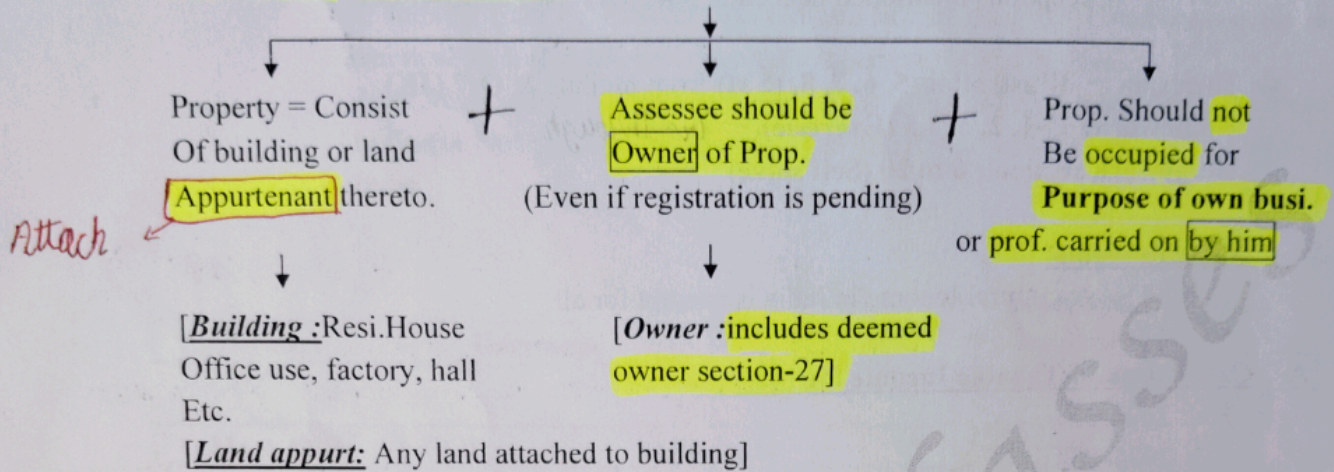


CHAPTER-3: INCOME FROM HOUSE PROPERTY

(Section 22 to 27)

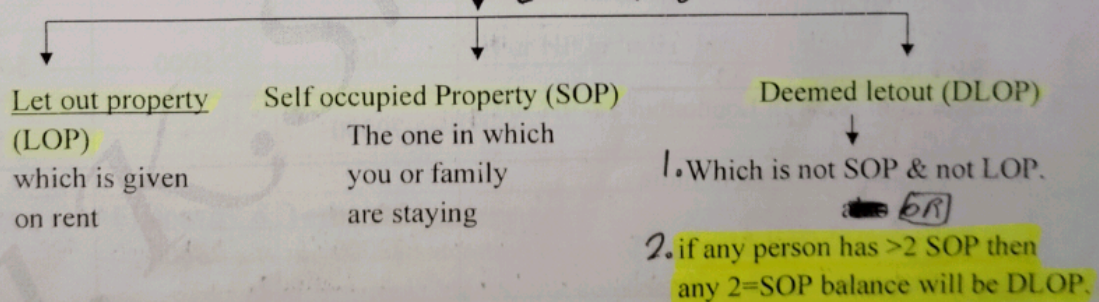
❖ Section - 22 : Basis of charge :



Examples :

- (1) **Vacant land if letout** → No HP but IFOS or PGBP [why -it is not appurtenant to building]
- (2) Mr. X took a house on rent for ₹ 5,000 P.m. he let out the same to Mr. Y for ₹ 6,000 P.m. so ₹ 72,000(6000*12 m) will be Taxable under head → **IFOS(Subletting)** [Not Owner]
- (3) Mr. Aagam gave his prop. to Mrs. Dalal a CA., Mrs. Dalal is carrying on practice from there so → **HP for Aagam** [Mr. Aagam is not doing B/P from that]
- (4) Lodha Constructor has 10 flats unsold and given on rent — HP? --- Yes
- (5) ABC Co. is in business of **renting of residential property?** — HP?? ---- Yes **HP** (As per Explanation 3 of section 28)
- (6) ABC Co. is in business of **renting of commercial property?** - PGBP

⇒ Three types of H.P. [House Property]

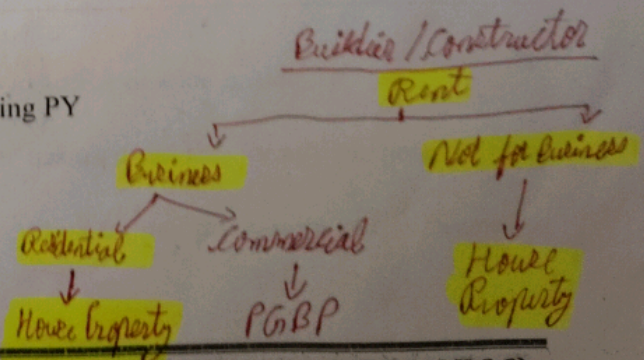


Format of structure

- Gross Annual Value(GAV)
(-) Municipal tax paid by owner during PY

- Net Annual Value(NAV)
(-) Deduction u/s 24
(a) 30% of NAV (Standard Deduct)
(b) Int. On Borrowed capital

Income from house property



If any value is not given then ignore that step

Expected Rent always 12 Month

❖ Section 23 : Determination of Gross Annual Value:

First for LOP

- | | | |
|---------------------------------------|---|----------------------------|
| ⇒ Step -1: Municipal value | or Fair Rent | W.e. Higher |
| ⇒ Step - 2: Step-1 | or Standard Rent | W.e. Lower (Expected Rent) |
| ⇒ Step - 3: Step-2
(Expected Rent) | or Actual Rent
(Receivable)
(Due basis) | W.e. Higher |

- Meaning:
- 1) **Municipal value** → for collecting Tax Govt. made valuation of prop. which is Municipal Value
 - 2) **Fair Rent** → Rent fetched by similar Prop in same or similar locality.
 - 3) **Standard Rent** → Maximum rent that can be legally recovered from any tenant under Rent control Act.
 - 4) **Actual rent**: On Due basis. Advance rent not to consider. Refundable deposit not to be taken.

▪ Refer Illu-1 → SM

Case -1 : When unrealized Rent is given

- ⇒ When any not realized Rent can be termed as "Unrealized Rent" → Rule 4 of I.T. Rules 1962.
1. Tenant has vacated premise or steps taken to make him vacate.
 2. Legal proceeding started to recover the rent.
 3. Tenant is not in occupancy of any other property of same owner

⇒ First step & second as it is. [No change in ER]

⇒ In third step

**Actual Rent = Annual Rent – U.R. Rent & then
w. e. higher = GAV.**

Note: Alternative View → UR Can be deducted from GAV also.

↳ Unrealized Rent

Example : Mr.A gives a property on rent to Mr.B for ₹ 10,000 p.m. Municipal value is ₹ 1,00,000 p.a fair value is ₹ 8,000 p.m, standard Rent is ₹ 40,000 for 6 months. Unrealized rent from Mr. B were for month of Feb & March. Calculation GAV.

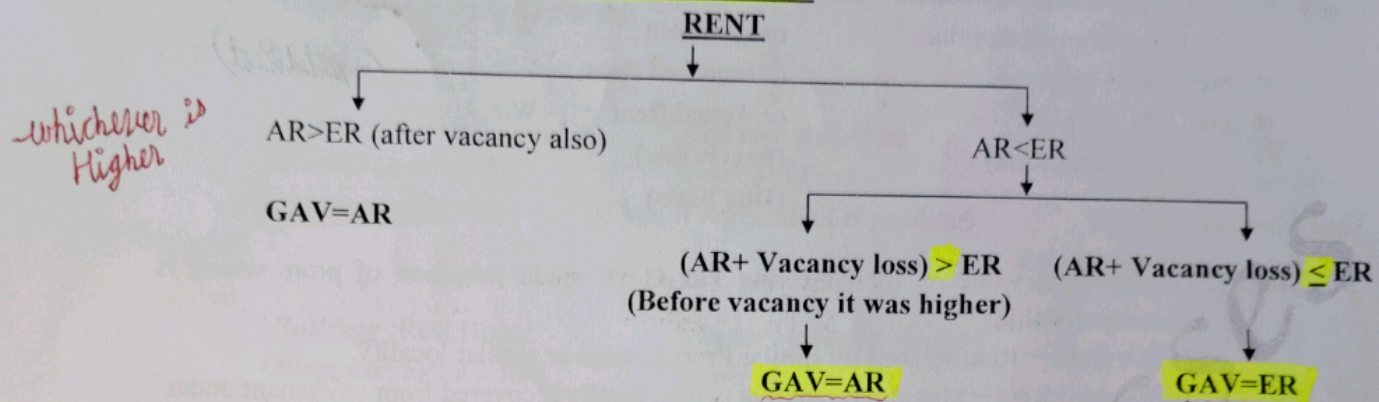
Ans :

GAV:

M.R	100,000
F.R	96000
Step-1	100,000
S.R	80,000
Step-2	90,000
Actual Rent	100,000 [10,000 x 10]
GAV	100,000

Case -2: Loss due to vacancy

⇒ While finding GAV due to vacancy :



Example:

ER(12 months)	3,00,000	3,00,000	3,00,000	3,00,000
AR(10 months)	3,20,000	2,80,000	2,20,000	2,50,000
What if no vacancy loss-AR(12 months)		(336000)	(264000)	(300000)
GAV	320,000	280,000	300,000	300,000 (ER)

Refer Q-1 JKSC

A-1:

	1	2	3	4	5
(i) M.V	30000	30500	30000	40000	70000
(ii) F.R	32500	33000	32250	39000	75000
Step-1 (i) or (ii) w.e. higher	32500	33000	32250	40000	75000
(iii) SRRCA	29750	29500	31500	42500	60000
Step-1 or step-2 (iii) w.e. lower---ER	29750	29500	31500	40000	60000
(iv) Actual Rent	33000	24938	21000	27000	8000
AR + Vacancy Loss	-	28500	36000	36000	48000
GAV	33000	29500	21000	40000	60000
	Note-1	Note-2	Note-3	Note-4	Note-5

Notes :

- 1) $AR > ER$..GAV=AR
- 2) $(AR + \text{Vacancy loss}) < ER$...GAV=ER
- 3) $(AR + \text{Vacancy loss}) > ER$...GAV=AR
- 4) $(AR + \text{Vacancy loss}) < ER$...GAV=ER
- 5) $(AR + \text{Vacancy loss}) < ER$...GAV=ER

❖ GAV for SOP = NIL

⇒ For deemed LOP [23(1)(a)] → GAV=ER

water Tax

❖ **Municipal Tax :** (Property Tax, Sewerage Tax)(% of municipal Value)

⇒ From gross Annual Value Municipal Taxes paid to local authority is deducted if **Paid** by **owner** in current year. **[P.Y.]**

○ **Notes :**

- If paid by tenant → no deduction

- If payable → no deduction

- If paid in P.Y. for so many years combinly → full deduction

Judgement

- If HP is O/s India then M. tax O/s India → Deductible (Madras HC)

For SOP = No deduction

- For deemed LOP = Full deduction

Interest, Penalty on Municipal Tax ⇒ No Deduction

Refer Illu-2 → SM

❖ **Section 24:**

i) **24(a) :** deduction of 30% of NAV from NAV

- Standard deduction & no other expense other than 24(b) is allowed as deduction.

- However no deduction of 30% available when NAV = NIL. **When NAV = NIL**

In case of self occupied Property

OR

23(5): where property consist of building

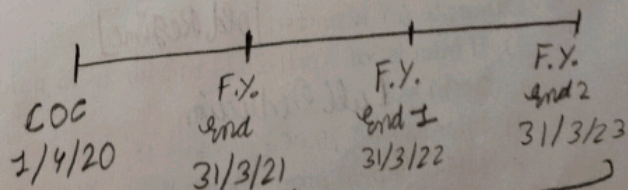
there to is held as stock in trade & not let out during whole or part of P.Y. then NAV of such property or part shall be NIL (even though deemed LOP)

MCA

For the period of 2 year from end of F.Y. in which certificate of completion of construction is obtained from competent authority

E.G. Mr. Salman is builder who constructed 100 residential flats and office premise. COC received on 1/4/20. He wants to know up to which year the NAV of all prop will be NIL if prop not sold out or not given on rent.

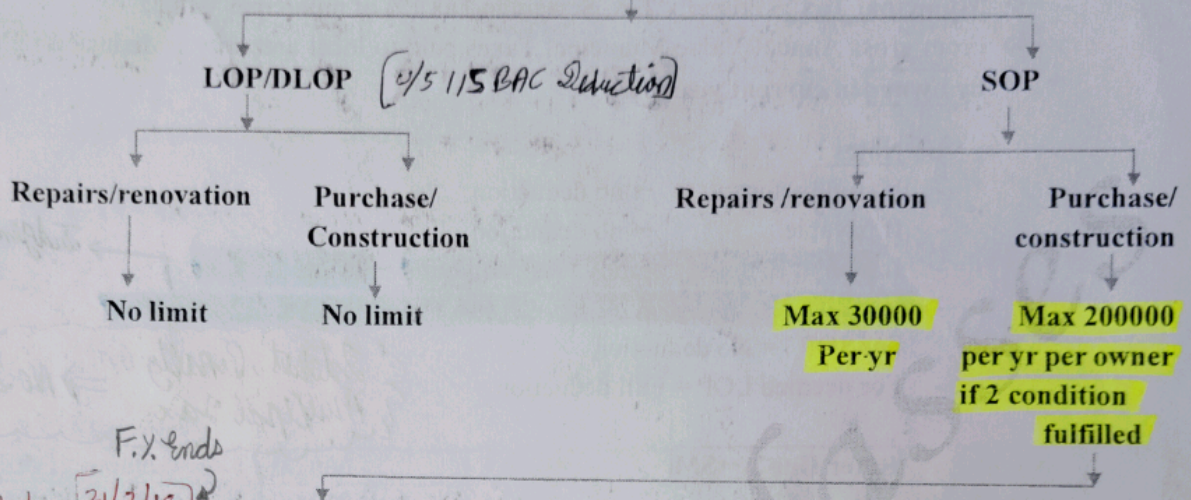
⇒ 31/3/2023



Very Imp!

ii) 24(b) : Interest on borrowed capital [Deduction]

Type of HP



F.Y. ends
 start @ 1/5/17 $\frac{31/3/18}{31/3/23}$
 ends $\Rightarrow 30/6/22$
 Ded ₹ 200,000 [given]

For purchase/construction-SOP:

If Both below conditions satisfied:

1. Purchase/Construction completed on or after 1.4.99 &
2. purchase/construction is completed within 5 years from end of year in which loan taken

then deduction limit will be ₹200000 per year per owner.

If conditions not satisfied then max deduction 30000 per year per owner.

★ Remember: Maximum deduction per owner for any loan combinly is ₹200000 for SOP (Limit is per owner not per house)

- Notes :**
- Interest is allowed as ded" on accrual basis
 - Interest deduction starts from beginning of yr in which prop purchased or construction completed.
 - Interest on unpaid int is not ded" (i.e. Penalty int = No Ded")
 - Interest on fresh loan taken to repay original loan raised is allowed
 - Brokerage / commission for arranging a loan = No ded"
 - No deduction in 24(b) for SOP if 115BAC followed. [For LOP/DLOP - Allowed]
 - Section 25 : if interest paid abroad without TDS \rightarrow No deduction

❖ Example for interest: [Old Regime]

- 1) If interest of April-2024 to March-25 paid in April-2025 for ₹ 2,30,000 for LOP
24(b) = Full Deduction
- 2) Interest of ₹ 70,000 payable for April-24 to March-25 for loan, taken for repairs of self-occupied prop Deduction = 30,000 What if for LOP? Ded = 70,000
- 3) Loan taken on 1-5-2000. Property purchased on 30-6-2005. Interest paid for P.Y. 2024-25 for SOP ₹ 3,00,000 what will be deduction? 31/3/2001
Deduction = 200,000 LOP = 300,000 \downarrow 31/3/2006

REFER Illu-4,5 (Q-3 jk), of SM 31/3/2006

Pre-construction interest:

Pre-Acquisition Interest

E.G, The loan is taken on 1.4.12 but construction is completed on 1/4/17. So, the interest deduction will start from P.Y. 17-18 (i.e. the year of purchase/construction completion). However, assessee must have paid some interest from 1/4/12 to 31/3/17. This total interest is called as pre acquisition interest.

Pre-construction Interest is deductible in 5 equal installments starting from P.Y. in which construction or acquisition (for purchase) is completed.

⇒ What is pre-construction period:

Starting from Date of Loan taken

To 31st March Prior to P.Y. in which construction / acquisition is completed.

For 1st Five yrs :

Actual interest = Int for P.Y. + [1/5 of Pre-Construction Interest] - Total within limits if SOP (No limit in LOP/DLOP).

After 5 yrs :

→ Actual interest = int for P.Y.

E.g. : Capital int. 24(b) :

→ Date of Loan = 1-11-18
→ Amount of Loan = ₹ 15,00,000
→ Rate of Interest = 10% p.a.
→ Date of Completion of const = 14-11-20

→ F.Y. end - 31/3/19

→ ~~F.Y. end - 31/3/21~~
31st March Prior to P.Y.
F.Y. end - 31/3/20

Calculate interest for 6 yrs from 2020-21

Ans : Capital Interest = $\frac{PRN}{12}$

$$= \frac{15,00,000 \times 10\% \times 17 \text{ (w.n)}}{12} = ₹ 2,12,500$$

W.N. : from 1-11-18 to 31-3-20 = 5+12 = 17 months. — *Pre-Construction Period*

→ Total int ₹ 2,12,500 is allowed as deduction over period of 5 yrs from yr in which construction completed. i.e from P.Y. 2020-21 [212500/5 = 42500]

Pre Construction Interest

P.Y	PC.I	Current yr Int	Total
20-21	42500	150000	192500
21-22	42500	" "	" "
22-23	42500	" "	" "
23-24	42500	" "	" "
24-25	42500	" "	150000
25-26	—		

Amortised Hozga

Refer Q-2(jk)

a)

Pre construction period starts on → 1-06-18

Pre construction ends on → 31-3-24

Period = 70 months

Capital Interest = $\frac{\text{PRN}}{12}$

= 12,00,000 x 12% x 70/12

= 8,40,000 per year = 8,40,000/5 = 168000

P.Y.	PCI	current yr int	Total	LOP	SOP
24-25	168000	144000	312000	312000	30000
25-26	168000	144000	312000	312000	30000
26-27	168000	144000	312000	312000	30000
27-28	168000	144000	312000	312000	30000
28-29	168000	144000	312000	312000	30000
29-30	-	144000	144000	144000	30000

[Why? = const. is not completed in 5 yrs from end of yr of loan]

b) 11-4-24 to 31-3-25 → No pre acquisition. As yr of taking loan & yr of completion is same.

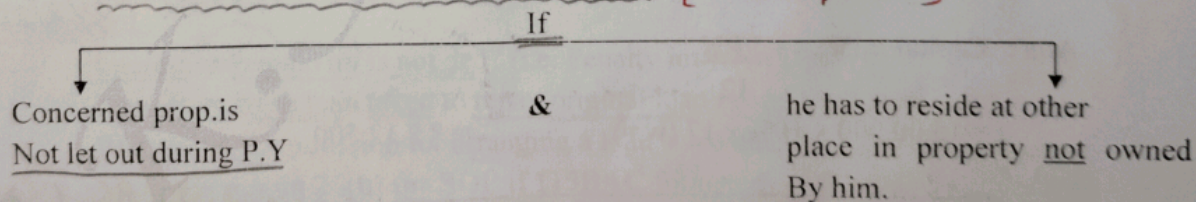
c) 15-10-20 to 31-3-24 = 41.5 month.

Illu 6(=Q-4 jk)

❖ Special Cases

1) When property not occupied during whole P.Y. due to employment, busi / prof. carried on at some other places.

It will be considered as self-occupied property *[Instead of DLOP]*



Refer illu-3(SM)

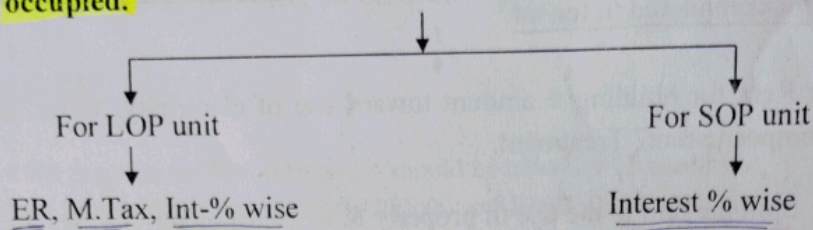
2) When property is let out for some period & self-occupied for remaining period during P.Y.

- Here consider as if let out for whole year (So, ER for full year, deduct municipal tax. No limit in int also). But actual rent will be taken for months for which rent is actually received. (Do not consider vacant for the period for which it was SOP)

Compare ER of whole year with the actual Rent Received for the LOP.

Illu 7(=Q-8 jk)

- 3) House property consist of 2 independent units of which one let out, other self occupied.



Here, loss from self occupied will be set off against income from LOP.

Refer Illu-9 (SM)=Q-9(jk)

- 4) When assessee owns more than two resi. HP & all are reserved for self occupation.

Deemed let out at option of assessee so here, calc. considering any 2 as SOP & other as LOP, then reverse case & find out where lower income is Taxed, that option will be selected. *[or highest case]*

e.g. A=Mr. A has three property..A,B,C. Now will assume

A & B=SOP and C=DLOP

B & C=SOP and A=DLOP

A & C=SOP and B=DLOP

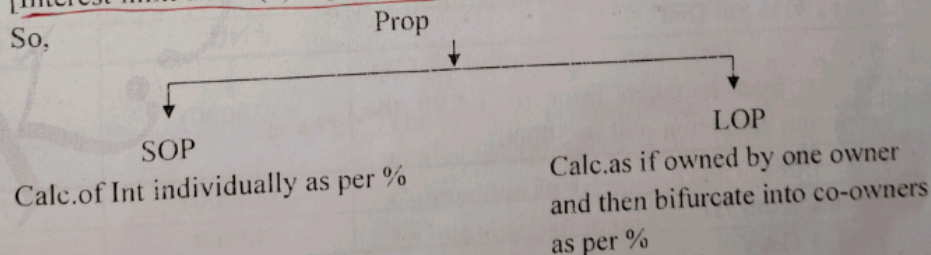
And the income from HP w.e. lower will be final option

Illu-8 (SM)

- 5) When house property is owned by more than one owner.

Section 26: where property owned by 2 or more persons and shares are definite & ascertainable then it has to be calculated as if owned by one owner & then divide income between co-owner as per % define

[Interest limit u/s 24(b) is per assessee & not per house]



Q-5 (SM) exercise = JK 7,,, Illu-11(SM)-HW

- IMP**
- ❖ **Section 25 A :** Provision for arrears of rent & unrealised rent received subsequently
 - Both are taxable on receipt basis.
 - Std. deduction 30% is allowed.
 - Even though in year of receipt Assessee is not owner, than also "IFHP"

Illu = 10 (SM) - Pg. 30165

→ Ghar me Rudh chije jone chahiye, asudh nahi.

❖ Composite Rent :

→ Tax treatment when assessee recovers rent for the property as well as charges for services rendered to tenant

e.g Rent for building + amount toward use of electricity, water, lift, etc. it is called "composite rent" Treatment.

- 1) Split the rent to the use of property & to use of electricity, water, lift etc.
- 2) Amt for use of prop = HP.
Amt for service = PGBP or IFOS.

❖ Tax treatment when assessee let out building with other asset like P & M furniture

1. When letting is inseparable

Whole rent under "PGBP" or "IFOS" & nothing in HP,

2. When letting is separable

- A) Rent for building → HP
- B) other Asset → PGBP or IFOS

❖ Now refer Q-5 JK, exercise Q-4=Q.6 JK

A-5: calculation of income from house property for Mr. Suraj

P.Y. 2024-25

A.Y. 2025-26

	UNIT - 1(50%)- SOP	UNIT - 2(50%)- LOP
Gross Annual Value (W.N. - 1)	NIL	162000
Less : Municipal Taxes paid by owner	NIL	(10000)
Net Annual Value	NIL	152000
Less : Deduction u/s 24		
24(a) : 30% Std Ded'	NIL	(45600)
24(b) : Int. on borrowed Cap. (As the loan is taken prior to 1.4.99 the maximum deduction will be 30000)	(30000)	(32500)
	(30000)	73900
Income from HP	43900	

W.N. 1 GAV

M.rent	[26000 x 12]	312000
F. R	[27000 x 12]	324000
Step-1 w.e higher		324000
S. R	[30000 x 12]	360000
ER(For entire house)		324000
ER for Unit-2(50%)		162000
A.R.	[30000 x 4.5]	135000
GAV		162000

Note: here if there would have been no vacancy then $AR + \text{Vacancy loss} = 135000 + 15000 (\text{Half month}) = 150000$ which is lower than ER So, $AR = ER$. $GAV = ER$

Q-10-JK [MCA]

Here ER is given for 9 months and it should be taken for 12 months.
 $GAV = 150000 / 9 * 12 = 200000$ (ER = 200000 or AR = 135000 w.e. higher)

Less: 24(a): 30% (60000)
 (b): Int. (40000)...
 100000 (IFHP)

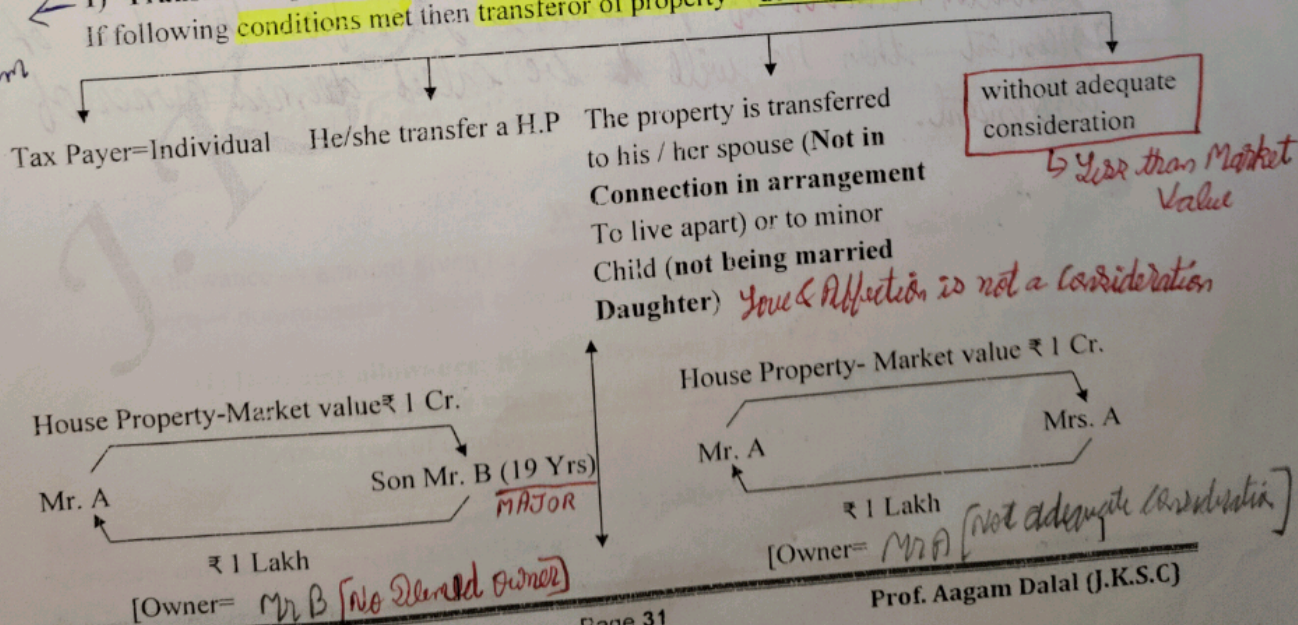
H.w.: Exercise → SM → Q-1,2,3 (=hw Q-1 jk), (Exercise)
 JK Hws Q-2,3

Various cases:

Particular	Treatment
Part of house SOP Part of house LOP	% wise calculation
Part of the year SOP part of the year LOP	entire year LOP
3 SOP	2 SOP + 2 deemed LOP
E.g. 10 months LOP, 1 month SOP, 1 month vacant	Full year = LOP + 1m loss due to
Property having co-owners	% wise calculation
1 month SOP, 11 months vacant	Full year SOP
More than 1 owner	% wise calculation
Full year vacant	Deemed LOP
Full year vacant due to employment/business/profession at other city	SOP [Special case 2]

❖ Section 27 : Deemed owner : (Ref. Sec-22)

1) Transfer to spouse or minor child: *[Also Related to CLUBING chapter]*
 If following conditions met then transferor of property = deemed owner



→ No legal owner

2) The holder of impartible estate is deemed as owner of property:

e.g : Maharaja Janak is ex-ruler of palace he divided all his properties in 4 son but could not divide temple. As per family convention eldest son occupied that so he will be deemed owner.

3) Property held by a member of housing co-op society:

Generally, society is a registered owner of property. But when flat is allotted by a co-op housing society to a member → share certificate is distributed – the owner of share certificate will be Deemed owner of the flat.

4) Holding possession of immovable prop. Under part performance of contract.

If person acquires a property under sec -53A of Transfer of Property Act, 1882 → Deemed owner from the date of agreement itself

There is an
Agreement in writing
b/w purchaser & seller

Purchaser paid
part (or full)
consi. to seller

Purchaser = possession
of property

5) If house is let out on lease

- a) On a lease term of ≥ 12 years (fixed originally or through extension) &
- b) One agreement which is > 12 months

Then tenant will become deemed owner for income tax act purpose after 12 yr

e.g. Mr. X gives prop. On lease to Mr. Y. for 8 years through one single agreement after which it is extendable for 6 year So total = 14 years therefore Mr. Y = Deemed owner.

→ NOTE: Generally a purchaser becomes owner from the date of registration however if possession is given from the date of agreement then he will be called deemed owner of the agreement.