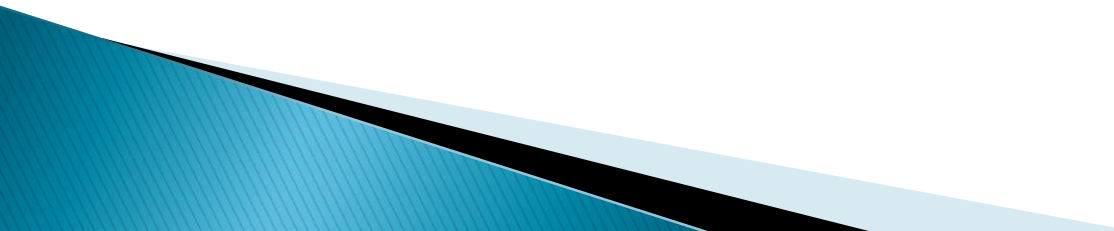


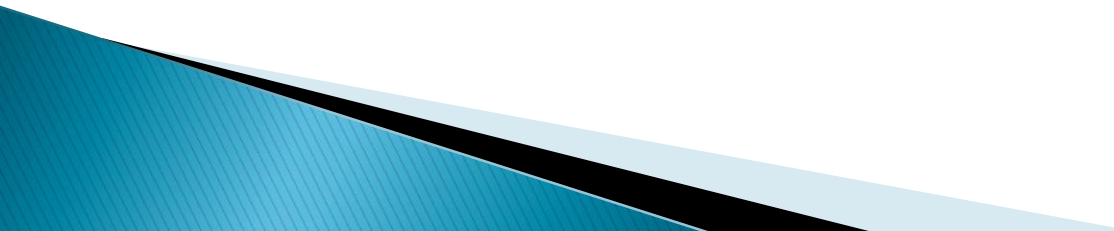
# TAXATION OF CORPORATE & NON-CORPORATE TAXPAYERS UNDER INCOME TAX LAW – *Part I*

*Abdul Aziz Tayabani*  
Advocate High Court  
Noorani & Company

# Today's Topics

- ▶ Various sources of income
  - ▶ Heads of income:
    - Salary Income
    - Income from Property
    - Income from Business
    - Capital Gains
    - Income from Other Sources
  - ▶ Treatment of tax under PTR/FTR
  - ▶ Minimum tax
  - ▶ Taxability of retailers
  - ▶ Set-off & carry forward of losses
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# Heads of income

- ▶ Salary Income
  - ▶ Income from Property
  - ▶ Income from Business
  - ▶ Capital Gains
  - ▶ Income from Other Sources
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# SALARY

- ▶ Salary is charged to tax on receipt basis.
- ▶ Any amount received from the employer, whether of capital or revenue nature, is treated as salary.
- ▶ Gross salary exceeding Rs. 400,000 is charged to tax at progressive tax rates ranging from 5% to 20%.
- ▶ Important definitions:
  - “Employee” means any individual engaged in employment;
  - “Employer” means any person who engages and remunerates an employee;
  - “Employment” includes:
    - a) A directorship or any other office involved in the management of a company;
    - b) A position entitling the holder to a fixed or ascertainable remuneration; or
    - c) The holding or acting in any public office.

# INCOME FROM PROPERTY

- ▶ Rent received or receivable by a person for a tax year (other than exempt from tax) shall be chargeable to tax in that year under the head “Income from Property”.
- ▶ “Rent” means any amount received or receivable by the owner of land or a building as consideration for the use or occupation of, or the right to use or occupy, the land or building, and includes any forfeited deposit paid under a contract for the sale of land or a building.
- ▶ Income from property is charged to tax at following slab rates:
  - *Individual & AoP – 0% to 10%;*
  - *Company – 5% to 10%.*

# INCOME FROM BUSINESS

- ▶ **'Income from Business'** includes any profits and gains of any business carried on by a person at any time in the year.
- ▶ In computing 'Income from Business' deduction is allowed for any expenditure incurred by the person in the year, *wholly and exclusively* for the purpose of business.
- ▶ Special provisions have been laid down for specified deductions / allowances which inter alia include:
  - Depreciation on fixed assets,
  - amortization of intangibles,
  - amortization of pre-commencement expenditure,
  - bad debts,
  - profit on debts, financial costs and lease payments.
- ▶ Certain expenditure may not be deductible unless specified conditions are met, commonly known as legally inadmissible expenditures.

# CAPITAL GAINS

- ▶ **Section 37:** Gain derived on disposal of a “capital asset” is charged to tax under the head ‘Capital Gains’. If disposal is made after holding for more than one year, the 25% gain shall be exempt from tax and remaining 75% gain shall be charged to tax. The term ‘capital asset’ includes property of every kind, whether or not connected with a business, excluding specified items.
- ▶ **Section 37(1A):** Gain arising on disposal of immovable property held for a period of upto two years is chargeable to tax at the following rates:
  - Where holding period of immovable property is up to one year – 10%
  - Where holding period of immovable property is more than one year but not more than two years – 5%
- ▶ **Section 37A:** Capital gain arising from the disposal of securities (including shares of listed companies) held for a period of less than a year is chargeable to tax at prescribed rates.

# INCOME FROM OTHER SOURCES

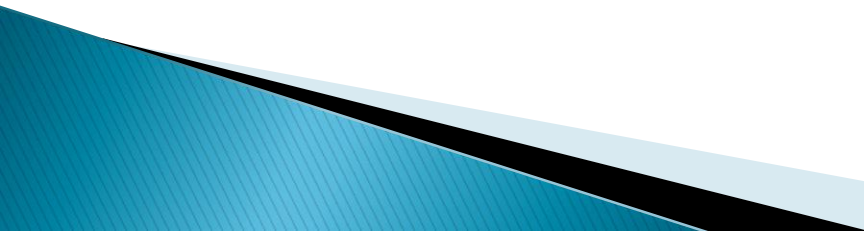
- ▶ Any income not covered under any of the above heads of income is classified as 'Income from Other Sources'.
- ▶ In computing the income from other sources, deduction is allowed for any expenditure incurred in deriving such income.
- ▶ Conditions laid down for inadmissible deductions for 'Income from Business', however, shall apply mutatis mutandis.
- ▶ Dividend paid by a resident company is classified as 'income from other sources' and subject to withholding tax generally @10% which is also the final tax on such income. Companies can however set-off dividend income against loss under the heads "Business Income" and "Income from Other Source"



# MINIMUM TAX U/S 113

- ▶ Applicable to:
  - Resident company
  - Individual (having turnover of 50 million or above)
  - Association of persons (having turnover of 50 million or above)
- ▶ Not applicable on company in the case of gross loss before set off of depreciation and other inadmissible expenses.
- ▶ Minimum tax is imposed at 0.5% of gross turnover where due to loss, exemption or any other reason, the total tax liability is less than 0.5% of turnover.
- ▶ “Turnover” means:
  - The gross sale or gross receipts, exclusive of Sales Tax and FED or any trade discounts shown on invoices, or bills, derived from the sale of goods, and also excluding any amount taken as deemed income and is assessed as final discharge of tax liability;
  - The gross fee for the rendering of services for giving benefits including commissions; except covered under final discharge of tax liability;
  - The gross receipts from the execution of contracts; except covered by final discharge of tax liability; and
  - The company’s share of the amounts stated above of an association of persons of which company is member.

# TAXABILITY OF RETAILERS

- ▶ Important definitions:
    - “retailer” means a person selling goods to general public for the purpose of consumption;
    - “turnover” shall have the same meaning as assigned to it in sub-section (3) of section 113.
  - ▶ Taxation under section 113A
  - ▶ Taxation under section 113B
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# SET OFF & CARRY FORWARD OF LOSSES

## ▶ Relevant sections:

- Section 56 – Set off of losses
  - Section 56A – Set off of losses of companies operating hotels
  - Section 57 – Carry forward of business losses
  - Section 57A – Set off of business loss consequent to amalgamation
  - Section 58 – Carry forward of speculation business losses
  - Section 59 – Carry forward of capital losses
  - Section 59A – Limitations on set off and carry forward of losses
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