lecture NO. 16

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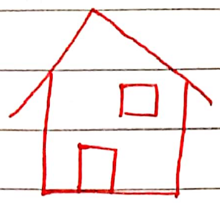
## Special case NO : 2

Sec 51 : Advance money forfeited (Token money)



MR ~~[illegible]~~ Ayush
19/07/2012.
200,000 (token money)

Py 2002-3
Cost = 500,000
MR Umang

Capital Gain
(Py 24-25 AY 2526)

MR BB
16/05/2024
50,00,000
Sale

| | | |
|---|---|---|
| FVOC | | 50,00,000. |
| − ICOA (500000 − 200000) | $300000 \times \frac{363\ (2024\text{-}25)}{105\ (2002\text{-}2003)}$ | (1037143) |
| | | 3962857 |

2014 Sec 56(2)(ix) → IFOS.

If any Advance money forfeited before 1/4/14 then it's Should be reduce from

1. Cost of Asset if asset acquired on or after 1/4/2001

2. FMV as on 1/4/2001 (if Asset Acquired before 1/4/2001 & fmv as on 1/4/2001 > cost)

③ WDV (incase of ~~dre~~ Depreciable assets)

Notes

i) Advance money reduce before indexation.

ii) Advance money Forfeited by previous owner shall not be reduced

* Sec 56(2)(ix)

- If any advance money forfeited on after 1/4/2014 then it shall be taxable under income from other sources (IFOS) in the year of forfeiture.

ex:-

Mr. BaBlu acquired a house property in previous year e:2001-2002 for ₹ 500,000. during the (PY 7-8) he entre into for sale of property with mr. kaka & Received Advance of ₹ 120000. kaka did not remit the balance Amt so BaBlu forfeited the Advance in the (PY 7-8). again mr. BaBlu entre into Agreement for Sale of mr. Jonu on 10/4/2024 and received Advance of ₹ 70000. mr. Jonu did not remit the balance Amt so BaBlu forfeited the Advance. finally mr. BaBlu sold the property to miss. kiran for ₹ 70,00,000. on 22/07/2024 calculate Capital Gain in hands of BaBlu

MR. BABU (PY 24-25 AY 25-26)

Computation of capital Gain

| | | ₹ |
|---|---|---|
| FVOC | | 70,00,000 |
| (-) Trasfer exp | | - |
| | NC | 70,00,000 |
| - ICOA | | |
| [500000 - 120000) $380000 \times \frac{363}{100}$ | | (1379400) |
| | LTCG | 5620,600 |

IFOS (PY 24-25 AY 25-26)

Advance money forfeited. 70000

Note 1 : Advance money forfeited before 1/4/2014 is ₹ 120000 shall be reduced from cost of Acq. due to sec 51.

Note: 2: Advance money forfeited on or after 1/4/2014 shall be taxable under IFOS in the year of forfeiture, so, ₹ 70000 taxable under IFOS in (PY 24-25)

## Special Case No: 3.

**Sec 47: Following transaction not regarded as Transfer.** (exempt transfer)

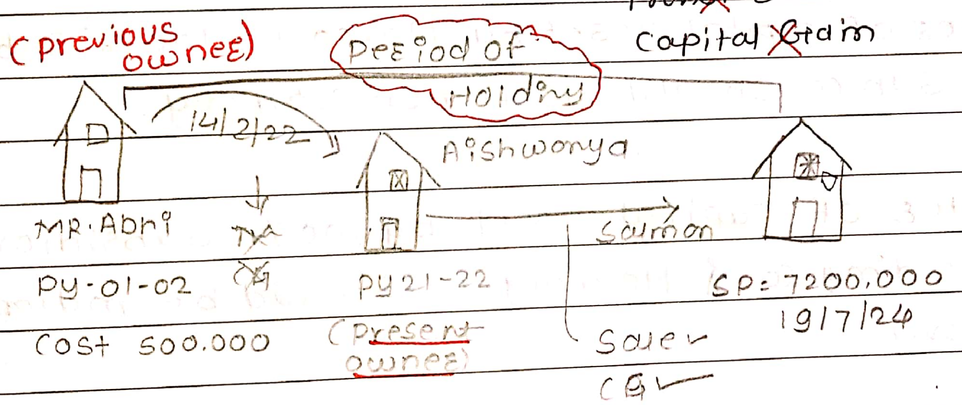
① HUF $\xrightarrow[\text{Distn}]{\text{Asset}}$ members

~~transfer~~

② Gift/(Ind/HUF) ⟶ ~~Transfer~~ / ~~Capital Gain~~
Will/ Inheritance.

③ Holding Co. $\xrightarrow[\text{~~Capital Gain~~}]{\text{~~Transfer~~}}$ 100% Sub Co.

~~Transfer~~
Capital ~~Gain~~




Saler
CG ✓
Tran ✓

| | CG |
|---|---|
| FVOC | 72,00,000 |
| − Tne exp | 0 |
| | 72,00,000 |
| − ICOA $500000 \times \frac{363}{100}$ | 1815000 |
| LTCG | 5385000 |

Date:

## In case of following transaction capital Gain is Not applicable

1. distrubution of capital asset by HUF to member on partition

2. transfer of capital asset by ind / HUF under gift / will / inheritance.

   Exeception :-
   If shares alloted under ESOPS Gifted to some one then it is treated as transfer and capital Gain applicable. for compⁿ of capital Gain FMV as on date of gift is treated as FVOC

3. Transfer of capital asset by Ho.co to 100% Sub.co and Sub.co should be Indian company.

4. Transfer of capital asset by 100% subsidiary co to Holding co. & Holding co. should be indian company

In above cases,

i) COA = cost to previous owner (sec 49(1))

ii) COI = Incurred by previous owner as well as present owner shall be considered.

iii) Period of Holding :- POH of previous owner as well as present owner shall be considered

vi) ICOA :- $\text{COA} \times \dfrac{\text{Index of year of transfer}}{\text{Index of year in which previous owner Acq. Asset.}}$

(trs Before 23/7/24)

(Case law : Manjula J. Shah Bom HC)

v) benefit of FMV : as on 1/4/2001 available

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MR. Dinesh (PY 24-25 . AY 25-26)

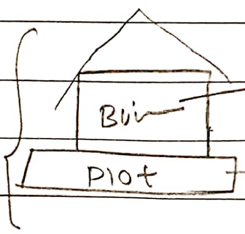
Computation of Capital Gain

| | ₹ |
|---|---|
| FVOC : SP = 55,00,000 | 65,00,000 |
| 65,00,000 | |
| (As per 50 C, since SDV > 110% of Considr so SDV is treated as FVOC) | |
| − Transfer exp | − |
| Net Consideration | 6500,000. |
| − Cost of Acq. | |
| Plot (Previous owner) | (700000) |
| Building | (1500,000) |
| − COI | (500,000) |
| LTCG | 38,00,000. |

eg

Sale on 10/12/24

SP 50,00,000




PY 23-24 700,000 cost

Plot PY 12-13 cost :- 500000

B 20 lakh − 7 13 lakh → STCG

P 30 lac − 5 lac 25 lac LTCG

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→ MR. Dee (PY24-25 AY25-26)

| Computation of capital Gain | | | ₹ |
|---|---|---|---|
| FVOC | | | 2200,000 |
| – Trasfer exp | | | Nil |
| NC | | | 22,00,000 |
| – COA (Cost to previous owner) | | | |
| i) Actual cost ~~66000~~ | | 650000 | |
| ii) a) FMV on 1/4/2001 | 270000 | | |
| b) SDD on 1/4/2001 | 290000 | 270000 | (270000) |
| – COI | | | |
| MR Kay | | | (235000) |
| LTCG | | | 1695000 |

Note : 1

As per sec 51 Advance money forfeited by present owner (assessee) before 1/04/2014 shall reduce from ~~from~~ cost of Aqc. In the present question Advance money forfeited by previous owner mr. kay shall not be reduced.

Note 2: In above que index benefit is not availan because transfer took place on or after 23rd July 2024. as per Sec 112 in case of resident ind/HUF (immoveable property) while calculating tax liability assessee has option to pay tax 20% with indexation or 12.5% without indexation.

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Q 18) MR X (PY 24-25 AY 25-26)

Computation of Capital Gain

| | | ₹ |
|---|---|---|
| FVOC | | 5800,000 |
| - ICOA | | |
| i) cost | 525000 | |
| ii) a) FMV on 1/4/01 1190000 | 1190000 | |
| b) SDV 1290000 | | |
| | $1150000 \times \frac{363}{100}$ | = 417500 |
| | LTCG | 1625500 |

Note 1 :

As per Advance money forfeited by present owner (Assessee) before 1/04/2014 shall reduced from cost of Aqc. In the present question Advance money forfeited by ~~previous owner~~. MR. X (1190000 - 40000)

Note 2 : In the above question benefit of indexation is available because asset sale Before 23/07/2024 undeE special case 3

⑤ Capital asset transfered by amalgamting Co. to amalgamated Co. in Scheme of amalgation and amalgamated Co. is a indian Company.

⑥ Shareholder transfer share of Amalgamating Co. and received share of amalgamated Co. is not treated as transfer.

⑦ Capital asset transfered by demerged company to resulting Co. & resulting Co. is a Indian Co.

⑧ Debenture / Bonds / Deb stock / Depository certificate

eg → 1000 @1000 1000000

PY 05-06

↓

Share/deb ~~T/f~~ ~~CG~~

↓

Sale Trf - CG ✓

↓ PY-18-19 conversion

1000 Bond = 5000 Sh

~~T/f~~ ~~CG~~

↓ Sale.

- Conversion of bonds / Debenteres / Deposite certificate. Into shares or debenteres of that company

⑨ Conversion of pref. shares into eq share of that company

eg Mr. A Purchase 1000 Pref. Shares of BB Ltd @ 100 per share on 16/7/2002. during the PY 18-19, pref shares were converted into eq share & Ankush received 1500 eq share (FV 10/-). on 16/07/2024 he sold all the eq shares @ 650/ per share Compute capital Gain

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→ $Sol^n$

a) ~~A)~~ Conversion of pref share in eq share is not treated as transfer so in PY18-19 capital Gain is not Applicable

(PY24-25 AY25-26)

b) Computation of Capital gain on eq share

| | | |
|---|---|---|
| (1500 X 650) | | 975000 |
| | NC | 975000 |
| - ICOA | | |
| pref. SH (1000 x 100) | | |
| $100000 \times \frac{363}{105}$ | | (345714) |
| | | 629286. |