



CA FINAL (May 2025)

GROUP I - PAPER 4

DIRECT TAX LAWS AND INTERNATIONAL TAXATION (Series 3)

Time Allowed: - 3 Hours

Maximum Marks: 100 Marks

ANSWER TO PART-A- CASE SCENARIO BASED MCQ (2 Marks Each)

Case Study I

- 1.(d)
- 2.(c)
- 3.(c)

Case Study II

- 1.(c)
- 2.(b)
- 3.(d)
- 4.(c)

Case Study III

- 1.(c)
- 2.(d)
- 3.(b)
- 4.(c)

Case Study IV

- 1.(c)
- 2.(c)
- 3.(d)
- 4.(a)

ANSWERS OF PART-B- DESCRIPTIVE QUESTIONS

Question 1A. (14 Marks)

Computation of Total Income of Orient Pharmaceutical Pvt. Ltd. for the A.Y. 2025-26

	Particulars	Amount (in `)	
I	Profits and gains of business or profession		
	Net profit as per statement of profit and loss		95,00,000
	Add: Items debited but to be considered separately or to be disallowed		
	(1) Depreciation as per Companies Act, 2013	11,90,000	
	(2) Bonus transferred to the trust for making payment to the employees after settlement of the dispute [The bonus would be allowable as deduction u/s 36(1)(ii), even though the amount of bonus payable was initially remitted to the trust created for the purpose of avoiding late payment of bonus, since the actual payment of bonus made to the employees is 31st August, 2025 i.e., on or before due date of filing return of income. Since the same has been already debited to the statement of profit and loss, no further adjustment is required]	Nil	
	(3) Regularization fee for violating a law [Regularization fee paid for violating a law as prescribed by Medical Council of India is a payment to compound an offence. Such expenditure is considered to be the expenses prohibited by the law. Hence, it does not qualify for deduction u/s 37. As the same has been debited to the statement of profit and loss, it has to be added back]	9,50,000	
	(4) Late fees to Government for failure in performance of a contract [Late fees of ` 45,000 paid for non- fulfilment of a contract within the stipulated time is not for the breach of law but was paid for breach of contractual obligations and therefore, is an allowable expense. Since it is already debited in statement of profit and loss, no further adjustment is required]	Nil	

	(7) Payment of Interest to a company incorporated in USA [Since the tax has been deducted in March, 2025 and deposited by the company on 14.7.2025 i.e., on or before due date of filing return of income, no disallowance would be attracted under section 40(a)(i). Since the interest has been already debited to the statement of profit and loss, no further adjustment is required]	Nil	
	(8) Contribution to electoral trust Contribution to electoral trust is not allowable as deduction while computing business income of the company. Since the contribution has been debited to statement of profit and loss, the same has to be added back while computing business income]	65,000	
			22,05,000
			1,17,05,000
	Less: Items credited but not taxable or chargeable to tax under another head		
	(5) Profit on sale of plot of land to 100% subsidiary [Capital Gain arising on sale of plot of land is taxable under the head "Capital Gains". Since the profit on sale of plot of land has been credited to the statement of profit and loss, the same has to be deducted while computing business income]	7,50,000	
	(6) Profit on sale of shares of M/s Stadel Ltd. [Capital Gain arising on sale of shares of M/s Stadel Ltd. is taxable under the head "Capital Gains". Since the profit on sale of shares has been credited to the statement of profit and loss, the same has to be deducted while computing business income]	4,50,000	
			12,00,000
			1,05,05,000
	Less: Depreciation as per Income-tax Act, 1961		
	Normal depreciation		
	- On fire-fighting equipments [Eligible for depreciation even though such equipments were not used during the previous year.]	95,000	
	- On new machinery [` 75,00,000 x 15% since it is put to use for more than 180 days]	11,25,000	
	- On machinery sold and reacquired [15% of actual cost of ` 35,00,000, being lower of WDV at the	5,25,000	

	time of sale (i.e., ` 35 lakhs) or price paid for re-acquisition (i.e., ` 65 lakhs)		
	Additional depreciation		
	- On new machinery [$\text{` } 75,00,000 \times 20\%$]	15,00,000	
			<u>32,45,000</u>
			72,60,000
II	Capital Gains		
	Profit on sale of plot of land to 100% subsidiary	Nil	
	[Short-term capital gains arise on sale of plot of land held for less than 24 months. However, in this case, since the transfer is to a 100% subsidiary company and the subsidiary company is an Indian company, the same would not constitute a transfer for levy of capital gains tax]		
	Long term capital gain on sale of shares of M/s. Stadel Ltd. [Since shares were held for more than 12 months]		
	[Full value of consideration ($2,500 \times \text{` } 280$)]	7,00,000	
	Less: Cost of acquisition - Higher of (i) and (ii)	4,37,500	
		2,62,500	<u>2,62,500</u>
	(i) Actual cost of acquisition ($2,500 \times \text{` } 100$) ` 2,50,000		
	(ii) ` 4,37,500, being lower of fair market value as on 31.1.2018 (i.e., ` 4,37,500, being $2,500 \times 175$) and sale consideration (i.e., ` 7,00,000)		
	Gross Total Income		75,22,500
	Less: Deduction under Chapter VI-A		65,000
	Under section 80GGB [Contribution by a company to an electoral trust is allowable as deduction, since payment is made otherwise than by cash]		
	Total Income		<u>74,57,500</u>

Question 2A. (8 Marks)

Computation of Total Income of Heros and Sons, a partnership firm, for A.Y. 2025-26

	Particulars	Amount (in `)	
I	Profits and gains of business and profession		
	Net profit as per profit and loss account		80,00,000
	Add: Items debited but to be considered separately or to be disallowed		
	(1) Interest to partners on capital [As per section 40(b), interest to partners authorized by the partnership deed is allowable as deduction subject to a maximum of 12% p.a.] [$\text{₹ } 7,00,000 \times 2\%/14\%$]	1,00,000	
	(2) Interest on loan taken from partner [As per section 40(b), interest to partners authorized by the partnership deed is allowable as deduction subject to a maximum of 12% p.a., whether it is interest on partner's capital or loan] [$\text{₹ } 90,000 \times 3\%/15\%$]	18,000	
	(3) Depreciation as per books of account	1,02,000	<u>2,20,000</u>
			82,20,000
	Less: Items credited but chargeable to tax under other head/expenses allowed but not debited		
	1. Interest on bank fixed deposits made out of surplus fund [Interest received from bank on fixed deposits made out of surplus funds is assessable under the head 'Income from other sources'. Since the same has been credited to profit and loss account, it has to be deducted while computing business income]	25,000	
	2. Profit on sale of building [Capital gain on sale of building is taxable under the head "Capital Gains". Since such gains has been credited to profit and loss account, the same has to be deducted while computing business income]	5,35,000	
Less: Depreciation as per Income-tax Rules, 1962			
- Depreciation other than on motor car and mobile phones	14,000		
- Depreciation on Motor car [$\text{₹ } 6,80,000 \times 15\%$]	1,02,000		
- Mobile phone [$\text{₹ } 20,000 \times 15\% \times 50\%$, since purchased and put to use for less than 180 days]	1,500		
		1,17,500	
Book Profit		27,22,500	

	Less: Salary to working partners		
	(i) As per limits given under section 40(b)		
	On first ` 6,00,000 @90% or ` 3,00,000, whichever is higher	5,40,000	
	On the balance of ` 21,22,500 @ 60%	12,73,500	
		18,13,500	
	(ii) Salary actually paid to working partners [` 20,000 x 12 x 2]	4,80,000	
	Deduction allowed being (i) or (ii) whichever is less		4,80,000
			22,42,500
II	Capital Gains		
	Short term capital gain on sale of building forming part of block of asset [Since building was the only asset in the block]		
	Full value of consideration	90,00,000	
	Less: Cost of acquisition [WDV as on 1.4.2024]	36,45,000	
		53,55,000	
	Less: Exemption under section 54EC [Investment in bonds of NHAI, the maximum deduction u/s 54EC would be ` 50 lakhs]	50,00,000	3,55,000
	[Available against depreciable asset, being a building held for more than 24 months and the payment for bonds has been made within six months from the date of transfer, exemption u/s 54EC would be available even if the allotment of bonds was made after the expiry of the six months]		25,000
III	Income from Other Sources		
	Interest from bank on fixed deposits		
	Gross Total Income		26,22,500
	Less: Deduction under section 10AA [` 7,50,000 x 40,00,000/ ` 1,20,00,000 x50%]		
	[Unit in SEZ is eligible for deduction @50% u/s 10AA since it obtained the letter of approval on or before 31st March, 2020 and started operations before 31.3.2021 and thus, A.Y. 2025-26, is the sixth year of operation]		1,25,000
	Total Income		24,97,500

Question 2B. (6 Marks)

Computation of total income of Mr. Nitin for A.Y.2025-26

Particulars	₹	₹
Income from House Property		
Rental income from property in Country X ³	3,60,000	
Less: Municipal taxes paid	<u>12,000</u>	
	3,48,000	
Less: Deduction u/s 24(a) @30%	1,04,400	2,43,600
Profits and gains from business or profession		
Royalty from Country X for writing article in journals [only the amount which is received during the previous year is includible, since he maintains cash system of accounting]		13,60,000
Income from Other Sources		
Dividend from M Ltd. an Indian company		5,50,000
Gross Total Income		21,53,600
Less: Deduction under Chapter VI-A U/s 80E - deduction in respect of interest on educational loan for hisson	36,000	
U/s 80QQB - No deduction is allowable since royalty income is for writing articles in journals and newspapers and not for writing books		36,000
Total Income		21,17,600

Computation of net tax liability of Mr. Nitin for A.Y.2025-26

Particulars		₹
Tax on total income [30% of ₹ 11,17,600 + ₹ 1,12,500]		4,47,780
Add: Health and education cess @4%		<u>17,911</u>
Less: Relief under section 91 -		4,65,691
Average rate of tax in India [[i.e., ₹ 4,65,691/21,17,600 x 100]	21.991%	
Average rate of tax in Country X	15%	
Doubly Taxed income [Rental income of ₹ 2,43,600 + royalty income of ₹ 13,60,000]	16,03,600	<u>2,40,540</u>
Deduction under section 91 on ₹ 16,03,600 @15%, being lower average Indian tax rate and foreign tax rate.		
Net tax liability		<u>2,25,151</u>
Net tax liability (rounded off)		2,25,150

Question 3A. (8 Marks)

- (i) As per section 194LA, Maharashtra State Government is required to deduct tax at source 10% on the entire sum of ₹ 2,90,000 on 10.12.2024, being the date on which enhanced compensation of ₹ 50,000 is paid to Mr. Bhuvan on account of compulsory acquisition of urban land since aggregate amount of compensation including enhanced compensation exceeds ₹ 2,50,000 during the F.Y. 2024-25.
- (ii) Mr. Robert, being a seller of an overseas tour programme package has to collect tax at source under section 206C(1G) from Mr. Aman on receiving the amount for purchase of package. Tax has to be collected at source @ 5% on ₹ 7 lakhs received, and @ 20% on ₹ 2 lakhs, being above ₹ 7 lakhs.

Since Mr. Aman has not filed his return of income for A.Y. 2024-25 and A.Y. 2023-24 and the TCS credit exceeds ₹ 50,000 for both A.Y. 2024-25 and A.Y. 2023-24, section 206CCA is invoked which provides, tax is required to be collected at source, in his case, at the higher of twice the rate specified under section 206C(1G) and 5%.

However, the higher rate of TCS leviable cannot exceed 20%.

Accordingly, Mr. Robert is required to collect tax @ 10% (twice of 5%) on ₹ 7 lakhs and @ 20% (40% twice of 20% but restricted to 20%) on ₹ 2 lakhs (₹ 9 lakhs - ₹ 7 lakhs).

- (iii) As per section 194BA, on any income by way of winnings from any online game during the financial year, tax @ 30% is required to be deducted on the net winnings in the user account.

Since there is a withdrawal on 1.2.2025, Dream 44 is required to deduct tax at source at the time of such withdrawal on the net winnings comprised in such withdrawal, as well as on the remaining amount of net winnings in the user account at the end of the financial year.

Net winnings at the time of first withdrawal during the F.Y. i.e., on 1.2.2025 = ₹ 25,00,000, being amount withdrawn - (₹ 1,00,000, being non-taxable deposit made in the user account + ₹ 10,000, being opening balance) = ₹ 23,90,000.

Net winnings at the end of the financial year i.e., on 31.3.2025 = (₹ 25,00,000, being amount withdrawn + ₹ 6,60,000, being closing balance) - (₹ 1,00,000, being non-taxable deposit made in the user account + ₹ 10,000, being opening balance + ₹ 23,90,000, being net winnings comprised in the earlier withdrawal) = ₹ 6,60,000.

Question 3B. (6 Marks)

If an Indian company, being the borrower, incurs any expenditure by way of interest in respect of any debt issued by its non-resident associated enterprise and such interest exceeds ₹ 1 crore, then, the interest paid or payable by such Indian company in excess of 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is lower, shall not be allowed as deduction as per section 94B.

Further, where the debt is issued by lender which is not associated enterprise but an associated enterprise provides an implicit or explicit guarantee to such lender, such debt shall be deemed to have been issued by an associated enterprise and limitation of interest deduction would be applicable.

In the present case, since SAM Ltd., a Country Y company, holds 36% share in XYZ Ltd., an Indian company, i.e., more than 26% of voting power, SAM Ltd. and XYZ Ltd. are deemed to be associated enterprise.

Since loan of ₹ 120 crores taken by XYZ Ltd., an Indian company from L & T Inc., Country R company, is guaranteed by SAM Ltd., an associated enterprise, such debt shall be deemed to have been issued by an associated enterprise and interest paid or payable to L & T Inc. shall be considered for the purpose of limitation of interest deduction under section 94B.

Computation of income under the head profits and gains of business or profession of XYZ Ltd

Particulars	Amount (in lakhs)
Interest allowable u/s 94B for A.Y. 2024-25	
Gross Profit	2,030
Less: Employee benefits expenses	390
EBITDA	1,640
Interest paid or payable to L & T Inc.	562
Lower of the following would be disallowed	
- Total interest paid or payable in excess of 30% of EBITDA [₹ 562 lakhs - ₹ 492 lakhs (i.e., 30% of ₹ 1,640 lakhs)]	₹ 70 lakhs
- Interest paid or payable to L & T Inc.	₹ 562 lakhs
Interest to be disallowed as deduction for A.Y. 2024-25, which can be carried forward up to 8 assessment years	70
Interest allowable u/s 94B for A.Y. 2025-26	
Gross Profit	1,780
Less: Employee benefits expenses	402
EBITDA	1,378
Interest paid or payable to L & T Inc.	389
Lower of the following would be disallowed	
- Total interest paid or payable in excess of 30% of EBITDA [₹ 389 lakhs - ₹ 413.40 lakhs (30% of ₹ 1378 lakhs)]	Nil
- Interest paid or payable to L & T Inc.	₹ 389 lakhs
Interest to be disallowed as deduction for A.Y. 2025-26	Nil
Brought forward interest of A.Y. 2024-25 allowed as deduction against profits and gains of A.Y. 2025-26 to the extent of maximum allowable interest expenditure u/s 94B i.e., ₹ 24.4 lakhs [₹ 413.40 lakhs - ₹ 389 lakhs]	
Total interest allowed in A.Y. 2025-26 [₹ 389 lakhs + ₹ 24.40 lakhs]	<u>413.40</u>
Balance of amount of interest relating to A.Y. 2024- 25 is eligible for carried forward i.e., ₹ 45.60 lakhs (₹ 70 lakhs minus ₹ 24.40 lakhs) to 7 more subsequent assessment years.	
Income under the head profit and gains of business or profession of XYZ Ltd. for A.Y. 2025-26	
EBITDA	1,378.00
Less: Interest (maximum interest allowable as deduction u/s 94B)	413.40
Depreciation (As per the Income-tax Act, 1961)	<u>254.00</u>
	<u>710.60</u>

Question 4A. (5 Marks)**Computation of taxable income of public charitable trust**

Particulars		₹
(i)	Income from property held under trust	10,00,000
(ii)	Income from business (incidental to main objects)	4,00,000
(iii)	Voluntary contributions from public	7,00,000
	Voluntary contribution made with a specific direction towards corpus are alone to be excluded under section	
	11(1)(d). In this case, there is no such direction and hence, included.	
		21,00,000
	Less: 15% of the income eligible for retention / accumulation without any conditions	3,15,000
		17,85,000
	Less: Amount applied for the objects of the trust	8,00,000
	(i) Amount spent for charitable purposes (₹ 11,60,000 - ₹ 3,60,000)	
	(ii) Repayment of loan for construction of orphan home (See note below)	-
	Taxable Income	9,85,000

Note - As per Explanation 4(ii) to section 11(1), any application for charitable or religious purposes, from any loan or borrowing in the concerned year, shall not be treated as application of income for charitable or religious purposes. However, the amount not so treated as application, shall be treated as application in the year in which the loan is repaid. Therefore, the repayment of loan for construction of orphan home can be treated as application of income only if such expenditure on construction of orphanage was not treated as application in year such expenditure was incurred. However, in this case, the amount spent on construction of orphanage was allowed as deduction in the P.Y. 2020-21. Thus, repayment of loan taken for such purposes will not be allowed as application as it would tantamount to double deduction.

Question 4B. (5 Marks)

Miles Inc., a foreign company, would be resident in India in P.Y. 2024-25 if its POEM, in that year, is in India. Since the meeting of Board of Directors are held outside India i.e., in Chicago, USA where management and commercial decisions necessary for conduct of company's business are taken, its POEM during the A.Y. 2025-26 would be outside India. Hence, Miles Inc. is a non-resident during the P.Y. 2024-25.

The decisions made by shareholders in India on modification of the rights attaching to various classes of shares and sale of company's assets situated in India are not relevant for determination of Miles Inc.'s place of effective management.

Computation of total income of Miles Inc. for the A.Y. 2025-26

Particulars	Amount (₹)
Dividend received on GDR of an Indian company [Taxable, since income is from any asset or source of income is in India. Tax @10.4% would have been deducted on dividend of GDR] [₹ 5,50,000 / 89.6%]	6,13,839
Fees for technical services received from Government of India [Taxable, since it is deemed to accrue or arise in India on account of being received from Government of India even though services are utilised for development project carried out outside India. Tax @20.8% would have been deducted on FTS received from Government] [5,55,000/79.2%]	7,00,758
Total Income	13,14,597

Question 4C. (4 Marks)

Advance ruling pronounced by Board for Advance Rulings is not binding on LT Co. Ltd. Section 245W provides that the applicant who is aggrieved by any ruling pronounced or order passed by the Board for Advance Rulings may appeal to the High Court against such ruling. He has to do so within sixty days from the date of the communication of that ruling or order, in the prescribed form and manner.

Accordingly, if LT Co. Ltd. is aggrieved by the advance ruling pronounced by BAR, it can file an appeal before the High Court on or before 29th June 2025. The High Court can grant extension of a further period of 30 days for filing the appeal, if it is satisfied, on an application made by LT Co. Ltd. in this behalf, that it was prevented by sufficient cause from presenting the appeal within the 60 days period as specified above.

Question 5A. (8 Marks)

Computation of "Book Profit" for levy of MAT under section 115JB for A.Y. 2025-26

Particulars	₹	₹
Net Profit as per Statement of Profit and Loss		20,00,000
Add: Net profit to be increased by the following amounts as per Explanation 1 to section 115JB(2):		
- Provision for the loss of subsidiary	1,70,000	
- Provision for doubtful debts, being the amount set aside as provision for diminution in the value of any asset	1,75,000	
- Provision for income-tax [As per Explanation 2 to section 115JB, income-tax shall include, inter alia, any interest charged under the Act, therefore, whole of the amount of provision for income-tax including ₹ 55,000 towards interest payable has to be added back]	2,05,000	
- Depreciation	4,60,000	<u>10,10,000</u>
		30,10,000
Less: Net profit to be decreased by the following amounts as per Explanation 1 to section 115JB:		
- Share in income of an AOP as a member [In a case, where AOP has paid tax on its total income at maximum marginal rate, no income-tax is payable by the company, being a member of AOP, in accordance with the provisions of section 86. Therefore, share in income of an AOP on which no income-tax is payable in accordance with the provisions of section 86, would be reduced while computing book profit, since the same has been credited to profit and loss account]	- 200000	
- Income from units in UTI [Income from units in UTI not to be reduced while computing the book profits, since the same is taxable in the hands of unitholders]	-	
- Depreciation other than depreciation on revaluation of assets (₹ 4,60,000 - ₹ 2,50,000)	2,10,000	
- Unabsorbed depreciation or brought forward business loss, whichever is less, as per the books of account. Lower of unabsorbed depreciation ₹ 5,00,000 and brought forward business loss ₹ 6,00,000 as per books of accounts has to be reduced while computing the book	5,00,000	9,10,000

profit]		
Book Profit		21,00,000

Computation of MAT liability under section 115JB

Particulars	₹
15% of book profit	3,15,000
Add: Health & education cess@4%	<u>12,600</u>
Minimum Alternate Tax liability	<u>3,27,600</u>

Notes:

- (1) It is only the specific items mentioned under Explanation 1 to section 115JB, which can be adjusted from the net profit as per the Statement of Profit and Loss prepared as per the Companies Act for computing book profit for levy of MAT. Since the following items are not specified thereunder, the same cannot be adjusted for computing book profit:
 - Interest to financial institution (unpaid before filing of return) and
 - Penalty for infraction of law
- (2) Provision for gratuity based on actuarial valuation is an ascertained liability [CIT v. Echjay Forgings (P) Ltd. (2001) 251 ITR 15 (Bom.)]. Hence, the same should not be added back to compute book profit.
- (3) As per proviso to section 115JB(6), the profits from unit established in special economic zone cannot be excluded while computing the book profit, and hence, such income would be liable for MAT.

Question 5B. (6 Marks)

Computation of capital gains of Mr. Sarthak for A.Y. 2025-26

Particulars	₹	₹
Redemption of SLR growth fund		
Full value of consideration		
[Redemption value]	1,45,98,000	
Less: Indexed cost of acquisition		
[₹ 1,20,00,000 × 363/301]	<u>1,44,71,761</u>	
Long term capital gains [Since it is debt fund (as not more than 65% of the proceeds are invested in equity shares of domestic companies) and it was held by Mr. Sarthak for more than 36 months immediately preceding the date of its transfer]		1,26,239
Redemption of XYZ Strategic fund		
Full value of consideration	50,00,000	
[Redemption value]		
Less: Cost of acquisition	<u>46,00,000</u>	
Short term capital gains [Since it is a specified mutual fund (as not more than 35% of its proceeds are invested in equity shares of domestic companies) which is acquired on or after 1.4.2023, this fund would be considered as short-term capital asset as per section 50AA irrespective of the period of holding]		4,00,000
Redemption of MNO Midcap fund		
Full value of consideration		1,18,00,000
[Redemption value]		
Less: Cost of acquisition		<u>1,15,00,000</u>
Short term capital gains [Since it is equity-oriented fund (as more than 65% of its proceeds are invested in equity shares of domestic companies) and it was held by Mr. Sarthak for not more than 12 months immediately preceding the date of its transfer]		3,00,000
Redemption of TBA Growth fund		
Full value of consideration		1,20,00,000
[Redemption value]		
Less: Cost of acquisition [Indexation benefit would not be available]		<u>1,10,00,000</u>

Long term capital gains [Since it is equity-oriented fund (as more than 65% of its proceeds are invested in equity shares of domestic companies) and it was held by Mr. Sarthak for more than 12 months immediately preceding the date of its transfer]		10,00,000
		18,26,239
Less: Exemption under section 54F		
Capital gain arising on transfer of a long-term capital asset other than a residential house shall not be chargeable to tax to the extent such capital gain is invested in the purchase of one residential house property in India within one year before or two years after the date of transfer of original asset. Therefore, in the present case, the exemption would be available only in respect of long-term capital gains from redemption of SLR growth fund and TBA Growth fund.		
Exemption from long term capital gains from redemption of TBA Growth fund [10,00,000×1,20,00,000/1,20,00,000]		10,00,000
Exemption from long term capital gains from redemption of SLR short term fund [1,26,239 x 80,00,000 (2 crores - 1.20 crores)/1,45,98,000]		69,181
Capital gains chargeable to tax for A.Y.2025-26		7,57,058

Question 6A. (5 Marks)

As per section 253(2), the Principal Commissioner or Commissioner may, if he objects to any order passed by the Joint Commissioner (Appeals) or the Commissioner (Appeals) under section 250, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

However, the Departmental appeals are subjected to the monetary limits and other conditions specified by the CBDT for filing appeals before Income Tax Appellate Tribunal, High Courts and SLPs/ appeals before Supreme Court.

The key points as per CBDT circulars in this regard are as under:

- Departmental Appeals shall not be filed before Appellate Tribunal in cases where the tax effect does not exceed the monetary limit of ` 60 lakhs.
- Tax would include surcharge and cess. However, the tax will not include any interest thereon, except where chargeability of interest itself is in dispute.

In the present case, tax of ` 50.934 lakhs [78% of ` 65.30 lakhs] under section 115BBE and interest of ` 12.35 lakhs determined in respect of additions of unexplained jewellery under section 69A.

Since the tax effect excluding interest does not exceed ` 50 lakhs, the department cannot file appeal before the ITAT.

Question 6B. (5 Marks)

The words "by way of advance or loan" in section 2(22)(e) must be construed to mean those advances or loans which a shareholder enjoys simply on account of being a person who is the beneficial owner of shares holding not less than 10% of the voting power.

In case such loan or advance is given to such shareholder as a consequence of any further consideration received from such a shareholder which is beneficial to the company, such advance or loan cannot be a deemed dividend within the meaning of the Act.

Gratuitous loan or advance given by a company to a shareholder, who is the beneficial owner of shares holding not less than 10% of the voting power, would come within the purview of section 2(22)(e) to the extent of accumulated profits of the company but not the cases where the loan or advance is given in return for an advantage conferred upon the company by such shareholder.

In the present case, advance of ` 15 lakh was given by Aurelia Exports (P) Ltd. to Mr. Manjoo Menon holding 20% shareholding as advance rent for the property let out by him to the company and out of which ` 7 lakhs was adjusted against rent payable of F.Y. 2024-25. The advance was given by the company since Mr. Menon mortgaged his personal property thereby enabling the company to obtain the loan from bank in 2013.

Therefore, such advance of ` 8 lakhs outstanding as on 31.3.2025 cannot be brought within the purview of section 2(22)(e), since it was not in the nature of gratuitous advance but was given as advance rent and to protect the interest of the company.

Question 6C. (4 Marks)

- A.** GAAR provisions would not apply in this case as the assessee, M/s KKT Private Limited merely makes a selection of acquiring the machine on lease over outright purchase, out of the options available to him under the provisions of the Act for which he is eligible and satisfies the stipulated conditions, if any.
Even if choice of such option results in lower tax liability, the same is a result of tax planning.
- B.** Investment strategy adopted by the assessee to reduce its tax effect for a particular year is not a method of tax evasion.
Selling of shares of an Indian company at loss and setting off such loss against the short-term capital gain arising on sale of other listed shares is as per the provisions of law. It does not make any difference if the shares sold are purchased again in the next year. It would be considered as tax planning.