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: 35

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LECTURE-35

UNIT-4

ASSESSMENT OF PARTNERSHIP FIRM cont…

Book Profit – How To Calculate:

1. First we have to calculate the net profit or take net profit from profit and loss account;

2. Make adjustments (that is required to convert the net profit of profit and loss account into taxable business income shall be applied) as provided by Sections 28 to 44DB.

3. Add remuneration paid to partners if debited to the profit and loss account.

Note:

1. Income chargeable under Capital Gain, Income from House Property, and Income from other Sources should not be part of Book Profit.

2. Unabsorbed Depreciation will be deducted but Unabsorbed Loss not.

3. Permissible deduction as provided under Sections 80C to 80 U shall be ignored, while computing Book Profit.

Claiming Deduction of Interest Paid/Payable To Partners:

The interest to partners will be deductible after complying provisions of Section 184 and 40(b) of the Income Tax Act, 1961.

Section 40(b); following conditions should be complied;

1. Payment of interest should be authorised by Partnership Deed;

2. Payment of interest should pertain to the period after Partnership Deed;

3. Rate of interest should not exceed @12pa.

Note: if rate of interest exceeds @12pa, then excess amount paid @12% will not be allowed to be deductible. The above provision is not applicable if interest is paid to a person, acting otherwise than in a representative capacity.

Example: lets us consider Mr. X is a partner of a Firm and representing his HUF. Not he has given Rs. 1 Lakh loan to Firm and HUS has also given Rs. 5 Lakhs to the Firm. Now firm has paid Rs. 14000 as interst to Mr. X and Rs. 70000 interest to HUF. In this case provisions of Section 40(b) will be applicable in case of Rs. 70000 and Rs. 60000 (@12%) will be allowed as deduction to the firm. The amount paid to Mr. X as interest in his personal capacity will not be governed by provisions of Section 40(b) and Rs. 14000 will be deductible.

Carry Forward And Set Off Of Loss In Case Of Change In The Constitution Of Firm:

Section 78 contains provisions relating to carry forward and set off of loss in case of change in constitution of a partnership firm due to death or retirement of a partner (i.e. when a partner goes out of firm by retirement or death). In such a case, the share of loss attributable to the outgoing partner cannot be carried forward by the firm. Restriction of section 78 is applicable only in case of loss and is not applicable in case of adjustment of unabsorbed depreciation, unabsorbed capital expenditure on scientific research or family planning expenditure.

Calculation of Tax:

1. First find out incomes under various heads;

2. Adjustment of losses of Current as well as earlier years according to provisions of Sections 70 to 78 of the Income Tax Act, 1961. We find Gross Total Income;

3. From Gross Total Income deduct specified deductions under Chapter VIA, we find Net Income;

4. Net Income apply tax @30%

5. Add: Surcharge @10% if Net Income increase Rs. 1.0 Crore;

6. Add: Education cess and Special Education cess;

7. Deduct rebate if any under Sections 86,90,90A and 91;

8. Add: Interest payable if any;

9. Deduct : Advance Tax paid/TDS deducted if any;

10. Balance will be amount of tax to be paid

Allowability of remuneration and interest vis-a-vis presumptive taxation:

Remuneration and interest shall not be allowed as deduction from the presumptive income computed at prescribed rate u/s. 44AD, 44ADA. However, for section 44AE, remuneration and interest to partners shall be allowed as a deduction subject to sec 40(b).