

**Intricacies in s.56(2)(viib) to (xiii)
&
s. 43B(h)
Income Tax Act**

Sunday, 12th May, 2024

**MES Auditorium, Balshikshan School Campus
Pune Branch of WIRC of ICAI**

Synopsis

- Receipt of sum of money & properties
 - Section 56(2)(x)
- Receipt on issue of shares
 - Section 56(2)(viib)
- Receipt of interest on compensation
 - Section 56(2)(viii)
- Receipt on forfeiture
 - Section 56(2)(ix)
- Receipt on termination / modification of employment
 - S. 56(2)(xi)
- Receipt of specified sum by a unit holder from Business Trust
 - S. 56(2)(xii)
- Receipt of an amount under a Life Insurance Policy
 - S. 56(2)(xiii)

Journey of Perseverance –s.56(2)

- Finance Bill 1997 – S. 56
- Clause(v) - A.Y. 2005-06 – 1st September, 2004
 - Finance (No.2) Act, 2004 –
 - Finance Act, 2007 w.e.f 1.04.2005 (more exemptions)
 - Taxation Laws(A) Act, 2006(sunset w.e.f 1.04.2007)
- Clause (vi) - A.Y. 2007-08
 - Taxation Laws (A) Act, 2006 w.e.f 1.04.2007
 - Finance(No.2) Act, 2009 w.e.f 1.10.2009 (sunset)
- Clause (vii) – A.Y. 2010-11 - w.e.f 1.10.2009
 - Finance(No.2) Act, 2009
 - Finance Act, 2010 –sub-cl.(b)(ii)deleted w.r.ef. 1.10.2009
 - Finance Act, 2012 – cl.(e) in Explanation added w.r.e.f. 1.10.2009
 - Finance Act, 2013 - cl.(b) (ii) added w.e.f. 1.04.2014

Journey of Perseverance - II

- Clause (x) – A.Y. 2018-19 - w.e.f 1.04.2018
 - Finance Act, 2017
- Clause (viia) – A.Y. 2011-12 –w.e.f 01.06.2010
 - Finance Act, 2010
- Clause (viib) – A.Y. 2013-14 –w.e.f. 01.04.2013
 - Finance Act, 2012
- Clause (viii) – A.Y. 2010-11 –w.e.f 01.04.2010
 - Finance Act (No.2), 2009
- Clause (ix) – A.Y. 2015-16 –w.e.f 01.04.2015
 - Finance Act (No.2), 2014

Journey of Perseverance - III

- Clause (xi) – A.Y. 2019-20 –w.e.f 01.04.2019
– Finance Act, 2018
- Clause (xii) – A.Y. 2024-25 –w.e.f 01.04.2024
– Finance Act , 2023
- Clause (xiii) – A.Y. 2024-25 –w.e.f 01.04.2024
– Finance Act, 2013
- Simultaneous amendments in s. 2(24)
(xiii),(xiv),(xv),(xvi) ,(xvii), (xviiia) to (xviid)
- Constitutionality to be tested

Section 56(2)(x)

- Sub-clauses (a)(b)& (c)
- Four Provisos for Immovable property
- Two Provisos and 1 Explanation for 13 Exclusions
- Explanation for meaning of certain expressions
- Rules 11U, 11UA & 11UAC
- S.2(24)(xviiia)

Charge of Taxation

- On receipt of ‘any sum of money’ or ‘property’
- By any person
- Without consideration or Inadequate consideration
 - Taxability in the year of receipt
- Taxable in recipient’s hands
 - Receipts by minor child & clubbing
- 5 charges - Each independent of other
 - Threshold exemptions – independent for each charge
- Residential status & its relevance
- Place of receipt & its relevance
- Need for evasion of tax
 - Vani Estate P. Ltd. - TS- 529-ITAT- 2018 (CHNY)

Computation

- Computation for each class separately
- Value of receipts w.r.t. Actual amount, FMV or SDV
- Full value for ‘Without consideration receipts’
- Difference in values for With consideration receipts
- No specific provision for deductions
- Receipts under each of 5 classes to be clubbed together
- Not taxable where difference is less in aggregate then/of ;
 - higher of 10/20% of consideration or Rs. 50,000
- Fully taxable where difference exceeds the limits

Chargeable receipts

- ‘Any sum of money’ without consideration
- ‘Any property’ - capital assets with/out consideration
 - Immovable property – land and/or building
 - Specified movable properties
 - Shares & Securities
 - Jewelry
 - Archaeological collections, Sculptures
 - Drawings, Paintings, Works of Art
 - Bullion
 - Virtual Digital Assets(‘VDA’)
- Scope
 - Not restricted to gifts
 - Beyond Residential status & India
- Head of Income & computation

Scope of Charge on Receipts

- Receipt- Not defined
 - Ordinary meaning
 - To possess, hold, acquire, own, receive, etc.
- Scope of receipt
 - Obligation to return
 - Capital receipts
 - Exempted receipts
 - Rent & Interest free receipts
- Decisive factors
 - Without consideration
 - Inadequate consideration
 - Right to appropriate
 - Right of Disposal
- Receipt from unsubstantiated sources & s. 56(2) v. s.68
- Need for two parties for a ‘receipt’- Unilateral acts
- Agreements prior to 01.04.2017
 - Benudhar Gokulanand Biswal, 153 taxmann.com 112 (Mum.)

Few Examples of Receipts

- Receipt on refund
- Receipts on Distribution
- Business receipts
- Exempt receipts u/s 10 & 11 & 54 to 54H
- Capital receipts
- Grants & Subsidies
- Insurance claims
- Compensation & Damages
- Gross or net of payments
- Gifts in kind of unspecified movables
- Non goods items
- Deemed gifts of specified properties
- On credit by payer
- Deductions admissible

Receipt & Consideration

- Pre – insertion/ amendment transactions,
 - Shailendrakumar Krishnakumar Jaiswal 171 ITD 6 (Nag)
- Loan-Advances
 - Sannidhi C.Patel 237 CTR 50 (Mum) -POA
 - Chandrakant H.Shah 28 SOT 315 (Mum)-Employee
 - Saranpal Singh HUF 198 Taxman 202 (P&H)-Loan
 - Paramveer Sancheti 95 taxmann.com 258 (Nag)-FI
 - Nilesh J. Thakur 142 ITD 143 (Mum)- Agent
- Any sum of money & cases of inadequate consideration
 - Sudha V. Iyer 15 taxmann.com 234 (Mum)-Partition
 - H.H.Shri.Rama Verma 187 ITR 308 (SC)
 - Amit Jain 149 TTJ 527, (Delhi)
- Company to company –effect of amendment
 - DP World (P) Ltd 140 ITD 694 (Mum)
 - KDA Enterprises (P) Ltd 171 TTJ (Mum)

Time of Receipts in different cases

- Immovable property – Land & Building
 - On possession u/s. 53 of TOPA
 - On conveyance
 - Cases of leave & license, tenancy, lease
- Shares & Securities
 - On delivery with transfer form
 - On credit in DEMAT Account
- Jewelry, drawings, paintings, sculptures, etc.
 - On possession under gift/purchase
- On completion of gift
 - Anuj Agarwal, 130 TTJ 49 (Mum.)

Any sum of money

- Meaning
 - Cash
 - Cash equivalents
 - IOU
 - Third party debts
 - Waiver of claim
- FDR/KVP/NSC/IOU/Debt & Convertible debts
- Only when ‘Without consideration’
- Aggregate value > Rs. 50000
- Whole of aggregate value of ‘such’ sum
- W.e.f. 1.09.2004

Capital asset

- Application on receipt of property- ‘capital asset’
- Test Qua recipient assessee - Business of recipient
- ‘Capital Asset’ and s. 2(14) exclusions
 - Personal effect
 - Agricultural land
 - Right or interest in capital asset
- Stock-in-trade of immovable property
- Possible Application of s.28
- Status at time of receipt
 - DLF Universal’s case (Del.)(SB)
- Rural Agricultural Land – not a capital asset
 - Trilok Chand Sain, 174 ITD 729 (Jaipur)

Immovable property -I

- Ambiguously defined as 'property'
- Land & Building
 - Interest in land & building
 - TOPA and GCA , Chapter XXC of ITA
- Without or Inadequate consideration
- Stamp duty value
 - Central Government included
 - Right/duty to refer to DVO
 - Power to refer to DVO u/s 142A
- SVA value exceeding Rs. 50,000/ tolerance band of 10%
 - SVA value to be taxed
- Threshold limit per property
- Year of receipt
- Position for stock-in-trade and Donee
- Difference between FMV and Consideration

Immovable property - II

- Rights in Land & building
 - Atul G. Puranik ,141 TTJ 69(Mum)
 - Dattani Developers, 182 TTJ 230 (Mum)
 - Yasin Moosa Godil, 52 SOT 344(Ahd.)
- Agricultural Land- not a sum of money
 - Tax World XLII,October,2009
- Provision for tolerance limit of 10% / 20% (COVID cases)
- Application of tolerance limit of 10% - Retrospective
 - Sandeep Kumar Poddar, 201 ITD 344 (Kol.)
- Debatable issues – Rectification and Revision
 - Tolerance limit of 10%
 - Adoption of value as on registration
 - Shanmuga Sundaram Govindaraj, 196 ITD 576
 - Smt. Padmavati, 120 taxmann.com 187 (Mad.)

Movables -I

- Shares & securities
- Jewelry
- Archaeological Collection, Sculptures
- Drawings, Paintings, Work of art
- Bullion, Virtual Digital Asset
- Without or inadequate consideration
- Diff. bet. FMV & consideration
- Reference to DVO – whether possible
- Property – not specifically included
 - Business undertaking
 - Intangible Asset- Fixed Assets
 - Receivables
 - Reimbursement of expenses

Movables -II

- No consideration cases
 - Where aggregate FMV > Rs. 50,000
 - The whole of aggregate FMV taxable
- Inadequate consideration cases
 - Where aggregate difference > Rs. 50,000
 - Difference to be taxable
- Both threshold operate separately
- Year of receipt

Consideration –I

- Not defined under Income tax Act
- Significance of ‘Money or money’s worth’
- S. 2(d) and S. 25 of Indian Contract Act
 - Promise; an act or abstinence –any tense
 - Effect of contract without consideration s.25
 - May move from third party
 - Economic consideration
 - Cir. No. 419 dt.1.06.1985
- S.2(d) and S.25 of Indian Contract Act and I-Tax Act
 - Achalsinhji Kesarsinhji 157 ITR ITR 537 (Guj)
 - Paramveer Abhay Sancheti 95 taxmann.com 258 (Nag)

Consideration - II

- Admission & Retirement,
- Ex-gratia, Insurance claims, Alimony,
- Personal qualities, Mayavati's case, Natural love
- ESOP /ESOS
- Partition of HUF/Self Impression
- Distribution and disbursements
- Shareholders' receipts

Consideration -III

- Receipt for not contesting Will
 - Purvez S. Poonawala , 47 SOT 380 (Mum)
- Receipt of alimony
 - Meenakshi Khanna 143 ITD 744 (Delhi)
 - Prema G. Sanghavi, ITA No 2109 /M/2011 (Mum)
- Receipt on family settlement
 - Paras D. Gundcha 155 ITD 880 (Mum)
- Receipt of Awards
 - Abhinav Bindra, 28 ITR(T) 376(Del.)
- Receipt by Beneficiary on dissolution of Trust
 - Ashok C. Pratap, 150 TTJ 137 (Mum.)
- Receipt for Personal qualities of employees
 - Rakesh S. Agarwal, 36 SOT 148(Ahd.)
- Receipt by Politicians
 - Mayawati, 135 TTJ 167(Del.)
- Receipt of Accident Claims
 - Geeta Jethani, 25 taxmann.com 23 (Del.) & DDA, 53 ITD 10 (Del.)

Consideration - IV

- Receipt by an AOP
 - Mridu Hari Dalmia, Parivar Trust, 58 ITD 521 (Del)
- Partnership reconstitution
 - Admission,
 - Sree Narayana Chandrika Trust , 261 ITR 279(SC)
 - Retirement ,
 - Smt. Vasumati Prafullakumar Sanghvi, 168 ITD 585 (Pune)
- Receipt by POA holder
 - Sanniddhi C. Patel, 168 TTJ 224(Mum)
- Business Receipt
 - Shahrukh Khan, 168 TTJ 547 (Mum)

Consideration- V

- Receipt By Private Trust & Trustees
 - Smt.Kamlini Khatau,209 ITR 101 (SC)
 - Trustees of HEH Nizam's Wedding 175 ITR 266(AP)
 - Mridu Hari Dalmia, Parivar Trust 68 taxmann.com 376
- Distribution by Trust to beneficiaries
 - Ashok C.Pratap,150 TTI 137 (Mum)
 - Mrs.Sharon Nayak, 159 ITD 143 (Bang)

Consideration - VI

- Receipts by shareholders,
 - Rights
 - Sudhir S. Menon HUF ,148 ITD 260(Mum) (SB)
 - Bonus,
 - Sudhir S. Menon HUF 48 ITR(T) 170 (Mum)(5B)
 - Buy-Back
 - Vora Financial Services P.Ltd.,171 ITD 646(Mum)
 - On conversion of debts
 - On Reduction of capital
 - On Liquidation
 - On Amalgamation/demerger
 - On conversion of firm into company
 - Right entitlement/ preferential allotment
 - Shares at discount
 - Stock options

Consideration - VII

- Inadequate consideration and payment by cheque
 - Sulochana Saijan Modi, 152 taxmann.com 56 (Mum.)
- Allotment in amalgamation for lower consideration
 - Vertex Projects LLP, 105 ITR (T.) 105 (Hyd.)
- Purchase in an auction
 - Mahavir Enterprises, 153 taxmann.com 396 (Mum.)
- PAAA
 - Vivek Jaysingh Asher, 162 taxmann.com 127 (Bom.)
- Transaction of an interest free loan
 - Mridu Hari Dalmia, 133 ITR 550 (Del.)
 - Saran Pal Singh HUF, 237 CTR 50 (P&H)

Receipts Exempted from charge

- From 'relative' – Individual & HUF
- Occasion of marriage of individual
- Under Will or by way of Inheritance
- Contemplation of death & 'Donatio mortis Causa' -
- From Local Authority - s.10(20)
- From S. 10(23C) entities
- From S. 12A or 12AA or 12AB registered entities
- From/By S. 10(23C) entities
- By way of s. 47 transactions where specified -16 only
- From an individual by a Trust - for sole benefit of relative
- From Prescribed class of persons
- By an individual for COVID medical treatment
- By a family member on death due to COVID
- No quantum restriction

Few cases of exempted receipts

- On occasion of marriage of individual
 - Rajinder Mohanlal 148 TTJ 369 (Chd), 263 CTR 231 (P&H)- Father
 - M.Venuswamy 229 taxman 589 TM (Mad.)
 - Dr. Neelambai Ramaswamy 164 ITR 369 (Mad.) – after marriage
- Donatio Mortis Causa – Marz –ul- maut
 - in contemplation death of payer
 - F.Susai Raju 163 ITD 533 (Chennai)
 - Abdul Karim Mohd 191 ITR 317 (SC)
- Inheritance by non-classified heir- no Will
- Need for evasion of tax
 - Vani Estate P. Ltd. - TS- 529-ITAT- 2018 (CHNY)

Relatives - I

- Persons covered
- Not covered
- Rules of the game
- Payee's relatives
- Converse not always true –two way relationship
- Incomplete Two way applicability
- Female Ascendants & Descendents
- Amendment expanded scope for HUF
 - W.r.e.f. 01.10.2009- cl.(e) in Expl. to define ‘relative’
 - In case of HUF, any member thereof
 - A member of an HUF is a “relative” for HUF
 - Converse not for- receipt by a member from HUF

Relatives - II

- Lineage for female recipients.
- ‘Relative’ is one way exercise – qua recipient
- Gifts & ‘relatives’
 - Relationship Qua recipient
 - Lucky Pamnani, 135 TTJ 607 (Mum.)
 - From Mausi’s son
 - Masanam Veerakumar, 143 ITD 664 (Che.)
 - From Bhanja
 - Masanam Veerakumar, 157 TTJ 141 (Che.)
- Gift from account of paternal uncle’s son
 - P. P. Srinivasan, 144 taxmann.com141 (Chennai)
 - Ramesh Garg, 173 TTJ 270 (Chennai)
- Gift from a non-relative – s. 55(2) v. s.68
 - Relation – Occasion – Place – Purpose
 - Sajan Dass & Sons, 264 ITR 435 (Del.)
- Relative under Senior Citizens Act
 - Miss Indira Uppal, 143 taxmann.com 239 (Delhi)

Relatives - III

- Lineal Ascendant or Descendant
 - Dhannalal Devilal 29 ITR 165 (Raj)
 - Nuli Laxminarayan, 116 ITR 739(AP)
 - Byomkesh Chakravarty, 39 ITR 303 (Patna)
- Two way relationship cases
 - Lucky Pamnani 135 TTJ 607 (Mum)
 - Maternal Uncle & S.64
- Gift from and to HUF
 - Amendment w.r.e.f 1.10.2009 for receipts by HUF from members
 - Vineetkumar Raghavjibhai Bhalodia 46 SOT 37 (Rajkot) - member
 - Harshadbhai Dahyalal Vaidhya HUF 144 ITD 605 (Ahd) -HUF
 - Gyanchand M.Bardia 93 taxmann.com 144 (Ahd) -member
 - Subodh Gupta HUF 89 taxmann.com 418 (Kol)- HUF from mother
- Adopted or Step up/down relationship
 - Spouse/child/parents/brother & sister
 - Kirtikant D. Vadodaria, 1996 4 SCC 479

FMV & SDV - I

- Movables
 - CBDT to prescribe valuation Rules for Movables
 - Prescribed vide Notification No. 23/2010 dt.8.04.2010
 - Rule 11U & 11UA & 11UAC
 - Jewelry & Works of Art, etc.
 - Price in the open market
 - Invoice value in case of purchase
 - As per Valuer's Report where value exceeds Rs.50,000
 - Not specified for Bullion
 - Shares & Securities
 - Quoted & Unquoted equity shares
 - Unquoted non –equity shares

FMV & SDV - II

- Immovable Property
 - SVA and s.50C
 - Value as on date of agreement in specified cases
 - Date of receipt to be relevant
- Valuation as per DVO's Report
 - West and Investment, 106 taxmann.com 679 (Mum.)
- Agreements prior to 01.04.2017
 - Benudhar Gokulanand Biswal, 153 taxmann.com 112 (Mum.)

Substitution of COA, S. 49(4)

- COA in hands of recipient
- ‘Subjected to tax’ u/s 56(2)(vii) & (viia)
- Value that is ‘taken into account’
- COA in cases where FMV < Rs. 50,000
- S. 49(4) and s. 49(1)
- Period of holding and s. 2(42A)

Penalty u/s. 270A

- Penalty u/s. 270A
 - Alrameez Construction (P.) Ltd., 52 taxmann.com 382 (Mum.)
 - Jaibalaji Business Corporation (P.) Ltd., 147 taxmann.com 333 (Pune)

Income Deemed To Accrue or Arise In India – s.9(1)(viii)

- W.e.f A.Y. 2024-25 Amendment
- **To include payment by R to NOR u/s. 6(6)**
 - On or after 1st April, 2023
 - Individual and HUF
- Being ‘any sum of money’
- Receipt without consideration
 - Case of inadequate consideration
- Income arising outside India
- Referred to in s. s.2(24)(xviiia) - income
- Income referred to in s .56(2)(x) - receipt

Income Deemed To Accrue Or Arise - II

- Case of over legislation
- Limited to ‘receipt’ of ‘any sum of money’
- Exemption of receipt up to Rs. 50,000/-
- Exemption for receipt from relatives and specified cases
- Cases of accrual /receipt in India
 - Application of S. 9 / DTAA
- Source of resident not relevant
- Gift by R to NR out of India w.e.f. 05.07.2019
 - S. 2(24)(xiia) and s. 9(1)(viii)
 - Deemed accrual in India

Receipt on Issue of shares

Section 56(2)(viib)

Receipt on Issue of shares - s.56(2)(viib)- I

- Issue of shares by closely held company, A.Y. 2013-14
 - Receipt' by a 'CHC' from any person
 - Consideration for 'issue' of 'shares'
 - Where exceeds face value
 - ❖ Tax on excess over FMV of shares -Rs.50,000
 - Exemption for receipts by;
 - VCU from VCC, VCF and Specified Fund
 - Company from prescribed class –Notification No. SO 1131dt. 05.03.2019
 - Higher of FMV as per Rule 11U & UA or Satisfaction of A.O.
 - Any shares
 - Income of the company
 - Application of s. 68 and rate of taxation u/s 115BBE
 - Implication where FV higher than the FMV
 - Consequences for violation of Notification –withdrawal of relief

Receipt on Issue of shares -II

- W.e.f. 01.04.2024
- Receipt from a person **including Non-Resident**
 - Issues in determination of values
 - Anti-abuse provision
 - Related party transactions
 - Holding ; subsidiary transactions with business motive
 - Approved under FEMA
- Case of RNOR – Amendment in S. 9(1) and S. 56(2)
- Receipt form NR was not covered
 - Ruchi J. Oil (P) Ltd, 129 taxmann.com 432 (Indore)
- Share Application Money from Non-resident
 - Edulink (P) Ltd., 178 ITD 174 (Bang)

Receipt on Issue of shares –III

- Issue at a premium by a new company
 - Green Infra Ltd., (Mum.)
- Pre amendment position in law
 - Om Oils & Seed Exchange Ltd., 152 ITR 555(Del.)
 - Allahabad Bank Ltd., 73 ITR 745 (SC)
 - Standard Vaccum Oil Co., 59 ITR 685 (SC)
 - Kishnaram Baldeo Bank Ltd., 144 ITR 600 (MP)

Receipt on Issue of shares -IV

- Issue of RNCPS,
 - Microfilm Capital P. Ltd. 192 TTJ (Kol.) 431
- Method for FMV of shares.
 - DCF or not
 - Rameshwaram Strong Glass (P) Ltd
 - Ozone land 32NY TTJ 508 (Jp.)
 - Meduplus 158 TTD 105 (Hyd)
- S.68 and S.56(2) (viib),
 - Shubhalaxmi Vanijya (P.) Ltd. 172 TTJ (Kol) 721,
 - 304 CTR 190 (Kerala)
- S.56 (2) (viib)& NR,
 - Finproject India, 194 TTJ 277 (Mum)
 - Green Infra End; 145 ITD 240 (Mum)
 - Pratik Syntex (P) Ltd; 94 taxmann.com 12 (Mum)
 - Ozoneland Agro P Ltd, 32-NY TTJ -508 (Jp.)

Interest on Compensation

Section 56(2)(viii)

Interest on Compensation

- FA (No.2) 2009 w.e.f. A.Y. 2010-11
- Interest on compensation or enhanced compensation
 - Referred to in s. 145B of ITA
- Deemed income of the year of receipt
- Notwithstanding the method of accounting
- Taxation in the year of receipt
- Income from Other Sources

Forfeiture

Section 56(2)(ix)

Forfeiture of Advance-I

- w.e.f. 01.04.2015 – A.Y.2015-16
- Pre- amendment position- Not an Income
 - Travancore Rubber & Tea Co. Ltd. 243 ITR 158 (SC)
 - Effect on COA as per s.51
- ‘Forfeiture’ of ‘any sum of money’ to be Income
 - Receipt in kind – Waiver
- Received - as an ‘advance’ or ‘otherwise’
- ‘In the course of negotiation’
- For ‘transfer’ of a ‘capital asset’
- ‘Negotiations do not result in transfer’
 - same person ? Same year ?
- Tax under the head ‘Income from Other Sources’

Forfeiture of Advance-II

- Simultaneous Amendment in s.2(24)
- Simultaneous Amendment in s.51
 - COA not to be reduced where taxed u/s 56(2)(ix)
- Allowance of expenditure incurred
- Higher rate of taxation
- Year of taxation-Receipt- Forfeiture- No transfer

Receipt on Termination / Modification of employment

Section 56(2)(xi)

Taxability of compensation

s.28, s.56

- W.e.f. A.Y. 2019-20
- Tax on receipt of compensation
 - On termination or modification of T & C
 - Contract relating to business
 - Contract relating to employment
 - Revenue or Capital
 - Due or received
 - Taxable under respective heads u/s. 28(ii)(e) & s. 56(2)(xi)
 - Taxable at ordinary rates
 - Year of Taxation
- Amendment in s. 2(24) for employment contract
 - Insertion of cl. (xviib)
 - Significance of taxation as Income from Other sources
 - Receipts post termination of employment

Business Trusts

Section 56(2)(xii)

Business Trusts

- W.e.f. A.Y. 2024-25
- S. 2(24)(xviic) – Income to include specified income
- S. 56(2)(xii) – Specified income to be taxed as ‘IFOS’
- S. 48(ii) – Reduction in Cost of Acquisition
- S. 115UA(3) - No tax on BT in respect of SS
- S. 10(23FC) – Exemption for SI for Foreign Trusts
- S. 193- No TDS on interest by SPV to BT on securities
- S. 197 - Possible to apply for lower or Nil deduction by BT on Income distribution to UH

Receipt From Business Trust

- Insertion of new clause (xii) w.e.f. 01.04.2024
- Tax on Receipt from Business Trust by a beneficiary
 - any sum received by a unit holder from a Business Trust which
 - is not in the nature of income as referred to in clause (23FC) or clause (23FCA) of section 10 of the Act; and is not chargeable to tax under sub-section (2) of section 115UA of the Act;
 - Other than Dividend, Interest and Rent
 - Return of Debt to be taxable
- Where the sum received by a unit holder from a Business Trust is for redemption of unit or units held by him, the sum received shall be reduced by the cost of acquisition of the unit or units to the extent such cost does not exceed the sum received;
- Insertion of clause (xviid) in definition of Income u/s 2(24)

Specified Sum - I

- Defined vide Explanations
- Formulae based definition $SS = A - B - C$
- Specified sum taxable in hands of unit holders
- A Receipt by UH from BT in respect of unit
- A Receipt by UH – the year of receipt
- A Receipt by UH – under the head ‘IFOS’
- Tax at regular rates

Specified Sum - II

- **A** = Aggregate of sum distributed by BT to UH
 - w.r.t. units
 - during previous year / s
 - to UH who held units on the date of distribution
 - which amount distributed is ;
 - not an income referred in s. 10(23FC) / (23FCA)
 - not chargeable to tax u/s. 115UA(2)
- **B** = issue price of unit by BT
- **C** = Amount charged to tax u/s. 56(2)(xiii) in any previous year

COA Of Units of BT - I

- S. 48(ii) amended by insertion of Explanation 1 and 2
- Reduction of COA of units by an amount received by UH but not taxed in hands of BT and UH
- Explanation 1 for removal of doubts
 - Reduction or deemed reduction of COA
 - By any sum received by unitholder
 - From BT in respect of units
 - Which is;
 - not an income referred to in S. 10(23FC) / (23FCA)
 - not chargeable to tax u/s. 56(2)(xii)
 - not chargeable to tax u/s. 115AU(2)

COA OF Units of BT - II

- Explanation 2 for the purposes of Explanation 1
 - Clarification that sum received before or after s. 47 transaction to be reduced from COA in cases where it is determined u/s.49

Life Insurance Policies

Section 56(2)(xiii)

Life Insurance Policies - I

s. 2(24), 10(10D) & 56(2)(xiii), s.194DA

- W.e.f A.Y.2024-25
- Provision for exemption of receipts of LI Policies/ULIP
 - Tax on certain ULIP & LI where premium > Rs.2.50L/10%
- Present day exemption for high premium LI Policies
 - Against legislative intent –social welfare –subsidy
- To prevent misuse by denying exemption u/s 10(10D)
 - for policies issued on or after 01.04.2023
 - in cases where annual premium exceeds Rs.5,00,000
 - cases of more than One policy
 - tax on proceeds less premium paid under IFOS u/s56(2)(xiii)
 - computation to be prescribed – s.2(24)(xviid)
 - exemption for receipts on death
- Circular 2 of 2021 dt. 19.01.2021 for ULIP maturity taxation

Life Insurance Policies- II

- Bonus included
- Rules for computation of premium to be prescribed
- Objective of amendment – Discourage investment
- TDS u/s. 194DA @ 5% of Income / s. 195
- Other conditions of S. 10(10D) to continue to apply

Life Insurance Policies - III

- Point of taxation - year of receipt.
- Bonus not eligible for exemption.
- ‘Premium payable’ – ‘part’
- Dedn. for aggregate premium paid in computing income
 - not where claimed as deduction.
- IFOS, not capital gains.
 - eligible deductions and S. 58.
- Exemptions denied even where.
 - IRDA approved.
 - No deduction was allowed for premium.
 - Deduction under chapter VI-A limited to ceiling.

Life Insurance Policies - IV

- Ceiling of Rs.5 lakhs w.r.t. all policies – post 31.03.2023
- Cases of KIP, ULIP, non-life policies.
- Single premium policy - one time payment.
- Cases of Advance and Arrears payment.

Life Insurance Policies - V

- Policies of Foreign Insurance Company.
- Case of non-resident and RNOR.
 - S. 9(1) (i) and DTAA – Intangible asset
- Capital Receipts-Income from Other Sources.
- Cases where S. 64 is applicable
- Gross or net of GST and other levies
- Assignment of Policy
- Receipt on death of insured person

Deduction on actual payments

Section 43B(h) & MSME Act

Deduction on Actual Payment – s.43B I

- W.e.f. A.Y. 2024-25 insertion of new clause (h)
- Any sum payable to a Micro & Small Enterprise
 - beyond specified time limit; deduction only on actual payment
 - method of accounting not relevant
- Tax Audit Report under cl. 22 of Form 3CD
 - Interest inadmissible u/s.23 of MSME Act
- Invocation of ITC under GST, all encompassing net
 - if payment not done in 180 days
- Proviso permitting dedn. for payment by s.139(1) due date
 - **NOT APPLICABLE.**
- Disallowance only where deduction claimed

Deduction on Actual Payment – s.43B II

- Overriding provision
- Business Income, only
- Payment after year end
 - Allowance in year of accrual if paid as per s. 15
 - Allowance in year of payment in other cases
- Applicability to service providers
- Case of acceptance of goods/services after 31.03 2023
- Late payments during the financial year
- Advance payment – allowed in year of payment (SC)
 - Modipon Ltd., 252 Taxman 123 (SC)

MSMEDA - I

- Micro and Small enterprises - s.2(h) & (m) of MSME Act
 - Micro – Rs.1CR Investment and 5CR turnover
 - Small – Rs.10CR Investment and 50CR turnover
- Time limit as per s.15 of the MSME Act 2006 – for payment
 - 45 days of acceptance of goods /services - if written agreement
 - 15 days of acceptance of goods /services - in other cases
- Notification No. SO 2119(E) dt. 26.06.2020
- Registered under Uydham w.e.f. 01.07.2022
- Micro and Small are covered – Medium not covered

MSMEDA – II

- Protection to MSME under Act
- Payment to Supplier by ‘Appointed date’
- Provisions for interest, disclosure, disallowance, recovery and arbitration / decree

MSMEDA - III

- Supplier to be registered under
 - defined under S. 2(a) of Act
 - to file Memorandum as per S. 8(1)
 - includes
 - NSIC, SIDC, State, UTT
 - Any company society, trust or body selling services, goods or services produced or provided by MSME
 - ‘Medium enterprise’ not a supplier
 - Applies qua ‘buyer’ - S. 2(d) of Act
 - of goods and /or services in India

MSMEDA - IV

- Appointed day – S. 2(b) of Act
 - Day after 15 days of the date of ‘acceptance’ of goods or services
 - Agreed date not beyond 45 days
 - Extension in case of written objection
 - Terms of payment not relevant
- Acceptance time- Deferral / obligations
- Case of Real Estate Developer
- Payment in Kind / adjustment
- Suggestions
 - Exchange of information
 - Invoice - Circular

Points to ponder for S. 43B(h)

- Payments to non-supplier
- Payments for non-goods / services – interest on loan
- Applicability to Capital Expenditure
- Case of supply before 01.04.2023
- Cases of no agreement - year of payment only
- Supply by One Micro or Small to another MSE
- Not registered
- Registered post contract?
- Inclusive or exclusive of GST and other taxes

Thank You