

## **PROFITS AND GAINS FROM BUSINESS OR PROFESSION (PGBP)**

### **Charging Section: Section 28 of Income Tax Act**

**Items of income chargeable to tax as income under the head PGBP are as under:**

- a. Income from business or profession
- b. Any compensation or other payment due to or received
- c. Income from specific services performed for its members by a trade, profession or business.
- d. Incentives received or receivable by assessee carrying on export business:
  - Profit on sale of import entitlement.
  - Cash assistance against exports under any scheme of Government of India
  - Customs duty or excise re-paid or repayable as drawback
  - Profit on transfer of Duty Entitlement Pass Book Scheme or Duty-Free Replenishment Certificate.
- e. Value of any benefit or perquisite.
- f. Sum due to, or received by, a partner of a firm.
- g. Any sum received or receivable, in cash or kind, under an agreement
- h. Any sum received under a keyman insurance policy.
- i. Fair Market Value of inventory on its conversion/ treatment as capital asset.
- j. Sum received on account of capital asset referred under section 35AD.

**FORMAT FOR COMPUTATION OF PGBP:**

PARTICULARS	Amount (₹)	Amount (₹)
a. Net Profit as per Profit and Loss Account		Xxxxxx
b. <b>Add: Expenses debited but not allowed as deductions/ Specific disallowances / Deemed Income i.e. income chargeable under this head</b>		
- <b>Depreciation debited</b> (Allowed separately)	xxxx	
- <b>Income Tax {Disallowed u/s 40(a)(ii)}</b>	xxxx	
- Amounts towards expenses payable to residents on which tax was deductible at source but not deducted during the P.Y. or deducted but not deposited upto due date of filing Income Tax Return u/s 139(1): <b>30% of the such expense is disallowed</b> (The same is allowed in the Previous Year in which the tax is deducted and remitted) <b>{Section 40(a)(ia)}</b>	xxxx	
- Any expenditure incurred, in respect of which payment is made for goods, services or facilities to a related person, to the extent same is <b>excessive or unreasonable</b> <b>{Section 40A(2)}</b>	xxxx	
- Any expenditure incurred in respect of which payment or aggregate of payments to a person exceeding ₹10,000 in a single day is made otherwise than by an Account Payee Cheque/ Bank Draft/ECS <b>{Section 40(A)(3)}</b>	xxxx	
- Certain <b>sums payable</b> by the assessee <b>which have not been paid on or before due date of filing of ITR</b> {Section 43B}	xxxx	
- <b>Personal Expenses</b> {Not allowed as per <b>Section 37</b> }	xxxx	
- <b>Capital expenditure</b> {Not allowed as per <b>Section 37</b> }	xxxx	

- Repairs of capital nature {Not allowable as per section 30 & 31}	XXXX	
- Amortization of Preliminary expenditure u/s 35D/ Expenditure incurred under Voluntary Retirement scheme u/s 35DDA {4/5 <sup>th</sup> of such expenditure to be added back}	XXXX	
- Amount spent towards Corporate Social Responsibility (CSR) Expenditure {Section 37 specifically disallows the same}		
- Amount paid towards advertisement in political magazine/journal of political party {Section 37 specifically disallows the same}		
- Fine or Penalty for infringement or breach of law {However, penalty in nature of damages for delay in completion of a contract, being compensatory in nature, is allowable.}	XXXX	
- All expenses related to income which is not taxable under this head {e.g. Municipal taxes in respect of residential house property}	XXXX	
- Any sum paid by the assessee as an employer by way of contribution to pension scheme u/s 80CCD exceeding 10% of salary	XXXX	
- Salary, remuneration, interest received by a partner from the firm to the extent the same is deductible in the hands of firm as per section 40(b)	XXXX	
- Bad Debts allowed as deduction u/s 36(1) in an earlier P.Y., now recovered. {Deemed Income as per section 41(4)}	XXXX	
- Remission or Cessation of a trading liability {Deemed as income u/s 41(1)}	XXXX	Xxxxxx
<b>c. Sub Total {a + b}</b>		Xxxxxx

<b>d. <u>Less: Expenditure allowable as deduction but not debited to statement of Profit and Loss i.e. Specific deductions/ Items credited but not taxable under this head:</u></b>		
- Depreciation as per Income Tax Rules including Additional depreciation	xxxx	
- Balance additional depreciation @ 10% of actual cost of Plant and Machinery acquired and installed during preceding P.Y i.e. P.Y 2021-22 in this case and put to use for less than 180 days in that year	xxxx	
- Dividend Income {Taxable u/h IFOS}	xxxx	
- Agricultural Income	xxxx	
- Interest on Securities/ Savings Bank Account/ FD {Taxable under the head IFOS}	xxxx	
- Profits on sale of Capital assets taxable u/h Capital Gains	xxxx	
- Rental Income from House Property {Taxable u/s Income from HP}	xxxx	
- Winnings from Lotteries, Horse Races, games, etc {Taxable u/s IFOS}	xxxx	
- Gifts {As they are either not taxable or; Taxable u/s IFOS}	xxxx	
- Income Tax Refund {Not Taxable}	xxx	
- Interest on Income Tax Refund {Taxable u/h IFOS}	xxxx	(xxxx)
<b>e. Therefore, PGBP.</b>		<b>Xxxx</b>

**Illustration 1:**

Compute Profits and Gains from Business or Profession of Mr.A for the Assessment Year 2025-26 from the Profit and Loss Account and additional information given for the Financial Year 2024-25:

Dr.

Cr.

PARTICULARS	Amount (₹)	PARTICULARS	Amount (₹)
To Salaries	18,00,000	By Gross Profit	80,00,000
To Electricity Expenses	1,20,000	By Rent received for Residential House	4,20,000
To Municipal Taxes for residential House	20,000	By Interest on Fixed Deposit	12,000
To Travelling Expenses	4,00,000	By Gift received from Father-in-Law	68,000
To Income Tax	2,25,000	By Dividend from Indian Companies	15,000
To Bad Debts	75,000	By Gains on sale of Shares	1,25,000
To Provision for Bad Debts	65,000	By Income Tax Refund (includes interest of ₹2,000)	12,000
To Penalty – GST	88,000	By Winnings from Lotteries	2,50,000
To Bonus to staff	1,50,000		
To Printing and Stationary	1,22,000		
To Donation to National Defence Fund	60,000		
To Office Expenses	42,000		
To Depreciation	1,62,000		
To Professional Fees	6,00,000		
To Purchase of Land	3,50,000		
To Net Profit	46,23,000		
<b>TOTAL</b>	<b>89,02,000</b>	<b>TOTAL</b>	<b>89,02,000</b>

**Additional Information:**

1. Depreciation as per provisions of Income Tax Rules is ₹2,00,000.
2. Out of Salaries of ₹18,00,000, ₹6,00,000 are paid to Mr.A.
3. Out of total travelling expenses, ₹1,00,000 relates to vacation taken by Mr. A along with his family at Singapore.
4. Out of Bonus of ₹1,50,000 to staff, ₹20,000 has been paid on 1<sup>st</sup> November, 2024.
5. Out of the Printing and Stationary Expenses, ₹40,000 are paid in cash to Millennium Stationers on 14<sup>th</sup> January, 2025.
6. Out of Professional Fees of ₹6,00,000, ₹2,00,000 has been paid to Mrs. A. The Fair Value of Services provided by her is ₹1,20,000. Further, on other fees of ₹1,00,000 paid to Mr.X, tax has not been deducted at source.

**SOLUTION:****Computation of Profits and Gains from Business or Profession of Mr. A for the Assessment Year 2025-26****(Relevant to Previous Year 2024-25):**

PARTICULARS	Amount (₹)	Amount (₹)
a. Net Profit as per Profit and Loss Account		46,23,000
b. Add: <b><u>Expenses debited but not allowed as deductions/ Specific disallowances</u></b>		
- Salaries debited for Sole Proprietor	6,00,000	
- Municipal Taxes for residential House	20,000	
- Traveling Expenses (Personal Element)	1,00,000	
- Income Tax	2,25,000	
- Provision for Bad Debts	65,000	
- GST Penalty	88,000	
- Bonus to Staff {Section 43B}	20,000	

- Printing and Stationery paid in cash {Section 40(A)(3)}	40,000	
- Donation {Not related to business}	60,000	
- Depreciation debited {Allowed separately}	1,62,000	
- Excessive amount of Professional fees paid to relative {Section 40(A)(2)} ₹2,00,000 (-) ₹1,20,000	80,000	
- Amount paid towards expenses to a resident without TDS {Section 40(a)(ia)} 30% of ₹1,00,000	30,000	
- Purchase of Land {Capital Expenses}	<u>3,50,000</u>	<u>18,40,000</u>
<b>c. Sub Total</b>		<b>64,63,000</b>
<b>d. <u>Less: Items Credited but not taxable under this head/ specific allowances</u></b>		
- By Rent received from House Property {Considered u/h Income from House Property}	4,20,000	
- Interest on Fixed deposit {Taxable u/h IFOS}	12,000	
- Gift received from Father-in-law {Not Taxable, being from relative}	68,000	
- Dividend from Indian Companies {Taxable u/h IFOS}	15,000	
- Gains on Sale of Shares {Taxable u/h Capital Gains}	1,25,000	
- Income Tax Refund (Not Taxable)	10,000	
- Interest on Income Tax Refund (Taxable u/h IFOS)	2,000	

- Winnings from lotteries (Taxable u/h IFOS)	2,50,000	
- Depreciation as per Income Tax Rules	<u>2,00,000</u>	<b>(11,02,000)</b>
<b>e. Therefore, Profits and Gains from Business or Profession</b>		<b><u>53,61,000</u></b>

### IMPORTANT DEDUCTIONS/ ALLOWANCES:

#### **1. Section 32: Depreciation**

##### **Conditions to be satisfied:**

- The assessee must own the assets, wholly or partly.
- The assets should be actually used by the assessee for the purpose of his business during the Previous Year.

##### **Note:**

- If assets are **not used exclusively for the business** or profession of the assessee but for other purposes as well, **the depreciation allowable would be a proportionate part** of depreciation allowance to which the assessee would be otherwise entitled.
- Use includes passive use in certain circumstances. Courts have held that in certain circumstances, an asset can be said to be in use even when it is "kept ready for use". E.g.: Depreciation can also be claimed on stand by equipment and fire extinguishers if they are ready for use. Therefore, **use includes passive use as well.**

##### **Computation of depreciation:**

- Depreciation is claimed on the BLOCK OF ASSETS.
- It is claimed on Written Down Value (WDV) basis.

##### **Written Down Value of block of asset is computed as follows:**

PARTICULARS	Amount (₹)
a. Opening Written Down Value of the Block of Asset as on 01.04 of the P.Y. (01.04.2024)	XXXXX
b. <b>Add:</b> Additions at Actual Cost during the P.Y.	<u>XXXXX</u>
c. Sub Total	XXXXX

d. <b>Less:</b> Sale Proceeds of Assets from the block sold during the P.Y.	(XXXX)
e. Therefore, WDV for claiming Depreciation	XXXX
f. Depreciation for the P.Y. at the rate prescribed in Rule 5	(XXXX)
g. Therefore, WDV at the end of the P.Y. i.e. opening WDV for next P.Y. {as on 01.04.2025}	XXXXX

c. In case of purchase of assets during the Previous Year, if it is put to use for less than 180 days, then depreciation is allowed at half of normal.

d. **Meaning of ACTUAL COST of asset:**

- It means actual cost of the asset to the assessee as reduced by that portion of cost thereof, if any, as has been met directly or indirectly by any other person or authority.
- However, if any payment or aggregate of payment is made to a supplier of a asset in a day amount exceeding ₹10,000 in mode other than Account Payee Cheque, Bank Draft or ECS (Now it also includes RTGS, IMP, Net Banking, Debit Card, credit Card, UPI, NEFT, BHIM, Adhaar Pay) then such amount shall not form part of Actual Cost.
- Also refer Explanation to section 43(1) of Income Tax Act.

e. **Rates of Depreciation for important block of assets:**

- a. Buildings – mainly used for residential purposes except hotels: **5%**
- b. Building not used for residential purposes: **10%**
- c. Purely Temporary erections such as wooden structures: **40%**
- d. Furniture and fittings including electrical fittings: **10%**
- e. Motor Car (other than those used in business of running them on hire): **15%**
- f. Motor Buses, Motor Lorries, Motor Taxis used in business of running them on hire: **30%**
- g. Aeroplanes, Aeroengines: **40%**
- h. Pollution Control Equipments: **40%**
- i. Live Saving Medical Equipment: **40%**
- j. Computers: **40%**

- k. Books (Annual publication or other than annual publications) owned by assessee carrying on profession: **40%**
- l. Books owned by assessee carrying on business in running lending libraries: **40%**
- m. **Plant and Machine (General Rate): 15%**
- n. **Know How, Patents, Copy rights, trademarks, licenses, franchises or any other business or commercial rights of similar nature, NOT BEING GOODWILL: 25%**

**- Additional Depreciation:**

**{Available ONLY if assessee is OPTING TO SHIFT OUT OF SECTION 115BAC of the Income Tax Act}**

- a. It is allowed on NEW PLANT AND MACHINERY @ **20%**
- b. of ACTUAL COST
- c. to **any assessee** who is engaged in **business of manufacture** or production of any article or thing.
- d. In case, the plant and machinery is put to use for less than 180 days in the P.Y. in which it is purchased, then it is allowed @ 10% in that P.Y. and balance 10% in subsequent P.Y.
- e. Such additional depreciation is **NOT AVAILABLE** in respect of:
  - 1. Second Hand Plant and Machinery
  - 2. Any machine or plant installed in office premises, residential accommodation or in any guest house.
  - 3. Office appliances or road transport vehicles.
  - 4. Any machine or plant, the whole or part of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing PGBP of any one P.Y.

**Illustration 2:**

Mr. X, a Proprietor engaged in manufacture business furnishes the following particulars:

PARTICULARS	Amount (₹)
a. Opening balance of Plant and Machinery as on 01.04.2024 i.e. WDV as on 31.03.2024 after reducing depreciation for P.Y. 2023-24.	30,00,000

b. New Plant and Machine purchased and put to use on 08.06.2024	20,00,000
c. New Plant and Machine acquired and put to use on 15.12.2024	8,00,000
d. Computer acquired and installed in office premises on 02.01.2025	3,00,000

Compute the amount of depreciation and additional depreciation as per the Income Tax Act, 1961 for the Assessment Year 2025-26. Assume that all the assets were purchased by way of Account Payee Cheque.

**Solution:**

**Computation of Depreciation and Additional Depreciation for the Assessment Year 2025-26 (Relevant to Previous Year 2024-25) assuming that the assessee has opted to pay tax by shifting out of section 115BAC of the Income Tax Act:**

Figures in ₹

<u>PARTICULARS</u>	<u>Plant and Machinery (15%)</u>	<u>Computer (40%)</u>
a. Opening WDV as on 01.04.2024	30,00,000	-
b. Add: Additions at Actual Cost during the Previous Year	<u>28,00,000</u>	<u>3,00,000</u>
c. Therefore, Sub Total	58,00,000	3,00,000
<b>d. Less: Depreciation for the Previous Year</b>	<b><u>(12,90,000)</u></b>	<b><u>(60,000)</u></b>
	<b>(NOTE)</b>	<b>(₹3,00,000 * 40% * ½)</b>
e. Therefore, WDV as on 01.04.2025	45,10,000	2,40,000

**NOTE:****Computation of Depreciation on Plant and Machine:**

<b>PARTICULARS</b>	<b>Amount (₹)</b>	<b>Amount (₹)</b>
<b>Normal Depreciation:</b>		
On Plant and Machine purchased during the P.Y. and put to use for less than 180 days (₹8,00,000 * 15% * 1/2)	60,000	
On Balance WDV (₹50,00,000 * 15%)	<u>7,50,000</u>	<b>8,10,000</b>
<b>Additional Depreciation:</b>		
On New Plant and Machine put to use for less than 180 days (₹8,00,000 * 10%)	80,000	
On New Plant and Machine put to use for 180 days and more (₹20,00,000 * 20%)	<u>4,00,000</u>	<b>4,80,000</b>
<b>Total Depreciation</b>		<b><u>12,90,000</u></b>

**DEPRECIATION (Section 32) v/s SHORT TERM CAPITAL GAINS on SALE of DEPRECIABLE ASSET (Section 50):**

- Where Sale Proceeds exceeds the "Opening WDV + Additions" of the block, it gives rise to Short Term Capital Gains. {There cannot be negative WDV}. (Demonstrated in case 2 in illustration 3)
- Further, where, the block of asset ceases to exist as all the assets in the block are sold, there shall either be STCG or STCL depending on the Sale Proceeds. If Sale Proceeds exceeds "Opening WDV + Additions" of the block, it gives rise to STCG (Demonstrated in case 3 in illustration 3). However, if it is lower, it gives rise to STCL. (Demonstrated in case 4 in illustration 3).

**Illustration 3:**

Following is the BLOCK of Asset of Computers (40%) in 4 cases:

**FIGURES IN ₹**

PARTICULARS	Nos.	Case 1	Nos.	Case 2	Nos.	Case 3	Nos.	Case 4
Opening WDV	20	10,00,000	20	10,00,000	20	10,00,000	20	10,00,000
(+) Purchases	10	10,00,000	10	10,00,000	10	10,00,000	10	10,00,000
Sub Total	30	20,00,000	30	20,00,000	30	20,00,000	30	20,00,000
Less: Sales	25	17,00,000	26	21,00,000	30	22,00,000	30	17,50,000
WDV	5	3,00,000		(1,00,000) i.e.N.A.	NIL	(2,00,000)	NIL	2,50,000 BUT N.A.
Depreciation		1,20,000		N.A.		N.A.		N.A.
Sec 32/ Sec 50		32		50		50		50
STCG/(STCL)		N.A.		1,00,000		2,00,000		(2,50,000)

**Notes:**

- Nos. indicates number of assets.
- All new purchases of computer were put to use for 180 days or more during the P.Y.

**Computation of Short-Term Capital Gains/ (Short Term Capital Loss) in case 2, 3 & 4:**

**Figures in ₹**

PARTICULARS	Case 2	Case 3	Case 4
a. Full Value of Consideration/ Net Sale Consideration	21,00,000	22,00,000	17,50,000
b. Less: Cost of Acquisition/ Cost of Improvement (Opening WDV + Additions)	(20,00,000)	(20,00,000)	(20,00,000)
c. Therefore, STCG/(STCL)	<u>1,00,000</u>	<u>2,00,000</u>	<u>(2,50,000)</u>

### **EXPENDITURE ON SCIENTIFIC RESEARCH: {Section 35}**

- It means activities for extension of knowledge in fields of natural or applied science including agriculture, animal husbandry or fisheries.
- Broadly, Deduction is allowed to the extent of **100%** in following cases:
  - A. Expenditure made by Company engaged in business of bio-technology or any business of manufacture or production of any article.
  - B. Expenditure incurred by any assessee on scientific research related to business {Revenue Expenditure or Capital expenditure – Other than on land}.
  - C. Amount paid to Notified approved university/College/Research Association/ Other institution for Social Sciences or Statistical research, Approved National Laboratory/ University/ IIT.

### **INVESTMENT LINKED TAX INCENTIVES FOR SPECIFIED BUSINESS**

#### **(Section 35AD):**

- Deduction is allowed to the extent of **100%** for Capital Expenditure in case of specified businesses.
- **Following are SPECIFIED BUSINESSES: -**
  1. Setting up and Operating **Cold Chain facilities** for specified products.
  2. Setting up and Operating **warehousing facilities** for storing **agricultural produce**.
  3. Laying and operating a **cross country natural gas or crude or petroleum oil pipeline network** for distribution including storage facilities being an integral part of such network.
  4. Building and operating a **hotel of two star** or above category, anywhere in India.
  5. Building and operating a **hospital**, anywhere in India, with at least 100 beds for patients.

6. Developing and building a **housing project** under a notified scheme for **slum redevelopment or rehabilitation** framed by Central Government or a State Government.
7. Developing and building a **housing project** under a notified scheme for **affordable housing** framed by Central Government or State Government.
8. Production of **fertilizer** in India.
9. Setting up and operating an **inland container depot** or a **container freight station** notified or approved under the Customs Act.
10. **Bee-keeping** and production of honey and beeswax.
11. Setting up and operating a **warehousing facility for storage of sugar**.
12. Laying and operating a **slurry pipeline for transportation of iron ore**.
13. Setting up and operating a semiconductor wafer fabrication manufacturing unit.
14. Developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility.
  - The above businesses should not be set up by splitting up or reconstruction of business already in existence. Also, it should not be set up by transfer to a specified business of machinery or plant previously used for any purpose.
  - It should be noted that deduction is NOT ALLOWED for Capital Expenditure incurred on acquisition of GOODWILL, LAND or FINANCIAL INSTRUMENT.
  - Also, any expenditure incurred in respect of which payment or aggregate of payment made to a person of amount exceeding ₹10,000 in a day otherwise than by an Account Payee Cheque, Bank Draft, ECS would not be eligible for deduction.
  - **Expenditure incurred prior to commencement of business** would be allowed as deduction in that Previous Year in which the assessee commences the business. Only condition to be satisfied is that amount incurred prior to commencement of business should be capitalized in the books of account on date of commencement of operations.

- **No deduction u/s 10AA or Chapter VI-A under the heading C-deductions in respect of certain incomes should have been claimed.** (Once the assessee has claimed benefit of deduction u/s 35AD for a particular year in respect of specified business, he cannot claim the benefit u/ch VI-A or section 10AA for the same or any other year and vice-versa)
- **No deduction under any other section for expenditure for which deduction is allowed under this section.**
- **Any loss from specified business can be set off only against the profit of another specified business.**

**ILLUSTRATION 4:**

MNP Ltd. commenced operations of the business of a new four-star hotel in Chennai on 01.04.2024. The company incurred capital expenditure of ₹40 lakhs during the period January 2024 to March 2024 exclusively for the above business and capitalized the same in its books of account as on 1<sup>st</sup> April, 2024.

Further, during the Previous Year 2024-25, it incurred capital expenditure of ₹2.5 crore (out of which ₹1 crore was for acquisition of land) exclusively for above business.

Compute the income under the head PGBP for the Assessment Year 2025-26 assuming that MNP Ltd. has fulfilled all the conditions specified for claim of deduction under section 35AD and has not claimed any deduction under chapter VI-A under the heading C- Deductions in respect of certain incomes.”

The profits from the business of running this hotel (before claiming deduction under section 35AD) for the Assessment Year 2025-26 is ₹80 lakhs.

Assume that the company also has another existing business of running a four-star hotel in Kanpur which commenced operations 6 years back, the profits from which was ₹130 lakhs for the Assessment Year 2025-26.

**SOLUTION:****Computation of Income from Business or Profession for the Assessment Year 2025-26 (Relevant to Previous Year 2024-25):**

<u>PARTICULARS</u>	<u>Amount</u> <u>(₹ in lakhs)</u>	<u>Amount</u> <u>(₹ in lakhs)</u>
Income from Four Star Hotel in Chennai		80
Less: Eligible deduction under section 35AD		
(a) Expenditure prior to commencement	40	
(b) Capital expenditure incurred in P.Y. 2024-25 (250 lakh – 100 lakh)	<u>150</u>	<u>(190)</u>
Total Loss from Four-star hotel in Chennai		(110)
Income from Four-star hotel in Kanpur		<u>130</u>
<b>Therefore, Income from business or profession</b>		<b><u>20</u></b>

**Notes:**

1. As per section 73A of Income Tax Act, loss from specified business can be set off only against income from specified business.
2. Expenditure relating to acquisition of land is not allowed as deduction under section 35AD.

**AMORTISATION OF PRELIMINARY EXPENDITURE {SECTION 35D}**

- It is allowed for Indian Companies and other resident non-corporate taxpayers for the establishment of business concerns of the expansion of business of existing concerns.
- Preliminary expenditure incurred shall be amortized over a period of 5 years. In short, **1/5<sup>th</sup> of such expenditure shall be allowed for each of the 5 successive previous years** beginning with the previous year in which the business commences or the previous year in which the extension of undertaking is completed.

- **Eligible expenses – Expenditure in connection with –**
  - a. The preparation of feasibility report.
  - b. The preparation of project report
  - c. Conducting market survey or any other survey necessary for the business of the assessee.
  - d. Engineering services relating to the assessee’s business.
  - e. Legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up to conduct business of assessee.
  - f. Further, if the assessee is company – then also – expenditure incurred by way of legal charges for drafting the Memorandum and Articles of Association of Company; on printing of MOA, AOA, fees for registering the company under the Companies Act and in connection with issue for public subscription of shares or debentures of the company like underwriting commission, brokerage.
- **Overall limits:**
  - In case of Indian companies:  
5% of cost of project or; 5% of Capital employed (whichever is higher)
  - In case of resident non-corporate assessee:  
5% of the cost of project.
- **No other deduction under any other provision of the Act**

### **AMORTISATION OF EXPENDITURE INCURRED under VOLUNTARY RETIREMENT SCHEME {Section 35DDA}:**

- It is allowed to any assessee to the extent of 1/5<sup>th</sup> of the amount paid for that P.Y. and the balance in 4 equal installments in the four immediately succeeding previous years.
- No deduction under any provisions of this Act.

## Other Deductions - Section 36

### GENERAL DEDUCTIONS/ RESIDUARY EXPENSES – Section 37

- **Revenue expenditure** incurred for purpose of carrying in business, profession but not allowable specifically in any of the above sections.
- It should be incurred by the assessee during the previous year.
- It must have been incurred after the business was set up.
- It should **not be in the nature of any personal expenses** of the assessee.
- It should not be in nature of capital expenditure.
- It should not have been incurred by the assessee for any purpose which is an offence or is prohibited by law.
- It should be noted that **CSR Expenditure is disallowed** under this section. {As it is an application of income. But, if CSR expenditure satisfied the conditions of deductions in section 30-36, it will be allowed in that respective section}.
- **Advertisement in souvenir of political parties:** Not allowed as deduction while computing PGBP. {But, it will be allowed u/s 80GGB & 80GGC, as the case may be from Gross Total Income while computing Total Income.}

### INADMISSIBLE EXPENSES:

- 40(a)(i): Non compliance of TDS provisions w.r.t. payment to Non-Residents
- 40(a)(ia): Non compliance of TDS provisions w.r.t. payment to Residents : 30% of the such expenses are disallowed.
- 40(A)(2): Excessive payments to relatives

- **40(A)(3): Payment of expenses in excess of ₹10,000/₹35,000 in mode other than Account Payee Cheque, Bank Draft, ECS, UPI, BHIM, Adhaar Pay, NEFT, RTGS.**
- **43B: Certain deductions to be made only on actual payment basis**  
{In short, if the amounts as mentioned in section 43B remains unpaid upto due date of filing of ITR u/s 139(1), then such amount shall be disallowed while computing PGBP.}

### **SECTION 40(b)**

#### **Allowability of Partner's Remuneration and Interest on Partner's Capital to a Partnership Firm:**

##### **PARTNER'S REMUNERATION:**

- It is allowed only if it is as per the partnership deed.
- It is allowed to the extent of lower of 2:
  - Remuneration as debited towards working partners  
Or;
  - Ceiling Limit as follows:

<b>BOOK PROFITS</b>	<b>Amount (₹)</b>
a. NEGATIVE i.e. Loss	3,00,000
<b>b. POSITIVE</b>	
Upto ₹6,00,000	90% of Book Profits or; ₹3,00,000, whichever is higher
<u>Above ₹6,00,00</u> On first ₹6,00,000 On Book Profits exceeding ₹6,00,000	90% of Books Profits  60% of Book Profits.

**Here, Book Profits are computed as follows:**

a. Net Profit as per P&L A/C	xxxxx
b. Add: Expenses debited but not allowed as deduction	xxxxx
c. Less: Items credited but not taxable under this head	xxxxx
d. Add: Partner's Remuneration debited	<u>XXXXX</u>
e. Therefore, Book Profits	<u>XXXXX</u>

**Interest on Partner's Capital:**

- It is allowed only if it is as per the deed.
- It is allowed to the extent of 12% of partner's capital.

**PGBP of the Firm:**

Book Profits of the firm (-) Allowable Partner's Remuneration

**Notes:**

1. It should be noted that whatever amount of remuneration and interest on partner's capital is allowed as deduction to the firm is taxable in hands of partners under the head PGBP.
2. Share of profit of firm given to partners is exempt in the hands of partner u/s 10(2A) of Income Tax Act.

**Illustration 5:**

Rao and Jain, a partnership firm consisting of two partners reports a net profit of ₹17,00,000 before deduction of following items:

1. Salary of ₹40,000 each per month payable to two working partners of the firm (as authorized by the deed of partnership firm).
2. Depreciation on Plant and Machine under section 32 (computed): ₹1,50,000.
3. Interest on Capital at 15% per annum (as per the deed of partnership), the amount of capital eligible for interest: ₹5,00,000.

Compute:

1. Book Profit of the firm under section 40(b) of Income Tax Act.
2. Allowable working partner salary for Assessment Year 2025-26 as per section 40(b) of Income Tax Act.
3. Profits and Gains from Business or profession of the firm.

**SOLUTION:**

**Computation of Book Profits, allowable partner's remuneration and PGBP of the firm for the Assessment Year 2025-26**

**(Relevant to Previous Year 2024-25):**

<b>PARTICULARS</b>	<b>Amount (₹)</b>	<b>Amount (₹)</b>
a. Net Profit of the firm before deduction of depreciation and interest on partner's capital	17,00,000	
b. Less: Depreciation as per Income Tax Act	(1,50,000)	
c. Less: Interest on Partner's Capital as allowed {₹5,00,000 * 12%}	<u>(60,000)</u>	
d. BOOK PROFITS		<b>14,90,000</b>
<b>e. <u>Less: Remuneration</u> <u>(Lower of following 2)</u></b>		
As per deed {₹40,000 * 2 * 12}	9,60,000	
Or;		
<u>Ceiling limit u/s 40(b)</u> On first ₹6,00,000 @ 90% = ₹5,40,000 On balance in excess of ₹6,00,000 @ 60% = <u>₹5,34,000</u> (₹8,80,000 * 60%)	10,74,000	
Therefore, allowable remuneration		<b><u>(9,60,000)</u></b>
f. Therefore, PGBP		<b><u>5,30,000</u></b>

**COMPULSARY MAINTENANCE OF ACCOUNTS: {Section 44AA}**

## **TAX AUDIT: {Section 44AB}**

### **APPLICABILITY:**

- **In case of person carrying on business:**
  - a. If Turnover/Sales exceed ₹1 crore in relevant PY.
  - b. In case of Individual/HUF/Partnership Firm carrying on business whose sales/turnover during PY exceed ₹2 crore.
  - c. For person whose aggregate cash receipts is not exceeding 5% of total receipts and; aggregate cash payments are not exceeding 5% of total payments then the threshold turnover limit for applicability of tax audit shall be ₹10 crore.
- **In case of person carrying on profession:**
  - a. If the Gross receipts of assessee exceeds ₹50 lakh.
  - b. In case, the Gross Receipts is not exceeding ₹50 lakh and assessee declares income less than presumed income of 50% and his income exceeds basic exemption limit in that P.Y.
- **In case of assessee covered u/s 44AE i.e. assessee engaged in transport business:**  
Applicable if assessee declares income less than presumed income.
- **Submission of Audit Report:**  
Due date of filing of Income Tax Return in case of assessee who are required to get their accounts audited is 31<sup>st</sup> October of the relevant assessment year.  
The specified date for Tax Audit Report is one month prior to the due date of furnishing of ITR i.e. 30<sup>th</sup> September of the relevant A.Y.

### **Illustration 6:**

#### **Comment on applicability of Tax Audit under section 44AB of the Income Tax Act in the following cases for PY 2024-25:**

1. Company assessee having turnover in business ₹120 lakhs, PGBP declared: ₹20 lakhs.

**Solution:**

Here, as Turnover of Company assessee engaged in business exceeds ₹1 crore, Tax Audit is applicable irrespective of PGBP declared.

It should be noted that provisions of presumptive taxation of section 44AD are NOT APPLICABLE in this case as assessee is not individual, HUF or Firm. Hence, Section 44AD is N.A. even if T/O is not exceeding ₹2 crore.

- 2. What would be your answer in the above case, if the assessee is not Company but an individual assessee?**

**Solution:**

Here, provisions of section 44AD are applicable assessee being INDIVIDUAL engaged in business, turnover NOT exceeding ₹2 crore. PGBP declared by the assessee is equal to or more than 8% of ₹120 lakhs i.e. ₹9.6 lakhs. Hence, no need to maintain books of accounts and no need of audit u/s 44AB.

- 3. A Partnership Firm (Not being LLP) has turnover in business of ₹3 crores, PGBP declared is ₹30 lakhs.**

**Solution:**

Here, provisions of section 44AB w.r.t. Tax Audit shall apply as Turnover in business exceeds ₹1 crore.

Note that provisions of section 44AD shall not apply in this case as Turnover of assessee in business exceeds ₹2 crore.

- 4. Mr.A, a Chartered Accountant, engaged in Practice of Accountancy has Gross Receipts of ₹60,00,000. He declares PGBP of ₹32,00,000.**

**Solution:**

Here Tax Audit u/s 44AB is mandatory as Gross Receipts in case of assessee engaged in Profession exceeds ₹50,00,000 during the P.Y.

- 5. What would be your answer in the above case, if the Gross Receipts were ₹48,00,000 and PGBP declared is ₹20,00,000.**

**Solution:**

Here section 44ADA is applicable as Gross receipts for assessee engaged in profession is not exceeding ₹50,00,000.

PGBP declared by such assessee from profession is not at least 50% of the Gross Receipts & therefore, it is mandatory to maintain books of Accounts as per section 44AA and get them audited u/s 44AB.

- 6. What would be your answer in Question 5, if PGBP declared is ₹25,00,000 instead of ₹20,00,000?**

Here, section 44ADA provisions are applicable as Gross Receipts in case of assessee engaged in profession is not exceeding ₹50,00,000. Further, he has declared PGBP of 50% or more of the Gross Receipts & therefore, there is no need to maintain books of accounts and also no need for audit u/s 44AB.

- 7. What would be your answer in Q.1, if the amount of ₹118 lakhs was received via banking mode out of turnover of ₹120 lakhs? Given also that out of expenses incurred, about 98% were incurred via banking mode.**

**Solution:**

Here, the limit applicable for tax audit shall be ₹10 crore as 95% or more of the turnover is received by way other than cash and also 95% or more of expenses are by way of other than cash.

Hence, provisions of section 44AB w.r.t. Tax Audit shall not apply.

8. An individual engaged in business is having turnover of ₹12 crores, declared PGBP of ₹2 crores.

**Solution:**

Here, TAX AUDIT is applicable as Turnover in business exceeds ₹1 crore. It should be noted that how much of turnover is received in Bank / how much of expenses is done via bank does not matter as Turnover exceeds ₹10 crore.

Note: Provisions of section 44AD do not apply as Turnover in business exceeds ₹2 crores.

**PRESUMPTIVE TAXATION:**

**SECTION 44AD:**

- Applicable for Resident individual, HUF or Partnership Firm (not being LLP) engaged in business.
- Turnover in this business should be not exceeding ₹200 lakhs during the P.Y.
- **Further, w.e.f. A.Y 2024-25, if Turnover/Gross Receipts in the P.Y does not exceed ₹300 lakhs and; aggregate cash receipts in the P.Y. should not exceed 5% of total turnover/gross receipts.**
- **Presumptive Income:**  
**Minimum income to be declared:**  
8% of Gross Receipts  
6% of Gross Receipts in respect of Turnover which is received by way of Account Payee cheque, Bank Draft, ECS, Credit Card, Debit Card, NEFT, RTGS, UPI, Aadhaar Pay during the P.Y. or before due date of filing of ITR.
- No need to maintain books of Accounts and get them audited if income is declared as per section 44AD. However, if after declaring profits on presumptive basis u/s 44AD, say, for A.Y. 2023-24, non-declaration of profits on presumptive basis for any of 5 successive A.Y.s thereafter (i.e. from A.Y. 2024-25 to A.Y. 2028-29), say, for A.Y. 2025-26, would disentitle the assessee from claiming profits on

presumptive basis for 5 successive A.Y. relevant to P.Y. of such non declaration (i.e. from A.Y. 2026-27 – 2030-21). In such a case, assessee would have to maintain books of accounts and get them audited u/s 44AB if the total income exceeds basic exemption limit in those years.

### **SECTION 44ADA:**

- Applicable to Resident individual or partnership firm (but not LLP) engaged in any profession.
- Gross receipts should not be exceeding ₹50 lakhs during a P.Y.

**- Also, w.e.f. A.Y 2024-25, if the gross receipts during a P.Y. does not exceed ₹75 lakhs and the aggregate cash receipts in the relevant P.Y. does not exceed 5% of total/gross receipts.**

- Presumptive Income:  
Minimum Income to be declared in 50% of Gross Receipts.
- No need to maintain books of accounts if profits declared is as per 44ADA. However, if profits declared is lower than 44ADA & total income exceeds basic exemption limit, then maintain books of Accounts and get them audited as per section 44AB.

### **Common notes for section 44AD & 44ADA:**

- Deductions u/s 30 – 38 shall be deemed to have been given full effect to and no further deduction shall be allowed. {Even Interest on Partner's Capital and Partner's Remuneration of section 40(b) will not be allowed}.
- Eligible assessee opting for provisions of these presumptive taxation shall pay advance tax only in one instalment i.e. 100% of the advance tax is payable by 15<sup>th</sup> March of the Previous Year.

### **SECTION 44AE:**

- An assessee engaged in business of leasing, hiring, plying of goods carriages and owning NOT MORE THAN 10 goods carriages at any point of time during the Previous Year is eligible for section 44AE.
- **Presumed Income to be declared:**  
**For other than heavy goods vehicle:** ₹7,500 per month or part thereof during which such vehicle is owned.  
**For heavy goods vehicle:** {Such vehicle of which gross weight exceeds 12,000 kgs}: ₹1,000 per ton per month or part thereof.
- Deductions u/s 30 – 38 shall be deemed to have been given full effect to and no further deduction shall be allowed. However, **Interest on Partner's Capital and Partner's Remuneration of section 40(b) will be allowed.**
- No need to maintain books of accounts if profits declared is as per 44AE. However, if profits declared is lower than 44AE & total income exceeds basic exemption limit, then maintain books of Accounts and get them audited as per section 44AB.
- Eligible assessee has to pay advance tax in 4 installments.

### **Illustration 7:**

A Partnership Firm not being LLP engaged in business having Turnover of ₹150 lakhs has received amount of ₹110 lakhs by way of Account payee cheque upto 31.03.2025. Further ₹20 lakhs is received by way of Account Payee cheque upto 31.07.2025. What is the deemed income to be declared as per section 44AD?

### **Solution:**

Deemed Income u/s 44AD is at 8% of turnover and in case of amount received by way of Account Payee cheque/ Bank Draft/ ECS upto due date of filing of ITR shall be at 6% of the amount so received from the turnover.

**Computation of deemed income under section 44AD for A.Y. 2025-26  
(Relevant to P.Y. 2024-25):**

PARTICULARS	Amount (₹ in Lakhs)
a. Turnover amount received by way of account payee cheque upto due date of filing of ITR (110 lakh + 20 lakh) = 130 lakh	
b. Deemed Income/ Presumed Income/ PGBP as per section 44AD @ 6% on above	7.8
c. Balance Turnover {150 lakhs (-) 130 lakhs} = 20 lakhs	
d. Deemed Income @ 8% of turnover	1.6
<b>e. Therefore, Total Deemed Income/ Presumed Income</b>	<b>9.4</b>

**Note:**

If such amount or more than this is declared as income then no need to maintain books of accounts and even no need for tax audit u/s 44AB.

**ILLUSTRATION 8:**

**Mr. Prakash is in the business of operating goods vehicle. As on 01.04.2023, he had the following vehicles:**

Vehicle	Weight	Date of purchase	Put to use during FY 2024-25
A	8,500	02.04.2023	Yes
B	13,000	15.05.2023	Yes
C	12,000	04.08.2023	No. Under Repair

**During Previous Year 2024-25 he purchased the following vehicles:**

Vehicle	Weight	Date of purchase	Put to use during FY 2024-25
D	11,000	30.04.2024	10.05.2023
E	15,000	15.05.2024	18.05.2023

Compute his income under section 44AE of Income Tax Act for Assessment Year 2025-26.

**SOLUTION:**

**Computation of deemed/presumed income of Mr. Prakash for the Assessment Year 2025-26 (Relevant to Previous Year 2024-25):**

<u>Vehicle</u>	<u>Period (Months)</u>	<u>Computation</u>	<u>Amount (₹)</u>
A	12	₹7,500 * 12	90,000
B	12	₹1,000 * 13 * 12	1,56,000
C	12	₹7,500 * 12	90,000
D	12	₹7,500 * 12	90,000
E	11	₹1,000 * 15 * 11	<u>1,65,000</u>
		<b>Total Income u/s 44AE</b>	<b>5,91,000</b>

**INCOME OF BUSINESS INCOME IN CASES WHERE INCOME IS PARTLY AGRICULTURAL AND PARTLY BUSINESS IN NATURE** {It will be covered as part of Agricultural income topic}