

- Conversion of capital assets into stock in trade.

→ CRUX

Capital Asset की transfer से आने वाली Income Capital Gain head में taxable होगी। Taxable उस P.Y में होगी जिस Year में transfer करोगे, पैसा कब receive होगा ये matter नहीं करता।

After Capital Gain Tax arise, next question arises how to compute Capital Gain?

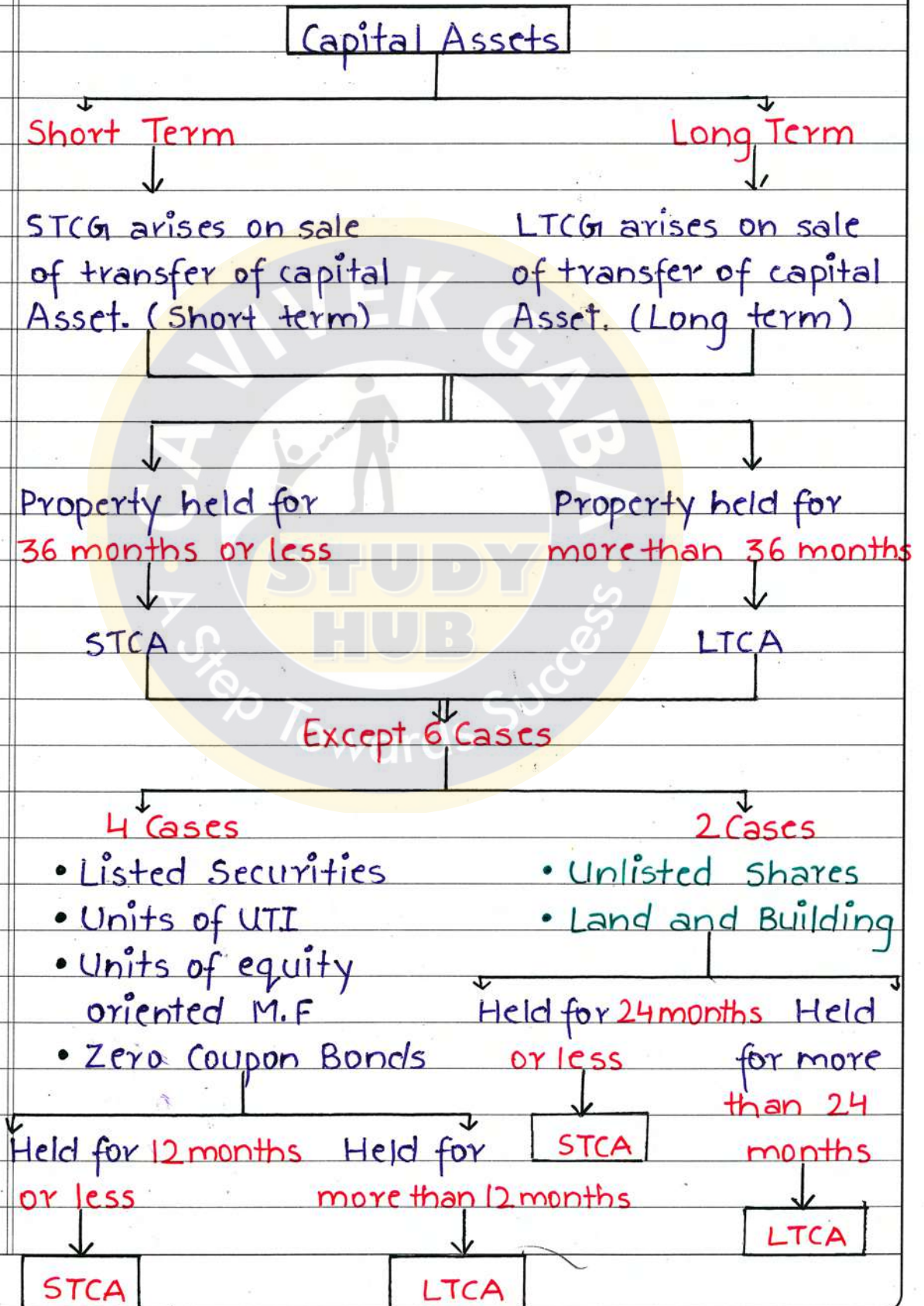
→ Sec. 48 COMPUTATION OF CAPITAL GAIN

Capital Gain

↓ STCA		LTCA ↓	
Sale Price	= XXX	Sale Price	= XXX
(-) COA	= XXX	(-) ICOA	= XXX
(-) COI	= XXX	(-) ICOI	= XXX
(-) EOT	= XXX	(-) EOT	= XXX
<u>STCG</u>	<u>= XXXX</u>	<u>LTCG</u>	<u>= XXXX</u>

Remarks

→ Sec. 2(42A) Short term Capital Asset / Period of Holding of Asset. [POHA]



Example - I

Example - II

Assets Purchased = 18/11/2004 ✓  
 Assets Sold = 18/8/2020 ✓

Asset Purchased 15/12/2004 ✓  
 Asset Sold = 11/4/2021 ✓

- POHA = 18/11/04 - 17/8/20
- LTCA
- Capital Gain = 20-21  
Taxable

- POHA = 15/12/2004 - 31/3/2021
- LTCA
- Capital Gain = 20-21  
Taxable

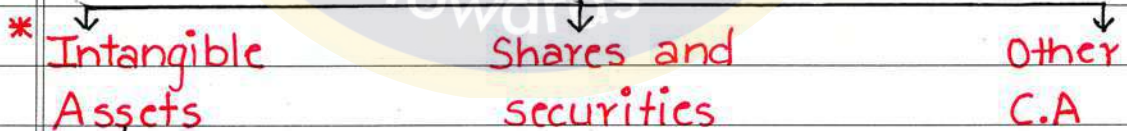
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- Sec. 45(1) decides taxability of Capital Gain.
- Sec. 2(42A) decides nature of C.G.

→ Section -55 COA and COI

Section -55 (Part-A)

Cost of Acquisition



\*

Particulars	Acquired (Purchased)	Self generated
Goodwill of business, trademark tenancy rights, stage carriage loom hours, right to manufacture right to carry business or profession	Purchase Price	NIL

Remarks



- If asset acquired on or after 1.4.2001 = Actual Purchase Price

➤ Section - 55 (Part - B)

Cost of Improvement

Intangible Assets



Nil

Any other capital assets



Actual Expenditure

NOTE : Any improvement incurred before 1/4/2001 is to be ignored.

➤ First Proviso to Sec. 48

- In case of assessee being a **Non-Resident** (including foreign company)
- The capital Gain arising from the transfer of **shares or debentures** in an Indian company.
- Shall be **computed by converting** COA, expense and sale consideration
- Into the same **foreign currency** which was invested initially.
- The **Capital Gain** so computed shall be **reconverted** into **Indian currency**.
- The provisions are also **applicable on reinvestment** as well.

**NOTE : 1** First proviso is mandatory to apply and second proviso is not applicable when first proviso is applicable and this proviso is applicable on STCG and LTCG.

**NOTE : 2** Units of mutual fund, govt. bonds are not covered here.

→ Rule 115A : Method of Conversion

• Cost of acquisition (COA)	Average TTBR and TTSR	Date of acquisition
• Expense and sale consideration	Average TTBR and TTSR	Date of Transfer
• Capital Gain	TTBR	Date of Sale

→ Second Proviso to Sec - 48

To compute LTCG, take indexed COA instead of COA and indexed COI instead of COI.

**Indexed COA** =  $COA \times CII$  when asset transferred  
CII when asset 1<sup>st</sup> held or 1.4.81, later

**Indexed COI** =  $COI \times CII$  when asset transferred  
CII when improvement took place

**NOTE :** No indexation if first proviso applies.

**FOCUS AREA :** As per recent decided case (Manjula J. Shah), indexation shall be done from previous owner.

# Chapter CAPITAL GAINS

## *Section 50C: Special provision for full value of consideration in certain cases.*

Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government (hereafter in this section referred to as the "stamp valuation authority") for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of section 48, be deemed to be the full value of the consideration received or accruing as a result of such transfer :

**Provided** that where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same, the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer:

**Provided further** that the first proviso shall apply only in a case where the amount of consideration, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed], on or before the date of the agreement for transfer:

**Provided also** that where the value adopted or assessed or assessable by the stamp valuation authority does not exceed one hundred and **TEN [five]** per cent of the consideration received or accruing as a result of the transfer, the

consideration so received or accruing as a result of the transfer shall, for the purposes of section 48, be deemed to be the full value of the consideration.

**Note:** Consequently, even section 43CA and section 56(2)(x), are amended on a similar basis, and provides for a ten percent tolerance limit.

Analysis & Example: [We will Discuss in Amendment Class]

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Example

	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>C-4</u>
Sale price	4,00,000	4,00,000	4,00,000	4,00,000
SDV	3,80,000	4,30,000	4,40,000	4,80,000
S.C for C4/P4BP	4,00,000	4,00,000	4,00,000	4,80,000

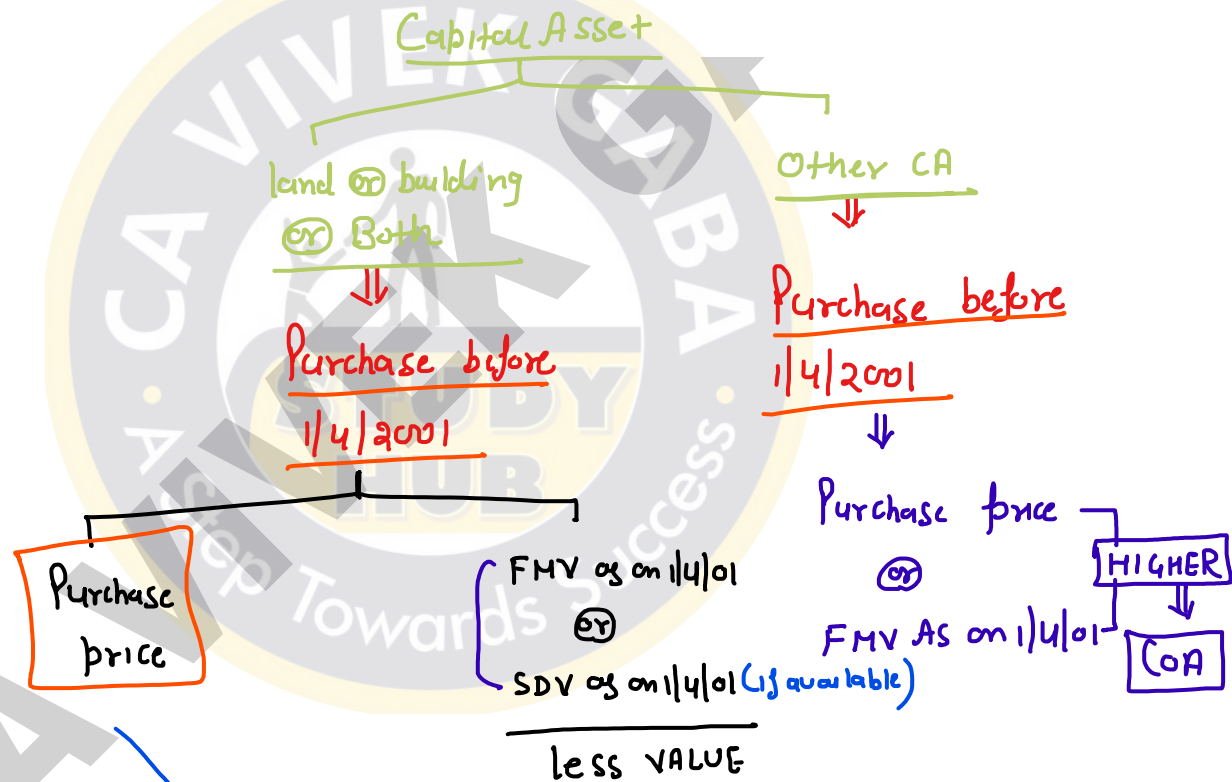
**Section 55: Meaning of "adjusted", "cost of improvement" and "cost of acquisition".**

The following proviso is inserted-

In case of capital assets being land or building or both, the fair market value [FMV] of such asset as on the 1<sup>st</sup> day of April, 2001 shall not exceed the stamp duty value, wherever available, of such asset as on 1<sup>st</sup> day of April, 2001.

Analysis & Example: [We will Discuss in Amendment Class]

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Ex = H.P Purchase = 25/7/98 @ 20000  
 FMV as on 1/4/01 = 4,00,000  
 SDV as on 1/4/01 = 4,50,000  
**COA = 4,00,000**

Ex-3 H.P Purchase = 25/7/95 @ 30000  
 COA 4,50,000  
 FMV = 1/4/01 = 4,50,000  
 SDV Not Available

Example VG Acquired HP on 2/8/95 = 20000 and  
 FMV as on 1/4/01 = 40000  
 SDV as on 1/4/01 = 3,50,000  
 Now COA = 3,50,000

**Section 50CA: Capital gains in case of unquoted shares**

The provisions of section 50CA of the Act shall not apply to transfer of any movable property, being unquoted shares, of a company and its subsidiary and the subsidiary of such subsidiary by an assessee, where,—

- CG**  
↓ Application  
**NCLT**
- (i) NCLT, on an application moved by the Central Government under section 241 of the Companies Act, 2013, has suspended the Board of Directors of such company and has appointed new directors nominated by the Central Government under section 242 of the said Act; and
  - (ii) Share of such company and its subsidiary and the subsidiary of such subsidiary has been transferred pursuant to a resolution plan approved by the NCLT under section 242 of the Companies Act, 2013 after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

**Note:** Consequently, even section 56(2)(x), are amended on a similar basis.