DAY 10

1. Section 80-IA(4)(iv)-[Effective from A.Y. 2014-15]

Extension of sunset clause for power sector undertakings

In order to avail deduction under section 80 IA, the relevant undertaking has to commence the eligible activity during prescribed time limit. **This time limit has been extended by one year i.e., from 31st March, 2013 to 31st March, 2014** in case of following activities for which deduction is available under section 80IA(4) (i) :-

(a) Generation or generation and distribution of power
(b) New transmission or distribution lines
(c) Substantial renovation and modernization of existing network of transmission or distribution lines.

2. Section 80JJAA-[Effective from A.Y. 2014-15]

Conditions for claiming special deduction in respect of additional wages paid to new regular workman under section 80JJAA has been modified. Comparative Chart is given for academic understanding.

(a) Conditions - The following conditions should be satisfied to avail deduction under section 80JJAA—

Conditions	**Earlier Provisions**	**Amended Provisions**
Condition 1	The taxpayer is an Indian company.	The taxpayer is an Indian company.
Condition 2	Gross total income of the taxpayer includes any profits and gains derived from any industrial undertaking engaged in the manufacture or production of article or thing.	***Gross total Income of the taxpayer includes any profits and gains derived from the manufacture of goods in a factory.***
Condition 3	No deduction shall be allowed if industrial undertaking is formed by splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking.	***No deduction shall be allowed if the factory is hived off or transferred from another existing entity or acquired by the assessee company as a result of amalgamation with another company.***
Condition 4	The assessee furnishes along with the return of income the report of a chartered accountant in Form No. 10DA.	The assessee furnishes along with the return of income the report of a chartered accountant in Form No. 10DA.

(b) Amount of deduction - The amount of deduction is equal to 30 per cent of "additional wages" paid to the new "regular workmen" employed by the assessee in the previous year. **The deduction is available for three assessment years** including the assessment year relevant for the previous year in which such employment is provided.

(c) Meaning of Factory

"Factory" shall have the same meaning as assigned to it in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948).

3. Capital Asset-Section 2(14)[Effective from A.Y. 2014-15]

Modification in parameters defining scope of land falling outside the ambit of "Agricultural land" and consequently, within the definition of "Capital Asset"

(a) Section 2(14) defines capital asset which excludes agricultural land in India.

(b) Agricultural land means the land falling ***<u>outside</u>*** urban area

(c) **Meaning of Urban area**

(1) Urban area means any area which is situated within the jurisdiction of a municipality or cantonment board having a population of 10,000 or more.

(2) Urban area also includes an area which is situated outside the local limits of such municipality/cantonment board but within distance given below –

Population of municipality / cantonment board	Distance measured aerially
More than 10,000 but not exceeding 1 lakh	2 kilometers
More than 1 lakh but not exceeding 10 lakh	6 kilometers
More than 10 lakhs	8 kilometers

(3) For the above purpose, "population" means the population according to the last preceding census of which the relevant figures have been published before the date of valuation.

Related amendment in section 2(1A) defining Agricultural income

As per clause (c) of section 2(1A), income derived from any building which is on or in the immediate vicinity of land in India, used for agricultural purposes, and is occupied as a dwelling house, store house or other outbuilding by -

(a) the receiver of rent or revenue of any such land or

(b) the cultivator or receiver of rent-in-kind

shall be regarded as agricultural income provided,

(a) the land on which such building is situated is assessed to land revenue in India or subject to a local rate, or

(b) if not so assessed or subject to local rate, the land is not situated within **urban area**.

For the purpose this section, "Urban area" has the same meaning as discussed above.

4. Section 139(9)-Effective from 01.06.2013]

Practical

X Ltd. filed return without payment of self-assessment tax. Discuss tax consequences under different provisions of the Income Tax Act, 1961.

Before, we go to the solution, lets comprehend amendment first.

Return of income filed without payment of self-assessment tax (along with interest) under section 140A considered defective

It is observed by Income Tax Department that few assessees submit their income tax returns without payment of self-assessment tax.

Therefore, clause (aa) has been inserted in the Explanation to section 139(9) to provide that the return of income shall be regarded as defective unless the tax together with interest, if any, payable in accordance with the provisions of section 140A has been paid on or before the date of furnishing of the return.

Solution:

(i) As per section 140A, assesse is treated as "assesse deemed to be in default".

(ii) Therefore, he may attract penalty under section 221.

(iii) As per amendment in section 139(9), return filed by him may be treated as defective.

5. New Section 194-LD-[Effective from 01.06.2013]

Concessional rate of TDS in respect of interest from Government securities or rupee-denominated bonds of an Indian company payable to a Foreign Institutional Investor (FII) or a Qualified Foreign Investor (QFI)

(a) ***<u>Section 194LD(1):-</u> Any person*** who is responsible for paying ***toa personbeing a Foreign Institutional Investor or a Qualified Foreign Investor***, any ***income by way of interest*** referred to in sub-section (2), shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ***<u>five per cent</u>***<u>[+SC+EC+SHEC].</u>

(b) ***<u>Section 194LD(2):-</u>***The income by way of interest referred to in sub-section (1) shall be the interest payable on or after the 1st day of June, 2013 but before the 1st day of June, 2015 in respect of investment made by the payee in—

(i) a rupee denominated bond of an Indian company ; or

(ii) a Government security:

Provided that the rate of interest in respect of bond referred to in clause (i) shall not exceed the rate as may be notified by the Central Government in this behalf.

6. Section 194LC & 206AA-[Effective from 01.06.2013]

Practical

Mention the section no. under which TDS to be made and the rate of TDS.

(i) Interest paid to FII in respect of rupee denominated bond of an Indian company

(ii) Interest paid to FII in respect of debenture of an Indian company

(iii) Payment to FII resulting into Long term capital gain on transfer of security

(iv) Payment to FII resulting into Short term capital gain on transfer of security

(v) Interest paid to non-resident by infrastructure debt fund referred to in section 10(47) (Non-resident does not have PAN)

(vi) Interest paid to non-resident on long term infrastructure bond issued by an Indian company (Non-resident does not have PAN)

Before, we go to the solution, lets comprehend amendment first.

W.E.F. 1-6-2013

The provisions of section 206AA (quoting PAN) shall not apply in respect of payment of interest, on long-term infrastructure bonds, as referred to in section 194LC, to a non-resident, not being a company, or to a foreign company.

Before going through solution, students are advised to read following sections in detail:

1. Section 194 LB
2. Section 194 LC
3. Section 194 LD
4. Section 206AA
5. Section 196D

Solution:

Sr. No.	Particulars	Section No.	TDS Rate
(i)	Interest paid to FII in respect of rupee denominated bond of an Indian company	194LD	5%
(ii)	Interest paid to FII in respect of debenture of an Indian company	196D(1)	20%
(iii)	Payment to FII resulting into Long term capital gain on transfer of security	196D(2)	Nil
(iv)	Payment to FII resulting into Short term capital gain on transfer of security	196D(2)	Nil
(v)	Interest paid to non-resident by infrastructure debt fund referred to in section 10(47) (Non-resident does not have PAN)	206AA	20%
(vi)	Interest paid to non-resident on long term infrastructure bond issued by an Indian company (Non-resident does not have PAN)	194LC	5%

7. Miscellaneous Provisions

In the Income-tax Act, for the expression "Foreign Exchange Regulation Act, 1973" wherever it occurs, the expression "Foreign Exchange Management Act, 1999" shall be substituted.