PGBP

Profit and gain from Business & profession

u/s 28 to 44

- **Business**
  The Term Business has been Defined u/s 2(13).
  - Business Include any Trade, commerce or manufacture or any adventure or concern in nature of Trade / commerce / manufacture.
- **Profession**
  The Term profession is not defined in Income tax.
  It means an Occupation requiring some degree of learning.
  The profession Include vocation as well.

u/s : 145 method of accounting

- under salary → $\boxed{\text{N.A.}}$ → u/s 15 of salary
  - Due / Received → earlier
- House property → $\boxed{\text{N.A.}}$ → Received Basic
- PGBP
  - cash Basis → Receipt
  - accural Basis → mercantile system of Accounting
- capital gain → Enhance compension → Taxable Receipt
- IFOS
  - cash Basis
  - Accural Basis

→ **u/s 28 : Charging section of PGBP**

Following Income are taxable under PGBP

(1). Any Income Arising to any person by way of profit or gain from Business & Profession.

(2) Any compensation or other payment due to or received by
  → Termination / modification of contract / Agency / mangement.

(3) Export Incentive

- Profit on sale of import entitlements.
- Cash assistance against export under scheme of Govt of India
- customs duty / Excise duty Drawback

(4) value of any Benefit or perquisite in Business or profession [gift Received in Business]

Extra

gift

- Gift Received from Employer → u/s 17(2) Taxable if value Exceed 5000.
- Gift Received in Business / Prof. → u/s 28 Taxable in PGBP
- Other gift → Taxable under IFOS u/s 56(2)(x)

(5) Sum due to, or Received by a partner of a firm.

Extra note

Partnership —(Salary / Bonus, Commission / Interest)→ Partner ↓ such Bonus / Commission / Salary Interest will taxable under PGBP

↓ U/S 40(b) apply

(6) Any sum whether Received / Receivable, in cash or kind under an agreement

such agreement → for not carrying out any activity in Relation to Business / Profession

↓ for not sharing any know-how, Patent, copy right etc.

Note: compensation from multilateral fund for Deplete (↓ Save) of ozone layer

↓ such Amt will exempt from tax

(7) Any sum Received under keyman Insurance policy

(8) fair market value of Inventory on its conversion / treatment as Capital Assets whold be chargeable to PGBP

Capital Assets ← conversion — SIT

↓ Date of conversion

Fmv of capital Assets

↓ Income PGBP

Hold

(9) Sum Received on account of Capital Assets sold to market Reffered U/S 35AD.

↓ Specified Business

U/S:29: Computation of profit and gain from Business & profession

- Admissible Deduction U/S 30 to 37
- Inadmissible Deduction U/S 40
- Profit chargeable to tax U/S-41
- Other Provision

→ Admissible Deduction under PGBP [U/S 30 to 37]

U/S 30: Rent, Tax, Repair, Insurance for Building

Rent
↓
↳ Paid As a tenant ↓ Allowed
↳ Paid as a owner ↓ Not Allowed

Tax
municipal tax
↓
Always allowed
Paid owner / tenant

Repair
↓
↳ current Repair ↓ Allowed
↳ capital Repair Not Allowed

Insurance
↓
Always Allowed

Condition:- Such Building used in Business & profession

U/S 31: Repair and Insurance of machinery, Plant, Furniture

↳ All exps Related to Repair | Insurance of P&M and furniture is allowed exps if such P&M and furniture used in Business & Profession.

• U/S 32 : Depreciation

1. Charge of Depreciation mandatory even if No profit of During Previous year.
2. Class of Assets

Assets
- Tangible Assets
  - Building → Class-1
  - Furniture & Fitting → Class-2
  - Plant & Machinery → Class-3 [B/F]
- Intangible Assets → Class-4 → Know-how, Patent, copy-right, trademark, Licence, Franchises etc

Finance Act 2021 Amendmend: But goodwill Not Include under tangible as well as Intangible Assets i.e. No Depreciation on goodwill.

3. No-Depreciation in following Assets
   - Goodwill (FA 2021)
   - Land
   - Human Body
   - Livestock

4. Method of Depreciation

method [under Income tax Act]
- SLM: only for Power generation undertaking | Power distribution
  - Option → once Exercised shall be Final for Life time of Assets
    - SLM → Option opt → Follow Individual Assets system
    - WDV → Option opt → WDV
  - Option must be Exercised Before due date of ROI U/S 139(1) (Return of Income)
- WDV → Follow = Block of Assets System.

5. Block of Assets ⇒ group of Assets

   Same class of Assets + Same Rate of Assets = Block of Assets

6. Rate of Depreciation under Block of Assets

   Class-1 : Building
   - Residential
   - Commercial
   - Other ⇒ 40%

Class-1 : Building

- Residential Building → 5%
- Commercial Building → 10% → IF Φ Silent
- Other ⇒ 40%
  - Purely Temporary Structure
  - Building used in water supply project

Class-2 : Furniture and Fittings [Include Electrial Fitting]
↳ wiring, switches, socket, FAN.
↓
Rate = 10%

Class-3 : Plant and machinery

1. motor car → used in Running on hire = e.g = OLA, uber.

Purchas — Rate 30% — 23-8-2019 — 45% — 31-3-20 — Rate = 30% — Purchase

↓ Purchase + Put to use

2. motor CAR – other than used in Running on hire

Purchase — Rate 15% — 23-8-2019 — 30% — 31-3-20 — Rate = 15% — Purchase

↓ Purchase + Put to use

3.	moulds, other equipment used in Rubber and plastic Industries	= 30%
4.	Airoplanes, Airo engines	= 40%
5.	Oil wells	= 15%
6.	computer including computer softwer	= 40%
7.	Book [Any type of Book]	= 40%
8.	windmills Installed on or Before 31-3-2014	= 15%
	on or After 1-4-2014	= 40%
9.	Ship [Any type]	= 20%
10.	P&M [General Rate]	= 15%

Class-4 : Intangible Assets = 25%
↳ know-how, patent, copyright etc
But goodwill not Included under Intangible Assets

*** Note :- Depreciation Allowed only when Assets Actually Put to use
↳ Ready to use

Note :- Depreciation is allowed even if cost of Assets less than 5000.

Note :- mobile Phone – 15%, [UPS, Printer, scanner → 40%]

7. Computation of Depreciation [under Block of Assets

Opening WDV of Assets	XX

7. Computation of Depreciation [under Block of Assets

Opening WDV of Assets [Cl. WDV last year − Depreciation last year]	xx
Add: Assets purchase during PY	
Put to use 180 day or more	xx
Put to use less than 180 days	xx
Assets not put to use	xx
	xxx
Less: money payable [Sale during Previous year]	xx
Closing WDV of Block →	$\boxed{xx}$
Less: Depreciation	xx
Block closing value →	xx

Closing WDV of Block

- Assets not Put to use → No-Dep.
- Assets Put to use less than 180 days → ½ Dep.
- Balance → Full Dep.

1 → 2 → 3

Rule: Proviso of section-32(1): Rate × 50% Depreciation on when Assets Put to use Less than 180 days.

- Depreciation Rate × 50%. [i.e. ½ Rate]
- If Assets put to use less than 180 days
- in the year of acquisition.

Note:- It has been provided that where any Assets is acquire by the Assessee during the previous year and is put to use for a period less than 180 days, Depreciation Rate shall be Allowed 50% of Allowable Depriciation.

Note:- This Restriction applies only to the year of acquisition and Not for subsequent year

Eg

Assets	Date of Purchase	Date of Put to use	Rate of Dep ?
Computer Books CAR Building			

If Put to use on = ½ Rate

If Put to use on = Full Rate

Ex. MR. Pavan having Following Assets [P&M]
Op. WDV of Block last year = 20,00,000
last year Depreciation = 5,00,000
Assets purchase during PY
and put to use on
1.7.2022 = 6,00,000
1.1.2023 = 4,00,000
Assets not put to use = 2,00,000
Assets sold during PY = 18,00,000
Cal. Depriciation for PY.

Sol. Computation of Depreciation

Opening WDV of Block [last]
(-) last year Depreciation
opening WDV of Block
+ Assets purchase during PY
1. Put to use ≥180 days
2. Put to use < 180 days
3. Assets Not Put to use
(-) Assets sold during PY
Closing WDV

Assets Not Put to use during PY → No Dep.
Put to use <180 days
Balance
Depreciation = 75000

Depreciation in case of Amalgamation / Demerger / succession

Step-1 Depreciation is calculated normally as if No Amalgamation / Demerger / succession not taken place.

Step:-2 It shall be distributed between Amalgamating / Demergered / predecesor and Amalgamated / Resulting co. / successor in Ratio of No. of days.

Old Assets → 1st day of PY [i.e. 1-April]
New Assets purchase during the PY → From date of purchase
Before conversion

Ex. Ram Ltd —Amalgated Into on 1.1.2023→ Shyam Ltd

Ram Ltd:
Following Assets
P&M Block - 15%
Op. WDV of Block = 10,00,000
New Assets purchase and put to use 5.10.2022 ₹ 5L
Cal. Depreciation.

Shyam Ltd:
Following Assets P&M Block - 15%
Op. WDV of Block = 85L
New Assets purchase & put to use 2.3.2023 = 5 lakh

Sol.

U/S 50 of Capital gain [Only Apply in case of Block of Assets]

Sale of Capital Assets / Capital gain in case of Depreciable Assets

Case-1

Where Any Block ceased to exist

↳ All Assets of Block sold

↓

U/S 50 Apply

↓

STCG | STCL

Case-2

Where some Assets of Block are Transferred and value of Block is come to -ve.

↓

Block value -ve

↓

U/S 50 Apply

↓

STCG [Always]

Computation of capital gain U/S 50 in case of Dep. Assets

Full value of consideration	xx
(-) Transfer Exps	xx
Net Consider-	xx
(-) Cost of Acquisition [Op WDV of Block + Assets purchase during PY]	(xx)
	xx - STCG | STCL

Ex-

	Block-1 = 15%		Block-2 = 10%		Block-3 = 40%		Block-4 = 20%	
	No of Assets	₹	No of Assets	₹	No. of Assets	₹	No. of Assets	₹
Op. WDV of Block	3	45000	2	250000	6	150000	1	50000
Purchase during PY								
180+ Put to use	2	90000	1	100000	2	50000	2	50000
180- Put to use	3	30000	2	50000	1	50000	0	
Assets sold	7	150000	5	400000	6	300000	2	75000

180- Put to use	3	30000 r	2	$\boxed{50000}$	1	$\boxed{50000}$	0	
Assets sold	7	150000	5	400000	6	300000	2	75000
Sol:								

Depreciation

→ Additional Depreciation u/s 32(1)(iia)

Assessee: manufacturer or power unit using WDV method

Eligible Assets: New Plant & machinery acquire during PY

↓

Plant & machinery does not Include Following Assets

No Additional Depreciation ← ↓ But normal Depreciation Is available Always.

1. Secound hand Plant & machinery
2. P&M Installed in office / Guest house
3. Office Appliance and Road vehicle [car / Truck]
4. Assets in which whole Depreciation claim as deduction (i.e. 35AD)
5. Ship and aircraft

Rate: IF Assets put to use ≥ 180 days = 20%.
IF Assets put to use < 180 days = 10% of Actual Cost during PY and Balance 10% shall be available in next year

Note: Addition Depreciation shall be Allowed
1. even if Block has nil or -ve value
2. Addition Depreciation shall not Allowed if new P&M sold in year of acquistion.
3. Addition Depreciation not Allowed to power unit if such unit opt SLM.

Depreciation For Power generating undertaking using SLM Method [Block of Assets Not Apply]

↓

Terminal Depreciation | Balancing Charge | Short Term capital gain

1: Terminal Depreciation: Power generating undertaking using SLM Method, if any Assets sold, discarded, demolished etc. during PY. Amt of money payable in respect of such Assets fall short of WDV there of.

i.e. Terminal Depreciation = WDV - Sale value
↓
Allowed As Exps

2. Balancing Charge u/s 41(2): Power generating undertaking using SLM Method, if

2. Balancing Charge u/s 41(2) : Power generating undertaking using SLM Method, if any Assets sold, discarded, demolished etc during PY Amount of money payable in respect of such Assets Exceed WDV, However the amt of Balancing charge should be not exceeded the difference between Actual cost and WDV.

i.e. Balancing charge = Sale value - WDV
↓
Income u/s 41(2).

3. Short-Term capital gain u/s 50A : Power generating undertaking using SLM Method if any Assets sold, discarded, demolished etc during PY Amount of money payable (sale value) in respect of such Assets Exceed Actual cost.

i.e. Short Term capital gain = Sale value − Actual cost

Ex- NTPC Ltd [a power generating undertaking] purchase P&M 1.4.2022 ₹ 50 Lakh NTPC Ltd opt SLM on such Machinery. Rate of Depreciation under SLM = 10%.

After 3 yr

NTPC Ltd sold such P&M
(i) ₹ 30 Lakh OR (ii) ₹ 42 Lakh OR (iii) ₹ 62 Lakh

Sol. WDV of Assets After 3 yr

Cost of Assets	=	50 Lakh
(−) 1st / 2nd / 3rd Dep [5L 5L 5L]	=	15 Lakh
WDV		35 Lakh

Case-1 : Sale value = 30 Lakh

WDV of Assets	=	35 Lakh
(−) Sale value	=	30 Lakh
		5 Lakh ~~loss~~ → Terminal Dep → Exps Allowed

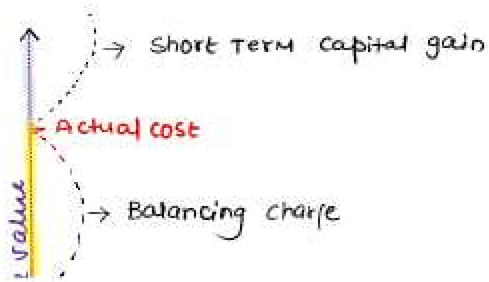
Case-2 Sale value = 42 Lakh

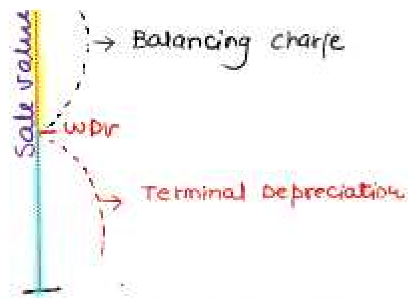
WDV of Assets	=	35 Lakh
(−) Sale value	=	42 Lakh
		7 Lakh → ~~Profit~~ → Balancing charge → Income

Case-3 Sale value = 62 Lakh

WDV of Assets	=	35 Lakh
(−) Sale value	=	62 Lakh
		27 profit

27 profit splits into:
- 15 Lakh [50L − 35L] → Balancing charge → Income
- 12 Lakh [62 − 50] → STCG





** U/S 38(2) Assets partly use Business purpose / Partly use other personal purpose

All Exps [Including Depreciation]
↓
Allowed As Deduction
% of Business purpose

All Exps [Including Depreciation]
↓
Not Allowed As Deduction
% of Other / Personal use

Ex- MR-P Purchase motor CAR ₹ 10 Lakh
Use of motor car = 60% personal use
40% Business use
Running & Maintence Exps = 85000 during PY.
Calculated Exps Allowed in P&L A/c.

*** U/S 43(1) : Actual cost of Assets

Actual cost means → Actual cost of Assets to the assessee Reduced by that Portion has been Directly / Indirectly met by any other person / Authority.

i.e. Purchase cost of Assets – Subsidy From govt = Actual cost

Note: where assessee incured any Expenditure for acquisition of any Assets in cash Exceed ₹ 10000 such Expenditure shall be ignored for the Purpose of Actual cost.

cash = Cross Cheque / Berear cheque

Cash payment / Cross Cheque / Berear Cheque
Exceed > 10000

Capital exps
↓
43(1) में Disallowed
i.e. Not a part of Actual cost

Revenue exps
↓
U/s 40A(3) में disallowed
i.e. Not Allowed as Exps.

Ex-1 : Cost of Assets = 5000000
↓
Payment made = 50% in cash

Ex-1 : Cost of Assets = 5000000

↓

Payment made = 50% in cash

50% in A/c payee Cheque

cal. Actual cost of Assets ?

Sol. Actual cost u/s 43(1) = 250000

cash payment 250000 not Allowed as Exps.

Explanation of Actual Cost u/s 43(1)

Explanation-1 : Assets used for Business After it cease to be used for Scientific Research → Actual cost of such Assets is NIL

[Discuss in u/s 35(1)(iv)]

Explanation-1A : Inventory converted into capital Assets and used for Business or Profession → Actual cost of such Assets is - FMV on date of conversion.

Stock $\xrightarrow{\text{convert}}$ capital Assets

↓

Date of conversion

→ FMV ⇒ Actual cost of Assets

Explanation - 2 : Assets Acquired by way of gift or inheritance "वसीयत" : Actual cost shall be Actual cost to previous owner minus Depreciation allowable to Assessee as if Assets was only Assets in relevant Block.

Actual cost = Cost of previous owner − Depreciation Allowable

Ex-

MR- Pavan $\xrightarrow[\text{P\&M to}]{\text{Gift [1.1.23]}}$ RAm Ltd

↓

P&M Purchase cost = 10 Lakh

Date of purchase = 1.12.2019

Cal. Actual cost in hands of Ram Ltd ?

Explanation No- 5 : Building Previously the property of assessee : is brought into use for purpose of Business

↓

only for Building

Explanation NO- 5 : Building Previously the property of assessee: is brought into use For purpose of Business

↓

only For Building

Actual cost of the Building as Reduced by an Amont equal to Depreciation since the date of its acquisition by Assessee

Actual cost = Cost of Building - Notional Depreciation

Ex- MR- Pavan

→ Personal Assets [owned By mR. Pavan]

1. CAR cost = 10 Lakh Date of purch. = 1.1.2018
2. Building cost = 15 Lakh Date of Purch = 1.1.2019

Such personal Assets brought into professional use on 1.1.2023.

Cal. Depreciation.

Sol.

Ex- MR- Pavan

→ 1. CAR cost = 10 Lakh Date of purch. = 1.1.2018
→ 2. Building cost = 15 Lakh Date of Purch = 1.1.2019

→ 1. CAR cost = 10 Lakh Date of purch. = 1.1.2018
→ 2. Building cost = 15 Lakh Date of purch = 1.1.2019

Such Assets gift to Pavan, brought into professional use on 1.1.2023
Cal. Depreciation.

* **Explanation-3 : Second hand assets**

MR- Pavan —sold ₹ 60 Lakh→ MR- Mukesh

MR- Pavan ↓ P&M = WDV 10 Lakh

STCG = 50 Lakh
u/s 50 Apply
Setoff
ST loss / Bisness Loss

MR- Mukesh ↓ Actual cost = ?
Expl^n- NO-3 Apply
Actual cost of Mukesh is value taken by A.O.

Assets was at any time used by any other person → Transfer to Assessee with higher value for claim higher Depreciation, [main purpose of Transfer is claim higher Depreciation]

AO may with previous approval of Joint commissioner Determine actual cost of such Assets.

Explanation - 4 : Re-acquistion of Assets

MR X —SV = 2Cr → Expl^n-4 → MR-A

MR-A (WDV = 10L) —SV 12L→ MR-B —SV 13L→ MR-C —15L→ MR-D → MR X

Expl^n-4 Actual cost of Assessee (MR-A)
Lower of following
(1) Purchase price xx | Low

Lower af following

(i) Purchase price xx

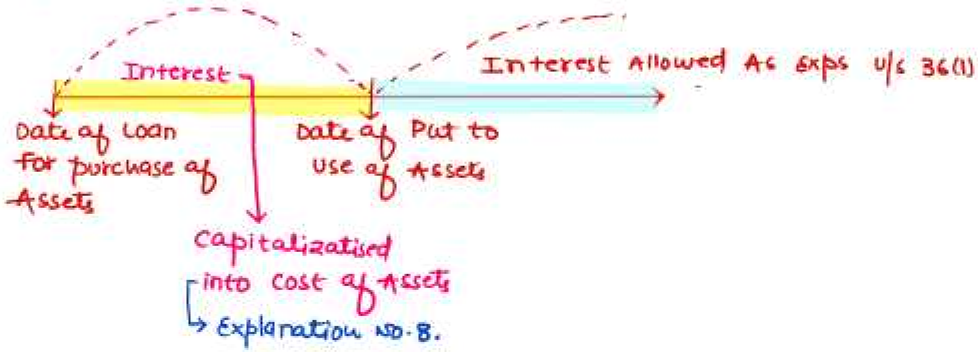
OR

(ii) WDV at Time 1st Transfer xx

Actual cost → xx

LOWER

*** Explanation NO-8 : capitalization af Interest paid or payable in connection with acquision of an Assets.



Explanation-9 : Amount af duty [Excise duty, custom duty, GST] leviable shall be Reduced if credit is claim i.e. ITC taken.

Actual cost :

Machinery purchase	=	10,00,000	→ Actual cost
CGST 12%	=	120000	IF ITC taken
SGST 12%		120000	IF ITC not taken
Invoice value		1240000	→ Actual cost

Explanation NO-10 : Subsidy or grant or Reimbursement portion af the cost by CG/SG or any other authority then, so much cost as is relatable to such subsidy or grant shall not be Included in Actual cost af Assets.

Explanation NO-11 : Assets is acquired outside India by an assessee, being a non-Resident and such assets is brought by him to India use for Business & profession →

The Actual cost to the Assessee [NR] as Reduced by an Amount equal to amount af Depreciation calculated at rate in force in India.

USA → Assest Tf to (P&M) 15.8.2022 → IND

Assets Cost = $100000

Date af purchase : 18.3.2019

WDV as on 31.3.21 = $40000

Assessee [NR]

Exchange Rate 1$ = ₹75

Cal. Depreciation on such Assets & Actual cost ?

Sol:

Explanation No-13 : Capital Assets on which Deduction is Allowable under section 35AD.
↳ Discuss in 35AD.

Explanation No-7 : Composite Income, a Income in which one part of Income exempt and other part of Income taxable is called composite Income.
for eg = manufacture of tea.

- 40% Business → taxable
- 60% Agriculture Income → u/s 10(1) → exempt

Actual cost of Assets Depreciation is calculated fully and Adjust from Block, The depreciation so computed Shall be deemed to have been actually Allowed to assessee.

Ex- manufacturing of Tea
↓
Use a P&M = 15,00,000
↳ Depreciation = 1500000 × 15%
= 225000 → Adjusted From Block
→ To P&L

- 225000 × 40% ⇒ 90000 → Allowed Dep.
- 225000 × 60% = 135000 → Not Allowed

P&L [Tea]

To Exps 5L	By Income = 10L
To Dep 2.25	
To Income 2.75	

To Income 2.75 → 40% Taxable; 60% exempt

⇒ Carry Forward and Set-off of Depreciation
↳ unabsorbed Depreciation

where any PY the profit or gain chargeable are not sufficient to give full effect to the depreciation allowance, the unabsorbed depreciation shall be Added to the depreciation allowance for the following PY shall be deemed to Part of that allowance.

↳ Note - if No Depreciation allowance is available for that py, the unabsorbed Depreciation of earlier previous year shall become the depreciation Allowance of that year.

Effect of this provision is that the unabsorbed depreciation shall be [illegible] of that year.

Effect of this provision is that the unabsorbed depreciation shall be carry forward indefinitely till it is fully set-off.

ORDER OF SET-OFF

1. Current year Depreciation [Adjust]
↓
2. Brought forward Business Loss [Adjust]
↓
3. Unabsorbed Depreciation [Adjust]

Mother India Refrigeration (P) Ltd - [SC] Current year Depreciation must be deducted first before deducting the unabsorbed depreciation / carried forward losses of the earlier year in giving set-off while computing the total Income of particular year.

U/S 38(2) : Building, Furniture, P&M Not exclusively used for Business purpose the Deduction on account of Expense on account of Repair, Insurance premium Depreciation, other Exps related to that Assets shall be restricted to a fair proportionate part thereof, which A.O. my determined.

Eg. CAR → 60% ⇒ Personal [Detemined by A.O]
CAR → 40% ⇒ Business purpose

R&M Exps =	100000
Dep =	150000
Repair =	50000
Insurance =	50000
	350000

→ 60% [Personal use] = Not Allowed As Exps
→ 40% [Business use] = Allowed As Exps

Full Dep. Deducted From Block

U/S 36 [Other Deduction]

U/S 36(1) ⇒ Insurance Premium Paid

- U/S 36(1)(i): Insurance Premium for Risk of Damage of stock [i.e. Stock Insurance]
- U/S 36(1)(ia): Life of cattle owned by member of Federal milk co-operative society

↓ Premium paid any mode of payment [Cash or other than cash.]

- U/S 36(1) **: Insurance premium paid for Health of employee

↓ Paid only other than cash

↳ Cross cheque / Berear cheque — not consider cash

36(1)(ii) ⇒ Bonus or commission to employee: Exps Allowed only if Bonus or commission is Actully paid by Employer
(+43B) (i.e. u/s 43B Apply)

u/s 43B : Expense Allowed only on Actual payment basis
i.e. Exps Allowed only if such exps Actully paid upto due Date of ROI u/s 139(1).
If exps paid After due date of ROI then such Exps Allowed in which Bonus or commission Actually Paid to ee.

Due date of ROI u/s 139(1)

- 31 July → Other
- 30 Nov → Apply only for Transfer pricing
- 31 Oct →
  - C = All company
  - W = working | non working Partner of Audited Firm
  - A = Audit is compuslory

Bonus / Comm	Bonus / Comm.	Exps Allowed
Due on	Actully Paid	in PY
s		

u/s 36(1)(iii): Interest on Loan

- Loan taken for Business use
  - Loan taken outside India & Interest paid outside India
    - ↳ If TDS on such Interest deducted
  - Loan taken In India & Interest paid In India to Resident
    - Interest paid to Bank / NBFC / PFI
    - Interest paid to other Person
- Loan taken for Personal use
  - [Interest Exps Not Allowed]

↳ If TDS on such Interest deducted
↓
100% Exps Allowed

↳ If TDS on such Intt Not Deducted
↓
u/s 40(i)(a) Apply
Exps Not Allowed

Interest paid to Bank | NBFC | PFI
↓
Allowed But sub to u/s 43B.

Interest paid to Other Person
↓
Allowed But u/s 43B Not Apply
[Interest Allowed on payable Basis].

u/s 36(1)(iiia) : Discount on Zero Coupon Bond
↳ Interest

XYZ Ltd $\xrightarrow[\text{1.7.2022}]{\text{1000 Issue ZCB}}$ MR-Pavan
Issue price = 90
Redemption = 100 [After 12 Month

Discount Amt = 1000×10 = 10000
↳ Total Discount

Discount on ZCB Allowed As Deduction on Pro-rata Basis
↳ calculated in life Period of Bond.

$\frac{10000}{12} \times 9$
⇒ 7500 Allowed in PY
2500 Allowed in PY

u/s 36(1)(iv) and (v) : Employer contribution into Gratuity Fund | superannuation fund | Recognised Providend Fund | Any Other Approved fund.

Salary Chapter

EE contribution $\xrightarrow{\text{cont.}}$ RPF $\xleftarrow{\text{cont.}}$ ER contribution

EE contribution
↓
ignore in salary chapter
u/s 80C Deduction Allowed

ER contribution
↓
upto 12% of salary Exempt in hands of ee
Excess of 12% of salary – Taxable in hands of ee

In PGBP
Allowed As Deduction to Employer u/s 36(1)(iv) / (v)
↳ sub to u/s 43B. i.e. Allowed on paid Basis upto due date of ROI

u/s 36(1)(iva) : Employer contribution to account of the employee under a NPS
↳ National pension Scheme

In Salary

Employee $\xrightarrow{\text{cont}}$ NPS $\xleftarrow{\text{cont}}$ Employer
↓

NPS

Employee
↓
in salary ignore
U/s 80CCD(1)/(1B)
U/s 80CCD(2)
Allowed to employee

Employer
↓
Fully taxable in hand of employee

Under PGBP
↳ upto 10% of employee salary → Basic salary + Dearness Allowance [Term of employment]
Allowed As Deduction

↳ Excess of 10% of salary
Not Allowed u/s 40A(9).

Ex: MR- Pavan Employee of TCS.
Basic salary = 10,00,000 [Per year]
Dearness Allowance = 400000 [under Terms of employement]
NPS contribution
ER = 20% of Basic salary
EE = 20% of Basic salary

Cal. Taxable Income in hands of Pavan and Allowable exps in hands of TCS

MR- Pavan -(Salary)

Computation of total taxable Income

Basic salary		10,00,000
Dearness Allowance		4,00,000
Contribution into NPS		
(i) Employer [10,00,000 x 20%]		2,00,000
(ii) Employee [ignore]		
Gross taxable salary		16,00,000
(-) Deduction u/s 16		
(i) Standard Deduction u/s 16(ia)		50,000
Gross taxable Income		15,50,000
(-) u/s 80CCD(1)	150000	
u/s 80CCD(1B)	50000	2,00,000
u/s 80CCD(2) ↳ ER contribution (10+4) x 10%		140000
Total Income		1210000

Discuss in later Part

TCS – PGBP

Total contribution into NPS
↳ ER contribution into NPS

Basic salary x 20%
10,00,000 x 20% = 200000

U/s 36(1)(iva)
upto 10% of salary
(1000000 + 400000) x 10%
⇒ 140000
Allowed

U/s 40A(9)
↓
Excess Amt
= 60000
Not Allowed

U/s 36(1)(va) + u/s 57(ia) ↳ IFOS : Amount received by an assessee - Employer as contribution from employee towards employee contribution.
Employee contribution towards Welfare Fund to be Allowed only if such Amount is credited on or before due date under relevant fund.

7

Employee —₹ Employee contribution, Transfer to→ Employer

- Deposit into Fund upto due date of such Fund → Allowed
- Not Deposit upto due date of such fund → Income.

PF = due 15th of next month.

U/s 43B not Apply in case of employee contribution.

EE — contribution → Fund ← contribution — ER

EE: U/s 43B Not Apply → Deposit upto Due date of such Fund.

ER: U/s 43B Apply → Deposit upto due date of ROI of Assessee

U/s 36(2) + U/s 36(1)(vii) + U/s 41(4) : Bad Debts & Recovery of Bad Debts

Bad Debts

- Bad Debts Related to Business
  - Bad Debts Related to sale → Allowed As Deduction [with condition]
  - Provision for Bad Debts → Not Allowed As Deduction [Except - Banking Co.]
- Bad Debts Related to Loan → Not Allowed As Deduction [Except - Banking Co.]

Conditions

1. Debt must be incidental to the Business & profession
   → close nexus Between Business & profession
2. The Debt has been considered as income of the assessee of that previous year or earlier P.Y. [Debt Records As Income]
3. It must have been written off in the accounts of Assessee
   → Exception : where the amount of such Debt has been taken into accounts in which the amount of such Debt become irrecoverable on the basis of notified ICDS without recording same in accounts then such Debt shall be Allowed in the previous year in which such Debt become irrecoverable and it shall be Deemed that such Debt has been w/off as irrecoverable in accounts.

Ex- 1st year MR-P goods sold to MR-X on credit = 1 Lakh

MR-X A/c Dr	100000	→ Debt
To Sale	100000	→ Income

MR-X A/c Dr 100000 → Debt
To Sale 100000 → Income

Reverse

4^{th} year → W/off
Bad Debts A/c Dr 100000
To MR-X A/c 100000

4. Business must be carried on during the previous year
5. It must be a Revenue in nature
   i.e. Bad Debt arising due to insolvency of a debtor for sale of an assets [not goods] is not Allowed As Deduction

★★: Bad Debts is Not Allowed As Deduction to the assessee who maintains accounts on cash basis.
: Bad Debts are also Allowed in hands of successor of the business.

MR-A Individual → Succeded into → Partnership Firm
↓ Debt - - - - - - - - → Records As Bad Debts.

Recovery of Bad Debts u/s 41(4)

As per u/s 41(4): where a deduction has been in respect of a bad Debts Allowed, then if Any Amount subsequently recovered on any such debt or part there of is greater then difference between the Debt or part of Debt and Amount so allowed the excess shall be deemed to be profit and gain of Business or profession.

Ex:- PY 2019-20
Bad Debts Records ⇒ 8,00,000
- 500000 Allowed 19-20 → Tax paid PY 19-20
- 300000 Disallowed 19-20

Recovery of Bad Debts [21-22]

Case-1 : 800000 → (800000 − 300000) = 500000 Taxable u/s 41(4)
Case-2 : 600000 → (600000 − 300000) = 300000 Taxable u/s 41(4)
Case-3 : 300000 → (300000 − 300000) = 0

u/s 36(1)(ix) : Expense on Family Planning by a company

- Revenue Exps [Family Planning]
- Capital expenditure [Family Planning]

Revenue exps [Family Planning] → 100% Allowed for All Assessee [Co, Firm etc]

Capital expenditure [Family Planning] → $\frac{1}{5}$ Allowed only for Co' Assessee

Note: Assessee would be entitled to carry forward and set off unabsorbed Part of Allowance in the same way as unabsorbed Depreciation

U/s 36(1)(xv): Deduction of Securities Transaction tax / commodities transation tax Paid in respect of taxable Transactions. [STT/CTT]

- Paid by Dealer → Allowed
- Paid by other person → Not Allowed

U/s 36(1)(vi): Allowance in Respect of Dead or Useless Animals

⇒ (Actual cost of Animal − Scrap) = Allowed As Exps

U/s 36(1)(xviii): ⇒ marked to market loss or other expected loss as computed in accordance with the ICDS shall be Allowed.

GENERAL DEDUCTIONS U/S 37

U/s 37(1): Any Expenditure which is not specifically provided in any provision U/s 30 to 36 of the Act and fullfils Following condition shall be Allowed as Deduction under this section.

Conditions:

1. It must be expended wholly & Exclusively for purpose of Business & profession +
2. It must be Incurred During the previous year
3. It must Not be personal nature
4. It must Not be capital Expenditure
5. It must be Lawful and not have been Incurred for any purpose, which is an Offence or prohibited any Law.

Note: Corporate Social Responsibility [CSR] relating to Co' Act shall not be Deemed to be an Expenditure incurred by Assessee during PY. i.e. CSR Activity Exps Not Allowed As Deduction

Note: Any Expense incurred in Providing any gift, Travel facility, cash etc to Docter is prohibited in Income tax Act. Such freebees not Allowed As Exps.

Note: Expenditure incurred by an assessee on advertisement in any souvenir, brochure, Pamphlet or like, published by a political party is disallowed.
But u/s 80GGB | 80GGC Allowed.

DISALLOWED EXPENDITURE
U/s 40

Certain Amount shall not be duducted in computing income under PGBP

U/s 40(a)(i) : Payment made to non Resident / outside India

1. TDS has not been Deducted in PY OR
2. TDS has Deducted in PY But Not Deposited to govt upto due date of ROI.

then 100% Expense disallowed in current Previous year.

Note:- If TDS Deducted is subsequent year OR Deducted in PY But not paid to govt upto due date i.e paid to govt After due date of ROI shall be Allowed in that PY in which TDS has been paid to govt.

U/s 40(a)(ia) : Payment made to Resident

1. TDS has not been Deducted in PY OR
2. TDS has Deducted in PY But not Deposited to govt upto due date of ROI

then **30%** Expense disallowed in current previous year

Note:- If TDS Deducted in subsequent year OR Deducted in PY But paid to govt After due date of ROI u/s 139(1) 30% shall be Allowed in which TDS has been paid to govt.

Payee	Date of Payment	TDS Deducted	TDS Deposited	Exps Allowed in PY
Non-Resident				
Non-Resident				
Non-Resident				
Resident				
Resident				
Resident				

Note: If Payee File ROI and disclose this income under ROI and pay

Note: If Payee file ROI and disclose this income under ROI and pay tax on such Income the payer will not be treated as assessee-in-default. [Applicable for u/s 40(a)(i) | 40(a)(ia).

u/s 40(a)(ii): Any sum paid on account of tax or cess levied on profit
i.e Income tax.
Income tax [personal nature Exps] is not Allowed as Exps.

u/s 40(a)(iib)

State govt under taking (RAJ) → Royalty Fee → State govt undertaking (MP)

State govt under taking ↓ Not Allowed As Exps

u/s 40(a)(iii) Salary payable outside India OR Non-Resident without TDS
↓
100% Disallowed

Salary pay → outside India – to Any person
Salary pay → In India → to NR
↓
without TDS
↓
Disallowed

u/s 40(b): Partner Remuneration

- Salary | Bonus | commission (i.e. Remuneration)
  ↓
  Conditions
  - Only paid to working partner
  - Authorised By Partnership Deed
  - With in Limit ↓ u/s 40(b)
- Interest on capital
  ↓
  Allowed As Exps
  ↓
  Condition
  (i) Authorised by Deed
  (ii) maximum Rate = 12%.
  (iii) Paid to Any partner (working | non working)

u/s 40(b): Actual payment [Salary | Bonus | commission] OR $\boxed{\text{maximum Limit}}$

which ever is Lower
↳ Allowed As Deduction

maximum allowable Remuneration Limit u/s 40(b)

↳ Allowed As Deduction

maximum allowable Remuneration Limit u/s 40(b)

Book-profit [BP]	maximum Amt of Remuneration
1. On 1st 300000 or loss	Higher of (i) 150000 OR (ii) 90% of Book-profit
2. On Balance Book profit	60% of Book-profit.

Ex- Find out maximum Remuneration

Case-1 = Book-profit = 200000

Case-2 = Book-profit = 9,00,000

Case-3 = Book-loss = -100000 loss

Sol:

(i) BP 200000 → 150000 OR 200000 × 90% = 180000 ✓

(ii) BP 900000 → 300000 × 90% = 270000
→ 600000 × 60% = 360000
630000

(iii) ↳ 150000 in case of loss

Book profit means under 40(b)

Net Profit [After Adjustment All Transcation]	xx
(+) Remuneration paid to partner [If Debited into P&L]	xx
Book-profit	xx

i.e. Profit Before Remuneration

Ex-

Partnership Firm
P&L A/c

Exps	₹	Income	₹
To Other Exps	3,00,000	By Income	15,00,000
To Intt paid to Partner @ 20% each A = 40000 B = 60000 C = 50000	150000		
To Remuneration A = 6L B = 4L C = 3L	13,00,000	By loss	250000

Note:-1 : Other Exps Include

1. Income tax paid = 1,00,000
2. Donation to Trust = 50,000
3. Intt paid to NR without TDS = 10,000

Note-2 : MR-C is nonworking Partner

Cal. Net profit of partnership Firm.

Sol. Computation of Net profit as per Income tax Act u/s 40(ba) : Payment of Interest/ salary/ Commission/ Bonus made to an AOP/ BOI to its member

AOP/BOI $\xrightarrow[\text{Interest/ Salary/ COMM/ Bonus}]{\text{Pay}}$ member's of AOP/ BOI

AOP/BOI ↓ In hands of AOP/ BOI (such Exps not Allowed)

member's of AOP/ BOI ↓ In hands of member u/s 10 Income exempt

Extra note

Partnership firm $\xrightarrow{\text{Bonus/ comm/ Salary}}$ to Partner

- if Allowed u/s 40(b) [Full]
  - Exps in hands of Partnership Firm
  - Income in hands of Partner under PGBP.
- IF disallowed u/s 40(b) [Part]
  - Taxable in hands of Partnership Firm
  - Exempt in hands of Partner

Exps in hands of Partnership Firm | Income in hands of Partner under PGBP. | ... hands of Partnership Firm | Exempt in hands of Partner

Expense OR Payment Not Deductible in certain Circumstances U/s 40A

u/s 40A(2) : Payment to specified person [i.e Payment to Relative]

IF payment of Expenditure made to Relative person then A.O. can disallowed Excessive or unreasonable amount.

Ex- MR-Pavan $\xrightarrow{\text{Payment to}}$ MR-X [Brother of MR-Pavan]
for Purchase of goods
According to A.O.
↓
Excessive/unreasonable ⇒ Part Excessive/unreasonable
↳ Disallowed

Relative means [specified Person]

1. Individual → spouse, mother, Father, Brother, sister, Lineal Accendend (दादा, दादी), Lineal Dessended (बेटा, बेटी)
2. HUF → member of HUF and their Relative
3. LLP/Partnership firm → Partner and their Relative
4. company → Director and their Relative

U/s 40A(3) : Cash payment / Cross cheque Payment / Berear cheque payment

Any payment to a person in a day Exceeding ₹10000 OR ₹35000 in case of transport company in cash/cross cheque/Berear cheque Shall be disallowed

EX - MR-Pavan $\xrightarrow[\text{from ₹80000}]{\text{goods purchase}}$ MR-X
↓
make payment = Case-1 : 80000 in cash = Disallowed [80000]
OR
Case-2 : 60000 A/c payee cheque = Allowed = 60000
20000 cross cheque = disallowed

Extra note

Exps in cash/cross cheque/Berear cheque

- Capital Exps u/s 43(1) - disallowed (not Part of Actual cost)
- Revenue Exps u/s 40A(3) disallowed.

6

Note: IF Expenditure is claimed as deduction is earlier year on due basis

Entry :- Salary A/c Dr 10,00,000 → Allowed due basis.

Note: IF Expenditure is claimed as deduction is earlier year on due basis

Entry :- Salary A/c Dr 10,00,000 → Allowed due basis.
To salary payable 10,00,000

→ And if such Expense is subsequently paid in cash or bearer cheque or cross cheque then Deduction Allowed earlier shall be withdrawal & taxable under PGBP.

Entry :- Salary payable A/c Dr 10,00,000
To cash 10,00,000

Income of PGBP in which payment is made.

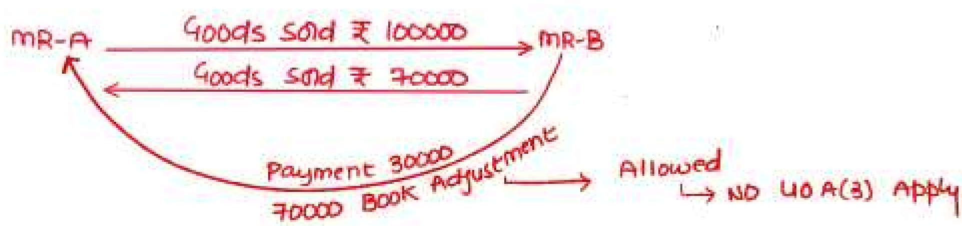
⇒ Exception of u/s 40A(3) : [जितना चाहे उतना cash मे payment करो सारा Allowed होगा]

Following Transcation is allowed even if payment made in cash/ cross/ bearer ch.

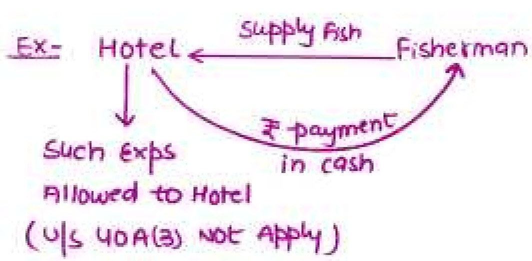
Rule - 6DD:

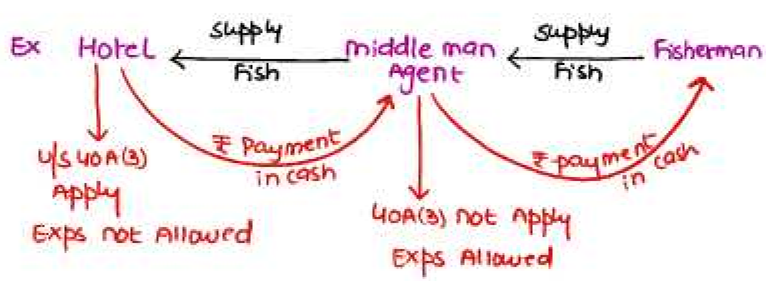
1. Payment made to government/ RBI/ LIC/ Bank

2. Payment by Book-entry [i.e. Book entry Adjustment]



3. Payment of Producers of Agriculture product, forest product, poultry farming, Fish product etc.
↳ किसान





4. Payment of Retirement Benefit upto 50000
↳ [Gratuity, leave encashment etc]

5. Payment made where Banking facility not available

6. Payment of Salary to an employee who is posted to any other place other than his normal place of duty.

SECTION - 41: Deemed PGBP

U/S 41(1): Remission/ Cessation of Trading Liability

Allowance or Deduction has been Allowed in any assessment year, subsequently IF any Amount in respect of such Allowance/ Deduction is Remission/ cessation thereof, the amount obtained by Assessee shall be taxed as Income of PGBP.

Year-1 - - - - - - - - - - - - - - - - - Year-5

goods purchase = 100000

Extry = Purchase A/c Dr 100000
To creditor 100000

Exps Allowed

Creditor Remission of Amt 100000

₹ 100000

Income of PGBP

U/S 41(2): Balancing charge → Discussed under Depriciation

U/S 41(3): Sale Assets used for scientific Research. → Discussed under U/S 35.

U/S 41(4): Recovery of Bad Debts. → Discussed under Bad Debts

U/S 41(5): Brought forward lossess of defunct business,
↳ ceased to exist

PGBP U/S 35/35AD

U/S 35 : Expenditure on Scientific Research

- Part-A → In-House Research
- Part-B → Contribution to Research Org.
  - ↳ i.e. Donation to Research org.

Part-A : In-House Research

- Research with Business
  - Assessee → Company / other
  - Research → Approved
  - Research Related to munufacturing / Bio-Tech.
  - Revenue exps → 100% Allowed
  - Capital Exps
    - Land → No Deduction
    - Other than Land → 100% Deduction in 1st year
- New Research → Maximum 3yr Before the date of commencement of Business
  - Revenue Exps → Allowed only [salary / material] → for 3yr 100% Allowed
  - capital exps → 100% Allowed → Except-LAND

Part-B : Contribution (Donation) to Research org.

- To Approved
  - ↳ Research Association
  - ↳ Institute
  - ↳ College
  - ↳ University
  - → 100% Deduction Allowed for Scientific / social scienice Research.
- To I.I.T OR National Laboratory → for Scientific Research → 100% Deduction Allowed
- To Approved Indian co. engaged in R&D → for Scientific Research → 100% Deduction Allowed

Note:- No Depreciation Allowed on assets if deduction u/s 35 claimed

unabsorbed research capital Expenditure can be set-off & carry forward for unlimited time. [same as unabsorbed Depreciation]

** Note : Sale of Assets used in Scientific Research u/s 43(1) + u/s 41(3)

→ Explation no- 1

Scientific Research Assets Transfer into Other Business

u/s 43(1)

Explanation no-1 Apply

- Actual cost = NiL
- Added into Block

→ Sale value Reduced from Block.

Scientific Research Assets sale without transfer of any other Business of Assessee

u/s 41(3) Apply

Salue − cost = xxx → PGBP Income

cost: (NiL Always)

Ex- A Ltd purchase a machinery on 1.7.2022 ₹ 10L and used such machine for scientific purpose & claim 100% Deduction u/s 35.
A Ltd sold such machine on 31.12.23 ₹ 6 Lakh

Option-1 : After Transfer of other Business

Option-2 : without Transfer of other Business

Sol.

Option-1 : After Transfer of other Business

Option-2 without Transfer of other Business

Note: 4 The deduction u/s 35 shall not be denied if Approval of such institution has been withdrawn after payment of Assessee

Ex Mr Pavan —Donation = 100000 B Ltd

Ex MR- Pavan $\xrightarrow[1\cdot7\cdot2022]{\text{Donation} = 100000}$ P Ltd Engaged in R&D

Exps Allowed to MR- Pavan

on 1-1-23 → P Ltd Approval cancel by govt

U/S 35ABB : Expense for obtaining Telecommunication Licence

Licence Obtained Before Commencement of Business [i.e. Licence Fee already paid]

↓

Deduction shall be allowed from PY in which business commence till PY in which Licence Expire.

Licence Obtained After Commencement of Business

↓

Deduction shall be Allowed from PY in which Licence fee is paid till the PY in which Licence expire

Business commence — Exp Allowed [Licence exp] — Licence Expire

Licence fee Paid — Exps Allowed — Licence Expire

MCQ Ex. Airtel commenced business of Telecommunication services during 94-95. Airtel acquired Telelcommunication licence on 1.7.2021 for 10 cr. Life of Licence is 10 yr. Cal. Deduction for PY 21-22.

Sol. 1.7.2021 — 30.6.2031

Licence fee — Total No. of PY = 11 yr — Licence Expire

PY 21-21 Exps Allowed = $\frac{10cr}{11}$ = 90.91 Lakh

Tax Treatment on Sale of Licence

Ex- Cost of Licence ⇒ 100

Life of Licence ⇒ 10yr

Licence sold After 3yr

Sol. Cost of Licence = 70 [100-10-10-10]

(1) Sale value = 62 89

Licence sold After 3 yr

(1) sale value = 62 OR

(2) sale value = 89 OR

(3) sale value = 117

(1) sale value = 62 | 89
cost = 70 | 70
8 Loss → Trf P&L Dr side | 19 Profit → Trf P&L A/c Cr side

(3) sale value = 117
Cost = 70
47

Bal → 30 → Profit P&L Cr. side.

Excess of cost (117-100) = 17 STCG

IF Part Licence is sold = ₹40

Sale Value = 40
(-) Cost = 70
30L → New Cost

$\frac{30L}{\text{Remaining Life of Licence}} \Rightarrow \frac{30L}{7L} \Rightarrow 4.2857$ [Deduction Allowed per year]

IF Part Licence is sold = ₹72

Sale value = 72
(-) cost = 70
2 → Profit credit side of P&L A/c

[No- Deduction u/s 35ABB]

U/S 35CCC : Expenditure on Agriculture extension project.
Allowed 100%. [Except Land & Building]

U/S 35CCD : Expenditure for Skill Development project
Allowed 100%. [Except Land & Building]

U/S 35D: Amortization of preliminary Expense

1. Deduction Allowed Resident assessee only for Incurred preliminary Exps Before commencement of Business/ Extension/ set-up new unit.

2. Nature of Exps:
(i) Preparation of Feasibility study/ Project Report
(ii) market survey / Engineering survey
(iii) Drafting, Printing of MOA/ AOA
(iv) legal Exps
(v) Exps Related to public Issue/ Issue of Debenture
(vi) Other Exps notified by CBDT

(iv) Legal Exps

(v) Exps Related to public Issue / Issue of Debenture

(vi) Other Exps notified by CBDT.

3. Deduction u/s 35D is Allowed in 5 equal Instalment

4. Amount of Deduction

Indian company

A. Actual preliminary Exps — xxx

OR

B. 5% of $\boxed{\text{Cost of project OR Cost of capital employed}}$ (which ever is higher) — xxx

which ever is Lower

Allowed 5 equal Instalment

Other Resident

A. Actual preliminary Exps — xx

OR

B. Cost of project — xx

which ever is Lower — xx

Allowed 5 equal Instalment

1. Cost of project means : Amount Invest into new project
2. Capital employed : Share capital + Debenture + Long term borrowing [not Included securities premium.

EX: ABC (P) Ltd

Start New project and Invest into New project ₹ 1Cr

Capital employed of ABC (P) Ltd = 120 Lakh

Preliminary exps = 450000

Cal. preliminary exps Allowed as deduction?

Sol.

Note:- If there is amalgamation / Demerger than remaining Deduction shall be Allowed to Amalgamated / Resulting Co.

U/S 35DDA : Expenditure on VRS

↳ Expense Allowed to All Assessee

↳ Deduction Allowed in 5 equal Instalment

↳ Expense Allowed to All Assessee

↳ Deduction Allowed in 5 equal Instalment

Note:- If there is amalgamation / Demerger than remaining Deduction shall be Allowed to Amalgamated / Resulting Co.

U/S 35 AD

Specified Business

"Investment-Linked tax Incentives" for specified Business U/S 35AD

1. Setting-up and operating cold chain facilites for specified product
2. Setting-up and operating warehousing facilities for storing agriculture product.
3. Laying and operating a cross-country natural gas / crude / petroleum pipeline.
4. Building and operating a hotel of two-star or above category
5. Building and operating a hospital, anywhere in India with minimum 100 Bed.
6. Developing and building a housing project under a notified scheme for slum redevelopment or rehabilitation.
7. Developing and building a housing project under affordable house.
8. Production of Fertilizer in India
9. Setting up and operating an inland container depot or container freight station.
10. Bee-keeping and production of honey and beeswax
11. Setting-up and operating warehousing facility for sugar.
12. laying and operating a slurry pipeline for transportation of Iron-ore.
13. semiconductor wafer fabrication manufacturing unit
14. Developing or maintaining and operating or developing, new Infrastructure Facility.

↳ Deduction U/S 35AD

→ Capital Exps → 100% Allowed in same previous year

→ Revenue Exps → 100% Allowed

(i) However Expenditure incurred on
(i) Land (ii) goodwill (iii) Financial instrument
Not eligible for Deduction.

(ii) Any Expenditure in respect of which payment or aggregate of payment made to a person in a day in cash / cross cheque / Bearer cheque Exceeding 10000 would not be eligible for Deduction.

to a person in a day in cash / cross cheque / bearer cheque exceeding
10000 would not be eligible for Deduction.
→ same as u/s 43(1), 40A(3).

(iii) Condition under 35AD :

1. Business Not formed by splitting or re-constructred of Existing Business
i.e. Specified Business should be new

*** 2. Plant and machinery should be new : But Exception of this condition :
   1. Imported old Plant and machinery [which depreciation not claimed in India] shall be consider New.
   2. 20% of total Plant & machinery can be old.

Ex- Purchase New P&M = 100 Lakh
Old P&M = 50 Lakh
Import old P&M = 20 Lakh
Find out Deduction u/s 35AD for P&M. ?

(3) Depreciation not Allowed if Deduction u/s 35AD claimed

(4) loss of Specified Business can be carry forward indefinite period. assessee has to file return u/s 139(1) upto due date of ROI.

*** (5) If Assets on [which 35AD claim] sold then the entire sale price shall be taxable under PGBP.

(6) loss of specified business can be setoff only Against specified Business Income.

35AD (loss) ↓ Any Business —set-off Against→ only 35AD (Profit) ↓ Any Business

(7) If Deduction u/s 35AD is claimed then Deduction u/s 80IA to 80RRB & u/s 10AA (↓ SEZ) shall not be allowed

(8) Assets [on which u/s 35AD is claimed] should be exclusively used for specified Business for minimum 8 year from date of acquisition.

If it is used / Transfer for non-specified business within 8yr then following Amount shall be taxable under PGBP

Amount of Deduction claimed u/s 35AD earlier	xx
(−) Depreciation that would be Allowed if u/s 35AD not taken place	xx

Amount of Deduction claimed u/s 35AD earlier xx
(-) Depreciation that would be Allowed if u/s 35AD not taken place. xx

Taxable under PGBP → xx

EX: MR-Pavan Start a new Business Hotel (two star).

Purchase 50 AC on 1.1.2020 = ₹ 25000 each.

100% claim 35AD = 25000 X 50 = 1250000

Now on 1.7.2022 MR-Pavan

(1) Sold 3 AC @ 12000

(2) Transfer 10 AC to non-specified Business

Discuss tax implication.

Note: In non-specified Business

Cost of Assets u/s 43(1) - Explanation 12

value taxable under head PGBP in hands of specified Business

i.e. [Claim 35AD - Depreciation]

Pgbp 3

U/S 43A : Change in Rate of Exchange of currency

- Change Rate Related to capital Exps [i.e. Related to Assets]
  - ↓ Adjusted from Block of Assets
- Change Rate Related to Revenue Exps
  - ↓ Expense / Income Allowed into P&L.

U/S 43B : Expense Allowed on Actual payment Basis

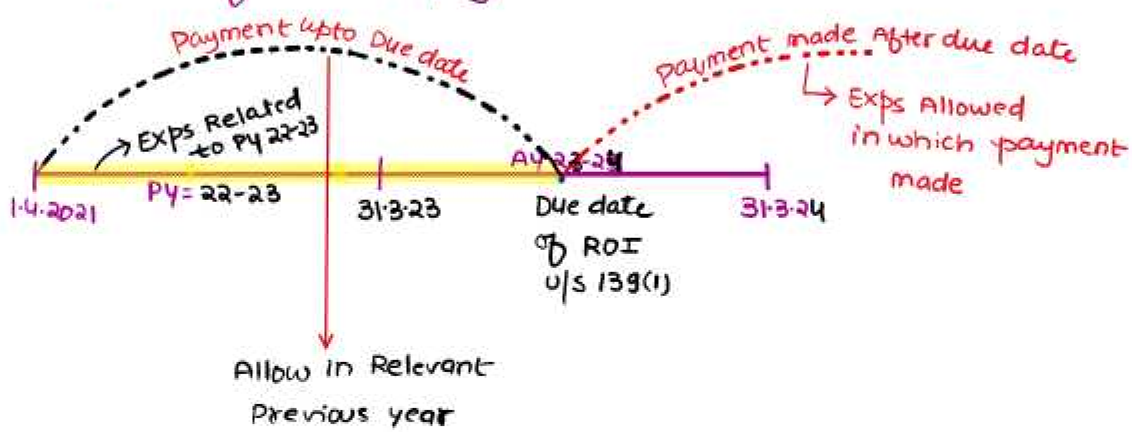
1. Any Tax, duty, cess [Indirect Tax - Excise duty, GST, Custom duty]
2. Employer's contribution towards, SPF, RPF, Approved Gratuity fund, Approved Super Annuation fund, NPS.
3. Bonus or commission to employee [Salary Not cover under u/s 43B]
4. Interest to loan to any PFI, SFI, IIC, Schedule Bank, NBFC,

   PFI = Public Financial Institions
   SFI = State Financial Instiions
   IIC = Industrial Investment corp.

5. leave encashment to employee
6. Any sum payable to Indian railways for use of Railways Assets

Above Expense are allowed only if they are paid upto due date ROI u/s 139(1).

If payment made after due date of ROI then such expense shall be allowed in the year of actual payment made.



[Same As 50C capital gain]

U/s 43CA : Low Consideration of Sale of Land & Building As Stock in Trade

[Same As 50C capital gain]

U/S 43CA : Low Consideration of Sale of Land & Building As Stock-in-Trade

[Apply only on Builder]

1. Where Assets [Land & Building] are transferred as Stock-in-Trade & consideration is less than Stamp Duty value [SDV] then SDV shall be full value of consideration ↳ i.e. sale price

2. Where the value adopted / Assessed by authority of SDV does not Exceed 10% of the consideration so received shall be Full-value of consideration

Golden Rule : 1. $\underbrace{\text{Sale value}}_{\text{FVOC}} \times 110\% \geq \text{SDV}$

2. $\text{Sale value} \times 110\% < \underbrace{\text{SDV}}_{\text{FVOC}}$

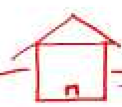
~~Amendment FA 2021 : In case of Transfer of an assets, being a residential unit, IF SDV does not Exceed 120% of Consideration so received shall be Full-value of consideration~~

~~Condition (1) Transferred in 12.11.2020 to 30.6.2021~~

~~(2) Transferred Residential unit~~

~~(3) value of Residential unit does not exceed 2crores.~~ ↳ Actual Sale price [not SDV]

Ex:



Sale value = 70Lakh → Buyer MR-X

SDV = 1.3cr

Cost = 50L Builder MR-P

Sale value	70 Lakh
(-) cost	50 Lakh
Net profit	20 Lakh

Income tax Dept u/s 43CA

Sale value < SDV

i.e. FVOC = SDV

FVOC	130 Lakh
(-) cost	50 Lakh
Net profit	80 Lakh

Sale value	SDV	Type of property	FVOC	Working
100L	140L	Commercial		
100L	108L	Commercial		
250L	300L	Residential		
200L	240L	Residential		

250L	300L	Residential		
200L	240L	Residential		

Note: Normally SDV considered on date of Registration But u/s 43CA if Date of Agreement or date of Registration are not same, then assessee can take SDV on date of agreement if he received consideration/ Part of consideration on or before date of agreement other than cash.

U/S 44AA : Compulsory maintenance of Book of Account

Part-1 = For Professional

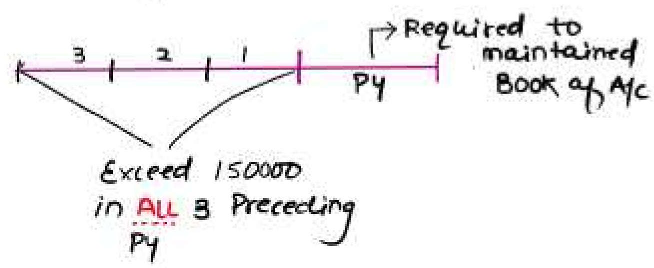
Part-2 = For Businessman

→ Part-1 : For Specified / Notified Profession : medical, legal, Accountancy, Film Artist, Engineering, Technical, Architech, Interior decorator, CA, CMA, CS, or any other profession notified by CBDT.

↓

Gross Receipts > 150000 in All 3 preceding Previous year

In case of Newly set-up profession
↓
> 150000 Gross Receipts in current previous year.
↓
Required to maintened Books of A/c.



Note: Books to be Maintend

(i) Cash Book (ii) Journal (iii) ledgers (iv) carbon copy of Bill > ₹25
(v) Original copy of Bill for Expenditure > ₹ 50/-

Note: In case medical Practitioner : Additional Book = (1) Daily case register
(2) Medical Inventory

Part-II : other Assessee [i.e. Businessman]

Part-II : Other Assessee [i.e. Businessman]

- If Assessee Individual/HUF
  - Total Income Exceed ₹250000 OR Total Turnover Exceed ₹25 Lakh
  - in ANY of 3 yr preceding PY
- If Assessee other [Co, Firm, etc]
  - Total Income Exceed ₹120000 OR Total Turnover Exceed ₹10 Lakh
  - in ANY of 3 yr preceding PY

Note: In case of Newly set-up → Turnover/ Total Income limit in during PY

Note: If assessee fails to maintain book of account penalty upto 25000 may attact.

Note: Period for which book of A/c kept & maintained ⇒ 6 yr

Presumptive Taxation

- U/S 44AD
- U/S 44ADA
- U/S 44AE

☆☆☆

U/S 44AD : Profit & Gain of Business on Presumptive Basis

→ Assessee: Resident Individual/ HUF/ Firm → Not Include LLP.

→ 44AD not Apply on

(i) If Business cover under 44AE [for Transport Business]

(2) If Business → Agency services/ commission/ Brokage

(3) If Business Turnover exceed ₹ 2 crore.

i.e. 44AD is Applicable for Business - If Turnover is upto ₹ 2 crore.

→ Rate of Income → Assessee shown profit minimum of 8%/6% of Turnover

6% = If Receipts in other than cash but Received upto due date of ROI u/s 139(1).

OR

8% ⇒ If other case. [i.e. if Receipts in cash or Not Received upto due date of ROI.]

EX- Total Turnover for PY 21-22 ⇒ ₹ 160 Lakh

- Cash Receipt
- Other than cash
- Other than Cash

Ex- Total Turnover for PY 21-22 ⇒ ₹ 160 Lakh

- Cash Receipt → 80 Lakh → 8%
- Other than cash → 60 Lakh → 6%
- Other than Cash After due date of ROI → 20 Lakh → 8%

Total Income As per 44AD

1160000

Condition u/s 44AD

(1) IF u/s 44AD Apply [opt] : No Deduction u/s 30 to 38 Allowed

(2) IF u/s 44AD Apply and Assessee declares income as per 44AD and Turnover upto 2 crore than → Not Required to maintain Book of A/c.
Not Required to get Audit u/s 44AB. → Tax Audit

(3) Advance tax : Only one instalment pay to Advance tax → last instalment i.e. 15 March.

(4) IF assessee declare income for any PY as per 44AD, AND he does not Declare income as per 44AD any of five consecutive PY, then he Shall not eligible to claim benefit of sec. 44AD for five Subsequent to the year in which assessee not declare income as per u/s 44AD.

IF Point-4 Apply → then Assessee Required to maintend Book of A/c And get Audit u/s 44AB.

U/s 44ADA : PGBP Income on Presumptive basis for Professional

Eligible Assessee : Resident assessee, engaged in Profession as referred u/s 44AA
→ Ind / HUF / Firm [Not LLP]

Limit : Gross Receipt upto ₹ 50 Lakh

PGBP Income : Gross Receipt × 50%

Deduction : u/s 30 to 38 not Allowed

No get Audit u/s 44AB and No requirement maintened Book of A/c.

Advance tax → Only one Instalment i.e. 15 march.

Note-4 same As u/s 44AD Apply on 44ADA.

Advance tax → Only one Instalment i.e. 15 March.

Note-4 same As u/s 44AD Apply on 44ADA.

(4) If assessee declare income for any PY as per 44AD, AND he does not Declare income as per 44AD any of five consecutive PY, then he shall not eligible to claim benefit of sec. 44AD for five subsequent to the year in which assessee not declare income as per u/s 44AD.

If Point-4 Apply → then Assessee Required to maintend Book-of A/c and get Audit u/s 44AB.

	44AD	44ADA
1. Nature	Apply on Business	Apply on Profession
2. Rate of Income	6% / 8% ↳ other than cash	50%
3. Turnover / Gross Receipt	upto 2cr	upto 50 Lakh
4. Advance tax payment	one Instalment 15 March	one Instalment 15 March

u/s 44AE : PGBP Income on Presumptive basis for Assessee engaged in Goods Transport Agency [G.T.A.]

1. Assessee: Any assessee [engaged in Goods Transport Business does not own more than 10 goods carriage [Truck] at any time during the previous year.

2. Presumptive Income → Heavy goods carriage → Income ₹1000 per ton for every month / part of the month
[Gross weight > 12 ton > 12000 kg]

Other than Heavy goods carriage i.e. Light goods carriage
↳ Income = ₹7500 per truck for every month or part of the month

Ex- MR- Pavan Following Truck

on 1.4.2022 ⇒ 4 Truck 18 ton
3 Truck 10 ton

on 15.7.2022 ⇒ 3 Truck 18 ton Purchase → Put to use: 1.1.22

3 Truck 10 ton

on 15.7.2022 ⇒ 3 Truck 18 ton Purchase → Put to use: 1.1.22

on 17.7.2022 ⇒ 2 Truck 10 ton sold

on 5.1.2023 ⇒ 3 Truck 18 ton sold

6.1.2023 ⇒ 4 Truck 10 ton purchase → Not put to use yet.

Cal. Income as per 44AE

Sol.

Note: → Deduction u/s 30 to 38 Not Allowed

→ No Audit u/s 44AB and No Book of A/c maintened if assessee Declars Income As per u/s 44AE

→ No Required to pay Advance tax

U/S 44AB: Compulsory Audit of Book of Accounts i.e. Tax Audit

(i) Tax Audit is compulsory

(A) Business → if Turnover Exceed 1 crore during PY however if Turnover Received and purchase of Assessee 95% or more in other than cash Limit of Audit is > 10 crore.

Normal case	Special case
Cash Inflow or outflow more than 5%	Cash inflow or outflow ≤ 5%
↓	↓
44AB Limit ⇒ 1 Cr.	44AB Limit ⇒ 10 Cr.

Note:- for this purpose, the payment or Receipt as the case may be including goods sold, Assets purchase, Assets sold i.e any Inflow of money or Any outflow of money.

Any outflow of money.

Note: The requirement of Audit u/s 44AB does not apply to a person who declare profit on presumptive basis u/s 44AD and his Turnover does not exceed ₹ 2 crore.

(B). Profession → If Gross Receipt $\underset{\text{more than}}{>}$ 50 Lakh during Previous year

(C) If Assessee cover under 44AE and assessee claim Income Less than deemed u/s 44AE.

(d) If Assessee cover under 44ADA and assessee claim income less than 50%.

(ii) Audit done by CA only.

(iii) Due date of Audit 30 sep of Relevant Assessement year

Taxability in case of Composite income [Rubber/ coffee/ Tea]

Composite Income	Business Income	Agricultural Income
Rule 7A: Income from Rubber	35%	65%
Rule-7B: Income from Coffee		
↳ Grown and cured	25%	75%
↳ Grown, cured, Roasted And grounded	40%	60%
Rule-8 Income from Tea manufactured	40%	60%

Tax computation on Agriculture Income
↳ u/s 10(1) :- exempt
↳ Apply entry 46 of state govt.

Ex- MR-P

Agriculture Income = 400000

PGBP Income = 800000

Cal. Tax payable of MR-P

Sol. Step-1 : Agriculture Income consider as non-Agriculture and cal. Tax

Now Total Income = 12,00,000

tax on 12,00,000 = 172500

Step-2 : Tax on Agriculture Income Deducted from step-1 tax