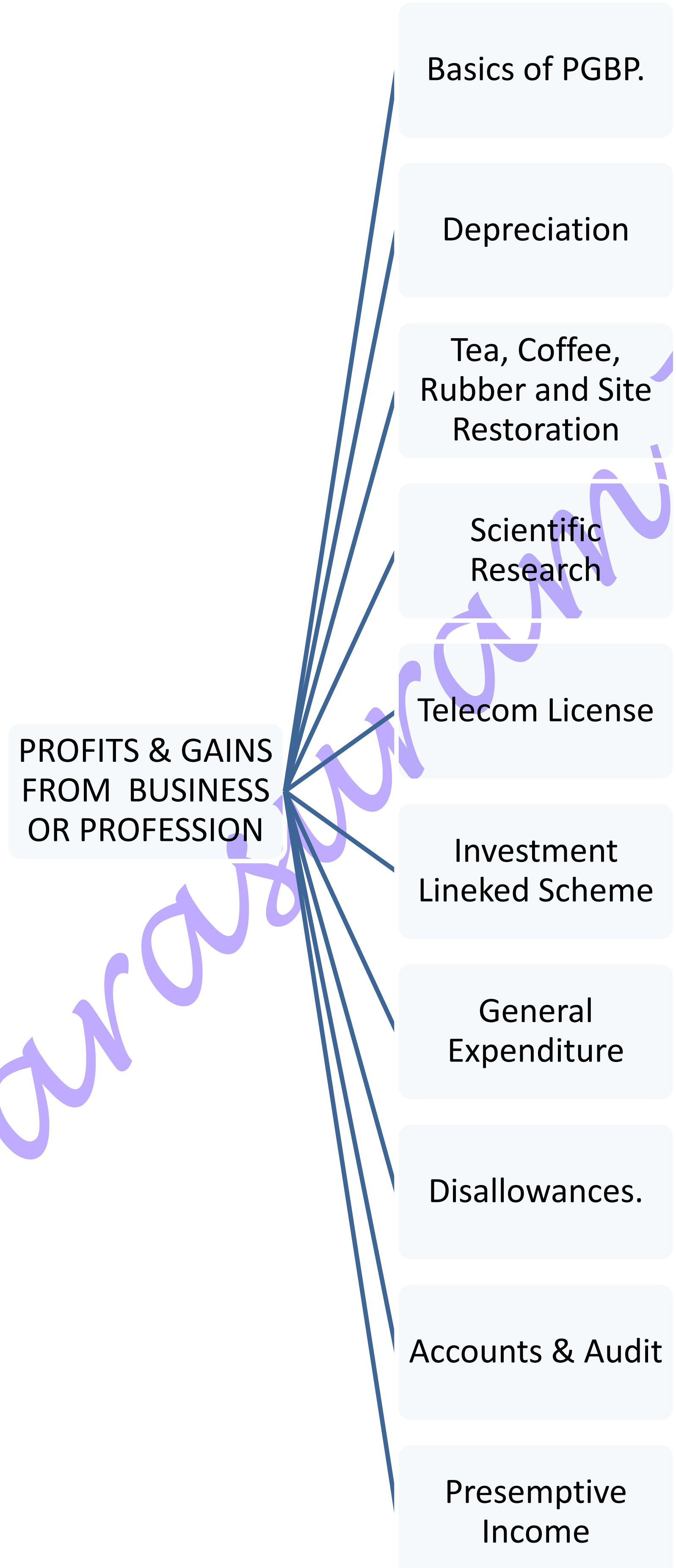

PROFITS & GAINS FROM BUSINESS OR PROFESSION
Basics of PGBP.
Depreciation
Tea, Coffee, Rubber and Site Restoration
Scientific Research
Telecom License
Investment Lineked Scheme
General Expenditure
Disallowances.
Accounts & Audit
Presemptive Income

BASIS OF CHARGE SECTION 28	Following income are chargeable under the head Profits & Gains from business or profession:
	• Any business carried out by the assessee during the relevant P.Y.
	• Any compensation or payment due to or received by:
	   o Any person in connection with termination/modification of agreement for managing the whole or substantially the whole of the affair of an Indian company or any other company.
	   o Agency business in India.
	   o Any person for or in connection with the vesting in govt., or in any corporation owned by or controlled by the Govt., under any law for the time being in force, of the management of any property or business.
	• Income from trade, profession or similar association from specific services performed for the members.
	• Export incentives:
	   o Profit on sale of import licenses granted under Import (Control) Order on account of export.
	   o Cash assistance, by whatever name called, received or receivable against export.
	   o Duty drawback of Customs & Central Excise duties.
	   o Any profit on the transfer of Duty Entitlement Passbook Scheme.
	   o Any profit on the transfer of Duty free Replenishment Certificate.
	• The value of Benefit or perquisite whether convertible into money or not, arising during the course of carrying business or profession.
	• Any interest, salary, bonus, commission or remuneration due to or received by a partner of a firm from the firm in which he is a partner.
	• Any sum whether received or receivable in cash or in kind under an agreement:
	   o Not carrying out the activity in relation to any business or
	   o Not sharing any know how, patents, copyright, trademark, license, franchise or any other business or commercial rights or information or technique likely to assist in the manufacture or processing of goods or provision for services.
	• Any sum received under Keyman Insurance Policy include sum allowed by way of bonus
	• Any sum received or receivable, in cash or kind, on account of any capital asset (other land or goodwill or financial instrument)being demolished, destroyed, discarded or transferred, if the whole expenditure on such capital asset has been allowed as a deduction under section 35AD.

Section 29: Income from Profits & Gains of Business or Profession, how to compute?	• Income shall be computed as per the provisions laid down in section 30 to 43D. • It also has to take into accounts provisions laid in 44 to 44D.

METHOD OF ACCOUNTING Section 145

- Cash
- Mercantile

Accounting Standard

- I. Relating to disclosure of Accounting Policies
- II. Disclosure of Prior Period and extraordinary items and changes in accounting policies

Section 30: Rent, Rates, Taxes, Repair and Insurance for the building.	The following expenses in respect of rent, rates and taxes will be allowed to assessee in respect of the premises in which he carries out business or profession: • Where the premises are occupied by the assessee: o As a Tenant: the rent paid, Amount paid for repair of the premises (if he undertakes to bear cost of repairs) o Otherwise as a tenant: the amount paid on current repairs of the premises. • Any sum paid (own or rented premises) on account of land revenue, local rates or municipal tax. • Any insurance premium paid (own or rented premises) in respect of insurance against risk of damage or destruction of the premises.
Section 31: Repair and Insurance of Machinery, Plant & Furniture	The following amount is allowed as deduction: a. Amount paid on account of current repairs b. Any insurance premium paid in respect of insurance against risk of damages or destruction of the plant and machinery or furniture.

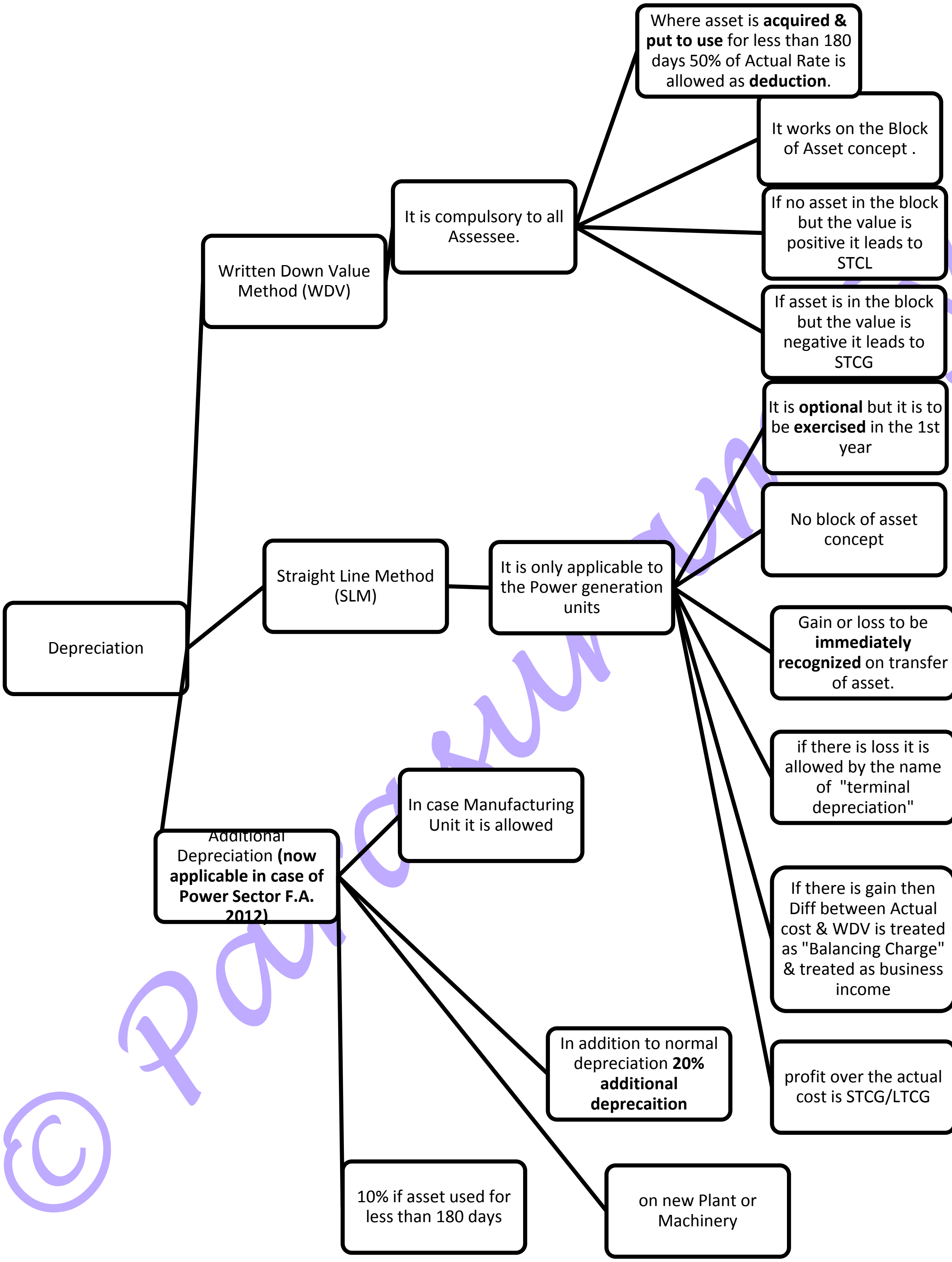
SECTION 32 DEPRECIATION

Meaning:

Diminution in the value of Asset due to normal wear and tear & due to obsolescence. There are different methods of depreciation but commonly used methods are:

a. Straight line method
b. Written down method

But the system under Income tax is different:


Depreciation
Written Down Value Method (WDV)
It is compulsory to all Assessee.
Where asset is **acquired & put to use** for less than 180 days 50% of Actual Rate is allowed as **deduction**.
It works on the Block of Asset concept .
If no asset in the block but the value is positive it leads to STCL
If asset is in the block but the value is negative it leads to STCG
Straight Line Method (SLM)
It is only applicable to the Power generation units
It is **optional** but it is to be **exercised** in the 1st year
No block of asset concept
Gain or loss to be **immediately recognized** on transfer of asset.
if there is loss it is allowed by the name of "terminal depreciation"
If there is gain then Diff between Actual cost & WDV is treated as "Balancing Charge" & treated as business income
profit over the actual cost is STCG/LTCG
Additional Depreciation **(now applicable in case of Power Sector F.A. 2012)**
In case Manufacturing Unit it is allowed
In addition to normal depreciation **20% additional deprecaition**
on new Plant or Machinery
10% if asset used for less than 180 days

BLOCK OF ASSETES

BLOCK	PARTICULAR	RATE
	A. BUILDING	
1	Building which are used mainly for residential purpose except hotels & boarding house	5%
2	Building other than those used mainly for the residential purpose and not covered by sub items (1) above & (3) below	10%
3	i. Building for installing machinery & plant forming part of water supply project or water treatment system and which is put to use for the purpose of business of providing infrastructure facilities under section 80IA(4)(i) ii. Purely temporary erection such as wooden structure	100%
	B. FURNITURE& FITTINGS	
1	Furniture & Fittings including electrical fittings	10%
	C. PLANT & MACHINERY	
1	Motor Car, other than those used in business of running them on hire. Machinery and plant other than those covered in 2 to 8 below. **And wind mills and any special designed devices which run on wind mills (installed on or after 01.04.2012)**	15%
2	i. Ocean- going ship including dredgers, tugs, barges, survey, launches and other similar ships used mainly for dredging purposes & fishing vessels with wooden hull. ii. Vessels ordinarily operating on inland water, not covered by the sub - items (C) below. iii. Vessels ordinarily operating on inland waters being speed boats.	20%
3	i. Motor buses, motor lorries and motor taxis used in business of running them on hire. ii. Moulds used in rubber & plastic goods factories. iii. Machinery and Plants used in semi conductor industries covering all integrated circuit (ICs) (excluding hybrid integrated circuits) ranging from small scale integration (LSI/VLSI) as also discrete semi-conductor device such as diodes, transistors, thyristors, triacs, etc other than those entitled to 80% rate of depreciation	30%
4	i. Aero planes – Aero engines ii. Commercial vehicle which is acquired by the assessee on or after 01.10.1998 but before 01.04.1999 and put to use for any period before 01.04.1999 for the purpose of business or profession iii. Specified life saving medical equipments	40%
5	i. Containers made of glass or plastic used as re-fills ii. New commercial vehicle which is acquired on or after 01.01.2009 but before 01.10.2009 and put to use for any period before 01.10.2009 for the purpose of business or profession	50%
6	i. Computers including computer software ii. Books, (other than books,(a) being annual publication or (b) books owned by the assesses carrying on business in running lending libraries) iii. Gas cylinder including value and regulators, Direct fir glass melting furnaces used in Glass manufacturing concerns, Plant used in field operations (above ground) distribution, and Plant used in field operations (below ground), but not including kerbside pumps including underground tanks & fittings used in field operations(distribution) by mineral oil	60%

	concerns.	
7	Roller used in Flour mills, Rolling Mills rolls used in Iron and steel industries, Rollers used in Sugar works, Energy saving devices and Renewal energy devices (wind mill or device running on wind mill installed on or before 31.03.2012).	80%
8	i. Machinery & plant, acquired and installed in a water supply projects or a water treatment systems and which is put to use for the purpose of business of providing infrastructure facility under section 80IA (4)(i) ii. Wooden parts used in artificial silk manufacturing machinery iii. Cinematography films – bulbs of studio lights iv. Match Factory – Wooden match frames v. Tubs, winding ropes, haulage ropes and sand stowing pipes, and Safety lamps used in Mines and quarries. vi. Salt works – Salt pan, reservoirs and condensers etc., made of earthy, sandy or clayey material or any other similar material. vii. Books owned by assessee carrying on a profession, being annual publications. viii. Books owned by assessee carrying on business in running lending libraries. ix. Air Pollution control equipment, Water pollution control equipment, Solid waste recycling & resource recovery systems.	100%
	D. INTINGABLE ASSETES	
1	Know how, patents, copyrights, trademarks, licenses, franchises, or any other business or commercial rights of similar nature	25%

Illustration 1

An electricity company which was charging depreciation on Straight line method and whose actual cost of the asset was ₹ 5,00,000 and written down value ₹ 4,50,000 sold the said asset during 2012-13 after 2 years. What will be the tax treatment if the asset is sold for:

a. ₹ 3,50,000
b. ₹ 4,80,000
c. ₹ 6,00,000

Illustration 2

Following are the asset held by Krishna as on 01.04.2012:

Asset	W.D.V. ₹	Rate of Depreciation
Building A	2,40,000	10%
Building B	3,60,000	10%
Building C	1,20,000	5%
Building D	5,20,000	10%
Machinery A	40,000	15%
Machinery B	1,00,000	15%
Machinery C	1,60,000	30%
Machinery D	80,000	15%
Car X	2,20,000	15%
Furniture & Fixture	2,40,000	10%
Furniture & Fixture used in meeting hall	3,00,000	10%

Classify the asset into different block of assets.

Illustration 3

Mahesh owns the following assets as on 01.04.2012:

Asset	Rate of Depreciation	W.D.V. as on 01.04.2012 (₹)
Building A	10%	70,000
Building B	10%	1,10,000
Building C	5%	2,20,000
Building D	10%	60,000
Machinery P	15%	30,000
Machinery Q	15%	40,000
Machinery R	30%	70,000
Car X	15%	1,50,000

The following assets are acquired during the previous year 2012-13:

Asset	Rate of Depreciation	W.D.V. as on 01.04.2012 (₹)
Car Y	15%	2,50,000
Machinery S	15%	20,000
Machinery T	30%	60,000
Patents	25%	80,000
Know – how	25%	60,000

The following assets have been sold during the previous year 2012-13.

Asset	W.D.V. as on 01.04.2012 (₹)
Building B	1,20,000
Machinery P	10,000

Calculate the written down value for calculating depreciation of various blocks of assets.

Illustration 4

Written down value of 4 machines at the beginning of the previous year 2012-13, forming part of block of assets carrying 15% rate of depreciation was ₹ 5,00,000. The following 4 machine of the same block were bought:

Machines	Date of Purchase	Date when put to use	Cost (₹)
P	05.01.2012	14.01.2013	50,000
Q	05.04.2012	15.05.2012	1,00,000
R	15.05.2012	31.01.2013	2,00,000
S	15.11.2012	27.03.2013	1,50,000

Four machines of this block (other than those were acquired and put to use for less than 180 days) were sold for ₹ 4,00,000.

a. Calculate the depreciation for the assessment year 2013-14.
b. What will be the answer if four machines were sold for ₹ 7,00,000 instead of ₹ 4,00,000?

Illustration 5

Written down value of the block having 2 machines i.e. X & Y as on 01.04.2012 was ₹ 6,00,000. Machine Z was acquired & put to use on 05.11.2012 for ₹3,00,000. Machine Z was sold on 15.01.2013 for ₹ 4,00,000. (Rate 15%)

a. Compute the depreciation allowable for the assessment year 2013-014.
b. What will be the amount of depreciation allowed, if the Machine X was sold instead of Z.
c. What will be the amount of depreciation allowed, if the Machine X & Y was sold instead of Z.

Illustration 6

Written down value of the block of asset as on 01.04.2012 was ₹ 8,00,000. An asset of the same block was acquired during the year for ₹ 3,00,000. Therefore, all the assets of the block are sold for ₹ 12,00,000. Compute the depreciation for the assessment year 2013-14 and also indicate if there is any short term capital gain/loss. What will be your answer if the sale consideration is ₹ 9,00,000?

Illustration 7

X owns the following machinery as on 01.04.2012:

Machinery	WDV as on 01.04.2012 ₹	Rate of depreciation %
Machinery A	70,000	15
Machinery B	1,64,000	15
Machinery C	84,000	15

He acquires a new machinery i.e. Machinery D for ₹ 60,000 on 02.11.2011.

Machinery B and Machinery C are sold on 15.03.2013 for consideration of ₹ 1,80,000 and ₹ 40,000 respectively. Compute the amount of depreciation for the assessment year 2013-14 and indicate if there is any short term capital gain/ loss.

Illustration 8

A sole proprietary concern, whose written down value of the block of asset as on 01.04.2012 carrying 15% rate of depreciation was ₹ 5,00,000, purchased another asset of the same block on 01.04.2012 for ₹ 2,00,000. The said concern was succeeded by a company on 01.09.2012. after the succession, the company purchased another asset of the same block on 01.01.2013 for ₹ 1,60,000. Compute the depreciation available to the proprietary concern & the company for the assessment year 2013-14.

Illustration 9

An existing industrial undertaking has acquired the following assets during the previous year 2012-13.

Asset	Date of acquisition	Date when put to use	Cost of acquisition ₹
Factory Building	04.04.2012	01.09.2012	50,00,000
Plant & Machinery			
Air pollution control equipment	04.05.2012	01.09.2012	4,00,000
Machinery A	05.05.2012	01.09.2012	2,00,000

Machinery B	07.06.2012	01.09.2012	5,00,000
Machinery C	30.08.2012	01.09.2012	10,00,000
Machinery D	01.09.2012	31.10.2012	4,00,000
Machinery E	01.01.2013	28.02.2013	3,00,000
Machinery F (second hand)	11.01.2013	13.01.2013	2,00,000
Motor Car	01.02.2013	01.02.2013	5,00,000
Air –Condition (installed in office)	01.02.2013	02.02.2013	1,00,000

Compute the depreciation allowable for the assessment year 2013-14 and the written down value as on 01.04.2013 assuming the WDV of the block of factory building and plant and machinery carrying depreciation @ 15% was ₹ 10,00,000 and ₹ 6,00,000 respectively.

Illustration 10

Minto Ltd. has started a new business of manufacturing paints on 01.04.2012. The company has purchased the following assets during the financial year 2012-13:

Assets	Actual cost of Acquisition ₹	Date of Purchase	Rate of Depreciation	Date on which the asset is put to use
Furniture	2,00,000	10.04.2012	10%	10.04.2012
Air-conditioner installed in office	1,00,000	16.06.2012	15%	18.06.2012
Car	8,00,000	12.07.2012	15%	12.07.2012
Plant X	50,00,000	11.04.2012	15%	28.04.2012
Plant Y	20,00,000	15.09.2012	15%	16.11.2012
Plant Z	80,000	01.08.2012	100%	15.09.2012
Computer for office	1,00,000	01.07.2012	60%	01.07.2012
Computer for factory	1,50,000	02.07.2012	60%	04.07.2012

Compute the amount of normal and additional depreciation for the assessment year 2013-14.

Section 33AB: Tea Development Account/ Coffee Development Account/ Rubber Development Account	The deduction shall be allowed if the following condition are satisfied: • The assessee is engaged in the business of growing & manufacturing tea or coffee or rubber in India. • The assessee has, within 6 month from the end of the P.Y. or before the due date of furnishing ROI whichever is earlier: o Deposit with National Bank for Agriculture & Rural Development (NABARD) any amount in a special account maintained by the assessee with the bank in accordance with and for the purpose specified in a scheme approved in this behalf by the Tea Board or the Coffee Board or the Rubber Board. Or o Deposits any amount in the Deposit Account opened by the assessee in accordance with and for the purpose specified in a scheme framed by the Tea Board or the Coffee Board or the Rubber Board with the previous approval of C.G. • Assessee get's his accounts audited by CA & submit audit report in form 3AC.

QUANTUM OF DEDUCTION:

a. Amount deposited in the scheme
b. 40% of profit of such business computed under the head PGBP.

I. Profit of such business=

$$\frac{\text{Profit of business} \times \text{Total Turnover of business of growing \& manufacturing tea/coffee or rubber}}{\text{Total turnover of assesses business}}$$

Note:

It may me noted that **growing of Tea, Coffee or Rubber is an agricultural activity hence the provisions**. Since the agricultural income is income from tax the above profit has 2 profit portion.
i.e.

II. Profit from above business =

Profit from Agricultural Income + Profit from processing & distribution activity. (this is also known as composite profit)

Profit from above business = Profit From Such business – Deduction under section 33AB

Out of above profit we have to segregate Agricultural Income profit & Business of Tea/ Coffee/Rubbers profit by Appling the following Rule

RULES	AGRICULTURAL INCOME	BUSINESS INCOME
7A: Rubber	65%	35%
7B: Coffee in case of grown & cured by the seller in India	75%	25%
7B: Coffee in case of grown, cured, roasted & grounded with adding flavor like chikori or not by the seller in India	60%	40%
8: Tea	60%	40%

Withdrawal of deduction:

1. Amount withdrawn and utilized for any other purpose other than those mentioned in the scheme will be treated as income of the year in which such income is miss utilized.
2. Where the asset so purchased is transferred before the completion of 8 year from the end of the year in which the deduction is so allowed.
   This restriction of 8 year is not applicable in the following cases:
   a. In case of amalgamation were all assets & liability forms part of resulting company
   b. Partnership is converted into a company
   c. Where government acquires the property under the scheme of compulsory acquisition.

Illustration 11

Rio Ltd. is engaged in the business of growing and manufacturing tea in India. For the previous year ending on 31.03.2012 its composite business profit before allowing deduction under setion 33AB are ₹ 60,00,000. On 01.09.2012 it deposited a sum of ₹ 11,00,000 in the Tea Development Account. During the previous year 2010-11 Rio Ltd. had incurred a business loss of ₹ 14,00,000 which has been carried forward. On 25.01.2013, it withdrew ₹ 10 lakh which is utilized under:

₹ 6,00,000 for purchase of non-depreciation asset as per the scheme specified.

₹ 3,00,000 for purpose other than specified in the scheme.

₹ 1,00,000 Was spent for the purpose of scheme on 05.04.2013.

a. Compute the business income of Rio Ltd. for assessment year 2012-13.
b. What are the tax consequences of money misutilised/ not utilized?
c. What will be the consequences if the asset which was purchased for ₹ 6,00,000 is sold for ₹ 8,00,000 in April 2013?

Section 33ABA: Site Restoration Fund	The deduction shall be allowed if the following condition are satisfied:
	• The assessee is engaged in the business of prospecting for or extraction or production of petroleum or natural gas or both in India in relation to which the C.G. has entered into an agreement with such assessee for such business.
	• The assessee has, before end of the P.Y.:
	  o Deposit with State Bank of India (SBI) any amount in a special account maintained by the assessee with the bank in accordance with and for the purpose specified in a scheme approved in this behalf by the Ministry of Petroleum and Natural Gas of India. Or
	  o Deposits any amount in the Site Restoration Account opened by the assessee in accordance with and for the purpose specified in a scheme framed by the aforesaid Ministry. This scheme is known as Deposit Scheme.
	• Assessee get's his accounts audited by CA & submit audit report in form 3AD.
	<u>QUANTUM OFDEDUCTION:</u>
	a. Amount deposited in the scheme
	b. 20% of profit of such business computed under the head PGBP.
	Withdrawal of deduction:
	1. Amount withdrawn and utilized for any other purpose other than those mentioned in the scheme will be treated as income of the year in which such income is miss utilized.
	2. Where the asset so purchased is transferred before the completion of 8 year from the end of the year in which the deduction is so allowed. This restriction of 8 year is not applicable in the following cases:
	  a. In case of amalgamation were all assets & liability forms part of resulting company
	  b. Partnership is converted into a company
	  c. Where government acquires the property under the scheme of compulsory acquisition.

Section 35: EXPENDITURE ON SCIENTIFIC RESEARCH

EXPENDITURE ON SCIENTIFIC RESEARCH

Section 35(1)(ii) & (iia): Payment to certain Out Side Association/ Institution for Scientific Research:	Section 35(1)(iii): Payment to certain Institution for research in Social Science or Statistical Research:	Section 35(1)(iia): Payment made to a company to use for scientific research:	Section 35(2AA) : Weighted deduction for contribution to a National Laboratory or University or IIT	Section 35(2AB) : Weighted deduction on In House research & development to a company assessee in certain cases
• Deduction = **175% of Amount Paid whether related to business or not** • Deduction Allowed if payment is to the following agencies • Research Association having object of Scientific Research. • A university, College or other Institution to be used for Scientific Research.	• Deduction = **125% of Amount Paid whether related to business or not** • Deduction Allowed if payment is to the following agencies • Research Association having object of Social Science or Stastical Research. • A university, College or other Institution to be used for Social Science or Statistical Research..	• Deduction = **125% of Amount** • The benefit is allowed to assessee if the company satisfies the following condition: • it is registered in INDIA • Main object of Research & Development • It is, for the purpose of this clause, for the time being approved by the prescribed authority in the prescribed manner • it fulfill all other condition prescribed time to time.	• Deduction = **200% of Amount Paid** • This deduction is allowed only when the assessee pays the sum with specific direction to use the amount in scientific research program approved by specified authority. OTHER WISE IT WILL BE CONSIDERED UNDER SECTION 35(1)(ii)	• Deduction = **200% of the expenditure shall be allowed when** & **is now extended upto 31.3.2017** • it is engaged in any business of Manufacturing or business of production of any article **Other than** those specified in the list of the Eleventh Schedule of the Income Tax & • Which has incurred revenue & capital expenditure (except land & building or financial instrument or Intangible assets) on In- House research & development facility approved by the prescribed authority

NOTE:

In case of Cost of acquisition of the Building (Excluding cost of Land) 100% of such expenditure will be allowed as deduction instead of specified percentage but it is not applicable in case of 35(2AB) i.e. In house Research but 100% cost of building is allowed under section 35(2).

Sale of an Asset used for Scientific Research:

- Sold without using for other purpose Section 41(3):
  Normally gain on transfer of Capital asset will be taxed under the head Capital gain but if the asset is user for Scientific Research & it is sold off without being used for any other purpose then:
  - The net sale price of the asset or
  - The cost of the asset, which was earlier allowed as deduction under section 35, w.e. is less

  Shall be treated as business income of the PY in which the asset is sold. Any excess of Sale price over the original cost shall be taxed as capital gain.
- Sold after having been used for business purpose:
  In this case the actual cost shall be taken as **NIL** in the relevant block of asset later on when the same is sold then the sales consideration will be deducted from the said block of asset.

UNABSORBED CAPITAL EXPENDITURE:

- Like depreciation the deduction of such Capital Expenditure shall be allowed to the extent of the profit from the business. It cannot lead to business loss.
- This Capital Expenditure above the profit is known as Unabsorbed Capital Expenditure on Scientific Research.
- It shall be subject to the same provision of Section 72(2) {relating to business loss} & Section 72(3) {relating to Speculation loss}

Illustration 12

Hitesh purchased an asset for scientific research for ₹ 15,00,000 in the previous year 2005-06. During the previous year 2012-13, the said asset ceased to be used for scientific research.
The following information is also submitted to you:

	₹
Profit from business before depreciation	5,00,000
WDV of block of assets 15% as on 01.04.2012	10,00,000

The scientific research asset if used for business shall be eligible for depreciation @ 15%.

Compute the total income if the scientific research asset is sold for ₹ 27,00,000 assuming:

a. It is sold without using for business
b. It is sold after using for business.

Illustration 13

Business Income of SRK Ltd. before allowing expenditure on scientific research for the previous year 2012-13 is ₹ 2,50,000. The company has incurred the following expenditure on scientific research during the previous year 2012-13.

	₹
Revenue expenditure on Scientific Research	2,60,000
Capital expenditure on Scientific Research	5,00,000

Compute the deduction available on account of scientific research assuming the company does not have any other income.

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Illustration 14

Sunny & Booby Associates a partnership firm, commenced production on 01.12.2012. The firm has made the following expenditure on scientific research upto the year ending on 31.03.2013:

a. On 13.12.2012, the firm paid ₹ 90,000 to the Agricultural Research Institute, New Delhi, an approved and notified scientific research institution under section 35(1)(ii), for the purpose of carrying out scientific research in natural science.

b. On 21.12.2012, the firm paid ₹ 60,000 to the Indian Institute of Management, Ahmedabad, an approved and notified institute under section 35(1)(iii), for the purpose of carrying out research in social or statistical science.

c. On 10.01.2013, the firm paid ₹ 40,000 to an approved National Laboratory for carrying out programmes on scientific research.

d. On 23.12.2012, the firm purchased a plot of land for ₹ 2,00,000. Later on, a building (laboratory) was constructed (cost of construction – 1,70,000: date of completion of construction – 01.03.2013) to start the in-house research.

e. Before the commencement of the production, the firm had made the following revenue expenditure for its research laboratory:

   i. Expenditure on salary and perquisite to research personal and research material during the 12 months ending on 30.11.2009- ₹ 20,000.

   ii. Expenditure on salary of research personal from 01.12.2009 to 30.11.2012 - ₹ 61,000 (out of which the amount certified by the prescribed authority is ₹ 42,000).

   iii. Expenditure on providing rent free flats and club facility to research personal from 01.12.2009 to 30.11.2013 – ₹ 8,000

   iv. Expenditure on research material from 01.12.2009 to 30.11.2012 - ₹ 46,800 (out of which the amount certified by the prescribed authority is ₹ 34,800).

   v. Capital Expenditure on scientific research (not certified by the prescribed authority):-

	Expenditure incurred upto 30.11.2009 ₹	Expenditure incurred between 01.12.2009 and 30.11.2012 ₹
Purchase of land for growing herbals for research	50,000	60,000
Purchase of equipments for research	30,000	40,000
Expenditure of capital nature for cultivation of herbals	2,000	4,600

Determine the amount of deduction available to the firm under section 35(1) for the assessment year 2013-14, if the scientific research is (a) related to or (b) unrelated to the business of the firm.

Section 35ABB: Expenditure for obtaining license to operate telecommunication services
IMPORTANT CONDITIONS:. • Capital expenditure incurred by the assessee for acquiring any right to operate telecommunication service either before the commencement of the business to operate telecommunication service or thereafter any time during the PY. • And for which the payment has been actually made to obtain the license • **Deduction will be allowed as <u>equal installment</u> over a life of the operating license.** **CONDITIONS TO BE SATISFIED TO CLAIM DEDUCTION:** • If the fee is paid for acquiring any right to operate telecommunication service before the commencement of such business, the deduction shall be allowed for the P.Y. beginning with the P>Y in which such business commenced. • If the fee is paid for acquiring such rights after the commencement of such business the deduction shall be allowed for the previous year beginning with the P.Y. in which the license fees is actually paid.

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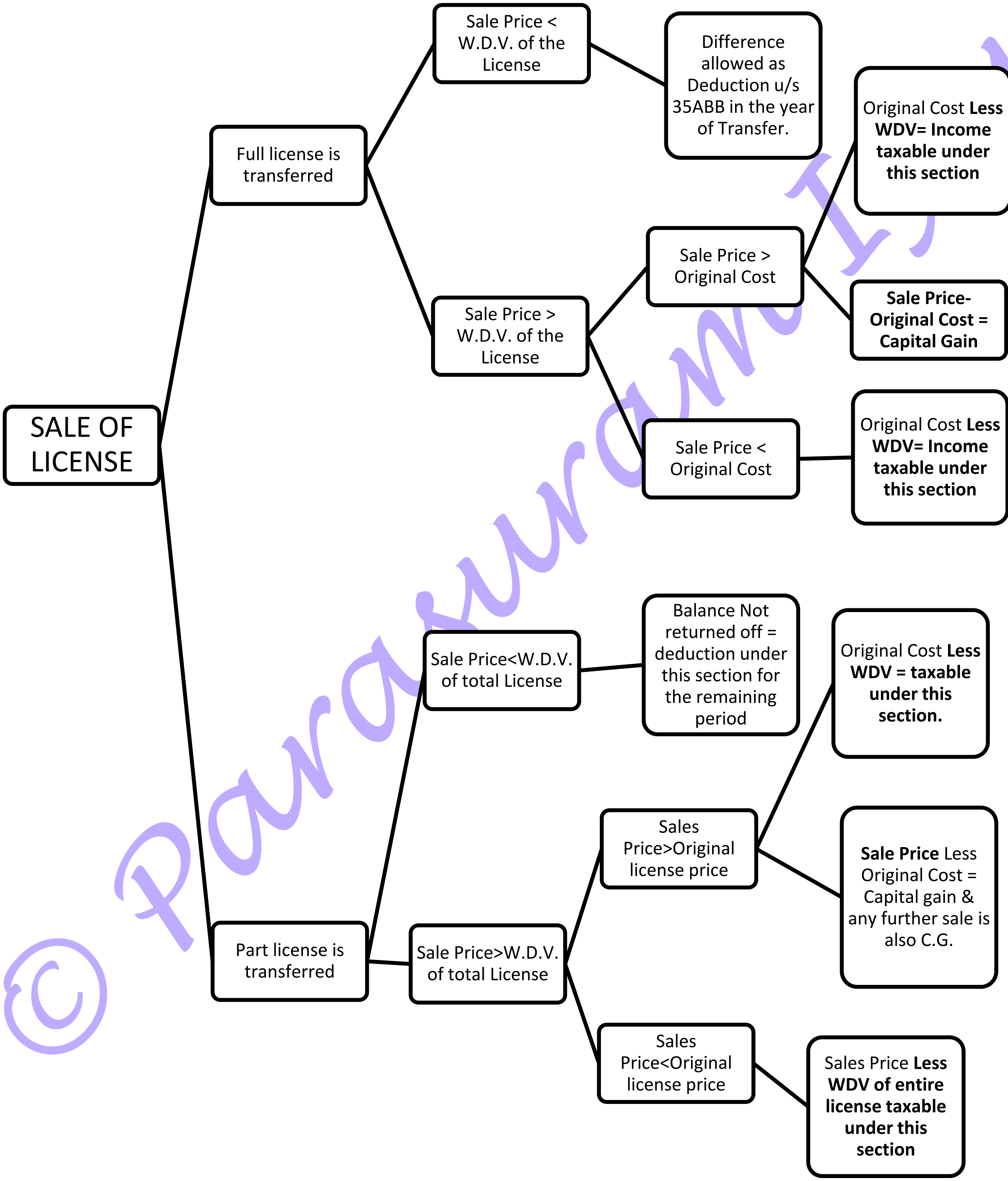

Illustration 15

AK Ltd. obtained a license to operate telecommunication service from department of telecommunication on 01.07.2012 for a period of 11 years i.e. till 30.06.2023 for a sum of ₹ 13,20,000. Calculate the amount of deduction available to the company under section 35ABB for the various previous years assuming:-

a. The payment of the entire license fee is made on the date of acquisition of the license.
b. ₹ 4,00,000 was paid on the date of acquisition, ₹ 2,60,000 was paid on 15.10.2012 and balance ₹ 6,60,000 will be paid in two equal installment of ₹ 3,30,000 each during the previous year 2013-14 and 2014-15.

Illustration 16

How would you treat the following:
License acquired for ₹ 24,00,000 on 01.04.2010 for 12 years
WDV as on 01.04.2012 ₹ 20,00,000.
Part license sold for ₹ 12,00,000.

Illustration 17

A license for operating telecommunication service was acquired on 01.04.2012 by SSK ltd. for ₹ 18,00,000. The license was to remain in force for 12 year and payment of entire ₹ 18,00,000 was made in the previous year 2012-13. The assessee sold the entire license on 17.12.2014 for:

a. ₹ 12,00,000
b. ₹ 17,80,000
c. ₹ 20,00,000

How will the above transaction of sale be treated under Income tax?

Section 35AC: Expenditure on eligible projects or schemes	Assessee incurs expenditure by way of payment to: a. Public Sector Company b. Local Authority c. An Association or Institution Approved by National Committee for carrying out eligible projects or Scheme for promotion **Social & Economic welfare** of or uplift of the public as the C.G. may specify. Deduction will be allowed if the certificate is furnished in **Form 58A.** In Case of Company expenditure can also be claimed as: a. Expenditure by way of payment to above institution for specified purpose & obtaining **Form 58A**. b. By way of direct expenditure on specified purpose and obtaining **form 58B** certified by C.A.

Section 35AD: Deduction in respect of expenditure on specified business (Investment link deduction)

NATURE OF BUSINESS:

1. * Setting up & operating cold chain facility.
2. * Setting up & operating a warehouse facility for storage of agricultural produce.
3. Laying & operating a cross country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being integral part of such network.
4. The business of building and operating anywhere in India, a hotel of 2 star or above category, as classified by the C.G. **It is also allowed to OWN the hotel & transfer the OPERATION. (FA 2012)**
5. * Building and operating anywhere in India, a hospital of at least 100 beds.
6. Developing and building a housing project under a new scheme for slum redevelopment or rehabilitation framed by the C.G. or a S.G. as a case may be and notified by the Board in this behalf in

accordance with the guidelines as may be prescribed.

7. * Developing and building a housing project under a scheme for affordable housing frame by the C.G. & S.G., as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed.
8. * Production of fertilizer in India.
9. **Setting up and operating an inland container depots or a container freight station notified or approved under C.G.**
10. **Bee – keeping and production of honey and beeswax and**
11. **Setting up and operating a warehouse facilities for storage of Sugar (FA 2012)**

NATUR & AMOUNT OF DEDUCTION:

a. 100% deduction shall be allowed on account of expenditure of capital nature incurred wholly and exclusively for the purpose of the above mentioned specified business carried on by the assessee during the previous year in which such expenditure is incurred by him.
b. *** The following specified business commencing operation on or after 01.04.2012 shall be allowed a deduction of 150% of the capital expenditure (business numbers as mentioned above 1, 2, 5, 7, 8) {FA 2012}**
c. In case of fertilizer the deduction is not only allowed for production in a new plant but it is also allowed for a newly installed capacity in an existing plant for production of fertilizer.
d. Expenditure incurred wholly and exclusively for the purpose of the specified business prior to the commencement of operation is also to be allowed as deduction during the previous year in which he commences operations of his specified business, if:-
   i. The expenditure is incurred prior to the commencement of its operation and
   ii. The amount is capitalized in the books of account of the assessee on the date of commencement of its operation.
e. **Capital expenditure shall not include any expenditure incurred on the acquisition of any land or goodwill or financial instrument.**

IMPORTANT CONDIUTION TO BE SATISFIED:

1. Business is not set up by splitting or reconstruction of business already in existence.
2. It is not set up by the transfer of the specified business of machinery or plant previously used for any purpose.
3. Where the business is of laying and operating a cross country natural gas or crude or petroleum oil pipeline network it should satisfy the following condition also;
   a. It is owned by an Indian or by a consortium of such company or by an authority or a board or a corporation established or constructed under any central or state act.
   b. It has been approved by the National Petroleum and Natural Gas Regulatory Board.
   c. It has made such portion of this total pipeline capacity available for use on common carrier basis by any person other than the assessee or an associated person as prescribed by the Petroleum and Natural Gas Regulatory Board and
   d. Any other condition as may be prescribed.

Illustration 18

Axim ltd. constructed a building and started operating a hotel of 3 star category w.e.f. 01.04.2012. The company incurred the following expenditure in this connection.

1. Capital expenditure (including cost of land ₹ 50,00,000) incurred during December 2011 to March 2012 which were capitalized in the books of account 31.03.2012 ₹ 1,10,00,000
2. Capital expenditure incurred during previous year 2012-13 (it includes ₹ 20,00,000 paid for goodwill) ₹ 1,40,00,000
   a. Compute the deduction available under section 35AD in the assessment year 2013-14.
   b. What will be your answer if such building was constructed for operating a hospital of 100 beds for patents.

Section 35CCA: Expenditure by way of payment to association and institutions for rural development programmes	Assessee carrying on business or profession shall be allowed as expenditure incurred by way of payment of any sum to: a. To National Fund for Rural Development set up by the C.G. b. To the National Urban Poverty Eradication Fund set up and notified by the Central Government.
Section 35CCC: Weighted Deduction for expenditure incurred on agricultural extension	• Agricultural extension service plays a critical role in enhancing the productivity in the agricultural sector. • In order to provide incentives to the business entities to provide better and effective agricultural service it has been allowed a weighted deduction of 150% of the expenditure incurred on agricultural extension project. • Eligible projects shall be timely notified. (FA 2012)
Section 35CCD: Weighted Deduction for expenditure incurred on skill development project.	• The National Manufacturing Policy (NMP) has been notified by the Development of Industrial Policy & Promotion (DIPP) vide Press Note dated 4th November, 2011. As per the notified NMP, the government will provide weighted standard deduction of 150% of the expenses (other than land or building) incurred on Public Private Partnership (PPP) project for skill development in the ITI's in manufacturing sector. This is to encourage private sector to set up their own institution in coordination with National Skill Development Corporation.' • In order to provide incentives to invest on skill development projects in manufacturing sector it has been allowed a weighted deduction of 150% (not being expenditure in the nature of cost of land or building) incurred on Skill development project. • Eligible projects shall be timely notified. (FA 2012)

Section 35D/Rule 6AB: Amortization of certain preliminary expenditure	<u>**Eligible Assessee:**</u> a. Indian Company b. A person who is Indian resident (other than Indian Company). <u>**Deduction is available at the following instances:**</u> a. Expenditure incurred before commencement of Business b. Expenditure incurred after commencement of business in connection with the expansion of the existing under taking or in connection with setting up a new unit. <u>**Deduction is available on the following expenditure:**</u> a. Expenditure incurred in connection with: i. Preparation of a feasibility report. ii. Preparation of a project report. iii. Conducting market survey or any other survey necessary for the business of the assessee. iv. Engineering services relating to the business of the assessee. b. Legal charges for drafting any agreement between the assessee and any other person relating to setting up or conduct of the business of the assessee. c. In case of the company following expenditure are also allowed: i. Legal charges & printing of for drafting MOA & AOA ii. Fees for registering the company iii. In case of issue, for public subscription, of share in or debenture of the company, being underwriter commission, brokerage & charges for drafting typing, printing & advertisement of the prospectus. d. Such other item of expenditure (not being expenditure eligible for any allowance or deduction under any other provisions of this Act.) <u>**Amount of deduction:**</u> The aggregate of the expenditure **shall not exceed 5%** of the cost of the project in case of all assessee **other than company.** In case of the **Company it shall not exceed:** i. Cost of the Project or ii. The capital expenditure in the business of the company Whichever is more beneficial to the company. Period of deduction: In **5 Year** in 5 equal installments.

Illustration 19

Compute the deduction allowable under section 35D on the basis of the following information submitted to you.
Preliminary expenses incurred ₹ 2,40,000, Cost of project ₹ 40,00,000
And what will be your answer if the above preliminary express have been incurred by PQM Ltd & the capital employed is ₹ 46,00,000.

Section 35DD: Amortization in case of Amalgamation or Demerger.	The assessee incurs expenditure for Amalgamation or Demerger then he will be allowed **1/5th of such expenditure in the 5 consecutive year**s instead of lump sum in the single year.
Section 35DDA: Amortization of expenditure in case of Voluntary retirement scheme.	The assessee incurs expenditure for Voluntary Retirement Scheme then he will be allowed **1/5th of such expenditure in the 5 consecutive year**s instead of lump sum in the single year.

Section 35E/Rule 6AB: Deduction for expenditure on prospecting etc., for certain mineral	Person who are allowed the deduction are: a. Indian Company b. Person (other than Company) who is resident in India. **<u>Specified Expenditure:</u>** Any expenditure incurred any time during the P.Y. of Commercial Production & one or more of the **4 years** Immediately preceding the relevant P.Y. wholly & exclusively on the operations relating to prospecting for any mineral or group of mineral specified in Seventh Schedule or on development of mines or other mineral deposit of any such mineral or group of associated minerals. **<u>Exception to Specified Expenditure:</u>** a. Expenditure on Acquisition of the site of the source of any mineral or group of associated mineral referred to above or of any right in or over such site. b. Expenditure on the acquisition of the deposit of such mineral or group of associated mineral referred or any rights in or over such deposit. c. Expenditure of a capital nature in respect of any building, machinery, plant or furniture for which allowance by way of depreciation in admissible under section 32. **<u>Quantum of Deduction:</u>** a. An amount equal to 1/10th of the expenditure i.e. installment b. Such amount is sufficient to reduce to nil, the income (as computed before making this deduction) of that PY arising from the commercial extraction exploration of this mines or any other mines or natural deposit of mineral in respect of which the expenditure was incurred.
	<u>Section 36: Other deductions</u>
Section 36(1)(i): Insurance premium of stock	Insurance premium paid or incurred shall be allowed as deduction.
Section 36(1)(ia): Insurance premium of cattle	• Amount is paid by the federal milk society towards an insurance of the life of the cattle owned by a member of primary milk co-operative society. • Is allowed as deduction provided such primary society is engaged in supply milk raised by the member to such federal milk co-operative society.
Section 36(1)(ib): Insurance of health of the employees	• The paid by any mode other than cash shall be allowed as deduction. • The deduction is allowed under the scheme framed by i. the General Insurance Company ii. Any other insurance approved by IRDA approved by C.G.
Section 36(1)(ii): Bonus or commission to employees	• Any amount paid to the employee but not by way of profits or dividend. • It is allowed on actual payment basis. However it can be claimed on accrual basis on satisfying condition of section 43B.
Section 36(1)(iii): Interest on borrowed capital	• Any interest paid is allowed as deduction. • But when the capital is borrowed and the asset is yet to be put to use. Then in such case the interest for the period when the capital has been borrowed and the asset has been 1st time put to use shall be capitalized as Cost of Asset but not allowed as deduction as interest.
Section 36(1)(iiia): Discount on issue of zero coupon bonds to be allowed as deduction on pro rata basis.	**<u>Discount Means</u>**: Discount means the difference between the amount received or receivable at the time of issuing such bonds & the amount payable on maturity or redemption of such.

	Zero Coupon Bonds Means a bond: a. Issued by any infrastructure company or infrastructure capital fund or public sector company or scheduled bank on or after 01/06/2005 b. In respect of which no payment and benefit is received or receivable before maturity or redemption from infrastructure capital company or infrastructure capital fund or a public sector company or a scheduled bank. c. Which the C.G. may, by notification in Official Gazette, specify in this behalf. **Deduction:** Amount of Discount Period of Bond This deduction is allowed on pro rata basis over the life of such zero coupon bond.
Section 36(1)(iv): Employer's Contribution to a RPF or Approved superannuation fund	• The amount is allowed as deduction to the extent as may be prescribe for the purpose RPF or approved superannuation fund etc. as the case may be. • It should be dealt with the provisions of section 43B(before due date under section 139(1)).
Section 36(1)(iva): Employer's contribution towards a pension scheme	**Any sum paid by an assessee as an employer by way of contribution towards a pension scheme, as referred to in section 80CCD on account of an employees to the extent it does not exceeds 10% of the salary of the employee in the previous year shall be allowed as deduction.** **(FA 2011)**
Section 36(1)(v): Employer's contribution to an approved gratuity fund	It shall be allowed as deduction if the trust is Irrevocable & provisions of 43B are complied with (payment before 139(1)).
Section 36(1)(va): Sum received from employees towards certain welfare scheme if credited to their accounts before due date	• Certain sum were deducting from the salary of the employees towards certain welfare schemes like PF, ESI etc but were not crediting to the employees accounts even after long periods. • This section introduced to stop such malpractices. • Such deduction made from salary shall be added as income of the employer if the payment is not made before the due date specified under such scheme. • But then it shall be allowed as expenditure in the year of actual payment.
Section 36(1)(vi): Allowance in respect of dead or permanently useless animals	• The expenditure incurred on the purchase of animal otherwise than as stock in trade which are used for the purpose of business or profession is a capital expenditure. • No depreciation is allowed on such capital expenditure. • Such capital expenditure will be written off as a loss in the year in which the animal dies or become permanently useless for such business or profession.
Section 36(1)(vii): Bad Debts	The amount of any bad debt or part thereof, which has been written off as irrecoverable in the accounts during the previous year, shall be allowed as a deduction subject to the provision of section 36(2) which are as:- a. Such debt or a part thereof must have been taken into account in computing the income of the assessee of the P.Y. or of an earlier P.Y. b. It represents money lent in the ordinary course of business of banking

<table>
<tr>
<td></td>
<td>or money lending which is carried on by the assessee.
<u>Condition to all debt as bad debts:</u>
a. It must be a debt or part thereof
b. Such debt must be revenue in nature
c. Such debt must have taken into account in computing the income of the assessee or it represents money lent in the ordinary course of business of banking or money lending which is carried on by assessee.
d. Such debt must be incidental to the business or profession
e. Such debt must have been written off as irrecoverable in the accounts of the assessee for the previous year.</td>
</tr>
<tr>
<td>Section 36(1)(viia): Provision for bad and doubtful debts in respect of rural branches of scheduled bank or non-scheduled banks.</td>
<td>In respect of any provision for bad and doubtful debts made by:-
a. Scheduled bank (not being a foreign bank) or a co-operative bank (other than a primary agriculture & rural development bank) or a non schedule bank, a deduction shall be allowed:
i. Of an amount not exceeding 7.5% of the Total Income (computed before making deduction under this clause and Chapter VIA i.e. Section 80C to 80U)
ii. Of an amount not exceeding 10% of aggregate average advance made by the rural branches of such bank computed in the prescribed manner.
b. A bank incorporated by or under any foreign laws or public financial institution or a State Finance Corporation or State Investment Corporation, a deduction shall be allowed of an amount not exceeding 5% of Total Income (computed before making any decision under this clause & Chapter VIA)</td>
</tr>
<tr>
<td>Section 36(1)(viii): Special reserve credited and maintained by special entity</td>
<td>• Deduction under this section is allowed to a specified entity for an amount not exceeding 20% of the profit derived from eligible business computed under the head profits & gains of business or profession (before making any deduction under this clause) carried to special reserve account created and maintained by such specified entity.
• If the amount carried to reserve form time to time shall not exceeds 200% of the paid up capital & general reserves of the specified entity. If it exceeds then the amount so exceeds shall not be allowed as deduction.

<u>Specified/ Eligible entity means:</u>
<table>
<tr><th>SPECIFIED ENTITY</th><th>ELIGIBLE BUSINESS</th></tr>
<tr><td>A. i. a financial corporation specified under section 4A of the Companies Act, 1956
ii a Finance Corporation which is a public sector company
iii A banking company
iv a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural & rural development bank.</td><td>The business of providing long term finance for (a) industrial or agricultural development or (b) development of infrastructure facility in India or (c) development of housing in India.</td></tr>
<tr><td>B. A housing Finance Company</td><td>The business of providing long-term finance for the construction or</td></tr>
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Con. 9028518367
email: capkiyer@yahoo.com

		purchase of houses in India for residential purpose.
	c. Any other finance Corporation including a public company.	The business of providing long-term finance for development of infrastructure facility in India.
	Amount withdrawn from the reserve section 41(4A): it shall be treated as deemed profit chargeable to tax.	
Section 36(1)(ix): Expenditure on promoting family planning amongst the employees	• This deduction is only allowed to company assessee. • Any expenditure bona fide incurred by a company for the purpose of promoting family planning amongst its employees is allowed as deduction in the year in which it is incurred. • Where the expenditure is of capital in nature the same will be allowed in 5 installments i.e. $1/5^{th}$ every year.	

Illustration 20

For the previous year 2012-13, the business income of Lata Ltd. before allowing expenditure on family planning is ₹ 2,00,000. The company had incurred the following expenditure on family planning amongst its employees during the previous year 2012-13.

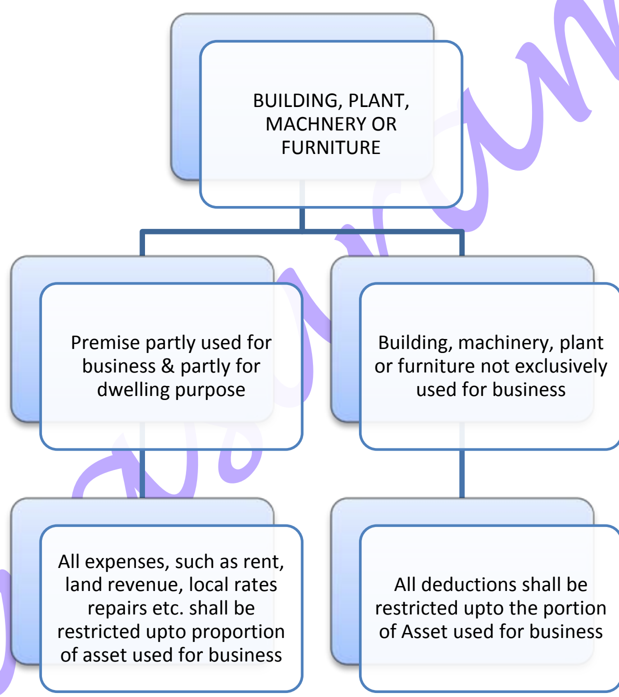
i. Revenue expenses on family planning ₹ 1,10,000.
ii. Capital expenditure on family planning ₹ 6,00,000.

Compute the deduction available for expenditure on family planning to the company assuming that the company has income from other sources amounting to ₹ 20,000.
And what will be the answer if the revenue expenditure on family planning is ₹ 2,15,000 instead of ₹ 1,10,000.

Section 36(1)(xv): Security Transaction Tax (STT) Paid to be allowed as deduction.	An amount equal to the STT paid by the assessee in respect of the taxable Security Transaction entered into in the course of his business during the previous year if such income is taxable under the head "PGBP".
Section 37(1): General Deduction	To claim general deduction following conditions must be satisfied. i. Such expenditure should not be covered under the specific section i.e. 30 to 36. ii. The expenditure should not be of capital in nature iii. The expenditure should have been incurred during the previous year. iv. The expenditure should not be of personal in nature. v. The expenditure should be wholly & exclusively for the business or profession purpose.
Expenditure not allowed as deduction Under Section 37(1)	Following expenditure shall not be allowed as deduction: i. Fees paid for Registration of Companies for bringing about changes in MOA or AOA is a capital expenditure. ii. Fees paid for Registrar of Companies for enhancement of the capital of a company is a Capital Expenditure. iii. Expenditure incurred by the assessee for getting vacant possession of land owned by it, is not revenue expenditure. iv. Bank guarantee commission for payment of taxes is capital expenditure. v. Payment for obtaining tenancy rights was in the nature of premium, though called contribution, is capital expenditure. vi. Penalty paid for violation or infringement of any law is not allowed. vii. Expenditure incurred by a company in connection with shifting of his registered office is not allowable.

	viii. Expenditure incurred in dismantling of building in order to construct hotel is not allowed as these are capital in nature. ix. Interest paid for non-payment, less payment, delayed payment, deferment of advance tax cannot be allowed as business expenditure nor is it in the nature of payment of other taxes like purchase tax expenditure. x. Sale tax is a tax on the sale or purchase of goods and not on profit, hence deduction is allowed. But taxes such as Income Tax, Surcharge, Wealth Tax etc. are not expenditure laid for the purpose but are paid out of profit earned, hence not deductible.
Section 37(2B): Advertisement to Political party	No deduction shall be allowed in respect of expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or like publisher by political parties.

SECTION 38: BUILDING, PLANT AND MACHINERY OR FURNITURE NOT EXCLUSIVELY USED FOR THE PURPOSE OF BUSINESS



Section 40: Amount not deductible	
Section 40(a): Incase of all Assessee	1. Any interest, royalty, fees for technical services or other sum chargeable under the Income Tax act which is payable a. Outside India b. In India to a non- resident (not a company) or to a foreign company on which tax has not been deducted or after deduction has not been paid during the previous year, or in the subsequent year before the expiry of the time prescribed under section 200(1) [i.e. before 30th April.] 2. Any interest, commission or brokerage, rent, royalty fees for professional services, fees for technical services, any amount payable to a resident contractor shall not be allowed as a deduction in the previous year in which the expenses are incurred, while computing the business Income chargeable under the head "Profits & Gains of business or profession", in respect of such expenses:- a. Tax has been deducted or b. After deduction during the previous year has not been paid after the due date specified under section 139(1). **If the payee takes the liability of payment of tax & while furnishing Return of Income then also assessee will get deduction & not be treated as assessee in default & he has to obtain certificate from CA that the pay has disclosed such income in ROI. (FA 2012)**
Section 40(b): Disallowance in case of Partnership Firm	In case of a partnership firm the : • Interest on capital or loan of the partner is allowed as deduction only when it is mentioned in Deed but it cannot exceeds 12%. • Salary, bonus or commission or any other remuneration to a working partner only when it is allowed in deed. Limits a. Maximum upto allowed in Partnership deed b. But it cannot exceed the following On the first ₹ 3 Lacs Profit — 90% of Book Profit or ₹ 1.5 Lacs whichever is more On Balance Profit — 60% of Book profit.
Section 40(ba): Disallowance in case of AOP/BOI	Any payment by way of interest, salary bonus or commission or remuneration by whatever name called made by a AOP or BOI to its member shall be disallowed.
Section 40A: Expenses or payment not deductible in certain circumstances	
Section 40A(2): Disallowance of excess expenditure if payment is made to a relative.	Where the assessee incurs any expenditure, in respect of which payment has been made or is to be made to certain specified person (i.e relatives or close associate of the assessee), and the Assessing Officer is of the opinion that such expenditure is excessive or unreasonable having regards to fair market value of goods or services or facilities for which the payment is made or to the legitimate needs of the business or profession of the assessee or the benefit derived or accruing to him there from. Therefore for amount to be disallowed under this section the following condition must be satisfied: 1. The payment is in respect of any expenditure. 2. The payment has been made or is to be made to a specified person in respect of such expenditure. 3. The payment for the expenditure is considered excessive or

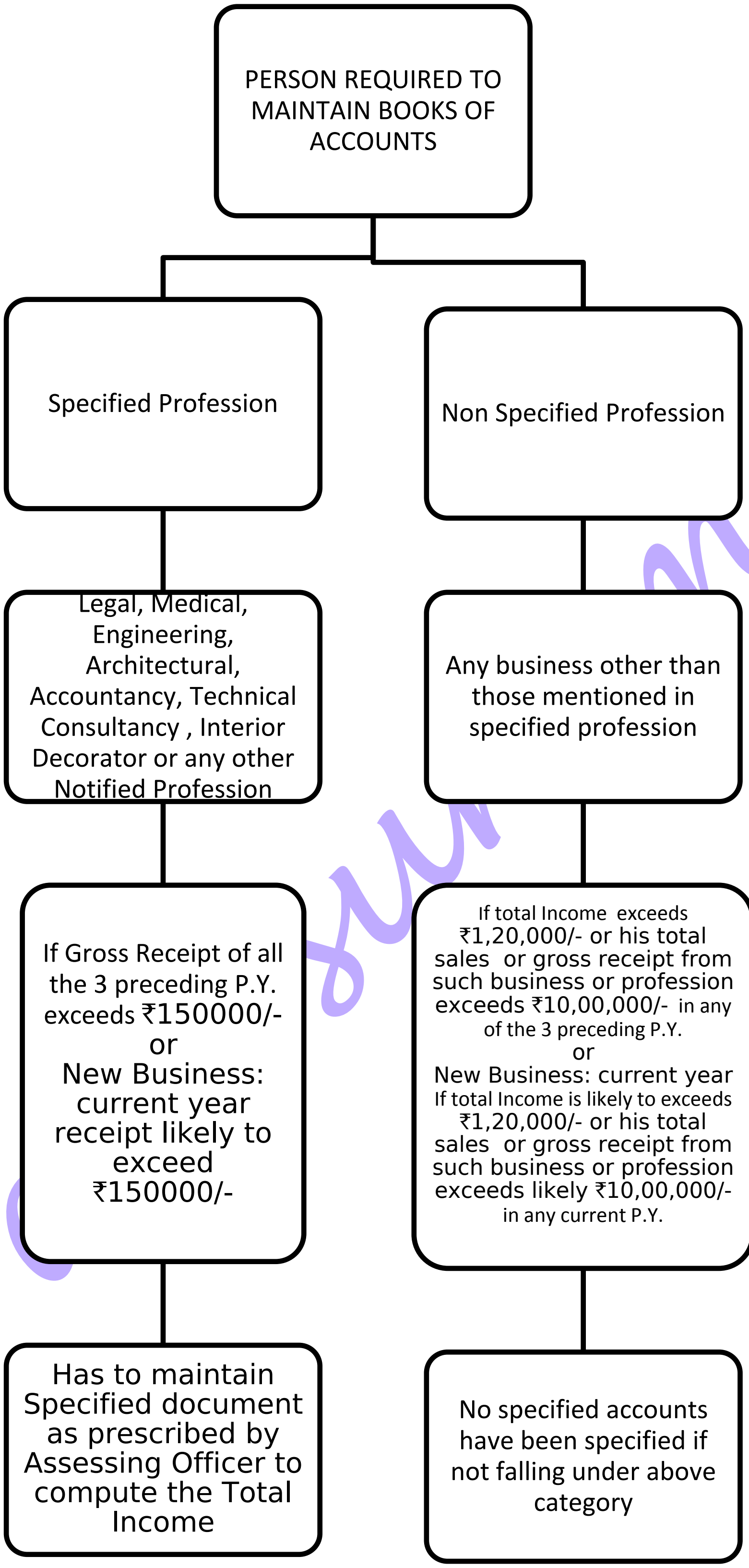
	unreasonable having regards to: a. The Fair Market Value of the goods, services or facilities or b. The legitimate business needs of the assessee's business or profession, or c. The benefit derived by or accruing to the assessee from the payment. **All such transaction shall be taken at ARMS LENGTH** **And also extended to the Company in which other Company is having Substantial Interest in it also included in scope of this section (FA2012)**
Section 40A(3): Disallowance of 100% of expenditure if payment is made by any mode than account payee cheque or draft.	When the assessee incurs any expenditure in respect of which a **payment or aggregate of payment made to a person in a day,** otherwise than by an account payee cheque drawn on a bank or account payee draft exceeds ₹ 20000/-, no deduction shall be allowed in respect of such expenditure. In case of plying, hiring or leasing goods carriage ,the limit shall be of ₹ 35000/- The above rule shall have the exceptions mentioned in Rule 6DD.
Rule 6DD: Exception	(*a*) where the payment is made to— (*i*) the Reserve Bank of India or any banking company as defined in clause (*c*) of section 5 of the Banking Regulation Act, 1949 (10 of 1949); (*ii*) the State Bank of India or any subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959); (*iii*) any co-operative bank or land mortgage bank; (*iv*) any primary agricultural credit society or any primary credit society as defined under section 56 of the Banking Regulation Act, 1949 (10 of 1949); (*v*) the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956); (*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. *Explanation.*—For the purposes of this clause and clause (*g*), the term "bank" means any bank, banking company or society referred to in sub-clauses (*i*) to (*iv*) of clause (*a*) and includes any bank [not being a banking company as defined in clause (*c*) of section 5 of the Banking Regulation Act, 1949 (10 of 1949)], whether incorporated or not, which is established outside India; (*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 agentwho 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. *Explanation.*—For the purposes of this clause, the expressions "authorised dealer" or "money changer" means a person authorised as an authorised dealer or a money changer to deal in foreign currency or foreign exchange under any law for the time being in force.]
Section 40A(7): Disallowance in respect of provision for gratuity	The deduction in respect of gratuity shall be allowed only when the following condition is satisfied: a. The amount of gratuity has actually become payable during the P.Y. to the employees (provided deduction has not been claimed under clause (b) below) b. When a provision has been made for payment of a sum by way of any contribution towards an approved gratuity fund.
Section 40A(9): Disallowance in respect of contribution to Non-statutory Fund.	No deduction shall be allowed in respect of the purpose not approved.
Section 41: Deemed profit Chargeable to tax	Expenditure either received by successor or the assessee him shall be taxable in the P.Y. in which it received in this head. Following are the deemed profit 1. Balancing Charge section 41(2) 2. Sale of capital asset used for scientific research section 41(3)

<table>
<tr><td></td><td>3. Recovery out of Bad Debts allowed as a deduction section 41(4)
4. Amount withdrawn from special reserve created & maintained by certain financial institution section 41(4A)
5. Deemed income in the hands of recipient in case of discontinued business or profession section 176(3) & (4).</td></tr>
<tr><th colspan="2">Section 43B: Certain deduction to be only on actual payment</th></tr>
<tr><td>1. Any sum payable by way of tax, duty, cess or fees by whatever name called, under any law for the time being in force.</td><td rowspan="6">Due amount should be paid on or before the due date of furnishing the return of income under section 139(1) in respect of the P.Y. in which the liability to pay such sum was incurred.

However incase (1) to (6) if the payment outstanding liability is made after the due date, deduction can been claimed in the year of payment.</td></tr>
<tr><td>2. Any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or any other fund of welfare of employees.</td></tr>
<tr><td>3. Any sum payable to an employee as bonus or commission for services rendered.</td></tr>
<tr><td>4. Any sum payable by the assessee as interest on any loan or borrowing from any public financial institution or State Financial Corporation or State Industrial Investment Corporation like IDBI, IFCI, UPSIDC, Delhi Financial Corporation, etc. in accordance with the terms and conditions of the agreement governing such loan or borrowing.</td></tr>
<tr><td>5. Any sum payable by the assessee as interest on any loan or advance from a schedule bank in accordance with the terms and condition of the agreement governing such loan.</td></tr>
<tr><td>6. Any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee</td></tr>
</table>

Section 44AA and Rule 6F: Maintenance of accounts by certain persons carrying on business or profession



Section 44AB and Rule 6G: Compulsory audit of accounts	**BASIC CONDITION:** • Every person carrying on the business if it's Total Sales, Turnover or Gross receipt as the case may be exceeds ₹ **1,00,00,000/-**& in case of profession as mentioned in section 44AA exceeds ₹ **25,00,000/-** then he has to get his books audited as per the provisions of this act. • Person specified in Section 44AE, 44BB, 44BBBif claims profits less than that provided thereon has to get his books audited before the specified date & person if not comply with 44AD shall also gets his books audited. • Accounts audited under any other law: Where the person is required to get his books audited under any other law it is sufficient compliance of this section if such person gets the accounts of such business or profession audited under such law before the specified due date & furnishes by date the report of the audit as required under such other law and a furnishes report in Form No. 3CA & 3CD) • Where the accounts are audited and /or report / certificate of an accountant are required under the provisions of the Income Tax Act under the following provisions of section 12A, 33AB, 33ABA, 35D, 35E,36(1)(xi), 80IA, 80IB, 80IC, 80ID, 80JJA, 80JJAA,& 142(2A) the audit has to be conducted & certificate has to be obtained from a Chartered Accountant. But if accounts are audited only as per the above sections, a separate tax audit report under this section & vise-versa. In this case also if he required to get under any other law it is sufficient compliance. • **Report of Audit of Account Ruler 6G:** Form 3CA if audit under any other statute is required Form 3CB if audit is under the provisions of 44AB Further along with above each and every details has to be Form 3CD.
Section 44AD: Special provisions for computing profits & gains of any business (Excluding business referred in Section 44AE)	**Nature of Business:** Any business other than 44AE excludes the following to: **1. A person carrying on profession as referred to in section 44AA(1)** **2. A person earning income in the nature of commission or brokerage Income** **3. A person carrying Agency Business. (FY 2012)** **Conditions:** 1. The assessee is Individual, HUF & Partnership (other than LLP). 2. The assessee shall also not applicable who is availing deduction under section 10A, 10AA,10B,10BA or under the provision of "Chapter VIA – under the heading C – deduction in respect of certain Income". 3. This section is applicable for any business whose total turnover gross receipt does not exceeds ₹ **1,00,00,000/-.** **4. Profit = 8% of total turnover** 5. All the expenses shall be deemed to have been allowed under section 30 to 38 **EXCEPT 40(b).** Depreciation is also deemed to have been allowed it is also assumed that WDV of asset is calculated. 6. The assessee opting for this shall be exempt from advance tax and also from maintenance of books of accounts as mentioned under section 44AA. 7. Turnover under this section will not be considered for the purpose of

	section 44AA & 44AB. 8. Assessee may show profit less than that mentioned under this section and his income exceeds maximum amount chargeable to tax i.e. basic exemption limit then he has to maintain books and get it Audited under section 44AB by **CHARTERED ACCOUNTANT.**

Illustration 21

Mane-Solo & Co. a partnership firm engaged in the manufacturing business has a total turnover of ₹ 59,00,000 from such business. The partnership deed provides for payment of salary of ₹ 10,000 p.m. to each of the partner i.e. Nikhil and Surya. The firm uses machinery for the purpose of its business and the WDV of the machinery as on 01.04.2012 is ₹ 2,00,000. The machinery is eligible for depreciation @ 15%. Compute the profit from the business if the firm opts for the scheme under section 44AD. What will be the profit from the business, if each partner is paid ₹ 20,000p.m. as salary instead of ₹ 10,000 p.m.

Section 44AE	**Nature of Business**: Business of Plying, Hiring or Leasing Carriage. **Conditions:** 9. The assessee owns not more than 10 goods time any time during the year P.Y. and engaged in above business. 10. He estimates profit of each goods carriage owned by the assessee in the previous year shall be estimated as under : **Heavy Goods Vehicle** (means any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unloaded weight of either of which, exceeds 12,000 kilograms;): **₹ 5000/- Per Month** Other goods carriage other than heavy good vehicle: **₹ 4500/- Per Month.**[Assessee may declare higher income than the mentioned above] 11. All the expenses shall be deemed to have been allowed under section 30 to 38 **EXCEPT 40(b)**. Depreciation is also deemed to have been allowed. 12. Turnover under this section will not be considered for the purpose of section 44AA & 44AB. 13. Assessee may show profit less than that mentioned under this section but he has to maintain books and get it Audited by **CHARTERED ACCOUNTANT.**

Illustration 22

Attish owns the following commercial vehicles:

1. 2 light commercial vehicle – one for 9 month and 2 days and other for 12 months.
2. 2 heavy goods vehicle – one for 6 month and 25 days and other for 11 months and 12 days.
3. 2 medium goods vehicle – one for 6 month and other for 8 months and 15 days.
   a. Compute the income from business income from business if Attish opts for the scheme under section 44AE. Also compute his tax liability for the assessment year 2013-14, if he deposits ₹ 20,000 in PPF Account during the previous year.
   b. What will be the income if the truck were not used for business for two months during the year due to strike?

Special provision for computing profit & gains of Shipping business of Non-Residents:- Section 44B	**Profit = 7.5% of**: a. The amount paid or payable whether in or all of the India to the assessee or to any person on this behalf, on account of carriage of passengers, livestock, mail or goods shipping at any port in India. and b. Any amount received or deemed to be received in India by or on behalf of the assessee, on account of carriage of passenger, livestock, mail or goods shipped at any port outside India. (carriage amount will include amount paid or payable or received or deemed to be received by way of demurrage charges or handling charge or any amount of similar nature)
Special provision for computing profit & gains in connection with the business of exploration, etc. of mineral oil : Section 44BB	The income of non-resident engaged in the business of providing services or facilities collection with or supplying plant & machinery on hire, used or to be used or to be used, in the prospecting for, or extraction or production of, mineral oils shall be computed at a **flat rate of 10%** of:- 1. The amount paid or payable whether in or out of India to the assessee on account of the provision of such service and facilities and supply of plant and machinery on hire used or to be used in prospecting for, or extraction or production of mineral oils in India and 2. The amount received or deemed to be received in India by or on behalf of the assessee on account of the provision of services and facilities in connection with or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction of mineral oil outside India. The above provision shall not apply if the provision of section 42, 115A or 293A relating to capital gain apply. Assessee **can declare profit less than 10 %** but then he have to: a. Keep and maintain books of account as are required u/s 44AA(2) b. The assessee gets the books of accounts audited & furnishes a report of such audit under section 44AB. But Assessing officer shall proceed to make assessment of total income/ loss of the assessee only under scrutiny assessment as per section 143(3).
Special provision for computing profit & gains of business of operating Aircraft in the case of Non- Residents :Section 44BBA	**Profit = 5% of** a. The amount paid or payable whether in India to the assessee or to any person on his behalf on account of carriage of passenger, live stock, mail or goods from any place in India **and** b. The amount received or deemed to be received in India, on account of carriage of such items from a place outside India

Special provision for computing profit & gains of Foreign Companies engaged in the business of Civil Construction etc. in certain cases turnkey power projects: Section 44BBB	**Profit = 10% of** Amount paid or payable (whether in or out of India) to the said assessee **or** to any person on his behalf on account of such civil construction, erection, testing or commission shall be deemed to be the profits & gains of such business chargeable to tax under the head "PGBP." Assessee **can declare profit less than 10 %** but then he have to: a. Keep and maintain books of account as are required u/s 44AA(2) b. The assessee gets the books of accounts audited & furnishes a report of such audit under section 44AB. But Assessing officer shall proceed to make assessment of total income/ loss of the assessee only under scrutiny assessment as per section 143(3).
Section 68: Cash Credit	Following condition should be satisfied to be taxed as cash credit: • Any sum which is credited in the books of assessee, maintained for any previous year. • Assessee offers no explanation about the nature and source or • **If the closely held company is found in the books of account that it is Share Application Money, Share Capital, Share Premium etc. received from a close group of people.** • **Then such company needs to explain the source of such Investment made by the share holder and the source of acquiring the money for such investment if company fails to do so then such investment shall be taxable in the hands of Company. (FA 2012)** • Explanation offered by him is not, in the opinion of Assessing Officer, Satisfactory, the sum so credited may be charged to Income tax of the assessee of that P.Y.
Section69: Unexplained Investments	Following condition should be satisfied to be taxed as unexplained Investments: • In any financial year preceding the assessment year, the assessee has made an Investment which are not recorded in the books of account if any maintained for any source of income. • Assessee offers no explanation about the nature and source or • Explanation offered by him is not, in the opinion of Assessing Officer, Satisfactory, the sum so credited may be charged to Income tax of the assessee of that F.Y.
Section69A: Unexplained money	Following condition should be satisfied to be taxed as Unexplained Money: • In any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article such things are not recorded in the books of Accounts if any maintained for any source of income. • Assessee offers no explanation about the nature and source of money, bullion, jewellery or other valuable article or • Explanation offered by him is not, in the opinion of Assessing Officer, Satisfactory, the sum so credited may be charged to Income tax of the assessee of that F.Y.

Section 69B: Investments not fully disclosed	Following condition should be satisfied to be taxed as Undisclosed Investments: • In any financial year the assessee has made investments or is found to be the owner of any money, bullion, jewellery or other valuable article such things are not recorded in the books of Accounts if any maintained for any source of income. • Assessee offers finds that's the amount expended on making such investments or in acquiring such money, bullion, jewellery or other valuable article exceeds the amount recorded in the books of accounts maintained by the assessee for any source of income or • Explanation offered by him is not, in the opinion of Assessing Officer, Satisfactory, the sum so credited may be charged to Income tax of the assessee of that F.Y.
Section 69C: Unexplained expenditure	Following condition should be satisfied to be taxed as Unexplained Expenditure: • In any financial year an assessee has incurred any expenditure and • Assessee offers no explanation about the source of such expenditure or part thereof or • Explanation offered by him is not, in the opinion of Assessing Officer, Satisfactory, the sum so credited may be charged to Income tax of the assessee of that F.Y.
Section 69D: Amount borrowed or repaid on Hundi	When any amount is borrowed on a Hundi: • Any amount borrowed or repaid to any person otherwise than through an account payee cheque drawn on a bank • The amount so borrowed or repaid shall be deemed to be the Income of the person borrowing or repaying the amount aforesaid for the P.Y. in which the amount was borrowed or repaid. • In case the amount is taxed at the times of borrowing money it will not be taxed at the time of repayment & vise-versa.
Common Point	**All this unexplained money or investment referred in section 68, 69, 69A, 69B, 69C, 69D shall be taxable @ a special rate of 30%. (F.A. 2012)**

PRACTICAL SUMS ON PGBP

Illustration 23

Mr. Raghu furnishes you the following manufacturing, profit & loss account for the previous year ending on 31.03.2013:

Particulars	Amount ₹	Particulars	Amount ₹
To Opening Stock	2,11,000	By Sales	1,12,84,300
To Purchase	1,03,80,000	By Closing Stock	2,26,600
To Manufacturing Wages	3,65,900		
To Factory Rent, Rates & Taxes	2,30,000		
To Depreciation on Machine & Building	15,000		
To Gross Profit	3,09,000		
	1,15,10,900		1,15,10,900

Profit & Loss Account

	Amount ₹		Amount ₹
To Office Salaries	1,27,000	By Gross Profit B/d	3,09,000
To Establishment Expenses	6,100	By Rent of Staff quarters	19,000
To Interest on Capital	3,300	By Refund of Income tax	2,000
To Fire Insurance	200	Penalty	
To Bad Debts	7,000	By Sale of Machinery	25,000
To Income Tax	6,000	By Recovery of Bad Debts	
To Expenses on Sales Tax Proceedings	2,000	not allowed to be deducted in earlier year	6,000
To Expenses on Income Tax Proceedings	13,000	By Sundry Receipts of business	35,000
To Diwali Expenses	4,000		
To Legal Expenses	7,000		
To Medical Expenses of proprietor	3,000		
To Staff Welfare Expenses	12,000		
To Repair of Staff quarters	4,000		
To Bonus payable to Employees	20,000		
To Provision for Tax: Sales tax & Excise Duty	25,000		
To Municipal taxes for staff quarters	4,000		
To General Reserve	26,000		
To Entertainment Expenses	16,000		
To Net Profit	1,10,400		
	3,96,000		3,96,000

You are required to compute the taxable profits from business after taking the following into consideration:

i. Purchases include a petty purchase of ₹ 21,000. Its payment was made by a cross cheque.
ii. Assessee has always valued the stock at cost price but on 31.03.2013 he has valued the closing stock at market price which was in excess of cost by 10%.
iii. Office salary paid includes ₹ 10,400 to the proprietor of the business.
iv. Diwali expenses includes gift of ₹ 1,000 made to the relatives.

v. The written down value (WDV) of the block consisting of machinery as on 01.04.2012 was ₹ 59,000. One machine whose WDV as on 01.04.2012, was ₹ 5,000 was sold for ₹ 25,000 during the year.
vi. The WDV of the block consisting of factory building as on 01.04.2012 was ₹ 90,000.
vii. Sales Tax and Excise Duties amounting to only ₹ 20,000 were paid before 25.06.2013.

Illustration 24

Mr. Parasuram is a Chartered Accountant in practice in Nagpur. He deposits all receipts in his bank account and pays all expenses by cheque. Following is the analysis of his bank account for the year ending on 31.03.2013:

PARTICULARS	Amount ₹	PARTICULARS		Amount ₹
Balance b/f	7,250	Salary		14,000
Professional Receipt	1,40,000	Rent of Chamber		4,500
Dividend from UTI	8,000	Professional Expenses		3,000
House Rent	22,500	Telephone Expenses		1,000
Horse race Income (Gross)	12,000	Misc. Office Exp.		5,500
Share of Income in HUF	6,750	Motor Car exp.		8,000
Loan from wife for Purchase of Car	1,00,000	Purchase of Car		1,15,000
		Adv. Income Tax		40,000
		Donation to Delhi University		10,000
		Personal Expenses		45,500
		House Property Exp.		
		Taxes	5,000	
		Repairs	1,500	
		Insurance	1,500	
		Collection Charges	2,000	10,000
		Balance c/d		40,000
	2,96,500			2,96,500

Compute the Gross Total Income of Mr. Parasuram Iyer after taking into account the following;

i. 1/4th of the motor car expenses relate to personal use.
ii. Car was purchased on 15.06.2012 and rate of depreciation on car is 15%.
iii. He stays in his house, the municipal value of which is ₹ 8,000. Following are the expenses which have been included in the above account in respect of this house. Insurance premium ₹ 500, Municipal tax ₹ 2,400.

Illustration 25

Miss Alia furnishes the following information relevant for the assessment year 2013-14:

Profit & Loss Account for the year ending 31.03.2013

Particular	Amount ₹	Particular	Amount ₹
Office Expenses	15,000	Gross Profits	18,82,900
Sundry Expenses	15,10,000	Sundry receipts	10,000
Entertainment expenditure	6,000	Bad Debts recovery (not allowed	
Audit Fees	1,000	as deduction earlier)	5,000
Legal charges/ expenses	4,000	Customs duties recovered from	
Depreciation on Plant &		The Govt. (earlier allowed as	
Machinery purchased during the		Deduction)	10,000
Year @ 15% p.a. for 6 months	300	Gift received from father	20,000
Salary to Staff:		Dividend (gross) from UTI	4,000
Salary	58,000	Interest on FDR with bank	2,000
Bonus	4,000	Interest on Government	
Contribution towards:		Securities	3,000
Employees Recognized Provident			
Fund	5,000		
Unapproved Gratuity Fund	4,000		
Sale tax paid	8,000		
Provision for sale tax	15,000		
Payment to Calcutta University			
for carrying on Scientific			
Research	7,200		
Copyright purchased during the			
Year	35,000		
Net Profit	2,64,400		
	19,36,900		19,36,900

Other Information:

i. As shown in P & L Account ₹ 7,200 is paid to Calcutta University for the purpose of carrying on approved scientific research in natural science, not related to business of Miss. Alia.

ii. Sundry expenses includes ₹ 10,00,000 towards Development of Skill Development Centre as approved. Out of this ₹ 10,00,000, ₹ 7,00,000 was towards cost of land & building. ₹ 5,00,000 was also included in sundry expenses paid towards approved agriculture extension project.

iii. Provision for sales tax represents an outstanding tax liability.

iv. Copyrights were purchased on 06.07.2012.

Ascertain the total income of Miss. Alia for the assessment year 2013-14 assuming that she deposited ₹ 10,000 in a PPF Account during the previous year 2012-13.