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Computation of Income from House Property

Abstract ::

Income tax is generally a composite tax on the aggregate of incomes from various sources. However, income is first computed under different heads of income and then aggregate from the aggregated amount, certain deductions are made is arrive at taxable income. Various heads of income are generally mutually exclusive. If any income falls under one head, it can not be considered under any other head. The method of computing income and the permissible deductions differ with each head of income. The scope of income charged under the Income from house property is defined by Section 22 and the computation of income under this head is explained by Section 23 to 27. The paper highlights the rules for calculating or computing income from house property as per Income tax Act, 1961.

Keywords: Annual Value, Assesses, Deduction, Income, Income tax, Section

Introduction ::

As per section 14, all income for purposes of change of Income-Tax and computation of total income are classified under the following heads of income.

Salaries [Sec. 15 to 17]

Income from house property [Sec. 22 to 27]

Profits and gains of business and profession [Sec. 28 to 44D]

Capital gains [Sec. 45 to 55]

Income from other sources [Sec. 56 to 59]

Although there is only one tax on the income calculated under various heads, but there are different rules of computation of income under each head.

Generally only real income in taxable under the Income-tax Act. Where the law provides for adopting notional figure as the basis of computation, it is also possible that notional income also gets taxed in view of such specific provision. On account of this provision there are certain situations under this head of income from house property when assesses may be taxed on real income as well as on a notional income.

The provisional relating is this head of income can be divided into three segments

Sections 22 to 27

Chargeability Sec.22 Deemed Owner Sec. 27	Computation of Income Sec. 23 to 25	Special Provisional Sec 25 AA 25B and 26

Chargeability (Section 22) :-

The annual value of property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner shall be subject to Income-tax under the head 'Income from house property' after claiming deduction under section 24 provided such property, or any portion of such property is not used by the assessee for the purposes of any business or profession, carried on by him, the profits of which are chargeable to Income-tax.

Basis of Charge :-

The basis of calculating income from house property is the annual value. This is the inherent capacity of the property to earn income. Income from house property is perhaps the only income that is charged to tax on a notional basis. The charge in not because of the receipt of any income but is on the inherent potential of house property to generate income. The annual value is the amount for which the property might reasonably be expected to let from year to year.

Essential conditions for taxing income under this head :-

The following three conditional must be satisfied before the income of the property can be taxed under the head "Income from House Property":
The property must consist of buildings and lands appurtenant thereto,
The assessee must be the owner of such house property,
The property may be used for any purpose, but it should not be used by the owner for the purpose of any business or profession carried on him, the profit of which are chargeable to tax.

Definition of key words used in calculating income from house property:-

Annual Value :-

As per sec. 23 (1) (a) the annual value of any property shall be the sum for which the property might reasonably be expected to be let from year to year. It may neither be the actual rent derived nor the municipal valuation of the property. It is something like notional rent which could have been derived, had the property been let.

The annual value arrived at after deducting the municipal taxed, if any, may be referred to as the Net Annual Value, (Annual Value as per Income tax Act.) So, the annual value before deducting the municipal taxes referred to as the Gross Annual Value.

Fair Value :-

Fair value or fair rent is the rent which a similar property can fetch in the same or similar locality.

Municipal Value :-

Municipal value is the value as determined by the municipal authorities for levying municipal taxes on house property.

Standard Rent :-

Standard rent is the rent of the property fixed under the Rent Control Act.

Actual rent received or receivable :-

A rent received or receivable by the owner from tenant for let out property after deduction of unrealised rent called actual rent received or receivable.

Unrealised Rent:-

In adopting the "actual rent", the following adjustment is called for in respect of unrealised rent:
If any amount of rent is not capable of being realised, then such portion of rent shall not be included in computing the actual rent received or receivable. In order to exclude such unrealised rent, the

conditions prescribed in the relevant rule should be satisfied.

Exclusion of unrealised rent is permissible if the following conditions prescribed under rule 4 are satisfied'

i) The tenancy is bona fide,
ii) The defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;
iii) The defaulting tenant is not in occupation of any other property of the assessee;
iv) The assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfies the Assessing Officer that legal proceedings would be useless.

Municipal Taxes :-

Municipal taxes including service tax levied by local authorities are to be deducted from the gross annual value, if the following conditions are fulfilled –

It should be borne by the assessee and

It should be actually paid during the previous year

Municipal taxes due but not paid shall not be allowed as deduction. However, municipal taxes paid during the previous year are allowable even if they relate to past years or future years.

The value arrived at after deducting the municipal taxes, may be referred to as the Net Annual Value or Annual Value.

Types of Property :-

A] Let out Property
- Let out throughout previous year
- Let and was vacant during the whole or any part of the previous year
- Part of the year let and part of the year self occupied.

B] Self - occupied property or unoccupied property.

C] Deemed let out property

If there are more than one residential houses, which are in the occupation of the owner for his residential purposes then he may exercise an option to treat any one of the houses to be self-occupied. The other houses (s) will be deemed to be let out and the annual value of such house (s) will be determined as per section 23 (1) (a).

Format to determine the taxable income:-

(A) Let out and deemed let out property.

Gross Annual Value (GAV)		xxxxx
Less : Property taxes paid to local authority		xxxxx
Net Annual Value (NAV)		xxxxx
Less : Deductions u/s. 24 –		
a) 30% of the net annual value	xxxxx	
b) Interest on capital borrowed (loans)	xxxxx	
		xxxxx
Income from house property		xxxxx

(B) Self occupied property :-

Annual value as per sec. 23 (2) Less : Interest on loan borrowed as per sec. 24 (b) Loss from house property	Nil xxx xxx

Deduction from income from house property :-

Section 24 allows two deductions from Net Annual Value.

[A] Statutory Deduction – 30% of Net Annual Value.
[B] Interest on borrowed capital –

Where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital is allowed as a deduction, The amount of interest payable yearly should be calculated separately and claimed as a deduction every year. It is immaterial whether the interest has been actually paid of not paid during the year.

Particulars	Amount of interest deductible
Let out and deemed let out property	Actual interest paid or payable
Self – occupied house where annual value is nil	
(a) Where the property acquired or constructed with capital borrowed before 1-4-99 or house is not completed within 3 years of the end of the financial year in which the capital is borrowed	Actual interest payable subject to maximum of Rs. 30,000
(b) Where the property acquired or constructed with capital borrowed on or after 1-4-99 and such acquisition or construction is completed within 3 years of the end of the financial year in which the capital was borrowed	Actual interest payable subject to maximum of Rs. 1, 50,000
(c) In any other case i.e. borrowed for repairs or renewal or conditions mentioned clause (a) are not satisfied.	Actual interest payable subject to maximum of Rs. 30,000

Interest attributable is the period prior to completion of construction will be aggregated and allowed in five successive financial years starting from the year in which the acquisition/construction was completed.

Any sub sequent loan borrowed to repay the original loan shall also be entitled to the same treatment as the original loan.

Subsequent recovery of unrealised rent – Sec 25 AA:-

Where the assessee cannot realise rent from a property let to a tenant and subsequently the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head "Income from house property" and accordingly charged to income-tax as the income of that previous year in which such rent is realised whether or not the assessee is the owner of that property in that previous year.

Arrears of rent received – Sec 25 B:-

Where the assessee is the owner of any property which has been let to a tenant and he receives any amount by way of arrears of rent from such property which was not charged to tax earlier, the amount so received shall be chargeable to tax under the head "Income from house property". It shall be charged to tax as the income of the previous year in which such rent is received even if the assessee is no longer the owner of such property. In computing the income chargeable to tax in respect of the arrears so received, 30% shall be allowed and consequently 70% alone shall be chargeable to tax. The deduction of 30% is irrespective of the actual expenditure incurred.

The basic difference between sec 25 AA which deals with unrealised rent received subsequently and sec 25 B which deals with arrears of rent received is that 30% of the amount is not available as deduction u/s 25 AA whereas it is allowed as deduction u/s 25 B.

Net amount of Income from house property:-

The provisions of sec 23, 24 and 25 deals with computation of income of a building property. The net result of computation of the different types of property shall be follows.

Types of property	Net result of Computation
1. Let-out property.	Any amount of income or loss.
2. Self occupied property or unoccupied property.	Either nil or loss subject to a maximum of Rs. 30,000 or Rs. 1,50,000
3. Deemed let-out property.	Any amount of income or loss

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