E-Notes
Article – 8/2021

POINTS ON CAPITAL GAIN TAX, IT ACT 45,47,50,54.

CASE STUDY ON CAPITAL GAIN TAX

The capital gain is charged under income tax act, section 45 to 55A of income tax act govern the levy of Capital Gains Tax. The Capital gains are attracted when a property is transferred.

Section 45 of Income Tax Act, 1961 says that any profits or gains arising from the transfer of a capital asset attracts Capital Gain Tax. That means if one person sales one capital asset, a tax is attracted, called Capital Gain Tax which depends on the computed amount of Capital Gains. There is a specific procedure of computation and only after computation , a valuer can opine on Capital Gain or Capital loss.

Capital gain = final sale price – (the cost of acquisition + house improvement cost + transfer cost).

Section 45 of Income Tax Act, 1961 provides that **any profits or gains arising from the transfer of a capital asset effected in the previous year will be chargeable to income-tax under the head 'Capital Gains'.** Such capital gains will be deemed to be the income of the previous year in which the transfer took place.

Section 45 of Income Tax Act, 1961 : any profits or gains arising from the transfer of a capital asset will attract capital gain tax

Statement is Correct	Depends on the result of computation	Profit means business profit	Tax on profit is same as capital gain tax

Hints : Capital gain or loss to be arrived after the computation

Exemptions

Section 47 of Income Tax Act says that all transactions are not regarded as "transfer"

Section 47 of Income tax act covers certain transactions, which are not regarded as "transfer" and, accordingly gains arising from such transaction, are not liable to capital gain tax. The rational for such and exemption is that these transactions do not result into any taxable income in the hands of the Transferor.

Any transaction, if made, will attract capital gains

IT act made certain transactions are not considered as transfer	This is a correct sentence	It depends on the assessed person to declare what falls under "transfer"	It depends on the IT officers to declare what falls under "transfer"

Hints: list of "transactions", which are to be considered as "transfer" are determined in IT Act

Following transactions shall not be regarded as transfer for the purpose of capital gains tax in respect of non-residents and foreign companies : –

1. Transfer of shares of Indian company on amalgamation of two foreign companies – Section 47 (via)
2. Transfer of shares of foreign company drawing its substantial value from India in amalgamation scheme – Section 47(vib)
3. Transfer of shares of Indian company in a scheme of demerger between two foreign companies – Section 47 (vic)
4. Transfer of shares of foreign company drawing its substantial value from shares of Indian company in scheme of demerger – Section 47(vicc)
5. Transfer of bond or Global Depository Receipt by a non-resident to another non-resident outside India – Section 47(viia)
6. Transfer of rupee denominated bond by a non-resident to another non-resident outside India – Section 47 (viiaa)
7. Transfer of Government Security by a non-resident to another non-resident through an intermediary – Section 47(viib)

Section 47(2) Transfer of property includes

Section 2(47) in The Income- Tax Act, 1995. (47) " transfer", in relation to a capital asset, includes,- (i) the sale, exchange or relinquishment of the asset; or. (ii) the extinguishment of any rights therein; or. (iii) the compulsory acquisition thereof under any law.
transfer", in relation to a capital asset, includes,-
(i) the sale, exchange or relinquishment of the asset; or
(ii) the extinguishment of any rights therein; or
(iii) the compulsory acquisition thereof under any law; or
(iv) in a case where the asset is converted by the owner thereof into, or is treated by him as, stock- in-trade of a business carried on by him, such conversion or treatment;] or]
(v) any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 1 (4 of 1882); or
(vi) any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement or in any other manner whatsoever) which has the effect of transferring, or enabling the enjoyment of, any immovable property.

IT act talks about computation of Capital Gain including Indexation. Assessed persons are entitled to benefit of cost of indexation which neutralize inflation. How to compute capital gain tax

Short-term capital gain, capital gain = final sale price – (the cost of acquisition + house improvement cost + transfer cost).
Long-term capital gain, capital gain = final sale price – (transfer cost + indexed acquisition cost + indexed house improvement cost).

What is a short term capital gain?

A gain within one year	A gain of small amount by transfer of an asset	Any gain or profit by transfer of an asset within one year	Any gain or profit made by anyone within one year

Hints : Any gain or profit by transfer of an asset within one year, such as a stock.

Indexed value can be considered in case of short term capital gain

No, considering indexed value is not allowed	Yes, considering indexed value is allowed	This is irrelevant	This depends on IT department

What is a long term capital gain?

A gain made beyond one year	A gain of large amount by transfer of an asset	Any gain or profit by transfer of an asset beyond one year	Any gain or profit made by anyone after one year

Hints : Any gain or profit by transfer of an asset beyond one year. Long-term capital gains are often taxed at a more favourable tax rate than short-term gains. Long-term losses can be used to offset future long-term gains.

Indexed value can be considered in case of long term capital gain

No, considering indexed value is not allowed	Yes, considering indexed value is allowed	This is irrelevant	This depends on IT department

IT Act Section 48 says about the computation of Capital Gain

IT Act Section 48. The income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely :—

(i) the cost of acquisition of the asset and the cost of any improvement thereto

(ii) expenditure incurred wholly and exclusively in connection with such transfer;

(iii) "indexed cost of acquisition"

(iv) "indexed cost of any improvement"

(v) "Cost Inflation Index"

At the time of computing Long term Capital Gain: Long-term capital gain = final sale price – (transfer cost + indexed acquisition cost + indexed house improvement cost).

"Final sale price" means the price on which the property is sold/transferred.

"Transfer Cost Means" the cost of selling the property.
"indexed acquisition cost" means Cost inflation index (CII) to be put on the acquisition cost of the property.

"indexed cost of any improvement" means any cost for development of the property which is incurred within the acquisition and selling time can be indexed with the help of CII. Indexed cost of improvement = cost of improvement X cost inflation index of the year of cost incurred.

"Cost Inflation Index" or CII: This is used to calculate the inflation adjusted cost price of an asset or neutralize the inflation effect on an asset for computing Capital Gain. The Central Board of Direct Taxes (CBDT) has notified the cost inflation index (CII). The base year for CII is 2001, to be taken as 100 (Previously the base year was 1981).

(i) Cost of acquisition of the asset and the cost of any improvement thereto means

The cost of built the building	The cost to acquire the property + any improvement	Expenditure on the asset.	Expenditure on improvement

(ii) Any expenditure towards lawyer, stamp duty etc.

Can be deducted if these were made exclusively in connection of such transfer	Cannot be deducted from the full value of the consideration received	Can be deducted from the full value of the consideration received.	Expenditures are not connected with Capital

(iii) Indexed cost of acquisition : If the property was acquired in 2005 and sold in 2018. The computation procedure is

1. The acquiring cost in 2005 / CII data for the year 2005 X 100 for arriving the value at 2001. 2. The arrived value at 2001 X CII data for 2018	1. The acquiring cost in 2005 / CII data for the year 2005 X 100 for arriving the value at 2001. 2. Compare the arrived value with the sale proceed.	1. The acquiring cost in 2005 2. Compare the arrived value with the sale proceed. In 2018. 3. The Sale value - acquiring cost is the capital gain	1. The acquiring cost in 2005 / CII data for the year 2005 X 100 for arriving the value at 2001. 2. The arrived value at 2001 X CII data for 2018

3. Compare the arrived value with the sale proceed.			

(iv) indexed cost of any improvement : If the same property was repaired in 2010 and sold in 2018. The computation procedure for indexed cost of any improvement is.

1. The cost of improvement in 2010 / CII data for the year 2010 X 100 for arriving the value at 2001. 2. The arrived value at 2010 X CII data for 2018 3. Compare the arrived value with the sale proceed.	1. The cost of improvement in 2010 / CII data for the year 2010 X 100 for arriving the value at 2001. 2. The arrived value at 2001 X CII data for 2018.	1. The cost of improvement in 2010 / CII data for the year 2010 X 100 for arriving the value at 2001. 2. The arrived value at 2001 X CII data for 2018 3. Compare the arrived value with the sale proceed.	1. The cost of improvement in 2010 divided by CII data for the year 2010 X 100 for arriving the value at 2001. 2.This is kept for addition with the acquisition value arrived in 2001.

(v) If the same property was acquired in 1997, repaired in 2010 and sold in 2018, The computation procedure for indexed acquisition cost and Indexed improvement cost that is total capital gain/ loss will be.

1. Determination of market value of the asset in 2001 Plus 2. The cost of improvement in 2010 divided by the year 2010 X 100 for arriving the total value at 2001. 3. Total value in 2001 X CII data for 2018 4. Compare the arrived value with the sale proceed.	1. The acquiring cost in 2005 / CII data for the year 2005 X 100 for arriving the value at 2001. 2. Compare the arrived value with the sale proceed.	1. The acquiring cost in 2005 2. Compare the arrived value with the sale proceed. In 2018. 3. The Sale value - acquiring cost is the capital gain	1. The acquiring cost in 2005 / CII data for the year 2005 X 100 for arriving the value at 2001. 2. The arrived value at 2001 X CII data for 2018 3. Compare the arrived value with the deemed sale proceed, the value declared by State Govt. and IT

IT Act talks about Sale of Depreciable Assets.

IT Act Section 50 – Capital Gain on Sale of Depreciable Assets

If the person sells a capital asset that forms part of the block of assets on which depreciation has been allowed as per the provisions of the Income Tax Act, the income from such sales is a capital gain.

Where the capital asset is an asset in respect of which a deduction on account of depreciation shall apply subject to the modification that the written down value shall be taken as the cost of acquisition of the asset.

Section 50A of Income Tax Act "Special provision for cost of acquisition in case of depreciable asset"
50A. Where the capital asset is an asset in respect of which a deduction on account of depreciation under clause (i) of sub-section (1) of section 32 has been obtained by the Assessed person in any previous year, the provisions of sections 48 and 49 shall apply subject to the modification that the written down value, as defined in clause (6) of section 43, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.
For a property of building of a Company, if the depreciation is charged, on sell of the property

1. long term capital gain cannot be considered ie indexation on acquisition value cannot be claimed.
2. Depreciated value to be considered as Cost of acquisition

Depreciable Capital asset which has already has the depreciation as per the account and sold in a later date, the understanding is

Acquisition value to be considered only	Depreciated value to be considered as the value of acquisition	Indexed value to consider	Whole sate price index to consider on acquisition value
Long-term capital gain	It should be considered as short term capital gain/loss	Indexed improvement cost can be considered	Sale proceed of property to be indexed

Section 50B of Income Tax Act "Special provision for computation of capital gains in case of slump sale".

Comparison between the value declared by the assessed person while selling the property and the value of adopted or assessed or by any authority of State Govt. for the purpose of payment of Stamp duty in respect of such transfer. – IT will consider the value whichever is higher.

Section 50C of Income Tax Act

Sub section (1) **of the section 50C provides that where the consideration received or accruing as a result of the transfer by an Assessed person of a capital asset, being land or building or both, is less than the value of adopted or assessed or assessable by any authority of State Govt. for the purpose of payment of Stamp duty in respect of such transfer, the value of adopted or assessed or assessable shall be deemed to be full value of the consideration received or accruing as a result of such transfer.**
Therefore, if the value adopted or assessed or assessable for stamp duty purposes is more than the consideration returned by the Assessed person then the value adopted or assessed or assessable for stamp duty purposes will be deemed as full value of consideration.

(i) If the same property was acquired in 1997, repaired in 2010 and sold in 2018, The computation procedure for indexed acquisition cost and Indexed improvement cost that is total capital gain/ loss will be.

1. Determination of market value of the asset in 2001 Plus 2. The cost of improvement in 2010 divided by the year 2010 X 100 for arriving the total value at 2001. 3. Total value in 2001 X CII data for 2018	1. The acquiring cost in 2005 / CII data for the year 2005 X 100 for arriving the value at 2001. 2. Compare the arrived value with the sale proceed.	1. The acquiring cost in 2005 2. Compare the arrived value with the sale proceed. In 2018. 3. The Sale value - acquiring cost is the capital gain	1. The acquiring cost in 2005 / CII data for the year 2005 X 100 for arriving the value at 2001. 2. The arrived value at 2001 X CII data for 2018

4. Compare the arrived value with the deemed sale proceed, the value declared by State Govt. and IT			

(i) If the same property was acquired in 2005, repaired in 2010 and sold in 2018, The computation procedure for indexed acquisition cost and Indexed improvement cost that is total capital gain/ loss will be.

1. The acquiring cost in 2005 / CII data for the year 2005 X 100 for arriving the value at 2001. Plus 2. The cost of improvement in 2010 divided by the year 2010 X 100 for arriving the total value at 2001. 3. Total value in 2001 X CII data for 2018 4. Compare the arrived value with the deemed sale proceed, the value declared by State Govt. and IT	1. The acquiring cost in 2005 / CII data for the year 2005 X 100 for arriving the value at 2001. 2. Compare the arrived value with the sale proceed.	1. The acquiring cost in 2005 2. Compare the arrived value with the sale proceed. In 2018. 3. The Sale value - acquiring cost is the capital gain	1. The acquiring cost in 2005 / CII data for the year 2005 X 100 for arriving the value at 2001. 2. The arrived value at 2001 X CII data for 2018

Section 54 of Income Tax Act with its section says about exemptions

EXEMPTIONS

a) Residential properties
b) Capital Gains on transfer of Agricultural Land
c) Capital Gains on Compulsory Acquisition of Industrial Undertaking.
d) The Assessed person Should have Invested the Amount in Long Term Specified Asset within a period of Six Months from the date of transfer.
e) The Assessed person Should have purchased one residential house property in India either one year before or two years after the date of transfer OR The Assessed person should Construct one residential house property in India within three years after the date of transfer.
f) The Assessed person Should have Incorporated a new company before due date of filling of Return of Income & Should have subscribed to more than 50% of the Shares of the Company. There are some conditions also.
g) The Assessed person Should have Invested the Amount in Land and Building or P&M (Not Furniture & Fixture for the purpose of Industrial Undertaking either one year before or three years after the date of transfer

Section 54 of Income Tax Act

Under Section 54 the Income Tax Act, an **individual or HUF selling a residential property can avail tax exemptions from Capital Gains** if the capital gains are invested in purchase or construction of residential property.

COMPARISON TABLE OF Section 54 of Income Tax Act

S.No.	Basis	Section 54	Section 54B	Section 54D
i.)	Allowability	Exemption is Allowed provided the Assessed person has **Long Term** Capital Gains on transfer of Residential House	Exemption is Allowed provided the Assessed person has Capital Gains on transfer of Agricultural Land	Exemption is Allowed provided the Assessed person has Capital Gains on Compulsory Acquisition of Industrial Undertaking.
ii.)	Allowed To	Individual/HUF	Individual/HUF	All Assessed persons
iii.)	Conditions to be Satisfied	a.) The Assessed person Should have purchased one Residential in India house either one year before or two years after the date of transfer **OR** The Assessed person should Construct one residential house in India within three years after the date of transfer	a.) The Assessed person Should have purchased one or more Agricultural Land within a period of two years after the date of transfer	a.) The Assessed person Should have Invested the Amount in Land and Building for the purpose of Industrial Undertaking within a period of Three years after the date of Payment by Government.
		b.) The Assessed person Should either Purchase or Construct only one House within the specified time period.	b.) The Assessed person or his parents or HUF should have been using Agricultural Land so transferred for a period of atleast 2 years at the time of Sale	b.) The Assessed person should have been using such Land and Building for the purpose ofIndustrial Undetaking for a period of atleast 2 years at the time of Acquisition.
		c.) The House so purchased or constructed should not be transferred for a period of at least Three Years	c.) The Land so purchased should not be transferred for a period of at least Three Years	c.) The Land and Building so purchased should not be transferred for a period of atleast Three Years
iv.)	Amount of Exemption	Amount of Exemption shall be	Amount of Exemption shall be equal to Amount	Amount of Exemption shall be equal to Amount

		equal to Amount Invested(Subject to Capital Gains)	Invested(Subject to Capital Gains)	Invested(Subject to Capital Gains)

S. No.	Basis	**Section 54EC**	**Section 54F**	**Section 54GB**	Section 54G / Section 54GA
i.)	Allowability	Exemption is Allowed provided the Assessed person has long term Capital Gains on transfer of any long term Capital Asset (being land or building or both wef A.y 2019-20)	Exemption is Allowed provided the Assessed person has Long Term Capital Gains on transfer of any Capital Asset except Residential House	Exemption is Allowed provided the Assessed person has Long Term Capital Gains on transfer of any Residential House or Plot.	Exemption is Allowed provided the Assessed person has Capital Gains in connection with shifting of Industrial Undertaking from Urban area to any other area.
ii.)	Allowed To	All Assessed persons	Individual/ HUF	Individual/ HUF	All Assessed persons

iii.)	Conditions to be Satisfied	a.) The Assessed person Should have Invested the Amount in <u>Long Term Specified Asset</u> within a period of <u>Six Months</u> from the date of transfer. However from the Assessment Year 2018-19 investment in any bonds redeemable after three years shall be eligible for exemption. Wef A.y 2019-20 investment in any bonds redeemable after five years shall be eligible for exemption	a.) The Assessed person Should have purchased one residential house property in India either one year before or two years after the date of transfer <u>OR</u> The Assessed person should Construct one residential house property in India within three years after the date of transfer	a.) The Assessed person Should have Incorporated a new company before due date of filling of Return of Income & Should have subscribed to more than 50% of the Shares of the Company. b) This provision is not applicable to any transfer of residential property made after the 31st day of March, 2017 . however for in vestment in eligible start-up the transfer can take place upto 31.03.2018	a.) The Assessed person Should have Invested the Amount in Land and Building or P&M (<u>Not Furniture & Fixture</u> for the purpose of Industrial Undertaking either one year before or three years after the date of transfer
		b.) The Assessed person is not allowed to Convert the Security into Cash i.e. The Assessed person is not allowed to take Loan on the basis of security	b.) The Assessed person Should either Purchase or Construct only one House within the specified time period. Also, the Assessed person should not have more than one house in his name at the time of transfer of original asset income from which is charged under the head Income from house property	c.) The Assessed person Should Invest the Amount in Plant & Machinery within one Year from the date of Purchase of Shares.	Exemption shall also be allowed for shifting expenses

		c.) The Asset so purchased should not be transferred before 3 years (5 years if the investment in specified asset is made on or after 01.04.2018)	c.) The House so purchased or constructed should not be transferred for a period of atleast Three Years d) if the Assessed person purchases, within the period of two years after the date of the transfer of the original asset, or constructs, within the period of three years after such date, any residential house, the income from which is chargeable under the head "Income from house property", other than the new asset,	d.) The shares and Plant & Machinery so purchased should not be transferred for a period of at least Five Years.	c.) The Asset so purchased should not be transferred for a period of atleast three years.
iv.)	Amount of Exemption	Amount of Exemption shall be equal to Amount Invested (Subject to Capital Gains)	Amount of Exemption shall be equal to Capital Gains ÷Net Consideration ×Amount of Investment	Amount of Exemption shall be equal to Capital Gains ÷Net Consideration ×Amount of Investment (Subject to Capital Gains)	Amount of Exemption shall be equal to Amount Invested in Land & Building and Plant & Machinery (Not Furniture & Fixture) (Subject to Capital Gains)

How to compute capital gain tax

Short-term capital gain, capital gain = final sale price – (the cost of acquisition + house improvement cost + transfer cost).
Long-term capital gain, capital gain = final sale price – (transfer cost + indexed acquisition cost + indexed house improvement cost).

CASE STUDY 1

In the Fy 2007-08, a valuation of a Real property has been generated to compute Capital Gain Tax by Registered Valuer of Wealth Tax. The asset was sold at the end of 2006. The asset was built in 1975.

The valuer's job to determine the market value of the asset in the base year. Capital Gain Tax would be computed by putting Cost Inflation Index (CII) on the value of the asset assessed in the base year.

Situation:

The property under reference is located in one of the prime localities of the city. It is situated almost at the crossing of two roads. The locality is very much residential as well as commercial. The residential apartment of high officials of both Central and State Government is located nearby. The banks, hospital, post office all are situated within one and half kilometers of the site. The road, caries huge number of cars / buses to the main arterial road of city. This road is leading to the main central business district of the city with dazzling shopping malls are located on the both sides of the Road.

Description : The area of the land is 3325sft.The property is situated on the Main 50ft wide road. It is situated almost on the crossing of two main roads. It has a frontage of 30ft on the main road and a return frontage of more than 40ft on 18ft wide common passage. The plot is situated on the northern part of Broad Street, i.e. the plot is south open.

Building :

There is a structure on the premises. The structure was built in the year of 1959 / 60. This is a two storied building, having a frontage of 23 ft and depth of 40ft. The building was made of R.C.C construction.

Ground floor is having 1158.42 sq.ft. with four bedrooms , one kitchen with two W.C.s.
In-**situ** concrete solid **floors**

The size of 1st floor is 1158.42 sq. ft with three bedrooms, one kitchen, two W.C.s and one living room with IPS and mosaic flooring.

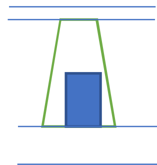
The building is provided with ordinary type sanitary fittings.

There is electrical fittings with pump for water of overhead tank .

The doors and windows are made of wood, some are fitted with glass panes suiting the modern choice, are well painted and in good condition.

The structure is situated at the southern part of the land and facing main road in the south, leaving open space at north and east.

The plot of land is surrounded by high walls in all sides. The boundary wall is 8ft high in all sides with barbed wire fencing. The wall is made of bricks.

Tentative Plot of land shape of the land with building 

1. What is capital gain?

Any profit arising out of any business	any profits or gains arising out of the transfer of a capital asset effected in the previous year.	Any capital invested in any where in business and profit raised out of the business	This is something to dealt to adjust the capital loss.

Hints: Sale of the asset

2. What is the height of the trapezoid land?

95ft	47.5ft	190ft	120ft

Hints: Area = $(A + B)/2 \times h$

3. What is the approximate length of the boundary wall?

300ft	260ft	244ft	272ft

Hints: use Pythagoras theorem to find

4. What is an assumption?

An assumption is made where it is reasonable for a valuer to accept that something is true with the need for specific investigation.	An assumption is made where it is reasonable for a valuer to accept that something is true without the need for specific investigation.	An assumption is nothing but a special thought process.	Only special assumption comes in to the picture.

Hints: What can be normally assumed by an unbiased, normal valuer

5. What would be the assumption for this case?

Location, Shape, Frontage of the land, building with its details and boundary wall at the time of event date. This includes service also.	Title, Condition of buildings, Services, Planning (zoning), Contamination and hazardous substances, Environmental matters at present.	Location, Shape, Frontage of the land, building with its details and boundary wall at the date of valuation.	Location, Shape, Frontage of the land, building with its details and boundary wall at the base year.

Hint : What would a rational valuer accepts as assumption for a case for computing capital gain.

6. What would be the type of assumption for this case?

Normal assumption	Hypothetical Assumption	Special Assumption as described in IVS	Present situation with pros and cons to be assumed

Hints : What would a rational valuer accepts as assumption for a case for computing capital gain.

7. The particular assumption leads to

Market Value as per IVS to be assessed considering HABU.	The value opinion which changes if the situation changes.	Assess what ought to be the market value of the asset in the base year.	To value an asset with SWOT analysis in the year of selling the asset.

Hints : The assessment of value to be made on the base year

8. On the date of report the value opinion would be

Market value	Fair Value	Other than market Value	Synergistic Value

Hints: Please see the definitions of premises of value

9. For capital gains, what was the base year for CII, previously used?

2001	1981	1991	2011

10. For computing capital gain tax for an asset sold in 2019 which was built in 2009

We have to asses/determine the market value of the asset in the year of 1981	We have to asses/determine the market value of the asset in the year of 2009	We have to asses/determine the market value of the asset in the year of 2001	The sales proceedings alone is enough to compute.

11. If the property was built in 2000

We have to asses/determine the market value of the asset in the year of 1981	We have to asses/determine the market value of the asset in the year of 2009	We have to asses/determine the market value of the asset in the year of 2011	The sales proceedings alone is enough to compute.

12. If the property was built in 2009 and some improvement has been done in 2012

Acquisition value of the asset in the year of 2009 X CII data up to 2019 + Improvement in 2012 X CII data up to 2019. Compare with deemed value declared by state Govt. / IT. Determine Capital gain or loss.	We have to asses/determine the market value of the asset in the year of 2009	We have to asses/determine the market value of the asset in the year of 2011	The sales proceedings alone is enough to compute.

A SAMPLE CASE STUDY OF COMPARISON

SAMPLE: a simple comparison

In the Fy 2007-08, a valuation of a Real property has been generated to compute Capital Gain Tax by Registered Valuer of Wealth Tax. The asset was sold at the end of 2006. The asset was built in 1975. The capital gain is charged under income tax act, section 45 to 55A of income tax act govern the levy of Capital Gains Tax. Here the purpose of valuation is to assess the capital gain.

Situation:

The property under reference is located in one of the prime localities of the city. It is situated almost at the crossing of two roads. The locality is very much residential as well as commercial. The residential apartment of high officials of both Central and State Government is located nearby. The banks, hospital, post office all are situated within one and half kilometers of the site. The road, caries huge number of cars / buses to the main arterial road of city. This road is leading to the main central business district of the city with dazzling shopping malls are located on the both sides of the Road.

Description : The area of the land is 3325sft.The property is situated on the Main 50ft wide road. It is situated almost on the crossing of two main roads. It has a frontage of 30ft on the main road and a return frontage of more than 40ft on 18ft wide common passage. The plot is situated on the northern part of Broad Street, i.e. the plot is south open.

Valuation Approach: Market Approach Methods

The market approach *should* be applied and afforded *significant weight* under the following circumstances:

(a) the subject *asset* has recently been sold in a transaction appropriate for consideration under the basis of value,

(b) the subject *asset* or substantially similar *assets* are actively publicly traded, and/or

(c) there are frequent and/or recent observable transactions in substantially similar *assets*.

Here circumstances (a) and (c) are not suitable. The valuer accepted (b) for comparison

Comparison with the plot in question:

Year of sale	: 30.09.1983
Price	: Rs. 57000/- per 720sft (approx.)
Address	: The same main road, on which the plot in question is situated.

TABLE OF COMPARISON MADE AT THE OPINION OF THE VALUER

A plot of land was sold in the year after 2 years of CII base year, so a less of 16% on the above price is acceptable (as per consumer price index comparing 1981 and 1983).	-16%
The comparable plot is on the south side of the main road, facing north and the plot of land has slums in its both south and east side. Hence an addition of 10% on the above price is taken.	+5%

While the plot in question has a frontage of 34ft 8 inch on main road, a 31ft long and 10ft wide road is there to approach the comparable plot. Here we can add at *least* 20% on the comparable plot.	+10%
A return frontage of more than 36ft on 18ft wide common passage, which has its approach both from Broad Street and Rifle Range road. An addition of minimum 5% will be taken for consideration.	+5%
TOTAL	+4%

So an addition of 20% and 16% subtraction in total on the compared price becomes Rs. 57000.00 X 1.04 = 59280.00 per 720sft.

Considering all above factors, as for the price of the land as on April 1981 was Rs. 59000.00 to Rs.60000.00 per 720sft taken conservatively, may be fair and reasonable.

These above mentioned percentage depends on entirely valuer's Rationale, Experience etc.. An experienced, skilled valuer opine on the range of values which could fetch if the asset could be sold in 1981 for the purpose of computing capital gain tax in 2006-07.

(Note: Presently 2001 is kept as the base year)

SIMPLE CASE STUDY 3

SITUATION

In the Fy 2007-08, a residential building was built at Rs. 22,00,000.00 on a plot of land which was bought in the year of 2001-02 at Rs. 43,00,000.00. A wall surrounded, was built in the year of 2010 at cost of Rs.11,50,000.00. The whole property was sold in FY 2019-20.

The valuation made by the state Govt. is Rs. 2,00,00,000.00 for the same asset in September 2019.

Financial Year	Cost of Inflation Index (CII)
2001-02 *(Base year)*	100
2002-03	105
2003-04	109
2004-05	113
2005-06	117
2006-07	122
2007-08	129
2008-09	137
2009-10	148
2010-11	167
2011-12	184
2012-13	200
2013-14	220
2014-15	240
2015-16	254
2016-17	264
2017-18	272
2018-19	280
2019-20	289
2020-21	301
2021-22	**317**

To compute Capital Gain Tax

1st step : Putting CII, the cost acquisition of the building becomes (22,000,00.00 / 129 (CII for the FY 2007-08) X 100)= Rs.17,054,26.36 in the base year 2001

2nd step : The same becomes (Rs.17,054,26.36 multiplied by 289/100) Rs. 49,28,682.17.....A, putting CII (289) in the year of selling the property, that is 2019-20.
3rd step : Putting CII, the cost acquisition of the land becomes 43,000,00.00 X 289/100 = Rs. 1,24,27,000.00....B.

4th step : For the wall - Putting CII, the cost of building the wall of the building becomes Rs.11,50,000.00 / 167 (CII for the FY 2010-11) X 100 = Rs. 6,88,622.75.... as any improvement of the property during the time is considered.

5th step : Rs. 6,88,622.75. X 289/100 becomes Rs. 19,90.119.76.....C

The Value of the asset becomes A + B + C = Rs.1,93,45,801.93 say Rs. 1,93,00,000.00 in 2019 after considering the

Then the Capital Gain is Rs. 7,00,000.00. As IT Dept. would consider the value declared by State Govt. as the deemed value. As per IT Act 50C

Now, more complicated

If the actual cost of acquisition like lawyers charge, brokerage or any charge/fee related to acquisition, those can be added with cost of acquisition for arriving at 2019.

If there is cost of transfer like lawyers charge, brokerage etc. can be subtracted from the deemed value.

If the land is agricultural land No income tax will be charged

If the land was purchased in 1998: The valuer has to determine the value of the land in 2001 and on that value CII has to applied to arrive the value at 2019.

If the wall was built in 1998: The valuer has to determine the value of the wall in 2001 by applying CPWD rates on typical wall and on that value CII has to applied to arrive the value at 2019.

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