Profits or Gains from Business / Profession (PGBP)

Sec 28 : Charging Section

1. Any profit or gains from Business or Profession is chargable under PGBP.

   [Sec 2(13)] Business : Any activity in nature of Trade, Manufacturing or Commerce.

   [Sec 2(36)] Profession : Providing service by using one's own Skills, Qualification, Experience
   it also includes Vocation

2. Compensation received in relation to Business / Professional contracts
3. If consideration is received in kind, then fair market value is taxable
4. Revenue Subsidies are also chargable under PGBP
   (subsidies given by Govt. in relation to revenue items)
5. Finance Act, 2018
   If any stock in Trade is converted into personal asset then fair market value on the day of conversion is business proceeds.
6. Firms / LLP — Partners
   - Int. on capital / loan, Remuneration → PGBP
   - Share of Profit [Exempt U/s 10(2A)]

7. Stock Market

   Investors ⟶ Profit / loss ⟶ Capital Gains

   Stock Traders
   - → With Physical Delivery of shares → Normal Trading Activity
   - → Without physical Delivery of shares (intra day) → Speculation Business Activity.

Sec 43(5): Speculative Transaction

Any transaction which is carried out without physical delivery is Speculative Transaction.

Sec 73: Speculation loss can ONLY be set off against Speculation income

→ Speculation losses can be carry forward for 4 5 years

Sec 29: How to compute profits or gains

Method 1: Adjustment Method
(P&L A/c is given OR Income/Exp. A/c is given)

PGBP: Net Profit as per accounts
Add: Expenses recorded but disallowed
Income taxable but not recorded
Less: Income not covered by Business/profession
Expenses allowed but not recorded
Profits or gains from Business/Profession

Method 2: Direct Method
(Cash A/c is given)

we will prepare P&L A/c

PGBP: Gross Receipts from business/profession
less: Allowable expenses

Profit or gain from Business/Profession.

Sec 2(14) Capital Assets

For Business (PGBP | Not for Business (Capital gains)

Revenue Exps. | Capital Exps.

Sec 30: Ded^n of exps in relation to Building
→ Maintenance → local taxes
→ Rent → Insurance Premium

Sec 31 Ded^n of exps in relation to other assets
→ Maintenance
→ Insurance Premium

Sec 32 Depreciation
① Assessee must be owner of asset (Deemed owner & Hire Purchase)
& ② Asset must be Put to use

Sec 2(11) Block of Asset

Assets

Similar rate of depriciation → Should be Classified in one block ← Similar Characteristics

Appendix 1 Rate of Dep^n (calculated using WDV method)

① furnitures & fixtures (including electric fittings)	10%
② Building	10%
③ Plant & Machinery	15%
④ Computer & its peripherals	40%
⑤ Intangible assets	25%
⑥ Professional books	40%

Sec 43(1) Actual Cost

Any expenses incurred till the asset is ready to use should be capitalised and depreciation is available on the same. Any amount reimbursed by any authority will reduce actual cost.

(*) Dep^n is not available on INDIRECT TAXES

Sec 43(6) Block Format

Particulars	Amt (₹)	No. of Asset
1/4/18 : Opening WDV		
+ Put to Use		
Full Rate		
Half Rate		
(–) Monies Recovered		
Sale, Scrap or Insurance Claim		
Amount Eligible (N-1)		
(–) Depreciation		
31/3/19 Closing WDV		

if in the year of purchase, the asset is used for less than 180 days then depreciation is available at Half Rate (from 4th october onwards)

N-1 Amount eligible
- ↳ first claim dep^n on asset eligible at half rate
- ↳ Remaining — full rate.

Sec 50 Block of Assets (Capital Assets)

Block Continues to exist

Sale Price < Op. WDV + Put to use
↓
Sec 32: Dep^n

Block ceases to exist

Sale Price > Op. WDV + Put to Use
↓
Capital Gain
↓
Short term u/s 50

SP < Op. WDV + Put to use
↓
Capital loss
↓
Short term u/s 50

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Date ______
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Explanation 5 to Sec 43(1)

If Building was earlier used for any other purpose and thereafter it is transfered to Business/Profession then actual cost is Notional WDV assuming the building had been used for business/profession from very beginning.

Proportionate Depreciation

If assets are used by more than one entity during P.Y then depn is to be allocated on the basis of no. of days between predecessor & successor.

Assets can be used by more than one entity in case of amalgamation, merger, demerger or conversion

SLM Option

Power Generation (OR) Power Generation & Distribution Assessee has the option to follow Straight Line Method (on Plant & machinery)

Rate - 10% Block System is not applicable but 180 days rule ie half rate is applicable.

Sec 32(1)(ii a) Additional Depreciation

Available to only Manufacturing Assessee, only on NEW PLANT & MACHINERY → Put to use for the first time
→ & should have direct nexus with manufacturing

One time deduction

Rate @ 20%

If in the current PY, only half Additional ~~pre~~ depreciation is available then balance half can be claimed in next P.Y.

If Sec 32 AD is available then Rate is 35%

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Sec 32AD Investment Allowance

if from 1/4/15 to 31/3/20 (5 years)
in Notified backward Areas of Andhra Pradesh, Telangana, West Bengal, Bihar are new manufacturing unit is Started.

On NEW PLANT & MACHINERY – Investment Allowance @ 15% one time dedn (180 days rule not applicable)

Asset on which additional depn OR Investment Allowance is claimed should NOT be transferred for 5 years (lock in). If transferred within 5 years then dedn claimed earlier is taxable

Sec 35 AD Investment in Specified Business

Capex incurred to start specified business is allowed 100% as dedn in year in which business is commenced except following:

① Land ② Goodwill
③ Second Hand Machinery more than 20% of total plant & machinery.

If deduction on asset is claimed u/s 35AD then no benefit under any other section is available.

Audit Report by a CA is compulsory

Assets on which 35 AD is claimed, should not be transferred for 8 years

Sec 73 A

Specified business loss can be set off ONLY against Specified business

It can be carried forward for infinite period

Specified Business

Nature of Business	Business started on/after
1. Operating a cold chain facility	1/4/09
2. Warehousing facility to store agriculture Produce	1/4/09
3. Affordable housing project	1/4/11
4. Production of fertilizer	1/4/11
5. Hospital (100 beds)	1/4/10
6. Cross country pipeline for oil & gas	1/4/07
7. Hotel (2 Star +)	1/4/10
8. Slum redevelopment housing	1/4/10
9. inland container depost & container freight Station (Custome Act, 1952)	1/4/12
10. Warehousing facility for sugar storage	1/4/12
11. Laying & operating a slurry pipeline for the transportation of iron ore	1/4/14
12. Setting up & operating a semi conductor wafer fabrication manufacturing unit, notified by CBDT	1/4/14

Sec 35 D Deduction of Preliminary Expenses

Deduction = $\frac{\text{Qualifying Amount}}{\text{5 years}}$

Qualifying Amount is lower of 2:

① Total Preliminary Expenses

② 5% of Actual cost of fixed Assets ↓

(on last day of PY of commencement of business)

Sec 35 DD Amalgamation OR Demerger expenses is to be amortised over period of 5 years

Sec 35 DDA Compensation under Voluntary Retirement Scheme is allowed as dedⁿ over period of 5 years beginning from year in which payment is made.

Sec 35 Scientific Research Expenses

Scientific Research

① Donation for Scientific Research

Assessee having income from Business / Profession

- Universities / Educational institutions (IIM, IIT)
  - Scientific Research — 150% dedn
  - Statistical / Economical / Social Research — 100% dedn
- Indian Research Company — 100% dedn

Sec 80 GGA

Any assessee not having income from business/profession giving donations to Sec 35 institute will be allowed 100% dedn

② In house scientific research

With business

Particular	Mfg Co.	Non Mfg Co. & other assessee
Land	—	—
Building	100%	100%
Plant & Machine	150%	100%
Revenue exps.	150%	100%

Before Commencement of Business

- Expenses incurred 3 Years Prior to business commencement → No Dedn
- Expenses incurred within 3 years before commencement of business
  - Revenue — 100% dedn allowed → Certificate from Director general dept. of Income Tax
  - Capital Exps. — 100% dedn (except land)

Perk exps for Scientist is not allowed as dedn

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Sec 36(1) Other deductions

(i) Insurance Premium on Stock in trade / Goods
(ia) Insurance Premium on livestock
(ib) Medical insurance premium on health of employees (other than cash)
(iii) Interest on borrowed Capital for business / profession
Capital – added to Actual cost Revenue interest – Ded^n
(vi) Ded^n on Capital exps for livestock is allowed in year in which livestock is dead or becomes permanently useless. However ded^n will be reduced by sale proceeds for carcasses.
(vii) Bad debts is allowed as ded^n if it is Revenue in nature and fully written off
(ix) Capital expenditure incurred by a COMPANY to promote family planning amongst employees is allowed as ded^n over period of 5 years.
(xv) Securities Transaction Tax paid by stock traders
(xvi) Commodity Transaction Tax paid by commodity trader.

Sec 37(1) General Deduction

Any revenue expenses not covered by sec 30 to 36 but incurred for Business / Profession is allowed as ded^n u/s 37(1)

BUT DOES NOT include
(i) illegal expenses
(ii) Expenses for corporate Social Responsibility
(iii) Expenses incurred to support the campaign of Political Parties.

Employer Employee Relationship

- Basic Pay, Allowances, Perquisites — Ded^n u/s 37(1)
- Bonus / commission — Ded^n u/s 36(1)(ii)
- Retrenchment compensation — Ded^n u/s 37(1)
- Compensation under VRS — Ded^n u/s 35DDA
- Employers contribution
  - Ded^n u/s 36(1) (va) — Any liability of employee accepted by employer should be discharged on or before due date under act under which it is accepted, otherwise expense is disallowed.
  - (iv) SPF / RPF
  - (iva) Pension fund → 10% of Salary (Max) → (Basic + DA forming)
  - (v) Approved gratuity fund
- Provision for gratuity / Provision for Pension — Disallowed as ded^n; Ded^n year in which payment is made.

Direct Taxes Paid

- Income tax — No Ded^n u/s 40 (a)(ii)
- Int. on Income tax — No ded^n
- Penalty — No ded^n
- Professional fees — Ded^n u/s 37(1)

Indirect Taxes Paid

- Customs / excise / GST etc. — ded^n u/s 37(1)
- Interest — ded^n u/s 37(1)
- Penalty — No ded^n
- Professional fees — Ded^n u/s 37(1)

Tax Refund

- Income Tax Refund — Not taxable
- Int. on Income tax Refund — Taxable under IFOS
- Indirect Tax Refund — Taxable as balancing charge u/s 41(1)
- Interest on Indirect tax refund — Taxable under PGBP

⇒ Sec 38 Proportionate Disallowance

If expenses are incurred for official as well as personal purpose, then expenses attribute to personal purpose should be disallowed (eg Car, Cellphone, laptops)

⇒ Sec 40A(2)

Excessive payment to relatives will be disallowed by Income tax Officer.

⇒ Sec 40 A (3)

Any Revenue expense for which payment is made for an amount exceeding ₹10000 by cash / Cross cheque / bearer cheque in a single day against single bill would be 100% disallowed.

If payment exceeding ₹10000 is made for Capex in a single day against single bill by cash / cross cheque / bearer cheque then Actual cost will be Nil

⇒ Rule 6DD (Exception to Sec 40A (3))

1. Payment for purchase of Agricultural Produce / Marin products / Milk
2. Payment was compulsory & it was bank holiday / Strike
3. Payment was made in village were there is no bank / Post office
4. In freight expenses incurred then limit is ₹35000

⇒ Sec 139(1) Due Date to file Return of Income

~~PY 18/~~ PY 18-19 / AY 19-20

31/7/19	Any audit applicable 30/9/19	International Transaction Transfer Price Audit 30/11/19

→ Sec 43B Payment based Deduction
(Applicable to assessee following accrual System of accounts)

1. Allowable taxes payable to Government (local taxes, GST etc)
2. Interest Payable to Public Financial Institution
   ie (a) Banks
      (b) Cooperative Banks
      (c) Post Office
3. Bonus / Commission payable to employees
4. Employers contribution to be made to
   (a) SPF / RPF
   (b) Pension Fund
   (c) Approved Gratuity Fund
5. Railway Freight Payable

If above expenses are recorded in P&L A/c but it is outstanding at the end of the year, then the same should be paid on or before due date to file the Return of Income
If not paid, the Expenses will be disallowed and will be allowed in year in which it is paid.

TDS

Particulars	Sec 40(a)(i)	40(a)(ia)
Payee	Non Resident	Resident
1. No TDS, TDS deducted not deposited	100% expenses disallowed	30% expenses disallowed
2. TDS deduct & deposited after due date to file Return of Income	Year in which Exps is Recorded 100% disallowed	30% disallowed
	Year in which tax is deposited 100% allowed	30% allowed

Audit of Accounts

- Professional
  - Check Gross Receipts
    - ≤ 50 lakhs → Sec 44ADA
    - > 50 lakhs → Sec 44AB → Compulsory Audit
- Business
  - Plying, leasing & hiring of good carriages
    - Turnover?
      - > 1 cr U/s 44AB Compulsory Audit
      - ≤ 1 cr Sec 44AE
  - for any Other business
    - Co./LLP/AOP/BOI
      - Turnover?
        - > 1 cr U/s 44 AB Compulsory Audit
        - ≤ 1 cr No Audit
    - Ind./HUF Firm
      - Turnover?
        - > 2 cr. U/s 44AB Compulsory Audit
        - ≤ 2 cr Sec 44AD

⇒ Sec 44 AD Presumptive Income

Applicable only to Individual / HUF / Firm into Business having turnover ≤ 2 cr.

- ① Income from Business ≥ 8% of Turnover
  - PGBP = Income from business ⇓ No Audit
- ② Income from Business < 8% of turnover
  - O-1: PGBP = 8% of Turnover ⇓ No audit (Deemed Income)
  - O-2: PGBP = Income from Business ⇓ Compulsory Audit

If money against sales is accepted by any mode other than cash, deemed Income is 6%.

⇒ **Sec 44 ADA**

Applicable to professionals having Gross Receipts not more than ₹ 50 lakhs

① Income from Profession ≥ 50% of Gross Receipts

PGBP : Income from Profession

⇓

No Audit

② Income from Profession < 50% of Gross Receipts

O-1

PGBP = 50% of Gross Receipts

↓

No Audit

O-2

PGBP = Income from Profession

↓

Compulsory Audit

⇒ **Sec 44AE** Plying, leasing, hiring of Goods Carriage

Turnover > 1Cr (Freight Collection)

↓

Compulsory Audit

Turnover ≤ 1Cr

↓

Own more than 10 trucks at any time during the year?

Yes

↓

No 44AE

↓

Compulsory Audit

No

① Income from Business ≥ Deemed Income

↓

PGBP = Income from Business

No audit

② Income from Business < Deemed Income

O-1

PGBP = Deemed Income

↓

No Audit

O-2

PGBP = Income from Business

↓

Compulsory Audit

Deemed Income

⇒ Heavy trucks (Capacity 12 ton or more) = ₹1000 per ton per month or part thereof per truck

1 ton = 1000kg

⇒ Medium or Small truck (Capacity < 12 ton) = ₹7500 per month or part thereof per truck

Deemed Income is to be offered from the month in which assessee becomes OWNER of the truck.

→ Sec 184 : Assessment as firms

① Partnership deed in writing &

② It should be signed by all partner &

③ latest copy of the deed should be submitted with Income tax department.

Satisfy
↓
Assessment as firm
Sec 40(b): Interest & Remuneration dedⁿ allowed

Otherwise
↓
Assessment as AOP / BOI
Sec 40(ba) : Interest & Remuneration dedⁿ not allowed.

⇒ Sec 40(b) Max dedⁿ of Interest or Remuneration in hands of firm

Interest on loan / Capital

- Clause in deed
  ↓
  Max dedⁿ 12% p.a Simple Interest
- No Clause
  ↓
  No dedⁿ
  exception 6% p.a Int. on loan

Remuneration

- No Clause
  ↓
  No dedⁿ
- Clause
  - Non working Partner
    ↓
    No dedⁿ
  - Working Partner
    ↓

Remuneration to working partner

1st 3 lakh — Book Profit — On Balance

90% OR ₹150000 — whichever is higher.

On Balance → 60%

⇒ Sec 44 AA Maintenance of book of Accounts

Profession
↓
If in all 3 Preceeding PY Gross Receipt is more than 150000?
- Yes → Rule 6F
- No → Satisfactory Books of Accounts

Business
↓
If in any of 3 preceeding PY either turnover is >25 lakh or Net profit is >2.5 lakh?
- Yes → Satisfactory Books of Accounts
- No → No Books of Accounts

Rule 6F:
Cash Book, All ledgers, Journal Register, expense Original bills, expenses more than ₹50 per expense prepare voucher, Invoice Duplicate copy (serially no.)
Medical → Patient Register, Stock Register.

~~6F~~ Satisfactory Book
Which satisfy income tax officer regarding correctness of profits.