- ॐ -

* Sec. 37(1) :- General Deductions

1. if Exp. not Allowed as Ded. u/s 30 to 36(1).
2. Not being Capital Nature Exp.
3. Not being offensive or Illegal in Nature.
4. Exp. wholly & Exclusively incurred for Business/Profession.

All 4 Conditions are Satisfied, Exp. shall be Allowed as Ded. u/s 37(1).

* Penalty → Breach of Law → Disallowed
→ Breach of Contract → Allowed u/s 37(1)

* GST → Allowed as Ded. u/s 37(1) as per Sec. 43B
→ if Not paid as per Sec. 43B → Disallowed

* Income Tax → Disallowed.

* Sec. 43B :- Deduction on Payment Basis

P.Y. 2022-23 | 1/4/23 | A.Y. 2023-24

1/4/22 —— 31/3/23 —— 31/7/23 or 31/10/23 or 30/11/23 —— 31/3/24

↓ Exp

Railway में बैठकर TB पर IPL देखना

31/7/23 or 31/10/23 or 30/11/23: Due date of Filing ROI u/s 139(1)

- if Paid upto Due date of filing ROI u/s 139(1) ↓
- if Not paid upto Due date of Filing ROI u/s 139(1)

Allowed in the Rel. P.Y. i.e. P.Y. 2022-23

⇓

Disallowed in the Rel. P.Y. i.e. P.Y. 2022-23 and Allowed as Ded. in the P.Y. in which it is Actually Paid

Sec. 40A(3)

Any Payment To a Person, in a Day (Single Person - Single Day)

- Upto ₹ 10,000 ⇓ Paid by Any Mode (including Cash) ⇓ Allowed as Ded.
- Exceeding ₹ 10,000
  - by Cash, Bearer Ch. / Crossed Ch. ⇓ Fully Disallowed
  - by A/c Payee Ch. / A/c Payee Draft / ECS. ⇓ Fully Allowed as Ded.

* If Paid to Transporter, then limit is ₹ 35,000

Sec. 40A(2) :- Excess payment to Relative

Payment is upto FMV
⇓
Allowed as Ded.

Excess of FMV
⇓
Disallowed

Relative

1. For Individual → Spouse, Brothers, Sisters, L.A. & L.D.
2. For HUF → members of HUF
3. PF/LLP → Partners & their Relatives
4. Company → Directors & their Relatives, Substantial Interest holder [i.e. Holding 20% or more voting Rights (eq. sh.) in Company]

☆ Sec. 40(a) Payment without TDS

ITM (Payer) —Payment of Professional fees→ Mr. ARP (payee)

Payment to

TDS Not Deducted / Not Deposited

- a Resident
  ⇓
  → 30% of Exp. Disallowed
  → 70% of Exp. Allowed.
- a Non Resident
  ↓
  100% Exp. Disallowed.
- a Non Resident (Salary)
  ⇓
  100% Exp. Disallowed.

Permanent Disallowance

Temprorary Disallowence

if Tax Deducted Later & Deposited to Govt; then it will be allowed as Ded.

★ Sec. 28 Business Income / Professional Income

1. Gross Profit / Gross Receipts
2. Subsidy / Govt Grant Received (Revenue in Nature)
   [However, Subsidy / Govt. Grant Received of Capital Nature, Shall be deducted from Cost of Capital Asset]
3. Gift, Perquisite, value of Benifit from client / customer.
4. Any Salary, Interest, Remuneration etc. Received by a Partner from PF/LLP.

★ Sec. 41 Deemed PGBP

1. Sec. 41(1) :- Subsequent Recovery of Exp. allowed as Ded. in Any Earlier P.Y.

   Eg. GST Refund, Insurance claim Received for Loss of Stock claimed as Ded. u/s 37(1) in any Earlier P.Y., working Capital Loan written-off

② **Sec. 41(3)** Sale of Scientific Research Asset on which Ded. claimed Earlier u/s 35

Cost of Asset ₹ 100L (P.Y. 2021-22)

Ded. u/s 35 from PGBP = 100% of 100L = ₹ 100L

WDV = Nil

P.Y. 2022-23

Sale of Asset

⇓

S.P. ₹ 120

(−) WDV Nil

Profit ₹ 120

↓ Sec. 41(3) Deemed PGBP ₹ 100L [to the Extent Ded. claimed u/s 35]

↓ SP − Cost: ₹ 120 − 100 = ₹ 20 ⇓ **STCG**

Sec. 41(4) → **Bad debts Recovery**

₹10/unit Electricity Bill ₹ 10,00,000 paid in P.Y. 21-22

Ded. u/s 37(1) P.Y. 2021-22 = ₹ 10,00,000

$\boxed{2022\text{-}23}$ → ₹ 6/unit (Retrospective from P.Y. 2021-22)

Recovery of ₹ 4,00,000 from Electricity Co.

₹ 4,00,000 → Deemed PGBP u/s 41(1)

Capital Gains

- STCG
- LTCG

POH

Date of Purchase — Date of Transfer

POH

- upto 12M/24M/36M → STCG
- more than 12M/24M/36M → LTCG

Eg. 1

① House Acq. on 28/2/2021 for ₹ 10,00,000, SD & Bro. paid ₹ 1,00,000 on purchase.

② 1st floor constructed on 10/4/2021 ₹ 2,00,000

③ House Transfer on 13/02/2023 for ₹ 45,00,000, on Transfer Bro. paid ₹ 1,00,000.

Date of Acq. 28/2/2021 — Date of Transfer 13/2/2023

POH $\leq$ 24M

→ STCG

FVOC	₹ 45,00,000
Less: Transfer Exp.	(₹1,00,000)
NSC	₹ 44,00,000
Less: COA [10,00,000 + 1,00,000]	(₹ 11,00,000)
Less: COI	(₹ 2,00,000)
STCG	₹ 31,00,000

Eg. Suppose House was Acq. on 28/2/2012, & He Acq. 3 Houses in India for ₹ 8,00,000 each, within 2 years from 13/2/23.

DOA 28/2/2012 —— POH > 24M ⇓ LTCG —— DOT 13/2/2023

FVOC	₹ 45,00,000
Less: Transfer Exp.	(₹ 1,00,000)
NSC	₹ 44,00,000
Less: ICOA $= ₹11,00,000 \times \frac{331}{184}$	(₹ 19,78,804)
Less: ICOI $= ₹2,00,000 \times \frac{331}{317}$	(₹ 2,08,832)
LTCG	₹ 22,12,364
Less: Ex. u/s 54 (For 2 House only)	(₹ 16,00,000)
Taxable LTCG	6,12,364
Tax u/s 112 @ 20% on 6,12,364	1,22,473

Note:- as LTCG is upto ₹ 2 cr, Therefore Ex. u/s 54 Shall be available for 2 House.

POH > 24M = LTCA

1/4/1991 — Mr. Chandan Acq. Land, Cost ₹10,00,000

Ignore — 95-96 — Constructed a House, Cost ₹5,00,000

1/4/2001 — FMV = ₹25L of house, SDV = ₹22L

2003-04 — Ist floor constructed, Cost ₹6,00,000

30/9/2015 — House gifted to Son Aditya → ~~FMV ₹70L~~ → Not Transfer for Mr. Chandan → ~~CG~~

2017-18 — IInd Floor Cost ₹7L

30/9/22 — House sold ₹101L → Exp. on Transfer ₹1L → Transfer → CG ✓

Computation of LTCG for Mr. Aditya for A.Y. 20~~23~~-24

FVOC	₹1,01,00,000
Less: Transfer Exp.	(1,00,000)
NSC	1,00,00,000
Less: ICOA [Note-1] $22,00,000 \times \frac{331}{100}$	(72,82,000)
Less: ICOI (i) 2003-04 $= 6,00,000 \times \frac{331}{109}$	(18,22,018)
(ii) 2017-18 $= 7,00,000 \times \frac{331}{272}$	(8,51,838)
LTCG	44,144

CoA	POH	CII yr. of Acq
↓ Previous owner	↓ Previous owner + Assessee	↓ when p. owner became owner.

Note-1 COA (as Asset Acq. by Previous owner Before 1/4/2001)

(i) Actual cost of Previous ₹10,00,000

(ii) (a) FMV on 1/4/2001 ₹25,00,000 = ₹22,00,000
(b) SDV on 1/4/2001 ₹22,00,000

COA = ₹22,00,000

Tax. LTCG u/s 112 @20% of ₹44,144

Basic Tax = 8828