**Unit II**

**Assessment of HUF**

The relation of partnership arises from an agreement while the relation of a Hindu undivided family arises from status. The Hindu Undivided Family is assessed to income Tax as a separate independent unit.

**Definition of HUF**

According to Law a Hindu undivided family consists of all male person lineally descended from a common ancestor and includes their wives and unmarried daughters, and also a strager who has been adopted by the family.

**Hindu Undivided Family**

A Hindu Undivided family consists of two types of members :-

1. Members who are entitled to maintenance only e.g ; female member of the family.
2. Members who are entitled to demand their share on a partition of the family. These persons are called coparceners.

These being the sons, grandsons and great grandsons of the holders of the property for the time being. However, after commencement of Hindu Succession Act, 2005, in a joint Hindu Family governed by the Mitakshara Law, the position of a daughter has become as under

1. The daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as the son.
2. She will have the same rights and liabilities in respect of coparcenary property as that of a son.
3. The female heir can demand the partition of a coparcenary property in the same manner as the son.

**Conditions for HUF**

A HUF is one which has common property of the family at least two member—

1. **Common Property of the family**

The common property of a HUF consists of the following—

1. Ancestral Property and or
2. Any other property of the family acquired with aid of ancestral property and/or
3. Any property acquired by a member of the family by his personal efforts without the aid of ancestral property, but treated by him as the property of the family.
4. **HUF may consist of**
5. All persons lineally descended from a common ancestor and includes their wives and unmarried daughter.
6. A male and widow of deceased male member or members;
7. Husband and wifes,
8. Brothers only,
9. Widow of the members of the family.

**Karta of the Family**

The senior most male member of the family is ordinarily regarded as the Karta of the Family. If he surrendered his right of management a junior male member may be appointed as Karta. If there is no male member in the family or the male member is not competent to contract, the senior most female member will be regarded as Karta of the family.

**Two School of HUF according to Hindu Law**

A brief description of these two schools of Hindu Law is given bellow:

1. **Mitakshara School**

It applies to the whole of India except the state of Bengal, Assam and some parts of Orissa. According to this school the son acquires on interest in his father’s ancestral property by mere birth and has right to demand partition.

But the self acquired property of the father remains his personal property and the income from property of the father is to be assessed as the income of an individual even after the birth of the son. In any case father has a right to impress his **SELF- ACQUIRED** property. Such conversion of separate **SELF ACQUIRED** property into JOINT FAMILY property can be effected merely by clear expression of intention.

1. **Dayabhaga School**

It applies only in **Bengal, Assam** and some parts of **Orissa**. According to this school of law the son gets a right in the ancestral property only after the death of the father. During his life time father has got an absolute right to sell, donate or transfer the ancestral property in any manner he likes.

**INCOMES WHICH ARE NOT TREATED AS FAMILY INCOME**

1. The personal earnings including income from seprate property of a member of the Hindu Undivided Family, even though he has sons shall be assessed as the income of an individual.
2. Income from the self-acquired property of a father is assessable as the income of an individual. If the father makes a personal gift of his self acquired property to his major son the income from such property shall be assessed as the personal income of the son like an individual.
3. If a member of Joint family carries on his personal business the income from business shall be assessed as the income of individual even if the capital employed in the business has been obtained by taking a loan from the funds of the family.
4. Income from an impartible estate is assessed in the hands of the holder of the estate as an individual.
5. **Stridhan.** It is derived by the woman from her father or any other relative either before or after her marriage. Income from this property is not included in the income of family.

**ASSESSMENT OF HINDU UNDIVIDED FAMILIES**

1. A Hindu Undivided Family is a district separate assessee. The assessment is done in the none of the family just like an individual, but the rules governing of the residence of the family are different from those of an individual but the rules governing in the residence of the family are different. A Hindu Undivided Family is assessed through its manager. The eldest male member of the family become the manager. Coparcenership is the necessary qualification for the manager ship or Karta of Joint family.

The shares of income received by members of the family out of the family income are not included in their total incomes in their individual assessment, even if the family has not paid any tax on its income.

1. **Salary paid to member of family**

Salary is paid to any member f the family including the manager, it will be allowed as an admissible deduction in computing the total income of the family only if that member has rendered some service or has, in any manner, contribution to the earning of the family and the salary is genuine and not excessive.

1. **Remuneration earned by a member of HUF as Director or Partner**

If the funds of the HUF are invested in a company or partnership firm, any remuneration received by a member of the HUF as director in the said company or as a partner in the said firm may be treated as his personal income or the income of the HUF. The rest for taking decision in this respect is whether the remuneration is received by the member is on account of the personal services of the member or it is merely a mode of paying to the HUF a return for its investment in the company or firm it the member is made the director of the company or partner in the firm merely on account of the funds invested by HUF.

**Deductions from Gross Total Income from computing Total Income**

A Hindu Undivided Family is entitled to the deductions from its Gross total income while computing its total income Under the following sections :- 80C, 80D, 80DD, 80DDB, 80G, 80GGA, 80GGC, 80IB, 80IC, 80ID, 80IE, 80JJA, 80TTA.

|  |  |  |
| --- | --- | --- |
| **COMPUTATION OF TOTAL INCOME OF HUF** |  |  |
|  |  | **A.Y** |
|  |  | **P.Y** |
|  | **AMT** | **AMT** |
| a) **Income from HP** |  |  |
| 1) let out:- |  |  |
| GAV | XX |  |
| (-) M.T | (XX) |  |
| A.V | XXX |  |
| (-) Deduction u/s 24 |  |  |
| i) S.D @ 30% of AV | (xx) |  |
| ii) interest on loan:- |  |  |
| \* pre construction | (XX) |  |
| \*previous year interest | (XX) |  |
| income from H.P (let out) | xxx |  |
|  |  |  |
|  |  |  |
| 2**) Self occupied:-** |  |  |
| GAV | xx |  |
| (-)M.T | xx |  |
| A.V | xxx |  |
| (-) Deduction u/s 24 |  |  |
| interest on loan |  |  |
| \* pre- construction | xx |  |
| \* previous year | xx |  |
| Loss from H.P | xxx |  |
|  |  |  |
| **3) Income from H.P (A-B)** |  | xxx |
| B) income from Business |  |  |
| Net profit (according to P&l) | xxx |  |
| (+) exp. Debited but disallow | xx |  |
| (+) income allowed but no credited | xx |  |
| (-) income credited but disallowed | xx |  |
| (-) expenses allowed but not debited | xx |  |
| **income from business** |  | xxx |
|  |  |  |
| **c) income from capital gain** |  |  |
| 1**) short term capital gain** |  |  |
| sale consideration | xx |  |
| (-) selling expenses | (xx) |  |
| net sale consideration | xxx |  |
| (-) cost of Acquisition | (xx) |  |
| (-) cost of improvement | (xx) |  |
| **a) STCG** | xxx |  |
|  |  |  |
| 2) Long term capital gain :- |  |  |
| sale consideration | xx |  |
| (-) selling expences | (xx) |  |
| Net sale consideration | xxx |  |
| (-) index cost of acquisition | (xx) |  |
| (-) index cost of improvement | (xx) |  |
| **b) LTCG** | xxx |  |
| **Total Capital Gain** |  | xxx |
|  |  |  |
| **d) Income from other source :-** |  |  |
| ground rent | xx |  |
| director fees | xx |  |
| family pension | xx |  |
| interest on securities |  |  |
| i) GOVT Securities |  |  |
| a) Less Tax | xx |  |
| b) Tax free | exempt |  |
| ii) Non Govt Securites |  |  |
| a) less Tax | xx |  |
| b) Tax free | xx |  |
| casual income | xx |  |
| dividend income | xx |  |
| INCOME FROM OTHER SOURCE | XXX |  |
| **GROSS TOTAL INCOME** |  | XXX |
| **(-) DEDUCTIONS**   * u/s 80c ( LIC, PF, etc) * u/s 80d ( medical insurance premium ) treatment of a Dependant who is person with disability * u/s 80DDB (medical treatment) * u/s 80G (Donation) * u/s 80GGA (donation for scientific research as rural development) * u/s 80GGC (Contribution given by any political parties) * u/s 80 IA (Profit from undertaking or enterprise engage in infrastrure deal) * u/s 80IB (Profit other than infrastructure Development undertakings) * u/s 80IC (In special category states) * u/s 80ID (profit from business of hotels in specific area) * u/s 80JJA (profit from business of collecting processing of bio-degradable waste). * u/s80TTA (Interest on saving A/c) | (xxx) |  |
| **TOTAL INCOME (**Round off total income to the nearest amt. 10 ) |  | XXX |
| |  |  |  | | --- | --- | --- | | **COMPUTATION OF TAX LIABILITY OF HUF** |  |  | |  |  | A.Y | |  |  | P.Y | |  | AMT | AMT | | **IF SCHEME OF PARTIAL INTEGRATION IS NOT APPLICABLE** |  |  | | **TOTAL INCOME** |  | XXX | | Tax on total Income |  |  | | Tax on LTCG @20% | xx |  | | Tax on STCG u/s IIA @15% | xx |  | | Tax on casual income | xx |  | | (Lottery, Puzzle, Card game @30%) |  |  | | Tax on Deemed Income @30% | xx |  | |  |  |  | | **Tax on Balance Income** |  |  | | First 2,50,000 NIL |  |  | | Next 2,50,00 5% |  |  | | (upto 5,00,000) |  |  | | Next 5,00,000 20% |  |  | | (upto above10,00,000)  Bal above 10,00,000 30% |  |  | | (+) Education cess @2% | xx |  | | (+) Senior & higher Education and health cess @2% | xx |  | | **GROSS TAX LIABILITY** |  | xxx | | (-) TDS |  | (xx) | | (-) Advance TAX |  | (xx) | | **NET TAX LIABILITY/REFUND** |  | Xxx | |  |  |  |  |  |  |  | | --- | --- | --- | | **COMPUTATION OF TAX LIABILITY OF HUF** |  |  | |  |  | A.Y | |  |  | P.Y | |  | AMT | AMT | | **IF SCHEME OF PARTIAL INTEGRATION IS APPLICABLE** |  |  | | **TOTAL INCOME** | xx |  | | **(+)** Agricultural Income | xx |  | | Aggregate Income |  | xxx | | Tax on Aggregate Income |  |  | | Tax on LTCG @20% | xx |  | | Tax on STCG u/s IIA @15% | xx |  | | Tax on casual income | xx |  | | (Lottery, Puzzle, Card game @30%) |  |  | | Tax on Deemed Income @30% | xx |  | |  |  |  | | **Tax on Balance Income** |  |  | | First 2,50,000 NIL |  |  | | Next 2,50,00 5% |  |  | | (upto 5,00,000) |  |  | | Next 5,00,000 20% |  |  | | (upto above10,00,000) |  |  | | Balance above 10,00,000 30% |  |  | | (-) Tax on Agricultural Income | xx |  | | (agg income+ minimum tax limit) |  |  | | (+) Surcharge @15% if total income exceeds 1 crore | xx |  | | (+) Education cess @2% | xx |  | | (+) Senior & higher Education & health cess @2% | xx |  | | **GROSS TAX LIABILITY** |  | xxx | | (-) TDS |  | (xx) | | (-) Advance TAX |  | (xx) | | **NET TAX LIABILITY/REFUND** |  | xxx | |  |  |
|  |  |  |
|  |  |  |