Key Features:

Revise the contains within Minutes!
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Charts, Tables, Tree Diagrams are used make study a enjoyable;
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Profit & Gains From Business & Profession

(Self Published Handwritten E-Book)

Revision & Reference Notes

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PROFIT & Gains FROM BUSINESS & PROFESSION

sec. 2(13) Business

Includes any trade/ commerce/ manufacture or any Adventure in the nature of trade

Profession

- Not defined specifically
- e.g. Profession of CA, CS, Dr. Engineer, Lawyer, etc.

Q.4|6.7

sec. 28 Charging section

Profits from

- Any Business/Profession
- value of perquisites arising from PGBP
- sum Received under Key Man Ins. Policy
- ~~Income of~~

profit from trf. of

- Duty Entitlement Licence or
- Passbook
- Duty free Replenishment certificate
- Amount Received from Trf. of Assets whose cost was allowed as dedu^n u/s 35A

specific

- Cash componsetory support & Duty DRAWBACK
- Any sum Received by a ~~Partners~~ Partner from A Partnership firm as
  - Salary/Remunera^n
  - Interest
  - Bonus
- Amount Received for "Non-compete" Agreement, Non-sharing of know-how.

P (Refrence chart)

Refrence to Latest Case Laws:

1. chennai properties & investments Ltd. (SC, 2015)

RTP NOV16 → 2.

conclusion:
where main objective of company is to let out the properties, then it shall be taxed as PGBP.

sec29 computation of PGBP By applying provision of **sec. 30 to 43D**

sec. 30 to 36 - Specific Allowances
sec. 37(1) - Residuary allowances
sec. 40 - Amounts not specifically Deductible
sec. 40A - Expenses not Deductible in certain circumstances
sec. 41 - Recovery of Expenditure, Remission & Cessation of Trading Liability
sec. 43B certain payments on Actual Basis

Deduction allowed to owner/Tenant
in respect of Rent, Revenue exps., #Rates, #Taxes, Insurance

Sec. 30 — Building

amount allowed here

~~Notes~~:

i) premises occupied by Assesse as

Tenant
- Rent paid
- current Repairs 30(a)(i)

~~Owner~~ Otherwise
Leasee
- current Repairs 30(a)(ii)

amounts paid as
- Rent
- Rates, Taxes

as owner/ Tenant

Sec. 31 — Plant, Machinery, Furniture

Not allowed here

CAPEX → paid by Tenant/owner → Added to the cost → claim Depn u/s 32(1)

Amounts allowed
- current Repairs
- Insurance premium.

Sec. 38(2)
- ONLY proportionate amount is allowed, which is attributable to the portion of Asset used for PGBP

Current Repairs:
Exps. incurrent to Preserve & maintain the CAPACITY of Plant, machinery or Building.

CAPEX:
paid by Tenant/owner, will be treated as his "Deemed Asset" & Depericiation on such amount shall be allowed u/s 32(1)

Short term Capital Gains on Depriciable Assets

Sec. 50 Block Assets / WDV | Sec. 50A SLM Method.

Sec. 50 Special Provisions for Computation of CAPITAL GAINS in case of Depriciable Assets (Block of Assets)

Depriciable Assets sold

- Partly
  - WDV is +ve → Dep^n
  - WDV is -ve → No Dep^n, STCG — Block Exists, 'NIL' WDV
- Fully / whole Block
  - WDV is +ve → Short term Cap. Loss
  - WDV is -ve → STCG

Block Ceases to Exist

NOTES:

1. Capital Gains will always be "**Short Term**" in respect of Depriciable assets, irrespective of period of holding.
2. If period of holding is more that 36 months: Asset is said to be Long term capital Assets. **Deduction** u/s **54, 54EC & 54F** are available

Sec. 50A: Special Provision "Cost of Acquisition" of Depriciable Asset; Dep^n claimed on SLM u/s 32(1)(i)

If Sales Price/proceedings > Actual cost;
then STCG = Sales proceedings - Actual cost

8.1/6.3

INVESTMENT ALLOWANCE

sec. 32AC	sec. 32AD
Investment in NEW P/M	Investment in New P/M in NOTIFIED AREAS of certain states

1. To whom?

A company Assessee	Any Assessee

- Engaged in manufacture/production of Any Article/Thinge.
- (Not allowed to Power genrating &/or Distributing co.)

2. Location?

Anywhere in India.	Notified Backward Areas of -Andra; -Bihar; -Telangana; -WB.

3. Quantum of Investment; @15%

u/s 32AC(1A) More than 25 Crs. in a PY	No such limit

4. When allowed?

only if asset is Acquired & Install in the same PY. Need not to put to use	when ever asset is installed;

5. Scheme validity

- PY 2014-15, 2015-16, 2016-17	- PY 2015-16 to PY 2019-20

6. Eligible Assets

same condition, which are prescribed in sec. 32(1)(iia) i.e. Additional depⁿ

7. Lock in period

There shall be a lock in period of 5years from Installation.

Double game If sold: If sold or Transfer Before the expiry of lock in period. (otherwise than Amalgamation)

Short Term Capital Gains + PGBP
amount earlier allowed as investment allowance.

- All above condition will be applicable to Transferee co.

- Both the deduction u/s 32AC & 32AD can be claimed simultaneously.
- Deduction shall not affect the WDV.

Amounts Specifically Not Deductible u/s 40

Non-Compliance of TDS provision — paid to

40(a)(iii) TDS on salary payable to NR/R outside INDIA; NR in India.

sec. 40(a)(i) — Non-Resident/ foreign Co.

- Amounts paid as
  - Royalti,
  - fees for Tech. Service,
  - Any other sum taxable under Income Tax (Non-compete fees not covered)

⇓

- ~~Non-compliance of~~ TDS shall be deducted & paid to credit of Govt., on or before due date u/s 139(1)

⇓

failure to pay will attract 100% disallowance

⇓

Allowed as & when paid

sec. 40(a)(ia) — Resident

⇓

- Any sum# payable to Resident where TDS was to be made
- If TDS is not made, or TDS is not deposited to the credit of Govt.. before due date u/s 139(1)

⇓

It will attract 30% Disallowance of such amt.

subject to provisio to sec. 201(1) ⇓

If payee files his ROI, & correctly considers the above amount as his income & pays Tax thereon,

⇒ NO DISALLAWANCE to Payer.

\# includes salary, Director's seating fees.

40(a)(ii) INCOME TAX	40(a)(iib) Levy by state Govt.	40(a)(v) Payt of Tax on Behalf of Employee	40(ba) Payt of Interest, Salary, Bonus, communicat^n, Remuneration made by AOP/BOI to its members
· Any kind of Payt as "Income Tax" · Including - Tax paid under DTAA;	⇓ · state Govt. undertakings are subject to tax. · Dividend were used to be withdrawn in the form of Royalti so as to avoid DTT & claim it as exps. · such exps are specifically Disallowed.		

sec. 43B

CERTAIN DEDUCTIONS ON ACTUAL PAYMENTS

☺ Payments made for List# on or before Applicable due date u/s 139(1), then 43B is not applicable.

• If # Below mentioned payt. not paid ~~be~~ on or before due date appliable, u/s 139(1)
⇓
Apply Provisions of sec. 43B
i.e. whenever paid allow in that PY ⇓
💡 Postpondment of allowability

following List of payments is subject to sec. 43B

💡 connections

a) Any Tax, Cess or fees by whatever name called, payable under any Law for the time being in force,

(a) sec. 40(a)(i), 40(a)(ia), 37(1)

💡 Bottling fees for Liquor & Electricity charges are not covered u/s 43B.

b) Employer's Contribution to
- provident fund;
- gratuity fund;
- Any other welfare fund

(b) 36(1)(iv) 36(1)(v)

💡 circular NO. 22/2015 dt 17/12/2015 [RTP Nov, 2016]

c) Any Bonus/commission payable to Employees

(c) 36(1)(ii)

d) Interest payable on Loan/Borrow. from Any
- Public Financial Institute;
- State " corp.;
- State Industrial corp

e) Interest payable on ANY LOAN/Borrowings from SCHEDULED BANK

(d) & (e) 36(1)(iii) Q. 38/6.47

💡 Important Notes
• If any interest converted into a LOAN/BORROWING/Advance; it shall NOT deemed to ~~be~~ have been ~~paid~~ actually paid.
• If Any Interest converted into Funded Interest Term Loan (FITL); Deduction is allowed to FITL to the extent it is actually paid
• Bank Gaurantee does not amount to ACTUAL PAYMENT

f) Leave Encashment payable to Employees.

(P) 43C, 43CA
Q.13

for 6 AY

Summary of 44AA (Books of Accounts) & 44AB (Tax Audit)

Particulars	Relevent Provisions	
	44AA / Maintenance of Books of A/cs	44AB / Audit of Books
(I) Specified Profession (u/s 44AA) • Legal / Medical / CA/CS, Engineer / Interior / Architectural / Technical, Film Artist / Representative	If gross Receipts > 1,50,000	If gross Receipts > 26,00,000
(II) Other profession or Business a) profession other than specified profession	T/O / Gross Recipts > 10,00,000 or income > 1,20,000	Sales T/O or Gross Receipts > 25,00,000
b) Business		1,00,00,000
c) Business Refered u/s 44AE/BB/BBB	If Assessee claims profit & gains from such business to be LOWER than the profits & gains DEEMED under respective sections.	
d) Business Refered u/s 44AD	If (a) profits claimed < 8% of T/O i.e. deemed profit & (b) his Taxable Income Exceeds Basic Exemption Limit	
NON compliance • Penalty u/s • Quantum	271A ₹25,000	271B ₹1,50,000 or 1/2% of T/O whichever is Lower.

Sec. 44AD special

Deduction for Exps. on SCIENTIFIC Research

(A) In house/Related to Assessees Business

(B) Contribution to Outsiders

(A)

35(1)(i) — 100% — Revenue

- Raw Materials #
- Salaries #

35(1)(iv) — 100% — Capital — Except on Land

@

32AB — 200% — Revenue/Capital ⇓ Building 100% u/s 35(1)(iv)

\# · pre commencement upto 3yrs

· post commencement - All

- corporate Assessee
- enaged in mafg./prodⁿ of specified articles (except listed in Sch. II)

(B)

35(2AA) — 200%

- To National Lab
- IIT
- University

35(1)(iia) — 125%

- To a co. enaged in Research

Related to Assessee's Business

35(1)(ii) — 175%

35(1)(iii) — 125%

- To Approved university carring out social sc. statistical Research

@ May not be Related to Assessee's Business

for scientific Research

1) No Depericiation
2) Set off/carry forward as if 'unabsorbed depⁿ'
3) ~~No~~ IN NO case, ~~A~~ ~~Dection~~ Deduction for Land is allowed

Scientific Research Assets sold

sold without using ⇓ — cost, SP — PGBP, CG

or

sold after using ⇓

- Explaination 1 to 43(1)
- Actual cost 'NIL'
- Apply 43(6) & 50 compute CG