Padhuka's

Practical Learning Series

DIRECT TAXES & INTERNATIONAL TAXATION

As per CA Final New Syllabus 2023

Applicable for May 2024 and onwards Examination

1st Edition December 2023

Assessment Years 2024-2025

Highlights of this Book:

- Complete Coverage of the Income Tax Act, 1961 along with International Taxation.
- Quick Understanding of the topics / concepts by using Tables and Flowcharts.
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Exclusive FTR for amendments made by Finance Act 2023

Updated with Latest amendments including MCQs for Practice

Volume I

CA G. Sekar

Commercial Law Publishers (India) Pvt. Ltd.

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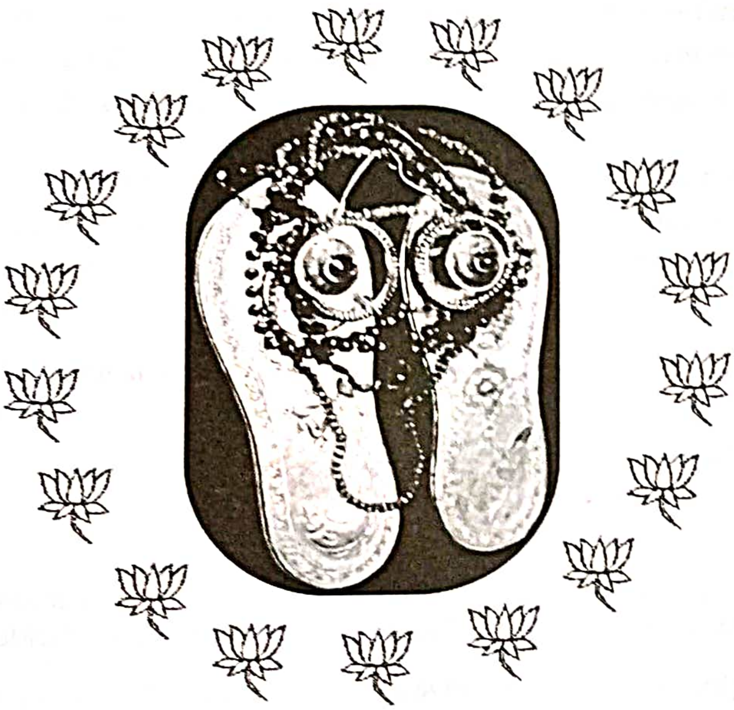
Contact Address of Author CA G Sekar
C/o SHREE GURU KRIPA'S INSTITUTE OF MANAGEMENT
(An Institution providing Classes for CA Foundation,
CA Intermediate & CA Final-All Subjects)
"Shri Guru Padhuka" 27, Akbarabad 2nd Street, Kodambakkam, Chennai-600024
Phone: 2483 7667; 2484 7667
Email: caclasses@shrigurukripa.com, Website:www.shrigurukripa.com

PRANAMS

TO

THE ACHARYAS OF KANCHI



PREFACE

This First Edition of **Padhuka's Practical Learning Series – Direct Taxes & International Taxation** for Professional Examinations is contained in **TWO** handy volumes for the ease of reference of students.

(a) VOLUME I – Heads of Income & Computation of Total Income of Various Assessees

(b) VOLUME II – Tax Administration, Assessment, Appeals & International Taxation

It comes with a refreshing style and presentation, with the following special features –

1. **Complete Coverage** of the **Income Tax Act, 1961** along with **International Taxation.**
2. Quick Understanding of the topics / concepts by using **Tables and Flowcharts.**
3. Incorporation of **Circulars, Notifications** and up-to-date **Case Laws** in relevant Chapters.
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8. **Solutions to Past Exam question Papers** is included in the respective topics
9. Guidance for **Systematic Approach for Success** in learning Direct Tax Law effectively for Professional Exams.

My sincere thanks to the **Institute of Chartered Accountants of India** for their permission to use questions from previous examinations and Revision Test Papers (RTP).

Many thanks to the Users of the Padhuka's Books, for their positive feedback, which reflects the benefits they have reaped from our Books, and also their keen interest to reciprocate with constructive suggestions.

I also thank the efforts and co-operation of the various Service Providers in bringing out this New Edition including the Publishers, in quickly getting this Book in the current form.

Constructive Suggestions and Feedback from Users would be highly appreciated, gratefully acknowledged and suitably incorporated.

Chennai — With Best Wishes

December 2023 — **G Sekar**

ICAI SYLLABUS

NEW SYLLABUS

Part I: Direct Tax Laws (70 Marks)

Law and Procedures under the Income-tax Act, 1961,

1. Comprehensive computation of income-tax liability of companies &other entities under the alternative tax regimes under the income tax act 1961 to optimize tax liability
   - General provisions under the Act for computation of total income & tax liability of companies & other entities
   - Special tax regimes under the Act for companies & other entities
   - Optimisation of tax liability of companies & other entities through tax planning
2. Special provisions relating to charitable and religious trust & institutions, political parties & electoral trusts, business trusts, securitization trusts, investment funds & other funds/trusts
3. Anti-avoidance provisions under the Act
4. Provisions to address tax challenges on digitalization
5. Deduction, collection & recovery of Tax
6. Income Tax Authorities
7. Assessment procedures
8. Appeals & revision & dispute resolution
9. Provisions to counteract unethical tax practices
   - Taxation of undisclosed income under the income-tax act 1961
   - Taxation of undisclosed foreign income & assets
   - Penalties & offences and prosecution
   - Miscellaneous Provisions
   - Tax Audit

Part II: International Taxation (30 Marks)

1. Taxation of Cross Border transactions and Non-resident taxation under the income tax act, 1961 including-
   (i) The provisions under the Income-tax Act, 1961, including
      (a) Specific provisions relating to Non-residents
      (b) Double Taxation Relief
      (c) Transfer Pricing & Other Anti-Avoidance Measures
      (d) Advance Rulings
   (ii) Equalisation levy
2. Overview of Model Tax Conventions – OECD & UN
3. Application and interpretation of Tax Treaties
4. Latest developments in international Taxation
5. Fundamentals of Base Erosion and Profit Shifting

SUBJECT INDEX

** Chapter 4 & 5 given for better understanding of the subject and does not directly form part of the syllabus

SECTION INDEX

INCOME TAX ACT, 1961

SECTION INDEX

INCOME TAX ACT, 1961

SECTION INDEX

Gurukripa's Guideline Answers to Nov 2023 Exam Questions
CA Final – Direct Tax Laws and International Taxation (New Syllabus)

Part A Consists of MCQs **(30 Marks)**, **Part B** Descriptive Answers **(70 Marks)**
Working Notes should form part of the answers. Question No.1 is compulsory **(14 Marks)**.
Answer **any four** questions from the **remaining five** questions **(14 × 4 = 56 Marks)**.

14 Marks

Question 1: Taxation of Companies

M/s. Breeze Dental Care Pvt Ltd, a Tooth brush manufacturing company, having its factory in Rajkot, Gujarat shows a net profit of 79,50,000 after debiting and crediting of the amounts in its Profit and Loss Account as mentioned below for the year ended March 31, 2024:

(a) Depreciation as per Companies Act ₹ 85,00,000.
(b) A gross Loss of amount of ₹ 25,00,000, due to destruction of old machinery by fire in the factory. Though ₹ 7,80,000 was received as scrap value on this old machinery on 31.08.2023, the Insurance company did not admit the claim of the company on the charge of negligence.
(c) Income Tax Assessment of AY 2022–23 was completed in September 2023 with a tax demand of ₹ 5,70,000 which included surcharge of ₹ 60,500 and a cess of ₹ 24,200. The entire sum has been duly paid during the FY 2023–24.
(d) Power Subsidy received from Central Government amounting to ₹ 13 lakhs. It was received with a stipulation that the same is to be adjusted in the electricity bills for the FY 2022–2023. The subsidy received in the FY 2023–24. It was not included in the income of year 2022–23.
(e) Interest Received ₹ 7,50,000 on margin money deposited with bank for obtaining bank guarantee to carry on business is included as income in the Profit and Loss Account.
(f) Purchase price of raw material used for the purpose of in-house research and development is ₹ 14,00,000. (Including GST of ₹ 2,75,000 on which ITC is not admissible) is debited in Profit and Loss account.
(g) Breeze Dental Care Pvt Ltd paid ₹ 12 lakhs to JAPA Inc. of China for online digital advertisement. JAPA Inc. has no PE in India. No tax was deducted at source nor was equilisation levy paid on the said amount.
(h) Dividend of ₹ 2,50,750 was received from a foreign company, in which Breeze Dental Care Pvt. Ltd. holds 28% in nominal value of equity share capital of the company. An expense (other than Interest payment) of ₹ 15,000 spent on earning this income.
(i) Interest of ₹ 20,00,000 lakhs relating to FY 2023–24, which is settled by issuing 8% debentures of ₹ 100 each in March, 2024.

Additional Information:

(1) Depreciation as per Income Tax Act, 1961 is ₹ 32,50,000.
(2) A new Air Compressor machine, necessary for installing with main Plant to keep the Air compression as per guidelines, was purchased and was installed and put to use on 01.05.2023 = ₹ 74,00,000.
(3) Another new specified Air Pollution Control Equipment was purchased for ₹ 23,45,000 on 18.06.2023.
(4) Items purchased after 30th October, 2023:
    (a) Lorries for transporting goods to sales depots ₹ 95,00,000.
    (b) Machine imported from Germany ₹ 1,60,00,000. It arrived at Kandla port on 30.03.2023 and was installed on 10.04.2023.

All the other items were installed during the period ended March 31, 2024. The total turnover of the company for the FY 2021-22 was ₹ 415 crores. You are required to compute Total Income and Tax payable of Breeze Dental Care Pvt Ltd for the AY 2024-2025 with brief reasons for the treatment of each item given above. The company has not opted for section 115BAA/115BAB. Ignore provisions of MAT.

Solution: **Refer Various Illustrations in Chapter 19**

Computation of Total Income and Tax Payable

	Particulars	Computation	Amount (₹)
	Total PGBP Income [as per Computation Statement below]		1,65,05,250
	Income from other source – Dividend **[Note 6]**		2,50,750
	Gross Total Income/ Total income		1,67,56,000
	Tax @ 30% **[Note 1]**	1,67,56,000 × 30%	50,26,800
Add:	Surcharge @ 7%	50,26,800 × 7%	3,51,876
Add:	Cess @ 4%		2,15,147
	Total Tax Payable [Rounded Off]		**55,93,820**

Computation of Profits and Gains of Business or Profession

Particulars	WN	Deduction from Profit	Addition to Profit
Net Profit as per Profit and Loss Account (Loss)			79,50,000
Depreciation as per books			85,00,000
Net Loss Recognised in the books due to destruction of machine by fire	2		17,20,000
Disallowance u/s 40(a)(ii) – Income Tax paid (including Surcharge and Cess)			5,70,000
Disallowance u/s 40(a)(ib) – Non–Payment of Equalization Levy			12,00,000
Disallowance u/s 43B – Interest Payable converted to Debentures	3		20,00,000
Depreciation as per Income Tax Act	8	32,50,000	
Additional Depreciation	9	19,49,000	
Air Compressor machine [₹ 74,00,000 × 20%] = 14,80,000			
Air Pollution equipment [₹ 23,45,000 × 20%] = 4,69,000			
Income treated as income from other sources [Dividend = Net Amount]		2,35,750	
Sub–Total		**54,34,750**	**2,19,40,000**
Income under the head Profits and Gains of Business or Profession (2,19,40,000 – 54,34,750)			**1,65,05,250**

Notes:

1. Turnover of the Company during the PY 2021–22 = ₹ 415 crores (> 400 crores). Therefore, the applicable tax rate for the current AY = 30%
2. Capital gain u/s 45(1A) not applicable as no proceeds received from insurance company. On the other hand, net loss due to destruction of machinery is a capital loss to be adjusted against block of asset & hence not to be claimed as deduction in computing PGBP income.
3. Interest payable will be deductible only on actual payment. Interest which has been converted into (a) fresh loan or borrowing, (b) Debentures, (c) any other instrument by which the liability is deferred to future date, shall not be treated as actual payment. Thus, in this case, the interest converted to debenture is disallowed.
4. As per ICDS VII read with Section 145B, Government grants are not subject to tax on accrual basis, it shall be taxed in year of receipt. In this case, even though the Subsidy (from Central Government) is received for adjusting the same with electricity bills of PY 2022–23, as it is received in the Current PY, it shall be taxable in the current PY. As it is already credited in the Profit and Loss Account, no adjustment is required.
5. In case of CIT vs K & Co 2014, it was held that interest received on margin money deposit with the bank for obtaining Bank guarantee should be taxable as PGBP income & not as income from other source. Thus, in this case no adjustment is required as it is already included in the Profits
6. As per Section 57, only interest expense to earn dividend income is allowed as deduction
7. Purchase price of Raw materials used for In-House Research and Development ₹ 14,00,000, is an allowable expense u/s 35(2AB) with 100% deduction. As the same has been already debited to Profit and Loss Account, no further adjustment is required.
8. Depreciation (@ 7.5% = 15% × 50% as put to use for Less than 180 days) on Lorries for transporting goods to sales depots is assumed to be included in the given figure of "depreciation as per income tax act".
9. Additional depreciation not allowed in for acquisition of following assets:
   (a) Road transport vehicle [Lorries for transporting goods to sales depot = Road Transport vehicle]
   (b) Machinery not installed in the PY [Machinery imported from Germany]
10. Machinery imported from Germany and not installed in the current PY is not eligible for both Normal Depreciation and additional depreciation.

Question 2(a): Taxation of Companies – Sec 115JB **8 Marks**

Agro Food Corporation Ltd., a domestic company engaged in manufacturing of FMCG products. It has business of manufacturing, marketing and selling of a wide range of food products and edible oils in India. The company has prepared statement of Profit & Loss in accordance with the schedule III to the Companies Act, 2013 and such Statement of Profit & Loss for the previous year ended 31.03.2024 shows a net profit of ₹ 89 lakhs. The above net profit was arrived at in respect of its business activities after debiting/crediting the following amounts under different heads:

Particulars	₹ (in lakh)
Debits to the Statement of Profit and loss	
Expenditure relating to industrial undertaking qualifying for deduction u/s10AA	15.00
Depreciation for current year under Companies Act, 2013	34.00
Interest to Financial Institution (an NBFC) not paid up to the date of filing the return	8.50
Penalty for infraction of law	1.50
Proposed Dividend	3.50
Provision for Income Tax	2.75
Transfer to General Reserve	5.00
Expenditure relating to Sec 80–IA undertaking	6.00
Credits to the Statement of Profit and Loss	
Amount withdrawn to Reserve created during 2019-20 (Book profits was not increased by the amount transferred to such reserve in the year 2019-2020)	4.00
Profits from an Industrial Undertaking covered and qualified for deduction u/s 10AA of the Income tax Act	31.70
Profits from an Industrial Undertaking covered and qualified for deduction u/S 80–IA of Income Tax Act,1961	7.00
Deferred tax credit	3.57
Additional Information	
Brought forward Business Loss as per books	8.75
Depreciation allowable under Income Tax rules	42.00
Brought forward Business Loss as per Income Tax Law	9.50
Unabsorbed depreciation as per Income Tax Law	10.53
Unabsorbed depreciation as per books	Nil

Solution: **Refer Para: 19.2 Section 115JB**

	Particulars	₹	₹
	Profit as per Schedule III		89,00,000
Add:	Depreciation as per Books		34,00,000
Add:	Proposed Dividend		3,50,000
Add:	Provision for Income Tax		2,75,000
Add:	Transfer to general reserve		5,00,000
Less:	Depreciation as per Books [Excluding depreciation on Revaluation]		(34,00,000)
Less:	Deferred Tax credit		(3,57,000)
Less:	Lower of following: B/f business loss as per Books = 8,75,000 Unabsorbed depreciation as per Books = 0		NIL
	Books Profit u/s 115JB		**96,68,000**
	Tax @ 15%	96,68,000 × 15%	14,50,200
Add:	Cess @ 4%	14,50,200 × 4%	58,008
	Total Tax Payable [Rounded off]		**15,08,210**

Note:

1. Amount withdrawn from Reserve created during 2019–2020 shall not be reduced unless the Book Profits of the year of creation were increased on account of such reserves.
2. In computation of Book Profit for MAT, only Brought forward business loss as per books and Unabsorbed depreciation as per books to be considered (Figures given as per Income Tax Law is not relevant).

Question 2(b)(i): Non-Resident Taxation 3 Marks

M/s. XY Airlines Inc. incorporated as a company in USA operated its flights to India and vice versa during the FY 2023-2024. M/s. XY Airlines Inc. collected charges of ₹ 90 lakhs for carriage of passengers and cargo from Delhi to New York and vice versa out of which, ₹ 40 lakhs were received in New York in USD for the passenger and cargo fare booked from New York to Delhi. The company also collected ₹ 70 lakhs for carriage of passengers and cargo from Mumbai to New York and vice versa out of which, ₹ 30 lakhs were received in New York in USD for the passenger and cargo fare booked from New York to Mumbai. The total expenses for the year on operation of such flights were ₹ 170 lakhs. Compute the income chargeable to tax of the XY Airlines Inc in India.

Solution: **Refer Para: 26.4.3, Similar to Illustration – Pg 26.17**

	Particulars	₹	₹
	Amount collected for carriage from Delhi to New York	90,00,000	
Less:	Charges booked from new York to Delhi & received in USD in New York	(40,00,000)	
Add:	Amount collected for carriage from Mumbai to New York	70,00,000	
Less:	Charges Booked from New York to Mumbai & received in New York	(30,00,000)	
	Net receipts		90,00,000
	Income Chargeable u/s 44BBA [5% of 90,00,000]		4,50,000

Question 2(b)(ii): Non–Resident Taxation 3 Marks

Mr. Aadi, a non-resident Indian (Age 45 years), subscribed unlisted equity shares of an Indian company in 2008-09 for ₹ 6,00,000. These shares were sold by him on 05.03.2023 for a consideration of ₹ 9,00,000. Brokerage paid for sale of these shares is ₹ 15,000. Compute taxable capital gain of Mr. Aadi for the AY 2024-25, assuming that he has invested in specified assets ₹ 3,50,000, before 31st March 2024. CII for FY 2008–09 is 137 and for 2023–24 is 348. Ignore the effect of first proviso to Section 48.

Solution: **Refer Para: 26.4.8 section: 112 & 115F**

	Particulars	₹
	Full Value of Consideration	9,00,000
Less:	Brokerage	(15,000)
	Net Consideration	8,85,000
Less:	Cost of acquisition [Indexation not available]	(6,00,000)
	Long term capital gain	2,85,000
	Tax @ 10% u/s 112 [2,85,000 × 10%]	28,500
Add:	Cess @ 4% [28,500 × 4%]	1,140
	Total tax payable	**29,640**

Question 3(a): Taxation of Charitable Trust 8 Marks

Mookti Foundation, a Charitable institution registered u/s 12AB is engaged in preservation of forests. The accountant of the institution provides the following details of the institution to you as a Chartered Accountant. Please discuss the treatment of Application of Income / Expense in the hands of the Charitable institution in the following independent situations as per provisions of Income Tax Act, 1961. Your answer should be followed with reasons:

A. The Institution follows mercantile system of accounting and during PY 2023–24, has incurred Electricity expenses amounting to₹ 1,00,000 for the period pertaining to PY 2023–24. The Electricity expenses was actually paid on 10.04.2024 through Account payee cheque. In which year the application of income will be treated by the Foundation?

B. The Foundation was cultivating 20 acres of agriculture land. It is doing agriculture operations and earned an agriculture income of ₹ 12,00,000 during PY 2023–2024 from this activity. Whether exemption u/s 10(1) will be available to Mookti Foundation on such income?

C. It has earned Rental income for PY 2023–2024 amounting to ₹ 3,00,000. It received ₹ 2,00,000 upto 31.12.2023 of such income. However the balance of ₹ 1,00,000 was received on 31.07.2024. Upto what period the institution can apply the same amount towards the objects of the institution? The institution has exercised the relevant option in this regard.

D. Mookti Foundation borrowed ₹ 45 Lakhs from a nationalised bank in April, 2023 for purchase of building in a forest area for the objects of the institution. It spent the whole amount of loan for the same purpose and claimed the same as application of income in March 2024. It repaid the first instalment of ₹ 6 Lakhs to the Bank on 31.03.2024.

Solution:

Case	Reference	Answer
A	Para 23.3.2	Year of actual payment will be treated as year of application i.e. PY 2024–2025
B	Para 23.4.2	Yes. Exemption u/s 10(1) will be available.
C	Para 23.3.3	Time available upto the end of PY 2023–2024
D	Para 23.3.3A	Only 6 Lakhs can be treated as application of Income and balance loan amount to be treated as application only in the year of repayment of loan.

Question 3(b): DTAA **6 Marks**

Smt. Manisha (aged 70 years), a resident individual, furnishes you the following particulars of Income relating to the previous year 2023-24:

Particulars	Amount (₹)
Loss from Let out Property at Delhi (Computed)	4,50,000
Income from Business in India (computed)	8,99,500
Business Income in Country A	8,00,000
FD Interest in Country A	USD 8,000
Savings Bank Interest in India from PNB Bank	50,500
Contribution to PPF Account of her married son	1,50,000
Interest on PPF Account (In own name)	58,682
Agricultural income in Country "M"	1,20,000

Agriculture income is exempt in Country "M" and rate of Tax in country A is 25%. Assume that there is no double taxation avoidance agreement between India and country "A" and Country "M". Rate of 1 USD = 82 for calculation purposes.

Compute the total income and tax payable by Smt. Manisha for the AY 2024–25. Assume that she did not opt to be governed by provision of Section 115BAC.

Solution: **Refer Para: 28.3.2 Section 91**

Particulars	₹	₹
Income (Loss) under the head House Property		
Loss from house property [balance 2.5 lakhs loss to be carried forward]		(2,00,000)
Income under the head Profits and Gains from Business or Profession		
Business income from India	8,99,500	
Business income from Country A	8,00,000	16,99,500
Income from Other Source		
Interest from Fixed deposit (Country A) $ 8,000 × 82	6,56,000	
Savings Bank Interest	50,500	
Agri income from country "M"	1,20,000	**8,26,500**
Gross Total Income		**23,26,000**
Tax @ Slab rates [1,10,000 + (13,26,000 × 30%)]		**5,07,800**
Add: Cess @ 4% [5,07,800 × 4%]		**20,312**
Less: Relief u/s 91 [refer Working Note 1]		**(3,30,512)**
Total Tax Payable		**1,97,600**

Note: Interest on PPF (own name) exempt u/s 10(11)

WN 1: Calculation of relief u/s 91

Particulars	Computation	₹
Average Tax rate	5,28,112 ÷ 23,26,000	22.70%
Tax Rate – Country A		25%
Foreign Income		
Business Income	8,00,000	
FD Interest	6,56,000	14,56,000
Tax relief u/s 91 [Lower of 22.7% or 25%]	22.70% × 14,56,000	3,30,512

8 Marks

Question 4(a): TDS & TCS

Examine the applicability of TDS or TCS in the following independent situations. Calculate the amount of tax to be deducted at Source or tax to be collected at source in given cases as per the provisions applicable for AY 2024-25:

A. Mr. Ron took a loan of ₹ 10 Lakhs from his employer, Thomas Private Limited, an Indian Domestic Manufacturing Company for sponsoring studies of his son in Germany. Out of the said loan, He remitted ₹ 8,75,000 towards fees to the University in Germany for his son's education. He also remitted to his son an amount of ₹ 4,75,000 for pursuing higher studies in Germany towards his out of pocket expenses. Both the remittances were made through the same authorized dealer under the Liberalized Remittance Scheme of RBI.

B. Mr. Mandeep Singh, a manufacturer of textile goods, had a turnover of ₹ 12 Crores during last FY and is covered u/s 44AB for compulsory audit of Books of Accounts. He purchased a residential house in January for his personal use for ₹ 5 Crores from Mr. Amit and paid a commission @ 12% of the value of the house to Mr. Pankaj for effecting the deal. The house is not used for business purposes by Mr. Mandeep Singh.

C. Examine the correctness of the following situation. Registrar General of Hon'ble High Court of Delhi has made a fixed deposit of 100 lakhs with a nationalised bank out of money deposited by litigants on directions of the Court. Is section 194A applicable in respect of interest on fixed deposits in the name of Registrar General of High Court?

Refer Para: 33.2, 31.1.5

Solution:

Case	Reference	Answer	₹
		Particulars	
A	**Para 41.6.2 Sec. 206C(iG)**	TCS to be collected by Authorised Dealer = 8,75,000 × 0.5%	4,375
		Add: [(8,75,000 + 4,75,000) – 7,00,000] × 5%	32,500
		Total	36,875
B	**Para 41.2.11, 41.2.13 Section: 194-IA, 194H**	TDS u/s 194–IA = 5 Crores × 1% = 5 Lakhs TDS u/s 194–H = (5 Crores × 12%) × 5% = 3 Lakhs	
C	**Refer Para: 41.2.3**	Circular No. 8/2011, dated 14–10–2011	

6 Marks

Question 4(b): Taxation of International Transactions

Paras Ltd is an Indian Company engaged in the manufacturing of supreme quality mink blankets. It has total borrowings of ₹ 60 Crores by way of loan as on 31.03.2024. SHQ Inc of Germany during FY 2023–24 imported 5 Lakh piece of blankets from Paras Ltd @ ₹ 2,000 per unit for the trading purposes in Germany. Paras Ltd sold similar blankets to other dealers in Germany @ ₹ 2,100 per unit. Paras Ltd received a guarantee on 01.04.2023 for availing a cash credit limit of ₹ 9 Crores for which SHQ Inc was the guarantor. The terms of trade for other dealers was to make payment within 1 month from the date of sale of goods by Paras Ltd, whereas for SHQ Inc, the credit period allowed was 3 months from the date of sale of goods. The cost of capital was 12% per annum and the supply of goods is assumed to be uniform throughout the year. You are required to determine whether Paras Ltd and SHQ Inc are associated enterprises. If yes, compute the Arm's Length Price (ALP) of the transaction between them and the amount to be added to the income of Paras Ltd, if any, by way of an ALP adjustment. Assuming that the above adjustments to the transfer price have been made suo–moto by Paras Ltd. in its return of income, what is the time limit for the repatriation of such excess money? What are the implications if the excess money is not repatriated within such prescribed time limit? Your answer must be based on the latest provisions of Income Tax Act.

Solution: **Refer Para: 27.2, 27.3.1, 27.5.5, Section: 92A, 92B, 92C, 92CE**

Note: Since the Guarantee given exceeds 10% of the loan value, Paras Ltd and SHQ Inc are associated enterprises.

	Particulars	Computation	₹ in Lakhs
	Uncontrolled Comparable Price	2,100 × 5 Lakhs	10,500
Add:	Cost of Excess Credit	10,500 × 12% × 2/12	210
	Arms Length Price		**10,710**
Less:	Actual Transaction Price	2,000 × 5 Lakhs	10,000
	Primary Adjustment		**710**

4 Marks

Question 5(a)(i): Assessment procedure – Duties of Assessee

Mr. Surajit e-filed his ITR. He declared a total income of ₹ 11,75,000. Total Income includes interest from Public Provident Fund (PPF) ₹ 95,530 and long term capital gains on agricultural land exempt u/s 10(37). Both these incomes were disclosed in the schedule of exempt income. Mr. Surajit also found that by mistake he failed to claim the current year business loss in the ITR amounting to ₹ 4,50,000 which he is entitled to claim. In due course of time, the above ITR got processed u/s 143(1) and both the above exemptions for Interest on PPF and LTCG on agricultural land were denied. Intimation was served to Mr. Surajit and a demand of tax was raised. For all the above mistakes in the return he filed a revised return u/s 139(5) but time limit for e-verification of revised return had lapsed and the same became invalid. Assessee filed for rectification u/s 154 which was also rejected by AO. Is AO bound to accept the request of Mr Surajit?

Solution: **Refer Para: 33.2, 31.1.5 Section: 139(5), 143, 154**

Hint Answer: AO cannot take advantage of mistake committed by the Assessee. Rectification filed u/s 154 is within stipulated time and cannot be rejected by AO.

4 Marks

Question 5(a)(ii): Penalties & Prosecution

IT Finance (I) Ltd repays a Loan merely by passing adjustment entries in its books of account. Loan repayment was not actually made. The cause shown by the assessee for repayment of the loan otherwise than by account payee cheque / bank draft was on account of the fact that the assessee was liable to receive amount towards the sale price of the shares sold by the assessee to the person from whom loan was received by the assessee. In order to avoid the unnecessary circular transfer of shares, both the parties agreed to set off the amount payable and receivable by way of passing journal entries and the balance loan amount was paid by the assessee by way of an account payee cheque. The amount of loan settled by way of passing journal entries exceeds ₹ 20,000. Neither the genuineness of the receipt of loan nor the transaction of repayment of loan by way of adjustment through book entries has been doubted in the regular assessment. But AO imposed Penalty u/s 271E as a contravention of Sec. 269T w.r.t. repayment of loan otherwise than by banking channel. Is AO justified in imposing penalty?

Solution: **Refer Para: 45.3 & 45.4 Case Law Triumph International Finance Ltd. 2012 Bom HC**

Hint Answer: AO is justified in imposing penalty.

4 Marks

Question 5(a)(iii): Profits and Gains from Business or Profession

The assessee, M/s. ABC Finance Limited, a Finance Company, was engaged in business of leasing and hire purchase of capital equipment to existing Indian enterprises. It had obtained certain amount of loan from a UK based company in foreign currency to be used by the assessee for financing the procurement of Capital Equipment by its customers. While repaying said amount, the assessee had to pay a higher amount in lieu of fluctuation in exchange rate, which resulted in loss of ₹ 3.57 Crores. Subsequently, the assesse, while filing the return of income, claimed loss owing to exchange fluctuation, amongst others, of ₹ 1.10 Crores as deduction u/s 37(1), and capitalised exchange fluctuation of ₹ 2.47 Crores. However the claim u/s 37(1) was denied by the Revenue while processing return. CIT(A) also rejected the assessee's claim and held Sec. 43A for capitalisation of Exchange rate fluctuation was applicable. In the appeal before ITAT, the appellant not only claimed deduction in respect of loss of ₹ 1.10 Crores arising on account of exchange fluctuation, but also set up a fresh claim in respect of revenue expenses to the tune of ₹ 2.47 Crores, erroneously capitalised in the return. The Tribunal reversed the findings of CIT(A) and further held that since entire amount of loan was utilised in trading operations, the expenditure so incurred was revenue in nature and allowable u/s 37(1). Whether the Tribunal is justified in deleting the disallowance of claim of ₹ 1.10 Crores made by AO and allowing the additional claim of ₹ 2.47 Crores as Revenue Expense?

Solution: **Refer Page: 6.66, Case Law: Wipro Finance Ltd vs. CIT (2022)**

Hint Answer: Tribunal is justified.