

Contents

		PAGE
Aboı	ut the Authors	<i>I-5</i>
Pref	ace to Fourth Edition	I-7
List	of cases	<i>I-33</i>
	1	
	JOINT DEVELOPMENT ARRANGEMENT FOR REAL ESTATE	
1.1	Nature of Joint Development Arrangement (JDA)	1
1.2	Different Forms of Joint Development Arrangement	2
1.3	Structuring of Joint Development Agreement	3
1.4	Factors Having Bearing on Terms & Conditions of Joint Development Agreement	6
1.5	Peculiar Features of Real Estate Projects Developed under JDA	
1.6	Significant Issues in Drafting of Joint Development Agreement (JDA)	
1.7	Significant Income Tax Issues Involved	
	(<i>i</i>) From the owner's point of view	9
	(ii) From the developer's point of view	10
	(iii) Significant Accounting Issues Involved	11

		PAGE
	2	
	TAX ISSUES FOR REAL ESTATE DEVELOPER	
2.1	Method of Accounting for Revenue Recognition for Real Estate Developer	13
	(i) Completed Contract Method (CCM)	13
	(ii) Percentage of Completion Method (PCM)	14
2.2	Appropriate Method for Taxability of Real Estate Developers	15
2.3	Judicial controversy regarding adoption of Completed Contract Method (CCM) or Percentage of Completion Method (PCM) by the Real Estate Developer	17
	(i) Cases relating to year in dispute prior to 1st April, 2003 i.e. when old AS-7 was applicable	18
	 Option of the Assessee to Choose CCM or PCM 	18
	 Adoption of Completed Contract Method (CCM) Approved by the Courts 	19
	 Adoption of Completion Contract Method (CCM) not Approved by the Courts and direction given to follow Percentage Completion Method (PCM) 	23
	(ii) Cases Relating to Year in Dispute After 1-4-2003 i.e. When AS-7 Became Inapplicable to the Real Estate Developer & Accounting was to be Done as per AS-9 Read with Guidance Note	26
	 Option of the Assessee to Choose CCM or PCM 	26
	 Adoption of Completion Contract Method (CCM) Approved by the Courts 	27
	 Adoption of Completion Contract Method (CCM) Not Approved by the Courts and directed to follow Percentage Completion Method (PCM) 	31
2.4	Judicial view to the proposition that in the absence of specific provision in the act, income computed as per books of account prepared as per Accounting Standards to be considered for tax computation purpose	32
2.5	Significance of Method of Accounting Regularly Followed As Per the Provision of Section 145 of the Income Tax Act in the case of Real Estate Developer	34

I-11 CONTENTS

		PAGE
	◆ Mercantile system of Accounting	35
	◆ System of Accounting as Regularly Employed by the Assessee	37
2.6	Whether Accounting Standard/Guidance Note issued by ICAI are binding for computation of income even when not notified under section 145(2) of Income Tax Act	38
2.7	Whether Real Estate Developer can follow CCM for tax computation purpose even after Issue of Revised Guidance Note (Revised 2012)	39
2.8	In case, assessee follows Completed Contract Method of accounting (CCM), whether income of the assessee can be recomputed and assessed by the tax authorities on the basis of Percentage of Completion Method (PCM) of accounting	41
2.9	Whether Assessing Officer can change the estimates used by the assessee for the purpose of accounting and finalization of financial statements and substitute his own opinion or estimates for computing income of the assessee	41
2.10	In case assessee does not follow Accounting Standard/Guidance Note and auditor does not qualify audit report, whether AO can reject the books of account and substitute his own opinion?	42
2.11	Applicability of method of revenue recognition by the developer operating as Non-Corporate Entity	43
2.12	Relevance of "Transfer" of Real Estate In Case of Taxation of Real Estate Developer	44
2.13	Foreseeable losses provided in the books of account following PCM - Whether allowable as business expenditure or contingent in nature?	46
2.14	Significance of Principle of Matching Concept in case of Real Estate Developer	50
2.15	Valuation of Inventory or Work-in-Progress by real estate developer	51
2.16	Applicability of provision of MAT in case of provision of foreseeable losses	52
2.17	Taxability of retention money in the case of contractors	54
2.18	Allowability of Demolition Cost incurred by real estate developer	55

		PAGE
2.19	Earnest Money or Initial Lump sum amount paid by real estate developer - Allowability as Business Expenditure	55
2.20	Taxability of rental income from immovable property held as stock-in-trade	56
2.21	Year of allowability of sale commission paid by real estate developer	58
2.22	Year of allowability of advertisement expense incurred by the real estate developer	60
2.23	Year of Allowability of borrowing cost incurred by Real Estate Developer	61
2.24	Whether Real Estate Developer can recognize real estate as Investment asset	65
2.25	Unaccounted income found in the case of developer - whether taxable as business income or income under section 69	65
2.26	Income towards transfer charges received by developer in the course of development of the project	66
2.27	Some asset or common amenities developed in the course of development of real estate project	66
2.28	Cancellation of real estate booking	66
2.29	Whether receipt of 'On Money' by real estate developer can be taxable as per method of accounting regularly employed	67
2.30	Detection of evidences relating to unaccounted income as well as unaccounted expenses - Manner of addition	68
2.31	How to deal with the issue regarding extrapolation of receipt of 'on money' in real estate project	69
2.32	Breakdown of Joint Development Agreement	70
2.33	Best judgment assessment made by A.O. in the case of receipt of 'on money' by the assessee	71
2.34	Whether addition can be made on the ground that different units/flats have been sold by the assessee at different prices	72
2.35	Year of credit of TDS in case of an assessee following Project Completion Method	73
2.36	Allowability of provision for estimated liability on purchase of Transferable Development Rights (TDR) and other expenses	74

I-13 CONTENTS

		PAGE
2.37	Disallowance $u/s 40(a)(ia)$ - Whether to be reduced from WIP?	75
2.38	Advances received from customers cannot be treated as income in the hands of the developer	76
2.39	Taxability of Advance received by Developer following Completed Contract Method	76
	<u>3</u>	
	HISTORY OF ACCOUNTING STANDARDS APPLICABLE TO REAL ESTATE DEVELOPER	
3.1	Introduction	78
3.2	Scope of Accounting Standards Applicable to Real Estate Developer	79
3.3	Guidelines Regarding Accounting Policies to be Followed by the Real Estate Developers	79
3.4	Significant Feature of Accounting Standard-7 on Construction Contracts (AS-7) - (Issued in 1983)	81
3.5	Significant Feature of Accounting Standard-7 on Construction Contracts (AS-7) (Revised 2002)	81
3.6	Significant Features of Accounting Standard-9 on Revenue Recognition (AS-9)	82
3.7	Principle of Revenue Recognition under Accounting Standard-9	82
3.8	Significant Features of Guidance Note on Revenue Recognition by Real Estate Developer Issued in 2006 by ICAI	85
3.9	Guidance Note on Accounting for Real Estate Transactions Issued in 2012 by ICAI	87
	4	
	ANALYSIS OF GUIDANCE NOTE ON ACCOUNTING FOR REAL ESTATE TRANSACTIONS (REVISED 2012)	
4.1	Authority of Guidance Note Issued by the Institute of Chartered Accountants of India (ICAI)	88
	(i) Whether Guidance Note is Mandatory for the Business Entities	89

		PAGE
4.2	Objective and Scope of the Guidance Note on Accounting for Real Estate Transactions (Revised 2012)	90
	(i) Nature of Real Estate Transactions Covered by the Guidance Note	90
	(ii) Whether Infrastructure Projects are also covered by the Guidance Note?	91
	(iii) Whether Guidance Note is Applicable to an Investor who has acquired and sold Land & Building as Investment?	91
	(iv) Accounting Year/Period of Applicability of the Guidance Note	92
4.3	Application of Accounting Principle for Real Estate Transactions	92
	(i) Relevance of the Accounting Standard-7 and Accounting Standard-9 to the Real Estate Developers	92
	(ii) Determination of Economic Substance of the Real Estate Activity in the nature of Sale of Goods or Construction Contracts	93
	(iii) Determination of Point of Time at which Significant Risks & Rewards of Ownership can be considered as Transferred	95
4.4	Application of Principles of AS-9 in respect of Sale of Goods to a Real Estate Project	97
	(i) Revenue Recognition in case of Real Estate Activity in the Nature of Sale of Goods	97
4.5	Application of Percentage Completion Method in respect of Real Estate Transaction in the Nature of Construction Contracts	98
	(i) Cases where Percentage of Completion Method should be applied	99
	Percentage of Completion method is applied with reference to a real estate project – What do we mean by a "project"?	99
	 Construction Activity to be of Dominant Nature in the Real Estate Project 	100
	 Whether Percentage of Completion Method to be applied in case of development of township project 	101

I-15 CONTENTS

		PAGE
	◆ Reliable Estimation of Outcome of Real Estate Project	101
	◆ All the above events are required to be completed cumulatively	102
	• Circumstances when presumption regarding the reliability of outcome of the project can be rebutted	103
	 Application of method is principle based; not rule based 	103
(ii)	Stage of Completion of Project for deciding when revenue recognition process to be commenced under Percentage of Completion Method (PCM)	104
	◆ Exclusion from Construction and Development Costs	106
	 Costs Allocable to specific Projects 	107
	◆ For determining stage of completion of the project to commence recognition of revenue under Percentage of Completion Method only construction and development costs to be considered	107
	 Construction and development cost of sold and unsold both areas of the project to be considered 	109
(iii)	Manner and qualification of Revenue Recognition as per Percentage of Completion Method (PCM)	109
	 Determining stage of completion of project for computing revenue - Land costs and borrowing costs incurred also to be considered 	110
	• Whether any other method for determining stage of completion can be adopted?	111
	 Whether separate project cost for sold area to be identified 	111
	◆ Significance of Principle of Matching Concept in applying Percentage of Completion Method	112
	• Whether advertisement and brokerage costs can be recognized matching with the revenue?	112
	◆ Accounting treatment of cost of borrowing in the case of real estate developer	115

I-16
I-10

		PAGE
	 Determination of Total Project Revenue: Project wise Accounting system to be developed 	117
	 Application of Matching Concept with reference to different components of Project revenue 	117
	 Use of estimates in applying Percentage of Completion Method 	118
4.6	Recognition of future losses	118
	 Whether probable loss of entire project or relating to area sold for which revenue is recognized 	119
	◆ Whether such probable project cost can be said to be contingent loss	119
	 Probable loss to be considered each contract-wise or for eligible project as a whole 	120
4.7	Circumstances when PCM may be Deferred to be Applied	120
	5	
	REVENUE RECOGNITION FOR REAL ESTATE DEVELOPER UNDER IFRS	
5.1	IFRIC 15 - Accounting for real estate	123
5.2	Recommendations of IFRIC 15	124
5.3	Salient Features of IFRIC 15	125
5.4	Introduction of IFRS-15	128
5.5	IFRS 15 - "Revenue from contracts with customers"	128
5.6	Scope of IFRS-15	129
5.7	Revenue recognition by real estate developers as per IFRS 15	132
	6	
	IMPACT OF INCOME COMPUTATION AND DISCLOSURE STANDARD	
6.1	Income Computation and Disclosure Standard	135
6.2	Text of Section 145	135
6.3	Historical background of ICDS	136
6.4	Applicability of ICDS for tax computation purposes	136
6.5	Income Computation and Disclosure Standard III relating to "Construction Contracts"	137

I-17 CONTENTS

		PAGE
6.6	Income Computation and Disclosure Standard IV relating to "Revenue Recognition"	143
6.7	Differences between ICDS-III and Accounting Standard-7	146
6.8	ICDS-III (New) vs. Ind (AS) 11	148
6.9	Impact of ICDS on Real Estate Transactions and Real Estate Developer	150
	<u>7</u>	
	TAX ISSUES FOR REAL ESTATE OWNER	
7.1	Determination of Tax Liability of the Real Estate Owner	151
7.2	Determination of Real Estate/Land Transferred by the Owner-Whether in the nature of Capital Asset or Business Asset and tax issues emerging therefrom	152
	(i) Whether entering into Joint Development Agreement can be said to be carrying on business by the land owner?	153
	(ii) Whether obtaining Change of Land Use (CLU) converts the land into business asset?	154
	(iii) Whether Receipt of Sale Consideration in Kind or Linked with the Revenue Recognition of the Project by the Developer Would Convert the Land as Business Asset in the Hands of Land Owner?	155
7.3	Conversion of Capital Asset into Business Asset-Applicability of Section 45(2)	156
7.4	Determination of the Year of 'Transfer' of Capital Asset	157
	(i) Transfer of Asset in case of Joint Development Arrangement in terms of Provision of Section 2(47)	158
	(ii) Determination of Event of Transfer of Land in case of Joint Development Arrangement	159
	(iii) Judicial View with respect to Year of 'Transfer' of Land in the hands of Land Owner	162
	 Transfer Recognized when Possession is handed over 	162
	 Granting Power to Dispose property in Absolute Discretion to the Developer is Significant Factor to determine 'transfer' 	172

			PAGE
		◆ Not Mere Possession but Effective Control over the Property should be assumed by the Developer to Constitute Transfer	177
		◆ Clause (<i>v</i>) of section 2(47), should comply with the conditions of section 53A of Transfer of Property Act, to constitute 'transfer'	183
		• Developer should be willing to perform his obligations before section $2(47)(v)$ is invoked	187
		◆ Possession handed over in the capacity as licencee	189
		◆ Transfer when sale consideration is received in Kind	194
	(iv)	Significance of drafting of Joint Development Agreement to decide the event of transfer of Land	197
	(v)	Developers Drafting Joint Development Agreements Protecting Their Interest	198
	(vi)	Whether Non-Availability of Liquidity with the Land Owner to Pay Taxes can be Argued as a Reason to Defer the Tax Liability	199
	(vii)	In What Manner Developer may Acquire Interest and ownership rights in Land in Joint Development Arrangement	200
	(viii)	Land Owner Acting as Confirming Party in Buyer's Agreement	201
	(ix)	Land Owner Transferring Interest/Ownership in Land Directly to the Customer	201
	(x)	In case Undivided Interest in Land is Transferred Directly to the Customers by Land Owner, Whether Land may be Treated as Business Asset in his Hands	202
	(xi)	Possession Handed Over only for Development of Real Estate Project	203
7.5		rmination of Sale Consideration of the Capital Asset oferred	205
	(<i>i</i>)	Initial payment received as refundable/non-refundable advance/security deposit - Whether separately taxable?	207
	(ii)	Whether consideration received from the developer can be taxed in the year of Receipt?	207

I-19 CONTENTS

			PAGE
	(iii)	Whether Sale Consideration to be Received in Future to be Discounted at its Present Value	208
	(iv)	How to Determine Value of Sale Consideration to be Received in Kind	209
	(v)	Whether Provision of Section 50D can be applied in such a situation?	214
	(vi)	When Sale Consideration Receivable by Land Owner is Linked with Uncertainties of the Business Venture of the Developer - Can it be said that Land Becomes Business Asset for Land Owner also	215
7.6		ax Liability when Land Transferred is in the Nature of l Agricultural Land	216
7.7		rmination of Land Contributed by Land Owner-whether e nature of Long Term or Short Term Capital Asset	217
7.8		ssues when Land is Transferred by Land Owner as ness Asset	218
	(<i>i</i>)	Land held as Business Asset Transferred at the time of Entering into Joint Development Agreement	219
	(ii)	Whether Joint Development Arrangement may be treated in the Nature of Joint Venture	220
	(iii)	Whether in case of Joint Venture, Separate Taxable Legal Entity Comes into Existence	221
	(iv)	Taxability & Revenue Recognition by Land Owner as Business Venture	223
	(v)	Taxability of additional (FSI) or (TDR) received	225
	(vi)	Year of taxability when land owner transfers asset as business asset in consideration of develop constructed area	226
7.9	Breal	kdown of Joint Development Agreement	226
		8	
		CAPITAL ASSET VS. BUSINESS ASSET	
8.1	to wh	eiples Enunciated by Judicial Pronouncements as nether a Transaction is in the Nature of Business or tment	230
8.2	Guide	elines Issued by CBDT	234

CONTENTS	I-20
CONTENTS	1-20

		PAGE
	INSTRUCTION NO. 1827, Dated 31ST AUG., 1989	234
	CIRCULAR NO. 4 OF 2007, Dated 15TH JUNE, 2007	237
8.3	Summary of Tests to Determine the Transaction as Business Income or Capital Gain	239
8.4	Judicial Pronouncements Regarding Significant Issues relating to Capital Gain or Business Income	241
	(i) Profit on transfer of land sold after plotting- whether capital gain or business income	241
	(ii) Sale of agricultural land after conversion into non-agricultural held as sale of capital asset	244
	(iii) Use of land by the buyer is not relevant for determination of nature of asset in the hands of the land owner	246
	(iv) Real Estate Developer may also hold and transfer land as investment	246
	(<i>v</i>) Short period of holding of asset cannot determine the transaction as of business nature	247
	(vi) TDR in the nature of capital asset	247
	9	
	ANALYSIS OF PROVISION OF SECTION 45(2) REGARDING CONVERSION OF CAPITAL ASSET INTO STOCK IN TRADE	
9.1	Text of Section 45(2)	248
9.2	Background of Section 45(2)	248
9.3	Objective behind Insertion of Section 45(2)	249
9.4	Provision of Section 45(2) - In Nutshell	250
9.5	Salient Features of Section 45(2)	251
9.6	Significant Issues Emerging out of the Provision of Section 45(2)	256
	(i) Manner of Conversion of Capital Asset into Stock in Trade of Business and determination of the year of conversion	256
	(ii) Conversion for Existing Business or New Business	258
	(iii) Determination of Fair Market Value of Asset on the Date of Conversion to be Treated as Consideration for Transfer of Asset	259

I-21 CONTENTS

			PAGE
	(iv)	Rate of tax on such capital gain applicable relating to which year?	260
	(v)	Determination of the Year in which such Stock in Trade is sold or otherwise Transferred	260
	(vi)	Chargeability of capital gain to tax in different year in case converted business asset is transferred in different years	261
	(vii)	Chargeability of capital gain to tax when land as such is not sold but flats constructed on such land are sold/transferred	262
	(viii)	Chargeability of capital gain to tax in the situation when revenue is recognized by the real estate developer following PCM	262
	(ix)	Determination of the year of sale of land converted as business asset in the case of joint development arrangement	264
	(x)	When rural agricultural land not covered under the definition of capital asset $u/s 2(14)$ is converted into Stock-in-trade, cost of acquisition of such asset how to be determined – Whether original cost of acquisition or FMV as on the date of conversion?	265
	(xi)	Attraction of provision of section 50C in case of applicability of section 45(2) when converted business asset is sold	266
9.7		implication in case of Conversion of Stock-in-Trade Capital Asset	266
		10	
		ANALYSIS OF PROVISIONS OF SECTION 2(47)	
10.1	Text of	of Section 2(47)	271
10.2	Histo	rical Background of Section 2(47)	272
10.3	Scope	e of Section 2(47)	272
10.4	Salier	nt Features of Section 2(47)	273
10.5	Signif	ficant Components of Section 2(47)	275
	(i)	Analysis of clause (i): Sale, exchange or relinquishment of the asset	275

			PAGE
	(ii)	Analysis of Clause (<i>ii</i>): Extinguishment of any rights in a capital asset	279
	(iii)	Analysis of clause (<i>iii</i>): Compulsory acquisition of a capital asset under any law	280
	(iv)	Analysis of clause (iv) : Conversion of capital asset into stock-in-trade	280
	(v)	Analysis of clause (<i>v</i>): Transaction involving the allowing of the possession of an immovable property in part performance of a contract of the nature referred to in section 53A of Transfer of Property Act, 1882 treated as 'transfer'	280
	(vi)	Analysis of clause (vi): Enjoyment of immovable property by becoming member of a society, company etc.	283
	(vii)	Memorandum of Object introducing clauses (v) and (vi) in section 2(47)	284
10.6		ficant Issues Emerging out of Clause (v) relating to Part ormance of a Contract	286
	(<i>i</i>)	Transaction Involving the Allowing of the Possession – Nature and Intent	286
	(ii)	Whether mere handing over of physical possession is enough	287
	(iii)	Meaning of transfer of ownership rights	289
	(iv)	Analysis of the Judicial decisions on the aspect of Handing over the Possession	290
	(v)	Whether registration of contract relating to part performance mandatory for recognition of 'transfer' u/s 2(47)(ν) of the Act	292
	(vi)	Transferee should be willing to perform his part of obligation	296
	(vii)	Land is generally not transferred in favour of developer as per Joint Development Agreement – Whether still arrangement may fall in the ambit of section $2(47)(v)$	297
	(viii)	Whether Joint Development Agreement is in the nature of contract contemplated u/s 53A of Transfer of Property Act, 1882	298

I-23 CONTENTS

		PAGE
	11	
	ANALYSIS OF PROVISION OF SECTION 50D	
11.1	Fair Market Value Deemed to be Full Value of Consideration in Certain Cases as Provided under Section 50D	301
11.2	Background for Introduction of Section 50D	301
11.3	Salient Features of the Provision of Section 50D	305
11.4	Applicability of section 50D to Joint Development Transactions of Real Estate	307
11.5	Significant Issues arising out of Section 50D	307
	(i) Section 50D diluting the concept of actual sale consideration for calculating capital gain	307
	(ii) Whether Transfer with No Consideration is hit by section 50D?	309
	(iii) Meaning of the words "not ascertainable or cannot be determined"?	309
	(<i>iv</i>) Whether there can be Sale Consideration which can be said to be "not ascertainable or cannot be determined" in the case of Joint Development Arrangement?	310
	(v) Taxability of Difference between the Actual Sale Consideration if ascertained or determined in future and fair market value as on the date of transfer	311
	(vi) Full Value of Consideration - Meaning	312
	12	
	ANALYSIS OF PROVISION OF SECTION 45(5A)	
12.1	Text of Section 45(5A)	313
12.2	Object	314
12.3	Applicability of provision to whom?	316
12.4	Salient features	316
12.5	Certain controversial issues	323
	(i) In case land has been transferred or conveyance deed has been executed by land owner in favour of developer in earlier year	323

CONTENTS	I.	-2	,4	Į

	PAGE
(<i>ii</i>) Issue of period of holding to determine the nature of land/asset transferred by the land owner - Whether long term or short term?	323
(iii) Non-availability of liquidity to discharge tax liability not tenable plea to defer taxability of capital gain	324
(<i>iv</i>) Tax liability can be deferred when land owner holds or converts land as business asset in terms of provision of section 45(2)	324
(<i>v</i>) Whether profit on sale of developed real estate shall be in the nature of business income or capital gain	325
(vi) Whether exemption under section 54B/54F/54EC etc. can be claimed with reference to the year in which capital gain is taxable	326
(<i>vii</i>) In case Stamp Duty Value of developed real estate is higher than its Fair Market Value - Whether provision of section 50C is attracted	327
(viii) Certificate of completion issued for part of the project - Whether capital gain to be calculated on proportionate basis?	327
(<i>ix</i>) In case agricultural land, not covered within the definition of capital asset u/s 2(14) is contributed for joint development - Whether capital gain liability shall be attracted?	328
(x) In case ownership rights in land are retained by the land owner - Whether provision of section 45(5A) shall be attracted?	329
(xi) Whether section 45(5A) can be applied retrospectively?	329
Nature of joint development arrangement not covered within the scope of Section 45(5A)	331
13	
TAXABILITY OF CAPITAL GAIN ARISING ON TRANSFER OF AGRICULTURAL LAND	
Text of Section 2(14)(iii)	332
Historical Background of Definition of 'Capital Asset' in the Nature of Agricultural Land	333
Meaning of Rural Agricultural Land w.e.f. A.Y. 2014-15	334

12.6

13.1 13.2

13.3

I-25 CONTENTS

			PAGE
13.4		ficant Issues to Determine Whether Land Transferred ricultural Land	336
	(i)	Whether land on which agricultural operations have actually been carried out can alone be termed as agricultural land or the land which is capable of being used for agricultural operations but no such operations where carried out at the time of transfer or to or more years prior to such transfer, can also be termed as agricultural land?	337
	(ii)	Agricultural activity suspended temporarily	338
	(iii)	Whether land classified as agricultural land in the revenue records but no agricultural operation carried out on such land for a fairly long period, be treated as agricultural land?	338
	(iv)	Land originally used for agricultural purpose, later unfit for cultivation, but still registered as "agricultural land" in revenue records.	340
	(v)	Land registered as Urban Land on which agricultural activity carried out	340
	(vi)	Whether it is necessary to show agricultural income/loss in the income tax return to claim the land as agricultural land?	341
	(vii)	Land sold after plotting but of agricultural nature	341
	(viii)	Whether future use of the agricultural land by the buyer is of relevance to determine the character of land at the time of transfer?	342
	(ix)	Whether acquisition of agricultural land by the real estate developer entities <i>per se</i> would alter the character of such land as non-agricultural land?	343
	(<i>x</i>)	Agricultural Land Falling Concurrently within the Jurisdiction of Two Municipalities	343
	(xi)	Method for Measurement of Distance	344
13.5		arising from sale of rural agricultural land would be ultural income not liable for MAT	341
13.6	as ag	tarising on sale of rural agricultural land may be exempt ricultural income u/s 2(1A) even if the transaction is ed as adventure in the nature of trade	346
13.7	_	ultural land held as business asset - No capital gain on sition by government	347

DΛ	CE	
PA	(TE	

14

ANALYSIS OF THE PROVISIONS OF SECTION 50C, SECTION 43CA, SECTION 56(2)(x)(b) & SECTION 23(5)

14.0	Analy	vsis of section 50C	348
14.1	Text of	of section 50C	348
14.2	Histo	rical Background	350
14.3	Salier	nt Features of section 50C	350
14.4	Signi	ficant Issues emerging out of section 50C	352
	(<i>i</i>)	Whether section 50C is applicable in case of transfer of property by way of gift, will, merger or any other such mode?	352
	(ii)	When would section 50C be applicable in the case of Joint Development Agreement?	352
	(iii)	Whether section 50C is applicable in case of transfer of 'rural agricultural land'?	352
	(iv)	In which circumstances stamp duty value as on the date of agreement can be taken?	353
	(v)	Whether a registered agreement without banking transaction may be considered for this purpose?	353
	(vi)	Whether the word 'assessable' inserted with the stamp duty value can be applied retrospectively?	354
	(vii)	Whether the proviso specifying the date of agreement to be taken for stamp duty valuation can be applied retrospectively?	355
	(viii)	In case stamp duty value as on the date of transfer of property gets reduced in comparison to stamp duty value as on the date of sale agreement, is there any option of the assessee to consider lower stamp duty value for applying section 50C?	355
	(ix)	How claim can be raised before Assessing Officer that the fair market value of the property is less than the stamp duty value?	356

I-27 CONTENTS

14.514.614.714.8

		PAGE
(x)	If claim raised by the assessee is not considered by referring the matter of valuation to the valuation officer, whether addition sustainable based on stamp duty value?	357
(xi)	Whether the valuation made by Valuation Officer is binding on the Assessing Officer?	358
(xii)	Whether stamp duty value of the property is to be considered in case equity shares of the company holding the property are transferred?	358
(xiii)	Whether provision of section 50C is applicable in case of transfer of leasehold rights in immovable property?	359
(xiv)	Whether section 50C is applicable on transfer of development rights?	360
(xv)	Whether section 50C is applicable in case of transfer of rights in property before taking the possession/ownership of the property?	360
(xvi)	Whether provision of section 50C is applicable on transfer of building being depreciable asset?	360
(xvii)	Whether section 50C may be applicable in case of transfer of property to a person being 'relative' for inadequate consideration?	361
(xviii)	Whether exemption under section 54 or 54F or such other provision is available with respect to actual sale consideration or deemed sale consideration as enhanced due to applicability of section 50C?	361
(xix)	Applicability of section 50C when consideration as per Joint Development Agreement is paid by the developer in kind?	362
(xx)	Whether safe harbour rule may be made applicable retrospectively?	363
Analy	rsis of the provisions of section 43CA	363
Text of	of Section 43CA	364
Salier	nt Features of section 43CA	365
Signif 43CA	ficant Issues emerging out of the provisions of section	366

			PAGE
	(<i>i</i>)	Whether deemed consideration can be introduced in the books of account and what accounting treatment should be given to deemed consideration?	366
	(ii)	In case of different sale consideration based upon terms of payment between the parties, what would be considered as actual sale consideration for comparison with the stamp duty value?	366
	(iii)	How to apply the provision of section 43CA in case of developer following Percentage of Completion Method (PCM) for revenue recognition?	367
	(iv)	Whether various other charges taken by the developer may form part of actual sale consideration?	367
	(v)	What may be the implications if difference between deemed consideration & actual consideration is introduced in the books of the developer as cash received?	368
	(vi)	In case difference of deemed sale consideration & actual sale consideration is taxed in the hands of the developer, what may be the corresponding impact in the hands of the buyer?	368
	(vii)	In case land owner treats land as business asset & receives sale consideration as certain percentage of total revenue from the developer, whether provision of section 43CA would be applicable to the developer as well as land owner?	369
	(viii)	In case on-money evidence is found regarding unaccounted cash transacted between the developer & the customers, what would be the taxability for the developer?	369
	(ix)	In case on-money evidence is found regarding unaccounted cash transacted between the developer & the land owner, what would be the taxability for the developer?	370
14.9	Analy	sis of section $56(2)(x)(b)$ relating to Immovable Property	370
14.10	Text o	of section 56	370
14.11	Salier	nt Features of section $56(2)(x)(b)$	379
14.12	Signif 56(2)(ficant Issues emerging from the provisions of section $(x)(b)$	380

I-29 CONTENTS

			PAGE
	(<i>i</i>)	Whether provision of section $56(2)(x)$ may be applicable to the recipient of the property held as stock in trade?	380
	(ii)	Whether provision of section $56(2)(x)$ is applicable to the purchase of Rural agricultural land?	380
	(iii)	Whether provision of section $56(2)(x)$ would be applicable to the recipient of the property who is 'relative' of the seller?	380
	(iv)	In case on-money evidence is found regarding unaccounted cash transacted between the developer & the land owner, what would be the taxability for the developer?	381
	(v)	What would be the cost of acquisition to the buyer of the property on further sale of the property in different situations?	381
	(vi)	What if the different valuation is arrived at by the valuation officers appointed by the Assessing Officers of the seller and the buyer separately?	382
14.13	Analy	vsis of the Provision of section 23(5)	382
14.14	Text o	of section 23(5)	382
14.15	Background of section 23(5)		382
14.16	Memorandum explaining the provision of section 23(5)		383
14.17	17 Significant Issues emerging out of the provision of sec 23(5)		384
	(<i>i</i>)	Whether notional annual rental value of unsold inventory of the real estate is taxable as per provision of sections 22 & 23 of the Income-tax Act, 1961?	384
		15	
		ANALYSIS OF PROVISIONS OF SECTION 80-IBA	
15.1	Text of	of section 80-IBA	386
15.2	Histo	rical Background	390
15.3	Signif 80-IB	ficant Issues emerging out of the provisions of section A	390

		PAGE
(<i>i</i>)	In case an assessee has undertaken eligible project entitled for deduction under section 80-IBA along with the other activities, whether deduction under section 80-IBA may be claimed and in what manner?	390
(ii)	What would be the impact of subsequent amendments in section 80-IBA on the conditions for the eligibility of deduction prescribed in the section?	391
(iii)	What would be the impact in case completion certificate is issued after the prescribed period?	391
(iv)	Which is the relevant date with reference to which stamp duty value of Rs. 45 lacs should be considered?	394
(v)	How the period of completion of project is to be reckoned?	395
(vi)	Whether there would be any extension of time limit due to lockdown during COVID-19 or under any other force majeure circumstance?	395
(vii)	In case developer is recognizing revenue as per percentage of completion method, deduction under this section can be claimed on year to year basis before completion of the project?	396
(viii)	Whether any audit report or audit certificate is required to be submitted for claiming the deduction under this section?	397
(ix)	Whether affordable housing project consisting of plots of land only is entitled to deduction under section 80-IBA?	397
(x)	Whether interest received on the delayed payments from the customers would be eligible for deduction under section 80-IBA?	397
(xi)	Whether deduction under section 80-IBA may be available with respect to on-money receipts of the eligible project?	398
(xii)	Whether deduction under section 80-IBA is allowed on higher business profits increased due to disallowance of business expenses?	398
(xiii)	Whether in the case of Joint Development Agreement, land owner may get deduction under section 80-IBA if land is treated as business asset?	398

I-31 CONTENTS

		PAGE
(xiv)	Whether MAT under section 115JB would be applicable to the developer claiming deduction under section 80-IBA?	400
(xv)	Whether deduction under section 80-IBA would be available to a works contractor?	401
(xvi)	Whether assessee may get deduction under section 80-IBA on proportionate basis in case certain units in the housing project are of larger size?	402
Appendix 1.1	Accounting Standard (AS) 7 (revised 2002)	405
Appendix 1.2	2 Accounting Standard (AS) 9 (issued 1985)	418
Appendix 1.3	Accounting Standard (AS) 27 (issued 2002)	426
Appendix 1.4	4 Census 2011	436
Appendix 1.5	5 International Accounting Standard 11 Construction Contracts	443
Appendix 1.0	Income Computation and Disclosure Standards	452
Appendix 1.7	Relevant provisions of the Income-tax Act, 1961	460
Appendix 1.8	Notification Nos. SO 9447 & 11186 - Urbanisation of Areas	475