Chapter 6

Profits and Gains from Business and Profession

Q1 RTP May 18

Mr. Abhay has furnished the following particulars relating to payments made and expenditure incurred towards scientific research for the year ended 31.3.2022:

Sl. No.	Particulars	₹ (in lakhs)
(i)	Payments made to an approved Agro Research Association	25
(ii)	Payment made to RR University, an approved University	15
(iii)	Payment made to XY College	17
(iv)	Payment made to IIT, Madras (under an approved programme for scientific research)	10
(v)	Machinery purchased for in-house scientific research	20
(vi)	Salaries to research staff engaged in in-house scientific research	14

Compute the deduction available under section 35 of the Income-tax Act, 1961 for AY 2022-23, while computing his income under the head "Profits and gains of business or profession".

Answer

Computation of deduction allowable under section 35

Particulars	Amount (₹ in lakhs)	Section	% of weighted deduction	Amount of deduction (₹ in lakhs)
Payment for scientific research				
Approved Agro Research Association	25	35(1)(ii)	100%	25
RR University, an approved University	15	35(1)(ii)	100%	15
XY College **[See Note 1]**	17	-	NIL	NIL
IIT Madras (under an approved programme for scientific research)	10	35(2AA)	100%	10
In-house research [See Note 2]				

Capital expenditure – Purchase of Machinery	20	35(1)(iv) r. w. 35(2)	100%	20
Revenue expenditure - Salaries to research staff engaged in in-house scientific research	14	35(1)(i)	100%	14
Deduction allowable under section 35				**84**

Notes :-

1. Payment to XY College: Since the question clearly mentions that only Agro Research Association and RR University (mentioned in item (i) and (ii), respectively) are approved research institutions, it is logical to conclude that XY College mentioned in item (iii) is not an approved research institution. Therefore, payment to XY College would not qualify for deduction under section 35.
2. Deduction for in-house research and development: Only company assessees are entitled to weighted deduction @100% under section 35(2AB) in respect of expenditure on scientific research on in-house research and development facility. However, in this case, the assessee is an individual. Therefore, he would be entitled to deduction@100% of the revenue expenditure incurred under section 35(1)(i) and 100% of the capital expenditure incurred under section 35(1)(iv) read with section 35(2), assuming that such expenditure is laid out or expended on scientific research related to his business.

Q2 May 18 (Old)

Mr. Querashi is a business man. During the year ended 31-03-2022, he was engaged in the business of Hypermarket and Super Market. He maintains proper books of accounts for both businesses in mercantile system. Sales from Hypermarket achieved a turnover of ₹ 75 Lakhs and all receipts were in cash. However, Supermarket business is through online and entire receipts of ₹ 50 lakhs during the year were received online in his bank account. The expenses were incurred in the ratio 65:35.

Following additional information is furnished:

	₹
To Salary	10,00,000
To Repairs on building	1,81,000
To Interest	1,10,000
To Travelling	1,30,550
To Depreciation	8,12,000
Net profit	3,93,950

(a) In addition to the above, repairs of ₹ 1,00,000 was incurred for building a new room which was debited to P & L A/c.

(b) Depreciation as per Income-tax Act, 1961 is ₹ 7,17,000.

(c) ₹ 75,000 was paid in cash on 30-09-21 to Mrs. Ann, accountant for preparation of the accounts for the year ended 31-03-2021 and adjusted under the head "expenses payable" account.

(d) He was forced to shutdown his furniture business in the year 2017 as his accountant absconded with cash of ₹ 5 Lakhs and fully allowed in that year. Unabsorbed business loss of furniture business is ₹ 3 lakhs. ₹ 4 lakhs was received as insurance compensation on 31-03-2022 for the cash theft.

(e) Mr. Querashi wants to declare income under "Presumptive income" basis.

Compute the income chargeable under the head "Profits and gains of business or profession" of Mr. Querashi under presumptive Income scheme under section 44AD and his Total Income for the year ended 31-03-2022.

Answer

Computation of profits and gains of business or profession of Mr. Querashi under Presumptive Income scheme as per section 44AD

For the PY 2021-22, the turnover of Mr. Querashi from Hypermarket business is ₹ 75 lakhs and Supermarket business is ₹ 50 lakhs. Since his turnover in respect of such business is less than ₹ 200 lakhs, he is eligible to opt for presumptive tax scheme under section 44AD in respect of these businesses.

The presumptive income under section 44AD would be as under:

(i) Hypermarket business (100% cash sales) = 8% x ₹ 75 lakhs ₹ 6,00,000

(ii) Supermarket business (online sales) = 6% x ₹ 50 lakhs ₹ 3,00,000

No deduction in respect of any expenditure is allowed while computing presumptive business income as per the provisions of section 44AD.

In the question it is stated that Mr. Querashi "maintains proper books of accounts for both businesses in mercantile system". The income as per regular books of account has to be computed and if such income is more than the presumptive income computed under section 44AD, the higher income can be declared under section 44AD.

Hence, income of Mr. Querashi for the assessment year 2022-23 as per books of account is computed below:

Computation of Profits and gains of business as per books of account

Particulars	₹
Net Profit (as given in question)	3,93,950
Add : Depreciation debited in the books	8,12,000
Cash payment in excess of ₹ 10,000 made in the current year in respect of expenditure allowed on mercantile basis in the previous year, would be deemed as income in the current year	75,000
Building construction expenditure debited to P & L A/c	1,00,000
	13,80,950
Less : Depreciation as per Income-tax Act, 1961	7,17,000
Depreciation on building extension of a room @ 10% **[See Working Note 1]**	10,000
Profits and gains of business computed as per books of account	**6,53,950**

Note: The assessee's total income from hypermarket and supermarket business computed as per books of account is less than the income computed under section 44AD. The question states that the assessee wants to declare income under presumptive provision i.e. section 44AD. Hence, the total income computation would include only the presumptive income computed under section 44AD for both hypermarket and supermarket businesses.

Computation of Total Income

Particulars		₹
Profits and gains from business: [As per Section 44AD]		6,00,000
Hypermarket business ₹ 75 lakhs@ 8% Supermarket business ₹ 50 lakhs@ 6%		3,00,000
Furniture business [Discontinued]		
Amount of insurance compensation deemed as income	4,00,000	
Less: Unabsorbed business loss of discontinued business	3,00,000	1,00,000
Total Income		**10,00,000**

Note: It is assumed that since capital repairs of ₹ 1 lakh on building has been debited to profit and loss account, depreciation in respect of the same is not included in the figure of ₹ 7,17,000 computed as per the Income-tax Act, 1961. Alternatively, if it is assumed that the same is included in the said figure, ₹ 95,000, being the difference between ₹ 8,12,000 and ₹ 7,17,000 has to be added back. In such a case, the adjusted net profit would be ₹ 6,63,950.

Q3 RTP Nov 18

Mr. Chauhan is having a trading business and his Trading and Profit & Loss Account for the financial year 2021-22 is as under:

Particulars	Amount (₹)	Particulars	Amount (₹)
To Opening stock	1,50,000	By Sales	2,70,00,000
To Purchase	2,49,00,000	By Closing stock	1,00,000
To Gross profit	20,50,000		
Total	**2,71,00,000**	**Total**	**2,71,00,000**
Salary to employees (Including Contribution to PF)	5,00,000	By Gross Profit b/d	20,50,000
Donation to Prime Minister Relief Fund	1,00,000		
Provision for bad debts	50,000		
Bonus to employees	50,000		
Interest on bank loan	50,000		
Family planning expenditure incurred on employees	20,000		
Depreciation	30,000		
Income-tax	1,00,000		
To Net profit	11,50,000		
Total	**20,50,000**	**Total**	**20,50,000**

Other information:

(i) He incurred expenditure on furniture & fixtures of ₹ 35,000, which is paid in cash on 25.7.2021 to M/s Décor World.

(ii) Depreciation allowable ₹ 40,000 [excluding depreciation on furniture & fixtures refer in (i) above] as per Income-tax Rules, 1962.

(iii) No deduction of tax at source on payment of interest on bank loan has been made.

(iv) Out of salary, ₹ 25,000 pertains to his contributions to recognized provident fund which was deposited after the due date of filing return of income. Further, employees contribution of ₹ 25,000 was also deposited after the due date of filing return of income.

Compute business income of Mr. Chauhan for the Assessment Year 2022-23.

Answer

Computation of Business Income of Mr. Chauhan for the AY 2022-23

Particulars	₹	₹
Net profit as per Profit and Loss Account		11,50,000
Add: Expenses not deductible		
Donation to Prime Minister Relief Fund **(Refer Note 1)**	1,00,000	
Provision for bad debts **(Refer Note 2)**	50,000	
Family planning expenditure incurred on employees **(Refer Note 3)**	20,000	
Depreciation as per Profit and Loss Account	30,000	
Income-tax **(Refer Note 4)**	1,00,000	
Employer's contribution to recognized provident fund **(Refer Note 5)**	25,000	3,25,000
		14,75,000
Less: Expense allowed		
Depreciation as per Income-tax Rules, 1962 **(Refer Note 6)**		40,000
		14,35,000
Add: Employee's contribution included in income as per Section 2(24)(x) **(Refer Note 7)**		25,000
Business Income		**14,60,000**

Notes :

(1) Donation to Prime Minister Relief Fund is not allowed as deduction from the business income, since it is not incurred wholly and exclusively for business. It is allowed as deduction under section 80G from the gross total income.

(2) Provisions for bad debts is allowable as deduction under section 36(1)(viia) (subject to the limits specified therein) only in case of banks, public fin ancial institutions, State Financial Corporation and State Industrial Investment Corporation. Therefore, it is not allowable as deduction in the case of Mr. Chauhan.

(3) Expenditure on family planning is allowed as deduction under section 36(1)(ix) only to a company assessee. Therefore, such expenditure is not allowable as deduction in the hands of Mr. Chauhan.

(4) Income-tax paid is not allowable as deduction as per the provisions of section 40(a)(ii).

(5) Since Mr. Chauhan's contribution (Employer's Contribution) to recognized provident fund is deposited after the due date of filing return of income, the same is disallowed as per provisions of section 43B, in computing business income of AY 2022-23.

(6) As per second proviso to section 43(1), the expenditure for acquisition of asset, in respect of which payment to a person in a day exceeds ₹ 10,000 has to be ignored for computing actual cost, if such payment is made otherwise than by way of A/c payee cheque/ bank draft or ECS. Accordingly, depreciation on furniture & fixtures would not be allowed, since payment exceeding ₹ 10,000 (₹ 35,000 in this case) is made in cash. Therefore, no adjustment is required to be made in the amount of depreciation computed as per Income-tax Rules, 1962, since such amount does not include depreciation on furniture & fixtures.

(7) Employee's contribution is includible in the income of the employer by virtue of Section 2(24)(x). The deduction for the same is not provided for as it was deposited after the due date under the Provident Fund Act.

(8) TDS provisions under section 194A are not attracted in respect of payment of interest on bank loan. Therefore, disallowance under section 40(a)(ia) is not attracted in this case.

Q4 Nov 18 (Old)

Mr. Sharad, set up a manufacturing unit of detergent powder in notified backward area on 20th April, 2021. He purchased the following machineries (falling under 15% block) during the previous year 2021-22.

		Amount (₹ lakhs)
(i)	Machinery A, Machinery B and Machinery C from XYZ Limited on credit (installed on 20th June, 2021)	45
(ii)	Machinery D from Suyog Limited (installed on 5th September, 2021). The Invoice was paid through a cash payment on the same day.	25
(iii)	Machinery E from Den Limited (a second hand Machine dealer) on 15th December, 2021 (The payment for the purchase invoice was made through NEFT on 2nd January, 2022)	5

Compute the depreciation allowance under section 32 of the Income-tax Act, 1961 for the assessment year 2022-23.

Answer

Computation of depreciation under section 32 for AY 2022-23

Particulars	₹	₹
Machinery A. Machinery B and Machinery C acquired from XYZ Ltd. and installed on 20.06.2021		45,00,000

Machinery D acquired from Suyog Ltd. in cash and installed on 5.9.2021 [Since payment of ₹ 25 lakhs is made otherwise than by account payee cheque/bank draft or use of ECS, the said amount will not be included in actual cost and hence, depreciation not allowable]		NIL
Second hand Machinery E from Den Ltd on 15.12.2021 assuming it is installed and put to use in PY 2021-22.		5,00,000
Actual Cost		**50,00,000**
Depreciation for PY 2021-22		
Depreciation @15% on Machineries A, B and C on ₹ 45 lakhs	6,75,000	
Depreciation @7.5% (50% of 15%) on ₹ 5 lakhs for Machinery E since it is put to use for less than 180 days	37,500	7,12,500
Additional Depreciation @ 20% on ₹ 45 lakhs, since the machinery is acquired and installed		9,00,000
Additional depreciation is not allowable on second hand machinery		-
Depreciation under section 32 for AY 2022-23		**16,12,500**

Q5 RTP May 19

Mr. Jai Prakash commenced the business of operating goods vehicles on 1.4.2021. He purchased the following vehicles during the PY 2021-22. Compute his income under section 44AE for AY 2022-23.

	Gross Vehicle Weight (in kilograms)	Number	Date of purchase
(1)	8,500	3	11.05.2021
(2)	9,500	1	16.03.2022
(3)	10,000	1	21.09.2021
(4)	11,500	2	12.01.2022
(5)	15,000	1	21.07.2021
(6)	15,000	2	23.01.2022

Would your answer change if the goods vehicles purchased in January, 2022 were put to use only in July, 2022?

Answer

Since Mr. Jai Prakash does not own more than 10 vehicles at any time during the previous year 2021-22, he is eligible to opt for presumptive taxation scheme under section 44AE. ₹ 1,000 per ton of gross vehicle weight or unladen weight per month or part of the month for each heavy goods vehicle and ₹ 7,500 per month or part of month for each goods carriage other than heavy goods vehicle, owned by him would be deemed as his profits and gains from such goods carriage.

Heavy goods vehicle means any goods carriage, the gross vehicle weight of which exceeds 12,000 kg.

(1) Number of Vehicles	(2) Date of purchase	(3) No. of months for which vehicle is owned	(4) No. of months × No. of vehicles [(1) × (3)]
For Heavy goods vehicle			
1	21.07.2021	9	9
2	23.01.2022	3	6
			15
For goods vehicle other than heavy goods vehicle			
3	11.5.2021	11	33
1	16.3.2022	1	1
1	21.9.2021	7	7
2	12.1.2022	3	6
			47

The presumptive income of Mr. Jai Prakash under section 44AE for AY 2022-23 would be -

₹ 5,77,500, i.e., ₹ 3,52,500 (47 × ₹ 7,500, being for other than heavy goods vehicle) + ₹ 2,25,000 (15 x ₹ 1,000 x 15 ton, being for heavy goods vehicle).

The answer would remain the same even if the two vehicles purchased in January, 2022 were put to use only in July, 2022, since the presumptive income has to be calculated per month or part of the month for which the vehicle is owned by Mr. Jai Prakash.

Q6 RTP May 19

Mr. Suraj sold a house to his friend Mr. Ganesh on 18th September, 2021 for a consideration of ₹ 42,00,000. On the date of registration stamp duty value of the said property is ₹ 45,00,000. However, on the date of agreement stamp duty value of the said property was ₹ 44,00,000. Mr. Ganesh had paid 10% of the value of the property by way of A/c payee cheque at the time of agreement. Assume value of land is 70% of the total value of the property.

What are the tax implications in the hands of Mr. Suraj and Mr. Ganesh for the assessment year 2022-23? Mr. Suraj had purchased the land on 19th February, 2014 for ₹ 9,20,000 and completed the construction of house on 18th January, 2017 for ₹ 15,50,000.

Cost Inflation Index: FY 2012-13 – 200; FY 2016-17– 264; FY 2019-20 - 289; FY 2020-21 - 301

Answer

In the hands of the seller, Mr. Suraj

As per section 50C, where the consideration received or accruing as a result of transfer of land or building or both, is less than the value adopted or assessed or assessable by the stamp valuation authority, the value adopted or assessed or assessable by the stamp valuation authority shall be deemed to be the full value of consideration received or accruing as a result of transfer.

However, where the date of registration and date of agreement are not the same and part or whole of the consideration is received by way of A/c payee cheque or A/c payee bank draft or by use of ECS on or before the date of agreement, then stamp duty value on the date of agreement may be taken to be the full value of consideration.

Further, where the stamp duty value on the date of agreement or registration, as the case may be, does not exceed 110% of the amount of consideration received or receivable then the consideration so received would be deemed to be the full value of the consideration.

In the present case, since Mr. Suraj has received 10% of the consideration by way of A/c payee cheque on the date of agreement, the stamp duty value of ₹ 44,00,000 on the date of agreement would be taken for the purpose of computing full value of consideration.

Further, since the stamp duty of land and building of ₹ 44,00,000 does not exceed ₹ 46,20,000 i.e., 110% of ₹ 42,00,000, the consideration received i.e., ₹ 42,00,000 in respect of land and building would be deemed to be the full value of consideration.

In the given problem, land has been held for a period exceeding 24 months and building for a period less than 24 months immediately preceding the date of transfer. So land is a long-term capital asset, while building is a short-term capital asset.

Accordingly, capital gains would be determined in the following manner

Particulars	₹
Long term capital gain on sale of land	
Consideration received or accruing as a result of transfer of land [70% of ₹ 42,00,000]	29,40,000
Less: Indexed cost of acquisition ₹ 9,20,000 x 301/200	13,84,600
Long-term capital gain (A)	**15,55,400**
Short-term capital loss on sale of building	
Consideration received or accruing from transfer of building [30% of ₹ 42,00,000]	12,60,000
Less: Cost of acquisition	15,50,000
Short term capital loss (B)	**(2,90,000)**

As per section 70(2), short-term capital loss can be set-off against long-term capital gains. Therefore, the net taxable long-term capital gains would be ₹ 12,65,400 (i.e., ₹ 15,55,400 – ₹ 2,90,000). The same would be taxable @ 20% under section 112, after adjusting un-exhausted basic exemption limit, if any, against such long term capital gain.

In the hands of the buyer Mr. Ganesh

As per section 56(2)(x), where any person receives from a non-relative, any immovable property for a consideration which is less than the stamp duty value on the date of agreement or date of registration as the case may be, and the difference between actual consideration and stamp duty value so considered is more than the higher of ₹ 50,000 or 10% of the consideration so received, then the difference between such value and actual consideration of such property is chargeable to tax as income from other sources.

Where the date of registration and date of agreement are not the same and part or whole of the consideration is paid by way of A/c payee cheque or A/c payee bank draft or by use of ECS on or before the date of agreement, then stamp duty value on the date of agreement may be taken for the purpose of determining income taxable under the head "Income from other sources".

Since in the present case, Mr. Ganesh has paid 10% of the consideration by way of A/c payee cheque, the stamp duty value on the date of agreement has to be taken. Further, since the difference of ₹ 2,00,000 is not more than ₹ 4,20,000 being higher of ₹ 50,000 and ₹ 4,20,000 (10% of ₹ 42,00,000), no income would be chargeable to tax as income from other sources in the hands of Mr. Ganesh.

Q7 — RTP May 19

Miss Himanshi (68 years) is a resident individual. During the assessment year 2022-23, she has income from Long-term capital gain on transfer of equity shares ₹ 1,80,000 (Securities transaction tax has been paid on acquisition and transfer of the said shares) and income from other sources ₹ 2,75,000. Compute her tax liability for Assessment year 2022-23.

Answer

Computation of tax liability of Miss Himanshi for AY 2022-23

Particulars	₹
Long term capital gain under section 112A on transfer of equity shares of (STT paid both at the time of acquisition and transfer)	1,80,000
Income from other sources	2,75,000
Gross Total Income/Total Income	4,55,000
Tax on ₹ 4,55,000	
Tax on income of ₹ 2,75,000 from other sources [being lower than the basic exemption limit of ₹ 3,00,000, applicable in case of a senior citizen]	
Long term capital gain of ₹ 1,80,000 would be reduced by	Nil
(i) ₹ 1,00,000, being the amount not taxable u/s 112A; and	
(ii) a sum of ₹ 25,000, (i.e., ₹ 3,00,000 – ₹ 2,75,000, being income from other sources) being the unexhausted basic exemption limit.	
Thus, tax on LTCG u/s 112A will be on ₹ 55,000 @10%	5,500
Add: Health and Education cess @4%	220
Tax liability	5,720

Q8 — RTP May 19

Prakash is retired Government Officer aged 65 years, resides in Cochin, derived following income:

	₹
Pension	6,60,000
Interest from bank on fixed deposits (Gross)	55,000

Compute the total income of Mr. Prakash for the AY 2022-23 from the following particulars:

i. Life insurance premium paid by cheque ₹ 22,500 for insurance of his life. The insurance policy was taken on 08-09-2015 and the sum assured is ₹ 2,00,000.

ii. Premium of ₹ 26,000 paid by cheque for health insurance of self and his wife.

iii. ₹ 1,500 paid in cash for his health check-up and ₹ 4,500 paid through cheque for preventive health check-up of his parents, who are senior citizens.

iv. Paid interest of ₹ 6,500 on loan taken from bank for MBA course pursued by his daughter.

v. A sum of ₹ 15,000 donated in cash to an institution approved for the purpose of section 80G for promoting family planning .

Answer

Computation of total income of Mr. Prakash for AY 2022-23

Particulars	₹	₹	₹
Income under the head "Salaries"			
Pension	6,60,000		
Less: Standard deduction u/s 16(ia)	50,000		6,10,000
Lower of ₹ 50,000 or actual salary/pension			
Income from Other Sources			
Interest from bank on fixed deposit (Gross)			55,000
Gross Total Income			6,65,000
Less: Deduction under Chapter VI -A			
Deduction under section 80C			
LIC premium of ₹ 22,500 (restricted to10% of ₹ 2,00,000, being the sum assured, as the policy is taken after 31.3.2012)		20,000	
Deduction under section 80D			
Premium for health insurance for self and his wife paid by cheque, allowed upto ₹ 50,000 since Mr. Prakash is a senior citizen	26,000		
Preventive health check-up for self, ₹ 1,500, and for his parents, ₹ 4,500, restricted to ₹ 5,000 (deduction allowed even if the same is paid in cash)	5,000	31,000	
Deduction under section 80E			
Interest on loan taken from bank for MBA course pursued by his daughter		6,500	
Deduction under section 80G			
Donation to an approved institution for promoting family planning not allowed since the amount exceeding ₹ 2,000 is paid in cash		Nil	
Deduction under section 80TTB			
Interest on fixed deposit with bank allowable as deduction upto ₹ 50,000, since Mr. Prakash is a senior citizen		50,000	1,07,500
Total Income			**5,67,500**

Q9 RTP May 19

Mr. Rahman furnishes the following information for the financial year 2021-22.

Particulars	₹
Loss from speculation business-A	70,000
Profit from speculation business-B	30,000
Loss from self-occupied house property	2,20,000
Income from let out house property	4,20,000
Income from trading and manufacturing business @ 8%	2,00,000
Salary income (computed)	3,70,000
Interest on PPF deposit	65,000
Long term capital gain on sale of Vacant site	1,10,000
Short term capital loss on sale of Jewellery	50,000
Investment in tax saver deposit on 31-03-21	60,000
Brought forward loss of business of assessment year 2015-16	1,00,000
Donation to a charitable trust recognized under section 12AA and approved under section 80G	1,40,000
Enhanced compensation received from government for compulsory acquisition of land in the year 2006	3,00,000

Compute total income of Mr. Rahman for the assessment year 2022-23 and loss he is eligible to carry forward.

Answer

Computation of total income of Mr. Rahman for AY 2022-23

Particulars	₹	₹
Salaries		3,70,000
Income from house property		
Income from let out house property	4,20,000	
Less: Loss from self-occupied house property cannot exceed ₹ 2 lakhs. Hence, the set-off is limited to ₹ 2 lakhs.	2,00,000	2,20,000
Profits and gains from business or profession		
Profit from speculation business B	30,000	
Less: Loss of ₹ 70,000 from speculation business A set- off against profit from speculation business B to the extent of such profit	(30,000)	Nil
Income from trading and manufacturing business @ 8%	2,00,000	
Less: Brought forward business loss of AY 2015-16 set-off since a period of eight assessment years has not expired	(1,00,000)	1,00,000
Capital Gains		

Enhanced compensation received from government for compulsory acquisition [Taxable in PY 2021-22 since enhanced compensation is taxable on receipt basis]	3,00,000	
Long term capital gain on sale of vacant site	1,10,000	
Less: Short term capital loss on sale of jewellery	50,000	3,60,000
Income from Other Sources		
Interest on PPF deposit	65,000	
Less: Exempt	65,000	Nil
Gross Total Income		**10,50,000**
Less: Deduction under Chapter VI-A		
Deduction under section 80C		
Investment in tax saver deposit on 31.3.2022	60,000	
Deduction under section 80G		
Donation to recognized and approved charitable trust [Donation of ₹ 1,40,000 to be first restricted to ₹ 63,000, being 10% of adjusted total income of ₹ 6,30,000 i.e., [₹ 10,50,000 – ₹ 3,60,000 – ₹ 60,000]. Thereafter, deduction would be computed at 50% of ₹ 63,000.	31,500	**91,500**
Total Income		**9,58,500**

Losses to be carried forward to AY 2023-24

Particulars	₹
Loss from speculation business A (₹ 70,000 - ₹ 30,000) Loss from speculation business can be set-off only against profits of any other speculation business. If loss cannot be so set-off, the same has to be carried forward to the subsequent year for set off against income from speculation business, if any, in that year	40,000

Q10 — May 19 (Old)

M/s. Keshav Enterprises, a sole proprietorship own four machines, put in use for business in March, 2020. The depreciation on these machines is charged @ 15%. The written down value of these machines as on 1st April, 2021 was ₹ 7,70,000. Two of the old machines were sold on 15th July, 2021 for ₹ 10,00,000. A second hand plant was bought for ₹ 6,10,000 on 30th December, 2021. You are required to:

(i) Determine the claim of depreciation for Assessment Year 2022-23.

(ii) Compute the capital gains liable to tax for Assessment Year 2022-23.

(iii) If Keshav Enterprises had sold the two machines in July, 2021 for ₹ 15,00,000, explain, will there be any difference in your above workings?

Answer

Computation of depreciation for AY 2022-23

Particulars	₹
W.D.V. of the block as on 1.4.2021	7,70,000
Add: Purchase of second hand plant during the year [in December, 2021]	6,10,000
	13,80,000
Less: Sale consideration of old machinery during the year [in July, 2021]	10,00,000
W.D.V of the block as on 31.03.2022	3,80,000
Depreciation @ 15% but restricted to 50% thereon. ₹3,80,000 X 7.5% [Since the value of the block as on 31.3.2022 represents part of actual cost of second hand plant purchased in December, 2021, which has been put to use for less than 180 days, depreciation is restricted to 50% of the prescribed percentage of 15% i.e. depreciation is restricted to 7½%. Therefore, the depreciation allowable for the year is ₹ 28,500 being 7½% of ₹ 3,80,000]	28,500

(ii) In the given case, no capital gains would arise, since the block of asset continues to exist, and some of the assets are sold for a price which is lesser than the written down value of the block as increased by the actual cost of asset purchased during the year.

(iii) If the two machines are sold in July, 2021 for ₹ 15,00,000, then short term capital gains would arise, since the sale consideration is more than the aggregate of the written down value of the block at the beginning of the year and the additions made during the year.

Particulars	₹	₹
Sale consideration		15,00,000
Less: W.D.V. of the machines as on 1.4.2021	7,70,000	
Purchase of second plant during the year	6,10,000	13,80,000
Short term capital gains		**1,20,000**

Q11 RTP Nov 19

Mr. Chirag, set up a manufacturing unit of Baking Soda in notified backward area of the State of Andhra Pradesh on 18th May, 2021. The following machineries (falling under 15% block) purchased by him during the previous year 2021-22.

		Amount (₹ lakhs)
(i)	Machinery X, Machinery Y and Machinery Z from Sahaj Limited on credit (installed and usage started on 18th July, 2021, 25th July 2021 and 1st August 2021, respectively). Payment is made on 15th April 2022 to Sahaj Limited by net banking.	58
(ii)	Machinery L from Swayam Limited (installed on 8th August, 2021). The Invoice was paid through a cash payment on the same day.	35

(iii)	Machinery M (a second-hand machine) from Sunshine Limited on 18th December, 2021 (The payment for the purchase invoice was made through NEFT on 5th January, 2022)	15

Compute the depreciation allowance under section 32 of the Income-tax Act, 1961 for the AY 2022-23.

Answer

Computation of depreciation under section 32 for AY 2022-23

Particulars	₹	₹
Machinery X, Machinery Y and Machinery Z acquired from Sahaj Ltd. (Since payment is made to Sahaj Ltd by way of use of ECS and the machineries were put to use for more than 180 days during the previous year , depreciation is allowable @15%)		58,00,000
Machinery L acquired from Swayam Ltd. in cash and installed on 8.8.2021 [Since payment of ₹ 35 lakhs is made otherwise than by account payee cheque/bank draft or use of ECS, the said amount will not be included in actual cost and hence, depreciation not allowable]		Nil
Second hand Machinery M from Sunshine Ltd on 18.12.2021 assuming it is installed and put to use in PY 2021-22. [Since payment is made to Sunshine Ltd by way of use of ECS]		15,00,000
Actual Cost		73,00,000
Depreciation for PY 2021-22		
Depreciation@15% on Machineries X, Y and Z on ₹ 58 lakhs	8,70,000	
Depreciation@7.5% (50% of 15%) on ₹ 15 lakhs for Machinery M since it is put to use for less than 180 days	1,12,500	**9,82,500**
Additional Depreciation @20% on ₹ 58 lakhs, since the machinery is acquired and installed for a manufacturing unit set up in a notified backward area in the state of Andhra Pradesh		11,60,000
Additional depreciation is not allowable on second hand machinery	-	
Depreciation under section 32 for AY **2022-23**		**21,42,500**

Q 12 — Nov 19 (New)

Mr. Prakash is in the business of operating goods vehicles. As on 1st April, 2021, he had the following vehicles :

Vehicle	Gross Vehicle Weight (in Kgs.)	Date of Purchase	Put to use during FY 2021-22
A	8500	2-4-2021	Yes
B	13000	15-5-2021	Yes
C	12000	4-8-2021	No (as under repairs)

During PY 2021-22, he purchased the following vehicles :

Vehicle	Gross Vehicle Weight (in Kgs.)	Date of Purchase	Date on which put to use
D	11000	30-4-2021	10-5-2021
E	15000	15-5-2021	18-5-2021

Compute his income under section 44AE of the Income-tax Act,1961 for AY 2022-23.

Answer

Since Mr. Prakash does not own more than 10 vehicles at any time during the previous year 2021-22, he is eligible to opt for presumptive taxation scheme under section 44AE. As per section 44AE, ₹ 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, per month or part of the month for each heavy goods vehicle and ₹ 7,500 per month or part of month for each goods carriage other than heavy goods vehicle, owned by him would be deemed as his profits and gains from such goods carriage.

Heavy goods vehicle means any goods carriage, the gross vehicle weight of which exceeds 12,000 kg.

Calculation of presumptive income as per section 44AE

Type of carriage (1)	No. of months the vehicle is owned by Mr. Prakash (2)	Rate per ton per month (3)	Ton (4)	Amount ₹ (5) = [(2) x (3) x (4)]
Heavy goods vehicle				
Vehicle B (13,000 kgs) held throughout the year	12	1,000	13 (13,000/ 1,000)	1,56,000
Vehicle E (15,000 kgs) purchased on 15.5.2021	11	1,000	15 (15,000/ 1,000)	1,65,000
Goods vehicles other than heavy goods vehicle		Rate per month		
Vehicle A held throughout the year	12	7,500	-	90,000
Vehicle C held throughout the year	12	7,500	-	90,000
Vehicle D purchased on 30.4.2021	12	7,500	-	90,000
Total				**5,91,000**

The “put to use” date of the vehicle is not relevant for the purpose of computation of presumptive income under section 44AE, since the presumptive income has to be calculated per month or part of the month for which the vehicle is owned by Mr. Prakash.

Q 13 Nov 19 (Old)

M/s ABC and Co., a partnership firm, started its textile business on 01-04-2021. During the previous year 2021-22, it appoints the following persons :

Date of appointment	No. of Employees	Designation	Emoluments (in ₹ per person/ month)
01-04-2021	25	Accounting and office staff	22,000
01-05-2021	25	Technical staff	25,200
01-08-2021	100	Supervisors	28,000
01-09-2021	200	Helpers	22,000
Total	**350**		

Determine the amount of deduction available, if any, for the assessment year 2022-23, if turnover of ABC and Co. for the previous year 2021-22 is ₹ 4 crore and tax audit under section 44AB is applicable and all the employees participates in the recognised provident fund.

What would be your answer if the business of M/s ABC and Co. was of manufacture of leather products instead of textile ?

(Assume that all the requirements under the relevant section, relating to the aforesaid deduction, have been fulfilled.)

Answer

I. Where ABC and Co. has started textile business on 1.4.2021

M/s. ABC and Co., a partnership firm, would be eligible for deduction u/s 80JJAA in respect of additional employees employed by it during the PY 2021-22, since it is subject to tax audit under section 44AB.

However, only employees employed on 1.4.2021 will qualify as "additional employees" since employees employed on 1.5.2021 and 1.8.2021 draw monthly emoluments exceeding ₹ 25,000. Also, employees employed on 1.9.2021 have been employed for only 212 days (i.e., less than 240 days) in the PY 2021-22. Hence, they would not be included in the meaning of "additional employees".

Deduction u/s 80JJAA = 30% x ₹ 66,00,000, being additional employee cost in respect of employees employed on 1.4.2021 (25 employees x ₹ 22,000 p.m. x 12 months) = ₹ 19,80,000

II. Where ABC and Co. has started manufacture of leather products on 1.4.2021

In this case the firm has started manufacture of leather products, new employees employed for 150 days in the year would qualify as "additional employees" for the purpose of section 80JJAA.

Therefore, employees employed on 1.9.2021 (for 212 days during the PY 2021-22) would also qualify as additional employees.

Additional Employee Cost	₹
Employees employed on 1.4.2021 (25 employees x ₹ 22,000 p.m. x 12 months)	66,00,000

Employees employed on 1.9.2021 (200 employees x ₹ 22,000 p.m. x 7 months)	3,08,00,000
Deduction u/s 80JJAA: 30% of ₹ 3,74,00,000 = ₹ 1,12,20,000	3,74,00,000

Note: The benefit of employment for minimum period of 150 days instead of 240 days during the year to qualify as "additional employee" for the purpose of section 80JJAA is available in respect of assessees engaged in apparel business, leather products and footwear products.

The question (first part) mentions that M/s. ABC and Co., partnership firm, started its textile business. Accordingly, the above solution has been worked out by considering that the firm is engaged only in the manufacture of raw fabric and not in the manufacture of finished apparel. Hence, 200 employees employed on 1.9.2021 (i.e., for less than 240 days) would not qualify as additional employees for the purpose of deduction under section 80JJAA.

Alternatively, if it is assumed that the firm manufactures the finished apparel, the employee cost of 200 employees employed on 1.9.2021 (i.e., for less than 240 days) has also to be included in the additional employees cost for the purpose of deduction under section 80JJAA. In such a case, in both scenarios I & II, i.e., whether ABC and Co. has started manufacture of apparel or manufacture of leather products, the deduction under section 80JJAA would be ₹ 1,12,20,000.

Q 14 RTP May 20

Dr. Arjun runs a clinic in Delhi. As per new rule in the city, private cars can be plied in the city only on alternate days. He has purchased a car on 25-09-2021, for the purpose of his medical profession, as per following details:

Cost of car (excluding GST)	15,00,000
Add: Delhi GST at 14%	2,10,000
Add: Central GST at 14%	2,10,000
Total price of car	19,20,000

He put his car to use from 25.9.2021 itself. He estimates the usage of the car for personal purposes will be 25%. He is advised by his friends that since the car has run only on alternate days, half the depreciation, which is otherwise allowable, will be actually allowed. He has started using the car immediately after purchase.

Determine the depreciation allowable on car for the AY 2022-23, if this is the only asset in the block. If this car would also be used in the subsequent Assessment Year 2023-24 on the same terms and conditions above, what will be the depreciation allowable? Assume that there is no change in the legal position under the Income-tax Act, 1961.

Answer

Computation of depreciation allowance

Particulars	₹
Since the car was put to use for more than 180 days in the PY 2021-22, full depreciation @15% of ₹ 19,20,000, which is the total price (inclusive of GST) would be allowable.	
However, the depreciation actually allowed would be restricted to 75%, since 25% of usage is estimated for personal use, on which depreciation is not allowable	
Depreciation for PY 2021-22 = 15% x ₹ 19,20,000 x 75%	2,16,000
Written Down Value as on 1.4.2022 = ₹ 19,20,000 – ₹2,16,000	17,04,000
Depreciation for PY 2022-23 = 15% x ₹17,04,000 x 75%	1,91,700

Note : As per section 17(5) of the CGST Act, 2017, input tax credit would not be available in respect of motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the taxable supplies, namely, further supply of such motor vehicles; or transportation of passengers; or imparting training on driving such motor vehicles. Since Dr. Arjun used the car for his professional purpose and not for any purpose stated in exception cases, input tax credit would not be available and hence, both CGST & SGST would form part of actual cost of car.

Q15 Jan 21 (Old)

M/s. Bhandari & Batra, a partnership firm consisting of two partners, reports a net profit of ₹ 7,00,000 before deduction of the following items :

- Salary of ₹ 20,000 each per month payable to two working partners of the firm (as authorized by the deed of partnership)
- Depreciation on plant and machinery under section 32 ₹ 1,50,000
- Interest on capital 15% per annum (as per the deed of partnership). The amount of capital eligible for interest is ₹ 5,00,000
- Carry forward loss of PY 2020-21 - ₹ 50,000

Compute (for AY 2022-23):

(i) Book-profit of the firm under section 40(b) of the Income-tax Act, 1961.

(ii) Amount of salary that can be paid to working partners as per section 40(b).

Answer

(i) **Computation of book profit of the firm under section 40(b)**

Particulars	Amount (₹)	Amount (₹)
Net Profit (before deduction of depreciation, salary and interest)		7,00,000
Less: Depreciation under section 32	1,50,000	

Interest @ 12% p.a. [being the maximum allowable as per section 40(b)] (₹ 5,00,000 × 12%)	60,000	
		2,10,000
Book profit		4,90,000

"Book profit" means the net profit as per the profit and loss account for the relevant previous year computed in the manner laid down in Chapter IV-D as increased by the aggregate amount of the remuneration paid or payable to the partners of the firm if the same has been already deducted while computing the net profit. Hence, brought forward loss of ₹ 50,000 of P.Y.2020-21 is not allowed to be set off for computation of "book profit ".

(ii) Salary actually paid to working partners = ₹ 20,000 × 2 × 12 = ₹ 4,80,000

As per the provisions of section 40(b)(v), the maximum allowable working partners' salary for the A.Y. 2022-23 in this case would be:

Particulars		₹
On the first ₹ 3,00,000 of book profit [(₹ 1,50,000 or 90% of ₹ 3,00,000) whichever is more]		2,70,000
On the balance of book profit [60% of (₹ 4,90,000 – ₹ 3,00,000)] Maximum allowable working partners' salary		1,14,000
		3,84,000

Q16 Jan 21 (Old)

Compute the quantum of depreciation available u/s 32 of the Income tax Act, 1961 in respect of the following items of Plant and Machinery purchased by Gupta Textile Ltd., which has set up a manufacturing unit in Notified Backward Area of Andhra Pradesh to manufacture textile fabrics during the year 2021-22. Also compute the WDV of the block of assets as at the year end.

Particulars	Amount (₹ in Crore)
New Machinery installed on 01-05-2021	84
Items Purchased After 30th November, 2021 :	
Lorries for transporting goods to sales depots	3
Fork-lifit-trucks, used inside factory	4
New imported machinery	12

The new imported machinery Arrived at Chennai port on 30-03-2022 and was installed on 03-04-2022. All others items were installed and put to use during the year ended 31-03-2022.

Answer

Computation of depreciation allowance under section 32 for the A.Y. 2022-23

Particulars	**Normal Depreciation [u/s 32(1)(ii)]**	**Additional Depreciation [u/s 32(1)(iia)]**
	(₹ in crores)	
(A) **Plant and Machinery (15% block) (Put to use for 180 days or more)** - New machinery installed on 01.05.2021 – ₹84 crores Normal Depreciation @15% & additional deprecation @35% [Since Gupta Textile Ltd. has set up manufacturing unit in Notified backward area of Andhra Pradesh, it is eligible for higher additional depreciation @35%]	12.600	29.40
(B) Plant and Machinery (15% block) (Put to use for less than 180 days – hence, depreciation is restricted to 7.5%, being 50% of 15%) - Lorries for transporting goods to sales depots Being vehicles/road transport vehicles, not eligible for additional depreciation] – ₹ 3 crores - Fork-lift trucks, used inside a factory ₹ 4 crores eligible for both normal depreciation and additional depreciation - New imported machinery ₹ 12 crores [New imported machinery was not installed during the P.Y. 2021-22. Hence, it would not be eligible for normal and additional depreciation for A.Y. 2022-23.]		
Normal Depreciation @ 7.5% of ₹7 crores	0.525	-
Additional depreciation @17.50% of ₹4 crores	-	0.70
Total depreciation and additional depreciation	13.125	30.10
Depreciation allowable u/s 32 = ₹ 43.225 crores		

Computation of Written down Value (WDV) of block Plant & Machinery (15%) as on 31-03-2022

Particulars	**(₹ in crores)**	
WDV as on 01.04.2021 (The company was started during the year as given in question)		Nil
Add: Plant and Machinery acquired during the year		
- New Machinery installed on 01.05.2021	84.00	
- Lorries for transporting goods to sales depots	3.00	
- Fork-lift trucks, used inside factory	4.00	
- New imported machinery	12.00	103.00
Less: Asset sold during the year		103.00

WDV as on 31.3.2022 (before charging depreciation)		Nil
Less: Depreciation for the P.Y.2021-22		103.00
- Normal depreciation		13.125
- Additional depreciation		30.10
WDV (after charging depreciation)		59.775

Q17 — MTP Apr 21

M/s. Moksh Enterprises, a sole proprietorship owns four machines, put in use for business in March, 2020. The depreciation on these machines is charged @ 15%. The written down value of these machines as on 1st April, 2021 was ₹ 7,70,000. Two of the old machines were sold on 15th July, 2021 for ₹ 10,00,000. A second hand plant was bought for ₹ 6,10,000 on 30th December, 2021. You are required to:

(i) Determine the claim of depreciation for Assessment Year 2022-23.

(ii) Compute the capital gains liable to tax for Assessment Year 2022-23.

(iii) If Moksh Enterprises had sold the two machines in July, 2021 for ₹ 15,00,000, explain, will there be any difference in your above workings?

Answer

(i) **Computation of depreciation for A.Y.2022-23**

Particulars	₹
W.D.V. of the block as on 1.4.2021	7,70,000
Add: Purchase of second hand plant during the year [in December, 2021]	6,10,000
	13,80,000
Less: Sale consideration of old machinery during the year [in July, 2021]	10,00,000
W.D.V of the block as on 31.03.2022	3,80,000
Depreciation @ 15% but restricted to 50% thereon. ₹ 3,80,000 X 7.5% [Since the value of the block as on 31.3.2022 represents part of actual cost of second hand plant purchased in December, 2021, which has been put to use for less than 180 days, depreciation is restricted to 50% of the prescribed percentage of 15% i.e. depreciation is restricted to 7½%. Therefore, the depreciation allowable for the year is ₹ 28,500 being 7½% of ₹ 3,80,000]	28,500

(ii) In the given case, no capital gains would arise, since the block of asset continues to exist, and some of the assets are sold for a price which is lesser than the written down value of the block as increased by the actual cost of asset purchased during the year.

(iii) If the two machines are sold in July, 2021 for ₹ 15,00,000, then short term capital gains would arise, since the sale consideration is more than the aggregate of the written down value of the block at the beginning of the year and the additions made during the year.

Particulars	₹	₹
Sale consideration		15,00,000
Less: W.D.V. of the machines as on 1.4.2021	7,70,000	
Purchase of second plant during the year	6,10,000	
		13,80,000
Short term capital gains		1,20,000

Q18 MTP Apr 21

Mr. Yogesh is in the business of operating goods vehicles. As on 1st April, 2021, he had the following vehicles:

Vehicle	Gross Vehicle Weight (in Kgs.)	Date of Purchase	Put to use during F.Y. 2021-22?
A	9000	2-6-2021	Yes
B	15000	15-5-2021	Yes
C	12000	4-8-2021	No (as under repairs)

During P.Y. 2021-22, he purchased the following vehicles:

Vehicle	Gross Vehicle Weight (in Kgs.)	Date of Purchase	Date on which put to use
D	11500	20-4-2021	10-5-2021
E	14000	15-5-2021	18-5-2021

Compute his income under section 44AE of the Income-tax Act, 1961 for A.Y. 2022-23.

Answer

Since Mr. Yogesh does not own more than 10 vehicles at any time during the previous year 2021- 22, he is eligible to opt for presumptive taxation scheme under section 44AE. As per section 44AE, ₹ 1,000 per ton of gross vehicle weight or unladen weight, as the case may be , per month or part of the month for each heavy goods vehicle and ₹ 7,500 per month or part of month for each goods carriage other than heavy goods vehicle, owned by him would be deemed as his profits and gains from such goods carriage.

Heavy goods vehicle means any goods carriage, the gross vehicle weight of which exceeds 12,000 kg.

Calculation of presumptive income as per section 44AE

Type of carriage (1)	No. of months the vehicle is owned by Mr. Prakash (2)	Rate per ton per month (3)	Ton (4)	Amount ₹ (5) [(2) x (3) x (4)]
Heavy goods vehicle				
Vehicle B (15,000 kgs) held throughout the year	12	₹ 1,000	15 (15,000/ 1,000)	1,80,000
Vehicle E (14,000 kgs) purchased on 15.5.2021	11	₹ 1,000	14 (14,000/ 1,000)	1,54,000
Goods vehicles other than heavy goods vehicle		Rate per month		
Vehicle A held throughout the year	12	₹ 7,500	-	90,000
Vehicle C held throughout the year	12	₹ 7,500	-	90,000
Vehicle D purchased on 20.4.2021	12	₹ 7,500	-	90,000
Total				6,04,000

The "put to use" date of the vehicle is not relevant for the purpose of computation of presumptive income under section 44AE, since the presumptive income has to be calculated per month or part of the month for which the vehicle is owned by Mr. Yogesh.

Q 19 — May 21 (Old)

M/s. MN & Co., a partnership firm, is engaged in the business of plying and hiring goods vehicles. It owns following vehicles as on 1st April, 2021 :

Gross vehicle weight (in kgs.)	Number of vehicles
7000	2
9000	2
12000	3
15000	2

It purchased a vehicle weighing 15000 kg on 6th June, 2021 which was put to use only on 10th July, 2021. Net profits of the firm [after claiming partners remuneration of ₹ 1,50,000 and within the limits prescribed under section 40(b)] from the above business, as per books of accounts amounted to ₹ 6,50,000. The firm has declared its income for the Assessment Year 2022-23 in accordance with the provisions of presumptive income under section 44AE.

(i) Compute the income of the firm if it opts for the provisions of section 44AE for the Assessment Year 2022-23.

(ii) If the firm wants to claim its income as per books of accounts for the Assessment Year 2022-23, what are its obligations under the Income-tax Act, 1961?

(iii) What is the due date for filing its return of income under both the options?

Answer

Computation of income of M/s. MN & Co., a partnership firm, for A.Y.2022 -23

(i) Since M/s. MN & Co., a partnership firm, does not own more than 10 vehicles at any time during the P.Y. 2021-22, it is eligible to opt for presumptive taxation scheme u/s 44AE.

	Particulars	₹
	Income computed u/s 44AE -	
I	Heavy goods vehicle (goods, carriage whose gross vehicle weight exceeds 12,000 kg)	
	[15 tons' x ₹ 1,000/ton x 2 vehicles x 12 months] + [15 tons x ₹1,000/ton x 1 vehicle x 10 months – months owned to be considered and not months used].	3,60,000 1,50,000
II	Other than heavy goods vehicle	
	[₹ 7,500 per month x 7 vehicles x 12 months]	6,30,000
		11,40,000
	Less: Partners' remuneration [within limits prescribed u/s 40(b)]	1,50,000
		9,90,000

(ii) If M/s. MN & Co. declares profits and gains in accordance with the provisions of section 44AE, it is not required to maintain books of account u/s 44AA or get them audited u/s 44AB.

However, if the firm wishes to claim its income of ₹ 6,50,000 as per books of account, which is lower than the profits of ₹ 9,90,000 computed u/s 44AE, it has to maintain books of account u/s 44AA and get its accounts audited u/s 44AB and furnish report of audit on or before 30th September, 2022.

(iii) In case the firm opts for the presumptive taxation scheme under section 44AE, the due date for filing of return would be 31st July, 2022.

In case the firm does not opt for section 44AE, it is required to get its books of account audited, in which case the due date for filing of return of income would be 31st October, 2022.

Q 20 — MTP Nov 21

Mr. Raj is carrying on business of manufacture and sale of art-silk cloth. He purchased machinery worth ₹ 4 lacs on 1.5.2018 and insured it with United India Assurance Ltd against fire, flood, earthquake etc., The written down value of the asset as on 01.04.2021 was ₹ 1,87,850. The insurance policy contained a reinstatement clause requiring the insurance company to pay the value of the machinery, as on the date of fire etc., in case of destruction of loss. A fire broke out in August, 2021 causing extensive damage to the machinery of the assessee rendering them totally useless. The assessee company received a sum of ₹ 4 lacs from the insurance company on 15th March, 2022. Examine the issues arising on account on the transactions and their tax treatment. (Cost inflation index for financial year 2009-10 and 2021-22 are 137 and 301 respectively)

Answer

As per section 45(1A), where any person receives any money or other assets under an insurance from an insurer on account of damage to or destruction of capital asset as a result of, inter alia, accidental fire then, any profits and gains arising from the receipt of such money or other assets, shall be chargeable to income tax under the head "Capital Gains" and shall be deemed to be the income of such person of the previous year in which such money or asset was received.

For the purpose of section 48, the money received or the market value of the asset shall be deemed to be the full value of the consideration accruing as a result of the transfer of such capital asset. Since the asset was destroyed and the money from the insurance company was received in the previous year, there will be a liability to compute capital gains in respect of the insurance moneys received by the assessee.

Under section 45(1A) any profits and gains arising from receipt of insurance moneys is chargeable under the head "Capital gains". For the purpose of section 48, the moneys received shall be deemed to be the full value of the consideration accruing or arising. Under section 50 the capital gains in respect of depreciable assets had to be computed in the following manner (assuming it was the only asset in the block).

The computation of capital gain and tax implication is given below:

Full value of the consideration	₹ 4,00,000
Less: Written down value as on April 1st, 2021	₹ 1,87,850
Short term capital gains	₹ 2,12,150