

PAPER – 4 : TAXATION
SECTION A : INCOME TAX LAW
Part - II

Question No.1 is compulsory.

*Candidates are also required to answer any **two** questions from the remaining **three** questions.*

Working notes should form part of the respective answers. All questions relate to assessment year 2022-23, unless otherwise stated.

Question 1

Dr. Rohan, 82 years old resident surgeon, having his Nursing Home in Mumbai, gives the following particulars for the year ended on 31.03.2022.

Receipts	₹	Payments	₹
Opening Balance b/d	1,25,000	Salary to Staff	3,50,000
Fees from visits to other hospitals (net)	5,85,000	Taxes & Insurance	26,000
Fees for March, 2021 received in April, 2021		Entertainment Expenses	1,10,000
IPD 40,000	85,000	Purchase of Television	48,000
OPD 45,000		Gift to daughter-in law	60,000
Dividend from shares (net)	18,900	Interest on loan for repairs to property	65,000
Fees received during the year	10,25,000	Personal medical expenses	70,000
Gifts received from relatives of patients	45,000	Deposits in PPF A/c	55,000
Honorarium for painting services in Jai Hind Art School (net)	22,500	Nursing Home expenses	3,75,000
Income-tax Refund (Including interest ₹ 1,500)	12,100	Prof. fees paid for consulting services	1,20,000

The Suggested Answers for Paper 4A: Income-tax Law are based on the provisions of Income-tax Act as amended by the Finance Act, 2021 which are relevant for November, 2022 Examination. The relevant assessment year is A.Y.2022-23.

		Purchase of furniture at home	1,35,000
		Personal Expenses	3,00,000
		Balance c/f	2,04,500
	19,18,500		19,18,500

Other Information:

- (a) He keeps his books of accounts on cash basis and has not opted for the provisions of section 44ADA.
- (b) Salary includes ₹ 60,000 paid to his sister who is a qualified nurse paid in cash.
- (c) Entertainment expenses include ₹ 25,000 for dinner to doctors in a five star hotel.
- (d) Interest on loan for repairs to property includes ₹ 40,000 for his residential property.
- (e) His daughter in law earned income of ₹ 10,000 from the amount received as gift.
- (f) Fixed Assets values as on 01.04.2021 are as under :
Nursing Home Equipment's ₹ 2,20,000, Medical Books (incl. annual publications ₹ 10,000) ₹ 35,000, Laptop ₹ 40,000.
- (g) Television purchased for nursing home purpose on 21.09.2021 is put to use on 03.10.2021.
- (h) He has donated ₹ 10,000 towards PM CARES Fund on 15.08.2021.

You are required to

- (i) Compute the total income and tax payable by him for AY 2022-23 as per the regular provisions of the Income-tax Act, 1961. Assume that he has not opted for section 115BAC.
- (ii) What will be his total income and tax payable, if he opts for the provisions of section 44ADA? Will it be more beneficial for him to adopt 44ADA? **(14 Marks)**

Answer

- (i) **Computation of total income and tax payable by Dr. Rohan for A.Y. 2022-23 as per the regular provisions of the Act**

	Particulars	₹	₹	₹
I	<u>Income from house property</u>			
	Annual value [Assuming residential property self-occupied]		Nil	
	Less: Deduction under section 24(b)			
	Interest on loan for repairs to property, ₹ 40,000, restricted to		<u>30,000</u>	

	Loss from self-occupied property [can be set-off against Profits and gains of business or profession or Income from other sources]		(30,000)
ii	<u>Profits and gains from business and profession</u>		
	Gross Receipts		
	Fees from visits to other hospitals [5,85,000/90%]	6,50,000	
	Fees for March 2021 received in April 2021 [Fees for March 2021 is chargeable to tax during P.Y. 2021-22, since Dr. Rohan is following cash system of accounting] [40,000 + 45,000]	85,000	
	Fees received during the year	10,25,000	
	Gifts received from relatives of patients [taxable as business income]	<u>45,000</u>	18,05,000
	Less: Permissible deductions		
	Salary to staff [Salary paid to his sister who is a qualified nurse in cash disallowed under section 40A(3), since such cash payment exceeds ₹ 10,000] [₹ 3,50,000 – ₹ 60,000]	2,90,000	
	Taxes and insurance	26,000	
	Entertainment expenses, including dinner to doctors [Assuming that the entire sum was incurred wholly and exclusively for business purpose]	1,10,000	
	Interest on loan for repair to property [to the extent relating to business] = ₹ 65,000 – ₹ 40,000, relating to residential property	25,000	
	Nursing home expenses	3,75,000	
	Professional fees paid for consulting services	<u>1,20,000</u>	<u>9,46,000</u>
			8,59,000
	Less: Depreciation under section 32		
	Nursing home equipment's [2,20,000 x 15%]	33,000	
	Note – Nursing home equipment would be eligible for depreciation @15%, being the		

<p>general rate for plant and machinery. The main solution has, accordingly, been worked out applying 15%. However, if such equipment are in the nature of life saving medical equipment, they would be eligible for higher depreciation @40%. If 40% rate is applied, depreciation would be ₹ 88,000</p>			
Medical books [35,000 x 40%]	14,000		
Laptop [40,000 x 40%]	16,000		
Television [48,000 x 15%, since the television is put to use for 180 days during the P.Y. 2021-22]	<u>7,200</u>	<u>70,200</u>	
<p>Note - Television would be eligible for depreciation @15%. However, television connected to laptop or other medical equipment and used by Doctor may be classified as plant and machinery eligible for depreciation @40%. If 40% rate is applied, depreciation for TV would be ₹ 19,200.</p> <p>Also, it is possible to take a view that Television is furniture and fixtures qualifying for depreciation@10%. If 10% rate is applied, depreciation for TV would be ₹ 4,800.</p>			7,88,800
<p>III <u>Income from Other Sources</u></p>			
Dividend from shares [18,900/90%]		21,000	
Honorarium for painting services in Jai Hind Art School [22,500/90%]		25,000	
Honorarium (Alternative without TDS) - ₹ 22,500			
<p>Note – In the question, it is mentioned that Dr. Rohan has received Honorarium for painting services in Jai Hind Art School (Net) of ₹ 22,500. Since the threshold limit for deducting tax at source under section 194J is ₹ 30,000, there is no requirement to deduct tax at source on such income. Accordingly, question can be answered without grossing up the amount of honorarium of ₹ 22,500.</p>			
Interest on income-tax refund		1,500	

Income earned from gift to daughter in law [Income earned by daughter in law from asset gifted without consideration to her by Dr. Rohan is includible in the hands of Dr. Rohan]	<u>10,000</u>	<u>57,500</u>
Gross Total Income		8,16,300
Less: Deduction under Chapter VI-A		
<u>Deduction under section 80C</u>		
Deposits in PPF	55,000	
<u>Deduction under section 80D</u>		
Medical expenses to the extent of ₹ 50,000 since Dr. Rohan is a senior citizen (assuming he has not taken any medical insurance policy)	50,000	
<u>Deduction under section 80G</u>		
Donation towards PM CARES Fund	<u>10,000</u>	1,15,000
Total Income		<u>7,01,300</u>
Tax Payable		
Upto ₹ 5,00,000 [since Dr. Rohan is aged 80 years or above]	Nil	
₹ 5,00,001 to ₹ 7,01,300 [₹ 2,01,300@20%]	<u>40,260</u>	40,260
Add: HEC@4%		<u>1,610</u>
Tax liability		<u>41,870</u>
Less: TDS on fees from visits to other hospitals	65,000	
TDS on dividend from shares	2,100	
TDS on honorarium for painting services in Jai Hind art School	<u>2,500</u>	<u>69,600</u>
Tax Refundable		27,730

- (ii) Computation of total income and tax payable by Dr. Rohan for A.Y. 2022-23 if he opts for section 44ADA

	Particulars	₹	₹
I	Income from house property		
	Loss from self occupied property		(30,000)
II	Income from business or profession		
	Income from profession [18,05,000 x 50%] [No other expenditure or depreciation is allowed]		9,02,500

III	Income from Other Sources		<u>57,500</u>
	Gross Total Income		9,30,000
	Less: Deduction under Chapter VI-A		1,15,000
	Total Income		8,15,000
	Tax Payable		
	Upto ₹ 5,00,000	Nil	
	₹ 5,00,001 to ₹ 8,15,000 [3,15,000@20%]	<u>63,000</u>	
			63,000
	Less: HEC@4%		<u>2,520</u>
	Tax liability		65,520
	Less: TDS		<u>69,600</u>
	Tax Refundable		4,080
<p>Since tax refundable in case Dr. Rohan opts for the provisions of section 44ADA is lower than the regular provisions of the Act, it would be beneficial for him not to opt for section 44ADA and get his books of account audited and declare income under the regular provisions.</p>			

Question 2

- (a) Mr. Sarthak, an individual and Indian citizen living abroad (Dubai), a tax haven, since year 2005 and never came to India for a single day since then, earned the following incomes during previous year 2021-22:

	Particulars	Amount (in ₹)
(i)	Income accrued and arisen in Dubai not taxable in Dubai (being tax haven)	20,00,000
(ii)	Income accrued and arisen in India	5,00,000
(iii)	Income deemed to accrue and arise in India	8,00,000
(iv)	Income arising in Dubai from a profession set up in India	10,00,000

- I. Determine the residential status of Mr. Sarthak and taxable income for the previous year 2021-22 (assuming no other income arise during the previous year).
- II. What would be your answer if income arising in Dubai from a profession set up in India is ₹ 2 lakhs instead of ₹ 10 lakhs?
- III. What would be your answer, if Mr. Sarthak born in Dubai and his parents were born in India?

(6 Marks)

- (b) Mr. B is a sales manager in PQR Ltd. During F.Y. 2021-22 he has received the following towards his salary and allowances/perquisites;
- (i) Basic pay ₹ 85,000 per month upto December 2021 and thereafter an increase of ₹ 2,000 per month.
 - (ii) Dearness allowance 40% of basic pay forming part of retirement benefits.
 - (iii) Bonus 1 month basic pay based on the salary drawn during January month every year.
 - (iv) He contributes 14% of his basic pay & DA towards his recognized provident fund and his employer company contributes the same amount.
 - (v) Travelling allowance of ₹ 5,000 per month towards on duty tours.
 - (vi) Research and training allowance ₹ 3,000 per month.
 - (vii) Children education allowance of ₹ 600 per month, per child for his 2 sons and 1 daughter.
 - (viii) Accommodation owned by PQR Ltd. was provided to him in Hyderabad for the whole year and furniture of ₹ 2,00,000 was provided from 1st October, 2021.
 - (ix) Reimbursement of medical expenses on his treatment in private hospital - ₹ 15,000, medical allowance ₹ 1,500 per month. Company has paid premium on medical policy purchased on his health ₹ 12,500.

You are required to:

- I. Compute the income chargeable to tax under the head "Income from Salary", assuming that he does not opt for the provisions under section 115BAC.
- II. What will be the income under the head "Salaries", if he opts for the provisions under section 115BAC? **(8 Marks)**

Answer

- (a) I. Mr. Sarthak is an Indian citizen living in Dubai since 2005 who never came to India for a single day since then, he would not be a resident in India for the P.Y. 2021-22 on the basis of number of days of his stay in India as per section 6(1).

However, since he is an Indian citizen

- having total income (excluding income from foreign sources) of ₹ 23 lakhs, **which exceeds the threshold of ₹ 15 lakhs** during the previous year; and
- not liable to tax in Dubai,

he would be **deemed resident** in India for the P.Y. 2021-22 by virtue of section 6(1A).

A deemed resident is always a resident but not ordinarily resident in India (RNOR).

Computation of Total Income for A.Y.2022-23		
	Particulars	₹
(i)	Income accrued and arisen in Dubai (not taxable in case of an RNOR)	-
(ii)	Income accrued and arisen in India (taxable)	5,00,000
(iii)	Income deemed to accrue or arise in India (taxable)	8,00,000
(iv)	Income arising in Dubai from a profession set up in India would be taxable in case of RNOR	10,00,000
	Total income	<u>23,00,000</u>

- II. If income arising in Dubai from a profession set up in India is ₹ 2 lakhs instead of ₹ 10 lakhs, his total income (excluding income from foreign sources) would be only ₹ 15 lakhs. Since the same does not exceed the threshold limit of ₹ 15 lakhs, he would not be deemed resident.

Accordingly, he would be non-resident in India for the P.Y. 2021-22 and hence, his total income would be only ₹ 13 lakhs (aggregate of (ii) and (iii) above i.e., ₹ 5 lakhs + ₹ 8 lakhs).

- III. If Mr. Sarthak is born in Dubai and his parents were born in India, he would not be an Indian citizen, but he may qualify as person of Indian origin. In such case, the provisions relating to deemed resident would not apply to him.

Accordingly, he would be non-resident in India during the P.Y. 2021-22 and his total income would be ₹13 lakhs.

Note – In sub-part III., it is inferred that he is not a citizen of India since he is not born in India. It is assumed that he has not applied for citizenship by fulfilling the other specified eligibility conditions.

- (b) I. **Computation of income chargeable to tax under the head “Salaries” for A.Y.2022-23, if Mr. B does not opt for the provisions of section 115BAC**

Particulars	₹	₹
Basic Pay [₹ 85,000 x 9 + ₹ 87,000 x 3]		10,26,000
Dearness Allowance [₹ 10,26,000 x 40%]		4,10,400
Bonus		87,000
Travelling allowance [Exempt, since provided towards duty tours ¹]		-

¹ It is assumed that he has fully expended the amount

Research and training allowance [₹ 3,000 x 12]		36,000
Medical allowance [₹ 1500 x 12]		18,000
Children Education allowance [₹ 600 x 12 x 3]	21,600	
Less: Exempt [₹100 x 12 x 2]	<u>2,400</u>	19,200
Salary (for the purpose of valuation of Rent-free accommodation)		15,96,600
Value of Rent-free accommodation [15% of ₹ 15,96,600]	2,39,490	
Add: Value of furniture [₹ 2,00,000 × 10% p.a. for 6 months]	<u>10,000</u>	2,49,490
Reimbursement of medical expenses [taxable, since amount is reimbursed for treatment in private hospital]		15,000
Health insurance premium paid by PQR Ltd. [Exempt]		-
Employers' contribution to RPF in excess of 12% of salary = 2% of ₹ 14,36,400 (₹ 10,26,000 + ₹ 4,10,400)		28,728
Gross Salary		18,89,818
Less: Deductions under section 16		
Standard deduction		50,000
Income chargeable under the head "Salaries"		18,39,818

II. Computation of income chargeable to tax under the head "Salaries" for A.Y.2022-23, if Mr. B opts for the provisions of section 115BAC

Income chargeable under the head "Salaries"		18,39,818
Add: Exemption in respect of children education allowance [Not allowable as per section 115BAC]		2400
Add: Standard deduction [Not allowable as per section 115BAC]		50,000
		18,92,218
Less: Value of rent-free accommodation (As per regular provisions)		2,49,490
		16,42,728
Add: Value of Rent-free accommodation [15% of ₹ 15,99,000 (₹ 15,96,600 (as calculated above) + ₹ 2,400)]	2,39,850	
Add: Value of furniture [₹ 2,00,000 × 10% p.a. for 6 months]	<u>10,000</u>	2,49,850
Income chargeable under the head "Salaries"		18,92,578

Question 3

(a) Examine the applicability and the amount of TDS to be deducted in the following cases for F.Y. 2021-22:

- (i) S and Co. Ltd. paid ₹ 25,000 to one of its Directors as sitting fees on 02-02-2022.
- (ii) ₹ 2,20,000 paid to Mr. Mohan, a resident individual, on 28-02-2022 by the State of Haryana on compulsory acquisition of his urban land.
- (iii) Mr. Purushotham, a resident Indian, dealing in hardware goods has a turnover of ₹ 12 crores in the previous year 2020-21. He purchased goods from Mr. Agarwal a resident seller, regularly in the course of his business. The aggregate purchase made during the previous year 2021-22 on various dates is ₹ 80 lakhs which are as under:

10-06-2021	₹ 25,00,000
20-08-2021	₹ 27,00,000
12-10-2021	₹ 28,00,000

He credited Mr. Agarwal's account in the books of accounts on the same date and made the payment on the 28-02-2022 ₹ 80 lakh. Mr. Agarwal's turnover for the financial year 2020-21 is ₹ 20 crores. **(6 Marks)**

(b) Compute the gross total income of Mr. Prakhar for A.Y. 2022-23 and the losses to be carried forward, from the information given below:

- | | |
|---|--------------|
| (i) Income from House Property (computed) | ₹ 3,60,000 |
| (ii) Short term capital loss on shares of a company | ₹ (-) 18,700 |
| (iii) Long term capital gain on sale of agricultural land | ₹ 6,000 |
| (iv) Income from rubber business (plants grown by Mr. Prakhar) | ₹ 80,000 |
| (v) Loss from garment business b/f discontinued in F.Y. 2019-20 | ₹ (-) 70,000 |
| (vi) Loss from betting | ₹ (-) 5,500 |
| (vii) Income from lotteries (net) | ₹ 5,460 |

(4 Marks)

(c) Mr. A employed with B Pvt. Ltd. residing in Chennai, filed his return of Income on 30th July. He has no other income other than salary. He however has failed to link his Aadhar with PAN as on return filing date.

- (i) What is the last date for linking Aadhar with PAN?
- (ii) What is the consequence for him if he has linked the Aadhar with PAN on 31st August 2022?

- (iii) Are there any exceptions provided under section 139AA from quoting of Aadhar number? **(4 Marks)**

Answer

- (a) (i) Tax @10% has to be deducted by S and Co. Ltd. under section 194J on directors sitting fees of ₹ 25,000. The threshold limit of ₹ 30,000 is not applicable in respect of sum paid to a director.

The amount of tax to be deducted at source = ₹ 25,000 x 10% = ₹ 2,500

- (ii) There is no liability to deduct tax at source under section 194LA, since the payment to Mr. Mohan, a resident, by State of Haryana on compulsory acquisition of his urban land does not exceed ₹ 2,50,000.
- (iii) Since Mr. Purushotham's turnover for F.Y.2020-21 exceeds ₹ 10 crores, and value of goods purchased from Mr. Agarwal, a resident seller, exceeds ₹ 50 lakhs in the P.Y.2021-22, he is liable to deduct tax@0.1% on ₹ 30 lakhs (being the sum exceeding ₹ 50 lakhs), at the time of credit or payment, whichever is earlier.

On 10.6.21= Nil (No tax is to be deducted u/s 194Q on the purchases made on 10.6.2021 since the purchases made till that date has not exceeded the threshold of ₹ 50 lakhs and TDS provisions u/s 194Q was effective from 1.7.2021)

On 20.8.2021 = 0.1% of ₹ 2 lakhs (amount exceeding ₹ 50 lakhs) = ₹ 200

On 12.10.2021 = 0.1% of ₹ 28 lakhs = ₹ 2,800.

- (b) **Computation of gross total income of Mr. Prakhar for the A.Y.2022-23**

Particulars	₹	₹
Income from house property (computed)		3,60,000
Profits and gains from business and profession		
Income from rubber business [35% of income from manufacture of rubber is business income [80,000 x 35%] and the balance 65% would be agricultural income	28,000	
Less: Brought forward loss of ₹ 70,000 from garment business set-off to the extent of ₹ 28,000, set-off is permissible even if the business is discontinued	<u>28,000</u>	Nil
Capital Gains		
Long-term capital gain on sale of agricultural land (Exempt, assuming that the same is rural agricultural land)		-
Income from Other Sources		
Income from lotteries (₹ 5,460 x 100/70)		7,800

<i>[Note – Tax @30% has to be deducted on winnings from lotteries u/s 194B only if the amount of payment exceeds ₹ 10,000. However, in the question, winnings from lotteries is only ₹ 5,460 and the word “net” is given in the bracket. Since, the word “net” is written in the bracket in question, main solution is given based on the view that tax has been deducted on income from lotteries @30% and accordingly, the lottery income is grossed up. However, since no tax is deductible u/s 194B where lottery income does not exceed ₹ 10,000, the question can be answered without grossing up the lottery income of ₹ 5,460. In such a case, gross total income would be ₹ 3,65,460]</i>	
Gross Total Income	3,67,800
Losses to be carried forward to A.Y.2023-24	₹
Loss from garment business pertaining to P.Y. 2019-20 (₹ 70,000 – ₹ 28,000)	42,000
Short term capital loss on shares of a company of A.Y. 2022-23	18,700
Loss of ₹ 5,500 from betting can neither be set-off nor be carried forward.	-

Note – In the question, long term capital gain on sale of agricultural land is given as ₹ 6,000. However, it is not mentioned as to whether the same is rural agricultural land or urban agricultural land. The main solution given above is based on the assumption that it is rural agricultural land. An alternate solution has been given below based on the assumption that it is urban agricultural land -

ALTERNATE SOLUTION

Computation of gross total income of Mr. Prakhar for the A.Y.2022-23

Particulars	₹	₹
Income from house property (computed)		3,60,000
Profits and gains from business and profession		
Income from rubber business [35% of income from manufacture of rubber is business income [80,000 x 35%] and the balance 65% would be agricultural income	28,000	
Less: Brought forward loss of ₹ 70,000 from garment business set-off to the extent of ₹ 28,000, set-off is permissible even if the business is discontinued	<u>28,000</u>	Nil

Capital Gains		
Long-term capital gain on sale of agricultural land, assuming that the same is urban agricultural land.	6,000	
Less: Set-off of Short-term capital loss of ₹ 18,700 against long-term capital gains to the extent of ₹ 6,000 by virtue of section 74(1)	<u>6,000</u>	Nil
Income from Other Sources		
Income from lotteries (₹ 5,460 x 100/70)		7,800
<i>[Note – Tax @30% has to be deducted on winnings from lotteries u/s 194B only if the amount of payment exceeds ₹ 10,000. However, in the question, winnings from lotteries is only ₹ 5,460 and the word “net” is given in the bracket. Since, the word “net” is written in the bracket in question, main solution is given based on the view that tax has been deducted on income from lotteries @30% and accordingly, the lottery income is grossed up. However, since no tax is deductible u/s 194B where lottery income does not exceed ₹ 10,000, the question can be answered without grossing up the lottery income of ₹ 5,460. In such a case, gross total income would be ₹ 3,65,460]</i>		
Gross Total Income		3,67,800
Losses to be carried forward to A.Y. 2023-24		₹
Loss from garment business pertaining to P.Y. 2019-20 (₹ 70,000 – ₹ 28,000)		42,000
Short term capital loss on shares of a company of A.Y. 2022-23 (₹ 18,700 – ₹ 6,000)		12,700
Loss of ₹ 5,500 from betting can neither be set-off nor be carried forward.		-

- (c) Every person who has been allotted PAN as on 1st July, 2017, and who is eligible to obtain Aadhar Number, has to intimate his Aadhar Number to prescribed authority **on or before 31st March, 2022.**

Since, Mr. A fails to link his Aadhar number with PAN on or before 31.3.2022, consequently, at the time of linking his Aadhaar number with PAN on 31.8.2022, he would be liable to **pay fee of ₹ 1,000** as per section 234H.

Yes, the following are the exceptions -

An individual who does not possess the Aadhar number or Enrolment ID and is:

- (i) residing in Assam, Jammu & Kashmir and Meghalaya;

- (ii) a non-resident as per Income-tax Act, 1961;
- (iii) of the age of 80 years or more at any time during the previous year;
- (iv) not a citizen of India

Question 4

- (a) *Examine whether the following are chargeable to tax and the amount liable to tax:*
- (i) *Interest on enhanced compensation ₹ 3,00,000 received on 31.03.2022 from Government of Tamil Nadu towards urban land acquired by it. 40% of enhanced compensation interest pertains to previous year 2020-21.*
 - (ii) *Narayanan transferred 1000 shares of BS Ltd to AB Pvt. Ltd on 01-06-2021 for a consideration of ₹ 2,00,000 when the fair market value of the same as on transaction date was ₹ 3,00,000. The indexed cost of acquisition of shares for Narayanan was ₹ 2,75,000. The transfer was effected off market on which securities transaction tax was not paid. BS Ltd is a closely held unlisted company.*
 - (iii) *Mr. A received ₹ 5,00,000 on 1st March 2022 from Sree Pushpaka Charitable Trust for meeting his medical expenses. The trust is registered under section 12AB of Income-tax Act.*

(6 Marks)

- (b) *Ms. Priya, aged 61 years, has total income of ₹ 7,50,000, including income from profession, for A.Y. 2022-23, and has paid advance tax of ₹ 10,000 on 13.12.2021. She has filed her return of income on 15.06.2022.*

Calculate the self-assessment tax payable and the interest thereon u/s 234A, 234B and 234C, if any, by Ms. Priya.

(4 Marks)

- (c) *Mr. X a resident, aged 56 years, till recently was a successful businessman filing his return of incomes regularly and promptly ever since he obtained PAN card. During the COVID-Pandemic period his business suffered severely and he incurred huge losses. He was not able to continue his business and finally on 1st January, 2022 he decided to wind-up his business which he also promptly intimated to the jurisdictional Assessing Officer about the closure of his business.*

The Assessing Officer sent him a notice to tax income of A.Y. 2022-23 during the A.Y. 2021-22 itself. Does the Assessing Officer have the power to do so? Are there any exceptions to the general rule "Income of the previous year is assessed in the assessment year following the previous year"?

(4 Marks)**OR**

From the following transactions compute the total income of Mr. Raman and his wife Savita for the Assessment year 2022-23.

- (i) *Mr. Raman had a fixed deposit of ₹ 5,00,000 in the bank. He instructed the bank to credit the interest on deposit @6% from 01-04-2021 to 31-03-2022 to the savings account of his brother's son for his education.*

- (ii) Savita is a B.com graduate and working in the ABC Private Limited as an accountant with a monthly salary of ₹ 25,000. Raman holds 30% equity shares of the ABC Private Limited.
- (iii) Raman started proprietary business on 01-04-2000 with a capital of ₹ 10,00,000. He incurred a loss of ₹ 2,00,000 during the previous year 2020-21. To overcome the financial position, Savita gifted a sum of ₹ 4,00,000 to him on 01-04-2021 which was immediately invested in the business by Mr. Raman. He earned a profit of ₹ 3,00,000 during the previous year 2021-22
- (iv) Sajan, younger son of Raman, aged 17 years won in a debate competition during the annual competitions held at his school and received a cash award of ₹ 10,000 and he also earned interest of ₹ 7,000 on balance maintained in his savings bank account.

(4 Marks)

Answer

- (a) (i) Interest on enhanced compensation received on 31.03.22 from Government of Tamil Nadu (including 40% of interest on enhanced compensation relating to P.Y. 2020-21) would be deemed to be the income of P.Y. 2021-22, being the year in which it is received irrespective of the method of accounting followed by the assessee.

Interest of ₹ 3,00,000 on enhanced compensation is chargeable to tax during the P.Y. 2021-22 after providing deduction of 50% under section 57. Therefore, ₹ 1,50,000 is chargeable to tax under the head "Income from other sources".

- (ii) **In the hands of Mr. Narayanan**

Since the consideration of ₹ 2,00,000 is less than ₹ 3,00,000, being the fair market value of unquoted shares of BS Ltd., the fair market value of shares i.e., ₹ 3,00,000 would be deemed to be the full value of consideration.

Accordingly, ₹ 25,000 [₹ 3,00,000 – ₹ 2,75,000, being indexed cost of acquisition] would be liable to tax as long term capital gains in the hands of Mr. Narayanan.

In the hands of AB Pvt. Ltd.

Shares received by AB Pvt. Ltd. from Mr. Narayanan for inadequate consideration is chargeable to tax, since the difference exceeds ₹ 50,000. Accordingly, ₹ 1,00,000, being the difference between aggregate Fair Market Value of the shares i.e., ₹ 3,00,000 and consideration i.e., ₹ 2,00,000 would be chargeable to tax under the head "Income from other sources".

- (iii) The sum of ₹ 5,00,000 received from Sree Pushpaka Charitable Trust, without consideration, for meeting medical expenses would **not** be chargeable to tax in the hands of Mr. A, since the same is received from a trust registered under section 12AB.

Note - The question does not mention that Ms. Priya has opted for section 115BAC, in which case the total income given therein would be as per the regular provisions of the Act. The main solution has been worked out accordingly as per the regular provisions of the Act.

Since there is no mention of Chapter VI-A or other deductions claimed by her, it is possible to assume that she **has not** claimed any such deduction, in which case, it would be beneficial for her to opt for section 115BAC. Based on the assumption that she has opted for section 115BAC and the total income given in the question reflects the computation accordingly, the alternative answer would be as follows:

Self assessment tax payable [It is assumed Ms. Priya has opted for section 115BAC]				
Tax on ₹ 7,50,000				₹
Upto ₹ 2,50,000 [not eligible for higher basic exemption limit]				Nil
₹ 2,50,001 – ₹ 5,00,000 @5%				12,500
₹ 5,00,001 – ₹ 7,50,000 @10%				<u>25,000</u>
				37,500
Add: Health and education cess @4%				<u>1,500</u>
				39,000
Less: Advance tax				<u>10,000</u>
Tax payable				29,000
Add: Interest under section 234A [Interest under section 234A would not be attracted, since Ms. Priya has furnished her return of income on 15.06.2022 which is before the due date of filing return of income]				-
Add: Interest under section 234B would be levied on ₹ 29,000 at 1% for 3 months i.e., from April to June. The interest under section 234B amount to ₹ 870.				870
Add: Interest under section 234C				1,565
Date of Instalment	Specified % of estimated tax	Amount due and unpaid (rounded off to nearest ₹ 100, ignoring fraction)	Period	Interest @ 1%
15 th June 2021	15%	5,800 [15% of ₹ 39,000]	3 months	174
15 th September 2021	45%	17,500 [45% of ₹ 39,000]	3 months	525
15 th December 2021	75%	19,200 [(75% of ₹ 39,000) – ₹10,000]	3 months	576

15 th March 2022	100%	29,000	1 month	290	-----
Total interest under section 234C				1,565	
Self assessment tax payable and interest thereon					<u>31,435</u>
Self assessment tax payable and interest thereon(rounded off)					31,440

(c) [First Alternative]

Yes, he has the power to do so.

Since the business of Mr. X is discontinued on 1st January, 2022, the income of the period from 1.4.2021 to 1.1.2022 may, at the discretion of the Assessing Officer, be charged to tax in A.Y.2021-22 itself.

Following are the other exceptions to the general rule "Income of the previous year is assessed in the assessment year following the previous year" i.e., the income of the previous year is assessed in the previous year itself.

- (i) Shipping business of non-resident
- (ii) Persons leaving India with no present intention of returning
- (iii) AOP/BOI/Artificial Juridical Person formed for a particular event or purpose and likely to be dissolved
- (iv) Persons likely to transfer property to avoid tax.

(c) [Second Alternative]

Computation of Total Income of Mr. Raman and Mrs. Savita for A.Y. 2022-23

Particulars	Mr. Raman	Mrs. Savita
	Amount (₹)	
(i) Interest on fixed deposits [Income would be included in the hands of Raman, since he has transferred income to his brother's son without transfer of the asset, being fixed deposit] [₹ 5,00,000 x 6%]	30,000	
(ii) Salary income [₹ 3,00,000 (₹ 25,000 x 12) less standard deduction of ₹ 50,000] [Mrs. Savita's salary would not be included in the income of Raman, who has substantial interest in the company, since she possesses the relevant professional qualifications for working as an accountant]		2,50,000
(iii) Savita gifted ₹ 4,00,000 to Mr. Raman, which Mr. Raman has invested in the business. In such case, proportionate income (i.e., 1/3 x ₹ 3,00,000) arising from such investment is to be	2,00,000	1,00,000

included in the total income of Savita. Mr. Raman's contribution in capital as on 1.4.2021 = ₹ 8,00,000 [₹ 10,00,000 – ₹ 2,00,000] Mrs. Savita's contribution on 1.4.2021 = ₹ 4,00,000 ₹ 3,00,000, being the profit for P.Y.2021-22 to be apportioned on the basis of capital employed on the first day of the previous year i.e., as on 1.4.2021 (8:4 or 2:1)		
Total income [before considering minor income from interest on savings account]	2,30,000	3,50,000
(iv) Cash award won in a debate by Sajan, minor son, would not be included in the hands of either parent, since such income arises from his own skills/talent. However, interest of ₹ 7,000 on savings bank account (after providing for deduction of ₹ 1,500) is to be included in the hands of Mrs. Savita, since her income is higher than that of her husband [₹ 7,000 - ₹1,500]	-	-
	-	<u>5,500</u>
Gross Total Income	2,30,000	3,55,500
Less: Deduction under section 80TTA (Interest on savings bank account)	-	<u>5,500</u>
Total Income	<u>2,30,000</u>	<u>3,50,000</u>

SECTION B: INDIRECT TAXES

1. Section B comprises of questions from 5-8. In Section B, answer question no. 5 which is compulsory and any two questions from question nos 6-8.
2. Working notes should form part of the answer.
3. All questions in Section B should be answered on the basis of position of GST law as amended by the Finance Act, 2021 as well as significant notifications/ circulars issued upto 30th April, 2022.

Question 5

Ajay Limited, a registered dealer in Patna (Bihar), is engaged in various types of supplies. The company provided the following details for the month of January 2022:

Sl. No.	Particulars	Amount in ₹		
(i)	Outward supply of goods made during the month to various non-related persons:	As given in particulars column		
	Particulars		Market value	Transaction Value (₹)
	a. in the State of Bihar (Intra-State)		3,00,000	4,00,000
b. to other States (Inter-State)	2,00,000	1,00,000		
(ii)	Services provided to the State Government of Karnataka for conducting a computer training programme for its employees. Total expenditure incurred for the said programme was ₹90,000, of which ₹63,000 was borne by the State Govt. (Inter-State transaction)	5,00,000		
(iii)	Stock transfer without consideration to its branch at Gaya (Bihar). Branch has separate GSTN for convenience of accounting and billing. Value under section 15 - ₹20,000 (Intra -State)	Nil		
(iv)	Intra - State inward supply of various services for use in the course or furtherance of business (30 invoices)	6,50,000		

Additional Information:

- (a) All the amounts given above are exclusive of taxes.
- (b) During the course of arranging and filing documents, the accountant of Ajay Limited observed that an invoice for ₹30,000 (excluding tax) dated 02.12.2021 was omitted to be recorded in the books of accounts and no payment was made against the same till the end of January 2022. This invoice was issued by Mr. Mukesh of Patna, from whom Ajay Limited had taken cars on rental basis. Invoice included cost of fuel also. (Intra-State transaction).

(c) Rate of GST applicable on various supplies are as follows:

Nature of supply	CGST	SGST	IGST
Car rental service	2.5%	2.5%	5%
All other inward and outward supplies	9%	9%	18%

(d) No opening balance of input tax credit exists in the beginning of the month.

(e) Out of the 30 invoices of inward supply received, 6 invoices with taxable value amounting to ₹ 1,50,000 were e-invoices in which Invoice Reference Number (IRN) was not mentioned. However, all the invoices were duly reflected in GSTR 2B for the month of January 2022, since the suppliers had filed their GSTR-1.

(f) Subject to the information given above, conditions necessary for claiming ITC were complied with.

You are required to calculate the amount of net GST liability payable in cash by Ajay Limited for the month of January 2022. Brief notes for treatment given for each item should form part of your answer. **(8 Marks)**

Answer

Computation of net GST payable in cash by Ajay Ltd. for the month of January 2022

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Outward intra-State supply of goods made in the State of Bihar [Value of supply is the transaction value of the goods.]	36,000 [4,00,000 × 9%]	36,000 [4,00,000 × 9%]	
Outward supply of goods made to other States [Value of supply is the transaction value of the goods.]			18,000 [1,00,000 × 18%]
Inter-State services provided to State Government of Karnataka for conducting a computer training programme [Not exempt since the State Government has borne less than 75% of total expenditure of the training programme.]			90,000 [5,00,000 × 18%]
Intra-State stock transfer to Gaya Branch with separate registration [Supply of goods between distinct persons in course or furtherance of business qualifies as supply even if made without consideration.]	1,800 [20,000 × 9%]	1,800 [20,000 × 9%]	

Total output tax	37,800	37800	1,08,000
Less: Input Tax Credit [Refer Working Note below]	(37,800) (CGST)		(7,200) (CGST)
[CGST credit should be utilized for payment of CGST and IGST in that order. Similarly, SGST credit should be utilized for payment of SGST and IGST in that order. ITC of CGST cannot be utilized for payment of SGST and vice versa.]		(37,800) (SGST)	(7,200) (SGST)
Net GST payable in cash	Nil	Nil	93,600

Working Note:**Computation of ITC available**

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Intra-State inward supply of services [₹ 6,50,000 – ₹1,50,000] [ITC cannot be claimed on the e-invoices without IRN since an e-invoice without IRN is not treated as valid document for claiming ITC.]	45,000 [5,00,000 × 9%]	45,000 [5,00,000 × 9%]	--
Cars taken on rental basis from Mr. Mukesh [Tax on renting of motor car services wherein cost of fuel is included in consideration provided by a non-body corporate to a body corporate and invoice is issued charging CGST/SGST @ 2.5% is payable under reverse charge. Time of supply of such services is 1 st February being earlier of date of payment, or date immediately following 60 days since issue of invoice by the supplier. Since the time of supply of renting of motor car services in the given case does not fall in January, tax liability on the same does not arise in said month. Further, ITC on renting of motor car services received is blocked since the recipient - Ajay Ltd. is not in the same line of business ¹ .]	--	--	--
Total ITC available	45,000	45,000	--

¹ It has been most logically assumed that Ajay Ltd. is not engaged renting of cars business.

Question 6

- (a) Charm Limited, registered under GST in the State of Jharkhand, manufactures cosmetic products and appointed Mr. Handsome of Mumbai, who is registered under GST in the State of Maharashtra, as their Del-credere agent (DCA) to sell their products. Being a DCA, he agrees to raise invoices in his own name and also guarantees for the realization of payments from customers to Charm Limited.

In order to realize the payments from customers on time, he extends short term transaction based loans to them and charges interest for the same.

Mr. Handsome provides you the following details of transactions carried out during the month of March 2022:

Sl. No.	Particulars	Amount in (₹)
	Outward supply:	
i.	Goods sold by Mr. Handsome in his DCA capacity (intra -State transaction)	2,80,000
ii.	Interest earned from the above customers for short term credit facility provided for timely payment of dues. (intra-State transaction)	20,000
iii.	Commission bill raised on Charm Limited (inter-State transaction) in respect of DCA services provided.	30,000
	Inward supply:	
iv	Inter-State supply of goods received from Charm Limited. Being a DCA, no consideration was paid. Value under section 15 - ₹ 2,00,000	Nil
v.	Received training in marketing and distribution from Charm Limited as per DCA agreement, free of cost. Company charges ₹ 75,000 for such training when it provides the same to others.	Nil

Applicable rate of tax on both inward and outward supplies is 9% each for CGST and SGST and 18% for IGST. Amounts given above are exclusive of taxes wherever applicable. Subject to the information given above, necessary conditions are complied with for availment of input tax credit.

You are required to calculate the gross GST liability and eligible input tax credit for the month of March 2022 of Mr. Handsome. Brief notes should form part of your answer for treatment of items in Sl. No. (i) to (v). **(6 Marks)**

- (b) Answer the following, after reading the below given two paragraphs:
- Briefly discuss the relevant provision
 - decide the correct conclusion and
 - determine the validity of the given advice (Correct/Incorrect)
- (I) Raju is engaged in the manufacture of 'Fly ash Bricks' in the State of Kerala. He started his activity in the month of April 2022 and deals only in intra-State. His tax consultant advised him to register under composition levy under GST as Raju's turnover is expected to be below ₹ 1 crore for the said financial year.
- (II) Dharun provides service as a business facilitator to Zio Bank Limited by facilitating in opening of bank accounts to villagers in its rural branches in Punjab and earned a commission of ₹ 22 lakh in the month of April, 2022. So far he is not registered under GST. Dharun's tax consultant advised him that he is liable for registration under GST as his gross receipts exceeded ₹ 20 lakh. Dharun has no other receipt / business activity other than the above. **(4 Marks)**

Answer

- (a) Computation of gross GST liability of Mr. Handsome for the month of March 2022

Particulars		CGST (₹)	SGST (₹)	IGST (₹)
Goods sold by Mr. Handsome in his DCA capacity	2,80,000	27,000	27,000	
Add: Interest earned for short term credit facility provided to above customers	<u>20,000</u>	[3,00,000 × 9%]	[3,00,000 × 9%]	
[Interest included in the value of supply of the goods sold since where DCA is an agent under Schedule - I of the CGST Act, short term credit facility provided by DCA to the buyer is subsumed in the supply of the goods by the DCA to the buyer.]				
Commission charged for DCA services [Being taxable supply of services.]				5,400 [30,000 × 18%]
Gross GST liability		27,000	27,000	5,400
Note: Since the invoice for goods sold is issued by the DCA – Mr. Handsome in his own name, he would fall under the ambit of an agent under Schedule – I of the CGST Act.				

Computation of eligible ITC for the month of March 2022

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Inward supply of goods from Charm Limited free of cost [Supply of goods by principal – Charm Limited to the agent – Mr. Handsome qualifies as supply even though it is made without consideration.]			36,000 [2,00,000 × 18%]
Training in marketing and distribution received from Charm Limited free of cost [Since no consideration is charged for the services provided, said services do not qualify as supply. As no GST is paid on the same, ITC is not available]	--	--	--
Total ITC available	Nil	Nil	36,000

- (b) (I) A registered person whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore in a State/UT may opt for composition scheme subject to fulfilment of specified conditions.

One of these conditions is that he must not be engaged in the manufacture of notified goods including fly ash bricks.

Therefore, in the given case, since Raju is engaged in manufacture of fly ash bricks, he cannot opt for composition levy even though his aggregate turnover in the preceding financial year is nil.

Thus, the advice given by his tax consultant is not correct.

- (II) Services by a business facilitator to a banking company with respect to accounts in its rural area branch is exempt from GST.

Since in the given case, Dharun is engaged exclusively in providing the exempt services, it is not liable to obtain registration even though his aggregate turnover exceeds ₹ 20 lakh.

Thus, the advice given by his tax consultant is not correct.

Question 7

- (a) *Nesamani started his business activities in the month of February 2022 in the State of Orissa. He provided the following details:*

Particulars	Amount in ₹
(i) Outward supply of petrol (Intra State)	4,00,000
(ii) Transfer of exempt goods to his branch in Rajasthan (Inter-State)	2,00,000
(iii) Outward supply of taxable goods by his branch in Uttar Pradesh (Intra State)	5,00,000
(iv) Outward supply of services on which tax is payable under RCM by the recipient of services (Intra-State)	6,00,000
(v) Inward supply of services on which tax is payable under RCM (Intra- State)	2,00,000

From the information given above, compute the aggregate turnover of Nesamani and also decide whether he is required to get registration under GST. Assume that the amounts given above are exclusive of taxes. **(5 Marks)**

- (b) (i) Pranesh has deposited a sum of ₹ 5,000 under the head of 'Fee' column of Cess and ₹4,000 was lying unutilized under the head of 'Penalty' column of IGST. Both the deposits were made wrongly instead of depositing under the head of Fee column under SGST.

In the light of the provisions of section 49(10) & 49(11) of the CGST Act, 2017, briefly explain the relevant provisions as how can Pranesh rectify these errors? **(3 Marks)**

- (ii) M/s Sakura Enterprises made an inter-State supply of taxable goods valued at ₹ 47,500 and exempt goods valued at ₹ 2,000. Rate of IGST for taxable supply was 6%. Determine, with brief reasons, whether e-way bill generation is mandatory for the above supply made by M/s Sakura Enterprises. **(2 Marks)**

Answer

(a)

Particulars	Amount (₹)
Computation of aggregate turnover of Nesamani	
Outward supply of petrol [Supply of petrol being a non-taxable supply is an exempt supply. Value of exempt supply is includible in aggregate turnover.]	4,00,000
Inter-State stock transfer of exempt goods [Supply of taxable/exempt goods between distinct persons is includible.]	2,00,000
Outward supply of taxable goods from Uttar Pradesh branch [Value of outward supplies under same PAN are includible.]	5,00,000

Outward supply of services taxable under reverse charge [Includible in aggregate turnover.]	6,00,000
Inward supply of services taxable under reverse charge [Excludible from the aggregate turnover.]	--
Aggregate turnover	17,00,000

For a supplier engaged in supply of goods and services from the States of Orissa and Uttar Pradesh, the threshold limit of aggregate turnover to obtain registration is ₹ 20 lakh. However, a person required to pay tax under reverse charge has to obtain registration compulsorily irrespective of the quantum of turnover.

Since in the given case, Nesamani is required to pay tax under reverse charge, it is liable to obtain registration compulsorily irrespective of his quantum of turnover.

- (b) (i) A registered person is allowed to make intra-head or inter-head transfer of amount, as available in electronic cash ledger, using specified form.

It can transfer any amount of tax, interest, penalty, fee or others, under one (major or minor) head to another (major or minor) head, as available in the electronic cash ledger.

Therefore, in the given case, amount of ₹ 5,000 available under minor head 'fee' of major head 'cess' and ₹ 4,000 available under minor head 'penalty' of major head 'IGST' can be transferred to minor head 'fee' of major head 'SGST' using specified form.

- (ii) In the given case, consignment value of goods (including GST and excluding value of exempt supply) is ₹ 50,350 ($47,500 \times 106\%$).

Since there is a movement of goods of consignment value exceeding ₹ 50,000, M/s Sakura Enterprises is mandatorily required to issue e-way bill.

Question 8

- (a) Rule 86B restricts the use of Input Tax Credit (ITC) available in the Electronic Credit Ledger for discharging output tax liability. List down the exceptions to the rule 86B.

(5 Marks)

- (b) List any three situations that warrant issue of credit note. Briefly explain the time line to declare such credit note in the GST return.

OR

List the details of outward supplies which can be furnished using Invoice Furnishing Facility (IFF). Also briefly list the cases where a registered person is debarred from furnishing details of outward supplies in GSTR-1/IFF.

(5 Marks)

Answer

(a) Rule 86B of the CGST Rules, 2017 restricts the use of ITC available in the Electronic Credit Ledger for discharging output tax liability by a registered person. Exceptions to rule 86B are as follows:

- (1) Where the said person/proprietor/karta/managing director/any of its two partners, whole-time directors, members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than ₹ 1 lakh as income tax in each of the last 2 financial years.
- (2) Where the registered person has received a refund of more than ₹ 1 lakh in the preceding FY on account of unutilised ITC in case of
 - (i) zero rated supplies made without payment of tax or
 - (ii) inverted duty structure.
- (3) Where the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current FY.
- (4) Where the registered person is Government Department, Public Sector Undertaking, Local authority or Statutory body. Said restriction may be removed by Commissioner/ authorised officer after required verifications and safeguards.

(b) Situations that warrant the issue of credit note are as follows:

- The supplier has erroneously declared a value which is more than the actual value of the goods or services provided.
- The supplier has erroneously declared a higher tax rate than what is applicable for the kind of the goods or services or both supplied.
- The quantity received by the recipient is less than what has been declared in the tax invoice.
- The quality of the goods or services or both supplied is not to the satisfaction of the recipient thereby necessitating a partial or total reimbursement on the invoice value.

The details of credit note are declared in the GST return for the month during which such credit note has been issued but not later than:

- (i) September following the end of the financial year in which such supply was made,
or
- (ii) the date of furnishing of the relevant annual return,

whichever is earlier.

Alternative answer (b)

Details of outward supplies which can be furnished using IFF are as follows:

- (a) invoice wise details of inter-State and intra-State supplies made to the registered persons;
- (b) debit and credit notes, if any, issued during the month for such invoices issued previously.

Cases where a registered person is debarred from furnishing details of outward supplies in GSTR-1/using IFF:

- (i) A registered person is not allowed to furnish Form GSTR-1, if he has not furnished the return in Form GSTR-3B for the preceding 2 months^{2/} for the preceding 1 month³.
- (ii) A registered person, opting for QRMP (Quarterly Return Monthly Payment) scheme is not allowed to furnish Form GSTR-1/using IFF, if he has not furnished the return in Form GSTR-3B for preceding tax period.

² Position of law till 31.12.2021

³ Position of law w.e.f. 01.01.2022