

For Your Practice! - Solved Questions

P.1 Explain the tax implications of the following:

1. F transferred agricultural land permanently to G with a condition that 25% of the income from the land should be handed over to him. G earned an income of ₹4,00,000 from the transferred property.
2. Mrs. X holds 4,000 out of 10,000 equity shares of G Ltd., a company in which Mr. X holding a B.A degree, is working as Finance Manager on a salary of ₹30,000 per month.
3. Mr. X transferred a sum of ₹20 lakhs to his wife in 2007 and Mrs. X constructed a property out of this amount. She has since been using the property for her own residence. The transfer deed stipulates that in the case of Mr. X and his wife agreeing to live apart, the property will belong to her absolutely. [N'92]

Solution

1. A transfer, as per section 63, shall be deemed to be revocable if it contains any provisions for the re-transfer, directly or indirectly of the whole or any part of the income or assets to the transferor.
As per section 61 where there is a revocable transfer of an asset by a person to another person, any income derived from such assets shall be included in the total income of the transferor.
Hence, whole income of ₹4,00,000 will be includible in hands of F. However, since this happens to be agricultural income it will be exempt u/s 10(1).
2. Mrs. X is holding substantial interest in the company as she holds equity shares carrying more than 20% of the voting power. Mr. X is drawing a salary of ₹30,000 per month in this company. U/s 64(1)(ii), in computing the total income of an individual, there shall be included such income as arises directly or indirectly to the spouse of the individual by way of salary from the company. However, the above rule will not apply in relation to any income arising to the spouse by virtue of his/her professional or technical qualification and the income is solely attributable to the application

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of such qualification. As Mr. X does not possess any professional or technical qualifications the salary of ₹30,000 per month is assessable in the hands of Mrs. X.

3. This question is based on sec 64(1) which provides that in computing the total income of an individual, all such income as arises directly / indirectly to the spouse of such individual from assets (other than house property) transferred directly or indirectly to the spouse of such individual otherwise than for adequate consideration or in connection with an agreement to live part shall be included.

In the present Question, sec 27(1) is not applicable as what is transferred is cash and not a property. Hence, although Mrs. X will be treated as owner of the house property, the income from house property will be included in the income of Mr. X. The provision in the transfer deed stating that in case of Mr. X & his wife agreeing to live apart, the property will belong to Mrs. X, is of no consequence.

- P2 Mr. X gifts fl lakh to his wife Mrs. X on April 1, 2018 which she invests in a firm on interest rate of 14 % per annum. On January 1, 2019, Mrs. X withdraws the money and gifts it to her son's wife. She claims that the interest which has accrued to the daughter- in-law, from January 1, 2019 to March 31, 2019 on investment made by her is not assessable in her hands but in the hands of Mr. X. Is this correct? What would be the position, if Mrs. X had gifted the money to minor grandson, instead of the daughter-in- law? [N'95]

Solution

Section 64(1)(vi) provides that in computing total income of any individual, there shall be clubbed all such income as arises directly or indirectly to the son's wife, of such individual, from assets transferred directly or indirectly to the son's wife by such individual otherwise than for adequate consideration. There is indirect transfer by Mr. X to the daughter-in-law and therefore, the interest income shall be clubbed with income of Mr. X. If Mrs. X had gifted

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the money to her minor grandson, then the interest income arising to the minor shall be included u/s 64(1A) in the total income of that parent (son/daughter-in-law) whose total income (before including such income) is higher.

P3 Mr. Siddharth was a partner in a firm, representing his HUF holding 25% of the share in the firm. His wife, Nidhi a house lady was admitted in her individual capacity in the firm for 25% share. She was paid remuneration which has been proposed by the AO to be clubbed in the hands of Siddharth-HUF by invoking sec 64 of the Act. [N'07]

Solution

The salary of spouse [whose salary does not fall within proviso to section 64(1)(ii)] could be clubbed with the income of the individual who is a partner of the firm. In this case, partner is representing his HUF. Hence the salary of wife could not be clubbed with the HUF income.

The Proposal of the AO to club the remuneration of his wife Nidhi in the hands of Mr. Siddharth- HUF by invoking sec 64 is incorrect. Clubbing applies to individual, and Siddharth is not partner in his individual capacity. Therefore, no clubbing shall take place.

P4 X purchased a residential flat from D in 2010. However, deed of conveyance has not been registered in the name of X till date. X has let out the flat at a monthly rent of ₹15,000 to M. X claims that rent received is not chargeable under the head "Income from house property". But the same is chargeable under the head "Income from other sources" and he can claim deduction for expenses on repair and insurance premium on actual basis and depreciation (according to the provisions of sec 32). Examine the correctness of X's claim.

Solution

Section 27 defines the "owner of house property" for the purposes of computing the income under the head house property. It provides that any person who is allowed to take possession of any building in part performance

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of a contract of the nature referred to in sec 53A of the Transfer of Property Act, shall be deemed to be the owner of such building. Sec 27 defines the "owner of house property" for the purposes of computing the income under the head house property. It provides that any person who is allowed to take possession of any building in part performance of a contract of the nature referred to in sec 53A of the Transfer of Property Act, shall be deemed to be the owner of such building.

In view of section 27, X will be deemed as "owner" of the property. Rental income will be taxable in the hands of X u/s 22 under the head "Income from house property". In other words, income cannot be taxed u/s 56 & X cannot claim deduction in respect of repairs and insurance on actual basis. Likewise, depreciation is not deductible. However, X can claim 30% deduction of the gross rent received, u/s 24(i), for repairs and maintenance.

P5 In 2012 Brijesh borrowed ₹15 lakhs at 15% interest per annum from Ashok for his business purpose. This loan has not been repaid so far by Brijesh His average bank balance in current account was around ₹7 lakhs on which the bank was not paying him any interest. On 1st June, 2020 Brijesh's wife, Tina borrowed from him ₹7.50 lakhs repayable on demand at 7.5% interest per annum. She lent this money and received interest @ 18% p.a. In course of assessment of Brijesh, the AO disallowed 50% of this interest paid to Ashok on the ground that the loan to the extent of 50% has been diverted for non-business purpose i.e. for lending to wife. Further, interest earned by Tina by advancing ₹7.50 lakhs was included in the hands of Brijesh by invoking sec 64(1)(iv). Examine the correctness of the action of the AO. [N'17]

Solution

The loan given by Brijesh to his wife Tina of ₹7.5 Lakhs can be said to be from the owned sources i.e., bank balance in current account of Brijesh which is approx, ₹7 lakhs. Therefore, the AO is not justified in disallowing the interest paid by Brijesh to Ashok since it cannot be said that Brijesh has

diverted the borrowed funds to his wife Tina.

The contention of AO in invoking clubbing provisions is also not correct because it is well settled law that clubbing applies when assets are transferred by the husband to the wife for an inadequate consideration.

Giving a loan does not amount to transfer of assets, therefore, there is no question of clubbing, hence, no such provisions are applicable.

In the present case, the action of the Assessing Officer is not justified.

Know your Exams - Unsolved Questions

P1 Mr. Vaibhav started proprietary business on 01.04.20 with capital of ₹5,00,000. He incurred loss of 2,00,000 during year 2019-20. To overcome financial position his wife Mrs. Vaishaly, a software Engineer, gave gift of ₹5 lakhs on 01.04.20, which was immediately invested in business by Mr. Vaibhav. He earned profit of 4,00,000 during year 2020-21. Compute amount to be clubbed in the hands of Mrs. Vaishaly for AY 21-22. If Mrs. Vaishaly gave said amount as loan, what would be amount to be clubbed? [N11]

P2 Compute the Gross Total Income of Mr. & Mrs. A from the following:

- Salary income (computed) of Mrs. A - ₹2,30,000
- Income from profession of Mr. A - ₹3,90,000
- Income of minor son B from company deposit - ₹15,000
- Income of minor daughter C from special talent - ₹32,000
- Interest from bank received by C on deposit made out of her special talent ₹3,000
- Gift received by C on 30.09.2020 from friend of Mrs. A - ₹2,500

Brief working is sufficient. Detailed computation under various heads of income is NOT required. [N 05]

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- P3 Mr. Dhaval has an income from salary of ₹3,50,000 and his minor children's income are as under:
- Minor daughter has earned the following income:
- From a TV show - ₹50,000
 - From interest on FD with bank - ₹5,000 (by Mr. Dhaval from his income)
- Minor son has earned the following income:
- From the sale of a own painting - ₹10,000
 - From interest on FD with bank - ₹1,000 (deposited by Mr. Dhaval from his income)
- Compute the gross total income of Mr. Dhaval.[N09]
- P4 Mr A holds shares carrying 25% voting power in X Ltd. Mrs A is working as a computer software programmer in X Ltd at a salary of ₹30,000 pm. She is, however, not qualified for the job. The other Income of Mr A & Mrs A are ₹7 lakhs & ₹4 lakhs respectively. Compute gross total income of Mr A & Mrs A for AY 21-22.
- P5 Mr Vasudevan gifted a sum of 6 lakhs to his brother's wife on 14/06/20. On 12/07/2020, his brother gifted a sum of 5 lakhs to Mr Vasudevan's wife. The gifted amounts were invested as Fixed Deposit in banks by Mrs Vasudevan & wife of Mr Vasudevan's Brother on 01/08/2020 at 9% interest. Discuss the consequences of the above under the provisions of the Income Tax Act 1961 in the hands of Mr Vasudevan & his brother.
- P6 Mrs E, wife of Mr F, is a partner in a Firm. Her Capital Contribution to the firm as on 01/04/2020 was ₹5 lakhs out of which ₹3 lakhs was contributed out of her own sources & ₹2 lakhs was contributed out of gift from her husband. As further capital was needed by firm, she further invested ₹2 lakhs on 1/5/20 out of the funds gifted by her husband. the firm paid interest on capital of ₹80,000 & share of profit of ₹60,000 for FY 2020-21. Advise Mr F as to the

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applicability of provisions of Sec 64(1)(iv) & the manner thereof in respect of the above referred transactions.

P7 Mr A has gifted a house property valued at ₹50 lakhs to his wife, Mrs B, who in turn has gifted the same to Mrs C, their daughter-in-law. The house was let out at ₹25000 pm throughout year. Compute total income of Mr A & Mrs C. Will answer differ if property was gifted to Son, husband pf Mrs C?

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Space for Important Points / Notes