SEM-IV

Subject- TAXATION-I

Income from House property

Paper-CC 4.1 Ch

Under the head 'Income from House Property' the charging section is section 22. U/S 22 the **annual value** of any property consisting of any building or land appurtenant thereto of which the assessee is the owner is chargeable to tax under the head 'Income from house property'. Thus the following three points must be considered for computing income under this head-

(a) There must be a building or a land appurtenant thereto;

(b) The assessee must be the owner of such property. Here owner means the legal owner and not the beneficial owner;

(c) the **annual value** of such property is taxable.

ANNUAL VALUE- Annual value means the sum for which the property might reasonably be let year after year. So the focus of the law is on the earning capacity of the house and not the actual income only.To ascertain the annual value, the following four factors should be considered-

(a) Rent received or receivable- It refers to the actual rent received or receivable for the year.

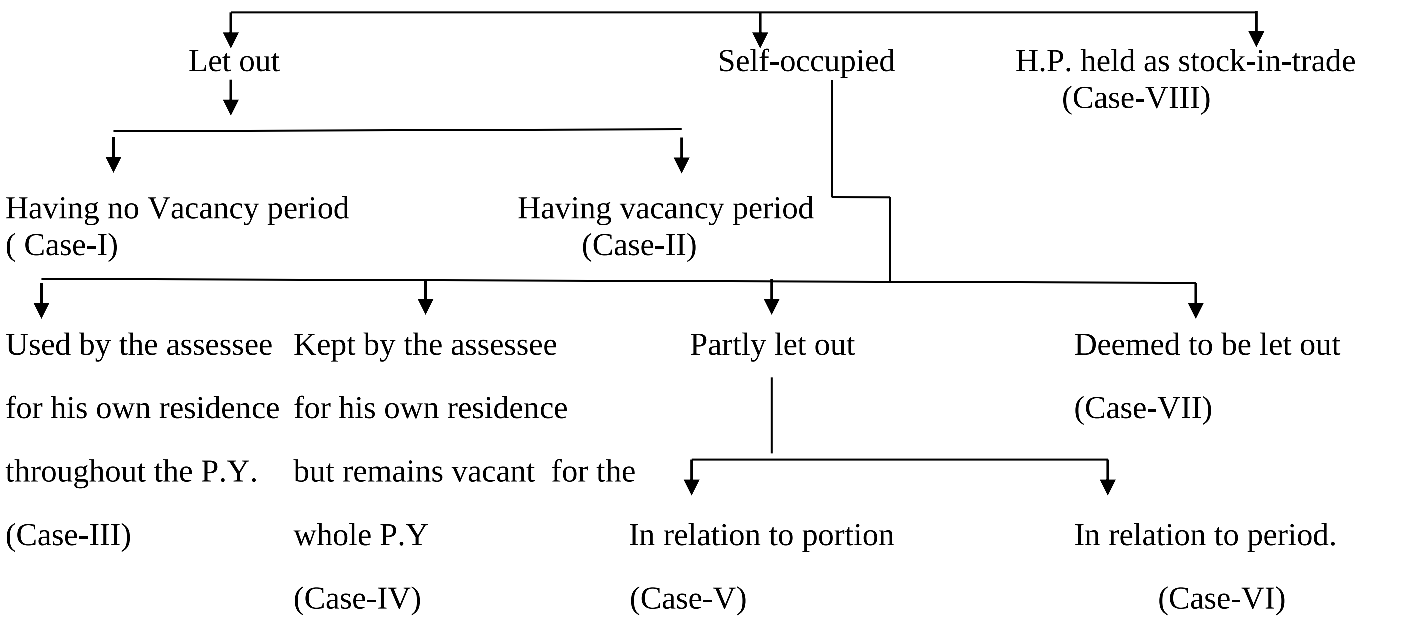
(b) Fair Rent-It means rent of similar type of property in the same locality.

(c) Municipal Value- The value assessed by the Municipal Authority for the purpose of imposing municipal tax.

(d) Standard Rent- Rent fixed under the Rent Control Act.

For the purpose of income computation under this head the properties can be classified as follows-

House Property



Cases where income from house property is taxable under other heads of income-

Under the following circumstances income earned from house property is not taxable under the head income from house property but under other heads of income-

(1) Where the owner uses his own house property for the purpose of his business or profession, then income from such house is taxable under the head ‘Profits and gains of business or Profession’ and not under the head ‘income from house property’.

(2) Where a tenant keeps a sub-tenant in his/her rented premises then income from such sub-lease is taxable under the head ‘income from other sources’ as the assessee is not the legal owner of the house.

(3) Where the assessee lets out his house to the employees of his business and such letting out is necessary for the smooth running of the business, then income from such house is taxable under the head ‘Profits & Gains from Business or profession’

(4) Where the assessee lets out the house along with plant & machinery and furniture and the `rental income is inseparable, then income from such letting out is taxable under the head ‘Profits and gains of business or Profession’ provided such letting out is the business of the assessee, otherwise the same will taxable under the head ‘Income from other sources’

Cases where Income from House Property is not taxable at al-

In the following cases the income from house property is not taxable at al-

(1) One self-occupied house in occupation of an Ex-Ruler;

(2) Income from farm house;

(3) Property income of Local Authority;

(4) Property income of approved Scientific Research Association;

(5) Property income of Sports Association;

(6) Property income of registered Trade Union

(7) Property income of Political Party;

(8) Income from house property held for charitable purpose;

<u>Procedure for Computation</u>

Case-I- <u>House having no vacancy period</u>

Gross Annual Value U/S 23(2) (a)	Rs	Rs
Step-1: Reasonable Expected Rent-		
Higher of –		
(a) Gross Municipal Value (Note-1)	XXX	
(b) Fair rent	XXX	

	XXX	
Subject to maximum of standard rent	XXX	

	XXX	

Step-2: Actual rent received or receivable-

Annual Rent (Note-2)	XXX	
Less: Unrealized Rent (Note-3)	XXX	
	XXX	
Step-3- Gross Annual Value-higher of Step-1 and Step-2	XXX	
Less: Municipal Tax Paid (Note-4)	XXX	
Net Annual Value		XXX
Less: Deduction U/S 24-		
(a) Standard Deduction @ 30%	XXX	
(b) Interest on loan (Note-5)	XXX	
		XXX
Income from let out house		XXX

Note-1- *Gross Municipal Value*-If the house is situated in Kolkata, Delhi , Mumbai and Chennai and if net municipal value is given, then while calculating income from House Property it should be grossed up. As in those cities the Municipal Authority allows an allowance of 10% (Fixed) for repair. Let us take the following example-

	Rs
Gross Municipal Value	.10000
Less: Repair Allowance @ 10%	1000
Net Municipal Value	9000

On this net municipal value municipal tax is imposed. Thus net municipal value is grossed up as below-

Gross Municipal Value= 9000 x 100/90 = Rs 10,000

Net municipal value is also known as letable municipal value/Ratable Municipal Value /Annual Municipal Value.

Municipal tax also includes service tax and sewerage tax. Such service tax and sewerage tax is also calculated on net municipal value.

Note-2-*Actual Rent Received /Receivable-* While calculating actual rent received or receivable we have to first calculate annual rent. While calculating annual rent the following adjustment is to be made-

(1) If the owner undertakes to bear the tenant's obligation e.g. electricity bill, water charges etc, then rent payable should be adjusted for the same.

(2) If the tenant pays the composite rent for the amenities provided by the owner, then the rent should be decomposed. Such tenant's amenities should be deducted while arriving at annual rent. Such tenant's amenities may be in the form of provision of lift facilities, water facilities etc.

Note-3-*Deduction of Unrealized Rent-* Only current year's unrealized rent will be allowed as deduction from the annual rent to arrive at rent received or receivable, provided the following conditions have been satisfied-

(1) The tenant is bonafied;
(2) The defaulting tenant has vacated the property or steps have been taken to vacate the property;
(3) The defaulting tenant after vacating the property of the assessee does not occupy any other property of the same owner;
(4) The assessee has taken the legal steps to recover the rent or satisfies the Assessing Officer that legal proceedings will be useless.

Note-4-*Municipal Tax*- Municipal tax is allowed as deduction if the following conditions are satisfied-
(1) The municipal tax will be ***borne*** by the owner;
(2) It is ***paid*** during the previous year.
Thus municipal tax is allowed as deduction on ***payment basis***. Any municipal tax of any earlier previous year if paid during the current previous year will be allowed as deduction while calculating income from house property.
Where the property is situated outside India and municipal tax paid by the assessee to the Municipal Authority of that country will be allowed as deduction while calculating the income for tax purpose of that house provided the assessee is resident and ordinarily resident in India.
Case Study:

(1) From the following particulars calculate the Net Annual Value and income from house property, where properties are situated in Kolkata:

	HI	H2	H3	H4	H5
Rent Received	15	18	12	16	10
Fair Rent	19	16	15	18	12
Net Municipal Value	13.5	18	9	18	9
Standard Rent	21	17	17	N.A	N.A
Unrealized for the P.Y-2019-20	3	6	2.4	Nil	2
Municipal tax @ 10% of municipal value					

Sol**. Computation of Net annual Value**	HI	H2	H3	H4	H5
Step-1- Reasonable Expected Rent-					
Higher of – a) Gross Municipal Value (NMV x 100/90)	15	20	10	20	10
b) Fair rent	19	16	15	18	12
	19	20	15	20	12
Subject to maximum of Standard Rent	21	17	17	NA	NA
	19	17	15	20	12
Step-2- Rent received or receivable					
Annual Rent	18	24	14.4	16	12
Less : Unrealised Rent for current year	3	6	2.4	Nil	2
	15	18	12	16	10

Step-3- Gross annual Value – Higher of Step-1 & Step-2	19	18	15	20	12
Less: Municipal tax paid (10% on NMV)	1.35	1.8	0.9	1.8	0.9
Net Annual Value	17.65	17.2	14.1	18.2	11.1

Note-5-Deduction on account of Interest on Loan-U/S-24(b)- Any interest paid or remains outstanding on loan taken will be allowed as deduction if the loan is utilized for the purpose of (i) Purchase (ii) Construction; (iii) Repair; (iv) Reconstruction and (v) Renewal of the house.

Additional points to be remembered:

(1) Interest on loan will be allowed on accrual basis;

(2) Interest on loan taken to repay the original loan will be allowed as deduction provided the original loan was taken for five purposes mentioned above;

Interest on loan for the period prior to the construction of the property

Where loan is taken for construction of the property and interest for the period prior to the previous year in which the construction of the property is completed will be allowed in ***five equal annual installments*** starting from the previous year in which the construction of the property has been completed.

Disallowance of Interest-Sec 25-Where the loan is taken from a non-resident outside India, then interest will be disallowed U/S 25 if tax has not been deducted at source or there is no person who can be treated as an agent of the non-resident u/S 163.

Case Studies:

(1) X took a loan of Rs 500000 @ 9% p.a. for the construction of his property on 01-07-2015. The loan is still outstanding at end of 2019-20. The construction of the house is completed on 31-07-2017 Calculate the deduction to be allowed u/s 24(b) while calculating income from house property if the house is let out.

(2) What would be your answer if the above loan is taken on 1.4.2019 for the repairing of the house?

Sol (1). Since the loan is taken before completion of construction of the house, hence there will be interest for both prior period and current period. Whenever, there is pre-period interest, we have to follow the following steps-

Step-1- P.Y. in which construction of the house is completed = 2017-18

Step-2 - Pre-period = Date of taking the loan to [(*Repayment of loan*)**or** (*last day of the P.Y. prior to P.Y. in which construction of house is completed*)

Whichever is earlier.

Pre-period = 01.07.2015 – 31.03.2017 (last date prior to P.Y.-2017-18) = 21 months

Step-3- Interest for pre-period = 5,00,000 x 9/100 x 21/12 = Rs 78750

Step-4 Deduction U/S 24(b)

Pre-period Interest = 78750 x 1/5	= Rs 15750
Current period interest= 5,00,000 x 9/100	= Rs 45,000
Total	Rs 62750

(2) In case the property mentioned in (1) above is let out and the loan is taken for repair of the house then deduction U/S 24(b) will be as below-

Deduction U/S 24 (b) = Rs 5,00,000 x 9/100 = Rs 45,000.

3. Mr.X is the owner of two flats in a building equal in every respect in Kolkata. One of the flat is let out to a tenant at a monthly rent of Rs 7,500 while the other one is let out to one of his ex-students for running a coaching centre at a monthly rent of Rs 5,500. The net municipal value of the house (Consists of 10 equal flats) is RS 9,00,000. Municipal tax is 10% of net municipal value. Municipal tax of the 1st flat is borne and paid on a quarterly basis by Mr.X while that of the 2nd flat is borne by his students. Municipal tax in respect of 1st flat for the last quarter is still unpaid. A loan of Rs 400000 at an interest rate of 12% p.a. was taken by Mr.X for the construction of 1st property on 01-01-2017. The construction of the property was completed on 27-05-2018. 50% of the said loan was repaid by Mr X on 31-12-2019? He has also paid Rs 200p.m. as insurance of the house. Calculate the taxable Income from House Property of Mr.X for the P.Y.- 2019-20

Sol. Computation of taxable income from House Property for the P.Y.- 2019-20

	Rs	Rs
Gross Annual Value U/S 23(1)		
Step-1- Reasonable Expected Rent- Higher of		
a) Gross Municipal Value (Rs 9,00,000 x 100/90) x 2/10	2,00,000	
b) Fair Rent (Rs 7,500 x 2 x 12)	1,80,000	
	2,00,000	
Step-2- Rent received or receivable-		
Annual Rent (Rs 7,500+ Rs 5,500) x 12	1,56,000	
Step-3- Gross Annual Value – Higher of step-1 and step-2		2,00,000
Less: Municipal tax paid by the owner (Rs 9,00,000 x 10/100) x1/10 x 3 / 4		6,750
Net Annual Value		1,93,250
Less: Deduction U/S 24-		
(a) Standard Deduction @ 30% of NAV	57,975	
(b) Interest on Loan (Rs 12000+ Rs 42,000)	54,000	
		1,11,975
Income from House Property		81,275

WORKINGS: **Interest on Loan**

Pre-period = 1.1.2017 – 31.03.2018 = 15 months
Interest = Rs 4,00,000 x 12/100 x 15/12 = Rs 60,000
Deduction u/s 24 (b)-
Pre-period interest = 60,000 x 1/5 = Rs 12,000
Current period interest = Rs 4,00,000 x 12/100 x 9/12 + 2,00,000 x 12/100 x 3/12 = Rs 42,000

Case-II-*<u>Annual Value of a Let Out House having Vacancy Period</u>* – Sec 23(1)(c)

Where the house is let out and remains vacant for a part of the previous year, then the following situations may arise. GAV will be determined accordingly following those situations. However, the format for computation is same as that of let out house by considering the situations as discussed below.

Situation-1-Where actual rent received or receivable in step -2 is less than Reasonable expected rent ***only because of vacancy,*** then GAV will be lower of step1 and step2 U/S 23(1)(c)
Situation-2-If actual rent received or receivable is lower than reasonable expected rent for factors other than vacancy-
Case-I- (Actual Rent Received /Receivable-Unrealized Rent) < Reasonable Expected Rent
Case-II-(Actual Rent Received /Receivable < Reasonable Expected Rent)
Situation-III-Where there is vacancy but (Actual Rent-Vacancy Loss) > Reasonable Expected Rent
In both Situation-2 and Situation-3 GAV will be determined following Case-I. However the GAV so determined will be reduced by loss of rent due to vacancy on the basis of notional rent in case-I and Case-II of Situation –2.
Case Study:

	H1	**H2**	**H3**	**H4**
	Rs	Rs	Rs	Rs
Reasonable Expected Rent	11,000	22,000	20,000	22,000
Annual Rent	14,400	24,000	18,000	30,000
Unrealised Rent for 2019-20	1 month	2 months	---	1 month
Vacancy period	2 month	1 month	1 month	1 month

Compute Gross Annual value

Sol. Computation of taxable income from House Property for the P.Y.- 2019-20

	H1	H2	H3	H4
Gross Annual Value				
Step-1- Reasonable Expected Rent	11,000	22,000	20,000	22,000
Step-2- Rent received or receivable-				
Annual Rent	14,400	24,000	18,000	30,000
Less: Unrealised rent (Annual rent x period of UR/12)	1,200	4,000	---	2,500
	13,200	20,000	18,000	27,500
Less: Loss of rent due to vacancy (Annual rent x vacancy period/12)	2,400	2,000	1,500	2,500
Gross Annual Value U/S 23(1)(c)	10,800	---	---	---
Lower of step-1 & step-2 as step-2 is lower only due to vacancy		18,000	16,500	25,000
Gross Annual Value- Higher of step-1 & step2 as rent received or receivable is lower due to factors other than vacancy or it is normally higher than step-2 as in H4	---	22,000	20,000	25,000
Less: Loss due to vacancy		2,000	1,500	---
Gross Annual Value	10,800	20,000	18,500	25,000

Case-III- ***Annual Value of Self-Occupied House used by the assessee for his own residence-*** In case of a house used by the assessee for his own residential purpose the Gross Annual Value of such house will be taken as **NIL** and no deduction except inertest on loan taken for the specified five purposes will be allowed, provided-

(a) the house or any part thereof is not actually let out during the whole or any part of the previous year and

(b) no other benefit there from is derived by the owner.

Interest on loan: Where the assessee acquired, constructed, repaired, renewed or reconstructed the self-occupied house by taking a loan then deduction u/s 24(b) will be allowed as below-

(a) Where the assessee acquired or constructed the house by borrowed money deduction will be allowed to a maximum extent of ***Rs2,00000*** provided-

(1) The loan was taken on or after 1.4.1999

(2) The construction or acquisition of the house is completed within 5 years from the end of the financial year in which the loan is taken.

However if the above conditions are not satisfied then maximum deduction allowed will be ***Rs 30000***

Case-IV-*Annual value of Self-occupied house remaining vacant throughout the previous year-* Where the property consists of one house or part of a house kept by the assesse for his own residence but due to his employment, business or profession carried on at any other place, he has to reside in that other place in a house not belonging to him, in that case the gross annual value will be determined U/S 23(2) (b) in the same manner as in Case-III i.e. GAV will be Nil. Deduction u/s 24(b) will be allowed in the usual manner keeping in view the maximum limit available.

Partly Self-Occupied and Partly Let Out House

Case-V- In relation to portion-In this case the income from house property shall be determined proportionately for let out and self-occupied portion in the same manner as discussed in the earlier ca**ses.**

Case-VI-In relation to period- Where the house is used by the owner for a part of the previous year for his own residence and let out for remaining part of the previous year, then the annual value shall be determined as if the house was let out for the whole year except actual rent received or receivable should be considered only for let out period.

Case-VII-*__Deemed to be let out house__* –Sec 23(4)- Where the owner has in his occupation more than two self-occupied house, then any two of such houses at the option of the assessee will be treated as self-occupied and all other houses will be treated as if these houses are let out, and income should be computed in the same manner as discussed earlier in respective cases. Even though selection of house for self-occupation is optional and as total limit of deduction u/s 24(b) for interest on loan for two such houses is restricted to Rs 2,00,.000, therefore, before giving option the assese has to calculate the taxable income considering different alternative options before arrive at a decision.

Case-VIII- House property kept as Stock –in- trade- Sec23(5)- Where the property consisting of any building or land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period up to **one year from the end of the financial year** in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be ***nil*.**

Arrears of Rent or Realisation of Unrealised Rent -Sec25A- Where the assessee realised arrears of rent or realized unrealised rent in any subsequent previous year then the amount so realized will be taxable under the head 'Income from House Property' in the previous year in which such realization is made irrespective of the fact whether the assesse remains the owner of the house or not. Moreover, a deduction of 30% of realisation will be allowed.

Co-ownership-Sec 26-Where the house is owned by more than one person with a definite share then the income should be computed in proportion to their share from the very beginning whether it is let out or self-occupied. Moreover the benefit of self-occupied house can be claimed by each co-owner separately. However, where the share of the owners is not ascertainable, then they will be treated as an association of person for the purpose of computation.

Deemed Owner-Sec 27- In the following cases even if the assessee does not own the house but for the purpose of computation of income under this head the assessee shall be the deemed owner of the house-

(a) Where an individual transfers(not being a transfer under an agreement to live apart) his or her house property to his or her spouse otherwise than for adequate consideration or to his or her minor child(not being a married daughter),is treated as deemed owner of the house so transferred.

(b) The holder of an impartible estate is treated as deemed owner of the house property comprised in that estate.

(c) A member of a co-operative society, company or other association of person to whom any building or any part thereof is allotted under the House Building Scheme of the society or company or the association as the case may be shall be deemed to be the owner of the house.

(d) Where a person is in possession of any house in part performance of a contract under the Transfer of Property Act,1953, then he shall be deemed to be the owner of the house.