Assessment of Companies

1.1 General Introduction

There are many of companies which show book profits as per their profit and loss account prepared as per Schedule VI of the Companies Act, 1956 but do not pay any tax, since income computed under the provisions of the Income Tax Act, 1961 is either negative or insufficient or nil. The companies show nil profit as per the Income Tax Act, but however declare dividend to shareholders without paying any income tax. These companies are popularly called zero-tax companies. In order to bring such companies into income tax net, Minimum Alternate Tax provisions are introduced in Finance Act, 1998 and effective from 01.04.1998.

1.2 Section 115JB: Minimum Alternate Tax (MAT) – An overview

- This section **overrides the other provisions** of Income Tax Act.
- **Section 115JB (5):** starts with wording "**Save as otherwise provided in this section**", hence all other provisions of this Act shall apply to book profit. i.e. Advance tax, TDS, Interest, surcharge etc.
- Applicable to **a company**.
  Section 115JB is not applicable to a foreign company which is not having Permanent Establishment in India.
- **When applicable**: Tax payable under the normal tax provision (as per books of accounts) **is less than** 18.50%+SC+EC+SHEC of book profit.
- Book profit refers to **Net profit as per Schedule VI** of the companies Act, which is carried to balance sheet and shown in **shareholders fund.** Here the term net profit read as profit and loss appropriation a/c balance appear below the line.
- **Heads of income classification** is only for tax payable under the normal tax provision. From Schedule VI perspective, such classification does not exist. The principle of accrual concept is applied. Income of the year matched with expenses of the year and all the revenue of the entity should be booked in profit and loss account.
- **Section 115JAA**: The excess of tax paid, over and above normal tax, will be allowed as tax credit and permitted to be carried forward for **ten assessment years** succeeding the AY in which the credit become allowable. The excess of tax paid referred above shall be known as MAT credit.
- MAT credit adjustment can take place when normal tax is more than MAT, provided adequate MAT credit is available.
- Conversion of net profit into book profit is made by **adjustments** as permitted under law.
- MAT is applicable only in the year, in which **book profits exist. So, <u>MAT is not applicable when a company reports loss.</u>**
- **Section 211(2) of the Companies Act, 1956 -** Certain companies like Insurance companies, Banking companies, Electricity companies etc., are allowed to prepare their profit and loss account in accordance with the form specified in or under the Act governing such class of companies. Hence an option is available to prepare its profit and loss accounts either in accordance with the provisions of Schedule VI to the Companies Act, 1956 **(or)** in accordance with the provisions of the Act governing such company.
- Any income accruing or arising to a company from **life insurance business** would not be subject to MAT provision. **{(Retrospective amendment w.e.f. 2000-2001)(Fin. Act, 2012)}**

Conversion of Net Profit into book profit

❖ Net profit as per Schedule VI of the companies Act XXX

Indian **R**upee**S** **DEP**osited in **R**ural **I**nfra **L**ong **T**erm **P**rofit fun**D**[5]

			+	-	
❖ **Addition:- I**ndian **R**upee**S** **DEP**osited			+	-	
01.	**I**	**I**ncome tax paid / Payable **Note:** Income tax includes **(i)** dividend distribution tax/tax on distributed income; **(ii)** interest under this Act; **(iii)** surcharge; and **(iv)** cess. So, Security transaction tax, wealth tax, interest under other Act, penalty, fine, fringe benefit tax **are not** considered.	+		
02.	**R**	**R**eserve transfer by whatever name called. **Note**: Reserve created u/s 35AC **is not** considered. **Note:** Reserve transfer restricted to the extent of depreciation on account of revaluation of assets.	+		
		Note: The book profits shall be increased by the amount standing in revaluation reserve relating to the **revalued asset on the retirement or disposal of such asset**, in case the **same is not credited** to the P&l a/c. **{(w.e.f. 01.04.2012)}**	+		
03.	**S**	**S**et aside amount for **unascertained** liability **Note:** Actuarial valuation is treated as ascertained liability.	+		
04.	**D**	**D**ividend paid/proposed debited to profit & loss account	+		
05.	**E**	**E**xpenditure in relation to section 10, 11, 12 except u/s 10(38)	+		
06.	**P**	Loss of subsidiary company if debited to **P**rofit & loss a/c	+		
❖ **Deductions:- R**eliance **I**nfra **L**ong **T**erm **P**rofit					
07.	**R**	**R**eserve withdrawal credited to profit & loss		-	
08.	**I**	**I**ncome in relation to section 10, 11, 12 except u/s 10(38)		-	
09.	**L**	**L**oss brought forward / business loss (or) Unabsorbed depreciation Whichever is lower. **Note:** Consider absolute value by ignoring sign.		-	
10.	**T**	**T**onnage tax income		-	
11.	**P**	Profit of sick industrial unit		-	
❖ **Addition and deduction:- D** **Five**					
12.	**D**	**D**iminution in the value of asset and provision thereof. Ex: Provision for bad debts represents provision for diminution in value of asset	+		
13.	**D**	**D**eferred tax liability	+		
14.	**D**	**D**eferred tax asset		-	
15.	**D**	**D**epreciation including revaluation of an asset debited to P&L account	+		
16.	**D**	**D**epreciation excluding revaluation of an asset debited to P&L account		-	
			XX	**(XX)**	**XXX**
Adjusted Book Profit					**XXX**

17.3 Section 179: Liability of directors of private company in liquidation {Amendment - Fin. Act, 2013}

❖ Where **"tax due"** from the private company cannot be recovered, then, **every director** of the private company **at any time during** the relevant previous year shall be jointly and severally liable.

❖ The term tax due includes **(i)** Penalty **(ii)** Interest **(iii)** Any other sum payable under the Act.

❖ If director proves that the non-recovery cannot be attributable to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company, then, provisions in this section will not get attracted.