INCOME FROM OTHER SOURCES

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Sections- 56, 57, 58, 59 of Income Tax Act 1961

- Basis of Charge [Sec. 56(1)]- this is the last and residual head of charge of income. Any income which is not chargeable to tax under any other four heads of income and which is not to be excluded from the total, but excluding the exempt income, shall be chargeable to tax under the head "Income from Other Sources".
- Some examples of incomes taxable under section 56(1) are
 - income from subletting,
 - interest on bank deposits and loans, income from royalty, director's fee, ground rent, agricultural income from outside India,
 - director's commission for standing as guarantor to the banks, director's commission for underwriting shares of new companies, examination fees received by a teacher, rent of a plot of land, insurance commission, mining rent and royalties, interest on foreign government securities, casual income, annuity payable under a will, salaries payable to a member of parliament, family pension etc

- This contention of law is supported by the following judgments of Hon'ble Supreme Court and other apex bodies-
 - -Bihar State Cooperative Bank Ltd. Vs CIT(1960) 39 ITR 114 SC: Here revenue department insisted on taxing the interest earned by bank on non (SLR) funds, under the head income from other sources whereas assessee had claimed it as its business income. The decision came in favour of Revenue till Hon'ble High Court judgements but ultimately Honble Supreme Court gave decision in favour of assessee i.e. it was allowed as business income.

Taxable Incomes under the head 'Income from Other Sources' [Section 56(2)]

Sub-section (2) of section 56 **specifies** following incomes which are always taxable under the head "Income from other sources". They are

- -Dividend income
- winning from lotteries, crossword puzzles, horse races etc
- -Interest on securities
- -Income from letting out of machinery ,plant or furniture
- -income from composite letting of machinery, plant, furniture
- -share premium in excess of the fair market value.
- -interest on compensation
- -forfeiture of advance received for transfer
- -gifts of money, property, or property acquired for inadequate consideration

Dividends [section 56(2)(i)]-

Dividend can be defined as the sum of money paid by a company, to its shareholder, out of the profit made by company. Dividend includes any interim dividend and Deemed Dividend.

by virtue of section 2(22), the following payments or distributions by a company to its shareholders are deemed as dividend to the extent of accumulated profits of the company-

- A] any distribution entailing the release of the company's asset-section 2(22)(a)
- B] any distribution of debentures, debenture stock, deposit certificate and bonus to preference share holders-section 2(22)(b)
- C] distribution on liquidation of company-section 2(22)(c)
- D]distribution on reduction of capital -section 2(22)(d)
- E] Section 2(22)(e) any payment by way of advance or loan, by a closely held company to the following:
- i- a shareholder being a person who is beneficial owner of equity shares, holding not less than 10% of voting power; or
- ii- any concern in which such shareholder is a member or a partner and in which he has substantial interest.

For better understanding of section 2(22)(e), following case laws may be refered:-

- Tarulata Shyam & Others Vs CIT(SC) 108 ITR 345
- -Sharada Vs CIT(SC) 229 ITR 444
- -Rajesh P. Ved Vs ACIT (ITAT Mum)1 Trib 275
- -D Jindal Vs CIT(Cal) 164 ITR 28

Notes:-

- •"Concern" means a HUF, a firm, an AOP or BOI or a company.
- •Here accumulated profit is commercial profit and not assessed income.
- •Whether loan or advance is given on interest or not, does not effect the applicability of section 2(22)(e).
- •even though advance is repaid after one day, it will be treated as deemed divided.
- However sec 2(22)(e) doesn't apply if the company is in money lending business or such advance is given as business advance.

Present provision of taxability of Dividend-

- Dividend received from domestic company shall be **exempt** from tax under Section 10(34) if it is chargeable to dividend distribution tax under Section 115-O.
- However, with effect from assessment year 2017-18, as per section 115BBDA, if a resident individual, HUF or a firm receives (Other than deividend referred to in section 2(22)(e)), shall be chargeable to tax at the rate of 10% if aggregate amount of dividend received by specified assessee during the year exceeds Rs. 10,00,000.

"specified assessee" means any person resident in India other than,

- (i) a domestic company; or
- (ii) a fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or subclause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10; or
- (iii) a trust or institution registered under section 12A or section 12AA.

Proposed Amendment

However through Finance Bill 2020, the Dividend income will be **taxable in the hands of receiver**, by **removing Section 10(34)** of the Act.

The bill announces that **Dividend distributed by domestic company** will no longer be subject to DDT under section 115(O), if dividend distributed on or after 1st April 2020.

- assessee is no longer required to pay tax u/s 115BBDA where tax is to be paid at the rate of 10% on dividend exceeding Rs. 10 Lakh.
- that Dividend distributed by domestic company will no longer be exempt in the hands of recipient UNDER SECTION 10(34).

Hence now all kind of dividends, deemed dividend will be taxable in the hands of recipient.

Now companies will **withhold the taxes** on distribution of dividends under section 194 @10% with threshold limit of Rs. 5000.

This will lead to heavy compliance burdens on companies.

 However if dividend is declared before 31st march, 2020 then even though it is received after 31st march, section 115(O) may be applied on it, and it will not be taxable in the hands of the receiver upto 10 lakhs.

• **Deductions allowed-** if one has borrowed any amount to invest in shares and paid interest on same then deduction would be allowed for interest paid but restricted **to 20% of Dividend income**.

• Further, **section 80M is inserted** again to remove the cascading effect, with a change that set off will be allowed only for dividend distributed by the company one month prior to the due date of filing of returns.

2. Winnings from Lotteries, Crossword Puzzles, Horse Races and Card Games [Section 56(2)(ib)]

Any winnings from:

- Lotteries,
- Crossword puzzles,
- Races including horse races,
- Card games and other games of any sort,
- Gambling or betting of any form or nature whatsoever,

1. Special rate of Income-tax in case of winnings from lotteries, crossword puzzles, races, etc. [Section, 115B, 115BB]:

Although, winnings from lotteries, etc. is part of total income of the assessee, such income is taxable at a special rate of Income-tax, which at present at flat rate of 30% + cess, with threshold limit of Rs 10000.

Deduction of any expenses, allowance or loss not allowed from such winnings:

According to section 58(4), However, expenses relating to the activity of owning and maintaining race horses are allowable.

In other words, the entire income of winnings, without any expenditure or allowance, will be taxable. In fact, deduction under sections 80C to 80U on Deductions from Gross Total Income will also not be available from such income although such income is a part of the total income.

As lottery income is taxed at flat rate, the basic exemption of income is also not available to the assessee.

Grossing up of Lottery Income, etc. shall be taken care while computing the taxable income from lottery, horse races, crossword puzzles etc because TDS is 30% plus cess and net amount received is very less.

3. Interest on Securities [Section 56(2)(id)]

Interest on Securities means interest on bonds, debentures etc issues by companies, central govt, state govt or local authorities.

Income, by way of interest on securities, is chargeable under the head "income from other sources", if such income is not chargeable to income-tax under the head, "Profits and Gains of Business or Profession".

According to Section 2(28B) "Interest on securities" means:

- Interest on any security of the Central Government or a State Government;
- Interest on debentures or other securities for money issued by, or on behalf of a local authority or a company or a corporation established by Central, State or Provincial Act.

Thus securities may be divided into following categories:

- Securities issued by Central/State Governments;
- Debentures/bonds issued by a local authority;
- Debenture/bonds issued by companies; established by the central or state or provincial Act.

 Decenture/bonds issued by a corporation established by a Central, State or Provincial Act i.e. autonomous and statutory corporations.

Chargeability of Interest on Securities is based on method of accounting adopted for maintaining books of account by the assessee, section 193@ 10%:

- Income by way of interest on securities is taxable on "receipt" basis, if the assessee maintains books of account on "cash basis".
- It is taxable on "due" basis when books of account are maintained on mercantile system.
- Interest is taxable on "receipt" basis, if such interest had not been charged to tax on due basis for any earlier previous year.

Accrual of Interest on Securities:

Interest on securities does not accrue everyday or according to the period of holding of investment. For instance, if one holds 7% securities from January 1, 2019 to February 28, 2019, it cannot be said that interest of two months has accrued to the security holder. Generally, interest becomes due on due dates specified on securities. For instance..., if specified due dates of interest of particular securities are March 1 and September 1 every year, interest of six months falls due on each such date and holder of securities on these dates will be entitled to interest of six months on each such date.

For instance:

If X purchases 7% Rs. 20,000 Securities (specified due dates: March 1 and September 1) on February 25, 2019 and sells the same on March 2, 2019, he will become entitled for interest of 6 months (i.e., Rs. 20,000 \times ½ \times 7 ÷ 100 = Rs. 700), irrespective of the fact that he holds Securities just for 6 days. As, in this case, interest of 6 months has become due to X on March 1, 2019, he will be liable to pay tax on the entire interest of Rs. 700 in the previous year 2018-19 if he maintains books of account on "mercantile system". If, however, X maintains books of account on "cash" system, then Rs. 700 is taxable in the previous year in which it is received

Deductions: for collection charges, interest on loan, any other expense not being a expenditure of capital nature; spended wholly and exclusively for the purpose of making or earning is permissible as deductions.

Avoidance of Tax in respect of Interest on Securities (Section 94)

Interest on securities does not accrue from day to day but on certain fixed dates. If, on the eve of due date of payment of interest, a person transfers securities to another person and reacquires the same or similar securities after interest has been received by the transferee, the transferor would be able to evade tax in respect of such interest. To prevent this malpractice, section 94 provides certain checks under sub-sections (1) and (2).

(A) Bond Washing Transactions [Section 94(1)]-

A bond washing transaction is narrated as a transaction which consists of selling securities (to a friend or relative) some time before the due date and acquiring back the same (or similar) securities after the due date of interest is over. This practice is generally adopted by high-income class assessees to evade the tax while transferring securities to low-income class assessees on the eve of due date of payment of interest. If this practice is not checked, interest is includible in the total income of the transferee, as interest is chargeable in the hands of the person who is legal owner of securities on the due date of payment of interest.

To prevent the avoidance of tax in this manner, section 94(1) provides that where a security owner transfers the securities on the eve of due date of interest and reacquires them, the interest received by the transferee will be deemed as income of the transferor and, accordingly, it will be included in the total income of the transferor and not of the transferee.

(B) Sales Cum-Interest on Securities [Section 94(2)] -

Another method of avoiding tax is sale of securities cum-interest. Section 94(2) provides that if an assessee, having beneficial interest in securities during the previous year, sells them in such a way that either no income is received or income received is less than the sum he would have received if interest had accrued from day to day, then income from such securities for such year would be deemed as income of such person.

EXCEPTIONS -

Deeming provisions of section 94(1)/(2), discussed above, are not applicable if the security owner proves to the satisfaction of the Assessing Officer that —

- There has been no avoidance of income-tax; or
- The avoidance of income-tax was exceptional and not systematic and there was not any avoidance of income tax under section 94(1)/(2) in his case, during three years preceding the previous year.

4. Income from Letting Out of Machinery, Plant or Furniture [Section 56(2)(ii)]

• Income from machinery, plant or furniture, belonging to the assessee and let on hire, is chargeable as income from other sources, if the income is not chargeable to income-tax under the head "Profits and Gains of Business or Profession".

• (In case any such assets are hired out as a part of the business activity carried on by the assessee or as commercial assets belonging to the assessee, the income derived therefrom is assessable as business income under section 28 and not as Income from other sources under section 56)

5. Income from Composite Letting of Machinery, Plant or Furniture and Buildings [Section 56(2)(iii)]

If an assessee lets on hire machinery, plant or furniture and also building and when letting of building is inseparable from letting of machinery, plant or furniture, income from such letting is taxable as income from other sources, if the same is not chargeable to tax under the head "Profits and gains of business or profession".

On the basis of the judicial pronouncements, the following broad conclusions can be drawn:

- If there is letting of machinery, plant and furniture and also letting of the building and the two lettings form part and parcel of the same transaction or the two lettings are inseparable (in the sense that letting of one is not acceptable to the other party without letting of the other; for instance, letting of cinema house along with letting of furniture) then such income is taxable under section 56(2)(iii) under the head "Income from other sources" (if it is not taxable as business income). This rule is applicable even if sum receivable for the two lettings is fixed separately.
- If a building is let out but other assets like machinery, plant or furniture are not given on rent. However, certain amenities like lift services, air-conditioning, fire fighting facilities, etc., are provided, then section 56(2)(iii) is not applicable. The essential requirement of section 56(2)(iii) is that there should be letting of plant, machinery or furniture and also letting of building.

For instance, if the owner of a building only undertakes to instal and operate an air-conditioning plant and to instal, and maintain a lift in the building for the benefit of all the tenants at specified charges (maybe on "no profit no loss basis" or some other basis), there is no letting of air-conditioning plant and lifts to the tenants. Consequently, in such case incomes from letting of building is taxable under section 22 under the head "Income from house property" and amount collected for providing different amenities shall be taxable under section 56(1).

The aforesaid rule is applicable even if the assessee receives composite rent from his tenant towards building as well as services/amenities. The portion of rent attributable to the building should only be assessed as "Income from house property" and balance portion attributable to amenities must be assessed as "Income from other sources".

Here Deductions permissible from Letting out of Machinery, Plant or Furniture and Buildings [Section 57(ii) and (iii)]:

The following deductions are allowable:

- Current repairs, to the premises held otherwise than as tenant.
- Insurance premium against risk of damage or destruction of the premises.
- Repairs and insurance of machinery, plant or furniture.
- Depreciation based upon block of assets, in the same manner as allowed under section 32 in the case of Income from Business and Profession subject to the provisions of section 38 i.e. if it is partly let and partly used for own purpose, deduction of expenses (including depreciation) shall be allowed to the extent it is let out.
- Any other expenditure, not being a expenditure of a capital nature, laid out or expended wholly and exclusively for the purpose of making or earning such income can be claimed as a deduction

6. Share Premium in excess of the Fair Market Value to be treated as Income [Section 56(2)(viib)]

- Recipient is a company (not being a company in which the public are substantially interested).
- It receives consideration for issue of shares (preference shares or equity shares) **from** a resident person.
- The consideration received for issue of shares **exceeds the face value** of such shares. In other words, shares are issued at a premium.
 - then any consideration for issue of shares which exceed the fair market value of such shares, the aggregate consideration received for such shares as reduced by its fair market value shall be chargeable to tax.

Note: This provision is **not** applicable in the following cases:

- a) Where the consideration for issue of shares received by a venture capital undertaking from a venture capital company or venture capital fund or a specified fund. (From A.Y. 2020-21)
- "Specified fund" means a fund established or incorporated in India in the form of a trust or a company or a LLP or a body corporate which has been granted a certificate of registration by SEBI as a Category I or Category II Alternative Investment Fund (AIF).
- b) Where the consideration for issue of shares is received by company from class or classes of person as notified by the Government.
- In this regard, the Government has provided that section 56(2)(viib) shall not apply where consideration is **received by a start-up company in respect of shares issued to a resident person. However, a start-up company shall fulfil the condition mentioned in the Notification No. 127(E), dated 19-02-2019 issued by the Department for Promotion of Industry and Internal Trade (DPIIT).**
- With a view to ensure compliance to the conditions specified in the said notification, the Finance (No. 2) Act, 2019 reiterates that in case of failure to comply with the conditions specified in the notification, the consideration received from issue of shares as exceeding the fair market value of such shares, shall be deemed to be income of the company chargeable to tax for the previous year in which such failure takes place. Further, it shall be deemed that the company has misreported the said income and, consequently, a penalty of an amount equal to 200% of tax payable on the underreported income (i.e., difference between issue price and fair market value of shares) shall be levied as per section 270A.

The fair market value of the shares shall be

- the higher of the value as may be determined in accordance with the method given in rules 11U and 11UA; or
- -as may be substantiated by the company to the satisfaction of the Assessing Officer, based on the value of its assets, including intangible assets, being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature.

- Allowability of share premium in the light of juridicial pronouncement:- Section 56(2) (viib) was introduced in the income tax Act 1961 vide finance Act 2012 seeking to tax any excess premium received by A closely held company upon the issue of share. Such excess premium is deemed to be the income of the company and shall be taxed u/s 56(2)(viib) the intent of the legislature in enacting the provision of this section was to be discourage the practice adopted by the tax payer of subscriptions to share of closely held company at excessive and unjustifiable premium. Since its introduction the interpretation of section 56(2)(viib) has been a topic of numerous debates amongst the professions and has arise several controversy on this issue regarding the determination of fair market value in accordance with rule 11UA of the income tax Act 1962. On the said issue the method adopted for valuation by the assessee the income tax department has not accepted and several additions/ disallowance has been made and raised huge liabilities on the assessee. It is hereby mentioned that this section introduced as and anti-abuse provision and has certainly achieve its objects of reducing tax evasive practice by infusion of fund at excessively higher premium. Therefore the several controversy has been arise on higher judicial forum like Income Tax Appellate Tribunal before Hon'ble High Court and Hon'ble supreme Court.
- The Hon'ble Supreme Court in its latest judgment in case of Pr. Commissioner of Income tax Vs NRA Iron and Steel Pvt. Ltd. (2019) 412 ITR 161 (SC), the Hon'ble Supreme Court summarized the several judgment of Hon'ble High Court and previous judgment made by the court and held that,
- "The practice of conversion of un-accounted money through cloak of Share Capital/Premium must be subjected to careful scrutiny especially in private placement of shares. Filing primary evidence is not sufficient. The onus to establish credit worthiness of the investor companies is on the assessee. The Assessee is under legal obligation to prove the receipt of share capital/premium to the satisfaction of the AO, failure of which, would justify addition of the said amount to the income of the Assessee"

7. Interest on
Compensation or
Enhanced Compensation
[Section 56(2)(viii)]

As per section 145A(b), any interest received by an assessee on compensation or enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is received.

Further, from assessment year 2010-11, as per section 56(2)(viii), income by way of interest received on compensation or on enhanced compensation referred to in section 145A(b) above shall be taxable under the head income from other sources in the previous year in which such interest is received.

Deduction from such interest [Section 57(iv)]:

- In the case of above interest which is taxable under the head income from other sources, a deduction of a sum equal to 50% of such income shall be allowed to the assessee and no deduction shall be allowed.
- interest on enhanced compensation on compulsory acquisition of agricultural land is treated as accretion to the value of and part of the compensation, hence exempt, as decided in the case of Union of India vs Hari Singh and others, 302 CTR 458 SC.

Example:

Mr. X whose property was compulsorily acquired in 2013 received enhanced compensation of Rs. 9,00,000 on 15.11.2017 which includes Rs.2,40,000 as interest on such enhanced compensation. Discuss the taxability of such compensation

Solution:

Enhanced compensation of Rs. 9,00,000 – Rs. 2,40,000 = Rs. 6,60,000 shall be taxable under the head capital gain. Whereas interest on enhanced compensation shall be taxable under the head income from other sources as under:

Particulars	Amount (Rs.)
Interest on Enhanced Compensation Received	2,40,000
Less: Deduction @ 50%	1,20,000
Balance Taxable	1,20,000

8. Forfeiture of Advance Received for Transfer of a Capital Asset to be Taxed under the head "Income from Other Sources" [Section 56(2)(ix)]

According to section 56(2)(ix), any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset shall now be taxable under the head income from other sources if:

- Such sum is Forfeited; and
- The negotiations do not result in transfer of such capital asset.

9. Income of any Person to include not only Gift of Money from any person(s) but also the Gift of **Property (whether** Movable or Immovable) or **Property acquired for** inadequate consideration [Section 56(2)(x), w.e.f. A.Y. 2018-19]

(1) Where any Person Receives, in any previous year, from any Person or Persons on or after 1.4.2017:

The following income, it shall be chargeable to income tax under the head "income from other sources" as per section 56(2)(x):

Particulars of Income	Amount Taxable under the head 'Income from Other Sources'
(A) Where any Person Receives, in any previous year, from any Person or Persons on or after 1.4.2017 :Any sum of money,—in cash,cheque or draft in other words as gift	If aggregate amount of sum of money without consideration which exceeds Rs. 50,000, the whole of such aggregate value will be chargeable to tax.
	Though the provisions relating to gift applies in case of every person, but it has been reported that gifts by a resident person to a non-resident are claimed to be non-taxable in India as the income does not accrue or arise in India. To ensure that such gifts made by residents to a non-resident person are subjected to tax in India, the Finance (No. 2) Act, 2019 has inserted a new clause (viii) under Section 9 of the Income-tax Act to provide that any income arising outside India, being money paid without consideration on or after 05-07-2019, by a person resident in India to a non-resident or a foreign company shall be deemed to accrue or arise in India.
	(applies to all total transactions)

- (B) In case of immovable property,—
- (i) If any immovable property received or transferred without consideration

(ii) If immovable property is received for consideration or inadequate consideration

- i) The Stamp Duty Value of such property if exceeds 50000, then stamp duty value is chargeable to tax. (applies to single transaction)
- ii) from assessment year 2019-20
 If immovable property is received for consideration.

And The transaction satisfy the following two conditions-

- a) stamp duty value exceeds 105% of consideration
- b) the difference between the stamp duty value and consideration is more than Rs. 50,000.

the difference between stamp duty value and consideration is chargeable to tax.

the above % is increased to 10% by finance bill 2020.

(C)(i) Movable property received without consideration,—

(ii)Movable property received for consideration which is less than fair market value

-If aggregate fair market value of all movable properties exceeds Rs. 50000, the whole of aggregate fair market value of the property is chargeable to tax.

-if consideration which is less than the aggregate fair market value, by an amount exceeding Rs. 50000 i.e. difference, then the difference between aggregate fair market value and the consideration received is chargeable to tax.

- "Fair market value" of a property, other than an immovable property, means the value determined in accordance with the method as may be prescribed.(rule 11U and rule 11UA)
- "Property" means the following capital asset of the assessee, namely:—
 - immovable property being land or building or both;
 - shares and securities;
 - jewellery;
 - archaeological collections;
 - drawings;
 - paintings;
 - sculptures;
 - any work of art; or
 - bullion;

(2) Section 56(2)(x), Not to Apply in certain cases

Section 56(2)(x), shall not apply to when any sum of money or any property received—

- 1. from any relative; or
- 2. on the occasion of the marriage of the individual; or
- 3. under a will or by way of inheritance; or
- 4. in contemplation of death of the payer or donor, as the case may be; or
- 5. from any local authority as defined in the Explanation to section 10(20); or
- 6. from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in section 10(23C); or
- 7. from or by any trust or institution registered under section 12A or section 12AA; or

** 'Relative' shall mean:

- 1. Spouse of the individual
- 2. Brother or sister of the individual
- 3. Brother or sister of the spouse of the individual
- 4. Brother or sister of either of the parents of the individual
- 5. Any lineal ascendant or descendant of the individual
- 6. Any lineal ascendant or descendant of spouse of the individual
- 7. Spouse of the person referred in point 2-6 above

- 8. by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in section 10(23C)(iv) or (v) or (vi) or (via); or
- 9. by way of transaction not regarded as transfer under section 47(i) or (vi) or (via) or (via) or (vib) or (vic) or (vica) or (vicb) or (vid) or (vii); eg. shares received at the time of business reorganised of a coop soc, at the time of demerger, at the time of amalgamation.
- 10. Money or property from an individual, received by a trust created or established solely for the benefit of relative of the individual, from 1.4.17.

Section 56(2)(x) the applicability of provision for reduction of capital is a anti abuse provision.: Section 56 (2) (x) provide where any person received any specified property which include share and security without consideration or for a consideration which is less than its fair market value as determined in accordance with the applicable rule (Tax FMV) than the tax FMV where the property is received without consideration or the excess of the tax FMV over the consideration paid would be subject to the tax in the hand of the recipient of the property as income from the other source.

In this context question arise whether the said section would apply to conciliation of share pursuant to a capital reduction sanctioned by the NCLT?? it is important to understand what a capital reduction under Section 66 of the Companies Act, 2013 provides that subject to sanction of the NCLT, a company may, inter alia, reduce its share capital by cancelling its share capital. In other words, in case of a capital reduction, unlike a share buyback, the shares are not first received by the company and then cancelled; instead the shares stand cancelled by operation of the order of the NCLT. The provisions of sec. 56(2)(viia) should be applicable only in cases where the receipt of shares become property, hence tax liability under section 56(2)(x) will not arise here, in the hands of recipient and the shares shall become property of the recipient only if it is "shares of any other company. On the basis of said decision of Hon'ble ITAT Mumbai Bench, company can not hold its own share under Indian Law and it can not be said that the company received any property upon a share by back for there to be a charge u/s 56(2)(viia) of the Act. Importantly in case of share by back the issuer company is required by law to extinguish and physically destroy the shares on brought within seven days of last day of completion of by back.

** 'Relative' shall mean:

- 1. Spouse of the individual
- 2. Brother or sister of the individual
- 3. Brother or sister of the spouse of the individual
- 4. Brother or sister of either of the parents of the individual
- 5. Any lineal ascendant or descendant of the individual
- 6. Any lineal ascendant or descendant of spouse of the individual
- 7. Spouse of the person referred in point 2-6 above
- 8. Gift received by a HUF from its member and v/v is treated as gift from relative and not taxable., as held in the case of Vineetkumar Raghavji Bhai Bhalodiya vs ITO [2011] 46 SOT 97.

10-Compensation on termination of employment[section 56(2)(xi) will be taxable under this head from A.Y. 2019-20.

- Disallowable expenses as per section 58 of Income Tax Act are
- (i) Any expenditure or a part of expenditure which is personal in nature.
- (ii) Interest, Salary payable/paid outside India on which TDS is not made
- (iii) Any payment of direct taxes like Income Tax / Wealth Tax, excessive payments to related or relatives
- (iv) Expenditure in respect of Royalty and Technical Fees received by a Foreign Company
- (v) Expenditure in respect of Winning from Lottery, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature, whatsoever.

Profits chargeable to tax u/s 59

• If any allowances and deduction has been made while computing income from other source in any year in respect of loss, expenditure, trading liability but subsequently due to recovery of any amount in cash or any other manner or some benefit on account of remission or cessation of loss, expenditure or trading liability is derived, then the same shall be chargeable to tax under 'Income from Other Sources' as applicable under the head 'Profits and Gains of Business or Profession'.

