Institute of Minister Finance),ICAI New Delhi and ICSI, New Delhi and other trade association.
- ❑ Guest faculty at NACIN(National academy of customs, indirect taxes and narcotics)
- ❑ Articles on various topics of taxation and other legal matters.

TAX UPDATE



**How to minimize
tax liabilities under
income tax law.**

CONTENTS

- ❑ Income
- ❑ Exemptions, agriculture income etc.
- ❑ Head of income and specific deductions in each head
- ❑ Controversies of head of income as pretax payer Vs. tax officers.
- ❑ Set off intra head, inter head and C/F and set off
- ❑ Deductions under chapter VIA
- ❑ How to deal with cash credit(section 68)/ **Unexplained investments.** (section 69)/ **Unexplained money, etc.(section 69A)/**
Amount of investments, etc., not fully disclosed in books of account.(Section 69B)/ Unexplained expenditure(69C)
- ❑ Income at substantially high tax rate- section 11BBE.
- ❑ Return filing
- ❑ Assessments, appeal
- ❑ Handling demand notice/ stay of demand
- ❑ FAQ

INCOME

INCOME – SECTION 2(24)

DEEMED INCOME- HOUSE PROPERTY, BUSINESS INCOME, CAPITAL GAIN, INCOME FROM OTHER SOURCES,

EXEMPT INCOME – SECTION 10,11

Gift from close relative- not a income -Section 56

TAXABLE INCOME.

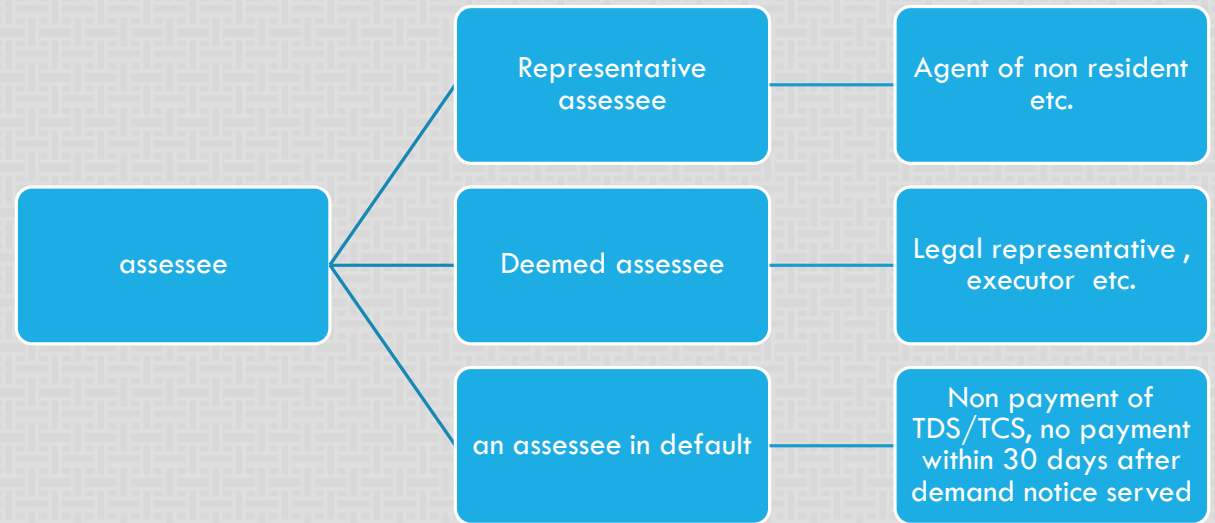
Income at special tax rate or normal tax rate.

Determination of actual income Vs. reporting of lump sum income and payment of tax thereon – section 44AD/AE/AF

WHO IS LIABLE TO PAY TAX? - ASSESSEE

"assessee" means a person by whom any tax or any other sum of money is payable under this Act, and includes—

- (a) every person in respect of whom any proceeding under this Act has been taken for the assessment of his income 28[or assessment of fringe benefits] or of the income of any other person in respect of which he is assessable, or of the loss sustained by him or by such other person, or of the amount of refund due to him or to such other person ;
- (b) every person who is deemed to be an assessee under any provision of this Act ;
- (c) every person who is deemed to be an assessee in default under any provision of this Act ;



MANAGE THE RESIDENTIAL STATUS

- ❑ Generally resident has high tax incidence because he has to pay tax on global income except relief under treaty
- ❑ Manage the residential status if possible
- ❑ Provisions of taxation of expatriates for employee class
- ❑ In case of company location of effective control and management is vital on quantification of tax liability.

HEAD OF INCOME

- ❑ For NGO head wise taxation not required- follow section 11 to 13
- ❑ Selection of head of income very important because according various deductions shall be allowed e.g a doctor working for a hospital may be covered under profession where several deductions allowed where as in salary head limited deduction on lump sum or tentative basis.
- ❑ Consistent approach from year to year
- ❑ Preservation of books of account
- ❑ Actual expenditure Vs. deductions available in particular head of income for the FY.

Salary

Income from house property

Business or profession- lump sum computation of income – section 44AD, AE,AF

Capital gain

Income from other sources – section 56(2)

CONTROVERSY OF HEAD OF INCOME

- ❑ Salary Vs. professional income- CA/Doctor
- ❑ Leading case: Ram Prasad SC
- ❑ House property rental income Vs. income from business of renting/leasing/sale of flat etc.
- ❑ Leading case : Chennai properties.
- ❑ Capital gain Vs. business income – in respect of share transaction.
- ❑ Other sources income Vs. business income.

REAL INCOME VS. DEEMED INCOME

- ❖ Example of deemed income:
- ❖ Property remains vacant
- ❖ Purchase of immovable property at less than circle rate for payment of stamp duty- section 56(2)
- ❖ Sale of immovable property at less than circle rate for payment of stamp duty- section 50C/43CA

COMPUTATION OF BUSINESS/PROFESSION INCOME

Computation of business income or profession based on net profit with certain allowance and disallowance.

Computation of income on presumptive basis based on lump sum basis under section 44AD/AE/AF etc. for certain business and special provision for profession u/s 44ADA.

Opt for presumptive taxation if eligible and income is less than the normal income.

Must keep in mind the block period of 5 years in certain cases.

PLAN THE CAPITAL GAIN ON TRANSFER OF CAPITAL ASSETS.

- Plan the transfer of capital assets
- High tax rate in the case of short term capital gain
- Low tax rate in the case of long term capital gain.
- Nature of capital gain short term /long term depends upon the period of holding of capital assets by the owner /previous owner.
- Accordingly manage the holding of capital assets to make long term to reduce tax.
- Special tax rate in certain cases where tax rate is low as compared to normal tax rate – chapter XII- Section 110 to 115BBG.

TRANSACTION PERTAINING TO CAPITAL GAIN ON TRANSFER OF IMMOVABLE PROPERTY

- ❑ Don't try to transfer immovable property at less than circle rate for stamp duty- maximum variation-5% permissible
- ❑ If any compulsion must challenge the stamp duty paid/ circle rate- both saving in stamp duty as well as save the income tax
- ❑ Sale at less than circle rate means payment of tax on deemed income/ unrealized income (value for stamp duty- actual transaction price) tax in the hands of seller u/s 50 C and also in the hands of buyer as income from other source.
- ❑ For builder etc. also if sale of immovable property at less than circle rate leads to offer tax on deemed income of value for stamp duty- actual transaction price
- ❑ In case of transaction between close relative treated as gift – no tax if covered in section 56(2) exceptions.

SET OFF OF LOSS AND
CARRIED FORWARD AND
SET OFF IN NEXT FY
WITHIN CERTAIN PERIOD

Intra head set off of loss from one source of income against income from other source of income of same head within the same AY with few exceptions and limitations.

Inter head set off of loss from one head of income against income from other head of income within the same AY with few exceptions and limitations.

Unadjusted loss to be carried forward for set off in following AY within limitations.

This will reduce the total income and consequently reduction in tax liability .

TAX RATE

Tax rate as per Finance Act for tax payment of self assessed tax, advance tax, TDS, TCS

Tax rate as per income tax Act- normal rate, TDS rate, TCS rate

Tax rate as per income tax act – special rate of tax – chapter XII-**DETERMINATION OF TAX IN CERTAIN SPECIAL CASES**

Tax rate is too high in certain income such as cash credit, unexplained investment, unexplained expenditure etc. mentioned in section 115BBE etc.

New Option to pay tax at lower rate without deductions/allowances u/s 115BAC. Needs to compute tax as per normal and tax as per 115BAC and lower of these tax may be paid.

SPECIAL TAX RATE ON INCOME REFERRED TO IN SECTION 68 OR SECTION 69 OR SECTION 69A OR SECTION 69B OR SECTION 69C OR SECTION 69D.

115BBE. [(1) Where the total income of an assessee,—

(a) includes any income referred to in section 68 , section 69, section 69A , section 69B , section 69C or section 69D and reflected in the return of income furnished under section 139 ; or

(b) determined by the Assessing Officer includes any income referred to in section 68 , section 69, section 69A , section 69B , section 69C or section 69D , if such income is not covered under clause (a),

the income-tax payable shall be the aggregate of—

(i) the amount of income-tax calculated on the income referred to in clause (a) and clause (b), at the rate of 60%; and

(ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (i).

(2) Notwithstanding anything contained in this Act, **no deduction** in respect of **any expenditure or allowance** or set off of any loss] shall be allowed to the assessee under any provision of this Act in computing his income referred to in clause (a) [and clause (b)] of sub-section (1).

CASH CREDITS- SECTION 68

Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the [Assessing] Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year :

[Provided that where the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless—

- (a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and
- (b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

Provided further that nothing contained in the first proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (23FB) of section 10.]

UNEXPLAINED INVESTMENTS. - SECTION 69

Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the [Assessing] Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year.

Car/tractor/ truck /Jewellery/FDR/land purchased etc. in cash

UNEXPLAINED MONEY, ETC. - SECTION 69A

Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the [Assessing] Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.

Investment out of black money not recorded in the books of account.

AMOUNT OF INVESTMENTS, ETC., NOT FULLY DISCLOSED IN BOOKS OF ACCOUNT. - SECTION 69B

Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the [Assessing] Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income, and the assessee offers no explanation about such excess amount or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the excess amount may be deemed to be the income of the assessee for such financial year.

Expenditure on investment > amount at which recorded. i.e purchased using black money

UNEXPLAINED INVESTMENTS SECTION 69C

Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the [Assessing] Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year.

REBATE AND RELIEF FROM TAX

Rebate u/s 87A to individual being resident in India.

Relief if arrear of salary received – must file 10E along with ITR

Double taxation relief u/s 90 to 91 in respect of tax on income paid in a country and same income become taxable in another country because of resident based taxation/source based taxation so set off of tax already paid against the tax liability for avoidance of double taxation



PAYMENT OF TAX IN TIME TO SAVE INTEREST

Pay installments of advance tax in time to save interest

Pay self assessed tax in time to save interest

Pay demand of tax within 30 days to save interest and save penalty or from becoming assessee in default , besides other consequence of attachment of property etc

If not agreed with demand file appeal within time, in such case 20 % tax payment for stay of demand

FILE RETURN IN TIME

- ❑ By filing ITR in time saving of interest
- ❑ Saving of late fee u/s 234E upto ₹ 10000/-
- ❑ Early refund processing and early refund
- ❑ In time ITR allow to carried forward loss if any and adjustment in next AY to come and that will reduce taxable income in next year as result thereof saving of tax in future time.
- ❑ Ensure to file ITR before notice received for filing ITR to save penalty.

COMPLY THE NOTICES PROMPTLY AND COOPERATE IN THE ASSESSMENT OR OTHER PROCEEDINGS

- To make officer better understanding of case so minimum disallowance/ addition, chances to accept your return income so no extra tax liabilities
- Prompt and correct reply to avoid penalty for non compliances
- If aggrieved of assessment order and demand of tax made by tax officer, appeal at higher forum and
- Stay of demand petition on payment of some portion of tax demand to avoid other consequences.

APPEAL WITHIN TIME

If still any problem you can
contact us at

CA PP SINGH

Contact details

9711521060,9871229590

cappsingh@gmail.com

www.ppsingh.org

- ensure appeal well within time line with help of expert.
- If delay in appeal condonation request application explaining delay
- Request for early disposal of case
- If favourable appeal order, request to give appeal effect
- If aggrieved appeal at higher forum as per law
- If no solution under income tax law- go for suitable writ before high court under A-226 .



Thank You

THANK YOU

CA PP SINGH

Contact details 9711521060,9871229590

cappsingh@gmail.com

www.ppsingh.org