RAMA UNIVERSITY

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FACULTY OF COMMERCE AND MANAGEMENT

COURSE: B.COM III SEM.

SUBJECT: Direct Tax Laws and Practice

SUBJECT CODE: BCH 302

LECTURE: 14

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LECTURE-14

WHEN PROPERTY INCOME IS NOT CHARGEABLE TO TAX

1.	*Income from Farm house Sec.10(1)*
2.	*One palace of an ex-ruler. Sec.10(19)A*
3.	*Property income of a local authority Sec.10(20)*
4.	*Property income of an approved Scientific research association Sec.10(21)*
5.	*Property income of an Education Institution and Hospital Sec.10(23)C*
6.	*Property income of a Trade Union. Sec.10(24)*
7.	*Property income of a Political party Sec.13A*
8.	*Property held for Charitable purpose Sec.11*

To calculate the annual value of the house property we should follow the following steps:
STEP 1 Calculate the higher of the municipal value and fair rent.
STEP 2 Compare the value of step 1 with the standard rent, and take the lower of the two. This is so because if the property is covered by rent control act then the amount so computed at step 1 can not exceed standard rent which is determinable under the rent control act as was decided in the case of **SHIELA KAUSHISH V CIT by SC in 1981.**

The Delhi Rent Control Act, 1958

Standard rent must be the basis - Even if the standard rent of a building had not been fixed by the Controller under section 9 of the Rent Act and the period of limitation prescribed by section 12 of the Rent Act for making an application for fixation of the standard rent had expired, and it was no longer competent to the tenant to have the standard rent of the building fixed, the annual value of the building according to the definition given in section 23(1) must be held to be the standard rent determinable under the provisions of the Rent Act and not the actual rent received by the landlord from the tenant **-** *Mrs. Sheila Kaushish* v. *CIT* [1981] 131 ITR 435 (SC).

The value so derived after step 2 may be called as expected rent. Keep in mind that the expected rent can not be more than the standard rent but definitely it can be lower than the standard rent as was decided in the case of **DR. BALBIR SINGH V MCD in 1985.**

STEP 3 From the value at step 2 reduce the loss of rent due to vacancy (if any).

STEP 4 Compare the value of the step 3 with the actual rent received or receivable and choose the higher of the two.

The value so derived after step 4 shall be called the Gross Annual Value. From this the municipal taxes actually paid before the end of PY by the landlord shall be reduced to get the Net Annual value.

Municipal Tax:-
It is levied by any local authority in respect of the house

(i)	*Municipal tax including service tax*
(ii)	*Municipal tax paid by owner not paid by tenant*
(iii)	*Municipal tax related off past year current year and next year but paid in previous year.*
(iv)	*If municipal tax paid in percentage we will calculate on municipal value.*
(v)	*If property situated in foreign country Municipal tax levied by foreign authority are deductible*

TYPE OF HOUSE PROPERTY

LET OUT HOUSE PROPERTY			SELF- OCCUPIED PROPERTY	
Gross Annual Value	XXX		*Gross Annual Value*	NIL
Less: Municipal Taxes	XXX		*Less: Municipal Taxes*	NA
Net Annual Value	XXX		*Net Annual Value*	NIL
Less: Deduction under Sec.24	XXX		*Less: Deduction under Sec.24*	
1.Standard Deduction(30% of NAV	XXX		*1.Standard Deduction(30% of NAV*	NIL
2.Interest on borrowed capital	XXX		*2.Interest on borrowed capital*	Xxx
Income from house property	XXX		*Income from house property*	(XXX)

DEDUCTION U/S 24
There is two type of deduction allowed under this section

1) **STANDARD DEDUCTION**

This deduction is notional in nature and allowed for all house property which is let out during the previous year

Quantum of deduction : 30% of the Net annual value .This is the flat deduction and should be given if the assessee has not incurred any expenditure in regards of house property

2) **INTEREST ON BORROWED CAPITAL**

If the loan is taken on the purchase of repairs Renovation Extentension or purchase of a house property then any interest paid on the amount borrowed is allowed as deduction

<u>The following points have to be considered for the purpose of deduction</u>

a) The loan amount should be used for the house
b) It is allowed on paid as well as if it is outstanding
c) Interest paid outside india without deducting tax at sources would not be allowed

d) Penal interest charged by the lender for default in payment of interest is not allowed as deduction
e) Commission paid for arranging a loan is not allowed as deduction
f) Loan taken for paying the previous loan is also eligible for deduction
g) Money can be borrowed from any person, institution or bank

Ceiling limit on deduction allowed for interest on borrowed loan

<u>FOR A LET OUT PROPERTY</u>

There is no ceiling on fixed for interest paid on loan borrowed for a property which is let out on rent . Any amount paid is allowed as deduction.

<u>FOR SELF OCCUPIED PROPERTY</u>

Co-Ownership (U/S 26)

• *If property is co-owned by two or more persons.*
• *The share of co-ownership is definite.*
• *Then the share of each such person shall be included in his income*
• *If the property is self occupied by co-owner then NAV will be NIL & each of the co-owner shall be entitled for deduction of Rs.30,000/Rs.1,50,000/-*

Deemed owner (Sec-27)

- Transfer to spouse or minor child
- The holder of impartiable estate
- A person who acquired a property u/s 53A of the transfer of the property Act.
- Lessee of building

Foreign Property

Assessee	Condition for taxability
Ordinary Resident	Always taxable
Not ordinary resident or non resident	Income must be received in India

Disputed ownership: person who is in receipt of income or who enjoys the possession of the property is assessable to tax.

House property in a foreign country: As per sec 22 a resident assessee is taxable in respect of annual value of property situated in a foreign country, in case of resident but not ordinary resident and Non-resident depends on residential status i.e income is received in India during the previous year. Annual value will be computed as if the property is situated in India. Foreign currency should be converted into Indian rupees in TT Buying Rate on last date of P.Y.Any tax or expenses incurred towards earning such income shall be allowed as a deduction.