

INDIA TOUR - BB for CA Final DT

Question: 1 [Topic: PGBP]

Statement of Profit and Loss account of BB Industries Ltd. is a closely held company engaged in production and marketing of diversified products, shows a net profit (before tax) of ₹72,00,000 for the financial year ended 31st March, 2023 after charge of the following items:

A: Items debited to the Statement of Profit and Loss:

- (i) Depreciation as per Companies Act, 2013: ₹24,00,000
- (ii) Interest amounting to ₹60,000 for short payment of advance tax paid as per section 234B relating to the assessment year 2021-22.
- (iii) Interest and borrowing costs amounting to ₹9,50,000 and ₹7,00,000 though not meeting the criteria for recognition as a component of cost, included in cost of opening and closing inventory, respectively.
- (iv) Expenditure of ₹41,000 paid in cash comprising of ₹22,000 directly paid to producer of dairy farming products and ₹19,000 paid towards printing and stationery items to a trader.
- (v) ₹3,50,000 paid to a contractor for carrying out repair work at factory premises. Tax was not deducted at source on this payment.
- (vi) ₹35,000 towards expenditure for earning income from transfer of carbon credits.
- (vii) Contribution to electoral trust: ₹3,00,000 paid by way of cheque.
- (viii) Expenditure towards advertising charges in a brochure of a political party registered u/s 29A of Representation of People Act, 1951: ₹40,000 paid by way of cheque.
- (ix) Interest on term loans obtained from Cooperative Bank is ₹ 2,60,000. Interest ₹1,60,000 not paid before the due date of filing of return of income (due date being 31.10.2023) & on 12.12.22 it issued debentures to Co. op bank in lieu of the outstanding interest of 1,00,000 and deducted the total interest of ₹2,60,000 while computing profits and gains of business of A.Y.2023-24.
- (x) Actual contribution to the pension scheme of employees: ₹1,50,000
- (xi) The amount of employee benefits includes a sum of ₹4,41,000 in respect of bonus payable to employees. In the previous year 2022-23, the company and its employee's union had a dispute over payment of bonus. In order to avoid late payment of bonus, the company formed a trust and transferred the amount of bonus payable to employees to the said trust. The dispute was settled in the month of November, 2023 and the trust paid the amount of bonus to the employees on 30th December, 2023
- (xii) Other expenses include ₹1,45,000 as expenditure incurred on CSR.
- (xiii) During the previous year 2022-23, the assessee entered into an agreement with Bat Ltd. As per the agreement, Bat Ltd. has agreed to not to engage in the business of printing. The assessee paid ₹11 lakhs without deduction of tax at source on 1-6-2022 as non- compete fee.
- (xiv) In order to expand its overseas business, the company planned online advertisement campaign for which it engaged Fastex Inc., a London based company not having any PE in India, and paid ₹ 5 lakhs for services availed. No Tax/Tds was deducted by the company.
- (xv) The company has made provision for Gratuity based on actuarial valuation of ₹ 5 lacs. Actual gratuity paid amounting to ₹ 1,20,000 during financial year 2022-23 was debited to provision of Gratuity Account.
- (xvi) The company has debited to Profit and Loss account one time Franchise fees of ₹ 20 lakh paid to M/s. Robert Inc., a foreign company, for obtaining franchise on 16th August, 2022. The relevant amount of TDS has been deducted and deposited by the company in time.

- (xvii) The company lost cash of ₹ 12,00,000 due to theft when it was withdrawn from the bank and taken to administrative office. It is not insured and hence, fully charged as revenue expenditure.
- (xviii) Employer's contribution to EPF of ₹2 lakhs for the month of March, 2023 were remitted on 8th June 2023.
- (xix) The company had provided an amount of ₹25 lakhs being sum estimated as payable to workers based on agreement to be entered with the workers union towards periodical wage revision once in 3 years. The provision is based on a fair estimation on wage and reasonable certainty of revision once in 3 years.
- (xx) Expense of ₹10 lakhs on foreign travel of two directors for a collaboration agreement with a foreign company for a brewery project to be set up. The negotiation did not succeed and the project was abandoned.
- (xxi) ₹6 lakhs paid to H Ltd. towards feasibility study conducted for examining proposals for technological advancement relating to existing business; however, the project was abandoned without creating a new asset.
- (xxii) It incurred ₹ 3 lakhs as expenditure for public issue of shares. The public issue could not materialize due to non-clearance by SEBI & ₹ 2 lakhs as expenditure for issue of Bonus shares to existing shareholders.

B: Items credited to the Statement of Profit and Loss:

- (i) Unrealised rent of ₹3,80,000 pertaining to financial year 2019-20 & 2020-21 recovered during the year in respect of a commercial property owned by the company, which was sold by the company on 23.03.2022.
- (ii) Dividends from a foreign company [the expenditure of ₹20,000 (collection charges)] incurred on earning such dividends: ₹1,60,000
- (iii) Profit of ₹3,00,000 received from hedging contract entered into for meeting out loss in foreign currency payments towards an imported printing machinery valued at ₹95 lakhs used in printing business, installed on 15th December, 2022 and put to use from that date.
- (iv) Interest from banks on fixed deposits net of TDS at 10% : ₹1,35,000
- (v) Gross revenue includes ₹5,00,000 in respect of a service contract for marketing of some products of Nitup Ltd. for the period from 1st March, 2023 to 30th April, 2023. The expenses incurred on the project till 31-3-2023 amounts to ₹1,27,000 which is included in other expenses and debited to P&L A/c.
- (vi) Industrial power tariff concession of ₹ 5.40 lakhs, received from Government was credited to Statement of Profit and Loss.
- (vii) The company had made a sale of for ₹ 20 Lakhs to M/s A. Co Engineers a sole proprietary concern, on 10-10-2021. On 01-02-2022 ₹ 10 lakhs were written off in the books as bad debts. Due to the demise of the sole proprietor, the company could collect only ₹ 7 Lakhs towards the final settlement on 01-03-2023. The amount recovered was shown as Bad debts recovered and credited to Statement of Profit and Loss.
- (viii) Trade creditors ₹5,00,000 were outstanding for more than 5 years and there is no business relationship with them. The amount was unilaterally transferred to credit of statement of profit and loss.

Additional Information:

- (1) Depreciation as per Income-tax Rules: ₹28,00,000 exclusive of depreciation on the imported printing machine referred to in item B (iii)
- (2) Expenditure pertaining to previous financial year allowed on due basis, but paid in current financial year in cash on 18.01.2023: ₹35,000
- (3) Audit fee for the previous year 2021-22: ₹75,000. TDS deducted but not paid in the relevant previous year. However, TDS was paid on 31.12.2022.
- (4) Income from transfer of Carbon Credits amounting to ₹4,00,000 included in Net Profit (before tax).
- (5) The eligible salary and dearness allowance for the pension scheme referred to u/s 80CCD is ₹10,00,000.
- (6) In respect of ongoing marketing contracts, there was a claim for escalation of prices, to the tune of ₹8,50,000. The company had filed a lawsuit in the year 2019. In the previous year 2022-23, the court gave its judgement in favour of the company. The company has received ₹2,00,000 till 31-03-2023. Gross receipt in the profit and loss account includes ₹2,00,000 in respect of such claims.

- (7) The company has obtained a loan of ₹ 5 lakhs from Manu Textiles Private Limited in which it holds 16% voting rights. The accumulated profits of Manu Textiles Private Limited on the date of receipt of loan was ₹ 2 lacs.
- (8) The assessee executed one contract of the value of ₹15 lakhs and completed in current year. The contractee withheld 20% of the contract amount which would be released only after 2 years. The amount withheld has not been credited to statement of profit and loss.
- (9) Grant received from State Government for acquisition of generator ₹10 lakhs. The generator was acquired and put to use for printing business on 01.06.2022 for ₹35 lakhs. A sum of ₹5 lakhs was paid as advance by cash to the supplier of generator.
Further following expenses related to acquisition of asset –
(a) Transportation charges paid of transporter ₹ 25,000 in cash
(b) Installation charges paid to Mr. Ali ₹ 35,000 through BHIM UPI
This adjustment is not recorded in books of account.
- (10) During the year, 1,00,000 equity shares of ₹10 each was issued for ₹25 per share. The fair market value of the shares as per rule 11UA of the Income-tax Rules, 1962 was determined @ ₹17 per share.
- (11) An asset was purchased for ₹ 6,00,000 on 17-11-21 for conducting scientific research and the deduction was claimed under section 35 of the Income-tax Act, 1961. This asset was sold on 05-09-2022 for a consideration of ₹ 8,00,000.
- (12) Employees contribution to EPF of ₹ 2 lakhs recovered from their salaries for the month of March 2023 and shown in the Balance Sheet under the head Sundry Creditors was remitted on 31st May, 2023.

Compute the total income of BB Industries Ltd., for assessment year 2023-24. Give brief reasons for the treatment given to each of the items taken into consideration in computation of income of the company. Ignore the provisions of section 115BAA.

Answer

Computation of Total Income of BB Industries Ltd. for the A.Y. 2023-24

	Particulars	Amount (₹)	
I	Income from house property		
	Unrealised rent [Taxable u/s 25A, even if BB Industries Ltd. is no longer the owner of commercial property]	3,80,000	
	<i>Less:</i> 30% of above	<u>1,14,000</u>	2,66,000
II	Profits and gains of business and profession		
	Net profit as per the statement of profit and loss	72,00,000	
	<i>Add:</i> Items debited but to be considered separately or to be disallowed		
	(i) Depreciation as per Companies Act, 2013	24,00,000	
	(ii) Interest u/s 234B for short payment of advance tax [Any interest payable for default committed by assessee for discharging his statutory obligations under Income-tax Act, 1961 which is calculated with reference to the tax on income is not allowable as deduction u/s 40(a)(ii). Since the same has been debited to statement of profit and loss, it has to be added back]	60,000	

	Particulars	Amount (₹)		
(iii)	<p>Interest and borrowing cost included in Opening and Closing inventory</p> <p>[As per ICDS II, Interest and borrowing cost which does not meet the criteria for recognition as a component of the cost, cannot be included in the cost of inventory. Since the same have been included in the opening and closing inventory, the difference between ₹9,50,000, being interest included in opening inventory – ₹7,00,000, being interest included in closing inventory, has to be added back]</p>	2,50,000		
(iv)	<p>Cash payment in excess of ₹10,000</p> <p>[Disallowance u/s 40A(3) is attracted in respect of expenditure, for which payment exceeding ₹10,000 in a day has been made in cash. Since expenditure of ₹19,000 towards printing and stationery items is debited to the statement of profit and loss, the same has to be added back. However, payment of ₹22,000 to producer for dairy farming products is not disallowed since it is covered under the exceptions specified in Rule 6DD]</p>	19,000		
(v)	<p>Repair work paid to contractor without deduction of tax at source</p> <p>[Disallowance of 30% of the amount of ₹3,50,000 paid for carrying out repair work to a contractor without deduction of tax at source would be attracted u/s 40(a)(ia)]</p>	1,05,000		
(vi)	<p>Expenditure for transfer of carbon credits</p> <p>[Income by way of transfer of Carbon Credits is chargeable to tax u/s 115BBG at a flat rate. No deduction is allowed under any provision of the Act in respect of any expenditure or allowance in relation thereto. Since such expenditure is debited to the statement of profit and loss, the same has to be added back]</p>	35,000		
(vii)	<p>Contribution to electoral trust</p> <p>[Contribution to electoral trust is not allowable as deduction while computing business profits of the company. Since the contribution has been debited to statement of profit and loss, the same has to be added back while computing business income]</p>	3,00,000		
(viii)	<p>Advertisement in brochure of a political party</p> <p>[Advertisement charges paid in respect of brochure published by a political party is not allowable as deduction from business profits of the company as per section 37(2B). Since the expenditure has been debited to statement of profit and loss, the same has to be added back while computing business income]</p>	40,000		

	Particulars	Amount (₹)		
(ix)	<p>Interest to co-operative bank not paid before 31.10.2023 & Interest converted into debentures</p> <p>[Disallowance u/s 43B would be attracted for A.Y.2023-24, since the interest was not paid on or before the due date of filing of return] [1,60,000 + 1,00,000]</p> <p>Explanation 3C to section 43B clarifies that if any sum payable by the assessee as interest on any such loan is converted into a loan or borrowing or advance or debenture on any other instrument by which the liability to pay is deferred to a future date, the interest so converted and not actually paid shall not be deemed as actual payment, and hence, would not be allowed as deduction.</p>	2,60,000		
(x)	<p>Contribution towards pension scheme of employees</p> <p>[Contribution towards pension scheme, referred to in section 80CCD, of employees is allowed only to the extent of 10% of salary of the employee in the P.Y. i.e., ₹1,00,000 being 10% of ₹10,00,000. Therefore, the excess contribution of ₹50,000 [i.e., ₹1,50,000 – ₹1,00,000] is disallowed u/s 36(1)(iva).</p>	50,000		
(xi)	<p>Bonus transferred to the trust for making payment to the employees after settlement of the dispute</p> <p>[The bonus would be allowable as deduction u/s 36(1)(ii), even though the amount of bonus payable was initially remitted to the trust created for the purpose of avoiding late payment of bonus, provided actual payment of bonus is made to the employees on or before the due date. However, since in the present case, actual payment of bonus to employees is made on 30th December 2023, after due date of filing return of income i.e., after 31st October 2023, deduction u/s 36(1)(ii) would not be allowable merely because the amount was remitted to the trust before the stipulated due date. Since the same has been debited to the profit and loss account, it has to be added back]</p>	4,41,000		
(xii)	<p>Expenditure incurred on CSR</p> <p>[U/s 37(1), only expenditure not covered u/ss 30 to 36, and incurred wholly and exclusively for the purposes of the business is allowed as a deduction while computing taxable business income. Any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to have been incurred for the purpose of business and hence, shall not be allowed as deduction u/s 37. As the same has been debited to the profit and loss account, it has to be added back]</p>	1,45,000		

	Particulars	Amount (₹)		
	<p>(xiii) Non-compete fees to Bat Ltd. [On account of the payment of non-compete fee, the company does not acquire any business, the profit making apparatus remains the same and there is no new business or new source of income and therefore, the expenditure has to be treated as revenue in nature. Since company has not deducted tax at source u/s 194J on such non-compete fees during the previous year 2022-23, 30% of expenditure i.e., ₹3,30,000 would be disallowed] Note - The above treatment is based on the Madras High Court ruling in M/s. Asianet Communications Ltd Alternate treatment is possible based on the Gujarat High Court ruling in Ferrromatic Milacron India Pvt, Ltd, as briefed hereunder: Rights acquired under a non-compete agreement gives enduring benefit and protects the assessee's business against competition. The expression "or any other business or commercial rights of similar nature" used in Explanation 3 to sub-section 32(1)(ii) is wide enough to include non-compete rights. Hence, such expenditure would be capital expenditure and it would be treated as intangible asset and be eligible for depreciation @25%. In such case, the expenditure which is debited to the profit and loss account, i.e., ₹ 11,00,000, has to be added back and depreciation of ₹ 2,75,000 i.e., 25% would be allowed as deduction. Further, disallowance of 30% of expenditure on account of non-deduction of tax at source would also not be attracted.</p>	3,30,000		
	<p>(xiv) Payment for online advertisement services [Since the payment for online advertisement services is made to a non-resident not having PE in India, equalization levy@6% has to be deducted. Since the same has not been deducted, disallowance@100% of the payment would be attracted u/s 40(a)(ib)]</p>	5,00,000		
	<p>(xv) Provision for gratuity [Provision of ₹ 5 lakhs for gratuity based on the actuarial valuation is not allowed as deduction as per section 40A(7). However, actual gratuity of ₹ 1,20,000 paid is allowable as deduction. Hence, the difference has to be added back to income (₹ 5,00,000 – ₹ 1,20,000)]</p>	3,80,000		
	<p>(xvi) One time Franchise Fees [Franchise is an intangible asset eligible for depreciation as per section 32. Since one time franchise fees of ₹ 20 lakhs paid for obtaining franchise has been debited to profit and loss account, the same has to be added back while computing business income] Less: Franchise [Depreciation @ 25% on ₹ 20 lakhs, since it has been used for more than 180 days during the year] [20 lakhs – 5 lakhs]</p>	15,00,000		

	Particulars	Amount (₹)		
	<p>(xvii) Loss of cash in transit from bank to office on account of theft [Any loss from theft, dacoity, embezzlement, etc., is deductible if it is incidental to the carrying on of the business. Since the loss is due to theft which took place when cash was withdrawn from bank and taken to administrative office, it is incidental to business and thus, allowable as revenue expenditure. Since the same has already been charged as revenue expenditure, no further adjustment is required]</p>	-		
	<p>(xiv) Employers' contribution to EPF [As per section 43B, employers' contribution to EPF is allowable as deduction since the same has been deposited on or before the 'due date' of filing of return u/s 139(1). Since the same has been debited to profit and loss account, no further adjustment is necessary]</p>	-		
	<p>(xv) Provision for wages payable to workers [The provision is based on fair estimate of wages and reasonable certainty of revision, the provision is allowable as deduction, since ICDS X requires 'reasonable certainty for recognition of a provision, which is present in this case. As the provision has been debited to profit and loss account, no adjustment is required while computing business income]</p>	-		
	<p>(xvi) Expenses on foreign travel of two directors for a collaboration agreement which failed to materialize [Where expenditure is incurred for a project not related the existing business and the project was abandoned without creating a new asset, the expenses are capital in nature as per <i>Mc Gaw-Ravindra Laboratories (India) Ltd.</i> (1994) (Guj.). Brewery project is not related to the existing business of assessee]</p>	10,00,000		
	<p>(xvii) Payment to H Ltd. for feasibility study [Payment towards feasibility study conducted for examining proposals for technological advancement relating to the existing business, where the project was abandoned without creating a new asset, is allowable as revenue expenditure (as per the Delhi High Court ruling in <i>Priya Village Roadshows Ltd.</i> (2011)). Therefore, ₹6 lakhs paid towards feasibility study would be an allowable expenditure. Since such expenditure has already been debited to profit and loss account, no further adjustment is required].</p>	-		
	<p>(xviii) Expenditure on public issue of shares and Bonus shares [Share issue expenses incurred by the company constitutes capital expenditure, even though it could not go in for the public issue on account of non-clearance by</p>	3,00,000		

	Particulars	Amount (₹)	
	<p>that the expenditure incurred was only for the purpose of expansion of the capital base. The capital nature of the expenditure would not be lost on account of the abortive efforts.</p> <p>Since the share issue expenses have been debited to statement of profit and loss of this year, the same is required to added back while computing business income.</p> <p>Expenditures for issue of bonus shares are treated as revenue expenses and allowed as deduction]</p>		81,15,000
			1,53,15,000
	Add: Amount taxable but not credited to statement of profit and loss		
	Expenditure pertaining to previous financial year		35,000
	[Cash payment in excess of ₹10,000 made in the current year in respect of expenditure allowed on mercantile basis in the previous year, would be deemed as income in the current year as per section 40A(3A).]		
	<p>Claim for Escalation price in respect of ongoing marketing contracts</p> <p>[As per section 145B, claim for escalation of a price of ₹ 8,50,000 would be deemed to be income of P.Y. 2022-23 i.e., the previous year in which reasonable certainty of its realization is received, being the year in which the judgment in the favour of the company was given. Since only the sum of ₹2,00,000 received by the company till 31.3.2023 is included in the profit and loss account, balance ₹6,50,000 has to be included in business income]</p>		6,50,000
	<p>Retention money</p> <p>[ICDS III & as per section 43CB requires recognition of contract revenue, including retention money, on percentage of completion method.</p> <p>In this case, since the question mentions that the assessee executed the contract of the value of ₹15 lakhs. Therefore, the retention money of ₹3 lakhs has to be recognized in the P.Y.2022-23, since the contract has been fully completed].</p>		3,00,000
	<p>Employees' contribution to EPF</p> <p>[Since employees' contribution to EPF has not been deposited on or before the due date under the PF Act, the same has to be added for computing business income]</p>		2,00,000
	<p>Sale of Scientific Research Asset</p> <p>[Sale proceeds of asset acquired for conducting scientific research taxable as business income under section 41(3) in the year of sale to the extent of lower of ₹ 6,00,000 (being the deduction allowed u/s 35) and ₹ 8,00,000 being the excess of sale proceeds and deduction allowed u/s 35 i.e., (₹ 8,00,000 +</p>		6,00,000

	Particulars	Amount (₹)		
	₹ 6,00,000) over the capital expenditure incurred of ₹ 6,00,000]			
			1,71,00,000	
	Less: Items credited to statement of profit and loss, but not includible in business income/ permissible expenditure and allowances			
	(i) Unrealised rent [Unrealised rent in respect of commercial property is taxable under the head “Income for house property”. Since the said rent has been credited to the statement of profit and loss, the same has to be deducted while computing business income]	3,80,000		
	(ii) Dividend received from foreign company [Dividend received from foreign company is taxable under the head “Income from other sources”. Since the said dividend has been credited to the statement of profit and loss, the same has to be deducted while computing business income] <i>Note: Since the question does not list the expenditure of ₹20,000 incurred on earning dividend income under “A. Items debited to the Statement of Profit and Loss”, such expenditure has not been added back.</i>	1,60,000		
	(iii) Profit from hedging contract [Hedging contract is entered into for safeguarding against any loss that may arise due to currency fluctuation. The profit from such contract entered into for meeting loss in foreign currency payments towards imported printing machinery has to be adjusted against the cost of machinery. Since the said profit has been credited to the statement of profit and loss, the same has to be deducted while computing business income]	3,00,000		
	(iv) Interest from bank fixed deposit [Interest on fixed deposit is tax- able under “Income from Other Sources”. Since the said interest has been credited to the statement of profit and loss, the same has to be deducted while computing business income]	1,35,000		
	(v) Audit fees of P.Y. 2021-22 [30% of ₹75,000, being the audit fees disallowed in the P.Y. for non-remittance of TDS on or before due date of filing for P.Y. 2021-22 would be allowed in the year of payment of TDS i.e., P.Y. 2022-23]	22,500		
	(vi) Transfer of Carbon Credits chargeable to tax u/s 115BBG [Income by way of transfer of Carbon Credits chargeable u/s 115BBG can be treated as business income or income from other sources, depending upon	-		

	Particulars	Amount (₹)		
	<p>the facts of the case. In this case, since the question mentions that BB Industries Ltd. is engaged in production and marketing of diversified products, it is logical to assume that the same is in the nature of business income. Since the amount of ₹4 lakh has already been credited to statement of profit and loss, no further adjustment is necessary]</p>			
	<p>(vii) Revenue from service contract of Nitup Ltd. [Since the service contract for maintenance of office building is for a period of 61 days i.e., from 1st March 2023 to 30th April 2023 (less than 90 days), the revenue from such contract would be determined on the basis of project completion method. Consequently, the income from contract and the expenditure would also be chargeable/allowable in the P.Y. 2023-24. Since the revenue of ₹ 5,00,000 is credited and expenditure of ₹ 1,27,000 has been debited to statement of profit and loss, the net amount of ₹ 3,73,000 (₹5,00,000 – ₹1,27,000) has to be deducted while computing business income of the P.Y. 2022-23]</p>	3,73,000		
	<p>(viii) Industrial power tariff concession received from Govt. [Any assistance in the form of, inter alia, concession received from the Central or State Government would be treated as income. Since the same has been credited to statement of profit and loss, no adjustment is required]</p>	-		
	<p>(ix) Bad debt recovered [Since the deduction of bad debt allowed u/s 36 was ₹ 10 lakhs out of the total debt of ₹ 20 lakhs; and the amount recovered in respect of such debt is only ₹ 7 lakhs which is not more than the amount of ₹ 10 lakhs not written off, no amount is chargeable to tax as business income. Since the amount of ₹ 7 lakhs recovered has been credited to the statement of profit and loss, it has to be reduced while computing business income.</p>	7,00,000		
	<p>(x) Bad debts [The company had written off ₹ 10 lakh earlier, and out of the balance ₹ 10 lakhs, only ₹ 7 lakhs could be collected towards final settlement. Therefore, the balance ₹ 3 lakhs will be allowable as deduction, provided it is written off in the books of account]</p>	3,00,000		
	<p>(xi) Cessation of a trading liability [Remission or cessation of a trading liability, allowed as deduction in an earlier previous year, would be deemed as income in the year of remission or cessation, as per section 41(1)(a). Since the amount of ₹5 lakhs has already been credited to statement of profit and loss, no further adjustment is required]</p>	-	23,70,500	
			1,47,29,500	

	Particulars	Amount (₹)		
	Less: Depreciation u/s 32 as per Income tax Rules			
	Depreciation on Imported P&M	28,00,000		
	<i>Add:</i> Depreciation @7.5% on ₹92 lakhs [₹95 lakhs, being imported printing machinery - ₹3 lakhs, being profit from hedging contract] since, machinery is put to use for less than 180 days].	6,90,000		
	<i>Add:</i> Additional depreciation@10% on ₹92 lakhs, since, machinery is put to use for less than 180 days assuming the conditions for claim of additional depreciation are satisfied.	9,20,000		
			44,10,000	
	Depreciation on Generator Normal Depreciation [₹ 20,35,000 x 15%] Additional Deprecation [₹ 20,35,000 x 20%] [As per explanation to section 43(1), any amount paid in single day to single person more than ₹ 10,000 otherwise by account payee cheque or DD or ECS then it should not be part of actual cost, so advance paid to supplier and transportation charges not part of actual cost. As per explanation 10 of sec 43(1), Govt. grant related to acquisition of asset shall be reduced while calculation actual cost] Imp. BB's Note – limit of cash payment ₹ 35,000 to transporter is only for the purpose of revenue expenses u/s 40A(3) and not for capital expenditure.	3,05,250 4,07,000	7,12,250	
	Profits and gains from business or profession			96,07,250
III	Capital Gain Sale of asset acquired for conducting scientific research Full Value of Consideration Less: cost of acquisition Short Term Capital Gain	8,00,000 <u>6,00,000</u>		2,00,000
IV	Income from Other Sources			
	Dividend from foreign company		1,60,000	
	[No deduction is allowable in respect of expenditure incurred on earning dividends except Interest]			
	Deemed dividend u/s 2(22)(e) [Loan of ₹ 5 lakhs by Manu Textiles Pvt. Ltd., a company in which the public are not substantially interested, to Dinkar Synthetics Ltd. who is holding 16% i.e., 10% or more of the voting power of the company would be deemed to be dividend to the extent of ₹ 2 lakhs being the accumulated profits]		2,00,000	
	Interest from banks on fixed deposits (Gross) [Interest on banks on fixed deposits is taxable as "Income from other sources"] [₹1,35,000 x 100/90]		1,50,000	

	Particulars	Amount (₹)		
	Consideration received in excess of FMV of equity shares [(₹25 (-) ₹17) x 1,00,000 equity shares] [A closely held company has issued equity shares at a premium, then, the difference between consideration and the FMV of shares is taxable as “Income from Other Sources” as per section 56(2)(viib)].		8,00,000	13,10,000
	Gross Total Income			1,13,83,250
	Less: Deduction under Chapter VI-A			
	U/s 80GGB [Contribution by a company to an electoral trust and registered political party is allowable as deduction, since payment is made otherwise than by cash. Expenditure incurred by an Indian company on advertisement in brochure published by political party tantamount to contribution to such political party] [₹3,00,000 + ₹40,000]			3,40,000
	Total income			1,10,43,250

Question:2 [Sec 115BAA]

Suppose in question-1 company opted sec. 115BAA, compute Total Income & tax liability of company.

Solution: Computation of Total Income of BB Industries Ltd. for the A.Y. 2023-24

	Particulars	Amount (₹)		
I	Income from house property (computed above)			2,66,000
II	Profit and Gain from Business or Profession (computed above) Add: Additional depreciation not allowed when assessee opted sec. 115BAA (9,20,0000 + 4,07,000)	96,07,250		1,09,34,350
III	Capital Gain (computed above)			2,00,000
IV	Income from Other Sources (computed above)			13,10,000
	Gross Total Income			1,27,10,350
	Deduction u/s 80GGB			N/A
	Total income			1,27,10,350
Computation of Tax Liability		Amount (₹)		
I	Tax on Sale of Carbon Credit	4,00,000	Tax @ 10%	40,000
II	Tax on Balance Income	1,23,10,350	Tax @ 22%	27,08,277
				27,48,277
	Add: Surcharge@ 10%			2,74,828
				30,23,105
	Add: Health & education cess @4%			1,20,924
	Net Tax			31,44,029

Question:3 [Sec 115BAB]

Devam Ltd., a manufacturing company, is engaged in the manufacturing of leather products since 01-11-2021 in the State of Tamil Nadu. As per Statement of Profit and Loss for the year ended 31st March, 2023, the company showed profit of ₹ 1,20,00,000 after debiting or crediting the following items:

- (i) The opening and closing stock for the year were ₹ 55 lakhs and ₹ 54 lakhs respectively. Opening stock was overvalued by 10% and Closing stock was undervalued by 10%.
- (ii) Devam Ltd. paid ₹ 10 Lakhs in foreign currency as sales commission during the year without deducting tax at source to Mr. John, a citizen of U.S.A and non-resident, for procuring orders from outside India.
- (iii) ₹ 45,000 paid in cash to Mr. Raj employee of the company at the time of his retirement.
- (iv) Profit on sale of 2000 shares of M/s. VKL LTD, a listed company ₹ 3,50,000. These shares were sold on 7-10-2022 for ₹ 250 per share. The highest price of VKL LTD. quoted on the stock exchange as on 31-01-2018 was ₹ 175 per share. The said shares were acquired for ₹ 75 per share on 10.06.2016. STT paid both at the time of purchase and sale of shares.
- (v) STCG derived from transfer of a Capital asset on which no depreciation is allowable under the Act ₹ 75,000.
- (vi) Profit of ₹ 6 lakhs on sale of plot of land on 24-07-2022 to XYZ LTD, a domestic company, the entire shares of which are held by the assessee company. The plot was acquired by Devam Ltd. on 30-09-2021.
- (vii) Credits to statement of Profit and Loss Account include dividend of ₹ 50,000 received on September 6, 2022 from a domestic company.
- (viii) ₹ 20,000 paid for expenses in connection with the inauguration of a new branch opened for expanding the business.
- (ix) ₹ 20,000 paid as penalty to Government for company's failure in performance of a contract within stipulated time. There was delay of 4 months and according to the agreement, the company had to pay a penalty of ₹ 5,000 per month to the Government.
- (x) An amount of ₹ 5 lakhs was paid to the manager of the company under Voluntary Retirement Scheme.
- (xi) Interest of ₹ 75,000 paid by bank remittance, on deposits made by non-resident buyers of goods manufactured by the company. The said payments were made outside India without deduction of tax.
- (xii) Marked to market loss amounting to ₹ 6,00,000 in respect of an unsettled derivative contract. The contract was settled in May, 2023 with a gain of ₹ 1,00,000.
- (xiii) Contribution of ₹ 2,50,000 to a scientific laboratory functioning at the national level with a specific direction for use of the amount for scientific research programme approved by the prescribed authority.
- (xiv) Rent of ₹ 60,000 p.m. received from letting out a part of its office premises. Municipal tax paid in respect of the said part of the building is ₹ 8,000. The same has been debited to statement of profit and loss.
- (xv) Depreciation on tangible fixed assets as per books of account ₹ 2,20,000.

Additional information:

- (1) Depreciation on tangible fixed assets as per Income-tax Rules ₹ 2,60,000.
- (2) Company has acquired on 15.11.2022, new machinery for ₹ 20,00,000 and put the same to use on the same date. Depreciation on such machinery is not included in point (1) above.
- (3) During the year F.Y. 2022-23, the company has employed 56 additional employees. All these employees contribute to a recognized provident fund. 39 out of 56 employees joined on 1-6-2022 on a salary of ₹ 15,000 per month, 14 joined on 1-7-2022 on a salary of ₹ 45,700 per month, and 3 joined on 1-11-2022 on a salary of ₹ 22,000 per month. The salaries of 9 employees who joined on 1-6-2022 are being settled by bearer cheques every month. Audit under section 44AB has been done before the due date.
- (4) The company has paid through bank ₹ 1,20,000 to National Fund for Rural Development.
- (5) The Company opted for concessional rate of tax and exemption from MAT u/s 115BAB for Assessment year 2023-24.

Compute the total income and tax payable for the Assessment Year 2023-24 clearly stating the reasons for treatment of each item.

Solution**Computation of Total Income of Devam Ltd. for the A.Y. 2023-24 under section 115BAB**

Particulars		Amount (in ₹)	
I	Income from house property Rental income [₹ 60,000 x 12] [No deduction is allowable in respect of such income, since the company has opted for concessional regime under section 115BAB. Hence, deduction for municipal taxes paid and deduction@30% of net annual value is not allowable]		7,20,000
II	Profits and gains of business and profession Net profit as per Statement of profit and loss <i>Add:</i> Overvaluation of opening stock [₹ 55,00,000 x 10/110] Undervaluation of closing stock [₹ 54,00,000 x 10/90] <i>Add: Items debited but to be considered separately or to be disallowed</i>		1,20,00,000
	(1) Sales commission to Mr. John, a non-resident, for procuring orders from outside India [The commission paid to Mr. John, non-resident agent, for services rendered outside India is not chargeable to tax in India. His commission is paid in foreign currency directly to him and is, therefore, not received by him or on his behalf in India. Since commission income for procuring orders by non-resident who remains outside India is not subject to tax in India, disallowance under section 40(a)(i) is not attracted in respect of payment of commission to such non-resident outside India even though tax has not been deducted at source.]	Nil	
	(2) Payment to Mr. Raj, an employee, on his retirement [Section 40A(3) provides for disallowance@100% of the expenditure incurred exceeding ₹ 10,000 otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed. However, no disallowance under section 40A(3) is to be made as the amount paid to Mr. Raj is on his retirement since such sum payable does not exceed ₹ 50,000. This exception is provided in Rule 6DD]	Nil	
	(3) Expenses in connection with inauguration of a new branch for expanding business [Expenses in connection with inauguration of a new branch for expanding business is allowable as revenue expenditure since it is incurred wholly or exclusively for business purpose. Since the same is already debited in statement of profit and loss, no further adjustment is required]	Nil	

Particulars	Amount (in ₹)	
<p>(4) Penalty to Government for failure in performance of a contract</p> <p>[The penalty of ₹ 20,000 paid for non-fulfilment of a contract within stipulated time is not for the breach of law but was paid for breach of contractual obligations and therefore, is an allowable expense. Since it is already debited in statement of profit and loss, no further adjustment is required]</p>	Nil	
<p>(5) Voluntary Retirement Scheme expenditure</p> <p>[Only 1/5th of expenditure on voluntary retirement scheme is allowable over a period of five years u/s 35DDA. Since whole amount of expenditure is debited to statement of profit and loss, 4/5th has to be added back [₹ 5,00,000 x 4/5].</p>	4,00,000	
<p>(6) Interest paid to non-resident buyers of goods, on deposits made by them</p> <p>[Interest paid to non-resident buyer of goods, on deposits made by them is deemed to accrue or arise in India since such interest is paid by the company, a resident, which used such deposit for the purpose of business carried on by it in India. Thus, such interest is chargeable to tax in India and Devam Ltd. is required to deduct tax at source on such interest. Disallowance@100% of interest paid is attracted under section 40(a)(i), since tax has not been deducted at source therefrom.]</p>	75,000	
<p>(7) Salary paid to employees through bearer cheques</p> <p>[Salary paid through bearer cheques (9 employees x ₹ 15,000 x 10 months) will attract disallowance u/s 40A(3) and hence, the same has to be added back] [See Note at the end of the solution]</p>	13,50,000	
<p>(8) Marked to market losses</p> <p>[As per ICDS I, marked to market losses cannot be recognized unless the recognition of such loss is in accordance with the provisions of any other ICDS. Since such losses have been debited to the statement of profit and loss, they have to be added back for computing business income]</p>	6,00,000	
<p>(9) Contribution to National Laboratory</p> <p>[As per section 35(2AA) donation to National Laboratory eligible for 100% deduction but when assessee opted section 115BAB then this deduction not allowed]</p>	2,50,000	
<p>(10) Municipal Taxes paid [Not allowed in PGBP]</p>	8,000	
<p>(11) Depreciation on tangible fixed assets</p> <p>[The amount of ₹ 2.20 lakh, being depreciation as per books of account, debited to statement of profit and loss has to be added back]</p>	2,20,000	
<p>Less: Depreciation u/s 32</p> <p style="padding-left: 20px;">Tangible fixed assets</p> <p style="padding-left: 20px;">Plant & Machinery</p>		2,60,000

Particulars		Amount (in ₹)	
	- Normal Depreciation (₹ 20,00,000 x 7.5%, since put to use for less than 180 days during the P.Y. 2022-23) 1,50,000	(4,10,000)	35,93,000
	- Additional depreciation [not allowable since company is opting for section 115BAB] -		
	Less: Items credited but chargeable to tax under another head/expenses allowed but not debited		1,55,93,000
	1. Profit on sale of shares of M/s VKL Ltd. [Capital Gain arising on sale of shares of VKL Ltd. is taxable under the head "Capital Gains". Since the profit on sale of shares has been credited to the statement of profit and loss, the same has to be deducted while computing business income]	3,50,000	
	2. Short term capital gain on sale of capital asset on which no depreciation is allowable [Short term capital gain arising on sale of capital asset is taxable under the head "Capital Gains". Since such STCG has been credited to the statement of profit and loss, the same has to be deducted while computing business income]	75,000	
	3. Profit on sale of plot of land to 100% subsidiary [Taxability or otherwise to be considered under the head "Capital Gains". Since such profit has been credited to the statement of profit and loss, the same has to be deducted while computing business income]	6,00,000	
	4. Dividend received from domestic company [Dividend income from domestic foreign company is taxable under the head "Income from other sources". Since the said dividend has been credited to the statement of profit and loss, the same has to be deducted while computing business income]	50,000	
	5. Contribution to National Fund for Rural Development [In respect of payment to a National Fund for Rural Development, deduction is allowable under section 35CCA while computing business income. This deduction is permissible in case of an assessee opting for section 115BAB also]	1,20,000	
	6. Rental income from letting out of office premises (Rental income from letting out a part of the office premises is taxable under "Income from house property". Therefore, it has to be deducted while calculating business income, since the income has been credited to statement of profit and loss)	7,20,000	19,15,000
	Profit & Gains from Business or Profession		<u>1,36,78,000</u>

Particulars		Amount (in ₹)	
II	Capital Gains		
	1. Long term capital gain on sale of shares of M/s. VKL Ltd. [Since shares were held for more than 12 months]		
	[Full value of consideration (2,000 x ₹ 250)]	5,00,000	
	<i>Less:</i> Cost of acquisition - Higher of (i) and (ii)	<u>3,50,000</u>	1,50,000
	(i) Actual cost of acquisition (2,000 x ₹ 75) ₹ 1,50,000		
	(ii) ₹ 3,50,000, being lower of fair market value as on 31.1.2018 (i.e., ₹ 3,50,000, being 2,000 x 175) and sale consideration (i.e., ₹ 5,00,000)		
	2. Short term capital gain on sale of capital asset on which no depreciation is allowable	75,000	2,25,000
	3. Profit on sale of plot of land to 100% subsidiary	Nil	
	[Short-term capital gains arise on sale of plot of land held for less than 24 months. However, in this case, since the transfer is to a 100% subsidiary company and the subsidiary company is an Indian company, the same would not constitute a transfer for levy of capital gains tax due to section 47]		
III	Income from Other Sources		
	Dividend income from domestic company [50,000/90 x 100]		55,555
	Gross Total Income		1,46,78,555
	Deduction u/s 80JJAA [See Working Note below]		14,49,000
	Total Income		1,32,29,555
	Total Income (Rounded Off)		1,32,29,560

Computation of tax payable by Devam Ltd. for the A.Y. 2023-24 under section 115BAB

Particulars	₹	₹
Tax on long-term capital gains in excess of ₹ 1 lakh @10% u/s 112A [₹ 50,000 x 10%]		5,000
Tax on short term capital gain of ₹ 75,000 derived from transfer of a capital asset on which no depreciation is allowable @22%		16,500
Tax on House Property income of ₹ 7,20,000 @22%		1,58,400
Tax on dividend income of ₹ 55,555 @22%		12,222
Tax on business income@15% of ₹ 1,22,29,000 (i.e. 1,36,78,000 – 14,49,000)		<u>18,34,350</u>
		20,26,472
<i>Add:</i> Surcharge@10%		<u>2,02,647</u>
		22,29,119
<i>Add:</i> Health and education cess@4%		<u>89,164</u>

Particulars	₹	₹
Tax liability		23,18,283
Less: TDS on dividend income		<u>5,555</u>
Tax payable		<u>23,12,728</u>
Tax payable (Rounded Off)		23,12,730

Working Note - Computation of deduction u/s 80JJAA

No of eligible additional employees [56 (-) 14 = 42]	33
[14 employees who joined on 1.7.2022 do not qualify as “additional employees” since their monthly emoluments exceed ₹ 25,000. However, 3 employees who joined on 1.11.2022 qualify as additional employees, since they have been employed for more than 150 days during the P.Y.2022-23.]	
Additional employee cost means the total emoluments paid or payable to additional employees employed during the P.Y.2022-23. However, the additional employee cost in respect of 9 employees who joined on 1.6.2022, whose salary is paid by bearer cheque would be Nil.	
Additional employee cost	₹ 48,30,000
[₹ 15,000 x 30 employees (39 - 9) x 10 months] + [₹ 22,000 x 3 employees x 5 months] = ₹ 45,00,000 + ₹ 3,30,000	
Eligible deduction = 30% of ₹ 48,30,000	₹ 14,49,000

Note – Since it is logical to assume that remuneration paid to employees has been debited to statement of profit and loss, consequently, disallowance would be attracted in respect of remuneration paid to 9 employees by bearer cheque every month. Accordingly, ₹ 13,50,000, being salary paid to 9 employees during the P.Y.2022-23 has been added back while computing profits and gains of business or profession.

If a view is taken that the details of remuneration paid to employees, given by way of “Additional Information”, are only for the purpose of computation of deduction under section 80JJAA, then, the computation of income under the head “Profits and gains of business and profession” would be without providing for disallowance under section 40A(3) in respect of payment to employees by bearer cheque.

Question:4 [Topic: Capital Gain Section 50B-Slump Sale]

Hari Pvt. Ltd had sold all its assets and liabilities as a slump sale on 31.03.2023 to JJ Pvt. Ltd. for a lump sum consideration.

Hari Pvt. Ltd. received following considerations: -

- Money ₹ 400 lakhs
- House Property ₹ 150 lakhs (SDV of Plot)
- Bitcoins ₹ 30 lakhs (Value based on Valuer Report)
- Shares of BB Ltd ₹ 70 lakhs (value as per rule 11UA)

The statement of affairs of Hari Pvt. Ltd. as on 31.03.2023 is as below:

Liabilities	₹ (in lakhs)	Assets	₹ (in lakhs)	₹ (in lakhs)
Equity Share Capital	1,627	Fixed Assets		
Unsecured Loans	25	Plant & Machinery at WDV	250	
Bank Borrowing	500	Land (At Revalued figure)	1,200	
		Unlisted shares (FMV 120 lakhs)	80	1,530

Liabilities	₹ (in lakhs)	Assets	₹ (in lakhs)	
		Current Assets:		
Sunday Creditors	80	Sundry Debtors	300	
		Cash & Bank Balances	2	
		Loan & Advances	150	
		Closing stock	250	702
Total	2,232	Total		2,232

Additional Information:

1. Cost of land in March 2005 was ₹ 100 lakhs & SDV as on 31.03.23 is ₹ 400 lakhs.
2. WDV of plant & Machinery u/s 43(6) was ₹ 200 lakhs.
3. Cost Inflation Index for the financial year 2004-05 was 113 and for 2022-23 is 331.

Compute capital gain arising from slump sale and tax on such gain.

Answer**Computation of Capital Gain arising from Slump sale and Tax on such gain**

Particulars		₹ In lakhs
Full Value of Consideration (Note: 1)		867.00
Less: Cost of acquisition (Net worth) (Note: 2)	—	477.00
Long-term capital gain		390.00
Income tax @20% (under sections 112)		78.00
Add: Surcharge @ 7%, since total income exceeds ₹ 1 crore.	+	5.46
		83.46
Add: Health & Education cess@4%	+	3.338
Total tax liability		86.798

Note: 1 Calculation of FVOC, Higher of FMV1 and FMV2**FMV1 : A+B+C+D-L**

A: Plant & Machinery + Debtors + Cash/Bank Balance + Loan Advance + Closing Stock

$$250 + 300 + 2 + 150 + 250 = 952 \text{ Lakhs}$$

B: NIL

C: FMV of shares = 120 lakhs

D: Land = 400 Lakhs

L: Unsecured Loan + Bank Borrowings + Sundry Creditors

$$25 + 500 + 80 = 605$$

So, **FMV1** = 1472 – 605 = **867 Lakhs**

FMV2 : E+F+G+H

E: 400 lakhs

F: 70 lakhs

G: 30 lakhs

H: 150 Lakhs

So, **FMV2** = 400 + 70 + 30 + 150 = **650 Lakhs**

Note-2: Computation of Net worth of the undertaking

Particulars	₹ (lakhs)	
WDV of block assets (Plant & Machinery) as per section 43 (6)		200.00
Book value of non-depreciable assets		
- Land (Revaluation not to be considered)	100.00	
- Unlisted Shares	80.00	
- Sundry Debtors	300.00	
- Cash & Bank Balance	2.00	
- Loans & Advance	150.00	
- Closing Stock	<u>250.00</u>	<u>882.00</u>
		1082.00
Less: Liabilities		
- Unsecured loans	25.00	
- Bank borrowing	500.00	
- Sundry Creditors	<u>80.00</u>	605.00
Net worth		477.00

Question:5 [Topic: AMT, Sec 115BAC, SEZ section 10AA]

Mr. Dheeraj, aged 48 years, a resident Indian has furnished the following particulars for the year ended 31.03.2023:

- (i) He occupies ground floor of his residential building and has let out first floor for residential use at an annual rent of ₹ 3,34,000. He has paid municipal taxes of ₹ 30,000 for the current financial year. Both these floors are of equal size.
- (ii) As per interest certificate from ICICI bank, he paid ₹ 1,80,000 as interest and ₹ 95,000 towards principal repayment of housing loan borrowed for the above residential building in the year 2015.
- (iii) He owns an industrial undertaking established in a SEZ and which had commenced operation during the financial year 2020-21. Total turnover of the undertaking was ₹ 400 lakhs, which includes ₹ 120 lakhs from export turnover. This industrial undertaking fulfills all the conditions of section 10AA of the Income-tax Act, 1961. Profit from this industry is ₹ 45 lakhs.
- (iv) He employed 20 new employees for the said industrial undertaking during the previous year 2022-23. Out of 20 employees, 12 were employed on 1st May 2022 on monthly emoluments of ₹ 18,000 and remaining were employed on 1st August 2022 on monthly emoluments of ₹ 12,000. All these employees participate in recognised provident fund and they are paid their emoluments directly to their bank accounts.
- (v) He earned ₹ 30,000 and ₹ 45,000 as interest on saving bank deposits and fixed deposits respectively.
- (vi) He also sold his vacant land on 01.12.2022 for ₹ 13 lakhs. The stamp duty value of land at the time of transfer was ₹ 14 lakhs. The FMV of the land as on 1st April, 2001 was ₹ 4.8 lakhs and Stamp duty value on the said date was ₹ 3.8 lakhs. This land was acquired by him on 15.9.1997 for ₹ 2.80 lakhs. He had incurred registration expenses of ₹ 12,000 at that time.
The cost of inflation index for the financial year 2022-23 and 2001-02 are 331 and 100 respectively.
- (vii) He paid insurance premium of ₹ 49,000 towards life insurance policy of his son, who is not dependent on him.

You are requested to compute his total income and tax liability of Mr. Dheeraj for the Assessment Year 2023-24, in the manner so that he can make maximum tax savings.

Solution**Computation of total income of Mr. Dheeraj for A.Y. 2023-24**

	Particulars	₹	₹	₹
I	Income from house property			
	Let out portion [First floor]			
	Gross Annual Value [Rent received is taken as GAV, in the absence of other information]		3,34,000	
	Less: Municipal taxes paid by him in the P.Y. 2022-23 pertaining to let out portion [₹30,000/2]		15,000	
	Net Annual Value (NAV)		3,19,000	
	Less: Deduction u/s 24			
	(a) 30% of ₹ 3,19,000	95,700		
	(b) Interest on housing loan [₹ 1,80,000/2]	90,000	1,85,700	
	Self-occupied portion [Ground Floor]		1,33,300	
	Annual Value		Nil	
	[No deduction is allowable in respect of municipal taxes paid]			
	Less: Interest on housing loan		90,000	
			(90,000)	
	Income from house property [₹ 1,33,300 – ₹ 90,000]			43,300
II	Profits and gains of business or profession			
	Income from SEZ unit			45,00,000
III	Capital Gains			
	Long-term capital gains on sale of land (since held for more than 24 months)			
	Full Value of Consideration [Actual consideration of ₹ 13 lakhs, since stamp duty value of ₹ 14 lakhs does not exceed actual consideration by more than 10%]		13,00,000	
	Less: Indexed Cost of acquisition [₹ 3,80,000 x 331/100]		12,57,800	42,200
	Cost of acquisition			
	Higher of -			
	- Actual cost ₹ 2.80 lakhs + ₹ 0.12 lakhs = ₹ 2.92 lakhs and			
	- Fair Market Value (FMV) as on 1.4.2001 = ₹ 4.8 lakhs but cannot exceed stamp duty value of ₹ 3.8 lakhs.			
IV	Income from Other Sources			
	Interest on savings bank deposits		30,000	
	Interest on fixed deposits		45,000	75,000
	Gross Total Income			46,60,500

Particulars	₹	₹	₹
Less: Deduction u/s 10AA [Since the industrial undertaking is established in SEZ, it is entitled to deduction u/s 10AA@100% of export profits, since P.Y.2022-23 being the 3rd year of operations] [Profits of the SEZ x Export Turnover/Total Turnover] x 100% [₹ 45 lakhs x ₹ 120 lakhs/ ₹ 400 lakhs x 100%]			13,50,000
Less: Deduction under Chapter VI-A			
Deduction under section 80C			
Repayment of principal amount of housing loan	95,000		
Insurance premium paid on life insurance policy of son allowable, even though not dependent on Mr. Dheeraj	49,000	1,44,000	
Deduction under section 80JJAA		9,43,200	
30% of the employee cost of the new employees employed during the P.Y. 2022-23 allowable as deduction [30% of ₹ 31,44,000 [₹ 23,76,000 (12 x 18,000 x 11) + ₹ 7,68,000 (8 x 12,000 x 8)]			
Deduction under section 80TTA			
Interest on savings bank account, restricted to ₹ 10,000		10,000	
			10,97,200
Total income			22,13,300

Computation of tax liability of Mr. Dheeraj for A.Y.2023-24 under the normal provisions of the Act

Particulars	₹	₹
Tax on total income of ₹ 22,13,300		
Tax on LTCG of ₹ 42,200@20%		8,440
Tax on remaining total income of 21,71,100		
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 – ₹ 5,00,000[@5% of ₹ 2.50 lakh]	12,500	
₹ 5,00,001 – ₹ 10,00,000[@20% of ₹ 5,00,000]	1,00,000	
₹ 10,00,001 – ₹ 21,71,100[@30% of ₹ 11,71,100]	3,51,330	4,63,830
		4,72,270
Add: Health and education cess@4%		18,891
Total tax liability		4,91,161
Tax liability (rounded off)		4,91,160

Computation of tax liability of Mr. Dheeraj for A.Y.2023-24 under the special provisions of the Act (Alternate Minimum Tax)

Particulars	₹
Computation of adjusted total income	
Total income as per the normal provisions of the Act	22,13,300
Add: Deduction u/s 10AA	13,50,000
Deduction u/s 80JJAA	9,43,200
	45,06,500
AMT@18.5%	8,33,703
Add: HEC@4%	33,348
AMT liability	8,67,051
AMT liability (rounded off)	8,67,050

Since the regular income tax payable is less than the AMT, the adjusted total income of ₹ 45,06,500 would be deemed to be the total income and tax would be payable @18.5% plus HEC@4%. The total tax liability would be ₹ 8,67,050. In this case, AMT credit of ₹ 3,75,890 (₹ 8,67,050 – ₹ 4,91,160) can be carried forward.

Mr. Dheeraj also can opt to pay tax as per the provisions of section 115BAC if tax liability thereunder is lower. In such case, the AMT provisions would not apply on him. The computation of total income and tax liability as per the provisions of section 115BAC would be as follows:

Computation of total income of Mr. Dheeraj as per section 115BAC for A.Y. 2023-24

Particulars	₹	₹
Gross Total Income as per regular provisions of the Income-tax Act		46,60,500
Add: Interest on borrowing in respect of self-occupied house property not allowable as deduction as per section 115BAC		90,000
Gross Total Income as per section 115BAC		47,50,500
Less: Deduction under section 80JJAA		
30% of the employee cost of the new employees employed during the P.Y. 2022-23 allowable as deduction [30% of ₹ 31,44,000 [₹ 23,76,000 (12 x 18,000 x 11) + ₹ 7,68,000 (8 x 12,000 x 8)]	9,43,200	
No deduction under section 10AA or under Chapter VI-A allowable except u/s 80JJAA		9,43,200
Total income		38,07,300

Computation of tax liability as per section 115BAC

Particulars	₹	₹
Tax on total income of ₹ 38,07,300		
Tax on LTCG of ₹ 42,200@20%		8,440
Tax on remaining total income of ₹ 37,65,100		
Upto ₹ 2,50,000		Nil
₹ 2,50,001 – ₹ 5,00,000 [@5% of ₹ 2.50 lakhs]	12,500	

Particulars	₹	₹
₹ 5,00,001 – ₹ 7,50,000 [@10% of ₹ 2.50 lakhs]	25,000	
₹ 7,50,001 – ₹ 10,00,000 [@15% of ₹ 2.5 lakhs]	37,500	
₹ 10,00,001 – ₹ 12,50,000 [@20% of ₹ 2.5 lakhs]	50,000	
₹ 12,50,001 – ₹ 15,00,000 [@25% of ₹ 2.5 lakhs]	62,500	
₹ 15,00,001 – ₹ 37,65,100 [@30% of ₹ 22,65,100]	6,79,530	8,67,030
		8,75,470
Add: Health and education cess@4%		35,019
Total tax liability		9,10,489
Tax liability (rounded off)		9,10,490

Since tax liability as per section 115BAC is higher than the tax liability of ₹ 8,67,050 being higher of AMT liability and tax liability computed as per normal provisions of the Income-tax Act, 1961, it is beneficial for Mr. Dheeraj not to exercise option under section 115BAC. In such case, his tax liability, therefore, would be ₹ 8,67,050. Moreover, Mr. Dheeraj would also be eligible to claim carry forward of AMT credit of ₹ 3,75,890.

Question:6 [Topic: AMT, SEZ 10AA, 35AD]

PQR LLP, a limited liability partnership set up a unit in Special Economic Zone (SEZ) in the financial year 2018-19 for production of washing machines. The unit fulfils all the conditions of section 10AA of the Income-tax Act, 1961. During the financial year 2021-22, it has also set up a warehousing facility in a district of Tamil Nadu for storage of agricultural produce. It fulfils all the conditions of section 35AD. Capital expenditure in respect of warehouse amounted to ₹75 Lakhs (including cost of land ₹10 lakhs). The warehouse became operational with effect from 1st April, 2022 and the expenditure of ₹75 Lakhs was capitalized in the book on that date.

Relevant details for the financial year 2022-23 are as follows:

Particulars	₹
Profit of unit located in SEZ (It includes profit on sale of import entitlement licence is ₹ 4,00,000 and Duty drawback of ₹ 3,00,000)	47,00,000
Export sales of above unit (Out of export sales ₹ 80 lakhs repatriated in India in foreign currency within time allowed by RBI is ₹ 72 lakhs)	80,00,000
Domestic sales of above unit	20,00,000
Profit from operating of warehousing facility (before considering deduction u/s 35AD).	1,05,00,000

Compute income tax (including AMT u/s 115JC) payable by PQR LLP for Assessment Year 2023-24.

Answer

Computation of total income and tax liability of PQR LLP for A.Y. 2023-24 (under the regular provisions of the Income-tax Act, 1961)

Particulars	₹	₹
Profits and gains of business or profession		
Profit from operation of warehousing facility	1,05,00,000	
Less: Deduction u/s 35AD [See (2) below]	65,00,000	40,00,000
Business income of warehousing facility chargeable to tax		
Profit from unit in SEZ		47,00,000
Gross Total Income		87,00,000
Less: Deduction u/s 10AA [See note (1) below]		28,80,000
Total Income		58,20,000
Computation of tax liability (under the normal/ regular provisions)		
Tax@30% on ₹58,20,000		17,46,000
Add: HEC@4%		69,840
Total tax liability		18,15,840

Computation of adjusted total income PQR LLP for levy of Alternate Minimum Tax

Particulars	₹	₹
Total Income (as computed above)		58,20,000
Add: Deduction u/s 10AA		28,80,000
		87,00,000
Add: Deduction u/s 35AD	65,00,000	
Less: Depreciation u/s 32 on building @ 10% of ₹65 lakhs	6,50,000	58,50,000
Adjusted Total Income		1,45,50,000
Alternate Minimum Tax @ 18.5%		26,91,750
Add: Surcharge cess @12% (since adjusted income total income > ₹1 crore)		3,23,010
		30,14,760
Add: HEC@ 4%		1,20,590
Tax liability u/s 115JC		31,35,350

Since the regular income-tax payable is less than the alternate minimum tax payable, the adjusted total income shall be deemed to be the total income and tax is leviable @18.5% thereof plus surcharge@12% and HEC@4%. Therefore, the tax liability is ₹31,35,350.

AMT Credit to be carried forward u/s 115JEE	₹
Tax liability u/s 115JC	31,35,350
Less: Tax liability under the regular provisions of the Income- tax Act, 1961	18,15,840
	13,19,510

Notes:**1. Deduction u/s 10AA in respect of Unit in SEZ =**

$$= \text{Profits of the Unit in SEZ} \times \frac{\text{Export turnover of the Unit in SEZ}}{\text{Total turnover of the Unit in SEZ}}$$

$$40,00,000 \times \frac{72,00,000}{1,00,00,000} = 28,80,000$$

- (i) Items of business income which are in the nature of ancillary profits and hence, do not constitute profit 'derived from' business for the purpose of deduction u/s 10AA so as per the case law of Liberty India Ltd. profit on sale of Import entitlement licence & duty drawback are not included in profit for the purpose of deduction u/s 10AA.
- (ii) Amount of export sales not repatriated in India within time allowed by RBI is not included in Export sales.
2. Deduction@100% of the capital expenditure is available u/s 35AD for A.Y. 2023-24 in respect of specified business of setting up and operating a warehousing facility for storage of agricultural produce which commences operation on or after 01.04.2012.

Further, the expenditure incurred, wholly and exclusively, for the purpose of such specified business, shall be allowed as deduction during the previous year in which he commences operations of this specified business if the expenditure is incurred prior to the commencement of its operations and the amount is capitalized in the books of account of the assessee on the date of commencement of its operations.

Deduction u/s 35AD would, however, not be available on expenditure incurred on acquisition of land.

In this case, since the capital expenditure of ₹65 lakhs (i.e., ₹75 lakhs – ₹10 lakhs, being expenditure on acquisition of land) has been incurred in the F.Y. 2021-22 and capitalized in the books of account, ₹65,00,000, being 100% of ₹65 lakhs would qualify for deduction u/s 35AD.

Question:7 [Topic: MAT]

Alpha and Beta Tyres Limited, an Indian Company engaged in the manufacture of Tyres in Andhra Pradesh, has adopted IndAS from 1-4-2018. The following particulars are provided for the year ended 31.3.2023 :

1. Net profit as per statement of profit and loss is ₹20 crores after debit and credit of the following items:

Items Debited:

- (i) Depreciation ₹18 crores. Included in depreciation is ₹3 crores, being amount provided on revalued assets.
- (ii) Interest charged for delay in remittance of tax deducted at source ₹20 lakhs.
- (iii) Amount debited to the Statement of Profit and Loss towards interest to a public financial institution is ₹12 lakhs. Out of this, ₹4 lakhs were paid on 12-12-2023.
- (iv) The company committed breach of building norms while extending the factory building. The City Corporation initiated proceedings against the company and the company settled the issue by paying compounding fee of ₹ 50 lakhs. This amount forms part of general expenses, which has been debited to the Statement Profit and Loss.

Items Credited:

- (i) Share Income from Association of Persons in which the company is a member ₹50 lakhs. (The AOP is charged to tax at Maximum Marginal Rate)
- (ii) Amount of ₹6 crores withdrawn from revaluation reserves on account of revaluation of assets.
- (iii) Dividend from Indian companies (listed) ₹ 1 crore.
- (iv) Profit on unit established in SEZ ₹ 2 crores

Other Information:

1. The application of a financial creditor for corporate insolvency resolution process has been admitted by the Hyderabad Bench of the National Company Law Tribunal under section 7 of the Insolvency and Bankruptcy Code, 2016.

2. Brought forward business loss and depreciation.

Assessment Year	Business Loss	Depreciation
2019-20	₹3 crores	₹1 crore
2020-21	₹5 crores	₹2 crores

3. Items credited to other comprehensive income which will not be reclassified to profit or loss:

- Re-measurement of defined employee retirement benefits plan ₹50 lakhs.
- Revaluation surplus of property, plant and equipment ₹1 crore.

4. Items credited to other comprehensive income which will be reclassified to profit or loss:

- Deferred gain on cash flow hedges 2 crores.
- Comprehensive income from discontinued operations 3 crores.

5. The transition amount as on convergence date 1-4-2018 stood at ₹5 crores including capital reserve of ₹50 lakhs (credit balance).

6. Tax payable under the regular provisions of the Income-tax Act, 1961 is ₹0.73 crores.

- Compute Minimum Alternate Tax payable by the company for the Assessment Year 2023-24.
- Compute the amount of MAT credit eligible for carried forward.

Answer

(i) Computation of MAT payable by Alpha and Beta Tyres Limited under section 115JB for A.Y.2023-24

Particulars	₹	₹
Net profit as per statement of profit and loss		20,00,00,000
Add: Net profit to be increased by the following amounts as per Explanation 1 to section 115JB(2):		
- Depreciation	18,00,00,000	
- Interest charged for delay in remittance of TDS	20,00,000	
[As per Explanation 2 to section 115JB, income-tax shall include, <i>inter alia</i> , any interest charged under the Act. Therefore, interest on delay in remittance of TDS has to be added back]		18,20,00,000
		38,20,00,000
Less: Net profit to be decreased by the following amounts as per Explanation 1 to section 115JB(2):		
- Depreciation other than depreciation on revaluation of assets [₹18 crore – ₹3 crore]	15,00,00,000	
- Share income from Association of Persons	50,00,000	
[Share income of company in AOP has to be reduced while computing the book profit, since no income-tax is payable by the company on share income in AOP, as the AOP is chargeable to tax at Maximum Marginal Rate]		
- Amount withdrawn from revaluation reserve [₹6 crore] to the extent it does not exceed depreciation on revaluation of assets [₹3 crore]	3,00,00,000	

Particulars	₹	₹
- Brought forward business loss of ₹8 crore [₹3 crore + ₹5 crore] and unabsorbed depreciation of ₹3 crore [₹1 crore + ₹2 crore]	11,00,00,000	
[Since Alpha and Beta Tyres Limited is a company against which an application for corporate insolvency resolution process has been admitted by NCLT under section 7 of the Insolvency and Bankruptcy Code, 2016, the amount of total loss brought forward (including unabsorbed depreciation) is allowed to be reduced from the book profit for the purposes of levy of MAT under section 115JB].		29,50,00,000
		8,70,00,000
Book profit computed in accordance with Explanation 1 to section 115JB(2)		
Add: Items credited to OCI that will not be reclassified to profit or loss:		
Re-measurement of defined employee benefit plan	50,00,000	
Revaluation surplus of property, plant and equipment ₹1 crore [Book profit not to be increased by revaluation surplus for assets]	Nil	50,00,000
		9,20,00,000
Add: One-fifth of Transition amount [Credit Balance]		
Transition amount	5,00,00,000	
Less: Amounts to be excluded from transition amount		
Capital Reserve	50,00,000	
	4,50,00,000	
One-fifth of ₹4,50,00,000		90,00,000
Book Profit for levy of MAT		10,10,00,000

Computation of MAT	₹
MAT on book profit under section 115JB = 15% of ₹10,10,00,000	1,51,50,000
Add: Surcharge@12% (since book profit exceeds ₹10 crore)	18,18,000
	1,69,68,000
Add: Health and education cess@4%	6,78,720
MAT liability for A.Y.2023-24	1,76,46,720

(ii) *Computation of MAT credit to be carried forward*

Particulars	₹
MAT liability for A.Y.2023-24 (rounded off)	1,76,46,720
Income-tax computed as per the normal provisions of the Act for A.Y.2023-24	73,00,000
Since the income-tax liability computed as per the regular provisions of the Income-tax Act, 1961 is less than the MAT payable, the book profit of ₹10,10,00,000 would be deemed to be the total income and tax is leviable@15%: The total tax liability (rounded off) is ₹1,76,46,720.	

Particulars	₹
Computation of tax credit to be carried forward:	
Tax payable for A.Y.2023-24 on deemed total income	1,76,46,720
Less: Income-tax payable as per the normal provisions of the Act	73,00,000
Tax credit in respect of tax paid on deemed income	1,03,46,720

Question:8 [Topic: Taxation of Trust]

Mani foundations, a charitable trust registered u/s 12AB of the Income-tax Act, 1961, run schools for primary and secondary education. The following particulars pertaining to the PY 2022-23 are furnished to you by the trust:

	Particulars	₹ (in lakhs)
(i)	Gross receipts from students towards tuition fees, development fees, laboratory fees etc.	600
(ii)	Voluntary contributions received from public (including anonymous donation ₹5 lakhs)	25
(iii)	Government grants	8
(iv)	Donation given towards corpus to a Bharat Mata trust registered under section 10(23C)(iv)	2
(v)	The trust gave donation to Gandhiji Free Trust having objects of charitable nature registered u/s 12AB but not similar to the objects of the donor trust.	25
(vi)	Revenue expenses incurred for the purpose of schools [It includes 10 lakhs applied from corpus of Trust, out of the remaining revenue expenditure of ₹ 390 lakh, ₹ 350 lakh was paid during the P.Y.2022-23 itself. Out of the remaining ₹ 40 lakh, ₹ 25 lakh was paid in April, 2023 and ₹ 15 lakh was paid in January, 2024. During the P.Y.2022-23, the trust also paid ₹ 12 lakh towards revenue expenditure incurred during the P.Y.2021-22 and ₹ 10 lakh towards revenue expenditure incurred during the P.Y.2020-21.]	400
(vii)	Included in (vi) above, a sum of ₹ 5 lakhs, being the amount applied for the benefit of the founder of the trust.	
(viii)	The trust acquiring a building in current year for ₹ 200 lakhs out of borrowed money from ICICI Bank Ltd. Principal repayment made in current year is ₹ 55 lakhs	
(ix)	The trust has accumulated ₹ 15 Lakh u/s 11(2) in the F.Y. 2017-18 for a period of five years for extension of one of its schools. The trust has spent ₹13.50 Lakhs for the said purpose till 31.03.2023.	
(x)	Excess of expenditure over income in the PY 2021-22	25

Compute the total income of the trust for the AY 2023-24 in order to avail maximum benefits within the four corners of law.

Answer**Computation of total income of Mani Foundations for the A.Y.2023-24**

Particulars	₹	₹
Gross receipts from students towards tuition fees, development fees etc.		6,00,00,000
Government Grants (taxable, since only grant for the purpose of corpus of a trust established by the Central or State Government is excluded from the definition of income)		8,00,000
Voluntary contributions (other than anonymous donations) [₹25 lakh – ₹5 lakh]		<u>20,00,000</u>
<i>Add:</i> Anonymous donations [to the extent not chargeable to tax@30% under section 115BBC(1)(i)] [See Note]		6,28,00,000
		<u>1,65,000</u>
		6,29,65,000
<i>Less:</i> 15% of income set apart		<u>94,44,750</u>
<i>Less:</i> Amount applied for charitable purposes		5,35,20,250
- Amount applied for the purpose of schools (excluding amount applied for the benefit of the founder, amount applied from Corpus of Trust & amount not paid during PY 22-23) = ₹400 lakh – ₹5 lakh - ₹10 lakhs – 40 lakhs	3,45,00,000	
- Expenditure of PY 21-22 paid in PY 22-23 (As amendment made by FA 2022 trust can claim application only on payment basis and this amendment applicable from AY 22-23, so ₹ 12 lakhs amount can be claim as application in PY 22-23 as it was not allowed in PY 21-22)	12,00,000	
- Repayment of loan taken for acquisition building As per amendment made by FA 21, Application from loans and borrowings shall not be considered as application. However, when such loan or borrowing is repaid from the income of a PY, such repayment shall be allowed as application in the PY in which it is repaid and to the extent it is repaid.	55,00,000	
- Corpus donations to Bharat Mata trust registered under section 10(23C) [Deduction is not permissible in respect of corpus donations to a trust registered u/s 12AA/12AB or Institution u/s 10(23C)]	-	
- Donation to Gandhiji Free Trust registered u/s 12AB – allowable since the same is out of current year income of the trust, even though the objects of the trust are different. Only corpus donations are not permissible to other trusts registered u/s 12AB.	25,00,000	
- Excess of expenditure over income in the P.Y.2021-22	<u>Nil</u>	<u>4,37,00,000</u>
		98,20,250
<i>Add:</i> Amount applied for the benefit of the founder of the trust chargeable to tax u/s 115BBI @ 30%		5,00,000
<i>Add:</i> Amount accumulated for extension of a hospital but not spent deemed to be income u/s 11(3) (₹15 Lakhs - ₹13.5 Lakhs) (Note 2)		1,50,000
<i>Add:</i> Anonymous donation taxable @30% under section 115BBC		<u>3,35,000</u>
Total Income of the trust (including anonymous donation taxable@30%)		<u>1,08,05,250</u>

Note - 1: As per section 115BBC, the anonymous donations in excess of the higher of the following would be subject to tax@30%; - ₹1.65 lakh, being 5% of the total donations received i.e., 5% of ₹33 lakh; or ₹1 lakh (As per ITR Govt. grant is also treated as donation so consider for calculating 5%.)

Therefore, anonymous donations of ₹3.35 lakh (₹5 lakh – ₹1.65 lakh) would be subject to tax@30% under section 115BBC. Such anonymous donations which are subject to tax@30% are not eligible for the benefit of exclusion from total income under sections 11 and 12.

Note – 2: Section 11(3) provides that if the income accumulated for certain purpose is not utilized for the said purpose within the period (not exceeding 5 years) for which it was accumulated, then the un-utilized amount is deemed to be the income of the charitable institution for the previous year in the expiry of the period of accumulation. In the present question trust has applied ₹ 13.5 lakhs out of ₹ 15 lakhs so remaining ₹ 1.5 lakhs treated as specified income and taxable @ 30% u/s 115BBI.

Note – 3: As amendment made by Finance Act, 2021 Excess applied of earlier year is not allowed as applied in current year.

Question:9 [Topic: Exit Tax of Trust/Institution]

GVB Institution approved u/s 10(23C)(v) engaged in the activities of running a hospital and medical college for 10 years, has been merged with a Corporate hospital on 31st March, 2023. The said Corporate Hospital is not eligible for approval u/s 10(23C) of the Act. The position of assets and liabilities of the Institution as on the date of merger are furnished as under:

A: Properties and Assets:	₹
(a) Shares and securities held by Institution acquired out of agricultural income exempt u/s 10(1) of the Act:	25 lakhs
(b) Book value of Quoted shares and securities:	35 lakhs
Market value (Average of lowest and highest price of such shares as on date of merger quoted on recognised stock exchange)	40 lakhs
(c) Book value of Land and Buildings held by Institution:	60 lakhs
Value of Immovable Properties (Land & Buildings) as per valuation report from Registered Valuer:	40 lakhs
Stamp Duty value:	38 lakhs
The Institution was created on 1st January, 2013 and obtained registration u/s 10(23C)(v) on 31st March, 2013.	
(d) Advance Tax paid (Its part of Assets)	12 lakhs
(e) The Institution holds 40% of equity shares in an unlisted company and the financial position of said unlisted company as on date of merger is as under:	₹
Book value of assets (other than immovable property)	25 lakhs
Fair Market value of Immovable Property	45 lakhs
Reserves and Surplus	15 lakhs
Provision for taxation 5 lakhs	
Total amount of Paid-up Equity Share Capital 25 lakhs	

B Liabilities:

(a) Liability in respect of shares and securities (unlisted)	8 lakhs
(b) Bank Liability in respect of quoted shares and securities	15 lakhs

Compute the tax liability, if any, of Institution, arising out of above merger, giving explanation for treatment of each item in the context of relevant provisions contained in the Act. Assume that the Institution has no tax liability in respect of other activities undertaken during previous year 2022-23.

Answer

(a) Computation of exit tax payable by GVB Institution

As per section 115TD, the accreted income of “GVB Institution”, registered u/s 10(23C)(v), would be chargeable to tax at maximum marginal rate@34.944% [30% plus surcharge@12% plus cess@4%] on its merger with another entity not registered u/s 10(23C).

Particulars	Amount (₹)
Aggregate FMV of total assets as on 31.3.2023, being the specified date (date of merger) [See Working Note 1]	1,08,00,000
Less: Total liability computed in accordance with the prescribed method of valuation [See Working Note 2]	<u>23,00,000</u>
Accreted Income	<u>85,00,000</u>
Tax Liability@34.944% of ₹85,00,000	29,70,240
<u>Working Note 1</u>	
<u>Aggregate fair market value of total assets on the specified date</u>	
Share and securities held by the Institution, which are acquired out of agricultural income exempt u/s 10(1) shall be ignored by virtue of proviso to section 115TD(2).	Nil
Quoted shares and securities	40,00,000
[The fair market value of quoted shares would be average of the lowest and highest price of such shares quoted on the recognized stock exchange on the specified date i.e., 31.3.2022]	
Land and building, being immovable property	40,00,000
[The fair market value of land and building would be higher of ₹40,00,000 i.e., price that it would ordinarily fetch if sold in the open market as per registered valuer's certificate and ₹38,00,000, being stamp duty value as on the specified date i.e., 31.3.2022]	
Equity shares in an unlisted company:	
Book value of assets (other than immovable property)	25,00,000
Fair market value of immovable property	<u>45,00,000</u>
	70,00,000
Less: Book value of liabilities in the balance sheet:	
[Provision for taxation not to be included in the liabilities;	
total amount of paid up share capital and reserves and	
surplus would also not be included in liabilities]	<u>Nil</u>
	<u>70,00,000</u>
Value of unlisted shares held by GVB Institution [70,00,000 x 40%]	<u>28,00,000</u>
	<u>1,08,00,000</u>

Working Note 2

Particulars	Amount (in ₹)
Total liability	
Liability in respect of unlisted shares and securities	8,00,000
Bank liability in respect of quoted shares and securities	<u>15,00,000</u>
Total liability of Institution	<u>23,00,000</u>

Question:10 [Topic: DTAA & 115BAC]

The assessee is a popular Tollywood star Mr. Rohan Babu. He has business interest in few other nations as well. He is a resident in India for the Assessment Year 2023-24.

Income earned in India by Mr. Rohan Babu during the year ended 31-3-2023:

(₹ in crores)

Income from house property (Computed)	4.3
Business income:	
From being the owner of cricket team Hyderabad Super Players	12.4
Acting in movies	9.415

Mr. Rohan Babu has deposited ₹ 1.5 lakhs in PPF and paid Life Insurance premium of ₹ 1 lakh.

The details of income earned by Mr. Rohan Babu from two countries outside India, X and Y, with which India does not have any DTAA, during the P.Y. 2022-23 are as under:

Type of Income	X	Y
	(₹ in crores)	
Loss from house property (Computed)	1.3	-
Business income:		
Own	7.2	2.9
Share income from partnership firm (not evidenced by an instrument in writing)	4.8	-
Agricultural income	-	1.2

In Country X, share income is not exempt and loss from house property is not eligible for being set off against other income. In Country Y, agricultural income is chargeable to income-tax.

In Country X, Mr. Rohan Babu has paid income-tax of ₹ 2.16 crores and in Country Y ₹ 80 lakhs on the total income earned in those countries.

Compute Mr. Rohan Babu's income-tax liability for the A.Y.2023-24, assuming that he has opted for section 115BAC.

Answer**Computation of tax liability of Mr. Rohan Babu for A.Y.2023-24**

Particulars	₹	₹
I Income from house property		
Income from house property in India	4,30,00,000	
Less: Loss from house property in Country X	<u>1,30,00,000</u>	3,00,00,000
II Profits and gains of business or profession		
<u>Business income in India</u>		
From being the owner of cricket team Hyderabad Super Players	12,40,00,000	
From acting in movies	<u>9,41,50,000</u>	
	21,81,50,000	

Particulars	₹	₹
<u>Business income in Country X</u>		
Own	7,20,00,000	
Share income from firm1	<u>4,80,00,000</u>	12,00,00,000
<u>Business income in Country Y</u>		<u>2,90,00,000</u>
		36,71,50,000
III Income from Other Sources		
Agricultural income from Country Y		<u>1,20,00,000</u>
Gross Total Income		40,91,50,000
Less: Deductions under Chapter VI-A		
Under section 80C (LIC & PPF)		<u>Not available</u>
Total Income		<u>40,91,50,000</u>
Computation of tax liability:		
Tax on total income		
Upto 2,50,000	-	
2,50,001 to 5,00,000 @5%	12,500	
5,00,001 to 7,50,000 @10%	25,000	
7,50,001 to 10,00,000 @15%	37,500	
10,00,001 to 12,50,000 @20%	50,000	
12,50,001 to 15,00,000 @25%	62,500	
15,00,001 to 40,91,50,000 @30%	<u>1,22,29,500</u>	12,24,82,500
		<u>4,53,18,525</u>
Add: Surcharge@37% (since his total income exceeds ₹ 5 crore)		16,78,01,025
Add: HEC @4%		<u>67,12,041</u>
Tax liability		17,45,13,066
Less: Deduction under section 91 [See Working Notes 1 & 2 below]		<u>2,72,60,000</u>
Net Tax liability (rounded off)		<u>14,72,53,070</u>

Working Note 1: Computation of deduction u/s 91

Particulars	₹
I Deduction under section 91 in respect of doubly taxed income in India and Country X Doubly taxed income:	
Country X (i.e., ₹ 7.2 crores, being business income (+))	₹ 10,70,00,000
₹ 4.8 crores, being taxable share income from firm (-)	
₹ 1.3 crores, loss from house property)	

- 1 It is logical to take a view that exemption under section 10(2A) in hands of the partner would be available only in respect of share income from an Indian firm. In this case, since the share income is from a foreign firm which is not evidenced by an instrument in writing, the same is taxable in India in the hands of the partner.

Working Note 1: Computation of deduction u/s 91			
Particulars			₹
	Lower of Indian rate of tax and rate of tax in Country X [See Working Note 2 below] Deduction u/s 91 = 18% x ₹ 10.70 crores	18%	1,92,60,000
II	Deduction under section 91 in respect of doubly taxed income in India and Country Y Doubly taxed income: Country Y (i.e., ₹ 2.9 crores, being business income (+) ₹ 1.2 crores, being taxable agricultural income) Lower of Indian rate of tax and rate of tax in Country Y [See Working Note 2 below] Deduction u/s 91 = 19.512% x ₹ 4.10 crores	₹ 4,10,00,000 19.512%	80,00,000
Deduction under section 91			2,72,60,000

Working Note 2: Computation of average rate of tax in India, Country X & Y		X & Y
(1)	Average rate of tax in India [17,45,13,066 x 100/40,91,50,000]	42.65%
(2)	Average rate of tax in Country X [2,16,00,000 x 100/12,00,00,000]	18%
(3)	Average rate of tax in Country Y [80,00,000 x 100/4,10,00,000]	19.512%

Question:11 [Topic: Business Trust]

Mr. Sam, a non-resident and Mr. Hari, a resident received following income from REIT during P.Y.2022-23. The components of income are as follows:

	Particulars	Mr. Sam ₹	Mr. Hari ₹
(i)	Rental Income from real estate property owned by REIT	2,01,000	3,05,000
(ii)	Interest Income of REIT from Gamma Ltd.	70,000	80,000
(iii)	Dividend Income of REIT from Gamma Ltd.	39,000	60,000
	Total Income	3,10,000	4,45,000

Gamma Ltd. is an Indian company in which the REIT holds controlling interest. The REIT holds 100% of shareholding of Gamma Ltd. Gamma Ltd. does not exercise option under section 115BAA for A.Y. 2023-24.

Examine whether the above components of the income distributed by REIT would be chargeable to tax in the hands of Mr. Sam and Mr. Hari. Also, examine whether the REIT is required to deduct tax at source on such income distributed to Mr. Sam and Mr. Hari.

Would your answer change if Gamma Ltd. exercises option under section 115BAA for A.Y.2023-24?

Answer

The REIT enjoys pass-through status in respect of rental income from real estate asset owned by it directly and interest income from special purpose vehicle, (i.e., Gamma Ltd., in this case, since it is an Indian company in which REIT holds controlling interest). Therefore, such income is taxable in the hands of the unit holders. In respect of dividend income from special purpose vehicle, REIT enjoys pass-through status. If the SPV is not

opting for the provisions of section 115BAA, the dividend income component would be exempt in the hands of the unit holder. However, if the SPV is exercising the option under section 115BAA, dividend income component would be taxable in the hands of unit holder.

(1) Rental income component of income distributed by REIT: The distributed income or any part thereof, received by Sam and Hari from the REIT, which is in the nature of income by way of renting or leasing or letting out any real estate asset owned directly by such REIT is deemed income of the unit-holder as per section 115UA(3). Accordingly, ₹ 2,01,000 & ₹ 3,05,000 would be deemed income of Sam and Hari as per section 115UA(3) and it is taxable as per normal tax rates. The REIT has to deduct tax at source under section 194LBA@31.2% (being the rate in force) in case of distribution to Sam, being a non-resident and 10% in case of Hari being resident.

(2) Interest component of income distributed by REIT: Interest component of income received from a special purpose vehicle, Gamma Ltd., in this case, and distributed to a unit holder is taxable in the hands of the unit holder. Accordingly, such interest component is taxable in the hands of Sam @ 5% and at normal tax rates in hands of Hari. The REIT has to deduct tax at source u/s 194LBA @5.2%, on ₹ 70,000, since Sam is a non-resident and 10%, on 80,000, since Hari is a resident.

(3) Dividend component of income distributed by REIT: By virtue of section 10(23FD), the dividend component of income distributed to Sam and Hari would be exempt in their hands. Therefore, there is no liability on the REIT to deduct tax at source on the dividend component of income distributed by it to Mr. Sam and Hari.

However, if Gamma Ltd. has exercised option under section 115BAA, then, the dividend income distributed by it would be subject to tax in the hands of the unitholders. Accordingly, ₹ 39,000 is taxable in the hands of Mr. Sam and ₹ 60,000 taxable in hands of Hari. The REIT has to deduct tax at source@10.4% on ₹ 39,000, since Sam is a non-resident and at 10% on 60,000, since Hari is a resident.

Question:12 [Topic: Investment Fund]

Mr. Hari, a resident individual, invested ₹ 2 crores in Baring Investment Fund registered as AIF category II. Hari is holding 10% of interest in Investment Fund. The components of income in hands of Investment Fund are as follows:

	Particulars	₹
(i)	Profit and Gain from Business and Profession	50,00,000
(ii)	Long Term Capital Loss	20,00,000
(iii)	Short Term Capital Gain	45,00,000
(iv)	Income from other sources	15,00,000

- Compute the total income of the investment funds and Hari for A.Y.2023-24
- Determine the amount of loss to be carried forward by Investment Fund and/or Hari to A.Y.2024-25.
- In case the Investment Funds do not distribute the entire income earned during the P.Y.2022-23 to the unit holders by 31.3.2023, would the income chargeable to tax in the hands of Hari, as computed in (i) above, undergo a change

Answer

(i) Computation of total income of the investment funds for A.Y.2023-24

Particulars	₹
Business Income	50,00,000
Capital Gains [Exempt under section 10(23FBA)]	-
Income from other sources [Exempt under section 10(23FBA)]	-
Total Income	50,00,000

Computation of total income of Hari for A.Y. 23-24

Particulars	₹
Business Income [Exempt under section 10(23FBB)]	-
Short Term Capital Gains [45,00,000 x 10%]	4,50,000
Income from other sources [15,00,000 x 10%]	1,50,000
Total Income	6,00,000

(ii) Where in any previous year, the net result of computation of total income of the investment fund [without providing for exemption under section 10(23FBA)] is a loss under any head of income (other than PGBP) and such loss cannot be or is not wholly setoff against income under any other head of income of the said previous year, then, the same has to be treated as loss of unit holders and unit holders can carried forward for set-off as per Chapter VI.

Accordingly, in case of LTCL of ₹20,00,000 cannot be set-off against any other income. The same has to be carried forward by unit holders so Loss from capital gain will be ₹ 2,00,000 to Mr Hari. Assume Hari held units for 12 months or more.

(iii) Section 115UB(6) provides that if the income accruing or arising to, or received by, an Investment Fund, during a previous year is not paid or credited to the unit-holders, it shall be deemed to have been credited to the account of the unit-holder on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year. Therefore, income chargeable to tax in the hands of Hari would not undergo a change, even if the Investment Funds do not distribute the entire income earned by them during the P.Y.2022-23 to the unit holders by 31.3.2023

Question:13 [Topic: Transfer Pricing CUP Method and NJA]

ETI Ltd., the assessee, has sold goods on 12.01.2023 to LP Ltd., located in notified jurisdictional area (NJA), for ₹ 9.50 crores. During the current financial year, ETI Ltd. charged ₹ 10.50 crores from TP Inc. of Country X and ₹ 11 crores from MN Inc. of Country Y for sale of identical goods and both of which are neither associated enterprise of ETI Ltd. nor they are situated in any NJA. While sales to TP Inc. and MN Inc. were on CIF basis, the sale to LP Ltd., was on FOB basis, which paid ocean freight and insurance amounting to ₹ 20 lakhs on purchases from ETI Ltd. If sale to TP Inc. and MN Inc. are made on FOB basis, the cost of freight, insurance would amount to ₹ 18 lakhs.

India has a Double Taxation Avoidance Agreement with the Country X and Country Y. The assessee has a policy of providing after sales support service to the tune of ₹ 13 lakhs to all customers except LP Ltd. which procured the same locally at a cost of ₹ 17 lakhs.

Compute the ALP for the sales made to LP Ltd., and the amount of consequent increase, if any, in the profit of the assessee-company.

Answer

A transaction where one of the parties thereto is a person located in a NJA would be deemed to be an international transaction and all parties to the transaction would be deemed as associated enterprises. Accordingly, all the provisions of transfer pricing would be attracted in case of such a transaction. Hence, the transactions between ETI Ltd, an Indian company and LP Ltd., located in NJA, would be deemed to be international transactions between associated enterprises.

The transactions of ETI Ltd. with TP Inc. of Country X and MN Inc. of Country Y for sale of identical goods are comparable uncontrolled international transactions, since they are neither associated enterprises of ETI Ltd. nor are they situated in NJA. Hence, Comparable Uncontrolled Price (CUP) method can be used to determine ALP.

Where more than one price is determined by the most appropriate method, CUP method in this case, then, the arithmetic mean has to be taken in cases where the number of entries in the dataset is less than 6 (in this case it is only 2). Moreover, the benefit of permissible variation between the ALP and the transfer price based on the

rate notified by the Central Government (i.e., maximum of 3% of transaction price) would not be available in respect of such transaction

Computation of ALP using CUP method

Particulars	TP Inc.	MN Inc.
	₹ in crores	₹ in crores
Price charged by ETI Ltd. (on CIF basis)	10.50	11.00
Less: Ocean freight and insurance, has to be reduced since the price charged to LP Ltd. is on FOB basis	0.18	0.18
	10.32	10.82
Less: Cost of after-sales support service (has to be reduced, since such services are being provided to TP Inc. and MN Inc. but not to LP Ltd.)	0.13	0.13
Arm's Length Price	10.19	10.69
Arithmetic mean of the above prices [(₹ 10.19 crores + ₹ 10.69 crores)/2]		10.44
Less: Price at which goods were sold to LP Ltd.		9.50
Arm's length adjustment [increase in profit of ETI Ltd.]		0.94

Question:14 [Topic: Transfer Pricing Section 94B]

Ridham Ltd. provides you the Profit and loss A/c for the Financial Year 2021-22 and Financial Year 2022-23:

₹ in lakhs

Particulars	For the F.Y. 2021-22	For the F.Y. 2022-23	Particulars	For the F.Y. 2021-22	For the F.Y. 2022-23
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 2021, Ridham Ltd., an Indian Company borrowed ₹ 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 Assessment Year 2023-24, 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.

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 ₹ 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 ₹ 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 under section 94B.

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

Particulars	Amount (in lakhs)
Interest allowable u/s 94B for A.Y. 2022-23	
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 ₹ 70 lakhs EBITDA [₹ 562 lakhs – ₹ 492 lakhs (i.e., 30% of ₹ 1,640 lakhs)]	
- Interest paid or payable to M & T Inc. ₹ 562 lakhs	70
Interest to be disallowed as deduction for A.Y. 2022-23, which can be carried forward up to 8 assessment years	
Interest allowable u/s 94B for A.Y. 2023-24	
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 Nil EBITDA [₹ 389 lakhs – ₹ 413.40 lakhs (30% of ₹ 1378 lakhs)]	
- Interest paid or payable to M & T Inc. ₹ 389 lakhs	Nil
Interest to be disallowed as deduction for A.Y. 2023-24	
Brought forward interest of A.Y. 2022-23 allowed as deduction against profits and gains of A.Y. 2023-24 to the extent of maximum allowable interest expenditure u/s 94B i.e., ₹ 24.4 lakhs [₹ 413.40 lakhs – ₹ 389 lakhs]	
Total interest allowed in A.Y. 2023-24 [₹ 389 lakhs + ₹ 24.40 lakhs)	413.40
Balance of amount of interest relating to AY 2022-23 is eligible for carried forward i.e., ₹ 45.60 lakhs (₹ 70 lakhs minus ₹ 24.40 lakhs) to 7 more subsequent assessment years.	
Income under the head profit and gains of business or profession of Ridham Ltd. for A.Y. 2023-24	
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:15 [Topic NR Taxation – Royalty and Fees for Technical services]

Lords Inc., a British company, received, in the P.Y.2022-23, income by way of fees for technical services of ₹ 3.20 crore from Yamuna Ltd., an Indian company, in pursuance of an agreement between Yamuna Ltd. and Lords Inc. entered into in the year 2012, which is approved by the Central Government. Expenses incurred for earning such income is ₹ 28 lakhs.

Examine the taxability of the above sum in the hands of Lords Inc as per the provisions of the Income-tax Act, 1961 and the requirement, if any, to file return of income, assuming that Lords Inc does not have a permanent establishment in India.

If Lords Inc. has a permanent establishment in India and the contract/agreement with Yamuna Ltd. for rendering technical services is effectively connected with such PE in India, examine the taxability based on the following details provided relating to P.Y.2022-23 –

	Particulars	Amount
(1)	Fees for technical services received from Yamuna Ltd.	₹ 3.20 crore
(2)	Expenses incurred for earning such income	₹ 28 lakhs
(3)	Fees for technical services received from other Indian companies in pursuance of approved agreement entered into between the years 2006 to 2010	₹ 2 crore
(4)	Expenses incurred for earning such income	₹ 21 lakhs
(5)	Expenditure not wholly and exclusively incurred for the business of such PE [not included in (2) & (4) above]	₹ 8 lakhs
(6)	Amounts paid by the PE to HO (not being in the nature of reimbursement of actual expenses)	₹ 14 lakhs

What are the other requirements, if any, under the Income-tax Act, 1961 in this case?

Answer:**(i) Where Lords Inc., a British company, does not have a PE in India**

In this case, Lords Inc. would be eligible for a concessional rate of tax@10% (plus surcharge@2% and HEC@4%) of ₹ 3.20 crore under section 115A on the fees for technical services received from Yamuna 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 Central Government. No deduction, however, would be allowed in respect of expenditure of ₹ 28 lakhs incurred to earn such income.

If tax deductible at source@10.608% has been fully deducted, Lords Inc. need not file its return of income in India under section 139 for A.Y.2023-24.

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

Since Lords Inc. carries on business through a PE in India, in pursuance of an agreement with Yamuna 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 as per section 44DA, such income shall be computed under the head “Profits and gains of business or profession” in accordance with the provisions of the Income-tax Act, 1961.

Accordingly, expenses of ₹ 49 lakhs (₹ 28 lakhs + ₹ 21 lakhs) incurred for earning fees for technical services of ₹ 5.20 crore (₹ 3.20 crore + ₹ 2 crore) is allowable as deduction therefrom. However, expenditure of ₹ 8 lakhs which is not incurred wholly and exclusively for the business of the PE and the amount of ₹ 14 lakhs paid by the PE to the HO is not allowable as deduction.

Lords Inc. is required to maintain books of account under section 44AA and get the same audited under section 44AB and furnish report before the specified date i.e., the date one month prior to the due date of filing return u/s 139(1) for A.Y.2023-24.

Question:16 | NR Taxation - POEM]

ABC Ltd, a software giant in India, set up a 100% subsidiary company by name SHD Inc. in Switzerland on 1st April, 2022. 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 2022-23:

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

Other Information:

I. Break up of total income:

- ₹28 crores derived from the transactions where purchases are made from associated enterprises and sold to non-associated enterprises;
- ₹24 crores derived from the transactions where both purchases and sales are made from/to associated enterprises;
- ₹16 crores derived from the transactions where purchases are made from non-associated enterprises and sold to associated enterprises;
- ₹8 crores by way of income from capital gains on trading of shares;
- ₹4 crores by way of interest from non-associated enterprises;

II. During FY 2022-23, 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.2023-24.

Answer:

SHD Inc., a foreign company, would be resident in India in the P.Y. 2022-23, if its place of effective management is in India in that year.

For determining the POEM of SHD Inc., the important criteria is whether the company is engaged in active business outside India or not.

A company would be said to be engaged in “Active Business Outside India” (ABOI) for POEM, if

- its 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.

SHD Inc. would be regarded as a company engaged in active business outside India for P.Y. 2022-23 for POEM purpose only if it satisfies all the four conditions cumulatively.

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

Total income of SHD Inc. during the P.Y. 2022-23 is ₹80 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 i.e., ₹24 crores; and
- (ii) income by way of, *inter alia*, capital gains i.e., ₹8 crores and interest i.e., ₹4 crores;
- (iii) Passive Income of SHD Inc. is ₹36 crores

Percentage of passive income to total income = ₹36 crore/ ₹80 crore x 100 = 45% Since passive income of SHD Inc. i.e., 45% is not more than 50% of its total income, the first condition is satisfied.

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

Value of total assets of SHD Inc. is ₹60 crores [₹24 crore + ₹12 crore + ₹24 crore]. Value of total assets of SHD Inc. in India is ₹24 crores

Percentage of assets situated in India to total assets = ₹24 crores/₹60 crores x 100 = 40%

Since the value of assets of SHD Inc. 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 SHD Inc. should be situated in India or should be resident in India

Number of employees working in India is 28,000.

Total number of employees of SHD Inc. is 68,000 [30,000+10,000+28,000].

Percentage of employees working in India to total number of employees is 28,000 x 100/68,000 = 41.176%

Since employees of SHD Inc. working in India 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 expenditure on employees in India is ₹5.40 crores

Total payroll expenditure of SHD Inc. is ₹12 crores [4.0 crore + 2.6 crore + 5.4 crore].

Percentage of payroll expenditure on employees in India to total payroll expenditure is ₹5.4 crores/₹12 crores x 100 = 45%

Since payroll expenditure on employees of SHD Inc. in India is less than 50% of its total payroll expenditure, the fourth condition for ABOI test is satisfied.

Since SHD Inc. satisfies all the above four conditions cumulatively, SHD Inc. has passed the Active Business Outside India (ABOI) test.

Determination of POEM of SHD Inc.

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 SHD Inc. is engaged in active business outside India in P.Y. 2022-23 and majority of its board meetings i.e., 3 out of 5, were held outside India, POEM of SHD Inc. would be outside India.

Therefore, SHD Inc. would be non-resident in India for the P.Y. 2022-23.

Question:17 [Multiple Concepts]

Z Pvt. Ltd. ("Z") files its return of income for the P.Y. 2022-23 on 30th September 2023 declaring loss of ₹ 14,00,000. The rate of income-tax applicable to the company is 30%.

The tax auditor of Z, in his audit report submitted under section 44AB, has reported a disallowance of ₹ 50,000 towards personal expenditure of directors as no evidence was produced by Z in support of this expenditure. However, Z did not disallow the same in its computation and return of income.

The return of income was processed by the Centralised Processing Centre making an addition of ₹ 50,000 towards personal expenditure and the loss u/s 143(1) was computed at ₹ 13,50,000.

The return of income was selected for scrutiny assessment and by order passed u/s 143(3), the loss as per normal provisions was reduced to ₹ 10,50,000 by making an addition of ₹ 3,00,000.

The assessment was reopened u/s 147 and by order passed u/s 147, the loss as per preceding order u/s 143(3) was converted into income of ₹ 2,00,000.

From the information given above, choose the **most appropriate answer** to the following questions (Ignore MAT) -

23.1 Which of the following statements regarding penalty on addition of ₹ 50,000 towards personal expenditure is correct?

- (i) Since Z has claimed deduction of amount incurred towards personal expenditure of directors, Z shall be considered to have under-reported its income.
- (ii) The under-reporting on account of claiming personal expenditure of directors as deduction can be construed as misreporting of income as it is a claim of expenditure not substantiated by any evidence.
- (iii) Since addition of ₹ 50,000 is an adjustment referred to in section 143(1)(a), no penalty is leviable in respect of this addition.
- (iv) No penalty is leviable if Z offers an explanation and the Assessing Officer is satisfied that the explanation is bona fide and Z has disclosed all the material facts to substantiate the explanation offered.

- (a) (i) and (iv)
- (b) (ii) and (iv)
- (c) (iii) only
- (d) (iv) only

23.2 What is the penalty leviable u/s 270A as a consequence of assessment u/s 143(3), if the addition was not on account of misreporting?

- (a) ₹ 46,800
- (b) ₹ 70,200
- (c) ₹ 93,600
- (d) ₹ 1,63,800

23.3 What is the penalty leviable u/s 270A at the time of passing of the order u/s 147 considering that all additions are on account of misreporting of income?

- (a) ₹ 7,80,000
- (b) ₹ 5,30,400
- (c) ₹ 1,95,000
- (d) ₹ 1,24,800

23.4 Assuming that the additions made in the order u/s 147 are not on account of misreporting of income but only on account of under-reporting, Z seeks to claim immunity from imposition of penalty u/s 270A and initiation of proceedings u/s 276C of the Act by filing an application in this regard before the Assessing Officer. What are the other conditions that need to be satisfied by Z in this regard?

- (i) Pay the tax and interest payable as per the order u/s section 147 within the period specified in the notice of demand.
- (ii) Pay the tax as per the order u/s section 147 within the period specified in the notice of demand.
- (iii) Contest the additions made in the order, after payment of tax and interest, within the period specified in the notice of demand.
- (iv) No appeal should be or should have been filed against the order.

The correct answer is-

- (a) (ii) and (iv)
- (b) (i) and (iii)
- (c) (ii) and (iii)
- (d) (i) and (iv)

Question No.	Answer
18.2	(d) Yes, tax to be collected at source @5% on ₹ 6,90,000, being the total amount of expenditure on overseas tour program package.
18.3	(d) ₹ 832
18.4	(b) @1% on ₹ 17,20,000
18.5	(c) Yes, tax to be deducted at source @1% on SDV of ₹ 50,50,000

Question No: 19 [Topic PGBP 33AB and 79 Section of Set-off Carry Forward]

M/s. Gomati P Ltd., a closely held company, is in the business of growing rubber. The profit & loss account for the year ended 31-03-2023 of the company shows a net profit ₹37.65 crores after debiting depreciation of ₹30 crores.

The company has provided the following additional information:

- (i) The company has deposited ₹30 crores in a special account with NABARD on 29-04-2023.
 - (ii) The company has brought forward losses of ₹6 crores pertaining to Assessment Year 2020-21. Mr. A who continuously held 60% of shares carrying voting power since incorporation of the company, had sold his entire holding to Mr. B on 01-08-2022.
 - (iii) The company had an accumulated balance of ₹200 crores in the special account with NABARD as on 01-04-2022. It has withdrawn ₹40 crores and utilized the same for the following purposes:
 - Purchase of a new sprinkling machine for use in its operation ₹10 crores,
 - Purchase of office appliances for corporate office at Chennai ₹10 crores.
 - Purchase of computers and accessories ₹5 crores.
 - Construction of a godown at a cost of ₹1 crore near the rubber estate to store raw rubber.
 - Repairs to machinery ₹35 lakhs.
 - (iv) On 31-03-2023 the company has sold machinery which was purchased on 10-05-2014 for ₹10 crores. The purchase of the said machinery was in accordance with the scheme of deposit.
 - (v) Depreciation allowable as per Tax Audit Report is ₹28 crores.
- Compute Taxable and Exempt income of M/s. Gomati (P) Ltd.

Answer:

Computation of Taxable and Exempt Income of M/s Gomati (P) Ltd. for the A.Y. 2023-24

Particulars	₹
Net profit as per Profit and Loss Account	37,65,00,000
Add: Excess depreciation as per books of account	
Depreciation as per books of account	₹30,00,00,000
Less: Depreciation allowable as per the Income-tax Act, 1961.	₹28,00,00,000
Net profit before allowing deduction u/s 33AB	39,65,00,000
Less: Deduction u/s 33AB would be the lower of:	
- Amount deposited in Rubber Development Account on or before 30.9.2023 [i.e., ₹30,00,00,000]	15,86,00,000
- 40% of profits of such business [i.e., ₹15,86,00,000, being 40% of ₹39,65,00,000]	
Net profit after allowing deduction u/s 33AB	23,79,00,000
Add: Amount withdrawn from special account with NABARD, which is deemed as profits and gains of business or profession	

Particulars	₹
(i) Purchase of a new sprinkling machine for use in its operation for ₹10 crores, would not be deemed as profits and gains of business or profession, since the said amount is utilised as per the specified scheme.	Nil
(ii) Purchase of office appliances for corporate office at Chennai for ₹10 crores, out of the amount withdrawn from the deposit account, would be deemed as profits and gains of business or profession, since the said utilisation is not permissible.	10,00,00,000
(iii) ₹5 crores utilised for purchase of computers and accessories is permissible. Thus, such amount would not be deemed as profits and gains of business or profession.	Nil
(iv) ₹1 crore utilised for construction of a godown near rubber estate to store raw rubber, would not be deemed as profits and gains of business or profession, since the said amount is utilised as per the specified scheme.	Nil
(v) ₹35 lakhs utilised for repairs to machinery would not be deemed as profits and gains of business or profession, since the said amount is utilised as per the specified scheme. Note - However, no deduction would be allowed in respect of such expenditure mentioned in (i), (iii), (iv) and (v) during the P.Y. 2022-23, since amount is spent out of the amount deposited in special account with NABARD, which has already been allowed as deduction in an earlier assessment year.	Nil
(vi) The remaining amount of ₹13.65 crores {₹40 crores less ₹26.35 crores [utilised above in (i) to (v)]}, which is not utilised during the previous year in which such amount is withdrawn, would be deemed as profits and gains of business or profession.	13,65,00,000
Add: Sale of machinery acquired out of the amount withdrawn from special account in accordance with the scheme of deposit. The cost of such machinery would be deemed as profits and gains of business or profession, since such machinery is sold before the expiry of eight years from the end of the previous year of its acquisition. [See Note at the end of the solution]	10,00,00,000
Total Composite business profits	57,44,00,000
Less: 65% of ₹57,44,00,000, being agricultural income exempt	37,33,60,000
Business income	20,10,40,000
Less: Brought forward business loss of ₹6 crores pertaining to A.Y.2020-21 not allowed to be set-off against the business profits of the P.Y. 2022-23, since as on 31.3.2023, the shares of M/s Gomati P Ltd carrying 60% (i.e., not less than 51%) of the voting power is held by Mr. B and not by Mr. A, being the person who held such shares as on 31.03.2020, being the last day of previous year 2019-20, in which such loss was incurred.	-
Business income chargeable to tax	20,10,40,000

Note – As per section 33AB(5), the cost of the asset acquired would be deemed as profits of the year in which it is sold, only if the sale takes place before the expiry of eight years from the end of the previous year in which it was acquired. In this case the asset was acquired in the P.Y.2014-15. The eight year period from the end of P.Y.2014-15 would expire on 31.3.2023. As per the plain reading of section 33AB(5), if the sale takes place before 31.3.2023, the cost of asset would be deemed as profits of the previous year of sale. However, in this case, the sale took place exactly on 31.3.2023 and not before 31.3.2023. Therefore, it is possible to take a view that the deeming provision would not apply in this case. If this alternate view is taken, total composite business profits would be ₹47,44,00,000. Agricultural income would be ₹30,83,60,000 and business income chargeable to tax would be ₹16,60,40,000.

Question:20 [FII- NR Taxation]

Neptune Inc, a notified Foreign Institutional Investor (FII), derived the following incomes for the financial year 2022-23:-

- (1) Interest received on investment in Rupee Denominated Bonds of ABC Ltd., an Indian company (investment was made in the F.Y.2017-18) - ₹8,50,000
- (2) Interest on securities – ₹17,32,000 (Expenses of ₹26,000 has been incurred to earn such income)
- (3) Income from sale of securities and shares:

- (i) Bonds of Jupiter Ltd.

[Date of purchase 5 May 2019; Date of sale 7 March 2023]

Sale proceeds:	₹47,00,000
Cost of purchase:	₹32,00,000

- (ii) Listed Shares of Earth Ltd.

[Date of purchase – 2 May, 2022; Date of sale – 9 February, 2023]

Sale Consideration	₹12,40,000
Purchase cost	₹7,80,000

[STT paid both at the time of purchase and sale]

- (iii) Unlisted equity shares of Mars Ltd.

[Date of purchase – 1 July, 2022; Date of sale – 7 March, 2023]

Sale Consideration	₹8,40,000
Purchase cost	₹3,72,000

Answer:

Compute the total income and tax liability of the FII, Neptune Inc., for the A.Y. 2023-24, assuming that no other income is derived by Neptune Inc. during the F.Y.2022-23.

Computation of total income of Neptune Inc., a notified FII, for A.Y.2023-24

Particulars	₹	₹
Interest on Rupee Denominated Bonds	8,50,000	
Interest on securities [No deduction is allowable in respect of expenses incurred in respect thereof]	17,32,000	25,82,000
Long-term capital gains on sale of bonds of Jupiter Ltd.		
Sale consideration		
Less: Cost of acquisition	47,00,000	
[Benefit of indexation is not allowable]	<u>32,00,000</u>	15,00,000
Short-term capital gains on sale of STT paid equity shares of Earth Ltd.		
Sale consideration	12,40,000	
Less: Cost of acquisition	<u>7,80,000</u>	4,60,000
Short-term capital gains on sale on unlisted equity shares of Mars Ltd.		
Sale consideration	8,40,000	
Less: Cost of acquisition	<u>3,72,000</u>	4,68,000
Total Income		50,10,000

Computation of tax liability of Neptune Inc. for A.Y.2023-24

Particulars	₹
Tax@5% on interest of ₹8,50,000 received from an Indian company on investment in rupee denominated bonds = 5% x ₹8,50,000	42,500
Tax@20% on interest on securities of ₹17,32,000 = 20% x ₹17,32,000	3,46,400
Tax@10% on long-term capital gains on sale of bonds of Jupiter Ltd. = 10% x ₹15,00,000	1,50,000
Tax@15% on short-term capital gains on sale of listed equity shares of Earth Ltd., in respect of which ST T has been paid = 15% of ₹4,60,000	69,000
Tax@30% on short-term capital gains on sale of unlisted equity shares of Mars Ltd. = 30% of ₹4,68,000	1,40,400
	7,48,300
Add: HEC@4%	29,932
Tax Liability	<u>7,78,232</u>
Tax Liability (rounded off)	<u>7,78,230</u>

Question:21 [TP, DTAA, Equalisation Levy]

Alpha (P) Ltd. is engaged in manufacture of garments. It sold garments to Beta Inc. of California, USA (which has 28% voting power in Alpha (P) Ltd.) and to other unrelated parties. During the P.Y.2022-23, Alpha (P) Ltd. sold 2 lakh pieces of T-shirt @ USD 6 per piece to Beta Inc. Identical shirts were sold to other unrelated parties @USD 8 per piece. However, the terms of sales to Beta Inc. included provision of guarantee by Beta Inc. to Bank of America (BOA), on a loan of ₹ 10 crores availed by the company from BOA; and providing the company access to Beta Inc's database on market trends in Asia. The interest paid by Alpha (P) Ltd. on the BOA loan for the financial year ended 31st March, 2023 amounts to ₹ 200 lakhs. Alpha (P) Ltd. paid a fee @ 1% to Beta Inc. for providing the guarantee on the loan from BOA. The market rate for availing guarantee for a similar transaction is 2%. Alpha (P) Ltd. also paid ₹ 7 lakhs to Beta Inc. towards the cost incurred in providing access to its database. If the company had obtained similar database from an unrelated party, the cost would have been ₹ 12 lakhs.

Beta Inc. markets apparels globally under its brand name. It sells in many countries including India through e-commerce operators at a price, which is generally marked-up at 50% on its cost of purchase. During the F.Y. 2022-23, its sales in India was ₹ 2.80 crores through e-commerce operator viz., Phi e-Com Ltd., London, which does not have a permanent establishment in India. Leveraging their combined knowledge and experience, Alpha (P) Ltd. and Beta Inc. provided their know-how on the supply chain of textile industry to an unrelated party viz., Delta Inc., USA, a new company manufacturing garments from recycled plastics.

For the A.Y. 2020-21, the total income of Alpha (P) Ltd. was enhanced by ₹ 350 lakhs by the Assessing Officer, in conformity with the arm's length price determined by the Transfer Pricing Officer. The assessment order is dated 31.10.2022. The company decided to accept the adjustment made in the assessment order.

Dr. Philip was Director (R & D) of Alpha(P) Ltd. up to 31.03.2018. On 1.4.2018, he returned to his home country, Country Y. He visits India every year for 55 days. In the F.Y. 2022-23, he earned royalty income of ₹ 15 lakhs from ABC Ltd., an Indian concern, under an agreement approved by the Central Government and incurred expenditure of ₹ 2 lakhs for earning such income. His interest income on fixed deposits with SBI, Baroda branch amounts to ₹ 4 lakhs. His business income in Country Y for the financial year 2022-23 is USD 22172 and interest on savings bank account in Country Y for that year is USD 1472.

Assume the rate of exchange as 1 USD = ₹ 80 and the one year marginal cost of fund lending rate of SBI as on 1.4.2021 is 10% and as on 1.4.2022 is 10.25%.

Choose the correct alternative for the following MCQs:

- I. What is the 'due date' by which Alpha (P) Ltd. must receive the excess money consequent to ALP adjustment made in the assessment order for A.Y.2020-21?
- (a) 29.1.2023
(b) 31.1.2023
(c) 28.02.2023
(d) 31.03.2023
- II. What is the amount of interest which would be added to the total income of Alpha Ltd. for A.Y.2023-24, if the excess money referred to in MCQ 1 is not repatriated till 31.3.2023?
- (a) ₹ 4,40,137
(b) ₹ 14,84,144
(c) ₹ 19,18,527
(d) ₹ 19,54,726
- III. In case Alpha (P) Ltd. is not able to repatriate the excess money referred to in MCQ 1 from Beta Inc., what is the additional income-tax it should pay, so that there is no secondary adjustment?
- (a) ₹ 75,42,080
(b) ₹ 73,38,240
(c) ₹ 72,05,380
(d) ₹ 70,01,640
- IV. What would be the most appropriate method for determination of ALP in respect of the transactions between Alpha (P) Ltd. and Beta Inc., who leveraged their combined knowledge, and provided technical knowledge on the supply chain industry to Delta Inc. of USA?
- (a) Comparable Uncontrolled Price Method
(b) Transaction Net Margin Method
(c) Profit Split Method
(d) Cost Plus Method

Answer Key

Question No.	Answer
I	(a)
II	(d)
III	(b)
IV	(c)

DESCRIPTIVE QUESTIONS

V. Compute the total income and tax liability of Dr. Philip under the Income-tax Act, 1961, on the assumption that there is no DTAA between India and Country Y. Determine the amount of tax deductible at source from the royalty and interest paid/ payable to Dr. Philip. Is Dr. Philip required to file his income tax return (ITR) in India?

Solution

Dr. Philip would be a non-resident in India for A.Y. 2023-24, since he has stayed in India only for 55 days during the P.Y. 2022-23.

As per section 5(1), in the case of a non-resident, income which accrues or arises or which is deemed to accrue or arise to him in India or which is received or is deemed to be received in India would be includible in his total income. Accordingly, only royalty from an Indian concern and interest on fixed deposit with SBI, Baroda

branch would be taxable in India in his hands. Income earned from business in Country Y and interest on savings bank account in Country Y would not be included in his total income.

Computation of total income of Dr. Philip for A.Y. 2023-24

Particulars	Amount (₹)
Royalty [No deduction in respect of any expenditure would be allowed as per sec. 115A(3)]	15,00,000
Interest on fixed deposit with SBI, Baroda branch	4,00,000
Gross Total Income/Total Income	19,00,000

Computation of tax liability:	Amount (₹)
Tax @10% on royalty u/s 115A [Since it is received from an Indian concern, in pursuance of an agreement with the Central Government]	1,50,000
Tax on other income of ₹ 4 lakhs (5% of ₹ 1.50 lakhs, being the income in excess of the basic exemption limit of ₹ 2.50 lakhs)	7,500
	1,57,500
<i>Add:</i> Health and education cess@4%	6,300
Tax Liability	1,63,800

Determination of tax deductible at source:

Any person responsible for paying interest or any other sum chargeable to tax (other than salaries) to a non-corporate non-resident or to a foreign company is liable to deduct tax at source at the rates prescribed by the relevant Finance Act.

Tax has to be deducted at source on royalty and interest paid/payable to Dr. Philip @10% and 30%, respectively. Further, since Dr. Philip is a non-resident, health and education cess @ 4% on TDS would also be added.

Tax to be deducted at source would be ₹ 1,56,000 i.e., @10.4% on ₹ 15 lakhs, being the royalty income and ₹ 1,24,800 i.e., @ 31.2% on ₹ 4 lakhs, being the interest income.

Requirement for filing ITR:

Section 115A(5) provides that if the total income of the non-resident comprises of only income referred to in section 115A and tax deductible at source has been fully deducted and the rate of such deduction is not less than the rate specified therein, it shall not be necessary for him to file his return of income.

However, in this case, Dr. Philip has interest income as well. Therefore, he cannot avail the benefit of exemption from filing of return of income as contained in section 115A. Hence, he would be liable to file his return of income for A.Y.2023-24.

VI. Examine the tax implications on the transaction of sale of goods by Beta Inc. in India through Phi e-Com Ltd under the domestic tax laws. What would be your answer if the aggregate transactions with persons in India during the P.Y.2022-23 is ₹ 1.8 crores, instead of ₹ 2.8 crores?

Solution

As per section 9(1)(i), business profits of a non-resident would be deemed to accrue or arise in India, if such income accrues or arises through or from any business connection in India. In such a case, such income would be taxable in the hands of the non-resident in India.

As per *Explanation 2A* to section 9(1)(i), significant economic presence of a non-resident shall constitute business connection. In this case, significant economic presence is constituted since the aggregate of payments

arising from transactions in respect of goods carried out by Beta Inc., a non-resident, in India during the P.Y.2022-23 is ₹ 2.80 crores, which exceeds the annual threshold of ₹ 2 crores.

Therefore, Beta Inc. has a significant economic presence in India, which constitutes business connection. Accordingly, so much of income as is attributable to such transactions will be deemed to accrue or arise in India.

Phi ECom Ltd., the non-resident e-commerce operator facilitating e-commerce supply of goods, would be liable to pay equalization levy@2% of ₹ 2.80 crores, being the amount of consideration received from e-commerce supply of goods, since it does not have a PE in India and the amount of consideration exceeds the threshold of ₹ 2 crores.

Hence, in this case, Beta Inc. has to pay income-tax due to significant economic presence in India and Phi ECom Ltd. has to pay equalization levy@2% on consideration received from e-commerce supply of goods. It is logical to take a view that exemption under section 10(50) from levy of income-tax, in a case where equalization levy has been paid, would apply only if both taxes are to be paid by the same person, which is not so in this case.

If the aggregate of payments arising from transactions in respect of goods carried out by Beta Inc., a non-resident, in India during the P.Y.2022-23 is ₹ 1.80 crores, significant economic presence would not be constituted since the said sum is lower than the annual threshold of ₹ 2 crores. Hence, no part of the income would be chargeable to tax in India. Likewise, equalization levy is not attracted since the consideration is less than of ₹ 2 crores.

VII. Compute the arm's length adjustment, if any, to be made to the transfer price in respect of garments supplied by Alpha (P) Ltd. to Beta Inc. for the A.Y.2023-24.

Solution

As per section 92A, Beta Inc., California and Alpha (P) Ltd., an Indian company, would be deemed to be associate enterprises, since Beta Inc., California, holds shares carrying not less than 26% (28%, in the present case) of the voting power in Alpha (P) Ltd.

As per section 92B, the transactions entered into between Alpha (P) Ltd., an Indian company, and Beta Inc., USA, being associated enterprises, for sale of T-shirts would be international transactions.

Alpha (P) Ltd. is also selling T-shirts to unrelated parties, which would be the comparable uncontrolled transaction in this case. The selling price for unrelated customers has to be adjusted by taking into consideration the functional differences existing between the transactions of Alpha (P) Ltd., with associated enterprise (Beta Inc.) and other unrelated parties.

Accordingly, the ALP for sale of T-shirts has to be computed for working out the impact on assessable value as per CUP method.

Computation of arm's length adjustment to be made

Particulars	Amount (in ₹)
Selling price of T-shirts to unrelated parties by Alpha (P) Ltd. [2 lakh x ₹ 8 per piece x ₹ 80]	12,80,00,000
Adjustments for functional differences	
Less: Guarantee fee [Beta Inc. provided guarantee to BOA on a loan of ₹ 10 crores availed by Alpha (P) Ltd. for a fee @1% while market rate for availing guarantee for similar transaction is 2%. Therefore, guarantee fee @1% on ₹ 10 crores shall be adjusted]	10,00,000

Less: Cost of accessing the database [Alpha (P) Ltd. paid ₹ 7 lakhs to Beta Inc for providing access to its database on markets trend while similar database is available from unrelated party at a cost of ₹ 12 lakhs. Therefore, adjustment for cost of such database has to be carried out]	5,00,000
Arm's length price	12,65,00,000
Sale price of T-shirts to Beta Inc. (associated enterprise) [2 lakh x \$ 6 per unit x ₹ 80]	9,60,00,000
Amount to be added to its total income	3,05,00,000

Question: 22 (NR Taxation)

Business International Ltd. (BI) is a multinational Group with interests in multiple businesses. The consolidated group revenue of BI Group is more than ₹ 10,000 Crores. A-XI Ltd., an Indian company successfully bid for Indian Cricket League (ICL). A-XI Ltd. is a part of the BI Group. The company selected 15 players cricket team. As per ICL mandate, the team composition would be mixed Indian and Foreign players. A-XI Ltd. selected foreign players from South Africa, Australia, Kenya and Bangladesh. All the foreign players will get \$1MN as match fees.

More details about each of the parties with whom A-XI Ltd. transacts and details of the transactions are as under:

1. Peter, Player from South Africa.

In the financial year 2022-23, Peter was in India for a test series for 60 days and after 20 days rest period in India, he played ICL for another 60 days.

<i>His income from India is as below: Particulars</i>	<i>Amount</i>	<i>Remarks</i>
<i>Test match fee</i>	<i>\$ 0.5 MN</i>	
<i>ICL Match Fees</i>	<i>\$ 1.0 MN</i>	
<i>Advertisement for an automobile company headquartered in US</i>	<i>\$ 0.25 MN</i>	<i>The shooting was held in India. The payer company is from US.</i>
<i>Article writing fee (Articles on ICL)</i>	<i>\$ 0.10 MN</i>	<i>The article was published in newspaper widely circulated in India.</i>
<i>Participation fees charged in live TV show in India.</i>	<i>\$ 0.25 MN</i>	
<i>Article writing fee for an online platform. (Articles on Motivation etc. of Sportsmen)</i>	<i>\$ 0.25 MN</i>	<i>Published in leading sports portal accessible worldwide.</i>
<i>Auction of his Cricket bat</i>	<i>\$1.00 MN</i>	<i>Which is donated to a, charitable Institution in India (approved under section 80G).</i>

2. Shiv Paul, Player from Kenya.

He was in India in FY 2022-23 for 90 days only. His father was citizen of India, settled in Kenya. His father has a residential house in Jaipur (Rajasthan) which is rented to an Individual and the monthly rental income ₹ 2 lakhs. Rent is paid by the tenant to a Private Trust created by his father where Shiv Paul is the sole beneficiary, and the trust is registered in Cayman Island. The private trust is non-discretionary, specific, irrevocable trust. The bank account of the trust is in Kenya and rent is remitted to Kenya Bank Account. Apart from ICL match fees, he also participated in advertisement of fashion wear and income from such advertisement shoot is ₹ 10 lakhs.

Choose the correct alternative from the following MCQs:

- I. What is the due date for filing Country by country reporting by A-XI Ltd.?
- (A) On or before the due date of furnishing the return of income.
 (B) One month before the specified date of filing of Income tax return.
 (C) Within the end of twelve months from the end of the accounting period of the reporting entity.
 (D) On or before the end 30th November of the Assessment year.
- II. Is the tenant of the Jaipur house required to deduct tax at source while remitting the rent, if the rent is taxable in India?
- (A) No, because individual assessee is not required to deduct TDS unless the Turnover in the preceding years from business exceeds ₹ 1 Crore.
 (B) No, because the house is being used for residential purpose and not for business purpose.
 (C) Yes, because TDS is applicable while making payment to Non-resident and the sum is chargeable to tax in India.
 (D) Yes, because the rent payment is more than ₹ 2.40 lakhs.

Answer Key

Question No.	Answer
I	(c)
II	(c)

- III. Give a brief note on the taxability of each source of income of Peter, the South African player. (Assume exchange rate for computing income to be 1 USD = 75 INR)

Solution

Peter, being a foreign national, would be non-resident in India for the A.Y. 2023-24 since his stay in India is for only 140 days during the previous year 2022-23. His stay in India is less than 182 days in the P.Y.2022-23. Also, he does not satisfy the condition of minimum 60 days in the P.Y.2022-23 and 365 days in the four immediately preceding previous years, since the question does not mention about his stay in India in the earlier previous years.

In case of non-resident, income which accrues or arises in India, income which is received in India and income which is deemed to accrue or arise in India would alone be taxable in India.

As per section 115BBA, income received or receivable by a non-resident sportsman (including an athlete) by way of *inter alia* participation in any game or sport in India; or advertisement; or contribution of articles relating to any game or sport in India in newspapers, magazines or journals would be chargeable to tax @20% plus surcharge, where applicable, plus health and education cess@4%. Accordingly, his income from India would be taxable in the following manner:

Test match fee [$\$ 0.5 \text{ MN} \times ₹ 75$] $\times 10/100 = ₹ 3.75$ crores – taxable @20% under section 115BBA, since it is for participation in a sport in India.

ICL Match fees [$(\$ 1.0 \text{ MN} \times ₹ 75) \times 10/100 = ₹ 7.50$ crores - taxable @20% under section 115BBA, since it is for participation in a sport in India.

Advertisement for an automobile company headquartered in US [$\$ 0.25 \text{ MN} \times ₹ 75$] $\times 10/100 = ₹ 1.875$ crores - is deemed to accrue or arise in India since the shooting is in India Thus, such income would be taxable in India @20% u/s 115BBA, though the payer company is from US.

Article writing fees (Articles on ICL) [$\$ 0.10 \text{ MN} \times ₹ 75$] $\times 10/100 = 0.75$ crores (or ₹ 75 lakhs), taxable @20% under section 115BBA, since it for an article in respect of sports and published in newspaper.

Participation fees charged in live TV show in India, [$(\$ 0.25 \text{ MN} \times ₹ 75) \times 10/100$] = ₹ 1.875 crores would be taxable in India as per the normal rates of tax and not as per section 115BBA, since participation fee is not in respect of any game or sport in India.

Article writing fee for an online platform $[(\$ 0.25 \text{ MN} \times ₹ 75) \times 10/100] = ₹ 1.875$ crores would be taxable in India as per the normal rates, since these articles are not written in newspapers, magazines or journals.

Auction of his cricket bat $[(\$ 1.0 \text{ MN} \times 75) \times 10/100] = ₹ 7.5$ crores would be taxable in India as per the normal rates of tax not as per section 115BBA, since it is not in respect of participation in matches, or advertisement or article writing in newspapers, magazines or journals. Deduction u/s 80G would be allowable for amount donated to an approved charitable institution to the extent of 50% of (lower of amount donated or 10% of adjusted total income).

IV. Give a brief note on the total income and tax liability of Shiv Paul, Kenya Player. Whether your answer would be different if there is no trust, and the payment of rent is made directly to the account of Shiv Paul outside India?

Solution

Mr. Shiv Paul, player from Kenya, would be non-resident in India, since his stay in India during the previous year 2022-23 is only for 90 days. Accordingly, income which accrues or arises in India, income which is received in India and income which is deemed to accrue or arise in India would be taxable in his hands in India for the P.Y. 2022-23.

As per section 115BBA, income received or receivable by a non-resident sportsman (including an athlete) by way of *inter alia* participation in any game or sport in India would be chargeable to tax @20% plus surcharge, if applicable plus health and education cess @4%.

(i) As per section 60 of the Income-tax Act, 1961 rental income in respect of Jaipur house which is transferred to the Private trust would be taxable in the hands of father of Mr. Shiv Paul though Mr. Shiv Paul is the sole beneficiary of the trust, since such income is transferred to the Private trust without actual transfer of the asset.

Accordingly, Mr. Shiv Paul total income would comprise of match fees of ₹ 7.50 crores (1 million USD x ₹ 75 x 10/100) and income from advertisement of ₹ 10 lakhs, totalling ₹ 7.60 crores taxable @28.496% (i.e., 20% plus surcharge @37% and cess @4%) as per section 115BBA. The tax liability would be 28.496% of ₹ 7.60 crores = ₹ 2.1657 crores or ₹ 216.57 lakhs.

(ii) The total income and tax liability of Shiv Paul would not change even if there is no trust and the payment of rent is made directly to the account of Shiv Paul, since such income is transferred without actual transfer of the asset.

Question:23

Kishore & Sons is a dealer of coal. Its turnover for the F.Y. 2021-22 was ₹ 12 crores. The State Government of Hyderabad granted a lease of coal mine to Kishore & Sons on 1.5.2022 and charged ₹ 11 crores for the lease. Kishore & Sons sold coal of ₹ 95 lakhs to M/s BAC Co. during the P.Y. 2022-23. M/s XYZ Ltd. purchased coal of ₹ 55 lakhs from Kishore & Sons for trading purpose in July 2022. Turnover of M/s XYZ Ltd. during the P.Y. 2021-22 was ₹ 12 crores. PAN is duly furnished by the buyer and seller to each other. Details of sale to and payments from M/s BAC Co. by Kishore & Sons are as follows:

S. No.	Date of sale	Date of receipt/ Payment	Amount (₹)
1	29.05.2022	10.05.2022	35,00,000
2	30.06.2022	10.07.2022	25,00,000
3	25.11.2022	25.10.2022	8,00,000
4	20.01.2023	22.01.2023	15,00,000
5	01.03.2023	15.02.2023	12,00,000

Turnover of M/s BAC Co. during the P.Y. 2021-22 was ₹ 11 crores. The above amounts were credited to Kishore & Sons account in the books of M/s BAC Co. on the date of sale. M/s BAC Co. furnishes a declaration to Kishore & Sons that coal is to be utilised for generation of power.

Based on the above facts, choose the **most appropriate answer** to Q. No. 1 to 5 –

- I. Who is required to deduct/ collect tax at source in respect of lease of coal mine by the State Government of Hyderabad to Kishore & Sons and at what rate?
- State Government of Hyderabad is liable to collect tax at source @ 2% on ₹ 11 crores
 - State Government of Hyderabad is liable to collect tax at source @0.1% on ₹ 10.50 crores, being the amount exceeding ₹ 50 lakhs
 - Kishore & Sons is liable to deduct tax at source @0.1% on ₹ 10.50 crores, being the amount exceeding ₹ 50 lakhs
 - Neither State Government of Hyderabad is liable to collect tax at source nor Kishore & Sons is liable to deduct tax at source
- II. Is Kishore & Sons required to collect tax at source in respect of the sale transactions with M/s BAC Co. If yes, when and what is the amount of tax to be collected?
- Yes; ₹ 1,000 on 30.6.2022, ₹ 800 on 25.10.2022, ₹ 1,500 on 20.1.2023 and ₹ 1,200 on 15.2.2023
 - Yes; ₹ 35,000 on 10.5.2022, ₹ 25,000 on 30.6.2022, ₹ 8,000 on 25.10.2022, ₹ 15,000 on 20.1.2023 and ₹ 12,000 on 15.2.2023
 - Yes; ₹ 1,000 on 10.7.2022, ₹ 800 on 25.10.2022, ₹ 1,500 on 22.1.2023 and ₹ 1,200 on 15.2.2023
 - No, Kishore & Sons is not liable to collect tax at source
- III. Is Kishore & Sons required to collect tax at source in respect of the sale transaction with M/s XYZ Ltd. If yes, what is the amount of tax to be collected?
- Yes; ₹ 55,000
 - Yes; ₹ 5,500
 - Yes; ₹ 500
 - No, Kishore & Sons is not liable to collect tax at source
- IV. Is M/s BAC Co. required to deduct tax at source in respect of the purchase transactions with Kishore & Sons. If yes, when and what is the amount of tax to be deducted?
- Yes; ₹ 1,000 on 30.6.2022, ₹ 800 on 25.10.2022, ₹ 1,500 on 20.1.2023 and ₹ 1,200 on 15.2.2023
 - Yes; ₹ 3,500 on 10.5.2022, ₹ 2,500 on 30.6.2022, ₹ 800 on 25.10.2022, ₹ 1,500 on 20.1.2023 and ₹ 1,200 on 15.2.2023
 - Yes; ₹ 1,000 on 10.7.2022, ₹ 800 on 25.10.2022, ₹ 1,500 on 22.1.2023 and ₹ 1,200 on 15.2.2023
 - No, M/s BAC Co. is not liable to deduct tax at source
- V. Assume for the purpose of this MCQ, M/s BAC Co.'s turnover for the F.Y. 2021-22 was ₹ 9 crore, who will be required to deduct/ collect tax at source in respect of transactions between Kishore & Sons and M/s BAC Co. and at what rate?
- Kishore & Sons is liable to collect tax at source @1% of ₹ 95 lakhs
 - Kishore & Sons is liable to collect tax at source @0.1% of ₹ 45 lakhs, being the sum exceeding ₹ 50 lakhs
 - M/s BAC Co. is liable to deduct tax at source @0.1% of ₹ 45 lakhs, being the sum exceeding ₹ 50 lakhs
 - Neither Kishore & Sons is liable to collect tax at source nor M/s BAC Co. is liable to deduct tax at source

Answer Key

Question No.	Answer
I	(a)
II	(d)
III	(a)
IV	(a)
V	(d)

Question:24

Examine whether the following persons are required to file return of income for A.Y.2023-24, giving brief reasons for your answer –

(i)	Mr. Albert, aged 31 years, whose turnover from business is ₹ 70 lakhs for the P.Y.2022-23 and whose total income computed as per books of account is ₹ 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 section 10AA.
(ii)	Mr. Ashish, aged 42 years, has gross receipts of ₹ 5 lakhs from profession and profits and gains of ₹ 2.50 lakhs (computed) from profession for the P.Y. 2022-23. In addition, he has interest of ₹ 4 lakhs on fixed deposits and ₹ 50,000 from savings bank account.
(iii)	M/s. ABC & Co., a law firm, whose gross receipts from profession for the P.Y.2022-23 is ₹ 9 lakhs.
(iv)	XYZ (P) Ltd. which has incurred expenditure of an amount of ₹ 95,000 towards consumption of electricity in the F.Y.2022-23.
(v)	Mr. Vallish, aged 58 years, who has deposited ₹ 50 lakhs in his savings bank account with SBI on 28th March, 2023. 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 ₹ 30 lakhs on 25 th April, 2023 for self-residence. The balance money was transferred to a 1-year fixed deposit on 28 th April, 2023. 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. Ravi Prakash, a resident Indian aged 52 years, gifted a sum of ₹ 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 ₹ 29,52,000 inclusive of RTO charges of ₹ 2,15,000, insurance of ₹ 51,575, extended warranty of ₹ 25,255 and accessories charges of ₹ 35,460 during the P.Y. 2022-23. 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 ₹ 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.

Solution**Requirement of filing return of income**

(i)	Yes, Mr. Albert is required to file his return of income for A.Y.2023-24. As per section 139(1)(b), an individual is required to file his return if his total income, without giving effect to deductions under, <i>inter alia</i> , Chapter VI-A and section 10AA, exceeds the basic exemption limit. In this case, Mr. Albert's total income of ₹ 2,00,000 is lower than the basic exemption limit of ₹ 2,50,000. 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, <i>inter alia</i> , his turnover in business exceeds ₹ 60 lakhs. In this case, since Mr. Albert's turnover from business for the P.Y.2022-23 is ₹ 70 lakhs, he has to file return of his income for A.Y.2023-24.
(ii)	Yes, Mr. Ashish is required to file his return of income for A.Y.2023-24. Mr. Ashish's total income for A.Y.2023-24 without giving effect to Chapter VI-A deductions is ₹ 7 lakhs [₹ 2.50 lakhs from profession + ₹ 4 lakhs interest on fixed deposits + ₹ 0.50 lakhs interest on savings bank account], which exceeds the basic exemption limit of ₹ 2,50,000. Hence, he is required to file his return of income for A.Y.2023-24 as per section 139(1)(b). <i>Note - The threshold limit of ₹ 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</i>

	<i>thereunder i.e., only if Ashish's total income without giving effect to Chapter VI-A deductions is lower than the basic exemption limit.</i>
(iii)	<p>Yes, M/s. ABC & Co. is required to file its return of income for A.Y.2023-24.</p> <p>As per section 139(1)(a), a firm is compulsorily required to file its return of income. The threshold limit of ₹ 10 lakhs for gross receipts in profession is relevant only for a person other than a company or a firm.</p>
(iv)	<p>Yes, XYZ (P) Ltd. is required to file its return of income for A.Y.2023-24.</p> <p>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 ₹ 1 lakh applies to a person other than a company or a firm.</p>
(v)	<p>Yes, Mr. Vallish is required to file his return of income for A.Y.2023-24.</p> <p>Gift of ₹ 50 lakhs received from son is not taxable under section 56(2)(x) in the hands of Mr. Vallish, since his son is his relative, and gifts from a relative are excluded from the applicability of section 56(2)(x). The only income of Mr. Vallish for the P.Y.2022-23 would be interest on savings account for a period of 4 days from 28th March, 2023 to 31st March, 2023 on ₹ 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 ₹ 2,50,000.</p> <p>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, <i>inter alia</i>, the deposit in his savings account is ₹ 50 lakhs or more during the previous year.</p> <p>Since a deposit of ₹ 50 lakhs has been made in the savings account of Mr. Vallish in the P.Y.2022-23, he is required to file his return of income for A.Y.2023-24.</p>
(vi)	<p>Mrs. Sudha's income from house property would be ₹ 2,10,000 (₹ 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.2023-24 would be ₹ 2,10,000, which is lower than the basic exemption limit. Hence, she is not required file her return of income for A.Y.2023-24 as per section 139(1)(b), since her gross total income/total income does not exceed the basic exemption limit of ₹ 2,50,000.</p> <p>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 fulfills such other conditions as may be prescribed under Rule 12AB.</p> <p>Rule 12AB, <i>inter alia</i>, prescribes that any person other than a company or a firm, who is not required to furnish a return under section 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 ₹ 25,000 or more.</p> <p>Accordingly, it has to be examined whether, in Mrs. Sudha's case, the requirement to file return for A.Y.2023-24 arises due to TDS/TCS, in her case, exceeding ₹ 25,000 in the P.Y.2022-23.</p> <p>As per section 206C(1F), every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding ₹ 10 lakhs, has to collect tax from the buyer @1% of the sale consideration.</p> <p>Accordingly, dealer of the car is required to collect tax at source of ₹ 26,247 @1% on ex-showroom price i.e., ₹ 26,24,710 (₹ 29,52,000 – ₹ 2,15,000 – ₹ 51,575 – ₹ 25,255 – ₹ 35,460) from Mrs. Sudha, being the buyer of the car.</p> <p>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.2023-24, even though her gross total income/total income does not exceed the basic exemption limit, since tax collected at source during the P.Y. 2022-23, in her case is ₹ 26,247 which exceeds the threshold of ₹ 25,000.</p>

Question:25

ABC Co-operative society is derived following income during PY 22-23 from following activities: -

- (i) Income from house property (Computed) ₹7,50,000
- (ii) Income from marketing of agricultural produce grown by its members ₹ 4,00,000
- (iii) Income from collective disposal of labour of its members ₹ 15,00,000
- (iv) Income from processing with the aid of power ₹35,00,000
- (v) Income from other business activity ₹ 25,00,000
- (vi) Interest from another co-operative society ₹ 10,00,000
- (vii) Income by way of dividend from another co-operative society: ₹ 5,00,000.
- (viii) Income by way of interest on fixed deposits with banks: ₹ 42,00,000

It has employed ten new employees with salary of ₹ 20,000 p.m. on 1.5.2022. Salary is paid by account payee cheque. It gets its books of accounts audited under section 44AB.

Compute its total income and tax liability for A.Y.2023-24 and advise whether it should opt for the special provisions under section 115BAD.

Solution

**Computation of total income & tax liability of ABC Co-operative Society for A.Y.2023-24
(under the regular provisions of the Act)**

Particulars	₹	₹
Income from House Property (Computed)		7,50,000
Profits and gains of business or profession		
Income from marketing of agricultural produce	4,00,000	
Income from collective disposal of labour	15,00,000	
Income from processing with the aid of power	35,00,000	
Income from other business activity	25,00,000	79,00,000
Income from other sources		
Interest and Dividend from another Co.Op. Society	15,00,000	
Interest on bank fixed deposits	42,00,000	<u>57,00,000</u>
Gross Total Income		1,43,50,000
Less: Deductions under Chapter VI-A		
Deduction u/s 80JJAA [30% of ₹ 20,000 x 10 employees x 11 months]	6,60,000	
Deduction u/s 80P [ABC Co-operative society is entitled for deduction under section 80P, on the whole of the amount of profits and gains of the activity of marketing of agricultural produce grown by its members, Collective disposal of labour & interest/dividend from another co.op. society & also eligible for 50,000 general deduction for other activities income]	<u>34,50,000</u>	<u>41,10,000</u>
Total Income		<u>1,02,40,000</u>
Tax liability:		
Upto ₹ 10,000 – 10%	1,000	

Particulars	₹	₹
₹ 10,000 – ₹ 20,000 – 20%	2,000	
₹ 20,000 – ₹ 1,02,40,000 – 30%	<u>30,66,000</u>	30,69,000
Add: Surcharge @ 7% as total income more than 1 crore		<u>2,14,830</u>
Marginal Relief – ₹ 46,830		32,83,830
Above amount restricted to Tax on 1 crore + (NTI – 1 Crore)		<u>32,37,000</u>
₹ 29,97,000 + ₹ 2,40,000		32,37,000
Add: Health and education cess@4%		<u>1,29,480</u>
Tax liability		<u>33,66,480</u>
Alternate Minimum Tax		
Total Income		1,02,40,000
Add: Deduction under section 80JJAA		<u>6,60,000</u>
Adjusted Total Income		<u>1,09,00,000</u>
Alternate Minimum Tax@15% of ₹ 1,09,00,000		16,35,000
Add: Surcharge @ 7%		<u>1,14,450</u>
		17,49,450
Add: Health and education cess@4%		<u>69,978</u>
Alternate Minimum Tax		<u>18,19,428</u>
Since AMT is lower than the tax payable under the regular provisions of the Act, the tax liability of the co-operative society would be ₹ 33,66,480.		

**Computation of total income & tax liability of ABC Co-operative Society
under section 115BAD for A.Y.2023-24**

Particulars	₹	₹
Gross Total Income		1,43,50,000
Less: Deductions under Chapter VI-A		
Deduction u/s 80JJAA [30% of ₹ 20,000 x 10 employees x 11 months]	6,60,000	
Deduction u/s 80P [Not allowable where the cooperative society opts for section 115BAD]	<u>-</u>	<u>6,60,000</u>
Total Income		<u>1,36,90,000</u>
Tax liability		
22% of ₹ 1,36,90,000		30,11,800
Add: Surcharge@10%		<u>3,01,180</u>
		33,12,980
Add: Health and education cess@4%		<u>1,32,192</u>
Tax liability		<u>34,45,499</u>
Tax liability (rounded off)		34,45,500

Since the tax liability under section 115BAD is higher than the tax liability under the regular provisions of the Act, ABC Co-operative Society should not opt for section 115BAD.

Question:26

In respect of Mr. Hari, who is engaged in export of fabrics, information available with AO as per the risk management strategy formulated by the CBDT for A.Y.2018-19, A.Y.2019-20, A.Y.2020-21 and A.Y.2021-22. The income escaping assessment for these years is 20 lakhs for each year.

- (i) Can the Assessing Officer issue notice under section 148 to Mr. Hari in April, 2022? If so, in respect of which assessment years can notice be issued? Is it necessary that they be provided an opportunity of being heard before issuance of notice? Examine.
- (ii) Suppose in case of Mr. Hari if income escaping is in the form of asset value of ₹80 lakhs and such asset created between AY 18-19 to AY 21-22.
- (iii) In respect of Mr. Hari's friend Mr. Rajesh, who is engaged in trading of commodities, a search was initiated u/s 132 in April, 2022. Can the Assessing Officer issue notice under section 148 to Mr. Rajesh in April, 2022 even AO not having Information? Is it necessary that they be provided an opportunity of being heard before issuance of notice? Can Income Tax officer (ITO) can complete assessment u/s 147 in case of Mr. Rajesh Examine.

Solution

- (i) In respect of Mr. Hari, the Assessing Officer has information suggesting that income has escaped assessment for the purposes of section 148 and 148A, since information as per risk management policy formulated by the CBDT. Notice can be issued for A.Y.2021-22, A.Y.2020-21 and A.Y.2019-20, since the three year time limit from the end of the relevant assessment year has not expired as on April, 2022. Such notice can be issued after conducting an enquiry, if required, with respect to the information suggesting escapement of income; and providing an opportunity of being heard to Mr. Hari by serving a show cause notice. Thereafter, on the basis of material available on record including the reply of Mr. Hari, in response to show cause notice, the Assessing Officer has to decide whether or not it is a fit case to issue notice u/s 148 by passing an order, with the prior approval of Principal Commissioner or Principal Director or Commissioner or Director. However, notice cannot be issued in respect of A.Y.2018-19, since the three year time limit from the end of the relevant assessment year (i.e., from 31.3.2019) has since expired on 31st March, 2022. The extended time limit of 10 years from the end of the relevant assessment year cannot be invoked in this case to issue notice for A.Y.2018-19, since the income escaping assessment in respect of Mr. Hari is not ₹ 50 lakh or more for that year.
- (ii) Where the income in the form of an asset or expenditure in relation to an event or occasion of the value of ₹ 50 lakhs or more, has escaped the assessment and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, in more than one PY's, a notice u/s 148 shall be issued for every such AY for assessment or reassessment. [Sec 149(1A)]
If income escaping is in the form of any asset or expenditure related to any event or occasion and investment in such asset or expenditure incurred in multiple year then AO can get the benefit of 10 years' time limit, if aggregate value of asset or expenditure on occasion of ₹ 50 lakhs or more even in individual year that expenditure incurred or investment made is less than ₹ 50 lakhs. In this case AO can issue notice for AY 18-19 also.
- (iii) In case of Mr. Rajesh, the Assessing Officer shall be deemed to have information suggesting that income has escaped assessment. Hence, the Assessing Officer can issue notice to Mr. Rajesh u/s 148. In this case, for the purpose of issue of notice u/s 148, there is no requirement to conduct an enquiry or provide an opportunity of being heard to Mr. Rajesh. Where search initiated u/s 132 in case of assessee or any other person or survey conducted u/s 133A (other than TDS/TCS survey) then assessment or reassessment shall not be made by AO below the rank of JC, except with the approval of JC/JD/Add. CIT/Add. DIT. In present case ITO can complete the assessment only with the prior approval of JC/JD/Add. CIT/Add. DIT.

Question:27

The Assessing Officer, with prior approval of Principle chief Commissioner of Income-tax (PCCIT), surveyed Good Day Cyber Café, which was within his jurisdiction, at 1 a.m. on 1.6.2022 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 15.6.2022, the Assessing Officer 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 Assessing Officer 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 Assessing Officer 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 Assessing Officer 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 Assessing Officer in both the cases.

Would your answer change if the Assessing Officer 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.

Solution

Good Day Cyber Cafe

The Assessing Officer can exercise his power of survey under section 133A only after obtaining the approval of PCCIT or PDGIT. In this case, since he has obtained prior approval of the PCCIT, 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 before sunset.

Good Day Cyber Cafe is open from 2.00 p.m. to 2.00 a.m. for the conduct of business. The Assessing Officer 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 Assessing Officer could not enter the cyber cafe after sunset is not correct.

Further, as per section 133A(3)(ia), the Assessing Officer 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 Assessing Officer 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 Assessing Officer 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 under section 133A.

However, in case the Assessing Officer 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 Assessing Officer 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 Assessing Officer 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 Assessing Officer 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 Assessing Officer in impounding and retaining with him the books of account kept at the Bright Light Cyber Cafe is **not** valid in law.

Question:28

Mr. Rajesh, aged 53 years, and his wife Mrs. Sowmya, aged 50 years, were born in India. They were living in India till the year 2002, when they moved to Country X and settled there permanently. Since the year 2012, they have become citizens of Country X. They have two sons who are twins, Mr. Dinesh and Mr. Karthik, who are also citizens of Country X. They completed their schooling in an Indian school in Country X. Thereafter, in the year 2017, Mr. Dinesh joined mechanical engineering in IIT Delhi. After completing his engineering, he took up employment in ABC Ltd., a multinational company, in Gurgaon at a monthly salary of ₹ 1,50,000 from September, 2021. Dinesh visits his parents in Country X for one month every year. For the rest of the year, he is in India. Mr. Karthik completed architecture in College of Architecture in Country X and took up a job in LMN Inc., San Fransisco, in the year 2021 for a monthly salary of US \$ 5,000. Mr. Rajesh has a textile business in Country X. Mrs. Sowmya, a Carnatic musician, gives concerts in Country X in music programs organized by the Indian community in Country X.

Mr. Rajesh visits India for one month every year to be with his parents, who were born in Coimbatore and have always lived in Coimbatore. The details of his income for P.Y.2022-23 are as follows –

Income from textile business in Country X - US \$ 80,000 (You may assume that the currency of Country X is US dollars)

Rental income from house property in Coimbatore – ₹ 60,000 p.m.

Interest on fixed deposits with SBI, Coimbatore – ₹ 10 lakh

Country X does not levy tax on income from business of textiles in order to give a fillip to textile industry in that country. Country X also does not levy tax on income earned by a resident of Country X outside India.

In the P.Y.2022-23, Mrs. Sowmya visited India from 3rd October, 2022 to 31st January, 2023. She was in Trichy during the months of October and November to take care of her ailing mother in Trichy. During the months of December and January, she rendered Carnatic music concerts in the Margazhi Maha Utsav organized in the various music academies in Chennai. Every year, she is in Chennai entirely during these two months for this purpose. She also visits Trichy every year for the full month of May to spend time with her mother. She owns a house property in Trichy which she has let out for ₹ 40,000 per month. The municipal taxes of ₹ 6,000 p.a. are paid by her tenant. For the P.Y.2022-23, income from music concerts in Chennai is ₹ 3 lakhs. She also earns interest of ₹ 9 lakhs on fixed deposits with Indian Bank, Trichy Branch.

Mr. Dinesh resigned from his job in ABC Ltd. on 20th September, 2022 and took up an offer for employment in MNC Inc., New York at a salary of US \$ 7,000 p.m. He had submitted his resignation to ABC Ltd. on 20th August, 2022, and thereafter, served a notice period of one month as per the condition stipulated in his terms of employment. He left India on 28th September, 2022 and joined MNC Inc. on 1st October, 2022. He earned interest of ₹ 40,000 from fixed deposits with Axis Bank, New Delhi.

Mr. Karthik resigned from LMN Inc. on 30th November, 2022 to join PQR Ltd. in Mumbai. He came to India on 2nd December, 2022 and joined PQR Ltd. on 5th December, 2022. His salary in PQR Ltd. is ₹ 99,200 p.m. He used to visit his maternal and paternal grandparents in India for two months (July and August) during his summer holidays upto the year 2020. In the year 2021, he visited India for one month in July 2021. He earned interest of ₹ 9,500 from savings bank account in SBI, Mumbai.

TT buying rate of US \$ on various dates is given below –

Date	TT buying rate of US \$	Date	TT buying rate of US \$
31.3.2022	₹ 68.00	30.9.2022	₹ 70.00
30.4.2022	₹ 68.60	31.10.2022	₹ 70.40
31.5.2022	₹ 69.10	30.11.2022	₹ 71.00

Date	TT buying rate of US \$	Date	TT buying rate of US \$
30.6.2022	₹ 69.50	31.12.2022	₹ 71.30
31.7.2022	₹ 69.70	31.1.2023	₹ 71.90
31.8.2022	₹ 69.90	28.2.2023	₹ 72.00
		31.3.2023	₹ 72.40

On the basis of the facts given above, choose the most appropriate answer to Q.1 to Q.5 below: Your answer should be based on the provisions of the Income-tax Act, 1961. Ignore the provisions of DTAA, if any, between India and Country X.

- I. What is the residential status of Mrs. Sowmya for A.Y.2023-24?
 - (a) Resident and Ordinarily resident
 - (b) Resident but not ordinarily resident
 - (c) Non-resident
 - (d) Deemed resident
- II. What is the residential status of Mr. Dinesh and Mr. Karthik for A.Y.2023-24?
 - (a) Both are non-residents
 - (b) Resident and ordinarily resident & Resident but not ordinarily resident, respectively.
 - (c) Non-resident & Resident but not ordinarily resident, respectively
 - (d) Resident and ordinarily resident & non-resident, respectively.
- III. What is the total income of Mr. Dinesh chargeable to tax under the regular provisions of the Income-tax Act, 1961 for A.Y.2023-24?
 - (a) ₹ 38,93,000
 - (b) ₹ 38,26,200
 - (c) ₹ 8,90,000
 - (d) ₹ 8,40,000.
- IV. What is the total income of Mr. Karthik chargeable to tax under the regular provisions of the Income-tax Act, 1961 for A.Y.2023-24?
 - (a) ₹ 31,10,000
 - (b) ₹ 31,34,500
 - (c) ₹ 3,34,000
 - (d) ₹ 3,93,500
- V. What is the residential status of Mr. Rajesh for A.Y.2023-24?
 - (a) Resident and ordinarily resident
 - (b) Resident but not ordinarily resident
 - (c) Deemed resident
 - (d) Non-resident

Answer Key

Question No.	Answer
I	(b)
II	(d)
III	(b)
IV	(c)
V	(d)

Question:29

Mr. BB (aged 32 years) is a resident Indian who has the following life insurance policies, some of which are ULIPs. The details of such policies are given hereunder:

Particulars	A	B	C (ULIP)	D (ULIP)	E (ULIP)	F (ULIP)	G (ULIP)
Date of issue	1.4.2015	1.4.2016	1.1.2021	1.4.2021	1.2.2021	1.3.2021	1.4.2021
Annual premium	₹ 50,000	₹ 40,000	₹ 3,00,000	₹ 3,00,000	₹ 1,00,000	₹ 1,40,000	₹ 2,50,000
Date when premium falls due every year	1st April	1st April	1st Jan	1st April	1st Feb	1st March	1st April
Date of maturity	31.3.2023	31.3.2023	31.12.2029	31.03.2030	31.1.2030	28.2.2030	31.3.2030
Consideration received on maturity (including bonus)	₹ 7,00,000	₹ 4,00,000	₹ 32,00,000	₹ 32,00,000	₹ 11,00,000	₹ 17,00,000	₹ 28,00,000
Sum assured	₹ 6,00,000	₹ 3,50,000	₹ 30,00,000	₹ 30,00,000	₹ 10,00,000	₹ 15,00,000	₹ 25,00,000

Solution**A: Taxability of Normal Insurance Policy**

- Income on maturity of policy "A" shall be exempt u/s 10(10D) because premium paid during the policy term is not more than 10% of policy value.
- Income on maturity of policy "B" shall not be exempt u/s 10(10D) because premium paid during the policy term is more than 10% of policy value. In this case income component ₹ 1,20,000 (4,00,000 – 2,80,000) taxable under IFOS in the PY 22-23.

B: Taxability of Unit linked Insurance Policy (ULIP)

- Income on maturity of ULIP "C" shall be exempt u/s 10(10D) because premium paid during the policy term is not more than 10% of policy value and ULIP taken before 01.02.21.
- Income on maturity of ULIP "D" shall be taxable as ULIP taken on or after 01.02.21 and premium more than ₹ 2,50,000 in a year. In this case income component ₹ 5,00,000 (32,00,000 – 27,00,000) taxable under Capital Gain in the PY 29-30 and taxable as LTCG u/s 112A @10%.

In case of ULIP's "E, F & G" premium in respect of single policy is not more than ₹ 2,50,000 but aggregate exceed ₹ 2,50,000 so in this case assessee can claim exemption for ULIP's for which premium not more than ₹ 2,50,000. Assessee can claim exemption either for ULIP "E & F" or ULIP "G". Aggregate capital gain in case of ULIP "E & F" is ₹ 6,40,000 [(11,00,000 – 9,00,000) + (17,00,000 – 12,60,000)] and in case of ULIP "G" is ₹ 5,50,000 (28,00,000 – 22,50,000). Since it is beneficial to claim exemption u/s 10(10D) for ULIP "E & F" so assessee should opt this option and pay capital gain tax on LTCG of ₹ 5,50,000 on "ULIP G" in PY 29-30.

Question:30 – Check question on section 45(4) & 9B Given in compact MAY/NOV-23