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CA FINAL (Nov 2024)
GROUP II - PAPER 4
DIRECT TAX LAWS & INTERNATIONAL TAXATION
SUGGESTED ANSWERS
(Series 3)

PART - I (MCQs)

MCQ - 2 marks each														
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.
C	C	A	D	A	C	B	B	D	D	C	B	B	D	A

PART - II (Descriptive Answers)

1 Implication on conversion of company into LLP

Transfer of capital asset or intangible asset by a private company or unlisted public company to a LLP or any transfer of share held by shareholder to LLP in a conversion of private company into an LLP is not regarded as transfer under section 47 provided the conditions specified therein are satisfied.

Accordingly, transfer of capital asset by Binu Ltd., Delhi to M/s Soumya LLP is not regarded as transfer since the conditions specified in section 47(xiiib) as stated in the question stand satisfied and fulfilled.

Computation of Total Income in the hands of M/s Soumya LLP

Particulars	Amount (₹)		
Profits and gains of business and profession			
Net profit as per the profit and loss account		25,40,000	
Add: Items debited but to be considered separately or to be disallowed			
(i) Salary to Binu, working partner (to be considered separately) [₹ 55,000 x 12]	6.60,000		

<p>(ii) Salary paid to Mr. Ayushman, an employee</p> <p>[Under section 40A(3), disallowance is attracted in respect of expenditure for which cash payment exceeding ₹ 10,000 is made on a day to a person. Payment of ₹ 3,45,000 to Mr. Ayushman, an employee, is covered by exception under Rule 6DD since, TDS has been deducted, employee is temporarily posted in Mumbai and does not have a bank account in Mumbai. Since the same has been debited to profit and loss account, no adjustment is required]</p>	-		
<p>(iii) Penalty for non-fulfilment of delivery conditions of a contract for sale</p> <p>[Penalty for non-fulfilment of delivery conditions of a contract for sale is not on account of infraction of law. Penalty for breach of contract is business or commercial loss and would be allowable expenditure under section 37. Since the same has been debited to profit and loss account, no adjustment is required]</p>	-		
<p>(iv) Provision for wages payable to workers</p> <p>[The provision is based on fair estimate of wages and reasonable certainty of revision, and thus is allowable as deduction, as ICDS-X requires 'reasonable certainty for recognition of a provision, which is present in this case. As the provision has been debited to profit and loss account, no adjustment is required while computing business income]</p>	-		
<p>(v) Depreciation as per books of account</p>	5,40,000		
<p>(vi) Provision for gratuity</p> <p>[Provision of ₹ 6,50,000 for gratuity based on actuarial valuation is not allowable as deduction as per section 40A(7). However, actual gratuity of ₹ 4,00,000 paid is allowable as deduction. Hence, the difference is to be added back being of ₹ 2,50,000 (₹6,50,000 - ₹4,00,000)]</p>	2,50,000		
<p>(viii) Repair to plant and machinery given on lease</p> <p>[Lease rent from factory building along with plant and machinery and furniture is chargeable to tax under the head income from other sources, since the main business of the M/s Soumya LLP is manufacturing of metro rail seats and not letting out the properties. Therefore, repairs to such plant and machinery to be deducted from lease income taxable under the head "Income from Other Sources. Since the same has been debited to profit and loss account, it has to be added back]</p>	59,000		
<p>(ix) Factory licence fee paid</p> <p>[Factory licence fee in respect of leased out factory building is to be deducted from lease income taxable under the head "Income from Other Sources". Since the same has been debited to profit and loss account, it has to be added back]</p>	15,000		

<p>(x) Legal fee to advocate for drafting and registering lease agreement [Legal fee to advocate for drafting and registering lease agreement to be deducted from lease income taxable under the head “Income from Other Sources”. Since the same has been debited to profit and loss, it has to be added back]</p>	26,000		
<p>Add: Amount taxable but not credited to profit and loss account</p>			
<p>AI(4) Profit on sale of import entitlements [Profit on sale of import entitlements is chargeable to tax under the head “Profits and gains from business and profession” under section 28. Since the same has not been credited to profit and loss account, it has to be added]</p>	1,50,000		
		17,00,000	
		42,40,000	
<p>Less: Items credited to profit and loss account, but not includible in business income / permissible expenditure and allowances</p>			
<p>(i) Profit on sale of shares of M/s Toyo Ltd. [Taxable under the head “Capital Gains”. Since the same has been credited to profit and loss account, it has to be reduced from business income]</p>	1,27,500		
<p>AI(a) Voluntary Retirement Scheme expenditure [₹ 20 lakh/5] [One fifth deduction is available in respect of payment for voluntary retirement scheme for five years. Where a private company or unlisted company is succeeded by a LLP fulfilling the conditions laid down in section 47(xiii b), then, deduction in respect of voluntary retirement scheme is available to the LLP for the balance years from the year of succession. Hence, deduction of ₹ 4,00,000 is allowable in P.Y. 2023-24 to M/s Soumya LLP being for 3rd year]</p>	4,00,000		

<p>AI(1) Interest paid during the year</p> <p>[Conversion of unpaid interest into loan shall not be construed as payment of interest for the purpose of section 43B. The amount of unpaid interest converted into a new loan will be allowable as deduction only in the year in which such converted loan is actually paid. Since ₹ 3 lakhs has been paid in the P.Y. 2023-24, the same is allowable as deduction]</p>	3,00,000		
<p>AI(2) Depreciation on motor car exclusively used for business purpose</p> <p>[Depreciation on motor car bought and used exclusively for the purposes of business is allowable though not registered in the name of the firm.]</p>	15,000		
<p>AI(3) Depreciation as per Income-tax Rules [₹ 8,10,000 – ₹ 90,000]</p> <p>[Depreciation on leased out asset to be deducted from lease income taxable under the head "Income from Other Sources. Since the same has been included in depreciation of ₹8,10,000, it has to be reduced from it]</p>	7,20,000	15,62,500	
<p>Book Profit</p>		26,77,500	
<p>Less: Remuneration to Mr. Binu, a working partner [Subject to limit specified in section 40(b)]</p> <p>[On first ₹ 3,00,000 of book profit, 90% of book profit or ₹ 1,50,000, whichever is higher and on the balance of book profit, 60% of balance book profit] [₹ 16,96,500 (2,70,000, being 90% of ₹ 3,00,000 + ₹14,26,500, being 60% of ₹ 23,77,500) restricted to actual remuneration paid to Binu.</p>		6,60,000	
<p>Profits and gains from business and profession</p>			20,17,500
<p>Capital Gains</p>			
<p>Sale consideration [150 x ₹ 2,750 per share]</p>		4,12,500	
<p>Less: Cost of acquisition [150 x ₹ 2,500 per share] [Indexation benefit would not be available] [Higher of (i) ₹ 1,900, actual cost, being the cost of acquisition to Binu Ltd. as per section 49] (ii) ₹ 2,500, being the lower of</p>		3,75,000	

- Fair market value as on 31.1.2018 [₹ 2,500 per share] - Full value of consideration [₹ 2,750 per share]			
Long term Capital gains since shares held for more than 12 months [Period of holding of Binu Ltd. is also included]			37,500
Income from Other Sources			
Lease rent [₹ 50,000 x 12]		6,00,000	
Less: Deduction under section 57			
Repair of leased out plant and machinery		59,000	
Factory licence fee in respect of leasedout factory building		15,000	
Legal fee for drafting and registering lease agreement		26,000	
Depreciation of assets given on lease		90,000	
			4,10,000
Gross Total Income/ Total Income			24,65,000

2 (a) Computation of total income and tax payable in the hands of Mr. Rajesh

	Particulars	₹
(i)	Dividend income from GPL Ltd. (SPV) As per section 10(23FD), the component of dividend income distributed to unitholders is not taxable in the hands of unitholders, since GPL Ltd. (SPV) has not exercised the option u/s 115BAA. Accordingly, ₹ 18 lakhs (10% of ₹ 1.80 crore, being 90% of ₹ 2 crore), being the dividend component of income received by Mr. Rajesh from Shipra Ltd. is not taxable in his hands.	-
(ii)	Interest income from GPL Ltd. (SPV) As per section 115UA(3), interest income distributed to unit holders would be deemed as income of the unit holders. Accordingly, ₹ 27 lakhs [i.e., 10% of ₹ 2.7 crores (90% of ₹ 3 crores)], being the interest component of income distributed to Mr. Rajesh, is taxable in the hands of the Mr. Rajesh.	27,00,000
(iii)	Short-term capital gain on sale of development properties by Shipra Ltd. As per section 115UA(2), STCG on sale of development properties is taxable at maximum marginal rate of 42.744% in the hands of the REIT. No tax liability arises in hands of Mr. Rajesh on ₹ 9 lakh (10% of ₹ 90 lakh, being 90% of ₹ 1 crore), being capital gain component of income distributed to him, by virtue of section 10(23FD).	-

(iv)	<p>Business Income of PQR Ltd.</p> <p>Business income of an investment fund is taxable in hands of investment fund. Consequently, as per section 10(23FBB), business income accruing or arising to or received by a unitholder of investment fund is not taxable in his hands.</p>	-
(v)	<p>Long-term capital loss of PQR Ltd.</p> <p>Long-term capital loss of ₹ 2,70,000 (10% of ₹ 27 lakhs) can be carried forward and set-off by Mr. Rajesh, since he holds such units for more than 12 months, against income from long-term capital gains arising in the subsequent years, since there is no long-term capital gain in the current year. It can be carried forward for a maximum of 8 assessment years.</p>	-
(vi)	<p>Interest income of PQR Ltd.</p> <p>As per section 10(23FBA), interest income would be exempt in the hands of Investment fund. As per section 115UB, ₹ 5,20,000 lakhs (10% of ₹ 52 lakhs) would be taxable as income from other sources in the hands of Mr. Rajesh.</p> <p>Even if investment fund distributed only 90% of its income to the unit holders during the year, remaining 10% of income would be deemed to be credited to account of each unitholder on the last day of previous year i.e., 31.03.2024.</p>	5,20,000
Total income		32,20,000

Computation of tax payable by Mr. Rajesh

Particulars	₹	₹
Upto ₹ 3,00,000	Nil	
₹ 3,00,001 – ₹ 6,00,000 @5%	15,000	
₹ 6,00,001 – ₹9,00,000 @10%	30,000	
₹ 9,00,001 – ₹12,00,000 @15%	45,000	
₹12,00,001 – ₹15,00,000 @20%	60,000	
₹ 15,00,001 – ₹ 32,20,000@30%	<u>5,16,000</u>	6,66,000
Add: Health and education cess @4%		<u>26,640</u>
Tax liability		6,92,640
Less: Tax deducted at source		
- under section 194LBA @ 10% by Shipra Ltd. in respect of interest income from SPV	2,70,000	
- under section 194LBB @10% by PQR Ltd.	<u>52,000</u>	<u>3,22,000</u>
Net Tax payable		<u>3,70,640</u>

- 2 (b) (i)** If a **Liaison Office** is maintained solely for the purpose of carrying out activities which are **preparatory or auxiliary** in character, and such activities are approved by the Reserve Bank of India, then, **no business connection** is established.

In this case, had the liaison office's activities been restricted to forwarding of trade inquiries to ABC Ltd., a Dubai based company, its activities would not have constituted business connection. However, the activities of the liaison office extends to also

negotiating and entering into contracts on behalf of ABC Ltd. with the customers in India, on account of which **business connection is established**.

- (ii) As per the opening sentence in Explanation 2, to section 9(1)(i) “business connection” shall include any business activity carried out through a person in India acting on behalf of the non-resident. Accordingly, in this case, since the **branch office is carrying out a business activity** by purchasing raw materials in India for XYZ Inc. and selling finished product manufactured by XYZ Inc. to customers in India and providing sales related services to them on behalf of XYZ Inc., **business connection is established**.

It may be noted that as per clause (a) of Explanation 2, in the case of a non-resident, no business connection would be established if the activities of the person acting on behalf of the non-resident were limited to the purchase of goods or merchandise for the non-resident.

In the present case, however, business connection would be established, since the branch set up at Hyderabad by XYZ Inc. is not solely engaged in purchase of raw materials for XYZ Inc. for manufacturing its products but is also engaged in selling such manufactured products to customers in India and providing sales related services to them on behalf of XYZ Inc.

- (iii) ‘Business connection’ shall include any business activity carried out through a person acting on behalf of the non-resident. For a business connection to be established, the person acting on behalf of the non-resident –
- must have an authority which is habitually exercised in India to **conclude contracts** on behalf of the non-resident or;
 - in a case where he has no such authority, but habitually **maintains in India a stock** of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident, or
 - habitually **secures orders in India**, mainly or wholly for the non-resident.

In the present case, business connection would not be established, since Mr. Rajesh does not have the authority to accept or conclude orders in India on behalf of PQR Inc. Moreover, all the orders were directly received, accepted and after receipt of the price/value, the delivery of goods was also given by PQR Inc. outside India. Hence, **no business connection is established in this case**.

3 (a) Computation of total income of Asma Rani Public Charitable Trust

Particulars	₹	₹
Gross receipts from Hospital (other than voluntary contribution of ₹ 20 lakhs)		5,40,00,000
Gross receipts from Rehabilitation Centre		2,20,00,000
Grant received from State Govt.		7,50,000
Fees not realized from patients as at 31.3.2024 (not includible, since trust follows cash system of accounting)		-
		7,67,50,000
Add: Voluntary contributions other than corpus donations of ₹ 10 lacs		10,00,000
		7,77,50,000

Add: Anonymous donations [to the extent not chargeable to tax@30% u/s 115BBC(1)(i)] [₹ 1,40,000, being 5% of total donations of ₹ 28,00,000 or ₹ 1,00,000, whichever is higher]		1,40,000
		7,78,90,000
Less: 15% of income eligible for being set apart without any condition		1,16,83,500
		6,62,06,500
Less: Amount applied for charitable purposes		
- On revenue account – Administrative expenses:		
For Hospital (Out of ₹ 335 lakhs, ₹ 3.6 lakhs, being 30% of 12 lakhs, would be disallowed, since tax is not deducted u/s 192 & 194C on such amount paid to resident doctors & contractors)	3,31,40,000	0
For Rehabilitation Centre	1,38,00,000	0
- On capital account – Land & Building	1,50,00,000	0
[Section 56(2)(x) is not attracted in respect of value of property received by a trust or institution registered u/s 12AB]		
- Donation to Jan Kalyan Trust registered u/s 12AB (₹ 6 lakhs x 85%)	5,10,000	
[Allowable to the extent of 85%, even though the objects of the trust are different. Only corpus donations are not permissible to other trusts registered u/s 12AB. Thus, out of ₹ 11 lakhs, ₹ 5 lakhs towards corpus are not allowable as deduction.]		
- Repayment of loan taken for construction of Rehab. Centre	<u>6,65,000</u>	6,31,15,000
		30,91,500
Less: Amount set apart for acquiring another table & equipment for OT ₹ 15 lakhs would be treated as application for the previous year 2023-24		15,00,000
Total income [other than anonymous donation taxable@30% under section 115BBC(1)(i)]		15,91,500
Add: Anonymous donation taxable @30% u/s 115BBC(1)(i) [8,00,000 – 1,40,000]		6,60,000
Total Income of trust (including anonymous donation taxable@30%)		22,51,500

Computation of tax liability of the trust

Particulars	₹
Tax on total income [Excluding anonymous donations] [₹ 5,91,500 x 30% + ₹ 1,12,500]	2,89,950
Tax on anonymous donations taxable@30% [₹ 6,60,000 x 30%]	1,98,000

Add: Health and education cess @4%	4,87,950
Total tax liability	19,518
Total tax liability (rounded off)	5,07,468
	5,07,470

- 3 (b)** MNO Ltd., an Indian company and ABC Inc., a Country A based company are associated enterprises as per section 92A, since ABC Inc. is a parent company of MNO Ltd. **Thus, the transaction of purchase of mobile handsets by MNO Ltd. from ABC Inc. would be an international transaction.** The value of international transaction is to be worked out on the basis of Arm's Length Price (ALP).

ABC Inc. is selling mobile phones to unrelated customers, which would be the comparable uncontrolled transaction in this case. The purchase price for unrelated customers has to be adjusted by taking into consideration the functional differences existing between the transactions of ABC Inc. with associated enterprise (MNO Ltd.) and other unrelated parties.

Accordingly, the arm's length price for purchase of mobile phones has to be computed for working out the impact on assessable value as per CUP method.

Computation of Arm's Length Price

Particulars	₹ in crores
Purchase price of mobile phones by unrelated parties from ABC Inc.	2,400
Adjustments for functional differences	
Add: Royalty payable by MNO Ltd. [₹ 100 per mobile phone x10,00,000]	10
Cost of capital for 1 month credit which is not given to unrelated party [10% x ₹ 200 crore (monthly average sales i.e., ₹ 2,400 crore /12 months)]	20
Arm's Length Price of 10,00,000 mobile phones (A)	2430
Purchase price of mobile phone by MNO Ltd. from ABC Inc., its parent company (associated enterprise) (B)	2600
Amount to be added to its total income (B) - (A)	170

Note - In case it is assumed that ₹ 10 crores is not included in the price of ₹ 2600 crores, the adjustment of royalty of ₹ 10 crores paid/payable is not required. The ALP in such a case would be ₹ 2,420 crores. The amount to be added to the total income would be ₹ 180 crores.

- 4 (a)** (i) For the payment in question, since the payment has been made to a non-resident, applicability of TDS will have to be considered as per the provisions of **section 195**. The obligation to deduct tax at source u/s 195 arises only in respect of any sum chargeable to tax in India.

As per Explanation 4 to **section 9(1)(vi)** of the Income-tax Act, 1961, "**royalty**" includes transfer of all or any right for use or right to use a computer software. Hence, royalty payable by a resident in India to a non-resident company based in USA for the purposes of importing computer software for reselling to end users in India would be deemed to accrue or arise in India in the hands of the non-resident company, and hence, would be chargeable to tax in India in its hands. There being income chargeable to tax in India, TEL is required to deduct tax at source u/s 195 at the rates in force as per the provisions of the Income-tax Act, 1961.

However, as per **India-USA DTAA**, since Tam Electronics Ltd. (TEL) **resells the**

computer software purchased from Jam Electronics Inc. to resident Indian end-users **without modification**, the amount paid by Tam Electronics Ltd. to Jam Electronics Inc. for purchase of computer software **is not royalty**, due to absence of provision akin to Explanation 4 to section 9(1)(vi) in the DTAA including such payment within the definition of royalty. It was so held by the Supreme Court in Engineering Analysis Centre of Excellence P. Ltd v. CIT and Another (2021) ITR 471.

As per section 90(2), where India has entered into a DTAA with a country outside India, the provisions of the Income-tax Act, 1961 will apply only to the extent they are more beneficial to the assessee. In this case, since the **DTAA provisions are more beneficial to TEL, the same will prevail over the provisions of the Income-tax Act, 1961**. Accordingly, there being **no income chargeable to tax in India, TEL is not required to deduct tax at source**.

- (ii) The relationship between the DEHP Ltd., a public sector bank, and M/s NFGS Ltd., is not of an agency but that of **two independent parties on principal-to-principal basis**. Therefore, TDS provisions under **section 194H would not be attracted** on commission payment made by DEHP Ltd., a public sector bank to M/s NFGS Ltd. for ATM network services provided by it. It was so held in CIT and another vs. Corporation Bank (2021) 431 ITR 554 (Kar).

Also, section 194J will not apply in case of provision of ATM network services. since the same takes place without manual or human intervention.

- (iii) **Tax is required to be deducted under section 194C** by PQR Ltd. on payment for stitching of T-shirts to Mr. A,
- since the supply of t-shirts is as **per specification** of PQR Ltd. and the cloth is purchased from Fashion Ltd., which is an **associate** of PQR Ltd, specified under section 40A(2), and
 - Since a **consolidated invoice** has been raised, **tax would be deducted on the entire amount**, including the cost of purchases.

Tax rate would be deducted@1% under section 194C since the contractor is an individual. Therefore, tax to be deducted = ₹ 40,00,000 x 1% = ₹ 40,000.

- (iv) Tax is to be deducted under **section 194E at 20%** on amount payable to a non-resident sportsman who is not a citizen of India for participation in matches and honorarium for writing an article related to sport for a sports magazine.

Further, since Mr. David, a Canadian citizen, is a non-resident, health and education cess@4% on TDS should also be added. Thus the **effective TDS rate will be 20.8%**

Tax to be deducted = (₹ 4,58,000 + ₹ 1,25,000) x 20.80% = ₹ 95,264 + ₹ 26,000 = ₹ **1,21,264**.

4 (b)

Computation of total income of Miss Sapna

Particulars	₹	₹
Salaries [Indian Income]		
Basic Salary (₹ 45,000 x 12 months)	5,40,000	
Dearness Allowance (10% of basic salary of ₹ 5,40,000)	54,000	
Transport Allowance (₹ 8,000 x 12) [Fully taxable]	96,000	
Medical Allowance (₹ 3,500 x 12) [Fully taxable]	42,000	

Gross Salary	7,32,000	
Less: Standard deduction u/s 16 Lower of actual salary or ₹ 50,000	50,000	
Net Salary		6,82,000
Income from Other Sources [Foreign Income]		
Income from lectures in foreign university [₹ 7,92,000 plus tax deducted at source of ₹ 1,08,000]		<u>9,00,000</u>
Gross Total Income		15,82,000
Less: Deduction under Chapter VIA		
Under section 80CCC – Contribution to approved Pension Fund of LIC	15,000	
Under section 80D – Medical insurance premium of her father, being a resident senior citizen, ₹ 35,000 [being 1/5 th of the lumpsum premium of ₹ 1,75,000 paid for 5 years] fully allowable, even though he is not dependent on her, since the same does not exceed ₹ 50,000	<u>35,000</u>	<u>50,000</u>
Total Income		<u>15,32,000</u>

Computation of tax liability of Miss. Sapna		
Particulars		₹
Tax on total income [₹ 1,59,600 (i.e., 30% of ₹ 5,32,000) plus ₹ 1,12,500 (Tax on income of ₹ 10 lakh)]		2,72,100
Add: Health and education cess @4%		<u>10,884</u>
Tax Liability		2,82,984
Average rate of tax in India [i.e., ₹ 2,82,984/₹ 15,32,000 x 100]	18.472%	
Tax rate in foreign country [1,08,000/9,00,000] x 100	12%	
Deduction under section 91 on ₹ 9,00,000, being the doubly taxed income@ 12% [being the lower of Indian rate of tax (18.472%) and foreign tax rate (12%)]		<u>1,08,000</u>
Tax Payable		<u>1,74,984</u>
Tax Payable (rounded off)		1,74,980

- 5 (a) (i) Section 144C requires the eligible assessee, Mr. Rakesh, to **file his objections within 30 days** of the receipt of draft assessment order from the Assessing Officer with the DRP and the Assessing Officer.

If he fails to do so, the Assessing Officer will proceed to complete the assessment on the basis of the draft order.

The CBDT has clarified that the **assessee has a choice whether to file an objection before the DRP against the draft assessment order or not to exercise this option and file an appeal later before CIT (Appeals) against the final assessment order** passed by the Assessing Officer.

Therefore, Mr. Rakesh can choose to file an appeal before Commissioner (Appeals) against the final assessment order instead of filing objection before the DRP against the draft assessment order passed by the Assessing Officer.

In case Mr. Rakesh files objection before the DRP, then, he has the right to appeal to Appellate Tribunal, if he is aggrieved by the final order passed by the Assessing Officer in pursuance of the directions of the DRP.

- (ii) Section 292BB provides that **where the assessee has participated in the proceedings, any notice which is required to be served upon him shall be deemed to have been duly served and the assessee would be precluded from taking any objection that the notice was -**
- (a) **not served upon him; or**
 - (b) **not served upon him in time; or**
 - (c) **served upon him in an improper manner.**

Issue of notice under section 143(2) is mandatory for making a regular assessment under section 143(3). 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.

For section 292BB to apply, the notice must have emanated from the Department. It is only the infirmities in the manner of service of notice that the section seeks to cure. The section is not intended to cure the complete absence of notice itself.

Accordingly, **non-issuance of notice under section 143(2) is not a curable defect under section 292BB** in spite of participation by the assessee in assessment proceedings.

In the present case, since the assessment of R & Sons HUF was completed u/s 143(3) without issuing notice u/s 143(2), **the assessment is bad in law and not a curable defect u/s 292BB. Therefore, the contention of R & Sons HUF, is valid and the contention of the Assessing Officer is not valid** in spite of the fact that R & Sons HUF participated in the assessment proceedings.

5 (b) Computation of “Book Profit” for levy of MAT under section 115JB

Particulars	₹	₹
Net Profit as per Statement of Profit and Loss		83,00,000
Less: Net profit to be decreased by the following amounts as per Explanation 1 to section 115JB:		
Dividend income from listed and unlisted Indian companies, credited to statement of profit and loss [Dividend income from listed and unlisted Indian companies is Taxable u/s 115A @20% in the hands of a foreign company. No adjustment is required]	Nil	
Interest income from an Indian company as per loan agreement, where the loan is given in foreign currency [Since income by way of interest chargeable @5% u/s 115A, being a rate lower than 15%, credited to statement of profit and loss, same has to be reduced to arrive at book profit]	7,00,000	
Fees for technical services under an agreement	Nil	

approved by the Central Government [No adjustment is required since the foreign company carries on business through a permanent establishment i.e., a branch in India. Such income, being effectively connected with the branch in India, is taxable@40% under section 44DA. Since the income is not taxable at a rate less than 15% it should not be reduced for determining book profit]		<u>7,00,000</u>
Book Profit		<u>76,00,000</u>

Computation of tax liability

Particulars	₹	₹
Minimum Alternate Tax on book profit under section 115JB = 15% of ₹ 76,00,000	11,40,000	
Add: Education cess @4%	<u>45,600</u>	11,85,600
Income-tax computed as per the regular provisions of the Act - 40% [since Arnold Ltd. is a foreign company] of total income of ₹ 20 lakhs plus fees for technical services ₹ 19 lakhs (₹ 25 lakhs – ₹ 6 lakhs)]	15,60,000	
- Tax@ 20% on dividend of ₹ 12 lakhs from Indian Companies	2,40,000	
- Tax@ 5% on interest of ₹ 7 lakhs from MMS Ltd. as per loan agreement, the loan being given in foreign currency	<u>35,000</u>	
	18,35,000	
Add: Education cess @4%	<u>73,400</u>	19,08,400
Since income-tax computed as per regular provisions of the Income-tax Act, 1961, is higher than MAT liability, income-tax payable would be computed as per the regular provisions of the Income-tax Act,1961:		
Total income-tax liability		<u>19,08,400</u>

6 (a) (i) Interest for delayed remittance of equalization levy

Equalisation levy = 6% of ₹ 5 lakh = ₹ 30,000

The equalization levy deducted on 15.3.2024 has to be paid to the credit of the Central Government by 7.4.2024 (i.e., 7th of the succeeding month).

However, in this case, Sun Ltd. remitted the same only on 15.4.2024. The delay in this case is 8 days.

Simple interest@1% is leviable per month or part of month by which crediting of tax is delayed.

Accordingly, **interest would be 1% of ₹ 30,000 = ₹ 300**

(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 may **appeal to Commissioner (Appeals) within a period of 30 days** from the date of receipt of the order of the Assessing Officer imposing the penalty.

- 6 (b)** Although Mr. Harshit is a non-resident in A.Y.2024-25 (since he stayed in India only for 48 days in the P.Y.2023-24), **he is a resident in the P.Y. 2013-14 in which the undisclosed asset located in Country A was acquired**. Hence, he is an assessee under the Black Money (Undisclosed Foreign Income and Assets) Imposition of Tax Act, 2015.

If the value of the house property in the year 2023-24 is ₹ 120 lakh, the amount chargeable to tax shall be $X - Y = Z$ where,

$X = ₹ 120 \text{ lakh}$,

$Y = ₹ 120 \text{ lakh} \times 55/80 = ₹ 82.50 \text{ lakh}$,

$Z = ₹ 120 \text{ lakh} - ₹ 82.50 \text{ lakh} = ₹ 37.50 \text{ lakh}$.

₹ 37.50 lakh chargeable to tax in the hands of Mr. Harshit in the A.Y.2024-25.

- 6 (c)** Article 2 of Vienna Convention on Law of Treaties, 1969 defines “treaty” as an **international agreement concluded between States in written form and governed by international law**, whether embodied in a **single instrument or in two or more related instruments** and whatever its particular designation

Treaties (Double Tax Avoidance Agreements) come into play to mitigate hardship caused by subjecting the same income to double taxation.

Tax Treaties attempt to **eliminate double taxation** and try to achieve balance and equity. They aim at sharing of tax revenues by the concerned States on a rational basis.