



Valuation

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by kkchhaparia

1

Valuation of stock/investments

✦ Investments

– AS 13 (Accounting for Investments)

- Current Investments
- Long Term Investments

– RBI Guidelines for NBFC Companies

- Fair Value of each Script vis-à-vis Cost
- If audited balance sheet of investee company of PY not available, entire block to be valued at Rs. 1 only.
- Whether Provision allowable

Valuation of stock/investments

- ✦ Valuation of shares held as stock in trade
 - AS- 2 not applicable
 - Cost vs. Lower of Cost and MP
 - MP – whether after deduction of brokerage, STT etc
 - Whether Global Comparison or Individual stock comparison
- ✦ Provision of .25% on standard assets by NBFC
 - Whether allowable – MAT applicability

CBDT – date of transaction.

- Broker's note should be deemed to be the date of purchase if followed by delivery
 - FIFO Basis – **CBDT instruction no. 704 dated 28.04.95**
 - In case of multiple demat accounts, date of purchase will depend accountwise – **CBDT Circular No. 768 dated 24.06.98**
- What about shares held as stock in trade
 - AS-9 read with Sale of Goods Act, 1932 apply

Bonus shares..

• Bonus Shares – Cost and date of acquisition

- S.55 (2)(aa) – Bonus and Right entitlement at Cost
- What if Bonus is received not on investments but on stock in trade ?
 - *Unique Manufacturing & Marketing Ltd Vs. CIT [196 ITR 231 (SC)]*
 - *Held*
 - cost of bonus shares should be arrived at by averaging cost of original shares over number of original shares and bonus shares.

Right Shares...

✦ Right Shares – Cost and date of acquisition

- The right to subscribe for additional offer of shares/debentures comes into existence only when the company decides to come out with the rights offer. It is only when that event takes place, that diminution in the value of the original shares held by the assessee takes place. One has to give weightage to the diminution in the value of the original shares, which takes place when the company decides to come out with the rights offer
- Held by Supreme Court in **Navin Jindal Case 320 ITR 708 (SC)**
- **Comments**
 - Judgment relate to AY 1992-93
 - Section 55(2)(aa) amended from AY 1996-97
 - SC Judgment do not have any implication as of now on Capital Gains

Interest on Deep Discount Bonds.

✦ Issuer

- Can discount be claimed over the period of maturity
 - Matching Principle
 - SC Judgment in Madras Industrial Investment Corporation Limited case 225 ITR 802 (SC)
 - S. 40(a)(ia) – TDS deduction

Interest on Deep discount bonds

Investor

– Circular no. 2/2002 dated 15.02.2002

- Market valuation of bonds on 31st March each year
- Interest income to be accounted for each year.
- Sale before maturity - CG
- Investors holding bonds for aggregate Face value of Rs. 1 lac shall may continue at old option.



Conversion

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9

Conversion

• Capital asset into stock in trade – s.45(2)

- Taxable in PY when stock is sold and not when conversion
- Consideration for CG – Fair market value on dt of conversion

• Stock in trade into Investments

- Act silent
- **ACIT Vs Bright Star Investment P Ltd 24 SOT 288 (Mum SB)**
 - Held stock in trade into investments at cost
 - This judgment was passed in given circumstances



• Apportionment of Expenses

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11

Expenses apportionment...

✦ Interest paid and other administrative expenses

– On speculative transactions/business

- I. I. T. Investrust Ltd Vs. ITO 106 TTJ 1037 (Mum)
- Sind National Sugar Mills P Ltd Vs CIT 121 ITR 742 (Mum)

– On Capital Gains

- On share application money
 - Smt Neera jain ITA1861/Mum/2009
- On controlling interest's share
 - *CIT vs. Rajeeva Lochana Kanoria* 208 ITR 616 (Cal)

Expenses apportionment...

✦ Interest paid on Investments

– *CIT Vs Trishul Investments Limited 215 CTR 96(Mad)*

- Held : to be added to the cost of acquisition

– *AS-16 (Borrowing Costs)*

- Not allowed to be added to cost

– *J.K.Industries Case 297 ITR 176 (SC)*

- Accounting principle to follow unless deviate

Expenses apportionment (2)

On Exempt income (S.14A read with Rule 8D)

- Applicability on stock in trade
 - *Leena Ramachandran case, Kerala ITAT*
- Whether applicable even if no exempt income
 - *Cheminvest case [317 ITR 86 (Delhi ITAT)*
- Rule 8D whether to be strictly followed
 - If Rule 8D disallowance higher than expenses - nexus
 - *Hero Cycles Case 323 ITR 518 (P&H)*
 - *Godrej & Boyce Mfg. Co. 328 ITR 81 (Bombay)*
- Prior to introduction of Rule 8D



• **Deemed income**
u/s 56

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15

Receipt of closely held company (CHC) shares

• Section 56 (Stated object) : Anti abuse provisions to prevent practice of transferring unlisted shares at prices much below FMV

• Tax trigger conditions

- Receipt is of property being shares of a CHC
 - Receipt may be a capital asset or stock in trade
- Receipt is on or after 1st June 2010
- Receipt is without consideration and value of shares > INR 50000/-
- Receipt is without adequate consideration and difference between FMV and consideration > INR 50000/-
- Taxation w.r.to FMV to be determined in accordance with Rule 11UA



• Dividend stripping Bonus stripping

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17

Dividend Stripping s.94(7)

Where

- (a) any person buys or acquires any securities or unit within a period of three months prior to the record date;
- [(b) such person sells or transfers
 - such securities within a period of three months after such date; or
 - Such unit within a period of nine months after such date;]
- (c) the dividend or income on such securities or unit received or receivable by such person is exempt,
 - then the loss, if any, arising to him on account of such purchase and sale of securities or unit, to the extent such loss does not exceed the amount of dividend or income received or receivable on such securities or unit, shall be ignored for the purposes of computing his income chargeable to tax.

Bonus Stripping s.94(8)

☛ Where

- ☛ (a) any person **buys or acquires any units within a period of three months prior to the record date;**
- ☛ (b) **such person is allotted additional units** without any payment on the basis of holding of such units on such date;
- ☛ (c) **Such person sells or transfers** all or any of the units referred to in clause (a) within a period of nine months after such date, while continuing to hold all or any of the additional units referred to in clause (b),
 - then, the loss, if any, arising to him on account of such purchase and sale of all or any of such units shall be ignored for the purposes of computing his income chargeable to tax and notwithstanding anything contained in any other provisions of this Act, the amount of loss so ignored shall be deemed to be the cost of purchase or acquisition of such additional units referred to in clause (b) as are held by him on the date of such sale or transfer.

Deemed Dividend

- “any *payment by a company, not being a company in which the public are substantially interested*, of any sum (whether as representing a part of the assets of the company or otherwise) [made after the 31st day of May, 1987, by way of *advance or loan to a shareholder*, being a person who is the *beneficial owner of shares* (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) holding not less than ten percent of the voting power, *or to any concern* in which such shareholder is a member or a partner and in which he has a substantial interest (hereafter in this clause referred to as said concern)] or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses *accumulated profits*;

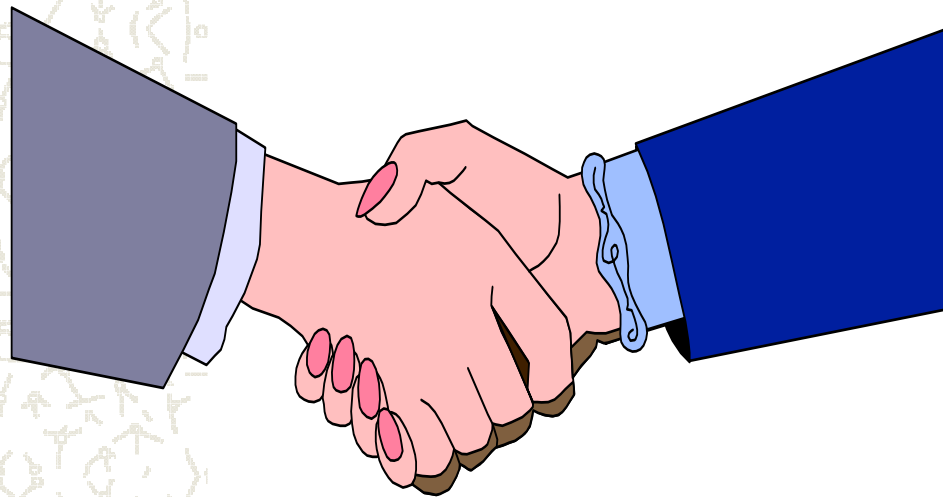


Summing up...

- ✦ Speculation/ Deemed speculation
- ✦ Valuation – Stock, Derivatives/M2M
- ✦ Cracking LTCG
- ✦ Business vs. adventure in the nature of trade
- ✦ Conversion
- ✦ Valuation of stock, bonus shares, right shares
- ✦ Expenses apportionment

Summing up (2)...

- ✱ Deemed income u/s 56
- ✱ Disallowance u/s 14A
- ✱ Deemed dividend u/s 2(22)(e)
- ✱ Dividend/Bonus stripping
- ✱ Provisions in terms of RBI guidelines
- ✱ Etc etc etc.....



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23