CHAPTER 10
GIFT

1. ICAI STUDY MATERIAL QUESTIONS

Concept Problem 1

Mr. A, a dealer in shares, received the following without consideration during the P.Y. 2021-22 from his friend Mr. B,

1. Cash gift of INR 75,000 on his anniversary, 15th April, 2021.
2. Bullion, the fair market value of which was INR 60,000, on his birthday, 19th June, 2021.
3. A plot of land at Faridabad on 1st July, 2021, the stamp value of which is INR 5 lakh on that date. Mr. B had purchased the land in April, 2009.

Mr. A purchased from his friend Mr. C, who is also a dealer in shares, 1000 shares of X Ltd. @ INR 400 each on 19th June, 2021, the fair market value of which was INR 600 each on that date. Mr. A sold these shares in the course of his business on 23rd June, 2021.

Further, on 1st November, 2021, Mr. A took possession of property (building) booked by him two years back at INR 20 lakh. The stamp duty value of the property as on 1st November, 2021 was INR 32 lakh and on the date of booking was INR 23 lakh. He had paid INR 1 lakh by account payee cheque as down payment on the date of booking.

On 1st March, 2022, he sold the plot of land at Faridabad for INR 7 lakh.

Compute the income of Mr. A chargeable under the head Other Sources and "Capital Gains" for A.Y. 2022-23.

Solution

Computation of "Income from other sources" of Mr. A for the A.Y.2022-23

S. No	Particulars	Amount
1.	Cash gift is taxable under section 56(2)(x), since it exceeds INR 50,000	75,000
2.	Since bullion is included in the definition of property, therefore, when bullion is received without consideration, the same is taxable, since the aggregate fair market value exceeds INR 50,000	60,000
3.	Stamp value of plot of land at Faridabad, received without consideration, is taxable under section 56(2)(x)	5,00,000
4.	Difference of INR 2 lakh in the value of shares of X Ltd. purchased from Mr. C, a dealer in shares, is not taxable as it represents the stock-in-trade of Mr. A. Since Mr. A is a dealer in shares and it has been mentioned that the shares were subsequently sold in the course of his business, such shares represent the stock-in-trade of Mr. A.	Nil
5.	Difference between the stamp duty value of INR 23 lakh on the date of booking and the actual consideration of INR 20 lakh paid is taxable under section 56(2)(x) as difference between SDV and consideration exceeds higher of 50,000 and 10% of consideration.	3,00,000
Income from Other Sources		**9,35,000**

Computation of "Capital Gains" of Mr. A for the A.Y.2022-23

Particulars	Amount
Sale Consideration	7,00,000
Less: Cost of acquisition [deemed to be the stamp value charged to tax under section 56(2)(x) as	5,00,000

per section 49(4)]	
Short-term capital gains	**2,00,000**

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

Concept Problem 2

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

i) Akhil HUF received INR 75,000 in cash from niece of Mr. Akhil (i.e., daughter of Mr. Akhil's sister). Mr. Akhil is the Karta of the HUF.

ii) Nishita, a member of her father's HUF, transferred a house property to the HUF without consideration. The stamp duty value of the house property is INR 9,00,000.

iii) Mr. Akshat received 100 shares of A Ltd. From his friend as a gift on occasion of his 25th marriage anniversary. The FMV on that date was INR 100 per share. He also received jewellery worth INR 45,000 (FMV) from his nephew on the same day

iv) Kishan HUF gifted a car to son of Karta for achieving good marks in XII board examination. The fair market value of the car is INR 5,25,000.

Solution

Particulars	Taxable/Non taxable	Amount
Sum of money exceeding INR 50,000 received without consideration from a non-relative is taxable under section 56(2)(x). Daughter of Akhil's sister is not a relative of Akhil HUF, since she is not a member of Akhil HUF.	Taxable	75,000
Immovable property received without consideration by a HUF from its member is not taxable. Since Nishita is a member of HUF, she is relative of HUF.	Non - taxable	Nil
As per section 56(2)(x), in case aggregate fair market value of properties, other than immovable property, received without consideration during a particular year exceeds INR 50,000, the whole aggregate FMV is taxable under the head Other Sources [INR 10,000 + INR 45,000]	Taxable	55,000
Car is not included in the definition of property and hence is not taxable u/s 56(2)(x)	Non-Taxable	Nil

Concept Problem 3

Mr. Hari, a property dealer, sold a building in the course of his business to his friend Rajesh, who is a dealer in automobile spare parts, for INR 90 lakh on 1.1.2022, when the stamp duty value was INR 150 lakh. The agreement was, however, entered into on 1.9.2021 when the stamp duty value was INR 140 lakh. Mr. Hari had received a down payment of INR 15 lakh by a crossed cheque from Rajesh on the date of agreement.

Discuss the tax implications in the hands of Hari and Rajesh, assuming that Mr. Hari has purchased the building for INR 75 lakh on 12th July, 2020.

Would your answer be different if Hari was a share broker instead of a property dealer?

Solution

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

In the hands of the seller, Mr. Hari	In the hands of the buyer, Mr. Rajesh
In the hands of Hari, the provisions of section 43CA would be attracted, since the building represents his	Since Mr. Rajesh is a dealer in automobile spare parts, the building purchased would be a capital asset

In the hands of the seller, Mr. Hari	In the hands of the buyer, Mr. Rajesh
stock-in- trade and he has transferred the same for a consideration less than the stamp duty value; and the stamp duty value exceeds 110% of consideration. Under section 43CA, the option to adopt the stamp duty value on the date of agreement can be exercised only if whole or part of the consideration has been received on or before the date of agreement by way of account payee cheque or draft or by use of ECS through a bank account or through such other prescribed electronic mode on or before the date of agreement. In this case, since the down payment of INR 15 lakh is received on the date of agreement by crossed cheque and not account payee cheque, the option cannot be exercised. Therefore, **INR 75 lakh**, being the difference between the stamp duty value on the date of transfer i.e., INR 150 lakh, and the purchase price i.e., INR 75 lakh, would be chargeable as **business income** in the hands of Mr. Hari, since stamp duty value exceeds **110%** of the consideration	in his hands. The provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration and the difference between the consideration and stamp duty value exceeds INR 9,00,000, being the higher of INR 50,000 and **10%** of consideration. Therefore, **INR 60 lakh**, being the difference between the stamp duty value of the property on the date of registration (i.e., INR 150 lakh) and the actual consideration (i.e., INR 90 lakh) would be taxable under section 56(2)(x) in the hands of **Mr. Rajesh**, since the payment on the date of agreement is made by crossed cheque and not account payee cheque/draft or ECS or through such other prescribed electronic mode such as credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay.

Case 2: Tax implications if Mr. Hari is a stock broker

In the hands of the seller, Mr. Hari	In the hands of the buyer, Mr. Rajesh
In case Mr. Hari is a stock broker and not a property dealer, the building would represent his capital asset and not stock- in-trade. In such a case, the provisions of section 50C would be attracted in the hands of Mr. Hari, since building is transferred for a consideration less than the stamp duty value; and the stamp duty value exceeds 110% of consideration. Thus, **INR 75 lakh, being the difference between the stamp duty value on the date of registration (i.e., INR 150 lakh) and the purchase price (i.e., INR 75 lakh) would be chargeable as short-term capital gains.** It may be noted that under section 50C, the option to adopt the stamp duty value on the date of agreement can be exercised only if whole or part of the consideration has been received on or before the date of agreement by way of account payee cheque or draft or by use of ECS through a bank account or through such other prescribed electronic mode such as credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay on or before the date of agreement. In this case, since the down payment of INR 15 lakhs has been received on the date of agreement by crossed cheque and not account payee cheque, the option cannot be exercised.	There would be no difference in the taxability in the hands of Mr. Rajesh, whether Mr. Hari is a property dealer or a stock broker. Therefore, the provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration and the difference between the consideration and stamp duty value exceeds INR 9,00,000, being the higher of INR 50,000 and **10%** of consideration. Therefore, **INR 60 lakh,** being the difference between the stamp duty value of the property on the date of registration (i.e., INR 150 lakh) and the actual consideration (i.e., INR 90 lakh) would be taxable under section 56(2)(x) in the hands of Mr. Rajesh, since the payment on the date of agreement is made by crossed cheque and not account payee cheque/draft or ECS or through such other prescribed electronic mode such as credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay..

Concept Problem 4

The following details have been furnished by Mrs. Hemali pertaining to the year ended 31.3.2022:

i) Cash gift of INR 51,000 received from her friend on the occasion of her "Shastiaptha Poorthi", a wedding function celebrated on her husband completing 60 years of age. This was also her 25th wedding anniversary.

ii) On the above occasion, a diamond necklace worth INR 2 lakh was presented by her sister living in Dubai.

iii) When she celebrated her daughter's wedding on 21.2.2022, her friend assigned in Mrs. Hemali's favour, a fixed deposit held by the said friend in a scheduled bank; the value of the fixed deposit and the accrued interest on the said date was INR 52,000

Compute the income, if any, assessable as income from other sources.

Solution

i) Any sum of money received by an individual on the occasion of the marriage of the individual is exempt. This provision is, however, not applicable to a cash gift received during a wedding function celebrated on completion of 60 years of age.

The gift of INR 51,000 received from a non-relative is, therefore, chargeable to tax under section 56(2)(x) in the hands of Mrs. Hemali.

ii) The provisions of section 56(2)(x) are not attracted in respect of any sum of money or property received from a relative. Thus, the gift of diamond necklace received from her sister is not taxable under section 56(2)(x), even though jewellery falls within the definition of "property".

iii) To be exempt from applicability of section 56(2)(x), the property should be received on the occasion of the marriage of the individual, not that of the individual's son or daughter. Therefore, this exemption provision is not attracted in this case.

Any sum of money received without consideration by an individual is chargeable to tax under section 56(2)(x), if the aggregate value exceeds INR 50,000 in a year.

"Sum of money" has, however, not been defined under section 56(2)(x).

Therefore, there are two possible views in respect of the value of fixed deposit assigned in favour of Mrs. Hemali –

a. The first view is that fixed deposit does not fall within the meaning of "sum of money" and therefore, the provisions of section 56(2)(x) are not attracted. It may be noted that fixed deposit is also not included in the definition of "property".

ii) However, another possible view is that fixed deposit assigned in favour of Mrs. Hemali falls within the meaning of "sum of money" received.

Income assessable as "Income from other sources"

If the first view is taken, the total amount chargeable to tax as "Income from other sources" would be INR 51,000, being cash gift received from a friend on her Shastiaptha Poorthi.

As per the second view, the provisions of section 56(2)(x) would also be attracted in respect of the fixed deposit assigned and the "Income from other sources" of Mrs. Hemali would be INR 1,03,000 (INR 51,000 + INR 52,000).

Concept Problem 5

Decide the following transactions in the context of Income-tax Act, 1961:

i) Mr. B transferred 500 shares of R (P) Ltd. to M/s. B Co. (P) Ltd. on 10.10.2021 for INR 3,00,000 when the market price was INR 5,00,000. The indexed cost of acquisition of shares for Mr. B was computed at INR 4,45,000. The transfer was not subjected to securities transaction tax.

Determine the income chargeable to tax in the hands of Mr. B and M/s. B Co. (P) Ltd. because of the above said transaction.

ii) Mr. Chezian is employed in a company with taxable salary income of INR 5,00,000. He received a cash gift of INR 1,00,000 from Atma Charitable Trust (registered under section 12AA) in December 2021 for meeting his medical expenses. Is the cash gift so received from the trust chargeable to tax in the hands of Mr. Chezian.

Solution

i) Any movable property received for inadequate consideration by any person is chargeable to tax u/s 56(2)(x), if the difference between aggregate Fair Market Value of the property and consideration exceeds INR 50,000.

Thus, share received by M/s B. Co. (P) Ltd. from Mr B for inadequate consideration is chargeable to tax under section 56(2)(x) to the extent of INR 2,00,000.

As per section 50CA, since, the consideration is less than the fair market value of unquoted shares of R (P) Ltd., fair market value of shares of the company would be deemed to be the full value of consideration. It is presumed that the shares of R (P) Ltd are unquoted shares.

The full value of consideration (INR 5,00,000) less the indexed cost of acquisition (INR 4,55,000) would result in a long-term capital gains of INR 55,000 in the hands of Mr. B.

ii) The provisions of section 56(2)(x) would not apply to any sum of money or any property received from any trust or institution registered under section 12AA.

Therefore, the cash gift of INR 1 lakh received from Atma Charitable Trust, being a trust registered under section 12AA, for meeting medical expenses would not be chargeable to tax under section 56(2)(x) in the hands of Mr. Chezian.

2. ICAI RTPs, MTPs and Past Year Questions

Concept Problem 6

Mrs. Rupali has furnished the following information pertaining to the year ended 31.3.2022:

a) She bought 100 equity shares of a listed company from a friend for INR 80,000. The value of shares in the stock exchange on the date of purchase was INR 1,55,000.

b) On her 25th wedding anniversary, she received cash gift of INR 1,01,000 from her friend Ms. Anjali.

c) On the above occasion, she also received a platinum ring worth INR 2,50,000 from her brother.

d) She got cash gifts in aggregate of INR 25,000 from her four friends on the occasion of her daughter's wedding on 11.11.2021.

e) She also received INR 49,000 as gift by way of cheque from her maternal uncle, on her daughter's wedding.

Determine the Income from Other Sources chargeable to tax in the hands of Mr. Rupali for the AY 2022-23.

Solution

Computation "Income from Other Sources" in the hands of Mrs. Rupali for A.Y. 2022-23

S. No	Particulars	Amount
1	Since shares are included in the definition of "property" and difference between the purchase value and fair market value of shares exceeds 50,000 i.e., 75,000 (1,55,000 — 80,000), the difference would be chargeable to tax under section 56(2)(x)	75,000
2	Any sum of money received by an individual on the occasion of the marriage of the individual is exempt. This provision is, however, not applicable to a cash gift received on the occasion of wedding anniversary. The gift of 1,01,000 received from a non-relative is, therefore, chargeable to tax under section 56(2)(x) in the hands of Mrs. Rupali.	1,01,000

S. No	Particulars	Amount
3	The provisions of section 56(2)(x) are not attracted in respect of any sum of money or property received from a relative. Thus, the gift of platinum ring received from her brother is not taxable u/s 56(2)(x), even though jewellery falls within the definition of "property".	Nil
4	To be exempt from applicability of section 56(2)(x), the property should be received on the occasion of the marriage of the individual, not that of the individual's son or daughter. Therefore, this exemption provision is not attracted in this case. Any sum of money received without consideration by an individual is chargeable to tax under section 56(2)(x), if the aggregate value exceeds 50,000 in a year. Since, the aggregate value of cash gifts received by Mrs. Rupali exceeds 50,000 during the PY 2019-20, the cash gifts aggregating 25,000 received from her four friends would be chargeable to tax in her hands.	25,000
5	The provisions of section 56(2)(x) are not attracted in respect of any sum of money or property received from a relative. Since maternal uncle is a relative, the amount of 49,000 received by way of cheque from him would not be chargeable to tax in her hands.	Nil
	Amount chargeable to tax under the head "Income from other Sources"	**2,01,000**

Concept Problem 7

Smt. Laxmi reports the following transactions to you:

i) Received cash gifts on the occasion of her marriage on 18-7-2021 of INR 1,20,000. It includes gift of INR 20,000 received from non-relatives.

ii) On 1-8-2021, being her birthday, she received a gift by means of cheque from her mother's maternal uncle, the amount being INR 40,000.

iii) On 1-12-2021 she acquired a vacant site from her friend for INR 1,05,000. The State stamp valuation authority fixed the value of site at INR 1,80,000 for stamp duty purpose.

iv) She bought 100 equity shares of a listed company from another friend for INR 60,000. The value of share in the stock exchange on the date of purchase was INR 1,15,000.

v) She also received a cell phone from her friend worth INR 70,000 on her birthday.

Determine the amounts chargeable to tax in the hands of Smt. Laxmi for the A.Y. 2022-23.

Solution

S. No	Particulars	Amount
(i)	Cash gift of INR 1,20,000 received on the occasion of his marriage is not taxable since gifts received by an individual on the occasion of marriage are excluded under section 56, even if the same are from non-relatives.	Nil
(ii)	Even though mother's maternal aunt does not fall within the definition of "relative" under section 56, gift of INR 40,000 received from her by cheque is not chargeable to tax since the aggregate sum of money received without consideration from non-relatives does not exceed INR 50,000.	Nil
(iii)	Purchase of land for inadequate consideration on 01.12.2020 would attract the provisions of section 56. Where any immovable property is received for a consideration which is less than the stamp duty value of the property by an amount exceeding higher of INR 50,000 and **10%** of consideration, the difference between the stamp duty value and consideration is chargeable to tax in the hands of the individual. Therefore, in the given case INR 75,000 is taxable in the hands of Laxmi.	75,000
(iv)	Since shares are included in the definition of "property" and difference between the	55,000

S. No	Particulars	Amount
	purchase price and fair market value of shares is INR 55,000 (INR 1,15,000 – INR 60,000) i.e., it exceeds INR 50,000, the difference would be taxable u/s 56.	
(v)	Cell phone is not included in the definition of "property" as per section 56. Hence, it is not taxable.	Nil
	Amount chargeable to tax	**1,30,000**

Concept Problems 8

Determine the taxability in each of the following case:

i) Mr. X has received three gifts from his three friends

a) INR 55,000 in cash

b) Land with market value INR 5,00,000 but the value for the purpose of charging stamp duty INR 4 lakhs.

c) Jewellery with market value Rs.3,00,000.

ii) Mr. X has received gift of INR 50,000 in cash from his friend.

iii) Mr. X has received gift of INR 1,50,000 in cash from his brother.

iv) Mr. X has received gift of INR 1,50,000 in cash from his mother's sister.

v) Mr. X has received gift of INR 1,50,000 in cash from his father's brother.

vi) Mr. X has received gift of INR 1,50,000 in cash from his cousin.

vii) Mr. X has received gift of INR 1,50,000 in cash from brother of his spouse.

viii) Mr. X has received gift of INR 1,50,000 in cash from his grandfather.

ix) Mr. X has received gift of INR 1,50,000 in cash from spouse of his brother.

x) Mr. X has received gift of INR 1,50,000 in cash from husband of his sister.

xi) Mr. X has received gift of INR 1,50,000 in cash from sister of his brother's wife.

xii) Mr. X has received gift of INR 1,50,000 in cash from the sister of his spouse.

xiii) Mr. X has received gift of INR 5,000 in cash on his birthday from each of his eleven friends.

xiv) Mr. X has received gift of property valued INR 1,50,000 from his friend.

xv) Mr. X has received gift of INR 1,50,000 in cash from his friend on the occasion of marriage.

xvi) Mr. X has received gift of INR 30,000 in cash and property of 45,000 from his fiancée.

Solution

S No.	Taxability
i) a	Taxable
i) b	Taxable 4,00,000
i) c	Taxable
ii)	Not Taxable
iii)	Not Taxable
iv)	Not Taxable
v)	Not Taxable
vi)	Taxable
vii)	Not Taxable

viii)	Not Taxable
ix)	Not Taxable
x)	Not Taxable
xi)	Taxable
xii)	Not Taxable
xiii)	Taxable
xiv)	Taxable
xv)	Not Taxable
xvi)	Not Taxable