CA Final May'25 - Super 60 Questions

Message from Your CA Buddy!

This material covers the Questions from 3rd edition of Direct Tax Question Bank

Important Note:

1. This sheet consists of **marked questions** for selected chapters namely: Trust, VDA, TDS and TDS, ITA and Assessment, Black Money Act, Tax Audit, NR Tax, DTAA and Transfer Pricing.
2. **Refer to PGBP Master Question – File in my telegram!**
3. The questions have been serially number. Question numbers given in right corner of each question is reference to my Edition 2 of QB.
4. These are basically the questions which will either give you a good revision of the concept or are tricky questions that MUST be solved before exams 😊

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Your CA Buddy!

YOUR CA BUDDY
CA SHUBHAM SINGHAL

CA Final May'25 Super 60 Questions

Here's a list of Questions for quick reference

Chapter Number	Chapter Name	Question Number
4	CG	18, 24, 27, 38
10	Assessment of Trust	1, 3, 8, 11, 14, 16, 17, 25, 28, 29, 34, 37
12	Taxation of VDA	1,7
13	TDS	2, 5, 6, 10, 15, 30, 34, 39, 45, 52, 54
14&15	ITA and Assessment procedure	6,10,15,19,20,25,29,30
19	Prevention of Unethical Tax practices	18
21	NR Taxation	2,3,19,23,24,28,31,32,42,46
22	DTAA	2,10,18
24	Transfer Pricing	2,3,4,7,8,15,16,18,20,21,24,26,27,28

Mark these Qs in your DT Question Bank **3rd Edition** and let's take off your revision

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4 CAPITAL GAIN

Question 1 [Sec 54] **[Q18]**

Hari has acquired a residential house property in Delhi on 15th April, 2002 for Rs. 9,00,000 and decided to sell the same on 3rd May, 2005 to Ms. Pari and an advance of Rs. 25,000 was taken from her. The balance money was not paid by Ms. Pari and Hari has forfeited the entire advance sum. On 3rd August, 2024, he has sold this house to Mr. Suri for Rs. 43,00,000. On 4th April, 2024, he had purchased a residential house in Delhi for Rs. 8,00,000, where he was staying with his family on rent for the last 5 years and paid the full amount as per the purchase agreement. However, Hari does not possess any legal title till 31st March, 2025, as such transfer was not registered with the registration authority. Hari has purchased another old house in Chennai on 14th October, 2024 from Mr. X, an Indian resident, by paying Rs. 4,00,000 and the purchase was registered with the appropriate authority. Determine the taxable capital gain arising from above transactions in the hands of Hari for AY 2025-26.

[Cost inflation Index - 2002-03: 105; 2005-06: 117; 2024-25: 363]

[ICAI Module]

Answer

Option 1: Computation of taxable capital gain of Mr. Hari for the A.Y.2025-26 with indexation

Particulars	**₹**
Sale proceeds	43,00,000
Less: Cost of acquisition (See Note 1)	30,25,000
Long Term Capital Gain	12,75,000
Less: Exemption u/s 54 in respect of investment in house at Delhi (See Note 2)	8,00,000
Exemption u/s 54 in respect of investment in house at Chennai (See Note 3)	4,00,000
Taxable long-term capital gain	**75,000**

Option 2: Computation of taxable capital gain of Mr. Hari for the A.Y.2025-26 without indexation

Particulars	**₹**
Sale proceeds	43,00,000
Less: ~~Indexed~~ Cost of acquisition	8,75,000
Long Term Capital Gain	34,25,000
Less: Exemption u/s 54 in respect of investment in house at Delhi (See Note 2)	8,00,000
Exemption u/s 54 in respect of investment in house at Chennai (See Note 3)	4,00,000
Taxable long-term capital gain	**22,25,000**

Computation of capital gain tax:

Mr. Hari shall pay capital gain at the lower of:

- 20% of Rs. 75,000 = Rs. 15,000, or
- 12.5% of Rs. 22,25,000 = Rs. 2,78,125

Hence, Mr. Hari shall avail option 1 and pay taxes of Rs. 15,000.

Notes:

(i) Computation of indexed cost of acquisition

Particulars	**₹**
Cost of acquisition	9,00,000
Less: Advance taken and forfeited	25,000
Cost for the purpose of Indexation	8,75,000
Indexed cost of acquisition (₹ 8,75,000 x 363/105)	**30,25,000**

Note: Advance received and forfeited on or after 01.04.2014 is taxable u/s 56(2)(ix). Such amount would not be reduced to compute CoA while determining capital gains on such property.
However, in this case, since the advance was received and forfeited in the year 2005, such advance has to be reduced for calculating CoA for the purpose of arriving at capital gains.

(ii) In order to avail exemption of capital gains u/s 54, residential house should be purchased within 1 year before or 2 years after the date of transfer or constructed within a period of 3 years after the date of transfer. In this case, Hari has purchased the residential house in Delhi within one year before the date of transfer and paid the full amount as per the purchase agreement, though he does not possess any legal title till 31.3.2025 since the transfer was not registered with the registration authority. However, for the purpose of claiming exemption u/s 54, holding of legal title is not necessary. If the taxpayer pays the full consideration in terms of the purchase agreement within the stipulated period, the exemption u/s 54 would be available. [Balraj v. CIT(2002) (Del.) and CIT v. Shahzada Begum (1988)]

(iii) As per section 54, since the amount of capital gain does not exceed ₹ 2 crore, Mr. Hari can claim exemption thereunder in respect of investment made in two residential houses situated in India.

If Mr. Hari exercises the option to claim exemption in respect of 2 residential houses in Delhi and Chennai in P.Y. 2024-25, he shall not be subsequently entitled to exercise the option for the same or any other AY.

Note: As per FA 2024, for individuals or HUFs transferring land or buildings or both acquired before 23rd July 2024, and transferred on or after 23rd July 2024, the LTCG tax rate will be the lower of:

- 20% with indexation benefit, or
- 12.5% without indexation.

Author's Note: There is a dual condition – Acquired before 23.07 AND transferred on or after 23.07

Question 2 [Sec 45(2) and 54EC] **[Q24]**

Tani purchased a land at a cost of ₹ 35 lakhs in the FY 2004-05 and held the same as her capital asset till 31st May, 2019. Tani started her real estate business on 1st June, 2019 and converted the said land into stock-in-trade of her business on the said date, when the fair market value of the land was ₹ 210 lakhs.
She constructed 15 flats of equal size, quality and dimension. Cost of construction of each flat is ₹ 10 lakhs. Construction was completed in January, 2025. She sold 10 flats at ₹ 30 lakhs per flat between January, 2025 and March, 2025. The remaining 5 flats were held in stock as on 31st March, 2025.
She invested ₹ 50 lakhs in bonds issued by National Highway Authority of India on 31st March, 2025 and another ₹ 50 lakhs in bonds of Rural Electrification Corporation Ltd. in April, 2025.
Compute the amount of chargeable capital gain and business income in the hands of Tani arising from the above transactions for AY 2025-26 indicating clearly the reasons for treatment for each item.
Cost Inflation Index: FY 2004-05: 113; FY 2019-20: 289; FY 2024-25: 363.

[ICAI Module]

Answer

Computation of capital gains and business income of Tani for A.Y. 2025-26

Particulars	**₹**
Capital Gains	
FMV of land on the date of conversion deemed as full value of consideration for sec 45(2)	2,10,00,000
Less: Indexed cost of acquisition [₹ 35,00,000 × 289/113]	89,51,327
	1,20,48,673
Proportionate capital gains arising during A.Y.2025-26 [₹1,20,48,673 × 2/3]	80,32,448
Less: Exemption u/s 54EC	50,00,000
Capital gains chargeable to tax for A.Y.2025-26	**30,32,448**

Business Income	
Sale price of flats [10 × ₹ 30 lakhs]	3,00,00,000
Less: Cost of flats	
Fair market value of land on the date of conversion [₹ 210 lacs × 2/3]	1,40,00,000
Cost of construction of flats [10 × ₹ 10 lakhs]	1,00,00,000
Business income chargeable to tax for A.Y.2025-26	**60,00,000**

Notes:

1. The conversion of a capital asset into stock-in-trade is treated as a transfer u/s 2(47) in the year of such conversion.
2. However, as per section 45(2), such capital gains is taxable only in the year in which the stock-in-trade is sold.
3. The indexation benefit for computing indexed cost of acquisition would, however, be available only up to year of conversion of capital asset to stock-in-trade and not up to the year of sale of stock-in-trade. As date of transfer in this case is 01.06.19 (i.e., conversion date), indexation benefit shall be available.
4. For the purpose of computing capital gains in such cases, the fair market value of the capital asset on the date on which it was converted into stock-in-trade shall be deemed to be the full value of consideration received or accruing as a result of the transfer of the capital asset.
   In this case, since only 2/3rd of stock-in-trade (10 flats out of 15 flats) is sold in P.Y.2024-25, only proportionate capital gains (i.e., 2/3rd) would be chargeable in the A.Y.2025-26.
5. On sale of such stock-in-trade, business income would arise. The business income chargeable to tax would be computed after deducting the fair market value on the date of conversion of the capital asset into stock-in-trade and cost of construction of flats from the price at which the stock-in-trade is sold.
6. In case of conversion of capital asset into stock-in-trade and subsequent sale of stock-in trade, the period of 6 months is to be reckoned from the date of sale of stock-in-trade for exemption u/s 54EC [CBDT Circular].

In this case, since the investment in bonds of NHAI has been made within 6 months of sale of flats, the same qualifies for exemption u/s 54EC. With respect to LTCG arising in any FY the maximum deduction u/s 54EC would be ₹ 50 lakhs, whether the investment in bonds of NHAI or RECL are made in the same FY or next FY or partly in the same FY and partly in the next FY.
Therefore, even though investment of ₹ 50 lakhs has been made in bonds of NHAI during the P.Y.2024-25 and investment of ₹ 50 lakhs has been made in bonds of RECL during the P.Y.2025-26, both within the stipulated 6 month period, the maximum deduction allowable for A.Y.2025-26, in respect of LTCG arising on sale of long-term capital asset(s) during the P.Y.2024-25, is only ₹ 50 lakhs.

Author's Note:
As per FA 2024, for individuals or HUFs transferring land or buildings or both acquired before 23rd July 2024, and transferred on or after 23rd July 2024, the LTCG tax rate will be the lower of:

- 20% with indexation benefit, or
- 12.5% without indexation.

In this case, deemed date of transfer shall be 01.06.2019 and hence, this amendment is not applicable.

Question 3 [Slump Sale] **[Q27]**

PQR Limited has two units - one engaged in manufacture of computer hardware and the other involved in developing software. As a restructuring drive, the company has decided to sell its software unit as a going concern by way of slump sale for Rs. 385 lacs to a new company called S Limited, in which it holds 74% equity shares. The balance sheet of PQR limited as on 31st March 2025, being the date on which software unit has been transferred, is given hereunder –

Balance Sheet as on 31.3.2025

Liabilities	₹ (in lacs)	Assets	₹ (in lacs)
Paid up Share Capital	300	Fixed Assets	
General Reserve	150	Hardware unit	170
Share Premium	50	Software unit	200
Revaluation Reserve	120		
Current Liabilities (Ascertained liabilities)		Debtors	
		Hardware unit	140
Hardware unit	40	Software unit	110
Software unit	90		
		Inventories	
		Hardware unit	95
		Software unit	35
	750		**750**

Following additional information are furnished by the management:

(i) The Software unit is in existence since May, 2015.

(ii) Fixed assets of Software unit includes land which was purchased at Rs. 40 lacs in the year 2008 and revalued at Rs. 60 lacs as on March 31, 2025. The stamp duty value on 31.3.2025 is Rs. 55 lakhs.

(iii) Fixed assets of Software unit mirrored at Rs. 140 lacs (Rs. 200 lacs minus land value Rs. 60 lacs) is written down value of depreciable assets (Furniture and Plant & machinery) as per books of account. However, the written down value of these assets u/s 43(6) is Rs. 90 lacs.

(a) Ascertain tax liability, which would arise from slump sale to PQR Ltd, assuming not opted for 115BAA.

(b) What would be your advice as a tax-consultant to make the restructuring plan of the company more tax-savvy, without changing the amount of sale consideration?

[ICAI Module, RTP May 2020]

Answer

As per section 50B, any profits and gains arising from the slump sale effected in the PY shall be chargeable to income-tax as capital gains arising from the transfer of capital assets and shall be deemed to be the income of the PY in which the transfer took place.

If the assessee owned and held the undertaking transferred under slump sale for more than 36 months before slump sale, the capital gain shall be deemed to be long-term capital gain. Indexation benefit is not available in case of slump sale as per section 50B(2).

Ascertainment of tax liability of PQR Limited from slump sale of Software unit

Particulars	₹ (in lacs)
Full value of consideration for slump sale of Software Unit	385
Less: Cost of acquisition, being the net worth of Software Unit	185
Long term capital gains arising on slump sale	200
(The capital gains is long-term as Software Unit is held for more than 36m)	
Tax liability on LTCG	
Under section 112 @ 12.5% on ₹ 200 lacs	25.00
Add: Surcharge@ 7%	1.75
	26.75
Add: Health and Education cess@4%	1.07
Total tax liability	27.82

Working Note:

Computation of Full value of consideration

	₹ (in lacs)
Fair market value of the capital assets transferred by way of slump sale	
Land, being an immovable property [stamp duty value on 31.3.2025, being the date of slump sale] [A]	55
Other Fixed assets (Furniture and Plant & machinery) [Book value as appearing in the books of accounts] [₹ 200 lakhs - ₹ 60 lakhs] [B]	140
Debtors [Book value as appearing in the books of accounts] [C]	110
Inventories [Book value as appearing in the books of accounts] [D]	35
	340
Less: liabilities of Software Unit [Current Liability] [L]	90
FMV of capital assets transferred [A+B+C+D- L] [FMV1]	250
FMV of the consideration received or accruing as a result of transfer by way of slump sale [value of the monetary consideration received] [FMV2]	385
Full value of consideration [Higher of FMV1 or FMV2]	**385**

Computation of net worth of Software Unit

	₹ (in lacs)
(1) Book value of non-depreciable assets	
(i) Land (Revaluation not to be considered)	40
(ii) Debtors	110
(iii) Inventories	35
(2) Written down value of depreciable assets u/s 43(6) (See Note below)	90
Aggregate value of total assets	**275**
Less: Current liabilities of Software unit	90
Net worth of software unit	**185**

Note: For computing net worth, the aggregate value of total assets in the case of depreciable assets shall be the written down value of the block of assets as per section 43(6).

(b) Tax advice

Transfer of any capital asset by a holding company to its 100% Indian subsidiary company is exempt from capital gains u/s 47(iv). Hence, PQR Limited should try to acquire the remaining 26% equity shares in S Limited then make the slump sale in the above said manner, in which case the slump sale shall be exempt from tax. For this exemption, PQR Limited will have to keep such 100% holding in S Limited for 8 years from the date of slump sale, otherwise the amount exempt would be deemed to be income chargeable under the head "Capital Gains" of the PY in which such transfer took place. Alternatively, if acquisition of 26% share is not feasible, PQR Limited may think about demerger plan of Software Unit to get benefit of section 47(vib) of the Income-tax Act, 1961.

Question 4 **[Q37]**

Mr. Sanjay is a resident in India aged 55 years. He had an impressive investment portfolio in various mutual funds. He redeemed his entire mutual fund investment portfolio and bought a villa in Lonavala for Rs.2.00 crores to spend rest of his life there. The details of mutual funds are as under –

S.No.	Type of mutual fund	Date of investment	Date of redemption	Amount invested (in Rs. lakhs)	Amount redeemed (in Rs. lakhs)
1	BLR growth fund	03.04.2021	05.06.2024	120	140
2	ABC Strategic fund	04.05.2024	02.02.2025	46	50

3	ABD Midcap fund	02.12.2023	05.07.2024	115	118
4	SBA Growth fund	08.11.2022	12.12.2024	110	120

The funds stated at 1 and 2 have invest more than 65% of their proceeds in debt instruments of domestic companies and funds stated at 3 and 4 have invested 70% of their proceeds in equity shares of domestic companies. The investment pattern of funds remained unchanged over all the years. STT is paid at the time of acquisition and redemption of mutual fund, wherever applicable.

You are required to compute capital gains chargeable to tax in the hands of Mr. Sanjay for A.Y. 2025-26.

CII: 2020-21: 301; 2021-22: 317; 2022-23: 331; 2023-24: 348; FY 24-25: 363

[RTP May 24]

Answer

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

Particulars	Rs.	Rs.
Redemption of BLR growth fund		
Full value of consideration [Redemption value]	1,40,00,000	
Less: Indexed cost of acquisition [Rs. 1,20,00,000 × 363/317]	1,37,41,325	
Long term capital gains		2,58,675
[Since it is debt fund (as more than 65% of its proceeds are invested in debt shares of domestic companies) and it was held by Mr. Sanjay for more than 24m immediately preceding the date of its transfer]		
Note: This is not a specified mutual fund u/s 50AA as it was acquired prior to 01.04.2023. Moreover, indexation is allowed as trf. was made prior to 23rd July 2024.		
Redemption of ABC Strategic fund		
Full value of consideration [Redemption value]	50,00,000	
Less: Cost of acquisition	46,00,000	
Short term capital gains [Since it is a specified mutual fund (as more than 65% of its proceeds are invested in debt 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 ABD Midcap fund		
Full value of consideration [Redemption value]	1,18,00,000	
Less: Cost of acquisition	1,15,00,000	
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. Sanjay for not more than 12m immediately preceding date of its transfer]		3,00,000
Redemption of SBA Growth fund		
Full value of consideration [Redemptionvalue]	1,20,00,000	
Less: Cost of acquisition [Indexation benefit not applicable]	1,10,00,000	
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. Sanjay for more than 12m immediately preceding date of its transfer]		10,00,000
		19,58,675
Less: Exemption u/s 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 present case, the exemption would be available only in respect of LTCG from redemption of BLR growth fund & SBA Growth fund.		
Exemption from long term capital gains from redemption of SBA Growth fund [10,00,000 x 1,20,00,000 /1,20,00,000]		10,00,000
Exemption from long term capital gains from redemption of BLR short term fund [2,58,675 x 80,00,000 (2 crores – 1.20 crores)/1,40,00,000]		1,47,814
Capital gains chargeable to tax for A.Y.2025-26		**8,10,860**

Question 5 [Sec 45(4) and 9B] **[Q38]**

L, M and N are three partners of M/s. L & G Associates, a partnership firm established on 01.04.1995. L retires from the firm on July 21,2024 and after his retirement, business of the firm will be operated by M and N. Capital account balance of L as on July 21,2024 is Rs. 20 Lakhs, (there is no revaluation of assets in books of the firm at any time after 2003-04 when L joined the firm as a partner).

The firm gives to L the following to settle his account:

1. Cash payment of Rs. 1,00,000
2. Stock in trade (Fair market value on July 21,2024 is Rs. 2,00,000). This stock was purchased on April 15,2024 for Rs. 1,20,000.
3. Plot of Land at Kota (Fair market value of plot as on July 21,2024 is Rs. 17,00,000). Book value of plot is Rs. 17,00,000. It was acquired during 1998-99 for Rs. 60,000. Fair market value of the plot as on April 1, 2001 is Rs. 1,10,000.

You are required to calculate the Taxable Income as per the provisions of Income- tax Act, 1961 for L & G Associates for A.Y. 2025-26.

Cost Inflation index for F.Y.2024-25 is 363 and for F.Y. 2001-02 is 100.

[May 2023 – 4 Marks]

Author's Note: As the transfer is made before 23rd July, indexation benefit shall be available and tax rate u/s 112 shall be 20% (+4% cess)

Answer

Computation of taxable income for M/s. L & G Associates for A.Y. 2025-26

Particulars	Amount	Amount
Profits and gains of business or profession		
Deemed transfer on receipt of stock in trade by Mr. L from L & G associates		
Receipt of stock in trade by Mr. L from L & associates in connection with reconstitution of L & G associates would be deemed to be transfer of stock in trade by L & G associates to Mr. L and would be taxable in P.Y. 24-25 u/s 9B		
Full value of consideration of stock in trade [FMV as on 21.7.2024, being the date on which stock in trade in received by Mr. L]	2,00,000	
Less: Purchase cost	1,20,000	
Profits and gains from business		80,000
Capital Gains		
Deemed transfer on receipt of plot of Land by Mr. L from L & G associates		
Receipt of plot of land by Mr. L from L & G associates in connection with reconstitution of L & G associates would be deemed to be transfer of plot of land by L & G associates to Mr. L and would be taxable in P.Y. 2024-25 u/s 9B		
Full value of consideration of plot of land [FMV as on 21.7.2024, being the date on which capital asset is received by Mr. L]	17,00,000	
Less: Indexed cost of acquisition [Higher of cost of acquisition (Rs. 60,000) and FMV as on 1.4.2001 (Rs. 1,10,000) i.e., Rs. 1,10,000 x 363/100]	3,99,300	
Capital Gains		13,00,700

Deemed income on receipt of cash and plot of land by Mr. L from L & G associates Profits and gains arising on receipt of cash and plot of land by Mr. L from L & G associates in connection with reconstitution of L & G associates would be deemed to be the income of L & G associates and would be taxable in the P.Y. 2024-25 u/s 45(4)		
Cash payment	1,00,000	
FMV of plot of land as on 21.7.2024	17,00,000	
	18,00,000	
Less: Amount of balance in capital account [See Working Note below]	19,28,165	
Since, income chargeable is negative, it would be deemed to be zero	(1,28,165)	-
Taxable Income		**13,80,700**
Working Note		
Amount of balance in capital account for section 45(4) = Capital balance as on date 21.7.2024 as increased / reduced by share in book profit/loss arising on account of deemed transfer		
Book profit after income-tax on account of deemed transfer u/s 9B		
Book profit on transfer on land = Nil (Rs. 17,00,000 – Rs. 17,00,000)		
Book profit on transfer on stock in trade = 80,000 (Rs. 2,00,000 – Rs. 1,20,000)		
Tax on capital gains on transfer of land as per section 9B = Rs. 13,00,700 x 20.8% = Rs. 2,70,546		
Tax on business income on transfer of stock in trade u/s 9B = Rs. 80,000 x 31.2% = Rs. 24,960		
Profit as per books as reduced by Income- tax on transfer u/s 9B		
Rs. 80,000 – Rs. 2,70,546 – Rs. 24,960 = (Rs. 2,15,506)		
Share of loss of Mr. L = Rs. 2,15,506/3 = Rs. 71,835		
Capital account balance before adjustment	20,00,000	
Less: Share of loss	71,835	
Amount of balance in capital account on 21.7.2024	19,28,165	

Summary of Section 54 to 54F

Criteria	54	54B	54D	54EC	54F
Eligible Assessee	Individual/ HUF	Individual (/Parents) / HUF	Any Assessee (including NR)	Any Assessee (including NR)	Individual/ HUF
Original asset	Residential HP (RHP)	Agricultural Land (Urban) - 2 yrs	L/B or Right - 2 yrs Industrial Undertaking	Land/ Building or both	Any LTCA (other than RHP)
Nature	Long term	LTCA/STCA	LTCA/STCA	Long term	Long term
Situation	Transfer	Transfer	Compulsory acq.	Actual Trf.	Transfer
Amount to invest	Capital Gain	Capital Gain	Capital Gain	Capital Gain	Net sale cons.
New Asset	Residential HP	Any land used for Agr. purpose	Land /Building /Rights	NHAI/ RECL/ PFC/ IRFC	Residential HP
Time Limit	P = 1yr / 2yr C = 3yrs	2 years	Purchase/ Construct – 3y	6 months	P = 1yr / 2yr C = 3yr
Exemption	Lower of CG or Investment				Proportionate to NSC
Max amt limit	10 crores	N. A.	N. A.	50 lakhs	10 crores
Lock-in	3 yrs	3 yrs	3 yrs	5 yrs	3 years
What if transf. before lock in?	CoA shall be reduced by amount exempted u/s 54			Exemption withdrawn.	Exemption withdrawn.
CGDA	Before RoI due date + Proof			N.A.	Before RoI due date + Proof
Unutilised CGDA tax on expiry of:	3 years	2 years	3 years	N.A.	3 years
Other points	If CG <= Rs. 2 crores, investment in 2 RHP Allowed	-	-	LT Dep building also eligible for 54EC benefit CA to SIT - Reckon 6m from sale of SIT	Not own >1 RHP on date of trf. Not P/C another RHP within 1yr/ 3 yrs respectively
Section 54H	Where transfer by compulsory acquisition, time limit to invest shall be reckoned from the date of receipt of such compensation (not from date of compulsory acquisition)				

Revise MAT, AMT and Sec 10AA

10 ASSESSMENT OF TRUST, ETC.

Question 1 [Section 11(2) vs Sec 13(5)] **[Q1]**

Institution operating for promotion of education exempt u/s 11 furnishes following for AY 2025-26:

	Particulars	Rs. in cr.
(i)	Fees collected from students	14
(ii)	Construction of a new computer science laboratory	0.50
(iii)	Land acquired to be used as a cricket field for the students	2
(iv)	Amount earmarked & set apart for construction of an arts block within next 4 years.	4

Compute the total income of the institution for the A.Y.2025-26.

[ICAI Module, MTP May 2018]

Answer

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

Particulars	Rs. (in Crore)
Fees received	14.00
Less: 15% (exempt even if not spent for the objects of the institution)	2.10
	11.90
Less: Actual amount spent on construction of computer science lab (See Note 1)	0.50
Less: Actual amount spent on purchase of land for cricket field (See Note 1)	2.00
	9.40
Less: Accumulated for specified purpose (See Note 2)	4.00
Total Income	**5.40**

Notes:

(1) The institution must utilise 85% of its income within the PY for the objects of the institution. The institution can apply its income either for revenue expenditure or for capital expenditure provided the expenditure is incurred for promoting the objects of the institution. Hence, Land acquired and meant for use as cricket field for students and amount spent on construction of computer science laboratory is eligible for deduction.

(2) Section 11(2) provides that a trust/institution can accumulate or set apart its income for a specified purpose by furnishing statement in Form 10 to the concerned Assessing Officer. However, the period for which the funds can be accumulated cannot exceed 5 years, stating the purpose and period for which the income is being accumulated or set apart. The amount so accumulated should be invested in the specified forms and modes.

Note

Section 11(2) stipulates the conditions for accumulation, on fulfillment of which the income so accumulated or set apart would not be included in the total income of the trust. The condition is that the statement in Form 10 has to be furnished at least 2 months prior to the due date of filing of return of income u/s 139(1).

However, as per section 13(9), the income accumulated would not be excluded from total income if Form 10 is not submitted on or before the due date u/s 139(1). Section 13(9) permits exclusion of accumulated income from total income of the PY, if Form 10 is filed on or before due date u/s 139(1).

CBDT Circular clarifies that the statement of accumulation in Form No. 10 is required to be furnished at least two months prior to the due date of furnishing return of income so that it may be taken into account while auditing the books of account.

However, the accumulation/deemed application shall not be denied to a trust as long as the statement of accumulation/deemed application is furnished on or before the due date of furnishing the return u/s 139(1)

Question 2 [Max 20% business in case of advancement for general public utility] [Q3]

An institution having its main object as "advancement of general public utility" received Rs. 30 lakhs in aggregate during the P.Y.2024-25 from an activity in the nature of trade. The total receipts of the institution, including donations, were Rs. 140 lakhs.

It applied 85% of its total receipts from such activity during the same year for its main object i.e., advancement of object of general public utility.

(i) What would be the tax consequence of such receipt and application thereof by the institution?

(ii) Would your answer be different if the institution's total receipts had been Rs. 150 lakhs (instead of Rs. 140 lakhs) in aggregate during the P.Y.2024-25?

(iii) What would be your answer if the main object of the institution is "relief of the poor" and the institution receives Rs. 30 lakhs from a trading activity, when its total receipts are Rs. 140 lakhs and applies 85% of the said receipts for its main object?

[ICAI Module, MTP Nov 22, RTP Nov 2021 MTP Nov 18 – 6 Marks]

OR

A charitable trust derives its income from the business of providing mineral water to various companies situated in Software Technology Park in Hyderabad. A sum of Rs. 30 lakhs has been derived as net income from such business activity, which has been applied for the object of general public utility. The total receipts of the trust during the P.Y. 2024-25 was Rs. 140 lakhs.

Examine the taxability of application of the income, if the income so derived relates to the PY 2024-25. Would your answer be different, if the trust runs a school in a backward district and applies the profits from the business for such school's activity?

[ICAI Module]

OR

"Save Wild Life" an institution having its main object as 'preservation of wildlife', used the entire income derived from an activity in the nature of trade for its main object during the PY ended on 31.03.2025. Would such utilization of its income be treated as utilisation for "charitable purpose"? Examine. Would your answer be different, if the main object of the institution is "advancement of object of general public utility"?

[ICAI Module]

Answer

(i) As the main object of the institution is "advancement of object of general public utility", the institution will lose its "charitable" status for the P.Y.2024-25, since it has received Rs. 30 lakhs from an activity in the nature of trade, which exceeds Rs. 28 lakhs, being 20% of the total receipts of the institution undertaking that activity for the previous year. The application of 85% of such receipt for its main object during the year would not help in retaining its "charitable" status for that year. The institution will lose its charitable status and consequently, the benefit of exemption of income for the P.Y.2024-25, irrespective of the fact that its approval is not withdrawn or its registration is not cancelled.

(ii) If the total receipts of the institution is Rs. 150 lakhs, and the institution receives Rs. 30 lakhs in aggregate from an activity in the nature of trade during the P.Y.2024-25, then it will not lose its "charitable" status since receipt of upto 20% of the total receipts of the institution in a year from such activity is permissible. The institution can claim exemption subject to fulfilment of other

conditions under sections 11 to 13. Further, such activity should also be undertaken in the course of actual carrying out of such advancement of any other object of general public utility.

(iii) The restriction regarding carrying on a trading activity for a cess, fee or other consideration will not apply if the main object of the institution is "relief of the poor". Therefore, receipt of Rs. 30 lakhs from a trading activity by such an institution will not affect its "charitable" status, even if it exceeds 20% of the total receipts of the institution. The institution can claim exemption subject to fulfilment of other conditions under sections 11 to 13.

Question 3 [Anonymous donation] **[Q8]**

The following trusts claim that anonymous donations received by them during the FY 2024-25 are not liable to tax u/s 115BBC:

(i) A charitable trust referred u/s 11 which applied the entire amount of anonymous donations for purposes of the trust during the relevant financial year.

(ii) A trust established wholly for religious purposes which applied 85% of the amount of anonymous donations for the purposes of the objects of the trust during the relevant financial year.

Examine the validity of the claim made by the trusts.

[ICAI Module]

Answer

(i) Section 115BBC provides for levy of tax @ 30% on anonymous donation received by, inter alia, charitable trusts or institutions referred to in section 11 in the following manner:

(a) the amount of income-tax calculated @30% on aggregate of anonymous donations received in excess of 5% of the total donations received by the assessee or one lakh rupees, whichever is higher; and

(b) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of the anonymous donations received in excess of 5% of the total donations received by the assessee or Rs. 1 lakh, as the case may be.

Further, section 13(7) provides that the exemption provisions contained in sections 11 and 12 shall not be applicable in respect of any anonymous donation liable to tax u/s 115BBC. As such, application of the anonymous donations received by the charitable trust for charitable purposes does not confer any exemption from tax.

Therefore, the claim for non-taxability u/s 115BBC of anonymous donations received by the charitable trust is not valid in law.

However, a view may be taken that anonymous donation upto higher of 5% of total donations or Rs. 1 lakh, which is taxable at normal rates would be eligible for application of income and thereby, the benefit of exemption u/s 11 would apply.

(ii) Section 115BBC(2) provides that the provisions contained in section 115BBC(1) relating to the taxability of anonymous donations are not applicable to any trust or institution created or established wholly for religious purposes.

As such, the trust established wholly for religious purposes is not liable to be taxed in respect of the anonymous donations received by it. Therefore, the claim made by the trust is valid in law.

The application or non-application of such anonymous donation for the purposes of trust during the relevant FY is not germane to the issue of taxability u/s 115BBC.

Question 4 [Sec 13A – Political parties] **[Q11]**

The books of account maintained by a National Political Party registered with Election Commission for the year ended on 31.3.2025 discloses the following receipts:

	Particulars	Rs.
(a)	Rent of property let out to a departmental store at Chennai	6,00,000
(b)	Interest on deposits other than banks	5,00,000
(c)	Contribution of Rs. 21,000 each from 100 persons (who have secreted their names)	21,00,000
(d)	Contribution from 10 persons by way of electoral bonds of Rs. 25,000 each	2,50,000
(e)	Cash contribution @ Rs. 2,100 each from 1,000 members (recorded in books of account)	21,00,000
(f)	Net profit of cafeteria run in the premises at Delhi	3,00,000

Compute the total income of the political party for AY 2025-26, with reasons for inclusion or otherwise.

[ICAI Module]

Answer

The total income of a political party registered with Election Commission is to be computed as per sec 13A under which income derived from house property, income from other sources & income by way of voluntary contributions received from any person, on fulfilling of conditions as mentioned, are exempt from tax.

Since, in this case, cash contribution in excess of Rs. 2,000 is received from 1000 persons, political party has violated the condition of receipt of donation through account payee cheque/draft or prescribed electronic modes.

Further, the political party has also violated the condition of maintenance of records in case of donations exceeding Rs. 20,000 received otherwise than by way of electoral bonds. Hence, its total income has to be computed as under without providing for exemption available u/s 13A:

Computation of total income of National Political Party

Particulars		**Rs.**
(a)	The rent of the property of Rs. 6 lacs located at Chennai [assuming the same to be the Gross Annual Value] less 30% of Rs. 6 lacs, being deduction u/s 24	4,20,000
(b)	Interest received on deposits	5,00,000
(c)	Contribution from 100 persons (who secreted their names) of Rs. 21,000 each	21,00,000
(d)	Contribution from 10 persons by way of electoral bonds of Rs. 25,000 each	2,50,000
(e)	Cash contribution @ Rs. 2,100 each from 1,000 members (recorded in books)	21,00,000
(f)	Net profit of cafeteria at Delhi	3,00,000
Total Income		**56,70,000**

Note –

Alternatively, the political party can contend that only Rs. 45 lakh is taxable on account of non-maintenance of records and receipt of cash donations, in which the case total income would be as under:

Computation of total income of National Political Party

Particulars		**Rs.**
(a)	Rent of the property of Rs. 6 lacs located at Chennai	Exempt
(b)	Interest received on deposits	Exempt
(c)	Contribution from 100 persons (who have secreted their names) of Rs. 21,000 each	21,00,000
(d)	Contribution from 10 persons by way of electoral bonds of Rs. 25,000 each	Exempt
(e)	Cash contribution @ Rs. 2,100 each from 1,000 members (recorded in books)	21,00,000
(f)	Net profit of cafeteria at Delhi	3,00,000
Total Income		**45,00,000**

Note:

It is presumed that maintenance of books of account, audit, submission of report u/s 29C of relevant Act, 1951 and filing of return of income u/s 139(4B) are fulfilled, and hence eligible for exemption u/s 13A.

Question 5 [Whether repayment to be treated as application if loan taken before 20-21] [Q14]

A public charitable trust registered u/s 12AB, for the PY ending 31.3.2025, derived gross income of Rs. 21 lakhs, which consists of the following:

Particulars	(Lakhs)
Income from properties held by trust (net)	10
Income (net) from business (incidental to main objects)	4
Voluntary contributions from public	7

The trust applied a sum of Rs. 11.60 lacs towards charitable purposes during the year which includes repayment of loan taken for construction of orphanage Rs. 3.60 lacs. The entire expenditure incurred on construction of orphanage was allowed as application of income in the P.Y. 2020-21.

Determine the taxable income of the trust for the AY 2025-26.

[ICAI Module, MTP May 23, MTP Nov 21, MTP Nov 2019 – 4 Marks]

Answer

	Particulars	**Rs.**
(i)	Income from property held under trust (net)	10,00,000
(ii)	Income (net) from business (incidental to main objects)	4,00,000
(iii)	Voluntary contributions from public	7,00,000
	Voluntary contributions made with a specific direction towards corpus are excluded u/s 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	
	(i) Amount spent for charitable purposes (Rs. 11,60,000 - Rs. 3,60,000)	8,00,000
	(ii) Repayment of loan for construction of orphan home (See Note below)	-
	Taxable Income	**9,85,000**

Note –

As per Explanation 4 to section 11(1), any application for charitable or religious purposes, from any loan or borrowing in concerned year, shall not be treated as application of income for charitable/religious purposes.

However, the amount not so treated as application, shall be treated as application in the year in which the loan is repaid. The Fourth proviso to Explanation 4(ii) to section 11(1) clarifies that this provision will, however, not apply where application is from loan or borrowing made on or before 31.3.2021.

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

Question 6 [Section 13B] [Q16]

M/s XYZ, an electoral trust incorporated in the year 2023, provides following info. for PY 2024-25:

- Total voluntary contributions received Rs. 420 lakhs
- Surplus brought forward from earlier P.Y.s Rs. 18 lakhs
- Expenses incurred for the purpose of managing its affairs Rs. 8 lakhs.

What is the amount of surplus that can be distributed by the electoral trust assuming all other conditions as provided under the Income-tax Act, 1961 are satisfied?

[MTP May 24]

OR

An electoral trust approved by the CBDT is not liable to income-tax in respect of voluntary contribution received and other income - Examine the correctness of the statement.

[ICAI Module]

Answer

Any voluntary contribution received by an electoral trust would be exempt, if such electoral trust:

(a) distributes to a registered political party during the previous year, 95% of aggregate donations received by it during the year along with the surplus if any, brought forward from any earlier PY and

(b) functions in accordance with the rules made by the Central Government.

The electoral trust may, for purposes of managing its affairs, spend up to 5% of the total contributions received in a year subject to an aggregate limit of Rs. 5 lakhs in the first year of incorporation and Rs. 3 lakhs in subsequent year.

The total contributions received in any FY along with the surplus from any earlier financial year, if any, as reduced by the amount spent on managing its affairs, shall be the distributable contributions for FY.

In the present case, M/s XYZ, an electoral trust incorporated in the year 2023, received voluntary contributions of Rs. 420 lakhs and has brought forward surplus from earlier previous years is Rs. 18 lakhs. It spent Rs. 8 lakhs for the purpose of managing its affairs. However, it is eligible to spend Rs. 3 lakhs being lower of -

- Rs. 21 lakhs, being 5% of total contributions i.e., Rs. 420 lakhs or
- Rs. 3 lakhs, since P.Y. 2024-25, being the subsequent year for the purpose of managing its affair

Accordingly, M/s XYZ, an electoral trust can distribute its distributable contribution of Rs. 435 lakhs [i.e., Rs. 420 lakhs plus Rs. 18 lakhs less Rs. 3 lakhs] as the same exceeds Rs. 416.10 L (i.e., 95% of Rs. 438 L).

Author's Note: It may be noted that the exemption u/s 13B will be available only in respect of voluntary contribution received by an electoral trust. The exemption cannot be claimed in respect of any other income.

Question 7 [Exit tax calculation] **[Q17]**

Helpage is a charitable trust set up on 1.4.2010 with the object of providing relief to the poor. Later on, in April, 2012, it changed its object to medical relief. It applied for registration on the basis of its new object, i.e., medical relief, on 1.9.2012 and was granted registration u/s 12AA on 1.2.2013.

On 1.4.2024, Helpage got merged with Poor Aid, is not eligible for registration u/s 12AB or approval u/s 10(23C). All the assets and liabilities of the erstwhile trust became the assets and liabilities of Poor Aid. The trust appointed a registered valuer for the valuation of its assets and liabilities. From the following particulars (including valuation report), calculate tax liability in hands of the trust arising due to merger:

(i) Land

Location	Date of purchase	Stamp duty value on 1.4.2024	Value which the land would fetch, if sold in the open market on 1.4.2024	Book Value on 1.4.2024
		Rs.	Rs.	Rs.
Noida	1.9.2010	55 lakhs	58 lakhs	50 lakhs
Gurgaon	1.9.2013	100 lakhs	120 lakhs	110 khs

(ii) Shares

Type of shares	Date of purchase	Face value per share	Purchase price of each share	Price at which each share is quoted on BSE as on 1.4.2024		Open market value as on 1.4.2024
				Highest price	Lowest price	
5000 Quoted equity shares A	1.5.2014	100	110	320	300	
2000 Preference shares of B Ltd.	1.9.2015	100	100	-	-	180

(iii) Liabilities

Book value of liabilities on 1.4.2024 = Rs. 120 lakhs. This includes –

(a) Corpus fund Rs. 12 Lakhs.
(b) Provision for taxation Rs. 8 lakhs; and
(c) Reserves and Surplus Rs. 18 lakhs

[Module, MTP N'23, RTP M'20, RTP M'21, MTP N'21, MTP M'23, MTP M'21, MTP M'20, RTP N'20 – 8 Marks]

Answer

As per section 115TD, the accreted income of "Helpage", a charitable trust, registered u/s 12AA which is merged with Poor Aid, an entity not entitled for registration u/s 12AB or approval u/s 10(23C), would be chargeable to tax at the rate of 34.944% [30% plus surcharge @12% plus cess@4%].

Computation of accreted income and tax liability in the hands of the Helpage trust due to merger:

Particulars	Amount (Rs.)
Aggregate FMV of total assets as on 1.4.2024, being the specified date (date of merger) [See Working Note 1]	1,39,10,000
Less: Total liability computed in accordance with the prescribed method of valuation [See Working Note 2]	82,00,000
Accreted Income	**57,10,000**
Tax Liability @ 34.944% of Rs. 57,10,000 (rounded off)	**19,95,300**
Working Notes:	
(1) Aggregate fair market value of total assets on the date of merger	
- Land at Noida, being immovable property, purchased on 1.9.2010 Since trust was registered only on 1.2.2013 and benefit of sec 11 and 12 was available to trust only from P.Y.2012-13, being the PY in which application for registration is made, value of land purchased in P.Y.2010-11, for which benefit u/s 11 and 12 was not availed, has to be ignored for this purpose.	-
- Land at Gurgaon, being an immovable property, purchased on 1.9.2013 [The fair market value of land would be higher of Rs. 120 lakhs i.e., price that the land would ordinarily fetch if sold in the open market and Rs. 100 lakhs, being stamp duty value as on the specified date, i.e., 1.4.2024]	1,20,00,000
- Quoted equity shares of A Ltd. [5,000 x Rs. 310 per share] [Rs. 310 per share, being the average of the lowest (Rs. 300) and highest price (Rs. 320) of such shares on the specified date]	15,50,000
- Preference shares of B Ltd. [2,000 x Rs. 180 per share] [The fair market value which it would fetch if sold in the open market on the specified date i.e. FMV on 1.4.2024]	3,60,000
	1,39,10,000
(3) Total liability	
- Reserves and Surplus Rs. 18 lakhs [not includible]	-
- Corpus Fund of Rs. 12 lakhs [not includible]	-
- Provision for taxation Rs. 8 lakhs [not includible]	-
- Other Liabilities [Rs. 120 lakhs - Rs. 18 lakhs - Rs. 12 lakhs - Rs. 8 lakhs]	82,00,000
	82,00,000

Note: In case of merger with another trust with similar objects and having registration u/s 12AB or approval u/s 10(23C), exit tax shall not apply. [Sec 12AC applicable w.e.f. FA 2024]

Question 8 [Value of services to specified person] **[Q25]**

Mr. Nagaraj is the founder of SSVB Trust, a public charitable trust registered u/s 12A of the Income-tax Act, 1961. The trust runs a hospital for the treatment of various diseases. Mr. Ram, son of Mr. Nagaraj, was admitted in May 2024 in the hospital due to COVID for treatment. He was charged a total fee of Rs. 3 lakhs as against the amount of Rs. 5 lakhs charged by the hospital for similar treatment to the general

public. The Board of trustees were served with a notice by the income tax authorities for cancellation of registration u/s 12A. Discuss whether registration can be denied to the trust. What are the further tax implications?

[Nov 22, MTP May 24 – 4 marks]

Answer

As per section 13(6), SSVB Trust shall not be denied the benefit of exemption u/s 11 in respect of its entire income merely due to the reason that the benefit of medical facilities have been provided to Mr. Ram, son of Mr. Nagaraj, being the specified person. Accordingly, the registration of SSVB Trust cannot be cancelled by the Income- tax authorities on this basis.

As per section 12(2), the value of medical facilities provided to Mr. Ram, being the specified person, at a concessional rate would be deemed to be the income of the trust and such income would not be eligible for exemption u/s 11.

Hence, Rs. 2,00,000, being the concessional value of medical services would be deemed to be the income of SSVB Trust. The remaining income would be eligible for benefit of section 11.

Question 9 [Good question for 1 adjustment] **[Q28]**

Ramnarayan Foundation Trust was formed on 01-04-2006. It applied for registration u/s. 12AA of the Act and got the registration approved from prescribed authority with effect from 01-04-2010. The trust got the exemption from payment of taxes satisfying the conditions laid down in Sections 11 to 13 from 01-04-2010. The trust got dissolved on 29-12-2023. The Balance Sheet on the date of dissolution was as under:

Liabilities	Amount	Assets	Amount
Corpus of the trust	6,00,000	Land and Building	12,00,000
Reserves (created out of accumulated amount of 15% each year)	3,00,000	Investment in Equity Shares - Quoted	4,00,000
Loan taken for purchase of Land and Building	9,00,000	Investment in Equity Shares - Unquoted (in Z Ltd.)	1,50,000
Loan taken for the purchase of unquoted shares (taken in year 2007-08)	1,00,000	Cash	1,00,000
		Bank Balance	50,000
Total	**19,00,000**	**Total**	**19,00,000**

Additional information:

(a) FMV of Land and Building is Rs. 50,00,000.
(b) 50% of the Unquoted shares were acquired during the year 2007-08.
(c) Market Value of quoted shares on the date of dissolution is Rs. 18,00,000.
(d) Land and Building is acquired out of agricultural income.
(e) With respect to Z Ltd. in which the trust invested in unquoted shares, the following additional information was available as on 29-12-2023:
    (1) 1,00,000 Equity Shares with face value of Rs. 10 each
    (2) Total Book Value of the assets (other than bullion, jewellery) is Rs. 60,00,000.
    (3) Market Value of bullion and jewellery is Rs. 30,00,000.
    (4) Liabilities amounting to Rs. 35,00,000.
(f) The trust distributed the assets on dissolution, valuing Rs. 8,00,000 to another trust registered u/s 12AB of the Act before 31-12-2024.

Compute the tax payable by Ramnarayan Foundation Trust for the A.Y. 2025-26 u/s 115TD.

[Dec 2021 – 8 marks]

Answer

As per section 115TD, the accreted income of Ramnarayan Foundation trust, a charitable trust, registered u/s 12AA would be chargeable to tax at the rate of 34.944% [30% plus surcharge @12% plus cess@4%] on non-distribution of assets on dissolution to another trust registered u/s 12AA within 12 months from the end of the month in which the dissolution takes place.

Computation of accreted income and tax liability in the hands of trust on dissolution

Particulars	Amount
Aggregate FMV of total assets as on 29.12.2023, being the specified date (date of dissolution) [See Working Note 1]	61,12,500
Less: Total liability computed in accordance with the prescribed method of valuation [See Working Note 2]	9,00,000
Accreted Income	52,12,500
Less: Value of assets distributed within 12 months from the end of the month of dissolution	8,00,000
	44,12,500
Tax Liability@34.944% of Rs. 44,12,500	**15,41,904**
Tax Liability (rounded off)	**15,41,900**
Working Notes:	
(1) Aggregate FMV of total assets on the date of dissolution	
- Land and building, FMV as on 29.12.2023, being the specified date, has to be considered and one-fourth of the value of land and building to be ignored, since acquired out of agricultural income exempt u/s 10(1) [Rs. 50 lakhs x 3/4]	37,50,000
- Equity shares - quoted [market value on the date of dissolution]	18,00,000
- Equity shares – unquoted in Z Ltd. [Since the trust was registered only on 1.4.2010 and benefit of section 11 and 12 was available to the trust only from P.Y.2010-11, the value of 50% of the unquoted shares purchased in P.Y.2007-08, in respect of which benefit u/ss 11 and 12 was not allowed, has to be ignored] Value of unquoted shares = Rs. 4,12,500 [50% of Rs. 8,25,000 (Book value of assets (other than bullion, jewellery) of Z Ltd. i.e., Rs. 60,00,000 + Market value of bullion and jewellery of Z Ltd. i.e., Rs. 30,00,000 – Liabilities of Rs. 35,00,000 x paid up value of shares i.e., Rs. 1,50,0004/ total amount of paid up equity share capital as shown in the Balance Sheet of Rs. 10,00,000)]	4,12,500
- Cash	1,00,000
- Bank Balance	50,000
	61,12,500
(2) Total liability	
- Corpus Fund of Rs. 6,00,000 [not includible]	Nil
- Reserves and Surplus Rs. 3,00,000 [not includible]	Nil
- Loan taken for purchase of land and building	9,00,000
- Loan taken for purchase of unquoted shares [Since the entire loan is in relation to unquoted shares acquired during the year 2007-08, when the trust was not eligible for exemption u/s 11 and 12, the same is not deductible]	Nil
	9,00,000

Question 10 **[Q29]**

Tulsi Foundations, a public charitable and religious trust registered u/s 12AB, runs a hospital and also owns a temple. It furnishes you the following information for the year ended 31st March, 2024:

(i) Gross receipts from hospital Rs. 200 Lakhs.

(ii) Voluntary contributions (not included in gross receipts) received from public amounted to Rs. 35 lakhs. It includes corpus donation of Rs. 5 lakhs and anonymous donation Rs. 10 lakhs. Out of the anonymous donations of Rs. 10 lakhs, Rs. 8 lakhs are made to the donation box of temple.

(iii) Operational expenses incurred for the hospital amounted to Rs. 94 lakhs and for the temple amounted to Rs. 16.8 lakhs.

(iv) On 1st January 2024, Rs. 6 lakhs was paid to a contractor in cash for the overall maintenance of the hospital. This amount is included in the operational expenses of the hospital.

(v) On 1st May, 2023, the trust purchased and installed new computer software for Rs. 25 lakhs for the hospital: The rate of depreciation is 40% as per the Income-tax Act, 1961.

(vi) The trust gave donation of Rs. 12 lakhs to Balaji trust (having objects of charitable nature), registered u/s 12AB, but not similar to the objects of the donor trust.

Compute the total income and income tax liability of the trust for the A.Y. 2025-26 in such a manner that it can avail the optimal benefit within the four corners of law.

[July 2021 – 8 marks]

Answer

Computation of total income of Tulsi Foundations for the A.Y.2025-26

Particulars	Rs.	Rs.
Gross receipts from hospitals		2,00,00,000
Add: Voluntary contributions other than corpus donation & anonymous donation		20,00,000
Corpus donation [does not form part of total income]		Nil
Anonymous donations for temple [not subject to tax u/s 115BBC]		8,00,000
		2,28,00,000
Add: Anonymous donations other than for temple [to the extent not chargeable to tax@30% u/s 115BBC(1)(i)] [Rs. 1,75,000, being 5% of total donations of Rs. 35,00,000 or Rs. 1,00,000, whichever is higher] [See Note 1 at the end of the solution]		1,75,000
		2,29,75,000
Less: 15% of income eligible for being set apart without any condition [See Note 2 at the end]		34,46,250
		1,95,28,750
Less: Amount applied for charitable purposes		
- Operational expenses incurred for hospital and temple [Rs. 94 lakhs + Rs. 16.8 lakhs – Rs. 6,00,000 not treated as application as payment to contractor made in cash]	1,04,80,000	
- Purchase of computer [it is beneficial for the trust to claim cost of computer itself as application of income in the year asset is acquired. If the cost of asset is claimed as application, then, depreciation will not be allowed as deduction as per section 11(6)]	25,00,000	
- Donation to charitable trust registered u/s 12AB allowable the extent of 85% since it is not a corpus donation.	10,20,000	
		1,40,00,000
Total income [other than anonymous donation taxable@30% u/s 115BBC(1)(i)]		55,28,750
Add: Anonymous donation taxable @30% u/s 115BBC(1)(i) [See Note at the end of the solution]		25,000
Total Income of the trust		**55,53,750**

Computation of tax liability of the trust for the A.Y. 2025-26

Particulars	Rs.
Tax on total income of Rs. 55,28,750 i.e., total income [excluding anonymous donations of Rs. 25,000 taxable @30% u/s 115BBC(1)(i)] [Rs. 45,28,750 x 30% plus Rs. 1,12,500]	14,71,125
Tax on anonymous donations taxable@30% [Rs. 25,000 x 30%]	7,500
	14,78,625
Add: Surcharge@10%, total income exceeds Rs. 50 lakhs but not exceed Rs. 1 crore	1,47,863
	16,26,488

Add: Health and Education cess @4%	65,060
Total tax liability	**16,91,548**
Total tax liability (rounded off)	**16,91,550**

Note –
To avail maximum benefit, the amount of Rs. 52,78,750 (i.e., Total income excluding anonymous donation taxable@30% u/s 115BBC i.e., Rs. 55,28,750 – Rs. 2,50,000, being the basic exemption limit) can be accumulated or set apart for such period not exceeding 5 years by exercising an option on or before the due date for filing return of income and such amount should be invested in modes specified u/s 11(5).

Notes (alternative views):

(i) As per section 13(7), anonymous donations subject to tax@30% u/s 115BBC are not eligible for 15% unconditional exemption. However, the plain reading of section 13(7) may give rise to an alternate view that the anonymous donations referred to in section 115BBC(1)(i) and (ii) may not be eligible for benefit of exclusion from total income u/ss 11 and 12. If this view is taken, then Rs. 1,75,000 should not be added to Rs. 228,00,000 for 15% unconditional exemption.

(ii) As per the Supreme Court ruling in CIT v. Programme for Community Organisation (2001), 15% of gross receipts would be eligible for accumulation u/s 11(1)(a). Accordingly, in the above solution, 15% of gross receipts has been considered. However, as per the plain reading of section 11(1), only 15% of income can be set apart without any conditions.

Note: Student may consider to mention this alternative view. Otherwise, it's totally alright to skip.

Question 10A **Q34**

M/s Mahan Charitable Trust is running an Educational Institution with hostel facility for the orphan children. It is registered u/s 12AB. The details of income and expenditure of the Trust are as given below:

(i) Voluntary contributions received during the year Rs. 150 lakhs. This includes:
  (a) Corpus donation Rs. 20 lakhs
  (b) Donation of Rs. 20 lakhs from Mr. Michael, a foreign donor, which was received on 31-3-2025.

(ii) Salary paid to teachers and administrative staff Rs. 40 lakhs.

(iii) Other general expenses Rs. 10 lakhs include payment to grocery stores of Rs. 30,000 by crossed cheque.

(iv) A land belonging to the Trust in a nearby village which was purchased in the year 2013-14 for Rs. 5 lakhs was sold for Rs. 10.50 lakhs and another land adjacent to the Trust premises was purchased for Rs. 12 lakhs to be used as playground for the children.

(v) Five laptops costing Rs. 50,000 each were purchased during the year for teaching purposes.

(vi) Trust had accumulated Rs. 30 lakhs u/s 11(2) in FY 2020-21 for constructing a school building. Amount spent for the same till 31-3-2025 was Rs. 27 lakhs. The project is completed with saving in project cost.

(vii) Two additional rooms measuring 1500 sq. ft each was constructed in the existing hostel for the children. Cost of construction is Rs. 1200 per sq. ft.

(viii) It made a corpus donation of Rs. 20 lakhs to a charitable trust registered u/s 12AB having similar objects.

Compute taxable income of Mahan Charitable Trust for the AY 2025-26. Support your Answer with necessary working notes.

[May 2019 – 8 marks]

Answer

Computation of total income of M/s. Mahan Charitable Trust for the A.Y.2025-26

Particulars	**Rs.**	**Rs.**
Voluntary contributions received during the year		1,50,00,000
Less: Corpus Donation		20,00,000

		1,30,00,000
Income from property held under trust [Capital Gains from sale of land (Rs. 10.50 lakhs – Rs. 5 lakhs)]		5,50,000
		1,35,50,000
Less: 15% of income eligible for being set apart without any condition		20,32,500
		1,15,17,500
Less: Amount applied for charitable purposes		
Salary paid to teachers and administrative staff	40,00,000	
General expenses [Rs. 10,00,000 – Rs. 30,000, payment by crossed cheque disallowed due to application of section 40A(3)]	9,70,000	
Capital gains re-invested in purchase of land for the purpose of the trust deemed to be applied for charitable purposes [Rs. 10.50 lakhs – Rs. 5 lakhs]	5,50,000	
Excess of purchase price of new land over sale consideration of old land treated as application of income, since the new land is used for the purpose of the trust [Rs. 12 lakhs – Rs. 10.50 lakhs]	1,50,000	
Cost of laptops purchased for teaching purposes [Rs. 50,000 x 5]	2,50,000	
Cost of construction of hostel rooms [2 x Rs. 1200 x 1500 sq. ft]	36,00,000	
Corpus donations of Rs. 20 lakhs to a trust registered u/s 12AB not permissible as deduction	Nil	
		95,20,000
		19,97,500
Amount accumulated for constructing a school building (Rs. 30 lakhs) less amount actually spent (Rs. 27 lakhs) taxable in the P.Y.2025-26 (A.Y.2026-27), being the year immediately succeeding the P.Y.2024-25 (A.Y.2025-26), the year in which project is completed		Nil
Total income [See Note below]		**19,97,500**

Note –

If the trust exercises the option to apply the donations received (to the extent of Rs. 17.475 lakhs, being taxable portion of income of the trust i.e., Rs. 19,97,500 – Rs. 2,50,000, the basic exemption limit) from Mr. Michael on 31.3.2025 on or before the due date of filing of return u/s 139(1) in the prescribed form, the income would be deemed to have been applied for charitable purposes in the A.Y.2025-26. However, Rs. 17.475 lakhs should be applied before the end of the PY 2025-26.

Question 12 [REIT] **[Q37]**

Beta, a Real Estate Investment Trust (REIT), registered under relevant SEBI Regulations, holds 65% shares in H Ltd. Beta REIT provides the following information about its income for the F.Y. 2023-24.

(i) Interest income from H Ltd. - Rs. 12 crores
(ii) Dividend income from H Ltd. - Rs. 2 crores
(iii) Short-term capital gains on sale of developmental properties - Rs. 1.2 crore
(iv) Interest received from investments in unlisted debentures of companies - Rs. 12 lakhs
(v) Rental income from directly owned real estate assets - Rs. 2 crores

Mr. Arpan, a resident Indian, holds 70% of the units of the REIT. He acquired units in the REIT at an issue price of Rs. 1.5 crores. He does not have any other income during the year. During the P.Y. 2023-24, REIT distributed Rs. 20 crores to its unit holders.

Compute the total income in the hands of Beta Ltd. and Mr. Arpan.

Note: H Ltd. has opted to pay tax u/s 115BAA. Ignore TDS implications

[RTP Nov'24, May 2022 – 8 marks]

Answer

Computation of total income in the hands of Beta, REIT and Mr. Arpan (unit-holder)

Particulars	Beta (REIT)	Mr. Arpan (Unit-holder)
(i) Interest income of Rs. 12 crores from H Ltd. (SPV) Interest income from SPV would be exempt in the hands of REIT by virtue of section 10(23FC)(a). The component of such interest income distributed to unit holders would be deemed as income of the unit holders u/s 115UA(3). Accordingly, Rs. 8.4 crores being 70% of Rs. 12 crores is taxable in the hands of the unitholder Mr. Arpan.	Nil	8,40,00,000
(ii) Dividend income of Rs. 2 crores from H Ltd. (SPV) The dividend distributed by the SPV to the REIT is exempt in the hands of REIT by virtue of section 10(23FC)(b). The component of such dividend income distributed to unitholders is taxable in the hands of unitholders by virtue of exception u/s 10(23FD), since H Ltd. (SPV) has exercised the option u/s 115BAA. Accordingly, Rs. 1.40 crore, being 70% of Rs. 2 crores, would be taxable in hands of Mr. Arpan.	Nil	1,40,00,000
(iii) STCG of Rs. 1.2 cr on sale of developmental properties STCG on sale of development properties is taxable at maximum marginal rate in hands of the REIT u/s 115UA. There would be no tax liability in the hands of unit holders on the capital gain component of income distributed to them by virtue of exemption contained u/s 10(23FD).	1,20,00,000	Nil
(iv) Interest of Rs. 12 lakh received in respect of investment in unlisted debentures of companies Such interest is taxable at maximum marginal rate in the hands of the REIT as per section 115UA(2). There would be no tax liability in the hands of the unit holders on the interest component of income distributed to them by virtue of section 10(23FD).	12,00,000	Nil
(v) Rental income of Rs. 2 crores from directly owned real estate assets Income by way of renting or leasing or letting out any real estate asset owned directly by REIT is exempt in the hands of the REIT as per section 10(23FCA). However, component of such rental income distributed to unitholders is deemed as income of the unit holders as per section 115UA(3). Accordingly, Rs. 1.4 crores, being 70% of Rs. 2 crores would be taxable in the hands of Mr. Arpan.	Nil	1,40,00,000
(vi) Other income distributed to unitholders As per section 115UA(3A), any sum other than interest and dividend received from SPV, rental income and income which are chargeable to tax in the hands of REIT, in the present case it is STCG on sale of developmental properties and interest on unlisted debentures, would be chargeable to tax u/s 56(2)(xii) in the hands of unitholders as income from other sources. In the present case, Rs.	-	37,60,000

37,60,000 [Rs. 1.876, being 70% of Rs. 2.68 [Rs. 20 crores – Rs. 17.32 (Rs. 12 crores + Rs. 2 crores + Rs. 1.2 crores + Rs. 12 lakhs + Rs. 2 crores)] *Less* Rs. 1.5 crores, being the issue price of units held by Mr. Arpan} would be taxable as Income from other sources.		
Total income	**1,32,00,000**	**11,57,60,000**

12 TAXATION ON VIRTUAL DIGITAL ASSET

Question 1 **[Q1]**

Compute income-tax payable by Mr. Abhinav, aged 32 years, who has the following income for A.Y.2025-26:

1. Interest on fixed deposits with SBI (Gross)	1,10,000
2. Interest on savings bank account with SBI	15,000
3. Consideration received for transfer of VDA	62,000
4. Cost of acquisition	21,000
5. Expenses on transfer of VDA	1,000

[ICAI Module]

Answer

Total income (excluding Income from transfer of VDA) is below the basic exemption limit of Rs. 2,50,000. Therefore, tax on income, other than income from VDA, is Nil. Income of Rs. 41,000 (Rs. 62,000 – Rs. 21,000) from transfer of VDA would be taxable@30% (plus cess of 4%), even if the total income including income from transfer of VDA is less than the basic exemption limit. The tax on income from transfer of VDA would be Rs. 12,792, being 31.2% of Rs. 41,000. The expenses on transfer of VDA is not allowable as deduction.

Section 194S provides for deduction of tax on payment on transfer of virtual digital asset to a resident at the rate of 1% of consideration. Hence, the transferor would have deducted tax of Rs. 620, being 1% of Rs. 62,000.

Tax@10% u/s 194A would have been deducted by SBI from Rs. 1,10,000. TDS u/s 194A = Rs. 11,000
Net tax payable by Mr. Abhinav - Rs. 1,172 (Rs. 12,792 – Rs. 11,000 (TDS u/s 194A) –Rs. 620 (TDS u/s 194S).

Question 2 **[Q7]**

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

(i) Both MNO Inc. and PQR Inc. have no permanent establishment in India

(ii) MNO Inc. has a permanent establishment in India but PQR Inc. has no permanent establishment in India

(iii) PQR Inc. has a permanent establishment in India and the advertisement services are effectively connected with such PE

[ICAI Module, MTP Nov 22 -6 marks]

Answer

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

a non-resident having permanent establishment in India.
"Specified Service" means
(1) online advertisement;
(2) any provision for digital advertising space or any other facility or service for the purpose of online advertisement and
(3) any other service as may be notified by the CG. However, equalisation levy shall not be levied-
- where the non-resident providing the specified services has a permanent establishment in India and the specified service is effectively connected with such permanent establishment.
- the aggregate amount of consideration for specified service received or receivable during the PY does not exceed Rs. 1 lakh.
- where payment for specified service is not for purposes of carrying out business or profession.

Equalization levy@2% would be chargeable on the amount of consideration received or receivable by an e-commerce operator from e-commerce supply or services made or provided or facilitated by it—
(1) to a person resident in India; or
(2) to a non-resident in the specified circumstances as provided below; or
(3) to a person who buys such goods or services or both using internet protocol address located in India.

The equalization levy shall not be charged—
(1) where the e-commerce operator making or providing or facilitating e-commerce supply or services has a permanent establishment in India and such e-commerce supply or services is effectively connected with such PE
(2) where the equalization levy is leviable u/s 165; or
(3) sales, turnover or gross receipts, as the case may be, of the e-commerce operator from the e-commerce supply or services made or provided or facilitated is less than Rs. 2 crore during PY.
Meaning of "specified circumstances":
(1) sale of advertisement, which targets a customer, who is resident in India or a customer who accesses the advertisement though internet protocol address located in India; and
(2) sale of data, collected from a person who is resident in India or from a person who uses internet protocol address located in India.

(i) Equalisation levy would not be attracted in present case since MNO Inc., a non- resident service recipient, does not have a permanent establishment in India. Therefore, the MNO Inc. is not required to deduct equalisation levy @ 6% on Rs. 5 lakhs, being amount paid towards online advertisement services to PQR Inc

However, equalisation levy @2% u/s 165A is attracted on Rs. 5 lakhs, being the amount of consideration received by PQR Inc, an e-commerce operator from e- commerce services provided by it to MNO Inc., a non-resident in the specified circumstance, namely, sale of advertisement, which targets a customer, who is resident in India, since the gross receipts of PQR Inc. in the P.Y. 2024-25 exceeds Rs. 2 crores.

(ii) In the present case, equalisation levy @6% is chargeable on the amount of Rs. 5,00,000 received by PQR Inc., a non-resident not having a PE in India from MNO Inc., a non- resident having a PE in India.

Accordingly, MNO Inc. is required to deduct equalisation levy of Rs. 30,000 i.e., @6% of Rs. 5 lakhs, being the amount paid towards online advertisement services provided by PQR Inc., a non-resident having no permanent establishment in India. Non-deduction of equalisation levy would attract

disallowance u/s 40(a)(ib) of 100% of the amount paid while computing business income.

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

(iii) Equalisation levy would not be attracted where the non-resident service provider (PQR Inc., in this case) has a permanent establishment in India and the service is effectively connected to the permanent establishment in India. Therefore, MNO Inc. is not required to deduct equalisation levy on Rs. 5 lakhs, being the amount paid towards online advertisement services to PQR Inc, in this case. Since equalisation levy is not attracted in this case, exemption u/s 10(50) of the Income-tax Act, 1961 would not be available.

However, since PQR Inc. has a PE in India and advertisement services are effectively connected with the PE in India, such advertisement income would be deemed to accrue or arise in India in the hands of PQR Inc. u/s 9(1)(i) and would be taxable in the hands of PQR Inc. under the Income-tax Act, 1961.

Author's Note: Section 165A and 10(50) in hands of ECO is not applicable w.e.f. 1stAug 2024 vide amendment in FA 2024. However, this question is kept intact as it applies for the period 1st April to 31st July. Student must have basic understanding of the provision.

13 DEDUCTION, COLLECTION AND RECOVERY

Question 1

An employee of CG receives arrears of salary for the earlier 3 years. He enquires whether he is liable for deduction of tax on entire amount during the current year.	192 – Average Rate of Tax Threshold – BEL TDS applied subject to relief u/s 89
Mr. Sharma, an employee of M/s. ABC Ltd. since 10-04-2020, resigned on 31-03-2024 and withdrew Rs. 60,000 being the balance in his EPF account. Discuss with reasons whether the provisions of Chapter XVII-B are attracted and if so, what is the net amount receivable by the payee, Mr. Sharma?	192A – 10% Threshold – 50K Exception – 5 years of service, Illness, transfer to PF fund with new employer
A T.V. channel pays Rs. 10 lakhs on 1.9.2023 as prize money to the winner of a quiz programme, "Who will be a Millionaire"?	194B – Winning income – 30% Threshold – 10K
X is a bookmaker and Mr. B is a punter. On 22-01-2018, B has won Rs. 50,000 in Horse Race 1 and suffered a loss of Rs. 20,000 in Horse Race 2.	194BB – Race horse – 30% Threshold – 10K
Mr. A received an order from PQR Ltd. to stich T-shirts. To complete such order, he purchased cloth of Rs. 35 lakhs from Fashion Ltd. on 24th May 2021. He stitched T-shirts as per given specifications and supplied to PQR Ltd. He raised a consolidated invoice in the following manner: Sale of 8000 T-shirts @ Rs. 500 each = Rs. 40,00,000 Fashion Ltd. is closely related to PQR Ltd. as specified u/s 40A(2)(b).	194C – Indv/HUF – 1%; Others – 2% Works contracts definition Threshold – 30k per invoice; 1 lakh aggregate Here, deduct 1% on Rs. 40L
A State Govt. pays Rs. 22,000 on 2.7.2023 as commission to one of its agents on sale of lottery tickets.	194G – 5% Threshold – 15,000
On 17.6.2023, a commission of Rs. 50,000 was retained by the consignee 'ABC Packaging Ltd.' and not remitted to the consignor 'XYZ Developers', while remitting the sale consideration. Examine the obligation of the consignor to deduct tax at source.	194H – 5% Threshold – 15,000 Retention amounts to constructive payment.
ABC Ltd. took on sub-lease a building from J, an individual, and also took on hire machinery. ABC Ltd. entered into two separate agreements with J for sub-lease of building and hiring of machinery. The rent of building and hire charges of machinery for the FY 2023-24 were Rs. 1,75,000 and Rs. 90,000, respectively. Examine TDS	194I – 2%/10% Threshold – 2,40,000 (aggregate of all type of assets taken on lease/hire)

Mr. Mandeep Singh, had a turnover of Rs. 12 crores during FY 2021-22 and is covered u/s 44AB for compulsory audit of Books of Accounts. He purchased a residential house in January 2023 for his personal use for Rs. 5 crores from Mr. Amit and paid a commission@12% of the value of the house to Mr. Pankaj for effecting the deal. The house is not used for business purposes by Mr. Mandeep Singh.	194IA – 1% Threshold – Consideration and SDV >= Rs.50 lakhs 194H – 5% Threshold – Rs. 15,000
Mr. X, a salaried individual, pays rent of Rs. 55,000 per month to Mr. Y from June, 2023. Is he required to deduct tax at source? If so, when is he required to deduct tax? Also, compute amount of TDS	194IB – 5% Threshold – Rs. 50000 p.m.
BCD Ltd. credited Rs. 28,000 towards fees for professional services and Rs. 27,000 towards fees for technical services to the account of HG in its books of account on 6.10.2023. The total sum of Rs. 55,000 was paid by cheque to HG on 18.12.2023.	194J – 10% or 2% (FTS, Call Center, Cinema Films) Threshold – Rs. 30,000 for each category of service
K & Co LLP withdrew from its bank account Rs. 68 lakhs cash for buying agricultural produce, from farmers/agriculturists, being raw material required for manufacture of finished products by it and Rs. 58 lakhs for purpose of other business activities. It files return of income on time regularly.	194N – 2% of excess (over Rs. 1 cr) In case of non-filer (3PY) Upto 20 lakhs - 0% Rs. 20 lakhs to Rs. 1 crore – 2% Above Rs. 1 crore – 5%.
Mr. Appy, a resident Indian, [E-commerce participant] sells goods worth Rs. 84 lakhs through e-commerce website of HIGHSALE [E-commerce Operator]. Mr. Appy has furnished PAN or AADHAR No. to the E-commerce Operator. He has furnished his return of income for all AY before the due date of filing return of income.	194O – 1% of Gross Amount paid by ECO to ECP Threshold – Min. 5 Lakhs Failure to furnish **PAN** – 5%
SBI pays Rs. 50,000 per month as rent to the CG for a building in which one of its branches is situated.	While 194I may be attracted but **Sec 196** exempts TDS on payments made to Govt.

Question 2 [Sec 192] **[Q2]**

A foreign company seconded some employees to the assessee, an Indian collaborator. These employees worked with the Indian collaborator throughout the P.Y.2024-25. The employees were in receipt of salary from the Indian collaborator. They were also in receipt of special allowance directly from the foreign company in foreign currency outside India. The Indian collaborator deducted tax u/s 192, on the component of salary paid by it, without taking into account the special allowance paid abroad by the foreign company in foreign currency to these employees. For this reason, the Revenue authorities treated the Indian collaborator as an 'assessee-in-default' u/s 201 for non-deduction of tax at source on the "special allowance" component of salary paid by the foreign company. Is such treatment by the Revenue Authorities and the consequent levy of interest and penalty justified?

[ICAI Module, Nov 2020, MTP Nov 2021 – 4 marks]

Answer

Section 9(1)(ii) provides that any income which falls under the head "salaries" is deemed to accrue or arise in India, if it is earned in India. The Explanation thereto further clarifies that income payable for services rendered in India shall be regarded as income earned in India.

Section 192(1) requires the person responsible for paying any income chargeable under the head "Salaries" to deduct income-tax, at the time of payment, at the average rate of income-tax computed on the basis of the rates in force for the FY on the amount payable.

Since the TDS provisions relating to payment of income chargeable under the head "Salaries" form an integrated code along with the charging and computation provisions under the Act, section 192(1) has to be read with section 9(1)(ii) and the Explanation thereto.

Therefore, if any payment under the head "Salaries" falls within section 9(1)(ii), then TDS provisions u/s 192 gets attracted. Consequently, the Indian tax deductor assessee is duty bound to deduct, from the portion of salary paid by it, tax at source u/s 192(1) on the entire salary paid to the employee, including special allowance paid abroad to the employee by the foreign company.

It was so held by the Apex Court in CIT, New Delhi v. Eli Lilly & Co. (India) P. Ltd. (2009). In this case, all the employees are resident in India, since they have worked with Indian collaborator throughout the PY 2024-25.

If the tax due on special allowance received from the foreign company is paid by the recipient-employees, then, the Indian collaborator would not be treated as an assessee-in-default u/s 201(1), if these resident-employees have furnished a return of income u/s 139 on or before the due date of filing return of income, disclosing such income, and have also furnished a certificate to this effect from an accountant in the prescribed form.

However, interest u/s 201(1A) @ 1% per month or part of month shall be payable by the Indian collaborator from date on which such tax was deductible to the date of furnishing of return by such resident employee.

In cases where the tax has not been paid by the recipient employee, the AO can proceed u/s 201(1) to recover the shortfall in payment of tax and interest thereon u/s 201(1A).

However, no penalty u/s 271C would be attracted, if the Indian collaborator was under the genuine and bona fide belief that it was not under any obligation to deduct tax at source from the special allowance paid by the foreign company. This is provided for u/s 273B.

Question 3 [Sec 194A] **[Q5]**

ABC Bank credited Rs. 83,60,000 towards interest on the deposits in a separate account for macro-monitoring purposes by using Core-branch Banking Solutions (CBS) software. No tax was deducted at source in respect of interest on deposits so credited even where the interest in respect of some depositors exceeded the limit of Rs. 40,000. The AO disallowed 30% of interest expenditure, where the interest on time deposits credited exceeded the limit of Rs. 40,000 and also levied penalty u/s 271C. Decide the correctness of action of the AO.

[ICAI Module/MTP Nov 2022/ MTP May 2021/ MTP May 2019/ MTP Nov 2018 – 4 Marks]

Answer

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

However, CBDT Circular, clarified that Explanation below section 194A(1) will not apply in cases of banks where credit is made to provisioning account on daily/monthly basis for the purpose of macro monitoring only by the use of CBS software.

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

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

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

Question 4 [Sec 194A and 195] **[Q6]**

Examine whether tax has to be deducted at source in following cases during PY 2024-25:

(i) M/s. Jiva & Co., a partnership firm, pays a sum of Rs. 43,000 as interest on loan borrowed from an Indian branch of a foreign bank.

(ii) Above firm has paid Rs. 42,000 as interest on capital to partner Mr. A, a resident in India, and Rs. 44,000 as interest on capital to partner Mr. B, a non-resident.

(iii) The above firm paid Rs. 50,000 being share of profit of partner Mr. B, a non-resident.

[ICAI Module, Nov 2018]

Answer

(i) Section 194A requires deduction of tax on any income by way of interest, other than interest on securities, credited or paid to a resident, at the rates in force. However, it specifically excludes from its scope, income credited or paid to any banking company to which the Banking Regulation Act applies. An Indian branch of a foreign bank, transacting the business of banking in India, is a banking company to which the Banking Regulation Act, 1949 applies. Therefore, interest payment to such bank will not attract tax deduction u/s 194A.

(ii) As per Section 194T, any person, being a firm, responsible for paying any sum in the nature of salary, remuneration, commission, bonus or interest to a partner of the firm, shall deduct income-tax thereon at the rate of 10% provided that aggregate of such sum exceeds Rs. 20,000 during the FY.
However, this provision is effective from 01.04.2025, no TDS is deductible in PY 24-25. [FA 2024]

(iii) As per section 10(2A), share of profit received by a partner from the total income of the firm is exempt from tax. Therefore, not liable for tax deduction at source.
However, section 195(6) provides that the person responsible for paying any sum, whether or not chargeable to tax, to a non-corporate non-resident or to a foreign company, shall be required to furnish the information relating to payment of such sum in the prescribed form and manner.

Question 5 **[Q10]**

M/s. LMN Travels is a Travel Agent engaged in sale of air tickets of AirGo and AirJet Airlines. It earns standard commission@5% as well as supplementary commission. AirGo and AirJet have deducted tax at source u/s 194H on the standard commission, which is a fixed percentage designated by the International Air Transport Association (IATA). However, they have not deducted tax on the supplementary commission, which is the additional amount LMN Travels charges over and above the net fare quoted by AirGo and AirJet and retained by LMN Travels as its own income.

The details of the amounts at which the tickets were sold are transmitted by LMN Travels to an organization known as the Billing and Settlement Plan ("BSP") which functions under the aegis of the IATA. This auxiliary amount charged on top of the net fare was portrayed on the BSP as a "supplementary commission" in the hands of LMN Travels. The contract between LMN Travels and the airlines stated that "all monies" received by LMN Travels were held as the property of the air carrier until they were recorded on the billing and settlement plan and properly gauged.

AirGo and AirJet contended that tax is not deductible on supplementary commission which LMN Travels retains out of the sale proceeds of the air tickets, since there is no agency relationship between the airlines and LMN Travels and that the supplementary commission is not within the control of the airlines. Discuss the correctness of the above contention.

[RTP Nov 23]

Answer

The issue under consideration in this case is whether TDS u/s 194H is attracted in respect of both standard and supplementary commission paid by AirGo and AirJet Airlines to LMN Travels. This issue came up before the Supreme Court in Singapore Airlines Ltd / KLM Royal Dutch Airlines v. CIT / British Airways Plc v. CIT (2022).

Supreme Court observed that section 194H does not distinguish between direct and indirect payments. Both standard commission and supplementary commission fall within the meaning of "commission" under clause (i) of the Explanation thereto.

Section 194H is to be read with section 182 of the Contract Act, 1872. If a relationship between two parties as culled out from their intentions as manifested in the terms of the contract between them indicates the existence of a principal-agent relationship as defined u/s 182 of the Contract Act, the definition of "commission" u/s 194H stands attracted and the requirement to deduct tax at source arises.

The Apex Court noted that there was no transfer in terms of the title in the tickets and they remained the property of the airline company throughout the transaction. Every action taken by the travel agents is on behalf of the air carriers and the services they provide is with express prior authorization. Accordingly, the Apex Court concluded that the contract is one of agency that does not distinguish in terms of stages of the transaction involved in selling flight tickets. The accretion of the supplementary commission to the travel agents was an accessory to the actual principal-agent relationship. Notwithstanding the lack of control over the actual fare, the contract definitively stated that "all monies" received by the agent were held as the property of the air carrier until they were recorded on the billing and settlement plan and properly gauged. The billing and settlement plan also demarcated "supplementary commission" under a separate heading.

Hence, once the IATA made the payment of the accumulated amounts shown on billing and settlement plan, it would be feasible for assessees, being airlines to deduct TDS on this additional income earned by agent.

Applying the rationale of the Supreme Court ruling to the case on hand, the contention of AirGo and AirJet is not correct and they are required to deduct tax at source u/s 194H on both the standard commission and supplementary commission paid to LMN Travels.

Author's Note: This judgement of SC overrules the Bombay HC judgement of Qatar Airways.

Question 6 [Sec 194M, 194C and 194H] **[Q15]**

Examine whether TDS provisions would be attracted in the following cases, and if so, under which section. Also, specify the rate of TDS applicable in each case. Assume that all payments are made to residents.

	Particulars of payer	Nature of payment	Aggregate payments made in the FY 24-25 (after 01.10.24)
1	Mr. Ganesh, an individual carrying on retail business with turnover of Rs. 2.5 crores in PY 2023-24	Contract Payment for repair of residential house	Rs. 5 lakhs
		Payment of commission to Mr. Vallish for business purposes	Rs. 80,000
2	Mr. Rajesh, trader whose a wholesale turnover was Rs. 95 lakhs in P.Y. 23-24	Contract Payment for reconstruction of residential house (made during the period January-March, 2025)	Rs. 20 lakhs in January, 2025, Rs. 15 lakhs in Feb 2025 and Rs. 20 lakhs in March 2025.
3	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house in March, 2025	Rs. 51 lakhs
4	Mr. Dheeraj, a pensioner	Contract payment made during Oct-Nov 2024 for reconstruction of residential house	Rs. 48 lakhs

[ICAI Module, MTP May 22, MTP Nov 2020, Jan 2021]

Answer

	Particulars of the payer	Nature of payment	Aggregate of payment	Whether TDS provisions are attracted?
1	Mr. Ganesh, an individual carrying on retail business with turnover of Rs. 2.5 crores in the P.Y.2023-24	Contract Payment for repair of residential house	Rs. 5 lakhs	No; TDS u/s 194C is not attracted since the payment is for personal purpose. TDS u/s 194M is not attracted as aggregate of contract payment does not exceed Rs. 50 lakhs.
		Payment of commission to Mr. Vallish for business purposes	Rs. 80,000	Yes, u/s 194H, since the payment exceeds Rs. 15,000, and Mr. Ganesh's turnover exceeds from business Rs. 1 crore
2	Mr. Rajesh, a wholesale trader whose turnover was Rs. 95 lakhs in P.Y.2023-24	Contract Payment for reconstruction of residential house	Rs. 55 lakhs	Yes, u/s 194M, since the aggregate of payments (i.e., Rs. 55 lakhs) exceed Rs. 50 lakhs. Since, his turnover from business does not exceed Rs. 1 crore in the P.Y.2023-24, TDS provisions u/s 194C are not attracted
3	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house	Rs. 51 lakhs	Yes, u/s 194M, since the payment of Rs. 51 lakhs made in March 2025 exceeds the threshold of Rs. 50 lakhs. Since Mr. Satish is a salaried individual, the provisions of section 194H are not applicable in this case.
4	Mr. Dheeraj, a pensioner	Contract payment for reconstruction of residential house	Rs. 48 lakhs	TDS provisions u/s 194C are not attracted since Mr. Dheeraj is a pensioner. TDS provisions u/s 194M are also not applicable in this case, since the payment of Rs. 48 lakhs does not exceed the threshold of Rs. 50 lakhs

Note: For purpose of TDS, turnover of immediately preceding PY is to be considered and not current FY.

Note: TDS rate u/s 194H and 194M has been revised to 2% w.e.f. 01.10.24 as against 5% earlier. [FA 2024]

Question 7 [TCS on scrap being waste used for manufacturing] **[Q30]**

Tulsi Private Ltd., a company engaged in ship breaking activity, sold some old and used plates, wood etc., in respect of which it did not collect tax from the buyer. The company claimed that such items are usable as such. Hence these are not 'scrap' to attract the provisions for collection of tax at source. The AO treated such items in the nature of 'scrap' and raised a demand u/s 201(1) and interest u/s 201(1A). Is the action of the AO in treating such items as 'scrap' tenable in law? Discuss.

[Nov 2018 – 4 Marks]

OR

During the previous year 2024-25, Mr. Amit purchased scrap of Rs. 65 lakhs from Mr. Bharat for the purpose of his manufacturing unit. Mr. Amit also furnished a declaration to Mr. Bharat that the scrap shall be utilized for manufacturing process carried on by him and shall not be used for trading purposes. Mr. Amit made the payment of Rs. 49 lakhs during F.Y 2024-25 to Mr. Bharat. Assume turnover of both Mr. Amit and Mr. Bharat from the business carried on by them exceeds Rs. 10 crores in FY 2023-24.

[MTP May 24, May 2019 – 4 Marks]

Answer

As per section 206C(1), a seller of, inter alia, scrap is required to collect tax@1% from the buyer. Scrap means waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons.

The issue under consideration in the present case is, can items which are usable as such be treated as "Scrap" to attract provisions for tax collection at source u/s 206C. The waste and scrap must be from manufacture or mechanical working of material which is definitely not usable as such because of breakage, cutting up, wear and other reasons. Any material which is usable as such would not fall within the ambit of the expression scrap.

In case of a company engaged in ship breaking activity, the old and used plates, wood etc. are usable as such. Since the items in question were usable as such, therefore, they do not fall within the definition of "scrap"

Thus, in the present case, the action of AO in treating such items in the nature of scrap and raising a demand u/s 201(1) and interest u/s 201(1A), is not tenable in law.

Note – The facts of the case given are similar to the facts in CIT v. Priya Blue Industries (P) Ltd (2016), wherein the above issue came up before the Gujarat High Court. The answer is based on the rationale of the Gujarat High Court in the said case.

Question 8 [Sec 194IC, 194Q and 206C(1C)] **[Q34]**

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

(i) High and Tall Ltd., a real estate development company, entered into a Joint Development Agreement with Mr. John, a resident individual, whereby Mr. John would transfer a plot of land measuring 10 acres for a part consideration of Rs. 6 crores to be paid on the date of agreement, i.e., 1.6.2021. High and Tall Ltd. has planned to develop a high-rise apartment complex on such land by 31.3.2025. Upon completion of the project, High and Tall Ltd. would transfer 6 flats in the apartment to Mr. John as final settlement. The FMV of the flats is estimated to be Rs. 1.20 crores each as on 31.3.2025.

[MTP May 24 – 2 marks]

(ii) M/s Aryan Ltd., a domestic company having a total turnover of Rs. 12 crores for the FY 2023-24, purchased goods worth Rs. 85 lakhs (excluding purchase return) from M/s Varun & Co. during the PY 2024-25. M/s Varun & Co., a resident firm, has furnished its PAN to Aryan Ltd.

Details of payments for purchases from M/s Varun (P) Ltd. are given below:
On 25.05.2024 - Rs. 30 lakhs; On 28.06.2024 - Rs. 20 lakhs; On 10.12.2024 - Rs. 20 lakhs (out of these purchases, goods worth Rs. 5 lakhs were returned on 20.12.2024 due to quality issue for which money was refunded by M/s Varun & Co.); On 20.02.2025 - Rs. 10 lakhs.

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

[RTP Nov 2022, MTP Nov 2022]

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

[MTP May 24, May 2022 – 8 Marks]

Answer

(i) Mr. John, a resident, is entering into an agreement with High and Tall Ltd., a real estate developer, to develop a high-rise apartment complex on his land in consideration of Rs. 6 crore & 6 flats in apartment.

This is a specified agreement u/s 45(5A). As per section 194-IC, High and Tall Ltd. is required to deduct tax at source @ 10% on Rs. 6 crores, being the consideration paid other than consideration in kind, under a specified agreement to Mr. John. Tax is to be deducted at the time of credit of such sum or payment, whichever is earlier. Tax u/s 194-IC would be = Rs. 6 crore x 10% = Rs. 60 lakhs

(ii) M/s Varun & Co. is not required to collect tax at source u/s 206C(1H) on the sale of goods to M/s Aryan Ltd., since his turnover for the P.Y. 2023-24 does not exceed Rs. 10 crores.

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

However, the provisions of section 194Q are applicable with effect from 1.7.2024. In case of purchase return, if the money is refunded by the seller, then, this tax deducted on purchase return would be adjusted against the next purchase from the same seller.

Applicability of TDS on purchases from M/s Varun & Co		
25.05.2024	Rs. 30 lakhs	Not required to deduct tax at source
28.06.2024	Rs. 20 lakhs	Aggregate value of purchase does not exceed Rs. 50 lakhs and hence not required to deduct tax at source.
10.12.2024	Rs. 20 lakhs	TDS = Rs. 2,000 [0.1% x Rs. 20 lakhs]
20.02.2025	Rs. 10 lakhs	TDS = Rs. 500 [Rs. 1,000, being 0.1% x Rs. 10 lakhs – Rs. 500, being the TDS on purchase return of Rs. 5 lakhs]

Author's Note: If PAN isn't furnished by Varun, TDS would be deducted at 5%

(iii) State Government is required to collect tax at source@2% u/s 206C(1C) on Rs. 10 crores, being the charges for lease of coal mine. TCS = 2% x Rs. 10 crores = Rs. 20,00,000.

M/s XYZ Co. Ltd. is required to collect tax at source @1% u/s 206C(1) on sale of coal to M/s AB (P) Ltd. TCS = 1% of Rs. 1 crore = Rs. 1,00,000.

Question 9 [Attainment of majority of minor child] **[Q39]**

Mr. Anand, a resident of Bangalore, has 2 house properties, one situated in Bangalore and the other in Jaipur. The house property at Jaipur was purchased in April 1998 and the Bangalore house was purchased during May 2008. Mr. Anand transferred his house property at Jaipur in the name of his son, Prateek, on his 10th birthday in July 2002. In Sept. 2019, TRO has served a notice on Mr. Anand for recovering outstanding tax arrears of Rs. 150 lakhs relating to A.Y. 2016-17 in respect of his proprietorship business. TRO simultaneously attached both houses for recovering the tax arrears along with interest. Mr. Prateek has been staying in the house property at Jaipur with his wife for last 4 years after he got separated from his father. The current value of house at Jaipur is Rs. 45 lakhs and Bangalore is Rs. 90 lakhs. Mr. Prateek seeks your advice on the validity of action taken by TRO in attaching the Jaipur property.

[Nov 2020 – 4 marks]

Answer

When an assessee is in default or is deemed to be in default in making a payment of tax, the TRO may draw up under his signature, a statement in the prescribed form specifying the amount of arrears due from the assessee and shall proceed to recover from such assessee, the amount specified in the certificate by inter alia attachment and sale of the assessee's immovable property.

The assessee's immovable property shall include any property which has been transferred, directly or indirectly, by the assessee inter alia to his minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of minor son. Immovable property so transferred to his minor child shall, even after date of attainment of majority by such minor child, continue to be included in assessee's immovable property for recovering arrears due from assessee in respect of any period prior to such date.

In the present case, Mr. Anand has transferred his Jaipur house property in July 2002, when his son is 10 years old. He attained majority in July 2010. TRO has served a notice on Mr. Anand for recovering outstanding tax arrears of Rs. 150 lakhs relating to A.Y.2016-17 in respect of his proprietorship business.

The immovable property transferred to minor son continues to be includible in the assessee's immovable property for recovering any arrears due from the assessee, so far as the same is in respect of the period prior to the date of attainment of majority by such minor son.
However, in the present case, since Anand's minor son Prateek attained the age of majority in the year 2010, the action taken by TRO in attaching Jaipur property, for recovering arrears relating to A.Y. 2016-17, which falls after the date of attainment of majority, is not valid.

Question 10 [Sec, 194O, 206AA, 206AB] **[Q45]**

Examine the applicability of provisions TDS/TCS and compute amount of TDS/TCS in the following cases:

(i) Mr. Rajesh remitted an amount of Rs. 5,80,000 towards medical expenses of his son in Australia. He also remitted Rs. 7,80,000 to University of Australia, for the purpose of his son's education, out of loan taken from his employer, ABC Ltd., an Indian manufacturing company. Both the remittances were made through the same authorized dealer under Liberalised Remittance Scheme of RBI.

(ii) Mr. Appy, a resident Indian, [E-commerce participant] sells goods worth Rs. 84 lakhs through e-commerce website of HIGHSALE [E-commerce Operator]. Mr. Appy has furnished PAN or AADHAR No. to the E-commerce Operator. He has furnished his return of income for all the assessment years before the due date of filing return of income.

[RTP May 2022, MTP Nov 22, MTP Nov 23, Nov 23 – 4 marks]

Answer

(i) An authorised dealer, who receives an amount for overseas remittance from a buyer, being a person remitting such amount out of India under the Liberalised Remittance Scheme of RBI, is required to collect tax at source @20% where the amount exceeds the limits.

In case the remittance is for a purpose of education or medical treatment, then, no tax has to be collected at source, if the amount or aggregate of amount remitted by a buyer is less than Rs. 7 lakhs; and where the said amount exceeds Rs. 7 lakhs, tax has to be collected at source @5% of the amount or aggregate of amount in excess of Rs. 7 lakhs.

Tax is required to be collected at source @0.5% of the amount or aggregate of amount in excess of Rs. 7 lakhs where remittance is made out of loan from a financial institution notified by the Central Government referred u/s 80E, for the purpose of pursuing any education.

However, in the present case, Mr. Rajesh remitted the amount out of the loan taken from his employer, being a manufacturing company. Hence, concessional rate of tax collection at source@0.5% would not be available. Accordingly, the authorised dealer has to collect tax at source @5% on the amount remitted by Mr. Rajesh towards medical expenses of his son as well as on amount remitted out of the loan taken from his employer not being financial institution defined u/s 80E in excess of Rs. 7,00,000.

Since both remittances are through the same authorised dealer, tax collection at source@5% would be attracted on the aggregate amount remitted in excess of Rs. 7,00,000. Thus, Rs. 33,000 [5% of Rs. 6,60,000 (Rs. 7,80,000 + Rs. 5,80,000 – Rs. 7,00,000)] has to be collected at source by the authorised dealer on the remittances made by Mr. Rajesh.

(ii) In a case where sale of goods of an e-commerce participant (Mr. Appy) is facilitated by an e-commerce operator (HIGHSALE) through its e-commerce website, section 194-O requires the e-commerce operator to deduct TDS @0.1% on Rs. 84 lakhs, being the gross amount of sales facilitated through ECO.

As per section 206AA, in case where deductee has not furnished his PAN, tax is required to deducted at source at higher of 1% or 5%. Accordingly, tax has to be deducted at source @5% i.e., Rs. 4.2 lakhs.

In this case, as the assessee is not a non-filer, section 206AB shall not be applicable.

Question 11 [Sec 194Q, 206C(1F), 206C(1H)] **[Q52]**

Sigma Ltd., a car manufacturer, sold following cars to the car dealers in the P.Y.2024-25:

Dealer	Particulars of cars sold	Value
Epsilon Ltd.	10 cars of the value Rs. 12 lakhs each	Rs. 120 lakhs
Omega Ltd.	8 cars of the value of Rs. 10 lakhs each	Rs. 80 lakhs

The turnover in P.Y.2023-24 of Sigma Ltd. is Rs. 12 cr., Epsilon Ltd. is Rs. 14 cr. & Omega Ltd. is Rs. 9 cr.

[RTP Nov 23]

OR

Auto Ltd., a manufacturer of automobiles, sells premium cars (each of value between Rs.12 lakh to Rs.25 lakh) and small cars (each of value between Rs.5 lakh to Rs. 9 lakh) to its dealers across the country. Discuss whether the manufacturers are liable to collect tax at source u/s 206C.

Also, discuss the liability, if any, of dealers to collect tax at source on sale of these cars to the retail customers, if no part of the consideration is received in cash? Would your answer change, if part of the consideration is received in cash?

[May 2019, MTP Nov 2019, RTP Nov 2018– 4 Marks]

Answer

The first step is to examine the applicability of section 206C(1F). Section 206C(1F) requiring TCS @1% by the seller of motor car or any other goods notified by CG of value exceeding Rs. 10 lakhs does not apply in case of sale by manufacturer to dealer. Hence, provisions of section 206C(1F) are not attracted in case of sale of cars by Sigma Ltd., a car manufacturer, to its dealers Epsilon Ltd. and Omega Ltd.

The second step is to examine whether the provisions of section 194Q would be attracted in the hands of the dealers, namely, Epsilon Ltd. and Omega Ltd. Since the turnover of Epsilon Ltd. in the P.Y.2023-24 exceeds Rs. 10 crore and the value of cars purchased from Sigma Ltd. in the P.Y.2024-25 exceeds Rs. 50 lakhs, Epsilon Ltd. has to deduct tax@0.1% of Rs. 70 lakhs (i.e., Rs. 120 lakhs – Rs. 50 lakhs), at the time of credit to the account of Sigma Ltd. or at the time of payment, whichever is earlier. However, Omega Ltd. is not required to deduct tax at source u/s 194Q, since its turnover in P.Y.2023-24 does not exceed Rs. 10 crores.

The third step is to examine whether the provisions of section 206C(1H) would be attracted in the hands of Sigma Ltd. Sigma Ltd.'s turnover for P.Y.2021 -22 exceeds Rs. 10 crores and the value of cars sold to Epsilon Ltd. and Omega Ltd. exceed Rs. 50 lakhs each. Hence, it falls within the meaning of "seller" u/s 206C(1H). Accordingly, in respect of sale of cars to Omega Ltd., Sigma Ltd. is required to collect tax@0.1% of Rs. 30 lakhs (i.e., Rs. 80 lakhs – Rs. 50 lakhs) at the time of receipt. However, no tax is to be collected by Sigma Ltd. from Epsilon Ltd., since the transaction has already been subject to TDS u/s 194Q in hands of Epsilon.

Question 12 [Sec 206C(1A) and 194Q] **[Q54]**

Examine the applicability of provisions relating to TDS/TCS in the following cases:
Delta Ltd., an Indian company, which was incorporated on 1.4.2024 purchases coal from Phi Ltd., another Indian company, for Rs. 75 lakhs during the P.Y.2024-25, to manufacture steel. Delta Ltd. furnishes a declaration that such coal is used to manufacture steel and not for trading. What are the TCS/TDS implications on such transaction, if Delta Ltd.'s turnover was Rs. 12 crores in the P.Y.2024-25; and Phi Ltd.'s annual turnover ranges between Rs. 16 crores and Rs. 18 crores in the last few years? Would your answer change if Delta Ltd. was incorporated on 1.4.2023 and its turnover in the P.Y.2023-24 is Rs. 10 crores?
[RTP Nov 23, May 23]

Answer

As per section 206C(1A), since Delta Ltd., a resident buyer, has furnished a declaration that coal is used for manufacturing steel and not for trading, Phi Ltd. is not required to collect tax at source u/s 206C(1). In case of goods covered u/s 206C(1) but exempted u/s 206C(1A), tax would not be collectible u/s 206C(1H).

However, section 194Q will apply in such cases covered u/s 206C(1A) and the buyer would be liable to deduct tax u/s 194Q, if the conditions specified therein are fulfilled.

However, for the provisions of section 194Q to be attracted, a buyer is required to have total sales or gross receipts or turnover from the business carried on by it exceeding Rs. 10 crores during the FY immediately preceding the FY in which the purchase of goods is carried out. The CBDT Circular clarified that since this condition would not be satisfied in the year of incorporation, the provisions of section 194Q shall not apply in the year of incorporation. Since Delta Ltd. is incorporated in the P.Y. 2024-25, it would not qualify as a "buyer" for the purpose of section 194Q for said PY, inspite its turnover exceeding Rs. 10 crores in the current PY. Thus, the transaction would neither attract TDS u/s 194Q nor TCS u/s 206C.

The answer would not change even if Delta Ltd. was incorporated on 1.4.2023 and its turnover in the P.Y.2023-24 is Rs. 10 crores, since the said turnover does not exceed Rs. 10 crores.

Author's Note: TCS u/s 206C(1H) may apply. Student may consider explaining Sec 206C(1H) as well.

14 & 15 INCOME TAX AUTHORITIES & ASSESSMENT PROCEDURE

Question 1 [Sec 144C] **[Q6]**

For facilitating expeditious resolution of disputes relating to international transactions involving transfer pricing and foreign companies, the Income-tax Act, 1961, has provided for "alternate dispute resolution mechanism". In this context, you are required to answer the following:

(1) What meanings have been assigned to "dispute resolution panel" and the "eligible assessee" under this mechanism?

(2) When can a grievance for resolution be filed by an assessee?

(3) What evidences are being considered by the panel to redress the grievance of the assessee?

[ICAI Module]

Answer

(1) The term "Dispute Resolution Panel" has been defined to mean a collegium comprising of 3 Principal Commissioner or Commissioners of Income-tax constituted by Board for this purpose.

The term "Eligible Assessee" means any person in whose case the variation referred to in section 144C(1) arises as a consequence of the order of the Transfer Pricing Officer passed u/s 92CA(3) and any non-corporate non-resident or any foreign company. Provided that such eligible assessee shall not include person referred u/s 158BA(1) or other person referred to in section 158BD.

(2) In case of an assessment of the eligible assessee, the AO shall forward a draft of the proposed order of assessment. The eligible assessee shall file his objections to such variation within 30 days of receipt of such order, with the Dispute Resolution Panel and with the Assessing Officer.

(3) The Dispute Resolution Panel shall, in a case where any objections are received, take into consideration:

(i) the draft order
(ii) the objections filed by the assessee
(iii) the evidence furnished by the assessee
(iv) the report, if any, of the AO, Valuation Officer or Transfer Pricing Officer or any other authority
(v) the records relating to the draft order
(vi) the evidence collected by, or caused to be collected by it
(vii) the result of any enquiry made by or caused to be made by it.

Question 2 [Sec 143(2) and 292BB] **[Q10]**

Tai Ltd. filed its return of income for AY 2024-25 on 26th September, 2024. The return is selected for regular assessment u/s 143(3) for which notice u/s 143(2) is served on the company on 3rd July, 2025. The company responded to the notice u/s 143(2). Examine whether the service of the notice is within time and if not, whether the assessment order can be challenged by the assessee.

[MTP May 2023/ICAI Module/MTP Nov 2018 – 4 Marks]

Answer

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

However, as per section 292BB, where an assessee had appeared in any proceedings or co-operated in any enquiry relating to an assessment or reassessment, it shall be deemed that any notice required to be served upon him, has been duly served upon him in time in accordance with the provisions of the Act and such assessee shall be precluded from raising any objection in any proceeding or enquiry 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.

The above provision shall not be applicable where the assessee has raised such objection before the completion of such assessment or reassessment.

Therefore, in the instant case, if the assessee, Tai Limited, had raised an objection to the proceeding, on the ground of non-service of the notice u/s 143(2) upon it on time, then, the validity of the assessment order can be challenged. In absence of such objection, the assessment order cannot be challenged.

Question 3 [Sec 119] **[Q15]**

Rajesh regularly files his return of income electronically. While he was trying to upload his return of income for AY 2025-26 on 31st July, 2025, he found it extremely difficult to do the same due to network problems and ultimately, he became successful in making e-filing of his return only at 1 a.m. on 1st August,2025. The return contained a claim for carry forward of business loss of Rs. 3.10 crores. This circumstance was recorded in an email addressed to the competent income-tax authority on 1st August, 2025. Rajesh made a request to the CBDT for condonation of delay in filing the return of income.
Discuss whether the CBDT has the power to condone the delay in filing the return of income and permit carry forward of loss in the given circumstance. Would your answer change, if the return contained a claim for carry forward of business loss of Rs. 2.7 crores.

[ICAI Module /MTP Nov 2022 – 4 Marks]

Answer

Section 119(2)(b) empowers the CBDT to authorise any income tax authority to admit an application or claim for any exemption, deduction, refund or any other relief under the Act after the expiry of the period specified under the Act, to avoid genuine hardship in any case or class of cases. The claim for c/f of loss in case of late filing of a return is relatable to a claim arising under the category of "any other relief available under the Act". Therefore, the CBDT has the power to condone delay in filing of such loss return due to genuine reasons.

The facts of the case are similar to the case of Lodhi Property Company Ltd. v. Under Secretary, Department of Revenue, where the Delhi High Court held that the Board has the power to condone the delay in case of a return which was filed late and where a claim for carry forward of losses was made. The delay was only one day and the assessee had shown justifiable reason for the delay of one day in filing the return of income. If the delay is not condoned, it would cause genuine hardship to the assessee. Therefore, the Court held that the delay of one day in filing of the return had to be condoned.

The CBDT Circular No. 9/2015 dated 09.06.2015 specified the monetary limits along with following authorities to be approached for this purpose. The said monetary limits are revised w.e.f. 1.6.2023 vide Circular No.7/2023 dated 31.5.2023 prescribed as under:

Quantum of loss for any one AY	Authority to be approached
Where the loss is upto Rs. 50 lakhs	Principal CIT or CIT
Where the loss is above Rs. 50 lakhs but upto Rs. 2 crores	CCIT

Where the loss is above Rs. 2 crores but upto Rs. 3 crores	Principal CCIT
Where the loss is above Rs. 3 crores	The CBDT

Applying the rationale of the above court ruling and the clarification given in CBDT Circular to the case on hand, the CBDT has the power to condone the delay in filing the return of income of Mr. Rajesh and permit carry forward of business loss of Rs. 3.10 crores, since the delay of one hour was due to a genuine and justifiable reason i.e., network problem while e-filing the return.

Based on the circular mentioned above, if the claim for carry forward of business loss is Rs. 2.7 crores, then, the Principal Chief Commissioner of Income-tax has the power to condone the delay.

Question 4 [Sec 132] **[Q19]**

The business premises of Ram Bharose Ltd. and the residence of two of its directors at Delhi were searched u/s 132 by the DDI, Delhi. The search was concluded on 9.8.2024 and following were also seized besides other papers and records:

(i) Papers found in the drawer of an accountant relating to Shri Krishna Ltd., Mumbai indicating details of various business transactions. However, Ram Bharose Ltd. is not having any direct or indirect connection of any nature with these transactions and Shri Krishna Ltd., Mumbai and its directors.

(ii) Jewellery worth Rs. 5 lacs from the bed room of one of the directors, which was claimed by him to be of his married daughter.

(iii) Papers recording certain transactions of income and expenses having direct nexus with the business of the company for the period from 16.4.2019 to date of search. It was admitted by the director that the transactions recorded in such papers have not been incorporated in books.

You are required to answer on the basis of aforesaid and the provisions of Act, following questions:

(a) What action DDI shall be taking in respect of seized papers relating to Shri Krishna Ltd?

(b) Whether contention raised by director as to jewellery found from his bed-room is acceptable?

(c) What presumption shall be drawn in respect of papers which indicate transactions not recorded in books?

[ICAI Module, MTP May'22 – 4 marks]

Answer

(a) The authorised officer being DDI, Delhi is not having any jurisdiction over Shri Krishna Ltd., Mumbai, and therefore, as per section 132(9A), the papers seized relating to this company shall be handed over by him to the AO having jurisdiction over Shri Krishna Ltd., Mumbai within a period of 60 days from the date on which the last of the authorisations for search was executed for taking further necessary action thereon.

(b) The contention raised by the Director will not be acceptable because as per the provisions of section 132(4A), where any books of account, other documents, money, bullion, jewellery or other valuables are found in the possession or control of any person in the course of search, then, in respect thereof, it may be presumed that the same belongs to that person.

(c) As per section 132(4A), the presumptions in respect of the papers, indicating transactions not recorded in the books but having direct nexus with the business of the company, are that the same belong to the company, contents of such papers are true and the handwriting in which the same are written is/are of the persons(s) whose premises have been searched.

Question 5 [Sec 132B] **[Q20]**

In the course of search on 25.03.2025, assets were seized. Examine the procedure laid down to deal with such seized assets under the Act.

[ICAI Module]

Answer

Section 132B deals with the application of assets seized u/s 132. Such assets will be first applied towards the existing liability under the Income-tax Act, 1961 or Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, etc. 'Existing liability', however, does not include advance tax payable. Further, the amount of liability determined on completion of search assessment (including any penalty levied or interest payable in connection with such assessment) and in respect of which the assessee is in default or deemed to be in default, may be recovered out of such assets.

Where the nature and source of acquisition of such seized assets is explained to the satisfaction of the Assessing Officer, the amount of any existing liability mentioned above may be recovered out of such asset and the remaining portion, if any, of the asset may be released, with the prior approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be. The release must be made within 120 days from the date on which the last of the authorisations for search u/s 132 or for requisition u/s 132A was executed. The assets would be released to person from whose custody they were seized.

When the assets consist of solely of money, or partly of money and partly of other assets, the AO may apply such money in the discharge of the liabilities referred to above and the assessee shall be discharged of such liability to the extent of the money so applied. However, the assets other than money may also be applied for the discharge of such liabilities if the complete recovery could not be made from the money seized or the money seized was not sufficient.

Question 6 **[Q25]**

Mr. Ravi Prakash, a resident Indian aged 52 years, gifted a sum of Rs. 30 lakhs to his wife Mrs. Sudha on the occasion of her 50th birthday. Out of the said sum, Mrs. Sudha purchased a car for Rs. 29,52,000 inclusive of RTO charges of Rs. 2,15,000, insurance of Rs. 51,575, extended warranty of Rs. 25,255 and accessories charges of Rs. 35,460 during the P.Y. 2024-25. These charges were shown separately in the invoice. Mrs. Sudha's furnished her Aadhaar No. to the dealer. She is a housewife and does not have any income except rental income of Rs. 25,000 p.m. in respect of a house property gifted to her by her father. Mr. Ravi Prakash is of the opinion that his wife is not required to furnish return of income, since her total income does not exceed the basic exemption limit. Examine.

[RTP Nov 2022, MTP Nov 2023 – 4 marks]

Answer

Mrs. Sudha's income from house property would be Rs. 2,10,000 (Rs. 3,00,000 less 30% of net annual value). Since this is her only source of income, her gross total income/total income for A.Y.2025-26 would be Rs. 2,10,000, which is lower than the basic exemption limit. Hence, she is not required to file her return of income for A.Y.2025-26 as per section 139(1)(b), since her gross total income/total income does not exceed the basic exemption limit of Rs. 3,00,000.

However, clause (iv) to seventh proviso of section 139(1) provides that a person (other than a company or a firm) who is not required to furnish a return u/s 139(1) has to furnish return on or before the due date if he/she fulfils such other conditions as may be prescribed under Rule 12AB.

Rule 12AB, inter alia, prescribes that any person other than a company or a firm, who is not required to furnish a return u/s 139(1), has to file income-tax return in the prescribed form and manner on or before the due date if, the aggregate of tax deducted at source and tax collected at source during the previous year, in case of such person, is Rs. 25,000 or more.

Accordingly, it has to be examined whether, in Mrs. Sudha's case, the requirement to file return for A.Y.2025-26 arises due to TDS/TCS, in her case, exceeding Rs. 25,000 in the P.Y.2024-25.

As per section 206C(1F), every person, being a seller, who receives any amount as consideration for sale of a motor vehicle or any other goods notified by CG of the value exceeding Rs. 10 lakhs, has to collect tax from the buyer @1% of the sale consideration.

Accordingly, dealer of the car is required to collect tax at source of Rs. 26,247 @1% on exshowroom price i.e., Rs. 26,24,710 (Rs. 29,52,000 – Rs. 2,15,000 – Rs. 51,575 – Rs. 25,255 – Rs. 35,460) from Mrs. Sudha, being the buyer of the car.

Hence, as per the seventh proviso to section 139(1) read with Rule 12AB, Mrs. Sudha is required to mandatorily file her return of income for A.Y.2025-26, even though her gross total income/total income does not exceed the basic exemption limit, since tax collected at source during the P.Y. 2024-25, in her case is Rs. 26,247 which exceeds the threshold of Rs. 25,000.

Question 7 [Sec 139] **[Q29]**

Mr. Ravi Prakash, a resident Indian aged 52 years, gifted a sum of Rs. 30 lakhs to his wife Mrs. Sudha on the occasion of her 50th birthday. Out of the said sum, Mrs. Sudha purchased a car for Rs. 29,52,000 inclusive of RTO charges of Rs. 2,15,000, insurance of Rs. 51,575, extended warranty of Rs. 25,255 and accessories charges of Rs. 35,460 during the P.Y. 2024-25. These charges were shown separately in the invoice. Mrs. Sudha's furnished her Aadhaar No. to the dealer. She is a housewife and does not have any income except rental income of Rs. 25,000 p.m. in respect of a house property gifted to her by her father. Mr. Ravi Prakash is of the opinion that his wife is not required to furnish return of income, since her total income does not exceed the basic exemption limit. Examine.

[RTP Nov 2022, MTP Nov 2023 – 4 marks]

Answer

Mrs. Sudha's income from house property would be Rs. 2,10,000 (Rs. 3,00,000 less 30% of net annual value). Since this is her only source of income, her gross total income/total income for A.Y.2025-26 would be Rs. 2,10,000, which is lower than the basic exemption limit. Hence, she is not required to file her return of income for A.Y.2025-26 as per section 139(1)(b), since her gross total income/total income does not exceed the basic exemption limit of Rs. 3,00,000.

However, clause (iv) to seventh proviso of section 139(1) provides that a person (other than a company or a firm) who is not required to furnish a return u/s 139(1) has to furnish return on or before the due date if he/she fulfils such other conditions as may be prescribed under Rule 12AB.

Rule 12AB, inter alia, prescribes that any person other than a company or a firm, who is not required to furnish a return u/s 139(1), has to file income-tax return in the prescribed form and manner on or before the due date if, the aggregate of tax deducted at source and tax collected at source during the previous year, in case of such person, is Rs. 25,000 or more.

Accordingly, it has to be examined whether, in Mrs. Sudha's case, the requirement to file return for A.Y.2025-26 arises due to TDS/TCS, in her case, exceeding Rs. 25,000 in the P.Y.2024-25.

As per section 206C(1F), every person, being a seller, who receives any amount as consideration for sale of a motor vehicle or any other goods notified by CG of the value exceeding Rs. 10 lakhs, has to collect tax from the buyer @1% of the sale consideration.

Accordingly, dealer of the car is required to collect tax at source of Rs. 26,247 @1% on exshowroom price i.e., Rs. 26,24,710 (Rs. 29,52,000 – Rs. 2,15,000 – Rs. 51,575 – Rs. 25,255 – Rs. 35,460) from Mrs. Sudha, being the buyer of the car.

Hence, as per the seventh proviso to section 139(1) read with Rule 12AB, Mrs. Sudha is required to mandatorily file her return of income for A.Y.2025-26, even though her gross total income/total income does not exceed the basic exemption limit, since tax collected at source during the P.Y. 2024-25, in her case is Rs. 26,247 which exceeds the threshold of Rs. 25,000.

Examine whether the following persons are required to file return of income for A.Y 2025-26, giving brief reasons for your answer:

(i) Mr. Albert, aged 31 years, whose turnover from business is Rs. 70 lakhs for the P.Y 2024-25 and whose total income computed as per books of account is Rs. 2 lakhs. This is the first year of his business. He has no other income. He is not claiming any deduction under Chapter VI-A or sec 10AA.

(ii) Mr. Ashish, aged 42 years, has gross receipts of Rs. 5 lakhs from profession and profits and gains of Rs. 2.50 lakhs (computed) from profession for the P.Y. 2024-25. In addition, he has interest of Rs. 4 lakhs on fixed deposits and Rs. 50,000 from savings bank account.

(iii) M/s. ABC & Co., a law firm, whose gross receipts from profession for P.Y. 2024-25 is Rs. 9 lakhs.

(iv) XYZ (P) Ltd. which has incurred expenditure of an amount of Rs. 95,000 towards consumption of electricity in the F.Y.2024-25.

(v) Mr. Vallish, aged 58 years, who has deposited Rs. 50 lakhs in his savings bank account with SBI on 28th March, 2025. The said sum was received as a gift from his son, Mr. Rishi, aged 30 years, who is employed in a company. Mr. Vallish used the said sum to purchase a flat for Rs. 30 lakhs on 25th April, 2025 for self-residence. The balance money was transferred to a 1-year fixed deposit on 28th April, 2025. Mr. Vallish does not maintain any other bank account. He is not in receipt of any other source of income other than interest on this fixed deposit.

(vi) Mr. A incurred expenditure of Rs. 2.40 lakhs for his wife for travel to a foreign country. His taxable income is Rs. 2.25 lakhs only.

[RTP May 2023, Nov 23, MTP Nov 2023]

Answer

Requirement of filing return of income

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

(ii) Yes, Mr. Ashish is required to file his return of income for A.Y.2025-26.
Mr. Ashish's total income for A.Y.2025-26 without giving effect to Chapter VI-A deductions is Rs. 7 lakhs [Rs. 2.50 lakhs from profession + Rs. 4 lakhs interest on fixed deposits + Rs. 0.50 lakhs interest on savings bank account], which exceeds the basic exemption limit of Rs. 3,00,000. Hence, he is required to file his return of income for A.Y.2025-26 u/s 139(1)(b).
Note - The threshold limit of Rs. 10 lakhs for gross receipts in profession has to be looked into only in a case where an individual referred to in section 139(1)(b) is not required to file his return of income thereunder i.e., only if Ashish's total income without giving effect to Chapter VI-A deductions is lower than the basic exemption limit.

(iii) Yes, M/s. ABC & Co. is required to file its return of income for A.Y.2025-26.
As per section 139(1)(a), a firm is compulsorily required to file its return of income. The threshold limit of Rs. 10 lakhs for gross receipts in profession is relevant only for a person other than a company or a firm.

(iv) Yes, XYZ (P) Ltd. is required to file its return of income for A.Y.2025-26.
As per section 139(1)(a), a company has to mandatorily file its return of income. The condition of filing of return of income where expenditure towards consumption of electricity exceeds Rs. 1 lakh applies to a person other than a company or a firm.

(v) Yes, Mr. Vallish is required to file his return of income for A.Y.2025-26.

Gift of Rs. 50 lakhs received from son is not taxable u/s 56(2)(x) in the hands of Mr. Vallish, since his son is his relative, and gifts from a relative are excluded from applicability of section 56(2)(x).

The only income of Mr. Vallish for the P.Y.2024-25 would be interest on savings account for a period of 4 days from 28th March, 2025 to 31st March, 2025 on Rs. 50 lakhs, which would be lower than the basic exemption limit. As per section 139(1)(b), an individual is required to file his return if his total income exceeds the basic exemption limit. In this case, Mr. Vallish's total income is lower than the basic exemption limit of Rs. 3,00,000.
However, such person referred to in section 139(1)(b) who is not required to file his return on account of his total income being lower than the basic exemption limit would be required to file return of income if, inter alia, the deposit in his savings account is Rs. 50 lakhs or more during the previous year. Since a deposit of Rs. 50 lakhs has been made in the savings account of Mr. Vallish in the P.Y.2024-25, he is required to file his return of income for A.Y.2025-26.

(vi) Since Mr. A has incurred expenditure of Rs. 2.40 lakhs which exceeds Rs. 2 lakhs for his wife for travel to a foreign country, he is required to file return of income though his total income of Rs. 2.25 lakhs is lower than the basic exemption limit of Rs. 2.50 lakhs.

Kab Ghushna Hai? - Summary

Particulars	Section 133A	Section 133A(2A)	Section 133B
Purpose	General Survey	TDS/TCS survey	Collecting info.
Authorised officer	ITA (upto CIT)	ITA (upto CIT)	AO
Prior Approval?	DGIT/CCIT	DGIT/CCIT	NA
Time to enter B/P	Business Hours	~~Business Hours~~ After sunrise, before sunset	Business Hours
Time to enter other place	After sunrise, before sunset	NA	NA
Impound	BoA and documents	Cannot be done	Cannot be done
Cash, stock and valuables	Cannot impound. Make note.	Can't even make note	Can't make note

Question 8 [Sec 133A and 133B] **[Q30]**

The Assessing Officer, with prior approval of Chief Commissioner of Income-tax, surveyed Good Day Cyber Café, which was within his jurisdiction, at 1 a.m. on 1.6.2024 for the purpose of obtaining information which may be relevant to the proceedings under the Income-tax Act, 1961. The Cyber Café is kept open for business every day between 2 p.m. and 2 a.m.

On 15.6.2024, the AO entered Bright Light Cyber Café which was also within his jurisdiction at 11 p.m. for the purpose of collecting information which may be useful for the purposes of the Income-tax Act, 1961. This Cyber Café is kept open for business every day between 12 noon to 12 midnight.

In both the above cases, the AO impounded and retained in his custody for a period of 12 days (inclusive of holidays), books of account and other documents inspected by him, after recording reasons for doing so. The Assessing Officer, however, did not take prior permission from the Commissioner for doing so.

The owners of these Cyber Cafés claim that the AO could not enter the café after sunset and take away with him the books of account kept at the Cyber Café. Also, the owner of Bright Light Cyber Café claimed that the AO ought to have obtained the prior approval of the Commissioner before entering the Café. Examine the validity of the claim made by the owners and the action of the AO in both the cases.

Would your answer change if the AO had surveyed Good Day Cyber Café only for the purpose of verifying whether tax has been deducted/collected at source in accordance with the provisions of the Income-tax Act, 1961? Examine.

[RTP Nov 2021]

Answer

Good Day Cyber Cafe

Income tax authority (below the rank of Chief Commission of Income Tax) can exercise his power of survey u/s 133A only after obtaining the approval of Principal Director General or the Director General or the Principal Chief Commissioner or the Chief Commissioner. In this case, since he has obtained prior approval of the Chief Commissioner, he is empowered u/s 133A to enter any place of business of the Good Day Cyber Café, which was within his jurisdiction, only during the hours at which such place is open for the conduct of business. It is only in case he wishes to enter any other place, other than the place of business, he has to do so after sunrise and before sunset.

Good Day Cyber Cafe is open from 2.00 p.m. to 2.00 a.m. for the conduct of business. The AO entered the cyber cafe at 1 a.m. which falls within the working hours of the cyber cafe. Therefore, the claim made by the owner of Good Day Cyber Cafe to the effect that the AO could not enter the cyber cafe after sunset is not correct. Further, as per section 133A(3)(ia), the AO may, impound and retain in his custody for such period as he thinks fit, any books of account or other documents inspected by him.

However, he shall not impound any books of account or other documents except after recording his reasons for doing so. He shall not retain in his custody any such books of account or other documents for a period exceeding 15 days (exclusive of holidays) without obtaining the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner or Principal Director or Director therefor, as the case may be.

In this case, since the AO has recorded his reasons for impounding and the period of retention is only 12 days (inclusive of holidays), prior approval of higher authorities is not required for this purpose.

Hence, the action of the AO in entering the premises at 1 a.m. and impounding and retaining books of account and other documents inspected by him for 12 days is within the powers of survey conferred on him u/s 133A.

However, in case the AO had surveyed the Cyber Café only for the purpose of verifying whether tax has been deducted/collected at source in accordance with the provisions of the Income-tax Act, 1961, then, he

cannot enter the Café after sunset and impound and retain books of account inspected by him, by virtue of the restrictions laid down in section 133A(2A) read with the proviso to section 133A(3).

Bright Light Cyber Cafe

Section 133B empowers an income-tax authority to enter any place of business during the hours at which such place is open for the conduct of business for the purpose of collecting information which may be useful for the purposes of the Income-tax Act, 1961.

The Cyber Cafe is open from 12 noon to 12 midnight for the conduct of business. The AO entered the hotel at 11 p.m. which fell within the working hours. The claim made by the Cyber Café owner to the effect that the AO could not enter the Cyber Cafe after sunset is not in accordance with law. Also, in case of section 133B, the prior permission of Commissioner or any other higher authority is not required.

Section 133B(3) provides that the AO acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any books of account.

In view of this clear prohibition in section 133B(3), the action of the AO in impounding and retaining with him the books of account kept at the Bright Light Cyber Cafe is not valid in law.

Understanding the difference between Section 263 and 264:

Basis	Section 263	Section 264
Prejudicial to	Revenue	Assessee
How?	Suo-motu only	Suo-motu or application by assessee
Time	2 years from end of FY	1 year ~~from EOFY~~ from order (Suo motu) 1 year from EOFY of application
Appeal	Appeal to ITAT.	No appeal.
Doctrine	Doctrine of partial merger	Doctrine of total merger
Crossover	Revision u/s 263 can be done after order u/s 264	Revision u/s 264 CANNOT be done after order u/s 263.
Rectification	Order can be rectified for mistake apparent from record u/s 154	

19 PREVENTION OF UNETHICAL TAX PRACTICES

Rate of conversion of currency used to determine FMV:

Where FMV is determined in:	Convert FMV as below
Permitted currency designated by RBI	Convert FMV into INR using RBI reference rate on valuation date
Other than permitted currency	1. Convert FMV to $ (as per rate specified by central bank) 2. Then, convert $ to INR (as per RBI reference rate)

Relevant date for determination of FMV and for conversion of currency:

Case	Date
Asset declared u/s 59	1st July 2015
Other case	1st April of PY (useful in questions)

Question 1 [Good for revision] **[Q18]**

Mr. Piloo (age 72) was the managing director of Ashok (P) Ltd. at Surat. He retired in June, 2009 and left India permanently in January, 2012. It came to the notice of the Joint Director of Income-tax (Investigation) in June, 2024 that Mr. Piloo had accumulated assets during the PY 2008-09 exceeding Rs. 500 lakhs outside India (consisting of residential apartments and deposits in banks) which were not disclosed for income-tax purposes up to the AY 2012-13 for which the return of income was filed in India. Mr. Piloo was served with a notice under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 in August, 2024.

Mr. Piloo is of the opinion that since 10 years have elapsed from the last AY in which he was assessed in India, no proceedings could be initiated against him under the Income-tax Act, 1961 and the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. Mr. Piloo is a non-resident for the AY 2025-26.

Discuss the liability of Mr. Piloo under the Black Money law and state the procedure and methodology for determination of the value of undisclosed asset outside after evaluating the validity of contentions raised by him.

[ICAI Module]

Answer

The contention of the assessee that the proceedings under the Black Money law are barred by limitation is not tenable in law. The time limitation given in the Income-tax Act, 1961, will not apply for the purpose of Black Money law. There is no time limit for initiation of proceedings under the Black Money Law, therefore, proceedings can be initiated against Piloo, even though 10 years have elapsed from the last AY in which he was assessed in India.

Every assessee would be liable to tax @ 30% in respect of his undisclosed foreign income and asset of the PY. Undisclosed foreign asset would be liable to tax in the PY in which such asset comes to notice of the AO.

Since Mr. Piloo left India permanently in January, 2012, he is a non-resident in India for the PY 2024-25, the year in which the notice under the Black Money Act was served on him. However, he was resident in India during PY 2008-09, being the year in which he accumulated assets outside India which were not disclosed by him in return.
The term "assessee" defined u/s 2(2) of the Black Money Act, inter alia includes a person being a non-resident or not ordinarily resident in India within the meaning of section 6(6) of the Income-tax Act, 1961 in the relevant previous year, but who was resident in India in the PY in which the undisclosed asset located outside India was acquired. Accordingly, Piloo who was resident in India in the P.Y.2008-09 would be an assessee under the Black Money Act, even though he is a non-resident for P.Y.2024-25.

Accordingly, Piloo is liable to pay tax @30% in respect of undisclosed foreign asset during the PY 2024-25, the year in which such assets came to the notice of the Assessing Officer.

The relevant date for determination of the value of undisclosed assets would be the first day of April of the PY in which the undisclosed asset located outside India comes to the notice of the Assessing Officer. The notice under the Black Money law was served in August, 2024 and the question states that it came to the notice of Joint Director of Income- tax (Investigation) in June, 2024. Accordingly, the FMV as on 01.04.2024 would be adopted.

He is also liable to pay penalty, in addition to tax, if any, payable by him, equal to three times the tax so computed.

The value of the undisclosed asset would be the fair market value of an asset (including financial interest in any entity) determined in the prescribed manner as laid down in Rule 3 of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Rules, 2015.
The value of residential apartments would be the higher of -

(i) its cost of acquisition; and
(ii) the price that the property shall ordinarily fetch if sold in the open market on the valuation date

The value of bank deposits would be the sum of all the deposits made in the account with the bank since the date of opening of the account. However, where any deposit is made from the proceeds of any withdrawal from the account, such deposit shall not be taken into consideration while computing the value of the account.

20 TAX AUDIT AND ETHICAL COMPLIANCES

Question 1 [Sec 44AB and 44AD] **[Q1]**

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

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

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

[ICAI Module, MTP May 24 – 3 marks]

Answer

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

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

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

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

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

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

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

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

Top 15 clauses – Relevant for May'25

S.No.	Clause #	Particulars
1	15	Particulars of the capital asset converted into stock-in-trade
2	16	Amounts not credited to the profit and loss account
3	17	Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of the State Government referred to in section 43CA or 50C, please furnish details of property, consideration received or accrued and value adopted or assessed or assessable
4	18	Particulars of depreciation allowable as per the Income Tax Act, 1961 in respect of each asset or block of asset, as the case may be.
5	21	Sub clause (a) to (i)
6	23	Particulars of payments made to persons specified under section 40A(2)(b)
7	26	In respect of any sum referred to in clauses (a), (b), (c), (d), (e), (f) or (g) of section 43B, the liability for which: (i) Pre-existed on the first day of the previous year but was not allowed in the assessment of any preceding previous year and was (a) paid during the previous year; (b) not paid during the previous year; (ii) Was incurred during the previous year and was (a) paid on or before the due date for furnishing the return of income of the previous year under section 139(1); (b) not paid on or before the aforesaid date (State whether sales tax, customs duty, excise duty, or any other indirect tax, levy, cess, impost, etc., is passed through the profit and loss account.)
8	28	Whether during the previous year the assessee has received any property, being share of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in section 56(2)(viia), if yes, please furnish details of the same.
9	29	Whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib), if yes, please furnish details of the same.
10	29A	Whether any amount is to be including in income chargeable under the head 'income from other sources' as referred to in clause (ix) of sub-section (2) of section 56? (Yes/No)
11	30	Transfer Pricing and impermissible avoidance arrangement
12	31	Sub clause (a) to (e)
13	33	Section-wise details of deductions, if any, admissible under Chapter VIA or Chapter III (Section 10A, 10AA).

14	34	(a) Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB, if yes, please furnish details (b) Whether the assessee is required to furnish the statement of tax deducted or tax collected. If yes, please furnish the details (c) Whether the assessee is liable to pay interest under section 201(1A) or section 206C(7). If yes, please furnish details.
15	43	Whether the assessee or its parent entity or alternate reporting entity is liable to furnish the report as referred to in sub-section (2) of section 286

21 NR TAXATION

Question 1 [Residential Status – Indian Citizen, total income exceeds 15 lakhs] **[Q2]**

Chris Gayle, a West Indies cricket player visits India for 102 days in every financial year. This has been his practice for the past 10 financial years.

(a) Find out his residential status for the A.Y. 2025-26.

(b) Would your answer change if the above facts relate to Srinath, an Indian citizen who resides in West Indies and represents the West Indies cricket team?

(c) What would be your answer if Srinath had visited India for 120 days instead of 102 days every year, including P.Y.2024-25?

[ICAI Module]

Answer

(a) Determination of Residential Status of Mr. Chris Gayle for the A.Y. 2025-26:
Period of stay during the P.Y. 2024-25 = 102 days.

Calculation of period of stay during 4 preceding previous years = (102 days x 4 years =408 days)
Mr. Chris Gayle has been in India for a period of more than 60 days during P.Y. 2024-25 and for a period of more than 365 days during the 4 immediately preceding previous years. Therefore, since he satisfies one of the basic conditions u/s 6(1), he is a resident for the A.Y. 2025-26.

Computation of period of stay during 7 preceding previous years = 102 days x 7 years =714 days
Since his period of stay in India during the past 7 previous years is less than 730 days, he is a not-ordinarily resident during the A.Y. 2025-26. (See Note below)

Therefore, Mr. Chris Gayle is a resident but not ordinarily resident during the PY 2024-25.

Note: An individual, not being an Indian citizen, would be not-ordinarily resident person if he satisfies any one of the conditions specified u/s 6(6), i.e.,
(i) If such individual has been NR in India in any 9 out of the 10 PY preceding the relevant PY, or
(ii) If such individual has during the 7 PYs preceding relevant PY been in India for 729 days or less.
In this case, since Mr. Chris Gayle satisfies condition (ii), he is a NOR for A.Y. 2025-26.

(b) If the above facts relate to Mr. Srinath, an Indian citizen, who residing in West Indies, comes on a visit to India, he would be treated as NR in India for PY 2024-25, irrespective of his total income (excluding income from foreign sources), since his stay in India in the current FY is, in any case, less than 120 days.

(c) In this case, if Mr. Srinath's total income (excluding income from foreign sources) exceeds Rs. 15 lakh, he would be treated as resident but not ordinarily resident in India for P.Y.2024-25, since his stay in India is 120 days in P.Y.2024-25 and 480 days (i.e., 120 days x 4 years) in immediately 4 preceding PYs.

If his total income (excluding income from foreign sources) does not exceed Rs. 15 lakh, he would be treated as NR in India for P.Y.2024-25, since his stay in India is less than 182 days in P.Y.2024-25.

Question 2 [Explanation 6 to Sec 9(1)(i)] **[Q3]**

XYZ Co., an Indian company, is engaged in the business of manufacture of packaging material having its manufacturing facility in India. XYZ Co.is a wholly owned subsidiary of Flix Inc., a company incorporated in Country M. Angelo and James, citizens and residents of the Country N, each of them holds 50% of the share capital of Flix Inc. Angelo and James, each had invested equivalent to Rs. 100 crs. in Flix Inc. in April 2015.

On 1st June 2024, Angelo and James, having received an offer which they believe was fair, sold their entire stake in Flix Inc. to Ishaan, resident of Country N for amount equivalent to INR 350 crores each.

The accounting period of Flix Inc. is January to December, the relevant extract of the balance sheet of Flix Inc. as on 31st December 2023, 1st June 2024 and 31st December 2024 are:

Particulars	31st Dec 2023	1st June 2024	31st Dec 2024
	(Rs. in crores)		
Details regarding Flix Inc.			
Book value of assets	1,000	1,300	1,500
Liabilities	300	250	350
Fair Market Value of assets (without reduction of liabilities)	800	1100	950
Details regarding investment in XYZ Co.			
Cost of acquisition	150	150	150
Book value of assets in balance sheet of XYZ Co.	350	550	480
Liabilities	150	200	250
Fair market value of assets in balance sheet of XYZ Co. (without reduction of liabilities)	350	600	600

Determine whether income arising from transfer of shares of Flix Co. chargeable to tax in India in hands of Angelo & James for A.Y.2025-26. Assume there is no DTAA between India and Country M or Country N.
[MTP May 24 - 6 Marks]

Answer

Capital gain arising in the hands of Angelo and James from transfer of a capital asset situated in India would be deemed to accrue or arise in India. Shares of Flix Inc., Country M, shall be deemed to be situated in India if those shares derive directly or indirectly, its value substantially from assets located in India.

Shares of Flix Inc. would be deemed to derive its value substantially from the assets located in India, if on the specified date, the fair market value of Indian assets (without reduction of liabilities) i.e., fair market value of assets of XYZ Co. –
- exceeds Rs. 10 crores; and
- represents at least 50% of the value of all the assets owned by the Flix Inc.

Specified date would be the date of transfer i.e., 1.6.2024 since book value of the assets of Flix Inc. on the date of transfer i.e., Rs. 1,300 crores exceed the book value of the assets as on the last balance sheet date preceding date of transfer i.e., Rs. 1,000 crores by at least 15%.

Shares of Flix Inc. derives its value substantially from assets located in India since the fair market value of assets located in India (without reduction of liabilities) on 1.6.2024, being the specified date i.e., Rs. 600 crores exceed Rs. 10 crores and represents more than 50% i.e., 54.545% of the fair market value of assets of Flix Inc. i.e., Rs. 1,100 crores.

Hence, the shares of Flix Inc. would be deemed to be a capital asset situated in India and the capital gains from the transfer of shares of Flix Inc. by Angelo and James would be deemed to accrue or arise in India. Accordingly, the capital gains arising from transfer of shares of Flix Inc. would be taxable.

Question 3 [Sec 9 – Good question] **[Q19]**

Examine with reasons whether following transactions attract tax in India, in the hands of recipients u/s 9:

(i) A non-resident German company, which did not have a permanent establishment in India, entered into an agreement for execution of electrical work in India. Separate payments were made towards drawings & designs, which were described as "Engineering Fee". The assessee contended that such business profits should be taxable in Germany as there is no business connection as per section 9(1)(i).

(ii) A firm of solicitors in Mumbai engaged a barrister in UK for arguing a case before Supreme Court of India. A payment of 5000 pounds was made as per terms of professional engagement.

(iii) Amount paid by Government of India for use of a patent developed by Mr. A, who is a non-resident.

(iv) Sai Engineering, a NR foreign company entered into a collaboration agreement on 25/6/2024, with an Indian co. and was in receipt of interest on 8% debentures for Rs. 20 lakhs, issued by Indian Company, in consideration of providing technical know-how utilised in business in Mumbai during PY 2024-25.

[ICAI Module, MTP May 2022, MTP Nov 2018 - 6 Marks]

Answer

(i) Fees for technical services is taxable u/s 9(1)(vii). In this case, the separate payments made towards drawings and designs (described as "engineering fee") are in the nature of fee for technical services and, therefore, it is taxable in India by virtue of section 9(1)(vii), since the services are utilized for execution of electrical work in India [Aeg Aktiengesllschaft v. CIT (2004) (Kar.)].

As per Explanation below section 9(2), where income is deemed to accrue or arise in India u/s 9(1)(vii), such income shall be included in the total income of the NR German company, regardless of whether it has a residence or place of business or business connection in India

(ii) As per section 9(1)(i), all income accruing or arising, whether directly or indirectly, through or from any business connection in India is deemed to accrue or arise in India.

In this case, there was a professional connection between the firm of solicitors in Mumbai and the barrister in UK. The expression "business" includes not only trade and manufacture; it includes, within its scope, "profession" as well. Therefore, the existence of professional connection amounts to existence of "business connection" u/s 9(1)(i). [Barendra Prasad Roy v. ITO (1981) (Supreme Court)]

Hence, the amount of 5,000 pounds paid to the barrister in UK as per terms of the professional engagement constitutes income which is deemed to accrue or arise in India u/s 9(1)(i). Hence, it is taxable in India.

(iii) As per section 9(1)(vi), income by way of royalty payable by the Government of India is deemed to accrue or arise in India. "Royalty" means consideration for, inter alia, use of patent. Therefore, the amount paid by Government of India for use of patent developed by Mr. A, a non-resident, is deemed to accrue or arise in India. Hence, it is taxable in India in the hands of Mr. A.

(iv) Rs. 20 lakhs, being the value of debentures issued by an Indian company in consideration of providing technical know-how for use in its business in India, is in the nature of fee for technical services, deemed to accrue or arise in India to Sai Engineering, a non-resident foreign company, u/s 9(1)(vii). Hence, it is taxable in India.

Further, as per section 9(1)(v), income by way of interest payable by a person who is a resident of India is deemed to accrue or arise in India. Therefore, interest income from debentures of an Indian company is deemed to accrue or arise in India by virtue of section 9(1)(v). Hence, it is taxable in India.

Note – Since the question specifically requires the candidates to examine the taxability of the above transactions u/s 9, the provisions of double taxation avoidance agreement, if any, applicable in the above cases, have not been taken into consideration.

Question 4 [POEM] **[Q23]**

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

Particulars	India	Singapore
Fixed assets at depreciated values for tax purposes (Rs. in crores)	120	80
Intangible assets (Rs. in crores)	50	200
Other assets (value as per books of account) (Rs. in crores)	40	120
Income from trading operations (Rs. in crores)	25	50
The above figure includes:		
(i) Income from transactions where purchases are from associated enterprises and sales are to unrelated parties	2	4
(ii) Income from transactions where sales are to associated enterprises and purchases are from unrelated parties	3	5
(iii) Income from transactions where both purchases and sales are from/to associated enterprises	5	10
Interest and dividend from investments (Rs. in crores)	20	15
Number of employees (Residents in respective countries)	70	90
Payroll expenses on employees (Rs. in crores)	8	12

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

[ICAI Module, MTP May 2023, MTP Nov'21, MTP May 2021, RTP May 2020, Nov 2018, Nov 2020 – 6 M]

OR

ABC Ltd, a software giant in India, set up a 100% subsidiary company by name SHD Inc. in Switzerland on 1st April, 2024. The subsidiary company, SHD Inc., is mainly engaged in the software services, hardware services and data backup services in three different countries viz., Switzerland, Sweden and India. The following information is furnished by SHD Inc., for FY 2024-25:

Particulars	Switzerland	Sweden	India
Value of assets as per books of account (Rs. in crores)	24	12	24
Number of employees working (in thousands)	30	10	28
Pay roll expenditure (Rs. in crores)	4	2.6	5.4
Total aggregate income earned	80 crores		

Other Information:

1. Break up of total income:
   (i) Rs. 28 crores derived from the transactions where purchases are made from associated enterprises and sold to non-associated enterprises;
   (ii) Rs. 24 crores derived from the transactions where both purchases and sales are made from/to associated enterprises;
   (iii) Rs. 16 crores derived from the transactions where purchases are made from non-associated enterprises and sold to associated enterprises:
   (iv) Rs. 8 crores by way of income from capital gains on trading of shares; Rs. 4 crores by way of interest from non-associated enterprises;
2. During FY 2024-25, total 5 board meetings were held, 2 in India, 1 in Sweden and 2 in Switzerland.

Based on the above information, determine the residential status of SHD Inc., applying the provisions of POEM for the A.Y.2025-26

[Nov 2019 - 6 Marks]

Answer

The residential status of a foreign company is determined on the basis of place of effective management (POEM) of the company. For determining the POEM of a foreign company, the important criteria is whether the company is engaged in active business outside India or not.

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

- the passive income is not more than 50% of its total income; and
- less than 50% of its total assets are situated in India; and
- less than 50% of total number of employees are situated in India or are resident in India and
- the payroll expenses incurred on such employees is less than 50% of its total payroll expenditure.

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

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

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

Passive income is the aggregate of, -

(i) income from the transactions where both the purchase and sale of goods is from/to its associated enterprises; and
(ii) income by way of royalty, dividend, capital gains, interest or rental income;

Passive Income of Singtel Ltd. is Rs. 50 crores, being sum total of:

(i) Rs. 15 crores, income from transactions where both purchases and sales are from/to associated enterprises (Rs. 5 crores in India and Rs. 10 crores in Singapore)
(ii) Rs. 35 crores, being interest and dividend from investment (Rs. 20 crores in India and Rs. 15 crores in Singapore)

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

Since passive income of Singtel Ltd. is 45.45%, the first condition is satisfied.

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

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

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

Percentage of assets situated in India to total assets = Rs. 210 Cr/Rs. 610 Cr x 100 = 34.43%

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

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

Number of employees situated in India or are resident in India is 70 Total number of employees of Singtel Ltd. is 160 [70 + 90]

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

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

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

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

Total payroll expenses = Rs. 20 crores (Rs. 8 crores + Rs. 12 crores)

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

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

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

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

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

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

Question 5 [Sec 115AD and Sec 115A] **[Q24]**

STYLE Inc., a notified Foreign Institutional Investor (FII), derived following incomes for the FY 2024-25:

(1) Interest received on investment in Rupee Denominated Bonds of ABC Ltd., an Indian company (investment was made in the F.Y.2022-23) - Rs. 8,50,000

(2) Dividend from listed shares of Indian companies – Rs. 6,20,000

(3) Interest on securities – Rs. 17,32,000 (Expenses of Rs. 26,000 has been incurred to earn such income)

(4) Income from sale of securities and shares:

(i) Bonds of J Ltd.
[Date of purchase 5 May, 2017; Date of sale 7 March, 2025]
Sale proceeds: Rs. 47,00,000
Cost of purchase : Rs. 32,00,000
Cost Inflation Index: F.Y.2017-18:272; F.Y.2024-25:363

(ii) Listed Shares of E Ltd.
[Date of purchase – 2 May, 2024; Date of sale – 9 February, 2025]
Sale Consideration Rs. 12,40,000
Purchase cost Rs. 7,80,000
[STT paid both at the time of purchase and sale]

(iii) Unlisted equity shares of M Ltd.
[Date of purchase – 1 July, 2024; Date of sale – 7 March, 2025]
Sale Consideration Rs. 8,40,000
Purchase cost Rs. 3,72,000

Compute the total income and tax liability of the FII, STYLE Inc., for the A.Y. 2025-26 as per section 115AD, assuming that no other income is derived by STYLE Inc. during the F.Y.2024-25

[ICAI Module, MTP May 2023, MTP May 2020, RTP Nov 2019 – 6 Marks]

Answer

Computation of total income of STYLE Inc., a notified FII, for A.Y.2025-26

Particulars	Rs.	Rs.
Interest on Rupee Denominated Bonds	8,50,000	
Dividend income	6,20,000	
Interest on securities [No deduction is allowable in respect of expenses incurred in respect thereof]	17,32,000	
		32,02,000

Long-term capital gains on sale of bonds of J Ltd.		
Sale consideration	47,00,000	
Less: Cost of acquisition	32,00,000	15,00,000
[Benefit of indexation is not allowable as per Section 115AD]		
Short-term capital gains on sale of STT paid equity shares of E Ltd.		
Sale consideration	12,40,000	
Less: Cost of acquisition	7,80,000	4,60,000
Short-term capital gains on sale on unlisted equity shares of M Ltd.		
Sale consideration	8,40,000	
Less: Cost of acquisition	3,72,000	4,68,000
Total Income		56,30,000

Computation of tax liability of STYLE Inc. for A.Y.2025-26

Particulars	Rs.
Tax@5% u/s 115A on interest of Rs. 8,50,000 received from an Indian company on investment in rupee denominated bonds = 5% x Rs. 8,50,000	42,500
Tax@20% u/s 115AD on interest on securities and dividend =20% x Rs. 23,52,000	4,70,400
Tax@10% u/s 115AD on long-term capital gains on sale of bonds of J Ltd. = 10% x Rs. 15,00,000	1,50,000
Tax @ 20% u/s 111A on short-term capital gains on sale of listed equity shares of E Ltd., in respect of which STT has been paid = 20% of Rs. 4,60,000	92,000
Tax @ 30% u/s 115AD on short-term capital gains on sale of unlisted equity shares of M Ltd. = 30% of Rs. 4,68,000	1,40,400
	8,95,300
Add: HEC@4%	35,812
Tax liability	**9,31,112**
Tax liability (rounded off)	**9,31,110**

Note: STCG shall be taxable at the rate of 20% u/s 111A for transfer on or after 23.07.2024. For transfer prior to 23.07, it shall be taxable at 15%. [FA 2024]

Question 6 [Section 44C] **[Q28]**

The net result of the business carried on by a branch of a foreign company in India for the FY ended 31.03.2025 was a profit of Rs. 20 lakhs after charge of the following expenses:

(i) Depreciation for the current FY of Rs. 15 lakhs.
(ii) Unabsorbed depreciation for previous FY of Rs. 17 lakhs.
(iii) Capital Expenditure incurred for promoting family planning amongst its employees of Rs. 7 lakhs. Rs. 7 Lakhs is one fifth of the total expenditure incurred on promoting family planning.
(iv) Expenditure incurred for Scientific research Rs. 11 lakhs.
(v) Business loss brought forward for A.Y. 2020-21 of Rs. 25 lakhs.
(vi) Deductions under Chapter VI-A of Rs. 20 lakhs.
(vii) Head Office expenses of Rs. 125 lakhs allocated to the branch.

Compute income to be declared by the branch in its return for the AY 2025-26.

[Nov 2020, MTP Nov 23, MTP May 2022, ICAI Module, MTP Nov 2018 –6 marks]

Answer

Computation of income to be declared by the branch in its return of income.

Computation of Head Office expenses allowable u/s 44C

Particulars		Rs.	Rs.
Net profit of the branch			20,00,000
Add:	Head office expenditure debited to profit and loss	1,25,00,000	
	Unabsorbed depreciation	17,00,000	
	Capital expenditure on family planning	7,00,000	

Brought forward business loss	25,00,000	
Deductions under Chapter VI-A	20,00,000	1,94,00,000
Adjusted total income		2,14,00,000

Note – Depreciation for the current FY and expenditure incurred for scientific research are not required to be added back for computing adjusted total income. HO expenses allowable u/s 44C = Rs. 10,70,000 Being the lower of –

(i) 5% of Rs. 2,14,00,000 = Rs. 10,70,000

(ii) Actual Head Office expenses allocated to the branch = Rs. 1,25,00,000

Income to be declared by the branch for A.Y.2025-26

Particulars	**Rs.**
Net profit of the branch	20,00,000
Add: Head office expenditure debited to profit and loss	1,25,00,000
	1,45,00,000
Less: Head office expenses allowable u/s 44C	10,70,000
Income to be declared by the branch	**1,34,30,000**

Question 7 [Good question] **[Q30]**

Cherry Ltd., a NR German company, has following incomes in India during year ended on 31.03.2025:

(i) Dividend income of Rs. 12,50,000 from XY Ltd., an Indian company listed on RSE.

(ii) 8% debentures of Rs. 20,00,000 received from X Ltd., an Indian Company, on October 1, 2024, in consideration of providing technical knowhow (date of payment of interest being March 31 every year).

(iii) Dividend received Rs. 5,50,000 on Global Depository Receipts of Y Ltd., an Indian company, issued under a scheme of Central Government against the initial issue of shares of the company and purchased by Cherry Ltd. in foreign currency through an approved intermediary.

[May'24 Exam]

(iv) Business Income of Rs. 8,00,000 from a unit established at Mumbai.

(v) Income by way of royalty (other than referred to in section 44DA) amounting to Rs. 10,00,000, received from Z Ltd., an Indian company, in pursuance of an agreement approved by Central Government. As per DTTA between the two countries, such royalty is taxable @22%.

With brief reasons for the treatment of the above incomes, you are required to compute the tax liability of Cherry Ltd. for the AY 2025-26.

[July 2021, MTP Nov 22, RTP May 22 – 6 Marks]

Answer

Computation of total income & tax liability of Cherry Ltd., a NR German company, for A.Y. 2025-26

Particulars	Rs.
Business Income from a unit established at Mumbai	8,00,000
Income from other sources	
Dividend income from XY Ltd. an Indian company	12,50,000
Fees for technical services [would be equivalent to the amount of debentures of Rs. 20,00,000 received from an Indian company, issued in consideration of providing technical knowhow	20,00,000
Interest on Debentures [Rs. 20,00,000 x 8% x 6/12]	80,000
Dividend on Global Depository Receipts (GDRs) of Y Ltd. an Indian company, issued under a scheme of Central Government against the initial issue of Y Ltd. and purchased in foreign currency by Cherry Ltd. [Rs. 5,50,000 x 100/89.6, since tax would have been deducted at source @ 10.4%]	6,13,839
Royalty income received from Z Ltd. an Indian company in pursuance of an agreement approved by Central Government [Rs. 10,00,000 x 100/79.2, since tax would have been deducted at source @ 20.8%]	12,62,626

Gross Total Income/ Total income	**60,06,465**
Computation of tax liability	
Dividend income of Rs. 12,50,000, taxable @20% u/s 115A	2,50,000
Dividend on GDRs of Rs. 6,13,839, taxable @10% u/s 115AC	61,384
Royalty income of Rs. 12,62,626 taxable @20% u/s 115A, since it is in pursuance of an agreement approved by the Central Government	2,52,525
FTS of Rs. 20,00,000, taxable @35%, assuming it is not in pursuance of an agreement approved by the Central Government	7,00,000
Interest on debentures of Rs. 80,000, taxable @35%, since debt is incurred in Indian currency, it is not eligible for concessional rate of 20% u/s 115A	28,000
Business income of Rs. 8,00,000 [taxable @35%]	2,80,000
	15,71,909
Add: Health and education cess@4%	62,876
Tax liability	**16,34,785**
Tax liability (rounded off)	**16,34,790**

Note: Tax rate applicable to foreign cos. is 35% w.e.f. PY 24-25 [as against 40% earlier] [FA 2024]

Question 8 [NRI special provision] **[Q31]**

The following data is furnished by Mr. Ashish, a NR and a person of Indian Origin, for FY ended 31-3-2025:

Particulars	Amounts
Long-term capital gains arising on transfer of specified foreign exchange asset on 31-08-2024 (computed)	8,50,000
Expenditure wholly and exclusively incurred in connection with such transfer (not considered above)	30,000
Interest on deposits held with private limited companies	2,93,000
Interest on Government Securities (acquired in Foreign Currency)	1,00,000
Income from Short Term Capital gains u/s 111A	2,00,000
Investment in notified savings certificates of Central Government on 30-3-2025	1,50,000
Investment in shares of Indian public limited companies on 31-12-2025	1,80,000
Tax deducted at source	1,55,000

Compute balance tax payable/refund due for the AY 2025-26 in accordance with special provisions applicable to non-residents

[Dec 2021, May 2019 – 6 marks]

Answer

Computation of tax payable by Mr. Ashish, NRI as per special provisions applicable for A.Y. 25-26

Particulars		Rs.
Capital gains		
Long-term capital gains on transfer of specified asset	Rs. 8,50,000	
Less: Expenditure incurred in connection with such transfer	Rs. 30,000	
	Rs. 8,20,000	
Less: Investment in shares of Indian Public Limited cos. [Deduction u/s 115F not allowable, since investment is made after 6m from date of trf.]	Nil	
Taxable LTCG	Rs. 8,20,000	
Short-term capital gains u/s 111A	Rs. 2,00,000	10,20,000

Income from Other Sources	
- Interest on deposits held with private limited companies [deposits with private limited companies are not foreign exchange assets, hence, taxable at normal rates of tax]	2,93,000
-Interest on Government Securities [Investment income, as Government securities are foreign exchange asset, as the same were acquired in foreign currency]	1,00,000
Gross Total Income	**14,13,000**
Less: Deduction u/s 80C in respect of NSC	1,50,000
Total Income	**12,63,000**

Particulars	Rs.
Computation of tax payable/refundable	
LTCG of Rs. 8,20,000 taxable @12.5% [12.5% of Rs. 8,20,000]	1,02,500
[Transfer made on or after 23.07.2024 and hence taxable at 12.5% u/s 115E]	
STCG of Rs. 2,00,000 [taxable @20%]	40,000
[Assuming that such trf is made on or after 23.07.2024 and hence taxable at 20% u/s 111A]	
Interest on Government securities [Investment income] [20% of Rs. 1,00,000]	20,000
Interest on deposits held with private limited companies Rs. 1,43,000 [Rs. 2,93,000 – Rs. 1,50,000], which is less than the basic exemption limit of Rs. 2,50,000	Nil
	1,62,500
Add: Health and education cess@4%	6,500
Tax liability	1,69,000
Less: TDS	1,55,000
Tax payable	**14,000**

Author's Note: Deduction u/c VI-A of Rs. 1,50,000 is allowed against interest income of deposit held with private company which is not covered in the chapter of NRI.

Question 9 **[Q32]**

Mr. Robert, a non-resident and German citizen, is employed in a German company. The German company has a PE in India and accordingly the income of the PE is chargeable to tax in India. Robert visited India during the FY 2024-25 on official work and stayed for 85 days. His salary for that period was Rs. 28,00,000 which is borne by the Indian PE.

Robert held 1200 shares of Nalapir Pvt. Ltd. (NP), an Indian company since 28.11.2018 which he acquired for Rs. 15 per share. For acquiring the shares, he remitted USD 50,000 to India on 1.11.2018. He sold these shares on 23.6.2024 for Rs. 43 per share.

Robert also held 2000 equity shares of Aribitz GmbH (AG), a German company, which he had acquired for Rs. 145 per share in 2021. AG follows April to March as its FY. He sold all these shares for Rs. 615 per share to David, another NR, on 26.08.2024. The relevant information of AG as on 31.3.2024 is given below:

(i) Total value of assets Rs. 15 crores.
(ii) Total value of immovable properties worldwide= Rs. 12 crores.
(iii) Immovable properties held in India (included in (ii) above) - Rs. 8 crores.
(iv) Dividend from Aribitz GmbH received in India on 28.06.2024 was - Rs. 1,11,000.

You are required to compute the total income taxable in India of Mr. Robert ignoring provisions of DTAA between India and Germany, if any. Exchange rates for 1 USD on relevant dates is given as hereunder:

Date	Buying Rate (1 US $)	Selling Rate (1 US$)
28.11.2018	Rs. 59	Rs. 61
1.11.2018	Rs. 61	Rs. 64
23.6.2024	Rs. 74	Rs. 76

[Nov 2022, MTP Nov 23, MTP May 24 – 6 marks]

Answer

Computation of Total income of Mr. Robert for the A.Y. 2025-26

Particulars	Rs.	Rs.
Salary	28,00,000	
[Salary deemed to accrue or arise in India, since it is paid for services rendered in India as per section 9(1)(ii). Hence, it is taxable in the hands of Mr. Robert. Exemption u/s 10(6)(vi) would not be available to him, though he stayed in India for a period of not exceeding 90 days during the PY since he is receiving salary from a German company which is engaged in business and trade in India through a PE in India and such salary is borne by Indian PE]		
Less: Standard deduction u/s 16(ia) [assuming old regime]	50,000	
Capital Gains		27,50,000
Transfer of 1200 equity shares of Nalapir Pvt. Ltd. [Taxable in India, since shares are situated in India]	$ 688	
Sale Consideration (1200 x Rs. 43 per share/75, being average of Rs. 74 (TTBR) + Rs. 76 (TTSR)/2 on 23.6.2024)		
Less: Cost of acquisition (1200 x Rs. 15 per share/60, being average of Rs. 59 (TTBR) + Rs. 61 (TTSR)/2 on 28.11.2018)	$ 300	
	$ 388	
Long-term capital gain [$ 388 x Rs. 74, being TTBR on 23.06.2024]		28,712
Transfer of 2000 Equity shares of Aribitz GmbH (AG)		Nil
[Not taxable in India, since shares of foreign company do not derive its value substantially from assets located in India as value of Indian assets do not exceed Rs. 10 crores – Explanation 6 to Section 9(1)(i)]		
Income from Other Sources		
Dividend received in India from Aribitz Gmbh [taxable in India, since dividend is received in India]		1,11,000
Gross Total Income/total income		**28,89,712**
Total income (rounded off)		**28,89,710**

Question 10 [Sec 44DA vs 115A] **[Q42]**

Examine the taxability in the hands of Tyrax Inc, a US company as per the provisions of the Income-tax Act, 1961 and other requirement, if any, in the following two independent situations:

1. If Tyrax Inc., does not have a permanent establishment in India, received income by way of fees for technical services of Rs. 1.5 crore from ATP Ltd., an Indian company, in pursuance of an agreement between ATP Ltd. and Tyrax Inc. entered into in the year 2015, which is approved by the Central Government. Expenses incurred for earning such income is Rs. 7.2 lakhs.
2. If Tyrax Inc. has a permanent establishment in India and the contract/agreement with ATP Ltd. for rendering technical services is effectively connected with such PE in India.

	Particulars	Amount
(1)	Fees for technical services received from ATP Ltd.	Rs. 2.5 crore
(2)	Expenses incurred for earning such income	Rs. 5 lakhs

(3)	Fees for technical services received from other Indian companies in pursuance of approved agreement entered into between the years 2008 to 2014	Rs. 4.8 crore
(4)	Expenses incurred for earning such income	Rs. 12 lakhs
(5)	Expenditure not wholly and exclusively incurred for the business of such PE [not included in (2) & (4) above]	Rs. 6.3 lakhs
(6)	Amounts paid by the PE to Head Office (not being in the nature of reimbursement of actual expenses)	Rs. 12.7 lakhs

(RTP May 2023, RTP May 2021, MTP Nov 2020, RTP May 2019, MTP Nov 2019 - 6 Marks)

Answer

(i) Where Tyrax Inc., a US company, does not have a PE in India

In this case, Tyrax Inc. would be eligible for a concessional rate of tax@20% of Rs. 1.5 crore u/s 115A on the fees for technical services received from ATP Ltd., an Indian company, since the same is in pursuance of an agreement entered into after 31.3.1976, which has been approved by the CG.

No deduction, however, would be allowed w.r.t., expenditure of Rs. 7.2 lakhs incurred to earn such income.

Also, Tyrax Inc. has to file its return of income in India u/s 139, hence, there is no exemption in this regard.

(ii) Where Tyrax Inc., a US company, has a PE in India and rendering technical services is effectively connected with the PE in India.

Since Tyrax Inc. carries on business through a PE in India, in pursuance of an agreement with ATP Ltd. or other Indian companies entered into after 31.3.2003, and the income by way of fees for technical services is effectively connected with the PE in India , such income shall be computed under the head "Profits and gains of business or profession" in accordance with section 44DA of the Income-tax Act.

Accordingly, expenses of Rs. 17 lakhs (Rs. 5 lakhs + Rs. 12 lakhs) incurred for earning fees for technical services of Rs. 7.3 crore (Rs. 2.5 crore + Rs. 4.8 crore) is allowable as deduction therefrom.

However, expenditure of Rs. 6.3 lakhs which is not incurred wholly and exclusively for business of the PE and the amount of Rs. 12.7 lakhs paid by the PE to the Head Office is not allowable as deduction.

Tyrax Inc. is required to maintain books of account u/s 44AA and get the same audited u/s 44AB and furnish report along with the return of income u/s 139.

Question 11 **[Q46]**

Wioni Inc., a company incorporated in Japan, is engaged in development of infrastructure and providing consultancy in the same field. During the FY 2024-25, its shareholders met in India for three times. The first two meetings were held to discuss the modification of rights attached to various classes of shares and the third meeting was held to discuss and decide about sale of companies' assets situated in India. It provides the following additional information pertaining to FY 2024-25:

(a) Dividend declared by a Miani Inc., a Japan based Company: Rs. 54,000 [Miani Inc. holds 70% of its total assets in India].

(b) Fees for technical services received from Government of India: Rs. 3,59,568. The Government of India utilised such technical services for a development project carried out by it in Nepal.

[May'24 Exam]

(c) Interest received from Ms. O, a unit located in IFSC in respect of monies borrowed by Ms. O: Rs. 15,400 (Date of loan 24-12-2024)

(d) On 26-8-2024, Wioni Inc. sold 5,000 equity shares held by it in an Indian Company for Rs. 89 per share. These shares were bought by the Wioni Inc. on 28th June, 2013 for Rs. 64 per share. Both the purchase and sale of shares were effected through a recognized stock exchange in India. Fair Market Value of these shares on 31-01-2018 was Rs. 70 per share.

You are required to compute the total income of Wioni Inc. for the AY 2025-26 briefly explaining the relevant provisions of the Income-tax Act, 1961.

[Jan 2021 - 6 Marks]

Answer

Wioni Inc. is a company incorporated in Japan. It would be resident in India, if its place of effective management is in India in that year.

As per the POEM guidelines, the decisions made by a shareholder for sale of all or substantially all of the company's assets, or the modification of the rights attaching to various classes of shares or the issue of a new class of shares etc. are decisions typically affecting the existence of the company itself or the rights of the shareholders as such, rather than the conduct of the company's business from a management or commercial perspective. Therefore, such decisions are not relevant for determination of a company's place of effective management. Therefore, the POEM of Wioni Inc. is not in India and hence, it is a non-resident for A.Y.2025-26.

Taxability of income

As per sec 5(2), in case of a non-resident, only income which accrues or arises or which is deemed to accrue or arise to it in India or which is received or deemed to be received in India in the relevant PY is taxable in India.

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

	Particulars		Amount (Rs)
(i)	Dividend declared by Miani Inc., a Japan based company which holds 70% of its total assets in India [As per Circular No. 4/2015, dated 26-03-2015, dividends declared and paid by Miani Inc., a foreign company, outside India in respect of shares which derive their value substantially from assets situated in India would not be deemed to be income accruing or arising in India]		Nil
(ii)	Fees for technical services received from Government of India [As per section 9(1)(vii), any fees for technical services would be deemed to accrue or arise in India if they are payable by Government of India. Since FTS is received from Government of India, it is deemed to have accrued or arisen in India irrespective of that fact that it is utilized for a project outside India. Tax @20.8% would have been deducted on FTS received from Government] [3,59,568/79.2%]		4,54,000
(iii)	Interest received from Ms. O, a unit located in IFSC for monies borrowed by it on 24.12.2024 [As per section 10(15)(ix), interest payable to Wioni Inc., a non-resident, by Ms. O, a unit located in an IFSC, in respect of monies borrowed by it on or after 1.9.2019 is exempt from income-tax]		Nil
(iv)	Long term capital gains		
	Sale consideration (5,000 x Rs. 89)	4,45,000	
	Less: Cost of acquisition, being higher of	3,50,000	95,000
	(a) Actual cost i.e., (5,000 x Rs. 64) Rs. 3,20,000		

	(b) lower of - Rs.3,50,000 (5,000 x Rs. 70), being fair market value on 31.1.2018 and - Rs. 4,45,000 (5,000 x Rs. 89), being full value of consideration [There would be no tax on long-term capital gains, since only the gain in excess of Rs. 1,25,000 is taxable@12.5% u/s 112A]	
Total Income		**5,49,000**

22 DOUBLE TAXATION RELIEF

Question 1 **[Q2]**

Nandita, an individual resident retired employee of the Prasar Bharati aged 60 years, is a well- known dramatist deriving income of Rs. 1,10,000 from theatrical works played abroad. Tax of Rs. 11,000 was deducted in the country where the plays were performed. India does not have any DTAA u/s 90 of the Income-tax Act, 1961, with that country. Her income in India amounted to Rs. 6,10,000. In view of tax planning, she has deposited Rs. 1,50,000 in Public Provident Fund and paid contribution to approved Pension Fund of LIC Rs. 32,000. She also contributed Rs. 28,000 to Central Government Health Scheme during the PY and gave payment of medical insurance premium of Rs. 26,000 to insure the health of her mother, a non-resident aged 84 years, who is not dependent on her. Compute the tax liability of Nandita for the AY 2025-26, assuming that she opted out of the default tax regime u/s 115BAC.

Answer

Computation of tax liability of Nandita for the A.Y. 2025-26 under normal provisions of the Act

Particulars	**Rs.**	**Rs.**
Indian Income		6,10,000
Foreign Income		1,10,000
Gross Total Income		7,20,000
Less:		
Deduction u/s 80C	1,50,000	
Deposit in PPF		
Under section 80CCC	32,000	
Contribution to approved Pension Fund of LIC		
	1,82,000	
Under section 80CCE		
Aggregate deduction u/s 80C, 80CCC and 80CCD(1) - Restricted to 1,50,000	1,50,000	
Under section 80D		
Contribution to CG Health Scheme is also allowable as deduction u/s 80D. Since she is a resident senior citizen, max limit is Rs. 50,000 (See Note 1)	28,000	
Medical insurance premium of Rs. 26,000 paid for mother aged 84 years. Since the mother is a non-resident in India, she will not be entitled for the higher deduction of Rs. 50,000 eligible for a senior citizen, who is resident in India. Hence, the deduction will be restricted to maximum of Rs. 25,000.	25,000	2,03,000
Total Income		**5,17,000**
Tax on Total Income		
Income-tax (See Note below)		13,400
Add: Health and Education Cess @4%		536
		13,936
Average rate of tax in India (i.e. Rs. 13,936/ Rs. 5,17,000 × 100)	2.696%	
Average rate of tax in foreign country (i.e. Rs. 11,000/ Rs. 1,10,000 ×100)	10%	
Deduction u/s 91 on Rs. 1,10,000 @ 2.696% (lower of average Indian-tax rate or average foreign tax rate)		2,966
Tax payable in India (Rs. 13,936 – Rs. 2,966)		**10,970**

Notes:

1. Section 80D allows a higher deduction of up to Rs. 50,000 in respect of the medical premium paid to insure the heath of a senior citizen. Therefore, Nandita will be allowed deduction of Rs. 28,000 u/s 80D, since she is a resident Indian of the age of 60 years.

2. The basic exemption limit for senior citizens under the normal provisions of the Act is Rs. 3,00,000 and the age criterion for qualifying as a "senior citizen" for availing the higher basic exemption limit is 60 years. Accordingly, Nandita is eligible for the higher basic exemption limit of Rs. 3,00,000, since she is 60 years old.

3. An assessee shall be allowed deduction u/s 91 provided all the following conditions are fulfilled:-
   (a) The assessee is a resident in India during the relevant previous year.
   (b) The income accrues or arises to him outside India during that previous year.
   (c) Such income is not deemed to accrue or arise in India during the previous year.
   (d) The income in question has been subjected to income-tax in the foreign country in the hands of the assessee and the assessee has paid tax on such income in the foreign country.
   (e) There is no agreement u/s 90 for the relief or avoidance of double taxation between India and the other country where the income has accrued or arisen.

In this case, since all the above conditions are satisfied, Nandita is eligible for deduction u/s 91.

Question 2 **[Q10]**

Mr. Kamesh, an individual resident in India aged 52 years, furnishes you the following particulars of income earned in India, Country "X" and Country "Y" for the PY 2023-24. India has not entered into double taxation avoidance agreement with these two countries.

Particulars	Rs.
Income from profession carried on in India	7,50,000
Agricultural income in Country "X" (gross)	50,000
Dividend from a company incorporated in Country "Y" (gross)	1,50,000
Royalty income from a literary book from Country "X" (gross)	6,00,000
Expenses incurred for earning royalty	50,000
Business loss in Country "Y" (Proprietary business)	65,000
Rent from a house situated in Country "Y" (gross)	2,40,000
Municipal tax paid in respect of the above house in Country "Y" (not allowed as deduction in country "Y")	10,000

Note: Business loss in Country "Y" not eligible for set off against other incomes as per law of that country.
The rates of tax in Country "X" and Country "Y" are 10% and 20%, respectively.
Compute total income and net tax liability of Mr. Kamesh in India for AY 2024-25, assuming that he opted out of the default tax regime u/s 115BAC.

[ICAI Module, MTP May 23, RTP Nov 21, MTP Nov 21, RTP Nov 2018 – 6 Marks]

Answer

Computation of total income of Mr. Kamesh for A.Y.2024-25 under normal provisions of the Act

Particulars	Rs.	Rs.
Income from House Property [House situated in country Y]		
Gross Annual Value	2,40,000	
Less: Municipal taxes	10,000	
Net Annual Value	2,30,000	
Less: Deduction u/s 24 – 30% of NAV	69,000	
		1,61,000
Profits and Gains of Business or Profession		
Income from profession carried on in India	7,50,000	

Royalty income from a literary book from Country X (after deducting expenses of Rs. 50,000)	5,50,000	
	13,00,000	
Less: Business loss in country Y set-off	65,000	
		12,35,000
Income from Other Sources		
Agricultural income in country X	50,000	
Dividend from a company in country Y	1,50,000	2,00,000
Gross Total Income		**15,96,000**
Less: Deduction under Chapter VIA		
Under section 80QQB – Royalty income of a resident from literary work		3,00,000
Total Income		**12,96,000**

Note – Since adjusted total income (i.e., Rs. 15,96,000) does not exceed Rs. 20 lakhs, AMT would not be attracted in this case.

Computation of net tax liability of Mr. Kamesh for A.Y.2024-25

Particulars	Rs.
Tax on total income [30% of Rs. 2,96,000 + Rs. 1,12,500]	2,01,300
Add: Health and Education cess@4%	8,052
	2,09,352
Less: Deduction u/s 91 (See Working Note below)	69,739
Net tax liability	**1,39,613**
Net tax liability (rounded off)	**1,39,610**

Working Note: Calculation of Rebate u/s 91

Particulars	Rs.	Rs.
Average rate of tax in India [i.e., Rs. 2,09,352 / Rs. 12,96,000 x 100]	16.154%	
Average rate of tax in country X	10%	
Doubly taxed income pertaining to country X		
Agricultural Income	50,000	
Royalty Income [Rs. 6,00,000 – Rs. 50,000 (Expenses) – Rs. 3,00,000 (deduction u/s 80QQB)]	2,50,000	
	3,00,000	
Deduction u/s 91 on Rs. 3,00,000 @10% [being the lower of average Indian tax rate (16.154%) and foreign tax rate (10%)]		30,000
Average rate of tax in country Y	20%	
Doubly taxed income pertaining to country Y		
Income from house property	1,61,000	
Dividend	1,50,000	
	3,11,000	
Less: Business loss set-off	65,000	
	2,46,000	
Deduction u/s 91 on Rs. 2,46,000 @16.154% (being the lower of average Indian tax rate (16.154%) and foreign tax rate (20%)]		39,739
Total rebate u/s 91 (Country X + Country Y)		**69,739**

Note:

Mr. Kamesh shall be allowed deduction u/s 91, since the following conditions are fulfilled:-

(a) He is a resident in India during the relevant PY (i.e., P.Y.2023-24).

(b) The income in question accrues or arises to him outside India in foreign countries X and Y during that PY and such income is not deemed to accrue or arise in India during the previous year.
(c) The income in question has been subjected to income-tax in the foreign countries X and Y in his hands and it is presumed that he has paid tax on such income in those countries.
(d) There is no agreement u/s 90 for the relief or avoidance of double taxation between India and Countries X and Y where the income has accrued or arisen.

Question 3 [Super important for conversion of foreign currency – Rule 128 and Rule 115] [Q18]

Mr. Ritesh, a resident individual, aged 42 years, received the following sums during PY 2024-25:

- Income from a business in India Rs. 4,85,000
- Royalty from Country N Rs. 7,80,000 (Rate of Tax in Country N 10%, Tax deducted Rs. 78,000)
- Interest from Country Y US $ 9,500 (interest became due on 01.04.2024). Tax deducted on above (on 21.02.2025): US $ 950 (Rate of Tax 10%)
- Agriculture income in Country M: Rs. 1,09,000

Additional Information:

(i) As per the DTAA between India and Country N, the royalty will only be taxable in the Source State.
(ii) As per the DTAA between India and Country Y, interest can be taxed in both the states and tax credit will be available in respect of tax payable in resident state.
(iii) Agriculture income is exempt in country M. India does not have a DTAA with Country M.

Telegraphic transfer buying rate on different dates of US $:

Date	Rate
31.03.2024	75
31.01.2025	78
21.02.2025	79
31.03.2025	80
01.01.2025	80

You are required to calculate the total income and tax payable by Mr. Ritesh assuming that he opted out of provisions of Section 115BAC.

[Nov 2022 – 6 marks]

Answer

Computation of total income and tax payable by Mr. Ritesh for A.Y.2025-26

Particulars	Rs.	Rs.
Profits and Gains of Business or Profession		
Income from business in India		4,85,000
Income from Other Sources		
Royalty from Country N [As per India-Country N DTAA, royalty is taxable in Country N only]	Nil	
Interest from Country Y [US $ 9,500 x 80 (being conversion rate as on 31.3.2025 i.e., last day of the PY – Rule 115]	7,60,000	
Agricultural Income in Country M [Not exempt in India]	1,09,000	
		8,69,000
Gross Total Income/ Total Income		13,54,000
Tax liability on Rs. 13,54,000		
Tax on total income [30% of Rs. 3,54,000 + Rs. 1,12,500]		2,18,700
Add: Health and Education cess@4%		8,748
		2,27,448
Less: Deduction u/s 91		Nil

[Since agricultural income is exempt in Country M, there is no doubly taxed income. Hence, no deduction u/s 91 is allowable]		
Less: Deduction u/s 90 (See Working Note below)		74,100
Tax payable		**1,53,348**
Tax payable (Rounded off)		**1,53,350**

Working Note: Calculation of deduction u/s 90

Particulars	Rs.
Average rate of tax in India [i.e., Rs. 2,27,448 / Rs. 13,54,000 x 100]	16.798%
Tax payable in India on interest from Country Y [Rs. 7,60,000 x 16.798%]	1,27,665
Tax paid in Country Y [US $ 950 x 78, being conversion rate as on 31.1.2025 i.e., the last day of month immediately preceding the month in which tax has been deducted – Rule 128]	74,100
Deduction u/s 90 [being the lower of tax paid on interest income in Country Y and tax payable in India]	74,100

Note – Interest from Country Y represents interest other than interest on securities, in the absence of specific information that the same represents interest on securities. Accordingly, the same has been converted applying the TTBR as on 31.3.2025, being the last day of the P.Y.2024-25. If it is specifically assumed that the same represents interest on securities, then, the TTBR as on 31.3.2024, being the last date of the month immediately preceding the month in which interest became due (April, 2024) has to be considered. (Rule 115)

Question 4 **[Q28]**

Mr. Ram Prakash, a resident Indian aged 58 years, has business interest in India and in some other foreign nations also. He has derived income from two other nations X and Y, with which India does not have DTAA. The particulars of income earned in the two nations X, Y and in India during the P.Y. 2024-25 are as under:

Particulars of Income	(Rs.)		
	X	Y	India
Gross rental receipts from commercial property	2,50,000	2,50,000	-
Share income from Partnership firm (loss) [The partnership deed was not evidenced by an instrument in writing]	(1,20,000)	(1,30,000)	-
Business income	2,80,000	3,40,000	1,80,000
STCG from sale of vacant site on 11.11.2024	10,80,000	Nil	-
Long-term capital gains on sale of residential house in Delhi on 1.3.2025	-	-	37,00,000
Agricultural Income	3,40,000	1,80,000	5,20,000

The following investments were made in India during the year ended 31.3.2025:

Particulars of Income	(Rs.)
Purchase of residential house at Delhi on 18.3.2025 in joint name with spouse	25,00,000
Contribution to PPF	1,50,000

Income-tax rate structure: Country X

(Rs.)	Tax rate
Upto Rs. 3 lakhs	Nil
Rs. 3 to Rs. 6 lakhs	15%
Above Rs. 6 lakhs	22%

Country Y

Flat 27% without any basic exemption limit.

Tax treatment/ concessions in other nations

(i) No statutory allowance/deduction in respect of house property income in Country X as well as Country Y.

(ii) Loss from firm can be set off against other business income in Country Y only (& not in Country X).

(iii) Agricultural income is exempt in Country X only (and not in Country Y).

Compute net tax liability of Mr. Ram Prakash for AY 2025-26 assuming that he is paying tax u/s 115BAC.

[RTP Nov 24]

Answer

Computation of total income of Mr. Ram Prakash for the A.Y. 2025-26

Particulars	Rs.	
Income from house property		
Rent received [Rs. 2.5 lakhs + Rs. 2.5 lakhs]	5,00,000	
Less: Deduction u/s 24(a) at 30% of NAV	1,50,000	3,50,000
Profits and gains of business or profession		
Own business income [Rs. 2,80,000 (Country X) + Rs. 3,40,000 (Country Y) + Rs. 1,80,000 (India)]	8,00,000	
Loss from partnership firm in Country X [Rs. 1.2 lakh] and Country Y [Rs. 1.3 lakhs]	(2,50,000)	5,50,000
[Share of profit from foreign firm is not exempt, since the partnership is not evidenced by an instrument. Hence, loss can be set-off against business income]		
Capital gains		
Long-term capital gains on transfer of residential house in Delhi	37,00,000	
Less: Exemption u/s 54 – Purchase of residential house in Delhi in joint name with wife within two years from the date of transfer	25,00,000	
Net long-term capital gains	12,00,000	
Short-term capital gains on transfer of vacant site in Country X	10,80,000	22,80,000
Income from other sources		
Agricultural income in Country X & Country Y [Rs. 3.4 L + Rs. 1.8 lakhs]	5,20,000	
Agricultural income from land situated in India [exempt u/s 10(1)]	-	5,20,000
Gross Total Income		**37,00,000**
Less: Deduction under Chapter VI-A: Section 80C – PPF [Not available as per section 115BAC]		-
Total Income		**37,00,000**

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

Particulars	Rs.
Tax on Rs. 42.2 lakhs, being non-agricultural income [Rs. 37 lakhs] + agricultural income [Rs. 5.2 lakhs]	
Tax on LTCG of Rs. 12 lakhs@12.5%	1,50,000
Tax on other income of Rs. 30.2 lakhs [Slab rate u/s 115BAC]	5,96,000
	7,46,000
(-) Tax on Rs. 8.2 lakhs, being agricultural Income [Rs. 5.2 lakhs] + Basic Exemption Limit [Rs. 3 lakhs]	32,000

	7,14,000
Add: Health and education cess @4%	28,560
	7,42,560
Indian rate of tax = 7,42,560 x 100/37,00,000 = 20.069%	
Less: Rebate u/s 91 on income of Country X + Country Y	**3,48,223**
Net Tax liability	**3,94,337**
Net Tax liability (Rounded off)	**3,94,340**

Computation of average rate of tax in Country X

Particulars	Rs.
Gross rental receipts from commercial property [No deduction is allowed from this in Country X]	2,50,000
Share income from partnership firm (loss) to be ignored	-
Business income	2,80,000
STCG from sale of vacant site on 11-11-2024	10,80,000
Agricultural income [Exempt in Country X]	-
Total income	**16,10,000**
Rates of tax in Country X	
Upto 3 lakhs Nil	-
3 to 6 lakhs 15%	45,000
Above 6 lakhs 22%	2,22,200
Tax liability in Country X	**2,67,200**
Average rate of tax in Country X = 2,67,200x 100/16,10,000 = 16.596%	

Computation of Rebate u/s 91

Particulars	Rs.
Country X	
Gross rental receipts form commercial property (Rs. 2.5 lakhs – Rs. 0.75 lakhs, being 30% of Rs. 2.5 lakhs)	1,75,000
Share of loss from partnership firm	(1,20,000)
Business income	2,80,000
STCG from sale of vacant site on 11-11-2024	10,80,000
Agricultural income [Not included in doubly taxed income as it is exempt in Country X]	-
Doubly Taxed Income (in Country X)	**14,15,000**
Double Taxation Relief at Indian rate of tax (20.069%) or rate of tax in Country E (16.596%), whichever is lower	16.596%
Double Taxation Relief = 16.596% of Rs. 14.15 lakhs = Rs. 2,34,833	
Country Y	
Gross rental receipts from commercial property [Rs. 2.5 lakhs (-) 30% of Rs. 2.5 lakhs]	1,75,000
Business income	3,40,000
Share of loss from partnership firm	(1,30,000)
Agricultural income	1,80,000
Doubly Taxed Income (in Country Y)	**5,65,000**
Rate of tax in Country Y	27%

Double Taxation Relief at Indian rate of tax (20.069%) or rate of tax in Country Y (27%), whichever is lower **Double Taxation Relief = 20.069% of Rs. 5,65,000 = Rs. 1,13,390**	20.069%
Double Taxation Relief [Country X & Country Y] = Rs. 2,34,833 + Rs. 1,13,390	**3,48,223**

24 TRANSFER PRICING

Question 1 [Resale price method] **[Q2]**

Earth (P) Ltd., Calcutta is engaged in trading of electronic goods. It purchased goods from its associated enterprise Sun Pte. Ltd., Singapore, and also from unrelated party, O Ltd., UK. For the F.Y.2024-25, the gross profit margin was 15% on the sale of goods of Sun Pte Ltd., whereas it was 20% in the case of O Ltd. After-sales warranty of 6 months was provided by Sun Pte Ltd. whereas O Ltd. gave after-sales warranty of 1 year. The cost of warranty may be taken as 2% of the sale price. The Sun Pte. Ltd.'s brand value is internationally known and the benefit of the brand value can be taken as 1% of sale price. During the F.Y.2024-25, it sold goods of Sun Pte Ltd. for Rs. 20 crores and of O Ltd. for Rs. 15 crores. As regards transport cost of the goods purchased, there was no difference between related and unrelated party. Compute the ALP of the transaction between Earth (P) Ltd. and Sun Pte Ltd., Singapore by applying Resale Price Method.

[ICAI Module]

Answer

As per section 92B, the transactions entered into between Earth (P) Ltd., an Indian company, and Sun Pte. Ltd., Singapore, being associated enterprises, for purchase of electronic goods would be international transaction.

Since Earth (P) Ltd. purchased similar electronic goods from O Ltd., an unrelated entity, and sold the same to unrelated parties, this transaction can be considered as uncontrolled transaction and the gross profit margin of 20% earned on sale of such goods can be considered for the purpose of determining the arm's length price of the transactions between Earth (P) Ltd. and Sun Pte. Ltd. However, functional adjustments need to be given effect to in arriving at the ALP.

Computation of ALP of transaction between Earth (P) Ltd. and Sun Pte. Ltd

Particulars	Amount (In Rs.)
Resale price of goods purchased from Sun Pte. Ltd.	20,00,00,000
Less: Profit margin with reference to uncontrolled transaction between Earth (P) Ltd. and O Ltd. (20% on sale)	4,00,00,000
	16,00,00,000
Add: Adjustment for benefit of brand value of Sun Pte. Ltd. [Sun Pte. Ltd has its brand value internationally. Therefore, adjustment of benefit of brand value has to be carried out to arrive at ALP (1% of sale price)]	20,00,000
Less: Adjustment of warranty cost [Sun Pte. Ltd. provides warranty for 6m whereas unrelated party provides warranty of 12m. Therefore, adjustment for cost of such warranty has to be carried out to arrive at ALP (2% of sale price x 6/12)]	(20,00,000)
Arm's length price	**16,00,00,000**

Question 2 [Cost plus method] **[Q3]**

ABC Ltd., Canada holds 35% shares in LMN Ltd., India. LMN Ltd. develops software and does both onsite and offsite consultancy services for the customers. LMN Ltd. during the year billed ABC Ltd. Canada for 120 man-hours at the rate of Rs. 1,800 per man hour. The total cost for executing this work amounted to Rs. 2,25,000.

However, LMN Ltd. billed XYZ Ltd., India at the rate of Rs. 2,800 per man hour for the similar level of manpower and earned a Gross Profit of 50% on its cost.

The transactions of LMN Ltd. with ABC Ltd. and XYZ Ltd. are comparable, subject to the following differences:

(i) While LMN Ltd. derives technology support from the ABC Ltd., there is no such support from XYZ Ltd. The value of technology support received from ABC Ltd. may be put at 18% of normal gross profits.

(ii) As ABC Ltd. gives business in large volumes, LMN Ltd. offered to ABC Ltd., a quantity discount which may be valued at 10% of normal gross profits.

(iii) In the case of rendering services to ABC Ltd., LMN Ltd. neither runs any risk nor incurs any marketing costs. On the other hand, in the case of services to XYZ Ltd., LMN Ltd. has to assume all the risk and costs associated with marketing function which may be estimated at 12% of the normal gross profits.

(iv) LMN Ltd. offered one month credit to ABC Ltd. The cost of providing such credit may be valued at 2% of the gross profits. No such credit was given to XYZ Ltd.

Compute the Arm's Length Price along with income to be increased under the Cost Plus Method.

[ICAI Module, MTP May 24, MTP Nov 2023, May 2022, MTP Nov 21, Jan 2021, MTP May 2018 – 6 marks]

Answer

LMN Ltd, an Indian company and ABC Ltd., a Canadian company, are deemed to associated enterprises as per section 92A(2), since ABC Ltd. holds shares carrying 35% of the voting power (i.e., not less than 26% of voting power) in LMN Ltd. Further, the transaction of developing software and providing consultancy services (both onsite and offsite) fall within the meaning of "international transaction" u/s 92B. Hence, transfer pricing provisions would be attracted in this case.

Computation of Arm's Length Price as per Cost Plus Method		
Gross Profit mark-up on cost in case of XYZ Ltd. [an unrelated party]		50%
Less: Adjustments for functional and other differences		
Value of technology support [ABC Ltd. provides technology support, but XYZ Ltd. does not provide such support. Therefore, this shall be adjusted] [18% of 50%, being gross profit]	9%	
Quantity discount to ABC Ltd. [Quantity discount is allowed to ABC Ltd. as it gives business in large volumes, but the same is not provided to XYZ Ltd.] [10% of 50%, being gross profit]	5%	
Risk & cost associated with marketing [LMN Ltd. has to bear all risk & marketing costs in case of XYZ Ltd., while there is no such risk in case of services to ABC Ltd.] [12% of 50%]	6%	20%
		30%
Cost of credit to ABC Ltd. [LMN Ltd has provided credit of 1m to ABC Ltd. but not to the unrelated party.] [(2% of 50%, being gross profit]		1%
Arm's length gross profit mark up to cost		31%
Cost incurred by LMN Ltd. for executing ABC Ltd.'s work		2,25,000
Add: Adjusted gross profit (Rs. 2,25,000 x 31%)		69,750
Arm's length billed value		2,94,750
Less: Actual Billed Income from ABC Ltd. (Rs. 1800 x 120 man hours)		2,16,000
Total Income of LMN Ltd to be increased by		**78,750**

Question 3 [Transaction Net Margin Method] **[Q4]**

Andes Inc. having its business in Malaysia has advanced a loan of MD 1,60,000 to Andes Ltd, India. Book value of total assets of Andes Ltd was Rs. 125 lakhs. Andes Ltd provides software backup support to Andes Inc. Andes Ltd has spent 50,000 man hours during the FY 2024-25 for the services rendered to Andes Inc. The cost for Andes Ltd is MD 75/manhour. Andes Ltd has billed Andes Inc. at MD 90.75/manhour.

Gama Ltd. in India which has a similar business model, provides software backup support to Olive Inc. in Penang, Malaysia. Gama Ltd.'s cost and operating profits are as hereunder:

Particulars	Rs. in lakhs
Direct costs	600
Indirect costs	200
Operating profits	200

Calculate Arm's Length Price for the transaction between Andes Ltd. and Andes Inc. based on the above data of Gama Ltd. using the Transactional Net Margin Method. Assume 1 MD = Rs. 45.
Explain, if there is any adjustment to be made to total income of Andes Ltd. Note: MD = Malaysia Dollars
[ICAI Module, May 2019, Dec 2021 – 6 marks]

Answer

Two enterprises are deemed to be associated enterprises where one enterprise advances loan constituting not less than 51% of the book value of the total assets of the other enterprise.
In this case, since Andes Inc., a foreign company, has advanced loan to Andes Ltd., an Indian company, and such loan constitutes 57.6% [(Rs. 45 x 1,60,000 x 100/1,25,00,000] of the book value of total assets of Andes Ltd., Andes Inc and Andes Ltd. are deemed to be associated enterprises. Since the transaction of provision of software backup support by Andes Ltd. to Andes Inc. is an international transaction between associated enterprises the provisions of transfer pricing would be attracted in this case.

Determination of Operating Margin of such transaction by Andes Ltd. to Andes Inc

Particulars	Rs.
Billing per manhour [MD 90.75/hour x Rs. 45]	4,083.75
Cost per man hour [MD 75/hour x Rs. 45]	3,375.00
Operating profit per manhour	708.75
Operating profits to cost (%) [708.75 x 100/3375]	21%

Determination of Operating Margin of Comparable Uncontrolled transaction by Gama Ltd. to Olive Inc.

Particulars	Rs. in lakhs
Direct Cost	600
Indirect Cost	200
Total cost	800
Operating profits	200
Operating profits to cost (%) [200 x 100/800]	25%

Computation of ALP of service provided by Andes Ltd. to Andes Inc. by applying TNMM

Particulars	Rs.
Cost for Andes Ltd. (per man hour) [MD 75 x Rs. 45/MD]	3,375.00
Add: Arm's length operating profit margin as % of cost (25% of Rs. 3,375)	843.75
Arm's length price (per manhour) in Rs.	4,218.75
ALP of total manhours spent by Andes Ltd. [Rs. 4,218.75 x 50,000 man hours] = Rs. 21,09,37,500	

Adjustment to be made to the total income of Andes Ltd.

Particulars	Rs.
ALP of total manhours spent by Andes Ltd.	21,09,37,500
Less: Amount actually billed [90.75 MD x Rs. 45/MD x 50,000 manhours]	20,41,87,500
Arm's length adjustment to be made to the total income of Andes Ltd.	67,50,000

Question 4 **[Q7]**

Mr. Bhist, a non-resident individual, earned an interest income of Rs. 12 lakhs on an investment made in a notified Infrastructure Debt Fund set up in India eligible for exemption u/s 10(47) during the FY 2024-25. Further, he incurred an expenditure of Rs. 15,000 for earning such interest income. Examine the tax implications in the hands of both Fund and Mr. Bhist and justify your conclusions with relevant provisions of Income-tax Act, 1961 in two situations, when

(i) Mr. Bhist is residing in Notified Jurisdictional Area; and
(ii) Mr. Bhist is stationed outside India, in a place other than NJA.

Will there be any change in tax liability of Mr. Bhist, if the income received is fee for technical services from an Indian Company instead of interest income from Infrastructure Debt Fund?

[Nov 2019, MTP Nov 23, MTP May 2021, MTP May 2019, ICAI Module – 6 marks]

Answer

In case of income from notified infrastructure debt fund:

The interest income received by Mr. Bhist, a non-resident, from a notified infrastructure debt fund u/s 10(47) would be subject to a concessional tax rate of 5% (plus cess@4%) i.e., 5.2% u/s 115A on the gross amount of such interest income.

Accordingly, the tax liability of Mr. Bhist in respect of such income would be Rs. 62,400 (being 5% of Rs. 12 lakhs plus health and education cess@4%).

(i) If Mr. Bhist is residing in a Notified Jurisdictional Area (NJA)

Under section 194LB, tax is deductible @ 5% (plus health and education cess@4%) i.e. 5.2% on interest paid by notified infrastructure debt fund u/s 10(47) to a non-resident.

However, since Mr. Bhist is a resident of a NJA, tax would be deductible@30% (plus health and education cess@4%) i.e. 31.2% being the highest of the following rates –

(a) at the rate or rates in force;
(b) at the rate specified in the relevant provision of the Act i.e., 5%;
(c) at the rate of 30%.

Tax to be deducted by notified infrastructure debt fund would be Rs. 3,74,400 (being 30% of Rs. 12 lakhs plus health and education cess@4%)

Author's Note: The assesse can then seek refund from the department for the extra taxes paid. Moreover, note that, when a person is located in NJA, the TDS will increase but not applicable tax rate.

(ii) If Mr. Bhist is stationed outside India, in a place other than a NJA.

Tax would be deductible @ 5% u/s 194LB (plus cess@4%) i.e. 5.2% on interest paid by notified infrastructure debt fund u/s 10(47) to Mr. Bhist. i.e., TDS = Rs. 62,400 (5% of Rs. 12 lakhs +cess @ 4%).

In case of income in form of Fees for technical services:

If Mr. Bhist, a non-resident, has received FTS from an Indian company instead of interest income from Infrastructure Debt Fund assuming that the agreement for FTS is approved by the Central Government, the same would be subject to tax@20% (plus health and education cess@4%) i.e. 20.8% u/s 115A on the gross amount of such FTS, irrespective of the residing place of Mr. Bhist. The tax liability of Mr. Bhist, in such a case, would be Rs. 2,49,600 (being 20.8% of Rs. 12 lakhs).

[Note: Sec 94A only impacts the TDS rate and not the tax liability]

Question 5 [Section 94B Limitation of interest deduction] **[Q8]**

Ridham Ltd. provides you the Profit and loss A/c for the FY 2023-24 and FY 2024-25:

(Rs. in lakh)

Particulars	FY 23-24	FY 24-25	Particulars	FY 23-24	24-25
Employees Benefit Expenses	390	402	Gross Profit	2030	1780
Interest paid to M & T Inc.	562	389			
Depreciation	250	254			
Income Tax	271	332			
Profit transferred to Reserves	557	403			
	2030	1780		2030	1780

On 23rd June 2023, Ridham Ltd., an Indian Company borrowed Rs. 120 crores from M & T Inc., a company incorporated in Country M. The said loan is repayable over a period of 4 years. This loan is guaranteed by Lite Ltd., a company incorporated in Country Y. Lite Ltd. holds 36% shares in Ridham Ltd.

Calculate the income under the head Profits and Gains from business and profession of Ridham Ltd. for the AY 2025-26, assuming the gross profit is calculated as per the provisions of Income-tax Act and Depreciation is also as per Income-tax Rules. Give appropriate reasons of your workings. Assume none of the companies are engaged in the business of banking.

[MTP May 2022 – 6 Marks]

Answer

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 Rs. 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 Lite Ltd., a Country Y company, holds 36% share in Ridham Ltd., an Indian company, i.e., more than 26% of voting power, Lite Ltd. and Ridham Ltd. are deemed to be associated enterprise.

Since loan of Rs. 120 crores taken by Ridham Ltd., an Indian company from M & T Inc., Country M company, is guaranteed by Lite Ltd., an associated enterprise, such debt shall be deemed to have been issued by an associated enterprise and interest paid or payable to M & T Inc. shall be considered for the purpose of limitation of interest deduction u/s 94B.

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

Particulars		**Amt (in L)**
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 M & T Inc.		562
Lower of the following would be disallowed		
- Total interest paid or payable in excess of 30% of EBITDA [Rs. 562 lakhs – Rs. 492 lakhs (i.e.,30% of 1,640 lakhs)]	Rs. 70 lakhs	
- Interest paid or payable to M & T Inc.	Rs. 562 lakhs	
Interest to be disallowed as deduction for A.Y. 2024-25 (c/f 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 M & T Inc.		389
Lower of the following would be disallowed		
Total interest paid or payable in excess of 30% of EBITDA [Rs. 389 lakhs – Rs. 413.40 lakhs (30% of Rs. 1378 lakhs)]	Nil	
Interest paid or payable to M & T Inc.	Rs. 389 lakhs	
Interest to be disallowed as deduction for A.Y. 2025-26		Nil
B/F interest of A.Y. 2024-25 allowed as deduction in current A.Y. 2025-26 to extent of max allowable interest expenditure u/s 94B i.e., Rs. 24.4 lakhs [Rs. 413.40L – Rs. 389L]		
Total interest allowed in A.Y. 2025-26 [Rs. 389 lakhs + Rs. 24.40 lakhs)		413.40
Balance of amount of interest relating to AY 2024-25 is eligible for carried forward i.e., Rs. 45.60 lakhs (Rs. 70 lakhs minus Rs. 24.40 lakhs) to 7 more subsequent assessment years.		
Income under the head PGBP of Ridham 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)		254.00
		710.60

Question 6 [Section 92CE Secondary Adjustment] **[Q15]**

Allepey Ltd. is an Indian Company in which Andes Inc., a Country Z company holds 38% shareholding and voting power. During the PY 2022-23, the Indian company supplied computers to the Country Z based company @CZD 1100 per piece. The price of computer supplied to other unrelated parties in Country Z is @CZD 1400 per piece. During the course of assessment proceedings relating to A.Y.2023-24, the AO carried out primary adjustments and added a sum of Rs. 168 lakhs, being the difference between actual price of computer and arm's length price for 700 pieces and it was duly accepted by the assessee. The AO passed the order, in which the primary adjustments were made, on 1.6.2024. On account of this adjustment, the excess money of Rs. 168 lakhs is available with Andes Inc, Country Z. In this context, Allepey Ltd. wants to know the effect of this transaction for the AY 2025-26 on the basis that it declared an income of Rs. 300 lakhs and the excess money is still lying with Andes Inc. till today. Assume the rate of exchange as 1 CZD = Rs. 80. [CZD stands for Country Z Dollars, which is the currency of Country Z]; six month LIBOR as on 30.9.2024 is 9.50%.

[ICAI Module]

Answer

In this case, Allepey Ltd., the Indian company, and Andes Inc., a Country Z company, are deemed to be associated enterprises as per section 92A(2) since Andes Inc. holds shares carrying not less than 26% voting power in Allepey Ltd. On account of the primary adjustment of Rs. 168 lakhs made by the Assessing Officer, the total income of Allepey Ltd. for A.Y.2023-24 would increase by Rs. 168 lakhs.

(I) If Allepey Ltd. opts not to pay additional income-tax on such excess money not repatriated. In this case, secondary adjustment has to be made u/s 92CE, since –
   (1) The company has accepted the primary adjustment made by the Assessing Officer;
   (2) The primary adjustment is in respect of A.Y.2023-24; and
   (3) The primary adjustment exceeds Rs. 100 lakhs.

Accordingly, the excess money (i.e., Rs. 168 lakhs) available with the associated enterprise (i.e., Andes Inc., Country Z) not repatriated to India within 90 days of the date of the order of the AO would be deemed as an advance made by the Allepey Ltd. to its associated enterprise, Andes Inc.

Interest would be calculated on such advance at 12.50% [i.e., the rate of six month LIBOR as on 30th September, 2024 (i.e., 9.50%) + 3%], since the international transaction is denominated in foreign currency. Such interest computed from 1.6.2024 to 31.3.2025 amounting to 304/365 x 168 lakhs x 12.50% = Rs. 17,49,041 would be added to its total income for A.Y.2025-26.

(II) If Allepey Ltd. opts to pay additional income-tax on such excess money not repatriated. In such a case, Allepey Ltd. has to pay additional income-tax @20.9664% (tax @18% plus surcharge @12% plus cess@4%) on Rs. 168 lakhs, which amounts to Rs. 35,22,355. Where additional income-tax is so paid by Allepey Ltd., it will not be required to make secondary adjustment and compute interest from the date of payment of such tax. The additional income-tax so paid by Allepey Ltd. would be treated as the final payment of tax in respect of excess money not repatriated and no further credit would be allowed to Allepey Ltd. or to any other person in respect of amount of additional income-tax so paid.

Question 7 [Cost plus method – Good question] **[Q16]**

Amar P Ltd., Bangalore is engaged in IT Enabled services. It is the subsidiary of ABC Inc in US. It also provides similar services to a company SAK Ltd. at Singapore. Its billings and other information is as given hereunder:

(i) Billings per month to ABC Inc. - USD 85,000
(ii) Billings per month to SAK Ltd. - USD 70,000
(iii) ABC Inc has provided a loan of USD 1,00,000 to Amar P Ltd. towards purchase of hardware for executing its project. Rate of interest charged for the said loan is at 3% p.a.
(iv) Direct and indirect cost incurred are USD 100 and USD 200 per hour, respectively.
(v) Amar P Ltd. works 9 hours per day for 15 days to execute the projects for ABC Inc and 8 hours per day for 15 days to execute projects for SAK Ltd. Service was provided by the company to both its customers throughout the year.
(vi) Warranty was provided to SAK Ltd. for a period of 2 years. Cost of warranty is calculated at 1% of direct cost incurred. The cost of warranty is neither included in the direct nor indirect cost.

Assume conversion rate 1 USD = Rs. 64. Compute Arm's Length Price as per the cost-plus method and the amount to be added, if any, to the income of Amar P Ltd.

[May 2018 – 6 Marks]

Answer

Determination of Gross Margin of Comparable Uncontrolled transaction i.e., of SAK Ltd

Particulars	Amt in USD
Direct Cost (USD 100 x 8 hours x 15 days)	12,000
Indirect Cost (USD 200 x 8 hours x 15 days)	24,000
Total Direct and Indirect cost	36,000
Billing per month	70,000
Gross Margin being gross profit	34,000
Gross Margin to cost (%) [34,000 x 100/36,000]	94.44%
Adjustment for functional difference on account of cost of warranty	
Total Direct and Indirect Cost	36,000
Add: Cost of warranty [1% of direct cost of USD 12,000]	120
Total Cost	36,120
Billing per month	70,000
Margin after cost of warranty being profit margin [70,000 - 36,120]	33,880
Profit margin to cost (%) [after considering functional difference [33,880 x 100/36,120]	93.80%

Computation of Arm's Length Price by applying Cost Plus Method

	ABC Inc (USD)
Direct Cost (USD 100 x 9 hours x 15 days)	13,500
Indirect Cost (USD 200 x 9 hours x 15 days)	27,000
Total Direct and Indirect cost	40,500
Add: Interest on loan of USD 1,00,000 borrowed for purchase of hardware [USD 3,000 (i.e., USD 1,00,000@3%) / 12]	250
Total Cost	40,750
Profit margin by applying the margin of 93.80% of total cost of USD 40,750	38,224
Arm's length price of billing per month	78,974
Arm's length price (in Rs.) [USD 78,974 x 64] = Rs. 50,54,336	
Actual Billing per month	85,000

In the present case, since actual billing of USD 85,000 per month to the ABC Inc, an AE, is higher than the ALP of USD 78,974 determined by applying cost plus method, no adjustment is to be made to income of Amar P Ltd.

Question 8 **[Q18]**

Examine whether transfer pricing provisions under the Income-tax Act, 1961 would be attracted in respect of the following cases:

(i) Scientific research services provided by Lambda Sicom, an Italian company to XYZ Ltd., an Indian company. XYZ Ltd holds more than 26% of nominal value of equity shares of Lambda Sicom.

(ii) Purchase of commodities by Omega Ltd., an Indian company, from Cylo AG, a German company. Omega Ltd. is the subsidiary of Cylo AG.

(iii) EF Ltd., an Indian company, has two units, E & F. Unit E, which commenced business two years back, is engaged in the development of a highway project, for which purpose an agreement has been entered into with Central Government. Unit F is carrying on the business of trading in steel. Unit F transfers 20,000 metric tons of steel of the value of Rs. 32,000 per MT to Unit E for Rs. 20,000 per MT.

(iv) Ms. Geetha, a resident Indian, is a director of Theta Ltd, an Indian company. Theta Ltd. pays salary of Rs. 40 lakhs per annum to Samyukta, who is Ms. Geetha's daughter.

(v) Transfer of technical knowhow by Y Ltd., an Indian company, to Alcatel Lucent, a French company, which guarantees 15% of the borrowings of Y Ltd.

[RTP Nov 2020, MTP Nov 2019, RTP Nov 2018]

Answer

(i) As per Explanation to section 92B, international transaction includes, inter alia, provision of scientific research services.

Moreover, XYZ Ltd. holds shares carrying not less than 26% of the voting power in Lambda Sicom and hence, Lambda Inc. and XYZ Ltd. are deemed to be associated enterprises u/s 92A(2). Since the provision of scientific research services by Lambda Sicom to XYZ Ltd. is an "international transaction" between associated enterprises, transfer pricing provisions are attracted in this case.

(ii) Purchase of tangible property falls within the scope of "international transaction". Tangible property includes commodity. Cylo AG and Omega Ltd. are associated enterprises u/s 92A, since Cylo AG is a holding company of Omega Ltd. Therefore, purchase of commodities by Omega Ltd., an Indian company, from Cylo AG, a German company, is an international transaction between associated enterprises, and consequently, the provisions of transfer pricing are attracted in this case.

(iii) Unit E is eligible for deduction@100% of the profits derived from its eligible business (i.e., the business of developing an infrastructure facility, namely, a highway project in this case) u/s 80-IA.

However, Unit F is not engaged in any "eligible business". Since Unit F has transferred steel to Unit E at a price lower than the fair market value, it is an inter-unit transfer of goods between eligible business and other business, where the consideration for transfer does not correspond with the market value of goods.
Therefore, this transaction would fall within the meaning of "specified domestic transaction" to attract transfer pricing provisions, since the aggregate value of such transactions during the year exceeds a sum of Rs. 20 crores.

(iv) In this case, salary payment has been made to a related person referred to in section 40A(2)(b) i.e., relative (i.e., daughter) of Ms. Geetha, who is a director of Theta Ltd. However, with effect from A.Y.2018-19, section 92BA has been amended to exclude such transactions from the scope of "specified domestic transaction". Consequently, transfer pricing provisions would not be attracted here.

(v) The scope of the term "intangible property" has been amplified to include, inter alia, technical knowhow, which is a technology related intangible asset. Transfer of intangible property falls within the scope of the term "international transaction". Since Alcatel Lucent, a French company, guarantees not less than 10% of the borrowings of Y Ltd., an Indian company, Alcatel Lucent and Y Ltd. are deemed to be associated enterprises u/s 92A(2). Therefore, since transfer of technical knowhow by Y Ltd., an Indian company, to Alcatel Lucent, a French company, is an international transaction between associated enterprises, the provisions of transfer pricing are attracted in this case.

Question 9[Secondary adjustment where transaction is denominated in currency other than ₹] [Q20]

Finetune Ltd., an Indian company, declared total income of Rs. 1,900 crores computed in accordance with Chapter IV-D before making primary adjustment, if required, in respect of the loan transaction with Iris Inc, a Country M company, for the year ended 31.03.2025.

Iris Inc. had advanced a loan of Euro 380 crores carrying interest @ 9% p.a. on 1.4.2024 to Finetune Ltd. The total book value of assets of Finetune Ltd. was Rs. 58,420 crores.

Assume that the amount of interest computed @ 9% p.a. and payable to Iris Inc. does not exceed 30% of EBITDA and that this is the only loan taken by Finetune Ltd.

Iris Inc also advanced a loan of similar nature and amount to Bigbumper Ltd., another Indian company @ 7% p.a. during the F.Y. 2024-25. The value of 1 Euro may be taken as Rs. 90. You are required to:

(i) Examine whether transfer pricing provisions under the Income-tax Act, 1961 would be attracted in this case and if so, on what basis.
(ii) Advise Finetune Ltd. regarding primary adjustments, if any, to be made to the above income keeping in mind the transfer pricing provisions and compute the total income for A.Y.2025-26.
(iii) Elaborate on secondary adjustments, if any, required to be made under the provisions of Income-tax Act, 1961, assuming that Finetune Ltd. has made the primary adjustment suo moto.
(iv) Calculate the additional income-tax liability, if Finetune Ltd. opts for payment of additional income-tax in lieu of making secondary adjustment.

[MTP Nov 22, RTP Nov 2021, MTP Nov 21 – 6 marks]

Answer

(i) Finetune Ltd., an Indian company and Iris Inc, a Country M company are deemed to be associated enterprises since the latter has advanced a loan to the former which constitutes 58.54% of the book value of total assets of the former [Euro 380 crores x Rs. 90/Rs.58,420 crores].

Since the loan advanced by Iris Inc is not less than 51% of the book value of the total assets of Finetune Ltd., the two companies are deemed to be associated enterprises.

A loan transaction between two enterprises, one of whom is a non-resident (Iris Inc, Country M, in this case), would be an international transaction. Accordingly, TP provisions would be attracted in this case.

(ii) The interest rate charged by Iris Inc. on loan advanced to Finetune Ltd. is 9% p.a. whereas the arm's length interest charged by Iris Inc. in a comparable uncontrolled transaction with Bigbumper Ltd., another Indian company, is 7% p.a. Therefore, arm's length adjustment (primary adjustment) to be made = 9%- 7% = 2% of Rs. 34,200 crores (Euro 380 crores x Rs. 90, being value of 1 Euro) = Rs. 684 crores.

The total income (after primary adjustment) of Finetune Ltd for P.Y.2024-25 = Rs. 1900 crores + primary adjustment of Rs. 684 crores = Rs. 2,584 crores.

(iii) Since the primary adjustment has been made by Finetune Ltd. suo moto while filing its return of income for A.Y.2025-26, Finetune Ltd. has to carry out secondary adjustment in the following manner. The excess money (i.e., Rs. 684 crores) lying with Iris Inc has to be repatriated within 90 days from 30.11.2025, being the due date for filing return of income.

If the excess money is not repatriated on or before 28th February, 2026, it would be deemed as an advance made by Finetune Ltd. to Iris Inc and interest would be chargeable from 30.11.2025 at six month LIBOR as on 30th September, 2025 + 3%, since the loan is denominated in Euros. Such interest for the period from 30.11.2025 to 31.3.2026 (assuming that it has not been repatriated upto 31.3.2026) would be included in the total income of Finetune Ltd. for P.Y.2025-26.

(iv) If Finetune Ltd. opts for payment of additional income-tax, it has to pay Rs. 143.410 crores [i.e., 20.9664% (tax@18% + surcharge@12% + cess@4%) of Rs. 684 crores].

Question 10 **[Q21]**

State with brief reasons, whether transfer pricing provisions are attracted in the following cases:

(i) ABC Inc, a London based foreign company transferred engravings valued at Rs. 55 crores to Beta Ltd, an Indian Company during the PY 2024-25. ABC Inc, holds 32% of voting power in Alpha Ltd, an Indian Company which in turn holds 75% of shares in Beta Ltd.

(ii) A Ltd, engaged in manufacturing activity of power generation, opted for concessional rate of tax u/s 115BAB. B Ltd, supplied 10,000 MT of power cables valued at Rs. 23,000 per MT to A Ltd. at Rs. 21,000 per MT during PY 24-25. Mr. X, an individual, holding controlling interest in both A Ltd. & B Ltd.

[July 2021 - 4 Marks]

Answer

(i) International transaction is a transaction between associated enterprises, either or both of whom are non-residents, in the nature of, inter alia, purchase, sale of tangible or intangible property. Transfer pricing provisions under the Income-tax Act, 1961 would get attracted in respect of an international transaction. In this case, one of the enterprises, i.e ., ABC Inc., a London based company, is a non-resident. The transaction in question is transfer of engravings, i.e., transfer is of an intangible property.

However, two enterprises would be deemed as associated enterprises if one enterprise holds, directly or indirectly, shares carrying not less than 26% voting power in the other enterprise.

In this case, ABC Inc. indirectly holds only 24% voting power / (32% of 75%) in Beta Ltd., an Indian company. Hence, ABC Inc. and Beta Ltd. are not associated enterprises.

Since the transaction of transfer of engravings is not between associated enterprises, it would not fall within the meaning of international transaction. Hence, transfer pricing provisions would not be attracted in this case.

(ii) Where a company eligible for benefit u/s 115BAB enters into a transaction with any other person with whom it has close connection, and the transactions between them are arranged in a manner resulting in more than ordinary profits arising to the company eligible for benefit u/s 115BAB, then, such transactions would fall within the scope of "specified domestic transaction" u/s 92BA, if the aggregate value of such transactions (listed out in sec 92BA) entered into by company in PY exceeds Rs. 20 crs.

In this case, A Ltd. is a company eligible for deduction u/s 115BAB which has entered into a transaction with B Ltd., a company in which Mr. X (a person who has controlling interest in A Ltd.) has controlling interest. Further, the said transaction for supply of cables by B Ltd. to A Ltd. result in more than ordinary profits to A Ltd. (on account of the supply being made by B Ltd. to A Ltd. at a lower rate than the arm's length rate).

Also, aggregate value of such transactions entered into by the two companies exceed Rs. 20 crores. Consequently, the said transactions between A Ltd. and B Ltd. are "specified domestic transactions" u/s 92BA and transfer pricing provisions under the Income- tax Act,1961 would be attracted.

Question 11 **[Q24]**

In what context is the term "Thin Capitalisation" used? Is there any threshold limit prescribed by the Act for claiming deduction u/s 94B of the Act for addressing Thin Capitalisation? Discuss its applicability to different entities. Whether any entities are excluded from its application?

[Dec 21- 4 marks]

Answer

Thin capitalization refers to the process of funding an entity by debt instead of equity with a view to take advantage of interest deduction benefits. In other words, thin capitalization refers to the situation where a company is financed through a relatively high level of debt compared to equity.

For addressing thin capitalization, section 94B provides a cap on the interest expense that can be claimed by an entity in respect of borrowings from its non- resident associated enterprise. As per section 94B, the total interest paid in excess of 30% of its EBITDA (Earnings before interest, taxes, depreciation and amortization) or interest paid or payable to associated enterprise for that previous year, whichever is less, shall not be deductible. This limitation of interest deduction would be applicable only where the interest expenditure in respect of any debt issued by a non-resident associated enterprise exceeds Rs. 1 crore.

Section 94B is applicable to an Indian company, or a permanent establishment of a foreign company in India, being the borrower incurring interest expenditure in respect of debt issued by its non-resident associated enterprise. Debt shall be deemed to have been issued by an associated enterprise, even where the lender is not an associated enterprise, if an associated enterprise provides an implicit or explicit guarantee to such lender or deposits a corresponding and matching amount of funds with the lender.

The following has been excluded from the applicability of the provisions of section 94B -

- an Indian company or permanent establishment of a foreign company which is engaged in the business of banking and insurance or a finance company located in IFSC,
- interest paid in respect of a debt issued by a lender which is a permanent establishment in India of a non-resident, being a person engaged in the business of banking.

Question 12 **[Q26]**

Describe the three-tier structure for transfer pricing documentation mandated by BEPS Action Plan 13. Which provisions under the Income- tax Act, 1961 dealt with Master File and CbC reporting?

[MTP May 24, MTP May 22 - 6 Marks]

Answer

BEPS Action Plan 13 contains a three-tier standardized approach to TP documentation which consists of:

(i) Master file: Master file requires MNEs to provide tax administrations with high-level information regarding their global business operations and transfer pricing policies. The master file is to be delivered by MNEs directly to local tax administrations.

(ii) Local file: Local file requires maintaining of transactional information specific to each country in detail covering related-party transactions and the amounts involved in those transactions. In addition, relevant financial information regarding specific transactions, a comparability analysis and analysis of the selection and application of the most appropriate transfer pricing method should also be captured. The local file is to be delivered by MNEs directly to local tax administrations.

(iii) Country-by-country (CBC) report: CBC report requires MNEs to provide an annual report of economic indicators viz. the amount of revenue, profit before income tax, income tax paid and accrued in relation to the tax jurisdiction in which they do business. CBC reports are required to be filed in the jurisdiction of tax residence of the ultimate parent entity, being subsequently shared between other jurisdictions through automatic exchange of information mechanism.

A specific reporting regime in respect of CbC reporting and also the master file has been incorporated in the Income-tax Act, 1961. The essential elements have been incorporated in the Income-tax Act, 1961 while remaining aspects would be dealt with in detail in the Income-tax Rules, 1962.

(i) Sec 286 of the Act contains the provisions relating to CbC reporting requirement and related matters.
(ii) Sec 92D of the Act contains the provisions relating to maintenance and furnishing of Master file.

Question 13 **[Q27]**

"The arm's length price (ALP) determined by the Tribunal, which is the final fact-finding authority, is final and cannot be the subject matter of scrutiny by the High Court as it does not give rise to a substantial question of law; accordingly, in an appeal u/s 260A, the High Court is precluded from examining the correctness of determination of the ALP" – Examine the correctness of this statement with reference to a recent Supreme Court ruling.

[RTP Nov 2023]

Answer

The statement is not correct. The Apex Court, in SAP Labs India Pvt. Ltd. v. ITO [2023], laid down the following with respect to the powers of High Court to consider the substantial question of law involving determination of arm's length price (ALP):

(i) While determining the ALP, the Tribunal has to follow the guidelines stipulated under Chapter X of the Income-tax Act, 1961, namely, sections 92 to 92F of the Act and Rules 10A to 10E of the Income-tax Rules, 1962. Any determination of the ALP under Chapter X not in accordance with the relevant provisions of the Income-tax Act, 1961 and Rules can be considered as perverse and it may be considered as a substantial question of law as perversity itself can be said to be a substantial question of law. Therefore, there cannot be any absolute proposition of law that in all cases where the Tribunal has determined the ALP, the same is final and cannot be the subject matter of scrutiny by the High Court in an appeal u/s 260A.

(ii) When the determination of the ALP is challenged before the High Court, it is always open for the High Court to consider and examine whether the ALP has been determined while taking into consideration the relevant guidelines under the Act and the Rules.

The High Court can examine the question of comparability of two companies or selection of filters and examine whether the same is done judiciously and on the basis of the relevant material/evidence on record. The High Court can also examine whether the comparable transactions have been taken into consideration properly or not, i.e., to the extent as to whether non-comparable transactions are considered as comparable transactions or not.

Therefore, in an appeal challenging the determination of the arm's length price, it is always open for the High Court to examine in each case, within the parameters of section 260A, whether while determining the ALP, the guidelines laid down under the Act and Rules are followed or not and whether the determination of the ALP and the findings recorded by the Tribunal while determining the ALP are perverse or not.

Question 14 **[Q28]**

ABC (P) Ltd., Bangalore is engaged in the manufacture of electronic goods and exporting the same to various associated and other enterprises across Southeast Asia. The report with respect to its international transactions with AE has been furnished for all years. The company has applied for APA in respect of the transactions with its AE. Application was filed on 15th February 2024 which was signed on 5th May 2024.

The company also applied in respect of the international transactions to which APA applies for rollback benefit which was agreed and signed in January 2025. The details of the status of income tax assessments are as follows:

- A.Y. 2019-20 – The matter is pending before High Court with regard to acquisition of a company by the assessee and the dispute is about set off of loss of the erstwhile company.
- A.Y. 2020-21 and A.Y. 2021-22 - There is no dispute and the assessments have been completed.
- A.Y. 2022-23 - The assessment for the A.Y. 2022-23 was completed by making reference to the TPO who enhanced the arm's length price of the international transaction by Rs.500 lakhs.
- A.Y. 2023-24 - ALP of international transaction was disputed before the tribunal which set aside the order for fresh consideration by the AO in November 2024.
- A.Y. 2024-25 - The income tax return ('ITR') was filed on 29th December 2024.

If the APA is applied, the ALP determined for the A.Y. 2022-23 would get enhanced by Rs.300 lakhs as against Rs.500 lakhs originally determined by TPO. Discuss the applicability of rollback agreement for various assessment years in case of ABC (P) Ltd.

[RTP May 24]

Answer

Rollback year means any previous year, falling within the period not exceeding four previous years, preceding the first of the five consecutive previous years for which advance pricing agreement is valid. The application for advance pricing agreement may be filed at any time before the first day of the PY relevant to the first AY for which the application is made, in respect of transactions which are of a continuing nature from dealings that are already occurring; or before undertaking the transaction in respect of remaining transactions.

In the present case, since ABC (P) Ltd. has made an application of APA and also opted for rollback provisions, the APA is apparently in respect of international transactions which are of continuing nature. Accordingly, the APA application filed on 15th February 2024 would be in respect of five previous years beginning with P.Y. 2024-25 relevant to the A.Y. 2025-26.

Consequently, APA entered by ABC (P) Ltd. can provide for determining ALP in relation to international transaction entered during rollback years i.e., from A.Y. 2021-22 to A.Y. 2024-25 subject to satisfaction of certain conditions.

In the present case, since A.Y. 2019-20 and A.Y. 2020-21 fall beyond the said four year period, ABC (P) Ltd. cannot avail roll back benefit in respect of these years. From A.Y. 2021-22 -A.Y. 2024-25, the applicability of rollback provisions would be as follows:

Rollback year	**Applicability of rollback provisions**
A.Y. 2021-22	Yes, rollback provisions are applicable for A.Y.2021-22.
A.Y. 2022-23	Yes, rollback provisions are applicable for A.Y. 2022-23 even if ALP adjustment was reduced to addition of Rs. 300 lakhs as against addition of Rs. 500 lakhs originally determined by the TPO on account of APA, since such reduction in the amount of ALP adjustment does not result in reducing the total income or increasing the total loss, as declared in thereturn of income of the said year by ABC (P) Ltd.
A.Y. 2023-24	Yes, roll back provisions are applicable for A.Y. 2023-24, since ITAT has only set aside the order for fresh consideration and the matter has not reached finality.
A.Y. 2024-25	No, rollback provisions are not applicable for A.Y. 2024-25, since the return was filed belatedly u/s 139(4) on 29.12.2024.