

PAPER – 4: DIRECT TAX LAWS & INTERNATIONAL TAXATION

Part I - Multiple Choice Questions

All questions relate to Assessment Year 2025-26, unless stated otherwise in the question.

Integrated Case Study - I

Mr. Shiv Aggarwal is married with Ambika Aggarwal. He has gifted a house property to his wife on 15/03/2024. The stamp duty value of the said property on the date of gift was ₹ 80 lakhs. The said house was let out by Mrs. Ambika Aggarwal for a period of 15 months, w.e.f. 01/04/2024 at monthly rent of ₹ 50,000/- to Mr. Suresh Kumar. There is no payment of property tax in the financial year 2024-25. Mr. Shiv Aggarwal also gifted 2,000 debentures of ₹ 500 each of RR Limited to his wife Mrs. Ambika Aggarwal on 01/04/2024. M/s RR Limited credited interest of ₹ 1,00,000/- on these debentures on 30/03/2025 in the bank account of Mrs. Ambika Aggarwal. Mrs. Ambika Aggarwal does not have any other source of income.

Mr. Shiv Aggarwal in respect of a piece of land owned by him, entered into a registered agreement for development of a real estate project in the financial year 2020-21 with M/s XYZ Ltd, a real estate developer. As per the terms of the agreement, Mr. Shiv Aggarwal was entitled to receive one constructed flat in the project besides cash consideration of ₹ 30,00,000/- in the year of completion of project. The certificate of completion of the project is issued by the competent authority in the financial year 2024-25. Mr. Shiv Aggarwal received one of the constructed flat and cash consideration (as agreed) from XYZ Limited during the financial year 2024-25. The cash consideration was received in the form of an account payee bank draft. The stamp duty value of the said flat on the date of the payment of cash consideration was ₹ 28,00,000/-.

Mr. Shiv Aggarwal purchased 400 shares of G. Ltd (a listed company) on 14.06.2017 at a cost of ₹ 450 per share. He sold all the shares of G. Ltd. on 01.07.2024 through National Stock Exchange for ₹ 5,00,000/. The applicable security transaction tax was also paid. The price at which these shares were traded in National Stock Exchange on 31.01.2018 is as follows –

Particulars	Amount in ₹
Highest Trading Price	710
Average Trading Price	695
Lowest Trading Price	680

In respect of the Assessment Year 2023-24, in case of Mr. Shiv Aggarwal, the Assessing Officer had in its possession the information in respect of the undisclosed foreign asset under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. The said information has been enclosed with a notice for the assessment year issued and served u/s 148A(1) of the Income-tax Act to Mr. Shiv Aggarwal. However, the notice u/s 148 has still not been issued for the assessment year.

From the facts given in the case study, choose correct answer to following Multiple Choice Questions (MCQ. No. 1 to 4):

1. *The amount of income to be clubbed in the gross total income of Mr. Shiv Aggarwal for the A.Y. 2025-26 will be -*
 - ₹ 4,20,000/- under the head "Income from House Property" and ₹ 1,00,000/- under the head "Income from other sources".*
 - Only ₹ 6,00,000/- under the head "Income from House Property".*
 - NIL, as the gift to wife is exempt under section 56(2)(x).*
 - ₹ 6,00,000/- under the head "Income from House Property" and ₹ 1,00,000/- under the head "Income from other sources". **(2 Marks)***
2. *In respect of consideration paid in form of a flat and account payee bank draft to Mr. Shiv Aggarwal, M/s. XYZ Limited during the financial year 2024-25 was required to make TDS of -*
 - ₹ 3,00,000*
 - ₹ 5,80,000*
 - NIL*
 - ₹ 28,000 **(2 Marks)***
3. *Capital gain from sale of shares of G. Limited in the case of Mr. Shiv Aggarwal for the A.Y. 2025-26 works out to-*
 - ₹ 2,16,000*

- (B) ₹2,22,000
- (C) ₹2,28,000
- (D) ₹91,000

(2 Marks)

4. In the given facts, in the case of Mr. Shiv Aggarwal in respect of the Assessment Year 2023-24, which of the following statement is correct?

- (A) Mr. Shiv Aggarwal can file an updated return for the Assessment Year upto 31/03/2026 or issue of notice u/s 148, whichever is earlier.
- (B) Mr. Shiv Aggarwal can file an updated return for the Assessment Year upto 31/03/2026.
- (C) Mr. Shiv Aggarwal is not eligible to file an updated return for the Assessment Year.
- (D) Mr. Shiv Aggarwal can file an updated return for the Assessment Year before the date of compliance mentioned in the notice u/s 148A(1).

(2 Marks)

Integrated Case Study - II

M/s KDPL, a domestic company, engaged in manufacturing of certain products, declared its total income of ₹ 1,20,00,000/- in return of income filed for the A.Y. 2024-25. During the assessment year, there was no other income other than the profits from manufacturing.

In the return of income for assessment year 2024-25, M/s KDPL, claimed set off of brought forward business loss of ₹ 10,00,000/- which relates to A.Y. 2023-24. Return of income for A.Y. 2023-24 was filed on 31/12/2023. The claim of set off of said brought forward business loss was disallowed while processing of return of income for the assessment year 2024-25 and total income of ₹ 1,30,00,000/- was determined in the intimation issued u/s 143(1)(a).

The return for assessment year 2024-25 in the case of KDPL was selected for scrutiny by issue of notice u/s 143(2) of the Income-tax Act. During the assessment proceeding, it is noticed by the Assessing Officer that the purchase of the raw material has been inflated by ₹ 5,00,000/- by introducing bogus purchase invoices. From the facts given in the case study, choose correct answer to following Multiple Choice Questions (MCQ. No. 5, 6 & 7):

5. *In respect of inflation of raw material expenses of ₹ 5,00,000/- by KDPL, which of the following statements is correct in respect of penalty imposable for false entry in the books of account?*

(A) *The Assessing Officer is empowered to impose a penalty equal to 50% of tax payable on ₹ 5,00,000/-.*
(B) *The Assessing Officer is empowered to impose a penalty equal to 200% of tax payable on ₹ 5,00,000/-.*
(C) *The Assessing Officer is empowered to impose a penalty equal to ₹ 5,00,000/-*
(D) *The Assessing Officer is empowered to impose a Penalty equal to 100% of tax payable on ₹ 5,00,000/-.* **(2 Marks)**

6. *The inflation of raw material expenses of ₹ 5,00,000/- by KDPL amounts to-*

(A) *Tax Evasion*
(B) *Tax Planning*
(C) *Tax Management*
(D) *Tax Avoidance* **(2 Marks)**

7. *Penalty imposable in respect of disallowance of set off of brought forward business loss of ₹ 10,00,000/- relating to A.Y. 2023-24 in the intimation under section 143(1) issued for AY 2024-25 u/s 270A shall be-*

(A) *50% of tax payable on ₹ 10,00,000/-*
(B) *200% of tax Payable on ₹ 10,00,000/-*
(C) *₹ 10,00,000/-*
(D) *Nil (Zero)* **(2 Marks)**

Integrated Case Study - III

A business trust registered under SEBI (Real Estate Investment Trust) Regulations, 2014, has given particulars of its income for the financial year 2024-25 as under:

(i) *Interest income from Axe Ltd- ₹ 12 lakhs;*
(ii) *Dividend income from Axe Ltd- ₹ 6 lakhs,*

(iii) *Short-term capital gains on sale of listed shares (on 01/08/2024) of Indian companies - ₹5 lakhs. STT was paid both at the time of sale and purchase).*

Axe Ltd. is a SPV (Special Purpose Vehicle) in which the business trust holds 80% of shareholdings. Axe Ltd. opts to pay tax under section 115BAA. The business trust distributes its entire income to the unit holders in the financial year 2024-25 in the month of March, 2025.

The business trust paid an interest of ₹2 lakhs on money borrowed by it from a foreign company, by way of issue of rupee denominated bonds on 01.06.2024. The bond is listed on a recognized stock exchange located in IFSC. The Interest paid to Foreign Company does not exceed the rate approved by the Govt. of India.

Mr. Prakash, a resident shareholder holding 100 units and Mr. S. John (an Australian Citizen) holding 500 units in the business trust. The total number of units subscribed to by all unit holders is 5,000.

Mr. S. John, who is a unit holder in the business trust, came to India for the first time on 27th July, 2024. On 10th November, 2024, he left India for China on business trip. He came back to India on 15th February, 2025. He maintains a dwelling place in India from the date of his arrival in India (i.e. 27th July, 2024) till 27th February, 2025 when he left for Iran. Mr. S. John does not have permanent establishment or fixed place for carrying out his business in India. He is liable to tax in Australia in respect of his income of Financial Year 2024-25.

Mr. S. John, in addition to income distributed by business trust, earned income from following sources in India during the Financial Year 2024-25:

(i) *Royalty received from Indian concern:*

(Mr. S. John has incurred expenditures of ₹4 lakhs in respect of Royalty. The royalty is as per agreement with an Indian concern and agreement has been approved by the Government of India)

(ii) *Rent from house property located in India (Property tax in respect of the house property paid ₹50,000/- in the FY 2024-25): ₹7,50,000*

Mr. S. John has not exercised option for opting out from the default tax regime. From the facts given in the case study, choose correct answer to following Multiple Choice Questions. (MCQ. No. 8 to 12):

8. *In respect of the component of interest income received from Axe Ltd. and distributed by the business trust to the unit-holders - Mr. Prakash and Mr. S. John:*

(A) *No tax shall be deductible at source.*
(B) *Tax shall be deductible @ 5% on the income distributed to Mr. Prakash and Mr. S. John.*
(C) *Tax shall be deductible @ 10% on the income distributed to Mr. Prakash and @ 5% on income distributed to Mr. S. John.*
(D) *Tax shall be deductible @ 10% on income distributed to Mr. S. John and @5% on income distributed to Mr. Prakash.* **(2 Marks)**

9. *In respect of short-term capital gains of ₹ 5 lakhs on sale of listed shares, the business trust is-*

(A) *liable to pay income-tax (excluding surcharge and cess) at the rate of 15%.*
(B) *liable to pay income-tax (excluding surcharge and cess) at the rate of 10%.*
(C) *not liable to pay any tax on such short-term capital gains; such income is subject to tax in the hands of unit-holders.*
(D) *liable to pay income-tax (excluding surcharge and cess) at the rate of 20%.* **(2 Marks)**

10. *The dividend component of income received from Axe Ltd. and distributed to unit-holders by business trust -*

(A) *would be exempt in the hands of the business trust and the unit-holders.*
(B) *would be exempt in the hands of the business trust but taxable in the hands of unit-holders.*
(C) *would be taxable in the hands of the business trust; and exempt in the hands of unit-holders.*
(D) *would be taxable in the hands of business trust and also in the hands of the unit-holders.* **(2 Marks)**

11. In the given facts, on the interest of ₹ 2 Lakhs paid by the business trust on rupee denominated bonds, the business trust would be liable to -

- (A) deduct income-tax @ 5% on ₹ 2 lakhs.
- (B) deduct income-tax @ 4% on ₹ 2 lakhs.
- (C) deduct income-tax @ 9% on ₹ 2 lakhs.
- (D) deduct income-tax @ 10% on ₹ 2 lakhs.

(2 Marks)

12. The residential status of Mr. S. John for assessment year 2025-26 under the Income-tax Act will be -

- (A) Resident in India
- (B) Resident but Not Ordinarily Resident
- (C) Deemed to be Resident Indian
- (D) Non-resident in India

(2 Marks)

Independent Case Study based MCQs

13. M/s S. International (a company registered in Australia), during the financial year 2024-25 was engaged in the business of operating passenger cruise ships in India. The cruise ships owned by M/s S. International, operates between Mumbai & Lakshadweep and Mumbai & Goa ports. M/s S. International fulfills all the conditions prescribed under the presumptive taxation provision applicable to nature of the income from the passenger cruise ships operated by it in India. In the above facts, the amount of profit chargeable to tax in the case of M/s S. International for Assessment Year 2025-26 shall be

- (A) 7.5% of the aggregate of the amount received or receivable or deemed to be received or receivable on account of carriage of passengers, directly or in-directly.
- (B) 20% of the aggregate of the amount paid or payable to M/s S. International (Directly or In-directly) and the amount received or deemed to be received by M/s S. International (Directly or In-directly), on account of carriage of passengers.

(C) *5% of the aggregate of the amount received or receivable or deemed to be received or receivable on account of carriage of passengers, directly or in-directly.*

(D) *10% of the aggregate of the amount received or receivable or deemed to be received or receivable on account of carriage of passengers, directly or in-directly.* **(2 Marks)**

14. *AZ (India) Ltd (an Indian Company) is a wholly owned subsidiary of AZ Inc. USA. AZ Inc. USA is incorporated in USA and tax resident of USA. During the Financial Year 2024-25, AZ (India) Ltd imported Electronic Devices manufactured by AZ Inc. USA for sale to unrelated customers in India. AZ (India) Ltd has not made any value addition before the sale of the devices imported from AZ Inc. USA and has also not incurred any marketing or brand promotion expenses for or on behalf of AZ Inc. USA. In such a situation, which of the following statement is correct :-*

(A) *The Most appropriated method for determination of the arm's length price in respect of Electronic Devices imported by AZ (India) Ltd shall be Profit Split Method.*

(B) *The Most appropriated method for determination of the arm's length price in respect of Electronic Devices imported by AZ (India) Ltd shall be Cost Plus Method.*

(C) *The Most appropriated method for determination of the arm's length price in respect of Electronic Devices imported by AZ (India) Ltd shall be Resale Price Method.*

(D) *The Most appropriated method for determination of the arm's length price in respect of Electronic Devices imported by AZ (India) Ltd shall be the Comparable Uncontrolled Price method.* **(2 Marks)**

15. *During the financial year 2024-25, ZX International Singapore (a company incorporated in Singapore) held shares carrying voting power of 25% in ZX (India) Ltd (an Indian Company). XZ (India) Ltd., who is a wholly owned subsidiary of ZX International Singapore, also held shares carrying voting power of 36% in ZX (India) Ltd. ZX (India) Ltd is engaged in manufacturing of industrial chemicals and for such manufacturing, it is wholly dependent on the technical know-how provided by ZX International Singapore. During*

the financial year, royalty of ₹ 25 Crores was paid by ZX (India) Ltd. to ZX International Singapore.

Considering the above facts, which of the following statements is correct:-

- (A) *XZ (India) Ltd is only associated enterprise of ZX International Singapore.*
- (B) *XZ (India) Ltd and ZX (India) Ltd, both are associated enterprise of ZX International Singapore.*
- (C) *Neither XZ (India) Ltd, nor ZX (India) Ltd is associated enterprise of ZX International Singapore.*
- (D) *ZX (India) Ltd is only associated enterprise of ZX International Singapore.*

(2 Marks)

Answer Key

MCQ No.	Correct Option
1.	(A)
2.	(A)
3.	(A)
4.	(C)
5.	(B)/(C)
6.	(A)
7.	(D)
8.	(C)
9.	(D)
10.	(B)
11.	(C)
12.	(D)
13.	(B)
14.	(C)
15.	(B)

Part II - Descriptive Questions

Question No. 1 is compulsory.

*Answer any **four** questions out of the remaining **five** questions.*

Working notes should form part of the answer.

All questions relate to Assessment Year 2025-26, unless stated otherwise in the question.

Question 1

1. *M/s RST Ltd., a company resident in India, engaged in the manufacturing of leather products. The Statement of Profit & Loss for the year ended 31st March, 2025 shows a net profit of ₹ 97,38,000 after debiting or crediting the following items:*
 - (i) *Foreign travel expenditure of ₹ 12,00,000 regarding three directors for a collaboration agreement with a foreign company for setting up a new plant in London for manufacturing of plastic products. The negotiation could not succeed and project was abandoned.*
 - (ii) *Goods purchased of ₹ 4 lakhs from M/s Shiv Traders (a micro enterprise) were delivered on 16.03.2025. M/s RST Ltd raised the quality issues on 01.04.2025, which were resolved by M/s. Shiv Traders on 05.04.2025. M/s RST Ltd paid the above amount on 29.04.2025. Payment terms agreed was 48 days from date of delivery as per written contract.*
 - (iii) *Security deposit of ₹ 6,50,000 was paid to MNO Ltd. on 01.05.2024 for hiring a building on rent for business purpose. Due to unforeseen circumstances, RST Ltd. vacated the building which resulted in a dispute. To end the dispute, RST Ltd. agreed not to claim the security deposit and claimed the amount as deduction.*
 - (iv) *Profit of ₹ 6,25,000 earned from hedging contract entered into for meeting out loss in foreign currency payments regarding an imported printing machinery valued at ₹ 110 lakhs. The machinery was installed and put to use on 05.01.2025.*
 - (v) *Depreciation of ₹ 13,00,000 under the Companies Act, 2013, has been charged.*

(vi) One plot of land was sold on 28-08-2024 at a profit of ₹ 15,00,000 to M/s James Inc., Russia (a wholly owned subsidiary company).

(vii) Provision of ₹ 9,00,000 has been made for gratuity based on actuarial valuations. The gratuity actually paid of ₹ 5,80,000 to retired employees during the financial year was debited to Gratuity Provision account.

The Company furnished following additional information:

(i) The plot of land sold to M/s James Inc. was purchased at a cost of ₹ 32,00,000 on 22.03.2014 and value assessed by the stamp valuation authority was ₹ 60,00,000.

(Cost Inflation Index: FY 2013-14: 220, 2024-25:363)

(ii) The Company employed following 305 additional workers during the F.Y. 2024-25:

No. of workers	Date from which employed	Regular/Casual	Wages/month (₹)
82	01-07-2024	Regular	25,200
96	01-08-2024	Casual	24,800
55	01-09-2024	Regular	25,000
72	07-11-2024	Regular	24,300

The regular employees participate in recognized provident fund while the casual employees do not participate. Additional wages were paid through account payee cheque.

(iii) The Company purchased ₹ 7,500 equity shares of M/s PQR Pvt. Ltd. at ₹ 40 per share on 05.09.2024. The fair market value per share on such date was 95.

(iv) Depreciation on fixed assets as per the Income-tax Rules, 1962 excluding depreciation on imported printing machine is ₹ 12,60,000.

Compute the Total Income of M/s RST Ltd. for the A.Y. 2025-26. Ignore MAT and the provisions of section 115BAA. **(14 Marks)**

Answer**Computation of Total Income of M/S RST Ltd. for the A.Y. 2025-26**

	Particulars	Amount (in ₹)	
I	<p>Profits and gains of business or profession Net profit as per the Statement of profit and loss</p> <p>Add: Items debited but to be considered separately or to be disallowed</p> <p>(i) Expenses on foreign travel of three directors for a collaboration agreement which failed to materialize [Where expenditure is incurred for a project not related to the existing business and the project was abandoned without creating a new asset, the expenses are capital in nature¹. Manufacturing plastic products is not related to the existing business of manufacturing leather products. Since the same has been debited to the statement of profit and loss, the same has to be added back while computing business income.]</p> <p>(ii) Sum payable for purchase of goods from M/s Shiv Traders, a micro enterprise Since payment was made to a micro enterprise on 29.4.2025 i.e., within 45 days from date of delivery, deduction for purchase of goods is allowed in the P.Y. 2024-25. Since the same has been debited to the statement of profit and loss, no adjustment is required to be made]</p>	97,38,000	12,00,000

¹ *Mc Gaw-Ravindra Laboratories (India) Ltd. v. CIT (1994) 210 ITR 1002 (Guj.)*

(iii) Forgoing of security deposit to settle a dispute [The character of the security deposit is of capital nature and remained so though it is decided to forgo it. It cannot be treated as revenue expenditure merely because it was paid in the course of dispute. ² Since it has been debited to the statement of profit and loss, the same has to be added back while computing business income]	6,50,000	
(v) Depreciation as per the Companies Act, 2013	13,00,000	
(vii) Provision for gratuity [Provision of ₹ 9 lakhs for gratuity based on actuarial valuation is not allowable as deduction. However, actual gratuity of ₹ 5.80 lakhs paid is allowable as deduction. Hence, the difference has to be added back to income. [₹ 9 lakhs (-) ₹ 5.80 lakhs]]	3,20,000	
		34,70,000
Less: Items credited but not taxable or chargeable to tax under another head		1,32,08,000
(iv) Profit from hedging contract [The profit from hedging contract entered into for meeting loss in foreign currency payments towards imported machinery has to be adjusted against the cost of plant and machinery. Since it has been credited to the statement of profit and loss, the same has to be reduced while computing business income]	6,25,000	

² *Mahle Anand Filter Systems Pvt. Ltd. v. ACIT (2023) 456 ITR 29 (SC)*

	(vi) Profit on sale of plot of land [Profit on sale of plot of land taxable or otherwise under the head "Capital Gains". Since this amount has been credited to the statement of profit and loss, the same has to be deducted for computing business income].	15,00,000	21,25,000 1,10,83,000
	Less: Depreciation as per the Income-tax Rules Depreciation of fixed assets other than imported machine Depreciation on imported printing machine [₹ 1,03,75,000 (₹ 110 lakhs – ₹ 6,25,000) x 15% x 50%, since machinery is put to use for less than 180 days] Additional depreciation on imported printing machine [₹ 1,03,75,000 x 20% x 50%]	12,60,000 7,78,125 10,37,500 30,75,625	
			80,07,375
II	Capital Gains Long term capital gain on sale of plot of land As the sale is made to wholly owned subsidiary being a foreign company the transaction would not be tax-free. It would be regarded as 'transfer' and the capital gain is liable to tax. Actual sale consideration [₹ 32 lakhs + ₹ 15 lakhs] Valuation as per stamp valuation authority Full value of consideration (Since the stamp duty value exceeds 110%	47,00,000 60,00,000 60,00,000	

	of the actual sale consideration, the stamp duty value shall be taken to be the full value of consideration as per section 50C)		
	<i>Less: Cost of acquisition [No indexation benefits allowable if transfer takes place on or after 23.7.2024]</i>	32,00,000	
	Long term capital gain [Since plot of land is held for more than 24 months]	28,00,000	
III	Income from Other Sources		
	Acquisition of equity shares for inadequate consideration	4,12,500	
	[Since the difference between fair market value of shares i.e., ₹ 7,12,500 (7500 x 95) and consideration i.e., ₹ 3,00,000 (7500 x 40) exceeds ₹ 50,000, the difference would be taxable under section 56(2)(x)]		
	Gross Total Income	1,12,19,875	
	Less: Deduction under Chapter VI-A		
	Deduction under section 80JJAA [30% of additional employee cost of the employees having emoluments of not exceeding ₹ 25,000 employed for 150 days or more, in case of leather industry and participate in recognized provident fund is allowed as deduction. Accordingly, in the present case, 55 regular employees employed on 1.9.2024 would be considered for deduction]		
	[₹ 25,000 x 55 x 7 months] x 30%	28,87,500	
	Total Income	83,32,375	
	Total Income (rounded off)	83,32,380	

Question 2

(a) (i) M/s PR Associates is an Association of Persons (AOP) has two members namely Mr. P and Mr. R. Mr. P aged 46 years has 65% share and Mr. R aged 44 years has 35% share.

For the financial year 2024-25, the AOP has earned income of ₹ 11,80,000. Mr. P and Mr. R has also earned income other than income from AOP of ₹ 2,45,000/- and ₹ 2,97,000/- respectively.

Mr. P opted to pay tax under old tax regime and the AOP and its member Mr. R opted new tax regime u/s 115BAC. Compute tax liability of PR Associates and its member Mr. R for the A.Y. 2025-26. **(4 Marks)**

(ii) Mr. Shivansh purchased 11,000 equity shares of ₹ 10 each of M/s ABC Ltd. on 08.03.2007 at a premium of ₹ 40 per share. On 07.10.2024, the Company buy-backs 1,000 equity shares held by Shivansh at a price of ₹ 550 per share.

M/s ABC Ltd. distributed its assets to shareholders on its liquidation on 15.11.2024. Shivansh received ₹ 100 per share in cash and one plot of land in consideration of remaining 10,000 shares. The book value and fair market value of such land on 15.11.2024 was ₹ 45 lakhs and ₹ 60 lakhs respectively. On this date, M/s ABC Ltd. has equity share capital of ₹ 10,00,000 (1,00,000 equity shares of ₹ 10 each) and accumulated profits of ₹ 80,00,000.

Cost Inflation Index: 2024-25: 363, 2006-07: 122

Compute income chargeable in respect of following in the hands of Mr. Shivansh assuming he has not opted tax regime u/s 115BAC for the A.Y. 2025-26:

(1) On buyback of 1,000 equity shares; and
 (2) Capital Gains chargeable on liquidation. **(4 Marks)**

(b) M/s Bittu Inc. (a notified Foreign Institutional Investor "FII"), has furnished following details regarding its income for the financial year 2024-25:

Short Term Capital Gains:

Sale proceeds on sale of equity shares of Company 'A' : ₹ 16,90,000
 (Sold on 10.02.2025)

Cost of acquisition (Purchased on 08.09.2024) : ₹ 6,00,000

STT paid both at the time of purchase and sale

Sale proceeds on sale of equity shares of Company 'B' : ₹ 11,50,000
(Sold on 29.12.2024)

Cost of acquisition (Purchased on 24.05.2024) : ₹ 5,65,000
(STT not paid on shares of Company 'B')

Long Term Capital Gains:

Sale proceeds on sale of securities on 13.01.2025 : ₹ 55,00,000
Purchase cost of securities on 18.06.2015 : ₹ 29,00,000

Cost inflation index:

Financial year 2015-16: 254, 2024-25: 363

Income on securities:

Interest received from an Indian Company on investment in rupee denominated bonds : ₹ 18,50,000
(Issued on 25.06.2020)

Dividend income from Indian Companies : ₹ 2,25,000
Interest on other securities of Indian Companies : ₹ 8,00,000

Compute the total income and tax liability of M/s Bittu Inc. for the assessment year 2025-26. **(6 Marks)**

Answer

(a) (i) Since Mr. P and Mr. R's income, other than income from the AOP, does not exceed the basic exemption limit, the AOP would be taxed as per the default tax regime or old regime (as per normal provisions of the Act) applicable to an individual. In the present case, AOP is paying tax as per default tax regime. Its tax liability would be follows:

Computation of tax liability of PR associates, AOP, as per the default tax regime

Particulars	Amount (₹)
Tax on ₹ 11,80,000	
₹ 3,00,000 – ₹ 7,00,000 @5%	20,000

₹ 7,00,000 – ₹ 10,00,000 @10%	30,000
₹ 10,00,000 – ₹ 11,80,000 @15%	27,000
	77,000
<i>Add: HEC @4%</i>	3,080
Tax Liability	80,080

Computation of tax liability of Mr. R [As per Default Tax Regime]

Particulars	Mr. R
Share of profit from AOP (65:35)	4,13,000
Other income	2,97,000
Total Income (A)	7,10,000
Tax	21,000
<i>Add: HEC @4%</i>	840
Total Tax (B)	21,840
Average rate of tax [B/A x 100]	3.076%
Total Tax	21,840
<i>Less: Rebate under section 86 read with section 110 in respect of share of profit from AOP (share in AOP x Average rate of tax)</i>	12,704
Tax Liability	9,136
Tax Liability (Rounded off)	9,140

Note (Alternate Answer) – Section 87A provides a rebate in case where total income of a resident individual is chargeable to tax under section 115BAC does not exceed ₹ 7 lakhs. However, rebate is also provided if total income exceeds ₹ 7 lakhs and income-tax on such total income exceeds the amount by which the total income is in excess of ₹ 7 lakhs. Section 86 read with section 110 provides a deduction from the amount of income-tax chargeable to tax of an amount equal to the income-tax calculated at the average rate of income-tax on the amount on which no tax is payable. There is no clarity in the provisions as to which rebate is to be provided first. In the main solution, rebate under section 86 is provided first in which case rebate under section

87A would not be applicable as the tax liability of ₹ 9,140 of Mr. R does not exceed ₹ 10,000, being the difference between total income and ₹ 7 lakhs. However, an alternative is possible that rebate under section 87A is provided before rebate under section 86. In such case, tax liability of Mr. R would be as follows:

Computation of tax liability of Mr. R [As per Default Tax Regime]

	₹
Share of profit from AOP (65:35)	4,13,000
Other income	2,97,000
Total Income (A)	7,10,000
Tax	21,000
<i>Less: Rebate under section 87A</i>	11,000
	10,000
<i>Add: HEC @4%</i>	400
Total Tax (B)	10,400
Average rate of tax [B/A x 100]	1.465%
Total Tax	10,400
<i>Less: Rebate under section 86 read with section 110 in respect of share of profit from AOP (share in AOP x Average rate of tax)</i>	6,050
Tax Liability	4,350

(ii) Computation of income chargeable in the hands of Mr. Shivansh for A.Y. 2025-26

	Amount (₹)
(1) On buyback of 1,000 equity shares by M/s ABC Ltd.	
Capital Gains	
Full Value of consideration	Nil
<i>Less: Cost of Acquisition [1000 x ₹ 50]</i>	<i>50,000</i>
Long-term capital loss [can be set off against long term capital gain on liquidation of company]	50,000

Income from Other Sources		
Dividend [1,000 x ₹ 550]		5,50,000
The sum paid by M/s ABC Ltd., a domestic company for purchase of its own shares would be treated as dividend and taxable under the head "Income from Other Sources" in the hands of Mr. Shivansh. No deduction for expenses would be available against such dividend income		
(2) Capital gains chargeable on liquidation		
Capital Gains		
Full value of the consideration		62,00,000
Cash (10,000 shares x ₹ 100 per share)	10,00,000	
Market value of land on the date of distribution	60,00,000	
	70,00,000	
<i>Less: Deemed Dividend [₹ 8 lakhs (₹ 80 lakhs/1 lakhs x 10,000), being the share of Mr. Shivansh in accumulated profits of ₹ 80 lakhs would be deemed as dividend]</i>	8,00,000	
<i>Less: Cost of acquisition [10,000 x ₹ 50 (₹ 10+₹ 40)]</i>		5,00,000
Long-term capital gain		57,00,000

(b) Computation of total income of M/s Bittu Inc., a notified FII, for A.Y. 2025-26

Particulars	₹	₹
Capital Gains		
Short-term capital gains on sale of STT paid equity shares of Company "A"		
Sale consideration	16,90,000	
<i>Less: Cost of acquisition</i>	6,00,000	10,90,000

Short-term capital gains on sale on STT not paid equity shares of Company "B"		
Sale consideration	11,50,000	
Less: Cost of acquisition	5,65,000	5,85,000
Long-term capital gains on sale of securities		
Sale consideration	55,00,000	
Less: Cost of acquisition [Benefit of indexation is not allowable]	29,00,000	26,00,000
Income from Other Source		
Interest received from an Indian company on investment in rupee denominated bonds [18,50,000/79.20x100]	23,35,859	
Interest on other securities	8,00,000	
Dividend from Indian companies	2,25,000	33,60,859
Total Income		76,35,859
Total Income (Rounded off)		76,35,860

Computation of tax liability of M/s Bittu Inc. for A.Y.2025-26

	₹
Tax @ 20% on interest on securities, dividend and rupee denominated bonds = $20\% \times ₹ 33,60,859$	6,72,172
Tax @ 10% on long-term capital gains on sale of securities = $10\% \times ₹ 26,00,000$	2,60,000
Note – Alternatively, if it is assumed that the long-term capital gain on sale of securities ₹ 26,00,000 is covered by section 112A, the same will be eligible for exemption of ₹ 1,25,000 and the balance is liable to tax @12.5% (date of sale 13.01.2025). Accordingly, tax on long-term capital gains on sale of securities would be ₹ 3,09,375 (12.5% on ₹ 24,75,000).	
Tax @ 20% on short-term capital gains on sale of STT paid equity shares of Company "A" = 20% of ₹ 10,90,000	2,18,000

Tax @ 30% on short-term capital gains on sale of STT not paid equity shares of Company "B" = 30% of ₹ 5,85,000	1,75,500
	13,25,672
Add: Surcharge @ 10% [Since the total income exceeds ₹ 50 lakhs but does not exceed ₹ 1 crore] ³	1,32,567
	14,58,239
Add: HEC@4%	58,330
Tax liability	15,16,569
Tax liability (rounded off)	15,16,570

Question 3

(a) A public charitable trust engaged in "Relief of Poor" and registered under section 12AB, for the previous year ending 31.3.2025, derived gross income of ₹ 114.50 lacs, which consists of the following:

Particulars	Amount in ₹
Income from properties held by trust	1,10,00,000
Accrued Interest on FDR [FDR was made in financial year 2022-23 for investment under section 11(5) with regard to amount set apart in terms of Section 11(2)]	4,50,000

During the financial year, the trust applied a sum of ₹ 86 lacs towards charitable purposes, as per the objects of the trust, which includes:

- Electricity bill amounting to ₹ 80,000 paid on 18.04.2024 pertaining to March 2024. The trust follows the mercantile system of accounting.
- Amount of ₹ 4,72,000 (including GST of ₹ 72,000) paid to M/s. XYZ and Co, an event management company, for advertising and organising a fundraising programme at Delhi. The full amount of ₹ 4,72,000 was remitted to M/s. XYZ and Co through RTGS on 1.3.2025.
- ₹ 5,00,000 paid to M/s Parivartan, another charitable trust having same objects, by way of donation (other than corpus donation).

³ Surcharge would not be levied if it is assumed that M/s Bittu Inc. is a foreign company.

Additional information

The trust received a sum of ₹ 8 lacs as corpus donation for constructing a playground for poor children in F.Y. 2023-24. It spent ₹ 8 lacs in F.Y. 2024-25 for constructing the same.

You are required to compute the total income of the Charitable trust for the A.Y. 2025-26. **(8 Marks)**

(b) Mr. Kamal Sharma (Age 32 years) is the Marketing manager in M/s. Patio Systems Ltd. since 01.10.2021. His income for the Financial Year 2024-25 in India consists of

- (i) Salary (before standard deduction) of ₹ 23.50 lakhs;
- (ii) Interest on Housing loan in respect of property at Delhi (self-occupied by him) of ₹ 2,20,000;
- (iii) Dividend received from Indian companies ₹ 1,90,000/-.
- (iv) Interest on FDR, ₹ 24,000 received on FDR made by Mr. Kamal Sharma in the name of his wife. Mrs. Kamal Sharma, who does not have any other source income.

He has the following income for the year ended 31st March 2025 in Country 'K':

- (i) Income from business in Country K Euro 13,500;
- (ii) Rent from house property in Country K Euro 8,000;
- (iii) Municipal taxes in respect of the above house (Not allowed as deduction in Country K) = Euro 800;
- (iv) Short-term capital gain of Euro 6,000 on sale of shares of companies registered in Country 'K' and sale proceeds were credited in bank account in Country 'K' on 31.03.2025.

During F.Y. 2024-25, Mr. Kamal Sharma visited the country K for 30 days. He has never stayed there for more than a month in one financial year. India has not signed any DTAA with Country 'K'. The fiscal year for the purpose of income-tax is the same (both in India and Country 'K'). Rate of tax in Country 'K' is 25% in respect of all incomes.

Assume that Rate of 1 Euro ₹ 90 for all calculation purposes.

Compute the total income and net tax liability of Mr. Kamal Sharma for the A.Y. 2025-26 under the default tax regime. **(6 Marks)**

Answer

(a) Computation of total income of charitable trust for the A.Y.2025-26

Particulars	₹	₹
Income from properties held by trust	1,10,00,000	
<i>Add: Accrued interest on FDR</i>	4,50,000	
		1,14,50,000
<i>Less: 15% of income eligible for being set apart without any condition</i>		17,17,500
		97,32,500
<i>Less: Amount applied for charitable purposes</i>		
- Electricity bill of ₹ 80,000 pertaining to March 2024 [Treated as application as payment is made in P.Y. 2024-25]	80,000	
- Payment to event management company [₹ 1,20,000 (i.e. @ 30% of ₹ 4,00,000 being the amount excluding GST of ₹ 72,000) is not considered as application on account of non-deduction of TDS. Accordingly, ₹ 3,52,000 [₹ 4,72,000 – ₹ 1,20,000] would be allowed as application.	3,52,000	
- Donation to another charitable trust having same objects (other than corpus) [85% of amount contributed would be treated as application]	4,25,000	
- Other application [₹ 86 lakhs – ₹ 80,000 – ₹ 4,72,000 – ₹ 5,00,000]	75,48,000	

- Amount spent on construction of playground [Any application made from corpus donation, being exempt income shall not be treated as application of income]	Nil	
		84,05,000
Total Income of the trust		13,27,500

Note – (Alternative Presentation)

Computation of total income of charitable trust for the A.Y.2025-26

Particulars	₹	₹
Income from properties held by trust	1,10,00,000	
<i>Add: Accrued interest on FDR</i>	4,50,000	
		1,14,50,000
<i>Less: 15% of income eligible for being set apart without any condition</i>		17,17,500
		97,32,500
<i>Less: Amount applied for charitable purposes</i>	86,00,000	
<i>Less: Amount not considered as applied</i>		
- Electricity bill of ₹ 80,000 pertaining to March 2024 [Treated as application as payment is made in P.Y. 2024-25, hence no adjustment is required]	Nil	
- Payment to event management company [₹ 1,20,000 (i.e. @ 30% of ₹ 4,00,000, being the amount excluding GST of ₹ 72,000) is not considered as application on account of non-deduction of TDS]	1,20,000	

<ul style="list-style-type: none"> - Donation to another charitable trust having same objects (other than corpus) [85% of amount contributed would be treated as application and balance 15% is not considered as application (15% of ₹ 5,00,000).] <p>Amount applied for charitable purposes</p> <ul style="list-style-type: none"> - Amount spent on construction of playground [Any application made from corpus donation, being exempt income shall not be treated as application of income] 	75,000	
		84,05,000
		Nil

Total Income of the trust

13,27,500

(b) Computation of total income and net tax liability of Mr. Kamal Sharma for A.Y. 2025-26 as per the default tax regime under section 115BAC

	₹	₹
Income from Salary		
Gross Salary	23,50,000	
Less: Standard Deduction u/s 16(ia)	75,000	
		22,75,000
Income from House Property		
Self-occupied property in Delhi		
Interest on housing loan [Not allowable under default tax regime]		-
Let out property in Country K	Euro	
Rent from house property in Country K ⁴	8,000	

⁴ Rental Income has been taken as GAV in the absence of other information relating to fair rent, municipal value etc.

<i>Less: Municipal taxes paid in Country K</i>	800		
	7,200		
<i>Less: Deduction under section 24(a) @30%</i>	2,160		
	5,040		
Euro 5,040 x ₹ 90		4,53,600	
Profits and Gains of Business or Profession			
Income from business in Country K [Euro 13,500 x ₹ 90]		12,15,000	
Capital Gain			
Short-term capital gain on sale of shares of companies registered in County K [Euro 6,000 x 90]		5,40,000	
Income from Other Sources			
Dividend received from Indian companies	1,90,000		
Interest in FDR [To be included in the total income of Mr. Kamal since FDRs are made by Mr. Kamal]	24,000		
	2,14,000		
Gross Total Income/ Total Income		46,97,600	
Tax liability on ₹46,97,600			
Tax on total income [30% of ₹ 31,97,600 + ₹ 1,40,000]		10,99,280	
<i>Add: Health and Education cess @4%</i>		43,971	
	11,43,251		
<i>Less: Deduction u/s 91 (See Working Note below)</i>		5,37,573	
Net tax liability		6,05,678	
Net tax liability (Rounded off)		6,05,680	

<p>Working Note: Calculation of deduction under section 91</p> <p>Average Rate of tax in Country K is 25%</p> <p>Indian Average Rate of tax = ₹ 11,43,251/ ₹ 46,97,600 x 100 = 24.34%</p> <p>Doubly taxed income pertaining to Country K = Income from house property of ₹ 4,53,600 + Income from Business of ₹ 12,15,000 + Capital Gain of ₹ 5,40,000 = ₹ 22,08,600</p> <p>Deduction u/s 91 = Lower of average rate of tax in Country K and Indian rate of tax rate of tax x Doubly taxed income = [24.34% x ₹ 22,08,600]</p>	5,37,573
--	----------

Question 4

(a) Examine the obligation of Tax Deduction at source/Tax Collection at source in the following cases keeping in view the provisions of the Income-tax Act, applicable for Assessment Year 2025-26:

- Mr. A and Mrs. A jointly purchased a fully built-up and ready to move flat at Lucknow on 10.12.2024 from M/s XYZ Builders Limited for ₹ 86 Lacs. In addition, they have paid an amount of ₹ 4 Lacs for two car parking spaces to M/s XYZ Builders Limited. They also paid one time generator cost of ₹ 2,50,000 and swimming pool cost of ₹ 1,50,000 to the M/s XYZ Builders Limited. The stamp duty value of the property is ₹ 75 lacs. Mr. A and Mrs. A, each paid ₹ 47 lacs to the Builder for effecting the sale deed on 10.12.2024. **(3 Marks)**
- Gross Salary received by Mr. Pankaj, aged 42 years during the F.Y. 2024-25 from M/s PPN Limited is ₹ 37,50,000. House property loss declared by him for the financial year (along-with documentary evidence) is ₹ 2,00,000 in respect of his self-occupied property. ₹ 60,000 is interest accrued on FDR with State Bank of India for F.Y. 2024-25 in respect of which TDS was deducted at applicable rate by the Bank. Mr. Pankaj purchased a Motor car of ₹ 32,00,000 on 01.12.2024 for personal purposes, TCS was separately charged on the purchase price of Motor Car at applicable rate. He has no other income.

Mr. Pankaj has submitted relevant information to his employer M/s PPN Limited in prescribed form with supporting evidences.

He also intimated his employer his intention to exercise the option to choose default tax regime for the financial year. **(3 Marks)**

(iii) An Urban Cooperative Bank (engaged in the business of banking) made an FDR of ₹ 100 crores with Union Bank of India (UBI) at 2.5% p.a. interest as per RBI guidelines for maintaining capital adequacy ratio. The said Cooperative Bank is also maintaining a current account with UBI from which, it withdrew ₹ 4 crores in cash during the financial year 2024-25. The Cooperative Bank is filing its returns of income without any default. **(2 Marks)**

(b) Beta Ltd. is an Indian Company in which Robert Inc. (a company incorporated in Country E), holds 30% shareholding and voting power during the financial year 2024-25.

During the financial year 2024-25, the Beta Ltd. supplied 700 pieces of computers to Robert Inc. @ USD 1100 per piece. The price of computer supplied to other un-related parties in Country E is @USD 1400 per piece. The Transfer Pricing Officer while determining of arm's length price of 700 pieces of computers sold to Robert Inc. adopted the price charged for computer supplied to un-related parties as Internal uncontrolled comparable transaction and proposed adjustment to total income.

Considering above facts, you are required to answer the following questions:

- (i) Would Beta Ltd. and Robert Inc. be treated as associate enterprises for the purpose of transfer pricing? If yes, why?
- (ii) What are the options available to Beta Ltd., if it accepts enhancement to total income made on account of determination of Arm's length price by the Transfer Pricing Officer? **(6 Marks)**

Answer

(a) (i) As per section 194-IA, consideration for transfer of any immovable property include all charges in the nature of, *inter alia*, parking charges, generator cost and swimming pool cost.

In case of more than one transferee, consideration shall be aggregate of amount paid by all the transferees for transfer of such property.

In the present case, since aggregate value of consideration of both transferees i.e., of Mr. A and Mrs. A not less than ₹ 50 lakhs, tax is required to be deducted at source under section 194-IA @1% on ₹ 94 lakhs or 1% on ₹ 47 lakhs by Mr. A and 1% on ₹ 47 lakhs by Mrs. A since consideration of ₹ 94 lakhs is higher than stamp duty value of ₹ 75 lakhs on purchase of flat from M/s XYZ Builders Ltd.

(ii) M/s PPN Limited, being an employer has to deduct tax at source under section 192 from the salary of Mr. Pankaj at the time of payment by applying the average rate of income-tax computed at the rates provided in section 115BAC(1A), where an employee does not exercise an option to shift out of this tax regime. While computing the tax, the employer PPN Ltd. has to consider any other income chargeable to tax and any tax deducted at source and tax collected at source of Mr. Pankaj.

Computation of tax liability of Mr. Pankaj under default tax regime

Particulars	₹
Gross Salary	37,50,000
Less: Standard deduction under section 16(ia)	75,000
	36,75,000
Interest in respect of self-occupied property [Not allowed under default tax regime]	Nil
	36,75,000
Interest on FDR	60,000
Total Income	37,35,000
Tax on ₹ 37,35,000 at slab rate [30% of ₹ 22,35,000 + ₹ 1,40,000]	8,10,500
Add: HEC@4%	32,420
Tax liability	8,42,920
Less: TDS under section 194A @10% on interest on FDR of ₹ 60,000	6,000
TCS under section 206C(1F) @1% on motor car of ₹ 32 lakhs	32,000
Tax liability	8,04,920
M/s PPN Limited has to deduct tax of ₹ 8,04,920.	

(iii) No deduction of tax under section 194A is to be made on interest income credited or paid to co-operative society engaged in banking business.

Accordingly, Union Bank of India (UBI) is not required to deduct tax at source under section 194A on interest on FDR to Urban Co-operative Bank.

Liability to deduct tax at source under section 194N shall not be applicable on payment made to co-operative society engaged in banking business. Accordingly, Union Bank of India (UBI) is also not required to deduct tax at source on cash withdrawal by Urban co-operative bank.

(b) (i) Beta Ltd., an Indian company and Robert Inc., a company incorporated in Country E are deemed to be associated enterprise as per section 92A(2), since Robert Inc. holds more than 26% of voting power i.e., 30% in Beta Ltd.

(ii) If Beta Ltd. accepts the enhancement to total income made on account of determination of Arm's length price by the TPO, it has to make a secondary adjustment under section 92CE if the primary adjustment exceeds ₹ 1 crore.

In the present case, the primary adjustment would be USD 2,10,000 (700 pieces of computers x USD 300 (USD 1400 – USD 1100) which exceeds ₹ 1 crore.

Accordingly, the excess money i.e., USD 2,10,000 available with Robert Inc. has to be repatriated to India within 90 days of the date of the order of the Assessing Officer.

In case of non-repatriation, USD 2,10,000 would be deemed as an advance made by the Beta Ltd. to its associated enterprise, Robert Inc.

Interest would be calculated on such advance at the rate of six-month LIBOR as on 30th September of the relevant previous year + 3%, since the international transaction is denominated in foreign currency.

Alternatively, Beta Ltd. can opt to pay additional income-tax @ 20.9664% (tax @18% plus surcharge @12% plus cess@4%).

In such case, Beta Ltd. will not be required to make the secondary adjustment and compute interest up to the payment of tax from such date.

Question 5

(a) Answer any **two** out of the following three sub-parts, viz. (i), (ii), (iii).

Your answer should cover:

- *Issue involved*
- *Provision applicable*
- *Analysis and Conclusion*

(i) *In case of an assessee, the Assessing Officer passed an order u/s 143(3) on 15/12/2022. CIT passed the order u/s 263 on 26.03.2025 holding that the said assessment order passed u/s 143(3) was erroneous and prejudicial to the interests of the revenue. CIT set aside the assessment order and directed the AO to make fresh assessment after conducting necessary enquiries. The order passed u/s 263 was dispatched to assessee on 28.03.2025. The AO issued notice u/s 142(1) to the assessee on 06.05.2025 for making fresh assessment.*

The assessee contended that it had come to know about the revision order only when he received notice u/s 142(1) dated 06.05.2025. The copy of the order passed by CIT u/s 263 was supplied to him on 29.05.2025 on the request made to the Assessing Officer by him after receipt of notice u/s 142(1). Hence, the revision order is beyond the period of limitation u/s 263(2). **(4 Marks)**

(ii) *M/s. Rama Ltd. filed its return of income claiming deduction for bad debts. The return was processed u/s 143(1)(a) of Income-tax Act, 1961. Thereafter, the Assessing Officer noticed that the assessee had wrongly claimed amounts of bad debts, he issued a notice u/s 154 after expiry of the time limit prescribed u/s 154(7). During the pendency of the proceedings initiated by notice u/s 154, the Assessing Officer issued a notice u/s 148A(1) of the Act. It is contention of M/s. Rama Ltd that the notice issued u/s 148A(1) is illegal.* **(4 Marks)**

(iii) *AZ Foundation, trust registered u/s 12AB, runs an educational institution. The trust is paying rent of ₹ 30 lakhs per annum for the building occupied by it but the trust has not deducted TDS on such rent*

under the relevant provisions of the Income-tax Act. The ITO TDS has issued a notice to show cause as to why, the trust should not be treated an assessee in default for the tax deductible and the interest should not be imposed for such default. The income of the trust is being exempt, whether ITO TDS was justified in issuing the said show cause notice?

(4 Marks)

(b) *What is the need of applying principles of interpretation of law for interpreting a tax-treaty (DTAA), briefly describe the objective behind such interpretation?* **(3 Marks)**

(c) *Briefly describe Indicators of BEPS activity recommended under action plan 11 of Base Erosion and Profit Shifting (BEPS).* **(3 Marks)**

Answer

(a) (i) Issue Involved: The issue under consideration is whether the revision order which is passed within 2 years from the end of the financial year in which order sought to be revised was passed but received by the assessee thereafter, is considered as beyond the period of limitation prescribed under section 263(2).

Provision applicable: As per section 263(2), no revision order shall be made after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.

Analysis: Sub-section (2) of section 263 mandates that no revision order shall be "made" after the expiry of two years from the end of the financial year in which the order sought to be revised was passed. The word used is "made" and not the order "received" by the assessee. Even the word "dispatch" is not mentioned in section 263(2). The provisions of the statute are to be read as they are and nothing is to be added or taken away from the provisions of the statute. Therefore, once it is established that the order under section 263 was made or passed within the period of two years from the end of the financial year in which the order sought to be revised was passed, such an order cannot be said to be beyond the period of limitation prescribed under section 263(2).

Conclusion: In the present case, revision order under section 263 was passed on 26.3.2025 before the expiry of two years i.e., 31.3.2025

from the end of the F.Y. 2022-23 in which assessment order u/s 143(3) was passed. Thus, the revision order is within the period of limitation prescribed under section 263(2).

Note – *The facts given in the question are similar to the facts in CIT v. Mohammed Meeran Shahul Hameed (2021) 438 ITR 288 (SC). The above answer is based on the rationale of the Apex Court ruling in the said case.*

(ii) Issue Involved: The issue under consideration is whether notice issued under section 148A during the pendency of the rectification proceedings initiated under section 154 is valid on the ground that the notice under section 154 was issued after the expiry of the time limit prescribed under section 154(7).

Provision applicable: As per section 154(7), no amendment under section 154 shall be made after the expiry of four years from the end of the financial year in which the order sought to be amended was passed.

Analysis: In the absence of any specific order of withdrawal of the proceedings under section 154 on the ground that the same was beyond the period of limitation prescribed under section 154(7), the proceedings initiated under section 154 can be said to have been pending. During the pendency of the proceedings under section 154, it was not permissible on the part of the revenue to initiate the proceedings under section 148A.

Conclusion: In the present case, notice under section 148A was issued during the pendency of the proceedings under section 154. Thus, notice issued under section 148A is illegal.

Note – *The facts given in the question are similar to the facts in S.M. Overseas (P) Ltd. v. CIT (2023) 450 ITR 1/14 SCC 111 (SC). The above answer is based on the rationale of the Apex Court ruling in the said case. The said ruling is in respect of erstwhile section 148, however, the same can be applied in the case on hand.*

(iii) Issue Involved: The issue under consideration is whether a trust, being exempt can be treated as assessee in default for not deducting tax at source and levy of interest for such default.

Provision applicable: As per section 201, where any person who is required to deduct any sum, does not deduct or does not pay or after deducting fails to pay, then such person shall be deemed to be an assessee in default in respect of such tax unless the payee has paid such tax on such income at the time of furnishing return of income under section 139.

Analysis: Section 194-I does not provide any exemption to a trust registered under section 12AB, paying rent of an amount exceeding the threshold limit, from deducting tax at source. If a trust registered under section 12AB is liable to deduct tax at source and has not deducted such tax, it shall be deemed to be assessee in default by virtue of section 201 and would be liable to pay interest.

Conclusion: In the present case, since AZ Foundation trust has not deducted tax at source on the rent payment of ₹ 30 lakhs, it shall be deemed to be assessee in default and the ITO TDS was justified in issuing the show cause notice to AZ Foundation.

(b) The interpretation of DTAAs require a different approach than the interpretation of domestic tax laws as the latter is based on interpretative principles set out by the national courts, whereas the DTAAs are an international agreement between the government of two countries. The treaties are interpreted in light of the customary principles set out under the Vienna Convention of the Law of treaties (VCLT).

VCLT is a multilateral treaty signed and ratified by several countries, which codifies the customary international law for interpretation of tax treaties.

Principles or rules of interpretation of a tax treaty would be relevant only where terms or words used in treaties are ambiguous, vague or are such that different meanings are possible.

If words are clear or unambiguous, then there is no need to resort to different rules for interpretation.

(c) Under Action Plan 11, there are six indicators of BEPS activity which are described below:

(1) The profit rates of MNE affiliates located in lower-tax countries are higher than their group's average worldwide profit rate.

- (2) The effective tax rates paid by large MNE entities are estimated to be lower than similar enterprises with only domestic operations.
- (3) Foreign direct investment (FDI) is increasingly concentrated.
- (4) The separation of taxable profits from the location of the value creating activity is particularly clear with respect to intangible assets, and the phenomenon has grown rapidly.
- (5) Royalties received by entities located in these low-tax countries accounted for 3% of total royalties.
- (6) Debt from both related and third-parties is more concentrated in MNE affiliates in higher statutory tax-rate countries.

Question 6

(a) *ABC Ltd., an Indian company engaged in producing electrical equipment, during the financial year 2024-25, paid interest of ₹ 95 lakhs to James Inc. (a non-resident associated enterprise) on loan borrowed from it. On 01-04-2024, ABC Ltd. also borrowed ₹ 5 crores from Jorge Plc. at the interest rate of 10% per annum. Jorge Plc. is a foreign company in which ABC Ltd. holds 20% voting power. James Inc. deposited ₹ 2 crores with Jorge Plc. According to ABC Ltd, since the interest paid to non-resident associated enterprise does not exceed ₹ 1 crore in the F.Y. 2024-25, the provisions of section 94B are not applicable in its case. As per the opinion of the tax auditor, the interest of ₹ 20 lakhs (i.e., 10% of ₹ 2 crore) also has to be considered for the purpose of section 94B. ABC Ltd. contended that James Inc. has not deposited a corresponding and matching amount of ₹ 5 crores with Jorge Plc. and hence, the provisions of section 94B will not be attracted in this case. Examine the reporting requirement, if any, of the tax auditor in this case. (6 Marks)*

(b) *State with reasons whether the following acts can be considered as Tax Planning or Tax Compliance or Tax Evasion:*

- (i) *One credit note was issued by SK Ltd. of ₹ 75,000 as commission payable to Mr. Kapil, although Mr. Kapil has not rendered any service to SK Ltd. Mr. Kapil is the son of the managing director of SK Ltd. The objective behind the issue of credit note is to increase the total income of Mr. Kapil from ₹ 6,25,000 to ₹ 7,00,000 and correspondingly reduce*

the total income of SK Ltd. Mr. Kapil opted to pay tax under section 115BAC.

(ii) *M/s Durga Associates, a partnership firm, obtained declaration in Form No. 15G/15H from its lenders/depositors (wherever applicable) and submitted the same to prescribed income-tax authorities. (4 Marks)*

(c) *M/s Rio Inc., a non-resident company entered into contract with an Indian company M/s ABC Ltd. for installation of plant and machineries. The amount of contract is ₹ 125 crores. M/s Rio Inc. made an application to the Board for Advance Rulings for determination of rate of withholding tax on receipts from M/s. ABC Ltd. As a tax consultant, you are required to answer following questions:*

(i) *Can M/s Rio Inc. withdraw such application made to the Board for Advance Rulings?*

(ii) *What is the time line within which Board for Advance Rulings is required to pronounce its advance ruling? (4 Marks)*

Answer

(a) Section 94B provides that where the debt is issued by a lender which is not associated but an associated enterprise either provides an implicit or explicit guarantee to such lender or deposits a corresponding and matching amount of funds with the lender, such debt shall be deemed to have been issued by an associated enterprise.

In this case, the debt issued by Jorge Plc. is ₹ 5 crores and the deposit made by the associated enterprise; James Inc. with Jorge Plc. is ₹ 2 crores. Since the deposit is not of a matching amount, ABC Ltd. contends that provisions of section 94B will not be attracted in respect of interest payable by it to Jorge Plc. The tax auditor is of the opinion that interest on ₹ 2 crores amounting to ₹ 20 lakhs will have to be considered for the purpose of section 94B.

Accordingly, the interest payable/paid by ABC Ltd. to non-resident associated enterprises during the year would be ₹ 115 lakhs and hence, the provisions of section 94B would be attracted, since the same exceeds the threshold of ₹ 1 crore. This appears to be the legislative intent, since

otherwise it is possible to escape the application of this provision even by depositing a marginally lower amount than the loan taken.

Clause 30B(a) of Form 3CD requires the tax auditor to state whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature exceeding ₹ 1 crore as referred to in section 94B(1).

As per the Guidance Note on Tax Audit, the tax auditor may have a difference of opinion with regard to the particulars furnished by the assessee. These differences are to be reported in para 3 of Form No. 3CA or para 5 of Form 3CB.

If there is any difference in the opinion of the tax auditor and that of the assessee in respect of any information furnished in Form No. 3CD by the assessee, the tax auditor may consider stating both the viewpoints and also the relevant information related to matter in order to enable the tax authority to take a decision in the matter.

Therefore, the tax auditor has to report the difference of opinion appropriately as an observation in para 3 of Form No. 3CA or para 5 of Form No. 3CB as the case may be.

Accordingly, in this case, the tax auditor may state both the viewpoints in Clause 30B as well as report the difference of opinion appropriately as an observation in Form 3CA to enable the tax authority to take a decision in the matter.

(b) (i) Tax Evasion: Issuance of a credit note for ₹ 75,000 by SK Ltd. as commission payable to Mr. Kapil, the son of the Managing Director, to increase his total income from ₹ 6.25 lakh to ₹ 7.00 lakh and to correspondingly reduce the company's total income is a method of reducing the tax liability of the company by recording a fictitious transaction.

The company is liable to tax at a flat rate of 30% / 25% / 22%, as the case may be, whereas Mr. Kapil would not be liable to pay any tax as per the default tax regime under section 115BAC, since his total income does not exceed ₹ 7,00,000, consequent to which he would be eligible for tax rebate of entire tax under section 87A. Reducing tax

liability by recording a fictitious transaction would tantamount to tax evasion.

(ii) Tax Compliance: Obtaining declaration from lenders/depositors in Form No. 15G/15H by M/s Durga Associates, a partnership firm and forwarding the same to Income-tax authorities is in the nature of compliance with statutory obligation under the Income-tax Act, 1961.

(c) (i) As per section 245Q(3), M/s Rio Inc. can withdraw an application made to the Board for Advance Rulings within 30 days from the date of application.

(ii) The Board has to pronounce the advance ruling within 6 months from the receipt of application by the Board.