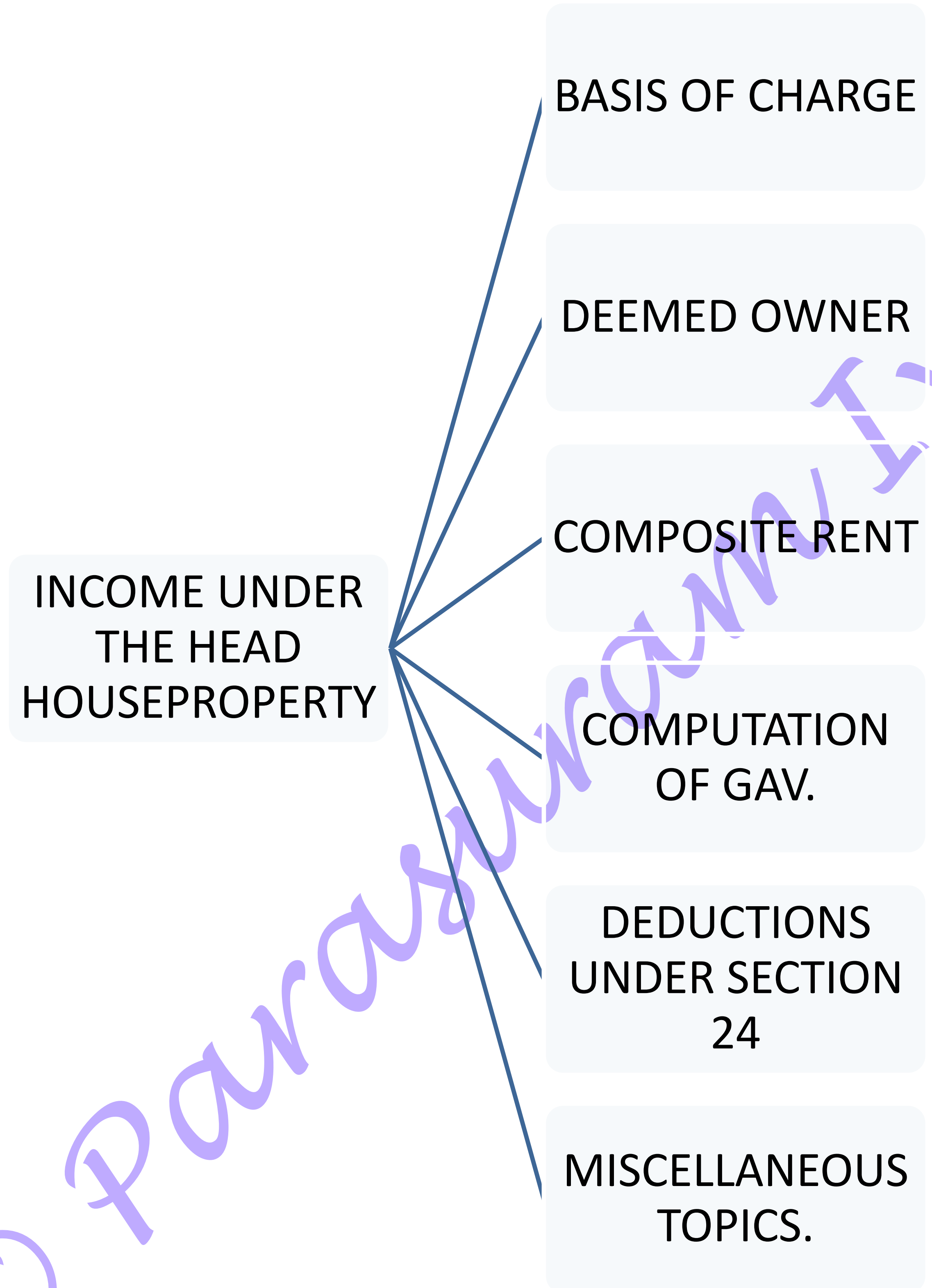

INCOME UNDER THE HEAD HOUSEPROPERTY
BASIS OF CHARGE
DEEMED OWNER
COMPOSITE RENT
COMPUTATION OF GAV.
DEDUCTIONS UNDER SECTION 24
MISCELLANEOUS TOPICS.

BASIS OF CHARGE SECTION 22:

- There should be a building or land appurtenant thereto
- The assessee should be owner of such propertied
- The property can be used for any purpose but it should not be used for carrying on any Business & Profession.
- Then the Annual value of such property is chargeable to tax under the head Income under the head House Property. (i.e. it is not the income generated by that property is taxable but the capacity to generate income is taxable.)

EXCEPTION TO BASIS OF CHARGE:

- Income from any farm house forming part of Agricultural Income section 10(1).
- Annual value of any one palace in occupation of ex-ruler 10(19A).
- Annual value of any property to a local authority section 10(20).
- Income from a house property to an approved scientific research association section 10(21).
- Income from house property to a university or other educational institution section 10(22) (now available under section 10(23C) or section 11).
- Income from house property to a philanthropic hospital or other medical institution section 10(22A) (now available under section 10(23C) or section 11).
- Property income of an institution for development of Khadi and Village Industry section 10(23B).
- Property income of any Khadi and Village Industries Board Section 10(23BB).
- Property income of a body or authority for administering religious or charitable trust or endowment section 10(23C)
- Property income of any registered trade union section10 (24).
- Property income of a statutory corporation or an institution or association financed by the government for promoting the interest of member of Schedule Cast or Schedule Tribe section 10(26B).
- Property Income of a co-operative society formed for promoting the interest of the member of the Schedule Cast and Schedule Tribes or both section 10(27).
- Income from house property held for any charitable purpose section (11).
- Property income of any political property section (13A).
- One Self Occupied property (SOP) Section 23(2)(a) i.e. for own Residence Section 23(2)(b) because of employment if he could not reside due to employment then also he can claim that property as SOP.

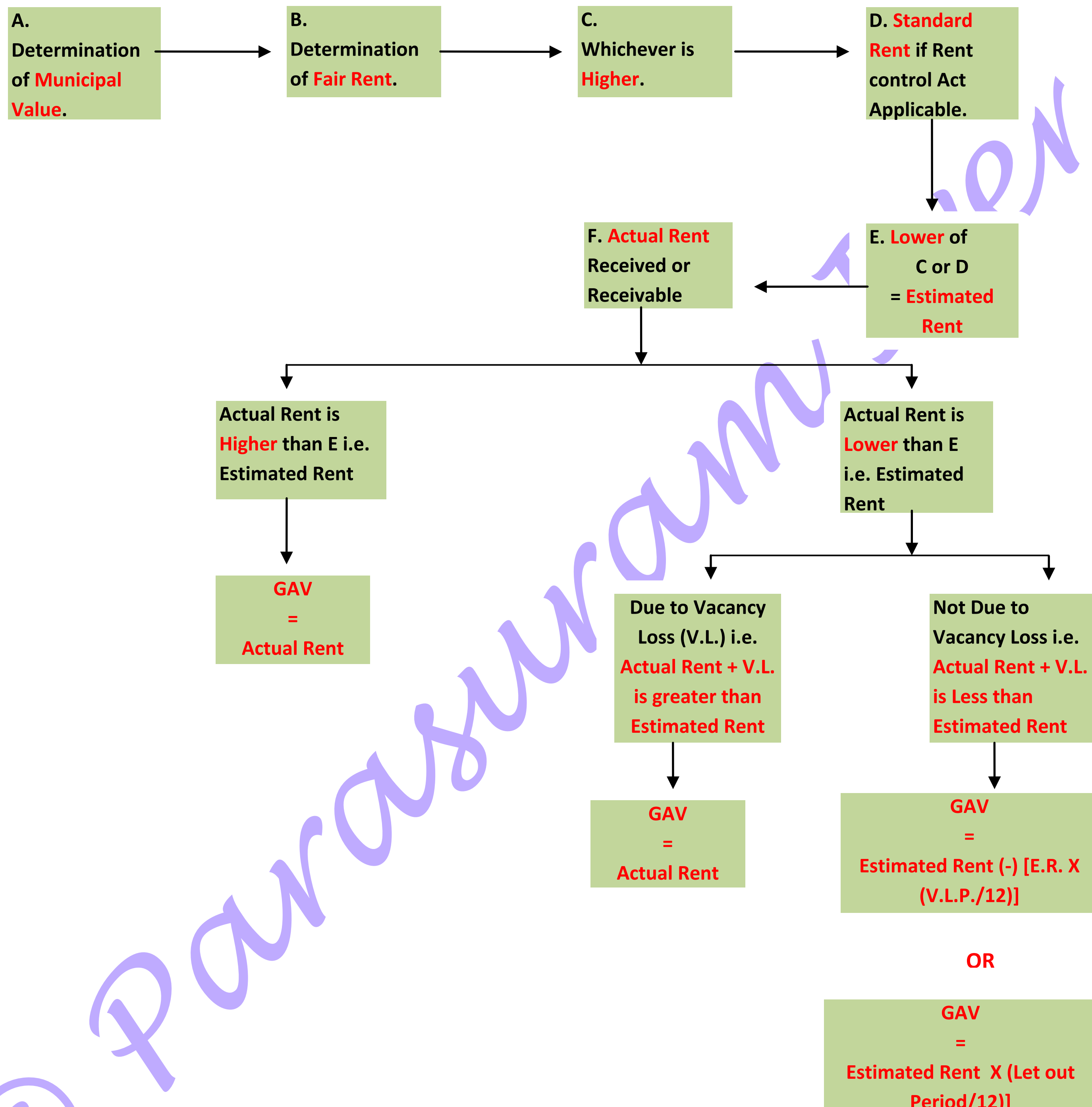
DEEMED OWNER SECTION 27:

- Section 27(i): Transfer to a Spouse for inadequate consideration other than in case of agreement to live apart.
- Section 27(i): Transfer to a minor child for inadequate consideration other than minor married daughter. (but in the 2 case above if individual transfer cash to spouse or minor child then this provision will to be applicable rather it will attract clubbing of income.)
- Section 27(ii): Holder of Impartible estate. But after the enactment of Hindu Succession Act all such property will not be governed by individual's property rater it will be treated as property of HUF. i.e. This section is applicable only to the property which has been succeeded before enactment of Hindu Succession Act.
- Section 27(iii): Member of Co-operative Housing Society, Company etc. to whom a building or a part thereof is allotted or leased under House Building Scheme of a society/company/association shall be the deemed owner even though the co-operative society/company/association is the legal owner.
- Section 27(iiia): Where any person acquires any right in a building in accordance of Section 53A of Transfer of Property Act i.e. under part - performance of a Contract shall be the deemed owner of the property.
- Section 27(iiib): Person having right in a property or getting property on a lease for period not less than 12 year shall be the deemed owner of the property i.e. person referred under section 269UA(f) of Transfer of property Act.

COMPOSITE RENT

- If Rented with Service
  - Rent of Property: Income Under the Head House Property.
  - Rent Towards Service: Income under the Head Profits and Gains from Business or Profession OR Other Sources.
- If Rented along with Machinery, Plant or Furniture.
  - If Asset Can be Separately rented
    - Rent Towards House Property is to be Charged Under the Head House Property
    - Rent Towards Assets : Income under the Head Profits and Gains from Business or Profession OR Other Sources.
  - If Asset Can not be Separately rented
    - Entire Income is Charged to Income under the Head Profits and Gains from Business or Profession OR Other Sources.

HOW TO DETERMINE GROSS ANNUAL RENT Section 23 with reference of case:



<u>What is Annual Value?</u>

Section 23(1)(a): The annual value of the property shall be the sum for which the property might reasonably be expected to be let from year to year. It may neither be actual rent derived nor the municipal value for the property. It is some time also known as Notional Rent.

Illustration 1

Ankit owns six houses in Nagpur, details of which are as under :

Particulars	A ₹	B ₹	C ₹	D ₹	E ₹	F ₹
Municipal Value	20,000	24,000	36,000	42,000	48,000	45,000
Fair Rental Value	24,000	30,000	40,000	42,000	50,000	50,000
Standard Rent	N.A.	24,000	50,000	30,000	N.A.	48,000
Actual Rent /Annual Rent	18,000	36,000	48,000	36,000	54,000	42,000

Compute the gross annual value of the above houses.

Illustration 2

Rohit owns three houses in Nagpur, details of which are as under :

Particulars	A	B	C
No. of residential units	2	1	3
Municipal Value	₹ 1,20,000	₹ 72,000	₹ 60,000
Fair Rental Value	₹ 1,50,000	₹ 75,000	₹ 75,000
Standard Rent	₹ 1,30,000	₹ 80,000	₹ 72,000
Rent per unit per annum	₹ 70,000	₹ 84,000	₹ 21,000
Municipal taxes	₹ 12,000 (due but not paid)	₹ 8,000 for last year paid this year and ₹ 9,000 of current year due but not paid	₹ 60,000 (It includes ₹ 54,000 paid as advance for next 9 years)

Compute the annual value of the above three houses for the assessment year 2013-14.

Illustration 3

Municipal value of a house is ₹ 90,000, Fair Rent ₹ 1,40,000, Standard Rent ₹ 1,20,000. The house property has been let ₹ 12,000 p.m. and was vacant for one month during the previous year 2012-13. Municipal Taxes paid during the previous year ware ₹ 40,000. Compute the annual value for the Assessment Year 2013-14.
What will happen if the property was vacant for 3 months. Determine the annual value using this assumption.

Illustration 4

Raj has a house property in Nagpur whose municipal value is ₹ 1,00,000 and the Fair Rental Value is ₹ 1,20,000. It was self-occupied by Raj from 01.04.2012 to 31.07.2012. w.e.f. 01.08.2012 it was let out at ₹ 9,000 p.m. Compute the annual value of the house property for the Assessment Year 2013-14 if the municipal tax paid during the previous year were ₹ 20,000.
What will happen if standard rent is ₹ 1,08,000.

TREATMENT OF MUNICIPAL TAX:

The municipal tax which has been actually paid by the owner of the property during the previous year shall be allowed as deduction from GAV which has been discussed earlier i.e.

1. Actual Municipal Tax or a like tax in respect of property is paid during the Previous Year.
2. The expenses had been borne by the Owner of the property.
   (This deduction is also available with respect to property situated outside India.)

TREATMENT OF UNREALISED RENT:

The Actual Rent received or receivable will not include unrealized rent if the following conditions are satisfied:

1. Tenancy is bona fide.
2. The defaulting tenant has vacated or steps have been taken to compel him to vacate the property.
3. The defaulting tenant is not in occupation of any other property of the assessee.
4. The assessee has instituted legal proceeding for recovery of rent or it has been satisfied to the Assessing Officer that initiation of such proceeding is useless.

Illustration5

Atray furnishes the following particular in respect of a house property owned by him in Nagpur.

Municipal value	₹ 2,00,000
Fair rent	₹ 2,40,000
Actual rent (per month)	₹ 21,000
Municipal tax paid during the year	₹ 20,000

The tenant vacated the property on 31.10.2012 and thereafter the property was let out for ₹ 25,000 p.m.

Atray could not realize the rent for the months of September and October, 2012 due to the death of the earlier tenant.

(A)Compute the annual value of the property for the assessment year 2013-14.

(B)What will be your answer if the unrealized rent is for one month instead of two months.

TREATMENT RENT WHEN THE HOUSE PROPERTY WAS LET OUT FOR THE PART PERIOD & SOP FOR REMAINING:

In such a case the benefit of SOP shall not be available and Annual value shall be calculated for the entire year & compared with actual rent.

DEDUCTION ALLOWED UNDER SECTION 24:

a. **Deduction Under Section 24(a) Statutory Deduction:**

30% of Net Annual Value is Allowed as Deduction for all expenses. There is no other deduction allowed for expenses except for interest.

b. **Deduction under Section 24(b) Interest on borrowed capital:**

In case of SOP:

Loan is for Acquiring or Construction on or after 1.4.1999 and such construction is completed within 3 years of the end of the Financial year in which the capital has been borrowed	Maximum ₹ 150000/-
In any other case	Maximum ₹ 30000/-

c. **In any other case other than SOP:**

The entire amount of interest payable yearly shall be allowed as deduction whether related to purchase, construction, re-construction, repairs, renewal or reconstruction.

How to Calculate Interest:

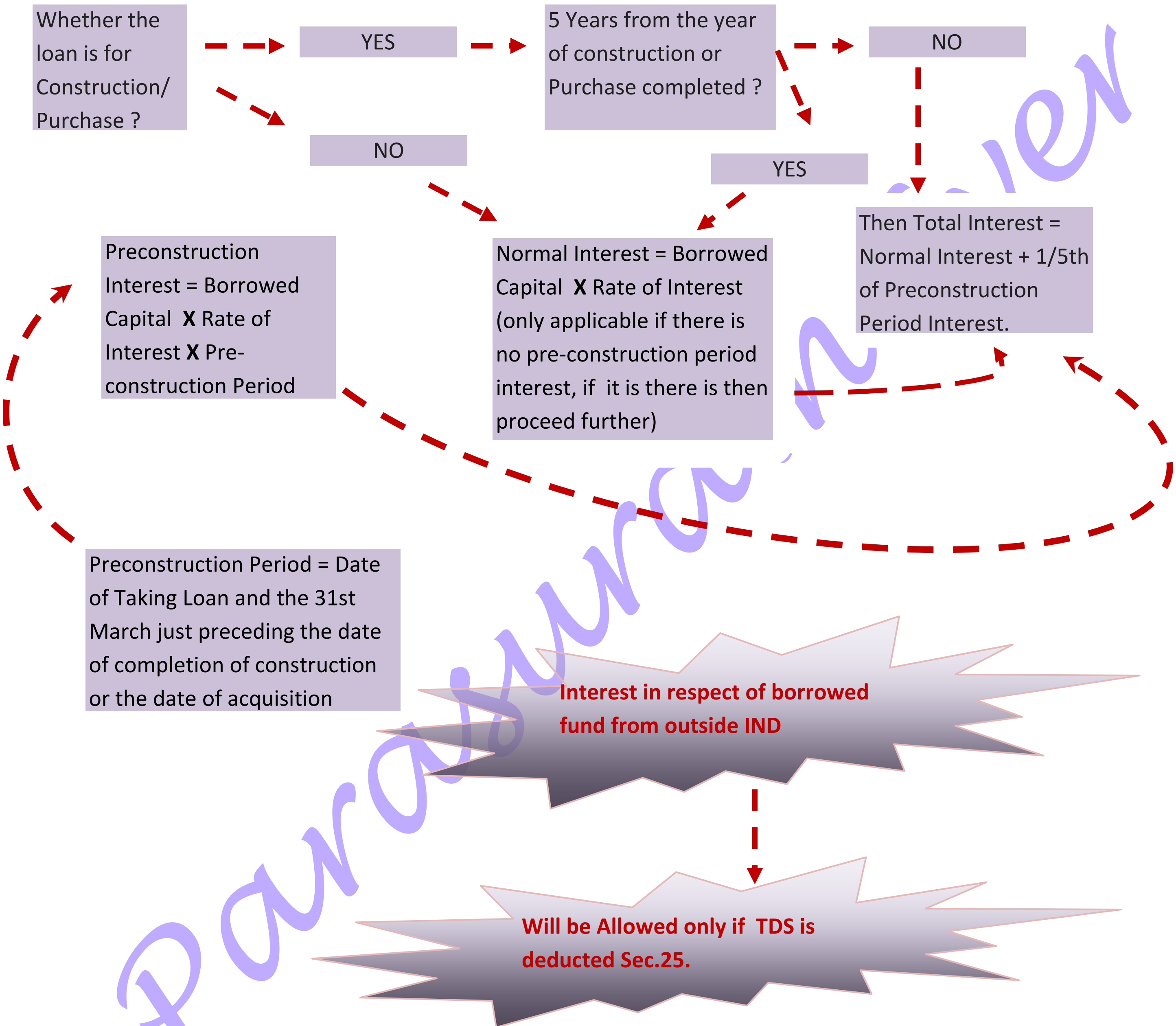


Illustration6

The assessee took a loan of ₹ 60,000 on 01.04.2010 from a bank for construction of a house on a piece of land he owns in Nagpur. The loan carries an interest @10% per annum. The construction is completed on 15.06.2012. The entire loan is still outstanding. Compute the interest allowable for the assessment year 2013-14.

Illustration7

Arun owns a house property in Nagpur. From the particulars given below compute the income from house property for each assessment year 2013-14.

Municipal value	₹ 2,00,000
Fair rent	₹ 2,52,000
Standard rent	₹ 2,40,000
Actual rent (per month)	₹ 23,000
Municipal taxes	20% of the municipal value
Municipal taxes paid during the year	50% of the tax levied
Expenses on repairs	₹ 20,000
Insurance premium	₹ 5,000

Arun had borrowed a sum of ₹ 12,00,000 @10% p.a. on 01.07.2010 and the construction of the property was completed on 28.02.2012.

Illustration 8

Nargis has a house property in Nagpur whose particulars are as under:

Municipal value	₹ 3,00,000
Standard rent	₹ 3,12,000
Fair rent	₹ 4,20,000
Municipal taxes paid	₹ 50,000
Interest on money borrowed for acquiring the house after 01.04.2010	₹ 1,60,000
Period of occupation for own residence	2 months
Actual Rent for 10 months	₹ 35,000 p.m.

Compute the income from house property for assessment year 2013-14. Will your answer be different if standard rent is not applicable.

Illustration 9

Assessee has one house property at Ramdaspeth in Nagpur. He stays with his family in this house. The rent of similar property in the neighborhood is ₹ 56,000 per annum. The municipal valuation is ₹ 28,000. Municipal taxes paid in respect of the property are ₹ 5,000 (including ₹ 1,000 for an earlier year). The house was constructed in 1988 with a loan of ₹ 12,00,000 taken from HDFC. During the previous year 2012-13, the assessee refunded ₹ 2,30,000 which includes ₹ 1,68,000 as current year interest. Compute the income from house property for assessment year 2013-14. What would be the deduction on account of interest if the loan was taken on or after 01.04.2003 and the property was completed in December, 2004.

MISCELLANEOUS TOPICS.

SUBSEQUENT RECOVERY OF UNREALISED RENT SECTION25AA:

When the assessee receives any amount of rent with respect to past which could not be recovered by him shall be treated by Income of the year of Receipt of such amount whether assessee is still a owner or not of the property. But section 25AA do not provide for any deduction of 30 % neither restricts for calming that so if specifically provided then only it should be allowed.

ARREARS OF RENT SECTION 25B:

Where the Assessee:

1. Is the owner of property which has been let out to a tenant.
2. And has received any amount, by way of arrear of rent.

Then the amount received will be taxable after allowing deduction of 30% in the year of receipt.

PROPERTY OWNED BY CO-OWNER SECTION 26:

1. If the Share is defined then Annual Value to be divided in that ratio & each owner will have the benefit of section 24(b) i.e. interest of ₹ 30000/- or ₹ 150000/- as the case may be.
2. If the Share is not defined then the property will be assessed as AOP.
3. When the Partnership firm goes by firm name in that case it should be assessed as income of firm. (Ram Narain & Bros. V CIT(1969)73 ITR 423 (All)).

Illustration 10

Abhishek owns a house property in Nagpur. 60% of the property is let out for ₹ 15,000 p.m. and 40% portion is self occupied by him.

Compute his income from house property from the following information submitted to you :

Municipal value of the house	₹ 2,00,000
Fair rent	₹ 22,000p.m.
Standard rent	₹ 20,000p.m.
Municipal taxes paid	₹ 30,000
Interest on money borrowed for purchase of house property which was acquired in 2005	₹ 1,80,000

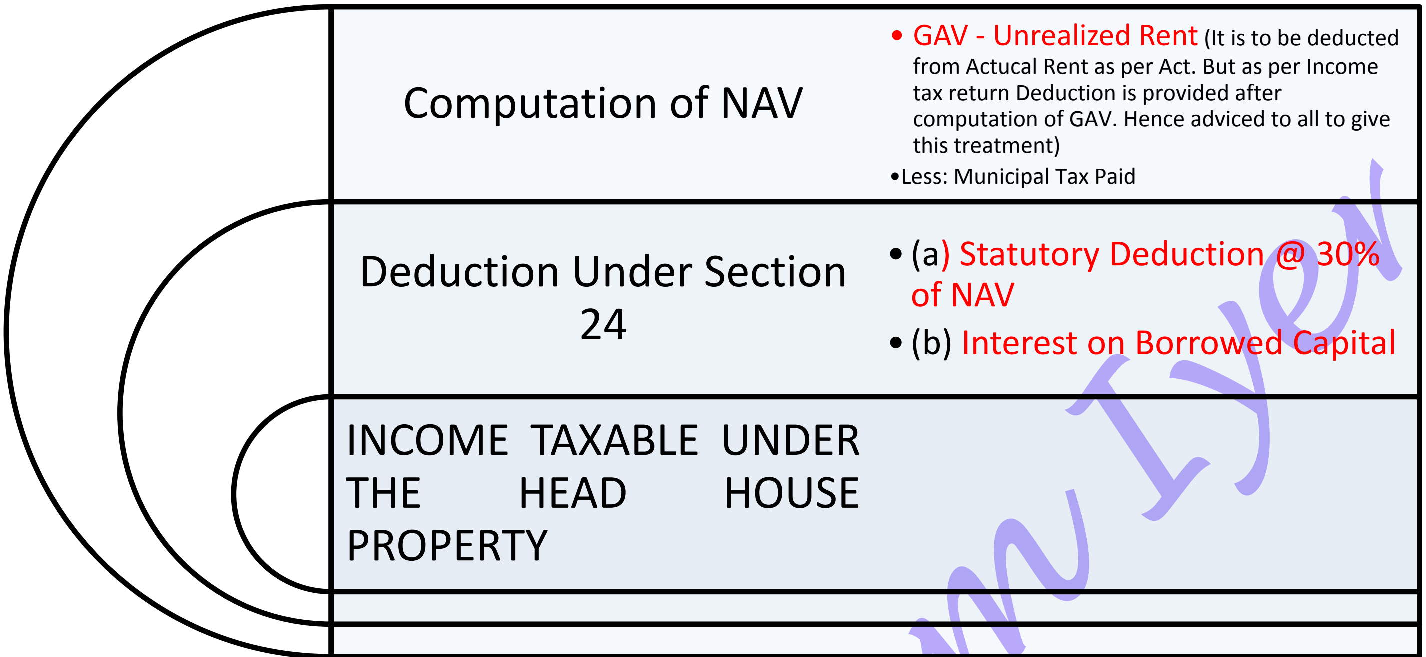
Illustration 11

Three brothers Salman, Shasharukh and Amir having equal share are co-owners of a house property consisting of six identical the property was constructed on 31.5.1993. Each of them occupies one unit for their residence and the other three units are let out at a rent of ₹ 5,000 per month per unit. The municipal value of the house property is ₹ 3,00,000 and the Municipal Taxes are 40% of such Municipal Value, which were paid during the year. The other expenses were as follows:

Repairs	₹ 20,000
Collection charges	₹ 5,000
Insurance Premium (paid)	₹ 11,000
Interest payable on loan taken for construction of house	₹ 1,20,000

One of the let out units remained vacant for three months during the year. Salman could not occupy his unit for six months as he was transferred to Mumbai. He does not own any other house. The other income of Salman, Shasharukh and Amir are ₹ 50,000; ₹ 60,000; and ₹ 70,000 respectively. Compute the income under the head "Income from House Property" and the total income of three brothers for assessment year 2013-14.

COMPUTATION OF INCOME UNDER THE HEAD HOUSE PROPERTY:



SOME SUMS ON COMPUTING INCOME UNDER THE HEAD HOUSE PROPERTY

Illustration 12

Kailash has a house which has two identical units. One of the units is self-occupied throughout the previous year and the other unit is let out throughout the previous year on a rent of 5,000 p.m. Municipal taxes for the complete house amounting to 6,000 have been paid during the previous year. The construction of the property was completed on 1.1.1993. Determine the income from house property for assessment year 2013-14.
If the self-occupied portion was let out for three months then what will be the income from house property?

Illustration 13

Sangeeta is a Sales-tax Officer at Nagpur. She owns two residential houses. The first in Mumbai and was constructed on 31.12.1991. This has been let out on a rent of 3,000 p.m. to a company for its office. The second house is in Nagpur which was constructed on 01.03.2012 and has been occupied for her own residence since then. She took a loan of ₹ 90,000 on 01.08.2010 @ 8% p.a. interest for the purpose of construction of this house. The entire loan is still outstanding.
Other the relevant particulars in respect of these houses are given below:

	1^{st} House	2nd House
Municipal valuation	24,000	18,000
Municipal tax	10% of Municipal value	8% of municipal value
Expenses on repairs	2,000	6,000
Fire insurance premium	200	-
Ground rent	175	130
Land revenue	1,000	650
Interest on loan	-	7,200

The ground rent of Mumbai house and the municipal tax and land revenue of the Nagpur house are unpaid.

Sangeeta was transferred to Pune on 1.12.2012 where she resides in a house at a monthly rent of 4,000 and her house at Nagpur was let out on the same day on rent of 2,000 per month.
Compute the "Income from house property" in respect of Miss. Sangeeta for the assessment year 2013-14.

Illustration 14

Anshika has a house property situated in Nagpur which consists of two units. Unit I has 60% floor area, whereas Unit II has 40% floor area. Unit I was self occupied by Anshika for 8 months and w.e.f. 01.12.2012, it was let out for ₹u 10,000 p.m. Unit II was also meant for self occupied but it was also let out w.e.f. 01.10.2012 for ₹ 8,000 p.m. The other particulars of the house property are as under:

	₹
Municipal Taxes paid	40,000
Insurance Premium	4,000
Interest on money borrowed	20,000

Compute income from house property for the assessment year 2013-14

Illustration 15

Alia owns a house property in Nagpur which is let out for ₹ 10,000 p.m., the municipal value of which is ₹ 1,00,000 and municipal taxes were 25% of municipal valuation. Alia paid during the previous year municipal tax of 6 years which relate to past 5 years as well as current year. The other expenses of the property were as under:

	₹
Repairs	5,000
Insurance Premium	2,000
Interest for purchase of house	11,000
Ground rent due	2,000

Compute income of Alia from house property for the assessment year 2013-14

Illustration 16

Following are the particulars of house properties of Mr. Sahil for the previous year 2012-13. Compute his income from house properties:

	House I	House II
Construction started on	31.03.1991	10.02.1987
Construction completed on	31.03.1992	01.06.1991
Annual Rent Value	30,000	12,000
Municipal valuation	25,000	12,000
Municipal tax	2,500	1,200
Actual Repairs Expenses	2,000	2,000
Interest on money borrowed to renovate the building	1,200	---
Insurance premium	200	175
Ground rent	150	100
Vacancy Period	3 Months	---
Rent collection charges	1,000	600

Both the above houses were let out for residential purpose. Insurance premium of House I and Ground Rent of House II are still outstanding. Repair expenses of House I were paid by the tenants.

Illustration 17

Miss. Parineeti is the owner of three house properties in Nagpur, particulars in respect of which for the year ended on 31.03.2013 are as below:

	HOUSE I	HOUSE II	HOUSE III
Construction started on			
Construction completed on			
	₹	₹	₹
Actual Rent received	35,000	19,000	Self-occupied
Standard Rent	45,000	40,000	N.A.
Municipal Value	60,000	19,000	27,800
Municipal Taxes (paid by owner)	6,000	1,900	12,000
Cost of repairs (born by tenant)	1,000	7,000	---
Collection charges	1,500	1,300	---
Insurance Premium	1,000 (paid)	1,200 (Not paid)	2,600
Interest on loan taken for renovation of house	2,400	3,000	6,000
Unrealized rent allowed in the past, recovered during the year	2,000	---	---

Miss Parineeti resided in Bombay for three months during the previous year in connection with her business and all these months the house remained vacant. During the period of her stay in Nagpur she did not occupy any other house of her own. Compute Miss Parineeti's Income from House Property for the Assessment Year. 2013-14.

Illustration 18

Rupesh owns two identical house property in Delhi, both of which are self-occupied. From the particulars given below, suggest which house should be treated as self occupied.

	House I	House II
Standard Rent under Delhi Rent Control Act.	33,000	33,000
Municipal Valuation	30,000	30,000
Fair Rent	36,000	36,000
Municipal Tax (Paid)	3,000	1,000
Insurance Premium (Paid)	2,000	NIL

Construction of both the house was completed in September 2009. Rupesh had borrowed 75,000 @ 8% p.a. for construction of House II (Date of borrowed 01.06.2008) Date of repayment of loan 30.06.2012.

SOME HOUSE PROPERTY INCOME TREATMENT:		
1. Disputed Ownership	Taxable in hand of that person as decided by income tax department till judgment has been awarded.	Re, Keshardeo Chamaria (1937) 5 ITR 246 (Cal).
2. Investment in Property	Company has main object of investment in the properties, flats, shops, warehouse or any commercial property but due to recession certain flats were not sold & let out on license basis for temporary period.	Mangla Homes (P) Ltd v ITO (2010) 215 Taxation 511 (Bom.).
3. Rent from Hoarding on top of a Building	This Income is not Taxable under the Head House Property rather it is taxed as Income from Other Sources.	Mukherjee Estate Pvt. Ltd V CIT (2007) 244 ITR 1 (Cal).
4. Property under Leave & License Agreement.	If the assessee provides property to its employee under Leave & License Agreement, it will be taxed as House Property income not as business income.	Indumati V. Adya *V* Ninth ITO (1983) 4 ITD 349 (Bom.) &. Ocean Structures Pvt. Ltd. *V* ACIT (2008)171 Taxman 42 (Del.).
5. Property Income of A Club	Club is Governed by Doctrine of Mutuality hence it is not taxable under any head of income.	Chelmsford Club *V* CIT (2000) 243 ITR89 (SC.).
6. Foreign Property.	In case of resident it is fully taxable but in case of R-NOR & Non Resident it is taxable only if it is been received in India.	Arunachalam Chettair *V* CIT (1945) 13 ITR 183 (Mad.).

INCOME FORM HOUSE PROPERTY EARNED IN FOREIGN CURRENCY RULE 115

In this case the income is to be converted into Indian Currency using Telegraphic Transfer Buying Rate **(TT Buying Rate)** on specified date.

Specified Date = Last day of Previous Year.