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WEALTH TAX

Wealth Tax is charged for every Assessment Year on the “Net Wealth” of an individual, HUF, Company and certain association of persons, as on a particular date known as ‘valuation date’.

ASSESSMENT YEAR (A.Y.)

Assessment year means a period of 12 months commencing from 1st day of April every year.

VALUATION DATE

Valuation date means the 31st March, immediately preceding the Asst. year. Where there is a change in the ‘Net Wealth’ on the ‘Valuation date’, it is the Net wealth as at the last moment of the valuation date, which is taxable. (For inquiry or Admission to Kalpesh Classes Dial 2382 0676)

NET WEALTH SEC.2 (M)

Net wealth means Total Assets minus specified Debt. Total assets includes Deemed assets u/s 4. However no wealth tax is payable on Exempt assets as per section 5. The value of all the taxable assets on the valuation date is clubbed together and is reduced by the amount of debt owed by the assessee. The net wealth so arrived at is charged to tax at the rates specified. The present rate of tax is 1% of the amount by which the net wealth exceeds Rs. 15,00,000. The rate is same for individuals, HUF's and companies.

SECTION 45, NO WEALTH-TAX IS CHARGEABLE IN RESPECT OF

- 1) Any company registered under section 25 of the Companies Act, 1956.
- 2) Any co-operative society.
- 3) Any social club.
- 4) Any political party; and
- 5) A Mutual Fund specified under section 10(23D) of the Income-tax Act.

SECTION 3, CHARGE OF WEALTH-TAX

Subject to the other provisions contained in this Act, there shall be charged for every financial year, a wealth tax in respect of the net wealth on the corresponding valuation date of every individual, Hindu undivided family and company at the rate or rates specified.

Madras high court in case of Halai Menon Association [2000] 244 ITR 0357 has held that Association of persons are not liable to wealth-tax as individual. The reasons given by the court

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is that the expression “individual” cannot be stretched to include entities which were deliberately omitted and left out of the charging section of the Wealth-tax Act. The supreme court in case of CWT v. Ellis Bridge Gymkhana it has been held that It is only under the Wealth-tax Act that the charge is on "every individual, Hindu undivided family and company" and not on an association of persons or a body of individuals or a firm. If the language of section 3 of the Wealth-tax Act is contrasted with the provisions of other cognate statutes it will clearly appear that the intention of the Legislature was not to treat an association of persons or a body of individuals or a firm as an unit of assessment for the purpose of imposition of wealth-tax.

Now 21AA of the wealth tax provides for assessment of associations of persons in certain special cases and not otherwise. Assessment as an association of persons can be made only when the individual shares of the members of the association in the income or assets or both of the association on the date of its formation or any time thereafter are indeterminate or unknown. It is only in such an eventuality that an assessment can be made on an association of persons, otherwise not. An association of persons cannot be taxed at all under section 3 of the Wealth-tax Act. The Legislature deliberately excluded a firm or an association of persons from the charge of wealth-tax and the word "individual" in the charging section cannot be stretched to include entities which had been deliberately left out of the charge.

SCHEME OF LAW

Wealth tax is chargeable for every Asst. Year in respect of the Net Wealth as on the valuation date, of an individual, HUF and Company, at the flat rate of 1% of the Net Wealth is excess of Rs.15 lakhs. For example if Net Wealth is 16 lakhs than $16 - 15 = 1 \text{ lakh} * 1\% = 1000 \text{ Rs.}$ Is wealth tax liability.

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PART II: “ASSETS” DEFINED U/S 2(ea) AS FOLLOWS:

BUILDING OR LAND APPURTENANT	
	Any building or land appurtenant thereto whether used for residential or commercial purposes or as guest-house or otherwise (including a farm houses situated within 25kms. From the local limits of any municipality or a cantonment board).
Exclusion 1	A house meant exclusively for residential purpose and which is allotted by a company to an employee or an officer or a director who is in whole-time employment, having a gross annual salary of less than Rs.5 [FIVE] Lakhs.
Exclusion 2	Any house for residential or commercial purpose which forms part of stock – in-trade
Exclusion 3	Any house occupied by the assessee for the purpose of any business or profession carried on by him.
Exclusion 4	Any residential property that has been let-out for a minimum period of three hundred days in the previous year
Exclusion 5	Any property in the nature of commercial establishments or complexes
MOTOR CARS	
Exclusion 1	Motor cars used by the assessee in the business of running them on hire or
Exclusion 2	As stock-in-trade:
JEWELLERY	
	Jewellery, or any other article made wholly or partly of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals: MEANING OF JEWELLERY Ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stones, and whether or not worked or sewn into any wearing apparel Precious or semi-precious stones, whether or not set in any furniture, utensils or other article or worked or sewn in to any wearing apparel
Exclusion 1	Those used by the assessee as stock-in-trade.
Exclusion 2	Gold Deposit Bonds issued under the Gold Deposit Scheme.
YACHTS BOATS AND AIR CRAFTS.	
Exclusion 1	Those used by the assessee for commercial purpose and held as stock in trade.
URBAN LAND	

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	Urban Land” means Land situated in any area which is comprised within the jurisdiction of a municipality or a cantonment board and which has a population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the valuation date OR In any area within such distance, not being more than 8 kms. From the local limits of any such municipality or cantonment board as may be notified.
Exclusion 1	Land on which construction of a building is not permissible under any law.
Exclusion 2	Land occupied by any building which has been constructed with the approval of the appropriate authority
Exclusion 3	Any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him.
Exclusion 4	Any land held by the assessee as Stock-in-trade for a period of TEN years from the date of its acquisition by him.
CASH IN HAND	
	Cash in hand, in excess of Rs.50,000 of individuals and HUF's and in the case of other persons any amount not recorded in the books of accounts.

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USED FOR THE PURPOSE OF BUSINESS AND PROFESSION

The assessee-company, which carried on various businesses, owned several buildings, most of which were let to its employees. The rental of the premises was fixed, it did not change with the change of the occupant, and it was deducted from the wages of the employee or employees occupying the premises. Held that, That the income of the assessee from the buildings or lands appurtenant thereto rented out to its employees was income from business and not as "Income from property". [1966] 059 ITR 0152- Commissioner of Income-tax vs. Delhi Cloth and General Mills Co. Ltd. (Punjab High Court)

A bungalow owned by the assessee-company was in the occupation of G and K as employees and directors free of charge. The assessee-company effected repairs to the bungalow and also provided modern amenities including air-conditioners. The questions were whether the income from the bungalow was to be computed as income from business and whether the assessee was entitled to claim allowance for actual repairs and depreciation. (For inquiry or Admission to Kalpesh Classes Dial 2382 0676)

Held that

- 1) In view of the finding of fact by the Tribunal, occupation of the property by G and K for the purpose of effective discharge of their duties vis-a-vis the business of the assessee-company amounted to occupation by the assessee for the purpose of its business and the income therefore had to be assessed as income from business;
- 2) That the assessee was entitled to deduction of actual repairs and depreciation.
- 3) When a house property is occupied as residence by employees or directors, etc., of the assessee-company, if concerned with the promotion of the business of the assessee-company, whether on payment of rent or otherwise, to enable them to discharge their functions efficiently and the letting out of the property is subservient and incidental to the main business of the assessee, such an occupation amounts to occupation and user of the property by the assessee itself for the purpose of its business, even though no business is actually run in such premises. [1994] 210 ITR 0001- CIT vs. Modi Industries Ltd. (Delhi High Court)

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PART III: INCIDENCE OF TAXATION SEC.6

Incidence of Tax depends on the residential and citizenship status of the assessee and location of assets. The following table summaries this:

	CATEGORY 1	CATEGORY 2
STATUS	INDIVIDUAL, if he is both ordinarily citizen in India AND citizen of India HUF, if it is ordinarily resident in India. COMPANY, if it is Resident in India.	ALL OTHER ASSESSEES
TAXABLE ASSETS	ALL ASSETS Wherever located I.E. In India + Abroad	ASSETS IN INDIA
DEDUCTIBLE DEBTS	ALL DEBTS Wherever located	Debts in India

LOCATION OF THE ASSETS

The question whether a property is located in India or not is one of fact and will have to be decided in the light of available evidence. However, the Central Board of Direct Taxes (CBDT) has given general guidance in this regard as depicted in the table below:

	PROPERTY	LOCATED IN INDIA
1)	Tangible immovable property	If the property LIES in India
2)	Rights or interest in or over Immovable property (otherwise than by way of security) or benefits arising out or immovable property.	If the said immovable property lies in India.
3)	Rights or interest in or over Movable property (otherwise than by way of security).	If the said movable property is LOCATED in India.
4)	Debts	If they are contracted to be repaid in India.
5)	Ships or Aircraft's.	If REGISTERED in India.

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In computing the net wealth of an Individual, there shall be included as belonging to that individual the value of assets, which on the valuation date are held.

(i)	By the SPOUSE of such individual to whom such assets have been transferred by the individual, directly or indirectly, otherwise than for adequate consideration or in connection with agreement to live apart, or
(ii)	By a MINOR CHILD, not being a married daughter of such individual, or A minor child suffering from any disability of the nature specified in the sec 80U of the I.T.Act. Clubbing provision shall not apply in respect of such assets as have been acquired by the minor child out of his income referred to in the proviso 64(1A) of the Income-tax Act and which are held by him on the valuation date: Where the assets held by a minor child are to be included in computing the net wealth of an individual, such assets shall be included, (a) where the marriage of his parents subsists, in the net wealth of that parent whose net wealth (excluding the assets of the minor child so includible) is greater; or (b) where the marriage of his parents does not subsist, in the net wealth of that parent who maintains the minor child in the previous year. Where any such assets are once included in the net wealth of either parent, any such assets shall not be included in the net wealth of the other parent in any succeeding year unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do
(iii)	By a person or association of persons to whom such assets have been transferred by the individual directly or indirectly otherwise than for adequate consideration for the immediate or deferred benefit or the individual, his or her spouse, or both.
(iv)	By a person or association of persons to whom such assets have been transferred by the individual otherwise than under an IRREVOCABLE TRANSFER.
(v)	By the SON'S WIFE of such individual to whom such assets have been transferred by the individual, directly or indirectly, otherwise than for adequate consideration.
(vi)	By a person or association or persons to whom such assets have been transferred by the individual, directly or indirectly otherwise than for adequate consideration for the immediate or deferred benefit of the son's wife, of such individual.

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RELATION SHIP OF HUSBAND AND WIFE

In order to attract the application of clubbing provisions of spouse the relationship of husband and wife must subsist not only at the time of the accrual of income from the assets but also when the transfer of assets is made. The words "wife" and "husband" must be taken in their primary sense which is clearly indicative of a marital relationship. [1963] 049 ITR (S.C.) 0097- Philip John Plasket Thomas vs. CIT (Supreme Court of India)

If H has gifted to W jewellery worth Rs.100,000/- on 1.12.1996 and subsequently H marries W on say 1.1.1997 then the value of jewellery will never be clubbed with the Net wealth of H at any time: even after their marriage. This is because the relationship of husband and wife did not exist on the date of transfer. E.g. (b) if H & W are husband and wife and H gifts jewellery worth Rs.100,000/- to W on 15.12.1997 but dies on 31.12.1997 then (although on 31.3.1997 clubbing did take place) on the valuation date 31st march, 1998 no clubbing will take place since on the valuation date 31.3.98 the relationship of husband and wife does not exist. A widow or widower is not a spouse. (For inquiry or Admission to Kalpesh Classes Dial 2382 0676)

WHAT VALUE TO BE CLUBBED

It may be noted that the value to be clubbed will be the value (of the transferred asset) as on the valuation date irrespective of what its value was when transferred.

Property was sold by assessee to wife for inadequate consideration. There shall be inclusion of income from property sold, in husband's income to the extent of inadequacy of consideration. [1970] 076 ITR 0279 Patwardhan (H.N.) vs. CIT (Bombay High Court)

Where there is Transfer of house property to spouse otherwise than for adequate consideration assessee is deemed to be owner of house property. In this case entirety of income arising to spouse from house property includible in assessee's total income. Principle of proportionality determined by inadequacy of consideration not postulated by section 64. [1988] 173 ITR 0003- CIT vs. Junus Haji Ummer Sait (Kerala High Court)

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WHEN ASSET CHANGE ITS FORM

Further the clubbing provisions will apply irrespective of whether the assets are held by the transferee in the original form (i.e. in the same form as he received them) or in any other form on

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the valuation date. Where the asset transferred by the assessee is disposed of by the transferee & the transferee acquires (with the consideration received) another asset, the value of that new acquired asset as on the valuation date will be clubbed. CWT Vs Kishan Lal Bubna 204 ITR 600 (SC). Reading section 4(1)(a) of the Wealth-tax Act, 1957, there is no doubt that the provision contemplates that where the assets which have been transferred have been converted to some other assets, it is the value of the converted assets on the valuation date that has to be taken into account in computing the net wealth of the transferor assessee. [1993] 204 ITR 0600- CWT vs. Kishan Lal Bubna (Supreme Court of India)

Where there is transfer of assets to spouse or minor child there shall be inclusion of transferred assets in net wealth of assessee if such assets are assets as per section 2(ea) on the valuation date. Such properties transferred need not have been "assets" on the date of transfer. [1978] 115 ITR 0160A Kollankulam (M.G.) vs. CIT (Kerala High Court)

INDIRECT TRANSFER / CROSS TRANSFER

For the purpose of clubbing provision it was not necessary that the same assets belonging to the husband should have reached the wife. The assets might, in the course of being transferred, be changed deliberately into assets of a like value of another person, as happened in this case. A chain of transfers such as those in this case was comprehended by the word "indirectly". That if two transfers were inter-connected and were parts of the same transaction in such a way that they could be said to have been adopted as a device to avoid the implications of clubbing provision then the case would fall within the section even though one was not in the consideration for the other in the technical sense. Commissioner of Income-tax Vs. Kothari (C.M.) 49 ITR 109.

MINORS INCOME OUT OF SPECIFIED SOURCE

The clubbing provision of sec. 4(1)(a)(ii) will not apply in respect of assets, acquired by the minor child out of income earned by him, from any manual work done by him or from activity involving application of his skill, talent. Specialised knowledge & experience.

If on the valuation date the child already has become a major the value of assets cannot be included in the Net Wealth of the transferor (CIT Vs. Ashokabhai Chimanbhai 56 ITR 42 (SC). In other words the child should be "minor" on the valuation date. (For inquiry or Admission to Kalpesh Classes Dial 2382 0676)

ACCRETION TO VALUE OF ASSET

Where shares are transferred by an assessee to his spouse and subsequently bonus shares are allotted to her, the bonus shares are an accretion to the assets transferred by the assessee but they cannot be regarded as "assets transferred" by the assessee and the dividend income from those bonus shares cannot be regarded as arising even indirectly from the assets transferred by the assessee and cannot be included in the total income of the assessee. Held that the dividend income on the bonus shares held by the assessee's wife was not taxable in the assessee's hands under section 64 as the bonus shares could not be regarded as "assets transferred" by the assessee. [1983] 142 ITR 0377- CIT vs. Birla (M.P.) (Bombay High Court)

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SEC.4 (1)(B): SHARE IN FIRMS OR AOP'S:

Where the assessee is partner in a firm or is a member of an association of persons the value of his interest in the assets of the firm or the association is to be included in his Net Wealth u/s 4(1)(b).

If a person is a partner in a firm on behalf of the HUF then value of his interest in the firm is ineludible in the Net wealth of HUF.

The value of interest of a minor in a firm (in which he is admitted to the benefits of partnership) it to be included in the net Wealth of that parent whose Net wealth (exclusive of this value) is greater. So ordinarily a minor's share in a firm will be clubbed in the hands of the parents whose Net wealth is higher. However if the marriage of his parents does not subsist then the same will be included in the New Wealth of that parent who maintains the minor child.

SEC 4(1A): HUF CLUBBING PROVISIONS:

When an individual converts **his separate property** into joint family **property of HUF** or transfers the property to the HUF (of which he is a member) otherwise than for adequate consideration then:

- 1) The entire value of the property so converted or gifted will be included in the Net Wealth of the individual and
- 2) Subsequently if the converted or gifted property becomes the subject matter of total or partial partition then the share allotted to the SPOUSE out of the converted or gifted property will be included in the Net Wealth of that individual.

This Sec. Will apply only to conversions or gifts made after 31.12.1969.

SEC.4 (5) IRREVOKABLE TRANSFER

The value of any assets transferred under an irrevocable transfer shall be liable to be included in computing the net wealth of the transferor as and when the power to revoke arises to him.

Further in order to constitute an irrevocable transfer the following conditions must be satisfied.

- 1) The instrument of transfer must not contain any provisions for the RETRANSFER directly or indirectly over the whole of any part of the assets or income.
- 2) The instrument of transfer must not give the transferor rights to REASSUME power directly or indirectly over the whole or any part of the assets or income.

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However, it is stated that an irrevocable transfer includes a transfer, which is not revocable for a period exceeding 6 years or during the lifetime of the transferee.

We have seen above that a transfer not revocable for a period exceeding 6 years is treated as an irrevocable transfer. Hence the value of the transferred assets will not be clubbed with the Net wealth of the transferor. However sec.4 (5) states that as soon as the power to revoke arises (say after 7 Years), clubbing will start and the value of the assets will have to be included in the Net wealth of the transferor.

SEC.4 (5A) GIFTS BY BOOK ENTRIES

Where a person makes a gift of money by means of entries in the books of accounts (maintained by him or any other individual, HUF, firm, AOP or BOI with whom he has a business or other connection) the value of such gifts will be includible in his Net Wealth unless he proves to the satisfaction of the AO (Assessing Office) that the money has actually been DELIVERED AT THE TIME ENTRIES WERE MADE.

SEC.4 (7) PROPERTY HELD AS MEMBER OF CO-OPERATIVE HOUSING SOCIETY ETC

Where the assessee is a member of a co-operative housing society company or association of persons and building or part thereof is allotted or leased to him he shall be deemed to be owner of such building or part and its value shall be includible in his Net Wealth. In determining its value however any outstanding installments payable by the assessee to the society, company, or association of persons towards cost of the house is deductible as debt owned.

SEC.4 (8) 53A OF THE TRANSFER OF PROPERTY ACT

A Person:

- a) Who is allowed to take/retain possession of any building or part thereof in part performance of a contract of the nature referred to in sec.53A of the Transfer of Property Act.
- b) Who acquires any rights in any building or part thereof by virtue of a transaction of the type referred to in Sec. 269 UA (f) of the I.T. Act. Is deemed to be the owner of that building or part and the value thereof would be includible in his Net Wealth.

SEC 33. LIABILITY OF TRANSFEREES OF PROPERTIES IN CERTAIN CASES

Where by reason of the provisions contained in section 4, the value of any assets transferred to any of the persons mentioned in that section have to be included in the net wealth of an individual, the person in whose name such assets stand shall, notwithstanding anything contained in any law to the contrary, be liable, on the service of a notice of demand by the Assessing Officer in this behalf, to pay that portion of the tax assessed on the assessee as is attributable to the value of the asset standing in his name as aforesaid. Provided that where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay the tax as is attributable to the value of the asset so jointly held.

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Where any such person as is referred defaults in making payment of any tax demanded from him, he shall be deemed to be an assessee in default in respect of such sum, and all the provisions of this Act relating to recovery shall apply accordingly.

PART V: EXEMPT ASSETS: SEC.5

SEC.5 (I): PUBLIC CHARITABLE TRUSTS		
	Any property held by the assessee under trust or other legal obligation for any public purpose of a charitable or religious nature in India, is exempt However business assets (subject to some exceptions) will not be exempt.	
SEC.5 (II): COPARCENERY INTEREST IN HUF		
	Interest of the assessee in coparcenery property of an HUF is exempt.	
SEC.5 (III): RESIDENTIAL BUILDING OF A RULER		
	Any one building used by a Ruler as his official residence immediately before the commencement of the Constitution (26 th Amendment) Act. 1971 is exempt	
SEC.5 (IV): RULER’S JEWELLERY		
	Jewellery in possession of Ruler, which is not his personal property, is fully exempt if it is recognised by the Central Government before 1.4.1957 or the Board after that date.	
SEC.5 (V): FOR PERSON OF INDIAN ORIGIN OR A CITIZEN OF INDIA		
	If any person of Indian origin or a citizen of India who was ordinarily residing in a foreign country, leaves such country and returns to India with an intention of permanently residing in India then he will enjoy exemption on the following assets for the next 7 successive Asst. Years after his return.	
	Money brought in to India	Provided they are brought into India within one-year prior to return to India or thereafter.
	Value of assets brought in to India	
	Value of assets acquired out of moneys brought in to India	
	A person shall be deemed to be of Indian origin if he, or either of his parents or any of his grandparents, was born in undivided India; Moneys standing to the credit of such person in a Non-resident (External) Account in any bank in India on the date of his return to India, shall be deemed to be moneys brought by him into India on that date.	
SEC.5 (VI) ONE HOUSE OR PART OF A HOUSE OR A PLOT OF LAND		
	One house or part of a house or a plot of land belonging to an individual or a Hindu	

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	undivided family Provided that wealth-tax shall not be payable by an assessee in respect of an asset being a plot of land comprising an area of five hundred square meters or less. Several self-contained units which are contiguous and situate in the same compound and with common boundaries and having unity of structure could be regarded as one building. The exemption would be available in respect of the value of the entire building, [1992] 197 ITR 0258- CWT vs. Najima Nizar (Mrs.) (Kerala High Court)
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DEBT OWED

NET WEALTH = TOTAL ASSETS – ALLOWABLE DEBTS

A contingent liability is not a debt owed, and cannot be deducted.

A question has arisen regarding the admissibility of deduction of the wealth-tax liability for the purpose of computing the taxable net wealth. The Board has been advised that the liability under the Wealth-tax Act is not a debt owed by the assessee incurred in relation to the assets taxable under the Wealth-tax Act. The liability to wealth-tax is a personal liability of the assessee. Moreover, this liability not a debt incurred by the assessee but is created by the statute. Therefore, no deduction is to be allowed for the wealth-tax liability in the computation of the taxable net wealth of the assessee. [1993] 203 ITR (Stat) 0134- Circular Number: 663

On the death of B, the Maharaja of Gondal, disputes arose between his two sons, viz., V and his younger brother, S. Their mother, the assessee, intervened and gave a letter to S, to the effect that if V did not give in full Rs. 50 lakhs which was the amount B had desired to give S, then S will get the balance of the amount from her. V paid only Rs. 20 lakhs and S claimed the balance from the assessee. Pursuant to her commitment, the assessee transferred war stock valued at Rs. 11 lakhs to S and also agreed to hand over certain ornaments in full settlement of his claim. The ornaments were not given and disputes arose between S and the assessee which were also eventually settled in writing and by virtue of that settlement the assessee paid a sum of Rs. 10 lakhs to S. The question was whether for the purpose of computing the assessee's net wealth on the valuation dates the liability to pay the balance of Rs. 19 lakhs could constitute a debt owed by the assessee within the meaning of section 2(m) of the Wealth-tax Act, 1957, and was deductible. [1979] 117 ITR 0784- CWT vs. Vijayaba (H.H.), Dowager Maharani Saheb of Bhavnagar Palace (Supreme Court of India) (For inquiry or Admission to Kalpesh Classes Dial 2382 0676)

Held that

- 1) On the facts, that this was a case of a family settlement or family arrangement binding on the parties; the assessee agreed to purchase peace for the family and to pay her son, S, the amount which fell short of Rs. 50 lakhs if her elder son, V, did not pay him and such a consideration was good consideration which brought about an enforceable agreement between the parties;

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- 2) The liability of the assessee became enforceable by law,
- 3) The liability of the assessee was created by the family arrangement arrived at between the parties, and even if it was a contingent liability, the contingency did happen and the assessee became liable to pay the sum of Rs. 19 lakhs as a debt.
- 4) The sum of Rs. 19 lakhs was a subsisting debt on the valuation dates and was deductible in computing the assessee's net wealth. [1979] 117 ITR 0784- CWT vs. Vijayaba (H.H.), Dowager Maharani Saheb of Bhavnagar Palace (Supreme Court of India)

The assessee borrowed a sum of Rs. 40,000, from the LIC on the security of his house in which he was residing. Out of this Rs. 30,000 was invested in a fixed deposit in a bank for one year. On the security of the fixed deposit the assessee borrowed monies which he utilised for various purposes. The amount of the loan borrowed was adjusted against the fixed deposits on maturity. In his return for wealth-tax, the assessee claimed deduction of the amount outstanding on the valuation date out of the amount borrowed from LIC. The debt in question was one acquired by the mortgage of the residential house which was not chargeable to wealth-tax thus the debt could not be allowed as a deduction. [1980] 123 ITR 0464- Srinivasan (T.V.) vs. CWT (Madras High Court)

Section 80L can be availed of only by an assessee and as the total income of a husband as defined in s. 2(45) would include the income arising to the wife in respect of which s. 64(1)(iii) would operate, the provisions of SEC. 80L cannot be applied to the income arising to the wife which has to be included in the hands of the husband under s. 64(1)(iii), because, in respect of that income, the wife cannot be considered as the assessee. Consequently, the relief under s. 80L would be available to the husband after the wife's income has been clubbed with his income. [1984] 146 ITR 0627- CIT vs. Ramaswamy (P.N.) (Madras High Court)

The first step to be taken in arriving at the net wealth of the assessee is to take the aggregate value of all his assets which are required to be included in his net wealth in accordance with the provisions of the Act. The assets which are specified in section 5(1) of the Wealth-tax Act, 1957, have to be excluded in arriving at the aggregate value of all his assets for the purpose of section 2(m) of the Act. The aggregate value of all the debts thereafter will be deducted from the aggregate value of all the assets so arrived at. I.E. debts in relation to exempt assets shall not be allowed as deduction. [1996] 217 ITR 0159- CWT vs. Chockalingam (P.R.) (Madras High Court)

The assessee, one of the co-owners of a house having a one third share therein, had received advance rent. That amount remained unadjusted out of the advance received by the assessee was a "debt owed ". [1991] 192 ITR 0163- SHAKTI SIKAND (Delhi High Court)

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PART VII SEC.7: VALUATION OF ASSETS:**VALUATION OF IMMOVABLE PROPERTY (PART B SCHEDULE III)**

	Actual Rent	X
Add:	Where taxes levied in respect of the property are borne wholly or partly by the tenant-by the amount of the taxes so borne by tenant;	X
Add:	Where expenditure on repairs is borne by the tenant –by one-ninth of the actual rent	X
Add:	Where the owner has accepted any amount as deposit (not being advance rent for three months or less)- by 15 percent of the deposit minus the interest actually paid: (if deposit was outstanding for only part of the previous year 15% p.a. must be calculated for the number of complete months for which deposit was outstanding)	X
Add:	Where the owner has received any amount by way of premium-by the amount obtained by dividing the premium by the number of years of the lease	X
Add:	Where the owner derives any benefit or perquisite as consideration for leasing of the property or any modification of the terms of the lease, by the value of such benefit or perquisite	X

		-
	ACTUAL ANNUAL RENT (a)	X
	MUNICIPAL VALUATION (b)	X
	Where the property is let Actual annual rent or annual ratable value assessed by local authority whichever is higher. <u>[ACTUAL ANNUAL RENT OR MUNICIPAL VALUATION WHICHEVER IS HIGHER]</u>	
	Where the property is not let : Annual ratable value assessed by local authority or if there is no such assessment the amount which the owner can reasonably be expected to receive as annual rent had such property been let.	
	GROSS MAINTAINABLE RENT	X
Less	Municipal Taxes levies	X
Less	15% of GMR	X
	Net Maintainable Rent	X
	CAPITALISE NMR (NMR * 12.5/10/8) (See note no. 1)	X
	If the property is acquired or constructed on or before 31.3.1974 than the Capitalised NMR	

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	If the property is acquired or constructed after 31.3.1974 value thereof will be higher of Capitalised NMR or Actual Cost (i.e. actual cost of acquisition/construction (plus cost of improvement, if any) However even for a property acquired/constructed after 31.3.74 the value may be taken as “Capitalised NMR “(Instead of higher of Capitalised NMR & Actual Cost) if the property satisfies BOTH the following requirements (i) The property is a residential house exclusively used by the assessee for his one residential purpose throughout the period of 12 months ending on the valuation date. (ii) Actual cost thereof does not exceed Rs.25 lacs. (Rs.50 lacs for Bombay, Calcutta, Delhi & Madras) It may be noted however that this benefit is available for only ONE such residential house. Thus an assessee having more than one such house may choose any one for this purpose.	
Add:	PREMIUM FOR EXCESS UNBUILT AREA (Note No. 2)	X
Less:	REDUCTION FOR UNEARNED INCREASE IN VALUE OF LAND (Note No. 3)	X
	<u>SEC.7 (2) VALUATION OF SELF OCCUPIED HOUSE:</u> The value of S.O. House may be taken at the Option of the assessee as the value determined in the manner laid down in Schedule III as on the valuation date next following the date on which he become owner of the house or the valuation date relevant to the A.Y. 1971-72 whichever is later. Thus the assessee is given an option to take the old value if he so chooses. However he gets this option only if the house is self occupied (S.O.) in the sense that is it exclusively used by him for residential purposes throughout the period of 12 months immediately preceding the valuation date.	
	Value of the property for the purpose of the wealth tax	X

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CAPITALISED NMR (note no 1)

The value of the property is to be taken as Capitalised NMR i.e. NMR * Multiplier factor. The Capitalised NMR is calculated as NMR multiplied by 12.5 or 10 or 8 depending on whether the building is constructed on freehold land and the UN-expired period of lease as on the valuation date. The following table summaries this:

Bldg. Constructed. On	Freehold Land	Leasehold Land		
		Unexpired period of lease of such land on V.D.		
		> Or = 50 yrs.	> 15 < 50 yrs.	< Or = 15 yrs.
Multiplier =	12.5	10	8	Part B of Schedule III Not Applicable.

ADD PREMIUM (FOR EXCESS UNBUILT AREA): (RULE 6) (Note No. 2)

If the un-built area exceeds the specified area the Rule 3 value will be increased by the following Premium percentages.

% Of Excess Area To Aggregate Area	PREMIUM TO BE ADDED
> 05% but < or = 10% of Aggregate Area	20%
>10% but < or = 15% of Aggregate Area	30%
>15% but < or = 20% of Aggregate Area	40%
>20% of Aggregate Area	Part B not Applicable FMV TO CONSIDER

The un-built area of the plot of land (or the vacant plot) should not exceed the specified area. The specified area is

a)	For Bombay, Calcutta, Delhi & Madras	60% of Aggregate Area
b)	For Agra, Ahmedabad, Amristar, Allahabad, Bangalore, Bhopal, Cochin, Hyderabad, Indore, Jabalpur, Jamshedpur, Kanpur, Lacknow, Ludhiana, Madurai, Nagpur, Patna, Pune Sale, Sholapur, Srinagar, Surat Tiruchirapalli, Trivandrum, Baroda & Varanasi MIDDLE LEVEL TOWNS	65% of Aggregate Area
c)	Any other place	70% of Aggregate Area

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REDUCTION FOR UNEARNED INCREASE IN VALUE OF LAND (Note No. 3)

Where the property is constructed on land obtained on lease from the Government, a local authority or any authority referred to in clause (20A) of section 10 of the Income-tax Act, and the Government or any such authority is, under the terms of the lease, entitled to claim and recover a specified part of the unearned increase in the value of the land at the time of the transfer of the property, the value of such property as determined shall be reduced by the amount so liable to be claimed and recovered or by an amount equal to fifty per cent. of the value of the property as so determined, whichever is less, as if the property had been transferred on the valuation date. In other words where

- 1) The property is constructed on land obtained on lease from the Government or a Local/Housing Authority
- 2) The Government /authority is entitled to recover a specified part of the unearned increase in value of the land, at the time of transfer of the property.

Then the Rule 3 value will be reduced by the lower of the following 2 amounts:

- i) Amount liable to be recovered by the Government/ authority as aforesaid; or
- ii) 50% of the Rule 3 value.

RESIDUARY RULE

Rule 8 provides that if on the basis of the facts & circumstances of the case the A.O. is of the opinion that it is not practicable to apply the provision of rule 3, then the Valuation will NOT be as per the said RULE 3. However the A.O. will have to take prior approval of the DY.CIT for this purpose. In all such cases where Rule 3 becomes “NOT Applicable” the value of the property will be determined as per Rule, 20.

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VALUATION OF ASSETS OF BUSINESS (PART D, SCHEDULE III) (RULE – 14)

If the assessee is carrying on a business for which accounts are maintained by him regularly, the net value of the assets of the business as a whole, having regard to the balance sheet of such business on the valuation date is taken as value of such assets.

For this purpose one has to make the following adjustment:

Assets	Value to be taken
Depreciable assets	Written down value
Non-depreciable assets (other than stock-in-trade)	Book value
Closing stock	Value adopted for the purpose of income tax.

If the value of any asset (referred above) determined according to the provisions of Schedule III exceeds the value given in the table supra by more than 20 percent of the value given in the table (supra), then higher value shall be taken as value of the asset.

The value of an asset not disclosed in the balance sheet, shall be taken to be the value determined in accordance with the provisions of schedule III as applicable to that asset.

INTEREST IN FIRM OR ASSOCIATION OF PERSONS (PART E - SCHEDULE III) (RULE – 15, 16)

The net wealth of the firm or association of persons on the valuation date shall first be determined as if it were the assessee and, thereafter,

		Rs.
A)	That portion of the net wealth of the firm or association as is equal to the amount of its capital shall be allocated among the partners or members in the proportion in which capital has been contributed by them	X
B)	The residue of the net wealth of the firm or association shall be allocated amongst the partners or members in accordance with the agreement of partnership or association for the distribution of assets in the event of dissolution of the firm or association or, in the absence of such agreement, in the proportion in which the partners or members are entitled to share the profits	X
	TOTAL (A + B)	X

Provided that in determining the net wealth of the firm or association for the purposes of this rule, no account shall be taken of the exemptions in section 5. (For inquiry or Admission to Kalpesh Classes Dial 2382 0676)

VALUATION OF LIFE INTEREST - PART F (RULE 17)

The value of the life interest of an assessee shall be arrived at by multiplying the “average annual income” that accrued to the assessee from the life interest by the fraction. “average annual income” [for last three years only] means the average of the gross income derived by the assessee from the life interest during each year of the period ending on the valuation date,

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reduced by the average of the expenses incurred [the amount of the reduction for such expenses shall, in no case, exceed five per cent. of the average of the annual gross income] on the collection of such income in each of those years.

VALUATION OF JEWELLERY – (PART G SCHEDULE III) (RULE – 18, 19)

The value of jewellery shall be estimated to be the price, which it would fetch if sold in the open market on the valuation date (i.e. fair market value). The following points should also be kept in view

	Statement to be submitted with return	Reference to valuation
Whether the value of jewellery does not exceed Rs. 5,00,000/-	A statement in Form no. O-8A	The Assessing officer may refer the valuation to a valuation officer, if he is of the opinion that the fair market value of the jewellery exceeds the value of jewellery as declared in the return by more than 33 1/3 per cent of the returned value or Rs.50000/-. In such case the value of jewellery shall be in fair market value as estimated by the valuation officer.
Whether the value of the jewellery exceeds Rs.5,00,000/-	A report of a registered valuer in Form No.O-8	The Assessing Officer may refer the valuation to a valuation Officer if he is of the opinion that the value of jewellery declared in the return is less than its fair market value (although it is in accordance with the estimate made by a registered valuer). In such case the value of jewellery shall be the fair market value as estimated by the valuation officer.

Adjustment in value of jewellery for subsequent four assessment year- The value of jewellery determined by the valuation officer for any assessment year (hereinafter referred as the first assessment year) shall be taken to be the value of such jewellery for the subsequent four assessment years subject to the following adjustment:

- Where the jewellery includes gold or silver or any alloy containing gold or silver, the market value of such gold or silver or such alloy on the valuation date relevant to the concerned subsequent assessment year will be substituted for the market value of such gold or silver or alloy on the valuation date relevant to the first assessment year:
- Where any jewellery or part of jewellery is sold or otherwise disposed of by the assessee or any jewellery or part of jewellery is acquired by him, on or before the valuation date relevant to the concerned subsequent year; the value of the jewellery determined for the first assessment year shall be reduced or increased, as the case may be, and the value as so reduced or increased shall be the value of the jewellery for such subsequent assessment year.

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34AB. REGISTRATION OF VALUERS

The Chief Commissioner or Director-General shall maintain a register to be called the Register of Valuers in which shall be entered the names and addresses of persons registered as valuers. Any person who possesses the qualifications prescribed in this behalf may apply to the Chief Commissioner or Director-General in the prescribed form for being registered as a valuer under this section and different qualifications may be prescribed for valuers of different classes of assets.

Every application shall be verified in the prescribed manner, shall be accompanied by such fees as may be prescribed and shall contain a declaration to the effect that the applicant will make an impartial and true valuation of any asset which he may be required to value, furnish a report of such valuation in the prescribed form, charge fees at a rate not exceeding the rate or rates prescribed in this behalf, not undertake valuation of any asset in which he has a direct or indirect interest. The report of valuation of any asset by a registered valuer shall be in the prescribed form and be verified in the prescribed manner.

16A. REFERENCE TO VALUATION OFFICER (DVO PROCEDURE)

For the purpose of making an assessment under this Act, the market value of any asset is to be taken into account in such assessment, the Assessing Officer may refer the valuation of any asset to a Valuation Officer (a) in a case where the value of the asset as returned is in accordance with the estimate made by a registered valuer, if the Assessing Officer is of opinion that the value so returned is less than its fair market value (b) in any other case, if the Assessing Officer is of opinion (i) that the fair market value of the asset exceeds the value of the asset as returned by more than such percentage of the value of the assets as returned or by more than such amount as may be prescribed in this behalf ; or (ii) that having regard to the nature of the asset and other relevant circumstances, it is necessary so to do.

For the purpose of estimating the value of any asset in pursuance of a reference, the Valuation Officer may serve on the assessee a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Valuation Officer may require.

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Where the Valuation Officer is of opinion that the value of the asset has been correctly declared in the return made by the assessee he shall pass an order in writing to that effect and send a copy of his order to the Assessing Officer and to the assessee.

Where the Valuation Officer is of opinion that the value of the asset is higher than the value declared in the return made by the assessee, or where the asset is not disclosed or the value of the asset is not declared in such return or where no such return has been made, the Valuation Officer shall serve a notice on the assessee intimating the value which he proposes to estimate and giving the assessee an opportunity to state, on a date to be specified in the notice, his objections either in person or in writing before the Valuation Officer and to produce or cause to be produced on that date such evidence as the assessee may rely in support of his objections. On the date specified in the notice or as soon thereafter as may be, after hearing such evidence as the assessee may produce and after considering such evidence as the Valuation Officer may require on any specified points and after taking into account all relevant material which he has gathered, the Valuation Officer shall, by order in writing, estimate the value of the asset and send a copy of his order to the Assessing Officer and to the assessee.

On receipt of the order from the Valuation Officer, the Assessing Officer shall, so far as the valuation of the asset in question is concerned, proceed to complete the assessment in conformity with the estimate of the Valuation Officer.

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PART H OF SCHEDULE III (RULE – 20 AND 21)

It provides that the value of any asset which is not governed by above shall be the price which in the opinion of the A.O. it would fetch if sold in the Open Market on the valuation date.

For the removal of doubts, it is hereby declared that the price or other consideration for which any property may be acquired by or transferred to any person under the terms of a deed of trust or through or under any restrictive covenant in any instrument of transfer shall be ignored for the purposes of determining under any provision of this Schedule, the price such property would fetch if sold in the open market on the valuation date. (For inquiry or Admission to Kalpesh Classes Dial 2382 0676)