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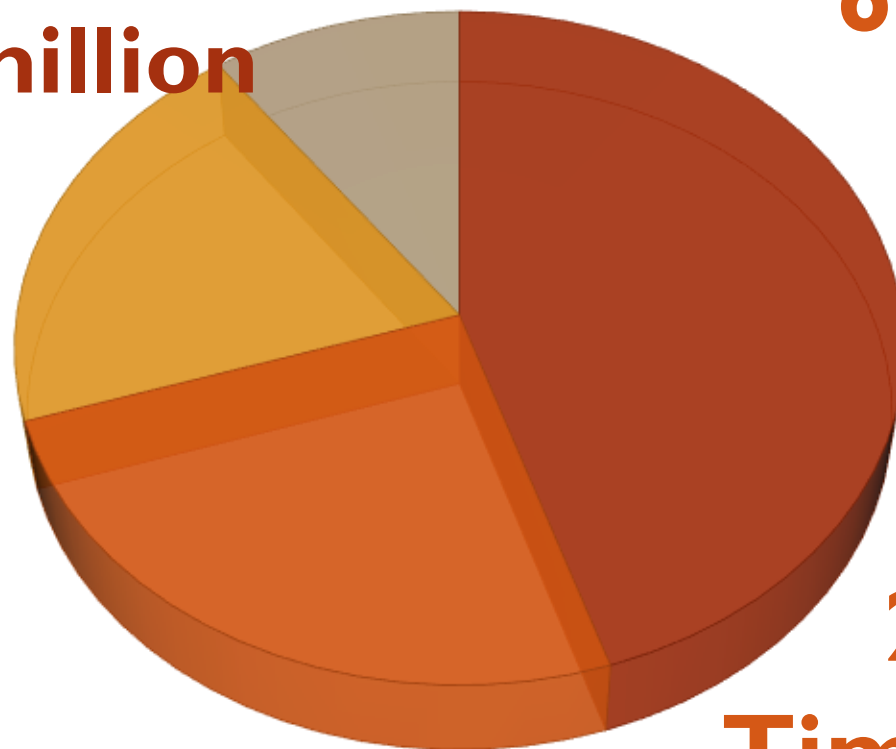
INDIA'S EQUITY MARKET GROWTH STORY

The number of customers with PAN cards is close to 500 million, and we have close to 90 million demat account.

500 million

63%

The number of active dematerialised (demat) accounts in the country jumped 63 per cent in the past 12 months to 89.7 million in financial year 2021-22 (FY22), shows data provided by depositories.



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2.6 Times

In FY22, equity cash market turnover grew 9 per cent and derivative volumes jumped 2.6 times.

CAPITAL GAIN VS. BUSINESS INCOME

- Difference between the two – Rate of Tax and Indexation, Allowability of Expenses, set off of losses
- Taxability depends on the option adopted by the assessee i.e. whether it is shown as investment or stock in trade
- Assessee is free to have both portfolios simultaneously (Fidelity AAR Ruling)
- Important to maintain consistency on part of the assessee

CAPITAL GAIN VS. BUSINESS INCOME

- **VARIOUS PARAMETERS CONSIDERED BY DEPARTMENT**
 - Treatment given by Assessee in Books
 - Number of Trades / Transactions and Volume in value terms
 - Frequency of Trade
 - Period of Holding
 - Own Capital vs Borrowed Money
 - Past Assessments

CBDT INSTRUCTIONS / CIRCULARS ON TREATMENT OF TRANSACTION IN SHARES AS BUSINESS INCOME OR CAPITAL GAIN INCOME

- CBDT's instruction No. 1827 dated 31st August, 1989
- CBDT's office memorandum dated 13th December 2005
- CBDT's Circular No. 4/2007, dated 15th June 2007
- CBDT's Circular No. 6/ 2016 dated 29th February 2016 – dealing with Listed Shares
 - If shares are held for more than 12 months and offered as Capital Gain – AO shall not dispute the same
 - Assessee should follow the option consistently

CBDT INSTRUCTIONS / CIRCULARS ON TREATMENT OF TRANSACTION IN SHARES AS BUSINESS INCOME OR CAPITAL GAIN INCOME

- CBDT's letter F.No. 225/12/2016/ITA II dated 2nd May 2016 – dealing with unlisted shares
 - The CBDT's letter brings clarity towards assessment pertaining to income arising from transfer of unlisted shares and provides that income arising from transfer of unlisted shares would be considered under the head 'Capital Gains', irrespective of the period of holding to minimise disputes.
 - The above assumption would however not apply to situations where:
 - the genuineness of the sale of unlisted shares is questionable; or
 - the transfer is related to an issue pertaining to lifting of corporate veil; or
 - the transfer of unlisted shares is made along with the control and management of underlying business.
- The Assessing Officer in the aforesaid cases will take a view depending on the facts and circumstances of each case
- Explanation to section 2(14) :

“For the removal of doubts, it is hereby clarified that ‘property’ includes and shall be deemed to have always included any rights in or in relation to an Indian company including rights of management and control or any other rights whatsoever”

POSER

- ABC Private Limited is a company engaged in the business of manufacture of ginning machineries with 3 shareholders – Mr. A (30%), Mr. B (30%) and Mrs. C (40%). The company owns a piece of land on which the factory building is situated and the market value has escalated so as to pursue the shareholders to sell the land. The shareholders decide to transfer the entire business of the company on as is where is basis to DEF Private Limited. As a part of the deal, all 3 shareholders sell their respective shareholding to DEF Ltd. All the shareholders were holding the shares as investments.
- Discuss:
 - Whether the gain on such transaction of sale of shares should be taxed as business income or capital gains?

BUSINESS INCOME FROM TRADING IN SHARES

- Income taxable at slab rates
- Audit u/s 44AD / 44AB
- Deduction of expenditure as per general provisions of S. 30 to S. 37
- Allowability of interest expenditure u/s. 36(1)(iii)
- Claim of depreciation u/s. 32
- No ceiling on allowance of expenditure
- ICDS applicable

APPLICABILITY OF ICDS PROVISIONS

- ICDS is applicable only in respect of Profits and Gains of Business of Profession and Income from Other Sources
- ICDS – VIII dealing with securities shall become applicable
 - Category wise or Bucket wise approach
 - Can result in Gain/Loss even if there are no transactions of purchase or sell
 - Thinly traded shares and unlisted shares to be valued at cost as per Para 12 of ICDS VIII :

12. **Notwithstanding anything contained in para 9, 10 and 11**, at the end of any previous year, securities not listed on a recognised stock exchange; or listed but not quoted on a recognised stock exchange with regularity from time to time, shall be valued at actual cost initially recognised.

TAXATION OF DERIVATIVES

- How to calculate turnover for limit u/s. 44AB ?
- Whether audit u/s. 44AB is mandatory if the profit is less than 6% as prescribed u/s. 44AD?
- Not to be treated as Speculation Business – Section 43(5)
- Allowance of MTM losses
 - ICDS 1 – Accounting Policies and ICDS VI – The Effects of Changes in Foreign Exchange rates, prohibit allowance of MTM Loss
 - Section 40A(13) inserted overcome decision of Delhi High Court in the case of The chamber of Tax Consultants and Anr. Vs UOI

TAXATION OF DERIVATIVES

- FAQ 10 issued by CBDT :

- Question 10: Which ICDS would govern derivative instruments?

Answer: ICDS –VI (subject to para 3 of ICDS-VIII) provides guidance on accounting for derivative contracts such as forward contracts and other similar contracts. For derivatives, not within the scope of ICDS-VI, provisions of ICDS-1 would apply.

TAXATION OF DERIVATIVES

- Can Derivative Contracts be treated as inventories? If yes whether Marked to Market Loss in such cases allowable?
 - Darashaw & Company Pvt. Ltd. vs. DCIT 36 CCH 147(Mum)
 - “There is no dispute that the assessee holds derivatives as its stock-in-trade and there is also no dispute that it follows the principle “cost or market price, whichever is lower” in valuing the derivatives. When the derivatives are held as stock-in-trade then whatever rules apply to the valuation of stock-in-trade will have to be necessarily apply to their valuation also. It is a well settled position in law that “while anticipated loss is taken into account in valuing the closing stock, anticipated profit in the shape of appreciated value of the closing stock is not brought into the account, as no prudent trader would care to show increased profit before its realization.
 - DCIT vs. Kotak Mahindra Investment Ltd. 59 SOT 4 (Mum)
 - Respectfully following the decision of the Tribunal in the case of Edelweiss Capital Ltd. (ITA No.5324/Mum/2007), which view has further been followed by another co-ordinate Bench of this Tribunal in the case of Shri Ramesh Kumar Damani vs. The Addl. CIT [ITA No. 1443/Mum/2009 for A.Y. 2006-07, order dated 26.11.2010], it can be safely held that it is not only the actual stock but **derivatives can also be held as stock in trade** and the principle "cost or market price whichever is lower" has been rightly followed by the assessee in valuing the derivatives and further when the derivates are held as stock in trade then whatever rules apply to the stock in trade will have to apply to their valuation also.

TAXATION OF DERIVATIVES

- ICDS VIII does not apply to derivatives as derivatives are excluded from the definition of security under ICDS VIII
- As per ICDS II – it does not apply to :

Shares, debentures and other financial instruments held as stock-in-trade which are dealt with by the Income Computation and Disclosure Standard on securities

- As per ICDS I para 4(ii) “marked to market loss or an expected loss shall not be recognised unless the recognition of such loss is in accordance with the provisions of any other ICDS”

It implies indirectly that derivatives held as inventories are governed by ICDS II and therefore should be valued at lower of cost or NRV

TAXATION OF DERIVATIVES

- Subsection (13) of section 40A reads as under :
 - ***“(13) No deduction or allowance shall be allowed in respect of any marked to market loss or other expected loss, except as allowable under clause (xviii) of sub section (1) of section 36”***
- Clause (xviii) of subsection (1) of section 36 reads as under :
 - ***“(xviii) marked to market loss or other expected loss as computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.”***
- Clause (iv) Of section 145A reads as under :
 - ***“(iv) the inventory being securities other than those referred to in clause (iii), shall be valued at lower of actual cost or net realisable value in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145:”***

TAXATION OF DERIVATIVES

**Equity /
Commodity
Derivatives**

- If held as inventory – ICDS II shall apply – To be valued at lower of cost or NRV and hence MTM loss is allowable

**Currency
Derivatives**

- ICDS VI specifically restricts allowability of MTM Loss

ICAI TECHNICAL GUIDE ON ICDS

2.4. As per para 3(1)(b) of ICDS VIII, the term 'Securities' shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956, other than derivatives. Considering that the definition of securities contained in ICDS VIII specifically excludes derivatives, if an assessee holds derivatives as a part of his inventory, provisions of ICDS II shall apply. However, if the derivatives are not held as part of inventory, then such derivatives shall not be governed by the provisions of ICDS II. The definition of the term 'Securities' in para 3(1)(b) of ICDS VIII specifically includes share of a company in which public are not substantially interested. Accordingly, provisions of ICDS II shall not apply to shares of a company in which public are not substantially interested even if these are held as inventory.

2.5. Revised AS 2 which has become applicable for accounting years beginning on or after 30th March, 2016 also exclude from within its scope shares, debentures and other financial instruments held as stock-in-trade. Ind AS 2 *Inventories* excludes all financial instruments held as stock-in-trade from its scope.

(d) Producers' inventories of livestock, agricultural and forest produce, mineral oils, ores and gases to the extent that they are measured at realisable value.

2.6. Accordingly, where inventories held by a producer of the items

ICAI TECHNICAL GUIDE ON ICDS

3.5 Although derivatives are 'securities' under the definition of securities contained in section 2(h) of the SCRA, these have been specifically excluded from the definition of 'securities' under this Part of the ICDS. Hence, in case of derivatives held as stock in trade, the CBDT has clarified that it would be governed by the General Principles of accounting and tax as per ICDS I.

3.6 In this context, the CBDT has clarified vide Circular no. 10/2017, dated 23rd March 2017, as under:

Question 10: Which ICDS would govern derivative instruments?

Answer: ICDS —VI (subject to para 3 of ICDS-VIII) provides guidance on accounting for derivative contracts such as forward contracts and other similar contracts. For derivatives, not within the scope of ICDS-VI, provisions of ICDS-I would apply.

3.7 This clarification seems to be not in accordance with the ICDS provisions. Derivative instruments, which are capital assets, would not be governed by ICDS at all.

TAXATION OF DERIVATIVES UNDER THE HEAD CAPITAL GAINS

- Can income from derivatives be taxed as “Capital Gains”?
 - Capital assets are “property of any kind”
 - “Right” in an asset is also a “property”
 - Clause (b) of sub section (14) of section 2
 - *Any securities held by a FII which has invested in such securities in accordance with the regulations made under the SEBI Act, 1992.*
 - ICDS do not apply to the head Income from Capital Gains. But gains/losses are taxable only when there is a transfer and hence there is no question of claiming any MTM Loss.
 - Tests laid down by various CBDT circular for characterising income as Capital Gains have to be satisfied
 - Even if derivatives are treated as Capital Assets, benefit u/s 111A and 112A are not available
 - Even benefit u/s 112 is also not **practically** available.

APPLICABILITY OF SECTION 73

- Explanation to Section 73
- Applicable to Companies Only – Exceptions provided in explanation
- Where any part of business of the Company consists in the purchase and sale of shares of other companies, such company for the purpose of section 73 shall be deemed to be carrying on speculation business.
- Applicability of Explanation in cases where the share trading loss is adjusted against Profits of other businesses carried on by the Company

CONVERSION OF STOCK IN TRADE INTO INVESTMENTS

- Section 28(via) : “The fair market value of inventory as on the date on which it is converted into or treated as Capital Asset”
- Section 2(24)(xiia) : : “Fair Market Value of inventory referred to in clause (via) of section 28”
- Whether only gain is taxable or entire FMV?
- Taxability of notional gain upon conversion – Can one earn profit by dealing with himself?
- Even Notional losses will be taxed in a similar manner
- Section 49(9) : FMV on the date of conversion to be considered as cost of acquisition for the purposes of calculating Capital Gains at the time of sale of such converted Capital Asset
- Amendment to Section 2(42A) : as per clause (ba) the period of holding to be reckoned from the date of conversion

CONVERSION OF INVESTMENTS INTO STOCK IN TRADE

- Chargeability of tax is deferred until the shares are actually transferred – Section 45(2)
- No tax payable at the time of conversion on notional gain – Tax is deferred till the asset is transferred

CAPITAL GAINS ON TRANSFER OF SHARES & SECURITIES- BENEFICIAL PROVISIONS

- Section 111A- STCG on transfer of **listed equity shares /units of equity oriented MF**
 - STT must be paid on transfer
 - Special Rate of tax 15%.
 - Chapter VIA benefit is not available.
 - Rebate u/s 87A is available to resident individuals.

CAPITAL GAINS ON TRANSFER OF SHARES & SECURITIES- BENEFICIAL PROVISIONS

- Section 112A- LTCG on transfer of **listed equity shares /units of equity oriented MF**
 - In case of shares STT must have been paid on its purchase (bearing exceptions) and transfer.
 - In case of MF STT must have been paid on transfer.
 - Special rate of tax 10 % without indexation.
 - Grandfathering u/s 55(2)(ac) is available.
 - **It starts with non obstante clause and therefore is not an option but mandatory.**
 - Chapter VIA benefit is not available.
 - **Rebate u/s 87A is not available.**

CAPITAL GAINS ON TRANSFER OF SHARES & SECURITIES- BENEFICIAL PROVISIONS

- Section 112- LTCG in respect of **all Long-Term Gains**
 - Tax rate is 20 % with indexation
 - Special Rate of 10 % without indexation in case of listed shares and Zero Coupon Bonds (ZCBs))
 - **Grandfathering u/s 55(2)(ac) is not available.**
 - Chapter VIA benefit is not available.
 - Rebate u/s 87A is available.

GRANDFATHERING BENEFIT

- **Section 55(2)(ac)**
- Applicable in respect of Equity Shares / units of equity oriented fund to which 112A applies
 - Cost of Acquisition for asset acquired before 1st February 2018 shall be higher of
 - (i) **the cost of acquisition of such asset; and**
 - (ii) **lower of**
 - **FMV on 31/01/2018 and**
 - **Full value of Consideration**
 - There can not be a loss on account of Grand Fathering

GRANDFATHERING BENEFIT

Particulars	Cost of Acquisition	FMV on 31/01/2018	Sale Consideration	Cost of Acquisition u/s 55(2)(ac)	Capital Gain considering Grandfathering
A LTD	100	200	300	200	100
B LTD	100	200	150	150	NIL
C LTD	100	200	70	100	(30)
D LTD	100	70	90	100	(10)
E LTD	100	70	50	100	(50)
F LTD	100	150	70	100	(30)

ISSUES IN GRANDFATHERING U/S. 55

- **Applicability of grandfathering provisions on**
 - Shares received as bonus shares after 31-01-2018
 - Right Shares
 - Sub divisions or stock split
 - Shares received through inheritance
 - Shares received on merger / demerger / amalgamation
 - Conversion of debentures (Listed as well as unlisted)
 - Conversion of preference shares (Listed as well as unlisted)
- **Impact in case of companies covered by MAT u/s 115JB**

POSERS

- Mr. A had bought 100 shares of XYZ Limited on 01-12-1995 at a price of Rs. 50 per share. The company had issued bonus shares in the ratio of 1:1 on 10-02-2018. Mr. A now sells all the shares at a price of Rs. 350 per share. Market price of the shares on 31-01-2018 was Rs. 400 per share. Discuss the tax impact of the above.

POSER

- Mr A purchased 1000 shares of XYZ Ltd. on 01/04/2012 at a price of Rs. 100/- per share. These shares were held by him as stock in trade. Mr. A converted this into Capital asset on 01/04/2022 when the FMV of the same was Rs. 200/- per share. Subsequently, Mr. A sells this shares on 26/05/2022 at the price of Rs. 400/- per share. Calculate the Income of Mr. A for A.Y. 2023-24 from the above transaction. (FMV of shares of XYZ Ltd. on 31/01/2018 was Rs. 300/- per share).

CAPITAL GAINS ON TRANSFER OF SHARES & SECURITIES

- Transactions can be broadly divided into the following categories
 - Mutual Funds (Other than Equity Oriented) / Debt Funds
 - Bonds / Debentures – Listed
 - Bonds / Debentures – Unlisted
 - Listed Shares / Equity Oriented Mutual Funds/ETF
 - Unlisted Shares / Shares of foreign companies

TAXABILITY OF MUTUAL FUNDS (OTHER THAN EQUITY ORIENTED)/DEBT ETF

**Held for more
than 36 months**

Held > 36 Months

**Tax @ 20% with
benefit of
indexation**

**No benefit of
Chapter VIA
deduction.**

**87A rebate is
available to
resident individuals**

TAXABILITY OF MUTUAL FUNDS (OTHER THAN EQUITY ORIENTED)/DEBT ETF

**Held for 36
Months or less**

Held \leq 36 Months

**Tax @
Slab rates**

**Benefit of Chapter
VIA deduction
available.**

**87A rebate is
available to
resident individuals**

TAXABILITY OF BONDS / DEBENTURES (LISTED)

**Held for more
than 12 months**

Held > 12 Months

**Tax @ 20% without
Benefit of Indexation**

**(zero
Coupon Bond
10%)**

(Indexation Benefit available in case of
Capital Indexed Bonds and Sovereign Gold
Bond)

**No Benefit of
Ch VIA Deduction**

**87A rebate is
available to
resident individuals**

TAXABILITY OF BONDS / DEBENTURES (LISTED)

**Held for 12
months or Less**

Held \leq 12 Months

**Tax on STCG
@ Slab rates**

**Benefit of Ch VIA
Deduction available**

**87A rebate is
available to
resident individuals**

TAXABILITY OF BONDS / DEBENTURES (UNLISTED)

**Held for more
than 36 months**

Held > 36 Months

**Tax @ 20%
without benefit
of indexation**

*(indexation benefit is available only in case
of capital indexed bonds or
sovereign bonds)*

**No benefit of
Chapter VIA
deduction.**

**87A rebate is
available to
resident individuals**

TAXABILITY OF BONDS / DEBENTURES (UNLISTED)

**Held for 36
months or less**

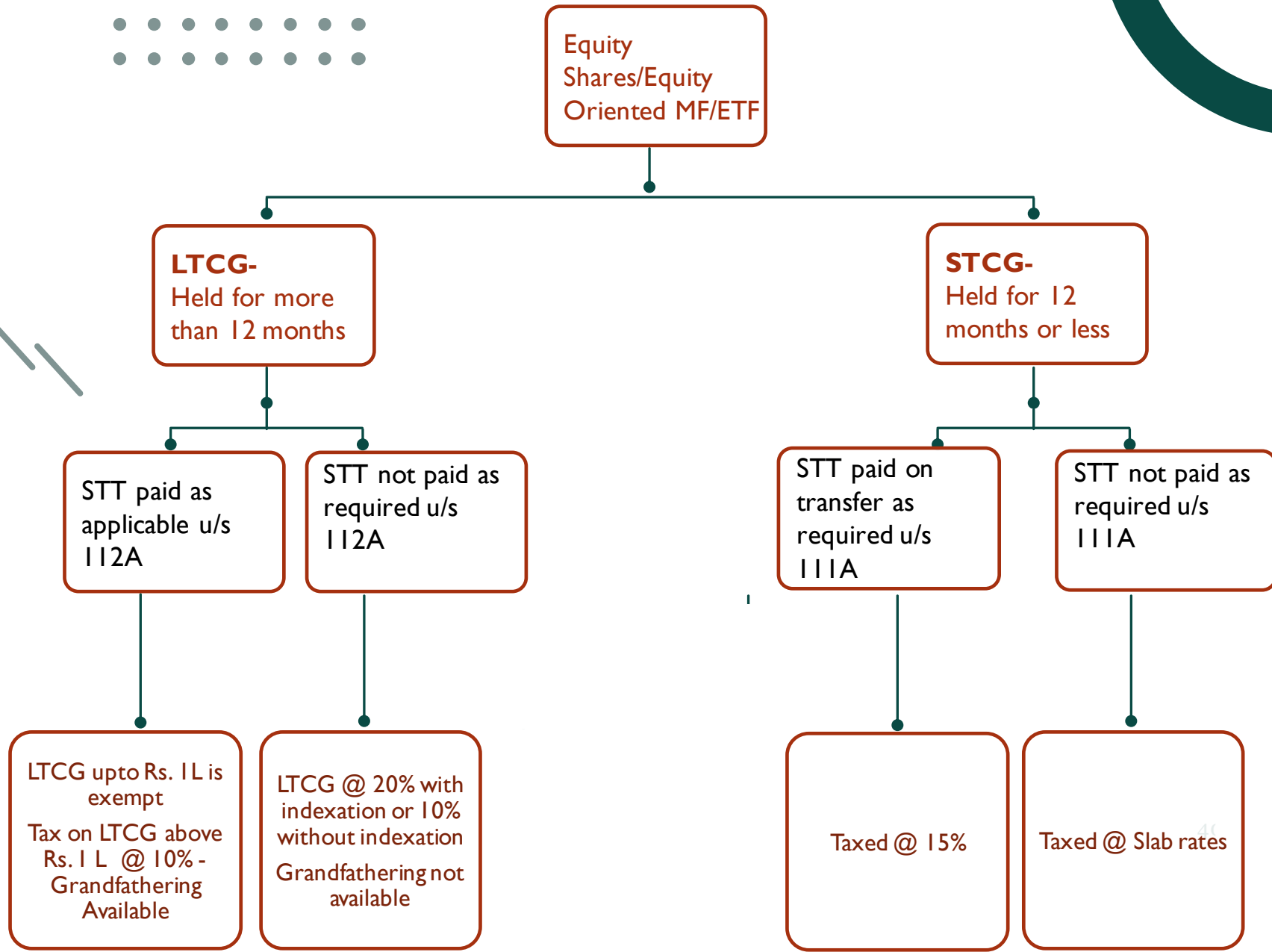
Held \leq 36 Months

**Tax
@ Slab rates**

**Benefit of
Chapter VIA
deduction available.**

**87A rebate is
available to
resident individuals**

TAXABILITY OF EQUITY SHARES / EQUITY ORIENTED MUTUAL FUNDS / ETFs



ISSUES IN RESPECT OF PAYMENT OF STT ON ACQUISITION

- Shares acquired prior to introduction of STT i.e. 01st October, 2004
- Bonus shares, right shares and IPO allotments
- Shares received on merger / demerger
- Shares received on Stock Split
- CBDT issued Notification No. 60/2018/F. No. 370142/9/2017-TPL dated 1 October 2018

UNLISTED SHARES / SHARES OF FOREIGN COMPANIES

**Held for more
than 24 Months**

Held > 24 Months

**Tax @ 20%
with indexation
benefit**

**No benefit of
chapter VIA
deduction**

**87A rebate is
available to
resident individuals**

UNLISTED SHARES / SHARES OF FOREIGN COMPANIES

**Held for 24
Months or less**

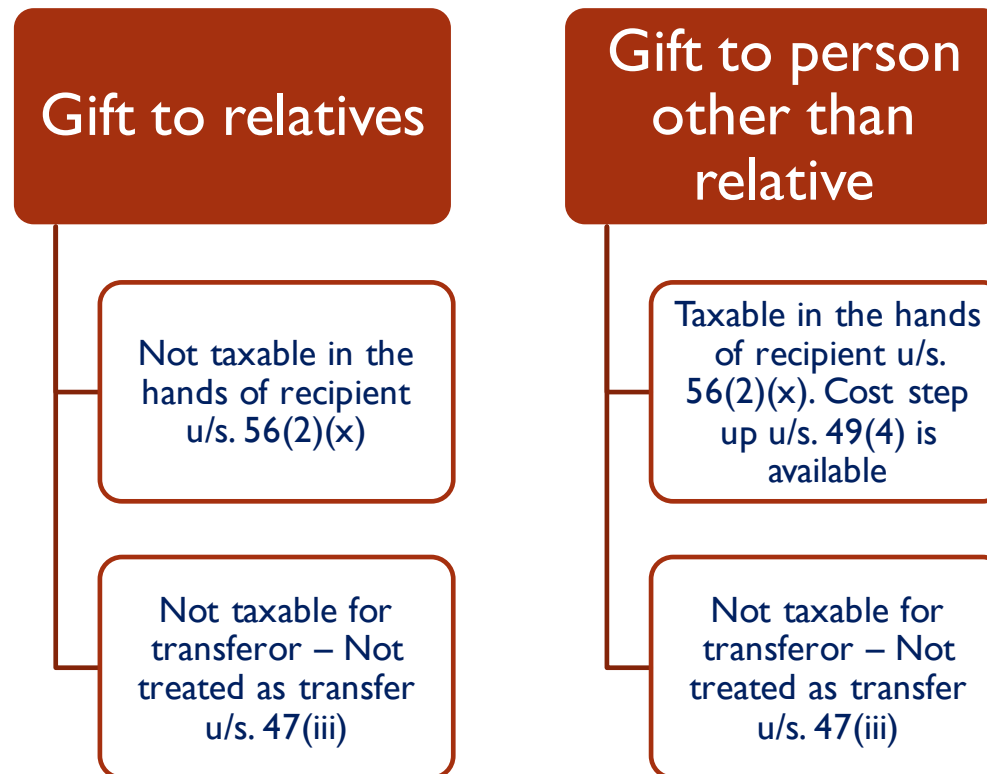
Held \leq 24 Months

**Tax
@ Slab rates**

**Benefit of Chapter
VIA deduction
is available**

**87A rebate is
available to
resident individuals**

APPLICABILITY OF SECTION 56 TO UNLISTED SHARES



APPLICABILITY OF SECTION 56 TO UNLISTED SHARES

Transfer for inadequate consideration to relative

Exempt u/s. 56(2)(x)

Taxable in hands of transferor as S 50CA shall apply

Transfer for inadequate consideration to person other than relative

Difference is taxable in the hands of recipient u/s. 56(2)(x). Cost step up is available

Taxable in hands of transferor as S 50CA shall apply

APPLICABILITY OF SECTION 56 TO SHARES AND SECURITIES OTHER THAN UNLISTED SHARES

Gift to relatives

Not taxable in the hands of recipient u/s. 56(2)(x)

Not taxable for transferor – Not treated as transfer u/s. 47(iii)

Gift to person other than relative

Taxable in the hands of recipient u/s. 56(2)(x). Cost step up u/s. 49(4) is available

Not taxable for transferor – Not treated as transfer u/s. 47(iii)

APPLICABILITY OF SECTION 56 TO SHARES AND SECURITIES OTHER THAN UNLISTED SHARES

Transfer for inadequate consideration to relative

Not taxable in the hands of recipient u/s. 56(2)(x)

Not taxable for transferor – 50CA applies only to unlisted shares

Transfer for inadequate consideration to person other than relative

Difference is taxable in the hands of recipient u/s. 56(2)(x). Cost step up is available

Not taxable for transferor – 50CA applies only to unlisted shares

OTHER ISSUES ON S. 56

- Applicability of provisions of S. 56(2)(x) to
 - Receipt of bonus shares
 - Receipt of shares on preferential basis
 - Receipt of right shares
 - Sudhir Menon HUF vs ACIT (4887/Mum/2013)
 - ITO vs Rajeev Ratanlal Tulshyan 136 Taxmann,com 42 (Mum)
 - Jigar Jashwantlal Shah Vs ACIT (1541/AHD/2017) delivered on 06/05/2022
- Buy Back of Shares by Company
- **Vora Financial Services (P.) Ltd. vs. ACIT [2018] 96 taxmann.com 88 (MumbaiTrib.) –**
 - Section 56(2)(viii) should be applicable only in cases where the receipt of shares become property in the hands of recipient – accordingly 56(2)(x) is not applicable to the company for buy back at a price lower than FMV

POSER

- ABC Pvt Limited decides to issue right shares to its shareholders. One of the shareholders, Mr. A decides to renounce his right in favour of Mr. B without any consideration. Discuss the tax impact of the same in the hands of Mr. B in view of provisions of section 56(2)(x).
- Does it make any difference if Mr A renounces his right in lieu of consideration of Rs. 10 when the company has already offered right shares to the shareholders at Rs. 50 per share. Assume the market value of the shares to be Rs. 100 per share.

POSER

- ABC Private Limited has two shareholders, Mr. A and Mr. B. The company offers right issue to the existing shareholders. However Mr. B does not subscribe to right shares whereas Mr. A subscribes for additional quantity. Accordingly the company issues the entire shares proposed under the rights issue to Mr. A. Discuss the tax impact of the aforesaid transaction in view of the provisions of Section 56(2) of the Income-tax Act.

BUY BACK OF SHARES

- S. 115QA and S. 10(34A)
 - Taxable in the hands of the company u/s. 115QA
 - Exempt in the hands of the shareholders u/s. 10(34A)
- No Sunset clause in S 46A
- 115QA results in higher tax collection in most of the cases as no benefit of indexation, Grandfathering, exemptions u/s 54F etc

ANTI AVOIDANCE MEASURES

- Bond Washing (Section 94(1) to Section 94(6))
 - Applicable when interest income is avoided
- Dividend stripping – Section 94(7)
 - After dividend income became taxable it is not of much relevance
- Bonus Stripping – Section 94(8)
 - Now even bonus shares are covered

POSER

- Mr. A had bought 100 shares of XYZ Limited on 10-11-2021 at a price of Rs. 1125 per share. The company had issued bonus shares in the ratio of 5:1 on 11-1-2022. Mr. A now sells all the shares at a price of Rs. 210 per share. Discuss the tax impact of the above.

SET OFF AND CARRY FORWARD OF LOSS

- LTCL can be set off only against LTCG
 - Set off of long term loss against long term gain where different rate is prescribed
- STCL can be set off against LTCG or STCG
 - Set off of short term loss against Short / Long term gains where different rates are prescribed
- ACIT vs Yogiraj Jaichand Makar (ITA No. 6268/MUM/2019)

TAXATION OF DIVIDEND INCOME

If shares are held as investments

- To be taxed as Income From Other Sources

If shares are held as inventory

- To be taxed as business income
- Under which head shall dividend income be taxable if shares are converted from investments to stock in trade or vice versa during the year?

TAXATION OF DIVIDEND INCOME

- Proviso to Section 57 is read as under
- *“Provided that no deduction shall be allowed from the dividend income, or income in respect of units of a Mutual Fund specified under clause (23D) of section 10 or income in respect of units from a specified company defined in the Explanation to clause (35) of section 10, other than deduction on account of interest expense, and in any previous year such deduction shall not exceed twenty per cent of the dividend income, or income in respect of such units, **included in the total income for that year, without deduction under this section.**”*

TAXATION OF DIVIDEND INCOME

- Section 80M Sub-Section (1) is read as under
- *“80M. (1) Where the gross total income of a domestic company in any previous year includes any income by way of dividends from any other domestic company or a foreign company or a business trust, there shall, in accordance with and subject to the provisions of this section, be allowed in computing the total income of such domestic company, a deduction of an amount equal to so much of the amount of income by way of **dividends received** from such other domestic company or foreign company or business trust as does not exceed the amount of dividend distributed by it on or before the due date”*

S. 57 VS. 80M

Sr. No.	Particulars	Alternative I (Gross)	Alternative II (Net)
1	Dividend received from Sub. Co. (a)	500	500
2	Interest expense u/s. 57 (b)	100	40
		(a) * 20%	(a)-(d) * 20%
3	Gross Total income (c)	400	460
4	Deduction u/s. 80M (d)	(300)	(300)
5	Total income	100	160

S. 57 VS. 80M

- Issue 1 – Whether deduction of interest expense of 20% is to be done without effect of S. 80M or after considering deduction u/s. 80M?
- Issue II – Whether deduction u/s. 80M can exceed the dividend income included in Total Income? (Ref – 80AB)
- Issue III – Can deduction u/s. 80M be claimed independently of Section 57(iii)?

DEDUCTION U/S 80M IN CASE OF DEALER IN SHARES

STATEMENT OF PROFIT AND LOSS OF ABC LTD.

Trading Purchase	4500	Trading Sale	5000
Share trading Purchase	1000	Share Trading Sale	1000
Interest	300	Dividend Income	200
Other Expenses	500	Inventory of Shares	300
Net Profit	200		
Total	6500	Total	6500

(Note :The Company has declared and distributed dividend of Rs. 100)

CHECK POINTS WHILE FILING ITR

- **MATCH SALE TRNSACTIONS WITH AIS/TIS**
- **SCRIPTWISE DETAILS TO BE GIVEN WHERE 112A IS APPLICABLE**
- **SHARE BUY BACK TO BE EXCLUDED FROM TAXABLE ICOME – TO BE REPORTED AS EXEMPT INCOME**
- **DISTINGUISH BETWEEN EQUITY MF AND NON EQUITY MF – DETAILS AVAILABLE FROM TIS**
- **SWICH OUT TRANSACTIONS IN MF TO BE TAKEN INTO CONSIDERATION**
- **DISCLOSE GROSS DIVIDEND INCOME – TDS TO BE GROSSED UP**
- **IN CASE OF SIP OF MF, EACH PURCHASE TRANSACTION TO BE REPORTED AS SEPARATE LINE ITEM**
- **ISSUES OF MISMATCH WITH AIS/TIS MAY ARISE IN CASE OF DEALER IN SHARE – AT PRESENT RETURNS ARE PROCESSED WITHOUT ERROR**
- **IN CASE SHARE SALE IS FORMING PART OF STATEMENT OF PROFIT OR LOSS, PLS MATCH THE SAME WITH BOOK GAIN DISCLOSED IN SCHEDULE CG OF ITR**
- **IN CASE OF DEALER IN SHARES, FOR VLAUATION, THE ORIGINAL COST TO BE CONSIDERED.**



THANKS



CA JIGNESH J. SHAH