

PAPER – 7: DIRECT TAX LAWS

PART II

Question No.1 is compulsory.

Answer any **four** questions from the remaining **five** questions.

Working notes should form part of the respective answers.

All questions relate to Assessment Year 2021-22, unless stated otherwise in the question.

Question 1

Premium Industries Limited, a domestic company, is engaged in the manufacturing of automatic gearless cars since 01-11-2019 in the State of Tamil Nadu. The net profit of the company as per Statement of Profit and Loss for the year ended 31st March, 2021, revealed profit of ₹ 1,47,50,000 after debiting or crediting the following items:

- (i) Depreciation charged during the year amounted to ₹ 34,00,000.
- (ii) One time licence fee of ₹ 36 lakhs paid to foreign company for obtaining franchise on 30-11-2020.
- (iii) Purchased spare parts valued at ₹ 96 lakhs from XYZ Ltd. in which directors have substantial interest. The market value of the goods is ₹ 82 lakhs.
- (iv) New Plant & Machinery acquired on 01-07-2020 for ₹ 75 lakhs and payment of ₹ 10 lakhs made by bearer cheque and balance by way of transfer through RTGS. Cash subsidy of ₹ 15.00 lakh received from State Government on acquisition of Generator which was credited to Statement of profit and loss.
- (v) Legal expenses incurred for issue of bonus shares at ₹ 6 lakhs and legal expenses for issue of right shares at ₹ 8 lakhs.
- (vi) Short term capital gains on transfer of a capital asset being equity shares in a company on which security transaction tax is charged under the Act ₹ 15,00,000.
- (vii) Long term capital gains (arrived at after taking indexation benefit) on transfer of Zero Coupon Bonds: ₹ 8,00,000;

Additional information :

- (a) Depreciation eligible under section 32 (before considering adjustment of any of the items described above) ₹ 38 lakhs. However, this includes a sum of ₹ 18.00 lacs towards depreciation on block of assets which are entitled for depreciation at 45%.

The Suggested Answers for Paper 7: Direct Tax Laws are based on the provisions of direct tax laws as amended by the Finance Act, 2020, which are relevant for July, 2021 examination. The relevant assessment year is A.Y.2021-22.

- (b) During the previous year 2020-21, the company transferred equity shares for a consideration of ₹ 22,00,000 which were acquired through preferential issue made by an Indian Company with the approval of SEBI. Acquisition cost of these shares during 2019 is ₹ 12,00,000.

The Company opted for concessional rate of tax and exemption from MAT under section 115BAB for Assessment Year 2021-22. Compute the total income and tax payable for the Assessment Year 2021-22 clearly stating the reasons for treatment of each item.

(14 Marks)

Answer

Computation of total income and tax payable by Premium Industries Ltd. for A.Y.2021-22 in accordance with the provisions of section 115BAB

| Particulars | ₹ | ₹ | ₹ |
|---|-----------|-------------|---|
| Profits and gains of business or profession | | | |
| Net profit as per statement of profit and loss | | 1,47,50,000 | |
| Add: Items debited but to be disallowed | | | |
| - Depreciation as per books of account | 34,00,000 | | |
| - One- time licence fee for franchise [Licence fee for franchise is an intangible asset which is eligible for depreciation as per section 32. Since one time licence fee for franchise has been debited to statement of profit and loss, the same has to be added back while computing business income] | 36,00,000 | | |
| - Purchase of spare parts at a price higher than the fair market value [As per section 40A(2), the difference between the purchase price (₹ 96 lakhs) and the fair market value (₹ 82 lakhs) has to be added back since the purchase is from a related party, i.e., XYZ Ltd., a company in which directors of Premium Industries Ltd. have substantial interest and at a price | 14,00,000 | | |

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| higher than the fair market value] | | | |
| - Purchase of Plant and Machinery [Since it is a capital expenditure, it is not allowed to be deducted as per section 37] | 75,00,000 | | |
| - Legal expenses for issue of bonus shares [There is no fresh inflow of funds or increase in capital employed on account of issue of bonus shares and there is only reallocation of the company's fund. Consequently, since there is no increase in the capital base of the company, legal expenses of ₹ 6 lakhs in connection with issue of bonus shares is a revenue expenditure and is hence, allowable as deduction ¹] | Nil | | |
| - Legal expenses for issue of right shares [Expenses incurred in relation to rights issue are of capital in nature ² . Hence, not allowed as deduction from business income. Since, it is already debited in statement of profit and loss, the same has to be added back while computing business income] | <u>8,00,000</u> | | |
| | | <u>1,67,00,000</u> | |
| | | 3,14,50,000 | |
| Less: Items credited but to be considered separately | | | |
| - Short term capital gains on equity shares [Not taxable under this head] | 15,00,000 | | |
| - Long term capital gains on Zero coupon bonds [Not taxable under | 8,00,000 | | |

¹ It was held by Apex Court in case of *CIT vs. General Insurance Corpn. (2006) 286 ITR 232*

² It was held by Karnataka High Court in case of *CIT Vs Motor Industries Ltd (1998) 229 ITR 137*

| | | | |
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| <p>this head]</p> <p>- Cash Subsidy [Subsidy from State Government on acquisition of asset is reduced from the actual cost of the asset. Hence, such subsidy is not the income of Premium Industries Ltd. Since, subsidy is already credited in the statement of profit and loss, the same has to be reduced while computing business income]</p> | 15,00,000 | | |
| | | <u>38,00,000</u> | |
| | | 2,76,50,000 | |
| Less: Depreciation as per Income-tax Rules | | | |
| - Depreciation on other asset [₹ 38 lakhs – ₹18 lakhs] | 20,00,000 | | |
| Depreciation on block of assets entitled to depreciation @45% | 16,00,000 | | |
| [In case of a company opting for concessional rate of tax under section 115BAB, depreciation in respect of any block of assets entitled to more than 40%, would be restricted to 40%. Hence, depreciation allowed in respect of such block of asset is [₹ 18 lakhs/45% x 40%] | | | |
| - Depreciation on New Plant and machinery | 7,50,000 | | |
| [₹ 50 lakhs x 15%, since it has been put to use for more than 180 days during the year] [Any expenditure for acquisition of any asset in respect of which payment or aggregate of payment made to a person in a day, otherwise than by an a/c payee cheque/ bank draft or use of ECS or through prescribed electronic mode, exceeds ₹ 10,000, such expenditure would not form part of actual cost of such asset. Further, where any part of the cost of asset acquired has been met directly or indirectly, <i>inter alia</i> , by State Government, then, so | | | |

| | | | |
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| much of the cost as relates to subsidy would not be included in the actual cost. Hence, ₹10 lakhs paid by bearer cheque and ₹ 15 lakhs of cash subsidy received by State Government for acquisition of asset would not be included in the actual cost of plant and machinery.] | | | |
| - Depreciation on franchise [₹ 36 lakhs x 25% x 50%, since put to use for less than 180 days during P.Y. 2020-21] | 4,50,000 | | |
| - No additional depreciation is allowable under section 32(1)(ia) since the assessee wants to avail the benefit of section 115BAB | | | |
| | | <u>48,00,000</u> | 2,28,50,000 |
| Capital Gains | | | |
| - Short term capital gains on transfer of listed equity shares | | 15,00,000 | |
| - Long term capital gains on transfer of zero coupon bonds [after indexation benefit] | | 8,00,000 | |
| - Short term capital gains on transfer of equity shares acquired through preferential issue [See Note at the end of the solution] | | | |
| Full value of consideration | 22,00,000 | | |
| Less: Cost of acquisition | <u>12,00,000</u> | | |
| | | <u>10,00,000</u> | |
| | | | <u>33,00,000</u> |
| Total Income | | | <u>2,61,50,000</u> |
| Computation of tax payable under section 115BAB | | | |
| Tax u/s 115BAB on business income [₹ 2,28,50,000 x 15%] | | 34,27,500 | |
| Tax u/s 111A on Short-term capital gains on transfer of listed equity shares on which STT is paid [₹15 lakhs x 15%] | | 2,25,000 | |

| | | |
|--|-----------------|------------------|
| Tax u/s 112 on Long-term capital gains on transfer of zero coupon bonds with indexation benefit [₹ 8 lakhs x 20%] | 1,60,000 | |
| Tax u/s 115BAB on short term capital gains on transfer of equity shares acquired through preferential issue [₹10 lakhs x 22%] [See Note at the end of the solution] | <u>2,20,000</u> | |
| | | 40,32,500 |
| Add: Surcharge @10% | | <u>4,03,250</u> |
| | | 44,35,750 |
| Add: HEC@4% | | <u>1,77,430</u> |
| Tax liability | | 46,13,180 |

Note: In additional information (b), it is given that during the P.Y. 2020-21, the company has transferred equity shares of a company which it acquired through preferential issue made by an Indian company with the approval of SEBI. Cost of acquisition of shares during 2019 is ₹ 12 lakhs. The resultant gain could be either short-term or long-term since the date of acquisition and the date of sale are not mentioned in the question. The above solution is worked out on the assumption that these shares are short term capital assets, being equity shares on which STT is not paid at the time of transfer and, therefore, taxable @22% as per section 115BAB. Alternatively, it is also possible to assume that such equity shares are short-term capital asset and on which STT is paid at the time of transfer, in which case, such short-term capital gains would be taxable @15% u/s 111A and tax liability would be ₹ 45,33,100. Further, it is also possible to assume that these equity shares are long term capital assets on which STT is paid. In such case, long term capital gain exceeding ₹ 1 lakh would be taxable@10% u/s 112A and tax liability would be ₹ 44,64,460.

It may be noted that since CII has not been given in the question, it is not possible to do the computation assuming that the gain is long-term and STT has not been paid.

Question 2

- (a) Madhav Ltd., a domestic company, furnishes the following particulars in respect of Assessment Year 2021-22 :

(Amount in ₹)

| | |
|---|-----------|
| Profit as per Statement of profit and loss as per Companies Act, 2013 | 14,58,000 |
| Statement of profit and loss includes : | |
| (a) Credits : | |
| (1) Dividend income from Domestic companies | 2,25,000 |

| | |
|---|----------|
| (2) Share in income of an AOP as a member (the AOP has paid tax at maximum marginal rate) | 1,07,000 |
| (3) Long-term Capital Gains on sale of shares on which STT was paid at the time of acquisition and sale | 98,000 |
| (b) Debits: | |
| (1) Depreciation on Straight line method basis | 2,13,000 |
| (2) Provision for loss on subsidiary company | 3,26,000 |
| (3) Provision for gratuity based on actuarial valuation | 1,33,000 |
| (4) Loss on transfer of business (computed as per AS 13) | 2,14,000 |
| (5) Provision for income-tax (including ₹ 37,000 of interest payable on income-tax) | 88,000 |
| Depreciation allowable as per Income-tax Rules | 2,45,100 |
| Losses brought forward as per books of accounts and as per Income-tax Act, 1961 | |
| - Business loss | 4,59,100 |
| - Unabsorbed Depreciation | 5,53,000 |

You are required to compute the book profits of Madhav Ltd. as per the provisions of section 115JB. **(8 Marks)**

- (b) On 23rd June 2019, R Ltd., an Indian Company borrowed ₹ 100 crores from M Pte. Ltd., a company incorporated in Singapore. The said loan is repayable over a period of 6 years. This loan is guaranteed by L Ltd., a company incorporated in U.S.A. L Ltd. holds 30% shares in R Ltd. R Ltd. provides you the following information with respect to its P/L account.

₹ in lakhs

| Particulars | For the F.Y. 2019-20 | For the F.Y. 2020-21 | Particulars | For the F.Y. 2019-20 | For the F.Y. 2020-21 |
|--------------------------------|----------------------------|----------------------------|--------------|----------------------------|----------------------------|
| Employees Benefit Expenses | 280 | 301 | Gross Profit | 1630 | 1550 |
| Interest paid to M Pte. Ltd. | 589 | 238 | | | |
| Depreciation | 250 | 254 | | | |
| Income Tax | 271 | 232 | | | |
| Profit transferred to Reserves | 240 | 525 | | | |
| | 1630 | 1550 | | 1630 | 1550 |

Calculate the income under the head Profits and Gains from business and profession of R Ltd. for the Assessment Year 2021-22, assuming the gross profit is calculated as per the provisions of Income-tax Act and Depreciation is also as per Income-tax Rules. Give appropriate reasons of your workings.

Assume none of the companies are engaged in the business of banking. (6 Marks)

Answer

(a) Computation of book profit of Madhav Ltd. under section 115JB

| Particulars | Amount in ₹ | Amount in ₹ |
|--|----------------|------------------|
| Profit as per Statement of profit and loss as per Companies Act, 2013 | | 14,58,000 |
| Add: Net Profit to be increased by the following amounts as per Explanation 1 below section 115JB(2) | | |
| - Depreciation debited on straight line basis | 2,13,000 | |
| - Provision for loss on subsidiary company | 3,26,000 | |
| - Provision for gratuity based on actuarial valuation [Provision for gratuity based on actuarial valuation is an ascertained liability ³ . Hence, the same should not be added back to compute book profit] | Nil | |
| - Provision for income-tax [Income-tax shall include, <i>inter alia</i> , any interest charged under the Act, therefore, whole of the amount of provision for income-tax including ₹ 37,000 towards interest payable has to be added] | <u>88,000</u> | |
| | | <u>6,27,000</u> |
| | | 20,85,000 |
| Less: Net Profit to be reduced by the following amounts as per Explanation 1 below section 115JB(2) | | |
| - Share in income of an AOP as a member [In a case where AOP has paid tax on its total income at maximum marginal rate, no income-tax is payable by the company, being a member of AOP, in accordance with the provisions of section 86. Therefore, share in income of an AOP on which no income-tax is payable in accordance with the provisions of section 86, would be | 1,07,000 | |

³ It was held by Bombay High Court in the case of CIT v. Echjay Forgings (P) Ltd. (2001) 251 ITR 15

| | | |
|---|-----------------|------------------|
| reduced while computing book profit, since the same has been credited to statement of profit and loss] | | |
| - Depreciation debited to statement of profit and loss | 2,13,000 | |
| - Unabsorbed depreciation or brought forward business loss, whichever is less, as per the books of account [Lower of unabsorbed depreciation ₹ 5,53,000 and brought forward business loss ₹ 4,59,100 as per books of accounts has to be reduced while computing the book profit] | <u>4,59,100</u> | |
| | | <u>7,79,100</u> |
| Book Profit | | 13,05,900 |
| Note - It is only the specific items mentioned under <i>Explanation 1</i> to section 115JB, which can be adjusted from the net profit as per the Statement of Profit and Loss prepared as per the Companies Act for computing book profit for levy of MAT. Since the following items are not specified thereunder, the same cannot be adjusted for computing book profit: (1) Dividend income from domestic companies (2) Long term capital gain on sale of shares on which STT paid (3) Loss on transfer of business | | |

- (b) If an Indian company, being the borrower, incurs any expenditure by way of interest in respect of any debt issued by its non-resident associated enterprise and such interest exceeds ₹ 1 crore, then, the interest paid or payable by such Indian company in excess of 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is lower, shall not be allowed as deduction as per section 94B.

Further, where the debt is issued by lender which is not associated enterprise but an associated enterprise provides an implicit or explicit guarantee to such lender, such debt shall be deemed to have been issued by an associated enterprise and limitation of interest deduction would be applicable.

In the present case, since L Ltd., a US company, holds 30% share in R Ltd., an Indian company, i.e., more than 26% of voting power, L Ltd. and R Ltd. are deemed to be associated enterprise.

Since loan of ₹ 100 crores taken by R Ltd., an Indian company from M Pte. Ltd., a Singapore company, is guaranteed by L Ltd., an associated enterprise, such debt shall be deemed to have been issued by an associated enterprise and interest paid or payable to M Pte. Ltd. shall be considered for the purpose of limitation of interest deduction under section 94B. Limitation of interest paid to associated enterprise under section 94B.

Computation of income under the head profits and gains of business or profession of R Ltd for A.Y. 2021-22

| Particulars | Amount (in lakhs) |
|--|----------------------|
| Interest allowable u/s 94B for A.Y. 2020-21 | |
| Gross Profit | 1,630 |
| Less: Employee benefits expenses | <u>280</u> |
| EBITDA | 1,350 |
| Interest paid or payable to M Pte. Ltd. | 589 |
| Lower of the following would be disallowed | |
| - Total interest paid or payable in excess of 30% of EBITDA [₹ 589 lakhs – ₹ 405 lakhs (i.e., 30% of ₹ 1,350 lakhs)] | ₹ 184 lakhs |
| - Interest paid or payable to M Pte Ltd. | ₹ 589 lakhs |
| Interest to be disallowed as deduction for A.Y. 2020-21, which can be carried forward up to 8 assessment years | 184 |
| Interest allowable u/s 94B for A.Y. 2021-22 | |
| Gross Profit | 1,550 |
| Less: Employee benefits expenses | <u>301</u> |
| EBITDA | 1,249 |
| Interest paid or payable to M Pte. Ltd. | 238 |
| Lower of the following would be disallowed | |
| - Total interest paid or payable in excess of 30% of EBITDA [₹ 238 lakhs – ₹ 374.70 lakhs (30% of ₹ 1249 lakhs)] | Nil |
| - Interest paid or payable to M Pte Ltd. | ₹ 238 lakhs |
| Interest to be disallowed as deduction for A.Y. 2021-22 | Nil |
| Brought forward interest of A.Y. 2020-21 allowed as deduction against profits and gains of A.Y. 2021-22 to the extent of maximum allowable interest expenditure u/s 94B i.e., ₹ 136.7 lakhs [₹ 374.70 lakhs – ₹ 238 lakhs] | |
| Total interest allowed in A.Y. 2021-22 [₹ 238 lakhs + ₹ 136.70 lakhs] | <u>374.70</u> |
| Balance of amount of interest relating to AY 2020-21 is eligible for carried forward i.e. ₹ 47.30 lakhs (₹ 184 lakhs minus ₹ 136.70 lakhs) to 7 more subsequent assessment years. | |

| | |
|--|----------------------|
| Income under the head profit and gains of business or profession of R Ltd. for A.Y. 2021-22 | |
| EBITDA | 1,249.00 |
| Less: Interest (maximum interest allowable as deduction u/s 94B) | 374.70 |
| Depreciation (As per the Income-tax Act, 1961) | <u>254.00</u> |
| | <u>620.30</u> |

Question 3

(a) Based on the relevant provisions of Income-tax Act and judicial pronouncements, discuss about the treatment of the following:

- On 26th August, 2020, Relief for Poor a public charitable trust, sold one of its building which was held by it for charitable purposes, for ₹ 4 lakhs. The asset was acquired on 23-6-2019 for ₹ 2.5 lakhs. It invested ₹ 3 lakhs in fixed deposits for the tenure of 2 years.
- Save our religion, a trust established for the purpose of religious and charitable purposes. It runs a temple and a school. During the year 2020-21, it received anonymous donation amounting to ₹ 2 crores in temple and ₹ 3 crores in school.
- M/s ABC, an electoral trust incorporated in the year 2018, provides the following information to you in respect of its transactions for the year 2020-21

Total voluntary contributions received ₹ 400 lakhs

Surplus brought forward from earlier P.Y.s ₹ 15 lakhs

Expenses incurred for the purpose of managing its affairs ₹ 6 lakhs. What is the amount of surplus that can be distributed by the electoral trust assuming all other conditions as provided under the Act are satisfied? **(8 Marks)**

(b) Mr. Dharma Teja, aged about 61 years, furnished the following information in respect of income earned in various places for the previous year ended 31-03-2021:

| Name of Country/ Place | Particulars of Income/expenses | Amount in lakhs |
|------------------------|--|-----------------|
| India | Pension from State Government | ₹ 4,20,000 |
| | Speculative Income | ₹ 1,16,000 |
| | Short term capital gains on sale of plot | ₹ 1,10,000 |
| | Deposit in PPF Account | ₹ 1,50,000 |
| Germany | Agricultural Income (gross) | ₹ 90,000 |
| | Royalty on patent developed in respect of new cancer molecule (as a co-owner of the patent) (convertible foreign exchange brought into India | |

| | | |
|----------|---|------------|
| | on 31-08-21) | ₹ 6,00,000 |
| | Dividends from a company incorporated in Germany (gross) | ₹ 64,000 |
| Thailand | Business loss (proprietary business) Not eligible for set off against other incomes as per prevailing laws. | ₹ 1,06,000 |
| | Gross rental income from a property (no statutory deduction was available there) | ₹ 3,00,000 |
| | Municipal taxes paid in respect of the above property (not allowed as deduction) | ₹ 20,000 |

Additional Information:

- (1) There is no agreement under section 90 for relief for avoidance of double taxation between India and Germany and Thailand where the incomes have accrued or arisen.
- (2) Mr. Dharma Teja is an individual resident in India and he has paid applicable taxes on incomes earned in Germany and Thailand, where the applicable tax rates are 15% and 10% respectively.

Compute the total income and tax payable by Mr. Dharma Teja for A.Y. 2021-22 clearly indicating tax rebate, if any available on incomes earned outside India. **(6 Marks)**

Answer

- (a) (i) As per section 11(1A), where a capital asset held under trust (building, in this case) is transferred, and only a part of the net consideration is utilized for acquiring another capital asset, the amount of capital gains deemed to have been utilised for charitable or religious purposes shall be the excess of the proceeds utilised over the cost of the asset transferred.

In the present case, short-term capital gain of ₹ 1,50,000 [₹ 4,00,000 less ₹ 2,50,000] would arise on transfer of building held under trust, as building is held for a period of not more than 24 months. Further, the trust has invested part of the net consideration i.e., ₹ 3,00,000 out of ₹ 4,00,000, in fixed deposits for the tenure of 2 years.

Where the net consideration on sale of a capital asset is invested in fixed deposits, it is regarded as utilised for acquiring another capital asset⁴. Accordingly, capital gains utilised for investing in fixed deposits is deemed to be applied for charitable purpose.

⁴ CIT v. Ambalal Sarabhai Trust No. 3 [1988] 173 ITR 683 (Guj)/ CIT v. Hindustan Welfare Trust [1994] 206 ITR 138 (Cal)/ CBDT instruction no. 883, dated 24.09.1975

Since only a part of the net consideration of ₹ 3,00,000 out of ₹ 4,00,000 is utilized for investing in fixed deposits, the amount of short-term capital gains to the extent of ₹ 50,000 (being the excess of proceeds utilized i.e., ₹ 3,00,000 over cost of transferred asset i.e., ₹ 2,50,000) would be deemed to be utilised for charitable purpose.

The balance of ₹ 1,00,000 is taxable in the hands of the trust. Applying such income to the objects of the trust would make the transaction, tax neutral.

- (ii) As per section 115BBC, anonymous donations received *inter alia* by trust or institution referred u/s 11 would be taxable @ 30% in excess of higher of -
- 5% of the total donations received by the assessee; or
 - ₹ 1 lakh

However, the provisions of section 115BBC would not apply to anonymous donation received by trusts/institutions created or established wholly for religious and charitable purposes (i.e. partly charitable and partly religious institutions/trusts) other than anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution.

In the present case, *Save our religion* trust is established for religious and charitable purposes and runs a temple and a school. During the P.Y. 2020-21, it received anonymous donation of ₹ 2 crores in Temple and ₹ 3 crores in School. Since it received anonymous donation separately for temple and school, the provisions of section 115BBC would not be attracted in respect of donations of ₹ 2 crores received by Temple.

However, the provisions of section 115BBC would be attracted in respect of anonymous donation received by school⁵.

- (iii) Any voluntary contribution received by an electoral trust would be exempt, if such electoral trust:
- (i) distributes to a registered political party during the previous year, 95% of the aggregate donations received by it during the year along with the surplus if any, brought forward from any earlier previous year and
 - (ii) functions in accordance with the rules made by the Central Government.

The electoral trust may, for the purposes of managing its affairs, spend up to 5% of the total contributions received in a year subject to an aggregate limit of ₹ 5 lakh in the first year of incorporation and ₹ 3 lakh in subsequent years.

⁵ Assuming such anonymous donation is made with a specific direction that such donation is for the school.

The total contributions received in any financial year alongwith the surplus from any earlier financial year, if any, as reduced by the amount spent on managing its affairs, shall be the distributable contributions for the financial year.

In the present case, M/s ABC, an electoral trust incorporated in the year 2018, received voluntary contributions of ₹ 400 lakhs and has brought forward surplus from earlier PYs is ₹ 15 lakhs. It spent ₹ 6 lakhs for the purpose of managing its affairs. However, it is eligible to spend ₹ 3 lakhs being lower of -

- ₹ 20 lakhs, being 5% of total contributions i.e., 400 lakhs or
- ₹ 3 lakhs, since P.Y. 2020-21, being the subsequent year

for the purpose of managing its affairs.

Accordingly, M/s ABC, an electoral trust can distribute its distributable contribution of ₹ 412 lakhs [i.e., ₹ 400 lakhs *plus* ₹ 15 lakhs *less* ₹ 3 lakhs] as the same exceeds ₹ 394.25 lakhs / (i.e., 95% of ₹ 415 lakhs).

- (b) Since Mr. Dharma Teja is an individual resident in India for the P.Y.2020-21, his global income would be subject to tax in India. Therefore, income earned by him in Germany and Thailand would be taxable in India. He would, however, be entitled to deduction under section 91, since India does not have a DTAA with Germany and Thailand, and all conditions under section 91 are satisfied.

Computation of total income of Mr. Dharma Teja for A.Y.2021-22

| Particulars | ₹ | ₹ |
|--|---------------|----------|
| Income under the head "Salaries" | | |
| Pension from State Government | 4,20,000 | |
| Less: Standard deduction u/s 16(ia) | <u>50,000</u> | |
| | | 3,70,000 |
| Income from House Property | | |
| Rental income from property in Thailand ⁶ | 3,00,000 | |
| Less: Municipal taxes | <u>20,000</u> | |
| | 2,80,000 | |
| Less: Deduction u/s 24(a)@30% | <u>84,000</u> | |
| | | 1,96,000 |
| Profits and Gains of Business or Profession | | |
| Speculative income in India | 1,16,000 | |

⁶ In the absence of any information relating to fair rent, municipal value and standard rent, rental income is assumed to be the gross annual value.

| | | |
|---|-----------------|-----------------|
| Less: Set-off of business loss from proprietary business in Thailand under section 70 | <u>1,06,000</u> | |
| | | 10,000 |
| Short-term capital gains on sale of plot in India | | 1,10,000 |
| Income from Other Sources | | |
| Royalty on patent developed from Germany ⁷ | 6,00,000 | |
| Agricultural income from Germany [not exempt u/s 10(1), since it is earned from land situated outside India] | 90,000 | |
| Dividend from a company in Germany | <u>64,000</u> | |
| | | <u>7,54,000</u> |
| Gross Total Income | | 14,40,000 |
| Less: Deduction under Chapter VI-A | | |
| Under section 80C – Deposits in PPF | 1,50,000 | |
| Under section 80RRB – Royalty income on patents ⁸ allowable to the extent of ₹ 3,00,000 since the amount earned outside India brought on 31.8.2021, i.e., within six months from the end of the previous year. | <u>3,00,000</u> | |
| | | <u>4,50,000</u> |
| Total Income | | 9,90,000 |

Computation of tax liability of Mr. Dharma Teja for A.Y.2021-22

| Particulars | ₹ |
|---|-----------------|
| Tax on total income [20% of ₹ 4,90,000 + ₹ 10,000, eligible for higher exemption limit of ₹ 3,00,000, since he is a senior citizen] | 1,08,000 |
| Add: Health and education cess@4% | <u>4,320</u> |
| | 1,12,320 |
| Less: Rebate under section 91 (See Working Note below) | <u>60,506</u> |
| Tax Payable | 51,814 |
| Tax Payable (rounded off) | 51,810 |

⁷ royalty income can also be shown under the head "Profits and gains from business or profession" instead of "Income from other sources"

⁸ It is assumed that the patents are granted under the Patents Act, 1970

| | | |
|--|-----------------|---------------|
| Calculation of Rebate under section 91: | ₹ | |
| Average rate of tax in India [i.e., ₹ 1,12,320 / ₹ 9,90,000 x 100] = 11.345% | | |
| Doubly taxed income pertaining to Germany | | |
| Agricultural income | 90,000 | |
| Dividend from a company in Germany | 64,000 | |
| Royalty on patents [₹ 6,00,000 – ₹ 3,00,000] | <u>3,00,000</u> | |
| | 4,54,000 | |
| Rebate under section 91 on ₹ 4,54,000 @11.345% [being the lower of average Indian tax rate (11.345%) and Germany tax rate (15%)] | | 51,506 |
| Doubly taxed income pertaining to Thailand | | |
| Income from house property less business loss set-off against income chargeable to tax in India (₹ 1,96,000 – ₹ 1,06,000) | 90,000 | |
| Rebate under section 91 on ₹ 90,000 @10% [being the lower of average Indian tax rate (11.345%) and Thailand tax rate (10%)] | | <u>9,000</u> |
| Total rebate under section 91 (Germany + Thailand) | | 60,506 |

Note- Since the assessee claims standard deduction of ₹ 50,000 and Chapter VI-A deductions of ₹ 4,50,000, his tax liability under the regular provisions of the Act would be lower than the tax liability under section 115BAC.

Question 4

- (a) Examine the applicability of provisions relating to deduction/collection of tax at source and compute the liability, if any for deduction/collection of tax at source in the following cases for financial year ended 31st March, 2021 as per provisions contained under the Income-tax Act, 1961:
- Pursuant to the agreement to operate E-commerce platform between "AB" (E-commerce Operator) and "XY" (E-commerce Participant), the buyer purchased goods worth ₹ 6.00 lakhs on 28.02.2021 on e-commerce website of "AB" and he makes such payment through the digital platform of "XY". Who is the person responsible to deduct/collect the tax on this transaction and specify the amount of liability?
 - Mr. James, is an authorised dealer under the Liberalised Remittance Scheme of RBI. Three persons from India remitted the following sums through the Authorised Dealer as under:

| Name of the Person | Remittance Amount INR | Purpose |
|---------------------------|------------------------------|--|
| Mr. Pradeep | ₹ 6,50,000 | Maintenance expenses of his son studying in London |
| Mr. Promod | ₹ 15,00,000 | Cost of Overseas Tour Programme package to North & South America |
| Mr. Pranav | ₹ 10,00,000 | Repayment of loan obtained from Bank in Germany for pursuing higher studies. |

What are the tax obligations of Mr. James in the above transactions? **(8 Marks)**

(b) State with brief reasons, whether transfer pricing provisions are attracted in the following cases:

- (i) ABC Inc, a London based foreign company transferred engravings valued at ₹ 55 crores to Beta Ltd, an Indian Company during the previous year 2020-21. ABC Inc, holds 32% of voting power in Alpha Ltd, an Indian Company which in turn holds 75% of shares in Beta Ltd.
- (ii) Tikku Projects Ltd., an Indian Company, has two units, Tikku Infra and Tikku Trading. While the Tikku Infra is engaged in the development of highway project pursuant to the agreement entered into with Central Government since past 4 years. Tikku Trading is engaged in the business of trading of construction materials. During the previous year 2020-21, Tikku Trading transferred 12,000 MT of cement at ₹ 14,000 per MT against the prevailing market value at ₹ 16,000 per MT.
- (iii) A Ltd, engaged in manufacturing activity of power generation, opted for concessional rate of tax under Section 115BAB. B Ltd, supplied 10,000 MT of power cables valued at ₹ 23,000 per MT to A Ltd. at ₹ 21,000 per MT during the previous year 2020-21. Mr. X, an individual, holding controlling interest in both A Ltd. and B Ltd.

(2 x 3 = 6 Marks)

Answer

- (a) (i) In a case where sale of goods of an e-commerce participant (XY) is facilitated by an e-commerce operator (AB) through its e-commerce website, section 194-O requires the e-commerce operator (AB) to deduct tax at source@1% (0.75% for the period from 14.5.2020 to 31.3.2021) on ₹ 6 lakhs, being the gross amount of sales facilitated through the e-commerce website.

Therefore, TDS u/s 194-O is ₹ 4,500, being 0.75% of ₹ 6 lakhs.

In this case, since the payment is facilitated by a payment gateway (referred to as digital platform), the payment gateway may also happen to qualify as an e-commerce operator for facilitating service. However, the payment gateway (i.e., the

digital platform) will not be required to deduct tax if the e-commerce operator (AB) has deducted tax u/s 194-O⁹.

- (ii) An authorised dealer who receives an amount for overseas remittance from a buyer, being a person remitting such amount out of India under the Liberalised Remittance Scheme of RBI, is required to collect tax at source @5%. In case the remittance is for a purpose other than purchase of overseas tour programme package, then, no tax has to be collected at source, if the amount or aggregate of amount remitted by a buyer is less than ₹ 7 lakhs; and where the said amount exceeds ₹ 7 lakhs, tax has to be collected at source @5% of the amount or aggregate of amount in excess of ₹ 7 lakhs.

Accordingly, Mr. James, the authorised dealer need not collect any tax from remittance of ₹ 6,50,000 by Mr. Pradeep towards maintenance expenses of his son studying in London, since such remittance does not exceed ₹ 7 lakhs.

Mr. James has to collect tax of ₹ 75,000, being 5% on ₹ 15 lakhs remitted by Mr. Promod towards cost of overseas tour programme package to North and South America. The benefit of tax collection on the amount in excess of ₹ 7 lakh is not available where the remittance is for an overseas tour programme package.

Note – In this case, it appears that the payment is made to a foreign entity for purchase of tour programme package. Therefore, the authorised dealer is required to collect tax at source since the amount has been remitted abroad by the buyer for purchase of tour programme package.

Mr. James has to collect tax of ₹ 15,000, being 5% of ₹ 3 lakhs (i.e., the amount in excess of ₹ 7 lakhs) on remittance of ₹ 10 lakh by Mr. Pranav towards repayment of loan obtained from bank in Germany for pursuing higher studies. The benefit of concessional rate of 0.5% will not be available in this case, since the remittance is not out of loan from financial institution defined under section 80E.

- (b) (i) International transaction is a transaction between associated enterprises, either or both of whom are non-residents, in the nature of, *inter alia*, purchase, sale of tangible or intangible property. Transfer pricing provisions under the Income-tax Act, 1961 would get attracted in respect of an international transaction. In this case, one of the enterprises, i.e., ABC Inc., a London based company, is a non-resident. The transaction in question is the transfer of engravings, i.e., transfer is of an intangible property.

However, two enterprises would be deemed as associated enterprises if one enterprise holds, directly or indirectly, shares carrying not less than 26% voting power in the other enterprise.

⁹ To facilitate proper administration, the payment gateway may take an undertaking from the E-Commerce Operator (AB).

In this case, ABC Inc. indirectly holds only 24% voting power / (32% of 75%) in Beta Ltd., an Indian company. Hence, ABC Inc. and Beta Ltd. are not associated enterprises.

Since the transaction of transfer of engravings is not between associated enterprises, it would not fall within the meaning of international transaction. Hence, transfer pricing provisions would not be attracted in this case.

- (ii) Tikku Infra is eligible for deduction@100% of the profits derived from its eligible business (i.e., the business of developing an infrastructure facility, namely, a highway project in this case) under section 80-IA. However, Tikku Trading is not engaged in any “eligible business”. Since Tikku Trading has transferred construction materials to Tikku Infra at a price lower than the fair market value, it is an inter-unit transfer of goods between eligible business and other business, where the consideration for transfer does not correspond with the market value of goods.

This transaction would fall within the meaning of “specified domestic transaction” to attract transfer pricing provisions, only if the aggregate value of such transactions during the year exceeds a sum of ₹ 20 crore.

In this case, however, the aggregate value of transactions between Tikku Infra and Tikku Trading does not exceed ₹ 20 crore. Hence, the transaction is not a specified domestic transaction to attract transfer pricing provisions under the Income-tax Act, 1961. Accordingly, transfer pricing provisions would not be attracted in respect of this transaction.

Note - In the absence of information in the question, it is assumed that there are no other such transactions during the year falling within the scope of section 92BA.

- (iii) Where a company eligible for benefit under section 115BAB enters into a transaction with any other person with whom it has close connection, and the transactions between them are arranged in a manner resulting in more than ordinary profits arising to the company eligible for benefit u/s 115BAB, then, such transactions would fall within the scope of “specified domestic transaction” under section 92BA, if the aggregate value of such transactions (listed out in section 92BA) entered into by the company in the previous year exceeds ₹ 20 crore.

In this case, A Ltd. is a company eligible for deduction under section 115BAB which has entered into a transaction with B Ltd., a company in which Mr. X (a person who has controlling interest in A Ltd.) has controlling interest. Further, the said transaction for supply of cables by B Ltd. to A Ltd. results in more than ordinary profits to A Ltd. (on account of the supply being made by B Ltd. to A Ltd. at a lower rate than the arm's length rate).

Also, the aggregate value of such transactions entered into by the two companies exceed ₹ 20 crore. Consequently, the said transactions between A Ltd. and B Ltd.

are “specified domestic transactions” under section 92BA and transfer pricing provisions under the Income-tax Act, 1961 would be attracted.

Question 5

(a) Answer any **two** out of the **three** sub-parts:

- (i) *Consequent to a search in the premises of Mr. Manav, some gold bars were seized from the locker. Manav voluntarily disclosed some income during the course of search. In order to remove his liability to pay interest under sections 234B and 234C, the assessee filed an application for sale of the gold bars and adjustment of tax liability on undisclosed income out of the sale proceeds while the assessment was still pending. Based on the provisions of applicable sections and court rulings, discuss whether the assessee can do so ?*
- (ii) *During the assessment proceedings in respect of Mr. Desai, the Assessing Officer found that some purchases were shown in the trading account for which the details of the suppliers were missing. The assessee did not maintain the daily stock register and also could not offer proper explanation regarding those purchases. The assessing officer rejected the books of accounts of the assessee and made ex-parte assessment under section 144. In the assessment order, the AO treated them unexplained cash credit and made additions to the tune of ₹ 12,26,000 in the declared income. The assessee filed appeals with various appellate authorities but due to lack of satisfactory explanation, his case was dismissed at all levels and the issue finally reached to the Supreme Court. While the appeal was still pending at the Supreme Court, the AO initiated penalty proceeding for concealment of income. During the penalty proceedings, the assessee provided the details of the creditors to the satisfaction of CIT(A) and thus, the penalty proceedings were dropped.

Now, the assessee approached you as a consultant. You are required to list out what grounds that may be taken by the assessee against the pending assessment proceedings. Base your answer on the relevant provisions of law and decided court rulings.*
- (iii) *The assessee, World Television Corporation Ltd. (WTCL) invested in several subsidiary companies outside India. During the year 2009-10¹⁰, one of these subsidiary companies issued coupon bonds. The assessee furnished corporate guarantee in respect of such bonds. The case was selected for scrutiny assessment. WTCL disclosed all the material facts and also the entities that subscribed to these bonds. While the AO did not doubt the validity of the transaction, it added a deemed guarantee fee to the income of the assessee and the order was passed in the F.Y. 2012.*

¹⁰ To be read as “A.Y. 2009-10”

On 31st March 2015, on the basis of subsequent years' assessment proceedings, the department sent a notice under section 147 stating that it has reason to believe that the income has escaped assessment because the overseas entities were sham companies and the amount raised by them should be treated as income of the assessee and since the assessee did not disclose all material facts truly, the extended period of limitation of 6 years can be invoked. The assessee contended that since the original assessment was a detailed one and it disclosed all primary facts before the AO, the AO cannot reopen the case. After losing the case at the High Court, the assessee appealed to the Supreme Court. The department contended that since the assessee had foreign assets, second proviso to section 148¹¹ is applicable and the limitation period is 16 years.

You are required to answer the following questions based on relevant provisions and recent rulings:

- (I) Whether the revenue has a valid reason to believe that the income has escaped assessment even if the original assessment was a detailed one?*
 - (II) Whether the revenue can take benefit of extended period of 16 years citing that the assessee did not disclose full and true material facts?*
 - (III) Can the revenue take the benefit of proviso to section 148¹²? (4 x 2 = 8 Marks)*
- (b) Atiwna Inc., a non-resident company incorporated in U.S., engaged in manufacturing of computer hardware and software. It also owns an online social networking site, Friendszone. It exports its products globally including India for which it owns a warehouse in Mumbai. Ari Ltd., an Indian Company, imports computer hardware and software from Atiwna Inc. During the previous year 2020-21, Ari Ltd. did not import any article from Atiwna Inc. but paid ₹ 5,45,000 (Date of payment 23rd June, 2019) to Atiwna Inc. for advertising its business on the platform of Friendszone. However, Ari Ltd., neither deducts TDS nor equalisation levy on such payments. You are required to discuss whether Ari Ltd. is required to deduct equalisation levy or TDS on such payment? If yes, then discuss the consequences of non deduction of such levy in the hands of Ari Ltd.*

(6 Marks)

Answer

- (a) (i)** As per section 132B(1)(i), the amount of any “existing liability” under the Income-tax Act, 1961 and the amount of “liability determined on completion of assessment” may be recovered out of the assets seized u/s 132.

¹¹ To be read as “section 147”

¹² To be read as “second proviso to section 147”

The words “existing liability” postulates a liability that is crystallized by adjudication; Likewise, “a liability is determined” only on completion of the assessment. Until the assessment is complete, it cannot be postulated that a liability has been crystallized.

As per the first proviso to section 132B(1)(i), Mr. Manav may make an application to the Assessing Officer for release of the gold bars seized, after adjusting existing liability. However, he has to explain the nature and source of acquisition of the gold bars to the satisfaction of the Assessing Officer. It is not the *ipse dixit* of Mr. Manav but the satisfaction of the Assessing Officer on the basis of the explanation tendered by Mr. Manav which is material.

In this case, Mr. Manav wants to adjust the tax liability on undisclosed income disclosed by him voluntarily during search, which is not possible, since it is only when the liability is determined on the completion of assessment that it would stand crystallized, after which the sale proceeds of gold bars can be adjusted against the said liability.

Note – *The facts of the case are similar to the facts in the Allahabad High Court ruling in Hemant Kumar Sindhi & Another v. CIT (2014) 364 ITR 555. The above answer is based on the rationale of the said ruling.*

- (ii) As per section 68, where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee for that previous year.

In this case, even though at the time of assessment, the assessee had failed to produce any explanation or evidence in support of the entries regarding the purchases, at the time of penalty proceedings, the assessee had provided the details of the creditors to the satisfaction of the CIT(A), and the penalty proceedings were dropped.

The said penalty proceedings were the outcome of the assessment order treating the purchases from creditors as unexplained cash credit and making addition of ₹12,26,000 under section 68 to the declared income.

Since the penalty proceedings itself were dropped consequent to satisfaction of the CIT (A) about the details of creditors, resultantly, the basis of initiation of penalty proceedings, namely, addition of ₹12,26,000 under section 68 towards cash credit in the assessment should also be set aside.

Note – *The facts of the case are similar to the facts in Supreme Court ruling in Basir Ahmed Sisodiya vs. ITO [2020] 424 ITR 1. The above answer is based on the rationale of the said ruling.*

- (iii) I. At the stage of issuance of notice under section 148, the Assessing Officer is required to only form a *prima facie* view that income has escaped assessment. In this case, the material disclosed in the assessment proceedings for subsequent years, which form the basis for taking action under section 147, were sufficient to form such a view.

Information which comes to the notice of the Assessing Officer during proceedings for subsequent assessment years form tangible material to invoke powers vested with the Assessing Officer under section 147. Accordingly, the Revenue had valid reason to believe that income has escaped assessment, even if the original assessment was a detailed one.

- II. The facts given in the question state that WTCL disclosed all the material facts and also the entities that subscribed to the coupon bonds issued by one of the overseas subsidiaries, in respect of which it had furnished guarantee. Therefore, there was full and true disclosure of all material facts necessary for its assessment by WTCL. Accordingly, all the relevant facts were duly within the knowledge of the Assessing Officer at the time he passed the order in the year 2012.

The facts given in the question also state that at that time, on the basis of the facts disclosed to him, the Assessing Officer did not doubt the validity of the transaction. Consequently, the Revenue cannot take benefit of the extended period of 6 years citing that the assessee did not disclose full and true material facts.

Note - Extended period of up to 6 years is available for re-assessment where the assessee did not disclose full and true material facts as per first proviso to section 147 read with section 149(1)(b). Since the question requires whether the Revenue can take benefit of extended period citing that the assessee did not disclose full and true material facts, the solution has been prepared on the above lines, considering the intent of the question.

However, the question mentions extended period of 16 years instead of 6 years. The extended period of 16 years is not dependent on disclosure or otherwise of facts by the assessee. It is available where a person is found to have any asset (including financial interest in any entity) located outside India, in which case it shall be deemed that income chargeable to tax has escaped assessment and an extended period of 16 years would be available for completion of assessment.

Accordingly, an alternate answer has been prepared on this basis –

Alternate Answer to II

The Revenue cannot take benefit of extended period of 16 years citing that the assessee has not disclosed full and true material facts. The extended period

for 16 years is not dependent on disclosure or otherwise of facts by the assessee.

It is available where a person is found to have any asset (including financial interest in any entity) located outside India. In such a case, it shall be deemed that income chargeable to tax has escaped assessment and extended period of 16 years would be available for completion of assessment.

- III. In the notice issued on 31st March, 2015 under section 147, it was stated that the Revenue had reason to believe that the income has escaped assessment because the overseas entities were sham companies and the amount raised by them should be treated as income of the assessee and since the assessee did not disclose all material facts truly, the extended period of limitation of 6 years can be invoked. There was no mention of foreign assets in the said notice to invoke extended period of limitation of 16 years. Therefore, on the basis of the said notice, the Revenue cannot take benefit of the extended period of 16 years.

The Revenue has to issue a fresh notice, stating the reason to believe the existence of foreign assets to take benefit of the extended period of 16 years.

Note – The facts of the case are similar to the facts in the Supreme Court ruling in *New Delhi Television Ltd. vs. DCIT* (2020) 424 ITR 607. The above answer is based on the rationale of the Supreme Court ruling and the relevant provisions of the Income-tax Act, 1961.

- (b) Equalisation levy @6% is leviable on the amount of consideration for specified services received or receivable by a non-resident, from a resident in India who carries out business or profession, or from a non-resident having permanent establishment in India. Specified services include online advertisement.

Equalisation levy is not chargeable, where –

- (a) the non-resident providing the specified service has a PE in India and the specified service is effectively connected with such PE;
- (b) the aggregate amount of consideration for specified service received or receivable during the previous year does not exceed ₹ 1 lakh; or
- (c) where the payment for the specified service is not for the purposes of carrying out business or profession.

In the present case, during the P.Y. 2020-21, Atiwna Inc., a non-resident, provides online advertisement service to Ari Ltd., a resident, for its business and the aggregate amount of consideration is ₹ 5,45,000 i.e., exceeding ₹ 1 lakhs. Atiwna Inc. owns a warehouse in India which constitutes its PE in India.

However, the online advertisement services are not effectively connected with such PE, which is a warehouse for storage of computers.

Hence, equalisation levy @6% is chargeable on the amount of ₹ 5,45,000 received by Atiwna Inc. from Ari Ltd. Accordingly, Ari Ltd. is required to deduct equalisation levy of ₹ 32,700 i.e., @6% of ₹ 5.45 lakhs, being the amount paid towards online advertisement services provided by Atiwna Inc.

Consequences of non-deduction of equalisation levy in the hands of Ari Ltd.

- (1) Ari Ltd. is, in any case, liable to pay the levy to the credit of the Central Government.
- (2) Non-deduction of equalisation levy would attract disallowance under section 40(a)(ib) of 100% of the amount paid while computing business income of Ari Ltd.
- (3) Penalty equal to ₹ 32,700, being the amount of equalisation levy would be leviable on Ari Ltd.

Question 6

- (a) (i) *List out the instances that are treated as "Misreporting of Income" and quantum of penalty that would be attracted in these cases. (4 Marks)*
- (ii) *Briefly explain the following in the context of Income-tax Act, 1961: (i) Meaning of Faceless Assessment; (ii) Assessments covered under Faceless Assessment Procedure; (iii) Important units of Faceless Assessment Procedure. (4 Marks)*
- (b) *A and B are two individuals, and they derived an income of ₹ 14 lakhs each during the previous year 2020-21. While A had no other income except income from salaries, B had to pay interest of ₹ 2,00,000 on loan taken in respect of a self-occupied house property. You, as a consultant, are required to advise them whether they should opt for concessional rate of tax under section 115BAC or otherwise, showing the tax liability of both individuals. (6 Marks)*

Answer

- (a) (i) The following are the instances that are treated as "Misreporting of Income"
- misrepresentation or suppression of facts;
 - failure to record investments in the books of account;
 - claim of expenditure not substantiated by any evidence;
 - recording of any false entry in the books of account;
 - failure to record any receipt in the books of account having a bearing on total income; and
 - failure to report any international transaction or deemed international transaction or specified domestic transaction.

Where under reporting of income results from misreporting of income by any person, penalty @200% of tax payable on such under-reported income would be attracted

- (ii) (i) "Faceless assessment" means the assessment proceedings conducted electronically in 'e-Proceeding' facility through assessee's registered account in designated portal.
- (ii) Section 144B(1) provides that assessment under section 143(3) i.e., regular assessment/scrutiny assessment or best judgment assessment under section 144 in respect of such territorial area or persons or classes of persons or incomes or class of incomes or cases or class of cases, as specified by the CBDT under section 144B(2), has to be made in faceless manner.
- (iii) The following are the important units of Faceless Assessment Procedure:
- (1) **Assessment Units (AUs)** may be set up to perform the function of making assessment.
 - (2) **Verification Units (VUs)** may be set up to perform the function of verification.
 - (3) **Technical Units (TUs)** may be set up to perform the function of providing technical assistance
 - (4) **Review Units (RUs)** may be set up to perform the function of review of the draft assessment order.
- (b) **Computation of Tax Liability of Mr. A & Mr. B for the A.Y. 2021-22 as per regular provisions of Income-tax Act**

| Particulars | Mr. A | Mr. B |
|---|------------------|------------------|
| Income under the head "Salaries" | | |
| Salary | 14,00,000 | 14,00,000 |
| Less: Standard deduction u/s 16(ia) | <u>50,000</u> | <u>50,000</u> |
| | 13,50,000 | 13,50,000 |
| Less: Set-off loss from house property in respect of interest on loan borrowed for self-occupied property as per section 71(3A) | <u>-</u> | <u>2,00,000</u> |
| Gross Total Income/Total Income | 13,50,000 | 11,50,000 |
| Tax Liability | | |
| Upto ₹ 2,50,000 | Nil | Nil |
| ₹ 2,50,001 to ₹ 5,00,000 @ 5% | 12,500 | 12,500 |
| ₹ 5,00,001 to ₹ 10,00,000 @ 20% | 1,00,000 | 1,00,000 |

| | | |
|------------------------------------|-----------------|-----------------|
| Above ₹ 10,00,000 @30% | <u>1,05,000</u> | <u>45,000</u> |
| | 2,17,500 | 1,57,500 |
| Add: Health and Education cess @4% | <u>8,700</u> | <u>6,300</u> |
| Tax liability | 2,26,200 | 1,63,800 |

Computation of Tax Liability of Mr. A & Mr. B for the A.Y. 2021-22 as per section 115BAC

| Particulars | Mr. A | Mr. B |
|--|------------------|------------------|
| Gross Total Income/Total Income (computed as per regular provisions) | 13,50,000 | 11,50,000 |
| Add: Standard deduction u/s 16(ia) [Not allowable as deduction u/s 115BAC] | <u>50,000</u> | <u>50,000</u> |
| | 14,00,000 | 12,00,000 |
| Add: Set-off loss from house property in respect interest on loan for self-occupied property [not allowable as deduction u/s 115BAC] | <u>-</u> | <u>2,00,000</u> |
| Total income as per section 115BAC | 14,00,000 | 14,00,000 |
| Tax Liability | | |
| Upto ₹ 2,50,000 | Nil | Nil |
| ₹ 2,50,001 to ₹ 5,00,000 @ 5% | 12,500 | 12,500 |
| ₹ 5,00,001 to ₹ 7,50,000 @ 10% | 25,000 | 25,000 |
| ₹ 7,50,001 to ₹ 10,00,000 @ 15% | 37,500 | 37,500 |
| ₹ 10,00,001 to ₹ 12,50,000 @ 20% | 50,000 | 50,000 |
| ₹ 12,50,001 to ₹ 14,00,000 @ 25% | <u>37,500</u> | <u>37,500</u> |
| | 1,62,500 | 1,62,500 |
| Add: Health and education cess @4% | <u>6,500</u> | <u>6,500</u> |
| Tax Liability | 1,69,000 | 1,69,000 |
| <p>Since tax liability of Mr. A as per section 115BAC of ₹ 1,69,000 is lower than the tax liability of ₹ 2,26,200 computed as per the regular provisions of the Act, it is advisable for him to opt for section 115BAC.</p> <p>However, in case of Mr. B, since his tax liability as the normal provisions of ₹ 1,63,800 is lower than the tax liability of ₹ 1,69,000 as per section 115BAC, it is advisable for him to not opt for section 115BAC and pay tax as per regular provisions.</p> | | |