Mock Test Paper - Series II: April, 2025

Date of Paper: 9th April, 2025

Time of Paper: 2 P.M. to 5 P.M.

FINAL COURSE: GROUP - II

PAPER – 4: DIRECT TAX LAWS & INTERNATIONAL TAXAXTION

Working Notes should form part of the answer. Wherever necessary, suitable assumptions may be made by the candidates and disclosed by way of a note. However, in answers to Question in Division A, working notes are not required.

All questions relate to Assessment Year 2025-26, unless stated otherwise in the question.

Time Allowed – 3 Hours **Maximum Marks – 100**

Division A – Multiple Choice Questions

Write the most appropriate answer to each of the following multiple choice questions by choosing one of the four options given. All questions are compulsory.

Case Scenario I

Anantam Highways Trust**,** a business trust, registered under SEBI (Real Estate Investment Trusts) Regulations, 2014, has generated an interest income of ₹ 10 lakh and a dividend income of ₹ 5 lakh from Zee Ltd during the P.Y. 2024-25. It also realised short-term capital gains of ₹ 4 lakh from the sale of listed shares of Indian companies on 31-10-2024, with Securities Transaction Tax (STT) paid both at the time of purchase and sale.

Zee Ltd. is an Indian company in which the business trust holds 100% of the shareholding. Zee Ltd. does not opt to pay tax under section 115BAA.

Anantam Highways Trust has accumulated the entire income except interest income which is distributed to its unitholders in March 2025. Mr. Xavier, a resident unit holder, owns 100 units, while Mr. Yatin, a non-resident unit holder, holds 500 units. The total number of units subscribed by all unit holders amounts to 5,000.

Mr. Yatin, the Managing Director of XYZ Pvt. Ltd., has been provided with an air-conditioner worth ₹ 75,000 at his residence in Delhi as part of his employment terms. However, the company has recorded this asset in its books of account as if it were installed in the quality control section of its factory, with the intention of classifying it as "plant" and claiming depreciation accordingly.

Mr. Xavier is engaged in cryptocurrency trading. During the financial year, he transferred cryptocurrencies for ₹ 4,20,000. The cost of acquisition for these cryptocurrencies was ₹ 70,000.

In addition, he took a loan to invest in cryptocurrencies and incurred an interest expense of ₹ 20,000 on this loan.

From the information given above, choose the most appropriate answer from MCQ 1 to MCQ 3 below:

1. In respect of the component of interest income from Zee Ltd. distributed by the Anantam Highways Trust to unit-holders Xavier and Yatin -

   (a) No tax is deductible by the Anantam Highways Trust, since such income is not taxable in the hands of unit holders

   (b) Tax is deductible @ 5% on ₹ 20,000 distributed to Mr. Xavier and @5.2% on ₹ 1 lakh distributed to Mr. Yatin

   (c) Tax is deductible @ 10% on ₹ 20,000 distributed to Mr. Xavier and @5.2% on ₹ 1 lakh distributed to Mr. Yatin

   (d) Tax is deductible @ 10% on ₹ 20,000 distributed to Mr. Xavier and 10.4% on ₹ 1 lakh distributed to Mr. Yatin

2. Recording of the air-conditioner provided by XYZ Pvt. Ltd. to Mr. Yatin in its books of account to claim depreciation falls under: -

   (a) Tax Planning

   (b) Tax Management

   (c) Tax Evasion

   (d) Tax Avoidance

3. Which of the following statements is correct in respect of cryptocurrency?

   (a) Mr. Xavier can claim deduction for both, cost of acquisition and interest expense while computing income from sale of cryptocurrency.

   (b) Only the cost of acquisition is allowed as a deduction to Mr. Xavier. Interest expense is not deductible.

   (c) Neither cost of acquisition nor interest expense are allowed disallowed while computing income from sale of cryptocurrency.

   (d) Income from sale of cryptocurrency is exempt from tax in India. **(2 x 3 = 6 Marks)**

Case Scenario II

Mr. Badri, a professional interior decorator, also conducts online lectures on interior decoration through the e-commerce platform Pathshala. The details of his earnings from Pathshala are as follows:

Date of Credit of services to account of Mr. Badri	Date of Payment to Mr. Badri	Value of Services Provided (₹)
31.05.2024	10.06.2024	2,00,000
31.10.2024	10.10.2024	1,50,000
31.03.2025	10.04.2025	1,40,000

In addition to the abovementioned income, on 18.02.2025, Mr. Badri received ₹ 20,000 directly from a student rather than *via* the Pathshala payment system. Mr. Badri has provided PAN to Pathshala.

Mr. Badri gave Mr. Nitin in Mumbai, who had a business turnover of ₹ 1.2 crores in P.Y. 2023–2024, interior decorating services for his office and residential spaces on May 5, 2024, for a total of ₹ 40,000 and ₹ 60,000, respectively. For billing, Mr. Badri has given Mr. Nitin his PAN information.

The entire revenue received by Mr. Badri from his interior design business in the P.Y. 2024–2025 from clients in India, including Mr. Nitin, is around ₹ 40 lakhs (excluding fees for online lectures).

Further, ₹ 1,10,000 is payable by Mr. Badri to Phoenix LLC – a social networking website having no office in India and ₹ 1,05,000 to DaVita Inc., USA, for giving online advertisements for the purpose of attracting foreign clients. DaVita Inc., USA, has an office in India for providing online advertisement services. Fortunately, Mr. Badri got one client based in Country A (with which India does not have a DTAA) from whom he received ₹ 3,50,000 as net income after deduction of ₹ 50,000 as foreign tax.

According to the books of account maintained by Mr. Badri under section 44AA, his profits amounts to ₹ 24 lakhs. However, his books of account have not been audited.

From the information given above, choose the most appropriate answer from MCQ 4 to MCQ 8 below:

4. Is Pathshala required to deduct tax at source on amount received/receivable by Mr. Badri? If so, what is the amount of tax to be deducted?

   (a) No tax is required to be deducted at source

   (b) Yes; ₹ 5,100

   (c) Yes; ₹ 25,500

   (d) Yes; ₹ 510

5. Is Mr. Nitin required to deduct tax at source under section 194J? If so, what is the amount of tax to be deducted?

   (a) No tax is required to be deducted at source u/s 194J

   (b) Yes; ₹ 1,000

   (c) Yes; ₹ 4,000

   (d) Yes; ₹ 10,000

6. Is Mr. Nitin required to deduct tax at source under section 194M? If so, what is the amount of tax to be deducted?

   (a) No tax is required to be deducted at source u/s 194M

   (b) Yes; ₹ 600

   (c) Yes; ₹ 1,200

   (d) Yes; ₹ 3,000

7. Is Mr. Badri required to deduct equalisation levy on the amounts payable to Phoenix LLC or DaVita Inc.? If so, what is the amount of levy to be deducted?

   (a) No; there is no requirement to deduct equalisation levy from the amount payable to either Phoenix LLC or DaVita Inc.

   (b) Yes; ₹ 6,600 to be deducted on the amount payable to Phoenix LLC; No deduction is, however, required on the amount payable to DaVita Inc.

   (c) Yes; ₹ 6,300 to be deducted on amount payable to DaVita Inc; No deduction is required on the amount payable to Phoenix LLC.

   (d) Yes; ₹ 6,600 to deducted on the amount payable to Phoenix LLC and ₹ 6,300 to be deducted on the amount payable to DaVita Inc.

8. What is Mr. Badri's gross income-tax liability for the P.Y.2024-25, assuming that he has opted out of the default tax regime u/s 115BAC?

   (a) ₹ 5,70,960

   (b) ₹ 4,91,400

   (c) ₹ 5,08,560

   (d) ₹ 5,53,800 **(2 x 5 = 10 Marks)**

Case Scenario III

Fiserv Inc., a company headquartered in Country F, operates an online platform that provides end-user computer software under an End-User License Agreement (EULA). In the Financial Year 2024-25, Turmeric Ltd., an Indian company, entered into a contract for ₹ 6.7 crore with Fiserv Inc., which is approved by the Central Government.

Under the EULA, Fiserv Inc. grants Turmeric Ltd. a limited, non-exclusive license to install, use, access, display, and run the click-wrap web-based computer software (CWCS) on a single local hard disk or another permanent storage medium of one computer. However, Turmeric Ltd. is restricted from making the CWCS available over a network where it could be used by multiple computers at the same time.

Fiserv Inc. reserves all rights not explicitly granted to Turmeric Ltd. under the EULA. The CWCS is protected by copyright and other intellectual property laws and treaties. Fiserv Inc. owns the title, copyright and other intellectual property rights in the CWCS. The CWCS is licenced (only for use and not any other purpose), not sold.

Fiserv Inc. does not have any offices outside Country F.

Extract of Article 12 of India-Country F DTAA

Royalties and Fees for Technical Services

1. *Royalties and fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.*

2. *However, such royalties and fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the royalties or fees for technical services, the tax so charged shall not exceed 10 per cent.*

3. *The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use :*

   (a) any copyright of a literary, artistic or scientific work, including cinematograph film or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, including gains derived from the alienation of any such right, property or information

From the information given above, choose the most appropriate answer from MCQ 9 to MCQ 12 below:

9. Is Turmeric Ltd., India required to deduct tax at source on the payment made to Fiserv Inc.? If yes, what amount of tax is required to be deducted at source on the said payment?

   (a) Yes, Turmeric Ltd. is required to deduct tax at source of ₹ 1,42,14,720.

   (b) No, Turmeric Ltd. is not required to deduct tax at source.

   (c) Yes, Turmeric Ltd. is required to deduct tax at source of ₹ 2,84,29,440.

   (d) Yes, Turmeric Ltd. is required to deduct tax at source of ₹ 67,00,000

10. Would Turmeric Ltd., India be required to deduct tax at source on the payment made to Fiserv Inc, if there was no DTAA between India and Country F? If so, what amount of tax is required to be deducted at source on the said payment?

   (a) Yes, Turmeric Ltd. is required to deduct tax at source of ₹ 1,42,14,720.

   (b) No, Turmeric Ltd. is not required to deduct tax at source, since such sum is not taxable in the hands of Fiserv Inc.

   (c) Yes, Turmeric Ltd. is required to deduct tax at source of ₹ 2,84,29,440.

   (d) Yes, Turmeric Ltd. is required to deduct tax at source of ₹ 71,07,360

11. What would be the tax liability of Fiserv Inc. if there is no DTAA between India and Country F, and it incurred ₹ 20,00,000 for providing end-user software to Turmeric Ltd.?

   (a) ₹ 1,42,14,720.

   (b) Nil

   (c) ₹ 2,84,29,440.

   (d) ₹ 1,37,90,400

12. Is Fiserv Inc. required to file return of income for the A.Y. 2025-26, if there is no DTAA between India and Country F?

   (a) Yes, required to file return of income, since the said income is chargeable to tax in India.

   (b) No, not required to file return of income, since the said income is not chargeable to tax in India.

(c) Yes, required to file return of income, even if the said income is not chargeable to tax in India as information of income arising from India is to be disclosed in return.

(d) No, not required to file return of income, if Turmeric Ltd. deducted tax at source on such income. **(2 x 4 = 8 Marks)**

13. A Ltd., an Indian company, borrowed money from B Inc. in Country B, C Ltd. in Country C, D Inc. in Country D and E Ltd. in Country E, the details of which are given hereunder-

Lender	Amount borrowed by A Ltd.	Interest paid in the P.Y.2024-25	Is it an Associated Enterprise of A Ltd.?
B Inc.	₹ 15 crores	₹ 1.50 crores	Yes
C Ltd.	₹ 25 crores	₹ 2.50 crores	No
D Inc.	₹ 25 crores	₹ 2.50 crores	Yes
E Ltd.	₹ 15 crores	₹ 1.50 crores	No

B Inc. has provided guarantee of loan taken by A Ltd. from C Ltd. D Inc. has deposited ₹ 15 crores with E Ltd. Earnings before Interest, Tax and Depreciation of A Ltd. for A.Y.2025-26 is ₹ 10 crores. What is the interest to be disallowed under section 94B for A.Y.2025-26?

(a) ₹ 1 crore

(b) ₹ 3 crores

(c) ₹ 4 crores

(d) ₹ 5 crores **(2 Marks)**

14. Under which of the following cases, will arm's length price be determined by considering the median of the dataset?

Case	Most Appropriate Method	No. of entries in the dataset	Does the price at which the transaction is undertaken fall within the arm's length range beginning from the 35th percentile of the dataset and ending on the 65th percentile of the dataset?
I	CUP	5	-
II	RPM	6	Yes

III	TNMM	7	Yes
IV	Cost Plus	8	No

(a) II and III

(b) I and IV

(c) Only IV

(d) Only I **(2 Marks)**

15. Mr. Raghav, a resident, and Mr. John, an American citizen and a non-resident in India, are both sports commentators deriving income of ₹ 5 lakh from sports commentaries in India for A.Y.2025-26. Which of the following statements are correct?

(i) Tax is deductible u/s 194J from remuneration payable to Mr. Raghav.

(ii) Tax is deductible u/s 194E from remuneration payable to Mr. John.

(iii) Tax is deductible u/s 195 from remuneration payable to Mr. John.

(iv) Mr. John is not required to file his return of income u/s 139, if tax deductible at source is fully deducted.

(v) Mr. Raghav is not required to file his return of income u/s 139, if tax deductible at source is fully deducted.

Which of the above statements are correct, assuming that this is the only source of income for Mr. Raghav and Mr. John?

(a) (i), (ii) and (iv)

(b) (i), (ii), (iv) and (v)

(c) (i) and (iii)

(d) (i), (iii) and (iv) **(2 Marks)**

Division B – Descriptive Questions

*Question No. **1** is compulsory*

*Attempt any **four** questions from the remaining **five** questions*

1. M/s Suraj Industries Ltd., an Indian company, is engaged in manufacturing and assembling of automobiles and auto components in Pune, Maharashtra. The net profit after debit/credit of the following amounts to its Statement of Profit and Loss for the year ended 31-03-2025 was ₹ 9,50,00,000.

   (i) Depreciation calculated as per useful life of its assets ₹ 2,80,00,000.

   (ii) Donation of ₹ 12,00,000 given to a political party by way of account payee cheque.

   (iii) On 15-08-2024, the company contributed ₹50,00,000 to a research institution recognized and notified by the Central Government, which is engaged in scientific research.

   (iv) Dividend received from foreign company of ₹ 15,00,000 in which it holds 30% of the equity share capital.

   (v) On 15-05-2024, a long-term capital gain of ₹ 4,00,000 was realized from the sale of equity shares on which STT was paid at the time of acquisition and sale.

   (vi) Interest at 10% p.a. on ₹ 4,20,00,000, being amount borrowed from State Bank of India on 01-06-2024 for purchase of machinery. The interest outstanding as on 31-03-2025 was paid on 01-12-2025.

   (vii) Profit of ₹ 8,00,000 was earned from the sale of a plot of land to PQR Limited, an Indian company wholly owned by Suraj Industries Ltd. The plot was originally acquired on 30-06-2023.

   (viii) Salary of ₹ 1,00,00,000 to foreign technicians for installation of machinery at the factory premises was paid.

   (ix) The company sold automobile parts for ₹ 22,00,000 to M/s ABC Co Engineers, a sole proprietary concern, on 01.11.2022. On 01.02.2024 ₹ 12,00,000 was written off in the books as bad debts. The sole proprietor died on 01.03.2025 and the company managed to collect ₹ 11,00,000 towards full and final settlement on 30.03.2025. The entire amount collected was shown as bad debts recovered and credited to Statement of Profit and Loss.

Additional Information:

1. Depreciation computed as per Income-tax Rules, 1962 is ₹ 1,50,00,000 other than on the additions in assets made during the year.
2. During the year, the company made additions to its assets, including:
   - Office building worth ₹3,00,00,000 [Put to use on 15-12-2024]
   - Computers valued at ₹25,00,000 [Put to use on 11-05-2024]
   - Plant and machinery amounting to ₹5,00,00,000 [Installed and put to use on 31-12-2024]
3. The company declared and distributed dividend for the financial year 2024-25 on 31.5.2025 for ₹ 12,00,000.

Compute the total income of the company and tax liability for the assessment year 2025-26, assuming company opts for concessional tax regime under section 115BAA. Total turnover of the company for the P.Y. 2022-23 was ₹ 402 crores. **(14 Marks)**

2 (a) (i) Pigeon Limited was amalgamated with Laksh Limited on 01.04.2024. All the conditions of section 2(1B) were satisfied.

Pigeon Limited has the following carried forward losses as assessed till the Assessment Year 2024-25:

- Speculative Loss: ₹ 5.5 lakhs
- Unabsorbed Depreciation: ₹ 20 lakhs
- Unabsorbed Capital Expenditure on Scientific Research: ₹ 2.5 lakhs
- Business Loss: ₹ 125 lakhs

Laksh Limited has computed a profit of ₹ 160 lakhs for the Financial Year 2024-25, which is before adjusting the eligible losses of Pigeon Limited but after accounting for depreciation at 15% on ₹ 150 lakhs, the consideration at which plant and machinery were transferred upon amalgamation. However, as per Income-tax records, the written down value (WDV) of the assets in the hands of Pigeon Limited as on 1st April 2024 was ₹ 100 lakhs.

The profit of Laksh Limited of ₹ 160 lakhs also includes a speculative profit of ₹ 10 lakhs.

Compute the total income of Laksh Limited for Assessment Year 2025-26 and indicate the losses/ other allowances to be carried forward by it. **(5 Marks)**

(ii) Mrs. Urvashi, aged 56 years, a resident individual acquired a residential house at Ayodhya on 01.04.1993 for ₹ 45,00,000. The Fair market value of the property as on 01.04.2001 was ₹ 1,20,00,000 and the stamp duty value as on 01.04.2001 was ₹ 1,02,00,000.

Mrs. Urvashi sold her residential house located at Ayodhya to Mr. Sandeep Kumar on 15.10.2024 for ₹ 15,50,00,000. The value determined by the Stamp Duty Authority on 15.10.2024 was ₹ 17,00,00,000. Mr. Sandeep Kumar was handed over the possession of the property on 15.10.2024 and the registration process was completed on the same date. He paid the sale proceeds in full on the date of registration.

After recovering the sale proceeds from Sandeep Kumar, Mrs. Urvashi purchased one residential plot at Amritsar for ₹ 8 crores on 18.02.2025. She also deposited ₹ 3 crores in a Saving account opened with State Bank of India, Amritsar under Capital gain account scheme on 31.03.2025 for the construction of the residential house on above plot.

You are required to calculate the taxable capital gain in the hands of Mrs. Urvashi for the A.Y. 2025-26 as per the provisions of Income-tax Act, 1961. Cost Inflation Index for F.Y. 2001-02: 100 and 2024-25: 363. **(3 Marks)**

(b) Mr. Pradhyuman, aged 48 years, a resident individual has furnished the following details of income earned during the previous year 2024-25:

India

(i) Income from a sole-proprietary business in Indore ₹ 80 lakhs.

(ii) Share of profit from a partnership firm in Bhopal ₹ 20 lakhs.

Country G

(iii) Agricultural Income (gross) from tea gardens of CGD 40000. Taxable @20%.

(iv) Brought forward business loss of F.Y.2019-20 in Country G was CGD 5,200 which is not permitted to be set off against other income as per the laws of that country.

Country M

(v) Dividend income (gross) of CMD 30,000. Taxable @10%.

(vi) Rental Income of CMD 52,000 from house property. Taxable @15%. CMD 6,000 paid towards Municipal taxes in Country M. Municipal taxes are not allowed as deduction in Country M.

Other Information

- Mr. Pradhyuman has deposited ₹1,50,000 in public provident fund and paid medical insurance premium of ₹ 28,000 by account payee cheque to insure the health of himself and his wife (aged 48 years).
- India has no DTAA with Country G and Country M.

Compute total income and tax liability of Mr. Pradhyuman for the A.Y. 2025-26 after providing for deduction under section 91, assuming that 1 CGD/CMD = ₹ 70. Mr. Pradhyuman is opting out of the default tax regime and paying tax under normal provisions of the Act. **(6 Marks)**

3. (a) (i) A not-for-profit trust, engaged in philanthropic activities, operates both an educational institution and a hospital. During P.Y. 2024-25, the trust recorded annual receipts of ₹ 4.5 crores from its educational institution and ₹ 4.5 crores from its hospital.

The trust seeks to claim exemption separately under section 10(23C)(iiiad) for the educational institution and section 10(23C)(iiiae) for the hospital, on the basis that the receipts for each entity individually do not exceed ₹ 5 crores, the threshold specified for exemption under the respective provisions. Can it do so? Examine. **(4 Marks)**

(ii) A public charitable trust, registered under section 12AB, earned a gross income of ₹ 21 lakhs during the previous year ending 31st March 2025, comprising

- ₹ 14 lakhs from properties held by the trust,
- ₹ 6 lakhs as net income from a business incidental to its main objectives,
- ₹ 9 lakhs from voluntary contributions received from the public

The trust applied a sum of ₹ 12.80 lakhs towards charitable purposes during the year which includes repayment of loan taken for construction of orphanage ₹ 4.80 lakhs. The entire expenditure incurred on construction of orphanage was allowed as application of income in the P.Y. 2020-21.

Determine the taxable income of the trust for the assessment year 2025-26.

(4 Marks)

(b) (i) Laurus Labs Limited specializes in providing scientific research services to various non-resident clients, including Meta Inc. A key aspect of this arrangement is that Meta Inc. extends a guarantee for 12% of Laurus Labs Limited's total loans. The primary consideration here is whether this financial guarantee constitutes an "international transaction" under the transfer pricing provisions of the Income-tax Act, 1961. **(2 Marks)**

(ii) Without prejudice to the answer to (i) above, if transfer pricing provisions are applicable and the Assessing Officer has made a primary adjustment of ₹ 310 lakhs to the transfer price for P.Y. 2022-23 through an order dated 01.04.2024, which has been accepted by Laurus Labs Limited, what are the statutory compliance requirements under the Income-tax Act, 1961? Furthermore, if the transaction is denominated in Indian Rupees and the adjusted amount is not repatriated as on 31.03.2025, what would be the tax implications for non-compliance. Given that the one year marginal cost of fund lending rate of State Bank of India as on 1.4.2024 is 9%. **(4 Marks)**

4. (a) (i) Vijaya Bank credited ₹ 65,50,000 as interest on deposits into a separate account for macro-monitoring purposes using its Core-branch Banking Solutions (CBS) software. However, no tax was deducted at source (TDS) on the credited interest, even in cases where the interest on certain deposits exceeded ₹ 40,000.

The Assessing Officer disallowed 30% of interest expenditure, where interest on time deposits exceeded ₹ 40,000 and further levied a penalty under section 271C for non-deduction of TDS.

Examine whether the action taken by the Assessing Officer is justified.

(4 Marks)

(ii) Examine in the context of provisions contained in Chapter XVII of the Act and also work out the amount of tax to be deducted by the payer of income in the following cases:

(I) "Profit Commission" of ₹ 1 lakh paid on 18.7.2024 by a re-insurance company to the insurer company after the expiry of the term of insurance and where there was no claim during the treaty.

(II) Amrish, a part time director of Krish Pvt. Ltd. was paid an amount of ₹ 3,10,000 as fees which was actually in the nature of commission on sales for the period 1.4.2024 to 30.6.2024. **(4 Marks)**

(b) (i) Tekken Ltd., an Indian company engaged in the manufacturing and trading of video games under the brand name "TIMETODIE", undertook a large-scale publicity campaign in overseas markets to boost export sales. As part of its online advertising strategy, the company hired Moonland Inc., an Australian-based company with no permanent establishment (PE) in India, for digital advertising services. Tekken Ltd. paid ₹ 20 lakhs to Moonland Inc. for its services in the previous year 2024-25.

Discuss the tax and TDS implications of such transaction both in the hands of Tekken Ltd. and Moonland Inc. **(3 Marks)**

(ii) The Board for Advance Rulings has the powers of issuing commissions – Examine the correctness or otherwise of this statement. **(3 Marks)**

5. (a) (i) Examine whether the following persons are required to file return of income for A.Y.2025-26, giving brief reasons for your answer –

(I) Mr. Govind, 28 years old, started his business in P.Y. 2024-25, making it his first year of operations. During the year, his turnover from business amounted to ₹ 70 lakhs, and his total income, as computed from his books of account is ₹ 2 lakhs. He has no other sources of income and has not claimed any deductions under Chapter VI-A or Section 10AA of the Income-tax Act, 1961.

(II) Mr. Vicky, aged 54 years, received a gift of ₹ 50 lakhs from his son, Mr. Shravan (aged 26 years), who is employed in a company. He deposited the entire amount in his savings bank account with IDFC Bank on 28th March 2025. Subsequently, on 25th April 2025, he

utilized ₹ 30 lakhs from the said sum to purchase a residential flat for self-occupation, while the remaining balance was transferred to a one-year fixed deposit on 28th April 2025. Mr. Vicky does not maintain any other bank account and does not have any additional sources of income, except for the interest accrued on the fixed deposit. **(4 Marks)**

OR

(ii) Examine the correctness or otherwise of the following propositions in the context of the Income-tax Act, 1961:

(I) At the time of hearing of rectification application, the Income-tax Appellate Tribunal can re-appreciate the evidence produced during the proceedings of the appeal hearing.

(II) The High Court cannot interfere with the factual finding recorded by the lower authorities and the Tribunal, without any valid reasons.

(4 Marks)

(b) Determine the penalty leviable under section 270A of the Income-tax Act, 1961, in the case of Alibaba Ltd., an Indian company, considering that none of the additions or disallowances made during the assessment or reassessment fall under section 270A(6) and that the under-reported income does not result from misreporting.

	Particulars of total income of A.Y.2025-26	**Alibaba Ltd., an Indian company**
		(₹)
(1)	As per the return of income furnished u/s 139(1)	(12,00,000)
(2)	Determined under section 143(1)(a)	(7,50,000)
(3)	Assessed under section 143(3)	(5,00,000)
(4)	Reassessed under section 147	4,50,000

Note - The total turnover of Alibaba Ltd. for the P.Y.2022-23 was ₹ 350 crore. The company has not opted for special provisions under section 115BAA or 115BAB. **(4 Marks)**

(c) Explain the following terms in the context of interpretation of tax treaties:

(i) Principle of Contemporanea Expositio

(ii) Teleological Interpretation. **(6 Marks)**

6. (a) (i) In a search operation conducted under section 132 of the Income-tax Act on 31.10.2024, the department seized cash amounting to ₹ 25 lakhs. The assessee, after duly explaining the source of the seized cash, submitted an application on 15.12.2024 requesting its release. However, the department declined the request. The assessee seeks your opinion on, the following issues:

(i) Can the department retain the seized cash even after the assessee has explained its source?

(ii) If yes, then to what extent and upto what period? **(4 Marks)**

(ii) Under the tax treaty between India and Country X, capital gains from the sale of shares of Red Chilies Ltd., an Indian company, are taxable only in Country X, provided the transferor is a resident of Country X, except when the transferor holds more than 10% equity in Red Chilies Ltd. X Ltd., a resident of Country X, invests in Red Chilies Ltd. through its two wholly owned subsidiaries, Lalit Ltd. and Mohan Ltd., both incorporated in Country X. Each subsidiary individually holds 9.95% shares, resulting in a combined holding of 19.9% in Red Chilies Ltd. The subsidiaries sell the shares of Red Chilies Ltd and claim exemption as each is holding less than 10% equity shares in the Indian company. Examine whether GAAR be invoked to deny treaty benefit?

(4 Marks)

(b) Mischief Ltd. is a company incorporated in Maldives and 55% of its shares are held by Kaveri (P) Ltd., an Indian company. Mischief Ltd. has its presence in India also. The details relating to Mischief Ltd. for the P.Y.2024-25, are as under:

Particulars	India	Maldives
1. Assets		
Fixed assets at depreciated values for tax purposes (₹ in crores)	120	80
Intangible assets (₹ in crores)	50	200
Other assets (value as per books of account) (₹ in crores)	40	120

2. Income		
Income from trading operations (₹ in crores)	25	50
The above figure includes:		
(i) Income from transactions where purchases are from associated enterprises and sales are to unrelated parties	2	4
(ii) Income from transactions where sales are to associated enterprises and purchases are from unrelated parties	3	5
(iii) Income from transactions where both purchases and sales are from/to associated enterprises	5	10
Interest and dividend from investments (₹ in crores)	20	15
3. Employment Details		
Number of employees (Residents in respective countries)	70	90
Payroll expenses on employees (₹ in crores)	8	12

Determine the residential status of Mischief Ltd. for A.Y.2025-26, if during the F.Y.2024-25, eight board meetings were held – 3 in India and 5 in Maldives.

(6 Marks)

Mock Test Paper - Series II: April, 2025

Date of Paper: 9th April, 2025

Time of Paper: 2 P.M. to 5 P.M.

FINAL COURSE: GROUP – II

PAPER – 4: DIRECT TAX LAWS & INTERNATIONAL TAXATION

SOLUTIONS

Division A – Multiple Choice Questions

Answer Keys

MCQ No.	Answer	
1	**(c)**	Tax is deductible@10% on ₹ 20,000 distributed to Mr. Xavier and @5.2% on ₹ 1 lakh distributed to Mr. Yatin
2	**(c)**	Tax Evasion
3	**(b)**	Only the cost of acquisition is allowed as a deduction to Mr. Xavier. Interest expense is not deductible.
4.	**(d)**	Yes; ₹ 510
5.	**(c)**	Yes; ₹ 4,000
6.	**(a)**	No tax is required to be deducted at source u/s 194M.
7.	**(b)**	Yes; ₹ 6,600 to be deducted on the amount payable to Phoenix LLC; No deduction is, however, required on the amount payable to DaVita Inc.
8.	**(a)**	₹ 5,70,960
9.	**(b)**	No, Turmeric Ltd. is not required to deduct tax at source.
10.	**(a)**	Yes, Turmeric Ltd. is required to deduct tax at source of ₹ 1,42,14,720
11.	**(a)**	₹ 1,42,14,720
12.	**(d)**	No, not required to file return of income, if Turmeric Ltd. deducted tax at source on such income.
13.	**(d)**	₹ 5 crores
14.	**(c)**	Only IV
15.	**(c)**	(i) and (iii)

Division B – Descriptive Choice Questions

1. Computation of total income and tax liability of M/s Suraj Industries Ltd. for the A.Y. 2025-26 as per section 115BAA

	Particulars		Amount in ₹
I	**Profits and gains of business and profession**		
	Net profit as per Statement of Profit and Loss		9,50,00,000
	Add: **Items debited but to be considered separately or to be disallowed**		
	(i) Depreciation as per useful life of assets	2,80,00,000	
	(ii) Donation to political party [Since donation to political party is not wholly and exclusively for the purpose of business or profession, it is not allowable as deduction u/s 37. Since the amount of contribution is debited to statement of profit and loss, the same has to be added back]	12,00,000	
	(iii) Contribution to research institution approved and notified by the Central Government for scientific research [As per section 35(1)(ii), 100% deduction is allowed for amount paid to a research institution undertaking scientific research, if such institution is approved for this purpose and notified by the Central Government. However, since company is opting for section 115BAA, deduction in respect of this contribution is not allowed. Since the amount of contribution is debited to statement of profit and loss, the same is required to be added]	50,00,000	
	(vi) Interest on borrowing to State Bank of India (SBI) [10% x ₹ 420 lakhs x 10/12] [Interest on borrowing from SBI upto 31.12.2024, being the date when machinery is installed and put to use, is not allowable as deduction since it has to be capitalized as part of the cost of the asset. Interest for January, February and March 2025 is disallowed as per section	35,00,000	

	43B since it is not paid on or before the due date of filing return of income i.e., 31.10.2025. Since the entire interest has been debited to the statement of profit and loss, it has to be added back while computing business income]		
	(viii) Salary for installation of machinery [As per ICDS V, expenses which are specifically attributable for bringing the fixed asset to its working condition would form part of actual cost. Therefore, salary to foreign technicians for installation of machinery is a capital expenditure and not allowable as deduction. Since it has been debited to the statement of profit and loss, it has to be added back while computing business income]	1,00,00,000	
			4,77,00,000
			14,27,00,000
	***Less:* Items credited but not chargeable to tax or chargeable to tax under other head of income/expenses allowed but not debited**		
	(iv) Dividend received from foreign company [Dividend received from foreign company is taxable under the head "Income from other Source". Since the same has been credited to Statement of Profit and loss, it has to be deducted while computing business income.	15,00,000	
	(v) Long-term capital gain on sale of equity shares [Long-term capital gain on sale of equity shares is taxable under the head "Capital Gains". Since the same has been credited to Statement of Profit and loss, it has to be deducted while computing business income.	4,00,000	

	(vii) Profit on sale of plot of land	8,00,000	
	Capital gains arising on sale of plot of land are taxable under the "Capital Gains". Since the same has been credited to the statement of profit and loss, the same has to be reduced while computing business income]		
	(ix) Bad debt recovered	10,00,000	
	[The deduction of bad debt allowed u/s 36 was ₹ 12 lakhs out of the total debt of ₹ 22 lakhs; The excess of amount recovered i.e., ₹ 11 lakhs over the amount due after bad debt allowance i.e., ₹ 10 lakhs will be taxable as business income. Since the entire amount of ₹ 11 lakhs recovered has been credited to the statement of profit and loss, ₹ 10 lakhs has to be reduced while computing business income.]		
			37,00,000
			13,90,00,000
	***Less*: Depreciation as per Income-tax Rules, 1962**	1,50,00,000	
	Depreciation on assets acquired during the P.Y. 2024-25		
	- **Office building**		
	Purchased and put to use on 15.12.2024 [₹ 300 lakhs x 10% x 50%, since it has been put to use for less than 180 days during the year]	15,00,000	
	- **Computer**		
	Purchased and put to use on 11.5.2024 [₹ 25 lakhs x 40%, since it has been put to use for 180 days or more during the year]	10,00,000	
	- **Plant and machinery**		
	On P & M installed and put to use on 31.12.2024 [₹ 624.5 lakhs (₹ 500 lakhs + ₹ 100 lakhs of salary for installation + ₹ 24.5 lakhs, being interest from 1.6.2024 to 31.12.2024) x 15%		

	x 50%, since it has been put to use for less than 180 days during the year]	46,83,750	2,21,83,750
	Additional depreciation (since company is opting for section 115BAA, additional depreciation is not allowed)	-	-
	Profits and gains from business or profession		**11,68,16,250**
II	**Capital Gains**		
	Profit on sale of plot of land	-	
	[Short-term capital gains arise on sale of plot of land held for less than 24 months. However, in this case, since the transfer is to a 100% subsidiary company, which is an Indian company, the same would not constitute a transfer for levy of capital gains tax as per section 47(iv)]		
	Long-term capital gain on listed equity shares	4,00,000	4,00,000
III	**Income from Other Sources**		
	Dividend received from a foreign company		15,00,000
Gross Total Income			**11,87,16,250**
***Less:* Deduction under Chapter VI-A**			
Deduction under section 80GGB [Donation to political party is not allowable as deduction to Suraj Industries Ltd., since the company is opting for section 115BAA]			-
Deduction under section 80M allowable, even if, company is opting for section 115BAA, to the extent of lower of dividend received and dividend distributed. Therefore, ₹ 12,00,000, being the amount of dividend distributed allowable as deduction			12,00,000
Total Income			**11,75,16,250**

Computation of tax liability as per section 115BAA

Particulars	Amount in ₹
Tax payable on LTCG @10% u/s 112A on ₹ 2,75,000, being the LTCG in excess of ₹ 1,25,000	27,500

Tax @ 22% on ₹ 11,71,16,250	2,57,65,575
	2,57,93,075
Add: Surcharge @ 10% [Domestic company opting for section 115BAA, rate of surcharge is 10%]	25,79,308
	2,83,72,383
Add: Health and education cess @4%	11,34,895
Tax liability	**2,95,07,278**
Tax liability (rounded off)	**2,95,07,280**

2 (a) (i) Computation of total income of Laksh Limited for the A.Y. 2025-26

Particulars	₹ (in lakhs)	
Business income before setting off brought forward losses of Pigeon Ltd.		160.00
Add: Excess depreciation claimed in the scheme of amalgamation of Pigeon Limited with Laksh Limited.		
Value at which assets are transferred by Pigeon Ltd.	150	
WDV in the books of Pigeon Ltd.	100	
Excess accounted	50	
Excess depreciation claimed in computing taxable income of Laksh Ltd. [₹ 50 lakhs × 15%] [*Explanation 2* to section 43(6)]		7.50
		167.50
Set-off of brought forward business loss of Pigeon Ltd. **(See Notes 2 & 4)**		(125.00)
Set-off of unabsorbed depreciation under section 32(2) read with section 72A **(See Notes 2 & 4)**		(20.00)
Set-off of unabsorbed capital expenditure under section 35(1)(iv) read with section 35(4) **(See Note 5)**		(2.50)
Business income		**20.00**

Notes:

1. It is presumed that the amalgamation is within the meaning of section 72A of the Income-tax Act, 1961.

2. In the case of amalgamation of companies, the unabsorbed losses and unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or unabsorbed depreciation of the amalgamated company for the previous year in which the amalgamation was effected and such business loss and unabsorbed depreciation shall be carried forward and set-off by the amalgamated company for a period of 8 years and indefinitely, respectively.

3. As per section 72A(7), the accumulated loss to be carried forward specifically excludes loss sustained in a speculative business. Therefore, speculative loss of ₹ 5.5 lakhs of Pigeon Ltd. cannot be carried forward by Laksh Ltd.

4. Section 72(2) provides that where any allowance or part thereof unabsorbed under section 32(2) (i.e., unabsorbed depreciation) or section 35(4) (i.e., unabsorbed scientific research capital expenditure) is to be carried forward, effect has to be first given to brought forward business losses under section 72.

5. Section 35(4) provides that the provisions of section 32(2) relating to unabsorbed depreciation shall apply in relation to deduction allowable under section 35(1)(iv) in respect of capital expenditure on scientific research related to the business carried on by the assessee. Therefore, unabsorbed capital expenditure on scientific research can be set-off and carried forward in the same manner as unabsorbed depreciation.

6. The restriction contained in section 73 is only regarding set-off of loss computed in respect of speculative business. Such a loss can be set-off only against profits of another speculation business and not non-speculation business. However, there is no restriction under the Income-tax Act, 1961 regarding set-off of normal business losses against speculative income. Therefore, normal business losses can be set-off against profits of a speculative business.

Consequently, there is no loss or allowance to be carried forward by Laksh Ltd. to the A.Y. 2026-27

(ii) Computation of taxable Capital gain in the hands of Mrs. Urvashi for A.Y.2025-26

Particulars	₹
Full value of consideration	15,50,00,000
As per section 50C, the full value of consideration would be actual sales consideration since the stamp duty value as on 15.10.2024 of ₹ 17,00,00,000 does not exceed 110% of actual consideration of ₹ 15,50,00,000.	
Less: **Cost of acquisition**	1,02,00,000
[₹ 1,02,00,000 (Higher of actual cost of ₹ 45,00,000 and Fair market value as on 1.4.2001 of ₹ 1,20,00,000, but restricted to stamp duty value as on 1.4.2001 of ₹ 1,02,00,000)	
[Indexation benefit would not available while computing capital gains since the property is transferred on or after 23.7.2024]	
	14,48,00,000
Less: **Exemption under section 54**	**10,00,00,000**
[Purchase of one residential plot of ₹ 8 crores on 18.2.2025 and deposit of ₹ 3 crores in Capital Gain Account Scheme on 31.3.2025 (before the date of filing of return of income) provided that the construction thereon is completed within the stipulated time of three years, but restricted to maximum of ₹ 10 crores]	
Taxable long term capital gains	**4,48,00,000**

(b) Computation of total income and tax liability of Mr. Pradhyuman for A.Y. 2025-26

Particulars	₹	₹
Income from house property		
Gross annual value[1] of house property in Country M [CMD 52,000 x ₹ 70/CMD]	36,40,000	
Less: Municipal taxes [CMD 6,000 x ₹ 70/CMD]	4,20,000	
Net Annual value	32,20,000	
Less: Deduction @30%	9,66,000	22,54,000

[1] *In absence of any information regarding fair rent and standard rent, actual rent is considered as gross annual value.*

Profits and gains from business and profession		
Income from sole proprietary concern in India	80,00,000	
Share of profit from a partnership firm in India of ₹ 20 lakhs, is exempt under section 10(2A)	Nil	
Business profit	80,00,000	
Less: Business Loss[2] in Country G (CGD 5200 x ₹ 70/CGD)	3,64,000	76,36,000
Income from Other Sources		
Agricultural income from tea gardens in Country G, is taxable in India (CGD 40000 x ₹ 70/CGD)	28,00,000	
Dividend income from Country M (CMD 30000 x ₹ 70/CGD)	21,00,000	49,00,000
Gross Total Income		**1,47,90,000**
Less: **Deductions under Chapter VI-A**		
Under section 80C [deposit in PPF]	1,50,000	
Under section 80D	25,000	
[Medi-claim premium paid ₹ 28,000, restricted to ₹ 25,000]		1,75,000
Total Income		**1,46,15,000**
Tax on total income		
Tax on ₹ 1,46,15,000 [(30% x ₹ 1,36,15,000) plus ₹ 1,12,500]		41,97,000
Add: Surcharge@15%, since total income exceeds ₹ 1 crore but does not exceed ₹ 2 crore		6,29,550
		48,26,550
Add: HEC@4%		1,93,062
		50,19,612
Average rate of tax in India [i.e., ₹ 50,19,612/₹ 1,46,15,000 x 100]	34.3456%	
Rebate u/s 91 in respect of income in Country G		
Average rate of tax in Country G	20%	
Doubly taxed income [₹ 28,00,000 – ₹ 3,64,000]	24,36,000	

[2] *Since the eight year has not expired from the assessment year in which such business loss was incurred, such business loss can be set-off against current year business income.*

Rebate under section 91 on ₹ 24,36,000 @20% (lower of average Indian tax rate and rate of tax in Country G)		4,87,200
Rebate u/s 91 in respect of income in Country M		
Average rate of tax in Country M [CMD 3,000 (30,000 x 10%) + CMD 7800 (52,000 x 15%)/ CMD 82,000] x 100	13.1707%	
Doubly taxed income [₹ 22,54,000 + ₹ 21,00,000]		
Rebate under section 91 on ₹ 43,54,000 @13.1707% (lower of average Indian tax rate and rate of tax in Country G)		5,73,452
Tax liability in India		**39,58,960**

3. (a) (i) As per *Explanation* below to section 10(23C)(iiiae), it has been clarified that the limit of annual receipts of ₹ 5 crore is qua 'taxpayer' and not qua 'activity'. Therefore, if the aggregate annual receipts from educational activity and medical activity exceeds ₹ 5 crores, then exemption under sub-clause (iiiad) and (iiiae) cannot be availed.

Since, in the present case, the aggregate annual receipt of ₹ 9 crores (₹ 4.5 crores of educational institution and ₹ 4.5 crores from hospital) exceeds the threshold of ₹ 5 crores, exemption under section 10(23C)(iiiad) and (iiiae) cannot be availed, even though the individual receipts have not exceeded ₹ 5 crores.

(ii) Computation of taxable income of public charitable trust

	Particulars	₹
(i)	Income from property held under trust (net)	14,00,000
(ii)	Income (net) from business (incidental to main objects)	6,00,000
(iii)	Voluntary contributions from public [Voluntary contribution made with a specific direction towards corpus are alone to be excluded under section 11(1)(d). In this case, there is no such direction and hence, included]	9,00,000
		29,00,000

	Less: 15% of the income eligible for retention / accumulation without any conditions	4,35,000
		24,65,000
	Less: Amount applied for the objects of the trust	
	(i) Amount spent for charitable purposes (₹ 12,80,000 - ₹ 4,80,000)	8,00,000
	(ii) Repayment of loan for construction of orphan home	-
	Taxable Income	**16,65,000**

Note: As per *Explanation 4(ii)* to section 11(1), any application for charitable or religious purposes, from any loan or borrowing in the concerned year, shall not be treated as application of income for charitable or religious purposes. However, the amount not so treated as application, shall be treated as application in the year in which the loan is repaid. The Fourth proviso to *Explanation 4(ii)* to section 11(1) clarifies that this provision will, however, not apply where application from loan or borrowing is made on or before 31.3.2021.

Since the amount spent on construction of orphanage was allowed as deduction in the P.Y. 2020-21, repayment of loan taken for such purposes will not be allowed as application since it would be tantamount to double deduction.

(b) (i) Provision of scientific research services falls within the scope of international transaction under section 92B. Laurus Labs Limited and Meta Inc. are deemed to be associated enterprises as per section 92A(2)(d), since Meta Inc. guarantees not less than 10% of the total borrowings of Laurus Labs Limited. Since there is an international transaction between associated enterprises, transfer pricing provisions are attracted in this case.

(ii) Where the Assessing Officer has made a primary adjustment of ₹ 310 lakhs to the transfer price and the same has been accepted by Laurus Labs Limited, secondary adjustment has to be made in the books of account as per section 92CE, since the primary adjustment made by the Assessing Officer and accepted by Laurus Labs Limited exceeds ₹ 100 lakhs and the primary adjustment is in relation to P.Y.2022-23. The excess money determined based on the primary adjustment has to be repatriated to India within 90 days from the date of order, failing which the

same would be deemed as an advance and interest would be attracted at the one-year marginal cost of fund lending rate of State Bank of India as on 1.4.2024 + 3.25%, since the international transaction has been denominated in Indian Rupees. In this case, since the excess money has not been repatriated within 90 days, the same would be deemed to be an advance made by Laurus Labs Limited to Meta Inc. and interest would be attracted@12.25% (9% + 3.25%) from 1.4.2024, being the date of the order of the Assessing Officer. The interest would amount to ₹ 37.975 lakhs (i.e., 12.25% of ₹ 310 lakhs) for the P.Y.2024-25.

Alternatively, Laurus Labs Limited can opt to pay additional income-tax@20.9664% (tax@18% plus surcharge@12% plus cess@4%) on ₹ 310 lakhs, which would amount to ₹ 65 lakhs. In such a case, secondary adjustment is not required to be made.

4. (a) (i) The *Explanation* below section 194A(1) provides that where any income by way of interest other than interest on securities is credited to any account, whether called 'interest payable account' or 'suspense account' or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and provisions of section 194A, shall, thus, apply.

However, the CBDT has, vide *Circular No.3/2010 dated 2.3.2010*, clarified that *Explanation* below section 194A(1) will not apply in cases of banks where credit is made to provisioning account on daily/monthly basis for the purpose of macro monitoring only by the use of CBS software.

Since no constructive credit to the depositor's / payee's account takes place while calculating interest on daily / monthly basis in the CBS software used by banks, tax need not be deducted at source on such provisioning of interest by banks for the purposes of macro monitoring only.

In such cases, tax shall be deducted at source on accrual of interest at the end of the financial year or at periodic intervals as per practice of the bank or as per the depositor's or payee's requirement or on maturity or on encashment of time deposit, whichever event takes place earlier and wherever the aggregate amount of interest income credited or paid or likely to be credited or paid during the financial year by the bank exceeds the limits specified in section 194A i.e., ₹ 40,000.

In view of the above, the action of the Assessing Officer in disallowing the interest expenditure credited in a separate account for macro monitoring purpose is not valid and consequent initiation of penalty proceedings under section 271C is not tenable in law.

(ii) (I) Section 194D requires deduction of tax at source@10% from insurance commission, where the commission exceeds ₹ 15,000.

Reinsurance is different from insurance since there is no direct contractual relationship between the person insured and the re-insurer.

In order to attract section 194D, the commission or any other payment covered under the section should be a remuneration or reward for soliciting or procuring the insurance business. The insurance companies do not procure business for the reinsurance company nor does the reinsurer pay commission or other payment for soliciting the business from the insurance companies. Therefore, section 194D has no application.

Hence, when profit commission is paid by a reinsurance company to an insurance company, after the expiry of the term of insurance, in respect of cases where there is no claim during the operation of the reinsurance treaty, tax deduction under section 194D is not attracted.

(II) Section 194J provides for deduction of tax at source @10% on any remuneration or fees or commission, by whatever name called, paid to a director, which is not in the nature of salary in respect of which tax is deductible at source under section 192.

Hence, tax is to be deducted at source under section 194J @10% by Krish Pvt. Ltd. on the commission of ₹ 3,10,000 paid to Amrish, a part-time director. The tax deductible under section 194J would be ₹ 31,000, being 10% of ₹ 3,10,000.

(b) (i) Chapter VIII of the Finance Act, 2016, "Equalisation Levy", provides for an equalisation levy of 6% of the amount of consideration for specified services received or receivable by a non-resident not having permanent establishment in India, from a resident in India who carries out business or profession, or from a non-resident having permanent establishment in India.

"Specified Service" means

(1) online advertisement;

(2) any provision for digital advertising space or any other facility or service for the purpose of online advertisement and

(3) any other service as may be notified by the Central Government.

However, equalisation levy shall not be levied-

- where the non-resident providing the specified services has a permanent establishment in India and the specified service is effectively connected with such permanent establishment.
- the aggregate amount of consideration for specified service received or receivable during the previous year does not exceed ₹ 1 lakh.
- where the payment for specified service is not for the purposes of carrying out business or profession

In the present case, equalisation levy @6% is chargeable on the amount of ₹ 20,00,000 received by Moonland Inc., a non-resident not having a PE in India from Tekken Ltd., an Indian company. Accordingly, Tekken Ltd. is required to deduct equalisation levy of ₹ 1,20,000 i.e., @6% of ₹ 20 lakhs, being the amount paid towards online advertisement services provided by Moonland Inc., a non-resident having no permanent establishment in India. Non-deduction of equalisation levy would attract disallowance under section 40(a)(ib) of 100% of the amount paid while computing business income.

(ii) The statement is correct.

Under section 245U, the Board for Advance Rulings shall have all the powers vested in the Civil Court under the Code of Civil Procedure, 1908 as are referred to in section 131.

Accordingly, the Board for Advance Rulings shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely -

(1) discovery and inspection;

(2) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;

(3) compelling the production of books of account and other documents; and

(4) issuing commissions.

Therefore, the Board for Advance Ruling has the powers of issuing commissions.

5. (a) (i) (I) As per section 139(1)(b), an individual is required to file his return if his total income, without giving effect to deductions under, *inter alia,* Chapter VI-A and section 10AA, exceeds the basic exemption limit. In this case, Mr. Govind's total income of ₹ 2,00,000 is lower than the basic exemption limit of ₹ 3,00,000/ ₹ 2,50,000, as the case may be. However, such a person who is not required to file his return on account of his total income being lower than the basic exemption limit, would be required to file return of income if, *inter alia*, his turnover in business exceeds ₹ 60 lakhs during the previous year. In this case, since Mr. Govind's turnover from business for the P.Y.2024-25 is ₹ 70 lakhs, he has to file return of his income for A.Y.2025-26.

(II) Gift of ₹ 50 lakhs received from son is not taxable under section 56(2)(x) in the hands of Mr. Vicky, since his son is his relative, and gifts from a relative are excluded from the applicability of section 56(2)(x). The only income of Mr. Vicky for the P.Y.2024-25 would be interest on savings account for a period of 4 days from 28th March, 2025 to 31st March, 2025 on ₹ 50 lakhs, which would be lower than the basic exemption limit. As per section 139(1)(b), an individual is required to file his return if his total income exceeds the basic exemption limit. In this case, Mr. Vicky's total income is lower than the basic exemption limit of ₹ 3,00,000/ ₹ 2,50,000, as the case may be.

However, such a person who is not required to file his return on account of his total income being lower than the basic exemption limit, would be required to file return of income if, *inter alia*, the deposit in his savings account is ₹ 50 lakhs or more during the previous year.

Since a deposit of ₹ 50 lakhs has been made in the savings account of Mr. Vicky in the P.Y.2024-25, he is required to file his return of income for A.Y.2025-26.

(ii) (I) The proposition is not correct as per law. This is because section 254(2) specifically empowers the Appellate Tribunal to amend any

order passed by it, either *suo-moto* or on an application made by the assessee or Assessing Officer, with a view to rectify any mistake apparent from record, at any time within 6 months from the end of the month of the order sought to be amended.

The powers of the Tribunal under section 254(2) relating to rectification of its order are very limited. Such powers are confined to rectifying any mistake apparent from the record. The mistake has to be such that for which no elaborate reasons or inquiry is necessary. Accordingly, the re-appreciation of evidence placed before the Tribunal during the course of the appeal hearing is not permitted. It cannot re-adjudicate the issue afresh under the garb of rectification *[CIT vs. Vardhman Spinning (1997) 226 ITR 296 (P & H), CIT v. Ballabh Prasad Agarwalla (1998) 233 ITR 354 (Cal.) & Niranjan & Co. Ltd. v. ITAT (1980) 122 ITR 519 (Cal.)]*

(II) The proposition is correct in law. A finding of fact cannot be disturbed by the High Court in exercise of its powers under section 260A. The Income-tax Appellate Tribunal is the final fact finding authority and the findings of fact recorded by the Tribunal can be interfered with by the High Court under section 260A only on the ground that the same were without evidence or material, or if the finding is contrary to the evidence, or is perverse or there is no direct nexus between conclusion of fact and the primary fact upon which that conclusion is based.

In *CIT vs. P. Mohanakala (2007) 291 ITR 278 and M. Janardhana Rao v. Joint CIT (2005) 273 ITR 50*, the Apex Court observed that the High Court had set aside the factual findings of the lower authorities and the Tribunal without any valid reason. The Apex Court held that the findings of fact could not be interfered with by the High Court without carefully considering the facts on record, the surrounding circumstances and the material evidence. There is no scope for interference with the factual findings, unless the findings are *per se* without reason or basis, perverse and/or contrary to the material on record.

Hence, only if the issue gives rise to a substantial question of law, an appeal shall lie before the High Court.

(b) Alibaba Ltd. is deemed to have under-reported its income since:

(1) the assessment under 143(3) has the effect of reducing the loss determined in a return processed under section 143(1)(a); and

(2) the reassessment under section 147 has the effect of converting the loss assessed under section 143(3) into income.

Therefore, penalty is leviable under section 270A for under-reporting of income.

Computation of penalty leviable under section 270A

Particulars	₹	₹
Assessment under section 143(3)		
Under-reported income:		
Loss assessed u/s 143(3)	(5,00,000)	
(-) Loss determined under section 143(1)(a)	(7,50,000)	
	2,50,000	
Tax payable on under-reported income @ 25%	62,500	
Add: HEC@4%	2,500	
	65,000	
Penalty leviable@50% of tax payable		32,500
Reassessment under section 147		
Under-reported income:		
Total income reassessed under section 147	4,50,000	
(-) Loss assessed under section 143(3)	(5,00,000)	
	9,50,000	
Tax payable on under-reported income @ 25%	2,37,500	
Add: HEC@4%	9,500	
	2,47,000	
Penalty leviable@50% of tax payable		1,23,500

Note – The applicable rate of tax for Alibaba Ltd. for A.Y.2025-26 is 25%, since its turnover for the P.Y.2022-23 does not exceed ₹ 400 crores.

(c) (i) Principle of *Contmporanea Expositio*

A treaty's terms are normally to be interpreted on the basis of their meaning at the time the treaty was concluded. However, this is not a universal principle.

In *Abdul Razak A. Meman's* (2005) 276 ITR 306, the AAR observed that "there can be little doubt that while interpreting treaties, regard should be had to material *contemporanea expositio*. This proposition is embodied in article 32 of the Vienna Convention and is also referred to in the decision of the Hon'ble Supreme Court in *K. P. Varghese v. ITO [1981] 131 ITR 597*.

(ii) Teleological Interpretation

In this approach the treaty is to be interpreted so as to facilitate the attainment of the aims and objectives of the treaty. This approach is also known as the 'objects and purpose' method.

In case of *Union of India v. Azadi Bachao Andolan 263 ITR 706*, the Supreme Court observed that "the principles adopted for interpretation of treaties are not the same as those in interpretation of statutory legislation. The interpretation of provisions of an international treaty, including one for double taxation relief, is that the treaties are entered into at a political level and have several considerations as their bases."

One instance is where the Apex Court agreed with the contention of the Appellant that "the preamble to the Indo-Mauritius DTAA recites that it is for 'encouragement of mutual trade and investment' and this aspect of the matter cannot be lost sight of while interpreting the treaty.

6. (a) (i) The proviso to section 132B(1)(i) provides that where the person concerned makes an application to the Assessing Officer, within 30 days from the end of the month in which the asset was seized, for release of the asset and the nature and source of acquisition of the asset is explained to the satisfaction of the Assessing Officer, then, the Assessing Officer may, with the prior approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, release the asset after recovering the existing liability under the Income-tax Act, 1961, etc. out of such asset. 'Existing liability', however, does not include advance tax payable. Such asset or portion thereof has to be released within 120 days from the date on which the last of the authorisations for search under section 132 was executed.

In this case, since the application was made to the Assessing Officer within 30 days from the end of the month in which search was conducted, the department may retain only the amount of existing liability, if any, and the balance may have to be released within 120 days from the date on which the last of the authorisations for search under section 132 was executed.

Note: *It may be noted that one of the conditions mentioned above for release of an asset is that the nature and source of acquisition of the asset should be explained to the satisfaction of the Assessing Officer. However, in this case, it has been given that the assessee's application for release of the asset, explaining the sources thereof, was turned down by the Department. If the application was turned down by the Department due to the reason that it was not satisfied with the explanation given by the assessee as to the nature and source of acquisition of the asset, then, the asset (in this case, cash) cannot be released, since the condition mentioned above is not satisfied.*

(ii) The above arrangement of splitting the investment through two subsidiaries appears to be with the intention of obtaining tax benefit under the treaty. Further, there appears to be no commercial substance in creating two subsidiaries as they do not change the economic condition of investor X Ltd. in any manner (i.e. on business risks or cash flow), and reveals a tainted element of abuse of tax laws. Hence, the arrangement can be treated as an impermissible avoidance arrangement by invoking GAAR. Consequently, treaty benefit would be denied by ignoring Lalit Ltd. and Mohan Ltd., the two subsidiaries, or by treating Lalit Ltd. and Mohan Ltd. as one and the same company for tax computation purposes.

(b) The residential status of a foreign company is determined on the basis of place of effective management (POEM) of the company.

For determining the POEM of a foreign company, the important criteria is whether the company is engaged in active business outside India or not.

A company shall be said to be engaged in "**Active Business Outside India"** (ABOI) for POEM, if

- the passive income is not more than 50% of its total income; **and**
- less than 50% of its total assets are situated in India; **and**
- less than 50% of total number of employees are situated in India or are resident in India; **and**

- the payroll expenses incurred on such employees is less than 50% of its total payroll expenditure.

Mischief Ltd. shall be regarded as a company engaged in active business outside India for P.Y. 2024-25 for POEM purpose only if it satisfies all the four conditions cumulatively.

Condition 1: The passive income of Mischief Ltd. should not be more than 50% of its total income

Total income of Mischief Ltd. during the P.Y. 2024-25 is ₹ 110 crores [(₹ 25 crores + ₹ 50 crores) + (₹ 20 crores + ₹ 15 crores)]

Passive income is the aggregate of, -

(i) income from the transactions where both the purchase and sale of goods is from/to its associated enterprises; and

(ii) income by way of royalty, dividend, capital gains, interest or rental income whether or not involving associated enterprises;

Passive Income of Mischief Ltd. is ₹ 50 crores, being sum total of :

(i) ₹ 15 crores, income from transactions where both purchases and sales are from/to associated enterprises (₹ 5 crores in India and ₹ 10 crores in Maldives)

(ii) ₹ 35 crores, being interest and dividend from investment (₹ 20 crores in India and ₹ 15 crores in Maldives)

Percentage of passive income to total income = ₹ 50 crore/ ₹ 110 crore x 100 = 45.45%

Since passive income of Mischief Ltd. **is 45.45%, which is not more than 50%** of its total income, the first condition is satisfied.

Condition 2: Mischief Ltd. should have less than 50% of its total assets situated in India

Value of total assets of Mischief Ltd. during the P.Y. 2024-25 is ₹ 610 crores [₹ 210 crores, in India + ₹ 400 crores, in Maldives]

Value of total assets of Mischief Ltd. in India during the P.Y. 2024-25 is ₹ 210 crores

Percentage of assets situated in India to total assets = ₹ 210 crores/₹ 610 crores x 100 = 34.43%

Since the value of assets of Mischief Ltd. **situated in India is less than 50%** of its total assets, the second condition for ABOI test is satisfied.

Condition 3: Less than 50% of the total number of employees of Mischief Ltd. should be situated in India or should be resident in India

Number of employees situated in India or are resident in India is 70

Total number of employees of Mischief Ltd. is 160 [70 + 90]

Percentage of employees situated in India or are resident in India to total number of employees is 70/160 x 100 **= 43.75%**

Since employees situated in India or are residents in India of Mischief Ltd. **are less than 50%** of its total employees, the third condition for ABOI test is satisfied.

Condition 4: The payroll expenses incurred on employees situated in India or resident in India should be less than 50% of its total payroll expenditure

Payroll expenses on employees employed in and resident of India = ₹ 8 crores.

Total payroll expenses = ₹ 20 crores (₹ 8 crores + ₹ 12 crores)

Percentage of payroll expenses of employees situated in India or are resident in India to the total payroll expenses = 8 x 100/20 = 40%

Since the payroll expenses incurred on employees situated in India or resident in India **is less than 50% of its total payroll expenditure**, the fourth condition for ABOI test is also satisfied.

Thus, since Mischief Ltd. has satisfied all the four conditions, the company would be said to be engaged in "active business outside India" during the P.Y. 2024-25.

POEM of a company engaged in active business outside India shall be presumed to be outside India, if the majority of the board meetings are held outside India.

Since Mischief Ltd. is engaged in active business outside India in the P.Y. 2024-25 and majority of its board meetings i.e., 5 out of 8, were held outside India, POEM of Mischief Ltd. would be outside India.

Therefore, Mischief Ltd. would be non-resident in India for the P.Y. 2024-25.