

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

M/s. ABC Limited is an Indian company which has made investment in shares of Indian and foreign companies. During the financial year 2024-25, ABC Limited received dividends from different companies as follows:

Name of the company	Status of the company	Shareholding held by ABC Limited	Date of declaration of dividend by the company	Gross amount of dividend in ₹	Interest Expenditure on loan borrowed for investment in shares by ABC Limited
P Ltd	Indian Company	12%	01.07.2024	3,00,000	66,000
Q Ltd	Indian Company	21%	01.11.2024	5,00,000	80,000
X Inc.	Foreign company	15%	10.02.2025	4,80,000	1,20,000

ABC Limited distributed dividend to its shareholders amounting to ₹ 2,50,000 for the financial year 2023-24 in December 2024 and dividend of ₹ 4,50,000 for the financial year 2024-25 in March 2025. Assume that all the amounts of dividends on investment in shares by ABC Limited have been received before 31st March 2025.

A search was made under section 132 of the Income-tax Act, 1961 on M/s. ABC Limited. The search was initiated on 26.02.2025 and concluded on 06.03.2025 when the last of authorizations executed.

M/s. ABC Limited received a notice under section 143(2) for A.Y. 2023-24, the assessment proceedings for which in the faceless manner was ongoing at the time of search. A notice under section 148 was also issued for A.Y. 2020-21 to the company as per the provisions of the Act, the proceedings for which were also pending on the date of search.

The company has made an appeal before the Commissioner of Income-tax (Appeals) for the A.Y. 2015-16 for a matter relating to a business deduction, which was dismissed by the CIT (Appeals) on 20.12.2024 and order u/s 250 was communicated on the same date to the company. The company decided to go for further appeal on this matter in the ITAT.

Please answer the following questions no. 1 to 5 with regard to above facts and Income-tax Act, 1961.

1. What is the amount of dividend to be included under the head "Income from Other sources" for the A.Y. 2025-26 for ABC Limited?
(A) ₹ 10,44,000
(B) ₹ 10,14,000
(C) ₹ 10,24,000
(D) ₹ 5,74,000 **(2 Marks)**
2. What will be the amount of deduction allowable to M/s. ABC Limited under section 80M for dividend income for A.Y. 2025-26, assuming that the company has opted special tax regime u/s 115BAA?
(A) ₹ 4,50,000
(B) ₹ 7,00,000
(C) ₹ 2,50,000
(D) NIL **(2 Marks)**
3. What would be considered as the "Block period" as per special provisions for Assessment of search cases under section 158B to 158BI in case of M/s. ABC Limited?
(A) Assessment years relevant to previous years 2018-19 to 2023-24 and the period from 1st April, 2024 to 06.03.2025.
(B) Assessment years relevant to previous years 2018-19 to 2023-24-and the period from 1st April, 2024 to 25.02.2025.

(C) Assessment years relevant to previous years 2018-19 to 2023-24 and the period from 1st April, 2024 to 26.02.2025.

(D) Assessment years relevant to previous years 2018-19 to 2024-25.

(2 Marks)

4. As per information provided relating to ABC Limited, Choose the correct option on the basis of the above facts:

(A) The assessment proceedings for A.Y. 2023-24 shall be deemed to have abated but assessment proceedings under section 148 shall continue.

(B) The assessment proceedings for both A.Y. 2020-21 and A.Y. 2023-24 shall abate on the date of initiation of search under section 132.

(C) The assessment proceedings for A.Y. 2020-21 shall abate but the Assessment proceedings for A.Y. 2023-24 will continue.

(D) The assessment proceedings for both A.Y. 2020-21 and A.Y. 2023-24 shall continue and these two periods will be excluded from assessment of block period.

(2 Marks)

5. What would be the prescribed time limit for filing appeal before ITAT as per the time limit given in section 253(3) of the Act on the matter relating to A.Y. 2015-16 for the company. (Ignore condonation of delay allowable by ITAT)?

(A) On or before 18.02.2025

(B) On or before 28.02.2025

(C) On or before 19.01.2025

(D) On or before 31.01.2025

(2 Marks)

Integrated Case Study - II

Mr. Ramakant Gupta, a practicing Chartered Accountant in Delhi, is engaged in Taxation planning and consultancy for his clients. His client GBR Inc., a country M based foreign company, is carrying on the business of manufacture and sale of artificial jewellery under the brand name "Kangan". For expansion in Indian market, it used the online advertisement services of M/s. Lima Inc., a country Z based foreign company. During the previous year 2024-25, GBR Inc. paid ₹ 7 lakhs to Lima Inc. for such services. GBR Inc. has a permanent establishment in India but Lima Inc. has no permanent establishment in India.

Mr. Ramakant Gupta is a member of Kikli Foundation, an education institution and a registered trust under section 12AB of the Income-tax Act, 1961. The trust has made payment to an advocate of ₹ 5,90,000 (including GST of ₹ 90,000) for providing services relating to a pending case of the Trust at High Court on 20.12.2024.

The trust is following mercantile system of accounting. In May 2024, the trust paid salary payable for March 2024 amounting to ₹ 15,00,000 and Electricity Bill payable for the months of February and March 2024 amounting to ₹ 3,60,000.

Mr. Ramakant Gupta sold 1000 Mitcoins, a virtual digital asset to Mr. Priyal on 20.11.2024 for a consideration of ₹ 340 per Mitcoin. Mr. Priyal is employed in ABC Limited at monthly salary of ₹ 1,20,000 per month during F.Y. 2024-25. Mr. Priyal has no other source of income.

Please answer the following questions 6 to 9 with regard to above facts and Income-tax Act, 1961.

6. Whether GBR Inc. is required to charge and deduct Equalisation Levy on the amount of ₹ 7 lakhs paid to Lima Inc.?
 - (A) Yes, GBR Inc. is required to charge and deduct Equalisation Levy on the amount of ₹ 7 lakhs paid to Lima Inc., since GBR Inc. is having PE in India.
 - (B) No, GBR Inc. is not required to charge and deduct Equalisation Levy on the amount of ₹ 7 lakhs paid to Lima Inc., since GBR Inc. is a foreign company.
 - (C) No, GBR Inc. is not required to charge and deduct Equalisation Levy on the amount of ₹ 7 lakhs paid to Lima Inc., since Equalisation Levy is not applicable when the amount of payment is less than ₹ 10 lakhs during the previous year.
 - (D) No, GBR Inc. is not required to charge and deduct Equalisation Levy on the amount of ₹ 7 lakhs paid to Lima Inc., since Equalisation Levy is not applicable on or after August 1, 2024 on such payments. **(2 Marks)**
7. Identify the correct statement in respect of payment made by the trust to an advocate for High court case.
 - (A) Kikli Foundation, the trust need not to deduct any TDS from payment made to advocate, being a registered trust u/s 12AB.

(B) *Kikli Foundation, the trust needs to deduct an amount of TDS of ₹ 50,000 as per section 194J of the Act from payment made to advocate, and deposit it before due date of filing Income Tax Return u/s 139(1) to avail the sum paid as application of income for F.Y. 2024-25.*

(C) *Kikli Foundation, the trust need to deduct an amount of TDS of ₹ 59,000 as per section 194J of the Act from payment made to advocate, and deposit it before due date of filing Income Tax Return u/s 139(1) to avail the sum paid as application of income for F.Y. 2024-25.*

(D) *Kikli Foundation, the trust need to deduct an amount of TDS of ₹ 50,000 as per section 194J of the Act from payment made to advocate, and deposit it before the end of Assessment year 2025-26 to avail the sum paid as application of income for Previous year 2024-25.* **(2 Marks)**

8. *In respect of salary paid of ₹ 15,00,000 and Electricity bill paid of ₹ 3,60,000 by the trust, Identify the correct statement:*

(A) *Salary amounting to ₹ 15,00,000 will be treated as application of income for the trust for the P.Y. 2023-24 and Electricity bill amounting to ₹ 3,60,000 will be treated as application of income for the trust for the P.Y. 2024-25 as per Act.*

(B) *Both Salary and Electricity bill amounting to ₹ 18,60,000 will be treated as application of income for the trust for the P.Y. 2023-24 in which sum is actually incurred since the trust is following mercantile system of accounting.*

(C) *Salary amounting to ₹ 15,00,000 will be treated as application of income for the trust for the P.Y. 2024-25 and Electricity bill amounting to ₹ 3,60,000 will be treated as application of income for the trust for the P.Y. 2023-24 as per Act.*

(D) *Both Salary and Electricity bill amounting to ₹ 18,60,000 will be treated as application of income for the trust for the P.Y. 2024-25 in which sum is actually paid.* **(2 Marks)**

9. *In respect of Virtual Digital Assets (VDA) sold by Mr. Gupta to Mr. Priyal, Whether Mr. Priyal is required to deduct TDS in respect of consideration payable for VDA?*

(A) Yes, Mr. Priyal needs to deduct TDS u/s 194S @1% of consideration of VDA of ₹3,40,000, since the consideration payable exceeds ₹50,000.

(B) No, Mr. Priyal need not to deduct TDS u/s 194S, being a salaried person during F.Y. 2024-25

(C) No, Mr. Priyal need not to deduct TDS u/s 194S, being a specified person as per provisions of the section 194S and the consideration payable is less than ₹5,00,000.

(D) No, TDS provisions u/s 194S are not applicable when transaction takes place between two individuals directly and having no involvement of any Exchange. **(2 Marks)**

Integrated Case Study - III

Relish Pvt. Ltd. ("R") is an Indian company. Solar Inc ("S") is a company incorporated in U.S.A. and its income is not chargeable to tax in India. Both are promoted by Mr. Pawan who holds 51% equity share capital and voting power in both Rand S. The balance sheet of R as on 31st March, 2025 is as follows:

Liabilities	Amount (₹ million)	Assets	Amount (₹ million)
Paid up capital and reserves	160	Fixed Assets	370
Loans:		Current Assets	210
From S 302		Cash and bank balance	20
From others 98	400		
Current liabilities	40		
Total	600	Total	600

Additional information:

The loan was advanced by S to R on 1st July, 2024 in rupee terms and carries 7% p.a. rate of interest. For borrowers with similar risk profile, S advances loan at 6% p.a. interest rate.

R does not make any adjustment to its total income of ₹15 crores on account of application of provisions of Chapter X of the Income-tax Act, 1961 in its return of income for A.Y. 2025-26.

From the information given above, choose the most appropriate answer to the following questions No. 10 to 12 -

10. Identify whether R and S are associated enterprises as per provisions relating to Transfer Pricing under Income-tax Act, 1961? If so, why?

(A) Yes, R and S are associated enterprises as not less than 75% of R's total loans have been availed from S.
 (B) Yes, R and S are associated enterprises since the loan advanced by S to R is more than 50% of the book value of R's total assets.
 (C) Yes, R and S are associated enterprises because Mr. Pawan holds voting power of 51% in both the companies.
 (D) No, R and S are not associated enterprises. **(2 Marks)**

11. What is the amount of primary adjustment required to be made to the total income of R for A.Y.2025-26 assuming that "R" and "S" are associated enterprises?

(A) ₹30,20,000
 (B) NIL
 (C) ₹25,16,667
 (D) ₹22,65,000 **(2 Marks)**

12. In case the excess money arises due to Primary adjustments and it has not been repatriated within the prescribed time limit given in Rule 10CB(1) and R chooses to pay additional income tax on such excess money, what would be the amount of additional tax payable by R? (Ignore Interest)

(A) ₹4,24,008
 (B) ₹5,27,654
 (C) NIL
 (D) ₹4,74,889 **(2 Marks)**

Independent MCQs

13. ABC Bank Limited, a private bank in India has not filed its statement of financial transaction or reportable account in relation to the specified financial transaction for the financial year 2023-24 as required under section 285BA. A notice was issued by the prescribed income-tax authority

on 1st September, 2024 requiring the bank to furnish the statement by 30th September, 2024. The bank, however, furnished the statement on 10th October, 2024. Calculate the penalty leviable on bank under the provision of section 271FA of the Income-tax Act 1961, assuming that bank fails to provide any sufficient cause for delay.

- (A) ₹5,000
- (B) ₹71,000
- (C) ₹61,000
- (D) ₹10,000

(2 Marks)

14. M/s. Optima Corporation is an Investment fund, regulated by SEBI (Alternative Investment Fund) Regulations, 2012, made under the SEBI Act, 1992. The following are the particulars of income of Optima Corporation for F.Y. 2024-25:

Particulars	Amount in ₹
Business Income	4,00,000
Capital Gains	28,00,000
Income from other sources	8,00,000

Assume that Optima Corporation has 8 unitholders each having one unit held by them for a period exceeding 24 months, and income from investment in the fund is the only income of the unitholder.

What would be the total income of the investment fund and each unit holder for A.Y. 2025-26?

- (A) Total Income of Investment Fund will be ₹4,00,000 and Total income of each unitholder will be ₹4,50,000.
- (B) Total Income of Investment Fund will be ₹12,00,000 and Total income of each unitholder will be ₹3,50,000.
- (C) Total Income of Investment Fund will be ₹40,00,000 and Total income of each unitholder will be NIL.
- (D) Total Income of Investment Fund will be NIL and Total income of each unitholder will be ₹5,00,000.

(2 Marks)

15. Mr. B acquired 1000 Equity shares of PQR Limited for ₹ 400 each in May 2020. The company buyback 200 Equity shares of Mr. B, as per the

scheme of buyback, in January 2025 at a price of ₹ 550 per share. The buyback was completed in January 2025 and Mr. B received the payment as per scheme. He did not sell any other capital asset during F.Y. 2024-25. What amount will be included in the Gross Total Income of Mr. B and what will be the amount of loss to be carried forward (if any) for A.Y. 2025-26 as per the Income-tax Act, 1961?

- (A) Long Term Capital Gain of ₹ 30,000 will be included under the head "Capital Gains" only. No loss to be carried forward.
- (B) Dividend of ₹ 30,000 will be included under the head "Income from other sources" and a long-term capital loss of ₹ 80,000 will be carried forward.
- (C) Dividend of ₹ 1,10,000 will be included under the head "Income from other sources" and a long-term capital loss of ₹ 80,000 will be carried forward.
- (D) The company will pay additional tax of 23.296% of ₹ 25,625 for buyback made from Mr. B and the amount of ₹ 1,10,000 will not be taxable in the hands of Mr. B.

(2 Marks)

ANSWER KEYS

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

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

Krisha, Kinara and Komal were three partners in a partnership firm, KKK Enterprises. The firm carried on the business of running banquet halls for marriages and other parties or events purposes from the date of its formation i.e. 20.12.2015 till 31.03.2020. The partners converted the firm into a company from 01.04.2020 by the name KKK Private Ltd. and transferred the entire business to the company. All the partners of the firm became the shareholders of the company in the same proportion as per their capital balance stood in the books of the firm. No other consideration was paid to the partners.

The company earned a net profit of ₹ 1,19,25,000 after debiting/ crediting the following items in its Statement of Profit and Loss for the year ended 31.03.2025:

(i) *During the Financial year 2024-25, a sum of ₹ 1,17,000 was paid to a resident transport operator, Mr. Milan, for transporting necessary goods to the banquet halls. The payments were made in cash as follows:*

Date	Amount in ₹
4 th May, 2024	26,000
23 rd July, 2024	37,000
14 th September, 2024	22,000
16 th February, 2025	32,000

The company did not deduct tax at source from such payment as Mr. Milan submitted a certificate under section 197(1) issued to him by the Assessing Officer for no deduction of tax at source.

(ii) *Depreciation as per books - ₹ 13,56,000*

(iii) Out of the debtors that were transferred to the company, one debtor, M/s. M Travels LLP, from whom ₹ 6 lakhs were due since F.Y. 2019-20, went bankrupt on 01.12.2024 and nothing could be recovered from them. The company debited the amount of ₹ 6 lakhs in the Statement of Profit and Loss.

(iv) Dividend received from listed companies - ₹ 5,40,000.

Additional Information:

(i) The company invested in shares of listed companies through a stock broker. During the F.Y. 2024-25, the company paid ₹ 1,25,000 to its resident stock broker as commission for the purchase of shares. No shares were sold during the year. No TDS was deducted on such payment.

(ii) Depreciation as per Income-tax Rules, 1962 - ₹ 15,78,000. A machinery (HYC) that the firm had used earlier was transferred to the company at the time of succession. The machinery formed part of 15% depreciation block. The WDV of the machinery was ₹ 12 lakhs as on 01.04.2024. On 01.09.2024, the machinery was discarded. The amount of depreciation as per Income-tax Rules given above (₹ 15,78,000) includes depreciation on this machine as well.

(iii) The share-holding structure of the company at the start of the F.Y., i.e. 01.04.2024 was as follows:

Krisha	30%
Kinara	25%
Komal	20%
Others	25%

During F.Y. 2024-25, Krisha sold 95% of her holdings to her daughter-in-law, Keerat.

(iv) Brought forward business loss - ₹ 14 lakhs (relating to A.Y. 2020-21)

(v) The company holds 65% stake in Adar Hospitality Services Pvt. Ltd., a closely held Indian company. On 12th April 2024, the company took a loan of ₹ 15 lakhs from Adar Hospitality Services Pvt. Ltd. Accumulated profits of Adar Hospitality Services Pvt. Ltd. was ₹ 31 lakhs on 01.04.2024. The company repaid the loan in full on 25th March, 2025.

(vi) The long-term capital gains on transfer of capital assets amounting to ₹ 55 lakhs which arose at the time of succession of firm to company was exempt at the time of conversion of firm into company in the hands of the firm as per conditions laid under section 47(xiii).

The turnover of the company for the previous year 2023-24 was ₹ 390 crores and for the previous year 2022-23 was ₹ 408 crores. You are required to compute the total income and tax payable of the company for A.Y. 2025-26 by giving brief reasons for the treatment of each item.

Would it be beneficial for the company to opt for the concessional tax regime under section 115BAA of the Act for the A.Y. 2025-26? Examine. Ignore the provisions relating to MAT.

(14 Marks)

Answer

Computation of Total Income and tax payable by KKK Pvt. Ltd. for the A.Y. 2025-26

	Particulars	Amount (in ₹)
I	<p>Profits and gains of business or profession Net profit as per statement of profit and loss Add: Item debited but to be considered separately or to be disallowed (i) Cash payment to transporter [Cash payment to transporter exceeding ₹ 35,000 would be disallowed under section 40A(3). Since the same has been debited to the statement of profit and loss, the same has to be added back while computing business income.] (ii) Payment to transporter without deducting tax at source [Since Mr. Milan, a transporter submitted certificate u/s 197(1) for</p>	1,19,25,000 37,000 NIL

	<p>no deduction of tax at source, KKK Pvt. is not required to deduct tax at source on payment made for transporter. Hence, no disallowance for non-deduction of tax would be attracted under section 40(a)(ia). Since the same has been debited to the statement of profit and loss, no adjustment is required to be made]</p> <p>(iii) Depreciation as per books</p> <p>(iv) Bad debt of erstwhile firm</p> <p>[Where the business of the firm has been transferred to the company and the successor has suffered loss on account of it turning bad, the successor would be entitled to deduction, if the required conditions are complied with. Since the same has been debited to the statement of profit and loss, no further adjustment is required.]</p> <p>AI(i) Commission for purchase of shares without deduction of TDS</p> <p>[Commission for purchase of shares will form part of cost of acquisition of listed shares and not allowable as deduction from business income. Further, no tax is required to be deducted under section 194H in respect of commission on securities. Moreover, commission for purchase of shares is not in relation to business, non-deduction of tax will not impact the business income. Since the same has not been debited to the statement of profit and loss,</p>	13,56,000	NIL
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	<p>no further adjustment is required to be made.]</p> <p>Less: Items credited but not taxable or chargeable to tax under another head</p> <p>(ii) Dividend received from listed companies</p> <p>[Dividend received from listed companies is taxable under the head "Income from Other Sources". Since the same has been credited to the statement of profit and loss, the same has to be deducted while computing business income.]</p> <p>Less: Depreciation as per the Income-tax Rules, 1961</p> <p>[Depreciation on discarded machinery will be allowed assuming that this machinery is not the only asset in that block and that the dissertation is not permanent in nature. Under the block concept, since no amount has been received or receivable due to such dissertation, no amount needs to be deducted.]</p> <p>Less: Brought forward business loss of A.Y. 2020-21</p> <p>[Not allowed since one of the conditions of section 47(xiii) of being shareholding of partners of the firm in the company should not be less than 50% of the total voting power for 5 years from the date of succession is violated.]</p>	<p>1,33,18,000</p> <p><u>5,40,000</u></p> <p>1,27,78,000</p> <p><u>15,78,000</u></p> <p>1,12,00,000</p> <p><u>NIL</u></p> <p>1,12,00,000</p>
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II Capital Gains Long term capital gain on transfer of capital assets at the time of succession <p>Since Krisha sold 95% of her holding i.e., 28.5% shares in the company, the shareholding of partners of the firm i.e., Krisha, Kinara and Komal in the company becomes less than 50% of the total voting power i.e., 46.5% within a period of 5 years from the date of succession. In such a case, the LTCG would be taxable in the year of violation of this condition.</p>	55,00,000
III Income from Other Sources <p>Dividend received from listed companies Deemed dividend</p> <p>[Since the company holds 10% or more voting power of the Adar Hospitality Services Pvt. Ltd., loan of ₹ 15 lakhs received from such company would be deemed as dividend under section 2(22)(e) to the extent of accumulated profit even if the loan is repaid in the same F.Y.]</p>	5,40,000 15,00,000 20,40,000
Gross total income/ Total income Computation of tax payable <p>Tax on long term capital gains of ₹ 55,00,000 @20%</p> <p>Tax on other income of ₹ 1,32,40,000 @30%, since the turnover of the company for the previous year 2022-23 exceeds ₹ 400 crores</p> <p><i>Add: Surcharge @7%, since total income exceeds ₹ 1 crore.</i></p>	1,87,40,000 11,00,000 39,72,000 50,72,000 3,55,040 54,27,040

<i>Add: Health and education cess @4%</i>	<u>2,17,082</u>
Tax liability	56,44,122
<i>Less: TDS u/s 194</i>	<u>2,04,000</u>
Tax payable	<u>54,40,122</u>
Tax payable (Rounded off)	<u>54,40,120</u>

**Computation of Total Income and tax payable by KKK Pvt. Ltd. for the
A.Y. 2025-26 under concessional regime u/s 115BAA**

Particulars	Amount (in ₹)
Total Income under regular provisions of the Act/ Total Income as per section 115BAA	1,87,40,000
Computation of tax payable	
Tax on long term capital gains of ₹ 55,00,000 @20%	11,00,000
Tax on other income of ₹ 1,32,40,000 @22%	<u>29,12,800</u>
	40,12,800
<i>Add: Surcharge @10%</i>	<u>4,01,280</u>
	44,14,080
<i>Add: Health and education cess @4%</i>	<u>1,76,563</u>
Tax liability	45,90,643
<i>Less: TDS u/s 194</i>	<u>2,04,000</u>
Tax payable	<u>43,86,643</u>
Tax payable (Rounded off)	<u>43,86,640</u>

Conclusion

Since the tax payable of KKK Pvt. Ltd. computed under section 115BAA is lower than the tax payable computed under regular provisions of the Act, it is beneficial for KKK Pvt. Ltd. to opt for the special provisions under section 115BAA for A.Y. 2025-26. However, once it opted for the concessional tax regime u/s 115BAA, it cannot withdraw such option in subsequent years.

Question 2

(a) M/s Mittal Metals is a Limited Liability Partnership firm (LLP) consisting of three partners J, K and L. Mr. J and Mr. K are working partners as per deed. Partnership deed authorizes interest to partners @ 14% p.a. The deed also authorizes remuneration to the working partners @ ₹ 75,000 per month.

It has a unit in SEZ which started its operations w.e.f. 01.06.2019. Its total turnover, export turnover and net profits for the F.Y. 2024-25 are ₹ 120 lakhs, ₹ 90 lakhs and ₹ 24 lakhs, respectively. The unit fulfills all the conditions of section 10AA of Income-tax Act, 1961.

The firm has commenced the operations of a warehousing facility for storage of sugar on 01.05.2024. It incurred capital expenditure of ₹ 60 lakhs on purchase of land and construction of building during the period January 2024 to April 2024 (It includes ₹ 35 lakhs for cost of land) for such warehouse. This expenditure has been capitalized in the books of accounts, but no depreciation has been charged on the same. The warehousing facility fulfills all the conditions of section 35AD.

Profits from operation of warehousing facility are ₹ 30 lakhs, before considering deduction u/s 35AD, for the F.Y. 2024-25 and after debiting the following items:

1. Interest on capital @ 14%	₹ 11,48,000
2. Salary credited to all 3 partners	₹ 9,00,000 each
(i) Compute the total income and income tax payable by the firm Mittal Metals for the A.Y. 2025-26 giving explanations for each item. (Ignore AMT provisions and tax payable as per AMT u/s 115JC)	
(ii) Assuming that the LLP filed its return of income for A.Y. 2025-26 in December, 2025 i.e. after the due date of filing return of income as prescribed under the Act, Will it make any impact on deduction under section 10AA or deduction u/s 35AD for A.Y. 2025-26? (No need to recompute total income and tax payable) (8 Marks)	

(b) Mr. Joseph, a non-resident and a person of Indian origin (aged 49 years), furnished following information for the previous year ended 31st March, 2025:

Particulars	Amount in ₹
<i>Sale proceeds of listed equity shares in A Limited, an Indian company on 31.05.2024</i>	6,00,000
<i>Cost of acquisition (in convertible foreign exchange) of equity shares of A Limited acquired on 01.06.2020</i>	1,10,000
<i>Expenditure wholly and exclusively incurred in connection with transfer of listed equity shares of A Limited</i>	50,000
<i>Interest on Government Securities (net of TDS) (Acquired in convertible foreign exchange)</i>	81,000
<i>Interest on deposits with public limited companies (Gross) (Acquired in convertible foreign exchange) Expenditure incurred in earning such income ₹ 7,500</i>	3,25,000
<i>Interest on deposits held with Private limited companies (Gross) (These deposits were made when Mr. Joseph was resident in India out of his taxable income in India during F.Y. 2014-15)</i>	5,55,000
<i>Fresh Investment in shares of Indian public limited companies on 11.11.2024</i>	2,20,000

You are required to compute the total income of Mr. Joseph and Gross amount of tax payable for assessment year 2025-26 in accordance with special provisions prescribed under chapter XII-A applicable to non-residents and other provisions of the Act. Mr. Joseph has opted to shift out of default tax regime provided under section 115BAC(1A). He has no other income. The applicable tax was deducted at source from interest income. Ignore interest calculations u/s 234A, 234B and 234C and the effect of first proviso to section 48.

(Cost Inflation Index F.Y. 2020-21: 301, F.Y. 2024-25: 363)

(6 Marks)

Answer**(a) (i) Computation of Total income and income tax payable by M/s Mittal Metals for A.Y. 2025-26**

Particulars	₹	₹
Profits and gains of business or profession		
Unit in SEZ		24,00,000
Profit from operation of warehousing facility	30,00,000	
Add: Interest on capital @14%	11,48,000	
Salary credited to all partners [₹ 9,00,000 x 3]	<u>27,00,000</u>	
	68,48,000	
<i>Less: Deduction under section 35AD</i> [Capital expenditure incurred prior to commencement of business and capitalised in the books of account excluding the expenditure incurred for cost of land] [₹ 60 lakhs – ₹ 35 lakhs]	<u>25,00,000</u>	<u>43,48,000</u>
	67,48,000	
<i>Less: Interest to partners on capital</i> [Maximum interest@12% is allowed as per section 40(b)] [₹11,48,000/14%*12%]	<u>9,84,000</u>	
		57,64,000
Book profits		
<i>Less: Partners' remuneration allowable under section 40(b)(v)</i>		
(i) As per limit prescribed in section 40(b)		
On first ₹ 6,00,000 Higher of ₹ 3,00,000 or 90% of ₹ 6 lakhs	5,40,000	
On the balance ₹ 51,64,000 @60%	<u>30,98,400</u>	
	36,38,400	
(ii) Remuneration actually paid or payable to working partners [₹ 9,00,000 x 2]	18,00,000	

Whichever is less is allowed	<u>18,00,000</u>
PGBP/Gross total income	<u>39,64,000</u>
Less: Deduction u/s 10AA [₹ 24 lakhs x 90 lakhs/120 lakhs x 50%, since this is the sixth year]	<u>9,00,000</u>
Total income	<u>30,64,000</u>
Computation of tax liability	
Tax @ 30% on ₹ 30,64,000	9,19,200
Add: Health and Education cess @ 4%	<u>36,768</u>
Tax liability	9,55,968
Tax liability (Rounded off)	<u>9,55,970</u>

(ii) As per proviso to section 10AA(1), no deduction under section 10AA shall be allowed to an assessee who does not furnish a return of income on or before the 'due date' specified in section 139(1).

However, there is no such condition for claiming deduction under section 35AD.

Since M/s Mittal Metals files its return of income for A.Y. 2025-26 in December, 2025 i.e., after the due date of filing return of income, it cannot claim deduction under section 10AA in respect of profits derived from unit in SEZ. It will be eligible to claim the deduction under section 35AD.

(b) Computation of total income and gross tax payable by Mr. Joseph for A.Y. 2025-26 as per Chapter XII-A and other provisions of the Income-tax Act, 1961

Particulars		Amount (₹)	Amount (₹)
Capital Gains			
<u>Long term capital gain on sale of listed equity shares of A Ltd.</u>			
Full value of consideration		6,00,000	
Less: Expenditure on Transfer		<u>50,000</u>	
Net consideration		5,50,000	

<i>Less: Cost of Acquisition</i> [Indexation benefit is not available]		<u>1,10,000</u>	
		4,40,000	
<i>Less: Exemption under section 115F</i> [4,40,000 x 2,20,000/ 5,50,000]		<u>1,76,000</u>	2,64,000
Income from Other Sources			
Interest on Government Securities [₹ 81,000/79.20% x 100%]		1,02,273	
Interest on deposits with public limited companies	3,25,000		
<i>Less: Expenses incurred</i> [Not allowed under section 115D]	<u>NIL</u>	3,25,000	
Interest on deposits with private limited companies		<u>5,55,000</u>	
Gross total income/ Total income			<u>9,82,273</u>
Total income (Rounded off)			<u>12,46,273</u>
Computation of gross tax payable			<u>12,46,270</u>
Tax on LTCG of ₹ 2,64,000 @10%		26,400	
Tax on investment income of ₹ 4,27,273 @20% [₹ 1,02,273 + ₹ 3,25,000]		85,455	
Tax on other income of ₹ 5,55,000 at slab rate		<u>23,500</u>	
			1,35,355
<i>Add: Health and education cess@4%</i>			<u>5,414</u>
Gross tax payable			<u>1,40,769</u>
Gross tax payable (Rounded off)			<u>1,40,770</u>

Question 3

(a) Examine and discuss each of the following independent cases of charitable trust/institutions based on the relevant provisions of Income-tax Act, 1961 and judicial pronouncements for the assessment year 2025-26:

(i) KRA Foundation is a charitable trust registered under section 12AB engaged in the activity of providing old-age homes to senior citizens. The total receipts of the trust for the financial year 2024-25 was ₹ 145 lakhs. This receipt of ₹ 145 lakhs includes a voluntary contribution received from Mr. Keshav, a resident individual, amounting to ₹ 70,000. During F.Y. 2024-25, out of the total receipts, the trust gave an unsecured loan of ₹ 5 lakhs to Mr. Keshav at an interest rate of 12% p.a. The scheduled banks charge interest at the rate of 11.50% for a similar kind of loan. The trust has always applied 85% of the total receipts for its objects. Discuss the implications in the hands of the trust as per the provision of the Income-tax Act, 1961. **(4 Marks)**

(ii) M/s Medi Care Foundation, a trust registered u/s 12AB of the Income-tax Act, 1961, runs a hospital. During the financial year 2023-24, it received a voluntary contribution of ₹ 95 lakhs with a specific direction that it should form part of the corpus of the trust. The trust invested such amount in the shares of M/s Healthy Care Ltd., a public sector company.

On March 31, 2025, due to disinvestment by the Government, M/s Healthy Care Ltd. ceases to be a public sector company. **(2 Marks)**

(iii) M/s Medi Care Foundation, a trust registered u/s 12AB of the Income-tax Act, 1961, which runs a hospital also paid consultancy fees ₹ 1,00,000 to Mr. Suresh, a doctor on 31.08.2024. The trust did not deduct the TDS on consultancy fees paid to doctors. The accountant of the trust claims that the trust is not liable to tax audit under section 44AB (being a trust), therefore it is out of the purview of section 194J.

(2 Marks)

(b) Miss. Meera, aged 28 years, a resident individual, provides management consultancy to small and medium-sized corporations in India and abroad. She regularly travels to country K for providing consultancy services to her clients. It provides the following information to you in respect of its income during the F.Y. 2024-25:

(i) *Amount received from providing consultancy:*

In India- ₹ 35,70,000

In Country K - ₹ 12,00,000

(ii) *Amount spent in earning these incomes:*

In India - ₹ 9,60,000

In Country K - ₹ 2,50,000

(iii) *Rent received from a shop in Country K- ₹ 55,000 p.m.*

(iv) *Expenses incurred in earning this rental income in Country K - ₹ 1,20,000*

Additional information

(i) *Country K provides 2 options to the assessee as far as taxation of income from management consultancy is concerned -*

Option 1 - at a flat rate of 20% without deduction of any expenses; or

Option 2 - at the rate of 37% after deduction of expenses in earning the income.

(ii) *Country K taxes rental incomes at a flat rate of 27% after giving a standard deduction of 20% for regular expenses. No other expense is allowed to be deducted.*

(iii) *Country K does not have any tax deduction regulations at the source. Miss Meera will opt for lowest possible tax in country K.*

You are required to compute the total income and tax payable by Miss Meera in India for A.Y. 2025-26 assuming she chooses to pay tax as per default tax regime as per section 115BAC(IA). Ignore the provisions of section 44ADA. India does not have any Double Taxation Avoidance Agreement with country K. Your calculations should be made upto 2 decimal points.

(6 Marks)

Answer

(a) (i) As per section 13(2), if any part of the income or the property of the trust or institution is or continues to be lent to any "specified person" referred to in section 13(3) for any period during the previous year without either adequate security or adequate interest or both, such income or property is to be deemed to have been used or applied for

the benefit of a person referred to in section 13(3).

In the present case, Mr. Keshav has made a substantial contribution of ₹ 70,000 which exceeds the limit of ₹ 50,000 to KRA Foundation, he would fall within the category of persons specified under section 13(3).

KRA Foundation trust gave loan of ₹ 5 lakhs out of the income of the trust without any security to Mr. Keshav though rate of interest i.e., 12% is higher than the market rate of 11.50%, such income/loan amount of ₹ 5 lakhs is deemed to have been used or applied for the benefit of Mr. Keshav, being a person specified u/s 13(3). By virtue of section 13(1)(c), the provisions of section 11 or 12 would not apply to such income to exclude from the total income of the P.Y. 2024-25.

Consequently, the income of ₹ 5 lakhs would be considered as specified income u/s 115BBI and be taxable @30%.

Further, in terms of section 271AAE, penalty of ₹ 5 lakhs would also be leviable, calculated at 100% of income provided as a benefit, where the violation is noticed for the first time during any previous year.

(ii) Voluntary contribution of ₹ 95 lakhs received with a specific direction that it should form part of the corpus of the trust, would be eligible for exemption, since investment in shares of M/s Healthy Care Ltd. a public sector company is permissible mode of investment under section 11(5).

However as per provisions of section 11(5), where an investment is made in the shares of any public sector company and such public sector company ceases to be a public sector company, the investment so made shall be deemed to be an investment made for a period of three years from the date of such cessation.

Therefore, it would continue to be eligible for exemption for a period of 3 years from the cessation date i.e., 31.3.2025 on which M/s Healthy Care Ltd., ceases to be a public sector company due to the disinvestment.

(iii) A trust is required to deduct tax at source u/s 194J even if it is not subjected to tax audit u/s 44AB. Moreover, as per *Explanation 3* to section 11(1), where tax has not been deducted at source on any

expenditure, 30% of disallowance of expenditure for non-deduction of tax at source under section 40(a)(ia) would *mutatis mutandis* apply to a trust in determining application of income.

Accordingly, ₹ 30,000 being 30% of ₹ 1,00,000 would not be treated as application of income for non-deduction of tax at source on the consultancy fees paid to Mr. Suresh by M/s Medi Care Foundation.

(b) Computation of total income and tax payable by Miss Meera for A.Y. 2025-26 under the default tax regime under section 115BAC

Particulars	₹	₹
Income from House Property		
Annual Value [₹ 55,000 x 12]	6,60,000	
<i>Less: Deduction under section 24(a) @30%</i>	<u>1,98,000</u>	4,62,000
Profits and Gains of Business or Profession		
Amount for consultancy in India	35,70,000	
<i>Less: Expenses</i>	<u>9,60,000</u>	26,10,000
Amount for consultancy in Country K	12,00,000	
<i>Less: Expenses</i>	<u>2,50,000</u>	<u>9,50,000</u>
Gross total income/ Total income		40,22,000
Tax liability on ₹ 40,22,000		
Tax on total income [30% of ₹ 25,22,000 + ₹ 1,40,000]		8,96,600
<i>Add: Health and Education cess@4%</i>		<u>35,864</u>
		9,32,464
<i>Less: Deduction u/s 91 (See Working Note below)</i>		<u>3,12,617</u>
Tax payable		<u>6,19,847</u>
Tax payable (Rounded off)		<u>6,19,850</u>
Working Note: Calculation of deduction under section 91		

Average Rate of tax in Country K**Tax on consultancy**

Option 1 - Tax @20% on ₹ 12 lakhs
 = ₹ 2,40,000

Option 2 - Tax @37% on ₹ 9,50,000
 = ₹ 3,51,500

Option 1 is beneficial for Ms. Meera
 = ₹ 2,40,000

Tax on rental income

27% on ₹ 5,28,000 [₹ 6,60,000 - 20%] =
 ₹ 1,42,560

Total Tax Liability in Country K = ₹ 3,82,560

Total Income in Country K = ₹ 12,00,000 +
 ₹ 5,28,000 = ₹ 17,28,000

Average Rate of tax in Country K

= $3,82,560/17,28,000 \times 100 = 22.14\%$

Indian Rate of tax = $9,32,464/40,22,000 \times 100 = 23.18\%$

Doubly taxed income pertaining to Country K = Consultancy income of ₹ 9,50,000 [₹ 12,00,000 - ₹ 2,50,000] + Income of house property of ₹ 4,62,000 = ₹ 14,12,000

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 = [22.14% x ₹ 14,12,000]

3,12,617

Question 4

(a) Examine the applicability of tax deducted at source/tax collected at source and calculate the amount of TDS/TCS in the following independent cases as per the provisions applicable for A.Y. 2025-26:

(i) *Ubclick Inc., a non-resident company (incorporated in Country Y) is engaged in the manufacturing of paints and has factories across the world including India. The factory in India produces paints and sells in the Indian market as well as worldwide since past 10 years. Its turnover for the last 3 years in India was F.Y. 2021-22 ₹ 200 crores, F.Y. 2022-23 ₹ 490 crores and F.Y. 2023-24 ₹ 540 crores. On 1.5.2024, it bought raw materials from Colours Private Ltd., a domestic company for ₹ 1 crore. Colours Private Ltd.'s turnover for the F.Y. 2021-22 was ₹ 5 crores, F.Y. 2022-23 was ₹ 8 crores and F.Y. 2023-24 was ₹ 9 crores. India does not have a DTAA with Country Y. Discuss the TDS/ TCS implications of this transaction.* **(2 Marks)**

(ii) *M/s Seal India Pvt. Ltd., a domestic company, engaged in business of manufacturing and selling of washing powder and bars. For the purpose of promoting and to boost sales of its products it hires agents, to whom incentives and commission is paid on the basis of percentage of sales made through them. During the P.Y. 2024-25, Mr. Prakash, a resident individual, is working as an agent for the company. The company paid him following commissions and incentives on the basis of target achieved by him:*

Date of payment/ credit	Particulars	Amount (₹)
13-07-2024	Commission for achieving sales target of Quarter 1	1,75,000
10-01-2025	Commission for achieving sales target of Quarter 3	1,60,000
15-01-2025	Other Incentives	1,60,000

The figure of other incentives includes reimbursement of expenses of ₹ 1,00,000 incurred on booking of air tickets for an event in Singapore for Mr. Prakash and his family members who accompany him. The company has also given Mr. Prakash laptop worth ₹ 60,000 for achieving sales target for the month of September, 2024 in October 2024. **(4 Marks)**

(iii) *AntiqueMasters.com is an online portal that provides e-auction for antique items like coins, artifacts etc. and operates only in India. The owners list their items on the portal and interested buyers place bids*

for them on the portal itself. The portal provides the details of the buyers who make the top 3 bids. The seller chooses the buyer and intimates the portal. The portal takes money from the buyer and transfers the amount to the seller's bank account after deducting the agreed commission. The seller then delivers the item directly to the buyer's address. What will be the TDS obligations on the portal with respect to a sale amounting to ₹ 11 lakhs made by Mr. Sonu, an Indian resident, on the portal on 28th February 2025? **(2 Marks)**

(b) Indiana Ltd., an Indian company engaged in the manufacturing and trading of electronic projectors. Indiana Ltd. has the following stakes in different foreign entities:

It holds 30% voting rights in Star GmbH, a German company.

It appoints 6 directors in Moon Inc., an American company. Moon Inc. has 15 directors on its board.

It has given guarantee for a loan amounting to Euro 12 million taken by Astroid Ltd. of the UK. The value of total borrowing of Astroid Ltd. is Euro 150 million and the book value of total assets of Astroid Ltd. is Euro 160 million.

Indiana Ltd. entered into the following transactions with these entities during the F.Y. 2024-25:

Transaction with Star GmbH

Indiana Ltd. bought 1,000 units of electronic projectors from Star GmbH for ₹ 15,000 per unit for the purpose of resale in India. It sold these projectors in India without doing any modification thereon. The gross profit margin earned from such resale was 20% of Sale price. Star GmbH provided after-sales warranty of 1 year. The cost of warranty is 3% of sale price.

Transaction with Moon Inc.

Indiana Ltd. bought 1,000 units of similar electronic projectors (as purchased from Star GmbH) from Moon Inc. for ₹ 14,000 per unit for the purpose of resale in India. It sold these projectors in India without doing any modification and earned gross profit margin of 30% of sale price. Moon Inc. provided after-sales warranty of 9 months. The cost of warranty is 3% of sale price.

Transaction with Astroid Ltd.

Indian Ltd. provided consultancy services to Astroid Ltd. for ₹ 8,000 per hour for 5,000 hours. It provided similar services to M/s Comet Ltd., an unrelated Indian company for ₹ 9000 per hour.

You are required to discuss:

- (i) Whether Star GmbH, Moon Inc. and Astroid Ltd. are associated enterprises/deemed associated enterprises of Indiana Ltd. as per section 92A of the Act.
- (ii) Compute the Arm Length Price (ALP) of the international transactions made between them, wherever applicable. **(6 Marks)**

Answer

(a) (i) Ubclick Inc., a non-resident company has to deduct tax at source under section 194Q @ 0.1% on ₹ 50 lakhs being the sum exceeding ₹ 50 lakhs on purchase of raw material of ₹ 1 crore from Colours Private Ltd. since its turnover exceeds ₹ 10 crores during the P.Y. 2023-24 and purchase of raw material from Colours Private Ltd. is effectively connected with its factory, being a permanent establishment in India.

Tax to be deducted = ₹ 50,00,000 x 0.1% = ₹ 5,000

(ii) M/s Seal India Pvt. Ltd. is required to deduct tax at source on commission paid to Mr. Prakash under section 194H @5% till 30.9.2024 and @2% from 1.10.2024, being sum exceeding ₹ 15,000.

Reimbursement of expenses of ₹ 1 lakh for booking air tickets for Mr. Prakash and his family other incentive of ₹ 60,000 and laptop of ₹ 60,000 for achieving sale target is benefit or perquisite arising to Mr. Prakash from his business or the exercise of his profession, being sum exceeding ₹ 20,000. Accordingly, M/s Seal India Pvt. Ltd. is required to deduct tax at source under section 194R @10%.

Tax to be deducted under section 194H = 5% on ₹ 1,75,000 + 2% on ₹ 1,60,000 = ₹ 11,950

Tax to be deducted under section 194R = 10% on ₹ 1,00,000 (Air tickets) + ₹ 60,000 (other incentive) + ₹ 60,000 (laptop) = ₹ 22,000

(iii) As per section 194-O, AntiqueMasters.com, an e-commerce operator, is required to deduct tax at source @0.1% on ₹ 11,00,000, being the gross amount of sale of products of Mr. Sonu, an e-commerce participant, since such sale of goods is facilitated by AntiqueMasters.com through its digital facility.

Thus, AntiqueMasters.com is required to deduct tax of ₹ 1,100, being 0.1% of ₹ 11,00,000.

(b) (i) Indiana Ltd., an Indian company and Star GmbH, a German company are deemed to be associated enterprises as per section 92A(2), since Indiana Ltd. holds more than 26% of voting power i.e., 30% in Star GmbH.

Indiana Ltd. and Moon Inc., an American company are not deemed to be associated enterprises as per section 92A(2), since Indiana Ltd. appoints less than half of the directors of Moon Inc. i.e., only 6 out of 15 directors.

Indiana Ltd. and Astroid Ltd., UK are not deemed to be associated enterprises as per section 92A(2), since Indiana Ltd. guarantees less than 10% i.e., 8%, in this case (Euro 12 million/ Euro 150 million) of the total borrowing of Astroid Ltd.

(ii) The transaction of purchasing electronic projectors from Star GmbH falls within the meaning of "international transaction". Hence, transfer pricing provisions would be attracted in this case. Indiana Ltd. purchases similar electronic projectors from Moon Inc., the transaction would be uncontrolled transaction.

Computation of Arm's length price

	₹
Resale price of electronic projectors purchased from Star GmbH $[(₹ 15,000 + 20/80 \text{ of } ₹ 15,000) \times 1,000 \text{ unit}]$	1,87,50,000
<i>Less: Profit margin with reference to uncontrolled transaction between Indiana Ltd. and Moon Inc. [30% on sale price]</i>	<u>56,25,000</u>
	1,31,25,000
<i>Add: Cost of warranty [Star GmbH provides warranty</i>	<u>1,40,625</u>

for 1 year whereas Moon Inc. has provided warranty of 9 months. Therefore, adjustment for the cost of such warranty has to be carried out for 3 months @3% of sales price. [₹ 1,87,50,000 x 3% x 3/12]

Arm's length price

1,32,65,625

Question 5

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

(i) *Mr. Rajneesh, a resident individual, during the course of assessment proceedings, was found guilty of making false entries in his books of accounts to evade payment of taxes. The assessing officer initiated penalty proceedings against him under section 271AAD. The penalty that is likely to be levied is ₹3 crores. The assessing officer passed an order to provisionally attach the properties of the assessee on 31st May 2024, since the AO is of the opinion that it is necessary to do so to protect the interest of the revenue. AO also took prior approval from the Principal Commissioner of Income-tax for passing such order. You are required to answer the following questions in this regard:*

(A) *Is the action of the Assessing Officer valid? Is there any monetary limit with respect to the provisional attachment of properties in the present case?*

(B) *Assume all the procedural aspects of the provisional attachment have been met, discuss the validity period of such provisional attachment. Can it be extended?*

(C) *Is there any option available to Mr. Rajneesh where such provisional attachment of property can be avoided? If, yes, explain the relevant provisions in this regard.* **(4 Marks)**

(ii) *Please answer the following question covering aspects relating to Issue Involved, Provision applicable, Analysis and Conclusion as per latest Court rulings.*

The assessee, M/s TQR LLP, a registered LLP, is engaged in the wholesale and retail trade of beverages. The assessee debited ₹5 crores to the Profit & Loss account in respect of surcharge on sales tax and turnover tax paid to the State Government. In the assessment order under section 143(3) of the Income-tax Act, 1961 the Assessing Officer

made an addition of ₹5 crores on account of disallowance of surcharge on sales tax and turnover tax to the returned income.

The assessee contends that the order of the assessment is bad in law as no notice was issued under section 143(2) even though the assessee had participated in the assessment proceedings. The assessing officer, relying on section 292BB, contends that when assessee has participated in assessment proceedings, now he cannot raise any objection on the assessment order. On the basis of relevant case laws and provisions of the Act, Examine the validity of the contentions of both. **(4 Marks)**

(iii) Mr. Baljit, a resident individual, e-filed his return of income for assessment year 2024-25 on 30.07.2024, offered entire interest income of ₹ 25 lakhs received from M/s Sanjay Finance Ltd., Delhi (deductor) and claimed the credit for Tax Deducted at source (TDS) by the said deductor.

TDS credit was not allowed by the department, pursuant to intimation issued u/s 143(1). The application filed under section 154 was also rejected for the reason that TDS credit is not reflected in Form 26AS and consequently, the said tax was recovered from the assessee itself. Advice, Mr. Baljit, on the basis of latest Court rulings, whether the department can recover tax due from him. Discuss the relevant Provisions and give conclusion. **(4 Marks)**

(b) (i) Under BEPS Action Plan 13, BEPS report recommends that countries adopt a standardized approach to transfer pricing documentation, wherein it mandates the three-tier structure of (i) Master File (ii) Local File and (iii) Country-by-Country report. What are the advantages of the three-tier structure mandated by BEPS Action Plan 13? **(3 Marks)**

(ii) Explain "Static approach" and "Ambulatory approach" with regard to meaning of a term as per the domestic law, not defined in the International Tax treaty. **(3 Marks)**

Answer

(a) (i) (A) Yes, the action of the Assessing Officer is valid, since the Assessing Officer is empowered to provisionally attach any property of the assessee, by an order in writing, during the pendency of assessment or reassessment proceedings of any income which has escaped assessment or for imposition of

penalty under section 271AAD (penalty leviable for false entry etc. in books of accounts) with the prior approval of the PCC or CC or PC or C or PDG or DG or PD or D of Income-tax, if he is of the opinion that it is necessary to do so for the purpose of protecting the interests of the revenue.

Such provisional attachment can be made where the amount or aggregate of amounts of penalty likely to be imposed under section 271AAD exceeds ₹ 2 crores.

- (B) The provisional attachment shall be valid till 30.11.2024 for a period of 6 months from the date of the order. The said period may be extended for a total period not exceeding two years or sixty days after the date of assessment or reassessment, whichever is later.
- (C) If Mr. Rajneesh furnishes a guarantee from a scheduled bank, for an amount not less than the fair market value of such provisionally attached property or for an amount which is sufficient to protect the interests of the Revenue, such provisional attachment can be revoked.

(ii) Issue Involved: The issue under consideration is whether the participation by the assessee in assessment proceedings would make the omission to issue notice under section 143(2) a curable defect on account of the deeming provision under section 292BB.

Provision applicable: As per section 292BB, any notice which is required to be served upon an assessee shall be deemed to have been duly served and the assessee would be precluded from taking any objection that the notice was -

- (a) not served upon him; or
- (b) not served upon him in time; or
- (c) served upon him in an improper manner,

if he had appeared in any proceedings or co-operated in any enquiry relating to assessment or re-assessment.

Where any scrutiny proceeding is proposed to be taken for completion of assessment u/s 143(3), notice u/s 143(2) should be served on the assessee, within the prescribed time.

Analysis: Issue of notice under section 143(2) is mandatory for making a regular assessment under section 143(3). Section 292BB is a deeming provision that seeks to cure defects in any notice issued under any provision of the Income-tax Act, 1961, if the assessee has participated in the proceedings.

For section 292BB to apply, the notice must have emanated from the Department. It is only the infirmities in the manner of service of notice that the section seeks to cure. The section is not intended to cure the complete absence of notice itself. Accordingly, non-issuance of notice under section 143(2) is not a curable defect under section 292BB in spite of participation by the assessee in assessment proceedings.

Conclusion: In the present case, since the assessment of M/s TQR LLP was completed u/s 143(3) without issuing notice u/s 143(2), the assessment is bad in law and not a curable defect u/s 292BB. Therefore, the contention of M/s TQR LLP is valid and the contention of the Assessing Officer is invalid in spite of the fact that M/s TQR LLP participated in the assessment proceedings.

Note – *The facts given in the question are similar to the facts in CIT v. Laxman Das Khandelwal (2019) 417 ITR 325 (SC). The above answer is based on the rationale of the Apex Court ruling in the said case.*

(iii) Deduction of taxes at source is one of the methods of collecting tax. The tax deducted at source is part of the assessee's income and therefore, the gross amount is included in the total income and offered to tax. It is on this premise that the tax deducted at source would have to be treated as tax paid on behalf of the assessee.

Section 205 provides for restriction against direct demand on assessee to the extent to which tax has been deducted from that income. Thus, no recovery of TDS can be made from the deductee.

Further, the amount retained against remittance made by the payer is nothing but tax which the assessee/deductee has offered for tax by grossing up the remittance. If credit is not given, the Department would end up doing indirectly what they cannot do directly i.e., recover tax directly from the deductee.

The assessee had followed the regime put in place in the Act for collecting tax albeit, through an agent (deductor) of the Government. The recovery proceedings could only be initiated against the deductor, as the deductor, an agent for collecting tax, had failed to deposit the tax with the Government. Therefore, the deductee should be given credit for TDS though it was not reflected in Form 26AS and no recovery towards TDS could be made from the assessee in terms of the provisions of section 205.

Thus, in the present case, the Department's action in recovering the tax due from Mr. Baljit on the ground that it is not reflected in Form 26AS, is bad in law

Note – *The facts given in the question are similar to the facts in BDR Finvest Pvt. Ltd. v. DCIT [2024] 462 ITR 141 (Delhi). The above answer is based on the rationale of the Delhi High Court ruling in the said case.*

(b) (i) Advantages of the three-tier structure mandated by BEPS Action Plan 13:

- (a) Taxpayers will be required to articulate consistent transfer pricing positions;
- (b) Tax administrations would get useful information to assess transfer pricing risks;
- (c) Tax administrations would be able to make determinations about where their resources can most effectively be deployed, and, in the event audits are called for, provide information to commence and target audit enquiries;

(ii) **Static Approach** – Under static approach, a term not defined in the treaty to be assigned the meaning as per the domestic law which prevailed on the date of signing the international tax treaty.

Ambulatory Approach – Under Ambulatory approach, a term not defined in the treaty to be assigned the meaning as per the domestic law which is prevailing on the date of application of the international tax treaty.

All Model Commentaries favour ambulatory approach, however with one caution that such approach cannot be applied when there is a

radical amendment in the domestic law thereby changing the sum and substance of the said term.

Question 6

(a) (i) *Mr. Ram is engaged in trading of mobiles and is the proprietor of 6 M/s. Narang Mobiles. His turnover and aggregate receipts for the financial year 2024-25 are ₹ 5,12,00,000. He received ₹ 22,00,000 from sundry debtors in cash and remaining ₹ 4.90 crores were received through online banking channel before 31.03.2025. He also made a total business payment of ₹ 5,50,00,000 against purchase of goods, rent; salary and other business expenses during the previous year 2024-25, out of which total cash payments amounted to ₹ 28,00,000 and remaining all kind of payments made through online banking channel. No other amount received or paid during the year on business account. He has no other business in his name.*

Whether Mr. Ram is required to get books of accounts of Narang Mobiles compulsory audited for the A.Y. 2025-26 as per section 44AB of the Income-tax Act, 1961? Discuss.

Assuming Mr. Ram is required to get his accounts audited and in the light of the Tax Audit applicability u/s 44AB of the Act, Also discuss whether the following issue need to be reported by the Chartered Accountant of Mr. Ram in the tax audit report as applicable for A.Y. 2025-26 u/s 44AB in relation to Tax audit of M/s. Narang Mobiles in view of section 269ST. You need to give the relevant provisions of law in support of your answer.

Narang Mobiles issued an invoice of ₹ 3,50,000 to M/s. XYZ and Co. for sale of mobiles on 10.02.2025. M/s. XYZ and Co. made payment of ₹ 2,50,000 through account payee cheque. The balance of ₹ 1,00,000 has been paid on 10 different dates in cash, through payment of ₹ 10,000 on each day before 31.03.2025.

Ignore the Clause numbers given in Form 3CD prescribed for Tax Audit Report u/s 44AB for such reporting. (6 Marks)

(ii) *M/s RH Steels Ltd. is a company incorporated in India. It sets up two units, one in a Special Economic Zone (SEZ) and another in non-SEZ area for manufacturing of steel bottles. The company transfers the product of non-SEZ unit to SEZ unit at a price lower than the fair*

market value. In respect of such products transferred from non-SEZ unit, only insignificant manufacturing activity takes place in the SEZ unit. In this way, the company is able to show higher profits in SEZ unit than in non-SEZ unit, and consequently claims higher deduction in computation of income. The sales from bottles transferred from non-SEZ unit constitute 15% of the total turnover of SEZ unit. Can provisions of GAAR be invoked?

(4 Marks)

(b) *ABC Ltd., an Indian company has entered into an agreement for providing technical knowhow with PQR Inc., a company registered in Country A. PQR Inc. has a sister concern, XYZ LLC., in Country A, which has obtained Advance Ruling on an identical technical know-how agreement with another Indian company, MNC Ltd.*

The agreement is expected to be of ₹ 500 crores and expected tax liability would be ₹ 150 crores. ABC Ltd. wants to make use of this advance ruling for its assessment proceedings. So, it applied to Board for Advance Rulings to issue same ruling for ABC Limited, being identical ruling. To verify the transaction between ABC Ltd and PQR Inc., the Board for Advance Rulings compel the production of books of accounts.

Can ABC Ltd make an application for advance ruling with Board for Advance Rulings as per the Act. Also Examine whether the Board can ask for production of books of accounts when ruling on similar issue has already been given. Examine in the context of the provisions of the Income-tax Act, 1961?

(4 Marks)

Answer

(a) (i) As per section 44AB, every person carrying on business or profession is required to get his accounts audited before the "specified date" by a Chartered Accountant, if the total sales, turnover or gross receipts in business exceeds ₹ 1 crore in any previous year.

However, tax audit is not required in case of such person carrying on business whose total sales, turnover or gross receipts in business \leq ₹ 10 crore in the relevant previous year (P.Y.), if -

- aggregate cash receipts including amount received for sales, turnover, gross receipts in the relevant previous year \leq 5% of such receipts; and

- aggregate cash payments including amount incurred for expenditure in the relevant P.Y. \leq 5% of such payments

In this case, the percentage of cash receipts of ₹ 22 lakhs to aggregate receipts of ₹ 5.12 crore is 4.30% and the percentage of cash payments of ₹ 28 lakhs to aggregate payments of ₹ 5.50 crore is 5.09%.

Since the cash payments made during the year exceed 5% of aggregate payments, the M/s Narang Mobiles is required to get its accounts audited under section 44AB and furnish audit report before the specified date, irrespective of the fact that its turnover does not exceed ₹ 10 crores and its cash receipts do not exceed 5% of total receipts.

Further, particulars of each receipt in an amount exceeding the limit specified in section 269ST i.e., ₹ 2 lakhs, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, during the previous year, where such receipt is otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account is to be reported in Form 3CD.

In this case, M/s XYZ made payment of ₹ 2.5 lakhs by account payee cheque and the balance of ₹ 1 lakh in cash in aggregate during the P.Y. 2024-25 to M/s Narang Mobile. Since the amount received in cash by M/s Narang Mobiles is less than ₹ 2 lakhs and the transaction is not covered u/s 269ST, there is no need to report this transaction in the tax audit report of M/s Narang Mobiles by his Chartered Accountant.

(ii) M/s RH Steels Ltd. has tried to take advantage of tax provisions by diverting profits from non-SEZ unit to SEZ unit. This is not the intention of the SEZ legislation.

However, such tax avoidance is specifically dealt with through the provisions contained in section 10AA(9), as per which provisions of section 80-IA(8) would get attracted in such a case.

Further, if the aggregate of such transactions entered into in the relevant previous year exceed the threshold of ₹ 20 crore, domestic transfer pricing regulations under section 92BA would be attracted.

Thus, in this case, due to application of specific anti-avoidance provisions, no tax benefit can be derived by M/ RH Steels Ltd. by transferring the products from non-SEZ unit to SEZ unit at less than fair market value.

Hence, the Revenue need not invoke GAAR in such a case, though GAAR and SAAR can co-exist as per clarification given in the CBDT Circular.

(b) A resident can make an application for advance ruling in relation to his tax liability arising out of one or more transactions valuing ₹ 100 crore or more in total which has been undertaken or is proposed to be undertaken.

Since the value of transactions between M/s ABC Ltd and M/s PQR Inc for providing technical knowhow exceeds ₹ 100 crores, ABC Ltd. can make an application for advance ruling with the Board for Advance Rulings.

As per section 245U, the Board for Advance Rulings shall have all the powers of the Civil Court in respect of discovery and inspection, enforcing the attendance of any person, including any officer of a banking company and examining on oath, issuing commissions and compelling the production of books of accounts and other documents.

Accordingly, the Board can ask for the production of books of accounts before passing advance ruling for ABC Ltd.