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PRACTICE MANUAL

by CA Shirish Vyas

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INDEX [PART – 2]

ASSESSMENT PROCEDURE

QUESTION 1:

Shashank filed his return of income on 26th June, 2025 for the PY 2024-25 declaring an income of ₹ 1,90,000. Later on, he discovered that he forgot to claim an expense of ₹ 4,00,000. Hence, he filed a revised return on 18th November, 2025 declaring loss of ₹ 2,10,000. The Assessing officer opined that the loss claimed in the revised return cannot be carried forward as the revised return was filed after the due date specified in sec. 139(1). Is the contention of Assessing Officer correct? Discuss.

ANSWER:

Shashank filed his original return on 26th June, 2025 [Before the due date]. Later on, he filed a revised return on 18th November, 2025 declaring loss of ₹ 2,10,000.

As per sec. 80, a loss can be carried forward if the return of such loss is filed on time. In case of a revised return, the **date of original return** will decide whether the return was filed on time or not because a **revised return replaces the original return**. Since Shashank has filed the original return on time, the loss declared in the revised return **can be carried forward.**

Hence, the contention of Assessing officer is **not correct**.

QUESTION 2:

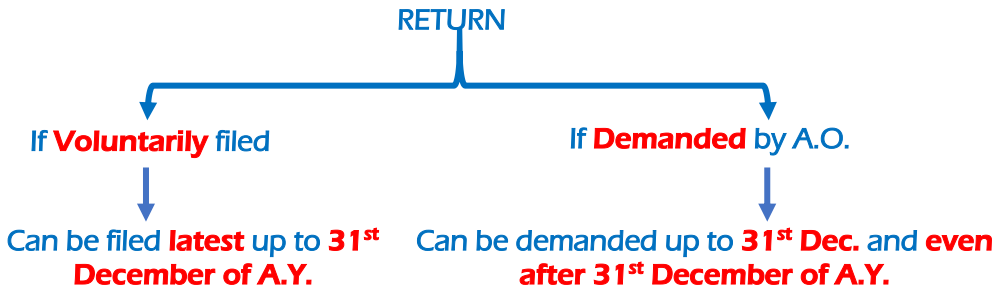
On 14th May, 2026, Rajesh received a notice u/s 142(1) requiring him to file the return for the PY 2024-25 up to 25th June, 2026. However, Rajesh is of the opinion that a return cannot be filed after 31st December of the A.Y.

Is Rajesh correct?

Advise him as to what course of action he should adopt on receipt of notice u/s 142(1) and the consequences of not complying with this notice.

ANSWER:

If a return is **voluntarily** filed then it can be filed **latest up to 31st December of A.Y.** or before completion of asst. [whichever is earlier]. However, if the return is **demanded by A.O.** then it can be demanded **even after 31st December of A.Y.** by sending notice **u/s 142(1).**



In this question, since the return is demanded by A.O., it can be filed even after **31st December** of A.Y. Hence, the opinion of **Rajesh is not correct**. Accordingly, Rajesh is **advised to file the return** up to 25th June, 2026 in response to notice u/s 142(1).
Failure to comply with notice u/s 142(1) shall attract **penalty of ₹ 10,000 u/s 272A** and it shall lead to **Best Judgment Assessment** by A.O.

QUESTION 3:

In respect of return filed by following assessees for the PY 2024-25, you are required to specify the last date by which intimation u/s 143(1) can be sent:

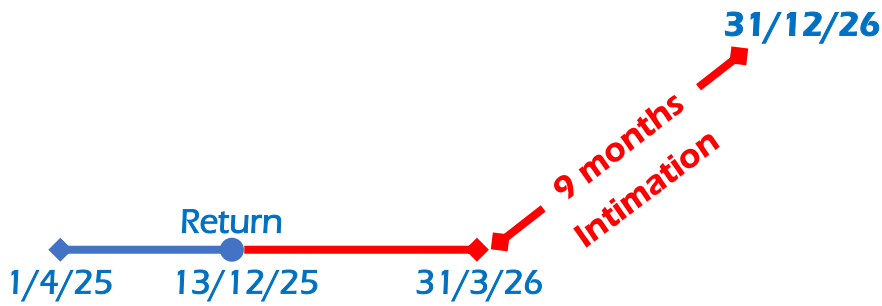
i) Jaimin filed his return on 13th December, 2025.

(ii) Smita filed her return on 24th June, 2026 in response to notice u/s 142(1).

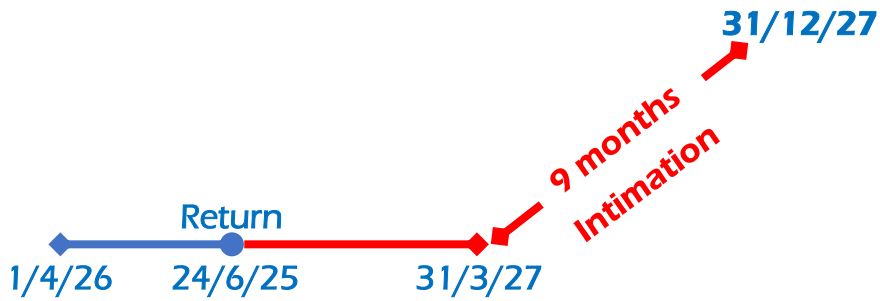
ANSWER:

Intimation u/s 143(1) is sent to the assessee **within 9 months** from the end of the year in which **return is filed**.

In case of Jaimin, since the return is filed on 13/12/2025, intimation can be sent to him latest up to **31st December, 2026**.



In case of Smita, since the return is filed on 24/06/26, intimation can be sent to him latest up to **31st December, 2027 (Note 1)**.



Note 1: Normally, assessment of PY 2024-25 should be completed within 12 months from the end of AY i.e. up to 31/03/2027. However, summary assessment is as good as no assessment. Accordingly, intimation of summary assessment can be sent even beyond 12 months from the end of AY.

QUESTION 4:

Arjun filed his return for the PY 2024-25 on 26.07.2025. On 16.09.2025, he received intimation u/s 143(1). After receiving the intimation, Arjun wants to revise his return. You are required to advise Arjun as to whether he can revise his return which is already processed u/s 143(1).

ANSWER:

As per **sec. 139(5)**, a return can be revised up to **31st December of A.Y.** or before **completion of assessment** whichever is **earlier**.

In the given case, return filed by Arjun is processed u/s 143(1) and intimation for the same is received on 16.09.2025. However, it should be noted that the processing of return u/s 143(1) does not amount to assessment. Accordingly, assessment of Arjun is not yet done.

Hence, Arjun **can revise his return** even after receiving intimation u/s 143(1) [**latest up to 31st December of AY** i.e. 31.12.2025].

QUESTION 5:

Rajan filed his return for the PY 2024-25 on 05-12-2025. His return was processed u/s 143(1) and an intimation for the same was received by him on 12-02-2026.

On 22nd June, 2026, he recd. a notice u/s 143(2) requiring him to attend the office of A.O.

Rajan seeks your advice as to whether he should respond to notice u/s 143(2) as his assessment for the PY 2024-25 is already completed u/s 143(1).

ANSWER:

Rajan filed his return on 05-12-2025. His return was processed u/s 143(1) and the intimation for the same is received on 12-02-2026. However, it should be noted that the processing of return u/s **143(1) does not amount to assessment**. Summary assessment is as good as no assessment. Accordingly, **scrutiny can be initiated even after receipt of intimation u/s 143(1)**.

Hence, Rajan is **advised to respond** to the notice of scrutiny u/s 143(2).

QUESTION 6:

Zoom ltd. filed its return for the AY 2025-26 on 6th July, 2025. The return is selected for regular assessment u/s 143(3) for which notice u/s 143(2) is served on the company on 3rd July, 2026. State whether the service of notice is within time.

ANSWER:

Notice of scrutiny u/s **143(2)** should be served on the assessee i.e. it should be received by the assessee **within 3 months** from the end of the year in which **return is filed**.

In the given case, Zoom ltd. filed its return on 6th July, 2025. Accordingly, notice u/s 143(2) should be received by the assessee latest up to **30th June, 2026**. However, Zoom ltd. received this notice on **3rd July, 2026**. Hence, the service of notice is **not within time** and it's an **invalid notice**.

QUESTION 7:

Grind ltd. is engaged in sale of beverages. For the PY 2024-25, it failed to file the return voluntarily. After the end of AY i.e. on 17th May, 2026, the Assessing officer served a notice u/s 143(2) and completed assessment u/s 143(3) by passing an order on 14th July, 2026. Discuss whether the action taken by A.O. is valid or not.

ANSWER:

In case of a regular assessment, **return is must**. A regular assessment u/s 143(3) can be done only if the assessee has filed the return.

In the given case, Grind ltd. has failed to file its return for the PY 2024-25. In such case, the A.O. cannot send a notice u/s 143(2) for making assessment u/s 143(3).

Hence, the **action of A.O. is not valid**.

The right course of action is:

(i) To **require the assessee to file the return** by sending notice u/s 142(1) and once the assessee files the return, the A.O. can initiate the procedure of **regular assessment**

OR

(ii) To issue a **show cause notice** to the assessee and make the assessment u/s 144 as per his **best judgment**.

QUESTION 8:

Big Bang Pvt. Ltd is a closely held company. It filed its return for the PY 2024-25 on 17th October, 2025. A notice u/s 142(1) was issued by A.O. on 26-11-2025 requiring the assessee to furnish certain information. However, the assessee failed to reply this notice. On 04-05-2026, the A.O. passed an order u/s 144 computing the income of assessee as per his best judgment. The assessee contends that the order passed by A.O. is not tenable in law as the A.O. failed to issue a show cause notice before passing order u/s 144. Discuss whether the contention of assessee is valid or not.

ANSWER:

Before making best judgment assessment i.e. before passing order u/s 144, the A.O. should issue a show cause notice requiring the assessee to give reason as to why assessment should not be done as per the judgment of A.O. However, if best judgment is done because of assessee's **failure to comply with notice u/s 142(1) then show cause notice is not required.**

In the given case, Big Bang Pvt. Ltd failed to comply with notice u/s 142(1). In such case, the A.O. can make the best judgment assessment u/s 144 **without issuing a show cause notice**. Hence, the contention of assessee that "the order passed by A.O. is not tenable in law" is **invalid**.

QUESTION 9:

In respect of PY 2019-20, AO discovered an escaped income of ₹ 80,000. To assess this income, the AO initiated proceeding u/s 147 and issued a notice u/s 148 on 4th January, 2025. Is the proceeding valid?

ANSWER:

For assessing the escaped income, notice u/s 148 should be issued **within 3 years and 3 months** from the end of **relevant AY**.

In the given case, the escaped income pertains to AY 2020-21. Accordingly, notice u/s 148 can be issued latest up to 30th June, 2024 [within 3 years and 3 months from the end of AY 2020-21]. However, in the given case, the AO has issued this notice on 4th January, 2025 [after 3 years and 3 months]. Hence, the proceeding is **invalid**.

QUESTION 10:

Case of Samurai ltd. for the PY 2019-20 was reopened with a reason that the company claimed deduction of ₹ 6,00,000 which was disallowed u/s 40A(3).

On 23-07-2023, Samurai ltd. received a notice u/s 148 in response to which it filed a return on 05-09-2023. You are required to specify the last date by which order u/s 147 should be passed.

ANSWER:

Order u/s 147 should be passed within **12 months** from the end of the year in which **notice u/s 148 is received** by the assessee.
In the given case, Samurai ltd. received notice u/s 148 on 23-07-2023. Hence, the order u/s 147 should be passed **latest up to 31-03-2025**.

QUESTION 11:

The AO initiated reopening proceeding on Health Plus ltd. for PY 2021-22 in order to disallow a particular expense by issuing notice u/s 148 on 15-12-2024. During the course of proceeding, the AO discovered that the company had received rent income in the PY 2021-22 which was not declared by it. Can the AO assess rent income which was subsequently discovered by A.O.?

ANSWER:

Once a valid proceeding is initiated u/s 147, the A.O. **can also** assess/reassess **OTHER escaped income** which is subsequently discovered by the A.O. during the course of proceedings under this section (**even if provisions of sec. 148A are not complied with** in respect of such other escaped income). Accordingly, the AO can also assess rent income subsequently discovered by him.

QUESTION 12:

The High Court found that an income accrued in PY 2012-13 was wrongly taxed in the hands of Ajay whereas the income was taxable in the hands of Vijay.

On 13-08-2024, the High Court issued an order directing the A.O. to reopen the assessment of Vijay for the PY 2012-13.

On 24-10-2024, the A.O. issued a notice u/s 148 to Vijay. Vijay contends that the issue of notice u/s 148 for PY 2012-13 is time barred. Is the contention of Vijay correct?

ANSWER:

As per **sec. 150**, if notice u/s 148 is issued in order to give effect to the **direction of authority under appeal/reference/revision**, then the notice can be issued anytime (**No time limit**).

In the given case, the High Court found that an income accrued in PY 2012-13 was wrongly taxed in the hands of Ajay instead of Vijay. Hence, the High Court directed the AO to reopen the case of Vijay in order to include this income in the assessment of Vijay.

Since the AO is directed by High court to reopen the case of Vijay, notice u/s 148 can be issued any time [i.e. there is no time limit]. Accordingly, the issue of notice u/s 148, in this case, is **not barred by limitation**. Hence, the notice issued by AO on 24-10-2024 for the PY 2012-13 is valid and the **contention of Vijay is not correct**.

QUESTION 13:

Assessment of Ranjan for the AY 2021-22 was completed u/s 143(3). On 12-07-2024, the AO discovered that certain income of ₹ 14,00,000 pertaining to the PY 2020-21 was not disclosed by Ranjan (this information was flagged in accordance with the risk management strategy of CBDT). After complying with provisions of sec. 148A, the AO issued notice u/s 148. During the course of proceeding u/s 147, Ranjan claims:

(i) Set-off of loss of ₹ 1,00,000 pertaining to PY 2020-21 which he could not claim in the relevant AY

(ii) Expense of ₹ 5,00,000 which was wrongly disallowed by A.O. in the relevant A.Y.

(iii) Expense of ₹ 3,00,000 related to the aforesaid escaped income.

Discuss whether Ranjan can claim above in the reassessment proceeding u/s 147 for the AY 2021-22.

ANSWER:

Proceeding u/s 147 is for the benefit of Government. As per the judgment of Supreme Court in the case of **Sun Engineering Pvt. Ltd.**, the assessee **cannot claim any benefit** in this proceeding. The scope of sec. 147 is restricted to escaped incomes only.

In the given case, the AO initiated proceeding u/s 147 in respect of PY 2020-21. During this proceeding:

(i) Ranjan claims set-off of loss which he could not claim earlier but he **cannot claim** this as he had the remedy to revise the return earlier.

(ii) Ranjan claims expense of ₹ 5,00,000 which was wrongly disallowed by AO in the previous assessment but he **cannot reagitate** the matters which were already decided in previous assessment as he had the remedy to file the appeal earlier.

Ranjan claims expense of ₹ 3,00,000 related to escaped income. Since this expense is related to the escaped income, it **can be claimed as deduction** from the escaped income and the net amt. of escaped income i.e. ₹ 11 lakhs [14 L- 3L] shall be included in the order u/s 147.

QUESTION 14:

In an order of assessment for the AY 2022-23, the assessee noticed a mistake for which application u/s 154 was moved and the order was rectified. Subsequently, the assessee moved further application for rectification u/s 154 which was rejected by the A.O. on the ground that the order once rectified cannot be rectified again. Is the contention of the A.O. correct?

ANSWER:

In the given case, order of assessment for the AY 2022-23 was rectified by AO. Subsequently, the assessee moved further application for rectification of rectified order.

Section 154 empowers Income Tax Authority to rectify a mistake in the **order or intimation** if such mistake is **apparent** from the record. A rectified order can be **further rectified** if the rectified order contains a mistake **apparent** from the record.

Hence, the contention of AO that the order once rectified cannot be rectified again is **not valid**. Accordingly, the AO is **not correct** in rejecting the application of the assessee.

QUESTION 15:

Specify the last date by which following actions should be taken:

(a) Service of notice u/s 143(2) in respect of A.Y. 2025-26 to an assessee who filed the return on 24-10-2025.

(b) Application for rectification of mistake in an order passed u/s 147 on 03-05-2023 in respect of PY 2021-22.

(c) Issue of notice u/s 148 on discovery of an escaped income of ₹ 90,000 in respect of PY 2020-21 of an assessee whose original assessment was completed on 04-07-2022.

(d) Passing order u/s 147 in respect of AY 2022-23 in case of Mr. X who was served notice u/s 148 on 30-11-2024.

(e) Passing order u/s 143(3) in respect of AY 2025-26 in case of Mr. Y who was served notice u/s 143(2) on 4th June, 2026.

ANSWER:

Action	Last date
Service of notice u/s 143(2) in respect of AY 2025-26 to an assessee who filed the return on 24-10-2025.	**30-06-2026**
3 mnths from the end of the year in which **return is filed**	
Application for rectification of mistake in an order passed u/s 147 on 03-05-23 in respect of PY 21-22.	**31-03-2028**
4 years from the end of the year in which **order is passed**	
Issue of notice u/s 148 on discovery of an escaped income of ₹ 90,000 in respect of PY 2020-21 of an assessee whose original assessment was completed on 04-07-2022.	**30-06-2025** [assuming notice is to be issued on or after 1/9/24]
3 years and 3 months from the end of **relevant AY**	
Passing order u/s 147 in respect of AY 2022-23 in case of Mr. X who was served notice u/s 148 on 30-11-2024.	**31-03-2026**
12 m from the end of the year in which **notice u/s 148 is recd**.	
Passing order u/s 143(3) in respect of AY 2025-26 in case of Mr. Y who was served notice u/s 143(2) on 4th June, 2026.	**31-03-2027**
12 m from the end of **AY**	

QUESTION 16:

The assessment of Mr. Sahaj for A.Y. 2017-18 was made on 28.3.2019 making an addition of ₹ 3,25,000 for a certain income received during the P.Y. 2016-17. The assessee contested the addition before Commissioner (Appeals) but lost the case. The Appellate Tribunal passed an order on 26.9.2024 holding that the said income was not taxable in the PY. 2016-17 but the same was taxable in the year of accrual, being P.Y. 2014-15 relevant to A.Y. 2015-16. The Assessing Officer issued notice under section 148 for A.Y. 2015-16 in October 2024 bringing to tax the sum of ₹ 3,25,000. Is the notice valid? Would your answer change if in the said case, the assessment order for A.Y. 2017-18 was made on 4.4.2019 instead of 28.3.2019?

ANSWER:

As per ***sec. 150***, notice u/s 148 can be issued ***anytime*** [if the reopening is directed by appellate authority] subject to a ***condition*** that the ***time limit of 3 years and 3 mnths*** has ***not expired*** as ***on the date of passing of the assessment order*** [which was the subject-matter of appeal].

In this case, the date of passing of assessment order [which was subject matter of appeal] is 28.03.2019 and as on this date, the time limit of 3 yrs, 3 mnths for reopening of AY 2015-16 has not expired.

Hence, sec. 150 is applicable and the notice issued u/s 148 in October 2024 as per the direction of appellate authority is valid.

If the date of passing of assessment order [which was subject matter of appeal] is 04.08.2019, then, as on this date, the time limit of 3 yrs, 3 mnths for reopening of AY 2015-16 has expired.

Hence, sec.150 is not applicable and the notice issued u/s 148 in October 2024 as per the direction of appellate authority is invalid.

QUESTION 17:

The return for A.Y. 2025-26 was filed on time as per section 139(1) and proceedings were taken up for assessment under section 143(3). Later on, the assessee, noticed certain omissions and therefore filed a revised return on 20.02.2026. The Assessing Officer ignoring the revised return so filed framed the order on 25.4.2026. Is the action of Assessing Officer correct? Examine.

ANSWER:

As per sec. 139(5), an assessee can file a revised return:

(i) Up to **31st December of A.Y.** i.e 31.12.25

or

(ii) Before **Completion of Assessment**

whichever is **earlier**

In this case, the assessee has filed the revised return on 20.02.2026 which is beyond the time limit allowed by sec. 139(5). Hence, the action of the Assessing Officer in making the assessment in disregard of the revised return filed on 20.02.2026 is correct.

QUESTION 18:

In respect of Mr. Naksh, who is engaged in the export of fabrics, information is flagged as per the risk management strategy formulated by the CBDT for A.Y.2021-22, A.Y.2022-23, A.Y.2023-24 and A.Y.2024-25.

In case of Mr. Ramesh (friend of Mr. Naksh), who is engaged in trading of commodities, the Assessing Officer has in his possession certain documents showing information pertaining to shares of value ₹ 28 lakhs purchased in the P.Y. 2018-19 and shares of value of ₹ 21 lakhs purchased in the P.Y.2019-20. Can the Assessing Officer issue notice under section 148 to Mr. Naksh and Mr. Ramesh in April 2025? If so, in respect of which assessment years can notice be issued? Is it necessary that they be provided with an opportunity of being heard before issuance of notice?

What would be your answer with respect to issue of notice to Mr. Ramesh if the shares purchased in the P.Y.2018-19 were of ₹ 30 lakhs instead of ₹ 28 lakhs, all other facts remain the same?

ANSWER:

⇨ **In case of Mr. Naksh:**

Notice u/s 148 can be issued for **A.Y.2021-22, A.Y.2022-23 and A.Y.2023-24**, since the **time limit** of **3 years and 3 months** from the end of the relevant assessment year has **not expired** in April, 2025. Before issuing such notice, Mr. Naksh should provided an opportunity of being heard by issuing a show cause notice within 3 years from the end of relevant A.Y. [for A.Y. 2021-22, show cause notice should be issued latest by 31/3/2025].

However, notice u/s 148 cannot be issued in respect of **A.Y.2024-25** because for A.Y.2024-25 it is possible to make **regular/best judgment assessment.**

⇨ **In case of Mr. Ramesh:**

In case of Mr. Ramesh, the A.O. has in his possession certain documents which reveal **escapement** of income represented in the form of shares **amounting to ₹ 49 lakhs** [PY 2018-19 ₹ 28 lakhs + PY 2019-20 ₹ 21 lakhs]. Since the amount is lower than ₹ 50 lakhs, **notice cannot be issued beyond 3 years and 3 months** from the end of the relevant AY. In this case, the relevant AYs are A.Y.2019-20 and A.Y.2020-21. In respect of these A.Y.s, the time limit of 3 yrs and 3 months has expired before April 2025. Accordingly, notice cannot be issued u/s 148 in April 2025. However, where the escaped income represented in the form of shares amounts to **₹ 51 lakhs** (i.e., ₹ 30 lakhs + ₹ 21 lakhs), an **extended period of 5 years and 3 months** from the end of the relevant AY would be available for issue of notice, which has not expired in April, 2025. Therefore, the A.O. can issue notice u/s 148 for A.Y.2019-20 and A.Y.2020-21. Before issuing such notice, Mr. Ramesh should provided an opportunity of being heard by issuing a show cause notice within 5 years from the end of relevant A.Y. [for A.Y. 2019-20, show cause notice should be issued latest by 31/3/2025].

QUESTION 19:

Tai Ltd. filed its return of income for assessment year 2024-25 on 26th September, 2024. The return is selected for regular assessment under section 143(3) for which notice under section 143(2) is served on the company on 3rd July, 2025. The company responded to the notice under section 143(2).

Examine whether the service of the notice is within time and if not, whether the assessment order can be challenged by the assessee.

What would be your answer if the A.O. failed to issue notice under section 143(2) ?

ANSWER:

➔ The time limit for service of notice u/s 143(2) is **3 months** from the end of the year in which the **return** was **filed** by the assessee. The return of income for AY 2024-25 was filed by the assessee on 26th September, 2024. Therefore, the notice u/s 143(2) must be served by **30th June, 2025**. However, the notice was served on the assessee on **3rd July, 2025**. Hence, the notice issued u/s 143(2) is **time-barred**.

As per **section 292BB**, where an assessee had **appeared** in any proceedings or **co- operated** in any enquiry relating to an assessment or reassessment, it shall be **deemed that any notice** required to be served upon him, **has been duly served upon him in time** in accordance with the provisions of the Act and **after completion** of such assessment/reassessment, the assessee **cannot raise objection** that the notice was not served properly. However, the assessee **can raise such objection before** the assessment/reassessment is **completed**.

Therefore, in the instant case, if the assessee, Tai Limited, had **raised an objection** for late service of the notice u/s 143(2) [**before** the passing of assessment order], then, the validity of the assessment **order can be challenged** and if the **objection** is **not raised before** the passing of assessment order then, the assessment **order cannot be challenged**.

➔ Section 292BB is a deeming provision that seeks to cure defects in any notice issued under any provision of the Income-tax Act, 1961, if the assessee has participated in the proceedings. It is, however, to be noted that the **section does not save complete absence of issue of notice**. For section 292BB to apply, the notice must have been issued by the Department. The section only seeks to cure the defects in the manner of service of notice. The section is not intended to cure complete absence of notice itself. This was held by **Supreme Court** in the case of **Laxman Das Khandelwal**. Hence, the assessee can challenge the assessment order if the A.O. fails to issue the notice u/s 143(2).

QUESTION 20:

Ram, an individual, filed his return of income for the assessment year 2025-26 on 15.6.2025. He later discovered that he had not claimed deduction under section 80C in the said return. He claimed the said deduction through a letter addressed to the Assessing Officer. The Assessing Officer completed the assessment without allowing the deduction claimed by Ram. Is the Assessing Officer justified in doing so?

ANSWER:

In the case of **Goetze (India) Ltd.**, the Supreme Court has ruled that the assessing officer has **no power to entertain** any **fresh claim** made after filing of the return of income **otherwise than by way of a revised return**.

In the instant case, Ram has claimed the deduction under section 80C, which he omitted to claim in the original return of income, **through a letter** addressed to the Assessing Officer and **not by filing a revised return** under section 139(5).

In view of the decision of the Supreme Court cited above, the A.O. was **justified** in completing the assessment without allowing the deduction under section 80C.

QUESTION 21:

Mr. X filed his return of income for A.Y. 2025-26 by declaring a total income of ₹ 10 lakhs. His case was selected for scrutiny assessment and an addition of ₹ 4 lakhs was made by the Assessing Officer on account of disallowances of certain expenses. During the course of the assessment proceedings, Mr. X found that he erroneously failed to claim the set-off of brought forward losses under section 72 amounting to ₹ 3 lakhs, which he was otherwise entitled to. By the time the error was discovered by Mr. X, the time-limit for filing revised return had also expired. Hence, during the course of the proceedings, Mr. X approached the Assessing Officer to allow the set-off of the brought forward losses which was erroneously not claimed in the return of income filed under section 139(1). Whether the Assessing Officer is bound to accept the request of Mr. X? Your Answer should cover these aspects:

- Issue involved
- Provision applicable
- Analysis and
- Conclusion

ANSWER:

Issue Involved:

The issue under consideration is whether the Assessing Officer is bound to allowed the set-off of brought forward losses under section 72 even if the assessee, Mr. X, in this case, has not claimed the same in the return filed by him and the time limit for filing revised return has expired.

Provision Applicable:

Under section 72, business losses shall be **carried forward** and **shall be set-off** against the profits and gains of any business in the next assessment year. It is assumed that the assessee has filed the return of income within the time stipulated u/s 139(1) and hence is eligible for set off of the unabsorbed loss in the subsequent year. The wording used in section 72 is "shall", indicating that the provisions relating to set off of brought forward business loss are **mandatory** provided the return for the year of loss was filed on time.

Analysis:

As per a CBDT Circular, it is the **duty of the A.O. to assist a taxpayer** in every reasonable way, particularly in the matter of claiming and securing reliefs and in this regard, they should take the initiative in guiding a taxpayer where proceedings or other particulars before them indicate that some refund or relief is due to him. Thus, it is the duty of the Assessing Officer to apply the relevant provisions of the Act for the purpose of determining the true figure of Mr. X's total income and consequential tax liability. Merely because Mr. X has not claimed the set-off of brought forward losses of ₹ 3 lakh in the original return filed and the time limit for filing revised return has expired, it cannot relieve the Assessing Officer of his duty to apply section 72 in the appropriate case.

Conclusion:

The Assessing Officer is **bound to accept the request** of Mr. X and allow the set-off of brought forward losses of ₹ 3 lakh under section 72, even if Mr. X has not claimed the same in the return filed, and the time limit for filing the revised return has expired.

Note – The facts of this case are similar to the case of Mahalakshmi Sugar Mills Co. Ltd., wherein the Supreme Court gave ruling taking note of the CBDT Circular.

QUESTION 22:

Pruthvi Ltd. did not make a claim of ₹ 20 lakhs in the return of income filed for A.Y. 2025-26 which was disallowed in the previous assessment year under section 43B. However, the said claim was also not considered by the Assessing Officer during assessment proceedings on the ground that no revised return was filed. Can the assessee now make such claim before the appellate authority?

ANSWER:

Yes, the assessee is entitled to raise additional claims before the appellate authorities.

The restriction that an additional claim must be made by filing a revised return applies only in respect of a claim made before the Assessing Officer. An assessee cannot make a claim before the Assessing Officer otherwise than by filing a revised return. It was so held by the Supreme Court in the case of **Goetze (India) Ltd**.

However, this restriction **does not apply to an additional claim made before an appellate authority**. The appellate authorities have jurisdiction to permit additional claims before them. though, the exercise of such jurisdiction is entirely the **authorities' discretion**. It was so held by the Bombay High Court in the case of **Pruthvi Brokers & Shareholders**.

Thus, additional claim **can be raised** before Appellate Authority even if no revised return is filed.

QUESTION 23:

Mr. Surajit e-filed his Income-tax Return for A.Y. 2024-25 on July 21, 2024. He declared a total income of ₹ 11,75,000.

Total income includes interest from Public Provident Fund (PPF) ₹ 95,530 and long- term capital gains on agricultural land exempt under section 10(37). Both these incomes were disclosed in the schedule of exempt income.

Mr. Surajit also found that by mistake he failed to claim the current year business loss in the Income-tax Return amounting to ₹ 4,50,000 which he is entitled to claim.

In due course of time, the above I.T. Return got processed under section 143(1) and both the above exemptions for Interest on Public Provident Fund and long-term capital gains on agricultural land were denied. Intimation was served to Mr. Surajit and a demand of tax was raised.

For all the above mistakes in the return he filed a revised return u/s 139(5) but time limit for e-verification of revised return had lapsed and the same became invalid.

Assessee filed for rectification under section 154 which was also rejected by the Assessing Officer. Is the Assessing Officer bound to accept the request of Mr. Surajit?

Your answer should cover:

(1) Issues involved

(2) Provisions Applicable

(3) Analysis and Conclusion

ANSWER:

Issue Involved:

The issue under consideration is whether a rectification application before the Assessing Officer under section 154 can be filed to rectify a mistake

- for denial of exemption in respect of interest on PPF and Long-term Capital Gains on agricultural land u/s 10(37) while processing return u/s 143(1) which was disclosed by the assessee in the Schedule of exempt income of ITR; and
- to claim a business loss which the assessee failed to claim in the return filed by him.

Provisions Applicable:

As per section 154, the Income Tax Authority can rectify a mistake in his **order** or **intimation** if such mistake is **"apparent"** from the record.

Analysis and Conclusion:

The jurisdiction of any authority u/s 154 depends upon the existence of a mistake apparent on the face of the record. As per section 154, an income-tax authority can rectify mistake which is committed in the intimation passed u/s 143(1) or an order passed under the Act.

In the present case, **denial of exemption** while processing the return u/s 143(1) in respect of interest from Public Provident Fund (PPF) and LTCG on agricultural land exempt under section 10(37) are **mistakes in the intimation [apparent from record]**.

However, **mistake to claim current year business loss** in the return of income in the not a mistake in the intimation [apparent from record]. It is a **mistake in the return** for which the only remedy is to revise the return. Moreover, the assessing officer has no power to entertain a fresh claim for deduction made after filing return of income otherwise than by way of a revised return.

Accordingly, the Assessing Officer is bound to **accept the request** of Mr. Surajit for rectification only **in respect of** exemption of **interest** on PPF and **LTCG** under section 10(37) and **not in respect** of claim for **business loss**.

QUESTION 24:

Mr. Ravi would like to furnish his updated return for the AY 2024-25. In case he furnished his updated return, his tax liability would be ₹4,50,000 [including ₹55,000 towards interest].

Tax paid by him at the time of filing previous return was ₹1,65,000 [including ₹15,000 towards interest].

- You are required to examine whether Mr. Ravi can furnish updated return:
  - (i) on 05.03.2026
  - (ii) on 28.02.2027
  - (iii) on 31.05.2028
- If yes, compute the amount of additional income tax payable by him at the time of filing his updated return.
- Would your answer be different if the assessee has received notice u/s 148 for the said AY 2024-25 on 23.07.2026 ?
- What would be the time limit for completion of assessment
- u/s 143(3) if Mr. Ravi files the updated return for AY 2024-25 on 20.05.2026 ?

ANSWER:

- Updated return can be filed **within 24 months** from the end of relevant AY i.e. within 24 months from 31.03.2025 i.e. latest **upto 31.03.2027**.

  Accordingly, Mr. Ravi **can furnish** updated return on **5.3.2026** and on **28.2.2027**. However, he **cannot** furnish such return on **31.05.2028**, since it falls beyond 24 months.

- Additional income tax payable if updated return is filed on 5.3.2026 i.e. **within 12 mnths** from the end of relevant AY

  = (4,50,000 – 1,65,000) x **25%** = ₹ 71,250

  Additional income tax payable if updated return is filed on 28.02.2027 i.e. **after 12 mnths** from the end of relevant AY

  = (4,50,000 – 1,65,000) x **50%** = ₹ 1,42,500

- An assessee **cannot furnish** updated return in respect of a year for which **assessment proceedings** under Income tax are **pending**.

  Accordingly, if Mr. Ravi received notice u/s 148 on 23.07.2026 then the he **cannot** file updated return **28.2.2027**. However, he **can** file the updated on **5.3.2026** because as on this date the proceeding did not commence.

- If Mr. Ravi files the updated return for AY 2024-25 on 20.05.2026 then the assessment of AY 2024-25 u/s 143(3) should be completed **within 12 months** from the end of the year in which **updated return is filed** i.e. the time limit for completion of assessment would be **31.03.2028**.

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APPEALS, REFERENCE & REVISION

QUESTION 1:

The Income-tax Appellate Tribunal (ITAT) passed an order providing relief as prayed by the assessee on 7-06-2023. On 13-12-2023, the Tribunal found a mistake apparent from the record and immediately rectified the mistake and passed an order on 15-12-2023.

Is the order passed by the Tribunal barred by limitation?

What would be your answer if the mistake was identified by the Assessing Officer who filed rectification petition on 13-12-2023 and the Tribunal passes the rectification order on 24-01-2025?

ANSWER:

As per sec. 254, if there is any **apparent mistake** in the order of ITAT then the ITAT **can rectify** such mistake [either on its own motion or on an application made by Assessee/AO]. If rectification is done by ITAT on its own motion, then it should be done **within 6 months** from the end of the month in which order is passed. If assessee/AO applies for rectification then he should apply within such 6 months [no time prescribed for reply].

In the given case, the ITAT passed the order on 7-06-2023. This order **can be rectified** by ITAT on its own motion **till 31-12-2023**. Since the order is rectified on 15-12-2023, it is **not barred by limitation**.

If the mistake is identified by AO then the AO **should apply till 31-12-2023** and there is no time prescribed for reply by ITAT. Accordingly, if the AO applies for rectification on 13-12-2023 then the **application is within the prescribed time limit** and it is not barred by limitation. Hence, the rectification order passed by ITAT on 24-01-2025 is **valid**.

QUESTION 2:

Discuss the correctness or otherwise of following propositions in the context of the Income-tax Act, 1961:

(i) The ITAT is the final fact-finding authority.

(ii) The Commissioner (Appeals) cannot admit an appeal filed beyond 30 days from the date of receipt of order by an assessee.

(iii) An assessee aggrieved by an order passed u/s 263 by the Commissioner of Income-tax cannot file an appeal.

(iv) The Commissioner of Income-tax can revise an order passed by AO within 2 years from the end of relevant AY if such order is erroneous and prejudicial to the interest of revenue.

ANSWER:

(i) The statement is **correct** because if the appeal is on a **question of fact** then the judgment of ITAT is **final**.

(ii) The statement is **incorrect** because if an assessee has **genuine reason** for delay in filing the appeal then the CIT(A) can **condone the delay** and admit the appeal filed beyond 30 days.

(iii) The statement is **incorrect** because if the assessee is aggrieved by the revisionary order of CIT u/s 263 then he **can file an appeal to ITAT within 60 days** from the date of receipt of such order. However, if the appeal is to be filed on/after 1/10/24 then it can be filed within 2 months from the end of the month in which order u/s 263 is received.

(iv) The statement is **incorrect** because as per sec. 263, the CIT can revise the order of AO **within 2 years from the end of the year in which such order is passed** if the order is erroneous and prejudicial to Government. [Note: 2 years is not from the end of relevant AY]

QUESTION 3:

An Income-tax authority did not file an appeal to the ITAT against an order of Commissioner (Appeals) decided against the Income-tax department on a particular issue in case of one assessee, Mr.A for the AY 2023-24 on the ground that the tax effect of such dispute was less than the monetary limit prescribed by CBDT.

In AY 2024-25, a similar issue arose in the assessments of Mr. A and his brother Mr. B, which was decided by the Commissioner (Appeals) against the Department.

Can the Income-tax department move an appeal to the Tribunal in respect of AY 2024-25 against the orders of the Commissioner (Appeals) for Mr. A and his brother Mr. B?

ANSWER:

Section 268A empowers **CBDT to fix monetary limits** for regulating appeals by department (the underlying objective is to reduce litigation in small cases).

Accordingly, **IF** the dept. **did not file appeal** on a particular issue in case of particular assessee in a particular year **THEN** it shall **not stop** the department from filing appeal on the same issue in case of same assessee in **another year or** on the same issue in case of **another assessee** in any year.

In the given case, the dept. did not file appeal in case of Mr.A in AY 2023-24 because the tax effect was less than the monetary limit prescribed by CBDT. However, **this shall not stop the dept. from filing appeal** on the same issue in case of Mr. A and his brother Mr. B **in AY 2024-25**.

QUESTION 4:

The Commissioner of Income-tax issued notice to revise the order passed by an Assessing Officer under section 143. During the pendency of proceedings before the Commissioner, on the basis of material gathered during survey under section 133A after issue of the first notice, the Commissioner of Income-tax issued a second notice, the contents of which were different from the contents of the first notice. Examine whether the action of the Commissioner is justified as to the second notice.

ANSWER:

The action of the Commissioner in issuing the second notice is not justified. The term "record" has been defined in clause (b) of Explanation 1 to section 263(1). According to this definition "record" shall include all records relating to any proceeding under the Act **available at the time of examination** by the Commissioner. In other words, the information, material, report etc. which were not in existence at the time the assessment was made and came into existence afterwards can be taken into consideration by the Commissioner for the purpose of invoking his jurisdiction under section 263(1). However, information, material, report etc which **came in to existence after the examination** by Commissioner **cannot be taken in to consideration** for the purpose of sec. 263.

In this case, proceedings took place in following sequence:

- First, assessment took place u/s 143(3);
- Then, examination of records by CIT;
- Then, issue of first notice u/s 263;
- Then, materials gathered during survey u/s 133A;
- Then, issue of second notice based on such materials.

Based on above sequence, action u/s 263 is justified only on the basis of examination of records before issue of first notice. Since, **materials gathered during survey** u/s 133A came in to existence **after the examination** by commissioner, the issue of second notice is **not justified**.

QUESTION 5:

A petition for stay of demand was filed by XYZ Ltd. before the Income-tax Appellate Tribunal in respect of a disputed demand for which appeal was pending before it. The Appellate Tribunal granted stay vide order dated 1.1.2025 for a period of 180 days from the date of such order, on deposit of 20% of the amount of tax by XYZ Ltd. Thereafter, the bench was functioning intermittently till 1.2.2026 and therefore, the disputed matter could not be disposed of. In the meanwhile, in June 2025, XYZ Ltd. had made an application for extension of stay and was granted extension of stay upto 31.12.2025. Thereafter, on 5.1.2026, the Assessing Officer attached the bank account of XYZ Ltd. and

recovered the amount of ₹15 lakhs against the arrear demand of ₹25 lakhs. The company requested the Assessing Officer to refund the amount as it holds stay over it. The Assessing Officer, however, rejected the contention of the assessee stating that the stay period expired on 31.12.2025, after which the order of stay stood vacated automatically. Examine the correctness of contention of the Assessing Officer.

ANSWER:

While filing appeal to ITAT, the assessee can apply to ITAT for stay of demand. If the ITAT is satisfied then it can grant a stay of **maximum 180 days**. During this period, the ITAT shall give its judgement (if possible). If the ITAT fails to give the judgement with this period and if the delay is not due to the fault of assessee then the assessee can apply for extension of stay. In such case, the ITAT can **extend** the stay but the total period of stay (original + extension) should not exceed **365 days**. After this period, the order of stay shall stand **vacated**.

This provision would result in **automatic vacation** of stay on expiry of 365 days even in cases where the ITAT could not dispose off due to its own fault or due to the fault of Department [and no fault of assessee]. This would cause **undue hardship** to the assessee even where the assessee is not at fault. In this sense, the **provision is arbitrary** and disproportionate so far as the assessee is concerned. Hence, the order of stay shall stand **vacated** after expiry of 365 days **only if the delay** in disposing of the appeal is **due to the fault of assessee**. This was held by Supreme Court in the case of **Pepsi Foods Ltd.**

Accordingly, if an appeal is not heard by the bench, due to the bench functioning intermittently, the **delay is not attributable to XYZ Ltd.** and the order of stay **shall not vacate** after expiry of 365 days. In such a case, the recovery of 15 lakhs against the arrear demand of 25 lakhs made by the A.O. on 5.1.2025 is not in order.and the **contention of the Assessing Officer is not correct**.

QUESTION 6:

XYZ Limited entered into a contract for purchase of software with M/s. Delta Inc, a non-resident company based in Sweden. It filed an application u/s 195(2) before the Assessing Officer to make payment to the non-resident company for purchase of software without deducting tax at source.

The assessee, XYZ Limited, contended that said non-resident company had no Permanent Establishment in India and in terms of the DTAA between India and Sweden, no tax was to be deducted in India on same. The AO rejected the assessee's application on grounds that consideration for software licensing constituted royalty u/s 9(1)(vi) and was liable to be taxed in India and, accordingly, assessee was directed to deduct tax at source at rate of 10% on said royalty payment.

On Appeal, the Commissioner (Appeals) passed an order in favour of the assessee. On further appeal, the Tribunal upheld the order passed by the Assessing Officer on grounds that payments made for purchase of software were in nature of royalty and tax at source to be deducted on such payment.

The assessee company filed a miscellaneous application for rectification under Section 254(2) before the Tribunal. The assessee had also filed an appeal before the High Court.

Tribunal allowed said application in exercise of his powers under section 254(2) and reheard entire appeal on merits and recalled its original order and passed an order in favour the assessee. Thereafter, the writ petition filed by the assessee with High Court was also withdrawn. Is Tribunal justified in recalling its original order? Please state your answer on the basis of latest provisions of the Act and Supreme Court rulings. Your answer should cover:

(a) Issue involved

(b) Provisions applicable

(c) Analysis and Conclusion

ANSWER:

Issue Involved:

The issue under consideration is whether the powers under section 254(2) can be exercised by the Tribunal to recall an order and rehear the entire appeal on merits.

Provisions applicable:

Sec. **254(1)** empowers the ITAT to **pass** such **order** as it thinks fit, after giving both the parties to the appeal an opportunity of being heard.

Sec. **254(2)** empowers the ITAT to **rectify** any **apparent mistake** in an order passed by it u/s 254(1).

Analysis and Conclusion:

The power u/s 254(2) is limited to rectification of a mistake apparent on record and therefore, the Tribunal must restrict itself within those parameters.

A detailed order was passed by the ITAT upholding [supporting] the order passed by the A.O. While allowing the application u/s 254(2) and recalling its earlier order, the **ITAT had reheard the entire appeal**. The subsequent order passed by the ITAT recalling its earlier order was **beyond the scope** and ambit of the powers u/s 254(2) and is **not tenable in law**.

Note – The facts given in the question are similar to the facts in the case of **Reliance Communications Ltd.** wherein the issue came up before the Supreme Court. The above answer is based on the rationale of the Supreme Court in the said case.

QUESTION 7:

Doctrine of precedence would be applicable in case of tax laws. In light of the Doctrine of Precedence, comment on correctness or otherwise of following statements alongwith reasons for your answers:

(a) The ***ratio decidendi*** (the rationale for deciding a case) of a Supreme Court decision is absolutely binding on all lower courts, Tribunals & authorities. However, the lower courts, Tribunals & authorities are not bound by the:

- ***obiter dicta*** (additional remarks or things said by the way) of Supreme Court decisions and
- judgments passed by Supreme Court ***per incuriam*** (i.e. without referring the statutory provision).

(b) Where there are two irreconcilable decisions of two Benches of similar strength of the Supreme Court, the decision with more detailed discussion on the subject shall prevail.

(c) Lower authorities may deviate from the decision of the jurisdictional High Court, only in a situation to keep the issue alive where the Department has not accepted the said decision and has taken the matter to the Supreme Court.

ANSWER:

(a) **Incorrect** - Not only the ***ratio decidendi*** (the rationale for deciding a case), but also ***obiter dicta*** (additional observations, remarks, and opinions given while deciding a case) of the Supreme Court are binding on all the Courts. Judgments passed by Supreme Court ***per incuriam*** (i.e. without referring the statutory provision) are also **binding** on the lower courts.

(b) **Incorrect** - When there are two irreconcilable decisions of two Benches of similar strength of Supreme Court, the decision **later in time** shall prevail.

(c) **Incorrect** - Lower authorities **cannot pass** orders which are **inconsistent with** the decisions of the **jurisdictional High Court** even for the purpose of keeping the issue alive.

QUESTION 8:

The assessment of Vindhyas Ltd. was completed under section 143(3) with an addition of ₹ 21 lakhs to the returned income. Vindhyas Ltd. preferred appeal before the Commissioner (Appeals) which is pending now. In this backdrop, examine the following issues:

(i) Based on fresh information that there was escapement of income for the same assessment year, can the Assessing Officer initiate reassessment proceedings when the appeal is pending before Commissioner (Appeals)?

(ii) Can the Assessing Officer pass an order under section 154 for rectification of mistake in respect of issues not being subject matter of appeal?

(iii) Can the assessee-company seek revision under section 264 in respect of matters other than those preferred in appeal?

(iv) Can the Commissioner make a revision under section 263 both in respect of matters covered in appeal and other matters?

ANSWER:

(i) **Section 147** empowers the A.O. to assess/reassess escaped incomes if he has information suggesting escapement.

As per the third proviso to sec. 147, the A.O. cannot assess/reassess an escaped income which involves appeal matters. However, the A.O. can assess/reassess other matters of the same order. The **doctrine of partial merger** would apply in this case.

Therefore, even when an appeal is pending on the matter of additions of ₹ 21 lakhs to the returned income, the A.O. can initiate reassessment proceedings in respect of other matters.

(ii) **Section 154** empowers the Income Tax Authority to rectify mistakes in the order or intimation if the mistakes are apparent from the record.

As per this section, the Income Tax Authority cannot rectify apparent mistake in relation to appeal matters. However, the A.O. can rectify apparent mistake in relation to other matters of the same order. Thus, the **doctrine of partial merger** holds good for section 154 also.

Since the issue under consideration in this case relates to rectification of a mistake in respect of a non-appeal matter, the A.O. can pass an order u/s 154 for rectification of the same provided the mistake is apparent from the record.

(iii) **Section 264** empowers the Commissioner to revise an order which is prejudicial to the assessee.

As per this section, once the assessee files an appeal on a particular matter, the Commissioner can neither revise that matter not any other matter of the same order. Thus, the **doctrine of total merger** would apply u/s 264.

Therefore, under section 264, the Commissioner cannot revise an order which is pending before the commissioner (Appeals), even if the revision pertains to a matter, other than the matter(s) covered in the appeal.

(iv) **Section 263** empowers the Commissioner to revise an order which is erroneous and prejudicial to the Govt.

As per this section, the Commissioner cannot revise appeal matters. However, he can revise other matters of the same order. Here again, the **doctrine of partial merger** applies.

Therefore, where an appeal is pending on a particular matter, the Commissioner cannot revise such matter but he can revise other matters if the same are erroneous and prejudicial to the Govt.

QUESTION 9:

ABC Ltd. has approached the Supreme Court under a special leave petition. There has been a delay of 439 days in filing the appeal under section 260A for which reason ABC Ltd. requested for a condonation of delay under section 14 of Limitation Act, 1963. The company submitted that the delay was on account of pursuing an alternate remedy of filing a miscellaneous application before the Income-tax Appellate Tribunal (ITAT) under section 254(2).

From the above facts, examine whether delay in filing appeal under section 260A can be condoned under section 14 of Limitation Act, 1963 where the stated reason for delay is the pursuance of an alternate remedy by way of filing an application before the ITAT under section 254(2) for rectification of mistake apparent on record.

ANSWER:

The issue under consideration is whether delay in filing appeal under section 260A can be condoned under section 14 of the Limitation Act, 1963, where the stated reason for delay is the pursuance of an alternate remedy by way of filing an application before the ITAT under section 254(2) for rectification of mistake apparent on record.

This issue came up before the Supreme Court in the case of **Spinacom India (P.) Ltd.** In this case, the Supreme Court rejected the question of invoking section 14 of the Limitation Act 1963 which allows condonation of delay on demonstration of sufficient cause. The Apex Court did not accept that the rectification application before the ITAT under section 254(2) was an alternate remedy to filing appeal to High Court u/s 260A. The former is an application for rectifying a 'mistake apparent from the record' which is much narrower in scope than the latter. The Court stated that the appellant had the **option of filing an appeal** to High Court **while the rectification application was pending** before the ITAT. The time period for filing an appeal to High Court does not get suspended on account of the pendency of a rectification application before the ITAT.

Accordingly, applying the rationale of the above Supreme Court ruling to the facts of this case, the delay in filing appeal to HC due to pursuance of an alternate remedy by way of filing an rectification application before the ITAT **cannot be condoned**.

QUESTION 10:

M/s. Uranus LLP filed its return for the A.Y. 2022-23 on 23-07-2022. The assessment u/s 143(3) was completed on 15.06.2024. The A.O. made 2 additions to the income of the LLP, namely:

- ₹12 lakhs towards unexplained investment u/s 69; and
- ₹ 4 lakhs u/s 40(b) due to excess interest paid to partners.

The assessee contested the addition of ₹ 12 lakhs u/s 69 and filed an appeal before the Commissioner (Appeals). The appeal was decided on 12th February, 2025 against the LLP. In March, 2025, the LLP approaches you to know whether it should apply for revision to Principal Commissioner u/s 264 or for rectification u/s 154 to the Assessing Officer as regards disallowance u/s 40(b). You are required to advise the LLP, keeping in mind the relevant provisions of income-tax law.

ANSWER:

Section 264 empowers the Commissioner to revise an order which is prejudicial to the assessee. As per this section, once the assessee files an appeal on a particular matter, the Commissioner can neither revise that matter not any other matter of the same order. Thus, the **doctrine of total merger** would apply u/s 264.

Section 154 empowers the Income Tax Authority to rectify mistakes in the order or intimation if the mistakes are apparent from the record. As per this section, the Income Tax Authority cannot rectify apparent mistake in relation to appeal matters. However, the A.O. can rectify apparent mistake in relation to other matters of the same order. Thus, the **doctrine of partial merger** would apply u/s 154.

In the present case, since the order passed by the A.O. in respect of the addition of unexplained investment of ₹ 12 lakhs became the subject matter of an appeal to CIT(A), M/s. Uranus LLP, can **neither apply for revision u/s 264** for the matter of **unexplained investment nor** for the matter of **addition u/s 40(b)**.

However, M/s Uranus LLP **can apply** to the A.O. **for rectification u/s 154** in relation to matter **of addition u/s 40(b)** if the mistake is apparent from the record (as it is not an appeal matter).

In the view of above, the assessee, M/s Uranus LLP should seek rectification under section 154.

QUESTION 11:

An assessee who had been served with an order of assessment passed under section 143(3) on 1.1.2025 had filed an application against this order before the CIT as per section 264 on 11.1.2025. However, the CIT refused to entertain the application on the pretext of premature application. Assessee seeks your opinion.

ANSWER:

An assessee, who is aggrieved by the order of the A.O. can apply to CIT/CCIT for revision u/s 264 within 1 year from the date of receipt of order of A.O. The assessee can make such application either **after the time limit of filing appeal** to CIT(A) expires and if he applies before such time limit expires then he should **expressly waive his right to appeal**.

In the present case, the time limit for filing appeal to CIT(A) had not expired on 11.1.2025 and the assessee had also not waived the right of appeal while filing the application to CIT for revision u/s 264. Therefore, the **Commissioner's refusal** to entertain such application is **correct**.

Question 12:

Mr. Vijay furnished his return of income for A.Y. 2024 –25 declaring total income of ₹28,00,000 for the A.Y. 2024–25. He received an assessment order under section 143(3) on 26.11.2025 enhancing the total income for the A.Y. 2024–25 by ₹5,00,000. He is aggrieved by the said order and is desirous of knowing whether he can file an application before the Dispute Resolution Committee (DRC). He informs you that no order of detention has been made and no prosecution proceedings have been initiated or instituted against him under any law for the time being in force. However, penalty under section 271D has been levied on him for failure to comply with the provisions of section 269SS.

Can Mr. Vijay file an application before the DRC?

(i) If yes, what is the time limit for making an application to DRC, against such order under the Income – tax Act, 1961. He is also keen to know, whether, in case he is aggrieved by the order passed by the DRC, can he file appeal against such order of DRC?

(ii) Would your answer be different, if assessment order is based on information received under a DTAA with Country X?

Answer:

Dispute Resolution committee (DRC) is a committee to resolve disputes of **small and medium taxpayers**. An assessee is eligible to resolve disputes through DRC if following conditions are satisfied:

(i) **Returned income** of such assessee is **upto Rs. 50 lakhs**.
(ii) The aggregate amount of **Variation** made in the order of A.O. is **up to Rs. 10 lakhs**.
(iii) The disputed order should **not be based on Search/ Survey** or **information** received under DTAA.
(iv) Such person **should not be Convicted** under laws like the Indian Penal Code, Prevention of Corruption Act, Prevention of Money Laundering Act, Unlawful Activities Act etc.

Accordingly, in the present case, **Mr. Vijay can file** an application before DRC as his returned income is ₹28 lakhs [</= ₹50 lakhs] and the amount of variation done by the A.O. is ₹4 lakhs [</= ₹10 lakhs] and he satisfies the other specified conditions. Levy of penalty under section 271D on him does not result in non – compliance with any specified condition.

Mr. Vijay should file an application for resolution of dispute in the prescribed form on or before 25.12.2025 i.e., **within one month** from the **date of receipt of the order of A.O.**

However, once a modified order is passed based on the resolution by DRC, **an appeal or revision would lie against such order**.
If order of A.O. is based upon the **information** received from foreign country **under DTAA** entered with India, **Mr. Vijay, will not be eligible** to make an application before DRC.

QUESTION 13:

The assessment of AUM Enterprises u/s 143(3) for the A.Y.2020-21 was completed on 15th June, 2021 as follows:

(a) Addition of ₹ 8 Lakhs for unexplained cash credit u/s 68;
(b) Allowance of expenditure "P" – 5 lakhs;
(c) Allowance of expenditure "R" – 12 lakhs.

On 4th August, 2022, a notice u/s 148 was sent to the assessee in order disallow expenditure "P" and the income of P.Y. 2019-20 was reassessed u/s 147 by passing an order on 9th December, 2022.

Later, the Commissioner discovered that the expenditure "R" was erroneously allowed against the judgement of Supreme Court. Hence, he initiated the proceedings u/s 263 and disallowed expenditure "R" by passing a revisionary order on 17th August, 2024.

Examine whether the revisionary power exercised by Commissioner u/s 263 is in order or barred by limitation.

ANSWER:

Section 263 empowers CIT/CCIT to revise an order passed by his sub-ordinate authority if the same is erroneous and prejudicial to the Govt. The time limit prescribed for such revision is **2 years** from the end of the year in which the **order containing error was passed**.

In case of AUM Enterprises:

- Order u/s **143(3)** was passed on **15th June, 2021** and
- Order u/s **147** was passed on **9th December, 2022**.

The issue involved is whether the time limit of 2 years u/s 263 shall be reckoned from the date of original assessment order u/s 143(3) or the date of reassessment order u/s 147.

The facts of the case are similar to the case of **Industrial Development Bank of India Ltd.** where the **Supreme Court** held that if the **issue** before the Commissioner **relates to the original** assessment order then the time limit shall be **reckoned from the date of original** assessment order. However, if the **issue** before the Commissioner **relates to the reassessment** order then the time limit shall be **reckoned from the date of reassessment** order.

In this case, the issue before the Commissioner was **expenditure "R"** which **relates to the original** assessment order [It was not related to reassessment order as the reassessment was in relation to a different issue i.e. expenditure "P"]. Hence, the time limit of **2 years** u/s 263 shall be **reckoned from** the end of the year in which the **original** assessment order u/s 143(3) was passed which comes to **31st March, 2024**. Since the revisionary order was passed on **17th August, 2024**, it is **barred by limitation**.

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SEARCH SEIZURE AND SURVEY

QUESTION 1:

In a search conducted on 24-07-2024, cash of ₹ 70 lakhs was seized. The assessee moved an application on 26-08-2024 to release such cash after explaining the sources thereof, which was turned down by the department.

The assessee seeks your opinion on whether the department can withhold the explained money?

ANSWER:

- ⇨ The person on whom search is conducted can make an **application** to the A.O. for release of explained assets (within **30 days** from the end of month in which **assets are seized**).
- ⇨ The application should state the **nature & source** of acquisition of such assets.
- ⇨ If the A.O. is satisfied, then he shall release the explained assets after taking the **permission of CIT/CCIT** & after **deducting existing** liabilities.
- ⇨ The explained assets shall be released within **120 days** from the date on which **search is completed** i.e. date on which last of the authorizations for search is executed.

In this case, since the application was made to the Assessing Officer within 30 days period, the amount of existing liability may be recovered out of the explained cash and balance may be released within 120 days from the date on which last of the authorizations for search is executed. However, if the application is 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 then the seized cash cannot be released.

QUESTION 2:

The Income-tax authority surveyed a popular Coffee shop at 12 o'clock in the night for the purpose of collecting information which may be useful for income-tax purposes. The Coffee shop is open for business everyday between 2 p.m. and 2 a.m. The owner of the coffee shop claims that the income-tax authority could not enter the shop in late night. The Income-tax authority wanted to take away with him the books of account kept at the Coffee shop.

Examine the validity of the claim made by the owner and the proposed action of the Income-tax authority.

ANSWER:

➔ As per section 133A, for survey at place of business, the Income-tax Authority can enter during business hours. However, for survey at other place, the Income-tax Authority can enter after sunrise but before sunset.

In the given case, the Income-tax Authority surveyed a Coffee shop at 12 o'clock in the night i.e. a place of business which is open for business everyday between 2 p.m. and 2 a.m.

Since the time of entry is during business hours, the owner cannot claim that the income-tax authority could not enter the shop in late night. Hence, the **claim of owner is invalid**.

➔ During survey, the Income-tax authority can impound books of accounts for max. 15 days [excluding public holidays]. Hence, in the given case, the income-tax authority **can take away the books** of account kept at Coffee shop for **max. 15 days [excluding public holidays]**. However, for retaining books of account beyond this period, permission of CIT/CCIT is required.

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ADVANCE RULING

QUESTION 1:

State whether in following cases, the application for advance ruling will be allowed or rejected by the Board for Advance Rulings:

(i) Mr. Bonnie is a non-resident. He made an application to the Board for Advance Rulings on 02-11-2024 in respect of an issue pending before Commissioner (Appeals).

(ii) Nitin Shetty, a resident of India, made an application to the Board for Advance Rulings on 17-10-2024 in respect a transaction valued at ₹ 135 crores.

(iii) ZENO ltd., a public sector undertaking, applied to the Board for Advance Rulings in respect of an issue pending before Commissioner of Income-tax u/s 263.

ANSWER:

(i) A **Non - Resident** can approach BAR for determination of a question arising out of a transaction undertaken or proposed to be undertaken by him. Ruling cannot be sought if the issue is pending before AO/Comm./ITAT/HC/SC.

In the given case, Mr. Bonnie (a non-resident) applied for advance ruling in respect of an issue pending before Commissioner (Appeals).

Since the issue is pending before Commissioner, the application will be **rejected** by BAR.

(ii) A **Resident** can approach BAR for determination of a question arising out of a transaction undertaken or proposed to be undertaken by him if aggregate value of such transactions is **₹100 crores or more**.

In the given case, Nitin Shetty applied for advance ruling in respect a transaction valued at ₹ 135 crores.

Since the transaction value is more than ₹ 100 crores, the application will be **allowed** by BAR.

(iii) **Notified Residents** (notified* by Central Govt.) can approach BAR for determination of a question arising out of issues pending before A.O or Commissioner or ITAT (but not before H.C/ S.C)

* Presently, Public Sector Undertakings are notified.

In the given case, ZENO ltd., a public sector undertaking, applied for advance ruling in respect of an issue pending before Commissioner of Income-tax u/s 263.

Since ZENO ltd. is a notified resident, it can apply for advance ruling in respect of issue pending before Commissioner.

Hence, the application of ZENO ltd. will be **allowed** by BAR.

QUESTION 2:

Chris, a non-resident, made an application to the Board for Advance Rulings on 27-06-2024 in respect a transaction valued at ₹ 220 crores.

He seeks your advice as to following matters:

(i) What is the amount of fees required to be paid by him?

(ii) Can he withdraw the application?

(iii) Can his brother use the ruling of BAR pronounced in his case?

ANSWER:

(i) Fees for advance ruling depends upon the value of transaction for which ruling is sought.

Value of transaction	Fees
up to ₹ 100 crores	₹ 2,00,000
> ₹ 100 crores up to ₹ 300 crores	₹ 5,00,000
> ₹ 300 crores	₹ 10,00,000

In case of a public sector company, fee is ₹ 10,000.

In the given case, Chris applied for advance ruling in respect of a transaction valued at ₹ 220 crores.

Accordingly, fees payable by Chris will be ₹ **5,00,000**.

(ii) An applicant of advance ruling can withdraw his application within 30 days from the date of application.

Accordingly, Chris **can withdraw** his application **within 30 days** from the date of application i.e. latest up to 27-07-2024.

(iii) The Ruling of AAR can be used:

➔ By the **Applicant only**;

➔ In respect of the **Transaction** for which ruling is sought.

Accordingly, **brother of Chris cannot use** the advance ruling pronounced in case of Chris.

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TAXATION OF GIFTS

QUESTION 1:

Mr. Mansoor, a dealer in shares, received following without consideration during the PY 2024-25:

1) A Plot of land from his friend [SDV ₹ 8,00,000].
2) Cash Gift of ₹ 80,000 on his anniversary from his friend Jason.
3) Bullion, the fair market value of which was ₹ 75,000 on his birthday from his brother-in-law.

On 23rd June, 2024, Mansoor purchased 5,000 shares of Orange ltd. @ ₹ 500 per share [FMV ₹ 800 per share].

Further, on 5th September, 2024, Mansoor took possession of a flat booked by him 2 years back at ₹ 30 lakhs. The SDV of the flat on the date of registration is ₹ 44 lakhs and on the date of booking was ₹ 35 lakhs. He paid ₹ 1,00,000 by account payee cheque as down payment on the date of booking.

Compute the taxable income from other sources for the AY 25-26.

ANSWER:

STATEMENT OF INCOME FROM OTHER SOURCES

	₹
Gift of plot from a **friend** [Taxable as the SDV > ₹50,000]	8,00,000
Gift of cash from a **friend** [Taxable as it is > ₹50,000]	80,000
Gift of bullion from his brother-in-law [Exempt as brother-in-law is a **relative**]	—
Purchase of shares at low price [Exempt because Mansoor is a dealer in shares and shares are **stock-in-trade** for him]	—
Purchase of immovable property at low price **[Note 1]**	5,00,000
TAXABLE IFOS	13,80,000

Note 1:

SDV**	₹ 35 lakhs
Actual Cost	₹ 30 lakhs
Difference	₹ 5 lakhs > [Higher of 10% of Actual cost or ₹ 50,000]

Since the difference of ₹ 5 lakhs is more than ₹3,00,000, such difference is taxable as Gift.

**If part or whole of the consideration is paid by account payee cheque/draft/ECS on or before the agreement date then SDV as on the date of agreement i.e. the date of booking should be considered.

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TAX DEDN/COLLECTION AT SOURCE

QUESTION 1:

Examine the applicability of the provisions for tax deduction at source under section 194DA in the following cases:

1) Mr. Singh, a resident, is due to receive ₹ 4.50 lakhs on 31.03.2025, towards maturity proceeds of LIC policy taken on 1.4.2022, for which the sum assured is ₹ 4 lakhs and the annual premium is ₹ 1,25,000.

2) Mr. Roy, a resident, is due to receive ₹ 3.25 lakhs on 31.3.2025 on LIC policy taken on 31.3.2015, for which the sum assured is ₹ 3 lakhs and the annual premium is ₹ 30,100.

3) Mr. Zack, a resident, is due to receive ₹ 95,000 on 1.8.2024 towards maturity proceeds of LIC policy taken on 1.8.2017 for which the sum assured is ₹ 90,000 and the annual premium is ₹ 10,000.

ANSWER:

1) In case of Mr. Singh, since the annual premium (₹1,25,000) is more than 10%* of sum assured (10% of ₹ 4,00,000), the **income element** comprised in the maturity proceeds of ₹4,50,000 is **subject TDS u/s 194DA** @ 5%.

   *10%, because the policy is taken on/after 1/4/2012

2) In case of Mr. Roy, since the annual premium (₹ 30,100) exceeds 10%* of sum assured (10% of ₹ 3,00,000), the **income element** comprised in the maturity proceeds of ₹3,25,000 is **subject TDS u/s 194DA** @ 5%.

   *10%, because the policy is taken on/after 1/4/2012

3) In case of Mr. Zack, since the annual premium (₹ 10,000) is more than 10%* of sum assured (10% of ₹ 90,000), the income element comprised in the maturity proceeds of ₹ 95,000 is taxable. However, it **shall not be subject to TDS u/s 194DA** as the maturity proceeds is **less than ₹ 1,00,000**.

   *10%, because the policy is taken on/after 1/4/2012

QUESTION 2:

Romit, a salaried individual, pays rent of ₹ 70,000 per month to Rajiv from June, 2024. Is he required to deduct tax at source? If so, when is he required to deduct tax and when is he required to deposit the same? Also, compute the amount of TDS.

What would be your answer if Romit vacated the premises on 30th November, 2024?

Also, what would be your answer if Rajiv does not provide his PAN to Romit?

ANSWER:

Since Romit is a **salaried** individual [not carrying on business], he has **no turnover** in the preceding year and Ind/HUFs with no/low turnover are liable to deduct **TDS u/s 194IB** if the rent **exceeds ₹ 50,000 per month**. Since rent paid by Romit is ₹ 70,000 per month, he is liable to deduct TDS u/s 194IB.

Although the rent is paid on monthly basis, TDS u/s 194IB is deducted in the **last month of financial year** i.e. in the month of March and the same is to be **deposited within 30 days** from the end of the month of tax deduction i.e. it should be deposited by **30th April, 2025**.

Amount of TDS to be deducted from the rent of March month = [70,000 p.m. x 4 months x 5%] + [70,000 p.m. x 6 months x 2%] = ₹ 22,400.

- ⇨ If Romit **vacated** the premises on 30th November, 2024 then TDS should be deducted in the month of **November** and the same should be deposited by **30th December, 2024**.

As per **sec. 206AA**, if Rajiv fails to provide his PAN then TDS should be deducted **@20%**. Amt of TDS = 70,000 p.m. x 10 months x 20% = ₹1,40,000. However, the amt of TDS should not exceed the amount of Rent of March. Hence, TDS shall be restricted to ₹ 70,000.

QUESTION 3:

Callos ltd. paid ₹ 70,000 to Ankush on 16.07.2024 towards fees for professional services. Tax on the same was deducted on 22.10.2024 and deposited on 03.01.2025.

Compute the amount of interest chargeable u/s 201(1A).

ANSWER:

In case of Callos ltd., there is delay is deduction as well as deposit of TDS.

As per **section 201(1A)**,

Interest for **late deduction**

= Amt of TDS x **1% p.m.** x No. of months [from the date when ***deductible*** upto the date when ***deducted***]

= (70,000 x 10%) x 1% p.m. x 4 months [**July to Oct**.]

= ₹ 280

Interest on **late deposit**

= Amt of TDS x **1.5% p.m.** x No. of months [from the date when ***deducted*** upto the date when ***deposited***]

= (70,000 x 10%) x 1.5% p.m. x 3 months [**Nov. to Jan**.]

= ₹ 315

Total interest u/s 201(1A) = ₹ 280 + ₹ 315 = ₹ 595

QUESTION 4:

Explain the applicability of the provisions relating to the deduction of tax at source in the following transactions:

1) Trax ltd. pays ₹ 1,00,000 to Trinity ltd., a resident contractor who, under the contract dated 15-10-2024, manufactures a product according to the specification of Trax Ltd. by using materials purchased from Trax ltd.
2) A State Government pays ₹ 20,000 as commission on 13-06-2024 to one of its agents for sale of lottery tickets.
3) On 17-07-2024, A Turf Club awards a jackpot of ₹ 5 lakhs to the winner of one of its races.
4) State Bank of India pays rent of ₹ 15,000 per month to Miss Zoya, a non-resident.

5) Mr. Sharma pays interest of ₹ 35,000 to Mr. Shenoy on 12-06-2024. Loan was taken for his business purpose. His turnover during PY 2023-24 was ₹ 89 lakhs.

6) Mr. Agarwal paid ₹ 2,00,000 to Sunder Caterers for the contract of catering for her son's birthday party.

7) Matrix ltd. paid ₹ 46,000 to Mr. Mishra, a goods transporter. Mr. Mishra owns 6 trucks.

8) KLF ltd. [whose turnover during PY 2023-24 was ₹ 67 lakhs] paid advertisement charges of ₹ 88,000 to Mr. Ahmed on 12-05-2024.

9) On 1-06-2024, Mr. Rupesh, aged 40 years, made 3 nine months fixed deposits of ₹ 3 lakh each, carrying interest @ 9% p.a. with Colaba branch, Santacruz branch and Dahisar branch of Canara Bank [which has adopted CBS]. The Fixed deposits mature on 28-02-2025.

10) Mr. Kulkarni, an employee of PQR ltd., since 10-04-2021, resigned on 31-03-2025 & withdrew ₹ 60,000 being balance in his Recognised PF account.

ANSWER:

1) Since Trinity ltd. is manufacturing the product as per the specification of Trax ltd out of materials supplied by Trax ltd., payment of ₹ 1,00,000 is treated as payment for works contract. Accordingly, **tax will be deducted @2% u/s 194C**.

   Note: In the above case,

   Trinity ltd. has used materials purchased from **Trax ltd.**

   If Trinity ltd uses materials purchased from **outsiders** then it is not a job work [**not subject to TDS**].

   However, if that outsider is **relative of Trax ltd.** then it is a job work [**subject to TDS**].

2) Payment of commission of ₹ 20,000 by State Govt. for sale of lottery tickets is subject to **TDS u/s 194G @5%** as the amount of commission exceeds ₹ 15,000.

3) Payment of ₹ 5 lakhs by a Turf club to the winner is subject to **TDS u/s 194BB @30%** as the payment is > ₹ 10,000.

4) Payment of Rent by SBI to a **non-resident** is subject to **TDS u/s 195** irrespective of the amount of rent [as the threshold limit of ₹ 2,40,000 p.a. u/s 194-I is applicable when rent is paid to a resident].

5) Mr. Sharma is an **individual**. Since his **turnover** in the preceding year **did not exceed ₹ 1 crore**, he is **not liable** to deduct TDS u/s 194A on interest paid.

6) Payment of ₹ 2,00,000 by M₹ Agarwal to Sunder Caterers is **not subject to TDS** u/s 194C because u/s 194C and 194J, **personal** transactions are exempt from TDS.

7) Since Mr. Mishra **does not own more than 10 trucks**, payment to him for goods transport is **not subject to TDS u/s 194C** provided Mr. Mishra furnishes his **PAN** and a **declaration** that he does not own more than 10 trucks.

8) KLF ltd. is a **company**. Even though its turnover in the preceding year did not exceed ₹ 1 crore, it is liable to deduct **TDS u/s 194C** on payment of advertisement charges **@1%** [1%, because the receiver is an **individual**].

9) Since Canara bank has adopted **CBS**, the threshold limit of ₹ 40,000 for deduction of tax from bank interest should be checked in **aggregate**. Aggregate interest on bank FD with all the branches = 9,00,000 x 9% x 9/12 = ₹ 60,750. Since the aggregate of interest from all branches is **more than ₹ 40,000**, tax will be deducted at source u/s **194A @10%**.

10) Since the service of Mr. Kulkarni is for **less than 5 years**, amount received from RPF is a premature withdrawal. It will be subject to **TDS @10% u/s 192A** as the amount received is **>/= ₹ 50,000**.

QUESTION 5:

Examine whether TDS provisions would be attracted in the following cases, and if so, under which section. Also, specify the rate of TDS applicable in each case.

1) ICICI Bank makes a payment of ₹ 24,000 to Mr. Naresh on 1st June, 2024 towards fees for professional services and another payment of ₹ 23,000 to him on the same date towards fees for technical services.

2) Samrat, a salaried individual, pays rent of ₹ 63,000 p.m. to Nasir from August 2024.

3) On 25th August 2024, Mr. Rampal purchased a house property in Hyderabad and a rural agricultural land for a consideration of ₹ 74 lakh and ₹ 22 lakh respectively. Turnover of Mr. Rampal in the PY 2023-24 was ₹ 95 lakh.

4) East Bengal Club, a renowned football club, engaged Raghu, a resident in India, as its coach with effect from 1st July, 2024. Remuneration of ₹ 6 lakhs was paid to him on 23-03-2025.

5) Jagdeep, an individual carrying on retail business with the turnover of ₹ 2.8 crores in the PY 2023-24 paid ₹ 7 lakhs in October 2024 to a contractor for repairs of his residential house.

6) Mr. Ketan, a wholesale trader whose turnover was ₹ 4 crores in PY 2023-24 paid ₹ 80 lakhs in February 2025 to a contractor for reconstruction of his residential house.

7) Mr. Simpson, a salaried individual, paid ₹ 20 lakhs a brokerage for buying a residential house.

8) On 13-06-2024, Mr. Khurana withdrew cash of ₹ 1.22 crores from Bank of Baroda. Calculate the amount of TDS, if applicable.

9) On 23-12-2024, Abhishek withdrew cash of ₹ 1.3 crores from Post office. Mr. Abhishek didn't file the return in any of the preceding 5 years. Calculate the amount of TDS, if applicable.

10) Thomas Cook, an authorized foreign exchange dealer withdrew cash of ₹ 5 crores from SBI. Calculate the amount of TDS, if applicable.

ANSWER:

1) Since the payment made by ICICI Bank for professional services and technical services does not exceed ₹ 30,000 **individually**, there is no liability for deducting TDS u/s 194J. The limit of **₹ 30,000 is separate for each category** of payment covered in section 194J.

2) Since Samrat is a **salaried** individual, he has **no turnover** in preceding year and Ind/HUFs with no/low turnover in preceding year are **exempted from TDS on rent u/s 194-I** (Sec. 194 RA C H **I** J). However, the same is **liable for TDS u/s 194IB** because the rent exceeds ₹ 50,000 p.m. [5% TDS on Rent of August and September and 2% TDS for remaining months].

3) Purchase of house property by Rampal is subject to **TDS @1% u/s 194IA** as the consideration is >/= ₹ 50 lakhs [irrespective of his turnover in the preceding year] [Ind/HUF with low turnover are exempt for TDS only u/s 194R,A, C,H,I,J; not in section 194IA].

   Purchase of **rural agricultural land** is **not subject to TDS** u/s 194IA.

4) Payment of remuneration by East Bengal Club to its coach is subject to TDS @10% u/s 194J because a "**Coach**" is a notified **professional** for the purpose of section 194J [SUP$_2$A**C$_3$**E].

5) Since the payment to contractor for repairs of residential house is a payment for **personal** transaction, it **not subject to TDS u/s 194C**. Such payments are subject to TDS u/s 194M if the aggregate payment during the year exceeds ₹ 50 lakhs. Since the payment by Jagdeep for works contract **does not exceed ₹ 50 lakhs**, it is **not subject to TDS u/s 194M also**.

6) Payment by Mr. Ketan for reconstruction of residential house is **personal** in nature. It is **not subject to TDS u/s 194C**. However, it will be subject to TDS @ 5% u/s **194M** because the payment **exceeds ₹ 50 lakhs**.

7) Payment of commission by Mr. Simpson is not subject to TDS. Since he is a **salaried** individual, he has **no turnover** in preceding year and Ind/HUFs with no/low turnover in preceding year are **exempted from TDS u/s 194H** (Sec. 194 RA C **H** I J). However, such Ind/HUFs are covered u/s 194M if payment exceeds ₹ 50 lakhs. Since the payment of commission by him does not exceed ₹ 50 lakhs, it is **not subject to TDS u/s 194M also**.

8) Cash withdrawal of ₹ 1.22 crores by Mr. Khurana from Bank of Baroda is subject to **TDS @2% u/s 194N**.
Amount of TDS = 2% of (1.22 cr. – 1 cr.) = ₹ 44,000.

9) Since Mr. Abhishek **did not file the retrun in any of the preceding 3 years**, cash withdrawal by him of ₹ 1.3 crores will be subject to TDS as follows:

TDS up to ₹ 20 lakhs	Nil
TDS above ₹ 20 L up to ₹ 1 crore	1,60,000 (**2%** of 80 L)
TDS above ₹ 1 crore	1,50,000 (**5%** of 30 L)

10) Cash withdrawal by Thomas Cook, an **authorised foreign exchange dealer** is **not subject to TDS** u/s 194N.

QUESTION 6:

In respect of the following independent case scenarios you are required to discuss the provisions related to TDS/TCS and amount of tax deductible/collectible for the year ended 31st March 2025:

1) State Government of Telangana grants a lease of coal mine to M/s XYZ Co. Ltd. on 1.09.2024 and charged ₹10 crores for the lease. M/s XYZ Co. Ltd. sold coal for ₹1 crore to M/s AB (P) Ltd. during the previous year 2024-25. The turnover of M/s XYZ Co. and M/s AB (P) Ltd. for the financial year 2023-24 amounted to ₹5 crores and ₹6 crores, respectively.

ANSWER:

State Government is required to collect tax at source **@2%** u/s **206C(1C)** on ₹10 crores, being charges for **lease of coal mine**.

TCS = 2% x ₹10 crores = ₹20,00,000

M/s XYZ Co. Ltd. is required to collect tax at source **@1%** u/s **206C(1)** on **sale of coal** to M/s AB (P) Ltd.

TCS = 1% of ₹1 crore = ₹1,00,000.

2) M/s Aryan Ltd., a domestic company having a total turnover of ₹12 crores for the financial year 2023-24, purchased goods worth ₹85 lakhs (excluding purchase return) from M/s Varun & Co. during the previous year 2024-25. M/s Varun & Co., a resident firm, has furnished its PAN to Aryan Ltd. Details of payments for purchases from M/s Varun (P) Ltd, are given below:

On 25.05.2024 - ₹30 lakhs;

On 28.06.2024 - ₹25 lakhs,

On 10.12.2024 - ₹20 lakhs (out of these purchases, goods worth ₹5 lakhs were returned on 20.12.2024 due to quality issue for which money was refunded by M/s Varun & Co.);

On 20.02.2025 ₹10 lakhs.

Assume that the turnover of M/s Varun & Co. during the Financial year 2023-24 was ₹ 8 crores and the above amounts were credited to M/s Varun & Co.'s account in the books of M/s Aryan Ltd. on the same date.

ANSWER:

M/s Varun & Co. (Seller) is not required to collect tax at source on the sale of goods to M/s Aryan Ltd. since it's turnover for the P.Y. 2023-24 does not exceed ₹10 crores.

Since turnover of M/s Aryan Ltd. (Buyer) for the P.Y. 2023-24 exceeds ₹10 cr. and the aggregate value of purchases from M/s Varun & Co, exceeds ₹50 lakhs, M/s Aryan Ltd. is required to deduct tax at source u/s 194Q @0.1% on sum exceeding ₹50 L.

In case of purchase return, if the money is refunded by the seller, then, this tax deducted on **purchase return** would be ***adjusted*** against the **next purchase** from the same seller.

Applicability of TDS on purchases from M/s Varun & Co.		
25.05.23	30 lakhs	No TDS (< ₹50 Lakhs)
28.06.23	25 lakhs	TDS = ₹500 (5 lakhs x 0.1%)
10.12.23	20 lakhs	TDS = ₹2,000 (20 lakhs x 0.1%)
20.02.24	10 lakhs	TDS = ₹500 {(10L**–5L Returns**) x 0.1%}

3) XYZ Ltd. was incorporated on 1.4.2024 for trading goods. Its turnover for the P.Y. 2024-25 is ₹12 crores. During the P.Y.2024-25, it purchased goods from M/s. White Ride, the details of which are as follows:

On 1.8.2024 for ₹25,00,000;

On 15.9.2024 for ₹30,00,000 and

On 15.12.2024 for ₹15,00,000.

The above dates represent the date of credit to the account of M/s. White Ride. Payment is made after one month (i.e., on the same date in the immediately following month). M/s White Ride's turnover for the FY. 2023-24 and F.Y. 2024-25 was ₹11 crores and ₹9.7 crores, respectively.

ANSWER:

Sec. 194Q is attracted if buyer's turnover in the preceding year is > ₹10 crore. Since this condition would not be satisfied in the year of incorporation, the provisions of sec. 194Q shall not apply in the year of incorporation. Since XYZ Ltd. is incorporated in the P.Y.24-25, sec. 194Q shall not apply in P.Y. 24-25.

However, since White Ride's turnover for the F.Y. 2023-24 exceeds ₹ 10 crores and its receipts from XYZ Ltd. exceed ₹50 lakhs, TCS provisions under section 206C(1H) would be attracted in its hands. TCS would be attracted **at the time of receipt** of consideration (i.e., in respect of receipts in excess of ₹50 lakhs).

No tax is to be collected u/s 206C(1H) on 1.9.2024, since the aggregate receipts till that date i.e., ₹25 lakhs, has not exceeded the threshold of ₹50 lakhs.

Tax of ₹500 (i.e., 0.1% of ₹5 lakhs) has to be collected u/s 206C(1H) by M/s White Ride on 15.10.2024.

Tax of ₹1,500 (i.e., 0.1% of ₹15 lakhs) has to be collected u/s 206C(1H) by M/s. White Ride on 15.01.2025.

4) Mr. Rajat aged 79 years, a retired resident individual, maintains a savings bank account and a fixed deposit account with ABC Bank, Delhi. He provides following details to ABC Bank in respect of financial year 2024-25:

Interest on Savings A/c	₹75,100
Pension (received in savings a/c)	₹55,000 p.m.
Interest from Fixed deposit A/c	₹1,20,000

He does not have any other income during the year 24-25. Assume that Mr. Rajat has shifted out of default tax regime.

ANSWER:

Mr. Rajat is a specified person as per section 194P as he is of age of 79 years, having pension income and only interest income with ABC Bank [where he receives his pension].

As per section 194P, ABC Bank is required to deduct tax at source at rates in force on total income computed after deduction under Chapter VI-A and rebate u/s 87A

Particulars	₹	₹
Pension (₹55,000 x 12)	6,60,000	
Less: Standard deduction	50,000	6,10,000
Interest on Bank FD	1,20,000	
Interest on Bank Savings account	75,100	1,95,100
Gross Total Income		**8,05,100**
Less: Deduction under VIA:		
➔ **Sec. 80TTB:**		
Interest on Bank FD & Savings a/c, (Max. ₹50,000)		- 50,000
Net Taxable Income		**7,55,100**
Tax on above		61,020
Upto 3 L 0% Nil		
3 L to 5 L 5% 10,000		
5 L to 7,55,100 20% 51,020		
Add: HEC @4%		+ 2,441
Tax to be deducted by ABC Bank		**63,460**

5) Raghav Motors Ltd., Ludhiana, is a dealer in cars of Ford and Maruti Cars and also runs a service station. The sale of cars of Raghav Motors Ltd. for F.Y.2023-24 is 9.80 crores. The sale of spare parts and service station is 60 lakhs for F.Y.2023-24.

M/s. Om Ltd., dealing in textile manufacturing, bought following cars from Raghav Motors Ltd. during F.Y. 2024-25 for business purposes:

Model of Car	Date of Invoice	Value of Car (₹)
Maruti	14.7.2024	37 lakhs
Maruti	12.8.2024	19 lakhs
Ford	18.10.2024	8 lakhs
Maruti	5.11.2024	12 lakhs

The payment against each invoice was made on the date of invoice itself.

ANSWER:

As per section **206C(1F)**, Raghav Motors Ltd., a seller is required to collect tax at source **@1%** of the sale consideration received from M/s. Om Ltd., a buyer, on sale of motor vehicle of the value exceeding **₹10 lakhs**.

Accordingly, Raghav Motors Ltd. is required to collect tax at source u/s 206C(1F) on the following dates

₹37,000 [1% on ₹37,00,000] on 14.7.2024

₹19,000 [1% on ₹19,00,000] on 12.8.2024

₹12,000 [1% on ₹12,00,000] on 5.11.2024

Total amount of TCS is ₹68,000.

In all three cases mentioned above, the payment was received on the date of sale of Maruti cars, hence, the tax has to be collected on the respective dates of sale mentioned above.

In respect of Ford car, the value of which is ₹8,00,000, tax is not required to be collected under section 206C(1F), since its value does not exceed ₹10,00,000.

Note: Sale consideration of ₹8 lakh in respect of Ford car on 18.10.2024 is the only receipt from Om Ltd. which is excluded from the purview of TCS u/s 206C(1F), and this receipt does not exceed the annual threshold of ₹50 lakhs. Hence, no tax is required to be collected at source u/s 206C(1H).

6) Mr. Z, a resident individual, starts a new business on 01-11-2024 for sale of unique T-shirts. He obtained a valid PAN in his name and registers himself on ABC.com (a Singapore based website), an e-commerce operator, for sale of his products in India.

Mr. Z sold goods worth ₹60 lakhs through ABC.com upto 31-03-2025. E-commerce operator credited the following payments from time to time payable to Mr. Z in its books of accounts.

31-12-2024	₹20 lakhs
28-02-2025	₹15 lakhs

Full and final payments have been released by ABC.com to Mr. Z on 31-03-2025 after deducting a commission of 10% on gross sale proceeds.

Mr. Z received ₹10,00,000 directly in his bank out of above ₹60 lakhs through PayTM Wallet directly connected by ABC.com to the account of Mr. Z.

ANSWER:

As per **section 194-O**, ABC.com, an e-commerce operator is required to deduct tax @1%* on the gross amount of sale of goods (T-shirts, in the present case] of Mr. Z, a resident individual, an e-commerce participant, since such sale of goods is facilitated by ABC.com through its digital or electronic facility or platform.

***0.1% w.e.f. 1/10/2024**

ABC.com is required to deduct tax at the time of credit of such sum or actual payment, whichever is earlier. Any payment received directly by Mr. Z for the sale of goods, facilitated by ABC.com, would be deemed to be amount credited or paid by ABC.com to Mr. Z.

Accordingly,

ABC.com is required to deduct tax of:

- ₹2,000 (**0.1% x ₹20,00,000**) on **31.12.2024** and
- ₹1,500 (**0.1% x ₹15,00,000**) on **28.02.2025**

being the dates on which such amounts were credited in books of account of ABC.com.

ABC.com is also required to deduct ₹1,000 (**0.1% of ₹10,00,000** being the amount **directly received** by Mr. Z).

On 31.3.2025, ABC.com is also required to deduct tax of ₹1,500 (**0.1% of ₹15,00,000**), being the amount of full and **final payment** made on **31.3.2025**.

7) Deer Co Ltd engaged in the business of manufacture of furniture items on contract basis. It sub- contracted the production of cushion for the chairs to M/s Lion & Co, a sole proprietary concern. The sub-contractor M/s. Lion & Co procured the raw materials for production of cushions, performed further labour works and supplied the same to Deer Co Ltd. It raised its bill on Deer Co Ltd, showing the cost of raw materials ₹4,00,000 and labour charges ₹1,50,000, separately.

ANSWER:

TDS under **section 194C** is attracted on any sum payable to a resident contractor/sub- contractor for carrying out any work which includes job work. However, "**Job work**" means manufacturing as per the requirement or **specification of a customer** by using **material purchased from such customer** or associate of such customer.

In this case, M/s Lion & Co. has to supply cushion for the chairs to Deer Co Ltd., according to the specifications of the customer (Deer Co Ltd.) by using materials purchased from a person **other than the customer**, Deer Co Ltd. Thus, the sub-contract for production of cushions is **not a 'works contract'**. Consequently, there is **no liability to deduct tax** at source under section 194C in this case.

8) Maha Bank Ltd accepted fixed deposits of ₹20 crores in the name of Registrar General of the High Court and issued a fixed deposit receipt in compliance with a direction passed by court in relation to certain proceedings.

Answer:

The issue under consideration is whether the bank is required to deduct tax at source on the amount of interest paid or payable on fixed deposits in the name of Registrar General of High Court.

Under **section 194A**, the bank is obliged to deduct tax at source in respect of any credit or payment of interest (exceeding ₹40,000) on deposits made by the payee. The expression "payee" under section 194A would mean the **recipient of income**. However, in this case, the actual payee is not ascertainable because the interest is credited in the name of the **Registrar General** of HC who is **not the recipient of the income**. In the absence of a payee, the machinery provisions for deduction of tax from interest credited become ineffective. Hence, the **bank is not required to deduct tax** at source.

9) StudyKart, an online education provider and a trust registered under section 12AB of the Income-tax Act, pays ₹98,000 during the Financial Year 2024-25, to Mr. Monty, a non-resident for providing web based lectures.

ANSWER:

Any person responsible for paying any sum chargeable to tax to a **non - resident** is liable to deduct tax at source at the rates in force.

Since Mr. Monty, a non-resident has provided **web based lectures** from outside India, income arising therefrom is not chargeable to tax in India as **no income is deemed to accrue or arise in India**. Thus, **no tax is deductible** at source on such payment to him.

Alternatively, it may be possible to take a view that income arising from web lectures may fall within the meaning of "Fees for technical services". If this view is taken, such income would be deemed to accrue or arise in India, since the services are utilised in India, even though they are rendered from outside India. Therefore, such income would be chargeable to tax in India in the hands of Mr. Monty, a non-resident. Thus, StudyKart, a trust registered u/s 12AB, is required to deduct tax at source under section 195.

10) On 31st December, 2024, Mr. Nitin, a resident individual whose gross turnover was ₹97 lakhs during the preceding previous year, paid ₹65 lakhs to Mr. Basant, a resident individual, as contract payment for repairing his office building.

ANSWER:

Since Mr. Nitin's turnover **does not exceed ₹1 crore in** the P.Y.2023-24, TDS provisions u/s **194C** are **not attracted** in respect of payment made in the P.Y, 2024-25 to Mr. Basant, a resident individual, for repairing his office building. However, tax is required to be deducted at source **@2% u/s 194M**, on the payment of ₹65,00,000, since such amount **exceeds ₹50 lakhs**. Therefore, tax deducted at source would be ₹1,30,000, being 2% of ₹ 65,00,000.

11) Mr. Soham purchased licensed copy of computer software from the software vendor (resident of India) along with all right to use it for ₹50,000 to be used for business purposes.

ANSWER:

As per Explanation 4 to section 9(1)(vi), consideration for transfer of all or any right to use of computer software (including granting of a licence) would **fall within the meaning of "royalty"**.

Tax deduction at source **@10%** under **section 194J** would be attracted where the amount of royalty **exceeds ₹30,000**.

However, an **individual/HUF** [**whose turnover** in preceding year **does not exceed** ₹1 crore, in case of a business or ₹50 L, in case of a profession] is **not required to deduct tax** at source under section 194J on the sum paid by way of royalty, even if it exceeds ₹30,000. Therefore, Mr. Soham, being an individual, is required to deduct tax at source on the amount of ₹50,000 paid towards purchase of licensed copy of computer software [if his **turnover** in preceding year **exceeds** ₹1 crore].

12) X is a bookmaker and Mr. B is a punter.
On 22-09-2024, B has won ₹5,000 in a Horse Race 1.
On 12-01-2025, B has won ₹8,000 in a Horse Race 2 and suffered a loss of ₹2,000 in Horse Race 3.

ANSWER:

As per **sec. 194BB**, any person who is responsible for paying any income by way of winnings from **horse race** is liable to deduct tax **@30%** at the time of such payment if the **aggregate amount** of winnings paid during the financial year **exceeds ₹10,000**.

Tax would be deducted on winnings **before set-off** of losses. Thereafter, the net amount, i.e., winnings after deduction of tax and losses, would be paid to the individual.

Thus, in the present case, Mr. X is liable to deduct tax **at the time of payment** of winnings in **Horse Race – 2** when the aggregate amount exceeds ₹10,000.

Amt. of TDS on 12/01/2025 = 30% of ₹13,000 = ₹3,900.

13) AKL Ltd., a third-party administrator on behalf of an Insurance Company has settled medical bills of ₹5,00,000 on 31.10.2024 submitted by Kay Hospitals Ltd. from a patient under a cashless scheme.

ANSWER:

As per **section 194J**, every person, who is responsible for paying to resident any sum by way of fees for **professional services exceeding ₹30,000** shall deduct tax at source at the rate of **10%** at the time of credit to the account of payee or at the time of payment, whichever is earlier.

"Professional services" include services rendered by a person in the course of carrying on **medical profession**.

The **CBDT** has, vide **Circular No.8/2009** dated 24.11.2009, clarified that since the services rendered by hospitals to various patients are **primarily medical services**, TPAs (Third Party Administrator's), who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. under various schemes including cashless schemes are liable to deduct tax at source on all such payments to hospitals etc.

Thus, AKL Ltd., a **TPA is liable to deduct tax** of ₹50,000, being 10% of ₹5,00,000 from the payment made to Kay Hospitals Ltd.

14) ₹19,50,000 credited to the account of Digitech Studios (a P. Firm) on 31.03.2025 by Star-TV, Television channel, towards part consideration for shooting of Tele Episode for 10 weeks as per the storyline, contents and specifications of Star TV channel.

ANSWER:

Shooting of Tele Episode for Star-TV as per the storyline, contents and **specifications of Star-TV** falls within the scope of "work" under **section 194C**. Since the amount credited exceeds the specified limit of 30,000, **TDS@2%** under section 194C is attracted on amount credited to the account of Digitech Studios, a partnership firm. Amt of TDS = ₹39,000 [2% of ₹19,50,000].

15) X Ltd. is a producer of natural gas. During the year, it sold natural gas worth ₹20,50,000 to M/s Hawa Co., a partnership firm. It also incurred ₹2,00,000 as freight for transportation of gas. It raised the invoice and clearly bifurcated the value of gas as well as the transportation charges.

ANSWER:

TDS u/s 194C is attracted on "**works contract**". **Sale of natural gas** by X Ltd. [including transportation] to the purchaser, M/s. Hawa Co. is a '**contract for sale of goods**' [not a works contract]. The manner of raising the sale bill (whether the transportation charges are included in the cost of gas or shown separately) does not alter the basic nature of such contract.

Therefore, in such circumstances, **TDS provisions** under section 194C are **not applicable**.

16) An Indian company pays gross salary including allowances and monetary perquisites amounting to ₹7,30,000 to its General Manager. Besides, the company provides non-monetary perquisites to him whose value is estimated at ₹1,20,000. General Manager is opting out of the provisions of Section 115BAC.

ANSWER:

	₹
Gross salary [incl allowances & monetary perquisites]	7,30,000
Non – Monetary perquisites	1,20,000
	8,50,000
Less: Standard deduction	- 50,000
Taxable Salary	8,00,000
Tax liability	75,400

The company is liable to deduct ₹75,400 at source from the salary of the General Manager. If the company bears the tax on non-monetary perquisites i.e. *9.425% of ₹1,20,000 i.e. ₹11,310 then the amount of TDS would be ₹ 64,090 [75,400 – 11,310]

* Average rate of tax (₹75,400/ ₹8,00,000 x 100) = 9.425%

17) ABC Ltd. took on sub-lease a building from Jeet, an individual, with effect from 1.9.2024 on a rent of ₹25,000 per month. It also took on hire machinery from Jeet with effect from 1.10.2024 on hire charges of 15,000 per month. ABC Ltd. entered into two separate agreements with Jeet for sub-lease of building and hiring of machinery.

ANSWER:

As per **section 194-I**, the rate of TDS is 2% for rent of plant, machinery and equipment and 10% for land, building and furniture. TDS under this section is applicable if rent exceeds ₹2,40,000 p.a.

The **limit of ₹2,40,000** for tax deduction at source will apply to the **aggregate rent of all the assets**. Even if two separate agreements are entered into, one for sub-lease of building and another for hiring of machinery, rent and hire charges under the two agreements have to be aggregated for the purpose of application of the threshold limit of ₹2,40,000. In this case, since the payment for rent and hire charges aggregates to ₹2,65,000 (₹ 1,75,000 + ₹90,000), tax is deductible at source under section 194-I, tax is deductible @10% on ₹1,75,000 (rent of building) and @2% on ₹ ₹90,000 (hire charges of machinery).

18) Miss Tara, resident individual aged 32 years, is a social media influencer. She makes videos reviewing various electronic items and posts those videos on social media. On 1st December 2024, XYZ Ltd., an Indian company manufacturer of electric cars gave her a brand new car having fair market value of ₹ 6 lakhs to promote on her social media page. She used that car for 7 months for her personal purposes, recorded a video reviewing the car and then returned the car to the company.

ANSWER:

Under **section 194R**, the person who is responsible for providing to a resident, any benefit or perquisite whether convertible into money or not, arising from business or the exercise of a profession by such resident, has to first ensure deduction of tax**@10%** of the value of such **benefit or perquisite**, if the same **exceeds ₹ 20,000**.

However, in case of benefit or perquisite being a product like car, mobile etc. if the product is returned to the manufacturing company after using for the purpose of rendering service, then it **will not be treated as a benefit/perquisite** for the purposes of section 194R.

Accordingly, in the present case, since Miss Tara has returned the car to XYZ Ltd., TDS provisions under section 194R would **not apply**.

QUESTION 7:

The following details pertain to Mr. Sahil & his best friend Mr. Akhil:

➔ **Mr. Sahil:**

	₹
Amount remitted to his elder son Aarav, who is pursuing two-year MBA Program from Columbia University, USA	
- Out of own savings through HDFC Bank, an authorized dealer under LRS of the RBI	3,50,000
• towards tuition fees on 5.7.2024	
• to meet day to day exps. for study purposes	
- 10.5.2024	1,20,000
- 29.9.2024	90,000
- 01.1.2025	1,35,000
- Out of loan through Axis Bank, an authorized dealer under LRS towards tuition fees on	
- 11.10.2024	3,50,000
- 10.01.2025	3,50,000
- Own savings (to meet day to day exps.) on	
- 1.7.2024	1,50,000
To complete the formalities of admission, Mr. Sahil visited the USA from 10.4.24 to 13.4.24 for which he purchased a tour package from M/s Gate 2 Travel, a foreign tour operator and remits money under LRS on 5.4.2024. International travel tickets and hotel accommodation are included in the said package.	5,20,000

Mr. Sahil has furnished undertakings containing the details of earlier remittances to HDFC bank and Axis bank. He has also furnished his PAN to the authorized dealers and to the seller of overseas tour program package.

➔ **Mr. Akhil:**

Mr. Akhil, an Indian citizen got a job offer from M/s Wellbeing Inc., a Dubai based company of AED 10,500 per month. He left for Dubai on 29.3.2024 and joined M/s Wellbeing Inc. on 1st April 2024. He returned to India on 15.12.2024 on leaves for 15 days. On 23.12.2024, he went on 7 days tour to Bali with his wife and son. Thereafter, he directly went to Dubai with his wife and son. On 16.12.2024, he purchased a tour package for Bali from Make Your Trip, an Indian tour operator for which he paid ₹ 7,50,000 towards flight tickets and hotel accommodation. During F.Y. 2024-25, he has business income of ₹ 4,20,000 from a retail shop in India and interest on fixed deposit and savings account with Canara Bank of ₹ 1,20,000 and ₹ 8,000, respectively. He is not liable to pay any tax in Dubai. Assume 1 AED = ₹ 23.

From the information given above, choose the most appropriate answer to Q. 1 to Q. 6:

1) Is HDFC Bank required to collect tax at source on the amount remitted by Mr. Sahil? If so, what is the amount of tax to be collected?
   - (a) Yes; TCS of ₹ 2,000 on 29.9.2024 and TCS of ₹ 27,000 on 1.1.2025
   - (b) Yes; TCS of ₹ 500 on 29.9.2024 and TCS of ₹ 27,000 on 1.1.2025
   - (c) Yes; TCS of ₹ 500 on 29.9.2024 and TCS of ₹ 6,750 on 1.1.2025
   - (d) No tax is required to be collected at source since receipts do not exceed ₹ 7 lakh

2) Is Axis Bank required to collect tax at source on the amount remitted by Mr. Sahil? If so, what is the amount of tax to be collected?
   - (a) Yes; TCS of ₹ 7,500 on 1.7.2024; TCS of ₹ 1,750 on 11.10.2024 and TCS of ₹ 1,750 on 10.1.2025
   - (b) Yes; TCS of ₹ 17,500 on 11.10.2024 and TCS of ₹ 17,500 on 10.1.2025
   - (c) Yes; TCS of ₹ 1,750 on 11.10.2024 and TCS of ₹ 1,750 on 10.1.2025
   - (d) No tax is required to be collected at source, on the remittances for education and for other purposes since each receipt does not exceed ₹ 7 lakh

3) Is tax required to be collected at source on the amount remitted for tour package to USA by Mr. Sahil? If so, what is the amount of tax to be collected?

(a) Yes; TCS of ₹ 26,000

(b) Yes; TCS of ₹ 1,04,000

(c) No tax is required to be collected at source, since tour package is purchased from a foreign tour operator

(d) No tax is required to be collected at source, since receipt does not exceed ₹ 7 lakh

4) Does Make Your Trip require to collect tax at source on the amount received for tour package to Bali from Mr. Akhil? If so, what is the amount of tax to be collected?

(a) Yes; ₹ 2,500 is required to be collected at source

(b) Yes; ₹ 37,500 is required to be collected at source

(c) Yes; ₹ 45,000 is required to be collected at source

(d) No tax is required to be collected at source

5) What is the total income of Mr. Akhil for the A.Y. 25-26? Assume he has shifted out of the default tax regime u/s 115BAC.

(a) ₹ 33,88,000

(b) ₹ 5,48,000

(c) ₹ 33,96,000

(d) ₹ 5,40,000

6) What would be the amount of the tax liability (computed in the most beneficial manner) of Mr. Akhil for the A.Y.25-26?

(a) ₹ 7,47,550

(b) ₹ 12,900

(c) Nil

(d) ₹ 12,480

ANSWER:

1 – (c) 2 – (c) 3 – (a) 4 – (d) 5 – (d) 6 – (b)

Note for MCQ – 1 and 2:

➔ Date wise remittance

Date	Amount	Dealer	Amt of TCS
10/5/24	1,20,000	HDFC	Nil
1/7/24	1,50,000	Axis	Nil
5/7/24	3,50,000	HDFC	Nil
29/9/24	90,000	HDFC	500 (7,10,000 – 7,00,000) x 5%
11/10/24	3,50,000	Axis	1,750 (3,50,000 x 0.5%)
1/1/25	1,35,000	HDFC	6750 (1,35,000 x 5%)
10/1/25	3,50,000	Axis	1,750 (3,50,000 x 0.5%)

Note for MCQ – 3: TCS is collected @5% on ₹ 5,20,000 as the consideration does not exceed 7,00,000 [whether the tour operator is of India or Foreign – is not relevant].

Note for MCQ – 4: Section 206C(1G) of the Act is not applicable to a buyer who is a non-resident and who does not have a permanent establishment in India.

Note for MCQ – 5 and 6:

COMPUTATION OF TAX

	Old Regime	115BAC
Income from salaries	Nil	Nil
Income from business	4,20,000	4,20,000
IFOS:		
FD Interest	1,20,000	1,20,000
Savings Interest	8,000	8,000
Gross Total Income	5,48,000	5,48,000
Less: Dedn [Sec.80TTA]	8,000	Nil
Net Taxable Income	**5,40,000**	**5,48,000**
Tax on above	20,500	12,400
Less: Rebate	Nil	Nil
Add: SC	Nil	Nil
Add: HEC	+820	+496
Tax Payable	21,320	12,896
Rounded off	**21,320**	**12,900**

QUESTION 8:

ABC bank provides the following information relating to cash withdrawals by its two customers during the P.Y.2024-25:

Date of cash withdrawal	Mr. Arjun (Savings Account) (₹)	XYZ Co-operative Society (Current Account) (₹)
12.04.2024	20,00,000	-
9.05.2024	-	68,00,000
15.06.2024	25,00,000	-
19.07.2024	-	85,00,000
18.10.2024	35,00,000	-
5.11.2024	-	88,00,000
22.12.2024	25,00,000	-
03.01.2025	-	57,00,000

Co-op. society regularly files its return of income. However, Mr. Arjun has not filed his return for the last 3 years.

Would cash withdrawals by Mr. Arjun and XYZ Co-operative society during the P.Y. 2024-25 attract deduction of tax at source? If yes, how much tax would be deductible by ABC bank?

(a) Yes; ₹ 1,85,000 and ₹ 3,96,000, respectively

(b) Yes; ₹ 1,85,000 and ₹ 5,56,000, respectively

(c) Yes; ₹ 10,000 and ₹3,96,000, respectively

(d) ₹ 1,85,000 in respect of cash withdrawals by Mr. Arjun and no tax is required to be deducted from cash withdrawals by the co-operative society.

ANSWER:

In case of Arjun (non-filer), TDS u/s 194N is calculated as follows:

Cash Withdrawal		TDS %	TDS (₹)
Upto 20 L	20 L	0%	Nil
Above 20 L up to 1 Cr.	80 L	2%	1,60,000
Above 1 Cr.	5 L	5%	25,000
	105 L		**1,85,000**

In case of XYZ Co-op Sty, TDS u/s 194N = 2% of cash withdrawal in excess of 3 crores i.e. **NIL** (total withdrawal is 2.98 cr.).

QUESTION 9:

Mr. Sunil took an education loan of ₹ 8 lakhs on 1.7.2024 from State Bank of India, Mumbai, for his son's MBA from University of Oxford, UK and remitted the said amount through the same bank, which is an authorised dealer, under the Liberalised Remittance Scheme of RBI (LRS).

He, further, remitted ₹ 2 lakhs on 15.10.2024 to his son for his personal expenditure, out of his personal savings, through Bank of India, Mumbai which is also an authorised dealer, under LRS.

Mr. Sunil also remitted ₹ 6 lakhs on 28.3.2025, out of his personal savings, under LRS through Union Bank of India, Mumbai, for his sister's medical treatment in London.

Mr. Sunil has furnished undertaking containing the details of earlier remittance to Bank of India and Union Bank of India.

What is the amount of TCS from Mr. Sunil ?

(a) TCS @0.5% of ₹ 1 lakh in respect of remittance for son's education; @5% of ₹ 2 lakhs in respect of remittance for son's personal expenditure and 5% of ₹ 6 lakhs in respect of remittance for sister's medical treatment.

(b) TCS @0.5% of ₹ 1 lakh in respect of remittance for son's education; @20% of ₹ 2 lakhs in respect of remittance for son's personal expenditure and 5% of ₹ 6 lakhs in respect of remittance for sister's medical treatment.

(c) TCS @0.5% of ₹ 1 lakh in respect of remittance for son's education; no TCS in respect of remittance for son's personal expenditure and sister's medical treatment since each transaction is of less than ₹ 7 lakhs.

(d) TCS @0.5% of ₹ 1 lakh in respect of remittance for son's education; @5% of ₹ 1 lakh in respect of remittance for sister's medical treatment.

ANSWER:

➔ Date wise remittance

Date	Amount	Dealer	Amt of TCS
1/7/24	8,00,000	SBI	500 = (8 L – 7 L) x 0.5%
15/10/24	2,00,000	BOI	40,000 (2,00,000 x 20%)
23/3/25	6,00,000	UBI	30,000 (6,00,000 x 5%)

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DOUBLE TAXATION

QUESTION 1:

Mr. Ravi, an individual resident in India aged 45 years, furnishes you the following particulars of income earned in India, Foreign Countries "S" and "T" for the previous year 2024-25.

Particulars	₹
Indian Income:	
Income from business in Mumbai	4,40,000
Interest on savings bank with ICICI Bank	42,000
Income in Foreign Country "S": (Rate of Tax – 16%)	
Agricultural income in Country "S"	94,000
Royalty from a book on art from Country "S"	7,80,000
Expenses incurred for earning royalty	50,000
Income in Foreign Country "T": (Rate of tax – 20%)	
Dividend from a company in Country "T"	2,65,000
Rent from a house situated in Country "T" (Gross)	3,30,000
Municipal Tax paid in respect of the above house (not allowed as deduction in Country "T")	10,000

Compute the total income and tax payable by Mr. Ravi in India for A.Y. 2025-26 assuming that India has not entered into double taxation avoidance agreement with Countries S & T. Mr. Ravi has opted to shift out of default tax regime.

ANSWER:

STATEMENT OF TOTAL INCOME

Particulars	Amt.
* Income from Salaries	Nil
* Income from House Property – Country "T":	
Rent 3,30,000 – M.Tax 10,000 – 30% Std dedn.	2,24,000
* Income from Business	
Business in India	4,40,000
* Capital Gains	Nil
* Income from Other Sources:	
➔ Interest on savings bank with ICICI Bank	42,000

➔ Agricultural income in Country "S"	94,000
➔ Royalty from Country "S" [7,80,000 – 50,000]	7,30,000
➔ Dividend from Country "T"	2,65,000
GROSS TOTAL INCOME	17,95,000
Less: Deduction under Chapter VI A:	—
➔ **Sec. 80QQB:** Royalty from books	- 3,00,000
➔ **Sec. 80TTA:** Interest on Savings Bank A/c	- 10,000
NET TAXABLE INCOME	14,85,000

STATEMENT OF TAX

	ST 111A	LT 112A	LT	Win	Balance
Net Taxable Income	**Nil**	**Nil**	**Nil**	**Nil**	**14,85,000**
Tax on above **(Slab Rt)**					2,58,000
Add: SC					+ Nil
					2,58,000
Add: HEC @ 4%					+ 10,320
					2,68,320
Less: Relief u/s 91 **(Note1)**					- 1,72,202
Tax Payable					96,118
Tax Payable [Rounded]					96,120

Note 1:

Since India does not have DTAA with Country "S" and Country "T", the assessee will get unilateral relief u/s 91 as follows:

⇨ Amount of Relief = Doubly Taxed Income x Avg. **Indian** Tax Rate or Avg. **Foreign** Tax Rate [**whichever is less**]

	Country "S"		Country "T"
Agricultural income	94,000	Rent from HP [Net]	2,24,000
Royalty [7.3 L – 3 L]	4,30,000	Dividend	2,65,000
Doubly Taxed Inc.	**5,24,000**	**Doubly Taxed Inc.**	**4,89,000**
Avg. Indian Tax Rate or Avg. Foreign Tax Rt.	*18.07% **16%**	Avg. Indian Tax Rt. Or Avg. Foreign Tax Rt.	***18.07%** 20%
Amt of Relief	83,840		88,362

Total Relief u/s 91 = 83,840 + 88,362 = ₹ 1,72,202

*Avg. Indian Tax Rate = Total Tax / Net Taxable Income
= 2,68,320/14,95,000 = 18.07%

QUESTION 2:

Mr. Praveen (aged 41 years), a sportsman and an individual resident in India, furnishes the following particulars of income earned in India and from Country Y for the Assessment Year 2025-26. India does not have a Double Taxation Avoidance Agreement with Country Y.

Particulars	₹
Income in India:	
Gross Salary	8,40,000
Interest on Savings Bank A/c with SBI	50,000
Dividend income from Indian companies	10,00,000
Income from Country "Y":	
Gift from a friend (not taxed in Country Y)	90,000
Dividend (taxed in Country Y)	2,30,000
Rent from HP (taxed in Country Y)	3,00,000
Municipal taxes in respect of the above house (Not allowed as deduction in Country Y)	30,000
Business loss (not allowed to be set off in Country Y)	1,60,000
Royalty from writing articles in journals (taxed in Country Y)	2,20,000

Note: Country Y taxes dividend at the rate of 10% and all other incomes at the rate of 20%.

Compute total income and tax payable by Mr. Praveen in India for Assessment Year 2025-26 as per the default tax regime.

ANSWER:

STATEMENT OF TOTAL INCOME

Particulars	Amt.
* Income from Salaries Gross Salary 8,40,000 – Std dedn. 75,000	7,65,000
* Income from House Property – Country "Y": Rent 3,00,000 – M.Tax 30,000 – 30% Std dedn.	1,89,000
* Income from Business	Nil
* Capital Gains	Nil
* Income from Other Sources: ➔ Interest on savings bank with SBI ➔ Gift from Friend in Country "Y" ➔ Royalty from articles in journals in Country "Y" ➔ Dividend from Indian Companies ➔ Dividend from Country "Y" Less: Business loss in Country "Y" Set-off	 50,000 90,000 2,20,000 10,00,000 2,30,000 (1,60,000)
GROSS TOTAL INCOME	**23,84,000**
Less: Deduction under Chapter VI A:	—
➔ **Sec. 80TTA:** Interest on Savings Bank A/c	Not Allowed
NET TAXABLE INCOME	**23,84,000**

Under default tax regime, deductions under chapter VIA is not allowed [except sec.80JJAA, 80LA, 80CCD(2) and 80CCH(2)].

STATEMENT OF TAX

	ST 111A	LT 112A	LT	Win	Balance
Net Taxable Income	**Nil**	**Nil**	**Nil**	**Nil**	**23,84,000**
Tax on above **(Slab Rt)**					4,05,200
Add: SC					+ Nil
					4,05,200
Add: HEC @ 4%					+ 16,208
					4,21,408
Less: Relief u/s 91 **(Note1)**					- 81,095
Tax Payable					3,40,313
Tax Payable [Rounded]					3,40,310

Note 1:

Since India does not have DTAA with Country "Y", the assessee will get unilateral relief u/s 91 as follows:

⇨ Amount of Relief = Doubly Taxed Income x Avg. **Indian** Tax Rate or Avg. **Foreign** Tax Rate [**whichever is less**]

	Country "Y"
Rent from HP	1,89,000
Royalty income	2,20,000
Dividend	2,30,000
Gift from friend [Not doubly taxed]	Nil
Less: Business loss	1,60,000
Doubly Taxed Income	**4,79,000**
Avg. Indian Tax Rate*	17.68 %
Or	
Avg. Foreign Tax Rt.*	**16.93 %**
Amt of Relief	81,095

*Avg. Indian Tax Rate = Total Tax / Net Taxable Income
= 4,21,408/23,84,000 = 17.68%

*Avg. Foreign Tax Rate = Total Foreign Tax/Total Foreign Income
= 1,27,000 / 7,50,000 = 16.93%

	Foreign Income		Foreign Tax
Dividend	2,30,000	10%	23,000
Rent of HP	3,00,000	20%	60,000
Royalty income	2,20,000	20%	44,000
	7,50,000		1,27,000

➔ Amt of Relief if there is DTAA with Country "Y":

1) Tax in India [Doubly Taxed Income x Avg. Indian Tax Rate]
= 4,79,000 x 17.68% = **84,687**
2) Actual tax paid in Foreign Country "Y" = 1,27,000

QUESTION 3:

Mahesh (Age 50 years) is the CEO of Silver India Ltd. since 01.04.2019.

His income in India consists of:

(i) Salary (before standard deduction) of ₹ 23 lakhs;

(ii) Interest in respect of self-occupied property of ₹ 1,80,000;

(iii) Interest on bank fixed deposits ₹ 1,60,000.

His income in Country 'A' consists of:

(i) Income from business in Country A = USD 25,000;

(ii) Rent from house property in Country A = USD 4,500;

(iii) Municipal taxes in respect of the above house (Not allowed as deduction in Country A) = USD 450;

(iv) Dividend from shares held in Country 'A' where dividend was declared and paid in March, 2025 = USD 10,000;

(v) Short term capital gain of USD 5,000 on sale of shares of companies registered in Country 'A' and sale proceeds were credited in bank account outside India on 28.03.2025.

India has DTAA with Country 'A' and the tax paid in Country 'A' is eligible for tax credit in India. The fiscal year for income-tax is the same both in India and Country 'A'. Rate of tax is 20% in Country 'A' in respect of all incomes. Income-tax was paid by Mahesh on 25.05.2025 for the incomes of the year ended 31st March 2025 in Country 'A'.

Compute the total income and net tax liability of Mahesh for the A.Y. 2025-26. Assume Mahesh pays tax under section 115BAC.

The TT buying rate of 1 USD on various dates:

29.02.2025 = ₹ 70;

28.03.2025 = ₹ 70.50;

31.03.2025 = ₹ 71;

30.04.2025 = ₹ 72; and

25.05.2025 = ₹ 73.

ANSWER:

STATEMENT OF TOTAL INCOME

Particulars	Amt.
* Income from Salaries [23 L – Std dedn 75,000]	22,25,000
* Income from House Property	
➔ LOP in Country "A": Rent 4,500 – M.Tax 450 – 30% = 2,835 USD x ₹71	2,01,285
➔ SOP(R) in India: Interest deduction – **not allowed u/s 115BAC**	—
* Income from Business Business in Country "A" (25,000 x **71**)	17,75,000
* Capital Gains	Nil
STCG in Country "A" on sale of shares (5,000 x **70**)	3,50,000
* Income from Other Sources:	
➔ Dividend from Country "A" (10,000 x **70**)	7,00,000
➔ Interest on FD with Bank in India	1,60,000
GROSS TOTAL INCOME	**54,11,285**
Less: Deduction under Chapter VI A	—
NET TAXABLE INCOME	**54,11,290**

STATEMENT OF TAX

	ST 111A	LT 112A	LT	Win	Balance
Net Taxable Income	Nil	Nil	Nil	Nil	54,11,290
Tax on above					13,13,387
Add: SC @10%					+1,31,339
					14,44,726
Add: HEC @ 4%					+ 57,789
Tax Payable					15,02,515
Less: Relief u/s 90 **[Note 1]**					- 6,40,800
Tax Payable					8,61,715
Tax Payable [Rounded]					8,61,720

Note 1:

Since India has DTAA with Country "A", the assessee will get bilateral relief u/s 90 as follows:

1) Doubly Taxed Income x Avg. Indian Tax Rate

   = Rent 2,01,285 Net + Bus. Income 17,75,000 + CG 3,50,000 + Dividend 7,00,000 = 30,26,285 x *27.77 % = ₹ 8,40,399

2) Actual tax paid in Foreign Country "A"

   = Rent 4,500 Gross + Bus. Income 25,000 + CG 5,000 + Dividend 10,000 = $ 44,500 x 20% x ₹ 72 = ₹ **6,40,800**

*Avg. Indian Tax Rate = Total Tax / Net Taxable Income
= 15,02,515/54,11,290 = 27.77 %

Rule 115 of Income Tax Rules, 1962:
Rate of exchange for conversion [income in foreign currency]

	Buying rate	
Income from salaries	Month end rate	**Preceding** the month in which salary is **due**
Income from HP	**Year end rate**	
Income from Business	**Year end rate**	
Capital Gains	Month end rate	**Preceding** the month in which asset is **transferred**
IFOS		
➔ Interest on securities	Month end rate	**Preceding** the month in which interest is **due**
➔ Dividend	Month end rate	**Preceding** the month in which dividend is **declared** or **received**
IFOS (Other incomes)	**Year end rate**	

Foreign tax paid is converted at the buying rate of the end of the month **preceding the month** in which **tax is paid** in foreign.

QUESTION 4:

Mr. Sameer is a performing musician, resident of India. He has following income for year ended 31-3-2025.

Particulars	Amt.
Indian Income:	
Income from music performances	₹3,50,000
Dividend received from Blink ltd.	₹1,35,000
Income in Foreign Country "A": (Rate of Tax – 20%)	
Agricultural income in Country "A"	$ 4,000
Rent from a house situated in Country "A" (Gross)	$ 3,000
Municipal Tax paid in respect of the above house (not allowed as deduction in Country "A")	$ 300
Income in Foreign Country "B": (Rate of tax – 10%)	
During January 2024	₹1,00,000
During July 2024	₹1,00,000
During January 2025	₹3,00,000
Country B follows Calendar Year for its tax purposes.	

During the year, he repaid ₹ 2,40,000 towards education loan (which includes interest of ₹ 70,000).

He is eligible for basic exemption limit of $ 2,000 in Country "A" and on balance income, he paid income tax @20% in Country "A".

Compute the total income and tax payable by Mr. Sameer in India for A.Y. 2025-26 assuming that India has not entered into double taxation avoidance agreement with Countries A & B.

Mr. Sameer has opted to shift out of default tax regime.

The TT buying rate of 1 CAD on various dates:

01.04.2024 = ₹ 78

31.03.2025 = ₹ 80

ANSWER:

STATEMENT OF TOTAL INCOME

Particulars	Amt. (₹)
* Income from Salaries	Nil
* Income from House Property – Country "A":	
(Rent $3,000 – M.Tax $300 – 30% Std dedn.) x ₹80	1,51,200
* Income from Business	
Income from music performances	3,50,000
* Capital Gains	Nil
* Income from Other Sources:	
➔ Gross Dividend from Blink ltd (1,35,000/90%)	1,50,000
➔ Ag.. Income in Country "A" ($ 4,000 x ₹ 80)	3,20,000
➔ Income from Country "B" (Financial Year 24-25 – 1,00,000 + 3,00,000)	4,00,000
GROSS TOTAL INCOME	13,71,200
Less: Deduction under Chapter VI A:	—
➔ **Sec. 80E:** Interest paid on Education loan	- 70,000
NET TAXABLE INCOME	13,01,200

STATEMENT OF TAX

	ST 111A	LT 112A	LT	Win	Balance
Net Taxable Income	**Nil**	**Nil**	**Nil**	**Nil**	**13,01,200**
Tax on above **(Slab Rt)**					2,02,860
Add: SC					+ Nil
					2,02,860
Add: HEC @ 4%					+ 8,114
					2,10,974
Less: Relief u/s 91 **(Note1)**					- 1,07,315
Less: TDS on Dividend					- 15,000
Tax Payable					88,659
Tax Payable [Rounded]					88,660

Note 1:

Since India does not have DTAA with Country "A" and "B", the assessee will get unilateral relief u/s 91 as follows:

⇨ Amount of Relief = Doubly Taxed Income x Avg. **Indian** Tax Rate or Avg. **Foreign** Tax Rate [**whichever is less**]

	Country "A"	Country "B"
Rent from HP	1,51,200	—
Agricultural income	3,20,000	—
Other Income	—	4,00,000
Doubly Taxed Income	**4,71,200**	**4,00,000**
Avg. Indian Tax Rate*	16.214 %	16.214 %
Or		
Avg. Foreign Tax Rt.	***14,286 %**	**10 %**
Amt of Relief	67,316	40,000

Total Relief u/s 91 = 67,316 + 40,000 = ₹ 1,07,316

*Avg. Indian Tax Rate = Total Tax / Net Taxable Income
= 2,10,974 / 13,01,200 = 16.214 %

***Avg. Foreign Tax Rate (Country "A")**
= Total Foreign Tax/Total Foreign Income
= $ 1,000 / $ 7,000 = 14.286 %

	Foreign Inc.		Foreign Tax
Basic Exemption	$ 2,000	0%	Nil
Balance	$ 5,000	20%	$ 1,000
Total income in Country "A"	$ 7,000		$ 1,000

Question 5:

Arif is a resident of both India and another foreign country in the previous year 2024-25. He owns immovable properties (including residential house) in both the countries.

He earned income of ₹50 lacs from rubber estates in the foreign country during the financial year 2024-25.

He also sold some house property situated in foreign country resulting in short-term capital gain of ₹10 lacs during the year.

Arif has no permanent establishment of business in India. However, he has derived rental income of ₹6 lacs from property let out in India and he has a house in Lucknow where he stays during his visit to India.

Article 4 of the Double Taxation Avoidance Agreement between India and the foreign country where Arif is a resident, provides that *"where an individual is a resident of both the Contracting States, then, he shall be deemed to be resident of the Contracting State in which he has permanent home available to him. If he has permanent home in both the Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests)".*

You are required to examine with reasons whether the business income of Arif arising in foreign country and the capital gains in respect of sale of the property situated in foreign country can be taxed in India.

Answer:

Section 90(1) of the Income-tax Act, 1961 empowers the Central Government to enter into an agreement with the Government of any country outside India for avoidance of double taxation of income under the Indian law and the corresponding law of that country. Section 90(2) provides that where the Central Government has entered into an agreement with the Government of any other country for granting relief of tax or for avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of the Income-tax Act, 1961 shall apply to the extent they are more beneficial to that assessee.

Arif has residential houses both in India and foreign country. Thus, he has a permanent home in both the countries. However, he has no permanent establishment of business in India. The Double Taxation Avoidance Agreement (DTAA) with foreign country provides that where an individual is a resident of both the countries, he shall be deemed to be resident of that country in which he has a permanent home and if he has a permanent home in both the countries, he shall be deemed to be resident of that country, which is the centre of his vital interests i.e. the country with which he has closer personal and economic relations.

Arif owns rubber estates in a foreign country from which he derives business income. However, Arif has no permanent establishment of his business in India. Therefore his personal and economic relations with foreign country are closer.

Accordingly, he shall be deemed to be resident of the foreign country for A.Y. 2024-25.

Therefore, in this case, **Arif is not liable to income tax in India** for assessment year 2024-25 **in respect of business income and capital gains arising in the foreign country** provided he furnishes the Tax Residency Certificate and provides such other documents and information as may be prescribed.

QUESTION 6:

Mr. Ram, a citizen of USA, resides in San Jose in USA since 2007. He is a non-resident since Assessment Year 2007-08. He works for X Inc., a US based company. He came to India on 10th January, 2024, to visit his aged parents. He could return back on only 31st Jan., 2025. He was permitted to work from home in India by his employer. The details of his earnings and withholding tax during the said period is as given below: (All figures in US $)

Months	Salary	Federal Tax	State Tax	Social Security Tax	TT Buying rate as on the last day of the month immediately preceding the month in which tax has been paid/deducted (in INR) (assumed)
Jan 2024	8750	1313	525	613	71
Feb 2024	6250	938	375	438	71
Mar 2024	6250	1600	420	420	71
Apr 2024	6250	1600	420	420	72
May 2024	6250	1600	420	420	72
June 2024	6250	1600	420	420	72
July 2024	6250	1600	420	420	72
Aug 2024	6250	1600	420	420	72
Sep 2024	6250	1600	420	420	72
Oct 2024	6250	1600	420	420	72
Nov 2024	6250	1600	420	420	72
Dec 2024	6250	1600	420	420	72
Jan 2025	6250	1600	420	420	72

He has also earned Fixed Deposit Interest in USA on 30.9.2024 US $200 (Tax deducted US $ 20) and on 31.3.2025 US $ 220 (Tax Deducted US $ 22)

As per Article 2 of the DTAA, the taxes covered for credit are Federal Income Taxes imposed by Internal Revenue Code but excluding Social Security Taxes.

Return of Income for Assessment Year 2025-26 was filed on 25th August, 2025. You are required to:

1. Compute tax payable, if any, by Mr. Ram as per sec. 115BAC.
2. Advise Mr. Ram the procedure involved to claim Foreign Tax Credit.

ANSWER:

1) Mr. Ram is a **resident** for A.Y. 2025-26, since his **stay in India** is for a period of **306 days** in the P.Y. 2024-25. Therefore, he satisfies the condition of stay in India for a period of 182 days or more for being treated as a resident.

However, he is a "not ordinarily resident" in India –

- Since his stay in India in the **preceding 7 PYs** is only **81 days** (i.e. less than 730 days).
- Since he is a **non-resident** in **all preceding 10 PYs**.

Accordingly, he is a resident but **not ordinarily resident** in India for A.Y. 2025-26.

In case of a resident but not ordinarily resident, only income which accrues in India or which is received in India would be taxable in India. Income which accrues outside India would be taxable in India only if it is derived from a business controlled in India.

Since Ram renders service in India, income from salaries for the period from 1st April, 2024 to 31st January, 2025 would be deemed to accrue or arise to him in India and would be taxable in his hands.

Since his period of stay in India in the P.Y. 2024-25 exceeds 90 days, he would not be eligible for exemption u/s 10(6)(vi) in respect of remuneration received as an employee of a foreign enterprise for services rendered by him during his stay in India.

STATEMENT OF TOTAL INCOME

Particulars		Amt.
* Income from Salaries		Nil
Salary from 1/4/24 to 31/1/25 ($ 6,250 x 10 months x ₹ 72)	45,00,000	
Less: Standard Dedn.	- 75,000	44,25,000
* Income from Other Sources:		
➔ Interest on FD in USA (Accrued and received outside India)		Nil
GROSS TOTAL INCOME		44,25,000
Less: Deduction under Chapter VI A:		—
NET TAXABLE INCOME		44,25,000

STATEMENT OF TAX

	ST 111A	LT 112A	LT	Win	Balance
Net Taxable Income	**Nil**	**Nil**	**Nil**	**Nil**	**44,25,000**
Tax on above **(Slab Rt)**					10,17,500
Add: SC					+ Nil
					10,17,500
Add: HEC @ 4%					+ 40,700
					10,58,200
Less: Relief u/s 90**(Note1)**					- 10,58,200
Tax Payable					Nil

Note 1:

Since India has DTAA with USA, the assessee will get bilateral relief u/s 90 as follows:

1) Tax in India [Doubly Taxed Income x Avg. Indian Tax Rate]
   = 44,25,000 x *23.914 % = ₹ **10,58,200**
2) Actual tax paid in USA [Federal Tax]
   = $ 1,600 x 10 months x ₹ 72 = ₹ 11,52,000

*Avg. Indian Tax Rate = Total Tax / Net Taxable Income
= 10,58,200 / 44,25,000 = 23.914 %

2) The following statements/forms need to be furnished by Mr. Ram on or before 31st July, 2025 for claiming FTC –

(i) A statement of "Income from US" offered for tax and of "US tax deducted or paid" on such income in the prescribed form.

(ii) Certificate or statement specifying the nature of income and the amount of tax deducted therefrom or paid by the assessee

- from the tax authority of US or
- from the person responsible for dedn of tax or
- signed by the assessee.

QUESTION 7:

Nandini, an individual resident retired employee of the Prasar Bharti aged 60 years, is a well-known dramatist deriving income of ₹ 1,10,000 from theatrical works played abroad. Tax of ₹ 11,000 was deducted in the country where the plays were performed. India does not have any Double Taxation Avoidance Agreement under section 90 of the Income Tax Act, 1961, with that country. Her income in India amounted to ₹7,10,000. In view of tax planning, she has made specified investments for which she is eligible for deduction of ₹1,50,000 under section 80C. Compute the tax liability of Nandini for the AY 2025-26 as per old regime.

ANSWER:

STATEMENT OF TOTAL INCOME

Particulars	Amt.	Amt.
* Indian income		7,10,000
* Foreign income		1,10,000
GROSS TOTAL INCOME		**8,20,000**
Less: Deduction under Chapter VI A:		
⇨ Sec. 80C		- 1,50,000
NET TAXABLE INCOME		**6,70,000**

STATEMENT OF TAX

	STCG 111A	LTCG 112A	LT	Win..	Balance
Net Taxable Income	Nil	Nil	Nil	Nil	6,70,000
Tax on above					44,000 **[Slab Rt]**
Add: Surcharge					Nil
					44,000
Add: HEC @ 4%					+ 1,760
					45,760
Less: Relief u/s 91 **(Note1)**					- 7,513
					38,247

Note 1:

Since Nandini has derived income from a foreign country with which India does not have DTAA, she will get unilateral relief u/s 91 as follows:

= Doubly Taxed Income x Avg. **Indian** Tax Rate or Avg. **Foreign** Tax Rate [**whichever is less**]

= 1,10,000 x 6.83% = 7,513

Avg. Tax Rate = Total Tax / Net Taxable Income
= 45,760/6,70,000 x 100 = 6.83% [Avg. Indian Tax rate]
= 11,000/1,10,000 x 100 = 10% [Avg. Foreign Tax rate]

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EQUALISATION LEVY

QUESTION 1:

MNO Inc., a Country A based company, is carrying on the business of manufacture and sale of furniture under the brand name "PUREWOOD". In order to increase its share in Indian market, it launched a massive advertisement campaign of its products. For the purpose of online advertisement, it utilized the services of PQR Inc., a Country Y based company which also owns and operates a digital platform. The gross receipt of PQR Inc from provision of such services during the P.Y.2024-25 is ₹ 3 crores. During the previous year 2024-25, MNO Inc. paid ₹ 5 lakhs to PQR Inc. for such services. Discuss the tax implications of such payment and receipt in the hands of MNO Inc. and PQR Inc., respectively, if-

(i) Both MNO Inc. and PQR Inc. have no PE in India
(ii) MNO Inc. has a PE in India but PQR Inc. has no PE in India
(iii) PQR Inc. has a PE in India and the advertisement services are effectively connected with such PE.

ANSWER:

Equalisation levy [6%] u/s 165 on online advt/specified service:

This is attracted if following conditions are satisfied:

- Transaction is of online advertisement/other specified services;
- Payer is Resident [carrying business/prof.] or NR [with PE in India];
- Receiver is NR [without PE in India];
- Aggregate amount paid or payable during the year is > ₹1 lakh.

Equalisation levy [2%] u/s 165A* on E-comm. supply/service:

This is attracted if following conditions are satisfied:

- E-commerce operator is NR [without PE in India];
- Product is owned by NR [without PE in India];
- Customers are Indian customers;
- Total consideration from such e-commerce supply or service is >/= ₹2 crores during the previous year [From 1/4/24 to 31/7/24].

*Equalisation levy u/s 165A is also applicable on sale of advertisement targeting Indian customers or sale of data collected from Indian customers [where the receiver as well as payer are NR without PE in India].

Note: Indian customer means person who is a resident of India or a person using IP address of India].

Case (i):

MNO Inc. and PQR Inc. have no PE in India:

If the service provider [PQR Inc.] and the service receiver [MNO Inc.] – both are NR (without PE in India) then **equalisation levy @2%** is attracted on ₹ 5 lakhs, being amount received by PQR Inc., an e-commerce operator from MNO Inc. for online advertisement services which targets Indian customers [assuming the gross receipt of PQR Inc. from 1/4/24 to 31/7/24 **exceeds ₹2 crores** and the receipt of 5 lakhs is on/before 31/7/24].

Case (ii):

MNO Inc. has a PE in India but PQR Inc. does not have a PE in India:

If the service receiver i.e. MNO Inc. is a NR with PE in India then **equalisation levy @6%** is attracted on ₹ 5 lakhs, being amount received by PQR Inc. [sine the amount paid in P.Y. 2024-25 **exceeds ₹1,00,000**].

Accordingly, MNO Inc. is required to deduct equalisation levy of ₹ 30,000 i.e., @6% of 5 lakhs, being the amount paid towards online advertisement services.

Non- deduction of equalisation levy would attract disallowance under section 40(a) of 100% of the amount paid while computing business income.

Since, equalisation levy is attracted on the amount of ₹ 5 lakhs, the said amount is exempt from income-tax by virtue of section 10(50) of the Income-tax Act, 1961.

Case (iii):

PQR Inc. has a PE in India and the advt services are connected with such PE:

Equalisation levy would not be attracted where the service provider (PQR Inc.) is NR with PE in India and the service is effectively connected to such PE.

In such case, advertisement income of PQR Inc. would be deemed to accrue or arise in India u/s 9 and would be taxable in the hands of PQR Inc. under the Income-tax Act, 1961 [in the form of **regular income tax** and not in the form of equalization levy].

QUESTION 2:

Mr. Bharat has opened an office of Alpha Pvt. Ltd., a Country A based company, in Pune from where he and Mr. Ashok execute the work of the company relating to Indian operations. Alpha Pvt. Ltd. is further considering advertising the product on internet using Facepad. Alpha Pvt. Ltd. enters into talks with Facepad Inc. for hosting the desired advertisements. It negotiated a sum of 20 lakhs, which is paid to Facepad Inc. for online advertisement services in March, 2025. Assume that Facepad does not have a permanent establishment in India.

(i) Is the fee paid for online advertisement services by Alpha Pvt. Ltd. to Facepad Inc. taxable in India? Examine.

(ii) If the answer to (a) is in the affirmative, is there any requirement to deduct equalisation levy? If equalisation levy is not so deducted, what would be the consequence?

(iii) As per which action plan of BEPS was this provision incorporated in Indian tax laws?

(iv) What is the provision incorporated in the Indian tax laws to avoid double taxation of such income?

ANSWER:

Equalisation levy [6%] u/s 165 on online advt/specified service:

This is attracted if following conditions are satisfied:

- Transaction is of online advertisement/other specified services;
- Payer is Resident [carrying business/prof.] or NR [with PE in India];
- Receiver is NR [without PE in India];
- Aggregate amount paid or payable during the year is > ₹1 lakh.

(i) **Alpha Pvt. Ltd.** has an office in Pune. Hence, it is a **NR with a PE** in India. **Facepad Inc** is a **NR without PE** in India. It receives consideration of ₹20 lakhs from Alpha Pvt. Ltd., a NR with PE in India, for online advertisement services provided by it. Hence, equalization levy @6% on ₹20 lakhs is attracted in the hands of Facepad Inc.

(ii) Alpha Pvt. Ltd. is liable to **deduct equalization levy** of ₹1,20,000 from the amount of ₹20 lakhs payable to Facepad Inc.

Alpha Pvt. Ltd. shall be liable to **pay such the levy by 7th next month** i.e. 7th April, 2025 [irrespective of whether it deducts such levy or not].

Further, **penalty** of an amount equal to ₹1,20,000 would be attracted for failure to deduct equalization levy.

Also, **disallowance** of the expenditure of 20 lakhs would be attracted under section 40(a) while computing business income of Alpha Pvt. Ltd.

(iii) Provision of equalisation levy was incorporated in Indian law as per **BEPS Action Plan 1** "Addressing Challenges of the Digital Economy".

iv) To avoid double taxation, **section 10(50)** of the Income-tax Act, 1961 exempts income arising from providing specified service of online advertisement from income-tax.

QUESTION 3:

M/s. Raghuram Co. Ltd., Mumbai entered into the following agreements with various non-resident entities during the previous year 2024-25;

(i) Paid ₹ 4,00,000 to M/s. Neil Inc., a company based in USA for online advertisement of its products. M/s. Neil Inc., does not have a PE in India.

(ii) Paid 50,000 to Mr. David, a non-resident individual, against providing digital space for online advertisement of its products.

Examine the equalisation levy implications of such payments. Also, state the consequence of non- deduction of equalisation levy.

ANSWER:

Equalisation levy [6%] u/s 165 on online advt/specified service:

This is attracted if following conditions are satisfied:

- Transaction is of online advertisement/other specified services;
- Payer is Resident [carrying business/prof.] or NR [with PE in India];
- Receiver is NR [without PE in India];
- Aggregate amount paid or payable during the year is > ₹1 lakh.

(i) In this case, equalisation levy @6% is **attracted** on the amount of ₹ 4,00,000 received by Niel Inc., a non-resident [without PE in India], from M/s Raghuram Co. Ltd., [a resident] for online advertisement of its products. Accordingly, M/s Raghuram Co. Ltd. is required to deduct equalisation levy of ₹ 24,000 i.e., @6% of ₹ 4 lakhs.

Non-deduction of equalisation levy would attract disallowance under section 40(a) of 100% of the amount paid to M/s. Neil Inc. while computing business income of M/s. Raghuram Co. Ltd.

(ii) In this case, equalisation levy is **not attracted** as the amount of consideration of ₹ 50,000 for digital space for online advertisement paid to Mr. David **does not exceed ₹ 1,00,000**.

QUESTION 4:

Sun Ltd., an Indian company, is engaged in the business of manufacture and sale. of carpets. To expand its international sales, it hired the services of a London based company, Shine Inc., for online advertisements. Shine Inc. has no permanent establishment in India. During the previous year 2024- 25, Sun Ltd. paid ₹ 5 lakh to Shine Inc. for such services and deducted the equalization levy on 15.03.2025 and credited it to the account of Central Govt. on 15.05.2025.

You are required to -

(i) Calculate interest and penalty payable by Sun Ltd. if any.

(ii) What are the circumstances under which penalty cannot be imposed?

(iii) Sun Ltd. is aggrieved by the order imposing penalty. What is the time limit for filing of appeal against the order of the Assessing Officer imposing the penalty?

ANSWER:

(i) Interest and Penalty for late deposit of equalization levy:

The equalization levy deducted on 15.3.2025 should be deposited by 7.4.2025 (i.e., 7th of next month). However, in this case, Sun Ltd. deposited the same on 15.5.2025. The delay in this case is 2 months [part of the month is treated full month]. Hence, **interest on late deposit @1% p.m.** is calculated as follows:

Amt of Interest =
Amt of Levy x 1% p.m. x No. of months of delay
= (5,00,000 x 6%) x 1% p.m. x 2 months = ₹ 600

In addition to interest, the assessee is also liable to pay **penalty for late deposit @₹1,000 per day** (subject to maximum of levy).

Amt of penalty =
₹1,000 x 38 days = ₹38,000 restricted to ₹30,000

(ii) Circumstances under which penalty cannot be imposed

No penalty for failure to deduct or pay equalisation levy shall be imposable, if Sun Ltd. proves to the satisfaction of the Assessing Officer that there was reasonable cause for the said failure. Further, no order imposing a penalty shall be made unless Sun Ltd. has been given a reasonable opportunity of being heard.

(iii) Time limit for filing appeal:

If Sun Ltd. is aggrieved by the order imposing penalty, it can file an appeal to CIT(A) i.e. Commissioner of Income Tax (Appeals) within 30 days from the date of receipt of the order of the Assessing Officer imposing the penalty.

QUESTION 5:

Atiwna Inc., a non-resident company incorporated in U.S., engaged in manufacturing of computer hardware and software. It also owns an online social networking site, Friendszone. It exports its products globally including India for which it owns a warehouse in Mumbai. Ari ltd., an Indian company, imports computer hardware and software from Atiwana Inc. During the PY 2024-25, Ari ltd. did not import any article from Atiwna Inc. but paid ₹ 5,45,000 to Atiwna Inc. for advertising its business on the platform of Friendszone. However, Ari Ltd., neither deducts TDS nor equalization levy on such payments. You are required to discuss whether Ari ltd. is required to equalization levy or TDS on such payment? If yes, then discuss the consequences of non-deduction of such levy in the hands of Ari ltd.

ANSWER:

Atiwna Inc. is a non-resident having two units:

1) Manufacturing of computer hardware and software
2) Online social networking site

In respect of the unit carrying on the business of computer hardware and software, it has a warehouse in India which amounts to a permanent establishment in India. However, in respect of its other unit of **online social networking** site, it **does not have a PE in India**.

If a resident carrying on business in India makes payment **exceeding ₹ 1,00,000** for **online advertisement** to a non-resident having no PE in India then such payment is subject to deduction of **equalisation levy @6%**. Hence, payment of ₹ 5,45,000 by Ari ltd. to Atiwna Inc. for advertisement in the social networking site is subject to deduction of equalisation levy @6%. Accordingly, Ari ltd. is liable to deduct equalisation levy of ₹ 32,700 [6% of 5,45,000] in respect of payment made to Atiwna Inc.

Failure to deduct such levy shall attract a **penalty** of an amount equal to the amount of levy not deducted i.e. ₹ 32,700 and the expenditure of advertisement **shall not be allowed as deduction** under the head Profits and gains from business/profession.

QUESTION 6:

Kiwi Inc., a company based in USA, is engaged in manufacturing and selling of mobile phones, globally. It sells each mobile phone for USD 2,000.

Alpha Inc., another company based in USA, owns and manages a website which acts as a marketplace for buying and selling of goods and also hosts advertisements.

Gama LLC, incorporated in UK, is engaged in manufacturing and selling of printers. During the PY 2024-25 [from April 2024 to July 2024], Kiwi Inc. sold 80,000 mobiles as under-

Platform through which the mobile phones are sold	Customer to whom the mobile phones are sold	Number of mobile phones sold
Through Alpha Inc.	Persons who are resident in India	15,000
Through Alpha Inc.	Persons who are not resident in India, sitting in U.K.	25,000
Through Kiwi Inc.'s own website	Persons who are resident in India	7,000
Through Kiwi Inc.'s own website	Persons who are not resident in India, using Internet in U.K.	12,000
Through Kiwi Inc.'s physical store in US	Persons who are resident in India	21,000
Total		80,000

Gama LLC enters into a contract with Alpha Inc. for publishing its advertisement on the website of Alpha Inc., for the period from 1st March 2025 to 31st March 2025. Gama LLC paid USD 50,000 for hosting advertisement in India for Indian customers and USD 20,000 for hosting advertisement in UK for UK customers.

Kiwi Inc., Alpha Inc. & Gama LLC do not have any PE in India.
Examine the equalisation levy implications in above transactions.

You may assume the rate of 1 USD is equal to ₹ 80.

ANSWER:

Equalisation levy [2%] u/s 165A* on E-comm. supply/service:

This is attracted if following conditions are satisfied:

- E-commerce operator is NR [without PE in India];
- Product is owned by NR [without PE in India];
- Customers are Indian customers;
- Total consideration from such e-commerce supply or service is >/= ₹2 crores during the previous year [From 1/4/24 to 31/7/24].

*Equalisation levy u/s 165A is also applicable on sale of advertisement targeting Indian customers or sale of data collected from Indian customers [where the receiver as well as payer are NR without PE in India].

Note: Indian customer means person who is a resident of India or a person using IP address of India].

EQ.. LEVY IMPLICATIONS IN VARIOUS TRANSACTIONS

➔ **Sale of 15,000 mobile phones**:

In this sale,
- E-Commerce operator is Alpha Inc. [**NR without PE** in India]
- Product belongs to Kiwi Inc. [**NR without PE** in India]
- Sale is to **Indian customers** [persons who are resident of India]

Equalisation levy @2% shall be **attracted** as the consideration is **>/= 2 crores.**

Consideration = 15,000 x $2,000 x ₹80 = ₹240 crores.
Amount of levy = 240 crores x 2% = 4.80 crores

➔ **Sale of 25,000 mobile phones:**

In this sale,
- E-Commerce operator is Alpha Inc. [**NR without PE** in India]
- Product belongs to Kiwi Inc. [**NR without PE** in India]
- Sale is to **UK customers**

Since the sale is to UK customers [persons who are neither resident of India nor using IP address of India], **equalization levy shall not be attracted**.

➔ **Sale of 7,000 mobile phones:**

In this sale,
- E-Commerce operator is Kiwi Inc. [**NR without PE** in India]
- Product belongs to Kiwi Inc. [**NR without PE** in India]
- Sale is to **Indian customers** [persons who are resident of India]

Equalisation levy @2% shall be **attracted** as the consideration is **>/= 2 crores.**

Consideration = 7,000 x $2,000 x ₹80 = ₹112 crores
Amount of levy = 112 crores x 2% = 2.24 crores.

➔ **Sale of 12,000 mobile phones:**

In this sale,
- E-Commerce operator is Kiwi Inc. [**NR without PE** in India]
- Product belongs to Kiwi Inc. [**NR without PE** in India]
- Sale is to **UK customers**

Since the sale is to UK customers [persons who are neither resident of India nor using IP address of India], **equalization levy** is **not attracted**.

➔ **Sale of 21,000 mobiles through physical store:**

Since the sale is through **physical store** in UK, **equalization levy** is **not attracted**.

➔ **Contract of Gama LLC with Alpha Inc. for online advt.:**

In this contract,
- Service provider is Alpha Inc. [**NR without PE** in India]
- Servicer receiver is Gama LLC [**NR without PE** in India]
- USD 50,000 is for targeting **Indian customers**
- USD 20,000 is for targeting **UK customers**

Equalisation levy of 2% is **not attracted** in this case as the transaction of online advertisement is after 31/7/2024.

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BLACK MONEY ACT

QUESTION 1:

Ravinder, an Indian citizen, left India and settled in UK from 10.4.2017. He had never left India previously since April, 2009. He acquired a house property for ₹ 80 lakhs in his name in the financial year 2014-15 at Malaysia. Out of the investment of ₹ 80 lakhs, ₹ 55 lakhs was assessed to tax in India.

The Assessing Officer came to know of this in March, 2025 based on the investigation made by Enforcement Directorate in some other person's case. The value of the house property on 1.4.2024 was ₹ 120 lakhs.

The Assessing Officer issued a notice u/s 10 of the Black Money and Imposition of Tax Act, 2015 on 27.3.2025.

Mr. Ravinder's counsel contended that since Mr. Ravinder is not a resident in the financial year 2024-25, a notice under section 10 could not be issued to him.

(i) Is the issue of notice on Ravinder u/s 10 of the Black Money Act, 2015 tenable in law? Examine.

(ii) Is there any time limit for initiating proceedings under Black Money Act ?

(iii) What is the value of undisclosed asset (house property located in Malaysia) in the hands of Mr. Ravinder for the purpose of Black Money Act, 2015?

ANSWER:

(i) Every assessee would be liable to **tax @30%** in respect of his **undisclosed foreign income and asset** of the previous year.

Undisclosed foreign asset is taxable in the previous year in which the **A.O. comes to know**.

The term "assessee" defined under section 2(2) of the Black Money Act includes a person being:

➔ a **Resident** in India in the relevant PY; or

➔ a **NR** or **NOR** in the relevant PY, who **was resident** in India in the PY in which the undisclosed **foreign asset was acquired**.

Since Mr. Ravinder left India and settled in United Kingdom from 10.4.2017 and has not visited India at any time thereafter, he would be non-resident in India in the previous year 2024-25 in which notice is issued. However, he was **resident and ordinarily resident in India** in the **P.Y. 2014-15** when he acquired the property at Malaysia.

Accordingly, the **issue of notice** on Mr. Ravinder under section 10 of the Black Money Act, 2015, is **tenable in law**.

(ii) There is no time limit for initiating proceedings under Black Money Act.

(iii) Value of house property in Malaysia:

= FMV as on the valuation date (1/4/2024) – **Proportionate amount of taxed income** utilised to purchase such property

= ₹ 120 lakhs – [120 x 55/80]

= ₹ 120 lakhs – ₹ 82.50 lakhs

= ₹ 37.50 lakhs

QUESTION 2:

Mr. Sahil is a resident of India. He bought an apartment in Dubai in 1988 for ₹ 10 lakhs out of undisclosed sources. This apartment was sold on 5th June 2023 for ₹ 30 lakhs (FMV as on 5th June 2023 was ₹ 40 lakhs). Sale proceeds of ₹ 12 lakhs was deposited in his undisclosed savings bank account in Abu Dhabi. Other deposits in this bank account since the date of opening the account amounted to ₹ 33 lakhs which includes a deposit of ₹ 5 lakhs on 12/7/2021 which was withdrawn from this same account on 5/7/2021.

Compute the tax payable under Black Money Act, 2015 assuming above assets comes to the notice of A.O. on 18th October 2024 ?

ANSWER:

COMPUTATION OF TAX UNDER BLACK MONEY ACT

	`₹	`₹
Value of Asset transferred before valn. date		
↑ Cost of Acquisition	10 L	
Sale Price	30 L	
FMV on the date of sale	40 L	
Whichever is higher	40 L	
Less: Amount deposited in foreign bank a/c	- 12 L	
Less: Utilized for purchase of new asset	Nil	28 L
Value of Bank A/c in Abu Dhabi		
Sum of all deposits from the date of opening the account [12 L + 33 L]	45 L	
Less: Amount withdrawn redeposited	- 5 L	
Less: Utilized for purchase of new asset	Nil	40 L
Total Value of Undisclosed Foreign Assets		**68 L**
Tax on above (68 L x 30%)		**20.40 L**

QUESTION 3:

Deepak, aged 45 (an Indian citizen) has settled in California, USA since 2016. Prior to that, he has always been in India.

He had acquired a residential property in California on 25-06-2010 for USD 20,000.

He kept bank deposit of USD 10,000 in a bank account in New York since 15-04-2011.

Notice under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 was issued on 20-10-2024.

The fair market value of residential property was:

USD 25,000 as on 01-04-2024

USD 32,000 as on 01-04-2025

USD 30,000 as on 20-10-2024

The bank deposit with accrued interest thereon was:

USD 12,500 on 01-04-2024

USD 12,800 on 01-04-2025

USD 12,700 on 20-10-2024

Note: USD = United States Dollar

The exchange rate of Indian currency per 1 USD as per the reference rate of the RBI on the various dates are:

01-04-2024 = ₹ 71

20-10-2024 = ₹ 72

01-04-2025 = ₹ 73

Compute the value of undisclosed foreign asset chargeable to tax in the hands of Deepak as per Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

ANSWER:

Every assessee would be liable to **tax @30%** in respect of his **undisclosed foreign income and asset** of the previous year.

Undisclosed foreign asset is taxable in the previous year in which the **A.O. comes to know**.

The term "assessee" defined under section 2(2) of the Black Money Act includes a person being:

➔ a **Resident** in India in the relevant PY; or

➔ a **NR** or **NOR** in the relevant PY, who **was resident** in India in the PY in which the undisclosed **foreign asset was acquired**.

Therefore, Deepak is an assessee under the Black Money Law since he was **resident in India** in the P.Y.2010-11, **when the property was acquired**, even though he is a non-resident in the P.Y.2024-25. Accordingly, the value of undisclosed asset located outside India of Deepak would be chargeable to be tax under the Black Money Law in the previous year in which such asset comes to the notice of the Assessing Officer i.e., P.Y 2024-25, even though he is a non-resident in India for that previous year.

COMPUTATION OF VALUE OF UNDISCLOSED FOREIGN ASSET

Particulars	USD	`₹
➔ **Value of Property in California**		
- Cost of acquisition	20,000	
- FMV as on the valn date (1.4.2024)	25,000	
Whichever is higher	25,000	
Value in Indian currency (25,000 x 71 – **Rate as on 1/4/24**)		17,75,000
➔ **Value of Bank A/c in New York**	10,000	
The sum of all the deposits made in the account with the bank since the date of opening of the account would be the value of the bank deposits.		
Value in Indian currency (10,000 x 71 – **Rate as on 1/4/24**)	`	7,10,000
Total value of undisclosed foreign asset		24,85,000

QUESTION 4:

Mithun Banerjee is a renowned technocrat, and is one of the directors of the company Democrat (P) Ltd since 01.06.2019. He is a partner in Lilly LLP, New York. A notice for assessment of his income under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 was served on 01.05.2024 for the alleged undisclosed assets held in USA.

The Balance Sheet of Lilly LLP is given below:

	01.04.2024	1.05.2024	31.3.2025
	In US $		
Cash on hand (as per books)	10,000	12,000	15,000
Cash at bank (as per books)	20,000	18,000	15,000
Stock in trade (as per books)	30,000	30,000	30,000
Vacant site	20,000	50,000	60,000
[FMV on 1.4.2024 $ 40,000]		(FMV)	(FMV)
Plant and machinery	75,000	50,000	40,000
	(Books)	(FMV)	(FMV)
Bullion	15,000	30,000	35,000
[FMV on 1.4.2024 $ 25,000]		(FMV)	(FMV)
	1,90,000	1,90,000	1,95,000

Liabilities:			
Sundry Creditors	50,000	55,000	60,000
Partners' Capital			
- Mithun Banerjee (25%)	30,000	No fresh capital	
- Bimal (50%)	50,000	No fresh capital	
- Senthil (25%)	60,000	No fresh capital	
	1,90,000		

The partnership agreement provides that in the event of dissolution, the net worth exceeding the capital of the partners is to be shared in the profit-sharing ratio.

The reference rate of RBI of 1 US $ as on various dates are as under:

01.04.2024 = ₹ 75; 01.05.2024 = ₹ 78; 31.03.2025 = ₹ 81

Compute the tax payable under Black Money Act, 2015?

ANSWER:

Value of interest of Mithun Banerjee in Lilly LLP is chargeable to tax in India under the Black Money Act in the A.Y.2025-26, since these assets came to the notice of the A.O. in the P.Y.2024-25.

For computing the value of interest in Lilly LLP, market value as on valuation date, being value on 1st April of the previous year i.e., on 01.04.2024 is to be considered.

Computation of Value of Share in Lilly LLP of Mithun

Particulars	Amount (In US $)
Cash in hand (as per books)	10,000
Cash at bank (as per books)	20,000
Stock-in-trade (as per books)	30,000
Plant and machinery (as per books)	75,000
Vacant site (FMV as on 1.4.2024)	40,000
Bullion (FMV as on 1.4.2024)	25,000
Sundry Creditors (as per books) (C)	(50,000)
Net worth of Lilly LLP (A + B – C)	1,50,000

Distribution of Net Worth

	M	B	S	Total
To the extent of Capital	30,000	50,000	60,000	1,40,000
Balance [1:2:1]	2,500	5,000	2,500	10,000
Value of Partner's Share	32,500	55,000	62,500	1,50,000

Hence, Value of Mithun's Share [in Rupees]
= $ 32,500 x ₹ 75 = ₹ 24,37,500

As per section 3(1) of Black Money Act, 2015, every assessee would be liable to tax @30% in respect of his undisclosed foreign income and asset of the previous year.

Tax liability of Mithun Banerjee = ₹ 7,31,250 (30% of ₹ 24,37,500)

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QUESTION 1:

Sunlight & Co., a partnership firm engaged in trading of electronic goods, has a turnover of ₹ 265 lakhs for the F.Y. 2024-25. Examine whether Sunlight & Co. is required to get its books of account audited mandatorily as per section 44AB from the information given below –

	Particulars	₹
(i)	Total turnover of F.Y.2024-25	2,65,00,000
(ii)	Aggregate of all receipts during the year (including amount received for turnover mentioned in (i) above)	3,25,00,000
(iii)	Cash receipts out of (i) above	14,00,000
(iv)	Cash receipts out of (ii) above (This is inclusive of the figure mentioned in (iii) above)	16,00,000
(v)	Aggregate of all payments during the year	1,35,00,000
(vi)	Cash payments out of (v) above	6,95,000

Would your answer change if the cash receipts indicated in (iii) is ₹ 13 lakh instead of ₹ 14 lakh?

ANSWER

As per section 44AB, every person carrying on business or profession is required to get his accounts audited before the "specified date" by a Chartered Accountant, if the total sales, turnover or gross receipts in business exceeds ₹ 1 crore in any previous year.

However, tax audit is not required in case of such person carrying on business whose total sales, turnover or gross receipts in business ≤ ₹ 10 crore in the relevant previous year (P.Y.), if:

- aggregate cash receipts including amount received for sales, turnover, gross receipts in the relevant previous year ≤ 5% of such receipts; and
- aggregate cash payments including amount incurred for expenditure in the relevant P.Y. ≤ 5% of such payments or

In this case, the turnover of Sunlight & Co. exceeds ₹ 1 crore but does not exceed ₹ 10 crore. Accordingly, it has to be seen whether cash receipts exceed 5% of aggregate receipts and cash payments exceed 5% of aggregate payments, to determine whether tax audit is compulsory.

In this case, the percentage of cash receipts of ₹ 16 lakhs to aggregate receipts of ₹ 325 lakhs is 4.92% and the percentage of cash payments to aggregate payments is 5.14%.

Since the cash payments made during the year exceed 5% of aggregate payments, the firm is required to get its accounts audited under section 44AB and furnish audit report before the specified date, irrespective of the fact that its turnover does not exceed ₹ 10 crores and its cash receipts do not exceed 5% of total receipts.

It may be noted that, in this case, Sunshine & Co. cannot declare profits as per the presumptive provisions of section 44AD, since the percentage of turnover receipts in cash of ₹ 14 lakhs to the total turnover of ₹ 265 lakhs is 5.28%.

If the cash receipts indicated in (iii) is ₹13 lakhs instead of ₹14 lakhs, the percentage of turnover receipts in cash of 13 lakhs to the total turnover of ₹265 lakhs would be 4.91%. In such a case, Sunshine & Co. can declare profits as per the presumptive provisions of section 44AD, in which case, it need not get its books of account audited under section 44AB.

QUESTION 2

Mr. Abhinav Ahuja runs a travel agency business since the year 2010. His total commission receipts for the F.Y. 2024-25 is 287 lakhs. The details of receipts and payments made by him during the year 2024-25 are as follows:

Particulars	Amount (₹)	Mode of receipt/payment
Date of Receipt		
15.4.2024	15,65,000	BHIM UPI
27.4.2024	13,80,000	A/c payee cheque
7.5.2024	13,35,000	Bearer cheque
6.6.2024	18,21,000	A/c payee cheque

15.8.2024	15,25,000	NEFT
19.9.2024	16,72,000	NEFT
18.10.2024	15,35,600	UPI
15.2.2025	16,25,350	UPI
17.3.2025	18,19,450	NEFT
Other aggregate receipts not exceeding ₹2,000 per person on certain occasions from various customers. Out of this, receipts of ₹52,500 are received in cash.	1,44,21,600	A/c payee cheques, NEFT and UPI
Payments		
Aggregate all payments made during the P.Y. 24-25	2,58,00,000	
Amount incurred for expenditure in cash (not exceeding ₹10,000 per person in each case)	20,58,000	

Mr. Abhinav contended that he is not required to get his accounts audited since his turnover does not exceed ₹ 3 crores and he is eligible to declare his income as per presumptive provisions of section 44AD. Examine the contention of Mr. Abhinav Ahuja.

ANSWER

As per section 44AB, every person inter alia carrying on business or profession is required to get his accounts audited before the "specified date" by an accountant, if total sales, turnover or gross receipts in business exceeds ₹1 crore in any previous year.

However, tax audit is not required in case of such person carrying on business whose total sales, turnover or gross receipts in business ≤ ₹10 crore in the relevant previous year (P.Y.), if -

- aggregate cash receipts including amount received for sales, turnover, gross receipts in the relevant previous year ≤ 5% of such receipts; and
- aggregate cash payments including amount incurred for expenditure in the relevant P.Y. ≤ 5% of such payments or

As per section 44AD, a resident individual, HUF or Partnership firm

(but not LLP) engaged in eligible business whose total turnover/ gross receipts in the P.Y. < ₹ 200 lakhs (where cash receipts do not exceed 5% of total turnover, higher threshold limit of ₹300 lakhs applicable) can declare 8%/6%, as the case may be, of total turnover/sales/gross receipts. However, a person carrying on any agency business are not eligible for presumptive provisions of section 44AD. In the present case, since Mr. Abhinav Ahuja is carrying on travel agency business, he is not eligible for presumptive provisions of section 44AD, though his turnover does not exceed ₹ 3 crores.

In this case, the turnover of Mr. Abhinav Ahuja exceeds ₹1 crore but does not exceed ₹10 crore. Accordingly, it has to be seen whether cash receipts exceed 5% of aggregate receipts and cash payments exceed 5% of aggregate payments, to determine whether tax audit is compulsory. During the P.Y. 2024-25, his cash receipts are ₹13,35,000 plus ₹ 52,500 totalling to ₹13,87,500, which is 4.83% of total receipts of ₹ 2,87,00,000. Cash payments made during the P.Y. 2024-25 are 20,58,000 which is 7.98% of aggregate payments of ₹ 2,58,00,000. Since his cash payments during the P.Y. 2024-25, exceed 5% of aggregate payments made during the year, he is required to get the accounts audited under section 44AB.

QUESTION 3

ABC Ltd. is engaged in transportation of building material and transportation of goods to contractor It made payment for hiring dumpers for this purpose. The company has not deducted tax at source on the ground that since the payment was for transportation of goods and not renting out machinery and equipment, such payments could not be termed as rent paid for use of machinery under section 194-I and hence, no tax was deductible at source.

The tax auditor is, however, of the view that the transactions being in the nature of contracts for shifting of goods from one place to another would be covered under works contracts, thereby attracting the provisions of section 194C. He relied upon the Gujarat High Court ruling in CIT (TDS) v. Shree Mahalaxmi Transport Co. (2011) 339 ITR 484.

What is the reporting responsibility of the tax auditor in such a case and the consequent ethical implications? Examine.

ANSWER

In clause 34(a) of Form 3CD, the tax auditor is required to report whether the assessee is required to deduct TDS or collect TCS and if yes, to furnish the details mentioned thereunder. While answering the issue of applicability of the provisions of TDS or TCS, a number of debatable issues may arise before the assessee as well as the tax auditor. The tax auditor may have a difference of opinion with regard to the applicability of the provisions of TDS/TCS on a particular payment. In such a case, the tax auditor has to report the difference of opinion appropriately as an observation in Form 3CA. This requirement is contained in the Guidance Note on Tax Audit.

Also, in clause 21(b)(ii) of Form 3CD, the amount inadmissible under section 40(a) has to be mentioned.

In case the tax auditor does not comply with the reporting requirements under these clauses and fails to mention the difference of opinion appropriately as an observation in para 3 of Form 3CA, clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 for not exercising due diligence may be invoked.

QUESTION 4

A search was conducted u/s 132 of the Income-tax Act, 1961 in the case of LMN Jewellers (P) Ltd., a gold jewellery retail chain. As part of the post search enquiries, data from the billing software was analysed. On analysis of this data, it was found that the company was involved in violation of section 40A(3) in a major way to the tune of 20 crores in the purchase of old gold.

In order to verify the findings culled from digital data, some of the customers whose whereabouts were available from computer records were contacted and their statements were recorded under oath. These customers admitted under oath that they had sold old gold and received the amounts (all exceeding 10,000) in cash. The fact which emerged from the enquiries is that LMN Jewellers (P) Ltd. purchase old gold and make payments for these purchases in cash, even if they exceed ₹ 10,000. However, the tax auditor had mentioned "Yes" in response to the statement in sub-clause (A) of Clause 21(d) on whether the expenditure covered under section 40A(3) read with Rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. The tax auditor submitted that standing instructions were given by the

management of the entity to the employees to make payments above ₹ 10,000 only through account payee cheques and/or bank drafts or other permissible electronic modes; and copy of these instructions were verified by him. He further submitted that he had also taken a representation from the Management that net payment in cash to any person in a day did not exceed ₹10,000. Also, he mentioned that the test checks conducted by him did not reveal any violation.

Examine the ethical implications in this case and the consequences thereof.

ANSWER

As per section 40A(3), where the assessee incurs any expenditure, in respect of which payment or aggregate of payments made to a person in a day otherwise than by an account payee cheque, draft or ECS exceeds ₹ 10,000, such expenditure shall not be allowed as a deduction.

Clause 21(d) of Form 3CD requires the tax auditor to report, on the basis of the examination of books of account and other relevant documents/evidence, whether the expenditure covered under section 40A(3) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft; and if not, to furnish details mentioned thereunder, namely, date of payment, nature of payment, amount etc.

The Guidance Note on Tax Audit issued by ICAI states that there may be practical difficulties in verifying whether each payment is made through account payee cheque or bank draft or ECS or other prescribed electronic modes. Where the reporting has been done on the basis of the certificate of the assessee, the fact has to be reported as an observation in para 3 of Form 3CA.

The tax auditor is required to point out in tax audit report, the violation of the provisions of section 40A(3) thereof involving expenditure to a person in a day exceeding ₹ 10,000 otherwise than by way of account payee cheque/bank draft, ECS and other prescribed electronic modes. However, in this case, the tax auditor has certified that there was no such instance, though such instances aggregate to a large quantum of ₹ 20 crores.

The tax auditor should have considered the nature of business i.e., jewellery business of the assessee and accordingly undertaken necessary checks to verify whether there are cash payments in

violation of section 40A(3). He should have made use of the audit tools which are available to find out such payments expeditiously and accurately where the data is voluminous.

In this case, considering the nature of business of the assessee, namely, jewellery business, the onus was on the tax auditor to verify the same before reporting in Form 3CD. Mere reliance on certificate issued by the management is not acceptable in such a case. Also, even in a case where the reporting has been done on the basis of the certificate of the assessee, the fact has to be reported as an observation in para 3 of Form 3CA, which he had failed to do.

Thus, in the case, the tax auditor had failed to exercise due diligence in the conduct of his professional duties. He had also failed to obtain sufficient information which is necessary for expression of opinion. On account of such failure, clauses (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 may be invoked.

QUESTION 5

X Ltd., an Indian company, paid interest of 95 lakhs to X Inc., a non-resident associated enterprise in the P.Y.2024-25 on loan borrowed from it. X Ltd. also obtained loan of ₹ 5 crore @10% p.a. on 1.4.2024 from Y Inc., a foreign company in which it holds 20% voting power. X Inc. deposits ₹ 2 crore with Y Inc. X Ltd. contends that the provisions of section 94B are not attracted in its case, since the interest paid to non-resident associated enterprise does not exceed ₹ 1 crore in the P.Y.2024-25. The tax auditor is, however, of the opinion that the interest of ₹20 lakh (i.e., 10% of ₹ 2 crore) also has to be considered for the purpose of section 94B. X Ltd. contends that X Inc. has not deposited a corresponding and matching amount of 5 crore with Y Inc, and hence, the provisions of section 94B will not be attracted in this case. Examine the reporting requirement, if any, of the tax auditor in this case.

ANSWER

Relevant provision of law - Section 94B provides that where the debt is issued by a lender which is not associated but an associated enterprise either provides guarantee to such lender or deposits a corresponding and matching amount of funds with the lender, such debt shall be deemed to have been issued by an associated enterprise.

In this case, the debt issued by Y Inc. is ₹5 crore and the deposit made by the associated enterprise, X

Inc. with Y Inc. is ₹ 2 crore. Since the deposit is not of a matching amount, the X Ltd. contends that provisions of section 94B will not be attracted in respect of interest payable by it to Y Inc. The tax auditor is of the opinion that interest on ₹ 2 crore amounting to ₹ 20 lakhs will have to be considered for the purpose of section 94B. Accordingly, the interest payable/paid by X Ltd. to non-resident associated enterprises during the year would be ₹ 115 lakhs and hence, the provisions of section 94B would be attracted, since the same exceeds the threshold of ₹1 crore. This appears to be the legislative intent, since otherwise it is possible to escape the application of this provision by even by depositing a marginally lower amount than the loan taken.

Relevant clause of Form 3CD - Clause 30B(a) of Form 3CD requires the tax auditor to state whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature exceeding one crore rupees as referred to in sub-section (1) of section 94B. Relevant paras of the Guidance Note on Tax Audit - As per para 18.6 of the Guidance Note on Tax Audit, the tax auditor may have a difference of opinion with regard to the particulars furnished by the assessee. These differences are to be reported in para 3 of Form No. 3CA or para 5 of Form 3CB. As per para 19.3, if there is any difference in the opinion of the tax auditor and that of the assessee in respect of any information furnished in Form No. 3CD by the assessee, the tax auditor may consider stating both the view points and also the relevant information related to matter in order to enable the tax authority to take a decision in the matter.

Therefore, the tax auditor has to report the difference of opinion appropriately as an observation in para 3 of Form No. 3CA or para 5 of Form No. 3CB as the case may be.

Accordingly, in this case, the tax auditor may state both the view points in Clause 30B as well as report the difference of opinion appropriately as an observation in para 3 of Form 3CA to enable the tax authority to take a decision in the matter.

QUESTION 6

XYZ & Co, a firm engaged in interior decoration business, employed 20 new employees on 1.4.2024 on a monthly salary of ₹ 25,000 to be paid by account payee cheque. In addition, each employee was entitled to 10% employer contribution to recognised provident fund. The employees were also entitled to transport allowance of ₹ 3,000 p.m. paid in cash. The gross total income of XYZ & Co. included profits and gains from business of ₹ 62 lakh.

The firm claimed deduction under section 80JJAA of ₹ 18 lakh, being 30% of ₹60 lakh (20 new employees x ₹ 25,000 p.m. x 12) on the basis of the report of the chartered accountant issued in Form 10DA. The same chartered accountant was also the tax auditor of the firm. The chartered accountant contended that "emoluments" do not include employer contribution to PF. Also, cash payments were not to be considered as "additional employee cost" for the purpose of section 80JJAA. Hence, only 25,000 p.m. per employee paid by account payee cheque has to be treated as additional employee cost. Since the same does not exceed the limit of ₹ 25,000 p.m. and the employees have been employed for more than 240 days in the P.Y.2024-25, the employees would qualify as "additional employees" for the purpose of deduction under section 80JJAA for A.Y.2025-26.

Is his contention correct? Examine the ethical implications in this case.

ANSWER

Deduction under section 80JJAA is allowable to an assessee to whom section 44AB applies and whose gross total income includes any profits and gains derived from business, in respect of employment of new employees. The amount of deduction is 30% of additional employee cost incurred in the course of such business in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided. "Additional employee cost" means the total emoluments paid or payable to additional employees employed during the previous year. However, in the case of an existing business, the additional employee cost shall be nil, if emoluments are paid otherwise than by an account payee cheque or account payee bank draft or use of ECS through bank account or other prescribed electronic mode.

"Emoluments" means any sum paid or payable to an employee in lieu of his employment by whatever name called but does not include, inter alia, contribution by employer to provident fund. "Additional employee" means an employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year, but does not include, inter alia, an employee whose total emoluments are more than ₹ 25,000 p.m.

In this case, the contention of the chartered accountant that the emoluments do not include employer contribution to PF is correct. However, emoluments include ₹ 3,000 paid in cash by way of transport allowance to the employee. Hence, the total emoluments per employee is ₹ 28,000 p.m. Due to this reason, the 20 employees employed on 1.4.2024 will not qualify as "additional employees" for the purpose of deduction under section 80JJAA, since their total emoluments are more than ₹ 25,000 p.m. Hence, XYZ & Co. is not eligible for any deduction under section 80JJAA due to failure to fulfil the condition for being treated as an "additional employee". In this case, the chartered accountant has failed to ensure compliance with the condition stipulated for claim of deduction under section 80JJAA and has wrongly issued the report in Form 10DA certifying the deduction claimed by the assessee under section 80JJAA.

Also, clause 33 of Form 3CD requires section-wise details of deductions, if any, admissible under Chapter VIA. Here again, the tax auditor has to ensure that the assessee fulfils all the conditions specified in the section under which the deduction is claimed. However, in this case, the tax auditor has failed to do so.

On account of such failure, clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 may be invoked.

QUESTION 7

The Income-tax department collected documents from ABC Bank which revealed that M/s. Alpha Travels and Consultancy Services (Alpha Travels) had remitted substantial amounts abroad. The documents collected include Form 15CB issued by the chartered accountant, list of passengers, copy of their passports, date of travel and invoice raised by the foreign party. On enquiring from the passengers and verifying their passports, it is found that they did not travel abroad during the dates mentioned in the documents. Further, the passengers denied any sort of transactions with Alpha Travels. The department, therefore, concluded that the amounts were remitted abroad on the basis of false invoices and for wrong reasons, leading to FEMA violations and that the Form 15CB issued by the chartered accountant facilitated such violations. During the nine-month period in question, the chartered accountant had issued 120 certificates in Form 15CB approximately involving remittances of 30 crores in favour of Alpha Travels.

The chartered accountant submitted that he had issued Form 15CB based on invoices produced by the company and verifying the KYC documents of the signatory to the invoices. He however, failed to bring on record the invoices. He further submitted that since he was not the statutory auditor of the company, he did not examine the books of account before issue of Form 15CB or conduct due diligence of its business activities. He had charged ₹ 3,000 per certificate. Mostly, the fees was collected in cash. Some part of the fee was credited to his bank account.

Examine the ethical implications in this case.

ANSWER

Form 15CB is a certificate of an accountant wherein he certifies that he has examined the agreement between the remitter and the beneficiary requiring such remittance as well as the relevant documents and books of account required for ascertaining the nature of remittance and for determining the rate of deduction of tax at source. The chartered accountant certifying the form undertakes to have verified the agreement between the remitter and the beneficiary as well as the relevant documents and books of account to ascertain the nature of remittance and determine the rate of TDS. In this case, however, the chartered accountant mentioned that he had only verified KYC of signatory to invoice and the invoices thereof. He had not only failed to justify as to how verification of invoices was considered as sufficient compliance for certifying the forms but also failed to bring on record the said invoices. Thus, he failed to provide any basis on which he relied for issuing Form 15CB certificates to the company.

On account of such failure, clauses (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 for failure to exercise due diligence in discharging his professional responsibilities and failure to obtain sufficient information may be invoked.

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TAX PLANNING/EVASION/AVOIDANCE AND GAAR

QUESTION 1

A choice is made by a company by acquiring an asset on lease over outright purchase. The company claims deduction for lease rentals in case of acquisition through lease rather than depreciation as in the case of purchase of the asset. Would the lease rent payment, being higher than the depreciation be disallowed as expense under GAAR?

ANSWER

This is a case of tax planning, through which Company chooses a legally permissible option to minimize its tax liability. It opts for leasing of an asset instead of an outright purchase. This is not a case of tax avoidance.

GAAR provisions would not apply in this case as the taxpayer merely makes a selection out of the options available to him.

QUESTION 2

M/s. Highway Drive Limited incorporates a wholly owned subsidiary M/s. Highway Roads Limited in India during the F.Y. 2017-18. Its main business is to develop infrastructure facility and is eligible for deduction u/s 80-IA. Accordingly the company has claimed deduction u/s 80-IA for the A.Y. 2024-25.

(i) Highway Roads Limited derives income other than income from developing infrastructure facilities and discloses such income as income from developing infrastructure facilities, thus enjoying the benefit u/s 80-IA.

(ii) Highway Roads Limited purchases the supplies for the development of infrastructure facilities from M/s. Highway Drive Limited at a price lesser than the fair price, thus transferring the income of M/s. Highway Drive Limited to M/s. Highway Roads Limited and enjoying the benefit of section 80-IA on such income.

Can GAAR be invoked in both the instances mentioned above?

ANSWER

(i) In the present case, Highway Roads Ltd. derives income other than income from developing infrastructure facilities and discloses such income as income from developing infrastructure facilities to avail benefit of deduction u/s 80-IA. This is a case of misrepresentation of facts by showing non-eligible income as income eligible for deduction u/s 80-IA. Hence, this is an arrangement of tax evasion and not tax avoidance.

Tax evasion, being unlawful, can be dealt with directly by establishing correct facts. GAAR provisions need not be invoked in such a case.

(ii) In this case, there is a close connection between Highway Drive Limited, ineligible assessee and Highway Roads Ltd, an eligible assessee, since the eligible assessee is a wholly owned subsidiary of ineligible assessee. The purchase transaction has been arranged in such a way that it produces more than ordinary profits to the eligible assessee.

However, such tax avoidance is specifically dealt with through the provisions contained in section 80-IA(10). Further, if the aggregate of such transactions entered into in the relevant previous year exceed the threshold of ₹20 crore, domestic transfer pricing regulations under section 92BA would be attracted.

It is not the intention of the legislation to invoke GAAR in such situations. Hence, the Revenue need not invoke GAAR in such a case, though GAAR and SAAR can co-exist as per clarification given in the CBDT Circular.

QUESTION 3

Critically examine the following cases and discuss whether the provisions of General Anti-avoidance Rules (GAAR) can be invoked in these cases?

(i) Diva Ltd., an Indian company has 2 manufacturing units, unit A in the Special Economic Zone (SEZ) and unit B in non-SEZ. Manufacturing activities are carried out in Unit B while unit A only does the packaging of the goods manufactured by unit B. In its books of accounts, it shows the, manufacturing to be carried out in unit A and claims allowable deductions.

(ii) Jeeva Ltd., an Indian company has 2 manufacturing units, unit C in the Special Economic Zone (SEZ) and unit D in non-SEZ. It transfers the goods manufactured by unit D to unit C at a price significantly lower than the market value of the goods and thus becomes eligible for higher deductions.

ANSWER

(i) In the present case, Diva Ltd., an Indian company has 2 manufacturing units, unit A in the SEZ and unit B in non-SEZ. Though unit A only does the packaging of goods manufactured by Unit B, the company, in its books of account, shows the manufacture of goods by Unit B as manufacture of goods by unit A to enjoy exemption under section 10AA. This is a case of misrepresentation of facts by showing manufacture of non-SEZ unit as manufacture of SEZ unit. Hence, this is an arrangement of tax evasion and not tax avoidance.

Tax evasion, being unlawful, can be dealt with directly by establishing correct facts. GAAR provisions need not be invoked in such a case.

(ii) In this case, goods manufactured by unit D, a non-SEZ unit, being a non-eligible business, are transferred to unit C, a SEZ unit, being an eligible business, at a price significantly lower than the market value of goods to claim higher deduction under section 10AA in respect of unit C.

As there is no misrepresentation of facts or false submissions, it is not a case of tax evasion The company has tried to take advantage of tax provisions by diverting profits from non-SEZ unit to SEZ unit. However, this is not the intention of the legislation.

Such tax avoidance is specifically dealt with through the provisions contained in section 10AA(9), as per which provisions of section 80-IA(8) would get attracted in such a case Further, if the aggregate of such transactions entered into in the relevant previous year exceed the threshold of 20 crore, domestic transfer pricing regulations under section 92BA would be attracted. Hence, the Revenue need not invoke GAAR in such a case, though GAAR and SAAR can co-exist as per clarification given in the CBDT Circular.

QUESTION 4

Y Tech Ltd. is a company resident of country C1. It enters into an agreement with Z Energy Ltd., an Indian company for setting up a power plant in India. It is a composite contract for an agreed price of US$ 100 million. The payment has been split in the following parts as per separate agreements

(i) US$ 10 million for design of power plant outside India (payment for which is taxable at 10% on gross basis)

(ii) US$ 70 million for offshore supplies of equipment etc. (not taxable as no role is played by any PE in India. These are not subject to import duty)

(iii) US$ 20 million for local supplies and installation charges (taxable on net income basis)

It is found that the fair market value of offshore design is about USD 30 million; therefore, it is under invoiced. On the other hand, offshore supplies were over invoiced. The arrangement resulted in significant tax benefit to the taxpayer. Can GAAR be invoked in such a case?

ANSWER

The allocation of price to different parts of the contract has been decided in such a manner as to reduce tax liability of the foreign company in India. Both conditions for declaring an arrangement as impermissible are satisfied. (1) The main purpose of this arrangement is to obtain tax benefit; and (2) the transactions are not at arm's length. Consequently, GAAR may be Invoked and prices would be reallocated. However, determination of arm's length price should be based on transfer pricing regulations under the Act, if the enterprises are associated enterprises.

QUESTION 5

Under the provisions of a tax treaty between India and country F4, any capital gains arising from the sale of shares of Indco, an Indian company, would be taxable only in F4 if the transferor is a resident of F4 except where the transferor holds more than 10% interest in the capital stock of Indco. A company, A Ltd., being resident in F4, makes an investment in Indco through two wholly owned subsidiaries (K Ltd. and L Ltd.) located in F4. Each subsidiary holds 9.95% shareholding in the Indian Company, the total adding to 19.9% of equity of Indco. The subsidiaries sell the shares of Indco

and claim exemption as each is holding less than 10% equity shares in the Indian company. Can GAAR be invoked to deny treaty benefit?

ANSWER

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 A 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 K and L, the two subsidiaries, or by treating K and L as one and the same company for tax computation purposes.

QUESTION 6

Examine whether General Anti-Avoidance Rules (GAAR) can be invoked to deny the treaty benefit in the following case, assuming that all other conditions prescribed for application of GAAR are being satisfied:

X Pvt. Ltd., an Indian Company and Y Pvt. Ltd. (100% subsidiary of YAN Ltd.) located in country "A" formed a joint venture company XY Pvt. Ltd. in India on 01.04.2023. As per the joint venture agreement, 51% of shares are held by X Pvt. Ltd. and 49% are held by Y Pvt. Ltd in XY Pvt. Ltd. There is no other business activity in Y Pvt. Ltd.

Y Pvt. Ltd. is designated as Permitted Transferee of YAN Ltd. Permitted Transferee means though shares of XY Pvt. Ltd. are held by Y Pvt. Ltd. all rights of voting, management, right to sell etc. are vested with YAN Ltd.

On 19.03.2024, the shares held by Y Pvt. Ltd. in XY Pvt. Ltd. are sold to P Pvt. Ltd. which is a group company of X Pvt. Ltd. As per the tax-treaty between India and Country "A", there is no tax for capital gains either in source country or in Country "A". Consequently, the capital gains arising to Y Pvt. Ltd. are not taxable in India.

ANSWER

GAAR may, prima facie, apply, when the following twin conditions are satisfied:

- Main purpose of the arrangement being tax benefit, and

- Existence of tainted benefit.

As per the tax treaty between India and Country "A", there is no tax on capital gains either in the Source country or in Country "A", Consequently, the capital gains arising to Y Pvt. Ltd. is not taxable in India.

The arrangement of routing investment through Country "A" would result in a tax benefit. Since there is no business purpose in incorporating a company Y Pvt. Ltd. (100% subsidiary of YAN Ltd.) in Country "A", it can be said that the main purpose of the arrangement is to obtain a tax benefit.

On the question of whether the arrangement has any tainted element, it is evident that there is no commercial substance in incorporating Y Pvt. Ltd. as it does not have any effect on the business risk of YAN Ltd. or cash flow of YAN Ltd.

Additionally, the fact that all rights of shareholders of Y Pvt. Ltd. (designated as Permitted Transferee) are being exercised by YAN Ltd. instead of Y Pvt. Ltd, indicates that Y Pvt. Ltd lacks commercial substance.

As the twin conditions of main purpose being tax benefit and existence of a tainted element are satisfied, GAAR may be invoked in this case.

QUESTION 7

Mr. Gavaskar sought voluntary retirement from a Government of India Undertaking and received compensation of ₹40 lacs on 28th February, 2024. He is planning to use the money as capital for business dealership in electronic goods. The manufacturer of the product requires a security deposit of ₹15 lacs, which would carry interest at 8% p.a. Gavaskar's wife is a graduate and has worked as marketing manager in a multinational company for 15 years. She now looks for a change in employment. She is willing to join her husband in running the business. She expects an annual income of ₹5 lacs. Mr. Gavaskar would like to draw a monthly remuneration of ₹40,000 and also interest @ 10% p.a. on his capital in the business. Mr. Gavaskar has approached you for a tax efficient structure of the business.

Discuss the various issues, which are required to be considered for formulating your advice. Computation of income or tax liability is not required.

ANSWER

The selection of the form of organisation to carry on any business activity is essential in view of the differential tax rates prescribed under the Income tax Act, 1961 and specific concessions and deductions available under the Act in respect of different entities. For the purpose of formulating advice as to the tax efficient structure of the business, it is necessary for the tax consultant to consider the following issues:

(i) In the case of sole proprietary concern, interest on capital and remuneration paid to the proprietor is not allowable as deduction under section 37(1) as the expenditure is of personal nature. On the other hand, in the case of partnership firm, both interest on capital and remuneration payable to partners are allowable under section 37(1) subject to the conditions and limits laid down in section 40(b). Such interest and salary shall be taxable in the hands of partners to the extent the same is allowed as deduction in the hands of the firm under section 40(b). Interest to partners can be allowed up to 12% on simple interest basis, while the limit for allowability for partners' remuneration is based on book profit under section 40(b).

Note - However, if the firm is eligible to opt for presumptive taxation under section 44AD, 8% of gross receipts or 6% of gross receipts, as the case may be, would be deemed as its income. All deductions under section 30 to 37 are deemed to be allowed. No deduction is allowable, including deduction for partner's remuneration and interest on capital.

(ii) Partner share in profits of firm is not taxed in hands of partners by virtue of section 10(2A).

(iii) If a proprietary concern is formed, the salary of Mrs. Gavaskar shall be allowed as deduction under section 37(1).

(iv) The possibility of invoking section 40A(2) cannot be ruled out as salary is payable to a relative, who is an interested person within the meaning of section 40A(2). However, it can be argued successfully that salary of ₹5 lacs is justified in view of her long experience as marketing manager of a multinational company and the fair market value of services to be rendered by her to the concern.

(v) An issue arises as to whether remuneration of Mrs. Gavaskar would be includible in the total income of Mr. Gavaskar. Under section 64(1)(ii), remuneration of the spouse of an individual working in a concern in which the individual is having a substantial interest shall be included in the total income of the individual. However, the clubbing provision does not apply if the spouse possesses technical or professional qualification and the income is solely attributable to the application of his or her technical or professional knowledge and experience. The experience of Mrs. Gavaskar as a marketing manager in a multinational company for 15 years may reasonably be considered as a professional qualification for this purpose.

(vi) If Mrs. Gavaskar joins the proprietary concern or partnership concern of her husband as employee, remuneration of ₹5 lacs shall be taxed in her hands under the head "salary".

(vii) If she joins as partner in the business, remuneration shall be taxed in her hand as business income u/s 28 to the extent such remuneration is allowed in the hands of the firm u/s 40(b).

(viii) The tax rate applicable to an individual depends on the level of his/her income, whereas for partnership firms it is flat rate at 30%. Surcharge @ 12% would be attracted only if total income exceeds ₹1 crore. For individuals, the tax is as per slab rates. The surcharge for total income exceeding ₹ 50 lakhs but not exceeding ₹1 crore is 10% of tax payable; for total income exceeding ₹1 crore but not exceeding ₹2 crore is 15% of tax payable; for total income exceeding ₹2 crore but not exceeding ₹5 crore is 25% of tax payable and for total income exceeding ₹5 crore is 37% of tax payable. Health and Education cess @ 4% on income-tax plus surcharge, if applicable, is attracted in all the cases.

QUESTION 8

Specify with reason, whether the following acts can be considered as (i) Tax planning; or (ii) Tax management; or (iii) Tax evasion.

(i) Mr. P deposits ₹1,00,000 in PPF account so as to reduce his total income from ₹5,90,000 to ₹4,90,000.

(ii) SOL Ltd. maintains register of tax deduction at source effected by it to enable timely compliance.

(iii) An individual tax payer making tax saver deposit of ₹1,00,000 in a nationalised bank.

(iv) A partnership firm obtaining declaration from lenders/depositors in Form No. 15G/15H and forwarding the same to income-tax authorities.

(v) A company installed an air-conditioner costing ₹75,000 at the residence of a director as per terms of his appointment but treats it as fitted in quality control section in the factory. This is with the objective to treat it as plant for the purpose of computing depreciation.

(vi) RR Ltd. issued a credit note for ₹80,000 as brokerage payable to Mr. Ramana who is the son of the managing director of the company. The purpose is to increase the total income of Mr. Ramana from ₹4,20,000 to ₹5,00,000 and reduce the income of RR Ltd. correspondingly.

(vii) A company remitted provident fund contribution of both its own contribution and employees' contribution on monthly basis before due date.

ANSWER

Tax Planning/Tax Management/Tax Evasion

	Answer	Reason
1.	Tax planning	Depositing money in PPF and claiming deduction under section 80C is as per the provisions of law.
2.	Tax management	Maintaining register of payments subject to TDS helps in complying with the obligations under the Income-tax Act, 1961.
3.	Tax planning	Making a tax saver deposit of ₹1,00,000 in a nationalized bank for claiming deduction under section 80C by an individual is a permitted tax planning measure under the provisions of income-tax law.

4.	Tax management	Obtaining declaration from lenders/depositors in Form No. 15G/15H by a partnership firm and forwarding the same to Income-tax authorities is in the nature of compliance of statutory obligation under the Income-tax Act, 1961.
5.	Tax evasion	An air conditioner fitted at the residence of a director as per the terms of his appointment would be a furniture qualifying for depreciation @10%, whereas an air conditioner fitted in a factory would be a plant qualifying for a higher depreciation @15%. The wrong treatment unjustifiably increases the amount of depreciation and consequently, reduces profit and consequent tax liability. Treatment of air-conditioner fitted at the residence of a director as a plant fitted at the factory would tantamount to furnishing of false particulars with an attempt to evade tax.
6.	Tax evasion	Issuance of a credit note for 80,000 by RR Ltd. as brokerage payable to Mr. Ramana, the son of the Managing Director, to increase his total income from ₹4.2 lakh to ₹5.00 lakh and to correspondingly reduce the company's total income is a method of reducing the tax liability of the company by recording a fictitious transaction. The company is liable to tax at a flat rate of 30%/25%, as the case may be, whereas Mr. Ramana would not be liable to pay any tax, since his total income does not exceed ₹5,00,000, consequent to which he would be eligible for tax rebate of ₹12,500 under sec. 87A. Reducing tax liability by recording a fictitious transaction would tantamount to tax evasion.
7.	Tax management	Remitting of own contribution to provident fund & employees contribution to provident fund on a monthly basis before due date is proper compliance of the statutory obligations.

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