



RAMA UNIVERSITY

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FACULTY OF COMMERCE AND MANAGEMENT

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LECTURE: 3

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LECTURE-3



FUNDAMENTAL CONCEPTS OR DEFINITIONS

1. **ASSESSEE [SEC-2(7)]:** An assessee is a person who is liable to pay any sum under the Income tax act or in respect of whom the proceedings have been initiated under this act. It is not necessary that the income in respect of which a person is considered an assessee should be his own, that is a person can be a deemed assessee on some other person's income as well.

The following are the ingredients of the definition of an assessee:

Liability to pay tax or any other sum [sec.2 (7)]

The assessee means a person by whom any tax or any other sum of money is payable under this act. Any other sum includes a fine, an interest, a penalty or a surcharge on income tax.

Initiation of assessment proceedings [sec.2 (7)a]

The assessee includes every person in respect of whom any proceedings under this act has been initiated, irrespective of whether or not he is liable to pay tax or any other sum. Such proceedings may be (i) for the assessment of his income or for the income of any other person in respect of which he is assessable or (ii) for the loss sustained by him or by such other person or (iii) for the amount of refunds which is due to him or to any other person. Therefore, mere initiation of the assessment proceeding against a person makes him an assessee, even if he is not liable to pay any tax or any other sum.

Deemed Assessee [sec.2 (7b)]

The Deemed assessee is a person who has been treated as an assessee only by law. The deemed assessee is assessed on the income or loss of any other person. For example, the legal representative of the deceased the guardian of a minor, the agent of a non-resident and the trustee of a trust etc, are termed as deemed assessee. Deemed to be an assessee in default [sec.2 (7c)] A person is deemed to be an assessee in default if he does not comply with his statutory duty under the income tax act. For example, if any person who is required to deduct tax at source does not deduct it, or after having deducted, fails to pay it to the Central government, he is deemed to be an assessee by default in respect of the tax.

2. Person [sec.2 (31)]

The definition of a person under the Income tax act is very comprehensive and includes both a natural as well as an artificial or a judicial person. The incidence of tax rests on a person and only a person can be assessee.

The term person includes the following:

2.1. Individual [Sec.2 (31)(i):

An individual is a natural person including male, female, major, minor or even a lunatic. However, the income of a minor or a lunatic can only be assessed in the hands of legal guardian or manager acting as deemed assessee.

2.2. HUF: Sec 2(31)(ii):

The expression Hindu undivided family is not defined by the income tax act. A joint family consists of all persons linearly descended from a common ancestor including their wives and unmarried daughters. A single person does not constitute a family which implies plurality of persons. All those who are governed by the provisions of the "HINDU" code are included in the term HINDU even though their religions may be different. Therefore, Jains and Sikhs are HINDUS for the purpose of Income tax law in the absence of any custom or usage to the contrary.

2.3. Company: [Sec.2 (31)(iii)]

In brief, a company means an Indian company incorporated under the companies act, 1956, or a corporation established under a central state or provincial act, or any corporate incorporated under the laws of a foreign country or any institution, association or body, whether incorporated or not whether Indian or foreign, declared by the board to be a company.

2.4. Firm: Sec.2 (31) iv:

Firm has the same meaning assigned to it by the Indian partnership act, 1932 . Association of persons: An association of persons is the one in which two or more persons join for a common purpose or common action with a view to produce income, profits or gains. The association need not necessarily be on the basis of a contract; consent and understanding may be presumed.

2.5. Body of Individuals: Sec.2 (31) v

Body of individuals means a conglomeration of individuals who carry on some activity with the object of earning income. The word body would require an association for some common purpose or there must be unity under some common tie or occupation. A mere collection of individuals without a common tie or common aim cannot be assumed to be a body of individuals.

2.6. Local authority: Sec.2 (31) vi

The term local is not defined by the act. The general clauses act, 1897 defines a local authority as a municipal committee, district board, body of port commissioners, or other authority legally entitled to or entrusted by the government.

2.7. Other artificial Judicial person: Sec.2(31)vii :

It includes every artificial juridical person, not falling within any of the preceding subclauses. This is a residuary clause, an idol, deity, a university, guru granth sahib and trust etc, are covered under this clause.