

Super 30 Questions by 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, 2022 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 2020-21.
- (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 not paid before the due date of filing of return of income (due date being 30.10.2022): ₹2,60,000
- (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 2021-22, 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, 2022 and the trust paid the amount of bonus to the employees on 30th December, 2022
- (xii) Other expenses include ₹1,45,000 as expenditure incurred on CSR.
- (xiii) During the previous year 2021-22, 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 1-6-2021 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 2021-22 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, 2021. 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, 2022 were remitted on 8th June 2022.
- (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 2018-19 & 2019-20 recovered during the year in respect of a commercial property owned by the company, which was sold by the company on 23.03.2021.
- (ii) Dividends from a specified foreign company including the expenditure of ₹20,000 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, 2021 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, 2022 to 30th April, 2022. The expenses incurred on the project till 31-3-2022 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 10-10-2020. On 01-02-2021 ₹ 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 01-03-2022. 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 18.01.2022: ₹35,000
- (3) Audit fee for the previous year 2020-21: ₹75,000. TDS deducted but not paid in the relevant previous year. However, TDS was paid on 31.12.2021.
- (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 2021-22, the court gave its judgement in favour of the company. The company has received ₹2,00,000 till 31-03-2022. 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 01.06.2021 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 17-11-20 for conducting scientific research and the deduction was claimed under section 35 of the Income-tax Act, 1961. This asset was sold on 05-09-2021 for a consideration of ₹ 8,00,000.
- (12) Employees contribution to EPF of ₹ 2 lakhs recovered from their salaries for the month of March 2022 and shown in the Balance Sheet under the head Sundry Creditors was remitted on 31st May, 2022.

Compute the total income of BB Industries Ltd., for assessment year 2022-23. 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. 2022-23

	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	
	Add: 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	
	(iii) Interest and borrowing cost included in Opening and Closing inventory [As per ICDS II, Interest and borrowing cost which does	2,50,000	

	Particulars	Amount (₹)		
	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]			
(iv)	Cash payment in excess of ₹10,000 [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]	19,000		
(v)	Repair work paid to contractor without deduction of tax at source [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)]	1,05,000		
(vi)	Expenditure for transfer of carbon credits [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]	35,000		
(vii)	Contribution to electoral trust [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]	3,00,000		
(viii)	Advertisement in brochure of a political party [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]	40,000		
(ix)	Interest to co-operative bank not paid before 31.10.2022 [Disallowance u/s 43B would be attracted for A.Y.2022-23, since the interest was not paid on or before the due date of filing of return]	2,60,000		

	Particulars	Amount (₹)		
	<p>(x) Contribution towards pension scheme of employees [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		
	<p>(xi) Bonus transferred to the trust for making payment to the employees after settlement of the dispute [The bonus would be allowable as deduction u/s 36(1)(ii), even though the amount of bonus payable was initially remitted to the trust created for the purpose of avoiding late payment of bonus, 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 2022, after due date of filing return of income i.e., after 31st October 2022, 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		
	<p>(xii) Expenditure incurred on CSR [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		
	<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 2021-22, 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 Ferromatic Milacron India Pvt, Ltd, as briefed hereunder: Rights acquired under a non-compete agreement gives enduring benefit and protects</p>	3,30,000		

	Particulars	Amount (₹)		
	<p>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>			
	<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		
	<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]</p>	-		

	Particulars	Amount (₹)		
	u/s 139(1). Since the same has been debited to profit and loss account, no further adjustment is necessary]			
	<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 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. 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. Expenditures for issue of bonus shares are treated as revenue expenses and allowed as deduction]</p>	3,00,000	81,15,000	
			1,53,15,000	

	Particulars	Amount (₹)	
	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).]		
	Claim for Escalation price in respect of ongoing marketing contracts [As per section 145B, claim for escalation of a price of ₹ 8,50,000 would be deemed to be income of P.Y. 2021-22 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 31.3.2022 is included in the profit and loss account, balance ₹6,50,000 has to be included in business income]		6,50,000
	Retention money [ICDS III & as per section 43CB requires recognition of contract revenue, including retention money, on percentage of completion method. 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.2021-22, since the contract has been fully completed].		3,00,000
	Employees' contribution to EPF [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]		2,00,000
	Sale of Scientific Research Asset [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 + ₹ 6,00,000) over the capital expenditure incurred of ₹ 6,00,000]		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	

	Particulars	Amount (₹)		
(ii)	<p>Dividend received from specified foreign company [Dividend received from specified 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]</p> <p><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></p>	1,60,000		
(iii)	<p>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]</p>	3,00,000		
(iv)	<p>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]</p>	1,35,000		
(v)	<p>Audit fees of P.Y. 2020-21 [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. 2020-21 would be allowed in the year of payment of TDS i.e., P.Y. 2021-22]</p>	22,500		
(vi)	<p>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 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>	-		
(vii)	<p>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 2022 to 30th April 2022 (less than 90 days), the revenue from such contract would be determined on the basis of project completion method.</p>	3,73,000		

	Particulars	Amount (₹)		
	Consequently, the income from contract and the expenditure would also be chargeable/allowable in the P.Y. 2022-23. 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. 2021-22]			
	(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]	-		
	(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.	7,00,000		
	(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]	3,00,000		
	(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]	-	23,70,500	
			1,47,29,500	
	<i>Less: Depreciation u/s 32 as per Income tax Rules</i>			
	Depreciation on Imported P&M	28,00,000		
	<i>Add: 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].</i>	6,90,000		
	<i>Add: 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.</i>	9,20,000	44,10,000	

	Particulars	Amount (₹)		
	<p>Depreciation on Generator</p> <p>Normal Depreciation [₹ 20,35,000 x 15%] Additional Depreciation [₹ 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.</p>	3,05,250	4,07,000	7,12,250
	Profits and gains from business or profession			96,07,250
III	<p>Capital Gain</p> <p>Sale of asset acquired for conducting scientific research</p> <p>Full Value of Consideration Less: cost of acquisition Short Term Capital Gain</p>	8,00,000	<u>6,00,000</u>	2,00,000
IV	Income from Other Sources			
	Dividend from specified foreign company			1,60,000
	[No deduction is allowable in respect of expenditure incurred on earning dividends]			
	<p>Deemed dividend u/s 2(22)(e)</p> <p>[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]</p>			2,00,000
	<p>Interest from banks on fixed deposits (Gross)</p> <p>[Interest on banks on fixed deposits is taxable as "Income from other sources"] [₹1,35,000 x 100/90]</p>			1,50,000
	<p>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)(viiib)].</p>			8,00,000
	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			3,40,000

	Particulars	Amount (₹)		
	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]			
	Total income			1,10,43,250

Question:2 [Topic: Capital Gain Section 9B & 45(4)]

Mr. Prem is a partner in two firms X & Co., Mumbai and Y & Co., Delhi. X & Co. has four partners, including Prem, who share profits and losses equally. Mr. Prem resigned from X & Co. on 1.4.2021. On the said date, the capital balance of each of the partners stood at ₹ 32 lakhs. In order to settle the dues of Mr. Prem, the firm revalue its land for the first time since purchase; the valuer also valued self-generated goodwill at ₹ 70 lakhs. The firm has the following capital assets, whose details are as follows.

	Particulars of Assets	Date of purchase	Cost of acquisition (book value)	Value as on 1.4.2021 as per Valuation Report (Rule 11U)
1.	Land at Pune	21.1.2013	₹ 15 lakhs	₹ 50 lakhs
2.	Land at Nagpur	18.4.2015	₹ 25.4 lakhs	₹ 45 lakhs
3.	Land at Mumbai	14.5.2013	₹ 88 lakhs	₹ 250 lakhs
4.	Self-generated goodwill			₹ 70 lakhs

In April, 2021, X & Co. gave Land at Nagpur and ₹ 15 lakh money to Mr. Prem to settle his capital balance. The firm Y & Co. dissolved on 1.3.2022 and distributed its land at Chandigarh, Mohali and Gurgaon on the same date to its three partners, Prem, Akshay and Aarav, respectively, who were sharing profits and losses equally. The particulars of these lands are given hereunder –

	Particulars of Assets	Date of purchase	Cost of acquisition (book value)	Value as per Valuation Report as on 1.3.2022 (Rule 11U)
1.	Land at Chandigarh (given to Prem)	3.7.2011	₹ 18.4 lakhs	₹ 62 lakhs
2.	Land at Mohali (given to Akshay)	15.9.2015	₹ 15.24 lakhs	₹ 59 lakhs
3.	Land at Gurgaon (given to Aarav)	27.2.2011	₹ 16.7 lakhs	₹ 70 lakhs

In addition, Prem and Akshay were given money of ₹ 8 lakhs and ₹ 11 lakhs, respectively on 1st March, 2022. Cost Inflation Index is as follows: F.Y.2010-11– 167; F.Y.2011-12 – 184; F.Y.2012-13 – 200; F.Y.2013-14 – 220; F.Y.2014-15 – 240; F.Y.2015-16 – 254, F.Y.2021-22 – 317 and F.Y.2022-23 – 331

From the above information answer the following questions.

1. Discuss the tax treatment in hands of X & Co. Mumbai from above transactions.
2. Would your answer change if X & Co. sells Land at Nagpur to an outsider at FMV of ₹ 45 lakhs and settled Mr. Prem's account by paying only money of ₹ 60 lakhs.
3. Suppose Mr. Prem transfer land of Nagpur (which was received from Firm) to Mr. Hari for ₹ 72 lakhs on 10.04.22, compute capital gain.
4. Suppose X & Co. Mumbai transfer land of Pune for ₹ 80 lakhs on 17.07.22, compute capital gain.
5. Discuss the tax treatment in hands of Y & Co. Delhi from above transactions.

Answer**Part-1****X & Co. Mumbai**

As per section 9B, since capital asset (Land at Nagpur) given to Mr. Prem on reconstitution of Firm so it is treated as deemed to be transfer in hands of Firm and capital gain applicable in the year in which asset received by Mr. Prem.

Computation of Capital Gain PY 21-22 AY 22-23

Particulars	₹
Full value of consideration (FMV on the date of transfer)	45,00,000
Less: Transfer Expenses	-
Net Consideration	45,00,000
Less: Index cost of Acquisition 25,40,000 x $\frac{317 (21-22)}{254 (15-16)}$	31,70,000
Long-term Capital Gain	13,30,000

Calculation of Tax Liability	₹
Tax @ 20% on LTCG u/s 112 (13,30,000 x 20):	2,66,000
Add: Health and Education cess :	<u>10,640</u>
Net Tax payable	<u>2,76,640</u>

The CBDT guidelines also specify accounting treatments in the books of Firm on the transfer of assets to partner. As per accounts, profit before tax on transfer of capital asset shall be ₹ 19,60,000 i.e. (FMV of asset ₹ 45,00,000 minus Book Value ₹ 25,40,000)

Profit after tax as per account is ₹ 16,83,360 (₹ 19,60,000 minus ₹ 2,76,640)

Mr. Prem share in profit (₹ 16,83,360/4) = ₹ 4,20,840

Mr. Prem capital after adjusting profit [₹ 32,00,000 + ₹ 4,20,840] = ₹ 36,20,840

Applicability of section 45(4) in case of X & Co. Mumbai

Since in the present case Mr. Prem retired from Firm so it is treated as reconstitution of Firm so section 45(4) also applies in addition to section 9B.

Computation of Capital Gain PY 21-22 AY 22-23

Particulars	₹
Full value of consideration	
(i) Money	15,00,000
(ii) FMV of Capital asset (Nagpur Land)	45,00,000
Less: Capital account balance of Mr. Prem (after giving accounting treatment of section 9B)	60,00,000
	36,20,840
Capital Gain as per section 45(4)	23,79,160

Attribution of Capital Gain u/s 45(4) to remaining capital asset of Firm as per Rule 8AB

Assets	Cost (Book Value) ₹	Revalued (FMV) ₹	Increase ₹	Attribution ₹
Land at Pune	15,00,000	50,00,000	35,00,000	3,11,875 (23,79,160 x 35L/267L)

Assets	Cost (Book Value) ₹	Revalued (FMV) ₹	Increase ₹	Attribution ₹
Land at Mumbai	88,00,000	2,50,00,000	1,62,00,000	14,43,535 (23,79,160x162L/267L)
Self-Generated Goodwill	Nil	70,00,000	70,00,000	6,23,750 (23,79,160x70L/267L)
Total			2,67,00,000	23,79,160

- ❖ Capital gain of ₹ 17,55,410 attributed towards Land at Pune and Mumbai is treated as LTCG as such lands are long term capital asset at the time of taxation u/s 45(4).
- ❖ Capital gain of ₹ 6,23,750 attributed towards self-generated goodwill shall be treated as STCG.

Part-2

If land at Nagpur transfer to any outsider the provisions of section 9B not applicable but normal capital gain provisions as per section 45(1) applicable. The net results of capital gain incidence will remain same as part-1.

Part-3

Capital Gain in Hands of Mr. Prem on transfer of Nagpur Land

Computation of Capital Gain PY 22-23 AY 23-24

Particulars	₹
Full value of consideration	72,00,000
Less: Transfer Expenses	-
Net Consideration	72,00,000
Less: Cost of Acquisition (FMV on the date of received)	45,00,000
Short-term Capital Gain	27,00,000

Part-4

Capital Gain in Hands of X & Co. on transfer of Pune Land

Computation of Capital Gain PY 22-23 AY 23-24

Particulars	₹
Full value of consideration	80,00,000
Less: Transfer Expenses	-
Net Consideration	80,00,000
Less: Index cost of Acquisition 15,00,000 x $\frac{331(22-23)}{200(12-13)}$	24,82,500
Less: Attribution of capital gain towards Pune land	3,11,875
Long-term Capital Gain	52,05,625

Part-5

Y & Co. Delhi

As per section 9B in case of dissolution of Firm, if any capital asset or stock in trade transfer to partner then capital gain or PGBP or both applicable in hands of Firm. In case of dissolution of Firm section 45(4) is not applicable.

Computation of Capital Gain PY 21-22 AY 22-23

Particulars	Land at Chandigarh ₹	Land at Mohali ₹	Land at Gurgaon ₹
Full value of consideration (FMV on the date of transfer)	62,00,000	59,00,000	70,00,000
Less: Transfer Expenses	-	-	-
Net Consideration	62,00,000	59,00,000	70,00,000
Less: Index cost of Acquisition			
Chandigarh Land 18,40,000 x $\frac{317}{184}$ (21-22)	31,70,000		
Mohali Land 15,24,000 x $\frac{317}{254}$ (21-22)		19,02,000	
Gurgaon Land 16,70,000 x $\frac{317}{167}$ (21-22)			31,70,000
Long-term Capital Gain	30,30,000	39,98,000	38,30,000
Total LTCG	1,08,58,000		

Question:3 [Topic: Capital Gain Section 50B-Slump Sale]

Hari Pvt. Ltd had sold all its assets and liabilities as a slump sale on 31.03.2022 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 31.03.2022 is as below:

Liabilities	₹ (in lakhs)	Assets	₹ (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
		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:

- Cost of land in March 2005 was ₹ 100 lakhs & SDV as on 31.03.22 is ₹ 400 lakhs.
- 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 2021-22 is 317.

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>	
		882.00
		1082.00

Particulars	₹ (lakhs)	
Less: Liabilities		
- Unsecured loans	25.00	
- Bank borrowing	500.00	
- Sundry Creditors	<u>80.00</u>	605.00
Net worth		477.00

Question:4 [Topic: Special Tax Rate 115BAA,115BAB and Deduction u/s 80JJAA]

The following are the particulars relating to two Indian companies, namely, Alpha Ltd. and Beta Ltd., which are subject to tax audit u/s 44AB, for A.Y.2022-23 –

Particulars	Alpha Ltd.	Beta Ltd.
Date of setting up/registration	1.4.2019	1.11.2021
Main object	Manufacture of steel	Manufacture of leather
Place	Vaishali, Bihar	Ranipet, Tamil Nadu
Turnover of P.Y. 2019-20	₹ 251 crores	-
Turnover of P.Y. 2020-21	₹ 401 crores	-
Turnover of P.Y. 2021-22	₹ 270 crores	₹ 120 crores
Value of new plant and machinery installed and put to use on 1.11.2021	₹ 8 crore	₹ 5 crore
Gross Total Income of P.Y.2021-22	₹ 5 crore	₹ 3 crore
No. of new employees employed on the date of setting up/registration the company	750	750
Monthly emoluments to employees by ECS through bank account:		
250 employees	₹ 20,000 per employee	₹ 21,000 per employee
250 employees	₹ 25,000 per employee	₹ 25,000 per employee
250 employees	₹ 28,000 per employee	₹ 27,000 per employee

From the above details—

- (i) Compute the tax liability of Alpha Ltd. and Beta Ltd. for A.Y.2022-23, assuming that they avail the beneficial tax rates under the special provisions inserted by the Taxation Laws (Amendment) Act, 2019 in the Income-tax Act, 1961 by fulfilling the conditions specified thereunder. Assume that the gross total income reflects the computation under the special provisions.
- (ii) Would it be beneficial for Alpha Ltd. to opt for the special provisions inserted by the Taxation Laws (Amendment) Act, 2019 instead of opting for the regular provisions of the Income-tax Act, 1961? Examine. Assume Alpha Ltd. has not opted for section 115BAA in earlier years

Answer**(i) Computation of tax liability of Alpha Ltd. and Beta Ltd. under the special provisions of the Income-tax Act, 1961**

Particulars	Alpha Ltd. ₹	Beta Ltd. ₹
Gross Total Income	5,00,00,000	3,00,00,000
Less: Deduction u/s 80JJAA		
Alpha Ltd - [(₹ 20,000 x 12 x 250) + (₹ 25,000 x 12 x 250)] x 30%	<u>4,05,00,000</u>	
Beta Ltd – [(₹ 21,000 x 5 x 250) + (₹ 25,000 x 5 x 250)] x 30%		<u>1,72,50,000</u>
Total Income	<u>95,00,000</u>	<u>1,27,50,000</u>
Computation of tax liability		
Tax@22% on ₹ 95,00,000 [As per section 115BAA]	20,90,000	
Tax@15% on ₹ 1,27,50,000 [As per section 115BAB]		19,12,500
Add: Surcharge@10%	<u>2,09,000</u>	<u>1,91,250</u>
	22,99,000	21,03,750
Add: Health and Education cess@4%	<u>91,960</u>	<u>84,150</u>
Total tax liability	<u>23,90,960</u>	<u>21,87,900</u>

Notes -

(1) Alpha Ltd. is eligible to opt for special provisions under section 115BAA, as per which the rate of tax would be 22% plus surcharge@10% and HEC@4%. It is not eligible to opt for section 115BAB, since it has been set up before 1.10.2019.

Beta Ltd. is a manufacturing company set up on or after 1.10.2019, hence, it would be eligible to opt for section 115BAB, and avail benefit of concessional rate of tax@15% plus surcharge@10% and HEC@4%.

(2) Both Alpha Ltd. and Beta Ltd. are eligible to claim deduction u/s 80JJAA, which is a permissible Chapter VI-A deduction while computing total income under section 115BAA and 115BAB.

Since new employees are employed on 1.4.2019 in case of Alpha Ltd., it can claim 30% of additional employee cost for three years, namely, P.Y.2019-20, P.Y.2020-21 and P.Y.2021-22. Accordingly, it would be entitled to deduction u/s 80JJAA for P.Y.2021-22. 250 employees whose emoluments are ₹ 20,000 p.m. and 250 employees whose emoluments are ₹ 25,000 p.m. qualify as additional employees. 250 employees whose emoluments exceed ₹ 25,000 p.m. do not qualify as additional employees.

Beta Ltd. is engaged in manufacture of leather, and hence it would be entitled to benefit of deduction u/s 80JJAA, since the eligible employees have been employed for more than 150 days in that year. 250 employees whose emoluments are ₹ 21,000 p.m. and 250 employees whose emoluments are ₹ 25,000 p.m. qualify as additional employees. 250 employees whose emoluments exceed ₹ 25,000 p.m. do not qualify as additional employees.

(ii) Computation of tax liability of Alpha Ltd. as per the regular provisions of the Act

Particulars	Alpha Ltd. ₹
Gross Total Income (computed under the special provisions)	5,00,00,000
Less: Additional Depreciation [10% of ₹ 8 crore, since the plant and machinery has been put to use for less than 180 days in the P.Y.2021-22]	<u>80,00,000</u>
Gross Total Income (computed under the regular provisions of the Act)	<u>4,20,00,000</u>

Particulars	Alpha Ltd. ₹
Less: Deduction u/s 80JJAA [(₹ 20,000 x 12 x 250) + (₹ 25,000 x 12 x 250)] x 30%	4,05,00,000
Total Income	<u>15,00,000</u>
Computation of tax liability	
Tax@25% on ₹ 15,00,000 [Since turnover of P.Y.2019-20 is less than ₹ 400 crore]	3,75,000
Add: Surcharge (Not applicable, since total income is less than ₹ 1 crore)	<u>Nil</u>
	3,75,000
Add: Health and Education cess@4%	<u>15,000</u>
Total tax liability	<u>3,90,000</u>

Since the tax liability under the regular provisions of the Act is ₹ 3,90,000 *vis-à-vis* tax liability of ₹ 23,90,960 computed under section 115BAA, it is not beneficial for Alpha Ltd. to opt for the special provisions under section 115BAA for A.Y.2022-23. Hence, Alpha Ltd. should **not** opt for the special provisions under section 115BAA for A.Y.2022-23.

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 31.03.2022:

- (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 2019-20. 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 2021-22. Out of 20 employees, 12 were employed on 1st May 2021 on monthly emoluments of ₹ 18,000 and remaining were employed on 1st August 2021 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 01.12.2021 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 ₹ 4 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 2021-22 and 2001-02 are 317 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 2022-23, in the manner so that he can make maximum tax savings.

Answer

Computation of total income of Mr. Dheeraj for A.Y. 2022-23

	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. 2021-22 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	
	Income from house property [₹ 1,33,300 – ₹ 90,000]		(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 [₹ 4,00,000 x 317/100]		12,68,000	32,000
	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 ₹ 4 lakhs.			
IV	Income from Other Sources			
	Interest on savings bank deposits		30,000	
	Interest on fixed deposits		45,000	75,000
	Gross Total Income			46,50,300

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.2021-22 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. 2021-22 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			22,03,100

Computation of tax liability of Mr. Dheeraj for A.Y.2022-23 under the normal provisions of the Act

Particulars	₹	₹
Tax on total income of ₹ 22,03,100		
Tax on LTCG of ₹ 32,000@20%		6,400
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
		4,70,230
Add: Health and education cess@4%		18,809
Total tax liability		4,89,039
Tax liability (rounded off)		4,89,040

Computation of tax liability of Mr. Dheeraj for A.Y.2022-23 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	22,03,100
Add: Deduction u/s 10AA	13,50,000
Deduction u/s 80JJAA	9,43,200
	44,96,300
AMT@18.5%	8,31,815
Add: HEC@4%	33,273
AMT liability	8,65,088
AMT liability (rounded off)	8,65,090

Since the regular income tax payable is less than the AMT, the adjusted total income of ₹ 44,96,300 would be deemed to be the total income and tax would be payable @18.5% plus HEC@4%. The total tax liability would be ₹ 8,65,090. In this case, AMT credit of ₹ 3,76,050 (₹ 8,65,090 – ₹ 4,89,040) 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. 2022-23

Particulars	₹	₹
Gross Total Income as per regular provisions of the Income-tax Act		46,50,300
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		47,40,300
Less: Deduction under section 80JJAA		
30% of the employee cost of the new employees employed during the P.Y. 2021-22 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		37,97,100

Computation of tax liability as per section 115BAC

Particulars	₹	₹
Tax on total income of ₹ 37,97,100		
Tax on LTCG of ₹ 32,000@20%		6,400
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
		8,73,430
Add: Health and education cess@4%		34,937
Total tax liability		9,08,367
Tax liability (rounded off)		9,08,370

Since tax liability as per section 115BAC is higher than the tax liability of ₹ 8,65,090 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 ₹ 8,65,090. Moreover, Mr. Dheeraj would also be eligible to claim carry forward of AMT credit of ₹ 3,76,050.

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 2017-18 for production of washing machines. The unit fulfils all the conditions of section 10AA of the Income-tax Act, 1961. During the financial year 2020-21, 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, 2021 and the expenditure of ₹75 Lakhs was capitalized in the book on that date.

Relevant details for the financial year 2021-22 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 2022-23.

Answer

Computation of total income and tax liability of PQR LLP for A.Y. 2022-23 (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. 2022-23 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. 2020-21 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 1-4-2017. The following particulars are provided for the year ended 31.3.2022 :

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 12-12-2021.
- (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
2018-19	₹3 crores	₹1 crore
2019-20	₹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 1-4-2017 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 2022-23.
- 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.2022-23

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.2022-23	1,76,46,720

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

Particulars	₹
MAT liability for A.Y.2022-23 (rounded off)	1,76,46,720
Income-tax computed as per the normal provisions of the Act for A.Y.2022-23	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.2022-23 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: Capital Gain JDA section 45(5A)]

Ms. Mishika has entered into an agreement with M/s BB Build Limited on 25.04.2019 in which she agrees to allow such Company to develop a shopping mall on land owned by her in New Delhi. She purchased such land on 05.05.2009 for ₹ 15,00,000. In consideration, M/s BB Build Limited will provide 20% share in shopping mall to Mishika. The certificate of completion of shopping mall was issued by authority as on 26.12.2021. On such date, Stamp duty value of shopping mall was ₹ 4,14,00,000. Subsequently on 18.03.2022, she sold her 15% share in shopping mall to Mr. Ketav in consideration of ₹ 65,00,000.

She has also purchased a house on 09.05.2021 in consideration of ₹ 46,00,000 and occupied for own residence. Punjab National Bank has sanctioned a loan of ₹ 35,50,000 (80% of stamp value) at the interest rate of 12% per annum on 01.05.2021 and disbursement was made on 01.06.2021. She does not own any other residential house on the date of sanction of loan. Principal amount of ₹ 1,30,000 was paid on 31.03.22.

Cost Inflation Indices: 2021-22: 317, 2019-20:289, 2009-10: 148

Compute total income of Ms. Mishika for the assessment year 2022-23 assuming that she has not opted for the provisions under section 115BAC.

Answer

Computation of Total Income of Ms. Mishika for PY 21-22 (AY 22-23)

Particulars	₹	₹
Income from House Property		
Net Annual Value	Nil	
Less: Interest on housing loan of ₹ 3,55,000 [₹ 35,50,000 x 12% x 10/12 months] restricted to ₹ 2,00,000/-	(2,00,000)	
Less: Set-off against long term capital Gain	<u>2,00,000</u>	Nil
Long-term capital gains on transfer of land under specified agreement		
Since Ms. Mishika transferred her share in the project after issue of completion certificate, capital gains on transfer of land handed over to developer under specified agreement in the P.Y. 2019-20 would be taxable in the previous year 2021-22, being the year in which certificate of completion is issued as per section 45(5A). Accordingly, capital gain arising in respect of land would be-		
Full value of consideration, being 20% share in shopping mall [Stamp duty value on the date of issue of completion certificate (₹ 4,14,00,000 x 20%)]	82,80,000	
Less: Indexed of cost of acquisition [₹ 15,00,000 x 289/148]	<u>29,29,054</u>	
	53,50,946	
Less: Set-off of loss from house property [It is beneficial to set-off loss from house property against long-term capital gains, since in case of Ms. Mishika total income comprises of LTCG taxable@20% and STCG taxable at normal slab rates; and she can claim deduction of ₹ 2,80,000 under Chapter VI-A against STCG of ₹ 2,90,000. Moreover, the remaining STCG would also not be taxable since it would be below the basic exemption limit]	<u>2,00,000</u>	51,50,946

Short term Capital Gain on transfer of 15% shares in shopping mall		
Full Value of Consideration	65,00,000	
Less: Cost of Acquisition [₹ 4,14,00,000 x 15%]	<u>62,10,000</u>	2,90,000
Gross Total Income		54,40,946
Less: Deduction under chapter VI-A		
Deduction u/s 80C – Repayment of principal of housing loan	1,30,000	
Deduction u/s 80EEA – Interest on Housing Loan (3,55,000 – 2,00,000) 1,55,000 (Max deduction u/s 80EEA is 1,50,000.	1,50,000	<u>2,80,000</u>
Total Income	i.e.	<u>51,60,946</u> <u>51,60,950</u>

Question:9 [Topic: Taxation of Trust]

Mani foundations, a charitable trust registered u/s 12AA/12AB of the Income-tax Act, 1961, run schools for primary and secondary education. The following particulars pertaining to the previous year 2021-22 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)	Amount applied for the purpose of schools [It includes 10 lakhs applied from corpus of Trust]	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 (this amount not included in (vi) above)	
(ix)	The trust set apart ₹ 15 lakhs for acquiring another table & equipment for library but the amount was spent in October 2022. Form 10 was filed and A.O. was duly informed as required u/s 11(2). Investment made in the units of UTI (mode prescribed u/s 11(5)) of ₹ 3 lakhs upto 31/03/2022.	
(x)	Excess of expenditure over income in the previous year 2020-21	25

Compute the total income of the trust for the assessment year 2022-23 in order to avail maximum benefits within the four corners of law.

Answer

Computation of total income of Mani Foundations for the A.Y.2022-23

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>
Add: 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>
Less: 15% of income set apart		6,29,65,000
Less: Amount applied for charitable purposes		<u>94,44,750</u>
- Amount applied for the purpose of schools (excluding amount applied for the benefit of the founder & amount applied from Corpus of Trust) = ₹400 lakh – ₹5 lakh – ₹10 lakhs	3,85,00,000	5,35,20,250
- 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	
- Amount set apart for acquiring another table & equipment for library ₹ 15 lakhs would be treated as application for the previous year 2021-22 to the extent of ₹ 3 lakhs, being the amount of investment made in units of UTI, a mode prescribed u/s 11(5)	3,00,000	
- Excess of expenditure over income in the P.Y.2020-21	Nil	<u>4,68,00,000</u>
		67,20,250
Add: Amount applied for the benefit of the founder of the trust chargeable to tax under section 12(2) read with section 13(6)		5,00,000
Anonymous donation taxable @30% under section 115BBC		<u>3,35,000</u>
Total Income of the trust (including anonymous donation taxable@30%)		<u>75,55,250</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: As amendment made by Finance Act, 2021 Excess applied of earlier year is not allowed as applied in current year.

Question:10 [Topic: Exit Tax of Trust]

GVB Charitable Trust engaged in the activities of running a charitable hospital and medical college since 8 years, has been merged with a Corporate hospital on 31st March, 2022. The said Corporate Hospital is not eligible for registration under section 12AA/12AB of the Act. The position of assets and liabilities of the Charitable trust as on the date of merger are furnished as under:

A: Properties and Assets:

₹

(a) Shares and securities held by Trust 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 Trust:	60 lakhs
Value of Immovable Properties (Land & Buildings) as per valuation report from Registered Valuer:	40 lakhs
Stamp Duty value:	38 lakhs
The Trust was created on 1st January, 2013 and obtained registration under section 12AA on 31st March, 2013.	
(d) Advance Tax paid (Its part of Assets)	12 lakhs
(e) The Trust 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 Charitable Trust, 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 trust has no tax liability in respect of other activities undertaken during previous year 2021-22.

Answer

(a) Computation of exit tax payable by GVB Charitable Trust

As per section 115TD, the accreted income of “GVB Charitable Trust”, registered u/s 12AA/12AB, 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 12AA/12AB.

Particulars	Amount (₹)
Aggregate FMV of total assets as on 31.3.2022, 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 trust, 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 Charitable trust [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 Charitable Trust	<u>23,00,000</u>

Question:11 [Topic: DTAA]

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 2022-23.

Income earned in India by Mr. Rohan Babu during the year ended 31-3-2022:

(₹ 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. 2021-22 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.2022-23, assuming that he does not opt for section 115BAC.

Answer

Computation of tax liability of Mr. Rohan Babu for A.Y.2022-23

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		
PPF ₹ 1,50,000 & LIC ₹ 1,00,000		<u>1,50,000</u>
Total ₹ 2,50,000, restricted to		
Total Income		<u>40,90,00,000</u>
Computation of tax liability:		
Tax on total income		12,25,12,500
[30% x ₹ 40,80,00,000 + ₹ 1,12,500]		<u>4,53,29,625</u>
Add: Surcharge@37% (since his total income exceeds ₹ 5 crore)		16,78,42,125
Add: HEC @4%		<u>67,13,685</u>
Tax liability		17,45,55,810
Less: Deduction under section 91 [See Working Notes 1 & 2 below]		<u>2,72,60,000</u>
Net Tax liability (rounded off)		<u>14,72,95,810</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)	
Lower of Indian rate of tax and rate of tax in Country X [See Working Note 2 below]	18%
Deduction u/s 91 = 18% x ₹ 10.70 crores	1,92,60,000

- 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.

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)	₹ 4,10,00,000	
	Lower of Indian rate of tax and rate of tax in Country Y [See Working Note 2 below]	19.512%	
	Deduction u/s 91 = 19.512% x ₹ 4.10 crores		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 [17,45,55,810 x 100/40,90,00,000]	42.68%
(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:12 [Topic: Business Trust]

Mr. Sam, a non-resident and Mr. Hari, a resident received following income from REIT during P.Y.2021-22. 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. 2022-23.

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.2022-23?

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:13 [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.2022-23
- Determine the amount of loss to be carried forward by Investment Fund and/or Hari to A.Y.2023-24.
- In case the Investment Funds do not distribute the entire income earned during the P.Y.2021-22 to the unit holders by 31.3.2022, 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.2022- 23

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. 22-23

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.2021-22 to the unit holders by 31.3.2022

Question:14 [Topic: TDS/TCS]

Mr. Subhash is a retailer of car spare parts. He started his business in May, 2020. His turnover for the P.Y. 2020-21 was ₹ 10.50 crores. He generally purchases goods from Car accessories & Co. only. Car accessories & Co. manufacturers and sells spare parts directly to the customers as well as through an e-commerce platform – CarParts.com. Car accessories & Co.’s turnover from the business for the P.Y. 2020-21 was ₹ 15 crores.

The relevant information of purchases made by Mr. Subhash in P.Y. 2021-22 is given hereunder:

Date of credit to account of Car accessories & Co.	Date of Payment to Car accessories & Co.	Value of spare parts without GST (₹)	GST @18%	Total value of spare parts/ payment
15.05.2021	02.06.2021	40,00,000	7,20,000	47,20,000
18.06.2021	30.06.2021	15,00,000	2,70,000	17,70,000
28.08.2021	17.08.2021	21,50,000	3,87,000	25,37,000
14.02.2022	28.02.2022	10,50,000	1,89,000	12,39,000

In addition to the above, Mr. Subhash also purchased spare parts of Car accessories & Co. for ₹ 12,00,000 inclusive of GST@18% through CarParts.com on 31.12.2021. The payment was made directly to Car accessories & Co. on 15.1.2022. PAN is duly furnished by Mr. Subhash, Car accessories & Co. and CarParts.com. The GST portion is indicated separately in the invoice of Car accessories & Co. but it is not shown separately when the goods are purchased through CarParts.com.

Based on the above facts, choose the most appropriate answer to Q. No. i to v -

- Is Mr. Subhash required to deduct tax at source in respect of the purchase transactions made directly with Car accessories & Co. If yes, when and what is the amount of tax to be deducted?
 - Yes; ₹ 2,150 on 17.08.2021 and ₹ 1,050 on 14.02.2022
 - Yes; ₹ 2,537 on 17.08.2021 and ₹ 1,050 on 14.02.2022
 - Yes; ₹ 500 on 18.06.2021, ₹ 2,150 on 17.08.2021 and ₹ 1,050 on 14.02.2022
 - No, Mr. Subhash is not liable to deduct tax at source.
- Is Car accessories & Co. required to collect tax at source in respect of the sale transactions with Mr. Subhash. If yes, when and what is the amount of tax to be collected?
 - Yes; ₹ 500 on 30.06.2021, ₹ 2,150 on 17.08.2022 and ₹ 1,050 on 28.02.2022
 - Yes; ₹ 1,490 on 30.06.2021, ₹ 2,537 on 17.08.2021 and ₹ 1,239 on 28.02.2022
 - Yes; ₹ 1,490 on 30.06.2021
 - No, Car accessories & Co. is not liable to collect tax at source.

3. Assume that Mr. Subhash has started the retail business of car spare parts in May, 2021. In such case, would the answer of MCQ i and ii be different? If yes, what would be the answer of MCQ i and ii?
- No, the answer of MCQ i and ii would be the same
 - Yes, the answer of MCQ i would change to (d) but the answer of MCQ ii would be the same
 - Yes, the answer of MCQ i would change to (d) and the answer of MCQ ii would change to (b)
 - Yes, the answer of MCQ i would change to (d) and the answer of MCQ ii would change to (a)
4. Are the provisions of tax deduction/collection at source attracted in respect of the transactions with CarParts.com? If yes, who has to deduct/collect at source and at what rate?
- Mr. Subhash is required to deduct tax at source on ₹ 12 lakhs @0.1%.
 - Car accessories & Co. is required to collect tax at source on ₹ 12 lakhs @0.1%.
 - CarParts.com is required to deduct tax at source on ₹ 12 lakhs @0.1%.
 - CarParts.com is required to deduct tax at source on ₹ 12 lakhs @1%.
5. If Mr. Subhash has not furnished his PAN to Car accessories & Co. but has furnished his Aadhar number, what would be the rate of TCS for the purpose of MCQ 2.
- 5%
 - 1%
 - 0.1%
 - Car accessories & Co. is not liable to collect tax at source.

Answer

MCQ No.	Most Appropriate Answer	Reasons
1.	(b)	Section 194-Q applicable in this case on purchase made on or after 01/07/21. Purchase made from 01/04/21 till 30/06/21 not liable for TDS but it will be considered in the limit calculation of ₹ 50 Lakhs. TDS has to be deducted at the time of payment or credit, whichever is earlier. As per CBDT if advance payment made then TDS deducted on whole amount including GST. TDS Amount 17/08/21 – ₹ 25,37,000 x 0.1% = ₹ 2537 14/04/22 – ₹ 10,50,000 x 0.1% = ₹ 1050
2.	(c)	Since last year T/O of seller is more than ₹ 10 Crores. As per section 206C(1H) TCS collected @1% on consideration received in excess of ₹ 50 lakhs. As per CBDT if section 194Q applicable then section 206C(1H) doesn't apply. Since section 194Q applicable from 01/07/21 so section 206C(1H) shall apply on consideration received till 30/06/21. In this case since consideration received by seller (including GST) is ₹ 64,90,000 so TCS applicable on ₹ 14,90,000 @ 0.1%.
3.	(c)	Since this is the first year of operation so last year T/O treated as NIL so buyer not required to deduct TDS u/s 194Q but seller require to collect TCS on consideration received during current year in excess of ₹ 50 Lakhs.
4.	(d)	As per section 194-O E-Commerce operator required to deduct TDS @1% on sale value of goods to customer.
5.	(c)	Assessee can give aadhar instead of PAN.

Question:15 [Topic: Transfer Pricing CUP Method and NJA]

ETI Ltd., the assessee, has sold goods on 12.01.2022 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:16 [Topic: Transfer Pricing Section 94B]

Ridham Ltd. provides you the Profit and loss A/c for the Financial Year 2020-21 and Financial Year 2021-22:

₹ in lakhs

Particulars	For the F.Y. 2020-21	For the F.Y. 2021-22	Particulars	For the F.Y. 2020-21	For the F.Y. 2021-22
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 2020, 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 2022-23, 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. 2021-22	
Gross Profit	2,030
Less: Employee benefits expenses	390
EBITDA	1,640
Interest paid or payable to M & T Inc.	562

Particulars	Amount (in lakhs)
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. 2021-22, which can be carried forward up to 8 assessment years	
Interest allowable u/s 94B for A.Y. 2022-23	
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. 2022-23	
Brought forward interest of A.Y. 2021-22 allowed as deduction against profits and gains of A.Y. 2022-23 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. 2022-23 [₹ 389 lakhs + ₹ 24.40 lakhs]	413.40
Balance of amount of interest relating to AY 2021-22 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. 2022-23	
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 17 [Topic NR Taxation – Royalty and Fees for Technical services]

Lords Inc., a British company, received, in the P.Y.2021-22, 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.2021-22 –

	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.2022-23.

(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.2022-23.

Question 18 [Topic Appeals – Case Law]

A petition for stay of demand was filed by XYZ Ltd. before the Income-tax Appellate Tribunal in respect of a disputed demand for which appeal was pending before it. The Appellate Tribunal granted stay vide order dated 1.1.2021 for a period of 180 days from the date of such order, on deposit of 20% of the amount of tax by XYZ Ltd. Thereafter, the bench was functioning intermittently till 1.2.2022 on account of the COVID pandemic and therefore, the disputed matter could not be disposed of. In the meanwhile, in June 2021, XYZ Ltd. had made an application for extension of stay and was granted extension of stay upto 31.12.2021. Thereafter, on 5.1.2022, the Assessing Officer attached the bank account of XYZ Ltd. and recovered the amount of ₹ 15 lakhs against the arrear demand of ₹ 25 lakhs. The company requested the Assessing Officer to refund the amount as it holds stay over it. The Assessing Officer, however, rejected the contention of the assessee stating that the stay period expired on 31.12.2021, after which the order of stay stood vacated automatically. Examine the correctness of contention of the Assessing Officer.

Answer:

As per section 254(2A), the Appellate Tribunal may, on merit, pass an order of stay in any proceedings relating to an appeal. However, such period of stay cannot exceed 180 days from the date of such order subject to the condition that the assessee deposits not less than 20% of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act, or furnishes security of equal amount in respect thereof.

No extension of stay shall be granted by the Appellate Tribunal, where such appeal is not so disposed of within the said period as specified in the order of stay, unless the assessee makes an application and has complied with the condition of depositing 20% of tax and the Appellate Tribunal is satisfied that the delay in disposing of the appeal is not attributable to the assessee. However, the aggregate of the period of stay originally allowed and the period of stay so extended cannot exceed 365 days and the Appellate Tribunal has to dispose of the appeal within the period or periods of stay so extended or allowed.

If such appeal is not so disposed of within 180 days or the period or periods extended not exceeding 365 days, the order of stay shall stand vacated after the expiry of such period or periods, only if the delay in disposing of the appeal is attributable to the assessee. It was so held by the Supreme Court in DCIT v. Pepsi Foods Ltd (2021).

Accordingly, if an appeal is not heard by the bench, due to the bench functioning intermittently on account of the COVID pandemic, the delay is not attributable to XYZ Ltd. In such a case, though the extended stay period of 365 days had expired on 31.12.2021, the recovery of ₹ 15 lakhs against the arrear demand of ₹ 25 lakhs made by the Assessing Officer on 5.1.2022 is not in order, since the delay in disposing of the appeal is not attributable to XYZ Ltd. Therefore, the contention of the Assessing Officer is not correct. The order of stay would stand vacated after 31.12.2021, only in a case where the delay in disposing of the appeal had been attributable to XYZ Ltd.

Question 19 [Transfer Pricing- Resale Price Method]

Earth (P) Ltd., Calcutta is engaged in trading of electronic goods. It purchased goods from its associated enterprise Sun Pte. Ltd., Singapore, and also from unrelated party, Oceania Ltd., UK. For the F.Y.2021-22, the gross profit margin was 15% on the sale of goods of Sun Pte Ltd., whereas it was 20% in the case of Oceania Ltd. After-sales warranty of 6 months was provided by Sun Pte Ltd. whereas Oceania Ltd. gave after-sales warranty of 1 year. The cost of warranty may be taken as 2% of the sale price. The Sun Pte. Ltd.'s brand value is internationally known and the benefit of the brand value can be taken as 1% of sale price. During the F.Y.2021-22, it sold goods of Sun Pte Ltd. for ₹ 20 crores and of Oceania Ltd. for ₹ 15 crores. As regards transport cost of the goods purchased, there was no difference between related and unrelated party. Compute the ALP of the transaction between Earth (P) Ltd. and Sun Pte Ltd., Singapore by applying the Resale Price Method, considering the facts of the case.

Answer:

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

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

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

Particulars	Amount (In ₹)
Resale price of goods purchased from Sun Pte. Ltd.	20,00,00,000
Less: Profit margin with reference to uncontrolled transaction between Earth (P) Ltd. and Oceania Ltd. (20% on sale)	4,00,00,000
	16,00,00,000

Particulars	Amount (In ₹)
Add: Adjustment for benefit of brand value of Sun Pte. Ltd. [Sun Pte. Ltd has its brand value internationally. Therefore, adjustment of benefit of brand value has to be carried out to arrive at ALP (1% of sale price)]	20,00,000
Less: Adjustment of cost of warranty [Sun Pte. Ltd. provides warranty for 6 months whereas unrelated party has provided warranty of 12 months. Therefore, adjustment for the cost of such warranty has to be carried out to arrive at arm's length price (2% of sale price x 6/12)]	(20,00,000)
Arm's length price	16,00,00,000

Question 20 [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, 2021. 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 2021-22:

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 2021-22, 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.2022-23.

Answer:

SHD Inc., a foreign company, would be resident in India in the P.Y. 2021-22, 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.

<p>A company would be said to be engaged in “Active Business Outside India” (ABOI) for POEM, if</p> <ul style="list-style-type: none"> - 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. 2021-22 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. 2021-22 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. 2021-22 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. 2021-22.

Question 21 | Transfer Pricing]

On 1.4.2021, UI Ltd., an Indian company, borrowed ₹ 50 crores @ 9.5% p.a. from M Inc., a US entity, thereby increasing its total borrowings to ₹ 65 crores. The said loan is guaranteed by H Inc., another US entity. The place of effective management of both M Inc. and H Inc. is in the USA. The total assets of UI Ltd. is ₹ 180 crores.

UI Ltd. imported turbo equipment worth ₹ 30 crores from H Inc. Import duty of ₹ 4.50 crores on the same was paid by UI Ltd. The equipment was sold to T Ltd. for ₹ 40 crores. Normal GP margin of UI Ltd. in similar uncontrolled transaction is 20%.

Net profit of UI Ltd. of A.Y.2022-23 was ₹ 8 crores after debiting interest of ₹ 6 crores (out of which ₹ 1.25 crores interest pertaining to local borrowings), depreciation of ₹ 2.5 crores and income tax of ₹ 1.5 crores.

From the information given above, choose the **most appropriate answer** to the following questions—

- 21.1 What is the amount of interest to be allowed in the computation of total income of UI Ltd. for A.Y. 2022-23, if for A.Y. 2021-22 there was an interest expenditure disallowed to the extent of ₹ 4 crores under section 94B?
- (a) ₹ 6,65,00,000
 (b) ₹ 4,75,00,000
 (c) ₹ 6,00,00,000
 (d) ₹ 3,65,00,000
- 21.2 The transfer pricing adjustment for the arm's length purchase price to be made in the computation of total income of UI Ltd. for A.Y. 2022-23 would be—
- (a) ₹ 3,00,00,000
 (b) ₹ 2,50,00,000
 (c) ₹ 2,00,00,000
 (d) No adjustment is required, since transfer pricing adjustment cannot result in reduction of income
- 21.3 If UI Ltd. repatriated the excess money on 31.03.2023, what will be the interest income that would be added to its total income of A.Y. 2023-24, if SBI's one-year marginal of lending rate is 11.25% on 1.4.2022 and 10.25% on 1.4.2023? Assume that UI Ltd. suo motu made the primary adjustment in its books of account and filed its return for A.Y.2022-23 on 30.11.2022.
- (a) ₹ 12,01,712
 (b) ₹ 11,18,836
 (c) ₹ 9,32,363
 (d) ₹ 8,49,486
- 21.4 If UI Ltd. decides not to repatriate the excess money and instead, pay additional income-tax on the entire excess money, then, what would be the additional income-tax payable?
- (a) ₹ 62,89,920
 (b) ₹ 52,41,600
 (c) ₹ 41,93,280
 (d) ₹ 53,87,200
- 21.5 If UI Ltd. decides to pay additional income-tax on the entire excess money on 15.03.2023, should interest be calculated and added to its total income of A.Y.2023-24? If so, what is the amount to be added? Assume that SBI one-year marginal cost of lending rate is 11.25% on 1.4.2022 and 10.25% on 1.4.2023 -
- (a) No, since it has paid additional income-tax on the entire excess money in the P.Y.2022-23
 (b) Yes; ₹ 9,70,890
 (c) Yes; ₹ 10,42,808
 (d) Yes; ₹ 8,09,075

21.6 In addition to the facts given in the case scenario, assuming that -

- (i) on 23.08.2021, UI Ltd. has entered into an agreement for sale of turbo equipment with Y Ltd., an Indian company not related to UI Ltd;
 - (ii) Y Ltd. had already entered into an agreement on 21.8.2021 for the sale of the same goods to K Inc. (unrelated to Y Ltd.), a UK entity whose place of effective management is also in the UK; and
 - (iii) UI Ltd. holds shares carrying 28% voting power in K Inc. Which of the following are associated enterprise/deemed associated enterprise of UI Ltd.?
- (a) H Inc. and K Inc.
 - (b) M Inc. and K Inc.
 - (c) H Inc., K Inc. and Y Ltd.
 - (d) M Inc., H Inc. and K Inc.

Answer Key

Question No.	Answer
21.1	(a) ₹ 6,65,00,000
21.2	(b) ₹ 2,50,00,000
21.3	(a) ₹ 12,01,712
21.4	(b) ₹ 52,41,600
21.5	(c) Yes; ₹ 10,42,808
21.6	(c) H Inc., K Inc. and Y Ltd.

Question 22 [Multiple Concepts]

A co-operative bank provides the following information relating to cash withdrawals by its two customers during the P.Y.2021-22:

Date of cash withdrawal	Mr. A (Savings Account) (₹)	Mr. B (Current Account) (₹)
05.04.2021	20,00,000	-
10.05.2021	-	18,00,000
25.06.2021	25,00,000	-
17.07.2021	-	5,00,000
28.10.2021	35,00,000	-
10.11.2021	-	38,00,000
12.12.2021	25,00,000	-
02.01.2022	-	37,00,000

Mr. B has not filed his return of income for the last three years whereas Mr. A has been regularly filing his return of income. No other customer of the co-operative bank had withdrawn more than ₹ 10 lakhs during the P.Y. 2021-22.

One of the customers of the co-operative bank, Mr. K paid ₹ 12 lakhs out of bills for ₹ 15 lakhs raised in respect of the credit card account by account payee cheque and was declared bankrupt thereafter. The actual bad debts of the bank (including bad debts on account of Mr. K) during the P.Y. 2021-22 were ₹ 20 lakhs. The aggregate average advances made by its rural branches were ₹ 120 lakhs. The gross total income of the bank, before any deduction under section 36(1)(vii)/36(1)(viii) for A.Y. 2022-23 is ₹ 100 lakhs.

A notice was issued to the co-operative bank on 30.09.2022 by the prescribed income tax authority requiring it to furnish the statement of financial transaction by 30.10.2022 as the co-operative bank had failed to do so. The co-operative bank, however, furnished the statement only on 25.11.2022.

From the information given above, choose the **most appropriate answer** to the following questions -

22.1 The amount of income-tax that is required to be deducted by the co-operative bank under section 194N during the P.Y.2021-22 in respect of withdrawals by Mr. A and Mr. B are -

- (a) ₹ 25,000 and Nil, respectively
- (b) ₹ 10,000 and ₹ 3,90,000, respectively
- (c) ₹ 10,000 and ₹ 1,56,000, respectively
- (d) ₹ 2,10,000 and ₹ 1,96,000, respectively

22.2 Assuming that the credit balance in the provision for bad and doubtful debts as on 1.4.2021 is ₹ 21 lakhs, the co-operative bank can, for A.Y.2022-23, claim -

- (a) ₹ 20,00,000 only u/s 36(1)(vii),
- (b) ₹ 20,50,000 u/s 36(1)(vii) and ₹ 20,00,000 u/s 36(1)(vii)
- (c) ₹ 20,50,000 only u/s 36(1)(vii)
- (d) ₹ 12,00,000 u/s 36(1)(vii) and ₹ 20,00,000 u/s 36(1)(vii)

22.3 Identify the accounts which are required to be reported in relation to the specified financial transactions in the statement of financial transaction by the co-operative bank, based on the above mentioned facts, for P.Y. 2021-22.

- (a) Only B
- (b) K and B
- (c) A and B
- (d) A, K and B

22.4 What is the amount of penalty leviable under section 271FA?

- (a) ₹ 1,01,500
- (b) ₹ 1,17,000
- (c) ₹ 89,000
- (d) ₹ 1,02,000

22.5 Let us assume that, on 26.02.2022, as a result of business reorganisation, the co-operative bank got succeeded by another co-operative bank. Assuming that the deduction allowable u/s 32 for the P.Y.2021-22 is ₹ 3,50,000 and that the predecessor co-operative bank had incurred expenditure of ₹ 30,00,000 during the P.Y.2019-20 on voluntary retirement scheme for its employees, what is the aggregate deduction allowable to predecessor co-operative bank under section 32 and 35DDA for the P.Y.2021-22?

- (a) ₹ 8,61,507
- (b) ₹ 3,17,397
- (c) ₹ 9,50,000
- (d) ₹ 9,17,397

Answer Key

Question No.	Answer
22.1	(c) ₹ 10,000 and ₹ 1,56,000, respectively
22.2	(c) ₹ 20,50,000 only u/s 36(1)(vii)
22.3	(b) K and B
22.4	(d) ₹ 1,02,000
22.5	(a) ₹ 8,61,507

Question 23 [Multiple Concepts]

Z Pvt. Ltd. (“Z”) files its return of income for the P.Y. 2021-22 on 30th September 2022 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)

23.5 Out of the addition of ₹ 3,00,000 made by order passed u/s 143(3), an amount of ₹ 1,00,000 is on account of a false entry deliberately made by Z in its books of account. Apart from penalty under section 270A, what are the other prosecution and penal consequences, if any, that would be attracted in case of Z?

- (a) Penalty of ₹ 1,00,000 u/s 271AAD and prosecution u/s 276C would be attracted
- (b) Penalty of ₹ 30,000 u/s 271AAD and prosecution u/s 276C would be attracted
- (c) Once penalty u/s 270A is levied, no other penalty will be levied but prosecution may be initiated u/s 276C
- (d) Penalty u/s 271AAD may be levied but prosecution u/s 276C will not be initiated

Answer Key

Question No.	Answer
23.1	(c) (iii) only
23.2	(a) ₹ 46,800
23.3	(a) ₹ 7,80,000
23.4	(d) (i) and (iv)
23.5	(a) Penalty of ₹ 1,00,000 u/s 271AAD and prosecution u/s 276C would be attracted

Question 24 [Equilisation Levy]

UJay International AG is a company incorporated under the laws of Switzerland and is a tax resident of Switzerland. It operates specific website (i.e., Ujayinternational.com) providing an online platform for sale of goods, provision of services as well as for facilitating the purchase and sale of goods and services of third parties to users based in India and outside India. It does not have any Permanent Establishment in India during the P.Y. 2021-22.

The modus operandi of the third party transactions undertaken through such website operated by the assessee is as under:—

- Any seller is entitled to list its products for sale on such website. At the time of listing, the seller is required to provide various details regarding the product that is desired to be sold through the website, such as, photograph, description and price of the product.
- Any buyer can also register himself for buying of the goods through the assessee's website. While registering, the buyers are required to provide information, such as, their name, age and address. When the buyer accesses the website, he goes through various products listed by the sellers. Depending on his requirements, he chooses the product which he wants to purchase online, out of the variety of products available on website alongwith all the necessary details.
- The buyer is required to choose any of the payment methods for making payment of the product directly to the seller. Once the buyer clicks 'Buy It Now' button after registering itself with the website and agreeing to the terms and conditions of sale as displayed by the seller on the website, an email is sent by the assessee to the seller confirming the sale of his product listed on the website.

UJayInternational.com also collects data of potential customers located in different parts of India and other South-East Asian Countries who are interested in holidaying in different countries of Europe and Asia from GE Tourism India Pvt. Ltd., an Indian company, and other companies in South East Asia. It sells these data to different tourism companies and hotels in Europe and Asia and earns revenue therefrom.

Assume that the gross receipts of UJay International AG from e-commerce supply and services made to persons resident in India and persons using IPA located in India is ₹ 8 crore during the P.Y. 2021-22. From the information given above, choose the **most appropriate answer** to the following questions -

- 24.1 Mr. Alex, being a resident of UK, visited India during November 2021 and he ordered certain apparel of brand UJay worth ₹ 10,000 from online website UJayinternational.com during his stay in India using internet protocol address located in India. His apparels were delivered via readymade garments showroom located in Connaught Place, Delhi. Which of the following statements is correct?
- Mr. Alex is required to withhold equalization levy of ₹ 200 and deposit the same with Indian tax authorities
 - UJay International AG is not required to charge equalization levy on such transaction since sale is made to Mr. Alex who is not a resident in India
 - UJay International AG is not required to charge equalization levy on such transaction since it a nonresident not having any PE in India
 - UJay International AG is required to charge equalization levy of ₹ 200 and deposit the same with Indian tax authorities
- 24.2 What is the due date for payment of equalization levy charged in the month of March, 2022 by UJay International AG?
- April 7, 2022
 - April 30, 2022
 - June 30, 2022
 - March 31, 2022
- 24.3 In which of the following cases, equalisation levy would be chargeable, assuming that the aggregate turnover of the E-Commerce operator is ₹ 2 crore during the P.Y. 2021-22?
- Where an E-Commerce operator, being a resident in India, sells goods of parties located in India to overseas customers
 - Where an E-Commerce operator, being a non-resident having PE in India and online sales is effectively connected with such PE in India
 - Where a E-Commerce operator, being a non-resident having PE in India, sells goods to non-resident customers
 - Where a E-Commerce operator, being a non-resident having no PE in India, provides access to online movies, TV Shows and other contents to Indian customers via its electronic platform
- 24.4 UJayInternational.com collects data of potential customers located in different parts of India who are interested in holidaying in Singapore from GE Tourism India Pvt. Ltd. During November, 2021, it sells the data to Y Tourism Pvt. Ltd., Singapore for ₹ 1,00,000. Which of the following statements is correct?
- Equalisation levy of ₹ 2,000 is payable by UJayInternational.com
 - Equalisation levy of ₹ 2,000 is deductible and payable by Y Tourism Pvt. Ltd.
 - Equalisation levy of ₹ 6,000 is deductible and payable by Y Tourism Pvt. Ltd.
 - Equalisation levy implications are not attracted in this case, since both UJayInternational.com and Y Tourism Pvt. Ltd. are non-residents

Answer Key

Question No.	Answer
24.1	(d) UJay International AG is required to charge equalization levy of ₹ 200 and deposit the same with Indian tax authorities

24.2	(d)	March 31, 2022
24.3	(d)	Where a E-Commerce operator, being a non-resident having no PE in India, provides access to online movies, TV Shows and other contents to Indian customers via its electronic platform
24.4	(a)	Equalisation levy of ₹ 2,000 is payable by UjayInternational.com

Question 25 [Dividend]

Pawan Ltd., an Indian company engaged in growing and manufacturing tea, is due to receive the following dividend income during the P.Y. 2021-22. It is liable to pay income-tax @25%, since its total turnover for the P.Y.2019-20 does not exceed ₹ 400 crores. For the P.Y.2021-22, the company has paid interest on loan borrowed for making investment in the following companies, break up of which is also given below:

Name of the company	Indian/ Foreign	Details of holding by Pawan Ltd.	Dividend income (Gross) (₹)	Interest expended to earn dividend (₹)
XYZ Inc.	Foreign Co.	25% of Nominal Value	80,000	8,000
PQR Inc.	Foreign Co.	30% of Nominal Value	1,80,000	9,000
ABC Ltd.	Indian Co.	51% of Nominal Value	9,00,000	1,60,000
XYZ Ltd.	Indian Co.	10% of Nominal Value	50,000	8,000

- Ujwal, a shareholder holding 10% equity shares of the company borrowed ₹ 2,00,000 from the company on 31.08.2021. Ujwal had earlier taken a loan from an NBFC for investing in equity shares of Pawan Ltd. and on 31.3.2022, he paid interest of ₹ 21,000 due for the P.Y.2021-22.
- The company declared dividend of ₹ 3,20,000 at its AGM held on 30.09.2021, which it distributed in October, 2021.
- The accumulated profits of Pawan Ltd. as on 31.8.2021 was ₹ 20 lakhs. Pawan Ltd. is not a company in which public are substantially interested.

Following are the major shareholders of Pawan Ltd. –

Anita 50% Shares; Mehak 10% Shares; Ujwal 10% Shares

The following are the details of other income of Miss Anita for A.Y. 2022-23 –

- Miss Anita had also taken a loan of ₹ 10,00,000 few years ago from Mr. J @8% simple interest to acquire shares of Pawan Ltd.
- Anita has also taken housing loan which was sanctioned by SBI on 1.5.2020. The house was purchased for ₹ 60 lakhs but the stamp duty value of the house on the date of purchase was ₹ 45 lakhs. She does not own any other residential house property on the date of sanction of loan. During the year she has paid ₹ 2,50,000 as interest and ₹ 2,00,000 towards repayment of principal. The house was self-occupied till date by Miss Anita.
- Miss Anita is running a furniture business whose turnover is ₹ 90 lakhs (All receipts are through banking channels). She has opted for presumptive scheme of taxation and wishes to maximise her tax savings.
- She has also earned interest of ₹ 50,000 on fixed deposits.
- Apart from the above, she has no other source of income or investments.

From the information given above, choose the **most appropriate answer** to the following questions -

25.1 Which of the following statements is true with respect to dividend income of Pawan Ltd? For answering this question, ignore deduction, if any, available under section 80M.

- Dividend from XYZ Inc. and PQR Inc. is taxable @15% (plus HEC @4%); Dividend from ABC Ltd. and XYZ Ltd. is taxable @25% (plus HEC @4%)

- (b) Dividend from PQR Inc. is taxable @15% (plus HEC @4%); Dividend from XYZ Inc, ABC Ltd. and XYZ Ltd. is exempt in the hands of Pawan Ltd.
- (c) Dividend from PQR Inc is taxable @15% (plus HEC @4%); Dividend from other companies is taxable @25% (plus HEC @4%); Interest expense of ₹ 1,76,000 to earn dividend income is allowable as deduction u/s 57
- (d) Dividend from PQR Inc is taxable @15% (plus HEC @4%); Dividend from other companies is taxable @25% (plus HEC @4%); Interest expense of ₹ 1,85,000 to earn dividend income is allowable as deduction u/s 57

25.2 Which of the following statements is correct regarding dividend income earned in the P.Y. 2021-22 by Pawan Ltd. and dividend distributed by it in October, 2021?

- (a) Dividend declared and distributed by Pawan Ltd. would be subject to dividend distribution tax in the hands of Pawan Ltd. Such dividend would be exempt in the hands of the shareholders. No deduction will be allowed to Pawan Ltd. on account of dividend received by it from other companies
- (b) Pawan Ltd. should pay dividend distribution tax on dividend declared and distributed by it less dividend received from all companies
- (c) Dividend declared and distributed by Pawan Ltd. would be taxable in the hands of shareholders and Pawan Ltd would deduct necessary tax at source; Pawan Ltd. would be allowed deduction, from its gross total income, a sum of ₹ 3,20,000
- (d) Dividend declared and distributed by Pawan Ltd. would be taxable in the hands of shareholders; Dividend received by it from Indian companies would be allowable as deduction from its gross total income

25.3 What will be the amount of dividend taxable in the hands of Miss Anita for the P.Y. 2021-22?

- (a) Nil, since dividend income is exempt in the hands of shareholder
- (b) ₹ 1,60,000
- (c) ₹ 80,000
- (d) ₹ 1,28,000

25.4 What is the total income of Miss Anita for A.Y.2022-23, assuming that she does **not** opt for section 115BAC?

- (a) ₹ 3,18,000
- (b) ₹ 3,68,000
- (c) ₹ 3,50,000
- (d) ₹ 2,70,000

25.5 What will be the dividend income included in the total income of Mr. Ujwal for A.Y.2022-23?

- (a) ₹ 2,32,000
- (b) ₹ 2,11,000
- (c) ₹ 1,79,000
- (d) Nil

Answer Key

Question No.	Answer
25.1	(c) Dividend received from PQR Inc is taxable @15% (plus HEC @4%); Dividend received from other companies is taxable @25% (plus HEC @4%); Interest expense of ₹ 1,76,000 to earn dividend income is allowable as deduction u/s 57
25.2	(c) Dividend declared and distributed by Pawan Ltd. would be taxable in the hands of shareholders and Pawan Ltd would deduct necessary tax at source;
	Pawan Ltd. would be allowed deduction, from its gross total income, a sum of ₹ 3,20,000

25.3	(d) ₹ 1,28,000
25.4	(a) ₹ 3,18,000
25.5	(b) ₹ 2,11,000

Question 26 [HP, TDS, CAPITAL GAIN]

Mr. Billabong stays in India from April to September and in UK from October to March every year. He owns a house in London, which he has let out at £ 1000 per month. He paid taxes of £ 100 levied by local authorities of London every year [1 £ = ₹ 120].

Mr. Billabong also has a flat in Winchester, UK, where he stays when he visits UK every year. It is unoccupied for the rest of the year. He paid municipal tax of £ 5000 in respect of the said house property for the F.Y.2021-22.

He owns the following house properties at Mumbai:

Flats at Mumbai	Status	Municipal tax paid in the F.Y.2021-22 (₹)
Bandra	Unoccupied	10,000
Worli	Unoccupied	20,000

The other details relating to the properties owned by him are given under:

Place	Standard Rent (₹)	Municipal Value (₹)	Fair Rent
Bandra, Mumbai	60,000 p.m.	50,000 p.m.	₹ 70,000 p.m.
Worli, Mumbai	1,30,000 p.m.	1,40,000 p.m.	₹ 1,20,000 p.m.
Winchester, UK			£ 1000 p.m.
London, UK			£ 2000 p.m.

In April, 2021, Mr. Billabong's father, Mr. Hongkong, who is 61 years old and resident in India, has sold a flat owned by him in Mumbai for last 5 years to his neighbour, who is 70 years old, for 3 crore which resulted in capital gains of ₹ 2 crore. He decided to immediately invest the sale proceeds received from the flat in NCD of Mahindra and Mahindra to the tune of ₹ 1.35 crore to earn a high rate of return, ₹ 20 lakhs in bonds issued by NHAI, ₹ 15 lakhs in GSec and remaining ₹ 30 lakhs in bonds issued by RECL. All the investments were made by him

in June, 2021. In March, 2022, he purchased two adjacent apartments in Pune for ₹ 50 lakhs each and made suitable modifications to use them as a single house. He also purchased a flat in Baroda for ₹ 40 lakhs in April, 2022.

The income of Mr. Hongkong from various sources as detailed hereunder:

Nature of Income	Amount (₹)
Interest on Fixed Deposit (in March, 2022)	40,000
Commission (in April, 2021) from ABC Ltd.	20,000
Rent (throughout the year)	2,00,000

From the information given above, choose the **most appropriate answer** to the following questions, assuming Mr. Billabong does **not** opt for section 115BAC -

- 26.1 What is the amount of municipal taxes allowable as deduction from gross annual value while computing the income from house property of Mr. Billabong for A.Y.2022-23?
- (a) ₹ 22,000
(b) ₹ 42,000
(c) ₹ 6,22,000
(d) ₹ 6,42,000
- 26.2 What is the income chargeable under the head “Income from House property” of Mr. Billabong for A.Y.2022-23?
- (a) ₹ 25,04,600
(b) ₹ 25,95,600
(c) ₹ 30,92,600
(d) ₹ 41,70,600
- 26.3 Suppose if the house property at Winchester is sold on 1.4.2021, then, what would be the income from house property for A.Y.2022-23?
- (a) ₹ 25,04,600
(b) ₹ 4,97,000
(c) ₹ 20,07,600
(d) ₹ 30,85,600
- 26.4 What is the amount of capital gains chargeable to tax for A.Y.2022-23 in the hands of Billabong’s father?
- (a) ₹ 60,00,000
(b) ₹ 50,00,000
(c) ₹ 10,00,000
(d) Nil
- 26.5 What is the amount of tax which would have been deducted in respect of income received by Mr. Billabong’ father?
- (a) ₹ 1,000
(b) ₹ 2,01,000
(c) ₹ 3,00,000
(d) ₹ 3,01,000

Answer Key

Question No.	Answer
26.1	(a) ₹ 22,000
26.2	(a) ₹ 25,04,600
26.3	(c) ₹ 20,07,600
26.4	(c) ₹ 10,00,000
26.5	(d) ₹ 3,01,000

Question 27 | TDSTCS and Deduction]

Mr. Bharat, a cloth manufacturer, runs his proprietary business in the name of "M/s Bharat Traders". He also exports clothes outside India to his associate enterprises as well as unrelated parties. The turnover of Bharat Traders for P.Y. 2020-21 and P.Y. 2021-22 were ₹ 400 lakhs and ₹ 410 lakhs, respectively, from such business.

Mr. Bharat had taken a loan of ₹ 35 lakhs@9% from SBI on 01.11.2021 for a term of 10 years for the education of his brother Mr. Ram. Mr. Ram is studying in a university in London. He remitted the loan amount to Mr. Ram. For the previous year ended on 31.03.2022, he repaid principal of ₹ 7,50,000 and paid interest of ₹ 1,31,250 towards the said loan. The entire foreign remittances are made through SBI, which is an authorised dealer, under LRS of RBI.

Other information:

- (1) In April, 2021, he went on a tour to London for the purpose of learning new technology to leverage his business. The Foreign Tour Package was arranged by Franklin Tours and Travelers, New Delhi. The details of expenditure on this tour are as follows:

Particulars	Amount (₹)
* Ticket fare (round trip)	₹ 4,50,000
* Hotel accommodation charges	₹ 1,60,000
* Sight-seeing charges (including entry tickets, cab fare etc.)	₹ 80,000

- (2) On 15.4.2021, he sold scrap to Gentleman Suitings Plc, a foreign buyer, who remitted the payment of ₹ 80,000 for the same during the year through AB Bank, an authorised dealer.
- (3) On 17.8.2021, Bharat Traders supplied clothes as per the specifications of M/s Shakti Traders, a LLP. The raw material for the same was also supplied by the LLP. The invoice for such supplies is raised in the following manner: Value of Material - ₹ 37,80,000

Stitching charges - ₹ 17,20,000

From the information given above, choose the **most appropriate answer** to the following questions -

27.1 Would Mr. Bharat be eligible for any deduction under section 80E in respect of payment of interest and repayment of loan taken for higher education of Mr. Ram? Also, does any liability for tax deduction at source or tax collection at source arise on remittances to Mr. Ram under the provisions of the Income-tax Act, 1961?

- (a) Yes, deduction u/s 80E is allowable in respect of interest payment of ₹ 1,31,250. No deduction is, however, allowable for principal repayment of loan. Mr. Bharat is required to deduct tax at source u/s 195 on the amount remitted to Mr. Ram
- (b) No, Mr. Bharat is not eligible for any deduction u/s 80E. Further, no tax deduction at source or tax collection at source liability arises on the amount remitted to Mr. Ram
- (c) Yes, Mr. Bharat is eligible for deduction u/s 80E in respect of interest payment of ₹ 1,31,250. No deduction is, however, allowable for principal repayment of loan. Moreover, SBI is required to collect tax at source on the amount remitted to Mr. Ram@5% (plus cess) on ₹ 28 lakh, being the amount in excess of ₹ 7 lakh
- (d) No, Mr. Bharat is not eligible for any deduction u/s 80E. Moreover, SBI is required to collect tax at source on the amount remitted to Mr. Ram @0.5% (plus cess) on ₹ 28 lakh, being the amount in excess of ₹ 7 lakh.

27.2 Is tax is required to be collected at source on payment made by Mr. Bharat towards expenditure on foreign tour package? If yes, what would be rate of TCS and the amount on which tax is to be collected at source?

- (a) No tax to be collected at source, since the amount of expenditure does not exceed ₹ 7,00,000
- (b) Yes, tax to be collected at source @5% only on travel expenditure of ₹ 4,50,000
- (c) Yes, tax to be collected at source @5% only on travel expenditure of ₹ 4,50,000 plus hotel accommodation charges of ₹ 1,60,000

- (d) Yes, tax to be collected at source @5% on ₹ 6,90,000, being the total amount of expenditure on overseas tour program package

27.3 What is the amount of tax required to be collected at source on sale of scrap to Gentlemen Suitings Plc?

- (a) Nil
 (b) ₹ 1,664
 (c) ₹ 800
 (d) ₹ 832

27.4 What is the rate at which M/s Shakti Traders LLP is required to deduct tax u/s 194C and on what amount?

- (a) @1% on ₹ 55,00,000
 (b) @1% on ₹ 17,20,000
 (c) @2% on ₹ 55,00,000
 (d) @2% on ₹ 17,20,000

Answer Key

Question No.	Answer
27.1	(d) No, Mr. Bharat is not eligible for any deduction u/s 80E. Moreover, SBI is required to collect tax at source on the amount remitted to Mr. Ram @0.5% (plus cess) on ₹ 28 lakh, being the amount in excess of ₹ 7 lakh
27.2	(d) Yes, tax to be collected at source @5% on ₹ 6,90,000, being the total amount of expenditure on overseas tour program package.
27.3	(d) ₹ 832
27.4	(b) @1% on ₹ 17,20,000

Question 28 [NRI TAXATION]

Mr. Shivam, an Indian citizen, has left India with his family, when he was 16 years old, to US on 31.03.2001. He was interested in cricket since his childhood days and took cricket as his career. He came to India for playing T-20 matches on 15.02.2022. Mr. Shivam has made the following investments:

Purchased shares		
Company	Date of Investment	Amount
Mittal Lyfestyle Ltd. (STT not paid on purchase)	01-06-2019	₹ 60,00,000 (purchased in US \$)
HEG Ltd (STT paid on purchase through stock exchange)	01-06-2019	₹ 10,00,000 (purchased in ₹)
Dabur Ltd. (STT not paid on purchase)	22-01-2021	₹ 40,00,000 (purchased in US \$)
Other Investments		
100 GDRs of Listed Co.	10-10-2011	₹ 2,000 per GDR (purchased in US \$)
Bonds of Indian Co. issued abroad and purchased in foreign currency	01-04-2015	₹ 10,00,000 (purchased in US \$)
10% debentures of Indian Co (Unlisted public Ltd. Co.)	01-04-2016	₹ 10,00,000 (purchased in US\$)

Mr. Shivam received ₹ 11,00,000 as dividend from above companies. All the above investment in shares were sold by Shivam on 20.01.2022 on stock exchange and STT was paid as follows –

- Shares of Mittal Lifestyle Ltd. for ₹ 1,50,00,000 and he deposit ₹ 90 Lacs from the sale proceeds with a Indian Public Limited Co. on 30-06-2022.
- Shares of HEG Ltd. for ₹15,00,000 and he invested ₹ 15,00,000 in shares of Reliance Ltd. on 30-06-2022.
- Shares of Dabur Ltd. for ₹ 60,00,000 and invested ₹ 60,00,000 in shares of Reliance Ltd. on 30-06-2022.

50% GDR's were sold to Priya, a non-resident, on 01.04.2021 for ₹ 18,00,000 and balance 50% were sold to Hitesh, a resident, on 01.03.2022 for ₹ 15,00,000.

Mr. Shivam also received interest as follows

(a) Interest on bonds	₹ 1,00,000
Bank charges for above interest	₹ 5,000
(b) Interest on debentures	₹ 1,00,000

Interest on loan taken to acquire debentures ₹ 10,000

For matches played in India, Mr. Shivam has earned ₹ 6,00,000 as match participation fee.

Details of Telegraphic buying and selling rates:

Date	TTBR	TTSR
01-06-2019	28	32
30-06-2021	43	47
10-10-2021	48	52
22-01-2021	48	52
20-01-2022	58	62

Based on the facts of the above case scenario, choose the most appropriate answers to the following questions assuming that Shivam has opted for Chapter XII-A –

- (i) Compute taxable long term capital gain on sale of shares by Mr. Shivam for A.Y. 2022-23.
 - (a) ₹ 34,00,000
 - (b) ₹ 16,60,000
 - (c) ₹ 11,60,000
 - (d) ₹ 5,00,000
- (ii) What is the taxable short term capital gain on sale of shares for A.Y. 2022-23?
 - (a) ₹ 20,00,000
 - (b) ₹ 11,60,000 taxable u/s 111A
 - (c) Nil
 - (d) ₹ 11,60,000 taxable at normal rates
- (iii) Which of the following is correct in respect to the taxability of transfer of GDRs by Mr. Shivam?
 - (a) Capital gains arising on sale of 100 GDRs shall be subject to tax @20% (plus applicable surcharge and HEC@4%) with indexation benefit in India.
 - (b) No Capital Gain will arise on sale of 50 GDRs to Priya but tax @ 10% (plus applicable surcharge and HEC@4%) is leviable on capital gains computed after giving benefit of foreign currency conversion (but not indexation) in respect of transfer of GDRs to Hitesh.
 - (c) No Capital Gain will arise on sale of 50 GDRs to Priya but tax @ 10% (plus applicable surcharge and HEC@4%) is leviable on capital gains computed without giving benefit of indexation and foreign currency conversion in respect of transfer of GDRs to Hitesh.

- (d) Capital gains arising on sale of 100 GDRs shall be subject to tax @10% (plus applicable surcharge and HEC@4%) without giving benefit of indexation and foreign currency conversion.
- (iv) What will be total Income excluding capital gain of Mr. Shivam for A.Y. 2022-23?
- (a) 19,00,000
 (b) 18,85,000
 (c) 18,90,000
 (d) 8,00,000

Answer Key

Question No.	Answer
i	(b)
ii	(b)
iii	(c)
iv	(a)

Question No: 29 [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 31-03-2022 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 29-04-2022.
 - (ii) The company has brought forward losses of ₹6 crores pertaining to Assessment Year 2019-20. 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 01-08-2021.
 - (iii) The company had an accumulated balance of ₹200 crores in the special account with NABARD as on 01-04-2021. 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 31-03-2022 the company has sold machinery which was purchased on 10-05-2013 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. 2022-23

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
	2,00,00,000
Net profit before allowing deduction u/s 33AB	39,65,00,000

Particulars	₹
Less: Deduction u/s 33AB would be the lower of:	
- Amount deposited in Rubber Development Account on or before 30.9.2022 [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	
(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. 2021-22, 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.2019-20 not allowed to be set-off against the business profits of the P.Y. 2021-22, since as on 31.3.2022, 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 31.03.2019, being the last day of previous year 2018-19, 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.2013-14. The eight year period from the end of P.Y.2013-14 would expire on 31.3.2022. As per the plain reading of section 33AB(5), if the sale takes place before 31.3.2022, 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 31.3.2022 and not before 31.3.2022. 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: 30 [FII- NR Taxation]

Neptune Inc, a notified Foreign Institutional Investor (FII), derived the following incomes for the financial year 2021-22:-

- (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 2018; Date of sale 7 March 2022]

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

- (ii) Listed Shares of Earth Ltd.

[Date of purchase – 2 May, 2021; Date of sale – 9 February, 2022]

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, 2021; Date of sale – 7 March, 2022]

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. 2022-23, assuming that no other income is derived by Neptune Inc. during the F.Y.2021-22.

Computation of total income of Neptune Inc., a notified FII, for A.Y.2022-23

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

Particulars	₹	₹
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.2022-23

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%	<u>29,932</u>
Tax Liability	<u>7,78,232</u>
Tax Liability (rounded off)	<u>7,78,230</u>