

A case study : House property under Income Tax, Wealth Tax and FEMA



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The recent trend of Income Tax department is to make an assessment of income based on certain specific and guided issue like deemed dividend [2(22)(e)], disallowances under section 40(a)(i), House property Income [23(1)(c)], Cash credit under section 68, rejection of books of accounts under section 145(3), low gross profit etc. This article deals with income from House property under Income tax Act-1961.

Income From House Property :

In this article the discussion on income from house property is based on provisions effected by Finance Act 2001 i.e. A Y 2002-03. The major changes made in section 23 and 24 and inserted new section 25AA. Some of minor amendments have also been carried out in

sections covered under chapter IV –C i.e. Income from House property. If it is loosely talk then the scope of House property income under section 22 is equated with Annual Value of house property other than used in Business or profession. The Annual value of property is determined under section 23, which has sub section (1) having 3 clauses, sub section (2), (3) and (4) each one has further 2 clauses. Section 24 deals with deductions from Annual value = Income from House property. Interesting issue is controversy in case of House property remains vacant for the whole year and interest paid on borrowings, which are used in acquisition, construction or repair. Following case study will examine the legal provisions for determination of Annual value and interest claim thereon.

Property	Use	Municipal value/ Standard Rent	Actual rent	Vacancy p/y	p/y to p/y occupied
A	5 star House Self occupied	5,00,000	nil	NA	S/O
B	Let out house	4,00,000	6,00,000	NA	Let out
C	7 Star house	10,00,000	nil	Vacant	Part of year occupied
D	Offices	16,00,000	14,00,000	NA	Fully Occupied
E	Office complex	30,00,000	22,00,000	Some offices are vacant, which were occupied in p/y	Some offices are vacant and left vacant during year
F	Office	7,00,000	NIL	vacant	Vacant

Sections 22, 23 and 24 are reproduced herein below for ready reference and case study discussion:

Section 22:

Income from house property.

The annual value of property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, other than such portions of such property as he may occupy for the purposes of any business or profession carried on by him the profits of which are chargeable to income-tax, shall be chargeable to income-tax under the head "Income from house property".

Section 23:

Annual value how determined.

- (1) For the purposes of section 22, the annual value of any property shall be deemed to be—
- the sum for which the property might reasonably be expected to let from **year to year**; or
 - where the property or any part of the property is let and the actual rent received or receivable by the owner in respect thereof is **in excess of the sum referred to in clause (a)**, the amount so received or receivable; or
 - where the property or any part of the property is let and was vacant during the whole or any

part of the pervious year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in clause (a), **the amount so received or receivable** :

Provided that the taxes levied by any local authority in respect of the property shall be deducted (**irrespective of the previous year in which the liability to pay such taxes was incurred** by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him.

Explanation. : For the purposes of clause (b) or clause (c) of this sub-section the amount of actual rent received or receivable by the owner shall not include, subject to such rules as may be made in this behalf, the amount of rent which the owner cannot realise.

(2) Where the property consists of a house or part of a house which—

- (a) is in the occupation of the owner for the purposes of his own residence; or
- (b) cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him,

the annual value of such house or part of the house shall be taken to be nil.

(3) The provisions of sub-section (2) shall not apply if—

- (a) the house or part of the house is **actually let** during the whole or any part of the previous year; or
- (b) any other benefit there from is derived by the owner.

(4) Where the property referred to in sub-section (2) consists of more than one house—

- (a) **the provisions of that sub-section shall apply only in respect of one of such houses, which the owner may, at his option, specify in this behalf;**
- (b) the annual value of the house or houses, other than the house in respect of which the owner has exercised an option under clause (a), shall

be determined under sub-section (1) as if such house or houses had been let.]

Section 24

Deductions from income from house property.

Income chargeable under the head "Income from house property" shall be computed after making the following deductions, namely:—

- (a) a sum equal to thirty per cent of the annual value;
- (b) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

Provided that in respect of property referred to in sub-section (2) of section 23, the amount of deduction shall not exceed thirty thousand rupees :

Provided further that where the property referred to in the first proviso is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed [within three years from the end of the financial year in which capital was borrowed], the amount of deduction under this clause shall not exceed one lakh fifty thousand rupees.

Explanation.—Where the property has been acquired or constructed with borrowed capital, the interest, if any, payable on such capital borrowed for the period prior to the previous year in which the property has been acquired or constructed, as reduced by any part thereof allowed as deduction under any other provision of this Act, shall be deducted under this clause in equal installments for the said previous year and for each of the four immediately succeeding previous years:]

[Provided also that no deduction shall be made under the second proviso unless the owner furnishes a certificate, from the person to whom any interest is payable on the capital borrowed, specifying the amount of interest payable by the owner for the purpose of such acquisition or construction of the property, or, conversion of the whole or any part of the capital borrowed which remains to be repaid as a new loan.

Explanation.—For the purposes of this proviso, the expression "new loan" means the whole or any part of a loan taken by the owner subsequent to the capital borrowed, for the purpose of repayment of such capital.

Case(Property) by case basis discussion:

Property	Use	Municipal value/ Standard Rent Rs	Actual rent Rs	Vacancy p/y	p/y to p/y occupied	Income to be offered Rs
A	5 star House Self occupied	5 lacs	nil	NA	S/O	NIL
B	Let out house	4 lacs	6 lacs	NA	Let out	6 lacs
C	7 Star house	10 lacs	nil	Vacant	Part of year occupied	NIL
D	Offices	16 lacs	14 lacs	NA	Fully Occupied	16 lacs
E	Office complex	30 lacs	22 lacs	Some offices are vacant, which were occupied in p/y	Some offices are vacant and left vacant during year	22 lacs
F	Office	7 lacs	NIL	vacant	Vacant	NIL

Reasoning for offering respective Income :

House property A is self occupied and therefore it is excluded from the scope of taxability under section 23(2) (a) . The claim of self occupied property is valid even it is not been occupied for physical stay by owner and remained vacant due to owner's Business, profession or employment and he has to stay in other house there ,which is not belonging to him. Thus for property A, income is offered NIL.

House property B is let out and actual rent received is Rs 6 lacs . The case is referred under section 23(4). Under this section, where house property is consist of more than one house and one of them is used as self occupied, rest other houses shall be valued under section 23(1). Under section 23(4), owner has right to select any one house as self occupied irrespective of actual occupation . Therefore in the present case owner may select out of Houses A, B Or C any one as self occupied property. Considering the actual rent received which is higher than municipal rental value/ Standard rent , owner has to offer Rs 6 lacs as Annual value under 23(1) (b). whether owner can select House B as self occupied and House A and C may offer for valuation under section 23(1). However section 23(3)(a) comes in play while exercising the right by owner. Owner can not exercise the right for selection of house, if that house is ACTUALLY LET OUT or any benefit derived from such property. Therefore owner has now choice to select one house out of A and C. The beneficial things for owner is to select C under section 23(4) (a) and offer house A for Annual value determination. *The underlying principle in the whole interpretation is, owner can put all houses (Residential) at par with actual self occupied and others, if those are remained vacant through*

out the year. The important section in this case is 23(1) (c). if the facts of case is read under section 23(2) (a) with section 23(4)(a), Annual Value for selected House C is Nil and for House A, read section 23(4)(b) with section 23(1) (c) , rent receivable is NIL due to said property occupied by owner for the whole year. Therefore income for House A is also NIL.

House Property D, commercial property, is fully let out and Annual Rent as per Municipal value is Rs 16 lacs while actual rent received is Rs 14 lacs. Owner can not have access to section 23(1)(c) for reduction in Annual value . The reduction in annual value compare to 23(1)(a) with 23(1)(c) is permitted in the situation, where property remains vacant for the whole or part of the year. Here in this case, facts are clear that property is fully let out and not remained vacant during the previous year and therefore Annual value should be Rs 16 lacs.

House property E is a office complex comprises of various floors/offices. The facts of the case is the whole office complex is not been occupied by tenants/ Leasesees in the previous year as well as previous to previous year. Therefore it remained vacant in part for the year. Here owner has two options to deal with situation. Option one is , owner can determine Annual value office by office if all offices are occupied by different tenant .The option 2 is, take composite value of the complex if occupied by one tenant. In either of situation Annual value determination process will end with same answer. If option one is exercised by Owner then he has to find out annual value of fully occupied each office and compare actual rent received, and take whichever is higher under section 23(1)(b). For the vacant offices or left vacant offices during the year, Annual value may be any amount but rent receivable/ received due to vacant situation of premises for the whole

or part of the year need to be calculated under section 23(1)(c). In other words those offices remained vacant for the whole year, rent receivable is Zero, which supersedes the amount determined under 23(1)(a). In case of offices left vacant, the treatment will remain the same as discussed above because both situations are envisaged under section 23(1)(c). The other most important point to be noted is that the valuation of Annual rent or rent receivable/ Received is year to year basis and neither previous year's data nor estimate is considered for determination of annual value.

House property F is a singular office and remained vacant for the whole year. Owner may offer NIL Annual value, based on foregoing discussion for property E. This interpretation is based on various judgments of tribunals. I may refer following Citations for reader's ready reference.

- (1) (2012) 139 ITD 504 (Delhi), Assistant Commissioner of Income Tax vs. Dr. Prabha Sanghi
- (2) (2012) 31 CCH 032 BangTrib, Shakuntala Devi vs. Deputy Director of Income Tax
- (3) (2007) 110 TTJ (Mumbai) 89, Premsudha Exports (P) Ltd. vs. Assistant Commissioner of Income Tax

In case of Assistant Commissioner of Income Tax vs. Dr. Prabha Sanghi the decision was held in following words:

Held:

" S. 23 (1)(c) requires that where the property was vacant during the year and due to such vacancy, the actual rent received or receivable in respect thereof is less than the sum for which the property might reasonably be expected to be let from year to year, the amount so received or receivable shall be deemed to be the annual value of such property. "

(Para 13)

" The provisions of s. 23 (4) (b) are very clear that where the property consists of more than one house, the annual value thereof shall be determined u/s 23 (1), as if such property had been let. This re-directs the court to s. 23 (1). Applying s. 23 (1) to the facts of the present case, it is s. 23 (1) (c) which shall again come into play inasmuch as it remains undisputed, as observed hereinabove, that the property was let, but was vacant during the year, due to which vacancy, the actual rent received or receivable by the owner in respect of such property was nil. Nil rent, then, it cannot be gainsaid, is evidently less than the sum for which the property might reasonably be expected to let from year to year. "

(Para 15)

In furtherance to this I place reliance on circular 14 of 2001. In para 29 whole discussion on amended provisions under section 23 and 24 has been explained. The relevant para for discussion is 29.2, which is reproduced as under:

" 29.2 The substituted section 23 retains the existing concept of annual value as being the sum for which the property might reasonably be expected to let from year to year i.e., annual letting value (ALV). However, in case of let out property, the concept of "annual rent" has been removed. The new section provides that where the property or any part of the property is let and the actual rent received or receivable is in excess of the ALV, the amount so received or receivable shall be the annual value. This will be the case even if the property (or part of the property) was vacant for a part of the year, but the actual rent received or receivable during the year is still higher than the ALV. Where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy, the actual rent received or receivable is less than the ALV, the sum so received or receivable shall be the annual value. In case the actual rent received or receivable during the year is less than the ALV, but not because of vacancy, it is the ALV which shall be taken to be the annual value. "

Very interestingly, the judgment of Premsudha Exports (P) Ltd. vs. Assistant Commissioner of Income Tax clearly interpret the word used " property is Let" in section 23(1)(c). The relevant part of judgment is as follow:

Held :

" The sole dispute is regarding the interpretation of the words 'property is let' in s. 23(1)(c). One interpretation suggested by the Departmental Representative is that the property should be actually let out in the relevant previous year. This interpretation is not correct because as per this clause, the property can be vacant during whole of the relevant previous year. Hence, both these situations cannot co-exist that the property is actually let out also in the relevant previous year and the property in the same year is vacant also during whole of the same year. The second interpretation suggested by the Departmental Representative is that the property should be actually let out during any time prior to the relevant previous year and then only, it can be said that the property is let and this clause will be applicable. First of all, the tense of the verb used prior to the word 'let' is present tense and not past tense. It means that the provisions of above clause

talk regarding the relevant previous year and not of any earlier period and if that be so, this contention of Departmental Representative is also not acceptable. Secondly, even if this contention of Departmental Representative of the Revenue is accepted, the provisions of this cl. (c) cannot be made applicable in the first year, when the property is acquired and the same remained vacant because it could not be let out for want of tenant. This is so because there is no earlier period in that case prior to the start of the relevant previous year. This cannot be the unsaid intention of the legislatures that the provisions of this clause are not be applied in the first year if the property remained vacant for whole of the first year in spite of efforts to let it out. Moreover, if this interpretation suggested by the Departmental Representative is accepted, it will lead to disastrous result because in that event, if a property was let out in one year for any period, which can be even 1 month, then after that, such property will enjoy the benefit of this cl. (c) for any number of years if the property remains vacant even if the same was not intended to be let out in the subsequent years including the relevant previous year. This cannot be the intention of legislature. In sub-s. (3) of s. 23, the legislatures in their wisdom have used the words 'house is actually let'. This shows that the words 'property is let' cannot mean actual letting out of the property because had it been so, there was no need to use the word 'actually' in sub-s. (3) of the same s. 23. These words do not talk of actual let out also but talk about the intention to let out. If the property is held by the owner for letting out and efforts were made to let it out, that property is covered by this clause and this requirement has to be satisfied in each year that the property was being held to let out but remained vacant for whole or part of the year. The words 'property is let' are used in this clause to take out those properties from the ambit of the clause in which properties are held by the owner for self-occupation i.e. self-occupied property (i.e. SOP) because even income on account of SOP, excluding one such SOP of which annual value is to be adopted at nil, is also to be computed under this head as per cl. (a) of s. 23(1) if one sees the combined reading of sub-ss. (2) and (4) of s. 23. One thing is more important because where the legislatures have considered that actual letting out is required, they have used the words 'house is actually let'. This can be seen in sub-s. (3) of same s. 23. But in cl. (c) above, 'actually let' words are not used and this also shows that meaning and interpretation of the words 'property is let' cannot be 'property actually let out'. It talks of properties, which are held to letting out having intention to let out in the relevant year coupled with efforts

made for letting it out. If these conditions are satisfied, it has to be held that the property is let and the same will fall within the purview of this clause."

(Paras 12 to 14 & 16)

There is one more judgment from Andhra Pradesh High court , (2011) 202 TAXMAN 499 VIVEK JAIN vs. ASSISTANT COMMISSIONER OF INCOME TAX, wherein it was held " In cases where the property has not been let out at all, during the previous year under consideration, there is no question of any vacancy allowance being provided thereto under s. 23(1)(c)."[Para 15]

In para 11 of above referred judgments it was held " In order to attract s. 23(1)(c), the following requirements must be fulfilled (i) the property, or any part thereof, must be let; and (ii) it should have been vacant during the whole or any part of the previous year; and (iii) owing to such vacancy the actual rent received or receivable by the owner in respect thereof should be less than the sum referred to in cl. (a). It is only if these three conditions are satisfied would cl. (c) of s. 23(1) apply in which event the amount received or receivable, in terms of cl. (c) of s. 23(1), shall be deemed to be the annual value of the property. Clause (c) does not apply to situations where the property has either not been let out at all during the previous year or, even if let out, was not vacant during the whole or any part of the previous year. "

With due respect of High court Judgment, if it is interpreted based on para 11, following anomalies should be resolved:

- (1) The word let and vacant is mutually exclusive for owner. If it is vacant ,no one can say is let and if it is let, on one can say it is vacant. Since vacancy and letting of property has to be seen from stand point of owner. Twin conditions as enumerated in judgment can not be satisfied together. Why should owner bother for occupancy of tenant for the purpose which it is taken on rent. Once property is let out , owner is concerned with rent and not with occupancy. Section 25AA for unrealized rent taxability and section 25B for arrears of rent receipt are in statute to take care of it .Therefore it requires purposive interpretation of words " Property is Let" and " Vacant" .
- (2) One more weird interpretation comes out of judgment. If owner enters into agreement to let out property and no part of rent at all received during the year on the basis of vacancy. The argument of Tenant is that during the whole year premise remains

vacant and therefore no rent is payable. If contention of tenant is accepted on its face, rent receivable is NIL and therefore Annual value will be NIL for section 22. If Revenue is of the opinion that as per contract value of rent to be considered as receivable and therefore comparison between 23(1) (a) and (c) has to be carried then provision of section 25AA states contrarily for unrealized rent. It is stated that unrealized rent would be taxable in the year in which it is actually received.

- (3) The difficulty may arise in the third situation is, when property is let out for say Godown, which normally remains closed with storage and tenant will say it is vacant, no evidence of rent payment to owner registered, whether owner can offer rent receivable NIL ?

No one can challenge constitutionality of section 23 as enacted in 1961. Some of the concepts related to charging taxation on notional income are already tested before supreme court in case of (1981) 128 ITR 315 (SC), BHAGWAN DASS JAIN vs. UNION OF INDIA & ORS. Before the supreme court's judgment Gujarat High Court held similar view in case of, :(1975) 100 ITR 97 (GUJ), SAKARLAL BALABHAI vs. INCOME TAX OFFICER. The judgment reported at (1981) 128 ITR 315 (SC) covers the constitutional validity to charge notional income in the context of then provisions based on saving made by owner due to non payment of rent since owner is occupying his own property for his residence where by creating capability to earn income out of such notional income.

However the amendment in section 23 brought out by Finance Act 2001 is very important. The amendment in section was to simplify the provisions for working out Income from House property. Words should be interpreted in a purposive manner and not in a strict statutory way.

Purposive Construction of Taxing Statutes

There is a need for purposive construction of taxing statute for justice and equities. It would be worthwhile to quote some of the landmark judgments, which carry important observation of Judges.

- (1) Smt. Saroj Aggarwal vs. CIT (1985) 49 CTR (SC) 183 " Facts should be viewed in natural perspective, having regard to the compulsion of the circumstances of a case. Where it is possible to draw two inferences from the facts and where there is no evidence of any dishonest or improper motive on the part of the

assessee, it would be just and equitable to draw such inference in such a manner that would lead to equity and justice. Too hypertechnical or legalistic approach should be avoided in looking at a provision which must be equitably interpreted and justly administered. Courts should, whenever possible, unless prevented by the express language of any section or compelling circumstances of any particular case, make a benevolent and justice-oriented inference. Facts must be viewed in the social milieu of a country...."

- (2) R.S. Nayak vs. A.R. Antulay (1984) 2 SCC 183

" it has been held that a construction which leads to absurdity must be avoided"

- (3) In Seaford Court Estate Ltd. vs. Asher (1949) 2 All ER 155, Denning L.J. spelt out the principle of interpretation of statutes in the following terms :

" Whenever a statute comes up for consideration it must be remembered that it is not within human powers to foresee the manifold sets of facts which may arise, and, even if it were, it is not possible to provide for them in terms free from all ambiguity. The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of Acts of Parliament have often been unfairly criticised. A judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else, laments that the draftsmen have not provided for this or that, or have been guilty of some or other ambiguity. It would certainly save the judges' trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears, a judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament, and he must do this not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it, and of the mischief which it was passed to remedy, and then he must supplement the written word so as to give force and life to the intention of the legislature. That was clearly laid down by the resolution of the judges in Heydon's case (1584) 3 Co. Rep 7a, and it is the safest guide today. Good practical advice on the subject was given about the same time by Plowden in his note Eyston vs. Studd (1574) 2 Plowden, 463. Put into homely metaphor it is this : A

judge should ask himself the question : If the makers of the Act had themselves come across this ruck in the texture of it, how would they have straightened it out? He must then do as they would have done. A judge must not alter the material of which it is woven, but he can and should iron out the creases."

- (4) *Northman vs. Barnet London Borough Council (1978)* 1 WLR 220 at p. 228 (CA), Lord Denning M.R. observed thus :

" The literal method is now completely out of date. It has been replaced by the approach which Lord Diplock described as the 'purposive approach'.... In all cases now in the interpretation of statutes we adopt such a construction as will 'promote the general legislative purpose' underlying the provision. It is no longer necessary for the judges to wring their hands and say : 'There is nothing we can do about it.' Whenever the strict interpretation of a statute gives rise to an absurd and unjust situation, the judges can and should use their good sense to remedy it—by reading words in, if necessary—so as to do what Parliament would have done, had they had the situation in mind."

It is well settled principle that interpretation of statute should give purposeful meaning rather than absurd outcome. If interpretation is made based on AP High court, of course the judgment has also considered circular number 14 of 2001, the result is coming very weird and absurd. It would be penalty to buy a property and remained vacant for the whole year, which is beyond

the control of owner. Under this interpretation, If property is given on rent even for a day, owner will be saved from huge liability. We can say controversy may get settled only after Supreme court or high court's judgments will come for above referred High court or tribunal judgments.

The proviso to section 23 enables an owner to reduce Annual Value by actual payment of Municipal Taxes of any previous years. it may be noted that any amount paid in advance for coming years will not be deductible, since allowable if liability is incurred

After determining Annual value under section 23, deductions from house property income are claimed under section 24 . The first deduction is 30% of Annual value as determined under section 23 . Second deduction is interest PAYABLE on borrowed capital for acquisition, construction or repair of property. In all circumstances the borrowings need to be correlated with housing activity. Interest payable on change of lender 's amount is also deductible to the extent of original borrowed amount. The nexus need to be established with original borrowed amount and repayment with fresh borrowing. There is a cap of amount on interest payable and deductible for property covered under section 23(2) i.e. Residential property as self occupied property. However there is no restriction on amount interest payable and deductible, if same is borrowed for property other than covered under section 23(2).

A case study as discussed above is further taking up for interest claim for better understanding.

Property	Use	Municipal value/Standard Rent Rs	Actual rent Rs	Vacancy p/y	p/y to p/y occupied	Income to be offered Rs	Interest claimed (deductible)
A	5 star House Self occupied	5 lacs	nil	NA	S/O	NIL	2 lacs (2 Lacs) / (1.5 lacs)
B	Let out house	4 lacs	6 lacs	NA	Let out	6 lacs	3 lacs (3Lacs)
C	7 Star house	10 lacs	nil	Vacant	Part of year occupied	NIL	4 lacs (1.50 Lacs)/ (4 lacs)
D	Offices	16 lacs	14 lacs	NA	Fully Occupied	16 lacs	5 lacs (5 Lacs)
E	Office complex	30 lacs	22 lacs	Some offices are vacant, which were occupied in p/y	Some offices are vacant and left vacant during year	22 lacs	12 lacs (12 Lacs)
F	Office	7 lacs	NIL	vacant	Vacant	NIL	4 lacs (4 Lac)
G	Office premise	NA	NIL	Self business occupied	Self business occupied	NIL	8 lacs (8 Lacs)



House property B, D and E are able to get full interest deduction and may not get into further controversy as assumed. However House property A can claim deduction of interest to the full extent as owner has offered House property C as self Occupied. Therefore eligible interest claim for deduction under House property A would be Rs 2 lacs and for House property C is restricted to Rs 1.50 lacs in place of Rs 4 lacs payable. Therefore Owner is losing claim of Rs 3 lacs. If he continues to claim House property A is self occupied his claim would be Rs 1.50 lacs and he can claim Rs 4 lacs for House property C, provided correct interpretation of section 23(1)(c) is done.

In case of House property F is concerned, assessee can claim deduction to the extent Rs 4 lacs even property remained vacant for the whole year. Let us assume time being if it is occupied for 2 months and rent received is Rs 40,000. If we give vacancy deduction by doing misinterpretation of section 23(1)(c), Annual value would be Rs 40,000 and he can get interest deduction of Rs 4 lacs. In case owner fails to get tenant, Annual value will be his income and he has to pay tax on Rs 3 lacs. In other words if this interpretation is carried out the result is absurd, which compels owner to let out property even for few days he can claim interest deduction in full on nominal amount of rent received. Therefore conclusion should be drawn as, even office remained vacant during the previous year, Annual value should be ZERO as rent receivable is Nil.

In case of House Property G, Office Premise, which is used for Business, concept of Annual value is not applicable as self business is conducted from the same premise and such property is excluded under section 22 for Income from House property computation.

Section 25AA and 25B i.e. unrealised rent and arrears of rent respectively are taxable on actual receipt basis.

Conclusion:

It is fact of case the words used in Section 23(1)(c) "Property to let" and "vacant" require some legislative aid to interpret for justice and equality. There are three Rules for interpretations of legislation. Mind well these rules are useful servant and masters. They are applied to remove ambiguity and absurdity of word or language

used in a statute. When there is no ambiguity, Rule of Literal interpretation is applied. When there is some ambiguity in language used in legislation, Rule of Mischief is applied. And when there is obscurity and inconsistency owing to the interpretation of the grammatical and ordinary sense of the words then Golden Rule is applied. The rules of interpretation is not rule of law but they are mere aid to construction of statute.

Certain observation of Apex court may assist in getting justice.

Navinchandra Mafatlal vs. CIT (1954) 26 ITR 758 (SC):

"The cardinal rule of interpretation is that words should be read in their ordinary, natural and grammatical meaning subject to the rider that in construing words in a constitutional enactment conferring legislative power, the most liberal construction should be put upon the words so that the same may have effect in their widest amplitude"

In *State of Tamil Nadu vs. Kodaikanal Motor Union (P) Ltd. AIR 1986 SC 1973:*

"The Courts must always seek to find out the intention of the legislature. Though the Courts must find out the intention of the statute from the language used, but language more often than not is an imperfect instrument of expression, of human thought. As Lord Denning said, 'it would be idle to expect every statutory provision to be drafted with divine prescience and perfect clarity'. As judge Learned Hand said, 'we must not make a fortress out of the dictionary but remember that statutes must have some purpose or object, whose imaginative discovery is judicial craftsmanship'. We need not always cling to literalness and should seek to Endeavour to avoid an unjust and absurd result. We should not make a mockery of legislation."

With the observation of Supreme Court, I place before you my person view on controversial issues that the words used in section 23(1)(c) "Property is let" and "Vacant" should be interpreted by modern approach of purposive interpretation of statute.
