Chapter 1 : Basic Concepts

(1) Section 2(7) : Assessee : "Assessee" means a person by whom any tax or any other sum of money is payable under this Act. In addition, it includes

a) Every person in respect of whom any proceeding under this Act has been taken for the assessment of

(i) his income or

(ii) assessment of fringe ~~benge~~ benefit &

(iii) the income of any other person in respect of which he is assessable or

(iv) the loss sustained by him & by such other person &

(v) the amount of refund due to him & to such other person

b) Every person who is deemed to be an assessee under any provisions of this Act.

c) Every person who is deemed to be an assessee-in-default under any provisions of this Act.

(2) Section 2(8) Assessment : This is the procedure by which the income of an assessee is determined by the Assessing Officer. It may be by way of a normal assessment & by way of reassessment of an income previously assessed.

(3) Section 2(31) Person : includes (i) an individual, (ii) a Hindu Undivided Family (iii) a Company, (iv) a firm (v) an association of persons & a body of individual, whether incorporated & not, (vi) a local authority (vii) every artificial juridical person, not falling within any of the preceding sub-clauses

Explanation : for ~~the~~ the purpose of this Clause, an AOP & BOI or a local authority & an AJP shall be deemed to be a person, whether or not such person or body or authority or JP was formed or established or incorporated with the object of deriving income, profits or gains;

Section 2(17) : "Company" means -

(i) any Indian Company; or

(ii) any body corporate incorporated by or under the laws of a country outside India, or

(iii) any institution, association or body which is or was assessable or was assessed, as a Company for any assessment year under the Indian Income Tax Act, 1922 (11 of 1922) or which is or was assessable or was assessed under the Act as a Company for any assessment year commencing on or before the 1st day of April 1970, or

(iv) any institution, association or body, whether incorporate or not and whether Indian or non-Indian, which is declared by general or special order of the Board to be a Company. Provided that such ~~informal~~ institution, association or body shall be deemed to be a company only for such assessment year or ~~years~~ assessment years (whether commencing before the 1st day of April, 1971 or on or after that date) as may be specified in the declaration.

Section 2(22A) Domestic Company; means an Indian Company, or any other Company which, in respect of its income liable to tax under this Act, has made the prescribed arrangements for the declaration and payment, within India, of the dividends (including dividends on preference shares) payable out of such income.

Indian Company Sec 2(26)
Sec 2(23A) Foreign Company
Sec 2(18) - Company in which public are substantially interested
Sec 2(32) - Persons having substantial interest in the company
Sec 2(23) - Firm
Sec 2(24) - Income

	Capital in nature	Revenue in nature
1.	Fixed Capital: Tangible & and intangible assets which the owner keeps in his possession of making profit are FC.	Circulating Capital: is one which is turned over and yields income & loss in the process
2.	Capital assets transfer: profits arising on sale of CA are chargeable to tax as capital gains u/s 45	Trading assets transfer: profit arising from the sale is revenue & taxed as income from business u/s 28

3. Transactions entered into the course of business - Revenue receipts and chargeable to tax
4. Profits arising from sale of shares and securities: nature of profit to be ascertained. If acquired for investment & controlling power - Capital. If acquired in ordinary course of business - then stock in trade.

Note: Securities held by Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the SEBI Act, 1992 would be treated as capital asset. Even if the nature of such security in the hands of the Foreign Portfolio Investor is stock in trade the same would be treated as a Capital asset and the profit on transfer would be taxable as capital gains.

5. A single transaction - Purchase of any article with no intention to resell but sold are capital nature.

6. Liquidated damages :- linked with procurement of capital asset which lead to delay in coming into existence of the profit is capital receipt

7. Compensation on termination of agency : termination of agency which being only source of income - Capital nature but taxable u/s 28(ii)(c). ~~As~~ Assessee has number of agencies and one is terminated is revenue receipt.
Compensation received from employer or from any person for premature termination of service contract is capital receipt but is taxable as profit in lieu of salary u/s 17(3) or as income from other sources u/s 56(2)(xi)

8. Gift : property without consideration u/s 56(2)

Q. Sec 2(25A) : India
Sec 2(10) : Average rate of tax
Sec 2(29C) : Maximum Marginal rate
Sec 2(9) : Assessment year
Section 3 : Previous Year

Undisclosed Sources of Income

a) Cash Credit Sec 68 ;
b) Unexplained Investments : Sec 69.
c) Unexplained money etc. ; Sec 69 A
d) Investments etc., not disclosed fully in books of a/cs : Sec 69B.
e) Unexplained expenditure : Sec 69C. : Such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as deduction under any head of income
f) Amount borrowed or repaid on hundi ; Sec 69D : where any amount is assessed on borrowing it will not be assessed again on repayment on hundi.

Sec 115BBE : provides the rate at which Sec 68 to 69D is assessed at special rates of tax

Cases where income of PY will be assessed in PY itself:
- Shipping business of non-resident - Sec 172
- Persons leaving India (Sec 174)
- AOP/BOI/AJP formed for a particular event & purpose (S174A)
- persons likely to transfer property to avoid tax (S175)
- Discontinued business (S.176)

Sec 172 : Shipping business 7.5% of the freight paid & payable to the owner or the charterer in India & outside India is deemed his income. on which tax

Taxability of dividend u/s 115BBDA : Dividend in excess of ₹10 lakh shall be chargeable to tax in the hands of a person other than
- a domestic company or
- a fund or institution or trust & any university or other educational institution & any hospital or other medical institution referred to section 10(23C) (iv)/(v)/(vi)/(via) or
- a trust or institution registered u/s 12AA,

who is resident in India at the rate of 10%.

Dividend shall be taxed on gross and no deduction of any expenditure & allowance or set-off of loss shall be allowed.

Unexplained money, investments etc. to attract tax @ 60% [Sec 115BBE]

Sec 68 to Sec 69D => 60% + 25% Surcharge + 4% cess = 78%

Note : 1) no basic exemption or allowance or expenditure is allowed in computing such deemed income.
2) no set off of any loss shall be allowed

Surcharge

Ind / HUF / AOP / BOI / AJP	Co-operative Society / Local authority / Firm / LLP	Domestic Company	Foreign Company
- 50L to 1Cr - 10%	- 1Crde < 12%	1Cr to 10 Cr - 7%	- 1Cr to 10Cr - 2%
- 1Cr < - 15%		10Cr < - 12%	- 10Cr < - 5%