

CHAPTER - I

RESEARCH DESIGN

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1.1 INTRODUCTION *

A statute dealing with taxation of income is highly significant. The Income-tax Act, 1961 deals with primarily assessment of income which is defined as under -

U/s 2(24) - " Income " includes -

- (i) Profit or gains ;
- (ii) dividend ;
- (iia) Voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes not being contributions made with a specific deduction that they shall form part of the corpus of the trust or institution,
- (iii) the value of any perquisite or profit in lieu of salary taxable under clauses (2) and (3) of section 17;
- (iv) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company, or by relative of the director or such person, and any sum paid by any

such company in respect of any obligation which, but for such payment, would have been payable by the director or other person afore-said ;

- (iva) the value of any benefit or perquisite, weather convertible into money or not, obtained by any representative assessee mentioned in clause (iii) or clause (iv) of subsection (1) of section 160 or by any person on whose behalf or for whose benefit any income is receivable by the representative assessee (such person being hereafter in this sub-clause referred to as the "beneficiary") and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary;
- (v) any sum chargeable to income tax under clauses (ii) and (iii) of section 28 or section 41 or section 59;
- (va) the value of any benefit or perquisite taxable under clause (iv) of section 28 ;
- (vi) any capital gain chargeable under section 45 ;
- (vii) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed in accordance with section 44 or any surplus taken to be such profits

and gains by virtue of provisions contained in the first schedule;

- (ix) any winnings from lotteries, Crossward puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature what-soever ;
- (x) any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees State Insurance Act, 1948 (34 of 1948) or any other fund for the welfare of such employees.

The entire income assessable to tax is spilt up u/s 14 of the Act as under -

Section-14 - Save as otherwise provided by this Act, all income shall, for the purpose charge of income-tax and computation of total income, be classified under the following heads of income -

- A - Salaries.
- B - -
- C - Income from house property.
- D - Profits and gains of business or profession.
- E - Capital gains.
- F - Income from other sources.

The assessment of capital gains is dealt with under the Act under section 45 to 55A.

1.2 OBJECTIVES OF STUDY -

In the entire scheme of taxation of income under various heads, the taxation of capital gains possesses distinct characteristics. The scope of capital gains, computation thereof and deductions against the same is attempted to be examined under the present study.

1.3 RESEARCH METHODOLOGY -

The examination involved in the process primarily takes into account the statutory provisions under Income-tax Act 1961, in general and provisions relating to the capital gains in particular. Apart from this because of constrains on data collections the reference is exclusively made to library references such as publications concerned with this topic, Income tax reports, Tax Journals and the literature as is available on the topic. As such dissertation is based on literature.

1.4 LIMITATIONS OF THE STUDY -

The topic relating to the assessment of capital gains is complex and technical. The issues relating to valuation of assets are subject to wide discretion and opinions.

However, the study is confined with following limitations -

- 1) The statutory provisions as are prevailing in the year 1988-89 have been taken into account.
- 2) As referred above it is not possible to collect the primary data in view of the difficulties, the research is based on literature alone.
- 3) The interpretations, analysis and inferences drawn in so far as subject is concerned are based on available literature rather than the practical aspects.

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