Chapter - 02

13/05/2024
Monday

Resident & Scope of total income

I Residential Status of individual

Section 6 (1)

Basic Conditions

i] He has been in india during the py for the period of 182 days or more.

ii] He should be in india for 60 days in py and 365 days or more during 4 immediate PPY.

[If individual satisfy any one of the conditions, he is resident. If both conditions not satisfied non - resident]

- Indian citizen who leaves india during the relevant py as a member of crew of indian ship for purpose of employement outside india.

- Indian citizen for person of indian origin (parents, grand parents born in undivided india.) who being outside india comes to visit india during py

Such person's total income [except foreign income] exceeds ₹ 15L during the py is resident if satisfies

- 182 days stays in india during py
- 120 days in py & 365 days in 4 PPY

1

Q.NO - 1, P.NO - 2.7, SM

In this case, mr anand is indian citizen & leaving india during PY 23-24 as a member of crew of a indian ship. He would be resident if he satisfies following conditions.

* 182 days in PY
* 120 days & 365 days in PY

Date entered into a continuous discharge is 6th June, 23
— " — Signing off 9th Dec, 23

25 + 31 + 31 + 30 + 31 + 30 + 9 = 187 days excluded from he stayed in india
[366 days - 187 days] = 179 days.

Since his period is less than 182 days
∴ He is Non-resident for AY 2024-25.

Resident & ordinary resident | Resident but not ordinary resident

i] 730 days in 7 PPY
ii] 2 years out of 10 PPY
[If Both satisfies ROR, otherwise RNOR]

iii] indian origin who belongs outside india comes to visit india in PY, having total income [except foreign income & income controlled in or profession setup in india] exceeding ₹ 15L during PY, who has been in india for 120 days or more but less than 182 days in PY

Deemed resident is always RNOR

2 Q.NO - 2. P.NO - 2.9. SM

a] Residential status of Brett lee for AY 24-25

i] 182 days in PY
ii] 60 days & 365 days in 4 PPY

2022 - 23	=	100
2021 - 22	=	100
2020 - 21	=	100
2019 - 20	=	100
		400 days

Mr brett lee has been in India for 60 days in PY 23-24. and 365 days ~~in immediately PP~~. during 4 immediately PPY. Therefore since he Satisfies one of the basic Condition u/s 6(1), He is resident for the AY 24-25.

i] 730 days in 7 PPY
ii] 2 years out of 10 PPY.

2022 - 23	=	100
2021 - 22	=	100
2020 - 21	=	100
2019 - 20	=	100
2018 - 19	=	100
2017 - 18	=	100
2016 - 17	=	100
		700 days

15-16	-	100
14-15	-	100
13-14	-	100
		1000 days

Since period of stay is less than 730 days & satisfies 2 years out of 10 PPY. Therefore he is resident but not ordinary resident b] The above fact relate to Srikanth, an Indian citizen who resides in australia & represents australian cricket team. His stays is less than 120 days in PY Therefore He is non-resident.

c] If his total income exceeds ₹ 15L [excluding foreign income], He would be resident but not oridinary resident, since his stay is in india is 120 days & 480 days in PPY [120 x 4 years]

If total income doesn't exceeds 15L ~~he would~~ & stays is less 182 days. He would be treated as non-resident for AY 24-25.

3 Q. NO - 3, P. NO - 2.11 . SM

During the PY Mr B was in India for 70 days and [55 + 60 + 90 + 120] = 325 days in 4 PPY. He hasn't satisfied any basic condition u/s 6(1) Therefore. He is non-resident for AY 24-25.

Residential Status of Companies

Is the Co an indian Co → No → Whether POEM of the Co is in india during PY → No → The Co is non-resident for relevant PY

Is the Co an indian Co → yes → The Co is a resident in india for the py

Whether POEM of the Co is in india during PY → yes → The Co is a resident in india for the py

POEM [place of effective mgt]

Residential Status of HUF

16-5-24
Thursday

If the control & mgt of it's affairs situated wholly or partly in India

- **Yes** →
  - Karta stays in for 730 days in 7 PPY
  - 2 years out of 10 PPY
    - **Yes** → HUF is ROR
    - **No** → HUF is RNOR
- **No** → HUF is non-resident

4 Q.NO - 4, P.NO - 2.12, SM

a] during the PY 2023-24 mr E karta stayed in India for 245 days [30+31+30+31+31+30+31+30
Therefore, He is resident, However he is resident but ordinary resident

b] Since the business of HUF, Control & mgt of affair situally wholly outside India, Decisions ta
in australia. Therefore HUF is non-resident

II Scope of total income

- Section 5

1. Resident & ordinarily resident [ROR]

Income received, deemed to be received, incom accrues, arises, deemed to accrue or arise in india or outside india.

global income is taxable

2. Resident but not ordinarily Resident [RNOR]

- Income received, deemed to be received in india
- Income accrues, arises deemed to accrues or arise in india.
- Income derived from a business controlled in or profession setup in india. Even though it accrues or arise outside india.

3. Non-resident

- income received, deemed to be received in ind
- Income accrues, arises, deemed to accrues or arises in india.

5 Q·NO - 5, P·NO - 2·17, SM

Computation of total income of mr anirudh

particulars		RoR ₹	RNOR ₹	NR ₹
- Short term capital gains on sale of shares of an Indian co, received in germany		15,000	15,000	15,000
- Dividend from Japanese co, received in Japan		10,000	-	-
- Rent from property in london deposited bank in a london, later on remitted to india.		52,500	-	-
Rent received	75,000			
(-) 30% deduction	22,500			
- Dividend from RP ltd, an Indian company		6000	6000	6000
- Agriculture land in gujarat		-	-	-
		83,500	21,000	21,000

6 Q·NO - 6, P·NO - 2·25, SM

Computation of gross total income

Salary	5,00,000
Int on FD	1,00,000
	6,00,000

as per sec 6(1) he is non-resident, he was not present in India in PY.

non-resident is chargable to income only in respect of following
i] income received or deemed to received in india
ii] income accruing or arising deemed to accrue or arise in india.

In the above provision Foreign allowance is exempt

8 Q.NO - 8. P.NO - 2.31. SM

Computation of total income for AY 24-25

particulars	ROR ₹	RNOR ₹	NR ₹
- Interest on uk development Bonds, 50% int received in india	10,000	~~10,000~~ 5000	~~10,000~~ 5000
- Income from a business in chennai [50% received in india]	20,000	20,000	20,000
- Short-term capital gains on sale of shares of an indian co, received in london	20,000	20,000	20,000
- Dividend from british co received in london	5000	-	-
- LTCG on sale of plant at germany, 50% received in india	40,000	20,000	20,000
- Income earned from business in germany which is controlled in delhi [40,000 received in india]	70,000	70,000	40,000
- profits from a business in delhi but managed entirely from london	15,000	15,000	15,000

- Income from HP in london deposited in a bank at london, brought to india	50,000	-	-
- Interest on debentures in an Indian co, received in london	12,000	12,000	12,000
- Fees for technical services rendered in india but received in london.	8,000	8,000	8,000
- profits from a business in mumbai, managed from london	26,000	26,000	26,000
- Income from property situated in nepal received there	16,000	-	-
- past foreign untaxed income brought to india during the previous year.	-	-	-
- Income from agricultural land in nepal, received there & then brought to india	18,000	-	-
- Income from profession in keenya which was set up in india, received there but spent in india	5000	5,000	-
- gift received on occasion of his weddings	-	-	-
- interest on savings bank deposit in state bank of india	12,000	12,000	12,000

- Income from a business in russia, Controlled in russia	20,000	-	-
- Dividend from reliance petroleum limited, an Indian Co	5000	5,000	5,000
- Agricultural income from a land in rajasthan	-	-	-
gross total income	3,52,000	2,18,000	1,83,000
Less: Deductions u/s 80TTA			
Interest on savings bank account [subject to ₹ 10,000]	10,000	10,000	10,000
Total income	3,42,000	2,08,000	1,73,000

Test your knowledge

1 Q.NO - 1, P.NO - 2.37, SM

u/s 6(1) mr ram has to satisfy the following Conditions

a] 182 days or more in PY

b] 60 days & 365 days in 4 PPY

During the FY 2023-24 mr ram was in india for [30+31+30+31+31+22] = 175 days

He has not Satisfied the any of the condition

There fore, He is non-resident for AY 2024-25

2 Q.NO - 2, P.NO - 2.37, SM

mr Dey has to satisfies the following conditions

i] 182 days or more in PY
ii] 60 days & 365 days in 4PPY

Additional Conditions

i] 730 days in 7PPY
ii] 2 years out of 10 PPY

mr day came back to india on 1/4/2022. He has been in india for 366 days in the py.
previous year 2023-24 [30+31+30+31+30+30+31+3 +31+31+29+31]

Since mr Dey has been in india for 366 days in py he has satisfied the conditions, He is resident & ROR

3 Q.NO-3, P.NO - 2.37, SM

Computation of total income of mr ramesh & mr sures for the AY 2024-25

particulars	mr ramesh ₹ [NR]	mr Sures ₹ [Reside
- Interest on canada development bonds [only 50% interest received in india]	17,500	40,000
- Dividend from british co. received in london	-	20,000
- profits from a business in nagpur, but managed directly from london	1,00,000	1,40,00

- Short term capital gain on sale of shares of an Indian Co, received in India	60.000	90,000
- Income from a business in Chennai	80,000	70,000
- Fees for technical services rendered in india, but received in Canada	1,00,000	-
- Interest on Savings bank deposit in UCO bank, delhi	7000	12,000
- Agricultural income from a land situated in AP	-	-
- Rent received in respect of HP at bhopal	70,000	42,000

(-)30%.

100,000	60,000
30,000	18,000
70,000	42,000

gross total income	4,34,500	4,14,000
Less: Deductions		
* LIC paid - 80C	-	30,000
* Int - 80TTA	7000	10000
Total income	427500 ~~4,41,500~~	374,000 ~~4,54,000~~

4 Q.NO - 4, P.NO - 2.38, SM

[Income deemed to accrue or arise in India to an non-resident by way of interest, royalty, fees to be taxed irrespective of territorial nexus]

The above statement is correct as per Sec 9, income by way of interest, royalty, fee shall be included in total income of non-resident

5 Q. NO - 5, P. NO - 2.38, SM

i] Salary payable by Central gvt to mr John, service rendered outside India.

Salary	₹ 7,00,000
(-) Standard deduction	₹ [50,000]
	₹ 6,50,000

ii] Interest borrowed from outside India ₹ 5,00,000 by a non-resident, business within India is fully taxable

iii] Post office Interest

₹ 19,000
(-) ₹ 10,000 → exempt upto ₹ 10,000
(-) ₹ 3,500 → u/s 10(15)i exempt upto ₹ 3500

₹ 5,500

iv) Royalty paid By a resident to a non-resident in respect of business carried outside → Not taxable

v] legal charges of ₹ 5,00,000 paid in delhi to a Lawer of United Kingdom who visited India is Fully taxable ₹ 5,00,000