Date :- 01/10/2024

Lecture 42

Sec 40 (B) remuneration and intrest by Firm/LLP to partner

Firm $\xrightarrow{\text{rem}^n/\text{int.}}$ Partner.

① Rem < working partner ✓ / sleeping par ✗

② int → w/s partner ✓

② Rem/int → Deed

③ Prospectus ✓

~~repropro~~ ✗

④ intrest → partner → capital of 10 m → max 12%. P.A. simple intrest

	case 1	case 2	case 3
Auctual intrest	15%	9%	13%
Deed	18%	15%	8%
max	12%	12%	12%
	12%	9%	8%

⑤ rem

Book Profit (PGBP income Just before rem^n)

upto 6 lakhs → BP×90% xx OR 300,000 — xxx

Balance Book Profit × 60% — xxxx

max Allowable rem^n

Intrest and remuneration by firm / LLP to partners shall be allowed if following condition's are satisfied.

1) remn paid to only working partner.

2) remn and intrest should be Authorised by Partnership Deed.

3) remn and intrest should relates to period following after the date of Partnership deed it means it should be prospective and not retroprospective.

4) Intrest on Partner capital & loan allowed maximum 12% p.a simple Int

5) remuneration allowed on Book profit basic.

Book Profit (Just Before remn)

↓ upto 6 lakhs ↓

BP × 90% xxx

OR 300000

xx

↓ Balance BP ↓

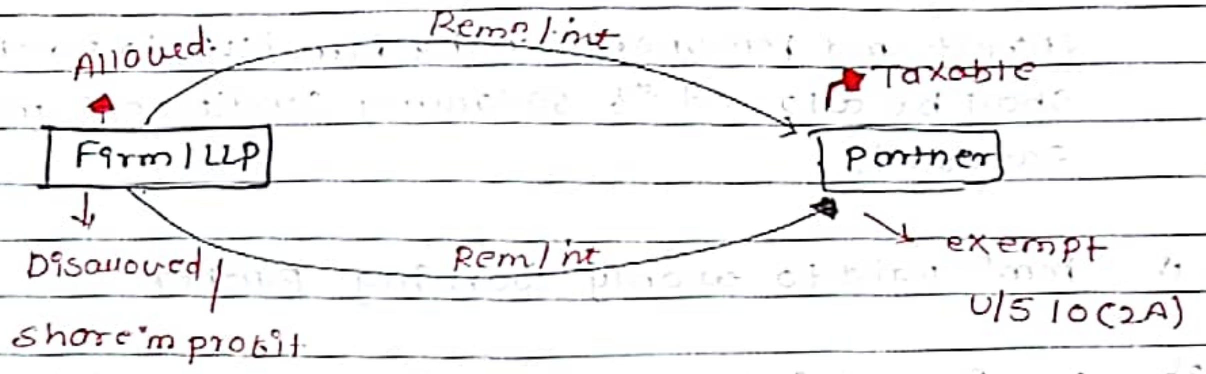
× 60%

xx

Max Allowable remn

* Caln of Book Profit *

Net profit as per PGBP	xxx
Add :- remn (if debited to P&L)	xxx
Less :- Depn of c.y + unabsorbed depn	(xxx)
	xxx



Q NO. 15 page NO 61

Firm (PY 24-25 AY 25-26)

Computation of PGBP income.

	Net profit		700.000
Add:-	rem to partner 'A'		60000
	intrest to partner D (12% Disallowed) $\left(\frac{36000}{150000} \times 100\right) = 24\%$		18000.
			778000.
Add:	remuneration to partner B & C (80000 + 90000)		170000
			948000.
less:	Rem as per sec 40 (b)		
	i) Actual Rem	170000	
	ii) max Allowable	748800	170000
		PGBP	778000

BP (948000)

first 600,000 × 90%
540000
or 300000
540000

Bal BP
348000 × 60%.
208800

max Allowable
748800

Computation of PGBP of Partner's

	A	B	C	D
Rem^n	Exempt	80000	90000	–
Int	–	–	–	18000
	–	80000	90000	18000.

Q NO. 6.14 Page No. 61

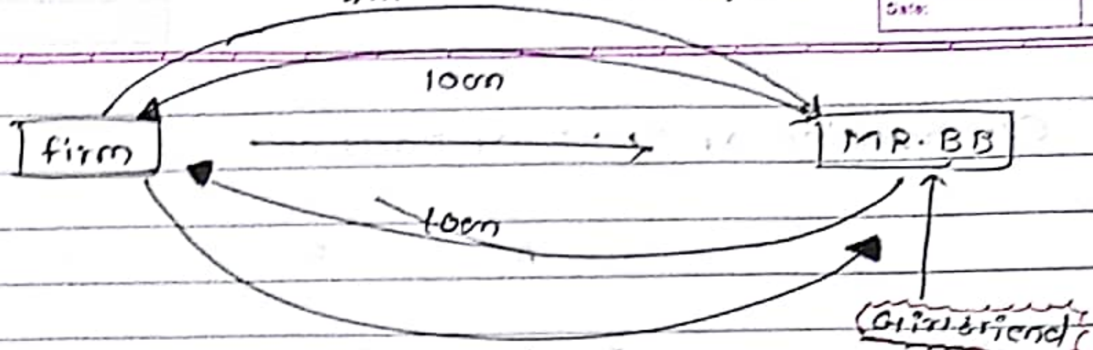
Roo and Jdm (PY 24-25 AY 25-26)

		₹
Net profit		700,000
less: i) Dep^n as per Sec 32		150000.
ii) int on loan		
(500000 x 12%)		60000
	Book profit	490000.
less: rem^n as per Sec 40(b)		
(1) Allowable Rem		
first 600000 x 90% or 300,000 Higher		
490000 x 90%	441000.	
ii) Actual Rem	480000	(441000)
(20000 x 12 x 2)		
		PGBP. 49000

Intrest to Partner.

case 1

Int Allowed max 12%. 40(b)

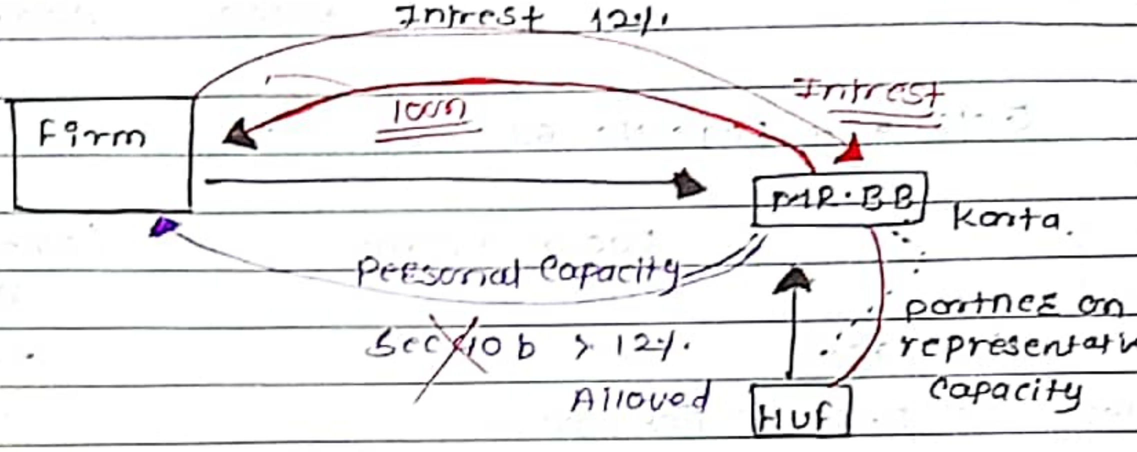


Intrest on representative capacity

~~40(b)~~ > 12%. Allowed

case 2

Intrest 12%



~~Sec 40 b~~ > 12%. Allowed

Partner	Int Recd on	Sec 40(b) limit
1) Ind. capacity	Ind. capacity	Sec 40(b) ✓ max 12%. ✓
2) Ind Capacity	repres. Capacity	Sec 40(b) ✗ Full intrest ✓
3) repres. Cap.	repres. Capacity	Sec 40(b) ✓ max 12%. ✓
4) Repren Capacity	Ind^{v} Capacity	Sec 40(b) ✗ Full int ✓

Sec 145 (1) Method of Accounting.

For computing IFOS & PGBP assessee can follow cash method or accrual system of Accounting.

* Speculative Business:

- It means transctions in which contract for sale or purchase it altimately settle by otherwise then actual delivery

- following transction are not treated as speculative

1) Hedging contract
2) Forward contract
3) Derrivatives (future and options)

Note : speculative business and normal business are treated as seprate business.

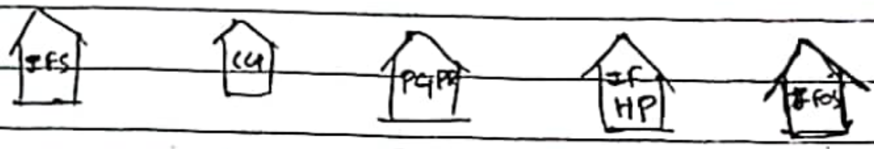
* SET OFF AND CARRY FORWARD OF LOSSES

(4 to 7 marks)

Ayush (Brahmin)

Ms Ayushi (Jain)

Inter caste



Sec 70 : - Intra head adjustment

It means loss from one source of income. Can be set off against income from another source of income but in the same head of income.

Exceptions

1. Specified business loss (Sec 35 AD) can be set off against only income from specified business.

2. Specultive business loss can be set off only against specultive business income.

3. long term capital loss can be set off only against long term capital Gain.

4. loss from ~~owing~~ owning and maintaining from race horses can be set-off only against income from owning and maintaining race ~~hourse~~ horses

Sec 71 inter-head Adjustment.

- It means loss under one head of income can be set off against income from another head of income But in the same PY.

Exceptions

1 Specified business losses (Sec 35 AD) can be set off against only income from specified business.

2. Speculative business losses can be set off only against speculative business income.

3. Long term capital loss can be set-off only against long term capital Gain.

4. loss from owning & maintaining race ~~houses~~ horses. can be set off only against income from owning & maintaining race horses.

Short-term capital loss can be set-off only against STCG / LTCG

losses from business cannot be set-off against Salary.

Mind map.

Income from salary → losses Not possible.

Income from House property →

Loss from HP → Intra Head Adj
→ Inter Head Adj (Max 200,000)
→ C/F

PGBP.

i) loss from specified Business (35AD) → Income from specified business
→ C/F

ii) loss from speculative Business → Income from ~~speculative Busi~~
→ C/F

iii) other Business loss → Intra Head Adj.
→ Inter Head Adj except ~~Salary~~
→ C/F

Capital Gain

i) LTCG → set off against LTCG
→ C/F

ii) STCG → Set off against STCG or LTCG
→ C/F

IFOS

i) loss from owning & maintaining Race horses → set off against owning & main Race horses
→ C/f

ii) other losses of IFOS → Intra Head Adj
→ Inter Head Adj
→ C/f Not Allowed.

Note

The loss from HP can be set-off against any other head of income is max ₹ 200,000 if assessee opt from 115BAC. If assessee opt sec 115BAC then House Property Head losses not allowed to set off against any other Head of income.