CLUBBING OF INCOME [SEC 60 TO 65]

Transfer of Income without transferring assets [Sec 60]

Where there is a *transfer of income* by a person to another person, *without the transfer of asset*, such income shall be *taxable in the hands of transferor.*

Revocable transfer of assets [Sec 61]

If there is *revocable transfer* of an asset by one person to another, then income from such assets shall be *taxable in the hands of transferor.*

No clubbing if transfer is irrevocable [Sec 62]

- If any person has transferred any asset through *irrevocable transfer,* in such cases, *clubbing provisions shall not apply*.
- If any person has transferred any asset for the *lifetime of the transferee*, it will be considered to be irrevocable and *clubbing provisions shall not apply.*

Definition of Revocable Transfer [Sec 63]

Transfer shall be deemed to be revocable if:

i. If whole or any part of the income or assets *can be re-transferred* to transferor
ii. If transferor can *re-assume power* over the whole or any part of income or assets

<u>Income of Individual to include income of spouse, minor child etc. [Sec 64]</u>

<u>Remuneration of Spouse – [Sec 64(1)(ii)]</u>

If spouse of an individual is receiving salary, commission, fees or any other remuneration from any concern in which the individual is having *<u>substantial interest</u>* then such salary etc. shall be included in the income of the individual.

Exceptions: There shall be no clubbing of income if the salary etc paid to the spouse is due to his/ her technical or professional qualifications or knowledge or experience.

Substantial Interest:

- For Company : If individual along with his relatives (Spouse, brother, sister or any lineal ascendant or descendant of the individual) holds not less than *<u>20% equity shares beneficially.</u>*
- For others: If individual along with his relatives is entitled to *<u>atleast 20% of profits</u>*

However, if both husband and wife have substantial interest in the concern and both are receiving remuneration from the same concern, then the remuneration of both the person shall be clubbed in the hands of that spouse whose total income is greater, before clubbing such income.

<u>Income from Assets transferred to Spouse [Sec 64 (1)(iv)]</u>

If an individual *<u>transfers any asset</u>* other than house property *<u>to his/her spouse</u>*, income from such assets shall be *<u>clubbed in the hands of transferor.</u>*

Exceptions:

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

Cross transfers: If any person has transferred any asset to the spouse of some other person and such other person has transferred the asset to the spouse of the first person, in this case clubbing provisions shall apply.

Important Points:

- If any person has transferred the asset to the spouse, income from the asset shall be clubbed in the hands of the transferor. But if such income is further invested, any *subsequent income shall not be clubbed.*
- If transferred asset is invested by the spouse in any business, then income from such business shall be clubbed in the hands of transferor.

$$\text{Income from business} \times \frac{\text{Amount invested out of asset transferred}}{\text{Total Invt of Transferee in the beginning of the year}}$$

Income from Assets transferred to Son's Wife [Sec 64 (1)(vi)]

Income arising from an asset transferred by an individual to his son's wife, without adequate consideration, shall be clubbed in the hands of transferor.

Income from Assets transferred to any person for the benefit of the spouse or Son's Wife [Sec 64 (1)(vii), 64(1)(viii)]

Income from assets transferred to any person for the immediate or deferred benefit of the spouse or son's wife, without adequate consideration, shall be taxable in the hands of the transferor.

Clubbing of Income of Minor Child [Sec 64 (1A)]

All such income which accrues or arises to the minor child is to be clubbed in the hands of that parent whose total income (excluding the income of minor child) is greater. However, if the marriage of parents does not subsist, it shall be included in the income of that parent who maintains the child.

If the income of child is so included, the parent shall be entitled to an *exemption of maximum Rs. 1500* in respect of each minor child. [Sec 10(32)]

Where any income is once included in the total income of either parent, it will continue be clubbed in the hand of that parent only, in all future years, unless the assessing officer is satisfied that income shall be clubbed in the hands of other parent.

However, income of minor child shall not be clubbed in following cases:

- Child is suffering from any *disability* of the nature specified in Section 80U, like physically disabled, totally blind etc.
- Income accruing to child on account of *manual work* or activity involving application of his *skills, talent or specialized knowledge and experience.*

Income from self acquired property converted into joint family property [Sec 64 (2)]

If an Individual, who is a member of HUF, converts his self-acquired property into HUF property then income derived by HUF from such property shall be included in the hands of transferor.

Implication in case of subsequent partition: *After partition of HUF, income arising from any asset received by the spouse shall be clubbed in the hands of transferor.*

Liability of person (transferor and transferee) – [Sec 65]

Even though the income arising from the transfer of assets is clubbed in the hands of transferor, *tax on such income may also be demanded from the transferee.*