

Taxation of Family & Business Trusts -Truth & Myths

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Balshikshan School, Mayur Colony, Kothrud, Pune

Direct Taxes Committee of ICAI

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Synopsis

- Law of Trust
- Income tax

Trust

- A Trust is created on transfer of a property by a person to another person for holding and management of the property transferred for the specified duration for the benefit of the specified persons and the another person has accepted the property on the specified terms and conditions
- Trust u/s 3 of the Indian Trusts Act, 1882 ('ITA'):
 - “an obligation annexed to the ownership of the property, arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him for the benefit of the another, or of another and the owner”

Participants in Trust

- Settlor / Author/Grantor; Owner & Transferor of property
 - Movable or immovable or tangible or intangible
- Trustees;
 - A trusted transferee
 - Accepts trusteeship and T & C of trust
 - Receives, Holds in trust and Manages the property
 - Earns income
 - Distributes or Accumulates
 - Personal or Corporeal
 - Regular, Caretaker, Protector
- Beneficiaries
 - Receptient of benefits of trust

Duration of Trust

- Settlor to specify
- Discretion of the Trustees
- Power of the Beneficiaries
- Extension of the period
- Law against Perpetual Succession
- Benefit of Unborn child
- Benefit of would be spouse

Amendments

- Power of participants -limited
- Power of court

Governing statutes

- Indian Trusts Act
- Public Trusts Act
- Transfer of Property Act
- Indian Contract Act – absence of consideration
- Relevant considerations at the time of settlement
- Applicable statutes on settlement
 - TOPA, Stamp Act, Registration, SOGA
 - Economic laws
 - SCRA, FEMA

Overview of the Indian Trust Act, 1882

Section	Particulars
1 to 3	Preliminary & Title and Definitions
4 to 10	Creation of Trust – Conditions
11 to 30	Duties and Liabilities of Trustees
31 to 45	Rights & Powers of Trustees
46 to 54	Disabilities of Trustees
55 to 69	Rights and Liabilities of Beneficiaries
70 to 76	Vacating the office of Trustees
77 to 79	Cessation of Trust
80 to 96	Certain Obligations- A Trust

Stamp Duty & Registration

- Indian Stamp Act
- Stamp Acts of the states
- Registration Act

Need For Trust

- Divesting ownership
- Succession planning
- Tax considerations
- More than one generation
- Power to manage with trusted/skilled people
- Limiting right of disposition
- Inbuilt flexibility
- Insolvency & Bankruptcy and Inheritance tax laws
- Smooth transition without court probate

Types of Trust

- Specific
- Discretionary
- Accumulation
- Will through Trust
- Business Trust
- Securitization Trust
- Charitable Trust
- Foreign Trust
- Pets Trust
- Living Trust
- Oral Trusts

SWOT analysis

- Options – to settle or not to settle
- Desirables & Deliverables
- Succession plan
- Cost benefit analysis
- Management & Administration
- Investment restrictions
- Family ideology
- Locking v. Unlocking options ; flexibility
- Trust Deed
- Compliance regulations

Validations- General

- Indian Trusts Act, 1882
- Concurrent list of Constitution of India
- Author, Trustees, Beneficiaries
- Fiduciary relationship
- Agreement between settlor and trustees
- Transfer of Property to trustees
- Trustees are Custodian of Property
- Not agents- Trustees
- Terms of settlement
- Settlement for an unborn person
- Subject to rule against perpetuity

Income-tax

Validations- Income Tax I

- No special provisions for a Private Trust
 - Charge, computation and Residential status
- Special provisions
 - Assessment, Representative assessee, rate & recovery of tax
- Determinate (Specific) Indeterminate (Discretionary) Trusts
- Specific provisions
 - S. 2(13A), 2(31), 4 to 6, 10(23FE), 48, 56(2), 60 to 64,
 - 115UA, 139(1), 139A, 160 to 167B, 238
- Assessment
 - Representative Assessee- Trustees
 - Option to assess beneficiaries with AO
 - Once exercised- final

Validations- Income Tax II

- Assessment in like manner and to the same extent
 - Status- personal and residential qua beneficiary
 - Computation- deductions and exemptions possible
 - Threshold
 - Rates of taxation
 - Liability to compliance on trustees
 - Assessment in hands of trustees
- Discretionary Trusts
 - Assessment on Trustees- Option on distribution
 - Status of beneficiary
 - Rate of tax- MMR without threshold exemption

Validations- Income Tax III

- Profits and Gains of Business at MMR
 - Specific or Discretionary
 - Subject to a few exceptions
 - Discretionary better placed
- Rate of tax
 - Specific- Ordinary or MMR
 - Discretionary- MMR or Rate of AOP or ordinary
- Income once taxed NOT taxed again on distribution

Settlement of Income/Assets

s.60 ,61, 62, 63

- Transfer of income without asset
 - Income to be clubbed in hands of transferor
- Revocable Transfer
 - Income to be clubbed in hands of transferor
- Irrevocable transfer of assets **or income**
 - for the life of transferee
 - tax in the hands of the transferee
- Transfer includes “Settlement”
 - ☺ In trust

Revocable Transfer – I

s.63(a)(i)

- Provision for retransfer
 - directly or Indirectly
 - whole or part of the asset
- Consequence of such a provision for Revocable Transfer
 - Clubbing provision activated
 - Tax in the hands of Transferor
- Impact where Settlor is a beneficiary
 - Case of deemed revocation
 - Actual retransfer not relevant
 - Case of subsequent settlement by a Donor

Revocable Transfer -II

S. 63(a) (ii)

- Power to reassume the asset
 - directly or Indirectly
 - whole or part of the asset
 - assumption of power to manage asset
- Consequence of such power
 - Clubbing provision activated
 - Tax in the hands of Transferor
- Impact where Settlor is Trustee
 - not a beneficiary,
 - paper power
 - subsequent assumption of trusteeship

Relevant Provisions of Income Tax Act

- S. 2(29B) – Maximum Marginal Rate
- S.2(13A) – Business Trust
- S. 2(31) – Person
- S.6- Residence
- S.10(23FE) – Exemption for income of Business Trust
- S.48- Deduction for Business Trust
- S.56(2)(x) – Receipt by Trust
- S. 56(2)(xii) – Income of unitholder of Business Trust
- S. 60 to 64 – Clubbing
- S.115UA – Taxation of income of Business Trust & Unitholders
- S.139(1) & (4A) to 139(4F) – Return of Income
- S.139A- PAN
- Section 160-167 – Representative Assessee – liability
- Section 167B - Taxation of AOP

General Rules of Taxation

- No specific provision for taxing a private Trust
- Provisions for taxing ;
 - Trustees ; in representative capacity
 - ☺ Like manner and to the same extent
 - Beneficiaries ;
- Provision for rate of tax in case of discretionary trust
- Provision for recovery of taxes
 - Power of reimbursement

Taxation of Private Trust

- Different set of rules for different trusts
- Distinction and identification
 - ☺ Where shares of beneficiaries
 - Known and determinate
 - Unknown and indeterminate
 - ☺ Where income is accumulated

Determinate & Known Shares ; specific trust

s.161

- Where income does not include business profits (1)
 - Beneficiaries taxable directly
 - Trustee assessable in the like manner and same extent
 - ☺ at rates applicable to each beneficiary
- Where income includes profits from business (1A)
 - whole of the income of the trust taxable at MMR
 - exception; trust declared by any person under ‘will.’
 - ☺ exclusively for the benefit of any relative,
 - ☺ dependent on him for support and maintenance
 - ☺ such trust is the only trust so declared by him
 - ☺ ITB, 25

Indeterminate & Unknown shares; Discretionary-I

s.164

- Where income does not include profits from any business
 - taxable at the maximum marginal rate **BUT**
 - taxable in trustees' hands at the rates applicable to an AOP if;
 - ☺ None of the beneficiaries has taxable income, or
 - ☺ No beneficiary is a beneficiary in any other trust; or
 - ☺ Income receivable under a trust declared under a Will
 - such trust is the only trust so declared; or
 - ☺ Income receivable under a non testamentary trust
 - created before 01.03.1970
 - exclusively for the benefit of relatives of settlor, or member of HUF,
 - who are mainly dependent upon settlor; or
 - ☺ Income receivable on behalf of PF,SAF,GF, Pension F,
 - any bona fide fund created for employees benefit

Indeterminate & Unknown shares-Discretionary-II

s.164

- Where income includes business profits:
 - whole of the income of the trust is taxable at MMR **BUT**
 - where such profits are receivable under a trust
 - declared by any person by ‘will’
 - exclusively for the benefit of any relative,
 - dependent on him for support and maintenance and
 - such trust is the only trust so declared by him,
 - then, trustees assessable at the rates applicable to an AOP

Person ;s.2(31)

- Person; various shades – likely possibilities
- AOP, Indira Balkrishna, 39 ITR 546 (SC)
 - H. E. H. Nizam's Family (RW) Trust, 108 ITR 555 (SC).
 - Marsons Beneficiary Trust, 188 ITR 224(Bom)
 - Smt. Pushpawati 327 ITR 490 (Del)
- Juristic person, Thanti Trust. 178 ITR 1(Mad)
- BOI, Lalchand Tikamdas Makhija Anr. 188 ITR 253(Bom)

Residential status of Specific Trust

- Tax in the hands of trustees or beneficiaries
 - as leviable upon and recoverable from the person represented
 - H.E.H. Nizam Family Trust's case, 108 ITR 555 (SC).
- Status of beneficiary to determine the status of trustees
- Where more than one beneficiary
- Where mix class of beneficiaries
 - Corporate and non-corporate
 - Resident and non-resident
 - ☺ Application of DTAA

Residential status us of Discretionary Trust

- As an Individual
 - CBDT Circular No. 6 dt. 3rd August, 2012, 346 ITR (St) 96
- Individuals and corporates beneficiaries
- Income not attributable to any beneficiary
- Where income attributable to beneficiary
 - Sole beneficiary Trust
 - Distributed amongst beneficiaries
- Gordhandas Govindram Family Charity Trust, 88 ITR 47(SC)
- H. E. H. Nizam's Family(Remainder Wealth) Trust, 108 ITR 555 (SC),
- 221 ITR 649 (Mad), 263 ITR 428(Mad), 201 ITR 989(Cal)

Character of Income

- Head of Income
 - IFHP, PGBP, CG, IFOS, UnI
- Retains character in hands of beneficiary

Business Income

- Taxed at MMR
 - Discretionary or Specific Trust
- Exception for Trust created through Will
 - Subject to compliance

Tax Exemptions for Capital Gains I

- Eligibility of a trust
- Pre-conditions for a valid exemption
 - Assessee being an ‘Individual’ or ‘HUF’
 - Assessee has ...’purchased’...
- Difficulties of claim in Trust situation
 - Eligibility for exemption
 - Identifying ‘assessee’
 - Defining purchaser of new asset
- Assessee
 - Trust- not an assessee
 - Trustee- a ‘representative assessee’

Tax Exemptions for Capital Gains II

- Beneficiary- an ‘assessee’
 - Like manner, to the same extent
 - Law applicable to beneficiary to be applied
 - ☺ Deepak Family Trust, 211 ITR 575 (Guj.)
 - ☺ Venu Suresh Sanjay Trust, 221 ITR 649 (Mad.)
 - ☺ Arundhati Balkrishna, 177 ITR 275 (SC)
 - Amy F. Cama, 237 ITR 82 (Bom.)
- Precautions- use of funds & documentation
- Discretionary Trust- NOT in ‘like manner, same extent’
 - Trustee a Representative assessee and not an assessee
 - ‘Individual’- S.A.E. HO Monthly Paid Emp. Trust, 271 ITR 159 (Delhi)
 - Case of sole beneficiary Trust; better
 - Exercise of discretion for distribution of income- Beneficiary liable
 - ☺ Kamilini Khatau, 209 ITR 101 (SC)
 - ☺ Moti Trust, 236 ITR 37 (SC)

Income from Other Sources

s.56(2)(x)

- On receipt by Trustee or Trust without consideration
 - Exception for receipt;
 - ☺ From an individual by a Trust
 - Created or established **solely** for benefit
 - of **relative** of the individual
- On distribution
- On release
- On dissolution

Transfer to Spouse/Daughter-in-law/ Children

S. 64

- Gift to spouse
 - Directly or Indirectly
 - ☺ includes settlement in Trust.
 - ☺ activation of clubbing –s.64(1)(iv)
- Gift to daughter-in-law
 - Directly or Indirectly
 - ☺ includes settlement in Trust.
 - ☺ activation of clubbing –s.64(1)(vi)
- Gift to minor children
 - Directly or Indirectly
 - ☺ includes settlement in Trust.
 - ☺ activation of clubbing –s.64(1A)
- Income of minor beneficiary

Losses of Trust

- Specific Trust
- Discretionary Trust
- Rules of set-off and carry forward and set-off
- Relevance of residential status of beneficiary

Deductions & Exemptions

- Beneficiary- an ‘assessee’
 - Like manner, to the same extent
 - Deductions under chapter VIA
 - ☺ Law applicable to beneficiary to be applied
 - Deepak Family Trust, 211 ITR 575 (Guj.)
 - Venu Suresh Sanjay Trust, 221 ITR 649 (Mad.)
 - Arundhati Balkrishna, 177 ITR 275 (SC)
 - Exemptions for capital gains
 - ☺ Amy F. Cama, 237 ITR 82 (Bom.)
 - For concessional rates of taxes
 - For threshold limit exemptions
- Discretionary Trust and its eligibility

Direct Assessment of Beneficiary

- In case of Discretionary Trust
 - Beneficiary not identified or share not defined
- Direct assessment not possible
- Possible to assess beneficiary on distribution of income
 - S.5 or s.166
 - ☺ Jyotendrasinhji, 201 ITR 611 (SC)
 - ☺ Kamilini Khatau, 201 ITR 109 (SC)
 - ☺ Moti Trust, 236 ITR 37 (SC)
- Trustees only assessable- other view
 - Alpana Kirloskar, 150 ITD 311 (Delhi) – where trust already taxed
 - Circular No. 157 dt.16.12.1974
- Better view

Rates of Tax

- MMR s.2(29C),
- Discretionary or Indeterminate -s.164,
- AOP-167B
- Surcharge and Education cess
 - Graded or flat Surcharge
 - Aradhya Jain Trust, 173 taxmann.com 343(Mum)(SB)

Determination of Tax Base

- Tax base for Discretionary Trust
 - Seeking exemption under clause (i) of 1st Proviso
 - Income of Trust possible only where distributed
 - Other income only to be considered

Rate of tax for Beneficiary

- Where taxed in beneficiary's hands – ordinary rate
 - R. Sreevidya, 84 ITD 222 (Cochin)
 - Case of a discretionary and specific trust, as well
 - S.161(1A) and S.164
 - ☺ MMR where taxed in the hands of trustees
 - ☺ Scope of s.166 restricted to option and not to taxes
 - Option once exercised to be taken to logical end

Rate of Tax on Discretionary Trust

- Assessment in status of ‘individual’
- Benefit of concessional rates for capital gains
- Wealth Tax at Ordinary Rates not at MMR of 3%
 - Pradip D. Kothari Trust, 27 ITD 176 (Mad.)

Trustee's Rights to recover

s.162

- Power of Trustees
 - To recover taxes paid on behalf of Beneficiaries
 - from trust funds; or recover from beneficiaries.
- Under Trust Act
 - Subject to Trust Deed -Trustees not to get remuneration

TDS credits

- TDS by Payer of income
- Income of specific trust taxed in like manner ; same extent
- TDS credit for beneficiaries of specific trust
- Credit for Discretionary Trust
 - ☺ Where taxed in hands of trust
 - ☺ Where taxed in hands of beneficiary

Trust Helps

- Separate taxable entity
- Benefit of threshold exemption
- Deductions & exemption
- Lower rate of tax
- Transfer assets & income
- Retention of management & control
- Exercise discretion over period
- Flexibility beyond life period
- Divest ownership & inheritance tax

- Discretionary Trust - Issues

- Option to assess beneficiaries
 - Kamalini Khatau (1994) (209 ITR 101)(SC)
- Deductions under chapter VIA
- Exemptions under s.54, 54F, 54EC
 - where individual beneficiary is taxed
- Threshold exemption for Discretionary trust
 - For beneficiaries
- Sur-charge on MMR
 - Aradhya Jain Trust 173 taxmann.com 343(Mum)(SB)
- Where income less than the threshold for sur-charge levy
 - Tayal Sales Corporation, 1 SOT 579 (Hyd.)
- Concessional rates v. MMR in special cases
- MMR v. DTAA rates

Alternative Investment Funds

- CBDT's view- Discretionary Trust
 - Circular No. 13/2014 dt. 28.07.2014
- Constituted as a Trust under Indian Trust Act, 1882
- Business model- Medium of Investment
 - Collection- Investment- Income- Distribution
- Business practice- open ended
 - fluctuating body of beneficiaries
 - entry and exit possible
- Judicial view
 - India Advantage Fund, 50 taxmann.com 350 (Bang.)
 - In Re, 224 ITR 473 (AAR)
 - Raptakos Brett & Co. (P.) Ltd., 177 ITR 202 (Bom.)

Unborn child or Would-be in-laws I

- Discretionary or not?
 - Beneficiary to be ‘expressed’ and ‘identified’
 - Share to be ‘expressed’ and ‘ascertainable’
- Legal to settle a property in such a trust
 - Rule against perpetuity observed
- Beneficiaries are identified and shares ascertainable
 - Effective on happening of an event
- Beneficial interest to be preceded by persons
 - who are identified in deed
 - whose share is ascertainable

Unborn child or Would-be in-laws II

- Not invalid nor a discretionary trust
 - M.K.Kannan Marriage Benefit Trust, 240 ITR 785 (Mad.)
 - Brig. Kapil Mohan, 252 ITR 830 (Delhi)
 - T. Senthil Kumaran, 39 TTJ 177 (Mad.)
 - P. Sekar Trust, 321 ITR 305 (Mad.)
- Contingent beneficiary- Discretionary Trust
 - Atreya Trust, 55 Taxman 489 (Cal.)

A Trust through Will I

- Where more than one relative
 - ‘Any’ relative- s.161(1A), s.164, cl.(ii) to 1st & 2nd Proviso
- ‘ Exclusively’
- Where independent income of a beneficiary
 - Dependency for support and maintenance
 - Independent income not an imperdiment
- Where income subsequent to settlement
 - Compliance- on settlement or on claim of relief
 - Declaration under a Will
 - Chunilal Raichand Trust, 189 ITR 631 (Bom.)
 - Gunvantlal Jivanlal Family Trust, 133 ITR 162 (Bom.)

A Trust through Will II

- Settlement of a Charitable Trust- in addition
 - Trust is the ‘only’ trust ‘so declared’ by him.
 - ☺ V.M.R. Trust, 253 ITR 491 (Mad.)
- Parents- residing with brother- Partly dependent
 - Relative- s.2(41)- lineal ascendants- both parents
 - Dependency independent of parenthood
 - Stay of dependent not relevant
 - Dependence for support and maintenance
 - ☺ Need not be ‘Exclusively’, ‘fully’
- Settlement by sister, also
 - Compliance of conditions qua Will of the deceased
 - Impossibility of control
 - For support and maintenance- more persons
- ITB, 2025

Minor Beneficiary Trust I

- Is income taxable during minority
 - S.4 and 6- Arising, Accruing, Received
 - S. 160- Receives or entitled to receive
 - S.161(1)- Received by or accruing to
- Beneficiary/ies of a specific trust
 - Not accrued or received by beneficiaries
 - Not to be clubbed u/s 64
 - ☺ Doshi M.R., 211 ITR 001 (SC) – Amendment of 1971
 - ☺ Mutammal (N.), 227 ITR 656 (Mad.) – Post amendment
 - Taxable on accrual – s. 161(1)
 - ☺ Ganesh Chababhai Vallabhbhai Patel, 258 ITR 193 (Guj.)

Minor Beneficiary Trust II

- Direction to accumulate- whether discretionary
 - Sheetal Sunder Trust, 96 ITD 128 (Bang.)(TM)
 - Anasuya Muthanna, 232 ITR 561 (Mad.)
- Beneficiary/ies of a discretionary trust
 - Taxable in the hands of trustees at MMR
- Accumulation under a Will - Executor
 - C.P.Venkatesh (Minor), 27 ITD 298 (Mad.)

Creditor's Trust I

- Determination of assessee
- Taxation of Capital Gains on transfer of Trust Property
 - Creation of a Valid Trust by a Debtor
 - ☺ Creditors beneficiaries
 - ☺ Income in hands of trustees- Representative assessee
 - Taxable in the like manner and to the same extent
 - S.166- option to assess beneficiaries
 - S.162- recovery or retention of taxes
 - ☺ Advantage Debtor- Not liable to tax
 - Dutt's Trust, 10 ITR 472 (Cal.)
 - K. Krishnamachari, 11 ITD 194 (Hyd.)

Creditor's Trust II

- Rate of tax- MMR or ordinary
 - Discretionary or specific
 - Beneficiaries identified
 - Shares not unknown
 - Smt. Ved Wati Munjal, 38 ITD 11 (Chd.)

Pets' Trust

- Indian Trusts Act, 1882
- Parties
 - Author ▪ Settlor ▪ Trustees ▪ Beneficiaries
- Capable of holding property and earning income
- Human beings- body corporate-BOI
- Constitution of India
- Bombay Public Trusts Act, 1950
 - Public cause
 - ☺ Welfare of animals in general
 - ☺ Without specific rights of prosecution
- Income Tax Act
 - S.2(15)- Charitable purpose
 - ☺ Object of general public utility
 - S.2(31)- 'person'- artificial juridical person- deity
 - ☺ Shri Hanuman Mandir Trust, 84 ITD 83 (Pun)

Foreign Trust

- Principles of taxation
 - S.4 to 6 of Income Tax Act or DTAA
 - S.160 to 167 to apply
 - In hands of Representative Assessee or Trustees
 - Status qua beneficiary unless a discretionary trust
 - Specific Trust
 - ☺ World income if resident
 - ☺ Indian income if Non Resident or Resident but NOR
 - Discretionary Trust
 - ☺ Indian income of Trust
 - ☺ World income if sole beneficiary –Resident
 - Status of income
 - ☺ On settlement-Accrual or receipt-Distribution
 - Return of income u/s 139(1)
- Maharaja Vikramsinhji of Gondal, 363 ITR 679 (SC)
- Mohan Manoj Dhupelia, itatonline.org (Mum.)

Foreign Discretionary Trust

- “Legal” Planning: “NR trust” [S. 6(2)]
- NR Settlor, NR Trustees, NR Protector
- At least one NR beneficiary.
- Preferably a Charitable Trust
- NR Settlor
 - IR Beneficiaries, Sections 4 & 8 of FEMA.
 - IR required to bring Into India every foreign assets
 - Hence tax planners make Discretionary Trusts

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

Business Trust & Taxation

- Business Trusts –s.2(13A)
 - Infrastructure Investment Trusts –InVITs
 - Real Estate Investment Trusts –REITs
- Structure; Trust and beneficiaries(Unitholders)
- Taxation of Income – s.10(23FC) & 115UA
 - In hands of Unitholders –pass through for Trust etc.
 - ☺ Dividend , Interest, Capital gains & **Specified Income** & deemed gains
 - Computation as per ITA, Form 64A and 64B
 - Character retained on distribution , Rule 12 CA
 - Tax at ordinary rates
 - ☺ In hands of Trust etc.
 - Other income excluding overflow income referred to in s.56(2)(xii)
 - Tax at MMR
 - Subject to benefit of s.111A and s. 112 and s.112A(A.Y.2026-27)

Specified Sum - I

- Defined vide Explanations
- Formulae based definition $SS = A - B - C$
- Specified sum
 - A Receipt by UH from BT in respect of unit
- Taxable in hands of unit holders UH
 - in the year of receipt
 - 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

- 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)
- 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

Securitization Trusts

- Non securitization income taxable
- Disallowance of expenditure u/s 115TA(4)
- No specific exemption for capital gains
 - on transfer of units of trust
 - in the hands of unit holders
- Disallowance of expenditure on investment in units u/s 14A
- Unit holders liability to MAT- DDT on distribution
- DDT on subsequent distribution



Thank You