PAPER – 7 : DIRECT TAX LAWS

QUESTIONS

Basic Concepts

1. Bricks Ltd., a cement manufacturing company, entered into an agreement with a supplier for purchase of additional cement plant. One of the conditions in the agreement was that if the supplier failed to supply the machinery within the stipulated time, the company would be compensated at 5% of the price of the respective portion of the machinery without proof of actual loss. The company received ₹ 8.50 lakhs from the supplier by way of liquidated damages on account of his failure to supply the machinery within the stipulated time. What is the nature of liquidated damages received by Bricks Ltd from the supplier of plant for failure to supply machinery to the company within the stipulated time – a capital receipt or a revenue receipt?

Charitable trusts and institutions

2. A public charitable trust, created under a trust deed for providing relief to poor, registered under section 12A, furnishes the following particulars of its receipts during the year ended 31st March, 2011 -

		₹ in lakh
(i)	Income from properties held by trust (net)	12
(ii)	Income (net) from business (incidental to main objects)	25
(iii)	Voluntary contributions from public (including the corpus donation of ₹ 4 lakh)	14

The trust applied Rs.15 lakhs towards activities undertaken for the benefit of street urchins and "Below Poverty Line" (BPL) families during the year. The trust has also paid ₹ 18 lakh towards repayment of a loan taken a year back for the purpose of construction of a vocational training centre for the benefit of training of youth from BPL families.

Determine the tax liability, if any, of the trust for the assessment year 2011-12.

Profits and gains of business or profession

3. A Ltd. owned a super smelter plant which requires large quantity of water for its day-to-day operation, in the absence of which it would not be able to function. The company, therefore, incurred expenditure for alteration of the dam (constructed by the State Government) to ensure sharing of the water with the State Government without having any right or ownership in the dam or water. A Ltd.'s share of water is also determined by the State Government. A Ltd. claimed the expenditure as deduction under section 37, which was disallowed by the Assessing Officer on the ground that it was of capital nature. Discuss, with the aid of a recent case law, the correctness or otherwise of the stand taken by the Assessing Officer.

4. Discuss, with the aid of recent case laws, whether the following expenditure incurred during the P.Y.2010-11 are revenue or capital in nature –

   (a) Purchase of software components for upgradation of computers

   (b) Purchase of second hand equipment for use as spare parts for existing equipment, if such second hand equipment is put to use only in April, 2011.

   (c) Amount incurred by a company for replacing the old worn out mono sound system in its cinema theatre with a new Dolby stereo system (Assume that there is no change in the seating capacity of the theatre or tariff rate of the ticket).

5. Alpha Ltd. incurred expenditure amounting to ₹ 5 lakh in connection with the issue of rights shares and ₹ 4 lakh in connection with the issue of bonus shares during the year ending 31.3.2011. It seeks your opinion on whether such expenditure is allowable as deduction while computing its business income for the assessment year 2011-12.

Capital Gains

6. Suresh, an individual resident in India, bought 2,000 equity shares of ₹ 10 each of XYZ Ltd. at ₹ 100 per share on 1.8.2010. He sold 1,500 equity shares at Rs.75 per share on 15.10.2010 and the remaining 500 shares at ₹ 90 per share on 15.2.2011. XYZ Ltd. declared a dividend of 40%, the record date being 1.9.2010. Suresh sold on 15.3.2011, a house from which he derived a long-term capital gain of ₹ 1,15,000.

   Compute the amount of capital gain arising to Suresh for the assessment year 2011-12.

Income from other sources

7. Discuss the taxability or otherwise of the following gifts received by Hari, an individual, during the financial year 2010-11:

   (i) ₹ 49,000 each from his two friends on the occasion of his birthday.

   (ii) Wrist watch valued at ₹ 51,000 from his friend.

   (iii) Acquired a plot of land from a friend, the stamp duty value of the land was ₹ 5 lakhs but the consideration agreed and paid was ₹ 3 lakhs.

   (iv) Received a gift of vacant land from his grand mother's sister, the stamp duty value of the land being ₹ 1,50,000.

   (v) Received from his friend as a gift on his aniversary, 1st July, 2010, bullion, the fair market value of which was ₹ 70,000.

Set-off and carry forward of losses

8. X (P) Ltd. has converted into an LLP on 1.4.2010 and at the time of conversion, all the conditions specified in section 47(xiiib) have been fulfilled. The unabsorbed business loss and depreciation of the company as on the date of conversion, were ₹ 25 lakhs and ₹ 32 lakhs, respectively. The business profits of the LLP for the previous year 2010-11

were ₹ 90 lakhs.

However, on 2.10.2011, three partners (who were erstwhile shareholders in X (P) Ltd.), holding in aggregate 55% of the profit-sharing in the LLP, resigned. Discuss the tax consequences of the conversion of company into LLP and subsequent resignation of partners.

Deductions from Gross Total Income

9. Mr. Raghu, a resident individual, aged 72 years, furnishes the following particulars for the year ending 31.03.2011:

   (a) Life Insurance Premium paid – ₹ 45,000, actual capital sum of the policy assured for ₹ 2,00,000;

   (b) Contribution to Public Provident Fund – ₹ 70,000 in the name of mother;

   (c) Tuition fee payment – ₹ 10,000 for his son pursuing B.Com from Vivekananda College, Chennai; Tuition fee for daughter pursuing MBA in Iowa University, USA – ₹ 3 lakh;

   (d) Housing loan principal repayment – ₹ 55,000 to IDBI Bank. This property is under construction at Chennai as on 31.03.2011;

   (e) Principal repayment of housing loan taken from a relative – ₹ 1,00,000. The property is self-occupied situated at Coimbatore;

   (f) Deposit under Senior Citizens Savings Scheme – ₹ 30,000;

   (g) Five-year deposits in an account under Post Office Time Deposit Rules – ₹ 30,000;

   (h) Subscription to long term infrastructure bonds of IDFC ₹ 40,000.

   Compute the deduction eligible under appropriate provisions of Chapter VI-A for A.Y. 2011-12.

Assessment of various entities

10. What is the tax treatment of transfer fees received by a co-operative housing society from its incoming and outgoing members, where the predominant activity of the housing society is maintenance of property of the society and there is no taint of commerciality, trade or business?

Assessment of Companies

11. The net profit as per the profit and loss account of Beta Ltd., a resident company, for the year ended 31.3.2011 is ₹ 350 lakhs arrived at after making the following adjustments:

(i)	Depreciation	₹ 170 lakhs
(ii)	Reserve for currency exchange fluctuation	₹ 90 lakhs
(iii)	Provision for tax	₹ 30 lakhs

(iv) Proposed dividend ₹ 80 lakhs

Following further information are also provided by company:

(a) Provision for tax includes ₹ 16 lakhs of tax payable on distribution of profit and of ₹ 2 lakhs of interest payable on income-tax.

(b) Depreciation debited in profit and loss account includes ₹ 60 lakhs towards revaluation of assets.

(c) Amount of ₹ 80 lakhs credited to profit and loss account was drawn from revaluation reserve.

(d) Balance of profit and loss account shown in balance sheet at the asset side as at 31.3.2010 was ₹ 25 lakhs representing unabsorbed depreciation.

Compute the book profits of the company for the year ended 31.3.2011 for levy of MAT.

12. B Ltd., a domestic company, holds 55% shares in A Ltd. A Ltd., in its annual general meeting held on 5.5.2010, declared a dividend amounting to ₹ 25 lakhs to its shareholders for the year ended 31.3.2010 and it paid dividend distribution tax on 15.5.2010. B Ltd. did not declare any dividend for the year ended 31.3.2010. It, however, declared an interim dividend amounting to ₹ 45 lakhs on 15.12.2010 for the year ended 31St March, 2011.

What is the amount of tax on dividend payable by B Ltd.? What would be your answer, if 75% of shares in B Ltd. are held by C Ltd., a domestic company?

Income-tax Authorities

13. Mr. Ganesh filed his return of income a day after the due date and the said return contained a claim for carry forward of losses. The delay of one day in filing the return of income was due to the fact that he had not reached the Central Revenue Building on time because he was sent from one room to the other and by the time he reached the room where his return was to be accepted, it was already 6.00 p.m. and he was told that the return would not be accepted because the counter had been closed. These circumstances were recorded in the letter along with the return of income delivered to the office of the Deputy Commissioner of Income-tax on the very next day. Mr. Ganesh made a request to the CBDT for condonation of delay in filing the return of income. Discuss whether the CBDT has the power to condone the delay in filing return of income of Mr. Ganesh and permit carry forward of losses.

Assessment Procedure

14. Discuss the correctness or otherwise of the following statements -

(a) "A salaried person is not entitled to act as a Tax Return Preparer";

(b) "A fresh claim before the Assessing Officer can be made only by filing a revised return".

Appeals and Revision

15. An Income-tax authority did not file an appeal to the Income-tax Appellate Tribunal against an order of the Commissioner (Appeals) decided against the Income tax department on a particular issue in case of one assessee, Mr. X for assessment year 2009-10 on the ground that the tax effect of such dispute was less than the monetary limit prescribed by CBDT. In assessment year 2010-11, similar issue arose in the assessments of Mr. X and his brother Mr. Y, which was decided by the Commissioner (Appeals) against the Department. Can the Income-tax department move an appeal to the Tribunal against the orders of the Commissioner (Appeals) for A.Y.2010-11 in respect of Mr. X and his brother Mr. Y?

Deduction, Collection and Recovery of tax

16. An airline company pays landing and parking charges to the Airports Authority of India. Discuss whether the company is required to deduct tax at source on such payment.

17. Prasar Bharti is a fully owned Government of India undertaking engaged in telecast of news, sports, entertainment, cinema and other programmes. The major source of its revenue is from advertisements, which were canvassed through advertising agensies appointed by Doordarshan under an agreement with them. The advertisement charges were recovered from the customers by the advertisement agencies in accordance with the tariff prescribed by Doordarshan and incorporated in the agreement between the parties. There was a provision in the agreement permitting advertising agencies to retain 15% of the advertising charges, collected from the customers and payable to Doordarshan, as commission.

    A clause in the agreement between Prasar Bharti and the advertising agencies reads as follows :-

    "Agency agrees to pay the TDS/income-tax liability as applicable under the Income-tax law on the 15% discount retained. For this purpose, the agency agrees to make payment to Doordarshan Commercial Service by means of cheque/demand draft for the TDS on 15% discount retained by them. This cheque/demand draft will be drawn separately and should not be included in the telecast fees/advertisement charges".

    It was contended that the agreement between Prasar Bharti and the advertising agency is not an agency but is a "principal to principal" agreement of sharing advertisement charges and therefore, the provisions for deduction of tax at source under section 194H would not get attracted in such a case. Discuss the correctness of contention of Prasar Bharti, with the aid of a recent case law. Would the retention of a percentage of advertising charges collected from customers by the advertising agencies on behalf of Doordarshan for telecasting advertisements attract the provisions of tax deduction at source under section 194H?

Double Taxation Relief

18. Vinay Agarwal, a resident individual (aged 35 years) is an actor deriving income of ₹ 1,10,000 from stage shows performed outside India. Tax of ₹ 20,000 was deducted at source in the country where the stage shows were performed. India does not have any double taxation avoidance agreement with that country. His income in India amounted to ₹ 3,00,000. Compute tax liability of Vinay Agarwal for the assessment year 2011-12 assuming he has deposited ₹ 50,000 in Public Provident Fund and paid medical insurance premium in respect of his father (a non-resident, aged 68 years) ₹ 22,000.

Wealth-tax

19. Mr. X is constructing a residential house property in Noida after obtaining sanction from appropriate authorities. Is wealth-tax leviable on the value of building under construction, where the construction was still incomplete on the valuation date, 31.3.2011?

20. Mrs. Gauri furnishes the following particulars for the computation of her wealth-tax liability for the assessment year 2011-12:

    (1) She owns two residential house properties, valuing ₹ 52 lakhs and ₹ 55 lakhs.

    (2) She is one of the partners in the business with her husband. The value of her interest in assets of the firm as at 31st March, 2011 is ₹ 15 lakhs. The said business is conducted in one of the house properties owned by Mrs. Gauri.

    (3) She has two motor cars – one Indian car valued at ₹ 8 lakhs and an imported car valued at ₹ 19 lakhs.

    (4) She has invested ₹ 5,00,000 in a bank deposit for five years to meet the future expense of children on their education.

    (5) Mrs. Gauri has signed "agreement to sell" for purchase of new residential house property of ₹ 40 lakhs and has made advance payment of ₹ 20 lakhs on 15th March, 2011 and has taken possession. However, the sale deed has not been executed till 31st March, 2011. She has taken loan of ₹ 20,00,000 from bank for purchase of said property.

    (6) She has cash balance of ₹ 80,000.

    Compute the wealth tax payable by Mrs. Gauri for the assessment year 2011-12.

SUGGESTED ANSWERS/HINTS

1. This issue came up before the Apex Court in *CIT v. Saurashtra Cement Ltd. (2010) 325 ITR 422.*

   The Apex Court affirmed the decision of the Gujarat High Court holding that the damages were directly and intimately linked with the procurement of a capital asset i.e., the

cement plant, which lead to delay in coming into existence of the profit-making apparatus. It was not a receipt in the course of profit earning process. Therefore, the amount received by the assessee towards compensation for sterilization of the profit earning source, not in the ordinary course of business, is a capital receipt in the hands of the assessee.

Therefore, in this case, the liquidated damages of ₹ 8.50 lakhs received by Bricks Ltd., from the supplier of plant for failure to supply machinery to the company within the stipulated time is a capital receipt.

2. Computation of total income of the trust for the A.Y. 2011-12

Particulars	₹	₹
Income from properties held by trust	12,00,000	
Income from business incidental to the main objects of the trust	25,00,000	
Voluntary contribution other than corpus donation (Note 1)	10,00,000	47,00,000
Less: 15% of income accumulated or set apart under section 11(1)(a)		7,05,000
		39,95,000
Less: Amount applied for charitable purposes		
Activities for the benefit of street urchins and BPL families	15,00,000	
Repayment of loan taken for construction of vocational training centre (Note 2)	18,00,000	33,00,000
Taxable Income		6,95,000

Computation of tax liability of the trust for the A.Y. 2011-12

Particulars	₹	₹
Upto ₹ 1,60,000	Nil	
₹ 1,60,000 – ₹ 5,00,000 @ 10%	34,000	
₹ 5,00,000 – ₹ 6,95,000 @ 20%	39,000	73,000
Add: Education cess @ 2%		1,460
Add: Secondary and higher education cess @ 1%		730
Total tax liability		75,190

Notes:

(1) Section 11(1)(d) excludes from the total income of the person, any income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution.

(2) In *CIT vs. Janmabhumi Press Trust (2000) 242 ITR 457,* the Karnataka High Court held that where a debt is incurred for the purpose of the trust, the repayment of the

debt would amount to an application of the income for the purpose of the trust. Therefore, repayment of loan taken for construction of the vocational training centre for the benefit of training of youth from BPL families is to be considered as application for charitable purpose.

3. This issue came up before the Rajasthan High Court in *CIT v. Hindustan Zinc Ltd. (2010) 322 ITR 478.*

On this issue, the Tribunal was of the view that since the object and effect of the expenditure incurred by the assessee is to facilitate its trade operations and enable the management to conduct business more efficiently and profitably, the expenditure is revenue in nature and hence, allowable as deduction.

The High Court observed that the expenditure incurred by the assessee for commercial expediency relates to carrying on of business. The expenditure is of such nature which a prudent businessman may incur for the purpose of smooth running of his business. The operational expenses incurred by the assessee solely intended for the furtherance of the enterprise can by no means be treated as expenditure of capital nature.

Therefore, applying the rationale of the above decision, the stand taken by the Assessing Officer in disallowing the expenditure on the ground that it was of capital nature is incorrect.

4. (a) The upgradation of computers for improving their configuration and enhancing efficiency, but without making any structural alterations is not a change of an enduring nature. Therefore, expenditure incurred on purchase of software components has to be treated as a revenue expenditure. It was so held by the Madras High Court in *CIT v. Sundaram Clayton Ltd. (2010) 321 ITR 69 (Mad.).*

(b) The Karnataka High Court, in *Dr. Aswath N. Rao v. ACIT (2010) 326 ITR 188,* held that if the second hand machinery purchased by the assessee is for use as spare parts for the existing old machinery, the same had to be allowed as revenue expenditure in the year of its purchase. Only if the machinery is purchased with an intention to use the same on a standalone basis, the expenditure would be treated as a capital expenditure and the year in which it is put to use would determine its eligibility for depreciation. Hence, the second hand machinery purchased for use as spare parts for the existing machinery shall be treated as a revenue expenditure in the year of its purchase.

(c) The amount incurred by a company for replacing the old Mono sound system in its cinema theatre with a new Dolby stereo system, had not benefited the assessee in any way with regard to its total income since there was no change in the seating capacity of the theatre or increase in the tariff rate of the ticket. In such a case, the expenditure on such change of sound system could not be considered capital in nature. It was so held by the Karnataka High Court in *CIT v. Sagar Talkies (2010) 325 ITR 133.*

5. The Supreme Court has, in *Brooke Bond India Ltd. v. CIT (1997) 225 ITR 798 (SC),* held that expenditure incurred by a company in connection with issue of shares with a view to

increase its share capital is directly related to the expansion of its capital base and, therefore, constitutes a capital expenditure. The issue of rights shares results in expansion of the capital base of Alpha Ltd. Hence, expenditure of ₹ 5,00,000 incurred by the company in connection with the issue of rights shares is a capital expenditure and is not allowable as a business expenditure.

On the other hand, the issue of bonus shares does not result in inflow of fresh funds or increase in the capital employed. It is merely capitalization of reserves. The issue of bonus shares does not expand the capital base of the company. The total funds available with the company and its capital structure will remain the same on issue of bonus shares. The Supreme Court, in *CIT v. General Insurance Corporation (2006) 286 ITR 232*, considered this effect of issue of bonus shares and ruled that expenditure incurred in connection with the issue of bonus shares was allowable as revenue expenditure. Hence, the expenditure amounting to ₹ 4,00,000 incurred in connection with the issue of bonus shares is deductible from its business profits for the assessment year 2011-12.

6. Computation of capital gains of Mr. Suresh for the assessment year 2011-12

Particulars	₹	₹
Long-term capital gain on sale of house		1,15,000
Less: Short-term capital loss on sale of shares [Refer computation below]		
1500 shares	31,500	
500 shares	5,000	(36,500)
Taxable long-term capital gains		78,500

Computation of capital gain on sale of shares of XYZ Ltd. by Mr. Suresh

Date of purchase of shares		1.8.2010
Record date		1.9.2010
Date of sale of shares	15.10.2010	15.2.2011
Number of shares sold	1,500	500
Sale price per share	₹ 75	₹ 90

Particulars	₹	₹
Sale consideration	1,12,500	45,000
Less: Cost of acquisition	1,50,000	50,000
	(37,500)	(5,000)

Less: Dividend income as per section 94(7) [1500×10×40%] [See Note 1 below]	6,000	-
Short-term capital loss on sale of shares	(31,500)	(5,000)

Note:

1. As per section 94(7), where any person buys any securities within a period of three months prior to the record date and sells such securities within a period of three months after such date and the dividend received on such securities is exempt, then the loss arising out of such purchase and sale of securities shall be ignored to the extent of such dividend income. In this case, 1,500 shares purchased within 3 months prior to the record date are sold within 3 months after such date, hence the related dividend income should be deducted from the loss as per section 94(7).
2. 500 shares having been sold after 3 months of such date, section 94(7) is not applicable. So, the dividend income of ₹ 2,000 should not be deducted. Such dividend is exempt under section 10(34).
3. Short-term capital loss can be set-off against long-term capital gains as per the provisions of section 74(1)(a). Therefore, short-term capital loss on sale of shares can be set-off against long-term capital gains on sale of house.

7. (i) Section 56(2)(vii) provides that where any sum of money is received without consideration by an individual or a Hindu undivided family from any person or persons exceeding ₹ 50,000 in aggregate in any previous year, the whole of the aggregate value of such sum will be liable to tax. In the instant case, Hari has received ₹ 49,000 each from his two friends. The aggregate amount of gifts received works out to ₹ 98,000. As such, the entire amount of ₹ 98,000 is taxable under the head "Income from other sources".

(ii) Section 56(2)(vii) brings within its scope, in addition to any sum of money, the value of property received without consideration. For this purpose, "property" means immovable property being land and building or both, shares and securities, jewellery, archaeological collections, drawings, paintings, sculptures, any work of art or bullion. Therefore, the gift of wrist watch valued at ₹ 51,000 received by Hari from his friend is not covered by the term 'property'. Accordingly, it is not chargeable to tax.

(iii) The Finance Act, 2010 has substituted sub-clause (b) of section 56(2)(vii) with retrospective effect from 01.10.2009. Accordingly, where any immovable property is obtained without consideration and if the stamp duty value of the property exceeds ₹ 50,000, the stamp duty value of such property is chargeable to tax as income under the head 'Income from other sources'. In this case, there was some consideration but it was less than the stamp duty value. Only in the absence of consideration, is a transaction in respect of immovable property received from a non-relative chargeable to tax.

Therefore, the difference between stamp duty value and actual consideration is not chargeable to tax in the hands of Hari.

(iv) There is no consideration on receipt of gift of land from the sister of grandmother. Since sister of grandmother is not a 'relative' as per Explanation to section 56(2)(vii), the stamp duty value of ₹ 1,50,000 is chargeable to tax as income under the head 'Income from other sources'.

(v) Bullion has been included in the definition of 'property' under Explanation to section 56(2)(vii) w.e.f. 1.6.2010. Therefore, since bullion is received by Mr. Hari from his friend, without consideration, after 1.6.2010, the fair market value of ₹ 70,000 shall be taxable as income under the head 'Income from other sources'.

8. As per section 72A(6A), the LLP would be able to carry forward and set-off the unabsorbed depreciation and business loss of ₹ 32 lakhs and ₹ 25 lakhs, respectively, of X (P) Ltd. since at the time of conversion, all the conditions specified in section 47(xiiib) have been fulfilled. The LLP can set off the unabsorbed depreciation and business loss aggregating to ₹ 57 lakhs against its business profits of ₹ 90 lakhs for A.Y.2011-12.

However, if in any subsequent year, the LLP fails to fulfill any of the conditions mentioned in section 47(xiiib), the business loss or unabsorbed depreciation of the company already set off by the LLP would be deemed to be the income chargeable to tax of the LLP for the year in which it fails to fulfill such conditions.

One of the conditions is that the erstwhile shareholders of the company continue to be entitled to receive at least 50% of the profits of the LLP for a period of 5 years from the date of conversion. Since three partners (who were erstwhile shareholders of X (P) Ltd.) holding in aggregate 55% of the profit-sharing in the LLP have resigned on 2.10.2011, the LLP has failed to fulfill this condition.

Therefore, the amount of ₹ 57 lakhs representing unabsorbed depreciation and business losses set-off against profits of the LLP for the A.Y. 2011-12, would be deemed to be income of the LLP for the A.Y.2012-13, being the year in which it failed to fulfill the conditions.

9. Computation of eligible deduction under section 80C for A.Y.2011-12

Particulars	Amount eligible for deduction u/s 80C ₹
Life Insurance Premium (See Note 1)	40,000
Contribution to Public Provident fund (See Note 2)	Nil
Tuition fee of his son pursuing B.Com in Vivekananda College (See Note 3)	10,000

Housing loan principal repayment (See Notes 4 & 5)	Nil
Deposit under Senior Citizen Savings Scheme (See Note 6)	30,000
Deposit in Post Office Time Deposit Scheme (See Note 6)	30,000
Gross amount eligible for deduction under section 80C	1,10,000

However, deduction is to be restricted to ₹1,00,000 as per section 80CCE

Deduction under section 80CCF : Amount invested in long-term infrastructure bonds of IDFC is eligible for deduction subject to a maximum of ₹20,000.

Total deduction under Chapter VI-A, assuming that he is not eligible for deduction under any other section, is ₹1,20,000 (₹1,00,000 + ₹20,000).

Notes:

1. Any amount of life insurance premium paid in excess of 20% of actual capital sum assured shall be ignored for deduction under section 80C. In the given case, 20% of actual capital sum assured is ₹ 40,000, whereas, the premium paid during the year is ₹ 45,000. Therefore, the excess premium of ₹ 5,000 would not qualify for deduction.
2. In the case of an individual, contribution to PPF can be made in his name, or in the name of his spouse or children to qualify for deduction under section 80C. As the contribution was made in the name of his mother, deduction is not allowable.
3. Tuition fee paid for the purpose of full-time education of any two children of the individual is eligible for deduction under section 80C. However, tuition fee paid to an educational institution situated outside India is not eligible for deduction. Therefore, only ₹ 10,000, being tuition fees paid for his son pursuing B. Com in Vivekananda College shall be allowed as deduction.
4. In order to claim the principal repayment on loan borrowed for house property as deduction, the construction of such property should have been completed and should be chargeable to tax under the head "Income from house property". In the given case, since the property is under construction, principal repayment does not qualify for deduction.
5. Repayment of principal on housing loan is not allowed as deduction in case the loan is borrowed from friends, relatives etc. In order to qualify for deduction, the loan should have been obtained from Central Government / State Government / bank / specified employer / LIC / National Housing Bank.
6. The scope of eligible savings instruments for deduction under section 80C include:-
   (1) five year time deposit in an account under Post Office Time Deposit Rules, 1981; and
   (2) deposit in an account under the Senior Citizens Savings Scheme Rules, 2004

10. This issue came up before the Bombay High Court in *Sind Co-operative Housing Society v. ITO (2009) 317 ITR 47.*

On this issue, the Bombay High Court observed that under the bye-laws of the society, charging of transfer fees had no element of trading or commerciality. Both the incoming and outgoing members have to contribute to the common fund of the assessee. The amount paid was to be exclusively used for the benefit of the members as a class. The High Court, therefore, held that transfer fees received by a co-operative housing society, whether from outgoing or from incoming members, is not liable to tax on the ground of principle of mutuality since the predominant activity of such co-operative society is maintenance of property of the society and there is no taint of commerciality, trade or business.

Further, section 28(iii), which provides that income derived by a trade, professional or similar association from specific services performed for its members shall be treated as business income, can have no application since the co-operative housing society is not a trade or professional association.

11. Computation of book profits of Beta Ltd. for levy of MAT for the year ended 31.3.2011

Particulars	₹	₹
Net Profit as per Profit & Loss Account		3,50,00,000
Add : Net profit to be increased by the following amounts as per Explanation 1 to section 115JB		
Depreciation	1,70,00,000	
Reserve for currency exchange fluctuation, since the amount carried to any reserve, by whatever name called, has to be added back	90,00,000	
Provision for tax	30,00,000	
Proposed dividend	80,00,000	3,70,00,000
		7,20,00,000
Less : Net profit to be decreased by the following amounts as per Explanation 1 to section 115JB		
Depreciation other than depreciation on revaluation of assets (₹ 170 lakhs - ₹ 60 lakhs)	1,10,00,000	
Withdrawal from revaluation reserve restricted to the extent of depreciation on account of revaluation of assets (₹ 80 lakhs or ₹ 60 lakhs, whichever is less)	60,00,000	
Unabsorbed depreciation or brought forward business loss, whichever is less, as per the books of account (₹ 25 lakhs or Nil)	NIL	
		1,70,00,000
Book profit for levy of MAT		5,50,00,000

Note – *Explanation 2* below sub-section (2) of section 115JB clarifies that income-tax includes, inter alia, dividend distribution tax / tax on distributed income and any interest charged under the Income-tax Act, 1961. Therefore, the entire provision of ₹ 30 lakhs for income-tax has to be added back for computing book profit for levy of MAT.

12. As per section 115-O, dividend distribution tax at the rate of 15% (plus surcharge @ 7.5%, education cess @ 2% and secondary and higher education cess @ 1%) is levied on dividend, declared, distributed or paid by a domestic company. As per section 115-O(1A), a holding company receiving dividend from its subsidiary company can reduce the same from dividends declared, distributed or paid by it. For this purpose, the matching principle does not apply. This means that even if the dividend received and dividend distributed relate to different periods, the same can be adjusted for the purpose of computing dividend distribution tax of the holding company. Such dividend shall not be considered for reduction more than once.

The conditions to be fulfilled for this purpose are as follows:

(1) The subsidiary company should have actually paid the dividend distribution tax;

(2) The holding company should be a domestic company;

(3) The holding company should not be a subsidiary company of any other company.

For this purpose, a holding company is a company which holds more than 50% of the nominal value of equity shares of another company. Therefore, in this case, B Ltd., is a holding company since it holds 55% shares in A Ltd.

On the basis of the above -

(a) Dividend distribution tax payable by B Ltd. shall be 16.60875% of [(₹ 45,00,000 - (₹ 25,00,000 x 55%)] i.e. ₹ 5,19,023.

(b) If 75% of shares of B Ltd. are held by C Ltd., then B Ltd. is a subsidiary company of C Ltd. In that case, the condition (See condition no.3 above) laid down in section 115-O(1A) is not satisfied and B Ltd. cannot reduce the amount of dividend received from A Ltd. for computation of dividend distribution tax. Hence, dividend distribution tax payable by B Ltd. shall be 16.60875% of ₹ 45,00,000 i.e. ₹ 7,47,394.

Note: Surcharge is payable on dividend distribution tax and hence, the rate of dividend distribution tax would be 16.60875%, being 15% plus surcharge@7.5% plus education cess @ 2% plus secondary and higher education cess@1%.

13. The facts of the case are similar to the facts of *Lodhi Property Company Ltd. v. Under Secretary, (ITA-II), Department of Revenue (2010) 323 ITR 0441,* where the Delhi High Court held that the Board has the power to condone the delay in case of a return which was filed late and where a claim for carry forward of losses was made. The delay was only one day and the assessee had shown sufficient reason for the delay of one day in filing the return of income, which cannot be attributable to fault on part of the assesse. If

the delay is not condoned, it would cause genuine hardship to the petitioner. Therefore, the Court held that the delay of one day in filing of the return has to be condoned.

Note – Section 119(2)(b) empowers the CBDT to authorise any income tax authority to admit an application or claim for any exemption, deduction, refund or any other relief under the Act after the expiry of the period specified under the Act, to avoid genuine hardship in any case or class of cases. The claim for carry forward of loss in case of a loss return is relatable to a claim arising under the category of any other relief available under the Act. Therefore, the CBDT has the power to condone delay in filing of such loss return due to bona fide reasons to avoid genuine hardship to the assessee.

14. (a) This statement is not correct.

In exercise of the powers conferred under section 139B(1), the CBDT had framed the Tax Return Preparer Scheme, 2006 for the purpose of enabling any specified class or classes of persons in preparing and furnishing their return of income. "Specified class or classes of persons" means any person, other than a company or a person, whose accounts are required to be audited under section 44AB or under any other law for the time being in force, who is required to furnish a return of income under the Act.

Paragraph 2(f) of the Tax Return Preparer Scheme, 2006 defining a Tax Return Preparer, specifically provided that a person who is in employment and income from which is chargeable under the head "Salaries" shall not be entitled to act as a Tax Return Preparer. This disqualification has now been removed by amending paragraph 2(f). Consequently, a salaried person is now eligible to act as a Tax Return Preparer.

However, it may be noted that as per section 139B(3) of the Income-tax Act, 1961, an employee of the "specified class or classes of persons" is not authorized to act as a Tax Return Preparer. A combined reading of section 139B(3) with the amended Tax Return Preparer Scheme, 2006 reveals that employees of companies and persons whose accounts are required to be audited under section 44AB or any other law for the time being in force, are eligible to act as Tax Return Preparers.

(b) This statement is correct.

A return of income filed within the due date may be revised by filing a revised return under section 139(5) where the assessee finds any omission or wrong statement in the original return subject to satisfying other conditions. There is no provision in the Income-tax Act to make changes or modification in the return of income by filing a letter. In a case where a return of income has been filed within the due date, the only option available to the assessee to make an amendment to such return is by way of filing a revised return under section 139(5). Therefore, a fresh claim can be made before the Assessing Officer only by filing a revised return and not otherwise. The Supreme Court in *Goetze (India) Ltd. vs. CIT (2006) 284 ITR 323* has held that

there was no provision in the Income-tax Act to allow an amendment in the return of income filed except by way of filing a revised return.

15. Under section 268A(1), the CBDT is empowered to issue orders, instructions or directions to the other income-tax authorities, fixing such monetary limits, as it may deem fit, to regulate filing of appeal or application for reference by any income-tax authority.

Under section 268A(2), where an income-tax authority has not filed any appeal or application for reference on any issue in the case of an assessee for any assessment year, due to above-mentioned order/instruction/direction of the CBDT, such authority shall not be precluded from filing an appeal or application for reference on the same issue in the case of the same assessee for any other assessment year or any other assessee for the same or any other assessment year. Further, in such a case, it shall not be lawful for an assessee, being a party in any appeal or reference, to contend that the income-tax authority has acquiesced in the decision on the disputed issue by not filing an appeal or application for reference in any case.

In view of the above provision, it would be in order for the Income-tax Department to move an appeal to the Tribunal against the orders of the Commissioner (Appeals) for A.Y.2010-11 in respect of both Mr.X and Mr.Y.

16. This issue came up before the Delhi High Court in *CIT v. Japan Airlines Co. Ltd. (2010) 325 ITR 298.*

On this issue, the Delhi High Court referred to the case of *United Airlines v. CIT (2006) 287 ITR 281*, wherein the issue arose as to whether landing and parking charges could be deemed as rent under section 194-I. The Court observed that rent as defined in the said provision had a wider meaning than "rent" in common parlance. It included any agreement or arrangement for use of land. The Court further observed that when the wheels of the aircraft coming into an airport touch the surface of the airfield, use of the land of the airport immediately begins. Similarly, for parking the aircraft in that airport, again, there is use of the land. Therefore, the landing and parking fee were definitely "rent" within the meaning of the provisions of section 194-I as they were payments for the use of the land of the airport.

Therefore, payment of landing and parking charges by an airline company to the Airports Authority of India is in the nature of rent and accordingly, the provisions of tax deduction at source under section 194-I are attracted.

17. The issue under consideration in this case is whether retention of 15% of advertising charges by the advertising agency is in the nature of commission to attract the provisions of tax deduction at source under section 194H.

This issue came up before the Kerala High Court in *CIT v. Director, Prasar Bharti (2010) 325 ITR 205.* In that case, it was contended by the assessee that the agreement between Prasar Bharti and the advertising agency is not an agency but a "principal to principal" agreement of sharing advertisement charges and therefore, the provisions for

deduction of tax at source under section 194H would not get attracted.

However, the clause in the agreement whereby the advertising agency agreed to pay the TDS/income-tax liability as applicable under the Income-tax law on the discount retained made it clear that the advertising agency clearly understood the agreement as an agency agreement and the commission payable by Prasar Bharati to such agency is subject to tax deduction at source under the Income-tax Act, 1961. The permission granted by Doordarshan under the agreement to the agencies to retain 15% out of the advertisement charges collected by them from the customers amounts to payment of commission by them to agents, which is subject to deduction of tax at source under section 194H. Therefore, the retention of 15%, by whatever name called, whether "discount" or "commission", falls within the definition of "commission" under Explanation (i) to section 194H, which covers any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered.

The Kerala High Court observed that it is clear from section 194H that tax has to be deducted at the time of credit of such sum to the account of the payee or at the time of payment of such income in cash or by the issue of cheque or draft or any other mode. When the agent pays 85% of the advertisement charges collected from the customer, the agent simultaneously gets paid commission of 15%, which he is free to appropriate as his income. So, TDS on commission charges of 15% has to be paid to the Income-tax Department with reference to the date on which 85% of the advertisement charges are received from the advertising agency by Doordarshan.

Applying the rationale of the above court ruling to the case on hand, it can be concluded that the retention of a percentage of advertising charges payable by the advertising agencies to Prasar Bharti attracts the provisions of tax deduction at source under section 194H. Therefore, the contention of Prasar Bharti is not correct.

18. An assessee shall be allowed deduction under section 91 provided all the following conditions are fulfilled :-

(a) The assessee is a resident in India during the relevant previous year.

(b) The income accrues or arises to him outside India during that previous year.

(c) Such income is not deemed to accrue or arise in India during the previous year.

(d) The income in question has been subjected to income-tax in the foreign country in the hands of the assessee and the assessee has paid tax on such income in the foreign country.

(e) There is no agreement under section 90 for the relief or avoidance of double taxation between India and the other country where the income has accrued or arisen.

In view of the aforesaid provisions, deduction under section 91 will be calculated as follows:

Particulars	₹	₹
Indian Income		3,00,000
Foreign Income		1,10,000
Gross Total Income		4,10,000
Less: Deduction under section 80C		
PPF Contribution	50,000	
Deduction under section 80D		
Medical insurance premium of father (See Note below)	15,000	65,000
Total Income		3,45,000
Tax on total income		18,500
Add: Surcharge		Nil
Add: Education Cess @ 2%		370
Secondary and higher education cess @ 1%		185
		19,055
Average rate of tax in India [i.e. Rs.19,055/3,45,000 x 100]		5.52%
Average rate of tax in foreign country [i.e. Rs.20,000/ Rs.1,10,000 x 100]		18.18%
Doubly taxed income		1,10,000
Rebate under section 91 on Rs.1,10,000 @ 5.52% (lower of average Indian tax rate and foreign tax rate]		6,072
Tax payable in India [₹ 19,055 – ₹ 6,072]		12,983

Note: The enhanced limit of ₹ 20,000 in respect of medical insurance premium paid for parents who are senior citizens are applicable only if the parents are resident in India. In this case, since Vinay's father is a non-resident, Vinay cannot avail the benefit of enhanced deduction of upto ₹ 20,000 under section 80D in respect of medical insurance premium paid for his father. The deduction would be restricted to ₹ 15,000.

19. This issue came up before the Punjab & Haryana High Court in *CIT v. Smt. Neena Jain (2011) 330 ITR 157.*

As per section 2(ea), "assets" mean, *inter alia,* any building, whether used for residential or commercial purposes or for the purpose of maintaining a guest house or otherwise including a farm house situated within 25 kms from local limits of any municipality or a cantonment board. The definition of "assets" under section 2(ea) also includes urban land.

The High Court opined that the words "any building" could not be read in isolation and had to be harmoniously construed with the remaining portion of section 2(ea) i.e., whether the building was used for residential or commercial purposes or for the purpose of maintaining a guest house, because an incomplete building could not possibly either be used for residential or commercial purposes or for the purposes of maintaining a guest house. Therefore, the word "building" has to be interpreted to mean a completely built structure having a roof, dwelling place, walls, doors, windows, electric and sanitary fittings etc.

In this case, the assessee was constructing the building after obtaining sanction from the appropriate authorities. Explanation 1(b) under section 2(ea) defining "urban land" for levy of wealth-tax, specifically excludes from its scope, the land occupied by any building which has been constructed with the approval of the appropriate authority. Therefore, the incomplete building of the assessee neither fell within the meaning of a "building" nor within the purview of "urban land" under section 2(ea). Consequently, the incomplete building is not an asset chargeable to wealth-tax.

20. Computation of wealth-tax payable by Mrs.Gauri for A.Y.2011-12

Asset	Amount in ₹	Reason
House Property 1	Nil	A house used exclusively for residential purpose is treated as an asset under section 2(ea), but the same is exempt under section 5(vi).
House Property 2	Nil	Building owned by a partner but used in firm's business is deemed to be used by the partner for her business purposes and is, hence, not an asset chargeable to tax under section 2(ea).
Value of interest in assets of the firm	15,00,000	Included in the net wealth of Mrs. Gauri by virtue of section 4(1)(b). It has been assumed that the assets are those covered under section 2(ea).
Motor Cars	27,00,000	Motor cars, whether indigenous or imported, are assets chargeable to wealth-tax under section 2(ea).
Bank Deposit	Nil	Not an asset under section 2(ea) and hence, not chargeable to tax under the Wealth-tax Act.
House Property 3	40,00,000	Since the possession of the house property is taken, it is deemed as an asset and is chargeable to wealth-tax. It may be noted that only one house property is exempt under section 5(vi) and this exemption has already been availed in respect of House Property 1.

Cash balance	30,000	For an individual, cash in hand in excess of ₹ 50,000 shall be chargeable to wealth tax (₹ 80,000 – 50,000)
Gross Wealth	82,30,000	
Less: Loan borrowed from Bank	20,00,000	Money borrowed by the assessee for purchase of House Property 3 is deductible under section 2(m), since the value of House Property 3 is included in gross wealth.
Net Wealth	62,30,000	

Wealth-tax payable by Mrs. A will be ₹ 32,300 i.e. 1% of ₹ 32,30,000 (i.e., ₹ 62,30,000 – ₹ 30,00,000).

SIGNIFICANT CIRCULARS & NOTIFICATIONS ISSUED BETWEEN 1.5.2010 AND 30.4.2011

CIRCULARS

1. Circular No. 4/2010 dated 18.5.2010

   Clarification regarding definition of new infrastructure facility for the purpose of section 80-IA(4)

   The CBDT has, vide this Circular, clarified that widening of an existing road by constructing additional lanes as a part of a highway project by an undertaking would be regarded as a new infrastructure facility for the purpose of section 80-IA(4)(i). However, simply relaying of an existing road would not be classifiable as a new infrastructure facility for this purpose.

2. Circular No. 6/2010 dated 20.9.2010

   Regional Rural Banks not eligible for deduction under section 80P

   The CBDT has, through this circular, reiterated that Regional Rural Banks are not eligible for deduction under section 80P of the Income-tax Act, 1961 from the assessment year 2007-08 onwards. It has also been clarified that the Circular No. 319 dated 11-1-1982 deeming any Regional Rural Bank to be cooperative society stands withdrawn for application with effect from A.Y.2007-08.

   This is consequent to the amendment in section 80P by the Finance Act, 2006, providing specifically that w.e.f. 1-4-2007, the provisions of section 80P will not apply to any co-operative bank other than a Primary Agricultural Credit Society or a Primary Cooperative Agricultural and Rural Development Bank. The same has been further clarified by this circular.

3. Circular No. 7/2010 dated 27.10.2010

   Clarification regarding period of validity of approvals issued under section 10(23C)(iv), (v), (vi) or (via) and section 80G(5)

   For the removal of doubts about the period of validity of various approvals granted by the Chief Commissioners of Income-tax or Directors General of Income-tax under sub-clauses (iv), (v), (vi) and (via) of section 10(23C) and by the Commissioners of Income-

tax or Directors of Income-tax under section 80G(5) of the Income-tax Act, 1961, the CBDT has, through, this circular clarified the following:-

(1) For the purposes of sub-clauses (iv) and (v) of section 10(23C), any notification issued by the Central Government under the said sub-clauses, on or after 13-7-2006 will be valid until withdrawn and there will be no requirement on the part of the assessee to seek renewal of the same after three years.

(2) For the purposes of sub-clauses (vi) and (via) of section 10(23C), any approval issued on or after 1-12-2006 under the said sub-clauses would be a one time approval and would be valid till it is withdrawn.

(3) For the purposes of section 80G(5), existing approvals expiring on or after 1st October, 2009 shall be deemed to have been extended in perpetuity unless specifically withdrawn. Further, any approval under section 80G(5) on or after 1-10-2009 would be a one time approval which would be valid till it is withdrawn.

NOTIFICATIONS

1. Ceiling for gratuity exemption raised to ₹ 10 lakhs

Section 10(10)(ii) exempts any gratuity received under the Payment of Gratuity Act, 1972, to the extent it does not exceed an amount calculated in accordance with the provisions of sub-sections (2) and (3) of section 4 of that Act. The limit specified under sub-section (3) of section 4 has been increased from ₹ 3,50,000 to ₹ 10,00,000 by the Payment of Gratuity (Amendment) Act, 2010 dated 17th May, 2010.

Thereafter, the Central Government has enhanced the notified limit under section 10(10)(iii) from ₹ 3,50,000 to ₹ 10,00,000 in relation to employees who retire or become incapacitated prior to such retirement or die on or after 24th May, 2010 or whose employment is terminated on or after the said date. In effect, the ceiling for gratuity exemption under section 10(10)(iii), which is relevant for employees not covered under the Payment of Gratuity Act, 1972, has also been increased to ₹ 10 lakh vide Central Government Notification No.43/2010 dated 11th June, 2010.

2. Notification No.41/2010 dated 31.05.2010

Substitution of Rules 30, 31, 31A, 31AA, 37CA & 37D in the Income-tax Rules, 1962.

Rule 30 – Time and mode of payment to Government account of TDS or tax paid under section 192(1A)

(a) All sums deducted in accordance with Chapter XVII-B by an office of the Government shall be paid to the credit of the Central Government on the same day where the tax is paid without production of an income-tax challan and on or before seven days from the end of the month in which the deduction is made or income-tax is due under section 192(1A), where tax is paid accompanied by an income-tax challan.

(b) All sums deducted in accordance with Chapter XVII-B by deductors other than a Government office shall be paid to the credit of the Central Government on or

before 30th April, where the income or amount is credited or paid in the month of March. In any other case, the tax deducted should be paid on or before seven days from the end of the month in which the deduction is made or income-tax is due under section 192(1A).

(c) In special cases, the Assessing Officer may, with the prior approval of the Joint Commissioner, permit quarterly payment of the tax deducted under section 192/ 194A/194D/194H on or before 7th of the month following the quarter, in respect of first three quarters in the financial year and 30th April in respect of the quarter ending on 31st March. The dates for quarterly payment would, therefore, be 7th July, 7th October, 7th January and 30th April, for the quarters ended 30th June, 30th September, 31st December and 31st March, respectively.

Rule 31 – Certificate of TDS to be furnished under section 203

(a) The certificate of deduction of tax at source to be furnished under section 203 shall be in Form No.16 in respect of tax deducted or paid under section 192 and in any other case, Form No.16A.

(b) Form No.16 shall be issued to the employee annually by 31st May of the financial year immediately following the financial year in which the income was paid and tax deducted. Form No.16A shall be issued quarterly within 15 days from the due date for furnishing the statement of TDS under Rule 31A.

Rule 31A – Statement of deduction of tax under section 200(3)

(a) Every person responsible for deduction of tax under Chapter XVII-B shall deliver, or cause to be delivered, the following quarterly statements to the DGIT (Systems) or any person authorized by him, in accordance with section 200(3):

(1) Statement of TDS under section 192 in Form No.24Q;

(2) Statement of TDS under sections 193 to 196D in Form No.26Q in respect of all deductees other than a deductee being a non-resident not being a company or a foreign company or resident but not ordinarily resident in which case the relevant form would be Form No.27Q.

(b) The time limit for furnishing such quarterly statements shall be 15th of the month following each quarter in respect of the first three quarters and 15th May for the last quarter ending on 31st March. The due dates would therefore be 15th July, 15th October, 15th January and 15th May for the quarters ending 30th June, 30th September, 31st December and 31st March, respectively.

Rule 31AA – Statement of collection of tax under proviso to section 206C(3)

Quarterly statement in Form No.27EQ shall be delivered, or cause to be delivered, to the DGIT (Systems) or any person authorized by him in accordance with the proviso to section 206C(3). The time limit for furnishing such quarterly statements shall be 15th of

the month following each quarter in respect of the first three quarters and 15th May for the last quarter ending on 31st March. The due dates would therefore be 15th July, 15th October, 15th January and 15th May for the quarters ending 30th June, 30th September, 31st December and 31st March, respectively.

Rule 37CA – Time and mode of payment to Government account of tax collected at source under section 206C

(a) All sums collected in accordance with section 206C(1)/(1C) by an office of the Government, shall be paid to the credit of the Central Government on the same day where the tax is paid without production of an income-tax challan and on or before 7 days from the end of the month in which the collection is made, where tax is paid accompanied by an income-tax challan; and

(b) All sums collected in accordance with the provisions of section 206C(1)/(1C) by collectors other than an office of the Government, shall be paid to the credit of the Central Government within one week from the last day of the month in which the collection is made.

Rule 37D – Certificate of tax collected at source under section 206C(5)

Certificate of tax collected at source under section 206C(5) in Form No.27D shall be furnished by the collector within 15 days from the due date for furnishing the quarterly statement of TCS under Rule 31AA.

3. Notification Nos. 48/2010 dated 9.7.2010 & 77/2010 dated 11.10.2010

Notification of long-term infrastructure bonds by the Central Government, subscription to which would qualify for deduction under section 80CCF

Section 80CCF provides that an assessee, being an individual or a Hindu Undivided Family, shall get a deduction of up to rupees twenty thousand in computing his total income if he subscribes to long-term infrastructure bonds as may be notified by the Central Government for this purpose.

Consequently, the Central Government has, vide these notifications, specified the long-term infrastructure bonds, subscription to which would qualify for deduction under section 80CCF. Accordingly, subscription to long-term infrastructure bonds of Industrial Finance Corporation of India, Life Insurance Corporation of India, Infrastructure Development Finance Company Limited and a non-banking Finance Company classified as an Infrastructure Finance Company by the Reserve Bank of India would qualify for deduction under section 80CCF. Further, subscription to long-term infrastructure bonds of India Infrastructure Finance Company Ltd. would also qualify for deduction under section 80CCF.

4. Notification No. 59/2010 dated 21.07.2010

Cost Inflation Index of financial year 2010-11 notified

Clause (v) of Explanation to section 48 defines "Cost Inflation Index", in relation to a previous year, to mean such Index as the Central Government may, by notification in the Official Gazette, specify in this behalf, having regard to 75% of average rise in the Consumer Price Index for urban non-manual employees.

Accordingly, the Central Government has, in exercise of the powers conferred by clause (v) of Explanation to section 48, specified the Cost Inflation Index for the financial year 2010-11 as 711.

S. No.	Financial Year	Cost Inflation Index
1.	1981-82	100
2.	1982-83	109
3.	1983-84	116
4.	1984-85	125
5.	1985-86	133
6.	1986-87	140
7.	1987-88	150
8.	1988-89	161
9.	1989-90	172
10.	1990-91	182
11.	1991-92	199
12.	1992-93	223
13.	1993-94	244
14.	1994-95	259
15.	1995-96	281
16.	1996-97	305
17.	1997-98	331
18.	1998-99	351
19.	1999-2000	389
20.	2000-01	406
21.	2001-02	426
22.	2002-03	447
23.	2003-04	463
24.	2004-05	480

25.	2005-06	497
26.	2006-07	519
27.	2007-08	551
28.	2008-09	582
29.	2009-10	632
30.	2010-11	711

5. Notification No. 80/2010 dated 19.10.2010 (as amended by Notification No.20/2011 dated 21.4.2011)

Notification of annuity plan for deduction under section 80C

Deduction under section 80C is available in respect of any sum paid or deposited to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation or any other insurer as the Central Government may, by notification in the Official Gazette specify in this behalf.

Accordingly, the Central Government, has, through this notification specified the Tata AIG Easy Retire Annuity plan of the Tata AIG Life Insurance Company Limited as the annuity plan of the Tata AIG Life Insurance Company Limited for the purposes deduction under section 80C.

6. Notification No.84/2010 dated 22.11.2010

Salaried persons entitled to act as Tax Return Preparers

In exercise of the powers conferred under section 139B(1), the CBDT had framed the Tax Return Preparer Scheme, 2006 for the purpose of enabling any specified class or classes of persons in preparing and furnishing their return of income. "Specified class or classes of persons" means any person, other than a company or a person, whose accounts are required to be audited under section 44AB or under any other law for the time being in force, who is required to furnish a return of income under the Act.

Paragraph 2(f) of the Tax Return Preparer Scheme, 2006 defining a Tax Return Preparer, specifically provided that a person who is in employment and income from which is chargeable under the head "Salaries" shall not be entitled to act as a Tax Return Preparer. This disqualification has now been removed by amending paragraph 2(f). Consequently, a salaried person is now eligible to act as a Tax Return Preparer.

Consequential amendment has been made in Paragraph 11(1)(xii), which provided for withdrawal of certificate given to the Tax Return Preparer in case he, after issue of Tax Return Preparer Certificate to him, takes up an employment, income from which is chargeable under the head "Salaries". Henceforth, taking up a salaried employment would not result in withdrawal of certificate given to the Tax Return Preparer.

However, it may be noted that as per section 139B(3) of the Income-tax Act, 1961, an employee of the "specified class or classes of persons" is not authorized to act as a Tax Return Preparer. A combined reading of section 139B(3) with the amended Tax Return Preparer Scheme, 2006 reveals that employees of companies and persons whose accounts are required to be audited under section 44AB or any other law for the time being in force, are eligible to act as Tax Return Preparers.

7. Notification No.85/2010 dated 22.11.2010

Increase in exemption limit for allowance granted to employees working in a transport system to meet their personal expenditure during the course of duty

Section 10(14)(ii) exempts any such allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides, or to compensate him for the increased cost of living as may be prescribed and to the extent as may be prescribed.

Rule 2BB(2) prescribes the allowances for the purposes of exemption under section 10(14)(ii). As per this rule, the exemption allowable in respect of any allowance granted to an employee working in any transport system to meet his personal expenditure during his duty performed in the course of running of such transport from one place to another place (provided he is not in receipt of daily allowance) is 70% of such allowance, subject to a maximum of Rs.6,000 per month.

The monthly limit of Rs.6,000 has been increased to Rs.10,000 with retrospective effect from 1st September, 2008. Therefore, with effect from 1st September, 2008, the exemption would be 70% of such allowance, subject to a maximum of Rs.10,000 per month.

8. Notification No. 12/2011 dated 25.02.11

United Stock Exchange of India Ltd. notified as a recognized stock exchange

Clause (d) of the proviso to section 43(5) provides that an eligible transaction in respect of trading in derivatives referred to in section 2(ac) of the Securities Contracts (Regulation) Act,1956 carried out in a recognised stock exchange, which is notified by the Central Government for this purpose, shall not be deemed to be a speculative transaction.

Accordingly, in exercise of the powers conferred under section 43(5) read with Rule 6DDB, the Central Government has notified the United Stock Exchange of India Limited as a recognised stock exchange for the purpose of the said clause. The notification also lays down certain conditions to be fulfilled by the stock exchange.

It may be noted that at present, there are three other stock exchanges notified as recognized stock exchanges for the purposes of section 43(5), namely, the National Stock Exchange, Bombay Stock Exchange and MCX Stock Exchange.

9. Notification No. 14/2011 dated 9.3.2011

Conditions to be fulfilled for a stock exchange to qualify as a recognized stock exchange for the purposes of section 43(5) - Modification of cash and derivative market transactions registered in the system permitted in case of genuine error

Clause (d) of proviso to section 43(5) provides that an eligible transaction in respect of trading in derivatives referred to in section 2(ac) of the Securities Contracts (Regulation) Act,1956 carried out in a recognised stock exchange shall not be deemed to be a speculative transaction. Rule 6DDB provides for notification of recognised stock exchange for the purposes of said clause.

Further, Rule 6DDA provides the conditions that a stock exchange is required to fulfil to be notified as a recognised stock exchange for the purpose of abovementioned clause. One of the conditions, specified in clause (iv) of Rule 6DDA, is that the stock exchange shall ensure that transactions once registered in the system cannot be erased or modified. This clause has been substituted to provide that the stock exchange shall ensure that transactions (in respect of cash and derivative market) once registered in the system are not erased.

Another condition has been stipulated by insertion of clause (v), which provides that the stock exchange shall ensure that the transactions (in respect of cash and derivative market) once registered in the system are modified only in cases of genuine error. The stock exchange should maintain data regarding all transactions (in respect of cash and derivative market) registered in the system which have been modified and submit a monthly statement in Form No. 3BB to the Director General of Income-tax (Intelligence), New Delhi within fifteen days from the last day of each month to which such statement relates.

Corresponding amendment has been made in Rule 6DDB requiring that the application for notification of a recognised stock exchange should be accompanied by inter alia, confirmation regarding fulfilling the conditions referred to in clauses (ii) to (v) of Rule 6DDA.

10. Notification No. 18/2011 dated 5.4.2011

Notification of return forms for A.Y.2011-12

The CBDT has notified the new income-tax return forms for the Assessment year 2011-12. Rule 12 of the Income-tax Rules, 1962 has been amended in respect of the following :-

(1) Reference to return of fringe benefits has been removed.

(2) Form Saral-II (ITR-1) has been substituted by the Form "SAHAJ" (ITR-1), which would be applicable for individuals, whose total income includes income chargeable under the head –

(i) "Salaries" or income in the nature of family pension under section 57(iia); or

(ii) "Income from house property", where the assessee does not own more than one house property and does not have any brought forward loss under the head; or

(iii) "Income from other sources", except winnings from lottery or income from race horses.

(3) The return of income in case of a person being an individual and HUF deriving business income and such income is computed on presumptive basis under section 44AD and section 44AE to be in Form SUGAM (ITR-4S) and be verified in the manner indicated therein.

SAHAJ and SUGAM Forms notified by CBDT are the simplest, technology enabled and taxpayer friendly return forms. These have been designed to facilitate error free and faster digitization. This is expected to curtail processing cycle and expedite issue of refunds.

11. Notification No. 24/2011 issued in supersession of Notification No. 69/2010 dated 26.8.2010

9.5% notified as the interest rate on RPF, the interest in excess of which would be taxable as salary

Rule 6 of Part A of the Fourth Schedule to the Income-tax Act, 1961, provides, *inter alia,* that interest credited on the balance to the credit of an employee participating in a recognized provident fund in so far as it is allowed at a rate exceeding such rate notified by the Central Government, shall be deemed to have been received by the employee in the relevant previous year and shall be included in his total income.

Accordingly, the Central Government has, vide this notification, notified w.e.f. 1st September, 2010, in exercise of the powers conferred by Rule 6, 9.5% as the rate of interest on employer's annual contributions in a recognized provident fund. In effect, the Notification No. 69/2010 dated 26.8.2010, notifying the rate of interest as 8.5% w.e.f. 1st September, 2010, has been superseded by this notification.

This implies that interest credited on the balance to the credit of the employee in excess of 9.5% (and not 8.5% as earlier notified to be effective from 1.9.2010) shall be deemed to have been received by the employee in the previous year and shall be included in the total income of the employee. Prior to 1.9.2010, in any case, the interest credited in excess of 9.5% was deemed to be the income of the employee.

Therefore, the position of law as it stands now after issue of this notification is that irrespective of the date of credit of interest, whether before or on or after 1.9.2010, only the interest credited on the balance to the credit of the employee in excess of 9.5% shall be included in the total income of the employee. For example, if an employer credits interest @10% for the P.Y.2010-11 on the balance standing to the credit of each employee, then the excess interest of 0.5% (10% - 9.5%) would be included in the total income of the employee for that year.