

LECTURE XII

INCOME TAX AND PARTNERSHIP ACCOUNTS

I. Necessity of keeping accounts of business

- (a) Method of accounting employed in
 - (i) firms and
 - (ii) family partnerships ;
- (b) account books generally kept by them
- (c) different kinds of account books - cashbook, journal, P. L account, purchase and sale book--
 - (i) accounts to show exact business relationship with third parties,
 - (ii) to show position of the partners to one another and to the firm and profits and loss in the business,
 - (iii) account of income tax deducted from the pay and wages of employees for purposes of filing annual return by the firm as private employees under Sec. 21 In. T. Act ;
- (d) method of accounting for purposes of Income Tax (Section 13 Income Tax Act).

N. B. Honest statement of account to be furnished¹—failure to keep accounts².

II. Return of income to be furnished under Income Tax Act

- (a) different columns of the return to be filled up and signed³.
- (1) Annual return by a firm as an employer to be furnished under Section 21 Income Tax Act—
 - (a) income-tax to be deducted from the salaries etc. under Section 18 Income Tax Act,
 - (b) penalty for non-deduction under Section 19 Income Tax Act⁴.
- (2) Particulars of the return of business of the firm for purposes of assessment—
 - (a) notice to submit return,
 - (b) penalty for non compliance,
 - (c) particular heads to be filled in,

(1) Chan Low Chwan v. The Commissioner of Income Tax I. L. R. 7 Rang. 281 F. B.

(2) C. I. v. Karneswar 60 I. A. 146.

(3) In the matter of Ratan Chand Duni Chand 1928 Lah. 729.

(4) Commissioner of Income Tax v. A. R. A. N. Chettiyar Firm and V. D. M. R. M. Chettiyar Firm I. L. R. 6 Rang. 21 (F. B.)

- (d) allowances to be made for
- (i) rent
 - (ii) repairs and
 - (iii) capital borrowed and used¹
 - (iv) interest paid²
 - (v) interest on advances by a partner³
 - (vi) insurance charges and premia paid
 - (vii) depreciation and current repairs of buildings, machinery, plant, furniture
 - (viii) digging of coals or minerals from mines⁴
 - (ix) depreciation of house property as assets of business⁵
 - (x) loss due to sale of obsolete machinery or plant⁶
 - (xi) loss due to death or permanent infirmity of animals.
 - (xii) Payments for land revenue, local rate or municipal taxes,
 - (xiii) bonus or commission paid to the employees,
 - (xiv) deduction in case of bad debts⁷,
 - (xv) deduction in case of royalties paid⁸.

Exception—

No deduction allowed for personal expenses of the assessee.

3. Production of accounts and documents by a firm on notice by Income Tax Officer—

- (a) effect of non-production⁹,
- (b) power of income-tax officer to take evidence¹⁰.

III. Assessment of firms—

- (a) distinction between registered and unregistered firms under Income Tax Act for purposes of assessment,
- (i) mode of registration under Income Tax Act,
- (ii) cancelling of registration of registered firms under Income-Tax Act,

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- (1) Commissioner of Income Tax Madras v. M. T. K. M. M. S. M. A. R. Somasundaram Chettiar.
 - (2) A. L. A. R. Arunachalam Chetty and Co. v. Commissioner of Income Tax I. L. R. 52 Mad. 296 (S. B.).
 - (3) C. I. v. Tejbandh 144 I. C. 353.
 - (4) Isabella Coal Co. v. The Commissioner of Income Tax Bengal 29 C. W. N. 923 Sp. B.
 - (5) In the matter of Gooptu Estates Ltd. 34 C. W. N. 327.
 - (6) In the matter of Ratna Singh 85 I. C. 478 and In re the Raja Gokaldas Mills Ltd. I. L. R. 48 Bom. 389.
 - (7) 35 C. W. N. 589.
 - (8) Maharajadhiraja of Darbhanga v. Commissioner of Income Tax I. L. R. 9 Pat. 240 (S. B.)
 - (9) In the matter of Messrs. Kedarnath Kestriwal
34 C. W. N. 1093.
 - (10) In re Bissessar Lal 34 C. W. N. 363.

- (iii) advantages of registration and effect of non-registration after expiry of terms of partnership¹;
- (b) assessment of foreign firms²;
- (c) assessment of Hindu undivided family firms ;
- (d) assessment of firms under I. P. A.
- (e) power to assess individual members of certain firms ;
- (f) recovery of tax from the firm in case of default in payment by individual members ;
- (g) assessment in case of change of constitution of the firm;
- (h) assessment in case of discontinued business;
- (i) penalty for concealment of income or improper distribution of profits.

IV. Principle of assessment--

- (a) assessment when part of the business is agriculture,
- (b) rate of assessment,
- (c) assessment of Super-tax,
- (d) mode of calculation of partnership profits³,
 - (i) mode of valuation of opening and closing stocks in calculation of profits of partnership business⁴,
 - (ii) money paid in satisfaction of a bonafide claim to an interest in the capital of a business, if assessable⁵,
 - (iii) payment in kind, if taxable⁶,
- (e) meaning of total income⁷,
- (f) year of assessment in respect of firms.

V. Recovery of tax and change of assessment—

- (a) notice of demand,
- (b) cancelment of assessment on review,
- (c) appeal against inordinate assessment,
 - (i) reference to Board of Referees
 - (ii) reference to High Court on question of law,
 - (iii) appeal to Privy Council,
- (d) payment and recovery of taxes.
 - (i) recovery of penalty,
- (e) Refund of Income-tax paid,
- (f) effect of escaping liability for income-tax.

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- (1) *M. V. Krishna Aiyar & Sons v. Commissioner of Income Tax* I. L. R. 52 Mad. 367 (S. B.)
 - (2) *The Commissioner of Income Tax Burma v. Messrs. Steel Brothers & Co. Ltd.* I. L. R. 3 Rang. 614 (F. B.)
 - (3) *Lewis v. Commissioners of Inland Revenue* (1933) 2 K. B. 557.
 - (4) *Commissioner of Income Tax v. A. N. C. Mills Co. Ltd.* 51 C. L. J. 128 P. C.
 - (5) *In re N. S. Mundy* 34 C. W. N. 788.
 - (6) *Commissioner of Income Tax v. Kameswar* 60 I. A. 146.
 - (7) *The Commissioner of Income Tax v. Phillip Seddon Mellor* I. L. R. 48 Bom. 504.

VI. Matters Supplemental

- (a) Meaning of "business" under the I.T.A.—
Single transaction if may constitute a "business¹".
- (b) Meaning of "firm" for the purpose of the
I.T.A.²

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- (1) *Gaya Prosad v. Commissioner of Income Tax* : 57 All 750.
 - (2) *Lahore Ice Factories Association, Lahore v. Commissioner of Income Tax, Lahore* : A. I. R. 1935 Lah. 100.

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