SLUMP SALE

❄ Section 2(42c) : Definition

"Slump Sale" means the transfer of one or more undertakings as a result of sale for a lump-sum consideration ***without values being assigned to individual assets and liabilities*** in such sale.

Note 1 :

"Undertaking" includes :

- Part of undertaking or

- Unit of undertaking or

- Division of undertaking

provided ***constitute a business activity as a whole***.

Note 2 :

The determination of the value of an asset or liability for the sole purposes of payment of stamp duty, registration fee or other similar taxes or fees shall not be regarded as assignment of value to individual asset or liabilities.

❄ Section 50B : Special provision for computation of capital gain in case of slump sale

1. Applicable for corporate as well as non-corporate assessee.

2. Profit on slump sale taxable as Capital Gain in the Previous Year in which transfer took place.

3. Capital Gain on transfer of undertaking held by assessee for :

   a) Not more than 36 months – Short-term Capital Gain

   b) More than 36 months – Long-Term Capital Gain (this is irrespective of the fact that the undertaking consists of certain assets which are short-term capital assets).

4. In case of slump sale the "Net Worth" of the undertaking shall be deemed to be the Cost of acquisition and the Cost of improvement.

5. **Capital Gain** will be computed as under :

Slump sale consideration	*******
Less : Net Worth of the undertaking	*******
Capital Gain	*******

6. Benefit of indexation not available for Long-term Capital Gain.

7. **Net Worth** will be computed as under :

Aggregate value of undertaking's total assets (As per books of account)	*******
Less : Aggregate value of undertaking's total liabilities (As per books of account)	*******
Net worth	*******

8. No Profit or gain from business or profession shall arise even if ***stock*** of the undertaking is transferred along with other assets.

9. ***Contingent liabilities*** do not appear in the balance sheet, therefore shall not be deducted while computing Net worth.

10. ***Revaluation of assets*** shall not be considered while computing Net worth.

11. For computing Net worth ***non-depreciable assets*** will also be taken at their book values.

12. For computing Net Worth in case of ***depreciable asset***, WDV as computed U/S 43(6)(c)(i)(C) shall be taken.

13. ***In the case of capital assets in respect of which the whole of the expenditure has been allowed as a deduction under Section 35AD, amount to be included for computing net worth shall be NIL.***

14. A report of Chartered Accountant certifying the correctness of Computation of Net Worth has to be furnished along with Return of income.

15. In case of slump-sale, the unabsorbed loss and unabsorbed depreciation shall not be available to the ***transferee*** for carry forward. Hence the ***transferor*** can carry forward unabsorbed loss and unabsorbed depreciation because the condition that business must be continued for carry-forward has been deleted.

❄ Section 43(6)(c)(i)(C)

WDV of the transferor's total assets, in case of slump- sale shall be reduced by the following :

Actual cost of assets transferred by the way of slump- sale		*******
Less :	Depreciation that would have been allowable as if the asset was ***only*** asset in the Block	*******
WDV		*******

However, above reduction shall be limited to the WDV of Block of assets.

Note 1 :

Law dose not prescribe as to what will be the actual cost of the assets in the hands of the ***transferee***. A logical view is that the slump consideration should be apportioned on the basis of FMV of the assets and depreciation be allowed on such apportioned cost

Note 2 :

Slump-sale may not always be beneficial. If company finds that it is prudent to sell the assets separately, then it can do so if the tax incidence comes out to be lower.

Example 1 :

The Balance sheet of a company X Limited on 31-3-2010 is as under :

Capital & Liabilities	Rs.	Assets & Properties	Rs.
Paid-up Capital	5,00,000	**Software Division** :	
Reserves & Surplus	6,00,000	Fixed Assets	
Revaluation Reserve	2,00,000	(Revalued by Rs. 75,000/-)	2,00,000
Creditors :		Debtors	1,00,000
Software Division	1,50,000	Stock	50,000
Telecom Division	2,50,000	**Telecom Division** :	
Cement Division	1,00,000	Fixed Assets	
		(Revalued by Rs. 75,000/-)	1,00,000
		Debtors	75,000
		Stock	2,10,000
		Investments	
		(Market Value : Rs. 3,00,000/-)	1,50,000
		Cement Division :	
		Fixed Assets	
		(Revalued by Rs. 50,000)	4,35,000
		Debtors	3,00,000
		Stock	1,00,000
		Investments	
		(Market Value : Rs. 1,00,000/-)	80,000
	18,00,000		18,00,000

Now on 01-04-2010, the company X Limited decides to sell its Cement Division to another company Z Limited for Rs. 14,00,000/-. The break up of Fixed Assets is as under :

Land (Revalued by Rs. 50,000)	Rs. 1,30,000
Machinery (Depreciable)	Rs. 3,05,000

	Rs. 4,35,000
	=========

The Cement Division was set up on 30-06-2005. In the agreement to sell, the company specifies that the land is valued at Rs. 3,25,000 for the purpose of payment of stamp duty by the purchaser. It is clarified in the agreement that this value has nothing to do with the consideration of Rs. 14,00,000/-. The machinery transferred in the slump sale belongs to the Block of Plant & machinery on which depreciation rate is 25%. The WDV of the Block of Plant & Machinery as on 01-04-2010 is Rs. 8,00,000/-. The company has acquired a new machinery 'A' on 30-06-2010 for Rs. 2,00,000/- and has sold a machinery 'B' on 31-12-2010 for Rs. 6,50,000/-. From the records maintained under Companies Act, 1956 the company ascertains that the machinery transferred in slump sale was acquired at the actual cost of Rs. 5,00,000/- on 31-12-2005. Discuss the tax implications.

Solution :

- There is a sale of undertaking being the Cement Division of the company which constitutes a business activity.
- The sale is for a lump sum consideration of Rs. 14,00,000/-. Therefore it is a slump sale.
- Cement Division was established on 30-06-2005 and is transferred on 01-04-2010. Therefore gains are LTCG and shall be taxable in the A.Y. 2011-12.

Ascertainment of WDV of assets transferred in slump sale as per Section 43 (6) (c) (i) (C)

Actual cost of machinery transferred in slump sale (Purchased on 31-12-2005)			5,00,000
Less :	Depreciation for A.Y. 2006-07 @ 12.5%	62,500	
	Depreciation for A.Y. 2007-08 @ 25%	1,09,375	
	Depreciation for A.Y. 2008-09 @ 25%	82,031	
	Depreciation for A.Y. 2009-10 @ 25%	61,523	
	Depreciation for A.Y. 2010-11 @ 25%	46,143	3,61,572
WDV			1,38,428

Computation of WDV of the Block of assets of the company for A.Y. 2011-12

Opening WDV of the Block as on 01-04-2010		8,00,000
Add :	Actual cost of asset 'A' purchased during the year	2,00,000
		10,00,000
Less :	Sale price of asset 'B' sold during the year	6,50,000
		3,50,000
Less :	WDV of the asset transferred in slump sale	1,38,428
WDV for the company		2,11,572

Therefore, WDV of the assets transferred in slump sale = Rs. 1,38,428/-.

Computation of capital gains on slump sale

Previous Year : 2010-11
Assessment Year : 2011-12

Period of Holding : 30-06-2005 to 31-03-2010

Nature of Capital Gain arising as a result of slump sale = LTCG

LTCG = Slump sale consideration – Net Worth

Net Worth = Aggregate value of total assets transferred (i.e. Book value of non-depreciable assets transferred + WDV of depreciable assets transferred) – Aggregate value of undertaking's total liabilities (i.e. Book value of liabilities transferred).

Net Worth :

Land	80,000
Debtors	3,00,000
Stock	1,00,000
Investments	80,000
Machinery (Depreciable)	1,38,428
Aggregate value of total assets transferred	6,98,428
Less : Creditors of Cement Division	1,00,000
	5,98,428

LTCG on slump sale = Rs. 14,00,000 – Rs. 5,98,428 = Rs. 8,01,572/-.

Example 2 :

Suppose in the Example 1, machinery 'B' was sold for Rs. 8,95,000 and all other facts remain the same. Discuss the tax implication.

Solution :

Ascertainment of WDV of assets transferred in slump sale as per Section 43 (6) (c) (i) (C)

Actual cost of machinery transferred in slump sale (Purchased on 31-12-2005)			5,00,000
Less :	Depreciation for A.Y. 2006-07 @ 12.5%	62,500	
	Depreciation for A.Y. 2007-08 @ 25%	1,09,375	
	Depreciation for A.Y. 2008-09 @ 25%	82,031	
	Depreciation for A.Y. 2009-10 @ 25%	61,523	
	Depreciation for A.Y. 2010-11 @ 25%	46,143	3,61,572
WDV			1,38,428

Computation of WDV of the Block of assets of the company for A.Y. 2011-12

Opening WDV of the Block as on 01-04-2010		8,00,000
Add :	Actual cost of asset 'A' purchased during the year	2,00,000
		10,00,000
Less :	Sale price of asset 'B' sold during the year	8,95,000
		1,05,000
Less :	WDV of the asset transferred in slump sale Rs. 1,38,428 but restricted to	1,05,000
WDV for the company		NIL

Therefore, WDV of the assets transferred in slump sale = Rs. 1,05,000/-.

Computation of capital gains on slump sale

Previous Year : 2010-11
Assessment Year : 2011-12

Period of Holding : 30-06-2005 to 31-03-2010

Nature of Capital Gain arising as a result of slump sale = LTCG

LTCG = Slump sale consideration – Net Worth

Net Worth = Aggregate value of total assets transferred (i.e. Book value of non-depreciable assets transferred + WDV of depreciable assets transferred) – Aggregate value of undertaking's total liabilities (i.e. Book value of liabilities transferred).

Net Worth :

Land	80,000
Debtors	3,00,000
Stock	1,00,000
Investments	80,000
Machinery (Depreciable)	1,05,000
Aggregate value of total assets transferred	6,65,000
Less : Creditors of Cement Division	1,00,000
	5,65,000

LTCG on slump sale = Rs. 14,00,000 – Rs. 5,65,000 = Rs. 8,35,000/-.