

SMART NOTES INCOME TAX

[Part -2]
FOR AY 21/22



CA SACHIN GUPTA

CHAPTER – 5
INCOME UNDER THE HEAD PGBP

Sections covered in this chapter

Sec 28	Basis of Charge
Sec 29	Computation of Business Income
Sec 30	Building used for business
Sec 31	P&M, F&F used for business
Sec 32	Depreciation
Sec 33AB	Tea/coffee/rubber devp. account
Sec 33ABA	Site restoration fund
Sec 35	Scientific research
Sec 35(2AA)	Weighted deduction for cont. to national laboratory etc
Sec 35(2AB)	Company assessee , In house scientific research
Sec 35ABB	Telecommunication licence
Sec 35AD	Deduction of Capital Expenditure for specified Business
Sec 35CCA	Expenditure on Rural Devp. Programmes
Sec 35D	Amortisation of preliminary expenses
Sec 35DD	Amortisation in case of Amalgamation/demerger
Sec 35DDA	Amortisation of expenditure in case of VRS
Sec 35E	Expenditure on prospecting for minerals
Sec 36	Allowable deductions
Sec 37(1)	General deductions
Sec 37(2B)	Expenditure to political party
Sec 38(2)	Building, P&M,F&F not exclusively for business
Sec 40	Deductions not allowable
Sec 40A(2)	Expenditure to specified persons
Sec 40A(3)	Payment other than by account payee cheque
Sec 40A(7)	Disallowance for provision for gratuity
Sec 40A(9)	Disallowance of Employer contribution to funds not required by Law
Sec 41	Deemed profits chargeable to tax
Sec 43(1)	Actual cost
Sec 43(2)	Meaning of Paid
Sec 43(3)	Meaning of Plant
Sec 43(4)	Scientific research
Sec 43(6)	Written Down Value
Sec 43B	Certain deductions on Actual Payment Basis
Sec 44AA	Books of account
Sec 44AB	Audit of accounts
Sec 44AD/AF	Deemed business incomes
Sec 44B	Non resident shipping business
Sec 44BB	Non resident business of exploration of mineral oil
Sec 44BBA	Non resident aircraft business
Sec 44BBB	Foreign company in civil construction business

Section 28 : Following Incomes are chargeable under “P/G/B/P”

1. Profit of any B/P *carried by assessee at any time* during P/Y
2. Any remuneration by **Partner** from Firm.
3. **Compensation** on Termination/Modification of agreement for managing a Company, terms of Agency, Vesting in Govt, management of any business
4. **Non-compete** fees & **Exclusivity** rights
5. **Benefits/Perquisites** arising from carrying on business or profession
6. Sum received under **Keyman Insurance Policy** including bonus
7. **Export Incentive**
8. Income derived by trade, professional from **specific services** performed for its member.
9. *Any sum on received on transfer of Capital asset, if asset allowed deduction u/s 35AD*
10. Receipt of **compensation/other amount** in connection with termination/ modification of terms & conditions of any contracts relating to his business.
11. Fair market value of SIT as determined in prescribed manner on conversion of SIT into Capital Asset

Sec. 145 : Profits is calculated on basis of **Cash or Mercantile basis** regularly employed & in accordance with **AS-I & AS - II**

→ If **AO is not satisfied** about **correctness** of accounts , or if **method of accounting** & notified **accounting standards** not regularly followed than AO may make an **assessment to his best of judgement**

Income computation & Disclosure standards notified by Central Government

- ICDS I : Accounting Policies
 ICDS II : Valuation of Inventories
 ICDS III : Construction Contracts
 ICDS IV : Revenue Recognition
 ICDS V : Tangible Fixed Assets
 ICDS VI : Effects of Changes in Foreign Exchange Rates
 ICDS VII : Government Grants
 ICDS VIII : Securities
 ICDS IX : Borrowing Costs
 ICDS X : Provisions, Contingent Liabilities and Contingent Assets

Section 29 : Income referred in **sec 28** shall be computed according to **Section 30 to 43D**

Section 30 : Buildings used for B&P , Following deductions allowed

- ❖ **Rent** (If taken on rent) , **Revenue Repairs** , **Municipal Taxes** & **Insurance Premium**

Section 31 : Machinery, Plant & Furniture used for B&P , Following deductions allowed

- ❖ **Revenue Repairs** & **Insurance Premium**

Section 32 : DEPRECIATION

- ❖ **Building, Furniture , Plant & Machinery** or **Intangible assets** *owned Wholly or Partly*
 ❖ Used for **Business or Profession**
 ❖ **[Rate of Depreciation] X [WDV of Block Of Asset as on 31/3/2017]**

WRITTEN DOWN VALUE (WDV) [Section 43(6)]

WDV of block of assets at beginning of relevant P/Y	A
Add : Actual Cost of asset acquired	B
Less : Money receivable on transfer of Capital asset	C
WDV of block of asset as on last day relevant P/Y	A+B-C

TYPES OF ASSETS	Rate of Depreciation
Building :	
- Residential	5%
- Non Residential	10%
- Temporary Structure	40%
Furniture & Fittings including electrical fittings	10%
Plant & Machinery :	
- Books (annual publications) for Profession	40%
- Books for Library business	40%
- Air & Water Pollution control equipments	40%
- Energy saving device, renewal energy device	40%
- Books (other than annual publications) for Profession	40%
- COMPUTER including computer software	40%
- Aero planes	40%
- Motor car, buses, used for hire (WN1)	30%
- Ships	20%
- Motor car used for Business & Profession(WN2)	15%
- General rate of other machinery	15%
Intangible Assets :	25%

Depreciation restricted to 50% (Proviso to sec 32(1))

Where assets **acquired** in P/Y & **put to use** < 180 days in **that P/Y**

Then depreciation on that asset **restricted to 50%** of normal rate for **that P/Y** only

(WN1) : Motor buses, motor lorries and motor taxis used in a business of running them on hire, acquired between period 23.8.2019 to 31.3.2020 & put to use upto 31.3.2020 : **Depreciation @ 45%**

(WN2) : Motor cars other than those used in business of running them on hire, [acquired between 23.8.2019 to 31.3.2020 and put to use on or before 31.3.2020 : **Depreciation @ 30%**

Additional Depreciation: Sec 32(1)(ia)

- a) New P&M acquired & installed (other than ships & aircraft)
- b) Business of **manufacture of any article**
- c) Conditions to be satisfied;
- Should not be second hand
 - Not installed in **office premises** or in **residential accommodation**
 - Not **office appliance** or road transport vehicle.
 - 100% deduction not applicable
- d) **Additional Depr : 20% for the P/Y in which conditions are satisfied**
 (If acquired and put to use for less than 180 days then **10% & balance 10% next year**)

Special case :

*Manufacture of any article , wef 1/4/2015 in notified backward area
 In Andhra Pradesh or Bihar or Telangana or West Bengal,*

*Acquires & installs any new machinery or plant (other than ships and aircraft) during 1/4/15 and 31/3/2020 in said backward area : **35% for P/Y in which conditions are satisfied***

(If acquired & put to use for < 180 days then 17.5% & balance 17.5% next year)

Proportionate Depreciation (4th proviso to sec 32)

- Partnership firm into company u/s 47 or
- **Conversion of Private Company or Unlisted Public Company into LLP u/s 47**
- Proprietary concern into company u/s 47 or
- Amalgamation or de merger or
- succession otherwise on death
- Depreciation apportioned between the predecessor & successor
- On basis of **days the assets used** by them during that P/Y.

5. Section 50 : STCG on Sale of Depreciable Assets

CASE 1		CASE 2	
All assets of block are transferred <i>Block <u>ceases to exist</u> & no depreciation for that P/Y</i>		All assets not transferred Sale proceeds >(Opening w.d.v & Actual cost) <i>Block exist at NIL value & no depreciation for that P/Y</i>	
Computation		Computation	
Net sale consideration	A	Net sale consideration	A
Less : Opening W.D.V	B	Less : Opening W.D.V	B
Less : Cost of assets acquired during P/Y	C	Less : Cost of assets acquired during P/Y	C
If, (A-B-C) is positive, then STCG If, (A-B-C) is negative, then STCL		(A-B-C) will always be positive & will result in STCG	

6. Is it mandatory to claim depreciation:

Explanation to Sec. 32 : Depreciation provisions shall apply whether or not the assessee has claimed deduction for depreciation.

7. Carry forward and set off of unabsorbed depreciation

- ❖ Deduct depreciation from P/G/B/P.
- ❖ If P/G/B/P is insufficient deduct balance depreciation from other heads .
- ❖ If Incomes of other heads insufficient, *unabsorbed depreciation C/F* for **any number** of A/Y
- ❖ In next A/Y ,b/f depr added to depreciation & step 1 to step 4 will be followed

However, if **B/F losses** are also there in P/Y along with B/F depr, then priority of set off as follows

- 1st setoff current year depreciation
- Then setoff B/F losses
- Then setoff unabsorbed depreciation.

Special points :

1. B/P of which depreciation was computed need not be carried on in P/Y in which b/f depr is set off.
2. Depreciation can be c/f only by the same assessee.

Exceptions to 2nd point:

- a) Firm succeeded by a company u/s 47
- b) Proprietary concern succeeded by a company/s 47
- c) Amalgamation or Demerger

8. Asset not exclusively used for Business or Profession

- ❖ Where Building, P&M or Furniture **Not exclusively** used for B or P
- ❖ Then deduction **u/s. 30, 31, 32**
- ❖ Shall be restricted to such **fair proportion** as determined by AO

9. If payment or aggregate of payments in excess of ₹10,000 for acquisition of asset is made to person in a day, otherwise than by A/C payee cheque drawn on bank or A/C payee bank draft or ECS through bank account or by **other prescribed electronic method**, such expenditure shall not be included in actual cost.

Rule 6ABBA : CBDT has prescribed the following electronic modes

- (a) *Credit Card*
- (b) *Debit Card*
- (c) *Net Banking*
- (d) *IMPS (Immediate Payment Service)*
- (e) *UPI (Unified Payment Interface)*
- (f) *RTGS (Real Time Gross Settlement)*
- (g) *NEFT (National Electronic Funds Transfer), and*
- (h) *BHIM (Bharat Interface for Money) Aadhar Pay.*

Sec 32 AD : Investment allowance for New plant & machinery in backward area

1. Assessee	<i>Assessee, sets up undertaking for manufacture of any article , on or after 1.4.2015 in any backward area notified by Central Government , in Andhra Pradesh or Bihar or Telangana or West Bengal</i>
2. Investment	<i>Acquires and installs eligible P&M during 1/4/15 and 31/3/2020 in backward area</i>
3. Deduction	<i>15% of actual cost of Eligible P&M in p/y in which it is installed</i>
4. Eligible P&M	<i>New plant or machinery (other than ship or aircraft) Excluding : (i) 2nd hand used P&M (ii) installed in office or residential accommodation (iii) Office appliances including computers or computer software (iv) Any vehicle or (v) Plant or Machinery, 100% of actual cost allowed as deduction in computing income of Business/Profession of any p/y</i>
5. Eligible P&M sold	<i>New asset transferred except under amalgamation/demerger, within 5 years from date of installation, deduction allowed deemed as Business Income of P/Y of transfer in addition to taxability of capital gains New asset transferred in amalgamation or demerger within 5 years from date of its installation, the above provision shall apply to amalgamated company or resulting company as they would have applied to amalgamating company or demerged company</i>

SEC 33AB & SEC 33BBA

	Section	33AB : Tea/Coffee/Rubber Devp. A/c.	33ABA : Site Restoration Fund
1.	Assessee	Growing & Manufacturing Tea/ Coffee/ Rubber in India	Prospecting/Extraction/ production of Petroleum /Natural Gas or both in India
2	Conditions	Deposit with NABARD or Deposit a/c within 6 months from end of P/Y or before due date ROI <i>Whichever is earlier</i>	Deposit before end of P/Y in SBI or In site restoration a/c
3.	Deduction	Amount deposited under point 2 or 40% profits business before 33AB, whichever is less	Amount deposited under point 2 or 20% profits of business before 33ABA, whichever is less

Deduction shall be allowed if accounts of such business for p/y of deduction is audited by accountant as defined under Explanation below sec 288(2) before specified date referred u/s 44AB and report of such audit is furnished in prescribed form duly signed & verified by such accountant

Section 35 : Expenditure on Scientific Research

In-house Scientific research carried out by <u>ANY</u> assessee (Related to Assessee Business)			
Pre commencement (3 years prior to commencement of Business)		Post commencement (On or after date of commencement)	
Revenue expenditure	Capital Expenditure	Revenue Expenditure	Capital Expenditure
Salary of Research Staff & Purchase of Material for scientific Research	Any Capital expenditure except Land	All Revenue Expenditure	Any Capital expenditure except Land
Deduction in P/Y of commencement	Deduction in P/Y of commencement	Deduction in P/Y in which incurred	Deduction in P/Y in which incurred

Special Point : Applicable for Pre commencement revenue expenditure only

1. Salary **does not include** perquisites
2. Such revenue expenditure has to be certified by **prescribed authority**

Calculation of Deduction u/s 35

1. Revenue expenditure on scientific research is **100% allowed** as deduction irrespective of profits.
2. Capital expenditure on scientific research are allowed as deduction **subject to availability of profit**. Set off & Carry forward same as **unabsorbed depreciation**

Section 35 (2AB)

- ❖ Company (Manufacturing any article except ***XIth schedule***)
- ❖ Expenditure (**except on Land & Building**) for approved in house scientific research.
- ❖ Deduction of 100% of such expenditure will be allowed

Deduction for Contributions / Donations to Outsiders

<i>Research related / Unrelated</i>	<i>Research related / Unrelated</i>	<i>Research related / Unrelated</i>	<i>Research related / Unrelated</i>
Approved association <i>or</i> approved university, college for Scientific Research	Approved association <i>or</i> approved university, college for Social Sciences & Statistical Research	National Laboratory or University or IIT to be used for Approved Scientific Research Programme	Indian company having main object of Scientific research & devp. & also approved by prescribed authority
wef A/Y 21/22 : 100%	100% of amount paid allowed	wef A/Y 21/22 : 100%	100% of amount paid allowed

Special points :

Deduction u/s 35 **shall not be disallowed** if subsequent to payment ,approval of such association,institution, company etc is withdrawn.

Section 35 ABB : Expenditure for obtaining Telecommunication License

Capital Expenditure ACTUALLY INCURRED to acquire Telecom license	
<i>Before commencement of business</i>	<i>After commencement of business</i>
<u>Period of Deduction</u> P/Y of commencement to P/Y of expiry	<u>Period of Deduction</u> P/Y of Actual payment to P/Y of Expiry
<u>Amount of deduction</u> = $\frac{\text{License fees actually paid}}{\text{No. of previous years in above period}}$	<u>Amount of deduction</u> = $\frac{\text{License fees actually paid}}{\text{No. of previous years in above period}}$

Sec 35ABA : Expenditure for obtaining right to use spectrum for telecommunication services

1. Deduction : Capital expenditure, incurred for acquiring any right to use spectrum for telecommunication services

2. Applicability of Sec 35ABB : The provisions of section 35ABB, shall apply as if for the word “licence”, the word “spectrum” had been substituted.

Section 35 AC: Expenditure on Eligible projects or schemes

No deduction under this section shall be allowed w.e.f A/y 18/19

Sec 35AD : Deduction of Capital expenditure of Specified Business

Assessee	1) Cold chain facility 2) Agricultural Warehousing facilities 3) Laying of Cross-country natural gas/crude/petroleum pipeline 4) Building & operating a Hotel of two-star or above in India 5) Building & operating hospital of atleast 100 beds in India 6) Projects for Slum development & rehabilitation in India 7) Developing & building Affordable Housing project under notified scheme 8) Production of Fertilizer in India 9) Setting up & operating an inland container depot 10) Bee-keeping and production of honey and beeswax 11) Setting up and operating a sugar warehouse 12) Laying & operating a slurry pipeline for transportation of iron ore 13) Setting up & operating a semi-conductor wafer fabrication manufacturing unit and is notified by Board 14) Developing/operating /maintaining, any infrastructure facility
Deduction If he opts	100% Capital expenditure for above business incurred in P/Y <i>Pre commencement Capital Expenditure allowed in P/Y of commencement</i> If payment or aggregate of payments in excess of ₹10,000 for capital expenditure is made to a person in a day, otherwise than by A/C payee cheque drawn on bank or A/C payee bank draft or use of ECS through bank account or by other prescribed electronic method, , such expenditure shall not be allowed as deduction

Exclusions	Does not include expenditure on land, goodwill or financial instrument
Conditions	1. It is not set up by splitting up or reconstruction of existing business 2. Atleast 80% P&M should not be previously used
Limitations	No deduction shall be available for specified business under Part C of Chapter VI-A i.e. Profit based deductions eg 80IA, 80IB etc <i>Asset on which deduction allowed shall be used only for specified business, for 8 years beginning with P/Y in which such asset is acquired or constructed. Otherwise deduction allowed in one or more P/Y, as reduced depreciation allowable u/s 32, as if no deduction under this section was allowed, shall be deemed to be income chargeable under PGBP of P/Y in which the asset is so used.</i>
Sale of asset	Sum received/receivable on account of destruction/ demolition/ discard/ transfer of such Capital asset shall be deemed as P/G/B/P
Loss of business	Loss of Specified Business can be set off against profits of other specified business only. Unabsorbed loss will be c/f & set off against profits of specified business of subsequent A/Y -C/F & set off for unlimited period

Section 35 CCA : Payment to Associations for carrying out Rural Development Plans (RDP)

Rural Development Fund set up by Central Govt.	National Urban Poverty Eradication Fund Set up by Central Govt.
--	---

Deduction u/s 35CCA **shall be allowed** if subsequent to payment, approval of institution is withdrawn

Section 35 D: Amortization of Preliminary expenses

1	Assessee	Indian Company or Resident Non Corporate Assessee
2	Expenditure when incurred	Before commencement or After commencement <i>for</i> Extension <i>or</i> Setting up of new unit
3	Specified Expenditure <i>Expenditure under point i to iii, can be incurred by assessee himself or approved concern</i>	(i) Feasibility/Project report (iii) Market/Other Surveys (iii) Engineering Services (iv) Legal Charges for drafting agreements For Company Assessee , expenditure on Memorandum & Articles, Legal Fees for registration, expenses on public issue
4	Qualifying amount of Specified Expenditure	<u>Non-Corporate Assessee</u> Max 5% of Cost of Project <u>Indian Company</u> Max 5% of Cost of Project or 5% of Capital employed, Higher

5	Period of Deduction	Qualifying Amount in <u>5 Equal annual installments</u> starting from specified p/y
6	Audit(Not applicable for Company, Coop society)	<u>Accounts audited by CA for the year/s in which expenditure was incurred</u> before the specified date u/s 44AB and assessee furnishes by that date the audit report in the prescribed form duly signed and verified for the 1 st year of deduction.

Cost of project : Cost of **FIXED ASSETS** as per books on last day of P/Y.

Capital employed : Issued share capital + Debentures + Long term borrowings on last day of P/Y

LT Borrowings :

- ❖ Loan from Govt/IFCI/ICICI/Approved financial institution, repayable in not less than 5 years,
- ❖ Loan in foreign currency for purchase of P&M outside India, repayable after 7 years

Sec 35CCC : Expenditure on Agricultural extension project

- (1) **150% of Expenditure on agricultural extension project** notified by Board.
- (2) If deduction allowed for any A/Y u/s 35CCC, deduction shall not be allowed of such expenditure under any other provisions of this Act
- (3) **W.E.F A/Y 21/22 : 100% deduction**

35CCD : Expenditure on Skill development project

- (1) **Company** is allowed **150% expenditure (except land or building)** on **skill development project** notified by Board
- (2) If deduction allowed for any A/Y u/s 35CCD, deduction shall not be allowed of such expenditure under any other provisions of this Act
- (3) **W.E.F A/Y 21/22 : 100% deduction**

Section 35 DD : Expenditure in case of Amalgamation or Demerger

- ❖ **Indian Company** incurs expenditure for amalgamation or demerger.
- ❖ Deduction in **5 equal annual installments** from P/Y of amalgamation or demerger.

Section 35 DDA : Expenses incurred under Voluntary Retirement Scheme

- ❖ **Any assessee** incurs expenditure for payment of sum under V.R.S.
- Deduction in **5 equal annual installments** starting from the P/Y in which amount paid

Section 35 E: Deduction for prospecting Minerals

- Indian Company or Resident non-corporate assessee in production of specified mineral.
- Incurs **Expenditure** during p/year of commercial production or 4 prior p/y
- Expenditure ***does not include*** the following expenditure:
 1. **Capital expenditure**
 2. Acquisition of the **site**
 3. Expenditure met directly or indirectly by any person or authority
 - ❖ **Deduction:** Qualifying expenditure allowed for **10 years** starting from P/Y of commercial production
 - ❖ **Maximum deduction allowed each year** subject to limit of profit
 - ❖ **Unallowed qualifying expenditure** c/f for next year & added to next year installment.

Accounts audited by CA for the year/s in which expenditure was incurred *before specified date u/s 44AB and assessee furnishes by that date the audit report in the prescribed form duly signed and verified for the 1st year of deduction. (Not applicable for Company, Cooperative society)*

Section 36(1) : Other Expenses allowed from Business/Profession

1.	Premium for insurance of SIT used for B/P.
2	Health insurance premium paid by employer for his employees by any mode other than cash under an approved scheme
3	Bonus or Commission to employee provided not payable as profits. (<i>Subject to sec 43B</i>)
4	Interest on loan for B/P (<i>Subject to sec 43B</i>)
5	Prorata amount of discount on a Zero Coupon bond
6	Employer contribution towards RPF or ASF (<i>Subject to sec 43B</i>)
7	Employer contribution towards a NPS u/s 80CCD, on account of an employee upto 10% of salary (Meaning of Salary same as HRA)
8	Employer contribution towards Approved Gratuity Fund (<i>Subject to sec 43B</i>)
9	Employee Contribution of Provident fund etc received by Employer provided such amount credited by the employer on or before specified date Sec 2(24) :Employees Contribution to Provident fund etc deemed as income of employer.
10	Cost of Animals (less SP) used for B/P (not as S.I.T) & have died or become useless

11	<p>Deduction of Bad Debt in Provided such amount credited in P&L earlier</p> <p>Special Points: Assessee money lending or is Bank <i>condition of credit not applicable</i></p> <p>No deduction for provision made for bad and doubtful debt.</p> <p>Sec. 41(4) : Subsequent recovery of written off bad debt taxable u/s 41(4)</p> <p>a. Assessee claiming Bad Debt & who recovers the bad debt should be same</p> <p>b. It is not necessary business is in existence in P/Y of recovery</p>
12.	<p>Provision for bad and doubtful debts made by—</p> <p>(a) Bank or a co-operative bank (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank) :</p> <p>Upto 8.5% of GTI (computed before making this deduction) + upto 10% of aggregate average advances made by rural branches of such bank</p> <p>(b) Foreign Banks/ financial institution/NBFC : Upto 5% of GTI (computed before making this deduction)</p>
13	<p>Special reserve created and maintained by a specified entity,</p> <p>Deduction : Least of following</p> <p>a) 20% of profits of eligible business computed under "PGBP" (before making this deduction)</p> <p>b) Profit transferred to special reserve account:</p> <p>c) $2 \times \{ [\text{Paid up share capital} + \text{General reserves as on last day of P/Y}] - [\text{Balance of special reserve A/c on 1}^{\text{st}} \text{ day of P/Y}] \}$</p> <p>Special Point :</p> <p>(a) "Specified entity" means ,</p> <p>(i) Financial corporation</p> <p>(ii) Banking company;</p> <p>(iii) Co-operative bank other than primary agricultural credit society or primary co-operative agricultural and rural development bank;</p> <p>(iv) Housing finance company; and</p> <p>(b) "Eligible business" means ,</p> <p>(i) providing long-term finance for</p> <p>(A) industrial or agricultural development;</p> <p>(B) development of infrastructure facility in India; or</p> <p>(C) development of housing in India;</p> <p>(c) "long-term finance" means any loan where terms under which moneys are loaned for repayment along with interest during a period of not less than five years;</p>
12	<p>Company incurred expenditure for Family Planning among Employees</p> <p>Revenue Expenditure : 100% allowed in P/Y in which incurred</p> <p>Capital Expenditure : Allowed 20% for 5 years</p> <p>Special Points: Set off & C/F of Capital Expenditure same as depreciation</p>
13	<p>Sum paid as STT on Business Income</p>
14	<p>Sum paid as CTT for Specified Commodities Transactions on business income</p> <p>Specified Commodities Transaction means a transaction of sale of commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognised commodity exchange.</p>

Sec. 37(1) : GENERAL DEDUCTION

- ❖ If not covered under Sec. 30 to Sec. 36
- ❖ If incurred during P/Y wholly & exclusively for **B/P**
- ❖ If not of Capital Nature
- ❖ If not a personal expense of Assessee

Special Points:

- ❖ Expenditure for any offence or which is prohibited by law not allowed as deduction
- ❖ **Sec 37(2B)** : Advertisement in any souvenir, pamphlet etc. of a political party not allowed as deduction
- ❖ *Expenditure incurred for CSR u/s 135 of Companies Act, 2013 shall not be allowed as deduction u/s 37(1).*

Sec. 40(a) : Following expenses allowed as deduction subject to certain conditions

Payment to whom	Type of payment	Condition	Specified Time for Deposit of TDS
Non-Resident /Foreign company	If TDS not deducted or after deduction not deposited within specified time , than expenditure fully disallowed If TDS deposited after specified time, deduction in P/Y of actual deposit of TDS		<i>Due date of Return for A/Y</i>
Resident	If TDS not deducted or after deduction not deposited within specified time , than 30% of such expenditure is disallowed If TDS deposited after specified time, 30% expenditure allowed as deduction in P/Y of actual deposit of TDS		<i>Due date of Return for A/Y</i>
Govt	Income Tax, Tax on Non Monetary Perquisite not allowed as deduction		
Non resident	Consideration to non-resident for specified service on which equalisation levy is deductible & such levy has not been deducted or after deduction, has not been paid upto due date u/s 139(1) shall not be allowed as deduction If equalisation levy has been deducted in any subsequent year or has been deducted during P/Y but paid after due date u/s139(1), such sum shall be allowed as deduction in computing income of P/Y in which such levy has been paid		

Sec. 40A(2) : Expn greater than market value

- ✓ **Revenue expenditure** for which payment
- ✓ to be made to **Specified Person**
- ✓ AO may **disallow** expenditure **exceeding FMV**

Special Points:

Assessee	Specified Persons
Individual	-Relative -Entity in which Individual or relative has SI
Other Assessee	- Director/ Partner/Member or their Relatives - ANY PERSON In whose business director/partner/Relative has SI -Individual having SI in Assessee & his relative -Any entity having SI in Assessee & their director/partner/member/relative -Any director/Partner/member having SI in Assessee & their entity/relative

Substantial Interest : Atleast 20% Equity Share/profits at any time during P/Y

Sec. 40A(3): Expenditure >10,000

- ❖ Payment of **Revenue expenditure** in excess of ₹ 10,000 *in a day*
- ❖ only by A/C payee cheque or A/C payee bank draft or ECS through Bank Account or other prescribed electronic method
- ❖ If not then **100% expenditure disallowed**

Special point :

Payment made for plying, hiring or leasing goods carriages limit per day is ₹35,000

Special points :

- ❖ Expenditure allowed during P/Y on due basis &
- ❖ In subsequent P/Y Section 40A(3) not followed
- ❖ Deemed as P/G/B/P of subsequent P/Y

Rule 6DD: Exceptions to Sec. 40A(3)

- a) Banks, LIC, Government.
- b) Payment by LC, bill of exchange, ECS, credit card or debit card
- c) Payment to producer of agriculture, forest, animal husbandry, dairy, poultry farming or fish products.
- d) Purchase of products manufactured by producer without aid of power in a cottage industry.
- e) Payment in village/town not served by bank on date of payment to person who resides/carrying on his business/profession/vocation in such village/town
- f) Payment of retirement benefits upto ₹ 50,000
- g) ~~Payment on a day bank were closed due to holiday or strike~~

Sec. 40A(7): Disallowance for Gratuity

No deduction of provision made for payment of Gratuity to employees unless provision made

- ❖ Towards **Approved** gratuity fund *or*
- ❖ For payment of gratuity **actually becoming payable** during P/Y

Sec 40A(9):Employer contribution towards funds required by law

No deduction shall be allowed of sum paid by employer towards the setting up/formation or as contribution to any fund not required to be kept under law

Sec. 43B: Certain deductions on Actual Payment Basis

- ✓ Assessee following **Mercantile basis**
- ✓ Following deductions allowed in P/Y if **PAYMENT** made **upto Due date of return**
- ✓ Otherwise allowed in **P/Y of actual payment**

Allowable taxes	Employer Contribution to RPF, ASF, AGF	Bonus or Comm. to employee	Interest on Loan from PFI, SFC or SIIC	Interest on any loan from schedule bank/ Coop Bank <i>other than a primary agricultural credit society or primary co-operative agricultural and rural development bank</i>	Payment of leave salary to employee	Sum payable to railways for use of railway asset	Interest payable on loan from deposit taking NBFC or systemically important non-deposit taking NBFC
-----------------	--	----------------------------	---	---	-------------------------------------	--	---

Deemed Profits Chargeable to tax**Sec. 41(1): Recovery of Loss/Deductions etc. allowed earlier**

- ❖ Deduction allowed in any P/Y for loss/Expense or Trading liability
- ❖ Subsequently during any P/Y, *same assessee or his successor*
- ❖ Recover any amount or remits such liability
- ❖ Then such amount shall deemed to be P/G/B/P of P/Y in which received

Sec. 41(5) : Loss of P/Y in which business cease to exist can be **set off** from Deemed incomes u/s. 41(1), (3), (4). *(Exception to rule that business loss can be carried forward for 8 years only)*

Special Points : Sec 41 will apply even if business is not in existence in p/y of recovery

Sec. 44AA: Maintenance of accounts by Persons carrying on Profession or Business

SPECIFIED PROFESSION		OTHER PROFESSION / BUSINESS	
Gross Receipts > ₹ 1,50,000 for All 3 preceding P/Y	Other case	Gross Receipt > ₹10,00,000 (<i>For Individual/HUF ₹25,00,000</i>) Or Income from P/G/B/P > ₹1,20,000 (<i>For Individual/HUF ₹2,50,000</i>) in Any of 3 years preceding P/Y's	Other case
Specified books of accounts to be maintained for that P/Y		Such books of accounts to enable AO to compute his TI <i>(i.e. Cash Book, & Ledger)</i>	Not required to maintain any BOA

Special Points:

1. **Specified profession** : Legal, Medical, Engineering, Architectural, Accountancy, Technical Consultancy, Interior decoration or other notified profession
2. **Specified books of accounts** :
 - ❖ Journal (if accounts on mercantile basis).
 - ❖ Cash Book & Ledger.
 - ❖ Carbon copies of bill issued > ₹ 25
 - ❖ Original bills or receipts for exp. > ₹ 50
 - ❖ Payment vouchers for exp. incurred upto ₹ 50

These books are required to be kept and maintained for 6 years from end of relevant A/Y

3. A Doctor shall also maintain **daily case register & stock register**

Sec. 44AB: Compulsory Audit of Accounts**BUSINESS Case 1 :**

Cash receipts upto 5% of total receipts during p/y & Cash payments upto 5% of total payments during p/y

Compulsory audit of accounts for **that P/Y** in which Sales/Gross receipts exceed ₹5 crores

Business Case 2 : Not Covered under case 1

Compulsory audit of accounts for **that P/Y** in which Sales/Gross receipts exceed ₹1 crore

PROFESSION:

Compulsory audit of accounts for **that P/Y** in which Fees/Gross receipts exceeds ₹50 lakhs

Special Points:

Accounts have to be audited u/s. 44AB by a CA one month before due date u/s 139(1) and also the audit report is to be furnished on or before the said date.

COMPUTATION OF P/G/B/P ON PRESUMPTIVE BASIS

		SEC 44AD	SEC 44AE
1.	Overriding	Sec 28 to 43C	Sec 28 to 43C
2.	Assessee	<i>Resident Individual, Resident HUF or Resident Partnership Firm Excluding LLP</i>	Any Assessee (Resident/Non Resident)
3.	Business	<i>Any Business except business u/s 44AE</i>	Plying, Hiring or Leasing goods carriage

4.	Limitations	<i>Provided Gross receipts/turnover upto 2 crore</i>	<i>Owns upto 10 goods carriage at any time during P/Y</i>
5.	Sum deemed as P/G/B/P	<p>8 % of Gross Receipts/ Turnover in P/Y</p> <p>6% of Total turnover /Gross receipts received during p/y or before due date u/s 139(1) of that p/y</p> <p>by A/c payee cheque or A/c payee bank draft or by ECS through bank A/c or by prescribed electronic method</p>	<p><u>For Heavy goods vehicle</u> ₹1,000 per ton pm or part owned in p/y or amount claimed to have been actually earned from such vehicle, whichever is higher;</p> <p><u>Other than heavy goods vehicle</u> ₹7,500 pm or part owned in p/y or amount claimed to have been actually earned from such vehicle, whichever is higher.</p> <p><i>Heavy goods vehicle means goods vehicle having gross weight/Unladen weight is more than 12,000 kgs (more than 12 tonne)</i></p>
6.	PGBP Deductions	<i>No deduction u/s Sec. 30 to 38 shall be allowed</i>	No deduction u/s Sec. 30 to 38 shall be allowed
7.	B/F losses	Brought Forward losses shall be available	Brought Forward losses shall be available
8.	Benefits	Deemed income or higher ,then sec44AA & 44AB not applicable	Deemed income or higher , sec44AA & 44AB not applicable

Sec 40(b) : Tax Treatment in hands of Partner in Firm

Payment	Salary/Bonus/Commission		Interest on Capital
Partner	Working Partner		All Partner
Partnership deed	Authorized by Partnership Deed / Change should be prospective		Authorized by Partnership Deed/ Change should be prospective
Amount of deduction	Book Profits	Maximum Deduction	Upto 12 % P.a
	Upto 3,00,000 (Including Loss)	₹ 1,50,000 or 90% of BP (whichever is more)	
	Balance Book profit	60% of BP	

Computation of Book Profits

1. Compute Net profit as per P&L A/C of the firm Under Head P/G/B/P.
2. **Add:** Below items, **if already debited** to P&L A/C
 - i) Remuneration paid to ALL Partner
 - ii) Interest to ALL partners in excess of 12% P.a

Sec 40(ba) : Tax Treatment in hands of Partner in Firm

Any interest, salary, bonus, commission or remuneration, by whatever name called, made by such AOP/BOI to members is not allowed as deduction

Sec 44ADA : Profits and Gains of Profession on presumptive basis

1. **Assessee** : Resident + engaged in specified profession u/s 44AA + Gross receipts is upto 50 lakh in P/Y.

2. **Sum Deemed as business profits** : 50% of Total Gross Receipts in P/Y or sum higher claimed to have been earned by assessee

3. **Deductions** : Deduction u/s 30 to 38 not allowed

4. **WDV of block** : WDV of asset used for purposes of profession shall be deemed to have been calculated as if assessee had claimed & had been actually allowed deduction of depreciation for each of relevant A/Y.

5. **Lower Profits** : Assessee who claims that professional income are lower than deemed profits & whose total income exceeds exemption limit shall be required to keep & maintain such books of account and other documents u/s 44AA and get them Audited u/s 44AB

Sec 43CA : Sale consideration in case of Real Estate Transactions

- Transfer of land/building/both (Not being a capital asset)
- Stamp duty valuation(SDV) > 110% of consideration on
- SDV deemed as consideration for computing Business Profits

Option available to Assessee

- Assessee can claims before AO that
- SDV > FMV of property
- AO may refer the valuation of Asset to Valuation Officer

Valuation of Valuation Officer

- Valuation of valuation officer < SDV,
- value of valuation officer = Full value of consideration

Special point :

- Where Date of agreement for transfer of asset and Date of registration of such transfer are different,
- SDV on date of Agreement shall be considered
- if consideration or part is received by account payee cheque or account payee bank draft or by use of ECS through bank account or by other prescribed electronic method
- on or before date of agreement for transfer of the asset.

MISSL

1. SEC 115BAC : IF assessee is covered u/s 115BAC the he is not allowed the following deductions

- **u/s 32(1)(ia) or**
- **u/s 32AD or**
- **u/s 33AB or**
- **u/s 33ABA or**
- **u/s 35(1)(ii) or u/s 35(1)(ia) or u/s 35(1)(iii) or u/s 35(2AA) or**
- **u/s 35AD or**
- **u/s 35CCC**