



# INCOME FROM OTHER SOURCES



## LEARNING OUTCOMES

After studying this chapter, you would be able to -

- ❑ **identify** the income which are chargeable to tax under the head “Income from other sources”;
- ❑ **identify** the admissible/ inadmissible deductions while computing income under this head;
- ❑ **examine** the circumstance(s) when amount paid or payable by a closely held company to the shareholder, being a beneficial owner or the concern in which such shareholder has the substantial interest would be deemed as dividend;
- ❑ **examine** the circumstances when any sum of money or property transferred without consideration or for inadequate consideration would be taxable in the hands of recipient and the exceptions thereto;
- ❑ **examine** the taxability in case of bond washing transactions and dividend stripping;
- ❑ **compute** the income under the head “Income from Other Sources” after allowing the deductions available thereunder.



## 8.1 INTRODUCTION

Any income, profits or gains includible in the total income of an assessee, which cannot be included under any of the preceding heads of income, is chargeable under the head 'Income from other sources'. Thus, this head is the **residuary head of income** and brings within its scope all the taxable income, profits or gains of an assessee which fall outside the scope of any other head. Therefore, when any income, profit or gain does not fall precisely under any of the other specific heads but is chargeable under the provisions of the Act, it would be charged under this head.



## 8.2 INCOMES CHARGEABLE UNDER THIS HEAD [SECTION 56]

### (1) Income chargeable only under the head 'Income from other sources':

#### (i) Dividend income [Section 56(2)(i)]

The term 'dividend' as used in the Act has a wider scope and meaning than under the general law.

#### **Dividend [covered by sections 2(22)(a) to (e)]:**

According to section 2(22), the following receipts are deemed to be dividend:

- (a) **Distribution of accumulated profits, entailing the release of company's assets** - Any distribution of accumulated profits, whether capitalised or not, by a company to its shareholders is dividend if it entails the release of all or any part of its assets.

**Note:** If accumulated profits are distributed in cash, it is dividend in the hands of the shareholders. Where accumulated profits are distributed in kind, for example by delivery of shares etc. entailing the release of company's assets, the market value of such shares on the date of such distribution is deemed dividend in the hands of the shareholder.

- (b) **Distribution of debentures, deposit certificates to shareholders and bonus shares to preference shareholders** - Any distribution to its shareholders by a company of debenture, debenture stock or deposit certificate in any form, whether with or without interest, and any distribution of bonus shares to preference shareholders to the extent to which the company possesses accumulated profits, whether capitalised or not, will be deemed as dividend.

The market value of such bonus shares is deemed as dividend in the hands of the preference shareholder.

In the case of debentures, debenture stock etc., their value is to be taken at the market rate and if there is no market rate they should be valued according to accepted principles of valuation.

**Note:** Bonus shares given to equity shareholders are not treated as dividend.

- (c) **Distribution on liquidation** - Any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not, is deemed to be dividend income.

**Note:** Any distribution made out of the profits of the company after the date of the liquidation cannot amount to dividend. It is a repayment towards capital.

- (d) **Distribution on reduction of capital** - Any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possessed accumulated profits, whether capitalised or not, shall be deemed to be dividend.
- (e) **Advance or loan by a closely held company to its shareholder** – Any payment by a company in which the public are not substantially interested of any sum by way of advance or loan to any shareholder who is the beneficial owner of 10% or more of the voting power of the company will be deemed to be dividend to the extent of the accumulated profits. If the loan is not covered by the accumulated profits, it is not deemed to be dividend.

**Advance or loan by a closely held company to a specified concern** - Any payment by a company in which the public are not substantially interested, to any concern (i.e. HUF/ Firm/ AOP/ BOI/ Company) in which a shareholder, having the beneficial ownership of atleast 10% of the equity shares is a member or a partner and in which he has a substantial interest (i.e. atleast 20% share of the income of the concern) will be deemed to be dividend.

Also, any payments by such a closely held company on behalf of, or for the individual benefit of any such shareholder will also be deemed to be dividend. However, in both cases the ceiling limit of dividend is to the extent of accumulated profits.

**Exceptions:** The following payments or loan given would not be deemed as dividend:

- (i) **Loan granted in the ordinary course of business** - If the loan is granted in the ordinary course of its business and lending of money is a substantial part of the company's business, the loan or advance to a shareholder or to the specified concern is not deemed to be dividend.
- (ii) **Dividend paid is set off against the deemed dividend** - Where a loan had been treated as dividend and subsequently, the company declares and distributes dividend to all its shareholders including the borrowing shareholder, and the dividend so paid is set off by the company against the previous borrowing, the adjusted amount will not be again treated as a dividend.

**Note:** Subsequent repayment of loan or charge of interest at market rate does not make any difference in the applicability of section 2(22)(e).

### Other exceptions

Apart from the exceptions cited above, the following also do not constitute “dividend” -

- (i) **Distribution in respect of non-participating shares issued for full cash consideration** – Any distribution made in accordance with (c) or (d) in respect of any share issued for full cash consideration and the holder of such share is not entitled to participate in the surplus asset in the event of liquidation.
- (ii) **Payment on buy back of shares** - Any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A of the Companies Act, 1956<sup>1</sup>;
- (iii) **Distribution of shares to the shareholders on demerger by the resulting company** - Any distribution of shares on demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company).

### Meaning of “accumulated profits”

Accumulated profits in point (a), (b), (d) and (e) above include all profits of the company up to the date of distribution or payment of dividend.

Building & Machinery Depreciation fund not to be included in accumulated profits. - *CIT v. Jaldurama Rao (1983) 140 ITR 168 (Andhra Pradesh)*

Accumulated profits include in point (c) all profits of the company up to the date of liquidation whether capitalised or not. But where liquidation is consequent to the compulsory acquisition of an undertaking by the Government or by any corporation owned or controlled by the Government, the accumulated profits do not include any profits of the company prior to the 3 successive previous years immediately preceding the previous year in which such acquisition took place.

In the case of an amalgamated company, the accumulated profits, whether capitalized or not, of the amalgamating company on the date of amalgamation shall be included in the accumulated profits, whether capitalized or not or loss, as the case may be, of the amalgamated company.

#### **Clarification regarding trade advance not to be treated as deemed dividend under section 2(22)(e) – [Circular No. 19/2017, dated 12.06.2017]**

Section 2(22)(e) provides that "dividend" includes any payment by a company in which public are not substantially interested, of any sum by way of advance or loan to a shareholder who is the beneficial owner of shares holding not less than 10% of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits.

<sup>1</sup> Now section 68 of the Companies Act, 2013

The CBDT observed that some Courts in the recent past have held that trade advances in the nature of commercial transactions would not fall within the ambit of the provisions of section 2(22)(e) and such views have attained finality. Some illustrations /examples of trade advances/commercial transactions held to be not covered under section 2(22)(e) are as follows:

- (i) Advances were made by a company to a sister concern and adjusted against the dues for job work done by the sister concern. It was held that amounts advanced for business transactions do not fall within the definition of deemed dividend under section 2(22)(e) [CIT vs. Creative Dyeing & Printing Pvt. Ltd. [NJRS] 2009-LL-0922-2, ITA No. 250 of 2009, Delhi High Court].
- (ii) Advance was made by a company to its shareholder to install plant and machinery at the shareholder's premises to enable him to do job work for the company so that the company could fulfil an export order. It was held that as the assessee proved business expediency, the advance was not covered by section 2(22)(e) [CIT vs Amrik Singh, [NJRS] 2015-LL-0429-5, ITA No. 347 of 2013, P & H High Court]
- (iii) A floating security deposit was given by a company to its sister concern against the use of electricity generators belonging to the sister concern. The company utilised gas available to it from GAIL to generate electricity and supplied it to the sister concern at concessional rates. It was held that the security deposit made by the company to its sister concern was a business transaction arising in the normal course of business between two concerns and the transaction did not attract section 2(22)(e) [CIT, Agra vs Atul Engineering Udyog, [NJRS] 2014-LL-0926-121, ITA No. 223 of 2011, Allahabad High Court]

In view of the above, the CBDT has, vide this circular, clarified that it is a settled position that trade advances, which are in the nature of commercial transactions, would not fall within the ambit of the word 'advance' in section 2(22)(e) and therefore, the same would not to be treated as deemed dividend.

### **Basis of charge of dividend**

*Any income by way of dividend received from a company, whether domestic or foreign, is taxable in the hands of shareholder at normal rates of tax.*

*However, dividend distributed by a domestic company before 1.4.2020 and received by the shareholders on or after 1.4.2020 and on which dividend distribution tax under section 115-O<sup>2</sup>, if applicable, has been paid would be exempt in the hands of the shareholders except dividend chargeable to tax u/s 115BBDA.*

### **Tax on certain dividends distributed by domestic companies before 1.4.2020 but received on or after 1.4.2020 [Section 115BBDA]**

- (i) Any income by way of aggregate dividend **in excess of ₹ 10 lakh** distributed by domestic companies before 1.4.2020 but received on or after 1.4.2020 shall be chargeable to tax in

<sup>2</sup> Upto F.Y. 2019-20, domestic company was liable to pay additional income-tax u/s 115-O @15% [30%, in respect of deemed dividend u/s 2(22)(e)] on dividend distributed by it, consequent to which dividend was exempt in the hands of shareholder u/s 10(34) except dividend chargeable to tax u/s 115BBDA.

the case of specified assessee who is **resident in India**, at the rate of **10%** [further, increased by surcharge, if applicable and health and education cess @4%].

(ii) **Meaning of certain terms**

Term	Meaning
<b>Specified assessee</b>	A person, resident in India, other than <ul style="list-style-type: none"> <li>➤ domestic company</li> <li>➤ a fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in section 10(23C)(iv)/(v)/(vi)/(via)</li> <li>➤ a trust or institution registered under section 12A or 12AA</li> </ul>
<b>Dividend</b>	Includes dividend referred under section 2(22)(a) to (d) but shall not include sub-clause (e) thereof.

- (iii) Further, the taxation of dividend income in excess ₹ 10 lakh shall be on gross basis i.e., no deduction in respect of any expenditure or allowance or set-off of loss shall be allowed to the assessee in computing the income by way of dividends.

#### ILLUSTRATION 1

*Dhaval is in business of manufacturing customized kitchen equipments. He is also the Managing Director and held nearly 65% of the paid-up share capital of Aarav (P) Ltd. A substantial part of the business of Dhaval is obtained through Aarav (P) Ltd. For this purpose, Aarav (P) Ltd. passed on the advance received from its customers to Dhaval to execute the job work entrusted to him.*

*The Assessing Officer held that the advance money received by Dhaval is in the nature of loan given by Aarav (P) Ltd. to him and accordingly is deemed dividend within the meaning of provisions of section 2(22)(e) of the Income-tax Act, 1961. The Assessing Officer, therefore made the addition by treating advance money as deemed dividend.*

*Examine whether the action of the Assessing Officer is tenable in law.*

#### SOLUTION

As per section 2(22)(e), in case a company, not being a company in which the public are substantially interested, makes payment of any sum by way of advance or loan to a shareholder holding not less than 10% of voting power/share capital of the company, then, the payment so made shall be deemed to be dividend in the hands of such shareholder to the extent to which the company possesses accumulated profits.

In the present case, Dhaval is holding 65% of the paid-up capital of Aarav (P) Ltd. Aarav (P) Ltd. has passed on advance received from its customers to Dhaval for execution of job work entrusted to Dhaval.

Since Aarav (P) Ltd. is not a company in which public are substantially interested, the applicability of the provisions of section 2(22)(e) in respect of such transaction has to be examined. In *CIT v.*

*Rajkumar (2009) 318 ITR 462 (Del.)*, it was held that trade advance given to the shareholder which is in the nature of money transacted to give effect to a commercial transaction, would not amount to deemed dividend under section 2(22)(e). The Delhi High Court ruling in *CIT v. Ambassador Travels (P) Ltd. (2009) 318 ITR 376* also supports the above view.

In the present case, the payment is made to Dhaval by Aarav (P) Ltd. for execution of work is in the course of commercial business transaction and therefore, it cannot be treated as deemed dividend under section 2(22)(e). Hence, the action of the Assessing Officer is not tenable in law.

**Note** – This can also be answered on the basis of Circular No. 19/2017, dated 12.06.2017. The CBDT has, in its circular clarified that it is a settled position that trade advances, which are in the nature of commercial transactions, would not fall within the ambit of the word 'advance' in section 2(22)(e) and therefore, the same would not to be treated as deemed dividend. Since, the payment is made to Dhaval by Aarav (P) Ltd. for execution of work is in the course of commercial business transaction and therefore, the advance cannot be treated as deemed dividend under section 2(22)(e). Hence, the action of the Assessing Officer is not tenable in law.

#### ILLUSTRATION 2

MNO (P) Ltd. is a company in which the public are not substantially interested. K is a shareholder of the company holding 15% of the equity shares. The accumulated profits of the company as on 1.10.2020 amounted to ₹ 10,00,000. The company lent ₹ 1,00,000 to K by an account payee bank draft on 1.10.2020. The loan was not connected with the business of the company. K repaid the loan to the company by an account payee bank draft on 30.3.2021. Examine the effect of the borrowal and repayment of the loan by K on the computation of his total income for the assessment year 2021-22.

#### SOLUTION

As per section 2(22)(e), any payment by a company, in which the public are not substantially interested, by way of advance or loan to a shareholder, being a person who is the beneficial owner of shares holding not less than 10% of the voting power, shall be treated as dividend to the extent to which the company possesses accumulated profits.

In the instant case, MNO (P) Ltd. is a company in which the public are not substantially interested. The company has accumulated profits of ₹ 10,00,000 on 1.10.2020. The loan given by the company to K was not in the course of its business. K holds more than 10% of the equity shares in the company. Therefore, assuming that K has voting power equivalent to his shareholding, section 2(22)(e) comes into play. Deemed dividend of ₹ 1,00,000 under section 2(22)(e) would be taxable in the hands of Mr. K at normal rate of tax.

Under section 2(22)(e), the liability arises the moment the loan is borrowed by the shareholder and it is immaterial whether the loan is repaid before the end of the accounting year or not. Therefore, the repayment of loan by K to the company on 30.3.2021 will not affect the taxability of the sum of ₹ 1,00,000 as deemed dividend.

**(ii) Casual Income [Section 56(2)(ib)]**

Casual income means income in the nature of winning from lotteries, crossword puzzles, races including horse races, card games and other games of any sort, gambling, betting etc. Such winnings are chargeable to tax at a flat rate of 30% under section 115BB and tax is deductible at source@30% on such income in case it exceeds ₹ 10,000.

**(iii) Consideration received in excess of FMV of shares issued by a closely held company to be treated as income of such company, where shares are issued at a premium [Section 56(2)(viib)]**

- (a) Section 56(2)(viib) brings to tax the consideration received from a resident person by a company, other than a company in which public are substantially interested, which is in excess of the fair market value (FMV) of shares.
- (b) Such excess is to be treated as the income of a closely held company taxable under section 56(2) under the head "Income from Other Sources", in cases where consideration received for issue of shares exceeds the face value of shares i.e. where shares are issued at a premium i.e., (Issue price of share – FMV of such share) x No. of shares.
- (c) Fair market value of the shares shall be the higher of, the value as may be –
  - (1) determined in accordance with the prescribed method<sup>3</sup>; or
  - (2) substantiated by the company to the satisfaction of the Assessing Officer, based on the value of its assets on the date of issue of shares.

For the purpose of computation of FMV, the value of assets would include the value of intangible assets being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature.

**Examples:**

Co.	No. of shares	Face value of shares (₹)	FMV of shares (₹)	Issue price of shares (₹)	Applicability of section 56(2)(viib)
<b>Example 1</b>					
A (P) Ltd.	10,000	100	120	130	The provisions of section 56(2)(viib) are attracted in this case since the shares are issued at a premium (i.e., issue price exceeds the face value of shares). The excess of the issue price of the shares over the FMV would be taxable under section 56(2)(viib).

<sup>3</sup> For detailed reading of Rule 11U and 11UA of the Income-tax Rules, 1962, students may visit <https://www.incometaxindia.gov.in/Pages/default.aspx>



					₹ 1,00,000 [10,000 × ₹ 10 (₹ 130 - ₹ 120)] shall be treated as income in the hands of A (P) Ltd.
<b>Example 2</b>					
B (P) Ltd.	20,000	100	120	110	The provisions of section 56(2)(viib) are attracted since the shares are issued at a premium. However, no sum shall be chargeable to tax in the hands of B (P) Ltd. under the said section as the shares are issued at a price less than the FMV of shares.
<b>Example 3</b>					
C (P) Ltd.	30,000	100	90	98	Section 56(2)(viib) is not attracted since the shares are issued at a discount, though the issue price is greater than the FMV.
<b>Example 4</b>					
D (P) Ltd.	40,000	100	90	110	The provisions of section 56(2)(viib) are attracted in this case since the shares are issued at a premium. The excess of the issue price of the shares over the FMV would be taxable under section 56(2)(viib). Therefore, ₹ 8,00,000 [40,000 × ₹ 20 (₹ 110 - ₹ 90)] shall be treated as income in the hands of D (P) Ltd.

(d) However, these provisions would not be attracted where consideration for issue of shares is received:

- (1) by a Venture Capital Undertaking (VCU) from a Venture Capital Fund (VCF) or Venture Capital Company (VCC) or a specified fund;

“Specified Fund” means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992.

“Trust” means a trust established under the Indian Trusts Act, 1882 or under any other law for the time being in force;

- (2) by a company from a class or classes of persons as notified by the Central Government for this purpose.

Accordingly, the Central Government has, vide Notification No. 13/2019, dated 5-03-2019, notified that the provisions of section 56(2)(viib) shall not apply to consideration received by a company for issue of shares that exceeds the face value of such shares, if the said consideration received from a person, being a resident, by a company which fulfills the conditions specified by the Ministry of Commerce and Industry in the Department for Promotion of Industry and Internal Trade and files the declaration referred to in the said notification. In effect, vide this notification, the Central Government has notified the conditions to be fulfilled by a company which issues shares rather than the class or classes of persons to whom such shares are issued.

The Ministry of Commerce and Industry in the Department for Promotion of Industry and Internal Trade has, vide Notification No. G.S.R. 127(E) dated 19.2.2019, specified in para 4 thereunder, that a startup shall be eligible for exemption under clause (ii) of the proviso to section 56(2)(viib), if it fulfills the following conditions:

- (i) It has been recognized by the Department for Promotion of Industry and Internal Trade as start up as per this notification or any earlier notification on the subject.
- (ii) Aggregate amount of paid up capital and share premium of the startup after issue or proposed issue of shares, if any, does not exceed, twenty five crore rupees.

However, in computing the aggregate amount of paid up share capital, the amount of paid up share capital and share premium of twenty five crore rupees in respect of shares issued to any of the following persons shall not be included:

- (a) a non-resident
- (b) a venture capital company or a venture capital fund

Further, consideration received by such startup for shares issued or proposed to be issued to a specified company shall also be exempt and shall not be included in computing the aggregate amount of paid up share capital and share premium of twenty five crore rupees. For this purpose, a specified company means a company whose shares are frequently traded within the meaning of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and whose net worth on the last date of financial year preceding the year in which shares are issued exceeds one hundred crore rupees or turnover for the financial year preceding the year in which shares are issued exceeds two hundred fifty crore rupees.

- (iii) It has not invested in any of the following assets –
- (a) building or land appurtenant thereto, being a residential house, other than that used by the Startup for the purposes of renting or held by it as stock-in-trade, in the ordinary course of business;
  - (b) land or building, or both, not being a residential house, other than that occupied by the Startup for its business or used by it for purposes of renting or held by it as stock-in trade, in the ordinary course of business;
  - (c) loans and advances, other than loans or advances extended in the ordinary course of business by the Startup where the lending of money is substantial part of its business;
  - (d) capital contribution made to any other entity;
  - (e) shares and securities;
  - (f) a motor vehicle, aircraft, yacht or any other mode of transport, the actual cost of which exceeds ten lakh rupees, other than that held by the Startup for the purpose of plying, hiring, leasing or as stock-in-trade, in the ordinary course of business;
  - (g) jewellery other than that held by the Startup as stock-in-trade in the ordinary course of business;
  - (h) any other asset, whether in the nature of capital asset or otherwise, of the nature specified in section 56(2)(vii)(d)(iv) to (ix) i.e., archaeological collections, drawings, paintings, sculptures, any work of art or bullion.

However, the Startup should not invest in any of the assets mentioned above for the period of seven years from the end of the latest financial year in which shares are issued at premium;

**Meaning of Startup:**

A company would be considered as Startup if the following conditions are satisfied:

- (a) **Period** – It would be considered as a Startup upto a period of ten years from the date of incorporation/ registration, if it is incorporated as a private limited company (as defined in the Companies Act, 2013) in India.

- (b) **Turnover limit** - Turnover of the company for any of the financial years since incorporation/registration has not exceeded one hundred crore rupees.
- (c) **Object and Purposes** - The company is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.

However, a private limited company shall not be considered a "Startup", if it formed by splitting up or reconstruction of an existing business.

**Note:** It may, however, be noted that where the provisions of section 56(2)(viib) have not been applied to a company on account of fulfilment of conditions specified in the above notification and such company fails to comply with any of those conditions, then, any consideration received for issue of share that exceeds the fair market value of such share shall be deemed to be the income of that company chargeable to income-tax for the previous year in which such failure has taken place. Further, it shall also be deemed that the company has under-reported the income in consequence of the misreporting referred to in section 270A(8) and 270A(9) for the said previous year. Consequently, penalty @200% of tax payable on under-reported income would be leviable.

**(iv) Interest received on compensation/ enhanced compensation deemed to be income in the year of receipt and taxable under the head "Income from Other Sources" [Section 56(2)(viii)]**

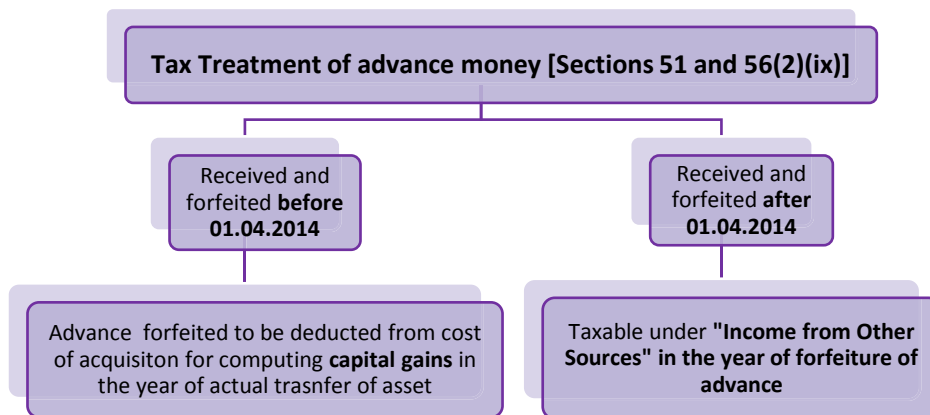
- (a) As per section 145(1), income chargeable under the head "Profits and gains of business or profession" or "Income from other sources", shall be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee.
- (b) Section 145B(1) provides that notwithstanding anything contained in section 145(1), the interest received by an assessee on compensation or on enhanced compensation shall be deemed to be his income of the previous year in which it is received.
- (c) Section 56(2)(viii) provides that income by way of interest received on compensation or on enhanced compensation referred to in section 145B(1) shall be assessed as "Income from other sources" in the year in which it is received.

**(v) Advance forfeited due to failure of negotiations for transfer of a capital asset to be taxable as "Income from other sources" [Section 56(2)(ix)]**

- (a) Prior to A.Y.2015-16, any advance retained or received in respect of a negotiation for transfer which failed to materialise is reduced from the cost of acquisition of the asset or the

written down value or the fair market value of the asset, at the time of its transfer to compute the capital gains arising therefrom as per section 51. In case the asset transferred is a long-term capital asset, indexation benefit would be on the cost so reduced.

- (b) With effect from A.Y.2015-16, section 56(2)(ix) provides for the taxability of any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset. Such sum shall be chargeable to income-tax under the head 'Income from other sources', if such sum is forfeited and the negotiations do not result in transfer of such capital asset.
- (c) In order to avoid double taxation of the advance received and retained, section 51 was amended to provide that where any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, has been included in the total income of the assessee for any previous year, in accordance with section 56(2)(ix), such amount shall not be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition.
- (d) It may be noted that advance received and forfeited upto 31.3.2014 has to be reduced from cost of acquisition while computing capital gains, since such advance would not have been subject to tax under section 56(2)(ix). Only the advance received and forfeited on or after 1.4.2014 would be subject to tax under section 56(2)(ix). Hence, such advance would not be reduced from the cost of acquisition for computing capital gains.



- (vi) **Any sum of money or value of property received without consideration or for inadequate consideration to be subject to tax in the hands of the recipient [Section 56(2)(x)]**

In order to prevent the practice of receiving sum of money or the property without consideration or for inadequate consideration, section 56(2)(x) brings to tax any sum of money or the value of any property received by any person without consideration or the value of any property received for inadequate consideration.

(a) **Sum of Money:** If any sum of money is received without consideration and the aggregate value of which exceeds ₹ 50,000, the whole of the aggregate value of such sum is chargeable to tax.

(b) **Immovable property [Land or building or both]:**

I. If an immovable property is received

(a) **Without consideration:** the stamp duty value of such property would be taxed as the income of the recipient, if it exceeds ₹ 50,000.

(b) **For Inadequate consideration:** If consideration is less than the stamp duty value of the property and the difference between the stamp duty value and consideration is more than the higher of –

(i) ₹ 50,000 and

(ii) 10% of consideration,

the difference between the stamp duty value and the consideration shall be chargeable to tax in the hands of the assessee as “Income from other sources”.

**Note:** The above limit shall be considered for **each property separately**.

II. **Value of property to be considered where the date of agreement is different from date of registration:** Taking into consideration the possible time gap between the date of agreement and the date of registration, the stamp duty value may be taken as on the date of agreement instead of the date of registration, if the date of the agreement fixing the amount of consideration for the transfer of the immovable property and the date of registration are not the same, provided whole or part of the consideration has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system (ECS) through a bank account **or through such prescribed electronic mode** on or before the date of agreement.

*The prescribed electronic modes notified are credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay as other electronic modes of payment [CBDT Notification No. 8/2020 dated 29.01.2020].*

III. **If the stamp duty value of immovable property is disputed by the assessee, the Assessing Officer may refer the valuation of such property to a Valuation Officer.** In such a case, the provisions of section 50C and section 155(15) shall, as far as may be, apply for determining the value of such property. As per section 50C, if such value is less than the stamp duty value, the same would be taken for

determining the value of such property, for computation of income under this head in the hands of the buyer.

(c) **Movable Property [Property other than immovable property]:**

If movable property is received

- (i) **Without consideration:** The aggregate fair market value of such property on the date of receipt would be taxed as the income of the recipient, if it exceeds ₹ 50,000.
- (ii) **For inadequate consideration:** If the difference between the aggregate fair market value and such consideration exceeds ₹ 50,000, such difference would be taxed as the income of the recipient.

(d) **Applicability of section 56(2)(x):** The provisions of section 56(2)(x) would apply only to the specified property which is the nature of a capital asset of the recipient and not stock-in-trade, raw material or consumable stores of any business of the recipient. Therefore, only transfer of a specified capital asset, without consideration or for inadequate consideration would attract the provisions of section 56(2)(x).

(e) **The table below summarizes the scheme of taxability of gifts –**

	Nature of asset	Taxable value
1	Money	The whole amount if the same exceeds ₹ 50,000.
2	Movable property	<p>(i) <b>Without consideration:</b> The aggregate fair market value of the property, if it exceeds ₹ 50,000.</p> <p>(ii) <b>Inadequate consideration:</b> The difference between the aggregate fair market value and the consideration, if such difference exceeds ₹ 50,000.</p>
3	Immovable property	<p>(i) <b>Without consideration:</b> The stamp value of the property, if it exceeds ₹ 50,000.</p> <p>(ii) <b>Inadequate consideration:</b> The difference between the stamp duty value and the consideration, if such difference is more than the higher of ₹ 50,000 and <b>10%</b> of consideration.</p>

(f) **Non-applicability of section 56(2)(x):** However, any sum of money or value of property received in the following circumstances would be outside the ambit of section 56(2)(x) -

- (i) from any relative; or
- (ii) on the occasion of the marriage of the individual; or
- (iii) under a will or by way of inheritance; or

- (iv) in contemplation of death of the payer or donor, as the case may be; or
- (v) from any local authority as defined in the *Explanation* to section 10(20); or
- (vi) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in section 10(23C); or
- (vii) from or by any trust or institution registered under section 12A or section 12AA; or
- (viii) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in Section 10(23C)(iv)/(v)/(vi)/(via).
- (ix) by way of transaction not regarded as transfer under section 47(i)/(iv)/(v)/(vi)/(via)/(vii)/(viii)/(ix)/(x)/(xi).
- (x) from an individual by a trust created or established solely for the benefit of relative of the individual.
- (xi) from such class of persons and subject to such conditions, as may be prescribed.

Accordingly, CBDT has, vide Notification No. 40/2020, dated 29<sup>th</sup> June, 2020, notified that the provisions of section 56(2)(x) would not be applicable to the following transactions –

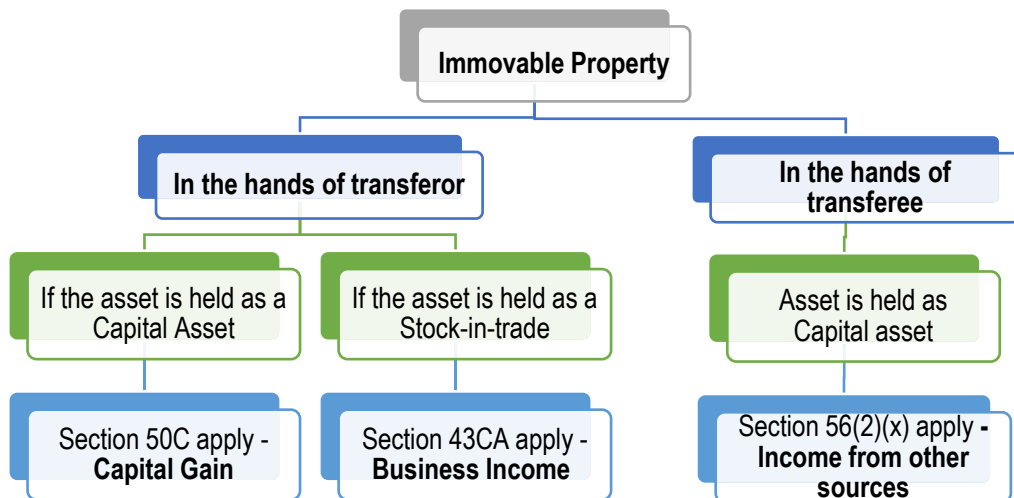
S.No.	Property	Received by	Condition
1.	Any immovable property, being land or building or both	a resident of an unauthorized colony in the National Capital Territory of Delhi	where the Central Government by notification in the Official Gazettee, regularised the transactions of such immovable property based on the latest Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration for conferring or recognising right of ownership or transfer or mortgage in regard to such immovable property in favour of such resident.
<p><b>Resident means</b> a person having physical possession of property on the basis of a registered sale deed or latest set of Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration in respect of a property in unauthorised colonies and includes their legal heirs but does not include tenant, licensee or permissive user.</p>			

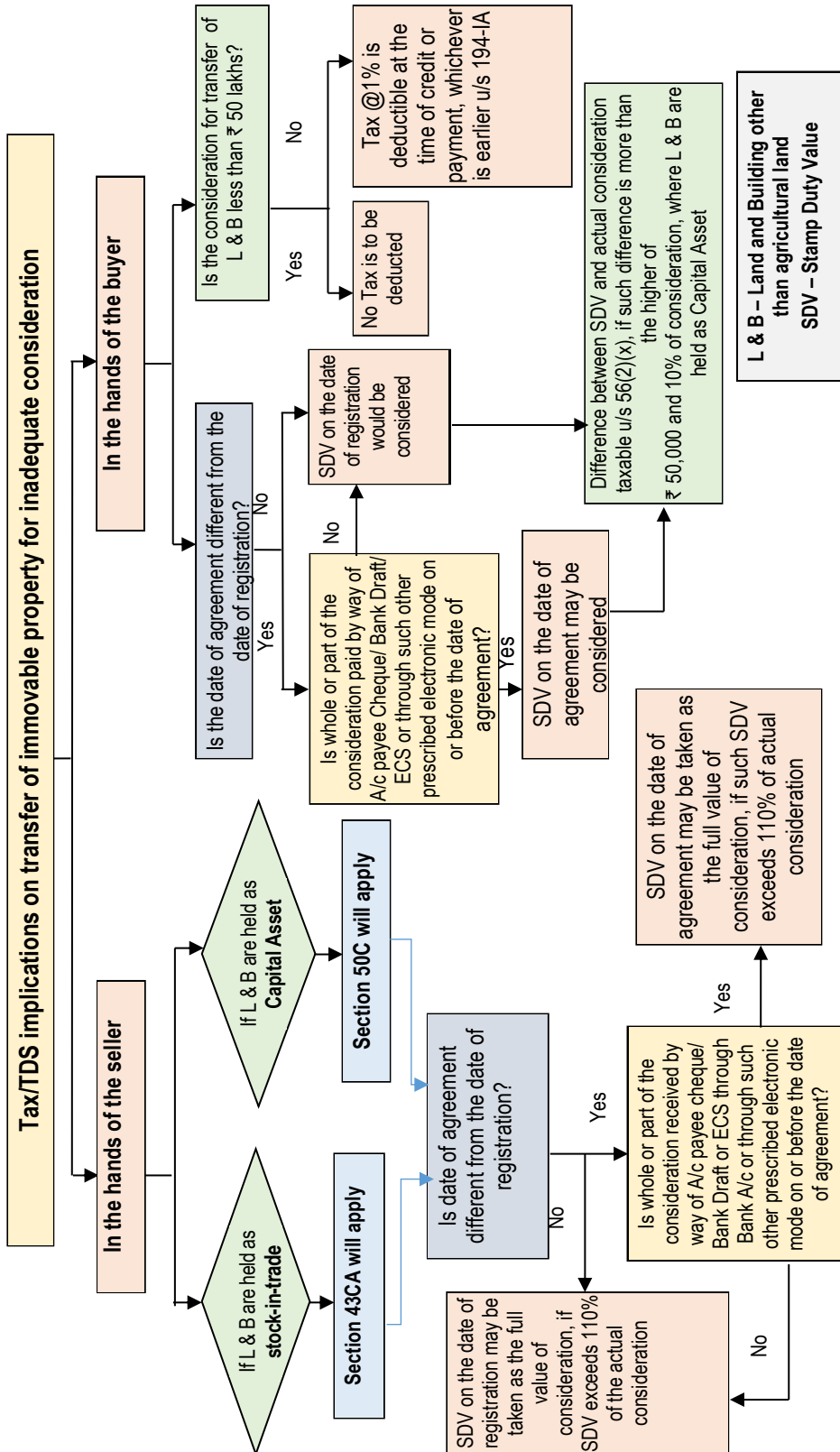


	<b>Unauthorised colony means</b> a colony or development comprising of a contiguous area, where no permission has been obtained for approval of layout plan or building plans and has been identified for regularisation of such colony in pursuance to the notification number S.O. 683(E), dated the 24th March, 2008, of the Delhi Development Authority.		
2.	Any movable property, being unquoted shares, of a company and its subsidiary and the subsidiary of such subsidiary	Shareholder	Where, (i) the Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013, has suspended the Board of Directors of such company and has appointed new directors nominated by the Central Government under section 242 of the said Act; and (ii) share of company and its subsidiary and the subsidiary of such subsidiary has been received pursuant to a resolution plan approved by the Tribunal under section 242 of the Companies Act, 2013 after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.
	A company shall be a subsidiary of another company, if such other company holds more than half in nominal value of the equity share capital of the company;		
3.	Any movable property, being equity shares, of the reconstructed bank	Investor or investor bank	where the said share has been allotted by the reconstructed bank under the scheme at a price specified in sub-paragraph (3) of paragraph 3 of the Yes Bank Limited Reconstruction Scheme, 2020.

(g) **Meaning of certain terms:**

Term	Meaning
<b>Property</b>	A <b>capital asset</b> of the assessee, namely,- (a) immovable property being land or building or both, (b) shares and securities, (c) jewellery, (d) archaeological collections, (e) drawings, (f) paintings, (g) sculptures, (h) any work of art or bullion.
<b>Relative</b>	(a) <b>In case of an individual –</b> (i) spouse of the individual; (ii) brother or sister of the individual; (iii) brother or sister of the spouse of the individual; (iv) brother or sister of either of the parents of the individual; (v) any lineal ascendant or descendant of the individual; (vi) any lineal ascendant or descendant of the spouse of the individual; (vii) spouse of any of the persons referred to above. (b) <b>In case of Hindu Undivided Family</b> , any member thereof.

**SUMMARY**



**ILLUSTRATION 3**

Mr. A, a dealer in shares, received the following without consideration during the P.Y.2020-21 from his friend Mr. B, -

- (1) Cash gift of ₹ 75,000 on his anniversary, 15<sup>th</sup> April, 2020.
- (2) Bullion, the fair market value of which was ₹ 60,000, on his birthday, 19<sup>th</sup> June, 2020.
- (3) A plot of land at Faridabad on 1<sup>st</sup> July, 2020, the stamp value of which is ₹ 5 lakh on that date. Mr. B had purchased the land in April, 2009.

Mr. A purchased from his friend Mr. C, who is also a dealer in shares, 1000 shares of X Ltd. @ ₹ 400 each on 19<sup>th</sup> June, 2020, the fair market value of which was ₹ 600 each on that date. Mr. A sold these shares in the course of his business on 23<sup>rd</sup> June, 2020.

Further, on 1<sup>st</sup> November, 2020, Mr. A took possession of property (building) booked by him two years back at ₹ 20 lakh. The stamp duty value of the property as on 1<sup>st</sup> November, 2020 was ₹ 32 lakh and on the date of booking was ₹ 23 lakh. He had paid ₹ 1 lakh by account payee cheque as down payment on the date of booking.

On 1<sup>st</sup> March, 2021, he sold the plot of land at Faridabad for ₹ 7 lakh.

Compute the income of Mr. A chargeable under the head "Income from other sources" and "Capital Gains" for A.Y.2021-22.

**SOLUTION****Computation of "Income from other sources" of Mr. A for the A.Y.2021-22**

	Particulars	₹
(1)	Cash gift is taxable under section 56(2)(x), since it exceeds ₹ 50,000	75,000
(2)	Since bullion is included in the definition of property, therefore, when bullion is received without consideration, the same is taxable, since the aggregate fair market value exceeds ₹ 50,000	60,000
(3)	Stamp value of plot of land at Faridabad, received without consideration, is taxable under section 56(2)(x)	5,00,000
(4)	Difference of ₹ 2 lakh in the value of shares of X Ltd. purchased from Mr. C, a dealer in shares, is not taxable as it represents the stock-in-trade of Mr. A. Since Mr. A is a dealer in shares and it has been mentioned that the shares were subsequently sold in the course of his business, such shares represent the stock-in-trade of Mr. A.	-
(5)	Difference between the stamp duty value of ₹ 23 lakh on the date of booking and the actual consideration of ₹ 20 lakh paid is taxable under section 56(2)(x) since the difference exceeds ₹ 1 lakh being, the higher of ₹ 50,000 and 10% of consideration.	3,00,000
<b>Income from Other Sources</b>		<b>9,35,000</b>

## Computation of "Capital Gains" of Mr. A for the A.Y.2021-22

Particulars	₹
Sale Consideration	7,00,000
Less: Cost of acquisition [deemed to be the stamp value charged to tax under section 56(2)(x) as per section 49(4)]	5,00,000
<b>Short-term capital gains</b>	<b>2,00,000</b>

**Note** – The resultant capital gains will be short-term capital gains since for calculating the period of holding, the period of holding of previous owner is not to be considered.

**ILLUSTRATION 4**

Discuss the taxability or otherwise of the following in the hands of the recipient under section 56(2)(x) of the Income-tax Act, 1961 -

- (i) Akhil HUF received ₹ 75,000 in cash from niece of Akhil (i.e., daughter of Akhil's sister). Akhil is the Karta of the HUF.
- (ii) Nitisha, a member of her father's HUF, transferred a house property to the HUF without consideration. The stamp duty value of the house property is ₹ 9,00,000.
- (iii) Mr. Akshat received 100 shares of A Ltd. from his friend as a gift on occasion of his 25<sup>th</sup> marriage anniversary. The fair market value on that date was ₹ 100 per share. He also received jewellery worth ₹ 45,000 (FMV) from his nephew on the same day.
- (iv) Kishan HUF gifted a car to son of Karta for achieving good marks in XII board examination. The fair market value of the car is ₹ 5,25,000.

**SOLUTION**

	Taxable/ Non-taxable	Amount liable to tax (₹)	Reason
(i)	Taxable	75,000	Sum of money exceeding ₹ 50,000 received without consideration from a non-relative is taxable under section 56(2)(x). Daughter of Mr. Akhil's sister is not a relative of Akhil HUF, since she is not a member of Akhil HUF.
(ii)	Non-taxable	Nil	Immovable property received without consideration by a HUF from its relative is not taxable under section 56(2)(x). Since Nitisha is a member of the HUF, she is a relative of the HUF. However, income from such asset would be included in the hands of Nitisha under 64(2).
(iii)	Taxable	55,000	As per provisions of section 56(2)(x), in case the aggregate fair market value of property, other than immovable property, received without consideration exceeds ₹ 50,000,

			the whole of the aggregate value shall be taxable. In this case, the aggregate fair market value of shares (₹ 10,000) and jewellery (₹ 45,000) exceeds ₹ 50,000. Hence, the entire amount of ₹ 55,000 shall be taxable.
(iv)	Non-taxable	Nil	Car is not included in the definition of property for the purpose of section 56(2)(x), therefore, the same shall not be taxable.

### ILLUSTRATION 5

Mr. Hari, a property dealer, sold a building in the course of his business to his friend Mr. Rajesh, who is a dealer in automobile spare parts, for ₹ 90 lakh on 1.1.2021, when the stamp duty value was ₹ 150 lakh. The agreement was, however, entered into on 1.9.2020 when the stamp duty value was ₹ 140 lakh. Mr. Hari had received a down payment of ₹ 15 lakh by a crossed cheque from Mr. Rajesh on the date of agreement. Discuss the tax implications in the hands of Mr. Hari and Mr. Rajesh, assuming that Mr. Hari has purchased the building for ₹ 75 lakh on 12<sup>th</sup> July, 2019.

Would your answer be different if Hari was a share broker instead of a property dealer and Mr. Rajesh was a property dealer instead of dealer in automobile spare parts?

### SOLUTION

#### Case 1: Tax implications if Mr. Hari is a property dealer

In the hands of Mr. Hari	In the hands of Mr. Rajesh
<p>In the hands of Hari, the provisions of section 43CA would be attracted, since the building represents his stock-in-trade and he has transferred the same for a consideration less than the stamp duty value; and the stamp duty value exceeds 110% of consideration.</p> <p>Under section 43CA, the option to adopt the stamp duty value on the date of agreement can be exercised only if whole or part of the consideration has been received on or before the date of agreement by way of account payee cheque or draft or by use of ECS through a bank account or through credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay on or before the date of agreement. In this case, since the down payment of ₹ 15 lakh is received on the date of agreement by crossed cheque and not account payee cheque, the option cannot be exercised.</p>	<p>Since Mr. Rajesh is a dealer in automobile spare parts, the building purchased would be a capital asset in his hands. The provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration and the difference between the consideration and stamp duty value exceeds ₹ 9,00,000, being the higher of ₹ 50,000 and <b>10% of consideration</b>.</p> <p>Therefore, ₹ 60 lakh, being the difference between the stamp duty value of the property on the date of registration (i.e., ₹ 150 lakh) and the actual consideration (i.e., ₹ 90 lakh) would be taxable under section 56(2)(x) in the hands of Mr. Rajesh, since the payment on the date of agreement is made by crossed cheque and not account payee cheque/draft or ECS or through credit card, debit card, net banking, IMPS</p>

Therefore, ₹ 75 lakh, being the difference between the stamp duty value on the date of transfer i.e., ₹ 150 lakh, and the purchase price i.e., ₹ 75 lakh, would be chargeable as <b>business income</b> in the hands of Mr. Hari, since stamp duty value exceeds <b>110% of the consideration</b> .	<i>(Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay.</i>
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### **Case 2: Tax implications if Mr. Hari is a stock broker**

In the hands of Mr. Hari	In the hands of Mr. Rajesh
<p>In case Mr. Hari is a share broker and not a property dealer, the building would represent his capital asset and not stock-in-trade. In such a case, the provisions of section 50C would be attracted in the hands of Mr. Hari, since building is transferred for a consideration less than the stamp duty value; and the stamp duty value exceeds 110% of consideration.</p> <p>Thus, ₹ 75 lakh, being the difference between the stamp duty value on the date of registration (i.e., ₹ 150 lakh) and the purchase price (i.e., ₹ 75 lakh) would be chargeable as short-term capital gains.</p> <p>It may be noted that under section 50C, the option to adopt the stamp duty value on the date of agreement can be exercised only if whole or part of the consideration has been received on or before the date of agreement by way of account payee cheque or draft or by use of ECS through a bank account <i>or through credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay</i> on or before the date of agreement. In this case, since the down payment of ₹ 15 lakhs has been received on the date of agreement by crossed cheque and not account payee cheque, the option cannot be exercised.</p>	<p>In case Mr. Rajesh is a property dealer and not a dealer of automobile spare parts, the building would represent his stock-in-trade and not a capital asset. In such a case, the provisions of section 56(2)(x) would not be attracted in the hands of Mr. Rajesh and no amount will be taxable in the hands of Mr. Rajesh for purchase of the said building.</p>

**(vii) Compensation or any other payment received in connection with termination of his employment [Section 56(2)(xi)]**

Any compensation or any other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment or the modification of the terms and conditions relating thereto shall be chargeable to tax under this head. However, if it is received from employer, then it is taxable u/s 17(3)(i) under the head "Income from Salaries".

**(2) Income chargeable under the head "Income from other sources" only if not chargeable under the head "Profits and gains of business or profession" -**

- (i) Any sum received by an employer-assessee from his employees as contributions to any provident fund, superannuation fund or any other fund for the welfare of the employees.
- (ii) Income from letting out on hire, machinery, plant or furniture.
- (iii) Where letting out of buildings is inseparable from the letting out of machinery, plant or furniture, the income from such letting.
- (iv) Interest on securities

**However, the following Interest income arising to certain persons would be exempt under section 10(15):**

- (a) Income by way of interest, premium on redemption or other payment on notified securities, bonds, annuity certificates or other savings certificates is exempt subject to such conditions and limits as may be specified in the notification.

Interest on Post Office Savings Bank Account would be exempt from tax to the extent of:

- (1) ₹ 3,500 in case of an individual account.
- (2) ₹ 7,000 in case of a joint account.

- (b) Interest payable —

- (1) by public sector companies on certain specified bonds and debentures subject to the conditions which the Central Government may specify by notification, including the condition that the holder of such bonds or debentures registers his name and holding with that company;

Accordingly, the Central Government has specified tax free bonds issued by India Infrastructure Company Ltd. and tax free, secured, redeemable, non-convertible Bonds of the Indian Railway Finance Corporation Ltd. (IRFCL), National Highways Authority of India (NHAI), Rural Electrification Corporation Ltd. (RECL), Housing and Urban Development Corporation Ltd. (HUDCL), Power Finance Corporation (PFC), Jawaharlal Nehru Port Trust, Dredging Corporation of India Limited, Ennore Port Limited and The Indian Renewable



Energy Development Agency Limited, the interest from which would be exempt under this section.

- (2) by Government of India on deposit made by an employee of the Central or State Government or a public sector company in accordance with the scheme as may be notified of the moneys due to him on account of his retirement while on superannuation or otherwise. It is significant that this scheme is not applicable to non-Government employees.

The term 'industrial undertaking' means any undertaking which is engaged in:

- (i) the manufacture or processing of goods; or
- (ii) the manufacture of computer software or recording of programmes on any disc, tape, perforated media or other information device; or
- (iii) the business of generation or generation and distribution of electricity or any other form of power; or
- (iv) the business of providing telecommunication services; or
- (v) mining; or
- (vi) construction of ships, or
- (vii) the business of ship-breaking; or
- (viii) the operation of ships or aircrafts or construction or operation of rail systems.

For the purposes of the clause, "interest" shall not include interest paid on delayed payment of loan or default if which is more than 2% p.a. over the rate of interest payable in terms of such loan. Interest would include hedging transaction charges on account of currency fluctuation.

- (c) **Bhopal Gas Victims** - Section 10(15)(v) provides exemption in respect of interest on securities held by the Welfare Commissioner, Bhopal Gas Victims, Bhopal, in the Reserve Bank's Account No. SL/DH 048. Recently, in terms of an order of the Supreme Court to finance the construction of a hospital at Bhopal to serve the victims of the gas leak, the shares of the Union Carbide Indian Ltd., have been sold. The scope of the above exemption has been extended to interest on deposits for the benefit of the victims of the Bhopal Gas Leak disaster. Such deposits can be held in such account with the RBI or with a public sector bank as the Central Government may notify in the Official Gazette.
- (d) Interest on Gold Deposit Bond issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetization Scheme, 2015 notified by the Central Government.

- (e) Interest on bonds, issued by –
- (1) a local authority; or
  - (2) a State Pooled Finance Entity

and specified by the Central Government by notification in the Official Gazette.

**“State Pooled Finance Entity”** means such entity which is set up in accordance with the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Urban Development.

Accordingly, the Central Government has specified the “Tax-free Pooled Finance Development Bonds” under Pooled Finance Development Fund Scheme of Government of India, interest from which would be exempt under section 10(15).

### (3) Keyman Insurance Policy

Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy is chargeable under the head “Income from other sources” if such income is not chargeable under the head “Profits and gains if business or profession” or under the head “Salaries” i.e. if such sum is received by any person other than the employer who took the policy and the employee in whose name the policy was taken.

### (4) Residual Income

Any income chargeable to tax under the Act, but not falling under any other head of income shall be chargeable to tax under the head “Income from other sources” e.g. Salary received by an MPs/MLAs will not be chargeable to income-tax under the head ‘Salary’ but will be chargeable as “Income from other sources” under section 56.

#### ***Interest from non-SLR Securities of Banks: Whether chargeable under the head “Profits and gains of business or profession” or “Income from other sources”? [Circular No. 18, dated 2.11.2015]***

*The issue addressed by this circular is whether in the case of banks, expenses relatable to investment in non-SLR securities need to be disallowed under section 57(i), by considering interest on non-SLR securities as “Income from other sources.”*

*Section 56(1)(id) provides that income by way of interest on securities shall be chargeable to income-tax under the head “Income from Other Sources”, if the income is not chargeable to income-tax under the head “Profits and Gains of Business and Profession”.*

*The CBDT clarified that the **investments made by a banking concern are part of the business of banking**. Therefore, the income arising from such investments is attributable to the business of banking falling **under the head “Profits and Gains of Business and Profession”**.*



### 8.3 APPLICABLE RATE OF TAX IN RESPECT OF CASUAL INCOME [SECTION 115BB]

- (1) This section provides that income by way of winnings from lotteries, crossword puzzles, races including horse races or card games and other games of any sort or from gambling or betting of any form would be taxed at a flat rate of 30% *plus* surcharge, if applicable, plus **health and education cess @4%**.
- (2) No expenditure or allowance can be allowed from such income.
- (3) Deduction under Chapter VI-A is not allowable from such income.
- (4) Adjustment of unexhausted basic exemption limit is also not permitted against such income.



### 8.4 DEDUCTIONS ALLOWABLE [SECTION 57]

The income chargeable under the head “Income from other sources” shall be computed after making the following deductions:

- (1) ***In the case of dividend or income in respect of units of a mutual fund specified under section 10(23D) or income in respect of units of a specified company defined in the Explanation to section 10(35) : Interest expenditure to earn such income is allowed as deduction subject to a maximum of 20% of such income included in the total income, without deduction under this section.***
- (2) **In the case of interest on securities:** Any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such interest on behalf of the assessee.
- (3) **Income consists of recovery from employees as contribution to any provident fund etc. in terms of section 2(24)(x):** A deduction will be allowed in accordance with the provisions of section 36(1)(va) i.e. to the extent the contribution is remitted before the due date under the respective Acts.
- (4) **Where the income to be charged under this head is from letting on hire of machinery, plant and furniture, with or without building:** The following items of deductions are allowable in the computation of such income:
  - (i) the amount paid on account of any current repairs to the machinery, plant or furniture.
  - (ii) the amount of any premium paid in respect of insurance against risk of damage or destruction of the machinery or plant or furniture.
  - (iii) the normal depreciation allowance in respect of the machinery, plant or furniture, due thereon.

- (5) **In the case of income in the nature of family pension:** A deduction of a sum equal to 33-1/3 percent of such income or ₹ 15,000, whichever is less, is allowable.

For the purposes of this deduction “family pension” means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death.

**Exemption in respect of family pension**

1. *The family pension received by the widow or children or nominated heirs, of a member of the armed forces (including para-military forces) of the Union, where the death of such member has occurred in the course of operational duties, in specified circumstances would, however, be exempt under section 10(19).*
2. *The family pension received by any member of the family of an individual who had been in the service of Central or State Government and had been awarded “Param Vir Chakra” or “Vir Chakra” or “Vir Chakra” or other notified gallantry awards would be exempt under section 10(18)(ii).*

- (6) **Any other expenditure not being in the nature of capital expenditure** laid out or expended wholly and exclusively for the purpose of making or earning such income.
- (7) **In case of income by way of interest on compensation/ enhanced compensation received chargeable to tax under section 56(2)(viii):** Deduction of 50% of such income. No deduction would be allowable under any other clause of section 57 in respect of such income.

**ILLUSTRATION 6**

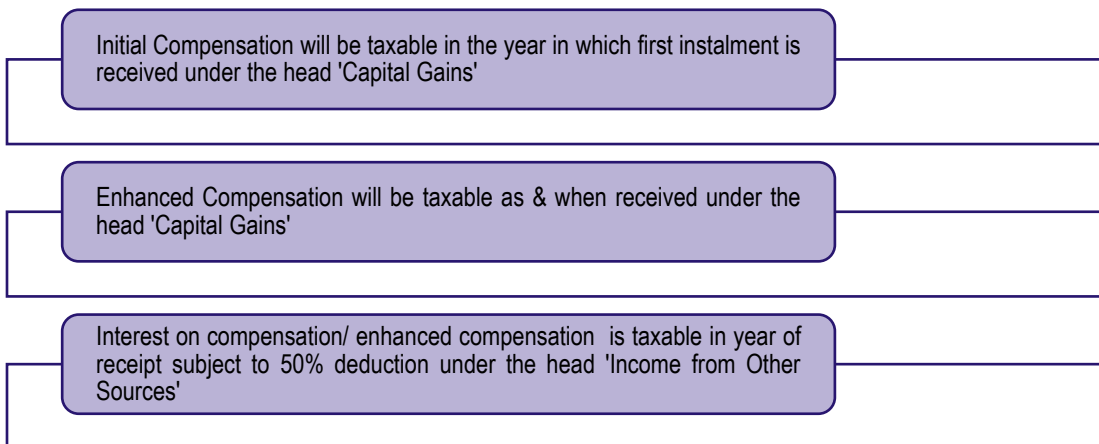
*Interest on enhanced compensation received by Mr. G during the previous year 2020-21 is ₹ 5,00,000. Out of this interest, ₹ 1,50,000 relates to the previous year 2017-18, ₹ 1,65,000 relates to previous year 2018-19 and ₹ 1,85,000 relates to previous year 2019-20. Discuss the tax implication, if any, of such interest income for A.Y.2021-22.*

**SOLUTION**

The entire interest of ₹ 5,00,000 would be taxable in the year of receipt, namely, P.Y.2020-21.

Particulars	₹
Interest on enhanced compensation taxable u/s 56(2)(viii)	5,00,000
Less: Deduction under section 57(iv) @50%	2,50,000
<b>Interest chargeable under the head “Income from other sources”</b>	<b>2,50,000</b>

Chart summarising the taxability of compensation / enhanced compensation (including interest) received on compulsory acquisition:



## 8.6 DEDUCTIONS NOT ALLOWABLE [SECTION 58]

No deduction shall be made in computing the “Income from other sources” of an assessee in respect of the following items of expenses:

- (1) **In the case of any assessee:**
  - (i) any personal expense of the assessee;
  - (ii) any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source.
  - (iii) any payment taxable in India as salaries, if it is payable outside India unless tax has been paid thereon or deducted at source.
- (2) **Any expenditure in respect of which a payment is made to a related person or made in cash in excess of ₹ 10,000:** In addition to these disallowances, section 58(2) specifically provides that the disallowance of any expenditure in respect of which a payment is made to a related person, to the extent the same is considered excessive or unreasonable by the Assessing Officer, having regard to the FMV. and disallowance of payment or aggregate of payments exceeding ₹10,000 made to a person during a day otherwise than by account payee cheque or draft or ECS through bank account or through such other prescribed electronic mode such as **credit card, debit card, net banking, IMPS, UPI, RTGS, NEFT, and BHIM Aadhar Pay** covered by section 40A will be applicable to the computation of income under the head ‘Income from other sources’ as well.

- (3) **Disallowance of 30% of expenditure:** 30% of expenditure shall not be allowed, in respect of a sum which is payable to a resident and on which tax is deductible at source, if
- such tax has not been deducted or;
  - such tax after deduction has not been paid on or before the due date of return specified in section 139(1).
- (4) **No deduction in respect of any expenditure incurred in connection with casual income:** No deduction in respect of any expenditure or allowance in connection with income by way of earnings from lotteries, cross word puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever shall be allowed in computing the said income.

The prohibition will not, however, apply in respect of the income of an assessee, being the owner of race horses, from the activity of owning and maintaining such horses. In respect of the activity of owning and maintaining race horses, expenses incurred shall be allowed even in the absence of any stake money earned. Such loss shall be allowed to be carried forward in accordance with the provisions of section 74A.



## 8.7 DEEMED INCOME CHARGEABLE TO TAX [SECTION 59]

The provisions of section 41(1) are made applicable, so far as may be, to the computation of income under this head. Accordingly, where a deduction has been made in respect of a loss, expenditure or liability and subsequently any amount is received or benefit is derived in respect of such expenditure incurred or loss or trading liability allowed as deduction, then it shall be deemed as income in the year in which the amount is received or the benefit is accrued.



## 8.8 METHOD OF ACCOUNTING [SECTION 145]

Income chargeable under the head “Income from other sources” has to be computed in accordance with the cash or mercantile system of accounting regularly employed by the assessee.

Under section 145(2), the Central Government is empowered to notify in Gazette from time to time, income computation and disclosure standards to be followed by any class of assesses or in respect of any class of income.

Accordingly, Central Government has notified ten ICDSs to be followed by all assesseees (other than an individual or a HUF who is not required to get his accounts of the previous year audited in accordance with the provisions of section 44AB) following the mercantile system of accounting, for the purpose of computation of income chargeable to income-tax under the head “Profits and gains from business or profession” or “Income from other sources”.

Text of notified ICDSs is given as an Annexure at the end of this module.

**SIGNIFICANT SELECT CASES**

1. **Is interest income from share application money deposited in bank eligible for set-off against public issue expenses or should such interest be subject to tax under the head 'Income from Other Sources'?**

***CIT v. Sree Rama Multi Tech Ltd. [2018] 403 ITR 426 (SC)***

**Facts of the Case:** The assessee-company is engaged in the manufacture of multi-layer tubes and other speciality packaging and plastic products. It came out with an initial public issue of shares during the relevant assessment years and deposited the share application money received in banks. The interest of ₹ 1,71,30,202 earned on the deposits was shown in the return of income originally filed under the head 'Income from Other Sources'. Subsequently, the assessee-company raised an additional ground before the Tribunal for allowing the set off of such interest against the public issue expenses.

**Issue:** The issue under consideration is whether the interest income from share application money is taxable under the head 'Income from Other Sources', or can the same be set-off against public issue expenses.

**Supreme Court's Observations:** The Supreme Court observed that the assessee-company was statutorily required to keep share application money in a separate account till the allotment of shares was completed. Part of the share application money would normally have to be returned to unsuccessful applicants, and therefore, the entire share application money would not ultimately be appropriated by the company. The interest earned was inextricably linked with the requirement of raising share capital.

Any surplus money deposited in the bank for the purpose of earning interest is liable to be taxed as "Income from Other Sources". Here, the share application money was deposited with the bank not to make additional income but to comply with the statute. The interest accrued on such deposit is merely incidental. Moreover, the issue of shares relates to capital structure of the company and hence, expenses incurred in connection with the issue of shares are to be capitalized. Accordingly, the accrued interest is not liable to be taxed as "Income from Other Sources"; the same is eligible to be set-off against public issue expenses.

**Supreme Court's Decision:** The Supreme Court concurred with the High Court's view that the interest accrued on deposit of share application money with bank is eligible for set off against the public issue expenses; such interest is, hence, not taxable as "Income from Other Sources".

2. Is loan to HUF who is a shareholder in a closely held company chargeable to tax as deemed dividend?

***Gopal & Sons (HUF) v. CIT (2017) 391 ITR 1 (SC)***

**Facts of the case:** The assessee is a HUF which holds 37.12% shares in M/s. G.S. Fertilizers (P.) Ltd., a closely held company. During the relevant previous year, it received loans and advances from the company. Its return was scrutinized by the Assessing Officer who treated the loans and advances as deemed dividend under section 2(22)(e). The company declared in its annual return that the advances were given to the HUF but the share certificates were issued in the name of the HUF's Karta, Shri Gopal Kumar Sanei.

**Appellate Authorities' views:** The CIT (Appeals) confirmed the order of the Assessing Officer. The Tribunal, however, observed that since a HUF cannot be a registered or beneficial shareholder of a company, the amount cannot be taxed as deemed dividend. The High Court restored the order of the Assessing Officer by observing that the assessee did not dispute that the karta is a member of HUF which has taken the loan from the company and, therefore, the case is covered by section 2(22)(e).

**Issue:** Whether loan given by a closely held company to a HUF is chargeable to tax as deemed dividend under section 2(22)(e) despite the stated position of law being that a HUF cannot be a shareholder in a company?

**Supreme Court's Observations:** When a loan is given by a closely held company, it is chargeable to tax as deemed dividend if the loan was given to a shareholder (having more than 10% shares in the company) or to a concern in which the shareholder has substantial interest (having more than 20% share in the concern). 'Concern' includes HUF.

In the instant case, loans were given to the HUF. There was some dispute as to who was the shareholder - the Karta or the HUF as share certificates were issued in the name of the former but the annual return mentioned the latter. The Court observed that in either scenario, section 2(22)(e) would be attracted. If the HUF was the shareholder, as it held more than 10% shares, situation was covered. If the Karta was the shareholder, the HUF would be the concern in which the Karta has substantial interest.

Further, on the issue whether a HUF can be a shareholder or not, it was observed that on account of *Explanation 3* to section 2(22)(e), a concern includes a HUF.

**Supreme Court's Decision:** The Supreme Court, accordingly, held that the loan amount is to be assessed as deemed dividend under section 2(22)(e).



3. **Is interest on enhanced compensation under section 28 of the Land Acquisition Act, 1894 assessable as capital gains or as income from other sources?**

***Movaliya Bhikhubhai Balabhai v. ITO (TDS) (2016) 388 ITR 343 (Guj)***

**Facts of the case:** The petitioner's agricultural lands were compulsorily acquired for undertaking an irrigation project. The petitioner challenged the compensation awarded by the Collector which led to award of additional compensation of ₹5,01,846 and interest amounting to ₹ 20.74 lakhs under section 28 of the Land Acquisition Act, 1894. The petitioner filed an application in the prescribed form to the Assessing Officer for issuance of a certificate with 'nil' tax deduction at source.

The application was rejected by the Assessing Officer on the ground that the interest amount is taxable at source as per section 57(iv) read with sections 56(2)(viii) and 145B(1). Aggrieved with the rejection of application, the assessee filed a writ before the High Court.

**High Court's Observations:** The High Court observed that the assessee has received interest under section 28 of the Land Acquisition Act, 1894 which represents enhanced value of land and thus, partakes the character of compensation and not interest. Hence, the interest under section 28 is liable to be taxed under the head of 'Capital Gains' and not under 'Income from Other Sources'. On the other hand, interest under section 34 of the Land Acquisition Act, 1894 is for the delay in making payment after the compensation amount is determined. Such amount is liable to be taxed under the head 'Income from Other Sources'.

**High Court's Decision:** The High Court held that the interest awarded under section 28 of the Land Acquisition Act, 1894 was not liable to tax under the head of 'Income from other sources' and thus, was not deductible at source. The Revenue authority had erred in refusing to grant a certificate under section 197 to the petitioner for non-deduction of tax at source.

**Note:** *The Land Acquisition Act, 1894 has now been repealed and replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Section 72 and Section 80 of the new legislation have similar provisions regarding award of interest.*

4. **What are the tests for determining "substantial part of business" of lending company for the purpose of application of exclusion provision under section 2(22)?**

***CIT v. Parle Plastics Ltd. (2011) 332 ITR 63 (Bom.)***

**High Court's Observations:** Under section 2(22), "dividend" does not include, *inter alia*, any advance or loan made to a shareholder by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company. The expression used in the exclusion provision of section 2(22) is "substantial part of the business". Sometimes a portion which contributes a substantial part of the turnover, though

it contributes a relatively small portion of the profit, would be termed as a substantial part of the business. Similarly, a portion which is relatively small as compared to the total turnover, but generates a large portion, say, more than 50% of the total profit of the company would also be a substantial part of its business. Percentage of turnover in relation to the whole as also the percentage of the profit in relation to the whole and sometimes even percentage of manpower used for a particular part of the business in relation to the total manpower or work force of the company would be required to be taken into consideration for determining the substantial part of business. The capital employed for a specific division of a company in comparison to total capital employed would also be relevant to determine whether the part of the business constitutes a substantial part.

In this case, 42% of the total assets of the lending company were deployed by it by way of loans and advances. Further, if the income earned by way of interest is excluded, the other business had resulted in a net loss. These factors were considered in concluding that lending of money was a substantial part of the business of the company.

**High Court's Decision:** Since lending of money was a substantial part of the business of the lending company, the money given by it by way of advance or loan to the assessee could not be regarded as a dividend, as it had to be excluded from the definition of "dividend" by virtue of the specific exclusion in section 2(22).

5. **Can repair and renovation expenses incurred by a company in respect of premises leased out by a shareholder having substantial interest in the company, be treated as deemed dividend?**

***CIT v. Vir Vikram Vaid (2014) 367 ITR 365 (Bom)***

**Facts of the case:** The assessee holds more than 75% of equity shares in a company and is the executive director of the company. In his personal capacity, he is the owner of certain premises in which he was carrying on a proprietary business. Subsequently, the assessee ceased to carry on the business of proprietary concern and hence, let out the premises to the company. The company incurred ₹ 2.51 crores towards construction and improvement of factory premises, which it continued to use otherwise than as the owner of the premises. The Assessing Officer held that the amounts spent by the company towards repair and renovation is taxable as deemed dividend. In the alternative, the said amount was to be treated as a perquisite taxable in the hands of the assessee.

**Appellate Authorities' Views:** The Commissioner (Appeals) noted the assessee's submission that he had leased out the said premises for a rent lower than the prevailing market rate with an understanding that all expenditure for its upkeep and maintenance would be spent by the company on account of the assessee having stopped business activities. According to the Commissioner (Appeals), the assessee failed to substantiate his claim. The Commissioner (Appeals) was of the view that all the conditions provided under section 2(22)(e) for deemed dividend were satisfied. On the other hand, the Tribunal

concluded that the payment was neither a deemed dividend nor a perquisite chargeable to tax.

**High Court's Observations:** The challenge before the High Court by the Revenue was only with regard to applicability of section 2(22)(e) in this case. The High Court observed that no money had been paid by way of advance or loan to the shareholder who has substantial interest in the company. Further, the amount spent was towards repairs and renovation of the premises owned by the assessee but occupied by the company as lessee. There is no dispute that the company had taken on rent the aforesaid premises.

The High Court observed that the expenditure incurred by virtue of repairs and renovation on the premises cannot be brought within the definition of advance or loan given to the shareholder having substantial interest in the company, though he is the owner of the premises. It cannot be treated as payment by the company on behalf of the shareholder or for the individual benefit of such shareholder. If held in such manner, it is a mere assumption not tenable in law.

**High Court's Decision:** The High Court, accordingly, held that the repair and renovation expenses in respect of premises owned by the assessee and occupied by the company cannot be treated as deemed dividend.

6. **Can the loan or advance given to a shareholder by the company, in return for an advantage conferred on the company by the shareholder, be deemed as dividend under section 2(22)(e)?**

*Pradip Kumar Malhotra v. CIT (2011) 338 ITR 538 (Cal.)*

**Facts of the case:** In the present case, the assessee, a shareholder holding substantial voting power in the company, permitted his property to be mortgaged to the bank for enabling the company to take the benefit of loan. The shareholder requested the company to release the property from the mortgage. On failing to do so and for retaining the benefit of loan availed from bank, the company gave advance to the assessee, which was authorized by a resolution passed by its Board of Directors.

**Issue:** The issue under consideration is whether the advance given by the company to the assessee-shareholder by way of security deposit for keeping his property as mortgage on behalf of company to reap the benefit of loan, can be treated as deemed dividend within the meaning of section 2(22)(e).

**High Court's Observations:** In the above case, the Calcutta High Court observed that, the phrase "by way of advance or loan" appearing in section 2(22)(e) must be construed to mean those advances or loans which a shareholder enjoys simply on account of being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) holding not less than 10% of the voting power. In case such loan or advance is given to such shareholder as a

consequence of any further consideration which is beneficial to the company received from such a shareholder, such advance or loan cannot be said to a deemed dividend within the meaning of the Act. Thus, gratuitous loan or advance given by a company to a shareholder, who is the beneficial owner of shares holding not less than 10% of the voting power, would come within the purview of section 2(22)(e) but not to the cases where the loan or advance is given in return to an advantage conferred upon the company by such shareholder.

**High Court's Decision:** In the present case, the advance given to the assessee by the company was not in the nature of a gratuitous advance; instead it was given to protect the interest of the company. Therefore, the said advance cannot be treated as deemed dividend under section 2(22)(e).

7. **Would the provisions of deemed dividend under section 2(22)(e) be attracted in respect of financial transactions entered into in the normal course of business?**

*CIT v. Ambassador Travels (P) Ltd. (2009) 318 ITR 376 (Del.)*

Under section 2(22)(e), loans and advances made out of accumulated profits of a company in which public are not substantially interested to a beneficial owner of shares holding not less than 10% of the voting power or to a concern in which such shareholder has substantial interest is deemed as dividend. However, this provision would not apply in the case of advance made in the course of the assessee's business as a trading transaction.

The assessee, a travel agency, has regular business dealings with two concerns in the tourism industry dealing with holiday resorts.

**High Court's Observations & Decision:** The High Court observed that the assessee was involved in booking of resorts for the customers of these companies and entered into normal business transactions as a part of its day-to-day business activities.

The High Court, therefore, held that such financial transactions cannot under any circumstances be treated as loans or advances received by the assessee from these concerns for the purpose of application of section 2(22)(e).

8. **Can winnings of prize money on unsold lottery tickets held by the distributor of lottery tickets be assessed as business income and be subject to normal rates of tax instead of the rates prescribed under section 115BB?**

*CIT v. Manjoo and Co. (2011) 335 ITR 527 (Kerala)*

**High Court's Observations:** On the above issue, the Kerala High Court observed that winnings from lottery is included in the definition of income by virtue of section 2(24)(ix). Further, in practice, all prizes from unsold tickets of the lotteries shall be the property of the organising agent. Similarly, all unclaimed prizes shall also be the property of the organising agent and shall be refunded to the organising agent.

The High Court contended that the receipt of winnings from lottery by the distributor was not on account of any physical or intellectual effort made by him and therefore cannot be said to be "income earned" by him in business. The said view was taken on the basis that the unsold lottery tickets cease to be stock-in-trade of the distributor because, after the draw, those tickets are unsaleable and have no value except waste paper value and the distributor will get nothing on sale of the same except any prize winning ticket if held by him, which, if produced will entitle him for the prize money. Hence, the receipt of the prize money is not in his capacity as a lottery distributor but as a holder of the lottery ticket which won the prize. The Lottery Department also does not treat it as business income received by the distributor but instead treats it as prize money paid on which tax is deducted at source.

Further, winnings from lotteries are assessable under the special provisions of section 115BB, irrespective of the head under which such income falls. Therefore, even if the argument of the assessee is accepted and the winnings from lottery is taken to be received by him in the course of his business and as such assessable as business income, the specific provision contained in section 115BB, namely, the special rate of tax i.e. 30% would apply.

**High Court's Decision:** The High Court, therefore, held that the rate of 30% prescribed under section 115BB is applicable in respect of winnings from lottery received by the distributor.

## TEST YOUR KNOWLEDGE

### Question 1

*Parimal, Managing Director of Heavens Engg. Pvt. Ltd. holds 70% of its paid up capital of ₹ 20 Lacs. The balance as at 31.03.2020 in General Reserve was ₹ 6 Lacs. The company on 1.04.2020 gave an interest-free loan of ₹ 5 lacs to its Supervisor having salary of ₹ 4,000 p.m., who in turn on 15.4.2020 advanced the said amount of loan so taken from the company to Shri Parimal. The Assessing Officer had treated the amount of advance as deemed dividend. Is the action of Assessing Officer correct?*

### Answer

The company had advanced a loan to an employee who in turn had advanced the same to the Managing Director of the company holding 70% of its capital. By virtue of the provisions of section 2(22)(e), the same shall be treated as the payment by a company in which public are not substantially interested, on behalf of, or for individual benefit of any such share holder (who holds not less than 10% of the voting power), to the extent to which the company possesses accumulated profits.

In this case, the company has reserves of ₹ 6 Lacs on 31<sup>st</sup> March of the preceding year and the amount of loan advanced on 1<sup>st</sup> April is ₹ 5 Lacs. Therefore, the payment is to be treated as deemed dividend. The amount of interest-free loan of ₹ 5 Lacs given by the company to the supervisor who in turn had given the same to Mr. Parimal, shall be construed as the amount given for the benefit of Mr. Parimal and would be treated as deemed dividend. This has been held by the Supreme Court in the case of *L. Alagusundaram Chettiar v. CIT (2001) 252 ITR 893*.

### Question 2

*Mr. Santhanam holding 25% voting power in VKS Manufacturing Private Limited permitted his own land to be mortgaged to a bank for enabling the company to obtain a loan. Mr. Santhanam requested the company to release the property from the mortgage. The company failed to do so, but for retaining the benefit of bank loan it gave an advance of ₹ 10 lakhs to Mr. Santhanam, which was authorized by a resolution passed by the Board of Directors. The company's accumulated profit on the date of payment of advance was ₹ 50 lakhs. The Assessing Officer proposes to treat the amount of ₹ 10 lakhs as deemed dividend by invoking the provision of section 2(22)(e).*

*Is the proposition of the Assessing Officer correct in law?*

### Answer

The issue under consideration is whether loan or advance given to a shareholder by the company, in return of an advantage or benefit conferred on the company by the shareholder, can be deemed as dividend under section 2(22)(e) of the Income-tax Act, 1961 in the hands of the shareholder

The facts of the case are similar to the facts in *Pradip Kumar Malhotra v. CIT (2011) 338 ITR 538*, wherein the above issue came up before the Calcutta High Court.

The High Court observed that the phrase "by way of advance or loan" appearing in section 2(22)(e) must be construed to mean those advances or loans which a shareholder enjoys simply on account of being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) holding not less than 10% of the voting power.

In case such loan or advance is given to such shareholder as a consequence of any further consideration received from such a shareholder which is beneficial to the company, such advance or loan cannot be a deemed dividend within the meaning of the Act.

Thus, gratuitous loan or advance given by a company to a shareholder, who is the beneficial owner of shares holding not less than 10% of the voting power, would come within the purview of section 2(22)(e) to the extent of accumulated profits of the company but not the cases where the loan or advance is given in return for an advantage conferred upon the company by such shareholder.

In this case, advance of ₹ 10 lakhs was given by VKS Manufacturing (P) Ltd. to Mr. Santhanam holding 25% of voting power in lieu of non-release of his personal property from mortgage thereby enabling the company to retain the benefit of loan obtained from bank. Therefore, applying the rationale of the Calcutta High Court ruling in *Pradip Kumar Malhotra's* case, such advance cannot be brought within the purview of section 2(22)(e), since it was not in the nature of gratuitous advance but was given to protect the interest of the company.

The proposition of the Assessing Officer to treat the amount of ₹ 10 lakhs as deemed dividend by invoking the provisions of section 2(22)(e) in this case is, therefore, **not correct**.

### Question 3

*An enterprise engaged in manufacturing of steel balls discontinued its activities and decided to lease out its factory building, plant and machinery and furniture from 1.4.2020 on a consolidated lease rent of ₹ 50,000 per month. Compute the income for Assessment Year 2021-22 of the assessee from following information:*

	₹
(i) Interest received on deposits	1,00,000
(ii) Brokerage paid on hundi loan taken	2,000
(iii) Interest paid on hundi and other loans which were given as deposits on interest to others	75,000
(iv) Expenses incurred on repairs of building, plant and machinery	15,000
(v) Fire insurance premium of plant and machinery and furniture	12,000
(vi) Depreciation for the year	1,47,500
(vii) Legal fees paid to an advocate for drafting and registering the lease agreement	1,500

- (viii) Factory licence fees paid for the year 1,000
- (ix) There is unabsorbed depreciation of ₹ 2,75,000 of the Assessment Years 2019-20 and 2020-21.
- (x) Interest paid in (iii) above includes an amount of ₹ 25,000 remitted to a non-resident outside India on which tax was not deducted at source.

### Answer

The income derived from leased assets shall be chargeable to tax as 'Income from other sources' under section 56(2)(iii) but the computation thereof shall be made after allowing deductions specified under sections 30, 31 and 32 subject to section 38. This is as per the provisions of section 57(ii) and 57(iii).

#### Computation of income under the head "Income from other sources"

Particulars	₹	₹
(A) Lease Rent for 12 months @ ₹ 50,000 p.m.		6,00,000
Less: Expenses and deductions allowable under section 57(ii) & 57(iii):		
Repairs	15,000	
Fire Insurance Premium	12,000	
Legal expenses for drafting of lease agreement	1,500	
Factory Licence fee	1,000	
Depreciation for the year	1,47,500	
Unabsorbed depreciation of earlier assessment years – eligible for deduction ( <b>Note 1</b> )	2,75,000	4,52,000
		1,48,000
(B) Interest on Deposits	1,00,000	
Less: Expenses allowable under section 57(i)		
Brokerage	₹ 2,000	
Interest on hundi loans ( <b>Note 2</b> )	₹ 50,000	48,000
<b>Total Income</b>		<b>1,96,000</b>

### Notes:

- Unabsorbed depreciation of ₹ 2,75,000 pertains to earlier assessment years. The unabsorbed depreciation shall form part of the current year depreciation and can be set off against any other head of income. Accordingly, the amount of ₹ 2,75,000 is adjustable/allowed to be set off against 'Income from other sources'.
- Since deposits are made by investing amount received on hundi and other loans, the interest on hundi and other loans would be eligible for deduction from the income arising on such deposits.



However, interest paid to non-resident is not eligible for deduction as the tax has not been deducted at source.

#### Question 4

*In July 2020, Mr. Pervez employed as Marketing Manager in a Pharma company, received a Maruti car as gift from a distributor of the company. The value of the gifted car is estimated at ₹ 2,60,000. Is the value of car taxable as income? If so, under what head it is taxable?*

#### Answer

Mr. Pervez, an employee of a Pharma company, has received a car as a gift from a distributor of the company. Since there is no employer-employee relationship in this case between the distributor and Mr. Pervez, the value of gift is **not** a perquisite chargeable to tax under the head "Salaries".

Section 56(2)(x) brings within its scope the value of any property received by any person. For this purpose, "property" means immovable property being land or building or both, shares and securities, jewellery, archaeological collections, drawings, paintings, sculptures, any work of art or bullion.

Therefore, for the purpose of attracting the provisions of section 56(2)(x) for chargeability under the head "Income from Other Sources", an individual should be in receipt of property as defined therein. Since, car is not included in the definition of "property", the provisions of section 56(2)(x) would not be attracted in the hands of Mr. Pervez.