PAPER – 7 : DIRECT TAX LAWS

QUESTIONS

1. Charitable or religious trusts and institutions

   What is the tax treatment in respect of anonymous donations received by the following trusts during the financial year 2008-09?

   (i) A charitable trust referred to in section 11 which applied the entire amount of anonymous donations for purposes of the trust during the financial year 2008-09.

   (ii) A trust established wholly for religious purposes which applied 85% of the amount of anonymous donations for the purposes of the objects of the trust during the financial year 2008-09.

2. Incomes which do not form part of total income

   Ms. Roopa, a Sikkimese woman, married Mr. Vallish Gupta of U.P., residing in Noida, on 1st March, 2008. During the previous year 2008-09, she received rent of Rs.3 lakh from letting out of her flat in Sikkim. She also received Rs.23,000 by way of dividend and interest on securities. Discuss whether Ms. Roopa is liable to income-tax for assessment year 2009-10. Would your answer differ, if she had married Mr. Vallish Gupta on 2nd April, 2008?

3. Basic Concepts

   "The illegality tainted with the income has no bearing on its taxability" – Elucidate this statement with the help of a recent case law.

4. Charitable or religious trusts and institutions

   A public charitable trust, created under a trust deed for providing relief to autistic adults and children and registered under section 12A, furnishes the following particulars of its receipts during the year ended 31st March, 2009:

		Rs. in lakh
(i)	Income from properties held by trust (net)	20
(ii)	Income (net) from business (incidental to main objects)	17
(iii)	Voluntary contributions from public (including the corpus donation of Rs.5 lakh)	11

   The trust applied Rs.20 lakh towards various activities and programmes undertaken for the benefit of autistic persons during the year. The trust has also paid Rs.10 lakh towards repayment of a loan taken a year back for the purpose of construction of its centre for training the autistic persons in various handicraft works.

   Determine the tax liability, if any, of the trust for the assessment year 2009-10.

5. Salaries

Raghav has been in the service of a private company since 1st January, 1993, in Calcutta. During the financial year ending 31-3-2009, he received from the company, salary @ Rs.12,000 p.m. dearness allowance @ Rs.2,000 p.m., city compensatory allowance @ Rs.300 p.m., entertainment allowance @ Rs.1,000 per month and house rent allowance @ Rs.4,000 p.m. He resides in the house property owned by his HUF for which he pays a rent of Rs.4,500 p.m.

He contributes Rs.1,400 p.m. to the recognised provident fund. The company is also contributing an equal amount. Raghav retires from the service of the company on 31-12-2008 when he was paid a gratuity of Rs.80,000 and pension of Rs.6,000 p.m. He is not covered under the Payment of Gratuity Act, 1972. On 1-2-2009, he got one-half of the pension commuted and received Rs.1,80,000 as commuted pension. He also received Rs.3,00,000 as the accumulated balance of the recognised provident fund.

Compute his income under the head salary for the A.Y. 2009-10.

6. Income from house property

Ganesh owns a house in Pune. During the previous year 2008-09, 2/3rd portion of the house was self-occupied and 1/3rd portion was let out for residential purposes at a rent of Rs.17,000 p.m. The tenant vacated the property on January 31st, 2009. The property was vacant during February & March, 2009. Rent for the month of January 2009 could not be realised in spite of the owner's efforts. All the conditions prescribed under Rule 4 are satisfied. Municipal value of the property is Rs.5,10,000 p.a., fair rent is Rs.5,40,000 p.a. and standard rent is Rs.6,00,000. He paid municipal taxes @8% of municipal value during the year. A loan of Rs.25,00,000 was taken by him during the year 2006 for acquiring the property. Interest on loan paid during the previous year 2008-09 was Rs.1,35,000. Compute Ganesh's income from house property for the A.Y. 2009-10.

7. Profits and gains of business or profession

(a) A Ltd. paid IDBI a lump sum prepayment premium of Rs.1.2 lakh on 7.4.2008 for restructuring its debts and reducing its rate of interest. It claimed the entire sum as business expenditure for the P.Y.2008-09. The Assessing Officer, however, held that the prepayment premium should be amortised over a period of 10 years (being the tenure of the restructured loan), and thus, allowed only 10% of the pre-payment premium in the P.Y.2008-09. Discuss, with reasons, whether the contention of A Ltd. is correct or that of the Assessing Officer.

(b) Explain the tax treatment for depreciation on emergency spares (of plant and machinery) acquired during the year which, even though kept ready for use, have not actually been used during the relevant previous year.

8. Profits and gains of business or profession

ABC Ltd. entered into an agreement with PQR Ltd. for purchase of the undertaking of PQR Ltd. for Rs.2 crore (constituting Rs.1.60 crore towards plant and machinery, Rs.0.35 crore towards building and Rs.0.05 crore towards land). In addition to this sum, by the same agreement, ABC Ltd. had also taken over the accrued and future liability of Rs.3.5 crore of PQR Ltd. for the gratuity to its employees for the period during which they served with PQR Ltd. ABC Ltd. treated the said amount of Rs.3.5 crore towards gratuity liability as capital expenditure and claimed depreciation under section 32 in respect of the same. Discuss whether the claim of ABC Ltd. is tenable in law.

9. Capital Gains

Mr. Ganesh sold his residential house in Mumbai and purchased two residential flats adjacent to each other from two different persons vide two separate registered sale deeds on the same day. The builder had certified that he had effected necessary modification to make it one residential apartment. Mr. Ganesh sought exemption under section 54 in respect of the investment made in purchase of the two residential flats. The Assessing Officer, however, gave exemption under section 54 to the extent of purchase of one residential flat only contending that sub-section (1) of section 54 clearly restricts the benefit of exemption to purchase of one residential house only and the two flats cannot be treated as one residential unit since –

(i) the flats were purchased through different sale deeds; and

(ii) it was found by the Inspector that, before the sale, the residential flats were in occupation of two different tenants.

Discuss the correctness of the contention of the Assessing Officer.

10. Capital Gains

Mr. Sridhar converted the land (capital asset) acquired by him in 1992 into stock-in-trade on 22nd January, 2008. He sold the land on 12th October, 2008. Sridhar wants to know the tax implications of the transaction under the Income-tax Act for the assessment year 2009-10.

11. Income from other sources

Ms. Ruchika received the following gifts during the previous year 2008-09 -

(i) Gift of Rs.3,00,000 on 17-6-2008 from her best friend, Rekha.

(ii) Gift of gold jewellery worth Rs.4,25,000 on 14-7-2008 from her fiancée.

(iii) Gifts of Rs.55,000 each received from her 3 friends on the occasion of her marriage on 13-11-2008.

(iv) Gift of Rs.25,000 on 14-11-2008 from her mother's brother.

(v) Gift of Rs.21,000 on 15-11-2008 from her father's sister.

(vi) Gift of Rs.11,000 from her husband's friend on 1-12-2008.

(vii) Gift of Rs.5,000 on 2-12-2008 from her father's friend.

(viii) Gift of Rs.2,500 on 2-12-2008 from her sister's mother-in-law.

(ix) Gift of Rs.1,01,000 from her husband's sister.

Compute her income chargeable under the head "Income from other sources" for the assessment year 2009-10.

12. Deductions from Gross Total Income

Mr.Daksh, aged 37 years, furnishes the following information relating to premium on mediclaim policy for the year ending 31.03.2009 :

(i) for self – Rs.12,400;

(ii) for spouse, aged 29 years – Rs.10,250;

(iii) for non-dependent mother, aged 66 years - Rs.23,500;

(iv) for dependent father-in-law, aged 69 years - Rs.13,700.

What would be his deduction under section 80D for A.Y.2009-10 if –

(a) the premium is paid by cheque

(b) the premium is paid by cash.

13. Miscellaneous Provisions

Discuss the correctness or otherwise of the following statement –

"Presumption as to –

(i) ownership of assets, books of account, other documents etc. and

(ii) correctness of the contents of such books of account and other documents

is restricted only to such assets, books of account etc. found in the course of search under section 132".

14. Assessment of Companies – Dividend Distribution Tax

A Ltd. is a company in which 60% shares are held by B Ltd. A Ltd., in its annual general meeting held on 4th April, 2008, declared a dividend amounting to Rs.52 lakh to its shareholders for the year ended 31st March, 2008 and it paid dividend distribution tax on 15th May, 2008. B Ltd. did not declare any dividend for the year ended 31st March, 2008. It, however, declared an interim dividend amounting to Rs.75 lakh on 15th November, 2008 for the year ended 31st March, 2009. Compute the dividend distribution tax payable by B Ltd. Would your answer be different if 55% of shares in B Ltd. are acquired by C Ltd., a domestic company, on 1st April, 2008?

15. Fringe Benefit Tax

Technology Limited, under its Employment Stock Option Plan, allotted 700 equity shares to its Marketing head, Mr. Gaurav on 1st July, 2008, when he exercised his option. The option was granted on 1st April, 2007 and the shares vested with Mr. Gaurav on 1st April, 2008. The company's shares are quoted on the National Stock Exchange, where the opening price and closing price on the date of vesting were Rs.668 and 680, respectively. The company recovered Rs.200 per share from Mr. Gaurav. Compute the value of fringe benefit for the assessment year 2009-10. If Mr. Gaurav sells the shares, say, after a year, what would be the cost of acquisition of the shares?

16. Assessment of Companies – Computation of Minimum Alternate Tax

Congo Ltd. earned a net profit of Rs.4,25,000 after debit/credit of the following items to its profit and loss account for the year ended on 31.3.2009:

(a)	Items debited to Profit and Loss Account	Rs.
	Provision for income-tax	80,000
	Interest on income-tax	4,000
	Education cess on income-tax	1,600
	Secondary and higher education cess on income-tax	800
	Dividend distribution tax	10,000
	Provision for deferred tax	7,000
	Wealth-tax	19,000
	Securities Transaction Tax	13,500
	Fringe Benefit Tax	16,000
	Transfer to General Reserve	15,000
	Provision for gratuity based on actuarial valuation	12,000
	Provision for losses of subsidiary company	14,000
	Proposed dividend	16,000
	Preference dividend	13,000
	Expenditure to earn agricultural income	5,000
	Expenditure to earn LTCG exempt under section 10(38)	4,000
	Expenditure to earn dividend income	2,000
	Depreciation (including depreciation of Rs.15,000 on revaluation)	35,000
(b)	Items credited to Profit and Loss Account	
	Amount credited to P& L A/c from Special Reserve	10,000

Amount credited to P& L A/c from Revaluation Reserve	18,000
Agricultural income	25,000
LTCG exempt under section 10(38)	16,000
Dividend income	12,000

The company provides the following additional information:

Brought forward Business Loss/Unabsorbed Depreciation:

Assessment Year	Amount as per books	
	Loss	Depreciation
2006-07	50,000	40,000
2007-08	30,000	Nil
2008-09	10,000	25,000

You are required to examine the applicability of section 115JB of the Income-tax Act, and compute book profit and the tax credit to be carried forward, assuming that the total income computed as per the provisions of the Income-tax Act is Rs.1,20,000.

17. Assessment Procedure

    (a) Can the Assessing Officer initiate proceeding under section 147 in respect of income involving matters which are the subject matter of an appeal? Discuss.

    (b) "The Assessing Officer has no power to make any adjustment to the income returned by the assessee while processing the return of income under section 143(1)" - Discuss the correctness or otherwise of this statement.

18. Appeals and Revision

    "The Appellate Tribunal may, on merit, pass an order of stay in any proceedings relating to an appeal and such period of stay can exceed one year from the date of such order, if the delay is not attributable to the assessee" – Discuss the correctness or otherwise of this statement.

19. Collection and Recovery of tax

    Dehradun Sports Ltd., a renowned sports organisation, has engaged Mr. Harish, a resident in India, as its tennis coach at an annual remuneration of Rs.13 lakh. The company seeks your advice on whether it is liable to deduct tax at source from such remuneration

20. Penalties and Prosecution

    "The presence of "mens rea" is essential for imposition of penalty under section 271(1)(c)" – Discuss the correctness or otherwise of this statement with the aid of a recent Apex Court ruling.

21. Assessment Procedure

Mr. Akash filed his return of income for assessment year 2008-09 on 20th July, 2008. The return is selected for regular assessment under section 143(3) and notice under section 143(2) is served on him on 1st November, 2009. He responded to the notice served under section 143(2). Discuss whether the notice has been served on time and if not, whether Mr. Akash can challenge the assessment order.

22. Double Taxation Relief

Mr. Vikram, a resident Indian aged 43 years, has derived the following income during the previous year 2008-09:

		Rs.
(i)	Salary income earned in India	3,40,000
(ii)	Income from house property in India (computed)	2,00,000
(iii)	Commission (Gross) from a company in Hong Kong (Tax paid in Hong Kong Rs.80,000)	4,00,000
(iv)	Dividend (Gross) from a company in Hong Kong (Tax paid in Hong Kong Rs.20,000)	1,00,000
(v)	Cash Gifts from non-relatives in India	1,60,000

India has no double tax avoidance agreement with Hong Kong. Compute the total income and tax liability of Mr. Vikram for the assessment year 2009-10.

23. Wealth-tax

Mr. Pradeep has a house property in Chennai, which was lying vacant for the last 3 years. He constructed the property in 1988 at a cost of Rs.35 lakh. He has let out the same at a monthly rent of Rs.24,000 for a period of two years with effect from 1st January, 2009. The quarterly corporation tax is Rs.20,000. He took a premium of Rs.1,60,000 from the tenant and also security deposit of Rs.1,00,000. The house was constructed on freehold land measuring 5,000 sq. ft. It has two floors each measuring 1,000 sq. ft. Compute the value of the house property for wealth tax purpose as at valuation date 31.3.2009.

24. Wealth-tax

Compute the net wealth of PQR Ltd. (carrying on the business of running cars on hire and also dealing in jewellery) which furnishes the following particulars of its assets and liabilities as on 31.3.2009:

	(Rs. in crore) Book value	(Rs. in crore) Value as per Schedule III
Assets		
(i) Fixed Assets:		
Plant & Machinery	31	35
Factory Building	25	30
Urban land (250 sq. meters)	40	65
Motor cars (used in the business of running them on hire)	12	20
(ii) Investments		
Jewellery	18	32
Plot of land in Pune (350 sq. meters)	12	30
Equity shares in subsidiary companies	17	19
(iii) Current assets :		
Inventories (Jewellery)	55	55
Sundry Debtors	12	12
Cash and bank balances (includes cash balance of Rs.1,50,000)	6	6
Liabilities		
(i) Current Liabilities	30	30
(ii) Secured Loan taken for purchase of urban land	25	25

25. Wealth-tax

Mr. Kunal furnishes the following particulars of his assets and liabilities as on 31.3.2009:

Assets:	Rs. in lakh
Residential house at Bombay	50
Residential house at Coimbatore	20
Plot of land comprising an area of 300 square meters at Chennai	75
House at Pune exclusively used for carrying on his business	23

Commercial complex at Ahmedabad	18
Residential house at Delhi let out for 320 days during the previous year	15
Motor cars used in business of running them on hire	12
Shares in private limited companies	17
Cash in hand	1
Gold jewellery	8
Liabilities:	
Loan borrowed for purchase of land at Chennai	15
Loan borrowed for purchase of shares in private limited companies	10
Loan borrowed for purchase of gold jewellery	5

Amounts stated against assets, except cash in hand, are the values determined as per section 7 of the Wealth-tax Act, 1957 read with Schedule III thereto.

Compute the net wealth of Mr. Kunal for the assessment year 2009-10.

State the reasons for inclusion or exclusion of the various items.

SUGGESTED ANSWERS/HINTS

1. (i) Section 115BBC(1) provides for levy of tax @ 30% on anonymous donation received by, inter alia, charitable trusts or institutions referred to in section 11. Further, section 13(7) provides that the exemption provisions contained in sections 11 and 12 shall not be applicable in respect of any anonymous donation liable to tax under section 115BBC. As such, application of the anonymous donations received by the charitable trust for charitable purposes does not confer exemption from tax.

   (ii) Section 115BBC(2) provides that the provisions contained in section 115BBC(1) relating to the taxability of anonymous donations are not applicable to any trust or institution created or established wholly for religious purposes. As such, the trust established wholly for religious purposes is not liable to be taxed in respect of the anonymous donations received by it. The application or non-application of such anonymous donation for the purposes of trust during the relevant financial year is not germane to the issue of taxability under section 115BBC.

2. Section 10(26AAA), inserted by the Finance Act, 2008, provides that the following income, which accrues or arises to a Sikkemese individual, shall be exempt from income-tax:

   (1) Income from any source in the State of Sikkim; and

   (2) Income by way of dividend or interest on securities.

   However, the aforesaid exemption will not be available to a Sikkimese woman who marries a non-Sikkimese individual on or after 1st April, 2008.

Since Ms. Roopa, the assessee, married Mr.Vallish Gupta on 1st March, 2008, income derived by her by way of rent from letting out of her flat in Sikkim and dividend and interest on securities shall be exempt under section 10(26AAA).

However, if she had married Mr. Vallish Gupta on 2nd April, 2008, the exemption would not be available.

3. The statement is correct.

This issue came up before the Madras High Court in CIT v. K. Thangamani (2009) 309 ITR 0015. The Court observed that the income-tax authorities are not concerned about the manner or means of acquiring income, and allowing tainted income to escape the tax net would be nothing but a premium or reward to the person for doing illegal trade. The Income-tax Act treats the income earned legally as well as illegal income alike. In the event of taxing the income of only those who acquire the same through legal manner, the tendency of those who acquire income by illegal means would increase.

In this case, the assessee had collected refund from the Income-tax Department on the basis of bogus TDS certificates filed by it. The Court held that such income received by the assessee by getting refund from the Income-tax Department by fabricating TDS certificates is taxable. Therefore, even if the assessee has been prosecuted by the law enforcing authorities for commission of offence, the income earned by him would be an income liable for assessment. It would not be a defence in such cases that the State is also becoming a party to the illegal act by sharing the ill-gotten wealth.

Therefore, illegality tainted with the earning has no bearing on its taxability.

4. Computation of total income of the trust for the A.Y. 2009-10

Particulars	Rs.	Rs.
Income from properties held by trust	20,00,000	
Income from business incidental to the main objects of the trust	17,00,000	
Voluntary Contribution other than corpus donation (Note 1)	6,00,000	43,00,000
Less: 15% of income accumulated or set apart under section 11(1)(a)		6,45,000
		36,55,000
Less: Amount applied for charitable purposes		
Activities and programmes for the benefit of autistic persons	20,00,000	
Repayment of loan taken for construction of training centre (Note 2)	10,00,000	30,00,000
Taxable Income		6,55,000

Computation of tax liability of the trust for the A.Y. 2009-10

Particulars	Rs.	Rs.
Upto Rs.1,50,000	Nil	
Rs.1,50,000 – Rs.3,00,000	15,000	
Rs.3,00,000 – Rs.5,00,000	40,000	
Balance Rs.1,55,000	46,500	1,01,500
Add: Education cess @ 2%		2,030
Add: Secondary and higher education cess @ 1%		1,015
Total tax liability		1,04,545

Notes:

(1) Section 11(1)(d) excludes from the total income of the person, any income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution.

(2) In CIT vs. Janmabhumi Press Trust (2000) 242 ITR 457, the Karnataka High Court held that where a debt is incurred for the purpose of the trust, the repayment of the debt would amount to an application of the income for the purpose of the trust. Therefore, repayment of loan taken for construction of training centre for autistic persons can also be considered as application for charitable purpose.

5. Computation of income under the head "Salaries" for the A.Y.2009-10

Particulars	Rs.
Salary (12,000 x 9)	1,08,000
Dearness allowance (2,000 x 9)	18,000
City compensatory allowance (300 x 9)	2,700
Entertainment allowance (1,000 x 9)	9,000
House rent allowance [See Note 1]	6,300
Pension (6,000 + 3,000 × 2)	12,000
Commuted pension (1,80,000 – 1,20,000) [See Note 3]	60,000
Gross salary	2,16,000
Less: Deduction under section 16 [See Note 5]	Nil
Income from salary	2,16,000

Note -

1. As per section 10(13A), house rent allowance will be exempt to the extent of minimum of the following three amounts:

(i) 50% of salary i.e. 54,000.

(ii) Rent paid minus 10% of salary i.e., 4,500 – 1,200 = 3,300 x 9 = 29,700

(iii) HRA received 4,000 x 9 = 36,000

Therefore, out of Rs.36,000, Rs.29,700 will be exempt and the balance Rs.6,300 will be included in Gross Salary.

2. Gratuity of Rs.80,000 is fully exempt under section 10(10)(iii), being the minimum of the following amounts:

   (i) Actual gratuity received, i.e., Rs.80,000

   (ii) Half month's average salary for every completed year of service i.e.,

$$\frac{\text{Average monthly salary}}{2} \times 16 \text{ i.e. } \frac{12{,}000 \times 16}{2} = \text{Rs. } 96{,}000$$

   (iii) Notified limit i.e., Rs.3,50,000

3. As Raghav is receiving gratuity, one-third of commuted pension will be exempt and the balance would be taxable. 50% of the pension commuted is Rs.1,80,000. Therefore, 100% would be Rs.3,60,000 and one-third of the same would be Rs.1,20,000. The taxable portion of the commuted pension would be Rs.60,000 (i.e. Rs.1,80,000-Rs.1,20,000).

4. Since employer's contribution to recognized provident fund is less than 12% of salary, it is not taxable. Accumulated balance of the recognized provident fund received is exempt from tax, since Raghav has rendered continuous service of more than five years.

5. Deduction under section 16(ii) in respect of entertainment allowance can be claimed only by Government employees. Therefore, Raghav is not eligible for any deduction in respect of entertainment allowance received by him.

6. There are two units of the house. Unit I with 2/3rd area is used by Ganesh for self-occupation throughout the year and no benefit is derived from that unit, hence it will be treated as self-occupied and its annual value will be nil. Unit 2 with 1/3rd area is let-out during the previous year and its annual value has to be determined as per section 23(1).

Computation of Income from house property of Mr. Ganesh for the A.Y. 2009-10

Particulars	Amount in rupees
Unit I (2/3rd area – self-occupied)	
Annual Value	Nil
Less: Deduction u/s 24(b)	
2/3rd of Rs.1,35,000	90,000
Income from Unit I (self-occupied)	-90,000

Unit II (1/3rd area – let out)

Computation of GAV

Step 1 – Computation of Annual Letting Value (ALV)		
ALV = Higher of municipal valuation (MV) and fair rent (FR), but restricted to standard rent (SR). However, in this case, standard rent of Rs.2,00,000 (1/3rd of Rs.6,00,000) is more than the higher of MV of Rs.1,70,000 (1/3rd of Rs.5,10,000) and FR of Rs.1,80,000 (1/3rd of Rs.5,40,000). Hence the higher of MV and FR is the ALV. In this case, it is the fair rent.	1,80,000	
Step 2 – Computation of actual rent received/ receivable		
$17,000 \times 9 = 1,53,000$	1,53,000	
[The property was let-out for 10 months. However, rent for 1 month i.e. January, 2009 could not be realized. As per Explanation to section 23(1), actual rent should not include any amount of rent which is not capable of being realized. Therefore, actual rent has been computed for 9 months]		
Step 3 – GAV is the higher of ALV and actual rent received/receivable. However, as per section 23(1)(c), where the let-out property is vacant for part of the year and owing to vacancy, the actual rent is lower than the ALV, then the actual rent received would be the GAV of the property. In this case, the actual rent is lower than the ALV owing to vacancy, since had the property not been vacant in Feb & March 2009, the actual rent would have been 1,87,000 (i.e., 1,53,000 + 34,000), which is higher than the ALV of Rs.1,80,000. Therefore, in this case, section 23(1)(c) would apply and the actual rent of Rs.1,53,000 would be the GAV, since it is lower than the ALV owing to vacancy.	1,53,000	
Gross Annual Value(GAV)		1,53,000
Less: Municipal taxes paid by the owner during the previous year relating to let-out portion		
1/3rd of (8% of Rs.5,10,000) = 40800/3 = 13,600		13,600
Net Annual Value(NAV)		1,39,400
Less: Deductions under section 24		
(a) 30% of NAV = 30% of Rs.1,39,400	41,820	
(b) Interest paid on borrowed capital (relating to let out portion) [1/3rd of Rs.1,35,000]	45,000	86,820
Income from Unit II (let-out)		52,580

Loss under the head "Income from house property" = -90,000 + 52,580 -37,420

7. (a) This issue came up before the Delhi High Court in CIT v. Gujarat Guardian Ltd (2009) 177 Taxman 434. The Court observed that the assessee company's claim for deduction has to be allowed in one lump sum keeping in view the provisions of section 43B(d), which provide that any sum payable by the assessee as interest on any loan or borrowing from any financial institution shall be allowed to the assessee in the year in which the same is paid, irrespective of the periods, in which the liability to pay such sum is incurred by the assessee according to the method of accounting regularly followed by the assessee. The High Court concurred with the Tribunal's view supporting the assessee that in terms of section 36(1)(iii) read with section 2(28A), the deduction for pre-payment premium was allowable. Since there was no dispute that prepayment premium paid was nothing but interest and that it was paid to a public financial institution i.e. IDBI, the Court held that, in terms of section 43B(d), the assessee's claim for deduction has to be allowed in the year in which the payment has actually been made.

Therefore, applying the ratio of the above case, the contention of A Ltd. is correct and not that of the Assessing Officer.

Note – Section 36(1)(iii) provides for deduction of interest paid in respect of capital borrowed for the purposes of business or profession. Section 2(28A) defines interest to include, inter alia, any other charge in respect of the moneys borrowed or debt incurred. Section 43B provides for certain deductions to be allowed only on actual payment. From a combined reading of these three sections, it can be inferred that –

(i) pre-payment premium represents interest as per section 2(28A);

(ii) such interest is deductible as business expenditure as per section 36(1)(iii);

(iii) such interest is deductible in one lump-sum on actual payment as per section 43B(d).

(b) This issue was dealt with by the Delhi High Court in CIT v. Insilco Ltd (2009) 179 Taxman 55. The Court observed that the expression "used for the purposes of business" appearing in section 32 also takes into account emergency spares, which, even though ready for use, yet are not consumed or used during the relevant period. This is because these spares are specific to a fixed asset, namely plant and machinery, and form an integral part of the fixed asset. These spares will, in all probability, be useless once the asset is discarded and will also have to be disposed of. In this sense, the concept of passive use which applies to standby machinery will also apply to emergency spares. Therefore, once the spares are considered as emergency spares required for plant and machinery, the assessee would be entitled to capitalize the entire cost of such spares and claim depreciation thereon.

Note – One of the conditions for claim of depreciation is that the asset must be "used for the purpose of business or profession". In the past, courts have held that, in certain circumstances, an asset can be said to be in use even when it is "kept ready for use". For example, depreciation can be claimed by a transport company on spare engines kept in store in case of need, though they have not actually been used by the company. Hence, in such cases, the term "use" embraces both active use and passive use for business purposes.

8. This issue was settled by the Supreme Court in Commissioner of Income-tax v. Hoogly Mills Co. Ltd. [2006] 287 ITR 333 (SC). In this case, it was observed that in the same agreement for sale of the undertaking, not only was it mentioned that a sum of Rs.2 crore would be paid as consideration but also that the vendee would take over the accrued and future gratuity liability of the employees of the vendor. Hence, the consideration for the sale was not only Rs.2 crore but, in addition, the gratuity liability of the vendor as well. Thus, the entire amount of consideration was a capital expenditure because it was an expenditure incurred for acquiring an asset of an enduring nature. The Apex Court, therefore, held that the sum of Rs.3.5 crores towards gratuity liability of employees of the vendor was also a capital expenditure as it was incurred for acquiring an asset of an enduring nature. However, no depreciation was allowable in respect of gratuity liability even if it was regarded as a capital expenditure, since gratuity liability does not fall under the category of building, machinery, plant or furniture nor is it an intangible asset of the kind mentioned in section 32(1)(ii). Further, even the deeming meaning given to "plant" in section 43(3) does not include gratuity liability.

   Therefore, in view of this decision of the Apex Court, the claim for depreciation by ABC Ltd. in this case is not tenable in law.

9. This issue came up recently before the Karnataka High Court in CIT v. D.Ananda Basappa (2009)309 ITR 0329. The Court observed that the assessee had shown that the flats were situated side by side and the builder had also certified that he had effected modification of the flats to make them one unit by opening the door between the apartments. Therefore, it was immaterial that the flats were occupied by two different tenants prior to sale or that it was purchased through different sale deeds. The Court observed that these were not the grounds to hold that the assessee did not have the intention to purchase the two flats as one unit. The Court held that the assessee was entitled to exemption under section 54 in respect of purchase of both the flats to form one unit.

   Applying the ratio of the above decision to the case on hand, Mr. Ganesh is entitled to exemption under section 54 in respect of purchase of two flats to form one apartment. Therefore, the contention of the Assessing Officer is not correct.

10. Conversion of a capital asset into stock-in-trade falls within the definition of transfer under section 2(47). Therefore, in this case, transfer has taken place during the previous year 2007-08. However, as per section 45(2), the capital gains liability arises only in the

year in which the stock-in-trade is sold i.e. previous year 2008-09 in this case. It is a long-term capital gain since the land was acquired in 1992. The fair market value (FMV) of land on the date of conversion i.e. on 22.1.2008 is deemed to be the full value of consideration accruing as a result of transfer of the land.

Therefore, in the year of sale of stock-in-trade (i.e. P.Y. 2008-09), both business income and capital gains would arise.

Business income =	Sale consideration of stock-in-trade	– FMV on the date of conversion
Capital gains =	FMV on the date of conversion	– Indexed cost of acquisition/improvement of land

11. Computation of income of Ms. Ruchika chargeable under the head "Income from other sources" for the A.Y.2009-10

	Particulars	Rs.
(i)	Gift from best friend is includible	3,00,000
(ii)	Gift of gold jewellery is exempt as it is in kind	-
(iii)	Gifts received from her 3 friends are exempt as they have been received on the occasion of her marriage	-
(iv)	Gift from her mother's brother is exempt as the donor is covered in the definition of relative	-
(v)	Gift from her father's sister is exempt as the donor is covered in the definition of relative	-
(vi)	Gift from her husband's friend is taxable	11,000
(vii)	Gift from her father's friend is taxable	5,000
(viii)	Gift from her sister's mother-in-law is taxable as the donor is not covered in the definition of relative	2,500
(ix)	Gift from her husband's sister is exempt as the donor is covered in the definition of relative	–
	Income from other sources	3,18,500

12. In the given case, Mr.Daksh has paid Rs.22,650 in aggregate towards mediclaim premium for insuring his health and the health of his spouse. However, deduction under section 80D in respect such premium paid is restricted to Rs.15,000. Mediclaim premium of Rs.23,500 paid for insuring the health of his mother, who is a senior citizen, is eligible for an additional deduction of up to Rs.20,000, even though his mother is not dependent on him. Therefore, total deduction of Rs.35,000 [i.e., Rs.15,000 + Rs.20,000] shall be allowed to Mr. Daksh under section 80D. It may be noted that, Rs.13,700 paid for

dependent father-in-law is not allowable, since the definition of the term 'family' does not include father-in-law.

(a) Section 80D requires payment of premium on health insurance by any mode other than cash. Therefore, if the premium amounts are paid by cheque, Mr. Daksh would be eligible for deduction of Rs.35,000 (as calculated above) under section 80D.

(b) In case the payment is made by cash, the amount paid would not be eligible for deduction under section 80D.

13. This statement is not correct.

Section 292C provides for a rebuttable presumption with respect to books of account, other documents, money, bullion, jewellery or other valuable article or thing found in the possession or control of any person in the course of a search under section 132.

The Finance Act, 2008 has now amended section 292C with retrospective effect from 1.6.2002 to extend this presumption also to books of account, other documents, etc., found in the possession or control of any person in the course of a survey operation.

Further, this presumption has also been extended to books of account, other documents or assets which have been delivered to the requisitioning officer in accordance with the provisions of section 132A with retrospective effect from 1st October, 1975.

14. As per section 115-O, dividend distribution tax at the rate of 16.995% (i.e., 15% plus surcharge @ 10%, education cess @ 2% and secondary and higher education cess @ 1%) is levied on dividend, declared, distributed or paid by a domestic company. As per sub-section (1A), inserted in section 115-O by the Finance Act, 2008, a holding company receiving dividend from its subsidiary company can reduce the same from dividends declared, distributed or paid by it . For this purpose, a holding company is a company which holds more than 50% of the nominal value of equity shares of another company.

The conditions to be fulfilled for this purpose are as follows:

(1) The subsidiary company should have actually paid the dividend distribution tax;

(2) The holding company should be a domestic company;

(3) The holding company should not be a subsidiary company of any other company.

For this purpose, the matching principle does not apply. This means that even if the dividend received and dividend distributed relate to different periods, the same can be adjusted for the purpose of computing dividend distribution tax of the holding company. However, the dividend shall not be considered for reduction more than once.

On the basis of the aforesaid provision, dividend distribution tax payable by B Ltd. shall be 16.995% of [(Rs.75,00,000 - (Rs.52,00,000 x 60%)] i.e. Rs.7,44,381.

If 55% of shares in B Ltd. are acquired by C Ltd., then B Ltd. would become a subsidiary of C Ltd. In that case, the condition (See condition no.3 above) laid down in section 115-O(1A) would not be satisfied and B Ltd. cannot reduce the amount of dividend received from A Ltd. for computation of its dividend distribution tax. Hence, dividend distribution tax payable by B Ltd. would be 16.995% of Rs.75,00,000 i.e. Rs.12,74,625.

15. As per section 115WC(1)(ba), the value of fringe benefit in the case of shares allotted under the Employees' Stock Option Plan is the fair market value of shares on the date on which the option vests with the employee as reduced by the amount actually paid by, or recovered from, the employee in respect of such shares.

As per Rule 40C, in case of shares listed in one recognized stock exchange, fair market value means the average of opening price and closing price of the share on the said stock exchange as on the date of vesting.

Therefore, in this case, the fair market value would be $\frac{668+680}{2}$ = Rs.674

Thus, the value of fringe benefit would be = [674 x 700] – [200 x 700] = Rs.3,31,800.

Under section 49(2AB), for the purpose of computing capital gain from the transfer of shares received under ESOP, cost of acquisition of such shares shall be the fair market value which has been taken into account while computing the value of fringe benefits under section 115WC(1)(ba). Therefore, the cost of acquisition of 700 shares would be Rs.4,71,800 (i.e., Rs.674 x 700).

16. Computation of Book Profit under section 115JB

Particulars		Rs.	Rs.
Net Profit as per Profit & Loss Account			4,25,000
Add: Net Profit to be increased by the following amounts as per Explanation 1 to section 115JB			
Income-tax paid or payable or provision therefor			
Provision for income-tax	80,000		
Interest on income-tax	4,000		
Education cess on income-tax	1,600		
Secondary and higher education cess on income-tax	800		
Dividend distribution tax	10,000	96,400	
Provision for deferred tax		7,000	
Transfer to General Reserve		15,000	
Provision for losses of subsidiary company		14,000	
Dividend paid or proposed			
Proposed dividend	16,000		
Preference dividend	13,000	29,000	

Expenditure to earn income exempt u/s 10 [except section 10(38)]			
Expenditure to earn agricultural income [exempt u/s 10(1)]	5,000		
Expenditure to earn dividend income [exempt u/s 10(34)]	2,000	7,000	
Depreciation		35,000	2,03,400
			6,28,400
Less: Net Profit to be reduced by the following amounts as per Explanation 1 to section 115JB			
Amount credited to P& L A/c from Special Reserve		10,000	
Depreciation (excluding depreciation on account of revaluation of fixed assets) (i.e. Rs.35,000 – Rs.15,000)		20,000	
Amount credited to P& L A/c from Revaluation Reserve (to the extent of depreciation on revaluation)		15,000	
Brought forward business loss or unabsorbed deprecation as per books of account, whichever is less taken on cumulative basis		65,000	
Income exempt u/s 10 [except section 10(38)]			
Agricultural Income [since it is exempt under section 10(1)]		25,000	
Dividend income [since it is an income exempt under section 10(34)]		12,000	1,47,000
Book Profit			4,81,400

10% of book profit		48,140
Add: Education cess @ 2%	963	
Secondary and higher education cess @ 1%	481	1,444
Tax liability under section 115JB		49,584

Total income computed as per the provisions of the Income-tax Act	1,20,000	
Tax payable @ 30%		36,000
Add: Education cess @ 2%	720	
Secondary and higher education cess @ 1%	360	1,080
Tax Payable as per the Income-tax Act		37,080

In case of a company, it has been provided that where income-tax payable on total income computed as per the provisions of the Act is less than 10% of book profit, the book profit shall be deemed as the total income and the tax payable on such total income shall be 10% thereof plus education cess @2% and secondary and higher education cess @ 1%. Accordingly, in this case, since income-tax payable on total income computed as per the provisions of the Act is less than 10% of book profit, the book profit of Rs.4,81,400 is deemed to be the total income and income-tax is payable @ 10% thereof plus education cess @2% and secondary and higher education cess @1%. The tax liability, therefore, works out to Rs.49,584.

Section 115JAA provides that where tax is paid in any assessment year in relation to the deemed income under section 115JB(1), the excess of tax so paid, over and above the tax payable under the other provisions of the Income-tax Act, will be allowed as tax credit in the subsequent years. The tax credit is, therefore, the difference between the tax paid under section 115JB(1) and the tax payable on the total income computed in accordance with the other provisions of the Act. This tax credit is allowed to be carried forward for seven assessment years succeeding the assessment year in which the credit became allowable. Such credit is allowed to be set off against the tax payable on the total income in an assessment year in which the tax is computed in accordance with the provisions of the Act, other than section 115JB, to the extent of excess of such tax payable over the tax payable on book profits in that year.

Particulars	Rs.
Tax on book profit under section 115JB	49,584
Less: Tax on total income computed as per the other provisions of the Act	37,080
Tax credit to be carried forward	12,504

Notes:

1. Wealth-tax, securities transaction tax and fringe benefit tax do not form part of income-tax and hence, should not be added back to net profit for computing book profit.

2. Provision for gratuity based on actuarial valuation is a provision for meeting an ascertained liability. Therefore, it should not be added back for computing book profit.

3. Long-term capital gains on sale of equity shares through a recognized stock exchange on which securities transaction tax (STT) is paid is exempt under section 10(38). One of the adjustments to the book profit is that exempt income under section 10, which is credited to profit and loss account, would be deducted in arriving at the book profit. However, deduction of such long-term capital gains is not allowed for computing book profit. Consequently, expenditure to earn such income should not be added back to arrive at the book profit. Section 10(38) also provides that such long term capital gain of a company shall be taken into account in computing the book profit and income-tax payable under section 115JB.

17. (a) The Finance Act, 2008 has inserted a second proviso in section 147 with effect from 1st April, 2008 to provide that the Assessing Officer may assess or reassess an income which is chargeable to tax and has escaped assessment, other than the income involving matters which are the subject matter of any appeal, reference or revision. Therefore, in respect of income involving the matters which are the subject matter of an appeal, the Assessing Officer cannot initiate proceeding under section 147.

(b) The Finance Act, 2008 has substituted section 143(1) to provide for computation of total income of an assessee after making the following adjustments to the returned income:

(i) any arithmetical error in the return; or

(ii) an incorrect claim, if such incorrect claim is apparent from any information in the return.

For the purpose of section 143(1), "an incorrect claim apparent from any information in the return" shall mean such claim, on the basis of an entry, in the return of income,-

(i) of an item, which is inconsistent with another entry of the same or some other item in such return;

(ii) in respect of which the information required to be furnished to substantiate such entry has not been furnished; or

(iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction.

Thus, section 143(1) now seeks to allow the Assessing Officer to make adjustments for correcting arithmetical mistakes and incorrect claims apparent from the return filed.

Therefore, the statement is not correct.

18. This statement is not correct.

Section 254(2A) provides that the Appellate Tribunal, where it is possible, may hear and decide an appeal within a period of four years from the end of the financial year in which such appeal is filed. The Appellate Tribunal may, on merit, pass an order of stay in any proceedings relating to an appeal. However, such period of stay cannot exceed 180 days from the date of such order. The Appellate Tribunal has to dispose of the appeal within this period of stay.

Where the appeal has not been disposed of within this period and the delay in disposing the appeal is not attributable to the assessee, the Appellate Tribunal can further extend the period of stay originally allowed on an application made by the assessee in this behalf. However, the aggregate of period originally allowed and the period so extended should not exceed 365 days. The Appellate Tribunal is required to dispose of the appeal within this extended period.

The objective of these provisions is unambiguous that the Appellate Tribunal cannot grant stay either under the original order or under any subsequent order, beyond the period of 365 days in aggregate. However, the Bombay High Court in Narang Overseas (P.) Ltd. v. ITAT (2007) 295 ITR 22 observed that this limit would not apply where there is a delay beyond this period and the same is not attributable to the assessee. However, this decision does not reflect the true legal intention.

Therefore, a third proviso has been inserted in section 254(2A) to clarify the correct intention. It has now been provided that the aggregate of the period originally allowed and the period or periods so extended or allowed shall not, in any case, exceed 365 days, even if the delay in disposing of the appeal is not attributable to the assessee. If the appeal is not disposed of within such period or periods, the order of stay shall stand vacated after the expiry of such period or periods.

Accordingly, even if an appeal is not heard by the bench, say, due to the bench not functioning or due to the department seeking adjournment, the stay granted by the Appellate Tribunal shall stand vacated after the period of 365 days, inspite of the assessee having taken all steps to ensure speedy disposal of the appeal and having a good prima facie case.

19. Section 194J requires deduction of tax at source @10% from the amount credited or paid to a resident by way of fees for professional services, where such amount or aggregate of such amounts credited or paid to a person exceeds Rs.20,000 in a financial year. As per Explanation (a) to section 194J, professional services includes, inter alia, services rendered by a person in the course of carrying on such other profession as is notified by the CBDT for the purpose of section 194J. Accordingly, the CBDT has, vide Notification No.88 dated 21.8.2008, in exercise of the powers conferred by clause (a) of the Explanation to section 194J, notified the services rendered by, inter alia, coaches and trainers in relation to the sports activities as professional services for the purpose of section 194J. Therefore, Dehradun Sports Ltd. is liable to deduct tax at source@10% under section 194J from the remuneration payable to the tennis coach, Mr. Harish.

20. This statement is not correct.

The Apex Court, in its ruling in Dilip N. Shroff v. Joint CIT (2007) 291 ITR 519, required the presence of 'mens rea' for imposition of penalty under section 271(1)(c). "Mens rea" means a guilty mind. However, the Larger Bench of the Supreme Court, in the case of Union of India v. Dharmendra Textile Processors (2007) 295 ITR 244, observed that the conceptual and contextual difference between section 271(1)(c) and section 276C was lost sight of in Dilip N. Shroff's case. The object behind the enactment of section 271(1)(c) read with the Explanations is to provide a remedy for loss of revenue. The penalty under that provision is a civil liability. The Larger Bench held that in cases related to imposition of penalty under section 271(1)(c), willful concealment is not an essential ingredient for attracting civil liability as is the case in the matter of prosecution under section 276C. The Larger Bench, therefore, overruled the decision in Dilip N. Shroff v. Joint CIT requiring the presence of 'mens rea' in cases of penalty imposed under section 271(1)(c). Therefore, while considering an appeal against an order made under section 271(1)(c), what is required to be examined is the record which the officer imposing penalty had before him and if that record can sustain the finding that there has been concealment, that would be sufficient to sustain the penalty. Hence, there is no need for the revenue to prove that concealment was done by the assessee 'wilfully' in order to impose penalty under section 271(1)(c).

21. The time limit for service of notice under section 143(2) is six months from the end of the financial year in which the return of income was furnished by the assessee. The return of income for assessment year 2008-09 was filed by Mr. Akash on 20th July, 2008. Therefore, the notice under section 143(2) has to be served by 30th September, 2009. However, the notice was served on Mr. Akash only on 1st November, 2009. Hence the notice issued under section 143(2) is time-barred.

    As per section 292BB, inserted by the Finance Act, 2008, where an assessee had appeared in any proceedings or co-operated in any enquiry relating to an assessment or reassessment, it shall be deemed that any notice required to be served upon him, has been duly served upon him in time in accordance with the provisions of the Act and such assessee shall be precluded from raising any objection in any proceeding or enquiry that the notice was (a) not served upon him or (b) not served upon him in time or (c) served upon him in an improper manner. However, the above provision shall not be applicable where the assessee has raised such objection before the completion of such assessment or reassessment. Therefore, in the instant case, if Mr. Akash had raised an objection to the proceeding, on the ground of non-service of the notice under section 143(2) upon him on time, then the validity of the assessment order can be challenged. In absence of such objection, the assessment order cannot be challenged.

22. Mr. Vikram is entitled to relief under section 91, since :-
    (i) He is a resident in India during the relevant previous year.
    (ii) Income, by way of commission and dividend, accrues or arises to him outside India (in Hong Kong) during the previous year.
    (iii) Such income is not deemed to accrue or arise in India during the previous year.

(iv) The income in question, namely, commission and dividend, has been subjected to income-tax in Hong Kong in the hands of Mr. Vikram and he has paid tax on such income in Hong Kong.

(v) There is no agreement under section 90 for the relief or avoidance of double taxation between India and Hong Kong.

Therefore, he is entitled to the deduction under section 91, from the Indian income-tax payable by him, of a sum, calculated on such doubly taxed income at the Indian rate of tax or at the Hong Kong rate of tax, whichever is lower.

Computation of total income and tax liability of Mr. Vikram for A.Y.2009-10

Particulars		Rs.
Salary income earned in India		3,40,000
Income from house property in India		2,00,000
Commission received from a company in Hong Kong		4,00,000
Dividend received from a company in Hong Kong		1,00,000
Cash gifts from non-relatives in India		1,60,000
Total Income		12,00,000
Tax on the above:		
Upto Rs.1,50,000	Nil	
Over Rs.1,50,000 & upto Rs.3,00,000	15,000	
Over Rs.3,00,000 & upto Rs. 5,00,000	40,000	
Over Rs.5,00,000	2,10,000	
		2,65,000
Add: Surcharge@10%		26,500
		2,91,500
Add: Education cess @ 2% and secondary and higher education cess @ 1%		8,745
Total tax liability		3,00,245
Average rate of income-tax in India (3,00,245/12,00,000 x 100)	25.02%	
Average rate of income-tax in Hong Kong (1,00,000/5,00,000 x 100)	20%	
Double tax relief under section 91 shall be @25.02% or 20% of foreign income, whichever is less [i.e., 5,00,000 x 20%]		1,00,000
Net tax liability		2,00,245

23. Computation of value of the house property for wealth tax purpose

Particulars	Rs.	Rs.
Computation of Actual Rent & Annual Rent		
Actual Rent (Rs.24,000 x 3)		72,000
Add: Adjustment for premium received from tenant (Rs.1,60,000/2) x 3/12		20,000
15% p.a. of Security Deposit i.e. 15% x Rs.1,00,000 x 3/12		3,750
Actual Rent for 3 months		95,750
Annual Rent (Rs.95,750 x 12/3)		3,83,000
Computation of Net Maintainable Rent (NMR)		
Gross Maintainable Rent, being the annual rent		3,83,000
Less: Corporation Tax (Rs.20,000 x 4)	80,000	
15% of Gross Maintainable Rent	57,450	1,37,450
Net Maintainable Rent (NMR)		2,45,550
Capitalised value of NMR		
Capitalised value (Rs.2,45,550 x 12.5)	30,69,375	
Cost of acquisition	35,00,000	
Capitalised value is the higher of the above		35,00,000
Add: Premium		
(i) Aggregate Area	5000 Sq.Ft.	
(ii) Specified Area (60%)	3000 Sq.Ft.	
(iii) Built up area	1000 Sq.Ft.	
(iv) Unbuilt Area	4000 Sq.Ft.	
(v) Excess of unbuilt area over specified area	1000 Sq.Ft.	
% of excess area on aggregate area		
(1000/5000) × 100	20%	
(vi) Premium to be added when (v) is 20% (40% of capitalized value i.e., 40% of Rs.35 lakh)		14,00,000
Value of house property for wealth-tax purpose		49,00,000

24. Computation of Net Wealth of PQR Ltd. as on the valuation date 31.03.2009

	Particulars	Reasons	Value (Rs. in crores)
Assets:			
(i)	Fixed Assets:		
	Plant & machinery	Not an asset u/s 2(ea)	Nil
	Factory building	Commercial property. Hence, not an asset u/s 2(ea)	Nil
	Urban land	It is an asset u/s 2(ea) – Refer Note below	65
	Motor cars	Used for running them on hire. Hence, not an asset u/s 2(ea)	Nil
(ii)	Investments:		
	Jewellery	Not stock-in-trade. Hence, an asset u/s 2(ea)	32
	Plot of land in Pune	An asset u/s 2(ea). Refer Note below	30
	Equity shares in subsidiary companies	Not an asset u/s 2(ea)	Nil
(iii)	Current assets:		
	Inventories (Jewellery)	Stock-in-trade. Hence, not an asset u/s 2(ea)	Nil
	Sundry Debtors	Not an asset u/s 2(ea)	Nil
	Cash and bank balances (includes cash balance of Rs.1,50,000)	Bank balance – not an asset under section 2(ea)	Nil
		Cash in hand – recorded in books – hence, not an asset under section 2(ea).	Nil
Value of assets as per Schedule III of the Wealth-tax Act, 1957 (A)			127
Liabilities:			
(i)	Current Liabilities	Not incurred in relation to an asset under section 2(ea). Hence, not eligible for deduction.	Nil
(ii)	Secured loan taken for purchase of urban land	Since the loan is taken for purchase of urban land, which is included in the net wealth, it is eligible for deduction.	25
Liabilities eligible for deduction (B)			25
Net wealth [(A) – (B)]			102

Note: Plot of land not exceeding 500 sq. meters is exempt only in the case of an individual or HUF and not in the case of a company.

25. Computation of net wealth of Mr. Kunal for the A.Y. 2009-10

	Particulars	Amount in Rs.
(a)	Residential house at Bombay is an asset	50,00,000
(b)	Residential house at Coimbatore is an asset	20,00,000
(c)	Plot of land comprising an area of 300 square meters at Chennai is an asset but exempt under section 5(vi)	Nil
(d)	House at Pune exclusively used for carrying on his business is not an asset	Nil
(e)	Commercial complex at Ahmedabad is not an asset	Nil
(f)	Residential house at Delhi let out for 320 days during the relevant previous year is not an asset	Nil
(g)	Motor cars used in the business of running them on hire are not assets	Nil
(h)	Shares in private limited companies are not assets	Nil
(i)	Cash in hand in excess of Rs.50,000 is includible in net wealth	50,000
(j)	Gold jewellery is an asset	8,00,000
		78,50,000
	Less: Debts incurred in relation to assets	
(k)	Loan borrowed for purchase of land at Chennai (not deductible since exemption under section 5(vi) has been claimed in respect of the said land)	Nil
(l)	Loan borrowed for purchase of shares in private limited companies (not deductible since shares are not included in net wealth)	Nil
(m)	Loan borrowed for purchase of gold jewellery	5,00,000
	Net Wealth	73,50,000

Reasons for inclusion or exclusion of the various items are furnished below:

(a) Residential house at Bombay is included in net wealth, as residential house is an "asset" within the meaning of section 2(ea). Exemption under section 5(vi) is not claimed in respect of this house as it is more beneficial for the assessee to claim exemption in respect of plot of land at Chennai, whose value is higher.

(b) Residential house at Coimbatore is an asset under section 2(ea) and, therefore, included in the net wealth.

(c) Plot of land measuring 300 square metres at Chennai is exempt under section 5(vi) and, therefore, does not form part of net wealth. One house or part thereof or a plot of land, not exceeding 500 square metres, belonging to an individual or a Hindu Undivided Family is exempt under section 5(vi) without any monetary ceiling.

(d) House at Pune occupied for own business purposes, is excluded from net wealth as it is not an asset.

(e) Commercial complex at Ahmedabad is excluded as it is not an asset.

(f) Any residential property let out for a minimum period of 300 days in the previous year is not considered as an asset. Residential house at Delhi let out for 320 days is, therefore, excluded from net wealth.

(g) Motor cars used in business of running them on hire are not assets as per section 2(ea)(ii) and, therefore, excluded from net wealth.

(h) Shares in private limited companies are not assets and, therefore, excluded from net wealth.

(i) Cash in hand, in excess of Rs.50,000, of individuals constitutes an asset. Therefore, Rs.50,000, being cash in hand in excess of Rs.50,000, is included in net wealth.

(j) Gold jewellery constitutes an asset as per section 2(ea) and is includible in net wealth.

(k) Debts incurred in relation to an exempted asset are not deductible in computing net wealth. Loan borrowed for purchase of land at Chennai is not deductible as exemption under section 5(vi) has been claimed in respect of the said land.

(l) Loan borrowed for purchase of shares in private limited companies is not deductible while computing net wealth as shares are not included in net wealth.

(m) Gold jewellery, being an asset, has been included in the net wealth. Therefore, loan borrowed for purchase thereof is deductible in computing the net wealth.

IMPORTANT CIRCULARS / NOTIFICATIONS ISSUED BETWEEN 1.5.08 and 30.4.09

I. CIRCULARS

1. Circular No. 5/2008 dated 14.7.2008

The CBDT has, vide notification S.O. No. 493(E), dated 13.3.2008, notified the categories of taxpayers who are mandatorily required to electronically pay taxes on or after 1st April, 2008. The taxpayers who are required to pay taxes by the prescribed mode are - (i) a company; and (ii) a person (other than a company), to whom the provisions of section 44AB of the Income-tax Act, 1961 are applicable. Further, payment of tax electronically has been defined to mean payment of tax by way of - (i) internet banking facility of the authorised bank or (ii) credit or debit cards.

Consequent to issue of the notification, foreign assessees have been facing difficulties in complying with the provisions with regard to mandatory e-payment of taxes. Since they do not have a presence in India, they are not able to meet the 'know your customer norms' of the banks. This has resulted in their inability to open bank accounts and make payment of taxes through the electronic mode. Also, the resident taxpayers have been facing difficulties in availing internet banking facilities of the authorized banks. A clarification has also been sought as to whether payment of tax deducted at source by a deductor will fall within the meaning of 'tax' for the purpose of the impugned notification.

Therefore, with a view to facilitating electronic payment of taxes by different categories of taxpayers, CBDT has issued Circular No.5/2008 dated 14.7.2008 to clarify that an assessee can make electronic payment of taxes also from the account of any other person. However, the challan for making such payment must clearly indicate the Permanent Account Number (PAN) of the assessee on whose behalf the payment is made. It is not necessary for the assessee to make payment of taxes from his own account in an authorized bank. Further, it is also clarified that payment of any amount by a deductor by way of Tax Deducted at Source (TDS) or Tax Collected at Source (TCS) shall fall within the meaning of 'tax' for the purpose of Rule 125 of the Income-tax Rules, 1962.

2. Circular No.7/2008 dated 1.8.2008

Order under section 119(1) of the Income-tax Act, 1961 regarding exemption from the TDS provisions under section 197 read in conjunction with section 10(26BBB) of the Income-tax Act, 1961

The CBDT has, in exercise of the powers conferred under section 119(1) of the Income-tax Act, 1961, directed that corporations which are established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen and whose income qualifies for exemption from income-tax under section 10(26BBB) would also be exempt from tax deduction/collection at source on their receipts. This exemption shall be valid for 3 years from the date of issue of this order. However, this exemption shall not absolve such organisation from their statutory obligation of deducting TDS on all contractual payments made by them to other parties including sub-contractors etc.

3. Circular No.10/2008 dated 5.12.2008

Clarification regarding the meaning of the expression 'fish or fish products' used in Rule 6DD(e)(iii) of the Income-tax Rules, 1962

Under section 40A(3), disallowance is attracted in the computation of income in a case where a payment or aggregate of payments exceeding twenty thousand rupees is made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft. However, payment otherwise than by an account payee cheque drawn on a bank or by an account payee bank draft exceeding twenty thousand rupees does not attract the aforesaid disallowance in certain circumstances as prescribed under Rule 6DD of the Income-tax Rules, 1962. Such exceptions, inter-alia, refer to payment made to the producer for the purchase of fish or fish products under sub-clause (iii) of clause (e) of rule 6DD.

In regard to this sub-clause, the following clarifications have been issued for proper implementation of Rule 6DD -

(i) The expression 'fish or fish products' used in rule 6DD(e)(iii) would include 'other marine products such as shrimp, prawn, cuttlefish, squid, crab, lobster etc.'.

(ii) The 'producers' of fish or fish products for the purpose of rule 6DD(e) would include, besides the fishermen, any headman of fishermen, who sorts the catch of fish brought by fishermen from the sea, at the sea shore itself and then sells the fish or fish products to traders, exporters etc.

However, the above exception will not be available on the payment for the purchase of fish or fish products from a person who is not proved to be a 'producer' of these goods and is only a trader, broker or any other middleman, by whatever name called.

4. Circular No.11/2008 dated 19.12.2008

Exemption under section 11 in case of an assessee claiming both to be a charitable institution as well as a mutual organisation

Section 2(15) defines charitable purpose to include the following:-

(i) Relief of the poor

(ii) Education

(iii) Medical relief, and

(iv) the advancement of any other object of general public utility.

An entity with a charitable object of the above nature was eligible for exemption from tax under section 11 or alternatively under section 10(23C) of the Act. However, it was seen that a number of entities who were engaged in commercial activities were also claiming exemption on the ground that such activities were for the advancement of objects of general public utility in terms of the fourth limb of the definition of charitable purpose. Therefore, section 2(15) was amended vide Finance Act, 2008 by adding a proviso which states that the advancement of any other object of general public utility shall not be a charitable purpose if it involves the carrying on of -

(a) any activity in the nature of trade, commerce or business; or

(b) any activity of rendering any service in relation to any trade, commerce or business;

for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention of the income from such activity.

The following implications arise from this amendment -

(1) The newly inserted proviso to section 2(15) will not apply in respect of the first three limbs of section 2(15), i.e., relief of the poor, education or medical relief. Consequently, where the purpose of a trust or institution is relief of the poor, education or medical relief, it will constitute charitable purpose even if it incidentally involves the carrying on of commercial activities.

(2) Relief of the poor encompasses a wide range of objects for the welfare of the economically and socially disadvantaged or needy. It will, therefore, include within its ambit purposes such as relief to destitute, orphans or the handicapped, disadvantaged women or children, small and marginal farmers, indigent artisans or senior citizens in need of aid. Entities who have these objects will continue to be eligible for exemption even if they incidentally carry on a commercial activity, subject, however, to the conditions stipulated under section 11(4A) or the seventh proviso to section 10(23C) which are that -

    (i) the business should be incidental to the attainment of the objectives of the entity, and

    (ii) separate books of account should be maintained in respect of such business.

    Similarly, entities whose object is education or medical relief would also continue to be eligible for exemption as charitable institutions even if they incidentally carry on a commercial activity subject to the conditions mentioned above.

The newly inserted proviso to section 2(15) will apply only to entities whose purpose is advancement of any other object of general public utility i.e. the fourth limb of the definition of charitable purpose contained in section 2(15). Hence, such entities will not be eligible for exemption under section 11 or under section 10(23C) of the Act if they carry on commercial activities. Whether such an entity is carrying on an activity in the nature of trade, commerce or business is a question of fact which will be decided based on the nature, scope, extent and frequency of the activity.

There are industry and trade associations who claim exemption from tax u/s 11 on the ground that their objects are for charitable purpose as these are covered under any other object of general public utility. Under the principle of mutuality, if trading takes place between persons who are associated together and contribute to a common fund for the financing of some venture or object and in this respect have no dealings or relations with any outside body, then any surplus returned to the persons forming such association is not chargeable to tax. In such cases, there must be complete identity between the contributors and the participants.

Therefore, where industry or trade associations claim both to be charitable institutions as well as mutual organizations and their activities are restricted to contributions from and participation of only their members, these would not fall under the purview of the proviso to section 2(15) owing to the principle of mutuality. However, if such organizations have dealings with non-members, their claim to be charitable organizations would now be governed by the additional conditions stipulated in the proviso to section 2(15).

In the final analysis, however, whether the assessee has for its object the advancement of any other object of general public utility is a question of fact. If such assessee is engaged in any activity in the nature of trade, commerce or business or renders any service in relation to trade, commerce or business, it would not be entitled to claim that its object is charitable purpose. In such a case, the object of general public utility will be only a mask or a device to hide the true purpose which is trade, commerce or business or the rendering of any service in relation to trade, commerce or business. Each case would, therefore, be decided on its own facts and no generalization is possible.

II NOTIFICATIONS

1. Notification No. 86/2008 dated 13.8.2008

The Central Government has, vide notification no.86/2008 dated 13.8.2008 specified the cost inflation index for the financial year 2008-09. The CII for F.Y. 2008-09 is 582.

S. No.	Financial Year	Cost Inflation Index
1.	1981-82	100
2.	1982-83	109
3.	1983-84	116
4.	1984-85	125
5.	1985-86	133
6.	1986-87	140
7.	1987-88	150
8.	1988-89	161
9.	1989-90	172
10.	1990-91	182
11.	1991-92	199
12.	1992-93	223
13.	1993-94	244
14.	1994-95	259

15.	1995-96	281
16.	1996-97	305
17.	1997-98	331
18.	1998-99	351
19.	1999-2000	389
20.	2000-01	406
21.	2001-02	426
22.	2002-03	447
23.	2003-04	463
24.	2004-05	480
25.	2005-06	497
26.	2006-07	519
27.	2007-08	551
28.	2008-09	582

2. Notification No. 88/2008/F.NO. 275/43/2008-IT(B), dated 21.8.2008

   The CBDT has, in exercise of the powers conferred by clause (a) of the Explanation to section 194J, notified the services rendered by following persons in relation to the sports activities as Professional Services for the purpose of the section 194J:

   a. Sports Persons,
   b. Umpires and Referees,
   c. Coaches and Trainers,
   d. Team Physicians and Physiotherapists,
   e. Event Managers,
   f. Commentators,
   g. Anchors and
   h. Sports Columnists.

3. Notification No. 90/2008, dated 28.8.2008

   Section 90A(1) provides that an agreement may be entered into by any specified association in India with any specified association in the specified territory outside India which may be adopted by the Central Government by way of notification in the Official Gazette, for granting relief of tax or, as the case may be, for avoidance of double taxation. The Central Government has now notified that where such an agreement provides that any income of a resident of India may be taxed in the other country then, such income shall be included in his total income chargeable to tax in India in accordance with the provisions of the Income-tax Act, 1961, and relief shall be granted in accordance with the method for elimination or avoidance of double taxation provided in such agreement.

4. Notification No. 91/2008, dated 28.8.2008

Section 90(1) provides that the Central Government may enter into an agreement with the Government of any country outside India for granting relief of tax or, as the case may be, for avoidance of double taxation. The Central Government has now notified that where such an agreement provides that any income of a resident of India may be taxed in the other country then, such income shall be included in his total income chargeable to tax in India in accordance with the provisions of the Income-tax Act, 1961, and relief shall be granted in accordance with the method for elimination or avoidance of double taxation provided in such agreement.

5. Notification No.97/2008 dated 10.10.2008

Rule 6DD of the Income-tax Rules has been substituted. This Rule now provides for cases and circumstances in which a payment or aggregate of payments exceeding twenty thousand rupees may be made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft.

As per this rule, no disallowance under sub-section (3) of section 40A shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3A) of section 40A where a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees in the cases and circumstances specified hereunder, namely:

(a) where the payment is made to -

   (i) the Reserve Bank of India or any banking company;

   (ii) the State Bank of India or any subsidiary bank;

   (iii) any co-operative bank or land mortgage bank;

   (iv) any primary agricultural credit society or any primary credit society;

   (v) the Life Insurance Corporation of India;

(b) where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender;

(c) where the payment is made by -

(i) any letter of credit arrangements through a bank;

(ii) a mail or telegraphic transfer through a bank;

(iii) a book adjustment from any account in a bank to any other account in that or any other bank;

(iv) a bill of exchange made payable only to a bank;

(v) the use of electronic clearing system through a bank account;

(vi) a credit card;

(vii) a debit card.

(d) where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee;

(e) where the payment is made for the purchase of -

(i) agricultural or forest produce; or

(ii) the produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or

(iii) fish or fish products; or

(iv) the products of horticulture or apiculture,

to the cultivator, grower or producer of such articles, produce or products;

(f) where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;

(g) where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;

(h) where any payment is made to an employee of the assessee or the heir of any such employee, on or in connection with the retirement, retrenchment, resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit and the aggregate of such sums payable to the employee or his heir does not exceed fifty thousand rupees;

(i) where the payment is made by an assessee by way of salary to his employee after deducting the income-tax from salary in accordance with the provisions of section 192 of the Act, and when such employee -

(i) is temporarily posted for a continuous period of fifteen days or more in a place other than his normal place of duty or on a ship; and

(ii) does not maintain any account in any bank at such place or ship;

(j) where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike;

(k) where the payment is made by any person to his agent who is required to make payment in cash for goods or services on behalf of such person;

(l) where the payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business.

6. Notification No.1/2009 dated 5.1.2009

The Finance Act, 2008 had amended section 115WB(2)(B)(iii) to provide that any expenditure on or payment through pre-paid electronic meal card shall be excluded from hospitality expenditure and hence, would not be included for valuation of fringe benefit chargeable to tax, provided such card is not transferable and usable only at eating joints or outlets and fulfills such other prescribed conditions.

Rule 40E has now been inserted to provide that, for the purposes of section 115WB(2)(B)(iii), the non-transferable pre-paid electronic meal card has to fulfil the following conditions, namely:

(i) The card should be granted by the employer to its employees under a scheme framed by the employer specifying therein the circumstances under which the meal card can be used by the employee.

(ii) Such card should be issued by the issuing bank i.e. a banking company which issues the card to the employees of an employer in pursuance of an agreement entered into with the employer and which has entered into a contract with the member establishment authorizing him to allow purchases against the said card.

(iii) An employee should not be issued more than one card.

(iv) The card should bear the name of the employer along with the name, photograph and signature of the employee to whom the card is issued.

(v) The card should be used only by the employee to whom the card is issued.

(vi) The card should be used by the employee only for the purpose of purchasing ready to eat food or non-alcoholic beverage from a member establishment.

(vii) The aggregate amount of ready to eat food or non-alcoholic beverage purchased during a day by an employee should not exceed one hundred rupees.

(viii) The details of each transaction of purchase made by the employee against the card should be maintained by the employer and the member establishment in such manner and for such period as is required under the Act for any other similar transaction. "Member establishment" means a restaurant, hotel, canteen or an outlet which sells ready to eat food or non-alcoholic beverage, but should not include a restaurant, hotel, canteen or an outlet selling alcoholic beverage.

7. Notification No. 3/2009 dated 5.1.2009

Clause (xv) of section 80C(2) provides that the subscription to any such deposit scheme of the National Housing Bank as the Central Government may notify in this behalf would qualify for deduction under section 80C. Accordingly, in exercise of the powers conferred in section 80C(2)(xv), the Central Government has specified the National Housing Bank (Tax Saving) Term Deposit Scheme, 2008, the subscription to which would qualify for deduction under section 80C.

8. Notification No. 9/2009 dated 7.1.2009

Section 10(15)(iv)(h) exempts interest payable by any public sector company in respect of such bonds or debentures specified by the Central Government by notification in the Official Gazette. The notification would also specify the conditions subject to which the exemption would be available. Accordingly, in exercise of the powers conferred in section 10(15)(iv)(h), the Central Government has specified the issue of tax free bonds by India Infrastructure Finance Company Limited during the financial year 2008-09, the interest on which would be exempt under the said section. Further, it has been provided that such benefit shall be admissible only if the holder of such bonds registers his or her name and the holding with the said Corporation.

9. Notification No.15/2009, dated 30.1.2009

Rule 8C of the Wealth-tax Rules, 1957 has been substituted. New Rule 8C provides for the following scale of fees to be charged by a registered valuer.

(1) The fees to be charged by a registered valuer for valuation of any asset should not exceed the amount calculated at the following rates, namely:

(a) On the first Rs.5 lakh of the asset as valued	1/2 per cent of the value;
(b) On the next Rs.10 lakh of the asset as valued	1/5 per cent of the value;
(c) On the next Rs.40 lakh of the asset as valued	1/10 per cent of the value;
(d) On the balance of the asset as valued	1/20 per cent of the value.

(2) Where two or more assets are required to be valued by a registered valuer at the instance of an assessee all such assets shall be deemed to constitute a single asset for the purposes of calculating the fees payable to such registered valuer.

(3) However, where the amount of fees calculated in accordance with (1) and (2) above is less than Rs.500, the registered valuer may charge Rs.500 as his fees.

10. Notification No. 28/2009, dated 16.3.2009

Rule 37BA providing for credit for tax deducted at source for the purposes of section 199 and Rule 37-I providing for credit for tax collected at source for the purposes of section 206C(4) have been inserted with effect from 1.4.2009.

Rule 37BA provides for credit for tax deducted at source for the purposes of section 199.

Sub-rule (1) provides that credit for tax deducted at source and paid to the Central Government in accordance with the provisions of Chapter XVII, shall be given to the person to whom payment has been made or credit has been given (i.e., the deductee) on the basis of information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorised by such authority.

Sub-rule (2) provides that if the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for tax deducted at source shall be given to the other person in cases where-

(a) the income of the deductee is included in the total income of another person under the provisions of section 60, section 61, section 64, section 93 or section 94;

(b) the income of a deductee being an association of persons or a trust is assessable in the hands of members of the association of persons, or in the hands of trustees, as the case may be;

(c) the income from an asset held in the name of a deductee, being a partner of a firm or a karta of a Hindu undivided family, is assessable as the income of the firm, or Hindu undivided family, as the case may be;

(d) the income from a property, deposit, security, unit or share held in the name of a deductee is owned jointly by the deductee and other persons and the income is assessable in their hands in the same proportion as their ownership of the asset:

However, in such cases, the deductee should file a declaration with the deductor. Such declaration filed by the deductee should contain the name, address, permanent account number of the person to whom credit is to be given, payment or credit in relation to which credit is to be given and reasons for giving credit to such person.

Also, the deductor should report the tax deduction in the name of the other person in the information relating to deduction of tax referred to in sub-rule (1). The deductor should issue the certificate for deduction of tax at source in the name of the person in whose name credit is shown in the information relating to deduction of tax referred to in sub-rule (1) and should keep the declaration in his safe custody.

Sub-rule (3) provides that the credit for tax deducted at source and paid to the Central Government, shall be given for the assessment year for which such income is assessable. Where tax has been deducted at source and paid to the Central Government and the income is assessable over a number of years, credit for tax deducted at source shall be allowed across those years in the same proportion in which the income is assessable to tax.

Sub-rule (4) provides that credit for tax deducted at source and paid to the account of the Central Government shall be granted on the basis of -

(i) the information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorized by such authority; and

(ii) the information in the return of income in respect of the claim for the credit,

subject to verification in accordance with the risk management strategy formulated by the Board from time to time.

Rule 37-I provides for credit for tax collected a source for the purposes of section 206C(4).

Sub-rule (1) provides that the credit for tax collected at source and paid to the Central Government in accordance with provisions of section 260C, shall be given to the person from whom the tax has been collected, on the basis of the information relating to collection of tax at source furnished by the collector to the income-tax authority or the person authorized by such authority.

Sub-rule (2) provides that where tax has been collected at source and paid to the Central Government, credit for such tax shall be given for the assessment year for which the income is assessable to tax. Where tax has been collected at source and paid to the Central Government and the lease or license is relatable to more than one year, credit for tax collected at source shall be allowed across those years to which the lease or license relates in the same proportion.

Sub-rule (3) provides that the credit for tax collected at source and paid to the account of the Central Government shall be granted on the basis of -

(i) the information relating to collection of tax furnished by the collector to the income-tax authority or the person authorized by such authority; and

(ii) the information in the return of income in respect of the claim for the credit,

subject to verification in accordance with the risk management strategy formulated by the Board from time to time.

11. Notification No. 37/2009 dated 21.4.2009

The CBDT has, through Notification No.10/2009 dated 19.1.09, notified the Income-tax (Third Amendment) Rules, 2009 which came into force from 1.4.2009. This notification had inserted “new commercial vehicles acquired on or after 1.1.2009 but before 1.4.2009 and put to use before 1.4.2009 for the purposes of business or profession” under the head MACHINERY AND PLANT, which would be eligible for depreciation at the rate of 50%.

Subsequently, the CBDT has, through this notification notified that the benefit of increased depreciation of 50% on commercial vehicles be extended to such vehicles acquired and put to use before 1st October 2009. Therefore, the commercial vehicles acquired on or after 1.1.2009 but before 1.10.2009 and put to use before 1.10.2009 will be eligible for depreciation at the rate of 50%.