**Semester: IV (UG)**

**Subject: Taxation I**

**Name of the Teacher: Dr. Sujit Kumar Roy (SKR)**

**Lecture Note # 1**

**//////////////////////////////////////////////////////////////////////////////////////////**

**Basic Concepts and Definitions**

*In this lecture we are going to discuss the definitions of some important terms. Students should carefully read these definitions to comfortably proceed with the lectures that will follow.*

* 1. **Heads of Income :** Section 14 of the Income -Tax Act 1961 has classified all incomes under the following five heads:

(a) Salaries : *[Sections 15 to 17]*.

(b) Income from house property : *[Sections 22 to 27]*.

(c) Profits and gains of business or profession : *[Sections 28 to 44].*

(d) Capital gains : *[Sections 45 to 55]*, and

(e) Income from other sources : *[Sections 56 to 59]*.

**1.2.** **Distinction between heads of income and sources of income :**

Under the Income-tax Act, the heads of income are specific and there cannot be more than five heads of income. But there are no such limitations regarding the sources of income. A person may have more than one source under a particular head of income : A person may be working under more than one employer. In that case, his income from each of these employers will be called a source of income. But for the purpose of charging to income-tax, income from all these sources must be brought under one and the same head of income, i.e., “Salaries”. Similarly, a person may have more than one house property. In this case he will have as many sources of income as the number of house properties. But all these incomes must be brought under one head i.e., Income from house property.

Thus, the concept of “heads of income” is legally defined (Section 14), while the concept of ‘sources of income’ is not as such defined by the Income-tax Act.

Sources of income are the origin from where the income arises, but the heads of income are the destination i.e., the specific heads where they must go for the purpose of assessment.

Further, the computation of total income, which forms the basis for computation of tax liability of an assessee, is dependent on the heads of income, not on sources of income.

**1.3.** **Assessee [Section 2(7)] :**

An assessee is a person by whom any tax or any other sum of money is payable under the Income-tax Act. The term assessee also includes the following :

(a) every person in respect of whom any proceeding under the Income-tax Act has been started for the assessment of his income or assessment of fringe benefits or loss or any amount of refund due to him or for the assessment of income, loss or refund of any other person in respect of which he is assessable.

(b) every person who is deemed to be an assessee under any provision of the Income-tax Act;

(c) every person who is deemed to be an assessee in default under any provision of the Income-tax Act.

1.4. **Person [Section 2(31)] :**

According to the Income-tax Act, 1961, the definition of “person” includes the following seven types of identities or the units of assessment :

(a) an individual,

(b) a Hindu undivided family,

(c) a company,

(d) a firm,

(e) an association of persons or body of individuals, whether incorporated or not.

(f) a local authority, and

(g) every artificial juridical person, not falling within any of the above categories.

**1.5. Assessment year *[Section 2(9)]* :**“Assessment year” means the period of twelve months commencing on the 1st day of April every year andending on the 31st March of the following year.

**1.6. Previous year *[Section 3]* :**

“Previous year” means the financial year (1st day of April to 31st of March next following) immediately preceding the assessment year. However, in the case of a business or profession newly set up, or a source of income newly coming into existence in the said financial year, the previous year shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the new source of income comes into existence and ending with the said financial year.

**1.7.** **Capital asset *[Section 2(14)]* :**

“Capital asset” means —

(a) property of any kind held by an assesse, whether or not connected with his business or

profession ;

(b) any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act,

1992 *[As amended by the Finance Act, 2014, w.e.f. A.Y. 2015-16]*.

As discussed below, the definition of capital asset excludes certain assets. However, the following are specifically included in the definition of Capital assets:

a) jewellery ; (b) archaeological collections ; (c) drawings ; (d) paintings ; (e) sculptures ; and (f) any work of art.

**Capital assets does not include the following** :

(a) any stock-in-trade, consumable stores or raw materials held for the purposes of his business or profession ;

(b) any personal effects or movable properties, including wearing apparel and furniture, held for personal use of the assessee or any member of his family dependent on him ;

(c) agricultural land in India, which is not situated within the jurisdiction of a municipality, municipal corporation or cantonment board having a population of not less than ten thousand, as per the last preceding census or, which is not situated in any area within such distance, to be measured aerially, which is not : (i) more than 2 km from the local limits of a municipality or cantonment board as aforesaid, which has a population of more than 10,000 but not exceeding 1 lakh ; or (ii) more than 6km from the local limits of a municipality or cantonment board as aforesaid, which has a population

of more than 1 lakh but not exceeding 10 lakh ; or (iii) more than 8 km from the local limits of a municipality or cantonment board as aforesaid, which has a population exceeding 10 lakh.

(d) 61/2% Gold Bonds, 1977, or 7% Gold Bonds, 1980, or National Defence Gold Bonds, 1980 ;

(e) Special Bearer Bonds, 1991 ;

(f) Gold Deposit Bonds, 1999 ;

(g) Deposit certificates issued under the Gold Monetisation Scheme, 2015.

1.**8. Short-term capital asset [Section 2(42A)] :** “Short-term capital asset” means a capital asset held by an assessee for not more than thirty-six months immediately preceding the date of its transfer.

**Exceptions** :

(a) In the case of a (i) share held in a company ; (ii) any other security listed in a stock exchange in India ;

(iii) unit of the Unit Trust of India ; Mutual Fund specified under Section 10(23D) ; or (iv) Zero coupon bond, these will be treated as short-term capital assets if the period of holding is less than twelve months.

(b) With effect from the assessment year 2018-19, (i) in the case of shares of a company which are not listed in a recognized stock exchange in India ; or (ii) an immovable property being land or building or both, these will be treated as short-term capital assets if the period of holding is less than twenty-four months.

**1.9. Long-term capital asset [Section 2(29A)] :** “Long-term capital asset” means a capital asset which is not a short-term capital asset.

**1.10. Gross total income [Section 80B(5)] :**

The total income of an assessee before making any deduction under Sections 80C to 80U is called Gross Total Income. In other words, it is the aggregate of income under the five heads of income mentioned under Section 14 of the Act.

**1.11. Total income [Section 2(45)] :**

Total income is the back-bone of the Income-tax Act, 1961. It is this income on which an assessee pays tax at the rates prescribed by the Finance Act. Under the Act, it is the gross total income as reduced by permissible deductions under Sections 80C to 80U.