

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 2023-24, unless otherwise stated.

Question 1

Mr. Bhasin, a resident individual, aged 52 years, provides management consultancy services to various corporate and non-corporate clients. His Income & Expenditure A/c for the year ended 31st March, 2023 is as under:

Expenditure	Amount (₹)	Income	Amount (₹)
To Employees' Remuneration	15,00,000	By Gross Receipts from Profession (last year ₹ 75,00,000) (No TDS was deducted from any of the receipts)	60,60,000
To Office & Administrative Expenses	5,00,000	By Interest on Savings Bank Account	25,000
To Rates and Taxes	15,000	By Winnings from Lottery (Net of cost of lottery tickets of ₹ 500)	99,500
To Interest Expenses	80,000	By Rent Received	2,40,000
To Office Rent	2,40,000		
To Insurance Premium	72,000		
To Professional Fees	2,00,000		
To Depreciation on Computers	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, 2022 which are relevant for May, 2023 Examination. The relevant assessment year is A.Y.2023-24.

To Excess of Income over Expenditure	<u>36,97,500</u>	<u>64,24,500</u>
	64,24,500	64,24,500

The following details relates to F.Y. 2022-23:

- (i) Employees' Remuneration includes a sum of ₹ 3,00,000 paid to his wife, Mrs. Beena who is working as a manager in his office. She does not have any technical or professional qualification or experience required for the job. The payment of salary was as per market rates in comparison to similar work profile.
- (ii) Mr. Bhasin owns a big house with 2 independent units. Unit - 1 (with 50% floor area) has been let out for residential purposes at a monthly rent of ₹ 20,000 for the entire year. Unit - 2 (with the balance 50% of the floor area) is used by Mr. Bhasin as his residence-cum-office. Other particulars of the house are:
Municipal Valuation - ₹ 3,60,000 p.a.
Fair Rent - ₹ 4,20,000 p.a.
Standard Rent under Rent Control Act - ₹ 4,00,000 p.a.
- (iii) Rates and taxes include a sum of ₹ 10,000 paid as municipal taxes of the house.
- (iv) Interest expenses represent interest on capital borrowed from a nationalised bank for the construction of the house. The construction was completed in F.Y.2010-11. Neither the loan nor the interest was paid till the due date of filing the return of income.
- (v) Based on the actual rent received for Unit-1, Mr. Bhasin has debited ₹ 2,40,000 as notional rent for Unit-2 which is used for his profession.
- (vi) The expense on insurance premium of ₹ 72,000 represents lump-sum health insurance premium paid by Mr. Bhasin for 3 years effective from 1st July, 2022 to 30th June, 2025 for himself, his spouse and two dependent children. The said insurance premium was paid through account payee cheque.
- (vii) The expenses on professional fees paid includes a sum of ₹ 1,00,000 paid to Mr. Raunak, an Indian resident on which no tax was deducted at source.
- (viii) There was only one block containing computers which came into existence only on 2nd April, 2022 when new laptops (for ₹ 1,60,000), printers and scanners (for ₹ 40,000) were purchased. He charged depreciation @ 60% in the entire cost of ₹ 2,00,000 and debited the amount to Income & Expenditure A/c.
- (ix) Mr. Bhasin has also taken a loan of ₹ 5,00,000 from a nationalised bank for higher education of his son. During F.Y.2022-23, he repaid principal of ₹ 75,000 along with interest of ₹ 40,000. This amount is not reflected in Income and Expenditure Account.

You are required to compute the total income under proper heads of income of Mr. Bhasin for A.Y. 2023-24 under regular provisions of Income-tax Act 1961, assuming that he has not opted to pay tax under section 115BAC. Also calculate the total tax payable by him. (14 Marks)

Answer

Computation of total income and tax payable by Mr. Bhasin for A.Y. 2023-24

	Particulars	₹	₹	₹
I	Income from Salaries			
	Salary of Mrs. Beena [Remuneration paid by Mr. Bhasin to his wife Mrs. Beena who is employed as a manager in his office would be included in his hands, since Mrs. Beena does not have any technical or professional qualification or experience required for the job]		3,00,000	
	Less: Standard deduction u/s 16(ia)		<u>50,000</u>	2,50,000
II	Income from house property			
	Let out portion (Unit 1 – 50% area)			
	Gross Annual Value [Higher of expected rent of ₹ 2,00,000 and actual rent of ₹ 2,40,000 (₹ 20,000 x 12)]	2,40,000		
	[Expected rent is higher of municipal value of ₹ 1,80,000 (3,60,000 x 50%) and fair rent of ₹ 2,10,000 (₹ 4,20,000 x 50%), restricted to standard rent of ₹ 2,00,000 (₹ 4,00,000 x 50%)]			
	Less: Municipal taxes paid for let out portion (₹ 10,000 x 50%)	<u>5,000</u>		
	Net Annual Value (NAV)	2,35,000		
	Less: Deduction under section 24			
	(a) 30% of NAV	70,500		
	(b) Interest on capital borrowed for construction of house relating to let out portion (80,000 x 50%) (allowed on accrual basis)	<u>40,000</u>		
	Income from let out portion		1,24,500	
	Self-occupied (Unit 2 – 25%)			
	[Since Unit 2 representing 50% of the floor area is used for residence as well as business]			

purpose, it is assumed that it is equally used for residence and business purpose]			
Gross Annual Value	Nil		
Less: Municipal taxes [not allowed for self-occupied property]	Nil		
Net Annual Value	Nil		
Less: Deduction under section 24(b)			
Interest on loan for construction of house, ₹ 80,000 x 50% x 1/2 (allowable on accrual basis)	20,000		
Loss from self-occupied portion		(20,000)	
[Loss from self-occupied portion can be set off against income from let out portion]			1,04,500
III Profits and gains from business and profession			
Excess of income over expenditure		36,97,500	
Add: Expenses debited to Income & Expenditure A/c but not allowable as deduction			
Remuneration paid to his wife Mrs. Beena [As per section 40A(2) remuneration paid to Mrs. Beena is allowed, since it is as per market rates]	-		
Municipal taxes attributable to let out and self-occupied portions not allowable [₹ 10,000 x 75%]	7,500		
Interest on capital borrowed for construction of house attributable to let out and self-occupied portion not allowable [₹ 80,000 x 75%]	60,000		
Interest on capital borrowed from bank for construction of house attributable to business portion i.e., 25% of ₹ 80,000 [not allowable, since it is not paid on or before due date of filing return of income by virtue of section 43B]	20,000		
Notional rent for Unit 2 used for business or profession [not allowable under section 30, since Mr. Bhasin himself is the owner of the property]	2,40,000		
Insurance premium [Personal expenditure not allowable]	72,000		

Professional fees to Mr. Raunak without deducting TDS [₹ 1,00,000 x 30%] [Mr. Bhasin is required to deduct TDS on professional fees payment to Mr. Raunak since his gross receipts from profession exceeds ₹ 50 lakhs during the P.Y. 2021-22. 30% of the sum paid to Mr. Raunak, resident without deducting tax to be disallowed in P.Y. 2022-23]	30,000		
Depreciation as per books	<u>1,20,000</u>	<u>5,49,500</u>	
		42,47,000	
Less: Income credited to Income & Expenditure A/c but not taxable as business income			
Interest on savings bank account [taxable under the head “Income from other sources”]	25,000		
Winnings from lottery [taxable under the head “Income from other sources”]	99,500		
Rent received [taxable under the head “Income from house property”]	<u>2,40,000</u>	<u>3,64,500</u>	
		38,82,500	
Less: Depreciation allowable [2,00,000 (₹ 1,60,000, being new laptops + ₹ 40,000, being printers) x 40%, i.e., 64,000+16,000 as it was put to use for more than 180 days in the P.Y. 2022-23. Printers and scanners for ₹ 40,000 are eligible for higher depreciation of 40%]		<u>80,000</u>	
			38,02,500
IV Income from Other Sources			
Interest on savings bank account		25,000	
Winnings from Lottery [No expenditure or allowance is allowed from lottery income]		<u>1,00,000¹</u>	
			<u>1,25,000</u>
Gross Total Income			42,82,000

¹ Assumed to be the gross amount (inclusive of TDS) in the absence of any information.

Less: Deduction under Chapter VI-A			
Deduction under section 80D			
Medical insurance premium [₹ 72,000 x 1/4, being the previous years in which insurance would be in force] [allowable for self, spouse and dependent children]		18,000	
Deduction under section 80E			
Interest on loan taken from a nationalised bank for higher education of son		40,000	
Deduction under section 80TTA			
Interest on saving bank account to the extent of		<u>10,000</u>	<u>68,000</u>
Total Income			<u>42,14,000</u>
Tax Payable			
On lottery income [30% of ₹ 1,00,000]		30,000	
On other income of ₹ 41,14,000			
Upto ₹ 2,50,000	Nil		
₹ 2,50,000 @5% [₹ 2,50,000 – ₹ 5,00,000]	12,500		
₹ 5,00,000 @20% [₹ 5,00,000 – ₹ 10,00,000]	1,00,000		
₹ 31,14,000 @30% [₹ 10,00,000 – ₹ 41,14,000]	<u>9,34,200</u>		
		<u>10,46,700</u>	
			10,76,700
Less: HEC@4%			<u>43,068</u>
Tax liability			<u>11,19,768</u>
Less: TDS on lottery winnings @30% u/s 194B			<u>30,000</u>
Tax payable			<u>10,89,768</u>
Tax payable (rounded off)			10,89,770

Question 2

- (a) (i) Mr. Jai Chand (an Indian citizen) left India for employment in country X on 5th June, 2014. He regularly visited India and stayed for 60 days in every previous year since then. However, in the financial year 2022-23, he did not come to India at all. He owns a commercial building in Delhi which is let out. He has also set a retail store in India which is controlled by his brother from India. He provides the following information to you regarding his income for the financial year 2022-23:

Income from commercial building in Delhi - ₹ 12,00,000 (computed as per the provisions of the Act).

Income from the retail store - ₹ 4,50,000 (computed as per the provisions of the Act)

Country X does not tax any individual on their income as there is no personal income-tax regime there.

Determine the residential status of Mr. Jai Chand for the Assessment year 2023-24.

Will your answer change if he is a citizen of Country X? **(3 Marks)**

- (ii) Mr. Prashant (aged 35 years) is an Australian citizen who is settled in Australia and visits India for 125 days in every financial year since past 11 years. During the F.Y. 2022-23, he visited India for a total period of 200 days. The purpose of his visit was to meet his family members who are settled in India and also for managing his family members who are settled in India and also for managing his business in Sri Lanka through his office in Chennai, India.

During the P.Y. 2022-23, he has the following incomes:

- (A) Income from business in Australia controlled form Australia - ₹ 20,00,000
(B) Income from business in Sri Lanka controlled form Chennai - ₹ 16,00,000
(C) Short-term capital gains on sale of shares of an Indian company received in Australia - ₹ 50,000. The shares were sold online from Australia.
(D) Income from agricultural land in Australia, received there and then brought to India - ₹ 2,00,000

Find out the residential status of Mr. Prashant and compute his total income for Assessment Year 2023-24. **(4 Marks)**

(b) Answer the following:

- (i) Miss Tara, resident individual aged 32 years, is a social media influencer. She makes videos reviewing various electronic items and posts those videos on social media. On 1st December 2022, XYZ Ltd., an Indian company manufacturer of electronic cars gave her a brand new car having fair market value of ₹ 6 lakhs to promote on her social media page. She used that car for 7 months for her personal purposes, recorded a video reviewing the car and then returned the car to the company. You are required to discuss the applicable provisions in the Income-tax Act regarding the deduction of tax at source in respect of such transaction.
- (ii) Ms. Aruna is a Chief Executive Officer of a multi-national company. She hires Mr. Suresh for supply of her housing staff (like gardener, chefs and drivers etc.) and makes the following payments to him:
₹ 25,00,000/- on 10th August, 2022 and ₹ 30,00,000 on 22nd November, 2022.
Determine the amount of tax to be deducted/ collected at source, if any.

Would your answer be different, if Ms. Aruna is a business woman and her books are not audited in immediately preceding financial year and payment to Mr. Suresh is for business purposes.

- (iii) *By virtue of an agreement with Nationalized Bank, M/s ABC Pvt Ltd., a company engaged in catering business received ₹ 60,000 p.m. towards supply of food, water, snacks, etc. during office hours to the employees of the bank. Discuss the TDS implication of this transaction/agreement. (7 Marks)*

Answer

(a) (i) Determination of residential status of Mr. Jai Chand for A.Y. 2023-24

Since Mr. Jai Chand, an Indian citizen employed in Country X, did not come to India at all during the P.Y. 2022-23, he would not be a resident for A.Y.2023-24 as per section 6(1).

However, since he is an Indian citizen

- having total income (excluding income from foreign sources) of ₹ 16,50,000 [₹ 12,00,000, being income from commercial building in India + ₹ 4,50,000, being Income from retail store in India], which exceeds the threshold of ₹ 15 lakhs during the previous year; and
- not liable to tax in Country X,

he would be deemed resident in India for the P.Y. 2022-23.

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

Yes, in case Mr. Jai Chand is a citizen of Country X, he would be non-resident in India for the P.Y. 2022-23, since the provisions of deemed resident are applicable only to an Indian citizen.

(ii) Determination of Residential Status of Mr. Prashant²

Mr. Prashant is an Australian citizen who comes on a visit to India for 125 days in every financial year since the past 11 years. During the P.Y. 2022-23, he visited India for 200 days. Since he stayed in India for 182 days or more during the P.Y. 2022-23, he would be resident in India for the A.Y. 2023-24.

An individual is said to be "Resident and ordinarily resident [ROR]" in India in any previous year, if he satisfies both the following conditions:

- He is a resident in at least 2 out of 10 previous years preceding the relevant previous year; and
- His stay in India in the last 7 years preceding the relevant previous year is 730 days or more **[Refer Note 1 below for alternate presentation]**

² In the absence of information, it is assumed that he is not a person of Indian Origin

First condition

Residential status for P.Y.2021-22 (A.Y.2022-23) – Resident, since he has stayed in India for ≥ 60 days (125 days) in the said P.Y. and ≥ 365 days (500 days, being 125 days x 4) in the four immediately preceding PYs.

Residential status for P.Y.2020-21 (A.Y.2021-22) – Resident, since he has stayed in India for ≥ 60 days (125 days) in the said P.Y. and ≥ 365 days (500 days, being 125 days x 4) in the four immediately preceding PYs.

Therefore, he satisfies the first condition of being resident in India in atleast 2 out of 10 previous years preceding the relevant P.Y.³

Second condition

Stay in India in 7 immediately preceding PYs = 7 x 125 days = 875 days > 730 days

Since both the conditions are satisfied, he is **Resident and Ordinarily Resident (ROR)**.

In case of ROR, global income would be taxable in India. Accordingly, his total income for A.Y. 2023-24 would as follows:

Computation of Total Income of Mr. Prashant for A.Y.2023-24

	Particulars	₹
(i)	Income from business in Australia	20,00,000
(ii)	Income from business in Sri Lanka	16,00,000
(iii)	Short-term capital gains on sale of shares of an Indian company	50,000
(iv)	Income from agricultural land in Australia [would not be exempt, since it is not from an agricultural land in India]	<u>2,00,000</u>
	Total income	<u>38,50,000</u>

Notes - (1) Alternative manner of determination of whether Mr. Prashant is ROR/RNOR -

“An individual is said to be “Resident but not ordinarily resident [RNOR]” in India in any previous year, if he satisfies any one of the following conditions:

- He is a non-resident in at least 9 out of 10 previous years preceding the relevant previous year; or
- His stay in India in the last 7 years preceding the relevant previous year is 729 days or less.

³He is a resident in 8 out of 10 PYs immediately preceding P.Y.2022-23

Mr. Prashant does not satisfy either of the above conditions on account of being resident in more than 1 year out of 10 years and stay in India for 875 days in the 7 years preceding the P.Y.2022-23. Hence, he is a Resident and Ordinarily Resident in the P.Y.2022-23.

(2) In the absence of information relating to whether Mr. Prashant is a person of Indian origin, the above solution has been worked out assuming that Mr. Prashant is not a person of Indian origin.

However, alternate assumption that Mr. Prashant is a person of Indian origin is also possible since the purpose of his visit was to meet his family members who are settled in India. Accordingly, if it is assumed that he is a person of Indian origin, then, for determining whether he is resident in P.Y.2020-21 and P.Y.2021-22, information relating to his total income (excluding income from foreign sources) for the said P.Y.s is required for ascertaining whether the condition of 120 days in the relevant P.Y. + 365 days in the 4 immediately preceding P.Ys would be attracted in his case. This information is not given in the question. Accordingly, assumptions would have to be made relating to the applicability of this condition.

It may be noted that the condition of 120 days in the P.Y. + 365 days in the four immediately preceding PYs for a PIO whose total income (other than income from foreign sources) exceed ₹ 15 lakhs for determination of residential status came into effect only from A.Y.2021-22. Therefore, in the previous years prior to that, he would be non-resident irrespective of his total income since the number of days of his stay < 182 days each year.

In case if it is assumed that his total income (other than income from foreign sources) for the P.Y.2020-21 and P.Y.2021-22 > ₹ 15 lakhs, he would be ROR since he would be resident in 2 out of 10 years immediately preceding the current P.Y. and he stayed for 730 days or more in 7 previous years immediately preceding current P.Y.. In such case, his total income would be same as determined in the above solution.

In case if it assumed that he is a PIO whose total income (other than income from foreign sources) for the P.Y.2020-21 and P.Y.2021-22 ≤ ₹ 15 lakhs, he would be non-resident for P.Y.2020-21 and P.Y.2021-22, since his stay in India is for less than 182 days in those years. In such a case, for P.Y.2022-23, he would be RNOR, since he would be non-resident in all the 10 years immediately preceding the current P.Y.

In such case, the computation of total income for A.Y.2023-24 would be as follows –

Computation of Total Income of Mr. Prashant for A.Y.2023-24

	Particulars	₹
(i)	Income from business in Australia controlled from Australia (not taxable in case of RNOR, since it accrues and arises outside India)	-

(ii)	Income from business in Sri Lanka (taxable since it is controlled from India)	16,00,000
(iii)	Short-term capital gains on sale of shares of an Indian company (taxable, irrespective of residential status)	50,000
(iv)	Income from agricultural land in Australia [would not be taxable in case of RNOR since it accrues and arises outside India]	-
Total Income		16,50,000

- (b) (i) Under section 194R, the person who is responsible for providing to a resident, any benefit or perquisite whether convertible into money or not, arising from business or the exercise of a profession by such resident, has to first ensure deduction of tax @10% of the value of such benefit or perquisite, if the same exceeds ₹ 20,000.

However, in case of benefit or perquisite being a product like car, mobile etc. if the product is returned to the manufacturing company after using for the purpose of rendering service, then it will not be treated as a benefit/perquisite for the purposes of section 194R.

Accordingly, in the present case, since Miss Tara has returned the car to XYZ Ltd., TDS provisions under section 194R would not apply.

- (ii) The provisions of section 194C would not apply in the hands of Ms. Aruna since the amount paid to Mr. Suresh is for supply of her housing staff. Hence, it is used exclusively for her personal purposes.

In this case, tax is required to be deducted at source from such amount under section 194M @5%, since the aggregate payment made to Mr. Suresh for the said contract exceeds ₹ 50 lakhs during the P.Y.2022-23.

Accordingly, ₹ 2,75,000, being 5% of ₹ 55,00,000 [₹ 25,00,000 + ₹ 30,00,000], is required to be deducted at source.

In case Ms. Aruna made payment to Mr. Suresh for business purposes and she is not required to get her books of account audited [assuming her turnover from such business does not exceed ₹ 1 crore in P.Y. 2021-22], she is not required to deduct tax at source under section 194C. In such case also, she is required to deduct tax at source of ₹ 2,75,000 under section 194M.

Note – In the question, it is mentioned that Ms. Aruna is a business woman and her books are not audited in immediately preceding financial year. However, whether the provisions of section 194C would be attracted are dependent on whether the turnover of business carried on by her during the financial year immediately preceding the financial year in which the sum credited or paid exceeds ₹ 1 crore. In the absence of this information, it is possible that audit may not be required in her case due to the following reasons-

- her turnover exceeds ₹ 1 crore but does not exceed ₹ 10 crores and receipts and payments in cash does not exceed 5% of such receipts or payments, respectively.
- her turnover exceeds ₹ 1 crore but does not exceed ₹ 2 crore and she is declaring profits under the presumptive provisions of section 44AD.

Accordingly, following alternate answer is also possible based on the assumption that turnover of Ms. Aruna's business exceeds ₹ 1 crore.

Alternative answer - In case Ms. Aruna made payment to Mr. Suresh for business purposes during the P.Y. 2021-22, she would be required to deduct tax at source @1% under section 194C amounting to ₹ 55,000 (since payment is made to Mr. Suresh, an individual) of ₹ 55,00,000.

- (iii) According to section 194C, the definition of "work" include catering. In the present case, nationalised bank is required to deduct tax source @2% on ₹ 7,20,000 [₹ 60,000 x 12] paid to ABC Pvt. Ltd. for providing catering services to the bank, since amount of ₹ 60,000 paid every month exceeds the threshold of ₹ 30,000.

Therefore, nationalised bank is required to deduct tax at source of ₹ 1,200 per month amounting to ₹ 14,400 for the year.

Question 3

- (a) Mr. Bhagat, an individual aged 50 years, set up a unit in Special Economic Zone (SEZ) in F.Y.2017-18 for the production of computers. The unit fulfils all the conditions of section 10AA of the Income-tax Act, 1961. During F.Y. 2021-22, he set up a hospital in a district of Maharashtra with 110 beds for patients. It fulfils all the conditions of section 35AD. Capital expenditure in respect of the said hospital amounted to ₹ 65 lakhs (comprising of cost of land ₹ 15 lakhs and the balance was the cost of construction of building). The hospital became operational with effect from 1st April, 2022 and the expenditure of ₹ 65 lakhs was capitalized in the books of accounts on that date

Relevant details for F.Y. 2022-23 are as follows:

Particulars	Amount (₹ in lakhs)
Profit of unit located in SEZ	36
Export sales of SEZ unit	75
Domestic sales of SEZ unit	25
Profit from operation of hospital facility (before considering deduction under Section 35AD)	90

Compute the income-tax (including AMT under section 115JC and AMT credit, if any, under section 115JEE) payable by Mr. Bhagat for A.Y. 2023-24 under regular provisions of the Income-tax Act i.e. ignoring the provisions of section 115BAC. Ignore marginal relief, if any. **(7 Marks)**

(b) Mr. Rohan retired from M/s. QRST Ltd. a private sector company, on 31st March, 2023 after completing 28 years and 3 months of service. He received the following sums/gifts on his retirement:

- (i) Gratuity of ₹ 7,50,000. He was covered under the Payment of Gratuity Act, 1972.
- (ii) Leave encashment of ₹ 3,25,000 for 210 days leave balance in his account. He was credited with 30 days leave for each completed year of service.
- (iii) Crockery set worth ₹ 4,500 from his employer at the farewell party which was organised by the HR department a day before his retirement.

He drew a basic salary of ₹ 25,000 per month alongwith 50% of basic salary as dearness allowance (not forming part of retirement benefits) for the period from 1st April, 2022 to 31st March, 2023.

Further, during the year, his employer provided him a motor car of 1800 cc which was used by him and his family solely for personal purposes. The cost of fuel and repairs were met by Mr. Rohan himself. The car was purchased by the employer on 1st April, 2021 at a cost of ₹ 8,00,000. Salary of driver amounting to ₹ 10,000 per month was met by the employer only. Upon retirement, he gave the car back to the employer.

You are required to compute the taxable salary of Mr. Rohan for A.Y.2023-24 assuming that he neither claims any relief under section 89 nor does he opt to pay tax under section 115BAC. **(7 Marks)**

Answer

(a) **Computation of total income and tax payable of Mr. Bhagat for A.Y.2023-24**
(under the regular provisions of the Income-tax Act, 1961)

Particulars	₹	₹
Profits and gains of business or profession		
Profit from unit in SEZ		36,00,000
Profit from operation of hospital	90,00,000	
Less: Deduction u/s 35AD	<u>50,00,000</u>	
In this case, since the capital expenditure of ₹ 50 lakhs (i.e., ₹ 65 lakhs – ₹ 10 lakhs, being expenditure on acquisition of land) has been incurred in the F.Y.2021-22 and capitalized in the books of account on 1.4.2022, being the date when the hospital		

became operational, the said amount would be eligible for deduction under section 35AD.	
Business income from hospital chargeable to tax	40,00,000
Gross Total Income	76,00,000
Less: Deduction u/s 10AA	13,50,000
<p style="text-align: center;">Export turnover of SEZ unit</p> <p>Profit of SEZ unit x ----- x 50%</p> <p style="text-align: center;">Total turnover of SEZ unit</p> <p style="text-align: center;">₹ 75,00,000</p> <p>= ₹ 36,00,000 x ----- x 50%</p> <p style="text-align: center;">₹ 1,00,00,000</p> <p>= ₹ 27,00,000 x 50% = ₹ 13,50,000</p>	
Deduction would be 50% of eligible profits, since P.Y.2022-23 is the 6 th year of operation	
Total Income	62,50,000
Computation of tax payable (under the regular provisions of the Act)	₹
Tax on ₹ 62,50,000 [₹ 1,12,500 plus 30% of ₹ 52,50,000]	16,87,500
Add: Surcharge @10%, since total income exceeds ₹ 50 lakhs but does not exceed ₹ 1 crore	1,68,750
	18,56,250
Add: Health and Education cess@4%	74,250
Total tax payable	19,30,500

Computation of adjusted total income of Mr. Bhagat for levy of Alternate Minimum Tax

	₹
Total Income (computed above as per regular provisions of income tax)	62,50,000
Add: Deduction under section 10AA	<u>13,50,000</u>
	76,00,000

Add: Deduction under section 35AD	50,00,000	
Less: Depreciation under section 32 On building @10% of ₹ 50 lakhs	5,00,000	45,00,000
Adjusted Total Income		1,21,00,000
Alternate Minimum Tax@18.5%		22,38,500
Add: Surcharge@15% (since adjusted total income > ₹ 1 crore but does not exceed ₹ 2 crores)		3,35,775
		25,74,275
Add: Health and education cess@4%		1,02,971
		26,77,246
Tax liability u/s 115JC (rounded off)		26,77,250
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@15% and cess@4%. Therefore, tax payable as per section 115JC is ₹ 26,77,250.		
AMT Credit to be carried forward under section 115JEE		
Tax liability under section 115JC	26,77,250	
Less: Tax liability under the regular provisions of the Income-tax Act, 1961	19,30,500	
	7,46,750	

(b) **Computation of taxable salary of Mr. Rohan for A.Y. 2023-24**

Particulars	₹
Basic Salary ₹ 25,000 x 12	3,00,000
Dearness Allowance (50% of basic salary)	1,50,000
Gratuity [₹ 7,50,000 – ₹ 6,05,769]	1,44,231
Less: Exempt under section 10(10) - Least of the following:	₹
(i) Notified limit	20,00,000
(ii) Actual gratuity received	7,50,000

(iii) $15/26 \times$ last drawn salary \times no. of completed years of services or part in excess of 6 months [$15/26 \times 37,500^4 \times 28$]	6,05,769	
Leave encashment [₹ 3,25,000 – ₹ 1,75,000]		1,50,000
Less: Exempt under section 10(10AA) - Least of the following:		
(iv) Notified limit	3,00,000	
(v) Actual leave salary received	3,25,000	
(vi) 10 months \times ₹ 25,000	2,50,000	
(vii) Cash equivalent of leave to his credit [₹ 25,000 \times 210/30]	1,75,000	
Crockery set [not a perquisite, since value of gift does not exceed ₹ 5,000]		-
Perquisite value of car [Driver's salary met by employer ₹ 1,20,000 (i.e., ₹ 10,000 \times 12) + ₹ 80,000 (10% of ₹ 8,00,000), being normal wear and tear on car]		2,00,000
Gross Salary		9,44,231
Less: Standard deduction u/s 16(ia)		50,000
Taxable Salary		8,94,231

Question 4

- (a) Mr. Chaman who is 50 years old and his wife Mrs. Chaman who is 48 years old furnish the following information (all the amount of incomes/gains/losses are computed as per the provisions of Income-tax Act):
- Mr. Chaman's salary income - ₹ 11,00,000
 - Mrs. Chaman's income from Kathak performances - ₹ 2,50,000. She is a professional Kathak dancer and pursue dancing as her profession.
 - Mrs. Chaman earned long-term capital gains of ₹ 5,50,000 from sale of shares.
 - Mrs. Chaman gifted ₹ 2,00,000 to Mr. Chaman out of her Stridhan on 1.4.2023, Mr. Chaman invested the entire amount in stock market but suffered a short-term capital loss of ₹ 5,10,000

⁴ Since gratuity is received under the Payment of Gratuity Act, both basic salary and dearness allowance has to be considered for computation of this limit, even though dearness allowance does not form part of retirement benefits.

- (v) Miss Naina, their minor daughter, earned ₹ 3,56,000 by performing in various quiz competitions held online during the year 2022-23. She kept that amount in savings bank account and earned interest of ₹ 15,000 during the year 2022-23.
- (vi) Master Neelabh, their minor son earned ₹ 35,000 from fixed deposit which was made out of the cash he received on his birthday from his friends and family. Neelabh suffers from disability as mentioned under section 80U. The medical certificate shows a disability of upto 75%.

Compute the total income in the hands of Mr. and Mrs. Chaman and their minor children for the Assessment Year 2023-24. Ignore section 115BAC pertaining to alternative tax regime. **(6 Marks)**

- (b) Mr. Ray, a resident individual, aged 37 years gives the following information with respect to various loans taken by him from scheduled banks for various purposes-
- (i) A housing loan of ₹36,00,000/- taken on 15th March, 2022 for the purchase of a house to be used for self-residence at a cost of ₹ 47,00,000/-. The stamp duty value of the house was ₹42,00,000/- at the time of purchase. Amount of re-payment of loan during P.Y.2022-23 was:
- (A) towards principal - ₹ 1,25,000/-
 (B) towards interest - ₹ 3,65,000/-
- This is the first and only residential house owned by Mr. Ray.
- (ii) A vehicle loan of ₹16,00,000/- taken on 31st October, 2021 for the purchase of electric vehicle for personal use. Amount of re-payment of loan during P.Y.2022-23 was:
- (A) towards principal - ₹ 75,000/-
 (B) towards interest - ₹ 1,90,000/-

Besides these loans, he has also paid a sum of ₹ 15,000 to a political party as contribution. The entire amount was paid in cash.

You are required to compute the amount of deduction(s) available to Mr. Ray under various provisions of Income-tax Act for A.Y.2023-24 so that he gets the maximum benefits assuming that he does not opt to pay tax under section 115BAC. **(4 Marks)**

- (c) What is the time limit within which an updated return can be filed? Also enumerate the circumstances in which updated return cannot be furnished.

OR

A person other than a company or a firm who is otherwise not required to furnish the return of income, needs to furnish return of income provided they fulfil certain conditions prescribed. Enumerate. **(4 Marks)**

Answer

- (a) **Computation of total income of Mr. Chaman, Mrs. Chaman and their minor children for the A.Y.2023-24**

Particulars	Mr. Chaman	Mrs. Chaman	Naina, minor daughter	Neelabh, minor son
	₹	₹	₹	₹
Income under the head "Salaries" Salaries (computed)	11,00,000			
Profits and gains from business or profession Income from Kathak performances		2,50,000		
Capital Gains Long term capital gains from sale of shares		5,50,000		
<i>Less: Set off of short-term capital loss from long term capital gain [Short term capital loss to the extent of ₹ 2 lakhs would be included in the income of Mrs. Chaman, since the shares are purchased by Mr. Chaman from the amount of ₹ 2 lakhs gifted by Mrs. Chaman out of her Stridhan. Clubbing provisions would be attracted even if it is a loss and not income] [Refer Note 1 and 2 below]</i>		<u>2,00,000</u>		
The balance short-term capital loss of ₹ 3,10,000 has to be carried forward by Mr. Chaman, since it cannot be set-off against salary income.				
		3,50,000		
Income [before considering income of minor son and minor daughter]	11,00,000	6,00,000		
Income of Naina, minor daughter, from performances in various quiz competitions would not be included in the hands of either parent, since			3,56,000	

such income arises from her own skills/talent. However, interest of ₹ 15,000 on saving bank account [after providing for deduction of ₹ 1,500, being exempt under section 10(32)] is to be included in the hands of Mr. Chaman, since his income is higher than that of his wife [₹ 15,000 - ₹ 1,500] ⁵ Income of Neelabh, minor son suffering from disability u/s 80U, from fixed deposits would not be included in the income of parent but would be taxable in his hands.	13,500			
Gross Total Income	11,13,500	6,00,000	3,56,000	35,000
Less: Deductions under Chapter VI-A				
- Under section 80TTA In respect of interest on saving bank account to the extent of	10,000			
- Under section 80U Flat deduction of ₹ 75,000 to a person with disability. However, deduction would be restricted to gross total income				35,000
Total Income	11,03,500	6,00,000	3,56,000	Nil

Note – (1) The question mentions that Mrs. Chaman gifted ₹ 2 lakh to Mr. Chaman out of her Stridhan on 1.4.2023 and that Mr. Chaman invested the entire amount in stock market but suffered a short-term capital loss of ₹ 5,10,000. It is not possible to invest ₹ 2 lakhs and incur short-term capital loss of ₹ 5.10 lakhs. Accordingly, in the above solution, it has been assumed that the remaining ₹ 3,10,000 is invested by Mr. Chaman and hence the same would be a short-term capital loss to be carried forward by him.

Due to the use of the words “invested the entire amount in the stock market” in the question, it is possible to take a view that the entire capital loss of ₹ 5,10,000 has to be set off against long-term capital gains of ₹ 5,50,000 in the hands of Mrs. Chaman. In which case the total income of Mrs. Chaman would be ₹ 2,90,000 instead of ₹ 6,00,000. Also, there would be no short-term capital loss in the hands of Mr. Chaman.

⁵ Assumed that this is the first year of clubbing

Since the relevant assessment year for May 2023 examination is A.Y. 2023-24, accordingly, the relevant previous year is P.Y. 2022-23. The above solution has been worked out considering the date of gift as 1.4.2022.

(2) Item (iv) mentions that the gift was made by Mrs. Chaman to Mr. Chaman on 1.4.2023, which falls outside the P.Y. 2022-23. Since the date of gift has been mentioned as 1.4.2023 in the question, as per the plain reading, such short-term capital loss cannot be set-off against long-term capital gains of ₹ 5,50,000. In such a case, the total income of Mr. Chaman would be ₹ 8,00,000.

(b) **Computation of amount of deductions available to Mr. Ray for A.Y. 2023-24**

		Amount (₹)	
(i)	Deduction allowable while computing income under the head "Income from house property" Deduction under section 24(b) for interest on loan of ₹ 3,65,000 in respect of self-occupied property restricted to		2,00,000
(ii)	Deduction under Chapter VI-A from Gross Total Income Deduction under section 80C For repayment of loan of ₹ 1,25,000 to bank	1,25,000	
	Deduction under section 80EEA Since stamp duty value does not exceed ₹ 45 lakhs and Mr. Ray does not own any residential house, he is eligible for deduction of upto ₹ 1,50,000 in respect of such interest on loan since loan is sanctioned between 1.4.2019 and 31.3.2022. ₹ 3,65,000 – ₹ 2,00,000 [claimed as deduction u/s 24(b)] = ₹ 1,65,000 restricted to ₹ 1,50,000, being the maximum permissible deduction	1,50,000	
	Deduction under section 80EEB Deduction for interest on loan for purchase of electric vehicle of ₹ 1,90,000 restricted to ₹ 1,50,000, being the maximum permissible deduction, since loan is sanctioned between 1.4.2019 and 31.3.2023. No deduction in respect of principal repayment of loan for purchase of electric vehicle is allowable	1,50,000	
	Deduction under section 80GGC Contribution of ₹ 15,000 to political party not allowable since the sum is paid in cash	Nil	
	Deduction under Chapter VI-A from Gross Total Income		4,25,000

(c) [First Alternative]

Any person may furnish an updated return of his income or the income of any other person in respect of which he is assessable, for the previous year relevant to the assessment year at any time within 24 months from the end of the relevant assessment year.

Circumstances in which updated return cannot be furnished

No updated return can be furnished by any person for the relevant assessment year, where

- (a) an updated return has been furnished by him for the relevant assessment year
- (b) any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed for the relevant assessment year in his case;
- (c) he is such person or belongs to such class of persons, as may be notified by the CBDT.
- (d) an updated return is a loss return
- (e) the updated return has the effect of decreasing the total tax liability determined on the basis of return furnished under section 139(1)/(4)/(5) / original or revised return
- (f) the updated return results in refund or increases the refund due on the basis of return furnished under section 139(1)/(4)/(5) / original or revised return.

Note – Any three of the above circumstances can be mentioned.

(c) [Second Alternative]

A person, other than a company or a firm, who is not required to furnish a return under section 139(1), has to furnish their return of income on or before the due date if they fulfill any of the following conditions -

- (i) if his total sales, turnover or gross receipts, as the case may be, in the business > ₹ 60 lakhs during the previous year; or
- (ii) if his total gross receipts in profession > ₹ 10 lakhs during the previous year; or
- (iii) if the aggregate of TDS and TCS during the previous year, in the case of the person, is ₹ 25,000 or more; or

However, a resident individual who is of the age of 60 years or more, at any time during the relevant previous year would be required to file return of income only, if the aggregate of TDS and TCS during the previous year, in his case, is ₹ 50,000 or more.

- (iv) the deposit in one or more savings bank account of the person, in aggregate, is ₹ 50 lakhs or more during the previous year

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 Finance Act, 2022 and the significant notifications/ circulars issued upto 31st October, 2022.

Question 5

Jino Enterprises, a partnership firm is a regular taxable person registered in Guwahati, Assam and is engaged in supply of Air conditioners and its accessories as well as air conditioned repairing services. Details of their various activities for the month of October 2022 are as follows:

- (i) Intra State supply of Air conditioner to customers in Assam. Freight is separately charged in invoices for delivery of goods at customer's doorstep.

	₹
Value of goods	4,00,000
Value of freight charges charged separately in above invoices.	1,00,000

- (ii) Intra State supply of repairing services wherein apart from charging service charges, cost of parts/ spares provided to customers is also charged and consideration for the same is separately mentioned in the invoices.

	₹
Value of services component of invoices	3,00,000
Value of parts / spares component in invoices	50,000

- (iii) In order to enhance their sales and to clear the stock of old models of air- conditioner, Jino Enterprises made combo offers to customers wherein, if a customer purchases an Air-conditioner along with a stabilizer, the same is offered at a combo price of ₹ 20,000 as against the original price of ₹ 30,000 (Air-conditioner ₹ 22,000 & stabilizer ₹ 8,000) if these are purchased separately. During October, 2022, Jino Enterprises had made inter-State supply of 10 numbers of such combo products.
- (iv) Purchased business class air tickets for intra State travel from Guwahati Airport, Assam to Dibrugarh Airport, Assam for its executive employees relating to business of the concern. Basic air fare was ₹ 40,000 and airlines charges GST @ 2.5% CGST, SGST each on basic freight, in case the same is applicable.

Additional Information:

- (a) All the figures mentioned above are exclusive of taxes.
- (b) In respect of few of the invoices relating to F.Y. 2021-2022, involving ITC of CGST ₹ 20,000, SGST of ₹ 20,000, IGST ₹ 80,000 was not taken earlier. Jino Enterprises now want to avail credit in respect of such invoices in the current month.
- (c) The rates of GST applicable on various supplies are as follows:

Nature of Supply	CGST	SGST	IGST
Air-Conditioner, Parts and accessories (Except Stabilizers)	6%	6%	12%
Services	9%	9%	18%
Stabilizers	9%	9%	18%
Freight	6%	6%	12%

Calculate the amount of minimum CGST, SGST & IGST tax payable in cash by Jino Enterprises for the month of October, 2022.

Note: Working Notes (legal provisions) should form part of your answer.

(8 Marks)

Answer

Computation of minimum CGST, SGST and IGST payable in cash by Jino Enterprises for the month of October, 2022

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Intra-State supply of air-conditioners [Since goods are agreed to be delivered at customer's doorsteps, supply of air-conditioners along with transportation thereof is a composite supply which is treated as the supply of the principal supply (viz. air-conditioners). Accordingly, rate of principal supply, i.e. air-conditioners will be charged.]	5,00,000 [4,00,000 + 1,00,000]	30,000 [5,00,000 × 6%]	30,000 [5,00,000 × 6%]	
Intra-State supply of repairing services ¹ [Since parts/ spares and repair services are not naturally bundled, they are taxable separately at the applicable rates.]	3,00,000	27,000 [3,00,000 × 9%]	27,000 [3,00,000 × 9%]	
Intra-State supply of parts / spares	50,000	3,000 [50,000 × 6%]	3,000 [50,000 × 6%]	

¹ Based on the view taken in Circular No. 47/21/2018 GST dated 08.06.2018. However, it is also possible to consider the supply of repairing services along with parts/spares as a composite supply.

Inter-State supply of 10 combos of air-conditioners and stabilizers [Since supplies are not naturally bundled and a single price is being charged, it is a mixed supply. It is treated as supply of that particular supply which attracts highest tax rate(i.e., stabilizers).]	2,00,000 [20,000 × 10]			36,000 [2,00,000 × 18%]
Total output tax		60,000	60,000	36,000
Less: Input Tax Credit [Refer Working Note below] [IGST credit is first utilized for payment of IGST liability. Remaining IGST credit has been utilised for payment of CGST and SGST in such proportion to keep the liability at its minimum. After exhausting IGST credit, CGST and SGST credits have been utilized. CGST credit is utilized for payment of CGST and SGST credit is utilised for the payment of SGST. ITC of CGST cannot be utilized for payment of SGST and vice versa.]		(22,000) (IGST)	(22,000) (IGST)	(36,000) (IGST)
		(21,000) (CGST)	(21,000) (SGST)	
Minimum net GST payable in cash		17,000	17,000	Nil

Working Note: Computation of ITC available

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Purchase of business class air tickets for travel from Assam [Not exempt, since air travel embarking from Assam is not being undertaken in economy class. Further, ITC is available since service is used in the course/furtherance of business.]	1,000 [40,000 × 2.5%]	1,000 [40,000 × 2.5%]	
Invoices relating to FY 2021-22 ² [ITC in respect of any invoice can be taken upto 30 th November following the end of FY to which such invoice relates or furnishing of the relevant annual return, whichever is earlier.]	20,000	20,000	80,000
Total ITC available	21,000	21,000	80,000

²It has been most logically assumed that the annual return for the FY 2021-22 has not yet been furnished.

Question 6

- (a) Mr. Jayesh, a registered supplier of Mumbai, received the following amounts in respect of the various activities undertaken by him during the month of October, 2022.

S. No	Particulars	Amount (₹)
(i)	Commission received as a recovery agent from a Non-Banking Finance Company (NBFC)	80,000
(ii)	Actionable claim received from normal business debtors	10,50,000
(iii)	Amount received from ABC Ltd. for performance of classical dance in one program.	1,74,500
(iv)	Business assets (old computers) given to a friend free of cost, the market value of all the computers was ₹ 51,000. No input tax credit has been availed on such computers when used for business.	No amount Charged
(v)	Consideration received for one month rent from a registered individual person for renting of residential dwelling for use as residence.	15,200

Details of Input services:

S. No.	Particulars	Amount (₹)
	Paid to an unregistered Goods Transport agency for various consignments of transportation of goods by road. (Each individual consignment in a single carriage was of less than ₹ 1,450.)	15,100

Notes:

- (i) All the amount stated above in both the tables are exclusive of GST, wherever applicable.
- (ii) Aggregate turnover of Mr. Jayesh in previous year was ₹ 42,00,000.
- You are required to compute Gross value of supplies, on which GST to be paid by Mr. Jayesh for the month of October, 2022. **(6 Marks)**
- (b) Mr. Shyam Das was admitted to Suraksha Hospital in Mumbai for 2 days in relation to diagnosis of removal of stones from his kidney. For the said services, Surkasha hospital charged following from Mr. Das:
- (i) Room rent ₹ 7,000 per day for 2 days.
- (ii) Operation theatre charges ₹ 5,000
- (iii) Doctors Consultation Charges ₹ 8,000

(iv) Other services ₹ 4,000

In each of the above scenario explain whether Suraksha Hospital should levy GST or not in line with the relevant provisions of the GST laws. **(4 Marks)**

Answer

(a) Computation of gross value of taxable supply on which GST is to be paid by Mr. Jayesh

Particulars	Amount (₹)
Commission received as a recovery agent from Non-Banking Financial Company [Tax is payable by NBFC under reverse charge.]	-
Actionable claim received from normal business debtors [No tax is payable as actionable claims other than lottery, betting and gambling are covered under Schedule III, i.e. they are neither supply of goods nor supply of services.]	-
Amount received from ABC Ltd. for performance of classical dance [Taxable since consideration for classical dance performance exceeds ₹ 1,50,000.]	1,74,500
Business assets given free of cost [Not a supply as it is made without consideration and not covered in Schedule I because ITC is not availed on the same.]	-
Rent from registered individual person [Tax is payable by the registered individual person under reverse charge ³]	-
Services from unregistered GTA [Tax on services provided by unregistered GTA is payable under reverse charge by Mr. Jayesh being a registered person.]	<u>15,100</u>
Gross value of taxable supply on which GST is to be paid by Mr. Jayesh	1,89,600

(b) Health care services by a clinical establishment are exempt from GST.

However, services provided by a clinical establishment by way of providing room having room charges exceeding ₹ 5,000 per day to a person receiving health care services are not exempt.

In view of the same, only the room rent of ₹ 14,000 (₹ 7,000 per day × 2 days) is liable to GST.

³ Based on the position of law as existing on 31.10.2022.

Other than room rent, all other nature of services provided by Suraksha Hospital are exempt from GST.

Question 7

- (a) Mr. Manik provides the following information regarding his tax & other liabilities under GST law as per Electronic Liability Register:

Sr. No.	Particulars	Amount (₹)
1.	Tax due for the month of May	25,000
2.	Interest due for the month of May	2,000
3.	Penalty due for the month of May	3,000
4.	Tax due for the month of June	35,000
5.	Liability arising out of demand notice u/s 73	48,000

Mr. Manik wants to clear his liability of demand notice u/s 73 first.

Discuss the provision of order of discharge of GST liability u/s 49 (8) of the CGST Act & advice to Mr. Manik. **(5 Marks)**

- (b) (i) Mr. Sumit is a registered dealer in the state of Punjab. In the month of May, he decides to apply for QRMP scheme. As he wants to switch to QRMP scheme, he had not filed his returns for the months of May and June.

Please guide to Mr. Sumit regarding the following:

(A) Conditions and restrictions of QRMP scheme.

(B) Manner of exercising option of QRMP scheme. **(3 Marks)**

- (ii) When goods are transferred by principal to job worker, there is no need to issue e-way bill. Comment on the validity of the above statement with reference to GST Laws. **(2 Marks)**

Answer

- (a) The order of discharge of GST liability under section 49(8) of the CGST Act is as under:
- self-assessed tax, interest, penalty, fee or any other amount related to returns of the previous tax periods.
 - self-assessed tax, interest, penalty, fee or any other amount related to returns of the current tax period.
 - any other amount payable including demand determined under section 73 or section 74,
- In view of the above provisions, Mr. Manik cannot clear his liability of demand notice u/s 73 first.

The order of discharge of liability of Mr. Manik will be as under:

1. Tax, interest and penalty for the month of May, ₹ 30,000
2. Tax due for the month of June, ₹ 35,000
3. Liability arising out of demand notice u/s 73, ₹ 48,000

(b) (i) (A) Conditions and restrictions of QRMP scheme

Mr. Sumit has to fulfil the following conditions and restrictions for opting for QRMP scheme:

- His aggregate annual turnover (PAN based) is up to ₹ 5 crore in the preceding financial year.
- He has furnished the return for the preceding month, as due on the date of exercising such option.
- He is not required to exercise the option every quarter.

(B) Manner of exercising option of QRMP scheme

Registered person – Mr. Sumit - intending to opt for QRMP scheme for any quarter should indicate his preference for furnishing of return on a quarterly basis from 1st day of the 2nd month of the preceding quarter till the last day of the 1st month of the quarter for which the option is being exercised.

(ii) The said statement is not valid.

When goods are transferred by principal to job worker, e-way bill is required to be mandatorily issued:

- in case of intra-State transfer, if consignment value exceeds ₹ 50,000, and
- in case of inter-State transfer, irrespective of the value of the consignment.

Question 8

(a) (i) Who are not eligible to opt for composition scheme for goods under GST Laws?

(5 Marks)

(ii) GTA services provided to an unregistered person (including unregistered casual taxable person) are exempt from GST by virtue of Entry 21 A of GST Laws. Discuss the validity of above statement.

OR

List any 5 (Five) activities/transactions specified under Schedule III of the CGST Act, 2017 which shall be neither treated as supply of goods nor as supply of services. Detailed explanations is not required.

(5 Marks)

- (b) "Rule 86A of the CGST Rules, 2017 provides that in certain specified circumstances, Commissioner on the basis of reasonable belief may not allow debit of an amount equivalent to such credit in electronic credit ledger."

State the grounds (as guided by CBIC) on which the reasons for such belief must be based on. **(5 Marks)**

Answer

- (a) (i) The registered person who is not eligible for composition scheme for goods under GST law are as under:

- (i) Supplier engaged in making any supply of goods or services which are not leviable to tax.
- (ii) Supplier engaged in making any inter-State outward supplies of goods or services.
- (iii) Person supplying any goods or services through an electronic commerce operator who is required to collect tax at source (under section 52).
- (iv) Manufacturer of ice cream, panmasala, tobacco, aerated waters, fly ash bricks; fly ash aggregate, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles.
- (v) Supplier who is either a casual taxable person or a non-resident taxable person
- (vi) Supplier of services exceeding an amount which is higher of 10% of the turnover in a State/U.T. in the preceding financial year or ₹ 5 lakh.

- (ii) The said statement is invalid.

Services provided by a GTA to an unregistered person, including an unregistered casual taxable person are exempt except when provided to a:

- (a) factory
- (b) society
- (c) co-operative society
- (d) body corporate
- (e) partnership firm
- (f) registered casual taxable person

- (a) **Alternative**

Activities or transactions which shall be treated neither as a supply of goods nor a supply of services are as under:-

- (1) Services by an employee to the employer in the course of or in relation to his employment.

- (2) Services by any court or Tribunal established under any law for the time being in force.
 - (3) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities.
 - (4) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.
 - (5) Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
 - (6) Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
 - (7) Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building. (i.e. in case, where entire consideration for sale of building received after issuance of completion certificate or after its first occupation, whichever is earlier).
 - (8) Actionable claims, other than lottery, betting and gambling.
 - (9) Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India (OR) Merchant Trading / High-sea Sales
 - (10) Supply of warehoused goods to any person before clearance for home consumption.
 - (11) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.
- (b) The reasons for such belief must be based on one or more of the following grounds:
- (1) The credit is availed by the registered person on the invoices/debit notes issued by a supplier, who is found to be non-existent or is found not to be conducting any business from the place declared in registration.
 - (2) The credit is availed by the registered person on invoices/debit notes, without actually receiving any goods and/or services.
 - (3) The credit is availed by the registered person on invoices/debit notes, the tax in respect of which has not been paid to the Government.
 - (4) The registered person claiming the credit is found to be non-existent or is found not to be conducting any business from the place declared in registration.
 - (5) The credit is availed by the registered person without having any invoice/debit note or any other valid document for it.