

## J.B .NAGR CPE STUDY CIRCLE OF WIRC

### IMPORTANT ISSUES IN BUSINESS DEDUCTION U/S 29 TO 44DD

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#### 1. Expenditure on Tenanted Premise Capital or Revenue :

M/s V Ltd took the office premises on rent for the period of ten years from Mr. X . The premises was not in use for last many years and was in very dilapidated condition . The Company incurred the expenditure toward false ceiling; fixing tiles/flooring; replacing glasses; wooden partitions; replacement of electrical wiring; earthing; replacement of G.I. pipes, plumbing and sanitation lines; plaster and painting of walls etc resulting in major renovation of the premises and incurred expenditure of Rs. 15,00,000/- during F.Y. 2014-15.

Whether Expenditure incurred is allowable as Revenue Expenditure?

#### 2. Depreciation

- 2.1 The Company Purchased the Machinery during March, 2015. The test run and usage of the same started in April 2015. Advise about Depreciation Claim for 2014-15.
- 2.2 The Company Purchased a Bldg in the name of Director utilizing the funds of the Company . The Asset is capitalized in the Books of the Company. Advise about allowability of the Depreciation to the Company on the same.
- 2.3 A ltd engaged in the Mfg of Chemicals purchased and installed the Machinery for the production in the February 2014 of Rs. 5 Cr . The Company claimed the depreciation and additional depreciation U/s 32 ( iia ) of 50 % being used for less than 180 Days . Whether the Company can claim the balance claim U/s 32 ( iia) in the year 2015-16 ?
- 2.4 A Ltd has depreciation loss carried forwarded for last 9 years . Whether in computing The Income losses of the all the years setoff against the current Income ?
- 2.5 A ltd purchased the Computers-Printers, scanners, modems, routers , Networking equipments along with the Computer systems . The Value of the Computers is 2 Cr and other items were 3.5 Cr. Whether other items purchased will be eligible for higher rate of Depreciation as Computers ?
- 2.6 The Vehicles of the Company allowed to be used by the Directors and Employees for Company and personal purpose .The Depreciation for the Block of Vehicles is Rs. 75 Lakhs and Petrol and other Expenses are Rs. 1 cr. Whether Assessing officer can Disallow the part of Depreciation being used for personal purpose in Assessment ?
- 2.7 The Machinery installed at the premises of the Job Worker , Whether Depreciation can be allowed ?
- 2.8 The Business purchased for the lumpsum consideration. The Value of Machinery, Bldg and other assests are bifurcated based on Surveyor Report . Whether Depreciation can be claimed based on the same ?

**2.9** Whether on remission or cessation of trading liability , Depreciation claimed earlier can be taxed u/s 41 ( 1 ) ?

**2.10** Whether Claim of Depreciation Optional ?

**2.11** Whether the Goodwill arising on Amalgamation of Companies eligible for Depreciation ?

**2.12** A Ltd Imported the Motor Car Valuing Rs 10 Cr to be used by the CMD of the Company during 2014-15 . The Company seeks your view on allowability of Depreciation under income Tax Act .

### **3. Allowability of Interest paid on Borrowed Capital :**

3.1 T Ltd issued a Debentures for Working Capital requirements of the Business and gave option to subscribers either to take Interest annually or pay up front lesser amount . The Subscriber paid Rs.55 Cr. for the Debenture of Rs.100 /- Cr. and amount of Rs.100/- Cr.will be paid on maturity to subscriber on completion of 5 th Year. The Company seeks your view on allowability of Rs. 45 /- Cr. Interest for Debentures to be repayable at 5 Th Year. Whether the Company will get Deduction of 1/5 of Interest i.e Rs.9 Cr. Or Whether Company can claim Rs. 45 Cr as a deduction for Interest Expenses ?

3.2 A ltd has advanced the Interest free loans and Advances to Associated concerns of Rs. 10 Crores . The Company Share Capital and Reserves are Rs. 30 Crores and Borrowings of 20 crores. AO disallowed the Interest to the extent of Advances to associate concerns at 2 % higher than Borrowing rates . The Company seek your Guidance on the matter .

3.2 Advise allowability in different situations :

( a ) Allowability of Term loan Interest paid for acquisition of Plant & Machinery not put to use before the year end ?

( b ) Interest paid for Overdraft a/c for the Asset acquired and not put to use before year end ?

( c ) Interest paid for assets acquired for new line of Business ?

(d) Interest paid for assets acquired for extension of existing Business Activity ?

### **4. Deduction for Baddebts :**

**4.1** X ltd is Manufacturer of Consumer Goods having Turnover of Rs 500 Cr. As per terms of Sales the payments from the parties are received in 90 days . Due to quality issues and rate fluctuations at the year end 31-03-2015 there is 22 crores Debtors as per the Management judgement are non realizable . The Company seek your guidance for the allowability of same against current Income.

**4.2** MrH , holding stock broking card suffered a loss due to non payments by the clients for the amount due on account of transactions entered on their behalf of Rs. 10 Cr. Please advise about allowability as a Bad debt as written off in Books of Accounts during F.Y. 2014-15?

**4.3** C Ltd listed FMCG MNC holds Investment in 100% subsidiary for strategic purpose. The Investment was for pursuing the line of activity of Holding company. The

Management sold the total share holding and suffered a loss in selling the shares of its Investment in 100% subsidiary Company of Rs. 5 Crore.

The loss is allowable as Revenue loss ?

**5. General deduction U/s 37**

- 5.1 Guarantee Commission paid to sister Concern for Bank loan
- 5.2 Heavy Advertisement Expenses for launching the product , whether Deferred revenue expenses or allowable in the year of expenses ?
- 5.3 Festival expenses – Whether AO disallowance on the basis of unnecessary expenses is tenable ?
- 5.4 Payments for regularization fees and penalty paid by the Company engaged in Building Construction and Development for breach of Municipal regulations Rs 1 Crore , Whether allowable as expenses ?
- 5.5 The Company is required to incur the Expenses of 20 Cr as a CSR as required under Companies Act . Advise the allowability of the same :
  - The Company Directly incur Expenses on the CSR project
  - The Company pays to NGO taking up such activities which are approved trust U/s 80 G

**6. Amount Not Deductible :**

- 6.1 The Auditor during the Tax Audit for 31-03-2015 of A Ltd has identified following discrepancies . The Company seek your Guidance on Tax impact of the same for A.Y.2015-16

( a ) The Company paid to Nonresidents without deducting Tax at source -  
Royalty to Principle based at Germany of Rs. 1 Crore

Interest On Loan from Non Resident Rs 20 Lakhs

( b ) The Company paid to local parties without TDS following :

Salary & Allowances - 20 Lakhs

Contract Charges - 10 Lakhs

Interest - 20 Lakhs

Commission - 20 Lakhs

Rent - 10 Lakhs

What will be the quantum of disallowance ?

- 6.2 During the Assessment for the A.Y. 2013-14 , It was found out that by oversight Accountant has not deducted the Tax at source on following payments :

Interest to relatives - 5 Lakhs

Contract Charges to Proprietary

Concern of One of the partner - 25 Lakhs

Salary & Wages & Allowances - 2.5 Lakhs

Advise the client to defend on the matter .

**7. Sec 40 ( b )**

M/s. AB & Co. is a partnership firm, having two partners A & B (HUF) represented by Karta , duly constituted as per the partnership deed executed on 1/4/2013. Clause 10 of the partnership deed which deals with payment of interest to partner state that :

"Net Profit or loss after making 12 per cent interest on capital contribution of partners for each year shall be as per shares...."

For A.Y. 2013-2014 the firm has paid interest on the capital account and current account of the partner. Whether interest paid to partner on current account is allowable under section 40(b) of the Income Tax Act, 1961 (the "Act") ?

**8. 40 A ( 2 ) ( b )**

M/s AB &Co engaged in the Mfg of fine Chemicals at vashi . The Firm availed the Bank finance of Rs. 10 Cr @ 12 % . The Firm also taken loans from family members of Rs 15 Cr for working of the Firm. The Firm has paidInterest @ 24 % to family members on the loan. During the Assessment AO disallowed 50% of Interest paid to family members considering excess Interest paid compared to Bank .

The firm seeks your Guidance on the matter .

**9. 40 A (3)**

A ltd purchased goods during F.Y.2014-15 from the farmers of Agro products. The products are delivered at Mumbai Godown by the farmers and they collected the payments of Rs. 15,000- 18000 per supplier everyday from the registered office. . Total value of transaction is Rs 5 lakhs with each farmer during the year. Whether payments will attract Disallowance U/s 40 A ( 3 ) ?

Whether it will make difference in case the payment is for the Capital Assets of the Firm?

The outstanding payments of 85,000/- of Mr X as on 31-03-2015 paid during April 2015 Rs.17,000 /- per day on five different days . Whether same will attract disallowance ? If yes in which year 2014-15 or 2015-16 ?

