



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: 17

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LECTURE-17



BUSINESS & PROFESSION

- The term 'business' is defined to include any — trade, commerce, manufacture, or any adventure or concern in the nature commerce or manufacture.
- The definition is not exhaustive, it covers even an occupation carried on by a person with a view to earning profit.
- Profit motive - The word "business" would mean some real, substantial and systematic or organized course of activity with a set purpose which would normally be profit motive.

Trade:

Trade & Commerce

- Trade primarily means the exchange of goods for goods or goods for money.
- It would also signify that it is a kind of repeated activity in the nature of business carried on with a profit motive.

Commerce:

- If a person purchases goods with a view to sell them at profit, it is an ordinary case of trade and If such transactions are repeated on a large scale, it is called commerce.
- In determining a case of trade or commerce, in crucial issue is that of investment.
- One has to take into account the nature of the assets, the occupation of assessee, the frequency and volume of transactions etc. to distinguish trading from commercial activity.

Manufacture

- Manufacture is the making of articles or materials by physical labour or mechanical Power.
- The essence of manufacturing is that something is produced or brought into existence which is different from that out of which it is made, in the sense that the thing produced is by itself commercial commodity which is capable as such of being sold or supplied.
- Means an activity that original article or thing resulting in transformation of the object or article or thing having a different name, character and use.

Any adventure in the nature of trade, commerce or

Manufacture

- The following guiding principles would apply while deciding as to whether a transaction of purchase or sale forms an adventure in the nature of trade or an investment –
 - The commodity purchased plays an important role in deciding whether a person is indulging in an adventure in the nature of trade or is making an investment.
 - Whether the transaction is an isolated one or forms part of a series of transactions showing a tendency to indulge in trade.
 - The fact that the property bought has been sold within a short time does not by itself indicate that the transaction is in the nature of trade.
 - If the property purchased is capable of yielding income, then again the inference will be that an investment was intended to earn income and is not an adventure in the nature of trade.

Profession

- The expression 'profession' has been defined in section 2(36) of the Act to include any 'vocation'.
- According to generally accepted principles the meaning of the term 'profession' involves the concept of an occupation requiring either intellectual skill or manual skill controlled and directed by the intellectual skill of the operator.
- A profession is normally associated with the exercise of intellectual or technical equipment resulting from learning or service.
- Profession involves occupation requiring purely intellectual or manual skill

Exception to Business carried during previous year

• The following receipts are taxable even if no business or profession is carried on by the assessee during the previous year –

- Recovery or excess recovery against a deduction claimed earlier
- Sale of an asset used for scientific research
- Recovery or excess recovery against bad debts claimed
- Amount withdrawn from a reserve created under section 36(1)(viii)
- Sum received after discontinuance of a business or profession
- Sale of depreciable assets by power generating unit
- Sum received for restrictive covenant