

## 7. DISALLOWANCES AND PRESUMPTIVE TAXATION

### ASSIGNMENT SOLUTIONS

#### PROBLEM NO.1

- i) **The statement is not correct:** As per the third proviso to section 32(1)(ii), 50% of the additional depreciation on new plant and machinery acquired and used for less than 180 days in the year of acquisition and installation which has not been allowed as deduction in that previous year, shall be allowed in the immediately succeeding previous year. Hence, the balance additional depreciation of 10% (i.e. 50% of 20%) can be claimed in the immediately succeeding previous year.
- ii) **The statement is not correct:** The proviso to section 36(1)(iii) provides that interest paid on capital borrowed for acquisition of an asset (whether capitalized in the books of account or not) for the period upto the date on which such asset was first put to use shall not be allowed as deduction. This is irrespective of whether the acquisition of asset was for extension of existing business or not. Therefore, interest paid on capital borrowed for acquisition of an asset for the period upto the date on which such asset was first put to use shall be capitalized even if the acquisition is not for the extension of existing business or profession.

#### PROBLEM NO.2

Non-deduction of tax at source on any sum payable to a resident on which tax is deductible at source as per the provisions of Chapter XVII-B would attract disallowance under section 40(a)(ia).

Therefore, non-deduction of tax at source on any sum paid by way of salary on which tax is deductible under section 192 or any sum credited or paid by way of directors' remuneration on which tax is deductible under section 194J, would attract disallowance @ 30% under section 40(a)(ia). Whereas in case of salary, tax has to be deducted under section 192 at the time of payment, in case of directors' remuneration, 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, whichever is earlier. Therefore, in both the cases i.e., salary and directors' remuneration, tax is deductible in the P.Y. 2018-19, since salary was paid in that year and directors' remuneration was credited in that year. Therefore, the amount to be disallowed under section 40(a)(ia) while computing business income for A.Y. 2019-20 is as follows:

**Computing business income for A.Y.2019-20 is as follows:**

Particulars	Amount paid in Rs.	Disallowance u/s 40(a)(ia) @ 30% of sum paid
Salary [Tax is deductible under section 192]	12,00,000	3,60,000
Directors' remuneration [Tax is deductible under section 194J without any threshold limit]	28,000	8,400
<b>Disallowance under section 40(a)(ia)</b>		<b>3,68,400</b>

If the tax is deducted on directors' remuneration in the next year i.e., P.Y.2019- 20 at the time of payment and remitted to the Government, the amount of Rs.8,400 would be allowed as deduction while computing the business income of A.Y. 2020-21.

Section 201 provides that the payer (including the principal officer of the company) who fails to deduct the whole or any part of the tax on the amount credited or payment made to a resident payee shall not be deemed to be an assessee-in-default in respect of such tax if such resident payee -

- has furnished his return of income under section 139;
- has taken into account such sum for computing income in such return of income; and
- has paid the tax due on the income declared by him in such return of income, and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed.

The date of deduction and payment of taxes by the payer shall be deemed to be the date on which return of income has been furnished by the resident payee.

Consequently, in cases where such person responsible for deducting tax is not deemed to be an assessee-in-default on account of payment of taxes by the resident payee, it shall be deemed that the payer has deducted and paid the tax on such sum on the date of furnishing return of income by the resident payee.

Since the date of furnishing the return of income by the resident payee is taken to be the date on which the payer has deducted tax at source and paid the same, 30% of such expenditure/payment in respect of which the payer has failed to deduct tax at source shall be disallowed under section 40(a)(ia) in the year in which the said expenditure is incurred. However, 30% of such expenditure will be allowed as deduction in the subsequent year in which the return of income is furnished by the resident payee, since tax is deemed to have been deducted and paid by the payer in that year.

**PROBLEM NO.3**

His profits and gains from the 3 trucks shall be deemed to be Rs.2,32,500 [(Rs.7,500 × 10) + (Rs.7,500 × 9) + (Rs.7,500 × 12)].

**PROBLEM NO.4**

Mr. Tiwari chargeable to tax in India under the head "Profits and gains of business or profession" is worked out hereunder -

Particulars	Rs.
Amount received in India on account of carriage of passengers from Mumbai	3,00,00,000
Amount received in India on account of carriage of goods from Mumbai	2,00,00,000
Amount received in India on account of carriage of passengers from Bangkok	1,00,00,000
Amount received in Bangkok on account of carriage of passengers from Mumbai	2,00,00,000
	<b>8,00,00,000</b>

Income from business under section 44BBA at 5% of Rs.8,00,00,000 is Rs.40,00,000, which is the income of Mr. Tiwari chargeable to tax in India under the head "Profits and gains of business or profession" for the A.Y.2019-20.

**PROBLEM NO.5**

Under section 44BBA, in case of an assessee, being a non-resident, engaged in the business of operation of aircraft, a sum equal to 5% of the aggregate of the following amounts shall be deemed to be his business income:

- The amount paid or payable, whether in or out of India, to the assessee on account of carriage of passengers, goods etc. from any place in India; and
- The amount received or deemed to be received in India by the assessee on account of carriage of passengers, goods etc. from any place outside India.

Hence, the income of Mr. B.A. Patel chargeable to tax in India under the head "Profits and Gains of business or profession" is determined as under:

Particulars	Amount (Rs.)
For carrying passengers from Ahmedabad	50,00,000
For carrying passengers from London, amount received in India	75,00,000
For carrying goods from Ahmedabad	25,00,000
<b>Total</b>	<b>1,50,00,000</b>

Hence, income from business computed on presumptive basis as per section 44BBA is Rs. 7,50,000, being 5% of Rs. 1,50,00,000.

**Note:** No deduction is allowable in respect of any expenditure incurred for the purpose of the business.

**PROBLEM NO.6**

As per Explanation 3 to section 40(b), "book profit" shall mean the net profit as per the profit and loss account for the relevant previous year computed in the manner laid down in Chapter IV-D as increased by the aggregate amount of the remuneration paid or payable to the partners of the firm if the same has been already deducted while computing the net profit.

In the present case, the net profit given is before deduction of depreciation on plant and machinery, interest on capital of partners and salary to the working partners. Therefore, the book profit shall be as follows:

**1. Computation of Book Profit of the firm under section 40(b)**

Particulars	Rs.	Rs.
Net Profit (before deduction of depreciation, salary and interest)		7,00,000
<b>Less:</b> Depreciation under section 32	1,50,000	
<b>Less:</b> Interest @ 12% p.a. [being the maximum allowable as per section 40(b)] (5,00,000 × 12%)	60,000	2,10,000
<b>Book Profit</b>		<b>4,90,000</b>

**2. Salary actually paid to working partners = Rs. 20,000 × 2 × 12 = Rs. 4,80,000.**

As per the provisions of section 40(b)(v), the salary paid to the working partners is allowed subject to the following limits -

On the first Rs. 3,00,000 of book profit or in case of loss	Rs. 1,50,000 or 90% of book profit, whichever is More
On the balance of book profit	60% of the balance book profit

Therefore, the maximum allowable working partners' salary for the A.Y. 2019-20 in this case would be:

Particulars	Rs.
On the first Rs. 3,00,000 of book profit [(Rs. 1,50,000 or 90% of Rs. 3,00,000) whichever is more]	2,70,000
On the balance of book profit [60% of (Rs. 4,90,000 - Rs. 3,00,000)]	1,14,000
<b>Maximum allowable partners' salary</b>	<b>3,84,000</b>

Hence, allowable working partners' salary for the A.Y. 2019-20 as per the provisions of section 40(b)(v) is Rs. 3,84,000.

**PROBLEM NO.7****Computation of total income of Mr. Ramamurthy for A.Y.2019-20**

Particulars	Rs.
<b>Presumptive business income under section 44AE</b>	
4 heavy goods vehicles for 2 months (4 x Rs. 7,500 x 2)	60,000
Balance 2 heavy goods vehicles for 10 months (2 x Rs. 7,500 x 10)	1,50,000
7 heavy goods vehicles for 10 months (7 x Rs. 7,500 x 10)	5,25,000
<b>Business Income</b>	<b>7,35,000</b>
<b>Less:</b> Brought forward business loss of discontinued business	50,000
<b>Total Income</b>	<b>6,85,000</b>

**Note:** The assessee is eligible for computing the income from goods carriages applying the presumptive provisions of section 44AE, since he does not own more than 10 goods carriages at any time during the previous year.

**PROBLEM NO.8**

Under section 43B, interest on term loans and advances to scheduled banks shall be allowed only in the year of payment of such interest irrespective of the method of accounting followed by the assessee.

Explanation 3D to section 43B provides that if any interest payable by the assessee is converted into a loan, the interest so converted and not "actually paid" shall not be deemed as actual payment, and hence would not be allowed as deduction. Therefore, the interest of Rs. 1.2 lakhs converted into loan cannot be claimed as business expenditure.

**PROBLEM NO.9****Computation of income under the head "Profits and gains of business or profession" of Mr. Q for the A.Y. 2019-20**

Particulars	Rs.	Rs.
Net profit as per profit and loss account		93,950
<b>Add: Expenses not allowable</b>		
Expenses on building a new toilet - Capital expenditure, hence not allowable as per section 37(1).	1,00,000	

Interest payable on which tax has not been deducted at source [disallowed under section 40(a)] [See Note 1]	15,000	
Penalty for contravention of Central Sales Tax Act [Penalty paid for violation or infringement of any law is not allowable as deduction under section 37(1)]	24,000	
Payment to IIT, Mumbai for scientific research programme (to be treated separately)	<u>1,00,000</u>	<u>2,39,000</u>
		3,32,950
<b>Less: Income not forming part of business income</b>		
Interest from company deposits (chargeable under the head "Income from other sources") (See Note 2 below)	6,400	
Income-tax refund (not an income chargeable to tax)	<u>8,100</u>	<u>14,500</u>
		3,18,450
<b>Less: Weighted deduction @ 150% under section 35(2AA) for payment to IIT for an approved scientific research program.</b>		<u>1,50,000</u>
<b>Profit and gains of business or profession</b>		<b><u>1,68,450</u></b>

**Note:**

1. Section 40(a)(ia) provides for disallowance of 30% of any sum paid, on which tax is deductible under Chapter XVII-B, but the same has not been deducted. Hence, Rs.15,000 being 30% of Rs.50,000 has to be added back while computing business income.
2. Interest on company deposits may also be treated as business income presuming that the interest has been earned by Mr. Q out of available temporary surplus funds which are not immediately required for his business purposes but nevertheless meant only for Mr. Q's business activities. In such a case, income under the head "Profit and gains of business or profession" would be Rs. 1,74,850.

**PROBLEM NO.10****Profits and gains of business or profession of Mr. A for the year ended 31.03.2019**

Particulars	Rs.	Rs.
Net profit as per profit and loss account		94,500
<b>Add: Expenses not allowable</b>		
i) Expenses on raising compound wall - capital expenditure, hence disallowed	95,000	
ii) Interest payable outside India to a non-resident, as tax has not been deducted at source [Section 40(a)(i)]	12,000	
iii) Penalty for contravention of CST Act [Penalty paid for violation or infringement of any law is not allowable as deduction under section 37(1)]	24,000	
iv) Contribution for scientific research (to be treated separately)	<u>1,00,000</u>	<u>2,31,000</u>
		3,25,500
<b>Less: Income not forming part of business income</b>		
Interest from company deposits	6,400	
Dividend	3,600	
Income-tax refund	<u>4,500</u>	<u>14,500</u>
		3,11,000
<b>Less: Deduction under section 35 for scientific research [See Note below]</b>		<u>1,50,000</u>
<b>Profit and gains of business or profession</b>		<b><u>1,61,000</u></b>

**Note:** Contribution to approved scientific research association qualifies for deduction @ 150% under section 35(1)(ii).

**PROBLEM NO.11**

- a) **Yes.** Since his total turnover for the F.Y.2018-19 is below Rs.200 lakhs, he is eligible to opt for presumptive taxation scheme under section 44AD in respect of his retail trade business.
- b) His income from retail trade, applying the presumptive tax provisions under section 44AD, would be Rs. 6,59,680, being 8% of Rs. 82,46,000.

**Note:** 6% rate has not been considered for calculations assuming that the assessee not satisfied the required conditions i.e. Rs.4,94,760, being 6% of Rs. 82,46,000.

- c) Mr. Jagat had declared profit for the previous year 2017-18 in accordance with the presumptive provisions and if he does not opt for presumptive provisions for any of the five consecutive assessment years i.e., A.Y. 2019-20 to A.Y. 2023-24, he would not be eligible to claim the benefit of presumptive taxation for five assessment years i.e., A.Y. 2020-21 to A.Y. 2024-25 subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance the presumptive provisions..
- d) In case he opts for the presumptive taxation scheme under section 44AD, the due date would be 31st July, 2019.

In case he does not opt for the presumptive taxation scheme and claims that his income is Rs.5,85,600 as per books of account, then he has to get his books of account audited under section 44AB, in which case the due date for filing of return would be 30th September, 2019.

**PROBLEM NO.12****Computation of Total Income of Mr. Raju for the A.Y. 2019-20**

Particulars	Rs.	Rs.
<b>Profits and Gains of Business or Profession</b>		
Net profit as per profit and loss account		5,00,000
<b>Add:</b> Excess commission paid to brother disallowed under section 40A(2)	10,000	
Disallowance under section 40A(3) is not attracted since the limit for one time cash payment is Rs.35,000 in respect of payment to transport operators. Therefore, amount of Rs.33,000 paid in cash to a transport carrier is allowable as deduction.	Nil	
Salary paid to staff not recorded in the books (Assuming that the expenditure is in the nature of unexplained expenditure and hence, is deemed to be income as per section 69C and would be taxable @ 30% under section 115BBE - no deduction allowable in respect of such expenditure) [See Note 1 below]	48,000	
Bank term loan interest paid after the due date of filing of return under section 139(1) - disallowed as per section 43B	40,000	
State GST penalty paid disallowed [See Note 2 below]	5,000	
Depreciation debited to profit and loss account	<u>2,00,000</u>	<u>3,03,000</u>
		8,03,000
<b>Less:</b> Dividend from domestic companies [Exempt under section 10(34)]	15,000	
Income from agriculture [Exempt under section 10(1)]	1,80,000	
Depreciation under the Income-tax Act, 1961 (As per working note)	<u>2,25,000</u>	<u>4,20,000</u>
		3,83,000
<b>Income from house property</b>		
Annual value of self-occupied property	Nil	
<b>Less:</b> Deduction under section 24(b) - Interest on housing loan	<u>23,000</u>	<u>(23,000)</u>
Gross Total Income		3,60,000
<b>Less:</b> Deduction under section 80C in respect of Principal repayment of housing loan		<u>50,000</u>
<b>Total Income</b>		<b>3,10,000</b>

**Working Note:****Computation of depreciation under the Income-tax Act, 1961**

Particulars	Rs.
Depreciation@15% on Rs.14 lakh (Opening WDV of Rs.12 lakh plus assets purchased during the year and used for more than 180 days Rs. 2 lakh)	2,10,000
Depreciation @7.5% on Rs. 2 lakh (Cost of assets used for less than 180 days)	<u>15,000</u>
	<b>2,25,000</b>

**Notes (Alternate views):**

- It is also possible to take a view that the salary not recorded in the books of account was an erroneous omission and that the assessee has offered satisfactory explanation for the same. In such a case, the same should not be added back as unexplained expenditure, but would be allowable as deduction while computing profits and gains of business and profession.
- Where the imposition of penalty is not for delay in payment of sales tax or VAT but for contravention of provisions of the Sales Tax Act (or VAT Act), the levy is not compensatory and therefore, not deductible. However, if the levy is compensatory in nature, it would be fully allowable. Where it is a composite levy, the portion which is compensatory is allowable and that portion which is penal is to be disallowed.

Since the question only mentions "GST penalty paid" and the reason for levy of penalty is not given, it has been assumed that the levy is not compensatory and therefore, not deductible. It is, however, possible to assume that such levy is compensatory in nature and hence, allowable as deduction. In such a case, the total income would be Rs. 3,05,000.

### **PROBLEM NO.13**

Particulars	Amount (Rs.)
1. Scientific research expenditure related to its business (Note-1) (2,40,000 x 100%)	2,40,000
2. Building acquired for scientific research excluding cost of land is allowed as capital expenditure (12,00,000-5,00,000)	7,00,000
3. Amount paid to Indian Institute of Science (50,000 x 150%)	75,000
4. Demerger expenses allowed for five successive previous years (5,00,000 x 1/5)	1,00,000
5. Contribution to the account of employees as per pension scheme (note-2)	23,00,000
6. Amount recovered from employees towards provident fund contribution	7,00,000
7. Non-monetary perquisites provided to the employees	It should be Disallowed
8. Gain due to change in the rate of exchange of foreign currency	Reduced from the actual cost

**Note 1:** If Raghav Industries Ltd. is a company engaged in the business of biotechnology or in any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule, it would be entitled to a weighted deduction of Rs. 3,60,000 (150% of Rs. 2,40,000, being the revenue expenditure on scientific research related to its business) under section 35(2AB), if the in-house research and development facility is approved by the prescribed authority and the company has entered into an agreement with the prescribed authority for cooperation in such research and development facility and for audit of accounts maintained for that facility.

**Note 2:** The employer's contribution to the account of an employee under a pension scheme referred to in section 80CCD, upto 10% of salary of the employee in the previous year, is allowable as deduction under section 36(1)(iva) while computing business income.

Disallowance under section 40A(9) would be attracted only in respect of the amount in excess of 10% of salary. Accordingly, Rs. 23 lakhs would be allowed as deduction and Rs. 7 lakhs would be disallowed.

### **PROBLEM NO.14**

As per section 43B, municipal tax is not deductible for A.Y. 2019-20 since it is not paid on or before 30.09.2019, being the due date of filing the return for A.Y. 2019-20.

**Note:** It is assumed that the company has not undertaken any international transaction during the year, and therefore, does not have to file a transfer pricing report under section 92E. Therefore, the due date of filing of return of the company would be 30th September, 2019.

- Patent is an intangible asset eligible for depreciation @ 25%, as per section 32(1)(ii). Since it has been acquired and put to use for more than 180 days during the previous year 2018-19, full depreciation of Rs. 6,25,000 (i.e. 25% of Rs. 25,00,000) is allowable as deduction.
- Weighted deduction @ 150% is available under section 35(2AB) in respect of expenditure incurred by a company on scientific research on in-house research and development facility as approved by the prescribed authority. However, cost of land is not eligible for deduction.

Deduction under section 35(2AB) = 150% of Rs. 10 lakhs = Rs. 15,00,000.

**Note:** It is presumed that the in-house research and development facility is approved by the prescribed authority and is hence, eligible for weighted deducted @ 150% under section 35(2AB).

- Bad debts i.e. Rs. 4,00,000 written off in the books of account as irrecoverable is deductible under section 36(1)(vii), provided the debt has been taken into account in computing the income of the company in the current previous year or any of the earlier previous years.
- As per section 40(a)(v), income-tax of Rs. 1,10,000 paid by the company in respect of non-monetary perquisites provided to its employees, exempt in the employee's hands under section 10(10CC), is not deductible while computing business income of the employer-company.
- Expenditure towards advertisement in souvenir of a political party is disallowed under section 37(2B) while computing business incomes.

However, the same is deductible under section 80GGB from gross total income provided the payment is made by any mode other than cash.

6. Refund of a trading liability is taxable under section 41(1), if a deduction was allowed in respect of the same to the taxpayer in an earlier year.

Since sales tax was claimed as expenditure in an earlier year, refund of the same during the year would attract the provisions of section 41(1).

### **PROBLEM NO.15**

- a) **True:** Section 36(1)(xv) allows a deduction of the amount of securities transaction tax paid by the assessee in respect of taxable securities transactions entered into in the course of business during the previous year as deduction from the business income of a dealer in shares and securities.
- b) **True:** As per section 40A(3), in the case of an assessee following mercantile system of accounting, if an expenditure has been allowed as deduction in any previous year on due basis, and payment exceeding Rs. 10,000 has been made in the subsequent year otherwise than by an account payee cheque or an account payee bank draft or use of electronic payment system, then the payment so made shall be deemed to be the income of the subsequent year in which such payment has been made.
- c) **True:** According to the Explanation 5 to section 32(1), allowance of depreciation is mandatory. Therefore, depreciation has to be provided mandatorily while calculating income from business / profession whether or not the assessee has claimed the same while computing his total income.
- d) **True:** Section 36(1)(ib) provides deduction in respect of premium paid by an employer to keep in force an insurance on the health of his employees under a scheme framed in this behalf by GIC or any other insurer. The medical insurance premium can be paid by any mode other than cash, to be eligible for deduction under section 36(1)(ib).
- e) **False:** Expenditure incurred in making payment to the employee in connection with his voluntary retirement either in the year of retirement or in any subsequent year, will be entitled to deduction in 5 equal annual installments beginning from the year in which each payment is made to the employee.
- f) **False:** Additional depreciation can be claimed only in respect of eligible plant and machinery acquired and installed by an assessee engaged in the business of manufacture or production of any article or thing or in the business of generation or generation and distribution of power. In this case, the assessee is engaged in trading activities and the new plant has been acquired and installed in a trading concern. Hence, the assessee will not be entitled to claim additional depreciation under section 32(1)(ia).

### **PROBLEM NO.16**

- a) **Not allowable as deduction:** As per section 40A(7), no deduction is allowed in computing business income in respect of any provision made by the assessee in his books of account for the payment of gratuity to his employees except in the following two cases:

- Where any provision is made for the purpose of payment of sum by way of contribution towards an approved gratuity fund or;
- Where any provision is made for the purpose of making any payment on account of gratuity that has become payable during the previous year.

Therefore, in the present case, the provision made on the basis of actuarial valuation or payment of gratuity has to be disallowed under section 40A(7), since, no payment has been actually made on account of gratuity.

**Note:** It is assumed that such provision is not for the purpose of contribution towards an approved gratuity fund.

- b) **Allowable as deduction:** As per Rule 6DD, in case the payment is made for purchase of agricultural produce directly to the cultivator, grower or producer of such agricultural produce, no disallowance under section 40A(3) is attracted even though the cash payment for the expense exceeds Rs. 10,000.

Therefore, in the given case, disallowance under section 40A(3) is not attracted since, cash payment for purchase of oil seeds is made directly to the farmer.

- c) **Not allowable as deduction:** Income-tax of Rs.20,000 paid by the employer in respect of non-monetary perquisites provided to its employees is exempt in the hands of the employee under section 10(10CC). As per section 40(a)(v), such income-tax paid by the employer is not deductible while computing business income.

- d) **Allowable as deduction:** Payment for fire insurance is allowable as deduction under section 36(1). Since payment by credit card is covered under Rule 6DD, which contains the exceptions to section 40A(3), disallowance under section 40A(3) is not attracted in this case.
- e) **Not allowable as deduction:** Disallowance under section 40(a)(iii) is attracted in respect of salary payment of Rs. 2,00,000 outside India by a company without deduction of tax at source.
- f) **Allowable as deduction:** The limit for attracting disallowance under section 40A(3) for payment otherwise than by way of account payee cheque or account payee bank draft is Rs. 35,000 in case of payment made for plying, hiring or leasing goods carriage. Therefore, in the present case, disallowance under section 40A (3) is not attracted for payment of Rs. 30,000 made in cash to a transporter for carriage of goods.

#### **PROBLEM NO.17**

- a) Recovery of a bad debt claim disallowed in the earlier year cannot be brought to tax under section 41(4). Section 41(4) can be invoked only in a case where bad debts or part thereof has been allowed as deduction earlier under section 36(1)(vii).
- b) The scope of section 40(a)(ia) has been expanded to cover all sums in respect of which tax is deductible under Chapter VII-B. Section 192, which requires deduction of tax at source from salary income, forms part of Chapter VII-B. Therefore, salary payment without deduction of tax at source would attract disallowance under section 40(a)(ia). However, only 30% of salary paid without deduction tax at source would be disallowed under section 40(a)(ia).
- c) It is deductible in 5 equal annual instalments commencing from the previous year of payment. Rs. 24 lakhs, being 1/5th of Rs. 120 lakhs, is deductible under section 35DDA for the A.Y.2019-20.
- d) As per section 41(4), any amount recovered by the assessee against bad debt earlier allowed as deduction shall be taxed as income in the year in which it is received.  
Therefore, in this case, Rs. 50,000 would be taxable in the F.Y.2018-19 (A.Y.2019-20).

#### **PROBLEM NO.18**

- a) **True:** In order to escape the disallowance specified in section 40A(3), payment in respect of the business expenditure ought to have been made through an account payee cheque or draft or use of electronic payment system. Payment through a cheque crossed as "& Co." will attract disallowance under section 40A(3).
- b)
  - i) **True:** It is mandatory to write off the amount due from a debtor as not receivable in the books of account, in order to claim the same as bad debt under section 36(1)(vii). However, where the debt has been taken into account in computing the income of the assessee on the basis of ICDSs notified under section 145(2), without recording the same in the accounts, then, such debt shall be allowed in the previous year in which such debt becomes irrecoverable and it shall be deemed that such debt or part thereof has been written off as irrecoverable in the accounts for the said purpose.
  - ii) **Partly True:** Section 40(a)(ia) provides that failure to deduct tax at source from rent or royalty payable to a resident, in accordance with the provisions of Chapter XVII-B, will result in **disallowance of only 30% of such expenditure**, where the resident payee has not paid the tax due on such income.

#### **PROBLEM NO.19**

- i) **Yes.** Since his total turnover for the F.Y.2018-19 is below Rs. 200 lakhs, he is eligible to opt for presumptive taxation scheme under section 44AD in respect of his retail trade business.
- ii) His income from retail trade, applying the presumptive tax provisions under section 44AD, would be Rs. 15,88,000, being 8% of Rs. 1,98,50,000.

**Note:** 6% rate has not been considered for calculations assuming that the assessee not satisfied the required conditions.

- iii) Mr. Praveen had declared profit for the previous year 2017-18 in accordance with the presumptive provisions and if he does not opt for presumptive provisions for any of the five consecutive assessment years i.e., A.Y. 2019-20 to A.Y. 2023-24, he would not be eligible to claim the benefit of presumptive taxation for five assessment years i.e., A.Y. 2020-21 to A.Y. 2024-25 subsequent to the



assessment year relevant to the previous year in which the profit has not been declared in accordance the presumptive provisions.

Consequently, Mr. Praveen is required to maintain the books of accounts and get them audited under section 44AB, since his income exceeds the basic exemption limit.

- iv) In case he opts for the presumptive taxation scheme under section 44AD, the due date would be 31st July, 2019.

In case he does not opt for the presumptive taxation scheme and claims that his income is Rs.13,20,000 as per books of account, then he has to get his books of account audited under section 44AB, in which case the due date for filing of return would be 30th September, 2019.

### **PROBLEM NO.20**

#### **Allowability of expenses of M/s. Arora Ltd. for the A.Y. 2019 - 20**

- i) Payment of professional fees is subject to TDS under section 194J. Since no tax is deducted at source, Rs. 15,000, being 30% of the expenditure of Rs. 50,000 is disallowed under section 40(a)(ia).
- ii) Since the tax was deducted in March, 2019 and paid on or before the due date of filing the return (i.e., on or before September 30th, 2019), the expenditure on interior works will be allowed as deduction. Hence, disallowance under section 40(a)(ia) is not attracted.
- iii) The maximum time allowable for deposit of tax deducted at source is upto the due date of filing of return i.e., 30th September, 2019. In this case, since tax deducted under section 194-I was paid after the due date of filing the return, Rs. 4,50,000 being 30% of Rs.15,00,000 is disallowed under section 40(a)(ia) for the previous year 2018-19.
- iv) The tax deducted at source can be deposited on or before the due date of filing of return to avoid disallowance under section 40(a)(ia). In this case, disallowance would not be attracted since tax deducted during December 2018 was deposited before 30<sup>th</sup> September 2019 i.e. on 28.09.2019.

### **PROBLEM NO.21**

- i) The entire revenue expenditure of Rs. 5,65,000 on scientific research related to the business of the company qualifies for deduction under section 35(1)(i).
- ii) As per section 35(1)(iv) read with section 35(2), if any capital expenditure (other than expenditure on acquisition of land) is incurred on scientific research related to the business carried on by the assessee, the whole of such capital expenditure is allowable as deduction in the previous year in which it is incurred. Therefore, Rs.12,50,000 (i.e. Rs. 22,00,000 - Rs. 9,50,000, being the cost of land) is allowable as deduction for the A.Y.2019-20. It is assumed that the scientific research is related to the business of Purnit Agro Industries.
- iii) The employer's contribution to the account of an employee under a pension scheme referred to in section 80CCD, upto 10% of salary of the employee in the previous year, is allowable as deduction under section 36(1)(iva) while computing business income. Disallowance under section 40A(9) would be attracted only in respect of the amount in excess of 10% of salary. Accordingly, Rs.38,20,000 would be allowed as deduction under section 36(1)(iva) and Rs. 6,80,000 would be disallowed as per section 40A(9).
- iv) The tax of Rs.5,50,000 borne by the employer on non-monetary perquisites provided to the employees is disallowed under section 40(a)(v).

### **PROBLEM NO.22**

#### **Computation of Business Income of Mr. Chauhan for the A.Y. 2019-20**

Particulars	Rs.	Rs.
Net profit as per Profit and Loss Account		11,50,000
<b>Add: Expenses not deductible</b>		
Donation to Prime Minister Relief Fund (Refer Note 1)	1,00,000	
Provision for bad debts (Refer Note 2)	50,000	
Family planning expenditure incurred on employees (Refer Note 3)	20,000	
Depreciation as per Profit and Loss Account	30,000	
Income-tax (Refer Note 4)	1,00,000	
Employer's contribution to recognized provident fund (Refer Note 5)	25,000	3,25,000
		<b>14,75,000</b>

<b>Less: Expense allowed</b>		
Depreciation as per Income-tax Rules, 1962 (Refer Note 6)		40,000
		<b>14,35,000</b>
<b>Add: Employee's contribution included in income as per Section 2(24)(x) (Refer Note 7)</b>		25,000
<b>Business Income</b>		<b>14,60,000</b>

**Notes:**

1. Donation to Prime Minister Relief Fund is not allowed as deduction from the business income, since it is not incurred wholly and exclusively for business. It is allowed as deduction under section 80G from the gross total income.
2. Provisions for bad debts is allowable as deduction under section 36(1)(viiia) (subject to the limits specified therein) only in case of banks, public financial institutions, State Financial Corporation and State Industrial Investment Corporation. Therefore, it is not allowable as deduction in the case of Mr. Chauhan.
3. Expenditure on family planning is allowed as deduction under section 36(1)(ix) only to a company assessee. Therefore, such expenditure is not allowable as deduction in the hands of Mr. Chauhan.
4. Income-tax paid is not allowable as deduction as per the provisions of section 40(a)(ii).
5. Since Mr. Chauhan's contribution (Employer's Contribution) to recognized provident fund is deposited after the due date of filing return of income, the same is disallowed as per provisions of section 43B, in computing business income of A.Y. 2019-20.
6. As per second proviso to section 43(1), the expenditure for acquisition of asset, in respect of which payment to a person in a day exceeds Rs.10,000 has to be ignored for computing actual cost, if such payment is made otherwise than by way of A/c payee cheque/ bank draft or ECS. Accordingly, depreciation on furniture & fixtures would not be allowed, since payment exceeding Rs.10,000 (Rs.35,000 in this case) is made in cash. Therefore, no adjustment is required to be made in the amount of depreciation computed as per Income-tax Rules, 1962, since such amount does not include depreciation on furniture & fixtures.
7. Employee's contribution is includible in the income of the employer by virtue of Section 2(24) (x). The deduction for the same is not provided for as it was deposited after the due date under the Provident Fund Act.
8. TDS provisions under section 194A are not attracted in respect of payment of interest on bank loan. Therefore, disallowance under section 40(a)(ia) is not attracted in this case.

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**THE END**