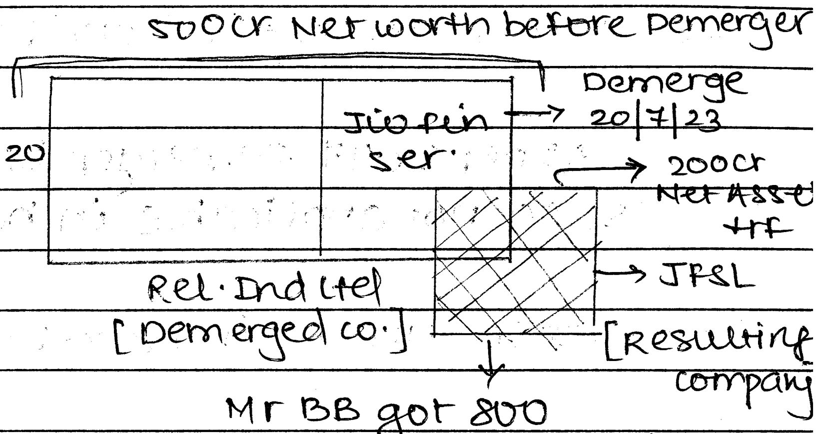
Demerger

Mr BB Acquired 800 shares of RIL on 16/7/20 for 500 per share



Mr BB got 800 shares of JFSL on 20/7/23

Meaning of Demerger

It means undertaking transfer by Demerged company to resulting co. and following conditions are satisfied

1) All Asset and Liab. of undertaking should be transferred to Resulting company.

2) It should be transferred at Book Value

3) Transfer of undertaking on going concern basis

4) Shareholders holding min. 75% eq. shares of dem. co. should become S.H.S of Resulting co.

5) Sh.s of demerged co. should receive shares from resulting co. on proportionate basis

(SHS → Shareholders)

– Tax treatment in hands of Demerged co. (RIL)

As per sec 47, Demerger is not treated as transfer so CG not applicable in hands of RIL.

– Tax treament in hands of Resulting co. (JFSL)

a) COA of Asset = COA of RIL Ltd.
(cost to previous owner)

POH of Asset held by RIL and JFSL should be considered.

Eg Mr BB acquired 800 shares of RIL on 16/7/20 for ₹500 per share.
Mr BB got 800 shares of JFSL on 20/7/23 due to the demerger.
COA of shares in JFSL =

$$\text{COA of shares in RIL} \times \frac{\text{Net Asset transfered in Demerger}}{\text{Net worth of Demerged co. just before demerger}}$$

$$\frac{400000 \times 200\text{ cr}}{500\text{ cr}} = 160000 \div \text{No of shares } 800$$

200 per share cost of JFSL

COA of shares of RIL = Total cost − cost of Resulting co. shares

400000 − 160000

= 240000

/ No of shares 800

= 300 per share (RIL)

Note :- POH of shares in JFSL shall be considered from the date on which Mr BB acquired shares of RIL

[15 to 20 marks]

PROFIT AND GAIN FROM BUSINESS AND PROFESSION

Sec 28 :- Charging section

Followings Incomes are Taxable under the head PGBP

1) Any Profit or Gain from Business or Profession carried on by Assesse at any time during the PY

2) Duty Drawback or cash compensatory support (subsidy) rec'd against export.

3) Sale of Import Entitlement liscense.

4) Salary, comission, remuneration or Interest rec'd by partner from Partnership firm / LLP

5) Any amt rec'd under keyman Insurance Policy

6) Any Gift, perqusite, benefit rec'd due to Business or Profession.

7) Non compete fees (Not carrying out any Business or Profession or not sharing any knowhow, Patent, copyright etc)

8) Any compensation rec'd on termination or modification of Business contract

9) FMV of stock in Trade is converted into capital Asset

Speculative Business

It means transaction in which contract for sale or purchase is ultimately settled otherwise then actual delivery.

Following transactions are NOT treated as speculative

1) Hedging contract
2) Forward contract
3) Derivatives (Future and option)

Speculative business and Normal business are treated as seperate business

— Sec 29 :- How to compute PGBP

PGBP computed as per sec 30 to 43D.

— Sec 30 :- Rent, Rates, Taxes, Insurance and Repair of Building.

	Rent	Rates & Taxes	Insurance	Revenue repair	Capital repair
Owner	Not Allowed	Allowed	Allowed	Allowed	Not Allowed
Tenant	Allowed	Allowed	Allowed	Allowed	Not Allowed

Add to cost of Asset

— Sec 31 :- Insurance & Repair of P&M / furniture

	Rent	Insurance	Rev repair	Capital Rep
Owner	Not Allowed	Allowed	Allowed	Not Allowed
Tenant	Allowed	Allowed	Allowed	Not Allowed

Add to cost of Asset

1) Note :- Expenses u/s 30 & 31 allowed only if Asset used for Business or Profession purpose

2) Note :- Capital Repair incurred by Tenant is treated as Deemed Building and Depriciation allowed to Tenant.

— Sec 32 :- Depreciation

A) Conditions

Depreciation is allowed if two conditions are satisfied :-

(i) Ass~~et~~ should be owned by Assessee (wholly or partly)

(ii) Asset should be used for Business of Profession purpose (Active / Passive)

1) Note :- Dep^n is allowed if Assessee is the beneficial owner of the Asset

2) In case of Heir purchase Assessee get ownership only after the payment of last installment but he can claim depn from beginning

3) In case of lease Dep^n is always allowed to lessor

4) Dep^n is allowed from the date on which Asset is actually put to use and not from Ready to use.

B) Classification of Assets

Building	Furniture	P&M	Intangible Assets (except Goodwill)
Class I	Class II	Class III	Class IV

Notes

1) Intangible Asset includes KnowHow, Patent, Copyright, trademark etc but other than Goodwill of Business or Profession.

2) Plant and Machinery includes ships, Aircraft, vehicles, surgical equipments, Books used for B & P but does not include livestock and Teabushes

C) Method of Depriciation

- Business of Power Gen OR Business of Power Gen & Distribution → SLM OR WDV
- Other Assessee → Always WDV method

D) Rate of Depreciation (WDV method)

	Assets	Rate
1.	Building (includes roads, bridges, wells and tubewells)	
	(i) Residential use (except hotels)	5%

	(ii) Other use	10%
	(iii) Temporary or wooden structure	40%
2.	Furniture and fittings (include electrical fittings like fans, wires, switches etc.)	10%
3.	Plant and Machinery	
	(i) Motor vehicles	15%
	- Acquired & put to use between 23/8/19 to 31/3/20	30%
	(ii) Motor vehicles (lorries, buses, taxi) used in Hire business	30%
	- Acquired & put to use between 23/8/19 to 31/3/20	45%
	(iii) Ships, vessels, speed Boats	20%
	(iv) Aeroplanes, Aeroengines	40%
	(v) Computer & computer software	40%
	(vi) Books (include annual publication or used in libraries)	40%
	(vii) Pollution control Equipment's	40%
	(viii) Windmills & its equipment installed before 1/4/14	15%
	- Windmills & its equipment installed on or after 1/4/14	40%
	(ix) Renewable energy Devices (include Evehicles)	40%
	(x) Oil wells	15%
	(xi) Other P&M	15%
4.	Intangible Assets	25%

NOTE:-

1) computer Accessories like printer, UPS, scanner etc eligible for depn 40%.

xxx

2) Mobile Phones EPABX are not computer so depn allowed @ 15%.

E) System of Depreciation

SLM Method (Power units) → Individual Asset system (sames as Adv Ac)

WDV Method → Block of Asset system

Group of Assets = same class + same Rate

Eg

Building @ 10% = 500000	Block I :- Build @ 10% = 500000
Furniture @ 10% = 100000	II :- Furniture @ 10% = 100000
P&M @ 15% = 200000	III :- P&M @ 15% = 450000
Patent @ 25% = 200000	IV :- P&M @ 40% = 180000
Car @ 15% = 200000	V :- Int. Assets @ 25% = 200000
Computer @ 40% = 60000	
Pollution control equipment @ 40% :- 20000	
Books @ 40% :- 10000	
P&M @ 15% :- 50000	
Windmill @ 40% :- 90000	

F) Calculation of Depreciation / WDV method / Block of Assets.

Opening WDV of Block of Asset	xxx
Add:- Actual cost of Asset Acquired during PY (Purchase)	
→ Asset acq. put to use 180 days or more	xxx
→ Asset acq put to use less than 180 days	xxx
→ Asset Acquired but not put to use	xxx
	xxx
Less:- Sale value (Money Recd)	(xxx)
*WDV for Depn	xxx
Less:- Depn Actually allowed	(xxx)
Closing WDV	xxx

*WDV for Depn

- Acquired but Not put to use → No Depn
- Asset acquired and put to use for less than 180 days → Half Rate
- Balance WDV → Full Rate

Asset Acquired and Put to use for 180 days (upto 3/10/25) or more :- Full Rate

Asset Acquired and Put to use for less than 180 days :- Half Rate
(179) (4/10/25 onwards)

4th and 5th October in case of leap year

Note :- If Asset acquired during the PY put to use for less than 180 days in that PY then dep^n allowed at half rate.

eg1 Opening WDV of Block :- 1000000
Asset acquired & put to use on 10/2/2025 :- 400000
Asset sold on 15/1/2026 :- 300000
calculate depn allowed for PY 25-26 Assume Rate is @ 15%.

Opening WDV of Block	1000000
Add :- Asset acq and put to use on 10/2/2025	400000
	1400000
(-) Money recd (sale value)	(300000)
WDV for Dep^n	1100000
(-) Dep Actually allowed	(135000)
	965000

WDV for Dep^n 1100000

Put to used less than 180 days

400000 x 7.5%
= 30000

Balance

700000 x 15%
= 105000