



# BUSINESS TAXATION

**Mr.Nithiyanandam.M**

**Assistant Professor**



# BUSINESS TAXATION

**VI Semester B.Com**

# SYLLABUS



## **Objective**

The objective is to enable the students to understand Assessment of Firms, Companies and procedures of assessment, filing of returns of income with regard to Income Tax Act, 1961 and also to understand the levy of Customs duty under Customs Act, 1962.

## **Unit 1: Customs Act**

**10 Hrs.**

Meaning – Types of Custom Duties – Valuation for Customs Duty – Tariff Value – Customs Value – Methods of Valuation for Customs – Problems on Custom Duty.

## **Unit 2: Tax under E-Environment**

**12 Hrs.**

Filing of Income Tax returns, digital signature module, payment of taxes, online – TDS, advance tax, self-assessment tax, filing TDS returns on sale of property.



### **Unit 3: Assessment of firms**

**14 Hrs**

Meaning of Partnership, Firm and Partners – New Scheme of Taxation of Firms – Assessment of Firms (Section 184) – Computation of Firm’s Business Income – Treatment of Interest, Commission, Remuneration received by partners. Problems on Computation of Firms total income and tax liability

### **Unit 4: Assessment of Companies**

**20 Hrs**

Introduction – Meaning of Company – Types of Companies – Computation of Depreciation u/s 32 – Computation of Taxable Income of Companies – Minimum Alternative Tax (MAT) – Deductions u/s 80G, 80GGB, 80IA, 80 IB and Problems on Computation of Tax Liability.



### **Skill Development:**

Collect financial statement of a firm and compute the taxable income. Narrate the procedure for calculation of Book profits. Narrate the procedure of calculation of tax liability. Prepare the challan for payment of tax under existing laws on goods not covered under GST.

### **Books for Reference:-**

1. Vinod K Singhania – “Direct Taxes - Law and Practice”, Taxmann Publications
2. Gaur and Narang – “Direct Taxes”, Kalyani Publishers
3. 7 Lecturers – “Business Taxation” , VBH



## Unit 1 – Customs Act

### **Customs Duty: -**

The term 'Customs' derives its colour and essence from the term 'Custom', which means a habitual practice or course of action that is repeated in like circumstances.

Custom duty is a kind of an indirect tax. It is levied by the Central Government on import of goods into India, and export of goods from India. It is collected from the importer or exporter of goods, but the burden is borne by its consumer and not by the importer or the exporter.



The tax imposed on the import of goods is known as the import duty.

Whereas, the tax imposed on the export of goods is known as the export duty.

In other words, Customs duty refers to the tax imposed on goods when they are transported across international borders.. The government uses this duty to raise its revenues, safeguard domestic industries, and regulate movement of goods.

The rate of Customs duty varies depending on where the goods were made and what they were made of.

Custom duty in India is defined under the Customs Act, 1962, and all matters related to it fall under the Central Board of Indirect taxes & Customs (CBIC).



## Objectives of Custom Duties: -

1. To prevent illegal imports and exports of goods
2. To raise revenue
3. To regulate imports of foreign goods into India
4. To conserve foreign exchange, regulate supply of goods into domestic market
5. To provide protection to the domestic industry from foreign competition by restricting import of selected goods and services, import licencing, import quotas, and outright import ban.
6. To promote international trade with reference to duty imposing countries
7. To reduce deficit in balance of trade and balance of payment



## History of Customs Duty: -

Customs duties are the oldest form of taxation in India. In an ancient period it was customary that when a merchant enters into Kingdom with goods for trade in that kingdom, he will give gifts to the king to praise him. King will then allow such merchant to trade in the kingdom. Over a period of time this customary became mandatory and so the customs duty was started to be levied. Although the concept of Customs was there in Vedic period, but we accept the formulation of Custom Duty from the British period.

Kautilya's Arthashastra also refers to 'Shulka' consisting of import duty and export duty that was collected at the city gates on goods coming in and going out respectively.



## Sources of Customs Act

Collection of Customs duties on imports and exports as per basic Customs Laws

There are two Acts, which form part of Customs Law in India and other components which governs the customs law in India.

1. The Customs Act, 1962
2. The Customs Tariff Act, 1975
3. Rules
4. Regulations
5. Circulars and notifications
6. Case Laws



## 1. The Customs Act, 1962

This Act extends to the whole of India. "India" includes the territorial waters of India.

It is the basic Act for levy and collection of customs duties in India

It came into force as on 1<sup>st</sup> February 1962

It was extended to Sikkim with effect from 1<sup>st</sup> October 1979

It has 161 sections distribution over 17 chapters

It Contains various provisions relating to imports and exports of goods and merchandize as well as baggage of persons arriving in India

The main purpose of Customs Act, 1962 is the prevention of illegal imports and exports of goods.



## 2. The Customs Tariff Act, 1975

The Customs Duty is levied on goods imported or exported from India at the rates specified under the Customs Tariff Act, 1975. The Act contains two schedules.

Schedule 1 : Classification and rate of duties for imports

Schedule 2 : Classification and rate of duties for Exports

It contains total 21 sections and 98 chapters

In Customs Tariff, there are five columns

- i) Tariff item
- ii) Description of goods
- iii) Unit
- iv) Standard rate of duty
- v) Rate of duty for preferential area.

Government charges lower customs duty in case of import of some specified goods from Myanmar, Bangladesh, Mauritius, Seychelles, Nepal, Tonga etc.

If preferential rate is not specified for a particular product, the standard rate of customs duty will apply.



### **3. Rules:-**

Section 156 of the Customs Act empowers the Central Government to make rules consistent with the provisions of the Act, to carry out the various purposes of Act

### **4. Regulations:-**

Section 157 of the Customs Act empowers the Central Board of Indirect and Customs (CBIC) to make regulations consistent with the provisions of the Act, to carry out the various purposes of the Act

### **5. Circulars and Notifications:-**

They are issued under the Customs Act to clarify the issues or views in respect of the Act.

### **6. Case Laws:-**

Decided cases of Supreme Court and High Court in respect of customs law forms part of the Customs Law



The Act extends to the whole of the India, including the designated areas in the continental shelf and the Exclusive Economic Zone of India notified by the Ministry of External affairs from time to time.



## Customs Duty Before GST:-

Before IGST was enforced, custom duty was levied on all export and import of goods. Also, innumerable taxes such as

1. Basic Custom Duty (BCD)
2. Countervailing Duty (CVD)
3. Special Additional Duty (SAD)
4. National Calamity Contingent Duty (NCCD)
5. Anti Dumping Duty
6. Safeguard Duty
7. Protective Duty were imposed on every import of goods

When GST came, it shook the entire tax system by holding all indirect taxes such as central excise duty, service charges, state-level tax and introduced a single tax known as IGST (Integrated Goods and Services Tax).



## 1. Basic Customs Duty (BCD)

All goods imported into India are chargeable to a duty under Customs Act, 1962. The rate of this duty are indicated in the First schedule of the Customs Tariff Act, 1975. Those rates may be at the standard rate or in the case of import from some countries at the preferential rates. The preferential rate is applicable only if goods are imported from “Most Favoured Nation”. The term “Most Favoured Nation” means the member countries of the World Trade Organisation who are accorded the status of MFN. As per the MFN agreements the recipient of this treatment must, nominally, receive equal trade advantages as the “Most Favoured Nation” by the country granting such treatment. Some of the most favoured nations are Bangladesh, Korea, Mauritius, Srilanka, Tonga etc. It is calculated on Assessable Value (AV)



## **2. Additional Countervailing duty (CVD):-**

It is levied to counterbalance the Excise duty. It is also known as Additional Customs Duty. Rate of CVD is @ 12%.

It is calculated on (AV+BCD+ NCCD)

(If given in the problem)

## **3. Special Additional Duty (SAD):-**

It is levied to counter balance the excise duty on raw materials and components. It is calculated on (AV + BCD + NCCD + CVD + Surcharges)

## **4. National Calamity and Contingent Duty (NCCD):-**

Imposed on Pan Masala, chewing tobacco and cigarettes. It is levied on motor cars, multi utility and 2 wheelers and domestic curde oil. (If given in the problem)



## 5. Anti Dumping Duty:-

The big manufacturers from abroad export goods to India at a price less than their domestic market price. In normal trade practice, it is called “Dumping” No surcharges on Anti-dumping duty. Anti dumping duty will be dumping margin or injury margin whichever is less. Where

Dumping margin = Difference between Normal value and export price

Normal Value means comparable price in ordinary course of trade

Export price means price at which goods are exported from abroad

Injury margin

= Difference between fair selling price of domestic industry and landed cost of imported

product



## **6. Safeguard Duty:-**

If Central Government is satisfied that the goods are being imported in large quantities and under such conditions that they are causing or threatening to cause serious injury to domestic industry, then it may levy a safeguard duty on those goods by notification. This duty shall be in addition to other Customs Duties

## **7. Protective Duties:-**

It is imposed to protect the interest of Indian industry

## **GST Compensation Cess:-**

Any article which is imported into India shall, in addition, be liable to the GST compensation cess at such rate as leviable u/s 8 of the GST (compensation to States) cess Act, 2017 on a like article on its supply in India, on the valuation of the imported article.



## **Social Welfare Surcharges:-**

605/06/2019-DBK clarifying that SWS ( Social Welfare Surcharge ) is calculated at the rate of **Ten per cent** on the aggregate of duties, taxes, and cesses which are levied and collected under section 12 of the Customs Act, 1962.

### **Note:-**

In cases where imported goods are liable to Anti-Dumping Duty or Safeguard Duty,

Calculation of Anti-Dumping Duty or Safeguard duty would be as per the respective notification issued for levy of such duty. It is also clarified that value for calculation of IGST as well as Compensation Cess shall also include Anti-Dumping Duty amount and Safeguard duty amount.

Due to introduction of GST, the applicability of additional duty of Customs is very limited. Thus additional duty of Customs will be levied only on the few products .



the impact of GST, which would come into force with effect from 01.07.2017, for importers and exporters.

On the imports side there would be no impact on levy of Basic Customs duty, Social welfare surcharge, Anti-dumping, duty, Safeguard duty and the like.

However, the Additional duties of Customs, which are in common parlance referred to as Countervailing Duty (CVD) and Special Additional duty of Customs (SAD), would be replaced with the levy of Integrated Goods and Services Tax (IGST), **barring a few exceptions.**

On the exports side, export would be treated as zero-rated supply. Under zero-rated supply IGST paid on export goods or the input tax credit proportionate to the goods and services consumed in goods exported under bond/LUT (Letter of Undertaking called a type of bank guarantee) would be refunded.



## List of Taxes will continue in GST era:

1. Basic Customs Duty – BCD

2. Surcharge on Customs duty

Surcharge at the rate of 10% of the Basic Customs Duty is levied on imported goods under Section 90 of the Finance Act, 2000 (unless exempted by a notification).

3. Customs Cess –

4. Safeguard duty under Section 8B of the Customs Tariff Act, 1975

5. Anti-dumping duty under Section 9A, Customs Tariff Act 1975

6. State Excise

7. Stamp Duty



8. Property Tax levied by Local Bodies
9. Central Excise as respects goods included in entry 84 (Alcohol for human consumption) of the Union List of the Seventh Schedule to the Constitution
10. Central Excise on Petroleum Products – GST applicability date on petroleum products will be notified subsequently
11. VAT on Petroleum Products – GST applicability date on petroleum products (i.e. petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel) will be notified subsequently
12. Profession Tax
13. License fee on entry of vehicles under THE CANTONMENTS ACT, 2006
14. Securities Transaction Tax (STT)



## Definition of Concepts :-

### 1. Adjudicating Authority Sec 2 (1):-

Adjudicating authority means any authority competent to pass any order or decision under this Act, but does not include the following

- i) The Central Board of Indirect and Customs (CBIC)
- ii) Commissioner of Customs (Appeals)

### 2. Assessment Sec 2(2):-

Assessment means the process of determining the tax liability in accordance with the provision of the Act, which includes provisional assessment, self-assessment, re-assessment and any order of assessment in which the duty assessed is nil



### 3. Goods Sec 2 (22):-

Goods Includes

- a) Vessels
- b) Aircrafts and Vehicles
- c) Stores
- d) Baggage
- d) Currency and Negotiable Instruments and
- e) Any other kind of movable property

Import duty is levied on almost all items, while export duty is levied only on a few limited products, where Indian goods are in commanding position.

Conditions:

The goods must be “Movable”

The goods must be “Marketable”



Vessels: Ships or large boat, Containers, Carriers



#### **4. Dutiable Goods Sec 2 (14):-**

Dutiable goods means any goods, which are chargeable to duty and on which duty has not been paid. These are the goods which are mentioned in Customs Tariff Act, 1962.

#### **5. Export Goods Sec 2(19):-**

Export goods mean any goods, which are to be taken out of India to a place outside India

#### **6. Import Goods Sec 2(25):-**

Imported goods mean any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption.

#### **7. Coastal goods Sec 2(7):-**

The term coastal goods means goods, other than imported goods, transported in a vessel from one port in India to another



## 8. Prohibited Goods:-

It means any goods the import or export of which is prohibited under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.

## 9. Baggage Sec 2 (3):-

Baggage includes unaccompanied baggage but does not include motor vehicles

**Baggage** or **luggage** consists of bags, cases, and containers which hold a traveller's personal articles while the traveller is in transit. It includes unaccompanied baggage but does not include motor vehicles.



## **Excess Baggage:-**

Baggage exceed the limitations of the Free Baggage allowance, an excess baggage charge needs to be paid. Excess baggage rates are generally expensive, and usually exist as a penalty for exceeding your allowance.

## **Unaccompanied baggage:-**

Unaccompanied baggage is an alternative method of sending excess luggage to your destination. It is an independent service and offers you a cheaper rate on a space available basis. Unaccompanied baggage will not travel on the same flight as you and will need to be cleared by the destination authorities according to cargo import regulations.





### **Conveyance Sec 2(9):-**

Conveyance includes a vessel, an aircraft and a vehicle

### **Bill of Entry:**

It is a document which every importer has to submit u/s 46. Bill of Entry should be submitted in quadruplicate (i.e. four copies)

Original and duplicate copy	-	Customs authority
Triplicate copy	-	Importer
Quadruplicate copy	-	Bank

### **Customs Station Sec 2(13):-**

Any Customs port, Customs airport or Land customs station

### **Customs Areas Sec 2(11):-**

Area of a customs station and includes any area in which imported goods or export goods are kept ordinarily before clearance by Customs Authorities



### **Import Sec 2 (23):-**

It means bringing into India from a place outside India

### **Export Sec 2(18):-**

It means taking out of India to a place outside India

### **Persons In charge Sec 2(31):-**

- |                      |   |                                   |
|----------------------|---|-----------------------------------|
| 1. Vessel            | - | Master                            |
| 2. Aircraft          | - | Commander or Pilot Incharge       |
| 3. Train             | - | Conductor or Guard                |
| 4. Vehicle           | - | Driver                            |
| 5. Other Conveyance- |   | Person incharge of the conveyance |



## Custom duty after implementation of GST: -

As a basic principle, GST law says that all supplies of goods & services made as imports into India will be treated as an inter-state supply. All inter-state supplies attract IGST.

So, import of goods and services into India will attract IGST. Basic custom duty, Anti-Dumping duty and Safeguard duty will continue to be charged.

IGST on import of goods will be levied and collected under the Customs Act, 1962 and IGST Act.

IGST on import of services will be covered under the IGST Act.



## Place of supply of goods & Services imported into India

Supply Is	GST
Goods imported into India	BCD+IGST
Services imported to India	IGST

## Place of supply for import/ export of goods

Supply Is	GST
Goods imported into India	BCD+IGST
Exported from India	Exempted



The government charges these taxes during the export or import of goods and services to raise money and/or to shield the domestic establishments from the competitors from other countries.

GST has three categories – CGST (Central Goods and Services Tax), SGST (States Goods and Services Tax) and IGST (Integrated Goods and Services Tax). Both CGST and SGST are applicable on the intra-state transactions whereas the IGST is applicable on the inter-state transactions.

The custom duty is now replaced by IGST, which means that instead of other custom duty, IGST tax is applicable (along Basic custom duties) on every import of goods.



The IGST Act 2017 defines the import of goods as bringing merchandises into India from anywhere outside of India. All the imports will be regarded as the inter-state supplies and integrated tax will be imposed on them along with other applicable custom duties. On the import of goods, only the integrated tax along with the basic custom duty will be chargeable.

The import of services as per the IGST Act 2017 is the supply of a service by a service provider who is from a place outside the country, but the receiver of those services is from India, and the place at which the service is being given is also within India. Under GST, the import of both goods and services will be considered as the inter-state supplies and would bear the integrated tax.



Before GST, duties were imposed even on the export of goods and services. However, as per the new tax system, the export of goods and services from India to any other place outside the country are to be treated as 'zero-rated supplies. This means that no GST is applicable for the exporters. The registered taxable individuals that are exporting goods or services to places outside the country can claim refund.



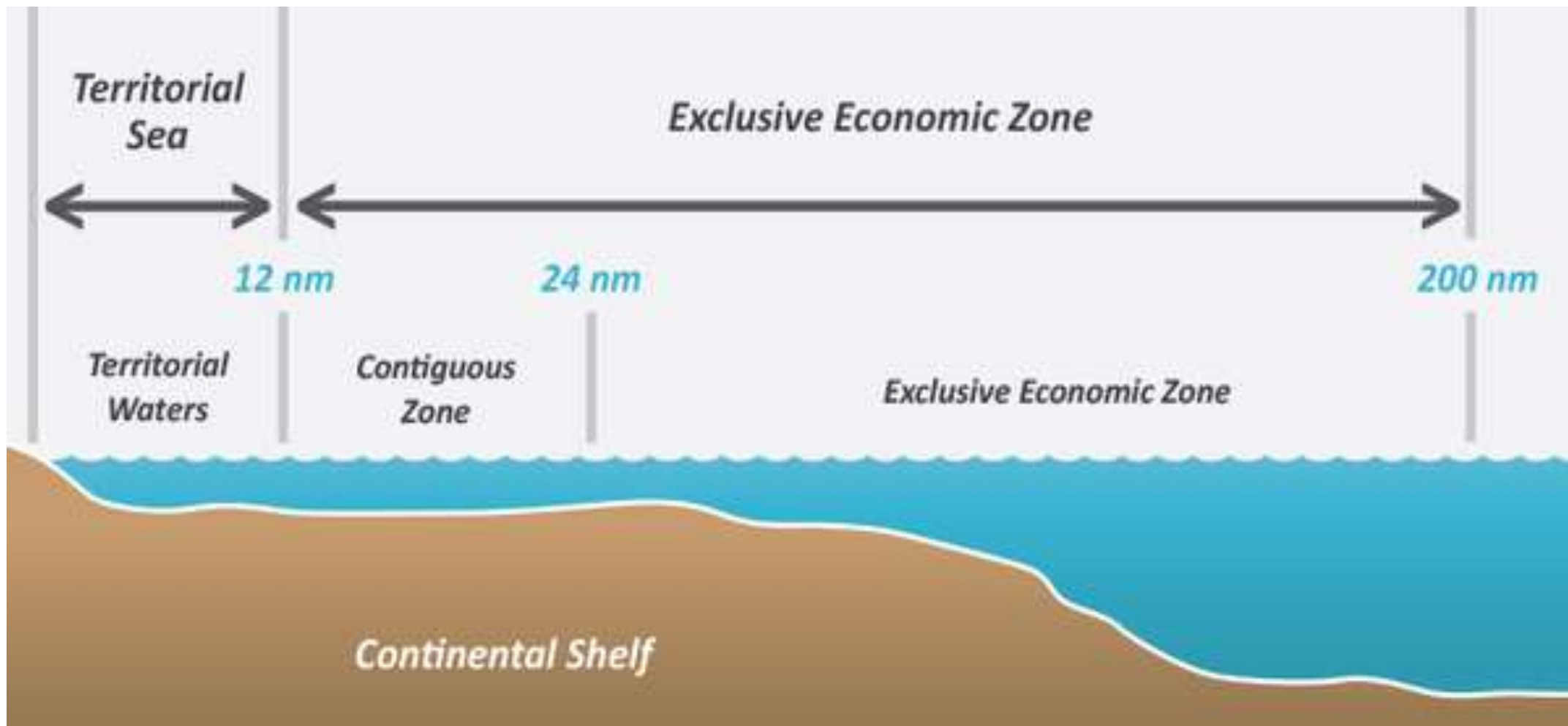
## **India and its territorial waters, Customs water**

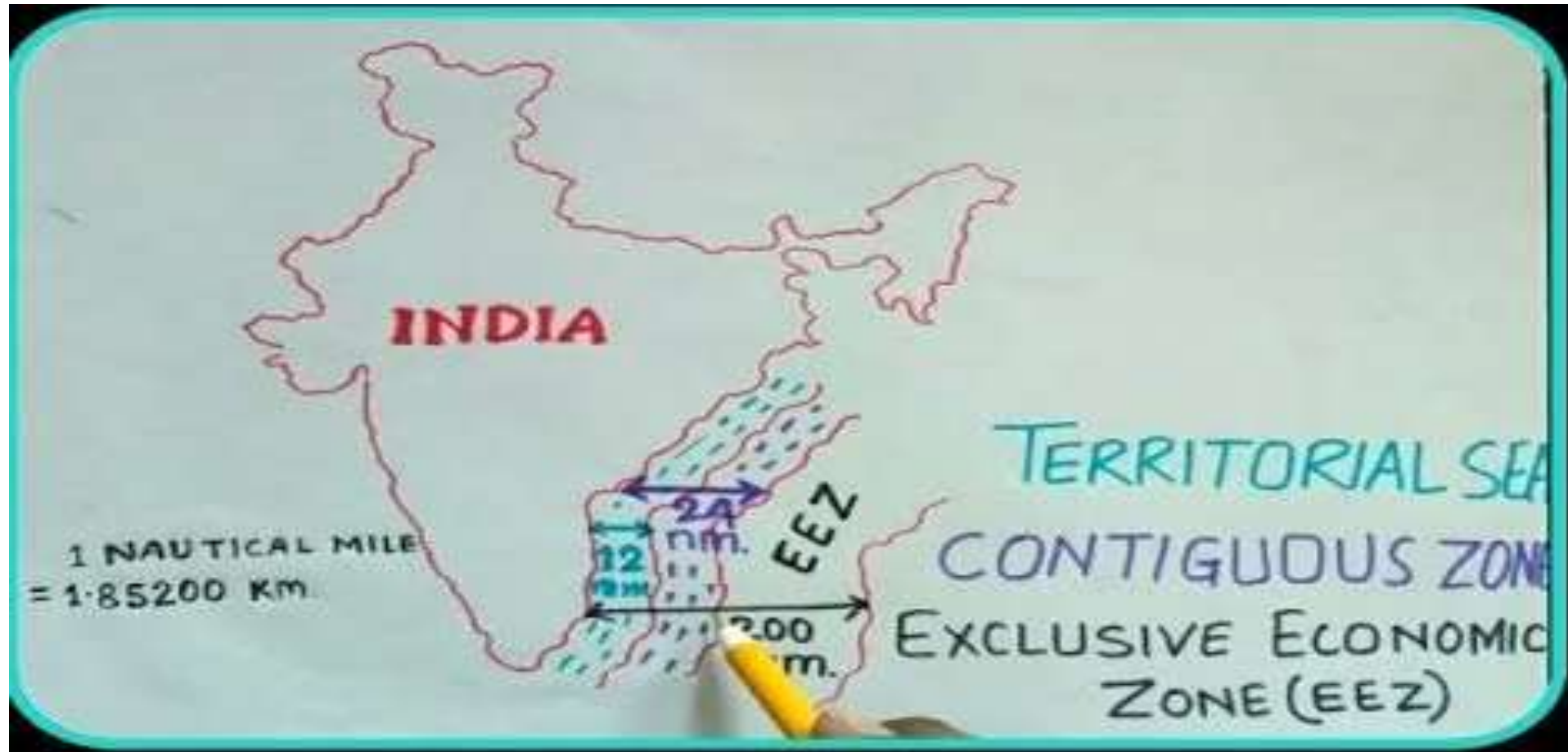
India includes the territorial water of India. As per the definition, the word India includes not only the land mass but also territorial waters of India. The details about waters, Zones and measurements are as under.



Waters and Zones	Measurements
<b>Indian Territorial waters-</b> It is a part of India. India has the absolute right to use this area. It determines import or export.	Up to 12 nautical miles from the base line
<b>Indian Contiguous zone-</b> Indian customs Law will apply on those goods in this water.	Up to 12 nautical miles from Indian territorial waters
<b>Indian Customs waters =</b> Indian territorial water + Indian Contiguous zone	Up to 24 nautical miles from the base line ( i.e. Territorial waters + Contiguous Zone)
<b>Exclusive Economic Zone-</b> First right to undertake any commercial or research activity. Other countries get permission from India for undertaking these activities.	Up to 200 nautical miles from the base line
<b>High seas or International waters -</b> If any countries not under direct control.	Beyond 200 nautical miles

Note: 1 nautical miles = 1.852 kilometre = 1.151 miles







## 1. Indian Territorial Waters:-

This determines taxable event. Thus, in case of importation, import of goods will commence when they cross territorial waters and exportation is completed when the goods cross the territorial waters.

## 2. Indian Customs Waters:-

The significances as follows

- i) To search any person who is on board any vessel within customs water, if he has reason to believe that goods liable to confiscation are secreted about his person
- ii) Any person within Indian customs waters, who has committed an offence punishable under section 132, 133, 135 or 135A or 136, may be arrested
- iii) To stop and search any vessel (if it is used in the smuggling of any goods) in India or within the Indian customs water
- iv) If vessel does not stop it can be fired upon or confiscated
- v) To Confiscate any goods brought within customs waters contrary to any prohibition for import



### **Exclusive Economic Zone:-**

First right to undertake any commercial, economic or research activity. Other countries get permission from India for undertaking these activities. Eg. Fishing, oil exploration etc.

### **High Seas :-**

If any countries not under direct control. All countries have equal rights.



## Taxable Event Under Customs:-

### 1. Levy of Customs Duty (Sec 12) :-

The Event on happening of which the duty liability is attracted is known as Taxable Event. In Customs Act, the taxable event is Import into or Export from India. Four conditions must be satisfied to attract customs duty liability.

- i) There must be goods
- ii) The goods must be mentioned
- iii) Such goods must be imported or exported
- iv) Such import must be into India/ such export must be from India



## Taxable Event Under Customs

In Case of Imports (Sec 15)

Import is complete as soon as goods enter the Territorial waters (Sec 2(27))

In Case of Exports (Sec 16)

Export is complete only when goods cross the Territorial waters (Sec 2 ( 27))



## **Taxable Event in case of goods cleared for home consumption or Warehousing:-**

It implies that customs duty on imported goods has been paid and thus goods can be removed by the importer for utilization or consumption within the country. Import of goods commences when they cross the territorial waters, but continues and is completed when they become part of the mass of goods within the country.

. In case of imported goods, the duty liability is to be discharged before the goods are cleared for home consumption. Section 12 is the charging section. There is an option to store the goods in a warehouse or public-bonded warehouse before they are cleared for home consumption, which would enable the importer to defer (delay) the duty liability.

Hence import take place when the goods are cleared from the warehouse

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## Point of payment of Duty

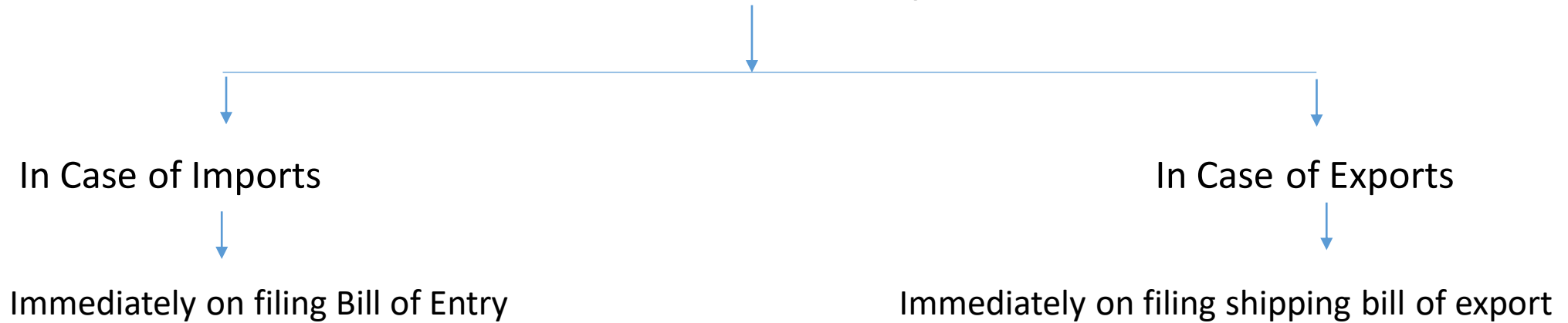
In Case of Imports (Sec 15)

Date of presentation of bill of entry or  
Date of Entry Inwards  
whichever is later

In Case of Exports (Sec 16)

Date on which clearance for export  
is permitted by customs officer

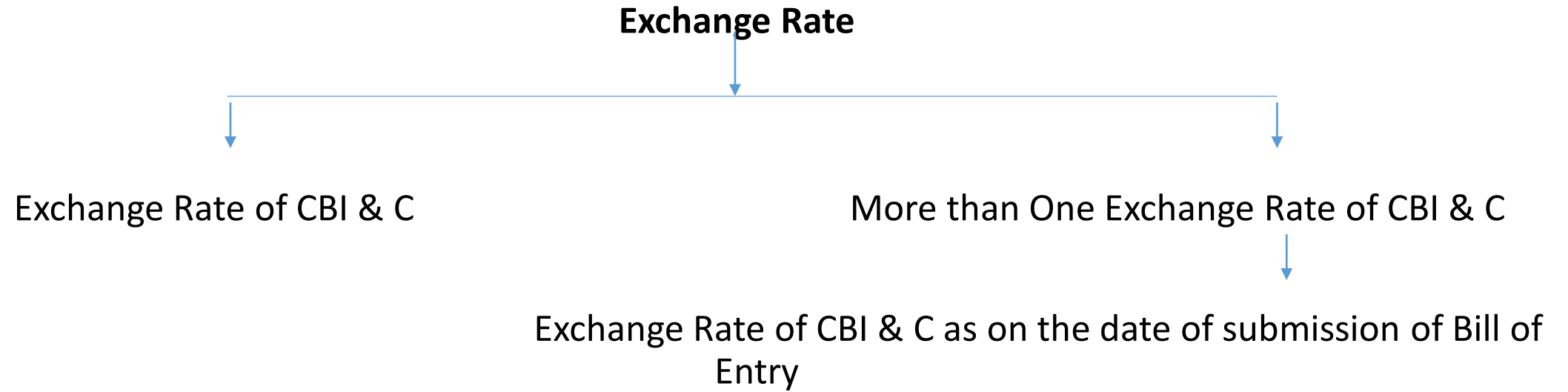
## Collection of Duty



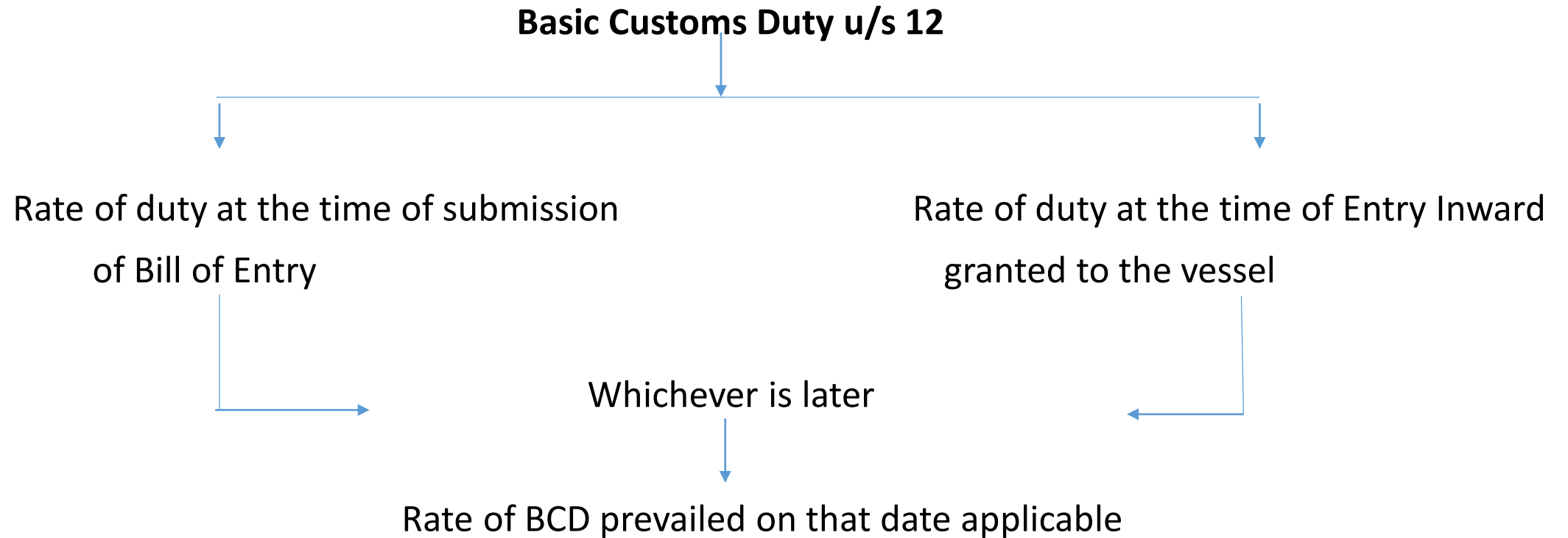
**Bill of Entry :-** It is a document which every importer has to submit. Bill of Entry should be submitted in quadruplicate (i.e. four copies)

Copies	To be provided to
Original and duplicate copy	Customs authority
Triplicate copy	Importer
Quadruplicate copy	Bank

**Exchange Rate:-** It is the rate determined by CBI & C



## Rate of Basic Customs Duty





## Format for Computation of Assessable Value

Particulars	Rs.	Rs.
Purchase Price		XXXX
<b>Add: The following if not included in above</b>		
1. Commission and Brokerage (Except buying Commission)	xxx	
2. Cost of Container (Except cost of durable & returnable container)	xxx	
3. Cost of Packing ( Materials and Labour)	xxx	
4. Materials, Components, tools, dies, moulds and consumables, engineering design work, Design & Development charges	xxx	
5. Royalties and license fees relating to imported goods	xxx	
6. Any other payment made in relation to sale	xxx	
	-----	xxx
		-----
		XXXX



Particulars	Rs.	Rs.
<b>Less: The following, if included in above</b>		
1. Payment made for activities undertaken by the buyer on his own account	xxx	
2. Charges for construction, erection, assembly after importation	xxx	
3. Duties and taxes in India	xxx	
4. Cost of transport after importation	xxx	
5. Dividend or other payments from buyer to seller that is not related to imported goods	xxx	
	-----	xxx
<b>F.O.B. (Free on board)</b>		----- xxxx





## **Free on Board:-**

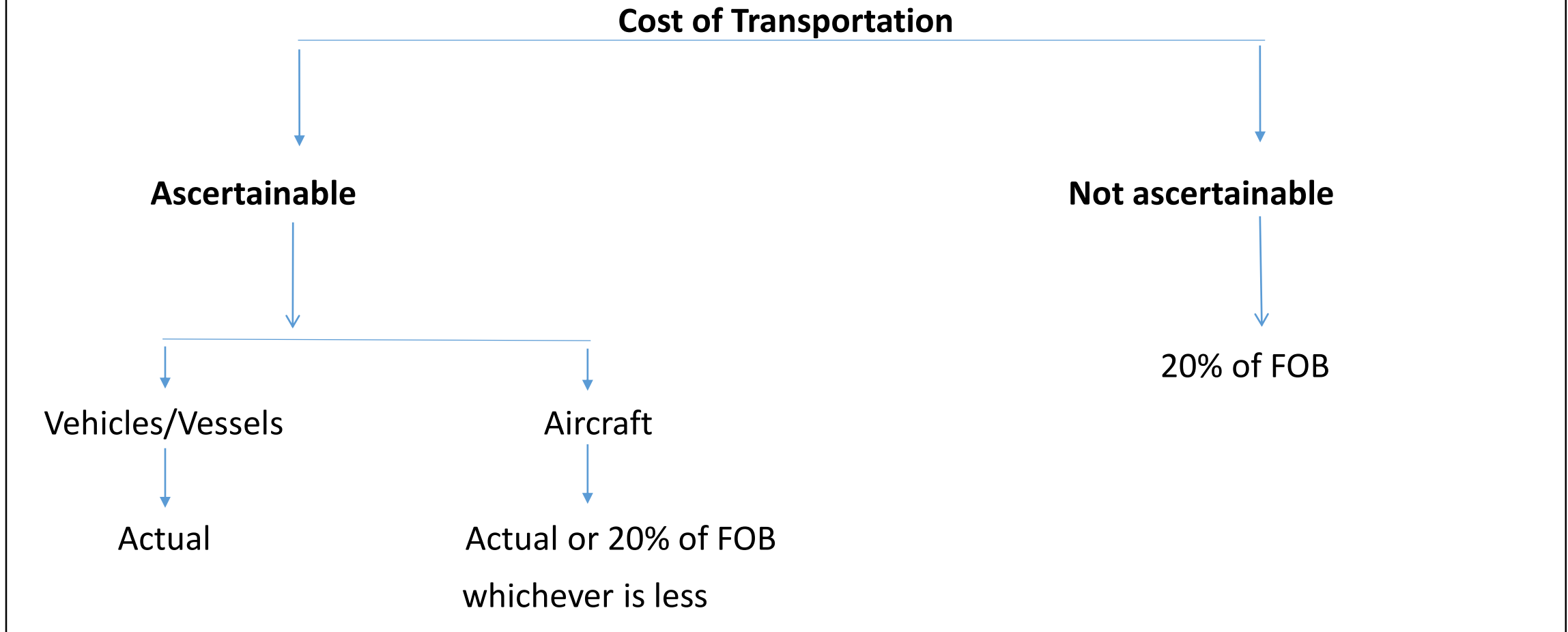
The term 'free' refers to the supplier's obligation to deliver goods to a specific location, later to be transferred to a carrier. In other words, the supplier is "free" of responsibility.

'On board' simply means that the goods are on the ship.

As such, FOB shipping means that the supplier retains ownership and responsibility for the goods until they are loaded 'on board' a shipping vessel. Once on the ship, all liability transfers to the buyer.

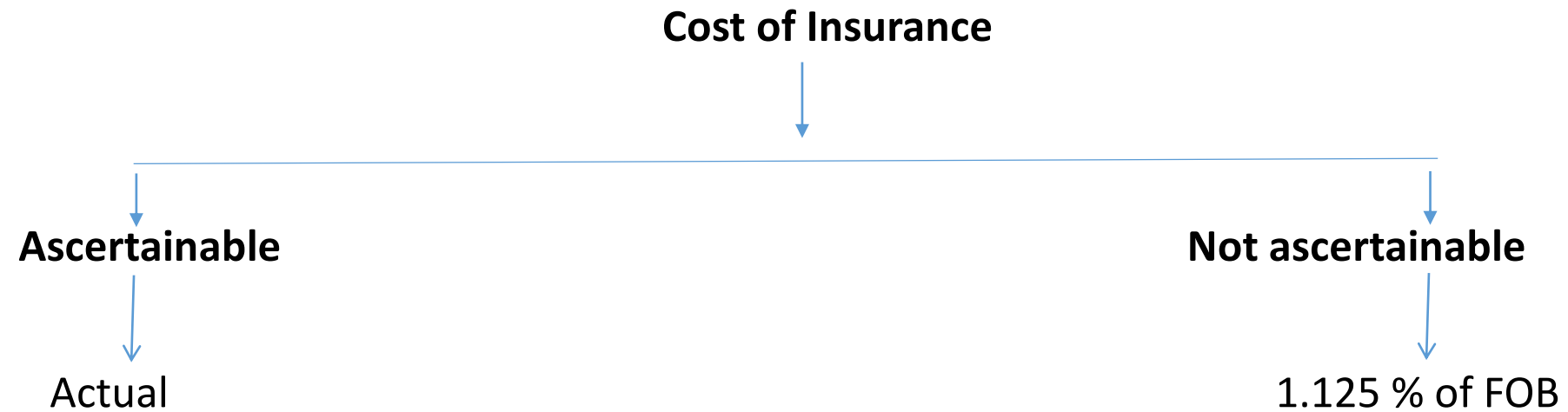


## Chart showing the ascertainment of Cost of Transportation (Freight charges):-





## Chart showing the ascertainment of Cost of Insurance





The following are the functions of Customs Department;

1. Collection of revenue to the Government of India by imposing duty on imports and exports
2. Enforcement of various provisions of Customs Act governing imports and exports of cargo, baggage, postal articles, courier parcels, arrival and departure of vessels, aircrafts etc.
3. Discharging of various agency functions and enforcing various prohibitions and restrictions on imports and exports under Customs Act and also under various other Acts.
4. Prevention of smuggling and including checking of narcotics, drug trafficking and international passenger processing.

The Customs Authorities are overall responsible for handling growing international traffic properly and effectively and to make it administratively possible that all the cargo/goods/ passengers etc imported / coming in to India or exported/ going out of the country by sea, air, land or rail routes are checked by the Customs (for ensuring that they are complying with all the related laws before entry /exit in to / from India) that unrestricted freedom of access into the country or exit out of the country is not permitted.



## Methods of Valuation:-

The methods of valuation of customs are as follows;

1. Transaction Value of Imported goods (Section 14 (1) and Rule 3(1))
2. Transaction value of Identical goods (Rule 4)
3. Transaction Value of Similar goods (Rule 5)
4. Deductive value which is based on identical or similar imported goods sold in India (Rule 7)
5. Computed value which is based on cost of manufacture of goods plus profits (Rule 8)
6. Residual method based on reasonable means and data available (Rule 9)

These methods are to be applied in sequential order, i.e. if method one cannot be applied, then method two comes into force and when method two also cannot be applied, method three should be used and so on. The only exception is that the 'Computed Value' method may be used before 'deductive value' method, if the importer requests and Assessing Officer permits.



## **1. Transaction Value of Imported Goods (Rule 3 (1)):-**

Value of imported goods shall be transaction value adjusted in accordance with provisions of the law.

As per Customs Valuation Rules, various additions like sales commission, cost of containers, cost of packing; cost of materials, components etc or services supplied by buyer, royalties payable, transport charges, insurance etc are includible if there do not already form part of transaction value.

## **2. Transaction value of Identical goods (Rules 4):-**

Customs Valuation rules provide that if valuation on the basis of 'Transaction Value' is not possible, the 'Assessable Value' will be decided on the basis of transaction value of identical goods sold for export to India and imported at or about the same time.



### 3. Transaction value of similar goods (Rule 5):-

If first method of transaction value of the goods are second method of transaction value of identical goods cannot be used, valuation rule provide for valuation on basis of 'Transaction Value' of similar goods imported at or about the same time.

Customs Valuation rules define 'Similar goods' as

- a) alike in all respects, have like characteristics and like components and perform same functions. These should be commercially inter-changeable with goods being valued as regards quality, reputation and trade-mark.
- b) The goods should have been produced in the same country in which the goods being valued were produced.
- c) They should be produced by same manufacturer who has manufactured goods under valuation - if price of such goods are not available, price of goods produced by another manufacturer in the same country can be considered. However if engineering, development work, art work, design work, plan or sketch under-taken in India were completed by the buyer on these imported goods free of charge or at reduced rate for use in connection with the production and sale for export of these imported goods, these will not be 'Similar goods'



#### **4. Deductive Value Method (Rule 7):-**

This method should be applied if transaction value of identical goods or similar goods is not available; but these products are sold in India. The assumption made in this method is that identical or similar imported goods are sold in India and its selling price in India is available. The sale should be in the same condition as they are imported. Assessable value is calculated by reducing post- importation costs and expenses from this selling price. This is called 'deductive value' because assessable value has to be arrived at by method of deduction.



## 5. Computed Value method (Rule 8):-

In this method, value is the sum of

- a) Cost of value of materials and fabrication or other processing employed in producing the imported goods
- b) an amount for profit and general expenses equal to that usually reflected in sale of goods of the same class or kind, which are made in the country of exportation for export to India
- c) The cost of value of all other expenses i.e. transport, insurance, loading, unloading and handling charges.



## 6. Residual Method (Rule 9):-

This method is used in cases where 'Assessable value' cannot be determined by any of the preceding methods. While deciding assessable value under this method, reasonable means consistent with general provisions of these rules should be the basis and valuation should be on the basis of data available in India. The value so determined cannot be more than the 'normal price' i.e. price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in course of International trade, when seller and buyer have no interest in the business of each other or one of them has no interest in the other and price should be sole consideration for sale or offer for sale.



## Basis of determining the duty:-

### 1. Ad-Valorum duty:-

When the duty is determined on the basis of the value of the goods it is referred to as 'Ad Valorem Duty'

### 2. Specific Duty

When the duty is determined on the basis of the measurement of goods, it is called Specific Duty.

### Note:

Customs duties are not levied on life saving drugs, fertilizers and food grains



## Other sources of Customs Law:-

### **1. Export manifest regulations, 1976:-**

Contains the provisions relating to a general declaration, a passenger manifest, a cargo manifest and a list of private property in the possession of the Captain of the aircraft and other members of the crew.

### **2. customs valuations rules of 2007:-**

Contain provisions relating to determination of Value of Export Goods

### **3. Baggage rules of, 1998 :-**

Contains provisions relating to dutiable goods imported by a passenger or a member of crew in his baggage.

### **4. Goods and Services Tax :-**

Integrated Goods and Services Tax (IGST) Act is the source for deciding the levy of Integrated Tax



## Unit III

# Assessment of Firms



## Assessment of Firms

### Introduction and Meaning of Firm, LLP and Partners:-

A Partnership firm (including LLP) is a separate entity in the eyes of Income Tax Department. It is so because the definition of the term 'Person' given u/s 2(31) also includes 'firm' (Including LLP). Though the income earned by firm / LLP is the joint income of the partners yet such income is taxable as the income of the firm/LLP. A firm/LLP is liable to pay tax at a flat rate (on normal income as well as on certain special incomes) without any basic exemption limit ( as is there in case of individual and HUF)

### Meaning of 'Firm', 'Partner' and 'Partnership' under Income Tax Act (w.e.f. A.Y. 2010-11)

Firm, Partner and Partnership shall have the meaning assigned to it in the Indian Partnership Act, 1932 and shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008.

#### i) Firm:-

The term 'firm' means the entity which comes into existence as a result of partnership agreement. In short all partners forming a partnership business are collectively called as 'Firm'.



## ii) Partner :-

The term 'Partner' is defined as any person who has entered into partnership. Partners entering into a contract with one another are called individually as partners and collectively ' a firm'. The word 'partner' shall also include any person, who, being a minor has been admitted to the benefits of partnership.

## iii) Partnership:-

According section 4 of the Indian Partnership Act has defined the word 'Partnership' as "the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all".

From this definition, the following points emerge:

- a) That partnership is an association of two or more persons
- b) There must be an agreement entered into by all persons
- c) The agreement is to carry on some business or profession
- d) The business to be carried on by all or by any one of them acting on behalf of all and the benefit of all.
- d) The agreement is to share the profits and losses of business or profession



#### **iv) Firm Name:-**

The name under which the business of partnership is carried on is called the firm's name.

#### **v) Limited Liability Partnership [LLP]:-**

Limited Liability Partnership (LLP) is a corporate form of partnership having separate legal entity which is distinct from its partners and carries limited liability for them. It is a new form of business organization brought into existence by the Limited Liability Partnership Act, 2008, which is applicable in the whole of India.

##### **Features of Limited Liability Partnership [LLP]:-**

- i) It is a body corporate under the LLP Act, 2008.
- ii) It has a separate legal entity
- iii) It shall have perpetual succession
- iv) It is not covered by the Indian Partnership Act, 1932
- v) It is incorporated by the registration of 'Incorporation Document' with the Registrar of the state in which the registered office of the LLP is to be situated.
- vi) The liability of the partners of LLP is limited.

## Difference between Partnership firm and Limited Liability Partnership (LLP)

S.No	Basis	Partnership Firm	Limited Liability Partnership (LLP)
1.	Governing Law	The Indian Partnership Act, 1932	The Limited Liability Partnership Act, 2008
2.	Registration	Optional	Compulsory
3.	Creation	Created by Contract	Created by law
4.	Separate Legal Entity	Legally it is not a separate entity	It is separate legal entity, separate from its partners
5.	Perpetual succession	It does not have perpetual succession	It has perpetual succession
6.	Common Seal	Not Required	It has its own common seal
7.	Liability	Liability of partners is Unlimited	Liability of partners is limited up to their capital contribution however in case a partners acts with an intention to conduct fraud, they are personally liable
8.	Agency Relationship	Partners are agents of the firm and each other	Partners are agents of LLP only
9.	Minimum number of member	Minimum two partners	Minimum two partners
10.	Maximum number of member	Maximum 10 for banking business and 20 for other business	No cap of maximum number of its partners



## **Necessity to have separate PAN:-**

A partnership firm / LLP is required to have its own separate “Permanent Account Number” (PAN) which will be different from the permanent account number of the partners (if any). The PAN of firm/ LLP bears its name and is used for filing return of income of the firm. It is important to note that the individual income of partner(s) shall not be clubbed with the income of firm / LLP.

The share of income received by partners from the firm is exempt in the hands of partners and hence it not included in their individual income.

## **Under Income Tax Act, a partnership firm can be of following two types:**

- I. A Firm/ LLP which fulfills conditions prescribed u/s 184
- II A Firm / LLP, which does not fulfill the conditions prescribed u/s 184 [u/s 185]



**I. A Firm/ LLP which fulfills conditions prescribed u/s 184**

- i) It has submitted its partnership deed ( Instrument of partnership)
- ii) Such deed must show the respective share of each partner
- iii) It is duly signed by all partners except a minor partner
- iv) It is submitted along with its return for the assessment year 1993-94. In case of firms coming into existence after 1-4-93 it is to be submitted along with their first return.
- v) In case there is any change in the profit sharing ratio a revised deed must be submitted.
- vi) The firm should not have been assessed to tax u/s 44 i.e. best judgement assessment



## **II A Firm / LLP, which does not fulfill the conditions prescribed u/s 184 [Section 185]:-**

In case a firm does not comply with the provisions of Section 184 for any assessment year, the firm shall be assessed in the same manner as given above but

- i) It shall not be allowed to deduct remuneration as allowed u/s 40(b)
- ii) full amount of interest on capital paid to partners is disallowed
- iii) the amount of remuneration and interest shall not be added in the individual income of partners.
- iv) the firm shall pay tax in the same manner as in case of firm, which fulfills conditions u/s 184.



## **Instrument of Partnership:-**

It is the written partnership agreement entered into by partners. It has to be signed and certified by all the existing partners (except minors). In case firm has been dissolved before filing of return of income, it should be signed by all those persons who were partners in the firm immediately before its dissolution and in case partner has died the instrument must be signed by his legal representatives immediately before its dissolution as in case partner has died the instrument must be signed by his legal representative. For a Limited Liability Partnership the instrument of partnership is known as incorporation document filed with the Registrar.



## Book Profit:-

'Book Profit' means the net profit of the firm calculated after taking into account all provisions provided in section 28 to 44D. While calculating book profit, following points are to be kept in mind.

- i) First of all find out the profit as per given in the Profit and Loss account
- ii) Deduct all other incomes credited to P & L a/c but are to be treated under other heads of incomes.
- iii) Add all payments or remunerations like Salary, Commission, bonus etc. given to all partners of the firm if already debited to P & L a/c
- iv) Add interest on capital given to all partners in excess of 12%.

Any interest on drawings charged by the firm from its partners shall be treated as 'Business Income' of the firm. It shall not be adjusted against interest on capital paid to that partner or to any other partner.

Unabsorbed depreciation covered u/s 32(2) has to be deducted while calculating 'Book Profits'.



## Conditions for claiming deductions of Remuneration and Interest [Section 40 (b):-

If Conditions u/s 184 are satisfied, then deduction us/ 40(b) is applicable.

The following are the four conditions specified in section 40(b):-

1. Remuneration is to be provided only to working partners of the firm
2. Remuneration must be authorised by the partnership deed
3. Remuneration should be paid/ payable after the date of partnership deed is executed
4. Remuneration should not exceed the maximum prescribed limit.

## I) Assessment of Firm / LLP u/s 184 [ Which fulfils conditions of Sec. 184]



### Step 1: Calculation of Book profit of a Partnership firm

Particulars	Rs.	Rs.
Net profit / Loss as per P & L a/c		XXXX
Add: Inadmissible expenses debited to P & L a/c		
1. Interest to partners capital if it exceeds 12%	XXX	
2. Expenses relating to other heads	XXX	
3. Remuneration (salary, commission & Bonus) to partners if debited to P & L a/c	XXX	
	-----	XXX
		-----
		XXXX
Less: Inadmissible incomes credited to P & L a/c		XXX
Incomes relating to other heads		-----
		XXXX
		XXX
Less: Admissible expenses not debited to P & L a/c		-----
		XXXX
		XXX
Add: Admissible incomes not credited to P & L a/c		-----
		XXXX
Book Profit		



## Step 2 : Remuneration allowable to working partners:-

### Remuneration allowable to working partners

= Actual Remuneration paid or Maximum limit of remuneration allowed to partners

Which ever is lower

### Maximum limit of remuneration allowed to partners:

1. In case of loss	Maximum Limit of Remuneration allowed	Rs.1,50,000
2. In case of profit		
a) For first Rs.3,00,000 of the Book profit	Rs. 1,50,000 or 90% of Book profit which ever is more	XXXX
b) Balance of Book profit	60% of Book Profit	XXXX
	Maximum Limit of Remuneration allowed	XXXXX



### Step 3: Computation of Business Income of a Firm:-

Particulars	Rs.
Book Profit	XXXX
Less: Remuneration allowed to working partners	XXX
	-----
Income or Loss from Firm	XXXX

### Step 4: Computation of Total Income of a Firm/ LLP:-

Particulars	Rs.
1. Income from Firm	XXX
2. Income from House property	XXX
3. Income under the head Capital Gains	XXX
4. Income from other sources	XXX
Carry forward and set off of losses	
	-----
Gross Total Income	XXXX
u/s 80G, 80GGA, 80GGC, 80IA, 80IAB, 80IB, 80IBA, 80IC, 80ID, 80IE, 80JJA, 80JJAA	XXX
	-----
Total Income of a Firm/ LLP	XXXX



## Step 5 – Computation of Tax liability of a firm/ LLP

Particulars	Tax Rate	Rs.
1. Tax on Firm's Income	30%	XXXX
2. Tax on Long term capital gain	20%	XXXX
3. Tax on Long term capital on sale of shares, units of MF and units of a business trust (STT paid) as per section 112A [on amount exceeding Rs.1,00,000]	10%	XXXX
4. Tax on Short term capital gain on securities covered under STT	15%	XXXX
5. Tax on Casual incomes	30%	XXXX
		-----
Sub total (a)		XXXX
Add: Surcharge @ 12% of tax if total income of the firm/ LLP exceeds Rs.1 Crore		XXXX
		-----
Sub total (b)		XXXX
Add: Health and Education Cess @ 4% on sub total (b)		XXX
		-----
Tax Payable		XXXX



## II) Assessment of Firm / LLP u/s 185 (Assessment when section 184 is not complied with)

### **Computation of firm's business income:-**

When a partnership firm has not submitted a copy of its partnership deed duly signed by all partners it is assessed u/s 185 in following manner:

- i) It is computed in the same manner as under the head "Profits and gains"
- ii) Any payment to a partner under whatsoever name it is disallowed
- iii) Rent paid to a partner for the premises used by firm is allowed
- iv) Partnership deed expenses are disallowed
- v) In case interest on capital is paid to partners it is fully disallowed. Any interest on drawings received from partners is deemed as income of the firm and is fully taxable.
- vi) Remuneration paid to partners u/s 40(b) is not allowed

### **Computation of Firm's total income and tax liability is similar to 1<sup>st</sup> method**

(All deductions are similar to 1<sup>st</sup> method except 80 GGC. In the place of 80GGC, 80GGB will allowed)



## Deductions from Gross Total Income:-

A firm can claim following deductions;

1	u/s 80 G	Donations
2	u/s 80 GGA	Contribution to certain funds
3	u/s 80 GGB	Donation to Political parties (for sec. 185)
4	u/s 80 GGC	Donation to political parties (for sec.184)
5	u/s 80 IA	Infrastructure projects
6	u/s 80 IAB	Setting up industry in Special Economic Zone
7	u/s 80 IB	New Industrial undertaking
8	u/s 80 IBA	Profits and gains from housing projects
9	u/s 80 IC	Setting up industry in backward states
10	u/s 80 ID	Setting up hotel or convention centre
11	u/s 80 IE	Undertaking in North-Eastern State
12	u/s 80 JJA	Use of Bio Waste
13	u/s 80 JJAA	Employment of new employees

### Note:

1. Firm is not allowed any other deduction
2. Share of income from firm/LLP – It is fully exempted from tax and not added in individual income of partners
3. Remuneration and interest received from firm/LLP – It is not added in individual income of partners



## Computation of Total Income of Partners

Particulars	A (Rs.)	B (Rs.)	C (Rs.)	D (Rs.)
1. Share of profits from firm	Exempt	Exempt	Exempt	Exempt
2. Interest on capital (up to 12%)	xxxx	Xxxx	Xxxx	Xxxx
3. Salary to Partners u/s 40(b)	Xxxx	xxxx	xxxx	xxxx
4. Income from House property	xxxx	xxxx	xxxx	xxxx
5. Income from Other sources	xxxx	xxxx	xxxx	xxxx
6. Capital gains	xxxx	xxxx	xxxx	xxxx
7. Interest on loan from firm	xxxx	xxx	xxx	xxx
	-----	-----	-----	-----
	xxxx	xxxx	xxxx	xxxx
Gross Total Income	xxx	xxx	xxx	xxx
Less: Deductions u/s 80C to 80U	-----	-----	-----	-----
	xxxx	xxxx	xxxx	xxxx
Total Income of the partners				



## Assessment of Firm/LLP u/s 184 [ which fulfils conditions of sec. 184]

Computation of firm's business income:

Adjustment of Net profit as per Profit & Loss account of the firm:

- a) While calculating firm's business profit, the provisions as given under section 28 to 44 are applicable.
- b) Section 40(b) lays down following rules regarding payment of salary, commission, bonus or other remuneration to working partners and interest on capital to all partners. These rules are
  - i) Any payment of salary, commission, bonus or remuneration paid to a partner who is not a working partner, is disallowed.
  - ii) Any remuneration paid to a working partner, who is not authorized by or which is not in accordance with terms of partnership deed (instrument of partnership) is disallowed.
  - iii) Any interest paid to partners according to terms of partnership deed is allowed provided rate of interest does not exceed 12% excess is disallowed.
  - iv) Any interest paid to partner, who is not authorized by or is not in accordance with partnership deed is disallowed.
  - v) In case interest or remuneration is paid to a partner and is authorized by partnership deed but relates to the period prior to the date of such deed and it was also not authorized by any earlier deed, it shall be disallowed.



In case any payment for remuneration is made to one or more working partners during the previous year, it is allowed up to limits given below. Excess is disallowed

- |   |  |
|---|--|
| a) On the first Rs.3,00,000 of the book profit or in case of loss | Rs.1,50,000 or 90% of the Book profit<br>whichever is more |
| b) On the balance of the book profit                              | 60% of book profit   |

Note:-

Interest paid by the firm to its partners on their fixed capital account, current capital account and loan account is allowable as deduction to the firm provided the partnership deed specifically authorizes the payment of interest on fixed capital account, current capital account and loan account. If the partnership deed authorizes the payment of interest on fixed capital account then interest on current capital account and loan account shall not be allowed as deduction to the firm.



## Unit IV

# Assessment of Companies



## Assessment of Companies

A Company is required to file its return of income under section 139(1) of the Income Tax Act of 1961 within a prescribed time. The tax collected from companies is called 'Company Tax' or 'Corporate Tax'. It is interesting to note that the proceeds of corporate tax are retained by the Central Government and are not shares with State Governments.

As per section 2(31), company is one of the person liable to pay income tax under IT Act, 1961. As per this section, company means;

- a) Any Indian Company or
- b) Any body corporate incorporated under the law of a foreign country or
- c) Any institution, association or body which was assessable or was assessed as a company for any assessment year up to 1970-71 or
- d) Any institution, association or body whether incorporated or not whether Indian or non-Indian, which is declared by general or special order of CBDT to a company



## **Types of Companies:-**

### **1. Indian Company 2(26):-**

A company formed and registered under Companies Act, 2013 is known as an Indian Company. It includes corporation, institution and association of persons or body of Individuals. The fact to be noted is that the principal office of the company must be situated in India.

### **2. Domestic Company:-**

It means an Indian Company or any other company, which in respect of its income liable to tax under this Act, had made the prescribed arrangement for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income. Thus, and Indian company is always a domestic company. However, the collection of prescribed arrangement is applicable only on companies other than Indian Companies i.e foreign companies

### **3. Foreign Company [Section 2(23A)]:-**

A company which is not a domestic company.



#### **4. Company in which public are substantially interested:-**

A company is regarded as a company in which the public are substantially interested in the following cases:

- i) A company owned by the Government / Reserve Bank of India
- ii) A company registered u/s 25 of the Companies Act
- iii) A company having no share capital
- iv) Company where in 50% or more of the voting power was throughout the previous year held by the one or more co-operative societies
- v) A company declared by the Central Government to be a Nidhi or Mutual benefit society
- vi) A public company if its 50% or more of voting power was throughout the previous year held by Government, Statutory corporation, any company in which public are substantially interested or any 100% subsidiary of a company in which public are substantially interested.
- vii) A public listed company which is listed on a recognized stock exchange in India as on the last day of the previous year.



## **5. Investment Company:-**

Investment company is a company whose gross total income consists mainly of income chargeable to tax under the heads 'Income from House property', 'Capital gains' and 'Income from other sources'.

## **6. Widely-held company:**

A company, in which the public are substantially interested, is known as widely held company.

## **7. Closely held Company:**

A company in which the public are not substantially interested is known as closely held company.

## **8. Consultancy Service Company:-**

It means an Indian Company whose business consists wholly of the provision of technical know or in rendering of services in connection with the provision of technical know-how, to other persons.



## **9. Trading Company (Section 109 (ia) ):-**

It means if company whose business consists wholly or mainly in dealing with goods or merchandise manufactured, produced or processed by a person other than that company and whose income attributable to such business included in its gross total income is not less than 51% of the amount of such gross total income.

## **10. Banking Company:-**

Banking Company means a company to which the Banking Company Regulation Act, 1949 applies and includes any bank or banking institution referred to in Section 51 of that Act.

## **11. Industrial Company:-**

A Company which is engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining is known as an industrial company.

## **A person having substantial interest in the Company (Sec 2(32)):-**

A person is deemed to have substantial interest in the affairs of the company if he is the beneficial owner of equity shares, carrying not less than 20% of the voting power.



## Residential status of a company [section 6(4):

Determination of total income of a company depends upon its residential status during the relevant previous year. The residential status of the company is determined either;

- i) on the basis of its incorporation (Registration) or
- ii) On the basis of its place of effective management of its affairs

On the basis of residential status, companies can be classified in to two categories;

- a) Resident Companies
- b) Non Resident Companies

### **a) Resident Companies:-**

A company is said to be resident in India in any previous year

- i) It is an Indian Company or
- ii) Its place of effective management in that year is in India



The expression 'Place of effective management' shall mean a place where key management and commercial decisions that are necessary for the conduct of the business of an enterprise as a whole are made.

Thus an Indian company is always a resident company for income tax purpose even if its place of effective management is situated outside India. A non-Indian company or a foreign company will be treated as resident of India for any previous year if its place of effective management, during the relevant previous year is situated in India

**For example:**

- i) A company is incorporated in India but has head office in Dacca
- ii) A company is incorporated in Bangladesh but has head office in Kolkata.

**b) Non Resident Company (Sec 2(30)):-**

A Company shall be 'non-resident' if it is not resident in India during the relevant previous year. It means a foreign company whose place of effective management is not situated in India will be a non-resident company.



## **Methods of maintaining books of accounts:**

- i) Cash system
- ii) Mercantile system

Companies always follow mercantile system of accounting and it is compulsory under the Companies Act, 2013.

## **Incidence of Tax – Scope of Total Income:-**

### **a) Resident :-**

Any income which is received or is deemed to be received or accrues or arises or is deemed to accrue or arise in India during the previous year.

Any income, which accrues and is received outside India during the relevant previous year.

### **b) Non Resident:-**

Any income which is received or is deemed to be received or accrues or arises or is deemed to accrue or arise in India during the relevant previous year.

## Format for Computation of Company's Taxable income and Tax liability



### Step 1 : Computation of Taxable Income from Business:

Particulars	Rs.	Rs.
Net Profit or loss as per Profit / Loss account		XXX
Add: Inadmissible expenses debited to P & L a/c		XX
		-----
		XXX
Less; Inadmissible incomes credited to P/L a/c		XX
		-----
		XXX
Less: Admissible expenses not debited to P & L a/c		XX
		-----
		XXX
Add: Admissible Incomes not credited to P& L a/c		XX
		-----
		XXX
Add: Overvaluation of Opening stock / Undervaluation of closing stock		XX
		-----
		XXX
Less: Undervaluation of opening stock/ Overvaluation of Closing stock		XX
		-----
<b>Taxable Income from Business</b>		<b>XXX</b>



## Step 2: Computation of Total Income

Particulars	Rs.	Rs.
1. Income from House Property		XXX
2. Income from Business		XXX
3. Income under the head capital gains		XXX
4. Income from other sources		XXX
		-----
		XXXX
Less: B/F loss, unabsorbed depreciation and expenditure		XXX
		-----
Gross Total Income		XXXX
<b>Deductions</b> U/S 80G, 80GGA, 80GGC, 80IA, 80IAC, 80IB, 80IBA, 80IC, 80ID, 80IE, 80JJA, 80JJAA, 80LA		XXX
		-----
Total taxable Income		XXXX



### Step 3: Computation of Tax Liability:

Particulars	Tax rate	Rs.
1. Tax on Casual Income	30%	xxx
2. Tax on Long term capital gain	20%	xxx
3. Tax on Long term capital gain (u/s 112A, if exceeds Rs.1 lakh)	10%	xxx
3. Tax on Short term capital gain (under STT)	15%	xxx
4. Tax on other income @ 25%/ 30% (Domestic)		xxx
@ 40% ( Foreign)		xxx
		-----
<b>Total Tax</b>		xxxx
<b>Add</b> Surcharge , if applicable on Total Tax		xxx
		-----
<b>Total Tax 1</b>		xxxx
<b>Add:</b> Health & Education Cess @ 4% on Total tax 1		xxx
		-----
<b>Tax Liability [I]</b>		xxxx



### On any other income

- |  |       |
|--|-------|
| a) Where its total turnover or the gross receipts in the p.y 2017-18 does not exceed Rs.400 crores | – 25% |
| b) For certain domestic companies set up on or after 1-3-2016 (Section 115BA)                      | – 25% |
| c) For a company which has opted for section 115BAA  | -22%  |
| d) For a company which has opted for section 115BAB  | -15 % |
| e) Other than that referred to in case (a) to (d)  | - 30% |



## Unit II

# Tax under E-Environment



## Tax under E-Environment

### 1. Income Tax Return.

Income Tax Return is the form in which assessee files information about his income and tax thereon to Income Tax Department.

It contains details about the annual income and the amount of tax paid.

Every year, Indian citizens who earn taxable income have to file Income Tax Return (ITR). Filing ITR will help in getting a refund in case you pay more tax than what is required to pay.

If anyone fails to file their ITR, they might have to pay penalty or face legal consequences.



## 2. Return of Income:-

A return of income is a defined form which can list out the particulars of income and the taxes paid on the same by an Individual, firm or organisation in a financial year. This return can be presented to the Income Tax Department. There are different forms for incomes of different status and nature and they are readily available on the online portal of the Income Tax Department of India.

There are currently 9 different forms available for filing of Income Tax Returns. They are from ITR-1 to ITR-7 and also include the ITR-4S and ITR-V



## Types of Income Tax Return Forms:-

### ITR-1 :-

It should be used by salaried individuals, whose final income for assessment year includes

- i) Salary and pension,
- ii) Income from single house ownership,
- iii) Income from other sources excluding lotteries and race horses.

This form is not applicable for

- i) Income from assets outside the country
- ii) Income from equity market
- iii) Agricultural income – more than 5,000



## ITR-2 :-

It should be used by an individual, whose final income for assessment year includes

- i) Only salary incomes,
- ii) Income from House properties,
- iii) Income from other sources
- iv) Income from equity markets

This form is not applicable for

- i) Income from business or profession
- ii) Remuneration as a partner in partnership firm / LLP

The main difference between the two above mentioned forms is ITR-1 is not applicable to the individual owning more than a single house, while ITR-2 is applicable



### **ITR-3 :-**

It should be used by an individual or HUF, who is a partner in a partnership firm or LLP and includes;

- i) Income from business/ profession
- ii) Income from firm (bonuses, commission, remuneration etc)

It is not applicable for

Income from business or profession from sole proprietorship

### **ITR-4:-**

It should be used by individual or HUF, who are into a proprietorship



## ITR-4S:-

It should be used by HUF and small business having;

- i) Presumptive Business Income
- ii) Salary / pension
- iii) One house property
- iv) Income from other sources

It is not applicable for;

- i) Capital gains
- ii) Agricultural income more than Rs.5,000
- iii) Speculative income
- iv) Winning from lottery/ race horses
- v) Equity gains



### **ITR-5:-**

It should be used by firms, LLP's Association of persons and Body of Individuals, Artificial Judicial persons, Co-operative societies or any local authorities

### **ITR-6:-**

It should be used by Companies other than the one who claim exemption under section 11

### **ITR-7:-**

It should be used by an individuals and companies, who want to file returns under section-139(4A), Section-139(4B) and section -139(4C), section-139(4D).

### **ITR-V :-**

Income Tax Return Verification (ITR-V) is an acknowledgment that the Income Tax Department sends after it successfully receives the income tax return from the taxpayer



## Consequences of not filing Income Tax Return:-

If a return is submitted after the due date, the following consequences will be applicable;

1. The assessee will be liable for penal interest u/s 234A
2. A penalty of Rs.5,000 may be imposed under section 271F, if belated return is submitted after the end of the assessment year, but on or before 31<sup>st</sup> December or Rs.10,000 current year the return is furnished after 31<sup>st</sup> December of the relevant assessment year
3. If the return of loss is submitted after the due date, a few losses cannot be carried forward
4. If the return is submitted belated, deductions allowable under certain sections will not be available.



## Due Date for Filing Returns

Assessee	Due Date
1. Company, who is required to get his accounts audited under IT Act	30 <sup>th</sup> September
2. Person other than a company, who is required to get his accounts audited	30 <sup>th</sup> September
3. Person other than the above 1&2	31 <sup>st</sup> July

### E-Filing / Online Filing:-

E-filing or electronic filing is submitting the income tax returns through online. There are two ways to file the income tax returns.

1. The traditional way is the offline way, where assessee go the income tax department's office to physically file the returns.
2. The other way is E-file through the internet.

Presently, few years, E-filing has become popular because it is easier, does not require prints of document.



It is mandatory to file income tax returns in India, if any of the below conditions are applicable to the assessee (as per the Income Tax Act):-

1. If the Gross Total income ( before deductions u/s 80C to 80U) more than

Particulars	Amount
For Individuals below 60 years	2,50,000
For individuals between 60 to 80 years	3,00,000
For individuals above 80 years	5,00,000

2. Income other than salary

3. To Claim income tax refund from the department

4. Income from foreign investments

5. Company or a firm, irrespective of profit or loss

6. If a loss under a head of income needs to be carried forward

7. If being a resident of India, one is a signing authority in a foreign account

8. If one is applying for a loan



9. If one receives income derived from property held under a trust for charitable or religious purposes or a political party or a research association, news agency, educational or medical institution, trade union, a not for profit University or educational institution, a hospital, infrastructure debt fund, any authority, body or trust.

10. If an NRI derives any income through sources in India, that income is liable to tax in India

11. With the implementation of e-filing of Income tax returns, the following cases will require an

E-filing of Income tax:-

- i) In case a refund is required
- ii) In case the gross total annual income exceeds Rs.5,00,000
- iii) ITR-3,4,5,6,7 have to be mandatorily e-filed



## **Different types of Income Tax Returns**

1. Mandatory return and voluntary return
2. Return of loss
3. Belated or late return
4. Revised Return
5. Return of Income of a Charity or Religious Institution
6. Return of income of political party
7. Section 139(4C) and section 139 (4D)
8. Defective Returns



## **Permanent Account Number (PAN):-**

PAN is actually used by income tax department as our account number on which all the details relating to person's income are stored.

It helps income tax department in keeping track of incomes of a person. IT department issues PAN to all those persons who apply for it.

The application is made in form `49A` along with a prescribed fee and documents. Computer allots the PAN randomly.

Therefore, it is unique for every person. PAN is a 10 digit alphanumeric code with the first 5 digits are the alphabets, next 4 digits are the numbers and the last one digit is also an alphabet, eg.ABCDE1234G is an example of PAN.

It is mandatory to mention the PAN on income tax return. Wrong quoting of PAN is an offence, which is punishable with a fine of Rs.10, 000.



## Digital Signature:-

A digital signature is a mathematical technique used to validate the authenticity and integrity of a message, software or digital document. It is equivalent to handwritten signature or stamped seal. It is intended to solve the problem of tampering and impersonation in digital communications.

According to revised provisions u/s 44AB of IT Act, `E-filing is mandatory for all the individuals/ professionals having an annual gross receipt of INR 25 lakhs and above, and for business houses with annual turnover of INR 1 crore and above.

Use of a Digital signature certificate is mandatory for e-filing. A digital signature certificate assures greater convenience while filing tax returns, and greater security during any electronic transactions.



## Payments of Tax:-

The income earned is taxed in three ways, namely

- a. Tax deducted at source (TDS)
- b. Advance Tax payments and
- c. Self-assessment Taxes

### a. Tax Deducted at Source:-

Tax deducted at source is an instrument designed for quick and smooth collection of tax due to the authorities from the taxpayer.

It is one of the modes of collection of taxes, by which a certain percentage of amounts are deducted by a person at the time of making / crediting certain specific nature of payment to the other person and deducted amount is remitted to the Government account.

The recipient of income receives the net amount (ie gross income – TDS). The objective of TDS could be said, in general to be maximization of revenue collection while minimizing the cost of collection.



## b. Advance payment of tax:-

According to the Income Tax Act, assesseees are required to pay tax in advance in a previous year if their tax liability for the year is likely to be Rs.10,000 or more.

It is payable on the total income of an assessee that is chargeable to tax in an assessment year.

It is applicable when an individual has sources of income other than salary. For instance, if one is earning through capital gains, interest on investments, lottery, house property or business. Payment of advance tax depends on the status of the assessee. The advance tax is to be paid in the following installments on the following dates;

However any payment of advance tax made before March 31 will be treated as advance tax paid during the financial year.

Period	Non-Corporate Assessee/ Corporate Assessee
On or before 15 <sup>th</sup> June	Not less than 15% of tax payable
On or before 15 <sup>th</sup> September	Not less than 45% of tax payable less any amount paid in 1 <sup>st</sup> Installment
On or before 15 <sup>th</sup> December	Not less than 75% of tax payable less any amt. paid in 1 <sup>st</sup> & 2 <sup>nd</sup> Installment
On or before 15 <sup>th</sup> March	Not less than 100% of tax payable less any amt. deposited in earlier installments



### **c. Self-assessment Taxes:-**

At the end of the financial year every person is required to file Income tax return. Thus, an assessee himself files his return of income, and pay tax as per the return of income filed. This process of self-calculation of income and tax is called self-assessment. An assessee is required to submit his return of income through E-filing. Interest is to be paid along with tax if tax paying after 31<sup>st</sup> March.

### **Digital Certificate:-**

A Digital certificate is an electronic document issued by a certificate Authority (CA). It contains the public key for a digital signature and specifies the identity associated with the key, such as the name of an organization. The certificate is used to confirm that the public key belongs to the specific organization.

The Certificate Authority acts as the guarantor. Digital certificates must be issued by a trusted authority and are only valid for a specified time.



## Different types of Digital Signature:-

There are two types of Digital signature certificate.

- i) **PFX File:-** It is a Digital signature certificate that is in a file format (.pfx format). This type of signature can be easily circulated through e-mail, which makes it easier for usage. However there is a risk of misuse if not handled properly.
- ii) **USB Token:-** Digital signature certificate in a USB Token, looks similar to a pen drive, which is attached to the PC for using digital signature. The main advantages of it are that it safeguards Digital signature certificate from misuse which is more likely in pfx file



## **TDS:-**

Tax deducted at source (TDS) is an instrument designed for quick and smooth collection of tax due to the authorities from the taxpayer. TDS is one of the mode of collection of taxes, by which a certain percentage of amounts are deducted by a person at the time of making/ crediting certain specific nature of payment to the other person and deducted amount is remitted to the Government. It facilitates sharing of responsibility of tax collection between tax deductor and the tax administration. It ensures regular inflow of cash resources the Government. It acts as a powerful instrument to prevent tax evasion as well as expands the tax net.

Every person responsible for making payment of nature covered by TDS provision of Income Tax Act shall be responsible to deduct tax.



## Advantages of TDS:-

TDS is based on the principle of `pay as and when you earn`. TDS is a win-win scenario for both the taxpayers and the government. Tax is deducted when making payments through cash or cheque, which is then deposited with the central agencies. The following are the advantages of TDS;

- a. Responsibility sharing for deductor and tax collection agencies.
- b. Prevents tax evasion
- c. Widens the tax collection base
- d. Steady source of revenue for the government
- e. Easier for a deductee as tax gets automatically collected and deposited to the credit of the Central Government.



## Rates of TDS:-

TDS is calculated on the basis of a threshold limit, which is the maximum level of income after which TDS will be deducted from future income/payments. TDS is deducted as a percentage of overall payment, and may range from 1% to 30% of actual payable amount.

### TDS Rate and Exemption Limit

S.No.	Particulars	Threshold Limit (up to which no TDS)	TDS rate above the Threshold Limit
1	Salaries	--	Average rates i.e. TDS = Total Income /12
2	Pre-mature withdraw from employee provident fund	50,000	10% (20% if not furnish PAN)



S.No.	Particulars	Threshold Limit (up to which no TDS)	TDS rate above the Threshold Limit
3	Interest on securities	10,000	10%
4	Dividend received other than listed co.	2,500	10%
5	Interest on Bank deposit and post office	10,000	10%
6	Interest on securities in registered firm	5,000	10%
7	Winning from lottery, puzzle and games	10,000	30%
8	Winning from horse race	10,000	30%
9	Payment to contractors	30,000 (single) 1,00,000 (aggregate)	a) Individual / HUF = 1% b) Others – 2%
10	Insurance commission for agents	15,000	5%
11	Payment in respect of LIC policy to policy holders from company	1,00,000	1%
12	Interest to other than resident senior citizen	10,000	10%
13	Interest to resident senior citizen	50,000	10%



S.No.	Particulars	Threshold Limit (up to which no TDS)	TDS rate above the Threshold Limit
14	Withdraw from National Saving Scheme	2,500	10%
15	Commission on sale of lottery tickets	15,000	5%
16	Any other commission/ brokerage	15,000	5%
17	Transfer or sale of immovable property other than agricultural land	50,00,000	1% ( 20% if not furnish PAN)
18	Rent paid on land and building by individual	50,000 pm	5%
19	Professional or technical fees	30,000	10%
20	Any compensation for acquisition of immovable property	2,50,000	10%
21	Payment to Call centre operator	30,000	2%
21	Rent of plant, machinery & equipment	1,80,000	2%
22	Commission / Brokerage	15,000	5%



Notes:

1. TDS at the higher rate i.e.20% has to be deducted if the deductee does not provide PAN to the deduction
2. Health & Education Cess 4% is not applicable in case of resident Individual/ HUF/ Firm/ AOP/BOI/ Domestic company in respect of payment of income other than salary.