Income Tax Implications on Conversion of Partnership Firm or LLP into Private Limited Company

In accordance with section 170 read with section 189 of Income Tax Act, 1961, in case the business of one person (hereinafter referred as "firm) is succeeded by any another person (hereinafter referred as Pvt. Ltd. company), then the assessment u/s 143(1)/(2), 144, 147, 153A of Income Tax Act, 1961 shall be done SEPARATELY. The assessment up to the date of conversion shall be done in the hands of firm and assessment after the date of conversion shall be done in the hands of such private limited company.

In addition of above kindly see the below mentioned other implications which may attract the Income Tax provisions for succession of firm into Pvt. Ltd. Co.:-

1. Income under head House Property:-

- Any income or rent derived from house property t/f to Pvt Ltd in a scheme of conversion shall be deemed to be the income from such property from the date when such conversion took place.

2. Income u/h Salaries

- No relevant requirements.

3. Income u/h Capital Gain & PGBP

- u/s 47:- Conversion of Firm into Pvt. Ltd. company shall not be regarded as transfer accordingly, no Capital Gains shall be arises subject to some exceptions u/s 47A.

- Carry forward of losses & unabsorbed depreciation & AMT Credits :- Except the AMT Credit, all losses, unabsorbed depreciation and allowances shall be deemed to be the losses, unabsorbed depreciation and allowances of such Pvt Ltd company.

- u/s 32:- Depreciation shall be provided on proportionate basis to firm and company on the basis of days owned such assets.

- Two different balance sheet shall be prepared by such assesses.

- Stock shall be valued at MV and PGBP income shall be arised accordingly. (Such business shall be transferred as per sec 50B to save PGBP tax on t/f of stock).

- No AMT credit shall be allowed to company u/s 115JD.

- Sec 44AD/ 44AE/ 44ADA benefit is not available to Pvt Ltd Company.

5. Income u/h Other Sources

- Any income arising after date of conversion shall be deemed to be the income of company.

6. Assessment angle

- U/s 170 read with section 189: Two separate assessments shall be done i.e. separate assessment of firm and company shall be done.

7. TDS Provisions

- Any TDS deducted after date of conversion shall be claimed by such company and not by firm, even if the TDS after conversion is deducted of firm.

8. Miscellaneous related

- PAN: - New PAN copy shall be made of company

- TAN: - New TAN copy shall be made of company

9. Penalties & Recoveries

- Any contravention of any provision of the act after the date of conversion shall be penalized and recovered from such company.

- Any contravention done by firm before the date of conversion and assessment of such firm is done after the date of conversion, the assessment shall be made on firm & partners both, deeming that no conversion has been done by such firm.

Thanks & Regards
For & on Behalf of Piyush Jain & Co.

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