

LL.B. III Term

Paper – LB – 3033 – Taxation-I (Income Tax)

Prescribed Legislation : The Income Tax Act, 1961

Prescribed Book :

1. Vinod K. Singhanian & Kapil Singhanian, **Taxmann's Direct Taxes – Law & Practice**
2. Girish Ahuja & Ravi Gupta, **Direct Taxes – Law and Practice**

Topic 1: Introduction

Definition of Income [Section 2(24)] – Application of Income or diversion by overriding title - Capital Receipt v. Revenue Receipt - Tests to distinguish (with special reference to 'Salami'); Assessee; Previous Year (section 3); Assessment year; Basis of charge (Receipt, Accrual, and Arisal); General Scheme of Income Tax Act, 1961

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| 1. <i>CIT v. G.R. Karthikeyan</i> , 1993 Supp (3) SCC 222 | 1 |
| 2. <i>CIT v. Sitaldas Tirathdas</i> (1961) 2 SCR 634 | 6 |
| 3. <i>C.I.T. v. Sunil J. Kinariwala</i> (2003) 1 SCC 660 | 12 |
| 4. <i>Maharaja Chintamani Saran Nath Sah Deo v. CIT</i> (1971) 2 SCC 521 | 17 |

Topic-2 : Agricultural Income – Meaning of Agricultural Income [Section 2(1A), 10(1)]

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| 4. <i>Bacha F. Guzdar v. C.I.T., Bombay</i> , AIR 1955 SC 74 | 21 |
| 5. <i>Premier Construction Co. Ltd. v. C.I.T., Bombay City</i> (1948) XVI ITR 380 (PC) | 26 |
| 6. <i>C.I.T. v. Benoy Kumar Sahas Roy</i> , AIR 1957 SC 768 | 29 |
| 7. <i>C.I.T. v. Maddi Venkatasubbayya</i> (1951) XX ITR 151 (Mad.) | 44 |
| 8. <i>Sakaral Naranlal v. C.I.T.</i> , AIR 1965 Guj. 165 | 48 |
| 9. <i>C.I.T. v. H.G. Date</i> (1971) 82 ITR 71 (Bom.) | 60 |
| 10. <i>K. Lakshmanan & Co. v. C.I.T.</i> (1999) 239 ITR 597 (SC) | 67 |

Topic-3 : Residence and Scope of Total Income

Tests for the determination of residential status of Assessee (section 6); Total income of assessee (sections 4 and 5); Income deemed to accrue or arise in India (section 9); Incidence of tax varies with residential status of an assessee?

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| 11. <i>V.V.R.N.M. Subbayya Chettiar v. C.I.T.</i> , AIR 1951 SC 101 | 69 |
| 12. <i>Narottam and Parekh Ltd. v. CIT, Bom. City</i> , AIR 1954 Bom. 67 | 73 |

Topic-4 : Heads of Income (Sections 14-59)

Heads of Income (section 14), Rationale; Heads, whether mutually exclusive

Head A : Salaries (Sections 15 to 17) – Chargeability - Meaning of Salary; Perquisites; Profits in lieu of salary

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| 13. <i>Ram Pershad v. C.I.T.</i> (1972) 2 SCC 696 : AIR 1973 SC 637 | 78 |
| 14. <i>C.I.T. v. L.W. Russel</i> , AIR 1965 SC 49 | 84 |

[Head B : Omitted by the Finance Act, 1988 with effect from 1-4-1989]

Head C : Income from House Property (Sections 22 to 27) - Ingredients of section 22 - Annual Value how to be determined - Deductions under section 24 - Deemed owner (section 27)

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| 15. <i>C.I.T., West Bengal v. Biman Behari Shaw, Shebait</i>
(1968) 68 ITR 815 (Cal.) | 89 |
| 16. <i>East India Housing & Land Development Trust Ltd. v. C.I.T.</i>
(1961) 42 ITR 49(SC) | 93 |
| 17. <i>R.B. Jodhamal Kuthiala v. C.I.T.</i> , AIR 1972 SC 126 | 95 |

Head D : Profits and Gains of Business and Profession (Sections 28 to 44) –Applicability - Deductions - Bad debts

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| 18. <i>B.D. Bharucha v. C.I.T.</i> , AIR 1967 SC 1505 | 102 |
| 19. <i>C.I.T. v. Mysore Sugar Co. Ltd.</i> , AIR 1967 SC 723 | 105 |

Business Expenditure – Allowability - Tests of distinctions between Business expenditure and Capital expenditure [section 37(1)]

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| 20. <i>C.I.T. v. Travancore Sugar & Chemicals Ltd.</i> ,
AIR 1973 SC 982 | 109 |
| 21. <i>Empire Jute Co. v. C.I.T.</i> , AIR 1980 SC 1946 | 118 |
| 22. <i>L.B. Sugar Factory & Oil Mills(P.) Ltd. v. C.I.T.</i> ,
AIR 1981 SC 395 | 128 |
| 23. <i>C.I.T. v. Jalan Trading Co. (Pvt.) Ltd.</i> (1985) 155 ITR 536 (SC) | 133 |
| 24. <i>Blkaner Gypsums Ltd. v. C.I.T.</i> , AIR 1991 SC 227 | 141 |
| 25. <i>C.I.T. v. General Insurance Corporation</i> , 2007 (1) SCJ 800 | 149 |

Head E: Capital Gains (Sections 45 to 55) – Definition of capital assets [section 2(14)]; Short term capital assets [section 2(42A)]; Short term capital gains [section 2(42B)]; Long term capital assets and Long term capital gain [section 2(29A) and 2(29B)]; Meaning of ‘Transfer’[section 2(47)]; computation (section 45); Transactions not amounting to transfer (sections 46 and 47); Mode of computation (section 48); Meaning of ‘adjusted’, ‘cost of improvement’ and ‘cost of acquisition’(section 55)

26. *N. Bagavathy Ammal v. C.I.T., Madurai*, JT 2003 (1) SC 363 154

Head F: Income from Other Sources (Sections 56 to 59)

27. *C.I.T. v. Rajendra Prasad Moody* (1978) 115 ITR 519 (SC) 158

Topic 5 : Income of Other Persons included in Assessee’s Total Income (Sections 60 to 64) - concept of clubbing of income – justifiability - throwing of separate property into the common stock of Joint Hindu Family and subsequent partition of the same section 64(2)

28. *Philip John Plasket Thomas v. C.I.T.*, AIR 1964 SC 587 161

29. *Batta Kalyani v. Commissioner of Income Tax*
(1985) 154 ITR 59 167

30. *J.M. Mokashi v. Commissioner of Income Tax*
(1994) 207 ITR 252 (Bom) 170

31. *Mohini Thapar v. C.I.T.* (1972) 4 SCC 493 179

IMPORTANT NOTE:

1. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.
2. The students are required to study the legislations as amended up-to-date and consult the latest editions of books.
3. The question paper will include one compulsory question. The question papers set for the examinations held during 2010-11 and 2011-12 are printed below for guidance of the students.

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LL.B. III Term Examinations, December 2010

Note: Attempt *five* questions including Question No. 1 which is compulsory.
All questions carry *equal* marks.

1. Attempt briefly any *four* of the following:
 - (i) Explain ‘Profits in Lieu of Salary’.
 - (ii) Explain the meaning of ‘Deemed owner’ as provided in Section 27.