

CHAPTER 11

CLUBBING OF INCOME

1. ICAI STUDY MATERIAL QUESTIONS

Concept Problem 1

Mr. Vatsan has transferred, through a duly registered document, the income arising from a godown to his son, without transferring the godown. In whose hands will the rental income from godown be charged?

Solution

Section 60 expressly states that where there is transfer of income from an asset without transfer of the asset itself, such income shall be included in the total income of the transferor. Hence, the rental income derived from the godown shall be clubbed in the hands of Mr. Vatsan.

Concept Problem 2

Mr. A holds shares carrying 25% voting power in X (P) Ltd. Mrs. A is working as a computer software programmer in X (P) Ltd. at a salary of ₹ 30,000 p.m. She is, however, not qualified for the job. The other income of Mr. A & Mrs. A are ₹ 7,00,000 & ₹ 4,00,000, respectively. Compute the gross total income of Mr. A and Mrs. A for the A.Y.2022-23, assuming that they do not opt for section 115BAC.

Solution

Mr. A holds shares carrying 25% voting power in X (P) Ltd i.e., a substantial interest in the company. His wife is working in the same company without any professional qualifications for the same. Thus, by virtue of the clubbing provisions of the Act, the salary received by Mrs. A from X (P) Ltd. will be clubbed in the hands of Mr. A.

Computation of Gross total income of Mr. A

Particulars	Amount	Amount
Salary received by Mrs. A (₹30,000 × 12)	3,60,000	
Less: Standard deduction under section 16(ia)	50,000	3,10,000
Other Income		7,00,000
Gross total income		10,10,000

The gross total income of Mrs. A is ₹ 4,00,000.

Concept Problem 3

Will your answer be different if Mrs. A was qualified for the job?

Solution

If Mrs. A possesses professional qualifications for the job, then the clubbing provisions shall not be applicable. Gross total income of Mr. A = ₹ 7,00,000 [other income].

Gross total income of Mrs. A = Salary received by Mrs. A [₹ 30,000×12] less ₹ 50,000, being the standard deduction under section 16(ia) plus other income [₹ 4,00,000] = ₹ 7,10,000.

Concept Problem 4

Mr. B holds shares carrying 30% voting power in Y Ltd. Mrs. B is working as accountant in Y Ltd. getting income from salary (computed) of INR 3,44,000 without any qualification in accountancy. Mr. B also receives INR

30,000 as interest on securities. Mrs. B owns a house property which she has let out. Rent received from tenants is INR 6,000 p.m. Compute the gross total income of Mr. B and Mrs. B for the A.Y. 2022-23.

Solution

Since Mrs. B is not professionally qualified for the job, the clubbing provisions shall be applicable.

Computation of Gross total income of Mr. B

Particulars	Amount
Income from Salary of Mrs. B (Computed)	3,44,000
Income from other sources	
Interest on securities	30,000
Gross total income	3,74,000

Computation of Gross total income of Mrs. B

Particulars	Amount	Amount
Income from Salary [clubbed in the hands of Mr. B]		Nil
Income from house property		
Gross Annual Value [INR 6,000 × 12]	72,000	
Less: Municipal taxes paid	-	
Net Annual Value (NAV)	72,000	
Less: Deductions under section 24		
- 30% of NAV i.e., 30% of INR 72,000	21,600	
- Interest on loan	-	50,400
Gross total income		50,400

Concept Problem 5

Mr. Vaibhav started a proprietary business on 01.04.2020 with a capital of INR 5,00,000. He incurred a loss of INR 2,00,000 during the PY 2020-21. To overcome the financial position, his wife Mrs. Vaishaly, a software Engineer, gave a gift of INR 5,00,000 on 01.04.2021, which was immediately invested in the business by Mr. Vaibhav. He earned a profit of INR 4,00,000 during the PY 2021-22. Compute the amount to be clubbed in the hands of Mrs. Vaishaly for the AY 2022-23.

If Mrs. Vaishaly gave the said amount as loan, what would be the amount to be clubbed?

Solution

Section 64(1)(iv) of the Income-tax Act, 1961 provides for the clubbing of income in the hands of the individual, if the income earned is from the assets (other than house property) transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration or in connection with an agreement to live apart.

In this case, Mr. Vaibhav received a gift of INR 5,00,000 on 1.4.2021 from his wife Mrs. Vaishaly, which he invested in his business immediately. The income to be clubbed in the hands of Mrs. Vaishaly for the A.Y. 2022-23 is computed as under:

Particulars	Mr. Vaibhav's capital contribution	Capital contribution out of gift from Mrs. Vaishaly	Total
Capital as on 1.4.2021	3,00,000 (5,00,000 – 2,00,000)	5,00,000	8,00,000

Particulars	Mr. Vaibhav's capital contribution	Capital contribution out of gift from Mrs. Vaishaly	Total
Profit for P.Y. 2021-22 to be apportioned on the basis of capital employed on the first day of the previous year i.e., as on 1.4.2021 (3:5)	1,50,000 (4,00,000 x 3/8)	2,50,000 (4,00,000 x 5/8)	4,00,000

Therefore, the income to be clubbed in the hands of Mrs. Vaishaly for the A.Y. 2022-23 is INR 2,50,000.

In case Mrs. Vaishaly gave the said amount of INR 5,00,000 as a bona fide loan, then, clubbing provision would not be attracted.

Note: The provisions of section 56(2)(x) would not be attracted in the hands of Mr. Vaibhav, since he has received a sum of money exceeding INR 50,000 without consideration from a relative i.e., his wife.

Concept Problem 6

Mrs. Kasturi transferred her immovable property to ABC Co. Ltd. subject to a condition that out of the rental income, a sum of INR 36,000 per annum shall be utilized for the benefit of her son's wife. Mrs. Kasturi claims that the amount of INR 36,000 (utilized by her son's wife) should not be included in her total income as she no longer owned the property. State with reasons whether the contention of Mrs. Kasturi is valid in law.

Solution

The clubbing provisions under section 64(1)(viii) are attracted in case of transfer of any asset, directly or indirectly, otherwise than for adequate consideration, to any person to the extent to which the income from such asset is for the immediate or deferred benefit of son's wife. Such income shall be included in computing the total income of the transferor-individual.

Therefore, income of INR 36,000 meant for the benefit of daughter-in-law is chargeable to tax in the hands of transferor i.e., Mrs. Kasturi in this case.

The contention of Mrs. Kasturi is, hence, not valid in law.

Note - In order to attract the clubbing provisions under section 64(1)(viii), the transfer should be otherwise than for adequate consideration. In this case, it is presumed that the transfer is otherwise than for adequate consideration and therefore, the clubbing provisions are attracted. Moreover, the provisions of section 56(2)(x) would also get attracted in the hands of ABC Co Ltd., if the conditions specified thereunder are satisfied.

If it is presumed that the transfer was for adequate consideration, the provisions of section 64(1)(viii) would not be attracted.

Concept Problem 7

Mr. A has three minor children – two twin daughters, aged 12 years, and one son, aged 16 years. Income of the twin daughters is ₹ 2,000 p.a. each and that of the son is ₹ 1,200 p.a. Mrs. A has transferred her flat to her minor son on 1.4.2021 out of natural love and affection. The flat was let out on the same date and the rental income from the flat is ₹ 10,000 p.m. Compute the income, in respect of minor children, to be included in the hands of Mr. A and Mrs. A u/s 64(1A) (assuming that Mr. A's total income is higher than Mrs. A's total income, before including the income of minor children).

Solution

Taxable income, in respect of minor children, in the hands of Mr. A is

Particulars	Amount	Amount
Twin minor daughters [INR 2,000 × 2]	4,000	
Less: Exempt under section 10(32) [INR 1,500 × 2]	3,000	1,000
Minor son	1,200	

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Particulars	Amount	Amount
Less: Exempt under section 10(32)	1,200	Nil
Income to be clubbed in the hands of Mr. A		1,000

Note: As per section 27(i), Mrs. A is the deemed owner of house property transferred to her minor son. Natural love and affection do not constitute adequate consideration for this purpose. Accordingly, the income from house property of ₹ 84,000 [i.e., ₹ 1,20,000 (-) ₹ 36,000, being 30% of ₹ 1,20,000] would be taxable directly in her hands as the deemed owner of the said property.

Consequently, clubbing provisions u/s 64(1A) would not be attracted in respect of income from house property, owing to which exemption u/s 10(32) cannot be availed by her.

Concept Problem 8

Compute the gross total income of Mr. & Mrs. A from the following information:

(a)	Salary income (computed) of Mrs. A	2,30,000
(b)	Income from profession of Mr. A	3,90,000
(c)	Income of minor son B from company deposit	15,000
(d)	Income of minor daughter C from special talent	32,000
(e)	Interest from bank received by C on deposit made out of her special talent	3,000
(f)	Gift received by C on 30.09.2021 from friend of Mrs. A	2,500

Brief working is sufficient. Detailed computation under various heads of income is not required.

Solution

As per the provisions of section 64(1A) of the Income-tax Act, 1961, all the income of a minor child has to be clubbed in the hands of that parent whose total income (excluding the income of the minor) is greater. The income of Mr. A is INR 3,90,000 and income of Mrs. A is INR 2,30,000. Since the income of Mr. A is greater than that of Mrs. A, the income of the minor children has to be clubbed in the hands of Mr. A. It is assumed that this is the first year when clubbing provisions are attracted.

Income derived by a minor child from any activity involving application of his/her skill, talent, specialized knowledge and experience is not to be clubbed. Hence, the income of minor child C from exercise of special talent will not be clubbed.

However, interest from bank deposit has to be clubbed even when deposit is made out of income arising from application of special talent.

The Gross Total Income of Mrs. A is INR 2,30,000. The total income of Mr. A giving effect to the provisions of section 64(1A) is as follows:

Computation of gross total income of Mr. A for the A.Y. 2022-23

Particulars	Amount	Amount
Income from profession		3,90,000
Income of minor son B from company deposit		
Income from company deposit	15,000	
Less: Exemption under section 10(32)	1,500	13,500
Income of minor daughter C		
From special talent – not to be clubbed	-	
Interest from bank	3,000	

Particulars	Amount	Amount
Gift of INR 2,500 received from a non-relative is not taxable under section 56(2)(x) being less than the aggregate limit of INR 50,000	Nil	
	3,000	
Less: Exemption under section 10(32)	1,500	1,500
Gross Total Income		4,05,000

Concept Problem 9

Mr. Vasudevan gifted a sum of INR 6 lakhs to his brother's wife on 14-6-2021. On 12-7-2021, his brother gifted a sum of INR 5 lakhs to Mr. Vasudevan's wife. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and wife of Mr. Vasudevan's brother on 01-8-2021 at 9% interest. Examine the consequences of the above under the provisions of the Income-tax Act, 1961 in the hands of Mr. Vasudevan and his brother

Solution

In the given case, Mr. Vasudevan gifted a sum of INR 6 lakhs to his brother's wife on 14.06.2021 and simultaneously, his brother gifted a sum of INR 5 lakhs to Mr. Vasudevan's wife on 12.07.2021. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and his brother's wife.

These transfers are in the nature of cross transfers. Accordingly, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction and each transfer constitutes consideration for the other by being mutual or otherwise.

If two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted.

Accordingly, the interest income arising to Mrs. Vasudevan in the form of interest on fixed deposits would be included in the total income of Mr. Vasudevan and interest income arising in the hands of his brother's wife would be taxable in the hands of Mr. Vasudevan's brother as per section 64(1), to the extent of amount of cross transfers i.e., INR 5 lakhs.

This is because both Mr. Vasudevan and his brother are the indirect transferors of the income to their respective spouses with an intention to reduce their burden of taxation.

However, the interest income earned by his spouse on fixed deposit of INR 5 lakhs alone would be included in the hands of Mr. Vasudevan's brother and not the interest income on the entire fixed deposit of INR 6 lakhs, since the cross transfer is only to the extent of INR 5 lakhs.

Concept Problem 10

Mr. Sharma has four children consisting of two daughters and two sons. The annual income of 2 daughters was INR 9,000 and INR 4,500 and of sons were INR 6,200 and INR 4,300, respectively. The daughter who has income of INR 4,500 was suffering from a disability specified under section 80U.

Compute the amount of income earned by minor children to be clubbed in hands of Mr. Sharma

Solution

As per section 64(1A), in computing the total income of an individual, all such income accruing or arising to a minor child shall be included. However, income of a minor child suffering from disability specified under section 80U would not be included in the income of the parent but would be taxable in the hands of the minor child.

Under section 10(32), income of each minor child includible in the hands of the parent under section 64(1A) would be exempt to the extent of the actual income or 1,500, whichever is lower. The remaining income would be included in the hands of the parent.

Computation of income earned by minor children to be clubbed with the income of Mr. Sharma:

Particulars	Amount
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Particulars	Amount
Income of one daughter	9,000
Less: Income exempt under section 10(32)	1,500
Total (A)	7,500
Income of two sons (INR 6,200 +INR 4,300)	10,500
Less: Income exempt under section 10(32) (INR1,500 +INR 1,500)	3,000
Total (B)	7,500
Total Income to be clubbed as per section 64(1A) (A+B)	15,000

Notes: It has been assumed that:

- All the four children are minor children;
- The income does not accrue or arise to the minor children on account of any manual work done by them or activity involving application of their skill, talent or specialized knowledge and experience;
- The income of Mr. Sharma, before including the minor children's income, is greater than the income of Mrs. Sharma, due to which the income of the minor children would be included in his hands; and
- This is the first year in which clubbing provisions are attracted.

Concept Problem 11

During the previous year 2021-22, the following transactions occurred in respect of Mr. A.

- Mr. A had a fixed deposit of 5,00,000 in Bank of India. He instructed the bank to credit the interest on the deposit @ 9% from 1-4-2021 to 31-3-2022 to the savings bank account of Mr. B, son of his brother, to help him in his education.
- Mr. A holds 75% share in a partnership firm. Mrs. A received a commission of 25,000 from the firm for promoting the sales of the firm. Mrs. A possesses no technical or professional qualification.
- Mr. A gifted a flat to Mrs. A on April 1, 2021. During the previous year 2021-22, Mrs. A's "Income from house property" (computed) was 52,000.
- Mr. A gifted 2,00,000 to his minor son who invested the same in a business and he derived income of 20,000 from the investment.
- Mr. A's minor son derived an income of 20,000 through a business activity involving application of his skill and talent.

During the year, Mr. A got a monthly pension of INR 10,000. He had no other income. Mrs. A received salary of INR 20,000 per month from a part time job.

Examine the tax implications of each transaction and compute the total income of Mr. A, Mrs. A and their minor child assuming they do not wish to opt for section 115BAC.

Solution

Computation of total income of Mr. A, Mrs. A and their minor son for the A.Y. 2022-23

Particulars	Mr. A	Mrs. A	Minor Son
Salary income (of Mrs. A) [2,40,000]	-	2,40,000	-
Pension income (of Mr. A) (10,000×12)	1,20,000		
Less: Standard deduction under section 16(ia)	50,000	50,000	
Income from Salary	70,000	1,90,000	
Income from House Property [Note (3)]	52,000	-	-
Income from other sources			

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Particulars	Mr. A		Mrs. A	Minor Son
Interest on Mr. A's fixed deposit with Bank of India (INR 5,00,000×9%) [Note (1)]	45,000		-	-
Commission received by Mrs. A from a partnership firm, in which Mr. A has substantial interest [Note (2)]	25,000	70,000	-	-
Income before including income of minor son u/s 64(1A)		1,92,000	1,90,000	-
Income of the minor son from the investment made in the business out of the amount gifted by Mr. A [Note (4)]		18,500	--	-
Income of the minor son through a business activity involving application of his skill and talent [Note (5)]	-	-	-	20,000
Total Income		2,10,500	1,90,000	20,000

Notes:

- As per section 60, in case there is a transfer of income without transfer of asset from which such income is derived, such income shall be treated as income of the transferor. Therefore, the fixed deposit interest of 45,000 transferred by Mr. A to Mr. B shall be included in the total income of Mr. A.
- As per section 64(1), in case the spouse of the individual receives any amount by way of income from any concern in which the individual has substantial interest (i.e., holding shares carrying at least 20% voting power or entitled to at least 20% of the profits of the concern), then, such income shall be included in the total income of the individual.

The only exception is in a case where the spouse possesses any technical or professional qualifications and the income earned is solely attributable to the application of her technical or professional knowledge and experience, in which case, the clubbing provisions would not apply.

In this case, the commission income of 25,000 received by Mrs. A from the partnership firm has to be included in the total income of Mr. A, as Mrs. A does not possess any technical or professional qualification for earning such commission and Mr. A has substantial interest in the partnership firm as he holds 75% share in the firm.

- According to section 27, an individual who transfers any house property to his or her spouse otherwise than for adequate consideration or in connection with an agreement to live apart, shall be deemed to be the owner of the house property so transferred.

Hence, Mr. A shall be deemed to be the owner of the flat gifted to Mrs. A and hence, the income arising from the same shall be computed in the hands of Mr. A.

Further, such immovable property shall not be taxable in the hands of Mrs. A, since she has received immovable property without consideration from a relative i.e., her husband.

- As per section 64(1A), the income of the minor child is to be included in the total income of the parent whose total income (excluding the income of minor child to be so clubbed) is greater. Further, as per section 10(32), income of a minor child which is includible in the income of the parent shall be exempt to the extent of INR 1,500 per child.

Therefore, the income of 20,000 received by minor son from the investment made out of the sum gifted by Mr. A shall, after providing for exemption of 1,500 under section 10(32), be included in the income of Mr. A, since Mr. A's income of INR 2,42,000 (before including the income of the minor child) is greater than Mrs. A's income of INR 2,40,000.

Therefore, INR 18,500 (i.e., INR 20,000 – INR 1,500) shall be included in Mr. A's income. It is assumed that this is the first year in which clubbing provisions are attracted.

Further, such sum of money shall not be taxable in the hands of minor son, since he has received the money from a relative i.e., his father.

5. In case the income earned by the minor child is on account of any activity involving application of any skill or talent, then, such income of the minor child shall not be included in the income of the parent, but shall be taxable in the hands of the minor child.

Therefore, the income of 20,000 derived by Mr. A's minor son through a business activity involving application of his skill and talent shall not be clubbed in the hands of the parent. Such income shall be taxable in the hands of the minor son.

Concept Problem 12

Mr. A has gifted a house property valued at INR 50 lakhs to his wife, Mrs. B, who in turn has gifted the same to Mrs. C, their daughter-in-law. The house was let out at INR 25,000 per month throughout the year. Compute the total income of Mr. A and Mrs. C.

Will your answer be different if the said property was gifted to his son, husband of Mrs. C?

Solution

As per section 27(i), an individual who transfers otherwise than for adequate consideration any house property to his spouse, not being a transfer in connection with an agreement to live apart, shall be deemed to be the owner of the house property so transferred.

Therefore, in this case, Mr. A would be the deemed owner of the house property transferred to his wife Mrs. B without consideration.

As per section 64(1)(vi), income arising to the son's wife from assets transferred, directly or indirectly, to her by an individual otherwise than for adequate consideration would be included in the total income of such individual.

Income from let-out property is INR 2,10,000 [i.e., INR 3,00,000, being the actual rent calculated at INR 25,000 per month less INR 90,000, being deduction under section 24 @ 30% of INR 3,00,000]

In this case, income of INR 2,10,000 from let-out property arising to Mrs. C, being Mr. A's son's wife, would be included in the income of Mr. A, applying the provisions of section 27(i) and section 64(1)(vi). Such income would, therefore, not be taxable in the hands of Mrs. C.

In case the property was gifted to Mr. A's son, the clubbing provisions under section 64 would not apply, since the son is not a minor child. Therefore, the income of INR 2,10,000 from letting out of property gifted to the son would be taxable in the hands of the son.

It may be noted that the provisions of section 56(2)(x) would not be attracted in the hands of the recipient of house property, since the receipt of property in each case was from a "relative" of such individual. Therefore, the stamp duty value of house property would not be chargeable to tax in the hands of the recipient of immovable property, even though the house property was received by her or him without consideration.

Concept Problem 13

A proprietary business was started by Smt. Rani in the year 2019. As on 1.4.2020 her capital in business was 3,00,000.

Her husband gifted INR 2,00,000 on 10.4.2020, which amount Smt. Rani invested in her business on the same date. Smt. Rani earned profits from her proprietary business for the FY 2020-21, INR 1,50,000 and FY 2021-22 INR 3,90,000. Compute the income, to be clubbed in the hands of Rani's husband for AY 2022-23 with reasons.

Solution

Section 64(1) of the Income-tax Act, 1961 provides for the clubbing of income in the hands of the individual, if the income earned is from the assets transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration. In this case Smt. Rani received a gift of INR 2,00,000 from her husband which she invested in her business. The income to be clubbed in the hands of Smt. Rani's husband for A.Y.2022-23 is computed as under:

Particulars	Smt. Rani's Capital Contribution	Capital Contribution Out of gift from husband	Total
Capital as at 1.4.2020	3,00,000	-	3,00,000
Investment on 10.04.2020 out of gift received from her husband		2,00,000	2,00,000
	3,00,000	2,00,000	5,00,000
Profit for F.Y. 2020-21 to be apportioned on the basis of capital employed on the first day of the previous year i.e., on 1.4.2020	1,50,000		1,50,000
Capital employed as at 1.4.2021	4,50,000	2,00,000	6,50,000
Profit for F.Y. 2021-22 to be apportioned on the basis of capital employed as at 1.4.2021 (i.e. 45: 20)	2,70,000	1,20,000	3,90,000

Therefore, the income to be clubbed in the hands of Smt. Rani's husband for A.Y. 2022-23 is INR 1,20,000.

Concept Problem 14

Mr. B is the Karta of a HUF, whose members derive income as given below:

S No.	Particulars	Amount
1	Income from B' s profession	45,000
2	Mrs. B' s salary as fashion designer	76,000
3	Minor son D (interest on fixed deposits with a bank which were gifted to him by his uncle)	10,000
4	Minor daughter P's earnings from sports	95,000
5	D's winnings from lottery (gross)	1,95,000

Discuss the tax implications in the hands of Mr. and Mrs. B.

Solution

Clubbing of income and other tax implications

As per the provisions of section 64(1A), in case the marriage of the parents subsists, the income of a minor child shall be clubbed in the hands of the parent whose total income, excluding the income of the minor child to be clubbed, is greater. In this problem, it has been assumed that the marriage of Mr. B and Mrs. B subsists.

Further, in case the income arises to the minor child on account of any manual work done by the child or as a result of any activity involving application of skill, talent, specialized knowledge or experience of the child, then, the same shall not be clubbed in the hands of the parent.

Tax implications

- i) Income of INR 45,000 from Mr. B's profession shall be taxable in the hands of Mr. B under the head "Profits and gains of business or profession".
- ii) Salary of INR 26,000 (INR 76,000 less standard deduction under section 16(1a) of INR 50,000) shall be taxable as "Salaries" in the hands of Mrs. B.
- iii) Income from fixed deposit of INR 10,000 arising to the minor son D, shall be clubbed in the hands of the father, Mr. B as "Income from other sources", since his income is greater than income of Mrs. B before including the income of the minor child.

As per section 10(32), income of a minor child which is includible in the income of the parent shall be exempt to the extent of INR 1,500 per child. The balance income would be clubbed in the hands of the parent as “Income from other sources”.

- iv) Income of INR 95,000 arising to the minor daughter P from sports shall not be included in the hands of the parent, since such income has arisen to the minor daughter on account of an activity involving application of her skill.
- v) Income of INR 1,95,000 arising to minor son D from lottery shall be included in the hands of Mr. B as “Income from other sources”, since his income is greater than the income of Mrs. B before including the income of minor child.

Note – Mr. B can reduce the tax deducted at source from such lottery income while computing her net tax liability.

2. ICAI RTPS, MTPS AND PAST YEAR QUESTIONS

Concept Problem 15

Nishant gifted INR 10 lakhs to his wife, Nisha on her birthday on, 1st January, 2021. Nisha lent INR 5,00,000 out of the gifted amount to Krish on 1st April, 2021 for six months on which she received interest of INR 50,000. The said sum of 50,000 was invested in shares of a listed company on 15th October, 2021, which were sold for INR 75,000 on 30th December, 2021. Securities transaction tax was paid on such sale. The balance amount of gift was invested as capital by Nisha in a newly business started on 1.4.2021. She suffered loss of INR 15,000 in the business in Financial Year 2021-22. In whose hands the above income and loss shall be included in Assessment Year 2022-23? Support your answer with brief reasons.

Solution

In computing the total income of any individual, there shall be included all such income as arises directly or indirectly, to the spouse of such individual from assets transferred directly or indirectly, to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart.

Interest on loan

As per section 64(1)(iv), in computing the total income of any individual, there shall be included all such income as arises directly or indirectly, to the spouse of such individual from assets transferred directly or indirectly, to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart.

Accordingly, INR 50,000, being the amount of interest on loan received by Ms. Nisha, wife of Mr. Nishant, would be includible in the total income of Mr. Nishant, since such loan was given by her out of the sum of money received by her as gift from her husband.

Loss from business

Since the capital was invested in business by Ms. Nisha on 1st April, 2021, and capital invested was entirely out of the funds gifted by her husband, the entire loss of INR 15,000 from the business carried on by Ms. Nisha would also be includible in the total income of Mr. Nishant.

Since income includes loss as per Explanation 2 to section 64, clubbing provisions would be attracted even if there is loss and not income.

Capital Gain on sale of shares of listed company

The short-term capital gain of INR 25,000 (INR 75,000, being the sale consideration less INR 50,000, being the cost of acquisition) arising in the hands of Ms. Nisha from sale of shares acquired by investing the interest income of INR 50,000 earned by her (from the loan given out of the sum gifted to her by her husband), would not be included in the hands of Mr. Nishant.

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Income from the accretion of the transferred asset is not liable to be included in the hands of the transferor and therefore such income is taxable in the hands of Ms. Nisha. Since securities transaction tax has been paid, such short-term capital gain on sale of listed shares is taxable @ 15% in the hands of Ms. Nisha.

Concept Problem 16

Ram holds 15% shares in Tax Ltd and Ram's father holds 7% shares. His wife also works in the same Company at a salary of INR 30,000 per month although she is not qualified.

The other income of Mr. Ram & Mrs. Ram are INR 7,00,000 & INR 4,00,000, respectively. Compute the gross total income of Mr. Ram and Mrs. Ram for the A.Y.2021-22.

Will your answer be different if Mrs. Ram was qualified for the job?

Solution

Since, Ram is holding 20% and more voting power in the Company along with his father, he has substantial interest in Tax Ltd. His wife is working without qualification. Thus, clubbing provisions shall be attracted and salary of Ram's wife shall be clubbed in the salary of Ram.

Computation of Gross Total Income of Mr. Ram

Particulars	Amount	Amount
Salary received by Ram's wife (30,000*12)	3,60,000	
Less: Standard deduction under section 16(ia)	50,000	3,10,000
Other Income		7,00,000
Gross Total Income		10,10,000

Gross Total income of Ram's wife shall be 4,00,000.

Part 2 of Question

If Mrs. Ram possesses professional qualifications for the job, then the clubbing provisions shall not be applicable.

Gross total income of Mr. Ram = INR 7,00,000[other income].

Gross total income of Mrs. Ram = Salary received by Mrs. Ram [INR 30,000 × 12] less INR 50,000, being the standard deduction under section 16(ia) plus other income [INR 4,00,000] = INR 7,10,000

Concept Problem 17

Mr. Ram transferred 2,000 debentures of INR 100 each of Tax Ltd. to Mrs. Ram on 03.04.2021 without consideration. The Company paid an interest of INR 30,000 in September 2021 which was deposited by Mrs. Ram with a bank. The Bank paid an interest of INR 3,000 upto March 2022.

How would both the interest income shall be charged to tax in assessment year 2022-23?

Solution

As per section 64(1), income arising from assets transferred without adequate consideration by any individual to his spouse is clubbed in the hands of the individual but if there is any accretion to the asset, any income on such accretion should not be clubbed.

Therefore, INR 30,000 being the interest on debentures received by Mrs. Ram in September 2021 will be clubbed in the hands of individual since he had transferred the asset without consideration.

However, the interest of INR 3,000 upto March 2022 earned by Mrs. Ram on the interest of debentures deposited by her with the bank shall be taxable in her individual capacity and shall not be clubbed with income of Mr. Ram.

Concept Problem 18

Shri Madan (age 61 years) gifted a building owned by him to his son's wife Smt. Hema on 01.10.2021. The building fetched a rental income of INR 10,000 per month throughout the year. Municipal tax for the first half-year of INR 5,000 was paid in June 2021 and the municipal tax for the second half-year was not paid till 30.09.2022.

Incomes of Shri Madan and Smt. Hema other than income from house property are given below:

Name	Business income	Capital gain	Other sources
Shri Madan	1,00,000	50,000 (long term)	1,50,000
Smt. Hema	(75,000)	2,00,000 (short term)	50,000

Note: Capital gain does not relate to gain from shares and securities.

Compute the total income of Shri. Madan and Smt. Hema taking into account income from property given above and also compute their income-tax liability for the assessment year 2022-23.

Solution

Computation of total income and tax liability of Shri Madan for A.Y. 2022-23

Particulars	Amount
Income from house property (Refer Note 1)	80,500
Business Income	1,00,000
Long-term Capital Gains	50,000
Income from Other Sources	1,50,000
Total Income	3,80,500
Long-term Capital Gain of INR 50,000 @ 20%	10,000
Other income of INR 3,30,500	
$(\text{INR } 3,30,500 - \text{INR } 3,00,000) \times 5\%$ (Refer Note 2)	1,525
Tax before cess	11,525
Less: Rebate u/s 87A	(11,525)
Tax liability	Nil

Computation of total income and tax liability of Smt. Hema for A.Y. 2022-23

Particulars	Amount	Amount
Short-term Capital Gains	2,00,000	
Less: Business loss	75,000	1,25,000
Income from Other Sources		50,000
Total Income		1,75,000
Tax liability (Since total income is less than basic exemption limit of INR 2,50,000)		Nil

Notes:

- As per section 64(1)(vi), the income arising to the son's wife of an individual, directly or indirectly, from assets transferred to her, otherwise than for adequate consideration, by such individual, shall be included in the total income of the individual. Therefore, the rental income from building transferred by Shri Madan to his son's wife Smt. Hema without consideration on 01.10.2021 is includible in the hands of Shri Madan.

Particulars	Madan	Hema
	(01.04.2021 to 30.09.2021)	(01.10.2021 to 31.03.2022)

Gross Annual Value (INR 10,000 × 6 months)	60,000	60,000
(Rental income taken as GAV in the absence of information relating to Municipal Value, fair value and standard rent)		
Less: Municipal taxes paid (paid in June for first half year)	5,000	Nil
Net Annual Value (NAV)	55,000	60,000
Less: Deduction under section 24(a) @ 30% of NAV	16,500	18,000
Income from House Property	38,500	42,000
Income from House Property of Hema to be clubbed in the hands of Madan as per section 64(1)(vi)	42,000	
Income from house property	80,500	

2. The basic exemption limit for A.Y. 2022-23 in respect of an individual who is of the age of 60 years or more during the relevant PY is INR 3,00,000. The same has been considered while calculating Madan's tax liability.

Concept Problem 19

Mr. Tanuj gifts INR 8,00,000 to his girlfriend Sneha on 01/05/2021. They get married on 1st Jan 2022. On 7th Jan 2022, she receives another gift of INR 5,00,000 from Tanuj. Both these amounts were immediately invested in bank Fixed deposit at 9% pa. Other income of Tanuj are INR 20,00,000 and of Sneha INR 35,00,000.

Compute the total income and tax payable by Sneha and Tanuj

Solution

Particulars	Tanuj	Sneha
Other incomes	20,00,000	35,00,00
Gift received (Note 1)		8,00,000
Interest on 8,00,000 fixed deposit (Note 1)		66,000 (8L x 9% x 11/12)
Interest on fixed deposit (Note 2)	10,356 (500,000 x 9% x 84/365)	
Total Income	20,10,356	43,66,000

Note 1: Gift of 8,00,000 received by Sneha from her boyfriend shall be taxable in the hands of Sneha since she was not a relative of Tanuj at the time of receipt of money.

Further, interest on fixed deposit of 8,00,000 shall also be not clubbed in the hands of Tanuj since, for an income to be clubbed, the relationship of spouse should exist both at the time of gifting of the asset as well at the time of accrual of income.

Note 2: Gift of 5,00,000 received by Sneha from her husband is exempt in the hands of Sneha since she is relative of Tanuj.

Further, interest on fixed deposit of 5,00,000 shall be clubbed in the hands of Tanuj since income from an asset transferred by a person to his spouse without consideration is clubbed in the hands of the transferor.

Concept Problem 20

Mr. Ram gifts INR one lakh to his wife Mrs. Ram on April 1, 2021 which she invests in a firm at interest rate of 14% per annum. On January 1, 2022, Mrs. Ram withdraws the money and gifts it to her son's wife. She claims that interest which has accrued to the daughter-in-law from January 1, 2022 to March 31, 2022 on investment made by her is not assessable in her hands but in the hands of Mr. Ram.

Is this correct? What would be the position if Mrs. Ram has gifted the money to minor grandson instead of the daughter-in-law?

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Solution

If any person has transferred any assets to son's wife, directly or indirectly, clubbing provision shall apply in the similar manner as in case of transfer of assets to spouse.

In this case, Mr. Ram has transferred 1 lakh to his wife. Income of wife arising from this money shall be clubbed in the hands of Mr. Ram. Further, Ram's wife gifts this amount to the son's wife. This amounts to indirect transfer of asset by Mr. Ram to his daughter-in-law and hence income of daughter-in-law arising from this money shall also be clubbed in the hands of Ram.

Hence, Mrs. Ram's contention is correct.

In case Mrs. Ram has gifted the money to minor grandson, the income from such asset shall be clubbed in the hands of parents of grandson i.e. son or daughter-in-law of Mrs. Ram; whoever has higher income.

Concept Problem 21

Mr. Bharat has 3 children Mo, Jo and Yo.

Mo received a gift of INR 20,00,000 on his 17th birthday on 15/05/2021 from his friend. He invested this money in debentures of Z Ltd @ 6% interest payable half yearly in June and December.

Jo (Age 8 years) earned INR 3,00,000 during PY 2021-22 from singing competition and also invested the same in various security and receives interest of INR 80,000 during the year.

Yo (Age 16 years) received a gift INR 50,00,000 from his girlfriend and another INR 50,00,000 from Mother. He invested both the amounts in shares of Tata Consultancy Services Limited. He received dividend of INR 6,00,000 on 22/09/2021 and derives short term capital gain of INR 8,00,000 on transfer of these shares.

Find out the incomes of Mr. Bharat, Mrs. Bharat and their 3 sons on the assumption that other incomes of Mr. Bharat are INR 60,00,000 and Mrs. Bharat is INR 56,00,000.

Solution**Computation of income**

Particulars	Bharat	Mrs. Bharat	Mo	Jo	Yo
Personal income	60,00,000	56,00,000			
Income of Mo clubbed in hand of Bharat					
Gift from friend [taxable uth Other Source]					
20,00,000					
Interest [taxable uth Other Source]	120,000				
Exemption u/s 10(32)	(1,500)				
	21,18,500				
Income of Jo					
Income of Jo from singing competition				3,00,000	
Interest income to be clubbed	80,000				
Exemption u/s 10(32)	(1,500)				
	78,500				
Income of Yo					
Gift from girlfriend (taxable uth Other Source]					
	50,00,000				
Gift from mother [Exempt]	-				
Dividend	6,00,000				
STCG	8,00,000				
Exemption u/s 10(32)	(1,500)				
	63,98,500				
Gross total income	1,45,95,500	56,00,000	-	3,00,000	

Concept Problem 22

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Mr. Dharmesh who is 45 years old and his wife Mrs. Anandi who is 42 years old furnished the following information:

S.No.	Particulars	Amount
i.	Salary income (computed) of Mrs. Anandi	9,60,000
ii.	Income of minor son "A" who suffers from disability specified in section 80U	3,08,000
iii.	Income of minor daughter "C" from script writing for Television serials	1,86,000
iv.	Income from garment trading business of Mr. Dharmesh	17,50,000
v.	Cash gift received by minor daughter "C" on 02-10-2021 from friend of Mrs. Anandi, on winning of a story writing competition	45,000
vi.	Income of minor son "B" from scholarship received from his school	1,00,000
vii.	Income of minor son "B" from fixed deposit with Punjab National Bank, made out of income earned from scholarship	5,000

Compute the total income of Mr. Dharmesh and his wife Mrs. Anandi for Assessment Year 2022- 23 assuming that they have not opted to be taxed under section 115BAC.

Solution

Computation of Total Income of Mr. Dharmesh and Mrs. Anandi for A.Y. 2022-23

Particulars	Mr. Dharmesh	Mrs. Anandi
Salary income (computed)		9,60,000
Income from granted trading business	17,50,000	
Total income before including income of minor children	17,50,000	9,60,000
<u>Income of minor son "A"</u>		
Income of 3,08,000 of minor son A who suffers from disability specified in section 80U [Since minor child A is suffering from disability specified under section 80U, hence, his income would not be included in the income of the parent but would be taxable in the hands of the minor child]		
<u>Income of minor son "B"</u>		
Income of 1,00,000 from scholarship [Exempt u/s 10 (16)]		
Income from fixed deposit with PNB [Since Mr. Dharmesh's Income is greater than that of Mrs. Anandi, income of Minor son B from fixed deposit would be included in the Hands of Mr. Dharmesh. Interest from bank deposit has to be Included in Mr. Dharmesh 's income, even of deposit is made out of income earned from scholarship]	5,000	
Less: Exemption under section 10(32)	1,500	
	3,500	
<u>Income of minor daughter "C"</u>		
Income of 1,86,000 from script writing for television serials [Income derived by a minor child from any activity involving application of his/ her skill, talent, specialized knowledge and experience is not to be included in the hands of the parent] Hence, clubbing provisions will not apply in this case/no adjustment is required.	Nil	
Cash gifts of 45,000 received from friend of Mrs. Anandi [Gift not exceeding 50,000 received from a non-relative is not taxable u/s 56(2)(x). Hence, clubbing provisions will not apply in this case/ no adjustment is required.	Nil	
Gross Total Income/ Total Income	17,53,500	9,60,000

Note – As per section 10(16), scholarships granted to meet the cost of education is exempt from tax. The purpose of scholarship received by minor son B is explicitly not mentioned in the question. However, scholarships given by schools are generally in the form of financial assistance for meeting the cost of education. Hence, it is logical to assume that the scholarship to B has been granted to him to meet his cost of education. Based on this assumption, the same has been treated as exempt from tax u/s 10(16).

Alternate view – However, in absence of specific information, it is possible to assume that such scholarship has been granted on account of B's exceptional academic achievements i.e., involving application of his skill, talent, specialized knowledge and experience and hence would be covered under the proviso to section 64(1A) and thus should not be included in the income of parent.

Concept Problem 23

Suresh gifted 10 lakhs to his wife, Shagun on her birthday on, 29th February, 2021. Shagun lent such amount to Kinjal on 1st April, 2021 for six months on which she received interest of 75,000. The said sum of 75,000 was invested in shares of a listed company on 5th October, 2021, which were sold for 90,000 on 30th March, 2022. Securities transactions tax was paid on purchase and sale of such shares.

In whose hands the above income shall be included in A.Y.2022-23. Support your answer with brief reasons.

Solution -

In computing the total income of any individual, there shall be included all such income as arises directly or indirectly, to the spouse of such individual from assets transferred directly or indirectly, to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart.

Interest on loan: Accordingly, 75,000, being the amount of interest on loan received by Mrs. Shagun, wife of Mr. Suresh, would be includible in the total income of Mr. Suresh, since such loan was given out of the sum of money received by her as gift from her husband.

Short-term capital gain: Income from the accretion of the transferred asset is not liable to be included in the hands of the transferor and, therefore, short-term capital gain of 15,000 (90,000, being the sale consideration less 75,000, being the cost of acquisition) arising in the hands of Mrs. Shagun from sale of shares acquired by investing the interest income of 75,000 earned by her (from the loan given out of the sum gifted by her husband), would not be included in the hands of Mr. Suresh. Thus, such income is taxable in the hands of Mrs. Shagun.

Concept Problem 24

Aggarwal & Sons, HUF purchased a house property in the year 1950 for 50,000. On 31.10.2021, the HUF was totally partitioned and the aforesaid house property was given to Mr. Subhash Aggarwal, a member of the family. Fair Market value of the house as on 31.10.2021 was 21,00,000. FMV of the house as on 1.4.2001 was 3,50,000. What will be the tax implications in the hands of Mr. Subhash Aggarwal and the HUF?

Solution

Tax implications in the hands of HUF

As per section 47, any distribution of capital assets on the total or partial partition of a HUF would not be regarded as transfer for the purpose of capital gains tax.

In this case, Aggarwal & Sons, HUF transferred the asset to Mr. Subhash Aggarwal, a member of HUF on total partition of the HUF. Hence, the transaction would not be regarded as transfer.

Tax implications in the hands of Mr. Subhash Aggarwal

If an immovable property is received by any person without consideration, the stamp duty value of such property would be taxed as the income of the recipient under section 56(2)(x), if it exceeds 50,000. However, it would not be taxable as income if the transfer is by way of a transfer, inter alia, on total or partial partition of a HUF.

In the give case, since Mr. Subhash Aggarwal received the house property on total partition of the HUF, it would not be taxable in his hand.