

## INCOME FROM OTHER SOURCES

[Secs. 56 to Sec. 59, Sec. 94, Secs. 68 to 69D & Sec. 115BBE]

### **Sec. 56: Basis of Charge:**

Income of every kind, which is not to be excluded from the total income and not chargeable to income-tax under any of the first four heads of income, shall be chargeable to income-tax under the head 'Income from Other Sources'. [Sec. 56(1)]

In particular and without prejudice to the generality of the above provision of sub-section (1), **following incomes shall be chargeable under the head 'Income from Other Sources':** [Sec. 56(2)]

- Dividends,
- Winnings from Lotteries, Crossword Puzzles, Races including Horse Races, Card Games or games of any sort, gambling, betting of any form or nature whatsoever;
- Rental income from letting out of Plant, Machinery or Furniture (*if not taxable as PGBP u/s 28*),
- Composite rent from letting out of building and other facilities where both are not separable (*if not taxable as PGBP u/s 28*);
- Any sum received by the assessee from his employees as contribution to any provident fund, superannuation fund, ESI fund or any fund for the welfare of such employees (*if not taxable as PGBP u/s 28*);
- Interest on debentures, government securities/bonds (*if not taxable as PGBP u/s 28*);
- Any sum received under a Keyman insurance policy, including any sum allocated by way of bonus (*if not taxable as PGBP u/s 28 or under the head 'Salaries'*);
- Income by way of interest received on compensation or on enhanced compensation; taxable in the year in which it is received after allowance of 50% deduction under section 57,
- Family pension received by family members of deceased employee is taxable; subject to the deduction u/s 57; i.e. ` 15,000 or 33.33% of Gross Pension, whichever is lower;
- Any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset and such sum is forfeited as the negotiations do not result in transfer of such capital asset. [Clause (ix)]
- Any compensation or other payment, due to or received by any person in connection with the termination of his employment or the modification of the terms and conditions relating thereto.

### **Abolition of tax on companies for distribution of dividends:**

Upto A.Y. 2020-21, in respect of dividend income, the incidence of tax was on the company and not on the recipient shareholder. The domestic company was required to pay Dividend Distribution Tax (DDT) u/s 115-O on the amount of dividends distributed by it and Sec. 10(34) exempted such dividends in the hands of shareholders because DDT was charged on it.

However, the rationality suggests that the incidence of tax on dividends should be on the recipient. Also, the present system of levying tax on the distributed profits to the companies at a flat rate irrespective of the marginal rate at which the recipient would be otherwise taxed; is considered iniquitous and regressive.

So, considering the much awaited demand of the corporate, the Finance Act, 2020 amended Sec. 115-O to provide that the provisions of this section shall not be applicable after 31.03.2020. Also, Sec. 10(34) has been amended to provide that exemption in respect of dividend received on or after 01.04.2020 shall not be available to shareholders.

Thus, with effect from A.Y. 2021-22, the dividend income will be taxable in the hands of shareholders at the applicable rate and the domestic companies will not be required to pay DDT.

## Deemed Dividends

### Distribution of Assets [Sec. 2(22)(a)]

Any distribution by a company to its shareholders, **which entails the release of all or any part of the assets** of the company, shall be treated as dividend in the hands of shareholders to the extent of accumulated profits of the company, whether capitalised or not.

#### POINTS TO NOTE:

- When assets are distributed u/s 2(22)(a), 2(22)(c) and 2(22)(d), the market value of the asset on the **date of distribution** has to be taken for computing the dividend. *[Central India Industries Ltd. (SC)]*
- Issue of Bonus shares does not entail release of any assets of the company. Bonus shares simply results into capitalization of shares. *[Shashibala Navnitlal v. CIT (Guj)]*
- When a company distributes the assets to shareholders then, it amounts to GIFT and shall not be regarded as 'Transfer' as per sec. 47 and no capital gains shall arise to the company. Cost of acquisition of such assets to the shareholders shall be the **cost of such assets to the company**.

### Distribution of Bonus shares to Preference Shareholders and Debentures to any shareholder [Sec. 2(22)(b)]

(a) Any distribution by a company to its shareholders by way of **debentures, debenture-stock or deposit certificates** in any form, whether with or without interest, and

(b) **Bonus shares to the preference shareholders,**

shall be treated as dividend **to the extent of accumulated profits of the company, whether capitalised or not.**

### Distribution of Assets in the Event of Liquidation [Sec. 2(22)(c)]

Any distribution by a company to its shareholders at the time of its liquidation shall be treated as deemed dividend, to the extent of accumulated profits of the company, whether capitalised or not.

**The FMV of assets on the date of distribution** shall be considered for determining the deemed dividend.

Where the liquidation is consequent to the compulsory acquisition of the company by the Government or by any corporation owned or controlled by the Government under any law in force, the accumulated profits shall not include any profits of the company prior to 3 consecutive previous years immediately preceding the previous year in which such acquisition took place.

**Reduction of Share Capital [Sec. 2(22)(d)]**

Any distribution by a company to its shareholders by way of reduction of its share capital shall be treated as dividend, to the extent of accumulated profits, whether capitalised or not.

**G. Narasimhan (Supreme Court) (1998)**

The amount distributed by the company on reduction of its share capital has two components, namely:

- (a) Distribution attributable to accumulated profits (i.e. deemed dividend) and
- (b) Distribution attributable to the capital.

The Supreme Court held that the amount received on reduction of capital as reduced by the amount of deemed dividend is the sale proceeds for computing capital gains on reduction of share capital.

Therefore, the Sale Consideration for share capital reduced shall be as under:

FMV of assets received on reduction	XXXX
Add: Moneys Received	XXXX
Less: Amount deemed as dividend under section 2(22)(d)	<u>XXXX</u>
<b>Sale consideration for Share Capital reduced</b>	<b><u>XXXX</u></b>

**Loans and Advances by Closely Held Company [Sec. 2(22)(e)]**

Where any company, in which public are NOT substantially interested, makes any payment by way of loans or advances, to the extent of accumulated profits of the company, to;

- (i) a shareholder, being the beneficial owner of shares, carrying not less than 10% of voting power, or
- (ii) any concern in which such Shareholder is a member or a partner and has a 'Substantial interest', or
- (iii) any person on behalf, or for the individual benefit, of such shareholder.

then, such loans or advances shall be treated as deemed dividends.

A person shall be deemed to have 'Substantial interest' in a concern, if he is entitled to 20% or more of voting power (in the case of a company) or 20% or more of the share in profit (in the case of any other concern), at any time during the previous year.

'Concern' means a HUF, Firm, AOP or BOI or a Company.

**POINTS TO NOTE:**

- Under section 2(22)(e), the payment is deemed as dividend to the extent the company possesses accumulated profits [Capitalised profits are not considered]. Whereas, under section 2(22)(a),(b),(c) and (d), the payment/distribution is deemed as dividend to the extent the company possesses accumulated profits, whether capitalised or not.
- For the purpose of section 2(22)(e), accumulated profits shall include the profits up to the date when loans and advances are given.
- Where loan is given and accumulated profit is more than the loan, the entire loan will be deemed as dividend. The total accumulated profits shall be considered and not only the proportionate share of the shareholder in the accumulated profits. *[Case of Arati Debi]*
- The fact that the loan or advance was repaid by the shareholder to the company does not make any difference in the applicability of section 2(22)(e). *[Case of Walchand & Co. Ltd.]*

- Section 2(22)(e) is attracted even if the company charges market rate of interest on the loan/ advance given to the shareholder.
  - **Routing loan through employees:** A loan given by a Company to its low paid employee, who in turn gives it to the Managing Director of the Company, shall be treated as Deemed Dividend u/s 2(22)(e), in the hands of the Managing Director. *[L. Alagusundara Chettiar (SC)]*
  - **Routing loan through related firms:** Where a company, in which the assessee was a shareholder and director, had paid money to firms in which the assessee was a partner and such firms had given such money to the assessee for purchase of RBI Relief Bonds, funds so received by the assessee by using the firms as conduit were assessable as deemed dividend in his hands. *[Mukundray K. Shah (SC)]*
- Example:** R Pvt. Ltd. gives a loan of ` 3,00,000 to G, who is not a shareholder. G gives this amount as loan to S who is shareholder in R Pvt. Ltd., holding 12% shares. In this case ` 3,00,000 shall be deemed dividend in the hands of S because the loan was given by the company to G for the benefit of S.

**Some illustrations/examples of trade advances/commercial transactions held to be NOT covered under section 2(22)(e):** *[CBDT Circular No. 19/2017 dated 12<sup>th</sup> June, 2017]*

- (i) Advances were made by a company to a sister concern and adjusted against the dues for job work done by the sister concern. It was held that amounts advanced for business transactions do not fall within the definition of deemed dividend under section 2(22) (e) of the Act.  
*(CIT vs. Creative Dyeing & Printing Pvt. Ltd. 318 ITR 476 Delhi High Court)*
- (ii) Advance was made by a company to its shareholder to install plant and machinery at the shareholder's premises to enable him to do job work for the company so that the company could fulfil an export order. It was held that as the assessee proved business expediency, the advance was not covered by section 2(22)(e) of the Act.  
*CIT vs. Amrik Singh, 299 ITR 14 P&H High Court)*
- (iii) A floating security deposit was given by a company to its sister concern against the use of electricity generators belonging to the sister concern. The company utilised gas available to it from GAIL to generate electricity and supplied it to the sister concern at concessional rates. It was held that the security deposit made by the company to its sister concern was a business transaction arising in the normal course of business between two concerns and the transaction did not attract section 2(22) (e) of the Act.  
*(CIT Agra vs. Atul Engineering Udyog, Allahabad High Court)*

In view of the above it is, a settled position that trade advances, which are in the nature of commercial transactions would not fall within the ambit of the word 'advance' in section 2(22)( e) of the Act.

**Judicial Decisions:**

**Gopal & Sons (HUF) v. CIT (2017) (SC)**

***Loans and advances given by the closely held company to the HUF holding more than 10% shares shall be treated as deemed dividend u/s 2(22)(e) in both the cases whether HUF is treated as a shareholder or HUF's Karta is treated as a shareholder.***

**Facts:** Loans and advances received by the assessee-HUF from a closely held company in which it holds 37.12% are treated as deemed dividend u/s 2(22)(e) by the A.O. However, the company is of the view that such advances cannot be taxed as deemed dividend since a HUF cannot be a registered or beneficial shareholder of a company.

**Decision:** The Supreme Court observed that in both the scenario i.e. whether the Karta is treated as shareholder or the HUF, in both cases, sec. 2(22)(e) would be attracted since the HUF holds more than 10% shares and if the Karta was the shareholder, sec. 2(22)(e) would be attracted since the HUF would be the concern in which the Karta has substantial interest.

**Pradip Kumar Malhotra v. CIT (2011)(Cal.)**

***Loan or advance given to a shareholder by the company, in return for an advantage conferred on the company by the shareholder, cannot be deemed as dividend u/s 2(22)(e) in the hands of the shareholder.***

**Facts:** Assessee-shareholder, holding substantial voting power had permitted his property to be mortgaged with the bank for enabling the company to get the loan from the bank. The shareholder requested the company to release his property from the mortgage. On failure to do so, the company gave advance to the assessee for retaining the benefit of loan availed from the bank. Such advance was treated as deemed dividend u/s 2(22)(e) by the A.O.

**Decision:** The High Court observed that in this case, such loan or advance is given to such shareholder for a further consideration which is beneficial to the company and therefore, such advance or loan cannot be said to be deemed dividend u/s 2(22)(e).

**CIT v. Vir Vikram Vaid (2014) (Bom.)**

***Repair and renovation expenses incurred by a company on premises leased out by a shareholder having substantial interest in the company, shall not be treated as deemed dividend.***

The High Court observed that no money had been paid by way of advance or loan to the shareholder who has substantial interest in the company. Further, the amount spent was towards repairs and renovation of the premises occupied by the company as lessee, though owned by the assessee. It was held that such expenditure cannot be brought within the definition of advance or loan given to the shareholder having substantial interest in the company, though he is the owner of the premises and therefore, cannot be treated as deemed dividend.

**CIT v. Ambassador Travels (P) Ltd. (2009) 318 ITR 376 (Del.)**

The provisions of deemed dividend under section 2(22)(e) would not be attracted in respect of financial transactions entered into in the normal course of business.

<b>Cases not to be treated as deemed dividend as per Sec. 2(22)(e)</b>
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- Any advance or loan made to a shareholder or the said concern by a company in the ordinary course of its business, where the lending of money is a **substantial part of the business** of the company.
- Any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend under section 2(22)(e).
- Any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A of the Companies Act, 1956.
- Any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company).
- Any distribution by way of bonus shares by a company to its equity shareholders.

- Any distribution made in pursuance of liquidation or reduction of share capital in respect of shares issued for full cash consideration where the holder of the shares is not entitled to participate in the surplus assets upon liquidation of the company.

### **Explanation 2A to Sec. 2(22)**

In case of an amalgamated company, the accumulated profits, whether capitalised or not, or loss, as the case may be, shall be increased by the accumulated profits, whether capitalised or not, of the amalgamating company on the date of amalgamation.

### **Year of chargeability of Dividend income [Sec. 8]**

<b>Nature of Dividend</b>	<b>Relevant Previous Year</b>
Dividend declared or distributed or paid by a company and covered u/s 2(22)	Year of <b>declaration</b> or distribution or payment, as the case may be.
Interim Dividend	Year in which the amount is unconditionally made available by the company.

### **Dividends received by Indian companies from Specified Foreign Companies entitled to Concessional rate of tax: [Sec. 115BBD]**

Dividends received by an Indian company from a **specified foreign company** shall be taxable in the hands of the Indian company at the rate of **15%**.

No deduction shall be allowed in respect of any expenditure or allowance from such dividend.

‘**Specified foreign company**’ means a foreign company in which the Indian company holds 26% or more in nominal value of the equity share capital of such company.

**Note:** It is important to note that such Indian Company can claim deduction u/s 80M in respect of dividend received from specified foreign company upto the amount distributed as dividend to the shareholders. Where such deduction u/s 80M has been claimed, the balance dividend from specified foreign company shall be taxable at concessional rate of 15%.

### **ANALYSIS:**

- Sec. 115BBD applies only where the Indian company receives dividend from a foreign company in which the Indian company holds 26% or more of the equity share capital.
- Such dividend is taxable @ **concessional tax rate of 15% on gross dividend (as no expenditure would be deductible in respect of such dividend)** as against the normal tax rate of 30% on net dividend.

### **The following provisions are explained in the topic of ‘Tax on conversion of Unaccounted Money’:**

Gifts received by any assessee [Sec. 56(2)(x)];

Premium on Issue of Shares received by a Closely held Company [Sec. 56(2)(viib)].

**Sec. 57: Amounts Deductible:**

The income chargeable under the head 'Income from other sources' shall be computed after making the following deductions, namely:

**Commission or remuneration for realising Dividend or Interest on securities:  
[Sec. 57(i)]**

*[Amended by Finance Act, 2020 w.e.f. A.Y. 2021-22]*

Any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realizing dividend or interest on securities on behalf of the assessee, is deductible.

However, no deduction shall be allowed from the

- dividend income, or
- income in respect of units of a Mutual Fund specified u/s 10(23D) or
- income in respect of units from a specified company defined in the Explanation to Sec. 10(35),

other than deduction on account of interest expense, and in any previous year such deduction shall not exceed 20% of the dividend income, or income in respect of such units, included in the total income for that year, without deduction under this section.

**Analysis of Amendment:** Pursuant to amendment made by the Finance Act, 2020, now the companies are not required to pay DDT on dividends distributed by it to the shareholders, but the dividends shall be taxable in the hands of the shareholders. Also, income from units of mutual fund shall be taxable in the hands of unit holders. Therefore, the Finance Act, 2020 has amended Sec. 57 to provide deduction to the shareholders or unit holders in respect of interest expense incurred against the dividend income or income from units of mutual fund but only upto 20% of the dividend income or income from units of mutual fund. The important point to note here is that the deduction shall be available only in respect of interest expense and not in respect of any other expenditure incurred for earning dividend income or income from units of mutual fund.

Earlier, the dividends from foreign companies were taxable in the hands of shareholders and the shareholder was entitled to 100% deduction of expenditure incurred in earning such dividend from foreign company except when dividend is taxable u/s 115BBD. But, now, after the amendment made by the Finance Act, 2020, the shareholder will be entitled to deduction of only interest income and that too upto 20% of dividend income whether received from domestic company or foreign company. However, where the dividends are taxable u/s 115BBD, no deduction shall be allowed in respect of interest expense or any other expense from such dividends.

**Deduction in respect of Employees' contribution towards staff welfare schemes:  
[Sec. 57(ia)]**

Deduction in respect of contribution received from employees towards any welfare fund such as provident fund or superannuation fund or fund set up under the Employees' State Insurance Act, 1948 is allowable as deduction only if such sum is credited by the taxpayer to the employee's account in the relevant fund on or before the due date. For this purpose 'due date' is the date by which the assessee-employer required to credit such contribution to the employees' account in the relevant fund under the provisions of any law or terms of contract of service or otherwise.

*[This deduction is in line with the deduction provided u/s. 36(1)(va) under PGBP]*

**Deductible expenses in the case of letting out of plant, machinery, furniture or building [Sec. 57(ii)]**

- current repairs in respect of building,
- insurance premium in respect of insurance against risk of damage or destruction of the premises,
- repairs and insurance of machinery, plant and furniture,
- depreciation as per section 32.

**Standard Deduction in the case of family pension: [Sec. 57(iia)]**

In the case of family pension, a deduction equal to ` 15,000 or 33 <sup>1</sup>/<sub>3</sub> per cent of such income, *whichever is less* shall be allowed.

For this purpose, ‘family pension’ means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death.

**Any other expenses for earning income: [Sec. 57(iii)]**

Any other expenditure (*not being in the nature of capital expenditure*) laid out or expended wholly and exclusively for the purpose of making or earning the income.

**Standard deduction in the case of Interest on compensation: [Sec. 57(iv)]**

In the case of interest received on compensation or enhanced compensation taxable u/s 56(2)(viii), a deduction equal to **50%** of such interest shall be allowed and no further deduction shall be available from such interest.

**Amounts Not Deductible: [Sec. 58]**

The following amounts shall not be deductible while computing the income chargeable under the head ‘Income from Other Sources’:

- (a) personal expenses of the assessee;
- (b) interest paid outside India on which tax has not been paid or deducted at source;
- (c) salaries paid outside India on which tax is not paid or deducted at source;
- (d) any expenditure referred to in section 40A like excessive payments to relatives [Section 40A(2)] and cash payments exceeding ` 10,000 ( ` 35,000 for payments made to an assessee engaged in the business of plying or hiring of goods carriage vehicle) made by a mode other than account payee cheque or an account payee draft or ECS [Sec. 40A(3)];
- (e) income-tax or wealth-tax paid;
- (f) 30% of amount payable to resident on which tax is deductible at source, but has not been deducted or after deduction, has not been paid on or before the due date u/s 139(1);
- (g) any expenditure or allowance in connection with winnings of lottery, crossword puzzles, Races including Horse Races, Card Games or games of any sort, gambling or betting of any form.



However, expenditure incurred by the assessee for the activity of owning and maintaining race horses shall be allowed as a deduction while computing the income from this activity [**Sec. 58(4)**]

**ANALYSIS:** Winnings from lotteries, etc. is always chargeable under the head ‘Income from other sources’ without deduction of any expenditure or allowance. Such winnings are taxed at the flat rate of 30% as per **section 115BB**.

**Judicial Decision:**

**CIT v. Manjoo and Co. (2011) (Kerala)**

The High Court contended that the receipt of winnings from lottery by the distributor was not on account of any physical or intellectual effort made by him and therefore cannot be said to be ‘income earned by him in business’. Also, such **unsold lottery tickets cease to be stock-in-trade of the distributor because it will have no value after the draw** and the distributor will get nothing on sale of the same except any prize winning ticket held by him which will entitle him for the prize money. Hence, the receipt of the prize money is not in his capacity as a lottery distributor but as a holder of the lottery ticket which won the prize.

Further, winnings from lotteries are taxable under the special provisions of **section 115BB, irrespective of the head under which such income falls.**

Therefore, even if the argument of the assessee is accepted and the winnings from lottery is taken to be received by him in the course of his business and as such assessable as business income, the specific provision contained in section 115BB, namely, the special rate of tax i.e. 30% would apply. The High Court, therefore, held that the rate of 30% prescribed u/s 115BB is applicable in respect of winnings from lottery received by the distributor.

<b>Deemed Profits: [Sec. 59(1)]</b>
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The provisions of section 41(1) shall apply, so far as may be, in computing the income of an assessee u/s 56 under the head ‘Income from other sources’, as they apply in computing the income of an assessee under the head ‘Profits and Gains of Business or Profession’.

## TAX ON CONVERSION OF UNACCOUNTED MONEY

### Gifts received by any person [Sec. 56(2)(x)]

Where any person receives the following in any previous year, from any person or persons on or after 1<sup>st</sup> April, 2017 it shall be taxable under the head '**Income from Other Sources**':

**1) Any sum of money:**

**Without consideration**, the AGGREGATE VALUE of which exceeds ` 50,000, the whole of the aggregate value of such sum;

**2) Any immovable property:**

(a) **Without consideration**, the **stamp duty value** of which exceeds ` 50,000, the stamp duty value of such property; [Single Transaction Wise]

(b) **For inadequate consideration**, if the **stamp duty value** exceeds the consideration by more than **higher of** ` 50,000 or 10% of the consideration, the difference of Stamp duty value and the consideration; [Single Transaction Wise]

*[Limit extended to 10% from 5% by Finance Act, 2020 w.e.f. A.Y. 2021-22]*

**Example:**

Suppose a building has been sold for ` 13,00,000 and the stamp duty value of the building is ` 14,20,000. Now, as per the earlier provisions, the difference between the stamp duty value and the sale consideration i.e. ` 1,20,000 ( $14,20,000 - 13,00,000$ ) would have been taxed since such difference exceeds ` 50,000.

But, as per the amendment made by the Finance Act, 2018 and further by Finance Act, 2020, this ` 1,20,000 shall not be taxable because the difference between the stamp duty value and the sale consideration does not exceed 10% of the consideration i.e. ` 1,30,000 ( $13,00,000 \times 10\%$ ), though it exceeds ` 50,000.

**3) Any property, other than immovable property:**

(a) **Without consideration**, the AGGREGATE FMV of which exceeds ` 50,000, the whole of the aggregate FMV of such property;

(b) **For inadequate consideration**, if the AGGREGATE DIFFERENCE between the FMV and consideration exceeds ` 50,000, the difference of FMV and consideration.

**Further this clause shall NOT APPLY to any sum of money or any property received:**

- (i) From any Relative; or
- (ii) On the occasion of the Marriage of the Individual; or
- (iii) Under a Will or by way of Inheritance; or
- (iv) In contemplation of Death of the Payer; or
- (v) From any Local Authority as defined in Sec. 10(20); or
- (vi) From any Fund / Foundation / University / Educational Institution or Hospital or other medical Institution or Trust or Institution referred u/s 10(23C); or

- (vii) From or by any Trust / Institution registered u/s 12AA; or
- (viii) By any Fund / Trust / Institution / University / Educational Institution or Hospital or other medical Institution referred under sub-clause (iv), (v), (vi) or (via) of Section 10(23C); or
- (ix) On total or partial partition of HUF u/s 47(i); transfer of capital asset by holding company to its 100% Indian subsidiary company u/s 47(iv); transfer of capital asset by 100% subsidiary to its Indian holding company u/s 47(v); in the scheme of amalgamation/demerger u/s 47(vi)/(vib); receipt of shares held in Indian company in the scheme of amalgamation or demerger of foreign company u/s 47(via)/(vic); in a scheme of amalgamation of banking company u/s 47(viaa); on business reorganization of cooperative bank u/s 47(vica)/(vicb); transfer or issue of shares by resulting company to demerged company u/s 47(vid); receipt of shares on the amalgamation of a company u/s 47(vii).
- (x) From an individual by a trust created or established solely for the benefit of relative of the individual.
- (xi) From such class of persons and subject to such conditions, as may be prescribed.

**Notification No. 96/2019 dated 11.11.2019:**

**Prescribed class of persons for the purpose of clause (xi) of proviso to Sec. 56(2)(x): [Rule 11UAC]**

**The provisions of Sec. 56(2)(x) shall NOT apply to:**

- (1) any immovable property, being land or building or both, received by a resident of an unauthorised colony in the NCT of Delhi, where the CG regularised the transactions of such immovable property.

**‘Resident’ means a person having physical possession of property on the basis of a registered sale deed or latest set of Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration in respect of a property in unauthorised colonies and includes their legal heirs but does not include tenant, licensee or permissive user.**

- (2) unquoted shares, of a company and its subsidiary and the subsidiary of such subsidiary received by a shareholder, where:
  - (i) the Tribunal has suspended the BOD of such company and has appointed new directors and
  - (ii) share of company and its subsidiary and the subsidiary of such subsidiary has been received pursuant to a resolution plan approved by the Tribunal.
- (3) equity shares, of the reconstructed bank, received by the investor or the investor bank where the said share has been allotted by the reconstructed bank under the scheme (Yes Bank Limited Reconstruction Scheme, 2020) at a price specified in the scheme.

**For the purpose of section 56(2)(x):**

**Meaning of ‘Relative’ for Individual:**

- (i) Spouse of the Individual,

- (ii) Brother or Sister of the Individual,
- (iii) Brother or Sister of the Spouse of the Individual,
- (iv) Brother or Sister of either of the Parents of the Individual,
- (v) Any lineal ascendant or descendant of the Individual,
- (vi) Any lineal ascendant or descendant of the Spouse of the Individual,
- (vii) Spouse of the persons referred above; except in clause (i).

**Meaning of ‘Relative’ for HUF:** Any member of the HUF.

**Meaning of ‘Gift in Contemplation of Death of Payer’:**

A gift is said to be made in contemplation of death where a person, who is ill and expects to die shortly due to his illness, delivers to another the possession of any movable property to keep as gift in case the payer/giver shall die due to his illness.

Such a gift may be resumed by the giver from the person to whom it was made and shall not take effect if he recovers from the illness during which it was made or if he survives.

**Property** means the following assets, **being ‘Capital Assets’ for the assessee:**

- (1) Immovable Property being Land or Building or both,
- (2) Shares and Securities,
- (3) Jewellery,
- (4) Bullions,
- (5) Drawings,
- (6) Paintings,
- (7) Archaeological collections,
- (8) Sculptures,
- (9) Any work of Art.

**Note:** Provisions of Sec. 56(2)(x) are attracted, in relation to the properties received, only when they are in the nature of capital asset as defined u/s 2(14) of the Income Tax Act, for the recipient.

**Where the Date of Agreement and the Date of Registration are not same:**

Where the date of agreement fixing the value of consideration and the date of registration of the transfer of the asset are not same, the stamp duty value **as on the date of the agreement may be taken**, provided that the amount of **consideration or part thereof has been received** by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system (ECS) through a bank account or through such other electronic mode as may be prescribed **on or before the date of the agreement**.

**Meaning of FMV:** FMV of a property, *other than an immovable property*, for the purpose of section 56(2)(x) means the value determined as per the prescribed method under **Rule 11UA** on the **Date of receipt** of such property.

**NOTE:** As per **Section 49(4)**, where on the acquisition of a capital asset, income is charged u/s 56(2)(vii) or (viii) or (x), the **cost of acquisition** of such capital asset shall be the value which has been taken into consideration for the purpose of section 56(2)(vii) or (viii) or (x).

**ANALYSIS of Gifts received without consideration**

Nature of Property Gifted	Capital Gains for Transferor	Income from other sources for transferee u/s 56(2)(x)	Cost of acquisition of such gift for transferee u/s 49(4)	Period of holding of such gift for transferee
<b>Immovable property being land or building</b>	Exempt u/s 47(iii)	Stamp value of the property, if it exceeds ` 50,000	Stamp value of such property taken for the purpose of taxation u/s 56(2)(x) *	From the date of transfer of such asset, as sec. 49(1) is not applicable.
<b>Shares &amp; securities, bullion, jewellery, archaeological collections, drawings, paintings, sculptures or any work of art.</b>	Exempt u/s 47(iii)	FMV of such asset, if it exceeds ` 50,000	FMV of the asset taken for the purpose of taxation u/s 56(2)(x) *	From the date of transfer of such assets, as sec. 49(1) is not applicable.
<b>Any other assets</b>	Exempt u/s 47(iii)	NIL	Cost of acquisition of the previous owner u/s 49(1)	From the date on which the previous owner u/s 49(1) acquired such asset.
* If the stamp value of property or FMV of assets does not exceed ` 50,000, then it will the same treatment as above that of 'Any other assets'.				

**NOTE:** If such asset or assets are acquired or received **without consideration** from any relative, or on the occasion of the marriage of the individual, etc., then-

- no capital gains for the transferor, as gift is exempt u/s. 47(iii),
- no income from other sources for transferee, as sec. 56(2)(x) shall not be applicable,
- the cost of acquisition for the transferee will be the cost at which the previous owner referred in sec. 49(1) acquired such asset and
- period of holding, as per Explanation 1 to Sec. 2(42A), shall include the period during which such asset was held by the previous owner.

**ANALYSIS of Sale of Assets for inadequate consideration**

Nature of property Sold	Capital Gains or Business Income for Transferor	Income from other sources for transferee u/s 56(2)(x)	Cost of acquisition of such gift for transferee u/s 49(4)	Period of holding of such gift for transferee
<b>Immovable property being land or building</b>	Stamp value (-) Cost of acquisition [Sec. 50C or 43CA applicable	Difference between the stamp value and sale consideration, if exceeds the higher of	Stamp value of property taken for the purpose of taxation u/s 56(2)(x) *	From the date of transfer of such asset.

	for transferor/	` 50,000 or 10% of sale consideration		
<b>Shares and securities, jewellery, archaeological collections, drawings, paintings, sculptures, any work of art, bullion</b>	Sale consideration (-) Cost of acquisition	Difference between the FMV and sale consideration, if exceeds ` 50,000	FMV of the asset taken for the purpose of taxation u/s 56(2)(x) *	From the date of transfer of such assets
<b>Any other assets</b>	Sale consideration (-) Cost of acquisition	NIL	Cost at which it was received by the transferee	From the date of transfer of such assets
<p><b>* If the difference</b> between the stamp value of property and the sale consideration <b>does not exceed the higher of ` 50,000 or 10% of sale consideration</b>, then the treatment will be same as that of ‘Any other assets’.</p> <p><b>* If the difference</b> between the FMV of assets and the sale consideration <b>does not exceed ` 50,000</b>, then the treatment will be same as that of ‘Any other assets’.</p>				

**NOTE:** If such asset or assets are purchased **without adequate consideration** from any relative, or on the occasion of the marriage of the individual, etc., then -

- same treatment as above for transferor; but
- no income from other sources for transferee [*as sec. 56(2)(x) shall not be applicable*].

#### **Premium on Issue of Shares by Closely held Company [Sec. 56(2)(viib)]**

- Where a **closely held company**
  - receives in any previous year, from any person, being a **resident**,
  - any consideration for issue of shares,
  - which **exceeds the face value of such shares**; then
- the aggregate consideration received by the company as reduced by the FMV of the shares shall be ‘Income from other sources’ in the hands of the company.**

Provided that this clause **shall not apply** where the consideration for issue of shares is received:

- (a) by a venture capital undertaking from a venture capital company or a venture capital fund or a specified fund; or
- (b) by a company from a class or classes of persons as may be notified by the Central Government.

#### **Notification No. 13/2019 dated 05.03.2019 [w.e.f. 09.02.2019]:**

This section shall not apply to such STARTUPS which fulfills the following conditions:

- (i) It has been recognized by the Department for Promotion of Industry and Internal Trade as startup;
- (ii) Aggregate of paid up capital and share premium after issue or proposed issue of shares shall not exceed ` 25 crores, excluding the paid up capital and share premium in respect of shares issued to:

- (a) non-resident,
  - (b) venture capital company or venture capital fund,
  - (c) Specified Company i.e. a company whose shares are frequently traded and whose net worth on the last date of financial year preceding the year in which shares are issued exceeds ` 100 crores or turnover for the financial year preceding the year in which shares are issued exceeds ` 250 crores.
- (iii) It has not invested in any of the following assets for 7 years from the end of the latest financial year in which shares are issued at premium:
- (a) building or land appurtenant thereto, being a residential house, other than that which is used renting or to be held as stock-in-trade, in the ordinary course of business;
  - (b) land or building, or both, not being a residential house, other than that occupied for business or used for renting or to be held as stock-in trade, in the ordinary course of business;
  - (c) loans and advances, other than loans or advances extended in the ordinary course of business where the lending of money is substantial part of the business;
  - (d) capital contribution made to any other entity;
  - (e) shares and securities;
  - (f) motor vehicle, aircraft, yacht or any other mode of transport, the actual cost of which exceeds ` 10 lakhs, other than that held for the purpose of plying, hiring, leasing or as stock-in-trade, in the ordinary course of business;
  - (g) jewellery other than that held as stock-in-trade in the ordinary course of business;
  - (h) any other asset, whether in the nature of capital asset or otherwise, of the nature specified in section 56(2)(vii)(d)(iv) to (ix) i.e., archaeological collections, drawings, paintings, sculptures, any work of art or bullion.

### **Meaning of Startup:**

A company would be considered as Start-up if it satisfies the following conditions:

- It would be considered as startup upto 10 years from the date of incorporation/registration, if it is incorporated as a private limited company.
- Turnover for any of the financial years since incorporation/registration has not exceeded ` 100 crores.
- The company is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.

However, a private limited company shall not be considered a ‘Startup’, if it formed by splitting up or reconstruction of an existing business. This notification shall be deemed to have come into effect from 19.02.2019.

### **Non-fulfillment of conditions specified in notification:**

Provided further that where this clause have not been applied to a company on account of fulfillment of conditions specified in the notification issued above and such company fails to comply with any of those conditions, then, any consideration received for issue of share that exceeds the FMV of such share shall be deemed to be the income of that company chargeable to tax for the previous year in which such failure has taken place and, it shall also be deemed that the company has under-reported the income in consequence of mis-reporting referred to in Sec. 270A(8) and 270A(9) of the said previous year.

*[Inserted by Finance (No. 2) Act, 2019 w.e.f. A.Y. 2020-21]*

**FMV** of the shares shall be the **higher** value of following:

- (i) Value determined in accordance with the prescribed method; or
- (ii) Value substantiated by the company to the satisfaction of the Assessing Officer, based on the value, **(on the date of issue of shares)** of its assets, including intangible assets being goodwill, know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature.

**‘Specified fund’** means a fund established or incorporated in India in the form of a trust or a company or a LLP or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the SEBI (Alternative Investment Fund) Regulations, 2012 made under the SEBI Act, 1992.

‘Venture capital company’, ‘venture capital fund’ and ‘venture capital undertaking’ shall have the meanings respectively assigned to them in section 10(23FB).

**NOTE:**

The section applies only if a closely held company issues shares at a premium. This section does not apply if a widely held company issues shares at a premium. The reason is that SEBI approves the price at which shares are issued by a widely held company.



**Determination of FAIR MARKET VALUE: [Rule 11UA]**

**For the purposes of section 56 of the Act, the FMV of a property, other than immovable property, shall be determined in the following manner, namely:**

**(a) Valuation of Jewellery:-**

- (i) FMV of jewellery shall be estimated to be the price which such jewellery would **fetch if sold in the open market** on the valuation date;
- (ii) In case the jewellery is received by way of purchase on the valuation date, from a registered dealer, the **invoice value** of the jewellery shall be the FMV;
- (iii) In case the jewellery is received by any other mode and the value of the jewellery exceeds ₹ 50,000, then assessee may obtain the **report of registered valuer** in respect of the price it would fetch if sold in the open market on the valuation date;

Although this Rule has not been amended after Finance Act, 2010, yet bullion should also be valued in the same manner as jewellery.

**(b) Valuation of archaeological collections, drawings, paintings, sculptures or any work of art:**

- (i) FMV of archaeological collections, drawings, paintings, sculptures or any work of art (hereinafter referred as artistic work) shall be estimated to be the price which it would **fetch if sold in the open market** on the valuation date;
- (ii) in case the artistic work is received by way of purchase on the valuation date, from a registered dealer, **the invoice value** of the artistic work shall be the FMV;
- (iii) in case the artistic work is received by any other mode and the value of the artistic work exceeds ₹ 50,000, then assessee may obtain the **report of registered valuer** in respect of the price it would fetch if sold in the open market on the valuation date;

**(c) Valuation of shares and securities:**

**(a) FMV of quoted shares and securities shall be determined in the following manner, namely:-**

- (i) if the quoted shares and securities are received by way of transaction carried out through any recognized stock exchange, the FMV of such shares and securities shall be the **transaction value** as recorded in such stock exchange;
- (ii) if such quoted shares and securities are received by way of transaction carried out other than through any recognized stock exchange, the FMV of such shares and securities shall be:
  - (a) the lowest price of such shares and securities quoted on any recognized stock exchange on the valuation date, and
  - (b) the lowest price of such shares and securities on any recognized stock exchange on a date immediately preceding the valuation date when such shares and securities were traded on such stock exchange, in cases where on the valuation date there is no trading in such shares and securities on any recognized stock exchange;

**(b) FMV of unquoted equity shares shall be the value, on the valuation date, of such unquoted equity shares determined as under:**

$$\text{The FMV of unquoted equity shares} = \frac{(A + B + C + D - L) \times (PV)}{(PE)}$$

where,

A = **Book value of ALL the assets (other than jewellery, artistic work, shares, securities and immovable property)** in the balance-sheet *as reduced by-*

- any amount of income tax paid, if any, less the amount of income-tax refund claimed, if any;
- any amount shown as asset including the unamortized amount of deferred expenditure which represent the value of any asset;

B = The price which the jewellery and artistic work would fetch if sold in the open market on the basis of the valuation report obtained from a registered valuer;

C = FMV of shares and securities as determined in the manner provided in this rule;

D = The value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of the immovable property;

L = **Book value of liabilities** shown in the balance-sheet, **but not including** the following amounts, namely:-

- (i) the paid-up equity capital;
- (ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have been declared in the AGM after the date of transfer;
- (iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;
- (iv) any amount representing provision for taxation, *other than* the amount of income-tax paid, if any, less the amount of income-tax claimed as refund, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;
- (v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities,
- (vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares;

**PE** = **total amount of paid up equity share** capital as shown in the balance-sheet;

**PV** = the paid up value of equity shares received as per provisions of section 56(2)(x).

- (c) FMV of **unquoted shares and securities** other than equity shares in a company which are not listed in any recognized stock exchange shall be estimated to be the price it would **fetch if sold in the open market** on the valuation date and the assessee may obtain report from a merchant banker in respect of such valuation.

**Bond Washing Transactions [Sec. 94(1), (2)]**

A bond-washing transaction is a transaction where securities are sold some time before the due date of interest and reacquired after the due date is over.

This practice may be adopted by an assessee in the higher tax slab to avoid tax by transferring the securities to their relatives/friends in the lower tax slab just before the due date of payment of interest.

In order to discourage such practice, **section 94(1)** provides that where the owner of a security transfers the security just before the due date of interest and buys back the same immediately after the due date and interest is received by the transferee, such interest income will be deemed to be the income of the transferor and would be taxable in his hands.

In order to prevent the practice of sale of securities-cum-interest, **section 94(2)** provides that if an assessee who has beneficial interest in securities sells such securities in such a manner that either no income is received or income received is less than the sum he would have received if such interest had accrued from day to day, then income from such securities for the whole year would be deemed to be the income of the assessee.

However, sec. 94(3) provides that the sec. 94(1) or 94(2) are, not applicable, if the owner proves that:-

- (a) there has been no avoidance of income-tax; or
- (b) the avoidance of income-tax was exceptional and not systematic and that there was no avoidance of income tax by such a transaction in any of the three preceding years.

**Interest Stripping [Sec. 94(7)]**

Where –

- (a) any person buys or acquires any securities within a period of 3 months prior to the record date;
- (b) such person sells or transfers such securities within a period of 3 months after the record date;
- (c) the income on such securities received or receivable by such person **is exempt**,

then, the loss, if any, arising on account of such purchase and sale of securities, to the extent such loss does not exceed the amount of income received or receivable on such securities, shall be ignored for the purpose of computing his income chargeable to tax.

**Bonus Stripping [Sec. 94(8)]**

Where-

- (a) any person buys or acquires any units within a period of 3 months prior to the record date;
- (b) such person is allotted additional units without any payment on the basis of holding of such units on such date;
- (c) Such person sells or transfers all or any of the units referred to in clause (a) within a period of 9 months after such date while continuing to hold all or any of the additional units referred to in clause (b);

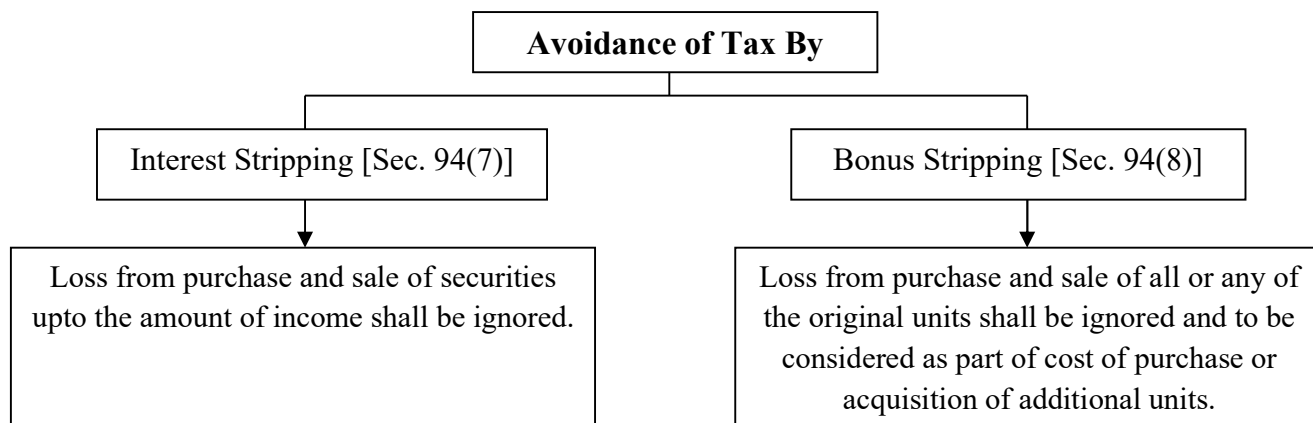
then, the loss, if any, arising to him on account of such purchase and sale of all or any of such units shall be ignored for the purposes of computing his income chargeable to tax and notwithstanding anything contained in any other provisions of this Act, the amount of loss so ignored shall be deemed to be the cost of purchase or acquisition of such additional units referred to in clause (b) as are held by him on the date of such sale or such transfer.

**Explanation:**

‘Record date’ means such date as may be fixed by-

- a company for the purposes of entitlement of the holder of the securities to receive dividend; or
- a Mutual Fund or the Administrator of the specified undertaking or the specified company as referred to in the *Explanation* to clause (35) of section 10, for the purposes of entitlement of the holder of the units to receiving income, or additional unit without any consideration.

**Analysis of Section 94(7) and Section 94(8)**



**Cash Credits [Sec. 68]**

Where any sum is found credited in the books of an assessee maintained for any previous year, and

- (a) the assessee offers no explanation about the nature and source thereof; or,
- (b) the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory,

the sum so credited may be charged to income-tax as the income of the assessee of that previous year.

**Proviso to section 68 inserted by Finance Act, 2012 w. e. f. A. Y. 2013-14:**

Provided that where the assessee is a company, **not being a company in which the public are substantially interested** and the sum so credited consists of **share application money, share capital, share premium** or any such amount by whatever name called, any explanation offered by such assessee-company shall be **deemed to be not satisfactory, unless:**

- (a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and
- (b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

Provided further that nothing contained in the first proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in section 10(23FB).

**NOTE:** The above proviso to section 68 is **not applicable to money received**

- from Venture Capital Company and Venture Capital Fund since they are regulated by SEBI; and
- from non-residents since money received from non-residents is regulated by FEMA and rules of RBI.

**CIT v. M. Venkateswara Rao (2015) 370 ITR 212 (T & AP)**

Capital contribution of the individual partners credited to their accounts in the books of the firm cannot be taxed as cash credit in the hands of the firm, even where the partners admitting their capital contribution failed to explain satisfactorily the source of receipt in their individual hands.

**Unexplained Investments [Sec. 69]**

Where in the financial year immediately preceding the assessment year, the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income and

- the assessee offers no explanation about the nature and source of the investments; or
- the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory,

the value of the investments may be deemed to be the income of the assessee of such financial year.

**Unexplained Money or other Valuables [Sec. 69A]**

Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and

- the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article; or
- the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory,

the money, bullion, jewellery or other valuable article may be deemed to be the income of the assessee of such financial year.

#### **Amount of Investments, etc. not fully disclosed in books of account [Sec. 69B]**

Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the Assessing Officer finds that the amount expended on making such investments or in acquiring such bullions, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income, and

- the assessee offers no explanation about such excess amount; or
- the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory,

the excess amount may be deemed to be the income of the assessee of such financial year.

#### **Unexplained Expenditure [Sec. 69C]**

Where in any financial year an assessee has incurred any expenditure and

- he offers no explanation about the source of such expenditure or part thereof, or
- the explanation, if any, offered by him is not, in the opinion of the Assessing Officer, satisfactory,

the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year:

Provided that, notwithstanding anything contained in any other provision of this Act such unexplained expenditure which is deemed to be the income of the assessee shall NOT be allowed as deduction under any head of income.

#### **Amount borrowed or repaid on hundi [Sec. 69D]**

Where any amount is borrowed on a hundi from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be.

Provided that, if in any case any amount **borrowed** on a hundi has been deemed under the provisions of this section to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under the provisions of this section on **repayment** of such amount.

#### **Taxation of Cash Credits, Unexplained Money, Investments, etc: [Sec. 115BBE]**

Under Income-tax Act, certain unexplained amounts are deemed as income under sections 68, 69, 69A, 69B, 69C and 69D and were taxable as per the normal rates applicable to the concerned assessee. Now, individuals, HUFs are taxed in lower slabs initially after allowing a basic exemption limit. To restrict the practice of laundering of unaccounted money by taking advantage of basic exemption limit, Sec. 115BBE was inserted which provided for such income to be taxed at the flat rate of 60%.

Where the total income of an assessee:

- (a) includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D and **reflected in the ROI** furnished u/s 139; or
- (b) **determined by the A.O.** includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, if such income is not covered in clause (a),

the tax payable shall be **60% of total income (plus surcharge @ 25% and cess @ 4%)**.

However, if A.O. determines the income as referred above in clause (b), then penalty u/s 271AAC would be levied @ 10% of base tax payable (i.e. tax payable without surcharge and cess which is 10% of 60%), in addition to tax payable as per Sec. 115BBE.

Also no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of the Act in computing deemed income under the said sections.

No expenditure shall be allowed from the income so deemed under section 68 and deductions under Chapter VI-A shall also be not allowed from such deemed income.

**Effect of Sec. 115BBE and Sec. 271AAC:**

Particulars	Amount declared as part of ROI	Amount not declared in ROI and assessed by A.O. under any section from 68 to 69D
Section Applicable	115BBE(1)(a)	115BBE(1)(b), 271AAC
Base tax rate (Assume amount of income is ` 100)	60% of income (i.e. ` 60)	60% of income (i.e. ` 60)
Applicable surcharge	25% of tax amount (i.e. ` 15)	25% of tax amount (i.e. ` 15)
Applicable cess	4% of (base tax + surcharge) (i.e. ` 3)	4% of (base tax + surcharge) (i.e. ` 3)
Penalty u/s 271AAC	No penalty (if tax is paid before the end of relevant P.Y.)	10% of base tax amount (i.e. ` 6)
Total incidence of tax	78% of income	84% of income
Applicability of Section 270A	No penalty u/s.270A	No penalty u/s 270A but levied u/s 271AAC
Whether Prosecution possible	No	Yes (u/s 276C)