TAXABILITY ON SALE OF CATTLE’s

Sales of cattle’s, taxable tax-free ?
Income from sale of pets taxable or tax-free ?
Sale of shady trees taxable or tax-free ?

(Complete analysis with important case law)

When the animal is bred from the taxpayer itself, and grew up. What will be his cost in that case?

Will the cost be NIL?
If NIL is not there, how will it be calculated?

1. When the cattle’s are for their own use such as cow, buffalo, goat etc. for their family's milk needs.

When your objective is not business. In such a situation, these animals are "personal effects". Which are not capital assets as per Section 2 (14) of Income Tax Act.
According to the definition of personal effect which is given in the Act, including movable property, wearing apparels, furniture, which are useful for self or other family members. But jewelery, archeological collections, drawings, paintings, sculptures, art work will not be considered as personal effects.
According to this definition, in my opinion, cars, clothes, furniture, silverware are used for occasional use, animals for personal milk, pets, horses for riding, etc. are covered in personal effects.

Relevant Case Law: -
Maharaj Rana Hemant Singh Ji, Dholpur v Commissioner of Income Tax, Rajasthan [1976] 103 ITR 61 (SC)
R. Ramanathan Chettier v Commissioner of Income Tax [1985] 152 ITR 493 (Madras)
Commissioner of Income tax v. Maharani Usha Devi 231 ITR 793 (SC)
Maneka Gandhi: - Delhi ITAT: - silverware, glass, bowl.
Hence, there is no income tax liability on the sale.

2. When placing cattle’s for business: -
(i) First for the trade of milk or ghee (dairy) such as cow, buffalo, goat. Sheep for wool trade or camel / bull for farming. In this case, cats are not stock in trade, as are a plant.

When selling the cattle’s kept as plants. So for calculating its capital gain, if the cattle’s is before 1.4.2001, then the fair market value of 1.4.2001. If after that, animals are bought then they will take the cost. But the difficulty arises when the animal is bred from breeding near the taxpayer, and has grown.

What will be his cost in that case?
Will the cost be NIL?
If NIL is not there, how will it be calculated?

The answer will be found in Supreme Court Judgment Srinivas Shetty v. Commissioner of Income Tax 128 ITR 294, sale of Goodwill is considered tax free. And the very clear answer is the decision of Andhra Pradesh High Court in Krishna Dairy and Agriculture Farm v. Commissioner of Income Tax [1988] 169 ITR 291, with the same principle that sale of calves is considered tax free. Again, the Madhya Pradesh High Court, in the decision of Deputy Commissioner of Income Tax vs. Mrs. Suniti Singh [2008] 299 ITR 183, has considered the sale of calves as tax-free. However, the Commissioner of Income Tax v. Ramaswamy Mudaliar [1992] 196 ITR 939, Madras High Court, has decided to explain the method of cost calculation of the horse in the form of maintenance cost of keeping the mare of the race in a stud farm till the birth of the child cost will be considered.
However, the Madhya Pradesh High Court has discriminated the sale of dairy calves by selling the mares for this race.
Hence, the sale of dairy-born animals is still tax free.

In Srinivas Shetty, the Hon'ble Supreme Court has said, "When it is not possible to calculate the cost of a capital asset, that asset is not a capital asset from the capital gain. That is, the capital gain will not be incurred when the calculation mechanism fails. Srinivas Shetty's judgment was in reference to Goodwill. However, after bringing the concept of deemed cost for Goodwill, Tenancy Right, Stage Carriage Permit (Road Permit) Bonus Shares etc. in Section 55 (2), Goodwill, Tenancy Right, Road Permit where the concept of Deemed Cost in Section 55 (2) comes Apart from that, in other cases, the principle of Supreme Court decision in the case of Srinivas Shetty is still applicable.

(ii) Secondly when sheep / goat / horse stock is kept as in trade and the stock increases from breeding. And the stock in trade keeps decreasing / increasing.

In such a situation, there will be business income. The opening stock and closing stock will be valued. The purchase will become a trading account, accounting for the sale. That is, the credits will be part of the trading account and taxable in the business head.

(iii) Shady Trees: - Where the trees are not stock in trade, there can be either personal assets or capital assets.

Sale of Trees Tax Free: - Case Law: -
Emerald Valley Estates Ltd v Commissioner of Income Tax [1996] 88 Taxman 335 Kerala
Commissioner of Income tax v Midland Rubber and Produce Company Limited [1991] 188 ITR 333 Kerala

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