

PAPER – 4 : TAXATION
SECTION A : INCOME TAX LAW
Part - II

Question No.1 is compulsory.

*Candidates are also required to answer any **two** questions from the remaining **three** questions.*

Working notes should form part of the respective answers.

All questions relate to assessment year 2021-22, unless otherwise stated.

Question 1

Mr. Ashish, a resident individual, aged 43 years, provides professional services in the field of interior decoration. His Income & Expenditure A/c for the year ended 31st March, 2021 is as under:

Expenditure	₹	Income	₹
To Employees' Remuneration & Benefits	13,66,000	By Consultancy Charges	58,80,000
To Office & Administrative Exp.	3,14,000	By Interest on Public Provident Fund (PPF) Account	60,000
To General Expenses	75,000	By Interest on Savings Bank Account	20,000
To Electricity Expenses	65,000	By Interest on National Savings Certificates VIII Issue (for 3rd year)	21,000
To Medical Expenses	80,000		
To Purchase of Furniture	48,000		
To Depreciation	90,000		
To Excess of income over exp.	39,43,000		
	59,81,000		59,81,000

The following other information relates to financial year 2020-21:

- (i) *The expenses on Employees' Remuneration & Benefits includes:*
- (a) *Family Planning expenditure of ₹ 20,000 incurred for the employees which was revenue in nature. The same was paid through account payee cheque.*
 - (b) *Payment of salary of ₹ 25,000 per month to sister-in-law of Mr. Ashish, who was in-charge of the Accounts & Receivables department. However, in comparison to similar work profile, the reasonable salary at market rates is ₹ 20,000 per month.*

The Suggested Answers for Paper 4A: Income-tax Law are based on the provisions of Income-tax Law as amended by the Finance Act, 2020 which are relevant for July, 2021 Examination. The relevant assessment year is A.Y.2021-22.

- (ii) Amount received by Mr. Ashish as Employees' Contribution to EPF for the month of February, 2021 - ₹ 10,000 was deposited after the due date under the relevant Act relating to EPF.
- (iii) Medical Expenses of ₹ 80,000 as appearing in the Income & Expenditure was expensed for the treatment of father of Mr. Ashish. His father was 72 years old and was not covered by any health insurance policy. The said payment of ₹ 80,000 was made through account payee cheque.
- (iv) General expenses as appearing in the Income & Expenditure A/c, includes a sum of ₹ 25,000 paid to Ms. Anjaleen on 5th January, 2021 as commission for securing work from new clients. This payment was made to her without deduction of tax at source.
- (v) Written down value of the depreciable assets as on 1st April, 2020 were as follows:
- | | |
|--------------------|----------|
| Professional Books | ₹ 90,000 |
| Computers | ₹ 35,000 |
- (vi) The new Furniture as appearing in the Income & Expenditure A/c was purchased on 31st August, 2020 and was put to use on the same day. The payment was made as under:
- ₹ 18,000 paid in cash at the time of purchase of new furniture on 31/08/20.
 - ₹ 19,000 paid by account payee cheque on 05/09/2020 as balance cost of new furniture and
 - ₹ 11,000 paid in cash on 31/08/20 to the transporter as freight charges for the new furniture.
- (vii) Mr. Ashish purchased a car on 02/04/2019 for ₹ 3,35,000 for personal use. However, on 30/04/2020 he brought the said car for use in his profession. The fair market value of the car as on 30/04/2020 was ₹ 2,50,000.
- (viii) Mr. Ashish made a contribution of ₹ 1,00,000 in his PPF A/c on 31/01/2021.
- (ix) The Gross Professional Receipts of Mr. Ashish for P.Y. 2019-20 was ₹ 52,00,000.

Compute the total income and tax liability of Mr. Ashish for A.Y. 2021-22, assuming that he has not opted for payment of tax under section 115BAC.

Ignore provisions relating to AMT and under section 14A relating to disallowance of expenditure incurred in relation to income not includible in total income. **(14 Marks)**

Answer

Computation of total income of Mr. Ashish for A.Y. 2021-22

	Particulars	₹	₹	₹
I	<u>Income from business or profession</u>			
	Excess of income over expenditure		39,43,000	
	Add: Items debited but not allowable while computing business income			
	- Family planning expenditure incurred for employees [not allowable as deduction since expenditure on family planning for employees is allowed only to a company assessee/not allowed in case of individuals. Since the amount is debited to Income and Expenditure Account, the same has to be added back for computing business income]	20,000		
	- Salary payment to sister-in-law in excess of market rate [Any expenditure incurred for which payment is made to a relative, to the extent it is considered unreasonable is disallowed. However, sister-in-law is not included in the definition of “relative” for the purpose of section 40A(2). Therefore, no adjustment is required for excess salary paid to Mr. Ashish’s sister-in-law]	Nil		
	- Employees’ Contribution to EPF [Sum received by the assessee from his employees as contribution to EPF is income of the employer. Deduction in respect of such sum is allowed only if such amount is credited to the employee’s account on or before due date under the relevant Act. Since, the employees contribution to EPF for February 2021 is deposited after the due date under the relevant Act, deduction would not be available]	10,000		
	- Medical expenses for the treatment of father [Not allowed as deduction since it is a personal expenditure / not an expenditure incurred for the purpose of business of	80,000		

Mr. Ashish. Since the amount is debited to Income and Expenditure Account, the same has to be added back for computing business income]			
- Commission to Ms. Anjaleen without deduction of tax at source – [Mr. Ashish would be liable to deduct tax at source on commission since his gross receipts from profession exceeded ₹ 50 lakhs during F.Y.2019-20. Since commission has been paid without deduction of tax at source, hence 30% of ₹ 25,000, being commission paid without deducting tax at source, would be disallowed under section 40(a)(ia) while computing the business income of A.Y.2021-22]	7,500		
- Depreciation as per books of account	90,000		
- Purchase of Furniture [not allowable, since it is a capital expenditure]	<u>48,000</u>		
		<u>2,55,500</u>	
		41,98,500	
Less: Depreciation as per Income-tax Rules			
- On Professional Books [₹ 90,000 x 40%]	36,000		
- On Computers [₹ 35,000 x 40%]	14,000		
- On Furniture [₹19,000 x 10%, since it has been put to use for more than 180 days during the year] [Any expenditure for acquisition of any asset in respect of which payment or aggregate of payment made to a person, otherwise than by an a/c payee cheque/ bank draft or use of ECS or through prescribed electronic mode, exceeds ₹ 10,000 in a day, such expenditure would not form part of actual cost of such asset. Hence, ₹ 18,000 and ₹ 11,000 paid on 31.8.2020 in cash would not be included in the actual cost of furniture]	1,900		
- On Car [₹ 3,35,000 x 15%] [Actual cost of car would be the purchase price of the car to Mr. Ashish, i.e., ₹ 3,35,000]	<u>50,250</u>		
		<u>1,02,150</u>	
		40,96,350	

Less: Items of income credited but not taxable or taxable under any other head of income			
- Interest on Public Provident Fund [Exempt]	60,000		
- Interest on savings bank account [Taxable under the head "Income from other sources"]	20,000		
- Interest on National Savings Certificates VIII Issue (3 rd Year) [Taxable under the head "Income from other sources"]	<u>21,000</u>		
		<u>1,01,000</u>	39,95,350
II Income from other sources			
Interest on savings bank account		20,000	
Interest on National Savings Certificates VIII Issue (3 rd Year)		<u>21,000</u>	<u>41,000</u>
Gross Total Income			40,36,350
Less: Deduction under Chapter VI-A			
<u>Deduction under section 80C</u>			
Contribution to PPF	1,00,000		
Interest on NSC (3 rd Year) (Reinvested)	<u>21,000</u>	1,21,000	
<u>Deduction under section 80D</u>			
Medical expenses for the treatment of father [Since Mr. Ashish's father is a senior citizen and not covered by any health insurance policy, payment for medical expenditure by a mode other than cash would be allowed as deduction to the extent of ₹ 50,000]		50,000	
<u>Deduction under section 80TTA</u>			
Interest on savings bank account to the extent of ₹ 10,000		<u>10,000</u>	<u>1,81,000</u>
Total income			<u>38,55,350</u>

Computation of tax liability of Mr. Ashish for A.Y.2021-22

Particulars	₹	₹
Tax on total income of ₹ 38,55,350		
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 – ₹ 5,00,000[@5% of ₹ 2.50 lakh]	12,500	
₹ 5,00,001 – ₹ 10,00,000[@20% of ₹ 5 lakh]	1,00,000	

₹ 10,00,001- ₹ 38,55,350 [@30% of ₹ 28,55,350]	<u>8,56,605</u>	9,69,105
Add: Health and education cess@4%		<u>38,764</u>
Tax liability		<u>10,07,869</u>
Tax liability (rounded off)		10,07,870

Question 2

- (a) Mrs. Rohini, aged 62 years, was born and brought up in New Delhi. She got married in Russia in 1996 and settled there since then. Since her marriage, she visits India for 60 days each year during her summer break. The following are the details of her income for the previous year ended 31.03.2021:

S. No.	Particulars	Amount (in ₹)
1.	Pension received from Russian Government	65,000
2.	Long-term capital gain on sale of land at New Delhi (computed)	3,00,000
3.	Short-term capital gain on sale of shares of Indian listed companies in respect of which STT was paid both at the time of acquisition as well as at the time of sale (computed)	60,000
4.	Premium paid to Russian Life Insurance Corporation at Russia	75,000
5.	Rent received (equivalent to Annual Value) in respect of house property in New Delhi	90,000

You are required to ascertain the residential status of Mrs. Rohini and compute her total income and tax liability in India for Assessment Year 2021-22. **(6 Marks)**

- (b) Examine whether TDS provisions would be attracted in the following cases, and if so, under which section. Also specify the rate of TDS and amount required to be deducted at source as applicable in each case. Assume that all payments are made to residents.

S. No.	Particulars of the payer	Nature of payment	Aggregate of payments made in the F.Y. 2020-21 (Amt. in ₹)
(A)	Mr. Kale, receiving pension from Central Government	Contractual payment made during April 2020 for reconstruction of his residential house in Arunachal Pradesh	52,50,000
(B)	Mr. Rahul, a wholesale trader of spices whose turn-	Contract payment for construction of office godown	50,00,000

	over was ₹ 5 crores F.Y. 2019-20	during January to March 2021 to Mr. Akhilesh, an individual	
(C)	Mr. Golu, an individual carrying garment trading business with turnover of ₹ 95 lakhs in F.Y. 2019-2020	Payment of commission to Mr. Vinay for securing a contract from a big business house in November 2020	1,20,000
(D)	XYZ Urban Co-operative bank	Payment by way of cash withdrawal, by ABC & Co. a partnership firm, amounting ₹ 1.2 crores during Financial Year 2020-21. ABC & Co. has filed its tax returns for the last 3 financial years with in time.	1,20,00,000

(2 x 4 = 8 Marks)

Answer

- (a) An Indian citizen or a person of Indian origin who, being outside India, comes on a visit to India (and whose total income, other than from foreign sources, does not exceed ₹ 15,00,000) would be resident in India only if he or she stays in India for a period of 182 days or more during the previous year.

Since Mrs. Rohini is a person of Indian origin who comes on a visit to India only for 60 days in the P.Y.2020-21 and her income other than from foreign sources does not exceed ₹ 15,00,000, she is non-resident for the A.Y. 2021-22¹.

A non-resident is chargeable to tax in respect of income received or deemed to be received in India and income which accrues or arises or is deemed to accrue or arise to her in India. Accordingly, her total income and tax liability would be determined in the following manner:

Computation of total income and tax liability of Mrs. Rohini for A.Y. 2021-22

Particulars	Amt (₹)
Salaries	
Pension received from Russian Government [Not taxable, since it neither accrues or arises in India nor is it received in India]	Nil
Income from House Property	
Annual Value [Rental Income from house property in New Delhi is taxable, since it is deemed to accrue or arise in India, as it accrues or arises from a property situated in India]	90,000

¹ Even if her total income exceeds ₹ 15 lakh, still, she would be non-resident since the minimum period of stay required in the current year for being a resident is 120 days.

Less: Deduction u/s 24(a) @ 30%	<u>27,000</u>	63,000
Capital Gains		
Long-term capital gains on sale of land at New Delhi [Taxable, since it is deemed to accrue or arise in India as it is arising from transfer of land situated in India]		3,00,000
Short-term capital gains on sale of shares of Indian listed companies in respect of which STT was paid [Taxable, since it is deemed to accrue or arise in India, as such income arises on transfer of shares of Indian listed companies]		60,000
Gross Total Income		4,23,000
Less: Deduction under Chapter VI-A		
Deduction under section 80C		63,000
- Life insurance premium ² of ₹ 75,000 [Premium paid to Russian Life Insurance Corporation allowable as deduction. However, the same has to be restricted to gross total income excluding LTCG and STCG, as Chapter VI-A deductions are not allowable against such income chargeable to tax u/s 112 and 111A, respectively]		
Total Income		3,60,000
Computation of Tax Liability		
Long-term capital gains taxable @20% u/s 112 [3,00,000 x 20%]		60,000
Short-term capital gains taxable @15% u/s 111A [60,000 x 15%]		<u>9,000</u>
		69,000
Add: Health and Education Cess @4%		<u>2,760</u>
Tax Liability		<u>71,760</u>

Note - The benefit of adjustment of unexhausted basic exemption limit against long-term capital gains taxable u/s 112 and short-term capital gains taxable u/s 111A is not available in case of non-resident. Further, rebate u/s 87A is not allowable to a non-resident, even if his income does not exceed ₹ 5 lakh.

- (b) (i) Mr. Kale, being a pensioner, would not be liable to deduct tax at source under section 194C. However, he has to deduct tax at source @ 5% u/s 194M, since the aggregate amount of payment to the contractor for his personal purposes i.e., for reconstruction of his residential house in Arunachal Pradesh, exceeds the threshold limit of ₹ 50,00,000.

Therefore, TDS u/s 194M would be = ₹ 52,50,000 x 5% = ₹ 2,62,500.

- (ii) Mr. Rahul is required to deduct tax at source u/s 194C, since his turnover from business in the financial year 2019-20, being the financial year immediately

² It is assumed that such premium is paid for self or spouse or any child of Mrs. Rohini

preceding F.Y.2020-21 in which such sum is paid, exceeds ₹ 1 crore. Tax is to be deducted at source at the rate 1% as the payment is made to an Individual. However, since payment is made during the period 14.05.2020 and 31.3.2021, tax is to be deducted at the reduced rate of 0.75%.

Therefore, TDS u/s 194C would be = ₹ 50,00,000 x 0.75% = ₹ 37,500

- (iii) Tax is required to be deducted u/s 194H, if the payer is an individual whose turnover from business carried on by him in the financial year immediately preceding the financial year in which commission is paid, exceeds ₹ 1 crore. However, where TDS u/s 194H is not applicable, tax is required to be deducted u/s 194M where payment of commission during the relevant previous year exceeds ₹ 50 lakhs

In the present case, Mr. Golu is not required to deduct tax at source u/s 194H on the commission paid to Mr. Vinay in the P.Y.2020-21 since his turnover from his business does not exceed ₹ 1 crore during the P.Y. 2019-20.

Further, Mr. Golu is also not required to deduct tax at source u/s 194M on the said commission paid to Mr. Vinay since the commission paid does not exceed ₹ 50 lakhs during the P.Y. 2020-21.

- (iv) A co-operative bank which is responsible for paying any sum, being the amount or aggregate of amounts, as the case may be, in cash exceeding ₹ 1 crore during the previous year, to any person from an account maintained by such person with it, has to deduct an amount equal to 2% of such sum, as income-tax at the time of payment. Accordingly, since XYZ Urban Co-operative is responsible for paying a sum exceeding ₹ 1 crore (₹ 1.2 crore, in this case) in cash to ABC & Co., a partnership firm, during the F.Y.2020-21, the bank is required deduct tax at source @ 2% of such sum.

Therefore, TDS u/s 194N would be = ₹ 20,00,000 x 2% = ₹ 40,000.

Question 3

- (a) *Mr. Ramesh constructed a big house (construction completed in Previous Year 2008-09) with 3 independent units. Unit - 1 (50% of floor area) is let out for residential purpose at monthly rent of ₹ 15,000. A sum of ₹ 3,000 could not be collected from the tenant and a notice to vacate the unit was given to the tenant. No other property of Mr. Ramesh is occupied by the tenant. Unit - 1 remains vacant for 2 months when it is not put to any use. Unit - 2 (25% of the floor area) is used by Mr. Ramesh for the purpose of his business, while Unit - 3 (the remaining 25%) is utilized for the purpose of his residence. Other particulars of the house are as follows:*

Municipal valuation - ₹ 1,88,000

Fair rent - ₹ 2,48,000

Standard rent under the Rent Control Act - ₹ 2,28,000

Municipal taxes - ₹ 20,000

Repairs - ₹ 5,000

Interest on capital borrowed for the construction of the property - ₹ 60,000, ground rent ₹ 6,000 and fire insurance premium paid - ₹ 60,000.

Income of Ramesh from the business is ₹ 1,40,000 (without debiting house rent and other incidental expenditure).

Determine the taxable income of Mr. Ramesh for the assessment year 2021-22 if he does not opt to be taxed under section 115BAC. **(6 Marks)**

(b) Examine the taxability of capital gains in the following scenarios for the Assessment Year 2021-22, determine the taxable amount and rate of tax applicable:

(i) On 28th February, 2021 10,000 shares of XY Ltd., a listed company are sold by Mr. B @ 550 per share and STT was paid at the time of sale of shares. These shares were acquired by him on 5th April, 2017 @ ₹ 395 per share by paying STT at the time of purchase. On 31st January, 2018, the shares of XY Ltd. were traded on a recognized stock exchange at the Fair Market Value of ₹ 390 per Share.

(ii) Mr. A is the owner of residential house which was purchased on 1st September, 2016 for ₹ 9,00,000. He sold the said house on 4th September, 2020 for ₹ 19,00,000. Valuation as per stamp valuation authorities was ₹ 45,00,000. He invested ₹ 19,00,000 in NHAI Bonds on 21st March, 2021.

The Cost Inflation index for-

F.Y. 2016-17	264
F.Y. 2020-21	301

(2 x 2 = 4 Marks)

(c) Mr. Patel is a proprietor of Star Stores since 20-05-2018. He has transferred his shop by way of slump sale for a total consideration of ₹ 40 Lakh. The professional fees & brokerage paid for this sale are ₹ 80,000. His Balance Sheet as on 31-03-2021 is as under :

Liabilities	₹	Assets	₹
Own Capital	10,50,000	Building	5,00,000
Bank Loan	5,00,000	Furniture	5,00,000
Trade Creditors	2,50,000	Debtors	2,00,000
Unsecured Loan	<u>2,00,000</u>	Other Assets	<u>8,00,000</u>
	<u>20,00,000</u>		<u>20,00,000</u>

Other Information:

1. No individual value of any asset is considered in the transfer deed.

2. Other assets include trademarks valuing ₹ 2,00,000 as on 01-04-2020 on which no depreciation has been provided.
3. Furniture of ₹ 1,50,000 purchased on 05-11-2020 on which no depreciation has been provided.
4. Unsecured loan includes ₹ 50,000 as advance received from his wife, which she has agreed to waive off.

Compute the capital gain for A. Y. 2021-22.

(4 Marks)

Answer

(a) **Computation of Taxable Income of Mr. Ramesh for A.Y. 2021-22 under the regular provisions of the Act**

Particulars	Amount (₹)	Amount (₹)
Income from house property		
<u>Unit - 1 [50% of floor area - Let out]</u>		
Gross Annual Value, higher of		
- Expected rent ₹ 1,14,000 [Higher of Municipal Value of ₹ 94,000 p.a. and Fair Rent of ₹ 1,24,000 p.a., but restricted to Standard Rent of ₹ 1,14,000 p.a.]		
- Actual rent ₹ 1,47,000 [₹ 15,000 x 10] less unrealized rent ³ of ₹ 3,000		
Gross Annual Value	1,47,000	
<i>(Alternatively, ₹ 1,50,000 can be shown as actual rent and gross annual value, and thereafter, deduct ₹ 3,000 unrealized rent therefrom)</i>		
Less: Municipal taxes [50% of ₹20,000 ⁴]	<u>10,000</u>	
Net annual value	1,37,000	
Less: Deductions from Net Annual Value		
(a) 30% of Net Annual Value	41,100	
(b) Interest on loan [50% of ₹ 60,000]	<u>30,000</u>	65,900
<u>Unit – 3 [25% of floor area – Self occupied]</u>		
Net Annual Value	-	
Less: Interest on loan [25% of ₹ 60,000]	<u>15,000</u>	<u>(15,000)</u>
Income from house property		50,900

³ Since the conditions laid down under Rule 4 of Income-tax Rules, 1962, are satisfied

⁴ Assumed to have been paid during the year by Mr. Ramesh

Profits and gains from business or profession			
Business Income [without deducting expenditure on Unit - 2 25% floor area used for business purposes]		1,40,000	
Less: Expenditure in respect of Unit -2			
- Municipal taxes [25% of ₹ 20,000 ⁵]	5,000		
- Repairs [25% of ₹ 5,000]	1,250		
- Interest on loan [25% of ₹ 60,000]	15,000		
- Ground rent [25% of ₹ 6,000]	1,500		
- Fire Insurance premium [25% of ₹ 60,000]	<u>15,000</u>		
		<u>37,750</u>	<u>1,02,250</u>
Taxable Income			<u>1,53,150</u>

(b)

	Particulars	Amount ₹
(i)	Long-term capital gain on transfer of 10,000 shares of XY Ltd. [taxable u/s 112A @10% on amount exceeding ₹ 1,00,000]	
	Full value of consideration [10,000 x ₹ 550]	55,00,000
	Less: Cost of acquisition	
	Higher of	
	Cost of acquisition [10,000 x ₹ 395]	39,50,000
	Lower of fair market value per share as on 31.1.2018 i.e., ₹ 390 per share and sale consideration i.e., ₹ 550 per share [10,000 x ₹ 390]	39,00,000
		<u>39,50,000</u>
	Long term capital gain taxable u/s 112A	<u>15,50,000</u>
	Long-term capital gain exceeding ₹ 1 lakh i.e., ₹ 14,50,000 would be taxable @10%	
(ii)	<u>Sale of residential house [long-term capital asset, since held for more than 24 months]</u>	
	Full value of consideration [stamp duty value, since it exceeds 110% of actual sale consideration]	45,00,000
	Less: Indexed cost of acquisition [₹ 9,00,000 x 301/264]	<u>10,26,136</u>
		34,73,864

⁵ Assumed to have been paid on or before the due date u/s 139(1)

Less: Deduction under section 54EC No deduction under section 54EC would be allowed on investment of ₹ 19,00,000 in NHAI bonds, since such investment is made on 21 st March 2021 i.e., after six months from the date of transfer i.e., 4 th September, 2021	Nil
Long-term capital gain taxable u/s 112 @ 20%	<u>34,73,864</u>

(c) **Computation of capital gains on slump sale of shop**

Particulars	₹
Sale value	40,00,000
Less: Expenses on sale [professional fees & brokerage]	<u>80,000</u>
Net sale consideration	39,20,000
Less: Net worth (See Working Note below)	<u>10,42,500</u>
Short-term capital gain [Since shop is held for not more than 36 months immediately preceding the date of transfer]	<u>28,77,500</u>
Working Note:	
Computation of net worth of shop	
Building	5,00,000
Furniture	5,00,000
Less: Deprecation on ₹1,50,000 @ 5%, being 50% of 10% since furniture is put to use for less than 180 days during the previous year	<u>7,500</u>
	4,92,500
Debtors	2,00,000
Other assets	8,00,000
Less: Deprecation on ₹ 2,00,000, being intangible asset @ 25%	<u>50,000</u>
	<u>7,50,000</u>
Total assets	19,42,500
Less: Bank loan	5,00,000
Trade creditors	2,50,000
Unsecured loan ₹ 2,00,000 less ₹ 50,000, being the amount waived off by his wife	<u>1,50,000</u>
	<u>9,00,000</u>
Net worth	<u>10,42,500</u>

Question 4

- (a) Mr. Dharmesh who is 45 years old and his wife Mrs. Anandi who is 42 years old furnished the following information:

S. No.	Particulars	Amount (₹)
(i)	Salary income (computed) of Mrs. Anandi	9,60,000
(ii)	Income of minor son "A" who suffers from disability specified in section 80U	3,08,000
(iii)	Income of minor daughter "C" from script writing for Television Serials	1,86,000
(iv)	Income from garment trading business of Mr. Dharmesh	17,50,000
(v)	Cash gift received by minor daughter "C" on 02-10-2020 from friend of Mrs. Anandi, on winning of a story writing competition	45,000
(vi)	Income of minor son "B" form scholarship received from his school	1,00,000
(vii)	Income of minor son "B" from fixed deposit with Punjab National Bank, made out of income earned from scholarship	5,000

Compute the total income of Mr. Dharmesh and his wife Mrs. Anandi for Assessment Year 2021-22 assuming that they have not opted to be taxed under section 115BAC. (5 Marks)

- (b) Mr. X a resident individual submits the following information, relevant to the previous year ending March 31, 2021:

S. No.	Particulars	Amount (₹)
(i)	Income from Salary (Computed)	2,22,000
(ii)	Income from House Property	
	- House in Delhi	22,000
	- House in Chennai	(-) 2,60,000
	- House in Mumbai (self-occupied)	(-) 20,000
(iii)	Profit and gains from business or profession	
	- Textile business	18,000
	- Cosmetics business	(-) 22,000
	- Speculative business- 1	(-) 74,000
	- Speculative business-2	46,000
(iv)	Capital gains	
	Short term capital loss from sale of property	(-) 16,000
	Long term capital gains from sale of property	15,400
(v)	Income from other sources (Computed)	
	- Income from betting	34,000
	- Income from card games	46,000
	- Loss on maintenance of race horses	(-) 14,600

Determine the gross total income of Mr. X for the assessment year 2021-22 and the losses to be carried forward assuming that he does not opt to be taxed under section 115BAC.

(5 Marks)

- (c) Enumerate the cases where a return of loss has to be filed on or before the due date specified u/s 139(1) for carry forward of the losses. Also enumerate the cases where losses can be carried forward even though the return of loss has not been filed on or before the due date.

(4 Marks)

OR

In the following cases relating to P.Y.2020-21, the total income of the assessee or the total income of any other person in respect of which he/she is assessable under Income-tax Act does not exceed the basic exemption limit. You are required to state with reasons, whether the assessee is still required to file the return of income or loss for A.Y.2021-22 in each of the following independent situations:

- (i) Manish & Sons (HUF) sold a residential house on which there arose a long term capital gain of ₹ 12 lakhs which was invested in Capital Gain Bonds u/s 54EC so that no long term capital gain was taxable. **(1 □ Marks)**
- (ii) Mrs. Archana was born in Germany and married in India. Her residential status under section 6(6) of the Income-tax Act, 1961 is 'resident and ordinarily resident'. She owns a car in Germany which she uses for her personal purposes during her visit to her parents' place in that country. **(1 □ Marks)**
- (iii) Sudhakar has incurred an expenditure of ₹ 1,20,000 towards consumption of electricity, the entire payment of which was made through banking channels.

(1 Mark)

Answer

- (a) **Computation of Total Income of Mr. Dharmesh and Mrs. Anandi for A.Y. 2021-22**

Particulars	Mr. Dharmesh	Mrs. Anandi
	Amount (₹)	
Salary income (computed)		9,60,000
Income from garment trading business	17,50,000	
Total Income before including income of minor children	17,50,000	9,60,000
<u>Income of minor son "A"</u>		
Income of ₹ 3,08,000 of minor son A who suffers from disability specified in section 80U [Since minor child A is suffering from disability specified under section 80U, hence, his income would not		

be included in the income of the parent but would be taxable in the hands of the minor child]		
<u>Income of minor son "B"</u>		
Income of ₹ 1,00,000 from scholarship [Exempt u/s 10(16)]		-
Income from fixed deposit with PNB 5,000 [Since Mr. Dharmesh's income is greater than that of Mrs. Anandi, income of minor son B from fixed deposit would be included in the hands of Mr. Dharmesh. Interest from bank deposit has to be included in Mr. Dharmesh's income, even if deposit is made out of income earned from scholarship]		
Less: Exemption under section 10(32) 1,500		3,500
<u>Income of minor daughter "C"</u>		
Income of ₹ 1,86,000 from script writing for television serials [Income derived by a minor child from any activity involving application of his/her skill, talent, specialized knowledge and experience is not to be included in the hands of the parent] Hence, clubbing provisions will not apply in this case/no adjustment is required.		Nil
Cash gifts of ₹ 45,000 received from friend of Mrs. Anandi [Gift not exceeding ₹ 50,000 received from a non-relative is not taxable under section 56(2)(x)] Hence, clubbing provisions will not apply in this case / no adjustment is required.		Nil
Gross Total Income/ Total Income	17,53,500	9,60,000

Note - As per section 10(16), scholarships granted to meet the cost of education is exempt from tax. The purpose of scholarship received by minor son B is explicitly not mentioned in the question. However, scholarships given by schools are generally in the form of financial assistance for meeting the cost of education. Hence, it is logical to assume that the scholarship to B has been granted to him to meet his cost of education. Based on this assumption, the same has been treated as exempt from tax u/s 10(16).

Alternate view - However, in absence of specific information, it is possible to assume that such scholarship has been granted on account of B's exceptional academic achievements

i.e., involving application of his skill, talent, specialised knowledge and experience and hence would be covered under the proviso to section 64(1A) and thus should not be included in the income of parent.

(b) **Computation of Gross Total Income of Mr. X for A.Y. 2021-22**

Particulars	Amount	Amount
Salaries		
Income from salary (computed)	2,22,000	
Less: Set-off of loss from house property of ₹ 2,58,000 to the extent of ₹ 2 lakhs by virtue of section 71(3A)	2,00,000	22,000
Income from house property		
- House in Delhi	22,000	
- House in Chennai	(2,60,000)	
- House in Mumbai (self-occupied)	(20,000)	
	(2,58,000)	
Loss upto ₹ 2 lakhs can be set off against income from salary.		
Balance loss of ₹ 58,000 from house property has to be carried forward to A.Y.2022-23.		
Profits and gains from business or profession		
Profits from Speculative business – 2	46,000	
Less: Loss of ₹ 74,000 from speculation business - 1 set off to the extent of profits of ₹ 46,000 as per section 73(1) from another speculation business. Loss from speculation business cannot be set-off against any income other than profit and gains of another speculation business.	(46,000)	
Hence, the balance loss of ₹ 28,000 from speculative business has to be carried forward to A.Y.2022-23.		-
Profits from textile business	18,000	
Less: Loss from cosmetic business of ₹ 22,000 set off against profits from textile business to the extent of ₹ 18,000 as per section 70(1).	(18,000)	-
Balance loss of ₹ 4,000 from cosmetic business has to be carried forward to A.Y.2022-23, since the same cannot be set-off against salary income.		
Capital Gains		
Long term capital gain from sale of property	15,400	

<p>Less: Short-term capital loss can be set-off against both short-term capital gains and long-term capital gains. Short term capital loss of ₹ 16,000 set off against long-term capital gains to the extent of ₹ 15,400 as per section 74(1).</p>	(15,400)	-
<p>Balance short term capital loss of ₹ 600 has to be carry forward to A.Y.2022-23</p>		
<p>Income from Other Sources</p>		
<p>Income from betting [No loss is allowed to be set off against such income]</p>	34,000	
<p>Income from card games [No loss is allowed to be set off against such income]</p>	46,000	
<p>Loss on activity of owning and maintenance of race horses [Loss incurred on activity of owning and maintenance of race horses cannot be set-off against income from any source other than the activity of owning and maintaining race horses. Hence, such loss of ₹ 14,600 has to be carried forward to A.Y.2022-23]</p>	<u>Nil</u>	
<p>Gross Total Income</p>		<u>80,000</u> <u>1,02,000</u>

(c) [First Alternative]

As per section 139(3), an assessee is required to file a return of loss within the due date specified u/s 139(1) for filing return of income.

As per section 80, certain losses which have not been determined in pursuance of a return filed under section 139(3) on or before the due date specified under section 139(1) cannot be carried forward and set-off. Thus, the assessee has to file a return of loss under section 139(3) within the time allowed u/s 139(1) in order to carry forward and set off of following losses:

- loss under the head "Capital Gains",
- loss from activity of owning and maintaining race horses.
- business loss,
- speculation business loss and
- loss from specified business.

However, following can be carried forward for set-off even if the return of loss has not been filed before the due date:

- Loss under the head "Income from house property" and
- Unabsorbed depreciation.

(c) [Second Alternative]

- (i) A HUF whose total income without giving effect to, *inter alia*, section 54EC, exceeds the basic exemption limit of ₹ 2,50,000, is required to file a return of its income on or before the due date under section 139(1). In this case, since the total income without giving effect to exemption under section 54EC is ₹ 12 lakhs, exceeds the basic exemption limit, the HUF is required to file its return of income for A.Y. 2021-22 on or before the due date under section 139(1).
- (ii) Every person, being a resident other than not ordinarily resident in India would be required to file a return of income or loss for the previous year on or before the due date, even if his or her total income does not exceed the basic exemption limit, if such person, at any time during the previous year, *inter alia*, holds any asset located outside India.

In this case, though Mrs. Archana owns a car in Germany, the same does not fall within the ambit of "capital asset" as it is a personal effect. Hence, Mrs. Archana is not required to file her return of income for A.Y. 2021-22 on account of owning a car for personal purposes in Germany.

Note – "Asset" for the purpose of the fourth proviso to section 139(1) has not been specifically defined in the said section or elsewhere in the Act. Schedule FA of the income-tax return forms, however, requires details of foreign assets for the purpose of filing of return of income under this provision. The foreign assets listed in the said Schedule does not include car. It, however, includes "any other capital assets outside India". Car used for personal purposes is not a capital asset as it is a "personal effect". Hence, it is not included in the meaning of "asset" for the purpose of the fourth proviso to section 139(1). The above answer is based on the view taken regarding the ambit of the term "asset", based on the list of assets detailed in the relevant schedule of the income-tax return forms.

Alternative view - On the plain reading of the fourth proviso to section 139(1) and the general meaning attributable to the word "asset", it is possible to take a view that Mrs. Archana is required to file her return of income as she owns an asset, i.e., a car in Germany. Accordingly, due credit may also be given to the candidates who have answered on this basis.

- (iii) If an individual has incurred expenditure exceeding ₹ 1 lakh towards consumption of electricity during the previous year, he would be required to file a return of income, even if his total income does not exceed the basic exemption limit. Since Mr. Sudhakar has incurred expenditure of ₹ 1,20,000 in the P.Y.2020-21 towards consumption of electricity, he has to file his return of income for A.Y. 2021-22 on or before the due date under section 139(1).

SECTION B: INDIRECT TAXES

Question No. 5 is compulsory.

Candidates are also required to answer any **two** questions from the remaining **three** questions.

All questions should be answered on the basis of position of position of GST law as amended by significant notifications/circulars issued upto 31st October, 2020.

Working notes should form part of the answer.

Wherever necessary, suitable assumptions may be made by the candidates and disclosed by way of note.

Question 5

X Electronics is a registered manufacturer of electrical appliances.

It made contract with dealers, that purchase of air conditioners of capacity 1.5 ton in the month of October, 2020 of quantity of more than 50 units will entitle them for 10% discount.

Inter-State supply made during the month of October 2020 is ₹ 50,00,000

Details of Intra-State supply:

Particulars	Amount (₹)
Supply of Microwave Oven	15,00,000
Supply of Refrigerators with Stabilizers being a mixed supply, rate of GST on Refrigerator is 28% (14% CGST & 14% SGST), rate of GST on Stabilizer is 18% (9% CGST & 9% SGST)	40,00,000
Supply of Air Conditioners of capacity 1.5 Ton @ ₹ 50,000 per Air Conditioner	50,00,000

Intra-State inward supplies are :

Particulars	Amount (₹)
Raw material	20,00,000
Paid Gym membership for employees	50,000
Truck purchased for transportation of goods	30,00,000

X Electronics made supply of Air Conditioners (capacity 1.5 ton) to only one dealer named Mr. L.

Gym membership for employees is not obligatory for X Electronics under any law.

Opening Balance of ITC is as under:

CGST: ₹ 58,000

SGST: ₹ 70,000

IGST: ₹ 10,00,000

Note:

- (i) Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supplies except where specifically provided.
- (ii) Both inward and outward supplies are exclusive of taxes.
- (iii) All the conditions for availing the ITC have been fulfilled.

Compute the Net GST payable in cash by X Electronics for the month of October, 2020.

(8 Marks)

Answer

Computation of net GST payable in cash by X Electronics for October 2020

Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
i. Intra-State supply				
Supply of microwave oven	15,00,000	1,35,000	1,35,000	
Supply of refrigerators with stabilizers [Being mixed supply, the supply shall be treated as a supply of that particular supply which attracts the highest rate of tax and taxed accordingly. Thus, it will be taxed @ 14% CGST and 14% SGST.]	40,00,000	5,60,000	5,60,000	
Supply of 100 (₹ 50 lakh/ ₹ 50,000) air conditioners [Since 100 air conditioners have been supplied, discount @ 10% will be available.] ¹	45,00,000 [₹ 50,00,000 x 90%]	4,05,000	4,05,000	

¹ It has been presumed that there is one supply transaction for 100 ACs and thus, the discount has been given in the invoice itself. Alternatively, even if there have been multiple supply transactions for the ACs during the month and the discount has been given vide credit note, it has been presumed that the credit note has been issued in October 2020 and all other conditions prescribed in section 15(3)(b) of the CGST Act, 2017 have been complied with. Thus, the effect of the discount has been adjusted in the month of October 2020 itself.

II.	Inter-State supply @ 18%	50,00,000			9,00,000
Total outward tax liability			11,00,000	11,00,000	9,00,000
Less: Input Tax Credit (Refer Working Note below)					
IGST credit first utilized towards payment of IGST. Remaining amount can be utilized towards CGST and SGST in any order and in any proportion			1,00,000 (IGST)		9,00,000 (IGST)
CGST credit set off against CGST liability and SGST credit set off against SGST liability as CGST credit cannot be utilized towards payment of SGST and vice versa.			5,08,000 (CGST)	5,20,000 (SGST)	
Net GST liability payable in cash			4,92,000	5,80,000	Nil

Working Note**Computation of ITC available with X Electronics**

Particulars		CGST (₹)	SGST (₹)	IGST (₹)
Opening balance of ITC		58,000	70,000	10,00,000
Intra-State inward supplies				
Raw material	20,00,000	1,80,000	1,80,000	
Gym membership for employees [ITC on membership of a health and fitness centre is blocked if there is no statutory obligation for the employer to provide the same.]	50,000	Nil	Nil	
Truck purchased for transportation of goods [ITC on motor vehicles used for transportation of goods is not blocked ² .]	30,00,000	2,70,000	2,70,000	
Total ITC		5,08,000	5,20,000	10,00,000

Note: In the above answer, tax payable in cash has been computed by setting off the IGST credit against CGST liability. However, since IGST credit can be set off against CGST and SGST liability in any order and in any proportion, the same can be set off against CGST and/or SGST liabilities in different other ways as well. In all such cases, net CGST and net SGST payable in cash will differ though the total amount of net GST payable (₹ 10,72,000) in cash will remain the same.

² It has been assumed that depreciation has not been claimed on tax component.

Question 6

- (a) A Ltd. procured the following goods in the month of December, 2020.

Inward Supplies	GST (₹)
(1) Goods used in constructing an additional floor of office building	18,450
(2) Goods given as free sample to prospective customers	15,000
(3) Trucks used for transportation of inputs in the factory	11,000
(4) Inputs used in trial runs	9,850
(5) Confectionery items for consumption of employees working in the factory	3,250
(6) Cement used for making foundation and structural support to plant and machinery	8,050

Compute the amount of ITC available with A Ltd. for the month of December 2020 by giving necessary explanations. Assume that all the other conditions necessary for availing ITC have been fulfilled. **(6 Marks)**

- (b) Explain the composite supply and mixed supply. If a trader launches a package sales for marriage containing double bed, refrigerator, washing machine, wooden wardrobe at a single rate. He is issuing invoice showing value of each goods separately. Whether this is case of mixed supply or composite supply. Explain. **(4 Marks)**

Answer

- (a)
- Computation of amount of ITC available for the month of December 2020**

S. No.	Particulars	GST (₹)
(1)	Goods used in construction of additional floor of office building [ITC on goods received by a taxable person for construction of an immovable property on his own account is blocked even if the same is used in the course or furtherance of business. It has been assumed that cost of construction of additional floor has been capitalized.]	Nil
(2)	Goods given as free samples to prospective customers [ITC on goods disposed of by way of free samples is blocked.]	Nil
(3)	Trucks used for transportation of inputs in the factory [ITC on motor vehicles used for transportation of goods is not blocked ³ .]	11,000

³ It has been assumed that depreciation has not been claimed on tax component.

(4)	Inputs used in trial runs [Being used in trial runs, inputs are used in the course or furtherance of business and hence ITC thereon is allowed.]	9,850
(5)	Confectionary items for consumption of employees working in the factory [ITC on food or beverages is blocked unless the same is used in same line of business or as an element of the taxable composite or mixed supply. Further, ITC on goods and/or service used for personal consumption is blocked.]	Nil
(6)	Cement used for making foundation and structural support to plant and machinery [ITC on goods used for construction of plant and machinery is not blocked. Plant and machinery includes foundation and structural supports through which the same is fixed to earth.]	8,050
	Total eligible ITC	28,900

- (b) Composite supply comprises of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price

where such supply does not constitute a composite supply.

Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled and also the invoice for the supply shows separate values for each item i.e., the package is not supplied for a single price.

Therefore, supply of such items as a package will neither constitute a composite supply nor a mixed supply. Thus, the various items of the package will be treated as being supplied individually.

Note: The question specifies that the various items are supplied at a 'single rate'. The "single rate" expression is construed as single rate of tax in the above answer. Further, the "single rate" may also be construed as single price as given in the below mentioned answer.

Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled. Therefore, supply of such items as a package will not constitute composite supply. Further, a single price has been charged for the package.

Consequently, supply of such items as a package will be treated as mixed supply.

Question 7

(a) P Ltd, a registered person provided following information for the month of October, 2020:

Particulars	Amount (₹)
Intra-State outward supply	8,00,000
Inter-State exempt outward supply	4,00,000
Turnover of exported goods	20,00,000
Payment of IGST	1,20,000
Payment of CGST and SGST	45,000 each
Payment of custom duty on export	40,000
Payment made for availing GTA services	3,00,000

GST is payable on Reverse Charge for GTA services.

Explain the meaning of aggregate turnover u/s 2(6) of the CGST Act and compute the aggregate turnover of P Ltd. for the month of October, 2020. All amounts are exclusive of GST. **(5 Marks)**

(b) XYZ Pvt. Ltd. manufactures beauty soap with the brand name 'Forever beauty'. XYZ Pvt. Ltd. has organized a concert to promote its brand. Ms. Mahima, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert.

The proceeds of the concert is ₹ 1,25,000.

- (i) Explain with relevant provisions of GST, whether Ms. Mahima will be required to pay any GST.
- (ii) What will be the answer if the proceeds of the concert is donated to a charitable organization? **(5 Marks)**

Answer

(a) The term aggregate turnover means the aggregate value of:

- (i) all taxable supplies
- (ii) exempt supplies,
- (iii) exports of goods or services or both and
- (iv) inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excluding
- (i) central tax, State tax, Union territory tax, integrated tax and cess.
- (ii) the value of inward supplies on which tax is payable by a person on reverse charge basis

**Computation of aggregate turnover of P Ltd. for the month of
October, 2020**

Particulars	Amount (₹)
In terms of the definition of the aggregate turnover given above, the aggregate turnover of P Ltd. has been computed as follows:	
Intra-State outward supply	8,00,000
Inter-State exempt outward supply	4,00,000
Turnover of exported goods	20,00,000
Payment of IGST	Nil
Payment of CGST and SGST	Nil
Payment of customs duty on export	40,000
Payment made under reverse charge for availing GTA services	Nil
Aggregate turnover	<u>32,40,000</u>

- (b) (i) Services by an artist by way of a performance in classical art forms of, *inter alia*, dance, are exempt from GST, if the consideration charged for such performance is not more than ₹ 1,50,000. However, such exemption is not available in respect of service provided by such artist as a brand ambassador. Since Ms. Mahima is the brand ambassador of 'Forever Beauty' soap manufactured by XYZ Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by XYZ Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST.
- (ii) Even if the proceeds of the concert will be donated to a charitable organization, she will be liable to GST.

Question 8

- (a) Explain who is required to furnish final return, time limit for filing of final return and late fee for delay in filing final return. **(5 Marks)**
- (b) Examine the following cases and explain with reasons whether the supplier of goods is liable to get registered in GST:
- (i) Krishna of Himachal Pradesh is exclusively engaged in intra-State taxable supply of readymade suits. His turnover in the current financial year from Himachal Pradesh showroom is ₹ 25 lakh. He has two more showrooms one in Manipur & another in

Sikkim with a turnover of ₹ 15 lakh and ₹ 18 lakh respectively in the current financial year.

- (ii) *Ankit of Telangana is exclusively engaged in intra-State taxable supply of footwears. His aggregate turnover in the current financial year is ₹ 25 lakh:*
- (iii) *Aakash of Uttar Pradesh is exclusively engaged in intra-State supply of pan masala. His aggregate turnover in the current financial year is ₹ 30 lakh. (5 Marks)*

OR

Who can be registered as Goods and Service Tax Practitioners under Section 48 of the CGST Act? (5 Marks)

Answer

- (a) Every registered person who is required to furnish a return and whose registration has been surrendered or cancelled is required to file a final return.

The final return has to be filed within 3 months of the:

- (i) date of cancellation

or

- (ii) date of order of cancellation

whichever is later.

Quantum of late fee for not filing the final return is as follows:

- (i) ₹ 100 for every day during which such failure continues

or

- (ii) ₹ 5,000

whichever is lower.

An equal amount of late fee is payable under the respective SGST/UTGST Act as well.

- (b) Every person engaged in making a taxable supply is required to obtain registration if his aggregate turnover exceeds ₹ 20 lakh in a financial year. An enhanced threshold limit for registration of ₹ 40 lakh is available to persons engaged exclusively in intra-State supply of goods in specified States.

- (i) The applicable threshold limit for registration gets reduced to ₹ 10 lakh in case a person is engaged in making taxable supply from a Special Category State.

Since Krishna is making taxable supply from Manipur – a Special Category State, the applicable threshold limit will get reduced to ₹ 10 lakh. Thus, it is liable to be registered under GST as its aggregate turnover exceeds the said threshold limit.

- (ii) Since Ankit is exclusively engaged in intra-State supply of goods in Telangana, which is not a specified State for enhanced threshold limit, the applicable threshold limit for registration is ₹ 20 lakh.

Thus, Ankit is liable to be registered under GST as its aggregate turnover exceeds the said threshold limit.

- (iii) Though the enhanced threshold limit for registration of ₹ 40 lakh is available to Uttar Pradesh, the same will not be applicable if the person is engaged in supply of pan masala.

In view of the same, the applicable threshold limit for Aakash is ₹ 20 lakh. Thus, it is liable to be registered under GST as its aggregate turnover exceeds the said threshold limit.

Alternative

- (b) Following persons can be registered as Goods and Service Tax Practitioners:

Any person who, (i) is a citizen of India; (ii) is a person of sound mind; (iii) is not adjudicated as insolvent; (iv) has not been convicted by a competent court;

and satisfies any of the following conditions, namely that he:

1. is a retired officer of Commercial Tax Department of any State Govt./CBIC who, during service under Government had worked in a post not lower than the rank of a Group-B gazetted officer for a period ≥ 2 years, or
2. is enrolled as a Sales Tax Practitioner or Tax Return Preparer under the erstwhile indirect tax laws for a period of not less than 5 years, or
3. acquired any of the prescribed qualifications
4. has passed Graduate/postgraduate degree or its equivalent examination having a degree in specified disciplines, from any Indian University or a degree examination of any Foreign University recognised by any Indian University as equivalent to degree examination
5. has passed any other notified examination
6. has passed final examination of ICAI/ ICSI/ Institute of Cost Accountants of India

Note: Any 3 points may be mentioned.